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Date: (Filing No. H-)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 765, L.D. 1031, Bill, “An Act To Amend the Laws Governing Significant Wildlife Habitat”

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

Sec. 1. 38 MRSA §480-BB, sub-§2, as enacted by PL 2005, c. 116, §5, is repealed and the following enacted in its place:

2. Certain landowners not subject to regulation. Provide the following exemptions to regulation.

A. A landowner proposing to cause an impact on the buffer area defined for a significant vernal pool habitat is not subject to regulation pursuant to the rule if the significant vernal pool habitat depression is not on property owned or controlled by that landowner.

B. If a vernal pool depression is bisected by a property boundary and a landowner proposing to cause an impact does not have permission to enter the abutting property, only that portion of the vernal pool depression located on property owned or controlled by that landowner may be considered in determining whether the vernal pool is significant. A written department determination that a vernal pool is not significant pursuant to this paragraph remains valid regardless of timeframe;

Sec. 2. 38 MRSA §480-BB, sub-§4, as enacted by PL 2005, c. 116, §5, is amended to read:

4. Department of Environmental Protection may not assess fine in certain cases. Provide that the Department of Environmental Protection may not assess a fine against a landowner who acted in accordance with a written field determination if the fine would be based solely on information in the written field determination; ~~and~~

Sec. 3. 38 MRSA §480-BB, sub-§5, as enacted by PL 2005, c. 116, §5, is amended to read:

COMMITTEE AMENDMENT

1 **5. Process for voluntary identification.** Include a process for a landowner to
2 voluntarily identify the landowner's land as a significant vernal pool habitat and to
3 provide the Department of Inland Fisheries and Wildlife the authority to map the
4 significant vernal pool habitat-; and

5 **Sec. 4. 38 MRSA §480-BB, sub-§6** is enacted to read:

6 **6. Artificial vernal pool.** Explicitly provide that an artificial vernal pool is exempt
7 from regulation as long as the vernal pool was not created in connection with a
8 compensation project pursuant to section 480-Z.

9 **Sec. 5. PL 2007, c. 533, §3, sub-§1, ¶A** is amended to read:

10 A. When a vernal pool habitat has not previously been determined to be significant
11 and the Department of Environmental Protection or the Department of Inland
12 Fisheries and Wildlife makes a determination concerning whether the vernal pool
13 habitat is significant, either department may determine that the vernal pool habitat is
14 not significant if:

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

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

19 **Sec. 6. Routine technical rules.** Notwithstanding the Maine Revised Statutes,
20 Title 38, section 480-BB, rules adopted pursuant to this Act are routine technical rules as
21 defined in Title 5, chapter 375, subchapter 2-A.'

22 **SUMMARY**

23 This amendment replaces the bill. The bill proposes to remove the mapped habitat
24 provision in the exemption for forest management activities under the Natural Resources
25 Protection Act. The amendment directs the Department of Environmental Protection to
26 amend its rules to:

27 1. Provide that if a vernal pool depression is bisected by a property boundary, only
28 that portion of the vernal pool depression located on the property of the landowner
29 proposing to cause an impact may be considered in determining whether the vernal pool
30 is significant;

31 2. Provide that an artificial vernal pool is exempt from regulation as long as the
32 vernal pool was not created in connection with a compensation project; and

33 3. Remove seasonal precipitation as a factor in determining that a vernal pool habitat
34 is not significant.