

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 Legislative Document

No. 1934

6
7 H. P. 1961 House of Representatives, February 9, 1982
Filed by the Joint Standing Committee on Energy and Natural Resources under Joint Rule 18. Approved by the Legislative Council June 4, 1981.

8 Reported by Representative Michael from the Committee on Energy and Natural Resources and 1,800 ordered printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

9
10 STATE OF MAINE
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 AN ACT to Protect Freshwater Wetlands.
16

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

18 Sec. 1. 38 MRSA c. 3, Art. 1-C is enacted to read:

19 ARTICLE 1-C.

20 FRESHWATER WETLANDS

21 §406. Definition

22 For the purposes of this Article, "freshwater wetland"
23 means land areas of 10 or more contiguous acres that have
24 been designated as freshwater wetlands under section 406-A.

25 §406-A. Identification of freshwater wetlands

26 1. Study. The Commissioner of Environmental Protec-
27 tion shall conduct a study to identify freshwater wetlands
28 in the organized portion of the State. Within one year of
29 the effective date of this Article, the commissioner shall

1 publish the results of this study in the form of maps delin-
2 eating the boundaries of wetlands that meet the criteria of
3 this section. The department may use inventories of the
4 Department of Inland Fisheries and Wildlife as a guide in
5 designating freshwater wetlands.

6 2. Criteria. Freshwater wetlands shall be limited to
7 swamps, marshes, bogs or other lowlands of 10 or more con-
8 tiguous acres that are:

9 A. Predominantly characterized by aquatic plants;

10 B. Predominantly characterized by waterlogged soils,
11 such as muck, peat or marsh soils; or

12 C. Periodically inundated for an average of more than
13 2 months each year.

14 3. Assistance. The Departments of Conservation and
15 Inland Fisheries and Wildlife, and the State Planning Office
16 shall assist the department in identifying freshwater wet-
17 lands.

18 4. Procedures. The procedure for identifying
19 freshwater wetlands shall be subject to the rule-making re-
20 quirements of the Maine Administrative Procedure Act, Title
21 5, chapter 375. The department shall send proposed maps of
22 freshwater wetlands of each municipality to the municipal
23 officers at least 90 days prior to final adoption. The
24 municipal officers or their designees may review these maps
25 for accuracy and forward recommendations to the department.

26 5. Revision. The department may periodically review
27 and revise the identification of freshwater wetlands.

28 §406-B. Prohibition

29 1. Permits required. No person may conduct any of the
30 following activities in any municipality or plantation in
31 any area identified as a freshwater wetland without first
32 obtaining a permit from the department:

33 A. Dredging or excavating more than 1/4 of an acre in
34 a calendar year;

35 B. Depositing more than 10 cubic yards of material in
36 one calendar year into a freshwater wetland;

37 C. Draining or significantly altering the water table
38 of more than 1/4 acre of freshwater wetland; or

1 D. Erecting permanent structures as defined in section
2 392.

3 2. Standards. The board shall grant a permit upon
4 proper application and upon such terms as it deems necessary
5 to fulfill the purposes of this Article when it finds that a
6 proposed activity will not unreasonably:

7 A. Interfere with existing aesthetic, recreational,
8 navigational or scenic uses;

9 B. Harm the natural environs of the freshwater wetland
10 or of any stream or great pond flowing into or out of
11 the wetland;

12 C. Cause soil erosion;

13 D. Harm any aquatic or wildlife habitat;

14 E. Interfere with the natural flow of any waters; or

15 F. Lower the quality of the water.

16 3. Procedures. The department shall process all per-
17 mits under this section in accordance with chapter 2.

18 4. Coordination. The department shall adopt proce-
19 dural rules to coordinate administration of this Article
20 with other environmental permit requirements.

21 §406-C. Exemptions

22 The following activities shall be exempt from the re-
23 quirements of this Article:

24 1. Agriculture. Normal agricultural uses, such as
25 grazing, planting, harvesting and cultivation; and

26 2. Repairs. Maintenance and minor repair causing no
27 additional intrusion of an existing structure into a
28 freshwater wetland.

29 §406-D. Municipal authority

30 This article shall not be construed as limiting the
31 authority of any municipality to enact ordinances for the
32 protection of freshwater wetlands, provided that these ordi-
33 nances are not less stringent than or inconsistent with the
34 provisions of this Article.

