



**Testimony in Opposition to LD 1210, An Act to Regarding Renewable Electricity  
Generation by Hydropower Projects**

**Before the Committee on Environment and Natural Resources**

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Senator Tepler, Representative Doudera, and distinguished members of the Environment and Natural Resources Committee, my name is Luke Frankel, and I am the Staff Scientist at the Natural Resources Council of Maine (NRCM). NRCM is Maine's leading nonprofit, nonpartisan membership organization dedicated to protecting the environment on behalf of our nearly 20,000 supporters statewide and beyond. I am here today to testify in opposition to LD 1210.

Our primary opposition to this bill is that we believe it to be redundant, adding duplicative provisions to two separate sections of statute that could lead to unintended consequences. The intention of this bill is to ensure that the Maine Department of Environmental Protection (DEP) considers the State's goals and policies toward renewable energy, decarbonization, and economic development when issuing permits under the Maine Waterway Development and Conservation Act (MWDCA) and water quality certifications under Section 401 of the Clean Water Act. Almost everyone can agree that it is a good idea to consider these factors when performing a risk-benefit analysis for any action taken on a hydropower project (e.g., construction, licensing, repair, or removal). As a result, it is already required under both state and federal law to do so.

When an entity wishes to construct, deconstruct, or make other substantial alterations to a hydropower dam in Maine, they are required to receive a permit under MWDCA and the Maine DEP Chapter 450 rules. Both sets of regulations were carefully crafted to balance environmental and economic interests on a case-by-case basis and have several provisions in place to ensure that potential impacts to renewable energy, decarbonization, and economic development are considered.

Within the MWDCA, we feel that the first sentence of the statute in question under Section 2 of LD 1210 adequately addresses the desire to consider decarbonization and economic interests, making the proposed amendment unnecessary. This first sentence requires that the Department only approve permits for projects that "protect and preserve the environment and the public's health, safety and general welfare, including the public interest in replacing oil with hydroelectric energy."<sup>1</sup>

The process by which the Department achieves this is outlined in its Chapter 450 rules. Regarding the "general welfare" component specifically, the Department is required to identify and measure all economic costs and benefits associated with the proposed dam activity when reviewing applications. This includes accounting for changes to "the income or purchasing

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<sup>1</sup> 38 MRS §635, sub-§1

power of Maine citizens, energy security from reducing dependence upon fossil fuels, and creation of employment opportunities for workers of the State.”<sup>2</sup>

In addition to these review requirements for the Department, the MWDC permit application process also includes a mandatory public hearing where stakeholders can provide input on potential impacts of the proposed project. This transparent and comprehensive review process works for Maine, and we strongly feel that any effort to tip the scale on the balance between environmental and economic interests within MWDC is unjustified.

For dams under the jurisdiction of the Federal Energy Regulatory Commission (FERC), which includes virtually all hydroelectric dams in Maine, there is an additional federal licensing process that projects need to go through every 30 to 50 years. A principal component of this process is to ensure that the project under review complies with federal laws like the National Environmental Policy Act (NEPA).

Environmental reviews under NEPA are extremely comprehensive and typically involve evaluations like those desired in LD 1210. Some examples include evaluations within greater renewable energy portfolios (i.e., local, state, and/or federal), calculations of avoided greenhouse gas emissions, and discussions of broader socioeconomic impacts such as changes in job creation or loss, tax revenue, recreation, tourism, and displacement of economic activities.

The issuance of water quality certifications by states for hydropower projects under Section 401 of the Clean Water Act is just one step in the long process of FERC licensing. The purpose of this step is to give states the opportunity to evaluate whether discharges under the proposed project comply with the water quality standards established by those states. Because evaluating impacts to renewable energy, decarbonization, and economic development is not a central focus of this water quality certification process and is covered under other parts of FERC relicensing, the proposed amendment in Section 1 of LD 1210 is redundant and opens the door to legal challenges if there are contradictions between FERC and the Department on similar analyses.

To prevent redundancy and avoid the erosion of the careful balance between environmental and economic interests that has been established in Maine’s dam regulations, we strongly encourage the Committee to vote Ought Not to Pass on LD 1210. Thank you for your time and consideration.

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<sup>2</sup> 06-096 C.M.R ch. 450, sub-§5C