

Key Wetland and Shoreland Zoning Definitions
Used in the State of Maine

(prepared by BwH, December 2007)

Federal and Statewide Definitions Applied under US Army Corps of Engineers Regulations and Maine's Natural Resources Protection Act (NRPA) (as taken from MSRA Title 38 §480-B. Definitions)

Freshwater wetlands. "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas that are:

Inundated or saturated by surface or groundwater at a frequency and for duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

[Note: The NRPA technically regulates all development activities that would result in wetland disturbance. However, NRPA rules allow for a one-time 4,300 square foot wetland disturbance exemption as long as the wetland being disturbed is not a wetland of special significance. This one-time exemption applies to the project as a whole and cannot be interpreted as, for instance, applying to each lot within a newly created subdivision.]

River, stream or brook. "River, stream or brook" means a channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics.

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map. [1995, c. 92, §2 (new).]
- B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years. [1995, c. 92, §2 (new).]
- C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water. [1995, c. 92, §2 (new).]
- D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the streambed. [1995, c. 92, §2 (new).]
- E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation. [1995, c. 92, §2 (new).]

"River, stream or brook" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

[Note: Under NRPA standards, most activities occurring within 75-feet of a stream as defined above require some level of permitting through the Maine Department of Environmental Protection. This definition captures many more streams on the landscape than the shoreland zoning definition, and therefore is more protective of water quality, fisheries habitat, etc.]

State of Maine Definition of a Wetland of Special Significance as regulated by Maine Department of Environmental Protection (MDEP) (Chapter 310: Wetlands and Waterbodies Protection)

Wetlands of Special Significance. All coastal wetlands and great ponds are considered wetlands of special significance. In addition, certain freshwater wetlands are considered wetlands of special significance.

A. Freshwater Wetlands of Special Significance. A freshwater wetland of special significance has one or more of the following characteristics.

- (1) Critically imperiled or imperiled community. The freshwater wetland contains a natural community that is critically imperiled (S1) or imperiled (S2) as defined by the Natural Areas Program.
- (2) Significant wildlife habitat. The freshwater wetland contains significant wildlife habitat as defined by 38 M.R.S.A. § 480-B(10).
- (3) Location near coastal wetland. The freshwater wetland area is located within 250 feet of a coastal wetland.
- (4) Location near GPA great pond. The freshwater wetland area is located within 250 feet of the normal high water line, and within the same watershed, of any lake or pond classified as GPA under 38 M.R.S.A. § 465-A.
- (5) Aquatic vegetation, emergent marsh vegetation or open water. The freshwater wetland contains under normal circumstances at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, unless the 20,000 or more square foot area is the result of an artificial ponds or impoundment.
- (6) Wetlands subject to flooding. The freshwater wetland area is inundated with floodwater during a 100-year flood event based on flood insurance maps

produced by the Federal Emergency Management Agency or other site-specific information.

(7) Peatlands. The freshwater wetland is or contains peatlands, except that the department may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance.

(8) River, stream or brook. The freshwater wetland area is located within 25 feet of a river, stream or brook.

[Note: Wetlands that meet the Wetland of Special Significance criteria are not eligible for the 4,300 square foot disturbance exemption. MDEP typically regulates activities adjacent to these wetland types and any proposed disturbance to these wetlands typically requires greater permitting effort and will likely trigger wetland mitigation or the replacement of lost wetland functions and values.]

Definitions Specific to Maine Shoreland Zoning Minimum Guidelines for Municipalities

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water 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.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.