



Maine Forest Products Council

The voice of Maine's forest economy

Testimony in Support of LD 1458 and in Opposition to LD 269

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Senator Tepler, Representative Doudera, and members of the Environment and Natural Resources Committee: The Maine Forest Products Council submits this testimony in Opposition to LD 269, which proposes revisions to Chapter 375 of Department of Environmental Protection rules; in Support of LD 1458, which would replace these rules.

For 65 years, the Maine Forest Products Council has served as the voice of Maine's forest economy, representing more than 300 members from all facets of the forest products industry. Our members include pulp and paper mills, sawmills, secondary wood processors, foresters, loggers, and truckers. We also represent commercial landowners sustainably managing more than 8 million acres of forestland.

LD 269 Proposes an Ineffective Rule to Protect Wildlife Habitat

In 2023, the Legislature directed the DEP to establish a compensation fee program to mitigate the adverse effects of renewable energy development projects on large undeveloped habitat blocks. Unfortunately, the program proposed as section 15-A of chapter 375 is deeply flawed and will likely not achieve its stated goal. This is due to convoluted legal definitions, problematic fee structures, disjointed approaches to development, and unfair valuations of land.

The rule borrows concepts of large wildlife habitat blocks used in the Beginning with Habitat program at the Department of Inland Fisheries and Wildlife, which is designed to identify focus areas for conservation planning with data collected voluntarily from landowners for the purpose of collaboration. Using information gathered by a voluntary State program for collaboration in regulation erodes the trust of landowners that is necessary to achieve landscape-scale habitat conservation projects. Also problematic, the information used in LD 269 is taken out of context. Beginning with Habitat program applies criteria to include habitat types and wildlife populations at the landscape level for 'Focus Area' designations. However, the proposed rule (LD 269) only uses a set of dimensional standards to identify open space for protection without any further analysis of wildlife or habitat. Moreover, these land measurements can be manipulated with land development (buildings and roads) to both destroy the habitat block and avoid being subject to the compensation fee. The result will be destruction of the very habitats this rule was drafted to protect.

The definition of large wildlife habitat block in the proposed rule is not uniform -- they are smaller in southern Maine than central Maine, and unlimited in the rest of the state. Yet wildlife habitat needs are not different in these parts of the state, and wildlife does not know regulatory boundaries. Likewise, landowners are treated differently under these rules -- indeed, some are unfairly burdened with the development fee for having more open space available for the development (200 acres in southern Maine is discounted more than 400 acres in central Maine).

The rule requires a fee for different size projects around the state – smaller projects in southern Maine, and larger project in central Maine. So, developers can avoid the fee by adjusting the size of the project and locating further north away from population centers in south that would use the energy from development. In fact, DEP has not defined the project sizes or blocks in the remainder of Maine, which leaves this protection to the unfettered discretion of the DEP.

The fees proposed for energy development varies based on fencing of the project, and the type of wildlife on the project site. The fees require an appraisal of comparable land values.

This complicated rule will likely result in unintended outcomes that do not preserve the identified habitat blocks: some landowners and developers will avoid the fee by eliminating their open space blocks or reducing the size of the project; and others will simply destroy the wildlife habitat block with energy development and pay a fee to protect other land.

LD 1458 is the Better Approach to Wildlife Habitat Protection

LD 1458 establishes a straightforward and equitable impact fee on all renewable energy projects that require a Site Law permit. The fee is calculated based on the average state-assessed value of undeveloped land, ensuring consistency and transparency in its application. Revenue generated from this fee will be directed into a dedicated fund specifically designed to support the preservation and restoration of wildlife habitats.

The habitat compensation fee structure proposed by DEP in chapter 375 (LD 269) relies on complex criteria to identify “large wildlife habitat blocks”, which makes it vulnerable to loopholes that can be exploited to avoid paying a compensation fee. The simple, uniform approach in LD 1458 removes ambiguity and reduces opportunities for developers to exploit regulatory loopholes. By eliminating the need for case-by-case assessments and instead applying a uniform fee to all applicable projects, the bill minimizes administrative burdens while promoting fairness across the board. This approach focuses on targeted conservation rather than arbitrary regulations, meaning that it will be far more effective in protecting critical wildlife habitats.

This simplified structure also encourages the siting of renewable energy infrastructure in areas where they are desired —such as growth areas, brownfields, and contaminated lands—rather than in ecologically sensitive or undeveloped regions. This approach aligns renewable energy development with environmental conservation, ensuring that progress toward the state’s clean energy goals does not come at the expense of Maine’s natural ecosystems.

The efficiency of this fee model means that funds can be collected and distributed more quickly, increasing the capacity and impact of conservation efforts across the state. By generating a more robust and predictable funding stream, this bill strengthens Maine’s long-term commitment to protecting wildlife and maintaining the ecological integrity that is vital to its environmental and economic well-being.

We understand that the Department of Inland Fisheries and Wildlife would like to maintain its ability to address all wildlife and fisheries issues in a Site Law permit application. We would agree to an amendment that allows this to continue; however, we do not want to maintain the concept of “large undeveloped habitat blocks” that are arbitrary and not related to the protection of listed species.

With these things in mind, the Maine Forest Products Council urges you to vote “Ought to Pass” on LD 1458.