

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 13, 2002 to November 14, 2002**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

(1) Tidal waters of the Bagaduce River lying southerly of Winslow Island and easterly of the westernmost point of Young's Island - Class SA.

E-2. Sedgewick.

(1) Tidal waters of the Bagaduce River - Class SA.

**Sec. 24. Legislation.** The Joint Standing Committee on Natural Resources may report out legislation to the Second Regular Session of the 121st Legislature on the following matters:

1. Reclassifications that were proposed in House Paper 1121, Legislative Document 1529, "An Act To Reclassify Certain Waters of the State" but were not included in the committee's report during the First Regular Session; and

2. Defining and identifying subsistence fishing as a designated use for certain waters.

**Sec. 25. Retroactivity.** The license limits for total residual chlorine and bacteria imposed in the Maine Revised Statutes, Title 38, section 467, subsection 4, paragraph A, subparagraph (13), as amended by this Act, apply retroactively to January 1, 2003.

See title page for effective date.

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## CHAPTER 318

S.P. 529 - L.D. 1570

### An Act Concerning Storm Water Management

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

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

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

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

**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:

**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 calendar days. If structural means are used to meet those standards, the department shall review the application within ~~60~~ 90 calendar days. The review period begins upon receipt of a complete application and may be extended pursuant to section 344-B or if a joint order is required pursuant to subsection 5. The department may request additional information necessary to determine whether the standards of this section are met. The application is deemed approved if the department does not notify the applicant within the applicable review period.

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

**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) to read:

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

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

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

**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 read:

C. Direct discharges to these waters licensed after January 1, 1986, are permitted only if, in addition to satisfying all the requirements of this article, the discharged effluent will be equal to or better than the existing water quality of the receiving waters. Prior to issuing a discharge license, the department shall require the applicant to objectively demonstrate to the department's satisfaction that the discharge is necessary and

that there are no other reasonable alternatives available. Discharges into waters of this classification licensed prior to January 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 transfer of pollutants into the waters is likely.~~ This paragraph does not apply to the discharge of storm water.

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

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

E. Material may not be deposited on the banks of Class A waters in any manner that makes transfer of pollutants into the waters likely.

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

The department shall consult with state and federal agencies as well as representatives of interested stakeholder groups, including business and environmental groups and the Maine Municipal Association, when developing these recommendations. 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.

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

Effective May 27, 2003.

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**CHAPTER 319**

**H.P. 1039 - L.D. 1416**

**An Act To Create the Scallop Advisory Council and the Scallop Research Fund**

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

**Sec. 1. 5 MRSA §12004-I, sub-§57-F** is enacted to read:

<u>57-F.</u>	<u>Scallop</u>	<u>Expenses</u>	<u>12 MRSA</u>
<u>Marine</u>	<u>Advisory</u>	<u>Only</u>	<u>§6729-B</u>
<u>Resources</u>	<u>Council</u>		

**Sec. 2. 12 MRSA c. 623, sub-c. 2, art. 3** is enacted to read:

**Article 3**

**Scallop Research**

**§6729. License surcharges**

**1. License surcharges.** The following surcharges are assessed on licenses issued by the department:

- A. For a hand fishing scallop license, \$100;
- B. For a scallop draggers license, \$100; and
- C. For a scallop diving tender license, \$50.

**2. Deposit.** The commissioner shall deposit surcharges assessed in this section in the Scallop Research Fund under section 6729-A.

**§6729-A. Scallop Research Fund**

The Scallop Research Fund, referred to in this section as "the fund," is established in the department. Balances in the fund may not lapse and must be carried forward to the next fiscal year.

**1. Uses of fund.** The commissioner shall use the fund for research directly related to scallop fishery management information needs and for reporting to licensed scallop harvesters on the results of research and the use of fund revenues. The commissioner may authorize the expenditure of money in the fund for research and development programs that address the restoration, development or conservation of scallop resources. The commissioner shall consult with the Scallop Advisory Council under section 6729-B before deciding upon research projects and awarding grants from the fund. The fund may also be used for support of the Scallop Advisory Council, including reimbursement for travel expenses.