



Friends of Casco Bay Casco BAYKEEPER

March 3, 2025

Environment and Natural Resources Committee
Maine State Legislature
Cross Building, Room 216
Augusta, Maine
ENR@legislature.maine.gov

Re: *Friends of Casco Bay's (FOCB) Testimony in Support of LD 646: Resolve, Establishing the Commission to Study Unregulated Storm Water Pollution*

Dear Senator Tepler, Representative Doudera, and Distinguished Members of the Environment and Natural Resources Committee,

Please accept Friends of Casco Bay's (FOCB) testimony in strong and unwavering support of LD 646: Resolve, Establishing the Commission to Study Unregulated Storm Water Pollution.¹ This bill is an Environmental Priority Coalition bill and a top priority for Friends of Casco Bay. The resolve is intended to identify next steps the state can take to address stormwater pollution. Although we support the resolve as written, some suggestions have been made to amend it. One suggestion is to change "unregulated" to "unmanaged" stormwater. We would not oppose that suggestion; it complements the charge that the commission recommend "policies and tools to better reduce sources of storm water pollution."

Maine depends on healthy waters to support its fishing, tourism, and recreation industries, sustenance harvesting of foods, and our way of life- our beautiful rugged coastline, lake regions, and flowing rivers. Unfortunately, stormwater delivers the largest, unregulated and undermanaged loads of pollutants to Maine's fresh and salt waters. Stormwater pollution closes clam flats to harvesting and beaches to recreation. Stormwater pollution fuels nuisance algal blooms that smother aquatic life and harmful algal blooms that make fish and shellfish toxic. It also delivers PFAS, heavy metals, and other chemicals that negatively affect human and aquatic life.² Every time it storms, runoff carries a different load of pollutants to our waters and has different impacts. The best way to minimize stormwater pollution is to develop our landscapes in ways that preserve the natural flow and drainage of water and treat certain pollutants on site.

This Resolve creates a study commission to identify next steps Maine can take to reduce stormwater pollution. Next steps should build upon two actions Maine is taking to reduce stormwater pollution.

¹ For over 35 years, FOCB has worked to improve and protect the health of Casco Bay. We monitor water quality and use that data to inform actions that keep Casco Bay healthy.

² The effects of stormwater pollution are well documented. See e.g. https://www3.epa.gov/npdcs/pubs/after_the_storm.pdf and <https://www.epa.gov/sourcewaterprotection/urbanization-and-stormwater-runoff>.

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First, Maine has strengthened requirements in a general permit issued under the federal Clean Water Act, that regulates stormwater discharges from municipal separate storm sewer systems in our most urbanized areas. This permit is known as the MS4 permit and regulates 30 of Maine's 482 municipalities.³

Second, DEP is considering changes to the Chapter 500 rules that implement state stormwater law. Maine law only regulates stormwater runoff from development that disturbs an acre or more of area in the organized municipalities of the State. 38 M.R.S. § 420-D. This and other factors limit how much DEP can amend Chapter 500 now.⁴

The idea for this resolve came out of the stakeholder process to revise Chapter 500.⁵ During that process, it became clear that Chapter 500 might be amended to make incremental advances in how Maine addresses stormwater. In the words of one participant, "It is not a silver bullet." This Resolve asks the legislature to lead a study that would:

1. Identify the actual and potential effects of storm water pollution on public and environmental health, including on valuable fresh water and marine species and critical habitats for commercially important species;
2. Compile scientific storm water data to identify knowledge gaps that hinder the State's ability to craft law, policy and other responses to mitigate storm water pollution and determine methods to streamline the processes by which the State manages storm water pollution;
3. Prioritize strategies for filling storm water data knowledge gaps;
4. Recommend policies and tools to better reduce sources of storm water pollution and prevent increased storm water pollution caused by legacy sources, climate change and increasing urbanization; and
5. Identify barriers, such as staffing and budget, to adopting the necessary policies and tools to properly address storm water pollution to protect public health, essential habitats and commercially important species.

The data gathered in steps one and two will augment data DEP already has gathered. The tasks in steps 3 and 4 ask the commission to recommend priority next steps that should be taken. This could include anything from revising state stormwater law to non-regulatory approaches. Finally Step 5 identifies barriers to implementing priority next steps, so this legislature can decide what can be done and whether and how to allocate resources to complete priority work.

In an ideal world, given the urgency of the problem, we would move directly to next steps without a study. For example, this committee might consider a bill to lower the one-acre

³ Friends of Casco Bay wrote a series of comments on this permit and has been actively engaged in advancing the terms of this permit to include monitoring at stormwater outfalls, measures to restore impaired waters, and requirements to develop municipal ordinances that require use of certain low impact development approaches to reduce stormwater pollution post construction. This permit has not yet been fully implemented. The terms of it are mandated by the federal Clean Water Act, as opposed to state law.

⁴ The major substantive rule-making process to update Chapter 500 should begin this year.

⁵ Friends of Casco Bay served on the steering committee that considered proposed changes to Chapter 500 and on a subcommittee that studied sensitive and threatened waters. We attended almost every meeting, submitted comments along the way, and invited DEP to participate in a webinar with us to talk about the Chapter 500 process and this Resolve.

threshold in state stormwater law. *But what is the right target size? And would DEP need more resources to timely review permits and implement the lower threshold?* This resolve will answer questions like these and allow this legislature to consider informed actions in its second session.

This Resolve is NOT anti-development and IS intended to be bipartisan. All Mainers depend upon and need clean water. Studying how to accomplish that through a bipartisan commission makes common sense.

On behalf of healthy waters, thank you for considering this resolve. Please vote that LD 646 OUGHT TO PASS.

Respectfully submitted,



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