

# MAINE STATE LEGISLATURE

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L.D. 2316

(Filing No. H-641)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
113TH LEGISLATURE  
SECOND REGULAR SESSION

7  
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COMMITTEE AMENDMENT "A" to H.P. 1687, L.D. 2316,  
Bill, "AN ACT to Consolidate State Land Use Statutes  
into the Natural Resources Protection Act."

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12

Amend the bill by striking everything after the  
enacting clause and inserting in its place the  
following:

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'Sec. 1. 38 MRSA c. 3, sub-c. I, Arts. 1-A, 1-C,  
2-A and 5, as amended, are repealed.

15  
16

Sec. 2. 38 MRSA c. 3, sub-c. I, Art. 5-A is  
enacted to read:

17

ARTICLE 5-A

18

PROTECTION OF NATURAL RESOURCES

19

§480-A. Findings; purpose

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The Legislature finds and declares that the  
State's rivers and streams, great ponds, fragile  
mountain areas, freshwater wetlands, significant  
wildlife habitat, coastal wetlands and coastal sand  
dunes systems are resources of state significance.  
These resources have great scenic beauty and unique  
characteristics, unsurpassed recreational, cultural,  
historical and environmental value of present and  
future benefit to the citizens of the State and that

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1 uses are causing the rapid degradation and, in some  
2 cases, the destruction of these critical resources,  
3 producing significant adverse economic and  
4 environmental impacts and threatening the health,  
5 safety and general welfare of the citizens of the  
6 State.

7 The Legislature further finds and declares that  
8 there is a need to facilitate research, develop  
9 management programs and establish sound environmental  
10 standards that will prevent the degradation of and  
11 encourage the enhancement of these resources. It is  
12 the intention of the Legislature that existing  
13 programs related to Maine's rivers and streams, great  
14 ponds, fragile mountain areas, freshwater wetlands,  
15 significant wildlife habitat, coastal wetlands and  
16 sand dunes systems continue and that the Department of  
17 Environmental Protection provide coordination and  
18 vigorous leadership to develop programs to achieve the  
19 purposes of this article. The well-being of the  
20 citizens of this State requires the development and  
21 maintenance of an efficient system of administering  
22 this article to minimize delays and difficulties in  
23 evaluating alterations of these resource areas.

24 The Legislature further finds and declares that  
25 the cumulative effect of frequent minor alterations  
26 and occasional major alterations of these resources  
27 poses a substantial threat to the environment and  
28 economy of the State and its quality of life.

29 §480-B. Definitions

30 As used in this article, unless the context  
31 otherwise indicates, the following terms have the  
32 following meanings.

33 1. Coastal sand dune systems. "Coastal sand dune  
34 systems" means sand deposits within a marine beach  
35 system, including, but not limited to, beach berms,  
36 frontal dunes, dune ridges, back dunes and other sand  
37 areas deposited by wave or wind action. Coastal sand  
38 dunes may extend into the coastal wetlands.

39 2. Coastal wetlands. "Coastal wetlands" means  
40 all tidal and subtidal lands, including all areas

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1 below any identifiable debris line left by tidal  
2 action; all areas with vegetation present that is  
3 tolerant of salt water and occurs primarily in a salt  
4 water or estuarine habitat; and any swamp, marsh, bog,  
5 beach, flat or other contiguous lowland which is  
6 subject to tidal action or annual storm flowage at any  
7 time excepting periods of maximum storm activity.  
8 Coastal wetlands may include portions of coastal sand  
9 dunes.

10 3. Fragile mountain areas. "Fragile mountain  
11 areas" means areas above 2,700 feet in elevation from  
12 mean sea level.

13 4. Freshwater wetlands. "Freshwater wetlands"  
14 means freshwater swamps, marshes, bogs and similar  
15 areas which are:

16 A. Of 10 or more contiguous acres;

17 B. Characterized predominantly by wetland  
18 vegetation; and

19 C. Not considered part of a great pond, coastal  
20 wetland, river, stream or brook.

21 These areas may contain small inclusions of land that  
22 do not conform to the criteria of this subsection.

23 5. Great ponds. "Great ponds" means any inland  
24 bodies of water which in a natural state have a  
25 surface area in excess of 10 acres and any inland  
26 bodies of water artificially formed or increased which  
27 have a surface area in excess of 30 acres.

28 6. Normal high water line. "Normal high water  
29 line" means that line along the shore of a great pond,  
30 river, stream, brook or other nontidal body of water  
31 which is apparent from visible markings, changes in  
32 the character of soils due to prolonged action of the  
33 water or from changes in vegetation and which  
34 distinguishes between predominantly aquatic and  
35 predominantly terrestrial land. In the case of great  
36 ponds, all land below the normal high water line shall  
37 be considered the bottom of the great pond for the  
38 purposes of this article.

1           7. Permanent structure.       "Permanent structure"  
2       means any structure constructed or erected with a  
3       fixed location, or attached to a structure with a  
4       fixed location, on or in the ground within a fragile  
5       mountain area, or having a fixed location in, on or  
6       over the water for a period exceeding 7 months each  
7       year, including, but not limited to, causeways, piers,  
8       docks, concrete slabs, piles, marinas, retaining walls  
9       and buildings.

10           8. Protected natural resource.       "Protected  
11       natural resource" means coastal sand dune system,  
12       coastal wetlands, significant wildlife habitat,  
13       fragile mountain areas, freshwater wetlands, great  
14       ponds or rivers, streams or brooks, as these terms are  
15       defined in this article.

16           9. River, stream or brook.       "River, stream or  
17       brook" means a channel between defined banks including  
18       the floodway and associated floodplain wetlands where  
19       the channel is created by the action of the surface  
20       water and characterized by the lack of upland  
21       vegetation or presence of aquatic vegetation and by  
22       the presence of a bed devoid of top soil containing  
23       water-borne deposits on exposed soil, parent material  
24       or bedrock.

25           10. Significant wildlife habitat.       "Significant  
26       wildlife habitat" means the following areas to the  
27       extent that they have been mapped by the Department of  
28       Inland Fisheries and Wildlife: Habitat for species  
29       appearing on the official state or federal lists of  
30       endangered or threatened species; high and moderate  
31       value deer wintering areas and travel corridors as  
32       defined by the Department of Inland Fisheries and  
33       Wildlife; high and moderate value waterfowl and wading  
34       bird habitats, including nesting and feeding areas as  
35       defined by the Department of Inland Fisheries and  
36       Wildlife; critical spawning and nursery areas for  
37       Atlantic sea run salmon as defined by the Atlantic Sea  
38       Run Salmon Commission; and shorebird nesting, feeding  
39       and staging areas and seabird nesting islands as  
40       defined by the Department of Inland Fisheries and  
41       Wildlife.

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1           11. Wetland vegetation.        "Wetland vegetation"  
2 means carex, rushes, reedtop, reed grasses, manna  
3 grasses, prairie cordgrass, mints, plume grass, rice  
4 cut-grass, sedges, giant burweed, cattails,  
5 arrowheads, pickerelweed, smartweeds, spike rushes,  
6 wild rice, pondweeds, duckweeds, coontail,  
7 spatterdock, wild celery, water milfoil, water lilies,  
8 alder, dogwood, willow, buttonbush, sweet gale,  
9 labrador tea, leatherleaf, cranberries, cotton grass,  
10 sphagnum moss, stunted black spruce and stunted  
11 tamarack; provided that such vegetation is growing in  
12 generally waterlogged areas or water-covered areas.

13       §480-C. Prohibitions

14           1. Prohibition. No person may perform or cause  
15 to be performed any activity listed in subsection 2  
16 without first obtaining a permit from the Board of  
17 Environmental Protection or in violation of the  
18 conditions of a permit, if these activities:

19           A. Are in, on or over any protected natural  
20 resource; or

21           B. Are on land adjacent to any freshwater or  
22 coastal wetland, great pond, river, stream or  
23 brook and operate in such a manner that material  
24 or soil may be washed into them.

25           2. Activities requiring a permit. The following  
26 activities require a permit:

27           A. Dredging, bulldozing, removing or displacing  
28 soil, sand, vegetation or other materials;

29           B. Draining or otherwise dewatering;

30           C. Filling, including adding sand or other  
31 material to a sand dune; or

32           D. Any construction, repair or alteration of any  
33 permanent structure.

34           3. Application. This section applies to all  
35 protected natural resources without regard to whether  
36 they have been mapped pursuant to section 480-I,

1 except that significant wildlife habitat must be  
2 mapped before this section applies.

3 §480-D. Standards

4 The Board of Environmental Protection shall grant  
5 a permit upon proper application and upon such terms  
6 as it deems necessary to fulfill the purposes of this  
7 article. The board shall grant a permit when it finds  
8 that the applicant has demonstrated that the proposed  
9 activity meets the following standards.

10 1. Existing uses. The activity will not  
11 unreasonably interfere with existing scenic,  
12 aesthetic, recreational or navigational uses.

13 2. Soil erosion. The activity will not cause  
14 unreasonable erosion of soil or sediment nor inhibit  
15 the natural transfer of soil from the terrestrial to  
16 the marine or freshwater environment.

17 3. Harm to habitats; fisheries. The activity  
18 will not unreasonably harm any significant wildlife  
19 habitat, freshwater wetland plant habitat, aquatic  
20 habitat, travel corridor, freshwater, estuarine or  
21 marine fisheries or other aquatic life.

22 In determining whether there is unreasonable harm to  
23 significant wildlife habitat, the board may consider  
24 proposed mitigation if that mitigation does not  
25 diminish in the vicinity of the proposed activity the  
26 overall value of significant wildlife habitat and  
27 species utilization of the habitat and if there is no  
28 specific biological or physical feature unique to the  
29 habitat that would be adversely affected by the  
30 proposed activity. For purposes of this subsection,  
31 "mitigation" means any action taken or not taken to  
32 avoid, minimize, rectify, reduce, eliminate or  
33 compensate for any actual or potential adverse impact  
34 on the significant wildlife habitat, including the  
35 following:

36 A. Avoiding an impact altogether by not taking a  
37 certain action or parts of an action;

38 B. Minimizing an impact by limiting the

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- 1            magnitude, duration or location of an activity or  
2            by controlling the timing of an activity;
- 3            C. Rectifying an impact by repairing,  
4            rehabilitating or restoring the affected  
5            environment;
- 6            D. Reducing or eliminating an impact over time  
7            through preservation and maintenance operations  
8            during the life of the project; or
- 9            E. Compensating for an impact by replacing the  
10           affected significant wildlife habitat.
- 11           4. Interfere with natural water flow. The  
12           activity will not unreasonably interfere with the  
13           natural flow of any surface or subsurface waters.
- 14           5. Lower water quality. The activity will not  
15           violate any state water quality law, including those  
16           governing the classification of the State's waters.
- 17           6. Flooding. The activity will not unreasonably  
18           cause or increase the flooding of the alteration area  
19           or adjacent properties.
- 20           7. Sand supply. If the activity is on or  
21           adjacent to a sand dune, it will not unreasonably  
22           interfere with the natural supply or movement of sand  
23           within or to the sand dune system or unreasonably  
24           increase the erosion hazard to the sand dune system.
- 25           8. Outstanding river segments. If the proposed  
26           activity is a crossing of any outstanding river  
27           segment as identified in section 480-P, the applicant  
28           shall demonstrate that no reasonable alternative  
29           exists which would have less adverse effect upon the  
30           natural and recreational features of the river segment.
- 31           §480-E. Permits; grants; denials; suspensions
- 32           The department shall process all permits under



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1 this article in accordance with chapter 2.

2 The board shall not issue a permit without  
3 notifying the municipality in which the proposed  
4 activity is to occur and considering any comments  
5 filed by the municipality within a reasonable period  
6 as established by the board.

7 If the resource subject to alteration or the  
8 underlying ground water is utilized by a water  
9 company, municipality or water district as a source of  
10 supply, the applicant for the permit shall, at the  
11 time of filing an application, forward a copy of the  
12 application to the water company, municipality or  
13 water district by certified mail and the board shall  
14 consider any comments filed within a reasonable  
15 period, as established by the board.

16 When winter conditions prevent the board or  
17 municipality from evaluating a permit application, the  
18 board or municipality, upon notifying the applicant of  
19 that fact, may defer action on the application for a  
20 reasonable period. The applicant shall not during the  
21 period of deferral alter the resource area in question.

22 §480-F. Delegation of permit-granting authority to  
23 municipality; home rule

24 1. Delegation. All permits shall be issued by  
25 the Board of Environmental Protection, subject to  
26 delegation to the commissioner as provided by law,  
27 except that a municipality may apply to the board for  
28 authority to issue such permits. The board shall  
29 grant such authority if it finds that the municipality  
30 has:

31 A. Established a planning board;

32 B. Adopted a comprehensive plan and related land  
33 use ordinances consistent with the criteria set  
34 forth in Title 30, subchapter VI;

35 C. The financial, technical and legal resources  
36 to adequately review and analyze permit  
37 applications and oversee and enforce permit  
38 requirements;

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1           D. Made provision by ordinance or rule for prompt  
2           notice to the board and the public upon receipt of  
3           application and written notification to the  
4           applicant and the board of the issuance or denial  
5           of a permit stating the reasons for issuance or  
6           denial; and

7           E. Provided that the application form is the same  
8           as that provided by the Board of Environmental  
9           Protection.

10           2. Procedure. No permit issued by a municipality  
11           may become effective until 30 days subsequent to its  
12           receipt by the board, but, if approved by the board in  
13           less than 30 days, the effective date shall be the  
14           date of approval. A copy of the application for the  
15           permit and the permit issued by the municipality shall  
16           be sent to the board immediately upon its issuance by  
17           registered mail. The board shall review that permit  
18           and either approve, deny or modify it as the board  
19           deems necessary. If the board does not act within 30  
20           days of its receipt of the permit by the municipality,  
21           this shall constitute its approval and the permit  
22           shall be effective as issued, except that within this  
23           30-day period the board may extend the time for its  
24           review an additional 30 days.

25           3. Home rule. Nothing in this article may be  
26           understood or interpreted to limit the home rule  
27           authority of a municipality to protect the natural  
28           resources of the municipality through enactment of  
29           standards that are more stringent than those found in  
30           this article.

31           4. Joint enforcement. Any person who violates  
32           any permit issued under this section is subject to the  
33           provisions of section 349 in addition to any penalties  
34           which the municipality may impose. The provisions of  
35           this section may be enforced by the department and the  
36           municipality which issued the permit.

37           §480-G. Periodic review of delegated authority

38           If the board finds that a municipality has failed  
39           to satisfy one or more of the criteria listed in

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1 section 480-F, the board shall notify the municipality  
2 accordingly and make recommendations through which it  
3 may establish compliance. The municipality may then  
4 submit a modified application for approval.

5 If, at any time, the board determines that a  
6 municipality may be failing to exercise its permit-  
7 granting authority in accordance with its approval  
8 procedures or the purposes of this article, the board  
9 shall notify the municipality of the specific alleged  
10 deficiencies and shall order a public hearing of which  
11 adequate public notice shall be given to be held in  
12 the municipality to solicit public or official comment  
13 on the alleged deficiencies. Following the hearing,  
14 if the board finds such deficiencies, the board shall  
15 revoke the municipality's permit-granting authority.  
16 The municipality may reapply for authority at any time.

17 §480-H. Rules; performance and use standards

18 In fulfilling its responsibilities to adopt rules  
19 pursuant to section 343-A, the board shall, to the  
20 extent practicable, adopt performance and use  
21 standards for activities regulated by this article.

22 §480-I. Identification of freshwater wetlands and  
23 fragile mountain areas

24 1. Identification by maps. The department shall  
25 map areas meeting the definition of freshwater  
26 wetlands and fragile mountain areas set forth in this  
27 article and shall periodically review and revise the  
28 maps identifying these areas. Maps of significant  
29 wildlife habitats shall be adopted by rule pursuant to  
30 the Maine Administrative Procedure Act, Title 5,  
31 chapter 375, to the extent that those habitats are  
32 identified by the Department of Inland Fisheries and  
33 Wildlife.

34 2. Procedures. The maps and subsequent  
35 amendments identifying freshwater wetlands,  
36 significant wildlife habitat and fragile mountain  
37 areas shall be subject to the following procedures.

38 A. Preliminary maps of the affected area or  
39 amendments of a map shall be sent to the municipal  
40 officers or their designees.

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1 B. Upon receipt of the proposed maps, the  
2 municipal officers of each municipality shall take  
3 any action they deem appropriate to increase  
4 public participation in this identification and  
5 delineation, but shall return their comments to  
6 the department within a 90-day period.

7 §480-J. Maps

8 Maps delineating the boundaries of freshwater  
9 wetlands, significant wildlife habitat and fragile  
10 mountain areas that meet the criteria of this article  
11 shall be available at the offices of the municipality  
12 and of the regional council in which the resources are  
13 located.

14 §480-K. Data bank

15 The Department of Environmental Protection shall  
16 maintain, in cooperation with other state agencies, a  
17 data bank containing all the known information  
18 pertaining to all resources of state significance, as  
19 enumerated in this article, within the State. All  
20 governmental agencies, state or federal, shall make  
21 available to the department such information in their  
22 possession relating to these resources.

23 §480-L. Research

24 The Department of Environmental Protection, in  
25 cooperation with other state agencies, is authorized  
26 to conduct research and studies to determine how the  
27 resource values of resources of state significance can  
28 be restored and enhanced.

29 §480-M. Funds

30 The Department of Environmental Protection is the  
31 public agency of the State authorized to accept funds,  
32 public and private, for the purposes of this article.

33 §480-N. Lake Restoration and Protection Fund

34 1. Fund purposes and administration. There is  
35 established a nonlapsing Lake Restoration and

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1 Protection Fund, from which the department may pay up  
2 to 50% of the eligible costs incurred in a lake  
3 restoration or protection project. Eligible costs  
4 include all costs except those related to land  
5 acquisition, legal fees and debt service. All money  
6 credited to that fund shall be used by the department  
7 for projects to improve or maintain the quality of  
8 lake waters in the State and for no other purpose.  
9 The Commissioner of Environmental Protection may  
10 authorize the State Controller to draw a warrant for  
11 such funds as may be necessary to pay the lawful  
12 expenses of the lake restoration or protection  
13 project, up to the limits of the money duly  
14 authorized. Any balance remaining in the fund shall  
15 continue without lapse from year to year and remain  
16 available for the purpose for which the fund is  
17 established and for no other purpose.

18 2. Money. Money in the Lake Restoration and  
19 Protection Fund may not be used for projects in or on  
20 lakes for which public access is not provided.

21 \$480-O. Bulkheads and retaining walls on Scarborough  
22 River; permit requirements

23 Nothing in this article prohibits the rebuilding,  
24 replacement or new construction of a bulkhead,  
25 retaining wall or similar structure, provided that the  
26 applicant for a permit demonstrates to the board or  
27 municipality, as appropriate, that the following  
28 conditions are met.

29 1. Location. The bulkhead or similar structure  
30 to be constructed, rebuilt or replaced is located  
31 along some or all of the north-northeasterly property  
32 lines of land abutting the Scarborough River from the  
33 jetty to the Scarborough town landing.

34 2. Termination. The terminus of any bulkhead or  
35 similar structure, including any wing wall, unless  
36 connected to another bulkhead or similar structure,  
37 shall terminate at least 25 feet from any abutting  
38 property.

39 Any permit issued under this section for a  
40 bulkhead or similar structure which is not connected

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1 at both ends to another bulkhead or similar structure  
2 shall be subject to only the standard conditions  
3 applicable to all permits granted under this article  
4 as well as the following conditions. The permit  
5 applicant or applicants shall be responsible for  
6 reasonably maintaining the bulkhead or similar  
7 structure and for repairing damage to the frontal sand  
8 dune which occurs between the end of the bulkhead or  
9 similar structure and the Scarborough town landing and  
10 which is caused by the existence of the bulkhead or  
11 similar structure. The applicant or applicants shall  
12 submit a report prepared by a state-certified  
13 geologist to the commissioner every 2nd year following  
14 issuance of the permit or until such time as the  
15 commissioner deems the report need not be filed or may  
16 be filed at longer intervals. The report shall  
17 describe the status of the frontal sand dune between  
18 the end of the bulkhead or similar structure and the  
19 Scarborough town landing and contain whatever  
20 recommendations the geologist determines are  
21 reasonably required to maintain the frontal sand dune  
22 in that area. The applicant or applicants shall  
23 follow the recommendations.

24 §480-P. Special protection for outstanding river  
25 segments

26 In accordance with Title 12, section 402,  
27 outstanding river segments shall include:

28 1. Aroostook River. The Aroostook River from the  
29 Canadian border to the Masardis and T.10, R.6,  
30 W.E.L.S. town line, excluding the segment in T.9, R.5,  
31 W.E.L.S., including its tributaries the Big Machias  
32 River from the Aroostook River to the Ashland and  
33 Garfield Plantation town line and the St. Croix Stream  
34 from the Aroostook River in Masardis to the Masardis  
35 and T.9, R.5, W.E.L.S. town line;

36 2. Carrabassett River. The Carrabassett River  
37 from the Kennebec River to the Carrabassett Valley and  
38 Mt. Abram Township town line;

39 3. Crooked River. The Crooked River, including  
40 the Songo River, from its inlet into Sebago Lake in  
41 Casco to the Waterford and Albany Township town lines;

1           4. Dennys River. The Dennys River from the  
2 railroad bridge in Dennysville Station to the outlet  
3 of Meddybemps Lake, excluding the western shore in  
4 Edmunds Township and No. 14 Plantation;

5           5. East Machias River. The East Machias River,  
6 including the Maine River, from the old powerhouse in  
7 East Machias to the East Machias and T.18, E.D.,  
8 B.P.P. town line, from the T. 19, E.D., B.P.P. and  
9 Wesley town line to the outlet of Crawford Lake and  
10 from the No. 21 Plantation and Alexander town line to  
11 the outlet of Pocomoonshine Lake, excluding Hadley  
12 Lake, Lower Mud Pond and Upper Mud Pond;

13           6. Fish River. The Fish River from the bridge in  
14 Fort Kent Mills to the Fort Kent and Wallagrass  
15 Plantation town line, from the T.16, R.6, W.E.L.S. and  
16 Eagle Lake town line to the Eagle Lake and Winterville  
17 Plantation town line and from the T.14, R.6, W.E.L.S.  
18 and Portage Lake town line to the Portage Lake and  
19 T.13, R.7, W.E.L.S. town line, excluding Portage Lake;

20           7. Kennebago River. The Kennebago River from its  
21 inlet into Cupsuptic Lake to the Rangeley and Lower  
22 Cupsuptic Township town line;

23           8. Kennebec River. The Kennebec River from the  
24 Route 148 bridge in Madison to the Caratunk and The  
25 Forks Plantation town line, excluding the western  
26 shore in Concord Township, Pleasant Ridge Plantation  
27 and Carrying Place Township and excluding Wyman Lake;

28           9. Machias River. The Machias River from the  
29 Route 1 bridge to the Northfield and T.19, M.D.,  
30 B.P.P. town line, including its tributaries the Old  
31 Stream from the Machias River to the northern most  
32 crossing of the Wesley and T.31, M.D., B.P.P. town  
33 line, excluding the segments in T.25, M.D., B.P.P. and  
34 T.31, M.D., B.P.P.;

35           10. Mattawamkeag River. The Mattawamkeag River  
36 from the Penobscot River to the Mattawamkeag and  
37 Kingman Township town line and from the Reed  
38 Plantation and Bancroft town line to the East Branch,  
39 including its tributaries the West Branch from the

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1 Mattawamkeag River to the Haynesville and T.3, R.3,  
2 W.E.L.S. town line and from its inlet into Upper  
3 Mattawamkeag Lake in Island Falls to the Hersey and  
4 Moro Plantation town line; the East Branch from the  
5 Mattawamkeag River to the Haynesville and Forkstown  
6 Township town line and from the T.4, R.3, W.E.L.S. and  
7 Oakfield town line to the Smyrna and Dudley Township  
8 town line; the Fish Stream from the West Branch of the  
9 Mattawamkeag River to the Crystal and Patten town  
10 line; the Molunkus Stream from the Silver Ridge  
11 Township and Benedicta town line to the East Branch  
12 Molunkus Stream; the Macwahoc Stream from the Silver  
13 Ridge Township and Sherman town line to the outlet of  
14 Macwahoc Lake; and the Baskehegan Stream from the  
15 Mattawamkeag River to the Danforth and Brookton  
16 Township town line, and from the Brookton Township and  
17 Topsfield town line to the Topsfield and Kossuth  
18 Township town line, excluding Baskehegan Lake and  
19 Crooked Brook Flowage;

20 11. Narraguagus River. The Narraguagus River  
21 from the ice dam above the railroad bridge in  
22 Cherryfield to the Beddington and Devereaux Township  
23 town line, excluding Beddington Lake;

24 12. Penobscot River. The Penobscot River from  
25 the Bangor Dam in Bangor to the Veazie Dam and its  
26 tributary the East Branch of the Penobscot from the  
27 Penobscot River to the East Millinocket and Grindstone  
28 Township town line;

29 13. Piscataquis River. The Piscataquis River  
30 from the Penobscot River to the Monson and Blanchard  
31 Plantation town line, including its tributaries the  
32 East and West Branches of the Piscataquis River from  
33 the Blanchard Plantation and Shirley town line to the  
34 Shirley and Little Squaw Township town line; the  
35 Seboeis Stream from its confluence with the  
36 Piscataquis River in Howland to the Howland and  
37 Mattamiscontis Township town line and from the  
38 Mattamiscontis and Maxfield town line to the Maxfield  
39 and Seboeis Plantation town line, excluding Shirley  
40 Pond and West Shirley Bog;

41 14. Pleasant River. The Pleasant River from the  
42 dam in Columbia Falls, formerly the Hathaway Dam, to



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1 the Columbia and T.18, M.D., B.P.P. town line and from  
2 the T.24, M.D., B.P.P. and Beddington town line to the  
3 outlet of Pleasant River Lake in Beddington;

4 15. Rapid River. The Rapid River from the  
5 Magalloway Plantation and Upton town line to the  
6 outlet of Pond in the River;

7 16. Saco River. The Saco River from the Little  
8 Ossipee River to the New Hampshire border;

9 17. St. Croix River. The St. Croix River from  
10 the cotton mill dam in Milltown to the Calais and  
11 Baring Plantation town line, from the Baring  
12 Plantation and Baileyville town line to the  
13 Baileyville and Fowler Township town line and from the  
14 Lambert Lake Township and Vanceboro town line to the  
15 outlet of Spednik Lake, excluding Woodland Lake and  
16 Grand Falls Flowage;

17 18. St. George River. The St. George River from  
18 the Route 90 bridge in Warren to the outlet of Lake  
19 St. George in Liberty, excluding White Oak Pond, Seven  
20 Tree Pond, Round Pond, Sennebec Pond, Trues Pond,  
21 Stevens Pond and Little Pond;

22 19. St. John River. The St. John River from the  
23 Hamlin Plantation and Van Buren town line to the Fort  
24 Kent and St. John Plantation town line and from the  
25 St. John Plantation and St. Francis town line to the  
26 Allagash and St. Francis town line;

27 20. Sandy River. The Sandy River from the  
28 Kennebec River to the Madrid and Township E town line;

29 21. Sheepscot River. The Sheepscot River from  
30 the Head Tide Dam in Alna to the Halldale Road in  
31 Montville, excluding Long Pond and Sheepscot Pond,  
32 including its tributary the West Branch of the  
33 Sheepscot River from its confluence with the Sheepscot  
34 River in Whitefield to the outlet of Branch Pond in  
35 China;

36 22. West Branch Pleasant River. The West Branch  
37 Pleasant River from the East Branch to the Brownville  
38 and Williamsburg Township town line; and

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1           23. West Branch Union River. The West Branch  
2           Union River from the Route 181 bridge in Mariaville to  
3           the outlet of Great Pond in the Town of Great Pond.

4           \$480-Q. Activities for which a permit is not required

5           A permit is not required for the following  
6           activities if the activity takes place solely in the  
7           area specified below:

8           1. Water lines and utility cables. In an area  
9           which affects a great pond, the placement of water  
10           lines to serve a single-family house or the  
11           installation of cables for utilities, such as  
12           telephone and power cables, provided that the:

13           A. Excavated trench for access to the water is  
14           backfilled and riprapped to prevent erosion;

15           B. Excavated trench on the landward side of the  
16           riprapped area is seeded and mulched to prevent  
17           erosion; and

18           C. Bureau of Public Lands has approved the  
19           placement of the cable across the bottom of the  
20           great pond to the extent that is has jurisdiction;

21           2. Maintenance and repair. Maintenance and minor  
22           repair of structures in fragile mountain areas, or to  
23           structures above the high water line causing no  
24           additional intrusion of an existing structure into the  
25           great pond, river, stream or brook, wetland or sand  
26           dune;

27           3. Peat mining. Alteration of a freshwater  
28           wetland for the purpose of exploring for or mining  
29           peat, subject to article 6, where applicable;

30           4. Interstate pipelines. Alteration of  
31           freshwater wetlands associated with the construction,  
32           operation, maintenance or repair of an interstate  
33           pipeline, subject to article 6, where applicable;

34           5. Gold panning. Notwithstanding section 480-C,  
35           a permit shall not be required for panning gold,

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1 provided that stream banks are not disturbed and no  
2 unlicensed discharge is created;

3 6. Agricultural activities. Draining a  
4 freshwater wetland for the purpose of growing  
5 agricultural products is exempt from the provisions of  
6 this article. This exemption applies only as long as  
7 the land is being used for growing agricultural  
8 products;

9 7. Forestry. Alteration of a freshwater wetland  
10 associated with normal forestry management and  
11 harvesting activities is exempt from the provisions of  
12 this article. The determination of what constitutes  
13 normal forestry management and harvesting activities  
14 shall be made by the Maine Land Use Regulation  
15 Commission regardless of whether the freshwater  
16 wetland is located within the jurisdiction of the  
17 commission and according to standards adopted by the  
18 commission. For purposes of this subsection, "normal  
19 forestry management and harvesting activities" means  
20 those activities which meet the forestry standards of  
21 the Maine Land Use Regulation Commission; and

22 8. Hydropower projects. Hydropower projects are  
23 exempt from the provisions of this article to the  
24 extent provided in section 634. Alteration of a  
25 freshwater wetland associated with the operation of a  
26 hydropower project, as defined in section 632, is  
27 exempt from the provisions of this article, but is  
28 subject to chapter 5, article 1, subarticle 1-B, where  
29 applicable.

30 §480-R. Violations; enforcement

31 1. Violations. A violation is any activity which  
32 takes place contrary to the provisions of a valid  
33 permit issued under this article or without a permit  
34 having been issued for that activity. Each day of a  
35 violation shall be considered a separate offense. A  
36 finding that any such violation has occurred shall be  
37 prima facie evidence that the activity was performed  
38 or caused to be performed by the owner of the property  
39 where the violation occurred.

40 2. Enforcement. Inland fisheries and wildlife  
41 game wardens, Department of Marine Resources marine

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1 patrol officers and all other law enforcement officers  
2 enumerated in Title 12, section 7055, shall enforce  
3 the terms of this article.

4       **Sec. 3. Transition.**       Applications pending on  
5 the effective date of this Act which were determined  
6 by the department to be complete by March 31, 1988,  
7 shall be governed by the law in effect on March 31,  
8 1988.       Notwithstanding the Maine Revised Statutes,  
9 Title 1, section 302, this Act applies to any  
10 application pending on the effective date of this Act  
11 which was not determined to be complete by March 31,  
12 1988, and to any application filed after the effective  
13 date of this Act.'

14                                       STATEMENT OF FACT

15       This amendment makes clarifications to reflect the  
16 intent of the original bill and adds, as a protected  
17 resource, significant wildlife habitat to the extent  
18 that it is mapped by the Department of Inland  
19 Fisheries and Wildlife.

20   5363040288

Reported by the Committee on Energy and Natural Resources  
Reproduced and distributed under the direction of the Clerk of the  
House  
4/7/88                                       (Filing No. H-641)