

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

## **An Act To Amend Setback Requirements and Standards Related to Species Migration under the Laws Regulating Development near Vernal Pools**

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

**Sec. 1. 38 MRSA §480-BB, sub-§1-A** is enacted to read:

**1-A. Significant vernal pool habitat.** In the case of significant vernal pool habitat, define an area of regulation that encompasses a fixed radial area around the vernal pool depression and allow for use of an alternative directional corridor area with a value to the protected species that is equal to or greater than that of the fixed radial area. The Department of Environmental Protection may approve the alternative directional corridor area as the area of regulation instead of the fixed radial area if:

A. An applicant for a permit under this article requests that an alternative directional corridor area be the area of regulation of the vernal pool;

B. The applicant provides to the department habitat data relating to the vernal pool and surrounding area demonstrating that use of an alternative directional corridor area would provide habitat protection value equal to or greater than would the use of the fixed radial area. The data must be developed by a professional with experience and training in either wetland ecology or wildlife ecology; and

C. The department determines that, based on the best available science, the alternative directional corridor area would provide habitat protection value equal to or greater than would the fixed radial area.

An alternative directional corridor area must include, at a minimum, a functional water quality buffer around the vernal pool depression. The rules must specify the regulatory process and standards for obtaining a permit in an alternative directional corridor area approved by the department. If an applicant requests that an alternative directional corridor area be the area of regulation and the department does not approve an alternative directional corridor area, the fixed radial area is the area of regulation and the applicant may apply to obtain a permit to conduct an activity in, on or over that area of regulation in accordance with the process and standards applicable to the fixed radial area.

### **SUMMARY**

This bill requires the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife to adopt rules regarding significant vernal pool habitats to define a fixed radial area of regulation around a vernal pool depression and allow for an alternative directional corridor area of regulation. Use of an alternative directional corridor area would have to be requested by the applicant, who must demonstrate to the Department of Environmental Protection that the use of an alternative directional

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corridor area would provide habitat protection value equal to or greater than would the fixed radial area of regulation. Department of Environmental Protection rules must specify the regulatory process and standards for obtaining a permit in an alternative directional corridor area.