MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)

1	L.D. 15
2	Date: 5-20-11 (Filing No. S-139)
3	ENVIRONMENT AND NATURAL RESOURCES
4	Reproduced and distributed under the direction of the Secretary of the Senate.
5	STATE OF MAINE
6	SENATE
7	125TH LEGISLATURE
8	FIRST REGULAR SESSION
9 10 11	COMMITTEE AMENDMENT " A " to S.P. 52, L.D. 159, Bill, "An Act To Fost Economic Development by Improving Administration of the Laws Governing Si Location of Development and Storm Water Management"
12 13	Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:
14	'Sec. 1. 38 MRSA §420-D, sub-§7, ¶H is enacted to read:
15 16 17 18	H. Trail management activities that are part of the development and maintenance of the statewide snowmobile trail system developed as part of the Maine Trails System under Title 12, section 1892, including new construction and maintenance of trail do not require review pursuant to this section if, for each trail being managed:
19 20	(1) The trail is constructed and maintained in accordance with best management practices for motorized trails established by the Department of Conservation:
21	(2) The trail is the minimum feasible width for its designated use; and
22	(3) No lane exceeds 12 feet in width and no trail includes more than 2 lanes.
23 24	Sec. 2. 38 MRSA §420-D, sub-§9, as amended by PL 2009, c. 602, §1, is further amended to read:
25 26 27 28 29 30 31 32	9. Rules. Rules With the exception of minor clerical corrections and technic clarifications that do not alter the substance of requirements applying to projects, rule adopted pursuant to this section after January 1, 2010 and before January 1, 2012 a major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any rule adopted by the department pursuant to this section on or after January 1, 2012 are routing technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that those rule that qualify as state mandates pursuant to the Constitution of Maine, Article IX, Section 21 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
33	Sec. 3. 38 MRSA §484, sub-§3, ¶H is enacted to read:

Page 1 - 125LR0665(02)-1

H. In making a determination under this subsection regarding a development's effects on significant vernal pool habitat, the department shall apply the same standards applied to significant vernal pool habitat under rules adopted pursuant to the Natural Resources Protection Act. The department may not require a buffer strip adjacent to significant vernal pool habitat unless the buffer strip is established for another protected natural resource as defined in section 480-B, subsection 8.

Sec. 4. 38 MRSA §489-E, as enacted by PL 2009, c. 602, §3, is repealed and the following enacted in its place:

§489-E. Rulemaking

Rules adopted by the department pursuant to this article are routine technical rules except that rules adopted by the department after January 1, 2010 pursuant to section 484, subsections 1, 3, 4, 4-A, 5, 6 and 7 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

- Sec. 5. High and moderate value waterfowl and wading bird habitat; rulemaking. The Department of Environmental Protection shall amend its rules concerning permit by rule under the Natural Resources Protection Act to allow an activity occurring in, on or over high and moderate value waterfowl and wading bird habitat to be eligible for permit by rule. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.
- Sec. 6. High and moderate value waterfowl and wading bird habitat. The Joint Standing Committee on Environment and Natural Resources may report out a bill relating to high and moderate value waterfowl and wading bird habitat to the Second Regular Session of the 125th Legislature.'

SUMMARY

This amendment:

- 1. Exempts trail management activities from review under the laws governing storm water management on snowmobile trails developed as part of the Maine Trails System under the Maine Revised Statutes, Title 12, section 1892;
- 2. Retains the provision in the bill that provides that rules adopted by the Department of Environmental Protection after January 1, 2010 pursuant to the laws governing storm water management are major substantive rules, with certain limited exceptions in the rules governing storm water management for minor clerical corrections and technical clarifications;
- 3. Narrows the provision in the bill that proposes to create consistency between the laws governing site location of development and the Natural Resources Protection Act in standards pertaining to a development's effects on existing uses, scenic character and protected natural resources. The amendment requires the Department of Environmental Protection to apply the standards adopted in rule pursuant to the Natural Resources Protection Act for significant vernal pool habitat to significant vernal pool habitat reviewed under the laws governing the site location of development. It prohibits the department from requiring a buffer strip adjacent to significant vernal pool habitat under

5

6

7

8

9

10

11

12

13

14

15

16

1	the laws governing site location of development unless the buffer strip is established for
2	another protected natural resource;
3	4. Retains the provision in the bill that provides that rules related to standards for
4	development adopted by the Department of Environmental Protection after January 1,

- 4. Retains the provision in the bill that provides that rules related to standards for development adopted by the Department of Environmental Protection after January 1, 2010 pursuant to the laws governing site location of development are major substantive rules, except for standards for blasting and wind energy development or offshore wind power projects;
- 5. Directs the Department of Environmental Protection to adopt rules to allow activities in, on or over high and moderate value waterfowl and wading bird habitat to be eligible for permit by rule under the Natural Resources Protection Act;
- 6. Authorizes the Joint Standing Committee on Environment and Natural Resources to report out a bill relating to high and moderate value waterfowl and wading bird habitat to the Second Regular Session of the 125th Legislature; and
- 7. Strikes the provisions in the bill that revise the thresholds for review by the Department of Environmental Protection pursuant to the laws governing site location of development.

FISCAL NOTE REQUIRED (See attached)



125th MAINE LEGISLATURE

LD 159

LR 665(02)

An Act To Foster Economic Development by Improving Administration of the Laws Governing Site Location of Development and Storm Water Management

Fiscal Note for Bill as Amended by Committee Amendment "A" 5-139
Committee: Environment and Natural Resources
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds Minor revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any costs associated with rule-making to allow activities in, on or over high and moderate value waterfowl and wading bird habitat to be eligible for permit by rule processes under the Natural Resources Protection Act will result in minor cost increases which the Department of Environmental Protection can absorb within existing budgeted resources and a minor revenue increase in the form of some additional permit application fees.