

PROPOSED REVISIONS TO THE SITE LOCATION OF DEVELOPMENT LAW

The Maine Department of Environmental Protection (MDEP) is in process of revising the Site Location of Development Law and has submitted a draft revised law to the legislature for action. According to James Cassida of the MDEP, the draft law has not been assigned an LD number yet but should be soon. He told me that the normal process is for the law to be changed and then to go through Rule making to accommodate the revised law but the DEP decided to move ahead of the curve by also providing the legislature with proposed changes to the Rules. Jim said that the regardless of the outcome of the proposed Site Law Revision, the Rules needed to be updated. Once the legislature has acted on the Site Law (including a review of the Rule changes), MDEP will undertake a formal Rule Making process for the changes to the Site Law Rules that will include a public hearing.

I believe this is an important issue, not just for you as individuals but also for MAPSS as an organization. Every member should become informed about the proposed changes to the Site Law and associated Rules because they potentially will affect all of us, personally and professionally. You can go to the Maine Department of Environmental Protection website and then click on Permits, Laws and Rules and finally click on Site Law.

Interestingly, I feel the most appropriate area for comment by members and the organization is not the Law or Rules, though there certainly are issues in both that you may want to comment on, but in the Site Law Application (which is about 85 pages long). That is because the Site Law is basically a description of when and where and under what conditions a project is required to apply for a Site Law permit with the MDEP. You may be interested to learn that the Site Law is proposing to include a new requirement for a planning component for any project which comes under its umbrella. The Rules are quite general in their discussion of soil mapping requirements; see Chapter 376 of the Site Law Rules for details. It is in the Site Law Application where specific types of development are listed along with a required class of soil survey for each type. It is my personal opinion that the level of detail being required by MDEP for many projects is not sufficient to allow for a proper evaluation of the design of the development including lot and road layout, construction and use of Best Management Practices. I have sent comments to Jim regarding my recommendations, as State Soil Scientist, for revising the application form so that sufficiently detailed soil information is provided for a proper evaluation of a project. Because of their length, they are not being included in this newsletter but can be viewed on the MAPSS website or you can get a copy by e-mailing me at david.rocque@maine.gov.

According to Jim, the application form does not need to go through any formal process in order to be revised. It can simply be revised in-house, as deemed necessary. I have requested an opportunity to sit down with him and any other MDEP staff that have an interest in the subject (I have been told I would be given the opportunity) to discuss my recommendations and would welcome a representative from MAPSS, if the organization decides to take an official position.

I expect this subject to generate some lively discussion at the MAPSS Annual Meeting on March 10, 2009 and hope to come away with an official position of the organization. Therefore, in order to have a productive but not overly lengthy discussion, you all should familiarize yourselves with the Law, Rules, Application and my comments.