
**Testimony in Support of LD 2174, An Act to Increase Predictability in the Permitting of
Renewable Energy Development**

Before the Committee on Environment and Natural Resources

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Senator Tepler, Representative Doudera, and members of the Environment and Natural Resources Committee, my name is Luke Frankel, and I am the Staff Scientist at the Natural Resources Council of Maine (NRCM). NRCM is a nonprofit, nonpartisan membership organization dedicated to protecting, restoring, and conserving Maine's environment, now and for future generations. On behalf of our nearly 20,000 members and supporters, I am here to testify in support of the sponsor's amendment to LD 2174, An Act to Increase Predictability in the Permitting of Renewable Energy Development, with some reservations.

Climate change is one of the most pressing environmental challenges facing Maine today. The damage caused by more intense storms along Maine's coast and inland flooding, the economic loss experienced by communities dependent on consistent snow for winter recreation, the health risks posed by rising temperatures, and the impacts on our wildlife and ecosystems, are already taking their toll in Maine.

Over the past several years, Maine has taken bold action to address climate change, with the increased deployment of renewable energy like solar and wind playing a central role. In addition to decarbonization, investing in homegrown clean energy has several other benefits including stabilizing energy costs, creating new jobs and economic opportunity, and reducing Maine's dependence on the expensive fossil fuels, particularly natural gas, which is the primary driver of high electricity prices in Maine.

Despite Maine's progress, clean energy development has faced challenges, including from rollbacks of federal clean energy policies and programs that have supported Maine's efforts to achieve our climate and clean energy targets. Making clean energy permitting faster and more predictable while not sacrificing the integrity of our critical environmental protections is challenging. However, we believe that several of the commonsense changes included in the sponsor's amendment to LD 2174 do strike this balance.

More specifically, we support two of the primary initiatives in the bill to (1) update the timelines for key permits required for solar energy and energy storage system developments [Sections 2, 8, and 9] and (2) establish a Permit By Rule (PBR) process under the Site Location of Development Act ("Site Law") for solar energy developments that are less than 100 acres and do not require a Tier 3 wetland review [Sections 6 and 11].

Solar energy and energy storage projects are highly regulated forms of development that are often subject to a plethora of permitting requirements under Site Law, the Natural Resources

Protection Act (NRPA), the Stormwater Management Law, and the laws governing protection of agricultural soils for solar energy developments. By updating review timelines for permits required under each of these laws, this bill will speed up the permitting process, thereby helping solar developers complete their projects more quickly.

As one of Maine's more complicated environmental laws, Site Law can introduce considerable uncertainty into the permitting process. By establishing a Site Law PBR process for certain solar developments, this bill would help increase certainty in the permitting process by enabling the Department of Environmental Protection (DEP) to develop a comprehensive set of standards that solar developers would know from the outset that they have to meet to obtain their permit.

Since this streamlined PBR process would only apply to projects that are less than 100 acres and do not trigger a Tier 3 wetland review, more complicated projects with the potential for more significant environmental impacts would not be eligible. Additionally, other environmental laws like NRPA, as well as specific provisions within Site Law that will likely be carried forward into a PBR process, would continue to guide solar developments toward areas that are best suited for these projects.

LD 2174 also includes language that would prevent municipalities from enacting local ordinances stricter than the statewide standards and automatic permit approval if DEP fails to issue a decision prior to the applicable processing time limits. We are not prepared to support these provisions at this time since they would represent significant policy changes that deserve more time for review and analysis.

Regarding municipal ordinances and local control, we have heard from stakeholders of instances where ordinances have been enacted that functionally prohibit renewable energy from being developed within a town. While this is concerning, we strongly believe that more information on this topic is needed before making a significant policy decision like restricting local control.

Regarding automatic permit approvals if processing times are not met, we oppose these provisions in the bill, recognizing that some renewable energy projects can be complex and may warrant longer review times. Additionally, DEP already has a financial incentive to meet its processing times, as failure to do so would require that DEP refund 50% of the permit or license processing fee to the applicant.¹

To achieve Maine's statutory goal of achieving 100% renewable energy by 2040, and to help stabilize electricity costs for Maine families and businesses, Maine needs to develop more renewable energy. LD 2174 would help to accomplish this by making modest changes in the permitting process that would speed things up, while still preserving key environmental safeguards. For this reason, we encourage the Committee to vote Ought to Pass on a version of the bill that removes the sections that we identified above. I would be happy to answer any questions that you may have.

¹ 38 MRS §344-B(5)