

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1485

S. P. 559

In Senate, March 8, 1967

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Reny of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Create an Environmental Improvement Administration.

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

Sec. 1. R. S., T. 5, § 2301, sub-§ 1, amended. The last paragraph of subsection 1 of section 2301 of Title 5 of the Revised Statutes, which relates to Water Improvement Commission, is repealed and the following enacted in place thereof :

Environmental Improvement Administration.

Sec. 2. R. S., T. 22, c. 258, repealed. Chapter 258 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965, is repealed.

Sec. 3. R. S., T. 38, c. 3, repealed. Chapter 3 of Title 38 of the Revised Statutes, as amended, is repealed.

Sec. 4. R. S., T. 38, c. 13, additional. Title 38 of the Revised Statutes is amended by adding a new chapter 13, to read as follows :

CHAPTER 13

PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT

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SUBCHAPTER I
ENVIRONMENTAL IMPROVEMENT ADMINISTRATION

§ 1361. Declaration of purposes

It is the purpose of this chapter to protect the health and welfare of the citizens of this State, to conserve its beauty and resources and to promote its economic and social development through the creation of an Environmental Improvement Administration as a Bureau of the Department of Health and Welfare, and the establishment of a program to enhance the quality and value of our air and water resources and to prevent, control and abate air and water pollution.

§ 1362. Organization

There is established in the Department of Health and Welfare the Environmental Improvement Administration, hereinafter in this chapter called the "administration," which shall be headed by an administrator, hereinafter in this chapter called the "administrator," who shall be appointed by the Governor, with the advice and consent of the Council.

The administrator shall organize and be responsible for a Division of Water Pollution Control and Abatement, a Division of Air Pollution Control and Abatement and a Division of Research and Technical Review.

The administrator may employ, subject to the Personnel Law, and prescribe the powers and duties of such employees and obtain the services of consultants on a contractual basis or otherwise as may be necessary to carry out this chapter. Technical services shall be performed insofar as practicable by personnel of state departments, agencies and offices.

§ 1363. Advisory council

There is created an Advisory Council on Environmental Improvement, hereinafter in this chapter referred to as the "council," of 15 members appointed by the Governor, including the Commissioner of Health and Welfare, who shall serve as chairman of the council. The other 14 members appointed by the Governor shall include: One registered professional engineer experienced and competent in matters of air pollution control; one registered professional engineer experienced and competent in matters of water pollution control; one licensed physician; one urban or regional planner; one architect; one representing the manufacturing components of industry; one representing the transportation industry; one representing conservation; one representing municipal government; one representing county government; and 4 appointed at large. Members of the council shall serve for 3 years or until their successors shall have been appointed, provided that no member representing a public agency shall continue as a member of the council except during the time he is an official or employee of such agency. Of the members first appointed, 5 shall be appointed for a term of one year, 5 shall be appointed for a term of 2 years and 5 shall be appointed for a term of 3 years.

The council shall meet at the call of the chairman or on request of 5 members at such times and places as may be determined by the chairman, provided that

the council shall meet not less than 2 times each year. Members who are not state employees shall receive necessary traveling expenses for attending any meetings of the council.

The council shall report to the Governor at least once a year with their recommendations concerning programs designed to improve the environment of the State.

§ 1364. Authority to accept federal funds

The administration is designated as the public agency of the State of Maine for the purpose of accepting federal funds in relation to water pollution control, water resources and air pollution control. The administration is authorized, subject to approval of the Governor and Council, to accept federal funds available for water pollution control, water resources, air pollution control and other appropriate activities and to meet such requirements with respect to the administration of such funds, not inconsistent with this chapter, as are required as conditions precedent to receiving federal funds. The Treasurer of State shall be the appropriate fiscal officer of the State to receive federal grants on account of water pollution control, water resources and air pollution control and the State Controller shall authorize expenditures therefrom as approved by the administrator.

§ 1365. Cooperation with other departments and agencies

1. Cooperation on water pollution. The administration is authorized to cooperate with other departments and agencies of this State and with any other state or states and with the Federal Government for the purpose of carrying out this chapter relating to rivers and waters which run through this State and any other state or states. Said administration is authorized to cooperate with the Federal Government for the purpose of carrying out this chapter relating to any and all rivers and waters which, in whole or in part, are located in or run through this State.

2. Cooperation on air pollution. The administration is authorized to cooperate with other departments and agencies of this State and with any other departments and agencies of this State and with any other state or states and with the Federal Government for the purpose of carrying out this chapter relating to air pollution.

SUBCHAPTER II

WATER POLLUTION CONTROL

§ 1401. Water quality standards

1. Standards. The administrator shall, after careful consideration, public hearings and in consultation with other state agencies and, where appropriate, federal and interstate water pollution control agencies, and the municipalities and industries involved, develop and adopt water quality criteria applicable to the inland and coastal waters of the State and a plan for the implementation of such criteria in accordance with subsection 2, which such criteria and plan shall thereafter be the water quality standards applicable to such inland or

coastal waters or portion thereof, provided that classifications as defined in sections 363 and 364 of Title 38 of the Revised Statutes and established under sections 367, 368, 369, 370 and 371 of Title 38 of the Revised Statutes, as of the effective date of this Act, shall constitute the water quality standards for such inland and coastal waters until such standards have been modified by the administrator pursuant to this section.

2. Hearings. In order to establish or revise water quality standards pursuant to this section, the administrator shall, after a reasonable notice, public hearing and a conference of representatives of appropriate state departments and agencies, interstate agencies, municipalities and industries involved, prepare and publish regulations setting forth standards of water quality to be applicable to inland or coastal waters or portions thereof. If at any time prior to 30 days after standards have been published, the appropriate governing body of any municipality affected by such standards petitions the administrator for a hearing, the administrator shall call a public hearing to be held in or near one or more of the places where the water quality standards will take effect, before a hearing board of 5 or more persons appointed by the Commissioner of Health and Welfare. Each municipality which would be affected by such standards shall be given an opportunity to select one member of the hearing board. The Department of Economic Development and other affected state departments shall each be given an opportunity to select a member of the hearing board and not less than a majority of the hearing board shall be persons other than officers or employees of the Department of Health and Welfare. The commissioner or his designee shall serve as chairman of the hearing board. The members of the hearing board who are not officers or employees of the State of Maine, while participating in the hearing conducted by the hearing board or otherwise engaged in the work of such hearing board shall be entitled to receive compensation at a rate of \$10 per day and all members shall receive necessary traveling expenses for attending meetings of the hearing board or for any other travel in connection with the official business of the hearing board. Notice of such hearing shall be published in a newspaper of general circulation in the area and in the state newspaper and given such additional publicity as shall be appropriate and given to the state departments and municipalities involved at least 30 days prior to the date of such hearing. On the basis of the evidence presented at such hearing, the hearing board shall make findings as to whether the standards prepared and published by the administrator should be approved or modified and transmit its findings to the administrator. If the hearing board approves such standards, the standards shall take effect on receipt by the administrator of the hearing board's recommendations. If the hearing board recommends modifications in such standards, the administrator shall publish revised regulations setting forth standards of water quality in accordance with the hearing board's recommendations which will become effective upon publication, unless otherwise specified by the administrator at the time of publication.

3. Criteria. Standards of water quality established pursuant to this section shall be such as to protect the health or welfare, enhance the quality of water and serve the purposes of this chapter. In establishing such standards, the administrator and the hearing board shall take into account their use and value for public water supplies, propagation of fish and wildlife, recreational purposes,

and agricultural, industrial and other legitimate uses.

4. Discharge prohibited. The discharge of any matter into inland or coastal waters or portions thereof by any person, corporation, municipality or other legal entity, either alone or in conjunction with another or others in such manner as will, after reasonable opportunity for dilution and mixture, reduce the quality of such waters below the water quality standards established under this subsection, whether the matter causing or contributing to such reduction is discharged directly into such waters or reaches such waters after discharge into tributaries of such waters or deposit on or near the shoreline adjacent to such waters is unlawful and is subject to abatement in accordance with subsection 5.

5. Standards violated. If the administrator finds, on the basis of reports, surveys or studies, that standards established pursuant to this section are being violated, he shall notify the alleged violators and other interested parties of the violation of such standards and prescribe the actions he considers necessary to correct the violation of such standards. If, within 90 days from the receipt of notice from the administrator, the alleged violator has not taken action reasonably calculated to correct such violation, the administrator shall request the Attorney General to initiate legal action to bring about compliance. If the administrator finds that the discharge of matter into any waters of this State constitutes a substantial and immediate endangerment to the health or welfare of any person or persons, he shall in addition request the Attorney General to request immediate injunction proceedings to prevent such further discharge.

6. Fine. Any person, corporation or other legal entity who shall violate any provision of this section shall be punished by a fine of not less than \$200 nor more than \$1,000 for each day of such violation, failure, neglect or refusal after the expiration of any time limit set by the administrator for compliance with standards established in accordance with this section.

§ 1402. Registration and reports

1. Registration. Effective 90 days after the effective date of this Act, no person, firm, corporation or municipality or agency thereof shall discharge into any inland or coastal water any matter without having registered with the administrator on forms prepared and supplied by the administrator, provided that the administrator shall make such forms available not later than 60 days following the effective date of this Act.

2. Right of entry. Any authorized employee of the administration may enter any land or establishment of any person, firm, corporation or municipality or agency thereof for the purpose of collecting information that may be necessary to the purposes of this subchapter and no owner or other person in control of such land or establishment shall refuse any reasonable request to admit such employee or refuse any reasonable request by the administrator or an employee of the administration to furnish information concerning the discharge of matter into inland or coastal waters from such land, by such establishment.

3. Fine. Any person, corporation or other legal entity, who shall violate any of this section, shall be punished by a fine of not less than \$25 nor more than \$250 for each day of such violation, failure, neglect or refusal.

§ 1403. State contribution to water pollution abatement

Upon the effective date of this chapter, the administrator is authorized to pay up to an amount equal to 30% of the cost of treatment works approved for construction under section 8(b) of P. L. 660, 84th Congress, as amended, provided that the administrator may pay up to an amount equal to 35% of the cost of such project where he finds that such project is part of a sewage treatment system designed to serve 2 or more municipalities and provided further that such project is not eligible for assistance under section 8(f) of P. L. 660, 84th Congress, as amended.

§ 1404. Pollution surveys

The administrator is authorized to pay up to 50% or \$2,500, whichever is less, of the expense of a sewage survey for a municipal or quasi-municipal corporation or regional planning commission organized under Title 30, chapters 9 and 239, which shall have been approved as to purpose, necessity and priority. Municipalities, quasi-municipal corporations and regional planning commissions are specifically authorized to make such contracts with the State as are deemed necessary and may pay over moneys to the State to carry out the purposes of this section.

§ 1405. Appeals

For the purposes of the Administrative Code, as set forth in Title 5, the setting of water quality standards shall be considered rule-making. Any appeal shall be to the Superior Court in such manner as the Supreme Judicial Court may by rule provide. Requests for abatement of pollution issued by the administrator shall be considered contested cases and any appeal from his decision shall be to the Administrative Hearing Commissioner, who shall enter his findings and decree sustaining, reversing or modifying such order or decision of the administrator in such manner and to such extent as he determines.

§ 1406. Injunctions

In the event of the violation of any of the provisions of this subchapter, or of any order or decision of the administrator or decree of the court as the case may be, the Attorney General may institute injunction proceedings to enjoin the further violation thereof in addition to any other penalties which may be set forth.

SUBCHAPTER III

AIR POLLUTION CONTROL

§ 1451. Definitions

The following terms as used in this chapter shall, unless the context otherwise requires, have the following meanings:

1. Air contaminants. "Air contaminants" include but are not limited to dust, fumes, gas, mist, particulate matter, smoke or vapor or any combination thereof;
2. Air pollution. "Air pollution" is the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be potentially injurious to human, plant or animal life

or to property, or which unreasonably interfere with the comfortable enjoyment of life and property.

3. Person. "Person" is any individual, partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, municipality or any other legal entity, or the legal representative, agent or assigns thereof.

§ 1452. Powers and duties of the Environmental Improvement Administration

The Environmental Improvement Administration shall be authorized and empowered to:

1. Studies. Conduct studies, investigations and research relating to air pollution, its causes and effects and its possible prevention, control and abatement;

2. Information. Collect and disseminate information relating to air pollution, its prevention and control;

3. Voluntary cooperation. Encourage voluntary cooperation by persons, towns, cities and counties or other affected groups in restoring and preserving a reasonable degree of purity of air within this State;

4. Encouragement. Encourage authorized local air pollution agencies within the State to handle air pollution problems within their respective jurisdictions to the greatest extent possible;

5. Technical assistance. Provide technical assistance to political subdivisions requesting same for the furtherance of a study of air pollution, and provide reasonable technical assistance to industries which are endeavoring to reduce or eliminate air pollution;

6. Grants. Accept and administer grants or other funds or gifts for the purpose of carrying out any of the provisions of this subchapter;

7. Cooperation from others. Persons engaged in operations which may result in or contribute to air pollution shall supply information when available about pollution, including but not limited to composition of effluents, sources of emission and rates of discharge. No person shall be required to disclose any secret formulae, processes or methods used by any manufacturing operation carried on by him or under his direction;

8. Moneys. Budget and receive duly appropriated moneys for expenditures to carry out this chapter.

§ 1453. Penalty

Any person who violates any of the provisions of this subchapter, or who fails to perform any duty imposed by this chapter shall be guilty of a misdemeanor, and in addition thereto may be enjoined in a civil action by a court of competent jurisdiction from continuing such violation.

§ 1454. Ordinances

Nothing in this chapter shall prevent towns, cities or counties from enacting ordinances with respect to air pollution which will not conflict with this sub-

chapter and which are designed to effectuate the general intent and purpose expressed in this chapter.

SUBCHAPTER IV INTERSTATE WATER POLLUTION CONTROL

Article 1. Compact

§ 1491. Applicability of provisions—Article I

It is agreed between the signatory states that this compact shall apply to streams, ponds and lakes which are contiguous to 2 or more signatory states or which flow through 2 or more signatory states or which have a tributary contiguous to 2 or more signatory states or flowing through 2 or more signatory states, and shall apply to tidal waters ebbing and flowing past the boundaries of 2 states.

§ 1492. Creation of commission—Article II

The New England Interstate Water Pollution Control Commission, as heretofore created and in this subchapter referred to as the commission, shall be a body corporate and politic, having the powers, duties and jurisdiction herein enumerated and such other and additional powers as shall be conferred upon it by the act or acts of a signatory state concurred in by the others.

§ 1493. Membership of commission—Article III

The commission shall consist of 5 commissioners from each signatory state, each of whom shall be a resident voter of the state from which he is appointed. The commissioners shall be chosen in the manner and for the terms provided by law of the state from which they shall be appointed. For each state there shall be on the commission a member representing the state health department, a member representing the state water pollution control board, if such exists, and, except where a state in its enabling legislation decides that the best interests of the state will be otherwise served, a member representing municipal interests, a member representing industrial interests and a member representing an agency acting for fisheries or conservation.

§ 1494. Organization and operation—Article IV

The commission shall annually elect from its members a chairman and vice-chairman and shall appoint and at its pleasure remove or discharge such officers. It may appoint and employ a secretary who shall be a professional engineer versed in water pollution and may employ such stenographic or clerical employees as shall be necessary, and at its pleasure remove or discharge such employees. It shall adopt a seal and suitable bylaws and shall promulgate rules and regulations for its management and control. It may maintain an office for the transaction of its business and may meet at any time or place within the signatory states. Meetings shall be held at least twice each year. A majority of the members shall constitute a quorum for the transaction of business, but no action of the commission imposing any obligation on any signatory state or on any municipal agency or subdivision thereof or on any person, firm or corporation therein shall be binding unless a majority of the members from such signa-

tory state shall have voted in favor thereof. Where meetings are planned to discuss matters relevant to problems of water pollution control affecting only certain of the signatory states, the commission may vote to authorize special meetings of the commissioners of the states especially concerned. The commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor and the legislature of each signatory state setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the signatory states which may be necessary to carry out the intent and purpose of this compact. The commission shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the signatory states adequate to meet the same; nor shall the commission pledge the credit of any of the signatory states. Each signatory state reserves the right to provide hereafter by law for the examination and audit of the accounts of the commission. The commission shall appoint a treasurer who may be a member of the commission, and disbursements by the commission shall be valid only when authorized by the commission and when vouchers therefor have been signed by the secretary and countersigned by the treasurer. The secretary shall be custodian of the records of the commission with authority to attest to and certify such records or copies thereof.

§ 1495. Standards and classifications—Article V

It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, industrial and agricultural uses, bathing and other recreational purposes, maintenance and propagation of fish life, shellfish culture, navigation and disposal of wastes.

The commission shall establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory states through appropriate agencies will prepare a classification of its interstate waters in entirety or by portions according to present and proposed highest use and for this purpose technical experts employed by state departments of health and state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting 2 or more states. Each signatory state agrees to submit its classification of its interstate waters to the commission for approval. It is agreed that after such approval, all signatory states through their appropriate state health departments and water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet standards established by the commission for classified waters. The commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity.

§ 1496. Abatement and control of pollution—Article VI

Each of the signatory states pledges to provide for the abatement of existing pollution and for the control of future pollution of interstate inland and tidal waters thereof in a satisfactory condition consistent with the highest classified use of each body of water.

§ 1497. Additional control; pending actions—Article VII

Nothing in this compact shall be construed to repeal or prevent the enactment of any legislation or prevent the enforcement of any requirement by any signatory state imposing any additional condition or restriction to further lessen the the pollution of waters within its jurisdiction. Nothing herein contained shall affect or abate any action now pending brought by any governmental board or body created by or existing under any of the signatory states.

§ 1498. Appropriations—Article VIII

The signatory states agree to appropriate for the salaries, office, administrative, travel and other expenses such sum or sums as shall be recommended by the commission. The Commonwealth of Massachusetts obligates itself only to the extent of \$6,500 in any one year, the State of Connecticut only to the extent of \$3,000 in any one year, the State of Rhode Island only to the extent of \$1,500 in any one year, and the States of New Hampshire, Maine and Vermont each only to the extent of \$1,000 in any one year.

§ 1499. Separability of provisions—Article IX

Should any part of this compact be held to be contrary to the constitution of any signatory state or of the United States, all other parts thereof shall continue to be in full force and effect.

§ 1500. Negotiation with New York State—Article X

The commission is authorized to discuss with appropriate state agencies in New York state questions of pollution of waters which flow into the New England area from New York state or vice versa and to further the establishment of agreements on pollution abatement to promote the interests of the New York and New England areas.

Whenever the commission by majority vote of the members of each signatory state shall have given its approval and the state of New York shall have taken the necessary action to do so, the state of New York shall be a party to this compact for the purpose of controlling and abating the pollution of waterways common to New York and the New England states signatory to this compact but excluding the waters under the jurisdiction of the Interstate Sanitation Commission (New York, New Jersey and Connecticut).

§ 1501. Effective date—Article XI

This compact shall become effective immediately upon the adoption of the compact by any 2 contiguous states of New England but only insofar as applies to those states and upon approval by federal law. Thereafter upon ratification by other contiguous states, it shall become effective as to those states.

Article 2. Administrative Provisions**§ 1531. Execution by Governor; form of execution**

The Governor of this State is authorized and directed to execute a compact, on behalf of the State of Maine, with any one or more of the states of New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island and New York, to be known as the New England Interstate Water Pollution Control Compact, heretofore adopted by the states of Massachusetts, Connecticut, Rhode Island, New York, Vermont and New Hampshire and approved by Act of the Congress of the United States, and to execute any supplementary agreements with the states now parties to such compact and the operation thereof.

When the Governor, on behalf of the State, executes such compact or any agreement supplementary thereto, he shall affix his signature thereto under a recital that the compact or agreement is executed pursuant to the provisions thereof, subject to the limitations and qualifications contained in this subchapter.

§ 1532. Commissioners; appointment

There shall be 5 members, hereinafter in this subchapter called Commissioners of the New England Interstate Water Pollution Control Commission from the State of Maine. One commissioner shall be the Commissioner of the Department of Health and Welfare and one the Administrator of the Environmental Improvement Administration. The term of any such commissioner shall terminate at the time he ceases to hold said state office and his successor in that office shall be his successor as commissioner on this commission. The Governor, by and with the consent and advice of the Council, shall appoint 3 more commissioners who shall be citizens of the State, one to represent municipal interests, one to represent industrial interests and one to represent the public generally. The term of the last 3 said commissioners shall be for a period of 3 years and each shall hold office until his successor shall be appointed and qualified. The terms of each of the initial 5 members shall begin at the date of the appointment, provided the said compact shall then have been executed by the Governor of this State as prescribed in section 1531; otherwise they shall begin upon the effective date of the compact in accordance with section 1537.

Any commissioner may be removed from office by the Governor upon charges and after a hearing.

§ 1533. Compensation

The commissioners shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties.

§ 1534. Reservations and limitations

Notwithstanding any contrary provisions hereinbefore contained, it is hereby specifically provided that:

1. **Classification.** The members representing the State of Maine on the New England Interstate Water Pollution Control Commission shall have no authority

to vote in favor of or to commit said State of Maine or any administrative agency thereof or any municipal corporation or administrative agency thereof, or any person, firm or corporation therein,

A. To any classification of the interstate waters of the State of Maine or to any standards of water quality appertaining to any such classification, which in any aspect shall impose a higher classification or higher water quality than are established by the laws of the State of Maine for such waters, or

B. To any classification and pertinent standards of water quality in respect to such interstate waters of the State of Maine as have not been assigned a classification under the laws of the State of Maine.

2. Prior classifications and standards. No classification of waters or standards of water quality thereto appertaining which shall have been approved by the New England Water Pollution Control Commission prior to August 20, 1955, as established in section 1537, shall be binding upon the State of Maine or any administrative agency thereof or any municipal corporation or administrative agency thereof, or any person, firm or corporation therein, with relation to any interstate waters of the State of Maine.

§ 1535. Appropriations

The State agrees to appropriate from the General Fund and contribute to the commission such annual amount as may be required for its several purposes under the terms of such compact, not in excess of \$1,000, which limitation is imposed by the State as a condition under which it shall become a party thereto. The State, as a further condition under which it shall become a party to the compact, reserves the right to withdraw therefrom at any time upon 60 days' notice to the chairman of the commission.

The Governor shall determine if and when it shall be for the best interests of the State to withdraw from such compact. In the event the Governor shall determine that the State should withdraw from such compact, he shall have full power and authority to give the notice as required herein and to take any and all steps necessary and proper to effect the withdrawal of the State from the compact.

§ 1536. Interpretation and purpose

The form and contents of such compact are as set forth in this subchapter and the effect of its provisions shall be interpreted and administered in conformity with this subchapter.

New England Interstate Water Pollution Control Compact

Whereas, the growth of population and the development of the territory of the New England states has resulted in serious pollution of certain interstate streams, ponds and lakes, and of tidal waters ebbing and flowing past the boundaries of 2 or more states; and

Whereas, such pollution constitutes a menace to the health, welfare and economic prosperity of the people living in such area; and

Whereas, the abatement of existing pollution and the control of future pollution in the interstate waters of the New England area are of prime importance to the people and can best be accomplished through the cooperation of the New England states in the establishment of an interstate agency to work with the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont do agree and are bound as provided in this subchapter.

§ 1537. Effective date

This compact, when executed by the Governor as prescribed in section 1531, shall be deemed to be fully adopted and shall thereupon become binding upon the State of Maine as between it and the several other signatory states agreeably to the true tenor and extent thereof. Such compact, supplementary agreements and notices of withdrawal shall be filed in the office of the Secretary of State of the State of Maine.

Subchapter V

PESTICIDES CONTROL

§ 1541. Purpose

The purpose of this chapter is to regulate, in the public interests, the application of pesticides.

§ 1542. Board of Pesticide Control

There is established a Board of Pesticide Control, to be composed of the Commissioner of Agriculture, the Commissioner of Health and Welfare, the Forest Commissioner, the Commissioner of Inland Fisheries and Game, the Commissioner of Sea and Shore Fisheries, the Chairman of the Public Utilities Commission, the Chairman of the Highway Commission and the Administrator of the Environmental Improvement Administration, who shall serve as chairman. The commissioners of the state departments may appoint agents to serve in their absence. The board is authorized to employ necessary personnel.

§ 1543. Definitions

The listed terms as used in this chapter are defined as follows, unless a different meaning is plainly required by the context:

1. Aircraft. "Aircraft" means any machine or device used or designed for navigation of, or flight in, the air.
2. Board. "Board" means the State Board of Pesticides Control as established in section 1542.
3. Custom application of pesticides. "Custom application of pesticides" means any application of pesticides by aircraft or ground equipment for hire.
4. Fungi. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews and molds.

5. Fungicide. "Fungicide" means any substance or mixture of substances intended for destroying or repelling any fungi or mitigating or preventing damage by any fungi.

6. Ground equipment. "Ground equipment" means any machine or device, other than aircraft, for use on land or water, designed for, or adaptable to, use in applying pesticides as sprays, dusts, aerosols, or fogs, or in other forms.

7. Herbicide. "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

8. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insects, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees, flies and to other allied classes of arthropods whose members are wingless and usually have more than 6 legs, including but not limited to mites, ticks, centipedes and wood lice.

9. Insecticide. "Insecticide" means any substance or mixture of substances intended for destroying or repelling any insect, or mitigating or preventing damage by any insects.

10. Pesticide. "Pesticide" means any substance or mixture of substances as defined in subsections 5, 7 and 9:

A. Intended for destroying or repelling, mitigating or preventing damage by any insect, fungus, weed or other form of plant or animal life which the board declares to be a pest; or

B. Intended for use as a plant regulator, defoliant or desiccant.

11. Weed. "Weed" means any plant which grows where not wanted.

§ 1544. Licenses

1. Application. No person shall engage in custom application of pesticides, as defined in section 1543, within this State at any time without a license issued by the board. An annual fee of \$10 shall be collected by the board for each license. Application for a license shall be made to the board. Each application for a license shall contain such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by the board. The board shall maintain a complete and up-to-date list of licensed applicators and shall annually publish all regulations in effect.

2. Examination. The board may require the applicant to show, upon examination, that he possesses adequate knowledge concerning the proper use and application of pesticides, and the dangers involved and precautions to be taken in connection with their application. If the applicant is other than an individual, the applicant shall designate an officer, member or technician of the organization to take the examination, such designee to be subject to the approval of the board. If the extent of the applicant's operations warrants it, the board may require more than one officer, member or technician to take the examination.

3. **Restrictions.** If the board finds the applicant qualified and if the applicant meets the requirements under subsection 5, the board shall issue a license for the calendar year to perform application of pesticides within this State. The license may restrict the applicant to the use of a certain type or types of equipment or materials if the board finds that the applicant is qualified to use only such type or types. If a license is not issued as applied for, the board shall inform the applicant in writing of the reasons therefor.

4. **Suspension.** The board may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may revoke or modify the provisions of any license issued under this section, if it finds that the licensee is no longer qualified, has engaged in fraudulent business practices in the application of pesticides, or has made any application in a faulty, careless or negligent manner, or has violated this chapter or regulations made thereunder.

5. **Proof of financial responsibility.** The board shall require from each applicant proof of financial responsibility in amounts to be determined under such rules and regulations as made by the board.

6. **Nonresidents.** The board may issue a license, without examination, to a nonresident who is licensed in another state substantially in accordance with this subchapter.

7. **Appeal.** Any person aggrieved by any action of the board may obtain a review thereof by filing in the Superior Court within 30 days of notice of the action, a written petition praying that the action of the board be set aside. A copy of such petition shall forthwith be delivered to the board, and within 30 days thereafter the board shall certify and file in the court a transcript of any record pertaining thereto, including a transcript of evidence received, whereupon the court shall have jurisdiction to affirm, set aside or modify the action of the board, except that the findings of the board as to the facts, if supported by substantial evidence, shall be conclusive.

§ 1545. Inspection

The board may provide for inspection of any equipment, device or apparatus used for application of pesticides and may require proper repairs or other changes before its further use for application.

§ 1546. Materials and methods of application

The board may, by regulation after public hearing, designate:

1. **Critical areas.** Land and water areas in which a critical situation has developed, appears to be developing or should not be allowed to develop relative to the use of pesticides.

2. **Limitations on use.** Those pesticides which are not to be used in areas described in subsection 1, and specify the limitations imposed on those pesticides which may be used.

3. **Unsafe practices.** Those practices which are not in accordance with the safe and proper use of pesticides.

In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies.

§ 1547. Emergency situations

The board may without public hearing suspend for a period not to exceed 10 days, any existing regulations relative to the use of pesticides in specific land and water areas in which an emergency situation has developed, appears to be developing or should not be allowed to develop.

§ 1548. Reports

The board may, by regulation, require licensees to maintain such records and furnish reports giving such information with respect to particular applications of pesticides as it may deem necessary.

§ 1549. Regulations

The board may, after public hearing, make regulations for carrying out this subchapter, provided that the regulations shall not be inconsistent with regulations issued by this State or by the Federal Government respecting safety in air navigation or operation of aircraft. Before issuing regulations directly related to any matter within the jurisdiction of any other official of this State, the board shall consult with that official with reference thereto.

§ 1550. Information

The board, on its own or in cooperation with others, may publish information regarding injury which may result from improper application or handling of pesticides and methods and precautions designed to prevent such injury.

§ 1551. Penalties

Any person who violates this subchapter, or the regulations issued hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$100 for the first offense and not more than \$500 for each subsequent offense. Each day that any person operates without a license required by this subchapter shall be considered a separate offense.

§ 1552. Exemptions

1. Buildings and vehicles. This subchapter shall not apply to application of pesticides within or under buildings or within vehicles, ships, aircraft or other means of transporting persons or property by land, water or air. The use of pesticides in or under farm buildings other than dwellings shall continue to conform to existing state and federal regulations.

2. Forestry. This subchapter shall not apply to applications made by the Forestry Department under the emergency authority contained in Title 12, chapter 213.

3. Agriculture. The board may by regulation exempt from the licensing provisions of section 1544 casual agricultural applications by bona fide farmers.

4. Arborists. Persons licensed under Title 32, chapter 29, subchapter II, may be licensed by the board without fee or examination to spray or treat shade, ornamental or forest trees in Maine for control of any diseases, injuries or insects.

Persons who apply herbicides shall be required to secure a license under this subchapter.

§ 1553. Right of entry

The board or its agents may enter upon any public or private premises at reasonable times in order to have access for the purposes of inspecting any aircraft or ground equipment subject to this subchapter.

§ 1554. Cooperation

The board may cooperate with any other agency of this State or its subdivisions or with any agency of any other state or of the Federal Government for the purpose of administering this subchapter and of securing uniformity of regulations.

§ 1555. Enforcement

The state agencies listed in section 1542 shall designate the enforcement personnel.

SUBCHAPTER IV CRIMINAL LIABILITY

§ 1571. Corrupting waters forbidden; penalty

Whoever knowingly and willfully poisons, defiles or in any way corrupts the waters of any well, spring, brook, lake, pond, river or reservoir used for domestic purposes for man or beast, or knowingly corrupts the sources of any public water supply, or the tributaries of said sources of supply in such manner as to affect the purity of the water so supplied, or knowingly defiles such water in any manner, whether the same be frozen or not, or puts the carcass of any dead animal or other offensive material in said waters or upon the ice thereof, shall be punished by a fine of not more than \$5,000 or by imprisonment for any term of years.

Sec. 5. Study. The Environmental Improvement Administration is authorized and empowered to conduct a study of air pollution and make a report of its findings, including recommendations for future action, to the 104th Legislature in regular session.

Sec. 6. Transfer of funds. All funds appropriated by the 103rd Legislature to the Water Improvement Commission for the fiscal year ending June 30, 1968 and for the fiscal year ending June 30, 1969 shall be transferred to the Department of Health and Welfare for the Environmental Improvement Administration.

Sec. 7. Appropriation. There is appropriated from the General Fund the sum of \$42,040 for the fiscal year ending June 30, 1968 and \$47,898 for the fiscal year ending June 30, 1969 to carry out the purposes of this Act. The breakdown shall be as follows:

	1967-68		1968-69
HEALTH AND WELFARE, DEPARTMENT OF			
Personal Services	(5) \$31,540	(6)	\$35,898
All Other	6,000		7,500
Capital Expenditures	4,500		4,500
	<hr/>		<hr/>
Total	\$42,040		\$47,898

STATEMENT OF FACTS

This appropriation will generate \$14,921 of federal funds for air pollution control for the fiscal year ending June 30, 1968 and \$19,363 of federal funds for air pollution control for the fiscal year ending June 30, 1969.