**Testimony in Opposition to LD 2174:**
"An Act to Increase Predictability in the Permitting of Renewable Energy Development"

Senator Tepler, Representative Doudera, and distinguished members of the Joint Standing Committee on Environment and Natural Resources, my name is Harris Van Pate, and I serve as policy analyst for Maine Policy Institute. Maine Policy is a free-market think tank, a nonpartisan, nonprofit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to submit testimony in opposition to LD 2174, An Act to Increase Predictability in the Permitting of Renewable Energy Development.

This amended version of LD 2174 is not a minor permitting reform. It is a structural reallocation of power away from municipalities, away from executive branch review, and toward a narrow class of politically preferred energy developers.

## I. Elimination of Meaningful Home Rule Authority

The amendment explicitly prohibits municipalities from enacting or enforcing any ordinance "more stringent" than state standards for:

- Solar energy developments
- Wind energy developments
- Energy storage systems
- High-impact transmission lines

It further declares that any such local ordinance "is void and has no force or effect."

More significantly, the bill amends existing home rule protections under the Natural Resources Protection Act to carve out renewable energy developments from municipal authority. This is an express statutory override of Maine's own home rule savings language.

The practical effect is de facto statewide zoning for renewable energy infrastructure. Municipalities would retain theoretical land use authority, but they would be prohibited from imposing additional setbacks, noise limits, height restrictions, soil protections, or overlay standards if those standards exceed state law.

For a state that regularly invokes local control in other contexts, this selective suspension of municipal authority is a significant structural shift.

If statewide preemption is appropriate here, then the Legislature should be candid about what it is doing: converting state environmental standards from regulatory floors

into regulatory ceilings for this industry alone, and saying to Maine municipalities "you no longer have any say in what gets built in your town."

## II. Automatic "Deemed Approved" Permits

The amendment imposes strict processing timelines on the Department of Environmental Protection and the Department of Agriculture, Conservation and Forestry, and then provides that if the agency fails to issue a decision within the deadline, the application is deemed approved and the permit must be issued.

This includes:

- 180 days for Site Location permits
- 150 days for NRPA permits
- 90 days for stormwater permits
- 150 days for DACF solar soil permits
- 45 days post-hearing
- One 30-day extension with applicant consent

Automatic approval is not mere streamlining. It eliminates agency discretion entirely once the clock runs out.

Under this framework:

- Substantive environmental compliance becomes secondary to procedural timing.
- Agencies are forced to rush complex reviews or risk mandatory approval.
- Strategic "permit spamming" becomes a viable tactic to overload state staff.

Deadlines can be reasonable. Automatic entitlement is a qualitatively different policy instrument. If the Legislature believes agencies are under-resourced, the appropriate remedy is funding or staffing adjustments — not automatic issuance of industrial-scale permits by default.

## III. Permit-by-Rule for Projects up to 100 Acres

The bill directs DEP to establish a permit-by-rule process for solar projects up to 100 acres that do not require Tier 3 wetland review. One hundred acres is not small-scale development. It is industrial-scale infrastructure.

Permit-by-rule mechanisms:

- Eliminate individualized review
- Reduce case-specific environmental analysis

- Curtail meaningful public participation

Compounding this, the amendment classifies implementing rules as "routine technical rulemaking," reducing legislative oversight. This is not neutral permitting reform. It is expedited treatment for one politically selected sector.

## IV. Selective Deregulation and Market Distortion

The bill's deregulatory provisions apply only to:

- Solar
- Wind
- Energy storage
- High-impact transmission

It does not apply equivalent preemption or automatic timelines to:

- Housing
- General commercial development
- Manufacturing
- Fossil fuel generation
- Other large infrastructure

If permitting reform is justified, it should be neutral and comprehensive.

Instead, LD 2174 selectively relaxes review and strips local authority for a favored category of energy infrastructure. That distorts the regulatory playing field and signals that political alignment, not market neutrality, governs state policy.

From a free-market standpoint, this is picking winners and losers.

## V. Democratic Accountability and Governance Concerns

Municipal land use authority is one of the primary mechanisms of local democratic accountability in Maine. This bill:

- Voids existing local ordinances if deemed "more stringent"
- Prohibits future local regulatory standards in covered categories
- Centralizes authority at the state level
- Converts agency delay into automatic approval

The combined effect is a significant weakening of both local governance and executive branch review safeguards. State environmental standards become ceilings. Agency

review becomes procedural rather than substantive. Local voters lose control over major land use decisions in their own communities.

**Conclusion**

LD 2174, as amended:

- Expressly carves renewable energy development out of home rule protections
- Creates automatic permit issuance upon agency inaction
- Establishes industrial-scale permit-by-rule authority up to 100 acres
- Selectively deregulates politically preferred energy sectors

Maine Policy Institute supports efficient permitting and regulatory reform. However, reform should be neutral, accountable, and structurally consistent. LD 2174 instead combines local preemption, automatic entitlement, and industry-specific favoritism. For these reasons, we urge the Committee to vote Ought Not to Pass.

Thank you for your time and consideration.