

1 **SECTION 2.** Wind energy facility demonstration project; general conditions. –
2 Appalachian State University shall assist a third party in selecting a site for the construction
3 and operation of a wind energy facility demonstration project that does not exceed a rated
4 capacity of 60 megawatts and that satisfies all the criteria in Section 3 of this act. The third
5 party shall apply for and obtain all permits and authorizations necessary to construct, operate,
6 and decommission the wind energy facility demonstration project as required by this act. Any
7 agreement entered into between Appalachian State University and a third party pursuant to this
8 section shall ensure that the University is provided with (i) cooperation and appropriate access
9 to the wind energy facility demonstration project in order to develop and conduct research on
10 the technological, environmental, and economic aspects of the demonstration project and (ii)
11 financial support to cover the full cost of the research contemplated in this section.

12 **SECTION 3.** Wind energy facility demonstration project; site selection. –
13 Notwithstanding Article 14 of Chapter 113A of the General Statutes, the site for a wind energy
14 facility demonstration project shall satisfy all of the following criteria:

- 15 (1) The proposed site is located in a mountain ridge that is subject to protection
16 under Article 14 of Chapter 113A of the General Statutes.
- 17 (2) The proposed site is located at least two miles from the Blue Ridge Parkway.
- 18 (3) The proposed site is located at least two miles from the Appalachian Trail.
- 19 (4) The proposed site is located within a county that has enacted an ordinance
20 authorizing the siting of the wind energy facility under this demonstration
21 project.
- 22 (5) The proposed site is unsuitable for future residential or recreational
23 development due to its proximity within one mile of an existing mining
24 operation, waste facility, power plant, or other similar commercial facility
25 that has a permit or license issued by the Department of Environment and
26 Natural Resources.
- 27 (6) The proposed site is located within 50 miles of Appalachian State
28 University.

29 **SECTION 4.** Wind energy facility demonstration project; permitting. – The third
30 party shall not undertake development associated with a wind energy facility demonstration
31 project without first obtaining a permit from the Department of Environment and Natural
32 Resources. The third party applying for a permit for a wind energy facility demonstration
33 project shall include all of the following in an application for the permit:

- 34 (1) A narrative description of the proposed facility.
- 35 (2) A map showing the location of the proposed facility.
- 36 (3) The capacity of proposed energy generation.
- 37 (4) A copy of a deed, purchase agreement, lease agreement, or other legal
38 instrument demonstrating the right to develop the property.
- 39 (5) Certification of adjacent property owner notification to the maximum extent
40 practicable.
- 41 (6) A study of the noise impacts of the proposed facility.
- 42 (7) A study on shadow flicker impacts of the proposed facility.
- 43 (8) A study on avian and bat impacts of the proposed facility.
- 44 (9) A study on view shed impacts of the proposed facility.
- 45 (10) An explanation of how the proposed facility would be consistent with the
46 requirements in Section 3 of this act.
- 47 (11) The application fee required by Section 7 of this act.
- 48 (12) Other data or information the Department may reasonably require.

49 **SECTION 5.** Criteria for denial of a permit application for a wind energy facility
50 demonstration project. – The Department shall deny an application for a permit for a wind
51 energy facility demonstration project if the Department finds any one or more of the following:

- 1 (1) Construction or operation of the facility would be inconsistent with or
2 violate rules adopted by the Commission.
- 3 (2) Construction or operation of the facility would be inconsistent with or
4 violate any applicable local government ordinances.
- 5 (3) Construction or operation of the facility would result in significant adverse
6 impacts to ecological systems, natural resources, cultural sites, recreation
7 areas, or historic sites of more than local significance, including national or
8 State parks or forests; wilderness areas; historic sites; recreation areas;
9 segments of the natural and scenic rivers system; wildlife refuges; preserves
10 and management areas; areas that provide habitat for threatened or
11 endangered species; and primary nursery areas designated by the Wildlife
12 Resources Commission.
- 13 (4) Construction or operation of the facility would have a significant adverse
14 impact on fish or wildlife.
- 15 (5) Construction or operation of the facility would have a significant adverse
16 impact on views from any State or national park, wilderness area, significant
17 natural heritage area as compiled by the North Carolina Natural Heritage
18 Program, or other public lands or private conservation lands designated or
19 dedicated due to their high recreational values.
- 20 (6) Construction or operation of the facility would interfere with air navigation
21 routes, air traffic control areas, military training routes, or special use
22 airspace.
- 23 (7) The cumulative impact of the proposed facility with other existing or
24 proposed wind energy facilities would result in significant adverse impacts
25 to ecological systems, natural resources, cultural sites, recreation areas, or
26 historic sites of more than local significance.

27 **SECTION 6.** Wind energy facility demonstration project; additional permit
28 conditions. – The Department may include the following conditions on a third party that seeks a
29 permit for a wind energy facility demonstration project:

- 30 (1) A requirement that the third party mitigate any adverse impacts.
- 31 (2) A requirement that the third party engage Appalachian State University to
32 conduct research on the technological, environmental, and economic aspects
33 of the wind energy facility associated with the demonstration project as
34 proposed and constructed at no cost to the University.

35 **SECTION 7.** Permit fees. – The third party applicant for a permit for a wind
36 energy facility demonstration project under this act shall submit with the application required
37 under Section 4 of this act an application fee of two thousand dollars (\$2,000).

38 **SECTION 8.** Plan for decommissioning or removal of wind energy facility
39 demonstration project. – The Department shall require the third party applicant for a permit for
40 a wind energy facility demonstration project to provide a plan regarding the action to be taken
41 upon the decommissioning and removal of the demonstration project. The plan shall include an
42 estimate of the cost to decommission and remove the demonstration project. The plan shall also
43 include a proposed description of the condition of the site once the demonstration project has
44 been decommissioned and removed. The Department may require a bond, guarantee, insurance,
45 or other financial instrument to provide for decommissioning and removal of any structures that
46 comprise the demonstration project. The Department shall consider the size of the
47 demonstration project, the location of the project, and the financial qualifications of the
48 applicant in making its determination to grant or deny the permit.

49 **SECTION 9.** Public hearing. – The Department shall hold a public hearing in the
50 county or counties in which the proposed wind energy facility demonstration project is to be
51 located within 75 days of receipt of a completed application for a demonstration project. The

1 Department shall give a minimum of 30 days' notice of the public hearing. The Department
2 shall make a final decision on a permit application within 150 days following receipt of a
3 completed application. If the Department determines that an application for a demonstration
4 project fails to meet the requirements for a permit under this section, the Department shall deny
5 the application, and the application shall be returned to the applicant accompanied by a written
6 statement of the reasons for the denial. If the Department fails to act within any time period set
7 forth in this section, the applicant may treat the failure to act as a denial of the permit and may
8 challenge the denial as provided under Chapter 150B of the General Statutes.

9 **SECTION 10.** Other applicable laws. – The issuance of a permit under this section
10 shall not obviate the need for the third party applicant to obtain any and all other applicable
11 local, State, or federal permits, licenses, or approvals.

12 **SECTION 11.** Rule making. – The Department may adopt rules implementing this
13 section.

14 **SECTION 12.** Penalties. – The Secretary of Environment and Natural Resources
15 may impose an administrative penalty on a person who constructs a wind energy facility
16 without obtaining a permit under this section or who constructs or operates a wind energy
17 facility demonstration project in violation of its permit terms and conditions. Each day of a
18 continuing violation shall constitute a separate violation. The penalty shall not exceed one
19 thousand dollars (\$1,000) per day. The Secretary of Environment and Natural Resources,
20 irrespective of all other remedies at law, may institute an action for injunctive relief against a
21 person who constructs a wind energy facility demonstration project without obtaining a permit
22 under this section or who constructs or operates a wind energy facility demonstration project in
23 violation of its permit terms and conditions.

24 **SECTION 13.** Wind energy facility demonstration project; commencement of
25 construction and commercial operation. – Upon receipt of permit approval from the
26 Department and any additional authorizations necessary to construct and operate the wind
27 energy facility demonstration project, the third party shall commence construction of the
28 demonstration project. Commercial operation of the demonstration project permitted and
29 authorized pursuant to this act shall commence no later than November 1, 2018.

30 **SECTION 14.** Reports. – In order to determine the effectiveness of the wind
31 energy facility demonstration project permitted and authorized pursuant to this act,
32 Appalachian State University shall report no later than one year after the issuance of the permit,
33 and annually thereafter, to the Department and the Environmental Review Commission of the
34 General Assembly. The first report shall include the location of the site selected for the wind
35 energy facility demonstration project and data on wind speeds and the potential for power
36 generation collected from the demonstration project. Subsequent reports shall also include the
37 power generated at the facility, the extent to which the demonstration project assists in the
38 research on wind energy at the University, and any findings on the technological,
39 environmental, and economic aspects of the demonstration project.

40 **SECTION 15.** This act is effective when it becomes law.