

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



L.D. 2035

DATE: 3/24/06

(Filing No. H-879)

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46

NATURAL RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1435, L.D. 2035, Bill, "An Act Regarding Storm Water Program Administration"

Amend the bill by striking out all of sections 2 and 3 and inserting in their place the following:

Sec. 2. 38 MRSA §420-D, sub§-5, as amended by PL 2001, c. 232, §14, is further amended to read:

5. Relationship to other laws. A storm water permit pursuant to this section is not required for a project requiring review by the department pursuant to any of the following provisions but the project may be required to meet standards for management of storm water adopted pursuant to this section: article 6, site location of development; article 7, performance standards for excavations for borrow, clay, topsoil or silt; article 8-A, performance standards for quarries; and sections 631 to 636, permits for hydropower projects. When a project requires a storm water permit and requires review pursuant to article 5-A, the department shall issue a joint order unless the permit required pursuant to article 5-A is a permit-by-rule or general permit, or separate orders are requested by the applicant and approved by the department.

A storm water permit pursuant to this section is not required for a project receiving review by a registered municipality pursuant to section 489-A if the storm water ordinances under which the project is reviewed are at least as stringent as the storm water

standards adopted pursuant to section 484 ~~and are in effect at the time of review as determined by the department~~ or if the municipality meets the requirements of section 489-A, subsection 2-A, paragraph B.

Sec. 3. 38 MRSA §420-D, sub-§7, ¶C, as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is amended to read:

C. If the commissioner determines that a municipality's ordinance meets or exceeds the provisions of this section and that the municipality has the resources to enforce that ordinance, the commissioner shall exempt any project within that municipality. The department shall maintain a list of municipalities meeting these criteria and update this list at least every 2 years. The commissioner shall immediately notify municipalities on the list of municipalities meeting these criteria of new or amended rules adopted by the department pursuant to this article. If a municipality on the list no longer meets these criteria, it must be removed from the list. ~~A project constructed after a municipality is removed from the list must obtain approval pursuant to this section.~~ except that if the municipality no longer meets these criteria due to new or amended department rules, then the municipality remains on the list if:

(1) The municipality adopts amendments to its ordinances within one calendar year of the effective date of the new or amended department rules;

(2) The municipality submits the amended ordinances to the commissioner within 45 calendar days of adoption for review; and

(3) The commissioner determines that the amended ordinances meet or exceed the provisions of this section.

A project constructed after a municipality is removed from the list must obtain approval pursuant to this section.

Sec. 4. 38 MRSA §420-D, sub-§9, as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is amended to read:

9. Rules. Rules adopted pursuant to this section are major ~~substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter II-A 2-A, except that those rules that qualify as state mandates pursuant to the Constitution of Maine,

2 Article IX, Section 21 are major substantive rules as defined in
3 Title 5, chapter 375, subchapter 2-A.

4 **Sec. 5. 38 MRSA §490-E, 2nd ¶**, as enacted by PL 1995, c. 700,
5 §25, is amended to read:

6
7 The department shall adopt rules that set forth the
8 standards for granting a variance from the performance standards
9 in this article. These rules are major substantive rules as
10 defined in Title 5, chapter 375, subchapter II-A 2-A. These
11 ~~rules--must--be--provisionally--adopted--and--submitted--to--the~~
12 ~~Legislature--for--review--not--later--than--January--1,--1997.~~
13 ~~Notwithstanding--Title--5,--section--8072,--subsection--3,--the~~
14 ~~Executive-Director-of-the-Legislative-Council-shall-immediately~~
15 ~~assign--those--provisionally-adopted-rules-to-the-joint-standing~~
16 ~~committee--of--the--Legislature--having-jurisdiction-over--natural~~
17 ~~resources-matters.~~

18 **Sec. 6. 38 MRSA §490-CC, first ¶**, as enacted by PL 1995, c.
19 700, §35, is amended to read:

20
21 An owner or operator must comply with the performance
22 standards in section 490-Z unless a variance from those
23 performance standards is approved by the department. Except when
24 prohibited by section 490-Z, the department may grant a variance
25 from the performance standards in this article if the owner or
26 operator affirmatively demonstrates to the department that the
27 variance does not adversely affect natural resources or existing
28 uses and does not adversely affect the health, safety and general
29 welfare of the public. The department may adopt rules that set
30 forth the standards for granting a variance from the performance
31 standards in this article. Such rules are major substantive
32 rules as defined in Title 5, chapter 375, subchapter 2-A. A
33 variance application must include any fee applicable under
34 section 490-EE. The department shall process the variance
35 application according to chapter 2 and the rules adopted by the
36 department for processing an application. An applicant for a
37 variance under this article shall hold a public informational
38 meeting as described in those rules.

39
40 **Sec. 7. General permit for industrial facilities and report.** By
41 January 1, 2009, the Department of Environmental Protection shall
42 report to the joint standing committee of the Legislature having
43 jurisdiction over natural resources matters on what, if any,
44 standard industrial codes or activities not covered by a standard
45 industrial code should be added to the industrial storm water
46 program. The report must include the projected revenue from fees
47 and the projected operating costs of extending the storm water
48 program to address these activities through the multisector
49 general permit in 2010.
50



122nd MAINE LEGISLATURE

LD 2035

LR 3188(02)

An Act Regarding Storm Water Program Administration

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Revenue				
Other Special Revenue Funds	\$0	\$150,000	\$175,000	\$225,000

Fiscal Detail and Notes

Establishing an annual fee of up to \$300 for a general permit for industrial storm water discharge will increase dedicated revenue to the Maine Environmental Protection Fund by \$150,000 in fiscal year 2006-07, \$175,000 in fiscal year 2007-08 and \$225,000 in fiscal year 2008-09. There is sufficient allocation in the Maine Environmental Protection Fund to accommodate the increased revenue. Also, the supplemental budget, LD 1968, contains several adjustments that reorganize positions associated with the storm water program.