

10-144

Chapter 242

STATE OF MAINE

**RULES FOR CONVERSION OF SEASONAL DWELLING UNITS INTO
YEAR-ROUND RESIDENCES IN THE SHORELAND ZONE**



**DEPARTMENT OF HEALTH & HUMAN SERVICES
MAINE CENTER FOR DISEASE CONTROL AND PREVENTION
DIVISION OF ENVIRONMENTAL HEALTH
11 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

LAST AMENDED: JANUARY 18, 2011

SUMMARY

These rules describe the requirements for conversion of seasonal dwelling units into year-round residences, if the system serving the structure is within the shoreland zone areas of major waterbodies/courses.

BASIS STATEMENT:

These Rules provide minimum State requirements for conversion of seasonal residences using onsite subsurface wastewater disposal into year-round to assure environmental sanitation and safety. These Rules are intended to complement municipal planning, zoning, and land use control.

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AUTHORITY: 22 M.R.S.A. §42; 30-A M.R.S.A. §§ 4211-4212 & 4215

Department of Health & Human Services
Maine Center for Disease Control and Prevention
Division of Environmental Health
11 State House Station
Augusta, Maine 04333-0011

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10-144 DEPARTMENT OF HUMAN SERVICES**Chapter 242: RULES FOR CONVERSION OF SEASONAL DWELLING UNITS INTO YEAR-ROUND RESIDENCES IN THE SHORELAND ZONE**

SUMMARY: These rules describe the requirements for conversion of seasonal dwelling units into year-round residences, if the system serving the structure is within the shoreland zone areas of major waterbodies/courses.

SECTION 1. DEFINITIONS

- A. **Department:** The Department of Health & Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health.
- B. **Design Flow:** The volume of wastewater upon which subsurface wastewater disposal systems are sized, expressed in gallons per day or gpd.
- C. **Disposal Systems:** Subsurface wastewater disposal systems, as defined in 30-A M.R.S.A. §4201 (5).
- D. **LPI:** Local Plumbing Inspector.
- E. **Principal dwelling or year-round residence:** A dwelling that existed on December 31, 1981, and that was used as a principal or year-round residence during the period from 1977 to 1981. Evidence of use as principal or year round residence includes, but is not limited to, (i) the listing of that residence as an occupant's legal residence for the purpose of either voting, filing a state tax return, or automobile registration; or (ii) occupancy of that dwelling for a period exceeding 7 months in any calendar year. (30-A M.R.S.A §4201).
- F. **Rules:** Rules for Conversion of Seasonal Dwelling Units into Year-round Residences in the Shoreland Zone (CMR, Chapter 242).
- G. **Seasonal dwelling:** A dwelling that existed on December 31, 1981, and which was not used as a principal or year-round residence during the period from 1977 to 1981. (30-A M.R.S.A. §4201).
- H. **Shoreland Zone:** The shoreland zone of major waterbodies/courses (as defined in 38 M.R.S.A. §435).

SECTION 2. GENERAL

- A. **Scope:** This section governs the conversion of seasonal dwelling units into year-round residences, if the onsite sewage disposal system serving the structure is within the shoreland zone.
- B. **Exemptions:** This section does not apply to a dwelling that:
 - (1) **Occupation:** Will be occupied seasonally; or
 - (2) **Principal dwelling:** Is the principal dwelling, as defined in Section 1(F), of the occupant; or
 - (3) **Outside shoreland zone:** Uses a disposal system located outside the shoreland zone.

SECTION 3. SEASONAL CONVERSION PERMIT

- A. **Seasonal conversion permit required:** Before converting a seasonal dwelling with a system located in the shoreland zone to a year-round or principal dwelling, a seasonal conversion permit must be obtained from the LPI (as required by 30-A M.R.S.A. §4215(2)).
- B. **Unorganized areas of the State:** Seasonal conversion permits for structures within unorganized areas of the State will be issued by the LPI, or the Department in coordination with the Maine Department of Conservation, Land Use Regulation Commission.
- C. **Holding tanks prohibited:** A seasonal conversion permit may not be approved if a holding tank is used as a means of waste water disposal or storage. (30-A M.R.S.A. §4215 (2)).
- D. **Permit for seasonal conversion:** The LPI must issue a permit for conversion of a seasonal dwelling to a year-round or principal dwelling if one of the following requirements is met:
 - (1) **Existing legal system:** A subsurface waste water disposal application, dated after July 1, 1974, exists, showing that the dwelling's system substantially complies with the Maine Subsurface Wastewater Disposal Rules (10-144 CMR 241) in effect at the time of application, and applicable municipal ordinances. The system must have been installed with the required permit and a certificate of approval must have been issued;
 - (2) **Legal replacement system:** A replacement for an existing onsite wastewater disposal system has been installed, so that it complies with Section C of these Rules and applicable municipal ordinances; or
 - (3) **Public sewer available:** The dwelling unit's waste water is connected to an approved sanitary sewer system.

SECTION 4. SUBSTANTIAL COMPLIANCE

- A. **General:** A system is deemed to be in substantial compliance with these rules, providing the requirements in this section are met.
- B. **Municipal ordinances:** The system meets applicable municipal ordinances;
- C. **Disposal field:** The disposal field meets the requirements of Table A;
- D. **Septic tank:** The septic tank meets the sizing requirements of Table B;
- E. **Site conditions:** The site meets the siting requirements in Table C; and
- F. **Setbacks:** The setbacks meet or exceed the minimum horizontal setback distances in Table D.

SECTION 5. MEANS OF APPEAL

- A. This section governs the means of appealing a decision made by the Department to the Administrative Hearings Unit pertaining to an interpretation of the Department's laws, rules or procedures under 32 M.R.S.A. §1405 and these rules. Appeals of decisions made by local authorities must be made to the relevant municipal officials.
- B. **Scope.** A person whose interest in abutting or adjacent property is directly affected by a decision of the Department is entitled to bring an action challenging the validity of the decision. Appeals by an aggrieved party must be based on adverse Department decisions affecting the aggrieved party. Appeals contending that a decision by the Department misapplies laws, procedures, or rules; or is based upon a significant factual error to the detriment of the aggrieved party may be filed.

- C. **Procedure for Filing an Appeal**

Hearing requests must be directed to the Maine Center for Disease Control , Division of Environmental Health, at 11 State House Station, 286 Water Street, 3rd Floor, Augusta, Maine 04333-0011.

- (1) The request must state in writing the specific issues being appealed and be filed within 30 days of the Department's decision.
- (2) Within 14 days of receiving the request, the Department representative responsible for administering these rules will forward the request for an administrative hearing to the Administrative Hearing Unit, to the attention of the Chief Hearings Officer, Office of Administrative Hearings, 11 State House Station, Augusta, Maine 04333-0011.
- (3) Upon receipt of a request for hearing, the Department will submit to the Administrative Hearings Unit an administrative hearings report that contains the decision on appeal and the administrative record for the Department's decision.

- (4) The Administrative Hearings Unit at the Office of Administrative Hearings may deny appeals filed more than 30 days after the Department's decision.

D. Procedure for Hearing

A hearing officer at the Department's Administrative Hearings Unit at the Office of Administrative Hearings will conduct the administrative hearing.

- (1) The hearing will be conducted pursuant to the Rules of the Office of the Administrative Hearings, as set forth in the Administrative Hearings Manual, and in conformity with the Administrative Procedures Act, 5 M.R.S.A. §§ 8001 - 11008.
- (2) A notice will inform the aggrieved party of the time, date, and place of the hearing. The hearing will be held at the Department's office nearest to the party requesting the hearing. The hearing date will be no sooner than 20 days after the date of the notice of the administrative hearing.
- (3) The hearing officer will issue a written decision of the administrative hearing to all parties.
- (4) The burden of persuasion for administrative hearings lies with the party who asserts the truth of a claim that such a claim is true. A burden of persuasion is by a preponderance of the evidence, as stated in 10-144 CMR, Chapter 1 (VII)(B).
- (5) Parties to a formal administrative hearing may negotiate a mutually acceptable settlement at any point of the procedure.

E. Civil Appeals

Any person or party dissatisfied with the hearing officer's decision, other than the Department, has the right of judicial review under Rule 80C of the Maine Rules of Civil Procedure and 5 M.R.S.A. §11001.

TABLE A
MINIMUM PERMITTING CONDITIONS AND MINIMUM DESIGN REQUIREMENTS

NOTE: "NOT ALLOWED" INDICATES THAT A SEASONAL CONVERSION IS NOT ALLOWED.

Limiting Factor Depth, in inches	Bedrock Limiting Factor Condition	Soil Drainage Limiting Factor Condition [a]
>48		B
15 to 48	AIII	C
10 to <15	AII – Not Allowed	D
<10	AI-Not Allowed	E-Not Allowed

[a.] Pursuant to the Maine Subsurface Wastewater Disposal Rules, 10-144 CMR 241.

TABLE B
SEPTIC TANK CAPACITY PER DWELLING UNIT

Number of bedrooms per dwelling unit	Minimum septic tank liquid capacity
1 Bedroom	750 gallons
2 Bedrooms	750 gallons
3 Bedrooms	1,000 gallons
4 Bedrooms	1,000 gallons
5 Bedrooms	1,250 gallons or greater
For each additional bedroom	250 gallons per bedroom

TABLE C
SUBSTANTIAL COMPLIANCE FOR SITE CONDITIONS

Depth to restrictive layer/bedrock	15 inches
Depth to Seasonal High Groundwater Table	9 inches
Maximum slope	25 % grade

**TABLE D
ALLOWED SETBACKS FOR SEASONAL CONVERSIONS**

SITE FEATURES	DISPOSAL FIELDS (total design flow)			TREATMENT TANKS (total design flow)		
	Less than 1,000 gpd	1,000 to 2,000 gpd	Over 2,000 gpd	Less than 1,000 gpd	1,000 to 2,000 gpd	Over 2,000 gpd
Wells with water usage of 2000 or more gpd or public water system wells	300 feet	300 feet	300 feet	150 feet	150 feet	150 feet
Potable Water Supply	80 feet	160 feet	240 feet	50 feet	50 feet	50 feet
Water supply line	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet
Water body/course, major	80 feet	160 feet	240 feet	40 feet	40 feet	40 feet
Water body/course, minor	40 feet	80 feet	120 feet	40 feet	40 feet	40 feet
Drainage ditches	20 feet	40 feet	60 feet	20 feet	20 feet	20 feet
Edge of fill extension-- Coastal wetlands, wetlands of special significance, significant vernal pools	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
Slopes greater than 3:1	10 feet	14 feet	20 feet	N/A	N/A	N/A
No full basement [e.g. slab, frost wall, columns]	15 feet	28 feet	40 feet	8 feet	14 feet	20 feet
Full basement [below grade foundation]	20 feet	30 feet	40 feet	8 feet	14 feet	20 feet
Property lines	10 feet	14 feet	20 feet	8 feet	14 feet	20 feet
Burial sites or graveyards, measured from the toe of the fill extension	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
Stormwater infiltration systems	80 feet	160 feet	240 feet	50 feet	50 feet	50 feet
Wetponds, retention ponds, and detention basins (excavated below grade); Soil filters, underdrained swales, underdrained outlets, and similar structures	50 feet	100 feet	150 feet	50 feet	50 feet	50 feet
Stormwater detention basins (basin bottom at or above predevelopment grade)	20 feet	40 feet	60 feet	20 feet	20 feet	20 feet

STATUTORY AUTHORITY: 22 M.R.S.A. §42(1) and (3-A); 22-A M.R.S.A §205(2); 30-A M.R.S.A §§4212 and 4215(2) and (5)

EFFECTIVE DATE:

June 1, 2000 – filing 2000-152

AMENDED:

June 1, 2001 – filing 2001-132

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January 18, 2011 – filing 2011-7