



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

July 23, 2008

Ms. Kathleen Leyden
Coastal Program Manager
Maine State Planning Office
State House Station 38
184 State Street
Augusta, ME 04333-0038

Dear *Kathleen* Ms. Leyden:

Thank you for the Maine State Planning Office's June 6, 2006 request that changes to the Maine Department of Environmental Protection rules, Chapter 305 - Permit by Rule; Chapter 310 - Wetlands and Waterbodies Protection Rule; Chapter 378 - Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products; Chapter 500 - Stormwater Management; and Chapter 502 - Lists of "At Risk" Or "Impaired" Waterbodies be incorporated into the Maine Coastal Management Program (CMP). You requested that changes to these regulations, described in Table I below, be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on June 11, 2008, and OCRM's decision deadline was extended until July 23, 2008.

Based on our review of your submission, we concur that the changes to Maine Department of Environmental Protection rules, Chapter 305 - Permit by Rule; Chapter 310 - Wetlands and Waterbodies Protection Rule; Chapter 378 - Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products; Chapter 500 - Stormwater Management; and Chapter 502 - Lists of "At Risk" Or "Impaired" Waterbodies are RPCs and we approve the incorporation of the changes as enforceable policies of the Maine CMP. Federal Consistency will apply to the approved changes only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4). Please include in the public notice the list of changes to enforceable policies provided in this letter, and please send a copy of the notice to OCRM.

CHANGES APPROVED

See enclosed list of the changes incorporated into the Maine CMP.

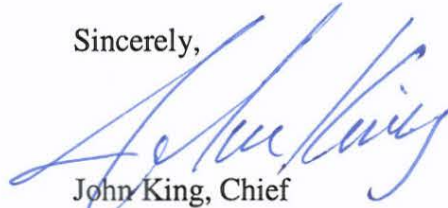


PUBLIC AND FEDERAL AGENCY COMMENTS

OCRM received no comments on this RPC submission.

Thank you for your cooperation in this review. If you have any questions, please contact R. Randall Schneider at (301) 713-3155, extension 110.

Sincerely,



John King, Chief
Coastal Programs Division

Enclosure: Policies Approved and Incorporated into the Maine Coastal Management Program

Enclosure to OCRM's July 23, 2008, Approval of the Incorporation of Changes to
the Maine Coastal Management Program

Changes marked with an asterisk (*) are incorporated into the Maine Coastal Management Program, but do not
contain enforceable policies that can be used for Federal Consistency.

Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
ADDED			
New permit by rule (PBR) provision for certain activities in, on or over "significant vernal pools"	DEP Rules, Chapter 305, Sec. 19	11/20/2006	12/5/2006
New PBR provision for activities in existing developed areas located in, on or over high or moderate value inland waterfowl and wading bird habitat, or shorebird nesting, feeding and staging areas	DEP Rules, Chapter 305, Sec. 20	11/20/2006	12/5/2006
MODIFIED			
Correct notes in rules referencing BMP manual and related information	DEP Rules, Chapter 305, note following sections 2(C)(4)(e); 3(C)(1)(e); 4(C)(2)(e); 7(C)(1)(e); 8(C)(3)(e); 9(C)(1)(e); 10(C)(1)(e); 12(C)(1)(e); 13(C)(1)(e); and 15(C)(1)(e)	11/20/2006	12/5/2006
Clarify pressure-treated wood may be used to extent consistent with pertinent federal and state law	DEP Rules, Chapter 305, Sec. 3(C)(15); 4(C)(14); 9(C)(13); 10(C)(17); 11(B)(16); 13(C)(6); and 15(C)(12)	11/20/2006	12/5/2006
Criteria for allowance of narrower vegetated buffer for outfall pipe	DEP Rules, Chapter 305, Sec. 7(C)(2)	11/20/2006	12/5/2006
Utility, pipe and cable crossings of coastal wetlands and great ponds; provision for DEP flexibility re: construction window; DMR approval of timing required year round	DEP Rules, Chapter 305, Sec. 9(B)(3)	11/20/2006	12/5/2006
Stream crossings: photos of area to be affected required, except for forest management activities	DEP Rules, Chapter 305, Sec. 10(B)(2)[subpara. 2 added/paras renumbered]	11/20/2006	12/5/2006
State transportation facilities: update provision to delete redundant and obsolete language and to facilitate use of MaineDOT's best management activities	DEP Rules, Chapter 305, Sec. 11(A)(1), (B)[subparas 2, 3, 7, 8, 10, 11, 13, 14 amended/subparas 18, 19, 20, 21, 22, 23, 24 and 25 deleted/subparas renumbered]	11/20/2006	12/5/2006
Clarifies definitions of "diversion" and "riprap" in state transportation facilities PBR provision	DEP Rules, Chapter 305, Sec. 11(C)(1) and (4)	11/20/2006	12/5/2006
Clarifies conditions under which a PBR application for a public boat ramp must be submitted to DEP's Watershed Management Division before	DEP Rules, Chapter 305, Sec. 15(B)(3)	11/20/2006	12/5/2006

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notification to DEP.			
Corrects contact agency name	DEP Rules, Chapter 305, Sec. 15(B)(4)	11/20/2006	12/5/2006
Clarifies development activities in coastal sand dunes that may qualify for permit by rule.	DEP Rules, Chapter 305, Sec. 16(A)(1)(a), (c) and Note	11/20/2006	12/5/2006
Clarifies information submission requirements for coastal sand dune PBR application.	DEP Rules, Chapter 305, Sec. 16(B)(3)(a) and (c)	11/20/2006	12/5/2006
Criteria regarding qualifying patio, deck, driveway, or parking area repair or replacement; amends language in accordance with clarification of coastal dune PBR's scope (above)	DEP Rules, Chapter 305, Sec. 16(C)(11) and (15) [subpara. added]	11/20/2006	12/5/2006
Clarifies definitions of "erosion hazard area," "beach nourishment" (deleted), "permanent structure," and "V-zone;" amends language in accordance with clarification of scope (see above)	DEP Rules, Chapter 305, Sec. 16(D)(3); (D)(10 [subparas renumbered], 16, and 18)	11/20/2006	12/5/2006
Amends standards for activities in existing developed areas located in, on or over high or moderate value inland waterfowl and wading bird habitat, or shorebird nesting, feeding and staging areas [see "ADDED" section, above] to clarify applicability to: 1) 10% expansion of existing development; and (2) activities involving only cutting or removal of vegetation; corrects and updates references	DEP Rules, Chapter 305, Sec. 20(A)[added subpara. 2 and 3/renumberd para's]	02/07/2008	02/25/2008
Amends standards to clarify submission requirements, including Department of Inland Fisheries and Wildlife approval re: cutting/vegetation removal in shorebird roosting areas	(B)(3)-(4)[added subpara. 4/renumber para's]	02/07/2008	02/25/2008
Amends standards to clarify and specify approval standards re: activities involving cutting or removal of vegetation in high to moderate value inland waterfowl and wading bird habitat and shorebird feeding buffer areas	(C)(3-5)[add subpara. 4 and 5]	02/07/2008	02/25/2008
Amends standards to update definitions in accordance with statutory changes	(D)(3-5)[added subpara. 4-5]	02/07/2008	02/25/2008

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(see 38 MRSA sec. 480-CC)			
Reduces threshold for requiring wetlands assessment from 20,000-15,000 ft. affected area	DEP rules, Chapter 310 (Wetlands and Waterbodies Protection rules), Sec. 5(C)(6)(a)(ii)	11/16/2006	12/05/2006
Clarifies wetlands compensation to be same biophysical region	DEP rules, Chapter 310, Sec. 7(B)	11/16/2006	12/05/2006
Replaces existing language to clarify standards and submission requirements applicable to a regulated excavation or quarry that will be drained externally.	DEP rules, Chapter 378 (Variances for excavations and quarries/ petroleum storage criteria), Sec. 3(D) [replaces former para. D]	02/15/2007	02/27/2007
Clarifies performance standards regarding secondary containment of petroleum products to be stored at an excavation site or quarry operation	DEP rules, Chapter 378, Sec. 5(A)	02/15/2007	02/27/2007
Specific design standards for double-walled tanks	DEP rules, Chapter 378, Sec. 5(D) [para. D added/following paras renumbered]	02/15/2007	02/27/2007
Clarifies safety measures (spill kit-related requirements)	DEP rules, Chapter 378, Sec. 5(G) (as renumbered in accordance with changes)	02/15/2007	02/27/2007
Clarifies inspection requirements where a double-walled tank is used	DEP rules, Chapter 378, Sec. 5(H) (as renumbered in accordance with changes)	02/15/2007	02/27/2007
Clarifies that a permit must be obtained from the State Fire Marshall if petroleum storage tanks will remain on the quarry or excavation site for more than 180 days and that petroleum storage tanks covered by the rule must meet applicable standards of the State Fire Marshall	DEP rules, Chapter 378, Sec. 5(J) [subpara. J added]	02/15/2007	02/27/2007
Narrows the definition of "developed area" to no longer include areas that are changed from forest to meadow.	DEP rules, Chapter 500 (stormwater management), Sec. 3(D)	12/07/2006	12/27/2006
Changes definition of a "linear project" to "linear portion of a project," consistent with usage in the rule, and allowing subdivision roads to fall under the definition.	DEP rules, Chapter 500, Sec. 3(O)	12/07/2006	12/27/2006
In various sections of Ch. 500, the term "BMP standards" is replaced with "general standards" to provide more consistent meaning.	DEP rules, Chapter 500, Sec. 4(B)(1); related change in terminology (passim)	12/07/2006	12/27/2006

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Adds flexibility to general standards so that treatment of impervious area can be reduced from 95% of the impervious area to 90%, provided that overall treatment on the site remains equivalent.	DEP rules, Chapter 500, Sec. 4(B)(2)	12/07/2006	12/27/2006
Revises the technical requirements for use of a wet pond under the general standards section.	DEP rules, Chapter 500, App. E, Sec. 3(d)	12/07/2006	12/27/2006
Changes the language on redevelopment of existing impervious area so that it applies to impervious area in place as of November 16, 2005 (the effective date of the rule revisions).	DEP rules, Chapter 500, Sec. 4(B)(3)(e)	12/07/2006	12/27/2006
Changes the language on redevelopment for Site Location projects under the general standards section so that the project must "meet the general standards to the extent practicable as determined by the department." Establishes a November 16, 2005 cut-off date for "redevelopment" sites.	DEP rules, Chapter 500, Sec. 4(B)(3)(f)	12/07/2006	12/27/2006
Drops the requirement for redevelopment projects to meet the urban impaired stream standard if there will be no increase in impacts due to stormwater runoff.	DEP rules, Chapter 500, Sec. 4(D) (as renumbered)	12/07/2006	12/27/2006
Revises standard to allow the department to grant a variance for discharges to rivers other than "major river segments" if the department determines there will be no adverse impact.	DEP rules, Chapter 500, Sec. 4(E)(1)(a), (3), and note	12/07/2006	12/27/2006
Clarifies when developer must obtain easements or covenants related to stormwater treatment; technical renumbering of paragraph sections	DEP rules, Chapter 500, Sec. 4(F)(1) (as renumbered)	12/07/2006	12/27/2006
Changes Permit by Rule language to add clarity and greater consistency with current PBR practices under the Natural Resources Protection Act (NRPA).	DEP rules, Chapter 500, Sec. 7(A), (B)[deleted]/following paras renumbered] (C), (D), (E), (F), (G), (H)	12/07/2006	12/27/2006

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Clarifies severability of standards conditions of approval	DEP rules, Chapter 500, Sec. 10(A)(10)	12/07/2006	12/27/2006
Revises Permit shield language to make it clearer and to emphasize that a project cannot get an exemption from a standard required under the Site Law by breaking the project into pieces and first complying with a lesser standard under the Stormwater Law.	DEP rules, Chapter 500, Sec. 14	12/07/2006	12/27/2006
Appendix E: Changes language in various parts of Appendix E to include under-drained soil filter beds (App.E(4)), with specifications consistent with language in Stormwater BMP Manual and provides for additional requirements for stormwater basins and similar structures (see App. E(5)).	DEP rules, Chapter 500, Appendix E (passim)	12/07/2006	12/27/2006
Throughout the rule there are minor word changes made to improve readability and clarity. Some are renumbered or reordered in accordance with substantive changes.	DEP rules, Chapter 500, see provisions noted above and Sections 4; 4(C),(E), (F); 6(A-B); 8(A),(C), (D)(4), G, H(moved to 7(G); 10; 15; and 16	12/07/2006	12/27/2006
Changes to list of Lakes Most at Risk From Development	DEP rules, Chapter 502, Appendix A	12/07/2006	12/27/2006
Change to list of Urban Impaired Streams	DEP rules, Chapter 502, Appendix B	12/07/2006	12/27/2006