

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 1952

H.P. 1390

House of Representatives, December 20, 2007

An Act To Streamline the Administration of Significant Vernal Pool Habitat Protection

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Received by the Clerk of the House on December 18, 2007. Referred to the Committee on
Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KOFFMAN of Bar Harbor.
Cosponsored by Senator MARTIN of Aroostook and
Representatives: DUCHESNE of Hudson, PINGREE of North Haven, WAGNER of Lewiston.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §480-FF**, as enacted by PL 2007, c. 290, §10, is amended to
3 read:

4 **§480-FF. Notification of identification; high and moderate value waterfowl and**
5 **wading bird habitats and shorebird nesting, feeding and staging areas**

6 If an area is identified by the Department of Inland Fisheries and Wildlife as the type
7 of area listed in section 480-B, subsection 10, paragraph B, subparagraph (2) or (3) after
8 the effective date of this section, the department shall notify each municipality in which
9 the significant wildlife habitat is located and members of the Legislature who represent
10 residents of the municipality in which the significant wildlife habitat is located. The
11 department and the Department of Inland Fisheries and Wildlife shall report to the joint
12 standing committees of the Legislature having jurisdiction over natural resources matters
13 and inland fisheries and wildlife matters on any action taken pursuant to this section.

14 **Sec. 2. Rulemaking; Department of Inland Fisheries and Wildlife.** The
15 Department of Inland Fisheries and Wildlife shall amend its rules on significant wildlife
16 habitat to update the definition of "vernal pools" to be consistent with the requirements of
17 section 3 where applicable. Rules adopted pursuant to this section are routine technical
18 rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A,
19 notwithstanding Title 38, section 480-BB.

20 **Sec. 3. Rulemaking; Department of Environmental Protection.** The
21 Department of Environmental Protection shall amend its rules on significant wildlife
22 habitat to incorporate the requirements of this section. The requirements specified in this
23 section are not intended to replace existing requirements in rules, except that, if there is a
24 conflict between the requirements specified in this section and the rules, the rules must be
25 revised to reflect the requirements specified in this section.

26 1. The following requirements apply to the identification of significant vernal pool
27 habitats and must be employed when implementing significant wildlife habitat rules
28 adopted by the Department of Environmental Protection and the Department of Inland
29 Fisheries and Wildlife pursuant to the Maine Revised Statutes, Title 38, section 480-BB.

30 A. When a vernal pool habitat has not previously been determined to be significant
31 and the Department of Environmental Protection or the Department of Inland
32 Fisheries and Wildlife makes a determination concerning whether the vernal pool
33 habitat is significant, either department may determine that the vernal pool habitat is
34 not significant if:

35 (1) The vernal pool is located in southern Maine and dries out after spring filling
36 and before July 15th based on winter, spring and early summer precipitation; or

37 (2) The vernal pool is located in northern Maine and dries out after spring filling
38 and before July 31st based on winter, spring and early summer precipitation.

39 B. In addition to state threatened and endangered species, the following rare species
40 must be considered when determining whether a vernal pool habitat is significant:

1 Ribbon Snakes, Wood Turtles, Swamp Darner Dragonflies and Comet Darner
2 Dragonflies.

3 C. In order to be identified as part of significant vernal pool habitat, the vernal pool
4 may not have a permanent inlet or outlet. A "permanent inlet or outlet" is a river,
5 stream or brook as defined in the Maine Revised Statutes, Title 38, section 480-B,
6 subsection 9.

7 2. The Department of Environmental Protection may delete a note in rule concerning
8 rare indicator species, notwithstanding Resolve 2005, chapter 183, section 1, subsection
9 10.

10 Rules adopted pursuant to this section are routine technical rules as defined in the
11 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, notwithstanding Title 38,
12 section 480-BB.

13 **SUMMARY**

14 This bill narrows the requirement for notification concerning significant wildlife
15 habitats from those listed in the Maine Revised Statutes, Title 38, section 480-B,
16 subsection 10, paragraph B to those listed in section 480-B, subsection 10, paragraph B,
17 subparagraphs (2) and (3), thereby removing vernal pools from the operation of that
18 notification statute. The bill provides further requirements for the Department of
19 Environmental Protection to incorporate into rules regarding the identification of
20 significant vernal pool habitats. The bill further requires the Department of Inland
21 Fisheries and Wildlife to amend its regulatory definition of "significant vernal pools"
22 consistent with this change where applicable.