

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 864

H.P. 641 House of Representatives, March 20, 1987
Reference to the Committee on Energy and Natural
Resources suggested and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative MICHAUD of East Millinocket.
Cosponsored by Representatives JACQUES of Waterville,
MITCHELL of Freeport and Senator USHER of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Amend the Laws Relating to and
2 Administered by the Department of
3 Environmental Protection.
4

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

7 Sec. 1. 4 MRSA §152, last ¶, as repealed and re-
8 placed by PL 1983, c. 796, §1, is amended to read:

9 The District Court shall also possess, concurrent
10 with the Superior Court, original jurisdiction to re-
11 ceive pleas of guilty in criminal cases in which the
12 maximum term of imprisonment to which the defendant
13 may be sentenced upon conviction of that crime is one
14 year or more in which the defendant has in writing
15 waived his right to indictment by grand jury and his
16 right to appearance and trial in the Superior Court

1 and has indicated his intention to enter a plea of
2 guilty to the charges pending against him. When exer-
3 cising such jurisdiction, the District Court shall
4 possess all of the powers of the Superior Court. That
5 jurisdiction shall be exercised in the manner which
6 the Supreme Judicial Court shall by rule provide. Any
7 person sentenced under this section shall be entitled
8 to the rights provided by Title 15, chapter 306, and
9 the Freshwater Wetlands Act, Title 38, sections 405
10 to 410-D.

11 Sec. 2. 38 MRSA §351, 3rd ¶, as enacted by PL
12 1983, c. 574, §1, is amended to read:

13 Money in the fund may only be expended in accord-
14 ance with allocations approved by the Legislature.
15 ~~This allocation~~ These allocations shall be based on
16 estimates of the actual costs necessary for the de-
17 partment to administer licensing and permitting pro-
18 grams. Allowable expenditures include Personal Ser-
19 VICES, All Other and Capital Expenditures associated
20 with prelicense or permit activities such as applica-
21 tion reviews, public hearings and appeals, the actual
22 license or permit processing activities and associ-
23 ated post-license or permit compliance activities re-
24 quired to assure continued licensee or permittee com-
25 pliance.

26 Sec. 3. 38 MRSA §390-A, sub-§1, as repealed and
27 replaced by PL 1985, c. 162, §5, is amended to read:

28 1. Fund purposes and administration. There is
29 established a nonlapsing Lake Restoration and Protec-
30 tion Fund, from which the department may pay an
31 amount equal to the local share from state
32 appropriation up to 50% of the eligible costs in-
33 curred in a lake restoration or protection project.
34 Eligible costs include all costs except those related
35 to land acquisition, legal fees and debt service.
36 All money credited to that fund shall be used by the
37 department for projects to improve or maintain the
38 quality of lake waters in the State and for no other
39 purpose. The Commissioner of Environmental Protec-
40 tion may authorize the State Controller to draw his
41 warrant for such funds as may be necessary to pay the
42 lawful expenses of the lake restoration or protection
43 project, up to the limits of the money duly autho-

1 rized. Any balance remaining in the fund shall contin-
2 nue without lapse from year to year and remain
3 available for the purposes for which the fund is es-
4 tablished and for no other purpose.

5 Sec. 4. 38 MRSA §394, as amended by PL 1985, c.
6 746, §18, is repealed and the following enacted in
7 its place:

8 §394. Exemptions

9 The following activities are exempt from the pro-
10 visions of this subchapter:

11 1. Maintenance. Maintenance and minor repair
12 above the high water line causing no additional in-
13 trusion of an existing structure into the great pond;
14 and

15 2. Water lines; utility cables. Placement of
16 water lines to serve a single-family house, installa-
17 tion of cables for utilities, such as telephone and
18 power cables, provided that the excavated trench to
19 access the great pond is backfilled and riprapped to
20 prevent erosion, that the excavated trench on the
21 landward side of the riprapped area is seeded and
22 mulched to prevent erosion, and provided that the Bu-
23 reau of Public Lands, has been contacted to obtain
24 the right to place the cable across the lake bottom.

25 Sec. 5. 38 MRSA §411, 2nd ¶, as amended by PL
26 1985, c. 689, §§2 and 3, is further amended to read:

27 The department, consistent with funding provided
28 for the purpose of abating pollution from salt and
29 sand-salt storage areas, may pay up to 50% 75% of the
30 expense of a municipal or quasi-municipal salt or
31 sand-salt storage pollution abatement construction
32 program or a salt or sand-salt storage pollution
33 abatement construction program authorized by the
34 county commissioners as long as total. Total expend-
35 itures for salt or sand-salt storage buildings do may
36 not exceed \$2,500,000 per fiscal year and no municip-
37 al or quasi-municipal or county entity receives may
38 receive more than \$50,000 for salt or sand-salt stor-
39 age buildings. Municipalities or counties may be re-
40 imburged for salt or sand-salt storage buildings con-

1 structured after July 1, 1985 in accordance with rules
2 promulgated by the department. State grant-in-aid
3 participation under this section shall be limited to
4 grants for waste treatment facilities, interceptor
5 systems, outfalls and salt or sand-salt storage
6 buildings. The word "expense" shall not include costs
7 relating to land acquisition or debt service, unless
8 allowed under federal statutes and regulations.

9 Sec. 6. 38 MRSa §413, sub-§2-D, as enacted by PL
10 1985, c. 479, §4, is amended to read:

11 2-D. Exemptions; road salt or sand-salt storage
12 piles. The Board of Environmental Protection may ex-
13 empt any road salt or sand-salt storage area from the
14 need to obtain a license under this section when it
15 finds that the exempt activity will not have a sig-
16 nificant adverse effect on the quality or classifica-
17 tions of the waters of the State. In making its
18 finding, ~~the board's review shall include, but not be~~
19 ~~limited to~~ board shall review all relevant character-
20 istics of the facility including, without limitation,
21 the location, structure and operation of the storage
22 area.

23 Owners of salt and sand-salt storage areas shall reg-
24 ister the location of storage areas with the depart-
25 ment on or before January 1, 1986. As required by
26 section 411, the department shall prioritize municip-
27 pal or quasi-municipal salt and sand-salt storage ar-
28 eas prior to November 1, 1986.

29 Sec. 7. 38 MRSa §414-A, sub-§1, ¶C, as enacted
30 by PL 1973, c. 450, §15, is repealed and the follow-
31 ing enacted in its place:

32 C. The discharge either by itself or in combina-
33 tion with other discharges will not lower the ex-
34 isting quality of any body of water, unless, fol-
35 lowing opportunity for public participation, the
36 board finds that the discharge is necessary to
37 achieve important economic or social benefits to
38 the State and when the discharge is in conform-
39 ance with section 464, subsection 4, paragraph F.
40 The finding must be made following procedures es-
41 tablished by rule of the board pursuant to sec-
42 tion 464, subsection 4, paragraph F;

1 Sec. 8. 38 MRSA §427, sub-§5, as enacted by PL
2 1985, c. 481, Pt. A, §86, is amended to read:

3 5. Participation by the Department of Inland
4 Fisheries and Wildlife. ~~The commissioner or the~~
5 ~~board~~ shall solicit comments from the Department of
6 Inland Fisheries and Wildlife regarding each stream
7 alteration permit application, except that the com-
8 missioner and the Commissioner of Inland Fisheries
9 and Wildlife may establish specific categories of
10 stream alteration projects that are exempt from this
11 subsection. The commissioner shall notify the De-
12 partment of Inland Fisheries and Wildlife about the
13 disposition of each stream alteration permit applica-
14 tion.

15 Sec. 9. 38 MRSA §430, sub-§1, as enacted by PL
16 1985, c. 481, Pt. A, §87, is amended to read:

17 1. Public works and private crossing and dam
18 projects. Notwithstanding section 425, that section
19 shall not apply to river, stream or brook crossings
20 in connection with public works projects which alter
21 not more than a total of 300 feet in any mile of
22 shore nor to private crossing or dam projects which
23 alter not more than a total of 100 feet in any mile
24 of shore. Alterations to both shores of the river,
25 stream or brook shall be combined in arriving at a
26 total shore footage. Altered shoreline shall include
27 changes in the shoreline perimeter created by
28 impoundments. This exception shall not apply to any
29 project on outstanding river segments, as identified
30 in section 426.

31 Sec. 10. 38 MRSA §451-A, sub-§1, as amended by
32 PL 1985, c. 162, §6, is further amended to read:

33 1. Power to grant variances. The Board of Envi-
34 ronmental Protection may grant a variance from any
35 statutory water pollution abatement ~~time schedule~~
36 requirement to any municipality or quasi-municipal
37 entity, hereinafter called the "municipality," upon
38 application by it. The board may grant a variance on-
39 ly upon a finding that:

40 A. Federal funds for the construction of municip-
41 al waste water treatment facilities are not
42 available for the project;

1 B. The municipality has demonstrated that it has
2 completed preliminary plans acceptable to the De-
3 partment of Environmental Protection for the
4 treatment of municipal wastes and for construc-
5 tion of that portion of the municipal sewage sys-
6 tem intended to be served by the planned municipi-
7 pal treatment plant when that plant first begins
8 operations; and

9 C. Beginning on October 1, 1976, the municipali-
10 ty shall collect, from each discharger into its
11 sewage system and each discharger not connected
12 to the sewage system which has signed an approved
13 agreement with the municipality pursuant to sub-
14 section 2, a fee sufficient to equal their pro-
15 portionate share of the actual current cost of
16 operating the sewage system for which preliminary
17 plans have been completed and approved pursuant
18 to paragraph B. Actual current costs shall in-
19 clude but not be limited to preliminary plans,
20 final design plans, site acquisition, legal fees,
21 interest fees, sewer system maintenance and reha-
22 bilitation and other administrative costs. A mu-
23 nicipality may provide, when permitted under the
24 federal construction grant program, that in lieu
25 of such annual fees paid by dischargers, the mu-
26 nicipality may apportion an appropriate amount
27 from general revenues to cover that share of fees
28 to be paid by dischargers.

29 The funds collected or apportioned pursuant to
30 this paragraph and interest collected thereon
31 shall be invested and expended pursuant to Title
32 30, chapter 241.

33 Any funds paid by a discharger or discharger not
34 connected to the sewage system pursuant to this
35 paragraph may be credited to the account of the
36 discharger if the municipality is subsequently
37 reimbursed by the federal construction grant pro-
38 gram. The credit arrangement shall be determined
39 by agreement between the municipality and the
40 discharger.

41 Variances shall be issued for a term certain not to
42 exceed 3 years, and may be renewed, except that no
43 variance shall may run longer than the time specified

1 for completion of the municipal waste treatment fa-
2 cility. Notwithstanding the provisions of this sub-
3 section, no variance issued under this section may
4 extend beyond July 1, 1988. Upon notice of the
5 availability of federal funds, the municipality shall
6 present to the Department of Environmental Protection
7 for approval an implementation schedule for design-
8 ing, constructing and placing the waste collection
9 and treatment facilities in operation.

10 Variances may be conditioned upon reasonable and nec-
11 -essary terms relating to appropriate interim measures
12 to be taken by the municipality to maintain or im-
13 prove water quality.

14 Sec. 11. 38 MRSA §451-A, sub-§7, as amended by
15 PL 1983, c. 566, §29, is repealed.

16 Sec. 12. 38 MRSA §455, as amended by PL 1983, c.
17 646, is repealed.

18 Sec. 13. 38 MRSA §467, sub-§4, ¶F, as enacted by
19 Pl 1985, c. 698, §15, is amended to read:

20 F. Moose River Drainage.

21 (1) Moose River, main stem.

22 (a) Above its confluence with Number
23 One Brook in Beattie Township - Class
24 A.

25 (b) From its confluence with Number
26 One Brook in Beattie Township to its
27 confluence with Attean Pond - Class B
28 AA.

29 (c) From the outlet of Attean Pond to
30 its confluence with Big Wood Pond -
31 Class A.

32 (d) From the outlet of Big Wood Pond
33 to its confluence with Long Pond -
34 Class C.

35 (e) From the outlet of Long Pond to
36 its confluence with Brassua Lake -
37 Class B.

1 (f) From the outlet of Brassua Lake to
2 its confluence with Moosehead Lake -
3 Class B.

4 (2) Moose River, tributaries.

5 (a) All tributaries entering above the
6 outlet of Big Wood Pond - Class A.

7 Sec. 14. 38 MRSA §467, sub-§7, ¶B, as enacted by
8 PL 1985, c. 698, §15, is amended to read:

9 B. Penobscot River, East Branch Drainage.

10 (1) East Branch of the Penobscot River,
11 main stem.

12 (a) Above its confluence with Grand
13 Lake Mattagamon - Class A.

14 (b) From the dam at the outlet of
15 Grand Lake Mattagamon to a point lo-
16 cated 1,000 feet downstream from the
17 dam at the outlet of Grand Lake
18 Mattagamon - Class B.

19 (c) From a point located 1,000 feet
20 downstream from the dam at the outlet
21 of Grand Lake Mattagamon to its conflu-
22 ence with the West Branch - Class B.

23 (2) East Branch of the Penobscot River,
24 tributaries.

25 (a) All tributaries and segments of
26 the East Branch of the Penobscot River
27 entering above the outlet of Grand Lake
28 Mattagamon which are not otherwise
29 classified - Class A.

30 (b) All tributaries and segments of
31 the East Branch of the Penobscot River
32 entering below the outlet of Grand Lake
33 Mattagamon which are not otherwise
34 classified - Class B.

- 1 (c) All tributaries and segments of
2 the East Branch of the Penobscot River
3 which are within the boundaries of Baxter
4 State Park - Class AA.
- 5 (d) Sawtelle Brook, from a point lo-
6 cated 1,000 feet downstream from the
7 dam at the outlet of Sawtelle Deadwater
8 to its confluence with the Seboeis Riv-
9 er - Class B.
- 10 (e) Seboeis River, from the outlet of
11 Snowshoe Lake to its confluence with
12 the East Branch - Class B.
- 13 (f) Wassataquoik Stream, from the
14 boundary of Baxter State Park to its
15 confluence with the East Branch - Class
16 B.
- 17 (g) Webster Brook, from a point lo-
18 cated 1,000 feet downstream from the
19 dam at the outlet of Telos Lake to its
20 confluence with Grand Lake Mattagamon
21 Webster Lake - Class B.

22 Sec. 15. 38 MRSA §467, sub-§10, ¶A, as enacted
23 by PL 1985, c. 698, §15, is amended to read:

24 A. Narraguagus River, main stem.

25 (1) From the outlet of Eagle Lake to the
26 confluence with the West Branch of the
27 Narraguagus River in Cherryfield - Class A
28 AA.

29 (2) From the confluence with the West
30 Branch of the Narraguagus River in
31 Cherryfield to tidewater - Class B.

32 Sec. 16. 38 MRSA §467, sub-§13, ¶A, as enacted
33 by PL 1985, c. 698, §15, is amended to read:

34 A. St. Croix River, main stem.

35 (1) From the outlet of Chiputneticook Lakes
36 to the Grand Falls Dam, those waters lying
37 within the State - Class B.

1 (2) From the Grand Falls Dam to its conflu-
2 ence with Weedland Lake the Woodland Dam,
3 those waters lying within the State, includ-
4 ing all impoundments - Class C.

5 (3) From the Woodland Dam to tidewater,
6 those waters lying within the State, includ-
7 ing all impoundments - Class C.

8 Sec. 17. 38 MRSA §467, sub-§15, ¶B, as enacted
9 by PL 1985, c. 698, §15, is amended to read:

10 B. Allagash River Drainage.

11 (1) Allagash River, main stem.

12 (a) From Churchill Dam to a point lo-
13 cated 1,000 feet downstream from
14 Churchill Dam - Class A.

15 (b) From a point located 1,000 feet
16 downstream from Churchill Dam to its
17 confluence with Gerald Brook in
18 Allagash - Class AA.

19 (c) From its confluence with Gerald
20 Brook in Allagash to its confluence
21 with the St. John River - Class A.

22 (2) Allagash River, tributaries.

23 (a) All tributaries and segments of
24 the Allagash River which are not other-
25 wise classified - Class A.

26 (b) Allagash Stream, from the outlet
27 of Allagash Pond in T.9, R.15, W.E.L.S.
28 to its confluence with Chamberlain Lake
29 - Class AA.

30 (c) Chemquasabamticook Stream, from
31 the outlet of Chemquasabamticook Lake
32 to its confluence with Long Lake -
33 Class AA.

34 (d) Musquacook Stream, from the outlet
35 of Third Musquacook Lake to its conflu-

1 ence with the Allagash River - Class
2 AA.

3 Sec. 18. 38 MRSA §467, sub-§15, ¶C, as enacted
4 by PL 1985, c. 698, §15, is amended to read:

5 C. Aroostook River Drainage.

6 (1) Aroostook River, main stem.

7 (a) From the confluence of Millinocket
8 Stream and Munsungan Stream to its con-
9 fluence with the Machias River - Class
10 AA.

11 (b) From its confluence with the
12 Machias River to the Sheridan Dam -
13 Class B.

14 (c) From the Sheridan Dam to its con-
15 fluence with Presque Isle Stream, in-
16 cluding all impoundments - Class B.

17 (d) From its confluence with Presque
18 Isle Stream to a point located 3.0
19 miles upstream of the intake of the
20 Caribou water supply, including all
21 impoundments - Class C.

22 (e) From a point located 3.0 miles up-
23 stream of the intake of the Caribou wa-
24 ter supply to a point located 100 yards
25 downstream of the intake of the Caribou
26 water supply, including all
27 impoundments - Class B.

28 (f) From a point located 100 yards
29 downstream of the intake of the Caribou
30 water supply to the international
31 boundary, including all impoundments -
32 Class C.

33 (2) Aroostook River, tributaries.

34 (a) All tributaries and segments of
35 the Aroostook River entering above the
36 confluence with St. Croix Stream which

- 1 are not otherwise classified - Class A.
- 2 (b) Limestone Stream from the Long
3 Road Bridge to the international bound-
4 ary - Class C.
- 5 (c) Little Machias River and its trib-
6 utaries - Class A.
- 7 (d) Little Madawaska River and its
8 tributaries, including Madawaska Lake
9 tributaries above the Route 161 bridge
10 in Stockholm - Class A.
- 11 (e) Machias River, from the outlet of
12 Big Machias Lake to the Garfield
13 Plantation-Ashland boundary - Class AA.
- 14 (f) Machias River tributaries entering
15 above the Garfield-Ashland boundary -
16 Class A.
- 17 (g) Millinocket Stream, from the out-
18 let of Millinocket Lake to its conflu-
19 ence with Munsungan Stream - Class AA.
- 20 (h) Munsungan Stream, from the outlet
21 of Little Munsungan Lake to its conflu-
22 ence with Millinocket Stream - Class
23 AA.
- 24 (i) Pattee Brook (Fort Fairfield) and
25 its tributaries above the dam just up-
26 stream of the Route 167 bridge - Class
27 A.
- 28 (j) Presque Isle Stream and its tribu-
29 taries above its confluence with, but
30 not including, the North Branch of
31 Presque Isle Stream - Class A.
- 32 (k) St. Croix Stream from the outlet
33 of St. Croix Lake to its confluence
34 with Hall Brook in T.9, R.5, W.E.L.S. -
35 Class A.

- 1 (l) St. Croix Stream from its confluence with Hall Brook in T.9, R.5, W.E.L.S. to its confluence with the Aroostook River - Class AA.
- 2
- 3
- 4
- 5 (m) St. Croix Stream tributaries - Class A.
- 6
- 7 (n) Salmon Brook, from the dam immediately above Washburn to its confluence with the Aroostook River - Class C.
- 8
- 9
- 10 (o) Squapan Stream and its tributaries above the B&A Railroad bridge - Class A.
- 11
- 12
- 13 (p) Unnamed Stream (Presque Isle) near Vining Station on Washburn Road - Class C.
- 14
- 15

16 Sec. 19. 38 MRSA §469, sub-§8, ¶¶E and F, as enacted by PL 1985, c. 698, § 15, are amended to read:

17

18 E. Old Orchard Beach.

19 (1) Tidal waters of Goosefare Brook and its tidal tributaries lying westerly of longitude 70° -22'-55" W. 70° -23'-08" W. - Class SC.

20

21

22

23 F. Saco.

24 (1) Tidal waters of Goosefare Brook and its tidal tributaries lying westerly of longitude 70° -22'-55" W. 70° -23'-08" W. - Class SC.

25

26

27

28 (2) Tidal waters of the Saco River and its tidal tributaries lying westerly of longitude 70° - 22'-54" W. - Class SC.

29

30

31 Sec. 20. 38 MRSA §473, sub-§2, as enacted by PL 1975, c. 595, §3, is amended to read:

32

33 2. Adopted zoning ordinance. Adopted a zoning ordinance approved by the board and the Maine Land Use Regulation Commission, pursuant to Title ~~12~~ 38, ~~chapter 424~~ section 438;

34

35

36

1 Sec. 21. 38 MRSA §1304, sub-§12, ¶A as amended
2 by PL 1985, c. 746, §29, is further amended to read:

3 A. Whenever, after investigation, the commis-
4 sioner determines that there is or has been an
5 unauthorized discharge of hazardous waste, con-
6 stituents of hazardous waste, or waste oil into
7 the environment which where there is a reasonable
8 basis to believe that the discharge is endanger-
9 ing or causing damage to public health or the en-
10 vironment or that any person has violated or is
11 in violation of any requirement of this subchap-
12 ter, including rules adopted thereunder, relating
13 to hazardous waste which is endangering or caus-
14 ing damage to public health or the environment or
15 waste oil activities, he may issue an order re-
16 quiring compliance immediately or within a speci-
17 fied time period or requiring corrective action
18 or other response measures as necessary to remove
19 the dangers to protect the public health and
20 safety or the environment.

21 Sec. 22. 38 MRSA §1304, sub-§12, ¶D, as enacted
22 by PL 1985, c. 746, §29, is amended to read:

23 D. The person to whom the order is directed
24 shall comply immediately or within a specified
25 time period. That person may apply to the board
26 within 10 working days after receipt of the order
27 for a hearing on the order. The hearing shall be
28 held by a majority of the board members within 14
29 days after receipt of the application. Within 7
30 days after the hearing, the board shall make
31 findings of fact and shall continue, revoke or
32 modify the order. Within 15 working days after
33 receipt of the application, the board shall hold
34 a hearing, make findings of fact and continue,
35 revoke or modify the order. At the hearing, all
36 witnesses shall be sworn and the department shall
37 establish the basis for the order and for naming
38 the person to whom the order was directed. The
39 decision of the board may be appealed to the Su-
40 perior Court in accordance with the Maine Admin-
41 istrative Procedure Act, Title 5, chapter 375,
42 subchapter VII.

1 Sec. 23. 38 MRSA §1310, last ¶, as repealed and
2 replaced by PL 1979, c. 699, §16, is amended to read:

3 The person to whom the order is directed shall
4 comply immediately. An order may not be appealed to
5 the Superior Court, but a person to whom it is di-
6 rected may apply to the board for a hearing on the
7 order if the application is made within 48 hours af-
8 ter receipt of the order by the person to whom the
9 order was directed. The hearing shall be held by the
10 board within 48 hours after receipt of application.
11 Within 7 days after the hearing, the board shall make
12 findings of fact and continue, revoke or modify the
13 order. Within 15 working days after receipt of the
14 application, the board shall hold a hearing, make
15 findings of fact and continue, revoke or modify the
16 order. The decision of the board may be appealed to
17 the Superior Court in accordance with Title 5, chap-
18 ter 375, subchapter VII.

19 Sec. 24. 38 MRSA 1319-E, sub-§2, as enacted by
20 PL 1981, c. 478, §7, is repealed.

21 Sec. 25. 38 MRSA §1364, sub-§6, as enacted by PL
22 1983, c. 569, §1, is amended to read:

23 6. Accept funds. The department may accept any
24 public or private funds which may be available for
25 carrying out the purposes of this chapter. The Un-
26 controlled Sites Fund is established to be used by
27 the department as a nonlapsing revolving fund for
28 carrying out the purposes of this chapter, including
29 the long-term oversight of uncontrolled hazardous
30 substance sites. Money in the fund, not needed cur-
31 rently to meet the obligations of the department in
32 the exercise of its responsibilities under this chap-
33 ter, shall be deposited with the Treasurer of State
34 to the credit of the fund and may be invested in such
35 a manner as is provided for by law. Interest re-
36 ceived on that investment shall be credited to the
37 fund.

38 Sec. 26. 38 MRSA §1366, last ¶, as enacted by PL
39 1983, c. 569, §1, is repealed.

40 Sec. 27. 38 MRSA §1367, last ¶, as enacted by PL
41 1983, c. 569, §1, is amended to read:

1 Funds recovered under this section shall be de-
2 posited into the account from which the funds were
3 expended Uncontrolled Sites Fund and shall be used by
4 the department to carry out the purposes of this
5 chapter.

6 STATEMENT OF FACT

7 Section 1 adds the Freshwater Wetland Laws to the
8 list of land use laws over which the District Court
9 has jurisdiction.

10 Section 2 clarifies that the allowable expendi-
11 tures to administer licensing and permitting programs
12 include Personal Services, All Other and Capital Ex-
13 penditures.

14 Section 3 will allow use of a wider range of
15 funding sources as match for the Lake Restoration and
16 Protection Fund thus, allowing use of the fund for
17 projects of statewide, as well as local significance.

18 The 112th Legislature exempted the placement of
19 certain water lines and utility cables from review
20 under the Great Ponds Law, in the Maine Revised Stat-
21 utes, Title 38, sections 386 to 396. However, the
22 Bureau of Public Lands has authority to issue leases
23 and easements for submerged lands owned by the State,
24 Title 12, section 558-A. Section 4 provides for no-
25 tice to the Bureau of Public Lands that the exempted
26 activity will occur so that lease or easement ar-
27 rangements can be made.

28 Section 5 increases the State's share of salt
29 storage construction costs from 50% to 75%.

30 Section 6 makes technical changes to the section
31 allowing the Department of Environmental Protection
32 to exempt salt and sand-salt storage facilities from
33 the need to obtain waste water discharge licenses un-
34 der certain conditions.

35 Section 7 makes the anti-degradation criteria
36 consistent with the water reclassification law in Ti-
37 tle 38, section 464, subsection 4, paragraph F.

1 Section 8 authorizes the Department of Environ-
2 mental Protection and the Department of Inland Fish-
3 eries and Wildlife to jointly identify stream altera-
4 tion projects which need not be subject to the notice
5 provisions of this subsection. This change will re-
6 duce application processing time.

7 Section 9 clarifies the definition of altered
8 shoreline within the stream alteration law.

9 Section 10 replaces the phrase "time schedule"
10 with the word "requirement" to reconcile the fact
11 that references to specific dates have been deleted
12 elsewhere in the Title. Section 10 also is needed to
13 bring the Maine Revised Statutes, Title 38, section
14 451-A, subsection 1, into conformance with the dead-
15 line established by the Federal Water Pollution Con-
16 trol Act, Section 301(i).

17 Section 11 is necessary to repeal provisions the
18 department may no longer use to grant variances for
19 single-family homes. Statutory deadline for use of
20 the variance was July 1, 1985.

21 Section 12 repeals an obsolete study provision.
22 It required the department to conduct a study of the
23 sardine industry's waste water discharges. The study
24 has been completed and accepted by the Legislature,
25 standards set and licenses issued.

26 Sections 13 and 15 correct the classification of
27 segments of the Moose and Narraguagus Rivers to re-
28 flect legislative intent in Public Law 1985, chapter
29 698.

30 Section 14 corrects a classification problem.
31 The classification assigned to Webster Brook in Title
32 38, section 467, subsection 7, paragraph B, subpara-
33 graph (2), division (g) contradicts the AA classifi-
34 cation assigned to that portion of Webster Brook ly-
35 ing within the bounds of Baxter State Park under Ti-
36 tle 38, section 467, subsection 7, paragraph B, sub-
37 paragraph (2), division (g).

38 The proposed change in section 16 is needed to
39 maintain consistency with the requirements of section
40 465-A. The original wording was accidentally recom-

1 mended when the Department of Environmental Protec-
2 tion staff overlooked the fact that this segment re-
3 ceives a cooling water discharge.

4 Current law incorrectly refers to segments of the
5 Allagash and Aroostook mainstems that are already
6 classified in a separate paragraph and sections 17
7 and 18 corrects the reference.

8 Section 19 corrects an error in transcribing the
9 longitude references defining the mouth of the
10 Goosefere Brook Estuary.

11 Section 20 corrects a cross reference overlooked
12 when the Shoreland Zoning Law was transferred from
13 Title 12, State Planning Office, to Title 38, Depart-
14 ment of Environmental Protection.

15 Sections 21 and 22 modify the compliance order
16 provision by allowing the orders to be issued for
17 hazardous waste discharges or violations when there
18 is a reasonable basis to believe that hazards exist
19 or are threatened. The purpose of the compliance or-
20 der provision is to restore compliance before any
21 harm can occur. These sections also change how ap-
22 peals to an order may be conducted by:

23 A. Requiring that hearings and the decision on
24 the order to be completed within 15 working days
25 after receipt of the appeal. Hearings will not
26 require 6 members of the board to attend. Any
27 decision will still require a majority of the
28 board to vote, consistent with other statutory
29 provisions; and

30 B. Removes a section which describes departmen-
31 tal responsibilities in an appeal, but fails to
32 specify appellant responsibilities. These re-
33 sponsibilities may be specified during
34 case-specific appeal hearings.

35 Section 23 specifies that orders issued under the
36 emergency provisions of Title 38, section 1310 may be
37 appealed. Title 38, section 1310 is amended to spec-
38 ify that the appeals must be filed within 48 hours
39 and that the board must hold a hearing on the appeal
40 and act within 15 days of the appeal.

1 Section 24 repeals the limitation currently
2 placed upon the Hazardous Waste Fund for use for ac-
3 tivities which may be compensated by the Federal
4 Superfund. The recent federal reauthorization of the
5 superfund repealed and replaced provisions of the
6 Comprehensive Environmental Response, Compensation,
7 Liability Act of 1980, Section 114(c), thus, removing
8 federal prohibition on any state taxes or fees for
9 activities supported by the superfund. Consequently,
10 the current limitation on the fund can be repealed.

11 Section 25 clarifies how the department may han-
12 dle public or private funds received for the cleanup
13 of uncontrolled sites. Cleanup of sites often in-
14 volves future oversight for a period of years. Set-
15 tlement of these cases with responsible parties may
16 involve receiving money for future costs by the
17 State. This section establishes an Uncontrolled
18 Sites Fund for use by the department to receive the
19 funds. No fees or taxes are associated with this
20 trust fund.

21 Section 26 repeals Title 38, section 1366, last
22 paragraph. That paragraph which describes the use of
23 available funds is not necessary after the establish-
24 ment of the Uncontrolled Sites Fund.

25 Section 27 specifies that funds recovered for un-
26 controlled hazardous sites be deposited into the Un-
27 controlled Sites Fund.

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