



JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

DAVID P. LITTELL  
COMMISSIONER

August 2, 2006

Re: DEP Fact sheets for new Significant Wildlife Habitat Regulations

Dear Interested Party:

Please find attached the "New" DEP Fact Sheets introducing the recent changes to the Natural Resources Protection Act, Significant Wildlife Habitat Rule, Chapter 335. If you have any question with regard to the new regulation please contact your nearest DEP office for further clarification.

Respectfully,

A handwritten signature in cursive script that reads "James Cassida".

James D. Cassida  
Licensing Coordinator  
Division of Land Resource Regulation  
Bureau of Land and Water Quality



# DEP FACT SHEET

## Increased Protection of Significant Wildlife Habitats

issued: July 25, 2006

contact: 287-3901  
(800) 452-1942

---

### Background

Effective June 8, 2006, the DEP regulates activities in and adjacent to high and moderate value waterfowl and wading bird habitat and in shorebird nesting, feeding, and staging areas. These areas are mapped on a GIS data layer developed by the Maine Department of Inland Fisheries and Wildlife (DIF&W) and available from DIF&W or the DEP. Rules that define these habitats and establish licensing criteria are found in Chapter 335, copies of which are available by mail or on the DEP's web page at <http://www.maine.gov/dep/blwa/docstand/nrpapage.htm>

### Waterfowl and wading bird habitat

**Inland habitat:** The DIF&W has identified high to moderate value inland habitats, which are regulated under the Natural Resources Protection Act (NRPA). A high to moderate value inland habitat is the inland wetland complex, and a 250 foot wide zone surrounding the wetland complex. The 250-foot zone may, and often does, include upland areas outside of the wetland.

**Tidal habitat:** The DIF&W has identified and rated the intertidal area along the coast that is of high or moderate value to waterfowl and wading birds. A high to moderate value tidal habitat includes only the identified tidal habitat area.

**Shorebird Nesting, feeding, and staging areas:** The DIF&W has identified important intertidal areas that have a concentration of shorebirds that feed and congregate particularly during migration. These habitats are important to species such as sandpipers and plovers. These habitats include the intertidal zone and a 250-foot area adjacent to them.

### What has changed?

Previously, DEP regulated activities in inland waterfowl and wading bird habitats to the extent that they were located within a freshwater wetland. Only the wetland and the area within 75 feet of it were subject to NRPA jurisdiction. The NRPA was amended during the spring of 2006 and these areas are now regulated if they are located on a GIS data layer maintained by DIF&W.

### How can I get access to the GIS data layers?

DEPLW0804-2006

A copy of the GIS data layer map for a particular parcel of land may be obtained by contacting your nearest DEP office location. Please ask to speak with the "on-call" representative for the Land & Water Bureau, Division of Land Resource Regulation.

**What kind of permit do I need if my project is in or adjacent to these significant wildlife habitats?**

There is currently no PBR available for activities located *in* the habitats, so an individual NRPA permit is required. The DEP is currently working with DIF&W staff to develop new PBR rules to allow certain activities to occur within the habitat. Regulated activities in existing, developed areas, such as adding a garage, may be eligible for the PBR process. The Department anticipates that new PBR rules for these activities will be developed to be in effect this fall.

**What if I need an individual permit?**

If your proposed activity requires an individual permit, you will need to mitigate the activity just as is done for projects in other protected natural resources, such as freshwater wetlands. First, you must demonstrate a need for the activity to be within the habitat. If you own property outside of the habitat, you need to demonstrate why that area cannot be used. Second, if being located within the habitat can't be avoided, you must minimize the amount of development that occurs. Lastly, if after demonstrating you have avoided the habitat and minimized the amount of impact, it may be necessary to compensate for the impact. Compensation may involve preserving land or even improving the remaining habitat or buffer.

*Headquarters & Central Maine Regional Office*  
17 State House Station  
Ray Building, AMHI Complex  
Augusta, ME 04333  
(207) 287-2111  
1-800-452-1942

*Eastern Maine Regional Office*  
106 Hogan Road  
Bangor, ME 04401  
(207) 941-457  
1-888-769-1137

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

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