



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

Memorandum

To: Board of Environmental Protection
From: Jeffrey S. Crawford, Office of the Commissioner
Date: September 4, 2014
Re: Chapter 500 Stormwater Management (Amendments)

BACKGROUND:

Stormwater is water that accumulates on land as a result of rain and other precipitation events. Impervious and developed areas like parking lots, streets, and roofs prevent stormwater from naturally soaking into the ground, thereby creating faster and greater volumes of surface flows. This surface runoff also collects contaminants that are typical to developed areas, such as excess nutrients, sediments, pathogens, toxic contaminants, and chloride. In Maine, as in many other areas, unmanaged stormwater runoff has caused serious damage to property, lakes, streams and wetlands.

Natural areas like forests, fields and wetlands, allows dense vegetation to slow rainfall and snowmelt runoff, thereby allowing precipitation to infiltrate the soil, and providing an opportunity for sediments and pollutants to settle out. In addition to slowing erosion, these areas allow plants and soil microbes to transform or process soil contaminants into less harmful compounds. Impervious and semi-impervious areas, in contrast, change the distribution of stormwater by reducing infiltration, and magnifying the volume and velocity of stormwater runoff over land. The result is decreased groundwater recharge, and increased surface runoff. Stormwater management practices are designed to increase stormwater infiltration and reduce uncontrolled surface runoff.

The Department's Chapter 500 Stormwater Management rules were initially promulgated in 1997, and have since been revised to include a number of stormwater management standards, including basic stormwater management requirements, flooding standards, phosphorous standards and urban impaired stream standards. In addition, Chapter 500 includes a number of appendices establishing basic performance standards for a variety of stormwater management techniques.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143

The Department's existing Chapter 500 Stormwater Management rules contain both major substantive and routine technical elements. While most of the provisions implementing the Storm Water Management law are major substantive, thereby subject to the requirements established in 5 M.R.S. Chapter 375 Section 8071 *et seq*, the provisions in Section 6 of the current rules (entitled "Compensation Fees and Mitigation Credits"), are routine technical in nature and not subject to these requirements. As a result, this is a joint rulemaking with both major substantive and routine technical elements.

PROPOSED RULE FRAMEWORK:

In 2009, the Department reached out to stakeholders in an effort to identify changes to the Chapter 500 Stormwater Management rules that provide additional flexibility to the regulated community, while simultaneously improving environmental protections. The Department and stakeholders met several times through 2009 and 2010, and ultimately developed a comprehensive list of suggested changes. The Department's proposal incorporates many of these changes, and provides greater flexibility to the regulated community while encouraging the use of innovative stormwater designs that will accommodate measures for addressing climate change, resiliency, and adaptation in our infrastructure. Some of the more notable aspects of the proposal include:

- The treatment levels in the general standards have been revised to provide additional stormwater treatment options for those cases where the standard treatment requirements are impractical or cannot be met.
- A new voluntary Low Impact Development (LID) credit has been established that reduces the volume of stormwater that must be treated if an applicant uses LID techniques.
- New treatment levels have been created for redevelopment projects, through the use of scaled treatment requirements based on stormwater impact changes.
- The appendices, which provide basic performance standards for a variety of stormwater management and associated activities, have been updated to reflect current stormwater best management practices and better align Chapter 500 with Construction General Permit requirements.

The Department is also proposing a number of minor revisions to the rule that will provide greater clarity and consistency with other Department rules.

In addition to the above changes, the Department is proposing to bifurcate the existing rules by incorporating the routine technical elements contained in Section 6 of Chapter 500 as a separate rule.¹ Establishing these provisions in as a new Chapter 501 Stormwater Management Compensation Fees and Mitigation Credit rule will facilitate the Department's

¹ The Department is undertaking this routine technical rulemaking on a separate, but parallel path.

on-going efforts to update its rules in a timely manner, and enhance our ability to provide innovative and cost-effective environmental solutions.

REQUESTED ACTION:

The Department is requesting the Board schedule the proposed rules to a public hearing on October 16, 2014.