

Maine Revised Statutes

Title 38: WATERS AND NAVIGATION

Chapter 3: PROTECTION AND IMPROVEMENT OF WATERS

§480-CC. SIGNIFICANT WILDLIFE HABITAT; SHOREBIRD FEEDING AND ROOSTING AREAS

Significant wildlife habitat as defined in section 480-B, subsection 10 includes shorebird nesting, feeding and staging areas that are in conformance with criteria adopted by the department or are contained within another protected natural resource except as provided in this section and section 480-DD. [2007, c. 290, §7 (NEW); 2007, c. 290, §15 (AFF).]

1. Definitions. As used in this section and section 480-DD, unless the context otherwise indicates, the following terms have the following meanings.

A. "Shorebird feeding area" means a shorebird feeding or staging area that is not a roosting area. "Shorebird feeding area" includes a 100-foot-wide surrounding buffer referred to as "the feeding buffer." [2007, c. 290, §7 (NEW); 2007, c. 290, §15 (AFF).]

B. "Shorebird roosting area" means a shorebird feeding or staging area that is also a roosting area. "Shorebird roosting area" includes a 250-foot-wide surrounding buffer referred to as "the roosting buffer." [2007, c. 290, §7 (NEW); 2007, c. 290, §15 (AFF).]

[2007, c. 290, §7 (NEW); 2007, c. 290, §15 (AFF) .]

2. Cutting standards within roosting and feeding buffers. The cutting standards in this subsection apply in addition to the permitting standards in section 480-D.

A. Cutting or removal of vegetation within a roosting buffer is prohibited except as approved by the department for:

- (1) Removal of a safety hazard;
- (2) Cutting or removal of vegetation to allow for a footpath not to exceed 6 feet in width as measured between tree trunks and shrub stems. The footpath may not result in a cleared line of sight to the water; and
- (3) Cutting or removal of vegetation determined to be necessary by the department in order to conduct other activities approved by the department pursuant to section 480-C and in accordance with the standards of this article and rules adopted pursuant to this article, including but not limited to avoidance, minimization and no unreasonable impact. The department may not approve cutting or removal of vegetation for purposes of creating a view unless the department in consultation with the Department of Inland Fisheries and Wildlife determines there will be no unreasonable impact on the protected resource.

Any cutting or removal of vegetation under this paragraph must be done in consultation with and as approved by the Department of Inland Fisheries and Wildlife. [2007, c. 290, §7 (NEW); 2007, c. 290, §15 (AFF).]

B. Cutting or removal of vegetation within a feeding buffer is prohibited except as approved by the department for:

- (1) Cutting or removal of vegetation that meets the vegetative screening standards set forth in section 439-A, subsection 6. In interpreting and enforcing these standards, the department shall rely upon the department's shoreland zoning rules regarding cutting or removal of vegetation for activities other than timber harvesting and apply the cutting standards applicable within 75 feet of a coastal wetland to the entire 100-foot feeding buffer; and

(2) Cutting or removal of vegetation determined to be necessary by the department in order to conduct other activities approved by the department pursuant to section 480-C and in accordance with the standards of this article and rules adopted pursuant to this article, including but not limited to avoidance, minimization and no unreasonable impact.

This paragraph may not be construed to limit a municipality's authority under home rule to adopt ordinances containing stricter standards than those contained in this paragraph. [2015, c. 2, §27 (COR) .]

[2015, c. 2, §27 (COR) .]

SECTION HISTORY

2007, c. 290, §7 (NEW). 2007, c. 290, §15 (AFF). RR 2015, c. 2, §27 (COR) .

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