

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 295 - L.D. 478

An Act to Improve Coastal Sand Dune Restoration Projects

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

Sec. 1. 38 MRSA §480-E, sub-§15 is enacted to read:

15. Coastal sand dune system restoration projects; stabilization materials. The department may authorize through a permit or a permit by rule under this article a coastal sand dune system restoration project that uses allowable stabilization materials for the planting of native dune vegetation as long as the project meets the requirements of this subsection and satisfies all other applicable requirements for the permit or permit by rule.

A. Allowable stabilization materials may be used or placed only above the highest annual tide as measured at the time the project construction begins. Allowable stabilization materials may be used or placed in high-velocity zones, or V-Zones, as identified by the United States Department of Homeland Security, Federal Emergency Management Agency in effective flood insurance rate maps under the National Flood Insurance Program.

B. The slope of the constructed dune may not be steeper than the slope of the existing dune in which the allowable stabilization materials are used or placed.

C. Allowable stabilization materials must be used or placed in a manner designed to encourage the revegetation of the dune with native dune vegetation and must remain covered with sand and native dune vegetation throughout and upon completion of the project.

D. Allowable stabilization materials containing or using gravel or cobble may be used or placed only in a dune primarily composed of gravel or cobble or directly adjacent to a beach that is primarily gravel or cobble. Placement of allowable stabilization materials containing or using gravel or cobble must involve the use of gravel or cobble from the dune system or beach or gravel or cobble of a similar texture and color of the gravel or cobble of the dune system or beach.

E. A project that will use or place stakes, anchors or cables made from metal or other nonbiodegradable materials or fabrics, blankets or other stabilization materials made

from polylactic acid polymers is not eligible for a permit by rule but may be issued a permit under this article.

The use or placement of allowable stabilization materials within a coastal sand dune system in accordance with a permit or a permit by rule authorized by the department pursuant to this subsection is not considered a permanent structure under this article.

For the purposes of this subsection, "allowable stabilization materials" means natural, plant-based biodegradable or compostable fabrics, erosion control blankets, logs or rolls made from coir, jute, straw, polylactic acid polymers or other similar materials, including materials that contain or use gravel or cobble, discarded holiday trees, other trees fallen or washed up in proximity to the site and stakes, anchors or cables used to secure those materials. For the purposes of this subsection, "native dune vegetation" means dune plant species typically adapted to coastal sand dune systems in the State, including, but not limited to, American beach grass, Rosa virginiana, bayberry, beach pea, beach heather and pitch pine.

Sec. 2. Department of Environmental Protection; rulemaking. The Department of Environmental Protection shall initiate rulemaking, as necessary, to amend its rule Chapter 305: Natural Resources Protection Act – Permit by Rule Standards and its rule Chapter 355: Coastal Sand Dune Rules to ensure the consistency of those rules with the Maine Revised Statutes, Title 38, section 480-E, subsection 15. Notwithstanding Title 38, section 480-AA or any other provision of law to the contrary, the amendment of rule Chapters 305 and 355 by the department in accordance with this section is routine technical rulemaking as defined in Title 5, chapter 375, subchapter 2-A.