



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
106 HOGAN ROAD, SUITE 8
BANGOR, MAINE 04401

Notice of Agency Rule-making Proposal

AGENCY: Maine Land Use Planning Commission,
Department of Agriculture, Conservation & Forestry

CHAPTER NUMBER AND TITLE: Ch. 10, Land Use Districts and Standards: Amendment to Appendix F, Expedited Wind Energy Development Area Designation

DETAILED SUMMARY:

The 123rd legislature enacted, “An Act to Implement Recommendations of the Governor’s Task Force on Wind Power Development,” Public Law 2007, Ch. 661 that became effective April 18, 2008. The Act established the expedited permitting area for wind energy development, encompassing all of the organized areas of the State and a portion of the unorganized and deorganized areas now served by the Land Use Planning Commission (LUPC or Commission). As directed by that legislation, the Commission adopted through rule-making the description and map of the expedited permitting area located in the Commission’s rules as Appendix F to Ch. 10, Land Use Districts and Standards.

In 2015, the legislature enacted “An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission,” Public Law 2015, Ch. 265 that became effective January 1, 2016. The statutory change created a six month time window within which registered voters in a given town, township, or plantation within the Commission’s jurisdiction may petition to have a place removed from the expedited area. Title 35-A, section 3453-A describes the mechanism by which the petition process is to take place, and provides the opportunity for any person to object to the removal of the specified place by requesting “substantive review” of the petition. When a substantive review is requested, certain criteria apply:

3. Removal by petition with review. A person may, in writing, request substantive review of a petition for removal under subsection 1 by the Maine Land Use Planning Commission. Upon receipt of a timely filed request for substantive review, if the commission finds the requirements of subsection 1, paragraphs A and B are satisfied, the commission shall, by rule, remove a specified place in the unorganized and deorganized areas from the expedited permitting area if it finds the proposed removal:

A. Will not have an unreasonable adverse effect on the State’s ability to meet the state goals for wind energy development in section 3404, subsection 2, paragraph C; and

- B. Is consistent with the principal values and the goals in the comprehensive land use plan adopted by the Maine Land Use Planning Commission pursuant to Title 12, section 685-C.

In general, the effect of removing a place from the expedited area is to require, before a wind energy development may be permitted, one of two things to occur. The place must be added back into the expedited area pursuant to Title 35-A, section 3453, or rezoned to a Commission zoning subdistrict that allows wind power development pursuant to Title 12, section 685-A(8-A). These processes are different and if, successful, affect subsequent permitting differently. Notably, the criteria the Department of Environmental Protection (DEP) must apply when evaluating visual impacts of a project differ depending on whether a project is proposed to be located in the expedited area or a Planned Development (D-PD) subdistrict as a result of Commission rezoning.

Because of the significance removing a place from the expedited permitting area may have on future wind power development proposals and the interest of residents, land owners, developers, and many other members of the public in the location of wind power development, the Commission has decided to hold public hearings for all substantive reviews of removal petitions.

Public Hearing:

A public hearing will be held on the Carroll Plantation removal petition and the public is invited to testify at the hearing. The Commission requests, if possible, that those interested in testifying at the hearing bring a written copy of their testimony for filing in the hearing record.

The hearing will be held on September 28, 2016 at the Waterfront Event Center, 8 Prince Street, Lincoln, ME and will start at 5:30 PM. The schedule for the hearing will be as follows:

- 5:30 PM - Opening statements by the Presiding Officer and LUPC staff
- 5:45 to 6:15 - Presentation by the persons requesting the substantive review (Requestors)
- 6:15 to 6:45 - Presentation by the petition Circulators
- 6:45 - Public testimony
- Closing statement by the Presiding Officer

All testimony should be pertinent to the statutory criteria (Criteria A and B, as provided above) established by the legislature for removal petitions.

Written comments addressing the statutory criteria and the removal petition, including data, views or arguments, may be submitted by US Postal Service Mail to “Stacie R. Beyer, LUPC, 106 Hogan Road, Suite 8, Bangor, ME 04401,” or by e-mail to stacie.r.beyer@maine.gov (including in subject line “Carroll Removal Petition”). For consideration by the Commission, written comments must be submitted on or prior to October 10, 2016, and rebuttal must be submitted on or prior to October 17, 2016.

Additional information may be obtained by contacting Stacie Beyer or by visiting the Commission's web site at: http://www.maine.gov/dacf/lupc/projects/wind_expedited_area/windexpedited_carrollplt_substantivereview.html

PUBLIC HEARING:

September 28, 2016, the Waterfront Event Center, 8 Prince Street, Lincoln;
Starting at 5:30 p.m.

COMMENT DEADLINE:

Written comments must be submitted on or prior to *October 10, 2016*;
Written rebuttal comments must be submitted on or prior to *October 17, 2016*.

CONTACT PERSON:

Stacie Beyer, Land Use Planning Commission, 106 Hogan Road, Suite 8, Bangor, ME 04401.
Telephone: (207) 941-4593. E-mail: Stacie.R.Beyer@Maine.gov.

STATUTORY AUTHORITY FOR THIS RULE: 35-A M.R.S. § 3453-A; 12 M.R.S. § 685-C(5)(A)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Public Law 2015. Ch. 265

AGENCY WEBSITE: <http://www.maine.gov/dacf/lupc/index.shtml>