

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

as defined in Title 8, section 1001, subsection 39;

(3) An electronic video machine as defined in Title 17, section 330, subsection 1-A;

(4) Equipment used in the playing phases of lottery schemes; and

(5) Repair and replacement parts of a gambling machine or device.

Sec. 62. P&SL 1999, c. 39, §1 is repealed.

Sec. 63. Application. That section of this Act that amends the Maine Revised Statutes, Title 36, section 5278, subsection 5, paragraph B applies retroactively to tax years beginning on or after January 1, 2002. That section of this Act that repeals and replaces Title 36, section 6652, subsection 1-B, paragraph C applies retroactively to property tax years beginning on or after April 1, 2004.

See title page for effective date.

CHAPTER 219

S.P. 542 - L.D. 1558

An Act Concerning Storm Water Management

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

Sec. 1. 38 MRSA §413, sub-§1-A, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §28, is further amended to read:

1-A. License required for surface wastewater disposal systems. No person may install, operate or maintain a surface wastewater disposal system without first obtaining a license therefor from the department, except that the department may exempt or license by rule categories of storm water discharges to groundwater when the discharges will not have a significant adverse effect on the quality or classification of waters of the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A unless the rules are incorporated as amendments to existing rules that are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 38 MRSA §413, sub-§1-B, ¶B, as enacted by PL 2003, c. 551, §5, is amended to read:

B. The department may exempt or license by rule license categories of subsurface discharges when the discharges will not have a significant adverse effect on the quality or classification of

groundwaters of the State to groundwater in the same manner and using the same criteria as provided in subsection 1-A. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A unless the rules are incorporated as amendments to existing rules that are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 38 MRSA §420-D, first ¶, as amended by PL 2001, c. 232, §13, is further amended to read:

A person may not construct, or cause to be constructed, a 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 department. A person proposing a project shall apply to the department for a permit using an application provided by the 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.

Sec. 4. 38 MRSA §420-D, sub-§1, as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is amended to read:

1. Standards. The department shall adopt rules specifying quantity and quality standards for storm water. Storm water quality standards for projects with 3 acres or less of impervious 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 from development and in sensitive or threatened geographic regions or watersheds defined by the department under subsection 4. Until such regions are defined, storm water quality standards are not required to be met by a permit applicant.

Sec. 5. 38 MRSA §420-D, sub-§7, ¶D, as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is repealed.

Sec. 6. 38 MRSA §420-D, sub-§10, as amended by PL 1997, c. 502, §3 and affected by c. 603, §§8 and 9, is repealed.

Sec. 7. 38 MRSA §420-D, sub-§§12 and 13 are enacted to read:

12. Fees. An applicant for a permit under this section shall pay a fee to the department as follows.

A. If structural means of storm water control are used, the fee is \$500 for the first acre of disturbed area, plus \$250 for each additional whole acre of disturbed area.

B. If solely vegetative means of storm water control are used, the fee is \$250 for the first acre of disturbed area, plus \$125 for each additional whole acre of disturbed area.

C. When a permit by rule is required as provided by rules adopted by the department, the fee is \$55.

If a project described in paragraph A or B is reviewed and approved by a professional engineer at a soil and water conservation district office that has a memorandum of understanding with the department concerning review of projects pursuant to this section, the fee is reduced to \$100 for the first acre of disturbed area, plus \$50 for each additional whole acre of disturbed area.

13. Significant existing sources. The department may require a person owning or operating a significant existing source of storm water to implement a storm water management system. The owner or operator shall obtain approval from the department pursuant to this subsection for the storm water management system.

For the purposes of this subsection, "significant existing source" means a significant existing source of storm water pollution based on quantity or quality standards for storm water from a developed area that was in existence prior to July 1, 1997 and is located in the direct watershed of a waterbody that is impaired due to urban runoff. The department shall identify significant existing sources as provided in this subsection.

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

B. The department shall adopt rules prior to requiring that an owner or operator of a significant existing source within the direct watershed of a specific waterbody obtain approval of a storm water management system. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The rules must include, but are not limited to, the following:

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

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

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

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

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

D. "Significant existing source" does not include:

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

(2) The developed area of a facility required to meet ongoing storm water management standards pursuant to a storm water general or individual permit issued pursuant to section 413; and

(3) A municipal storm water conveyance system unless the storm water pollution originates with the conveyance system.

Sec. 8. Transition. Prior approval is required pursuant to the Maine Revised Statutes, Title 38, section 420-D if a person constructs, or causes to be constructed, a project that includes one acre or more of disturbed area on or after the effective date of this Act.

1. If a person has a project that required approval prior to the effective date of this Act, the project continues to require approval on and after the effective date of this Act.

2. If a person has a project that did not require approval prior to the effective date of this Act, and the person proposes to construct or cause to be constructed a project that includes one or more acres of disturbed area on or after the effective date of this Act, then approval is required. Only the construction on or after the effective date of this Act requires prior approval.

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

See title page for effective date.
