



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
OFFICE OF THE COMMISSIONER  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

JANET T. MILLS  
GOVERNOR

AMANDA E. BEAL  
COMMISSIONER

January 27, 2025

Senator Denise Tapler  
Representative Victoria Doudera  
Committee on Environment and Natural Resources  
c/o Legislative Information Office  
100 State House Station  
Augusta, ME 04333

Dear Senator Tapler and Representative Doudera:

Please accept this letter concerning LD 65, **An Act to Update the Definition of “Coastal Wetlands” under the Natural Resources Protection Act**. Marine Geologist Peter Slovinsky at the Maine Geological Survey (MGS) within the Bureau of Resource Information and Land Use Planning (BRILUP) at the Department of Agriculture, Conservation and Forestry (DACF) has worked with Maine Department of Environmental Protection (DEP) staff to refine the definition proposed for revision in LD 65. Mr. Slovinsky can attend the hearing and work sessions on this bill. We offer the following background and rationale for this change in the definition of coastal wetlands.

The bill proposes to reference the Highest Astronomical Tide (HAT) rather than the highest annual tide in the definition of coastal wetlands. The National Oceanic and Atmospheric Administration (NOAA) defines HAT as the highest predicted astronomical tide within a 40-year period that includes two tidal epochs (currently, from 2000-2040), and this number remains stable until tidal datum epochs are recalculated. In contrast, the highest annual tide – referenced in the existing statutory definition – is the highest predicted tide in a calendar year and thus changes from year to year. The difference between the HAT and the highest annual tide varies depending on location and year, but the HAT is generally 1-3 inches higher.

BRILUP supports LD 65's shift from the use of the highest annual tide to the use of the HAT for several reasons. First, unlike the highest annual tide, which changes every year, the HAT provides a stable, predictable planning number over a long planning period. It is readily available and accessible to the public and DEP staff through the [MGS HAT viewer](#), an online mapping tool that depicts the approximate extent of the inland limits of the predicted HAT along the Maine coastline. From a regulatory perspective, the current use of the highest annual tide can be challenging because the elevation changes yearly (sometimes up, sometimes down), which can lead to variation in construction setbacks for neighbors who develop their properties in different

HARLOW BUILDING  
18 ELKINS LANE  
AUGUSTA, MAINE



PHONE: (207) 287-3200  
FAX: (207) 287-2400  
WEB: [WWW.MAINE.GOV/DACF](http://WWW.MAINE.GOV/DACF)

years. Also, for multi-year phased construction projects, it can be a challenge if the boundary of the coastal wetland changes mid-construction. Finally, in 2018, the Land Use Planning Commission adopted the use of the HAT in its definition of a coastal wetland.

To create consistency and a more stable, easy-to-implement planning number across the Maine coastline, BRILUP supports the Maine DEP updating the definition of coastal wetland to refer to the HAT.

Let me know if you need any other assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Judy East".

Judy East, Director  
Bureau of Resource Information and Land Use Planning

CC: Amanda Beal, Commissioner, DACF  
Emily Horton, Director of Policy & Community Engagement, DACF  
Robert Wood, Director, Bureau of Land Resources, Maine DEP  
Ryan Gordon, State Geologist, MGS  
Peter Slovinsky, Marine Geologist, MGS