

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1570

S.P. 529

In Senate, April 14, 2003

An Act Concerning Storm Water Management

(EMERGENCY)

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.
Cosponsored by Representative: BULL of Freeport.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 Whereas, certain changes to state law are necessary for
implementation of Maine's storm water program in early 2003; and

8 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
10 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
12 safety; now, therefore,

14 **Be it enacted by the People of the State of Maine as follows:**

16 **Sec. 1. 38 MRSA §420-D, sub-§2,** as amended by PL 1997, c. 502,
§2 and affected by c. 603, §8, is further amended to read:

18
20 2. **Review.** If the applicant is able to meet the standards
for storm water using solely vegetative means, the department
shall review the application within 30 45 calendar days. If
22 structural means are used to meet those standards, the department
shall review the application within 60 90 calendar days. The
24 review period begins upon receipt of a complete application and
may be extended pursuant to section 344-B or if a joint order is
26 required pursuant to subsection 5. The department may request
additional information necessary to determine whether the
28 standards of this section are met. The application is deemed
approved if the department does not notify the applicant within
30 the applicable review period.

32 The department may allow a municipality or a quasi-municipal
organization, such as a watershed management district, to
34 substitute a management system for storm water approved by the
department for the permit requirement applicable to projects in a
36 designated area of the municipality. The municipality or
quasi-municipality may elect to have this substitution take
38 effect at the time the system is approved by the department, or
at the time the system is completed as provided in an
40 implementation schedule approved by the department.

42 **Sec. 2. 38 MRSA §464, sub-§4, ¶A,** as amended by PL 1997, c.
794, Pt. A, §30, is further amended by amending subparagraph (1)
44 to read:

46 (1) Direct discharge of pollutants to waters having a
drainage area of less than 10 square miles, except that
48 ~~discharges into these waters that were licensed prior~~
~~to January 1, 1986, are allowed to continue only until~~
50 ~~practical alternatives exist;~~

2 (a) Discharges into these waters that were
4 licensed prior to January 1, 1986 are allowed to
 continue only until practical alternatives exist;
6 and

8 (b) Storm water discharges in conformance with
 state and local requirements are exempt from this
10 subparagraph;

12 **Sec. 3. 38 MRSA §465, sub-§2, ¶C**, as affected by PL 1989, c.
 890, Pt. A, §40 and amended by Pt. B, §62, is further amended to
14 read:

16 C. Direct discharges to these waters licensed after January
 1, 1986, are permitted only if, in addition to satisfying
18 all the requirements of this article, the discharged
 effluent will be equal to or better than the existing water
20 quality of the receiving waters. Prior to issuing a
 discharge license, the department shall require the
22 applicant to objectively demonstrate to the department's
 satisfaction that the discharge is necessary and that there
24 are no other reasonable alternatives available. Discharges
 into waters of this classification licensed prior to January
26 1, 1986, are allowed to continue only until practical
 alternatives exist. ~~There--may--be--no--deposits--of--any~~
 ~~material--on--the--banks--of--these--waters--in--any--manner--so--that~~
28 ~~transfer--of--pollutants--into--the--waters--is--likely.~~ This
 paragraph does not apply to the discharge of storm water.

30 **Sec. 4. 38 MRSA §465, sub-§2, ¶¶D and E** are enacted to read:

32 D. Storm water discharges to Class A waters must be in
34 compliance with state and local requirements.

36 E. There may be no deposits of any material on the banks of
 Class A waters in any manner so that transfer of pollutants
38 into the waters is likely.

40 **Sec. 5. Report.** By February 1, 2004, the Department of
 Environmental Protection shall report to the Joint Standing
42 Committee on Natural Resources with recommendations for improving
 the effectiveness of storm water management in this State. These
44 recommendations must include provisionally adopted rules pursuant
 to the Maine Revised Statutes, Title 38, sections 413 and 420-D
46 to regulate storm water discharges to impaired waters from
 existing development where necessary to allow restoration of
48 water quality and from new development both during and after
 construction. The department may also make recommendations
50 concerning other issues such as encouraging the creation of local

2 or regional storm water utility districts and funding storm water
management programs at the state and local level, including
4 long-term efforts to inspect, maintain and upgrade or retrofit
storm water management systems in impaired or at-risk watersheds
or sensitive or threatened regions or watersheds.

6
8 The department shall consult with state and federal agencies
as well as representatives of interested stakeholder groups,
10 including business and environmental groups and the Maine
Municipal Association, when developing these recommendations.
12 The Joint Standing Committee on Natural Resources may report out
legislation based on the recommendations related to storm water
management to the Second Regular Session of the 121st Legislature.

14 **Emergency clause.** In view of the emergency cited in the
16 preamble, this Act takes effect when approved.

18 SUMMARY

20
22 This bill amends Maine's storm water management law to
extend the review period for applicants proposing solely
24 vegetative means to control storm water from 30 to 45 calendar
days and the review period for applicants proposing to use
structural means from 60 to 90 days.

26
28 This bill allows the discharge of storm water to waters
having a drainage area of less than 10 square miles if the
discharge is in conformance with state and local requirements.

30
32 It provides that certain discharge limitations do not apply
to the discharge of storm water.

34
36 It provides that storm water discharges to Class A waters
must be in compliance with state and local requirements.

38
40 It changes the allocation of the law prohibiting the
placement of materials on the banks of Class A waters in any
manner so that the transfer of pollutants into the waters is
likely.

42
44 The bill requires the Department of Environmental Protection
to report to the Joint Standing Committee on Natural Resources by
February 1, 2004. The report must include recommendations for
46 improving the effectiveness of storm water management in this
State and include rules provisionally adopted pursuant to the
Maine Revised Statutes, Title 38, sections 413 and 420-D that
48 regulate storm water discharges to impaired waters from existing
development where necessary to allow restoration of water quality
50 and from new development both during and after construction. The

2 department shall consult with state and federal agencies and
environmental and business interest groups when considering
4 recommendations. The Joint Standing Committee on Natural
Resources may report out legislation related to storm water
management to the Second Regular Session of the 121st Legislature.