

Land and Water Resources Council

1997 Annual Report to the Governor and the Maine Legislature



<u>APPENDIX B</u>

Report on the Permit by Rule Program under the Natural Resources Protection Act

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Executive Summary

The Legislature directed the Land and Water Resources Council (the "Council") to evaluate the Permit by Rule program under the Natural Resources Protection Act. The Council directed SPO to coordinate a review committee which made the findings below based on an opinion survey and field inspections of permits issued in 1996.

1. Most activities that have been designated eligible for permit by rule are appropriate for the permit-by-rule process, but some changes should be made.

2. The compliance rate for activities permitted under this rule varies among the types of activities. DEP should strive to achieve a ninety percent compliance rate for all activities permitted under this rule.

3. The Permit by Rule provides the Department of Environmental Protection with sufficient information to evaluate projects, but some improvements should be made.

4. There is a satisfactory process for appeal when a permit by rule is approved, but it is not widely understood.

5. The standards are adequate to ensure no significant impact upon the environment when projects are in compliance with the standards.

Based on the consensus of the Committee, the Council makes the following recommendations to improve the Permit-by-Rule program:

1. Require a full NRPA permit for removal of sand from in front of seawalls.

2. Require a full NRPA permit for replacement of tidal flood gates.

3. Require a full NRPA permit for construction of more than one pier per lot, including existing piers, in coastal waters.

4. Investigate the higher occurrence of environmental impacts of utility crossings, stream crossings and restoration of natural areas.

5. Provide notice of PBR applications to municipalities.

6. Add a standard to the utility crossings and stream crossing permits to require timing of the project to allow fish passage.

7. Create a fact sheet that explains how to get DIFW or DMR review.

8. Improve illustrations and diagrams that show how to comply with the standards.

9. Provide training workshops for contractors on compliance with permit by rule standards through the NPS Training Center.

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Purpose of the Report

The Legislature directed the Land and Water Resources Council (the "Council") to evaluate the Permit by Rule program under the Natural Resources Protection Act administered by the Department of Environmental Protection (See Appendix A: 1997 Resolves, Chapter 41). The resolve required the Council to consider five issues:

1. Whether all of the activities that have been designated eligible for permit by rule are appropriate for the permit-by-rule process in light of the requirement to protect the natural resources in, on or adjacent to which the activities are located;

2. Whether there are adequate checks to ensure compliance with the permit standards.

3. Whether permit by rule provides the Department of Environmental Protection with sufficient information to evaluate projects.

4. Whether there is a satisfactory process for appeal when a permit by rule is approved.

5. Whether the standards are adequate to ensure no significant impact upon the environment when projects are in compliance with the standards.

As directed by the Council, SPO coordinated a review committee (the "Committee") consisting of state agencies, municipal code enforcement officers, environmental interest groups and development interest groups (members of the committee are listed in Appendix B). This report contains the findings and recommendations of the Land and Water Resources Council that were developed by the Committee.

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Overview of the Permit by Rule Program

The Permit by Rule standards are authorized by the Natural Resources Protection Act (38 MRSA § 344). This rule was originally adopted by the Board of Environmental Protection in 1989 to create a streamlined permitting process for certain activities that are considered to have insignificant impacts on protected natural resources. The rule has undergone a number of changes and it now lists sixteen activities that can be permitted through this process. Each activity has a set of standards that must be met. A copy of the rule is attached as Appendix C.

If an activity qualifies for permit by rule, the permitting process begins by submitting a notification form to DEP. The notification must include a site map and photographs of the site. By signing the form, the applicant promises to comply with the standards listed in the rule. DEP has fourteen working days to review the submission to determine whether the activity qualifies for a permit by rule. If DEP does not contact the applicant to obtain more information or denies permission under the rule within this time period, the permit is granted by the rule (06-096 CMR Ch. 305(1)(C)). Any decision by the DEP under this rule may be appealed to the Board of Environmental Protection or the Superior Court (06-096 CMR Ch. 2(21)).

DEP conducts field inspections to ensure compliance with the standards in the rule. When the project is completed, the applicant is required by the rule to submit photographs of the finished site to DEP as well.

Review Process

The Council approved a work plan developed by the Committee which consisted of two major elements: a written opinion survey of persons who are familiar with the program; and a field survey of permits issued in 1996.

Opinion Survey

SPO sent a written survey to ninety people who were recommended by the Committee. SPO received twenty two responses from the mailing. The respondents included a number of municipal code enforcement officers; state agencies; the federal Natural Resources Conservation Service; conservation commissions; environmental organizations -- Maine Audubon Society and the Chewonki Foundation; business groups -- Associated Constructors of Maine and the Maine Real Estate Developers Association; an environmental attorney; and one legislator (a copy of the survey and a summary of the answers is provided in attached as Appendix D). This survey was used to help the Committee answer the first four questions posed by the Legislative Resolve, and these Findings are explained below.

Field Inspections

The Committee directed DEP to conduct field surveys of a random sample of 1996 permits. The survey was conducted with a maximum margin of error of 10% and a 95% degree of accuracy. The Committee recommended the DEP not inspect the following activities because they are infrequent and/or have the least environmental impact: intake pipes; maintenance or repair of structures; movement of rocks or vegetation by hand; public boat ramps; and permit transfers. Nevertheless, DEP conducted some inspections of these activities as well.

SPO provided DEP with a random sample of the permits that was stratified by DEP region. DEP put each site inspected into one of four categories: (1) standards met and no adverse environmental impact; (2) standards met and adverse environmental impact exists; (3) standards not met and no adverse environmental impact; and (4) standards not met and adverse environmental impact exists. The results of these inspections are provided in Appendix E and are described in more detail in the Findings section below.

Recommendations

After reviewing the information from the Opinion Survey and the Field Inspections, the Committee discussed all the suggestions made by respondents to the survey and by members of the Committee. While many ideas were considered, not all garnered broad support in the Committee. The Recommendations which follow were reached by a consensus of the committee.

Findings

Based on the information gathered through the Opinion Survey and the Field inspections, as well as the knowledge and experience of the Committee, the Council makes the following findings with respect to the questions posed in the Legislative Resolve.

1. Most activities that have been designated eligible for permit by rule are appropriate for the permit-by-rule process, but some changes should be made.

Many people responded to the survey that the current activities are appropriate. The common response was that activities in this program should only be those that are routinely permitted with standard conditions and do not significantly affect the environment. Some suggestions for changes to the program were also made by the respondents and were considered by the Committee.

The Committee found that a couple of activities should require a full NRPA permit rather than permit by rule. Specifically, movement of sand from sea walls should require further review because it can have significant impacts on endangered birds. Replacement of a tidal flood gate should also require more analysis because it can have significant impacts on tidal salt marshes which are highly valued under NRPA. Moreover, the Committee endorses the idea of limiting the number of piers that can be built in coastal waters to control the cumulative impacts of these structures on the environment and on navigation.

The Committee discussed whether to require full permits for some activities that occur within designated essential habitat for endangered species in order to allow broader public participation in these decisions. The current rule requires the applicant to obtain written approval from the Dept. of Inland Fisheries and Wildlife for activities located in essential habitat of endangered species (06-096 CMR Ch. 305(1)(A). The DIFW reviews these activities according to guidelines and standards that they have adopted through a public rulemaking process. The Committee did not reach consensus on requiring a full NRPA permit for these activities because the DIFW already allows public participation in developing the standards that apply to these activities.

The Dept. of Marine Resources also raised a concern about the navigation impacts of floating wharves and their access ramps. These activities are exempt from regulation under the NRPA if they are in the water less than seven months of the year. However, floats over a certain size are regulated by the Bureau of Parks and Lands under the submerged land leasing program. The Committee did not address this jurisdictional issue because it was considered beyond the scope of the review under this Legislative Resolve.

2. The compliance rate for activities permitted under this rule varies among the types of activities. DEP should strive to achieve a ninety percent compliance rate for all activities permitted under this rule.

All respondents to the survey stated that at least 90% of the activities permitted under the rule should be in compliance with the standards in the rule. The DEP field inspections found that some types of activities permitted under the rule are below this compliance rate, and a few are significantly below this rate (the compliance rate for each activity authorized under a permit by rule is provided in Appendix E). Overall, 82% of the permitted activities were in compliance with the standards and without an adverse affect on the environment. The activities that have the *highest* compliance rates and without adverse environmental impacts are: Outfall Pipes (90%); Fish and Wildlife Habitat Creation (100%); Piers, Wharves and Pilings (93%); Sand Dune Projects (96%); and Maintenance Dredging (100%). The activities with the *lowest* compliance rates are: Intake Pipes (61%); Movement of Rocks and Vegetation by Hand (70%); Stream Crossings (70%); and Restoration of Natural Areas (70%).

Notably, the field inspections also found that Utility Crossings, Stream Crossings and Restoration of Natural Areas had relatively higher occurrences of environmental impacts when the standards were not followed.

Many respondents, and members of the Committee as well, suggested that DEP could improve compliance with more unannounced site visits, and working more closely with municipal officials on site inspections. The DEP would require more field staff to conduct more inspections. However, DEP can prioritize their inspections based on the compliance rates. It can also provide more notice of applications under this rule to municipal officials and work more closely with them on inspections.

3. The Permit by Rule provides the Department of Environmental Protection with sufficient information to evaluate projects, but some improvements should be made.

Most respondents believe the information required by the rule is adequate. Further, almost all respondents believe the information requirements are not burdensome. Most respondents believe that the guidance provided by the DEP for the PBR is generally adequate as well. Some suggestions were made by respondents and members of the Committee to improve the information provided by the applicant and by the DEP, and the ideas that gained the consensus of the Committee are in the Recommendations section below.

4. There is a satisfactory process for appeal when a permit by rule is approved, but it is not widely understood.

Most respondents are unaware of the public participation opportunities and the appeal process. Some suggested that more notice of the applications should be provided to municipalities, abutting landowners and the public in general. Further public notice was not

supported by a consensus of the Committee because there is already an opportunity for the public to participate in the rulemaking process, and adding further notice requirements would delay the permitting process which would defeat the purpose of the permit by rule program. Nevertheless, the Committee agreed that municipalities should be given more notice in order to improve awareness of the permitting process and improve compliance with the standards.

5. The standards are adequate to ensure no significant impact upon the environment when projects are in compliance with the standards.

The opinion survey found that people generally consider the standards to be adequate to ensure no significant impact upon the environment when projects are in compliance with the standards.

The DEP field inspections found less than 2% of all the inspected sites had some environmental impacts when the standards were followed. The permitted activities that had the highest occurrences of environmental impacts were State Transportation Facilities (2.78%) and Stream Crossings (2.47%). The Committee did not believe that these percentages were high enough to warrant further action, however.

Recommendations

Based on the consensus of the Committee, the Council makes the following recommendations to improve the Permit-By-Rule program.

1. Require a full NRPA permit for removal of sand from in front of seawalls.

The current rule allows movement of sand and cobble from the front of buried seawalls using machinery, according to standards in the rule (06-096 CMR Ch. 305(15)(A)(1)(e)). Concerns were raised in the Committee that this activity can harm endangered birds such as piping plovers and least terns. These impacts will not get appropriate attention through the permit by rule process, especially if they occur outside the designated essential habitat. The Council therefore recommends that DEP amend the rule by deleting this activity from the rule.

2. Require a full NRPA permit for replacement of tidal flood gates.

The current rule allows replacement of flood gates in tidal streams (06-096 CMR Ch. 305(4)(A)). Concerns were raised in the Committee that these repairs can have significant impacts on the hydrology and the plant communities adjacent to the structure, especially salt marshes which are highly valued under the NRPA. These impacts require greater analysis than is possible in the permit-by-rule process. The Council therefore recommends that DEP amend the rule by deleting this activity from the rule.

3. Require a full NRPA permit for construction of more than one pier per lot, including existing piers, in coastal waters.

The current rule does not place any restriction on the number of piers that may be built. Concerns were raised in the Committee that a proliferation of piers will cause significant harm to marine ecosystems and impede navigation. The Council therefore recommends that DEP amend the rule by requiring a full permit for construction of more than one pier per lot in coastal waters.

4. Investigate the higher occurrence of environmental impacts by utility crossings, stream crossings and restoration of natural areas.

The field inspections found that Utility Crossings, Stream Crossings and Restoration of Natural Areas had a relatively higher occurrence of environmental impacts. This may be improved by amending the standards or improving enforcement. The Council therefore recommends that DEP investigate these activities to either make the necessary rule changes or to remove these activities from the rule if environmental impacts cannot be addressed through this rule. DEP should report their findings to the Land and Water Resources Council by January 31, 1999.

5. Provide notice of PBR applications to municipalities.

The Committee found that not all municipal officials are well aware of the permits issued for activities in their towns. Notifying municipal code enforcement officers could improve their awareness of the activities in their towns and improve enforcement of the standards in the rule. The Council therefore recommends that DEP add a page to the notification form that the applicant must send to the municipal code enforcement officer when the form is submitted to DEP.

6. Add a standard to the utility crossings and stream crossing permits to require timing of the project to allow fish passage.

The current rule does not require construction of utility crossings and stream crossings to occur at any particular time of year. Concerns have been raised that such activities can impede fish passage when conducted during certain times of the year, especially for anadromous fish. The Council therefore recommends that DEP add a standard to both these permitted activities that requires timing of the project to fall within guidelines provided by DIFW, DMR and/or ASA. In addition, the standard should allow the applicant to obtain written permission from the appropriate state agency if the activity will not meet the timing standard.

7. Create a fact sheet that explains how to get DIFW or DMR review.

The current rule requires an applicant to obtain review and permission from DIFW and DMR for certain activities that will impact essential or significant wildlife habitat. The Committee found that there is little information in the rule or otherwise to guide an applicant in seeking this review. The Council therefore recommends that DEP publish a fact sheets that describes where and how to obtain review and permission from the DIFW and DMR when required. If DEP finds that applicants are not consulting with these agencies, they should consider contacting the DIFW and DMR themselves to ensure that this review occurs.

8. Improve illustrations and diagrams that show how to comply with the standards.

The permit by rule program is intended to be understood by the average person without professional training. Yet some of the standards require procedures and structural designs that may by confusing to the average person. The Committee found that the standards could be better understood with diagrams, photographs or illustrations that show how a project should be conducted according to the standards. The Council therefore recommends that DEP publish materials that illustrate how to meet the standards which require certain technical procedures or structural designs.

9. Provide training workshops for contractors on compliance with permit by rule standards through the NPS Training Center.

Through the Opinion Survey, the Committee found that professionals who conduct the activities need better understanding of how the standards in the rule should be met. DEP has been using its Nonpoint Source Training Center to provide more training for a variety of people on a number of topics. The Council therefore recommends that DEP provide training to professional contractors that is aimed at compliance with the permit by rule standards.

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Appendices

Appendix A

Legislative Resolve

APPROVED

MAY 27'97

CHAPTER

35

BY GOVERNOR

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-SEVEN

S.P. 396 - L.D. 1293

Resolve, to Evaluate Permit by Rule and Compliance with the Natural Resources Protection Laws

Sec. 1. Land and Water Resources Council evaluation of permit by rule. Resolved: That the Land and Water Resources Council, in consultation with the Department of Environmental Protection, shall evaluate the Board of Environmental Protection's rules relating to permit-by-rule requirements for activities regulated pursuant to the Maine Revised Statutes, Title 38, chapter 3, subchapter I, Article 5-A. In its evaluation, the Land and Water Resources Council shall consider the following issues:

1. Whether all of the activities that have been designated eligible for permit by rule are appropriate for the permit-by-rule process in light of the requirement to protect the natural resources in, on or adjacent to which the activities are located;

2. Whether there are adequate checks to `ensure compliance with the permit standards;

3. Whether permit by rule provides the Department of Environmental Protection with sufficient information to evaluate projects;

4. Whether there is a satisfactory process for appeal when a permit by rule is approved; and

5. Whether the standards are adequate to ensure no significant impact upon the environment when projects are in compliance with the standards; and be it further

Sec. 2. Report. Resolved: That the Land and Water Resources Council shall report its findings and recommended changes to the permit-by-rule program to the joint standing committee of the Legislature having jurisdiction over natural resources matters by February 1, 1998.

Sec. 2. Report. Resolved: That the Land and Water Resources Council shall report its findings and recommended changes to the permit-by-rule program to the joint standing committee of the Legislature having jurisdiction over natural resources matters by February 1, 1998.

Appendix B

Review Committee

Bill Ferdinand State Planning Office

Jeff Madore and Mike Mullen Dept. of Environmental Protection Bureau of Land and Water Quality

Bob Marvinney Dept. of Conservation Maine Geological Survey

Brian Swan Dept. of Marine Resources

Steve Timpano Dept. of Inland Fisheries and Wildlife

Duane Scott, Scott Rollins and Bob Ballew Dept. of Transportation Environmental Services

Rep. Scott Cowger (D-Hallowell) Joint Standing Committee on Natural Resources John Butts Assoc. Constructors of Maine

Jennifer Cost Maine Audubon Society

Chris Hall Maine Chamber and Business Alliance

Alexander Bruce MEREDA

Jeff Nims Town of Camden

Rodney Smith Town of Oxford

Roger Timmons Town of Windham

Mike Crawford EER, Inc.

Appendix C

Natural Resources Protection Act Permit by Rule Standards (06-096 CMR Ch. 305)

STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL RESOURCES PROTECTION ACT

Permit By Rule Standards

Chapter 305



Bureau of Land and Water Quality No. DEPLW12-A97

Effective: February 1989 Revised: May 1997

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Chapter 305:

PERMIT BY RULE

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Chapter 305: PERMIT BY RULE

1. Introduction. A "permit by rule" or "PBR" is an approval for a type of activity described in this chapter. A PBR activity will not significantly affect the environment if carried out in accordance with this chapter, and generally has less of an impact on the environment than an activity requiring an individual permit. A permit by rule satisfies the Natural Resources Protection Act (NRPA) permit requirement and Water Quality Certification requirement.

If a proposed activity is not described in this chapter, or will not be conducted in accordance with the standards of this chapter, the applicant must obtain an individual permit prior to beginning the activity.

- A. Location of project. The location of a project may affect whether a permit by rule or individual permit is required, and whether review by the Department of Inland Fisheries and Wildlife is required.
 - (1) Type of resource. For some types of projects, the availability of a permit by rule is affected by the type of resource in or adjacent to which the project is proposed. For example, an applicant proposing a project consisting of "Movement of Rocks or Vegetation" may receive a permitby-rule only if the project will take place in a great pond, river, stream or brook. Limitations concerning the location of activities are addressed in the "Applicability" provision in each section of this chapter.
 - (2) Essential habitat. If the project is located in essential habitat, such as near an eagle nesting site, a PBR is only available if the applicant obtains written approval from the Department of Inland Fisheries and Wildlife (IF&W). This approval from IF&W must be submitted to the department with the PBR notification form, and the applicant must follow any conditions stated in the IF&W approval.
 - NOTE: Maps showing areas of essential habitat are available from the Department of Inland Fisheries & Wildlife regional headquarters, municipal offices, and the Land Use Regulation Commission (for townships) and at DEP regional offices. If the project is located in essential habitat, contact IF&W to request a "certification of review and approval".
- **B.** Notification. The applicant must file notice of the project with the department prior to beginning work on the project. The notification must be on a form provided by the department and include any required submissions. The form includes several duplicate copies. The applicant must keep the bottom one to serve as the permit.

The notification form must be sent to the department by certified mail (return receipt requested), or hand delivered to the department and date stamped by the department.

C. Effective period

(1) Beginning of period. The PBR becomes effective 14 calendar days after the department receives the notification form, unless the department approves or denies the permit by rule prior to that date. If the department does not speak with or write to the applicant within the 14 day period, concerning project eligibility or other issues, the applicant may proceed to carry out the activity. Projects under Section 10 (Stream Crossings) occurring in association with forest management activities are exempt from the 14 day waiting period.

- (2) End of period. The PBR is generally effective for 2 years from the date of approval, except that a PBR for "Replacement of Structures" under Section 4 is effective for 3 years.
- NOTE: Projects which qualify under this chapter may need to meet other local, state and federal requirements. Examples -- (1) If a project extends below the low water line of a lake, coastal wetland or international boundary water, the applicant should contact the Bureau of Public Lands (287-3061) concerning possible lease or easement requirements, or (2) If a project will involve work below the mean high water line in navigable waters of the United States, the applicant should contact the Army Corps of Engineers at 623-8367.
- **D.** Violations. A violation occurs when a person or his or her agent performs or causes to be performed any activity subject to the NRPA without first obtaining a permit from the department, or acts contrary to the provisions of a permit. The person or his or her agent, or both, may be held responsible for the violation. Commonly, the "person" is the landowner, and the "agent" is the contractor carrying out the activity. A violation occurs when:
 - (1) An activity occurs that is not allowed under PBR, whether or not a PBR notification form has been filed with the department;
 - (2) An activity occurs that is allowed under PBR, but a PBR for the activity has not become effective prior to the beginning of the activity; or
 - (3) An activity occurs that is allowed under PBR and a PBR for the activity is in effect, but the standards specified in this chapter are not met.

See the "applicability" provision under each activity, for rules concerning what activities are allowed under PBR. A PBR is only valid for the person listed on the Notification form, or for his or her agent.

Each day that a violation occurs is considered a separate offense. Violations are subject to criminal penalties and civil penalties of not less than \$100 nor more than \$10,000 for each day of that violation (Title 38 Section 349).

NOTE: A local Code Enforcement Officer (CEO) may take enforcement action for a violation of the Natural Resources Protection Act if he or she is authorized to represent a municipality in District Court, and he or she has been certified as familiar with court procedures, Title 30-A Section 4452(7).

2. Soil Disturbance

A. Applicability

- (1) This section applies to work involving soil disturbance and/or fill placement adjacent to, but not in, a coastal wetland, freshwater wetland, great pond, river, stream or brook.
- NOTE: The Natural Resources Protection Act ("NRPA") regulates activities adjacent to the protected natural resources only if operated in such a manner that material or soil may be washed into them. If existing barriers (i.e. ice berms, retaining walls) or site conditions (i.e. negative slope) are such that material or soil could not wash into the resource, then the activity is not regulated under the NRPA. Silt fence and hay bale barriers do not change the law's applicability to an activity.
- (2) This section does not apply to activities where sustained slopes exceed 20% between the normal high water line or upland edge and the soil disturbance.
- (3) Activities which qualify for Permit by Rule under another section are not required to comply with this section.

B. Standards

- (1) Applicants are required to submit photographs of the area in which this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) A 25 foot setback shall be maintained between the normal high water line or upland edge of the protected natural resource and the activity. Existing vegetation within the setback zone may not be disturbed.
- (4) These setback requirements do not apply to:
 - (a) planting vegetation for the purpose of controlling erosion;
 - (b) removal of underground storage tanks when performed in accordance with Title 38 Section 466-A as administered by the Bureau of Hazardous Material and Solid Waste Control;
 - (c) the placement and or replacement of foundations and supports for legally existing structures and additions that are not closer to a protected natural resource than the existing structure; or
 - (d) the closure of landfills in conformance with the Solid Waste Management Regulations.

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- (5) Erosion of soil or fill material from disturbed areas into the 25 foot buffer and the resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.
- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.
- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a water body or wetland.
 - (2) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
 - (3) Floodway. The channel of a river, stream or brook and the adjacent land area which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.
 - NOTE: Where not delineated on Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, the floodway is determined as the channel plus one-half the floodplain as measured from the normal high water mark to the upland limit of the floodplain. Maps are available for inspection at municipal and DEP offices.
 - (4) Land Adjacent to a Coastal Wetland, Freshwater Wetland, Great Pond, River, Stream or Brook. Any land area within 100 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland.
 - (5) Structure. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. Examples of structures include buildings, utility lines and roads.
 - (6) Upland Edge. The boundary between upland and wetland.

MISC. NOTES:

- (1) Section 480-Q(15-A) of the NRPA exempts the installation, removal or repair of a septic system from permitting requirements as of March 1, 1995, as long as the system complies with all requirements of the subsurface wastewaster disposal rules adopted by the Department of Human Services under Title 22, Section 42, subsection 3.
- (2) The placement of wastewater treatment facilities or disposal systems by people in possession of an overboard discharge license or conditional discharge permit is exempt from the NRPA, subject to certain conditions (see Chapter 596 of Department Regulations "Overboard Discharges: Licensing, Relicensing, Transfer and Abandonment of Licenses")

3. Intake Pipes & Water Monitoring Devices

A. Applicability

- (1) This section applies to the installation and maintenance of permanent water intake pipes which will not significantly affect the water level or flow of waters within coastal wetlands, freshwater wetlands, great ponds, rivers, streams and brooks. This section also applies to the installation of drilled wells in and adjacent to freshwater wetlands and adjacent to great ponds, coastal wetlands, rivers, streams or brooks. Allowed uses of water for the purposes of this section include water supplies for single family residences and dry hydrants.
- (2) This section also applies to the installation and maintenance of permanent devices used to monitor water elevations, flow or quality including gauging stations, staff gauges, tide gauges, water recording devices, water quality testing and improvement devices and other similar scientific equipment within coastal wetlands, freshwater wetlands, great ponds, rivers, streams and brooks.
- NOTE: In a great pond, the placement of water lines to serve a single-family house or the installation of cables for utilities, such as telephone and power cables, is exempt from permit requirements under Title 38 Section 480-Q provided that the:

Excavated trench for access to the water is backfilled and riprapped to prevent (a) erosion;

(b) Excavated trench on the landward side of the riprapped area is seeded and mulched to prevent erosion; and

Bureau of Public Lands has approved the placement of the cable across the bottom (c) of the great pond to the extent that it has jurisdiction.

B. Standards

- (1) Applicants are required to submit photographs of the area in which this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) Erosion of soil or fill material from disturbed areas into the resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.

- NOTE: Erosion and sediment control measures should comply with Maine Erosion and Sedimentation Control Handbook for Construction: Best Manangement Practices, dated March, 1991.
- (4) Disturbance of wetland vegetation shall be avoided if possible, and in no case shall it be destroyed or permanently removed. If wetland vegetation must be disturbed during the project, it shall be replaced or reestablished immediately upon completion of the work.
- (5) The trench width in any protected natural resource shall be minimized to that necessary to install the device.
- (6) Any trench in or adjacent to the wetland shall be refilled with the material that was excavated. The original grading and elevation of the wetland shall be restored. Residual fill material shall be removed from the wetland or water body and properly stabilized. Pipe bedding material such as crushed stone or sand may be used provided clay dams or synthetic boots are used where appropriate to prevent wetland draining through the bedding material.
- (7) The water intake structure shall not interfere with any potential boat usage.
- (8) Excavation of pools to increase depth is prohibited under this section.
- (9) Maintenance clearing of deposited debris and sediments from the intake areas is allowed provided the cleared materials are removed from the resource. Clearing or removal of sediment from a water body for other purposes is not allowed under this section.
- (10) Work carried out in rivers, streams or brooks less than three feet deep at the time and location of the work shall provide for temporary diversion of flow to the opposite side of the channel while work is in progress.
 - (a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, 6+ mil polyethylene or geotextiles from the bank to midstream on the upstream side of the project. No more than two-thirds (2/3) or 25 feet of stream width, whichever is less, may be diverted at one time.
 - (b) Any material used to divert waterflow shall be completely removed upon completion of the project, and the stream substrate shall be restored to its original condition.
 - (c) Pumps may be operated, where necessary, for temporary diversions. The pump outlet shall be controlled to prevent erosion or the discharge of sediment to the water.
- (11) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may reach into the water with a bucket, or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.

- (12) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms in order to protect wetland vegetation.
- (13) Work below the high water line of a great pond, river, stream or brook shall be done at low water, except as required for emergency flood control work.
- (14) Uncured concrete shall not be placed directly into the water. Concrete shall be pre-cast and cured at least three weeks before placing in the water, or where necessary, shall be placed in forms and shall cure at least one week before the forms are removed. No washing of tools, forms, etc. shall occur in or adjacent to the waterbody or wetland.
- (15) The use of untreated lumber is preferred. Lumber pressure treated with chromated copper arsenate (CCA) may be used, provided it is cured on dry land in such a manner to expose all surfaces to the air for a period of at least 21 days prior to construction.

NOTE: Spacing lumber with small strapping is an acceptable method of exposing the surfaces.

- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Land Adjacent to a Coastal Wetland, Freshwater Wetland, Great Pond, River, Stream or Brook. Any land area within *100 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland.
 - (2) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

4. Replacement of Structures

A. Applicability

- (1) This section applies to the replacement of existing permanent structures in, on, over or adjacent to coastal wetlands, freshwater wetlands, great ponds, fragile mountain areas, or rivers, streams or brooks.
- (2) In order to be eligible for this section, the structure must have been in place and performing as intended within 18 months of the Department's receipt of the notification form. A Permit by Rule for replacement is valid for three years from the date of approval.
- (3) This section does not apply to structures located within a sand dune system. (See Section 16: General Permit for Selected Activities in Coastal Dune Systems.)
- (4) This section does not apply to the replacement of dams.

B. Standards

- (1) Applicants are required to submit photographs of the area in which this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) A replaced structure shall not exceed the dimensions of the previously existing structure, and shall not extend any further into the water body or wetland, except that retaining walls may be replaced with riprap in accordance with Section 7 "Rip Rap".
- NOTE: Vegetation is the preferred method of erosion control near water bodies. Where the use of vegetation is not feasible, riprap is preferred over retaining walls because it dissipates wave action and is a more stable structure over the long term. The Department encourages the replacement of retaining walls with riprap, unless the presence of large trees or structures makes it use impractical.
- (4) Erosion of soil or fill material from disturbed areas into the protected resources must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.
- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.

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- (5) Disturbance of wetland vegetation shall be avoided if possible, and in no case shall it be destroyed or permanently removed. If wetland vegetation must be disturbed during the project, it shall be reestablished immediately upon completion of the work and shall be maintained.
- (6) Work done in rivers, streams or brooks shall allow for fish passage and the maintenance of normal stream flows at all times of year and shall not impound water.
- (7) No dredging may take place during the project except that rocks which were part of the original structure may be removed and/or reused.
- (8) Temporary roads constructed of fill are not allowed in the resource except that fill may be used on top of mats or platforms for equipment access.
- (9) Work below the high water line of a great pond, river, stream or brook shall be done at low water, except as required for emergency flood control work.
- (10) Rocks shall not be removed from below the normal high water line of any coastal wetland, freshwater wetland, great pond, river, stream or brook.
- (11) Work carried out in rivers, streams or brooks less than three feet deep at the time and location of the work shall provide for temporary diversion of flow to the opposite side of the channel while work is in progress.
 - (a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, 6+ mil polyethylene or geotextiles from the bank to midstream on the upstream side of the project. No more than two-thirds (2/3) or 25 feet of stream width, whichever is less, may be diverted at one time.
 - (b) Any material used to divert waterflow shall be completely removed upon completion of the project, and the stream substrate shall be restored to its original condition.
 - (c) Pumps may be operated, where necessary, for temporary diversions. The pump outlet shall be controlled to prevent erosion or the discharge of sediment to the water.
- (12) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
- (13) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms in order to protect wetland vegetation.
- (14) All debris or excavated material shall be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence shall be used, where necessary, to prevent sedimentation.

- NOTE: Any debris generated during the work shall be prevented from washing downstream and shall be removed from the wetland or water body. Disposal of debris must be in conformance with Maine Solid Waste Law, Title 38 Section 1301 et. seq.
- (15) Uncured concrete shall not be placed directly into the water. Concrete shall be pre-cast and cured at least three weeks before placing in the water, or where necessary, shall be placed in forms and shall cure at least one week before forms are removed. No washing of tools, forms, etc. shall occur in or adjacent to the waterbody or wetland.
- (16) Wood treated with creosote or pentachlorophenol shall not be used below the normal high water line.
- (17) The use of untreated lumber is preferred. Lumber pressure treated with chromated copper aresenate (CCA) may be used provided it is cured on dry land in such a manner as to expose all surfaces to the air for a period of at least 21 days prior to construction.

NOTE: Spacing lumber with small strapping is an acceptable method of exposing the surfaces.

- **C. Definitions.** The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Dam. Any man-made artificial barrier, including appurtenant works, the site on which it is located and appurtenant rights of flowage and access, which impounds or diverts a river, stream or great pond.
 - (2) Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a wetland.
 - (3) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
 - (4) Floodway. The channel of a river, stream or brook and the adjacent land area which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.
 - NOTE: Where not delineated on Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, the floodway is determined as the channel plus one-half the floodplain as measured from the normal high water mark to the upland limit of the floodplain. Maps are available for inspection at municipal and DEP offices.

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- (5) Land Adjacent to a Coastal Wetland, Freshwater Wetland, Great Pond, River, Stream or Brook. Any land area within 100 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland.
- (6) Permanent Structure. Any structure which is fixed in, on or over the water for a period exceeding seven months each year including, but not limited to, causeways, piers, docks, bridges, dams, culverts, concrete slabs, pilings, retaining walls and buildings.
- (7) Public Works Project. A federal, state or local government, or state-regulated utility project for public use or service including, but not limited to, highways, dams, bridges, utility lines, water lines, sewerage, and recreational facilities such as boat launch facilities.
- (8) Replacement. "Replacement" is any activity which results in more than 50% of a structure being restored or reconstructed either above or below the normal high water line.
- (9) Retaining Wall. A vertical or near vertical structure generally constructed of wood, concrete or rock or a combination of these materials and located at or below the normal high water line.
- (10) Riprap. Heavy, irregular-shaped rocks which are fit into place, usually without mortar, on a slope.
- (11) Structure. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. Examples of structures include buildings, utility lines and roads.

MISC. NOTES:

- (1) Section 480-Q(15-A) of the NRPA exempts the installation, removal or repair of a septic system from permitting requirements as of March 1, 1995, as long as the system complies with all requirements of the subsurface wastewater disposal rules adopted by the Department of Human Services under Title 22, Section 42, subsection 3.
- (2) Section 480-Q(2) of the NRPA exempts from permitting the maintenance and minor repair of structures in, on, over or adjacent to a protected natural resource and maintenance and minor repair of private crossings of a river, stream or brook provided:
 - (a) Erosion control measures are taken to prevent sedimentation of the water;
 - (b) The crossing does not block fish passage in the water course;
 - (c) There is not additional intrusion into the protected natural resources; and

- (d) The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 18 months prior to the repair.
- (3) Section 480-Q(2-B) of the NRPA exempts from permitting the replacement of a floating dock with another floating dock if the dimensions of the replacement dock do not exceed those of the dock being replaced and the configuration of the replacement dock is the same as the dock being replaced.
- (4) Section 480-Q(9) of the NRPA exempts from permitting emergency repair or normal maintenance and repair of existing public works which affect any protected natural resource. An activity which is exempt under this subsection shall employ erosion control measures to prevent sedimentation of any surface water, shall not block fish passage in any water course and shall not result in any additional intrusion of the public works into the protected natural resource. This exemption does to apply to any activity on an outstanding river segment as listed in section 480-P.

*5. Moorings (Permanent Anchoring Structures)

*Moorings are exempt under the Natural Resources Protection Act as of 1994. This section of Chapter 305 rules will be deleted during rule making scheduled for 1997.

A. Applicability

(1) This rule allows the installation of permanent moorings for the purposes of securing a vessel or float plane or temporary structure in a coastal wetland, great pond, river, stream or brook.

B. Definitions

The following terms, an used in these rules, shall have the following meanings, unless the context indicates otherwise:

- NOTE: The following terms are defined by statute and are included an an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Permanent Anchoring Structures. "Permanent Anchoring Structures" means weights, weighted objects and fixtures to which objects are secured.

C. Purpose

The standards are designed to ensure that mooring installation does not result in lower water quality, loss of aquatic habitat or interference with navigation.

D. Standards

- (1) A mooring may only be placed by a shorefront property owner, or with the shorefront property owner's written permission, in water directly adjacent to the owner's property.
- (2) In non-tidal waters, no mooring may be placed so that it or the object moored to it extends more than 200 feet from shore or one-third the distance to the opposite shore, whichever is less.
- (3) Bolts, screws, rods, pads and other metallic fixtures, not including mushroom anchors and chains, shall consist of rustproof materials.
- (4) No portion of an anchoring device including its buoy shall extend up or out into the ice zone or otherwise be subject to ice action.
- (5) The location of the anchoring device shall be mapped or marked in some way so that it can be found the following season.

- (6) Metal drums, engine blocks and other materials which may release contaminants shall not be used underwater in construction of permanent anchoring structures.
- (7) Uncured concrete shall not be placed directly into the water. Concrete shall be pre-cast and cured at least three weeks before placing in the water. No washing of tools, forms, etc. shall occur in or adjacent to the waterbody or wetland.

5. Movement of Rocks or Vegetation

A. Applicability

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(1) This section applies to the limited movement of rocks or removal of vegetation from below the normal high water line of a great pond or river, stream or brook in order to provide access for swimming or navigation.

B. Standards

- (1) Applicants are required to submit photographs of the area in which this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) The width of the area to be cleared may not exceed 10 feet.
- (4) If the area has been cleared in the past, subsequent clearing shall be limited to the same area.
- (5) Rocks from the cleared area shall remain in the water and shall be distributed randomly in such a way that a jetty will not be formed. Rocks may not be removed from the water.
- (6) No wheeled or tracked equipment shall be operated in the water. For large rock movement, equipment operating on the shore may reach into the water with a bucket or similar extension provided no bottom sediments are removed or displaced. Any soil disturbance on the land must be stabilized with seed or mulch.
- (7) Rocks that are holding the shoreline shall not be moved if that action would result in destabilization of the shoreline or soil erosion.
- (8) Cut or pulled-up vegetation shall be removed from the water.
- (9) Work shall be done during periods of low water level or flow.
- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:

NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.

- (1) Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a wetland.
- (2) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

6. Outfall Pipes (Including Ditches and Drain Tiles)

A. Applicability

- (1) This section applies to the installation and maintenance of permanent outfall pipes, outlets from ditches and drain tiles for storm water, ground water and other discharges licensed by the Department in or on land adjacent to coastal wetlands, freshwater wetlands, great ponds, rivers, streams or brooks.
- NOTE: A wastewater discharge license from the Department of Environmental Protection is required for any discharge from the outlet other than stormwater from residential and small commercial/industrial facilities and uncontaminated groundwater.

B. Standards

(1)Applicants are required to submit photographs of the area in which this activity is proposed.

- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) Erosion of soil or fill material from the disturbed areas into the resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.
- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.
- (4) Stormwater outfalls, whether a pipe or trench, shall utilize velocity reducing structures and/or rock aprons to prevent erosion. A vegetative filter strip of at least 25 feet long must be established and maintained between the outfall structure and the resource.
- NOTE: Wherever possible outfalls should discharge to a vegetated filter strip and not directly into a waterbody.
- (5) Foundation drains and licensed discharges may extend to and outfall in, the resource. If necessary, a rock apron shall be constructed to prevent erosion.
- (6) Disturbance of wetland vegetation shall be avoided if possible, and in no case shall it be destroyed or permanently removed. If wetland vegetation must be disturbed during the project, it shall be reestablished immediately upon completion of the work and shall be maintained.

- (7) The trench width in any protected natural resource shall be minimized to that necessary to install the device.
- (8) The trench in and adjacent to the protected natural resource shall be refilled with the material that was excavated. The original grading and elevation of the wetland shall be restored. Residual fill material shall be removed from the wetland or water body and properly stabilized. Pipe bedding material such as crushed stone or sand maybe used provided clay dams or synthetic boots are used where appropriate to prevent wetland draining through the bedding material.
- (9) The outfall structure shall not interfere with any potential boat usage of the project site.
- (10) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
- (11) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms in order to protect wetland vegetation.
- (12) Work below the high water line of a great pond, river, stream or brook shall be done at low water except as required for emergency flood control work.
- (13) Maintenance clearing of deposited debris and sediments from the outfall area is allowed provided the cleared materials are removed from the resource.
- NOTE: Any debris generated during the work shall be prevented from washing downstream and shall be removed from the wetland or water body. Disposal of debris must be in conformance with Maine Solid Waste Law, Title 38 Section 1301 et. seq.
- (14) Uncured concrete shall not be placed directly into the water. Concrete shall be pre-cast and cured at least three weeks before placing in the water, or where necessary, shall be placed in forms and shall cure at least one week before forms are removed. No washing of tools, forms, etc. shall occur in or adjacent to the waterbody or wetland.
- (15) Work carried out in rivers, streams or brooks less than three feet deep at the time and location of the work shall provide for temporary diversion of flow to the opposite side of the channel while work is in progress.
 - (a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, 6+ mil polyethylene or geotextiles from the bank to midstream on the upstream side of the project. No more than two-thirds (2/3) or 25 feet of stream width, whichever is less, may be diverted at one time.

- (b) Any material used to divert waterflow shall be completely removed upon completion of the project, and the stream substrate shall be restored to its original condition.
- (c) Pumps may be operated, where necessary, for temporary diversions. The pump outlet shall be controlled to prevent erosion or the discharge of sediment to the water.
- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Diversion. A rerouting of a river, stream or brook to a location outside of its established channel.
 - (2) Dredge. To move or remove, by digging, scooping, or suctioning any sand, silt, mud, gravel, rock, or other material from the bottom of a water body or wetland surface.
 - (3). Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a wetland.
 - (4) Floodway. The channel of a river, stream or brook and the adjacent land area which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.
 - NOTE: Where not delineated on Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, the floodway is determined as the channel plus one-half the floodplain as measured from the normal high water mark to the upland limit of the floodplain. Maps are available for inspection at municipal and DEP offices.
 - (5) Land Adjacent to a Coastal Wetland, Freshwater Wetland, Great Pond, River, Stream or Brook. Any land area within 100 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland.

7. Riprap

A. Applicability

- (1) This section applies to the placement of riprap along the shoreline of a coastal wetland, great pond, river, stream or brook. This rule limits riprap in coastal wetlands to that required to protect a structure within 100 feet of the eroding bank.
- (2) This section applies only to riprapping of areas where erosion already exists and cannot be controlled by planting vegetation.
- (3) This section shall not apply to the placement of riprap immediately adjacent to coastal wetland `areas containing soft bottom (mudflat) sediments or salt marsh vegetation.
- (4) This section shall not apply to the placement of riprap in any portion of a coastal sand dune system even if portions of these systems extend into the coastal wetland.

B. Standards

- (1) Applicants are required to submit photographs of the entire shoreline area where this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) Erosion of soil or fill material from disturbed areas into the resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.
- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.
- (4) Rocks used for riprap shall not be obtained from the shoreline (because they help prevent erosion) or below the normal high water line (because they provide habitat for aquatic life).

NOTE: Size of rock and trench size should be in accordance with NRCS/SWCD standards.

(5) Riprap shall extend no higher on the bank than the level at which vegetation can be established to control erosion (approximately one to three feet above normal high water). Trees and shrubs shall be planted above the rip rap to replace any plant material that was removed. The vegetation planted must be similar in type and spacing to the vegetation removed.

- NOTE: An excessive amount of rip rap placed along the shore is less appealing to the eye and costs more. On many slopes, slumping is caused by wave or water motion undercutting the bank. Rip rap need only be placed along the lower level of these banks. The upper portions of the banks may be graded and planted which costs less than rip rap.
- (6) The slope of the riprap shall be no steeper than 1 horizontal to 1 vertical, nor shallower than 3 horizontal to 1 vertical.
- (7) Riprap shall be anchored at the base of the existing bank by placing the bottom row of rock in a trench excavated at least to a depth equal to the height of the largest rock.
- (8) A layer of filter fabric and/or a layer of crushed stone or washed gravel shall be placed under the riprap to prevent washing of soil particles into the water.
- (9) No fill material other than the riprap, crushed stone or washed gravel may be placed below the normal high water line. Eroding banks must be cut back to the required slope to allow for riprap installation.
- (10) Riprap shall not be placed in front of a retaining wall such that it extends further into the water.
- (11) A buffer strip of undisturbed vegetation at least 25 feet wide shall be established and maintained along the upland edge of any riprap placed for the protection of agricultural land.
- (12) Design of work on river, stream or brook banks must be approved by either a Professional Engineer or by the Soil & Water Conservation District. Evidence of this approval or the plans shall be submitted along with the Notification Form.
- (13) When riprap is necessary along rivers, streams and brooks, it shall be combined with tree and shrub plantings to provide bank stabilization, shading of the water and cover for wildlife.
- (14) Work carried out in rivers, streams or brooks less than three feet deep at the time and location of the work shall provide for temporary diversion of flow to the opposite side of the channel while work is in progress.
 - (a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, 6+ mil polyethylene or geotextiles from the bank to midstream on the upstream side of the project. No more than two-thirds (2/3) or 25 feet of stream width, whichever is less, may be diverted at one time.
 - (b) Any material used to divert waterflow shall be completely removed upon completion of the project, and the stream substrate shall be restored to its original condition.

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 - (c) Pumps may be operated, where necessary, for temporary diversions. The pump outlet shall be controlled to prevent erosion or the discharge of sediment to the water.
 - (15) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
 - (16) Work below the high water line of a great pond, river, stream or brook shall be done at low water except as required for emergency flood control work.
 - (17) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms in order to protect wetland vegetation.
 - (18) Temporary roads constructed of fill are not allowed in the resource except that fill may be used on top of mats or platforms for equipment access.
 - (19) All excavated material shall be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence shall be used, where necessary, to prevent sedimentation.
 - (20) Disturbance of wetland vegetation shall be avoided if possible, and in no case shall it be destroyed or permanently removed. If wetland vegetation must be disturbed during the project, it shall be reestablished immediately upon completion of the work and shall be maintained.
 - C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
 - NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Fill.a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a wetland.
 - (2) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
 - (3) Floodway. The channel of a river, stream or brook and the adjacent land area which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.
 - NOTE: Where not delineated on Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, the floodway is determined as the channel plus one-half the

floodplain as measured from the normal high water mark to the upland limit of the floodplain. Maps are available for inspection at municipal and DEP offices.

- (4) Retaining Wall. A vertical or near vertical structure generally constructed or wood, concrete or rock or a combination of these materials and located at or below the normal high water line.
- (5) Riprap. Heavy, irregular-shaped rocks which are fit into place, usually without mortar, on a slope.
- (6) Structure. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. Examples of structures include buildings, utility lines and roads.

8. Crossings (Utility Lines, Pipes and Cables)

A. Applicability

- (1) This section applies to the installation, maintenance and replacement of overhead utility lines across rivers, streams or brooks excluding outstanding river segments identified in Title 38 Section 480-P.
- (2) This rule allows for the installation, maintenance and replacement of submerged utility lines across coastal wetlands, freshwater wetlands, great ponds, rivers, streams, and brooks excluding outstanding river segments identified in Title 38 Section 480-P.
- (3) This section also applies to the installation, maintenance and replacement of overhead utility lines across or adjacent to coastal wetlands, freshwater wetlands and great ponds provided the lines are within the right-of-way of, or adjacent to the path of an existing traveled way.
 - NOTE: In a great pond, the placement of water lines to serve a single-family house or the installation of cables for utilities, such as telephone and power cables, is exempt from NRPA permit requirements under Title 38 Section 480-Q provided that the:
 - (a) Excavated trench for access to the water is backfilled and riprapped to prevent erosion;
 - (b) Excavated trench on the landward side of the riprapped area is seeded and mulched to prevent erosion; and
 - (c) Bureau of Public Lands has approved the placement of the cable across the bottom of the great pond to the extent that it has jurisdiction.

NOTE: Approval for crossing any state-owned (submerged land must be obtained from the Department of Conservation, Bureau of Public Lands, State House Station 22, Augusta, ME 04333.

B. Standards

- (1) Applicants are required to take photographs of the area in which this activity is proposed.
- (2) Photographs showing the fished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your names and the town in which the project took place.

- (3) Erosion of soil or fill material from disturbed areas into the resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.
- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.
- (4) Disturbance of wetland vegetation shall be avoided if possible, and in no case shall it be destroyed or permanently removed. If wetland vegetation must be disturbed during the project, it shall be reestablished immediately upon completion of the work and shall be maintained.
- (5) The trench in and adjacent to the wetland shall be refilled with the material that was excavated. The original grading and elevation of the wetland shall be restored. Residual fill material shall be removed from the wetland or water, body and properly stabilized. Pipe bedding material such as crushed stone or sand may be used provided clay dams or synthetic boots are used where appropriate to prevent wetland draining through the bedding material.
- (6) The trench width in any natural resource shall be minimized to that necessary to install the device.
- (7) The crossing shall not obstruct any recreational usage of the waterbody.
- (8) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
- (9) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms in order to protect wetland vegetation.
- (10) Any debris or excavated material shall be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence shall be used, where necessary, to prevent sedimentation.

NOTE: Any debris generated during the work shall be prevented from washing downstream and shall be removed from the wetland or water body. Disposal of debris must be in conformance with Maine Solid Waste Law, Title 38 Section 1301 et. seq.

(11) Uncured concrete shall not be placed directly into the water. Concrete shall be pre-cast and cured at least three weeks before placing in the water, or where necessary, shall be placed in forms and shall cure at least one week before the forms are removed. No washing of tools, forms, etc. shall occur in or adjacent to the waterbody or wetland.

- (12) Temporary roads constructed of fill are not allowed in the resource except that fill may be used on top of mats or platforms for equipment access.
- (13) Wood treated with creosote or pentachlorophenol shall not be used below the high water line.
- (14) The use of untreated lumber is preferred. Lumber pressure treated with chromated copper aresenate (CCA) may be used, provided it is cured on dry land in such a manner to expose all surfaces the air for a period of at least 21 days prior to construction.

NOTE: Spacing lumber with small strapping is an acceptable method of exposing the surfaces.

- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Crossing. Any project extending from one side to the opposite side of a protected natural resource, or to an island or upland within a protected natural resource whether under, through or over that resource. Such projects include, but may not be limited to roads, fords, bridges, culverts, utility lines, water lines, sewer lines and cables, as well as maintenance work on these crossings.
 - (2) Dredge. To move or remove, by digging, scooping, or suctioning any sand, silt, mud, gravel, rock, or other material from the bottom of a water body or wetland surface.
 - (3) Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a wetland.
 - (4) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
 - (5) Floodway. The channel of a river, stream or brook and the adjacent land area which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.

NOTE: Where not delineated on Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, the floodway is determined as the channel plus one-half the floodplain as measured from the normal high water mark to the upland limit of the floodplain. Maps are available for inspection at municipal and DEP offices.

- (6) Land Adjacent to a Coastal Wetland, Freshwater Wetland, Great Pond, River, Stream or Brook. Any land area within 100 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland.
- (7) Riprap. Heavy, irregular-shaped rocks which are fit into place, usually without mortar, on a slope.
- (8) Structure. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. Examples of structures include buildings, utility lines and roads.
- (9) Utility lines, pipes and cables. Wires and pipes providing utility services. The term includes telephone and electric wires, gas, oil, water and sewer pipelines, and their support structures, whether public or private.

9. Stream Crossings (Bridges, Culverts and Fords)

A. Applicability

- (1) This section applies to the construction of a permanent road crossing of a river, stream or brook using either a bridge span or culvert, excluding the following:
 - (a) Outstanding river segments identified in Title 38 Section 480-P;
 - (b) Any river subject to state mandated Shoreland Zoning (information is available at the Town Office or see Title 38 Section 436 -A (11); and
 - (c) Coastal wetlands, freshwater wetlands, floodplain wetlands greater than 10 acres in size, and great ponds.
- (2) This section also applies to the establishment of permanent stream fords for purposes of timber harvesting, livestock, agriculture and construction and maintenance of utility lines.
- (3) Stream Crossings associated with forest management activities are exempt from the 14 day waiting period required in Section 1(C)(1).
- NOTE: Maintenance and repair of public and private crossings of a river, stream or brook is exempt from the NRPA provided that:
 - A. Erosion control measures are taken to prevent sedimentation of the water;
 - B. The crossing does not block fish passage in the water course; and
 - C. There is no additional intrusion into the river, stream or brook.
- NOTE: Temporary stream crossings such as skidder crossings do not require permits under this Rule but are still subject to the NRPA should they excessively disturb soil or stream banks. Additionally, discharges of soil material to the river, stream or brook are treated as water quality violations under Title 38 Section 413 of the Protection and Improvement of Waters Act.
- NOTE: Roadway crossings also come under the jurisdiction of the U.S. Army Corps of Engineers. Applicants are advised to contact the Corps for a determination as to the requirements of the particular permit program the project qualifies for.

B. Standards

- (1) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (2) Erosion of soil or fill material from disturbed areas into the resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.
- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.
- (3) If a perennial watercourse to be crossed is used for navigation, the crossing shall consist of a bridge span or pipe arch with at least 4 feet of clearance during normal high water for boat traffic.
- (4) If the stream bed has a slope of more than 2%, a bridge or a pipe arch must be used to maintain the natural streambed.
- (5) Fill sideslopes in a stream or floodplain wetland shall be maintained at a slope no shallower than 3 horizontal to 1 vertical and no steeper than 1.5 horizontal to vertical. Applicants are responsible to see that the design of their project results in stable slopes.

NOTE: Uncompacted soils or sandy soils which are saturated at the toe of a slope will be unstable at a 1.5 to 1 slope.

- (6) Where a floodplain wetland adjacent to a river, stream or brook must be crossed, the alteration of wetlands shall be limited to less than 100 feet on each side of the watercourse as measured perpendicular to the stream from the normal high water line.
- (7) Bridges and culverts shall provide an opening with a cross-sectional area at least equal to 2.5 times the cross-sectional area of the stream channel or sufficient in size to accommodate 10-year frequency water flows.
- NOTE: Stream crossings allowable under this section but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps ("FIRM") or Flood Hazard Boundary Maps ("FHBM") must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program ("NFIP"). For example, a crossing may be required to pass a 100 year flood event.
- (8) Road surfaces shall be constructed in a manner to prevent erosion of material into the river, stream or brook.

- (9) Surface water on or adjacent to crossing approaches shall be diverted through vegetative filter areas at least 25 feet long to avoid sedimentation of the watercourse. Roadside ditches may not extend to the resource being crossed.
- NOTE: Surface water on or adjacent to crossing approaches should be diverted through vegetative filter areas to avoid sedimentation of the watercourse. Because roadside ditches may not extend to the resource being crossed, filter areas should be established in accordance with the following tables:

Average slope of land between exposed mineral soil and	Width of strip between ditch terminus and normal high water mark
normal high water mark (percent)	(feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165 ·

- (10) Stream fords shall be lined with clean or washed stone, gabion blankets or geotextile material for erosion control when the natural stream bed does not consist of ledge or rock.
- (11) Stream fords shall allow for fish passage at all times of the year and shall not impound water. Fords shall also allow for maintenance of normal stream flows.
- (12) Culverts shall:
 - (a) Be limited to 75 feet in length. This limit shall not be exceeded within a half-mile length of the stream or within the length of stream controlled by the applicant, if less;
 - (b) Follow the alignment and grade of the existing stream channel where possible. On perennial streams the culvert's gradient shall not exceed 1%;
 - (c) At the outfall, have the bottom of the culvert installed at or below stream bed elevation, except for additional culverts at the same crossing;
 - (d) Where 2 or more culverts are installed, be offset in order to concentrate low flows into the culvert within the natural channel;
 - (e) Be seated on firm ground, or on geotextiles, logs or other materials used to stabilize the ground;

- (f) Be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater;
- (g) Have the soil compacted at least halfway up the side of the culvert; and
- (h) Have the inlet and outlet ends stabilized by riprap or other means to avoid erosion of material around the culvert.
- (13) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may, where necessary, reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom;
- (14) Work below the normal high water line shall be done during periods of low water level or flow.
- (15) Work carried out in rivers, streams or brooks less than three feet deep at the time and location of the work shall provide for temporary diversion of flow to the opposite side of the channel while work is in progress.
 - (a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, 6+ mil polyethylene or geotextiles from the bank to midstream on the upstream side of the project. No more than two-thirds (2/3) or 25 feet of stream width, whichever is less, may be diverted at one time.
 - (b) Any material used to divert waterflow shall be completely removed upon completion of the project, and the stream substrate shall be restored to its original condition.
 - (c). Pumps may be operated, where necessary, for temporary diversions. The pump outlet shall be controlled to prevent erosion or the discharge of sediment to the water.
- (16) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms in order to protect wetland vegetation.
- (17) All excavated material shall be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence shall be used, where necessary, to prevent sedimentation.
- (18) The use of untreated lumber is preferred. Lumber pressure treated with chromated copper arsenate CCA) may be used, provided it is cured on dry land in a way that exposes all surfaces to the air for a period of at least 21 days prior to construction.
- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:

- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Cross-Sectional Area. The cross-sectional area of a stream channel shall be determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight line distance from the normal high water mark of one side of the channel to such mark on the opposite side of the channel. The average stream channel depth shall be the average of the vertical distances from a straight line between the normal high water marks of the stream channel to the bottom of the channel.
 - (2) Crossing. Any project extending from one side to the opposite side of a protected natural resource, or to an island or upland within a protected natural resource whether under, through or over that resource. Such projects include, but may not be limited to roads, fords, bridges, culverts, utility lines, water lines, sewer lines and cables, as well as maintenance work on these crossings.
 - (3) Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a wetland.
 - (4) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
 - (5) Ford. A permanent crossing of a stream by utilizing an area of existing, non-erodible substrate of the stream, such as ledge or cobble, or by placing non-erodible material on the stream bottom such as stone or geotexile.
 - (6) Perennial Watercourse. A river, stream or brook containing water year round as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15 minute series topographic map. Such water courses are depicted as solid, not broken, lines.
 - (7) Public Works Project. A federal, state or local government, or state-regulated utility project for public use or service including, but not limited to, highways, dams, bridges, utility lines, water lines, sewerage, and recreational facilities such as boat launch facilities.
 - (8) Riprap. Heavy, irregular-shaped rocks which are fit into place on a slope, without the use of cementing agents.
 - (9) Used for Navigation. Those rivers, streams or brooks used by motorized watercraft.

10. General Permits for Maintenance, Repair and Reconstruction or Replacement of State Transportation Facilities

A. Applicability

- (1) This section applies to the maintenance, repair and reconstruction or replacement not otherwise exempted by statute, preliminary engineering, technical support services and minor construction of existing transportation facilities carried out by the Maine Department of Transportation (MDOT) and the Maine Turnpike Authority. Activities which qualify as maintenance and repair are limited to those required to maintain, repair, rehabilitate or reconstruct existing facilities to improve safety or to meet modern design standards. Activities which qualify for reconstruction or replacement include the improvement of an existing transportation facility to modern design standards without expanding its function or creating any additional roadways or structures.
 - (a) Maintenance, Repair and Rehabilitation Projects.

Activities which qualify consist of any of the following:

- (i) Minor construction not involving the addition of through travel lanes, roads, bridges or other transportation facilities on new location;
- (ii) Activities that include the original facility or road cross-section; and
- (iii) Bridge replacements that do not involve a temporary crossing.
- (b) Reconstruction or Replacement Projects.

Activities which qualify include only the following which are not located in coastal wetland or coastal sand dune systems:

- (i) Highway or bridge alignment changes not exceeding a distance of 200 feet between the old and new center lines in any protected natural resource;
- (ii) Replacement or rehabilitation of piers or the roadway base, pavement and drainage;
- (iii) Replacement or rehabilitation of piers or bridges;
- (iv) The addition of climbing lanes, and turning lanes of which less than 1, 000 feet in length are in a protected natural resource; and
- (v) Rehabilitation or repair of state-owned railroads.

B. Standards for Maintenance and Repair and Rehabilitation Projects

- (1) The activity shall not alter more than 300 feet of shoreline (both shores added together) within a mile stretch of any river, stream or brook, including any bridge width or length of culvert.
- (2) The activity shall not alter more than 150 feet of shoreline (both shores added together) within a mile stretch of any outstanding river segment identified in Title 38 480-P, including any bridge width or length of culvert.
- (3) The activity shall minimize wetland intrusion, but in no case shall alter more than:
 - (a) 1,000 square feet of coastal wetland consisting of salt-tolerant vegetation or shellfish habitat, or great ponds per mile of roadway (centerline measurement); or
 - (b) 5,000 square feet of other coastal wetlands, freshwater wetlands, or floodplain wetlands per mile of roadway (centerline measurement).

C. Standards for Reconstruction or Replacement Projects

- (1) The project will be performed in compliance with all sections of the Wetland Protection Rules, Chapter 310 except section B.3, E.1, I.1, I.2 and I.3.
- (2) The project will not permanently block any fish passage in any watercourse containing fish beyond what restriction may already exist and will improve passage if transportation related restriction exist unless concurrence from the Department of Inland Fisheries and Wildlife and the Department of Environmental Protection's Division of Environmental Assessment is received that the improvement is not necessary.

D. Standards For All Projects

- (1) The activity shall be reviewed by the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Atlantic Salmon Commission, the Department of Environmental Protection's Division of Environmental Assessment prior to the notification being filed with the Department. All recommendations from these agencies shall be incorporated into the project.
- (2) The project will be performed in accordance with erosion control measures conforming with the Department of Transportation Standard Specifications for Highways and Bridges or with other Best Management Practices designed for the activity.
- (3) Rocks shall not be removed below the normal high water line of any coastal wetland, freshwater wetland, great pond, river, stream or brook except to the minimum extent necessary for completion of work within the limits of construction.
- (4) Work carried out in brooks or streams less than three feet deep at the time and location of the work, with the exception of culvert installation, shall divert flow to the opposite side of the channel while work is in progress.

- (a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, 6+ mil polyethylene, or geotextiles upstream of the work area from the bank to midstream. No more than two thirds (2/3) or 25 feet of stream width, whichever is less, may be diverted at one time.
- (b) Any material used to divert waterflow shall be completely removed upon completion of the project, and the stream bottom shall be restored to its original condition.
- (c) Pumps may be operated, where necessary, for temporary diversions. The pump outlet shall be controlled to prevent erosion or the discharge of sediment to the water.
- (5) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
- (6) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms.
- (7) Any debris or excavated material shall be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence shall be used, where necessary, to prevent sedimentation.
- NOTE: Any debris generated during the work shall be prevented from washing downstream and shall be removed from the wetland or water body. Disposal of debris must be in conformance with Maine Solid Waste Law, Title 38 Section 1301 et. seq.
- (8) Work below the normal high water line of a great pond, river, stream or brook shall be done at low water except for emergency flood control work. Work shall otherwise be limited to a period of low water level or flow.
- E. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Diversion. A rerouting of a river, stream or brook to a location outside of its established channel.
 - (2) Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or immediately adjacent to a wetland.

- (3) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
- (4) Riprap. Rocks which are fit into place, usually without mortar, on a slope as defined in the Standard Specifications for Highway and Bridges.

11. Restoration of Natural Areas

A. Applicability

- (1) This section applies to the restoration of altered portions of coastal wetlands, freshwater wetlands, great ponds, rivers, streams or brooks or areas adjacent to these protected natural resources, to their pre-existing natural conditions through the removal of fill, structures or deposited debris. In addition, this section applies to the restoration of altered areas and adjacent to in these natural resources through recontouring or grading to preexisting elevations, replanting to preexisting or similar vegetation species and providing for inundation of previously flooded portions. This section shall not apply to:
 - (a) Restoration or replacement of structures or unnatural conditions such as the installation of dam structures; or to draining of freshwater wetlands to convert an area to upland;
 - (b) Conversions of existing natural wetlands to wetlands of a different type through flooding, inundation or other means;
 - (c) Dredging of silt, sand or soil materials which has been naturally deposited from a great pond, river, stream or brook, coastal wetland or freshwater wetland;
 - (d) Mining of gravel or other mineral materials from rivers, streams, or brooks;
 - (e) Replacement of eroded soil material in areas above, below and adjacent to the normal high water mark of great ponds, ;freshwater wetlands, coastal wetlands, rivers, streams or brooks; or
 - (f) Removal of dam structures.

B. Standards

- (1) Applicants are required to submit photographs of the area in which this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) Erosion of soil or fill material from disturbed areas into the proposed resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized. Existing vegetation within the setback zone may not be disturbed.

- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.
- (4) Restoration activities shall minimize alterations of undisturbed portions of the wetland.
- (5) Only material which has been placed in coastal wetlands, freshwater wetlands, great ponds, rivers, streams or brooks by humans shall be removed from these waterbodies except for naturally deposited debris deposited within the previous 12 calendar months.
- (6) Vegetation and soil material used in restoring wetland areas shall be similar to the vegetation and soil materials occurring under pre-existing natural conditions.
- (7) No fill other than soil material used to restore an altered wetland area to pre-existing elevation shall be placed in a natural resource.
- (8) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
- (9) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms in order to protect wetland vegetation.
- (10) All excavated material shall be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence shall be used, where necessary, to prevent sedimentation.
- (11) Temporary roads constructed of fill are not allowed in the resource except that fill may be used on top of mats or platforms for equipment access.
- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Dam. Any man-made artificial barrier, including appurtenant works, the site on which it is located and appurtenant rights of flowage and access, which impounds or diverts a river, stream or great pond.
 - (2) Dredge. To move or remove, by digging, scooping, or suctioning any sand, silt, mud, gravel, rock, or other material from the bottom of a water body or wetland surface.
- (3) Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a wetland.
- (4) Floodplain Wetlands. The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
- (5) Floodway. The channel of a river, stream or brook and the adjacent land area which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.
- NOTE: Where not delineated on Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, the floodway is defined to be the channel plus one-half the floodplain as measured from the normal high water mark to the upland limit of the floodplain. Maps are available for inspection at municipal and DEP offices.
- (6) Naturally Deposited Debris. Non-mineral materials (including but not limited to wood, brush or flotsam) deposited by wind, wave action, flooding or wild animals. This term does not include beaver or muskrat houses or nests of wild birds such as wading birds or waterfowl.
- (7) Restoration. An activity returning a great pond, coastal wetland, freshwater wetland, river, stream or brook from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater acreage or functions.
- (8) Structure. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. Examples of structures include buildings, utility lines and roads.

Chapter 305: Permit By Rule

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12. Fisheries and Wildlife Habitat Creation or Enhancement and Water Quality Improvement Projects

A. Applicability

- (1) This section applies to alterations in and adjacent to great ponds, rivers, streams and brooks, coastal wetlands and freshwater wetlands by public natural resource agencies. This rule also applies to alterations in the same resources by public utilities, the Department of Transportation and municipalities in conjunction with and under the supervision of public natural resource agencies, exclusively for the purpose of:
 - (a) creating or enhancing habitat for fisheries and wildlife; or
 - (b) a water quality improvement project.

These activities shall include but not be limited to: fishway installation; the construction of artificial reefs, nesting platforms and boxes; maintenance, installation or modification of dam structures; and the construction and maintenance of nutrient retention structures.

B. Standards

- (1) Applicants are required to submit photographs of the area in which this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) Public utilities, municipalities and the Maine Department of Transportation are to provide certification from a public natural resource agency that their proposed project will be done in conjunction with and under the supervision of the agency. This certification must be submitted to the Department along with the notification form.
- (4) Erosion of soil or fill material from disturbed areas into the resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.
- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.
- (5) Alterations of undisturbed portions of wetland shall be minimized to the maximum extent.

- (6) All debris or excavated material shall be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence shall be used where necessary to prevent sedimentation.
- NOTE: Any debris generated during the work shall be prevented from washing downstream and shall be removed from the wetland or water body. Disposal of debris must be in conformance with Maine Solid Waste Law, Title 38 Section 1301, et. seq.
- (7) Uncured concrete shall not be placed directly into the water. Concrete shall be pre-cast and cured at least three weeks before placing in the water, or where necessary, shall be placed in forms and shall cure at least one week before the forms are removed. No washing of tools, forms, etc. shall occur in or adjacent to the waterbody or wetland.
- (8) Wood treated with creosote or pentachlorophenol shall not be used below the normal high water line.
- (9) The use of untreated lumber is preferred. Lumber pressure-treated with chromated copper arsentate (CCA) may be used provided it is cured on dry land in such a manner as to expose all surfaces to the air for at least 21 days prior to construction.
- (10) No wheeled or tracked equipment shall be operated in the water. Equipment operating on the shore may reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
- (11) Work below the high water line of a great pond, river, stream or brook shall be done at low water, except as required for emergency flood control work.
- (12) All wheeled or tracked equipment which must travel or work in a vegetated coastal wetland area shall travel and work on mats or platforms in order to protect wetland vegetation.

C. Definitions

- The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Dam. Any man made artificial barrier, including appurtenant works, the site on which it is located and appurtenant rights of flowage and access, which impounds or diverts a river, stream or great pond.
 - (2) Public Natural Resources Agency. The Maine Department of Inland Fisheries and Wildlife, the Maine Department of Marine Resources, the Maine Department of Environmental Protection, the Atlantic Sea Run Salmon Commission, the Maine Department of Conservation, the U.S.

Fish & Wildlife Service, the United States Soil Conservation Service and County Soil and Water Conservation Districts.

(3) Water Quality Improvement Project. A project designed exclusively to maintain or enhance water quality of a great pond or river, stream, brook or coastal wetlands. Examples include but shall not be limited to: nutrient retention basins, water level manipulation and rerouting of drainage ways.

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13. Piers, Wharves and Pilings

A. Applicability

- (1) This section applies to the construction or expansion of pile supported piers and wharves and installation of pilings in coastal wetlands.
- (2) This section also applies to the construction of structures for water dependent uses (e.g. bait sheds) on pile supported piers and wharves that meet the criteria of paragraph B below.

B. Standards

- (1) Applicants are required to submit photographs of the area in which this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) Applicants shall submit a copy of the project design plan along with a copy of the notification form to the Department of Conservation, Bureau of Public Lands (State House Station #22 Augusta, Maine 04333), at the time the notification form is submitted to the Department, to determine whether a submerged lands lease or easement is necessary. Work on the project shall not begin until a lease or easement is obtained or the Bureau of Public Lands has provided notification that one is not necessary.

NOTE: Processing or requests for lease or easement may require several weeks of review by the Bureau of Public Lands.

- (4) Applicants shall submit a copy of the project design plan along with a copy of the notification form to the U.S. Army Corps of Engineers (Maine Project Office, RR2, Box 1855, Manchester, Maine 04351) at the time the notification form is submitted to the Department. The Corps will contact applicants if additional information is required for their application process. Construction may not begin until a permit from the Corps is obtained.
- (5) Piers and wharves may be located over not more than 10 feet in width of salt marsh or other emergent marsh vegetation. Any portion of a pier or wharf that is over salt marsh or other emergent marsh vegetation must be elevated to a minimum height equal to the width of the pier (e.g. the bottom of the decking for a six foot wide pier must be at least 6 feet above the underlying substrate.)
- (6) Structures shall not be located in an area containing significant wildlife habitat as identified by the Maine Department of Inland Fisheries and Wildlife (IF&W).

- (7) Commercial or public piers and wharves shall have a maximum width of 12 feet as measured parallel to the shoreline, and shall be limited to the minimum length necessary to provide access to boats intended to use the facility.
- (8) Non-commercial, private piers shall have a maximum width of 6 feet as measured parallel to the shoreline and shall be limited to the minimum size necessary to accomplish their purpose. With the exception of appurtenant temporary ramps and floats, these piers shall not extend below the low water line.
- (9) Structures shall not extend across more than 25 percent of any channel at mean low water. No structures shall extend into a designated federal channel.
- (10) Piers, wharves and pilings shall be set back at least 25 feet from property lines and 50 feet from other structures that are fixed in place below the normal high water line and not owned or controlled by the applicant unless a letter of permission is granted by the abutting or other controlling property owner.
- (11) Wood treated with creosote or pentachlorophenol shall not be used below the high water line.
- (12) The use of untreated lumber is preferred. Lumber pressure-treated with chromated copper arsenate (CCA) may be used, provided it is cured on dry land in such a manner as to expose all surfaces to the air for a period of at least 21 days prior to construction.

NOTE: Spacing lumber with small strapping is an acceptable method of exposing the surfaces.

- (13) Uncured concrete shall not be placed directly into the water. Concrete shall be precast and cured at least three weeks before placing in the water or, where necessary, shall be placed in forms and shall cure at least one week before the forms are removed. No washing of tools, forms, etc., shall occur in or adjacent to the waterbody or wetland.
- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Emergent Marsh Vegetation. Plants that are erect, rooted and herbaceous, and that may be temporarily to permanently flooded at the base, but do not tolerate prolonged inundation of the entire plant; e.g. cattails, saltmarsh cordgrass.
 - (2) Permanent Structure. "Permanent structure" means any structure constructed or erected with a fixed location, or attached to a structure with a fixed location in, on or in the ground within a fragile mountain area, or having a fixed location, in on or over the water for a period exceeding

7 months each year, including, but not limited to, causeways, piers, docks, concrete slabs, piles, marinas, retaining walls and buildings. (Title 38 M.R.S.A. Sec. 480-B(10))

(3) Project Design Plan. A detailed plan of the proposed project indicating all dimensions (width, height, length) relative to the mean low water mark including any appurtenant structures that may be seasonal in nature.

14. Public Boat Ramps

A. Applicability

- (1) This section applies to the construction of new or replacement public boat ramps and carry-in launch areas, including associated parking and accessways, in or adjacent to a protected natural resource by public natural resource agencies, municipalities, and owners of federally licensed hydropower projects within the resource affected by the hydropower project, provided that no portion of the ramp or related facilities is located in, on or over emergent marsh vegetation or intertidal mudflat.
- (2) This section applies to the construction of up to 2 launch lanes at a facility provided no more than 2 lanes exist or will exist at project completion.

B. Standards

- (1) Applicants are required to submit photographs of the area in which this activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) The project design plan and a request for review for projects on Great Ponds classified as GPA under Title 38 Section 465-A shall be submitted to the Department of Environmental Protection's Division of Watershed Management (DWM) prior to submitting the notification form to the Department. A certification from DWM must be obtained and must be included with the notification form when it is submitted to the Department.
- (4) Applicants shall submit a copy of the project design plan along with a copy of the notification form to the Department of Conservation, Bureau of Public Lands (State House Station #22 Augusta, Maine 04333) at the time the notification form is submitted to the Department. Work on the project shall not begin until a lease or easement is obtained or the Bureau of Public Lands has provided notification that one is not necessary.

NOTE: Processing of requests for lease or easements may require several weeks of review by the Bureau of Public Lands.

(5) Erosion of soil or fill material from disturbed areas into the resource must be prevented. Properly installed erosion control measures, such as staked hay bales and silt fence, are required to be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized with mulch and seed.

- NOTE: Erosion and sedimentation control measures should comply with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, or equivalent standards.
- (6) A hard-surfaced launch shall be used where boats will be launched from trailers, and shall meet the following specifications:
 - (a) The underwater portions of the ramp, at the time of construction, shall be constructed of reinforced precast concrete planks, panels or slabs;
 - (b) The portion of the ramp used by the towing vehicle shall have a maximum slope of 15%; the portion of the ramp used by the trailer only shall have for a maximum slope of 20%;
 - (c) The width of the hard surfaced launch lane(s) shall not exceed 20 feet;
 - (d) The uppermost 6 inches of the base shall consist of crushed rock or crushed or screened gravel having 5% or less passing a 200 mesh sieve; and
 - (e) Fill slopes at or below the normal high water line shall be protected with riprap.
- (7) An additional area of up to 8 feet wide may be constructed using bituminous pavement, precast concrete planks, panels or slabs to support docking systems.
- (8) A carry-in launch area for small boats shall:
 - (a) Consist of gravel, rock, sand, vegetation, or other erosion resistant materials;
 - (b) Have a grade not exceeding 18%; and
 - (c) Limit any work below the low water line to constructing a path up to 6 feet wide, consisting of cobble, rock or concrete planks, to access deeper water to float watercraft.
- (9) A vegetated buffer zone of at least 25 feet in width shall be maintained between any new or expanded parking area and the waterbody.
- (10) Parking areas and access roads shall not be located in a protected natural resource, except that an access roadway may cross a stream if requirements of Section 7 Stream Crossings are met.
- (11) Any new or expanded parking areas shall divert stormwater runoff away from the ramp and to an area where it may infiltrate into the ground before reaching the waterbody.
- (12) Machinery may enter the water traveling or operating only on newly placed material or temporary mats and only when necessary to excavate or place material below the existing water level.

- NOTE: Applicants should contact fisheries biologists at either the Department of Inland Fisheries & Wildlife or the Department of Marine Resources, as appropriate, to determine the best timing of the construction to minimize any potential impacts.
- NOTE: Any debris generated during the work shall be prevented from washing downstream and shall be removed from the wetland or water body. Disposal of debris must be in conformance with Maine Solid Waste Law, Title 38 MRSA Section 1301 et. seq.
- (13) Uncured concrete shall not be placed directly into the water. Concrete shall be pre-cast and cured at least three weeks before placing in the water or, where necessary, shall be placed in forms and shall cure at least one week before the forms are removed. No washing of tools, forms, etc. shall occur in or adjacent to the waterbody or wetland.
- (14) Wood treated with creosote or pentachlorophenol shall not be used below the normal high water line.
- (15) The use of untreated lumber is preferred. Lumber pressure-treated with chromated copper arsenate (CCA) may be used, provided it is cured on dry land in such a manner as to expose all surfaces to the air for a period of at least 21 days prior to construction.

NOTE: Spacing lumber with small strapping is an acceptable method of exposing the surfaces.

- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetland, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Emergent Marsh Vegetation. Plants that are erect, rooted and herbaceous, and that may be temporarily to permanently flooded at the base, but do not tolerate prolonged inundation of the entire plant; (e.g. cattails, saltmarsh cordgrass).
 - (2) Public Natural Resource Agency. The Maine Department of Inland Fisheries and Wildlife, the Maine Department of Marine Resources, the Maine Department of Environmental Protection, the Atlantic Sea Run Salmon Commission, the Maine Department of Conservation, the U.S. Fish & Wildlife Service, the United States Soil Conservation Service and County Soil and Water Conservation Districts.
 - (3) Project Design Plan. A detailed plan of the proposed project indicating all dimensions (width, height, length) relative to the mean low water mark including any appurtenant structures that may be seasonal in nature.

15. General Permit for Selected Activities in Coastal Sand Dune Systems

A. Applicability

- (1) This section applies to the following activities in coastal sand dune systems in conformance with the Coastal Sand Dune Rules, Chapter 355 including:
 - (a) replacement of existing seawalls;
 - (b) dune restoration or construction;
 - (c) beach nourishment;
 - (d) walkways/driveways, open fences and decks in back dune areas that are classified as A, B or C flood hazard zones.
 - (e) movement of sand and cobble from the front of buried seawalls using machinery; and
 - (f) new development or additions to existing development in back dune, non-flood (C zone) areas of coastal sand dune systems that are not expected to be damaged due to shoreline change within 100 years based on historic and projected trends.

Permit by rule applications will be reviewed on a case by case basis to determine the concern for damage due to shoreline change. In areas where concern for damage due to shoreline change is identified, applicants will be required to file for a Natural Resources Protection Act Permit, and are encouraged to contact the Department for a pre-application meeting.

(2) This section shall not apply to the construction of additions to existing single family dwellings in A or B flood hazard zones or to any structures in V flood hazard zones.

B. Submissions

- (1) Applicants are required to submit photographs of the area in which the activity is proposed.
- (2) Photographs showing the finished project must be submitted within 20 days of the project's completion. The photographs must be sent with a copy of the notification form or labelled with your name and the town in which the project took place.
- (3) The following information must also be submitted with the notification form:
 - (a) A site plan showing the project location and square footage of the property, buildings and development (both existing and proposed (see definition of Development in Section D);
 - (b) A copy of the Flood Insurance Rate map (FEMA map) for the lot, with the site accurately located on the map;

- (c) A copy of the coastal sand dune map of the area with the lot and any building site accurately located on the map. Maps are available for review at the town offices of most coastal communities and at DEP regional offices, and are available for purchase from the Maine Geological Survey, State House Station 22, Augusta, ME 04333; and
- (d) For seawall replacement only, an accurate plan drawn to scale showing the location of the existing and proposed wall and the elevation of the wall(s) referenced to National Geodetic Vertical Datum (NGVD). The plan shall be signed and dated by the person responsible for preparing the drawing.

C. Standards

- (1) Native vegetation shall be retained on the lot. No fill other than that required for dune restoration/construction or beach nourishment, foundation backfill and driveway or walkway construction shall be allowed in the project. Foundation backfill shall utilize sand which has textural and color characteristics consistent with the natural sand's textural and color characteristics.
- (2) No more than 40% of the lot maybe covered by structures, driveways, walkways, parking areas or waste disposal systems, including land area previously developed; nor shall the total area to be covered by buildings exceed 20% of the lot, including existing buildings. Land area within the V-zone shall not be included as part of a lot for the purposes of this section.
- (3) Where development which is existing or did exist within one year of application exceeds 40% of the total lot area, the percentage of developed area shall not be increased.
- (4) Where buildings which are existing or did exist within one year of application exceed 20% of the total lot area, the percentage of area covered by buildings shall not be increased.
- (5) No additional land may be covered by development or buildings as result of lot subdivisions created after January 4, 1988.
- (6) No portion of the project may be located within 25 feet of a freshwater wetland, river, stream or brook.
- (7) No building or building additions shall cause a total structure to be greater than 35 feet in height or cover a ground area greater than 2500 square feet.

NOTE: New structures and additions to existing structures must be constructed to withstand wind from a storm having a 50 year recurrence interval as provided in standards published by the Federal Emergency Management Agency in the Coastal construction Manual, Chapter 4 and Appendices A and B dated February 1, 1986.

- (8) No building shall be constructed such that any part extends seaward of a line drawn between the seaward most point of buildings on adjacent properties where such construction would significantly obstruct the view from an adjacent building.
- (9) Disturbed areas of natural dune vegetation shall be restored as quickly as possible. Natural dune vegetation includes American beach grass, rugosa rose, bayberry, beach pea, beach heather and pitch pine.
- NOTE: Projects should be planned so that the new dunes can be planted immediately after construction, and the plating should be done when the plants have the best chance of survival. Beach grass should be established by April 15th prior to the growing season and should be planted with 3 culms per hole. The holes should be spaced 18 inches apart. The density of the beachgrass should be at least 40 culms per 100 square feet.
- (10) Dune restoration/construction and beach nourishment projects shall use sand which has textural and color characteristics consistent with the natural sand's textural and color characteristics.
- (11) Dune restoration/construction projects shall minimize damage to existing dune vegetation and shall follow the configuration and alignment of adjacent dunes as closely as possible.
- (12) Any created or restored dune shall be planted with beachgrass and shall be adequately protected from pedestrian traffic until the beachgrass is well established.
- (13) The replacement of a seawall may not increase the height, length or thickness dimensions of a seawall beyond that which existed within 18 months of submission of the notification form. The replaced seawall must not be significantly different in construction from the one that previously existed.
- (14) Only wind or storm driven sand or cobble which has accumulated in front of existing seawalls and free of beach vegetation can be moved seaward using machinery. Sand or cobble shall be evenly distributed on the beach berm above mean high water (MHW) and shall not be removed from the sand dune system.
- **D. Definitions.** The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) A-zone. That land area of special flood hazard subject to a one percent or greater chance of flooding in any given year.

- NOTE: These areas will be designated as Zones A, Al-30, or AO on a community's Flood Insurance Rate Map, and the depth of flooding will usually be shown on the map. In cases where these maps are not available, no longer apply to a specific site because of significant shoreline changes, or show unnumbered A-zones, the base flood elevation must be determined using the best available data. The base flood, also known as the 100 year flood, is the flood with a one percent chance of occurring in any given year. Flood elevations must be given relative to NGVD, which is a standard elevation (0.00 feet) from which land measurements are derived. Procedures for determining flood elevations should conform with the procedures established by the Federal Emergency Management Agency (FEMA) in developing the Flood Insurance Rate Maps. Computer analysis is not required.
- (2) B-zone. Areas between the special flood hazard areas (A-zones and V-zones) and the limits of the 500 year flood. This zone also includes areas of 100 year shallow flooding where water depths are less than one foot.
- (3) Back dunes. Back dunes consist of sand dunes and eolian sand flats that lie landward of the frontal dune or a low energy beach. Back dunes include those areas containing artificial fill over back dune sands or over wetland adjacent to the sand dune system.

NOTE: In locations of extreme dune erosion where the frontal dune is completely eroded, back dunes may become frontal dunes.

- (4) Beach Face. The sloping portion of a beach which is below the high tide limit, and is usually exposed to wave action.
- (5) Beach Grass. A grass species native to sand dune systems with the scientific name Ammophila breviligulata.
- (6) Beach Nourishment. Artificially adding sand to the beach face.
- (7) Berm. The flat or gently sloping area between the high tide limit and frontal dune. A berm is formed by deposition of sand which has been transported to shore by waves and along shore by waves, wind and long shore currents.
- (8) C-Zone. Areas of minimal flooding above the level of the 100 year flood as mapped by the Federal Emergency Management agency.
- (9) Department. Department of Environmental Protection.
- (10) Development. The alteration of property for human-related use including, but not limited to, buildings, driveways, parking areas, wastewater disposal systems, lawns and other non-native vegetation, and any other appurtenant facilities, but excluding temporary structures and open decks exempted under Section 2 (H).

- (11) FEMA. The Federal Emergency Management Agency (FEMA) of the United States Government. This agency administers the National Flood Insurance Program and the Flood Insurance Rate Maps.
- (12) Frontal Dune. The frontal dune is the area consisting of the most seaward ridge of sand and includes former frontal dune areas modified by development. Where the dune has been altered from a natural condition, the dune position may be inferred from the present beach profile, dune positions along the shore, and regional trends in dune width. The frontal dune may or may not be vegetated with natural flora and may consist in part or in whole, of artificial fill. In areas where smaller ridges of sand are forming in front of an established dune ridge, the frontal dune may include more than one ridge.
- (13) Lot. A piece of land measured and marked out by metes and bounds or by some other approved surveying technique.
- (14) National Geodetic Vertical Datum (NGVD). The base (0.00) elevation point from which land measurements are derived. This elevation was established in 1929 and was formerly called "sea level datum of 1929" or "mean sea level."
- (15) Sand Dune System. The term "sand dune system" is used interchangeably with the terms "beach system," "coastal sand dune," "coastal sand dune" system", and "dune system". The statutory definition of "coastal sand dunes" in Title 38 Section 480-B applies equally to all these terms. Sand dune systems include sand deposits within a marine beach system which have been artificially covered by structures, lawns, roads, roads, and fill. Sand dune systems also include all vegetation which is native to and occurring in the system.
- (16) V-Zone. Areas below the 100 year flood elevation as mapped by the Federal Emergency Management Agency, experiencing wave action during a 100 year flood condition.

16. Transfers and Permit Extensions

A. Applicability

- (1) This section applies to the transfers of permits issued under the Natural Resources Protection Act to be transferred from permittees to other parties when the permitted project changes ownership.
- (2) This section also applies to first-time permit extensions for permits that have not expired which were issued pursuant to a full application under the Natural Resources Protection Act.

B. Submissions

- (1) For transfers, applicants shall submit an affidavit attesting to the fact that they have received, read and understand the terms of the Department of Environmental Protection Order(s) and conditions of approval for the project and that they will fully comply with said order(s) and conditions.
- (2) For transfers, a copy of the order(s) to be transferred as well as a copy of documents establishing proof of ownership of the property on which the project is located or sufficient title, right or interest to complete the project in accordance with the requirements of the permit and the NRPA shall be submitted to the Department accompanied by the affidavit.
- (3) For permit extensions, a copy of the order(s) to be extended shall be submitted to the Department along with a written reason for the extension request.
- C. Definitions. The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:
- NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.
 - (1) Affidavit. A written declaration made under oath before a notary public.
 - (2) Extension. A department approval to extend an unexpired permit. An extension is valid for 2 years.

17. General Permit for Maintenance Dredging Previously Approved by DEP

A. Applicability

- (1) This section applies to the renewal of permits issued by the Department for maintenance dredging in coastal wetlands, great ponds and rivers, streams and brooks provided that the material to be dredged:
 - a) will be disposed of on land and not in any protected resource;

NOTE: Any debris or dredged material generated during the work must be disposed of in conformance with Maine Solid Waste Law, Title 38 Section 1301 et. seq.

- (b) is located in an area that was dredged within the last ten years; and
- (c) is not located in or within 250 feet of an area identified as significant wildlife habitat by the Department of Inland Fisheries and Wildlife.

B. Submissions

(1) A copy of the permit issued for the most recent dredging shall be submitted to the Department with the notification form.

C. Standards

- (1) The dimensions of the area proposed to be dredged shall not exceed previously approved dimensions and dredging shall be conducted in the same location.
- (2) All conditions previously attached to the original permit are incorporated into the permit-byrule unless otherwise stated by the Department in writing.
- (3) For dredges in tidal waters, timing of the project must be approved by the Department of Marine Resources to minimize impacts to fisheries resources.
- **D. Definitions.** The following terms, as used in these rules, shall have the following meanings, unless the context indicates otherwise:

NOTE: The following terms are defined by statute and are included as an attachment to this packet of information: coastal sand dune systems, coastal wetlands, freshwater wetlands, great ponds, normal high water line, permanent structure, river, stream or brook.

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NOTE: To determine whether your project may be located in a significant wildlife habitat area, please contact your local regional office of the Maine Department of Inland Fisheries & Wildlife.

- (1) Dredge. To move or remove, by digging scooping or suctioning any sand, silt, mud, gravel, rock, or other material from the bottom of a water body or wetland surface.
- (2) Dredge spoils. Sand, silt, mud, gravel rock or other sediment or material that is moved from coastal wetlands, great ponds or rivers, streams or brooks.

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- Additional Definitions. The following terms are defined under the Natural Resources Protection Act Section 480-B. They are included here for your reference and attention because the ability to perform activities under Permit by Rule is dependent upon them. Any questions about these terms meaning should be directed specifically Bureau of Land Quality Control staff.
 - (1) Coastal Sand Dune Systems. "Coastal sand dune systems" means sand deposits within a marine beach system, including, but not limited to, beach berms, frontal dunes, dune ridges, back dunes and other sand areas deposited by wave or wind action. Coastal sand dunes may extend into the coastal wetlands.
 - (2) Coastal Wetlands. "Coastal wetlands" means all tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.
 - (3) Forest Management Activities. "Forest management activities" means timber stand improvement, timber harvesting, forest products harvesting and regeneration of forest stands.
 - (4) Freshwater Wetlands. "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas which are:
 - (a) Of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres;
 - (b) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
 - (c) Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

- (5) Great Ponds. "Great ponds" means any inland bodies of water which in a natural state have a surface area in excess of 10 acres and any inland bodies of water artificially formed or increased which have a surface area in excess of 30 acres.
- (6) Normal High Water Line. "Normal high water line" means that line along the shore of a great pond, river, stream, brook or other nontidal body of water which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or from changes in vegetation and which distinguishes between predominantly aquatic and

predominantly terrestrial land. In the case of great ponds, all land below the normal high water line shall be considered the bottom of the great pond for the purposes of this article.

- (7) Permanent Structure. "Permanent structure" means any structure constructed or erected with a fixed location, or attached to a structure with a fixed location, on or in the ground within a fragile mountain area, or having a fixed location in, on or over the water for a period exceeding 7 months each year, including, but not limited to, causeways, piers, docks, concrete slabs, piles, marinas, retaining walls and buildings.
- (8) River, Stream or Brook. "River, stream or brook" means a channel between defined banks including the floodway and associated flood plain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of top soil containing water-borne deposits on exposed soil, parent material or bedrock.
- (9) Significant Wildlife Habitat, "Significant Wildlife Habitat" means the following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife: Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

AUTHORITY:

38 M.R.S.A., Section 480-H & 341-D(1)

EFFECTIVE DATE:

February 15, 1989 Amended: March 23, 1991 Amended: April 11, 1992 Amended: May 19, 1992 Amended: April 21, 1995 Amended: May 14, 1995

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 4, 1996

NON-SUBSTANTIVE CORRECTIONS: May 12, 1997 - punctuation, formatting, comparison with May 14, 1995 amendment.

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Appendix D

Results of SPO Opinion Survey

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Responses to Opinion Survey on the NRPA Permit-By-Rule program

Number of responses: 22 responses out of 90 surveys sent Types of persons responding: Muncipal Code Enforcement Officers state agencies: Dept. of Conservation, Dept. of Transportation, Dept. of Marine Resources federal agencies: USDA - Natural Resources Conservation Service municipal conservation commissions environmental groups: Maine Audubon Society; Chewonki business groups: Associated Constructors of Maine; Maine Real Estate Development Association Rep. Scott Cowger environmental attorney

1. What types of activities do you think are appropriate for permit by rule? Why?

- Many responded that the current activities are appropriate, and the activities in this program should be those that are routinely permitted with standard conditions and do not significantly affect the environment.
- Others suggested some revisions:
 - PBR should be limited to upland fill for water dependent uses; riprap above spring tide line; repairs to existing structures.
 - Only supervised activities for restoration of natural areas; fisheries and wildlife habitat creation.
 - Add municipal projects for public good or emergency.
 - Only activities that do not significantly affect the environment and are located well outside essential or significant habitats, or candidates for these categories.

2. Do you think that any of the activities currently included in the Permit-by-Rule program are inappropriate for this process? If so, Why?

- Most respondents did not suggest any changes to the list of activities
- Other suggestions:
 - most activities listed should be deleted -- not enough inspections
 - activities should be removed from PBR program if it can't be monitored, and will have a cumulative impact on the environment. examples: riprap below high water, dredging

lobster pounds, piers that are above low water line, but still cause environmental damage and navigation hazards.

- activities near essential or significant habitats, or candidates for these categories.
- section 2: soil disturbance -- disturbance over certain size (e.g. 2 acres) should require full
 permit
- section 3: water intakes -- should not apply to drilled wells adjacent to protected natural resources because soil disturbance PBR addresses concerns.
- section 4: repair of structures -- should not require any permit
- section 6: outfall pipes -- farm field ditches are a significant problem that should be addressed more closely.
- section 7: riprap -- projects above a certain size (e.g. 1000 sq. ft.) should require a full permit and should require a determination that riprap is necessary.
- section 8: crossings -- needs DMR review
- section 13: piers, wharves pilings -- impacts on navigation and other uses of waterways
- section 17: maintenance dredging -- needs DMR review

3. Do you think the standards in the permit-by-rule program are adequate to ensure no significant impact on protected natural resources? If not, how should the standards be changed?

- Most respondents think the standards are adequate.
- A couple of respondents suggested that standards for dredging and crossings should include DMR review.

4. Do you think there is adequate enforcement by DEP to ensure compliance with the standards? If not, how should the compliance process be changed?

- Many respondents believe that DEP needs more site visits, unannounced.
- Some also suggested that DEP work more closely with local CEOs for site visits.
- Other suggestions:
 - fines should be more consistent and stiffer to improve compliance
 - enforce photo requirements
 - the permit process at municipal government

5. What level of compliance with the permit-by-rule is acceptable (i.e. percentage or number of violations)?

• All respondents stated that they expect 90 -100% of the permits issued under the rule to be in compliance.

6. Do you think the information required to obtain a permit-by-rule is adequate? If not, what additional information should be required?

- Most respondents believe the information is adequate.
- Additional information suggestions:
 - more detailed plans/drawings;
 - overall project plans;
 - proof of ownership of the property;
 - name and address of contractor;
 - verification from DIFW that project is not located near essential or significant wildlife habitat.

7. Is it unreasonably burdensome to provide the required information? If so, how could the burden be made more reasonable?

- Almost all respondents believe the information requirements are <u>not</u> burdensome.
- Other suggestions:
 - the location map is sometimes difficult for some people
 - no site plan should be required

8. Do you think DEP provides enough guidance and information to permit applicants on how to use and comply with the permit-by-rule program? If not, how should this be changed?

- Most respondents believe the guidance is generally adequate.
- Some offered ideas to improve the guidance:
 - better guidance for municipal CEO's;
 - PBR display at municipal offices;
 - diagrams;
 - illustrations;
 - videos;
 - annual workshops for contractors (required attendance?);
 - pre-submission meetings in some cases
 - site visits in some cases.
 - clarify the penalties for non-compliance.
 - applications should refer people to submerged lands program at DOC for sections 6, 7 and 17.

9. Do you think there is an adequate opportunity for the public to participate in the rulemaking and permitting process? If not, how should this opportunity be changed?

- Most respondents are either unaware of the public participation opportunities or believe that it is adequate.
- Some respondents suggested ways to improve public participation:
 - require more notice to those affected by activity -- abutters
 - require notice to municipality
 - require notice to DMR; DIFW

10. Do you think there is an adequate opportunity to appeal the issuance of a permit-by-rule? If not, how should this be changed?

- The respondents were generally not aware of any appeal process for PBR.
- Other suggestions:
 - clarify appeal opportunity
 - requiring better notice would allow better opportunity for appeal
 - extend time limit for review to 30 days to allow participation and appeals.

Author: Fran Rudoff at SPOMAIL Date: 1/13/98 2:07 PM Priority: Normal TO: Mail List - #Coastal Program Subject: agenda for retreat on january 15

> The following is a suggested agenda for our retreat on Thursday (noon to 4 at the Pine Tree Arboretum -- BRING SOMETHING FOR POT LUCK LUNCH -- Kathleen promises to show off her wood stove cooking skills!! yum yum!) I welcome any suggestions on improving this agenda -- please send me your thoughts.

noon lunch

12:30ish

> -- Externally with other state agency staff? (see summary of evaluation comments from the Annual meeting -- copies in your boxes)

-- Externally with other collaborators?

-- With the public?

1:30

Programmatically, how are we doing? What issues/programs/concerns should we be working on that we are not at present?

-- For the short-term (next year 1998-99)

-- For the long-term.

Do we need a vision of where the program should be in the year 2010?
Can we brainstorm a list of emerging issues that we need to look at?
What key initiatives should be the hallmark of what we do and strive to accomplish?

- Do we need to redo the MCP Program Document? What are the benefits? Who cares? (NOAA would like to see us do it) If we did choose to redo it, how might it change? What process might we use (i.e. small, in-house effort vs. larger public effort with oversight citizen's committee, etc.)

3:30 Next steps

4:00 Adjourn

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Appendix E

Results of DEP Field Inspections

This Appendix E to the Report to the Maine Legislature by the Land and Water Resources Council on the Natural Resources Protection Act Permit by Rule Program includes the results of field inspections conducted by the Maine Department of Environmental Protection in 1997. As explained in the report, the DEP inspected a sample of permits issued under the rule in 1996. Each site was then put into one of the following four categories:

1. Permitted activity is in compliance with standards in the rule; and there is no significant adverse environmental impact.

2. Permitted activity is in compliance with standards in the rule; and there is significant adverse environmental impact.

3. Permitted activity is not in compliance with standards in the rule; and there is no significant adverse environmental impact.

4. Permitted activity is not in compliance with standards in the rule; and there is significant adverse environmental impact.

PBR COMPLIANCE 1996

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02 Dist. of Soil Mat.

STATUS

	ź		2		3		4	-	Total	Total	
REGION	Count	%	Count	%	Count	%	Count	%	Count	%	
AUGUSTA	57	70.37%	1	1.23%	16	19.75%	7	8.64%	81	100.00%	
BANGOR	25	78.13%	0	0.00%	6	18.75%	1	3.13%	32	100.00%	
PORTLAND	129	89.58%	3	2.08%	5	3.47%	7	4.86%	144	100.00%	
Total	211	82.10%	4	1.56%	27	10.51%	15	5.84%	257	100.00%	

03 Intake Pipes

STATUS

	1		3		4		Total	Total	
REGION	Count	%	Count	%	Count	%	Count	%	
AUGUSTA	5	50.00%	3	30.00%	2	20.00%	10	100.00%	
BANGOR	3	100.00%	0	0.00%	0	0.00%	3	100.00%	
PORTLAND	3	60.00%	1	20.00%	1	20.00%	5	100.00%	
Total	11	61.11%	4	22.22%	3	16.67%	18	100.00%	

04 Maint Repair & Replacement of Structure

STATUS

	7		3		4		Total	Total
REGION	Count	%	Count	%	Count	%	Count	%
AUGUSTA	13	65.00%	5	25.00%	2	10.00%	20	100.00%
BANGOR	5	83.33%	1	16.67%	0	0.00%	6	100.00%
PORTLAND	47	94.00%	1.	2.00%	· 2	4.00%	50	100.00%
Total	65	85.53%	7	9.21%	4	5.26%	76	100.00%

06 Movement of Rocks or Vegetation by Hand

STATUS

	Ż		3		4		Total	Total
REGION	Count	%	Count	%	Count	%	Count	%
AUGUSTA	5	50.00%	2	20.00%	3	30.00%	10	100.00%
BANGOR	1	33.33%	1	33.33%	1	33.33%	3	100.00%
PORTLAND	16	94.12%	1	5.88%	0	0.00%	17	100.00%
Total	22	73.33%	4	13.33%	4	13.33%	30	100.00%

07 Outfall Pipes

STATUS

	Ĩ	_	3		Total	Total
REGION	Count	%	Count	%	Count	%
AUGUSTA	6	85.71%	1	14.29%	7	100.00%
BANGOR	10	90.91%	1	9.09%	11	100.00%
PORTLAND	20	90.91%	2	9.09%	22	100.00%
Total	36	90.00%	4	10.00%	40	100.00%

08 Riprap

STATUS

	7		2		3		4		Total	Total
REGION	Count	%	Count	%	Count	%	Count	%	Count	%
AUGUSTA	34	85.00%	1	2.50%	4	10.00%	1	2.50%	40	100.00%
BANGOR	16	94.12%	0	0.00%	1	5.88%	0	0.00%	17	100.00%
PORTLAND	40	83.33%	1	2.08%	[°] 4	8.33%	3	6.25%	48	100.00%
Total	90	85.71%	2	1.90%	9	8.57%	4	3.81%	105	100.00%

PBR COMPLIANCE 1996

09 Crossings(Utility Lines, etc.)

STATUS

	1		3		4		Total	Total	
REGION	Count	%	Count	%	Count	%	Count	%	
AUGUSTA	7	58.33%	2	16.67%	3	25.00%	12	100.00%	
BANGOR	6	85.71%	0	0.00%	1	14.29%	7	100.00%	
PORTLAND	9	90.00%	0	0.00%	1	10.00%	10	100.00%	
Total	22	75.86%	2	6.90%	5	17.24%	29	100.00%	

10 Stream Crossing

STATUS

	7		2		3		14		Total	Total
REGION	Count	%	Count	%	Count	%	Count	%	Count	%
AUGUSTA	13	50.00%	0	0.00%	7	26.92%	6	23.08%	26	100.00%
BANGOR	11	68.75%	0	0.00%	5	31.25%	0	0.00%	16	100.00%
PORTLAND	33	84.62%	2	5.13%	1	2.56%	3	7.69%	39	100.00%
Total	57	70.37%	2	2.47%	13	16.05%	9	11.11%	81	100.00%

11 General Permits of State Transport facilities

STATUS

	7		2		3		4		Total	Total
REGION	Count	%								
AUGUSTA	15	88.24%	0	0.00%	0	0.00%	2	11.76%	17	100.00%
BANGOR	9	81.82%	0	0.00%	2	18.18%	0	0.00%	11	100.00%
PORTLAND	7	87.50%	1	12.50%	0	0.00%	0	0.00%	8	100.00%
Total	31	86.11%	1	2.78%	2	5.56%	2	5.38%	36	100.00%
PBR COMPLIANCE 1996

12 Restoration of Natural Areas

STATUS

	Ť		3		4		Total	Total
REGION	Count	%	Count	%	Count	%	Count	%
AUGUSTA	11	57.89%	4	21.05%	4	21.05%	19	100.00%
BANGOR	3	100.00%	0	0.00%	0	0.00%	3	100.00%
PORTLAND	7	87.50%	0	0.00%	1	12.50%	8	100.00%
Total	21	70.00%	4	13.33%	5	16.67%	30	100.00%

13 Fish & Wildlife Creation, Enhancement & Water Quality

STATUS

	7		Total	Total
REGION	Count	%	Count	%
AUGUSTA	6	100.00%	6	100.00%
BANGOR	2	100.00%	2	100.00%
PORTLAND	4	100.00%	4	100.00%
Total	12	100.00%	12	100.00%

14 Piers, Wharves & Pilings

STATUS

	7		2		3		4		Total	Total
REGION	Count	%	Count	%	Count	%	Count	%	Count	%
AUGUSTA	21	91.30%	0	0.00%	1	4.35%	1	4.35%	23	100.00%
BANGOR	6	85.71%	0	0.00%	1	14.29%	0	0.00%	7	100.00%
PORTLAND	23	95.83%	1	4.17%	. 0	0.00%	0	0.00%	24	100.00%
Total	50	92.59%	1	1.85%	2	3.70%	1	1.85%	54	100.00%

PBR COMPLIANCE 1996

15 Public Boat Ramps

STATUS

	1		3		Total	Total
REGION	Count	%	Count	%	Count	%
AUGUSTA	1	100.00%	0	0.00%	1	100.00%
PORTLAND	2	66.67%	1	33.33%	3	100.00%
Total	3	75.00%	1	25.00%	4	100.00%

16 Select Sand Dune Projects

STATUS

	3		3		Total	Total
REGION	Count	%	Count	%	Count	%
PORTLAND	22	95.65%	1	4.35%	23	100.00%
Total	22	95.65%	1	4.35%	23	100.00%

17 Transfers

STATUS

	7		Total	Total
REGION	Count	%	Count	%
PORTLAND	2	100.00%	2	100.00%
Total	2	100.00%	2	100.00%

PBR COMPLIANCE 1996

18 Maintenance Dredging

STATUS

	Ĩ		Total	Total
REGION	Count	%	Count	%
AUGUSTA	1	100.00%	1	100.00%
PORTLAND	2	100.00%	2	100.00%
Total	3	100.00%	3	100.00%

TOTAL FOR 1996

STATUS

	\$		2		3		4		Total	Total
REGION	Count	%	Count	%	Count	%	Count	%	Count	%
AUGUSTA	195	71.43%	2	0.73%	45	16.48%	31	11.36%	273	100.00%
BANGOR	97	82.20%	0	0.00%	18	15.25%	3	2.54%	118	100.00%
PORTLAND	366	89.49%	8	1.96%	17	4.16%	18	4.40%	409	100.00%
Total	658	82.25%	10	1.25%	80	10.00%	52	6.50%	800	100.00%

COMPLIANCE STATUS	<u>COMPLIANCE STATUS DESCRIPTION</u>	
1	Conditions complied with; no	
	apparent adverse environmental	
	impact	
2	Conditions complied with; adverse	
	environmental impacts may exist	
3	Conditions not complied with;no	
	significant envir problems	
4	Conditions not complied	
•	with;significant envir prob exists	

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