



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Tom Danielson, Bureau of Land & Water Quality, Augusta
DATE: July 1, 2010
RE: Chapter 583. Use Attainment Evaluation Using Nutrient Criteria for Surface Waters

The Department received unexpected comments about Chapter 583 from the U. S. Environmental Protection Agency (EPA), which represented a major shift in EPA's position on our nutrient criteria. EPA supported the decision framework in Chapter 583 in 2009, but they now indicate they can not approve Box 2 of the decision framework in its current form. Box 2 represents waterbodies that have mean total phosphorus concentrations greater than the criterion of the assigned class, but environmental responses that indicate attainment of designated uses. EPA's current position is that waterbodies in Box 2 would not attain the numeric nutrient criteria in Table 1 regardless of the response criteria. Most stakeholders support the decision framework in its current form. The Department is working on a solution that will retain the current intent of Box 2, but will satisfy the EPA's concerns. The current rulemaking process, however, will not provide sufficient time to make the necessary changes to Chapter 583. As a result, the Department requests that the Board terminate the current rulemaking process to allow the Department time to make the necessary changes and start a new rulemaking with a revised rule.

Department Recommendation: Terminate the rulemaking for Chapter 583, Use Attainment Evaluation Using Nutrient Criteria for Surface Waters.

Estimated Time of Presentation: Approximately 15 minutes.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143