

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1191

S.P. 447

In Senate, March 21, 1991

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KANY of Kennebec

Cosponsored by Representative JACQUES of Waterville, Senator TITCOMB of Cumberland and Representative HOGLUND of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Amend the State Ground Water Classification System and
Implement the Maine Wellhead Protection Program for the Protection of
Public Water System Wellheads.**

(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State lacks a coordinated approach to classifying ground waters and protecting public water system wellheads; and

Whereas, the ground water classification system proposed in the Maine ground water management strategy and the Maine Wellhead Protection Program as developed under the requirements of the 1986 amendments to the federal Safe Drinking Water Act and approved by the United States Environmental Protection Agency, offer a coordinated protection approach; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §2650 is enacted to read:

§2650. Maine Wellhead Protection Program

The Department of Human Services shall promulgate by rule the Maine Wellhead Protection Program designed to protect aquifer recharge areas supplying public water system wellheads from contaminants that may have an adverse effect on public health. The program directs public water systems, working jointly with municipal governments, to develop a wellhead protection plan that includes delineation of aquifer recharge areas, inventory of potential sources of contamination, preparation of a management plan that protects the aquifer recharge area through enforceable local controls and preparation of a contingency plan that addresses emergencies and long-term water needs. Any costs associated with the development of a wellhead protection plan are borne by the public water system.

Sec. 2. 30-A MRSA §4326, sub-§3, ¶C, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4-A and to protect the recharge areas of public water system wellheads pursuant to Title 22, section 2650;

Sec. 3. 38 MRSA §402, as amended by PL 1985, c. 465, §2, is repealed.

2 **Sec. 4. 38 MRSA §402-A** is enacted to read:

4 **§402-A. Ground water research authorization**

6 The Maine Geological Survey, the Department of Environmental
8 Protection, the Department of Human Services, the Department of
10 Transportation and the Department of Agriculture, Food and Rural
12 Resources are authorized to conduct research and studies to
14 define and characterize the ground water resources of the State.

16 The Maine Geological Survey shall coordinate an annual
18 report on progress in ground water research to the joint standing
20 committee of the Legislature having jurisdiction over natural
22 resource matters.

24 **Sec. 5. 38 MRSA §403**, as affected by PL 1989, c. 890, Pt. A,
26 §40 and amended by Pt. B, §22, is repealed.

28 **Sec. 6. 38 MRSA §403-A** is enacted to read:

30 **§403-A. Ground water quality**

32 1. Legislative intent. The Legislature finds that ground
34 water is an important public and private resource for drinking
36 water supplies and other industrial, commercial and agricultural
38 uses. Ground water is particularly susceptible to contamination
40 and, once polluted, may not recover for hundreds of years. It is
42 the intent of the Legislature that information be developed
44 through a state ground water research program which must define
46 and characterize the State's ground water resources and must
48 provide a base of knowledge from which decisions may be made to
50 protect those resources.

52 2. Ground water research program. The Maine Geological
54 Survey and other pertinent state agencies shall conduct research
56 programs, such as the Maine Geological Survey aquifer mapping
58 programs, the Department of Environmental Protection water
60 quality monitoring investigations and the Department of
62 Agriculture, Food and Rural Resources pesticide monitoring
64 program, that define the physical extent, quantity, quality,
66 contamination and use of the ground water resources of the State.

68 **Sec. 7. 38 MRSA §465-C**, as affected by PL 1989, c. 890, Pt.
70 A, §40 and amended by Pt. B, §67, is repealed.

72 **Sec. 8. 38 MRSA §465-D** is enacted to read:

74 **§465-D. Standards of classification of ground water**

76 The State has 4 standards for classification of ground
78 water. All GWA ground waters are suitable for the designated

2 use of a public drinking water supply, recharge of a public
3 drinking water supply and surface water recharge suitable to
4 maintain designated surface water standards. The concentrations
5 of physical, chemical, biological or radiological substances may
6 not exceed primary drinking water standards or maximum exposure
7 guidelines as set by the Department of Human Services under Title
8 22, section 2611 or concentrations as naturally occur.

9
10 GWA classifications are based solely on the current or
11 intended use of that ground water, the relative threat to its
12 quality and the protection level required for it.

13
14 1. Class GWA1. Class GWA1 is the highest ground water
15 classification and is applied to ground water within Zone 1 of
16 public wellhead protection areas as defined in section 466.
17 Through comprehensive plans municipalities may designate as Class
18 GWA1 ground water in residential areas with lot sizes less than
19 or equal to 1/2 acre and served by private ground water supplies
20 or ground water reserved for future public ground water supplies.

21
22 After the effective date of this section, no new discharges of
23 wastewater into Class GWA1 ground waters are allowed. Existing
24 discharges may continue, using best practicable treatment, until
25 suitable alternatives are developed.

26
27 2. Class GWA2. Class GWA2 is the 2nd highest ground water
28 classification and is applied to ground water within Zone 2 of
29 public wellhead protection areas as defined in section 466.
30 Through comprehensive plans municipalities may designate as Class
31 GWA2 ground water in residential areas with lot sizes less than
32 or equal to 1/2 acre and served by private ground water supplies
33 or ground water reserved for future public ground water supplies.

34 Discharges to Class GWA2 ground waters are limited to activities
35 permitted by State Government, Federal Government and local
36 government. The quality of this ground water is protected by
37 State and local land use controls as stringent as necessary to
38 minimize the risk of contamination.

39
40 3. Class GWA3. Class GWA3 is the 3rd highest ground water
41 classification and is applied to all ground waters except those
42 given a higher classification.

43
44 Discharges to Class GWA3 ground waters are limited to activities
45 permitted by State Government, Federal Government and local
46 government.

47
48 4. Class GWB. Class GWB is the 4th highest ground water
49 classification and is suitable for all nonpotable usages where
50 the concentrations of physical, chemical, biological or
51 radiological substances exceed primary drinking water standards

2 or maximum exposure guidelines as set by the Department of Human
Services under Title 22, section 2611.

4 Class GWB ground waters are designated only after identification
as nonattainment areas as being within nonattainment areas under
6 section 470-A and determination by the department that they will
not meet drinking water standards in the foreseeable future.

8
10 **Sec. 9. 38 MRSA §466, sub-§§2-B, 7-A, 9-D, 10-A, 11-A, 13, 14 and 15**
are enacted to read:

12 **2-B. Bedrock.** "Bedrock" means any solid rock exposed at
the surface of the earth or overlain by unconsolidated material.

14
16 **7-A. Ground water divide.** "Ground water divide" means a
boundary line along the water table where ground water flows in
opposite directions.

18
20 **9-D. Private water supply.** "Private water supply" means
any water supply not included under the definition of "public
water system" contained in Title 22, section 2601, subsection 8
22 through which water is obtained for human consumption.

24 **10-A. Unconsolidated aquifer.** "Unconsolidated aquifer"
means any aquifer composed of loose materials such as sand,
26 gravel and tilth.

28 **11-A. Wellhead protection area.** "Wellhead protection area"
means the recharge area of a public water system ground water
30 well as defined in rules promulgated under Title 22, section 2650.

32 **13. Zone 1.** "Zone 1," in unconsolidated aquifers
recharging public water systems serving 500 or more persons,
34 means the zone of a public wellhead protection area that extends
from the wellhead to the 200-day ground water time-of-travel
36 boundary around the wellhead. "Zone 1," in unconsolidated
aquifers recharging public water systems serving less than 500
38 persons and for public water system wells in bedrock of a public
wellhead protection area, means the zone that extends from the
40 wellhead to a 300-foot radius around the wellhead. "Zone 1" may
also mean a zone designated around ground water supplies reserved
42 for future public water system use as delineated through the
Maine Wellhead Protection Program and approved by the Department
44 of Human Services.

46 **14. Zone 2.** "Zone 2," in unconsolidated aquifers
recharging public water systems serving 500 or more persons,
48 means the zone of a public wellhead protection area that extends
from the 200-day ground water time-of-travel boundary to the
50 2,500-day ground water time-of-travel boundary around the
wellhead. "Zone 2," in unconsolidated aquifers recharging public
52 water systems serving less than 500 persons and for public water

2 system wells in bedrock, means the zone of a public wellhead
3 protection area that extends from a 300-foot radius to a
4 1,000-foot radius around the wellhead. "Zone 2" may also mean a
5 zone designated around ground water supplies reserved for future
6 public water system use as delineated through the Maine Wellhead
7 Protection Program and approved by the Department of Human
8 Services.

9
10 15. Zone 3. "Zone 3," in unconsolidated aquifers
11 recharging public water systems serving 500 or more persons,
12 means the zone of a public wellhead protection area that extends
13 from the 2,500-day ground water time-of-travel boundary around
14 the wellhead to the watershed's ground water divides. "Zone 3,"
15 in unconsolidated aquifers recharging public water systems
16 serving less than 500 persons and for public water system wells
17 in bedrock, means the zone of a public wellhead protection area
18 that extends from a 1,000-foot radius around the wellhead to the
19 watershed's ground water divides.

20 Sec. 10. 38 MRSA §470, as enacted by PL 1985, c. 698, §15, is
21 repealed.

22 Sec. 11. 38 MRSA §470-A is enacted to read:

23 §470-A. Classification of ground water

24
25 1. Ground water classification. All ground water is
26 classified as not less than Class GWA3, except as otherwise
27 provided in this section. The board may recommend to the
28 Legislature the reclassification of any ground water, after
29 careful consideration, public hearings and in consultation with
30 other state agencies and the municipalities and industries
31 involved, and where the board finds that it is in the best
32 interests of the public that the waters be so classified. The
33 municipalities of the State have primary responsibility to
34 petition for changes in the classification of the ground waters
35 of the State and shall do so through the comprehensive planning
36 process and the Maine Wellhead Protection Program.

37
38 2. Nonattainment areas. The department shall identify
39 known areas where ground water quality does not comply with the
40 requirements of this section and section 465-D. Areas are
41 identified by point or land area as available data allows. For
42 all nonattainment areas identified, the department may establish
43 a schedule for compliance with the requirements of the
44 classifications under section 465-D if the department finds that
45 compliance is achievable. Designation of nonattainment areas is
46 a matter for the discretion exclusively of the department and not
47 that of any landowner or other person. This paragraph does not
48 affect the department's authority to enforce compliance with the
49 requirements of law.
50

