

STANDARDS AND PROCEDURES IMPLEMENTING 30 V.S.A. § 246

I. Purpose and Applicability: The purpose of these standards and procedures is to implement 30 V.S.A. § 246. These standards and procedures are applicable to the proposed construction or installation of a temporary meteorological station.

II. Definitions:

“Adjoining landowner” means a person who owns land in fee simple if that land will be crossed by a new private right-of-way or new utility easement to access and service the temporary meteorological station, shares a property boundary with the property on which the temporary meteorological station will be located, or would share a boundary with the property upon which the facility will be located but for the presence of an intervening river, stream, public highway, or railroad line that shares a boundary or intersects the property.

Adjoining landowners must be identified using the host town’s certified grand list as it existed no more than 60 days before the date of the filing or online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online database provides accurate and current information regarding parcel ownership within that municipality. Documentation of verification must be signed and attested to by an applicant.

“Temporary meteorological station” means a temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions, constructed or installed in order to determine the suitability of a site for the location of a grid-connected wind turbine.

“Temporary meteorological station application form” means the current Vermont Public Utility Commission (“Commission”) application form for temporary meteorological stations that can be found in ePUC, the Commission’s electronic filing system. From time to time the Commission may modify or revise the application form.

III. Advance Submission Requirements: The applicant must serve written notice, at least 45 days in advance of filing a Section 246 application, on the following entities:

- (a) legislative bodies and municipal and regional planning commissions in the communities where the project will be located;
- (b) adjoining landowners;
- (c) the Secretary of the Agency of Natural Resources;
- (d) the Agency of Transportation;
- (e) the Department of Public Service; and

(f) the Commission.

The applicant must serve the advance submission on the entities listed in III(a) and (b) by first-class mail, personal delivery, or any other means authorized by the person entitled to service. Pursuant to Commission Rule 2.204(B)(3), service of the advance submission on the entities listed in III(c) through (e) must occur through ePUC. In addition, the applicant must cause notice to be published twice in a newspaper of general circulation in the project area for two consecutive weeks during the advance submission period and no later than 15 days before filing an application.

The advance submission must state that the applicant intends to submit a § 246 application, identify the location of the temporary meteorological station site(s), and provide a description of and site plan for the proposed project. The advance submission must contain sufficient detail about the proposed project to allow the recipient to understand the impact of the project on any interest of the recipient that is within the Commission's jurisdiction to address. The advance submission must also state that recipients may file inquiries or comments with the applicant during the advance submission period with respect to the project and that recipients will also have the opportunity to file comments and motions to intervene with the Commission once the application is filed.

If, within 180 days of the date of the advance submission, the applicant has not filed a complete application for the project that fully complies with the filing requirements of this Order, the advance submission will be treated as withdrawn without further action by the Commission.

IV. Application Information: The application must include all of the information and materials set forth below.

1. Project Description

(a) Provide a description of the installation and operation of the project, including specific equipment, amount of clearing, length and width of any new access roads, trails, and parking areas, and any ground disturbance, grading, stream crossings, or drainage improvements.

(b) Provide the approximate length of time the temporary meteorological station will need to remain at the site. (Note: a Certificate of Public Good issued pursuant to § 246 shall be valid for a period of no more than five years.)

2. Site Plans

Applicants must provide a site plan for each meteorological station. A site plan must include the following (with all features clearly labeled):

(a) Proposed meteorological station locations, all incidental project features from point of delivery off a public road to each individual site, and any areas that will be cleared of vegetation, on a 1: 24,000 scale USGS topographic map.

- (b) Property boundaries and setback distances to the base(s) of the proposed or existing structures and dimensions of all proposed improvements.
- (c) Proposed utilities, including distance from source of power, sizes of service available and required, and locations of any proposed utility or communication lines.
- (d) A dimensional plan view of all areas where vegetation is to be cleared or altered, grading and drainage changes, and any proposed direct or indirect alterations of sensitive environmental resources (e.g., wetlands, significant natural communities).
- (e) Detailed plans for any drainage of surface and/or sub-surface water and plans to control erosion and sedimentation both during construction and for the duration of the temporary installation.
- (f) Locations and specific descriptions of any proposed screening, landscaping, groundcover, fencing, exterior lighting, and signage.
- (g) Plans of any proposed access driveway, roadway, or parking area at the facility site, including grading, drainage, and traveled width, including a cross-section of the access drive indicating the width, depth of gravel, and paving or surface materials.
- (h) The latitude and longitude coordinates for each proposed meteorological station. If the final location of the temporary meteorological station and associated clearing will be determined in the field at the time of installation, the applicant must indicate on the plans and depict the entire area in which each tower may be located. The applicant is required to investigate the entire potential area for sensitive environmental resources and possible impacts.
- (i) The existing significant natural and constructed features (including but not limited to water bodies, wetlands, tree lines, buildings, and roads) that are within or adjacent to the area directly affected by the project.

3. Elevation Drawings

- (a) For each proposed temporary meteorological station, the applicant must provide elevation drawings.
- (b) The elevation drawings must be at appropriate scales but no smaller than 1"/20'.
- (c) The applicant must include two elevation drawings of the proposed temporary meteorological station drawn at right angles to each other, showing the ground profile to at least 100 feet beyond the edge of any proposed clearing, and showing any guy wires or supports. The elevation drawing must show all proposed wind measurement equipment, including its location on the tower or other support structure and the height of the tower or other support structure above grade at the base, and describe the proposed finish of the tower.

(d) The elevation drawing must indicate the relative height of the surrounding tree canopy as it presently exists.

(e) Each plan sheet must be clearly labeled with the project title, date, revision date(s), scale, and name of the professional or firm that prepared the plan.

4. Review of Potential Impacts

(a) Based on the applicant's review of the Agency of Natural Resources' Natural Resources Atlas, the applicant must state whether the temporary meteorological station will be sited on, near (e.g., within 500'), or within any of the following:

- i. Floodways
- ii. Shorelines
- iii. Streams
- iv. Wetlands
- v. Outstanding resource waters
- vi. Significant natural communities
- vii. Necessary wildlife habitat
- viii. Rare, threatened, or endangered species
- ix. Vernal pools
- x. River corridors

If the answer to any one of the above is yes, the applicant must: (1) show the location of the temporary meteorological station in relation to the protected resource on the plans specified in Section 2 above, and (2) provide information demonstrating that the installation of the project will not have an undue adverse impact on the protected resource and, if any, indicate the measures that will be taken to avoid or minimize any such impact.

(b) The applicant must provide information demonstrating that the installation of the project will not have an undue adverse impact under the following criteria and, if any, indicate the measures that will be taken to avoid or minimize any such impact.

- i. Aesthetics
- ii. Historic sites
- iii. Air and water purity
- iv. The natural environment
- v. Public health and safety
- vi. Public investments
- vii. Orderly development of the region

5. Description of Comments on the Advance Submission

The applicant must provide a description of all comments received during the advance submission period and the applicant's response to the comments.

V. Filing Requirements: A completed temporary meteorological station application form must first be filed with the Commission for review before being served on the other recipients as listed below. Within two business days of notification from the Commission that the application is complete, the applicant must:

- serve the application on the legislative bodies and municipal and regional planning commissions in the communities where the project will be located by first-class mail, personal delivery, or any other means authorized by the person entitled to service;
- serve the application on the Secretary of the Agency of Natural Resources, the Agency of Transportation; and the Department of Public Service through ePUC; and
- serve notice on adjoining landowners and on any entity that has filed comments with the applicant on the advance submission that the application has been filed with the Commission. This notice must be served by first-class mail, personal delivery, or any other means authorized by the person entitled to service.

The notice of the application must include the case number, the project location, a link to information on the Commission's website about how members of the public may participate in this case, a link to ePUC, and information on where a recipient may obtain a copy of the application. The notice must also inform the recipients of the deadline for filing comments, motions to intervene, and requests for hearing with the Commission.

VI. Completed Applications: Upon receiving an application under § 246, Commission staff will review the application to determine whether it is administratively complete. Applicants should receive an email message with the results of this review within 14 days of the date the Commission received the application; however, the expiration of this time period without the receipt of an email message does not constitute a determination that the application is administratively complete enough to process. If the application is found to be complete, the applicant must serve copies or notice of the application on the entities set forth above. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to file supplemental information to make the application administratively complete. A determination that an application is administratively complete is not a legal determination regarding the sufficiency of the information included in the application.

VII. Submission of Comments and Requests for Hearing: If any person wishes to submit comments, file a motion to intervene in the proceeding, or request a hearing concerning an application filed pursuant to § 246, such correspondence is due at the Commission within 30 calendar days of the date of service of the complete application. All motions to intervene and requests for hearing must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings.¹ Public comments that do not include requests for a hearing or motions to intervene may be filed using ePUC, by email to puc.clerk@vermont.gov, or in paper.

¹ If a motion to intervene or request for hearing is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov.

VIII. Issuance of Decision: A proposal for decision regarding the application will be issued within five months of its filing or, if the original filing was not complete, within five months of the date on which the Commission notifies the applicant that the filing is complete. A Certificate of Public Good issued pursuant to § 246 shall be valid for a period of no more than five years.