

Chapter 305: NATURAL RESOURCES PROTECTION ACT

PERMIT BY RULE



Section 9: Crossings (Utility Lines, Pipes and Cables)

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/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 9

A. APPLICABILITY

- 1 This section applies to the installation, maintenance and replacement of an overhead utility line across a river, stream or brook excluding outstanding river segments identified in [38 M.R.S. Section 480-P](#).
- 2 This section applies to the installation, maintenance and replacement of a submerged utility line across a coastal wetland, freshwater wetland, great pond, river, stream, or brook excluding outstanding river segments identified in [38 M.R.S. Section 480-P](#).
- 3 This section applies to the installation, maintenance and replacement of an overhead utility line across or adjacent to a coastal wetland, freshwater wetland or great pond provided the line is within the right-of-way of, or adjacent to the path of, an existing traveled way.
- 4 This section applies to the installation, maintenance and replacement of an overhead utility line across or adjacent to a coastal wetland, freshwater wetland or great pond provided the line is within the right-of-way of, or adjacent to the path of, an existing traveled way.
- 5  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.
- 6  This section does not apply to an activity that will not conform to the local shoreland zoning ordinance.

NOTES:

- (1) Contact the local Code Enforcement Officer for information on local shoreland zoning requirements.
- (2) In a great pond, the placement of water lines to serve a single-family dwelling or the installation of cables for utilities, such as telephone and power cables, is exempt from NRPA permit requirements [under 38 M.R.S. Section 480-Q](#) (1) 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 Parks and Lands has approved the placement of the cable across the bottom of the great pond to the extent that it has jurisdiction.
- (3) Approval for crossing any state-owned (submerged) land must be obtained from the Department of Agriculture, Conservation and Forestry / Bureau of Parks and Lands, 22 State House Station, Augusta, ME 04333.
- (4) 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 where the impact (direct and indirect) to wetlands exceeds 4,300 SF;
 - (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)

B. SUBMISSIONS

Submissions for all sections:



PBR Notification Form



Location Map

Submissions for Section 9:

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



For any work involving trenching or disturbance of substrate in a coastal wetland, great pond, river, stream or brook that occurs between October 2 and July 14, notice of approval of the timing of the activity from the **Department of Inland Fisheries and Wildlife (IFW)**, and the **Department of Marine Resources (DMR)** must be submitted to the DEP with the notification form, unless otherwise approved by the DEP based upon the location of the project. In addition, for a utility crossing of marine or estuarine waters at any time of year, notice of approval of the timing from the Department of Marine Resources must be submitted to the DEP with the notification form.

Timing Forms are available here:

IFW: <https://www.maine.gov/dep/land/nrpa/pbrifw.pdf>

DMR: <https://www.maine.gov/dep/land/nrpa/pbrdmr.pdf>

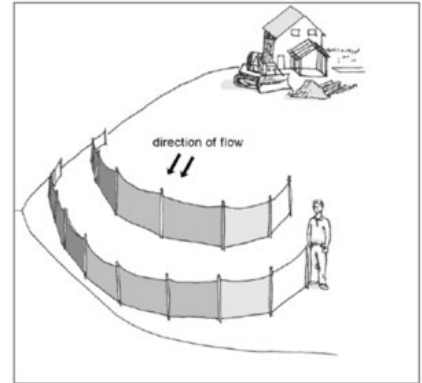


C. STANDARDS

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 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.

2

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.

3

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

C. STANDARDS

4 If the activity occurs in a coastal wetland, great pond, river, stream or brook between October 2 and July 14, the activity must occur during the time period approved by the Department of Inland Fisheries and Wildlife, and the Department of Marine Resources.

5 The trench in and adjacent to the wetland 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.

6 Any trench excavation that occurs within a river, stream or brook must be performed either during a period when no water is flowing or utilize a dry crossing method such as diverting water flow by coffer dam and pumping around the area of excavation. The trench width in any natural resource must be no wider than necessary to install the device

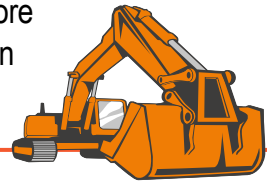
7



The crossing may not obstruct any recreational usage of the water body.

8

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.



9

All wheeled or tracked equipment that must travel or work in a vegetated wetland must travel and work on mats or platforms in order to protect wetland vegetation.

10



Any debris or excavated material must be stockpiled either outside the wetland or on mats or platforms. Straw bales or silt fence must be used, where necessary, to prevent sedimentation.

11

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. Section 1301 et seq.](#)




NRPA Permit By Rule Section 9

C. STANDARDS (CONT.)

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 The use of untreated lumber is preferred. Lumber pressure treated with chromated copper arsenate (CCA) may be used only if necessary and only if use is allowed under federal law and not prohibited from sale under [38 M.R.S. 1682](#), and 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. Wood treated with creosote or pentachlorophenol must not be used where the wood will come in contact with water. Sawdust or other lumber waste materials may not be stored or placed in such a manner that pollutants may be discharged into the resource.

14  Blasting in inundated areas is prohibited.



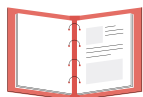
D. DEFINITIONS

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

- 1 Crossing.** Any activity 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 activities include, but are not limited to roads, fords, bridges, culverts, utility lines, water lines, sewer lines and cables, and the clearing and removal of vegetation necessary to install and maintain these crossings.
- 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 water body or wetland.
- 3 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.
- 4 Riprap.** Heavy, irregularly-shaped rocks that are fit into place, without mortar, on a slope. Square or rectangular rocks with flat faces, such as quarry stone or manufactured blocks, do not qualify as “irregularly-shaped”.
- 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 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.
- 7 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)

<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>



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

