

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 881

S. P. 265

In Senate, March 10, 1977

Referred to the Committee on Natural Resources. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Trotzky of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Revise the Water Quality Program.

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

Sec. 1. 38 MRSA § 363, 2nd ¶, 2nd sentence, as repealed and replaced by PL 1967, c. 475, § 4, is amended to read:

The dissolved oxygen content of such waters shall not be less than 75% saturation or as naturally occurs, and contain not more than ~~100~~ 20 fecal coliform bacteria per 100 milliliters.

Sec. 2. 38 MRSA § 363, 4th ¶, as last amended by PL 1971, c. 618, § 12, is further amended to read:

There shall be no discharge of sewage or other wastes into water of this classification ~~unless specifically licensed by the board upon finding that no degradation will result to the quality of such waters~~ and no deposits of such material on the banks of such waters in such a manner that transfer of the material into the waters is likely. ~~Such waters may be used for log driving if such use will not lower its classification~~

Sec. 3. 38 MRSA § 363, 6th ¶, 3rd sentence, as enacted by PL 1969, c. 431, § 1, is repealed as follows:

~~The total coliform bacteria count is not to exceed 300 per 100 milliliters~~

Sec. 4. 38 MRSA § 363, 9th ¶, 3rd sentence, as enacted by PL 1969, c. 431, § 1, is repealed as follows:

~~The total coliform bacteria is not to exceed 1,000 per 100 milliliters~~

Sec. 5. 38 MRSA § 363, 13th ¶, 3rd sentence, as enacted by PL 1969, c. 431, § 1, is repealed as follows:

~~The total coliform bacteria is not to exceed 5,000 per 100 milliliters~~

Sec. 6. 38 MRSA § 363-A is enacted to read:

§ 363-A. Standards of classification of great ponds

The board shall have 2 standards for the classification of great ponds.

Class GP-A shall be the highest classification and shall be of such quality that it can be used for recreational purposes, including bathing, and for public water supplies after disinfection. Such waters shall have a Secchi disk transparency of not less than 2.0 meters, 6.6 feet, as naturally occurs, and contain not more than 20 fecal coliform bacteria per 100 milliliters. Total phosphorus concentration shall not exceed 15 parts per billion, and chlorophyll A concentration shall not exceed 8 parts per billion.

These waters shall be free from sludge deposits, solid refuse, floating solids, oils, grease and scum. No radioactive matter or substance shall be permitted in these waters other than that occurring from natural phenomena.

There shall be no discharge of sewage or other wastes into waters of this classification except as provided in section 371-A and no deposits of materials on the shores or banks thereof in a manner that could permit drainage or leaching from the material into the waters.

Class GP-B, the 2nd highest classification, shall be acceptable for recreational purposes, including water contact recreation, for use as potable water supply after adequate treatment, and for a fish and wildlife habitat. The fecal coliform bacteria count is not to exceed 60 per 100 milliliters. The total phosphorus concentration shall not exceed 50 parts per billion.

These waters shall be free from sludge deposits, solid refuse and floating solids, such as oils, grease or scum. There shall be no disposal of any matter or substance in these waters which imparts color, turbidity, taste or odor which would impair the usages ascribed to this classification nor shall such matter or substance alter the temperature or hydrogen-ion concentration of these waters so as to render such waters harmful to fish or other aquatic life. There shall be no discharge to these waters which will cause the hydrogen-ion concentration of "pH" of these waters to fall outside of the 5.5 to 8.5 range. There shall be no disposal of any substance that contains chemical constituents which are harmful to humans, animals or aquatic life or which adversely affect any other water use in this class. No radioactive matter or substances shall be discharged to these waters which will raise the radionuclide concentrations above the standards established by the United States Public Health Service as being acceptable for drinking water. These waters shall be free of any matter or substance which alters the composition of bottom fauna, which adversely affects the physical or chemical nature of bottom material, or which interferes with the propagation of fish.

There shall be no disposal of sewage, industrial wastes or other wastes in such waters, except those which have received treatment for the adequate

removal of waste constituents, including, but not limited to, solids, color, turbidity, taste, odor and toxic material, such that these treated wastes will not cause any violation of water quality standards or alter the usages of this classification, nor shall such disposal of sewage or waste be injurious to aquatic life or cause it to be dangerous for human consumption. There shall be no additional discharge of phosphorus to waters of this classification, which discharge does not employ the best available technology for phosphorus removal.

Sec. 7. 38 MRSA § 364, 3rd ¶, as repealed and replaced by PL 1969, c. 431, § 3, is amended to read:

The median numbers of fecal coliform bacteria in any series of samples representative of waters in the shellfish growing area or nonshellfish growing area shall not be in excess of ~~75~~ 14 per 100 milliliters, nor shall more than 10% of the samples exceed ~~50~~ 43 fecal coliform bacteria per 100 milliliters.

Sec. 8. 38 MRSA § 364, 4th ¶, as repealed and replaced by PL 1969, c. 431, § 3, is amended by adding at the end the following new sentence:

There shall be no discharge of treated or untreated sanitary waste waters into open shellfishing areas.

Sec. 9. 38 MRSA § 364, 7th ¶, 5th sentence, as repealed and replaced by PL 1969, c. 431, § 3, is amended to read:

The median numbers of fecal coliform bacteria in any series of samples representative of waters in the shellfish growing area shall not be in excess of ~~75~~ 14 per 100 milliliters, nor shall more than 10% of the samples exceed ~~50~~ 43 fecal coliform bacteria per 100 milliliters.

Sec. 10. 38 MRSA § 364, 8th ¶, as repealed and replaced by PL 1969, c. 431, § 3, is amended by adding at the end a new sentence to read:

There shall be no discharge of treated or untreated sanitary waste waters into open shellfishing areas.

Sec. 11. 38 MRSA § 364, 10th ¶, 5th sentence, as repealed and replaced by PL 1969, c. 431, § 3, is amended to read:

The median numbers of fecal coliform bacteria in any series of samples representative of waters in the shellfish growing area or nonshellfish growing area shall not be in excess of ~~75~~ 14 per 100 milliliters, nor shall more than 10% of the samples exceed ~~50~~ 43 fecal coliform bacteria per 100 milliliters.

Sec. 12. 38 MRSA § 364, 10th ¶, as repealed and replaced by PL 1969, c. 431, § 3, is amended by adding at the end a new sentence to read:

There shall be no discharge of treated or untreated sanitary waste waters into open shellfishing areas.

Sec. 13. 38 MRSA § 368, Androscoggin River Basin, Minor Tributaries, sub-§§ 3, 12 and 15, are amended to read:

3. Alder River, Bethel, main stem, from the confluence of Kendall Brook to the Androscoggin River—Class ~~C~~ B-2.

12. Mill Brook, Bethel, from its confluence with the Androscoggin River to the Route 5 Bridge near the Bethel Inn Golf Course—Class \in B-2.

15. Sevenmile Stream (Jay)—Class \in B-2.

Sec. 14. 38 MRSA § 368, Androscoggin River Basin, Upper Androscoggin Drainage, sub-§ 5, is amended to read:

5. Mill Stream, Rangeley—Class \in B-2.

Sec. 15. 38 MRSA § 368, Aroostook River Basin, Main Stem, sub-§§ 3 and 5, as amended by PL 1967, c. 19, § 1, are further amended to read:

3. Aroostook River from Machias River confluence to the Castle Hill-Ashland town line—Class \in B-2.

5. Aroostook River from Wade-Washburn town line to the crossing of the Aroostook Valley Railroad about 6 miles below Washburn—Class \in B-2.

Sec. 16. 38 MRSA § 368, Aroostook River Basin, Main Stem, sub-§ 6, is amended to read:

6. Aroostook River from the crossing of the Aroostook Valley Railroad about 6 miles below Washburn to the junction with Presque Isle Stream—Class \in B-2.

Sec. 17. 38 MRSA § 368, Aroostook River Basin, Tributaries, sub-§ 5, as amended by PL 1967, c. 304, § 10, is further amended to read:

5. Bryant Brook, Fort Fairfield, from Fisher Street to the Aroostook River confluence—Class \in B-2.

Sec. 18. 38 MRSA § 368, Aroostook River Basin, Tributaries, sub-§ 8, is amended to read:

8. Caribou Stream ~~below outfall of starch factory waste line near Colby~~ from Colby Siding Road Bridge to its confluence with the Aroostook River—Class \in B-2.

Sec. 19. 38 MRSA § 368, Aroostook River Basin, Tributaries, sub-§§ 14 and 24, as amended by PL 1967, c. 19, § 2, are further amended to read:

14. Limestone Stream, from the Route 165 Bridge in Limestone Village to the ~~Canadian border~~ Long Road Bridge—Class \in B-2.

24. Presque Isle Stream, from its confluence with the Aroostook River to the Bangor and Aroostook Railroad Bridge nearest Chapman and High Streets in Presque Isle—Class \in B-2.

Sec. 20. 38 MRSA § 368, Aroostook River Basin, Tributaries, sub-§ 14-A, is enacted to read:

14-A. Limestone Stream from the Long Road Bridge to the Canadian border—Class C.

Sec. 21. 38 MRSA § 368, Kennebec River Basin, Cobbosseecontee Stream Drainage System, sub-§§ 2, 3, 4, 6, 9, 12 and 14, are amended to read:

2. Carleton Pond Outlet and its tributaries from Carleton Pond to Upper Narrows Pond—Class ~~C~~ **B-2**.

3. Minwah (**Jock**) Stream, Wales, and its tributaries—Class ~~C~~ **B-2**.

4. Outlet Lake Maranacook between Lake Maranacook and Lake Annabessacook—Class ~~C~~ **B-2**.

6. Tributaries of ~~Purgatory Pond~~ **Tacoma Lakes**, direct and indirect, and the outlet of ~~Purgatory Pond~~ **Tocoma Lakes** to Cobbosseecontee Stream—Class ~~B-2~~ **B-1**.

9. ~~Unnamed stream~~ **Magotty Meadow Brook** and its tributaries entering the southerly extremity of Pleasant Pond from the south—Class ~~B-2~~ **B-1**.

12. Wilson Stream, (**Mud Mills Stream**), southerly branch, and tributaries above its junction with the branch from Wilson Pond, including the outlet of Cochnewagan Pond—Class ~~C~~ **B-1**.

14. Wilson Stream (Monmouth), main stem, from the junction with the branch of Wilson Stream, (**Mud Mills Stream**), entering from the vicinity of Monmouth Village below the tracks of the Maine Central Railroad to its entrance to Annabessacook Lake—Class ~~C~~ **B-2**.

Sec. 22. 38 MRSA § 368, Kennebec River Basin, Cobbosseecontee Stream Drainage System, sub-§ 13, as amended by PL 1967, c. 304, § 2, is further amended to read:

13. Wilson Stream (Monmouth), main stem, from outlet of Wilson Pond to the junction with the branch of Wilson Stream (**Mud Mills Stream**) entering from the vicinity of Monmouth Village below the tracks of the Maine Central Railroad—Class ~~C~~ **B-2**.

Sec. 23. 38 MRSA § 368, Kennebec River Basin, Main Stem, sub-§ 1, is amended to read:

1. From Wyman Dam in Moscow to ~~the head of the island immediately below Great Eddy in Skowhegan~~ **Fall Brook, Solon—Class ~~C~~ B-1.**

Sec. 24. 38 MRSA § 368, Kennebec River Basin, Main Stem, sub-§ 1-A, is enacted to read:

1-A. From Fall Brook, Solon, to the head of the island immediately below Great Eddy in Skowhegan—Class C.

Sec. 25. 38 MRSA § 368, Kennebec River Basin, Sandy River, sub-§ 3, is amended to read:

3. Cascade Brook, Farmington, between the Route 2 Bridge and Sandy River—Class ~~C~~ **B-2**.

Sec. 26. 38 MRSA § 368, Kennebec River Basin, Upper Kennebec River Basin, sub-§§ 13 and 14, are amended to read:

13. Unnamed stream and its tributaries entering Moosehead Lake at East Cove through Greenville Village—Class ~~C~~ **B-2**.

14. Unnamed stream and its tributaries entering Moosehead Lake at West Cove through Greenville Junction—Class € B-2.

Sec. 27. 38 MRSA § 368, Meduxnekeag River Basin, sub-§§ 3 and 5, are amended to read:

3. Big Brook tributary, main stem, from the bridge at the Bangor & Aroostook Railroad to the outlet of the stream at the Meduxnekeag River—Class € B-2.

5. Meduxnekeag River, main stem, from bridge at gravel pit entrance just upstream of the compact area in Houlton to the international boundary—Class € B-2.

Sec. 28. 38 MRSA § 368, Meduxnekeag River Basin, sub-§§ 7 and 10 are amended to read:

7. North Branch of the Meduxnekeag River, main stem, from the bridge at U.S. Highway No. 1 to the international boundary—Class € B-2.

10. South Branch of the Meduxnekeag River, main stem, from the dam at Hodgdon to the outlet into the main river—Class € B-2.

Sec. 29. 38 MRSA § 368, Meduxnekeag River Basin, sub-§ 8, as amended by PL 1967, c. 304, § 11, is further amended to read:

8. Pearce Brook tributary in Houlton—Class € B-2.

Sec. 30. 38 MRSA § 368, St. Croix River Basin, sub-§ 2, as enacted by PL 1967, c. 156, is amended to read:

2. Waters of the St. Croix River Watershed, within the State of Maine, not otherwise classified, including those of the ~~Maine~~ Main Stem of the St. Croix River and of Monument Brook on the Maine side of the international boundary above the head of tide—Class € B-2.

Sec. 31. 38 MRSA § 369, Hancock County, coastal streams, sub-§ 2, Blue Hill, ¶¶ A, B and E, are amended to read:

A. Carleton Stream, main stem, between First Pond and Second Pond—~~Unclassified~~ Class C.

B. Carleton Stream, main stem, from the outlet of First Pond to tidewater at Salt Pond—~~Unclassified~~ Class C.

E. Mill Brook Stream from a point just above the sewer of the consolidated school to its outlet at tidewater—Class € B-1.

Sec. 32. 38 MRSA § 369, Other Coastal Streams of Knox County, sub-§ 1, Camden, ¶ B, is amended to read:

B. Megunticook River, main stem, below a point 300 feet above the dam at the Mount Battie Mill—Class € B-2.

Sec. 33. 38 MRSA § 371, as last amended by PL 1973, c. 29, is repealed.

Sec. 34. 38 MRSA § 371-A is enacted to read:

§ 371-A. Classification of great ponds

1. **Great ponds classified.** All great ponds within the State of Maine shall be classified as not less than Class GP-A, except as otherwise provided in this section. The board, upon application by any interested person, may hold a hearing in accordance with the classification procedure and if it shall find it is for the best interests of the public that such waters or any part thereof would be otherwise classified, it shall do so in accordance with the classification procedure of this subchapter.

2. **Existing discharges.** Existing licensed discharges to Class GP-A great ponds will be allowed to continue until practical alternatives exist, but no new discharges will be permitted to Class GP-A great ponds after the effective date of this section.

3. **Exemption.** Aquatic chemical applications approved by the Board of Pesticides Control shall be exempt from the "no discharge" provision.

4. **Class GP-B.** The following great ponds shall be classified Class GP-B:

A. Annabessacook Lake, Monmouth and Winthrop Townships, Kennebec County;

B. Brewer Lake, Orrington and Holden Townships, Penobscot County;

C. Cobbosseecontee Lake, Winthrop, Monmouth, West Gardiner and Litchfield Townships, Kennebec County;

D. Douglas Pond, Pittsfield Township, Somerset County;

E. Estes Lake, Sanford and Alfred Townships, Franklin County;

F. Haley Pond, Rangeley and Dallas Townships, Franklin County;

G. Little Cobbosseecontee Lake, Winthrop Township, Kennebec County;

H. Lovejoy Pond, Albion Township, Kennebec County;

I. Nubble Pond, Raymond Township, Cumberland County;

J. Pattee Pond, Winslow Township, Kennebec County;

K. Pleasant Pond, Litchfield and Gardiner Townships, Kennebec County;

L. Pushaw Pond, Glenburn, Old Town, Orono and Hudson Townships, Penobscot County;

M. Sabattus Pond, Sabattus, Green and Wales Townships, Androscoggin County;

N. Salmon Lake, Belgrade and Oakland Townships, Kennebec County;

O. Seabasticook Lake, Newport Township, Penobscot County;

P. Spaulding Pond, Lebanon Township, York County; and

Q. Webber Pond, Vassalboro Township, Kennebec County.

Sec. 35. 38 MRSA § 413, sub-§ 2-A is enacted to read:

2-A. Exemptions; pesticide permits. The Board of Environmental Protection may by regulation exempt holders of a pesticide permit, issued by the Board of Pesticides Control, from the need to obtain a license under this section for the activity covered by the regulation, when it finds that the exempted activity would leave no significant adverse effect on the quality of the waters of the State.

STATEMENT OF FACT

This bill, in part, reflects the improvement in water quality that has been achieved by the elimination or treatment of raw discharges into the waters of the State. It also makes some changes in the bacteria criteria as well as establishing special criteria for great ponds.

Sections 1, 3, 4 and 5 eliminate the total coliform criteria for inland waters. This is no longer needed, for a better criteria, fecal coliform, is now available. Section 1 adds a fecal coliform standard to Class A waters. The other classifications B-1, B-2 and C already have fecal coliform standards.

Section 2 restores the no-discharge concept to Class A waters and removes a no longer valid log driving statement.

Section 6 establishes a classification system directly applicable to great ponds. The Board of Environmental Protection was instructed to do this by the 106th Legislature when it approved Title 38, section 382.

Sections 7, 9 and 11 make a minor adjustment in the numerical standards for fecal coliform bacteria in shellfish areas. This makes Maine standards consistent with federal criteria.

Sections 8, 10 and 12 add a provision that prohibits all discharges into open shellfish areas.

Sections 13-32 raise the water quality of various waters of the State. This is possible due to the municipal waste water treatment plants constructed in Fort Fairfield, Bingham, Greenville, Bethel, Jay, Rangeley, Blue Hill and Camden. In addition, the control of other types of raw discharges has enabled water quality to be upgraded. This is the first of many upgradings as a result of the on-going evaluation of the effect waste water treatment has had on water quality.

Sections 33 and 34. These replace the existing classification of great ponds with the new system proposed in section 6 of this bill. All lakes are to be classed GP-A unless otherwise specified in this section. These sections prohibit all new discharges to Class GP-A great ponds while permitting existing discharges to continue until a satisfactory solution for removing the discharges has been found. These sections also permit chemical treatment for water supplies and reclaiming ponds, provided a pesticide permit has been obtained for the project.

Section 35. At the present time, a project may require Board of Pesticides Control approval as well as Board of Environmental Protection approval. This section will enable the Department of Environmental Protection to exempt, by regulation, persons with pesticide permits from the requirement to obtain a waste discharge license.