

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1868

S.P. 641

In Senate, June 16, 1987

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator USHER of Cumberland.

Cosponsored by Senator PERKINS of Hancock, Representative
DEXTER of Kingfield, Representative MICHAUD of East Millinocket.

STATE OF MAINE

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

AN ACT to Amend the Laws Administered by the
Department of Environmental
Protection.

1
2
3
4

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

7 Sec. 1. 4 MRSA §152, sub-§6, as amended by PL
8 1985, c. 746, §2, is further amended to read:

9 6. Land use laws. Original jurisdiction, con-
10 current with that of the Superior Court, to grant equ-
11uitable relief in proceedings involving alleged vio-
12 lations of a local land use ordinance or regulation
13 or a state land use statute or regulation, which
14 shall include, but shall not be limited to, the fol-
15 lowing: The laws pertaining to the Maine Land Use

1 Regulation Commission, Title 12, chapter 206-A; mini-
2 mum lot size law, Title 12, sections 4807 to 4807-G;
3 shoreland zoning ordinances adopted pursuant to Title
4 12, sections 4811 to 4817; the Alteration of Rivers,
5 Streams and Brooks law, Title 38, sections 425 to
6 431; the plumbing and subsurface wastewater disposal
7 rules adopted by the Department of Human Services
8 pursuant to Title 22, section 42; laws pertaining to
9 public water supplies, Title 22, sections 2642, 2647
10 and 2648; local ordinances pursuant to Title 22, sec-
11 tion 2642; local ordinances adopted pursuant to Title
12 30, section 1917; local building codes adopted pursu-
13 ant to Title 30, sections 1917 and 2151; Title 30,
14 chapter 215, subchapter I, automobile junkyards and
15 subchapter X, regulation and inspection of plumbing;
16 Title 30, section 4359, malfunctioning domestic sew-
17 age disposal units; Title 30, section 4956, the sub-
18 division law, and local subdivision ordinances
19 adopted pursuant to Title 30, section 1917 and subdivi-
20 sion regulations adopted pursuant to Title 30, sec-
21 tion 4956; local zoning ordinances adopted pursuant
22 to Title 30, section 1917 and in accordance with Ti-
23 tle 30, section 4962; the Great Ponds Act, Title 38,
24 sections 386 to 396; laws pertaining to the discharge
25 of wastes, Title 38, sections 413, 414, 417, 418 and
26 420; the Alteration of Coastal Wetlands Act, Title
27 38, sections 471 to 476 and 478; the Site Location of
28 Development Act, Title 38, sections 481 to 485 and
29 488 to 490; and the Oil Discharge Prevention and Pol-
30 lution Control laws, Title 38, sections 543, 545,
31 563, 564, 565, 566, 567 and 568; the Freshwater Wet-
32 lands laws, Title 38, sections 405 to 410-D; and the
33 Stream Alteration laws, Title 38, sections 425 to
34 431.

35 Sec. 2. 4 MRSA §152, sub-§7 is enacted to read:

36 7. Air quality laws. Original jurisdiction,
37 concurrent with that of the Superior Court, to grant
38 equitable relief in proceedings involving alleged vi-
39 olations of local or state air quality ordinances,
40 regulations or laws, which shall include, but not be
41 limited to, the following:

42 A. Laws pertaining to registration and licens-
43 ing, Title 38, sections 589 and 590;

1 B. Municipal air pollution control laws adopted
2 pursuant to Title 38, section 597; and

3 C. Laws pertaining to air quality standards,
4 emission standards and visible emissions adopted
5 pursuant to Title 38, sections 584-A, 585, 585-A,
6 598, 600, 601, 602, 603-A, 604 and 611.

7 **Sec. 3.** 5 MRSA §938, sub-§1, ¶C, as enacted by
8 PL 1985, c. 746, §3, is repealed and the following
9 enacted in its place:

10 C. Director, Bureau of Administration;

11 **Sec. 4.** 38 MRSA §342, sub-§5-A, ¶B, as enacted
12 by PL 1985, c. 746, §6, is repealed.

13 **Sec. 5.** 38 MRSA §352, sub-§2, ¶A, as enacted by
14 PL 1983, c. 574, §1, is amended to read:

15 A. ~~Filing-fees~~ Processing fees shall be assessed
16 for direct costs incurred in determining the ac-
17 ceptability of an application for processing and
18 in processing an application to determine whether
19 it meets statutory and regulatory criteria.

20 **Sec. 6.** 38 MRSA §352, sub-§2, ¶B, as enacted by
21 PL 1983, c. 574, §1, is repealed.

22 **Sec. 7.** 38 MRSA §352, sub-§3, as enacted by PL
23 1983, c. 574, §1, is repealed and the following en-
24 acted in its place:

25 3. Maximum fee. Except as provided in this sub-
26 section, no fee may exceed the maximum established in
27 Table 1. If the commissioner determines that a par-
28 ticular application, by virtue of its size,
29 uniqueness, complexity or other relevant factors, is
30 likely to require significantly more costs than those
31 listed on Table 1, he may designate that application
32 as subject to special fees. A special fee shall not
33 exceed \$40,000. Such a designation must be made at,
34 or prior to, the time the application is accepted as
35 complete and may not be based solely on the likeli-
36 hood of extensive public controversy. All department
37 staff who have worked on the review of the applica-
38 tion will submit quarterly reports to the commission-

1 er detailing the time spent on the application and
2 all expenses attributable to the application. The
3 processing fee for that application shall be the ac-
4 tual cost to the department. The application shall
5 be billed quarterly and all fees must be paid prior
6 to receipt of the permit.

7 Sec. 8. 38 MRSA §352, sub-§4, as repealed and
8 replaced by PL 1985, c. 746, §14, is repealed and the
9 following enacted in its place:

10 4. Accounting system. In order to determine the
11 extent to which the functions set out in this section
12 are necessary for the licensing process or are being
13 performed in an efficient and expeditious manner, the
14 commissioner shall require that all employees of the
15 department involved in any aspect of these functions
16 shall keep accurate and regular daily time records
17 describing the matters worked on, services performed
18 and amount of time devoted to those matters and ser-
19 vices, as well as amounts of money expended in per-
20 forming these functions for a sufficient duration as
21 determined by the commissioner to establish to his
22 satisfaction that the fees are appropriate.

23 TABLE I

24 MAXIMUM FEES IN DOLLARS

25 <u>TITLE 36</u>	<u>PROCESSING</u>	<u>CERTIFICATION</u>
26 <u>SECTION</u>	<u>FEE</u>	<u>FEE</u>
27 <u>656, sub-§1, ¶E, Pollution</u>		
28 <u>Control Facilities</u>		
29 <u>A. Water pollution</u>	<u>\$250</u>	<u>\$20</u>
30 <u>control facilities</u>		
31 <u>with capacities at</u>		
32 <u>least 4,000 gallons</u>		
33 <u>of waste per day and</u>		
34 <u>§1760, sub-§29, wa-</u>		
35 <u>ter pollution con-</u>		
36 <u>trol facilities</u>		

1	<u>B. Air pollution</u>	<u>250</u>	<u>20</u>
2	<u>control and \$1760,</u>		
3	<u>sub-\$30, air pollu-</u>		
4	<u>tion control facili-</u>		
5	<u>ties</u>		
6	<u>TITLE 38</u>	<u>PROCESSING</u>	<u>LICENSE</u>
7	<u>SECTION</u>	<u>FEE</u>	<u>FEE</u>
8	<u>362-A, Experiments</u>	<u>\$ 40</u>	<u>\$ 160</u>
9	<u>393, Great Ponds</u>	<u>75</u>	<u>50</u>
10	<u>410-E, Freshwater wetlands</u>	<u>100</u>	<u>50</u>
11	<u>413, Waste discharge license</u>		
12	<u>A. Residential</u>	<u>75</u>	<u>25</u>
13	<u>B. Commercial</u>		
14	<u>1. Flow of less</u>	<u>600</u>	<u>160</u>
15	<u>than 2,000 gallons</u>		
16	<u>per day</u>		
17	<u>2. Flow of 2,000 to</u>	<u>600</u>	<u>500</u>
18	<u>20,000 gallons per</u>		
19	<u>day inclusive</u>		
20	<u>3. Flow of greater</u>	<u>300</u>	<u>1,200</u>
21	<u>than 20,000 gallons</u>		
22	<u>per day</u>		
23	<u>C. Industrial minor</u>		
24	<u>(based upon EPA list of</u>		
25	<u>major and minor source</u>		
26	<u>discharges)</u>		
27	<u>1. Discharges of</u>	<u>500</u>	<u>160</u>
28	<u>cooling water, sani-</u>		
29	<u>tary waste water or</u>		
30	<u>treated storm water</u>		
31	<u>only</u>		
32	<u>2. All others</u>	<u>500</u>	<u>2,000</u>
33	<u>D. Industrial major</u>		
34	<u>(based upon EPA list of</u>		
35	<u>major source discharges)</u>		
36	<u>1. Discharge of</u>	<u>1,200</u>	<u>750</u>
37	<u>cooling water or</u>		
38	<u>sanitary waste water</u>		
39	<u>only</u>		
40	<u>2. All others</u>	<u>1,200</u>	<u>2,200</u>
41	<u>E. Publicly owned treat-</u>		
42	<u>ment works</u>		

1	<u>1. Flow of less</u>	<u>100</u>	<u>200</u>
2	<u>than or equal to</u>		
3	<u>50,000 gallons per</u>		
4	<u>day and no signifi-</u>		
5	<u>cant industrial com-</u>		
6	<u>ponent</u>		
7	<u>2. Flow of greater</u>	<u>55</u>	<u>1,200</u>
8	<u>than 50,000 gallons</u>		
9	<u>per day, but less</u>		
10	<u>than 0.5 million</u>		
11	<u>gallons per day and</u>		
12	<u>no significant in-</u>		
13	<u>dustrial component</u>		
14	<u>3. Flow of at</u>	<u>100</u>	<u>1,800</u>
15	<u>least 0.5 million</u>		
16	<u>gallons per day, but</u>		
17	<u>less than 5 million</u>		
18	<u>gallons per day and</u>		
19	<u>no significant in-</u>		
20	<u>dustrial component</u>		
21	<u>4. Flow of at least</u>	<u>100</u>	<u>1,800</u>
22	<u>5 million gallons</u>		
23	<u>per day or a signif-</u>		
24	<u>icant industrial</u>		
25	<u>component</u>		
26	<u>F. Special discharges</u>		
27	<u>1. Aquatic pesti-</u>	<u>130</u>	<u>25</u>
28	<u>cides</u>		
29	<u>2. Dredge spoils</u>	<u>130</u>	<u>25</u>
30	<u>418, Log storage</u>	<u>55</u>	<u>25</u>
31	<u>421, Solid waste disposal ar-</u>		
32	<u>reas</u>	<u>1,400</u>	<u>100</u>
33	<u>427, Alteration of rivers,</u>		
34	<u>streams and brooks</u>	<u>150</u>	<u>50</u>
35	<u>451, Mixing zones</u>	<u>1,200</u>	<u>2,200</u>
36	<u>451-A, Time schedule variances</u>	<u>25</u>	<u>25</u>
37	<u>471, Coastal wetlands and sand</u>		
38	<u>dunes</u>	<u>200</u>	<u>100</u>
39	<u>483, Site location</u>		
40	<u>A. Subdivisions</u>	<u>30/lot</u>	<u>25</u>

1	<u>B. Structures</u>	<u>1,100</u>	<u>500</u>
2	<u>C. Mining</u>	<u>775</u>	<u>500</u>
3	<u>D. Other</u>	<u>775</u>	<u>500</u>
4	<u>543, Oily waste discharge</u>	<u>40</u>	<u>160</u>
5	<u>560, Vessels at anchorage</u>	<u>125</u>	<u>100</u>
6	<u>587, Ambient air quality or</u>		
7	<u>emissions standards variances</u>	<u>5,050</u>	<u>50</u>
8	<u>590, Air emissions licenses</u>		
9	<u>A. Greater than or equal</u>	<u>10,050</u>	<u>1,200</u>
10	<u>to 1,000 tons per year of</u>		
11	<u>any criteria air</u>		
12	<u>pollutant</u>		
13	<u>B. Greater than or equal</u>	<u>5,050</u>	<u>400</u>
14	<u>to 100 tons per year, but</u>		
15	<u>less than 1,000 tons per</u>		
16	<u>year of any criteria air</u>		
17	<u>pollutant</u>		
18	<u>C. Greater than or equal</u>	<u>1,050</u>	<u>100</u>
19	<u>to 50 tons per year, but</u>		
20	<u>less than 100 tons per</u>		
21	<u>year of any criteria air</u>		
22	<u>pollutant</u>		
23	<u>D. Less than 50 tons per</u>	<u>525</u>	<u>50</u>
24	<u>year of any criteria air</u>		
25	<u>pollutant</u>		
26	<u>633, Hydropower projects</u>		
27	<u>A. New or expanded gen-</u>	<u>450/MW</u>	<u>50/MW</u>
28	<u>erating capacity</u>		
29	<u>B. Maintenance and re-</u>	<u>50</u>	<u>25</u>
30	<u>pair or other structural</u>		
31	<u>alterations not involving</u>		
32	<u>an increase in generating</u>		
33	<u>capacity</u>		
34	<u>1101, Sanitary districts</u>	<u>150</u>	<u>50</u>
35	<u>1304, Nonhazardous waste fa-</u>		
36	<u>cilities</u>		
37	<u>A. Septage facilities,</u>	<u>300</u>	<u>250</u>
38	<u>other than landfill or</u>		
39	<u>landspreading sites</u>		

1	B. <u>Sludge facilities,</u>	550	500
2	other than landfill or		
3	<u>landspreading sites</u>		
4	C. <u>Landspreading sites</u>	50	35
5	D. <u>Transfer stations</u>	550	500
6	E. <u>Landfills</u>	1,575	1,500
7	F. <u>Resource recovery and</u>	1,575	1,500
8	<u>volume reduction facili-</u>		
9	<u>ties</u>		
10	G. <u>Other, including</u>	550	250
11	<u>land-applied utilization</u>		
12	<u>programs</u>		
13	H. <u>Septage disposal site</u>	50	25
14	<u>designation</u>		
15	<u>United States Clean Water Act,</u>		
16	<u>United States Code Title 33,</u>		
17	<u>Section 1251, et seq., Section</u>		
18	<u>401, Water Quality Certifica-</u>		
19	<u>tions only when issued along</u>		
20	<u>with Federal Energy Regulatory</u>		
21	<u>Commission</u>		
22	<u>Renewals</u>	450/MW	50/MW

23 Sec. 9. 38 MRSA §353, as amended by PL 1985, c.
24 746, §§15 and 16, is further amended to read:

25 §353. Payment of fees

26 1. Filing fee. A filing fee shall be paid at
27 the time of filing the application and is
28 nonrefundable. The department may not process appli-
29 cations not accompanied by a filing fee.

30 2. Processing fee. A processing fee shall be
31 paid within 10 days of the time the applicant is no-
32 tified that the application has been accepted for
33 processing by the commissioner and is not refundable,
34 even if the applicant withdraws the application once
35 processing has begun at the time of filing the
36 application. Failure to pay the processing fee with-
37 in the 10-day period will result in the cessation of
38 processing until the fee has been paid at the time of
39 filing the application will result in the application
40 being returned to the applicant. The department
41 shall not refund the processing fee if the applica-
42 tion is denied by the board or the commissioner. If

1 the application is withdrawn by the applicant within
2 30 days of the start of processing, the processing
3 fee shall be refunded.

4 3. License fee. A license fee shall be paid
5 ~~prior to the issuance of any license or permit. If a~~
6 ~~license fee is paid prior to board or commissioner~~
7 ~~action on the application, the~~ at the time of filing
8 the application. Failure to pay the license fee at
9 the time of filing will result in the application be-
10 ing returned to the applicant. The department shall
11 refund the license fee if the board or commissioner
12 denies the application or if the application is with-
13 drawn by the applicant.

14 3-A. Certification fee. A certification fee
15 shall be paid prior to the issuance of any certifica-
16 ~~tion. If the certification fee is paid prior to the~~
17 ~~certification and the certification is not issued,~~
18 the department shall refund the certification fee.

19 4. Duplicate fees. The department shall not as-
20 sess applicants for direct costs associated with fil-
21 ing, processing of licensing if those costs were pre-
22 viously assessed as the result of the filing, pro-
23 cessing or licensing of separate but related applica-
24 tions.

25 5. Renewals or amendments. ~~The filing fee for~~
26 ~~renewals or amendments shall be the same as the fil-~~
27 ~~ing fee for an initial application.~~ The processing
28 fee for renewals or amendments shall be equal to di-
29 rect costs up to 1/2 the processing fee for initial
30 applications. The license fee for renewals shall be
31 identical to the initial license fee. The license
32 fee for amendments shall not exceed the initial li-
33 cense fee.

34 6. Application deemed unacceptable for process-
35 ing. An application deemed unacceptable for process-
36 ing which has been returned to the applicant shall
37 may be resubmitted to the department within 60 days
38 of the date the application was returned. If the ap-
39 plication is resubmitted after the 60-day period has
40 transpired, the resubmitted application shall be con-
41 sidered a new application and the appropriate
42 processing fees shall be assessed.

1 7. Fees for minor revisions. All fees assessed
2 for the costs of processing permits issued in accordance with section 344, subsection 7, shall be paid in
3 full when the notification is submitted to the department. All fees for any minor license or permit
4 revision shall be paid in full when the request for the revision is submitted to the department. ~~The ap-~~
5 ~~applicant may also choose to prepay the filing, processing~~
6 ~~and license fees for applications pertaining~~
7 ~~to any other license or permit category.~~

11 8. Processing fee for certification. The pro-
12 cessing fee for certification shall be assessed on the actual direct costs incurred by the department,
13 but not greater than the processing fee found on Table I, section 352. The processing fee ~~found on Ta-~~
14 ~~ble I~~ shall be due according to subsection 2. Upon
15 completion of processing, where direct costs are less
16 than the processing fee found in section 352 on Table
17 I, a refund shall be made to the applicant.

20 Sec. 10. 38 MRSA §394, as amended by PL 1985, c.
21 746, §18, is further amended to read:

22 §394. Exemptions

23 Maintenance and minor repair above the high water
24 line causing no additional intrusion of an existing
25 structure into the great pond, the placement of water
26 lines to serve a single-family house, installation of
27 cables for utilities, such as telephone and power ca-
28 bles, provided that the excavated trench to access
29 the great pond is backfilled and riprapped to prevent
30 erosion and that the excavated trench on the landward
31 side of the riprapped area is seeded and mulched to
32 prevent erosion and provided that the right to place
33 the cable across the lake bottom has been obtained
34 from the Department of Conservation, Bureau of Public
35 Lands, are exempt from this subchapter.

36 Sec. 11. 38 MRSA §414-A, sub-§1, ¶C, as enacted
37 by PL 1973, c. 450, §15, is repealed and the follow-
38 ing enacted in its place:

39 C. The discharge either by itself or in combina-
40 tion with other discharges will not lower the ex-
41 isting quality of any body of water, except after

1 making a finding following opportunity for public
2 participation that the action is necessary to
3 achieve important economic or social benefits to
4 the State and when the action is in conformance
5 with section 464, subsection 3. That finding
6 must be made following procedures established by
7 rule of the board; and

8 Sec. 12. 38 MRSA §427, sub-§5, as enacted by PL
9 1985, c. 481, Pt. A, §86, is amended to read:

10 5. Participation by the Department of Inland
11 Fisheries and Wildlife. The commissioner or the
12 board shall solicit comments from the Department of
13 Inland Fisheries and Wildlife regarding each stream
14 alteration permit application, except for projects
15 designed, approved and supervised by soil and water
16 conservation districts. The commissioner shall noti-
17 fy the Department of Inland Fisheries and Wildlife
18 about the disposition of each stream alteration per-
19 mit application.

20 Sec. 13. 38 MRSA §430, sub-§1, as enacted by PL
21 1985, c. 481, Pt. A, §87, is amended to read:

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

36 Sec. 14. 38 MRSA §436, sub-§6, as reallocated by
37 PL 1985, c. 481, Pt. A, §24, is amended to read:

38 6. Timber harvesting. "Timber harvesting" means
39 the cutting and removal of trees from their growing
40 site and the attendant operation of cutting and
41 skidding machinery but not the construction or cre-

1 ation of roads. Timber harvesting does not include
2 the clearing of land for approved construction.
3 Within the strip extending 50 feet inland from the
4 normal high watermark, a cleared opening or openings
5 not greater than 30 feet in width for every 100 feet
6 of shoreline may be created, provided that when open-
7 ings are combined, there shall be no single opening
8 along the shore wider than 60 feet, and there shall
9 be no more than one 60-foot opening along 200 feet of
10 shoreline. Notwithstanding other provisions of this
11 subsection, timber harvesting is prohibited in the
12 area extending 250 feet inland from the normal high
13 watermark in those areas zoned for natural resources
14 protection in the shoreland area abutting a pond.

15 Sec. 15. 38 MRSA §451-A, sub-§1, as amended by
16 PL 1985, c. 162, §6, is further amended to read:

17 1. Power to grant variances. The Board of Envi-
18 ronmental Protection may grant a variance from any
19 statutory water pollution abatement ~~time-schedule~~ re-
20 quirement pursuant to section 414-A, subsection 1,
21 paragraph D, to any municipality or quasi-municipal
22 entity, hereinafter called the "municipality," upon
23 application by it. The board may grant a variance on-
24 ly upon a finding that:

25 A. Federal funds for the construction of municipi-
26 pal waste water treatment facilities are not
27 available for the project;

28 B. The municipality has demonstrated that it has
29 completed preliminary plans acceptable to the De-
30 partment of Environmental Protection for the
31 treatment of municipal wastes and for construc-
32 tion of that portion of the municipal sewage sys-
33 tem intended to be served by the planned municipi-
34 pal treatment plant when that plant first begins
35 operations; and

36 C. Beginning on October 1, 1976, the municipali-
37 ty shall collect, from each discharger into its
38 sewage system and each discharger not connected
39 to the sewage system which has signed an approved
40 agreement with the municipality pursuant to sub-
41 section 2, a fee sufficient to equal their pro-
42 portionate share of the actual current cost of

1 operating the sewage system for which preliminary
2 plans have been completed and approved pursuant
3 to paragraph B. Actual current costs shall in-
4 clude but not be limited to preliminary plans,
5 final design plans, site acquisition, legal fees,
6 interest fees, sewer system maintenance and reha-
7 bilitation and other administrative costs. A mu-
8 nicipality may provide, when permitted under the
9 federal construction grant program, that in lieu
10 of such annual fees paid by dischargers, the mu-
11 nicipality may apportion an appropriate amount
12 from general revenues to cover that share of fees
13 to be paid by dischargers.

14 The funds collected or apportioned pursuant to
15 this paragraph and interest collected thereon
16 shall be invested and expended pursuant to Title
17 30, chapter 241.

18 Any funds paid by a discharger or discharger not
19 connected to the sewage system pursuant to this
20 paragraph may be credited to the account of the
21 discharger if the municipality is subsequently
22 reimbursed by the federal construction grant pro-
23 gram. The credit arrangement shall be determined
24 by agreement between the municipality and the
25 discharger.

26 Variances shall be issued for a term certain not to
27 exceed 3 years, and may be renewed, except that no
28 variance shall run longer than the time specified for
29 completion of the municipal waste treatment facility.
30 In any event, no variance issued under this section
31 may extend beyond July 1, 1988. Upon notice of the
32 availability of federal funds, the municipality shall
33 present to the Department of Environmental Protection
34 for approval an implementation schedule for design-
35 ing, constructing and placing the waste collection
36 and treatment facilities in operation.

37 Variances may be conditioned upon reasonable and nec-
38 essary terms relating to appropriate interim measures
39 to be taken by the municipality to maintain or im-
40 prove water quality.

41 **Sec. 16. 38 MRSA §451-A, sub-§7, as amended by**
42 **PL 1983, c. 566, §29, is repealed.**

1 **Sec. 17. 38 MRSA §455, as amended by PL 1983, c.**
2 **646, is repealed.**

3 **Sec. 18. 38 MRSA §464, sub-§4, ¶A, as amended by**
4 **PL 1987, c. 180, §4, is further amended to read:**

5 **A. Notwithstanding section 414-A, the board**
6 **shall not issue a water discharge license for any**
7 **of the following discharges:**

8 (1) Direct discharge of pollutants to wa-
9 ters having a drainage area of less than 10
10 square miles, except that discharges into
11 these waters which were licensed prior to
12 January 1, 1986, shall be allowed to contin-
13 ue only until practical alternatives exist;

14 (2) New direct discharge of domestic
15 pollutants to tributaries of Class-GPA wa-
16 ters;

17 (3) Any discharge into a tributary of GPA
18 waters which, by itself or in combination
19 with other activities, causes water quality
20 degradation which would impair the charac-
21 teristics and designated uses of downstream
22 GPA waters or causes an increase in the
23 trophic state of those GPA waters;

24 (4) Discharge of pollutants to waters of
25 the State which imparts color, taste,
26 turbidity, toxicity, radioactivity or other
27 properties which cause those waters to be
28 unsuitable for the designated uses and char-
29 acteristics ascribed to their class;

30 (5) Discharge of pollutants to any water of
31 the State which violates sections 465, 465-A
32 and 465-B, except as provided in section
33 451; causes the "pH" of fresh waters to fall
34 outside of the 6.0 to 8.5 range; causes the
35 "pH" of estuarine and marine waters to fall
36 outside of the 7.0 to 8.5 range; or causes
37 fish for human consumption to be injurious
38 to human health as determined by the United
39 States Food and Drug Administration under
40 the procedures established by United States

1 Code, Title 21, section 342 or as determined
2 by the Department of Human Services. The
3 Department of Human Services shall establish
4 a protocol for determining risk in these
5 situations. The protocol shall be promul-
6 gated as a rule in accordance with the Maine
7 Administrative Procedure Act, Title 5, chap-
8 ter 375; and

9 (6) New discharges of domestic pollutants
10 to the surface waters of the State which are
11 not conveyed and treated in federal, state,
12 municipal or quasi-municipal sewage facili-
13 ties. "New discharge" means any overboard
14 discharge which is licensed after the effec-
15 tive date of this section. For purposes of
16 licensing, the board shall treat an increase
17 in the licensed volume or quantity of an ex-
18 isting discharge or an expansion in the
19 months during which the discharge will take
20 place as a new discharge of domestic
21 pollutants.

22 Notwithstanding the provisions of this sub-
23 paragraph, an increase in the volume or
24 quantity of domestic pollutants in a li-
25 censed discharge of domestic pollutants ema-
26 nating from an existing commercial or indus-
27 trial business is not prohibited so long as,
28 in addition to all other provisions of ap-
29 plicable law, all the following conditions
30 are met:

31 (a) The board finds that, based on the
32 past record of compliance by the li-
33 censee with all requirements of its ex-
34 isting discharge licenses, the licensee
35 is likely to comply with the require-
36 ments of any subsequent license govern-
37 ing the increased discharge. The board
38 shall not make this finding if there
39 have been significant, numerous or re-
40 peated violations of any standard, lim-
41 it or condition of the existing li-
42 censes;

43 (b) The licensee agrees, as a license

1 condition, to retain qualified employ-
2 ees or independent consultants to en-
3 sure that the overboard discharge sys-
4 tem is meeting all requirements of the
5 license and to test, monitor and main-
6 tain the system. The board shall re-
7 quire, as a license condition, that the
8 licensee test the effluent on a weekly
9 basis to ensure that the license re-
10 quirements are being met and that the
11 licensee promptly submit reports of
12 these tests to the department; and

13 (c) The board finds that all require-
14 ments of paragraph G have been met with
15 respect to the proposed increase in the
16 overboard discharge.

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

19 F. Moose River Drainage.

20 (1) Moose River, main stem.

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

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

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

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

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

37 (f) From the outlet of Brassua Lake to

1 its confluence with Moosehead Lake -
2 Class B.

3 (2) Moose River, tributaries.

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

6 Sec. 20. 38 MRSA §467, sub-§7, ¶B, as enacted by
7 PL 1985, c. 698, §15, is amended to read:

8 B. Penobscot River, East Branch Drainage.

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

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

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

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

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

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

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

34 (c) All tributaries and segments of
35 the East Branch of the Penobscot River

1 which are within the boundaries of Baxter
2 State Park - Class AA.

3 (d) Sawtelle Brook, from a point lo-
4 cated 1,000 feet downstream from the
5 dam at the outlet of Sawtelle Deadwater
6 to its confluence with the Seboeis Riv-
7 er - Class B.

8 (e) Seboeis River, from the outlet of
9 Snowshoe Lake to its confluence with
10 the East Branch - Class B.

11 (f) Wassataquoik Stream, from the
12 boundary of Baxter State Park to its
13 confluence with the East Branch - Class
14 B.

15 (g) Webster Brook, from a point lo-
16 cated 1,000 feet downstream from the
17 dam at the outlet of Telos Lake to its
18 confluence with ~~Grand-Lake-Mattagamon~~
19 Webster Lake - Class B.

20 **Sec. 21. 38 MRSa §467, sub-§10, ¶A, as enacted**
21 **by PL 1985, c. 698, §15, is amended to read:**

22 A. Narraguagus River, main stem.

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

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

30 **Sec. 22. 38 MRSa §467, sub-§13, ¶A, as enacted**
31 **by PL 1985, c. 698, §15, is amended to read:**

32 A. St. Croix River, main stem.

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

1 (2) From the Grand Falls Dam to its conflu-
2 ence with Woodland 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. 23. 38 MRSa §467, sub-§15, ¶¶B and C, as**
9 **enacted by PL 1985, c. 698, §15, are 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 C. Aroostook River Drainage.

4 (1) Aroostook River, main stem.

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

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

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

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

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

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

31 (2) Aroostook River, tributaries.

32 (a) All tributaries and--segments of
33 the Aroostook River entering above the
34 confluence with St. Croix Stream which
35 are not otherwise classified - Class A.

36 (b) Limestone Stream from the Long

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

1 (m) St. Croix Stream tributaries -
2 Class A.

3 (n) Salmon Brook, from the dam immedi-
4 ately above Washburn to its confluence
5 with the Aroostook River - Class C.

6 (o) Squapan Stream and its tributaries
7 above the B&A Railroad bridge - Class
8 A.

9 (p) Unnamed Stream (Presque Isle) near
10 Vining Station on Washburn Road - Class
11 C.

12 Sec. 24. 38 MRSA §469, sub-§8, ¶E and F, as en-
13 acted by PL 1985, c. 698, §15, are amended to read:

14 E. Old Orchard Beach.

15 (1) Tidal waters of Goosefare Brook and its
16 tidal tributaries lying westerly of longi-
17 tude ~~70° - 22' - 55" W.~~ 70° - 23' - 08" W. -
18 Class SC.

19 F. Saco.

20 (1) Tidal waters of Goosefare Brook and its
21 tidal tributaries lying westerly of longi-
22 tude ~~70° - 22' - 55" W.~~ 70° - 23' - 08" W. -
23 Class SC.

24 (2) Tidal waters of the Saco River and its
25 tidal tributaries lying westerly of longi-
26 tude 70° - 22' - 54" W. - Class SC.

27 Sec. 25. 38 MRSA §473, sub-§2, as enacted by PL
28 1975, c. 595, §3, is amended to read:

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

33 Sec. 26. 38 MRSA §560, sub-§5, as amended by PL
34 1977, c. 78, §205, is further amended to read:

1 5. Exemption. The board may by regulation exempt
2 certain activities not inconsistent with the purposes
3 of this section. An unpowered vessel of less than
4 500 barrels total oil storage capacity is exempt from
5 the provisions of this section, provided that the
6 vessel is subject to any applicable rules adminis-
7 tered by the United States Coast Guard and the owner
8 notifies the department of the location and contents
9 of the vessel within 7 days of establishing the an-
10 chorage.

11 Sec. 27. 38 MRSA §1304, sub-§12, as enacted by
12 PL 1985, c. 746, §29, is amended to read:

13 12. Compliance orders. The commissioner may is-
14 sue compliance orders subject to the provisions of
15 this subsection.

16 A. Whenever, after investigation, the commis-
17 sioner determines that there is or has been an
18 unauthorized discharge of hazardous waste, con-
19 stituents of hazardous waste, or waste oil into
20 the environment which is or may be endangering or
21 causing damage to public health or the environ-
22 ment or that any person has violated or is in vi-
23 olation of any requirement of this subchapter,
24 including rules adopted thereunder, relating to
25 hazardous waste ~~which is endangering--or--causing~~
26 ~~damage--to--public--health--or--the--environment~~ or
27 waste oil activities, he may issue an order re-
28 quiring compliance immediately or within a speci-
29 fied time period or requiring corrective action
30 or other response measures as necessary to ~~remove~~
31 ~~the dangers to~~ protect the public health and
32 safety or the environment.

33 The commissioner may require assurance of finan-
34 cial ability for completing corrective action and
35 may require, where necessary, that corrective ac-
36 tion be taken beyond a facility or site to remove
37 the danger to the public health or the environ-
38 ment unless the person to whom the order is di-
39 rected demonstrates to the commissioner that, de-
40 spite that person's best efforts, he was unable
41 to obtain the necessary permission to undertake
42 such actions.

1 B. Any order issued under this subsection may be
2 directed to any person who causes or caused or
3 contributes or contributed to the discharge or
4 violation. Such order shall contain findings of
5 fact describing, insofar as possible, and with
6 reasonable specificity, the nature of the dis-
7 charge or violation, the wastes involved, the na-
8 ture of the cause or contribution of the person
9 with respect to the discharge or violation, the
10 site of the activity, the required action, the
11 time period for compliance and the danger, if
12 any, to public health or safety of the environ-
13 ment.

14 C. Service of the commissioner's findings and an
15 order shall be made by hand delivery by an autho-
16 rized representative of the department or by cer-
17 tified mailing, return receipt requested, in ac-
18 cordance with the Maine Rules of Civil Procedure.

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

39 Sec. 28. 38 MRSA §1310, last ¶, as repealed and
40 replaced by PL 1979, c. 699, §16, is amended to read:

41 The person to whom the order is directed shall
42 comply immediately. An order may not be appealed to
43 the Superior Court, but a person to whom it is di-

1 rected may apply to the board for a hearing on the
2 order, if the application is made within 48 hours af-
3 ter receipt of the order by the person to whom the
4 order was directed. ~~The hearing shall be held by the~~
5 ~~board within 48 hours after receipt of application.~~
6 ~~Within 7 days after the hearing, the board shall make~~
7 ~~findings of fact and continue, revoke or modify the~~
8 ~~order. Within 5 working days after receipt of the~~
9 ~~application, the board shall hold a hearing, make~~
10 ~~findings of fact and continue, revoke or modify the~~
11 ~~order. The decision of the board may be appealed to~~
12 ~~the Superior Court in accordance with Title 5, chap-~~
13 ~~ter 375, subchapter VII.~~

14 Sec. 29. 38 MRSA §1319-E, sub-§2, as enacted by
15 PL 1981, c. 478, §7, is repealed.

16 Sec. 30. 38 MRSA §1364, sub-§4, as amended by PL
17 1985, c. 746, §34, is further amended to read:

18 4. Designation. In accordance with section
19 1365, the commissioner may declare a site to be an
20 uncontrolled hazardous substance site. The designa-
21 tion may be appealed only upon the issuance of an or-
22 der pursuant to section 1365, subsection 5 2, as pro-
23 vided in section 1365, subsection 4.

24 Sec. 31. 38 MRSA §1364, sub-§6, as enacted by PL
25 1983, c. 569, §1, is amended to read:

26 6. Accept funds. The department may accept any
27 public or private funds which may be available for
28 carrying out the purposes of this chapter. The Un-
29 ~~controlled Hazardous Substance Sites Trust Fund is~~
30 ~~established to be used by the department as a non-~~
31 ~~lapsing revolving fund for carrying out the purposes~~
32 ~~of this chapter, including the long-term oversight of~~
33 ~~uncontrolled hazardous substance sites. Money in the~~
34 ~~fund, not needed currently to meet the obligations of~~
35 ~~the department in the exercise of its responsibili-~~
36 ~~ties under this chapter, shall be deposited with the~~
37 ~~Treasurer of State to the credit of the fund and may~~
38 ~~be invested in such manner as is provided for by law.~~
39 ~~Interest received on that investment shall be cred-~~
40 ~~ited to the fund. All funds from whatever source~~
41 ~~available for site evaluation and investigation and~~
42 ~~for the implementation of plans to abate, clean up or~~

1 mitigate threats or hazards to the public health,
2 safety or welfare and to the environment are to be
3 expended under the direction and supervision of the
4 commissioner and shall be segregated, apportioned and
5 expended as provided by the Legislature.

6 **Sec. 32.** 38 MRSa §1366, last ¶, as enacted by PL
7 1983, c. 569, §1, is repealed.

8 **Sec. 33.** 38 MRSa §1367, last ¶, as enacted by PL
9 1983, c. 569, §1, is amended to read:

10 Funds recovered under this section shall be de-
11 posited into the ~~account from which the funds were~~
12 expended Uncontrolled Hazardous Substance Sites Trust
13 Fund and shall be used by the department to carry out
14 the purposes of this chapter.

15 **Sec. 34.** 38 MRSa §1371 is enacted to read:

16 §1371. Lien established

17 All costs incurred by the State resulting from
18 the abatement, cleanup or mitigation of a discharge
19 of a hazardous substance or of hazards posed by an
20 uncontrolled hazardous substance site designated pur-
21 suant to section 1364, shall be a lien against the
22 real estate of the person causing the discharge or,
23 if the site is an uncontrolled site, the responsible
24 party.

25 1. Notice. A certificate of lien signed by the
26 Commissioner of Environmental Protection shall be
27 mailed by certified mail, return receipt requested,
28 to all those persons of record holding an interest in
29 such real estate over which the commissioner's lien
30 is entitled to priority. A certificate may be filed
31 for record in the office of clerk of any municipality
32 in which the real estate is situated.

33 2. Recording. Such a lien shall be effective
34 when filed with the registry of deeds for the county
35 in which the real estate is located. The lien shall
36 include a description of the real estate, the amount
37 of the lien and the name of the owner as grantor.
38 Such a lien shall take precedence over all transfers
39 and encumbrances recorded on or after June 1, 1987,

1 which affect any interest in the real estate or any
2 part of it, including all real estate which has been
3 included in the property description of the real es-
4 tate within the preceding 3 years.

5 3. Limitation. This section does not apply to
6 real estate which consists exclusively of residential
7 real estate.

8 4. Discharge of lien. When the amount with re-
9 spect to which a lien has been recorded under the
10 provisions of this section has been paid or reduced,
11 the commissioner, upon request by any person of
12 record holding an interest in the real estate, which
13 is the subject of the lien, shall issue a certificate
14 discharging or partially discharging such lien, which
15 certificate shall be recorded in the registry in
16 which the lien was recorded. Any action of the fore-
17 closure of the lien shall be brought by the Attorney
18 General in the name of the State in the Superior
19 Court for the judicial district in which the property
20 subject to the lien is situated.

21 Sec. 35. PL 1985, c. 746, §36, is amended to
22 read:

23 Sec. 36. Transition. Consistent with the Maine
24 Revised Statutes, Title 5, chapter 69, for any posi-
25 tion affected by this Act and subject to the
26 Personnel Civil Service Law on the effective date of
27 this Act, the incumbent in the position shall retain
28 his appointment subject to the Personnel Law until 3
29 years after the effective date of this Act. The in-
30 cumbent shall be compensated, whether occupying the
31 same or another position, according to the terms of
32 his salary range prior to the effective date of this
33 Act during the 3-year period until July 16, 1989, un-
34 less that incumbent elects to waive the provisions of
35 this section. If that incumbent waives the provi-
36 sions of this section, he shall be compensated ac-
37 ording to the provisions of the Maine Revised Stat-
38 utes, Title 2, section 6, subsection 4, if he occu-
39 pies a position named in that subsection.

40 FISCAL NOTE

1 This bill will simplify the fee structure of the
2 Maine Environmental Protection Fund and result in an
3 increase in dedicated revenue to the fund in the
4 amount of \$34,700 annually.'

5 STATEMENT OF FACT

6 Section 1 adds the stream alteration and the
7 freshwater laws to the list of land use laws over
8 which the District Court has jurisdiction.

9 Section 2 adds provisions to the District Court's
10 jurisdiction to facilitate enforcement of air quality
11 laws.

12 Sections 3 and 35 modify the transition provi-
13 sions of earlier legislation, Public Law 1985, chap-
14 ter 746, to allow the Commissioner of Environmental
15 Protection to appoint new bureau directors of his own
16 choosing while providing the incumbents in those po-
17 sitions with salary protection consistent with the
18 intent of the earlier legislation.

19 Section 4 removes the position of assistant to
20 the commissioner.

21 Sections 5 to 9 make changes to the Maine Envi-
22 ronmental Protection Fund. One change is from a
23 3-fee system to a 2-fee system. The filing and pro-
24 cessing fees are one fee, a processing fee. The com-
25 pliance or license fee remains the same. This change
26 will streamline the processing of applications by re-
27 ducing administrative time and simplifying the over-
28 all fee structure.

29 Section 10. The 112th Legislature exempted the
30 placement of certain water lines and utility cables
31 from review under the Great Ponds Law, the Maine Re-
32 vised Statutes, Title 38, sections 386 to 396. The
33 Bureau of Public Lands has authority to issue leases
34 and easements for submerged lands owned by the State,
35 Title 12, section 558-A. This addition provides for
36 notice to the Bureau of Public Lands that the ex-
37 empted activity will occur so that lease or easement
38 arrangements can be made.

1 Section 11 makes the antidegradation criteria
2 consistent with Title 38, section 464, subsection 4,
3 paragraph F, the water reclassification law.

4 Section 12 removes the requirement to solicit
5 comments on a specific type of stream alteration ap-
6 plication, thereby reducing processing time.

7 Section 13 clarifies the definition of altered
8 shoreline within the stream alteration law.

9 Section 14 restricts timber harvesting in re-
10 source protection districts around great ponds.

11 Section 15 clarifies that the intent of time
12 schedule variances is to exempt municipalities from
13 the requirement to provide best practicable treatment
14 under certain conditions. In previous legislation,
15 the specific "time schedule" deadline has been de-
16 leted. The proposed change focuses legislative in-
17 tent on treatment goal rather than dates which have
18 now been removed from the laws.

19 Section 15 also sets a July 1, 1988, limitation
20 on variances which may be issued by the Board of En-
21 vironmental Protection. This makes state law con-
22 sistent with the United States Clean Water Act dead-
23 line for municipalities to provide required
24 wastewater treatment.

25 Section 16. Repeal of this section is necessary
26 as the department no longer uses the variance for
27 single-family homes. Deadline for use of the vari-
28 ance was July 1, 1985.

29 Section 17. Repeal of this section is necessary.
30 It required the department to conduct a study of the
31 sardine industry's wastewater discharges. The study
32 has been complete, standards set and licenses issued.

33 Section 18 conforms the statutory language of the
34 overboard discharge with the intent of the Legisla-
35 ture as expressed during debate on the bill in the
36 Senate. At that time, the Legislature expressed its
37 intent that state and federal facilities not be af-
38 fected by the ban on new overboard discharges. These
39 governmental units should be treated in the same man-

1 ner as municipalities.

2 Sections 19 and 21. As stated on page 13 of the
3 March, 1986, Water Reclassification Report of the
4 Joint Standing Committee on Energy and Natural Re-
5 sources, it was the committee's intent that waters
6 protected under Title 12, section 403, which did not
7 receive licensed discharges and which were Class A
8 prior to enactment of L.D. 2283, be upgraded to Class
9 AA. In the rush of the committee's work, however, a
10 segment of the Narraguagus River was omitted and a
11 segment of the Moose River was mistakenly downgraded
12 to Class B.

13 Section 20. The classification assigned to Web-
14 ster Brook in Title 38, section 467, subsection 7,
15 paragraph B, contradicts the AA classification as-
16 signed to that portion of Webster Brook lying within
17 the bounds of Baxter State Park under section 467,
18 subsection 7, paragraph B.

19 Section 22. The enactment of this section was
20 accidentally recommended when the Department of Envi-
21 ronmental Protection staff overlooked the fact that
22 this segment receives a cooling water discharge.
23 The change is needed to maintain consistency with the
24 requirements of section 465-A.

25 Section 23. Two minor errors of duplication oc-
26 curred for tributaries of the Allagash and Aroostook
27 Rivers.

28 Section 24. An error in transcribing the Depart-
29 ment of Environmental Protection's proposal was made
30 which resulted in a misstatement of what longitude
31 defines the mouth of the Goosefare Brook Estuary.

32 Section 25. When the shoreland zoning law was
33 transferred from Title 12 to Title 38, this reference
34 was overlooked.

35 Section 26 provides a limited exemption for small
36 oil storage barges used in the islands. The 500 bar-
37 rel exemption is consistent with the Oil Discharge
38 Prevention and Control law. This section also ensure
39 the department is notified of the location and con-
40 tents of exempted vessels.

1 Section 27. This section modifies the compliance
2 order provision by allowing the orders to be issued
3 for hazardous waste discharges or violations so that
4 compliance may be sought without having the commis-
5 sioner prove that actual damage is occurring to pub-
6 lic health or the environment. The purpose of the
7 compliance order provision is to restore compliance
8 before any harm can occur. This section also changes
9 how appeals to an order may be conducted by:

10 1. Allowing hearings and the decision on the or-
11 der to be completed within 15 working days after re-
12 ceipt of the application. Hearings will not require
13 6 members of the board to attend. Any decision would
14 still require a majority of the board to vote, con-
15 sistent with other statutory provisions; and

16 2. Removing a section which describes departmen-
17 tal responsibilities in an appeal, but fails to speci-
18 fy appellant responsibilities. The responsibilities
19 may be specified during case specific appeal hear-
20 ings.

21 Section 28. This section specifies that orders
22 issued under the emergency provisions of section 1310
23 may be appealed, but specifies that such appeals must
24 be filed within 48 hours. A hearing and decision
25 must be made within 5 working days of receipt of an
26 appeal application.

27 Section 29. This section repeals the limitation
28 currently placed upon the Hazardous Waste Fund for
29 use for activities which may be compensated by the
30 Federal Superfund. The recent federal
31 reauthorization of the Superfund included provisions
32 which no longer result in a preemption of the Hazard-
33 ous Waste Fund by the Superfund for certain activi-
34 ties. Consequently, the current limitation on the
35 fund no longer applies.

36 Section 30 makes a technical change.

37 Section 31. This section clarifies how the de-
38 partment may handle public or private funds received
39 for the cleanup of uncontrolled sites. Cleanup of
40 sites often involves future oversight for a period of
41 years and settlement of these cases with responsible

1 parties may involve receiving money for future costs
2 by the State. This section establishes a trust fund
3 for use by the department to properly administer
4 those funds. No fees or taxes are associated with
5 this trust fund.

6 Section 32. This section repeals the last para-
7 graph of Title 38, section 1366. That paragraph
8 which describes the use of available funds has been
9 relocated to 1364, thereby consolidating provisions
10 concerning funds and allocations.

11 Section 33. This section specifies that funds
12 recovered for uncontrolled hazardous substance sites
13 be deposited into the Uncontrolled Hazardous Sub-
14 stance Sites Trust Fund.

15 Section 34. This section provides the State with
16 the ability to place a priority lien on property,
17 other than residential property, where the department
18 has expended funds to clean up uncontrolled hazardous
19 substance discharges and sites. This provision will
20 aid the department as it does in other New England
21 States, in recovering thousands of dollars in
22 clean-up funds by registering a lien on the property
23 until the claim has been satisfied.

24

3611061587