Chapter 305: NATURAL RESOURCES PROTECTION ACT

PERMIT BY RULE

Section 16-A:

Non-development Activities in Coastal Sand Dunes

NOTE: *This Section-by Section version of Permit By Rule is re-formatted to increase usability and includes additional guidance, annotations, and addendum. The entire rule, as published, is available below.*

Link to Permit By Rule Section 1 (Introductions & Compliance Info)

Official Chapter 305 Rule (all sections):
https://www.maine.gov/sos/rulemaking/agency-rules/department-environmental-protection-rules

AMENDED:
May 25, 2005 – filing 2005-174 December 5, 2006 – filing 2006-496
February 25, 2008 – Section 20 only, filing 2008-88
July 15, 2009 – filing 2009-339
July 30, 2011 – Section 16 only, filing 2011-211 (Final adoption, major substantive)
June 8, 2012 – filing 2012-146 (Final adoption, major substantive)
December 27, 2022 – Section 16-A only, filing 2022-256
December 9, 2023 - Section 16 only, filing 2023-231 (Final adoption, major substantive)
June 17, 2025 – filing 2025-129

NRPA Permit By Rule Section 16-A

A. APPLICABILITY

1 This section applies to the following activities in coastal sand dune systems:

(a) Beach nourishment using sand and gravel;
(b) Dune restoration or construction using sand and gravel or sand and gravel in combination with biodegradable stabilization materials;
(c) Planting of native dune vegetation by hand in excess of 2,000 square feet or on multiple properties;
(d) Removal of seaweed from the beach by a municipality using hand or mechanical means when the seaweed is removed from the coastal sand dune system; and
(e) Beach scraping to move sand from the beach up to the seaward edge of the dune.

NOTES:

(1) A beach nourishment or dune restoration or construction activity that qualifies under this section may require approval from the U.S. Army Corps of Engineers if the activity will involve work below the mean high-water line. Applicants should contact the Army Corps of Engineers Maine Project Office at 207-623-8367.

(2) A beach nourishment or dune restoration or construction activity that uses dredged sand or gravel may require a permit from the DEP for beneficial use of solid wastes. Please refer to the DEP's Chapter 418 Solid Waste Management Rules: Beneficial Use of Solid Wastes.

(3) Removal of seaweed from the beach by hand or mechanical means is considered a de minimis activity that does not require a permit under the Natural Resources Protection Act pursuant to the DEP's Chapter 355 Coastal Sand Dune Rules only if the seaweed is not removed from the coastal sand dune system and does not disturb dune vegetation.

2  This section does not apply to an activity that will not conform to the local shoreland zoning ordinance.

NOTE: *Contact the local Code Enforcement Officer for information on local shoreland zoning requirements.*

B. SUBMISSIONS

Submissions for all sections:

PBR Notification Form

Location Map

Submissions for Section 16-A:

The following items must be submitted with the notification, unless otherwise provided below.

1 Photographs of the area that will be affected by the activity proposed.

2 Photographs showing the completed project and the affected area must be submitted within 20 days of the activity's completion. The photographs must be sent with a copy of the notification form or labeled with the applicant's name and the town in which the activity took place.

3 The following information must be submitted with the notification form:

(a) The physical address, location of property lines, and names of abutters;

(b) A copy of the most recent Coastal Sand Dune Geology Map, produced by the Maine Geological Survey that contains the project site and has the project site clearly identified on the map;

NOTE: *Maps are available for review and download on the Maine Geological Survey (MGS) website and for purchase from MGS, 93 State House Station, Augusta, ME 04333.* https://www.maine.gov/dacf/mgs/pubs/digital/dunes.htm

(c) A copy of the written review comments from the Department of Inland Fisheries and Wildlife, and a demonstration that any project-specific recommendations on the design, timing, and/or construction of the proposed project received from that agency have been incorporated into the proposed activity;

(d) For beach nourishment projects:

(i) A plan describing the need for the project, the depth of sand and gravel to be placed on each area of the beach, details on how machinery will access the beach, the volume of sand and gravel to be placed, the sources of sand and gravel, and project start and end dates; and

(ii) Written confirmation from MGS that it has reviewed the project and finds the plan acceptable and the proposed sand and gravel suitable for beach nourishment;

B. SUBMISSIONS (CONT.)

(e) For dune restoration or construction projects:
  (i) A plan describing the need for the project, and the depth and location(s) of sand and gravel to be placed on the beach and/or dune, and the types, depths and location(s) of any biodegradable stabilization materials to be placed on the beach and/or in the dune. The plan also must include details on how machinery will access the dune area, the volume of sand and gravel to be placed, the sources of sand and gravel, how dune grass will be planted, and project start and end dates; and
  (ii) Written confirmation from MGS that it has reviewed the project and finds the plan acceptable and the proposed sand, gravel, cobble and/or biodegradable stabilization materials suitable for dune restoration or construction;

(f) For planting of native dune vegetation by hand:
  (i) A plan describing the area to be planted, type(s) of species to be planted, pattern of planting, and project start and end dates.

(g) For removal of seaweed from the beach by a municipality;
  (i) A plan describing the area from which the seaweed will be removed, equipment to be used, details on how machinery will access the beach, project start and end dates, removal schedule (e.g. weekly or daily), where the seaweed will be stored, when it will be returned and where it will be placed in the costal sand dune system when it is returned.

(h) For beach scraping:
  (i) A plan describing the need for the project, the depth and location of sand to be removed from the beach to the dune, and the location where it will be placed, and equipment to be used. The plan must also include details on how machinery will access the beach.
  (ii) Written confirmation from MGS that it has reviewed the project and finds the plan acceptable.

NOTE: *An applicant should be prepared to provide MGS with a sample or photograph of the sediment they plan to use for beach nourishment or dune restoration or construction projects.*

C. STANDARDS

The following measures must be taken during construction and maintenance of the activity.

1 Disturbance of dune vegetation must be avoided, damage to existing dune vegetation must be minimized, and native vegetation must be retained on the project site to the maximum extent possible. Any areas of dune vegetation that are disturbed must be restored as quickly as possible.

2 For beach nourishment projects:

(a) Beach nourishment projects must utilize sand and gravel that has textural and color characteristics consistent with the natural textural and color characteristics of the beach sediment.

(b) Beach nourishment activities may not occur between March 15 and October 1 unless written approval from the Department of Inland Fisheries and Wildlife has been obtained to conduct this work during specific time periods within this window.

(c) The depth of sand and gravel placed on the beach must be tapered at the perimeter of the nourished area.

(d) Beach nourishment may extend up to the frontal dune, including up to the top of an erosional scarp, but may not cover in-place dune vegetation.

(e) For a beach nourishment project, the total volume of sand and gravel to be placed on the beach may not exceed a volume of two feet deep over the surface area of the beach or 10,000 cubic yards, whichever is less. The surface area of the beach is measured in width from the normal low tide to the highest astronomical tide and in length along the beach parallel with the shoreline. The sand and gravel does not have to be placed to an even depth across the profile of the beach, nor is it restricted to two feet in depth in any specific place.

3 For dune restoration or construction projects, including those that use biodegradable stabilization materials:

(a) An activity involving dune restoration or dune construction must be performed between October 1 and March 15, unless written approval from the Department of Inland Fisheries and Wildlife has been obtained and submitted with the notification. Dune grass must be planted immediately after restoration or construction. Dune grass must be planted with 3 culms per hole. The holes must be spaced 18 inches apart or less. The planted dune grass must be protected from pedestrian traffic until the dune grass is well established. The density of the growing stand of dune grass must be at east 40 plants per 100 square feet.

(b) A dune restoration/construction activity must use sand and gravel that has textural and color characteristics consistent with the natural textural and color characteristics of the existing dune sediments.

(c) A dune restoration or dune construction activity must minimize damage to existing dune vegetation and must follow the configuration and alignment of adjacent dunes as closely as possible. No sand and gravel may be placed below the normal high tide line.

(d) Dune restoration or construction activities may not occur more often than once a year in the same location.

C. STANDARDS (CONT.)

4 For dune restoration or construction projects that use biodegradable stabilization materials:

(a) Projects may not use or place stakes, anchors, or cables made from metal or other nonbiodegradable materials or fabrics, blankets or other stabilization materials made from polylactic acid polymers. Projects using these materials must apply for an individual permit pursuant to the Natural Resources Protection Act.

(b) No biodegradable stabilization materials may be placed below the highest astronomical tide line.

(c) The slope of the restored or constructed dune may not be steeper than the slope of the adjacent existing dunes.

(d) Biodegradable stabilization materials must be used in a manner designed to encourage the revegetation of the dune with native dune vegetation and must be covered with sand and native dune vegetation at all times following placement.

(e) Biodegradable stabilization materials containing or using gravel or cobble may only be used in a dune system primarily composed of gravel or cobble or directly adjacent to a beach that is primarily gravel or cobble.

5 For planting of native dune vegetation by hand:

(a) Dune planting activities must be performed between October 1 and March 15, unless written approval from the Department of Inland Fisheries and Wildlife has been obtained.

6 For removal of seaweed from the beach by a municipality:

(a) Seaweed removal activities are limited to June 15 through August 31.

(b) Seaweed that is removed from the coastal sand dune system must be stockpiled and returned to the coastal sand dune system by October 1 of the same year.

(c) Returned seaweed must be placed within 10 feet of the base of the dune and spread out so that it does not exceed 6 inches in depth.

(d) If the seaweed is proposed to be removed from an area designated as Essential Habitat, the municipality must obtain written approval for the activity from the Department of Inland Fisheries and Wildlife and a trained spotter must be on site during seaweed removal activities.

C. STANDARDS (CONT.)

7 For beach scraping:

(a) each scraping activities may not occur between March 15 and October 1 unless written approval from the Department of Inland Fisheries and Wildlife has been obtained to conduct this work during specific time periods within this window.

(b) Scraping may not extend seaward beyond the lower elevation of the two most recent high tides unless written approval from MGS has been obtained based on site-specific conditions. Recent high tide elevations can be approximated using the wet-dry line on the beach or the wrack line of seaweed.

(c) Scraping activities must not disturb or uncover any underlying ravinement surfaces such as peat or cobbles. If non-sand material, such as peat or cobbles, is encountered during scraping, the operator must reduce the depth of scraping in order to avoid those underlying materials. Only native beach material may be scraped and moved, not underlying ravinement.

(d) Scraping is limited to a maximum of 12 inches of elevation removed from the beach.

(e) Beach scraping activities may not occur more often than twice per year in the same location.

D. DEFINITIONS

The following terms, as used in this chapter, have the following meanings, unless the context indicates otherwise.

1 **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 wetlands adjacent to the coastal sand dune system.

2 **Beach.** The zone of unconsolidated sand or gravel that extends landward from the mean low water line to the seaward toe of a dune. The definition of beach includes the beach face and berm.

3 **Biodegradable stabilization materials.** Natural, plant-based biodegradable or compostable fabrics, erosion control blankets, and logs or rolls made from coir, jute, straw or other similar materials, including materials that contain or use gravel or cobble; discarded holiday trees and native trees, native brush, or native biodegradable materials; tree root wads; and biodegradable stakes, anchors or cables used to secure those materials.

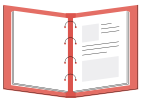
4 **Beach nourishment.** The artificial addition of sand, gravel or other similar natural material to a beach or subtidal area adjacent to a beach.

5 **Native dune vegetation.** Dune plant species typically adapted to Maine's coastal sand dune systems including, but not limited to, American beach grass, virginiana rose, bayberry, beach pea, beach heather and pitch pine.

6 **Frontal dune.** The frontal dune is the area consisting of the most seaward ridge of sand and gravel 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 dune vegetation 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.

7 **Land adjacent to a protected natural resource.** Any land area within 75 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.

HOW TO SUBMIT YOUR PERMIT BY RULE



STEP 1

DETERMINE APPLICABLE PERMIT-BY-RULE SECTION(S)

Permit-by-Rule regulations (Chapter 305) apply to certain activities that require a permit under the Natural Resources Protection Act (NRPA). Find the appropriate section for the activity you are proposing to see the requirements.

STEP 2

REVIEW CHAPTER 305 PBR SECTION STANDARDS

Find the section for your type of proposed activity in the Chapter 305 standards. Read the applicability section that describes in further detail which activities are included and where they are allowed. Read and comply with all the standards contained in the section.

STEP 3

MAINE ENTERPRISE LICENSING SYSTEM **(MELS)** HUB

Use the MELS Hub, which is the centralized DEP resource designed to apply for your PBR electronically. Payment is also accepted during this process:
Maine DEP: MELS Hub
https://www.maine.gov/dep/mels/hub.html

STEP 4

WAIT 20 WORKING DAYS AND PROCEED WITH PROJECT FOLLOWING STANDARDS

The PBR becomes effective 20 working days (M-F excluding holidays) from the date the Department receives the completed MELS submission, unless otherwise notified by the Department.

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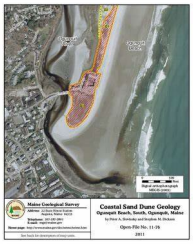
GUIDANCE & RESOURCES

Natural Resources Protection Act (NRPA) Basics & Submitting a Permit By Rule (Video)
https://youtu.be/cPmqZYE0XZY



Coastal Sand Dune Geology Online Maps
https://www.maine.gov/dacf/mgs/pubs/online/dunes/dunes.htm

Coastal Sand Dune Geology Maps Information
https://www.maine.gov/dacf/mgs/pubs/mapuse/series/dunes/dunes-exp.pdf

Maine Coastal Property Owner's Guide to Erosion, Flooding, and Other Hazards, 2nd edition:
https://digitalmaine.com/cgi/viewcontent.cgi?article=1605&context=mgs_publications

Sand Dune Restoration & Living Shoreline Practices:
https://www.conservationgateway.org/ConservationPractices/Marine/crr/Documents/FINAL_CombinedProfilePages_7_12_2017.pdf