

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 38 MRSA §420-D, sub-§7, ¶H is enacted to read:

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 trails, do not require review pursuant to this section if, for each trail being managed:

(1) The trail is constructed and maintained in accordance with best management practices for motorized trails established by the Department of Conservation;

(2) The trail is the minimum feasible width for its designated use; and

(3) No lane exceeds 12 feet in width and no trail includes more than 2 lanes.

Sec. 2. 38 MRSA §420-D, sub-§9, as amended by PL 2009, c. 602, §1, is further amended to read:

9. Rules. ~~Rules~~With the exception of minor clerical corrections and technical clarifications that do not alter the substance of requirements applying to projects, rules adopted pursuant to this section after January 1, 2010 and before January 1, 2012 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any rules adopted by the department pursuant to this section on or after January 1, 2012 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that those rules 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.

Sec. 3. 38 MRSA §484, sub-§3, ¶H is enacted to read:

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Sec. 4. 38 MRSA §489-E, as enacted by PL 2009, c. 602, §3, is repealed and the following enacted in its place: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 the laws governing site location of development unless the buffer strip is established for another protected natural resource;

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.