



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

JAN 29 2010

Dear Ms. Leyden:

Thank you for the Maine State Planning Office's November 10, 2009 request that changes to the statutes described below be incorporated into the Maine Coastal Management Program (CMP) 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):

- Land Use Regulation Commission Law;
- Protection and Improvement of Waters Act;
- Natural Resources Protection Act;
- Maine Waterways Development and Conservation Act;
- Site Location of Development Act;
- Oil Discharge Prevention and Pollution Control Law;
- Maine Hazardous Waste, Septage, and Solid Waste and Management Act;
- Underground Oil Storage Facilities and Ground Water Protection Law;
- Protection and Improvement of Air Act;
- Maine Endangered Species Act;
- Subdivision Law;
- Uncontrolled Hazardous Sites Law;
- Sale of Consumer Products Affecting the Environment;
- Laws regarding the organization and powers of the Maine Department of Environmental Protection and mercury-added products and services.

OCRM received the request on November 10, 2009, and OCRM's decision deadline was extended until January 30, 2010.

Based on our review of your submission, we concur that the changes to the statutes described above 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**

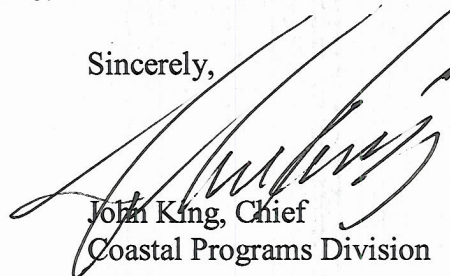
See enclosed list of the changes incorporated into the Maine CMP.

**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 Liz Mountz at (301) 713-3155, extension 148.

Sincerely,

A handwritten signature in black ink, appearing to read "John King", is written over the typed name and title.

John King, Chief  
Coastal Programs Division

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

## Enclosure to OCRM's January 29, 2010 Approval of the Incorporation of Changes to the Maine Coastal Management Program

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Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Enforcement Mechanism	Date Adopted by State	Date Effective in State
<b>MODIFIED</b>				
Revised the purpose of land use regulation in unorganized and deorganized townships of the State to confirm that such regulation is for the benefit of property owners and residents of these areas as well as for the public benefit.	12 MRS §681, 2nd ¶	Policy statement; implemented through zoning and planning authorities	9/12/2009	9/12/2009
Increases time limit from 90 days to 120 days for "transient occupancy" in campsites in unorganized areas.	12 MRS §682(18)	LURC land use permit	3/31/2009	3/31/2009
Increases from 2 to 3 the number of LURC commissioners who must reside in LURC territory.	12 MRS §683, first para.	Permit related administrative provision	9/12/2009	9/12/2009
Modifies LURC grandfathering provision to exclude buildings or structures located in areas of special flood hazard as defined by commissioner's rules.	12 MRS §685-A(5)	LURC land use permit	9/12/2009	9/12/2009
Modifies LURC grandfathering provision to allow normal maintenance or repair to a structure without a permit issued by the commission in locations other than areas of special flood hazard.	12 MRS §685-B(1)(A)	LURC land use permit	9/12/2009	9/12/2009
Amends process for approval of LURC comprehensive plan to include legislative review and a public meeting.	12 MRS §685-C(1)	Program Administrative Provision	6/12/2009	6/12/2009
Clarifies that DEP may contract for technical assistance to review wind energy permit general permit applications.	38 MRS §344-A, first ¶	NRPA and MWDCA general permit related provision	6/4/2009	6/4/2009
Technical amendment – corrects cross reference to CFR.	38 MRS §361-A(1-J)		9/12/2009	9/12/2009
Technical amendment – corrects cross reference to CFR.	38 MRS §361-A (1-K)		9/12/2009	9/12/2009
Changes to the water quality classifications of certain water bodies of the state.	38 MRS §467 (1)(C-D); (4)(A, I); (7)(E-F); (9)(B); (12)(B); (13)(A); (15)(C, F); (16)(B); §468 (1) (A-1 – D, J); (4)(D); (7)(D-F); and §469 (5)(B)	DEP Permits	9/12/2009	9/12/2009

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Clarifies and refines the definition of "significant groundwater well" in the Natural Resources Protection Act. Provides clarification regarding public water systems used to bottle water for sale and wells used for dewatering of mining operations.	38 MRS §480-B(9-A)	DEP Permits	9/12/09	9/12/2009
Amends the Natural Resources protection Act permit exceptions for the maintenance and repair of stream crossings to require that natural stream flows are achieved and the passage of aquatic organisms is not blocked. Provisions apply only to water courses containing fish.	38 MRS §480-Q(2)(B)	DEP Permits	9/12/2009	9/12/2009
Amends the Natural Resources protection Act permit exceptions for the maintenance and repair of existing road culverts to require that natural stream flows are achieved and the passage of aquatic organisms is not blocked. provisions apply only to water courses containing fish.	38 MRS §480-Q(2-A)	DEP Permits	9/12/2009	9/12/2009
Technical amendment – minor text edits.	38 MRS §480-Q (25-26)		9/12/2009	9/12/2009
Technical amendment – minor text edits.	38 MRS §484(1)	DEP Permits	9/12/2009	9/12/2009
Technical amendment – cross reference correction	38 MRS §489 –A(2)	Municipal permit under site law	9/12/2009	9/12/2009
Amends the law relating to quarries and gravel pits to allow excavation to occur in protected areas as long as a Natural Resources Protection Act permit is obtained.	38 MRS §490-D(1) & 38 MRS §490-Z(1)	DEP Permit	9/12/2009	9/12/2009
Authorizes DEP to recover from the costs of preparing and implementing a natural resources restoration plan for natural resources damaged by the discharge of oil or hazardous matter.	38 MRS §552(2)	DEP license	9/12/2009	9/12/2009
Clarifies that Title 38, c.3., subc. 2-B, which governs oil storage tanks, covers above-ground as well as underground tanks.	38 MRS §561	DEP Order	9/12/2009	9/12/2009
Technical correction to definitions	38 MRS §562-A(1-A) and 38 MRS §562-A(21)		9/12/2009	9/12/2009
Clarifies that DEP may prorate the registration fee for an oil storage tank.	38 MRS §563(4)	Registration	9/12/2009	9/12/2009
Technical amendment – minor text edits.	38 MRS §564(2-A) ¶s J-K		9/12/2009	9/12/2009

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Clarifies that DEP shall seek recovery of costs related to an improperly abandoned oil storage tank.	38 MRS §566-A(4)	DEP Order	9/12/2009	9/12/2009
Clarifies that a person who discharges or suffers a discharge from an oil storage tank must clean it up immediately whether or not the discharge is shown to reach groundwater.	38 MRS §568(1)	DEP Order	9/12/2009	9/12/2009
Authorizes the use of restrictive covenants and other land use controls to minimize the risk of human exposure to residual contamination on property that has suffered an oil discharge.	38 MRS §568(3)	DEP Order	9/12/2009	9/12/2009
Minor clarification change to the section encouraging the reporting of discharges from oil storage tanks.	38 MRS §568 (4)(A)	DEP Order	9/12/2009	9/12/2009
Deletes language amended and enacted as 38 MRS sec.568-A(1)(F-1) relating to administration of the groundwater oil cleanup fund.	38 MRS §568-A(1)(F)	DEP Order	9/12/2009	9/12/2009
Minor clarification change to the section authorizing DEP to disburse oil discharge funds to cover third-party damages.	38 MRS §569-A(2)	DEP Order	9/12/2009	9/12/2009
Amends definition of "outdoor wood boiler"	38 MRS §582 (8-C)(A-C)	DEP license	9/12/2009	9/12/2009
Provides an alternative method for an air emission source to comply with mercury standards by reducing mercury emissions by 90 percent by weight.	38 MRS §585-B(5)	DEP license	9/12/2009	9/12/2009
Clarifies definition of "coal gasification facility" subject to permitting moratorium to specify facilities that convert "coal or coal derived" materials.	38 MRS §585-K(1)(A)	DEP permit/moratorium	9/12/2009	9/12/2009
Clarifies that application for general permit for tidal power demonstration projects serves also as an application for water quality certification.	38 MRS §635-B	MWDCA general permit related provisions	9/12/2009	9/12/2009
Amends Maine Waterway Development and Conservation Act to provide that LURC zoning determination is not required for projects that use tidal action as a source of electrical or mechanical power.	38 MRS §635(5)	MWDCA general permit related provisions	9/12/2009	9/12/2009
Technical amendment; cross-reference	38 MRS §1281		9/12/2009	9/12/2009
Corrects cross reference to include changes made in other sections of the statute regarding registration requirements for manufacturers of electronic devices.	38 MRS §1310-B(2)		9/12/2009	9/12/2009

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Provides that DEP may only approve transfer of ownership of a licensed solid waste facility unless requirements of a new section 1310-Q(2) are met. The requirements include due diligence review by the host community in which the facility is geographically sited as well as public hearing requirements.	38 MRS §1310-Q(1)	DEP license	9/12/2009	9/12/2009
Requires DEP to charge interest on amounts owed to the Uncontrolled Site Fund by responsible parties.	38 MRS §1367, first para.	DEP compliance order	9/12/2009	9/12/2009
Technical amendment to reference Maine Fuel Board established under Title 32, chapter 139. Previously the reference had been to the Oil and Solid Fuel Board which is transitioning to the Maine Fuel Board.	38 MRS §1395(3)		9/12/2009	9/12/2009
Amends and provides clarification on sale of products containing "deca" mixture of polybrominated diphenal ethers.	38 MRS §1609(5), and 38 MRS §1609(11)	DEP Order	9/12/2009	9/12/2009
Add definition of desktop printers and video game consoles, add these devices to the list of electronics covered by recycling laws, and provide clarification that the term "orphan waste" does not apply to these items. Also clarify that digital picture frames are included within the definition of computer monitor. Adds definition of market share.	38 MRS §1610(2)	DEP Order	9/12/2009	9/12/2009
Change the basis for television manufacturers' recycling responsibility to a market share basis. Add desktop printer manufacturers' and video game console manufacturers' recycling requirements. Add registration requirements and clarify financial liability for manufacturers.	38 MRS §1610(5), (6) (A) and (7)	DEP Order	9/12/2009	9/12/2009
Clarify definition of "mercury switch"	38 MRS §1661(4)	DEP Order	9/12/2009	9/12/2009
Amend requirements for mercury switch collection facilities.	38 MRS §1665-A(5)	DEP Order	9/12/2009	9/12/2009
Adds a one-time fee to support mercury thermostat collection program.	38 MRS §1665-B(2)(A)	DEP Order	9/12/2009	9/12/2009
Amending dates related to prohibition on sale of certain mercury button cell batteries.	38 MRS §2165(6)(D)	DEP Order	9/12/2009	9/12/2009

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ADDED				
Clarifies that LURC approval is not required for wind power demonstration projects eligible for DEP general permit or tidal power projects for which DEP has statewide permitting jurisdiction	12MRS §685-B(1-A)(B-E)	NRPA and MWDCA general permit related provision	9/12/2009	9/12/2009
Creates class D crime for certain intentional acts regarding species delisted under MESA after 2007	12 MRS §12810	12MRS sec.12809	9/12/2009	9/12/2009
Creates definition of farmland under subdivision law	30-A MRS §4401(2-B)	Subdivision permit	9/12/2009	9/12/2009
Requires mapping of "farmland" in application materials for a subdivision subject to municipal review under the state subdivision law.	30-A MRS §4404(14-A)	Subdivision permit	9/12/2009	9/12/2009
DEP general permit for "offshore wind energy demonstration project" located within an area to be specified under related provisions in the Act. Includes: requirements for project specific plans re: natural resources management, monitoring, public safety and project removal. Permits are term limited with extension options for additional testing or subsequent commercial development as applicable.	38 MRS §480-HH	DEP General permit	9/12/2009	9/12/2009
Creates NRPA exemptions for specific state-ordered fishway and dam safety activities	38 MRS §480-Q(27-29)	NRPA permit (exemption)	9/12/2009	9/12/2009
General permit under site law for MDOT and Maine Turnpike Authority projects environmental review procedures and standards if approved by DEP as meeting or exceeding Site Law requirements.	38 MRS §486-B	DEP general permit	9/12/2009	9/12/2009
Creates definitions of "oil storage facility" and "operator"	38 MRS §562-A(15,A) and (15, B)	DEP order	9/12/2009	9/12/2009
Requires "operator" of oil storage facility to complete DEP training program.	38 MRS §564 (2-A)(L)	DEP order	9/12/2009	9/12/2009
Clarifies DEP and State Fire Marshall authority re: orders on eligibility for oil spill clean up funds	38 MRS §568-A(1)(F-1)	DEP order	9/12/2009	9/12/2009
Clarifies motor carrier eligibility for oil spill clean up funds.	38 MRS §568-A(1)(L)	DEP order	9/12/2009	9/12/2009
Repeals and replaces "particulate matter" definition to incorporate federal Clean Air Act definition by reference.	38 MRS §584-A(1)	DEP license	9/12/2009	9/12/2009
Exempts certain advanced outdoor wood boilers that meet emission standard from setback requirement.	38 MRS §610-B(2-A)	DEP license	9/12/2009	9/12/2009

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Grants DEP permitting jurisdiction over tidal power development statewide under the Maine Waterway Development and Conservation Act (MWDCA).	38 MRS §634-A	DEP General Permit	9/12/2009	9/12/2009
Creates DEP-administered general permit under MWDCA for tidal power demonstration projects, which are defined as tidal power projects that qualify for a FERC pilot license. General permit term mirrors FERC pilot project license term.	38 MRS §636-A	DEP General Permit	9/12/2009	9/12/2009
Adds as approval criterion the requirement that state-owned solid waste facility provide significant public benefit	38 MRS §1310-AA(6)	DEP license	9/12/2009	9/12/2009
Adds additional provisions related to transfers of a solid waste license for a facility that incinerates municipal solid waste.	38 MRS §1310-Q(2)	DEP license	9/12/2009	9/12/2009
Adds new definitions to electronics recycling laws	38 MRS §1610(2)(C-1), (D-1), and (L)	DEP Order	9/12/2009	9/12/2009
Provides for desktop printer manufacturers' and video game console manufacturers' responsibility for recycling.	38 MRS §1610(5)	DEP Order	9/12/2009	9/12/2009
Requires manufacturers of certain electronic devices to register with the DEP and pay an annual registration fee.	38 MRS §1610(6-A)	DEP Order	9/12/2009	9/12/2009
Replaces and replaces existing provision prohibiting the sale of certain mercury cell batteries	38 MRS §1661-C(9)	DEP Order	9/12/2009	9/12/2009
Defines terms used in provisions consolidating the law banning the sale of mercury thermostats with the law that requires manufacturers to establish a program to collect and recycle mercury thermostats placed in service before the ban.	38 MRS §1665-B(1)	DEP Order	9/12/2009	9/12/2009
Consolidates the law banning the sale of mercury thermostats with the law that requires manufacturers to establish a program to collect and recycle mercury thermostats placed in service before the ban.	38 MRS §1665-B(1)(A)	DEP Order	9/12/2009	9/12/2009
Requires wholesaler to post notice of financial incentive plan re: collection of homeowners' mercury thermostats.	38 MRS §1665-B(2-A)	DEP Order	9/12/2009	9/12/2009
Provides means for manufacturer to terminate retailer's participation in mercury thermostat collection program.	38 MRS §1665-B(2-B)	DEP Order	9/12/2009	9/12/2009



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<b>DELETED</b>				
Removes bald eagle from MESA	12 MRS §12803(3)(U)		9/12/2009	9/12/2009
Repeals certain particulate air quality standards (addressed in above-noted provision adding standards consistent with federal Clean Air Act rules)	38 MRS §584-A(1)	DEP license	9/12/2009	9/12/2009
Repeals provisions related to electronics recycling and reporting requirements (replaced by 38 MRSA §1610(6-A) (see above))	38 MRS §1610(6)	DEP Order	9/12/2009	9/12/2009
Repeals provision re: ban on mercury thermostats (replaced by 38 MRS §1665-B(1)(A) (see above))	38 MRS §1661-C(5)	DEP Order	9/12/2009	9/12/2009
Repeals section re: sale of mercury button cell batteries (replaced by 38 MRS §1661-C(9)) (see above)	38 MRS §1661-C(9)	DEP Order	9/12/2009	9/12/2009
Repeals provisions requiring collection and recycling programs for out-of-service mercury added thermostats (replaced by 38 MRS §1665-B(1)(A) (see above))	38 MRS §1665-B(1)	DEP Order	9/12/2009	9/12/2009
Repeals provision banning sale of certain thermostats (replaced by 38 MRS §1665-B(1)(A) (see above))	38 MRS §1665-B(3)	DEP Order	9/12/2009	9/12/2009

