Chapter 305: NATURAL RESOURCES PROTECTION ACT

PERMIT BY RULE

Section 7:

Outfall Pipes

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 7

A. APPLICABILITY

1

This section applies to the installation and maintenance of a permanent outfall pipe, an outlet from a ditch or drain tile for storm water, ground water or other discharges licensed by the DEP in or on land adjacent to a coastal wetland, freshwater wetland, great pond, river, stream or brook.

NOTES:

(1) A wastewater discharge license from the DEP is required for any discharge from an outlet other than stormwater from residential development; small commercial or industrial facilities; or uncontaminated groundwater.

(2) A permit will be required from the US Army Corps of Engineers for the following types of projects:

- (a) Any activity involving open trench excavation in a waterbody or wetland;
- (b) Any activity in coastal waterways;
- (c) Any activity within a river, stream or brook between October 2 and July 14; or
- (d) Any activity involving work in waterways designated as Essential Fish Habitat for Atlantic salmon including all aquatic habitats in the watersheds of the following rivers and streams, including all tributaries to the extent that they are currently or were historically accessible for salmon migration: St. Croix, Boyden, Dennys, Hobart Stream, Aroostook, East Machias, Machias, Pleasant, Narraguagus, Tunk Stream, Patten Stream, Orland, Penobscot, Passagassawaukeag, Union, Ducktrap, Sheepscot, Kennebec, Androscoggin, Presumpscot, and Saco River.

A copy of the PBR notification and original photographs, not photocopies, should be submitted to the Corps of Engineers for these activities (US Army Corps of Engineers, 442 Civic Center Drive, Suite 350, Augusta, ME 04330. Tel. (207) 623-8367).

2 ✗

This section does not apply to an activity that is not or will not be in compliance with the terms and conditions of permits issued under the Site Location of Development Law, 38 M.R.S. Sections 481 to 490, 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.

3 ✗

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.*

NRPA Permit By Rule Section 7

B. SUBMISSIONS

Submissions for all sections:

PBR Notification Form

Location Map

Submissions for Section 7:

1

For an activity occurring in tidal waters, notice of approval of the timing of the activity from the Department of Marine Resources must be submitted to the DEP with the notification form.

Marine Resources Timing Form:
https://www.maine.gov/dmr/sites/maine.gov.dmr/files/inline-files/DMR%20TOY%20app%2002-20.pdf

2

The applicant is required to submit photographs of the area which will be affected by the activity proposed.

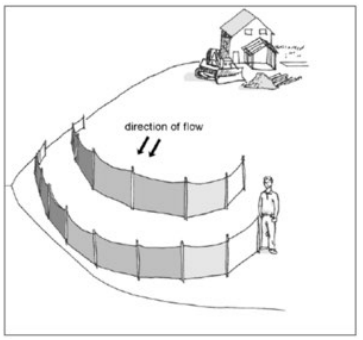
3

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

NRPA Permit By Rule Section 7

C. STANDARDS

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



(a) For any soil disturbance that is limited to the upland and does not extend into the protected natural resource, 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) Any soil disturbance within a freshwater wetland, great pond, river, stream, or brook must be done during periods of low water to minimize impacts (in-stream work window, lake draw-down, etc.) and must be temporarily or permanently stabilized daily. The placement of sediment barriers within the water would be ineffective and could cause unnecessary damage to the resource;

(c) Any soil disturbance within a coastal wetland must be done at or near low tide and must be temporarily or permanently stabilized before being submerged. The placement of sediment barriers within the tidal zone would be ineffective and could cause unnecessary damage to the resource;

(d) 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;

(e) 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;

(f) All disturbed soils must be permanently stabilized; and

(g) 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.

NOTE: *For guidance on erosion and sedimentation control consult the Maine DEP 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.*

C. STANDARDS (CONT.)

2 Stormwater outfalls, whether a pipe or trench, must 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 unless a different standard is required pursuant to the Site Location of Development Law, 38 M.R.S. Sections 481 to 490, or the Storm Water Management Law, 38 M.R.S. Section 420-D. The DEP may approve a reduction in width of the vegetated buffer if:

(a) The applicant demonstrates in writing that the full buffer width is not practicable;
(b) Any recommendations from the DEP are incorporated into the activity; and
(c) Approval of the reduction is from the DEP in writing.

3 Foundation drains and licensed discharges may extend to, and outfall in, the resource. If necessary, a rock apron must be constructed to prevent erosion.

4 Disturbance of wetland vegetation must be avoided if possible. If wetland vegetation must be disturbed during the activity, it must be reestablished immediately upon completion of the activity and must be maintained.

5 Non-native wetland plants may not be planted in disturbed areas..

6 The trench width in any protected natural resource must be no wider than necessary to install the device.

7 The trench in and adjacent to the protected natural resource must be refilled with the material that was excavated. The original grading and elevation of the wetland must be restored. Residual fill material must 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.

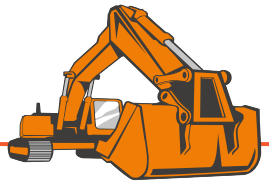
8  Blasting in inundated areas is prohibited.

NRPA Permit By Rule Section 7

C. STANDARDS (CONT.)

9 The outfall structure may not interfere with any potential boat usage of the project site.

10 Wheeled or tracked equipment may not operate 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 that must travel or work in a vegetated wetland area must 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 must be done at low water except as required for emergency flood control work. Measures, such as a silt boom or staked fencing, must be employed to reduce and isolate turbidity

13 Maintenance clearing of deposited debris and sediments from the outfall area is allowed provided the cleared materials are removed from the resource. Any debris generated during the activity must be prevented from washing downstream and must be removed from the wetland or water body. Disposal of debris must be in conformance with Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq.

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

15 If work is performed in a river, stream or brook that is less than three feet deep at the time of the activity and at the location of the activity, the applicant must 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 activity. 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 water flow must be completely removed upon completion of the activity, and the stream substrate must be restored to its original condition.

(c) A pump may be operated, where necessary, for a temporary diversion. The pump outlet must be located and operated such that erosion or the discharge of sediment to the water is prevented.

16 If the activity occurs within tidal waters, the activity must occur during the time period approved by the Department of Marine Resources.

D. DEFINITIONS

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

1 **Diversion.** A rerouting of a river, stream or brook to a location outside of its established channel.

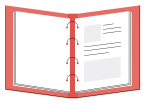
2 **Dredge.** To move or remove, by digging, scooping, or suctioning any sand, silt, mud, gravel, rock, or other material from the bottom of a water body or wetland surface.

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 water body or wetland.

4 **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.

5 **Non-native wetland plants.** Wetland grasses, forbs, shrubs, or trees not native to the State of Maine, for example, common reed *(Phragmites communis)* and purple loosestrife *(Lythrum salicaria).*

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.

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