

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

---

Legislative Document

No. 385

---

H.P. 260

House of Representatives, February 12, 2013

### **An Act To Improve Wind Energy Development Permitting**

---

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BEAVERS of South Berwick.  
Cosponsored by Senator JACKSON of Aroostook and  
Representatives: DUNPHY of Embden, McGOWAN of York, RYKERSON of Kittery,  
Senator: YOUNGBLOOD of Penobscot.

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

2 **Sec. 1. 35-A MRSA §3451, sub-§1-A** is enacted to read:

3 **1-A. Best practical mitigation.** "Best practical mitigation" means methods or  
4 technologies used during construction or operation that control or reduce to the lowest  
5 feasible level impacts to scenic, wildlife and other resources. "Best practical mitigation"  
6 may include, but is not limited to, turbine and blade coloration to reduce visual impacts,  
7 aircraft detection technologies that reduce the need for aircraft hazard warning lighting,  
8 technologies that detect at-risk populations and modification or curtailment of operations  
9 during specified times or conditions that reduce bird and bat mortality.

10 **Sec. 2. 35-A MRSA §3452-A** is enacted to read:

11 **§3452-A. Impact on subalpine forest habitat; adverse effect**

12 In making findings regarding the effect of a grid-scale wind energy development on  
13 the natural environment pursuant to Title 38, section 484, the primary siting authority  
14 shall consider any portion of the generating facilities or associated facilities of the  
15 development located within a fir-heartleaved birch subalpine forest natural vegetation  
16 community as defined by rule by the Natural Areas Program established within the  
17 Department of Agriculture, Conservation and Forestry under Title 12, section 544, as  
18 constituting a significant adverse effect on the natural environment.

19 **Sec. 3. 35-A MRSA §3459** is enacted to read:

20 **§3459. Best practical mitigation**

21 **1. Process.** An application for wind energy development must contain and the  
22 permitting authority shall require best practical mitigation for all aspects of construction  
23 and operation of generating facilities. In determining best practical mitigation options,  
24 the permitting authority shall consider:

25 A. The existing state of technology;

26 B. The effectiveness of available technologies or methods for reducing impacts; and

27 C. The economic feasibility of the type of mitigation under consideration.

28 **Sec. 4. 38 MRSA §344, sub-§2-A, ¶D** is enacted to read:

29 D. For an application for a permit for a grid-scale wind energy development, as  
30 defined in Title 35-A, section 3451, subsection 6, the following procedures apply.

31 (1) If 5 or more interested persons request in writing that the commissioner hold  
32 a public hearing, then a hearing must be held as provided in section 345-A.

33 (2) The commissioner shall hold an adjudicatory hearing under Title 5, chapter  
34 375, subchapter 4 if an interested party who qualifies as an intervenor makes such  
35 a request in writing stating the intent to offer a witness or cross-examine a  
36 witness.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

(3) The commissioner shall accept public comment on applications during the course of processing the application. The commissioner shall set a deadline for receiving public comments.

(4) The commissioner may not issue the final decision until 10 business days after the close of the public comment period. The commissioner's final decision must include responses to the public comments.

### **SUMMARY**

This bill improves the permitting process for wind energy development by providing for public comment and the opportunity for the public to request a hearing and by permitting an intervenor to request an adjudicatory proceeding. The bill provides that wind energy development constitutes a significant adverse effect on the natural environment if proposed in a fir-heartleaved birch subalpine forest natural vegetation community. The bill also requires that a wind energy permit must require best practical mitigation to reduce impacts on scenic, wildlife and other resources.