



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Mike Mullen, Division of Land Resource Regulation
DATE: October 7, 2010
RE: Post to public comment: Amendments to Chapter 305, Permit by Rule Standards, Section 16 Activities in coastal sand dunes

Statutory and Regulatory Reference: Chapter 305 Permit by Rule Standards (“PBR”) are adopted pursuant to general statutory authority at 38 M.R.S.A. Section 341-D(1) and specific authority at 38 M.R.S.A. Section 480-H. 38 M.R.S.A. §480-AA states that all rules regarding development in coastal sand dune systems are major substantive rules.

Status of process: These proposed amendments to Chapter 305 Section 16 were posted to hearing and public comment. A hearing was held on May 21, 2009. The public comment period ended 5:00 p.m. June 1, 2009. On June 18, 2009, the Board provisionally adopted the amendments.

The Legislature reviewed the amendments during the winter of 2010 and approved them in Resolve Chapter 167 (attached), which became effective on March 23, 2010. In accordance with the Administrative Procedures Act (APA), the rules needed to be brought back to the Board for final adoption within 60 days. Staff inadvertently failed to recognize the effective date of the Resolve and failed to obtain final Board approval within the APA timeframe. Therefore these rule amendments need to go through the same approval process as before.

Description: The proposed amendments include allowing several new activities in coastal sand dunes, such as open and cobble-trapping fences, and other activities in existing developed areas. Also proposed is the addition of new submission requirements and standards to ensure projects are properly performed. In addition, definitions have been added, deleted or modified to align with the definitions in the *Coastal Sand Dune Rules*, 06-096 CMR 355, which was amended in 2006.

No changes were made to the proposed rule in response to public comment or the Legislature’s review.

Department Recommendation: The department recommends that the Board post these amendments to Chapter 305 Section 16 Activities in coastal sand dunes to public comment for 30 days.

Estimated Time of Presentation: Approximately 10 minutes.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207)760-3143