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DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

TESTIMONY OF
Rob Wood, Director of the Bureau of Land Resources
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING IN SUPPORT OF L.D. 2059

**AN ACT REGARDING PROCESSING OF APPLICATIONS UNDER THE NATURAL
RESOURCES PROTECTION ACT TO ENSURE CONSISTENCY WITH SHORELAND
ZONING LAWS**

SPONSORED BY REP. FAY

**BEFORE THE JOINT STANDING COMMITTEE
ON
ENVIRONMENT AND NATURAL RESOURCES**

DATE OF HEARING:

JANUARY 10, 2024

Senator Brenner, Representative Gramlich, and members of the Committee, I am Rob Wood, Director of the Bureau of Land Resources at the Department of Environmental Protection, speaking in support of L.D. 2059. I appreciate Rep. Fay for sponsoring this bill on the Department's behalf.

L.D. 2059 would allow the commissioner to return a Natural Resources Protection Act (NRPA) application as incomplete for processing if she finds that there is a reasonable

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likelihood that the activity would be inconsistent with the minimum Shoreland Zoning guidelines adopted by the Board, which are contained the Department's Chapter 1000 rules.

The purpose of this bill is to avoid the expenditure of Department resources on processing of applications for proposed activities that are inconsistent with Department rules and that are unlikely to be permitted at the local level. Many activities that require a NRPA permit also require municipal approval under a local Shoreland Zoning ordinance. These ordinances in turn must be approved by the commissioner based on the minimum guidelines adopted by the Board and reflected in the Department's Chapter 1000 rules.

Currently, when the Department receives a NRPA application for an activity that is inconsistent with Shoreland Zoning requirements, staff will notify the applicant and the municipality, but the Department does not have the explicit authority to return the application. As a result, Department staff may spend significant time processing an application for an activity that should not, or cannot, move forward.

Moreover, if the Department issues a NRPA permit for an activity that is inconsistent with Shoreland Zoning requirements, this can put the municipality in a difficult position. The Department is aware of past instances when applicants for municipal Shoreland Zoning permits have pointed to a Department-issued NRPA permit to make the case for local approval of an activity that is clearly not permissible at the local level. Simply put, it is harder for a code enforcement officer or planning board to deny a local permit when the activity has already been permitted by the State.

To illustrate how this bill would work if it becomes law, consider the case of a proposed building planned for a site within 75 feet of a stream in an area zoned as a Stream Protection District under the municipal Shoreland Zoning ordinance. Such an activity

L.D. 2059: An Act Regarding Processing of Applications Under the Natural Resources Protection Act to Ensure Consistency with Shoreland Zoning Laws

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Public Hearing: January 10, 2024

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could not be permitted under Shoreland Zoning. However, if the Department receives a NRPA application for this activity, staff would be required to process the application.

L.D. 2059 would allow the Department to return the application and save our staff time and resources.

This bill proposes to fix a longstanding challenge faced by the Department. While these cases do not arise often, they can create unnecessary difficulties that this bill would resolve. We appreciate the Committee's consideration.

Thank you for the opportunity to provide testimony. I am available to answer questions of the Committee, both now and at work session.