



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**Office for Coastal Management**  
Silver Spring Metro Center, Building 4  
1305 East-West Highway  
Silver Spring, Maryland 20910

**NOV 22 2019**

Kathleen Leyden  
Maine Department of Marine Resources  
State House Station 21  
Augusta ME, 04333-0021

Dear Ms. Leyden,

Thank you for the Maine Department of Marine Resources (DMR) July 30, 2019, request for approval of changes to the federally-approved Maine Coastal Management Program (MCMP), pursuant to National Oceanic and Atmospheric Administration (NOAA) Coastal Zone Management Act (CZMA) regulations at 15 CFR part 923, subpart H.

The submission and approval of changes to state coastal management programs is a requirement of the Coastal Zone Management Act (16 U.S.C. 1455(e)) in order to show that the federally approved program continues to meet the requirements for program approval and be eligible to receive CZMA grant funds. It is also a prerequisite for any new or changes to enforceable policies intended to be used from CZMA review purposes.

Based on our review of the submission, we approve the incorporation of the changes as part of the federally approved MCMP with the exception noted below. Pursuant to new program change regulations at 15 CFR § 923.81(f), the approved changes take effect as of the date of this letter and, pursuant to 15 CFR § 923.81(e)(5), DMR must post a public notice of our approval on the MCMP website. See 84 Federal Register 38118, 38133 (Aug. 6, 2019). Please provide a copy of the notice to this office to complete the record on this review.

### **CHANGES APPROVED**

See the enclosed list of changes to the federally approved MCMP.

### **QUALIFICATION**

As a standard qualification applying to all program changes, states may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another statute, regulation, policy, standard, guidance, or other such requirement or document, the referenced statute, regulation, policy, standard, guidance or other such requirement or document itself must be submitted to, reviewed and approved by the Office for Coastal Management as an enforceable policy in order to be applied under the CZMA federal consistency review provision.

## **DENIAL OF PROPOSED INCORPORATION OF AN ACT TO PROHIBIT OFFSHORE OIL AND NATURAL GAS DRILLING AND EXPLORATION**

Public Law 2019, Ch. 294, Section 2 (38 M.R.S. §§570-AA and 570-BB) prohibits any person from performing or causing to perform, and the Maine Department of Environmental Protection from authorizing in any way, any oil or natural gas exploration, development or production in, on, or under the waters of the State. The law's definition of "production" and the law's prohibition includes the transfer of oil or natural gas resources to or from the waters of the State when such transfers involve oil and gas resources removed or extracted from federal waters in the North Atlantic Planning Area, which includes the outer continental shelf (OCS) adjacent to the coastal waters of Maine. The State has proposed that Ch. 294, Section 2 be approved for incorporation as an enforceable policy of the MCMP that would be used for CZMA review purposes.

The state asserts that these changes do not present a significant issue regarding the required elements for the approval of state programs including consideration of the national interest.

Comments on Public Law 2019, Ch. 294, Section 2 were received from the United States Department of the Interior's Bureau of Ocean Energy Management (BOEM), which is the federal authority for issuing leases, easements, and rights-of-way for oil and gas, renewable energy and marine mineral activities on the OCS. Those comments oppose the approval of Public Law 2019, Ch. 294, Section 2 for incorporation in the MCMP. In opposing the incorporation of the change to the federally approved MCMP, BOEM cites, among other arguments, the 2018 response of the NOAA Office for Coastal Management denying approval of a similar change to the New Jersey Coastal Management Program.

In denying the request by the State of New Jersey to incorporate New Jersey's STOP Act (Shore Tourism and Ocean Protection from Offshore Oil and Gas Act, N.J.S.A. 13:19), the Office for Coastal Management first found that the policy adopted by New Jersey did not provide for adequate consideration of the national interest in energy facilities that are of greater than local significance. Second, the Office found that the absolute prohibition on any facilities was overbroad in that it applied to all activities associated with oil and gas exploration, development and production regardless of whether they had reasonably foreseeable coastal effects. Rather than distinguishing activities based on their effects, the prohibition applied to an entire category of activities. Third, the Office for Coastal Management denied the incorporation of the STOP Act because of the requirement that the state must deny any form of authorization including a request for a concurrence under the CZMA review process thereby mandating a specific outcome for the CZMA review process regardless of other considerations required by the CZMA and NOAA's federal consistency regulations.

Similarly, first, the Office for Coastal Management finds that, contrary to the DMR's assertion that Public Law 2019, Ch. 294, Section 2 does not present a significant issue regarding the consideration of the national interest. DMR's submission makes clear that "the law is a state response to the federal government's pending proposal to reverse decades of federal policy and practice by including in its OCS plan federal lands and waters proximate to Maine's ecologically and economically productive coastal waters." The law prohibits the transportation of oil or gas

removed or extracted from the OCS area adjacent to Maine's coastal waters. As such, the law targets activities in federal waters in order to counter the determination of the national interest through the federal decision-making process established under the Outer Continental Shelf Lands Act, (43 U.S.C. §§ 1331-1351b). Second, Public Law 2019, Ch. 294, Section 2 prohibits the Maine Department of Environmental Protection from authorizing in any way any oil or natural gas exploration. Offshore oil and gas exploration can be conducted through a variety of survey techniques some of which likely would have no effect on coastal uses or resources of the state. The absolute prohibition is unrelated to coastal effects and, as such, is overbroad and discriminatory. Third, as was the case in our New Jersey decision, mandating a specific outcome by the MCMP for any oil or natural gas exploration activity is not compatible with CZMA and federal consistency requirements.

Having found that Public Law 2019, Ch. 294, Section 2 does not give adequate consideration to the national interest, and is overbroad and discriminatory in its scope, the Office for Coastal Management cannot approve the policy for incorporation in the federally approved MCMP. This finding has no effect on the applicability of Public Law 2019, Ch. 294, Section 2 as a matter of state law. In addition, the denial of the incorporation of Public Law 2019, Ch. 294, Section 2 into the MCMP does not preclude the state's CZMA authority to review offshore oil and gas projects for consistency with the currently approved enforceable policies of the MCMP.

### **CONCLUSION**

Thank you for your cooperation in this review. Please contact Becca Newhall at 978-281-9237, if you have any questions. For future correspondence regarding these program changes, please refer to the file number assigned to this action, ME-2019-1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joelle Gore', with a long horizontal flourish extending to the right.

Joelle Gore, Chief  
Stewardship Division

Enclosure(s):

Table of Approved Changes

Letter from Joelle Gore, NOAA OCM, to Virginia Kopkash, NJDEP (Sept. 19, 2018)

**Table of Changes to the Maine Coastal Management Program  
Approved by the Office for Coastal Management, November 22, 2019  
ME-2019-01**

*Changes marked with an asterisk (\*) do not contain enforceable policies that can be used for CZMA Federal Consistency review purposes.*

Name/Description of State or Local Law/Regulation/Policy/Program Authority or Change	Public Law or Rule Chapter	Citation to codified statutory or rule provision	Enforcement Mechanism(s)	Date Effective in State
<b>AMENDED:</b>				
Updates state water quality law to align long-standing legislative policy to protect the free-flowing condition of the lower Penobscot River with current conditions on the river	P.L. 2019, c. 72, section 1	38 M.R.S. §418-A	DEP permitting and enforcement	9/19/2019
Clarifies the provision requiring the State to pay 75% of landfill closure costs	P.L. 2019, c. 93, section 1	38 M.R.S. §1310-F, sub-§1-B, ¶E*	DEP permitting and enforcement	9/19/2019
Deletes a superseded NRPA provision regarding the permitting exemption for dam maintenance or repair; see new 38 M.R.S. §480-Q, sub-§2-E, below	P.L. 2019, c. 124, section 1	38 M.R.S. §480-Q, sub-§2	DEP permitting	9/19/2019
Technical change	P.L. 2019, c. 124, section 2	38 M.R.S. §480-Q, sub-§2-D	DEP permitting	9/19/2019
Extends the deadline for municipalities to file an ordinance with a definition of "subdivision" different than that in the state subdivision law as well as the grace period during which that differing definition remains valid	P.L. 2019, c. 174, section 1	30-A M.R.S. §4401, sub-§4, ¶H-2	Local land use permitting	9/19/2019

Clarifies the meaning of the term “municipal site plan review” as used in the provision regarding exemptions under the state subdivision law	P.L. 2019, c. 174, section 2	30-A M.R.S. §4402, sub-§6	Local land use permitting	9/19/2019
Clarifies that the ability to represent the “public” interest is among the requirements and qualifications for a member of the Board of Environmental Protection (BEP)	P.L. 2019, c. 180, section 1	38 M.R.S. §341-C, sub-§2*		9/19/2019
Replaces and clarifies in accordance with federal Clean Air Act (CAA) and Clean Water Act standards the conflict of interest provision applicable to a BEP member who receives a “significant portion of income” from persons with NPDES or CAA permits	P.L. 2019, c. 180, section 2	38 M.R.S. §341-C, sub-§8*		9/19/2019
Amends the Maine Endangered Species Act (MESA) to increase penalties for certain prohibited negligent acts regarding state-listed threatened or endangered species	P.L. 2019, c. 267, section 1	12 M.R.S. §12808, sub-§1, ¶s A-D	DIFW enforcement; DEP permitting	9/19/2019
Amends the Maine Endangered Species Act (MESA) to increase penalties for certain prohibited intentional acts regarding state-listed threatened or endangered species	P.L. 2019, c. 267, section 2	12 M.R.S. §12808, sub-§1-A, ¶s A-D	DIFW enforcement; DEP permitting	9/19/2019
Amends the Maine Endangered Species Act (MESA) to increase penalties for certain prohibited acts regarding state de-listed threatened or endangered species and remove language (paragraph D) specifically	P.L. 2019, c. 267, section 3	12 M.R.S. §12810, sub-§2, ¶s A-D	DIFW enforcement; DEP permitting	9/19/2019

addressing feeding or setting bait for such a species				
Makes technical amendments to a Shoreland Zoning Act provision concerning persons qualified to prepare soil evaluation reports, as part of law providing an additional pathway to state licensure as a soil scientist	P.L. 2019, c. 285, section 14	38 M.R.S. §439-A, sub-§3*	n/a	9/19/2019
Makes technical amendments to the Natural Resources Protection Act (NRPA), including correction of licensure terms, as part of law providing an additional pathway to state licensure as a soil scientist	P.L. 2019, c. 285, section 15	38 M.R.S. §480-O, final ¶	DEP permitting	9/19/2019
Makes technical amendments to the NRPA, including correction of licensure terms, as part of law providing an additional pathway to state licensure as a soil scientist	P.L. 2019, c. 285, section 16	38 M.R.S. §480-W, sub-§3	DEP permitting	9/19/2019
Makes a technical amendment to the state law regarding regulation of underground oil storage tanks (correction of licensure terminology), as part of law providing an additional pathway to state licensure as a soil scientist	P.L. 2019, c. 285, section 17	38 M.R.S. §563-B, sub-§1, ¶B	DEP permitting	9/19/2019
Amends the definition of “municipal collection site” in state mercury-added lamp law	P.L. 2019, c. 286, section 2	38 M.R.S. §1672, sub-§1, ¶C	DEP enforcement	9/19/2019

Amends the section of the state mercury-added lamp law which establishes requirements for a DEP-approved recycling program which a mercury-added lamp manufacturer doing business in Maine must implement; changes address location of the recycling facility, manufacturers' obligations regarding public outreach, funding for the recycling program, reporting, and the process for DEP's evaluation and potential reduction, phase out and termination of the program	P.L. 2019, c. 286, section 4	38 M.R.S. §1672, sub-§4, ¶s A and E (amended), ¶F (repealed), and ¶H (added)	DEP enforcement	9/19/2019
Amends definition of "bypass" as used in the state solid waste law to refer to waste that a solid waste facility is temporarily unable to handle	P.L. 2019, c. 291, section A-1	38 M.R.S. §1303-C, sub-§1-C	DEP permitting	9/19/2019
Amends the provision in the state solid waste law regarding information submitted to DEP which may be kept confidential to include certain information regarding recyclable materials	P.L. 2019, c. 291, section B-1	38 M.R.S. §1310-B, sub-§2	DEP permitting	9/19/2019
Reduces the size of the membership of the Clean-up and Response Fund Review Board established under the state Oil Storage Facilities and Ground Water Protection Law	P.L. 2019, c. 314, sections 1	38 M.R.S. §568-B, sub-§1, ¶s A-F (deleting E)*	n/a	9/19/2019
Changes the quorum requirement of the Clean-up and Response Fund Review Board to reflect change in membership size. See above.	P.L. 2019, c. 314, sections 2	38 M.R.S. §568-B, sub-§2-A*	n/a	9/19/2019

Changes the composition of the appeals panel of the Clean-up and Response Fund Review Board to reflect change in membership size. See above.	P.L. 2019, c. 314, sections 3	38 M.R.S. §568-B, sub-§2-C*	n/a	9/19/2019
Amends DEP's enabling legislation to enhance the Board of Environmental Protection's (BEP) authority regarding enforcement matters	P.L. 2019, c. 315, section 4	38 M.R.S. §341-D, sub-§6*	n/a	9/19/2019
Amends DEP's enabling legislation to provide that BEP not DEP's commissioner may sign an administrative consent agreement to resolve violation of a DEP-administered law	P.L. 2019, c. 315, section 8	38 M.R.S. §347-A, sub-§1, ¶A*	n/a	9/19/2019
Amends DEP's enabling legislation to reflect the BEP's role in approving an administrative consent agreement to resolve violation of a DEP-administered law. See above	P.L. 2019, c. 315, section 9	38 M.R.S. §347-A, sub-§4, ¶D*	n/a	9/19/2019
Amends DEP's enabling legislation to reflect the BEP's role in approving an administrative consent agreement to resolve violation of a DEP-administered law. See above	P.L. 2019, c. 315, section 10	38 M.R.S. §347-A, sub-§6, ¶A*	n/a	9/19/2019
Amends DEP's enabling legislation in keeping with amendment of 38 M.R.S. §341-H to clarify that the BEP not DEP commissioner has authority to adopt the departments rules regarding hazardous waste management	P.L. 2019, c. 315, section 12	38 M.R.S. §1319-O (various subsections)*	n/a	9/19/2019



Provides for transition of rulemaking matters pending before DEP on the effective date of PL 2019 c. 315 and transition of rulemaking authority from the DEP commissioner back to the BEP	P.L. 2019, c. 315, section 20	Unallocated section*	n/a	9/19/2019
Makes changes to the water quality classification of various waters of the state in accordance with the federal Clean Water Act (CWA)	P.L. 2019, c. 333, sections 1-11	38 M.R.S. §§467 and 468 (various subsections)	DEP licensing	9/19/2019
Increases from \$50 to \$250 the administrative processing fee for a permit by rule pursuant to DEP rules chapter 305	P.L. 2019 c. 374, section 1	38 M.R.S. §352, sub-§5-A	DEP permitting	9/19/2019
Creates a sustenance fishing designated use as a subcategory of the applicable fishing designated use for certain specified water body segments within Maine's water classification program where there is or may be sustenance fishing or increased fish consumption by members of the Indian tribes in Maine or other Maine citizens.	P.L. 2019, c. 463, sections 1-15	38 M.R.S. §§420, sub-§1-B, ¶A; 38 M.R.S. §465-A, sub-§1, ¶C; 38 M.R.S. §465-A, sub-§1, ¶D; 38 M.R.S. §466, sub-§10-A; 38 M.R.S. §466-A; 38 M.R.S. §467, sub-§7, ¶A; 38 M.R.S. §467, sub-§7, ¶B; 38 M.R.S. §467, sub-§7, ¶D; 38 M.R.S. §467, sub-§13; 38 M.R.S. §467, sub-§15, ¶A; 38 M.R.S. §467, sub-§15, ¶C; 38 M.R.S. §467, sub-§15, ¶E; 38 M.R.S. §467, sub-§15, ¶F; 38		9/19/2019

		M.R.S. §468, sub-§8, ¶¶P and Q; and 38 M.R.S. §469, sub-§7, ¶H-1		
<b>ADDED:</b>				
Requires local shoreland zoning ordinances to require submission of a pre-development and a post-development photograph	P.L. 2019, c. 40, section 5	38 M.R.S. §439-A, sub-§10	municipal ordinance	9/19/2019
Clarifies and replaces existing NRPA permitting exemption regarding dam maintenance or repair by specifying its applicability to “nonhydropower” dams only and providing more detailed, objective, natural resources-related criteria on the types of projects to which the exemption applies	P.L. 2019, c. 124, sections 3	38 M.R.S. §480-Q, sub-§2-E	DEP permitting	9/19/2019
Requires DEP to provide a copy of the NRPA approval or denial order or permit by rule to the municipality in which the	P.L. 2019, c. 181, section 1	38 M.R.S. §480-E, sub-§13*	n/a	9/19/2019

regulated activity is located				
Defines “covered entity” in state mercury-added lamp law	P.L. 2019, c. 286, section 1	38 M.R.S. §1672, sub-§1-A	DEP enforcement	9/19/2019
Defines “population center” and “proprietary information” in state mercury-added lamp law	P.L. 2019, c. 286, section 3	38 M.R.S. §1672, sub-§1, ¶¶E and F	DEP enforcement	9/19/2019
				9/19/2019
Requires DEP to notify pertinent municipality(ies) when it issues or receives notice that EPA has issued notice of an air quality violation	P.L. 2019, c. 321, section 1	38 M.R.S. §589-A*	n/a	9/19/2019
<b>REPEALED:</b>				
Repealed and replaced; see above	P.L. 2019, c. 180, section 2	38 M.R.S. §341-C, sub-§8*	n/a	9/19/2019
<b>RULE CHANGES</b>				
<b>ADDED:</b>				
LUPC rules Chapter 13 establishes review procedures and standards for certification and permitting for exploration, advanced exploration, and mining of metallic minerals in the unorganized area of the state	n/a	CMR 01-672, ch. 13	LUPC certification, permitting, and zoning	9/20/2018

Adds a definition of “advanced exploration” or “advanced exploration activity” to the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(3)	LUPC certification, permitting, and zoning	9/20/2018
Adds a definition of “non-forested wetland” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(154)	LUPC permitting and zoning	9/20/2018
Adds a definition of “tier one advanced exploration” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(239)	LUPC certification, permitting, and zoning	9/20/2018
Adds a definition of “tier two advanced exploration” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(240)	LUPC certification, permitting, and zoning	9/20/2018
<b>AMENDED:</b>				
Amends definitions of terms used in the air pollution control regulations and emissions standards in accordance with changes to DEP rules ch. 113. See below.		CMR 06-096, ch. 100, as amended	DEP licensing	1/14/2019
Amends ambient air quality standards in state air pollution control regulations to incorporate the current National Ambient Air Quality Standards (NAAQS) for particulate matter and ozone and provide consistency with the federal NAAQS		CMR 06-096, ch. 110, as amended	DEP licensing	3/27/2019

Implements the requirement in Section 173 of the CAA that certain air pollution emissions from new facilities or modifications to existing facilities in non-attainment areas or the Ozone Transport Region must be offset by obtaining greater reductions of the pertinent pollutant(s) (“offset credits”)		CMR 06-096, ch. 113, as amended	DEP licensing	1/14/2019
Amends the definition of “emergent marsh vegetation” in DEP rules ch. 310 which implement NRPA provisions regarding management of wetlands and waterbodies		CMR 06-096, ch. 310, section 3(G)	DEP permitting	11/11/2018
Amends the definition of “peatland” in DEP rules ch. 310		CMR 06-096, ch. 310, section 3(P)	DEP permitting	11/11/2018
Amends DEP rules ch. 310 to add “shoreline stabilization” to the types of projects for which an alternatives analysis is required, but for which an alternative is not presumed, if proposed in, on, or over wetlands of special significance		CMR 06-096, ch. 310, section 5(A)(1-2)	DEP permitting	11/11/2018
Amends the definition of “campsite” in the general definitions of Land Use Planning Commission’s (LUPC) rule (Chapter 10) establishing land use districts and standards applicable in the state unorganized area		CMR 01-672, ch. 10, section 10.02(21)	LUPC permitting and zoning	9/20/2018
Amends the definition of “forested wetland” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(81)	LUPC permitting and zoning	9/20/2018

Amends the definition of “level A mineral exploration activities” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(100)	LUPC certification, permitting, and zoning	9/20/2018
Amends the definition of “level B mineral exploration activities” and removes the superfluous definition of “level C mineral exploration activities” (former subsection 102) in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(101)	LUPC certification, permitting, and zoning	9/20/2018
Amends the definition of “metallic mineral mining activity” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(123)	LUPC certification, permitting, and zoning	9/20/2018
Amends the definition of “mineral extraction” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(125)	LUPC certification, permitting, and zoning	9/20/2018
Amends the definition of “non-tidal waterbodies” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(139)	LUPC permitting and zoning	9/20/2018
Amends the definition of “normal maintenance and repair” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(142)	LUPC permitting and zoning	9/20/2018
Amends the definition of “residential campsite” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(183)	LUPC permitting and zoning	9/20/2018
Amends the definition of “shoreland alternation” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(193)	LUPC permitting and zoning	9/20/2018
Amends the definition of “shoreline” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(194)	LUPC permitting and zoning	9/20/2018

Amends the definition of “transient occupancy” in the general definitions of LUPC rules Chapter 10		CMR 01-672, ch. 10, section 10.02(214)	LUPC permitting and zoning	9/20/2018
Clarifies that if a provision of LUPC rules ch. 10 conflicts with another ch. 10 provision or other law, the more protective provision shall control; renumbers paragraphs in this section		CMR 01-672, ch. 10, section 10.06(C)	LUPC permitting and zoning	9/20/2018
Amends the “purpose and scope” section of LUPC rules ch. 10 section on nonconforming uses and structures to include pertinent statutory reference		CMR 01-672, ch. 10, section 10.11(A)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section on nonconforming structures to clarify that a legally-existing nonconforming sporting camp may be reconstructed in accordance in accordance with section 10.11.C.2(e)		CMR 01-672, ch. 10, section 10.11(C)(2)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section on nonconforming structures to clarify provision allowing enclosure of a deck or porch		CMR 01-672, ch. 10, section 10.11(C)(6)	LUPC permitting and zoning	9/20/2018

<p>Amends LUPC rules ch. 10 section 21 (Planned Development sub-district, P-PD) to clarify and update language, update terminology (the former term “preliminary development plan” replaces the term “development plan” and the terms “permitting” or “development permitting” replace “final development plan”) regarding the final LUPC approval required after approval of a “development plan”, and make targeted refinements regarding the review process, information submission requirements, and other matters</p>	<p>CMR 01-672, ch. 10, section 10.21 (multiple subsections)</p>	<p>LUPC permitting and zoning</p>	<p>9/20/2018</p>
<p>Amends LUPC rules ch. 10 section 23 (Fish and Wildlife Protection subdistrict, P-FW) to provide an updated map of wildlife management district</p>	<p>CMR 01-672, ch. 10, section 10.23 (Figure 10.23, D-1)</p>	<p>LUPC permitting and zoning</p>	<p>9/20/2018</p>
<p>Amends LUPC rules ch. 10 section 21 (Commercial Industrial Development subdistrict, D-CI) to clarify that level A and B mineral exploration activities are allowed with a permit, subject to standards</p>	<p>CMR 01-672, ch. 10, section 10.21(A)(3)(b)</p>	<p>LUPC certification, permitting, and zoning</p>	<p>9/20/2018</p>
<p>Amends LUPC rules ch. 10 section 21 (Commercial Industrial Development subdistrict, D-CI) to clarify that tier one advanced exploration and access ways for level A and B mineral exploration activities not in conformance with section 10.27(C) are uses requiring a permit</p>	<p>CMR 01-672, ch. 10, section 10.21(C)(10) and (11)</p>	<p>LUPC certification, permitting, and zoning</p>	<p>9/20/2018</p>



Amends LUPC rules ch. 10 section 21 (Rural Business Development subdistrict, D-RB) to clarify that level A and B mineral exploration activities not in conformance with section 10.27(C) are allowed with a permit, subject to standards		CMR 01-672, ch. 10, section 10.21(I)(4)(b)	LUPC certification, permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 21 (Rural Business Development subdistrict, D-RB) to clarify that tier one advanced exploration and level A and B mineral exploration activities not in conformance with section 10.27(C) are uses requiring a permit		CMR 01-672, ch. 10, section 10.21(C)(10) and (11)	LUPC certification, permitting, and zoning	9/20/2018
Amends LUPC rules ch. 10 section 22 (General Management subdistrict, M-GN) to clarify that level A and B mineral exploration activities are allowed without a permit, subject to standards		CMR 01-672, ch. 10, section 10.22(A)(3)(b)	LUPC certification, permitting, and zoning	9/20/2018
Amends LUPC rules ch. 10 section 22 (General Management subdistrict, M-GN) to clarify that tier one advanced exploration and level A and B mineral exploration activities not in conformance with section 10.27(C) are uses requiring a permit		CMR 01-672, ch. 10, section 10.22(A)(3)(c)	LUPC certification, permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 22 (Highly Productive Management subdistrict, M-HP) to clarify that level A and B mineral exploration activities are allowed without a permit, subject to standards		CMR 01-672, ch. 10, section 10.22(B)(3)(b)	LUPC certification, permitting and zoning	9/20/2018

Amends LUPC rules ch. 10 section 23 (Highly Productive Management subdistrict, M-HP) to clarify that tier one advanced exploration and level A and B mineral exploration activities not in conformance with section 10.27(C) are uses requiring a permit		CMR 01-672, ch. 10, section 10.22(B)(3)(c)	LUPC certification, permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 22 (Natural Character Management subdistrict, M-NC) to clarify that level A and B mineral exploration activities are allowed without a permit, subject to standards		CMR 01-672, ch. 10, section 10.22(C)(3)(b)	LUPC certification, permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 23 (Natural Character Management subdistrict, M-NC) to clarify that tier one advanced exploration and level A and B mineral exploration activities not in conformance with section 10.27(C) are uses requiring a permit		CMR 01-672, ch. 10, section 10.22(C)(3)(c)	LUPC certification, permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 23 (Fish and Wildlife Protection subdistrict, P-FW) to correct and update a cross-reference, make a technical change, and clarify that a development in a portion of a development subdistrict that qualifies for P-FW designation must comply with P-FW standards		CMR 01-672, ch. 10, section 10.23(D)(2)(a), (b), and (d)	LUPC permitting and zoning	9/20/2018

Amends LUPC rules ch. 10 section 23 (Soils and Geology Protection subdistrict, P-SG) to clarify that tier one advanced exploration is a use requiring a permit		CMR 01-672, ch. 10, section 10.23(K)(3)(c)	LUPC certification, permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 25 (Development Standards) to clarify that options for an allowable on-site subsurface waste water disposal system include one licensed by DEP		CMR 01-672, ch. 10, section 10.25(I)(1)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 25 (Development Standards) to clarify that proposed alterations of non-tidal waterbodies, freshwater wetlands, and coastal wetlands must meet P-WL standards regardless of whether they are located in a P-WL subdistrict and that the level of wetlands review will be based on wetlands type for wetlands not in a P-WL subdistrict		CMR 01-672, ch. 10, section 10.25(P)(2)(a)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 25 (Development Standards) to clarify information submission requirements for affordable housing		CMR 01-672, ch. 10, section 10.25(U)(5)(h)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 26 (Dimensional Requirements) to clarify minimum setbacks from non-forested wetlands required for certain structures, including multi-family, commercial and industrial buildings, and campgrounds		CMR 01-672, ch. 10, section 10.26(D)(1, 2, and 4)	LUPC permitting and zoning	9/20/2018

Amends LUPC rules ch. 10 section 26 (Dimensional Requirements) to clarify LUPC's authority to reduce setback requirements for guy wire anchors		CMR 01-672, ch. 10, section 10.26(G)(19)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 27 (Activity Specific Standards) to clarify requirements applicable to filling and grading in relation to a P-WL1 subdistrict		CMR 01-672, ch. 10, section 10.27(F)(1-7)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 27 (Activity Specific Standards) to clarify requirements applicable to filling and grading in relation to a P-WL1 subdistrict		CMR 01-672, ch. 10, section 10.27(F)(1-7)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 27 (Activity Specific Standards) to clarify that the mineral extraction-related provisions (section 27(C)) do not apply to metallic mineral mining which is regulated under LUPC rules ch. 13 (see above)		CMR 01-672, ch. 10, section 10.27(C)(1-2)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 27 (Activity Specific Standards) to clarify that the exemption for normal maintenance and repair of permanent docking structures applies to those above the normal high water mark		CMR 01-672, ch. 10, section 10.27(O)(3)(a)	LUPC permitting and zoning	9/20/2018
Amends LUPC rules ch. 10 section 27 (Activity Specific Standards) to clarify a provision regarding transient occupancy in campgrounds		CMR 01-672, ch. 10, section 10.27(Q)(6)(b)	LUPC permitting and zoning	9/20/2018

Makes corrections to LUPC rules ch. 10, Appendix C (Alphabetical List of Lakes Showing Wildlands Lake Assessment Findings)		CMR 01-672, ch. 10, Appendix C	LUPC permitting and zoning	9/20/2018
Makes corrections to LUPC rules ch. 10, Appendix F (Expedited Permitting Area for Wind Energy Development)		CMR 01-672, ch. 10, Appendix F	LUPC permitting and zoning	9/20/2018
Amends DEP rules ch. 691 (rule for underground oil storage facilities) to correct and better describe the statutory authority for the rule		CMR 06-096, ch. 691, section 1	DEP permitting	9/26/2018
Amends preamble to DEP rules ch. 691 to clarify its purpose		CMR 06-096, ch. 691, section 2	DEP permitting	9/26/2018
Amends numerous existing and enacts additional definitions of terms used in DEP rules ch. 691; renumbers paragraphs		CMR 06-096, ch. 691, section 3, ¶s A-WWW	DEP permitting	9/26/2018
Amends the section in DEP rules ch. 691 regarding registration of an underground oil storage facility, including by: making technical corrections, including correction of cross-references; clarifying the site drawing required for a new or replacement facility; requiring registration every three years (formerly annual)		CMR 06-096, ch. 691, section 4, ¶s B, D-M, O, and P	DEP permitting	9/26/2018

<p>Amends the section in DEP rules ch. 691 regarding regulation of underground oil storage facilities used to store motor fuels or for oil distribution, including by: making numerous minor technical corrections, including correction of cross-references; clarifying terminology; updating and correcting industry standards incorporated by reference; clarifying methods by which owners must demonstrate that certain facilities storing gas with ethanol, diesel with more than 20% biodiesel, and other DEP-regulated substances are compatible with substances stored; clarifying leak detection and overfill and spill prevention-related requirements; clarifying requirements regarding general facility installation, new and replacement tanks, new and replacement piping, installation of leak detection and overspill/spill prevention equipment; clarifying requirements for retrofitting existing facilities; clarifying monitoring, maintenance, operating, and inspection requirements; and clarifying provisions mandating facility closure on expiration of warranty</p>		<p>CMR 06-096, ch. 691, section 5, ¶s A, B, C, D, E, F (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>
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<p>Amends the section in DEP rules ch. 691 regarding regulation of heating oil facilities used for on-premises consumption or by the owner or operator, including by: making numerous minor technical corrections, including correction of cross-references; clarifying terminology; updating and correcting industry standards incorporated by reference; clarifying design and installation requirements for new and replacement facilities; and clarifying operation, maintenance, testing and inspection requirements for new, replacement, and existing facilities</p>		<p>CMR 06-096, ch. 691, section 6, ¶s B-D (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>
<p>Amends the section in DEP rules ch. 691 regarding regulation of facilities for underground storage of waste oil, including by: making numerous minor technical corrections, including correction of cross-references; clarifying terminology; and clarifying and refining design and installation standards for new and replacement facilities and operation, maintenance, testing, and inspection requirements for existing, new, and replacement facilities</p>		<p>CMR 06-096, ch. 691, section 7, ¶s A-C (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>

<p>Amends the section in DEP rules ch. 691 regarding regulation of field-constructed underground oil storage tanks, including by: making numerous minor technical corrections, including correction of cross-references; clarifying applicability of requirements and terminology; clarifying and refining operation, maintenance, testing, inspection, and closure and abandonment-related requirements for existing, new, and replacement tanks</p>		<p>CMR 06-096, ch. 691, section 8, ¶s A-D (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>
<p>Amends the section in DEP rules ch. 691 regarding regulation of facilities for underground storage of heavy oil, including by: making numerous minor technical corrections and requiring that a certified installer overseeing tank removal have DEP-approved training regarding erosion and sedimentation control</p>		<p>CMR 06-096, ch. 691, section 9, ¶s B-C (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>
<p>Amends the section in DEP rules ch. 691 regarding regulation of airport hydrant systems, including by: clarifying their applicability; making numerous minor technical corrections; clarifying design, construction, retrofitting, and installation requirements for new and replacement systems; clarifying and refining operation, maintenance, testing, and inspection requirements for new, replacement, and existing</p>		<p>CMR 06-096, ch. 691, section 10, ¶s A-E (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>



<p>systems, including those regarding periodic facility inspections</p>				
<p>Amends the section in DEP rules ch. 691 regarding regulation of closure of underground oil storage facilities, including by: making numerous minor technical corrections; requiring a site assessment in certain instances when a tank will be temporarily out of service for 12 months or more; refining provisions allowing certain tanks to remain permanently out of service with DEP's approval; refining provisions regarding mandatory removal of certain tanks out of service for 12 months; refining provisions regarding abandoning certain tanks in place with DEP approval; requiring an after-the-fact site assessment, closure plan and/or assessment of the evacuation zone of tanks, piping, and dispensers in certain circumstances as required by DEP; and refining the requirements regarding notice to DEP</p>		<p>CMR 06-096, ch. 691, section 11, ¶s A-F (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>

and others regarding a tank  
which is to be closed or  
abandoned in place

<p>Amends the section in DEP rules ch. 691 regarding discharge and leak investigation, response, and corrective action, including by: making numerous minor technical corrections; clarifying the types of tanks to which this section applies; refining criteria DEP must consider in determining if a corrective action plan is appropriate; refining discharge and leak investigation and confirmation requirements; clarifies and refines requirements regarding minimum corrective action and long-term corrective actions, in part by specifying the owner/operator's obligations regarding implementation, monitoring, and reporting of a corrective action plan; and requiring notice of leak investigation and confirmation and the corrective action report be provided to the affected public as well as abutters and others;</p>		<p>CMR 06-096, ch. 691, section 12, ¶s A - F (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>
<p>Adds section to DEP rules ch. 691 which clarifies it applicability to regulation of wastewater treatment tanks systems not covered by the Clean Water Act's NPDES or pretreatment programs and aboveground oil storage tanks associated with filed constructed underground oil storage tanks and airport hydrant systems</p>		<p>CMR 06-096, ch. 691, section 13 ¶s A - E (various sub-paragraphs)</p>	<p>DEP permitting</p>	<p>9/26/2018</p>

Makes technical changes to the severability provision in DEP rules ch. 691		CMR 06-096, ch. 691, section 14	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix A: Requirements for Cathodic Protection Monitoring, to make technical edits, correct references, and clarify testing method		CMR 06-096, ch. 691, Appendix A	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix B: Requirements for Tank, Piping and Containment Sump Tightness Tests, to make technical edits, correct references, and clarify testing method		CMR 06-096, ch. 691, Appendix B	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix C: Requirements for Pneumatic (Air) and Other Pre-installation Tightness Testing for Piping and Tanks, to make technical edit		CMR 06-096, ch. 691, Appendix C	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix D: Installation Requirements for Applicable to New and Replacement Tanks, to make technical edits and correct references		CMR 06-096, ch. 691, Appendix D	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix E: Installation Requirements for Applicable to New and Replacement Piping, to make technical edits, correct cross references, and fine-tune installation requirements		CMR 06-096, ch. 691, Appendix E	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix F: Specifications and Requirements for Vertical Ground Water Monitoring		CMR 06-096, ch. 691, Appendix F	DEP permitting	9/26/2018

Wells at Existing Facilities) to make technical edits				
Repeals DEP rules ch. 691, Appendix G: Specifications and Requirements for Monitoring Wells with Impervious Barriers		CMR 06-096, ch. 691, Appendix G	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix H: Procedures for Weekly Monitoring, Handling, and Obtaining Samples for Laboratory Analysis, to make technical edits and correct references		CMR 06-096, ch. 691, Appendix H	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix I: Sample Daily Inventory Reporting Log, to clarify when leak-related information triggers an obligation to contact DEP		CMR 06-096, ch. 691, Appendix I	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix J: Requirements for Abandonment of Underground Oil Storage Tanks by Removal, to make technical edits, correct references, and fine-tune requirements		CMR 06-096, ch. 691, Appendix J	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix K: Requirements for Abandonment of Underground Oil Storage Tanks by Filling in Place, to make technical edits, correct references, and fine-tune requirements		CMR 06-096, ch. 691, Appendix K	DEP permitting	9/26/2018

Amends DEP rules ch. 691, Appendix L: Requirements for Underground Oil Storage Tank Processing Facilities, to make technical edits, correct references, and fine-tune requirements		CMR 06-096, ch. 691, Appendix L	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix M: Cathodic Protection Tester Certification Requirements, to make technical edits and correct references		CMR 06-096, ch. 691, Appendix M	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix N: Corrosion Expert Certification Requirements, to make technical edits and correct references		CMR 06-096, ch. 691, Appendix N	DEP permitting	9/26/2018
Repeals DEP rules ch. 691, Appendix O: Design and Installation Standards for Secondary Containment Using an Excavation Liner		CMR 06-096, ch. 691, Appendix O	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix P: Requirements for a Site Assessment at Facility Closure or Tank Abandonment) to make technical edits, correct references, and fine-tune requirements		CMR 06-096, ch. 691, Appendix P	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix Q: Facility Closure Site Assessment Characterization and Notification Requirements) to make technical edits, correct references, and fine-tune requirements		CMR 06-096, ch. 691, Appendix Q	DEP permitting	9/26/2018

Amends DEP rules ch. 691, Appendix R: List of National Standards and Codes Cited, to correct and update the list to reflect accurately the specific versions of national standards and codes referenced in ch. 691		CMR 06-096, ch. 691, Appendix R	DEP permitting	9/26/2018
Amends DEP rules ch. 691, Appendix S: Department Approved Laboratory Analytical Methods and Performance Standards for Analyses of Oil and Oil Constituents in Water, Soil, Soil Gas and Indoor Air, to make technical edits, correct references, and fine-tune requirements		CMR 06-096, ch. 691, Appendix S	DEP permitting	9/26/2018
Enacts DEP rules ch. 691, Appendix T: Containment Sumps and Spill Bucket Integrity Testing Protocol and Management of Waste Fluids, which provides steps which must be followed to minimize the quantity and hazard of wastes generated by sumps and spill buckets at underground storage tank facilities		CMR 06-096, ch. 691, Appendix T	DEP permitting	9/26/2018