



131st MAINE LEGISLATURE

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Legislative Document

No. 1847

S.P. 748

In Senate, April 27, 2023

An Act to Modify the Visual Impact Standards for Offshore Wind Port Development

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CURRY of Waldo. (GOVERNOR'S BILL)

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

2 **Sec. 1. 35-A MRSA §3407** is enacted to read:

3 **§3407. Determination of effect on scenic character and related existing uses**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Associated facilities" means elements of an offshore wind terminal other than the
7 quay, fixed and mobile cranes, offshore wind foundations and wind turbine generators,
8 that are necessary to the proper operation and maintenance of the offshore wind
9 terminal, including but not limited to buildings, access roads and laydown areas.

10 B. "Best practical mitigation" means methods or technologies used during construction
11 or operation of an offshore wind terminal that control or reduce to the lowest feasible
12 level visual and scenic impacts. "Best practical mitigation" may include, but is not
13 limited to, turbine and blade coloration to reduce visual impacts and aircraft detection
14 technologies to reduce the need for aircraft hazard warning lighting.

15 C. "Department" means the Department of Environmental Protection.

16 D. "Offshore wind terminal" means a port facility used for fabricating floating offshore
17 wind turbine foundations, launching floating foundations into the water, assembling
18 wind turbine generators atop the foundations or preparing the assembled wind turbine
19 for towing to a wet berth or installation site. "Offshore wind terminal" includes a quay
20 with berths to accommodate the assembly of wind turbine generators and offshore wind
21 component delivery vessels, an upland laydown area for foundation fabrication and
22 storage of wind turbine generator components, fabrication facilities, fixed and mobile
23 cranes, associated facilities and terminal offices and access roads.

24 **2. Application of standard.** This subsection governs the department's or the Maine
25 Land Use Planning Commission's making findings regarding the effect of an offshore wind
26 terminal on scenic or natural character and existing uses related to scenic character pursuant
27 to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3 or Title 38,
28 section 480-D. An offshore wind terminal project must minimize the adverse effect on
29 scenic character and existing uses related to scenic character to the maximum extent
30 practicable and use best practical mitigation to control and reduce visual and scenic
31 impacts. Except as otherwise provided in subsection 3, determination that an offshore wind
32 terminal fits harmoniously into the existing natural environment in terms of potential
33 effects on scenic or natural character and existing uses related to scenic character is not
34 required for approval under either Title 12, section 685-B, subsection 4, paragraph C or
35 Title 38, section 484, subsection 3.

36 **3. Exception to standard; certain associated facilities.** The department, or in the
37 case of certification under Title 38, chapter 3, subchapter 1, article 6 the Maine Land Use
38 Planning Commission, shall evaluate the effect of associated facilities of an offshore wind
39 terminal in terms of potential effects on scenic character and existing uses related to scenic
40 character in accordance with Title 12, section 685-B, subsection 4, paragraph C or Title 38,
41 section 484, subsection 3, in the manner provided for development other than offshore wind
42 terminal development.

1 **4. Limitation on number of offshore wind terminals.** The department may not
2 approve permits under Title 12, section 685-B, subsection 4 or Title 38, section 484,
3 subsection 3 or Title 38, section 480-D for more than 4 offshore wind terminals. If a permit
4 approved under Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3
5 or Title 38, section 480-D expires, is surrendered or is revoked prior to construction of an
6 offshore wind terminal, the department may approve a permit under those sections for
7 another offshore wind terminal.

8 **Sec. 2. 38 MRSA §480-D, sub-§1**, as amended by PL 2009, c. 615, Pt. E, §8, is
9 further amended by enacting at the end a new last blocked paragraph to read:

10 In making a determination under this subsection regarding an offshore wind terminal as
11 defined in Title 35-A, section 3407, subsection 1, paragraph D, the department shall
12 consider the terminal's effects on scenic character and existing uses related to scenic
13 character in accordance with Title 35-A, section 3407.

14 **Sec. 3. 38 MRSA §482, sub-§2, ¶F**, as amended by PL 2009, c. 615, Pt. E, §14, is
15 further amended to read:

16 F. Is an oil terminal facility as defined in this section; ~~or~~

17 **Sec. 4. 38 MRSA §482, sub-§2, ¶J**, as enacted by PL 2009, c. 615, Pt. E, §15, is
18 amended to read:

19 J. Is an offshore wind power project with an aggregate generating capacity of 3
20 megawatts or more; ~~or~~

21 **Sec. 5. 38 MRSA §482, sub-§2, ¶K** is enacted to read:

22 K. Is an offshore wind terminal as defined in Title 35-A, section 3407, subsection 1,
23 paragraph D.

24 **Sec. 6. 38 MRSA §484, sub-§3, ¶J** is enacted to read:

25 J. In making a determination under this subsection regarding an offshore wind terminal
26 as defined in Title 35-A, section 3407, subsection 1, paragraph D, the department shall
27 consider the terminal's effects on scenic character and existing uses related to scenic
28 character in accordance with Title 35-A, section 3407.

29 SUMMARY

30 This bill establishes a new type of port development used for fabricating offshore wind
31 turbines called an offshore wind terminal. It establishes a visual impact standard to
32 evaluate the effect of the development of an offshore wind terminal. The bill provides that
33 offshore wind terminals must receive review under the provisions of law governing site
34 location of development. The bill amends the provisions of law governing site location of
35 development and the Natural Resources Protection Act to provide that when proposed
36 offshore wind terminals receive review, impacts related to scenic character and existing
37 uses related to scenic character are governed by the new visual impact standard.