

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1160

H.P. 803

House of Representatives, March 8, 2005

An Act To Increase Wetland Protection

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KOFFMAN of Bar Harbor.
Cosponsored by Senator DAMON of Hancock and
Representatives: DAVIS of Falmouth, EBERLE of South Portland, PERCY of Phippsburg,
PIOTTI of Unity, SAMPSON of Auburn, THOMPSON of China, WATSON of Bath, Senator:
COWGER of Kennebec.

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

2
4 **Sec. 1. 38 MRSA §480-X, sub-§2**, as amended by PL 2003, c. 554,
§1, is further amended to read:

6 **2. Three-tiered review process; tiers defined.** Except as
provided in subsection 1, an application for a permit to
8 undertake activities altering freshwater wetlands must be
reviewed in accordance with the following.

10 A. A Tier 1 review process applies to any activity that
12 involves a freshwater wetland alteration up to 15,000 square
feet and does not involve the alteration of freshwater
14 wetlands listed in subsection 4.

16 B. A Tier 2 review process applies to any activity that
involves a freshwater wetland alteration of 15,000 square
18 feet up to one acre and does not involve the alteration of
freshwater wetlands listed in subsection 4 or 5.

20 C. A Tier 3 review process applies to any activity that
22 involves a freshwater wetland alteration of one acre or more
or an alteration of a freshwater wetland listed in
24 subsection 4 or 5.

26 If the project as a whole requires Tier 2 or Tier 3 review, then
any activity that is part of the overall project and involves a
28 regulated freshwater wetland alteration also requires the same
higher level of review, unless otherwise authorized by the
30 department.

32 In determining the amount of freshwater wetland to be altered,
all components of a project, including all phases of a
34 multiphased project, are treated together as constituting one
single and complete project. Activity authorized or legally
36 conducted prior to the effective date of this section is not
included.

38 ~~The standards of section 480-D do not apply to projects that~~
40 ~~qualify for Tier 1 review, except that water quality standards~~
~~under section 480-D, subsection 5 apply to these projects.~~
42 Projects that meet the eligibility requirements for Tier 1 review
and that satisfy the permitting requirements set forth in
44 subsection subsections 3 and 6, as applicable, are presumed not
to have significant environmental impact.

46 **Sec. 2. 38 MRSA §480-X, sub-§3, ¶¶C and D**, as enacted by PL
48 2003, c. 554, §1, are amended to read:

2 C. An applicant for Tier 1 review shall meet the following requirements.

4 (1) Erosion control measures must be used to prevent
6 sedimentation of protected natural resources. A
8 25-foot buffer strip must be maintained between the
10 activity and any river, stream or brook.

12 ~~(2)---The---activity---must---comply---with---applicable---water
14 quality---standards---pursuant---to---section---480-D,---subsection
16 5.~~

18 D. An applicant for Tier 1, Tier 2 or Tier 3 review shall
20 comply with the standards contained in section 480-D. In
22 evaluating a Tier 1 application for compliance with the
24 standards contained in section 480-D, the department shall
26 take into consideration impacts to the freshwater wetland
28 from other regulated activities that occurred during the
30 prior year.

32 **Sec. 3. 38 MRS §480-X, sub-§6, ¶B**, as amended by PL 1999, c.
34 243, §13, is further amended to read:

36 B. Work may not occur until ~~30~~ 60 days after the department
38 receives a complete application, unless written approval is
40 issued sooner by the department. The department shall
42 notify the applicant in writing no later than 30 days after
44 the department receives a complete application if the
46 applicable requirements of this section have not been met or
48 if the review period may be extended pursuant to section
50 344-B, subsection 4. If the department has not notified the
applicant within the ~~30-day~~ 60-day review period, a permit
is deemed to be granted.

Sec. 4. Freshwater wetlands compensation proposal; report. The
Department of Environmental Protection shall work with the
Executive Department, State Planning Office and other interested
parties to develop a proposal for a freshwater wetland
compensation program for freshwater wetlands that require a Tier
1 review process, to review the wetlands exemptions contained in
the Maine Revised Statutes, Title 38, chapter 3, subchapter 1,
Article 5-A and to recommend changes to ensure adequate
protection of regulated wetlands. The Department of
Environmental Protection shall report to the Joint Standing
Committee on Natural Resources on its proposal and
recommendations by January 1, 2006 and submit proposed
legislation to implement the recommendations. The Joint Standing
Committee on Natural Resources is authorized to report out
legislation regarding the department's report to the Second
Regular Session of the 122nd Legislature.

2

SUMMARY

4

6 This bill applies all standards of the natural resources
7 protection laws to Tier 1 wetlands. It requires the Department
8 of Environmental Protection, in Tier 1 wetland review, to
9 consider impacts to the wetland from other regulated activities
10 that occurred during the prior year. It extends the time the
11 department has to review Tier 1 applications from 30 days to 60
12 days. It directs the Department of Environmental Protection to
13 work with the Executive Department, State Planning Office and
14 other interested parties to develop a Tier 1 wetlands
15 compensation program, to review and recommend changes to the
16 wetlands exemptions and to report to the Joint Standing Committee
on Natural Resources by January 1, 2006.