**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

# APPLICATION FOR SITING CERTIFICATION AND NATURAL RESOURCE PROTECTION ACT PERMIT FOR SMALL-SCALE WIND ENERGY DEVELOPMENTS

At 35-A M.R.S. § 3456, the Maine Wind Energy Act provides that a person may not construct or operate a wind energy development, other than a grid-scale wind energy development, that is located in the State's organized area without first obtaining a certification from the Department that the generating facilities:

A. Will meet the requirements of the noise control rules adopted by the Department pursuant to 38 M.R.S. § 481 et. seq.;

B. Will be designed and sited to avoid unreasonable adverse shadow flicker effects; and

C. Will be constructed with setbacks adequate to protect public safety. In making a finding pursuant to this paragraph, the Department shall consider the recommendation of a licensed professional civil engineer, as well as any applicable setback recommended by a manufacturer of the generating facilities.

A person proposing a wind energy development subject to certification under this section shall apply to the Department for certification using an application provided by the Department, and may not begin construction until the certification is received.

At 38 M.R.S. § 480-II (2), the Natural Resources Protection Act requires that an applicant for a permit to construct a small-scale wind energy development must demonstrate that the proposed project:

A. Will be constructed with setbacks and other considerations adequate to protect public safety, including, but not limited to, a fire protection plan. In making a finding pursuant to this paragraph, the Department shall consider the recommendation of a licensed professional civil engineer, as well as any applicable setback recommended by a manufacturer of any equipment to be installed on or in support of the small-scale wind energy development;

B. Will be constructed using the best practical mitigation techniques for mitigating impacts to endangered and threatened species, essential wildlife habitat, and other protected resources from all aspects of construction and operation, in accordance with rules adopted pursuant to 35-A M.R.S. § 3459; and

C. Will not significantly compromise views from a scenic resource of state or national significance, as considered under the criteria and methodologies set forth in 35-A M.R.S. § 3452.

A person proposing to construct a small-scale wind energy development must demonstrate adequate financial capacity to decommission the development at any time during construction or operation of the development, or upon termination of development operations for any reason. The obligation to decommission the development must be transferred to any future owner of the development in the event of a transfer of title. Decommissioning is required if the development's purpose or use is abandoned for a period of one year at any time after construction begins. Demonstration of financial capacity to decommission must include documentation of financial assurance that the decommissioning costs will be fully funded prior to the start of construction. Financial assurance may be demonstrated in the form of a performance bond, surety bond, letter of credit or other form of financial assurance acceptable to the Department.

An applicant for a certification to construct a small-scale wind energy development must hold at least one public informational meeting in accordance with the Department's rules, Chapter 2, Section 13.

"Wind energy development" means a development that uses a windmill or wind turbine to convert wind energy to electrical energy for sale or use by a person other than a generator. A wind energy development includes generating facilities and associated facilities.

**Exemption.** Certification is not required for a wind energy development with a generating capacity of less than 100 kilowatts.

**Included in this packet are materials for preparing and filing an application:**

1. Application Forms.
2. A form for publishing public notice.

**Please complete the following steps:**

- Publish a public notice in a newspaper of general circulation in the area of the proposed facility, using the format supplied in this packet. A copy of the public notice, or a certified statement that public notice has been made, should be attached to your application.
- File a copy of your completed application with the city or town clerk of the municipality in which the proposed facility is located.
- Send completed application forms with all supporting documents and fees to:

**Department of Environmental Protection**
**State House Station #17**
**Augusta, Maine 04333**
**Attn: Bureau of Land Resources**

**DEP Procedures:**

- Before drafting actual plans, we strongly recommend that you meet with Department staff to discuss your activity, any questions you may have, and applicable permitting requirements. The Corps and other state and federal agencies may also attend this meeting. To request a meeting, you should submit a location map, a sketch plan of the site, a brief activity description, and photographs of the activity site to the appropriate regional office. The following is a list of the regional offices:

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| * for Central Maine<br>17 State House Station, Augusta, ME 04333 | DEP, Bureau of Land Resources<br>(207) 287-7688 |
| * for Eastern Maine<br>106 Hogan Road, Bangor, ME 04401 | DEP, Bureau of Land Resources<br>(207) 941-4570 |
| * for Southern Maine<br>312 Canco Road, Portland, ME 04103 | DEP, Bureau of Land Resources<br>(207) 822-6300 |
| * for Northern Maine<br>1235 Central Drive, Presque Isle, ME 04769 | DEP, Bureau of Land Resources<br>(207) 764-0477 |

- After the Department has received your application, you will be notified within 15 working days of the acceptability of the application, the name of the project manager, and the expected date of decision.
- You will be notified in writing of the Department's decision and provided with a copy of your appeal rights.

## ❑ Attachment 1. Noise

A. Provide a full noise study prepared by a qualified professional, which demonstrates that the proposed wind generation facility will comply with the sound level limits for wind energy developments in the Department's rules, Chapter 375, Section 10(I). The noise study must include the following:

(1) Baseline

(a) Uses, zoning and plans. Maps and description of the land uses, local zoning and comprehensive plans for the area potentially affected by sounds from the development.

(b) Protected locations. Descriptions of the protected locations near the development.

(c) Quiet area. Evidence concerning whether or not the area surrounding the development is a quiet area.

(2) Noise generated by the development

(a) Type, source and location of noise. A description of all types of noise to be generated, sources of noise and locations of noise sources.

(b) Sound levels. A description of the daytime and nighttime sound levels expected at property lines and protected locations for all types of sound generated.

(c) Control measures. A description of proposed sound control measures, locations and expected performance.

(d) Comparison with regulatory limits. A comparison of expected sound levels with sound level limits in regulations.

(e) Comparison with local limits. A comparison of expected sound levels with any quantifiable noise standards of any affected municipality.

A waiver from the requirement to complete a noise study may be granted, at the Department's discretion, for proposed projects that are located in remote regions with no protected locations within close proximity to the proposed project.

❑ **<u>Attachment 2</u>. Shadow flicker**

Provide a detailed model of the wind energy development that demonstrates that the project has been designed to avoid unreasonable adverse shadow flicker effects. The shadow flicker model must utilize the WindPro software or other modeling software as approved by the Department.

❑ **<u>Attachment 3</u>. Public Safety**

Provide documentation in the form of a site plan that demonstrates that the proposed wind energy development has been designed to conform to applicable industry standards and that the proposed wind energy development will not present an unreasonable safety hazard to adjacent properties or adjacent property uses. Documentation provided by the applicant must include, but is not limited to evidence that the wind turbines have been sited with appropriate safety related setbacks from adjacent properties and adjacent existing uses; such evidence shall include a site plan and applicable documentation as necessary to show that the proposed wind generation facility turbines have been sited in such a manner as to provide a minimum setback from the nearest property line and/or public access way. The recommended minimum setback is a distance of not less than the normal setback requirements for that zoning classification as dictated by the local municipal zoning ordinance, or 1.5 times the maximum turbine blade height, whichever is greater. The setback distance must be measured to the closest edge of the wind turbine tower base.

Developments may be sited closer than the required minimum safety setback to the nearest property line and/or public access way if the applicant is able to demonstrate, through a safety setback easement, that they have secured rights sufficient to prevent the development and use of occupied structures or public access ways within the prescribed safety zone.