

Maine State Wetland Program Summary



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Section A. Quick View

Description of Maine's Wetlands

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).

State Definition of Wetlands

The state provides several definitions of wetlands Maine's Natural Resources Protection Act (NRPA), regulated by the Maine Department of Environmental Protection, defines:

- *Coastal wetlands* as "all tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes."
- *A forested wetland* as "a freshwater wetland dominated by woody vegetation that is 6 meters tall, or taller."
- *A floodplain wetland* as "lands adjacent to a river, stream or brook that are inundated with floodwater during a 100-year flood event and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils."
- *Freshwater wetlands* as "freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and not considered part of a great pond, coastal wetland, river, stream or brook."

Historic Wetland Loss/Gain in Maine

Original Wetland Acreage	Remaining Wetland Acreage	Acreage Lost	% Lost
6,460,000	5,199,200	1,260,800	20%

Wetland Program Plan

Maine has a current State Wetland Program Plan (2011-2016), which can be downloaded from: http://water.epa.gov/type/wetlands/upload/me_wpp.pdf. Participants in Maine’s Wetland Program Plan include the Maine Department of Environmental Protection, Maine Department of Inland Fisheries and Wildlife, Maine Forest Services, Maine Land Use Planning Commission, the Maine Natural Areas Program, and the Former Maine State Planning Office.

State Funding for Management of Freshwater Wetlands (FY14)

State Wetland Management Program Area	Regulatory	Monitoring and Assessment	Wetland Water Quality Standards	Voluntary Restoration
State Agency	Maine Department of Environmental Protection	Maine DEP Biological Monitoring Program	Information not available	Maine Department of Agriculture, Conservation and Forestry
Source(s)	State General Fund, DEP licensing fees and Coastal Zone Program Funds; DEP - Licensing Fees	No state funding; Supported by EPA Wetland Program Development Grants	(See Monitoring and Assessment)	
Amount	Information Unavailable	Information Unavailable	Information Unavailable	Information Unavailable
Number of Fulltime Equivalent Staff (FTE)	~4.5 FTE (calculated as approximately 15% each of 30 FTE staff)	2 FTE dedicated to functions of wetland monitoring/assessment and Water Quality Standards	(See Monitoring and Assessment)	Staff assist in field surveys for farmers seeking to install ponds on their property.

State Permitting Fees	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Amount:	Division of Land Resource Regulation
Agency:	\$35-\$15,000

No Net Loss/Net Gain Goal

In recognition of the important roles of wetlands in our natural environment, Maine’s Board of Environmental Protection supports the nation-wide goal of no net loss of wetland functions and values. The state recognizes that a loss in wetland functions and values may not be avoided in every instance.

Innovative Features and New Programs/Initiatives

- Maine’s In Lieu Fee (ILF) Program provides permit applicants with another option to traditional permittee-responsible compensation projects. The ILFP is a voluntary program that allows entities impacting natural

resources, primarily wetlands, to make a payment directly to the MDEP as an alternative to the traditional mitigation process. Fees collected by MDEP are deposited into funds allocated to specific biophysical regions in which the impacts occurred. For more information:

http://www.maine.gov/dep/land/nrpa/ILF_and_NRCP/ILF/fs-in-lieu.pdf

- Maine's Interagency Stream Connectivity Work Group works to address the challenges of restoring Maine's aquatic habitats. For more information: <http://atlanticsalmonrestoration.org/groups/stream-connectivity-work-group>

Models and Templates

Maine Significant Vernal Pool Habitat Rules

<http://www.maine.gov/dep/land/nrpa/vernalpools/>

Section B. Regulation

How are wetlands regulated in the State of Maine?

The state of Maine has a state wetland permitting program under Maine's 1988 Natural Resources Protection Act (NRPA), which establishes state regulatory authority over wetlands. Chapter 310 regulates wetlands. The state's §401 certification process is part of this program, which is coordinated by the Maine Department of Environmental Protection (DEP). 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 acres in size. 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.

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.

Permit-by-Rule regulations (Chapter 305) apply to certain activities covered under the Natural Resources Protection Act (NRPA). The regulations identify activities taking place in or adjacent to wetlands and waterbodies that should not significantly affect the environment if carried out according to the standards contained in the regulations. A person proposing to do work that qualifies for Permit-by-Rule is required to file notice with the Department of Environmental Protection (DEP) instead of preparing an individual permit application.

Unless "significant wetlands" 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. Maine defines “significant wetlands” as wetlands that:

- 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; some are explicitly identified in the law); and/or
- consist of peatland.

Wetland Delineation

Delineation Method	Yes	No	Description
Use State’s Own Delineation Method		X	
Use Corp ’87 Manual Regional Supplement	X		However, the state does not conduct delineations. Delineations are done by constants.
Other		X	

Evaluation Methodology

Maine uses whatever evaluation methodologies are acceptable to the Corps. Functional assessments are still several years from being ready for use in the state. For the ILF program, compensation ratios are mostly built on acreage (rather than functions and values). The state does have provisions that allow it to increase mitigation ratios if the site is of high value.

Exempted Activities

Maine’s exemptions are similar to the federal exemptions, but slightly less restrictive:

- 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).

Special Provisions for Agriculture and Forestry

Provisions are comparable to federal for agriculture. However, the state has additional silviculture exemptions that apply to forested and harvested forested wetlands (see above).

Penalties and Enforcement

The Maine Department of Environmental Protection (DEP) can issue fines of \$100-\$10,000 per day for violations, with a few provisions for fines up to \$25,000.

Permit Tracking

MDEP has a permit tracking database. The MDEP's system tracks permit applications back to 1968. There is also a state tracking system for resources regulated under the NRPA, including data on wetland loss, mitigation as it is reported annually, project locations, and impacts, as well as all monitoring and restoration data over a period of five years. A third database tracks compliance and enforcement for the state's resources. Staff inspections and site visits are part of each of the systems. Efforts are being made to integrate these three databases.

State General Permit (PGP or SPGP for 404)

<i>Maine</i>	Yes	No	Detail
Regional		X	
Statewide	X		

Assumption of Section 404 Powers

<i>Maine</i>	Yes	No	Detail
Have Assumption		X	
Applied for Assumption		X	
Explored Assumption		X	Informally only in 1995.

Joint Permitting

Maine has a joint permit application with the Corps.

Special Area Management Plans and Advanced Identification Plans

There are two Maine towns with Special Area Management Plans (SAMPs) for vernal pools. These are related to wildlife protections (wading bird habitat and shoreland bird feeding and roosting habitat). Even if no impacts will be made to the vernal pool, there must be no impact within 250 feet of it.

Buffer Protections

Maine may require a permit for impacts within 75-feet of a wetland (adjacency). However, these determinations are made on a case-by-case basis. If a permit is not required under Maine law, impacts may take place right down to the edge of the wetland.

Mitigation Policy

Maine has extensive compensatory wetland mitigation guidelines, policies and regulations. Compensation is required to off-set an adversely affected resource function with a function of equal or greater value. The goal of compensation is to achieve no net loss of resource functions and values. The MDEP or the Corps may require that the compensation include the design, implementation and maintenance of a permittee-responsible compensation project or, in lieu of such a project, may allow the applicant to purchase credits from a mitigation bank or to pay a compensation fee (ILF). State rules and federal regulations recognize that ILF programs may be an environmentally preferable mitigation option based on several factors. Compensation requirements are laid out in detail in the following document:

http://www.nae.usace.army.mil/Portals/74/docs/regulatory/Mitigation/ILFP_ME.pdf

Mitigation Tracking

The MDEP's tracks data on wetland mitigation as it is reported annually, project locations, and impacts.

Additional Regulatory Links:

- Maine's Natural Resources Protection Act (NRPA) - *Protected natural resources* are coastal sand dune systems, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, great ponds and rivers, streams or brooks. The law is focused on "protected natural resources". A permit is required when an "activity" will be located in, on or over any protected natural resource, or located adjacent to (A) a coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland, or (B) certain freshwater wetlands. See [38 MRSA 480-B](#) for statutory definitions.
- Maine Permit-by-Rule Webpage:
<http://www.maine.gov/dep/land/nrpa/ip-pbr.html>
- Maine's Wetland and Waterbodies Protection DEP Agency Rules are outlined in Chapter 310:
<http://www.maine.gov/dep/water/rules/index.html>

C. Wetland Monitoring and Assessment

Agency Responsible for Wetland Monitoring and Assessment

Monitoring and assessment is undertaken by the Maine Department of Environmental Protection. In 1998, the MDEP began developing a biological monitoring and assessment protocols for freshwater wetlands. Wetland monitoring and assessment is integrated with the Biological Monitoring Program for rivers and streams, which is part of the MDEP's overall water quality assessment program. The program conducts statewide biological monitoring and assessment on a five-year rotating basin schedule.

Mapping/Inventory

The MDEP Biological Monitoring Program relies primarily on National Wetland Inventory Maps and aerial imagery for wetland monitoring and assessment.

State Wetland Mapping Information Portal

Maine’s Biological Monitoring Program displays its sampling locations and provides select biological, physical and chemical data to the public via Google Earth. All sampling sites are displayed, including general location information. Complete sampling data may not be available for every site for every year sampled, due to sample processing time and internal QA/QC procedures. To link to the portal, go to:

<http://www.maine.gov/dep/water/monitoring/biomonitoring/data.htm>

Wetland Classification and Assessment

The state relies on the Cowardin classification system. Wetland monitoring and assessment protocols are documented in an EPA-approved Quality Assurance Project Plan (QAPP), including standard operating procedures available on Maine’s Biological Monitoring Program webpages.

Maine DEP’s Biological Monitoring Program has established a widely distributed set of monitoring sites in freshwater wetlands

<http://www.maine.gov/dep/water/monitoring/biomonitoring/sampling/bugs/wetlands.htm>

Sampling Wetland Algae

<http://www.maine.gov/dep/water/monitoring/biomonitoring/sampling/algae/wetlands.htm>

Monitoring and Assessment Methods

<http://www.maine.gov/dep/water/monitoring/biomonitoring/material.html>

Statewide Monitoring Plan

The State of Maine has a Comprehensive Surface Water Ambient Water Quality Monitoring and Assessment Strategy that includes the monitoring of wetlands. The plan employs a five-year rotational basin approach (5 regions/basins). The plan will be updated in the near future.

Overall Wetland Gain and Loss Tracking System

There is no overall wetland gain and loss tracking system. Maine DEP has a tracking system for resources regulated under the NRPA, including data on wetland loss.

Maine’s wetland monitoring and assessment program has the following characteristics:

Level	None	Level 1	Level 2	Level 3
<i>Maine</i>		X	X	X

Type	None	IBI	Condition*	Functional**
<i>Maine</i>			X Maine’s biomonitoring tool	

*The Biological Monitoring Program assesses wetland condition using a statistical model for macroinvertebrates to predict attainment with aquatic life criteria. A similar model for algae is under development

**Functional assessments are not performed by Maine DEP Biological Monitoring Program. However, they may be required for permitting under NRPA. Under such circumstances, they are performed by consultants (see Regulatory Section above).

Frequency	None	Project Specific	Ongoing
<i>Maine</i>		X	X (Reliant on EPA successional grants)

National Wetland Condition Assessment (NWCA) Participation

NWCA Study Type	Yes	No
National Study	X	
State Intensification Study		X

D. Water Quality Standards

Wetland Water Quality Standards

Type	None	Use Existing WQ Standards	In Process	Adopted	Future Direction
Wetland-specific Designated Uses		X			
Narrative criteria in the standards to protect designated wetland uses		X	X		MDEP developing wetland-specific water quality standards and criteria for Maine
Numeric criteria in the standards based on wetland type and location to protect the designated uses		X	X		MDEP developing wetland-specific water quality standards and criteria for Maine
Anti-degradation policy includes wetlands				X	Maine’s A-D Policy explicitly includes wetlands

Detail: Maine has not adopted water quality standards that are specific to wetlands; however, MDEP’s Division of Environmental Assessment is currently developing wetland-specific water quality standards and criteria for

Maine. At present, the state’s water quality standards apply to all “waters of the state,” which include wetlands. Standards are narrative, chemical, and biological in nature. The state is still in the process of developing criteria.

E. Voluntary Wetland Restoration

Types of Wetland Restoration Work Funded by the State:

Type of Work	YES	NO	Description
Fund Wetland Restoration (may include easement agreements)		X	
Private Land Restoration		X	
Public Land Restoration		X	
Technical Assistance		X	
Tax Incentives		X	Ad hoc only from Maine Department of Agriculture, Conservation and Forestry
Other	X		The state reviews applications that come in
Other	X		MDEP assists in field surveys for farmers seeking to install ponds on their property
Other	~		Provision for zoning land for conservation (not statewide)

Detail: Maine has not instituted a formal restoration program, nor does it formally provide technical support or outreach to landowner or coordinate with USDA on restoration projects. **Restoration occurs for mitigation projects through the state’s in lieu fee program.**

Voluntary Wetland Restoration Program Components

Wetland Restoration Efforts	Nothing in the Works	Planning	In Progress	Mature/ Complete
Program has a set of restoration goals	N/A			
Coordinate with relevant agencies that outline restoration/protection goals and strategies and timeframes	N/A			
Developed multi-agency body to coordinate restoration/ protection efforts	N/A			
Set restoration goals based on agency objectives and available information	N/A			

Goals for Restoration Projects

Goal	Yes	No	Description
No Net Loss	N/A		
Reverse Loss/Net Gain	N/A		
Nonpoint Source Pollution (NPS)/WQ	N/A		

Total Maximum Daily Load (TMDLs)	N/A		
Habitat	N/A		
Coastal Protection	N/A		
Floodwater Protection	N/A		
Groundwater	N/A		
Other (Biodiversity)	N/A		

Landowner Guides and Handbooks to Assist with Voluntary Wetland Restoration Efforts

Section F. Innovative and/or Highly Effective Education and Outreach

None. The state has strong stream-related education and outreach programs (Stream Smart and stream connectivity work, but these do not include wetlands.

Section G. Climate Change and Wetlands

Maine incorporates wetland work with climate change, but not in the regulatory program. Wetlands are included in the state’s 2010 climate change adaptation report, which addresses wetland-related issues. There is also ongoing work on issues related to sea level rise and coastal wetlands. Bond Question 6 was approved and funding from this bond is targeted primarily at culvert replacements, some of which are connected to wetland impacts and wetland restoration.

Section H. Integration

Program Area	Yes/No	Description of the Connection
NPDES/Stormwater	YES	Some overlap
303(d)	YES	Wetlands are included if connected to a stream, lake, river or pond
305(b) Reporting	YES	
TMDL	Maybe	
Climate Change/ Climate Resiliency	YES	
Land Use Planning	~	Only at the local level
Watershed Planning	YES	Look at wetlands as sources and areas to protect
Flood/Hazard Mitigation	Unknown	
Coastal Work	YES	Focus on coastal wetland impacts
Transportation (DOT)	YES	Through mitigation banking work
Other	YES	Streams, buffers, mitigation

State Wetland Program Continuum

State of Maine		Core Element 1: Regulation	Core Element 2: Monitoring & Assessment	Core Element 3: Wetland Water Quality Standards	Core Element 4: Voluntary Restoration
Mature Stage	High	X			
Working on Implementation	↑		X		
Working on Developing				X	
Early Stage	Low				No Program

State Wetland Contacts

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Useful Websites

1. Maine Wetland Interagency Team
 - a) Maine Wetland Program Plan
http://water.epa.gov/type/wetlands/upload/me_wpp.pdf
2. Maine Department of Environmental Protection
 - a) Water Quality Bureau
 - i. Stormwater Program
<http://www.maine.gov/dep/land/stormwater/index.html>

- ii. Nonpoint Source (NPS) Pollution
<http://www.maine.gov/dep/land/watershed/nps/index.html>
 - iii. Monitoring & Reporting
<http://www.maine.gov/dep/water/monitoring/index.html>
 - iv. Biological Monitoring Program
<http://www.maine.gov/dep/water/monitoring/biomonitoring/index.html>
 - v. Watershed Management
<http://www.maine.gov/dep/land/watershed/index.html>
 - vi. Maine Estuaries and Coastal Waters
<http://www.maine.gov/dep/water/coastal/index.html>
 - vii. Wetlands
<http://www.maine.gov/dep/water/wetlands/>
 - viii. Rivers & Streams
<http://www.maine.gov/dep/water/rivers-streams/index.html>
 - ix. Lakes
<http://www.maine.gov/dep/water/lakes/index.html>
 - x. Groundwater
<http://www.maine.gov/dep/water/groundwater/index.html>
3. Maine Department of Marine Resources
<http://www.maine.gov/dmr/crd/hmo/Wetlands0.htm>
 4. Maine Natural Resource Conservation Program
<http://mnrpc.org/>
 5. Maine Department of Inland Fisheries and Wildlife:
 - a. Bureau of Resource Management
http://www.maine.gov/ifw/bureaus_divisions/resource_management.htm
 - b. Lands Management Program
http://www.maine.gov/ifw/wildlife/land/department/lands_program.html
 6. Maine Department of Agriculture, Conservation and Forestry
 - a) Maine Natural Areas Program
<http://www.maine.gov/doc/nrimc/mnap/index.html>
 - b) Maine Coastal Program
<http://www.maine.gov/doc/nrimc/mcp/index.htm>

Federal Government Programs

1. USDA Natural Resources Conservation Service
Wetlands Reserve Program
<http://www.nrcs.usda.gov/wps/portal/nrcs/detail/?navtype=SUBNAVIGATION&ss=161023&cid=STELPRDB1082183&navid=105100000000000&pnavid=105000000000000&position=News&ttype=detail>

Other Organization Wetland Programs

1. The University of Southern Maine: Casco Bay Estuary Partnership

<http://www.cascobay.usm.maine.edu/index.html>

2. Maine Association of Wetland Scientists
<http://mainewetlands.org/>
3. The University of Maine: Maine Sea Grant Program
<http://www.seagrant.umaine.edu/>
4. Beginning With Habitat
<http://www.beginningwithhabitat.org/index.html>
5. Wells Reserve
<http://www.wellsreserve.org/>
6. Biodiversity Research Institute
<http://www.briloon.org/research/research-programs/wetlands-program>