

MEMORANDUM

TO: Board of Environmental Protection  
FROM: Jeff Madore, Bureau of Remediation and Waste Management  
DATE: August 5, 2010  
RE: Repeal of Section 3-A, Siting Restrictions for New Facilities, Chapter 691, Rules for Underground Oil Storage Facilities

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Statutory and regulatory reference:

- 38 MRSA chapter 13-D (§§1391-1399)
- 38 MRSA §341-D(1-B)

Description:

In 2007, the Maine Legislature amended Title 38 M.R.S.A. to include chapter 13-D, Wellhead Protection. The new chapter prohibited, in part, the siting of oil storage facilities in wellhead protection zones except as may be allowed by variance granted by the Commissioner of Environmental Protection. The department initiated rulemaking beginning in 2008 to establish the variance criteria set forth in the legislation.

Department rule, Chapter 692, Siting of Oil Storage Facilities, was finally adopted by the Board on March 4, 2010. Chapter 692 incorporated the existing rules governing the siting of underground oil storage facilities in mapped aquifers under Chapter 691, section 3-A with criteria governing the siting of aboveground oil storage facilities. Section 3-A of Chapter 691 is therefore now redundant.

History:

The Board posted the proposed repeal of Chapter 691, section 3-A to public comment on April 15, 2010. The comment deadline was June 1, 2010 at 5:00 pm. No requests for a hearing or comments on the rule were received.

Environmental Issues:

The repeal of Section 3-A, Chapter 691 concludes the department's rulemaking in the implementation of Maine's new wellhead protection law, 38 MRSA §§1391 through 1399. The purpose of the law as stated in section 1391 is to protect the health, safety and welfare of

Maine's citizens by establishing a coordinated statewide program to protect drinking water wells from contamination by oil or hazardous substances. The law accomplishes this by restricting the siting of facilities that, by their nature, pose an unacceptable risk to groundwater quality near drinking water supplies, including sand and gravel aquifers mapped by the Maine Geological Survey.

Department recommendation:

The department recommends the Board authorize the repeal of Chapter 691, section 3-A.

Estimated Time of Presentation:

Approximately 10 minutes.