

MAINE

We include Maine in our list of states with water quality standards for wetlands because the state has adopted an antidegradation policy which explicitly protects wetland habitat. In addition, it has adopted wetland protection statutes for both tidal and freshwater wetlands. These statutes explicitly require compliance for activities in wetlands with broader water quality criteria.

Wetland Definition

Maine Department of Environmental Protection Regulations, Chapter 310, Wetlands and Water Bodies Protection state that the terms “wetland”, “wetlands”, “waterbody, and waterbodies” “are used interchangeably and collectively in this rule to refer to freshwater wetlands, great ponds, rivers, streams, brooks, coastal wetlands, and the areas adjacent to them.”

Wetland Water Quality Standards

Maine has adopted an antidegradation policy which explicitly protects wetland habitat. Wetland protection statutes for both tidal and freshwater wetlands explicitly require compliance with broader water quality criteria. The state is developing biological criteria for freshwater wetlands.

Designated Uses

Many wetlands are designated waters of special significance. In addition, the state has adopted an antidegradation policy which includes not only general designated uses but “habitat, including significant wetlands within a waterbody supporting existing populations of wildlife or aquatic, estuarine or marine life, or plant life that is maintained by the waterbody;” Maine Code of Rules, Chapter 310: Wetlands and Waterbodies Protection.

Narrative and/or Numeric Criteria

Maine regulations establish both narrative and numeric criteria for waters in general. These are explicitly made to apply to wetlands as well as other waters.

Antidegradation Policy

Maine has adopted a broad antidegradation policy which provides, in part, that

“Existing in-stream water uses and the level of water quality necessary to protect those existing uses must be maintained and protected. Existing in-stream water uses are those uses which have actually occurred on or after November 28, 1975, in or on a water body whether or not the uses are included in the standards for classification of the particular water body.

Determinations of what constitutes an existing in-stream water use on a particular water body must be made on a case-by-case basis by the department. In making its

determination of uses to be protected and maintained, the department shall consider designated uses for that water body and:

- (a) Aquatic, estuarine and marine life present in the water body;
- (b) Wildlife that utilize the water body;
- (c) Habitat, including significant wetlands, within a water body supporting existing populations of wildlife or aquatic, estuarine or marine life, or plant life that is maintained by the water body;
- (d) The use of the water body for recreation in or on the water, fishing, water supply, or commercial activity that depends directly on the preservation of an existing level of water quality. Use of the water body to receive or transport waste water discharges is not considered an existing use for purposes of this antidegradation policy; and
- (e) Any other evidence that, for divisions (a), (b) and (c), demonstrates their ecological significance because of their role or importance in the functioning of the ecosystem or their rarity and, for division (d), demonstrates its historical or social significance.”