

Chapter 305: NATURAL RESOURCES PROTECTION ACT

PERMIT BY RULE



Section 19:

Activities in, on or over significant vernal pool habitat

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.

Official Chapter 305 Rule (all sections):

<http://www.maine.gov/sos/cec/rules/06/096/096c305.docx>

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

A. APPLICABILITY

1

This section applies to activities in, on, or over a significant vernal pool habitat or a potential significant vernal pool habitat. Significant vernal pool habitat consists of a vernal pool depression and the portion of the critical terrestrial habitat within a 250 foot radius of the spring or fall high water mark of the depression.



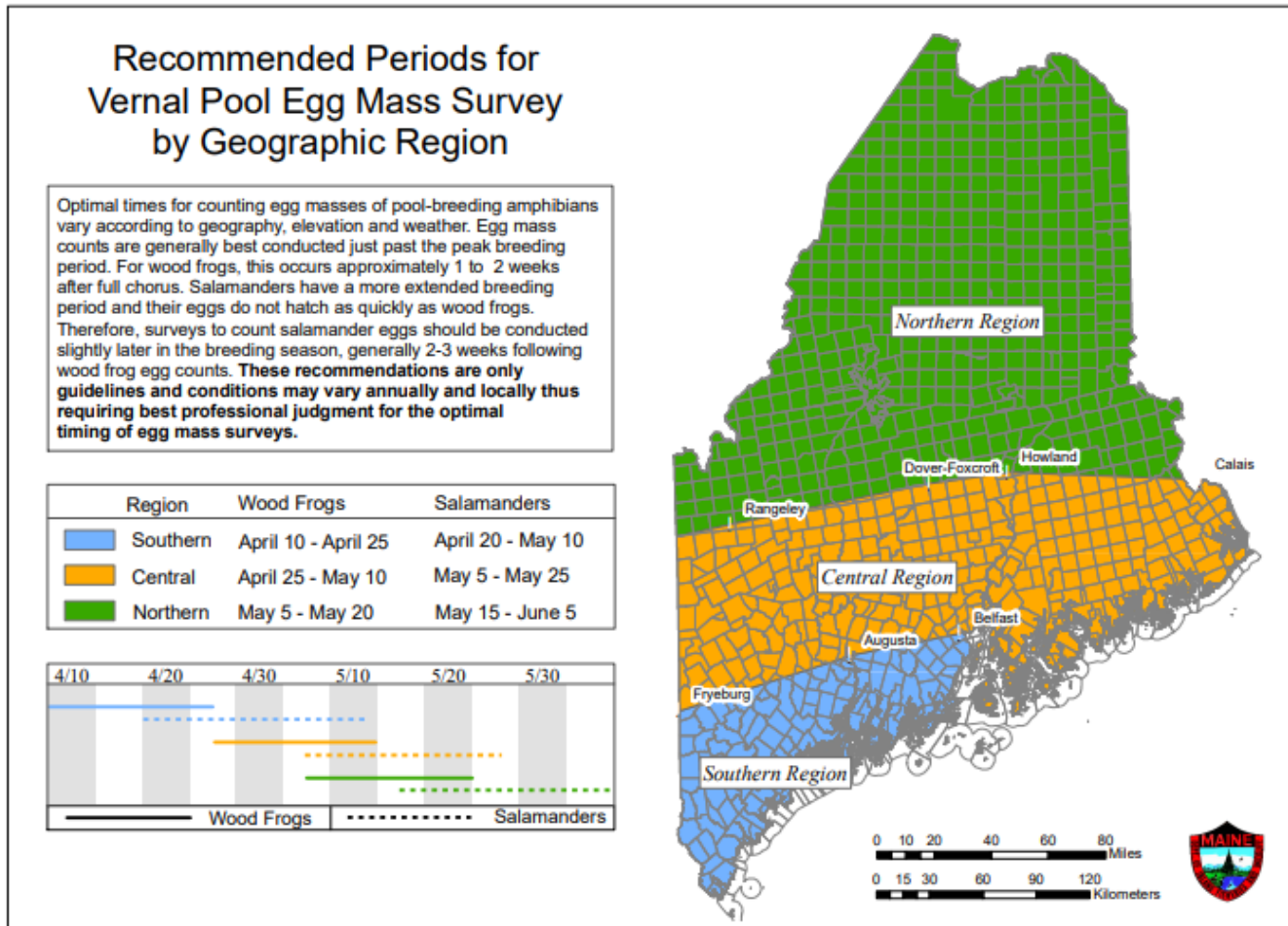
NOTE: The 250 feet of critical terrestrial habitat protected as significant vernal pool habitat is only a portion of the habitat used by adult wood frogs, ambystomatid salamanders, and threatened and endangered species. Tracking studies of adult pool-breeding amphibians have shown that they can travel over a third-mile away from their breeding pool, and that a radius of 750 feet around the pool is optimal for protecting viable amphibian populations. The DEP encourages efforts to protect more habitat adjacent to a vernal pool than this regulation has authority over.

2



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.A. Sections 481 to 490](#), the [Stormwater Management Law, 38 M.R.S.A. Section 420-D](#), or the [Natural Resources Protection Act, 38 M.R.S.A. Section 480-A to BB](#).

NOTE: For additional regulatory provisions applicable to significant vernal pools, see 06-096 CMR 335, Significant Wildlife Habitat. <http://www.maine.gov/sos/cec/rules/06/096/096c335.doc>



For more information on Vernal Pools: <https://www.maine.gov/dep/land/nrpa/vernalpools/>

B. SUBMISSIONS

Submissions for all sections:



PBR Notification Form



Location Map

Submissions for Section 19:

1



Photographs of the area that 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 town in which the activity took place.

3



A scaled plan or drawing of the area affected, including but not limited to the following information:

(a) The entire property on which the activity will take place, including property lines, the vernal pool depression and remaining surrounding significant vernal pool habitat within 250 feet of the spring or fall high water mark of the depression, and the boundaries and location of other protected natural resources such as streams and other wetlands;

(b) Proposed activity and existing development on which the activity will take place, including buildings, parking areas, roads, fill areas, landscaped areas, etc.; and

(c) Any site constraints limiting development beyond the significant vernal pool habitat, such as steep slopes.

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

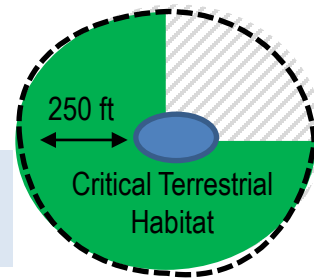
C. STANDARDS

The following measures must be taken during construction and maintenance of the activity.

1 No disturbance within the vernal pool depression.

2 Except for activities in existing developed areas, maintain a minimum of 75% of the critical terrestrial habitat as unfragmented forest with at least a partly-closed canopy of overstory trees to provide shade, deep litter and woody debris.

In determining whether the standard in Section 19(C)(2) has been met, the DEP considers only that portion of the critical terrestrial habitat within the significant vernal pool habitat, which is the area within a 250 foot radius of the spring or fall high water mark of the vernal pool depression.



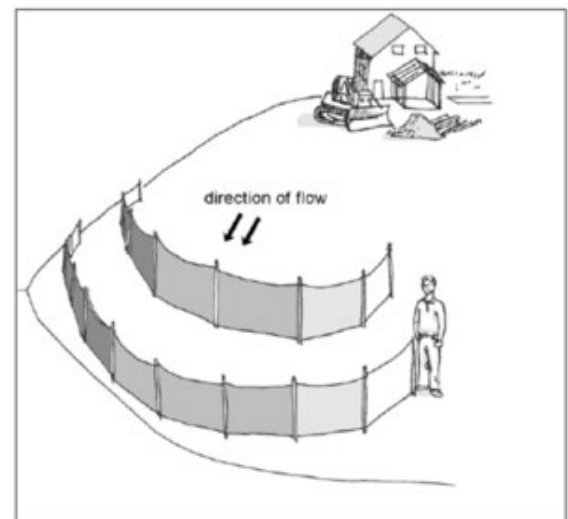
3 Maintain or restore forest corridors connecting wetlands and significant vernal pools.

4 Minimize forest floor disturbance.

5 Maintain native understory vegetation and downed woody debris.

6 Take the following measures to prevent erosion of soil or fill material from disturbed areas:

- Staked hay bales or silt fence must be properly installed at the edge of disturbed areas between the activity and the vernal pool depression before the activity begins;
- Hay bales or silt fence barriers must be maintained until the disturbed area is permanently stabilized;
- Within 7 calendar days following the completion of any soil disturbance, and prior to any storm event, mulch must be spread on any exposed soils;
- All disturbed soils must be permanently stabilized; and
- Within 30 days of final stabilization of the site, any silt fence must be removed.



NOTE: For guidance on erosion and sedimentation control consult the Maine DEP Erosion and Sediment Control Practices Field Guide for Contractors (2015):

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

NRPA Permit By Rule Section 19

C. STANDARDS (CONT.)

7 An activity of a type that would qualify for a permit by rule under one of the other sections of this chapter listed below, notwithstanding any restriction concerning significant wildlife habitat that may be in that section, must also meet the requirements of that section.

Sec. 4.	Replacement of structures
Sec. 9.	Crossings (utility lines, pipes, cables)
Sec. 10.	Stream crossings (bridges, culverts, fords)
Sec. 11.	State transportation facilities
Sec. 12.	Restoration of natural areas.
Sec. 13.	Habitat creation or enhancement and water quality improvement activities
Sec. 15.	Public boat ramps
Sec. 16.	Coastal sand dune projects

D. DEFINITIONS

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

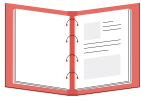
1 **Critical terrestrial habitat.** Uplands and wetlands associated with significant vernal pools used by pool breeding amphibians for migration, feeding, and hibernation, in particular, forested wetlands and forested uplands that provide deep organic litter, coarse woody debris and canopy shade.

2 **Existing developed area.** The area of property altered including, but not limited to, buildings, driveways, parking areas, wastewater disposal systems, lawns and other landscaped areas, as of September 1, 2007.

3 **Significant vernal pool habitat.** A vernal pool depression and the portion of the critical terrestrial habitat within a 250 foot radius of the spring or fall high water mark of the depression. For complete criteria, see Chapter 335(9), Significant vernal pools.

4 **Vernal pool depression.** This area includes the vernal pool depression up to the spring or fall high water mark, and includes any vegetation growing within the depression.

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

FILL OUT PBR NOTIFICATION FORM, & COLLECT REQUIRED SUBMISSIONS

- [Permit By Rule Notification Form](#)
- [Dept. of Marine Resources Timing Form](#)
- [Inland Fisheries & Wildlife Timing Form](#)
- [Other NRPA Forms](#)



STEP 4

PAY PBR FEE ONLINE

- The required fee is contained in the Department's [fee schedule](#).
- Payment of the application fee is accepted by credit card through the Department's [payment portal](#).

Pay the fee prior to filing and include confirmation of credit card payment with email submission of your PBR.



STEP 5

SUBMIT PBR, ATTACHMENTS AND PROOF OF PAYMENT VIA EMAIL

The Department is now requiring the submission of Natural Resource Protection Act (NRPA) and Stormwater permit-by-rule (PBR) notifications by email to:

DEP.PBRNotification@maine.gov

The PBR becomes effective 14 days from the date the Department receives the full submission (email notification and fee), 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/escbmeps/esc_bmp_field.pdf



Additional Manuals and Guides to Reduce Water Pollution

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