

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-SIX

S.P. 851 - L.D. 2063

An Act to Clarify Activities Allowed Under 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-§33, as enacted by PL 2023, c. 531, §6, is amended to read:

33. Emergency flood alleviation. An emergency activity conducted or overseen by the State or a local government in, on, over or adjacent to a river, stream or brook when the emergency activity is necessary to alleviate an immediate threat to public health or safety caused by a flood event occurring at the time the emergency activity is conducted, as long as any alteration to the river, stream or brook necessary to conduct the emergency activity is restored following the flood event to the conditions that existed prior to the flood event to the greatest extent practicable, as determined by the department.

The department may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to govern the restoration of a river, stream or brook under this subsection and define "greatest extent practicable."

A local government conducting or overseeing an emergency activity pursuant to this subsection shall notify the department prior to its conducting or overseeing the emergency activity and shall maintain communication with the department for the duration of the emergency activity as directed by the department; ~~and~~

Sec. 2. 38 MRSA §480-Q, sub-§34, as enacted by PL 2023, c. 531, §7, is amended by amending the last blocked paragraph to read:

For the purposes of this subsection, "pier, wharf or dock" does not include a seawall, jetty, breakwater or similar structure designed to dissipate wave action;

Sec. 3. 38 MRSA §480-Q, sub-§35 is enacted to read:

35. Hand planting of native vegetation. Hand planting of native vegetation adjacent to a coastal wetland, freshwater wetland, great pond or river, stream or brook, as long as:

- A. Only native plants are planted;
- B. Machinery is not used;

- C. Only potted plants, bare root plants or live stakes are planted;
- D. Removal of existing vegetation does not occur, except for removal of ground cover incidental to the planting and the removal by hand of invasive species;
- E. No more than one cubic yard of soil is overturned annually;
- F. The addition of soil or soil amendments does not result in a change to the original ground topography;
- G. Individual planting holes do not exceed 2 feet in diameter;
- H. All areas that have been hand-planted are mulched immediately after planting; and
- I. The hand planting activity conforms with the requirements of the relevant municipal shoreland zoning ordinance adopted pursuant to article 2-B;

Sec. 4. 38 MRSA §480-Q, sub-§36 is enacted to read:

36. Hand planting of native dune vegetation. Hand planting of native dune vegetation in a coastal sand dune system, as long as:

- A. The area planted does not exceed 2,000 square feet;
- B. Existing dune vegetation is not disturbed; and
- C. The planting occurs between October 1st and March 15th, unless written approval from the Department of Inland Fisheries and Wildlife has been obtained and provided to the department.

As used in this subsection, "native dune vegetation" has the same meaning as in section 480-E, subsection 15; and

Sec. 5. 38 MRSA §480-Q, sub-§37 is enacted to read:

37. Corrective actions. Corrective actions to resolve a violation under this article, as long as written approval for the corrective action has been provided by the department.

Sec. 6. 38 MRSA §480-X, sub-§6, ¶A, as enacted by PL 1995, c. 460, §7 and affected by §12, is amended to read:

- A. The application must be ~~sent by certified mail or hand-delivered~~ submitted to the department. ~~The application must include~~ and include the following:
 - (1) The application fee;
 - (2) The project location on a United States Geological Survey map;
 - (3) A description of the project, including a drawing showing the area of freshwater wetland to be filled or otherwise altered and areas of any marsh or open water within the freshwater wetland; and
 - (4) A signed statement averring that all of the requirements of subsection 3 will be met, that the activity will not occur in a wetland area described in subsection 4 and that a copy of the application has been submitted by the applicant for public display to the municipal office of the municipality in which the project will be located.

Sec. 7. 38 MRSA §480-Z, sub-§7, ¶E, as amended by PL 2019, c. 581, §3, is further amended to read:

E. Shorebird nesting, feeding and staging areas; ~~and~~

Sec. 8. 38 MRSA §480-Z, sub-§7, ¶F, as enacted by PL 2019, c. 581, §4, is amended to read:

F. Rivers, streams and brooks;

Sec. 9. 38 MRSA §480-Z, sub-§7, ¶G is enacted to read:

G. Great ponds; and

Sec. 10. 38 MRSA §480-Z, sub-§7, ¶H is enacted to read:

H. Habitat for state endangered and state threatened species that is significant wildlife habitat as defined in section 480-B, subsection 10, paragraph B, subparagraph (4).

Sec. 11. 38 MRSA §480-Z, sub-§8 is enacted to read:

8. Deed restrictions and conservation easements. The department has 3rd-party enforcement rights to enforce any deed restriction or conservation easement executed to meet a compensation requirement under this section.