

CHAPTER 500 STAKEHOLDER ENGAGEMENT | STEERING COMMITTEE MEETING #4 AGENDA

RE: Chapter 500 Stakeholder Engagement, Steering Committee Meeting #4
DATE: Monday, July 15, 2024
TIME: 9:30am – 1:00pm
LOCATION: Hybrid: in-person (Deering Conference room 101- 90 Blossom Ln, Augusta ME)
& remotely via Microsoft Teams
INVITEES: Cody Obropta, Naomi Kirk-Lawlor, and Rob Wood (Maine DEP)
Bina Skordas (FB Environmental (FBE) Associates)
Chapter 500 Steering Committee
Chapter 500 Stakeholders

MEETING OVERVIEW:

The Steering Committee Meeting will be run by the Facilitator, Bina Skordas (FBE).

Topics:

1. Topics & considerations review
2. DEP Stormwater Programs Overview (Chapter 500, Municipal Separate Storm Sewer System General Permit, Maine Construction General Permit)
3. Goals of Chapter 500 Update and General Framework Envisioned for the Bureau of Land Resources Stormwater Programs
4. Status update from the Technical Committee
5. Steering Committee Discussion
6. Stakeholder Feedback
7. Environmental Justice Discussion
8. Action Items & Next Steps

DISCUSSION TOPICS:

1. Topics & Considerations Review
 - Brief review of the Steering Committee (SC) Meeting #3 Minutes
 - i. See [the webpage](#) for the meeting agendas and minutes.
 - ii. Comment: this is really valuable information for other entities that are working on regulations directly related to this. It is important that they are kept in the loop, especially considering they are trying to remove as many barriers as possible.
 1. GIS Impervious Cover webapp is available on the website:
 - a. <https://www.maine.gov/dep/gis/datamaps/> → [Maine NLCD Impervious Surface Change Tool \(arcgis.com\)](#)
 - iii. Are you providing these tools to other government agencies?
 1. DECD and GOPIF are included and part of the discussion.
 - Updated Rulemaking Timeline
 - i. Stakeholder meetings to end in November, but SC to review final report after that.

Milestone	Initial (First SC Meeting)	Updated (Fourth SC Meeting)
	Date	
Stakeholder Kick-off Meeting	December 2023	December 2023
Stormwater BMP Manual Update Project*	March 2024 – December 2025	TBD – 2026*
Final Stakeholder Meeting	June 2024	November 2024
Draft proposed rules (with stakeholder review/written feedback)	May-July 2024	December 2024 – mid-2025
Introduce proposed rule to BEP	Mid to Late 2024	Mid-2025
Provisionally adopted rule filed with Legislature	January 2025	January 2026
Final Adoption of the Rules by BEP	Mid-2025	Mid-2026
Final Manual	End of 2025	Mid-2026
*: No contractor on board yet; first Request for Proposal received no bid. Starting date "To Be Determined (TBD)"		

2. DEP Stormwater Programs Overview (Chapter 500, Municipal Separate Storm Sewer System General Permit, Maine Construction General Permit)

Please see the Steering Committee Meeting #1 DEP presentation

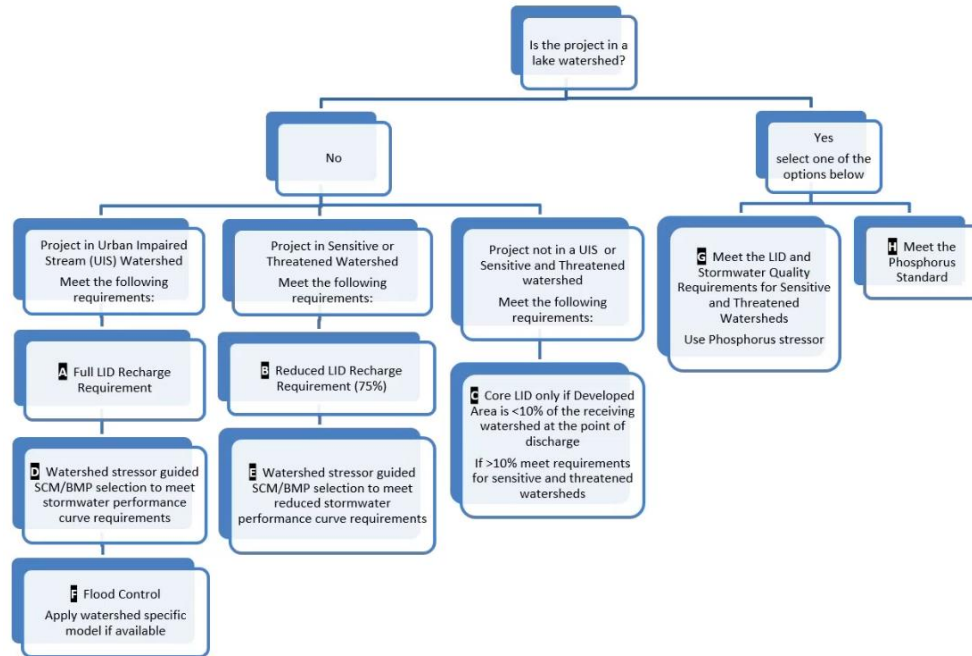
- Refresher on the state’s own stormwater program (Chapter 500) and the state’s federally delegated stormwater programs (MS4GP & MCGP)
- Interoperation of the stormwater programs
- Brief updates on
 - i. New MCGP
 1. Draft MCGP has a new appendix that includes standards for “large construction activities” disturbing 5 or more acres.
 2. Ch500 appendices containing “construction stormwater management standards” will be removed and covered by MCGP.
 - ii. Municipal MS4GP Low Impact Development modification
 1. Appeal from Friends of Casco Bay; a new modified App. F highlighting LID requirements. Comment period ends 7/22/2024
 2. Can you speak more to the collaboration between the MS4GP update and Ch500 update?
 - a. Greg Wood & Kerem Gungor collaborating
 - b. Ch. 500 supporting MS4 permit. Both trying to ensure lowest possible burden on municipalities.
 - c. Stormwater / LID
 - i. All the best stormwater BMPs and practices will not take the place of protecting wetlands, forests, streams .etc., so it will always be important to care about habitat restoration and not just stormwater BMPs for watershed protection. Technical Committee is definitely thinking about this.

3. Goals of Chapter 500 Update and General Framework Envisioned for the Bureau of Land Resources Stormwater Programs

Please see the Steering Committee Meeting #2 DEP presentation

- Overarching goals

- i. Promote LID.
- ii. Address climate adaptation & resiliency.
- iii. Streamline rules/improve day-to-day implementation.
- The Decision Tree explaining how the following new elements apply to the
 - i. Core Low Impact Development standards.
 - ii. Sensitive & threatened watersheds/regions.
 - iii. Groundwater recharge standard.
 - iv. Stressor guided stormwater control measure/best management practice selection



- v. Question (re: Stressor Guided BMP Selection): Has there been a stressor analysis so there is a list of stressors to choose from?
 - 1. The goal is to develop a list of stressors for each sensitive and threatened watersheds. This will be separate of Ch500 rules so it is amendable. This has not been developed yet.
- vi. Question (re: Groundwater Recharge): In a chloride-impaired watershed, how do you achieve groundwater recharge without chloride contamination?
 - 1. This will be outlined in the BMP selection process. For example, in a chloride-impaired watershed, you may only be able to use rooftop stormwater for recharge.
 - 2. The definition of groundwater recharge will be centered around infiltrating clean water.
- vii. Who would be doing the identification of the stressors?
 - 1. DEP would identify stressors.
- Vision for new Chapter 500 and MCGP
 - i. MCGP for construction stormwater management - New MCGP is raising the bar and focusing on the large projects.
 - ii. Chapter 500 exclusively for post-construction stormwater management
 - iii. Two-step permitting: 1st Chapter 500, 2nd MCGP
- New Chapter 500 and MS4GP
 - i. Chapter 500 technical reference for MS4GP.

- ii. It will be very important for Ch500 and MS4 to collaborate on regulations, particularly from a permitting standpoint.
- iii. There is some burden on municipalities to figure out how to comply with both regulations. Any assistance from the state that advise on complying with both is welcomed.

4. Status update from the Technical Committee

- Review of the tasks assigned to the Technical Committee by the Steering Committee (see presentation).
- Summary of the Technical Committee and sub-committee activities
 - i. Three subcommittees formed. SC may listen into these meetings from now on. Summary of work completed by each as follows:
 1. Core LID subcommittee: still discussing core LID requirements. Planning more meetings in August with the goal of presenting ideas to the TC then SC.
 2. Groundwater recharge subcommittee: needed input from Maine DEP geology and drinking water folks which they have already provided. These inputs will be discussed in the upcoming subcommittee meeting.
 3. Definitions subcommittee: met 3 times. Goal is to fix obvious errors in current definitions; provide clarity on currently confusing terms; define/redefine terms that are evolving as rule evolves (i.e., groundwater recharge); define new terms (i.e., environmental justice); clarify what is meant by green infrastructure vs. blue infrastructure vs. LID; ensuring that words in definitions are defined.
 - ii. Emerging consensus points: precipitation data (NOAA Atlas 14 - then 15 once it is available). Meeting with John Field, geologist to discuss more on flooding.

5. Steering Committee Discussion

- Land protection is really important to consider. Add nitrogen and chloride to the list in addition to phosphorus. Still feel that the 1 acre threshold doesn't cut it but recognize that this is a very difficult topic to resolve.
- Addressing climate adaptation and resiliency is a huge challenge open to interpretation. The goals are great but huge.
- Support the goals, they are in line with where we're at. Also agree that climate adaptation is very important. Important to ensure that when it get to the technical BMP application, it is achievable. Also important to have a bit of flexibility in the final rules.
- If groundwater recharge and infiltration is so challenging at some sites, then there is a need to bolster the wetland recharge protection areas. If the engineering doesn't cut it, the land preservation need is amplified.
- The concept of paying a fee for environmental damage (i.e., filling in a wetland) seems like a poor way to go about conservation. At some point we have to consent that this is not an acceptable solution.
 - Municipalities can apply to have delegated permitting authority under NRPA.
 - Difficult to have capacity for this, but it is an option for those who do have the capacity.
- Going through different real-life scenarios to test the rules will be extremely important.
- For sensitive and threatened waters, is or could part of the definition be %IC so that we can look at cumulative impacts?
 - It is not envisioned to have IC as part of the sensitive and threatened watershed standard. There is not an IC estimate that is accurate enough for this to be a part of regulation. Best to focus on the pollutants that will come along with the IC.
 - Seems more important to focus on how well the IC is being treated vs solely %IC.

- Back to the first point, if IC is being used to determine sensitive and threatened watersheds, then all new and re-development in these watersheds (aka watershed >10% IC) should be following stringent guidelines, particularly ensuring no loopholes for redevelopment.
 - For IC such as parking lots, land ownership (private or public) has the potential to really limit control over chloride use and other pollutants. There's no preventative action on this. This is something to consider.
- The progress on the precipitation is huge. Figuring out how to incorporate the margin issue (i.e., 15% increase on the 100-year storm) will also be really important to ensuring climate adaptation. Part of this is likely understanding the life span of certain LID – this comes back to testing to the importance of testing real-life scenarios. Also important to consider human climate migration – reports already show that people are moving to this region to escape climate change-induced disasters. Figuring out how this applies to Ch500 is a unique challenge. We've talked a lot about how to be proactive vs. minimize damage done.
- Location of development is also an important factor to consider in climate resiliency (i.e., development in floodplain). Overall, must improve the criteria for how we evaluate impacts to watersheds and water quality in terms of identifying and reducing stressors and minimizing impact. Also, the stressor list is separate from the rule, allowing the regulation to evolve overtime which is a good change from before.
- Outreach to municipalities is the most important aspect. Having one solid message and place for municipalities to get all the information about their watershed they need is crucial. Resources include rules, funding, and staff support.
 - Can we make broader recommendations that fit in the context of this but are not directly changing the rule (i.e., gain more funding and staff at the state level to support outreach efforts)?
 - Yes, this would be helpful and is a unique opportunity to offer bigger recommendations.
 - This outreach and education aspect can empower smaller property owners to make their own choices of improving stormwater management. This has the potential to make the <1 acre threshold gap smaller. This also reduces the burden on municipality.
- If we invest more (time, money, staff, etc.) into managing more land (lower thresholds) then there will be less new impairments in the future and thus less resources will have to be used to fix these impairments.
- What are communities currently concerned about with redevelopment and how can Ch500 more adequately address it? TO BE DISCUSSED NEXT MEETING.

6. Stakeholder Feedback

- Request for a presentation on threatened and impaired waters by Jeff.
- Needs to be more encouraged to use native plantings for treating and infiltrating runoff.
- There are a lot of 0.99 acre projects proposed to avoid Ch500 regs. Has the cumulative effects of these projects been evaluated? Maybe the PBR threshold can be reduced.
 - This is currently not on the table. DEP to develop a clearer explanation as to why.
- Post construction inspection and maintenance is a challenge whether local MS4 certification or DEP 5-year recert. BMP selection should take inspection and maintenance and municipal bandwidth into account.
- Redevelopment on brownfield, VRAP, etc. lands should be highly incentivized for redevelopment. It can be really difficult to qualify for redevelopment vs. new development.

- A lot of lawmakers are pushing for reducing stormwater/environmental regulations, particularly to stimulate building housing, so we are trying to balance the competing needs of housing and environmental protection. Worry that the 10% IC threshold will be used to block larger residential projects that meet other goals. Also wonder if there is a way to do an IC trading mechanism, similar to development transfer for density (this is done in Gorham).
 - 10% IC threshold only applies if you are NOT in an urban impaired/sensitive and threatened watershed or lake watershed. The goal is not to inhibit necessary housing, especially in light of EJ concerns.
- Regarding addressing <1 acre developments, even though it cannot be included in the rule, it would be helpful for DEP to include guidance on managing stormwater on small lots in their outreach. This way the information can be used by local planners and developers who want to build sustainably.
 - This can be a part of the broader, out-of-scope recommendations.
- Regarding construction, most pollutant loading comes from the construction phase vs. the post-construction phase. There is a gap in management strategies between MS4 and non-MS4 communities and between <1acre developments vs. bigger developments that fall under the MCGP. Communicating and collaborating with these different efforts is very important and receiving guidance from DEP would be helpful.

7. Environmental Justice Discussion

- It is difficult to understand if we should be the people making recommendations for this as we are not experts on EJ by any means.
- “Affordable” is the buzz word right now, and development is only affordable for a finite period of time. This is where redevelopment is going to be an important factor. EJ also means access to the ability to deal with an appeal process and ability for a homeowner to deal with negative impacts on them from another development.
- Look at areas that are already having EJ problems and instead of allowing new development in those areas, move it elsewhere. Also utilize funds to resolve existing issues rather than exacerbating them. People should also be prevented from developing in areas where they will face EJ concerns and negative environmental impacts in the future.
- Understanding EJ impacts on an area, has potential to guide planning.
- While lessening the standards for affordable housing might reduce costs, what might be better is to fast-track permit approval for these projects
- Urban infill areas are often candidates for redevelopment with reduced treatment requirements

8. Action Items & Next Steps

- Tasks Assigned to the Technical Committee: Amendments, add new tasks, or remove tasks
 - i. Add discussion about re-development.
 - ii. Discuss how can creativity be allowed/ encouraged in development
 - iii. Review standards concerning wetlands.
- Tentative date and agenda for the next Steering Committee meeting
 - i. Next SC meeting in September
- Any additional information requested from the Department
 - i. Steering Committee members should reach out if they are interested in attending subcommittee meetings.
 - ii. Email any input to chapter500.dep@maine.gov

Attendees

In-person

- Jeff Dennis
- Nathan Robbins
- Kerem Gungor
- Fred Dillon
- Doug Roncarati
- Ivy Frignoca
- Joe Laverriere
- John Kuchinski
- Rebecca Graham
- Bina Skordas
- Rob Wood
- Cody Obropta

Online

- Abbie Sherwin
- Alexis Racioppi
- Ali Clift
- Amanda Campbell
- Ashley Hodge
- Aubrey Strause
- Brenda Zollitsch
- Christine Rinehart
- Chuck Norton
- Damon Yakovleff
- David Waddell
- Derek Berg
- Erin Wilson
- Gary Fish
- Holliday Keen
- Jami Fitch
- John McMeeking
- Josh Hogan
- Kris Bears
- Lauren Swett
- Matt Provencher
- Meredith McLaughlin
- Mike Foster
- Neil Rapoza
- Patrick Coughlin
- Peter Newkirk
- Phil Ruck
- Randy Stephenson
- Rich May
- Rick Licht
- Robert Howard
- Rodney Kelshaw
- Ryan Barnes
- Sarah King
- Sean Donohue
- Sean Thies
- Stephen J. Puleo
- Greg Wood