§ 11-2001. New York state bird conservation area program.

1. There shall be created a New York state bird conservation area program which shall consist of such state-owned waters, lands, or portions thereof as are necessary to safeguard and enhance populations of wild birds native to New York state and the habitats therein that birds are dependent upon for breeding, migration, shelter, and sustenance.

2. Any property designated shall be described and depicted upon a map and a copy of any and all such documents shall be forwarded to the commissioner for inventory, research, and reference purposes for the general public. A master inventory list and maps of properties that are designated as part of the New York state bird conservation area program shall be kept on file by the commissioner who shall also deposit a copy of such at the New York state museum and science service, and at the Cornell Laboratory of Ornithology.

3. For purposes of this title the term "important bird area" shall mean a site providing habitat to one or more species of breeding or non-breeding birds bounded by natural or anthropogenic features or boundaries. To be eligible for designation under this section a site must be an important bird area. Any site that meets or matches one or more of the following criteria in this subdivision shall be eligible for designation as part of the New York state bird conservation area program because it is an important bird area.

a. Waterfowl concentration site: a location that regularly supports at least two thousand birds such as loons, grebes, cormorants, geese, ducks, coots, and moorhens.

b. Pelagic seabird site: a location that regularly supports at least one hundred birds of open water such as shearwaters, storm-petrels, terns, fulmars, gannets, jaegers, alcids, and other like birds and/or ten thousand gulls at one time during some part of the year so long as the primary food source for such birds is not anthropogenic.

c. Shorebird concentration site: a location that supports at least three hundred birds such as plovers, sandpipers, and other like birds during some part of the year.

d. Wading bird concentration site: a location that supports at least one hundred birds such as bitterns, herons, egrets, ibises, and other like birds during some part of the year.

e. Migratory concentration site: a location that is a flight corridor rest stopover site for an exceptional number or diversity of migratory songbirds during either spring or fall seasons.

f. Diverse species concentration site: a location that supports a distinctive group of indigenous bird species that is the consequence of local habitats that are resultant of unique vegetational, geological, geographical, topographical, or microclimatological circumstances.

g. Individual species concentration site: a location that supports at least one bird species during one or more seasons of the year as a regionally unique, dense (for the species) population.

h. Species at risk site: (1) a location that supports a significant population of a species that is listed either federally or by New York state as endangered, threatened, or of special concern, or (2) which supports a species that is verified by either the commissioner or the state ornithologist as being rare or declining within New York state, or (3) an exceptional, rare, or remnant native habitat, vegetative community, or landscape segment that supports one or more significant habitat dependent populations of wild bird species.

i. Bird research site: a location where a wild bird population research and/or monitoring project of at least five consecutive years duration is conducted and contributes to the science of ornithology and/or bird conservation policy through publicly accessible scholarly and/or scientific publications.

4. Designation may be accomplished by the head of any state agency or

entity having jurisdiction over state lands or waters for such appropriate properties as may exist within their respective jurisdictions and consistent with their respective missions.

5. A designating state agency or entity shall publish notice concerning the designation of a New York state bird conservation area in the environmental notice bulletin prior to such designation. Such notice shall provide for a thirty day public comment period following publication of the notice.

6. The head of any state agency or entity having jurisdiction over state lands or waters previously designated as New York state bird conservation areas may seek to remove all or a portion of such lands or waters from such designation provided, however, that prior to such removal the commissioner publishes a finding that the designated area or portion of such area no longer meets the criteria in subdivision three of this section. Such finding shall be published in the environmental notice bulletin and shall provide for a thirty day public comment period following publication of the notice.

* 7. a. The Montauk Point shoals area of the county of Suffolk, having met the criteria of subdivision three of this section, is hereby declared to be an important bird area and the commissioner shall designate such area as part of the New York state bird conservation area program.

b. For the purposes of this title, "Montauk Point shoals area" means those marine and coastal areas off the shore of Montauk Point, in the county of Suffolk, extending to the coastal waters within a sixty foot bathymetric contour that encompasses the area beginning just west of Shagwong Point on the northern shore of Montauk Point, continuing east around Montauk Point, and terminating just east of Ditch Plains on the Atlantic Ocean side of Montauk Point. Such area consisting of waters that are sixty or less feet in depth, and within between three and one-half to four miles from the shoreline. Provided, that the commissioner shall be authorized to change the boundaries of such area, by rule, as he or she shall deem necessary.

c. That portion of the New York state bird conservation area program designated pursuant to this subdivision shall be known as the "Montauk Point shoals bird conservation area".

d. Nothing in this section shall be deemed to impose new fishing restrictions.

* NB Effective October 8, 2024