

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1866

S.P. 712

In Senate, February 24, 2004

### An Act Relating to Storm Water Management

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Reported by Senator MARTIN of Aroostook for the Joint Standing Committee on Natural Resources pursuant to Public Law 2003, chapter 318, section 5 and Resolve 2003, chapter 101, section 3.

Reference to the Committee on Natural Resources suggested and ordered printed under Joint Rule 218.

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

JOY J. O'BRIEN  
Secretary of the Senate

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

2  
4       **Sec. 1. 38 MRSA §420-C, 2nd ¶**, as enacted by PL 1997, c. 748, §1, is amended to read:

6           A person who owns property that is subject to erosion  
8 because of a human activity before July 1, 1997 involving  
10 filling, displacing or exposing soil or other earthen materials  
12 shall take measures in accordance with the dates established  
14 under this paragraph to prevent unreasonable erosion of soil or  
16 sediment into a protected natural resource as defined in section  
18 480-B, subsection 8. Adequate and timely temporary and permanent  
20 stabilization measures must be taken and maintained on that site  
22 to prevent unreasonable erosion and sedimentation. This  
24 paragraph applies on and after July 1, 2005 to property that is  
located in the watershed of a body of water most at risk as  
identified in the department's storm water rules in effect on  
December 31, 1997 and adopted pursuant to section 420-D and that  
is subject to erosion of soil or sediment into a protected  
natural resource as defined in section 480-B, subsection 8. This  
paragraph applies on and after July 1, 2010 to other property  
that is subject to erosion of soil or sediment into a protected  
natural resource as defined in section 480-B, subsection 8.

26       **Sec. 2. 38 MRSA §420-D, first ¶**, as amended by PL 2001, c. 232, §13, is further amended to read:

28           A person may not construct, or cause to be constructed, a  
30 project that includes ~~20,000-square-feet-or-more-of-impervious  
area-or-5-acres~~ one acre or more of disturbed area ~~in-the-direct  
watershed-of-a-body-of-water-most-at-risk-from-new-development-or  
one-acre-or-more-of-impervious-area-or-5-acres-or-more-of  
disturbed-area-in-any-other-area~~ without prior approval from the  
34 department. A person proposing a project shall apply to the  
36 department for a permit using an application provided by the  
38 department and may not begin construction until approval is  
received. This section applies to a project or any portion of a  
project that is located within an organized area of this State.

40       **Sec. 3. 38 MRSA §420-D, sub-§1**, as enacted by PL 1995, c. 704,  
Pt. B, §2 and affected by Pt. C, §2 and affected by PL 1997, c.  
42 603, §8, is amended to read:

44           **1. Standards.** The department shall adopt rules specifying  
46 quantity and quality standards for storm water. Storm water  
quality standards for projects with 3 acres or less of impervious  
48 surface may address phosphorus, nitrates and suspended solids but  
may not directly address other dissolved or hazardous materials  
unless infiltration is proposed. ~~Storm-water-quality-standards  
apply-only-in-the-direct-watersheds-of-waterbodies-most-at-risk~~

2 from--development--and--in--sensitive--or--threatened--geographic  
3 regions--or--watersheds--defined--by--the--department--under--subsection  
4 4--Until--such--regions--are--defined--storm--water--quality--standards  
5 are--not--required--to--be--met--by--a--permit--applicant.

6 **Sec. 4. 38 MRSA 420-D, sub-§12** is enacted to read:

8 12. Significant existing sources. The department may  
9 require a person owning or operating a significant existing  
10 source of storm water to implement a storm water management  
11 system. The owner or operator shall obtain approval from the  
12 department pursuant to this subsection for the storm water  
13 management system. The department shall identify significant  
14 existing sources as provided in this subsection.

16 A. The department shall develop a total maximum daily load  
17 for the watershed of a waterbody impaired due to urban  
18 runoff prior to designating significant existing sources  
19 within the watershed.

20 B. The department shall adopt rules prior to requiring that  
21 an owner or operator of a significant existing source within  
22 the direct watershed of a specific waterbody obtain approval  
23 of a storm water management system. The rules must include  
24 provisions requiring the following:

26 (1) The name of or other means of identifying the  
27 waterbody that is impaired due to urban runoff;

30 (2) A list of significant existing sources or a  
31 description of the types or classes of significant  
32 existing sources;

34 (3) A date or schedule indicating when approvals must  
35 be obtained; and

36 (4) Storm water quantity and quality standards for  
37 storm water management systems.

40 C. The owner or operator of a site designated as a  
41 significant existing source shall apply to the department  
42 for approval of a storm water management system.

44 D. For purposes of this subsection, a "significant existing  
45 source" is a significant source of storm water quantity  
46 pollution or quality pollution from a developed area that  
47 was in existence prior to July 1, 1997 and is located in the  
48 direct watershed of a waterbody that is impaired due to  
49 urban runoff. Significant existing sources do not include:

2                   (1) Types of sources or activities described in  
3                   subsection 7; and

4                   (2) The developed area of a facility required to meet  
5                   ongoing storm water management standards pursuant to a  
6                   waste discharge individual license or general permit  
7                   for storm water issued pursuant to section 413.

8  
9                   **Sec. 5. Transition.** On or after the effective date of this  
10                   Act, if a person constructs, or causes to be constructed, a  
11                   project that includes one acre or more of disturbed area, prior  
12                   approval is required pursuant to the Maine Revised Statutes,  
13                   Title 38, section 420-D.

14  
15                   1. A project that required approval prior to the effective  
16                   date of this Act continues to require approval on and after the  
17                   effective date of this Act.

18  
19                   2. If a project did not require approval prior to the  
20                   effective date of this Act and there will be construction on one  
21                   or more acres of disturbed area on or after the effective date of  
22                   this Act, then the construction on or after the effective date of  
23                   this Act requires prior approval.

24  
25                   3. A disturbed area of less than one acre continues to be  
26                   counted toward the one-acre permit threshold following permanent  
27                   stabilization to the extent it is considered developed area as  
28                   defined in rules adopted by the Department of Environmental  
29                   Protection.

30  
31  
32                   **SUMMARY**

33                   This bill amends the laws relating to storm water management  
34                   as recommended by the Department of Environmental Protection  
35                   pursuant to Public Law 2003, chapter 318. It requires that all  
36                   projects subject to the storm water laws meet basic water quality  
37                   protection standards. It sets the permit threshold at one acre  
38                   of disturbance. It regulates existing sources in the watershed  
39                   of impaired waters where they are identified as significant  
40                   contributors to the cause of impairment.