# **01-001 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**Chapter 551: RULES FOR CONDUCT OF THE ASSESSMENT PHASE OF THE AGRICULTURAL VIABILITY PROGRAM**

**I. INTRODUCTION**

The 112th Legislature enacted the *Maine Agricultural Viability Act of 1985*. (Chapter 482 Public Laws, 7 M.R.S.A. §§ 311 *et seq*.) The 113th Legislature, in an Act to continue the Agriculture Viability Program, Ch. 424, Public Laws, removed the pilot stratus and authorized the Commissioner to set up selected new Ag-Viability regions.

The act envisions a coordinated, orderly process with prescribed responsibilities for the Commissioner, the State Department of Agriculture and the local lead agencies (LLA) designated by the Commissioner to conduct the program, described in these rules, on the local level.

A. **Purpose of the Agricultural Viability Program**

The purpose of the program is to establish a process by which:

a) farmers/farm organizations/agencies in a defined region can evaluate the agricultural resources, problems and needs in general and the potential of specific agricultural commodities of their choice in that region.

b) farmers/farm organizations/agencies on the local level can seek to redirect state programs to meet regional needs as identified in the regional assessment.

c) farmers/farm organizations/agencies at their own initiative can affect changes to maximize opportunities which enhance the viability of agriculture.

B. **Description of the Program**

The Agricultural Viability Program consists of the following elements:

1. a coordinated assessment of agricultural opportunities on the state and sub-state level.

2. guidance and direction to the Commissioner in redirecting the programs and services of the Department.

3. implementation through delivery of the programs and services in accordance with the local assessments.

4. assurance that the agricultural community and the public be given ample opportunity to participate in the process.

5. a state level Advisory Committee composed of a representative named by each of the following organizations: Maine Farm Bureau, Maine State Grange, National Farm Organization, Maine Small Farm Association, Maine Organic Farmers and Gardeners Association and Maine Association of Conservation Districts. The chairman of the Soil & Water Conservation Commission shall serve ex-officio. The Committee shall advise the Commissioner in the development, conduct and implementation of the program.

**II. THE PROCESS**

This action will present the allocation of responsibilities between the State, the Department of Agriculture (henceforth State) and the Local Lead Agency (henceforth L.L.A.) and the sequence of activities in which those responsibilities are carried out.

A. Upon adoption of these rules, the Commissioner shall send application information to all Soil and Water Conservation Districts. A notice seeking applications from any other public or non-profit organization shall be published in three newspapers of statewide circulation at least 30 days prior to the deadline for applications.

B. Organizations seeking designation as a local lead agency shall submit applications (Section III-D) by the date announced by the Commissioner.

C. The Commissioner shall select a local lead agency and designate the region using the criteria in these rules (Section III, A and B).

D. The State and the LLA shall enter into a contract or memorandum of agreement, whichever is appropriate, specifying responsibilities, work criteria, payment terms and schedules.

E. The State shall provide the LLA with a framework for the local assessments so that the assessments provide a basis for decision making. The state does this by:

1. Identifying, defining and describing the factors which need to be considered in evaluating potential and opportunities.

2. Evaluating the potential of specified commodities at the state level using the factors identified in (1) above.

F. The Local Lead Agency shall complete the regional assessment according to its contract or agreement with the State., A "Regional Assessment" is an analysis of agricultural resources, problems and needs in the designated region using the factors identified by the State.

The assessment shall include but not be limited to:

1. The land base currently used or suitable for agricultural production, its nature and extent, use and ownership;

2. The market, supply and service infrastructure serving the area;

3. The availability and cost of production inputs in the area;

4. The local demand for agricultural goods produced In the area; and

5. The needs of the agricultural sector in the area perceived to be critical to maintaining or enhancing its economic strength.

G. The State shall prepare an analysis of each regional assessments, in the context of the State, New England and the Northeast, identifying commodity/commodities with good economic potential, constraints that limit the realization of that potential, means of overcoming those constraints and the costs of such programs and services.

H. The LLA will analyze the State's response, hold public hearings and prepare its final report to be submitted to the Commissioner. The report shall include a list of needs and services In order of priority, the attendees at all the meetings and other information pertinent to the Commissioner in developing programs. The final report shall be approved by the Board of Directors, or its equivalent, of the LLA. To be considered completed, the report shall demonstrate that the LLA has met its obligation under the contract.

I. Within one year of completion of all regional assessments, the Commissioner shall initiate implementation of appropriate state programs to respond to regional needs.

**III. CRITERIA FOR DESIGNATION AND SELECTION**

A. **Criteria for Designation of an Agricultural Region**. The agricultural region shall be defined in the process of application and selection of the local lead agency. A potential local lead agency shall, in its application, propose an agricultural region for designation. The Commissioner shall select a region which can demonstrate to his satisfaction that it is a reasonably cohesive agricultural region. The area which the selected local lead agency and the Commissioner agree on shall be considered the LLA's agricultural region for the duration of the program unless changed by amendment pursuant to Section VI. The agricultural region shall be a geographically contiguous area. In the designation of an agricultural region, the Commissioner shall consider the following factors:

1. Orientation toward a shared marketing, supply and service center.

2. Shared constraints to and opportunities for agricultural viability.

3. Similar characteristics of land and water resources.

4. Size and geographic proximity which encourages citizen participation.

5. Orientation toward existing political boundaries. County, Soil and Water Conservation Districts and state designated planning districts are examples of such boundaries.

B. **Criteria for Selecting a Local Lead Agency**

While the Act indicates a preference for local soil and water conservation districts, the Act does not preclude other agencies or combinations of agencies from forming an organization for the purpose of conducting a regional agricultural viability program. Joint applications or combinations of soil and water conservation districts and other public or non-profit agricultural service or planning agencies are encouraged.

In selecting a local lead agency the Commissioner shall consider:

1. Understanding of the region's resources, problems and opportunities demonstrated by the comprehensiveness of the application.

2. Documented timeliness or urgency to undertake the program in the proposed region.

3. The likelihood of significant and recognizable implementation.

4. The impact of the projects mentioned in the application or their implementation on,

a. the local agricultural economy.

b .the general local economy.

c. the agricultural economy statewide.

d. the general economy statewide.

5. Demonstration of Community Support for, and participation In the program.

6. Demonstrated ability to administer funds, hire and supervise personnel or manage a contract.

7. Capability to undertake data gathering and analysis; successfully completed projects by the agency or subcontracting for such services shall be considered demonstration of such experience.

8. The experience and credibility of the agency in facilitating public participation, accurately hearing and effectively reflecting the concerns and ideas of local people.

9. Efficient use and coordination of existing staff, volunteers and resources of other agencies and organizations.

10. Clearly identified and accessible headquarters.

C. **Application**

Soil and Water Conservation Districts and other public and non-profit farmer organization will be notified of the opportunity to submit applications pursuant to section II, B, above. An acceptable application must Include information addressing the criteria as listed in A and B of this section. The application should include at the minimum:

1. Identification of the geographic boundaries of the proposed region.

2. A general description of the region's natural resources.

3. A review of current agricultural activities in the region.

4. A report on the preliminary perception of needs and opportunities.

5. A work plan indicating approach, designating responsibilities and schedules, consistent with. the legislation.

6. A plan to Involve farmers and citizens in the area.

7. Budget, Including contributions and in kind services.

8. Administrative structure Including Board of Directors$ or Its equivalent, and a description of staff capability.

9. Record of accomplishments of the agency or participating organizations.

10. Information which address the criteria (Section ,CB) for selection as a pilot program.

11. Any other Information the applicant considers supportive of its selection as a Local Lead Agency.

D. **Selection Process**

Using the criteria in Section A and B, the Commissioner upon consultation with the Advisory Committee shall select one or more proposals) which in his judgment best meet(s) the criteria.

E. **Negotiation**

Upon selection of the application(s) the Commissioner considers most qualified, he shall negotiate with each applicants) to:

1. **Define the exact geographic boundary of the region**. The Commissioner may work with the designated agency to modify region boundaries to be more consistent with the criteria in Section III-A. In cases where there are applications for overlapping or contiguous geographic regions, the Commissioner may suggest expanding the area in the proposed region or combining agencies.

2. **Agree on funding level**. Within the limits of available funds and based on the submitted budget the Commissioner and the potential agency will negotiate the allocation of the funds available. The Commissioner shall coordinate the most efficient use of existing resources, other funds and volunteer contributions.

**IV. CONTRACT OR MEMORANDUM OF AGREEMENT**

A contract or memorandum of agreement, whichever is appropriate, to be signed by the Commissioner and the Chief Executive Officer or Chairman of the selected local lead agency (ies) shall specify at least the following:

A. The delineated geographic region designated by the Commissioner.

B. The agency or agencies to conduct the program in that designated region.

C. Work to be performed including the products expected.

D. A plan for citizen involvement.

E. Funding and a schedule of payments.

**V. COMPLETION**

A Regional Assessment is completed when the LLA fulfills its contractual requirements and completion of Step H in Section II.

**VI. AMENDMENTS**

A. These Rules can be amended with the advice of the Advisory Committee either by the Commissioner's own initiative or in response to a petition as provided in the *Administrative Procedure Act,* 5 MRSA subsection 8055.

B. Changes in the boundaries of an agricultural region, or in the structure or responsibilities of a designated local lead agency may be considered amendments to the contract between the LLA and the Department and may be negotiated by the signatories.

C. New designations of regions and LLA's will be handled as provided in Section III of these rules.

STATUTORY AUTHORITY: 7 M.R.S.A. §311

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