

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 517

H.P. 386

House of Representatives, March 1, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MELENDY of Rockland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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An Act to Clarify the Natural Resources Law.

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

3 38 MRSA §480-D, sub-§3, as enacted by PL 1987, c. 809, §2,  
5 is amended to read:

7 3. Harm to habitats; fisheries. The activity will not  
9 unreasonably harm any significant wildlife habitat, freshwater  
wetland plant habitat, aquatic habitat, travel corridor,  
freshwater, estuarine or marine fisheries or other aquatic life.

11 For the purposes of this article, a proposed activity will be  
13 found not to unreasonably harm aquatic habitat, marine fisheries  
15 or other aquatic life when the area in the immediate vicinity of  
17 the proposed activity has been permanently closed to the  
19 harvesting of clams, quahogs, oysters, mussels or other marine  
mollusks, for a period of at least one year prior to the date of  
application, due to the presence of a municipal sewerage  
treatment discharge.

21 In determining whether there is unreasonable harm to significant  
23 wildlife habitat, the board may consider proposed mitigation if  
25 that mitigation does not diminish in the vicinity of the proposed  
27 activity the overall value of significant wildlife habitat and  
species utilization of the habitat and if there is no specific  
biological or physical feature unique to the habitat that would  
be adversely affected by the proposed activity. For purposes of  
this subsection, "mitigation" means any action taken or not taken  
to avoid, minimize, rectify, reduce, eliminate or compensate for  
any actual or potential adverse impact on the significant  
wildlife habitat, including the following:

31 A. Avoiding an impact altogether by not taking a certain  
33 action or parts of an action;

35 B. Minimizing an impact by limiting the magnitude, duration  
37 or location of an activity or by controlling the timing of  
an activity;

39 C. Rectifying an impact by repairing, rehabilitating or  
41 restoring the affected environment;

43 D. Reducing or eliminating an impact over time through  
45 preservation and maintenance operations during the life of  
the project; or

47 E. Compensating for an impact by replacing the affected  
49 significant wildlife habitat.

