

CHAPTER 34**THE MAINE WIND ENERGY ACT****§3401. Short title**

This chapter may be known and cited as "the Maine Wind Energy Act." [PL 2003, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2003, c. 665, §3 (NEW).

§3402. Legislative findings

The Legislature finds that it is in the public interest to explore opportunities for and encourage the development, where appropriate, of wind energy production in the State in a manner that is consistent with all state and federal environmental standards and that achieves reliable, cost-effective, sustainable energy production on those sites in the State that will attract investment and permit the development of viable wind energy projects. The Legislature finds that the development of the wind energy potential in the State needs to be integrated into the existing energy supply and transmission systems in a way that achieves system reliability, total capital cost-effectiveness and optimum short-term and long-term benefits to Maine people. The Legislature finds it is in the public interest to encourage the construction and operation of community wind power generation facilities in the State. For the purposes of this chapter, "community wind power generation facility" means an electricity-generating facility at any one site with instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy. The Legislature also finds it is in the public interest to encourage wind energy research and the development of wind generation equipment manufacturing facilities in the State. [PL 2007, c. 693, §4 (AMD); PL 2007, c. 693, §37 (AFF).]

1. Contribution of wind energy development. The Legislature finds and declares that the wind energy resources of the State constitute a valuable indigenous and renewable energy resource and that wind energy development, which is unique in its benefits to and impacts on the natural environment, makes a significant contribution to the general welfare of the citizens of the State for the following reasons:

A. Wind energy is an economically feasible, large-scale energy resource that does not rely on fossil fuel combustion or nuclear fission, thereby displacing electrical energy provided by these other sources and avoiding air pollution, waste disposal problems and hazards to human health from emissions, waste and by-products; consequently, wind energy development may address energy needs while making a significant contribution to achievement of the State's renewable energy and greenhouse gas reduction objectives, including those in Title 38, section 576-A; [PL 2019, c. 476, §3 (AMD).]

B. At present and increasingly in the future with anticipated technological advances that promise to increase the number of places in the State where grid-scale wind energy development is economically viable, and changes in the electrical power market that favor clean power sources, wind energy may be used to displace electrical power that is generated from fossil fuel combustion and thus reduce our citizens' dependence on imported oil and natural gas and improve environmental quality and state and regional energy security; and [PL 2009, c. 615, Pt. A, §2 (AMD).]

C. Renewable energy resources within the State and in the Gulf of Maine have the potential, over time, to provide enough energy for the State's homeowners and businesses to reduce their use of oil and liquid petroleum-fueled heating systems by transition to alternative, renewable energy-

based heating systems and to reduce their use of petroleum-fueled motor vehicles by transition to electric-powered motor vehicles. Electrification of heating and transportation has potential to increase the State's energy independence, to help stabilize total residential and commercial energy bills and to reduce greenhouse gas emissions. [PL 2009, c. 615, Pt. A, §2 (NEW).]
[PL 2019, c. 476, §3 (AMD).]

2. Need for modification of regulatory process for siting wind energy developments. The Legislature finds that it is in the public interest to reduce the potential for controversy regarding siting of grid-scale wind energy development by expediting development in places where it is most compatible with existing patterns of development and resource values when considered broadly at the landscape level. Accordingly, the Legislature finds that certain aspects of the State's regulatory process for determining the environmental acceptability of wind energy developments should be modified to encourage the siting of wind energy developments in these areas. Such changes include, but are not limited to:

A. Making wind energy development a permitted use within certain parts of the State's unorganized and deorganized areas; [PL 2007, c. 661, Pt. A, §5 (NEW).]

B. Refining certain procedures of the Department of Environmental Protection and the Maine Land Use Planning Commission; and [PL 2007, c. 661, Pt. A, §5 (NEW); PL 2011, c. 682, §38 (REV).]

C. Because the Legislature recognizes that wind turbines are potentially a highly visible feature of the landscape that will have an impact on views, judging the effects of wind energy development on scenic character and existing uses related to scenic character based on whether the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on the scenic character or existing uses related to the scenic character of that resource. [PL 2007, c. 661, Pt. A, §5 (NEW).]

The Legislature further finds that, while wind energy may be developed at many sites with minimal site-specific environmental impacts, wind energy developments may have, in addition to their beneficial environmental effects and potential scenic impacts, specific adverse environmental effects that must be addressed in state permitting decisions pursuant to approval criteria tailored to address issues presented by wind energy development. Nothing in this section is meant to diminish the importance of addressing as appropriate site-specific impacts on natural values, including, but not limited to, wildlife, wildlife habitats and other ecological values.

The Legislature further finds that development of the State's wind energy resources should be undertaken in a manner that ensures significant tangible benefits to the people of the State, including, but not limited to, residents of communities that host wind energy facilities; and that the State should seek to host a substantial amount of wind energy as part of a strategy to reduce greenhouse gas emissions and meet the goals established in the state climate action plan developed pursuant to Title 38, section 577.

[PL 2007, c. 661, Pt. A, §5 (NEW); PL 2011, c. 682, §38 (REV).]

SECTION HISTORY

PL 2003, c. 665, §3 (NEW). PL 2005, c. 646, §3 (AMD). PL 2007, c. 661, Pt. A, §§4, 5 (AMD). PL 2007, c. 693, §4 (AMD). PL 2007, c. 693, §37 (AFF). PL 2009, c. 615, Pt. A, §2 (AMD). PL 2011, c. 682, §38 (REV). PL 2019, c. 476, §3 (AMD).

§3403. Specific measures to support wind energy

1. Monitoring. The commission shall monitor electricity markets and sale opportunities physically accessible to wind power installations in this State to determine whether such markets and opportunities are available for the sale of wind energy in accordance with federal and state law.
[PL 2003, c. 665, §3 (NEW).]

2. Legal action. After consultation with the Attorney General, the commission may initiate regulatory and other legal action to protect access to markets by wind power facilities located in the State.

[PL 2003, c. 665, §3 (NEW).]

3. Certification. The commission may certify a person as a community wind power generator if the commission determines that such a certification would support construction of a community wind power generation facility in this State and that the person will be the owner of that facility. The commission may not certify a person as a community wind power generator with respect to a community wind power generation facility for which the person commenced the site permit application process prior to August 23, 2006.

[PL 2017, c. 170, Pt. G, §2 (AMD).]

SECTION HISTORY

PL 2003, c. 665, §3 (NEW). PL 2007, c. 693, §5 (AMD). PL 2007, c. 693, §37 (AFF). PL 2017, c. 170, Pt. G, §2 (AMD).

§3404. Determination of public policy; state wind energy generation goals

1. Encouragement of wind energy-related development. It is the policy of the State in furtherance of the goals established in subsection 2, to encourage the attraction of appropriately sited development related to wind energy, including any additional transmission and other energy infrastructure needed to transport additional offshore wind energy to market, consistent with all state environmental standards; the permitting and financing of wind energy projects; and the siting, permitting, financing and construction of wind energy research and manufacturing facilities.

[PL 2009, c. 615, Pt. A, §3 (AMD).]

2. State wind energy generation goals. The goals for wind energy development in the State are that there be:

A. At least 2,000 megawatts of installed capacity by 2015; [PL 2009, c. 615, Pt. A, §4 (AMD).]

B. At least 3,000 megawatts of installed capacity by 2020, including 300 megawatts or more from generation facilities located in coastal waters, as defined by Title 12, section 6001, subsection 6, or in proximate federal waters; and [PL 2009, c. 615, Pt. A, §4 (AMD).]

C. At least 8,000 megawatts of installed capacity by 2030, including 5,000 megawatts from generation facilities located in coastal waters, as defined by Title 12, section 6001, subsection 6, or in proximate federal waters. [PL 2009, c. 615, Pt. A, §4 (NEW).]

[PL 2009, c. 615, Pt. A, §4 (AMD).]

3. Wind energy development; impacts to fisheries. If, in reviewing a proposed commercial lease for a wind energy development for any purpose other than scientific research or technological development to be located in federal waters within lobster management area 1, the United States Department of the Interior, Bureau of Ocean Energy Management determines that the wind energy development would have a significant adverse impact on fisheries, the State shall request that the Bureau of Ocean Energy Management work to minimize that impact.

For the purposes of this subsection, "wind energy development" has the same meaning as in section 3451, subsection 11 and "lobster management area 1" means the area defined by rule by the Department of Marine Resources.

[PL 2021, c. 407, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 646, §4 (NEW). PL 2007, c. 661, Pt. A, §6 (RPR). PL 2009, c. 615, Pt. A, §§3, 4 (AMD). PL 2021, c. 407, §1 (AMD).

§3405. Prohibition on offshore wind power projects in territorial waters and submerged lands

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

A. "Associated facilities" has the same meaning as in section 3451, subsection 1. [PL 2021, c. 407, §2 (NEW).]

B. "Offshore wind energy demonstration project" has the same meaning as in Title 38, section 480-HH, subsection 1, paragraph H. [PL 2021, c. 407, §2 (NEW).]

C. "Offshore wind power project" means an offshore project that uses a windmill or wind turbine to convert wind energy to electrical energy. "Offshore wind power project" includes both generating facilities as defined by section 3451, subsection 5 and associated facilities, without regard to whether the electrical energy is for sale or use by a person other than the generator. [PL 2021, c. 407, §2 (NEW).]

D. "Pilot-scaled, limited duration offshore wind power research and development project" means an offshore project that uses a wind turbine to convert wind energy to electrical energy, has a generating capacity of no more than 0.5 megawatts and is operational for no more than 5 years. [PL 2021, c. 407, §2 (NEW).]

E. "Submerged lands" has the same meaning as in Title 12, section 1801, subsection 9. [PL 2021, c. 407, §2 (NEW).]

F. "Territorial waters" has the same meaning as in Title 12, section 6001, subsection 48-B. [PL 2021, c. 407, §2 (NEW).]
[PL 2021, c. 407, §2 (NEW).]

2. Prohibition. Notwithstanding any provision of law to the contrary and except as otherwise provided by subsection 3, a state agency or municipality or other political subdivision of the State may not license, permit or otherwise approve or authorize the siting, construction or operation of or issue a lease or grant an easement or other real property interest for a windmill or wind turbine or tower for an offshore wind power project in state-owned submerged lands or territorial waters.
[PL 2021, c. 407, §2 (NEW).]

3. Exemption. The prohibition established under subsection 2 does not apply to:

A. A pilot-scaled, limited-duration offshore wind power research and development project; [PL 2021, c. 407, §2 (NEW).]

B. An offshore wind energy demonstration project and its associated facilities proposed for location in the Maine Offshore Wind Energy Research Center designated by the Department of Agriculture, Conservation and Forestry pursuant to Title 12, section 1868 and for which, prior to the effective date of this section, the commission has approved the terms of a long-term power purchase agreement. Subsequent amendment of the terms of such an agreement does not affect the applicability of this exemption; [PL 2021, c. 407, §2 (NEW).]

C. The licensing, permitting or approval by a state agency or municipality or other political subdivision of the State of the siting, construction or operation of or the issuance of a lease or the grant of an easement or other real property interest for portside infrastructure or associated facilities other than utility cables or transmission lines governed by paragraph D that are intended to support generation of electricity from offshore wind energy facilities located seaward of the territorial waters; and [PL 2021, c. 407, §2 (NEW).]

D. The licensing, permitting or approval by a state agency or municipality or other political subdivision of the State of the siting, construction or operation of or the issuance of a lease or the grant of an easement or other real property interest for utility cables or transmission lines that are

intended to support generation of electricity from offshore wind energy facilities located seaward of the territorial waters if, by March 1, 2023:

(1) The Governor's Energy Office has completed a strategic plan to inform the development of offshore wind power projects that minimizes conflict with existing maritime industries, particularly fishing; identifies opportunities to preserve existing maritime businesses and jobs; and maximizes jobs, investment, new technologies and sustainability;

(2) The Governor's Energy Office, in consultation with other state agencies, has conducted a review of applicable state laws and rules to determine whether the existing offshore wind energy statutory and regulatory framework protects the State's coastal resources in a manner that avoids or minimizes adverse effects on coastal resources and users from the development of offshore wind power projects located seaward of the territorial waters; and

(3) The Governor's Energy Office, with input from the advisory board of the Offshore Wind Research Consortium established in section 3406, has identified the preliminary research questions the consortium seeks to answer regarding the development of offshore wind power projects.

The Governor's Energy Office shall submit a report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters when the conditions established under subparagraphs (1) to (3) are met. [PL 2021, c. 407, §2 (NEW).]

[PL 2021, c. 407, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 407, §2 (NEW).

§3406. Offshore Wind Research Consortium; fund established

1. Offshore Wind Research Consortium. The Offshore Wind Research Consortium is an initiative of the Governor's Energy Office to coordinate, support and arrange for the conduct of research on offshore wind power projects in the Gulf of Maine.

[PL 2021, c. 407, §3 (NEW).]

2. Advisory board. The Governor's Energy Office, in consultation with independent scientific experts, shall establish an advisory board of the consortium to oversee the development and execution of a research strategy to better understand the local and regional impacts of floating offshore wind power projects in the Gulf of Maine. The advisory board must include, but is not limited to, the following members:

A. Two individuals from organizations that represent commercial lobster harvesting interests in the State; [PL 2021, c. 407, §3 (NEW).]

B. At least one individual from an organization that represents the interest of commercial fisheries other than lobster harvesting; [PL 2021, c. 407, §3 (NEW).]

C. The Commissioner of Marine Resources, or the commissioner's designee; [PL 2021, c. 407, §3 (NEW).]

D. Two individuals, not represented by an organization, that represent the interests of the commercial lobster harvesting industry and commercial fisheries in the State; and [PL 2021, c. 407, §3 (NEW).]

E. One individual from the recreational charter fishing industry. [PL 2021, c. 407, §3 (NEW).]

The advisory board is subject to all applicable provisions of the Freedom of Access Act. The operation of the advisory board must be informed by the work of regional and national scientific entities. The advisory board shall solicit input from stakeholders, including representatives of the fishing industry, state and federal agencies and scientific experts.

[PL 2021, c. 407, §3 (NEW).]

3. Research strategy. The advisory board established in subsection 2 in developing a research strategy shall at a minimum identify:

- A. Opportunities and challenges caused by the deployment of floating offshore wind power projects to the existing uses of the Gulf of Maine; [PL 2021, c. 407, §3 (NEW).]
- B. Methods to avoid and minimize the impact of floating offshore wind power projects on ecosystems and existing uses of the Gulf of Maine; and [PL 2021, c. 407, §3 (NEW).]
- C. Ways to realize cost efficiencies in the commercialization of floating offshore wind power projects. [PL 2021, c. 407, §3 (NEW).]

The advisory board shall advise the Governor's Energy Office on the development of the components of the research strategy.

[PL 2021, c. 407, §3 (NEW).]

4. Offshore Wind Research Consortium Fund; established. The Offshore Wind Research Consortium Fund, referred to in this subsection as "the fund," is established as a nonlapsing fund administered by the Governor's Energy Office and the Department of Marine Resources. The fund consists of funds that are appropriated by the Legislature, funds received from federal and state sources and other funds from any public or private source received for use for any of the purposes under this subsection. The source of any funds received from public or private sources must be publicly disclosed. The fund may be used to support the consortium and the work of the advisory board established in subsection 2, including for:

- A. Developing the research strategy under subsection 3; [PL 2021, c. 407, §3 (NEW).]
- B. Conducting research; [PL 2021, c. 407, §3 (NEW).]
- C. Producing reports or other materials; [PL 2021, c. 407, §3 (NEW).]
- D. Compensating independent experts, if needed to assist in the development or execution of the research strategy under subsection 3; and [PL 2021, c. 407, §3 (NEW).]
- E. Making any other expenditures that are necessary to achieve the purposes of this section. [PL 2021, c. 407, §3 (NEW).]

The Governor's Energy Office, in consultation with the advisory board, shall provide an annual report on the use of the fund in the last quarter of each calendar year to the joint standing committee of the Legislature having jurisdiction over energy and utility matters.

[PL 2021, c. 407, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 407, §3 (NEW).

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