



AMERICAN COUNCIL OF ENGINEERING COMPANIES  
*of Maine*

February 24, 2025

## **Support with Amendments**

L.D. 488, *An Act to Protect Coastal Property by Allowing Property Owners to Protect Their Existing Dwellings*

Members of the Environment and Natural Resources Committee:

We are providing the following testimony on behalf of the American Council of Engineering Companies of Maine (ACEC Maine). ACEC Maine's membership is made up of more than 60 consulting engineering firms from throughout the state from all engineering disciplines.

This legislation would allow protection of coastal property that is being eroded by sea level rise and storms. The Maine DEP has proposed revisions to Chapter 310 Wetland Protection Rules that would address these activities, which are now pending before the Board of Environmental Protection. These rule changes are minor technical rules that will not be reviewed by the Legislature before they become effective, so ACEC is bringing some concerns about these rule changes to the Legislature in order to consider some changes to the law that address these concerns.

### **1. Project Purpose**

The Maine DEP proposes to only allow permits for shoreline stabilization projects on properties where there is an existing residential structure within 100 feet for the shoreline. *Section 5-A(B)*. This arbitrary limitation would foreclose protection of valuable coastal properties that are eroding but do not have a structure within 100 feet.

This absolute limitation is not consistent with the Natural Resources Protection Act (NRPA) standard that “The activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.” *38 MRS section 480-D(2)*. Rather, each property should be reviewed on its own merits, based on factors to consider the need and type of protection measures that should be taken, including soil types, topography, elevation, and impacts of recent and projected coastal storm erosion.

ACEC recommends that the NRPA law allow permitting of coastal protection projects without a requirement for an existing building within some distance of the shoreline.

## 2. Alternatives Analysis

As part of the permit application, the rule requires an analysis of alternative “practicable” measures that would accomplish the project purpose. As part of this analysis, the Maine DEP proposes:

“... a rebuttable presumption that vegetation and/or biodegradable stabilization materials can practicably stabilize a shoreline that is subject to erosion in a low-energy environment such as an open-water freshwater wetland, great pond, marshland, protected cove, or area of extensive mudflats. There is also a rebuttable presumption that vegetation and/or biodegradable stabilization materials can practicably stabilize a shoreline that is classified as a stable bluff by the Maine Geological Survey or that is only classified as unstable due to upland sources of erosion.”

ACEC is concerned that that this “rebuttable presumption” would prevent the use of shoreline stabilization measures that are needed to protect a coastal property. This rebuttable presumption is not consistent with federal wetlands law administered by the US Army Corps of Engineers. See February 2015 living shorelines document entitled “Natural and Structural Measures for Shoreline Stabilization,” developed jointly by the US Army Corps of Engineers and the National Oceanic and Atmospheric Administration, found at <https://coast.noaa.gov/data/digitalcoast/pdf/living-shoreline.pdf>.

ACEC recommends that the alternative analysis consider the full spectrum of feasible biodegradable stabilization materials to structural measures to protect the property and demonstrate that the selected alternative is the least environmentally damaging practicable alternative.

We thank you for your time and consideration on this important piece of legislation and hope that the committee finds this testimony helpful.

Sincerely,

/s/ Mark Adams

Mark Adams  
President-elect ACEC of Maine  
Chair of ACEC of Maine Government Affairs Committee