

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Restore the Uniform Visual Permitting Standard for Wind Power Projects

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §685-B, sub-§4, ¶C, as amended by PL 2009, c. 615, Pt. D, §4, is further amended to read:

C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses, scenic character and natural and historic resources in the area likely to be affected by the proposal. In making a determination under this paragraph regarding development to facilitate withdrawal of groundwater, the commission shall consider the effects of the proposed withdrawal on waters of the State, as defined by Title 38, section 361A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the commission shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals;

~~In making a determination under this paragraph regarding an expedited wind energy development, as defined in Title 35A, section 3451, subsection 4, or a community-based offshore wind energy project, the commission shall consider the development's or project's effects on scenic character and existing uses related to scenic character in accordance with Title 35A, section 3452.~~

~~In making a determination under this paragraph regarding a wind energy development, as defined in Title 35A, section 3451, subsection 11, that is not a grid-scale wind energy development, that has a generating capacity of 100 kilowatts or greater and that is proposed for location within the expedited permitting area, the commission shall consider the development's or project's effects on scenic character and existing uses relating to scenic character in the manner provided for in Title 35A, section 3452;~~

Sec. 2. 12 MRSA §1868, sub-§1, ¶A, as enacted by PL 2009, c. 270, Pt. C, §1, is amended to read:

A. Potential adverse effects on a protected natural resource, as defined by Title 38, section 480B, subsection 8, or a scenic resource of state or national significance, as defined by Title 35A, section 3451, subsection 9;

Sec. 3. 35-A MRSA §3402, sub-§2, ¶A, as enacted by PL 2007, c. 661, Pt. A, §5, is amended to read:

A. Making wind energy development a permitted use within certain parts of the State's unorganized and deorganized areas; and

Sec. 4. 35-A MRSA §3402, sub-§2, ¶B, as enacted by PL 2007, c. 661, Pt. A, §5, is amended to read:

B. Refining certain procedures of the Department of Environmental Protection and the Maine Land Use Regulation Commission; and

Sec. 5. 35-A MRSA §3402, sub-§2, ¶C, as enacted by PL 2007, c. 661, Pt. A, §5, is repealed.

Sec. 6. 35-A MRSA §3451, sub-§9, as enacted by PL 2007, c. 661, Pt. A, §7, is repealed.

Sec. 7. 35-A MRSA §3452, as enacted by PL 2007, c. 661, Pt. A, §7, is repealed.

Sec. 8. 35-A MRSA §3457, as enacted by PL 2007, c. 661, Pt. A, §7, is repealed.

Sec. 9. 38 MRSA §480-D, sub-§1, as amended by PL 2009, c. 615, Pt. E, §8, is further amended to read:

1. Existing uses. The activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

~~In making a determination under this subsection regarding an expedited wind energy development, as defined in Title 35A, section 3451, subsection 4, or an offshore wind power project, the department shall consider the development's or project's effects on scenic character and existing uses related to scenic character in accordance with Title 35A, section 3452. In making a decision under this subsection regarding an application for an offshore wind power project, the department may not consider whether the project meets the specific criteria designated in Title 12, section 1862, subsection 2, paragraph A, subparagraph (6), divisions (a) to (d). This limitation is not intended to restrict the department's review of related potential impacts of the project as determined by the department.~~

Sec. 10. 38 MRSA §484, sub-§3, ¶G, as amended by PL 2009, c. 615, Pt. E, §17, is repealed.

SUMMARY

This bill eliminates specific visual permitting standards for wind energy development to provide that wind energy developments are subject to the same visual permitting standards as other developments.