

Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 3: PROTECTION AND IMPROVEMENT OF WATERS

§484. STANDARDS FOR DEVELOPMENT

The department shall approve a development proposal whenever it finds the following. [1995, c. 704, Pt. A, §8 (AMD); 1995, c. 704, Pt. C, §2 (AFF).]

1. Financial capacity and technical ability. The developer has the financial capacity and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this article. The commissioner may issue a permit under this article that conditions any site alterations upon a developer providing the commissioner with evidence that the developer has been granted a line of credit or a loan by a financial institution authorized to do business in the State as defined in Title 9-B, section 131, subsection 17-A or with evidence of any other form of financial assurance the board determines by rule to be adequate.

[2009, c. 293, §1 (AMD) .]

2. Traffic movement.

[1999, c. 468, §9 (RP) .]

3. No adverse effect on the natural environment. The developer has made adequate provision for fitting the development harmoniously into the existing natural environment and that the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.

A. In making a determination under this subsection, the department may consider the effect of noise from a commercial or industrial development. Noise from a residential development approved under this article may not be regulated under this subsection, and noise generated between the hours of 7 a.m. and 7 p.m. or during daylight hours, whichever is longer, by construction of a development approved under this article may not be regulated under this subsection. [1993, c. 383, §21 (NEW); 1993, c. 383, §42 (AFF).]

B. In determining whether a developer has made adequate provision for the control of noise generated by a commercial or industrial development, the department shall consider board rules relating to noise and the quantifiable noise standards of the municipality in which the development is located and of any municipality that may be affected by the noise. [1993, c. 383, §21 (NEW); 1993, c. 383, §42 (AFF).]

C. Nothing in this subsection may be construed to prohibit a municipality from adopting noise regulations stricter than those adopted by the board. [1993, c. 383, §21 (NEW); 1993, c. 383, §42 (AFF).]

D. [1995, c. 700, §6 (RP).]

E. [1995, c. 700, §6 (RP).]

F. In making a determination under this subsection regarding a structure to facilitate withdrawal of groundwater, the department shall consider the effects of the proposed withdrawal on waters of the State, as defined by section 361-A, 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 department shall consider both the direct effects of the proposed water withdrawal and its effects in combination with existing water withdrawals. [2005, c. 452, Pt. A, §3 (NEW).]

G. In making a determination under this subsection regarding an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more, 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 35-A, section 3452. [2009, c. 615, Pt. E, §17 (AMD).]

H. In making a determination under this subsection regarding a development's effects on significant vernal pool habitat, the department shall apply the same standards applied to significant vernal pool habitat under rules adopted pursuant to the Natural Resources Protection Act. The department may not require a buffer strip adjacent to significant vernal pool habitat unless the buffer strip is established for another protected natural resource as defined in section 480-B, subsection 8. [2011, c. 359, §3 (NEW).]

[2011, c. 359, §3 (AMD) .]

4. Soil types. The proposed development will be built on soil types that are suitable to the nature of the undertaking.

[1995, c. 704, Pt. A, §10 (AMD); 1997, c. 603, §§8, 9 (AFF) .]

4-A. Storm water management and erosion and sedimentation control. The proposed development meets the standards for storm water management in section 420-D and the standard for erosion and sedimentation control in section 420-C. If exempt under section 420-D, subsection 7, a proposed development must satisfy the applicable storm water quantity standard and, if the development is located in the direct watershed of a lake included in the list adopted pursuant to section 420-D, subsection 3, any applicable storm water quality standards adopted pursuant to section 420-D. For redevelopment projects only, the standards for storm water management in section 420-D are met if the proposed development is located in a designated area served by a department-approved management system for storm water as described in section 420-D, subsection 2, as long as the owner or operator of the parcel upon which the proposed development will be located enters into or obtains and remains in compliance with all agreements, permits and approvals necessary for the proposed development to be served by such management system for storm water.

[2011, c. 653, §18 (AMD); 2011, c. 653, §33 (AFF) .]

5. Ground water. The proposed development will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur.

[1987, c. 812, §§10, 18 (RPR) .]

6. Infrastructure. The developer has made adequate provision of utilities, including water supplies, sewerage facilities and solid waste disposal, required for the development, and the development will not have an unreasonable adverse effect on the existing or proposed utilities in the municipality or area served by those services.

[1999, c. 468, §10 (AMD) .]

7. Flooding. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure.

[1987, c. 812, §§10, 18 (NEW) .]

8. Sand supply.

[1993, c. 383, §42 (AFF); 1993, c. 383, §23 (RP) .]

9. Blasting. Blasting will be conducted in accordance with the standards in section 490-Z, subsection 14 unless otherwise approved by the department.

[2007, c. 297, §2 (NEW) .]

10. Special provisions; wind energy development or offshore wind power project. In the case of a grid-scale wind energy development, or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more, the proposed generating facilities, as defined in Title 35-A, section 3451, subsection 5:

A. Will be designed and sited to avoid unreasonable adverse shadow flicker effects; [2007, c. 661, Pt. B, §12 (NEW).]

B. Will be constructed with setbacks adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities; and [2007, c. 661, Pt. B, §12 (NEW).]

C. Will provide significant tangible benefits as determined pursuant to Title 35-A, section 3454, if the development is an expedited wind energy development. [2007, c. 661, Pt. B, §12 (NEW).]

The Department of Labor, the Governor's Office of Policy and Management, the Governor's Energy Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

For purposes of this subsection, "grid-scale wind energy development," "primary siting authority," "significant tangible benefits" and "expedited wind energy development" have the same meanings as in Title 35-A, section 3451.

[2011, c. 655, Pt. DD, §18 (AMD); 2011, c. 655, Pt. DD, §24 (AFF) .]

SECTION HISTORY

1969, c. 571, §2 (NEW). 1971, c. 256, §5 (AMD). 1971, c. 476, §2 (AMD). 1971, c. 613, §§5-8 (AMD). 1971, c. 618, §12 (AMD). 1975, c. 240, (AMD). 1977, c. 300, §30 (AMD). 1977, c. 374, §3 (AMD). 1977, c. 623, (AMD). 1977, c. 696, §343 (AMD). 1981, c. 194, §3 (AMD). 1981, c. 449, §§8, 9 (AMD). 1983, c. 500, §3 (AMD). 1983, c. 513, §3 (AMD). 1985, c. 746, §21 (AMD). 1987, c. 141, §B36 (AMD). 1987, c. 760, §1 (AMD). 1987, c. 812, §§10, 18 (RPR). 1989, c. 502, §B50 (AMD). 1989, c. 610, (AMD). 1989, c. 890, §§A40, B89-91 (AMD). 1993, c. 383, §§21-23 (AMD). 1993, c. 383, §42 (AFF). 1995, c. 287, §§1, 2 (AMD). 1995, c. 700, §6 (AMD). 1995, c. 704, §§A8-11 (AMD). 1995, c. 704, §C2 (AFF). 1997, c. 502, §§7, 8 (AMD). 1997, c. 603, §§8, 9 (AFF). 1999, c. 468, §§9, 10 (AMD). 2005, c. 452, §A3 (AMD). 2007, c. 297, §2 (AMD). 2007, c. 661, Pt. B, §§11, 12 (AMD). 2009, c. 293, §1 (AMD). 2009, c. 506, §1 (AMD). 2009, c. 506, §3 (AFF). 2009, c. 615, Pt. E, §§17, 18 (AMD). 2011, c. 359, §3 (AMD). 2011, c. 653, §18 (AMD). 2011, c. 653, §33 (AFF). 2011, c. 655, Pt. DD, §18 (AMD). 2011, c. 655, Pt. DD, §24 (AFF).

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