

Maine Stream Crossing Regulatory Oversight





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Overview of Federal and State oversight associated with typical stream crossing permit process:

- U.S. Army Corps of Engineers
- U.S. Fish & Wildlife Service
- Maine Department of Environmental Protection
- Maine Land Use Planning Commission
- Maine Forest Service
- Maine Department of Transportation *

* Involved through bridge inspections & standards



A **PERMIT** from the **U.S. Army Corps of Engineers** is required prior to the placement of fill material into waters of the U.S.

Waters of the U.S. include streams and adjacent wetlands.

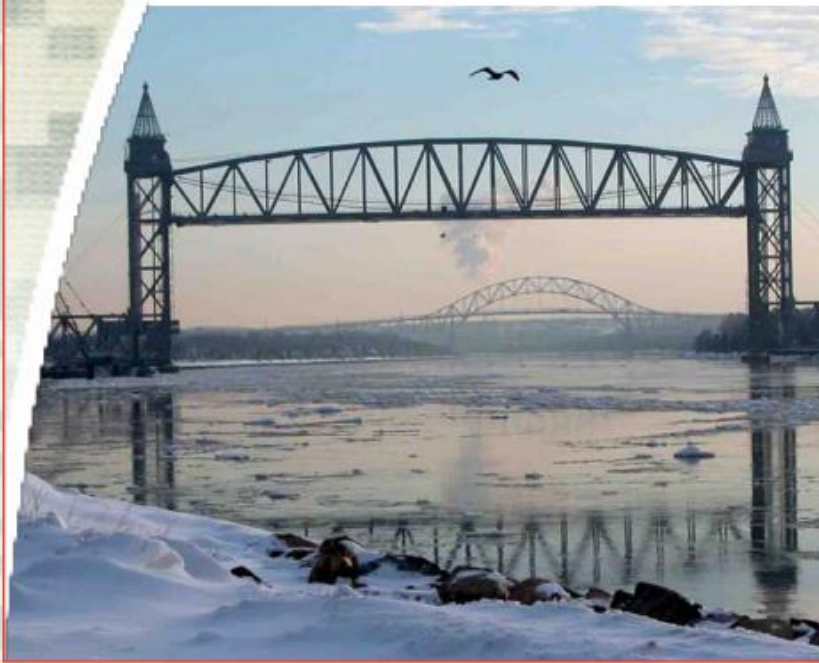
****NOTE - MANY STREAM SMART CROSSINGS WILL REQUIRE A CORPS PERMIT!***



US Army Corps
of Engineers
New England District



BUILDING STRONG®



A Tradition of Service in New England

TYPES OF CORPS PERMITS

- **Maine General Permits (Maine GPs)**

- Abbreviated permit process (30 to 60 days)
- Two categories of review – Self-Verification (SV) & Pre-Construction Notification (PCN; formerly Cat 1 & 2)
- Require Stream Smart design and July 15-Sept 30 work window

Most Stream Smart projects can be authorized by these general permits!

- **Individuals Permits**

- May be required when work will adversely affect Atlantic salmon
- Reserved for more complex or controversial projects
- Require a full public interest review
- Permit decisions generally within 120 days

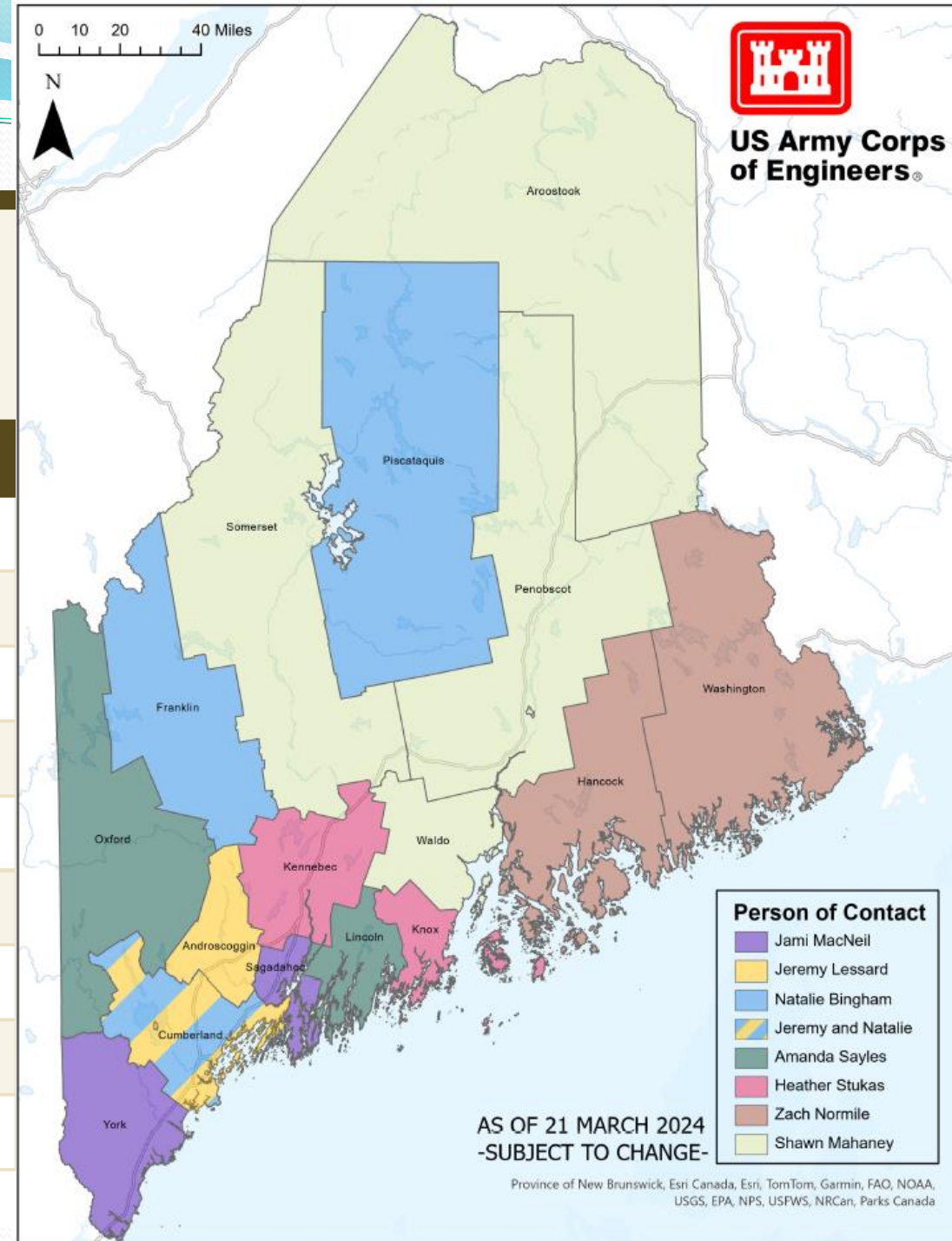
What do I submit; what's the process?

- APPLICATION (ideally submitted at least 60d before permit needed)
 - DEP, LUPC or Corps application forms are accepted
 - Detailed & legible plans (locus map, plan view & cross sections)
 - Official Species List & Historic Notifications (MHPC & Indian tribes)
 - Define project purpose & need
 - Discussion of avoidance and minimization measures
 - Document all unavoidable impacts to waters of the U.S.
- AGENCY REVIEW (**may require Endangered Species consultation using streamlined processes as available**)
- PERMIT DECISION
- CONSTRUCTION! (compliance & non-compliance enforcement)

Maine Project Office Contact List

-MARCH 2024-

Project Manager	Office Phone	Work Cell	E-mail
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Jeremy Lessard	978-318-8789	978-941-3914	Jeremy.S.Lessard@usace.army.mil
Natalie Bingham	978-318-8768	603-475-3637	Natalie.Bingham@usace.army.mil
Shawn Mahaney	978-318-8492	207-233-3243	Shawn.B.Mahaney@usace.army.mil
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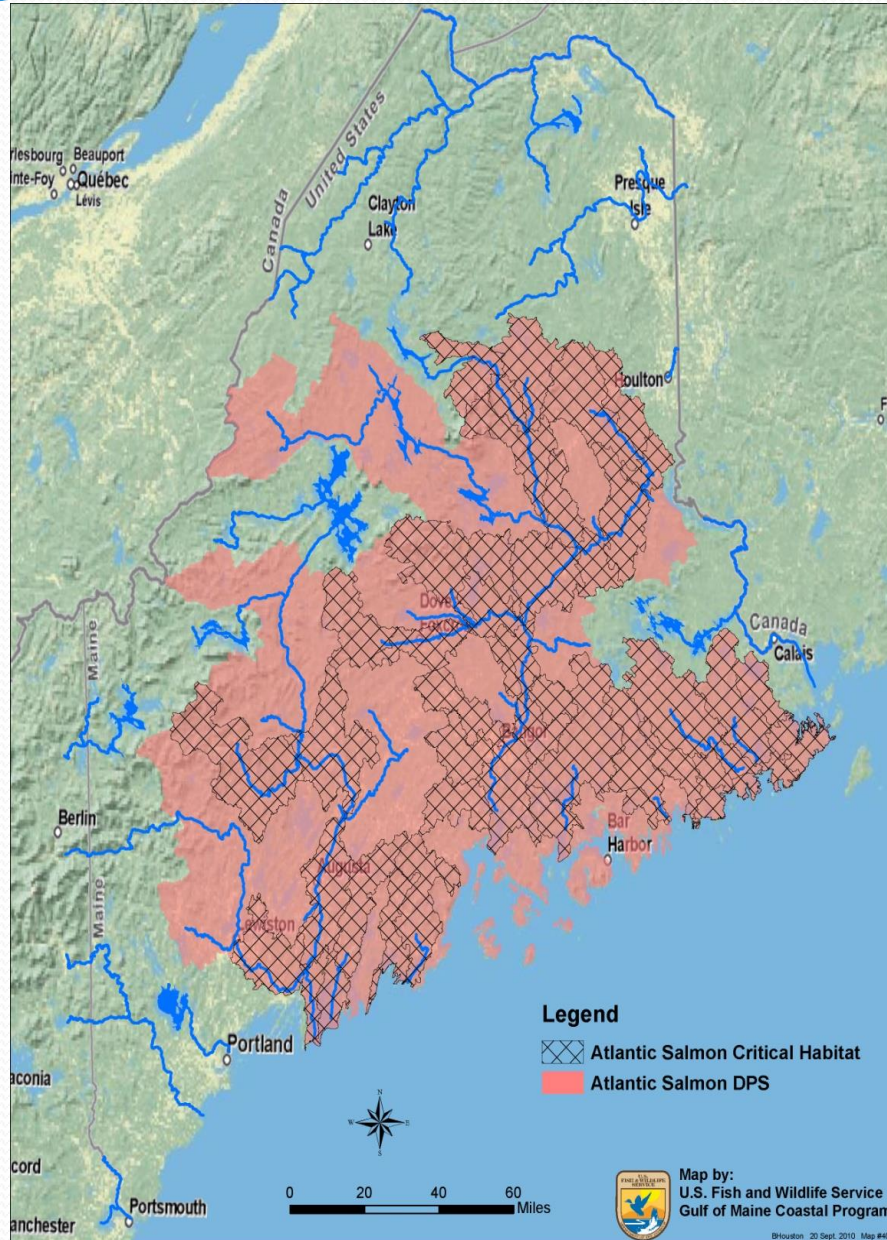


The Endangered Species Act and Stream Crossings

Atlantic Salmon were listed under the federal Endangered Species Act (ESA) in 2000.

Listed Atlantic salmon in Midcoast, Downeast, Penobscot, Kennebec and Androscoggin watersheds.

Outside this geographic boundary, there are no ESA-listed Atlantic salmon.



Projects Involving Atlantic Salmon

If a Federal agency is involved in your project because

- 1) a *federal permit*** from the Army Corps of Engineers, or
- 2) *federal funding* or *technical assistance*** is used,

the USFWS will work with you and the federal agency through an ***ESA section 7 consultation***.

For projects not involving a federal agency, the ESA still protects salmon; please talk to USFWS about how

Streamlining the Permit Process

USFWS worked with ACOE and FEMA to streamline ESA consultation and permitting:

- Based on Stream Smart principles
 - Don't pinch the stream
 - Set elevation, slope, and alignment to match the stream
 - Natural stream bottom
- Focuses on Atlantic Salmon, but there may be other listed species to deal with
- Dramatically speeds Federal approval process



U.S. Fish and Wildlife Service Can Help

Help with the ESA

- Federal Projects & Permits:

Wende Mahaney (207) 902-1569

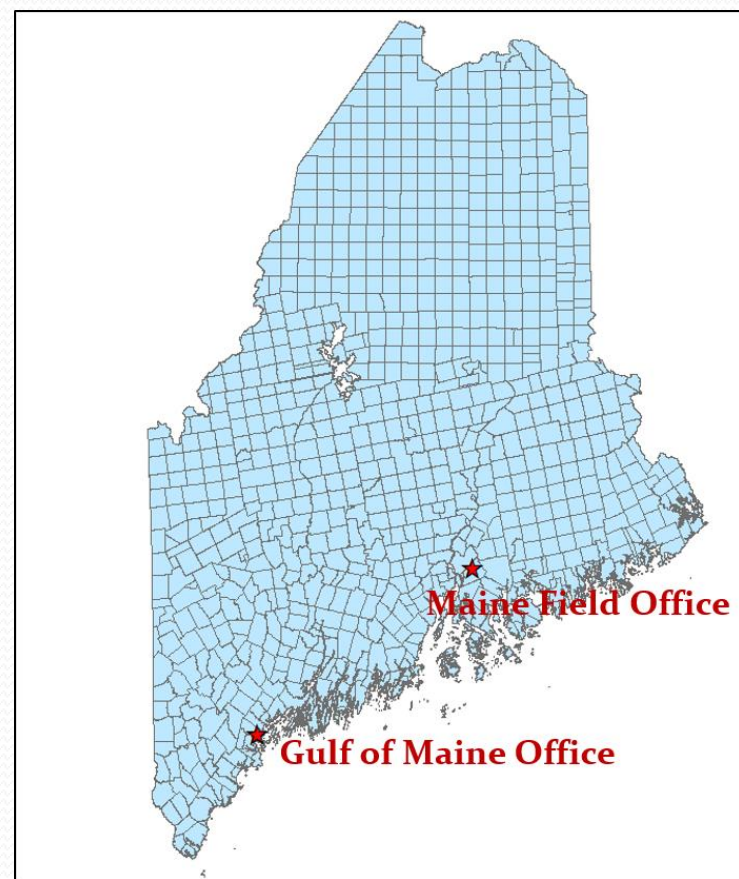
Technical assistance

- Gulf of Maine Coastal Program:

Bill Bennett (207) 781-8364

- Fish & Wildlife Conservation Office:

Scott Craig (207) 902-1561



More information is available at:

<https://www.fws.gov/project/usfws-programmatic-stream-crossing-consultation>

Department of Environmental Protection

- Responsible for managing, protecting and enhancing the quality of Maine's natural resources
- Coastal and freshwater wetlands, rivers and streams, lakes, wildlife habitat and more

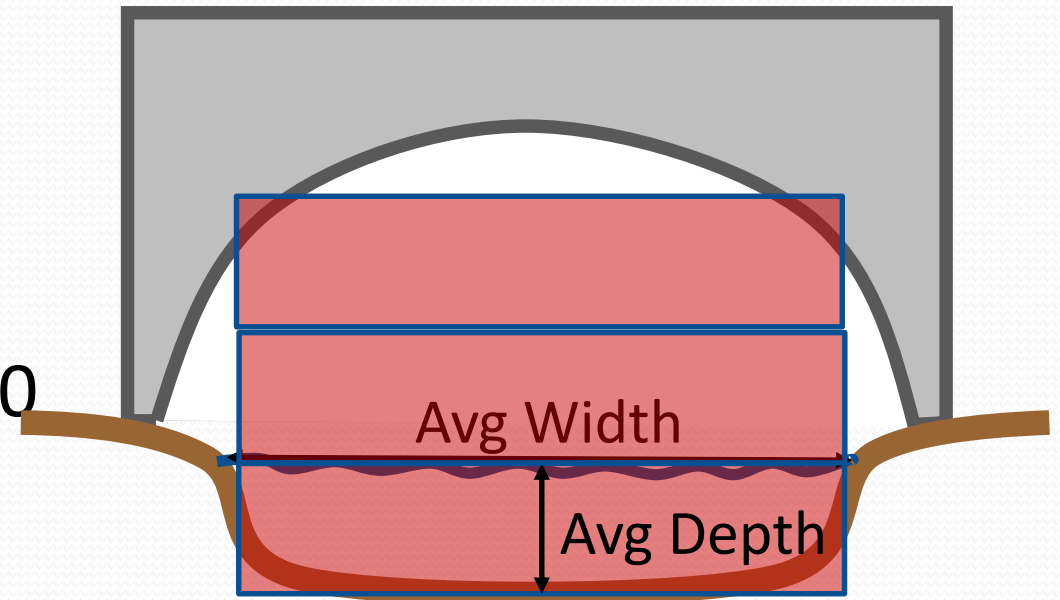
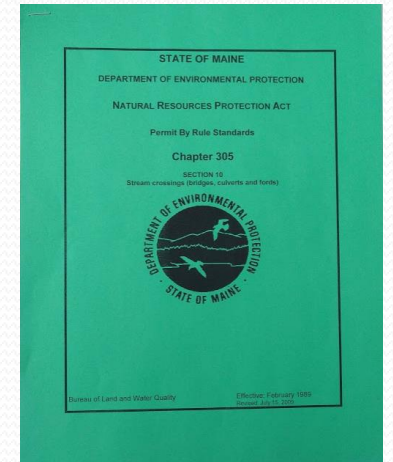


Natural Resources Protection Act (NRPA)

Requires permit for – dredging, bulldozing, removing or displacing material; draining or otherwise dewatering; filling; or any construction, repair or alteration of permanent structures

Stream Crossings - Permit By Rule (PBR)

- Fast and easy permitting process (14 day review)
- Project must meet all applicable Chapter 305 Rules – section 10
 - Sizing – opening $>3X$ cross sectional area of channel or 25-year storm
 - Work window – July 15-September 30
 - Erosion control, and water control



Existing Crossing Repair or Replacement

Exempt from NRPA permitting if:

- Erosion controls used
- Fish passage not blocked
- New crossing installed to match natural grade
- Culverts embedded min. 1 foot or 25% diameter (max. 2 feet)



Maine DEP – Contact info

- Southern Maine Region
312 Canco Road, Portland
(207)822-6300
- Main Office/Central ME Region 28
Tyson Drive, Augusta
(207)287-7688
- Eastern Maine Region
106 Hogan Road, Bangor
(207)941-4570
- Northern Maine Region
1235 Central Drive, Presque Isle
(207)764-0477

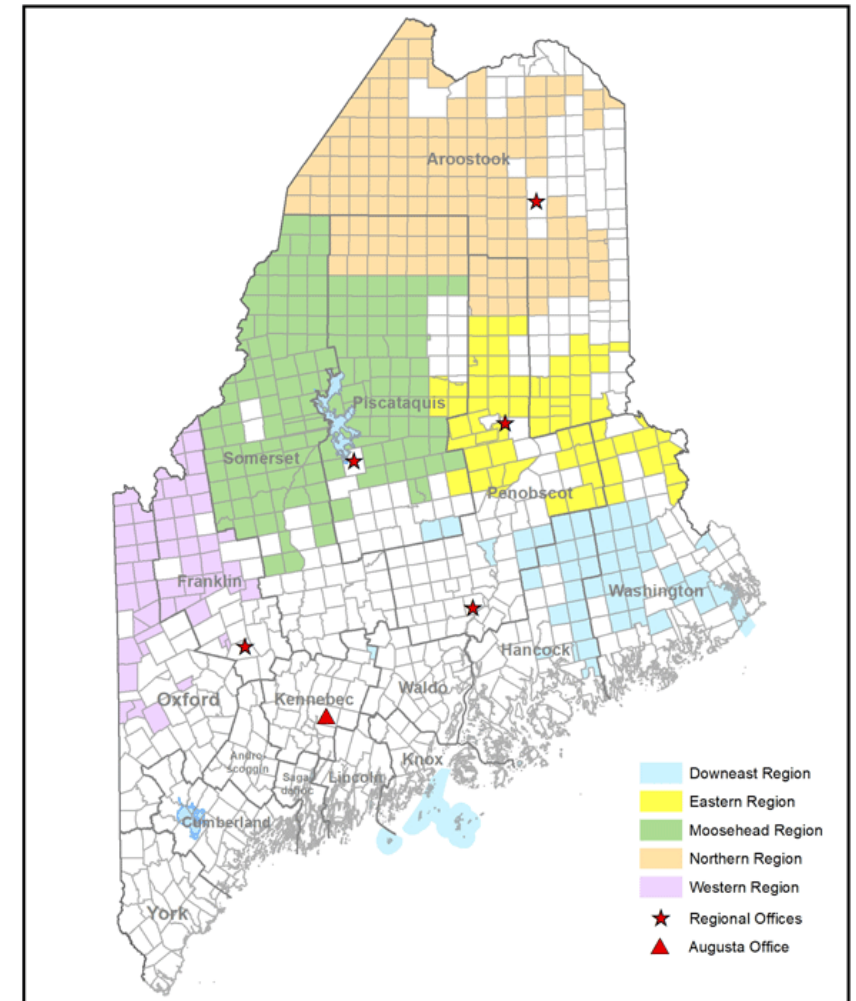


Maine Land Use Planning Commission (LUPC)



Serves as the planning and zoning authority for the unorganized and de-organized areas of the State

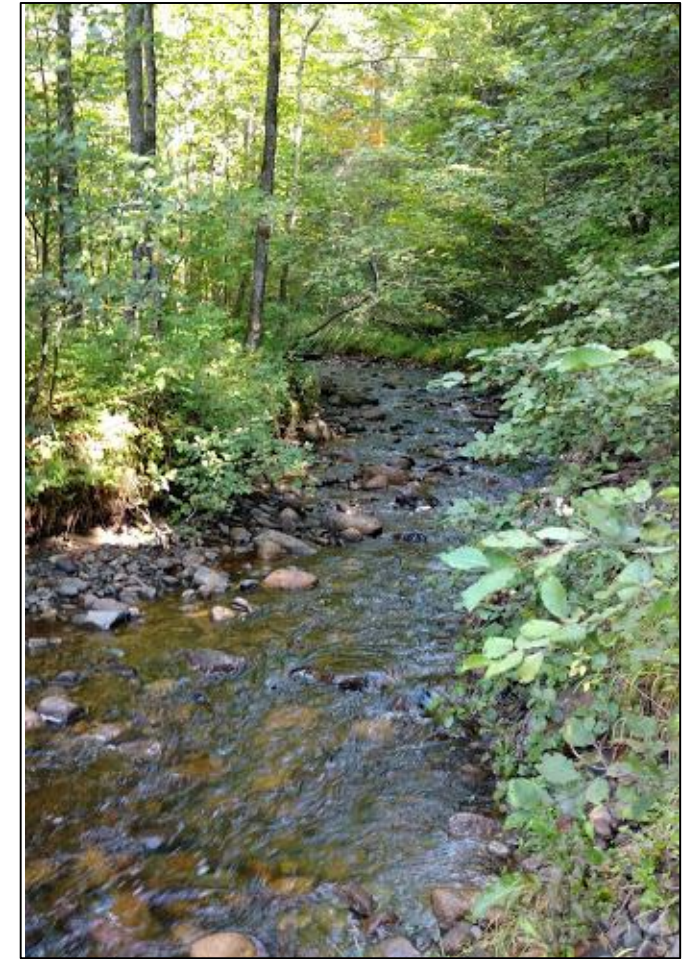
For stream crossings – If standards followed, no permit required on minor waters (requires notification); permit needed if don't meet standards, crossing major waters, crossing certain protection zones



LUPC Stream Crossing Standards

- Work Window = July 15 – September 30
- In-stream work minimized
- Maintain stream's natural structure and integrity
- Open-bottom required for slopes $>2\%$
- Water control, erosion control
- Sizing – 25-year flood, or 3x cross sectional stream area AND at least 1.2 times channel width
- Installation and Maintenance requirements

Standards are based on Stream Smart Principles!



LUPC Contact Information

- Website: www.maine.gov/doc/lupc/

Contact Information for Regional Offices:

www.maine.gov/dacf/lupc/about/offices/

- Phone: (207) 287-2631

- Augusta Office: 18 Elkins Lane
22 State House Station
Augusta, ME 04333



LUPC Culvert Sizing and Installation Guide: link at www.maine.gov/dacf/lupc/reports

Maine Forest Service

- Works with forest landowners, forest products processors and marketers, municipalities & other stakeholders
- Provides technical assistance, information, and educational services
- Implements the state's forest practice laws
- Water Resources section – “Protecting and enhancing Maine's woodland streams and other water resources”



Types of Crossings



- Temporary Crossings have no permit required
 - In place for no more than 7 months in a calendar year
 - Structures involving fill, no matter how long in place, not temporary!
- For a permanent crossing, a permit will be required under the NRPA
 - Full NRPA filing for certain protected resources
 - PBR for streams and brooks (meet standards)



A temporary bridge on a winter skid trail.



A permanent bridge.

Which Permit?

- NRPA – basis for all other rules (blue box)
- Statewide Standards – organized towns that have adopted SWS (red box)
- Town Ordinance – towns that haven't adopted SWS (purple box)
- Ch. 27 Rules – Unorganized Territories (green box)

CONTACT MFS FOR HELP!

**Stream Crossing Permitting Guidance for
Timber Harvesting Activities - Quick Reference Chart**
For use for stream crossings on skid trail and land management roads only.

The Natural Resources Protection Act (NRPA)
The regulatory framework for any stream crossing, statewide.

Permit by Rule (PBR): Required for any permanent stream crossing spanning a river, stream or brook in organized municipalities. A Maine Forest Service (MFS) PBR form must be submitted to MFS including all attachments. A PBR may be found online at: https://www.maine.gov/dacf/mfs/rules_and_regulations.html.

Temporary crossings: No permit required. Stream crossings are considered temporary when they are in place for no more than 7 months in a calendar year. Any crossings involving fill in and adjacent to a river, stream or brook, such as culvert crossings, are not considered temporary.

Timing: If the crossing involves trenching or disturbance of substrate in a river, stream or brook between **October 2 and July 14**, the applicant must also submit a **Request for Approval** form to IFW. This form must be signed by IFW and submitted to MFS along with a PBR. This form may be found online at: https://www.maine.gov/dacf/mfs/rules_and_regulations.html.

Exemptions: Maintenance and repair of an existing crossing of a river, stream or brook is exempt from NRPA permitting provided that the crossing does not block fish passage in the water course and any replaced culvert meets current sizing standards, is not more than 25% longer than the culvert being replaced and is not longer than 75 feet.

Statewide Standards (SWS) aka Ch. 21
The regulatory framework in shoreland areas, in addition to the NRPA, in organized towns that have adopted SWS under Options 1 or 2.

Option 1 towns: Permanent stream crossings require a PBR.

Option 2 towns: Permanent stream crossings require a PBR. There may also be **local permitting requirements** for timber harvesting activities and/or the construction of land management roads.

Town Ordinance
The regulatory framework in shoreland areas, in addition to the NRPA, in towns that have not adopted SWS. Permanent stream crossings require a PBR. There may also be **local permitting requirements** for timber harvesting activities and/or the construction of land management roads.

Ch. 27 Rules (Unorganized Territories)
The regulatory framework, in addition to the NRPA, in unorganized territories.

New permanent stream crossings on PSL-2 streams must be declared in a **Forest Operations Notification (FON)** and identified on a map, submitted as an attachment to the FON. In addition, a **Forest Operations Permit (FOP)** is required in the following subdistricts: P-MA, P-SG, P-RT and P-UA. A FOP may also be required in P-RR or P-FW subdistricts in some cases. Please contact MFS to verify.

A **Bridge Construction Permit (BCP)** is required for PSL-1 streams, great ponds and non-forested wetlands, as well as any crossing in the following subdistricts: P-AL, P-AR, P-FP, P-MA, P-RT, P-SG, and P-UA. A BCP may also be required in P-RR and P-WL subdistricts in some cases. Please contact MFS to verify.

Please contact MFS for additional guidance

<u>Northern Region</u>	<u>Central and Eastern Regions</u>	<u>Southern and Western Regions</u>	<u>Permit by Rule (PBR)</u>
Dan Jacobs: 441-4128	Terri Coolong: 215-0679	Adam Cates: 441-4139	Tom Gilbert: 441-5282

NRPA

SWS
(Ch. 21)

Municipal

UT
(Ch. 27)

www.maineforestservice.gov

-Water Resources

Tom Gilbert

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(207) 441-5282



Maine Department of Transportation



To responsibly provide our customers the safest and most reliable transportation system possible, given available resources.



MaineDOT Policy and Laws – Bridges Overview

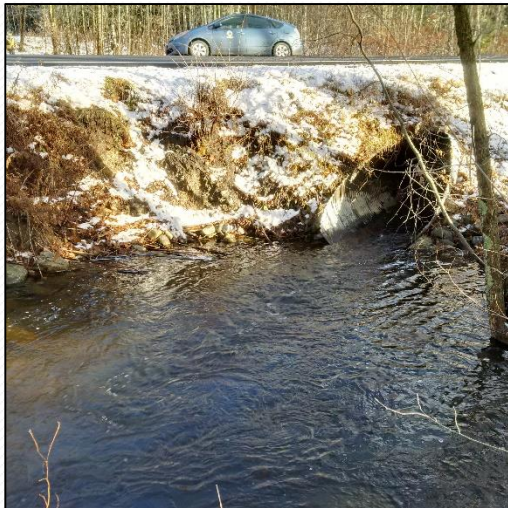
MaineDOT inspects all municipal crossings with a span ≥ 10 feet every 2 years

- Minor Span (10-20ft)
- Bridge (≥ 20 ft)
 - Consult with MaineDOT during planning when upgrading
 - MaineDOT responsible for maintenance and future capital work under agreement and built to MaineDOT standards



MaineDOT regularly institutes Stream Smart principles

- Replacement crossings in Atlantic Salmon DPS using programmatic agreement
- Replacement crossings for brook trout and other diadromous fish



MaineDOT Contacts and Information

Bridge Maintenance Office

624-3600

https://www.maine.gov/mdot/publications/docs/brochures/2021/bridge-upgrade-fact-sheet_July2020.pdf

Maine Local Roads Center

<https://www.maine.gov/mdot/mlrc/>

More information is available at:

<https://www.maine.gov/mdot/bridges/>

MaineDOT Regions

