

Chapter 305: NATURAL RESOURCES PROTECTION ACT

PERMIT BY RULE



Section 2:

Activities Adjacent To Protected Natural Resources

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

Official Chapter 305 Rule (all sections): Department of Environmental Protection Rules

<https://www.maine.gov/sos/rulemaking/agency-rules/departement-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 2

A. APPLICABILITY



1

This section applies to an activity adjacent to the following protected natural resources:

- (a) A coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland; or
- (b) Freshwater wetlands consisting of or containing:
 - (i) Under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments; or
 - (ii) Peatlands dominated by shrubs, sedges and sphagnum moss.

2 

This section does not apply to an activity located in, on, or over any protected natural resource as defined by 38 M.R.S. section 480-B.

3 

This section does not apply to an activity where sustained slopes are steeper than 3 horizontal feet: 1 vertical foot (approximately 33% slope) between the normal high-water line or upland edge of the protected resource and the soil disturbance.

4 

This section does not apply to an activity that qualifies for a permit by rule under another section of this chapter. Activities that qualify for permit by rule under another section are not required to comply with this section unless expressly stated in that section.

5 

This section does not apply to an activity that is not or will not be in compliance with the terms and conditions of a permit issued under the Site Location of Development Law, 38 M.R.S. Sections 481 to 489E, the [Storm Water Management Law, 38 M.R.S. Section 420-D](#), or the [Natural Resources Protection Act, 38 M.R.S. Sections 480-A to 480-KK](#).

6 

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

NOTE: Contact the local Code Enforcement Officer for information on local shoreland zoning requirements. In most shoreland areas, a 75 or 100 foot undisturbed buffer strip is required between the disturbed areas and the water or wetland.



B. SUBMISSIONS

Submissions for all sections:



PBR Notification Form



Location Map

Submissions for Section 2:

1



The applicant is required to submit photographs of the area which 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 municipality in which the activity took place.

3



A brief narrative explaining why there is no practicable alternative to location of the activity within the 75-foot setback, and how the impact on the remaining buffer and the resource will be minimized. This narrative is not required for those activities presumed to have no practicable alternative as listed in paragraph 2(C (1) of this Chapter.

4



A scaled plan or drawing of the area affected, including information such as:

- (a) The entire property on which the activity will take place, including property lines, the 75-foot setback, and the boundaries or location of protected natural resources such as streams and wetlands;
- (b) Proposed and existing development on the parcel including buildings, parking areas, roads, fill areas, landscaped areas, and other relevant features; and
- (c) Any site constraints limiting development beyond the 75-foot setback, such as steep slopes.

It is not necessary to have the plan professionally prepared. However, it must be legible and drawn to a scale that allows clear representation of distances and measurements on the plan.



C. STANDARDS

1 No activity or portion of an activity may be located within the 75-foot setback if there is a practicable alternative location on the parcel that would cause or result in less impact on the environment. The following activities are presumed to have no practicable alternative location on the parcel.

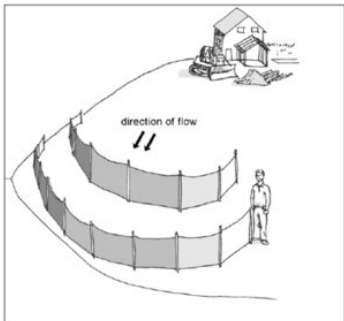
- (a) The planting of vegetation for the purpose of controlling erosion or for establishing a vegetative buffer.
- (b) The removal or replacement of underground storage tanks when performed in accordance with [38 M.R.S. Section 566-A](#).
- (c) The replacement of a structure or the placement or replacement of a foundation or supports for a legally existing structure or addition that is not closer to a protected natural resource than the existing structure provided the municipality has approved the location of the replaced or modified structure. However, any fill, other than that required to maintain the integrity of the structure such as foundation backfill, must meet the 75-foot setback standard unless otherwise approved by the DEP pursuant to this section.

NOTE: In most cases when a structure is being replaced or a foundation is being put under an existing structure that does not meet the setback requirements of the Municipal Shoreland Zoning Ordinance, the applicant is required by the municipality to move the structure back from the natural resource to the Greatest Practical Extent.

- (d) The closure of a landfill in conformance with the DEP's solid waste management rules.
- (e) Access way consisting of a footpath, stairway, or steps to the resource.

2 Except for those activities listed in Section 2(C)(1)(a)-(e) above, a 25-foot setback must be maintained between the normal high-water line or upland edge of the protected natural resource and the activity. Areas that have slopes of 3 horizontal feet: 1 vertical foot (approximately 33% slope), or steeper, may not be counted when determining the 25-foot setback. Existing vegetation within the setback may not be disturbed except for cutting activity meeting the exemption requirements in [38 M.R.S. Section 480-Q\(23\)](#).

3 The following measures must be taken to prevent erosion of soil or fill material from disturbed areas into the resource:



- (a) Sediment controls such as trenched and anchored silt fence, an erosion control mix berm at least 1 foot tall, staked straw bales, anchored erosion control socks at least 12 inches in diameter, or a combination of these methods must be properly installed between the area of soil disturbance and the resource before the activity begins and maintained until the disturbed area is permanently stabilized;
- (b) Surface flows from above the disturbed area must be diverted around the disturbed area until final stabilization and any diverted runoff must be managed to prevent erosion; examples of diversions include but are not limited to erosion control mix berms or socks, sandbags, and shallow excavated trenches;
- (c) Within 1 calendar day following the completion of any soil disturbance, and prior to any storm event, temporary or permanent stabilization must be implemented or spread on any exposed soils;
- (d) All disturbed soils must be permanently stabilized; and
- (e) Within 30 days of final stabilization of the site, any silt fence, straw bales, or temporary erosion or sediment controls containing plastic or other non-biodegradable materials must be removed and erosion control mulch berms must be raked to a depth of no more than 6 inches.

NRPA Permit By Rule Section 2

C. STANDARDS (CONT.)

- 5** A footpath to the resource is limited to 6 feet in width and stairs or steps are limited to 4 feet in width.



- 6** All work is limited to the location and extent depicted on the plan or plans submitted pursuant to subsection B(4) of this section.

NOTE: For guidance on erosion and sedimentation controls, consult the *Maine Erosion and Sediment Control BMPs*, dated October 2016. This handbook and other references are available online at: <https://www.maine.gov/dep/land/erosion/escbmps/> or by contacting the DEP.

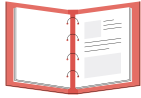
D. DEFINITIONS

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

- 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** **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.
- 2-A** **Practicable.** Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.
- 3** **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.
- 4** **Upland edge.** The boundary between upland and wetland.

NOTE: [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 Health and Human Services pursuant to [22 M.R.S. Section 42\(3\)](#).

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)

<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.

The PBR becomes effective 20 working days from the date the Department receives the MELS submission unless otherwise notified by the Department.

GUIDANCE & RESOURCES



Natural Resources Protection Act (NRPA) Basics & Submitting a Permit By Rule (Video)

<https://youtu.be/cPmqZYE0XZY>



Maine DEP Erosion Control Best Management Practices Field Guide

www.maine.gov/dep/land/erosion/escbmps/esc_bmp_field.pdf



Additional Manuals and Guides to Reduce Water Pollution

www.maine.gov/dep/land/watershed/materials.html