



Maine Forest Products Council

The voice of Maine's forest economy

Maine Forest Products Council testimony in opposition to

LD 1147 An Act To Protect Maine's Scenic Character

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Sen. Cleveland, Rep. Hobbins and members of the Energy, Utilities and Technology Committee, I am Patrick Strauch, executive director of the Maine Forest Products Council (MFPC). I am speaking today in opposition to LD 1147.

The MFPC is a trade association formed in 1961. We have about 300 member companies, which represent all segments of the forest industry in Maine. We speak for logging contractors, sawmills, paper mills, biomass energy facilities, pellet manufacturers, furniture manufacturers, and on behalf of more than nine million acres of commercial forestland in Maine.

MFPC has landowners and businesses that are directly involved in wind power projects. Wind power can be part of a long-term sustainable opportunity for landowners seeking to diversify the income they receive from their landholdings.

Although LD 1147 is targeted at revisions to the Wind Power Act, the Council is concerned that the precedent established in many of the provisions of the bill will have broad policy implications for many activities on private land. These are the issues I will focus on in my testimony.

Scenic rights

Maine's conservation community (landowners, NGOs, state officials) have worked hard to find common ground in balancing private rights with public values in a state that is composed of primarily private land (approximately 94 percent). Maine citizens have supported this concept by supporting the purchase of conservation easements throughout the state, which purchase access and development rights from landowners, who then have opportunities to raise forest crops and pursue other resource opportunities.

Wind power development is forcing a more expansive regulatory takings approach that affects land value. This expansion is demonstrated in LD 1147, where permitting standards are expanded from an eight-mile zone to a 15 mile zone. From any scenic reference point the amount of regulated landscape expands by 44,215 acres.

MFPC also opposes granting commercial sporting camps on Great Ponds greater scenic rights than landowners of the surrounding property. In many cases, landowners establish sporting camps to provide recreational opportunities. This provision discourages development of these opportunities.

Conflicts with the development of public recreation

Perhaps the best example of impending conflicts with expanding scenic regulations can be found in the history of the Appalachian Trail. In its early years the trail was established through voluntary landowner cooperation, but when it became a national trail with specified protection zones -- in some cases acquired through eminent domain -- the incentives for landowners to establish recreational trails on their lands has been stifled.

The expanding range of protection around the Appalachian Trail in LD 1147 (30 miles) increases pressure on the conflict between scenic rights and recreational development, and creates a major disincentive for landowners who want to expand public recreation opportunities on their land. We need a better balance in formulating policy.

Comments on specific provisions in LD 1147

Sec. 1.

1-D. Cumulative scenic impact or effect. This concept is very expansive and has been discussed in past wind power permits as a basis for denial. Examples to date have been canoe trips down river segments as examples of cumulative impacts. This is an expansive concept that has very little definition. Is the concept about too many in one place, or too many throughout the horizon?

“Foreseeable wind energy developments” is speculative and the Maine Supreme Court has ruled that BEP cannot speculate about future activities.

8-B. Scenic resources of local significance. This definition is very confusing and seems to assign scenic rights to public ownership, land trusts or similar organizations that exceed rights of private landowners. Additionally, are these properties valued for their internal scenic value or are they automatically assumed to have landscape scenic rights? Land trust properties (or easements) do not create scenic vantage points; they are purchased for their intrinsic scenic value. We seem to be mixing up all of these principles in this provision.

Sec. 2.

(3) One of the great ponds in the studies cited ... on which there is located at least one commercial sporting camp that was established prior to 2007. Sporting camps are businesses that should not get special treatment for scenic protection -- they have no scenic rights. These are zoning decisions, not permitting decisions.

Sec. 5.

4. Visual impact assessments; rebuttable presumption. Expanding the requirement of a visual impact assessment from 3 to 8 miles, and the rebuttable presumption from eight miles to 15 miles is an exponential expansion of authority. An additional 44,215 acres of land is affected by this permitting change. These kinds of provisions give the Appalachian Trail and the Allagash Waterway a 30-mile view-shed corridor. The expansion of regulatory authority is concerning to the landowner community. There is no justification for this expansion.

Sec 7. Directive to update Great Ponds study. Revisions to the Maine Wildlands Lakes Assessment are of great concern to the MFPC landowners. The 1987 process was very contentious and resulted in severe restrictions in land management opportunities. Landowners who had not developed properties were penalized for their efforts by precluding any future activity and greatly diminishing land values. In the last 10 years, a more progressive approach has been to recognize these values and compensate landowners through the purchasing of specific rights.

The classification effort resulted in the establishment of Land Use Standards that were adopted for various management classes. These classifications and standards affect a host of things, from camp lot development, to logging road construction. Re-examining the lakes classification would affect far more than scenic resources related to wind power.

I hope I have conveyed serious concerns about the precedents being established by the provisions of this bill, which we think expands beyond the modifications to the Wind Power Act. We are concerned that the great gains we have made in Maine in recognizing landowner rights and establishing creative solutions to conservation will be threatened by this bill.

We urge you not to support LD 1147. Thank you.