



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

JAMES P. BROOKS
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Mike Mullen, Division of Land Resource Regulation
DATE: June 16, 2011
RE: Request Final Adoption: 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:

Proposed amendments to Chapter 305 Section 16 were posted to public comment on October 13, 2010. The public comment period ended 5:00 p.m. November 12, 2009. No comments were received. On December 16, 2010, the Board provisionally adopted the amendments.

The Legislature reviewed the amendments during the winter of 2011 and approved them in Resolve Chapter 27 (attached), which became effective on April 26, 2011.

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.

Several changes were made to the proposed rule as a result of the Legislature’s review, all of which relate to the cobble trapping fences. First, cobble trapping fences will not be limited to being in place only during the months between October and April: they can remain in place year round. Second, such fences will not be restricted to being placed within 15 feet of the structure to be protected. However they will be limited to only being placed landward of a seawall in a developed area. Last, definitions of “cobble” and “cobble-trapping fence” have been added to the rule to help clarify what a cobble beach is and ensure that the fences have a certain amount of openings.

Department Recommendation:

The department recommends that the Board adopt these amendments to Chapter 305 Section 16 Activities in coastal sand dunes.

Estimated Time of Presentation:

Approximately 10 minutes.