

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 631 - L.D. 911

**An Act Concerning the Review of Certain Projects under the Site Location of
Development Laws**

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

Sec. 1. 35-A MRSA §3451, sub-§§1-D and 1-E are enacted to read:

1-D. Combined observation. "Combined observation" means a view from a scenic resource of state or national significance of more than one group of generating facilities located within the viewshed of the scenic resource of state or national significance within the field of view of a stationary viewer.

1-E. Cumulative scenic impact or effect. "Cumulative scenic impact or effect" means the potential adverse effect on the scenic character and existing uses related to the scenic character of scenic resources of state or national significance resulting from the incremental impact of a proposed wind energy development when added to the effects of other existing, permitted or pending wind energy developments within the viewshed of a scenic resource of state or national significance. For the purposes of this subsection, a pending wind energy development is a wind energy development for which an application has been submitted to and determined complete for processing by the department. A determination of cumulative scenic impact or effect may be based upon the combined observation, successive observation or sequential observation of wind energy developments located within the viewshed of a scenic resource of state or national significance as viewed from a scenic resource of state or national significance.

Sec. 2. 35-A MRSA §3451, sub-§§9-A and 9-B are enacted to read:

9-A. Sequential observation. "Sequential observation" means a view of more than one group of generating facilities located within the viewshed of a scenic resource of state or national significance as the viewer travels along the portion of a linear route that is located within the viewshed of a scenic resource of state or national significance. For the purposes of this subsection, a linear route is a scenic resource of state or national significance that is a trail that is used exclusively for pedestrian use and has been designated as a national scenic trail.

9-B. Successive observation. "Successive observation" means views from a scenic resource of state or national significance of more than one group of generating facilities located within the viewshed of a scenic resource of state or national significance from a single viewpoint as a result of a viewer turning the viewer's head or body.

Sec. 3. 35-A MRSA §3451, sub-§10-A is enacted to read:

10-A. Viewshed of a scenic resource of state or national significance. "Viewshed of a scenic resource of state or national significance" means the geographic area as viewed from a scenic resource of state or national significance that includes the proposed wind energy development. The viewshed of a scenic resource of state or national significance may include the proposed wind energy development visible from a single viewer position or the proposed wind energy development visible from multiple viewer positions. The viewshed of a scenic resource of state or national significance is limited to the geographic area within 8 miles, measured horizontally, from the proposed wind energy development's generating facilities.

Sec. 4. 35-A MRSA §3452, sub-§3, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

3. Evaluation criteria. In making its determination pursuant to subsection 1, and in determining whether an applicant for an expedited wind energy development must provide a visual impact assessment in accordance with subsection 4, the primary siting authority shall consider:

- A. The significance of the potentially affected scenic resource of state or national significance;
- B. The existing character of the surrounding area;
- C. The expectations of the typical viewer;
- D. The expedited wind energy development's purpose and the context of the proposed activity;
- E. The extent, nature and duration of potentially affected public uses of the scenic resource of state or national significance and the potential effect of the generating facilities' presence on the public's continued use and enjoyment of the scenic resource of state or national significance; and
- F. The scope and scale of the potential effect of views of the generating facilities on the scenic resource of state or national significance, including but not limited to issues related to the number and extent of turbines visible from the scenic resource of state or national significance, the distance from the scenic resource of state or national significance and the effect of prominent features of the development on the landscape.

In applying these criteria, the primary siting authority shall consider the primary impact and the cumulative scenic impact or effect of the development during both day and night on scenic resources of state or national significance. In evaluating cumulative scenic impact or effect associated with sequential observation, the department shall consider, in addition to the criteria in this subsection, the distance between viewpoints on the linear

route and other forms of development along the linear route that effect the expectation of the user of the scenic resource of state or national significance. A finding by the primary siting authority that the development's generating facilities are a highly visible feature in the landscape is not a solely sufficient basis for determination that an expedited wind energy project has an unreasonable adverse effect on the scenic character and existing uses related to scenic character of a scenic resource of state or national significance. In making its determination under subsection 1, the primary siting authority shall consider insignificant the effects of portions of the development's generating facilities located more than 8 miles, measured horizontally, from a scenic resource of state or national significance.