

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

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

30-A MRSA §3408, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

§3408. Crossing railroad right-of-way

Whenever a public drain or sewer is located and about to be constructed across or under the right-of-way of any railroad, the Public Utilities Commission shall determine the place, manner and conditions of the crossing, using current engineering standards and practices, upon petition of either party and after notice and hearing, unless the municipal officers or committee of the municipality ~~which~~ that located the drain or sewer agrees with the corporation operating the railroad as to the place, manner and conditions of the crossing. All the work within the limits of the railroad location ~~shall~~ must be done under the supervision of the officers of the corporation operating the railroad and to the satisfaction of the commission. The municipality in which the drain or sewer is located shall bear the expense of the work. Any additional expense in the construction of that part of the sewer or drain within the limits of the railroad's right-of-way caused by the commission's determination ~~shall~~ must be borne by the railroad company or by the municipality in which the drain or sewer is located, or ~~shall be~~ apportioned between the company and the municipality as the commission determines. The commission shall make a report of their decision in the same manner as in the case of highways located across railroads and subject to the same right of appeal.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 10, 1990.

CHAPTER 814

S.P. 894 - L.D. 2276

An Act to Amend the Natural Resources Protection Act

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the current review process for Department of Transportation permits under the natural resources protection laws is lengthy and duplicative; and

Whereas, limited funds and resources can be used more efficiently to serve the public interest; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the

Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §480-B, sub-§8-A is enacted to read:

8-A. Transportation reconstruction or replacement project. "Transportation reconstruction or replacement project" means the improvement of an existing transportation facility to modern design standards without expanding its function or creating any additional roadways, facilities or structures. These projects are limited to:

A. Highway or bridge alignment changes not exceeding a distance of 200 feet between the old and new center lines in any protected natural resource;

B. Replacement or rehabilitation of the roadway base, pavement and drainage;

C. Replacement or rehabilitation of bridges or piers;

D. The addition of climbing lanes, and turning lanes of less than 1,000 feet in length in a protected natural resource; and

E. Rehabilitation or repair of state-owned railroads.

Sec. 2. 38 MRSA §480-H, as enacted by PL 1987, c. 809, §2, is amended to read:

§480-H. Rules; performance and use standards

In fulfilling its responsibilities to adopt rules pursuant to section 343-A, the board shall, to the extent practicable, adopt performance and use standards for activities regulated by this article. These standards, at a minimum, must include:

1. Department of Transportation projects. By February 15, 1991, requirements for projects that are under the direction and supervision of the Department of Transportation that do not affect coastal wetlands or coastal sand dune systems and that involve only maintenance or repair of public transportation facilities or structures, or transportation reconstruction or replacement projects.

A. The Department of Transportation shall meet the following conditions for any project undertaken pursuant to this subsection after February 15, 1991.

(1) All projects must be performed in a manner consistent with this article and in compliance with rules adopted by the board.

(2) The project may not unreasonably harm the protected natural resources covered by this article.

(3) The Department of Transportation and its contractors use erosion control measures to prevent sedimentation of any surface waters.

(4) The project may not block any fish passage in any watercourse.

(5) The project may not result in any excessive intrusion of the project into the protected natural resources.

B. Those activities that are exempt from permitting requirements under section 480-Q are not subject to this subsection.

C. The Department of Transportation must notify the commissioner before construction activities begin if the provisions of this subsection are utilized.

Sec. 3. 38 MRSA §480-T is enacted to read:

§480-T. Transportation improvements

Prior to February 15, 1991, an individual permit is not required by this article for maintenance or repair of public transportation facilities or structures, or transportation reconstruction or replacement projects that are under the direction and supervision of the Department of Transportation that do not affect a coastal wetland or coastal sand dune system.

1. Requirements. The commissioner and the Commissioner of Transportation shall enter into a memorandum of understanding for projects to be undertaken in accordance with this section. In addition, the Department of Transportation shall meet the following conditions for any project undertaken pursuant to this section.

A. All projects must be performed in a manner consistent with this article and in compliance with rules adopted by the board.

B. The project may not unreasonably harm the protected natural resources covered by this article.

C. The Department of Transportation and their contractors use erosion control measures to prevent sedimentation of any surface waters.

D. The project may not block any fish passage in any watercourse.

E. The project may not result in any excessive intrusion of the project into the protected natural resources.

2. Exempt activities. Those activities that are exempt from permitting requirements under section 480-Q are not subject to this section.

3. Notification. The Department of Transportation must notify the department prior to beginning the construction of any projects undertaken that meet the requirements of this section.

4. Repeal. This section is repealed on February 15, 1991, except that reconstruction or replacement projects that have been advertised prior to that date continue to be subject to this section.

Sec. 4. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1989-90

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Land Quality Control

All Other \$3,000

Provides funds for printing, postage, transcription services, room rental and other related rule-making expenses. These funds may not lapse but must be carried forward to June 30, 1991.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 10, 1990.

CHAPTER 815

H.P. 1651 - L.D. 2284

**An Act to Provide for Forfeiture of Weapons
Used in Crimes Against Persons**

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

17-A MRSA §1158, as enacted by PL 1989, c. 382, is amended to read:

§1158. Forfeiture of firearms

As part of every judgment of conviction and sentence imposed, every firearm used by the defendant or any accomplice during the commission of any murder or Class A, Class B or Class C crime ~~shall~~ or any Class D crime defined in chapter 9, 11 or 13 must be forfeited to