



STATE OF MAINE

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GOVERNOR

DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
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AUGUSTA, ME 04333-0022



PATRICK MCGOWAN
COMMISSIONER

TO: Commission Members
FROM: Marcia Spencer Famous, Senior Planner
DATE: August 24, 2009
SUBJECT: Schedule for rulemaking and relevant criteria: Appendix F to Chapter 10, Expedited Wind Energy Development Area Designation

I. Background.

On August 5, 2009, the Commission released for rule-making various changes to Appendix F of the Commission's Chapter 10 Land Use Districts and Standards, the Expedited Wind Energy Development Area Designation. The rulemaking includes two staff initiated changes to Appendix F, and one change proposed by TransCanada Maine Wind Development, Inc. to expand the wind energy development expedited permitting area, pursuant to 12 MRSA, § 685-A(13) [*see* 35-A MRSA § 3404, and ch. 34-A § 3453]. However, on August 5th the dates for the public comment period and the date for a public hearing were not set. At that time, staff was asked to bring a schedule back to the Commission for discussion.

II. Rulemaking Schedule

For the two staff initiated changes to Appendix F, there would be a public comment period, but no public hearing. For TransCanada's proposal to amend Appendix F to expand the windpower expedited permitting area, the comment period would run concurrently with the comment period for the staff initiated changes, and a public hearing would be held within the comment period. However, the comment period for TransCanada's proposal would extend an additional 7 days to provide for rebuttal.

The following dates are one possible option for the public comment period, public hearing, and Commission decision on the changes to Appendix F (a calendar is attached to this memo for reference):

A. Public comment and rebuttal period:

- (1) Start on September 16th
- (2) Public hearing on TransCanada's proposal to expand the windpower expedited permitting area: October 7th, tentatively to be held at Sugarloaf USA, Carrabassett Valley. A site visit could be arranged, if desired.
- (3) Final date for Interested Persons to file written comments on both staff initiated changes to Appendix F and on TransCanada's proposal: October 19th
- (4) End of rebuttal period for TransCanada's proposal: October 26th

- B. Commission decision on staff initiated changes to Appendix F and TransCanada's proposal: December 2nd

The Commission's decision on rulemaking would occur within 90 days of the final closure of the public hearing, which in this case would coincide with the end of the public comment period. [see the Commission's rules Chapter 4, § 4.06]

III. Criteria for decision to adopt rule

The applicable rules and criteria for the Commission decision on TransCanada's request to expand the windpower expedited permitting area may include, but is not necessarily limited to:

- A. **12 MRSA, § 685-A(13). Additions to expedited permitting area for wind energy development.** The commission may add areas in the State's unorganized and deorganized areas to the expedited permitting area for wind energy development in accordance with Title 35-A, § 3453.
- B. **35-A MRSA, § 3453. Additions to the expedited permitting area**

The Maine Land Use Regulation Commission may, by rule adopted in accordance with Title 5, chapter 375, add a specified place in the State's unorganized or deorganized areas to the expedited permitting area. In order to add a specified place to the expedited permitting area, the Maine Land Use Regulation Commission must determine that the proposed addition to the expedited permitting area:

1. **Geographic extension.** Involves a logical geographic extension of the currently designated expedited permitting area;
2. **Meets state goals.** Is important to meeting the state goals for wind energy development established in § 3404; and
3. **Principal values and goals.** Would not compromise the principal values and the goals identified in the comprehensive land use plan adopted by the Maine Land Use Regulation Commission pursuant to Title 12, § 685-C.

Rules adopted by the Maine Land Use Regulation Commission pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

- C. **35-A MRSA § 3404. Determination of public policy; state wind energy generation goals**
1. **Encouragement of wind energy-related development.** It is the policy of the State that, in furtherance of the goals established in subsection 2, its political subdivisions, agencies and public officials take every reasonable action to encourage the attraction of appropriately sited development related to wind energy 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.

- 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; and
 - B. At least 3,000 megawatts of installed capacity by 2020, of which there is a potential to produce 300 megawatts from generation facilities located in coastal waters, as defined by Title 12, section 6001, subsection 6, or in proximate federal waters.

Changes to Appendix F to Chapter 10: Earliest possible schedule for rulemaking

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
September						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16 Public comment period starts	17	18	19
20	21	22	23	24	25	26
27	28	29	30			
October						
				1	2	3
4	5	6	7 Public hearing on TransCanada proposal	8	9	10
11	12	13	14	15	16	17
18	19 Final date for Interested Parties to file written comments	20	21	22	23	24
25	26 End of rebuttal period for TransCanada proposal	27	28	29	30	31
November						
1	2	3	4 No Commission meeting	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					
December						
		1	2 Commission decision on rule changes	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

cc:

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