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Opposition to Renewable Energy Facilities in the United States: May 2023 Edition

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 **Columbia Law School** | COLUMBIA CLIMATE SCHOOL
SABIN CENTER FOR CLIMATE CHANGE LAW

OPPOSITION TO RENEWABLE ENERGY FACILITIES IN THE UNITED STATES

May 2023 Edition

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The Sabin Center for Climate Change Law develops legal techniques to fight climate change, trains law students and lawyers in their use, and provides the legal profession and the public with up-to-date resources on key topics in climate law and regulation. It works closely with the scientists at Columbia University's Climate School and with a wide range of governmental, non-governmental and academic organizations.

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INTRODUCTION

Achieving lower carbon emissions in the United States will require developing a very large number of wind, solar, and other renewable energy facilities, as well as associated storage, distribution, and transmission infrastructure, at an unprecedented scale and pace. Although host community members are often enthusiastic about the economic and environmental benefits of renewable energy facilities, local opposition often arises. This report updates and considerably expands two previous Sabin Center reports, published in September 2021 and March 2022, and documents local and state restrictions against, and opposition to, siting renewable energy projects for the period from 1995 to May 2023. Importantly, the authors do not make normative judgments as to the legal merits of individual cases or the policy preferences reflected in local opponents' advocacy, nor as to where any one facility should or should not be sited. Bracketing any such judgment, the report demonstrates that local opposition to renewable energy facilities is widespread and growing, and represents a potentially significant impediment to achievement of climate goals.¹

The report provides state-by-state information on local laws to block, delay or restrict renewable energy. These restrictions include temporary moratoria on wind or solar energy development; outright bans on wind or solar energy development; regulations that are so restrictive that they can act as de facto bans on wind or solar

¹ We also do not opine in this report on the role of misinformation in any particular instance. See, e.g., Miranda Green, Michael Copley & Ryan Kellman, *An activist group is spreading misinformation to stop solar projects in rural America*, NPR, Feb. 18, 2023, <https://www.npr.org/2023/02/18/1154867064/solar-power-misinformation-activists-rural-america>; David Gelles, *The Texas Group Waging a National Crusade Against Climate Action*, NEW YORK TIMES, Dec. 4, 2022, <https://www.nytimes.com/2022/12/04/climate/texas-public-policy-foundation-climate-change.html>; Julia Simon, *Disinformation is derailing renewable energy projects across the county*, NPR, Mar. 28, 2022, <https://www.npr.org/2022/03/28/1086790531/renewable-energy-projects-wind-energy-solar-energy-climate-change-misinformation>.

energy development; and zoning amendments that are designed to block a specific proposed project. While local governments at times enact legislation in response to a specific project proposal, as discussed below, some municipalities have banned, placed moratoria on, or significantly restricted wind and solar energy development even absent a proposed project. Other local governments have allowed or welcomed renewable energy facilities while setting reasonable regulations. Only laws that scuttled a specific project or that are so restrictive that they could have the effect of barring wind or solar development at least temporarily are included in this report.² We have also included a handful of local government resolutions that, although not enforceable under present circumstances, would have the effect of barring projects if given legal effect. Beyond those criteria, we have not included or excluded local laws based on policy judgements.

The report also catalogs state-level restrictions, although they are far less numerous and generally more limited in scope. Because the report focuses on obstacles to siting renewable energy facilities, policies related to other issues that affect renewable energy—such as net metering, renewable energy standards, and subsidies—are not discussed.

In many instances opponents seek to block a specific project using means other than local legislation, including strategies that are commonly used to challenge many kinds of development. The report accordingly provides a list of contested projects identified in each state. These include projects that have faced opposition by individual

² For example, some local communities have required that wind turbines be sited so far from residences or property lines that constructing a viable wind farm becomes infeasible; wind developers have indicated that a 1,500-foot setback from occupied structures represents the upper limit of what is typically workable for designing a utility-scale wind project. IOWA ENVIRONMENTAL COUNCIL, SUCCESSFUL COUNTY WIND SITING PRACTICES IN IOWA 5 (Jan. 2020).

residents, community-based groups, or nonprofit organizations with a local presence. This opposition takes many forms, including comments at public hearings, letter-writing campaigns, petitions, participation in administrative proceedings, and lawsuits filed against local governments or developers. In many cases, opponents have succeeded in delaying a project's approval, scaling down a project's size, or achieving a project's cancellation. As with the local laws described above, the authors of this report have included relevant instances of local opposition regardless of authors' policy judgements, including instances of local opposition that may arise from significant legal or political issues with a project.

In nearly every state, local governments have enacted laws and regulations to block or restrict renewable energy facilities, and/or local opposition has resulted in the delay or cancellation of particular projects. In this edition, we found at least 228 local restrictions across 35 states, in addition to 9 state-level restrictions, that are so severe that they could have the effect of blocking a renewable energy project. We also found 293 renewable energy projects that have encountered significant opposition in 45 states. Alaska, Arizona, and Mississippi are the only states where we did not find either restrictions or controversies that meet our criteria.

As described below, the 228 local restrictions, 9 state-level restrictions, and 293 contested projects catalogued in this report represent a major increase over the totals in the March 2022 edition. Importantly, these increases reflect not only recent developments (post-March 2022) but also previously overlooked restrictions and controversies (pre-March 2022). The numbers can be broken out as follows:

- **Local restrictions:** The 228 local restrictions in this report include 59 newly adopted restrictions (adopted post-March 2022) and 58 previously overlooked restrictions (adopted pre-March 2022). Focusing on the 59 newly adopted restrictions, our dataset shows a 35% increase in local restrictions between March 2022 and May 2023 (from 169 to 228). Across the board, this edition identifies

105% more local restrictions than the March 2022 edition (from 111 to 228).³ Out of the 228 local restrictions described in this report, 222 purport to be binding, while 6 are non-binding resolutions or policies.

- **State-level restrictions:** The 9 state-level restrictions in this report include 1 newly adopted restriction (post-March 2022) and 3 previously overlooked restrictions (pre-March 2022).
- **Contested projects:** The 293 contested projects in this report include 82 new controversies (post-March 2022) and 24 previously overlooked controversies (pre-March 2022). Focusing on the 82 new controversies, our dataset shows a 39% increase in the number of projects facing serious organized opposition between March 2022 and May 2023 (from 211 to 293). Across the board, this edition identifies 57% more contested projects than the March 2022 edition (from 187 to 293).⁴

These top-line figures, however, are only indicative. While the report includes all of the restrictions and controversies that we have determined meet our criteria, it does not purport to be exhaustive. There may be a significant number of relevant local laws and contested projects that are not included in this report. Indeed, there are at least two repositories of information that we have either not incorporated, or only partially incorporated, into this report. First, we are aware that the National Renewable Energy Laboratory (NREL) maintains database of nearly 2,000 wind ordinances and nearly

³ The March 2022 edition described 121 local restrictions. However, in the calculations above, we use an adjusted baseline of 111 local restrictions after removing entries that were duplicative or did not meet our criteria.

⁴ The March 2022 edition described 204 contested projects. However, in the calculations above, we use an adjusted baseline of 187 projects after removing entries that were duplicative or did not meet our criteria.

1,000 solar ordinances across the country into this report.⁵ Importantly, the NREL database is not limited to ordinances that would have the effect of blocking or restricting renewable energy facilities. We have incorporated only a limited quantity of potentially relevant information from the NREL database into this report. Second, we are aware that the author Robert Bryce maintains a Renewable Rejection Database, which seeks to “quantify the number of restrictions or rejections of solar and wind projects in the United States over the past decade or so.”⁶ We have not yet incorporated information from that database into this report. In future updates, we will assess further incorporating information from these and other sources into our report.

At a more granular level, a few highlights of the report are as follows:

- Between April 2022 and March 2023, at least 11 counties in Ohio adopted binding resolutions to prohibit large renewable energy projects in all of their unincorporated territories or very large swathes of those territories. There are now at least 13 counties in Ohio that have adopted such resolutions since October 2021, when a state law allowing counties to establish restricted areas went into effect (Allen, Auglaize, Butler, Crawford, Columbiana, Hancock, Knox, Logan, Marion, Medina, Ottawa, Seneca, and Union).
- Until October 2022, the Ohio Power Siting Board had never rejected an application for a solar energy project.⁷ Since October 2022, however, the Board

⁵ Madeline Geocaris, *NREL Releases Comprehensive Databases of Local Ordinances for Siting Wind, Solar Energy Projects*, NREL, Apr. 9, 2022, <https://www.nrel.gov/news/program/2022/nrel-releases-comprehensive-databases-of-local-ordinances-for-siting-wind-solar-energy-projects.html>.

⁶ Robert Bryce, *Renewable Rejection Database*, <https://robertbryce.com/renewable-rejection-database/> (last visited May 2, 2023).

⁷ Peggy Kirk Hall, *First large-scale solar energy project denied in Ohio*, FARM OFFICE: OHIO STATE UNIVERSITY EXTENSION, Oct. 28, 2022, <https://farmoffice.osu.edu/blog/fri-10282022-830am/first-large-scale-solar-energy-project-denied-ohio>.

has rejected at least three such applications (Birch Solar, Cepheus Solar, and Kingwood Solar).⁸

- In March 2023, Buffalo County, Nebraska, adopted an exceptionally restrictive wind ordinance, which requires that turbines be set back 3 miles from the nearest property lines and 5 miles from any village or city. At the time of publication, at least 8 other Nebraska counties also require that wind turbines be set back by at least 1 mile from either property lines or dwellings, including Wheeler (5 miles from dwellings), Thomas (3 miles from property lines), Hamilton (2 miles from property lines), Dakota (2 miles from dwellings), Brown (1 mile from property lines), Gage (1 mile from property lines), Otoe (1 mile from property lines), and Jefferson (1 mile from dwellings). Meanwhile, Stanton County has effectively banned commercial wind projects altogether.
- In Virginia, at least 7 counties adopted restrictive solar ordinances or moratoria between June 2022 and May 2023 (Charlotte, Culpeper, Franklin, Halifax, Page, Pittsylvania, and Shenandoah). Some of these are exceptionally burdensome. For example, Pittsylvania County now prohibits the construction of any solar farm within 5 miles of any other solar farm and limits utility-scale solar projects to 2% of the total acreage of any zoning district. Franklin County has imposed a countywide cap of 1,500 acres for all ground-mounted solar projects.
- Across the Midwest, there has been a growing movement to prohibit solar energy systems from farmland. Since September 2022, at least two Michigan townships (LaSalle and Milan) have adopted ordinances limiting utility-scale solar energy projects to industrial districts and prohibiting such projects on land zoned for agricultural use. In neighboring Wisconsin, four towns in Dane County (Deerfield, Dunn, Springfield, and Westport), now have policies to restrict solar from agricultural land.

This report demonstrates that “not in my backyard” and other objections to renewable energy continue to occur throughout the country and can delay or impede project development.

⁸ Peggy Kirk Hall, *Two more large-scale solar projects in Ohio turned down due to community opposition*, FARM OFFICE: OHIO STATE UNIVERSITY EXTENSION, Jan. 20, 2023, <https://farmoffice.osu.edu/blog/fri-01202023-403pm/two-more-large-scale-solar-projects-ohio-turned-down-due-community>.

This report was prepared as part of the work of the Sabin Center’s Renewable Energy Legal Defense Initiative (RELDI). RELDI conducts independent research on issues related to siting renewable energy infrastructure and provides pro bono legal representation to community groups and local residents who support renewable energy developments in their communities that are facing opposition. More information about RELDI can be found [here](#).

1. ALABAMA

1.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

1.2 Local Restrictions

Existing Entries (Updated)

- **Baldwin County:** Wind energy systems with a capacity of 50 kW or greater are categorically prohibited. Any wind energy system located near a scenic byway or corridor must not cause an adverse visual impact.⁹
- **Cherokee County:** In 2014, the Alabama state legislature enacted S.B. 402, which established certain restrictions on wind power in Cherokee County, including: (1) a noise limit of 40 decibels (dBA) at the nearest property line; and (2) a setback of at least 2,500 feet from the nearest property line.¹⁰

⁹ BALDWIN COUNTY, ALA., ZONING ORDINANCE §§ 13.13.4, 13.13.6(j) (as amended Oct. 18, 2022), <https://baldwincountyal.gov/departments/planning-zoning/ordinances-and-regulations>.

¹⁰ Act No. 2014-190, S.B. 402 (Ala. Mar. 18, 2014) §§ 6(i)-(j), <http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2014RS/PrintFiles/SB402-enr.pdf>.

- **DeKalb County:** In DeKalb County, wind turbines must be set back 2,500 feet from property lines and noise must not exceed 40 decibels.¹¹ In addition, any wind energy system or turbine “that does not operate continuously for 365 consecutive days may be deemed abandoned and shall be removed by the operator of the system.”¹²
- **Etowah County:** In 2014, the Alabama state legislature enacted S.B. 403, which established certain restrictions on wind power in Etowah County, including: (1) a noise limit of 40 decibels (dBA) at the nearest property line; and (2) a setback of at least 2,500 feet from the nearest property line.¹³

1.3 Contested Projects

Existing Entries (Updated)

- **Noccalula Wind Energy Center (Etowah County):** In August 2014, Pioneer Green Energy, a Texas-based developer, abandoned plans to construct a \$160 million wind project comprising 35 to 40 turbines after local residents filed a lawsuit challenging the project and after the state enacted onerous restrictions on wind energy in Etowah County.¹⁴
- **Shinbone Ridge Wind (Cherokee County):** In August 2014, Pioneer Green Energy abandoned plans to construct a \$40 million wind project comprising seven to eight wind turbines in Cherokee County after local residents filed a

¹¹ ALA. CODE § 45-25-260.05 (2019), <https://casetext.com/statute/code-of-alabama/title-45-local-laws/chapter-25-dekalb-county/article-26-zoning-and-planning/part-1-wind-energy-conversion-systems/section-45-25-26005-certification-safety-and-setback-requirements>.

¹² ALA. CODE § 45-25-260.06 (2019), <https://casetext.com/statute/code-of-alabama/title-45-local-laws/chapter-25-dekalb-county/article-26-zoning-and-planning/part-1-wind-energy-conversion-systems/section-45-25-26006-abandonment-and-removal-of-system-or-tower>.

¹³ Act No. 2014-191, S.B. 403 (Ala. Mar. 19, 2014) §§ 6(i)-(j), <http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2014RS/PrintFiles/SB403-enr.pdf>.

¹⁴ William Thorton, *Wind Energy Company Pulling out of Cherokee, Etowah County Projects, Opposition Says*, ANNISTON-GADSDEN REAL-TIME NEWS, Aug. 19, 2014, https://www.al.com/news/anniston-gadsden/2014/08/pioneer_green_energy_pulling_o.html.

lawsuit challenging the project and after the state enacted onerous restrictions on wind energy in Cherokee County.¹⁵

- **Turkey Heaven Mountain Wind (Cleburne County):** In October 2015, Native Energy Solutions, an Oklahoma-based developer, announced that it was no longer planning to build a wind project in Cleburne County. The project faced opposition from local residents who, in June 2014, filed a lawsuit seeking a permanent injunction that would bar the developer from constructing wind turbines in the County, citing concerns about “wind turbine syndrome” among other things. The developer filed a motion to dismiss, but the motion was denied.¹⁶

2. ALASKA

2.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

2.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

2.3 Contested Projects

No contested projects were found at this time.

¹⁵ William Thornton, *Alabama Regs Too Strict for Turbines, Says Lawyer for Wind Energy Developer*, ANNISTON-GADSDEN REAL-TIME NEWS, Aug. 20, 2014, https://www.al.com/news/anniston-gadsden/2014/08/alabama_regs_too_strict_for_tu.html; Complaint for Permanent Injunction, Shaver et al. v. Pioneer Green Energy, Case No. CV-2013-900125 (Cherokee Cnty. Oct. 21, 2013), <http://www.weisradio.com/wp-content/uploads/2014/03/Cherokee-County-Lawsuit-Shinbone-Wind.pdf>.

¹⁶ Laura Camper, *Wind Turbine Company Has No Plans for Alabama After Lawsuit from Cleburne County Homeowners*, THE ANNISTON STAR, Oct. 20, 2015, https://www.annistonstar.com/news/wind-turbine-company-has-no-plans-for-alabama-after-lawsuit-from-cleburne-county-homeowners/article_30289b7e-775c-11e5-a572-f775a9d8f777.html; Doggett v. Nat’l Energy Solutions, No. 1:14-cv-02328-JHE, 2015 U.S. Dist. LEXIS 140953 (N.D. Ala. Oct. 16, 2015).

3. ARIZONA

3.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

3.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

3.3 Contested Projects

No contested projects were found at this time.

4. ARKANSAS

4.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

4.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

4.3 Contested Projects

Existing Entries (Updated)

- **Wind Catcher Energy Connection Project (N/A):** In July 2018, American Electric Power abandoned plans to build a \$4.5 billion, 2,000-MW wind farm in the Oklahoma panhandle, as well as an associated interstate transmission project that would have delivered electricity to Arkansas and other states. In Arkansas, a dark money group called Protect Our Pocketbooks paid for television advertisements claiming that Arkansas would receive no benefits from the project. The developer responded by issuing a statement that Protect Our Pocketbooks was “presenting misleading information to the public, including manipulation of statements by Arkansas Gov. Asa Hutchinson.” The developer further noted that the group “does not reveal the names of its backers or the sources of its substantial funding.” Although the Arkansas Public Service Commission ultimately granted approval for the Arkansas components of the

project, the Wind Catcher project was canceled altogether when the Texas Public Service Commission (PSC) denied approval.¹⁷

5. CALIFORNIA

Note on state preemption of local restrictions: On June 30, 2022, the State of California adopted legislation that allows the California Energy Commission to bypass local laws when permitting large-scale renewable energy projects. Under the new law, the commission has jurisdiction to issue a certificate for any: (a) photovoltaic solar facility, on-shore wind facility, or thermal energy facility not powered by fossil fuels or nuclear fuels, with a generating capacity of at least 50 MW; (b) energy storage system with a storage capacity of least 200 MW hours (MWh); (c) electric transmission line from any such generating or storage facility to an interconnected transmission system; and (d) facility that manufactures, produces, or assembles wind, solar, or storage systems with a capital investment of at least \$250,000,000 over a period of 5 years. The law provides that the issuance of a certificate shall “be in lieu of any permit, certificate, or similar document required by any state, local, or regional agency,” and “supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency.”¹⁸

5.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

¹⁷ Dan Gearino, *AEP Cancels Nation’s Largest Wind Farm: 3 Challenges Wind Catcher Faced*, INSIDE CLIMATE NEWS, July 30, 2018, <https://insideclimatenews.org/news/30072018/aep-cancels-wind-catcher-largest-wind-farm-oklahoma-oil-gas-opposition-clean-power-plan/>; Talk Business & Politics Staff, *Sparks Begin to Fly with Wind Catcher Electricity Transmission Project*, KUAR, Mar. 7, 2018, <https://www.ualrpublicradio.org/local-regional-news/2018-03-07/sparks-begin-to-fly-with-wind-catcher-electricity-transmission-project>.

¹⁸ CAL. PUB. RES. CODE §§ 25545, 25545.1, https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=15.&title=&part=&chapter=6.2.&article=.

5.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **Los Angeles County:** The Los Angeles County Code prohibits “[u]tility-scale wind energy facilities.” The code also prohibits ground-mounted utility-scale solar energy facilities in designated areas of ecological and economic importance.¹⁹

Existing Entries (Updated)

- **Crescent City (Del Norte County):** Small wind energy conversion systems are not permitted on vacant lots; on a site listed in the National Register of Historic Places or the California Register of Historic Resources; where the system would be visible from any coastal scenic resource area; within 100 feet of any sensitive or endangered habitat designated by the California Department of Fish and Game without written permission from that agency; or within any public right-of-way, easement, path of travel, or interior traffic circulation system.²⁰
- **San Bernardino County:** In 2019, the San Bernardino County Board of Supervisors banned “utility oriented” renewable energy projects in designated “rural living” areas covering more than 1,000,000 acres of land. Residential solar panels and community solar projects are not affected.²¹

¹⁹ LOS ANGELES COUNTY, CAL., CODE § 22.140.510(C)(5), https://library.municode.com/ca/los_angeles_county/codes/code_of_ordinances?nodeId=TIT22PLZO_DIV_7STSPUS_CH22.140STSPUS_22.140.510REEN.

²⁰ CRESCENT CITY, CAL., MUNICIPAL CODE § 17.48.040(D) (current through November 2022), https://library.qcode.us/lib/crescent_city_ca/pub/municipal_code/item/title_17-chapter_17_48-17_48_040.

²¹ Christian Roselund, *San Bernardino County bans large-scale solar, wind in some areas*, PV MAGAZINE, Mar. 1, 2019, <https://pv-magazine-usa.com/2019/03/01/san-bernardino-county-bans-large-scale-solar-wind-in-some-areas/>; see County of San Bernardino General Plan, Renewable Energy and Conservation Element, RE Policy 4.10, Feb. 2019, <https://countywideplan.com/wp-content/uploads/sites/68/2021/02/REC-Element.pdf>.

5.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **CADEMO and BW-IDEOL Offshore Wind Projects (N/A):** According to a March 2022 article, local conservation groups and members of the Northern Chumash Tribe are fighting two proposed offshore wind projects off the coast of Santa Barbara County. The project sites are in an area the Northern Chumash Tribe have sought to designate as a Chumash Heritage National Marine Sanctuary. The 60-MW CADEMO Demonstration Project and the 40-MW BW-IDEOL Vandenberg Space Force Base Pilot Project would each consist of four floating turbines.²²
- **Grant Line Solar Project (Alameda County):** On September 18, 2022, a local group called Friends of Livermore filed an administrative appeal to overturn Alameda County’s approval of the 12-acre, 2-MW Alameda Grant Line Solar 1 project. Friends of Livermore asserted that the project violated Alameda County’s “Save Agriculture and Open Lands Initiative,” also known as Measure D.²³ On November 10, 2022, County Board of Supervisors denied the appeal, allowing the project to move forward.²⁴
- **Soda Mountain Solar Project (San Bernardino County):** According to an article published in February 2023, environmental groups, including the National Parks

²² Louis Sahagun, *A Chumash tribe and conservationists are fighting a controversial offshore wind power plan*, LOS ANGELES TIMES, Mar. 21, 2022, <https://www.latimes.com/environment/story/2022-03-21/nobody-seems-to-like-this-california-wind-power-proposal>; Offshore Wind Application, CALIFORNIA STATE LANDS COMMISSION, Oct. 22, 2021, <https://www.slc.ca.gov/renewable-energy/offshore-wind-applications/> (last visited Jan. 31, 2023).

²³ Larry Altman, *Group Files an Appeal to Stop Alameda Grant Line Solar Project*, THE INDEPENDENT, Sept. 29, 2022, https://www.independentnews.com/news/regional_and_ca/group-files-an-appeal-to-stop-alameda-grant-line-solar-project/article_f5052ff0-3f52-11ed-a976-2faaf7aed3e3.html.

²⁴ Larry Altman, *Alameda County Supervisors Reject Friends of Livermore Appeal, Approve Grant Line Solar 1 Project in East County*, THE INDEPENDENT, Nov. 17, 2022, https://www.independentnews.com/news/regional_and_ca/alameda-county-supervisors-reject-friends-of-livermore-appeal-approve-grant-line-solar-1-project-in/article_bfd70d76-668a-11ed-a90c-d7492fc8e63e.html.

Conservation Association, are opposing plans for the 300-MW Soda Mountain Solar Project in the Mojave Desert, citing potential impacts to bighorn sheep, tortoises, and other wildlife. The project had lain dormant for years after San Bernardino County in 2016 rejected the project due to potential effects on underground aquifers. However, the California Department of Fish and Wildlife recently announced it was reviewing a revised application.²⁵

New Entries (Pre-March 2022 Developments)

- **Calico Solar Project (San Bernardino County):** In 2005, Stirling Energy Systems signed a contract with a utility to sell up to 850 MW of energy from a concentrating solar-thermal power plant that would involve 30,000 solar dishes standing up to 40 feet high in the Mohave Desert. Due to concerns about impacts on the desert tortoise, project plans were reduced to 663.5 MW. In 2012, the Sierra Club, Natural Resources Defense Council, and Defenders of Wildlife filed a lawsuit to stop the project, arguing that the project was “wrong from the start,” due to impacts on wild lands and wildlife. By 2013, the project was dead.²⁶
- **North Sky River Project (Kern County):** In October 2012, Defenders of Wildlife, the Center for Biological Diversity, and the Sierra Club filed a lawsuit in federal court to block NextEra’s proposal for a 100-turbine, 300-MW North Sky River Project due to its proximity to California Condor habitat in the Tehachapi Mountains. The lawsuit was unsuccessful, and the project was allowed to proceed. As completed, the project has a total capacity of 162 MW.²⁷

²⁵ Louis Sahagun, *Can Bighorns, a Bullet Train and a Huge Solar Farm Coexist in the Mojave Desert*, LOS ANGELES TIMES, Feb. 6, 2023, <https://www.latimes.com/environment/story/2023-02-06/mojave-desert-solar-energy-project-angers-conservationists>.

²⁶ Larry Bell, *Environmental Groups Strongly Endorse ‘None of the Above’ Energy Plans*, FORBES, Mar. 12, 2013, <https://www.forbes.com/sites/larrybell/2013/03/12/environmental-groups-strongly-endorse-none-of-the-above-energy-plans/?sh=22656bfe1e3e>; Todd Woody, *Sierra Club, NRDC Sue Feds to Stop Big California Solar Power Project*, FORBES, Mar. 27, 2012, <https://www.forbes.com/sites/toddwoody/2012/03/27/sierra-club-nrdc-sue-feds-to-stop-big-california-solar-power-project/?sh=7cedfa261d65>; James Montgomery, *K Road Gives Up on Calico Solar Project*, RENEWABLE ENERGY WORLD, July 1, 2013, <https://www.renewableenergyworld.com/solar/k-road-gives-up-on-calico-solar-project/>.

²⁷ Paul Rauber, *Wind Rush: Conflict Avoidance*, SIERRA, March/April 2013, <https://vault.sierraclub.org/sierra/201303/wind-power-turbine-technology-birds.aspx>; Larry Bell,

Existing Entries (Updated)

- **Altamont Pass Wind Resource Area First-Generation Wind Farms (Alameda and Contra Costa Counties):** In 2004, the Center for Biological Diversity brought a lawsuit against the operators of wind turbines in the Altamont Pass Wind Resource Area in Alameda and Contra Costa Counties, alleging that the “obsolete, first-generation wind turbine generators” being used at the site were killing and injuring birds in violation of the public trust doctrine. The lawsuit was dismissed, and the dismissal was upheld on appeal.²⁸
- **Aramis and SunWalker Solar Projects (Alameda County):** Opponents of two North Livermore Valley solar projects, Aramis (410 acres) and SunWalker (70 acres), led by a group called Save North Livermore Valley, have argued that the proposed locations of the projects impinge on agriculture, natural wildlife habitat, open space, and visual and scenic resources. In October 2020, two candidates running for election to the Alameda County Board of Supervisors issued a joint statement urging the board to place a moratorium on solar development on agricultural land. After the East County Board of Zoning Adjustments approved both projects, local groups stated their intent to appeal the decision. By December 2020, three local organizations had filed appeals challenging the approval of the Aramis project.²⁹ In May 2022, the Alameda

Environmental Groups Strongly Endorse ‘None of the Above’ Energy Plans, FORBES, Mar. 12, 2013, <https://www.forbes.com/sites/larrybell/2013/03/12/environmental-groups-strongly-endorse-none-of-the-above-energy-plans/?sh=22656bfe1e3e>; *North Sky River, US*, POWER TECHNOLOGY, Dec. 7, 2021, <https://www.power-technology.com/marketdata/north-sky-river-us/> (last visited Mar. 6, 2023); *Sierra Club v. BLM*, 786 F.3d 1219, 1221 (9th Cir. 2015).

²⁸ *Center for Biological Diversity, Inc. v. FPL Group, Inc.*, 166 Cal. App. 4th 1349 (2008), *as modified on denial of reh’g* (Oct. 9, 2008).

²⁹ Ryan J. Degan, *Supervisor candidates urge a pause on Livermore solar projects*, PLEASANTON WEEKLY, Oct. 7, 2020, <https://www.pleasantonweekly.com/news/2020/10/07/supervisor-candidates-urge-a-pause-on-livermore-solar-projects>; Cierra Bailey, *Livermore: Resident groups, developer all appeal county’s approval of 410-acre solar project*, PLEASANTON WEEKLY, Dec. 9, 2020, <https://www.pleasantonweekly.com/news/2020/12/09/livermore-resident-groups-developer-all-appeal-countys-approval-of-410-acre-solar-project>.

County Superior Court upheld the county's approval of the Aramis project, dismissing a lawsuit by project opponents.³⁰

- **Fountain Wind Project (Shasta County):** In October 2021, the Shasta County supervisors upheld the county planning commission's rejection of a permit application for the Fountain Wind Project. The project would have included up to 72 turbines over 600 feet tall and paid more than \$50 million in property taxes over 30 years. In denying the appeal, supervisors emphasized (a) the height and visibility of the turbines and (b) the potential that the presence of turbines would exacerbate the challenge of fighting wildfires. Opponents of the project also cited impacts to Native American resources.³¹
- **Halus Power Wind Turbine (Alameda County):** In 2013, a homeowners association filed a lawsuit challenging the City of Leandro's approval of a 100-foot wind turbine by turbine manufacturer Halus Power on property owned by Halus Power. The court entered judgment in favor of the homeowners association on finding that the city had violated the California Environmental Quality Act. Halus Power abandoned the project.³²
- **Jacumba Solar Project (San Diego County):** In August 2021, the San Diego County Board of Supervisors unanimously approved a proposed 604-acre solar project in Jacumba. However, in October 2021, the owner of a local hot springs

³⁰ Tentative Ruling Issued in Favor of Solar Project, THE INDEPENDENT, Apr. 27, 2022. Updated in May 10, 2022, https://www.independentnews.com/news/regional_and_ca/tentative-ruling-issued-in-favor-of-solar-project/article_e92dfce6-c62d-11ec-a275-e708f9977087.html; Cierra Bailey, *Court upholds county's approval of Aramis solar project in Livermore*, PLEASANTON WEEKLY, July 15, 2022, <https://www.pleasantonweekly.com/news/2022/07/15/court-upholds-countys-approval-of-aramis-solar-project-in-livermore>.

³¹ David Benda, *Controversial wind farm rejected after Shasta supervisors back commission, cite fire risks*, REDDING RECORD SEARCHLIGHT, Oct. 27, 2021, <https://www.redding.com/story/news/local/2021/10/27/shasta-supervisors-agree-commission-and-deny-use-permit-controversial-wind-farm/8555976002/>.

³² Ashly McGlone, *Homeowners Take San Leandro Wind Turbine Battle to Court*, THE MERCURY NEWS, May 7, 2013, <https://www.mercurynews.com/2013/05/07/homeowners-take-san-leandro-wind-turbine-battle-to-court/>; *Heron Bay Homeowners Ass'n v. City of San Leandro*, 19 Cal. App. 5th 376 (Cal. Ct. App. Jan. 12, 2018).

hotel and other community members filed a lawsuit in San Diego Superior Court challenging the project. Opponents of the project have expressed concerns about dust, a decline in tourism, and the heat island effect.³³

- **Jawbone Wind Energy (Kern County):** In 2011, a group called Citizens Opposing a Dangerous Environment filed a lawsuit against the Kern County Board of Supervisors, which challenged the county's environmental impact report certification and approval of a 339-MW wind farm on a 13,535-acre site in the Tehachapi Wind Resource Area. The lawsuit was dismissed, and the dismissal was upheld on appeal, allowing the project to move forward.³⁴
- **Mulqueeney Ranch Wind Repowering Project in the Altamont Pass Wind Resource Area (Alameda County):** In November 2021, the National Audubon Society and local affiliates filed a lawsuit in Alameda County Superior Court challenging the county's October 2021 approval of a new 80-MW wind project by Brookfield Renewables in the Altamont Pass. The lawsuit alleged insufficient environmental review and failure to adequately assess impacts to birds and bats.³⁵
- **Panoche Valley Solar Farm (San Benito County):** In 2010, San Benito County approved a 399-MW solar facility near the town of Hollister. Shortly thereafter, the Sierra Club, the Santa Clara Valley Audubon Society, and Save Panoche Valley sued the county, alleging that the project endangered key populations of native species.³⁶ The environmental groups reached a settlement with the

³³ Camille Von Kaenel, *Jacumba Residents Largely on Their Own to Negotiate with Neighboring Renewable Energy Projects*, HOLTVILLE TRIBUNE, Oct. 31, 2021, <https://holtvilletribune.com/2021/10/31/jacumba-residents-on-their-own-with-projects/>; Camille von Kaenel, *Jacumba Neighbors Sue to Block Construction of San Diego County's Largest Solar Farm*, INEWSOURCE, Sept. 21, 2021, <https://inewsourc.org/2021/09/21/jacumba-residents-sue-to-fight-solar-farm/>.

³⁴ *Citizens Opposing a Dangerous Env't v. Cnty. of Kern*, 228 Cal. App. 4th 360 (Cal. Ct. App. June 30, 2014).

³⁵ Jason Howe, *National Audubon Society Sues California County to Improve Bird Protections in Controversial Wind Energy Project*, AUDUBON SOCIETY, Nov. 17, 2021, <https://www.audubon.org/news/national-audubon-society-sues-california-county-improve-bird-protections>.

³⁶ See *Save Panoche Valley v. San Benito County*, 217 Cal. App. 4th 503 (2013).

developer in 2019, reducing the size of the project to 130 MW, less than one-third of the original plan.³⁷

- **Terra-Gen Wind Project (Humboldt County):** In late 2019, Terra-Gen Wind applied to the Humboldt County Board of Supervisors to construct 47 wind turbines on the Monument and Bear River ridges near Scotia, enough to meet up to 56% of the county's electricity load. The proposal was met with local opposition, including by members of the Wiyot tribe who argued that one of the ridges was a sacred prayer site of the Wiyot.³⁸ The Board of Supervisors ultimately denied the application.³⁹

6. COLORADO

6.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

6.2 Local Restrictions

Existing Entries (Updated)

- **Washington County:** A temporary moratorium on accepting, processing, and approving wind and solar farm permits in unincorporated parts of the county

³⁷ Paul Rogers, *Giant California solar project cut back after environmentalists oppose it*, MERCURY NEWS, July 21, 2017, <https://www.mercurynews.com/2017/07/21/giant-solar-project-reduced-due-to-environmentalists-opposition/>.

³⁸ Elaine Weinreb, *Overflow Crowd Again Turns Out for Public Hearing on Controversial Wind Farm Proposal*, NORTH COAST JOURNAL, Nov. 17, 2019, <https://www.northcoastjournal.com/NewsBlog/archives/2019/11/17/overflow-crowd-again-turns-out-for-public-hearing-on-controversial-wind-farm-proposal>.

³⁹ Thadeus Greenson & Elaine Weinreb, *Why the Supes Denied Terra-Gen's Wind Project, Despite a Series of 11th Hour Concessions from the Company*, NORTH COAST JOURNAL, Dec. 17, 2019, <https://www.northcoastjournal.com/NewsBlog/archives/2019/12/17/why-the-supes-denied-terra-gens-wind-project-despite-a-series-of-11th-hour-concessions-from-the-company>.

went into effect on March 24, 2020.⁴⁰ The moratorium was extended multiple times until August 31, 2021 or later.⁴¹

6.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Hesperus Solar Project (La Plata County):** Primergy Solar’s proposal to build a 155-MW solar project with 155 MW of battery storage on 1,900 acres in La Plata County, Colorado has encountered opposition from a local group called Stop Hesperus Solar. Opponents have objected to the placement of panels on agricultural land and argued that the project will cause an irreversible loss of wildlife habitat in a major migration corridor.⁴² In January 2023, the La Plata County Planning Department informed Primergy Solar that its application was incomplete, finding that the application did not include a water demand study, among other issues.⁴³
- **Pronghorn Solar Park (Pueblo County):** On June 9, 2022, Pueblo County denied Leeward Renewable Energy’s application to construct a 150-MW solar project on 831 acres of private land near the Comanche power plant. In denying the application, county commissioners cited pushback from residents and concerns about property values. County planning and development staff had also

⁴⁰ WASHINGTON COUNTY, COLO., Resolution 64-2020 (Mar. 24, 2020), <https://washingtoncounty.colorado.gov/sites/washingtoncounty/files/64-2020%20Moratorium%20wind%20and%20solar.pdf>.

⁴¹ WASHINGTON COUNTY, COLO., Resolution 83-2021 (July 13, 2021), <https://washingtoncounty.colorado.gov/sites/washingtoncounty/files/83%20Extending%20Moratorium.pdf>.

⁴² Reuben Schafir, *What Do the Landowners of the Hesperus Solar Project Have to Say?*, DURANGO HERALD, Dec. 17, 2022, <https://www.durangoherald.com/articles/what-do-the-landowners-of-the-hesperus-solar-project-have-to-say/>; *Hesperus Solar Project*, Primergy Solar, <https://primergysolar.com/our-projects/hesperus/> (last visited Feb. 6, 2023); Stop Hesperus Solar, <https://stophesperussolar.com/> (last visited Feb. 6, 2023).

⁴³ Reuben Schafir, *Deficiencies Found in Hesperus Solar Application*, DURANGO HERALD, Jan. 19, 2023, <https://www.durangoherald.com/articles/deficiencies-found-in-hesperus-solar-application/>.

previously recommended that the application be denied due to impacts on local residents. Residents wearing matching t-shirts with stop signs cheered the decision, asserting that the project would have impeded their views of mountains and wildlife.⁴⁴

Existing Entries (Updated)

- **Invenergy’s Pueblo County Solar Project (Pueblo County):** In December 2018, Pueblo County denied Invenergy’s application to construct a 700-acre, 100-MW solar energy generation facility with 5 MW of battery storage. Local residents opposed the project due to concerns about fire risk, property value depreciation, and visual impacts.⁴⁵
- **Tessera’s Saguache County Solar Thermal Project (Saguache County):** In 2011, Tessera Solar withdrew its proposal to construct a 1,526-acre, 145-MW solar thermal facility in Saguache County, Colorado. The project faced organized opposition from local residents, who complained about noise, wildlife impacts, and the industrial nature of the project.⁴⁶

⁴⁴ Anna Lynn Winfrey, *Pueblo County commissioners vote no on Pronghorn Solar Park*, THE PUEBLO CHIEFTAIN, June 9, 2022, <https://www.chieftain.com/story/news/2022/06/09/pueblo-commissioners-deny-permit-pronghorn-solar-park/7561100001/>; Pronghorn Solar Park, <https://pronghornsolar.com/> (last visited Feb. 1, 2023).

⁴⁵ Anthony Mestas, *County denies solar project*, THE PUEBLO CHIEFTAIN, Dec. 12, 2018, <https://www.chieftain.com/story/news/politics/county/2018/12/12/county-denies-solar-project/6661199007/>; Bill Folsom, *Neighbors Fighting Proposed Solar Panel Facility in Pueblo County*, KOAA, Dec. 5, 2018, <https://www.koaa.com/news/covering-colorado/2018/12/05/neighbors-fighting-proposed-solar-panel-facility-in-pueblo-county/>.

⁴⁶ Patty LaTaille, *News from the San Luis Valley*, COLORADO CENTRAL MAGAZINE, Aug. 1, 2011, <https://www.coloradocentralmagazine.com/news-from-the-san-luis-valley-24/>; Mary and Vince Palermo, *County to hold public hearing on Tessera solar proposal Dec. 6*, THE CRESTON EAGLE, <https://web.archive.org/web/20221002002532/https://crestoneeagle.com/county-to-hold-public-hearing-on-tessera-solar-proposal-dec-6/>; Megan Verlee, *Residents Fight Over Solar Projects*, COLORADO PUBLIC RADIO, Dec. 21, 2010, <https://www.cpr.org/show-segment/residents-fight-over-solar-projects/>.

7. CONNECTICUT

Note on state preemption of local restrictions: The Connecticut Siting Council has exclusive jurisdiction over renewable energy facilities, excluding certain emergency facilities with a capacity of 1 MW or less.⁴⁷ While state law allows local governments to “regulate and restrict the location of a proposed location of a facility,”⁴⁸ the Siting Council can approve projects that violate local zoning restrictions. The Appellate Court of Connecticut has held that the Connecticut Siting Council “is empowered to review decisions from zoning commissions on a de novo basis, applying concerns that transcend those involved in local zoning decisions, and that review may . . . result in the approval of a particular site although the facility failed to meet the requirements of local zoning regulations.”⁴⁹

7.1 State-Level Restrictions

Existing Entries (Updated)

- In 2017, the Legislature enacted Public Act No. 17-218, which prohibits solar photovoltaic projects of 2 MW or greater on “core forest” or “prime farmland” statewide unless state regulators find that the project will not “materially affect” the land’s status as core forest or prime farmland.⁵⁰

7.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

⁴⁷ CONN. GEN. STAT. §§ 16-50i(a), 16-50x(a) (2021), https://www.cga.ct.gov/current/pub/chap_277a.htm.

⁴⁸ CONN. GEN. STAT. § 16-50x(d) (2021), https://www.cga.ct.gov/current/pub/chap_277a.htm.

⁴⁹ *Preston v. Conn. Siting Council*, 20 Conn. App. 474, 483-84 (1990).

⁵⁰ CT Gen Stat § 16-50k (rev. Jan. 1, 2021), https://www.cga.ct.gov/current/pub/chap_277a.htm#sec_16-50k; *id.* § 16a-3k (rev. Jan. 1, 2021), https://www.cga.ct.gov/current/pub/chap_295.htm#sec_16a-3k.

7.3 Contested Projects

Existing Entries (Updated)

- **Connecticut Wind Colebrook Project (Litchfield County):** In 2011, a community group called FairwindCT filed a lawsuit challenging the Connecticut Siting Council's approval of BNE Energy's petition to construct six 1.6-MW wind turbines at two separate sites in the Town of Colebrook. The trial court dismissed the lawsuit, and, in 2014, after three years of litigation, the Connecticut Supreme Court upheld the dismissal.⁵¹ On January 9, 2020, BNE Energy submitted a request to the Connecticut Siting Council to modify the approved plan to allow installation of a different type of wind turbine. On March 4, 2020, FairwindCT submitted an objection to the proposed modification, but the Executive Director of the Council ultimately approved the modification request. On June 1, 2020, FairwindCT and abutting landowners filed a petition with the Council for a declaratory ruling to disallow the modification. On December 17, 2020, the Council issued a final decision upholding the modification request. FairwindCT and the abutting landowners appealed to the New Britain Judicial District Superior Court, which, in November 2021, ruled in their favor, vacating the Council's approval of the requested modification.⁵²
- **Tobacco Valley Solar Farm (Hartford County):** In 2017, the Connecticut Siting Council approved construction of the 156-acre, 26-MW Tobacco Valley Solar Farm, despite opposition from state agencies, local governments, and local residents, who had expressed concerns about impacts to forests and prime farmland. In February 2018, the Town of Simsbury filed an administrative appeal challenging the Connecticut Siting Council's approval of the project; six neighboring residents filed an appeal four days later. In October 2018, the parties reached a settlement that allowed the project to move forward in exchange for

⁵¹ *CT's First Commercial Wind Project Wins Legal Battle*, HARTFORD BUSINESS JOURNAL, Sept. 16, 2014, <https://www.hartfordbusiness.com/article/cts-first-commercial-wind-project-wins-legal-battle>; *Fairwindct, Inc. v. Conn. Siting Council*, 313 Conn. 669 (Feb. 21, 2014).

⁵² *Gold v. State Siting Council*, No. HHBCV216063707, 2021 Conn Super LEXIS 1974.

certain concessions from the developer, including enhanced visual screening and an agreement not to remove a certain barn structure.⁵³

8. DELAWARE

8.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

8.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Kent County:** In March 2022, the Kent County Levy Court imposed a moratorium on new solar projects in response to pushback after allowing solar projects to be sited on agricultural lands. In September 2022, the Levy Court amended the County ordinance to prohibit new solar farms larger than 50 acres on agricultural land, thereby reducing the potential available land from 75,000 acres to 1,500 acres, a reduction of approximately 98%. In December 2022, the Kent County Levy Court voted to impose a moratorium on utility-scale wind farms in anticipation of a future decision to prohibit wind facilities from agricultural land.⁵⁴

⁵³ Release and Settlement Agreement, https://www.simsbury-ct.gov/sites/g/files/vyhlf1216/f/uploads/dww_settlement_agreement_signed.pdf; Gregory B. Hladky, *Simsbury Solar Power Project Moves Forward as Developer Buys Land*, Hartford Current, May 10, 2019, <https://www.courant.com/news/connecticut/hc-news-simsbury-solar-sold-20190510-p2hzinoj6bfsdl2pc7tw5xwrhu-story.html>; Gregory B. Hladky, *'We traded green for green.'* *Controversial solar array built on Simsbury farmland now producing power*, THE HARTFORD COURANT, Dec. 13, 2019, <https://www.courant.com/news/connecticut/hc-news-tobacco-valley-solar-operating-20191213-vxqz26imbvfm3fsyiwaahb7cdy-story.html>.

⁵⁴ Paul Kiefer, *Kent County Levy Court Places Moratorium on Utilities-Scale Wind Farms*, DELAWARE PUBLIC MEDIA, Dec. 21, 2022, <https://www.delawarepublic.org/politics-government/2022-12-21/kent-county-levy-court-places-moratorium-on-utilities-scale-wind-farms>; *For Now, Kent Solar Debate Eases After Sweeping Restrictions*, Oct. 25, 2022, Delaware Business Now, <https://delawarebusinessnow.com/2022/10/for-now-kent-solar-debate-eases-after-sweeping-restrictions/>.

Existing Entries (Updated)

- **Town of Bethany Beach (Sussex County):** A town ordinance prohibits commercial solar installations “whose main purpose is to generate energy for sale back into the energy system, rather than being consumed on the site.”⁵⁵

8.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Cedar Creek Solar (Kent County):** In March 2022, a landowner in Smyrna and a group called Citizens Against Solar Pollution filed a lawsuit in Delaware Chancery Court challenging Kent County’s approval of the proposed 100-MW Cedar Creek Solar project on agricultural land. The lawsuit alleged that the project would damage the environment, reduce property values, disrupt the rural character of the community, and threaten historical artifacts.⁵⁶

Existing Entries (Updated)

- **Skipjack Wind Farm Interconnection Facility in Fenwick State Park (Sussex County):** The Skipjack Wind Farm Project, a proposed offshore wind project near Ocean City, MD, was originally planned to connect to the grid at a facility in Delaware’s Fenwick Island State Park. The plan received pushback from the Delaware Chapter of the Surfrider Foundation, who argued that the plan to install transmission infrastructure in a state park was contrary to the mission of the Delaware Division of Parks and Recreation. In 2020, the developer abandoned plans to site the interconnection facility at Fenwick Island State Park.⁵⁷

⁵⁵ Town of Bethany Beach, Del, Code, § 484-3(H), <https://ecode360.com/15930326> (last accessed Feb. 1, 2023).

⁵⁶ Charles Megginson, *Lawsuit Filed to Stop Construction of Smyrna Solar Farm*, TOWN SQUARE LIVE, Mar. 31, 2022, <https://townsquaredelaware.com/lawsuit-filed-to-stop-construction-of-smyrna-solar-farm/>.

⁵⁷ Bethany Hooper, *Wind Farm Developer Drops Delaware State Park Plan*, THE DISPATCH, July 10, 2020, <https://mdcoastdispatch.com/2020/07/10/wind-farm-developer-drops-delaware-state-park-plan/>; *Resources & FAQs*, SKIPJACK WIND, <https://skipjackwind.com/resources-and-faqs> (last visited Feb. 8, 2023); James Dawson, *Delaware’s Star-Crossed History with Offshore Wind Power*, THE DELAWARE REPUBLIC, July 7,

- University of Delaware Wind Turbine (Sussex County):** A Lewes resident filed two lawsuits in state and federal court to halt the operation of a wind turbine used for research by the University of Delaware, arguing that backroom dealings led to an expedited approval process. The federal lawsuit was dismissed in January 2015. In the state lawsuit, the Delaware Court of Chancery granted summary judgment against the plaintiff on multiple claims in December 2015, which the Delaware Supreme Court affirmed in August 2016.⁵⁸

9. FLORIDA

Note on state preemption of local restrictions: In Florida, a siting board comprised of the governor and the governor’s cabinet has the authority to set aside local restrictions on a case-by-case basis. If the siting board determines that a proposed facility “does not conform with existing land use plans and zoning ordinances,” it may “authorize a variance or other necessary approval to the adopted land use plan and zoning ordinances required to render the proposed site or associated facility consistent with local land use plans and zoning ordinances.”⁵⁹ Further, in 2021, Florida enacted legislation preventing local governments from restricting solar energy facilities on agricultural land. The law provides that “[a] solar facility shall be a permitted use in all agricultural land use categories in a local government comprehensive plan and all agricultural zoning districts within an unincorporated area.” The law further provides

2017, <https://www.delawarepublic.org/politics-government/2017-07-07/delawares-star-crossed-history-with-offshore-wind-power>; Kevin Chandler, *Surfriders oppose Skipjack Farm proposal*, CAPE GAZETTE, Dec. 24, 2019, <https://www.capegazette.com/article/surfriders-oppose-skipjack-farm-proposal/194535>; Matthew Prensky, *Larger Wind Turbines Approved Off Coast: What You Need to Know*, SALISBURY DAILY TIMES, Aug. 21, 2020, <https://www.delmarvanow.com/story/news/local/maryland/2020/01/18/ocean-city-offshore-wind-what-you-need-know-from-public-hearing-maryland/4513449002/>;

⁵⁸ Nick Roth, *Federal judge dismisses wind turbine lawsuit*, THE CAPE GAZETTE, Feb. 11, 2015, <https://www.capegazette.com/article/federal-judge-dismisses-wind-turbine-lawsuit/78122>; *Lechlitter v. Delaware Dep’t of Nat. Res. & Envtl. Control*, No. CV 7939-VCG, 2015 Del. Ch. LEXIS 312, 2015 WL 9591587, at *6 (Del. Ch. Dec. 31, 2015), *aff’d*, 146 A.3d 358 (Del. 2016).

⁵⁹ FLA. STAT. §§ 403.503(8), 403.508(f) (2022), http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.508.html; see also Steven Ferrey, *Siting Technology, Land-Use Energized*, 66 CATH. U. L. REV. 1, 24 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3613231.

that, although counties may adopt ordinances specifying buffer and landscaping requirements, any such requirements “may not exceed the requirements for similar uses involving the construction of other facilities that are permitted uses in agricultural land use categories and zoning districts.”⁶⁰

9.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

9.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

9.3 Contested Projects

New Entries (Pre-March 2022 Developments)

- **Archer Solar Project (Alachua County):** In October 2020, Alachua County commissioners voted to deny a permit for a proposed 75-MW, 643-acre solar project by First Solar and Duke Energy, citing a lack of outreach to the historically Black community where the project was to be located as well as concerns about impacts to property values.⁶¹

Existing Entries (Updated)

- **Sand Bluff Solar Project (Alachua County):** In July 2021, Alachua County commissioners voted to disallow the proposed Sand Bluff Solar Project on 600 acres outside of Archer, Florida. Opposition against the project had centered on

⁶⁰ FLA. STAT. §§ 163.3205(3)-(4) (2022) (adopted as ch. 2021-178), http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0163/Sections/0163.3205.html.

⁶¹ Melissa Hernandez, County Says No to Proposed Solar Power Farm Near Archer, GAINESVILLE SUN, Oct. 7, 2020, <https://www.gainesville.com/story/news/local/2020/10/07/alachua-county-says-no-solar-power-farm-proposed-near-archer/5897167002/>; Amzan Azhar, *An African American Community in Florida Blocked Two Proposed Solar Farms. Then the Florida Legislature Stepped In.*, INSIDE CLIMATE NEWS, Jan. 2, 2022, <https://insideclimatenews.org/news/02012022/environmental-justice-florida-solar-preemption-legislature-desantis/>.

lack of outreach to the historically Black community in which the project was to be sited. The local chapters of the NAACP and of the Sierra Club opposed the project, while the Climate Reality Project and the local chapter of the League of Women Voters supported it.⁶²

10. GEORGIA

10.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

10.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **Baldwin County:** An ordinance adopted on June 16, 2020 requires that solar farms be set back at least 300 feet from dwelling units and at least 300 feet from property lines under most circumstances, unless owners of adjacent parcels agree to a smaller setback.⁶³
- **Greene County:** An ordinance last updated December 8, 2020 provides that “[s]olar farms shall not be visible from any portion of the right-of-way of any adjacent public road or the common boundary lines of adjacent property.” It further requires that they be set back 500 feet from existing homes, churches, and public facilities and 350 feet from property lines.⁶⁴

⁶² Emily Mavrakis, ‘You picked the wrong neighborhood’: County denies Sand Bluff solar project outside Archer, GAINESVILLE SUN, July 7, 2021, <https://www.gainesville.com/story/news/local/2021/07/07/commissioners-deny-sand-bluff-solar-project-application-outside-archer/7868226002/>.

⁶³ BALDWIN COUNTY, GA., CODE OF ORDINANCES § 17-23(a) (adopted June 16, 2020), https://library.municode.com/ga/baldwin_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH17S_OENDE.

⁶⁴ GREENE COUNTY, GA., ZONING ORDINANCE § 9.22 (Dec. 8, 2020), <https://www.greencountyga.gov/DocumentCenter/View/815/Greene-County-Zoning-Ordinance-Adopted-1282020-PDF>.

Existing Entries (Updated)

- **Grady County:** In February 2017, Grady County imposed a 60-day moratorium on solar farm applications.⁶⁵
- **Lee County:** In May 2019, Lee County officials placed a moratorium on solar farm construction in response to increased interest from solar developers.⁶⁶ In January 2021, Lee County imposed a moratorium on large-scale solar farms through October 2021.⁶⁷
- **Thomas County:** In October 2016, Thomas County placed a moratorium on solar installations, which was extended through May 2017.⁶⁸ In October 2018, Thomas County commissioners voted unanimously to implement an indefinite moratorium on solar energy facility construction.⁶⁹

10.3 Contested Projects

Existing Entries (Updated)

- **Cubico Solar Farm in West Bibb County (Bibb County):** On May 23, 2022, the Macon-Bibb Planning and Zoning Commission unanimously rejected Cubico Sustainable Investments' plan for a 780-MW solar farm, finding it was not a good

⁶⁵ Jordan Barela, *Grady Commissioners issue 60-day solar panel moratorium*, DALTON DAILY CITIZEN, Feb. 22, 2017, https://www.dailycitizen.news/news/ga_fl_news/grady-commissioners-issue--day-solar-panel-moratorium/article_ec703bb4-fded-5403-9d9b-693ed12f0528.html.

⁶⁶ Marilyn Parker, *Ordinance will restrict Lee Co. solar farm development*, WALB NEWS 10, May 15, 2019, <https://www.walb.com/2019/05/15/ordinance-will-restrict-lee-co-solar-farm-development/>.

⁶⁷ Jim Wallace, *Lee Co. Extends Solar Farm Moratorium*, WALB News 10, Aug. 4, 2021, <https://www.walb.com/2021/08/05/lee-co-extends-solar-farm-moratorium/>.

⁶⁸ *Thomas Co. Extends Solar Moratorium Six Months*, WALB News 10, Nov. 8, 2016, <https://www.walb.com/story/33661304/thomas-co-extends-solar-moratorium-six-months/>.

⁶⁹ Patti Dozier, *Commissioners put indefinite moratorium on solar facilities*, THOMASVILLE TIMES-ENTERPRISE, Oct. 24, 2018, https://www.timesenterprise.com/news/local_news/commissioners-put-indefinite-moratorium-on-solar-facilities/article_c2d3b1c1-0474-5a9e-8691-eed5df00d71c.html.

fit for the neighborhood where it was proposed.⁷⁰ Opponents raised concerns about harm to wildlife, damage to roads, and the potential for declining property values. In the month before the zoning board meeting, they collected 400 signatures in opposition to the project.⁷¹

11. HAWAII

11.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

11.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

11.3 Contested Projects

Existing Entries (Updated)

- **Kahuku Na Pua Makani Wind Project (Honolulu County):** Local opposition to the planned 24-MW Na Pua Makani wind project in Kahuku on the North Shore of Oahu reduced the scope of the project from 13-15 turbines to 8 turbines.⁷² In 2016, Keep the North Shore Country filed a contested case hearing petition to challenge the developer's plan for mitigating impacts to endangered species including the Hawaiian Hoary Bat. In 2018, the Board of Land and Natural Resources accepted the developer's plan and issued an incidental take license for the project. Keep the North Shore Country appealed that decision. In May 2019, the Circuit Court upheld the state agency's decision to grant the license, and in

⁷⁰ Anthony Montalto, *Zoning Board Votes Down 780-Acre Solar Farm in West Bibb County*, 13WMAZ, May 23, 2022, <https://www.13wmaz.com/article/news/local/zoning-board-votes-down-780-acre-solar-farm/93-ed30f404-8c79-4612-8a42-55592389c551>.

⁷¹ Liz Fabian, *Macon-Bibb P&Z Rejects New Solar Field, Approves New Homes and Trade School*, 13WMAZ, May 24, 2022, <https://www.13wmaz.com/article/news/local/macon-bibb-pz-rejects-new-solar-field-approves-new-homes-trade-school/93-19ccb250-f4df-4413-b03b-d0312a83b114>.

⁷² AES, Na Pua Makani, <https://www.aes.com/na-pua-makani-project> (last visited Feb. 1, 2023).

February 2022, the Supreme Court of Hawaii affirmed on appeal.⁷³ While this lawsuit was pending, Keep the North Shore Country filed a separate petition challenging the proximity of the turbines to schools and homes under Honolulu’s zoning ordinance, and an organization called Life of the Land filed a motion to block the project’s power purchase agreement.⁷⁴ In addition to legal challenges, there were significant protests: in October 2019, approximately 128 protesters were arrested while trying to block wind turbines from being delivered to the construction site.⁷⁵

12. IDAHO

12.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

12.2 Local Restrictions

Existing Entries (Updated)

- **Bingham County:** Under a 2012 ordinance, commercial wind turbines must be set back at least 3 times the tower height from the exterior line of the project unless an agreement with affected property owners is reached. In all instances, the setback must be at least 1.5 times the tower height. Further, commercial wind

⁷³ Keep the N. Shore Country v. Bd. of Land & Natural Res., No. SCAP-19-0000449, 150 Haw. 486 (Feb. 22, 2022).

⁷⁴ Henry Curtis, *Three Legal Snags for Na Pua Makani -Kahuku Wind Farm*, ILILANI MEDIA, Mar. 9, 2020.

⁷⁵ Keep the N. Shore Country v. Bd. of Land & Natural Res., No. SCAP-19-0000449, 2022 Haw LEXIS 25 (Feb. 22, 2022); Mark Ladao, *Wind farm opponents protest in Mayor Kirk Caldwell’s Office*, STAR ADVERTISER, Nov. 1, 2019, <https://www.staradvertiser.com/2019/11/01/breaking-news/wind-farm-opponents-protest-in-mayor-kirk-caldwells-office/>; Andrew Gomes, *4 truckloads of wind turbine parts delivered to Kahuku after 6 more arrests*, STAR ADVERTISER, Oct. 1, 2019, <https://www.staradvertiser.com/2019/10/21/breaking-news/wind-farm-protesters-return-to-kalaeloa/>.

turbines must be set back “an additional one mile from all platted Town sites and/or incorporated cities.”⁷⁶

- **Bonneville County:** In 2010, the Bonneville County Planning and Zoning Commission significantly restricted wind development to a specific “turbine zone” in the southern portion of the county. However, the current version of the ordinance does not appear to reference this restricted zone.⁷⁷

12.3 Contested Projects

Existing Entries (Updated)

- **Blue Ribbon Energy Project (Bingham County):** In 2010, Blue Ribbon Energy applied for a permit to construct 27 wind turbines near Goshen, Idaho. The Bingham County Planning and Zoning Commission denied the request, citing a lack of sufficient information on the turbines’ proximity to residences.⁷⁸ The developer appealed to the Bingham County commissioners, who reversed the denial and granted approval.⁷⁹ However, a second phase of the project was rejected in 2012, due to concerns over property values, as well as the purported health and safety risks of wind energy.⁸⁰

⁷⁶ BINGHAM COUNTY, IDAHO, CODE OF ORDINANCES § 10-7-44(D) (2012), https://codelibrary.amlegal.com/codes/binghamco/latest/binghamco_id/0-0-0-2766.

⁷⁷ The Associated Press, *E. Idaho county restricts wind farm development*, MIDDLETOWN JOURNAL, Nov. 19, 2010, <https://www.windaction.org/posts/28953-e-idaho-county-restricts-wind-farm-development>; BONNEVILLE COUNTY, IDAHO, ZONING ORDINANCE § 1-443 (Feb. 28, 2011), <https://bonneville-county-planning-and-zoning-bonneville.hub.arcgis.com/pages/zoning-ordinance>.

⁷⁸ Kendra Evensen, *Wind Turbine Permit Denied*, IDAHO STATE JOURNAL, Nov. 20, 2010, https://www.idahostatejournal.com/news/local/permit-denied-for-bingham-county-wind-turbines/article_12821110-f429-11df-b45e-001cc4c03286.html.

⁷⁹ Kendra Evensen, *Wind Turbine Controversy Continues*, Idaho State Journal, Jan. 11, 2011, https://www.idahostatejournal.com/news/local/wind-turbine-controversy-continues/article_fc62e458-1d9b-11e0-9013-001cc4c03286.html.

⁸⁰ Troy Campbell, *Wind Farm Denied in Bingham County*, Local News 8, Feb. 22, 2011, <https://web.archive.org/web/20110428082143/https://localnews8.com/news/26960884/detail.html>.

- **Lava Ridge Wind Energy Project (Jerome, Lincoln, and Minidoka Counties):** The proposed Lava Ridge Wind Energy Project would be the largest wind farm in Idaho, with 400 turbines up to 740 feet tall producing 1,000 MW of electricity on federal land. However, it has encountered opposition due to its size and proximity to the Minidoka National Historic Site where 13,000 Japanese Americans were imprisoned during the 1940s.⁸¹ In May 2022, the National Trust for Historic Preservation named the Minidoka National Historic Site as one of the eleven most endangered historic places in the country due to the proposed wind farm, which would be visible from the visitor center.⁸² In July and August 2022, all three counties in which the project would be located passed resolutions against it.⁸³ On January 20, 2023, BLM released a draft environmental impact statement in which BLM stated that its two preferred alternatives would consist of a reduced number of turbines (269 or 378 turbines rather than the 400 turbines the developer is seeking to construct), due to concerns raised in the review process. In March 2023, the Idaho House and Idaho Senate each adopted unanimous resolutions opposing the project.⁸⁴
- **Ridgeline Wind Energy Project (Bonneville County):** In 2010, Ridgeline Energy was denied a permit by the Bonneville County Planning and Zoning Commission to construct a 135-MW wind farm on 10,000 acres outside of Idaho

⁸¹ Rob Hotakainen, *Wind Farm Draws Fire for Interfering with WWII Incarceration Site*, E&E NEWS GREENWIRE, Sept. 21, 2021, <https://www.eenews.net/articles/wind-farm-draws-fire-for-interfering-with-wwii-incarceration-site>.

⁸² Rachel Cohen, *Minidoka National Historic Site makes annual list of nation's most endangered historic places*, BOISE STATE PUBLIC RADIO NEWS, May 4, 2022, <https://www.boisestatepublicradio.org/news/2022-05-04/minidoka-national-historic-site-endangered-historic-places>.

⁸³ Lorien Nettleton, *Not big fans: 3 counties affected by Lava Ridge Wind project withhold support*, MAGICVALLEY.COM, Aug. 17, 2022, https://magicvalley.com/news/local/not-big-fans-3-counties-affected-by-lava-ridge-wind-project-withhold-support/article_d96d273a-1e6d-11ed-b852-733389091180.html.

⁸⁴ Jeremy Stiles, *Lava Ridge Wind Farm: BLM Prefers Smaller Alternatives, Detailed in New Draft EIS*, KTVB7, Jan. 25, 2023, <https://www.ktvb.com/article/tech/science/environment/lava-ridge-wind-farm-alternatives-new-environmental-impact-statement-blm-idaho-magic-valley-energy/277-0999bc33-ae92-45dd-854c-fc8c50f3eaa0>; Lorien Nettleton, *Resolution against Lava Ridge adopted by Idaho Senate*, KPVI, Mar. 29, 2023, https://www.kpvi.com/news/regional_news/resolution-against-lava-ridge-adopted-by-idaho-senate/article_e597dde0-07b7-5446-8444-c5300ba92b50.html.

Falls. The Commission cited fears of impeding residential growth, losing future property tax revenue from residential development, blocking views, and possible impacts to a wildlife management area as reasons for the denial.⁸⁵

13. ILLINOIS

Note on state preemption of local restrictions: On January 27, 2023, Illinois enacted Public Law 102-1123, which sets limits on counties' authority to restrict or otherwise regulate renewable energy facilities. First, the law prohibits counties from establishing moratoriums on wind or solar projects. Second, the law establishes statewide siting parameters and prohibits counties from adopting limits more restrictive than those parameters. For example, under the new state law, counties are no longer permitted to impose: (1) setbacks from property lines in excess of 1.1 times the blade tip height of a commercial wind turbine or 50 feet from a commercial solar project; (2) setbacks from nonparticipating residences in excess of 2.1 times the blade tip height of a commercial wind turbine or 150 feet from a commercial solar project; or (3) restrictions on shadow flicker to less than 30 hours per year. This law likely renders all of the local restrictions described below invalid.⁸⁶

13.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

13.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Lee County:** In December 2021, the Lee County Board imposed a 6-month moratorium on solar, wind, and battery storage projects, which was ultimately

⁸⁵ Brad Carlson, *Bonneville County Tables Ridgeline Wind Project After Appeal*, IDAHO BUSINESS REVIEW, Oct. 26, 2010, <https://idahobusinessreview.com/2010/10/26/bonneville-county-to-hear-ridgeline-wind-project-appeal/>.

⁸⁶ Pub. Act 102-1123 (Ill. 2023), <https://www.ilga.gov/legislation/publicacts/102/PDF/102-1123.pdf>; *Illinois Enacts New Law to Standardize Local Permitting for Renewable Energy Facilities*, Arent Fox Schiff, Jan. 30, 2023, <https://www.afslaw.com/perspectives/energy-cleantech-counsel/illinois-enacts-new-law-standardize-local-permitting>.

extended to November 2022.⁸⁷ The moratorium was lifted after finalization of a new ordinance addressing concerns from neighbors about setbacks and visual buffers.⁸⁸ *This type of moratorium would be invalid under state law pursuant to Public Act 102-1123 (2023).*

- **Tazewell County:** On July 27, 2022, the Tazewell County Board voted to approve a 6-month moratorium on new wind energy projects until a new ordinance is adopted.⁸⁹ The moratorium was adopted in response to a request from an organization called United Citizens of Tazewell County, LLC.⁹⁰ *This type of moratorium would be invalid under state law pursuant to Public Act 102-1123 (2023).*

Existing Entries (Updated)

- **DeKalb County:** In 2018, DeKalb County passed an ordinance that requires wind turbines to be set back from property lines by a distance of 6 times turbine height and 3 miles from any municipality. The ordinance also requires that zero shadow flicker occur beyond property lines and that wind projects not increase background noise levels by more than 5 dBA.⁹¹ *This ordinance is likely invalid under state law pursuant to Public Act 102-1123 (2023).*

⁸⁷ Rachel Rodgers, *Lee County again extends moratorium on wind, solar projects*, SAUK VALLEY NEWS, Aug. 31, 2022, <https://www.shawlocal.com/sauk-valley/news/government/2022/08/31/lee-county-again-extends-moratorium-on-wind-solar-projects/>.

⁸⁸ Rachel Rodgers, *Lee County Finalizes New Wind, Solar Ordinances*, Agrinews, Dec. 26, 2022, <https://www.agrinews-pubs.com/business/2022/12/26/lee-county-finalizes-new-wind-solar-ordinances/>.

⁸⁹ Nina McFarlane, *Future wind energy farms in Tazewell County?*, CIPROUD.COM, July 27, 2022, <https://www.centralillinoisproud.com/news/local-news/future-wind-energy-farms-in-tazewell-county/>.

⁹⁰ Joyce Blumenshine, *Future Wind Energy Development in Tazewell County Under Threat*, SIERRA CLUB ILLINOIS CHAPTER, July 2022, <https://www.sierraclub.org/illinois/heart-illinois/future-wind-energy-development-tazewell-county-under-threat>.

⁹¹ Susan Stephens, *DeKalb County Approves Tough Wind Ordinance*, NORTHERN PUBLIC RADIO, Nov. 22, 2018, <https://www.northernpublicradio.org/illinois/2018-11-22/dekalb-county-approves-tough-wind-ordinance>; DeKalb County, Ill., Ordinance 2018-50, <https://dekalbcounty.org/wp-content/uploads/2018/12/ord-2018-50.pdf>.

- **Ford County:** In 2017, Ford County imposed a moratorium on wind energy projects while it revised its ordinance. In 2018, the county board’s zoning committee recommended increasing the existing 1,000-foot setback from buildings to 2,250 feet. At a hearing in October 2018, a group called Ford County Citizens for Property Rights demanded 3,250-foot setbacks from any property lines.⁹² On September 13, 2021, the County Board adopted an amended wind ordinance that increased setback to 2,250 feet from property lines upon which a primary structure is located. The ordinance further specified that, even if neighbors agreed to waive the setback requirement, any wind tower still must be at least 1,000 feet from the nearest primary structure.⁹³ *This ordinance is likely invalid under state law pursuant to Public Act 102-1123 (2023).*
- **Piatt County:** In August 2020, a moratorium on wind energy projects was extended until March 2021 with unanimous approval from the County Board.⁹⁴ In January 2023, Piatt County again imposed a moratorium on applications for wind energy projects through September 2023.⁹⁵ *This moratorium is likely invalid under state law pursuant to Public Act 102-1123 (2023).*

⁹² Kari Lydersen, How a County Election in Rural Illinois Became a Referendum on Wind Energy, Energy News Network, Nov. 5, 2018, <https://energynews.us/2018/11/05/how-a-county-election-in-rural-illinois-became-a-referendum-on-wind-energy/>

⁹³ Ford County, Ill., Zoning Ordinance 21-80 (Rev. Sept. 21, 2021), <https://fordcounty.illinois.gov/wp-content/uploads/2021/09/RES-21-80-REVISED-WIND-ORDINANCE-APPENDIX-A-as-of-SEPT-13-2021.pdf>

⁹⁴ Staff, *County moratorium on wind farm applications extended*, PIATT COUNTY JOURNAL-REPUBLICAN, Aug. 19, 2020, https://www.journal-republican.com/news/county-moratorium-on-wind-farm-applications-extended/article_6a8760d8-e184-11ea-8aab-afeaedb4ec99.html.

⁹⁵ Kevin Barlow, *County Board Approves Moratorium on Wind Farms Through Sept. 1*, PIATT COUNTY JOURNAL-REPUBLICAN, Jan. 24, 2023, https://www.journal-republican.com/news/local/county-board-approves-moratorium-on-wind-farms-through-sept-1/article_bac06418-9b5a-11ed-bafb-e30674d6a8f5.html.

13.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Amp Solar’s Pratt Road Solar Garden (DeKalb County):** On May 1, 2023, the Sandwich City Council issued a resolution asking the DeKalb County Board to reject plans for a 5-MW, 76-acre solar farm on the periphery of the city. The resolution stated that the project, if approved, would unduly constrain the city’s growth.⁹⁶
- **Goose Creek Wind Project (Piatt County):** On February 3, 2023, the Piatt County Zoning Board of Appeals voted against recommending a zoning permit for Apex Clean Energy’s 300-MW, 50-turbine Goose Creek wind project. This followed 14 nights of hearings in November and December. Opponents of the project emphasized health issues, shadow flicker, the loss of farmland, and the lack of need for additional energy in the community. The Piatt County Board will make a final decision.⁹⁷
- **Princeton Technology Park Solar Array (Bureau County):** In January 2023, the Princeton City Council voted to table a resolution to allow for the construction of a 7-acre solar array in the city’s Technology Park. Opponents at a public meeting raised concerns about room for future expansion and impacts on surrounding businesses.⁹⁸

⁹⁶ Eric Schelkopf, *Sandwich City Council voices opposition to proposed solar farm along Pratt Road*, SHAW LOCAL NEWS NETWORK, May 4, 2023, <https://www.shawlocal.com/kendall-county-now/2023/05/03/sandwich-city-council-voices-opposition-to-proposed-solar-farm-along-pratt-road/>.

⁹⁷ Jim Meadows, *A Piatt County Zoning Board Votes Against a Wind Farm, but the County Board Will Have the Final Say*, Illinois Newsroom, Feb. 3, 2023, <https://illinoisnewsroom.org/in-piatt-county-a-zoning-board-votes-against-a-wind-farm-but-the-county-board-will-have-the-final-say/>; David Gelles, *The U.S. Will Need Thousands of Wind Farms. Will Small Towns Go Along?*, N.Y. Times, Dec. 30, 2022, <https://www.nytimes.com/2022/12/30/climate/wind-farm-renewable-energy-fight.html>.

⁹⁸ Jayce Eustice, *Princeton Council Tables Solar Array Resolution; Citing Location and Expansion Concerns*, SHAW LOCAL, Jan. 17, 2023, <https://www.shawlocal.com/bureau-county-republican/news/government/2023/01/17/princeton-council-tables-solar-array-resolution-citing-location-and-expansion-concerns/>.

- **Top Hat Wind Project (Logan County):** As of November 2022, over 1,000 people had signed a petition opposing plans for the 200-MW, 60-turbine Top Hat Wind Project over concerns about interference with radar. That same month, however, after the developers entered into an agreement with the National Weather Service to shut off the turbines in case of severe weather, the Logan County Board approved the project. Opponents, including a group called Logan County Residents Against The Top Hat Wind Factory, stated that they were considering filing a lawsuit.⁹⁹

Existing Entries (Updated)

- **Alta Farms Wind Project II (DeWitt County):** The Alta Farms Wind Project II was approved in July 2020 by the DeWitt County Board despite local opposition. The 200-MW project had been proposed nearly 10 years before.¹⁰⁰ In October 2020, opponents filed two separate lawsuits to stop the project but dropped both of those lawsuits in March 2021.¹⁰¹
- **Ford Ridge Wind Farm (Ford County):** In March 2021, the Ford Ridge Wind Farm received the necessary building permit from Ford County 12 years after

⁹⁹ Doug Wolfe, *Lawsuit Possible in Wind Farm Controversy*, WAND, Nov. 17, 2022, https://www.wandtv.com/news/lawsuit-possible-in-wind-farm-controversy/article_51f6cc7a-66c0-11ed-b1f0-23f9e1111d03.html; Cole Henke, *Doppler Dispute: Public Weighs in on Controversial Wind Farm Proposal that Could Affect Weather Services*, WCIA, Nov. 11, 2022, <https://www.wcia.com/news/local-news/doppler-dispute-public-weighs-in-on-controversial-wind-farm-proposal-that-could-affect-weather-services/>.

¹⁰⁰ *Alta Farms Wind Project, USA*, Enel, <https://www.enelgreenpower.com/our-projects/under-construction/alta-farms-wind-project> (last visited Feb. 6, 2023); Kevin Barlow, *Construction for Dewitt County Wind Farm Set for 2021*, HERALD & REVIEW, July 16, 2020, https://herald-review.com/news/local/construction-for-dewitt-county-wind-farm-set-for-2021/article_54218406-cc15-59e2-b122-26205e7e3d53.html.

¹⁰¹ Kade Heather, *Lawsuits Withdrawn: DeWitt County Wind Farm Opponents Cease Legal Action Against Project*, HERALD & REVIEW, Mar. 26, 2021, https://herald-review.com/news/local/crime-and-courts/lawsuits-withdrawn-dewitt-county-wind-farm-opponents-cease-legal-action-against-project/article_45903901-4855-5d17-aea8-24f5e60cd396.html.

approval of the special use permit for the site.¹⁰² The project was held up for years due to the Ford County wind moratorium described above.

- **Harvest Ridge Wind Farm (Douglas County):** In June 2018, residents of Newman Township voted 86-57 in favor of enacting a zoning ordinance to block the proposed 200-MW Harvest Ridge Wind Farm. The Douglas County Board, however, approved the project.¹⁰³ In July 2020, the project was completed.¹⁰⁴
- **HillTopper Wind Farm (Logan County):** Considerable opposition to the construction of a 7,600-acre, 200-MW wind farm in the Mount Pulaski area led the Logan County board to initially deny the application for a conditional use permit in 2015. The project was eventually approved and was completed in 2018.¹⁰⁵
- **Niyol Wind Farm (Logan County):** In April 2020, the Logan County Planning and Zoning Commission voted 4-2 to table the conditional use permit applications for up to 82 wind turbines after a group called Concerned Citizens for a Safe Logan County expressed concerns regarding population density,

¹⁰² Brendan Denison, Ford Ridge Wind Farm Building Permit Approved by County, WCIA, Mar. 23, 2021, <https://www.wcia.com/news/wind-farm-building-permit-approved-in-ford-county/>.

¹⁰³ Tracy Crane, *Wind Farm Developer Moving Ahead Despite Newman Township Vote*, NEWS GAZETTE, July 12, 2018, https://www.news-gazette.com/news/wind-farm-developer-moving-ahead-despite-newman-township-vote/article_3cbd36a1-f8d0-5cdf-a764-53bc49d2c28d.html; Douglas Co. Board Approves the Harvest Ridge Wind Farm, WAND, June 19, 2019, https://www.wandtv.com/news/douglas-co-board-approves-the-harvest-ridge-wind-farm/article_da20b410-92bd-11e9-845e-7faf416b9449.html.

¹⁰⁴ EDP Renewables, *Harvest Ridge Wind Farm Is Generating Clean Energy in Douglas County*, GLOBE NEWSWIRE, July 30, 2020, <https://www.globenewswire.com/en/news-release/2020/07/30/2070471/0/en/Harvest-Ridge-Wind-Farm-is-Generating-Clean-Energy-in-Douglas-County.html>.

¹⁰⁵ Jessica Lema, *7,600-acre wind farm petition falls flat in Logan County*, THE LINCOLN COURIER, Jan. 23, 2015, <https://www.wind-watch.org/news/2015/01/23/7600-acre-wind-farm-petition-falls-flat-in-logan-county/>; David Blanchette, *Wind Farm Project Starting in Mount Pulaski Area*, STATE JOURNAL-REGISTER, Aug. 12, 2019, <https://www.sj-r.com/story/news/2019/08/12/wind-farm-project-starting-in/4479008007/>.

sound levels and environmental protection.¹⁰⁶ Despite delays caused by local opponents, the project was ultimately completed in 2021, with 74 wind turbines capable of generating 200 MW.¹⁰⁷

- **Pleasant Ridge Wind Farm (Livingston County):** In 2014, Invenergy LLC applied to build a 136-turbine, 250-MW wind energy project in Livingston County, which faced opposition from a local group called United Citizens for Livingston County. In July 2015, the Livingston County board denied the developer's application for a special use permit.¹⁰⁸
- **Radford's Run Wind Farm (Macon County):** In 2015, three dozen landowners filed a lawsuit to halt the 139-turbine, 305-MW Radford's Run Wind Farm, arguing that the "county did not properly provide statutory notices for a public hearing leading up to the board's decision or allow them to view the wind farm applications in time for the hearing." The suit was dismissed, and the project was ultimately constructed in 2017.¹⁰⁹

¹⁰⁶ Jeff Rice, *Planning Board Tables Controversial Wind Turbine Permit Requests*, STERLING JOURNAL-ADVOCATE, Apr. 22, 2020, <https://www.journal-advocate.com/2020/04/22/planning-board-tables-controversial-wind-turbine-permit-requests/>.

¹⁰⁷ Jeff Rice, *NextEra, Tri-State Cut the Ribbon on Niyol Wind Farm*, Sterling Journal-Advocate, Nov. 4, 2021, <https://www.journal-advocate.com/2021/11/04/nextera-tri-state-cut-the-ribbon-on-niyol-wind-farm/>.

¹⁰⁸ Cynthia Grau, *Livingston County Rejects Wind Farm*, WJBC, July 17, 2015, <https://www.wjbc.com/2015/07/17/livingston-county-rejects-wind-farm/>; *Illinois wind-farm project runs into opposition*, WGIL, June 5, 2015, <https://www.wgil.com/2015/06/06/illinois-wind-farm-project-runs-into-opposition/>; Invenergy, *Pleasant Ridge Wind Energy Project, Livingston County, Ill.*, Aug. 20, 2014, https://www.livingstoncounty-il.org/wordpress/wp-content/uploads/2014/08/Pleasant-Ridge-Livingston-County-Special-Use-Permit_082014.pdf; United Citizens for Livingston County (UCLC) Exhibits, Livingston County, Ill., <https://www.livingstoncounty-il.org/wordpress/county-services/zoning-and-planning/wind-energy-projects/united-citizens-for-livingston-county-uclc/>.

¹⁰⁹ Ryan Voyles, *What's that? 400-foot turbine alters Macon County landscape*, HERALD & REVIEW, June 11, 2017, https://herald-review.com/news/local/whats-that-400-foot-turbine-alters-macon-county-landscape/article_ec69d742-2e72-5a94-aa01-5f1cc55bd5be.html; Radford's Run, IEA.net, <https://iea.net/Projects/Radfords-Run> (last visited Feb. 6, 2023).

14. INDIANA

14.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

14.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **Clinton County:** Clinton County upheld a moratorium on wind farms in September 2019.¹¹⁰
- **Howard County:** In 2015, Howard County adopted amendments to a wind ordinance that increased setback requirements from 1,500 feet to 2,000 feet from the nearest property and decreased the noise limit from 50 dBA to 40 dBA.¹¹¹
- **Vermillion County:** An ordinance adopted in September 2021 requires that wind turbines be set back 2 miles from property lines and roads. It further limits noise to 32 dBA at the property line and limits the size of projects in the agricultural zoning district to 100 MW.¹¹²

Existing Entries (Updated)

- **Allen County:** According to the Allen County zoning ordinance, last updated in September 2019, wind energy conversion systems with any of the following three

¹¹⁰ Emilie Syberg, *Clinton County commissioners keep wind farm moratorium in place*, WBAA, Sept. 16, 2019, <https://www.wbaa.org/business-economy-and-consumer-affairs/2019-09-16/clinton-county-commissioners-keep-wind-farm-moratorium-in-place>.

¹¹¹ HOWARD COUNTY, IND., ORDINANCE NO. 2014-BCCO-41 (Jan. 5, 2015), http://www.howardcountyin.gov/files_uploaded/2015%20Wind%20Energy%20Facilities%20Zoning%20Amdendment.pdf.

¹¹² Vermillion County, Ind., Ordinance No. 2021-13 § 1.3 (Sept. 28, 2021), <https://www.vermilliongov.us/wp-content/uploads/2021/10/Wind-Energy-Conversion-Systems-Amend-to-Ordin-2021-13.pdf>.

characteristics are prohibited: (a) a nameplate capacity of more than 50 kW; (b) a total height of more than 60 feet; and (c) a total swept area of more than 40 feet.¹¹³

- **Boone County:** Boone County banned wind farms in or around 2009 after wind energy developers approached the county about potential development opportunities.¹¹⁴
- **Delaware County:** On February 22, 2022, the Delaware County Commissioners approved amendments to the County’s solar ordinance, including increasing the setback from neighboring property lines to 200 feet and classifying solar as a “special use” subject to public hearings and additional approvals. The County Commissioners also enacted a 1-year moratorium on solar farm development. The amendments and moratorium followed intense local opposition to the proposed Meadow Forge solar project.¹¹⁵
- **Fulton County:** According to the Fulton County zoning ordinance, last updated in October 2018, wind farms are prohibited in all unincorporated areas of Fulton County. Previously, wind farms were banned in all areas of the County.¹¹⁶

¹¹³ ALLEN COUNTY, IND., ZONING ORDINANCE, art. 5, ch. 6 (rev. Sept. 6, 2019), https://www.allencounty.us/images/stories/allen_county_code/T3-A5_Administration.pdf; Kevin Kilbane, *More Wind Farms Likely in Indiana’s Future, but Probably Not Near Fort Wayne and Allen County*, NEWS SENTINEL, Apr. 20, 2018, <https://www.news-sentinel.com/news/local-news/2018/04/20/ns-series-windfarm-part-3/>.

¹¹⁴ Gus Percy, *Wind Farms in Boone County Are Not Likely*, BATESVILLE HERALD-TRIBUTE, Oct. 4, 2019, <https://www.wind-watch.org/news/2019/10/05/wind-farms-in-boone-county-are-not-likely/>.

¹¹⁵ David Penticuff, *Solar farms unplugged for a year in Delaware County as commissioners order moratorium*, MUNCIE STAR PRESS, Feb. 22, 2022, <https://www.thestarpress.com/story/news/local/2022/02/22/delaware-county-adopts-year-long-moratorium-creation-solar-farms/6884982001/>; David Penticuff, *Meadow Forge solar farm hit with opposition from residents and Wes-Del Schools*, MUNCIE STAR PRESS, Jan. 3, 2022, <https://www.thestarpress.com/story/news/local/2022/01/03/delaware-county-meadow-forge-solar-farm-fought-schools-neighbors/9079915002/>; Stephanie Wiechmann, *Delaware County Approves Year-Long Solar Projects Moratorium*, WFYI, Feb. 22, 2022, <https://www.wfyi.org/news/articles/delaware-county-approves-year-long-solar-projects-moratorium>.

¹¹⁶ FULTON COUNTY, IN., ZONING ORDINANCE § 5-1.4 WE-03(A) (rev. Oct. 2018), https://www.co.fulton.in.us/egov/documents/1547130715_58067.pdf; Niko Burton, *Wind Farms Still*

- **Hamilton County:** Under the Unified Development Ordinance of 2022, wind turbines must not exceed 300 feet in height and must be set back by at least 1.5 times the tower height from property lines; commercial solar projects are prohibited on prime agricultural soils and must be set back at least 300 feet from neighboring houses. For some period in 2019, there was a moratorium on wind projects.¹¹⁷
- **Jasper County:** In 2019, Jasper County established 1,760-foot setbacks to property lines and 2,400-foot setbacks to homes, roads, and places of worship. A local anti-wind group called Save Jasper County, which supported the restrictions, stated the new ordinance “essentially eliminates wind development in all of Jasper County.”¹¹⁸
- **Kosciusko County:** Kosciusko County requires wind turbine setbacks of at least 3,960 feet or 6.5 times the turbine height from property lines. It also limits turbine noise to 32 dBA, requires zero shadow flicker effects on neighboring homes, and limits construction to dedicated industrial zones.¹¹⁹
- **Marshall County:** In or around 2013, Marshall County commissioners voted unanimously to ban all commercial wind development. The prohibition remains

Banned in Fulton County, WSBT 22, Dec. 11, 2017, <https://wsbt.com/news/local/wind-farms-still-banned-in-fulton-county>.

¹¹⁷ HAMILTON COUNTY, IND., UNIFIED DEVELOPMENT ORDINANCE, arts. 7(7)(B)(ii), 7(7)(B)(ix)(b), 8(6), and (8)(11)(H)(i) (2022), https://www.hamiltoncounty.in.gov/DocumentCenter/View/17536/HCPC-Unified-Development-Ordinance_FINAL_Interactive_08182022; Jeff Bahr, *Hamilton County Rejects Wind Project*, THE GRAND ISLAND INDEPENDENT, Dec. 16, 2019, <https://www.wind-watch.org/news/2019/12/16/hamilton-county-rejects-wind-project/>.

¹¹⁸ Nick Fiala, *Jasper County Commissioners Approve Wind Amendments*, KANKAKEE VALLEY POST NEWS, May 6, 2019, https://www.newsbug.info/kankakee_valley_post_news/news/local/jasper-county-commissioners-approve-wind-amendments/article_c1128d9e-3549-5c2a-a1b4-ee4b23d721cc.html.

¹¹⁹ KOSCIUSKO COUNTY, IND., ZONING ORDINANCE § 3.29.3(B)(2)(a) (rev. Jan. 18, 2022), https://www.kcgov.com/egov/documents/1642518020_90322.pdf.

in effect as of the latest version of the zoning ordinance available online in February 2023.¹²⁰

- **Miami County:** In 2018, Miami County increased wind turbine setbacks to 2,000 feet from property lines and roadways amidst local opposition to a proposed 75-turbine project in the northern part of the county.¹²¹ Under the 2021 version of the ordinance, wind turbines must be set back 0.5 miles from rivers or reservoirs.¹²²
- **Montgomery County:** A 2019 Zoning Ordinance renders it effectively impossible to construct wind farms in Montgomery County. The ordinance calls for setbacks from property lines or roads of either 5 times the turbine height or 2,640 feet (which may be increased to 3,200 feet at the zoning board's discretion). It also requires setbacks of 1 mile from a town or school, a maximum of 32 dBA, and zero shadow flicker. Property values must be guaranteed for residents within 2 miles of any turbine, and commercial turbine construction is limited to industrial districts.¹²³
- **Noble County:** Since 2013, Noble County has required a 3,960-foot setback from property lines for wind projects.⁶⁴

¹²⁰ MARSHALL COUNTY, IND., ZONING ORDINANCE § 240(A)(4) (rev. Sept. 7, 2022), <https://permits.schneidercorp.com/branding/MarshallCountyIN/Zoning%20Ordinance%20Binder%209.7.2022.pdf>; Michela Tindera & Jimmy Jenkins, *Tilting at Windmills: A Closer Look at Indiana's Expanding Wind Power Industry*, INVESTIGATE MIDWEST, July 24, 2013, <https://investigatamidwest.org/2013/08/01/tilting-at-windmills-a-closer-look-at-indianas-expanding-wind-power-industry/>.

¹²¹ Cody Neuenschwander, *Miami County Plan Commission Approves Stricter Setbacks for Wind Turbines*, KOKOMO TRIBUNE, Apr. 12, 2018, https://www.kokomotribune.com/news/miami-county-plan-commission-approves-stricter-setbacks-for-wind-turbines/article_3d11e190-3e8f-11e8-b84b-9b18a4158734.html.

¹²² MIAMI COUNTY, IND., ORDINANCE NO. 8-16-2021-B § 5.1, <https://www.miamicountyin.gov/DocumentCenter/View/841/Wind-Energy-Conversion-Systems-Siting-Ordinance-08-16-2021>.

¹²³ MONTGOMERY COUNTY, IND., CODE § 159, Article 6 (2019), https://www.montgomerycounty.in.gov/egov/documents/1619528802_25326.pdf.

⁶⁴ NOBLE COUNTY UNIFIED DEVELOPMENT ORDINANCE, art. 3.05(I)(3) (rev. Sept. 2019), <https://www.noblecountyplanning.com/unified-development-ordinance-udo>; Ken de la Bastide, *Two*

- **Pulaski County:** In 2018, Pulaski County Commissioners banned all commercial wind development.¹²⁴ The Unified Development Ordinance of 2022 provides that “commercial WECS [wind energy conversion systems] shall be a prohibited use within the planning and zoning jurisdiction of Pulaski County” in the interest of “protecting and promoting the health, safety, and general welfare of the residents of Pulaski County” and “in light of concerns regarding negative impact on the value of property,” among other reasons.¹²⁵
- **Rush County:** Rush County limits turbines to 200 feet and imposes a setback distance of 2,640 from all property lines. The ordinance also limits shadow flicker on non-participating landowners’ properties to zero and limits noise to 32 decibels at the property line.¹²⁶
- **Tippecanoe County:** In 2019, Tippecanoe County Commissioners voted to prohibit all wind turbines over 140 feet tall in all unincorporated areas of the County. The measure was also passed at the city-level in Lafayette but not West Lafayette.¹²⁷

Central Indiana Counties Establish Setback Rules that Could Preclude Wind Turbines, INDIANA ECONOMIC DIGEST, May. 17, 2013, <https://indianaeconomicdigest.net/Content/Most-Recent/Planning-Zoning/Article/Two-central-Indiana-counties-establish-setback-rules-that-could-preclude-wind-turbines/31/136/69885>; Joe McQueen, *Cities, Towns Consider Local Solar Rules*, THE NEW SUN, Oct. 26, 2021, https://www.kpcnews.com/newssun/article_1f2dafa7-75d5-5a62-b4a1-e209e2c7f635.html.

¹²⁴ Michael Gallenberger, *Pulaski County Commissioners Approve Ban on Commercial Wind Turbines*, WKVI, Oct. 2, 2018, <https://wkvi.com/2018/10/pulaski-county-commissioners-approve-ban-on-commercial-wind-turbines/>.

¹²⁵ PULASKI COUNTY, IND., UNIFIED DEVELOPMENT ORDINANCE § 7.1(d)(2) (Apr. 8, 2022), <http://gov.pulaskionline.org/wp-content/uploads/sites/4/2022/08/UDO2022.pdf>.

¹²⁶ Rush County, Ind., Zoning Ordinance §§ 6.3.7(a), (c), 6.3.8(b), (c) (2022), <https://rushcounty.in.gov/wp-content/uploads/2022/09/Combine.pdf>

¹²⁷ Associated Press, *Wind Turbine Height Limit Set For Rural Areas Near Lafayette*, WFYI, May 7, 2019, <https://www.wfyi.org/news/articles/wind-turbine-height-limit-set-for-rural-areas-near-lafayette>; Dave Bangert, *Wind Farms Banned in Rural Tippecanoe County, as Environmentalists Grumble*, Journal & Courier, May 6, 2019, <https://www.jconline.com/story/news/2019/05/06/wind-farms-banned-rural-tippecanoe-county-environmentalists-grumble/3660870002/>; TIPPECANOE COUNTY, IND., UNIFIED ZONING ORDINANCE (3d ed.), Am. 96 (“large wind system ban”),

- **Tipton County:** In 2016, a few years after the opening of the divisive Wildcat Wind Farm, Tipton County amended its wind ordinance to require setbacks of 2,640 from residences and 1,500 feet from property lines.¹²⁸
- **Wabash County:** In 2017, Wabash County tightened its restrictions on wind development, requiring 3,960-foot setbacks from most buildings, zero shadow flicker on the properties of non-participants, and a 32-dBA limit.¹²⁹
- **Wayne County:** A 2016 ordinance passed by the Wayne County Commissioners provides that large wind energy systems with a capacity greater than 50 kW or a total height of more than 100 feet are “not a permitted use.” While the ordinance sets out a procedure for small wind energy systems to obtain permission as special exceptions, the ordinance does not appear to provide a similar procedure for large systems.¹³⁰

<https://www.tippecanoe.in.gov/DocumentCenter/View/24429/UZO-2022-Update-wAmendments-1-106PDF>.

¹²⁸ Carson Gerber, *Howard, Tipton County Ordinances Keeping Wind Farms at Bay*, KOKOMO TRIBUNE, July 17, 2016, https://www.kokomotribune.com/news/howard-tipton-county-ordinances-keeping-wind-farms-at-bay/article_0d8cfed0-4abe-11e6-8f03-c392ffe4e16e.html; Carson Gerber, “Windfall to some, a curse to many”: Tipton wind farm pays millions in taxes, but anti-wind sentiment remains, KOKOMO TRIBUNE, Sept. 14, 2020, https://www.kokomotribune.com/news/local_news/windfall-to-some-a-curse-to-many-tipton-wind-farm-pays-millions-in-taxes-but/article_3424f4c2-f45a-11ea-9623-03ed1d05d8ea.html.

¹²⁹ WABASH COUNTY, IND., ORDINANCE NO. 2017-85-9 §§ 6.24 I(I), 6.24 I(J), 6.24 R(G), <http://gov.wabash.in.datapitstop.us/DATA/REPORTS/FLD00003/00007961.PDF>; Wabash Plain Dealer, *Wabash County Revises Wind Farm Regulation Relating to ‘Shadow Flicker’*, INDIANA ECONOMIC DIGEST, Dec. 22, 2017, <https://indianaeconomicdigest.net/MobileContent/Most-Recent/Friday/Article/Wabash-County-revises-wind-farm-regulation-relating-to-shadow-flicker-/31/132/90564>.

¹³⁰ WAYNE COUNTY, IND., ZONING ORDINANCE § 54.76(D) (2019), <https://www.co.wayne.in.us/web/dept/planpermits/WayneCountyZoningOrdinance2019-012.pdf>; Mickey Shuey, *Commissioners vote to limit wind farms in Wayne County*, INDIANA ECONOMIC DIGEST, Dec. 8, 2016, <https://indianaeconomicdigest.net/MobileContent/Most-Recent/Wabash/Article/Commissioners-vote-to-limit-wind-farms-in-Wayne-County/31/238/86212>.

- **Whitley County:** Whitley County requires setbacks from property lines equal to 6.5 times the height of the tower or 2,640 feet, whichever is greater.¹³¹

14.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Emerald Green Solar Farm (Howard County):** On March 30, 2023, nine local residents filed a lawsuit to reverse the Howard County Board of Zoning Appeal's February 28 decision to grant a special exception permit to ENGIE for the proposed Emerald Green Solar Farm. The 200-MW project would occupy approximately 1,800 acres.¹³²
- **Mammoth Solar Project (Pulaski and Starke Counties):** Plans for a \$1.5 billion, 1,300-MW solar project have encountered opposition from a resident group called Pulaski County Against Solar. Opponents have focused on the amount of agricultural land involved in the 13,000-acre project, which would include 2,600 acres of solar panels. A group of landowners filed a lawsuit to stop the project, alleging that the Pulaski County Board of Zoning Appeals' decision granting a special exception for the project was improper because the developer's application was incomplete. In August 24, 2021, the Indiana trial court ruled in favor of the petitioners, and, on September 21, 2022, the Indiana Court of Appeals affirmed.¹³³

¹³¹ WHITLEY COUNTY, IND., ZONING ORDINANCE, ch. 5 WECS-02(E)(2), https://www.whitleygov.com/egov/documents/1439231634_83082.pdf (last visited Feb. 8, 2023); Christopher Stephens, *Wind farm foe rezones to fight back*, THE HERALD BULLETIN, July 17, 2016, https://www.heraldbulletin.com/news/local_news/wind-farm-foe-rezones-to-fight-back/article_8d398421-ac87-5020-8c23-3a73eac099cd.html.

¹³² Tyler Juranovich, *Greentown-area residents file appeal over ENGIE solar farm approval*, KOKOMO TRIBUNE, Apr. 5, 2023, https://www.kokomotribune.com/news/local_news/greentown-area-residents-file-appeal-over-engie-solar-farm-approval/article_49899bb8-d311-11ed-a159-bb85ef453fae.html.

¹³³ Oliver Milman, 'It's got nasty': the battle to build the US's biggest solar power farm, The Guardian, Oct. 30, 2022, <https://www.theguardian.com/environment/2022/oct/30/its-got-nasty-the-battle-to-build-the-uss-biggest-solar-power-farm>; Order, Ehrlich v. Mammoth Solar, Cause No. 66D01-2009-PL-000010 (Pulaski Cnty. Aug. 24, 2021), <https://static1.squarespace.com/static/5f5663a3a570ab2acc5b903b/t/61290e88d811544d260883eb/163008064>

New Entries (Pre-March 2022 Developments)

- **Hamilton County Wind (Hamilton County):** In December 2019, the Hamilton County Board of Commissioners rejected plans for a 4-turbine, 11-MW project by Hamilton County Wind. In rejecting the plan, one commissioner noted that he believed the company had not met its burden of demonstrating that the wind farm would not pose a threat to human health. At a public hearing earlier in the month, a large crowd of opponents raised concerns including health impacts and property values.¹³⁴
- **Harvest Wind Project (Miami County):** In September 2018, developer RES Americas canceled plans for a 600-MW wind farm in Indiana several months after Miami County increased its setback requirement to 2,000 feet from property lines, roads, public lands, and city limits. Residents opposed to the project had collected 900 signatures for a petition requesting a setback of 2,640 feet.¹³⁵

Existing Entries (Updated)

- **Big Blue Ribbon Wind Farm (Henry County):** The Henry County Planning Commission rejected a proposal for the Big Blue Ribbon Wind Farm in 2019 amidst community opposition to the project. Residents raised concerns about health impacts and property rights, arguing that a 1,500-foot setback from homes was not sufficient.¹³⁶

9967/Judge+Hall%27s+Decision+.pdf; Mammoth Solar v. Ehrlich, Case No. 21A-PL-2060 (Ind. Court of Appeals Sept. 21, 2022), <https://law.justia.com/cases/indiana/court-of-appeals/2022/21a-pl-02060.html>.

¹³⁴ Jeff Bahr, *Hamilton County Rejects Wind Project*, THE GRAND ISLAND INDEPENDENT, Dec. 16, 2019, <https://www.wind-watch.org/news/2019/12/16/hamilton-county-rejects-wind-project/>.

¹³⁵ Carson Gerber, *Wind Energy Company Kills Project in Miami Co.*, KOKOMO TRIBUNE, Sept. 19, 2018, https://www.kokomotribune.com/news/wind-energy-company-kills-project-in-miami-co/article_1206cd96-bc50-11e8-88fa-8bfcae5efc43.html.

¹³⁶ *Commission Rejects Proposal to Build Controversial Wind Farm in Henry County*, FOX 59 NEWS, July 23, 2019, <https://fox59.com/news/commission-rejects-proposal-to-build-controversial-wind-farm-in-henry-county/>.

- **Elkhart County Solar Project (Elkhart County):** In October 2021, Elkhart County commissioners voted against rezoning agricultural land for a 150-MW solar energy project near Millersburg, Indiana. The project had previously earned the support of the Elkhart County Council, the county Plan Commission, and the Economic Development Corp. However, the commissioners sided with neighbors who opposed the project because of potential decreases in property values and visual impacts. However, in September 19, 2022, Elkhart County approved a zoning change for a revised 100-MW version of the project.¹³⁷
- **Gibson Solar Project (Gibson County):** Averon Energy and Tenaska proposed a 280-MW solar project near the City of Princeton in Gibson County as part of a power purchase agreement. In November 2021, the Princeton Planning Commission voted against recommending the site plan after a meeting at which residents raised concerns about impacts to housing development and property values. The developers responded that they would revise their proposed site plan to eliminate parcels that caused particular controversy.¹³⁸
- **Jordan Creek Wind Energy Center (Benton and Warren Counties):** This 400-MW project in Benton and Warren Counties began commercial operation in December 2020 despite having faced intense local opposition. Facebook groups, such as the Warren County Concerned Citizens, opposed the project, and residents circulated a petition calling for enhanced setbacks, which cited noise, vibration, shadow flicker, and the threat of ice being thrown from turbines.¹³⁹

¹³⁷ Aimee Ambrose, *\$120 Million Solar Project Rejected by Commissioners*, GOSHEN NEWS, Oct. 12, 2021, https://www.goshennews.com/news/120-million-solar-project-rejected-by-commissioners/article_811269a6-2b6b-11ec-ab3d-9fa6c918b3ac.html; Jakob Lazzaro, *Elkhart County Commissioners Deny Zoning Change, Ending Plans for \$120 Million Solar Farm Project*, WVPE, Oct. 11, 2021, <https://www.wvpe.org/indiana-news/2021-10-11/elkhart-county-commissioners-deny-zoning-change-ending-plans-for-120-million-solar-farm-project>; Elkhart County Solar Project, <https://www.elkhartcountysolarproject.com/> (last visited Feb. 8, 2023).

¹³⁸ Andrea Howe, *Solar project goes back to the drawing board*, THE PRINCETON CLARION, Nov. 16, 2021, https://www.pdclarion.com/news/solar-project-goes-back-to-the-drawing-board/article_30abf031-8068-58a5-a1d0-3bf914e260aa.html.

¹³⁹ Jeremy Ervin, *Contentious wind farm seeks zoning nod*, JOURNAL & COURIER, Nov. 2, 2016, <https://www.jconline.com/story/news/2016/11/02/contentious-wind-farm-seeks-zoning-nod/92841036/>.

- **Lone Oak Solar (Madison County):** In May 2019, the Madison County Board of Zoning Appeals approved a 120-MW solar project proposed by Invenergy, issuing a special use permit that required construction to be completed. Residents filed a civil lawsuit challenging the approval, citing concern about property values and specific members of the Board of Zoning Appeals. The Indiana Court of Appeals upheld the decision of the Madison Circuit Court that there was sufficient evidence to support the approval of the original and secondary special use applications concerning the project. The Indiana Supreme Court declined to take the appeal.¹⁴⁰ However, when the developers requested that Madison County allow additional time to complete construction in light of the pandemic, supply chain issues, and litigation from project opponents, the County refused, and the developer sued.¹⁴¹
- **Meadow Forge Project (Delaware County):** Community members have expressed opposition to the Meadow Forge solar project in Delaware County, Indiana, citing concerns over visual impacts and loss of tax revenues for local schools. On January 3, 2022, an attorney representing the opposition raised concerns about impacts to property values.¹⁴²

Jordan Creek Wind Energy Center: Overview, NEXTERA, <https://www.nexteraenergyresources.com/jordan-creek-wind/project-overview.html> (last visited Feb. 8, 2023).

¹⁴⁰ Ken de la Bastide, *Indiana Supreme Court Won't Consider Lawsuit Against Lone Oak Solar*, THE HERALD BULLETIN, Nov. 11, 2021, https://www.heraldbulletin.com/news/local_news/indiana-supreme-court-wont-consider-lawsuit-against-lone-oak-solar/article_6cae63c0-42fe-11ec-b0c5-63e05883d814.html; *Burton v. Bd. of Zoning Appeals of Madison Cty.*, 174 N.E.3d 202 (Ind. Ct. App. June 21, 2021).

¹⁴¹ Ken de la Bastide, *Lone Oak Takes Solar Farm Dispute to State Commission*, THE HERALD BULLETIN, Jan. 9, 2023, https://www.tribstar.com/indiana/news/lone-oak-takes-solar-farm-dispute-to-state-commission/article_b2d2bb0c-5f90-5ebc-b884-d11cc36ac51e.html.

¹⁴² David Penticuff, *Meadow Forge Solar Farm Hit with Opposition from Residents and Wes-Del Schools*, MUNCIE STAR PRESS, Jan. 3, 2022, <https://www.thestarpress.com/story/news/local/2022/01/03/delaware-county-meadow-forge-solar-farm-fought-schools-neighbors/9079915002/>.

- **Prairie Breeze Wind Farm (Tipton County):** Juwi Wind withdrew its proposal to construct a 150-MW wind farm in 2014 in Tipton County after the County's Zoning Board of Appeals restrictions made it essentially impossible to proceed.¹⁴³
- **West Fork Wind Energy Project (Rush, Henry, and Fayette Counties):** In 2015, NextEra proposed a 98-turbine wind farm in Rush, Henry, and Fayette Counties. In 2016, the Rush County Board of Zoning Appeals (BZA) imposed onerous requirements on the project, including a 2,640-foot setback requirement from non-participating property lines and a turbine height limit of 200 feet, far shorter than typical commercial wind turbines. By 2019, NextEra had abandoned plans for the Rush and Henry County portions and was considering a smaller 52-turbine project in Fayette County alone.¹⁴⁴

15. IOWA

Note on state preemption of local restrictions: In Iowa, a certificate from the state utilities board is required for electric generating facilities with a capacity of 25 MW or more. The law provides that “[t]he failure of a facility to meet zoning requirements” established by cities or counties “shall not preclude the board from issuing the certificate.”¹⁴⁵

15.1 State-Level Restrictions

No restrictive state laws or policies were found at this time.

¹⁴³ *Juwi Wind Abandons Plans for 150MW Prairie Breeze Wind Farm in Tipton County in BZA-Imposed Impossible Conditions*, INDIANA DG, July 3, 2014, <http://www.indianadg.net/juwi-wind-abandones-plans-for-150-mw-prairie-breeze-wind-farm-in-tipton-county-in-bza-imposed-impossible-conditions/>.

¹⁴⁴ Bob Hansen, *Wind Turbine Project Creeping Forward*, CONNERSVILLE NEWS EXAMINER, Jan. 11, 2019, <https://www.wind-watch.org/news/2019/01/11/wind-turbine-project-creeping-forward/>; Bob Hansen, *Not sure if wind project still on tap*, NEWS EXAMINER, May 22, 2020, https://www.newsexaminer.com/news/not-sure-if-west-fork-winds-still-blowing/article_bd1dd31d-a172-5361-b826-21fea2881c0a.html; James Sprague, *Rush County deals blow to another wind project*, CONNERSVILLE NEWS EXAMINER, Dec. 16, 2016, <https://www.wind-watch.org/news/2016/12/16/rush-county-deals-blow-to-another-wind-project/>.

¹⁴⁵ Iowa Code §§ 476A.1(5), 476A.2(1), 476A.5(3) (2023), <https://www.legis.iowa.gov/docs/code/476A.pdf>.

15.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Linn County:** In October 2022, Linn County adopted a moratorium on utility-scale solar installations, which was extended most recently in March 2023 through June 2023.¹⁴⁶
- **Page County:** In March 2022, the Page County Board of Supervisors imposed a moratorium on commercial wind applications while it considers changes to its ordinance.¹⁴⁷
- **Palo Alto County:** On June 22, 2022, the Palo Alto County Board of Supervisors adopted revisions to the county wind ordinance that set a countywide limit for wind energy production of 600 MW and required that turbines be set back from Rush Lake and Virgin Lake by 0.5 miles.¹⁴⁸
- **Woodbury County:** On August 23, 2022, the Woodbury County Board of Supervisors adopted a new ordinance to increase the setback distance from wind turbines to occupied residences from 1,250 feet to 2,500 feet. This reduced the buildable acreage in the county from 177 to 1.7. The change is expected to kill MidAmerican Energy's proposed Siouxland Wind Farm.¹⁴⁹ On May 22, 2023, the

¹⁴⁶ Marissa Payne, *Linn County won't take new utility-scale solar applications through June*, THE GAZETTE, Mar. 29, 2023, <https://www.thegazette.com/local-government/linn-county-wont-take-new-utility-scale-solar-applications-through-june/>; Gage Miskimen, *Linn County Extends Solar Moratorium Through March*, THE GAZETTE, Nov. 25, 2022, <https://www.thegazette.com/article/linn-county-extends-solar-moratorium-through-march/>.

¹⁴⁷ Ryan Matheny, *Page County Board agrees on setback, height requirement changes in wind ordinance*, KMALAND, Apr. 20, 2023, https://www.kmaland.com/news/page-county-board-agrees-on-setback-height-requirement-changes-in-wind-ordinance/article_1f8e1eee-dfdf-11ed-8b0e-13bb3f608085.htm; Ethan Hewett, *Page County board reviews wind ordinance, extends moratorium*, KMALAND, Mar. 2, 2023, https://www.kmaland.com/news/page-county-board-reviews-wind-ordinance-extends-moratorium/article_2671edc8-b96d-11ed-b72d-97bb1ebe0d2c.html.

¹⁴⁸ *Palo Alto County Approves Wind Energy Ordinance Revision*, KICD, June 23, 2022, <https://kicdam.com/news/170071-palo-alto-county-approves-wind-energy-ordinance-revision/>.

¹⁴⁹ WOODBURY COUNTY, IOWA, ORDINANCE NO. 67 (Aug. 23, 2022), https://www.woodburycountyiowa.gov/files/county_ordinances/67_amending_portions_of_ordinance_5

Woodbury County Board of Supervisors again increased the setbacks from residential areas to 2 miles and imposed a 1-mile setback from conservation areas.¹⁵⁰

New Entries (Pre-March 2022 Developments)

- **Dallas County:** The county zoning ordinance provides that noise from wind turbines cannot exceed 30 dBA for any period of time when measured from any dwelling, school, hospital, church, or public library existing at the time of approval. The ordinance further requires that turbines be set back at least 2,640 feet from property lines, residences, and other structures.¹⁵¹

Existing Entries (Updated)

- **Adair County:** In November 2019, the County's Board of Supervisors capped the number of commercial wind turbines allowed in the county at 535 turbines. At the time, there were already 532 turbines either built or under construction.¹⁵²

6_modifying_section_61a_737.pdf; Kendall Crawford, *Woodbury County Adopts an Ordinance to Limit Wind Energy*, IOWA PUBLIC RADIO, Aug. 24, 2022, <https://www.iowapublicradio.org/environment/2022-08-24/woodbury-county-adopts-an-ordinance-to-limit-wind-energy>.

¹⁵⁰ Jonathan Mack, *Woodbury County approves wind turbine ordinance*, SIOUXLAND PROUD, May 23, 2023, <https://www.sioxlandproud.com/news/local-news/woodbury-county-approves-wind-turbine-ordinance/>.

¹⁵¹ DALLAS COUNTY, IOWA, CODE OF ORDINANCES § 45.39 (last updated Dec. 27, 2022), <https://www.dallascountyiowa.gov/home/showpublisheddocument/29083/638200046162170000>.

¹⁵² Karen Uhlenhuth, *In Iowa, Conservative Group Looks to Counter Local Wind & Solar Opposition*, ENERGY NEWS, June 17, 2020, <https://energynews.us/2020/06/17/in-iowa-conservative-group-looks-to-counter-local-wind-solar-opposition/>.

- **City of Council Bluffs (Pottawattamie County):** Since 2009, wind energy conversion systems, such as wind turbines and windmills, have been prohibited within the City of Council Bluffs.¹⁵³
- **Greene County:** In March 2022, Greene County put in place a moratorium on utility-scale solar farms for either 6 months or until the Iowa legislature passes a law that addresses solar farms. The moratorium was adopted following a public hearing at which residents spoke out against a proposed project by National Grid Renewables. At a hearing in September 2022, Greene County officials debated proposed restrictions with NRG, including a 1,000-acre cap on project size and a 600-foot setback from dwellings.¹⁵⁴
- **Hardin County:** An indefinite moratorium on wind farms was implemented in the fall of 2019.¹⁵⁵
- **Madison County:** In October 2019, the Madison County Board of Supervisors approved a moratorium on wind and solar projects. In December 2020, the Board enacted an effective ban on new wind farm construction by capping the number of wind turbines in the county at the current number, 51, killing any future projects.¹⁵⁶ The ordinance further limited noise to 40 dBA and shadow flicker to

¹⁵³ COUNCIL BLUFFS, IOWA, Municipal Code 15.03.685 (Wind Energy Conversion System) (2009), [https://councilbluffs.municipalcodeonline.com/book?type=ordinances#name=15.03.685 Wind Energy Conversion System \(WECS\)](https://councilbluffs.municipalcodeonline.com/book?type=ordinances#name=15.03.685%20Wind%20Energy%20Conversion%20System%20(WECS)) (last visited May 24, 2023).

¹⁵⁴ Coltrane Carlson, *Greene County Supervisors Approve Solar Farm Temporary Moratorium*, RACCON VALLEY RADIO, Mar. 8, 2022, <https://www.raccoonvalleyradio.com/2022/03/08/greene-county-supervisors-approve-solar-farm-temporary-moratorium/>; Janice Harbaugh, *'Debate' on proposed solar setbacks continues*, GREENECOUNTYNEWSONLINE, Sept. 21, 2022, <https://greencountynews.com/2022/09/21/debate-on-proposed-solar-setbacks-continues/>.

¹⁵⁵ Karen Uhlenhuth, *In Iowa, Conservative Group Looks to Counter Local Wind & Solar Opposition*, ENERGY NEWS, June 17, 2020, <https://energynews.us/2020/06/17/in-iowa-conservative-group-looks-to-counter-local-wind-solar-opposition/>.

¹⁵⁶ Karen Uhlenhuth, *In Iowa, Conservative Group Looks to Counter Local Wind & Solar Opposition*, ENERGY NEWS, June 17, 2020, <https://energynews.us/2020/06/17/in-iowa-conservative-group-looks-to-counter-local-wind-solar-opposition/>; Donnelle Eller, *Madison County puts effective ban on wind energy*, DES MOINES REGISTER, Jan. 20, 2021, <https://www.farmforum.net/story/news/agriculture/2021/02/02/madison-county-puts-effective-ban-on-new-wind-energy-development-as-storm-over-turbines-continues/115733786/>.

zero, while establishing a setback of 1.5 miles from non-participating landowners' property lines.¹⁵⁷

15.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Salt Creek Wind (Tama County):** In August 2022, a local resident involved with Tama County Against Turbines Coalition filed a petition for declaratory judgment that the conditional use permits issued by the Tama County Board of Adjustment to Salt Creek Wind were illegal.¹⁵⁸ Two months earlier, in June 2022, another member of the same group filed a lawsuit against the board for failing to vote on a moratorium on wind energy and for readopting the existing wind ordinance without following proper procedures. The June 2022 case was dismissed in October 2022.¹⁵⁹ At a public meeting in December 2022, several residents urged the board to adopt a 6-month or 12-month moratorium.¹⁶⁰
- **Shenandoah Hills Wind Farm (Page County):** In January 2022, the Page County Board of Supervisors approved the 200-MW Shenandoah Hills Wind Farm after 6 months of opposition from residents related to setbacks, noise, lighting, and decommissioning agreements. Just over a month after the approval, residents

¹⁵⁷ *Madison County IA Wind Ordinance*, WIND ACTION, Dec. 22, 2020, <https://www.windaction.org/posts/52008-madison-county-ia-wind-ordinance>.

¹⁵⁸ Vanessa L. Roudabush, *Tama Co. Board of Adjustment Sued over Salt Creek Wind Project*, TIMES-REPUBLICAN, Sept. 22, 2022, <https://www.timesrepublican.com/news/todays-news/2022/09/tama-co-board-of-adjustment-sued-over-salt-creek-wind-project/>.

¹⁵⁹ Ruby F. Bodeker, *Farmer Sues Tama County Supervisors over Wind Ordinance Reaffirmation*, TIMES-REPUBLICAN, July 2, 2022, <https://www.timesrepublican.com/news/todays-news/2022/07/farmer-sues-tama-county-supervisors-over-wind-ordinance-reaffirmation/>; *Court Rules Against Arp in Wind Ordinance Lawsuit*, TAMA-TOLEDO NEWS CHRONICLE, Oct. 14, 2022, <https://www.tamatoledonews.com/news/local-news/2022/10/14/court-rules-against-arp-in-wind-ordinance-lawsuit/>.

¹⁶⁰ Vanessa L. Roudabush, *Tama Co. Zoning Commission Holds Public Hearing on Industrial Wind, Solar Moratorium*, TIMES-REPUBLICAN, Dec. 3, 2022, <https://www.timesrepublican.com/news/todays-news/2022/12/tama-co-zoning-commission-holds-public-hearing-on-industrial-wind-solar-moratorium/>.

opposed to the project filed a petition against the county and board in state court.¹⁶¹ In February 2023, after the developer informed the board of supervisors that it would be removing three turbines from the plan, the Page County Zoning Administrator informed the developer that this was a “material change,” which rendered the application “void.” In March 2023, the Page County Board of Adjustments upheld the Zoning Administrator’s determination that the application was void.¹⁶²

- **Silver Creek Wind Farm (Mills and Pottawattamie Counties):** Local residents have expressed opposition to MidAmerican’s proposal to construct a 400-MW, 140-turbine wind farm in northern Mills and southern Pottawattamie counties. As of February 8, 2023, over 1,100 people had joined a private Facebook group called “Say NO to the Silver Creek Wind Farm.”¹⁶³
- **Siouxland Wind Farm (Woodbury County):** The viability of MidAmerican Energy’s plans to construct the 90-turbine Siouxland Wind Farm is in doubt due to Woodbury County’s adoption of an ordinance in August 2022 that increased the setback distance from wind turbines to occupied residences from 1,250 feet to 2,500 feet. As described above, the ordinance reduced the buildable acres in the county from 177 to 1.7. Opponents of the project cited noise and visual impacts, and over 700 residents signed a petition to increase the setback distance.¹⁶⁴

¹⁶¹ Ethan Hewett, *Project 2022: Page County Wind Energy Developments*, KMALAND, Dec. 19, 2022, https://www.kmaland.com/news/project-2022-page-county-wind-energy-developments/article_590bae68-7f34-11ed-b371-43f64480a9a9.html.

¹⁶² Ethan Hewett, *Page County Board of Adjustments upholds decision voiding ‘Shenandoah Hills’ permit application*, KMALAND, Mar. 6, 2023, https://www.kmaland.com/news/page-county-board-of-adjustments-upholds-decision-voiding-shenandoah-hills-permit-application/article_0d8fd1b2-bc38-11ed-8de6-ffd18a9e7476.html.

¹⁶³ Kendall Crawford, *A proposed southwest Iowa wind farm faces opposition from local residents*, Feb. 15, 2022, IOWA PUBLIC RADIO, <https://www.iowapublicradio.org/ipr-news/2022-02-15/a-proposed-southwest-iowa-wind-farm-faces-opposition-from-local-residents/>; *Say NO to the Silver Creek Wind Farm*, FACEBOOK, <https://www.facebook.com/groups/silvercreekwindfarm/> (last visited Feb. 8, 2023).

¹⁶⁴ WOODBURY COUNTY, IOWA, ORDINANCE NO. 67 (Aug. 23, 2022), https://www.woodburycountyiowa.gov/files/county_ordinances/67_amending_portions_of_ordinance_56_modifying_section_61a_737.pdf; Kendall Crawford, *Woodbury County Adopts an Ordinance to Limit Wind*

- **Wind Prime (Location TBD):** MidAmerican Energy's Wind Prime proposal, which would include 2,042 MW of wind and 50 MW of solar, has received pushback from environmental groups. In November 2022, some of these groups testified before the Iowa Utilities Board that a different mix of wind, solar, and battery storage would enable faster retirement of coal plants.¹⁶⁵

Existing Entries (Updated)

- **Arbor Hill Wind Farm (Madison County):** In August 2018, the Madison County Coalition for Scenic Preservation challenged Madison County's decision to approve this 52-turbine wind farm. In June 2019 the district court dismissed the case and the plaintiffs appealed; the Iowa Court of Appeals affirmed the lower court in January 2021.¹⁶⁶ However, in December 2020, Madison County adopted an ordinance capping the number of turbines in the county at the current number, effectively preventing the project from proceeding. In January 2021, MidAmerican sued the county, and in March 2022, the parties reached a settlement allowing the company to construct 30 turbines.¹⁶⁷ However, in July

Energy, IOWA PUBLIC RADIO, Aug. 24, 2022, <https://www.iowapublicradio.org/environment/2022-08-24/woodbury-county-adopts-an-ordinance-to-limit-wind-energy>; Kendall Crawford, *Woodbury County Residents Push to Limit Wind Farms in the County*, IOWA PUBLIC RADIO, Aug. 10, 2022, <https://www.iowapublicradio.org/ipr-news/2022-08-10/woodbury-county-residents-push-to-limit-wind-farms-in-the-county>.

¹⁶⁵ Jeffery Tomich, *Green Groups, Tech Companies Fight \$4B Iowa Wind Project*, E&E NEWS ENERGYWIRE, Jan. 1, 2023, <https://subscriber.politicopro.com/article/eenews/2023/01/17/green-groups-tech-companies-fight-4b-iowa-wind-project-00077940>.

¹⁶⁶ *Madison County Residents Plead for End to Windmill Construction*, KCCI, Jan. 29, 2020, <https://www.kcci.com/article/madison-county-residents-plead-for-end-to-windmill-construction/30703526>; *Madison County Coalition v. Zoning Board of Adjustment of Madison County*, 957 N.W.2d 33 (Iowa Ct. App. 2019).

¹⁶⁷ *MidAmerican Energy sues Madison County Supervisors*, THE DES MOINES REGISTER, Jan. 24, 2021, <https://www.desmoinesregister.com/story/money/agriculture/2021/01/21/midamerican-weighs-legal-challenge-after-madison-county-wind-limits/4212860001/>; Robert Bryce, *Update On The Wind Turbines Of Madison County: MidAmerican Energy Prevails In Lawsuit, May Add 30 More Turbines*, FORBES, Mar. 25, 2022, <https://www.forbes.com/sites/robertbryce/2022/03/25/update-on-the-wind-turbines-of-madison-county-midamerican-energy-prevails-in-lawsuit-may-add-30-more-turbines/>.

2022, MidAmerican abandoned plans to move forward with the project, due to the reduction in size, among other issues.¹⁶⁸

- **Coggon Solar (Linn County):** Beginning in 2019, the developer of Coggon Solar began public outreach related to an application for a 640-acre, 100-MW solar project in Linn County. After residents voiced opposition to taking farmland out of commission, the Planning & Zoning Commission voted to recommend that the County Board of Supervisors deny the project.¹⁶⁹ In January 2022, the Board voted 2-1 to approve the project.¹⁷⁰ However, a family who lives near the proposed project brought a lawsuit against the board of supervisors, and, in July 2022, the Iowa Utilities Board denied Coggon Solar's request for a certificate while the lawsuit was ongoing.¹⁷¹ On or before February 1, 2023, the court dismissed the lawsuit against the board of supervisors, paving the way for the project to move forward.¹⁷²
- **Fairbank Wind Farm (Fayette County):** A 3-turbine wind farm that was approved in 2015 and then constructed was taken down in 2018 following a

¹⁶⁸ Robert Bryce, *MidAmerican Energy Abandons Plan to Add 30 Wind Turbines, Madison County Residents Celebrate: 'How Awesome'*, FORBES, July 24, 2022, <https://www.forbes.com/sites/robertbryce/2022/07/24/midamerican-energy-abandons-plan-to-add-30-wind-turbines-madison-county-residents-celebrate-how-awesome/>; *MidAmerican Cancels Wind Farm Planned for Madison County*, KCCI, Aug. 4, 2022, <https://www.kcci.com/article/iowa-midamerican-cancels-wind-farm-planned-for-madison-county/40811899>.

¹⁶⁹ Kate Payne, *Utility-scale solar project draws opposition from some Linn County residents*, IOWA PUBLIC RADIO, Nov. 30, 2021, <https://www.iowapublicradio.org/ipr-news/2021-11-30/utility-scale-solar-project-draws-opposition-from-some-linn-county-residents>.

¹⁷⁰ Michele White, *Linn County Board of Supervisors votes 2 to 1 to approve the Clenera solar project in Coggon*, KWWL, Jan. 24, 2022, https://www.kwwl.com/news/cedar-rapids/linn-county-board-of-supervisors-votes-2-to-1-to-approve-the-clenera-solar-project/article_0dbe1f92-7d99-11ec-af9f-13c72703938d.html.

¹⁷¹ Gage Miskimen, *Coggon Solar project on hold as opponents seek court review*, THE GAZETTE, July 14, 2022, <https://www.thegazette.com/news/coggon-solar-project-on-hold-as-opponents-seek-court-review/>.

¹⁷² KCRG Staff, *Judge Dismisses Lawsuit Against Linn County Board of Supervisors for Decision on Coggon Solar Project*, KCRG, Feb. 1, 2023, <https://www.kcrg.com/2023/02/01/judge-dismisses-lawsuit-against-linn-county-board-supervisors-decision-coggon-solar-project/>.

successful legal challenge by residents.¹⁷³ On appeal, the Court of Appeals of Iowa affirmed the judgment of the Iowa District Court for Fayette County that wind turbines were not “electrical and natural gas transmission and regulating facilities” within the meaning of the relevant county ordinance and thus a special permit was required for them to be placed on agricultural land.¹⁷⁴

- **Waterworks Prairie Park Solar Project (Johnson County):** In April 2020, the City Council of Iowa City unanimously voted against a lease agreement with MidAmerican for a solar project in Waterworks Prairie Park due to concern among local residents about the potential damage to the prairie ecosystem.¹⁷⁵
- **Wind XII Project (Location TBD):** In December 2018, the Iowa Utilities Board approved MidAmerican Energy’s 591-MW Wind XII project despite objections from environmental groups that MidAmerican should be required to study the cost of retiring its existing coal fleet before receiving approval.¹⁷⁶

¹⁷³ Mitchell Schmidt, *Wind turbines haven’t been universally welcomed by everyone in Iowa*, THE GAZETTE, Feb. 23, 2019, <https://www.thegazette.com/business/wind-turbines-havent-been-universally-welcomed-by-everyone-in-iowa/>.

¹⁷⁴ Woods v. Fayette Cty. Zoning Bd. of Adjustment, 913 N.W.2d 275 (Iowa Ct. App. Feb. 21, 2018).

¹⁷⁵ Rachel Schilke and Riley David, *Iowa City City Council spikes solar energy project in Waterworks Prairie Park*, THE DAILY IOWAN, Apr. 7, 2020, <https://dailyiowan.com/2020/04/07/city-council-spikes-solar-energy-project-in-waterworks-prairie-park/>.

¹⁷⁶ Karen Uhlenhuth, *Iowa utility’s wind farm approved over objections from clean energy groups*, ENERGY NEWS NETWORK, Dec. 6, 2018, <https://energynews.us/2018/12/06/iowa-utility-wind-farm-approved-over-objections-from-clean-energy-groups/>; Paul Struck, *New Iowa Wind Project Approved; Exact Location Unknown*, CHEROKEE CHRONICLE TIMES, Dec. 21, 2018, <https://www.chronicletimes.com/articles/news/new-iowa-wind-project-approved-exact-location-unknown/>.

16. KANSAS

16.1 State-Level Restrictions

Existing Entries (Updated)

- In 2004, Kansas Governor Kathleen Sebelius instated a wind development moratorium on parts of the Flint Hills in order to protect the tallgrass prairie. In 2011, Governor Sam Brownback doubled the protected area, renaming it the “Tallgrass Heartland.” This moratorium, which covers parts of 12 counties, was continued in July 2020 by Governor Laura Kelly.¹⁷⁷

16.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Osage County:** On October 24, 2022, the Osage County Commission unanimously adopted a measure to prohibit any new commercial wind and solar projects within the county’s borders.¹⁷⁸ The county allows only small wind and solar systems of 30kW or less for on-site power generation.¹⁷⁹

New Entries (Pre-March 2022 Developments)

- **Cherokee County:** In August 2021, Cherokee County adopted a 1-year moratorium on wind energy development.¹⁸⁰

¹⁷⁷ State of Kansas Proclamation by the Governor, July 28, 2020, <https://governor.kansas.gov/wp-content/uploads/2020/07/20200728140630901.pdf>. Chad Frey, *Kelly reaffirms wind moratorium*, THE KANSAN, July 30, 2020, <https://www.patriotledger.com/story/news/2020/07/30/kelly-reaffirms-wind-moratorium/114905584/>.

¹⁷⁸ Sarah Motter, *Osage Co. wind farm, alternate energy development plans halted*, 13 WIBW, Oct. 26, 2022, <https://www.wibw.com/2022/10/26/osage-co-wind-farm-alternate-energy-development-plans-halted/>.

¹⁷⁹ See Planning Commission Memo from Russ Ewy to Osage County Planning Commission dated Oct. 6, 2022, <http://ks827.cichosting.com/main/images/pdfs/Osage-County-PC-Memo-on-Alternative-Energy-Amendments-10-06-2217073.pdf>.

¹⁸⁰ Sarah Spicer & Kevin Hardy, *‘Ready to go to war’: Wind power grows in Kansas and Missouri. Why do some oppose it?*, KANSAS CITY STAR, Oct. 20, 2021, <https://www.kansascounties.org/news/news->

- **Kearny County:** Wind energy conversion systems must be set back at least 2,000 feet from any property line. With the consent of neighboring landowners, the limit may be reduced to 1,000 feet. The maximum height of turbines is 350 feet by default but may be increased to 400 feet if the applicant can show that the additional height will result in increased efficiency. In no case, however, can turbine height exceed 400 feet.¹⁸¹
- **Sedgwick County:** Wind energy conversion systems are “prohibited within the unincorporated portion of Sedgwick County and the City of Wichita.”¹⁸²

Existing Entries (Updated)

- **Douglas County:** In response to NextEra Energy’s proposal to construct a wind farm, the Douglas County Commission issued a moratorium on wind farm development in December 2013, which lasted until April 2014.¹⁸³
- **Linn County:** Linn County adopted a moratorium on wind energy projects in June 2020, which was originally set to expire in December 2020 but ultimately extended through December 2021.¹⁸⁴

[releases/2018ready-to-go-to-war2019-wind-power-grows-in-kansas-and-missouri-why-do-some-oppose-it.](#)

¹⁸¹ Kearny County, Kan., Zoning Regulations § 19-305 (2009), <https://www.kearnycountykansas.com/sites/g/files/vyhlf6361/f/uploads/2009zoningreg.pdf>.

¹⁸² WICHITA-SEDGWICK COUNTY, KAN., UNIFIED ZONING CODE § 3(D)(6)(pp), https://library.municode.com/ks/wichita-sedgwick_county_unified/codes/unified_zoning_code?nodeId=ARTIIIIZODIST_DUSRE (last visited May 24, 2023).

¹⁸³ Kansas Wind Energy Information Network, *Proposed Kansas Wind Projects*, http://www.kansasenergy.org/KS_wind_projects_case.htm (last visited Dec. 21, 2020).

¹⁸⁴ *Linn County extends wind turbine moratorium*, WIND ACTION, Aug. 10, 2020, <http://www.windaction.org/posts/51577-linn-county-extends-wind-turbine-moratorium>.

- **McPherson County:** In response to Gamesa Energia Southwest’s proposal for a 105-MW wind farm in 2005, the county passed a wind farm moratorium that was repeatedly extended, effectively killing the project.¹⁸⁵
- **Pratt County:** Zoning regulations require that wind turbines be set back 2,500 feet from active residential buildings, although the setback can be reduced to 1,000 feet with the written permission of all affected residents.¹⁸⁶
- **Reno County:** In December 2021, the Reno County Commission banned wind development in all zoned areas of the county. The vote to ban wind development in certain areas of the county came three years after residents requested that the commission impose a moratorium on wind development, ostensibly in response to news that NextEra was purchasing leases for a potential wind farm in the county. As of December 2021, a moratorium on commercial wind development was scheduled to run through March 2022.¹⁸⁷ As of February 2023, the county’s zoning regulations provide that, “[i]n order to provide for an incorporated city to extend its corporate boundary and increase its tax base, no turbine shall be located within 1 mile of an incorporated city boundary.”¹⁸⁸ Wind farms are permitted, however, in a designated Commercial Wind Energy Conversion Systems District in the unincorporated part of the county.¹⁸⁹

¹⁸⁵ Kansas Wind Energy Information Network, *Proposed Kansas Wind Projects*, http://www.kansasenergy.org/KS_wind_projects_case.htm (last visited Dec. 21, 2020).

¹⁸⁶ PRATT COUNTY, KAN., ZONING REGULATIONS A-12 (2012), <https://www.prattcounty.org/DocumentCenter/View/77/Adopted-Pratt-County-Zoning-Regulations-5-7-2012-Reduced-size> (last visited May 24, 2023).

¹⁸⁷ John Green, *Commission formally bans industrial wind in zoned areas of Reno County*, THE HUTCHINSON NEWS, Dec. 14, 2021, <https://www.hutchnews.com/story/news/2021/12/14/reno-county-commission-meeting-bans-industrial-wind-zoned-areas-county/6508762001/>.

¹⁸⁸ RENO COUNTY, KAN., ZONING REGULATIONS § 23-107(2)(H), <https://www.renogov.org/DocumentCenter/View/9788/Zon-Article-23---Commercial-Wind-Energy-Conversion-Systems-PDF> (last visited May 24, 2023).

¹⁸⁹ RENO COUNTY, KAN., ZONING REGULATIONS § 24-103, <https://www.renogov.org/DocumentCenter/View/9789/Zon-Article-24-CWECS-PDF> (last visited May 24, 2023).

16.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Auburn Harvest Wind (Osage County):** In October 2022, Osage County Commissioners denied an application from Auburn Harvest Wind to construct a wind farm on 30,000 acres. At a hearing earlier in the month, local residents expressed concerns that the project would permanently alter the landscape and impact wildlife.¹⁹⁰

New Entries (Pre-March 2022 Developments)

- **Argyle Creek Wind Project (Sumner County):** In January 2017, nearly 60 residents of Sumner County filed a lawsuit to challenge the county's approval of a conditional use permit for the 60-turbine, 150-MW Argyle Creek Wind Farm. In September 2017, a judge ruled against the Sumner County Commission, thereby blocking the project.¹⁹¹
- **Eagle Rock Wind Farm (McPherson County):** In March 2005, Spanish company Gamesa began developing a proposal for a 100-MW wind farm in northeast McPherson County. In August 2005, the county adopted a 6-month moratorium, which was ultimately extended through August 2006. The project appears to have been abandoned.¹⁹²

¹⁹⁰ Caleb Jeanneret, *Wind farm proposal denied in Osage County following outcry from residents*, KSNT.COM, Oct. 25, 2022, <https://www.ksnt.com/news/local-news/wind-farm-proposal-denied-in-osage-county/>; Matthew Johnstone, *Kansas wind turbine hearing stirs up debate*, KSNT.COM, Oct. 6, 2022, <https://www.ksnt.com/news/local-news/kansas-wind-turbine-hearing-stirs-up-debate/>.

¹⁹¹ *Judge blocks development of controversial wind farm*, KAKE News, Sept. 23, 2017, <https://www.kake.com/story/36438011/judge-blocks-development-of-controversial-wind-farm>; *Lawsuit seeks to stop Sumner County wind farm*, Jan. 31, 2017, <https://www.kake.com/story/34394307/lawsuit-seeks-to-stop-sumner-county-wind-farm>.

¹⁹² Kansas Wind Energy Information Network, *Kansas Wind Projects – Case Studies*, http://www.kansasenergy.org/KS_wind_projects_case.htm (last visited May 2, 2023).

Existing Entries (Updated)

- **Anderson County Wind Farm (Anderson County):** In 2015, Calpine Corporation proposed a 200-MW wind project on 30,000 acres on a ridge in Eastern Anderson County. A group called Landowners Against Windmills organized in opposition. The group argued that the county's zoning director unlawfully allowed Calpine to construct a 328-foot weather monitoring tower without a special use permit, violating public notice requirements. The tower was subsequently destroyed by vandalism at a loss of \$200,000. The project was apparently abandoned. As of February 2023, there are no Calpine projects in Kansas or public plans to build in Anderson County.¹⁹³
- **Leon Wind (Butler County):** A proposed 68-turbine project south of Leon was canceled in 2005. The Butler County Planning Commission unanimously recommended approval of the project but the County Commission rejected it.¹⁹⁴
- **Neosho Ridge Wind (Neosho County):** Plans by Apex Clean Energy to construct a 139-turbine, 300-MW wind farm in Neosho County were met with opposition from residents. Objections to the project included concerns regarding the cost of the project and potential issues with regulating the wind farm due to the lack of a strong zoning ordinance. After Apex Clean Energy received a permit for the project, 45 landowners filed a lawsuit in federal court to stop the project as an anticipatory nuisance.¹⁹⁵ The court denied the developer's motion for judgment on the pleadings, finding that the plaintiffs adequately alleged a claim of

¹⁹³ Vickie Moss, *Kaput? Wind farm company now silent on plan*, THE ANDERSON COUNTY REVIEW, Oct. 18, 2016, <https://garnett-ks.com/161018.pdf>; Calpine, *Our Fleet*, <https://www.calpine.com/Operations/Power-Operations/Our-Fleet> (last visited Feb. 9, 2023).

¹⁹⁴ Kansas Wind Energy Information Network, *Kansas Wind Projects – Case Studies*, http://www.kansasenergy.org/KS_wind_projects_case.htm (last visited May 2, 2023).

¹⁹⁵ Colleen Williamson, *Wind farm opponents: Zoning is the best protection*, PARSONS SUN, Nov. 14, 2018, https://www.parsonssun.com/news/article_9ca617fa-e882-11e8-b723-4721fa2528c9.html; Michelle Froese, *IEA to build 300-MW Kansas wind farm*, WIND POWER ENGINEERING & DEVELOPMENT, Aug. 6, 2019, <https://www.windpowerengineering.com/iea-to-build-300-mw-kansas-wind-farm>.

anticipatory nuisance.¹⁹⁶ In June 2020, the parties voluntarily stipulated to dismissal, and the project entered commercial operation in 2021.¹⁹⁷

- **Pretty Prairie Wind Farm (Reno County):** A proposed 80-turbine, 220-MW wind farm by NextEra encountered local opposition in Reno County. After the Reno County Planning Commission issued a negative recommendation, 233 residents submitted protest petitions, which forced a unanimous vote of the Reno County Commission. In June 2019, the County Commission voted 2-1 in favor of the project, but, without a unanimous vote, the permit could not be issued. In July 2021, the developer filed a lawsuit alleging that the protest petitions were invalid, but in May 2020, the court ruled against the developer. In August 2022, the state appellate court upheld the decision that the protest petitions were legal sufficient to force a unanimous decision.¹⁹⁸

17. KENTUCKY

17.1 State-Level Restrictions

New Entries (Pre-March 2022 Developments)

- Under House Bill 291, adopted in 2014, wind turbines must be set back at least 1,000 feet from property lines and at least 2,000 feet from “any residential neighborhood, school, hospital, or nursing home facility.”¹⁹⁹

¹⁹⁶ Coover v. Neosho Ridge Wind LLC, 2019 U.S. Dist. LEXIS 237453 (D. Kan. Oct. 25, 2019).

¹⁹⁷ Stipulation of Dismissal, Coover et al v. Neosho Ridge Wind LLC, No. 5:19-cv-04064 (D. Kan. July 26, 2019), ECF Nos. 71-72 (June 1, 2020); *Neosho Ridge Wind Farm*, US, POWER TECHNOLOGY, Nov. 26, 2021, <https://www.power-technology.com/marketdata/neosho-ridge-wind-farm-us/>.

¹⁹⁸ *Kansas Judge Rules Against NextEra in Wind Farm Fight*, OK ENERGY TODAY, June 22, 2020, <http://www.okenergytoday.com/2020/06/kansas-judge-rules-against-nextera-in-wind-farm-fight/>; John Green, *Appeal Court Rules Against NextEra Energy in a Lawsuit Against Reno County Over Wind Farm*, THE HUTCHINSON NEWS, Aug. 29, 2022, <https://www.hutchnews.com/story/news/2022/08/29/court-rules-reno-county-nextera-lawsuit-over-wind-farm-pretty-prairie/7929811001/>.

¹⁹⁹ KY. REV. STAT. ANN. § 278.704(2) (2014), <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=42953>.

17.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

17.3 Contested Projects

Existing Entries (Updated)

- **Flemingsburg Wind Project (Mason and Fleming Counties):** In May 2014, Duke Energy Renewables announced its intent to discontinue pursuing the construction of a wind farm in Mason and Fleming Counties. The project, which would have included 26 to 100 wind turbines, had encountered local opposition, and the developer explained in a letter that it concluded the project had little chance of success.²⁰⁰
- **Madison County Solar Farm (Madison County):** Local residents collected 387 signatures for a petition opposing a 100-MW, 1,100-acre solar farm in Madison County on the grounds that it would be an eyesore and harm property values. However, in December 2020 or January 2021, the Madison County Board of Adjustments approved the project.²⁰¹
- **NextEra’s Mason County Wind Energy Project (Mason County):** In May 2014, NextEra Energy Resources submitted a letter to Mason County officials announcing that it was abandoning research on a potential wind project in the county due to state restrictions and anticipated local restrictions, including increased setbacks.²⁰²

²⁰⁰ *Duke abandons Ky. wind turbine farm*, THE LEDGER INDEPENDENT, May 12, 2014, <https://www.cincinnati.com/story/money/2014/05/12/duke-abandons-ky-wind-turbine-farm/8995197/>.

²⁰¹ Taylor Tix, *Positive Communication: Acciona Moves Forward with Solar Farm*, RICHMOND REGISTER, Jan. 2, 2021, https://www.richmondregister.com/news/positive-communication-acciona-moves-forward-with-solar-farm/article_6bdd7365-2c6b-5829-a4f5-7ff772b9e5cf.html; Change.org, *Petition on Madison County, KY Board of Adjustments and Development, On Proposed Solar Farm*, <http://bit.ly/2KwLLnT> (last visited Feb. 9, 2023).

²⁰² *Second Company Discontinues NKY Wind Energy Project*, WLWT NEWS, May 25, 2014, <https://www.wlwt.com/article/second-company-discontinues-nky-wind-energy-project/3543141>; *NextEra*

- **Savion’s Mercer County Solar Farm (Mercer County):** In October 2020, the Mercer County Fiscal Court denied approval for a 1,200 acre solar project proposed by Savion, overriding the recommendation of the county’s planning and zoning commission. Opponents organized against the project on a Facebook group called “Preserve Mercer County Farm Land” and spoke at a public meeting in August 2020 of concerns about impacts to property values, visual impacts, local temperature changes, and loss of farmland.²⁰³

18. LOUISIANA

18.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

18.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **St. James Parish:** On August 17, 2022, the St. James Parish Council approved a moratorium through March 2023 on commercial solar farms. The moratorium was imposed shortly after D.E. Shaw Renewable Investments submitted a proposal to build a solar farm on 3,900 acres in the parish, which the planning commission rejected. Local residents advocating for the moratorium expressed concerns about visual impacts.²⁰⁴

cancels plans for wind farm in Mason County, May 23, 2014, THE LEDGER INDEPENDENT, <https://maysville-online.com/opinion/110627/nextera-cancels-plans-for-wind-farm-in-mason-county>.

²⁰³ Jim Waters, *Kentucky Counties Need to Get with the Future and on Board with Solar Power*, COURIER-JOURNAL, Sept. 24, 2021, <https://www.courier-journal.com/story/opinion/2021/09/24/solar-power-would-bring-money-kentucky/5815510001/>; Robert Moore, *Residents Speak Out Against Proposed Solar Farm*, HARRODSBURG HERALD, Aug. 12, 2020, <https://www.harrodsburgherald.com/2020/08/12/residents-speak-out-against-proposed-solar-farm/>; Facebook, *Preserve Merce County Farm Land Public Group*, <https://www.facebook.com/Preserve-Mercer-County-Farm-Land-103778018155757/> (last visited Dec. 27, 2020).

²⁰⁴ Joshua Rosenberg, *St. James Parish approves solar farm moratorium*, THE LENS, Aug. 18, 2022, <https://thelensnola.org/2022/08/18/st-james-parish-approves-solar-farm-moratorium/>.

Existing Entries (Updated)

- **Jefferson Davis Parish:** Under a January 2020 ordinance, no wind turbine may be installed within 3 miles of any business or residence in the unincorporated areas of Jefferson Davis Parish.²⁰⁵

18.3 Contested Projects

Existing Entries (Updated)

- **Calcasieu Parish Solar Farm (Calcasieu Parish):** In September 2021, local residents of Southeast Calcasieu Parish filed a lawsuit against the parish zoning board and police jury to contest the approval of a 3,400-acre solar farm that would generate 300 to 400 MW. Opponents of the project stated that they have not received sufficient guarantees as to human health and safety, as well as impacts on birds and other wildlife.²⁰⁶

19. MAINE

19.1 State-Level Restrictions

Existing Entries (Updated)

- Governor LePage signed an executive order in January 2018 that imposed a moratorium on wind energy development in certain parts of western and coastal

²⁰⁵ JEFFERSON DAVIS PARISH, LA., CODE § 27-7.5 (Ordinance No. 2341, 1-13-20), https://library.municode.com/la/jefferson_davis_parish_police_jury/codes/code_of_ordinances?nodeId=COOR_CH21ZO_ARTIIIIGERE_S21-7.5WIEN (last visited May 24, 2023).

²⁰⁶ Mike Smith, *Massive Controversial Solar Project Near Lake Charles Offers Peek into Louisiana's Energy Future*, ADVOCATE, Oct. 5, 2021, https://www.theadvocate.com/lake_charles/massive-controversial-solar-project-near-lake-charles-offers-peek-into-louisianas-energy-future/article_14a9a1d6-254d-11ec-a2f7-ab74b5673f5e.html; Theresa Schmidt, *Opponents of Solar Farm in Calcasieu Parish File Lawsuit Against Police Jury, Zoning Board*, KPLCTV, Sept. 10, 2021, <https://www.kplctv.com/2021/09/10/opponents-solar-farm-se-calcasieu-parish-file-lawsuit-against-police-jury-zoning-board/>.

Maine. In February 2019, Governor Mills signed an executive order to end the moratorium.²⁰⁷

19.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Town of Albion (Kennebec County):** In March 2023, residents of the town of Albion voted at a Town Meeting to adopt a new ordinance that requires solar projects to be set back 300 feet from roads or residential buildings.²⁰⁸

Existing Entries (Updated)

- **City of Augusta (Kennebec County):** In August 2021, after residents voiced aesthetic concerns about utility-scale solar projects, the City Council imposed a moratorium for up to 180 days on solar projects.²⁰⁹
- **City of Ellsworth (Hancock County):** On October 18, 2021, citing concerns about overdevelopment, the Ellsworth City Council enacted a 6-month moratorium on solar development, which was ultimately extended until October 13, 2022.²¹⁰

²⁰⁷ Maine Exec. Order No. 2 FY. 17/18 (Jan. 24, 2018); Maine Exec. Order No. 3 FY. 19/20 (Feb. 14, 2019), <https://www.maine.gov/governor/mills/sites/maine.gov.governor.mills/files/inline-files/Governor%20Mills%20Executive%20Order%203%20Signed%20Feb.%2014%2C%202019%200.pdf>.

²⁰⁸ Kaitlyn Budion, *Albion residents approve solar ordinance, Delta Ambulance fee*, MORNING SENTINEL, Mar. 20, 2023, <https://www.centralmaine.com/2023/03/20/albion-residents-approve-solar-ordinance-delta-ambulance-fee/>.

²⁰⁹ Keith Edwards, *Augusta Approves Rules to Shield New Solar Projects from Public View*, KENNEBEC JOURNAL, Oct. 24, 2021, <https://www.centralmaine.com/2021/10/24/augusta-approves-rules-to-shield-new-solar-projects-from-public-view/>.

²¹⁰ Bill Trotter, *Ellsworth Halts New Solar Projects for 6 Months Due to Concerns About Overdevelopment*, BANGOR DAILY NEWS, Oct. 27, 2021, <https://www.bangordailynews.com/2021/10/27/news/hancock/ellsworth-adopts-moratorium-on-solar-power-development-but-existing-projects-will-go-on-joam40zk0w/>; City of Ellsworth, Me., *Medium- and Large-Scale Solar Energy Systems Moratorium Ordinance* (Oct. 18, 2021), <https://www.ellsworthmaine.gov/wp-content/uploads/2021/10/Medium-and-Large-Scale-Solar-Energy-Systems-Moratorium-Ordinance-for-CC-Review-10.18.21-1.pdf>.

- **Town of Belgrade (Kennebec County):** A moratorium on wind and solar projects that went into effect August 2020 was extended multiple times as the town developed new ordinances for wind and solar energy. Under the new solar ordinance adopted in November 2022, no more than 10 acres of wooded land may be cleared for a solar project, and solar arrays must not exceed 12 feet in height.²¹¹
- **Town of Dixmont (Penobscot County):** The current Wind Energy Facility Ordinance requires that wind energy facilities be set back 2,500 feet from the property line of nonparticipating residences.²¹² On October 14, 2021, Dixmont adopted a 180-day moratorium on solar arrays.²¹³
- **Town of Lovell (Oxford County):** In January 2022, Lovell residents voted to approve a 180 moratorium on large-scale solar projects. Members of a grassroots group called Let Lovell Decide mobilized support for the moratorium, citing concerns about visual impacts of a project proposed by Walden Renewables²¹⁴
- **Town of Mechanic Falls (Androscoggin County):** In November 2021, following the approval of two solar farms, the Town Council enacted a 180-day

²¹¹ Evan Houk, *Belgrade Extends Moratorium Again on Solar, Wind Farms and Other Developments*, MORNING SENTINEL, Nov. 17, 2021, <https://www.centralmaine.com/2021/11/17/belgrade-extends-moratorium-on-solar-wind-farms-and-other-developments/>; TOWN OF BELGRADE, ME., COMMERCIAL DEVELOPMENT REVIEW ORDINANCE art. 7 §§ 4-5 (November 8, 2022), https://www.townofbelgrade.com/sites/g/files/vyhliif2791/f/pages/2022_cdr_final_-_amended_11-08-2022.pdf.

²¹² DIXMONT, ME., WIND ENERGY FACILITY ORDINANCE § V(b)(1)(A) (Oct. 1, 2009), <https://www.townofdixmont.org/vertical/sites/%7B6EAADA9B-2500-4441-A924-7171D5E3F559%7D/uploads/%7B576AA528-4C90-4A93-9C0D-31F9FF751735%7D.PDF>.

²¹³ Lia Russell, *Dixmont Passes Temporary Ban on Solar Arrays*, BANGOR DAILY NEWS, Oct. 14, 2021, <https://www.bangordailynews.com/2021/10/14/news/penobscot/dixmont-passes-temporary-ban-on-solar-arrays/>; TOWN OF DIXMONT, ME., COMMERCIAL SOLAR FACILITIES MORATORIUM ORDINANCE (Oct. 14, 2021), https://www.townofdixmont.org/vertical/sites/%7B6EAADA9B-2500-4441-A924-7171D5E3F559%7D/uploads/DixmontSolarMoratorium_FINAL.doc.

²¹⁴ Talia Clarke, *Lovell Residents Vote to Temporarily Halt Large-scale Solar Project*, WMTW, Jan. 26, 2022, <https://www.wmtw.com/article/lovell-maine-solar-project-moratorium-vote/38898474>.

moratorium on the development of solar projects in order for the Planning Board to develop an ordinance.²¹⁵

- **Town of Montville (Waldo County):** Wind turbines must be set back at least 1 mile from property lines of nonparticipating residences or 13 times the height of the turbine, whichever is greater. Wind turbines also must be set back from public roads by a minimum of 4 times the height of the turbine, and shadow flicker must not exceed 10 hours per year.²¹⁶
- **Town of Otisfield (Oxford County):** In February 2022, Otisfield residents voted to establish a 6-month moratorium on commercial solar facilities, which was extended several times. In January 2023, Otisfield adopted a new ordinance that limits total future solar development to 100 acres and individual solar arrays to 20 acres each.²¹⁷

19.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Greene Apple Solar (Androscoggin County):** At a town meeting on June 18, 2022, residents of Greene voted overwhelmingly against a proposal to lease 80 acres of public land to Greene Apple Solar Power as part of a 600-acre, 120-MW solar farm. Opponents explained that they wanted the town to develop the 80

²¹⁵ Eriks Petesons, *Mechanic Falls council adopts solar farm moratorium*, THE SUN JOURNAL, Nov. 25, 2021, <https://www.sunjournal.com/2021/11/25/mechanic-falls-council-adopts-solar-farm-moratorium/>.

²¹⁶ TOWN OF MONTVILLE, ME., WIND TURBINE GENERATOR ORDINANCE § 12 (Nov. 15, 2021), <http://www.hpcme.org/environment/energy/WindOrdFinalMontville.pdf>.

²¹⁷ Nicole Carter, *Otisfield Adopts Solar Ordinance*, Sun Journal, Feb. 1, 2023, Nicole Carter, <https://www.sunjournal.com/2023/02/01/otisfield-adopts-solar-ordinance/>; *Otisfield Approves Temporary Moratorium on Commercial Solar Farms*, SUN JOURNAL, Mar. 3, 2022, <https://www.sunjournal.com/2022/03/03/otisfield-approves-temporary-moratorium-on-commercial-solar-farms/>; TOWN OF OTISFIELD, ME., SOLAR ENERGY GENERATION SYSTEMS ORDINANCE art. 6(B) (Jan. 10, 2023), https://www.otisfieldme.gov/sites/g/files/vyhli4826/f/news/1.10.2023_otisfield_solar_ordinance.pdf.

acres into recreational fields instead. The developer plans to move forward with the parts of the project that will be sited on private land.²¹⁸

New Entries (Pre-March 2022 Developments)

- **Kibby Expansion Wind Power Project (Franklin County):** In 2012, Friends of the Boundary Mountains filed a lawsuit in federal court challenging the Army Corps of Engineers' issuance of a Clean Water Act permit to allow for the installation of a 15-turbine, 45-MW project adjacent to an existing 132-MW project. In 2014 a federal district court denied the challenge, finding that the Corps' permitting decision was supported by substantial record evidence.²¹⁹

Existing Entries (Updated)

- **Bingham Wind (Piscataquis County):** An anti-wind group called Friends of Maine's Mountains filed a lawsuit against developer SunEdison to stop construction of the 185-MW Bingham Wind project. In 2015, the parties reached a settlement in which SunEdison agreed not to develop projects in exclusion zones covering more than half of the state and to pay up to \$2.5 million for conservation projects statewide.²²⁰
- **Fox Islands Wind (Knox County):** In April 2010, a group of neighbors organized as the Fox Islands Wind Neighbors began complaining about noise from the recently completed 4.5-MW Fox Islands Wind project. In November 2010, the Maine Department of Environmental Protection (DEP) commenced enforcement proceedings and instructed Fox Islands Wind to submit a revised operation protocol to address noise issues. In April 2011, DEP accepted the revised protocol and issued a conditional compliance order. In July 2011, Fox Islands Wind

²¹⁸ Vanessa Paoella, *Greene residents reject solar development on town property during Town Meeting*, SUN JOURNAL, June 18, 2022, <https://www.sunjournal.com/2022/06/18/greene-residents-reject-solar-development-on-town-property-during-town-meeting>.

²¹⁹ Friends of the Boundary Mountains v. U.S. Army Corps of Engineers, 24 F. Supp. 3d 105 (D. Me. 2014).

²²⁰ Staff, *\$2.5 million conservation fund set up in Bingham wind pact*, CENTRAL MAINE, Sept. 15, 2015, <https://www.centralmaine.com/2015/09/25/friends-of-maines-mountains-drops-suit-against-bingham-wind-farm>.

Neighbors filed a petition in superior court challenging the order. In May 2015, after four years of litigation, Maine’s Supreme Judicial Court concluded that the order was supported by substantial record evidence and within the agency’s discretion.²²¹

- **Mars Hill Wind (Aroostook County):** The Maine Supreme Judicial Court dismissed a nuisance lawsuit in 2013 against a wind energy company over its northern Maine wind farm, which the plaintiff argued created a noise so loud he was forced to sleep in a soundproof bunker in his garage. The company previously settled similar claims with 18 other landowners, who filed a lawsuit against the company in 2009.²²²
- **Monmouth Solar (Kennebec County):** In December 2020, the Monmouth Select Board voted to place a retroactive solar energy moratorium on the ballot for a vote by town residents. If adopted, the measure would have blocked construction of a proposed 4.95-MW solar project on 55 acres of land. In March 2021, the town residents voted against the proposed moratorium, allowing the project to move forward.²²³
- **New England Aqua Ventus, formerly known as Maine Aqua Ventus (N/A):** An 11-MW demonstration offshore wind farm to test the feasibility of floating wind turbines was preliminarily approved by the Maine Public Utilities Commission (PUC) in 2014. However, in January 2018, amid opposition from towns and

²²¹ Fox Islands Wind Neighbors v. Dep’t of Env’tl. Prot., 116 A.3d 940, 2015 ME 53 (2015); *Fox Islands Wind*, ISLAND INSTITUTE, <https://www.islandinstitute.org/ii-solution/fox-islands-wind/> (last visited Feb. 22, 2023).

²²² *Maine high court dismisses Mars Hill man’s wind turbine complaint*, ASSOCIATED PRESS, Nov. 11, 2013, https://www.centralmaine.com/2013/11/11/maine_high_court_dismisses_mars_hill_man_s_wind_turbine_complaint/; *Complaint, Boyd et al. v. First Wind Energy, LLC, et al.*, No. CARSC-CV-09, https://docs.wind-watch.org/MarsHillComplaint_032709.pdf.

²²³ Sam Shepherd, *Monmouth Voters Defeat Moratorium that Would Have Halted Commercial Solar Projects*, CENTRALMAINE.COM, Mar. 10, 2021, <https://www.centralmaine.com/2021/03/10/monmouth-voters-defeat-moratorium-that-would-have-halted-commercial-solar-projects/>; Sam Shepherd, *Monmouth solar project planned on 55 acres gets OK from Planning Board*, CENTRALMAINE.COM, Mar. 17, 2021, <https://www.centralmaine.com/2021/03/17/monmouth-solar-project-planned-on-55-acres-gets-ok-from-planning-board/>.

fishing groups, the PUC delayed a decision on final approval to provide more time for public comment. The project was eventually awarded a power contract in November 2019 after Governor Mills signed a law that required the PUC to approve the contract.²²⁴

- **New England Clean Energy Connect (N/A):** Central Maine Power, a subsidiary of Avangrid, has encountered intense opposition in Maine to its plan to construct a 1,200 MW transmission line to bring hydroelectric power from Quebec to the New England power grid. The Maine Department of Environmental Protection (DEP) reviewed the project for more than two years before issuing permits in May 2020.²²⁵ However, opponents pushed for a statewide referendum on the project, and, in November 2021, voted to block the project.²²⁶ In August 2022, the Maine Supreme Judicial Court ruled that Avangrid may proceed with

²²⁴ PUC Hits Pause Button on Maine Aqua Ventus' Power Contract, MAINEBIZ, Jan. 10, 2018, <https://www.mainebiz.biz/article/puc-hits-pause-button-on-maine-aqua-ventus-power-contract>; Nadja Skoplajak, Maine Aqua Ventus Gets Power Contract, OFFSHOREWIND.BIZ, Nov. 6, 2019, <https://www.offshorewind.biz/2019/11/06/maine-aqua-ventus-gets-power-contract>; Maine PUC Delays Decision on Aqua Ventus Power Contract, OFFSHOREWIND.BIZ, Jan. 11, 2018, <https://www.offshorewind.biz/2018/01/11/maine-puc-delays-decision-on-aqua-ventus-power-contract/>; State of Maine Governor's Office, *New England Aqua Ventus*, <https://www.maine.gov/energy/initiatives/offshorewind/projects/newenglandaquaventus> (last visited Feb. 20, 2023).

²²⁵ Robert Walton, *New England takes key step to 1.2 GW of Quebec hydro as Maine approves transmission line*, UTILITY DIVE, May 12, 2020, <https://www.utilitydive.com/news/new-england-takes-key-step-to-12-gw-of-quebec-hydro-as-maine-approves-tran/577743/>; Jessica Piper, *Outside groups fighting over CMP corridor spent \$3.7M after referendum was invalidated*, BANGOR DAILY NEWS, Dec. 15, 2020, <https://www.bangordailynews.com/2020/12/15/politics/outside-groups-fighting-over-cmp-corridor-spent-3-7m-after-referendum-was-invalidated>.

²²⁶ Ethan Howland, *Maine DEP Suspends Permit for 1.2 GW Avangrid Power Line to Import Power from Hydro-Quebec*, UTILITY DIVE, Oct. 26, 2021 (updated Nov. 24, 2021), <https://www.utilitydive.com/news/avangrid-nextera-necec-transmission-maine-ballot/608877/>.

construction if it can prove that it had already engaged in substantial construction before the voters approved a ballot initiative blocking the project.²²⁷

- **Oakfield Wind (Aroostook County):** In 2010, the Martha A. Powers Trust filed a lawsuit against the Maine Board of Environmental Protection alleging that the Board erred in finding that noise from the 48-turbine, 150-MW Oakfield Wind project would not generate unreasonable adverse health effects. The lawsuit was dismissed in 2011. The project was completed in September 2015, approximately eight years after it was first proposed.²²⁸
- **Somerset Wind (Somerset County):** In 2017, local residents, including groups called Saving Maine and the Moosehead Region Futures Committee, organized in opposition to NRG's proposed 26-turbine, 94-MW Somerset Wind project in Somerset County, Maine. Opponents argued the project would have visual impacts and potentially damage the aquifer that feeds into Moosehead Lake.²²⁹ It appears the project was not built; no updates after October 2017 are available.

20. MARYLAND

Note on state preemption of local restrictions: Maryland's highest court held in 2019 that "PU § 7-207 preempts by implication local zoning authority approval for the siting and local of generating stations that require a [certificate of public convenience and necessity]." The court further held that "local zoning laws are preempted and therefore

²²⁷ Ethan Howland, *Maine Supreme Court Opens Pathway for Avangrid's \$1B New England Transmission Project*, UTILITY DIVE, Aug. 31, 2022, <https://www.utilitydive.com/news/maine-supreme-court-avangrid-cmp-necec-transmission-nextera/630886/>.

²²⁸ Joseph Cyr & Jen Lynds, *Completed Wind Farm to Continue Providing Economic Benefits to Oakfield*, BANGOR DAILY NEWS, Sept. 18, 2015, <https://www.bangordailynews.com/2015/09/18/news/completed-wind-farm-to-continue-providing-economic-benefits-to-oakfield>; *Martha A. Powers Trust v. Board of Env'tl. Prot.*, 15 A.3d 1273, 2011 Me. 40 (2011).

²²⁹ Doug Harlow, *Opposition to new industrial wind towers grows in Somerset County*, CENTRAL MAINE, Oct. 28, 2017, <https://www.centralmaine.com/2017/10/28/opposition-to-new-industrial-wind-towers-grows-in-somerset-county>; Doug Harlow, *More Than 100 People Ask if Massachusetts Energy Policy Will Destroy Moosehead Lake Region*, CENTRAL MAINE, Aug. 16, 2017, <https://www.centralmaine.com/2017/08/16/more-than-100-people-ask-if-massachusetts-energy-policy-will-destroy-moosehead-lake-region/>.

not directly enforceable by the local governments as applied to generating stations such as [solar energy generating systems].”²³⁰ Maryland law requires a certificate of public convenience and necessity from the Public Service Commission for on-shore wind facilities of 70 MW or greater and solar photovoltaic facilities of 2 MW or greater.²³¹ Thus, local zoning laws are preempted with respect to such facilities.

20.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

20.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Carroll County:** On March 9, 2023, Carroll County adopted a 6-month moratorium on applications for community solar farms on land currently zoned for agricultural purposes.²³²

New Entries (Pre-March 2022 Developments)

- **Anne Arundel County:** County officials have stated that “large-scale wind energy projects are not permitted in any zoning district.”²³³

²³⁰ Bd. of Cty. Comm’rs v. Perennial Solar, LLC, 464 Md. 610, 644-45 (2019); *see also* Steven Ferrey, *Siting Technology, Land-Use Energized*, 66 CATH. U. L. REV. 1, 24 (2017).

²³¹ Md. Pub. Util. Code Ann. §§ 7-207.1 (2021), <https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gpu§ion=7-207.1>; *id.* 7-207.2 (2021), <https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gpu§ion=7-207.2>.

²³² Sherry Greenfield, *Carroll County commissioners postpone Thursday’s solar moratorium discussion*, CARROLL COUNTY TIMES, Mar. 15, 2023, <https://www.capitalgazette.com/maryland/cc-commissioners-delay-solar-discussion-20230315-w7y3croht5acdi63gayvwrne64-story.html>.

²³³ Anne Arundel County, M.D., Solar and Wind Zoning Documents (Mar. 2022) at page 3, <https://dnr.maryland.gov/pprp/Documents/AnneArundelZoningDocs.pdf>.

- **Somerset County:** The Somerset County Zoning Ordinance, last updated August 2019, explicitly prohibits wind energy systems as a principal use of land.²³⁴
- **Worcester County:** Since June 15, 2015 or earlier, Worcester County regulations provide that large wind energy conversion systems with a capacity greater than 100 kW are “not permitted in any district.”²³⁵

Existing Entries (Updated)

- **Allegany County:** The county ordinance requires that wind turbines be set back 2,000 feet from residences and 5,000 feet from schools.²³⁶

20.3 Contested Projects

Existing Entries (Updated)

- **Dan’s Mountain Wind Farm (Allegany County):** The proposed 17-turbine Dan’s Mountain Wind Farm in Allegany County has faced opposition since 2008 from local residents who organized a group called Allegany Neighbors and Citizens for Home Owners Rights (ANCHOR) to fight the project. In 2019, ANCHOR filed a lawsuit challenging the Allegany County Board of Zoning Appeals approval of the project, and, in August 2021, the Court of Special Appeals upheld the Board’s decision.²³⁷ Opponents of the project also unsuccessfully challenged the Maryland Public Service Commission’s approval of the developer’s request

²³⁴ Somerset County, M.D., Zoning Ordinance at 5-19 (Aug. 6, 2019), https://cms7files1.revize.com/somersetcountymd/document_center/Department/Planning%20and%20Zoning/Zoning%20Ordinance%202019.pdf.

²³⁵ Worcester County, M.D., Code § ZS 1-344(C)(1)(c) (June 15, 2015), <https://dnr.maryland.gov/pprp/Documents/WorcesterZoningDocs.pdf>.

²³⁶ ALLEGANY COUNTY, M.D, Code § 360-107 (2019), <https://ecode360.com/14700310>.

²³⁷ Greg Larry, *Dan’s Mountain Wind Project Remains on Hold*, CUMBERLAND TIMES-NEWS, Apr. 30, 2021, https://www.times-news.com/news/local_news/dans-mountain-wind-project-remains-on-hold/article_91af0988-a6c1-11eb-b2bf-9f800a9dca46.html; *Allegany Neighbors & Citizens for Homeowner Rights, Ltd. v. Dan’s Mt. Windforce, LLC*, No. 1177, 2021 Md. App. LEXIS 721 (App. Aug. 16, 2021).

for an exception from the requirement to obtain a Certificate of Public Convenience and Necessity.²³⁸

- **Georgetown University's Charles County Solar Project (Charles County):** After Georgetown University entered into a power purchase agreement with MD Solar 1 to construct a 32.5-MW, 249-acre solar installation that would have required razing approximately 210 acres of trees, local environmental groups raised opposition to the project, citing concerns over species and ecosystem impacts.²³⁹ In August 2019, the Maryland Environment Secretary denied a permit for the project, citing watershed impacts.²⁴⁰
- **Skipjack Wind and US Wind (N/A):** Two offshore wind projects proposed near Ocean City, Maryland, Skipjack Wind (966-MW) and US Wind (1,100-MW), have encountered opposition from the city government and the tourism industry due to concerns that visual impacts will harm business. In February 2018, the Mayor and Ocean City Council unanimously approved a resolution against any project being sited within 30 miles of the city, but the Maryland House of Delegates rejected the proposal. The developer of Skipjack Wind nonetheless agreed to move the turbines from 19 miles offshore to 22 miles offshore.²⁴¹ In September

²³⁸ Dan's Mt. Windforce, LLC v. Shaw, No. 1238, 2022 Md. App. LEXIS 280 (Apr. 14, 2022).

²³⁹ Noah Telerski, *Here Comes the Sun? Local Environmentalists Oppose University Solar Project*, GEORGETOWN VOICE, Dec. 7, 2018, <https://georgetownvoice.com/2018/12/07/here-comes-the-sun-local-environmentalists-oppose-university-solar-project>.

²⁴⁰ Rachel Chason, *Maryland Officials Deny Permit for Solar Farm that Georgetown University Wanted to Build*, THE WASHINGTON POST, Aug. 29, 2019, https://www.washingtonpost.com/local/md-politics/maryland-officials-deny-permit-for-solar-farm-that-georgetown-university-wanted-to-build/2019/08/29/6f566aea-ca52-11e9-a1fe-ca46e8d573c0_story.html.

²⁴¹ *OC Supports Green & Unseen Wind Farms*, TOWN OF OCEAN CITY, MARYLAND, <https://oceancitymd.gov/oc/oc-supports-green-unseen-wind-farms/> (last visited Feb. 8, 2023); Scott Dance, *Maryland Offshore Wind Distance*, THE BALTIMORE SUN, Mar. 12, 2018, <https://www.baltimoresun.com/news/environment/bs-md-offshore-wind-distance-20180312-story.html>; Matthew Prensky, *Larger Wind Turbines Approved Off Coast: What You Need to Know*, SALISBURY DAILY TIMES, Aug. 21, 2020, <https://www.delmarvanow.com/story/news/local/maryland/2020/08/21/larger-wind-turbines-approved-off-oc-coast-what-you-need-know/3406593001/>; US WIND, <https://uswindinc.com/> (last visited Feb. 8, 2023); *Resources & FAQs*, SKIPJACK WIND, <https://skipjackwind.com/resources-and-faqs> (last visited Feb. 8, 2023)

2021, after the developers of both projects applied for an expansion, several elected officials and business leaders expressed concern about turbines ruining beachfront views, jeopardizing tourism, and negatively impacting real estate values and the local economy.²⁴²

- **Washington County Solar Farm (Washington County):** In November 2015, the Washington County Zoning Board granted permission to Perennial Solar LLC to construct a 10-MW solar farm.²⁴³ Local residents filed a petition for judicial review in the Circuit Court of Washington County. While the petition was pending, the developer filed a motion for a determination that the Maryland Public Service Commission has exclusive jurisdiction over project approval and siting. In July 2019, the Maryland Court of Appeals sided with the developer, finding that state law PU § 7-207 preempts local zoning approval for the siting of projects over 2 MW that require a certificate of public convenience and necessity, and it affirmed dismissal of the lawsuit.²⁴⁴

21. MASSACHUSETTS

Note on state preemption of local restrictions: In Massachusetts, the developer of an electric generating facility with a capacity of 100 MW or greater may petition the state Energy Facilities Siting Board for a certificate to bypass certain obstacles under state and

²⁴² Christine Condon, *Ocean City Residents, Businesses and Environmentalists Spar Again Over Wind Farm Expansion Proposals*, BALTIMORE SUN, Sept. 28, 2021, <https://www.baltimoresun.com/news/environment/bs-md-offshore-wind-psc-hearing-20210929-ennu2ue26rf3xoacnr2yslk5lm-story.html>; Josh Kurtz, *Ocean City Officials Make Last-Ditch Effort on Offshore Wind, but They're Outnumbered at Hearing*, MARYLAND MATTERS, Sept. 29, 2021, <https://www.marylandmatters.org/2021/09/29/ocean-city-officials-make-last-ditch-effort-on-offshore-wind-but-theyre-outnumbered-at-hearing>.

²⁴³ Julie E. Greene, *Top Md. Court to Hear Washington County's Appeal Over Solar Farm Jurisdiction*, HERALD MAIL MEDIA, Feb. 6, 2019, <https://www.heraldmillmedia.com/story/news/local/2019/02/06/op-md-court-to-hear-washington-countys-appeal-over-solar-farm-jurisdiction/117064166>.

²⁴⁴ Les Knapp, *Court of Appeals Holds Solar Siting Decisions Are Made by the State, Not by Local Zoning*, CONDUIT STREET, July 19, 2019, <https://conduitstreet.mdcounties.org/2019/07/19/court-of-appeals-holds-solar-siting-decisions-are-made-by-the-state-not-by-local-zoning>; Bd. of Cty. Comm'rs v. Perennial Solar, LLC, 464 Md. 610 (July 15, 2019).

local law, including: (a) if the company is “prevented from building the facility because it cannot meet standards imposed by a state or local agency with commercially available equipment”; (b) if the issuance of a state or local permit has been “unduly delayed for any reason”; (c) if the company believes there are inconsistencies among permits issued by state or local agencies; (d) if the company “believes that a nonregulatory issue or condition has been raised or imposed by such state or local agencies such as but not limited to aesthetics and recreation”; or (e) if “the facility cannot be constructed due to any disapprovals, conditions or denials by a state or local agency or body,” with certain exceptions.²⁴⁵

21.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

21.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **City of Waltham (Middlesex County):** The City of Waltham’s zoning code effectively limited large-scale solar energy facilities to industrial zones. A developer who owned land in Waltham and a neighboring town sought permission from the city building inspector to build an access road on the land the developer owned in Waltham to a proposed 1-MW solar facility in a neighboring town. The building inspector denied permission on the basis of local zoning restrictions. On June 4, 2022, the Supreme Judicial Court struck down the restrictions, finding that “[a]n outright ban of large-scale solar energy systems in all but one to two percent of a municipality’s land area . . . restricts rather than promotes the legislative goal of promoting solar energy” and that, “in the absence of a reasonable basis grounded in public health, safety, or welfare, such

²⁴⁵ MASS. GEN. LAWS ch. 164 § 69G, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter164/Section69G>; *id.* § 69K, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter164/Section69K>; *see also* Steven Ferrey, *Siting Technology, Land-Use Energized*, 66 CATH. U. L. REV. 1, 24 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3613231.

a prohibition is impermissible.”²⁴⁶ Note that this is included as a pre-March 2022 development because the relevant restriction was in place before March 2022.

Existing Entries (Updated)

- **Town of Charlton (Worcester County):** In 2019, residents of the Town of Charlton voted at a town meeting to cap the number of large-scale solar installations in the town at the number currently approved (30 total), thus prohibiting new solar projects. This followed a 1-year moratorium imposed in 2018.²⁴⁷

21.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Lexington Solar Project (Middlesex County):** A group called Waltham Neighbors for Safe Solar is circulating a petition for restrictions on a planned 9-acre, 1-MW solar plant in on the Lexington/Waltham border. As of February 24, 2023, they have collected 491 signatures for a petition to require 200-foot setbacks from property lines and “[m]aintain any planted trees.”²⁴⁸
- **Northfield Solar Project (Franklin County):** In September 2021, the Northfield Planning Board approved a proposal by BlueWave Solar for a solar energy

²⁴⁶ Colin A. Young, *State’s High Court Rules Waltham’s Restrictions on Solar Power Are ‘Impermissible’*, METROWEST DAILY NEWS, June 6, 2022, <https://www.metrowestdailynews.com/story/news/2022/06/06/mass-high-court-rejects-waltham-restrictions-solar-power-systems/7500915001>; *Tracer Lane II Reality, LLC vs. City of Waltham.*, 489 Mass. 775, June 4, 2022, <http://masscases.com/cases/sjc/489/489mass775.html>.

²⁴⁷ Debbie LaPlaca, *Charlton town meeting voters close door to new solar farms*, WORCESTER TELEGRAM, June 12, 2019, <https://www.telegram.com/story/news/local/south-west/2019/06/13/charlton-town-meeting-voters-close-door-to-new-solar-farms/4920722007>.

²⁴⁸ Eli Rosenberg, *Residents ‘Horrified’ Over Proposed Solar Farm Near Waltham/Lexington Line*, NBC BOSTON, Dec. 7, 2022, <https://www.nbcboston.com/news/local/residents-horrified-over-proposed-solar-farm-near-waltham-lexington-line/2914410/>; Waltham Neighbors for Safe Solar, <https://walthamneighborsforsafesolar.org/> (last visited Feb. 24, 2023); Safe Solar in Waltham, https://www.change.org/p/safe-solar-in-waltham?recruiter=27987196&recruited_by_id=6d238300-da38-012f-ced2-40406f61fb41.

project that would cover 76 acres on three noncontiguous tracts. In November 2022, an abutter and an organization called “RESTORE: The North Woods” filed an appeal to contest the issuance of permits. The complaint alleged that the project would cause the abutter to “suffer a loss of the rural and agricultural values and aesthetic of the scenic country setting” and harm “prime farmland.”²⁴⁹ In April 2023, a Franklin County Superior Court judge ruled that the plaintiffs had standing to pursue their claim, allowing the case to proceed to trial.²⁵⁰

- **Park City Wind (N/A):** Park City Wind is a proposed 800-MW offshore wind project owned by Avangrid. In April 2023, the developer filed a lawsuit against the Edgartown conservation commission after the town rejected the company’s request to install cables in town waters.²⁵¹
- **SouthCoast Wind, f/k/a Mayflower Wind, Falmouth Connection (Barnstable County):** SouthCoast Wind is a proposed 2,400-MW offshore project that would be located 30 miles south of Martha’s Vineyard and 20 miles south of Nantucket. The developer is seeking to connect the project to the grid at two separate sites in Somerset and Falmouth, Massachusetts. The potential landing site in Falmouth, however, is facing local opposition. On December 19, 2022, the Select Board of the Town of Falmouth denied the developer’s request for access to town property to conduct soil testing for suitability of a landing site.²⁵²

²⁴⁹ Chris Larabee, *Judge Takes Northfield Solar Appeal Under Advisement*, GREENFIELD RECORDER, Nov. 28, 2022, <https://www.recorder.com/Northfield-solar-appeal-taken-under-advisement-48984022>.

²⁵⁰ Chris Larabee, *Abutter can appeal solar arrays in Northfield, judge finds*, GREENFIELD RECORDER, Apr. 6, 2023, <https://www.recorder.com/Abutter-can-appeal-solar-arrays-in-Northfield-judge-finds-50524525>.

²⁵¹ Brooke Kushwaha, *Offshore Wind Developer Sues Edgartown Conservation Commission*, Vineyard Gazette, Apr. 25, 2023, <https://vineyardgazette.com/news/2023/04/25/offshore-wind-developer-sues-edgartown-conservation-commission>.

²⁵² Noelle Annonen, *Falmouth Select Board Denies Mayflower Wind Access*, THE ENTERPRISE, Dec. 21, 2022, https://www.capenews.net/falmouth/news/falmouth-select-board-denies-mayflower-wind-access/article_dd0e31b0-fcb7-5014-add1-59b308f98c4d.html.

Existing Entries (Updated)

- **Amherst Capped Landfill Solar (Hampshire County):** In 2011, the Town of Amherst selected SunEdison to build a 2.4-MW solar array on a capped town landfill. In response, citizens filed a lawsuit against town officials for allegedly violating an agreement with the state that the landfill site must be used for recreational purposes. The lawsuit became moot in February 2012, when the state legislature passed a bill allowing all capped municipal landfills to serve as sites for solar projects. In April 2012, plaintiffs amended the lawsuit to include potential impacts to habitat of the grasshopper sparrow, which is protected under the Massachusetts Endangered Species Act. The lawsuit was dismissed without prejudice in December 2015. However, in July 2016 town officials terminated their contract with SunEdison after learning from the Massachusetts Division of Fisheries and Wildlife that the landfill solar project would likely impact habitat of the grasshopper sparrow.²⁵³
- **ASD Shutesbury MA Solar LLC (Hampshire County):** In November 2021, ASD Shutesbury MA Solar LLC withdrew an application to build an 11-MW solar farm in Amherst as the Town Council considered enacting an 18-month moratorium on large solar arrays.²⁵⁴
- **Bullard Farm Solar Plant (Middlesex County):** The Holliston Planning Board unanimously rejected the proposed Bullard Farm Solar Plant in 2012. A local group called Stop Bullard Farm Power Plant claimed that the solar array would pose risks to the health of area residents due to toxic chemicals in the panels and the output of electromagnetic frequency.²⁵⁵

²⁵³ Scott Merzbach, *Controversial Amherst solar project abandoned*, DAILY HAMPSHIRE GAZETTE, July 8, 2016, <https://www.gazettenet.com/Solar-project-on-older-capped-landfill-in-Amherst-terminated-3334840>.

²⁵⁴ Jim Russell, *Amherst solar farm plan dropped as moratorium weighed*, MassLive, Nov. 23, 2021, <https://www.masslive.com/news/2021/11/amherst-solar-farm-plan-dropped-as-moratorium-weighed.html>.

²⁵⁵ Justin Saglio, *Residents Win Battle Against Bullard Farm Solar Plant*, THE PATCH, Mar. 23, 2012, <https://patch.com/massachusetts/holliston-hopkinton/residents-win-fight-against-bullard-farm-solar-plant>.

- **Cape Wind (N/A):** In 2017, after spending \$100 million of his own money, the developer of Cape Wind, a proposed 454-MW offshore wind farm, abandoned the project. For years, the project was weighed down by costly legal challenges from groups such as the Alliance to Protect Nantucket Sound. In addition to the Alliance to Protect Nantucket Sound, which was chaired by William Koch, the project faced opposition from fishing groups and Native American tribes.²⁵⁶ As a result of delays caused by opposition, Cape Wind was unable to meet the construction deadlines set out in power purchase agreements. In 2015, two utilities canceled their contracts with Cape Wind.²⁵⁷
- **Falmouth Wind (Barnstable County):** In March 2013, two residents of the Town of Falmouth filed a complaint with the Falmouth Building Commissioner alleging that two wind turbines owned and operated to the Town were a nuisance. The Building Commissioner denied the request to compel the Town to shut the turbines down. However, in December 2013, after holding a public meeting, the Falmouth Zoning Board of Appeals (ZBA) found that the turbines were a nuisance and overturned the denial. In 2014, the Town of Falmouth, as owner and operator of the turbines, filed a lawsuit in state court against the ZBA, alleging that the ZBA's decision to shut down the turbines was arbitrary and capricious. The court sided with the ZBA, finding that the wind farm posed a

²⁵⁶ Katharine Q. Seelye, *After 16 Years, Hopes for Cape Cod Wind Farm Float Away*, NEW YORK TIMES, Dec. 19, 2017, <https://www.nytimes.com/2017/12/19/us/offshore-cape-wind-farm.html>.

²⁵⁷ *Cape Wind in Jeopardy as Utilities Cancel Power Purchase Contracts*, POWER MAGAZINE, Jan. 7, 2015, <https://www.powermag.com/cape-wind-in-jeopardy-as-utilities-cancel-power-purchase-contracts>; *Alliance to Protect Nantucket Sound, Inc. v. United States Dep't of the Army*, 398 F.3d 105 (1st Cir. 2005); *Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd.*, 448 Mass. 45 (2006); *Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd.*, 457 Mass. 663 (2010); *Alliance to Protect Nantucket Sound, Inc. v. Dep't of Pub. Utils.*, 461 Mass. 166 (2011); *Alliance to Protect Nantucket Sound, Inc. v. Dep't of Pub. Utils.*, 461 Mass. 190 (2011).

nuisance and ordering that the turbines be permanently stopped.²⁵⁸ By October 2022, the Town had demolished the two wind turbines.²⁵⁹

- **Shutesbury Solar Project (Franklin County):** In August 2016, opponents of a proposed 6.2-MW solar farm filed a lawsuit in federal court alleging that the 30-acre site contained Native American burial grounds and that it was a ceremonial landscape. While the developer, Lake Street Development, had already conducted archaeological studies and found no artifacts, opponents argued that additional analysis was necessary. In August 2017, the court dismissed the case on jurisdictional grounds, and the project was allowed to proceed.²⁶⁰
- **Vineyard Wind 1 (N/A):** Vineyard Wind 1, a proposed 62-turbine, 800-MW offshore wind project located more than 15 miles of Martha's Vineyard is facing opposition from fishing industry groups, a solar developer, and a local citizen group called Nantucket Residents Against Turbines (ACKRATS). In 2021 and 2022, these groups filed four separate lawsuits against the project in federal court, where they are currently pending. All four lawsuits allege insufficient consideration of potential impacts to right whales, among other claims.²⁶¹

²⁵⁸ Ethan Genter, *Falmouth Ordered to Shut Down Turbines*, THE CAPE COD TIMES, June 20, 2017, <https://www.capecodtimes.com/story/news/local/2017/06/21/falmouth-ordered-to-shut-down/20486499007>; *Town of Falmouth v. Town of Falmouth Zoning Bd. Of Appeals*, 34 Mass. L. Rep. 408 (Sup. Ct., Barnstable Cnty. June 20, 2017).

²⁵⁹ Asad Jung, *Second Wind Turbine Razed Marking End of Falmouth Renewable Energy Project. Here's Why*, *Cape Cod Times*, Oct. 6, 2022, <https://www.capecodtimes.com/story/news/2022/10/06/second-wind-turbine-falmouth-comes-down-renewable-energy/8179682001/>.

²⁶⁰ Scott Merzbach, *Judge Tosses Lawsuit Over Shutesbury Solar Project*, DAILY HAMPSHIRE GAZETTE, Aug. 14, 2017, <https://www.gazettenet.com/Civil-rights-lawsuit-related-to-Shutesbury-solar-project-dismissed-11861746>; Scott Merzbach, *Solar Project in Shutesbury Moves Ahead*, DAILY HAMPSHIRE GAZETTE, Jan. 21, 2018, <https://www.gazettenet.com/Solar-project-underway-in-Shutesbury-15006061>.

²⁶¹ Lisa Prevost, *Connecticut Solar Developer Expands Lawsuit Against Offshore Wind Projects*, ENERGY NEWS NETWORK, Apr. 1, 2022, <https://energynews.us/2022/04/01/connecticut-solar-developer-expands-lawsuit-against-offshore-wind-projects>; *Allco Renewable Energy Ltd. v. Haaland*, No. 1:22-CV-10921-IT, 2022 WL 2117828 (D. Mass. June 13, 2022); Alejandro De La Garza, *U.S. Fishermen Are Making Their Last Stand Against Offshore Wind*, TIME, Sept. 30, 2021, <https://time.com/6102900/offshore-wind-fishing>; Allco

- **West Bridgewater Solar (Plymouth County):** A local group called East Street Neighborhood Association formed in opposition to a proposed 1.8-MW solar project in West Bridgewater. Even after the developer downsized the project to 1.5 MW to address aesthetic concerns, the opposition persisted, citing potential impacts to property values. In 2013, the Zoning Board of Appeals rejected the application.²⁶²

22. MICHIGAN

22.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

22.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Augusta Township (Washtenaw County):** In March 2022, August Township adopted a 6-month moratorium on large solar energy systems, subject to renewal.²⁶³
- **Flushing Township (Genesee County):** On December 8, 2022, the Flushing Township Board adopted an ordinance that prohibits commercial solar energy systems from covering more than 25% of any lot.²⁶⁴

Renewable Energy Ltd. v. Haaland (Vineyard Wind), U.S. Climate Change Litigation Database, <http://climatecasechart.com/case/allco-renewable-energy-ltd-v-haaland> (last visited Feb. 24, 2023).

²⁶² Sandra L. Churchill, *West Bridgewater zoning board rejects solar farm proposal*, THE ENTERPRISE, Apr. 24, 2013, <https://www.enterpriseneews.com/story/business/2013/04/24/west-bridgewater-zoning-board-rejects/40089284007>.

²⁶³ Charter Township of Augusta, Mich., Resolution No. 22-08 (Mar. 22, 2022), <https://augustatownship.org/wp-content/uploads/2022/03/22-08-Resolution-for-Moratorium-Large-Scale-Solar-Projects-Final-Signed.pdf>.

²⁶⁴ Charter Township of Flushing, Mich., Board of Trustees Minutes, Dec. 8, 2022, <https://flushingtowship.com/media/wtkfrcfc/221208m.pdf>.

- **Genoa Township (Livingston County):** In March 2023, Genoa Township adopted a 6-month moratorium on applications for ground-mounted or commercial solar projects.²⁶⁵
- **LaSalle Township (Monroe County):** On September 19, 2022, the LaSalle Township Board voted to adopt an ordinance that prohibited large-scale solar energy systems from land zoned for agricultural purposes and required 500-foot setbacks from property lines. Under the new ordinance, large-scale solar energy projects are only permitted on approximately 89 acres out of 17,000 acres in the district. The proponents of the restrictions organized against solar energy development on a Facebook group called “Stop Solar! Save the Farms!”²⁶⁶
- **Leroy Township (Ingham County):** Pursuant to a May 8, 2022 ordinance, wind turbines are limited to 400 feet, a height shorter than most commercial models.²⁶⁷
- **Manchester Township (Washtenaw County):** On June 14, 2022, amidst local opposition to the proposed Thorn Lake Solar Project, the Manchester Township Board adopted a 1-year moratorium on other large-scale solar projects.²⁶⁸
- **Maple Valley Township (Montcalm County):** On December 14, 2022, one month after voters overwhelmingly rejected an ordinance that would have allowed a 375-MW wind project to move forward, the Maple Valley Township Board unanimously adopted a restrictive wind ordinance. The new ordinance increases

²⁶⁵ Patricia Alvord, *Genoa Township imposes six-month moratorium on commercial solar projects*, LIVINGSTON DAILY, Mar. 23, 2023, <https://www.livingstondaily.com/story/news/2023/03/23/genoa-township-votes-for-six-month-moratorium-on-solar/70040820007/>.

²⁶⁶ Paul Wohlfarth, *Misinformation Leads to Solar Ordinance Pushback in Michigan*, DEMCAST, Oct. 13, 2022, <https://demcastusa.com/2022/10/13/misinformation-leads-to-solar-ordinance-pushback-in-michigan/>.

²⁶⁷ LEROY TOWNSHIP, MICH., ZONING ORDINANCE § 433(H)(3) (May 8, 2022), <https://leroytwp.com/wp-content/uploads/2022/06/Leroy-Zoning-Ordinance-Effective-May-8-2022.pdf>.

²⁶⁸ Manchester Township, Mich., Regular Board Meeting Minutes, June 14, 2022, <https://twp-manchester.org/wp-content/uploads/2022/07/June-14-2022-Meeting-Minutes.pdf>; Lucas Smolcic Larson, *Solar farm developer takes Washtenaw County township to court over project denial*, MICHIGAN LIVE, Aug. 5, 2022, <https://www.mlive.com/news/ann-arbor/2022/08/solar-farm-developer-takes-washtenaw-county-township-to-court-over-project-denial.html>.

the setback from non-participating properties from 3 times turbine height to 5 times.²⁶⁹

- **Milan Township (Monroe County):** On February 9, 2023, the Milan Township Board voted to adopt an ordinance similar to that of LaSalle Township, which prohibits large-scale solar energy systems on land zoned for agricultural purposes, restricting such projects to a very small area of the township zoned for industrial purposes. A group called Citizens Against Solar in Agriculture lobbied for the restrictions.²⁷⁰
- **Montrose City (Genesee County):** Montrose Township's zoning ordinance provides that solar energy systems greater than 20kW are allowed only in the township's industrial zoning district. Likewise, commercial wind turbines are prohibited except in the industrial district.²⁷¹
- **Montrose Township (Genesee County):** In April 2022, Montrose Township implemented a 6-month moratorium on solar and wind development.²⁷²
- **Palmyra Township (Lenawee County):** In May 2023, voters in Palmyra Township approved a zoning amendment that imposed new restrictions on utility-scale solar projects. While the original ordinance required that utility-scale solar projects be set back 50 feet from property lines, the amended ordinance

²⁶⁹ Elizabeth Waldon, *Maple Valley Township Board approves new wind ordinance*, THE DAILY NEWS, Dec. 20, 2022, <https://www.thedailynews.cc/articles/maple-valley-twp-board-oks-new-wind-ordinance/>.

²⁷⁰ *Public Notices 2-21-23*, DUNDEE INDEPENDENT, <https://dundeonline.com/public-notice-2-21-23/> (last visited Mar. 1, 2023); *Milan Township, NO TO SOLAR*, <https://www.notosolar.com/milan-township> (last visited March 1, 2023); Ron French, *With growing backlash to wind energy, Michigan turns to solar power*, BRIDGE MICHIGAN, Jan. 16, 2023, <https://www.bridgemi.com/michigan-environment-watch/growing-backlash-wind-energy-michigan-turns-solar-power>.

²⁷¹ Montrose Township, Mich., Zoning Ordinance §§ 104-5(7), 104-15(f)(10), https://library.municode.com/mi/montrose/codes/code_of_ordinances?nodeId=PTIICOOR_CH104SOWIE.

²⁷² Jeanne Marcello, *Montrose Twp. sets six-month solar and wind moratorium*, TRI-COUNTY CITIZEN, Apr. 23, 2022, <https://tricitycitizen.mihomepaper.com/articles/montrose-twp-sets-six-month-solar-and-wind-moratorium/>.

requires setbacks of 330 feet. In addition, while the original ordinance did not impose any limits on the amount of a lot that could be covered with solar panels, the amended ordinance sets a percentage maximum on lot coverage.²⁷³

- **Stockbridge Township (Ingham County):** In August 2022, Stockbridge Township adopted a wind ordinance that restricts turbine height to 400 feet, shorter than most commercial wind turbines.²⁷⁴
- **White River Township (Muskegon County):** In January 2023, White River Township adopted a 6-month moratorium on solar projects, prompting a lawsuit from the developer of a proposed 200-MW project who had already spent \$1.6 million on the project.²⁷⁵

New Entries (Pre-March 2022 Developments)

- **Casnovia Township (Muskegon County):** In October 2019, Casnovia Township adopted wind energy restrictions that are virtually identical to those of Almer Township. The ordinance requires that commercial wind turbines be set back from property lines by a distance of 4 times blade tip height. It further limits noise to 39 dBA at night and limits shadow flicker on neighboring properties to zero. The ordinance explicitly references agricultural preservation as well as health and safety concerns as the basis for the restrictions.²⁷⁶

²⁷³ Mary Lowe, Palmyra Township voters support zoning amendment restricting most utility-scale solar, Daily Telegram, May 3, 2023, <https://www.lenconnect.com/story/news/local/2023/05/03/palmyra-township-pass-amendment-rejecting-most-utility-scale-solar/70177801007/>.

²⁷⁴ Mike Ellis, *Apex Proposed a Sprawling Wind Farm in Ingham County in 2020. Here's Where the Project Stands*, YAHOO FINANCE, Nov. 4, 2022, <https://finance.yahoo.com/news/apex-proposed-sprawling-wind-farm-015548361.html>.

²⁷⁵ Lynn Moore, *Solar power developer sues township for failing to consider large project in West Michigan*, M LIVE MICHIGAN, Mar. 2, 2023, <https://www.mlive.com/news/muskegon/2023/03/solar-power-developer-sues-township-for-failing-to-consider-large-project-in-west-michigan.html>.

²⁷⁶ CASNOVIA TOWNSHIP, MICH., ZONING ORDINANCE §§ 3.24(a)(1), (g)(1), (g)(13), (g)(30) (2022), <https://www.casnoviatownshipmi.gov/wp-content/uploads/2022/04/FinalCasTwpWindOrd10.07.2019-1.pdf>.

- **Ellington Township (Tuscola County):** The Ellington Township Zoning Ordinance, as amended July 2021, requires that wind turbines be set back by a distance of 5 times turbine height from property lines of non-participating parcels (i.e., 2,500 feet for a 500-foot turbine), and 3 times turbine height from any road. The ordinance further provides that noise shall not exceed 40 dBA at any time on a nonparticipating property and prohibits any shadow flicker on neighboring properties.²⁷⁷
- **Emmet County:** A 2015 county ordinance limits the height of wind turbines to 400 feet and limits noise to 40 dBA at property lines.²⁷⁸
- **Sidney Township (Montcalm County):** On July 8, 2021, the Sidney Township board approved an ordinance that prohibited wind turbines within 3,000 feet of any road and 2.5 miles from any body of water. The ordinance also limited shadow flicker to zero, and limited turbine height to 300 feet. The restrictions made it impossible for Apex Clean Energy to build a planned wind farm.²⁷⁹

Existing Entries (Updated)

- **Almer Township (Tuscola County):** In 2020, Almer Township adopted a wind ordinance requiring that commercial wind turbines be set back from property lines by a distance of 4 times the height of the highest blade tip. It further limits noise to 39 dBA at night and limits shadow flicker on neighboring properties to

²⁷⁷ ELLINGTON TOWNSHIP, MICH., ZONING ORDINANCE § 5.02(M)(7) (July 2021), <https://www.ellingtontownship.org/about.php>.

²⁷⁸ EMMET COUNTY, MICH., ZONING ORDINANCE § 26.03.3 (Oct. 15, 2015), https://www.emmetcounty.org/wp-content/uploads/2021/12/PZ_2021-updated-county-zoning-ordinance.pdf.

²⁷⁹ Joseph Bernstein, “Corrosive Communities”: How A Facebook Fight Over Wind Power Predicts the Future of Local Politics in America, BUZZFEED NEWS, Dec. 17, 2021, <https://www.buzzfeednews.com/article/josephbernstein/facebook-groups-wind-turbine-construction>; Sidney Township, Mich., Ordinance No. 2021-01 §§ 16.08(LL)(5)(a), (b), (c), <http://www.sidneymi.org/nebula.wsimg.com/f8ea6dd989ee7296e9bba416c788ce3f5791.pdf?AccessKeyId=D83E7EFEEA9A7A865547&disposition=0&alloworigin=1>.

zero. The ordinance explicitly references agricultural preservation as well as health and safety concerns as the basis for the restrictions.²⁸⁰

- **Batavia Township (Clermont County):** The Batavia Township Board approved a restrictive wind ordinance in September 2020 that limits the height of wind turbines to 330 feet.²⁸¹ The restrictions were promoted aggressively on Facebook by a group called Concerned Citizens of Branch County in response to efforts by DTE Energy to develop a wind farm in the area. DTE Energy put the wind farm on hold in August 2020, after the neighboring townships of Matteson and Sherwood adopted their own restrictions on wind energy and while the Batavia restrictions were still pending.²⁸²
- **Beaver Township (Bay County):** In May 2018, Beaver Township adopted restrictions on wind energy amidst opposition to DTE Energy’s plans to develop a wind farm in the area. DTE Energy argued that the noise limit was “so low that it basically would not allow any turbine in any one mile by one mile section.”²⁸³ As of October 2022, the township’s zoning ordinance requires that wind turbines be set back at least 1,760 feet from property lines or four times tower height, whichever is greater, and limits shadow flicker to zero; it also limits the height of commercial solar energy systems to 12 feet and requires that they be set back 500 feet from property lines.²⁸⁴

²⁸⁰ ALMER CHARTER TOWNSHIP, MICH., ORDINANCE 2020-03, as codified at ZONING ORDINANCE § 1522(A)(1), (F)(1), (F)(12), (F)(24) (Feb. 2022), https://drive.google.com/file/d/1pvjWBx5fQqVOnTaYL8I0lvDgARd_At-o/view.

²⁸¹ Jim Measel, *Batavia Becomes Latest Township to Limit Wind Turbines*, WTVB, Sept. 3, 2020, <https://wtvbam.com/2020/09/03/batavia-becomes-latest-township-to-limit-wind-turbines/1054859/>.

²⁸² Don Reid, *DTE Puts Branch Wind Farm on Hold*, THE DAILY REPORTER, Aug. 6, 2020, <https://www.thedailyreporter.com/story/business/energy-resource/2020/08/06/dte-puts-branch-wind-farm-on-hold/114413196>.

²⁸³ Isis Simpson-Mersha, *DTE says township ordinance makes wind farm project ‘impossible’*, M LIVE MICHIGAN, May 16, 2018, https://www.mlive.com/news/bay-city/2018/05/township_makes_it_impossible_f.html.

²⁸⁴ BEAVER TOWNSHIP, MICH., ZONING ORDINANCE §§ 3.24(4)(b), 3.24(4)(c), 3.25(d)(2), 3.25(d)(7), 3.25(d)(11) (Oct. 26, 2022), <https://storage.googleapis.com/wzukusers/user->

- **Matteson Township (Branch County):** In March 2020, the Matteson Township Board voted to adopt restrictions on wind energy, including by limiting turbine height to 328 feet as measured from the blade tip, despite objections from the developer of a proposed wind project that 500 feet is the typical height of commercial wind turbines in the area. The ordinance also requires a setback of 1.25 miles from property lines, which effectively excludes wind energy projects from more than 50% of the township, and requires zero shadow flicker on neighboring properties. As with Batavia Township and Sherwood Township, the restrictions were promoted aggressively on Facebook by a group called Concerned Citizens of Branch County in response to efforts by DTE Energy to develop a wind farm in the area, which was ultimately put on hold in August 2020.²⁸⁵
- **Monitor Township (Bay County):** In March 2019, Monitor Township adopted a wind energy ordinance that increased setbacks to 2,000 from property lines of non-participating landowners (previously 750 feet) and 1,640 feet from property lines of participating landowners. The ordinance further prohibited shadow flicker on neighboring properties, and imposed a stricter sound limit. The changes were motivated by local opposition to DTE Energy's plans to build a wind farm in the township.²⁸⁶

[25065735/documents/3d57f0d79e60488aab2185a88cb343c4/Zoning%20Ordinance%202019-02%20Amended%2010-26-22.pdf](https://www.thedailyreporter.com/documents/3d57f0d79e60488aab2185a88cb343c4/Zoning%20Ordinance%202019-02%20Amended%2010-26-22.pdf).

²⁸⁵ Don Reid, *Matteson Passes Wind Turbine Control Law*, THE DAILY REPORTER, Mar. 6, 2020, <https://www.thedailyreporter.com/story/news/2020/03/06/matteson-passes-wind-turbine-control/1575607007/>; Don Reid, *Planning Board Approves Wind Turbine Ordinance*, THE DAILY REPORTER, Feb. 27, 2020, <https://www.thedailyreporter.com/story/news/2020/02/27/planning-board-approves-wind-turbine/1626140007/>; MATTESON TOWNSHIP, MICH., WIND ENERGY CONVERSION SYSTEMS ZONING ORDINANCE FINAL DRAFT § 1.10(D)(3)(a), (D)(3)(b)(2)(a), (D)(3)(l), [https://s3.amazonaws.com/windaction23/attachments/3388/Matteson Township Wind Ordinance Final Dec 2019.pdf](https://s3.amazonaws.com/windaction23/attachments/3388/Matteson_Township_Wind_Ordinance_Final_Dec_2019.pdf) (note: although labeled a "Final Draft," this appears to be the version that was adopted in March 2020).

²⁸⁶ Heather Jordan, *Wind Farms Restricted Under New Monitor Township Zoning Ordinance*, M LIVE MICHIGAN, Mar. 28, 2019, <https://www.mlive.com/news/saginaw-bay-city/2019/03/wind-farms-restricted-under-new-monitor-township-zoning-ordinance.html>. Monitor Township, Mich., Zoning Ordinance No.

- **Pierson Township (Montcalm County):** The zoning ordinance, as amended in 2021, requires that commercial wind turbines be set back from property lines by a distance of 4 times blade tip height. It further limits noise to 39 dBA at night and limits shadow flicker on neighboring properties to zero. The ordinance explicitly references agricultural preservation as well as health and safety concerns as the basis for the restrictions. Pierson Township’s wind energy restrictions are virtually identical to those of Almer Township.²⁸⁷
- **Sanilac Township (Sanilac County):** The Sanilac Township wind ordinance, with changes adopted in June 13, 2019, establishes an exclusion zone on wind facilities east of Ridge Road. It further prohibits shadow flicker on any neighboring property, limits noise to 5 dBA higher than ambient noise, and requires a setback from property lines of at least 1,320 feet or 4 times total height, whichever is greater.²⁸⁸
- **Sherwood Township (Branch County):** In December 2019, the Sherwood Township Board voted to adopt a restrictive wind ordinance (later approved by voters in August 2020) that limits turbine height to 330 feet (approximately half the height of the tallest onshore turbines) and imposes a setback from property lines equal to 500% of tower height and additional setbacks of 0.5 miles from water, 1 mile from the Village of Sherwood, and 2 miles from environmentally sensitive areas. As with Batavia Township and Matteson Township, the restrictions were promoted aggressively on Facebook by a group called Concerned Citizens of Branch County in response to efforts by DTE Energy to

67 § 3.48(e)(13), (26), (35) (Mar. 25, 2019), https://monitortwp.org/wp-content/uploads/2020/11/Zoning-Ordinance-67-Adopted-3-25-2019_Effective-4-29-2019.pdf.

²⁸⁷ PIERSON TOWNSHIP, MICH., ORDINANCE TO AMEND ZONING ORDINANCE TO PROVIDE FOR PUBLIC UTILITY FACILITIES AND WIND ENERGY CONVERSION SYSTEMS, Ordinance Nos. 2020-01 (as amended by Ordinance No. 2021-01 of June 2021) §§ 5.05(b)(1), (h)(1), (h)(13), (h)(30), https://www.piersontwp.org/files/ugd/7ad804_bec875fe9e674c8ba6600f07f2232d10.pdf.

²⁸⁸ SANILAC TOWNSHIP, MICH., Wind Ordinance § 6.50(e), (g)(1), (g)(4), (g)(9) (June 13, 2019), <https://sanilactownship.org/wp-content/uploads/2019/06/Wind-50-51-Final-copy-with-changes-adopted-June-13-2019.pdf>.

develop a wind farm in the area, which was ultimately put on hold in August 2020.²⁸⁹

- **Watertown Township (Clinton County):** In May 2020, Watertown Township adopted a 6-month moratorium on large solar developments. In March 2021, only 3 months after the first moratorium expired, the planning commission recommended an additional 6-month moratorium, which the township board was expected to adopt.²⁹⁰ As of 2022, the township solar ordinance requires that large commercial solar projects be set back 500 feet from property lines of nonparticipating properties.²⁹¹

22.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Confluence Solar Project (Genesee County):** Opponents of Ranger Power LLC's plans for a 200-MW, 1,500-acre solar farm project collected over 200 signatures for petition against the development and lobbied the township board for changes to the zoning ordinance that may kill it. In December 2022, the Flushing Township Board approved an amendment to the township zoning ordinance that may prevent the project by limiting total area of solar panels to 25% of lot area. The planning commission proposed additional changes to the township zoning ordinance to keep out major commercial projects, including setbacks of 500 feet from any dwelling unit and 300 feet from property lines.²⁹²

²⁸⁹ Ken Delaney, *Group Wins Victory in Slowing Down Turbines*, WTVB, Dec. 6, 2019, <https://wtvbam.com/2019/12/06/group-wins-victory-in-slowing-down-turbines/964242/>; Don Reid, *DTE Puts Branch Wind Farm on Hold*, THE DAILY REPORTER, Aug. 6, 2020, <https://www.thedailyreporter.com/story/business/energy-resource/2020/08/06/dte-puts-branch-wind-farm-on-hold/114413196>.

²⁹⁰ Eric Levine, *Watertown continues to study solar ordinance*, SANILAC COUNTY NEWS, Mar. 24, 2021, <https://sanilaccountynews.mihomepaper.com/articles/watertown-continues-to-study-solar-ordinance>.

²⁹¹ WATERTOWN TOWNSHIP, MICH., ZONING ORDINANCE AMENDMENT, SOLAR ENERGY SYSTEMS, Ordinance No. 2022-01, § J(5), http://www.watertowntownship.net/media/uploads/docs/Solar_Ordinance.pdf.

²⁹² Rayvin Bleu & James Paxson, *Supervisor explains zoning ordinance confusion between Flushing Twp., solar company*, WENM, May 10, 2022, <https://www.wnem.com/2022/05/10/supervisor-explains-zoning->

- **Goodland Township Solar Project (Lapeer County):** On June 11, 2022, the Goodland Township Planning Commission voted to deny Orion Renewable Energy’s application for a special land use permit to construct a 100-MW solar farm on up to 1,600 acres of land. Commissioners said the project would not be in harmony with the township’s existing agricultural and residential uses.²⁹³
- **Kalamink Wind Project (Ingham County):** Apex Clean Energy is facing opposition to a proposed 300-MW wind farm in Ingham County where four of the townships in which the project would be sited have adopted or are considering adopting restrictive ordinances. Stockbridge Township, for example, limited the height of turbines to 400 feet, shorter than most commercial turbines. Opponents of the project have formed a group called Ingham County Citizens United (ICCU) and have received guidance from renewable energy opponent Kevon Martis.²⁹⁴
- **Lakeside Solar Project (Muskegon County):** On February 28, 2023, the developer of a proposed 1,700-acre, 200-MW solar project sued White River Township in U.S. District Court alleging that the township’s moratorium on solar projects is illegal and constitutes a taking. In the lawsuit, the developer alleges that it has worked cooperatively with township officials since 2019, but that relations deteriorated after township officials sent out a public opinion survey,

ordinance-confusion-between-flushing-twp-solar-company; Ron Fonger, *Consumers makes deal to buy energy from solar farm planned in Flushing, Montrose townships*, MICHIGAN LIVE, May 18, 2022, <https://www.mlive.com/news/flint/2022/05/consumers-makes-deal-to-buy-energy-from-solar-farm-planned-in-flushing-montrose-townships.html>; Ben Gagnon, *Township Approves First Reading of Amendments to Solar Ordinance*, THE DAVISON INDEX, Dec. 1, 2022, <https://davisonindex.mihomepaper.com/articles/township-approves-first-reading-of-amendments-to-solar-ordinance/>; Charter Township of Flushing, Mich., Board of Trustees Minutes, Dec. 8, 2022, <https://flushingtowship.com/media/wtkfrcfc/221208m.pdf>.

²⁹³ Jeff Hogan, *Solar panel project in Goodland Township denied*, THE COUNTY PRESS, June 11, 2022, <https://thecountypress.mihomepaper.com/articles/solar-panel-project-in-goodland-township-denied>.

²⁹⁴ Mike Ellis, *Apex Proposed a Sprawling Wind Farm in Ingham County in 2020. Here’s Where the Project Stands*, YAHOO FINANCE, Nov. 4, 2022, <https://finance.yahoo.com/news/apex-proposed-sprawling-wind-farm-015548361.html>. Erin Bowling, *Residents split on proposed wind farm in Ingham County*, WILX, June 6, 2022, <https://www.wilx.com/2022/06/06/residents-split-proposed-wind-farm-ingham-county>.

which catalyzed local opposition. At the time of the lawsuit, the developer had already spent \$1.6 million on the project.²⁹⁵

- **Montcalm Wind Project (Montcalm County):** In the November 2022 elections, voters in three rural townships in Montcalm County, Michigan voted to reject ordinances that would have allowed construction of a 375-MW, 75-turbine wind farm by Apex Clean Energy. In those same three townships (Maple Valley, Douglass and Winfield), seven officials were recalled due to support for the project.²⁹⁶
- **Thorn Lake Solar Project (Washtenaw County):** In April 2022, solar developer AES presented plans for a 20-MW solar project on 159 acres of land in Manchester Township. The developer explained that the project would generate \$5 million in tax revenue for the township compared to only \$400,000 if the panels are not installed on the land. Residents at the meeting spoke out against the project, complaining that it would be an “eyesore” and disrupt the rural tranquility of the community. In July 2022, the township planning commission denied AES’s application for a conditional use permit, and in August 2022, AES appealed the decision to the Washtenaw County Circuit Court. In December 2022, the developer and township entered into a settlement agreement, allowing the project to move forward under certain conditions.²⁹⁷

²⁹⁵ Lynn Moore, *Solar power developer sues township for failing to consider large project in West Michigan*, M LIVE MICHIGAN, Mar. 2, 2023, <https://www.mlive.com/news/muskegon/2023/03/solar-power-developer-sues-township-for-failing-to-consider-large-project-in-west-michigan.html>.

²⁹⁶ Garret Ellison, *Voters defeat Michigan wind energy project, toss supportive officials*, M LIVE MICHIGAN, Nov. 9, 2022, <https://www.mlive.com/public-interest/2022/11/voters-defeat-michigan-wind-energy-project-toss-supportive-officials.html>; Jeffrey Tomich, *Two Great Lakes Counties Reject Wind Development*, E&E NEWS ENERGY WIRE, Nov. 14, 2022, <https://subscriber.politicopro.com/article/eenews/2022/11/14/two-great-lakes-counties-reject-wind-development-00066593>.

²⁹⁷ Lucas Smolcic Larson, *Neighbors blast proposed Washtenaw County solar farm as eyesore*, MICHIGAN LIVE, Apr. 22, 2022, <https://www.mlive.com/news/ann-arbor/2022/04/neighbors-blast-proposed-washtenaw-county-solar-farm-as-eyesore.html>; Cathy Shafran, *Proposed solar farm in Manchester Township nixed amid resident concerns*, 89.1 WEMU, July 14, 2022, <https://www.wemu.org/wemu-news/2022-07-14/proposed-solar-farm-in-manchester-township-nixed-amid-resident-concerns>; Lucas Smolcic Larson, *Plans for 159-acre solar farm in rural Washtenaw County suffer setback*, MICHIGAN LIVE, July 13, 2022, <https://www.mlive.com/news/ann-arbor/2022/07/plans-for-159-acre-solar-farm-in-rural-washtenaw->

New Entries (Pre-March 2022 Developments)

- **Tuscola Wind III Energy Center (Tuscola County):** In September 2016, a developer seeking to construct 55 wind turbines in Fairgrove, Almer, and Ellington Townships applied for a special land use permits in Almer and Ellington Townships. In November 2016, in each of those two townships, voters elected four new township board members who were associated with the anti-wind Ellington-Almer Concerned Citizens Group. In Almer Township, the new Board promptly implemented a moratorium on wind applications, and, in January 2017, voted 5 to 1 to deny the application. In Ellington Township, the planning commission developed a new ordinance, and, in May 2018 informed the developer that its application would be subject to the new ordinance. The developer filed federal lawsuits against the two townships where the court largely ruled in favor of the townships.²⁹⁸

Existing Entries (Updated)

- **Beaver Township Wind Farm (Bay County):** In 2018, DTE Energy canceled plans to develop a wind farm in Beaver Township after the township board “set a sound limit that was so low that it basically would not allow any turbine in any one mile by one mile section.” Opponents of the project had voiced concerns about impacts to property value and wildlife, as well as physical safety.²⁹⁹
- **Branch County Wind Farm (Branch County):** DTE Energy began signing leases to construct a wind farm in Batavia, Matteson, Sherwood and Union townships

[county-suffer-setback.html](#); Lucas Smolcic Larson, *Solar farm developer takes Washtenaw County township to court over project denial*, MICHIGAN LIVE, Aug. 5, 2022, <https://www.mlive.com/news/ann-arbor/2022/08/solar-farm-developer-takes-washtenaw-county-township-to-court-over-project-denial.html>; Consent Judgment, *Thorn Lake Solar, LLC v. Manchester Township*, Civ. A. No. 2022-1033-AA (Dec. 2, 2022), <https://s3.documentcloud.org/documents/23461552/thorn-lake-solar-project-consent-judgement.pdf>.

²⁹⁸ *Tuscola Wind III, LLC v. Almer Charter Twp.*, 327 F. Supp. 3d 1028, 1041 (E.D. Mich. 2018); *Tuscola Wind v. Ellington Twp.*, No. 17-cv-11025, 2018 U.S. Dist. LEXIS 125827, at *17 (E.D. Mich. July 27, 2018).

²⁹⁹ Isis Simpson-Mersha, *DTE says township ordinance makes wind farm project ‘impossible’*, M LIVE MICHIGAN, May 16, 2018, https://www.mlive.com/news/bay-city/2018/05/township_makes_it_impossible_f.html.

in 2017, eventually spending \$250,000 signing 280 leases on farmland. However, the project faced intense opposition from groups like Concerned Citizens of Branch County. In August 2020, Matteson and Sherwood Townships passed restrictive ordinances, with another restrictive ordinance pending in Batavia, and the company to put the project on hold.³⁰⁰

- **Crescent Wind Farm (Hillsdale County):** A 166-MW wind farm in Wheatland Township of Hillsdale County faced backlash from a group called the Concerned Citizens of Wheatland Township, who spoke against the project at town meetings. Nonetheless, the township board and the Michigan Public Service Commission approved the project, and it was completed in 2021.³⁰¹
- **Fowler Farms Wind Farm (Clinton County):** In January 2013 Clinton County issued Forest Hills Energy a special use permit to operate a wind farm. However, while the application was pending, Bengal Township, Dallas Township, and Essex Township enacted wind energy ordinances that were impossible for the developer to meet. The developer sued, and a trial court found the township ordinances unenforceable because they were not properly adopted under the Michigan Zoning Enabling Act and conflicted with the county zoning ordinance; the Michigan Court of Appeals affirmed.³⁰²
- **Kenowa Ridge Wind Farm (Kent and Muskegon Counties):** In December 2019, American Electric Power canceled plans to build 31 wind turbines in two Michigan townships after one of those townships, Casnovia, adopted a restrictive ordinance that requires wind turbines to be set back from property lines by a

³⁰⁰ Don Reid, *DTE Puts Branch Wind Farm on Hold*, THE DAILY REPORTER, Aug. 6, 2020, <https://www.thedailyreporter.com/story/business/energy-resource/2020/08/06/dte-puts-branch-wind-farm-on-hold/114413196>.

³⁰¹ Dawson Bell, *Conflict of Interest: Officials with Turbine Tower Leases Approve Wind Development*, MICHIGAN CAPITOL CONFIDENTIAL, Nov. 5, 2019, <https://www.michigancapitolconfidential.com/conflict-of-interest-officials-with-turbine-tower-leases-approve-wind-development>; Thumb Wind, *60 New Turbines Now Operational at Crescent Wind Farm for Consumers Energy*, Feb. 17, 2021, <https://thumbwind.com/2021/02/17/crescent-wind-farm-consumers-energy/>.

³⁰² *Forest Hill Energy-Fowler Farms, L.L.C. v. Twp. of Bengal*, No. 319134, 2014 Mich. App. LEXIS 2380, at *1 (1st Dist. Ct. App. Dec. 4, 2014).

distance of 4 times turbine height. Casnovia Township had previously approved a special use permit for the wind farm in April 2019 and was sued by local residents opposed the project; the developer also sued Casnovia Township alleging that the permit included 32 “capricious and arbitrary” conditions that would make it impossible to build the project.³⁰³

- **Meade Wind Farm (Huron County):** DTE canceled plans to construct a 100-MW wind farm in Meade Township after the project was rejected by residents in a May 2015 referendum, which overturned Meade Township Board’s November 2013 approval of the project.³⁰⁴
- **Summit Lake Wind Project (Baraga County):** In April 2019, Renewable Energy Systems canceled plans for a proposed 49-turbine wind farm in L’Anse Township, Baraga County. The project faced opposition from a local group called Friends of the Huron Mountains. After the L’Anse Township Board approved an amendment to the zoning ordinance supported by the developer, which would have allowed wind turbines on commercial forest land, opponents forced a referendum to overturn the amendment. The project was abandoned before the referendum was held.³⁰⁵
- **Superior Solar Project (Marquette County):** A petition against an approved solar farm in Sands Township that will generate 150 MW on 1,500 acres of land has obtained over 800 signatures. In October 2020, the board voted unanimously to approve the project. On December 15, 2020, the Sands Township board approved the siting permit.³⁰⁶

³⁰³ Ben Solis, *Energy company nixes planned wind farm east of Muskegon*, M LIVE MICHIGAN, Dec. 24, 2019, <https://www.mlive.com/news/muskegon/2019/12/energy-company-nixes-planned-wind-farm-east-of-muskegon.html>.

³⁰⁴ Kelly Krager, *Oliver Twp. Planners OK DTE wind park plan*, HURON COUNTY VIEW, AUG. 10, 2015, <https://huroncountyview.mihomepaper.com/articles/oliver-twp-planners-ok-dte-wind-park-plan>.

³⁰⁵ Benjamin Raven, *Company cancels plans for wind farm with 49 turbines in Michigan’s UP*, M LIVE MICHIGAN, Apr. 22, 2019, <https://www.mlive.com/news/2019/04/company-cancels-plans-for-wind-farm-with-49-turbines-in-michigans-up.html>.

³⁰⁶ *Save the Sands Plains*, CHANGE.ORG, <https://www.change.org/p/sands-township-2000-acre-solar-farm> (last visited Dec. 15, 2020); Jerry Tudor, *Sands Township solar farm moves one step closer to reality*, TV 6 UPPER

23. MINNESOTA

Note on state preemption of local restrictions: In Minnesota, the issuance of a state siting permit for a large electric generating facility of 50 MW or more “shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local, and special purpose government.”³⁰⁷

23.1 State-Level Restrictions

New Entries (Pre-March 2022 Developments)

- A Minnesota administrative rule provides that “[n]o large electric power generating plant site may be permitted where the developed portion of the plant site, excluding water storage reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, unless there is no feasible and prudent alternative.”³⁰⁸

23.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **Wright County:** In 2021, Wright County implemented a 1-year moratorium on 5-acre community solar gardens in agricultural areas. The county subsequently adopted new restrictions requiring a 1-mile separation between solar gardens.³⁰⁹

MICHIGAN SOURCE, Dec. 22, 2020, <https://www.uppermichiganssource.com/2020/12/22/sands-township-solar-farm-moves-one-step-closer-to-reality>; Ryan Spitz, *Solar Farm Proposed in Sands*, THE MINING JOURNAL, Oct. 3, 2020, <https://www.miningjournal.net/news/front-page-news/2020/10/solar-farm-proposed-in-sands>; Superior Solar Project, <https://www.superiorsolarproject.com/> (last visited Mar. 1, 2023).

³⁰⁷ MINN. STAT. § 216E.01(5) (2022), <https://www.revisor.mn.gov/statutes/cite/216E.01>; *id.* § 216E.10(1), <https://www.revisor.mn.gov/statutes/cite/216E.10>.

³⁰⁸ MINN. R. 7850.4400(4), <https://www.revisor.mn.gov/rules/7850.4400/>.

³⁰⁹ Matt McKinney, *Solar vs. scenery: Scandia solar panels show a tense debate*, STAR TRIBUNE, Mar. 19, 2022, <https://www.startribune.com/solar-garden-beauty-in-eye-of-beholder/600157619/>.

Existing Entries (Updated)

- **City of Minnetrista (Hennepin County):** A moratorium on the construction of solar projects in agricultural preserve areas was implemented in October 2020 in response to a proposed project that would cover up to six acres. In May 2021, the moratorium was lifted when the city adopted a new ordinance that caps all ground systems at 3,000 square feet (less than 0.1 acres) and allows solar systems only as an accessory use.³¹⁰

23.3 Contested Projects

New Entries (Pre-March 2022 Developments)

- **Hale Township Community Solar Garden (McLeod County):** The McLeod County Board of Commissioners rejected a proposal for a 3.5-acre solar garden on prime farmland. In 2021, the Minnesota Court of Appeals overturned the County Board's decision. The court found that the Board's stated concerns about impacts to neighboring property values and prime farmland were arbitrary and capricious and ordered the Board to approve the project.³¹¹

Existing Entries (Updated)

- **Big Blue Wind Farm (Faribault County):** This 18-turbine, 36-MW wind farm went online in December 2012. After years of complaints about noise, the PUC intervened in 2017 and discovered that the project's noise protocol had never been approved. Residents then pushed for the farm to be completely shut down,

³¹⁰ Elizabeth Hustad, *Minnetrista Finalizes Solar Rules, Lifts Moratorium*, LAKER PIONEER, May 21, 2021, https://www.hometownsource.com/laker_pioneer/community/minnetrista-finalizes-solar-rules-lifts-moratorium/article_0b4e43e6-ba20-11eb-8098-bb8ace9f1af0.html; Elizabeth Hustad, *Minnetrista: No Solar Farm Near Whaletail Lake*, LAKER PIONEER, Nov. 5, 2020, https://www.hometownsource.com/laker_pioneer/community/minnetrista-no-solar-farm-near-whaletail-lake/article_1dfe6110-1f66-11eb-8cdf-c74b91cb2527.html.

³¹¹ Matt McKinney, *Solar vs. scenery: Scandia solar panels show a tense debate*, STAR TRIBUNE, Mar. 19, 2022, <https://www.startribune.com/solar-garden-beauty-in-eye-of-beholder/600157619/>.

but the Public Utilities Commission instead ordered the developer to address the problems and issued a warning.³¹²

- **Marshall Solar Project (Lyon County):** This 500-acre, 62-MW solar energy complex in southwestern Minnesota faced opposition from local residents who argued that it would lower property values and disrupt their rural lifestyle. Opponents of the project also complained that the developer had not sought out non-prime farmland for the project. The PUC unanimously approved the project in March 2016.³¹³
- **Minnetrista Solar Farm (Hennepin County):** A proposed solar energy system on 5-6 acres of vacant land initially earned the Minnetrista planning commission's recommendation for approval in September 2020. However, after receiving public comment, the city council rejected the project in October 2020 and implemented a moratorium on solar energy projects while it revised its ordinance to make clear that only small accessory-use systems are allowed.³¹⁴

24. MISSISSIPPI

24.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

24.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

³¹² Mike Hughlett, *Company Answering to Wind Farm Noise Complaints in Faribault County*, STAR TRIBUNE, Feb. 17, 2018, <https://www.startribune.com/company-answering-to-wind-farm-noise-complaints-in-faribault-county/474334503>.

³¹³ Mark Steil, *Controversial solar farm near Marshall gets OK to start construction*, MPR NEWS, Mar. 31, 2016, <https://www.mprnews.org/story/2016/03/31/controversial-marshall-solar-farm-approved>.

³¹⁴ Elizabeth Hustad, *Minnetrista Finalizes Solar Rules, Lifts Moratorium*, LAKER PIONEER, May 21, 2021, https://www.hometownsource.com/laker_pioneer/community/minnetrista-finalizes-solar-rules-lifts-moratorium/article_0b4e43e6-ba20-11eb-8098-bb8ace9f1af0.html; Elizabeth Hustad, *Minnetrista: No Solar Farm Near Whaletail Lake*, THE LAKER PIONEER, Nov. 5, 2020, https://www.hometownsource.com/laker_pioneer/community/minnetrista-no-solar-farm-near-whaletail-lake/article_1dfe6110-1f66-11eb-8cdf-c74b91cb2527.html.

24.3 Contested Projects

No contested projects were found at this time.

25. MISSOURI

25.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

25.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **City of New Bloomfield (Callaway County):** On April 27, 2022, the City of New Bloomfield adopted new regulations for solar farms, including by prohibiting them within 1,000 feet of city limits. The rules were implemented in response to a developer's proposal to construct a 100-MW facility on 600 acres of land for the Guthrie Solar Project.³¹⁵

New Entries (Pre-March 2022 Developments)

- **Boone County:** In November 2021, the Boone County Commission approved new wind regulations that prevent turbines from being constructed within 1,750 feet of residential property and set a maximum turbine height of 263 feet.³¹⁶ The regulations further restrict commercial scale wind turbines to the industrial zoning districts of the county.³¹⁷

³¹⁵ John Fitzgerald Weaver, *Missouri town declares solar farm a nuisance*, PV MAGAZINE, Apr. 27, 2022, <https://pv-magazine-usa.com/2022/04/27/missouri-town-declares-solar-farm-a-nuisance>.

³¹⁶ Cameron Gerber, *Boone County Commission enacts new wind power regulations*, THE MISSOURI TIMES, Nov. 5, 2021, <https://themissouritimes.com/boone-county-commission-enacts-new-wind-power-regulations>.

³¹⁷ Welcome to the Wind Farm Frequently Asked Questions Page!, Boone County Government, <https://www.showmeboone.com/resource-management/WECOD/WindFarmFAQ.asp> (last visited Feb. 6, 2023).

Existing Entries (Updated)

- **Buchanan County:** In March 2020, the Buchanan County Commission banned commercial wind turbines, citing property devaluation, noise, and effects on quality of life. In adopting the ban, the commission also noted that “[n]ot a single member of the public testified at the public hearings in favor of allowing commercial wind-energy projects.”³¹⁸
- **Clinton County:** In 2016, Clinton County commissioners passed a moratorium on wind development.³¹⁹ According to the latest version of the Clinton County Zoning and Subdivision Order, last amended July 19, 2019, “Clinton County prohibits Commercial Wind Energy Conversion Systems.”³²⁰

25.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Grain Belt Express Tiger Connector Expansion (Callaway County):** A Facebook group with 600 followers called “Callaway County Missouri Solar Invasion” is organizing residents to oppose a 40-mile connector to the 800-mile Grain Belt Express transmission line. Opponents of the project are concerned about visual impacts and loss of farmland to solar projects that the transmission line will support.³²¹
- **Guthrie Solar Project (Callaway County):** The regulations described above that the City of New Bloomfield adopted on April 27, 2022 rendered plans for the

³¹⁸ Clayton Anderson, *County commissioners ban commercial wind energy*, ST. JOSEPH NEWS-PRESS, Mar. 12, 2020, https://www.newspressnow.com/news/local_news/county-commissioners-ban-commercial-wind-energy/article_f75a6494-6473-11ea-9dcc-a3e7fbfb265.html.

³¹⁹ Brett Adkison, *Commissioners approve wind energy moratorium*, THE CLINTON COUNTY LEADER, Feb. 4, 2016, <https://www.wind-watch.org/news/2016/02/04/commissioners-approve-wind-energy-moratorium/>.

³²⁰ CLINTON COUNTY, MO., ZONING AND SUBDIVISION ORDER (amended July 19, 2019) § 13.11, <https://clintoncomo.org/wp-content/uploads/2019/09/Clinton-Co-Zoning-Order-Amended-07.19.2019.pdf>.

³²¹ Ryan Pivoney, *Callaway County Organizing Against Renewable Energy Developments*, FULTON SUN, Feb. 12, 2023, <https://www.fultonsun.com/news/2023/feb/12/callaway-county-organizing-against-renewable/>.

100-MW, 600-acre Guthrie Solar Project a nuisance. In particular, the project was planned to be within city limits, and the new rules prohibited any commercial solar project within 1,000 feet of city limits.³²²

Existing Entries (Updated)

- **Osborn Wind Project (Clinton and DeKalb Counties):** The 200-MW, 97-turbine Osborn Wind Project was proposed in Clinton and DeKalb Counties in 2010. Local residents founded the Concerned Citizens for the Future of Clinton and DeKalb Counties group to oppose wind development. Following a number of lawsuits, NextEra and the Washington Township Zoning Commission reached a settlement agreement in 2018 that allowed for the construction of up to 24 turbines. The developer dropped a lawsuit against Clinton County in 2020.³²³

26. MONTANA

26.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

26.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

³²² John Fitzgerald Weaver, *Missouri town declares solar farm a nuisance*, Apr. 27, 2022, <https://pv-magazine-usa.com/2022/04/27/missouri-town-declares-solar-farm-a-nuisance>.

³²³ Matt Flener, *New lawsuit filed, one dismissed near Osborn Wind Project*, KMBC NEWS, Jan. 6, 2020, <https://www.kmbc.com/article/new-lawsuit-filed-one-dismissed-near-osborn-wind-project/30422454>; Brett Adkison, *Commissioners approve wind energy moratorium*, THE CLINTON COUNTY LEADER, Feb. 4, 2016, https://lexch.com/news/commissioners-approve-one-year-moratorium-on-wind-farm-applications/article_11ab47c0-6690-11ed-88ad-2fc49777b2c8.html; Ray Scherer, *Opposition to wind farms remains steady*, ST. JOSEPH NEWS-PRESS, May. 10, 2016, https://www.newspressnow.com/news/local_news/opposition-to-wind-farm-remains-steady/article_5a2079c4-3a53-5a38-b6e3-8045c00c2637.html.

26.3 Contested Projects

Existing Entries (Updated)

- **Basin Creek Solar Project (Silver Bow County):** On July 15, 2021, the Butte-Silver Bow Zoning Board of Adjustment denied a permit to FX Solutions to build the 1,600-acre Basin Creek Solar Project. In August 2021, FX Solutions appealed the decision. In oral argument on April 2, 2022, lawyers for the Basin Creek Solar project argued that the Zoning Board of Adjustment erred when it denied the special use permit for this solar project, including by focusing only on public opposition and ignoring support for the project.³²⁴
- **Crazy Mountain Wind Project (Sweet Grass County):** Pattern Energy proposed a 22-turbine project in Sweet Grass County. Four companies that own neighboring land initiated a legal action alleging nuisance. In March 2019, a Montana judge issued a preliminary injunction on construction while the case awaited trial. In July 2019, Pattern asserted in a legal filing that the preliminary injunction made it impossible to obtain the necessary financing to complete the project and satisfy contractual obligations. Pattern further explained that it was compelled to abandon the project.³²⁵
- **Mission Creek Wind Project (Park County):** In 2010, Sagebrush Energy proposed an 11-turbine wind farm east of Livingston, Montana. Local residents formed an opposition group, Friends of Mission Creek, to halt the project, citing concerns about impacts to the natural landscape and local populations of golden eagles. The project appears to have stalled shortly thereafter.³²⁶

³²⁴ Duncan Adams, *Lawyers for massive solar project appeal Zoning Board's denial of permit*, MONTANA STANDARD, Apr. 2, 2022, https://mtstandard.com/news/local/lawyers-for-massive-solar-project-appeal-zoning-boards-denial-of-permit/article_ef2614f8-2615-5d6b-a56f-9820ee30d94b.html.

³²⁵ *Diana's Great Idea, LLC v. Jarrett*, 401 Mont. 1, 6, 471 P.3d 38 (2020); Johnathan Hettinger, *Judge temporarily halts construction on Crazy Mountain Wind project*, LIVINGSTON ENTERPRISE, Mar. 20, 2019, <https://www.livingstonenterprise.com/content/judge-temporarily-halts-construction-crazy-mountain-wind-project>; *Neighbors sue to block planned Montana wind farm*, GREAT FALLS TRIBUNE, Oct. 15, 2018, <https://apnews.com/article/d50c92924b284dd2a36b92ef954fe4ca>.

³²⁶ Daniel Person, *Across southwest Montana, companies plan to ramp up the region's wind industry. It hasn't been a breeze*, BOZEMAN DAILY CHRONICLE, Oct. 24, 2010,

- **Valley County Wind Project (Valley County):** In 2005, GreenHunter Energy proposed a 500-MW wind farm in a remote area north of Glasgow, Montana. In 2007, however, the company abandoned the project after facing opposition from the Montana Wilderness Association, Montana Audubon Society, and the Montana Wilderness Society who raised concerns about impacts on a nearby wilderness area 10 miles away.³²⁷

27. NEBRASKA

27.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

27.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Buffalo County:** In March 2023, the Buffalo County Commissioners adopted new setback requirements for wind turbines that require distances of: 2 miles from any burial site or the Platte River; 3 miles from any agriculture residential zoned property; 3 miles from property lines of nonparticipants; 3 miles from any church, hospital, pool, or park; 5 miles from any village or city; 5 miles from any wildlife preservation area.³²⁸

https://www.bozemandailychronicle.com/news/across-southwest-montana-companies-plan-to-ramp-up-the-region-s-wind-industry-it-hasn/article_ce7fb7f6-df2e-11df-8801-001cc4c002e0.html.

³²⁷Larry Bell, *Environmental Groups Strongly Endorse 'None of the Above' Energy Plans*, FORBES, Mar. 12, 2013, <https://www.forbes.com/sites/larrybell/2013/03/12/environmental-groups-strongly-endorse-none-of-the-above-energy-plans/?sh=22656bfe1e3e>; Associated Press, *Environmentalists blamed for collapse of proposed Glasgow wind farm*, BILLINGS GAZETTE, Sept. 23, 2007, https://billingsgazette.com/news/state-and-regional/montana/environmentalists-blamed-for-collapse-of-proposed-glasgow-wind-farm/article_300a48c9-4212-5524-9394-dd1e1d782e58.html.

³²⁸ Michael Shively, *Buffalo County sets new distancing requirements for possible wind farms*, NEWS CHANNEL NEBRASKA CENTRAL, Mar. 22, 2023, <https://central.newschannelnebraska.com/story/48594025/buffalo-county-sets-new-distancing-requirements-for-possible-wind-farms>.

- **Jefferson County:** On March 23, 2023, Jefferson County adopted a new wind ordinance that requires turbines to be set back 1 mile from incorporated towns, schools, churches, state owned recreation areas, and the homes of any nonparticipating landowners.³²⁹
- **Otoe County:** On January 31, 2023, the Otoe County Commissioners adopted new restrictions on wind energy. According to the meeting minutes, “turbines shall be limited to no more than two WECS per participating landowner within a one (1) mile radius of the participating property line.”³³⁰
- **Red Willow County:** In January 2023, Red Willow County enacted a 6-month moratorium on solar farms with the option to extend. The moratorium was enacted amidst local concerns about a proposed 54-MW solar plant north of McCook.³³¹

New Entries (Pre-March 2022 Developments)

- **Brown County:** As of May 2020, the Brown County Zoning Regulations require that commercial wind turbines be set back 1 mile from property lines and roads.³³²
- **Dakota County:** On July 26, 2021, Dakota County amended its zoning regulations to require that commercial wind turbines be set back 2 miles from

³²⁹ Elic Chisam, *Jefferson County Commissioners set new wind zoning regulations*, NEWS CHANNEL NEBRASKA, Mar. 24, 2023, <https://southeast.newschannelnebraska.com/story/48605004/jefferson-county-commissioners-set-new-wind-zoning-regulations>.

³³⁰ Otoe County, Neb., Board Minutes (Jan. 31, 2023), https://otoecountyne.gov/posting_files/pdfs/board/minutes/2023/20230131_111144_board_minutes.pdf.

³³¹ Bruce Crosby, *County Imposes Moratorium on Solar Plants, Seeks Research on Zoning*, MCCOOK GAZETTE, Jan. 9, 2023, <https://www.mccookgazette.com/story/2979038.html>.

³³² BROWN COUNTY, NEB., ZONING REGULATIONS § 6.56 (May 2020), https://browncounty.ne.gov/pdfs/planning_zoning/Zoning%20Regulations.pdf.

neighboring dwelling units (up from 2,700 feet) and 2 miles from wetlands and other conservation lands (up from 600 feet).³³³

- **Hamilton County:** An ordinance last amended in 2019 requires that wind turbines be set back 2 miles from property lines of non-participating landowners.³³⁴
- **Kearney County:** An ordinance last amended in January 2016 provides that solar farms of 25 kW or larger must be set back at least 1,320 feet from neighboring dwelling units.³³⁵
- **Pierce County:** In November 2017, Pierce County commissioners extended a moratorium on wind farm applications that had been put in place in June 2017 to June 2018.³³⁶
- **Saline County:** The Saline County Zoning Regulations, as amended in 2018, require that wind turbines be set back 0.5 miles from occupied structures on abutting properties. The regulations further limit noise to 40 dBA for any 10-minute average at any dwelling.³³⁷

³³³ DAKOTA COUNTY, NEB., RESOLUTION 21C-024 § 900.2.205 (July 26, 2021), https://dakotacountyne.org/pdfs/planning_zoning/21C-024%20Planning%20Zoning%20Amended%20Regulations%2026Jul21.pdf.

³³⁴ Hamilton County, Neb., Zoning Resolution § 8.08.06 (2019), <https://hamiltoncounty.files.wordpress.com/2021/07/hamilton-county-zoning-current.pdf>.

³³⁵ KEARNEY COUNTY, NEB., ZONING REGULATIONS § 7.42(12), https://kearneycounty.ne.gov/pdfs/planning_zoning/zoning_regulations.pdf.

³³⁶ Jerry Guenther, *Wind energy gets some 'blow back,'* NORFOLK DAILY NEWS, Nov. 21, 2017, https://norfolkdailynews.com/news/wind-energy-gets-some-blow-back/article_9e174b16-ced1-11e7-9b17-0ffb5c6166e.html.

³³⁷ Saline County, Neb., Zoning Regulations §§ 619(E)(1)(e)(1), (4) (2018), https://co.saline.ne.us/pdfs/planning_zoning/zoning_regulations.pdf.

- **Thomas County:** Since October 2019 or earlier, Thomas County has required that wind turbines be set back 3 miles from property lines, roads, and wetlands, and limited noise to 35 dbA at the nearest occupied structure.³³⁸
- **Wheeler County:** On October 28, 2020, the Wheeler County Commissioners voted to prohibit “Commercial/Utility Grade Wind Energy Systems.”³³⁹ On November 25, 2020, the county attorney informed the commissioners that their vote to completely prohibit utility-scale wind was unconstitutional and advised them to consider other restrictions.³⁴⁰ On December 9, 2020, the commissioners voted to require a 5-mile setback from any dwelling, to cap turbine height at 299 feet, and to require a distance of 0.5 miles between turbines.³⁴¹

Existing Entries (Updated)

- **Adams County:** A 2018 resolution requires that wind turbines be set back 2,400 feet from neighboring dwelling units and 6,000 feet from any existing wind turbine not owned by the applicant. A 2019 resolution prohibits concentrated solar power facilities but allows photovoltaics with proper permits.³⁴²

³³⁸ Thomas County, Neb., Zoning Regulations § 6.56 (Oct. 2019), https://thomascountyne.gov/pdfs/planning_zoning/zoning%20regulations.pdf.

³³⁹ Wheeler County, Neb., Board Minutes (Oct. 28, 2020), https://wheelercounty.ne.gov/posting_files/pdfs/board/minutes/2020/20201030_165254_board_minutes.pdf.

³⁴⁰ Wheeler County, Neb., Board Minutes (Nov. 25, 2020), https://wheelercounty.ne.gov/posting_files/pdfs/board/minutes/2020/20201130_165320_board_minutes.pdf.

³⁴¹ Wheeler County, Neb., Board Minutes (Dec. 9, 2020), https://wheelercounty.ne.gov/posting_files/pdfs/board/minutes/2020/20201209_113245_board_minutes.pdf.

³⁴² ADAMS COUNTY, NEB., Resolution No. 2018-10-02.01 § 8.04.06(4) (Oct. 2, 2018), <https://www.adamscounty.org/images/PDFS/PlanningZoning/windssystem.pdf>; ADAMS COUNTY, NEB., Resolution No. 2019-03-05.01 § 8.13, <https://www.adamscounty.org/images/PDFS/PlanningZoning/SolarRegulation2.pdf>.

- **Burt County:** The county zoning ordinance requires that commercial wind turbines be set back from occupied dwellings by a factor of 3.5 times total height or 1,800 feet, whichever is greater.³⁴³
- **City of Gretna (Sarpy County):** In July 2020, Gretna City Council approved a temporary moratorium on solar plants and associated facilities through October 2020 or until city codes were updated, whichever was sooner.³⁴⁴
- **Gage County:** In July 2020, Gage County adopted a 3-month moratorium on new permits for wind farms.³⁴⁵ In November 2021, Gage County adopted amendments that banned commercial wind turbines within 1 mile of property lines of nonparticipating property owners, a major change from the 2019 zoning regulations, which required only that turbines be set back from property lines by a distance of 2 times turbine height.³⁴⁶ Gage County subsequently imposed an indefinite moratorium on commercial solar facilities in 2022 to halt solar development while considering new solar restrictions.³⁴⁷ On March 14, 2023, the Gage County Planning and Zoning Commission voted to recommend new solar regulations that would require setbacks of 0.5 miles from non-participating dwellings, platted subdivisions, and platted villages, and 0.75 miles from

³⁴³ BURT COUNTY, NEB., ZONING REGULATIONS 6.03(D)(3), https://burtcounty.ne.gov/pdfs/planning_zoning/zoning_regulations.pdf (last visited Mar. 9, 2023); see also *Nebraska wind project runs into opposition by residents*, OK ENERGY TODAY, Feb. 24, 2020, <http://www.okenergytoday.com/2020/02/nebraska-wind-project-runs-into-opposition-by-residents>.

³⁴⁴ CITY OF GREटना, NEB., RESOLUTION NO. 7-20(1) (July 22, 2020), <https://www.gretnane.org/AgendaCenter/ViewFile/Agenda/08042020-614>.

³⁴⁵ Doug Kennedy, *Gage County Approves Temporary Moratorium on New Wind Farm Applications*, NEWS CHANNEL NEBRASKA, July 16, 2020, <https://southeast.newschannelnebraska.com/story/42375821/gage-county-approves-temporary-moratorium-on-new-wind-farm-applications>.

³⁴⁶ *Compare Gage County, Neb., Zoning Regulations § 6.65(A)(6) (2019)*, https://gagecountynebraska.us/pdfs/planning/zoning_regulation.pdf with *Gage County, Neb. Wind Energy Regulations § 6.65(5) (Nov. 17, 2021)*, <https://gagecountynebraska.us/pdfs/Wind%20Energy%20Regs%20-%20County%20Board%20final.pdf>.

³⁴⁷ Doug Kennedy, *Gage County extends commercial solar moratorium*, NEW CHANNEL NEBRASKA CENTRAL, June 1, 2022, <https://central.newschannelnebraska.com/story/46607539/gage-county-extends-commercial-solar-moratorium>.

churches, schools, natural resources districts, and National Park Service sites for any solar project greater than 2 MW. The Gage County Board will have the final say in whether the regulations are adopted.³⁴⁸

- **Madison County:** In April 2018, the county approved a 6-month wind moratorium after local landowners obtained leases for a possible wind farm.³⁴⁹
- **Stanton County:** In November 2017, the county effectively banned new wind farms by approving a land use matrix that does not allow developers to obtain any type of permit for commercial wind energy systems in any zone.³⁵⁰ The ordinance also requires setbacks of 2,700 feet from nonparticipating residences, but the requirement appears to be moot in light of the complete exclusion of new wind farms.³⁵¹

27.3 Contested Projects

New Entries (Pre-March 2022 Developments)

- **Platteview Solar Project (Saunders County):** In May 2021, the Saunders County Board voted to approve a permit for an 81-MW, 500-acre solar project by

³⁴⁸ Scott Koperski, *Solar regulations approved by Gage County Planning and Zoning*, BEATRICE DAILY SUN, Mar. 15, 2023, https://beatricedailysun.com/news/local/solar-regulations-approved-by-gage-county-planning-and-zoning/article_ec834049-a1f2-5be5-8cc6-aac911bc6e10.html; Gage County, Ill., Summary of Proposed Changes to Solar Energy Regulations (Feb. 15, 2023), <https://gagecountynebraska.us/pdfs/Summary%20of%20proposed%20changes%20to%20solar%20energy%20regulations.pdf> (last visited May 24, 2023).

³⁴⁹ Jerry Guenther, *Madison County approves moratorium on wind farms*, NORFOLK DAILY NEWS, Apr. 4, 2018, https://norfolkdailynews.com/news/madison-county-approves-moratorium-on-wind-farms/article_9d657c30-380b-11e8-8c03-bbde8314f68f.html.

³⁵⁰ Michael Shively, *Stanton County Bars Wind Development*, Sand Shill Express, Nov. 20, 2017, <https://sandhillsexpress.com/local-news/stanton-county-bars-wind-development/>; STANTON COUNTY, NEB., ZONING ORDINANCE § 4.07 at page 57 (2017), https://stantoncounty.nebraska.gov/sites/stantoncounty.nebraska.gov/files/doc/plan_zone_regs.pdf.

³⁵¹ STANTON COUNTY, NEB., ZONING RESOLUTION § 8.08.06 (2017), https://stantoncounty.nebraska.gov/sites/stantoncounty.nebraska.gov/files/doc/plan_zone_regs.pdf.

Community Energy. Opponents collected 500 signatures against the project, and 45 landowners retained an attorney to consider legal action.³⁵²

Existing Entries (Updated)

- **Burt County Wind Farm (Burt County):** New York-based Con Edison’s plans to build an 86-turbine wind farm in Burt County encountered opposition from individuals who organized against the project on a Facebook group called “Burt County, NE Citizens United.” Sometime around 2020, the county adopted the restrictive setbacks described above. There is no news coverage about the project from after 2020, but a tracker on a Nebraska government website states that the facility may come to the county as soon as 2023.³⁵³
- **Kilgore Wind Farm (Cherry County):** In October 2019, the Cherry County Board granted a conditional use permit to the 19-turbine, 60-MW Kilgore Wind Project. A group called Preserve the Sandhills LLC, which claimed to have 500 members, filed an appeal challenging the decision in Cherry County District Court the following month.³⁵⁴ In August 2020, District Judge Kosizek denied a motion to dismiss, allowing the suit to proceed.³⁵⁵ In June 2020, the Cherry County Board granted a 4-year extension for the completion of the wind turbine project while

³⁵² Nancy Gaarder, *Saunders County Board approves solar farm despite local opposition*, ENERGY CENTRAL NEWS, May 26, 2021, <https://energycentral.com/news/saunders-county-board-approves-solar-farm-despite-local-opposition>; Platteview Solar Project, AES, <https://www.aes.com/platteview-solar> (last visited Mar. 15, 2023).

³⁵³ *Nebraska wind project runs into opposition by residents*, OK ENERGY TODAY, Feb. 24, 2020, <http://www.okenergytoday.com/2020/02/nebraska-wind-project-runs-into-opposition-by-residents>; Nebraska Dep’t of Environmental & Energy, *Wind Energy Generation in Nebraska: Under Development* (last updated Feb. 23, 2023), <https://neo.ne.gov/programs/stats/inf/89.htm#under-dev> (last visited Mar. 15, 2023).

³⁵⁴ Todd von Kampen, *Fresh gusts in Sandhills wind-energy project fight*, THE NORTH PLATTE TELEGRAPH, Dec. 7, 2019, https://nptelegraph.com/townnews/law/fresh-gusts-in-sandhills-wind-energy-project-fight/article_4201e9c0-18ae-11ea-9a13-d7ebe70e7ff3.html.

³⁵⁵ Todd von Kampen, *Group continues legal battle to reverse Cherry County’s endorsement of Kilgore-area wind farm*, THE NORTH PLATTE TELEGRAPH, Sept. 17, 2020, https://nptelegraph.com/news/local/group-continues-legal-battle-to-reverse-cherry-countys-endorsement-of-kilgore-area-wind-farm/article_5655909a-f934-11ea-852a-1b0b2b849ae5.html.

the suit was pending, which the project opponents claimed was improper. However, the Cherry County District Court held that it did not have jurisdiction to consider objections to the extension, a decision upheld by the Supreme Court of Nebraska in 2021.³⁵⁶ On February 24, 2023, the Nebraska Supreme Court dismissed appeals from Preserve the Sandhills LLC, paving the way for the project to move forward.³⁵⁷

- **Milligan 1 Wind Project (Saline County):** In November 2019, a group of Saline County residents sued to block this 99-turbine, 300-MW wind farm, arguing that a conditional use permit issued to the original owner could not be transferred to the new owner. The lawsuit failed to stop the project, which became operational in 2021.³⁵⁸
- **Salt Creek Solar Project (Lancaster County):** Ranger Power's plans to construct a 250-MW solar project on 2,800 acres east of Lincoln encountered opposition from neighbors. One county commissioner proposed an amendment to prohibit solar panels on a portion of the project within city limits, but the amendment was defeated.³⁵⁹ In January 2022, a local newspaper reported that four landowners had filed notices of appeal in Lancaster County District Court challenging the Lancaster County Board's approval of the project.³⁶⁰ In November 2022, nearly

³⁵⁶ *Pres. the Sandhills, LLC v. Cherry Cnty.*, 310 Neb. 184 (Sept. 24, 2021).

³⁵⁷ Todd von Kampen, *State Supreme Court rulings dismiss challenges to Kilgore wind farm*, THE NORTH PLATTE TELEGRAPH, Mar. 8, 2023, https://nptelegraph.com/business/state-supreme-court-rulings-dismiss-challenges-to-kilgore-wind-farm/article_db462492-be0b-11ed-a4af-5feb34eea41.html.

³⁵⁸ Matt Olberding, *Group sues to stop Saline County wind farm*, LINCOLN JOURNAL STAR, Nov. 11, 2019, https://journalstar.com/business/local/group-sues-to-stop-saline-county-wind-farm/article_05f69bd0-ca80-5015-9a76-e9b867c508ab.html; Milligan 1 Wind, EDF RE, <https://www.edf-re.com/project/milligan-1-wind-project/> (last visited Mar. 15, 2023).

³⁵⁹ Fred Knapp, *Big Solar Farm Proposal Near Lincoln Advancing*, NEBRASKA PUBLIC NEWS MEDIA, Oct. 28, 2021, <https://nebraskapublicmedia.org/ar/news/news-articles/big-solar-farm-proposal-advancing>.

³⁶⁰ Matt Olberding, *Several landowners appealing approval of solar farm near Lincoln*, Lincoln Journal Star, Jan. 22, 2022, https://journalstar.com/news/local/govt-and-politics/several-landowners-appealing-approval-of-solar-farm-near-lincoln/article_b1c01190-dde8-51de-8143-dd0868f92ce0.html.

three dozen landowners filed a lawsuit challenging the county's approval of the project.³⁶¹

28. NEVADA

28.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

28.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

28.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Angora Solar Project (Clark County):** On March 21, 2023, the Biden Administration announced the creation of a 450,000-acre Avi Kwa Ame National Monument in the Mojave Desert along the border between California and Nevada to protect an area important to certain Native American tribes. This designation, actively sought by conservation groups, local government officials, and tribal leaders, appears to have derailed plans for the 400-MW Angora Solar Project, which is currently proposed to be built on 2,000 acres within the proposed monument. The developer asked the administration for a carve-out but it was apparently not granted.³⁶²
- **Beatty Energy Center Project, Bonnie Clare Solar Project, and Sawtooth Energy Center Project (Nye County):** In June 2022, the Bureau of Land Management sided with local opponents of three large solar projects near Death Valley National Park by giving them “low priority” permitting status. If approved, the

³⁶¹ Matt Olberding, *Neighbors sue in attempt to stop solar farm east of Lincoln*, LINCOLN JOURNAL-STAR, Nov. 28, 2022 (updated Jan. 8, 2023), https://journalstar.com/business/local/neighbors-sue-in-attempt-to-stop-solar-farm-east-of-lincoln/article_04e9bcfc-43f2-5f24-9f96-a3899b7a97fd.html.

³⁶² Scott Streater, *Biden creates national monuments in Nevada and Texas*, E&E News GREENWIRE, Mar. 21, 2023, <https://www.eenews.net/articles/biden-to-create-national-monuments-in-nevada-and-texas/>.

projects would collectively generate 3,300 MW of electricity on up to 25,000 acres of land. The Bureau cited proximity to Death Valley National Park and sensitive habitat for the Mojave Desert tortoise as concerns. The projects are opposed by Nevada-based Basin and Range Watch, which thanked BLM for its decision.³⁶³

- **Gerlach Geothermal Exploration Project (Washoe County):** On January 9, 2023, the Burning Man Project and Friends of Nevada Wilderness filed a lawsuit against the federal Bureau of Land Management to stop a geothermal exploration project. In the lawsuit, the plaintiffs allege that the noise, traffic, light, and drilling from the project would be inconsistent with the Burning Man Project's use of the area during the annual Burning Man festival.³⁶⁴ On April 3, 2023 the Paiute Tribe of Nevada, Gerlach Preservation Society, and several local residents joined the lawsuit against the project.³⁶⁵ That same month, the Washoe County Commission voted to overturn a permit that the county had previously approved in January to allow the company to drill up to 13 test wells.³⁶⁶
- **Greenlink West Transmission Line (N/A):** Plans for a 470-mile transmission line that would stretch from Las Vegas to Reno and carry up to 4,000 MW of renewable energy is facing opposition from conservation groups. Opponents of the plan including Nevada Basin and Range Watch have raised concerns about a 1.5-mile stretch that crosses through Tule Springs Fossil Beds National

³⁶³ Scott Streater, *BLM slows solar permitting near Death Valley National Park*, E&E NEWS GREENWIRE, June 3, 2022, <https://subscriber.politicopro.com/article/eenews/2022/06/03/blm-slows-solar-permitting-near-death-valley-national-park-00037074>.

³⁶⁴ Molly Osberg, *The Big MOOP at Burning Man*, CURBED, Feb. 7, 2023, <https://www.curbed.com/2023/02/burning-man-nevada-lawsuit-geothermal-energy.html>; Complaint, Burning Man Project et al v. Bureau of Land Management of the U.S. Department of the Interior et al, Docket No. 3:23-cv-00013 (D. Nev. Jan 09, 2023).

³⁶⁵ Maryann Jones Thompson, *Burning Man Joined by Paiute Tribe, Homeowners in Lawsuit Against the Feds*, THE SAN FRANCISCO STANDARD, Apr. 3, 2023, <https://sfstandard.com/arts-culture/burning-man-blm-lawsuit-oramat-geothermal-gerlach-paiute-tribe/>.

³⁶⁶ Scott Sonner, *Burning Man cheers county's overturning geothermal permit*, ASSOCIATED PRESS, Apr. 14, 2023, <https://apnews.com/article/burning-man-geothermal-energy-nevada-desert-lawsuit-9ae2e19d8c16467286b67c439026ed71>.

Monument where shallowly buried fossils could be disturbed during construction.

- **Kulning Wind Energy Project (Clark County):** Developers of the proposed Kulning Wind Energy Project in the Mojave Desert scaled back plans from 9,300 acres to 5,000 acres after BLM in November 2021 designated the project as “low priority” due to proximity to the Wee Thump Joshua Tree Wilderness Area. The project has faced opposition from local conservation groups. The Biden Administration’s March 21 announcement designating a new Avi Kwa Ame National Monument encompassing the project area may preclude development plans.³⁶⁷

New Entries (Pre-March 2022 Developments)

- **Battle Born Solar (Clark County):** In July 2021, Arevia Power withdrew its application to construct the 850-MW Battle Born Solar project on the Mormon Mesa in the desert north of Las Vegas. The project would have been the largest ever built in the United States and faced opposition from groups such as Save Our Mesa, who raised concerns about visual impacts and tourism impacts.³⁶⁸

Existing Entries (Updated)

- **Crescent Peak Wind Project (Clark County):** In November 2018, the Bureau of Land Management rejected an application by Eolus Vind of Sweden to construct a 500-MW, 248-turbine wind farm on 32,531 acres of public land in Nevada. Documents obtained in response to a FOIA request appear to show that Assistant Secretary Joseph Balash decided to terminate the project after conversations with

³⁶⁷ Scott Streater, *Nev. monument will shield sacred tribal land – from renewables*, E&E NEWS GREENWIRE, Feb. 6, 2023, <https://www.eenews.net/articles/nev-monument-will-shield-sacred-tribal-land-from-renewables/>; Abigail Sawyer, *Controversial Nevada Wind Proposal Returns With Smaller Footprint*, NEWS DATA, Apr. 2, 2021, https://www.newsdata.com/california_energy_markets/southwest/controversial-nevada-wind-proposal-returns-with-smaller-footprint/article_d1e5702a-935f-11eb-bfa1-572b8975aed3.html.

³⁶⁸ *Plans for largest US solar field north of Vegas scrapped*, ASSOCIATED PRESS, July 23, 2021, <https://apnews.com/article/technology-government-and-politics-environment-and-nature-las-vegas-nevada-9bf3640dfefbc6f7f45a97c6810f5ff7>.

and receiving input from tribal groups, mining groups, fish and wildlife experts, and the military.³⁶⁹

- **Forest Hills Subdivision Wind Turbine (Washoe County):** In 2013, the Supreme Court of Nevada upheld a lower court’s permanent injunction preventing the construction of a proposed wind turbine on residential property, holding that the turbine would create a nuisance.³⁷⁰
- **Rough Hat Nye County Solar Project (Nye County):** An October 2021 meeting of the Pahrump Public Lands Advisory Committee concerning an application for the 500-MW Rough Hat Nye County Solar Project drew “what very well may have been the biggest turnout the advisory body has ever seen.” Residents opposed to the project cited potential impacts on nearby trails and on the desert ecosystem. Opponents included members of a group called Battle Born Patriots. In December 2021, the developers stated at a public meeting that they had reduced the scope of the project from 3,400 acres to 2,319 acres and that it would be divided into smaller sections to allow continued access to recreational areas. Although the Nye County Commission voted 5-to-0 against the project that month, in June 2022, BLM announced that it was commencing environmental review.³⁷¹

³⁶⁹ Scott Streater, *BLM rejects massive Nev. Wind Project*, GOVERNOR’S WIND ENERGY COALITION, Dec. 4, 2018, <https://governorswindenergycoalition.org/blm-rejects-massive-nev-wind-project>; Dr. Donald Allen Deever, *Freedom of Information Act Document Reveals Who Shut Down Massive Wind Farm in Southern Nevada*, SIERRA NEVADA ALLY, Dec. 8, 2018, <https://www.sierranevadaally.org/2018/12/08/freedom-of-information-act-document-reveals-who-shut-down-massive-wind-farm-in-southern-nevada>.

³⁷⁰ *Sowers v. Forest Hills Subdivision*, 129 Nev. 99 (Feb. 14, 2013).

³⁷¹ Robin Hebrock, *Solar project discussion riles Pahrump citizens*, PAHRUMP VALLEY TIMES, Oct. 16, 2021, <https://pvtimes.com/news/solar-project-discussion-riles-pahrump-public-105700>; Robin Hebrock, *No support from Pahrump committee for Rough Hat Nye solar project*, PAHRUMP VALLEY TIMES, Dec. 3, 2021, <https://pvtimes.com/news/no-support-from-pahrump-committee-for-rough-hat-nye-solar-project-107015>; Robin Hebrock, *Nye County votes to oppose Rough Hat solar project*, PAHRUMP VALLEY TIMES, Dec. 22, 2021, <https://pvtimes.com/news/nye-county-votes-to-oppose-rough-hat-solar-project-107447/>; Bureau of Land Management, *BLM Advances Rough Hat Clark County Solar Project Application*, June 7, 2022, <https://www.blm.gov/press-release/blm-advances-rough-hat-clark-county-solar-project-application>.

- **Spring Valley Wind Farm (White Pine County):** In 2011, the Center for Biological Diversity and Western Watersheds Project filed a lawsuit against the Bureau of Land Management to stop construction of the 66-turbine, 152-MW Spring Valley Wind Farm, Nevada’s first commercial wind project. The Center for Biological Diversity alleged that BLM’s environmental review was insufficient and stated to the press that the site was too close to a cave where more than 1 million Mexican free-tailed bats roost. The lawsuit was settled in 2012, and construction began within the year.³⁷²

29. NEW HAMPSHIRE

29.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

29.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

29.3 Contested Projects

Existing Entries (Updated)

- **Antrim Wind Project (Hillsborough County):** In December 2016, the New Hampshire Site Evaluation Committee approved the 29-MW Antrim wind farm, which would involve nine wind turbines on a ridge. Project opponents concerned about noise and impacts on wildlife, property values, and scenic views appealed the decision to the New Hampshire Supreme Court. In May 2018, the court ruled against the project opponents on all counts, allowing the project to move forward. The project began commercial operations in 2019.³⁷³

³⁷² Henry Brean, *Wind Energy Project Gearing Up After Lawsuit Settled*, LAS VEGAS REVIEW-JOURNAL, Apr. 17, 2012, <https://www.reviewjournal.com/business/energy/wind-energy-project-gearing-up-after-lawsuit-settled>; Pattern Energy, Spring Valley Wind, <https://patternenergy.com/projects/spring-valley-wind/> (last visited Mar. 16, 2023).

³⁷³ Paul Cuno-Booth, *State’s high court shoots down appeal against Antrim Wind; project can go forward*, THE KEENE SENTINEL, May 12, 2018, <https://www.sentinelsource.com/news/local/states-high-court-shoots->

- **Granite Reliable Wind Farm (Coos County):** In 2010, a 99-MW, 33-turbine wind farm near Groveton was proposed. The Appalachian Mountain Club raised concerns that the project might impact sensitive high-elevation forest. However, the project was ultimately completed as originally planned in 2012.³⁷⁴
- **West Portsmouth Street, Concord Solar Project (Merrimack County):** In 2018, NextEra Energy’s plans for a 10-MW, 54-acre solar farm in Concord were rejected by the local zoning board because there would be too much “impervious surface” for a residential open-space zoning lot. The zoning board denied the developer’s request for rehearing.³⁷⁵
- **Wild Meadows Wind Farm (Grafton and Merrimack Counties):** The proposed 75.9-MW, 23-turbine Wild Meadows Wind Farm was abandoned in 2014. In a statement the developer blamed “the current political and regulatory climate in New Hampshire.” The project faced opposition from residents and local groups including the Appalachian Mountain Club.³⁷⁶

30. NEW JERSEY

Note on state preemption of local restrictions: In New Jersey, wind and solar energy production are considered protected activities on commercial farms under the state’s Right to Farm Act. Local restrictions that impede on protected activities may be

[down-appeal-against-antrim-wind-project-can-go-forward/article_0a50e8ad-e5a1-55ba-888a-4cc29cb2ee88.html](https://www.seacoastonline.com/story/news/2009/02/09/proposed-n-h-wind-farm/52103612007/); Appeal of Allen, 170 N.H. 754 (May 18, 2018); Transalta, Antrim Wind Project, <https://transalta.com/about-us/our-operations/facilities/antrim-wind-project/> (last visited Mar. 18, 2023).

³⁷⁴ U.S. Department of Energy, *Granite Reliable*, <https://www.energy.gov/lpo/granite-reliable> (last visited Dec. 29, 2020); *Proposed N.H. wind farm raises wildlife concerns*, PORTSMOUTH HERALD, Feb. 9, 2009, <https://www.seacoastonline.com/story/news/2009/02/09/proposed-n-h-wind-farm/52103612007/>.

³⁷⁵ Caitlin Andrews, *Concord zoning board to hear massive solar farm proposal*, CONCORD MONITOR, Feb. 6, 2018, <https://www.concordmonitor.com/Utility-scale-Concord-solar-project-to-go-before-ZBA-15246667/>; Caitlin Andrews, *West Portsmouth Street solar project denied rehearing*, CONCORD MONITOR, June 6, 2018, <https://www.concordmonitor.com/Concord-NH-West-Portsmouth-Street-solar-array-18000856>.

³⁷⁶ Allie Morris, *Ibredrola abandons Wild Meadows wind farm, raising questions about future of wind power in N.H.*, CONCORD MONITOR, May 29, 2014, <https://www.concordmonitor.com/Archive/2014/05/AntrimWind-CM-052914>.

preempted on a case-by-case basis.³⁷⁷ In addition, a 2021 amendment to New Jersey’s offshore wind law allows developers to appeal to the state when local governments block “reasonably necessary” approvals.³⁷⁸

30.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

30.2 Local Restrictions

New Restrictions (Post-March 2022 Developments)

- **Atlantic County:** On February 21, 2023, the Atlantic County Board of County Commissioners approved a resolution calling on state and federal officials to impose a moratorium on offshore wind development until the cause of recent whale deaths could be determined.³⁷⁹ *The resolution is nonbinding.*
- **Middletown Township (Monmouth County):** On March 6, 2023, the township committee of Middletown Township passed a resolution calling on state and federal officials to impose a moratorium on offshore wind projects. Proponents of the resolution cited recent whale deaths.³⁸⁰ *The resolution is nonbinding.*

³⁷⁷ N.J. State Agriculture Development Committee, *The Right to Farm Act in New Jersey: A Guide for Farmers, Neighbors, and Municipalities*, June 2016, <https://www.nj.gov/agriculture/sadc/documents/rtfprogram/resources/guidebook.pdf>.

³⁷⁸ Wayne Parry, *N.J. uses new law to bypass local approvals for offshore wind project*, ASSOCIATED PRESS, Feb. 17, 2023, <https://whyy.org/articles/new-jersey-offshore-wind-project-new-law-bypass-local-approval/>.

³⁷⁹ Nanette LoBiondo Galloway, *Atlantic County Commissioners approve offshore wind moratorium resolution*, DOWN BEACH, Feb. 22, 2023, <https://www.downbeach.com/2023/02/22/atlantic-county-commissioners-approve-offshore-wind-moratorium-resolution/>.

³⁸⁰ Sunayana Prabhu, *Middletown Joins Others in Asking for Halt to Offshore Wind Projects*, THE TWO RIVER TIMES, Mar. 20, 2023, <https://tworivertimes.com/middletown-joins-others-in-asking-for-halt-to-offshore-wind-projects/>.

30.3 Contested Projects

Existing Entries (Updated)

- **Bedminster Solar Project (Somerset County):** Residents in Bedminster Township mounted organized opposition to a proposed solar array on a historic 132-acre farm, arguing that the proposed location of the project would ruin the rural landscape. Opponents voiced concerns about the project on a Facebook page called Stop the Bedminster Solar Power Plant. The solar developer withdrew its proposal in 2016.³⁸¹
- **Six Flags Theme Park Solar Project (Ocean County):** In January 2017, several local environmental organizations challenged Jackson Township’s approval of a 21-MW solar array on 67 acres owned by Six Flags Theme Parks, Inc. in Jackson Township. The plaintiffs alleged that municipal ordinances that permitted the solar array were in conflict with Jackson Township’s Master Plan. In June 2017, the Superior Court of New Jersey dismissed the challenge upon finding that the ordinances were substantially consistent with the objectives and goals of the Master Plan. In the opinion, the court noted that the solar array would meet substantially all of the theme park’s energy needs and reduce reliance on carbon-emitting sources of power.³⁸²
- **Ocean Wind 1 (N/A):** The proposed 98-turbine, 1,100-MW Ocean Wind 1 project has faced opposition from local governments where transmission will be sited and from protesters alleging that offshore wind is causing whale deaths. Local governments have twice denied necessary approvals for the on-shore components of the project, prompting the state Board of Public Utilities to use its new authority to bypass local approvals—first in September 2022 when it bypassed Ocean City approvals and second in February 2023 when it bypassed Cape May County approvals.³⁸³

³⁸¹ Dave Hutchinson, *Bedminster solar power plant plan officially scrapped*, NJ.COM, Mar. 8, 2016, https://www.nj.com/somerset/2016/03/bedminster_1.html.

³⁸² *Clean Water Action v. Jackson Township*, L-001251-15 (N.J. Super. Ct., June 19, 2017).

³⁸³ Wayne Parry, *N.J. uses new law to bypass local approvals for offshore wind project*, ASSOCIATED PRESS, Feb. 17, 2023, <https://whyy.org/articles/new-jersey-offshore-wind-project-new-law-bypass-local-approval/>;

31. NEW MEXICO

Note on state preemption of local restrictions: In New Mexico, the state public regulation commission has jurisdiction over projects 300 MW or greater. If the commission finds that an existing state, county, or municipal land use regulation is “unreasonably burdensome” as to a proposed project and that “compliance with the regulation is not in the interest of the public convenience and necessity,” that regulation “shall be inapplicable and void as to the siting.”³⁸⁴

31.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

31.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

31.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Cenergy’s Two Community Solar Projects (Chaves County):** On April 6, 2022, the Chaves County Planning and Zoning Commission voted not to recommend permits sought by Cenergy Power for two 5-MW community solar projects based on objections from neighbors. Local residents expressed concern that the solar projects would cause visual impacts, harm property values, cause runoff into nearby rivers, destroy wildlife habitats, and take away land that should be used

Kirk Moore, *Offshore wind critics try to block New Jersey grid link*, NATIONAL FISHERMAN, Feb. 28, 2023, <https://www.nationalfisherman.com/mid-atlantic/offshore-wind-critics-try-to-block-new-jersey-grid-link>.

³⁸⁴ N.M. STAT. ANN. § 62-9-3(G) (2021), <https://law.justia.com/codes/new-mexico/2021/chapter-62/article-9/section-62-9-3/>; see also Steven Ferrey, *Siting Technology, Land-Use Energized*, 66 CATH. U. L. REV. 1, 24 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3613231.

for homes or agriculture.³⁸⁵ On April 14, 2022, the Chaves County Board of Commissioners denied the permit applications.³⁸⁶

- **Energy Management Inc.’s Community Solar Project (Chaves County):** In November 2022, the Roswell-Chaves County Extraterritorial Commission voted against a community solar project proposed by Energy Management Inc. (EMI) after hearing objections from residents.³⁸⁷
- **NextEra’s Two Community Solar Projects (Chaves County):** In November 2022, the Roswell-Chaves County Extraterritorial Commission voted against two community solar projects proposed by NextEra, each 5 MW or smaller, after hearing objections from residents.³⁸⁸
- **South Peak Solar Project (Luna County):** A proposed 97.5-MW project on 620 acres of private land has encountered opposition at contentious public meetings. In January 2023, after hearing from many project opponents, the Luna County Board voted unanimously to postpone a decision on the application.³⁸⁹

³⁸⁵ Lisa Dunlap, *Solar projects fail to win county P&Z support*, ROSWELL DAILY RECORD, Apr. 6, 2022, <https://www.rdrnews.com/2022/04/06/solar-projects-fail-to-win-county-pz-support>.

³⁸⁶ Lisa Dunlap, *County commissioners vote against solar permits*, ROSWELL DAILY RECORD, Apr. 16, 2022, https://www.rdrnews.com/news/local/county-commissioners-vote-against-solar-permits/article_eb37a595-0663-5b6b-9300-b1bf4f43e089.html.

³⁸⁷ Lisa Dunlap, *Nimbyism darkens potential solar projects*, ROSWELL DAILY RECORD, Nov. 17, 2022 (updated Nov. 30, 2022), https://www.rdrnews.com/news/local/nimbyism-darkens-potential-solar-projects/article_58e5823e-65ed-11ed-b0c0-bfe421e0491b.html.

³⁸⁸ Lisa Dunlap, *Nimbyism darkens potential solar projects*, ROSWELL DAILY RECORD, Nov. 17, 2022 (updated Nov. 30, 2022), https://www.rdrnews.com/news/local/nimbyism-darkens-potential-solar-projects/article_58e5823e-65ed-11ed-b0c0-bfe421e0491b.html.

³⁸⁹ Algernon D’Ammassa, *Luna County postpones approval of solar project permit*, DEMING HEADLIGHT, Jan. 14, 2023, <https://www.demingheadlight.com/2023/01/14/luna-county-postpones-approval-solar-project-permit/>.

Existing Entries (Updated)

- **Chaves Solar 2 LLC Community Solar Project (Chaves County):** In October 2021, the Roswell-Chaves County Exterritorial Zoning Commission voted against a permit for a 5-MW community solar garden just west of Roswell, New Mexico. The commission had received three protest letters from nearby property owners and comments from three others property owners who opposed the project. Opponents did not want the project near their homes, small farms, and orchards, and expressed concerns about radiation, toxic materials, dust, glare, noise, temperature effects, wildlife effects, and property devaluation. In November 2021, the developer and landowners filed an appeal.³⁹⁰

32. NEW YORK

Note on state preemption of local restrictions: In 2020, the New York State Legislature created a new state Office of Renewable Energy Siting (ORES) with exclusive jurisdiction over permitting “major renewable energy facilities” of at least 25 MW, as well as co-located energy storage systems and associated electric transmission systems less than 10 miles in length. Developers of renewable energy facilities of at least 20 MW but less than 25 MW may also opt-in to review by ORES. Applicants are required to consult with local governments about local laws as part of the application process. However, ORES “may elect not to apply, in whole or in part, any local law or ordinance which would otherwise be applicable if it makes a finding that, as applied to the proposed major renewable energy facility, it is unreasonably burdensome in view of the [state’s climate] targets and the environmental benefits of the proposed major renewable energy facility.”³⁹¹

³⁹⁰ Lisa Dunlap, *Community solar project denied permit*, ROSWELL DAILY RECORD, Oct. 20, 2021, https://www.rdrnews.com/news/local/community-solar-project-denied-permit/article_e3165de8-5ff9-5380-86cb-dda7ae5ac0b2.html; Lisa Dunlap, *Company, landowners plan solar project appeal*, ROSWELL DAILY RECORD, Nov. 30, 2021, https://www.rdrnews.com/news/local/company-landowners-plan-solar-project-appeal/article_529170f8-4784-5ee8-9fa1-6bda5f4f7011.html.

³⁹¹ N.Y. EXEC. LAW § 94-c, <https://www.nysenate.gov/legislation/laws/EXC/94-C>; see also Michael B. Gerrard & Edward McTiernan, *New York’s New Statute on Siting Renewable Energy Facilities*, NEW YORK LAW JOURNAL, Vol. 263, No. 93, May 14, 2020, https://scholarship.law.columbia.edu/faculty_scholarship/3026/.

32.1 State-Level Restrictions

New Restrictions (Post-March 2022 Developments)

On May 3, 2023, the state adopted a law directing the New York Power Authority (NYPA) to develop renewable energy projects “to support the state’s renewable energy goals established pursuant to the climate leadership and community protection act.” While the law generally encourages renewable energy development, it places two significant limitations on where renewable energy facilities may be sited. First, the law specifies that NYPA shall not develop renewable energy generation projects on “land used in agricultural production . . . unless [the] project is in furtherance of an agrivoltaics project” (i.e., unless the project is designed to accommodate dual-use farming and energy production). Second, the law provides that NYPA “shall . . . not build on lands located upon any Native American territory or reservation . . . except through voluntary sale or other agreement for such use with the consent of the relevant nation.”³⁹² *New restriction.*

32.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Town of Glenville (Schenectady County):** On April 20, 2022, the Glenville Town Board enacted a 2-year moratorium on new applications for solar projects in the town’s agricultural residential district.³⁹³
- **Town of Riverhead (Suffolk County):** In October 2021, the Town of Riverhead adopted a 12-month moratorium on commercial solar energy applications after a year of deliberation. One councilwoman argued that the moratorium was “a little too late,” as the board had already approved two major solar projects. In October 2022, the town extended the moratorium by another year.³⁹⁴

³⁹² 2023 N.Y. Laws, ch. 56, part QQ, sec. 1 (to be codified N.Y. Pub. Auth. Law. § 1005(27-a)(b)).

³⁹³ Shenandoah Briere, *Glenville approves two-year solar moratorium for its agricultural residential district*, THE DAILY GAZETTE, Apr. 21, 2022, <https://dailygazette.com/2022/04/21/glenville-approves-solar-moratorium>.

³⁹⁴ Denise Civiletti, *Residents, angered by proposed zoning code changes, again press Town Board for moratorium*, RIVERHEAD LOCAL, Dec. 7, 2022, <https://riverheadlocal.com/2022/12/07/residents-angered-by-proposed->

- **Town of Rotterdam (Schenectady County):** In December 2022, the Town of Rotterdam adopted a 1-year moratorium on large-scale solar projects. The moratorium was adopted amid backlash to plans for a 20-MW solar project that would require clearing 100 acres of trees on a 460-acre parcel.³⁹⁵

New Entries (Pre-March 2022 Developments)

- **Niagara County:** In June 2021, Niagara County adopted a law mandating extended producer responsibility for solar panels and requiring that developers submit detailed recycling plans. As of April 26, 2023, only one manufacturer has submitted a plan and received approval; no other manufacturers have submitted plans.³⁹⁶
- **Town of Ballston (Saratoga County):** Local Law 3, enacted in 2021, limits community solar projects across the town to a cumulative total of 150 acres, not including any projects already in existence at the time of adoption. The law further specifies that commercial solar projects over 25 kW are only allowed in industrial and commercial zones and must be roof-mounted.³⁹⁷
- **Town of Clinton (Dutchess County):** The Town of Clinton, since 2019 or earlier, prohibits utility-scale wind projects by requiring that “[t]he primary purpose of any wind energy system facility shall be to provide power for the principal use

[zoning-code-changes-again-press-town-board-for-moratorium/](#); Denise Civiletti, *Riverhead Adopts Moratorium on New Commercial Solar Applications*, RIVERHEAD LOCAL, Oct. 20, 2021, <https://riverheadlocal.com/2021/10/20/riverhead-adopts-moratorium-on-new-commercial-solar-applications>.

³⁹⁵ Chad Arnold, *Rotterdam adopts 12-month moratorium on solar arrays*, THE DAILY GAZETTE, Dec. 15, 2022, <https://dailygazette.com/2022/12/15/rotterdam-adopts-12-month-moratorium-on-solar-arrays/>.

³⁹⁶ Thomas J. Prohaska, *Niagara County hopes new recycling law will discourage solar developers*, THE BUFFALO NEWS, June 20, 2021, https://buffalonews.com/news/local/niagara-county-hopes-new-recycling-law-will-discourage-solar-developers/article_0f6fd0a6-d047-11eb-818d-5f01f54bc7c3.html; Niagara County, List of Manufacturers in Compliance with Local Law 4, https://www.niagaracounty.com/government/county_information/niagara_county_solar_panel_recycling_local_law.php (last visited Apr. 2, 2023).

³⁹⁷ TOWN OF BALLSTON, N.Y., LOCAL LAW 3 of 2021 §§ 138-115.4(C)-(D), <https://www.townofballstonny.org/DocumentCenter/View/610/Local-Law-3-of-2021---Solar-PDF>.

of the lot on which the facility is located and not for the generation of power for commercial purposes.”³⁹⁸

- **Town of Dryden (Tompkins County):** In July 2016, the Town of Dryden implemented a 6-month moratorium on certain types of public utility installations, including solar facilities.³⁹⁹
- **Town of Enfield (Tompkins County):** The Town of Enfield imposed a moratorium on commercial wind and solar projects in 2017. In August 2019, the town rescinded the solar moratorium and extended the wind moratorium until November 2019.⁴⁰⁰
- **Town of Groton (Tompkins County):** In July 2017, the Town of Groton adopted a 6-month moratorium on commercial energy facilities. Although the moratorium applied to all commercial energy facilities, the catalyst appeared to be solar developers’ increasing interest in the area.⁴⁰¹
- **Town of Hartland (Niagara County):** The Town of Hartland has a local ordinance that prohibits any solar project covering more than 50 acres.⁴⁰²
- **Town of Portland (Chautauqua County):** In June 2019, the Town of Portland adopted a moratorium on certain wind energy systems, which was extended

³⁹⁸ TOWN OF CLINTON, N.Y., CODE § 250-49.1(B), <https://ecode360.com/32874039>.

³⁹⁹ Matter of Willow Glen Cemetery Ass’n v. Dryden Town Bd., 2017 NY Slip Op 32676(U), EF2017-0208 (Dec. 22, 2017), <https://law.justia.com/cases/new-york/other-courts/2017/2017-ny-slip-op-32676-u.html>.

⁴⁰⁰ TOWN OF ENFIELD, N.Y., LOCAL LAW 1 of 2019, <https://townofenfield.org/wp-content/uploads/2019/09/2019-1-Amendment-and-Extension-of-Wind-Power-Moratorium-Approved-August-14.pdf>.

⁴⁰¹ Isabella Grullon Paz, *Groton Town Passes Solar Moratorium*, ITHACA.COM, July 23, 2017, https://www.ithaca.com/news/groton/groton-town-passes-solar-moratorium/article_36589990-6ca1-11e7-b7f8-3fe2ce4acbd6.html.

⁴⁰² Benjamin Joe, *Hartland solar law to be negotiated with developer*, LOCKPORT UNION-SUN & JOURNAL, July 28, 2022, https://www.lockportjournal.com/news/local_news/hartland-solar-law-to-be-negotiated-with-developer/article_24516328-0ecf-11ed-befe-572c109fec13.html; TOWN OF HARTLAND, N.Y., CODE § 144-17(G)(2) (Mar. 15, 2017), <https://ecode360.com/32364903>.

until November 31, 2020.⁴⁰³ Sometime in 2020, the Town of Portland adopted Local Law 2, which required that wind turbines be set back at least 1,600 feet from nearest residences and 0.5 miles from any county park.⁴⁰⁴

- **Town of Richland (Oswego County):** In November 2018, the Richland Town Board adopted an ordinance that requires wind turbines of 100 kW or greater to be set back 1 mile from residential property. The ordinance further requires that noise from the turbines not exceed 35 dbA for more than 5 minutes at a time.⁴⁰⁵

Existing Entries (Updated)

- **Town of Clifton Park (Saratoga County):** In January 2021, the Clifton Park Town Board approved a 6-month moratorium on ground-mounted solar facilities with a capacity of 25 kW or more. The moratorium was supported by Friends of Clifton Park Open Space.⁴⁰⁶
- **Town of Coxsackie (Greene County):** In 2019 the Town of Coxsackie enacted an ordinance that restricted utility-scale solar development to the town's commercial and industrial zones. A lawsuit challenging the ordinance was dismissed.⁴⁰⁷ As discussed *infra*, the restrictions would have effectively blocked the Flint Mine Solar project, but the state exercised its override authority, allowing the project to move forward.

⁴⁰³ TOWN OF PORTLAND, N.Y., LOCAL LAW 1 OF 2020, <https://townofportland.org/files/Local-Law-No-1-of-2020.pdf>.

⁴⁰⁴ TOWN OF PORTLAND, N.Y., LOCAL LAW 2 OF 2020, https://townofportland.org/files/Local_Law_Draft_8-20-2020.pdf.

⁴⁰⁵ Brandon Wood, *Richland passes strict wind energy power ordinance*, OSWEGO COUNTY NEWS NOW, Dec. 11, 2018, https://www.oswegocountynewsnow.com/news/richland-passes-strict-wind-energy-power-ordinance/article_bd8e9a4a-fcb5-11e8-bb56-73504f4d4a71.html.

⁴⁰⁶ Glenn Griffith, *Town approves moratorium on solar projects*, COMMUNITY NEWS, Jan. 15, 2021, <https://www.saratogian.com/2021/01/15/town-approves-moratorium-on-solar-projects>.

⁴⁰⁷ See *Friends of Flint Mine Solar v. Town Board of Coxsackie*, No. 19-0216 (N.Y. Sup. Ct. Sept. 13, 2019).

- **Town of Duaneburg (Schenectady County):** In January 2020, the Town of Duaneburg adopted a 6-month moratorium on large-scale commercial solar energy development in order to consider changes to a 2016 solar law amid opposition to a proposed Eden Renewables project.⁴⁰⁸
- **Town of Lockport (Niagara County):** In 2021, the Town of Lockport enacted a moratorium on new solar projects, which was extended by another 6 months in February 2022. The moratorium arose out of public outcry from residents pertaining to a 45-acre solar project that was eventually approved.⁴⁰⁹
- **Town of Porter (Niagara County):** In January 2020, the Town of Porter approved a 6-month moratorium on solar energy systems capable of generating between 0.25 MW and 24.9 MW.⁴¹⁰
- **Town of Seneca (Ontario County):** Local Law No. 6 of 2014 limits the cumulative capacity of major solar energy systems across the town to 16 MW.⁴¹¹
- **Town of Somerset (Niagara County):** In January 2018, the Somerset town board unanimously passed a law that effectively banned industrial wind turbines in the town. The zoning amendments banned structures over 150 feet tall, prohibited wind turbines outside the town's small industrial zones, prohibited wind turbines that sell electricity off-site, and required turbines to be set back as far as

⁴⁰⁸ Stephen Williams, *Duaneburg adopts solar moratorium*, THE DAILY GAZETTE, Jan. 10, 2020, <https://dailygazette.com/2020/01/10/duaneburg-adopts-solar-moratorium>.

⁴⁰⁹ Benjamin Joe, *Solar Projects on Hold Another Six Months in Town of Lockport*, LOCKPORT JOURNAL, Feb. 1, 2022, https://www.lockportjournal.com/news/local_news/solar-projects-on-hold-another-six-months-in-town-of-lockport/article_0e41e83e-249c-58cf-aafa-e7b266597140.html.

⁴¹⁰ Staff, *Porter Approves Moratorium on Solar Energy*, LEWISTON-PORTER SENTINEL, Jan. 23, 2020, <https://www.wnypapers.com/news/article/featured/2020/01/23/139845/porter-approves-moratorium-on-solar-energy>.

⁴¹¹ SENECA, N.Y., CODE § 92 (as of May 3, 2018), https://www.townofseneca.com/uploads/1/8/4/9/18490564/zoning_with_2018_changes.pdf.

1 mile from buildings. The restrictions appeared to be aimed at stopping the proposed Lighthouse Wind project.⁴¹²

- **Town of Westerlo (Albany County):** In August 2019, the Westerlo town board voted unanimously to enact a yearlong moratorium on commercial solar arrays, commercial wind turbines, and associated energy-storage systems after approving five solar projects in the span of two years. The moratorium was subsequently extended to November 2021. In October 2021, the town passed new ordinances that took effect once the moratorium expired.⁴¹³
- **Town of Worth (Jefferson County):** In April 2019, the Worth town board adopted restrictions on wind farms that purportedly would make it “almost impossible” for Avangrid to construct the proposed Mad River Wind Farm.⁴¹⁴

32.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Bear Ridge Solar Project (Niagara County):** Cypress Creek Renewables has submitted an application to the state Office of Renewable Energy Siting (ORES) for the 100-MW Bear Ridge Solar Project, which would cover 900 acres of land in the towns of Cambria and Pendleton. In February 2023, the Town of Cambria argued before an administrative law judge that the developer’s application was deficient because it did not reference the fact that some of the land at issue was previously zoned for planned development, in which, according to town law, no

⁴¹² Thomas J. Prohaska, *Somerset passes tougher anti-wind turbine laws*, THE BUFFALO NEWS, Jan. 30, 2018, https://buffalonews.com/news/local/somerset-passes-tougher-anti-wind-turbine-laws/article_1c019429-0320-58ff-a426-f262b1994a2c.html.

⁴¹³ *In Westerlo’s ‘perfect storm,’ solar moratorium enacted*, THE ALTAMONT ENTERPRISE, Aug. 8, 2019, <https://altamontenterprise.com/08082019/westerlos-perfect-storm-solar-moratorium-enacted>; *Westerlo Passes Renewable-Energy Laws*, ALTAMONT ENTERPRISE, Oct. 6, 2021, <https://altamontenterprise.com/10062021/westerlo-passes-renewable-energy-laws>.

⁴¹⁴ Emily Griffin, *Worth Residents Criticize Town Officials for Wind Law They Don’t Remember Passing*, WWNY-TV, June 19, 2019, <https://www.wnnyt.com/2019/06/19/worth-residents-criticize-town-officials-wind-law-they-dont-remember-passing>.

solar energy projects are allowed. A lawyer for a group called Cambria Opposes Industrial Solar also participated in the hearing.⁴¹⁵

- **Columbia Solar (Herkimer County):** EDF Renewables has proposed a 2,200-acre, 350-MW solar farm in the Town of Columbia. Local residents have put up signs that read “Oppose Columbia Solar.” An organizer for a group called Protect Columbia reported in January 2023 that he was consulting with legal counsel about options to challenge the project.⁴¹⁶
- **Garnet Energy Center (Cayuga County):** On October 27, 2022, the state Siting Board approved NextEra’s application to construct a 200-MW solar project that will comprise 900 acres of panels across 2,300 acres of land in the town of Conquest. A local group called the Rural Preservation and Net Conservation Benefit Coalition filed a petition for rehearing, arguing that NextEra’s avian impact studies were inadequate. On February 14, 2023, the request for rehearing was denied, allowing the project to move forward.⁴¹⁷
- **Meade Road Solar Project (St. Lawrence County):** Plans for a 5-MW solar project on 25 acres of land in in the town of Canton encountered public opposition. The plan was first proposed in 2020 and not approved until November 2022. In the meantime, the cattle farmer who owns the land where the

⁴¹⁵ Benjamin Joe, *Cambria states its case for upending Bear Ridge Solar project*, LOCKPORT UNION-SUN & JOURNAL, Feb. 7, 2023, https://www.lockportjournal.com/news/local_news/cambria-states-its-case-for-upending-bear-ridge-solar-project/article_bc862004-a72f-11ed-a10b-8739bf7a3c5f.html.

⁴¹⁶ Kirk Tupaj, *Solar project proposal under fire in town of Columbia*, WKTV, Jan. 12, 2023, https://www.wktv.com/news/local/concerns-over-solar-energy-projects-town-of-columbia/article_28e7d890-92cd-11ed-af91-0f9c56992ff0.html.

⁴¹⁷ The Citizen Staff, *NY board rejects rehearing request on Cayuga County solar farm approval*, AUBURNPUB.COM, Feb. 15, 2023, https://auburnpub.com/news/local/govt-and-politics/ny-board-rejects-rehearing-request-on-cayuga-county-solar-farm-approval/article_1ecd530b-686d-5da7-a302-817a8ad6160c.html.

project will be sited reports that he has lost money due to delays in the planning process.⁴¹⁸

- **North Side Energy Center (St. Lawrence County):** On August 9, 2022, the state Siting Board denied approval for the 180-MW North Side Energy Center solar farm, the first project rejected by the Siting Board. The Siting Board rejected the application because it “failed to adequately address the significant adverse impacts to freshwater wetlands on the site.”⁴¹⁹ In December 2022, the developer’s request for rehearing was denied.⁴²⁰ The project attracted opposition from a group called Friends Against Rural Mismanagement (FARM).⁴²¹
- **Ridge View Solar Center (Niagara County):** In 2019, EDF Renewables proposed developing the 350-MW Ridge View Solar Center on 2,000 acres in the Town of Hartland. A grassroots movement called Protect Our Rural Communities (PORC) was created to oppose the project, lobbying the town board to enact an updated solar law. An October 2022 article reported that opponents initially tried to block the project entirely but have become resigned to the fact that towns have limited authority in light of Executive Law Section 94-c, which allows the state to set aside local laws on a case by case basis.⁴²²

⁴¹⁸ Celia Clarke, *Canton planning board approves one of several solar farm projects*, NORTH COUNTRY PUBLIC RADIO, Nov. 29, 2022, <https://www.northcountrypublicradio.org/news/story/46968/20221129/canton-planning-board-approves-one-of-several-solar-farm-projects>.

⁴¹⁹ 7 News Staff, *Siting board denies St. Lawrence County solar farm application*, WWNYTV, Aug. 9, 2022, <https://www.wwnytv.com/2022/08/09/siting-board-denies-st-lawrence-county-solar-farm-application>.

⁴²⁰ Celia Clarke, *Judge rejects request by developer of a proposed St. Lawrence County solar project*, NORTH COUNTRY PUBLIC RADIO, Dec. 8, 2022, <https://www.northcountrypublicradio.org/news/story/47017/20221208/judge-rejects-request-by-developer-of-a-proposed-st-lawrence-county-solar-project>.

⁴²¹ See Comments of FARM, Application of North Side Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10, Case No. 17-F-0598 (N.Y.P.S.C. May 21, 2018).

⁴²² Jacob Fries, *Hartland’s solar opposition wanes*, LOCKPORT UNION-SUN & JOURNAL, Oct. 13, 2022, <https://sports.yahoo.com/hartlands-solar-opposition-wanes-122100289.html>.

- **Staten Island Battery Storage Project (Richmond County):** In January 2023, New Leaf withdrew its application to build a 20 MWh battery storage facility in Staten Island amid community opposition. Opponents expressed concerns about fire risk and argued that the facility was too close to a church and six local schools.⁴²³

New Entries (Pre-March 2022 Developments)

- **Galloo Island Wind Project (Jefferson County):** In February 2019, Apex abandoned plans to construct a 108-MW wind farm on Galloo Island. The project faced opposition from residents concerned about impacts to property values and a retired wildlife biologist, who raised concerns about the presence of a bald eagle nest near the project site.⁴²⁴

Existing Entries (Updated)

- **Alle-Catt Wind Farm (Allegany, Cattaraugus, and Wyoming Counties):** In November 2021, the Fourth Department of the Appellate Division of the New York Supreme Court affirmed the State Siting Board's approval of the 340-MW Alle-Catt Wind Farm in Western New York. The approval had been challenged by a group called the Coalition of Concerned Citizens.⁴²⁵
- **Black Oak Wind Farm (Tompkins County):** The Black Oak Wind Farm, a proposed 7-turbine, 16-MW project, was first conceived in 2006. However, in December 2017, the developer canceled the project. The developer blamed the

⁴²³ Jessica Jones-Gorman, *Plans withdrawn for community-opposed lithium-ion battery storage system on Staten Island*, SILIVE.COM, Jan. 13, 2023, <https://www.silive.com/business/2023/01/plans-withdrawn-for-community-opposed-lithium-ion-battery-storage-system-on-staten-island.html>.

⁴²⁴ Marcus Wolf, *Opponents applaud withdrawal, backers lament*, WATERTOWN DAILY TIMES, Feb. 12, 2019, https://www.nny360.com/news/opponents-applaud-withdrawal-backers-lament/article_aa746d96-8999-533b-b186-09c947635231.html.

⁴²⁵ Coalition of Concerned Citizens v. New York State Bd. on Elec. Generation Siting & the Env't, Case No. 2021-06221, (4th Dep't Nov. 12, 2021).

Town of Enfield's moratorium and other actions, which effectively held up the project for two years and drove the company into bankruptcy.⁴²⁶

- **Bliss Solar 1 Project (Schoharie County):** In June 2019, Bliss Solar 1, LLC, a subsidiary of Borrego, filed an application with the Schoharie Town Board to install a 5-MW solar system and a 2-MW solar system on a 41.55 acres of land just outside the Village of Schoharie. The proposal was later reduced to just one 5-MW project. In March 2021, the Town Board voted against the project. In June 2021, the developer filed an appeal in state court, alleging that the Board's decision was arbitrary and capricious. In February 2022, the trial court ruled in favor of the Board, and the developer filed a notice of appeal to the appellate division.⁴²⁷
- **Bluestone Wind Farm Project (Broome County):** In October 2021, the Third Department of the Appellate Division of the New York Supreme Court denied a petition by Broome County Concerned Residents and others challenging the state Siting Board's approval of the 125-MW Bluestone Wind Farm Project in Sanford, New York. The petitioners alleged that the Siting Board failed to adequately consider local laws and impacts on locally endangered golden eagles, along with other claims.⁴²⁸
- **Cape Vincent Wind Project (Jefferson County):** In 2014, after a 10-year battle to develop a 200- to 285-MW wind project in the Town of Cape Vincent, BP Wind Energy formally withdrew its application. Seasonal residents opposed the project

⁴²⁶ Brian Crandall, *Black Oak Wind Farm cancelled*, ITHACA VOICE, Dec. 31, 2017, <https://ithacavoices.org/2017/12/black-oak-wind-farm-cancelled/>.

⁴²⁷ Patsy Nicosia, *Court tosses Borrego v. Schoharie lawsuit*, TIMES-JOURNAL, Feb. 10, 2022, <https://www.cobleskilltimesjournal.com/article.asp?id=105791>; Judgment, Bliss Solar 1, LLC v. Town of Schoharie Town Board, No.: 2021-320 (Sup. Ct., Schoharie Cnty. Feb. 2, 2022); Notice of Appeal, Bliss Solar 1, LLC v. Town of Schoharie Town Board, No.: 2021-320 (3d Dep't Feb. 14, 2022).

⁴²⁸ Broome Cnty. Concerned Residents v. New York State Bd. on Elec. Generation Siting & the Env't, 200 A.D.3d 26 (3d Dep't 2021).

due to concerns about impacts to property values, while many year-round residents supported the project because of the revenues it would bring.⁴²⁹

- **Cassadaga Wind Project (Chautauqua County):** The group Concerned Citizens of Cassadaga Wind Project intervened in a statewide Siting Board proceeding under Article 10 of the Public Service Law to oppose the 126-MW Cassadaga Wind Farm. The project was ultimately approved by the Siting Board in January 2018.⁴³⁰
- **EWT Portland Community Wind (Chautauqua County):** Dutch developer EWT proposed constructing a 7-MW, 7-turbine community wind project in Portland, New York as part of New York State’s Community Distributed Generation Program. However, in October 2020, the Town of Portland adopted a restrictive wind energy ordinance that threatens the viability of the project. In 2021, the developer filed a lawsuit against the town and a motion for a preliminary injunction; the court denied the motion. The project has not been built.⁴³¹
- **Flint Mine Solar (Greene County):** A 100-MW solar project proposed in the towns of Coxsackie and Athens in Greene County faced opposition from the Town of Coxsackie. In 2019, Coxsackie passed an ordinance that would have blocked the project. However, on August 4, 2021, the state Siting Board approved

⁴²⁹ BP ‘terminates’ controversial plans for Cape Vincent wind farm, WWNYTV, Feb. 26, 2014, <https://www.wind-watch.org/news/2014/02/27/bp-terminates-controversial-plans-for-cape-vincent-wind-farm/>.

⁴³⁰ Windpower Engineering and Development, *New York Siting Board approves 126-MW Cassadaga wind farm*, <https://www.windpowerengineering.com/new-york-siting-board-approves-126-mw-cassadaga-wind-farm/> (visited Dec. 15, 2020).

⁴³¹ EWT Portland, New York, United States, <https://communitywind.energy/projects/portland/> (last visited Apr. 2, 2023); see *NY Direct Wind Portland LLC, et al. v. Town of Portland*, Index No. EK120210000236 (Sup. Ct., Chautauqua Cnty.).

the project over the town's objection. On March 28, 2023, the Siting Board approved an amendment to the project.⁴³²

- **Gate of Heaven Solar Farm (Westchester County):** On September 2, 2021, the Mount Pleasant Planning Board voted to deny an application to build a 5.75-MW solar farm in the Gate of Heaven cemetery. Saw Mill River Audubon and the Westchester County Planning Board wrote letters in opposition to the project. In denying the project, Mount Pleasant Planning Board members focused on the number of trees that would need to be cleared and the potential impacts that such tree-clearing could have on mudslides.⁴³³
- **Lighthouse Wind Project (Niagara and Orleans Counties):** In January 2018, the Somerset Town Board passed restrictions that would effectively prevent approval and construction of the proposed 201-MW, 70-turbine Lighthouse Wind project, unless the state were to override those restrictions under Article 10 of the New York Public Service Law.⁴³⁴ In September 2022, after eight years of contentious public hearings and lawsuits, the developer formally abandoned the project.⁴³⁵
- **Mad River Wind Farm (Jefferson and Oswego Counties):** The proposed 88-turbine, 350-MW wind Mad River Wind Farm in the Tug Hill region of upstate New York encountered opposition from the Tug Hill Tomorrow Land Trust due to potential ecological impacts. In June 2019, supporters of the project accused

⁴³² Order Approving Amendment, Application of Flint Mine Solar LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10, 18-F-0087 (N.Y.P.S.C. Mar. 28, 2023); Friends of Flint Mine Solar v. Town Board of Coxsackie, No. 19-0216 (N.Y. Sup. Ct. Sept. 13, 2019) at 12.

⁴³³ Michael Gold, *Mount Pleasant Planning Board Rejects Gate of Heaven Solar Farm*, Examiner NEWS, Sept. 6, 2021, <https://www.theexaminernews.com/mount-pleasant-planning-board-rejects-gate-of-heaven-solar-farm>.

⁴³⁴ *Somerset Town Board approves anti-wind zoning laws*, LOCKPORT UNION SUN & JOURNAL, Jan. 29, 2018, https://www.lockportjournal.com/news/local_news/somerset-town-board-approves-anti-wind-zoning-laws/article_bdc0bf1b-cb25-55e2-8762-529ffea44872.html.

⁴³⁵ Thomas C. Zambito, *'Where's the rural justice?' Turbine plans for Lake Ontario shoreline hit headwinds in WNY*, LOHUD, Oct. 12, 2022, <https://www.lohud.com/story/news/local/new-york/2022/10/12/wind-turbines-on-lake-ontario-shoreline-hit-headwinds-in-wny/69547381007/>.

the Worth town board of secretly passing a law that severely restricted wind farm construction in April and then claiming the next month that they would table a vote on the law. In December 2020, the developer abandoned the project.⁴³⁶

- **Madrid Solar Farm (St. Lawrence County):** In February 2022, the St. Lawrence County Planning Board rejected a plan for a 4.4-MW solar farm in Madrid, New York, citing concerns that the project would use too much of the county's prime agricultural land.⁴³⁷
- **Monticello Hills Wind Project (Otsego County):** Neighbors of a planned 18.4-MW wind farm in Richfield sued the planning board for approving the project. A State Supreme Court judge ruled for the plaintiffs, but an appellate court reversed the decision in 2015, allowing the project to move forward. The project apparently was never completed.⁴³⁸
- **Oak Hill I and II Community Solar Farms (Schenectady County):** In December 2019, resident Lynne Bruning and Susan Biggs filed a lawsuit to annul the Town of Duanesburg Planning Board's approval of two 5-MW solar projects on Oak

⁴³⁶ Julie Abbass, *Two controversial north country wind projects 'no longer seeking' Article 10 approval*, NNY360, Dec. 12, 2020, <https://www.wind-watch.org/news/2020/12/13/two-controversial-north-country-wind-projects-no-longer-seeking-article-10-approval/>; David H. Newman et al., *Mad River Wind Farm Impact Assessment Study in the Tug Hill Region of New York State* (Apr. 2018), <https://docs.wind-watch.org/Mad-River-ESF-White-Paper-23Apr2018.pdf>; Emily Griffin, *Worth Residents Criticize Town Officials for Wind Law They Don't Remember Passing*, WWNY-TV, June 19, 2019, <https://www.wwnytv.com/2019/06/19/worth-residents-criticize-town-officials-wind-law-they-dont-remember-passing>.

⁴³⁷ Bob Beckstead, *St. Lawrence County Planning Board rejects plan for Madrid solar farm*, NNY 360, Feb. 14, 2022, https://www.nny360.com/communitynews/business/st-lawrence-county-planning-board-rejects-plan-for-madrid-solar-farm/article_3d8341f3-6ad5-589b-a656-fc19bc33ab25.html.

⁴³⁸ Joe Mahoney, *Appeals court puts Richfield wind farm back on track*, THE DAILY STAR, May 22, 2015, https://www.thedailystar.com/news/local_news/appeals-court-puts-richfield-wind-farm-back-on-track/article_39f38f71-8ca5-55e8-a22b-a2529d88a525.html; *Matter of Frigault v. Town of Richfield Planning Bd.*, 128 A.D.3d 1232 (3d Dep't 2015).

Hill Road by Eden Renewables.⁴³⁹ An appellate court ruled in favor of the board in November 2020, upholding the approval of the projects.⁴⁴⁰

- **Oneida groSolar Project (Madison County):** Residents of Oneida sued the city in August 2015 to stop construction of a 2.8-MW solar farm by groSolar on 13 acres of city-owned land. A Madison County judge rejected the petition as untimely. Nonetheless, the developer worked with the city to find an alternative location. A 1.5-MW project was completed at the new location in December 2017.⁴⁴¹
- **Orangeville Wind Farm (Wyoming County):** An organization called Clear Skies Over Orangeville (CSOO) was formed as early as 2006 to fight the 75-turbine Orangeville Wind Farm when the developer was still buying up leases. CSOO brought two lawsuits against the town in 2010 and 2012 to stop the project. However, a New York State Supreme Court judge dismissed both cases in 2018. Meanwhile, 60 Orangeville residents brought a \$40 million nuisance action against the developer Invenergy after the project was completed in 2014.⁴⁴² In July 2022, a federal district court denied Invenergy's motion for summary judgment, allowing the nuisance action to proceed to trial. In September 2022, the parties stipulated to dismissal upon reaching a settlement.⁴⁴³

⁴³⁹ Pete DeMola, *Town of Duaneburg delays vote on PILOT solar deal as questions percolate*, THE DAILY GAZETTE, Dec. 30, 2019, <https://dailygazette.com/2019/12/30/town-of-duaneburg-delays-vote-on-pilot-solar-deal-as-questions-percolate>.

⁴⁴⁰ Biggs v. Eden Renewables, LLC, 188 A.D.3d 1544 (3d Dept. 2020); Eden Renewables, Oak Hill I & II Community Solar Farms, <https://edenrenewables.com/oak-hill-farms>.

⁴⁴¹ Charles Pritchard, *Oneida Solar Farm up and running*, THE ONEIDA DAILY DISPATCH, Jan. 3, 2018, <https://www.oneidadispatch.com/2018/01/03/oneida-solar-farm-up-and-running/>; John Brewer, *Judge Dismisses Oneida City Solar Farm Lawsuit*, THE ONEIDA DISPATCH, Apr. 27, 2016, <https://www.oneidadispatch.com/2016/04/27/judge-dismisses-oneida-city-solar-farm-lawsuit>.

⁴⁴² Tim Fenster, *In the shadow of giants: Some say noise, vibrations from Orangeville Wind Farm are unbearable*, LOCKPORT JOURNAL, Feb. 12, 2018, https://www.lockportjournal.com/news/local_news/in-the-shadow-of-giants-some-say-noise-vibrations-from-orangeville-wind-farm-are-unbearable/image_1f6c1600-abea-56f6-9cd0-68ee3abc8c74.html.

⁴⁴³ Andre v. Invenergy LLC, No. 14-CV-765-JJM, 2022 WL 2759249 (W.D.N.Y. July 14, 2022); Text Order, Andre et al v. Invenergy LLC, Docket No. 1:14-cv-00765, ECF No. 164 (W.D.N.Y. Oct. 4, 2022).

- **Shepherd’s Run Solar Project (Columbia County):** In the Town of Copake, the developer Hecate LLC first approached the town board in 2017 with a proposal for a 40-MW solar project, which the developer later expanded to 60 MW across 480 acres. Due to community opposition, the developer then reduced the size of its proposal to 245 acres, with solar panels restricted to 81 acres. The developer initially applied for review by the New York State Siting Board under Article 10 of the Public Service Law, but transferred the application to the newly created New York State Office of Renewable Energy Siting (ORES) for expedited review. In June 2021, the town board filed a lawsuit against the state, seeking to have the application transferred back to the Article 10 process and seeking to invalidate the new regulations promulgated by ORES. The town’s request for a preliminary injunction and restraining order were denied in September 2021, and the case was dismissed in October 2021. The case is now on appeal in front of the appellate division.⁴⁴⁴
- **South Fork Wind Farm (Suffolk County):** An export cable to connect the 132-MW offshore South Fork Wind Farm to the grid has faced concerted opposition. A group called Citizens for the Preservation of Wainscott opposed the cable landing in filings before the New York Public Service Commission.⁴⁴⁵ In January 2021, the same group filed a lawsuit against East Hampton Town Board for approving an easement for the cable to land on Wainscott Beach and town-owned roads.⁴⁴⁶ The Public Service Commission granted the cable a key permit in

⁴⁴⁴ Susan Arterian, *The Backyard Battle for New York’s Climate Future*, THE RIVER, Sept. 28, 2021, <https://therivernewsroom.com/backyard-battle-for-new-yorks-climate-future-shepherds-run-copake>; Linnea Lueken, *New York Supreme Court Dismisses Lawsuit Challenging Industrial Renewables Siting Policies*, HEARTLAND DAILY NEWS, Nov. 23, 2021, <https://heartlanddailynews.com/2021/11/new-york-supreme-court-dismisses-lawsuit-challenging-industrial-renewables-siting-policies>; *Town of Copake v. New York State Office of Renewable Energy Siting*, No.: 2021-905502 (N.Y. Sup. Ct. Albany Cnty. 2021), <http://climatecasechart.com/case/town-of-copake-v-new-york-state-office-of-renewable-energy-siting/>.

⁴⁴⁵ Beth Young, *State Agencies Support South Fork Wind Farm as Wainscott Fumes*, EAST END BEACON, Oct. 13, 2020, <https://www.eastendbeacon.com/state-agencies-support-south-fork-wind-farm-as-wainscott-fumes>.

⁴⁴⁶ Christopher Walsh, *Group Sues to Block Wind Farm Cable in Wainscott*, THE EAST HAMPTON STAR, Feb. 2, 2021, <https://www.easthamptonstar.com/government/202122/group-sues-to-block-wind-farm-cable-wainscott>.

March 2021.⁴⁴⁷ On February 24, 2022, the Supreme Court of New York, Suffolk County, dismissed the complaint after determining that extensive environmental review had been undertaken.⁴⁴⁸ That same month, a solar developer filed a lawsuit in federal court challenging the federal government's approval of the offshore wind farm, alleging insufficient review of environmental impacts, including impacts to whales⁴⁴⁹; in March 2022, a second group of plaintiffs filed a separate lawsuit in federal court alleging insufficient consideration of PFAS contamination in connection with burying a cable in Wainscott.⁴⁵⁰ Construction of the project is underway.

- **SUN8 PDC Dryden Solar Project (Tompkins County):** In September 2017, the Willow Glen Cemetery Association and a local horse trainer brought a lawsuit against the Town of Dryden challenging its approval of a solar project adjacent to the cemetery and the horse trainer's property. In December 2017, the court dismissed both lawsuits, allowing the projects to move forward.⁴⁵¹

33. NORTH CAROLINA

33.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

⁴⁴⁷ Beth Young, *Public Service Commission Approves Wind Farm Cable Landing*, EAST END BEACON, Mar. 18, 2021, <https://www.eastendbeacon.com/public-service-commission-approves-wind-farm-cable-landing>.

⁴⁴⁸ *Citizens for the Preservation of Wainscott, Inc. v. Town Bd. of the Town of East Hampton*, No.: 2021-601847 (N.Y. Sup. Ct. Suffolk Cnty. 2022).

⁴⁴⁹ Am. Compl., *Allco Renewable Energy Ltd. V. Haaland*, Case No. 1:22-cv-10921-IT, Dkt. No. 58 (D. Mass. Feb. 23, 2022).

⁴⁵⁰ Compl., *Mahoney v. U.S. Dep't of Interior*, Case No. 2:22-cv-01305-FB-ST, Dkt. No. 1 (D. Mass. Mar. 9, 2022).

⁴⁵¹ *Matter of Willow Glen Cemetery Ass'n v. Dryden Town Bd.*, 2017 NY Slip Op 32676(U), EF2017-0208 (Dec. 22, 2017), <https://law.justia.com/cases/new-york/other-courts/2017/2017-ny-slip-op-32676-u.html>.

33.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **Ashe County:** Ashe County limits the height of large wind turbines to 199 feet.⁴⁵²
- **Carteret County:** According to an ordinance last updated in 2014, Carteret County requires that utility-scale wind turbines of at least 1 MW be set back 1 mile from property lines and roads and limited to 275 feet in height. The ordinance also imposes penalties if noise exceeds 35 decibels for more than 5 minutes at the property line.⁴⁵³
- **Craven County:** A county wind ordinance last modified in July 2021 requires that wind turbines be set back 1 mile from property lines and provides that shadow flicker on non-participating properties is not permitted. The ordinance further limits sound to 35 dbA at the property line.⁴⁵⁴
- **Currituck County:** Currituck County adopted a moratorium on new solar farms in January 2017, which remained in place until January 2019.⁴⁵⁵ The county's March 2022 Unified Development Ordinance does not allow "solar arrays" or "large" wind energy facilities in any zoning district.⁴⁵⁶

⁴⁵² ASHE COUNTY, N.C., CODE OF ORDINANCES § 163.21, https://codelibrary.amlegal.com/codes/ashecounty/latest/ashecounty_nc/0-0-0-3857.

⁴⁵³ CARTERET COUNTY, N.C., CODE OF ORDINANCES Appx. F § 3.2 (last updated Feb. 10, 2014), https://library.municode.com/nc/carteret_county/codes/code_of_ordinances?nodeId=COOR_APXFTAST_ART3WIENFA_S3-2PEAPIN.

⁴⁵⁴ CRAVEN COUNTY, N.C., CODE OF ORDINANCES §§ 41-268, 41-269 (last updated July 6, 2021), https://library.municode.com/nc/craven_county/codes/code_of_ordinances?nodeId=CD_ORD_CH41DERE_ARTIVTASTOR_S41-269WIENFARE.

⁴⁵⁵ Dee Langston, *Currituck Ends Ban on New Solar Farms*, OUTER BANKS VOICE, Jan. 31, 2019, <https://coastalreview.org/2019/01/currituck-ends-ban-on-new-solar-farms/>.

⁴⁵⁶ CURRITUCK COUNTY, N.C., UNIFIED DEVELOPMENT ORDINANCE, Table 4.1.1.A at PDF page 187 (March 2022), <https://currituckcountync.gov/wp-content/uploads/udo-22mar22.pdf>.

- **Iredell County:** Iredell County restricts wind turbines to 350 feet in height and limits noise to 30 decibels at the property line.⁴⁵⁷

Existing Entries (Updated)

- **Brunswick County:** In August 2021, the Brunswick County Board of Commissioners approved a resolution opposing wind farms within 24 nautical miles of the coast. The towns of Ocean Beach Isle and Sunset Beach and the Village of Bald Head Island, all within Brunswick County, passed similar resolutions.⁴⁵⁸ *The resolutions are nonbinding.*
- **Hertford County:** Hertford County Commissioners unanimously approved a temporary solar moratorium in October 2020. The moratorium was enacted in response to local opposition to the proposal for development of a nearby solar farm.⁴⁵⁹
- **Rowan County:** In October 2019, Rowan County instituted a moratorium on large solar farms, set to expire in April 2020. It was extended twice. At the time of the most recent extension on October 5, 2020, it was set to expire on April 6, 2021.⁴⁶⁰

⁴⁵⁷ IREDELL COUNTY, N.C., CODE OF ORDINANCES § 3-R63 (last updated Mar. 7, 2022), https://library.municode.com/nc/iredell_county/codes/code_of_ordinances?nodeId=APXALADECO_CH3_PERE_R63WIENST.

⁴⁵⁸ Preston Lennon, *Prospect of visible ocean wind farms unites Brunswick towns in opposition*, PORT CITY DAILY, Aug. 3, 2021, <https://portcitydaily.com/local-news/2021/08/03/prospect-of-viewable-wind-farms-unites-brunswick-towns-in-opposition>; Village of Bald Head Island, *Council Meeting Agenda Item: Request to Adopt Resolution in Opposition to Issuance of Wind Energy Leases within 24 Nautical Miles of North Carolina's Shores*, May 21, 2021.

⁴⁵⁹ Cal Bryant, *Moratorium slows start-up of Hertford Co. solar farms*, ROANOKE CHOWAN NEWS-HERALD, Oct. 6, 2020, <https://www.roanoke-chowannewsheald.com/2020/10/06/moratorium-slows-start-up-of-hertford-co-solar-farms>.

⁴⁶⁰ Ben Stansell, *Planning board talks through new rules for solar farms*, SALISBURY POST, Oct. 27, 2020, <https://www.salisburypost.com/2020/10/27/planning-board-talks-through-new-rules-for-solar-farms>.

- **Town of Woodland (Northampton County):** In 2015, the Woodland Town Council approved a moratorium on all future solar projects in the midst of opposition to a project proposed by Strata Solar.⁴⁶¹

33.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Bacon’s Castle Solar Farm (Surry County):** On June 16, 2022, County Supervisors rejected plans for a 20-MW solar farm that would have been situated across the street from a historic 17th century homestead. The Surry County Planning Commission previously found that the proposal conflicted with the county’s 2040 Comprehensive Plan due to visual impacts on scenic and cultural resources and the county’s ordinance, which requires that solar projects “avoid important historic, archaeological or cultural sites.” Eight out of the ten residents who spoke about the application at a public hearing advocated against the project.”⁴⁶²
- **Blackburn Solar Project (Catawba County):** On April 18, 2022, county commissioners voted unanimously to reject Duke Energy’s request for rezoning to allow construction of a 58-MW, 600-acre solar project that would offset 50% of Wells Fargo’s electricity usage in the state. The county planning board previously recommended approval of the project, but the county decided to reject the project after hearing from five residents spoke out in opposition to it. Opponents argued that the land at issue was better suited for farming. Supporters, including the Chambers for Innovation and Clean Energy, argued that solar panels would increase tax revenues and occupy only a very small portion of land.⁴⁶³

⁴⁶¹ Max Blau, *How a North Carolina village came to believe that solar farms were “killing the town”*, THE GUARDIAN, Dec. 21, 2015, <https://www.theguardian.com/us-news/2015/dec/21/north-carolina-woodland-solar-farms>.

⁴⁶² Stephen Faleski, *Surry rejects Bacon’s Castle solar farm*, THE SMITHFIELD TIMES, June 20, 2022, <https://www.smithfieldtimes.com/2022/06/20/surry-rejects-bacons-castle-solar-farm>.

⁴⁶³ John Deem, *‘Bigger fights’: Opposition to solar farms growing in NC*, WINSTON-SALEM JOURNAL, May 1, 2022, <https://journalnow.com/news/local/bigger-fights-opposition-to-solar-farms-growing-in->

Existing Entries (Updated)

- **Shady Grove Solar Farm (Yadkin County):** Yadkin County denied a conditional use permit for the Shady Grove Solar farm in October 2020. The solar farm, a joint venture between Silver Creek Energy and Pine Gate Renewables, would have produced 22 MW on 285 acres. Opponents testified at an evidentiary hearing about their concerns of flooding from the removal of trees, as well as impacts to water quality and tourism. The developer appealed the decision in November 2020.⁴⁶⁴
- **Woodland Solar Project (Northampton County):** In 2015, Strata Solar Company asked the Woodland Town Council to rezone a 42-acre farm to allow for construction of a 5-MW solar farm. Residents organized against the project, expressing unfounded fears that the solar project would cause cancer and other impacts. One resident asserted at a Town Council Meeting that the proposed solar farm “would suck up all the energy from the sun and businesses would not come to Woodland.” The Town Council voted against the rezoning and imposed a moratorium on all future solar projects, citing their constituents’ concern of being “completed surrounded by solar farms.”⁴⁶⁵

[nc/article_11f7719e-c71d-11ec-9813-4b06f341167a.html](https://www.duke-energy.com/news/11f7719e-c71d-11ec-9813-4b06f341167a.html); Duke Energy, Wells Fargo, NextEra Energy Resources join forces on major solar expansion in North Carolina, Duke Energy, Apr. 8, 2021, <https://news.duke-energy.com/releases/duke-energy-wells-fargo-nextera-energy-resources-join-forces-on-major-solar-expansion-in-north-carolina>.

⁴⁶⁴ Kitsey Burns Harrison, *Conditional use permit denied for solar farm near Smithtown*, YADKIN RIPPLE, Oct. 13, 2020, <https://www.yadkinripple.com/news/18274/no-solar-farm>; Kitsey Burns Harrison, *Superior Court appeal filed for Shady Grove solar farm project*, YADKIN RIPPLE, Nov. 17, 2020, <https://www.yadkinripple.com/news/18470/superior-court-appeal-filed-for-shady-grove-solar-farm-project>.

⁴⁶⁵ Max Blau, *How a North Carolina village came to believe that solar farms were “killing the town”*, THE GUARDIAN, Dec. 21, 2015, <https://www.theguardian.com/us-news/2015/dec/21/north-carolina-woodland-solar-farms>; David Roberts, *The North Carolina town that’s scared of solar panels, revisited*, VOX, Dec. 18, 2015, <https://www.vox.com/2015/12/18/10519644/north-carolina-solar-town>.

34. NORTH DAKOTA

34.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

34.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Grand Forks County:** On April 25, 2023, Grand Forks County adopted a 90-day moratorium on siting new wind farms.⁴⁶⁶ Previously, on June 14, 2022, the county amended its zoning regulations to require a setback of 0.5 miles from any wind turbine to the nearest residence.⁴⁶⁷

New Entries (Pre-March 2022 Developments)

- **City of Grand Forks (Grand Forks County):** The City of Grand Forks prohibits wind energy systems that “generate power as a commercial enterprise.”⁴⁶⁸

Existing Entries (Updated)

- **McLean County:** In May 2020, McLean County banned the construction of new transmission lines for wind energy within 1 mile of the Missouri River and two lakes on the county’s western border. This impeded plans to connect new renewable energy projects to the power line of a coal-fired Coal Creek power plant slated for closure. In August 2020, McLean County also introduced a 2-year

⁴⁶⁶ Ryan Janke, Grand Forks County Commission issues moratorium on wind farm siting, KFGO, Apr. 26, 2023, <https://kfgo.com/2023/04/26/grand-forks-county-commission-issues-moratorium-on-wind-farm-siting/>.

⁴⁶⁷ Grand Forks County, N.D., Zoning Resolution § 72-8 (last amended June 14, 2022), <https://www.gfcounty.nd.gov/home/showpublisheddocument/5593/638132621820900000>.

⁴⁶⁸ Grand Forks, N.D., City Code § 18-0306(6), https://library.municode.com/nd/grand_forks/codes/code_of_ordinances?nodeId=GRFOCO1987_CHXVII_ILADECO_ART3RURE_18-0306WIENCOSYWE.

moratorium on solar development, purportedly to give the Coal Creek power plant an opportunity to avoid closure.⁴⁶⁹

- **Mercer County:** In May 2020, Mercer County adopted a 2-year moratorium on wind energy applications, blocking the planned Garrison Butte Wind Farm. In July 2020, supporters of coal argued at a public meeting that the moratorium should stay in place.⁴⁷⁰

34.3 Contested Projects

New Entries (Pre-March 2022 Developments)

- **Burke County Wind (Burke County):** In June 2019, the PSC rejected NextEra's application to construct the Burke County Wind Project due to proximity to wetlands and potential wildlife impacts, the first time the PSC had rejected a wind farm application. The project was controversial in the community, where the planning and zoning commission had voted against it before the county commissioners approved it. NextEra submitted a revised application for a 74-turbine, 200-MW wind farm called Northern Divide Wind, which the PSC approved in June 2021.⁴⁷¹

⁴⁶⁹ Jeffrey Tomich, *How a coal plant closure created wind bans and grid limbo*, E&E NEWS REPORTER, July 24, 2020, <https://www.eenews.net/articles/how-a-coal-plant-closure-created-wind-bans-and-grid-limbo>; Mike McFeely, *McFeely: 'Betting on Einstein,' North Dakota coal county bans solar*, GRAND FORKS HERALD, Aug. 17, 2020, <https://www.thedickinsonpress.com/opinion/columns/mcfeely-betting-on-einstein-north-dakota-coal-county-bans-solar-power>.

⁴⁷⁰ Amy R. Sisk, *Mercer County to keep wind moratorium in place*, THE BISMARCK TRIBUNE, July 16, 2020, https://bismarcktribune.com/news/state-and-regional/mercer-county-to-keep-wind-moratorium-in-place/article_abef13a9-c70f-5b86-9d25-c40c9e10998e.html.

⁴⁷¹ John Hageman, *North Dakota keeps adding wind turbines. Some aren't happy about it*, FORUM NEWS SERVICE, Sept. 19, 2019, <https://www.farmforum.net/story/news/agriculture/2019/09/19/north-dakota-keeps-adding-wind-turbines-some-arent-happy-about-it/49236533/>; Joe Skurzewski, *Company behind rejected wind project in Burke County to submit new application*, KFYR-TV, Aug. 15, 2019, <https://www.kfyrtv.com/content/news/Company-behind-rejected-wind-project-in-Burke-County-to-submit-new-application-544987201.html>; Amy R. Sisk, *PSC rejects permit for wind farm over lighting issues*, THE BISMARCK TRIBUNE, Mar. 4, 2020, https://bismarcktribune.com/news/state-and-regional/govt-and-politics/psc-rejects-permit-for-wind-farm-over-lighting-issues/article_37b8b353-159b-553a-9f58-

Existing Entries (Updated)

- **Brady Wind Farm (Stark County):** Dickinson Wind applied for a conditional use permit to construct an 87-turbine, 150-MW facility in Stark County. Opponents formed a group called Concerned Citizens of Stark County, who spoke against the project in a March 2016 hearing before the PSC. The PSC approved the project in June 2016.⁴⁷²
- **Burleigh-Emmons Wind Farm (Burleigh County):** PNE Wind proposed a 70-turbine wind farm in Burleigh County near Morton Township. The issue became highly divisive in the local community, leading to the denial of county land use permits in May 2019, and a vote to recall Burleigh County officials who supported the project in August 2019. Opponents organized an anti-wind organization, North Dakota Visionkeepers, to block the project. The new project owner, Burke Wind, stated in May 2019 that they intended to move the project to elsewhere.⁴⁷³
- **Charlie Creek Wind Farm (Billings County):** Orion Renewable Energy Ground submitted a zoning application for a 114-turbine, 383-MW project in Billings County. During a public hearing on the project, local residents expressed concerns over property devaluation, effects on local tourism, and impacts on the visual landscape. In particular, residents expressed concerns about turbine

[07f0868e8978.html](https://apnews.com/article/north-dakota-wildlife-wind-power-minot-f28f6f644f1fb7b1a8a3e69b0c6fa030); *Regulators approve wind farm in Burke County*, ASSOCIATED PRESS, June 11, 2020, <https://apnews.com/article/north-dakota-wildlife-wind-power-minot-f28f6f644f1fb7b1a8a3e69b0c6fa030>.

⁴⁷² Allyssa Dickert, *N.D. Public Service Commission Surprised by Wind Farm Opposition*, KFYR-TV, Mar. 31, 2016, <https://web.archive.org/web/20161105195945/https://www.kfyrtv.com/home/headlines/Dickinson-Public-Service-Commission-Surprised-by-Wind-Farm-Opposition-374199651.html>; Kalsey Stults, *PSC approves Brady Wind project in Stark County*, THE DICKINSON PRESS, June 16, 2016, <https://www.thedickinsonpress.com/business/psc-approves-brady-wind-project-in-stark-county>;

⁴⁷³ Robert Suhr, *Southern Burleigh County wind farm project officially dead*, KX NEWS, May 22, 2019, <https://www.kxnet.com/news/southern-burleigh-county-wind-farm-project-officially-dead>; Jack Dura, *Wind farm controversy drives likely first township recall in North Dakota*, GRAND FORKS HERALD, Aug. 20, 2019, <https://www.inforum.com/news/wind-farm-controversy-drives-likely-first-township-recall-in-north-dakota>; John Hageman, *As wind grows in North Dakota, so does opposition*, THE BISMARCK TRIBUNE, Sept. 12, 2019, https://bismarcktribune.com/news/state-and-regional/as-wind-grows-in-north-dakota-so-does-opposition/article_d5426f43-1aad-5ee2-875b-e18fc02f6a1f.html.

visibility from the Painted Canyon Visitor Center and other parts of Theodore Roosevelt National Park. In November 2016, the Billings County Commission denied the permit.⁴⁷⁴

- **Garrison Butte Wind Farm (Mercer County):** In 2018, Capital Power proposed a 152-MW wind farm in Mercer County. At a public hearing about the project, local residents expressed concern over the “attack on coal,” an industry that employs many residents. In May 2020, the Mercer County Commission passed a moratorium on wind development that blocked the project. Supporters of coal spoke out in favor of extending the moratorium at a July 2020 hearing, and a Facebook group called Faces of North Dakota Coal submitted a pro-coal letter to the commission with 500 local signatures.⁴⁷⁵
- **Great River Energy Wind Projects (McLean County):** In May 2020, Great River Energy announced that it would shut down the Coal Creek Station in Underwood, North Dakota, to replace that coal-powered facility with new wind energy projects. Great River Energy currently manages a 436-mile transmission line that can move 1,100 MW of power across the Midwest. However, in May 2020, McLean County passed a zoning amendment that effectively made it impossible to connect new wind farms to the existing transmission line from the west. As a result, by July 2020, Great River Energy had shelved plans to construct new wind energy projects in the area⁴⁷⁶

⁴⁷⁴ Kalsey Stults, *Wind farm application rejected by Billings County Commission*, THE BISMARK TRIBUNE, Nov. 15, 2016, <https://www.inforum.com/news/wind-farm-application-rejected-by-billings-county-commission>.

⁴⁷⁵ Amy R. Sisk, *Mercer County to keep wind moratorium in place*, THE BISMARK TRIBUNE, July 16, 2020, https://bismarcktribune.com/news/state-and-regional/mercercounty-to-keep-wind-moratorium-in-place/article_abef13a9-c70f-5b86-9d25-c40c9e10998e.html; Amy R. Sisk, *Tension over renewables in coal county on display at wind moratorium hearing*, THE BISMARK TRIBUNE, July 1, 2020, https://bismarcktribune.com/news/state-and-regional/tension-over-renewables-in-coal-country-on-display-at-wind-moratorium-hearing/article_b137421f-2017-5daa-83a9-dffeb4fa16a8.html.

⁴⁷⁶ Jeffrey Tomich, *How a coal plant closure created wind bans and grid limbo*, E&E NEWS REPORTER, July 24, 2020, <https://www.eenews.net/articles/how-a-coal-plant-closure-created-wind-bans-and-grid-limbo>.

35. OHIO

35.1 State-Level Restrictions

Existing Entries (Updated)

- Ohio Senate Bill 52 of 2021 (“S.B. 52”), which took effect October 11, 2021, gives counties the power to veto specific projects and to declare themselves categorically off-limits to large renewable energy projects. Specifically, the law allows counties to adopt binding resolutions to (a) prohibit or limit the construction of a proposed project; and/or (b) designate a “restricted area” in which wind projects of at least 5 MW and solar projects of at least 50 MW are prohibited or otherwise limited. Renewable energy developers must also receive project approval from the Ohio Power Siting Board (OPSB), giving opponents a second opportunity to contest projects if they do not succeed in lobbying the county government for a resolution.⁴⁷⁷

35.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Allen County:** On April 4, 2022, the Allen County Commission unanimously passed a resolution pursuant to S.B. 52 “declaring portions of the unincorporated areas of Allen County, Ohio to be restricted areas prohibiting construction of economically significant wind farms, large wind farms and large solar facilities.”⁴⁷⁸
- **Auglaize County:** On April 26, 2022, the Auglaize County Commission unanimously passed a resolution pursuant to S.B. 52 designating all

⁴⁷⁷ Jeffery Tomich, ‘Volatile place.’ *New laws thwart Ohio renewables*, ENERGY WIRE, Aug 5, 2021, <https://www.eenews.net/articles/volatile-place-new-laws-thwart-ohio-renewables>; Ohio S.B. 52 (effective Oct. 11, 2021), <https://www.legislature.ohio.gov/legislation/134/sb52>.

⁴⁷⁸ Allen County, Ohio, Board of Commissioners Meeting Minutes at 3 (Apr. 4, 2022), <https://commissioners.allencountyohio.com/wp-content/uploads/2022/04/M040422-Special.pdf>; Jake Zuckerman, *Ten Ohio counties ban wind, solar projects under new state law*, OHIO CAPITAL JOURNAL, Aug. 23, 2022, <https://ohiocapitaljournal.com/2022/08/23/nine-ohio-counties-ban-wind-solar-projects-under-new-state-law/> [hereinafter “Zuckerman”].

unincorporated territories of the county as a restricted area for wind farms of at least 5 MW (i.e., “economically significant wind farms”) and solar projects of at least 50 MW.⁴⁷⁹

- **Butler County:** On June 23, 2022, the Butler County Board of Commissioners passed a resolution pursuant to S.B. 52 declaring all unincorporated areas of 12 townships as off-limits to wind projects of at least 5 MW and solar projects of at least 50 MW.⁴⁸⁰
- **Crawford County:** In May 2022, the Crawford County Board of Commissioners passed a resolution pursuant to S.B. 52 creating a 10-year ban on wind development that effectively prevents construction of the proposed 300-MW Honey Creek Wind Project. The developer of the project, Apex Clean Energy, collected enough signatures for a referendum to reverse the commissioners’ decision. However, in November 2022, the referendum upheld the restrictions.⁴⁸¹
- **Columbiana County:** On March 2, 2023, the Columbiana County Board of Commissioners approved a resolution pursuant to S.B. 52 prohibiting large wind and solar farms in the unincorporated areas of four townships. A public hearing

⁴⁷⁹ AUGLAIZE COUNTY, OHIO, RESOLUTION NO. 22-208 (Apr. 26, 2022), <https://www.documentcloud.org/documents/22160213-auglaize-co-resolution-22-208-with-map-re-wind-exclusion-zones>; see also Zuckerman, *supra*.

⁴⁸⁰ Butler County, Ohio, Board of Commissioners Meeting Minutes at 3 (June 23, 2022), <http://butlercountyoh.iqm2.com/Citizens/FileOpen.aspx?Type=15&ID=1747&Inline=True>; see also Zuckerman, *supra*.

⁴⁸¹ Jeffrey Tomich, *Two Great Lakes Counties Reject Wind Development*, E&E NEWS ENERGY WIRE, Nov. 14, 2022, <https://subscriber.politicopro.com/article/eenews/2022/11/14/two-great-lakes-counties-reject-wind-development-00066593>; Peter Krouse, *Crawford County voters will likely decide if wind turbine plans can proceed*, CLEVELAND.COM, Aug. 5, 2022, <https://www.cleveland.com/news/2022/08/wind-farm-controversy-in-rural-ohio-crawford-county-voters-will-likely-decide-if-wind-turbine-plans-can-proceed.html>; see also Zuckerman, *supra*.

was scheduled for April 26 to discuss resolutions to prohibit large wind and solar farms from an additional seven townships in the county.⁴⁸²

- **Hancock County:** On April 19, 2022, the Hancock County Board of Commissioners adopted a resolution pursuant to S.B. 52 prohibiting wind farms of at least 5 MW and solar farms of at least 50 MW from all unincorporated areas of the county except in Biglick Township.⁴⁸³
- **Knox County:** On August 11, 2022, the Knox County Board of Commissioners adopted a resolution pursuant to S.B. 52 prohibiting large wind farms, but not solar farms, from unincorporated parts of the county.⁴⁸⁴
- **Logan County:** On August 11, 2022, the Logan County Board of Commissioners passed a resolution pursuant to S.B. 52 prohibiting wind farms of at least 5 MW and solar farms of at least 50 MW from all unincorporated areas of the county, with the exception of Miami Township.⁴⁸⁵
- **Marion County:** Between August 2022 and March 2023, the Marion County Board of Commissioners issued resolutions pursuant to S.B. 52 restricting wind projects of at least 5 MW and solar projects of a least 50 MW in unincorporated areas of 9 townships (Big Island, Claridon, Grand Prairie, Green Camp, Pleasant, Prospect, Richland, Salt Rock, and Waldo).⁴⁸⁶

⁴⁸² Mary Ann Greier, *Commissioners OK solar, wind farm bans in four townships*, MORNING JOURNAL, Mar. 2, 2023, <https://www.morningjournalnews.com/news/local-news/2023/03/commissioners-ok-solar-wind-farm-bans-in-four-townships/>.

⁴⁸³ HANCOCK COUNTY, OHIO, RESOLUTION No. 150-22 (Apr. 19, 2022), <https://wkxa.com/wp-content/uploads/2022/04/exclusion-zones.pdf>; see also Zuckerman, *supra*.

⁴⁸⁴ Cheryl Splain, *Knox County commissioners say no to wind farms, okay solar on case-by-case basis*, KNOX PAGES, Aug. 11, 2022, https://www.knoxpages.com/news/knox-county-commissioners-say-no-to-wind-farms-okay-solar-on-case-by-case-basis/article_163a1ca8-19bf-11ed-8080-c38d44f430bf.html; see also Zuckerman, *supra*.

⁴⁸⁵ No Solar in Logan (Ohio), *Logan County Resolution!*, <https://www.nosolarinlc.com/post/logan-county-resolution> (last visited Apr. 29, 2023); see also Zuckerman, *supra*.

⁴⁸⁶ Andrew Carter, *Marion County Commissioners approve wind energy restrictions for Grand Prairie Twp.*, MARION STAR, Mar. 19, 2023, <https://www.marionstar.com/story/news/local/2023/03/19/commissioners->

- **Ottawa County:** On December 13, 2022, the Ottawa County Board of Commissioners adopted a resolution pursuant to S.B. 52 restricting wind farms of at least 5 MW and solar farms of at least 50 MW from all unincorporated areas in most townships in the county.⁴⁸⁷
- **Union County:** On June 15, 2022, the Union County Board of Commissioners approved a resolution that prohibits solar projects of at least 50 MW from unincorporated areas in 8 townships.⁴⁸⁸

New Entries (Pre-March 2022 Developments)

- **Medina County:** On January 25, 2022, the Medina County Board of Commissioners adopted a resolution pursuant to S.B. 52 restricting wind farms of at least 5 MW and solar farms of at least 50 MW in all unincorporated areas of the county. The resolution contains a provision, however, outlining how applicants may submit a request to the Board of County Commissioners to remove a proposed site from the excluded area.⁴⁸⁹

[back-grand-prairie-twp-wind-energy-limits/70014824007/](https://www.marionstar.com/story/news/local/2023/01/15/marion-co-commissioners-back-solar-wind-restrictions-in-waldo-twp/69803322007/); Andrew Carter, *Marion County Commissioners back solar, wind restrictions in Waldo Township*, MARION STAR, Jan. 15, 2023, <https://www.marionstar.com/story/news/local/2023/01/15/marion-co-commissioners-back-solar-wind-restrictions-in-waldo-twp/69803322007/>.

⁴⁸⁷ Sheri Trusty, *County Commissioners accept township decisions on large-scale solar, wind farms*, THE BEACON, Jan. 11, 2023, <https://www.thebeacon.net/county-commissioners-accept-township-decisions-on-large-scale-solar-wind-farms/>.

⁴⁸⁸ UNION COUNTY, OHIO, RESOLUTION NO. 22-217 (June 15, 2022), <https://www.unioncountyohio.gov/information> (last visited Apr. 29, 2023); see also Zuckerman, *supra*.

⁴⁸⁹ MEDINA COUNTY, OHIO, RESOLUTION NO. 22-0077 (Jan. 25, 2022), https://www.medinaco.org/wp-content/uploads/2022/01/Resolutions_1.25.22.pdf; see also Zuckerman, *supra*.

Existing Entries (Updated)

- **Seneca County:** On November 23, 2021, the Seneca County Board of Commissioners approved a resolution pursuant to S.B. 52 prohibiting wind and solar projects generating at least 50 MW from all unincorporated areas.⁴⁹⁰

35.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Cepheus Solar (Defiance County):** On January 18, 2023, the OPSB rejected the proposed 68-MW Cepheus Energy project, which would have included 649 acres of solar panels. Because the project met the criteria for grandfathering, it was exempt from county veto under S.B. 52. In rejecting the application, however, the OPSB gave weight to the fact that seven local governments opposed the project.⁴⁹¹
- **Chipmunk Solar (Pickaway County):** On March 2, 2022, EDF Renewables submitted an application for construction of the 400-MW Chipmunk Solar project on approximately 3,684 acres in Pickaway County. However, on December 22, 2022, the developer withdrew the application amidst intense local opposition. The project would have provided \$3.6 million per year in local tax revenue (mostly to fund public schools) and \$3 million per year in lease payments to participating landowners.⁴⁹²
- **Circleville Solar (Pickaway County):** On April 12, 2022, the Pickaway County Board of Commissioners adopted a resolution stating opposition to the proposed

⁴⁹⁰ Commissioners approve resolution restricting future wind, solar energy projects in Seneca County, TiffinOhio.Net, Nov, 24 2021, <https://go.tiffinohio.net/2021/11/commissioners-approve-resolution-restricting-future-wind-solar-energy-projects-in-seneca-county>.

⁴⁹¹ Peggy Kirk Hall, *Two more large-scale solar projects in Ohio turned down due to community opposition*, FARM OFFICE: OHIO STATE UNIVERSITY EXTENSION, Jan. 20, 2023, <https://farmoffice.osu.edu/blog/fri-01202023-403pm/two-more-large-scale-solar-projects-ohio-turned-down-due-community>.

⁴⁹² Dan Gearino, *In the End, Solar Power Opponents Prevail in Williamsport, Ohio*, INSIDE CLIMATE NEWS, Dec. 22, 2022, <https://insideclimatenews.org/news/22122022/solar-ohio-culture-wars-oppositionin/>.

70-MW Circleville Solar project.⁴⁹³ Because the project met the criteria for grandfathering, it was exempt from county veto under S.B. 52, and the resolution was not binding on the OPSB. Nonetheless, on June 10, 2022, Staff of the Public Utilities Commission recommended that the project be denied.⁴⁹⁴ The application is pending before the OPSB.⁴⁹⁵

- **Honey Creek Wind (Crawford County):** On May 5, 2022, the Crawford County Commissioners adopted a resolution pursuant to S.B. 52 prohibiting large wind farms in all unincorporated areas of the county, which effectively barred construction of the 300-MW Honey Creek Wind Farm proposed by Apex Clean Energy.⁴⁹⁶ Apex Clean Energy successfully petitioned to have the project put to a vote in a referendum in November but ultimately lost in the referendum when voters opted to uphold the restrictions.⁴⁹⁷
- **Oak Run Solar Project (Madison County):** If constructed, the 6,000-acre Oak Run Solar Project, with 800 MW of solar generation capacity and 300 MW of battery storage capacity, would be among the largest in the country. According to the developer, the project would deliver \$7.2 million in local tax benefits every

⁴⁹³ Pickaway County, Ohio, Resolution No. C-041222-32, <https://pickaway.org/docs/minutes/April%2012,%202022%20Minutes%20-%20Website.pdf>.

⁴⁹⁴ Steven Collins, *Circleville Solar project not recommended for approval by Power Siting Board staff*, CIRCLEVILLE HERALD, June 13, 2022, https://www.circlevilleherald.com/news/circleville-solar-project-not-recommended-for-approval-by-power-siting-board-staff/article_d5543d84-eb30-11ec-9cf1-e334be03297b.html.

⁴⁹⁵ In re Circleville Solar, 21-1090-EL-BGN (O.P.S.B.), <https://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=21-1090-EL-BGN>.

⁴⁹⁶ Gere Goble, *Wind farm opponents celebrate commissioners' vote*, TELEGRAPH FORUM, May 5, 2022, <https://www.bucyrustelegraphforum.com/story/news/2022/05/05/crawford-county-commissioners-block-honey-creek-wind-development/9656152002>.

⁴⁹⁷ Peter Krouse, *Wind farm controversy in rural Ohio: Crawford County voters will likely decide if wind turbine plans can proceed*, CLEVELAND.COM, Aug. 4, 2022, <https://www.cleveland.com/news/2022/08/wind-farm-controversy-in-rural-ohio-crawford-county-voters-will-likely-decide-if-wind-turbine-plans-can-proceed.html>; Jeffrey Tomich, *Two Great Lakes Counties Reject Wind Development*, E&E NEWS ENERGY WIRE, Nov. 14, 2022, <https://subscriber.politicopro.com/article/eenews/2022/11/14/two-great-lakes-counties-reject-wind-development-00066593>.

year, including \$3.5 million per year to local schools.⁴⁹⁸ However, the township trustees of all three townships in which the project would be located have passed unanimous resolutions opposing the project; all three townships have also intervened in the OPSB proceeding to oppose the project. Opponents have emphasized loss of farmland as an argument against the project. The developer has countered that it plans to contract with local farmers to plant crops between the rows of solar panels on approximately 2,000 acres of the site.⁴⁹⁹ In February 2023, the Madison County Commissioners submitted a letter urging the OPSB to reject the project.⁵⁰⁰ On March 27, 2023, despite opposition from local government officials, the Staff of the Public Utilities Commission recommended approval of the project.⁵⁰¹ The application is pending before the OPSB.⁵⁰²

- **Scioto Farms Solar (Pickaway County):** On December 13, 2021, Scioto Farms Solar Project LLC submitted an application for a 110 MW solar project in Wayne Township, Pickaway County. On May 10, 2022, the Staff of the Public Utilities Commission issued a report recommending that the project be denied. Staff noted in the report that the project is grandfathered under S.B. 52. However, in reaching its conclusion that the project would not serve the public interest, convenience, and necessity, Staff noted that the Pickaway County Board of Commissioners had issued a resolution expressing opposition to the project and

⁴⁹⁸ Oak Run Solar Project Update (Feb. 2023),

https://www.oakrunsolarproject.com/files/ugd/f1832c_231122fccdf445adb475fc888875efef.pdf.

⁴⁹⁹ Gail Keck, *Finding ways to farm between solar panels*, Farm and Dairy, Apr. 20, 2023,

<https://www.farmanddairy.com/news/finding-ways-to-farm-between-solar-panels/767312.html>.

⁵⁰⁰ Mark Williams, *Madison County leaders want pause on solar farms*, COLUMBUS DISPATCH, Feb. 9, 2023,

<https://www.dispatch.com/story/business/energy-resource/2023/02/09/madison-county-asks-state-to-reject-gates-solar-farm/69878023007/>.

⁵⁰¹ Staff Report of Investigation, In re Oak Run Solar Project, 22-0549-EL-BGN (O.P.S.B. Mar. 27, 2023).

⁵⁰² In re Oak Run Solar Project, 22-0549-EL-BGN (O.P.S.B.),

<https://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=22-0549-EL-BGN>.

that Wayne Township had intervened in the OPSB proceeding in opposition to the project.⁵⁰³ The application is pending before the OPSB.⁵⁰⁴

Existing Entries (Updated)

- **Birch Solar (Allen and Auglaize Counties):** On October 20, 2022, the OPSB rejected an application for the 300-MW Birch Solar Farm, the first time the OPSB ever denied an application for a large solar project. The project would have put solar panels on 1,410 acres out of a total project area of 2,345 acres, the majority of which was then in agricultural use. Because the project met the criteria for grandfathering, it was not subject to county veto under S.B. 52. In rejecting the project, however, the OPSB focused largely on the fact that the two counties and four townships where the project would have been located opposed the project.⁵⁰⁵
- **Chestnut Solar (Marion County):** On February 9, 2023, the Marion County Board of Commissioners adopted a resolution vetoing the proposed 68-MW Chestnut Solar project pursuant to S.B. 52. The project, which would have occupied 500 acres of farmland in Pleasant Township, faced concerted local opposition.⁵⁰⁶
- **Emerson Creek Wind Farm (Erie and Huron Counties):** On January 31, 2019, Firelands Wind LLC submitted an application for a 300-MW wind farm

⁵⁰³ Staff Report of Investigation, In re Scioto Farms Solar Project, 21-0868-EL-BGN (O.P.S.B. May 10, 2022).

⁵⁰⁴ In re Scioto Farms Solar Project, 21-0868-EL-BGN (O.P.S.B.), <https://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=21-0868-EL-BGN>.

⁵⁰⁵ Peggy Kirk Hall, *First large-scale solar energy project denied in Ohio*, FARM OFFICE: OHIO STATE UNIVERSITY EXTENSION, Oct. 28, 2022, <https://farmoffice.osu.edu/blog/fri-10282022-830am/first-large-scale-solar-energy-project-denied-ohio>.

⁵⁰⁶ Andrew Carter, *Marion County Commissioners voice opposition to Chestnut Solar project*, MARION STAR, Feb. 12, 2023, <https://www.marionstar.com/story/news/local/2023/02/12/marion-county-commissioners-voice-opposition-to-chestnut-solar-project/69886735007/>; Andrew Carter, *Pleasant Township residents voice opposition to proposed solar project*, MARION STAR, Dec. 8, 2022, <https://www.marionstar.com/story/news/local/2022/12/08/pleasant-twp-residents-continue-to-oppose-proposed-solar-project/69701567007/>.

consisting of 71 turbines spaced out across 32,000 acres, with 84.5 acres of built facilities. The proposal encountered opposition from local residents and the Black Swamp Bird Observatory, who intervened in the OPSB proceeding to stop the project. On June 24, 2021, the application received approval from the OPSB. Opponents of the project requested rehearing, which was denied. Opponents then filed an appeal to the Ohio Supreme Court where a decision is currently pending.⁵⁰⁷

- **Icebreaker Wind Project (N/A):** If constructed, the Icebreaker Wind pilot project would be the first freshwater wind farm in the United States. However, the project has been delayed due to litigation. On February 1, 2017, the developer filed an application to build six offshore wind turbines with a total capacity of 20.7 MW on 4.2 acres of submerged land on Lake Erie. On May 21, 2020, the OPSB approved the project. However, the certificate included conditions that the developer claimed would have made the project uneconomical—including, in particular, a prohibition on operating the turbines at night between March 1 and November 1. The developer sought rehearing to remove the restrictions, and, on October 8, 2020, the OPSB agreed to rescind the restrictions. On December 7, 2021, two residents of the south shore of Lake Erie filed an appeal with the Ohio Supreme Court challenging the OPSB’s elimination of the restriction on operating the turbines at night. On August 10, 2022, affirmed the OPSB’s decision, allowing the project to move forward.⁵⁰⁸
- **Kensington Solar Project (Columbiana County):** On October 19, 2021, an application for the 145-MW Kensington Solar project was submitted to the

⁵⁰⁷ Michael Harrington, *Proposed Wind Farm Divides Community*, THE SANDUSKY REGISTER, Aug. 21, 2020, <https://sanduskyregister.com/news/273495/proposed-wind-farm-divides-community>; Brief of Local Residents, In re Firelands Wind, 18-1607-EL-BGN (O.P.S.B. Nov. 20, 2020); Opinion, Order, and Certificate, In re Firelands Wind, 18-1607-EL-BGN (O.P.S.B. June 24, 2021); Notice of Supreme Court Appeal, In re Firelands Wind, 18-1607-EL-BGN (O.P.S.B. Jan. 14, 2022).

⁵⁰⁸ In re Application of Icebreaker Windpower, Inc., No. 2021-0153, Slip Op. No. 2022-OHIO-2742, 2022 WL 3220040 (Ohio 2022); Jeremy Pelzer, *Plans For Lake Erie Wind Farm Clear A Major Hurdle As Poison Pill Restriction Is Lifted*, CLEVELAND.COM, Sept. 17, 2020, <https://www.cleveland.com/open/2020/09/plans-for-lake-erie-wind-farm-clear-a-major-hurdle-as-poison-pill-restriction-is-lifted.html>.

OPSB.⁵⁰⁹ The project has attracted concerted opposition from local residents, including a group called Franklin Against Kensington Solar, which purportedly has over 400 members.⁵¹⁰ However, while Columbiana County has issued resolutions banning large wind and solar projects in unincorporated areas of several townships pursuant to S.B. 52, those resolutions do not apply to Kensington Solar, which was submitted before the law took effect.⁵¹¹ The application is pending before the OPSB.⁵¹²

- **Kingwood Solar (Greene County):** In December 2022, the OPSB rejected plans for the 175-MW Kingwood Solar facility, which would have occupied 1,200 acres in Greene County. The project met the criteria for grandfathering and therefore was not subject to veto by the county under S.B. 52. Nonetheless, the OPSB gave weight to the fact that the local governments of Greene County and the three townships where the project would be sited opposed the project in concluding that the project would not serve the public interest, convenience, and necessity.⁵¹³
- **Republic Wind Farm (Sandusky and Seneca Counties):** On June 24, 2021, the OPSB denied Apex Clean Energy's application for the 200-MW Republic Wind Farm in Seneca and Sandusky Counties. The project met the criteria for grandfathering and therefore was not subject to veto by the county. In denying the application, however, the OPSB noted general opposition from local citizens

⁵⁰⁹ Application, In re Kensington Solar, 21-0764-EL-BGN (O.P.S.B. Oct. 19, 2021).

⁵¹⁰ Grace Christopher, *Columbiana County Commissioners hold public hearing over Kensington Solar Project*, 21 WFMJ, Feb. 15, 2023, <https://www.wfmj.com/story/48389494/columbiana-county-commissioners-hold-public-hearing-over-kensington-solar-project>.

⁵¹¹ Mary Ann Greier, *Commissioners OK solar, wind farm bans in four townships*, MORNING JOURNAL, Mar. 2, 2023, <https://www.morningjournalnews.com/news/local-news/2023/03/commissioners-ok-solar-wind-farm-bans-in-four-townships/>.

⁵¹² In re Kensington Solar, 21-0764-EL-BGN (O.P.S.B.), <https://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=21-0764-EL-BGN>.

⁵¹³ Peggy Kirk Hall, *Two more large-scale solar projects in Ohio turned down due to community opposition*, FARM OFFICE: OHIO STATE UNIVERSITY EXTENSION, Jan. 20, 2023, <https://farmoffice.osu.edu/blog/fri-01202023-403pm/two-more-large-scale-solar-projects-ohio-turned-down-due-community>.

as well as opposition from the local government entities that intervened in the proceeding. The OPSB denied rehearing on March 17, 2022.⁵¹⁴

- **Seneca Wind (Seneca County):** In October 2019, developer sPower filed a pre-application letter with the OPSB to propose a 212-MW wind project in Seneca County after having previously withdrawn an application for a very similar project in August 2019. However, the project faced intense opposition from the Seneca County Anti-Wind Union. In the spring of 2019, Seneca County had adopted a resolution to phase out the county's alternative energy zone. On October 10, 2019, Seneca County officials clarified that the Seneca Wind would not be grandfathered in.⁵¹⁵ In January 2020, the developer announced that it was not going to proceed with an application.
- **Yellow Wood Solar (Clinton County):** On February 24, 2021, Invenergy proposed the 300-MW Yellow Wood Solar Energy Center. However, on September 30, 2021, local residents and businesses opposed to the project intervened in the siting board proceeding. In a press release in May 2022, each of the Clinton County Commissioners expressed opposition to the project.⁵¹⁶ The application is pending before the OPSB.⁵¹⁷

⁵¹⁴ Rachel Wagoner, *Ohio Power Siting Board denies rehearing for Republic Wind*, FARM AND DAIRY, Mar. 21, 2022, <https://www.farmanddairy.com/news/ohio-power-siting-board-denies-rehearing-for-republic-wind/708236.html>; Opinion, Order, and Certificate, In re Republic Wind, 17-2295-EL-BGN (O.P.S.B. June 24, 2021).

⁵¹⁵ Vicki Johnson, *Seneca Wind Project is Suspended*, THE ADVERTISER-TRIBUNE, Jan. 22, 2020, <https://advertiser-tribune.com/news/180537/seneca-wind-project-suspended>.

⁵¹⁶ *Clinton County commissioners lay out objections to proposed solar power generation project*, NEWS JOURNAL, May 25, 2022, <https://www.wnewsj.com/2022/05/25/clinton-county-commissioners-lay-out-objections-to-proposed-solar-power-generation-project/>.

⁵¹⁷ In re Yellow Wood Solar, 20-1680-EL-BGN (O.P.S.B.), <https://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=20-1680-EL-BGN>.

36. OKLAHOMA

36.1 State-Level Restrictions

New Entries (Pre-March 2022 Developments)

- Since August 21, 2015, Oklahoma has required that wind energy facilities be set back 1.5 miles from any public school, hospital, or airport.⁵¹⁸

36.2 Local Restrictions

Existing Entries (Updated)

- **City of Owasso (Rogers and Tulsa Counties):** A 2019 ordinance prohibits wind turbines over 100 feet tall.⁵¹⁹
- **City of Yukon (Canadian County):** A 1995 ordinance limits the height of wind turbines abutting residential districts to 100 feet and limits rotor length to 36 feet in diameter.⁵²⁰

36.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Skeleton Creek Solar Project (Garfield County):** On February 27, 2023, the Metropolitan Area Planning Commission denied a petition by NextEra Energy Resources to use 5,277 acres of land for a solar and battery storage facility.

⁵¹⁸ 2022 Okla. Stat. § 17-160.20(A), <https://law.justia.com/codes/oklahoma/2022/title-17/section-17-160-20/>.

⁵¹⁹ Owasso, Okla., Code § 17.2.3 (2019), <https://www.cityofowasso.com/DocumentCenter/View/2378/Owasso-Zoning-Code-PDF?bidId=>.

⁵²⁰ YUKON, OKLA., CODE § 204-173 (1995), https://library.municode.com/ok/yukon/codes/code_of_ordinances?nodeId=PTIICOOR_CH204BUBURE_ARTVIIIWIENCOSYWE_S204-173STRURE (last visited May 24, 2023).

Members of the public expressed concerns about glint and glare, as well as impacts to property values.⁵²¹

Existing Entries (Updated)

- **Wind Catcher Energy Connection Project (Cimarron and Texas Counties):** The Wind Catcher Project would have created 2,000 MW of new wind energy generation on the Oklahoma Panhandle and hundreds of miles of new transmission lines to take that energy from Oklahoma to Arkansas, Louisiana, and Texas. It faced opposition from Americans for Prosperity, funded by Charles and formerly David Koch, and the Windfall Coalition, which was co-founded by Harold Hamm, a shale oil developer. The project was canceled in July 2018 shortly after the Texas PUC denied approval for the Texas components of the project, before Oklahoma regulators ever reached a decision.⁵²²

37. OREGON

37.1 State-Level Restrictions

Existing Entries (Updated)

- On May 23, 2019, the Oregon Department of Land Conservation and Development adopted regulations that restrict the construction of solar facilities on certain categories of farmland. The new rules do not allow solar facilities that use, occupy, or cover more than 12 acres of prime farmland or 20 acres of other farmland unless an exception applies. The regulations effectively prohibit commercial-scale solar projects from 86% of the Willamette Valley.⁵²³

⁵²¹ Kelci McKendrick, *MAPC denies NextEra application for solar, battery storage facility*, ENID NEWS & EAGLE, Feb. 27, 2023, https://www.enidnews.com/news/mapc-denies-nextera-application-for-solar-battery-storage-facility/article_573f538a-b712-11ed-bd32-d72d21d264e0.html.

⁵²² Dan Gearino, *AEP Cancels Nations's Largest Wind Farm: 3 Challenges Wind Catcher Faced*, INSIDE CLIMATE NEWS, July 30, 2018, <https://insideclimatenews.org/news/30072018/aep-cancels-wind-catcher-largest-wind-farm-oklahoma-oil-gas-opposition-clean-power-plan>.

⁵²³ Sarah Stauffer Curtiss, *Oregon's DLCD Finalizes Solar Siting Rules*, STOEL RIVES RENEWABLE LAW BLOG (July 3, 2019), <https://www.lawofrenewableenergy.com/2019/07/articles/solar/oregons-dlcd-finalizes->

37.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **Umatilla County:** Wind turbines must be set back 2 miles from the city urban growth boundary, 1 mile from land zoned as an unincorporated community, and 2 miles from a rural residence.⁵²⁴

37.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Boardman-to-Hemingway Transmission Line (N/A):** The 290-mile Boardman-to-Hemingway (B2H) transmission line, first proposed in 2007, would deliver up to 1,000 MW of renewable energy across eastern Oregon and southwestern Idaho. However, a group called the STOP B2H Coalition has filed at least two lawsuits to stop the project. On March 9, 2023, the Oregon Supreme Court ruled against the STOP B2H Coalition in one of those lawsuits, allowing the project to move forward.⁵²⁵

New Entries (Pre-March 2022 Developments)

- **Steens Wind (Harney County):** In 2012, the Portland Audubon Society and Oregon Natural Desert Association filed a lawsuit in federal court to challenge

[solar-siting-rules/](#); Jim Rue, Rulemaking – Solar Facilities on High-Value Farmland, Jan. 10, 2019, https://www.oregon.gov/lcd/Commission/Documents/2019-01_Item_6_Solar_Final.pdf.

⁵²⁴ Umatilla County, Or., Development Code § 152.616(HHH)(6)(a) (last updated July 19, 2022), https://www.co.umatilla.or.us/fileadmin/user_upload/Planning/Umatilla_County_Development_Code.pdf.

⁵²⁵ Kale Williams, *Eastern Oregon residents oppose energy transmission line project; 'Absolute disaster for ecosystem'*, KGW8, Mar. 9, 2023, <https://www.kgw.com/article/tech/science/climate-change/eastern-oregon-residents-against-energy-transmission-line/283-49c4e65f-0be5-4ba7-9e61-5f67863e85ed>; Idaho Power, *Boardman to Hemingway: Purpose and Need*, <https://www.idahopower.com/energy-environment/energy/planning-and-electrical-projects/current-projects/boardman-to-hemingway/purpose-and-need/> (last visited May 9, 2023); Troy Ippie, *Idaho Power's new high voltage transmission line cleared by Oregon Supreme Court*, OPB, Mar. 20, 2023, <https://www.opb.org/article/2023/03/20/idaho-high-voltage-transmission-line-power-energy-oregon-boardman/>.

the federal government's approval of a wind farm on Steens Mountain. The lawsuit cited potential impacts to golden eagles, sage grouse, and bighorn sheep. In May 2016, the Ninth Circuit Court of Appeals found that the federal government had failed to adequately consider impacts on the sage grouse. In April 2017, the district court vacated approval of the project.⁵²⁶

- **Yamhill Creek Solar Project (Yamhill County):** In October 2018, the state's Land Use Board of Appeals upheld Yamhill County's denial of a permit for a 12-acre solar project on farmland, which the owners of a nearby vineyard had opposed.⁵²⁷

Existing Entries (Updated)

- **Beehive Solar Project (Clackamas County):** In June 2018, a group called 1,000 Friends of Oregon filed an appeal challenging Clackamas County's approval of a 73-acre solar project on prime farmland. The County had found that the project would not preclude commercial agriculture because it would house 100 honeybee colonies on site. Opponents questioned whether the project would truly conserve farmland. In October 2018, the challengers reached a settlement with the developer, allowing the project to move forward.⁵²⁸
- **Mountain Meadow Solar Project (Clackamas County):** Mountain Meadow Solar, LLC applied to Clackamas County for permission to construct a 10-acre solar farm on a parcel then used for growing Christmas trees. After Clackamas County approved the project, five neighbors appealed to the Oregon Land Use

⁵²⁶ Oregon Natural Desert Association, *Steens Wind*, <https://onda.org/our-approach/protect/steens-wind/> (last visited Mar. 6, 2023).

⁵²⁷ Mateuz Perkowski, *Settlement allows beehive solar project to go forward*, CAPITAL PRESS, Oct. 5, 2018, https://www.capitalpress.com/state/oregon/settlement-allows-beehive-solar-project-to-go-forward/article_9022f433-c210-58c0-ace4-8373fc5c2d5d.html.

⁵²⁸ Mateusz Perkowski, *Beehive solar project draws new opposition*, THE PORTLAND TRIBUNE, June 8, 2018, <https://pamplinmedia.com/pt/9-news/398000-292500-beehive-solar-project-draws-new-opposition>; Mateuz Perkowski, *Settlement allows beehive solar project to go forward*, CAPITAL PRESS, Oct. 5, 2018, https://www.capitalpress.com/state/oregon/settlement-allows-beehive-solar-project-to-go-forward/article_9022f433-c210-58c0-ace4-8373fc5c2d5d.html.

Board of Appeals. In April 2019, the board dismissed certain claims and remanded others.⁵²⁹

- **Obsidian Solar Center (Lake County):** Plans for the 400-MW Obsidian Solar Center in the high desert of Christmas Valley were met with opposition by local residents concerned about dust and impacts to local wildlife. The project was submitted for approval in 2018 with the hope of beginning construction in 2019. However, due to opposition, construction was delayed by several years. Farmers and ranchers opposed to the project initiated a contested case proceeding. In 2022, an administrative law judge sided with the developers, allowing construction to move forward.⁵³⁰
- **Origis Energy Solar Project (Jackson County):** The group 1,000 Friends of Oregon filed an appeal challenging Jackson County's approval of an 80-acre solar facility on prime farmland outside of Medford. The state's Land Use Board of Appeals (LUBA) reversed the decision, siding with the opponents. In June 2018, the Oregon Court of Appeals upheld LUBA's decision, finding that the project did not meet any exception from the state's policy of farmland preservation.⁵³¹
- **Summit Ridge Wind (Wasco County):** Pattern Energy's 72-turbine, 194-MW Summit River Wind project was opposed by conservation group Friends of the Columbia Gorge (FOTCG) on the belief that it would harm bald and golden eagle populations and diminish the scenic beauty of the river gorge area. FOTCG filed a lawsuit against the Oregon Energy Facility Siting Council alleging that certain rules the Council relied upon in approving the project were invalid. In

⁵²⁹ York et al. v. Clackamas County, LUBA No. 2018-145 (Or. Land Use Bd. of Appeals, Apr. 10, 2019), <https://willamette.edu/law/resources/journals/wlo/orluba/2020/01/york-v.-clackamas-county.html>.

⁵³⁰ Oregon Department of Energy, *Obsidian Solar Center*, <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/OSC.aspx> (last visited Mar. 20, 2023); Alex Baumhardt, *Largest solar energy facility in Oregon gets final approval after legal battles*, OREGON CAPITAL CHRONICLE, Mar. 8, 2022, <https://oregoncapitalchronicle.com/2022/03/08/largest-solar-energy-facility-in-oregon-gets-final-approval-after-legal-battles/>.

⁵³¹ Jamie Parfitt, *Appeals Court Flips Jackson County Approval of Solar Farm*, KDRV, June 4, 2018; Mateusz Perkowski, *Ruling provides new rationale for blocking Oregon solar project*, CAPITAL PRESS, June 1, 2018, https://www.capitalpress.com/state/oregon/ruling-provides-new-rationale-for-blocking-oregon-solar-project/article_2bc1da99-3491-504a-8a9b-2d3cbb4144a7.html.

2017, the Oregon Supreme Court sided with FOTCG, invalidating the rules. However, the project later received approval and began construction in August 2020.⁵³²

38. PENNSYLVANIA

38.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

38.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Ralpho Township (Northumberland County):** In November 2022, Ralpho Township adopted a solar ordinance that allows major solar energy systems as a special exception in land zoned for agriculture and forestry, but not in residential areas. In December 2022, the owner of an amusement park who intended to build a 15-acre solar array in a residential district filed a lawsuit challenging the ordinance.⁵³³

⁵³² Friends of the Columbia Gorge v. Energy Facility Siting Council, 366 Or. 78, 456 P.3d 635 (2020); Jake Thomas, *Oregon Supreme Court Ruling Could Alter Energy Projects*, THE PORTLAND TRIBUNE, Jan. 19, 2020, <https://pamplinmedia.com/pt/448477-365334-oregon-supreme-court-ruling-could-alter-energy-projects>; Caleb Lundquist, *Summit Ridge project on hold*, COLUMBIA GEORGE NEWS, Aug. 7, 2019, https://www.columbiagorgenews.com/news/summit-ridge-supreme-court-ruling-terminates-two-windfarm-project-expansions-in-gorge/article_0a002a62-b866-11e9-9759-b39bb38c9338.html; *Wind farm near Deschutes River hits opposition, technical challenges*, THE DALLES CHRONICLE, June 29, 2019, <https://www.wind-watch.org/news/2019/07/03/summit-ridge-project-hits-opposition-technical-challenges>; Oregon Department of Energy, *Summit Ridge Wind Farm*, <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/SRW.aspx> (last visited Dec. 21, 2020).

⁵³³ Justin Strawser, *H.H. Knoebels Sons sues Ralpho Township over solar ordinance*, THE DAILY ITEM, Dec. 14, 2022, https://www.dailyitem.com/news/h-h-knoebels-sons-sues-ralpho-township-over-solar-ordinance/article_88804ca8-7bd3-11ed-8354-0327d9ac355d.html; Ralpho Township, Pa., Supervisors Monthly Meeting Minutes, Nov. 8, 2022, <https://www.ralphotownship.org/meeting-minutes/2021-2025/>.

38.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Dover Solar I Project (York County):** Enel Green Power’s plans to construct a 600-acre solar project in Dover Township encountered local opposition. One group called Keep Dover Beautiful started a website to organize opposition against the project. The project was ultimately approved in 2022 after eight meetings.⁵³⁴
- **Greenfield Township Solar Farm (Lackawanna County):** New Leaf Energy’s plans to construct a solar project on 23 acres of land zoned for suburban-residential development in Greenfield Township have encountered local opposition. At a hearing in January 2023, residents expressed concerns about runoff and impacts to the environment, property values, and the town’s rural character. In February 2023, the township zoning board rejected the project.⁵³⁵
- **Swiftwater Solar Project (Monroe County):** On August 15, 2022, two environmental groups filed an appeal with the Pennsylvania Environmental Hearing Board to challenge Pocono Township’s issuance of a permit to construct an 80-MW solar farm near Swiftwater Creek. The groups alleged that deforestation on sloped land at the project site would cause runoff in Swiftwater Creek, one of Pennsylvania’s so called Exceptional Value (EV) streams and a tributary of a river that supplies drinking water to Monroe County residents.⁵³⁶

⁵³⁴ Matt Enright, *Developer pitches a second solar farm in Dover Township*, YORK DISPATCH, Feb. 13, 2023, <https://www.yorkdispatch.com/story/news/local/york-county/2023/02/13/developer-pitches-a-second-solar-farm-in-dover-township/69885909007/>.

⁵³⁵ Christine Lee, *Greenfield Twp. zoning board denies solar farm*, THE TIMES-TRIBUNE, SCRANTON, PA., Feb. 28, 2023, https://www.thetimes-tribune.com/news/greenfield-twp-zoning-board-denies-solar-farm/article_0abb41b3-f2da-54fe-80b2-8a9769277dbe.html; Christine Lee, *Residents oppose proposed Greenfield Twp. solar farm*, THE TIMES-TRIBUNE, SCRANTON, PA., <https://sports.yahoo.com/residents-oppose-proposed-greenfield-twp-045900948.html>.

⁵³⁶ Kathryn Rubright, *PennFuture, Brodhead Watershed Association file appeal on Swiftwater Solar permit*, POCONO RECORD, Aug.18, 2022,

Existing Entries (Updated)

- **Atlantic Wind Project (Carbon County):** In 2016, Atlantic Wind submitted a proposal to construct 37 wind turbines in Penn Forest Township on lands owned by the Bethlehem Municipal Authority. The 2016 proposal was “deemed approved” when Penn Forest Township defaulted on deadline during the review process. Township residents filed a lawsuit challenging the deemed approval, but the approval was upheld in December 2017 by a Carbon County judge. In 2018, with the litigation on the first application still pending, Atlantic Wind submitted a modified application, this time seeking permission for only 28 turbines located farther from homes.⁵³⁷
- **Brookfield Solar Energy Center (Lancaster County):** During a series of 21 public hearings between January 2020 and March 2021, residents protested a 75-MW solar energy project proposed by Brookfield Solar I LLC that would span 1,000 acres across 26 different parcels of land in Mount Joy Township. At one hearing in August 2020, protestors argued that the town supervisor should be fired because he owns a solar lease.⁵³⁸ In June 2021, Mount Joy Township supervisors rejected the developer’s request for a conditional use permit to build a 391-acre stretch of the project along a major highway. On September 2, 2022, the Court of Common Pleas of Adams County, Pennsylvania upheld the denial of the permit, finding that the developer failed to provide sufficient analysis of adverse impacts on surrounding property owners, including stormwater runoff and glare.

<https://www.poconorecord.com/story/news/environment/2022/08/18/appeals-filed-on-proposed-solar-farm-permits-in-poconos-swiftwater-monroe-county/65407390007>.

⁵³⁷ Kurt Bresswein, *Wind energy proposal scaled back in Bethlehem watershed*, LEHIGHVALLEYLIVE.COM, Feb. 8, 2018, https://www.lehighvalleylive.com/bethlehem/2018/02/wind_energy_proposal_scaled_ba.html.

⁵³⁸ Christine Demas, *Hundreds Turn Out To Hear Proposal for Mt. Joy Industrial Solar Project*, GETTYSBURG CONNECTION, Feb.15, 2020, <https://gettysburgconnection.org/hundreds-turn-out-to-hear-proposal-for-mt-joy-industrial-solar-project/>; Jim Hale, *Solar opponents protest outside Mt. Joy meeting*, GETTYSBURG TIMES, Aug. 22, 2020, https://www.gettysburgtimes.com/news/local/article_91263448-3019-531b-b093-46e181651def.html; Ad Crable, *Judge deals new setback to large solar proposal near Gettysburg*, BAY JOURNAL, Sept. 21, 2022, https://www.bayjournal.com/news/energy/judge-deals-new-setback-to-large-solar-proposal-near-gettysburg/article_e43aab2a-399c-11ed-a974-2f04dcbd2769.html.

39. RHODE ISLAND

Note on state preemption of local restrictions: In Rhode Island, the state Energy Facility Siting Board has exclusive jurisdiction over projects 40 MW or greater.⁵³⁹ The municipalities where the project is proposed are expected to render advisory opinions as to siting applications as part of the siting process.⁵⁴⁰ However, the state board has sole and final decision-making authority.⁵⁴¹

39.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

39.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **City of Warwick (Kent County):** In November 2021, the City of Warwick, Rhode Island adopted a 6-month moratorium on ground-mounted solar projects. In March 2022, the city adopted a new ordinance that prohibits large-scale solar energy projects and limits height to 10 feet.⁵⁴²

⁵³⁹ R.I. Gen. Laws § 42-98-3(d), <http://webserver.rilin.state.ri.us/Statutes/TITLE42/42-98/42-98-3.htm>; *id.* § 42-98-4, <http://webserver.rilin.state.ri.us/Statutes/TITLE42/42-98/42-98-4.htm>.

⁵⁴⁰ R.I. Gen. Laws § 42-98-9(a), <http://webserver.rilin.state.ri.us/Statutes/TITLE42/42-98/42-98-9.htm>.

⁵⁴¹ R.I. Gen. Laws § 42-98-2(4), <http://webserver.rilin.state.ri.us/Statutes/TITLE42/42-98/42-98-2.htm>; *id.* § 42-98-7(a), <http://webserver.rilin.state.ri.us/Statutes/TITLE42/42-98/42-98-7.htm>; *see also* Steven Ferrey, *Siting Technology, Land-Use Energized*, 66 CATH. U. L. REV. 1, 24 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3613231.

⁵⁴² Bob Borkowski, *Warwick OKs New Solar Regulations*, WARWICK POST, Mar. 24, 2022, <https://warwickpost.com/warwick-oks-new-solar-regulations/>.

New Entries (Pre-March 2022 Developments)

- **City of Cranston (Providence County):** In February 2020, the City of Cranston adopted new zoning rules that allow solar farms only in the two industrial districts.⁵⁴³

Existing Entries (Updated)

- **Town of North Kingstown (Washington County):** In January 2011, the Town of North Kingstown placed a 6-month moratorium, which was extended by 90 days in June 2011. In November 2011, the Town Council voted to prohibit all wind turbines in the town pending the issuance of a state report anticipated in early 2012. The moratorium was motivated by opposition to a proposal to construct two wind turbines in the town. However, those two turbines were not subject to the moratorium. As of March 2023, wind energy systems are prohibited in the town, not including any approved prior to November 21, 2011⁵⁴⁴

39.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Johnston-Scituate Solar Farm (Providence County):** In April 2022, after hearing eight hours of testimony in a meeting that lasted until 2:30 a.m., the Zoning Board of the Town of Johnston voted to deny a special using permit for a 4.7-MW solar farm. The meeting was reportedly so raucous that officials called in several

⁵⁴³ Wheeler Cowperthwaite, *The long road: Cranston Planning Commission seeks three-stage OK on solar farm – again*, THE PROVIDENCE JOURNAL, Sept. 12, 2022, <https://news.yahoo.com/long-road-cranston-planning-commission-213156059.html>.

⁵⁴⁴ NORTH KINGSTON, R.I., REVISED ORDINANCES § 21-322 (Nov. 21, 2011), https://library.municode.com/ri/north_kingstown/codes/code_of_ordinances?nodeId=PTIIREOR_CH21Z_O_ARTXIIMIPR_S21-322WIENSY; Chris Church, *NK Green wind turbine lawsuit dismissed*, THE INDEPENDENT, Aug. 20, 2015, https://www.independenti.com/independents/north_east/article_46b95646-8564-5a6a-86f3-6d9dd6790f42.html; Samantha Tucker, *North Kingstown Town Council Extends Turbine Moratorium, Discusses New Wind Ordinance*, PATCH.COM, June 28, 2011, <https://patch.com/rhode-island/northkingstown/noth-kingstown-town-council-extends-turbine-moratoriu239a939ee1>; Patrick Luce, *Council Affirms Wind Turbine Ban*, PATCH.COM, Nov. 22, 2011, <https://patch.com/rhode-island/northkingstown/council-affirms-wind-turbine-ban>.

police officers. In June 2022, Green Development, which had already invested \$2.5 million in the proposal, filed an appeal in Superior Court. As of February 2023, the appeal was still in litigation.⁵⁴⁵

- **Natick Avenue Solar Farm (Providence County):** In January 2022, the City of Cranston’s Plan Commission approved plans for an 8-MW, 30-acre solar farm on Natick Avenue.⁵⁴⁶ On May 27, 2022, however, the Superior Court vacated the master plan that the Plan Commission had used when granting approval, due to lack of opportunity for public comment on the master plan itself. The decision forced the developer to start over, approximately three years into a multi-step process.⁵⁴⁷
- **Portsmouth High School Wind Turbine (Newport County):** In November 2021, eight abutting landowners of Portsmouth High School filed a lawsuit against the Town of Portsmouth alleging that a turbine installed on school property was a nuisance. In March 2022, the Newport County Superior Court denied a motion for a preliminary injunction to stop the turbine upon finding that the plaintiffs would suffer no immediate or irreparable harm, as they had already lived with

⁵⁴⁵ Jim Hummel, *Johnston tried banning large-scale solar in neighborhoods. Why the Town Council killed it*, THE PROVIDENCE JOURNAL, Feb. 2, 2023, <https://www.providencejournal.com/story/news/local/2023/02/02/johnston-rhode-island-solar-development-neighborhood-ban-town-council/69863143007/>; Jim Hummel, *Solar developer appeals zoning board’s denial of special permit in Johnston*, THE PROVIDENCE JOURNAL, June 14, 2022, <https://www.providencejournal.com/story/news/local/2022/06/14/green-development-appeal-johnston-zoning-board-denial-permit-solar-farm/7612102001/>; Jim Hummel, *Johnston solar farm fight reflects RI’s dilemma: Green space or green energy?*, THE PROVIDENCE JOURNAL, May 26, 2022, <https://www.providencejournal.com/story/news/local/2022/05/26/ri-solar-farm-green-development-johnston-rhode-island-illustrates-renewable-energy-challenge/9909661002/>; Johnston-Scituate Solar (4.7 MW), GREEN DEVELOPMENT, <https://green-ri.com/project/johnston-scituate-solar>.

⁵⁴⁶ Wheeler Cowperthwaite, *A Cranston commission didn’t allow enough public comment. Now a solar farm is in jeopardy*, THE PROVIDENCE JOURNAL, July 28, 2022, <https://www.providencejournal.com/story/news/local/2022/07/28/judge-sends-cranston-ri-solar-farm-plan-back-city-plan-commission-renewable-energy/10154576002>.

⁵⁴⁷ Wheeler Cowperthwaite, *The long road: Cranston Planning Commission seeks three-stage OK on solar farm — again*, THE PROVIDENCE JOURNAL, Sept. 12, 2022, <https://news.yahoo.com/long-road-cranston-planning-commission-213156059.html>; Zevon et al. v. Rossi et al., C.A. No. PC-2019-6129 (RI. Sup. Ct. 2022).

the turbine for over five years, and that the public interest favors operating the turbine.⁵⁴⁸

- **SouthCoast Wind, f/k/a Mayflower Wind (N/A):** On October 4, 2022, the state Energy Facility Siting Board (EFSB) granted a motion allowing the towns of Little Compton and Middletown to intervene in proceedings concerning the proposed SouthCoast offshore project (then called Mayflower Wind). Recreational fishermen raised concerns about plans to lay cable on the seafloor and Sakonnet River, arguing that electromagnetic fields could affect fish in the river. In February 2023, the Little Compton Town Council unanimously passed a resolution urging reconsideration of plans to route cables through the Sakonnet River, suggesting that they be routed instead through Westport.⁵⁴⁹

New Entries (Pre-March 2022 Developments)

- **North Kingstown Green and Stamp Farm Wind Turbines (Washington County):** Plans to construct two 427-foot turbines in North Kingstown encountered intense opposition, with hundreds showing up at town meetings throughout 2011 to oppose them. The Town Council initially approved one of the two turbines, North Kingstown Green. However, in January 2011, amidst intense opposition, the Town Council imposed a temporary moratorium on new wind projects. In April 2011, the Town Council revoked a building permit for North Kingstown Green, and in June 2011, the Town Council denied a permit for the other turbine at Stamp Farm. In November 2011, the Town Council banned wind

⁵⁴⁸ Laura Damon, *Portsmouth residents sue town over wind turbine. Here's why the judge ruled against them*, THE NEWPORT DAILY NEWS, Apr. 6, 2022, <https://www.newportri.com/story/news/local/2022/04/06/judge-rules-against-residents-in-wind-turbine-lawsuit-portsmouth-ri/7236895001>; *Wilkey v. Wed Portsmouth One, LLC*, 2022 R.I. Super. LEXIS 23. C.A. No. NC-2021-0352.

⁵⁴⁹ Ted Hayes, *Little Compton: Move offshore power cables to Westport*, EASTBAYRI, Feb. 16, 2023, <https://www.eastbayri.com/stories/little-compton-move-offshore-power-cables-to-westport,110739>; Rob Smith, *EFSB Grants Towns' Request to Intervene in Mayflower Wind Offshore Energy Project*, ECORI NEWS, Oct. 5, 2022, <https://ecori.org/efsb-grants-towns-request-to-intervene-in-mayflower-wind-offshore-energy-project>.

turbines, a prohibition that apparently remains in place today, as discussed above.⁵⁵⁰

Existing Entries (Updated)

- **Block Island Wind Farm (N/A):** The 5-turbine, 30-MW Block Island Wind Farm, completed in the 2016, was the first offshore wind project to be constructed in the United States. However, the project encountered opposition during the planning and construction stage. In particular, the Rhode Island Manufacturers Association filed a lawsuit in 2015, alleging that National Grid's deal to purchase power from the wind farm violated federal law and would result in a significant increase to their electric bills. A federal district court found that the statute of limitations had run on the plaintiff's claim and dismissed the lawsuit.⁵⁵¹
- **Hope Farm Solar Array (Providence County):** In 2016, a landowner abutting the site of the proposed 10-MW Hope Farm Solar Array mounted a two-pronged challenge to the project, filing a lawsuit in Superior Court and an administrative appeal of a decision by the City of Cranston's Plan Commission. The lawsuit alleged that a zoning change allowing commercial-grade solar facilities in a zone that generally disallows industrial uses was unlawful. As of January 2019, the project was under construction.⁵⁵²

⁵⁵⁰ North Kingston, RI, Revised Ordinances § 21-322 (Nov. 21, 2011), https://library.municode.com/ri/north_kingstown/codes/code_of_ordinances?nodeId=PTIIREOR_CH21Z_O_ARTXIIMIPR_S21-322WIENSY; Chris Church, *NK Green wind turbine lawsuit dismissed*, THE INDEPENDENT, Aug. 20, 2015, https://www.independenri.com/independents/north_east/article_46b95646-8564-5a6a-86f3-6d9dd6790f42.html; Samantha Tucker, *North Kingstown Town Council Extends Turbine Moratorium, Discusses New Wind Ordinance*, PATCH.COM, June 28, 2011, <https://patch.com/rhode-island/northkingstown/noth-kingstown-town-council-extends-turbine-moratoriu239a939ee1>; Patrick Luce, *Council Affirms Wind Turbine Ban*, PATCH.COM, Nov. 22, 2011, <https://patch.com/rhode-island/northkingstown/council-affirms-wind-turbine-ban>.

⁵⁵¹ *Lawsuit over nation's 1st offshore wind farm is dismissed*, AP NEWS, July 18, 2016, <https://apnews.com/article/f87ef045d1c847228146699babe513f6>.

⁵⁵² Gregory Smith, *Cranston landowner sues over solar farm zoning change*, PROVIDENCE JOURNAL, May 11, 2016, <https://www.providencejournal.com/story/news/2016/05/11/cranston-landowner-sues-over-solar-farm-zoning-change/30430080007>; Mark Reynolds, *Tensions flare over solar projects in city*, THE PROVIDENCE JOURNAL, Jan. 19, 2019,

- **North Kingstown Solar Project (Washington County):** Turning Point Energy proposed a 32.7-MW solar array that would be spread across 567 acres of vacant, heavily wooded land zoned as “Very Low Density Residential.” In 2018, community members opposed the project at local meetings due to concerns about deforestation and potential harm to wetlands; over 100 residents showed up to attend meetings about the project. By 2019 the project had been canceled.⁵⁵³
- **North Smithfield Wind Turbine (Providence County):** Green Development, a Rhode Island-based wind company, encountered opposition when it submitted plans to build a 462.5-foot wind turbine in North Smithfield. Residents opposed to the project hired an attorney, who spoke on their behalf at a town meeting in April 2019.⁵⁵⁴

40. SOUTH CAROLINA

40.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

40.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

<https://www.providencejournal.com/story/news/environment/2019/01/19/cranstons-half-dozen-solar-projects-spark-heated-debate/6248820007/>.

⁵⁵³ Jacob Marrocco, *Massive turnout delays discussion of solar proposal in NK*, THE INDEPENDENT, Mar. 24, 2018, https://www.independentri.com/independents/ind/north_kingstown/article_417feed9-4cf7-54c5-bb65-dbdb59464de5.html; Alex Kuffner, *R.I. celebrates start of largest ‘community solar’ project, in North Smithfield*, PROVIDENCE JOURNAL, Nov. 13, 2019, <https://www.providencejournal.com/story/news/environment/2019/11/13/ri-celebrates-start-of-largest-community-solar-project-in-north-smithfield/2299946007> (noting that the North Kingstown solar project had been canceled).

⁵⁵⁴ Lauren Clem, *Wind turbine plan has residents up in arms*, THE VALLEY BREEZE, Apr. 24, 2019, https://www.valleybreeze.com/news/wind-turbine-plan-has-residents-up-in-arms/article_5003cc49-aa7e-5a40-a445-2d1be570ce00.html.

40.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Runnymede Solar Project (Sumter County):** On April 29, 2022, Runnymede LLC submitted an application to build a 2-MW solar system on 44 acres of land zoned for heavy industrial use in the Runnymede subdivision of Sumner City. On May 26, 2022, the local zoning authorities issued a permit. However, on June 27, 2022, the owners of property within the Runnymede subdivision filed an appeal challenging the project. At a meeting on August 10, the Zoning Board of Appeals upheld the permit with three additional conditions, including landscaping requirements.⁵⁵⁵

Existing Entries (Updated)

- **Gallivants Ferry Solar Project (Horry County):** Southern Current, a Charleston-based solar farm developer, submitted a proposal to build a 138-MW, 1,500-acre project near the unincorporated community of Gallivants Ferry in western Horry County. During meetings in 2020, members of the County Council raised concerns about leaching of cadmium telluride, questioning what would happen if the solar panels were damaged in a hurricane. County Council members also raised concerns about decommissioning and whether landfills would accept solar panels. Although the developer agreed not to use solar panels that include cadmium telluride, the project was never built.⁵⁵⁶

⁵⁵⁵Board of Zoning Appeals Meeting, Aug. 10, 2022, <https://www.sumtersc.gov/file/3181/download?token=On8WRtgL>; Andrew Fancher, *Homeowners contest solar farm in public hearing*, WISNEWS, Aug. 10, 2022, <https://www.wistv.com/2022/08/11/homeowners-contend-solar-farm-public-hearing>.

⁵⁵⁶ Dale Shoemaker, *Another solar farm for Horry County? Here's the status of the Southern Current deal*, MYRTLE BEACH ONLINE, Oct. 13, 2020, <https://www.myrtlebeachonline.com/news/local/article246427875.html>; J. Dale Shoemaker, *Solar farm planned for 2021 can power 26,000 homes – and fund Horry's rural civic arena*, MYRTLE BEACH ONLINE, Dec. 21, 2020, <https://www.myrtlebeachonline.com/news/local/article247901620.html>.

41. SOUTH DAKOTA

Note on state preemption of local restrictions: In South Dakota, a permit from the Public Utilities Commission for electric transmission “may supersede or preempt any county or municipal land use, zoning, or building rules, regulations, or ordinances upon a finding by the Public Utilities Commission that such rules, or regulation, or ordinances, as applied to the proposed route, are unreasonably restrictive in view of existing technology, factors of cost, or economics, or needs of parties where located in or out of the county or municipality.”⁵⁵⁷

41.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

41.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **Walworth County:** An ordinance adopted in May 2017 requires that wind turbines be set back 2 miles from existing residences, businesses, and churches.⁵⁵⁸

Existing Entries (Updated)

- **Hughes County:** In August 2020, the Hughes County Commission amended its zoning ordinance to require a setback of 2,640 feet (0.5 miles) or 4.9 times the height of the tower. The setback may be reduced to 1,400 feet with a waiver from the landowner.⁵⁵⁹

⁵⁵⁷ S.D. CODIFIED LAWS § 49-41B-28 (2023), https://sdlegislature.gov/Statutes/Codified_Laws/2071011; see also Steven Ferrey, *Siting Technology, Land-Use Energized*, 66 CATH. U. L. REV. 1, 24 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3613231.

⁵⁵⁸ Walworth County, S.D., Zoning Ordinance § 5.24.03(2) (May 10, 2017), <https://walworthco.org/county-ordinances/walworth-co-zoning-ordinance-051017-adopted-1-2/>.

⁵⁵⁹ Local News, *Hughes County Commission amends requirements for wind towers*, HUB CITY RADIO, Aug. 18, 2020, <https://hubcityradio.com/hughes-county-commission-amends-requirements-for-wind-towers>.

- **Letcher Township (Sanborn County):** In 2016, the Letcher Township Board of Supervisors passed an ordinance to increase setbacks for wind turbines to 1 mile from any residences of nonparticipating landowners and 1,500 feet from property lines.⁵⁶⁰
- **Lincoln County:** In 2017, the county enacted new zoning laws, which increased the minimum setback from habitable residences from 0.25 miles to 0.5 miles (2,640 feet) for wind turbines. The change was motivated by, and led to the cancellation of, a proposed 1,000-MW project by Dakota Power Community Wind.⁵⁶¹

41.3 Contested Projects

Existing Entries (Updated)

- **Crocker Wind Farm (Clark County):** In 2017, Geronimo Energy proposed a 400-MW wind farm in Clark County. Public hearings on the project featured significant opposition from local residents. The Clark County Commission approved the project but required that turbines be set back 3,960 feet (0.75 miles) from residences, far more than the 1,000 feet required by the county zoning ordinance. Geronimo Energy challenged the setback requirements in court, but the court ruled in favor of the commission. South Dakota's Public Utilities

⁵⁶⁰ Evan Hendershot, *Letcher Township establishes one-mile wind tower setback*, THE DAILY REPUBLIC, June 10, 2016, <https://www.wind-watch.org/news/2016/06/10/letcher-township-establishes-one-mile-wind-tower-setback>.

⁵⁶¹ John Hult, *Lincoln County votes downwind backers*, ARGUS LEADER, July 18, 2017, <https://www.argusleader.com/story/news/2017/07/19/lincoln-county-votes-down-wind-backers/488046001>; John Hult, *Developers ditch wind power easements in Lincoln County*, ARGUS LEADER, Nov. 30, 2017, <https://www.argusleader.com/story/news/2017/11/30/developers-ditch-wind-power-easements-lincoln-county/910333001>.

granted a construction permit in June 2018.⁵⁶² The final project, completed in 2019, was 200 MW, half the size originally proposed.⁵⁶³

- **Dakota Power Community Wind Project (Lincoln County):** In 2014, the Dakota Power Community Wind proposed a 1,000-MW wind farm in rural Lincoln County with up to 500 turbines. Local residents organized an opposition group, We-Care SD, to advocate for stricter setbacks. The Lincoln County Board of Commissioners increased the setback requirement from 0.25 miles to 0.5 miles from habitable dwellings. Voters upheld the setbacks in a July 2017 referendum. In November 2017, the developer relinquished 122 easements it had secured for the project, signaling an intent to cancel the project.⁵⁶⁴
- **Juhl Energy's Davison County Wind Project (Davison County):** In February 2016, the Davison County Commission denied a permit for a 9-to-11-turbine wind farm proposed by Juhl Energy. The project faced intense opposition from neighbors due to concerns about property value impacts and quality of life.⁵⁶⁵
- **Juhl Energy's Letcher Township Wind Project (Sanborn County):** In 2016, residents of Letcher Township preemptively mobilized to block Juhl Energy from

⁵⁶² The Acoustic Ecology Institute, *SD County learns that 2,000 ft setbacks not quite enough*, <https://www.aeinews.org/category/wind-turbines/> (last visited Dec. 21, 2020); J.T. Fey, *Clark County wind project hits snag*, THE PUBLIC OPINION, Aug. 14, 2017, <https://www.wind-watch.org/news/2017/08/16/clark-county-wind-project-hits-snag>; Michelle Froese, *South Dakota PUC grants construction permit for 400-MW Crocker Wind Farm*, WIND POWER ENGINEERING & DEVELOPMENT, June 11, 2018, <https://puc.sd.gov/News/2018/060818.aspx>.

⁵⁶³ National Grid, *200MW Crocker Wind Farm brings cleaner power online*, Dec. 11, 2019, <https://www.nationalgrid.com/stories/grid-at-work/200mw-crocker-wind-farm-brings-cleaner-power-online>.

⁵⁶⁴ Leah Cover, *The Lincoln County Wind Debate: A Background*, SDPB RADIO, July 24, 2017, <https://listen.sdpb.org/news/2017-07-24/the-lincoln-county-wind-debate-a-background>; John Hult, *Developers ditch wind power easements in Lincoln County*, ARGUS LEADER, Nov. 30, 2017, <https://www.argusleader.com/story/news/2017/11/30/developers-ditch-wind-power-easements-lincoln-county/910333001>.

⁵⁶⁵ Evan C. Hendershot, *Wind farm denied in Davison County*, MITCHELL REPUBLIC, Feb. 9, 2016, <https://www.wind-watch.org/news/2016/02/09/wind-farm-denied-in-davison-county-could-go-to-public-vote>.

developing a wind project in the township. Although Juhl Energy had not yet submitted an application, residents were concerned that Juhl Energy would look to Letcher Township after nearby Davison County rejected the company's application for 9-to-11-turbine wind farm. Out of 77 registered voters in Letcher Township, 50 signed a petition opposing the project. In response to the petition, the Board of Supervisors voted to increase setbacks to 1 mile from dwellings of non-participating homeowners and 1,500 feet from property lines, making the project impossible to site.⁵⁶⁶

42. TENNESSEE

42.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

42.2 Local Restrictions

New Entries (Post-March 2022 Updates)

- **Franklin County:** In April 2022, the Franklin County Commission adopted a resolution prohibiting commercial renewable-energy facilities indefinitely.⁵⁶⁷
- **Greene County:** In August 2022, the Greene County Commission approved a 6-month moratorium on new commercial farms.⁵⁶⁸

⁵⁶⁶ Evan Hendershot, *Letcher Township establishes one-mile wind tower setback*, THE DAILY REPUBLIC, June 10, 2016, <https://www.wind-watch.org/news/2016/06/10/letcher-township-establishes-one-mile-wind-tower-setback>.

⁵⁶⁷ Brian Justice, *Franklin County gives solar the cold shoulder*, THE TULLAHOMA TENNESSEE NEWS, Apr. 28, 2022, https://www.tullahomanews.com/news/local/franklin-county-gives-solar-the-cold-shoulder/article_f98f81d4-c594-11ec-9807-c74d371901d6.html.

⁵⁶⁸ Spencer Morrell, *County Commission Approves New Solar Farm Pause*, THE GREENVILLE SUN, Aug. 16, 2022, https://www.greenevillesun.com/news/local_news/county-commission-approves-new-solar-farm-pause/article_150c53ac-1d0f-11ed-a813-834eeb44d4d6.html.

42.3 Contested Projects

No contested projects were found at this time.

43. TEXAS

43.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

43.2 Local Restrictions

Existing Entries (Updated)

- **City of Balch Springs (Dallas County):** The city code prohibits wind energy systems larger than 20 kW and sets a height limit of 70 feet.⁵⁶⁹
- **City of Benbrook (Tarrant County):** The municipal code of ordinances prohibits utility-scale wind projects. Small wind energy systems are allowed provided they do not exceed the maximum building height in any zoning district plus 5 feet. Noise is limited to 35 dBA at night. Likewise, solar is only allowed as an accessory use.⁵⁷⁰
- **City of Brownsville (Cameron County):** The City of Brownsville limits the height limit of wind turbines to 70 feet in residential zones and 120 feet in all other areas.⁵⁷¹ The ordinance limits ground-mounted solar installations to side or

⁵⁶⁹ BALCH SPRINGS, TEX., CODE OF ORDINANCES § 90-3.04(A)(28), https://library.municode.com/tx/balch_springs/codes/code_of_ordinances?nodeId=PTIICOOR_CH90ZO_ARTIIIIZOLAUSRE_S90-3.04CODEST.

⁵⁷⁰ BENBROOK, TEX., CODE § 17.84.130 (current as of Oct. 18, 2022), https://library.municode.com/tx/benbrook/codes/code_of_ordinances?nodeId=CD_ORD_TIT17ZO_CH17_84SUDIRE_17.84.130ALENSY.

⁵⁷¹ BROWNSVILLE, TEX., ORDINANCE NO. 2010-1518 (Apr. 6, 2010), as codified at BROWNSVILLE, TEX., CODE §§ 18-750 to 18-758 (current as of Sept. 19, 2022), https://library.municode.com/tx/brownsville/codes/code_of_ordinances?nodeId=PTIICOOR_CH18BUBURE_ARTXIENCOCO_DIV2WIENSY_S18-750PUSC.

rear yard. Large-scale ground mounted systems are not allowed in the Dwelling or Dwelling/Retail use districts.⁵⁷²

- **City of Burleson (Tarrant and Johnson Counties):** The City of Burleson stipulates that turbines be no more than 120 feet tall on any parcel of 5 or more acres, and 60 feet tall on any parcel of less than 5 acres. Turbines must be set back at least 1,000 feet from all interstate and state rights-of-way. The law also sets noise limits of 40 dB at adjacent residential property lines.⁵⁷³
- **City of Denison (Grayson County):** The city allows wind turbines only as an accessory use for on-site power consumption and creates setback of 2 times tower height from all property lines.⁵⁷⁴
- **City of Garland (Collin, Dallas, and Rockwall Counties):** An ordinance adopted May 2015 provides that wind turbines may only exist as secondary use, must be located in the rear yard of any lot, and must be limited to 40 feet in height.⁵⁷⁵
- **City of Grand Prairie (Dallas, Tarrant, and Ellis Counties):** The only wind energy systems allowed in the City of Grand Prairie are small wind energy

⁵⁷² BROWNSVILLE, TEX., ORDINANCE NO. 2017-1518-A, § 1 (Apr. 18, 2017), *as codified at* BROWNSVILLE, TEX., CODE §§ 18-766 to 18-770 (current as of Sept. 19, 2022), https://library.municode.com/tx/brownsville/codes/code_of_ordinances?nodeId=PTIICOOR_CH18BUBURE_ARTXIENCOCO_DIV3SOENSY_S18-766PUSC.

⁵⁷³ BURLESON, TEX., ORDINANCE NO. B-796-10, § 1(11-104), (Oct. 18, 2010), https://librarystage.municode.com/tx/burleson/ordinances/code_of_ordinances?nodeId=452827.

⁵⁷⁴ DENISON, TEX., CODE § 28.56 (current as of Feb. 16, 2023), https://library.municode.com/tx/denison/codes/code_of_ordinances?nodeId=COOR_CH28ZO_ARTVDEST_S28.56WIENCOSYWE.

⁵⁷⁵ GARLAND, TEX., ORDINANCE 6773 (May 19, 2015), *as codified at* GARLAND, TEX., DEVELOPMENT CODE § 2.70, <https://ecode360.com/40082484>.

systems with a nameplate capacity of 100 kW or less whose primary purpose is on-site power use.⁵⁷⁶

- **City of Kingsville (Kleburg County):** Enacted in April 2014, this ordinance allows commercial wind turbines only in the city’s industrial districts, where turbine height is limited to 100 feet. In all other districts, wind energy systems are only allowed as an accessory use, and turbine height is limited to either 45 feet or 10 feet above building height, whichever is less.⁵⁷⁷
- **City of McKinney (Collin County):** The city’s zoning regulations allow wind turbines only as an accessory use for onsite generation and prohibits even small turbines from residential districts.⁵⁷⁸
- **City of Midlothian (Ellis County):** A local ordinance in the City of Midlothian, last updated in 2019, allows wind turbines only for on-site power generation. It allows only one wind turbine per lot, unless the lot is three acres or larger, in which case it allows two turbines. Height is limited to 80 feet unless authorized by special use permit.⁵⁷⁹
- **City of Nolanville (Bell County):** An ordinance adopted in May 2012 provides that “[t]he leasing of land or establishment of wind energy units on land for the commercial sale of wind energy is prohibited within the City limits.”⁵⁸⁰

⁵⁷⁶ GRAND PRAIRIE, TEX., Unified Development Code art. 4, §§ 4.9.1 to 4.9.3 (Jan. 17, 2023), <https://www.gptx.org/files/sharedassets/public/departments/planning/documents/article-04-permissible-uses-01-17-23.pdf>.

⁵⁷⁷ KINGSVILLE, TEX., ORDINANCE 2014-24, § I (Apr. 23, 2014), https://library.municode.com/tx/kingsville/ordinances/code_of_ordinances?nodeId=646811.

⁵⁷⁸ MCKINNEY, TEX., ZONING REGULATIONS § 146-140 (current as of Nov. 15, 2022), <https://www.mckinneytexas.org/DocumentCenter/View/31770/Chapter-146-Zoning-Regulations-11152022>.

⁵⁷⁹ MIDLOTHIAN, TEX., ORDINANCE 2019-20 § 2, (Apr. 9, 2019), <https://ecode360.com/39983453>.

⁵⁸⁰ NOLANVILLE, TEX., ORDINANCE 6051-12, § 620.1 (2013), *as codified at* NOLANVILLE, TEX., CODE § 620.1(f), <https://ecode360.com/39483147>.

- **City of Ovilla (Dallas and Ellis Counties):** The city zoning ordinance provides that noise from wind turbines shall not exceed 40 dBA during the day or 30 dBA at night at the “most offending” property line.⁵⁸¹
- **City of Waller (Waller and Harris Counties):** The City of Waller allows small wind energy systems but only as an accessory use on property owned by the owner of the wind energy system. Small wind energy systems are allowed only in four established corridors in the city, and turbines are limited to 45 feet in height at the center of the shaft.⁵⁸²
- **City of Weatherford (Parker County):** The city allows wind turbines only as an accessory use and limits turbine height to 66 feet.⁵⁸³

43.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Cielo Wind’s Fannin-Lamar Wind Farm (Fannin and Lamar Counties):** Cielo Wind has offered landowners 25-year leases as part of an anticipated wind farm that would include 72 wind turbines up to 800 feet tall. As of May 16, 2023, more than 700 residents have signed a petition against this project.⁵⁸⁴

⁵⁸¹ OVILLA, TEX., ZONING ORDINANCE § 42.4(G) (June 14, 2010), <https://www.cityofovilla.org/DocumentCenter/View/109/ORD2010013Zoning>.

⁵⁸² WALLER, TEX., ORDINANCE NO. 481 § 4, (Oct. 18, 2010), *as codified at* WALLER, TEX., CODE §§ 14-400 TO 14-402 (current as of Feb. 21, 2017), https://library.municode.com/tx/waller/codes/code_of_ordinances?nodeId=CD_ORD_CH14BUBURE_ARTVISMWIENSY_S14-400DE.

⁵⁸³ WEATHERFORD, TEX., CODE § 12-5-106 (current as of Sept. 15, 2022), https://library.municode.com/tx/weatherford/codes/code_of_ordinances?nodeId=COOR_TITXIIIZOOR_C_H5SUUSRE_S12-5-105WIENFA.

⁵⁸⁴ Kylee Dedmon, Wind farm eyeing land in Fannin County, *KTRE*, Apr. 29, 2022, <https://www.ktre.com/2022/04/29/wind-farm-eyeing-land-fannin-county/>; Abigail Brown, *Wind farm proposal meets headwind in Fannin County*, *KTEN*, May 24, 2022, <https://www.kten.com/story/46562610/wind-farm-proposal-meets-headwind-in-fannin-county/>; *Stop*

Existing Entries (Updated)

- **Byers and Bluegrove Wind Projects (Clay County):** John Greer, a Dallas oil investor with a family ranch in Clay County, spearheaded a multiyear fight against two proposed wind projects in Clay County, the 200-MW Byers and 100-MW Bluegrove projects. Greer helped co-found Clay County Against Wind Farms, which held informational sessions against wind energy in Henrietta, Texas. One meeting sought to recruit the support of fighter pilots stationed at a nearby air force base by focusing on potential interference with radar systems. In June 2018, under pressure from residents and politicians, Innergex Renewable Energy Inc. formally canceled the project.⁵⁸⁵
- **Hopkins Energy LLC's Solar Project (Hopkins County):** In June 2021, a local resident filed a lawsuit against the French energy company Engie, seeking to halt construction of a 1,850-acre solar project in the unincorporated community of Dike, Texas and to obtain \$250,000 in damages, alleging that the project would cause increased runoff onto neighboring properties. Local opponents have purportedly contemplated the possibility of incorporating Dike as a city to block the project.⁵⁸⁶
- **Ranchland Wind Project (Callahan and Eastland Counties):** In May 2020, a group of 365 residents and landowners signed a petition urging county commissioners of Callahan and Eastland Counties to reject requests for tax

Fannin-Lamar Wind Project, ipetitions, <https://www.ipetitions.com/petition/stop-fannin-wind> (last visited May 16, 2023).

Abigail Brown, *Wind farm proposal meets headwind in Fannin County*, K TEN, May 24, 2022, <https://www.kten.com/story/46562610/wind-farm-proposal-meets-headwind-in-fannin-county>.

⁵⁸⁵ Christopher Collins, *Inside the Coordinated Attack on a North Texas Wind Farm*, TEXAS OBSERVER, Sept. 18, 2018, <https://www.texasobserver.org/inside-the-coordinated-attack-on-a-north-texas-wind-farm/>; *Innergex pulls away from 2 Texas wind projects due to Air Force radar conflicts*, S&P GLOBAL MARKET INTELLIGENCE, June 29, 2018, <https://www.spglobal.com/marketintelligence/en/news-insights/trending/dbnxb02x-ar3qmrddxc7a2>.

⁵⁸⁶ Mary Beth Gahan, *A battle of green against green in this Texas community*, WASHINGTON POST, Aug. 2, 2021, https://www.washingtonpost.com/lifestyle/magazine/a-battle-of-green-against-green-in-this-texas-community/2021/07/30/836a6e4c-eaf7-11eb-ba5d-55d3b5ffcaf1_story.html.

abatements associated with the proposed Ranchland Wind Project. A group called Callahan County Land Owners Against Wind Turbines issued a statement online claiming that developers would be digging into and potentially damaging local aquifers. As of March 2023, the 267-MW wind project and 87 MWdc battery storage system is under construction.⁵⁸⁷

- **Wind Catcher Energy Connection Project (N/A):** As previously described, the Wind Catcher Energy Connection Project was an interstate energy generation and transmission project that would have involved the construction of a 2,000-MW wind farm in the Oklahoma panhandle and hundreds of miles of interstate transmission lines into Texas and three other states. In June 2008, the developer canceled the project after the Texas PUC denied a permit. Texas Industrial Energy Consumers—a trade association whose members included Chevron Phillips Chemical Company, ExxonMobil, and Valero Energy—had challenged the project before the PUC.⁵⁸⁸

44. UTAH

44.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

⁵⁸⁷ Juliette Fairley, *Residents, landowners oppose wind project in Callahan, Eastland Counties*, TEXAS BUSINESS COALITION, May 11, 2020, <https://lonestarstandard.com/stories/536486831-residents-landowners-oppose-wind-project-in-callahan-eastland-counties>; Enel, *Ranchland wind + storage project, USA*, <https://www.enelgreenpower.com/our-projects/under-construction/ranchland-wind-storage-project> (last visited Mar. 27, 2023).

⁵⁸⁸ Dave Anderson, *Attacks on wind and solar power by the coal and gas industries*, ENERGY AND POLICY, Feb. 19, 2019, <https://www.energyandpolicy.org/attacks-renewable-energy/>; Ryan Miller, *What is Wind Catcher Energy Connection*, ENID NEWS & EAGLE, Jan. 28, 2018, https://www.enidnews.com/news/what-is-wind-catcher-energy-connection/article_e1659ad4-0415-11e8-9103-d37e4491d4d8.html.

44.2 Local Restrictions

- **Kane County:** An ordinance adopted in 2013 requires that utility-scale solar power facilities be set back at least 0.5 miles from the nearest inhabitable structure.⁵⁸⁹

44.3 Contested Projects

No contested projects were found at this time.

45. VERMONT

Note on state preemption of local restrictions: The Supreme Court of Vermont has held that when the Public Utilities Board has issued an order approving a facility, “[a]ny attempt at municipal regulation is pre-empted.” The court further explained that “municipal enactments” on the issue of electric generation or transmission facilities are “advisory rather than controlling.”⁵⁹⁰

45.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

45.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

45.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Shaftsbury Solar (Bennington County):** Residents of Shaftsbury, Vermont have mobilized in opposition against a proposed 20-MW solar farm that would cover

⁵⁸⁹ KANE COUNTY, UTAH, CODE OF ORDINANCES § 9-24-3 (Aug. 27, 2013), https://codelibrary.amlegal.com/codes/kanecountyut/latest/kanecounty_ut/0-0-0-3811.

⁵⁹⁰ S. Burlington v. Vt. Elec. Power Co., 133 Vt. 438, 447, 344 A.2d 19, 25 (1975); see also Steven Ferrey, *Siting Technology, Land-Use Energized*, 66 CATH. U. L. REV. 1, 24 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3613231.

approximately 85 acres of land, including by collecting signatures for an online petition.⁵⁹¹ At a town meeting in March 2023, a majority of residents expressed opposition to the project in a non-binding voice vote.⁵⁹²

Existing Entries (Updated)

- **Apple Hill Solar and Willow Road Solar, f/k/a Chelsea Solar (Bennington County):** Allco Renewable Energy’s plans for the 2-MW Apple Hill project and 2-MW Willow Road project in Bennington, Vermont have faced opposition from neighbors for close to a decade. The state Public Utility Commission (PUC) initially approved the Apple Hill project in 2018, but opponents of the project appealed the decision, and the PUC reversed its own decision on remand in May 2020. In addition, in June 2019, the PUC denied a certificate of public good for the Willow Road project, finding that the Willow Road project and the Apple Hill project were in fact a single 4-MW solar plant and therefore ineligible under a state program for solar projects of 2.2 MW or less; the Vermont Supreme Court upheld that determination in January 2020. In June 2020 the PUC issued a temporary restraining order after Vermonters for a Clean Environment filed comments alleging that the developer was clearing trees on the proposed sites and that endangered plant species were being disturbed. In May 16, 2022, the PUC once again denied a permit for Apple Hill solar. In January 2023, the Benning Planning Commission unanimously recommended against finding that the revised Willow Road (a/k/a Chelsea) solar project was within a preferred site for solar facilities.⁵⁹³

⁵⁹¹ Kevin Gaiss, *Solar Split: Shaftsbury residents oppose utility-scale solar*, WCAX, Feb. 23, 2023, <https://www.wcax.com/2023/02/23/solar-split-shaftsbury-residents-oppose-utility-scale-solar/>.

⁵⁹² Kevin Gaiss, *Shaftsbury residents reject solar project in non-binding vote*, WCAX, Mar. 10, 2023, <https://www.wcax.com/2023/03/10/shaftsbury-residents-reject-solar-project-non-binding-vote/>.

⁵⁹³ Jim Therrien, *Planners recommend against solar developer’s request*, BENNINGTON BANNER, Jan. 13, 2023, https://www.benningtonbanner.com/local-news/planners-recommend-against-solar-developers-request/article_8d69c01c-936d-11ed-b341-f73b6e438e23.html; Jim Therrien, *Work on Apple Hill solar site halted by regulators*, BENNINGTON BANNER, June 28, 2020, https://www.benningtonbanner.com/archives/work-on-apple-hill-solar-site-halted-by-regulators/article_5d87ab7f-b3bc-529e-8dd9-dd6125d62b87.html; Jim Therrien, *Solar project develop rejected again over Apple Hill site*, BENNINGTON BANNER, May 27, 2022, <https://www.benningtonbanner.com/local->

- **Babcock Solar Farm (Rutland County):** On March 30, 2018, the developer of a proposed 2.2-MW solar project near downtown Brandon wrote a letter to the Vermont Public Utility Commission requesting permission to change the site of the project because of “significant opposition to the project from neighboring property owners and residents due to aesthetic concerns.”⁵⁹⁴
- **Dairy Air Wind Project (Orleans County):** In January 2020, the developer of a single-turbine wind project called Dairy Air Wind announced that it was dropping plans for the project, blaming Governor Phil Scott for opposition to wind energy and for appointing opponents of wind energy to the PUC. The Town of Holland actively fought the project, incurring more than \$70,000 in legal fees over three years. In March 2020, the petition was dismissed with prejudice so that the case cannot be refiled or reopened. At the time of dismissal, there were no other petitions for so-called major wind projects before the PUC.⁵⁹⁵
- **Grandpa’s Knob Wind Project (Rutland County):** In 2022, the developer of a proposed single-turbine, 1.5-MW wind project abandoned plans amidst opposition in Castleton, Vermont and surrounding towns. The failure of the single-turbine project followed an unsuccessful 2012 proposal for 20 turbines along the ridgeline at Grandpa’s Knob that the Castleton Select Board unanimously opposed.⁵⁹⁶

[news/solar-project-develop-rejected-again-over-apple-hill-site/article_e176ff4a-ddfa-11ec-91e6-0b8315800abd.html](https://www.washingtonpost.com/news/solar-project-develop-rejected-again-over-apple-hill-site/article_e176ff4a-ddfa-11ec-91e6-0b8315800abd.html); In re Petition of Chelsea Solar LLC, 2021 Vt 27 (2020).

⁵⁹⁴ Evan Johnson, *Brandon solar project files paperwork*, MOUNTAIN TIMES, Sept. 26, 2018, <https://mountaintimes.info/brandon-solar-project-files-paperwork/>.

⁵⁹⁵ Robin Smith, *Holland hopeful Dairy Air Wind is ‘dead’*, THE CALEDONIAN RECORD, Mar. 5, 2020, https://www.caledonianrecord.com/news/local/holland-hopeful-dairy-air-wind-is-dead/article_2956712a-7674-526c-9ef1-3895e98ab145.html; *Vermont regulators end last active petition for wind project*, ASSOCIATED PRESS NEWS, Mar. 24, 2020, <https://apnews.com/article/e6e6884753f250f7739c6b839d611e2a>.

⁵⁹⁶ Keith Whitcomb Jr., *Grandpa’s Knob wind project not moving forward*, RUTLAND HERALD, Aug. 2, 2022, https://www.rutlandherald.com/news/grandpas-knob-wind-project-not-moving-forward/article_da9f1d6b-c227-5a29-abc9-36cf712eb507.html; Olivia Lyons, *Community raises concerns about proposed wind power projects in Castleton*, WCAX3, Oct. 5, 2021,

- **Kingdom Community Wind Project (Orleans County):** Several individuals joined with Energize Vermont in filing a lawsuit to challenge the issuance of a permit related to stormwater management at the 21-turbine Kingdom Community Wind Project, which was completed in 2012. In 2013 the Vermont Supreme Court found “no clear and convincing error” and affirmed the issuance of the permit.⁵⁹⁷
- **Manchester Solar Project (Bennington County):** In September 2021, the Vermont Public Utility Commission denied a certificate to a 500-kilowatt project in Manchester, Vermont, which had been proposed by Manchester-based MHG Solar. The Commission cited aesthetic concerns in its denial and noted that it had received “many public comments in opposition to the project,” primarily focused on aesthetic impacts and flooding concerns.⁵⁹⁸
- **New Haven Solar Projects (Addison County):** In 2017, the Vermont Supreme Court rejected a nuisance lawsuit by neighbors of two solar projects in New Haven, alleging that the projects had caused their properties to lose value. The court concluded that aesthetic harm alone cannot form the basis of a private nuisance claim.⁵⁹⁹

<https://www.wcax.com/2021/10/05/community-raises-concerns-about-proposed-wind-power-project-castleton>.

⁵⁹⁷ In re ANR Permits in Lowell Mountain Wind Project, 196 Vt. 467, 98 A.3d 16 (2014); Green Mountain Power, Kingdom Community Wind, <https://legislature.vermont.gov/Documents/2020/WorkGroups/House%20Natural/Wind%20Power/W~Robert%20Dostis~Kingdom%20Community%20Wind%20Quick%20Facts%20for%202019~2-21-2019.pdf>.

⁵⁹⁸ Emma Cotton, *Commission Denies Manchester Solar Array, Approves Middlebury Project*, VTDIGGER, Sept. 20, 2021, <https://vtdigger.org/2021/09/20/commission-denies-manchester-solar-array-approves-middlebury-project>; Bill McKibben, *A Thing So ‘Shocking and Offensive’ It Literally Can’t Be Permitted*, CRUCIAL YEARS, Sept., 27, 2021, <https://billmckibben.substack.com/p/a-thing-so-shocking-and-offensive>.

⁵⁹⁹ Victoria Westgate, *Vermont Supreme Court Rejects Argument for Visual Nuisance of Solar Project*, DUNKIEL SAUNDERS, Jan. 18, 2017, <https://dunkielsaunders.com/vermont-supreme-court-rejects-argument-for-visual-nuisance-of-solar-project>; Myrick v. Peck Elec. Co., 204 Vt. 128 (Jan. 13, 2017).

46. VIRGINIA

46.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

46.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Charlotte County:** On August 8, 2022, the Charlotte County Board of Supervisors adopted a moratorium on applications for solar projects through January 1, 2024 or until the Charlotte County Planning Commission makes a recommendation on zoning for solar projects, whichever happens first.⁶⁰⁰
- **Culpeper County:** On February 7, 2023, the Culpeper County Board of Supervisors voted to limit the size of future solar energy projects to 300 acres per project.⁶⁰¹
- **Franklin County:** On February 21, 2023, the Franklin County Board of Supervisors adopted an ordinance that imposed a 1,500-acre cap on above-ground solar projects countywide and a 300-foot setback from any off-site residential structures.⁶⁰²

⁶⁰⁰Charlotte Co. pauses further solar projects, SOVANOW.COM, Aug. 24, 2022, <https://www.sovanow.com/articles/charlotte-co-pauses-further-solar-projects>.

⁶⁰¹ Allison Brophy Champion, *Culpeper County limits solar energy projects to 300 acres*, CULPEPER STAR EXPONENT, Feb. 8, 2023, https://starexponent.com/business/culpeper-county-limits-solar-energy-projects-to-300-acres/article_47edbccc6-a7b5-11ed-93de-eb9404b65ee4.html; Culpeper County, Va., Ordinance Adopting Article 17-7 § 17-7-4.1 (Feb. 7, 2023), [https://go.boarddocs.com/va/ccva/Board.nsf/files/CPGTE5725CB3/\\$file/02072023%20Solar%20Ordinance.pdf](https://go.boarddocs.com/va/ccva/Board.nsf/files/CPGTE5725CB3/$file/02072023%20Solar%20Ordinance.pdf).

⁶⁰² FRANKLIN COUNTY, VA., ORDINANCE NO. 11-02-2023 (Feb. 21, 2023), <https://www.franklincountyva.gov/DocumentCenter/View/3876/Finalized-Zoning-Amendment-Chapter-25--Utility-Scale-Solar-Generation-Facility-2023-PDF>.

- **Halifax County:** On May 1, 2023, the Halifax County Board of Supervisors adopted a zoning amendment that prohibits large-scale solar energy facilities within 2,000 feet of the corporate limits of any municipality.⁶⁰³
- **Page County:** On June 28, 2022, Page County adopted a solar ordinance that limits utility-scale projects to 30 acres “covered by arrays of photovoltaic panels, including spaces between panels,” and other related structures. The ordinance further requires that above-ground structures, including security fences, be set back at least 300 feet from property lines with existing dwellings and that transformers be set back 600 feet.⁶⁰⁴
- **Pittsylvania County:** On March 21, 2023, the Pittsylvania County Board of Supervisors approved changes to the county’s solar ordinance that will prohibit the construction of solar farms within 5 miles of any other solar farm and limit utility-scale solar projects to 2% of the total acreage of any zoning district.⁶⁰⁵
- **Shenandoah County:** On April 25, 2023, the Shenandoah County Board of Supervisors amended the county solar ordinance to require 100% vegetative coverage around the perimeter of a facility and to limit the size of facilities to 50 acres for every mile of buffer.⁶⁰⁶

New Entries (Pre-March 2022 Developments)

- **Henry County:** Henry County’s solar ordinance, adopted March 24, 2020, provides that no more than 2.5% of land in a 5-mile radius of the project area of

⁶⁰³ Miranda Baines, *Infrastructure improvements approved for SBS, VIR*, THE GAZETTE-VIRGINIAN, May 3, 2023, http://www.yourgv.com/news/local_news/infrastructure-improvements-approved-for-sbs-vir/article_d046a672-e91a-11ed-b65b-737d4cc885fa.html.

⁶⁰⁴ PAGE COUNTY, VA., CODE §§ 134-7(J)-(K) (June 28, 2022), <https://ecode360.com/39329837>.

⁶⁰⁵ Diana McFarland, *PittCo further restricts solar*, CHATHAM STAR TRIBUNE, Mar. 30, 2023, https://www.chathamstartribune.com/news/article_fd43026e-ce40-11ed-a14d-c7bed4d03718.html.

⁶⁰⁶ Alex Bridges, *Shenandoah County board OKs new solar farm rules*, THE NORTHERN VIRGINIA DAILY, Apr. 26, 2023, https://www.nvdaily.com/nvdaily/shenandoah-county-board-oks-new-solar-farm-rules/article_916f0142-729b-5e3d-aa6f-ba622c07aa6c.html.

any existing large scale solar facility may be approved for use as the project area for a new large scale solar facility.⁶⁰⁷

- **Patrick County:** Patrick County adopted an ordinance in 2007 that prohibits any structures over 100 feet tall except for telecommunications towers and towers associated with religious buildings. The ordinance provides that “this prohibition shall be without any other exception and there shall be no variances, nor conditional nor special use permits granted from this ordinance.”⁶⁰⁸
- **Warren County:** A 2009 ordinance limits wind turbines to 120 feet in height.⁶⁰⁹

46.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Antlers Road Solar Farm (Mecklenburg County):** On January 9, 2023, the Mecklenburg County Board of Supervisors rejected an application for a 90-acre solar farm that would include 489 acres enclosed within a security fence and an additional 520 acres on the project site that would continue to be timbered. In reaching their decision, the supervisors cited the loss of 489 acres of prime farmland as a chief concern.⁶¹⁰ On February 8, 2023, the developer, RWE Renewables Americas, LLC, filed a lawsuit challenging the decision.⁶¹¹

⁶⁰⁷ HENRY COUNTY, VA., CODE OF ORDINANCES § 21-1806(j) (adopted Mar. 24, 2020), https://library.municode.com/va/henry_county/codes/code_of_ordinances?nodeId=COOR_CH21ZO_ARTXVIIIISOENFA_S21-1806LOAPOPRE.

⁶⁰⁸ PATRICK COUNTY, VA., AN ORDINANCE ENTITLED PROHIBITION OF TALL STRUCTURES (Feb. 12, 2007), https://www.co.patrick.va.us/content/patrick/uploads/PDF/tall_structure_ordiance.pdf.

⁶⁰⁹ WARREN COUNTY, VA., CODE OF ORDINANCES § 180-59.1 (added May 19, 2009), <https://ecode360.com/13713827>.

⁶¹⁰ Susan Kyte, *Mecklenburg supes reject Boydton area solar project*, SOVANOW.COM, Jan. 11, 2023, <https://www.sovanow.com/articles/mecklenburg-supes-reject-boydton-area-solar-project/>.

⁶¹¹ Susan Kyte, *Developer sues to overturn ‘no’ vote on Antler’s Road Solar*, THE MECKLENBURG SUN, Mar. 15, 2023, <https://www.sovanow.com/articles/developer-sues-to-overturn-no-vote-on-antlers-road-solar/>.

- **Axton Solar Project (Henry County):** In November 2021, the Henry County Board of Zoning Appeals rejected Axton Solar LLC's request to add 484 acres to a previously approved 1,203-acre solar project on agricultural land in the unincorporated community of Axton. The request was denied due to concerns about aesthetic impacts and an ordinance that mandates that no more than 2.5% of the land area within a 5-mile radius may be used by solar.⁶¹² In December 2022, after the developer reduced the total project size to about 1,000 acres, with only 434 acres covered in panels, the Henry County Board of Zoning Appeals approved the project.⁶¹³ However, on April 25, 2023, the Henry County Board of Supervisors rejected the project on finding that it would exceed the 2.5% cap by 93 acres.⁶¹⁴
- **Cape Solar Project (Page County):** The 100-acre Cape Solar project was first proposed in 2018. The project faced intense opposition from Page County Citizens for Responsible Solar, and the Page County Board of Supervisors denied the application. The developer submitted a new application in December 2020. However, in March 2022, the Page County Planning Commission recommended denial of the revised application due to the anticipated loss of agricultural land, visual impacts, and environmental impacts. In June 2022, the Page County Board of Supervisors adopted a restrictive ordinance that limited projects to 30 acres. On August 16, 2022, the developer withdrew the application.⁶¹⁵

⁶¹² Bill Wyatt, *Board of Zoning Appeals denies two solar farm requests in Axton*, MARTINSVILLE BULLETIN, Nov. 29, 2021, https://martinsvillebulletin.com/news/local/govt-and-politics/board-of-zoning-appeals-denies-two-solar-farm-requests-in-axton/article_764ee4c0-4e31-11ec-a948-3fa623aCcb601.html.

⁶¹³ Bill Wyatt, *Axton Solar project approved*, MARTINSVILLE BULLETIN, Dec. 15, 2022, https://martinsvillebulletin.com/news/local/axton-solar-project-approved/article_2c3f3daa-7caa-11ed-ba1b-37990be93c76.html.

⁶¹⁴ Bill Wyatt, *Board rejects Axton solar project*, MARTINSVILLE BULLETIN, Apr. 26, 2023, https://martinsvillebulletin.com/news/local/board-rejects-axton-solar-project/article_c0c2f866-e45d-11ed-b48c-e71da4f00763.html.

⁶¹⁵ Randy Arrington, *Urban Grid withdraws Cape Solar application, county doesn't anticipate third attempt*, PAGE VALLEY NEWS, Aug. 17, 2022, <https://pagevalleynews.com/urban-grid-withdraws-cape-solar-application-county-doesnt-anticipate-third-attempt/>; Miranda Green et al., *An activist group is spreading*

- **Carver Solar (Isle of Wight County):** On February 23, 2023, the Isle of Wight County Supervisors rejected an application for a 71-MW, 637-acre solar farm between the village of Zuni and town of Windsor. Immediately prior to the vote, opponents spoke out against the project, citing visual impacts of the project and concerns about electromagnetic fields. Five days after the vote, the county planning commission voted to recommend that the county supervisors establish a cap on the cumulative acreage of solar farms at 2% of the county's prime farmlands.⁶¹⁶
- **Crawford Road Solar (Halifax County):** On March 14, 2023, the Halifax Town Council rejected a request to rezone 86 acres from residential to manufacturing to allow for construction of the 5-MW Crawford Road Solar project. The decision followed a public hearing in which opponents raised concerns about impacts on property values and visual impacts. More than 100 town residents purportedly signed a petition opposing the project.⁶¹⁷

Existing Entries (Updated)

- **Cartersville Solar (Powhatan County):** In February 2019, Cypress Creek Renewables withdrew its application for a solar project after the Powhatan County Planning Commission recommended denial of the application and the Board of Supervisor denied an appeal of the Planning Commission's decision to recommend denial. The project faced intense local opposition in the community.⁶¹⁸

misinformation to stop solar projects in rural America, NPR, Feb. 18, 2023, <https://www.npr.org/2023/02/18/1154867064/solar-power-misinformation-activists-rural-america>.

⁶¹⁶ Stephen Faleski, *Isle of Wight supervisors reject Zuni solar farm, form 'energy task force'*, WINDSOR WEEKLY, Mar. 3, 2023, <https://www.windsorweekly.com/2023/03/03/isle-of-wight-supervisors-reject-zuni-solar-farm-form-energy-task-force/>.

⁶¹⁷ Victoria Thompson, *Halifax council rejects Crawford Road Solar*, NEWS & RECORD, Mar. 16, 2023, <https://www.sovanow.com/articles/halifax-council-rejects-crawford-road-solar/>.

⁶¹⁸ Laura McFarland, *Solar Farm Withdraws Application After Board Denies Appeal*, RICHMOND TIMES-DISPATCH, Mar. 13, 2019, <https://richmond.com/news/local/central-virginia/powhatan/powhatan->

- **Cricket Solar (Culpeper County):** The proposed 1,600-acre Cricket Solar project faced concerted opposition from Citizens for Responsible Solar. The opponents' arguments focused, in large part, on stormwater runoff, wetlands impacts, and the proximity of Civil War battle sites. The developer revised its application to address these concerns. However, in the face of continued opposition, the developer withdrew the revised application in August 2019.⁶¹⁹
- **Maroon Solar (Culpeper County):** In 2020, Strata Clean Energy submitted an application for the 149-MW Maroon Solar project but withdrew the application after intense pushback from neighbors and Citizens for Responsible Solar. In 2021, the Culpeper County Board of Supervisors denied a second application for the project. In 2022, Strata submitted a third application. However, in January 2023, the planning commission recommended denial of the project because it was in conflict with the county's policy of limiting projects to 300 acres; the Maroon Solar project would span across 1,800 acres of agricultural land and include 671 acres of panels. On February 7, 2023, the board of supervisors codified that policy by adopting an ordinance that limited projects to 300 acres. One week later, the developer withdrew its third application for the project.⁶²⁰
- **Randolph Solar Project (Charlotte County):** Developer SolUnesco proposed an 800-MW solar project in Charlotte County. A lawsuit filed on September 28, 2021 alleged that the developer improperly entered into a lease agreement with a landowner who had dementia, circumventing her power of attorney after her

[today/solar-farm-withdraws-application-after-board-denies-appeal/article_5efbcfd8-459a-11e9-9f47-ab35e59dc6b4.html](https://fredericksburg.com/news/local/culpeper-solar-farm-called-off-after-pushback/article_5efbcfd8-459a-11e9-9f47-ab35e59dc6b4.html).

⁶¹⁹ Hannah Natanson, *Culpeper solar farm called off after pushback*, THE FREE LANCE-STAR, Sept. 11, 2019, https://fredericksburg.com/news/local/culpeper-solar-farm-called-off-after-pushback/article_70b5375a-d4a6-11e9-b588-03024bc459c8.html.

⁶²⁰ Allison Brophy-Champion, *Maroon Solar project withdrawn, company says it will resubmit to comply with new rules*, THE FREE LANCE-STAR, Feb. 18, 2023, https://fredericksburg.com/news/local/maroon-solar-project-withdrawn-company-says-it-will-resubmit-to-comply-with-new-rules/article_24ee72e4-426c-5e40-b91c-f4e9bd6f368d.html.

power of attorney had rejected the developer's offer multiple times.⁶²¹ In July 2022, the project received necessary permits. Approximately 4,500 acres will be fenced in, and approximately 3,000 acres will be covered with solar panels and other equipment.⁶²²

- **Rocky Ford Solar Energy Project (Henry County):** In November 2021, the Henry County Board of Zoning Appeals rejected Invenergy's proposal for the 90-MW Rocky Ford Solar Energy Project at the same meeting as it rejected Axton Solar LLC's request to add 484 acres to a previously approved project. As with Axton Solar's request, Invenergy's application was denied due to concerns about aesthetic impacts and an ordinance that mandates that no more than 2.5% of the land area within a 5-mile radius may be used by solar.⁶²³ However, after the developer reduced the project size from 800 acres to 378 acres, the county approved the project.⁶²⁴
- **Rocky Forge Wind (Botetourt County):** On January 26, 2016, the Botetourt County Board of Supervisors voted to permit Apex Clean Energy to construct a 25-turbine, 75-MW project on a mountain ridge in Southwest Virginia.⁶²⁵ However, the project has faced local opposition and construction has been delayed repeatedly. On November 10, 2021, a group called Citizens for Responsible Energy, also known as Virginians for Responsible Energy, filed a

⁶²¹ Michael Alachnowicz, *Company seeking to build utility-scale solar farm in Charlotte County faces lawsuit*, WDBJ, Oct. 12, 2021, <https://www.wdbj7.com/2021/10/12/company-seeking-build-utility-scale-solar-farm-charlotte-county-faces-lawsuit/>.

⁶²² Robyn Sidersky, *Charlotte County approves Va.'s largest solar farm*, VIRGINIA BUSINESS, Aug. 29, 2022, <https://www.virginiabusiness.com/article/charlotte-county-approves-va-s-largest-solar-farm/>.

⁶²³ Bill Wyatt, *Board of Zoning Appeals denies two solar farm requests in Axton*, MARTINSVILLE BULLETIN, Nov. 29, 2021, https://martinsvillebulletin.com/news/local/govt-and-politics/board-of-zoning-appeals-denies-two-solar-farm-requests-in-axton/article_764ee4c0-4e31-11ec-a948-3fa623aCcb601.html.

⁶²⁴ Bill Wyatt, *Axton Solar project approved*, MARTINSVILLE BULLETIN, Dec. 15, 2022, https://martinsvillebulletin.com/news/local/axton-solar-project-approved/article_2c3f3daa-7caa-11ed-ba1b-37990be93c76.html.

⁶²⁵ M Ray Allen, *Rocky Forge Wind Project Remains in Limbo*, THE VIRGINIAN REVIEW, Mar. 12, 2022, <https://virginianreview.com/209615/>.

lawsuit challenging the project.⁶²⁶ In 2022, the American Bird Conservancy submitted comments raising concerns about impacts to Golden Eagles.⁶²⁷ As of April 2023, construction has not begun.⁶²⁸

- **Spotsylvania Solar Energy Center (Spotsylvania County):** A local group called Concerned Citizens of Spotsylvania County spent several thousand dollars fighting proposed 6,350-acre Spotsylvania Solar Energy Center. The opposition group was comprised largely of residents from the wealthy, gated Fawn Lake subdivision.⁶²⁹ The project ultimately received state and local approvals in 2018 and 2019, despite opposition.⁶³⁰

47. WASHINGTON

Note on state preemption of local restrictions: The state Energy Facility Site Evaluation Council has recently set aside county-level moratoria in several instances when approving solar projects.⁶³¹

⁶²⁶ Grace Mamon, *Why don't we have more wind energy in Southwest Virginia? Or any?*, CARDINAL NEWS, Nov. 23, 2021, <https://cardinalnews.org/2021/11/23/why-dont-we-have-more-wind-energy-in-southwest-virginia-or-any/>; Sam Wall, *Apex wins appeal to continue planning wind farm in Botetourt County*, THE ROANOKE TIMES, Oct. 12, 2021, https://roanoke.com/news/local/govt-and-politics/apex-wins-appeal-to-continue-planning-wind-farm-in-botetourt-county/article_30cc55e6-2ba3-11ec-98b1-3716c8e5d7b2.html.

⁶²⁷ Laurence Hammack, *Up in the air: Questions remain about eagles and wind turbines in Botetourt County*, THE ROANOKE TIMES, July 10, 2022, https://roanoke.com/news/local/up-in-the-air-questions-remain-about-eagles-and-wind-turbines-in-botetourt-county/article_d83a8a40-feda-11ec-9bed-97f7e49c8240.html.

⁶²⁸ Rocky Forge Wind, <https://www.rockyforgewind.com/> (last visited Apr. 25, 2023).

⁶²⁹ Sarah Vogelsong, *Biggest piece of Spotsylvania solar farm approved*, VIRGINIA MERCURY, Apr. 10, 2019, <https://www.virginiamercury.com/2019/04/10/biggest-piece-of-spotsylvania-solar-farm-approved/>.

⁶³⁰ Michael Bates, *Power Closers on Spotsylvania Solar Energy Center Financing*, SOLAR INDUSTRY MAGAZINE, July 27, 2020, <https://solarindustrymag.com/spower-closes-on-spotsylvania-solar-energy-center-financing>.

⁶³¹ See, e.g., Don Jenkins, *Yakima County solar moratorium eclipsed by state council*, CAPITAL PRESS, Dec. 6, 2022, https://www.capitalpress.com/ag_sectors/rurallife/yakima-county-solar-moratorium-eclipsed-by-state-council/article_1de9a3fa-7591-11ed-9593-af0ab3e4fafd.html.

47.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

47.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Klickitat County:** On January 10, 2023, the Klickitat County Commissioners adopted a 6-month moratorium on solar projects greater than one acre in the Goldendale and Centerville valleys.⁶³² An ordinance adopted August 17, 2010 requires (a) that wind turbines be set back 1,600 feet from existing residential structures and (b) that solar panels be set back by “a minimum of five hundred [500] to one thousand five hundred [1,500] feet from existing residential structures,” depending on aesthetic impacts, geography, and the project size.⁶³³
- **Yakima County:** On July 26, 2022, Yakima County adopted a temporary moratorium on mid- and large-scale solar projects, which was extended on February 28, 2023 for another 6 months.⁶³⁴

⁶³² Jacob Bertram, *Second solar moratorium approved*, COLUMBIA GORGE NEWS, Jan. 18, 2023, https://www.columbiagorgenews.com/news/second-solar-moratorium-approved/article_838314a6-96ae-11ed-a42d-139f1114b5b2.html.

⁶³³ KLICKITAT COUNTY, WASH., MUNICIPAL CODE § 19.39:8 (adopted Aug. 17, 2010), https://library.municode.com/wa/klickitat_county/codes/code_of_ordinances?nodeId=TIT19ZO_CH19.39_ENOVZO_19.39_8DEST.

⁶³⁴ Phil Ferolito, *Yakima County Commissioners extend moratorium on solar farms*, YAKIMA HERALD-REPUBLIC, Mar. 1, 2023, https://www.yakimaherald.com/news/local/yakima-county-commissioners-extend-moratorium-on-solar-farms/article_5585043c-b7c0-11ed-a2e2-e388a7e477af.html.

New Entries (Pre-March 2022 Developments)

- **Grant County:** On August 3, 2021, the Grant County Board of County Commissioners adopted a moratorium on new commercial or industrial wind or solar projects. On January 25, 2022, the moratorium was extended by 90 days.⁶³⁵
- **Kittitas County:** In early 2017, the Kittitas County Commissioners established a temporary moratorium on applications for major solar energy projects. The moratorium was rescinded in October 2018 with the adoption of a new ordinance. The moratorium was apparently motivated by opposition to the proposed Columbia Solar Project.⁶³⁶

47.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **Carriger Solar Project (Klickitat County):** The proposed 160-MW Carriger Solar Project drew opposition from a group called Citizens Educated About Solar Energy (CEASE). In August 2021, the founder of CEASE was ejected from a public meeting about the project for causing a disruption. On January 10, 2023, the Klickitat County Commission adopted a 6-month moratorium on solar projects in the area where the project has been proposed.⁶³⁷
- **Goldendale Energy Storage Project (Klickitat County):** The Yakama Nation has been fighting the proposed Goldendale Energy Storage Project on its ancestral land for five years due to concerns that the pumped storage project could destroy

⁶³⁵ See Grant County, Wash., Draft Ordinance to Further Extend Moratorium, <https://www.grantcountywa.gov/DocumentCenter/View/5066/Solar-Extension-2>.

⁶³⁶ KITTITAS COUNTY, WASH. ORDINANCE NO. 2018-018 (Oct. 2, 2018), <https://www.co.kittitas.wa.us/uploads/bocc/ordinances/2018-018-ordinance.pdf>.

⁶³⁷ Jacob Bertram, *Second solar moratorium approved*, COLUMBIA GORGE NEWS, Jan. 18, 2023, https://www.columbiagorgenews.com/news/second-solar-moratorium-approved/article_838314a6-96ae-11ed-a42d-139f1114b5b2.html; Jacob Bertram, *Solar project meets resistance; Carriger Solar Project proposed in Klickitat County*, COLUMBIA GORGE NEWS, Aug. 25, 2021, https://www.columbiagorgenews.com/news/solar-project-meets-resistance-carriger-solar-project-proposed-in-klickitat-county/article_6c91f4de-0518-11ec-9b1f-7306014d841c.html.

tribal cultural property. On July 28, 2022, 17 of Washington State’s 29 federally recognized tribes sent a letter to Gov. Inslee asking that he deny permits for the project. The proposed project would cover 700 acres, including two 60-acre reservoirs separated by more than 2,000 feet in elevation.⁶³⁸

- **High Top Solar and Ostrea Solar Projects (Yakima County):** On April 7, 2022, Cypress Creek Renewables submitted applications to the state EFSEC for two 80-MW projects, High Top Solar and Ostera Solar, which would cover 1,600 acres each. On July 26, 2022, the county imposed a moratorium on mid- and large-scale solar projects. In November 2022, the county commissioners sent two letters to the EFSEC asking the council to abide by the moratorium and hold off on approving any projects in the county until new local rules are finalized. However, in December 2022, the EFSEC informed the county commissioners that the EFSEC’s guiding laws “do not provide a mechanism to cease review of an [a]pplication . . . in light of a county-enacted moratorium.” In February 2023, the EFSEC approved the applications in spite of the county moratorium, sending the

⁶³⁸ B. Toastie Oaster, *Green colonialism is flooding the Pacific Northwest*, HIGH COUNTRY NEWS, Feb. 28, 2023, <https://www.hcn.org/issues/55.3/indigenous-affairs-green-colonialism-is-flooding-the-pacific-northwest>; Chris Aadland, *Washington Tribes Call on Governor to Reject Clean Energy Project Proposal*, UNDERSCORE, Aug. 4, 2022, <https://www.underscore.news/reporting/washington-tribes-call-on-governor-to-reject-clean-energy-project-proposal>.

applications on to Gov. Inslee for final approval.⁶³⁹ On April 17, 2023, Governor Inslee approved the projects.⁶⁴⁰

Existing Entries (Updated)

- **Columbia Solar Project (Kittitas County):** Tuusso Energy applied to the State Energy Facility Site Evaluation Council (EFSEC) for permission to construct a 25-MW, 200-acre solar project across five parcels of private property. Neighbors of the site started an organization, Save Our Farms, to advocate against the project. In early 2017, the Kittitas County Commission enacted a temporary moratorium that prohibited major solar projects. In July 2018, the EFSEC overrode the County by voting to approve the project. In October 2018, Governor Inslee gave final approval, allowing the project to move forward.⁶⁴¹
- **Horse Heaven Wind Farm (Benton County):** Scout Clean Energy has proposed a 600-MW wind project on 24 miles of ridgeline on the Horse Heaven Hills. The

⁶³⁹ Letter from EFSEC to Yakima County Board of Commissioners dated Dec. 5, 2022, https://www.efsec.wa.gov/sites/default/files/220212/20221205_EFSEC_ResponseYakimaCountyCommissioners.pdf; Joel Donofrio, *State panel recommends approval for 2 Yakima County solar projects*, YAKIMA HERALD-REPUBLIC, Feb. 16, 2023, https://www.yakimaherald.com/news/local/business/state-panel-recommends-approval-for-2-yakima-county-solar-projects/article_c313a7ce-ad89-11ed-8e61-1f649a096d32.html; Phil Ferolito, *Yakima County commissioners unhappy state agency OKs solar farms*, THE SEATTLE TIMES, Nov. 28, 2022, <https://www.seattletimes.com/seattle-news/yakima-county-commissioners-unhappy-state-agency-oks-solar-farms/>; Joel Donofrio, *Environmental statement issued on Yakima County solar projects*, YAKIMA HERALD-REPUBLIC, Oct. 3, 2022, https://www.yakimaherald.com/news/local/environmental-statement-issued-on-yakima-county-solar-projects/article_19a850be-433e-11ed-8add-73e3e5782276.html.

⁶⁴⁰ Joel Donofrio, *Governor approves two Yakima County solar projects*, YAKIMA HERALD-REPUBLIC, Apr. 17, 2023, https://www.yakimaherald.com/news/local/governor-approves-two-yakima-county-solar-projects/article_953aa8a0-dd56-11ed-a804-cb0dc55a7f1e.html.

⁶⁴¹ Press Release: Inslee issues approval of Columbia Solar Project in Kittitas County, Oct. 17, 2018, <https://www.governor.wa.gov/news-media/inslee-issues-approval-columbia-solar-project-kittitas-county>; Hal Bernton, *State board OKs Kittitas County solar farm; final decision up to Inslee*, THE SEATTLE TIMES, July 18, 2018, <https://www.seattletimes.com/seattle-news/state-board-oks-sprawling-kittitas-county-solar-farm-final-decision-up-to-inslee/>; Hal Bernton, *Solar panels on farmland? In Central Washington, that stirs a fight*, THE SEATTLE TIMES, Apr. 27, 2018, <https://www.seattletimes.com/seattle-news/environment/solar-panels-on-farmland-in-central-washington-that-stirs-a-fight>.

project has garnered local opposition from groups such as Save Our Ridges, which maintains a website tracking the project. Construction was supposed to be finished by 2022, but the project was still under review as of February 2023.⁶⁴²

- **Skykomish River Hydroelectric Project (Snohomish County):** A hydroelectric dam project on the Skykomish River was abandoned in 2018, seven years after it was proposed, due to local opposition. Residents had opposed the project on the ground that the project would divert up to 90% of the water from a scenic waterfall.⁶⁴³

48. WEST VIRGINIA

48.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

48.2 Local Restrictions

No restrictive local ordinances, regulations, or policies were found at this time.

48.3 Contested Projects

Existing Entries (Updated)

- **Beech Ridge Wind Farm (Greenbrier County):** The Beech Ridge Wind Farm, a 100-MW wind project in Greenbrier County, was met with local opposition when

⁶⁴² Annette Cary, 'Too close, too big,' say opponents of huge Tri-Cities wind farm, despite jobs, THE SPOKESMAN-REVIEW, Feb. 2, 2023, <https://www.spokesman.com/stories/2023/feb/02/too-close-too-big-strong-opposition-for-huge-tri-c/>; TCAJOB Staff, Colorado firm plans 600-megawatt Horse Heaven Wind Farm, TRI-CITIES AREA JOURNAL OF BUSINESS, May 2020, <https://www.tricitybusinessnews.com/2020/05/horse-heaven-wind-farm/>; Barry Bush, Tri-Citians must stand up to wind turbine plan, TRI-CITY HERALD, Mar. 10, 2020, <https://www.tri-cityherald.com/opinion/opn-columns-blogs/article241067026.html>; Save Our Ridges, Horse Heaven Hills Wind Farm Project, https://save-our-ridges.org/?page_id=18 (last visited Mar. 31, 2023).

⁶⁴³ Bellamy Pailthorp, *No Hydropower At Sunset Falls: Controversial Skykomish River Project Canceled*, KNKX, Apr. 10, 2018, <https://www.knkx.org/environment/2018-04-10/no-hydropower-at-sunset-falls-controversial-skykomish-river-project-canceled>.

it was proposed in 2005. Opponents including the Animal Welfare Institute and Mountain Communities for Responsible Energy challenged the project before the PSC, and then in federal court. During the pendency of the federal lawsuit, the developer agreed to continue construction on only 40 out of the planned 124 turbines until a decision on the merits. In 2009, a federal district court found flaws in analysis of impacts on the endangered Indiana bat and imposed severe restrictions on the project. The court allowed the developer to complete the 40 turbines under construction but enjoined the operation of those wind turbines at all times except winter, unless the parties could agree otherwise. The project was completed in 2010 with the construction of 67 turbines.⁶⁴⁴

- **Mount Storm Wind Project (Grant County):** In 2005, landowners in Grant County filed a nuisance lawsuit in state court to enjoin the construction and operation of a wind power project planned by Shell WindEnergy, Inc. and NedPower. The trial court dismissed the action, holding that the state public service commission's approval of the project deprived the court of jurisdiction to enjoin the project. The West Virginia Supreme Court reversed on appeal in June 2007, finding that the lower court had improperly dismissed the lawsuit and remanding the case back to the lower court for further proceedings. The 264-MW wind farm was completed in 2008, despite the legal challenges.⁶⁴⁵

49. WISCONSIN

Note on state preemption of local restrictions: In Wisconsin, state law prohibits local governments from placing restrictions on wind energy that are more restrictive than the

⁶⁴⁴ Invenenergy Beech Ridge Wind Farm Tour, Virginia Tech, Nov. 11, 2010, <https://web.archive.org/web/20140203205003/http://www.esm.vt.edu/news/articles/2010/news-article-2010-11-18-298.html>; *Animal Welfare Institute v. Beech Ridge Energy LLC*, 675 F. Supp.2d 540 (D. Md. 2009);

⁶⁴⁵ *Dominion, Shell Complete NedPower Mount Storm Wind Project*, ELECTRICNET, Dec. 10, 2008, <https://www.electricnet.com/doc/dominion-shell-complete-nedpower-mount-storm-0001>; *Burch v. NedPower Mount Storm, LLC*, 220 W.Va. 443 (June 8, 2007).

state public service commission's regulations.⁶⁴⁶ State law further prohibits local governments from placing any restrictions on wind or solar facilities unless those restrictions: (a) protect health or safety; (b) do not significantly increase the cost or decrease efficiency; or (c) allow for an alternative system of comparable cost and efficiency.⁶⁴⁷ In addition, state law provides that "[i]f installation or utilization of a facility for which a certificate of convenience and necessity has been granted is precluded or inhibited by a local ordinance," the local ordinance is preempted.⁶⁴⁸

49.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

49.2 Local Restrictions

New Entries (Post-March 2022 Developments)

- **Town of Deerfield (Dane County):** An ordinance adopted in March 2022 provides that "[t]he siting of [solar energy] Systems on areas used for crop production is discouraged, particularly on Group I and II agricultural soils."⁶⁴⁹ *The restriction is nonbinding.*
- **Town of Dunn (Dane County):** An ordinance adopted in 2022 discourages approval of solar energy projects that occupy more than 5 acres of "Group I or

⁶⁴⁶ WIS. STAT. § 66.0401(1m), <https://docs.legis.wisconsin.gov/statutes/statutes/66/iv/0401/1m>; see also Wisconsin Legislative Council, Information Memorandum 2021-10, Regulation of Solar Generation Facilities, https://docs.legis.wisconsin.gov/misc/lc/information_memos/2021/im_2021_10.

⁶⁴⁷ *Id.*

⁶⁴⁸ See WIS. STAT. § 196.491(3)(i), <https://docs.legis.wisconsin.gov/statutes/statutes/196/491/3/i>.

⁶⁴⁹ TOWN OF DEERFIELD, WIS., ORDINANCE 2022-01 Sec. 1.7(b)(1) (Mar. 14, 2022), <http://danecotowns.net/wp-content/uploads/2022/10/ORDINANCE-2022-01-SOLAR-FARM-LICENSE.pdf>.

Group II soils as defined by the Land Evaluation and Site Assessment (LESA) of the USDA.”⁶⁵⁰ *The restriction is nonbinding.*

New Entries (Pre-March 2022 Developments)

- **Town of Springfield (Dane County):** An ordinance adopted in April 2021 sets out Town “policies” that discourage siting utility-scale solar farms on agricultural land. Among the Town policies are the following statements: (a) “Do not site [solar energy systems] on Group I or II agricultural soils” and (b) “Discourage [siting of solar energy systems] in other areas used for crop production.”⁶⁵¹ *The restrictions are nonbinding.*
- **Town of Westport (Dane County):** A town ordinance adopted October 4, 2021 provides that solar energy systems “may not be sited on Group I or II agricultural soils as these align with the most productive farming areas of the Town.” The ordinance further provides that solar energy systems are “discouraged in other areas used for crop production.”⁶⁵²

Existing Entries (Updated)

- **Manitowoc County:** In 2013, after receiving an application for construction of the Beautiful Hill Wind Farm Project, the Manitowoc County Board passed a wind ordinance that was “as strict as [they could] possibly make it” while complying with state law. The ordinance requires that developers offer annual payments to

⁶⁵⁰ TOWN OF DUNN, WIS., ORDINANCE 11-25 Sec. 11-25-7(c)(2) (2022), https://www.townofdunnwi.gov/files/ugd/7ab7a6_bc3bcba4ad92404baa5ffb44f8e0e617.pdf.

⁶⁵¹ TOWN OF SPRINGFIELD, WIS., ORDINANCE 2021-02 Sec. 9 (Apr. 8, 2021), <http://danecotowns.net/wp-content/uploads/2021/06/Springfield-2021-02-Comp-Amendment-Solar-siting.pdf>.

⁶⁵² TOWN OF WESTPORT, WIS., CODE OF ORDINANCES § 7-13-7(i)-(j), <https://www.townofwestport.org/sites/g/files/vyhlif6051/f/uploads/t7-ch13.pdf>; Town of Westport, Wis., Minutes of Oct. 4, 2021 Town Board Meeting, https://www.townofwestport.org/sites/g/files/vyhlif6051/f/minutes/town_board_minutes_10-04-21.pdf.

all nonparticipating landowners within 0.5 miles of a project, starting at \$600 per year for one turbine.⁶⁵³

- **Town of Union (Rock County):** An ordinance requiring turbine setbacks of a 0.5 miles (2,640 feet) from existing homes was enacted in 2007. However, state law now prohibits municipalities from requiring that wind turbines be set back by more than 1,250 feet.⁶⁵⁴

49.3 Contested Projects

New Entries (Post-March 2022 Developments)

- **High Noon Solar (Columbia County):** On March 16, 2023, the Columbia County Board adopted a resolution urging the Public Service Commission to deny the application for High Noon Solar. The proposed 300-MW project would include approximately 2,000 acres spread out across many separate parcels. In the resolution opposing the project, the county board highlighted concerns about property value impacts and dust. The county board also sent a resolution to state lawmakers asking for more county-level authority over the siting process.⁶⁵⁵

Existing Entries (Updated)

- **Beautiful Hill Wind Farm Project (Mantiwoc County):** Residents expressed concerns regarding “setbacks, low-frequency noise, location, and issues with the process” surrounding this proposed seven-turbine project. In 2013 the

⁶⁵³ Cindy Hodgson, *Country Board Adopts Wind Farm Ordinances*, HTR MEDIA (Mar. 21, 2013), <https://www.wind-watch.org/news/2013/03/22/county-board-adopts-wind-farm-ordinances/>; MANTIWOC COUNTY, WIS., CODE. § 24.20(a), <https://manitowocountywi.gov/wp-content/uploads/2021/01/chapter-24-2018-0424.pdf>.

⁶⁵⁴ Wisconsin Public Service Commission, *Wind Siting – Frequently Asked Questions* at 3, <https://psc.wi.gov/SiteAssets/WindSitingFAQs.pdf> (last visited Apr. 1, 2023); *The War Over Wind*, ISTHMUS, Sept. 10, 2009.

⁶⁵⁵ Jonathan Richie, *Columbia County asks Wisconsin regulators to deny large solar project*, LAKE GENEVA REGIONAL NEWS, Mar. 17, 2023, https://lakegenevanews.net/news/local/govt-and-politics/columbia-county-asks-wisconsin-regulators-to-deny-large-solar-project/article_2ac78621-e653-5630-8c40-0650c0f359a6.html.

Manitowoc County Board passed a wind ordinance that was as restrictive as state law would allow. It appears the project was not completed.⁶⁵⁶

- **Highland Wind Farm:** In 2011, a developer applied for a permit to construct the 102.5-MW Highland Wind Farm. After the PSC granted a permit for the project, the Town of Forest appealed the decision. The trial court dismissed the petition, and the Wisconsin Court of Appeals upheld dismissal in January 2019. In June 2019, the Wisconsin Supreme Court declined to hear the town's appeal. Nonetheless, in 2021, the developer canceled the project. By that time, the Town of Forest had spent more than \$500,000 opposing the project.⁶⁵⁷
- **Ledge Wind Energy Center Project (Brown County):** In March 2011, Invenergy canceled plans for a 100-turbine, 150-MW wind farm in Brown County, citing regulatory uncertainty at the state level. At a local level, the project faced opposition from Brown County Citizens for Responsible Wind Energy.⁶⁵⁸
- **Sugar River Wind Project (Green County):** After Green County approved this 65-MW, 24-turbine project, a group of 56 residents opposed to the project

⁶⁵⁶ Cindy Hodgson, *Country Board Adopts Wind Farm Ordinances*, HTR MEDIA (Mar. 21, 2013), <https://www.wind-watch.org/news/2013/03/22/county-board-adopts-wind-farm-ordinances/>.

⁶⁵⁷ LeAnn R. Ralph, *Leeward Renewable Energy cancels Highland Wind Farm project in Town of Forest*, Tribune Press Reporter, Nov. 22, 2021, <https://www.wind-watch.org/news/2021/11/22/leeward-renewable-energy-cancels-highland-wind-farm-project-in-town-of-forest/>; *Town of Forest v. P.S.C.*, 385 Wis. 2d 848 (Jan. 3, 2019); *Forest Wind Truth, Highland Wind Project Timeline: Town of Forest, WI*, <https://forestwindtruth.org/wp-content/uploads/2019/08/Highland-Wind-Project-Timeline-Town-of-Forest-WI-V1.pdf> (last visited Dec. 28, 2020); Chris Hubbuch, *Winds of Change Future Uncertain for Contested Wind Farm but Developers Returning to Wisconsin*, WISCONSIN STATE JOURNAL, Nov. 7, 2019, https://madison.com/wsj/news/local/govt-and-politics/winds-of-change-future-uncertain-for-contested-wind-farm-but/article_09a15977-c1a6-5149-a189-8f6dff94a25.html.

⁶⁵⁸ Maria Gallucci, *Developer Pulls Plug on Wisconsin Wind Farm Over Policy Uncertainty*, REUTERS, Mar. 24, 2011, <https://www.reuters.com/article/idUS408832364820110324>; Kansas Energy, *Wind Projects Wisconsin*, http://www.kansasenergy.org/wind_projects_WI.htm#Epic (last visited Dec. 27, 2020).

petitioned the PSC to overturn the approval. The PSC voted 3-0 to deny the petition in June 2020, allowing the project to move forward.⁶⁵⁹

50. WYOMING

50.1 State-Level Restrictions

No restrictive state laws, regulations, or policies were found at this time.

50.2 Local Restrictions

New Entries (Pre-March 2022 Developments)

- **Crook County:** A 2012 resolution provides that no wind energy project shall be approved that is set back less than 0.5 miles from the limits of the nearest city or town or 5.5 times tower height or 1 mile from the nearest residential dwelling. It further limits noise to 40 decibels at the property line.⁶⁶⁰

50.3 Contested Projects

Existing Entries (Updated)

- **Pioneer Wind Parks I and II (Converse County):** In 2011, Wasatch Wind proposed a 66-turbine wind farm in Converse County. The project was opposed by local residents due to concerns about potential impacts to scenery, recreation, property values, and the Laramie Range wilderness. The opponents formed the Northern Laramie Range Alliance (NLRA) to organize against the project, including by advocating for zoning regulations that would prohibit wind development above an elevation of 6,000 feet; when this failed, the group appealed state and county permitting decisions and eventually took a case to the

⁶⁵⁹ Chris Hubbuch, *PSC Denies Request to Block Green County Wind Farm*, WISCONSIN STATE JOURNAL, June 11, 2020, https://www.wiscnews.com/news/state-and-regional/psc-denies-request-to-block-green-county-wind-farm/article_63af9d51-3060-5323-b8ff-1e0c446c2ac9.html.

⁶⁶⁰ Crook County, Wyo., Wind Energy Facility Resolution § 7 (June 6, 2012), https://cms2.revize.com/revize/crookscountynew/elected_officials/commissioners/docs/RulesRegsCC/Crook County Wind Energy Facility Resolution.pdf.

Wyoming Supreme Court. Although these efforts failed, Converse County did enact slightly stricter wind regulations. Construction was completed in 2016.⁶⁶¹

- **Rail Tie Wind Project (Albany County):** ConnectGen Energy has proposed a 504-MW wind farm on 26,000 acres of state and private land in Albany County with up to 151 turbines. At a meeting in February 2020, residents urged the county planning and zoning commission to place a moratorium on wind development to block the project, citing concerns about the potential for aesthetic changes to the classic western landscape, effects on local wildlife, and the potential for groundwater contamination during the installation of turbine foundations. An attorney representing landowners opposed to the project also lobbied the county to impose aggressive setback requirements that would effectively block wind energy projects. However, neither the moratorium nor the setbacks were implemented.⁶⁶² While the State Board of Land Commissioners initially denied the developer's lease application on 4,800 acres of state land in November 2020, the Board reversed its decision and approved the lease in January 2021. The Albany County Board of Commissioners then granted final approval in July 2021.⁶⁶³ Local residents and businesses challenged the permit, and, in May 2022, the Albany County district court upheld the permit. However, as of May 2022, over 45 residents had signed onto an appeal to the Wyoming

⁶⁶¹ N. Laramie Range Found. v. Converse Cnty. Bd. of Cnty. Comm'rs, 2012 WY 158, ¶ 10, 290 P.3d 1063, 1070 (Wyo. 2012); Stephanie Joyce, *Controversial Wind Project Gets New Owner*, WYOMING PUBLIC MEDIA, Sept. 1, 2015, <https://www.wyomingpublicmedia.org/natural-resources-energy/2015-09-01/controversial-wind-project-gets-new-owner>; *Pioneer Wind Park*, US, POWER TECHNOLOGY, Dec. 27, 2021, <https://www.power-technology.com/marketdata/pioneer-wind-park-us/> (last visited Feb. 24, 2023).

⁶⁶² Mary Rucinski, *Albany County residents ask for moratorium on wind projects*, GILLETTE NEWS RECORD, Feb. 17, 2020, <https://torringtontelegram.com/article/albany-county-residents-ask-for-moratorium-on-wind-projects>; Camille Erikson, *Albany County declines to recommend sweeping wind energy regulations, for now*, CASPER STAR TRIBUNE, July 13, 2020, https://trib.com/business/energy/albany-county-declines-to-recommend-sweeping-wind-energy-regulations-for-now/article_f5f054a2-b345-5aec-8597-03de62e383d8.html.

⁶⁶³ Nicole Pollack, *Controversial Rail Tie Wind Project Wins County Approval*, CASPER STAR-TRIBUNE, July 14, 2021, https://trib.com/business/energy/controversial-rail-tie-wind-project-wins-county-approval/article_ee51f52b-fbfb-5813-aa48-85be02f47c4c.html.

Supreme Court.⁶⁶⁴ On April 18, 2023, the Wyoming Supreme Court affirmed, holding that approval of the permit was proper.⁶⁶⁵

⁶⁶⁴ Abby Vander Graaff Laramie Boomerang, *Residents Continue Legal Battle Against Rail Tie Wind Project*, CASPER STAR-TRIBUNE, May 6, 2022, https://trib.com/business/energy/residents-continue-legal-battle-against-rail-tie-wind-project/article_e6f31ea4-cd74-11ec-b4e4-0f987bc07b0f.html.

⁶⁶⁵ Nicole Pollack, *Wind farm opponents lose Wyoming Supreme Court appeal*, CASPER STAR-TRIBUNE, Apr. 18, 2023, https://trib.com/business/energy/wind-farm-opponents-lose-wyoming-supreme-court-appeal/article_1b3e6424-de3c-11ed-b134-ff521bdfba5d.html.