

**Stormwater Stakeholders Meeting
July 13, 2006
Pine Tree State Arboretum
9:00 a.m. - 11:30 a.m.**

Attendees:

David A. Kamila	ASCE
Jeff Dennis	Maine DEP
Barry Sheff	Woodard & Curran
Helen Edmonds	Pierce Atwood
Alex Jaegerman	City of Portland
Kathi Earley	City of Portland
David Braley	DHHS Drinking Water Program
Carl V. Beal	Civil Consultants
Jeff Edelstein	Interlocl SW Working Group
Hetty Richardson	Maine DEP Land Bureau
Sharon Newman	Preti & Flaherty
Robyn Saunders	GZA GeoEnviro
Marianne Hubert	Maine DEP
Curt Neufeld	Sitelines PA
Don Witherill	Maine DEP Land Bureau
Jeff Austin	Maine Municipal Association
Eva Birk	Maine DOT, Environmental
Linda Kokemuller	Maine DEP Land Bureau
Kristie Rabasca	Edwards & Kelcey
Ann Archino Howe	Sustainable Design Studio
Janet Pelletier	AVCOG
LaMarr Cannon	NEMO
Judy Gates	MDOT
Gerry Mirabile	CMP
George Elliott	BACORD
John Stiver	CONTECH

Comments/Questions

Check in

1 Need to present the material more clearly. It needs to be manageable so people can understand it.

DEP: We will try to provide additional information such as a flow chart for compensation.

Technical group

2. The Technical Sub-group had two meetings, largely focusing on Appendix E. Issues discussed:
 - (a) Filter media – DEP is shifting to more performance-based requirements. Shifting to testing - percent organic and permeability.
 - (b) Possible pre-approval for producers/suppliers being considered, but an engineer could do the testing too.
 - (c) Gravel filter – DEP is removing the slope of the piping requirements and changing the spacing requirement.
 - (d) Subsurface designs – DEP probably won't allow anymore than what previously allowed.
 - (e) Need to add venting to subsurface systems; there is a removal concern and a failure/replacement concern, but will probably continue to allow on redevelopment sites. Also, looking in future for new manufactured system designs.

Change sheet

3. High use parking lots. Substantial discussion took place on the definition of “High use parking lots.” DEP had proposed a revision in its June 23rd draft (see “Summary of significant changes between June 6th and June 23rd drafts of Chapter 500”). Significant concern remained amongst stakeholder members of the revised language. In a straw poll, about half the members voted that they would prefer to have DEP stick with the language in the existing rule. The remaining half did not vote either way.

DEP: Revised draft will not include a change to this definition.

4. Revise definition of linear portion of project to include driveway. After considerable discussion on DEP's proposed revision to the definition of “linear portion of a project,” no objections were made to it.
5. BMP standards confusion (staff comment). DEP staff explained proposal to drop the term “BMP standards” in the rule due to confusion it has caused. No objections were raised.

Proposed allowance to treat 90% of impervious area instead of 95%. DEP staff explained reasoning for adding flexibility. Participants of technical sub-group had also discussed and indicated that the flexibility would be helpful.

6. Redevelopment. DEP staff explained proposal to require that redevelopment projects that need Site Law approval meet the General standards to extent practicable, but not the urban impaired stream standard since measures to meet the General standards will result in an improvement and therefore projects will not “cause or contribute” to the impairment. Massachusetts DEP has proposed similar language with respect to redevelopment. Some interest was expressed in having DEP add language to define “extent practicable.”

DEP: The term “practicable” is already in the Chapter 500 definitions. No additional change to the definition will be proposed.

7. Flooding Standard (p. 10) DEP explained proposal to allow waiver of flood standard for rivers other than “major river segments.” This would be determined on a case by case basis and is a return to language in Chapter 500 prior to the 2005 revisions. The question was asked whether

some streams could also qualify for the waiver of the flood standard. DEP staff replied that a waiver for a discharge to certain streams would be possible.

8. Under-drained soil filters, Appendix E. Technical sub-group had discussed changes to Appendix E. DEP is proposing to increase flexibility by moving specifications out of Chapter 500 and into the BMP manual.

Other Issues

9. Stormwater modeling. Questions were asked: Why not require submission of stormwater models for less than Site Law sized projects? Would it make sense to require projects to model in the urban compact zones so they would be available for future analysis of the watershed? May not use the results immediately, and not to meet the flooding standard, but have done the work if someone needs to look at cumulative impacts. These questions generated substantial discussion. Concern was expressed by some that information could be misused and could create liability problem. That concern already exists for larger projects where the information is publicly available. There was no consensus amongst the group as to whether there should be any additional requirement for submitting stormwater model results, if not required to meet the flooding standard.

DEP: The Department does not plan to add a requirement for applicants to submit additional modeling information as part of the upcoming rule-making.

10. Local v. DEP rules issue. Concern was expressed about the discrepancy between municipal ordinances and Chapter 500. DEP seems to say - "maybe they'll adopt our rules." Things are all across the board. DEP staff explained that the department is working with the Nonpoint Education for Municipal Officials (NEMO) program to educate local officials on why they should consider updating their ordinances to be consistent with Chapter 500. Some municipalities have reported that they are waiting for DEP to complete the upcoming round of rule-making. The suggestion was made that DEP put effort into categorizing the problems and documenting complaints.

DEP: The NEMO Program is building outreach through workshops to municipalities on Chapter 500 into its work plan for the upcoming year. DEP staff will work with NEMO on this outreach.

11. Next steps. A request was made for a list of dates for rule-making.

DEP: The department plans to submit the proposed changes to the Board of Environmental Protection on August 16th. The Board will vote on September 7th on whether to post the changes to public hearing. It is anticipated that the hearing would take place on October 5th and that the revisions would be considered for adoption on December 21st.

Post-Meeting Revisions

Standard Conditions. The department has been advised to attach a condition on all permits on "severability." This condition will be proposed as part of the standard conditions of approval in Section 10, and would read as follows:

- (10) Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall

be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

Chapter 502. Data has been received in support of several changes to the Lakes Most at Risk list and the Urban Impaired Streams list. The proposed changes the department will be making are as follows:

Appendix A. Lakes Most at Risk from New Development

Add the following lakes due to declines in water quality and watershed development:

Abrams Lake, Eastbrooke
Androscoggin Lake, Wayne
Great Moose Lake, Hartland
Long Pond, Belgrade (both basins)
Messalonskee Lake (Snow Pond), Belgrade

Remove the “severely blooming” designation for Cobbosseecontee Lake

Appendix B. Urban Impaired Streams

Remove Bobbin Mill Brook in Auburn. Recent sampling showed the stream to be meeting its Class B designation.