Sea Grant
LAW CENTER

To: Natalie Springuel, Marine Extension Program Leader, Maine Sea Grant

From: Giulianna Pendleton, J.D., Ocean and Coastal Law Fellow, National Sea Grant Law Center (NSGLC)

Re: Statutory Analysis of Maine Working Waterfront Definitions (NSGLC-26-04-10)[1]

Date: November 23, 2026

Advisory Summary

Maine Sea Grant reached out to the National Sea Grant Law Center on behalf of the Working Waterfront Coalition to gain a more in depth understanding of the different codified state definitions for "working waterfront," including the legislative history behind the enacting statutes for each definition and the programs and groups affected by these statutes. This advisory memorandum, along with the attached Appendix, explains the seven (six active) state statutory definitions for "working waterfront," and examines the statutes' legislative history, background, and applicability. This memorandum will 1) provide background on the history of Maine's efforts to protect working waterfronts; 2) outline the historical timeline for how the state has regulated preserving working waterfronts; 3) analyze each statutory definition; 4) relate these statutory definitions and programs to national programs; and 5) conclude with some takeaways and potential next steps.

I. Background on Maine's Efforts to Protect Working Waterfronts

Maine's efforts to protect working waterfronts have historically been closely tied to the protection of the commercial fishing industry. The rising costs of waterfront property as well as declining fish stocks were putting a strain on the commercial fishing industry. In 2001, the legislature expressed the need to protect the state's fishing heritage and passed a joint study order creating the Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing.[2] The Committee's focus was to review policy regarding the fishing industry and make recommendations to preserve the fishing industry, specifically addressing waterfront access and economic development. The Committee

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[2] H.P. 1384, Joint Study Order Establishing the Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing, 120th Sess. (Me. 2001).

published its report in December 2001, recommending 23 actions relating to land use planning, taxation, submerged land, funding, transfer of development rights, and education and outreach.[3]

Since then, the state legislature has primarily focused on conservation funding and taxation approaches to protecting (and defining) working waterfront access for the commercial fishing industry, while also using land use planning and most recently providing funding for information resources. Specifically:

- the Working Waterfront Access Protection Program under the Land for Maine's Future program defines and provides conservation funding for working waterfronts;
- the current use valuation tax program provides preferential tax treatment for defined working waterfronts;
- the sunsetting Pine Tree Development Zone program historically provided tax relief for defined working waterfronts;
- land use programming under the Natural Resources Protection Act (NRPA) defines and exempts working waterfront projects from certain NRPA requirements; and
- the recently established Working Waterfront Information and Technical Assistance Fund provides funding for information resources and technical assistance for working waterfronts, and defines "working waterfront."

As outlined, the conservation funding and current use valuation tax approaches to defining "working waterfront" are limited in scope to the commercial fishing industry, whereas the land use programming, sunsetting Pine Tree Development Zone program, and Working Waterfront Information and Technical Assistance Fund build off the current use valuation approach but seem to expand the scope beyond the commercial fishing industry. The following provides a more detailed timeline of the state's efforts to protect working waterfronts.

II. Timeline

2001

The state legislature passed a joint order to establish the Committee to Study the Loss of Commercial Fishing Waterfront Access and Other Economic Development Issues Affecting Commercial Fishing.

The Committee published its final report with 23 recommendations relating to waterfront access issues and economic development issues.

[3] COMM. TO STUDY THE LOSS OF COM. FISHING WATERFRONT ACCESS & OTHER ECON. DEV. ISSUES AFFECTING COM. FISHING, FINAL REP., 1st Reg. Sess. (Me. 2001).

2005

The electorate passed the Bond for Land for Maine's Future, which included funding for protecting working waterfronts.

The electorate passed a constitutional amendment to Article IX, Section 8 to allow the legislature to include working waterfront land in the current use valuation tax program.

2006

The Land for Maine's Future Board established the Working Waterfront Access Pilot Program, which included funding for projects with restrictive covenants for working waterfronts. In addition, the legislature passed Public Law 2005, Chapter 574 which amended Title 33 of the Maine Revised Statutes to establish the state's first statutory definition for "working waterfront" under the new restrictive covenants aspect of the Working Waterfront Access Pilot Program.

- P.L. 2005, c. 574, An Act Regarding Working Waterfront Covenants (codified at Me. Rev. Stat. Ann. tit. 33, § 131) (signed in 2006): "working waterfront real estate" means "land, legally filled lands, piers, wharves and other improvements to lands all adjacent to the navigable coastal waters of the State."

2007

The legislature expanded the current use valuation tax program to working waterfront land, defining "working waterfront" under Title 36 of the Maine Revised Statutes.

- P.L. 2007, c. 466, An Act to Correct Errors and Inconsistencies in the Laws of Maine (codified at codified at Me. Rev. Stat. Ann. tit. 36 § 1132): "working waterfront land" means "a parcel of land, or a portion thereof, abutting water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities. For purposes of this subchapter, a parcel is deemed to include a unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline."

A bill failed to amend the "working waterfront" definition under Title 36 to broadly expand "working waterfront land" to include maritime activities, boat building, storage, launching and repair activities, and other water dependent commercial activities.

2009

The legislature passed an emergency amendment to the Pine Tree Development Zone tax program to add relief for working waterfront businesses experiencing catastrophic occurrences, defining "working waterfront" under Title 30-A of the Maine Revised Statutes.

- P.L. 2009, c. 21 An Act to Encourage Economic Recovery and Employment Growth to Support Maine's Working Waterfronts (codified at Me. Rev. Stat. Ann. tit. 30-A, § 5250-I): "working waterfront" means "a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities. For purposes of this subsection, "parcel" includes an entire unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline."

2011

The legislature codified the Working Waterfront Access Pilot Program, creating the Working Waterfront Access Protection Fund under Title 5 of the Maine Revised Statutes and the Working Waterfront Access Protection Program (WWAPP) under Title 12, and defining "working waterfront" under Titles 5 and 12.

- P.L. 2011, c. 266, sec. B-6, An Act to Make Technical Changes to Marine Resources Laws (codified at Me. Rev. Stat. Ann. tit. 12, § 6001 and tit. 5, § 6201): "working waterfront" or "working waterfront property" means "land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business."

2013

The legislature exempted working waterfront activities from certain requirements under the Natural Resources Protection Act, defining "working waterfront" under Title 38 of the Maine Revised Statutes.

- P.L. 2013, c. 231 An Act Regarding Working Waterfront Projects (codified at Me. Rev. Stat. Ann. tit. 38, § 480-B): "working waterfront land" means "a parcel of land, or a portion thereof, abutting water to the head of tide, land located in the intertidal zone or submerged land that is used primarily or predominantly to provide access to or support the conduct of a working waterfront activity."

2023

The legislature expanded the "catastrophic occurrence" qualification under the Pine Tree Development Zone program by removing the working waterfront requirement. Though the "working waterfront" and related definitions[4] are still included in the Pine Tree Development

[4] *I.e.*, "Working waterfront industry" means "an industry primarily involved in supporting commercial fishing, marine and boat building activities." 30-A M.R.S.A. § 5250-I.

Zone statute, these are now ghost definitions as the terms are no longer used in substantive provisions of the statute.

The legislature enacted the Dirigo Business Incentive program to take over the Pine Tree Development Zone program. The Dirigo Business Incentive program does not define or reference working waterfronts, though it does include "fishing" as a qualifying industry.

2024

The legislature amended the definition for "working waterfront" under the current use valuation program (Title 36), expanding the definition to include other property owners that support the commercial fishing industry.

- P.L. 2023, c. 671 An Act Regarding Current Use Valuation of Working Waterfront Property (codified at Me. Rev. Stat. Ann. tit. 36 § 1132) (signed in 2024): "working waterfront land" means "a parcel of land, or a portion thereof, that fully or partially abuts water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities. 'Working waterfront land' also includes a wharf or pier used primarily or used predominantly by persons engaged in commercial fishing activities that include berthing a boat and the location of small fishing houses for commercial fishing gear maintenance and storage. For purposes of this subchapter, a parcel is deemed to include a unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline."

The Pine Tree Development Zone program stopped taking new applicants. (The benefits for legacy businesses will cease in 2034.) Because the "working waterfront" definition under the Pine Tree Development Zone is now a ghost definition and the program has been replaced by the Dirigo Business Incentive program, the protection of working waterfront under the Pine Tree Development Zone program is not analyzed in this memo.[5]

[5] The Pine Tree Development Zone program was established in 2003 to encourage development in economically distressed areas. 30-A M.R.S.A. § 5250-H. In 2009, an amendment was passed as an emergency action to expand the program to working waterfront businesses that experienced "catastrophic occurrences." P.L. 2009, c. 21 (Me. 2009). In 2023, the legislature again expanded the program by removing the workingwaterfront qualification for relief based on "catastrophic occurrences." P.L. 2023, c. 173 (2023). Additionally, in 2023, the legislature passed the Dirigo Business Incentive to replace the Pine Tree Development Zone program; in 2024 the program stopped taking new applicants and by the 2034 the benefits for legacy businesses will cease. *See* DIRIGO BUSINESS INCENTIVES, OFFICE OF BUSINESS DEVELOPMENT.

2025

The legislature established the Working Waterfront Advisory Council to examine working waterfront issues, including identifying and finding solutions to challenges concerning working waterfronts, and established the Working Waterfront Information and Technical Assistance Fund to support information campaigns and provide technical assistance for working waterfronts. This statute provided a separate definition for working waterfront, which only applies to the Working Waterfront Information and Technical Assistance Fund:

- P.L. 2025, c. 265, An Act to Establish a Fund and Council to Support Working Waterfronts (codified at 5 Me. Rev. Stat. Ann. tit.5, § 3207): "As used in this section, 'working waterfront' means a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities."

III. Defining "Working Waterfront"

Seven statutes include definitions for working waterfronts. Whereas the definitions under conservation funding and the current use valuation tax program apply to the commercial fishing industry, land use planning programs and the recent information and technical assistance fund expand the scope of the commercial fishing industry. The following is an analysis of the statutory definitions, organized by category.

a) Conservation Funding

1. P.L. 2005, c. 574, An Act Regarding Working Waterfront Covenants (codified at Me. Rev. Stat. Ann. tit. 33, § 131) (signed in 2006): "working waterfront real estate" means "*land, legally filled lands, piers, wharves and other improvements to lands all adjacent to the navigable coastal waters of the State.*"

After the passage of the Land for Maine's Future Bond in November 2005 and the legislature's passage of Public Law 2005, chapter 462 (An Act to Authorize Bond Issues for Ratification by the Voters at the November 2005 Election),[6] the Land for Maine's Future Board established the Working Waterfront Access Pilot Program, to be administered by the Maine Department of Marine Resources and the Maine Office of Community Affairs' Maine Coastal Program. The program aimed to fill the financial gap between the fair market value of waterfront property and

[6] Maine Question 5, Land and Conservation Easement Purchases Bond Measure (2005) ("Do you favor $12,000,000 bond issue to purchase land and conservation easements statewide from willing sellers for conservation, water access, wildlife and fish habitat, outdoor recreation, including hunting and fishing, farmland preservation and working waterfront preservation to be matched by at least $7,000.000 in private and public contributions?"); P.L. 2005, c. 462 (Me. 2005).

the reasonable business value of the property for commercial fishing and aquaculture businesses. To satisfy this goal, the program provided funding for property acquisitions for projects that would provide permanent access use by commercial fisheries businesses.[7]

To be eligible for funding under this program, such projects required permanent assurance that the land and improvements would not be altered in a way that harms its use for commercial fisheries or aquaculture businesses. The legislature authorized the use of restrictive covenants to fulfill this need, and passed Public Law 2005, chapter 574, An Act Regarding Working Waterfront Covenants to establish the rules for these restrictive covenants (signed into law in 2006).[8]

The act authorized the creation of a restrictive covenant limiting the resale price; amount of equity appreciation that a landowner may derive from ownership; type, extent, use, or dollar value of improvements; use of real estate; options to purchase; types of buildings, structures, and materials used in improvements; and other acts in order to enhance the affordability and availability of working waterfront real estate to commercial marine fisheries businesses; and require the real estate is maintained to insure operation of the working waterfront.[9]

Additionally, the legislature established definitions for "working waterfront real estate," "working waterfront covenant,"and "commercial fisheries businesses." The focus of all three of these definitions is on the preservation of waterfront property for commercial fisheries and aquaculture businesses:

Working waterfront real estate: "land, legally filled lands, piers, wharves and other improvements to lands all adjacent to the navigable coastal waters of the State."

Working waterfront covenant: "an agreement in recordable form between the owner of working waterfront real estate and one or more qualified holders that permits a qualified holder to control, either directly or indirectly, the use, ownership and sales price of working waterfront real estate for the *primary purpose of making and preserving the permanent availability and affordability of that real estate for commercial fisheries businesses*. A working waterfront covenant may include a 3rd-party right of enforcement" (emphasis added).

Commercial fisheries businesses: "any enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. 'Commercial fisheries businesses' includes without limitation: A. Licensed commercial fishermen, aquaculturists and fishermen's' cooperatives; B. Persons

[7] DEP'T OF MARINE RES., MAINE WORKING WATERFRONT ACCESS PILOT PROGRAM (2005).
[8] P.L. 2005, c. 574 (Me. 2006).
[9] *Id.* § 134.

providing direct services to commercial fishermen and aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront real estate; and C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives."

The legislative history did not include any House or Senate floor debates or statements on the passage of the bill.[10] The legislative history did, however, provide that the definitions for "commercial fisheries businesses" and "working waterfront covenant" were amended from the original version of the bill to further clarify their meanings, but did not materially change their scopes.[11] For instance, the final version of (B) "commercial fisheries businesses" changed "individuals and businesses" to "persons" and added "as long as provision of these direct services requires the use of working waterfront real estate." Additionally, the definition of "working waterfront covenant" was amended to add "ownership" to "the use and sales price of working waterfront real estate" and add the final sentence clarifying a "working waterfront covenant may include a 3rd-party right of enforcement."

> Original bill's definition of (B) of "commercial fisheries business": "*Individuals and businesses* providing direct services to commercial fishermen and aquaculturists or fishermen's cooperatives" (emphasis added).
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> Original bill's definition of "working waterfront covenant": "an agreement in recordable form between the owner of working waterfront real estate and one or more qualified holders that permits a qualified holder to control, either directly or indirectly, the use and sales price of working waterfront real estate for the primary purpose of making and preserving the permanent availability and affordability of that real estate for commercial fisheries businesses."

Based on the statutory reading of this act (for which the definitions have not been amended since the act's passage in 2006[12]), the actual property of working waterfront is neutral in use (simply land adjacent to navigable coastal waters). However, when applied to WWAPP and its restrictive covenants, its scope is limited to commercial fisheries businesses (including aquaculturists) and those that directly support the commercial fisheries industry and depend on waterfront access.[13] Therefore, funding and eligibility under the WWAPP, for which this act applies, is limited to

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[10] ME. STATE LEGISLATURE, LEGISLATIVE HISTORY COLLECTION (P.L. 2005, c. 574).
[11] ME. STATE LEGISLATURE, ANALYST'S SUMMARY OF BILL AND ENACTED LAW (P.L. 2005, c. 574); S.P. 730, 122nd Leg., 2nd Reg. Sess. (Me. 2006) (original bill).
[12] 33 M.R.S.A. § 131.
[13] *See* P.L. 2005, c. 574 (Me. 2006); S.P. 730, 122nd Leg., 2nd Reg. Sess. (Me. 2006) (original bill); ME. STATE LEGISLATURE, LEGISLATIVE HISTORY COLLECTION (P.L. 2005, c. 574); *see also* ME. WORKING WATERFRONT ACCESS PROT. PROGRAM, PROPOSAL WORKBOOK, 2 (2026).

businesses engaged in or directly supporting commercial fishing and aquaculture, and municipalities and other parties that provide waterfront access for commercial fisheries and aquaculture businesses.

> 2. P.L. 2011, c. 266, An Act to Make Technical Changes to Marine Resources Laws (codified at Me. Rev. Stat. Ann. tit. 12, § 6001 & tit. 5, § 6201): "working waterfront" or "working waterfront property" means "*land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business*."

Following the creation of the Working Waterfront Access Pilot Program, the legislature codified the program in 2011 with the passage of an Act to Make Technical Changes to Marine Resources Laws. In codifying the program under Title 12, the legislature expressed the purpose of WWAPP was to protect "strategically significant working waterfront property whose continued availability to commercial fisheries businesses is essential to the long-term future of the economic sector."[14] Additionally, this law established the Maine Working Waterfront Access Protection Fund under Title 5, which allows the Land for Maine's Future Board to create grants to acquire property or property interests to protect access to working waterfront property.[15]

In addition to establishing the program and fund, the law defined "working waterfront," codified in both Title 5 and Title 12, see above. This definition is materially similar to the working waterfront definition under the restrictive covenant portion of WWAPP (codified at Title 33), though adding the further specification that working waterfront is property used by the commercial fisheries industry. Though Title 33 does not include that specification in "working waterfront real estate," WWAPP's related definitions in Title 33 (e.g., "working waterfront covenant") are specific to the commercial fisheries industry.

This act also defined "commercial fisheries business" under both Title 5 and Title 12:

Commercial fisheries business: "an enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. 'Commercial fisheries business' includes, but it is not limited to: A. Licensed commercial fishermen, aquaculturists and fishermen's cooperatives; B. Persons providing direct services to commercial fishermen, aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront property; and C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives."

[14] P.L. 2011, c. 266, § B-6 (codified at 12 M.R.S.A § 6042).
[15] *Id.* § B-3 (codified at 5 M.R.S.A § 6203-B).

This definition is materially similar to that of Title 33's (with only cosmetic differences). As such, it is likely that the legislature pulled from and referred to Title 33 when passing this law. The legislative history shows that amendments to the bill did not change sections related to WWAPP (including its definitions), there were no house or senate floor debates on the bill's passage, and these definitions have not been amended since the act's passage in 2011. Moreover, the bill was intended to codify the pilot program and WWAPP's expressed intent is to preserve the state's commercial fishing heritage.[16] For instance, the Land for Maine's Future Program biennial reports from 2007, 2009, and 2011 all state that the working waterfront program is meant to protect commercial marine fishing access.[17] Based on this, these definitions, like Title 33, apply to businesses engaged in or directly supporting commercial fishing and aquaculture, and municipalities and other parties that provide waterfront access for commercial fisheries and aquaculture businesses.

Takeaway: Starting in 2005, the Maine legislature has used funding to protect working waterfronts for the purpose of preserving the state's commercial fishing heritage.

b) Taxation

> 1. P.L. 2007, c. 466, An Act to Correct Errors and Inconsistencies in the Laws of Maine, amended by P.L. 2023, c. 671 An Act Regarding Current Use Valuation of Working Waterfront Property (codified at Me. Rev. Stat. Ann. tit. 36 § 1132) (signed in 2024): "working waterfront land" means "*a parcel of land, or a portion thereof, that fully or partially abuts water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities. 'Working waterfront land' also includes a wharf or pier used primarily or used predominantly by persons engaged in commercial fishing activities that include berthing a boat and the location of small fishing houses for commercial fishing gear maintenance and storage. For purposes of this subchapter, a parcel is deemed to include a unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline*."

In general, current use valuation programs provide preferential tax treatment to property owners of important land uses (e.g., farming, open space). Because the tax value of real estate is generally based on the property's "highest and best use," property owners face development pressures that cause property values to rise and increase their property tax, sometimes causing

[16] *Id.* § B-6 (codified at 12 M.R.S.A. § 6042).
[17] LAND FOR MAINE'S FUTURE PROGRAM, 2007 BIENNIAL R. TO THE JOINT STANDING COMM. ON AGRIC., CONSERVATION & FORESTRY (2007); LAND FOR MAINE'S FUTURE PROGRAM, 2009 BIENNIAL R. TO THE JOINT STANDING COMM. ON AGRIC., CONSERVATION & FORESTRY (2009); LAND FOR MAINE'S FUTURE PROGRAM, 2011 BIENNIAL R. TO THE JOINT STANDING COMM. ON AGRIC., CONSERVATION & FORESTRY (2011).

owners to sell. To protect property owners of farmland, open space, tree growth, and working waterfront from having to sell or develop their land, the current use valuation program values the property based on its current use, substantially reducing its tax burden.[18]

Coastal property is especially susceptible to rising property value as more of the coastline becomes developed. To combat this pressure and to keep property owners of working waterfront in business, in 2005, the legislature passed a Constitutional Resolution[19] to be sent to the electorate. The electorate passed the constitutional amendment to Article IX, Section 8, allowing the legislature to include working waterfront land within the current use valuation program.[20] Certain House members highlighted the need for this Constitutional Resolution, emphasizing "the loss of [waterfront] access through development pressures . . . allow[s] these properties to be sold for something other than commercial fishing use."[21]

Following this passage, in 2007 the legislature enacted the Current Use Valuation of Certain Working Waterfront Land Act (codified under Title 36, subchapter 10-A of the revised statutes), which included definitions for "working waterfront land," "commercial fishing," and "commercial fishing activities:"

Working waterfront land: "a parcel of land, or a portion thereof, abutting water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities. For purposes of this subchapter, a parcel is deemed to include a unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline."

Commercial fishing: "harvesting or processing, or both, of wild marine organisms with the intent of disposing of them for profit or trade in commercial channels."

Commercial fishing activities: "commercial aquaculture production and commercial fishing. 'Commercial fishing activities' does not include retail sale to the general public of marine organisms or their byproducts, or other products or byproducts of commercial aquaculture production or commercial fishing."

Of note, following the bill's passage, the legislature sought to amend the definition of "working waterfront land" to include other maritime activities. The bill would have dramatically expanded the scope of qualified property to those for commercial marine activity, as well as for boatbuilding and boat-repair; hauling, launching and storage of boats; berthing of boats; and

[18] *See* *Using Tax Policy for Access*, ACCESSING THE ME. COAST.
[19] Const. Res. 2005, c. 1.
[20] *Article IX, Maine Constitution*, BALLOTPEDIA.
[21] H. REP., No. H88-106, 1st Sess., at 9 (2005) (statement of Rep. Kaelin).

water dependent commercial activities.[22] This bill, however, failed and the program remained specific to the commercial fishing industry. Specifically, to qualify for this tax relief, the land must be "used primarily for commercial fishing activities."[23]

More recently in 2024, this statute was amended to expand the definition of "working waterfront land" to include other property owners that support the commercial fishing industry: "a parcel of land, or a portion thereof, that *fully or partially abuts* water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities. *'Working waterfront land' also includes a wharf or pier used primarily or used predominantly by persons engaged in commercial fishing activities that include berthing a boat and the location of small fishing houses for commercial fishing gear maintenance and storage*. For purposes of this subchapter, a parcel is deemed to include a unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline" (emphasis added).

According to the Committee Hearing, this amendment arose due to fishing families who use their own properties to make a living off their working waterfront facing increasing tax burdens due to the development of surrounding high-end homes.[24] Though some commented the definition was still "overly narrow" and "exclude[d] some types of structures routinely used in working waterfront activities,"[25] others emphasized the focus of the amendment was to maintain the "cultural heritage" of Maine's working waterfront and bolster the economy of coastal communities.[26] Therefore, although this recent amendment expanded the program to other property owners, the preservation of the commercial fishing industry remains the anchor for this program.[27]

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[22] H.P. 916, An Act to Amend the Definition of "Working Waterfront Land" to Include Land Used for Marine Trades, 123rd Sess., (2007).
[23] 36 M.R.S.A. § 1137.
[24] *An Act Regarding the Homestead Property Tax Exemption and the Property Value Reassessment Process: Hearing Before the Joint Standing Comm. on Tax'n*, 131st Sess. (2024) (statement of Rep. Dan Ankeles) (introducing bill); *see also* HISTORY AND FINAL DISPOSITION, ME. STATE LEGIS.
[25] *An Act Regarding the Homestead Property Tax Exemption and the Property Value Reassessment Process: Hearing Before the Joint Standing Comm. on Tax'n*, 131st Sess. (2024) (statement of Sebastian Belle, Exec. Dir. Me. Aquaculture Association).
[26] *An Act Regarding the Homestead Property Tax Exemption and the Property Value Reassessment Process: Hearing Before the Joint Standing Comm. on Tax'n*, 131st Sess. (2024) (statement of Me. Coast Fishermen's Assoc.)
[27] To note, the original version of the bill would have defined a "parcel" as included "property that includes the residence of the person who owns the parcel," but this proposal was struck from the final version. Additionally, the final version of the bill narrowed "wharf or pier used bypersons engaged in commercial fishing activities . . . ." to "wharf or pier used primarily or used predominantly by persons . . . ." H.P. 1384, 131st Sess. (2024) (original bill).

Takeaway: Despite efforts to expand the current use valuation program beyond the commercial fishing industry, to qualify for this program, landowners must have a nexus to commercial fishing.

c) Land Use Planning & Regulation

In 2013, the Department of Environmental Protection (DEP) and other stakeholders recognized that there was no applicable definition for "working waterfront" for land use regulation purposes.[28] Regulators acknowledged that the term "functionally water-dependent uses" under the Mandatory Shoreland Zoning Act (MSZA) came close, but was not properly tailored to working waterfront projects or activities.[29] As such, DEP proposed a bill to the legislature to define "working waterfront" under the Natural Resources Protection Act (NRPA) and exempt "working waterfront" projects from certain requirements under the MSZA and the NRPA.[30] The final law defined "working waterfront" under the NRPA, but only exempted working waterfront projects from certain requirements under the NRPA, not MSZA.[31] The following outlines the legislative history and final outcome of this bill.

> 1. P.L. 2013, c. 231 An Act Regarding Working Waterfront Projects (codified at Me. Rev. Stat. Ann. tit. 38, § 480-B): "working waterfront land" means "*a parcel of land, or a portion thereof, abutting water to the head of tide, land located in the intertidal zone or submerged land that is used primarily or predominantly to provide access to or support the conduct of a working waterfront activity.*"

The enacted legislation defined "working waterfront land" (see above) and "working waterfront activity":

Working waterfront activities: "an activity that qualifies a parcel of land as working waterfront land. 'Working waterfront activity' includes commercial fishing activities; commercial boat building and repair; commercial hauling, launching, storage and berthing of boats; marine construction; marine freight and passenger transportation; and other similar commercial

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[28] *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Env't & Nat. Res.*, 126th Sess. (2013) (statement of Me. Municipal Assoc.); *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Env't & Nat. Res.*, 126th Legis. (2013) (statement of Patricia Aho, Comm'r of Dep't of Env't Prot.).

[29] *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Env't & Nat. Res.*, 126th Legis. (2013) (statement of Me. Municipal Assoc.); *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Env't & Nat. Res.*, 126th Sess. (2013) (statement of Patricia Aho, Comm'r of Dep't of Env't Prot.).

[30] *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Env't & Nat. Res.*, 126th Legis. (2013) (statement of Patricia Aho, Comm'r of Dep't of Env't Prot.).

[31] P.L. 2013, c. 231 (Me. 2013).

activities that are dependent on the waterfront. As used in this subsection, 'commercial fishing activities' has the same meaning as in Title 36, section 1132, subsection 3."

These definitions, however, were amended from the original version of the bill. Specifically, the final bill narrowed the scope of "working waterfront activities" by limiting to *commercial* activities.[32] Moreover, public comments from DEP (which proposed the bill) and other organizations highlighted that existing definitions for "working waterfront" are found in the tax code (Title 36), and the proposed bill pulled from the existing tax code definition, while making it applicable to land use regulations.[33] Public comments did not, however, acknowledge "working waterfront" definitions under WWAPP. It is unclear why DEP and other stakeholders only acknowledged the tax code definition and not the definition under Titles 33, 5, or 12.

Moreover, the initial goal of the bill was to exempt working waterfront projects from certain requirements under the MSZA and NRPA, in order to strike a balance between protecting the state's heritage of working waterfront activities and ensuring adequate environmental protections.[34] The final bill, however, only exempted working waterfront projects from the requirement under the NRPA to compensate for any potential impacts to significant wildlife habitat.[35] In applying this exemption, DEP acknowledged that most working waterfront land is on already developed areas, so any potential impacts to wildlife habitat would be minimal.[36] Therefore, DEP concluded, the exemption would encourage working waterfront projects and preserve this part of the economy, while likely having minimal impact on such wildlife habitat the NRPA is concerned with.[37]

Takeaway: The legislature and regulators acknowledged there was a gap in defining working waterfront under land use programs. Additionally, in taking the working waterfront definition

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[32] H.P. 320, 2013 Leg. 126th Sess. (Me. 2013). (Original bill defined "working waterfront activity" as "an activity that qualifies a parcel of land as workignw aterfront land. 'Working waterfront activity' includes commercial fishing activities; boat building and repair; hauling, launching, storage and berthing of boats; and other similar commercial activities that are dependent on the working waterfront. As used in this subsection, 'commercial fishing activities' has the same meaning as in Title 36, section 1132, subsection 3.")

[33] *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Env't & Nat. Res.*, 126th Sess. (2013) (statement of Patricia Aho, Comm'r of Dep't of Env't Prot.); *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Enviro. & Nat. Res.*, 126th Sess. (2013) (statement of Me. Municipal Assoc.).

[34] *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Env't. & Nat. Res.*, 126th Legis. (2013) (statement of Patricia Aho, Comm'r of Dep't of Env't Prot.).

[35] P.L. 2013, c. 231 An Act Regarding Working Waterfront Projects (Me. 2013) (codified at 38 M.R.S.A. § 480-A, -B).

[36] *An Act Regarding Working Waterfront Projects: Before the Joint Standing Comm. On Env't & Nat. Res.*, 126th Sess. (2013) (statement of Patricia Aho, Comm'r of Dep't of Env't Prot.).

[37] *Id.*

from the tax code and applying it to land use programs, the legislature expanded the definition of "working waterfront activities" to include boat building, marine transportation, and other commercial water-dependent uses. This signals that the legislature may be amenable to seeing working waterfront projects as broader than commercial fishing when applied to land use regulations or programming.

d) The Working Waterfront Information and Technical Assistance Fund

In 2025, the legislature passed An Act to Establish a Fund and Council to Support Working Waterfronts to fill an education gap regarding the value and vulnerability of working waterfronts.[38] This law, codified under Title 5, chapter 310-B Maine Office of Community Affairs of the Maine Revised Statutes, established the Working Waterfront Advisory Council to advise the legislature on the status and challenges facing working waterfronts.[39] It also established the Working Waterfront Information and Technical Assistance Fund to fund information campaigns to educate the public on the history and importance of working waterfronts and provide technical assistance for maintaining working waterfronts.[40] Although this law does not include a definitions section, this section of the law includes its own definition for "working waterfront," as described below.

> 1. P.L. 2025, c. 265, An Act to Establish a Fund and Council to Support Working Waterfronts (codified at 5 Me. Rev. Stat. Ann. tit.5, § 3207): "*As used in this section, 'working waterfront' means a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities.*"

The legislative history does not refer to other statutes that define "working waterfront," different versions of the bill do not alter the definition, and public comment does not reference the definition.[41] Nonetheless, this definition is similar to the land use definition under the NRPA.[42] This definition likely pulled from the NRPA definition, substituting "commercial fishing and marine activities" for "working waterfront activity." Moreover, public comments refer to the

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[38] *An Act to Create a Fund to Spread Awareness of Maine's Working Waterfronts: Before Comm. On Housing and Econ. Dev.*, 132nd Sess. (2025) (statement of Stacey Keefer, Exec. Dir., Me. Marine Trades Assoc.).
[39] P.L. 2025, c. 265, § 2 An Act to Establish a Fund and Council to Support Working Waterfronts (Me. 2025) (codified at 5 Me. Rev. Stat. Ann. tit.5, § 3208).
[40] P.L. 2025, c. 265, § 1, An Act to Establish a Fund and Council to Support Working Waterfronts (Me. 2025) (codified at 5 Me. Rev. Stat. Ann. tit.5, § 3207).
[41] *An Act to Create a Fund to Spread Awareness of Maine's Working Waterfronts: Before Comm. On Housing and Econ. Dev.*, 132nd Sess. (2025) (statement of Rep. Morgan Rielly) (introducing bill).
[42] "A parcel of land, or a portion thereof, abutting water to the head of tide, land located in the intertidal zone or submerged land that is used primarily or predominantly to provide access to or support the conduct of a working waterfront activity."

Coastal Zone Management Program,[43] which falls under Title 38 of the Maine Revised Statutes and also houses the NRPA, further supporting the notion that the legislature referred to the NRPA definition when passing this law.

This definition is also materially similar to the ghost definition for "working waterfront"[44] under the Pine Tree Development Zone program, housed in Title 30-A. The general definitions under Title 5, chapter 310-B Maine Office of Community Affairs generally refer to Title 30-A,[45] which could support the notion that this definition relied on the sunsetting Pine Tree Development Zone program definitions relating to working waterfront.

Because this fund relates to education and information, and the law broadly relates to informing the legislature on the status and challenges facing working waterfronts, it may make sense for the legislature to have used a broader definition here. It is important to note, however, that this definition *only* applies to the Working Waterfront Information and Technical Assistance Fund, and no other section in that enacted law or any other statute. By only inserting the definition in this section, rather than a general definitions section, the legislature likely signaled it meant this definition to have a limited applicability. Every other statute defining "working waterfront" inserts the term in a general definitions section.

Takeaway: This definition broadly expands "working waterfront" to apply to both "commercial fishing and marine activities." However, this definition *only* applies to the Working Waterfront Information and Technical Assistance Fund.

IV. Connection to National Programs

There is no federal definition for "working waterfront," however, the Coastal Zone Management Act relates to coastal planning and water-dependent uses and there have been efforts to pass legislation to protect working waterfronts.

Under the National Coastal Zone Management Program authorized by the Coastal Zone Management Act of 1972, Maine established the Maine Coastal Program to prioritize planning to protect water-dependent uses.[46] This is a voluntary partnership between the state and NOAA Office of Coastal Management. This program does not define "working waterfront," however,

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[43] *An Act to Create a Fund to Spread Awareness of Maine's Working Waterfronts: Before Comm. On Housing and Econ. Dev.*, 132nd Sess. (2025) (statement of Rep. Morgan Rielly) (introducing bill); *An Act to Create a Fund to Spread Awareness of Maine's Working Waterfronts: Before Comm. On Housing and Econ. Devel.*, 132nd Sess. (2025) (statement of Samantha Horn, Dir. Me. Office of Cmty. Affairs).

[44] "Working waterfront" or "working waterfront property" means "land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business."

[45] 5 M.R.S.A. § 3201.

[46] *Defining Working Waterfronts*, ACCESSING THE ME. COAST.

"water-dependent use" is necessarily related (see discussion on land use planning above). As such, programs and regulations for "water-dependent uses" may inform future programming for "working waterfront."

Moreover, since 2009, Representative Pingree of Maine has introduced the Keep America's Waterfront Working Act, which aims to amend the Coastal Zone Management Act to establish a working waterfront taskforce and working waterfront grant and loan program.[47] Under this bill, working waterfront is defined as "real property (including support structures over water and other facilities) that – (A) provides access to coastal water by coastal users; and (B) is used for, or supports commercial and recreational fishing, recreational fishing and boating businesses, and boatbuilding, aquaculture, and other water-dependent, coastal-related business."[48] Representative Pingree has introduced this bill in the 2009–2010, 2011–2012, 2015–2016, 2017–2018, 2019–2020, 2021–2022, 2023–2024, and 2025–2026 sessions of Congress.[49]

Separately, in 2024 (reintroduced in 2025), Senator Murkowski from Alaska (with cosponsors Senators Collins[50] and King from Maine) introduced the Working Waterfronts Act to support rural coastal and maritime economic development.[51] This bill would define "working waterfront area" as "land that is used for, or that supports, the commercial fishing industry, the mariculture industry, the for-hire recreational fishing industry, or the boatbuilding industry."[52] This bill has been read twice and referred to the Committee on Finance.[53]

Takeaway: Though there is no federal definition for "working watefront," definitions for "water-dependent uses" may inform interpretations of "working waterfront." Additionally, NSGLC recommends monitoring these federal bills for potential national definitions and programming related to working waterfront.

V. Conclusions and Next Steps

The existing conservation funding and tax programs appear to be specific to the commercial fishing industry. Land use planning programs, including under the state's Coastal Zone Management Act programming, may be more flexible regarding which groups are covered under working waterfront protections. The following are some next steps if the coalition is interested in learning more about the working waterfront definitions:

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[47] H.R. 1808, 119th Cong. (2025).
[48] *Id.*
[49] *Member Activity by Chellie Pingree*, CONGRESS.GOV.
[50] Noting Senator Collins' term expires at the end of 2026.
[51] S. 1968, 119th Cong. (2025).
[52] *Id.*
[53] *Id.*

- A targeted state comparative analysis could provide insight into how other states define their working waterfronts.
- Monitor legislative movement at the federal level for national policy developments that could inform definitions in Maine.

Definition	Maine Revised Statutes	Applicable Program(s)	Category	Scope	Year First Enacted	Amended?	Links
"working waterfront real estate" means "land, legally filled lands, piers, wharves and other improvements to lands all adjacent to the navigable coastal waters of the State."	tit. 33, § 131	Working Waterfront Access Protection Program	Conservation Funding	Commercial Fishing/Aquaculture	2006	No	https://legislature.maine.gov/legis/statutes/33/title33sec131.html
"working waterfront" or "working waterfront property" means "land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business."	tit. 12, § 6001 and tit. 5, § 6201	Working Waterfront Access Protection Program	Conservation Funding	Commercial Fishing/Aquaculture	2011	No	https://legislature.maine.gov/legis/statutes/12/title12sec6001.html (Title 12); https://legislature.maine.gov/legis/statutes/5/title5sec6201.html (Title 5)
"working waterfront land" means "a parcel of land, or a portion thereof, that fully or partially abuts water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities. 'Working waterfront land' also includes a wharf or pier used primarily or used predominantly by persons engaged in commercial fishing activities that include berthing a boat and the location of small fishing houses for commercial fishing gear maintenance and storage. For purposes of this subchapter, a parcel is deemed to include a unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline."	tit. 36 § 1132	Current Use Valuation Tax Program	Tax	Commercial Fishing/Aquaculture	2007	Yes, in 2024: expanded definition to include property owners that support the commercial fishing industry	https://legislature.maine.gov/legis/statutes/36/title36sec1132.html
"working waterfront" means "a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities. For purposes of this subsection, "parcel" includes an entire unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline."	tit. 30-A, § 5250-I	Pine Tree Development Zone Program	Tax/Development	Commercial Fishing/Aquaculture	2009	No, but these are now ghost definitions	https://legislature.maine.gov/legis/statutes/30-A/title30-Asec5250-I.html
"working waterfront land" means "a parcel of land, or a portion thereof, abutting water to the head of tide, land located in the intertidal zone or submerged land that is used primarily or predominantly to provide access to or support the conduct of a working waterfront activity."	tit. 38, § 480-B	Natural Resources Protection Act Zoning	Land Use Planning	Commercial fishing/aquaculture, boat building, hauling, launching, storage and berthing of boats, marine construction, marine transportation, and other commercial water-dependent uses	2013	No	https://legislature.maine.gov/legis/statutes/38/title38sec480-B.html
"As used in this section, 'working waterfront' means a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities."	tit. 5, § 3207	*Only* Working Waterfront Information and Technical Assistance Fund	Education/Maintenance Funding	Commercial fishing, marine activities	2025	No	https://legislature.maine.gov/statutes/5/title5sec3207.html