

The Full Text of the Law

38 MRSA§ 439-B. Contractors certified in erosion control

1. **Definition.** For purposes of this section, "excavation contractor" means an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

2. **Certification required.** An excavation contractor conducting excavation activity in a shoreland area shall ensure that a person certified in erosion control practices by the department:

A. Is responsible for management of erosion and sediment control practices at the site; and

B. Is present at the site each day earth-moving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed.

The requirements of this subsection apply until erosion control measures that will permanently stay in place have been installed at the site or, if the site is to be revegetated, erosion control measures that will stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion have been installed.

3. **Application.** This section does not apply to activities resulting in less than one cubic yard of earth material being added or displaced.

4. **Effective date.** This section takes effect January 1, 2013.



Don't Get Stuck Not Being Certified!



**Maine Nonpoint Source Training
and Resource Center**

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Attention Earthwork Contractors

**Do you work within
250 feet of Maine
Lakes, Rivers, Streams
and Coastal Waters?**



**Are you prepared to
comply with new
certification
requirements
that will go into
effect soon?**



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What Certification Requirements?

In 2008, the 123rd Maine Legislature passed LD 2249 which among other provisions requires that **all excavation work in excess of one cubic yard done in shoreland areas, must be supervised by an individual certified in erosion control practices by the Department of Environmental Protection (DEP).** The law further states that the certified individual must be responsible for management of erosion and sediment control practices at the site and must be present at the site each day earthmoving activity occurs to ensure that proper erosion and sedimentation control practices are followed.



What is this Shoreland Area and How can it be Determined that a Project is Located There?

Under the state's Shoreland Zoning Statutes, the shoreland zone is generally defined as all areas located within 250 feet of rivers, lakes, ponds, some non-forested wetlands, coastal waters, and within seventy-five feet of some streams. However, each municipality adopts their own mapped shoreland zone area. **To determine if a project is located in the shoreland zone and subject to law requirements, it is best to consult with the municipality where a project is located.**



When do these Requirements Go Into Effect?

In order to provide sufficient time for all construction companies to comply with provisions of the law, **the effective date of the certification requirement is January 1, 2013.**

How Do You Comply?

Compliance to law requirements can be accomplished in two ways: Company personnel involved in supervising work in shoreland areas may become certified through the DEP's contractor certification program. As an alternative, a company may choose to contract with a certified individual to supervise the company's work in shoreland areas.

How Do You Become Certified?



Certification is accomplished by attending a day-long training program in Erosion Control Practices sponsored by the DEP's Nonpoint Source Training and Resource Center, and successfully completing a construction site evaluation. These courses are generally held from December through April each year. A listing of courses can be found on the DEP Website at **maine.gov/dep/blwq/training/schedule.htm** or by calling the Center at 287-7726.