

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

H.P. 1020 - L.D. 1387

An Act To Restore Exemptions in the Natural Resources Protection Act

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §480-Q, sub-§2, as amended by PL 2009, c. 460, §1, is further amended to read:

2. Maintenance and repair. Maintenance and repair of a structure, other than a crossing, in, on, over or adjacent to a protected natural resource ~~and maintenance and repair of a private crossing of a river, stream or brook~~ if:

- A. Erosion control measures are taken to prevent sedimentation of the water;
- ~~B. Crossings do not block passage for fish or other aquatic organisms in water courses. Culverts and installation techniques utilized must achieve natural stream flow. This paragraph applies only to water courses containing fish;~~
- C. There is no additional intrusion into the protected natural resource; and
- D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to the repair, or if the structure has been officially included in or is considered by the Maine Historical Preservation Commission eligible for listing in the National Register of Historic Places, the dimensions of the repaired structure do not exceed the dimensions of the historic structure.

This subsection does not apply to: the repair of more than 50% of a structure located in a coastal sand dune system; the repair of more than 50% of a dam, unless that repair has been approved by a representative of the United States Natural Resources Conservation Service; or the repair of more than 50% of any other structure, unless the municipality in which the proposed activity is located requires a permit for the activity through an ordinance adopted pursuant to the mandatory shoreland zoning laws and the application for a permit is approved by the municipality;

Sec. 2. 38 MRSA §480-Q, sub-§2-A, as amended by PL 2009, c. 460, §2, is repealed.

Sec. 3. 38 MRSA §480-Q, sub-§2-D is enacted to read:

2-D. Existing crossings. A permit is not required for the repair and maintenance of an existing crossing or for the replacement of an existing crossing, including ancillary crossing installation activities such as excavation and filling, in any protected natural resource area, as long as:

A. Erosion control measures are taken to prevent sedimentation of the water;

B. The crossing does not block passage for fish in the protected natural resource area; and

C. For replacement crossings of a river, stream or brook:

(1) The replacement crossing is designed, installed and maintained to match the natural stream grade to avoid drops or perching; and

(2) As site conditions allow, crossing structures that are not open bottomed are embedded in the stream bottom a minimum of one foot or at least 25% of the culvert or other structure's diameter, whichever is greater, except that a crossing structure does not have to be embedded more than 2 feet.

For purposes of this subsection, "repair and maintenance" includes but is not limited to the riprapping of side slopes or culvert ends; removing debris and blockages within the crossing structure and at its inlet and outlet; and installing or replacing culvert ends if less than 50% of the crossing structure is being replaced.

Sec. 4. Statewide aquatic restoration plan for stream crossings. The Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, in conjunction with the Executive Department, State Planning Office and other interested stakeholders, shall work collaboratively to develop a statewide aquatic conservation and restoration strategy plan, referred to in this section as "the plan," designed to maintain and restore the ecological health of the State's aquatic ecosystems and focusing on maintaining and restoring dynamic ecological processes responsible for creating and sustaining habitats over broad landscapes as opposed to individual projects or small watersheds. The plan must improve upon best management practices for public and private roads by including consideration of the Department of Transportation's Waterway and Wildlife Crossing Policy and Design Guide, the Maine Interagency Stream Connectivity Work Group's 2010 final report, Maine's Atlantic salmon recovery plan and any other technical, policy and financial information that may help the process. The plan must include, but not be limited to, using scientific data from stakeholders, establishing active restoration priorities, refining existing and proposing additional best management practices, reviewing statutory exemptions and regulatory standards to inform regulatory decision making, establishing performance measures, proposing funding alternatives for passive and active restoration, identifying gaps and overlaps with other pertinent issues such as climate change and flood management and providing for education and outreach. The Department of Environmental Protection, in cooperation with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, shall present the final draft of the plan, which may include suggested legislation, to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 31, 2013. The committee may report out a bill to the First Regular Session of the 126th Legislature.

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor