



# DEP ISSUE PROFILE

## Wetlands Protection: A Federal, State and Local Partnership

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### Background

Maine possesses a wealth and diversity of wetlands unequalled in the Northeastern United States. Fully 25 percent of Maine's land area is wetlands, four times the wetland area of the other five New England States combined. Over five million acres of Maine's wetlands are freshwater wetlands (wooded swamps, shrub swamps, bogs, freshwater meadows, freshwater marshes and floodplains). Only 157,500 acres are tidal or coastal wetlands (tidal flats, salt marsh, freshwater/brackish marsh, aquatic beds, beaches and reefs).



Wetlands are valuable not only for their beauty and the recreation opportunities they support, but also for critically important functions they perform in our environment, including water storage, flood conveyance, groundwater recharge and discharge, shoreline erosion control and water quality improvement. Wetlands are a highly valuable source of timber to Maine's forest products industry providing jobs and bolstering the economy of many communities. Perhaps most

important, wetlands provide habitat vital to fish and wildlife, including many threatened and endangered species.

Maine's wetlands are resources of great value to Maine communities, the state and the nation. All three levels of government have a stake in their continued health and availability. This DEP Issue Profile examines the roles all three levels of government play and the partnership they have developed to assure that Maine's wetlands are adequately protected.

### **Under what authority does each level of government (federal, state and local) regulate wetlands?**

Congress established federal regulatory power concerning wetlands under Section 404 of the Clean Water Act. In Maine, the 1988 Natural Resources Protection Act (NRPA) established state regulatory authority over wetlands. Maine communities regulate wetlands under the home rule provisions of the Maine Constitution and under Maine's Municipal Shoreland Zoning statute which gives authority to local government to regulate non-forested wetlands greater than ten

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acres in size.

### **How are these authorities exercised?**

The state and federal governments have developed cooperative arrangements that streamline the permitting process for activities affecting wetlands. For activities affecting coastal wetlands the state and federal government retain full permitting over all wetlands of any size.

For activities involving freshwater wetlands, the state and federal governments have developed a reduced permitting process, based on the size of the alteration in the wetland, rather than the size of the wetland itself.

### **How does this process work?**

Under this program, applicants file a permit application with the Maine Department of Environmental Protection (DEP). DEP then coordinates the screening and review of all applications with all other state and federal agencies. Since the federal agencies participate in the process, they maintain the authority to deny a permit or to require restrictions consistent with federal law.

### **Is this a time-consuming process?**

No. Under changes to the NRPA adopted in 1995, the Legislature established strict time limits on the application and permitting process. Unless significant wetlands (defined below) are involved, the DEP must process applications for projects that will affect less than 15,000 square feet of a wetland area within 30 days. For projects that will affect between 15,000 square feet and one acre of wetland area processing must be completed within 60 days.

### **What are the *significant wetlands* that would disqualify certain freshwater wetlands from this permitting procedure?**

Freshwater wetlands may not qualify for this expedited process if they:

- √ are within 250 feet of a coastal wetland or a great pond;
- √ are within 25 feet of a river, stream or brook;
- √ contain 20,000 square feet or more (approximately ½ acre) of open water and/or emergent vegetation under normal circumstances;
- √ are in a floodplain;
- √ contain significant wildlife habitat (as defined and, in some cases, explicitly identified, in the law); and or
- √ consist of peatland.

**Are there any areas exempt from the NRPA's permit requirements?**

Yes, there are several exemptions, including

- √ projects affecting less than 4,300 square feet (approximately 1/10 of an acre) of wetland area, as long as the affected area is not within a shoreland zone (based on Municipal Shoreland Zoning Act requirements), is not peatland, does not contain 20,000 sq.ft. of open water or emergent vegetation, maintains a setback of at least 25 feet from all other natural resources, and constitutes a single, complete project;
- √ forest management activities in forested wetlands only, including associated road construction or maintenance, and conducted under specific restrictions as defined in the NRPA;
- √ normal farming activities such as the clearing of vegetation for agricultural purposes (if there is no alteration of land topography) including: plowing, seeding, cultivating, minor drainage and harvesting; construction or maintenance of farm or livestock ponds or irrigation ditches; maintenance of drainage ditches; and construction or maintenance of farm roads; and
- √ activities adjacent to a freshwater wetland unless the wetland contains either peatlands or at least 20,000 square feet of marsh vegetation or open water, (excluding artificial ponds or impoundments unless they are alterations of other protected resources such as streams).

**For more information about the rules applying to wetlands, obtain a copy of *Chapter 310*, the wetlands rules under the NRPA and the DEP's publication, *Protecting Maine's Natural Resources*, by contacting DEP staff at one of the following locations:**

*Augusta Office*  
*17 State House Station*  
*Augusta, ME 04333*  
*(207) 287-3901 or*  
*Toll free 1-800-452-1942*

*Eastern Maine Regional Office*  
*106 Hogan Road*  
*Bangor, ME 04401*  
*(207) 941-4570 or*  
*Toll free 1-888-769-1137*

*Northern Maine Regional Office*  
*528 Central Drive*  
*Presque Isle, ME 04769*  
*(207) 764-0477 or*  
*Toll free 1-888 769-1053*

*Southern Maine Regional Office*  
*312 Canco Road*  
*Portland, ME 04103*  
*(207) 822-6300 or*  
*Toll free 1-888-769-1036*