

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

H.P. 326 - L.D. 497

**An Act Regarding the Regulation of Significant Vernal Pools Under the
Natural Resources Protection Act**

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; definitions. With respect to significant vernal pool habitat, define:

A. "Critical terrestrial habitat" to mean uplands and wetlands associated with significant vernal pools used by pool-breeding amphibians for migration, feeding and hibernation, in particular, forested wetlands and forested uplands that provide deep organic litter, coarse woody debris and canopy shade;

B. "Significant vernal pool habitat" to mean a significant vernal pool and that portion of the critical terrestrial habitat within 250 feet of the spring or fall high-water mark of the vernal pool depression; and

C. "Significant vernal pool protection zone" to mean that portion of the critical terrestrial habitat within 100 feet of the spring or fall high-water mark of a significant vernal pool depression. With respect to habitat management standards for significant vernal pool habitat, the rule must require no disturbance within the significant vernal pool depression and the significant vernal pool protection zone to the greatest extent practicable;

Sec. 2. 38 MRSA §480-BB, sub-§2, as amended by PL 2013, c. 231, §§4 and 5, is further amended to read:

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.

Where the critical terrestrial habitat for a significant vernal pool is bisected by one or more property boundaries, the critical terrestrial habitat located on a property that does not contain the vernal pool depression must be afforded the same habitat protections under the rule as the critical terrestrial habitat located on the property that contains the vernal pool depression.

C. Rules adopted under this section may not require an applicant for a license for a working waterfront activity on working waterfront land that is part of a state or federal brownfields program or a voluntary response action program under section 343-E to compensate for lost habitat function with a function of equal or greater value or to provide a compensation fee pursuant to section 480-Z;

Sec. 3. 38 MRSA §480-BB, sub-§4-A is enacted to read:

4-A. Identification of significant vernal pools; drying. Provide that, when a vernal pool habitat has not previously been determined to be significant and the department or the Department of Inland Fisheries and Wildlife makes a determination concerning whether the vernal pool habitat is significant, either department may determine that the vernal pool habitat is not significant if:

A. The vernal pool is located in northern Maine and dries out after filling and before July 15th; or

B. The vernal pool is located in southern Maine and dries out after filling and before July 1st;