

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
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3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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5 Legislative Document

No. 1458

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7 H.P. 1105

House of Representatives, April 13, 1983

8 Submitted by the Department of Environmental Protection pursuant to  
9 Joint Rule 24.

10 Referred to the Committee on Energy and Natural Resources. Sent up for  
concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Michaud of E. Millinocket.

Cosponsor: Representative Hall of Sangerville.

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12 STATE OF MAINE  
13

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14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

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17 AN ACT to Amend the Department of  
18 Environmental Protection Statutes.  
19

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20 Be it enacted by the People of the State of Maine as  
21 follows:

22 Sec. 1. 5 MRSa §711, sub-§2, ¶A, as amended by  
23 PL 1981, c. 708, §§1-3, is further amended to read:

24 A. The following positions in the following  
25 departments are major policy-influencing posi-  
26 tions. These positions and their successor posi-  
27 tions shall be subject to this subsection, not-  
28 withstanding any other provision of law:

29 (1) Department of the Attorney General:

30 (a) Deputy Attorneys General; and

31 (b) Assistant Attorneys General.

- 1 (1-A) Department of Agriculture, Food and  
2 Rural Resources:
- 3 (a) Deputy Commissioners;
- 4 (b) Associate Commissioner for Policy  
5 Development;
- 6 (c) Director, Bureau of Agricultural  
7 Productions;
- 8 (d) Director, Bureau of Agricultural  
9 Marketing;
- 10 (e) Director, Bureau of Agricultural  
11 and Rural Resources; and
- 12 (f) Director, Bureau of Public Ser-  
13 vices.
- 14 (2) Department of Business Regulation:
- 15 (a) Superintendent, Bureau of Banking;
- 16 (b) Superintendent, Bureau of Consumer  
17 Credit Protection; and
- 18 (c) Superintendent, Bureau of Insur-  
19 ance.
- 20 (3) Department of Conservation:
- 21 (a) Director, Administrative Services;
- 22 (b) Director, Planning and Program  
23 Services;
- 24 (c) Director, Bureau of Forestry;
- 25 (d) Director, Maine Geological Survey;
- 26 (e) Executive Director, Maine Land Use  
27 Regulation Commission;
- 28 (f) Director, Bureau of Parks and  
29 Recreation;

- 1 (g) Director, Bureau of Public Lands;  
2 and
- 3 (h) Forest Insect Manager, Bureau of  
4 Forestry.
- 5 (4) Department of Educational and Cultural  
6 Services:
- 7 (a) Assistant to the Commissioner;
- 8 (b) Deputy Commissioner;
- 9 (c) Associate Commissioner, Bureau of  
10 School Management;
- 11 (d) Associate Commissioner, Bureau of  
12 Instruction; and
- 13 (e) Associate Commissioner, Bureau of  
14 Vocational Education.
- 15 (4-A) Department of Environmental Protec-  
16 tion:
- 17 (a) Deputy Commissioner.
- 18 (5) Department of Finance and Administra-  
19 tion:
- 20 (a) State Controller;
- 21 (b) State Purchasing Agent;
- 22 (c) State Tax Assessor;
- 23 (d) Director, Bureau of Public  
24 Improvements;
- 25 (e) Director, Bureau of Alcoholic Bev-  
26 erages; and
- 27 (f) State Budget Officer.
- 28 (6) Department of Human Services:
- 29 (a) Deputy Commissioners;

- 1 (b) Director, Bureau of Maine's  
2 Elderly;
- 3 (c) Director, Bureau of Resource  
4 Development;
- 5 (d) Director, Bureau of Health;
- 6 (e) Director, Bureau of Rehabilita-  
7 tion;
- 8 (f) Director, Bureau of Income Mainte-  
9 nance;
- 10 (g) Director, State Health Planning  
11 and Development Agency; and
- 12 (h) Director, Bureau of Medical Ser-  
13 vices.
- 14 (7) Maine Human Rights Commission:
- 15 (a) Executive Director; and
- 16 (b) Chief Compliance Officer.
- 17 (8) Department of Indian Affairs:
- 18 (a) Deputy Commissioner.
- 19 (9) Department of Inland Fisheries and  
20 Wildlife:
- 21 (a) Deputy Commissioner.
- 22 (10) Maine State Lottery Commission:
- 23 (a) Deputy Director.
- 24 (11) Department of Labor:
- 25 (a) Director, Manpower Training Divi-  
26 sion;
- 27 (b) Director, Bureau of Labor; and
- 28 (c) Executive Director, Maine Labor  
29 Relations Board.

- 1 (12) Department of Marine Resources:  
2 (a) Deputy Commissioner.
- 3 (13) Department of Mental Health and Cor-  
4 rections:  
5 (a) Associate Commissioner;  
6 (b) Director, Bureau of Mental Health;  
7 (c) Superintendent, Augusta Mental  
8 Health Institute;  
9 (d) Superintendent, Bangor Mental  
10 Health Institute;  
11 (e) Director, Bureau of Mental Retar-  
12 dation;  
13 (f) Superintendent, Pineland Center;  
14 and  
15 (g) Director, Bureau of Corrections.
- 16 (14) Department of Defense and Veterans  
17 Services:  
18 (a) Deputy Adjutant General;  
19 (b) Director, Bureau of Civil Emer-  
20 gency Preparedness; and  
21 (c) Director, Bureau of Veterans Ser-  
22 vices.
- 23 (15) Department of Public Safety:  
24 (a) Chief, Bureau of State Police;  
25 (b) Director, Bureau of Liquor  
26 Enforcement;  
27 (c) Director, Office of State Fire  
28 Marshal; and  
29 (d) Director, Maine Criminal Justice  
30 Academy.

1 (16) Department of Secretary of State:

2 (a) Deputy Secretaries of State; and

3 (b) State Archivist.

4 (17) Department of Transportation:

5 (a) Deputy Commissioners; and

6 (b) Chief Counsel, Bureau of Legal  
7 Services.

8 Sec. 2. 38 MRSA §342, sub-§5, as repealed and  
9 replaced by PL 1977, c. 596, §1, is repealed and the  
10 following enacted in its place:

11 5. Designation of deputy commissioner. The com-  
12 missioner may employ a deputy commissioner and pre-  
13 scribe the duties of the deputy as he deems necessary  
14 to fulfill the responsibilities of the department.

15 Sec. 3. 38 MRSA §343, as amended by PL 1977, c.  
16 694, §§751 and 752, is repealed.

17 Sec. 4. 38 MRSA §343-A is enacted to read:

18 §343-A. Rules

19 1. Rules. The Board of Environmental Protection  
20 may adopt, amend and repeal reasonable rules and  
21 emergency rules necessary for the proper administra-  
22 tion, enforcement, implementation and interpretation  
23 of any provision of law that the department is  
24 charged with the duty of administering. Rules duly  
25 promulgated shall have the full force and effect of  
26 law.

27 2. Maine Administrative Procedure Act. The  
28 provisions of the Maine Administrative Procedure Act,  
29 Title 5, chapter 375, shall apply to the adoption,  
30 amendment or repeal of rules and emergency rules by  
31 the Board of Environmental Protection.

32 Sec. 5. 38 MRSA §345, as amended by PL 1981, c.  
33 524, §16, is repealed.

1           Sec. 6. 38 MRSA §345-A is enacted to read:

2           §345-A. Hearings

3           1. Hearings. Except as provided in the Maine  
4 Administrative Procedure Act, Title 5, section 8052,  
5 subsection 2, whenever the board or the Department of  
6 Environmental Protection is required or empowered to  
7 conduct a hearing pursuant to any provision of law,  
8 the hearing may be held and conducted by any member  
9 of the board or any employee or representative of the  
10 Department of Environmental Protection so authorized  
11 by the board.

12           2. Maine Administrative Procedure Act. Except  
13 as provided in section 347, subsection 2, all hear-  
14 ings of the Board of Environmental Protection shall  
15 be conducted in accordance with the procedural re-  
16 quirements of the Maine Administrative Procedure Act,  
17 Title 5, chapter 375.

18           3. Fees. The Commissioner of Environmental Pro-  
19 tection may establish fees which recover the expenses  
20 entailed in providing notice to interested persons  
21 required by this section or reproducing all or any  
22 part of the record of any hearings for the applicant  
23 or interested persons.

24           Sec. 7. 38 MRSA §347, sub-§1, as enacted by PL  
25 1977, c. 300, §9, is amended to read:

26           1. General procedures. Whenever it appears to  
27 the Board of Environmental Protection, after investi-  
28 gation, that there is a violation of any provisions  
29 of the laws or regulations which it administers, or  
30 of the terms or conditions of any of its orders,  
31 which does not create a substantial or immediate dan-  
32 ger to public health or safety, the board may notify  
33 the Attorney General or schedule a hearing thereon.  
34 If a hearing is scheduled, the commissioner shall  
35 give at least 30 days' written notice to the alleged  
36 violator of the date, time and place of ~~such~~ that  
37 hearing. The notice shall specify the act done or  
38 omitted to be done which is claimed to be in viola-  
39 tion of law.



1 Any hearing conducted under the authority of this  
2 section shall be in accordance with the provisions of  
3 the Maine Administrative Procedure Act, Title 5,  
4 chapter 375.

5 At ~~such~~ the hearing, the alleged violator may appear  
6 in person or by attorney and answer the allegations  
7 of violation and file a statement of the facts,  
8 including the methods, practices and procedures, if  
9 any, adopted or used by him to comply with this chap-  
10 ter and present such evidence as may be pertinent and  
11 relevant to the alleged violation.

12 After hearing, or in the event of a failure of the  
13 alleged violator to appear on the date set for a  
14 hearing, the board shall, as soon thereafter as  
15 practicable, make findings of fact based on the  
16 record and, if it finds that a violation exists, it  
17 shall issue an order aimed at ending the violation.

18 Sec. 8. 38 MRSA §347, sub-§4, as enacted by PL  
19 1977, c. 300, §9, is repealed.

20 Sec. 9. 38 MRSA §349, sub-§4, as amended by PL  
21 1979, c. 663, §226, is further amended to read:

22 4. Violations. Any person who violates any of  
23 the following provisions shall be guilty of a Class E  
24 crime for each day of ~~such~~ that violation:

- 25 A. Section 419; (high phosphorous detergent);
- 26 B. Section 391 or regulations under section 394  
27 (Great Ponds);
- 28 C. Section 423; (Discharge from watercraft);
- 29 D. Section 471; (Alteration of wetlands and sand  
30 dunes);
- 31 E. Section 1306; (~~Solid waste~~ Waste facility);
- 32 G. Title 12, section 4757; (Regulations for  
33 state-held wetlands);
- 34 H. Title 12, chapter 421 and orders thereunder;  
35 (Wetlands zoning); and

1 I. Title 12, chapter 423-A and regulations  
2 thereunder (Minimum lot size); and

3 J. Sections 1320 and 1321; (Septic materials  
4 disposal);

5 Sec. 10. 38 MRSA §361, 3rd ¶, as amended by PL  
6 1971, c. 618, §9, is further amended to read:

7 Meetings of the board shall be held at such time  
8 and place as shall be determined by the board but not  
9 less than 2 meetings per year shall be held. The  
10 board ~~shall in October of each year may~~ elect a  
11 secretary who shall serve until a successor is  
12 elected, and who need not be chosen from among the  
13 members of the board. Six members of the board shall  
14 constitute a quorum, except for the purpose of con-  
15 ducting any hearing.

16 Sec. 11. 38 MRSA §387, sub-§2, as enacted by PL  
17 1977, c. 123, §2, is amended to read:

18 2. Public hearing. The board shall classify  
19 great ponds, after opportunity for a public hearings  
20 hearing, in accordance with the criteria it develops.

21 Sec. 12. 38 MRSA §390-A, sub-§1, as enacted by  
22 PL 1981, c. 509, §1, is amended to read:

23 1. Fund purposes and administration. There is  
24 established a nonlapsing Lake Restoration and Protec-  
25 tion Fund, from which the Board of Environmental Protec-  
26 tion ~~is authorized to may~~ pay up to 25% an amount  
27 equal to the local share from state appropriations of  
28 the eligible costs incurred in a lake restoration or  
29 protection project ~~which has received federal~~  
30 approval and at least 50% federal funding. Eligible  
31 costs include all costs except those related to land  
32 acquisition, legal fees and debt service. ~~All income~~  
33 received by the State from the United States Environ-  
34 mental Protection Agency for lake restoration or pre-  
35 tection projects under United States Code, Title 37,  
36 section 1324, shall be deposited with the Treasurer  
37 of State to be credited to the Lake Restoration and  
38 Protection Fund. All moneys credited to that fund  
39 shall be used by the Board of Environmental Protec-  
40 tion for projects to improve or maintain the quality

1 of lake waters in the State, and for no other pur-  
2 pose.

3 The Commissioner of Environmental Protection may, at  
4 the direction of the board, authorize the State Con-  
5 troller to draw his warrant for such funds as may be  
6 necessary to pay the lawful expenses of the lake res-  
7 toration or protection project, up to the limits of  
8 the state and federal ~~portions~~ moneys duly author-  
9 ized. Any balance remaining in the fund shall contin-  
10 ue without lapse from year to year and remain  
11 available for the purposes for which the fund is  
12 established and no other purpose.

13 Sec. 13. 38 MRSA §392, sub-§1, as enacted by PL  
14 1977, c. 123, §2, is amended to read:

15 1. Great pond. "Great pond" shall include any  
16 inland body of water which in its natural state has a  
17 surface area in excess of 10 acres, and any body of  
18 water artificially formed or increased which has a  
19 surface area in excess of 30 acres, the shore of  
20 which is owned or leased by 2 or more persons, firms  
21 or other legal entities.

22 Sec. 14. 38 MRSA §394, first ¶, as enacted by PL  
23 1979, c. 663, §227, is amended to read:

24 The Board of Environmental Protection shall  
25 promulgate ~~regulations~~ rules designed to reduce  
26 procedural requirements and establish specific stan-  
27 dards for those alterations, the proper execution of  
28 which are deemed to have no significant impact upon  
29 the great ponds and which are not inconsistent with  
30 the purposes of this chapter. ~~Such~~ The alterations  
31 shall include, but not be limited to: The placement  
32 of water lines to serve a single family house; the  
33 movement of rocks or vegetation by hand over a  
34 shorefront length not to exceed 10 feet; the place-  
35 ment of sand above the high water line, when properly  
36 stabilized; the construction of rock riprap erosion  
37 control devices above the high water line; the  
38 installation of anchoring devices for mooring small  
39 boats or holding floating structures; and the  
40 installation of cables for utilities such as tele-  
41 phone and power. ~~The board shall promulgate such~~  
42 regulations within 90 days of October 24, 1977 and  
43 may thereafter amend them as it deems necessary.

1           Sec. 15. 38 MRSA §411, first ¶, as amended by PL  
2 1981, c. 398, §1, is further amended to read:

3           The department is authorized ~~to~~ may pay an amount  
4 at least 15%, but not to exceed ~~25%~~ 45%, of the  
5 expense of a municipal or quasi-municipal pollution  
6 abatement construction program. The department may  
7 pay up to 90% of the expense of a municipal or  
8 quasi-municipal pollution abatement construction pro-  
9 gram in which the construction cost of the project  
10 does not exceed \$100,000 so long as total expendi-  
11 tures for ~~such~~ the small projects do not exceed  
12 \$1,000,000 ~~for each of the~~ in any fiscal years year  
13 1981-82 and 1982-83, and not more than one grant is  
14 made to any applicant each year. State grant-in-aid  
15 participation under this section shall be limited to  
16 grants for waste treatment facilities, interceptor  
17 systems and outfalls. The word "expense" shall not  
18 include costs relating to land acquisition or debt  
19 service, unless allowed under federal statutes and  
20 regulations.

21           Sec. 16. 38 MRSA §413, sub-§2, as amended by PL  
22 1979, c. 380, §2, is repealed and the following  
23 enacted in its place:

24           2. Exemptions. No person may be deemed in  
25 violation of this section for the discharge of rock,  
26 sand, dirt or other pollutants resulting from erosion  
27 related to agricultural activities, subject to the  
28 following conditions.

29           A. The appropriate soil and water conservation  
30 district has recommended an erosion and  
31 sedimentation control plan or conservation plan  
32 for the land where this erosion originates.

33           B. The board has certified that the plan meets  
34 the objectives of this chapter.

35           C. The department determines that the agricul-  
36 tural activities are in compliance with the  
37 applicable portion of the plan, or the soil and  
38 water district has certified that funds from  
39 existing federal and state programs are not  
40 available to implement the applicable portion of  
41 the plan.

1           Sec. 17. 38 MRSA §413, sub-§2-C is enacted to  
2 read:

3           2-C. Dredge spoils. Holders of a permit  
4 obtained pursuant to the United States Clean Water  
5 Act, Public Law 92-500, Section 404, are exempt from  
6 the need to obtain a waste discharge license for dis-  
7 posal of dredged material into waters of the State  
8 when the dredged material is disposed of in an  
9 approved United States Army Corps of Engineers dis-  
10 posal site.

11           Sec. 18. 38 MRSA §414, sub-§2, as repealed and  
12 replaced by PL 1979, c. 444, §4, is amended to read:

13           2. Terms of licenses. Licenses shall be issued  
14 by the board for a term of not more than 5 10 years.

15           Sec. 19. 38 MRSA §414-A, sub-§2, as repealed and  
16 replaced by PL 1979, c. 444, §6, is repealed and the  
17 following enacted in its place.

18           2. Schedules of compliance. The board may  
19 establish schedules, within the terms and conditions  
20 of licenses, for compliance with best practicable  
21 treatment, as defined in subsection 1, paragraph D,  
22 which includes the application of best conventional  
23 pollutant control technology or best available tech-  
24 nology economically achievable. Schedules shall be  
25 consistent with the times permitted for compliance  
26 with the United States Water Pollution Control Act,  
27 as amended, and may include such interim and final  
28 dates for attainment of specific standards as are  
29 necessary to carry out the purposes of this subchap-  
30 ter. The schedules shall be as short as possible and  
31 shall be based upon a consideration of the techno-  
32 logical and economic impact of the steps necessary to  
33 attain these standards.

34           Sec. 20. 38 MRSA §418, sub-§1, as amended by PL  
35 1973, c. 625, §272, is further amended to read:

36           1. Prohibitions. No person, firm, corporation or  
37 other legal entity shall ~~may~~ place logs or pulpwood  
38 into the inland waters of this State ~~after October 1,~~  
39 ~~1976~~ for the purpose of driving the same to pulp  
40 mills, lumber mills or any other destination.

1 No person, firm, corporation or other legal entity  
2 ~~shall~~ may place logs or pulpwood on the ice of any  
3 inland waters of this State ~~after October 1, 1976.~~

4 No person, firm, corporation or other legal entity  
5 ~~shall~~ may place logs or pulpwood into the inland  
6 waters of this State ~~after October 1, 1976~~ for the  
7 purpose of storage or curing the same, or for other  
8 purposes incidental to the processing of forest prod-  
9 ucts, without a permit from the board as described in  
10 subsection 2.

11 Sec. 21. 38 MRSA §418, sub-§2, as amended by PL  
12 1977, c. 300, §§21 and 22, is further amended to  
13 read:

14 2. Storage; permit. Whoever proposes to use the  
15 inland waters of this State ~~after October 1, 1976~~ for  
16 the storage or curing of logs or pulpwood, or for  
17 other purposes incidental to the processing of forest  
18 products, shall apply to the board for a permit for  
19 ~~such~~ that use. Applications for ~~such~~ these permits  
20 shall be in such form and require such information as  
21 the board may determine.

22 Within 45 days of receipt of an application, the  
23 board shall either grant the application or hold a  
24 public hearing thereon as provided.

25 If the board is able to find, on the basis of the  
26 application, that the proposed use will not lower the  
27 existing quality or the classification, whichever is  
28 higher, of any waters, nor adversely affect the  
29 public rights of fishing and navigation therein, and  
30 that inability to conduct ~~such~~ that use will impose  
31 undue economic hardship on the applicant, it shall  
32 grant the permit for a period not to exceed 3 10  
33 years, with such terms and conditions as, in its  
34 judgment, may be necessary to protect ~~such~~ the qual-  
35 ity, standards and rights.

36 In the event the board deems it necessary to solicit  
37 further evidence regarding the proposed use, it shall  
38 schedule a public hearing on the application.

39 At ~~such~~ that hearing the board shall solicit and  
40 receive testimony concerning the nature and extent of

1 the proposed use and its impact on existing water  
2 quality, water classification standards and the  
3 public rights of fishing and navigation and the eco-  
4 nomic implications upon the applicant of ~~such~~ the  
5 use. If, after hearing, the board determines that the  
6 proposed use will not lower the existing quality or  
7 the classification standards, whichever is higher, of  
8 any waters, nor adversely affect the public rights of  
9 fishing and navigation therein and that inability to  
10 conduct ~~such~~ the use will impose undue economic hard-  
11 ship on the applicant, it shall grant the permit for  
12 a period not to exceed 3 10 years, with such terms  
13 and conditions, as in its judgment, may be necessary  
14 to protect ~~such~~ the quality, standards and rights.

15 Sec. 22. 38 MRSA §419, sub-§2, as enacted by PL  
16 1971, c. 544, §128, is amended to read:

17 2. Prohibition. No person ~~shall~~ may sell or use  
18 any high phosphorous detergent ~~after June 1, 1972~~.

19 Sec. 23. 38 MRSA §420, sub-§1, ¶A, as enacted by  
20 PL 1971, c. 618, §12, is amended to read:

21 A. Any person, firm, corporation or other legal  
22 entity who, on January 1, 1971, was discharging  
23 any of the substances mentioned in this subsec-  
24 tion in connection with an industrial process  
25 shall not be deemed in violation of this subsec-  
26 tion if on or before December 31, 1971, it ~~shall~~  
27 ~~file~~ file filed with the board a statement indicating  
28 the amount of ~~such~~ the substance so discharged on  
29 said that date.

30 Sec. 24. 38 MRSA §451, 2nd ¶, as repealed and  
31 replaced by PL 1979, c. 127, §211, is amended to  
32 read:

33 The board may establish a mixing zone with  
34 respect to any discharge at the time application for  
35 license for ~~such~~ the discharge is made, and when so  
36 established shall be a condition of and form a part  
37 of the license issued. The board may, after oppor-  
38 tunity for a hearing in accordance with section 345,  
39 establish by order a mixing zone with respect to any  
40 discharge for which a license has ~~heretofore~~ been  
41 issued pursuant to section 414, or for which an ex-

1       emption has been granted by virtue of section 413,  
2 subsection 2. Prior to the commencement of any  
3 enforcement action to abate a classification viola-  
4 tion, the board shall establish, in the manner pro-  
5 vided in this paragraph, a mixing zone with respect  
6 to the discharge sought to be thereby affected.

7       Sec. 25. 38 MRSA §451, sub-§1, as repealed and  
8 replaced by PL 1979, c. 127, §211, is repealed.

9       Sec. 26. 38 MRSA §451-A, sub-§1, ¶A, as repealed  
10 and replaced by PL 1975, c. 209, is amended to read:

11       A. Federal funds for the construction of municipi-  
12 pal waste water treatment facilities are not  
13 available for the project; and

14       Sec. 27. 38 MRSA §451-A, sub-§4, as enacted by  
15 PL 1975, c. 209, is amended to read:

16       4. Pretreatment systems. Where a discharger  
17 otherwise exempted from constructing treatment facil-  
18 ities pursuant to this section will be required to  
19 pretreat effluents before discharge into the municipi-  
20 pal system pursuant to any requirement of state or  
21 federal law, ~~such~~ the pretreatment system shall be  
22 installed not later than October 1, 1976 upon com-  
23 menement of the discharge.

24       Sec. 28. 38 MRSA §451-A, sub-§6, as amended by  
25 PL 1977, c. 564, §§138 and 139, is repealed.

26       Sec. 29. 38 MRSA §451-A, sub-§7, ¶A, as enacted  
27 by PL 1977, c. 185, is amended to read:

28       A. Has been used as his dwelling place year  
29 round prior to and since October 1, 1977;

30       Sec. 30. 38 MRSA §475, as amended by PL 1977, c.  
31 300, §28, is further amended to read:

32       §475. Penalties

33       A violation is defined as any filling, dredging,  
34 draining, depositing, altering, erecting or removal  
35 of materials which takes place in coastal wetlands or  
36 coastal sand dunes contrary to the provisions of a



1 valid permit or without a permit having been issued,  
2 and without regard to whether these physical acts  
3 were witnessed as they were being carried out or  
4 whether the action was willfully undertaken to avoid  
5 the intent of this subchapter or without knowledge of  
6 this subchapter undertaken. Any such filling, dredg-  
7 ing, draining, depositing, altering or removal of  
8 materials shall be prima facie evidence that it was  
9 done or caused to be done by the owner of such the  
10 coastal wetlands or coastal sand dunes.

11 Sec. 31. 38 MRSA §560, sub-§3, as amended by PL  
12 1977, c. 78, §204, is further amended to read:

13 3. Board to adopt rules. The Board of Environ-  
14 mental Protection shall, ~~within 90 days after October~~  
15 ~~1, 1975,~~ adopt regulations rules limiting or, to the  
16 extent the board determines necessary, prohibiting  
17 the anchorage in Maine coastal waters, estuaries or  
18 rivers under the jurisdiction of the State of Maine  
19 vessels designed or used to carry oil as cargo. All  
20 ~~regulations~~ rules adopted by the Board of Environ-  
21 mental Protection under this section shall not apply  
22 to vessels at anchorage prior to July 1, 1975.

23 Sec. 32. 38 MRSA §583-B, sub-§4, as enacted by  
24 PL 1979, c. 381, §6, is amended to read:

25 4. Nonattainment areas. The department shall  
26 have the authority to designate certain regions or  
27 portions thereof as nonattainment ~~area~~ areas after  
28 opportunity for a public hearing and determination  
29 that any ambient air quality standard is being  
30 exceeded;

31 Sec. 33. 38 MRSA §583-B, sub-§5, ~~¶B,~~ as enacted  
32 by PL 1979, c. 38, §6, is amended to read:

33 B. Other areas may be redesignated as follows:

34 (1) The board may recommend to the Legis-  
35 lature the redesignation of any air quality  
36 region in whole or in part, to Class I, II  
37 or III. Prior to this recommendation, an  
38 opportunity for a public hearing shall be  
39 conducted offered in each area proposed to  
40 be redesignated. Prior to ~~the public hearing~~

1                    notice of the hearing opportunity, a report  
2                    shall be made available with a description  
3                    and an analysis of health, environmental,  
4                    economic, social and energy impacts with the  
5                    proposed redesignation. Should the area pro-  
6                    posed for redesignation include or be deemed  
7                    to affect federally owned lands, the board  
8                    shall consult with the appropriate federal  
9                    land manager prior to the redesignation. All  
10                    proposed redesignations shall be submitted  
11                    to the Legislature for enactment.

12                    Sec. 34. 38 MRSA §584, 2nd ¶, as amended by PL  
13                    1975, c. 282, §2, is further amended to read:

14                    Prior to the establishment or amendment of ambi-  
15                    ent air quality standards, the board shall ~~conduct~~  
16                    offer an opportunity for a public hearing in some  
17                    municipality within the region, and shall give public  
18                    notice of its intent to establish standards for the  
19                    region in accordance with the Maine Administrative  
20                    Procedure Act, Title 5, chapter 375.

21                    Sec. 35. 38 MRSA §584, 3rd ¶, as amended by PL  
22                    1971, c. 618, §12, is further amended to read:

23                    ~~At such hearing the~~ The board shall solicit and  
24                    consider ~~testimony~~ all available information concern-  
25                    ing the existing quality of the ambient air within  
26                    the region; the recreational, industrial and residen-  
27                    tial uses of land within the region; the effects of  
28                    existing air contaminants and air pollution upon ~~such~~  
29                    the uses; the availability and effectiveness of air  
30                    pollution control apparatus designed to control and  
31                    reduce ~~such the~~ existing air contaminants and air  
32                    pollution; the expense of purchasing and installing  
33                    the same, and such other evidence as in the board's  
34                    judgment will enable it to determine and establish  
35                    the standards of air quality necessary to prevent air  
36                    pollution within the region.

37                    Sec. 36. 38 MRSA §584, 4th ¶, as amended by PL  
38                    1971, c. 618, §12, is further amended to read:

39                    ~~After hearing the~~ The board shall by order estab-  
40                    lish or may amend reasonable ambient air quality  
41                    standards for the region, regulating and limiting the

1 amount and type of air contaminants which may exist  
2 in the ambient air of such that region, which stan-  
3 dards shall be designed to achieve the purposes set  
4 forth in the first paragraph of this section. The  
5 order shall state the date upon which such the stan-  
6 dards, or any of them, become effective, and such  
7 regions and standards shall thereafter be in effect  
8 until 90 days after the date of adjournment of the  
9 next regular or special session of the Legislature  
10 unless such the next regular or special session shall  
11 adopt by legislative enactment such the air quality  
12 regions and standards.

13       Sec. 37. 38 MRSA §585, 2nd ¶, as amended by PL  
14 1977, c. 300, §40, is further amended to read:

15       Prior to the establishment or amendment of emis-  
16 sion standards, the board shall ~~conduct~~ offer an  
17 opportunity for a public hearing in some municipality  
18 within the region in accordance with the Maine Admin-  
19 istrative Procedure Act, Title 5, chapter 375. At  
20 such hearing the The board shall solicit and consider  
21 testimony all available information concerning the  
22 ambient air quality standards of the region; the  
23 existing emissions of air contaminants within the  
24 region, their nature, amount and sources; the effect  
25 of such the emissions upon the ambient air quality  
26 standards of the region; the availability, effective-  
27 ness and cost of air pollution control apparatus  
28 designed to prevent and control air pollution caused  
29 by such emissions, and such other evidence as in the  
30 board's judgment will enable it to determine and  
31 establish emission standards for the region which  
32 will achieve and maintain the ambient air quality  
33 standards therein.

34       Sec. 38. 38 MRSA §585, 3rd ¶, as amended by PL  
35 1971, c. 618, §12, is further amended to read:

36       After ~~hearing the~~ The board shall by order estab-  
37 lish or may amend emission standards limiting and  
38 regulating the amount and type of air contaminants  
39 which may be emitted to the ambient air of a region  
40 so as to achieve the goals set forth in the first  
41 paragraph of this section. The order shall state the  
42 date upon which such the standards or any of them,  
43 become effective. In establishing such the date, the

1 board shall consider the same factors required by it  
2 to be considered in establishing the effective date  
3 of ambient air quality standards.

4 Sec. 39. 38 MRSA §585-A, 2nd ¶, as amended by PL  
5 1977, c. 300, §41, is further amended to read:

6 Prior to the establishment or amendment of ~~such~~  
7 ~~the~~ standards and ~~regulations~~ rules the board shall  
8 ~~conduct~~ offer an opportunity for a public hearing  
9 thereon in accordance with the Maine Administrative  
10 Procedure Act, Title 5, chapter 375. ~~At such hearing~~  
11 ~~the~~ The board shall solicit and ~~receive~~ testimony  
12 consider all available information concerning appli-  
13 cable ambient air quality and emission standards; the  
14 availability, effectiveness and cost of any air pol-  
15 lution control apparatus designed to prevent or con-  
16 trol air pollution or violations of ambient air qual-  
17 ity or emission standards which would be required by  
18 any proposed standards or ~~regulations~~ rules; and such  
19 other evidence as in the board's judgment will enable  
20 it to determine and establish standards and ~~regula-~~  
21 ~~tions~~ rules adequate to maintain applicable ambient  
22 air quality and emission standards.

23 Sec. 40. 38 MRSA §585-A, 3rd ¶, as amended by PL  
24 1971, c. 618, §12, is further amended to read:

25 ~~After hearing the~~ The board shall by order estab-  
26 lish or amend reasonable standards and ~~regulations~~  
27 rules which shall be designed to achieve the purposes  
28 set forth in the first paragraph of this section. The  
29 order shall state the date upon which ~~such the~~ stan-  
30 dards and ~~regulations~~ rules or any of them, become  
31 effective, and ~~such the~~ standards shall thereafter be  
32 in effect until 90 days after the date of adjournment  
33 of the next regular or special session of the Legis-  
34 lature unless ~~such the~~ next regular or special  
35 session shall adopt by legislative enactment such the  
36 standards.

37 Sec. 41. 38 MRSA §587, sub-§3, as enacted by PL  
38 1979, c. 381, §10, is amended to read:

39 3. Violation. Such The variance will not cause  
40 or contribute to a violation of the applicable ambi-  
41 ent air increment.

1 No variance ~~shall~~ may be granted except after oppor-  
2 tunity for a public hearing in the municipality where  
3 the applicant maintains the building or business in  
4 connection with which the variance is sought.

5 Sec. 42. 38 MRSA §605, as enacted by PL 1973, c.  
6 438, §8, is amended to read:

7 §605. Malfunctions

8 Any person owning or operating any emission  
9 source that suffers a malfunction or breakdown in any  
10 component part which malfunction or breakdown causes  
11 a violation of ~~sections~~ section 598 ~~to~~ 604 of any  
12 emission standards shall notify the board in writing  
13 within 48 hours.

14 Sec. 43. 38 MRSA §1311, as amended by PL 1979,  
15 c. 640, §1, is repealed.

16 Sec. 44. 38 MRSA §1312, as amended by PL 1979,  
17 c. 640, §2, is repealed.

18 Sec. 45. 38 MRSA §1313, as repealed and replaced  
19 by PL 1979, c. 640, §3, is repealed.

20 Sec. 46. 38 MRSA §1314, as amended by PL 1979,  
21 c. 640, §6, is repealed.

22 Sec. 47. 38 MRSA §1315, as amended by PL 1979,  
23 c. 640, §7, is repealed.

24 STATEMENT OF FACT

25 Sections 1 and 2 authorize the commissioner to  
26 employ a deputy commissioner who need not be a bureau  
27 director. This position shall be unclassified.

28 Section 4 continues the existing rule-making  
29 authority. The Title 38 procedural steps are elimi-  
30 nated and the requirements of the Maine Administra-  
31 tive Procedure Act, Title 5, chapter 375, are substi-  
32 tuted.

33 Sections 5, 6 and 7 provide that all hearings  
34 subject to the Maine Administrative Procedure Act be

1 conducted in accordance with the provisions of the  
2 Maine Administrative Procedure Act. Section 6 allows  
3 the board, as it can under existing law, to authorize  
4 persons to hold and conduct hearings provided the  
5 subject of the hearing is not governed by the provi-  
6 sions of the Maine Administrative Procedure Act.

7 Section 8 eliminates a provision in the Depart-  
8 ment of Environmental Protection statutes which is  
9 also contained in the Maine Administrative Procedure  
10 Act.

11 Section 9 adds sand dunes to the penalty section,  
12 replaces the term "solid waste" with the term "waste  
13 facility" for the term "solid waste" is no longer  
14 used in Title 38, section 1306, makes punctuation  
15 corrections and eliminates an obsolete reference.

16 Section 10 eliminates the statutory requirement  
17 that the Bureau of Environmental Protection elect a  
18 secretary in October of each year.

19 Section 12 reflects the elimination of federal  
20 funding for lake restoration projects. The use of  
21 state funds for the projects is limited to an amount  
22 not to exceed local funding.

23 Section 13 changes the definition of great pond  
24 to include artificially formed ponds with shores  
25 leased by 2 or more persons.

26 Sections 14, 20, 21, 27 and 31 eliminate obsolete  
27 dates.

28 Section 15 raises the possible maximum state  
29 participation in the sewage construction grant pro-  
30 gram from 25% to 45%. Limitations of the small  
31 project program to fiscal year 1982-83 are removed.

32 Section 16 eliminates an obsolete paragraph.

33 Section 17 provides an exemption from the waste  
34 discharge licensing program for projects which have a  
35 valid permit under federal law and is disposing of  
36 dredged spoils in an approved area.

37 Section 18 allows the board to issue a waste dis-  
38 charge license for 10 years rather than 5 years.

1 Section 19 eliminates an obsolete date and clari-  
2 fies language.

3 Section 21 allows the board to issue log storage  
4 permits for up to 10 years rather than 3 years.

5 Section 23 changes the future term "shall file"  
6 to the past term "filed" for the filing date is now  
7 in the past and not in the future as it was when the  
8 law was originally passed.

9 Sections 24 and 32 to 41 eliminate requirements  
10 for mandatory hearings and substitute an opportunity  
11 to request a hearing.

12 Section 25 deletes obsolete time schedule re-  
13 quirements.

14 Section 26 deletes the word "and" between the  
15 first and 2nd paragraph for this connecting word is  
16 not needed at this location in the section.

17 Section 28 eliminates an obsolete variance  
18 section.

19 Section 29 makes it clear that a resident must  
20 have continued to be a resident after October 1,  
21 1977.

22 Section 30 adds the words "coastal sand dunes" to  
23 this section. These words were omitted from this  
24 section when the sand dune activity was added to the  
25 wetlands law.

26 Section 42 adds various sections to the malfunc-  
27 tion provision of the air statutes. This section was  
28 enacted after the original enactment of the malfunc-  
29 tion section.

30 Sections 43-47 repeals the solid waste subsidy  
31 authorization for it is no longer being funded.

32 2915032183