US Department of the Interior

Wind Turbine Guidelines Advisory Committee
Consensus of Members Present at April 23, 2008 Session Groundrules

1. PURPOSE

The Committee charter describing the scope of the committee states:

“The Committee will provide advice and recommendations to the Secretary of the Interior (Secretary) on developing effective measures to avoid or minimize impacts to wildlife and their habitats related to land-based wind energy facilities."

More specifically, the duties of the Committee are to provide advice and recommendations to the Secretary on:

a. the Service’s interim guidelines on how to avoid and minimize wildlife impacts from land-based wind energy facilities;

b. balancing potential impacts to wildlife with the cost of acquiring the information necessary to assess those impacts prior to selecting sites and designing facilities;

c. the scientific tools and procedures best able to assess pre-development risk or benefits provided to wildlife, measure post-development mortality, assess behavioral modification, and provide compensatory mitigation for unavoidable impacts; and,

d. a process for coordinating state, tribal, local, and national review and evaluation of the impacts to wildlife from wind energy facilities to standardize approaches and requirements, and achieve compliance with Tribal, State and Federal laws and international treaties.

2. AUTHORITY

The Secretary has determined that the establishment of the Committee is in the public interest. The Committee is subject to the Federal Advisory Committee Act (FACA) as outlined in its Charter approved by the Secretary.

3. PARTICIPATION

a. The Wind Turbine Guidelines Advisory Committee. The Secretary will appoint committee members (Members) who can effectively represent the balance of viewpoints that would be substantially affected by the issues. [See attached list]

b. Membership. Each Member must make a good faith effort to attend each full Federal Advisory Committee meeting (FACA meeting). The Member may be
accompanied by such other individuals as that Member believes is appropriate. Alternate members may be selected and appointed by the Secretary. Alternates will attend FACA meetings as a member of the Committee only in the absence of the primary member. The Secretary may remove a Member of the Committee.

c. Chairperson/Designated Federal Official (DFO). The Chief of the Division of Habitat and Resource Conservation, Fisheries and Habitat Conservation, shall serve as Chairperson of the Committee and as the DFO. The role of the Chairperson is to establish the Committee priorities. The role of the DFO is to open and close FACA meetings, approve agendas and certify meeting summaries in consultation with the Committee, and other duties identified in the Federal Advisory Committee Act. The Chairperson/DFO represents the Director, U.S. Fish and Wildlife Service, on the Wind Turbine FACA Committee and is the government’s agent for all matters related to the Committee’s activities.

d. Constituents Interests. Committee Members are expected to ensure that all significant issues and concerns are fully and clearly articulated during the FACA meetings, and that the agreement developed by the Committee is acceptable to the constituency that the Committee Member represents.

4. MEETINGS

a. Open Meetings. FACA meetings will be announced in the Federal Register prior to the meeting and, consistent with FACA requirements; will be open to the public. The public will be given opportunities at designated times during each meeting to make comments, raise questions, or submit materials for the record. If a committee member believes that a member of the public can provide valuable information to the committee, he/she can request that the DFO provide time outside of the official public comments period for that person to speak.

b. Communication. Members are encouraged to communicate their opinions, ideas and concerns openly in order to foster a dialogue that will lead to the best possible decisions.

c. Video or Audio Recordings. The Members respectfully request that the Committee be notified of any audio or video recording of Wind Turbine Advisory Committee discussions.

d. Minutes. The Chairperson will approve the meeting summary prepared by the facilitator for each FACA meeting. The minutes will include a record of the persons present, including committee members and members of the public who make written or oral presentations, and a description of the matters discussed and conclusions reached, including copies of all reports and other documents received, issued, or approved by the Committee at the FACA meeting. Draft meeting summaries, prepared by the facilitator, will be circulated to Members for accuracy. Final meeting summaries will be made available to the public by
request. Committee information will also be accessible through the U.S. Fish and Wildlife Service Website.

e. **Agenda.** Preliminary FACA meeting agendas will be developed by the Chairman/DFO in consultation with the Members.

f. **Caucus.** Any Member may request a break at any time subject to the DFO’s approval. Members will be asked for an estimate of the time needed for the caucus.

5. **DECISIONMAKING**

a. **Consensus.** The Committee will operate by consensus of all Members present. Consensus is defined as “each Committee member can live with a decision by the Committee”. If a Member has a major objection, the Member should make a serious effort to propose a reasonable alternative to the decision. All Members should remain at the table during deliberations to hear the full discussions in order to make informed judgments when decision making occurs. If a member or their alternate is not present when consensus is reached, the Facilitator will contact the absent Member(s) within a few business days to determine if s/he is part of the consensus agreement. If the absent Member can not live with the agreement, the Facilitator will report by electronic mail the concerns to the full Committee. At the end of the process, in the event that consensus is not reached, a summary of the issue(s) will be prepared by the facilitator, in consultation with the Members, and forwarded as part of the full set of recommendations to the Secretary.

b. **Subcommittees.** Subcommittees may be formed to address specific issues and to make recommendations to the Committee. Subcommittees can consist of Members and/or their designated alternates. At appropriate times, technical experts will be invited to participate in and offer advice to Subcommittees. Before participating in Subcommittee meetings or conference calls, technical experts will be reviewed and agreed on by the Subcommittee Members. Members will make subcommittee recommendations to the FAC. Subcommittees are not authorized to make decisions for the Committee as a whole. All Members will be notified of all Subcommittee meetings. Subcommittees will be asked to provide reports to the Committee through an oral briefing and in writing when possible.

c. **Discontinue Committee Discussions.** Through a consensus decision, the Committee may discontinue discussions at any time if they do not appear productive. In this event, the Secretary will continue to develop the guidance in the traditional manner.
6. AGREEMENT

a. **Product.** The Committee will report to the Secretary through the Director, U.S. Fish and Wildlife Service, and will function solely as an advisory body. The Committee will provide recommendations and advice to the Department and the Service consistent with the Committee’s Charter. The product will include a list of the issues addressed by the Committee, what the Committee learned about the issues, and recommendations that address the issues. The Agreement of the Committee or any written document or other product(s) of the Committee intended for delivery to the Secretary will include a list of names and signatures of all Wind Turbine Advisory Committee Members.

b. **Use of Product.** The Secretary, through the Director of the U.S. Fish and Wildlife Service, anticipates using the Committee’s written agreement as the basis of his or her guidance to the maximum extent possible consistent with the Agency’s legal obligations.

c. **Final Guidance.** So long as it is consistent with federal law, the Secretary anticipates promulgating final guidance consistent with the Committee’s written recommendations, unless new information or comments submitted in response to the Notice of Proposed guidance require changes.

d. **Support for the Agreement.** If a consensus agreement is reached, all Members represented on the Committee agree that once the Committee’s final consensus recommendation is submitted to the Secretary, each Member will honor that agreement by taking positions in other forums that are consistent with the agreement.

7. SAFEGUARDS FOR THE PARTIES

a. **Good Faith.** All parties agree to act in a good faith effort to reach agreement in all aspects of these discussions. Specific offers, positions, or statements made during the discussions may not be used by other parties for any purpose outside the discussions or as a basis for future or in support for current litigation. This is intended to support the Wind Turbine Advisory Committee process by encouraging the free and open exchange of ideas, views, and information prior to achieving consensus. Personal attacks and prejudiced statements will not be tolerated.

b. **Right to Withdraw.** Any party may withdraw from the Committee at any time. However, prior to withdrawing the Member will communicate to the Committee the reasons for withdrawal in person, if practical. In the event a Member withdraws, their designated alternate will become the Member.

c. **Other’s Positions.** No party will characterize the position of any other party in public statements or in discussions with the press, even if that party withdraws.
from the Committee. To the extent feasible, parties will refer others to the
meeting summaries for information about the Committee’s deliberations.

d. **Information.**
   
   (1) All parties agree to share all relevant information to the maximum extent
       possible. If a party believes it cannot or should not release relevant
       information (e.g. because of its confidential or proprietary nature), it will
       provide the substance of the information in some form (such as by aggregating
       data, by deleting non-relevant confidential information, by providing
       summaries, or by furnishing it to a neutral consultant to use or abstract) or it
       will provide a general description of it and the reason for not providing it
       directly.
   
   (2) Parties will provide information called for by this paragraph as much in
       advance of the FACA meeting at which such information is used as possible.

8. **SCHEDULE**

   FACA meetings will be held approximately four – six times/year, as determined
   by the Committee. Unless extended by the Secretary through the Director, U.S.
   Fish and Wildlife Service, the deadline for the discussions is October 26, 2009.
   The Committee is chartered until October 26, 2009.

9. **FACILITATOR(S)**

   a. **Facilitator.** The Facilitator will work to ensure that the process runs smoothly.
       The role of Facilitator usually includes developing draft agendas, facilitating
       Committee and Subcommittee discussions, working to resolve any impasses that
       may arise, preparing meetings summaries, assisting in the location and circulation
       of background materials the Committee develops, and other functions the
       Committee requests. The Facilitator will take no positions on the issues before the
       Committee.