

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 953

S.P. 319

In Senate, February 3, 1999

An Act to Reclassify Certain Waters of the State.

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on 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 NUTTING of Androscoggin.
Cosponsored by Representative CAMERON of Rumford and
Senators: DAVIS of Piscataquis, GOLDTHWAIT of Hancock, Representatives: COWGER of
Hallowell, DAIGLE of Arundel.

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

2
4 **Sec. 1. 38 MRSA §467, sub-§1, ¶B**, as repealed and replaced by
PL 1989, 228, §1, is amended to read:

6 B. Little Androscoggin River Drainage.

8 (1) Little Androscoggin River, main stem.

10 (a) From the outlet of Bryant Pond to the Maine
Central Railroad bridge in South Paris - Class B A.

12 (b) From the Maine Central Railroad bridge in
14 South Paris to its confluence with the
Androscoggin River - Class C.

16 (2) Little Androscoggin River, tributaries - Class B
18 unless otherwise specified.

20 (a) Outlet of Thompson Lake in Oxford - Class C.

22 **Sec. 2. 38 MRSA §467, sub-§1, ¶D**, as amended by 1989, c. 764,
24 §3, is further amended to read:

26 D. Androscoggin River, minor tributaries - Class B unless
otherwise specified.

28 (1) All tributaries of the Androscoggin River that
enter between the Maine-New Hampshire boundary in
30 Gilead and its confluence with, and including, the
Ellis River and that are not otherwise classified -
32 Class A.

34 (2) Bear River - Class AA.

36 (3) Sabattus River from Sabattus Lake to limits of the
Lisbon urban area - Class C.

38 (4) Webb River - Class A.

40 (5) Swift River, and its tributaries, above the
42 Mexico-Rumford boundary - Class A.

44 (6) Nezinscot River, east and west branches above
46 their confluence in Buckfield - Class A.

48 **Sec. 3. 38 MRSA §467, sub-§3, ¶B**, as amended by PL 1989, c.
764, §4, is further amended to read:

2 B. East Machias River, tributaries - Class A unless
otherwise specified.

4 (1) All tributaries entering below the Route 191
bridge in Jacksonville - Class B.

6 (2) Beaverdam Brook - Class AA.

8
10 **Sec. 4. 38 MRSA §467, sub-§4, ¶A**, as corrected by RR 1991, c.
2, §144, is amended by amending subparagraph (12) to read:

12 (12) From the Sidney-Augusta boundary to the Father
14 John J. Curran Bridge in Augusta, including all
impoundments - Class C B.

16 **Sec. 5. 38 MRSA §467, sub-§4, ¶B**, as repealed and replaced by
18 PL 1989, c. 228, §2, is repealed and the following enacted in its
place:

20 B. Carrabassett River Drainage.

22 (1) Carrabassett River, main stem.

24 (a) Above a point located 1.0 mile above the dam
in Kingfield - Class AA.

26 (b) From a point located 1.0 mile above the dam
28 in Kingfield to a point located 1.0 mile above the
railroad bridge in North Anson - Class A.

30 (c) From a point located 1.0 mile above the
32 railroad bridge in North Anson to its confluence
with the Kennebec River - Class B.

34 (2) Carrabassett River, tributaries - Class A unless
36 otherwise specified.

38 (a) All tributaries entering the Carrabassett
40 River below the Wire Bridge in New Portland -
Class B.

42 (b) West Branch Carrabassett River above its
44 confluence with Alder Stream - Class AA.

46 **Sec. 6. 38 MRSA §467, sub-§4, ¶D**, as amended by PL 1991, c.
276, is further amended to read:

48 D. Dead River Drainage.

50 (1) Dead River, main stem.

- 2 (a) From the Long Falls Dam to a point 5,100 feet
- 4 below the dam - Class A.
- 6 (b) From a point 5,100 feet below Long Falls Dam
- 8 to its confluence with the Kennebec River - Class
- 10 AA.
- 12 (2) Dead River, tributaries - Class A unless otherwise
- 14 specified.
- 16 (a) Black Brook below Dead River Hatchery - Class
- 18 B.
- 20 (b) Stratton Brook, Eustis, from the upper Route
- 22 16/27 bridge to its confluence with Flagstaff Lake
- 24 - Class B.
- 26 (c) Spenser Spencer Stream and Little Spencer
- 28 Stream - Class A AA.

22 **Sec. 7. 38 MRSA §467, sub-§6-A, ¶B**, as enacted by PL 1989, c.
 24 764, §6, is amended to read:

- 26 B. Narraguagus River, tributaries - Class A unless
- 28 otherwise specified.
- 30 (1) All tributaries entering below the river's
- 32 confluence with the West Branch - Class B.
- 34 (2) West Branch of the Narraguagus River - Class AA.
- 36 (3) Baker Brook - Class AA.
- 38 (4) Pork Brook - Class AA.
- 40 (5) Schoodic Brook - Class AA.

42 **Sec. 8. 38 MRSA §467, sub-§7, ¶A**, as amended by PL 1991, c.
 44 66, Pt. A, §14, is repealed and the following enacted in its
 46 place:

- 48 A. Penobscot River, main stem.
- 50 (1) From the confluence of the East Branch and the
West Branch to the confluence of the Mattawamkeag
River, including all impoundments - Class C.
- (2) From the confluence of the Mattawamkeag River to
the confluence of Cambolasse Stream - Class B.

- 2 (3) From the confluence of Cambolasse Stream to a
 point 1.0 mile above the West Enfield Dam - Class B.
- 4
- 6 (4) From a point 1.0 mile above the West Enfield Dam
 to the West Enfield Dam - Class C.
- 8
- 10 (5) From the West Enfield Dam, including the
 Stillwater Branch, to the Veazie Dam, including all
 impoundments - Class B.
- 12
- 14 (6) From the Veazie Dam, but not including the Veazie
 Dam, to the Maine Central Railroad bridge in
 Bangor-Brewer - Class B. Further, the Legislature
 finds that the free-flowing habitat of this river
 segment provides irreplaceable social and economic
 benefits and that this use must be maintained.
- 16
- 18
- 20 (7) From the Maine Central Railroad bridge in Bangor
 to a line extended in an east-west direction from the
 confluence of Reeds Brook in Hampden - Class B.
 Further, the Legislature finds that the free-flowing
 habitat of this river segment provides irreplaceable
 social and economic benefits and that this use must be
 maintained.
- 22
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- 26

28 **Sec. 9. 38 MRSA §467, sub-§7, ¶C, as amended by PL 1993, c.**
 344, §4, is further amended to read:

30 C. Penobscot River, West Branch Drainage.

- 32 (1) West Branch of the Penobscot River, main stem.
- 34 (a) From the dam at the outlet of Seboomook Lake
- 36 to a point located 1,000 feet downstream from the
- dam at the outlet of Seboomook Lake - Class B.
- 38 (b) From a point located 1,000 feet downstream
- 40 from the dam at the outlet of Seboomook Lake to
- its confluence with Chesuncook Lake - Class B A.
- 42 (b-1) From its confluence with Chesuncook Lake to
- 44 Ripogeneus Ripogenus Dam - Class GPA as modified
- by section 464, subsection 9.
- 46 (c) From Ripogenus Dam ~~to the T-3, R-11, W-E-L-S,~~
- 48 ~~--T-3, R-10, W-E-L-S--~~ boundary through Ripogenus
- Gorge to the McKay powerhouse - Class B.

2 (d) From the ~~T.3, R.11, W.E.L.S.~~ ~~T.3, R.10,~~
W.E.L.S. boundary the McKay powerhouse to its
4 confluence with Ambajejus Lake - Class B A.

6 (e) From the outlet of Elbow Lake to the outlet
of Ferguson and Quakish Lakes - Class B.

8 (f) From the outlet of Ferguson and Quakish Lakes
10 to its confluence with the East Branch of the
Penobscot River, including all impoundments -
12 Class C.

14 (2) West Branch of the Penobscot River, tributaries -
Class A unless otherwise specified.

16 (a) Those segments of any tributary that are
18 within the boundaries of Baxter State Park - Class
AA.

20 (b) Those tributaries above the confluence with
22 the Debsconeag Deadwater, any portion of which is
located within the boundaries of Baxter State Park
24 - Class AA.

26 (c) Millinocket Stream, from the railroad bridge
near the Millinocket-T.3 Indian Purchase boundary
28 to its confluence with the West Branch Canal -
Class B.

30 (d) Millinocket Stream from the confluence of the
32 West Branch Canal to its confluence with the West
Branch of the Penobscot River - Class C.

34 **Sec. 10. 38 MRSA §467, sub-§7, ¶¶D, E and F, as repealed and**
36 **replaced by PL 1989, c. 764, §7, are amended to read:**

38 D. Mattawamkeag River Drainage.

40 (1) Mattawamkeag River, main stem.

42 (a) From the confluence of the East Branch and
the West Branch to the Kingman-Mattawamkeag
44 boundary - Class B A.

46 (b) From the Kingman-Mattawamkeag boundary to its
confluence with the Penobscot River - Class AA.

48 (2) Mattawamkeag River, tributaries - Class B A unless
50 otherwise specified.

- 2 (a) East Branch Mattawamkeag River above Red
 Bridge - Class B.
- 4 (b) West Branch Mattawamkeag River from
6 Interstate 95 to its confluence with Mattawamkeag
 Lake - Class B.
- 8 (c) Fish Stream - Class B.
- 10 E. Piscataquis River Drainage.
- 12 (1) Piscataquis River, main stem.
- 14 (a) From the confluence of the East Branch and
16 the West Branch to the Route 15 bridge in Guilford
 - Class A.
- 18 (b) From the Route 15 bridge in Guilford to the
20 Maine Central Railroad bridge in Dover-Foxcroft -
 Class G B.
- 22 (c) From the Maine Central Railroad bridge in
24 Dover-Foxcroft to its confluence with the
 Penobscot River - Class B.
- 26 (2) Piscataquis River, tributaries - Class B unless
28 otherwise specified.
- 30 (a) Except as otherwise provided, East and West
32 Branches of the Piscataquis River and their
 tributaries above their confluence near Blanchard
 - Class A.
- 34 (b) East Branch of the Piscataquis River from
36 1,000 feet below Shirley Pond to its confluence
 with the West Branch - Class AA.
- 38 (c) Pleasant River, East Branch and its
40 tributaries - Class A.
- 42 (d) Pleasant River, West Branch, from the outlet
44 of Fourth West Branch Pond to its confluence with
 the East Branch - Class AA.
- 46 (e) Pleasant River, West Branch tributaries -
 Class A.
- 48 (f) Sebec River and its tributaries above Route 6
50 in Milo - Class A.

- 2 (g) West Branch of the Piscataquis River from
4 1,000 feet below West Shirley Bog to its
6 confluence with the East Branch - Class AA.
- 8 (h) Black Stream - Class A.
- 10 (i) Cold Stream - Class A.
- 12 (j) Kingsbury Stream - Class A.
- 14 (k) Schoodic Stream - Class A.
- 16 (l) Scutaze Stream - Class A.
- 18 (m) Sebois Stream, including East and West
20 Branches - Class A.
- 22 F. Penobscot River, minor tributaries - Class B unless
24 otherwise specified.
- 26 (1) Cambolasse Stream (Lincoln) below the Route 2
28 bridge - Class C.
- 30 (2) Great Works Stream (Bradley) and its tributaries
32 above the Route 178 bridge - Class A.
- 34 (3) Kenduskeag Stream (Bangor) below the Bullseye
36 Bridge - Class C.
- 38 (4) Mattanawcook Stream (Lincoln) below the outlet of
40 Mattanawcook Pond - Class C.
- 42 (5) Olamon Stream and its tributaries above the bridge
44 on Horseback Road - Class A.
- 46 (6) Passadumkeag River and its tributaries - Class A,
48 unless otherwise specified.
- 50 (a) Passadumkeag River from the Pumpkinhill Dam
to its confluence with the Penobscot River - Class
AA.
- (b) Ayers Brook - Class AA.
- (7) ~~Sourdabscook Stream and its tributaries above the~~
~~dam of the Hampden Water District - Class A~~ above head
of tide - Class AA.
- (8) Sunkhaze Stream and its tributaries - Class AA.

- 2 (9) Birch Stream - Class A.
- 4 (10) Hemlock Stream - Class A.
- 6 (11) Mattamiscontis Stream - Class A.
- 8 (12) Medunkeunk Stream - Class A.
- 10 (13) Rockabema Stream - Class A.
- 12 (14) Salmon Stream - Class AA.

14 **Sec. 11. 38 MRSA §467, sub-§9, ¶A**, as amended by PL 1993, c. 523, §1, is further amended to read:

16 A. Presumpscot River, main stem.

- 18 (1) From the outlet of Sebago Lake to its confluence with Dundee Pond - Class A.
- 20 (1-A) From the outlet of Dundee Pond to its confluence with the Pleasant River - Class A.

24 For the purposes of water quality certification of the hydropower project at the Dundee Dam under the Federal Water Pollution Control Act, Public Law 92-500, Section 401, as amended, and licensing modifications to this hydropower project under section 636 and any other licensing proceeding affecting this project, the habitat characteristics and aquatic life criteria of Class A are deemed to be met in the waters immediately downstream and measurably affected by that project if the criteria of section 465, subsection 3, paragraphs A and C are met.

36 (2) From its confluence with the Pleasant River to Sacarappa Falls U.S. Route 202 - Class B. Further, there may be no new direct discharges to this segment after January 1, 1999.

42 (3) From U.S. Route 202 to Sacarappa Falls to ~~tidewater~~ - Class G B.

44 (4) From Sacarappa Falls to tidewater - Class C.

46 **Sec. 12. 38 MRSA §467, sub-§10**, as enacted by PL 1985, c. 698, §15, is repealed.

48 **Sec. 13. 38 MRSA §467, sub-§11, ¶A**, as repealed and replaced by PL 1989, c. 764, §11, is amended to read:

- 2 A. Royal River, main stem.
- 4 (1) From the outlet of Sabbathday Pond to ~~tidewater~~
its confluence with Collyer Brook - Class B A.
- 6 (2) From its confluence with Collyer Brook to
8 tidewater - Class B.

10 **Sec. 14. 38 MRSA §467, sub-§12, ¶B,** as corrected by RR 1993,
c. 1, §116, is amended to read:

- 12 B. Saco River, tributaries, those waters lying within the
14 State - Class B unless otherwise specified.
- 16 (1) All tributaries entering above the confluence of
18 the Ossipee River lying within the State and not
otherwise classified - Class A.
- 20 (2) Wards Brook (Fryeburg) - Class C.
- 22 (3) Buff Brook (Waterboro) - Class AA.

24 **Sec. 15. 38 MRSA §467, sub-§13, ¶B,** as repealed and replaced
by PL 1989, c. 764, §14, is amended to read:

- 26 B. St. Croix River, tributaries, those waters lying within
28 the State - Class B unless otherwise specified.
- 30 (1) All tributaries entering upstream from the dam at
32 Calais, the drainage areas of which are wholly within
the State - Class A unless otherwise classified.
- 34 (2) Tomah Stream - Class AA.

36 **Sec. 16. 38 MRSA §467, sub-§15, ¶C,** as amended by PL 1991, c.
813, Pt. E, §4, is further amended by amending subparagraph (1),
38 divisions (a) and (b) to read:

- 40 (a) From the confluence of Millinocket Stream and
Munsungan Stream to ~~its--confluence--with--the~~
42 ~~Machias-River~~ the Route 11 bridge - Class AA.
- 44 (b) From ~~its--confluence--with--the--Machias--River~~
46 the Route 11 bridge to the Sheridan Dam - Class B.

48 **Sec. 17. 38 MRSA §467, sub-§15, ¶C,** as amended by PL 1991, c.
813, Pt. E, §4, is further amended by amending subparagraph (2),
division (d) to read:

50

2 (d) Machias River, from the outlet of Big Machias
Lake to ~~the--Garfield-Plantation-Ashland--boundary~~
4 the Aroostook River - Class AA.

6 **Sec. 18. 38 MRSA §467, sub-§15, ¶D**, as repealed and replaced
by PL 1989, c. 764, §16, is amended to read:

8 D. Fish River Drainage.

10 (1) Fish River, main stem.

12 (a) From the outlet of Mud Pond to its confluence
with St. Froid Lake - Class AA.

14 (b) From the outlet of St. Froid Lake to its
16 confluence with Eagle Lake - Class A.

18 (c) From the outlet of Eagle Lake to its
confluence with ~~Soldier-Pond~~ Perley Brook - Class
20 B A.

22 (d) From ~~the--outlet--of--Soldier--Pond--to~~ its
confluence with Perley Brook to the St. John River
24 - Class B.

26 (2) Fish River, tributaries - Class B unless otherwise
specified.

28 (a) All tributaries entering above the Route 11
30 bridge - Class A.

32 **Sec. 19. 38 MRSA §467, sub-§16, ¶B**, as enacted by PL 1989, c.
764, §17, is amended to read:

34 B. Salmon Falls River, tributaries, those waters lying
36 within the State - Class B unless otherwise specified.

38 (1) Chicks Brook (South Berwick, York) - Class A.

40 **Sec. 20. 38 MRSA §468, sub-§5, ¶C** is enacted to read:

42 C. Winterport.

44 (1) Cove Brook, those waters above head of tide -
46 Class AA.

48 **Sec. 21. 38 MRSA §468, sub-§8, ¶J** is enacted to read:

50 J. Edmunds.

(1) Hobart Stream - Class AA.

2
3 **Sec. 22. 38 MRSA §469, sub-§1, ¶C**, as enacted by PL 1985, c.
4 698, §15, is amended to read:

6 C. Falmouth.

8 (1) Tidal waters of the Town of Falmouth located
9 ~~within a line beginning at a point located on the shore~~
10 ~~at latitude 43' - 42' - 03" N., longitude 70' - 15' - 22" W.~~
11 ~~and running southwesterly along the Falmouth-Portland~~
12 ~~boundary to the shore westerly and northerly, to~~
13 ~~include the Presumpscot estuary, of a line running from~~
14 ~~the southernmost point of Mackworth Island; thence~~
15 ~~running northerly along the western shore of Mackworth~~
16 ~~Island and the Mackworth Island Causeway to a point~~
17 ~~located at latitude 43' - 41' - 42" N., longitude 70' -~~
18 ~~14' - 25" W.; thence running along the shore of the~~
19 ~~Presumpscot River Estuary to point of beginning where~~
20 ~~the causeway joins Mackworth Point - Class SC.~~

22 **Sec. 23. 38 MRSA §469, sub-§1, ¶E**, as enacted by PL 1985, c.
23 698, §15, is amended to read:

24 E. Portland.

26 (1) Tidal waters located within a line beginning at a
27 point located on the Cumberland-Portland boundary at
28 approximately latitude 43' - 41' - 18" N., longitude 70'
29 - 05' - 48" W. and running southeasterly along the
30 Cumberland-Portland boundary to a point where the
31 Cumberland, Harpswell and Portland boundaries meet;
32 thence running southeasterly along the
33 Harpswell-Portland boundary to longitude 70' - 00' - 00"
34 W.; thence running due south to a point located at
35 latitude 43' - 38' - 21" N., longitude 70' - 00' - 00" W.;
36 thence running due west to a point located at latitude
37 43' - 38' - 21" N., longitude 70' - 09' - 06" W.; thence
38 running northeasterly to point of beginning - Class SA.

40 (2) Tidal waters of the City of Portland lying
41 northwesterly of a line beginning at ~~Portland-Head~~
42 ~~Light and running northerly to the southernmost point~~
43 ~~of land on Cushing Island; thence running northerly~~
44 ~~along the western shore of Cushing Island to the~~
45 ~~northernmost point of land on Cushing Island; thence~~
46 ~~running northerly to the southernmost point of land on~~
47 ~~Peaks Island; thence running northerly along the~~
48 ~~western shore of Peaks Island to a point located at~~
49 ~~latitude 43' - 40' - 10" N., longitude 70' - 11' - 34" W.;~~

2 ~~thence running northwesterly to the southernmost point~~
3 ~~of land on Great Diamond Island; thence running~~
4 ~~northwesterly along the westerly shore of Great Diamond~~
5 ~~Island to a point located at latitude 43° - 40' - 26" W.,~~
6 ~~longitude 70° - 11' - 34" W.; thence running~~
7 ~~northwesterly for 0.7 mile to a point where the~~
8 ~~Falmouth-Portland boundary forms a right angle; thence~~
9 ~~running northwesterly along the Falmouth-Portland~~
10 ~~boundary to a point located at latitude 43° - 42' - 03"~~
11 ~~N., longitude 70° - 15' - 22" W. Spring Point Light in~~
12 ~~South Portland to the easternmost point of Fort Gorges~~
13 ~~Island, thence running northerly to the southernmost~~
14 ~~point of Mackworth Island - Class SC.~~

15 **Sec. 24. 38 MRSA §469, sub-§1, ¶F,** as enacted by PL 1985, c.
16 698, §15, is amended to read:

17 F. South Portland.

18 (1) All tidal waters of the City of South
19 Portland lying westerly of a line beginning at Spring
20 Point Light to the easternmost point of Fort Gorges
21 Island in Portland - Class SC.

22 **Sec. 25. 38 MRSA §469, sub-§2, ¶D,** as enacted by PL 1985, c.
23 698, §15, is amended to read:

24 D. Mount Desert.

25 (1) Tidal waters, except those lying within 500 feet
26 of privately owned shoreline, lying northerly of
27 latitude 44° - 16' - 36" N. and easterly of longitude 68°
28 - 13' - 08" W. - Class SA.

29 (2) Tidal waters of Somes Sound lying northerly of a
30 line beginning at a point located at the Acadia
31 National Park boundary at latitude 44° - 18' - 18",
32 longitude 68° - 18' - 42" N. and running northeasterly to
33 a point located at the Acadia National Park boundary at
34 latitude 44° - 18' - 54" N., longitude 68° - 18' - 22" W.
35 ~~and lying southerly of a line beginning at a point~~
36 ~~located at latitude 44° - 19' - 37" N., longitude 68° -~~
37 ~~18' - 52" W. and running northeasterly to a point located~~
38 ~~at latitude 44° - 19' - 45", longitude 68° - 18' - 23" W.~~
39 except those waters of Broad Cove lying west of a line
40 running from the point of land immediately south of the
41 cove northerly to Navigation Can #7 - Class SA.

42 **Sec. 26. 38 MRSA §469, sub-§2, ¶F,** as enacted by PL 1985, c.
43 698, §15, is amended to read:

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F. Southwest Harbor.

(1) Tidal waters lying northerly of latitude 44' - 12'-44' -" N., southerly of latitude 44' - 14'-13" N. and westerly of longitude 68' - 18'-27" W. - Class SA.

(2) Tidal waters of Somes Sound lying northerly of a line beginning at a point located at the Acadia National Park boundary at latitude 44' - 18'-18" N., longitude 68' - 18'-42" W. and running northeasterly to a point located at the Acadia National Park boundary at latitude 44' - 18'-54" N., longitude 68' - 18'-22" W. - Class SA.

Sec. 27. 38 MRSA §469, sub-§7, ¶G, as enacted by PL 1989, c. 764, §29, is amended to read:

G. Milbridge.

(1) Tidal waters south of a line running from the Steuben - Milbridge town line along latitude 44'-27'-39" N. to the northernmost point of Currant Island; thence running seutheasterly easterly to a point 1,000 feet from mean high tide on the east-shere of--Beis--Bubert--Island northernmost point of Pond Island; thence along a line running 1,000 feet from mean high tide along Beis-Bubert the east side of Pond Island to the southernmost point of the island; thence running due south - Class SA.

SUMMARY

This bill provides a list of recommendations that the Board of Environmental Protection is making to the Legislature pursuant to the guidance for reclassification of waters provided in the Maine Revised Statutes, Title 38, section 464, subsection 2. This list includes many waters where recent water quality investigations indicate that quality of a higher class is currently achieved, as required in Title 38, section 464, subsection 4, paragraph F, subparagraph (4). Additionally, some waters are proposed where the expectation to achieve a higher classification has been found to be desirable and feasible. The proposed reclassifications are based on actual water quality data, water quality model projections after completion of treatment facilities or other management changes to these waters, and from public comments received at a series of statewide public hearings conducted by the board to acquire information on present and potential use.