

**STATE OF MAINE**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Water Statutes (Title 38)**

Including Pollution Control, Water Classification Program,  
Lake Assessment and Protection Program, and other provisions



# **WATER STATUTES**

Title 38

### *Note Concerning the Text*

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*A table of contents has been added, citations concerning repeals, and information concerning other available publications. This material is not part of the codified statutory text.. Where whole articles or sections have been repealed by the Legislature, they have been removed from the text and the citations included in Appendix A. Repeals at the subsection level and below are indicated in the text. Note that the year shown in a repeal citation indicates the session of the Legislature that enacted the repeal: this year is not necessarily the effective date of the repeal.*

### *Other publications*

*The following statutes are not included in this publication, but are available in separate handouts from the DEP's Bureau of Land and Water Quality:*

- *Mandatory Shoreland Zoning Act*
- *Natural Resources Protection Act*
- *Performance Standards for Excavations for Borrow, Clay, Topsoil, or Silt*
- *Performance Standards for Quarries*
- *Site Location of Development Law*
- *Water Levels (within publication titled "Regulation of Water Levels and Minimum Flows")*
- *Waterway Development and Conservation Act (within publication titled "Regulation of Hydropower in Maine")*

*Statutory text may be accessed on-line through the Maine Revisor of Statutes' web site at:<http://www.maine.gov/legis/statutes/> When using the text on this web site, note the information on the web page concerning the currency of the text. Changes from a prior legislative session are not immediately incorporated.*

*[/janus.state.me.us/legis/statutes/](http://janus.state.me.us/legis/statutes/)*

*Links to most of the recent amendments affecting the Water Statutes are available at:*

*<http://www.maine.gov/dep/blwq/legis99.htm>*

*Amendments affective August 23, 2006 are described in PL 2005, c. 561, An Act to Amend Certain Laws Administered by the Department of Environmental Protection (sections 1 and 10).*

*The DEP Land and Water Bureau web page is located at: <http://www.state.me.us/dep/blwq>*

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**Chapter 3**  
**PROTECTION AND IMPROVEMENT OF WATERS**  
**Subchapter 1: ENVIRONMENTAL PROTECTION BOARD**

**Article 1: ORGANIZATION AND GENERAL PROVISIONS**

**§361-A. Definitions**

Unless the context otherwise indicates, the following words when used in any statute administered by the Department of Environmental Protection shall have the following meanings:

**1. Discharge.** "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of any pollutant to water of the State.

**1-A. Coastal streams.** [Repealed. Laws 1985, c. 698, §1]

**1-B. Agricultural activities.** "Agricultural activities" means the growing of vegetables, fruits, seeds, nursery crops, poultry, livestock, field crops, cultivated or pasture hay and farm woodlot products, including Christmas trees.

**1-B. Aquifer.** [Repealed. Laws 1981, c. 470, Pt. A, §163]

**1-C. Aquifer recharge area.** "Aquifer recharge area" means land composed of permeable porous material or rock sufficiently fractured to allow infiltration and percolation of surface water and transmit it to aquifers.

**1-D. Aquifer.** "Aquifer" means a geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as identified by the Bureau of Geology and Natural Areas, Maine Geological Survey within the Department of Conservation.

**1-E. Commissioner.** "Commissioner" means the Commissioner of Environmental Protection.

**1-F. Affordable housing.** "Affordable housing" means dwellings, apartments or other living accommodations for households making at or below 80% of the median household income as determined by the Department of Economic and Community Development.

**1-G. Board.** "Board" means the Board of Environmental Protection.

**1-H. Department.** "Department" means the Department of Environmental Protection composed of the board and the commissioner.

**1-I. Clean Water Act.** "Clean Water Act" means the Federal Water Pollution Control Act, as defined in subsection 1-K.

**1-J. Code of Federal Regulations.** "Code of Federal Regulations" means the codification of regulations published in the Federal Register by the Federal Government, and includes those regulations effective on or before January 1, 2005.

**1-K. Federal Water Pollution Control Act.** "Federal Water Pollution Control Act" means federal Public Law 92-500 or 33 United States Code, Sections 1251 et seq., including all amendments effective on or before January 1, 2005.

**2. Fresh surface waters.** "Fresh surface waters" means all waters of the State other than estuarine and marine waters and ground water.

**2-A. Ground water.** "Ground water" means all the waters found beneath the surface of the earth which are contained within or under this State or any portion thereof, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State.

**2-B. Handle.** "Handle" means to store, transfer, collect, separate, salvage, process, reduce, recover, incinerate, treat or dispose of.

**3. Municipality.** "Municipality" means a city, town, plantation or unorganized township.

**3-A. Nonferrous metal mining.** "Nonferrous metal mining" means hard rock mining for base and precious metals including copper, lead, tin, zinc, gold, silver, platinum, paladium and unspecified platinoid metals. "Nonferrous metal mining" does not include thorium or uranium.

**3-B. Pollution prevention.** "Pollution prevention" means the application of the toxics use reduction principles and reduction hierarchies, which are established in chapter 26, to manufacturing, commercial and consumer chemical use and energy production and consumption.

**3-C. Overboard discharge.** "Overboard discharge" has the same meaning as in section 466, subsection 9-A.

**4. Person.** "Person" means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

**4-A. Pollutant.** "Pollutant" means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**4-A-1. Snow dump.** "Snow dump" means a facility that is used for the storage of snow and incidental materials collected from public or private ways.

**4-A-2. Road salt and sand-salt storage area.** "Road salt and sand-salt storage area" means a facility that is used for the storage and handling of highway deicing materials.

**4-B. Surface waste water disposal system.** "Surface waste water disposal system" shall mean any system for disposal of waste waters on the surface of the earth, including, but not limited to, holding ponds, surface application and injection systems.

**5. Estuarine and marine waters.** "Estuarine and marine waters" means those portions of the Atlantic Ocean within the jurisdiction of the State, and all other waters of the State subject to the rise and fall of the tide except those waters listed and classified in sections 467 and 468.

**6. Transfer of ownership.** "Transfer of ownership" means a change in the legal entity that owns a property, facility or structure that is the subject of a license issued by the department.

**7. Coastal streams.** [Repealed. Laws 1973, c. 625, §269]

**7. Waters of the State.** "Waters of the State" means any and all surface and subsurface waters that are contained within, flow through, or under or border upon this State or any portion of the State, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State, but not excluding waters susceptible to use in interstate or foreign commerce, or whose use, degradation or destruction would affect interstate or foreign commerce.

### **§362. Authority to accept federal funds**

The department is designated the public agency of the State for the purpose of accepting federal funds in relation to water pollution control, water resources and air pollution studies and control. The commissioner may, subject to the approval of the Governor, accept federal funds available for water pollution control, water resources and air pollution studies and control and meet such requirements with respect to the administration of the funds, not inconsistent with this subchapter, as are required as conditions precedent to receiving federal funds. The Treasurer of State shall be the appropriate fiscal officer of the State to receive federal grants on account of water pollution control, water resources and air pollution studies and control, and the State Controller shall authorize expenditures therefrom as approved by the commissioner.

### **§362-A. Experiments and scientific research in the field of pollution and pollution control**

Notwithstanding any other law administered or enforced by the department, the board is authorized to permit persons to discharge, emit or place any substances on the land or in the air or waters of the State, in limited quantities and under the strict control and supervision of the commissioner or the commissioner's designees, exclusively for the purpose of scientific research and experimentation in the field of pollution and pollution control. The research and experimentation conducted under this section is subject to such terms and conditions as the board determines necessary in order to protect the public's health, safety and general welfare, and may be terminated by the board or commissioner at any time upon 24 hours' written notice.

Prior to applying for approval of any project involving discharge of petroleum products to tidal waters under this section, the applicant shall first obtain written approval from the municipal officers of the municipality in which the project is proposed to take place. The applicant shall provide the municipal officers with a complete description of the project at least 90 days prior to the proposed date of the project. The municipal officers may hold a public hearing, provided that it is held within 45 days of the filing of the application with the municipality. The municipal officers shall approve a project within 60 days of receipt if they find that the project will not constitute a hazard to the health, safety or welfare of the residents of the municipality.

### **§363-D. Waiver or modification of protection and improvement laws**

The commissioner or the commissioner's designee may waive or modify any of the provisions of this chapter if that waiver or modification promotes or assists any oil spill response activity conducted in accordance with the national contingency plan, a federal contingency plan, the state marine oil spill contingency plan, or as otherwise directed by the federal on-scene coordinator, the commissioner or commissioner's designee. A waiver issued by the commissioner under this section must be in writing.

### **§372. Exceptions**

Nothing contained in this subchapter shall limit the powers of the State to initiate, prosecute and maintain actions to abate public nuisances to the extent consistent with the public interest, nor shall any license granted under this subchapter constitute a defense to any action at law for damages.

## **Article 1-B: GROUND WATER PROTECTION PROGRAM**

### **§401. Findings; purpose**

The Legislature finds and declares that the protection of ground water resources is critical to promote the health, safety and general welfare of the people of the State. Aquifers provide a significant amount of the water used by the people of the State. Aquifers and aquifer recharge areas are critical elements in the hydrologic cycle. Aquifer recharge areas collect, conduct and purify the water that replenishes aquifers.

The Legislature further finds and declares that an adequate supply of safe drinking water is a matter of the highest priority and that it is the policy of the State to protect, conserve and maintain ground water supplies in the State.

The Legislature further finds and declares that ground water resources are endangered by unwise uses and land use practices.

The Legislature further finds that these resources may be threatened by certain agricultural chemicals and practices, but that the nature and extent of this impact is largely unknown. Failure to evaluate this potential problem is likely to result in costly contamination of some ground water supplies leading to increased risks to the public health.

The Legislature further finds and declares it to be the purpose of this Article to require classification of the state's ground water resources.

The Legislature further finds and declares that there are numerous existing state agencies, commissions, boards or similar entities administering various statutes and programs relating to ground water. Because of the importance of ground water to the safety and well-being of the State, there is an urgent need for the coordination and development of the programs to assess the quality and quantity of and to protect ground water.

It is the intention of the Legislature that the Bureau of Geology provide coordination and develop programs for the collection and analysis of information relating to the nature, extent and quality of aquifers and aquifer recharge areas.

It is further the intention of the Legislature that existing programs related to ground water continue in their present form and that the Department of Environmental Protection provide coordination for the protection of ground water through existing statutes and regulations.

This article is not intended to limit a municipality's power to enact ordinances under Title 30-A, section 3001, to protect and conserve the quality and quantity of ground water.

### **§402. Research**

The Bureau of Geology in cooperation with the Department of Environmental Protection, is authorized to conduct research and studies to determine recharge and cleansing rates of ground water in different sand and gravel and bedrock formations.

The Bureau of Geology and Natural Areas, Maine Geological Survey within the Department of Conservation in cooperation with other agencies as appropriate shall conduct a 3-year program to assess the impact of agricultural practices and chemicals on ground water quality in selected agricultural areas and selected aquifers. The program must evaluate the extent and level of contamination associated with pesticide use, the mechanisms by which pesticides move through the soil and into ground water supplies, the synergistic effects of these substances and their persistence in ground water.

The survey shall report annually its progress to the joint standing committee of the Legislature having jurisdiction over natural resources.

### **§403. Ground water quality**

**1. Legislative intent.** The Legislature finds that sand and gravel aquifers are important public and private resources for drinking water supplies and other industrial, commercial and agricultural uses. The

ground water in these formations is particularly susceptible to contamination by pollutants and, once polluted, may not recover for hundreds of years. It is the intent of the Legislature that information be developed which shall determine the degree that the state's sand and gravel aquifers have been contaminated and shall provide a base of knowledge from which decisions may be made to protect the aquifers.

**2. Determination of ground water quality.** The commissioner and the Department of Conservation shall delineate the primary recharge areas for all sand and gravel aquifers capable of yielding more than 10 gallons per minute. Utilizing existing water supply information and well drilling logs, the commissioner and the Department of Conservation shall determine depth to bedrock, depth to water table, surficial material stratigraphy and generalized ground water flow directions of the aquifers. The commissioner and the Department of Conservation shall also determine the extent and direction of contamination plumes originating from distinct sources within each area studied. The primary recharge areas, flow directions and contamination plumes are to be shown on maps of a scale of 1:50,000.

#### **§404. Ground water rights**

**1. Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

- A. "Beneficial domestic use" means any ground water used for household purposes essential to health and safety, whether provided by individual wells or through public supply systems.
- B. "Ground water" means all the waters found beneath the surface of the earth.
- C. "Preexisting use" means any use which was undertaken by a public water supplier, a landowner or lawful land occupant or a predecessor in interest of either of them, at any time during the period of 3 years prior to the commencement of the use which resulted in the interference.

**2. Cause of action created.** Subject to the limitations of subsection 3 and except as provided by Title 23, section 652, a person is liable for the withdrawal of ground water, including use of ground water in heat pump systems, when the withdrawal is in excess of beneficial domestic use for a single-family home and when the withdrawal causes interference with the preexisting beneficial domestic use of ground water by a landowner or lawful land occupant.

**3. Limitations.** The liability imposed under subsection 2 shall be in compensatory damages only, to be recovered in an action brought by the landowner or other lawful land occupant whose ground water use has been interfered with, against the person whose subsequent use has caused the interference.

A. The damages shall be limited to the following:

- (1) All costs necessary to restore the landowner or lawful land occupant to a status which is reasonably equivalent in terms of quantity and quality of ground water, made available on a similarly accessible and economic basis;
- (2) Compensatory damages for loss or damage to property, including, without limitation, the loss of habitability of residence, caused to the landowner or lawful land occupant by reason of the interference, prior to restoration of the status provided for in subparagraph (1); and
- (3) Reasonable costs, including expert witness and attorney fees, incurred in initiating and prosecuting an action when necessary to secure a judgment granting the relief provided for under this chapter.

B. The rights afforded by this chapter shall be in addition to, and not in derogation of, any other rights, whether arising under statute or common law, which any person may have to seek redress against any other person for ground water interference or contamination.

## **Article 1-E: MARINE ENVIRONMENTAL MONITORING PROGRAM**

### **§410-F. Marine Environmental Monitoring Program**

The Department of Environmental Protection in cooperation with the Department of Marine Resources shall establish the Marine Environmental Monitoring Program. The initial purpose of this program is to design a monitoring program to examine the extent and effect of industrial contaminants and pollutants on marine and estuarine ecosystems and to determine compliance with and attainment of water quality standards under article 4-A. This study must include, but is not limited to:

- 1. Sources.** The sources, fates and biological availability of these contaminants;
- 2. Impact.** The impact of these contaminants on marine and estuarine biota; and
- 3. Assessment.** An assessment of the condition of marine and estuarine habitats.

The commissioner shall establish a task force to coordinate the continuing activities of the monitoring program. The Commissioner of Agriculture, Food and Rural Resources, the Commissioner of Environmental Protection, the Commissioner of Health and Human Services and the Commissioner of Marine Resources shall appoint representatives to serve as members of the task force. The task force shall address the identification and removal of sources of marine pollution.

### **§410-G. Report required**

The commissioner in cooperation with the Department of Marine Resources shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resources and the joint standing committee of the Legislature having jurisdiction over marine resources during the first regular session of each Legislature. The report is due on or before March 15th. The report must address the problems or potential problems of marine and estuarine resources caused by industrial contaminants. The commissioner also shall prescribe remedial steps to address problems identified in the report. If the department does not receive funding for the Marine Environmental Monitoring Program described in section 410-F during all or part of the calendar year prior to the first regular session of a Legislature, then the reporting requirements of this section are waived.

## Article 1-F: NONPOINT SOURCE POLLUTION PROGRAM

### §410-H. Definitions

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

**1. Best management practice guidelines.** "Best management practice guidelines" means recommended techniques or procedures or a combination of techniques or procedures that are determined by the appropriate agency identified in section 410-J to be the most effective practicable means of preventing or reducing pollution generated by nonpoint sources.

**2. Nonpoint source.** "Nonpoint source" means any source, excluding any source defined as a direct discharge in section 466, that discharges pollutants into the surface or ground waters of the State, including, but not limited to, sources related to agriculture, construction and maintenance of bridges, railways and roads, forest management and commercial, industrial or residential development.

### §410-I. Cooperation with agencies

**1. Agency cooperation.** The commissioner shall cooperate and coordinate with the Commissioner of Agriculture, Food and Rural Resources; the Commissioner of Conservation; the Commissioner of Transportation; the Commissioner of Economic and Community Development; the Commissioner of Health and Human Services; the Commissioner of Marine Resources; and the Director of the State Planning Office to ensure a coordinated approach to nonpoint source pollution control for agriculture, forestry, transportation and development.

**2. Ranking of watersheds.** In cooperation with the commissioner, the agencies identified in subsection 1 shall identify those watersheds that should receive highest priority for corrective action for nonpoint source pollution and those actions recommended in great pond watersheds to control phosphorus runoff.

### §410-J. Program implementation

**1. Agriculture.** The Department of Agriculture, Food and Rural Resources shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from agricultural activities. The Department of Agriculture, Food and Rural Resources may recommend to farmers the use of best management practice guidelines.

**2. Forestry.** The Department of Conservation, Bureau of Forestry in cooperation with the commissioner shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from wood harvesting and forest management activities. The Bureau of Forestry may publish best management practice guidelines for use by landowners and wood harvesters. Landowners and wood harvesters must be notified of these guidelines and assisted in their efforts to implement the guidelines in accordance with the Bureau of Forestry advisory programs under Title 12, sections 8611 and 8612.

**3. Transportation.** The Department of Transportation in cooperation with the commissioner shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from transportation-related activities. The Department of Transportation shall encourage all state or federally funded projects to use the best management practice guidelines. The Department of Transportation may provide technical assistance to municipalities.

**4. Development.** The commissioner shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from development-related activities. State agencies shall follow these guidelines in construction or remodeling activities for state buildings and other capital improvements. The commissioner shall provide guidance and technical assistance to the Office of Community Development and municipalities to support implementation through growth management programs authorized by the growth management laws, Title 30-A, chapter 187, subchapter II and municipal subdivision ordinances.

#### **§410-K. Program review**

Prior to January 1, 1993, the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters a report detailing the effectiveness of the program and making recommendations for program improvements and fee amounts for permit applications under chapter 3, subchapter I, articles 5-A and 6. The commissioner shall make recommendations on the advisability of enacting statutory or regulatory exemptions from the water quality discharge licensing requirements of section 413 for those activities conducted in compliance with best management practice guidelines under this article. The commissioner shall submit with these recommendations an analysis of the legal and enforcement issues raised by these exemptions, specifically, the need to adopt by rule best management practice guidelines. In recommending fees pursuant to this section, the commissioner shall consider the cost of technical review and compliance inspection for best management practices and shall recommend fees that cover these costs.

## Article 1-G: LAKES ASSESSMENT AND PROTECTION PROGRAM

### §410-L. Lakes Assessment and Protection Program established

The Lakes Assessment and Protection Program is established within the department to monitor and protect the health and integrity of the State's lakes.

### §410-M. Lakes assessment and protection

In implementing the Lakes Assessment and Protection Program, the commissioner shall conduct activities within the following areas:

**1. Education and technical assistance.** Education and technical assistance relating to lake functions and values, watershed planning and management, implementation of best management practices, effects of cumulative impacts and applicable laws and rules;

**2. Resource monitoring and research.** Monitoring and research relating to the ecology and quality of lake resources, the vulnerability and the status of lakes, the relationship between the quality of lake resources and development, the design and effectiveness of best management practices and the effectiveness of efforts to protect lakes; and

**3. Compliance monitoring and enforcement.** Promoting and monitoring compliance with and enforcement of the natural resources protection laws, the mandatory shoreland zoning laws, the storm water management laws, the erosion and sedimentation control laws and other state and local laws providing standards for the protection of lakes.

In establishing priorities for activities within the Lakes Assessment and Protection Program, the commissioner shall consider the recommendations of the Great Pond Task Force developed pursuant to section 1842-A and the watershed priorities established by the Land and Water Resources Council pursuant to Title 5, section 3331.

### §410-N. Aquatic nuisance species control

**1. Definitions.** As used in this section and section 419-C, unless the context otherwise indicates, the following terms have the following meanings.

A. "Aquatic plant" means a vascular plant species that requires a permanently flooded freshwater habitat.

B. "Invasive aquatic plant" means a species identified by the department as an invasive aquatic plant or one of the following species:<sup>1</sup>

- (1) Eurasian water milfoil, *Myriophyllum spicatum*;
- (2) Variable-leaf water milfoil, *Myriophyllum heterophyllum*;
- (3) Parrot feather, *Myriophyllum aquaticum*;
- (4) Water chestnut, *Trapa natans*;
- (5) Hydrilla, *Hydrilla verticillata*;
- (6) Fanwort, *Cabomba caroliniana*;
- (7) Curly pondweed, *Potamogeton crispus*;
- (8) European naiad, *Najas minor*;
- (9) Brazilian elodea, *Egeria densa*;

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<sup>1</sup> NOTE: An amendment to paragraph B removed a requirement that additional species be identified by the department through rulemaking. See Laws 2005, ch. 561, §1 (effective August 23, 2006).

(10) Frogbit, *Hydrocharis morsus-ranae*; and

(11) Yellow floating heart, *Nymphoides peltata*.

**2. Education.** The department shall prepare educational materials that inform the public about problems associated with invasive aquatic plants, how to identify invasive aquatic plants, why it is important to prevent the transportation of aquatic plants and the prohibitions relating to aquatic plants contained in section 419-C. The department shall make the materials available to municipalities, lake associations, water quality monitors, law enforcement agents, businesses that sell aquatic plants in the State and other interested individuals.

A. The department shall provide signs for installation at all state boat launch facilities on fresh waters informing the public about the prohibition of aquatic plant transportation on boats and trailers and may provide these signs, as available funds allow, for installation at other boat launch sites including municipal boat launch facilities, campground boat launch facilities and other commonly used launch sites.

B. The department shall work with the Department of Transportation and the Maine Turnpike Authority to provide signs and educational materials on all major roads at the State's borders advising incoming boat owners that state law requires all boats and trailers to be free of aquatic plant material.

**3. Control.** The department shall investigate and document the occurrence of invasive aquatic plants in state waters and may undertake activities to control invasive aquatic plant populations as follows.

A. The department or a person designated by the department may attempt eradication of an invasive aquatic plant from a water body if determined feasible by the department. If the commissioner determines that eradication activities must be undertaken immediately, a license is not required under section 480-C for the use of a physical, chemical or biological control material by the department or a person designated by the department if the use of the control material is specifically related to the immediate eradication of invasive aquatic plant populations in the water body. Prior to undertaking an eradication activity and to the extent practical, the department shall notify landowners whose property is adjacent to the area where the activity will be undertaken.

B. The department may conduct research to test new control methods for the eradication of invasive aquatic plants pursuant to section 362-A.

C. The department may study and develop a plan that includes the use of water level drawdown for the eradication of invasive aquatic plants. If determined feasible by the department, the department may implement a plan developed pursuant to this paragraph. The department may seek funding from private sources to support the activities described in this paragraph.

**Article 2: POLLUTION CONTROL**

**§411. State contribution to pollution abatement**

The commissioner may pay an amount not to exceed 80% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners. The commissioner may make payments to the Maine Municipal Bond Bank to supply the State's share of the revolving loan fund established by Title 30-A, section 6006-A. The commissioner may pay up to 90% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners in which the construction cost of the project does not exceed \$100,000 as long as not more than one grant is made to any applicant each year, except that the commissioner may pay a percentage of the cost of individual projects serving single-family dwellings, seasonal dwellings or commercial establishments according to the following schedule:

ANNUAL INCOME	SINGLE-	SEASONAL
	FAMILY DWELLING	DWELLING
\$ 0 to \$5,000	100%	50%
\$ 5,001 to \$20,000	90%	50%
\$ 20,001 to \$30,000	50%	25%
\$ 30,001 to \$40,000	25%	25%
\$ 40,001 or more	0%	0%
GROSS PROFIT	COMMERCIAL	
	ESTABLISHMENT	
\$ 0 to \$50,000	50%	
\$ 50,001 to \$100,000	25%	
\$ 100,001 or more	0%	

For the purposes of this section, "annual income" means the sum of all the property owner's federal taxable income for the previous year for single-family or seasonal dwellings and "gross profit" means the sum of all the commercial establishment owner's gross profits for the previous year as listed on the relevant federal income tax returns.

To determine eligibility, the commissioner may require an applicant to submit a copy of the relevant federal income tax return of the owner or owners. In addition to any penalty adjudged under section 349, a person who knowingly makes any false statement, representation or certification in the application for a grant under this section and who receives such a grant shall, upon conviction, make restitution to the department in an amount equal to the amount of the grant plus interest and reasonable recovery cost incurred by the department.

For small individual projects, following a period of 90 days from the date of application for assistance under this section, or as ground conditions permit, the unavailability of financial assistance under this section does not relieve an applicant of an obligation to comply with the state water classification program, Title 38, chapter 3, subchapter I, article 4-A or any other provision of law.

State grant-in-aid participation under this section is limited to grants for waste treatment facilities, interceptor systems and outfalls. The word "expense" does not include costs relating to land acquisition or debt service, unless allowed under federal statutes and regulations.

The commissioner shall develop a project priority list, for approval and adoption by the board, for pollution abatement construction and salt or sand-salt storage building projects. The factors considered in

developing the priority lists include, but are not limited to, protection of groundwater and surface water, land use, shellfish, general public health hazards and water contact activities. The commissioner shall revise the project priority list for municipal and county salt and sand-salt storage facilities by October 1, 1999 and for all other sand and salt storage facilities by April 1, 2000. An owner or operator of a salt or sand-salt storage area may appeal the ranking and provide new information to the commissioner within 120 days of notification, which may change final priority ranking. The board shall release a final project priority list of municipal and county sites by April 1, 2000, and for all other sand and salt storage facilities by July 1, 2000. The board may not change the priority ranking for a municipality or county that prior to January 1, 1999 built a facility and also registered the site with the department pursuant to section 413.

All proceeds of the sale of bonds for the construction and equipment of pollution abatement facilities expended under the direction and supervision of the commissioner must be segregated, apportioned and expended as provided by the Legislature.

#### **§411-A. State contribution to residential overboard discharge replacement projects**

**1. General authority.** Subject to the availability of funds under section 411, the commissioner shall pay a portion of the expense of a pollution abatement construction project that results in the elimination of an overboard discharge to the waters of the State where that elimination is required under section 414-A, subsection 1-B. The costs eligible for payment under this program include the costs that the department requires for abandonment of the overboard discharge and the design, engineering and construction costs of the replacement system. Grants made under this section may be made directly to the owners of the overboard discharge and may also be made to sanitary and sewer districts that have agreed to establish operation and maintenance programs for holding tanks within their boundaries.

**2. Cost-share.** [Repealed. Laws 2003, c. 246, §3]

**2-A. Cost-share.** The commissioner shall determine the portion of project expenses eligible for grants under this section as follows:

- A. For an owner of overboard discharge with an annual income less than \$25,000, 100%;
- B. For an owner of overboard discharge with an annual income between \$25,000 and \$50,000, 90%;
- C. For an owner of overboard discharge with an annual income between \$50,001 and \$75,000, 50%;
- D. For an owner of overboard discharge with an annual income between \$75,001 and \$100,000, 35%;
- E. For an owner of overboard discharge with an annual income over \$100,000, 25%; and
- F. For a publicly owned overboard discharge facility, 50% to a maximum of \$150,000.

For purposes of this subsection, "annual income" means the sum of all the property owner's federal taxable income for the previous year for single family dwellings, gross profits for the previous year for commercial establishments and gross rents for the previous year for rental properties, as listed on the relevant federal income tax returns.

**3. Priority.** The commissioner shall utilize grants made under this section to eliminate sources of contamination to shellfish harvesting areas and to eliminate public nuisance conditions.

**4. Reimbursement.** The commissioner shall utilize grants under this section to reimburse individuals for the cost of removing any overboard discharge, subject to the provisions of subsection 2-A, when:

- A. The removal occurred after September 30, 1989 but was carried out according to plans and specifications approved by the commissioner in advance of construction and prior to the offering of a grant under this section;
- B. The removal resulted in the elimination of sources of contamination to shellfish areas or public nuisance conditions; and
- C. The removal is required under section 413, subsection 3 or section 414-A, subsection 1-B.

## **§411-B. Planning**

The department is authorized to establish and conduct a continuous planning process in cooperation with federal, state, regional and municipal agencies consistent with the requirements of the Federal Water Pollution Control Act, 33 United States Code 1982, Section 1251, et seq., as amended.

## **§412. Grants by State for planning**

**1. Grants by State for planning.** The commissioner is authorized to pay an amount at least 15%, but not to exceed 25%, of the expense incurred by a municipality or quasi-municipal corporation in preliminary or final planning of a pollution abatement program in the form of a grant. The amount may not be paid until the governing body of the municipality or the quasi-municipal corporation duly votes to proceed with preliminary or final planning of a pollution abatement program, as appropriate.

A. For the purposes of this section, "preliminary planning" means engineering studies that include analysis of existing pollution problems; estimates of the cost of alternative methods of waste treatment, studies of areas to be served by the proposed facilities and estimates of the cost of serving such areas; preliminary sketches of existing and proposed sewer and treatment plant layouts; and estimates of alternative methods of financing, including user charges, and other studies and estimates designed to aid the municipality or quasi-municipal corporation in deciding whether and how best to proceed with a pollution abatement program.

B. For the purposes of this section, "final planning" means the preparation of engineering drawings and specifications for the construction of waste treatment facilities, interceptor systems and outfalls or other facilities specifically designated in departmental rules. All proceeds from the sale of bonds for the planning of pollution abatement facilities expended under the direction and supervision of the commissioner must be segregated, apportioned and expended as provided by the Legislature.

## **§412-A. Technical and legal assistance**

At the request of any recipient of state funds under section 411 or 412, the commissioner is authorized to provide technical assistance and, through the Attorney General, legal assistance in the administration or enforcement of any contract entered into, by or for the benefit of the recipient in connection with wastewater treatment works or other facilities assisted by these funds.

Whenever any state funds have been disbursed pursuant to section 411 or 412, the State, acting through the Attorney General, shall have a direct right of action against the recipient thereof, or any contractor, subcontractor, architect, engineer or manufacturer of any equipment purchased with these funds, to recover the funds, as well as any federal funds administered by the commissioner for the same purposes, which may be properly awarded as actual damages in an action alleging negligence or breach of contract.

## **§412-B. Consultation on waste water disposal**

**1. Consultation on disposal methods.** The commissioner shall consult with and advise any person proposing or operating drainage, sewerage or industrial waste systems as to the best methods of disposal. In making recommendations, the commissioner shall consider the needs of the municipality, other municipalities and other persons affected.

**2. Consultation on water pollution abatement and prevention.** The commissioner may consult with and advise persons or corporations who are licensed or apply for a license under this subchapter on water pollution abatement and prevention.

**3. Submission of plans for waste disposal.** Any person who proposes a new system of drainage, sewage disposal, sewage treatment or industrial waste disposal into any waters of the State shall submit plans and specifications for the system to the commissioner for approval. Purely storm water systems located in or on or draining from public ways and any alterations in existing facilities are exempt from this requirement.

### §413. Waste discharge licenses

**1. License required.** No person may directly or indirectly discharge or cause to be discharged any pollutant without first obtaining a license therefor from the department.

**1-A. License required for surface wastewater disposal systems.** No person may install, operate or maintain a surface wastewater disposal system without first obtaining a license therefor from the department, except that the department may exempt or license by rule categories of storm water discharges to groundwater when the discharges will not have a significant adverse effect on the quality or classification of waters of the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A unless the rules are incorporated as amendments to existing rules that are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**1-B. License required for subsurface wastewater disposal systems.** A license to install, operate or maintain a subsurface wastewater disposal system is governed as set forth in this subsection.

A. A person may not install, operate or maintain a subsurface wastewater disposal system without first obtaining a license for the system from the department, except that a license is not required for systems designed and installed in conformance with the plumbing code, as adopted by the Department of Human Services under Title 22, section 42.

B. The department may exempt or license by rule categories of subsurface discharges to groundwater in the same manner and using the same criteria as provided in subsection 1-A.

**2. Exemptions.** A person is not considered in violation of this section for the discharge of rock, sand, dirt or other pollutants resulting from erosion related to agricultural activities, subject to the following conditions.

A. The appropriate soil and water conservation district has recommended an erosion and sedimentation control plan or conservation plan for the land where this erosion originates.

B. The commissioner has certified that the plan meets the objectives of this chapter.

C. The commissioner determines that the agricultural activities are in compliance with the applicable portion of the plan, or the soil and water district has certified that funds from existing federal and state programs are not available to implement the applicable portion of the plan.

D. After the State receives authority to grant permits under the Federal Water Pollution Control Act, this exemption will not apply to any discharges considered point sources under federal law, including discharges from concentrated animal feeding operations and discharges from silvicultural point sources, as defined by federal law.

**2-A. Exemptions; pesticide permits.** [Repealed. Laws 1979, c. 281, §3]

**2-A. Exemptions.** [Repealed. Laws 1979, c. 663, §229]

**2-A. Exemptions; pesticide permits.** [Repealed. Laws 1979, c. 663, §229]

**2-B. Exemptions; snow dumps.** The department may by rule license categories of snow dumps when the activity would not have a significant adverse effect on the quality or classifications of the waters of the State, except there may be no snow dumps directly into the fresh surface waters of the State.

**2-C. Dredge spoils.** Holders of a permit obtained pursuant to the United States Clean Water Act, Public Law 92-500, Section 404, are exempt from the need to obtain a waste discharge license for disposal of dredged material into waters of the State when the dredged material is disposed of in an approved United States Army Corps of Engineers disposal site. Disposal of all dredged materials is governed by the natural resource protection laws, sections 480-A to 480-S.

**2-D. Exemptions; road salt or sand-salt storage piles.** The commissioner may exempt any road salt or sand-salt storage area from the need to obtain a license under this section for discharges to groundwaters of the State when the commissioner finds that the exempt activity will not have a significant adverse effect on the quality or classifications of the groundwaters of the State. In making this finding, the commissioner's review must include, but is not limited to, the location, structure and operation of the

storage area.

Owners of salt storage areas shall register the location of storage areas with the department on or before January 1, 1986. As required by section 411, the department shall prioritize municipal or quasi-municipal sand-salt storage areas prior to November 1, 1986.

New or existing salt or sand-salt storage areas registered after October 1, 1999 may be exempt from licensing under this section as long as such areas comply with siting, operational and best management practices adopted by rule by the department. Storage areas other than those owned by municipalities or counties and registered prior to October 1, 1999 are exempt from licensing under this section as long as such areas comply with section 451-A, subsection 1-A and with operational and best management practices adopted by rule by the department. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Storage areas owned by the Department of Transportation and registered prior to October 1, 1999 are not in violation of best management practice rules adopted by the department pursuant to this subsection if the Department of Transportation complies with the reporting requirements in section 451-A.

**2-E. Exemptions; pesticide permits.** [Repealed. Laws 1997, c. 794, Pt. A, §13]

**2-F. Exemption; aquaculture.** Until the State receives authority to grant permits under the Federal Water Pollution Control Act, 33 United States Code, 1982, a person may not be considered in violation of this section if:

A. The discharge activity is associated with off-shore marine aquaculture operations in the estuarine and marine waters; and

B. As a condition of obtaining a leasehold from the Department of Marine Resources, the Department of Environmental Protection certifies that the aquaculture activities mentioned in this subsection will not have a significant adverse effect on water quality or violate the standards ascribed to the receiving waters' classifications.

**2-G. Exemptions; oil and hazardous substances spill response.** A license is not required under this section for the following discharges:

A. A discharge to groundwaters of the State that occurs in the process of recovering, containing, cleaning up or removing an oil or hazardous substance spill or leak if discharge complies with the instructions of the commissioner or the commissioner's designee; or

B. A discharge to surface waters of the State that occurs in the process of recovering, containing, cleaning up or removing an oil or hazardous substance spill or leak if the discharge complies with the instructions of an on-scene coordinator pursuant to 40 Code of Federal Regulations, Part 300.

**3. Transfer of ownership.** In the event that any person possessing a license issued by the department transfers the ownership of the property, facility or structure that is the source of a licensed discharge, without transfer of the license being approved by the department, the license granted by the department continues to authorize a discharge within the limits and subject to the terms and conditions stated in the license, provided that the parties to the transfer are jointly and severally liable for any violation thereof until such time as the department approves transfer or issuance of a waste discharge license to the new owner. The department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

Except when it has been demonstrated within 5 years prior to a transfer that there is no technologically proven alternative to an overboard discharge, prior to transfer of ownership of property containing an overboard discharge, the parties to the transfer shall determine the feasibility of technologically proven alternatives to the overboard discharge that are consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42 based on documentation from a licensed site evaluator provided by the applicant and approved by the Department of Environmental Protection. The licensed site evaluator shall demonstrate experience in

designing replacement systems for overboard discharge. If an alternative to the overboard discharge is identified, the alternative system must be installed within 90 days of property transfer, except that, if soil conditions are poor due to seasonal weather, the alternative may be installed as soon as soil conditions permit. The installation of an alternative to the overboard discharge may be eligible for funding under section 411-A.

**4. Conditions for licensing.** [Repealed. Laws 1973, c. 450, §10]

**5. Registration of discharges exempted from licensing.** [Repealed. Laws 1973, c. 450, §10]

**6. Unlicensed discharge.** If after investigation the commissioner finds any unlicensed discharge, the commissioner may notify the Attorney General of the violation without recourse to the hearing procedures of section 347-A. The Attorney General shall proceed immediately under section 348.

**7. Tidal waters and subtidal lands.** In connection with a license under sections 414 and 414-A, whenever issued, the department may grant to a licensee a permit to construct, maintain and operate any facilities necessary to comply with the terms of that license in, on, above or under tidal waters or subtidal lands of the State. This permit may be issued upon such terms and conditions as the department determines necessary to insure that the facilities create minimal interference with existing uses, including a requirement that the licensee provide satisfactory evidence of financial capacity, or in lieu thereof, a bond in such form and amount as the department may find necessary, to insure removal of such facilities. In the event that the facilities are no longer necessary in order for the licensee or successor thereof to comply with the terms of its license, the department may, after opportunity for notice and hearing, require the licensee or successor to remove all or any portion of the facilities from the tidal waters or subtidal lands. This removal may be ordered if the department determines that maintenance of the facilities will unreasonably interfere with navigation, the development or conservation of marine resources, the scenic character of any coastal area, other appropriate existing public uses of such area or public health and safety, and that cost of this removal will not create an undue economic burden on the licensee or successor.

**8. Treated wastewater.** [Repealed. Laws 1997, c. 794, Pt. A, §16.]

**9. Emergency public water utility license.** [Repealed. Laws 1997, c. 794, Pt. A, §17.]

**10. Marine aquaculture projects.** After the State receives authority to grant permits under the Federal Water Pollution Control Act, 33 United States Code, 1982, the department may issue to an owner of a marine aquaculture project a license for the discharge of pollutants to those waters only if the following conditions are satisfied:

A. An application for a leasehold has been accepted as complete by the Department of Marine Resources and a copy of an approved leasehold is provided to the department prior to any discharge of pollutants;

B. The project will not have a significant adverse effect on water quality or violate the standards of the receiving water's classification;

C. The project will be managed and monitored in accordance with a program approved by the Department of Marine Resources;

D. The project is not located in waters classified as SA under section 465-B, subsection 1; and

E. Other applicable requirements of this chapter are met.

A license issued pursuant to this subsection is void if water quality is significantly affected by the project.

For the purposes of this subsection, an aquaculture project is a defined managed water area that uses discharges of pollutants into that designated area for the maintenance or production of harvestable plants or animals in estuarine or marine waters.

**11. Mercury.** A facility discharging mercury into the waters of the State shall make reasonable progress to develop, incorporate and continuously improve pollution prevention practices and implement

future economically achievable improvements in wastewater technology in order to reduce that facility's dependence upon mercury products, reduce or remove discharges of mercury over time and help in the restoration of the waters of the State. The department shall establish and may periodically revise interim discharge limits, based on procedures specified by rule, for each facility licensed under this section and subject to this subsection in order to reduce the discharge of mercury over time and achieve the ambient water quality criteria established in section 420, subsection 1-B. Notwithstanding section 420, subsection 1-B or section 464, subsection 4, paragraph F, a facility discharging mercury shall at all times meet the interim limits established under this subsection.

A. A discharge limit for mercury may not be less stringent statistically than an interim limit established by the department pursuant to Chapter 519 of rules adopted by the department, effective February 5, 2000, and must be based on recent data appropriate for the facility. A facility with such an interim limit shall comply with that limit unless the department establishes a different interim limit.

B. A facility that discharges mercury shall implement a pollution prevention plan consistent with requirements of the department. The department may require that the prevention plan be periodically updated.

(1) The facility shall submit a copy of the pollution prevention plan to the department and the copy must be made available for viewing upon request by a member of the public. The facility shall provide information concerning the status of implementation of the pollution prevention plan to the department as required by the department.

(2) The facility shall monitor for mercury and provide the monitoring information to the department as required by the department.

C. The department may adjust an interim discharge limit for mercury upward or downward upon its own action or at the request of a licensee based upon factors such as additional monitoring data, reduction in flow due to implementation of a water conservation plan, seasonal variations, increased atmospheric deposition and changes in levels of production.

D. The department may approve an application and establish an interim discharge limit for a new or expanded discharge of mercury after the effective date of this paragraph only if:

(1) An opportunity for public participation is provided;

(2) The discharge will not result in a significant lowering of existing water quality with respect to mercury; and

(3) The action is necessary to achieve important economic or social benefits to the State.

E. [Repealed. Laws 2001, c. 418, §1 (new); T. 38, §413, sub-§11, paragraph E]

F. Notwithstanding this subsection, whenever the commissioner finds that a danger to public health exists due to mercury concentrations in any waters of the State, the commissioner may issue an emergency order to all facilities discharging to those waters prohibiting or curtailing the further discharge of mercury and compounds containing mercury into those waters. These findings and the order must be served in a manner similar to that described in section 347-A, subsection 3 and the parties affected by that order have the same rights and duties as are described in section 347-A, subsection 3.

G. A facility may not directly or indirectly discharge to a publicly owned treatment facility any concentration of mercury that contributes to the failure of the treatment facility to comply with interim effluent limits or applicable ambient water quality criteria for mercury. The owner of a publicly owned treatment facility may require any user of that facility, except for a residential source, to institute measures necessary to abate discharges of mercury to that facility. Those measures may include, but are not limited to, testing to determine concentrations of mercury, institution of pollution prevention practices or the evaluation of raw materials, products or practices. The owner of a publicly owned treatment facility may establish reasonable time schedules for completion of those

measures. A facility that does not comply with abatement measures required by an owner of a publicly owned treatment facility may be subject to enforcement actions taken by the department or the owner of the facility and sanctions imposed by applicable municipal ordinances or section 349.

#### **§414. Applications for licenses**

**1. Administration.** [Repealed. Laws 1977, c. 300, §17]

**2. Terms of licenses.** Licenses are issued by the department for a term of not more than 5 years.

**2-A. Relicensing.** The relicensing of an existing licensed waste discharge prior to or after the expiration of the term of the existing license is subject to all of the requirements of this chapter. For the purposes of this chapter, the term "relicense" includes, without limitation, the terms "renewal," "renew," "reissue" and "extend." Relicensing of a waste discharge may be denied for any of the reasons set forth in section 341-D.

**3. Inspection and records.** Authorized representatives of the commissioner and the Attorney General have access at any reasonable time, to and through any premises where a discharge originates or is located or where required records are kept, including records of industrial users of publicly owned treatment works, for the purposes of inspection, testing and sampling. The department may order a discharger to produce and has the right to copy any records relating to the handling, treatment or discharge of pollutants and may require any licensee to keep such records relating to the handling, treatment or discharge of pollutants as the department determines necessary. The department also may order, in writing, a discharger or industrial user of publicly owned treatment works to produce such records, reports and other information as may reasonably be required in order to determine if that person is in violation of any law, order, rule, license, permit, approval or decision of the board or commissioner related to a wastewater discharge.

**3-A. Inspection of overboard discharge systems.** The department shall inspect all licensed overboard discharge systems. The cost of the inspections must be assessed as part of the annual license fee. For residential overboard discharges owned by individuals, the department shall provide a fee reduction based on the adjusted gross income of the license holder on the most recent tax return under the federal Internal Revenue Code of 1986. If the license holder's adjusted gross income is less than \$15,000, the license holder may reduce the total fee by \$125. Any overboard discharge license owner with a mechanical treatment system must provide annual proof of a private maintenance contract for maintenance of that system.

A. [Repealed. Laws 2003, c. 246, §8]

B. [Repealed. Laws 2003, c. 246, §8]

**3-B. Waiver of inspection; reduced fees.** [Repealed. Laws 2003, c. 246, §9]

**4. Schedule of fees for discharge licenses.** [Repealed. Laws 1973, c. 712, §6]

**5. Unlawful to violate license.** After the issuance of a license by the department, it is unlawful to violate the terms or conditions of the license, whether or not such violation actually lowers the quality of the receiving waters below the minimum requirements of their classification.

**6. Confidentiality of records.** Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part of any record, report or information, other than the names and addresses of applicants, license applications, licenses and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department.

**7. Processing.** [Repealed. Laws 1977, c. 300, §19]

**8. Effect of license.** Issuance of a license under this chapter does not convey any property right of any sort, or exclusive privilege. Except for toxic effluent standards and prohibitions imposed under the Federal Water Pollution Control Act, Section 307, as amended, compliance with a license during its terms constitutes compliance with this chapter. It is not a defense for a licensee in an enforcement action that it would have been necessary to halt or reduce the licensed activity in order to maintain compliance with the conditions of the license. The licensee shall take all reasonable steps to minimize or prevent any discharge in violation of a license that has a reasonable likelihood of adversely affecting human health or the environment.

#### **§414-A. Conditions of licenses**

**1. Generally.** The department shall issue a license for the discharge of any pollutants only if it finds that:

A. The discharge either by itself or in combination with other discharges will not lower the quality of any classified body of water below such classification;

B. The discharge either by itself or in combination with other discharges will not lower the quality of any unclassified body of water below the classification which the board expects to adopt in accordance with this subchapter;

C. The discharge either by itself or in combination with other discharges will not lower the existing quality of any body of water, unless, following opportunity for public participation, the department finds that the discharge is necessary to achieve important economic or social benefits to the State and when the discharge is in conformance with section 464, subsection 4, paragraph F. The finding must be made following procedures established by rule of the board pursuant to section 464, subsection 4, paragraph F;

D. The discharge will be subject to effluent limitations that require application of the best practicable treatment. "Effluent limitations" means any restriction or prohibition including, but not limited to, effluent limitations, standards of performance for new sources, toxic effluent standards and other discharge criteria regulating rates, quantities and concentrations of physical, chemical, biological and other constituents that are discharged directly or indirectly into waters of the State. "Best practicable treatment" means the methods of reduction, treatment, control and handling of pollutants, including process methods, and the application of best conventional pollutant control technology or best available technology economically achievable, for a category or class of discharge sources that the department determines are best calculated to protect and improve the quality of the receiving water and that are consistent with the requirements of the Federal Water Pollution Control Act, as amended, and published in 40 Code of Federal Regulations. If no applicable standards exist for a specific activity or discharge, the department must establish limits on a case-by-case basis using best professional judgment, after consultation with the applicant and other interested parties of record. In determining best practicable treatment for each category or class, the department shall consider the existing state of technology, the effectiveness of the available alternatives for control of the type of discharge and the economic feasibility of such alternatives; and

E. A pesticide discharge is unlikely to exert a significant adverse impact on nontarget species. This standard is only applicable to applications to discharge pesticides.

**1-A. License for copper sulfate applications in public water supplies.** The commissioner may issue licenses to treat public water supplies with copper sulfate or related compounds. The commissioner may not issue more than 2 consecutive licenses for the same body of water.

A. A license may only be issued if the Department of Human Services, Division of Health Engineering has determined that:

(1) An abundant growth of algae producing taste or odor exists to such a degree that the water supply is in danger of becoming unhealthful or unpalatable;

(2) The abundance of algae is a sporadic event. For purposes of this section, "sporadic" means occurring not more than 2 years in a row; and

(3) The algae cannot effectively be controlled by other methods.

B. Any license issued under this subsection is for one application or series of applications not to exceed 6 months, as provided in the terms of the license.

C. The commissioner shall impose all conditions necessary to meet the requirements of this section and all other relevant provisions of law.

D. [Repealed. Laws 1997, c. 794, Pt. A, §22]

**1-B. Relicensing of overboard discharges.** The following provisions shall govern the relicensing of overboard discharges.

A. The department shall find that the discharge meets the requirements of best practicable treatment under this section for purposes of relicensing when it finds that there are no technologically proven alternative methods of wastewater disposal consistent with the plumbing code adopted by the Department of Health and Human Services pursuant to Title 22, section 42 that will not result in an overboard discharge, based on documentation from a licensed site evaluator provided by the applicant and approved by the department. The licensed site evaluator shall demonstrate experience in designing replacement systems for overboard discharges. If a technologically proven alternative is identified, the alternative must be installed within 180 days of the application's being accepted by the department, subject to availability of funding under section 411-A. If the applicant is not eligible for funding under section 411-A, the alternative system must be installed within 180 days. If the applicant is eligible for funding but no funding is available, the installation of an alternative system may be postponed until funding is available.

B. For the purposes of this subsection, the department may not require the installation or use of wastewater holding tanks as a "technologically proven alternative method of wastewater disposal" except in the following cases:

(1) Seasonal residential overboard discharges that are located on the mainland or on any island connected to the mainland by vehicle bridge or by scheduled car ferry service, when the elimination of the discharge alone or in conjunction with the elimination of other discharges will result in the opening of a shellfish harvesting area or the removal of a public nuisance condition;

(2) All overboard discharges located within the boundaries of a sanitary or sewer district when the district has agreed to service and maintain the holding tank at an annual fee that does not exceed those fees charged to other similar users of the district's services who are physically connected to the sewers of the district; and

(3) All overboard discharges located within the municipality when the municipality has agreed to service and maintain the holding tank at an annual fee that does not exceed those fees charged to other similar users of the municipality's services who are physically connected to the sewers of the municipality.

C. [Repealed. Laws 2003, c. 246, §12]

D. [Repealed. Laws 2003, c. 246, §13]

E. At the time of each relicensing of an overboard discharge, the department shall impose all conditions necessary to meet the requirements of this section and all other relevant laws.

**1-C. License for the use of algicides in Class GPA waters.** The commissioner may issue a license to a municipality for the discharge of copper compounds or other materials registered by the Department of Agriculture, Food and Rural Resources to control excessive algae growth in Class GPA waters when the commissioner has determined that:

A. A lake restoration plan to reduce algae growth has been designed and implemented in cooperation with the department;

- B. That plan has been found by the department to have failed to achieve the desired level of restoration in a reasonable period of time;
- C. Because of technical or financial limitations, there is no further plan for restoration;
- D. The affected water has a recent history of severe algae blooms of less than one meter Secchi disk transparency;
- E. A watershed plan to further reduce phosphorus loading to the affected water is being implemented by responsible parties including the department and all affected municipalities; and
- F. The Department of Inland Fisheries and Wildlife has found that the discharge will not have an adverse impact on the fishery management plan of that water body.

This license allows for no more than one application of copper compounds or other registered algicides per year for a period not to exceed 5 years. Algicides must be applied in an amount and in a manner that minimizes risk to nontarget organisms. The individual conducting the treatment must be certified by the Board of Pesticides Control for the use of aquatic pesticides. Application of an algicide may only occur after the Secchi disk transparency of the water is less than 2 meters. Relicensing is contingent upon an assessment of the water quality and the effectiveness of the phosphorus reduction plan for the watershed.

**2. Schedules of compliance.** Within the terms and conditions of a license, the department may establish a schedule of compliance for a final effluent limitation based on a water quality standard adopted after July 1, 1977. When a final effluent limitation is based on new or more stringent technology-based treatment requirements, the department may establish a schedule of compliance consistent with the time limitations permitted for compliance under the Federal Water Pollution Control Act, Public Law 92-500, as amended. A schedule of compliance may include interim and final dates for attainment of specific standards necessary to carry out the purposes of this subchapter and must be as short as possible, based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards.

**3. Federal law.** When the Administrator of the United States Environmental Protection Agency ceases issuing permits for discharges of pollutants to waters of this State pursuant to the administrator's authority under Section 402(c)(1) of the Federal Water Pollution Control Act, as amended, the department shall refuse to issue a license for the discharge of pollutants which it finds would violate the provisions of any federal law relating to water pollution control, anchorage or navigation or regulations enacted pursuant thereto. Any license issued under this chapter after this determination must contain provisions, including effluent limitations, that the department determines necessary to carry out the purposes of this subchapter and any federal laws or regulations.

Notwithstanding the foregoing, the department is authorized to issue licenses containing a variance from thermal effluent limitations, or from applicable compliance deadlines to accommodate an innovative technology. The variances may be granted only in accordance with the Federal Water Pollution Control Act, Sections 316 and 301(k), as amended, and applicable regulations.

**4. License conditions affecting bypasses.** In fashioning license decisions and conditions, the department shall consider the extent to which operation of the licensed facility will require an allowance for bypass of wastewater from any portion of a treatment facility when necessary for essential maintenance to assure efficient operation of the licensed facility, when unavoidable to prevent loss of life, personal injury or severe property damage and otherwise subject to applicable effluent limitations and standards. When the applicant demonstrates to the department that, consistent with best practical treatment requirements and other applicable standards, reasonably controlled and infrequent bypasses will be necessary for this purpose, and there is no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal equipment downtime, the department shall fashion appropriate license allowances and conditions.

**5. Modification, reopening and revocation.** The following actions may be taken to reopen, modify or revoke and reissue waste discharge licenses. All actions taken under this subsection must be with

notice to the licensee and all other interested parties of record and with opportunity for hearing. Actions may be appealed as set forth in sections 341-D and 346.

A. The department may reopen a license to add or change conditions or effluent limitations for toxic compounds identified in 40 Code of Federal Regulations, Section 401 or to include schedules of compliance to implement industrial pretreatment rules adopted by the board. Additionally, at the time of license issuance, the department may include as a condition of a license a provision for reopening the license for inclusion or change of specific limitations when facts available upon issuance indicate that changed circumstances or new information may be anticipated.

B. A request for modification of a license may be made by the licensee for any valid cause or changed circumstance. The department may initiate a license modification:

- (1) When necessary to correct legal, technical or procedural mistakes or errors;
- (2) When there has been or will be a substantial change in the activity or means of treatment that occurred after the time the license was issued;
- (3) When new information other than revised rules, guidance or test methods becomes available that would have justified different conditions at the time the license was issued;
- (4) When a pollutant not included in the license may be present in the discharge in quantities sufficient to require treatment, such as when the pollutant exceeds the level that can be achieved by the technology-based treatment standards appropriate to the licensee, or contribute to water quality violations;
- (5) When necessary to remove net limits based on pollutant concentration in intake water when the licensee is no longer eligible for them, consistent with federal law;
- (6) When necessary to make changes as a result of the failure of one state to notify another state whose waters may be affected by a discharge; or
- (7) When necessary to include pretreatment compliance schedules required pursuant to federal law.

C. Notwithstanding Title 5, section 10051, the board may modify, revoke or suspend a license when the board finds that any of the conditions specified in section 341-D, subsection 3 exist or upon an application for transfer of a license.

**6. Cooling water intake structures.** Any standard established by the department pursuant to section 413 or this section with respect to cooling water discharges and applicable to a point source must require that the location, design, construction and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impacts.

#### **§414-B. Publicly owned treatment works**

**1. Definition.** "Publicly owned treatment works" means any device or system for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity. "Publicly owned treatment works" includes sewers, pipes or other conveyances only if they convey wastewater to a publicly owned treatment works providing treatment.

**2. Pretreatment standards.** The department may establish pretreatment standards for the introduction into publicly owned treatment works of pollutants that interfere with, pass through or otherwise are incompatible with those treatment works. In addition, the department may establish pretreatment standards for designated toxic pollutants that may be introduced into a publicly owned treatment works. In order to assume and properly administer the authority to issue and enforce permits under the Federal Water Pollution Control Act, the department may adopt rules as necessary, provided that the rules comply with the Federal Water Pollution Control Act or 40 Code of Federal Regulations, Part 403.

The department may require that any license for a discharge from a publicly owned treatment works

include conditions to require the identification of pollutants, in terms of character and volume, from any significant source introducing pollutants subject to pretreatment standards, and to assure compliance with these pretreatment standards by each of these sources.

**2-A. Prohibited discharge through publicly owned treatment works.** The discharge to a publicly owned treatment works of any pollutant that interferes with, passes through or otherwise is incompatible with these works, or that is a designated toxic pollutant, is prohibited unless in compliance with pretreatment standards established for the applicable class or category of discharge. Violation of the terms and conditions of local pretreatment regulations or a user contract, permit or similar agreement between an industrial user and the owner of a publicly owned treatment works is prohibited. A violation may be enforced by the State or the owner of the treatment works or through joint action.

**3. User charges.** The department may impose as a condition in any license for the discharge of pollutants from publicly owned treatment works appropriate measures to establish and insure compliance by users of such treatment works with any system of user charges required by state or federal law or regulations promulgated thereunder.

**4. Acceptance of wastewater.** Municipal and quasi-municipal wastewater treatment facilities constructed wholly or in part with funding allocated pursuant to section 411 shall accept for treatment holding tank wastewater from any watercraft sewage pump-out facilities required pursuant to section 423-B. Municipal and quasi-municipal wastewater treatment facilities may charge an annual or per visit fee for this service to be approved by the commissioner.

#### **§414-C. Color pollution control**

**1. Color pollution control; finding.** The Legislature finds that further, rigorous control of color, odor and foam pollutants is consistent with modernization of the State's kraft pulp industry and that process technologies to accomplish this objective will enhance the competitive position of this industry.

**2. Best practicable treatment; color pollution.** For the purposes of section 414-A, subsection 1, paragraph D, "best practicable treatment" for color pollution control for discharges of color pollutants from the kraft pulping process is:

A. For discharges licensed and in existence prior to July 1, 1989:

(1) On July 1, 1998 and until December 31, 2000, 225 pounds or less of color pollutants per ton of unbleached pulp produced, measured on a quarterly average basis; and

(2) On and after January 1, 2001, 150 pounds or less of color pollutants per ton of unbleached pulp produced, measured on a quarterly average basis; and

B. For discharges licensed for the first time after July 1, 1989, 150 pounds or less of color pollutants per ton of unbleached pulp produced, measured on a quarterly average basis.

A discharge from a kraft pulp mill that is in compliance with this subsection is exempt from the provisions of subsection 3.

**3. Instream color pollution standard.** An individual waste discharge may not increase the color of any water body by more than 20 color pollution units. The total increase in color pollution units caused by all waste discharges to the water body must be less than 40 color pollution units. This subsection applies to all flows greater than the minimum 30-day low flow that can be expected to occur with a frequency of once in 10 years. A discharge that is in compliance with this subsection is exempt from the provisions of subsection 2, paragraph A. Such a discharge may not exceed 175 pounds of color pollutants per ton of unbleached pulp produced after January 1, 2001.

**4. Schedule of compliance.** [Repealed. Laws 1997, c. 444, §3]

**4-A. Compliance deadlines.** [Repealed. Laws 1997, c. 444, §4]

**4-B. Progress report.** [Repealed. Laws 1997, c. 444, §4]

**4-C. Color reduction evaluation.** If a discharge is not in compliance with either subsection 2 or 3

after January 1, 2001, the kraft pulp mill with a noncompliant discharge shall evaluate the potential for further color reductions. This evaluation must include the identification of each internal source of color, the contribution of color from each internal source, the options available for further color reductions for each internal source, the cost of these options for each internal source, the estimated final color discharge after implementation of the options given in pounds of color per ton of unbleached product and an assessment of the final impact on the in-stream color after implementation of the options including the amount of change expressed in color pollution units. This evaluation must be submitted to the commissioner for review no later than July 1, 2001 and by September 1, 2001 the commissioner shall modify the license to provide for a mill-specific best practicable treatment and compliance schedule.

**5. Interstate waters.** For the purposes of the commissioner's responsibilities under the Federal Water Pollution Control Act, Public Law 92-500, Section 401(a)(2), as amended, the commissioner shall find that the discharge of color pollution in excess of the standard established under subsection 2, paragraph A, into any surface water that subsequently enters the State affects the quality of the State's waters so as to violate the water quality requirements of the State.

**6. Monitoring established.** The commissioner shall incorporate as part of the department's ongoing water quality monitoring program, monitoring of color, odor and foam pollutants.

#### **§417. Certain deposits and discharges prohibited**

No person, firm, corporation or other legal entity may place, deposit or discharge, directly or indirectly into the inland waters or tidal waters of this State, or on the ice thereof, or on the banks thereof in such a manner that it may fall or be washed into these waters, or in such a manner that the drainage from any of the following may flow or leach into these waters, except as otherwise provided by law:

**1. Forest products refuse.** Any slabs, edgings, sawdust, shavings, chips, bark or other forest products refuse;

**2. Potatoes.** Any potatoes or any part or parts of potatoes; or

**3. Refuse.** Any scrap metal, junk, paper, garbage, septage, sludge, rubbish, old automobiles or similar refuse.

This section does not apply to solid waste disposal facilities in operation on July 1, 1977, owned by a municipality or quasi-municipal authority if the operation and maintenance of the facility has been or is approved by the department pursuant to the requirements of chapter 13 and the rules adopted thereunder.

#### **§417-A. Manure spreading**

Notwithstanding Title 7, section 4207, when the ground is frozen, a person may not spread manure on agricultural fields within a great pond watershed unless this activity is in accordance with a conservation plan for that land on file with a state soil and water conservation district.

#### **§418. Log driving and storage**

**1. Prohibitions.** A person, firm, corporation or other legal entity may not place logs or pulpwood:

A. Into the inland waters of the State for the purpose of driving the logs or pulpwood to pulp mills, lumber mills or any other destination, except to transport logs or pulpwood from islands to the mainland;

B. On the ice of any inland waters of the State, except to transport logs or pulpwood from islands to the mainland; or

C. Into the inland waters of the State for the purpose of storage or curing the logs or pulpwood, or for other purposes incidental to the processing of forest products, or to transport logs or pulpwood from islands to the mainland, without a permit from the department as described in subsection 2.

**2. Storage; permit.** Whoever proposes to use the inland waters of this State for the storage or curing of logs or pulpwood, or for other purposes incidental to the processing of forest products, or to transport

logs or pulpwood from islands to the mainland, shall apply to the department for a permit for that use. Applications for these permits must be in a form prescribed by the commissioner.

If the department finds, on the basis of the application, that the proposed use will not lower the existing quality or the classification, whichever is higher, of any waters, nor adversely affect the public rights of fishing and navigation therein, and that inability to conduct that use will impose undue economic hardship on the applicant, it shall grant the permit for a period not to exceed 5 years, with such terms and conditions as, in its judgment, may be necessary to protect the quality, standards and rights.

In the event the department determines it necessary to solicit further evidence regarding the proposed use, it shall schedule a public hearing on the application.

At that hearing the department shall solicit and receive testimony concerning the nature and extent of the proposed use and its impact on existing water quality, water classification standards and the public rights of fishing and navigation and the economic implications upon the applicant of the use. If, after hearing, the department determines that the proposed use will not lower the existing quality or the classification standards, whichever is higher, of any waters, nor adversely affect the public rights of fishing and navigation therein and that inability to conduct the use will impose undue economic hardship on the applicant, it shall grant the permit for a period not to exceed 5 years, with such terms and conditions as in its judgment may be necessary to protect the quality, standards and rights.

**3. Exception.** [Repealed. Laws 1973, c. 422]

#### **§418-A. Protection of the lower Penobscot River**

**1. Findings.** The Legislature finds that the lower Penobscot River is a unique and valuable natural resource. The lower Penobscot River serves as an example to the Nation that good public policy carefully implemented can restore and preserve our natural resources. The river has supported, and is again beginning to support, the greatest run of Atlantic salmon in North America, providing a unique fishing opportunity for Maine residents. The Legislature declares that the preservation and restoration of the lower Penobscot River is of the highest priority.

**2. Prohibition.** To protect water quality and aquatic resources, fisheries and fishing opportunities, and as an exercise of the public trust of the State, no person, firm, corporation, municipality or other legal entity may erect, operate, maintain or use any dam on that portion of the Penobscot River downstream from the Bangor Hydroelectric Company Dam located at Veazie to the southernmost point of Verona Island for any purpose not previously authorized by act, resolve or operation of law, unless specifically authorized by the Legislature.

**3. Study authorized.** Any person, firm, corporation, municipality or other legal entity may study the feasibility of erecting, operating, maintaining or using a dam for hydroelectric generation on the portion of the Penobscot River described in subsection 2.

#### **§419. Cleaning agents containing phosphate banned**

##### **1. Definitions.**

A. "Dairy equipment", as used in this section, means equipment used by farmers or processors for the manufacture or processing of milk and dairy products.

B. "Food processing equipment", as used in this section, means equipment used for the processing and packaging of food for sale, except that equipment used at restaurants and similar places of business shall not be included within the meaning of "food processing equipment."

C. "High phosphorous detergent", as used in this section, means any detergent, presoak, soap, enzyme or other cleaning agent containing more than 8.7% phosphorous, by weight, but does not include detergent having a recommended use level which contains less than 7 grams of phosphorous by weight.

C-1. "Household laundry detergent" as used in this section means a cleaning agent used primarily in private residences for washing clothes.

D. "Industrial equipment", as used in this section, means equipment used by industrial concerns which concerns are located on any brook, stream or river.

E. "Person", as used in this section, means any individual, firm, association, partnership, corporation, municipality, quasi-municipal organization, agency of the State or other legal entity.

**2. Prohibition.** No person may sell or use any high phosphorous detergent.

**2-A. Household laundry detergent.** After July 1, 1993, a person may not sell or offer for sale in this State a household laundry detergent that contains more than 0.5% phosphorus by weight expressed as elemental phosphorus.

**3. Exception.** Subsection 2 shall not apply to any high phosphorous detergent sold and used for the purpose of cleaning dairy equipment, food processing equipment and industrial equipment.

**4. Penalty.** [Repealed. Laws 1977, c. 300, § 23]

#### **§419-A. Prohibition on the use of tributyltin as an antifouling agent**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. [Repealed. T. 38, §419-A, sub-§1, paragraph A]

A-1. "Acceptable release rate" means a measured release rate equal to or less than 4.0 micrograms per square centimeter per day at steady state conditions determined in accordance with federal Environmental Protection Agency testing procedures on tributyltin in antifouling paints under the Federal Insecticide, Fungicide and Rodenticide Act.

B. "Antifouling paint" means a compound, coating, paint or treatment applied or used for the purpose of controlling freshwater or marine fouling organisms on vessels.

C. "Commercial boatyard" means:

(1) A facility that engages for hire in the construction, storage, maintenance, repair or refurbishing of vessels; or

(2) An independent marine maintenance contractor who engages in any of the activities listed in subparagraph (1).

D. "Trap dip" means a liquid antifouling agent or preservative with which wooden lobster traps are treated.

E. "Tributyltin compound" means any organotin compound that has 3 normal butyl groups attached to a tin atom, with or without an anion, such as chloride, fluoride or oxide.

F. "Vessel" means a watercraft or other conveyance used as a means of transportation on water, whether self-propelled or otherwise. This definition includes barges and tugs.

**2. Prohibition on use.** Prohibition on use includes the following.

A. Except as provided in subsection 3, a person may not distribute, possess, sell, offer for sale, apply or offer for application any antifouling paint or trap dip containing a tributyltin compound.

B. No person may distribute, possess, sell, offer for sale, apply or offer for application any substance that contains a tributyltin compound in concentrated form that is labeled for mixing with paint or solvents to produce an antifouling paint for use on vessels, wooden lobster traps, fishing gear for marine waters, floats, moorings or piers.

C. The Board of Pesticides Control is the enforcement agency for this section. The Board of Pesticides Control shall make available a list of paints with acceptable tributyltin release rates by January 1, 1988.

D. This section shall take effect on January 1, 1988.

**3. Exceptions.** Exceptions to the prohibition are as follows.

A. A person may distribute or sell an antifouling paint containing a tributyltin compound with an acceptable release rate to the owner or agent of a commercial boatyard. The owner or agent of a commercial boatyard may purchase, possess and apply an antifouling paint containing tributyltin compounds with an acceptable release rate, if the antifouling paint is applied only within a commercial boatyard and is applied only to vessels exceeding 25 meters in length or that have aluminum hulls.

B. This section does not prohibit the sale, application or possession of an antifouling paint containing a tributyltin compound, if the antifouling paint is in a spray can of 16 ounces or less, is commonly referred to as an outboard or lower drive unit paint and has an acceptable release rate.

#### **§419-B. Goals for dates of removal of transformers containing polychlorinated biphenyls**

The State's goals for the dates of removal of transformers owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million are as follows. For the purposes of this section, removal of a transformer that contains polychlorinated biphenyls may be accomplished through the retrofilling of the transformer with oil that contains polychlorinated biphenyls in concentrations below 50 parts per million.

**1. Transformers near surface waters.** The goal for the date of removal of pole-mounted or pad-mounted transformers owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million and that are located within 100 feet of any surface water or an elementary school or secondary school as defined in Title 20-A, section 1 is October 1, 2005.

For the purposes of this subsection, "surface water" means a wetland mapped by the United States Fish and Wildlife Service under the National Wetlands Inventory project; a great pond as defined in section 480-B; or a river, stream or brook as defined in section 480-B.

**2. Remaining transformers.** Subject to a utility's existing commercial storage facility license for polychlorinated biphenyls issued by the department, the goal for the date of removal of all pole-mounted or pad-mounted transformers, other than those described in subsection 1, owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million is October 1, 2011.

**3. Uninterruptible service.** The dates in this section may be extended to allow for adequate planning for the removal of transformers that provide electrical service to institutions for which service may not be interrupted without extensive planning, including, but not limited to, hospitals and schools.

**4. Exception.** This section does not apply to transformers located in substations.

**5. Voluntary goals.** A public utility is not required to meet the goals in this section. ]

#### **§419-C. Prevention of the spread of invasive aquatic plants**

**1. Prohibition.** A person may not:

A. Transport any aquatic plant or parts of any aquatic plant, including roots, rhizomes, stems, leaves or seeds, on the outside of a vehicle, boat, personal watercraft, boat trailer or other equipment on a public road;

B. Possess, import, cultivate, transport or distribute any invasive aquatic plant or parts of any invasive aquatic plant, including roots, rhizomes, stems, leaves or seeds, in a manner that could cause the plant to get into any state waters;

C. After September 1, 2000, sell or offer for sale in this State any invasive aquatic plant; or

D. Fail to remove any aquatic plant or parts of any aquatic plant, including roots, rhizomes, stems, leaves or seeds, from the outside of a vehicle, boat, personal watercraft, boat trailer or other equipment on a public road.

**2. Penalty.** A person who violates this section commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged for the first violation and a forfeiture not to exceed \$2,500 may be adjudged for a subsequent violation.

## **§420. Certain deposits and discharges prohibited**

No person, firm, corporation or other legal entity shall place, deposit, discharge or spill, directly or indirectly, into the ground water, inland surface waters or tidal waters of this State, or on the ice thereof, or on the banks thereof so that the same may flow or be washed into such waters, or in such manner that the drainage therefrom may flow into such waters, any of the following substances:

**1. Mercury.** [Repealed. Laws 1999, c. 500, §1]

**1-A. Mercury.** [Repealed. Laws 2001, c. 418, §2]

**1-B. Mercury.** Facilities discharging mercury into the waters of the State shall make reasonable progress to develop, incorporate and continuously improve pollution prevention practices, and implement economically achievable future improvements in wastewater technology, in order to reduce their dependence upon mercury products, reduce or remove discharges of mercury over time, and help in the restoration of the waters of the State. This subsection establishes ambient water quality criteria for mercury that identify that level of mercury considered safe for human health and the environment.

A. The ambient criteria for mercury are as follows:

(1) Ambient water quality criteria for aquatic life:

(a) Freshwater acute: 1.7 micrograms per liter;

(b) Freshwater chronic: 0.91 micrograms per liter;

(c) Saltwater acute: 2.1 micrograms per liter; and

(d) Saltwater chronic: 1.1 micrograms per liter; and

(2) Fish tissue residue criterion for human health: 0.2 milligrams per kilogram in the edible portion of fish.

B. A facility is not in violation of the ambient criteria for mercury if:

(1) The facility is in compliance with an interim discharge limit established by the department pursuant to section 413, subsection 11; or

(2) The facility is in compliance with a remediation or corrective action plan, license or order approved either by the department pursuant to section 1301, 1304, 1319, 1364 or 1365, or by the United States Environmental Protection Agency under federal law with the concurrence of the department.

C. The department may establish a site-specific bioaccumulation factor for mercury when there is sufficient information to indicate that a site-specific bioaccumulation factor will be protective of human health and wildlife. A site-specific bioaccumulation factor may only be established:

(1) As part of a licensing proceeding pursuant to section 413 by the board; or

(2) As part of a remediation or corrective action plan, license or order approved either by the department pursuant to section 1301, 1304, 1319, 1364 or 1365, or by the United States Environmental Protection Agency under federal law with the concurrence of the department.

D. The department shall establish by rule a statewide bioaccumulation factor protective of 95% of the waters of the State based upon data of acceptable quality and representing the species consumed by the public following guidelines published by the United States Environmental Protection Agency. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

E. The department shall establish by rule statewide ambient water quality criteria for mercury concerning wildlife based upon data of acceptable quality from the State or the United States Environmental Protection Agency. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2005 and by January 15th every 5th year thereafter on the status of mercury discharges, progress in implementing pollution prevention plans and progress toward attainment of ambient water quality criteria for mercury under this subsection. The report may include proposed statutory amendments. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out any necessary implementing legislation related to these mercury issues in each session in which a report is required under this subsection.

**2. Toxic or hazardous substances.** Any other toxic substance in any amount or concentration greater than that identified or regulated, including complete prohibition of such substance, by the board. In identifying and regulating such toxic substances, the board shall take into account the toxicity of the substance, its persistence and degradability, the usual or potential presence of any organism affected by such substance in any waters of the State, the importance of such organism and the nature and extent of the effect of such substance on such organisms, either alone or in combination with substances already in the receiving waters or the discharge. As used in this subsection, "toxic substance" shall mean those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

A. Except as naturally occurs or as provided in paragraphs B and C, the board shall regulate toxic substances in the surface waters of the State at the levels set forth in federal water quality criteria as established by the United States Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, Public Law 92-500, Section 304(a), as amended.

B. The board may change the statewide criteria established under paragraph A for a particular toxic substance established pursuant to the Federal Water Pollution Control Act, Public Law 92-500, Section 304(a), as amended, as follows:

(1) By adopting site-specific numerical criteria for the toxic substance to reflect site-specific circumstances different from those used in, or any not considered in, the derivation of the statewide criteria. The board shall adopt site-specific numerical criteria only as part of a licensing proceeding pursuant to sections 413, 414 and 414-A; or

(2) By adopting alternative statewide criteria for the toxic substance. The alternative statewide criteria must be adopted by rule.

The board may substitute site-specific criteria or alternative statewide criteria for the criteria established in paragraph A only upon a finding that the site-specific criteria or alternative statewide criteria are based on sound scientific rationale and are protective of the most sensitive designated use of the water body, including, but not limited to, human consumption of fish and drinking water supply after treatment.

C. When surface water quality standards are not being met due to the presence of a toxic substance for which no water quality criteria have been established pursuant to the Federal Water Pollution Control Act, Section 304(a), as amended, the board shall:

(1) Adopt statewide numerical criteria by rule; or

(2) Adopt site-specific numerical criteria as part of a licensing proceeding under sections 413, 414 and 414-A.

Nothing in this section restricts the authority of the board to adopt, by rule, statewide or site-specific numerical criteria for toxic substances that are not presently causing water quality standards to be violated.

D. For any criteria established under this subsection, the board shall establish the acceptable level of

additional risk of cancer to be borne by the affected population from exposure to the toxic substance believed to be carcinogenic.

E. In regulating substances that are toxic to humans, including any rulemaking to regulate these substances, the board shall consider any information provided by the Department of Health and Human Services.

F. The Department of Health and Human Services may request that the board adopt or revise the statewide or site-specific criteria for any toxic substance based on the need to protect public health. If the request is filed with the board, the board may propose a rule and initiate a rule-making proceeding. The board shall incorporate in its proposal for rulemaking under this paragraph the statewide or site-specific criteria recommended by the Department of Health and Human Services.

G. Numeric water quality criteria for 2, 3, 7, 8 - tetrachlorodibenzo-p-dioxin established by the United States Environmental Protection Agency under the Federal Water Pollution Control Act, Public Law 92-500, Section 304(a), as amended, do not apply until June 1, 1991, and only apply on that date if the board has not adopted through rulemaking or individual licensing proceedings under this section alternative numeric water quality criteria for 2, 3, 7, 8 - tetrachlorodibenzo-p-dioxin. Pursuant to section 414-A, subsection 2, the board shall establish schedules for compliance with criteria established under this section. These schedules must be consistent with the compliance deadlines established under the Federal Water Pollution Control Act, Public Law 92-500, Section 304(l), as amended.

H. Notwithstanding paragraphs D and G, the board may not adopt any numeric water quality criteria for, or acceptable level of additional cancer risk from exposure to, 2, 3, 7, 8 - tetrachlorodibenzo-p-dioxin prior to January 1, 1994.

I. Notwithstanding any other provision of this section, the following standards apply only to a bleach kraft pulp mill, referred to in this paragraph as a "mill."

(1) After July 31, 1998, a mill may not have a detectable quantity of 2, 3, 7, 8 - tetrachlorodibenzo-p-dioxin as measured in any internal waste stream of its bleach plant. For purposes of compliance, the detection level is 10 picograms per liter, unless the department adopts a lower detection level by rule, which is a routine technical rule pursuant to Title 5, chapter 375, subchapter II-A, or a lower detection level by incorporation of a method in use by the United States Environmental Protection Agency.

(2) After December 31, 1999, a mill may not have a detectable quantity of 2, 3, 7, 8 - tetrachlorodibenzo-p-furan as measured in any internal waste stream of its bleach plant. The commissioner may extend this time frame up to 6 months for a mill if the commissioner determines, based on information presented by the mill, that compliance is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons. For purposes of compliance, the detection level is 10 picograms per liter, unless the department adopts a lower level of detection by rule, which is a routine technical rule pursuant to Title 5, chapter 375, subchapter II-A, or a lower detection level by incorporation of a method in use by the United States Environmental Protection Agency. If a mill fails to achieve this requirement, as documented by confirmatory sampling, it shall conduct a site-specific evaluation of feasible technologies or measures to achieve it. This evaluation must be submitted to the commissioner within 6 months of the date of confirmatory sampling and include a timetable for implementation, acceptable to the commissioner, with an implementation date no later than December 31, 2002. The commissioner may establish a procedure for confirmatory sampling.

(3) After December 31, 2002, a mill may not discharge dioxin into its receiving waters. For purposes of this subparagraph, a mill is considered to have discharged dioxin into its receiving waters if 2, 3, 7, 8 - tetrachlorodibenzo-p-dioxin or 2, 3, 7, 8 - tetrachlorodibenzo-p-furan is detected in any of the mill's internal waste streams of its bleach plant and in a confirmatory sample at levels exceeding 10 picograms per liter, unless the department adopts a lower detection level by rule, which is a routine technical rule pursuant to Title 5, chapter 375,

subchapter 2-A, or a lower detection level by incorporation of a method in use by the United States Environmental Protection Agency, or if levels of dioxin, as defined in section 420-A, subsection 1 detected in fish tissue sampled below the mill's wastewater outfall are higher than levels in fish tissue sampled at an upstream reference site not affected by the mill's discharge or on the basis of a comparable surrogate procedure acceptable to the commissioner. The commissioner shall consult with the technical advisory group established in section 420-B, subsection 1, paragraph B, subparagraph (5) in making this determination and in evaluating surrogate procedures. The fish-tissue sampling test must be performed with differences between the average concentrations of dioxin in the fish samples taken upstream and downstream from the mill measured with at least 95% statistical confidence. If the mill fails to meet the fish-tissue sampling-result requirements in this subparagraph and does not demonstrate by December 31, 2004 and annually thereafter to the commissioner's satisfaction that its wastewater discharge is not the source of elevated dioxin concentrations in fish below the mill, then the commissioner may pursue any remedy authorized by law.

(4) For purposes of documenting compliance with subparagraphs (1) to (3) the internal waste stream of a bleach plant must be sampled twice per quarter by the mill. The department may conduct its own sampling and analysis of the internal waste stream of a bleach plant. Analysis of the samples must be conducted by a 3rd-party laboratory using methodology approved by the United States Environmental Protection Agency. A mill shall report to the department for informational purposes the actual laboratory results including sample detection limits on a frequency to be established by the commissioner.

The commissioner shall assess the mill for the costs of any sampling performed by the department and any analysis performed for the department under this paragraph and credit funds received to the Maine Environmental Protection Fund.

The commissioner may reduce the frequency of sampling required by a mill after 3 consecutive years of sampling have demonstrated the mill does not have a detectable quantity of 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin or 2, 3, 7, 8-tetrachlorodibenzo-p-furan.

**3. Radiological, chemical or biological warfare agents.** Radiological, chemical or biological warfare agents or high level radioactive wastes.

#### **§420-A. Dioxin monitoring program**

In order to determine the nature of dioxin contamination in the waters and fisheries of the State, the commissioner shall conduct a monitoring program as described in this section.

**1. Dioxin defined.** As used in this section, the term "dioxin" means any polychlorinated dibenzo-para-dioxins, PCDD's, and any polychlorinated dibenzo-para-furans, PCDF's.

**2. Monitoring locations and subjects.** The commissioner shall:

A. Select a representative sample of wastewater treatment plant sludges from municipal wastewater treatment plants, bleached pulp mills or other sources. These facilities must be selected on the basis of known or likely dioxin contamination of their discharged effluent. The commissioner shall develop a monitoring plan for these facilities and submit the plan, including a list of the selected facilities, to the technical advisory group established in section 420-B, subsection 1, paragraph B, subparagraph (5). At least 30 days prior to submitting the plan to the technical advisory group, the commissioner shall notify the owners or operators of each selected facility of the fact of the facility's inclusion in the plan. The technical advisory group shall review the plan and information related to the plan provided by the commissioner, by the owners or operators of selected facilities and by others, including information regarding whether the selected facilities are known or likely sources of dioxin contamination. The technical advisory group shall advise the commissioner on the plan and the choice of selected facilities. The total number of facilities monitored by the commissioner may not exceed 12;

B. Sample and test the sludge of these facilities for dioxin contamination at least once during each season of the year. The commissioner shall specify which congeners of dioxin will be analyzed; and

C. Sample and test for dioxin contamination a selection of fish representative of those species present in the receiving waters. Sufficient numbers of fish must be analyzed to provide a reasonable estimate of the level of contamination in the population of each water body affected.

**3. Coordination of monitoring.** The commissioner shall coordinate the monitoring program established under this section with other dioxin monitoring programs conducted by the department, the United States Environmental Protection Agency or dischargers of wastewater. The commissioner shall seek to integrate the results of these other programs, as relevant, into the reports required by this section.

**4. Report.** The commissioner shall report by March 31st of each year on the results of the monitoring program to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The annual report must contain the commissioner's conclusions as to the levels of dioxin contamination in the sample subjects and the likely scope of dioxin contamination in the State's waters. The report must also contain an evaluation of the department's progress toward establishing a fish-tissue sampling test as required in section 420, subsection 2, including selection of reference sites, methods of sample standardization and the levels of detection and statistical confidence limits.

**5. Fees assessed.** The commissioner shall assess the selected facilities for the costs of sample collection and analysis, except that, if the selected facility is a publicly owned treatment works, the commissioner may assess the primary industrial generator discharging effluent into the treatment facility if the generator is known or likely to be discharging dioxin into the treatment facility. Fees received under this section must be credited to the Maine Environmental Protection Fund. Payment of these fees is a condition of the discharge license issued under this Title for continued operation of the selected facilities, except that, if the selected facility is a publicly owned treatment works and the commissioner assesses the fee on an industrial generator, payment of the fee is not a condition of the discharge license of the selected facility. The fees assessed under this subsection may not exceed a total of \$250,000 in any fiscal year.

**6. Repeal.** This section is repealed December 31, 2007.

#### **§420-B. Surface water ambient toxic monitoring program**

The discharge of pollutants from certain direct and indirect sources into the State's waters introduces toxic substances, as defined under section 420, into the environment. In order to determine the nature, scope and severity of toxic contamination in the surface waters and fisheries of the State, the commissioner shall conduct a scientifically valid monitoring program.

The program must be designed to comprehensively monitor the lakes, rivers and streams and marine and estuarine waters of the State on an ongoing basis. The program must incorporate testing for suspected toxic contamination in biological tissue and sediment, may include testing of the water column and must include biomonitoring and the monitoring of the health of individual organisms that may serve as indicators of toxic contamination. This program must collect data sufficient to support assessment of the risks to human and ecological health posed by the direct and indirect discharge of toxic contaminants.

**1. Development of monitoring plans and work programs.** The commissioner shall:

A. Prepare a plan every 5 years that outlines the monitoring objectives for the following 5 years, resources to be allocated to those objectives and a plan for conducting the monitoring, including methods, scheduling and quality assurance; and

B. Prepare a work program each year that defines the work to be conducted that year toward the objectives of the 5-year plan. This work program must identify specific sites, the sampling media and the contaminants that will be tested.

(1) The commissioner shall consider the following factors when selecting monitoring sites for the annual work program:

(a) The importance of the water body to fisheries, wildlife and humans;

- (b) Known or likely sources of contamination and their relative risk to human or ecological health;
  - (c) The existence of pending waste discharge licenses affecting the water body;
  - (d) The availability of reference sites that are relatively unaffected by human activity;
  - (e) Anticipated improvement or degradation of the water body; and
  - (f) The availability of current, valid data from other sources on the level of toxic contamination of the water body.
- (2) The commissioner shall incorporate the following types of testing in the program:
- (a) Monitoring of toxic contaminant levels in biological tissue and water body sediments, and monitoring of the water column may be included;
  - (b) Analysis of the resident biological community in the monitored water body; and
  - (c) Monitoring of the health of individual organisms that may serve as indicators of toxic contamination.
- (3) When selecting the specific toxic substances to be monitored in the annual program, the commissioner shall consider:
- (a) Toxic substances that have the potential to affect human or ecological health at expected concentrations;
  - (b) Toxic substances from both natural and human sources;
  - (c) Toxic substances that serve as tracers for human sources of pollution;
  - (d) Toxic substances or measures of contamination that may be more cost-effective indicators of other toxic substances; and
  - (e) Toxic substances for which there are analytical test methods approved by the United States Environmental Protection Agency or, where such methods have not been approved, for which the commissioner determines, with the assistance of the technical advisory group established under this section, that proven, reliable methods have been established.

The commissioner shall include in the annual work program a written statement providing the factual basis for the selection of the specific toxic substances to be monitored. Prior to implementation of the annual work program, the toxic substances to be monitored and, if not approved by the United States Environmental Protection Agency, the analytical test methods to be used must be approved by the technical advisory group by a 2/3 vote.

- (4) When determining the intensity of the monitoring effort in the annual program, the commissioner shall consider:
- (a) The potential for annual variation in toxic contamination at a monitoring site;
  - (b) The degree of homogeneity in the materials to be sampled; and
  - (c) The uncertainty in observations due to possible systematic and analytic error.

(5) A technical advisory group composed of 11 individuals is established. The commissioner shall appoint 2 members with scientific backgrounds in toxic contamination or monitoring, ecological assessment or public health from each of the following interests: business, municipal, conservation, public health and academic interests. The President of the Senate and the Speaker of the House of Representatives shall jointly appoint as a nonvoting member one Legislator who serves on the joint standing committee of the Legislature having jurisdiction over natural resource matters. The commissioner shall appoint the chair from among the voting members. A quorum of 6 voting members must be present for the conduct of business. Members do not receive compensation or reimbursement for expenses.

The members appointed by the commissioner serve for terms of 3 years except that, for the

initial appointments, 2 members serve terms of one year, 4 members serve terms of 2 years and 4 members serve terms of 3 years. The Legislator serves for the duration of the Legislature to which the Legislator is elected.

The group shall advise the commissioner during the development of the 5-year monitoring plan and the annual work programs.

**2. Data management.** The commissioner shall maintain data collected under this section in a manner consistent with standards established under Title 5, chapter 163, subchapter 3 for the State's geographic information system. All data is available to the public.

**3. Coordination of monitoring.** The commissioner shall coordinate the monitoring program established under this section with other toxics monitoring programs conducted by the department, the United States Environmental Protection Agency and other federal agencies or dischargers of wastewater.

**4. Report.** No later than March 31st of each year, the commissioner shall report on the monitoring program to the joint standing committee of the Legislature having jurisdiction over natural resource matters. This report must contain:

- A. At the start of each 5-year period, the 5-year monitoring plan;
- B. The annual work program for the past year and the current year;
- C. The commissioner's conclusions as to the levels of toxic contamination in the State's waters and fisheries;
- D. Any trends of increasing or decreasing levels of contaminants found; and
- E. The report on the results of the dioxin monitoring program required under section 420-A, subsection 4.

#### **§420-C. Erosion and sedimentation control**

A person who conducts, or causes to be conducted, an activity that involves filling, displacing or exposing soil or other earthen materials shall take measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource as defined in section 480-B. Erosion control measures must be in place before the activity begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must be taken and the site must be maintained to prevent unreasonable erosion and sedimentation.

A person who owns property that is subject to erosion because of a human activity before July 1, 1997 involving filling, displacing or exposing soil or other earthen materials shall take measures in accordance with the dates established under this paragraph to prevent unreasonable erosion of soil or sediment into a protected natural resource as defined in section 480-B, subsection 8. Adequate and timely temporary and permanent stabilization measures must be taken and maintained on that site to prevent unreasonable erosion and sedimentation. This paragraph applies on and after July 1, 2005 to property that is located in the watershed of a body of water most at risk as identified in the department's storm water rules adopted pursuant to section 420-D and that is subject to erosion of soil or sediment into a protected natural resource as defined in section 480-B, subsection 8. This paragraph applies on and after July 1, 2010 to other property that is subject to erosion of soil or sediment into a protected natural resource as defined in section 480-B, subsection 8.

This section applies to a project or any portion of a project located within an organized area of this State. This section does not apply to agricultural fields. Forest management activities, including associated road construction or maintenance, conducted in accordance with applicable standards of the Maine Land Use Regulation Commission, are deemed to comply with this section. This section may not be construed to limit a municipality's authority under home rule to adopt ordinances containing stricter standards than those contained in this section.

#### **§420-D. Storm water management**

A person may not construct, or cause to be constructed, a project that includes one acre or more of disturbed area without prior approval from the department. A person proposing a project shall apply to the department for a permit using an application provided by the department and may not begin construction until approval is received. This section applies to a project or any portion of a project that is located within an organized area of this State.

**1. Standards.** The department shall adopt rules specifying quantity and quality standards for storm water. Storm water quality standards for projects with 3 acres or less of impervious surface may address phosphorus, nitrates and suspended solids but may not directly address other dissolved or hazardous materials unless infiltration is proposed.

**2. Review.** If the applicant is able to meet the standards for storm water using solely vegetative means, the department shall review the application within 45 calendar days. If structural means are used to meet those standards, the department shall review the application within 90 calendar days. The review period begins upon receipt of a complete application and may be extended pursuant to section 344-B or if a joint order is required pursuant to subsection 5. The department may request additional information necessary to determine whether the standards of this section are met. The application is deemed approved if the department does not notify the applicant within the applicable review period.

The department may allow a municipality or a quasi-municipal organization, such as a watershed management district, to substitute a management system for storm water approved by the department for the permit requirement applicable to projects in a designated area of the municipality. The municipality or quasi-municipality may elect to have this substitution take effect at the time the system is approved by the department, or at the time the system is completed as provided in an implementation schedule approved by the department.

**3. Watersheds of bodies of water most at risk.** The department shall establish by rule a list of watersheds of bodies of water most at risk from new development. In regard to lakes, the list must include, but is not limited to, public water supply lakes and lakes identified by the department as in violation of class GPA water quality standards or as particularly sensitive to eutrophication based on current water quality, potential for internal recycling of phosphorus, potential as a cold water fishery, volume and flushing rate or projected growth rate in a watershed. The department shall review and update the list as necessary. A municipality within the watershed of a body of water most at risk may petition the department to have the body of water added to or dropped from the list.

**4. Sensitive or threatened regions or watersheds.** The department shall establish by rule a list of sensitive or threatened regions or watersheds. These areas include the watersheds of surface waters that:

- A. Are susceptible to degradation of water quality or fisheries because of the cumulative effect of reasonably foreseeable levels of development activity within the watershed of the affected surface waters; and
- B. Are not classified as "watersheds of bodies most at risk" under subsection 3.

**5. Relationship to other laws.** A storm water permit pursuant to this section is not required for a project requiring review by the department pursuant to any of the following provisions but the project may be required to meet standards for management of storm water adopted pursuant to this section: article 6, site location of development; article 7, performance standards for excavations for borrow, clay, topsoil or silt; article 8-A, performance standards for quarries; and sections 631 to 636, permits for hydropower projects. When a project requires a storm water permit and requires review pursuant to article 5-A, the department shall issue a joint order unless the permit required pursuant to article 5-A is a permit-by-rule or general permit, or separate orders are requested by the applicant and approved by the department.

A storm water permit pursuant to this section is not required for a project receiving review by a registered municipality pursuant to section 489-A if the storm water ordinances under which the project is reviewed are at least as stringent as the storm water standards adopted pursuant to section 484 and are in effect at the time of review as determined by the department.

**6. Urbanizing areas.** The department shall work with the State Planning Office to identify urban bodies of water most at risk and incorporate model ordinances protective of these bodies of water into assistance provided to local governments.

**7. Exemptions.** The following exemptions apply.

A. Forest management activities, including associated road construction or maintenance, do not require review pursuant to this section if any road construction is used primarily for forest management activities and is not used primarily to access development.

B. Disturbing areas for the purpose of normal farming activities, such as clearing of vegetation, plowing, seeding, cultivating, minor drainage and harvesting, does not require review pursuant to this section. A manure storage facility that is designed, constructed, managed and maintained in accordance with the United States Department of Agriculture, Natural Resources Conservation Service guidelines does not require review pursuant to this section. For purposes of this paragraph, "manure storage facility" means a facility used primarily for containing manure.

C. If the commissioner determines that a municipality's ordinance meets or exceeds the provisions of this section and that the municipality has the resources to enforce that ordinance, the commissioner shall exempt any project within that municipality. The department shall maintain a list of municipalities meeting these criteria and update this list at least every 2 years. If a municipality on the list no longer meets these criteria, it must be removed from the list. A project constructed after a municipality is removed from the list must obtain approval pursuant to this section.

D. [Repealed. Laws 2005, c. 219, §5]

E. Impervious and disturbed areas associated with construction or expansion of a single-family, detached residence on a parcel do not require review pursuant to this section.

F. Waste facilities regulated by the department under section 1310-N, 1319-R or 1319-X do not require review under this section. This exemption applies to new facilities, modifications of facilities, transfers of facilities and relicensing of facilities.

G. Projects involving roads, railroads and associated facilities conducted by or under the supervision of the Department of Transportation or the Maine Turnpike Authority, do not require review under this section as long as the projects are constructed pursuant to storm water quality and quantity standards set forth in a memorandum of agreement between the department and the conducting or supervising agency and the project does not require review under article 6. A memorandum of agreement described in this paragraph must be updated whenever the rules concerning storm water management adopted by the department are finalized or updated.

**8. Enforcement.** Any activity that takes place contrary to the provisions of a valid permit issued under this article or without a permit having been issued for that activity is a violation of this article. Each day of a violation is a separate offense. A finding that any such violation has occurred is prima facie evidence that the activity was performed or caused to be performed by the owner of the property where the violation occurred. Prior to July 1, 1998, the department may not seek to impose civil or criminal penalties for a violation of this section against any person who has made a good faith effort to comply.

**9. Rules.** Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

**10. Fees.** [Repealed Laws 2005, c. 219, §6]

**11. Compensation fee.** The department may establish a nonpoint source reduction program to allow an applicant to pay a compensation fee in lieu of meeting certain requirements, as provided in this subsection.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

A. The department may allow an applicant with a project in the direct watershed of a lake to address certain on-site phosphorus reduction requirements through payment of a compensation fee as

provided in this paragraph. The commissioner shall determine the appropriate compensation fee for each project. The compensation fee must be paid either into a compensation fund or to an organization authorized by the department and must be a condition of the permit.

(1) The department may establish a storm water compensation fund for the purpose of receiving compensation fees, grants and other related income. The fund must be a nonlapsing fund dedicated to payment of the costs and related expenses of compensation projects. Income received under this subsection must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by statute. Interest on these investments must be credited to the fund. The department may make payments from the fund consistent with the purpose of the fund.

(2) The department may enter into a written agreement with a public, quasi-public or private, nonprofit organization for purposes of receiving compensation fees and implementing compensation projects. If the authorized agency is a state agency other than the department, it shall establish a fund meeting the requirements specified in subparagraph (1). The authorized organization shall maintain records of expenditures and provide an annual summary report to the department. If the organization does not perform in accordance with this section or with the requirements of the written agreement, the department may revoke the organization's authority to conduct activities in accordance with this paragraph. If an organization's authorization is revoked, any remaining funds must be provided to the department.

(3) The commissioner may set a fee rate of no more than \$10,000 per pound of available phosphorus, except that the commissioner may set a rate up to \$20,000 per pound for a project located in the direct watershed of a severely blooming lake.

(4) Except in an urbanized part of a designated growth area, best management practices must be incorporated on site that, by design, will reduce phosphorus export by at least 50%, and a phosphorus compensation fee must be paid to address the remaining phosphorus reduction required to meet the parcel's phosphorus allocation. In an urbanized part of a designated growth area, an applicant may pay a phosphorus compensation fee in lieu of part or all of the on-site phosphorus reduction requirement. The commissioner shall identify urbanized parts of designated growth areas in the direct watersheds of lakes most at risk, in consultation with the State Planning Office.

(5) Projects funded through compensation fees as provided in this paragraph must be located in the same watershed as the project with respect to which the compensation fee is paid.

B. The department may allow an applicant with a project within the direct watershed of a coastal wetland, river, stream or brook to address all or part of the storm water quality standards for the project through payment of a compensation fee as provided by rules adopted pursuant to this subsection.

**12. Fees.** An applicant for a permit under this section shall pay a fee to the department as follows.

A. If structural means of storm water control are used, the fee is \$500 for the first acre of disturbed area, plus \$250 for each additional whole acre of disturbed area.

B. If solely vegetative means of storm water control are used, the fee is \$250 for the first acre of disturbed area, plus \$125 for each additional whole acre of disturbed area.

C. When a permit by rule is required as provided by rules adopted by the department, the fee is \$55.

If a project described in paragraph A or B is reviewed and approved by a professional engineer at a soil and water conservation district office that has a memorandum of understanding with the department concerning review of projects pursuant to this section, the fee is reduced to \$100 for the first acre of disturbed area, plus \$50 for each additional whole acre of disturbed area.

**13. Significant existing sources.** The department may require a person owning or operating a significant existing source of storm water to implement a storm water management system. The owner or

operator shall obtain approval from the department pursuant to this subsection for the storm water management system.

For the purposes of this subsection, "significant existing source" means a significant existing source of storm water pollution based on quantity or quality standards for storm water from a developed area that was in existence prior to July 1, 1997 and is located in the direct watershed of a waterbody that is impaired due to urban runoff. The department shall identify significant existing sources as provided in this subsection.

A. The department shall develop a total maximum daily load for the watershed of a waterbody impaired due to urban runoff prior to designating significant existing sources within the watershed.

B. The department shall adopt rules prior to requiring that an owner or operator of a significant existing source within the direct watershed of a specific waterbody obtain approval of a storm water management system. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The rules must include, but are not limited to, the following:

- (1) The name of or other means of identifying the waterbody that is impaired due to urban runoff;
- (2) A list of significant existing sources or a description of the types or classes of significant existing sources;
- (3) A date or schedule indicating when approvals must be obtained; and
- (4) Storm water quantity and quality standards for storm water management systems.

C. The owner or operator of a site designated as a significant existing source shall apply to the department for approval of a storm water management system.

D. "Significant existing source" does not include:

- (1) Types of sources or activities described in subsection 7;
- (2) The developed area of a facility required to meet ongoing storm water management standards pursuant to a storm water general or individual permit issued pursuant to section 413; and
- (3) A municipal storm water conveyance system unless the storm water pollution originates with the conveyance system.

This section may not be construed to limit a municipality's authority under home rule to adopt ordinances containing stricter standards than those contained in this section.

### **§423. Discharge of waste from watercraft**

**1. Discharge from watercraft prohibited.** A person, firm, corporation or other legal entity may not discharge, spill or permit to be discharged sewage, septic fluids, garbage or other pollutants from watercraft:

- A. Into inland waters of the State;
- B. On the ice of inland waters of the State; or
- C. On the banks of inland waters of the State in a manner that the pollutants may fall or be washed into the waters or in a manner in which the drainage from the banks may flow into the waters.

**2. Holding tank required.** A person, firm, corporation or other legal entity may not operate upon the inland waters of the State a watercraft that has a permanently installed sanitary waste disposal system if it does not have securely affixed to the interior discharge opening of the sanitary waste disposal system a holding tank or suitable container for holding sanitary waste material so as to prevent its discharge or drainage into the inland waters of the State.

**3. Watercraft defined.** [Repealed. T. 38, §423, sub-§3]

**4. Watercraft defined.** For the purposes of this section, "watercraft" has the same meaning as

provided in Title 12, section 13001, subsection 28, except that "watercraft" includes houseboats. This subsection takes effect August 31, 2004.

#### **§423-A. Discharge of waste from motor vehicles**

No person, firm, corporation or other legal entity may discharge, spill or permit to be discharged sewage, garbage or other pollutants from motor vehicles or motor vehicle trailers into the inland or coastal waters, or on the ice of the inland or coastal waters, or onto the land in such a manner that the sewage, garbage or other pollutants may fall or be washed into these waters, or in such manner that the drainage from the discharge may flow into these waters. A person who violates the provisions of this section commits a civil violation subject to the provisions of section 349, subsection 2.

#### **§423-B. Watercraft sanitary waste pump-out facilities at marinas**

**1. Definitions.** For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Marina" means a facility that provides supplies or services and has the capacity to provide any combination of slip space or mooring for 18 or more vessels that exceed 24 feet in length.

B. "Pump-out facility" means a facility that pumps or receives sanitary wastes out of marine sanitation devices that are specifically designed to receive, retain and discharge sanitary wastes and that are installed on board watercraft. "Pump-out facility" includes a stationary pump-out station, a portable marine toilet dump station and a mobile pump-out vessel.

**2. Pump-out facilities required.** A marina serving coastal waters shall provide a pump-out facility or provide through a written contractual agreement approved by the commissioner a facility to remove sanitary waste from the holding tanks of watercraft.

**3. Exception.** A marina is not required to meet the requirements in subsection 2 until a grant for the construction or renovation of a pump-out facility or the initial cost of a contractual agreement is offered to that marina pursuant to subsection 4.

**4. Cost share.** Subject to the availability of funds, the commissioner shall award grants using a combination of federal and state funds for the costs of constructing, renovating, operating and maintaining pump-out facilities and providing facilities through contractual agreements according to the following schedule:

A. The commissioner shall pay 90% of these costs incurred by municipal marinas; and

B. The commissioner shall pay up to 75% of these costs incurred by marinas other than municipal marinas.

When awarding grants, the commissioner shall give priority to a pump-out facility over a contractual agreement and shall give priority to a pump-out facility that the Commissioner of Marine Resources certifies is likely to result in the opening of a shellfish harvesting area that is closed under Title 12, section 6172.

#### **§423-C. Registered owner's liability for vehicle illegally discharging waste**

A person who is a registered owner of a vehicle at the time that vehicle is involved in a violation of section 423-A commits a civil violation subject to the provisions of section 349, subsection 2, except as provided in subsection 4. For purposes of this section, "registered owner" includes a person issued a dealer or transporter registration plate.

**1. Report violation; investigation.** A person who observes a violation of section 423-A may report the violation to a police officer. If a report is made, the person shall report the time and the location of the violation and the registration plate number and a description of the vehicle involved. The officer shall initiate an investigation of the reported violation and, if possible, contact the registered owner of the motor vehicle involved and request that the registered owner supply information identifying the operator.

**2. Summons.** The investigating officer may cause the registered owner of the vehicle to be served with a summons for a violation of this section.

**3. Registered owner not operator.** Except as provided in subsection 4, it is not a defense to a violation of this section that a registered owner was not operating the vehicle at the time of the violation.

**4. Defenses.** The following are defenses to a violation of this section.

A. If a person other than the owner is convicted of operating the vehicle at the time of the violation in violation of section 423-A, the registered owner may not be found in violation of this section.

B. If the registered owner is a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee and the lessor provides the investigating officer with a copy of the lease agreement containing the information required by Title 29-A, section 254, the lessee and not the lessor may be charged under this section.

C. If the vehicle is operated using a dealer or transporter registration plate and at the time of the violation the vehicle was operated by a person other than the dealer or transporter and if the dealer or transporter provides the investigating officer with the name and address of the person who had control over the vehicle at the time of the violation, that person and not the dealer or transporter may be charged under this section.

D. If a report that the vehicle was stolen is given to a law enforcement officer or agency before the violation occurs or within a reasonable time after the violation occurs, the registered owner may not be charged under this section.

#### **§423-D. Graywater and blackwater discharges from commercial passenger vessels**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Blackwater" means human bodily wastes and the wastes from toilets and other receptacles intended to receive or retain human bodily wastes.

B. "Coastal waters" means those portions of the Atlantic Ocean within the jurisdiction of the State and all other waters of the State subject to the rise and fall of the tide.

C. "Commercial passenger vessel" means a large or small commercial passenger vessel.

D. "Graywater" means galley, dishwasher, bath and laundry wastewater. "Graywater" does not include other wastes or waste streams.

E. "Large commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for 250 or more passengers for hire, determined with reference to the number of lower berths.

F. "No-discharge zone" means an area within coastal waters that has been designated by the United States Environmental Protection Agency pursuant to 33 United States Code, Section 1322, to be an area in which discharge of blackwater is prohibited.

G. "Small commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for fewer than 250 passengers for hire, determined with reference to the number of lower berths.

**2. Licensing exemptions.** A license is not required pursuant to section 413 prior to the discharge of graywater to coastal waters from:

A. A small commercial passenger vessel;

B. A commercial passenger vessel operated by the United States or a foreign government; or

C. A commercial passenger vessel if the discharge is made for the purpose of securing the vessel or saving life at sea, and as long as all reasonable precautions have been taken to prevent or minimize the discharge. A discharge as described in this paragraph must be reported in accordance with

subsection 3.

**3. Report of unauthorized discharge.** Discharges of blackwater or graywater from a large commercial passenger vessel to coastal waters must be reported to the department as provided in this subsection.

A. The owner or operator of a large commercial passenger vessel that discharges blackwater within a no-discharge zone or discharges blackwater in violation of federal law outside a no-discharge zone shall immediately report that discharge to the department. The owner or operator shall submit a written report concerning the discharge to the department within 30 days of the discharge.

B. Beginning January 1, 2006, the owner or operator of a large commercial passenger vessel that discharges graywater without a license or in a manner inconsistent with a license issued pursuant to section 413 shall immediately report that discharge to the department. The owner or operator shall also submit a written report concerning the discharge to the department within 30 days of the discharge.

**4. Prohibited discharges; exemption; general permit requirement.** The following provisions govern the discharge of graywater and a mixture of graywater and blackwater from large commercial passenger vessels.

A. The owner or operator of a large commercial passenger vessel may not discharge graywater or a mixture of graywater and blackwater to coastal waters.

B. Notwithstanding paragraph A, beginning January 1, 2006, the owner or operator of a large commercial passenger vessel may discharge graywater or a mixture of graywater and blackwater to coastal waters if:

(1) The discharge is permitted and meets standards for continuous discharge under the federal Consolidated Appropriations Act of 2001, Public Law 106-554, Section 1(a)(4) and Appendix D, Division B, Title XIV, Section 1404(b) or (c), 114 Stat. 2763, 2763A-316;

(2) While operating in coastal waters, the owner or operator of the large commercial passenger vessel maintains a discharge record book as required by 33 Code of Federal Regulations 159.315 (2003);

(3) The owner or operator of the large commercial passenger vessel meets the sampling and reporting requirements of 33 Code of Federal Regulations 159.317 (2003) prior to and while operating in coastal waters, except that instead of meeting the requirements in 33 Code of Federal Regulations 159.317(a)(2) the owner or operator of the large commercial passenger vessel shall, not less than 30 days nor more than 120 days prior to the large commercial passenger vessel's initial entry into the coastal waters during any calendar year, provide a certification to the department that the large commercial passenger vessel's graywater and mixture of graywater and blackwater meets the standards specified in subparagraph (1); and

(4) The department issues the owner or operator of the large commercial passenger vessel a general permit to discharge graywater or a mixture of graywater and blackwater.

For purposes of this paragraph, the department shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, to implement the requirements in the federal Consolidated Appropriations Act of 2001, Public Law 106-554, Section 1(a)(4) and Appendix D, Division B, Title XIV, Section 1404(b) or (c), 114 Stat. 2763, 2763A-316 and Code of Federal Regulations 159.315 and 159.317 (2003) with the following changes: "Maine" is substituted for "Alaska," "Department of Environmental Protection" is substituted for "Captain of the Port" and for "Coast Guard," and "graywater or a mixture of graywater and blackwater" is substituted for "treated sewage and/or graywater."

The department shall enter into a memorandum of agreement with the United States Coast Guard to consolidate information requirements of the department and the United States Coast Guard to the extent acceptable to the United States Coast Guard.

**5. Agent for service of process.** The owner or operator of a commercial passenger vessel shall continuously maintain a designated agent for service of process whenever the commercial passenger vessel is in coastal waters. The agent must be an individual resident of the State, a domestic corporation or a foreign corporation having a place of business in and authorized to do business in the State. "Agent for service of process" means an agent upon whom process, notice of or demand required or permitted by law to be served upon the owner or operator may be served.

**6. Innocent passage.** This section does not apply to a commercial passenger vessel that operates in the coastal waters of the State solely in innocent passage. For purposes of this paragraph, a commercial passenger vessel is engaged in innocent passage if its operation in coastal waters of the State, regardless of whether the vessel is a United States or foreign-flag vessel, would constitute innocent passage under the:

A. Convention on the Territorial Sea and the Contiguous Zone, April 29, 1958, 15 U.S.T. 1606; or

B. United Nations Convention on the Law of the Sea 1982, December 10, 1982, United Nations publication No. E.83.V.5, 21 I.L.M. 1261 (1982), were the vessel a foreign-flag vessel.

#### **§424. Voluntary water quality monitors**

The Commissioner of Environmental Protection may appoint voluntary water quality monitors to serve at the will and pleasure of the commissioner.

Such monitors are authorized to take water samples and tests of the waters of this State at such times and at such places and in such manner as the commissioner shall direct and to forward such water samples and test results to the commissioner for analysis.

The commissioner is authorized to provide such monitors with such sampling materials and equipment as he deems necessary, provided that such equipment and materials shall at all times remain the property of the State and shall be immediately returned to the commissioner upon his direction.

Such monitors shall not be construed to be employees of this State for any purpose.

The commissioner or his representative shall conduct schools to instruct said monitors in the methods and techniques of water sample taking and issue to said monitors an identification card or certificate showing their appointment and training.

**Article 2-B: MANDATORY SHORELAND ZONING**  
**(available as a separate publication)**

**Article 3: ENFORCEMENT**

**§451. Enforcement generally**

After adoption of any classification by the Legislature for surface waters or tidal flats or sections thereof, it is unlawful for any person, firm, corporation, municipality, association, partnership, quasi-municipal body, state agency or other legal entity to dispose of any pollutants, either alone or in conjunction with another or others, in such manner as will, after reasonable opportunity for dilution, diffusion or mixture with the receiving waters or heat transfer to the atmosphere, lower the quality of those waters below the minimum requirements of such classifications, or where mixing zones have been established by the department, so lower the quality of those waters outside such zones, notwithstanding any exemptions or licenses which may have been granted or issued under sections 413 to 414-B.

The department may establish a mixing zone for any discharge at the time of application for a waste discharge license. The department shall attach a description of the mixing zone as a condition of a license issued for that discharge. After opportunity for a hearing in accordance with section 345-A, the department may establish by order a mixing zone with respect to any discharge for which a license has been issued pursuant to section 414 or for which an exemption has been granted by virtue of section 413, subsection 2.

The purpose of a mixing zone is to allow a reasonable opportunity for dilution, diffusion or mixture of pollutants with the receiving waters before the receiving waters below or surrounding a discharge will be tested for classification violations. In determining the extent of any mixing zone to be established under this section, the department may require from the applicant testimony concerning the nature and rate of the discharge; the nature and rate of existing discharges to the waterway; the size of the waterway and the rate of flow therein; any relevant seasonal, climatic, tidal and natural variations in such size, flow, nature and rate; the uses of the waterways in the vicinity of the discharge, and such other and further evidence as in the department's judgment will enable it to establish a reasonable mixing zone for such discharge. An order establishing a mixing zone may provide that the extent thereof varies in order to take into account seasonal, climatic, tidal and natural variations in the size and flow of, and the nature and rate of, discharges to the waterway.

Where no mixing zones have been established by the department, it is unlawful for any person, corporation, municipality or other legal entity to dispose of any pollutants, either alone or in conjunction with another or others, into any classified surface waters, tidal flats or sections thereof, in such manner as will, after reasonable opportunity for dilution, diffusion, mixture or heat transfer to the atmosphere, lower the quality of any significant segment of those waters, tidal flats or sections thereof, affected by such discharge, below the minimum requirements of such classification, and notwithstanding any licenses which may have been granted or issued under sections 413 to 414-B.

**1. Time schedule.** [Repealed. Laws 1983, c. 566, §25]

**2. Revocation, modification or suspension of licenses.** [Repealed. Laws 1977, c. 300, §26]

**§451-A. Time schedule variances**

**1. Power to grant variances.** The department may grant a variance from any statutory water pollution abatement requirement, pursuant to section 414-A, subsection 1, paragraph D, to any municipality or quasi-municipal entity, hereinafter called the "municipality," upon application by it. The department may grant a variance only upon a finding that:

A. Federal funds for the construction of municipal waste water treatment facilities are not available

for the project;

B. The municipality has demonstrated that it has completed preliminary plans acceptable to the department for the treatment of municipal wastes and for construction of that portion of the municipal sewage system intended to be served by the planned municipal treatment plant when that plant first begins operations; and

C. Beginning on October 1, 1976, the municipality shall collect, from each discharger into its sewage system and each discharger not connected to the sewage system that has signed an approved agreement with the municipality pursuant to subsection 2, a fee sufficient to equal their proportionate share of the actual current cost of operating the sewage system for which preliminary plans have been completed and approved pursuant to paragraph B. Actual current costs include but are not limited to preliminary plans, final design plans, site acquisition, legal fees, interest fees, sewer system maintenance and rehabilitation and other administrative costs. A municipality may provide, when permitted under the federal construction grant program, that in lieu of such annual fees paid by dischargers, the municipality may apportion an appropriate amount from general revenues to cover that share of fees to be paid by dischargers.

The funds collected or apportioned pursuant to this paragraph and interest collected thereon must be invested and expended pursuant to Title 30-A, subpart 9.

Any funds paid by a discharger or discharger not connected to the sewage system pursuant to this paragraph may be credited to the account of the discharger if the municipality is subsequently reimbursed by the federal construction grant program. The credit arrangement must be determined by agreement between the municipality and the discharger.

Variances are issued for a term certain not to exceed 3 years, and may be renewed, except that no variance may run longer than the time specified for completion of the municipal waste treatment facility. Notwithstanding the provisions of this subsection, no variance issued under this section may extend beyond July 1, 1988. Upon notice of the availability of federal funds, the municipality shall present to the department for approval an implementation schedule for designing, constructing and placing the waste collection and treatment facilities in operation.

Variances may be conditioned upon reasonable and necessary terms relating to appropriate interim measures to be taken by the municipality to maintain or improve water quality.

**1-A. Time schedule for salt and sand-salt storage program.** An owner or operator of a salt or sand-salt storage area is not in violation of any groundwater classification or reclassification adopted on or after January 1, 1980 with respect to discharges to the groundwater from those facilities, if the owner or operator has completed all steps required to be completed by the schedules set forth in this subchapter. The commissioner shall administer this schedule according to the project priority list adopted by the board pursuant to section 411 and the provisions of this subsection. A municipal or county site classified as Priority 4 or Priority 5 as of April 1, 2000, which was registered pursuant to section 413 prior to October 15, 1997, may not be in violation of any groundwater classification or reclassification with respect to discharges to the groundwater from those facilities.

A. Preliminary notice must be completed and submitted to the Department of Transportation by the following dates:

(1) For Priority 1 and 2 projects, the latest of the following dates:

- (a) One year from a designation under section 411;
- (b) One year from notice of availability of a state grant, if eligible; or
- (c) January 1996.

(2) For municipal, state and county Priority 3 projects, the later of the following dates:

- (a) One year from notice of availability of a state grant, if eligible; or
- (b) January 2003.

(3) For other Priority 3 projects, the later of the following dates:

- (a) One year from a designation under section 411; or
- (b) January 1997.

B. [Repealed. Laws 1999, c. 387, §5]

C. [Repealed. Laws 1999, c. 387, §5]

D. For municipal and county sites only, review of final plans with the Department of Transportation must be completed within 12 months of the dates established in paragraph A for each priority category.

E. Construction must be completed and the facility in operation within 24 months of the dates established in paragraph A for each priority category.

In no case may violations of the lowest groundwater classification be allowed. In addition, no violations of any groundwater classifications adopted after January 1, 1980, may be allowed for more than 3 years from the date of an offer of a state grant for the construction of those facilities.

The department may not issue time schedule variances under subsection 1 to owners or operators of salt or sand-salt storage areas.

An owner or operator of a salt or sand-salt storage area who is in compliance with this section is exempt from the requirements of licensing under section 413, subsection 2-D.

An owner or operator is not in violation of a schedule established pursuant to this subsection if the owner or operator is eligible for a state grant to implement the schedule and the state grant is not available.

**1-B. Department of Transportation storage areas.** A sand and salt storage area owned by the Department of Transportation and registered prior to October 1, 1999 is not in violation of a groundwater classification or reclassification adopted on or after January 1, 1980 with respect to discharges of groundwater from that area if:

A. The Department of Transportation biennially submits to the Legislature a budget request sufficient to comply with this subsection and section 413;

B. Prior to the use of funds appropriated by the Legislature to carry out the purposes of this subsection, the Department of Transportation presents to the department for comment and response a plan for the use of those funds by outlining a sand and salt storage area specific expenditure plan to prevent pollution, avoid future abatement or clean-up costs and comply with applicable federal guidelines; and

C. The Department of Transportation reports annually to the department on the status of available funds and the department determines that pursuant to this report the Department of Transportation is making timely use of the funds consistent with the plan and comments provided pursuant to paragraph B.

**2. Exemptions.** Any person, other than a municipality, maintaining a discharge subject to the requirements of section 413, 414 and 414-A shall be exempt from the requirements of section 414-A, subsection 1, paragraph D, Effluent Limitations and Best Practicable Treatment, if, by July 1, 1976 or on the commencement of a licensed discharge, whichever occurs later, such discharger presents to the Department of Environmental Protection and receives approval of a contract agreeing to connect to the existing or planned municipal sewage system immediately upon completion of construction and commencement of operation of such treatment plant. Such contract must insure that, in the case of a new discharge, such new discharge will not cause serious water quality problems, including but not limited to downgrading the receiving waters so as to make them unsuitable for currently existing uses. For the purpose of this section, a "new discharge" is a discharge which commences or a discharge which changes characteristics or increases licensed volume by more than 10% on or after the effective date of this Act.

**3. Failure to comply with agreement.** Failure to comply with any of the terms of an agreement

approved pursuant to subsection 2 shall immediately render such agreement null and void and discharges included in such an agreement shall immediately cease or shall only discharge in accordance with the standards of best practicable treatment specified in section 414-A, subsection 1, paragraph D, and all other requirements of sections 414 and 414-A.

**4. Pretreatment systems.** Where a discharger otherwise exempted from constructing treatment facilities pursuant to this section will be required to pretreat effluents before discharge into the municipal system pursuant to any requirement of state or federal law, the pretreatment system shall be installed upon commencement of the discharge.

**5. Fees.** Municipalities and quasi-municipal entities shall assess and collect the fees to be charged pursuant to this section in accordance with the provisions of chapter 11, and Title 30-A, chapters 161 and 213.

**6. Power to grant variances to owners of private dwellings.** [Repealed. Laws 1983, c. 566, §28]

**7. Power to grant variances to owners of a single family dwelling.** [Repealed. Laws 1987, c. 180, §3]

#### **§452. Forms filed; right of entry; furnishing information**

Persons, firms, corporations, quasi-municipal corporations, municipalities, state agencies and other legal entities shall file with the commissioner information relative to their present method of collection, disposal, composition and volume of all wastes discharged by them into any waters of the State, in a manner and on forms prescribed by the commissioner, within 30 days of receipt of those forms.

## Article 4-A: WATER CLASSIFICATION PROGRAM

### §464. Classification of Maine waters

The waters of the State shall be classified in accordance with this article.

**1. Findings; objectives; purpose.** The Legislature finds that the proper management of the State's water resources is of great public interest and concern to the State in promoting the general welfare; in preventing disease; in promoting health; in providing habitat for fish, shellfish and wildlife; as a source of recreational opportunity; and as a resource for commerce and industry.

The Legislature declares that it is the State's objective to restore and maintain the chemical, physical and biological integrity of the State's waters and to preserve certain pristine state waters. The Legislature further declares that in order to achieve this objective the State's goals are:

- A. That the discharge of pollutants into the waters of the State be eliminated where appropriate;
- B. That no pollutants be discharged into any waters of the State without first being given the degree of treatment necessary to allow those waters to attain their classification; and
- C. That water quality be sufficient to provide for the protection and propagation of fish, shellfish and wildlife and provide for recreation in and on the water.

The Legislature intends by passage of this article to establish a water quality classification system which will allow the State to manage its surface waters so as to protect the quality of those waters and, where water quality standards are not being achieved, to enhance water quality. This classification system shall be based on water quality standards which designate the uses and related characteristics of those uses for each class of water and which also establish water quality criteria necessary to protect those uses and related characteristics. The Legislature further intends by passage of this article to assign to each of the State's surface water bodies the water quality classification which shall designate the minimum level of quality which the Legislature intends for the body of water. This designation is intended to direct the State's management of that water body in order to achieve at least that minimum level of water quality.

**2. Procedures for reclassification.** Reclassification of state waters shall be governed by the following provisions.

- A. Upon petition by any person or on its own motion, the board may initiate, following public notice, and the commissioner shall conduct classification studies and investigations. Information collected during these studies and investigations must be made available to the public in an expeditious manner. After consultation with other state agencies and, where appropriate, individuals, citizen groups, industries, municipalities and federal and interstate water pollution control agencies, the board may propose changes in water classification.
- B. The board shall hold public hearings in the affected area, or reasonably adjacent to the affected area, for the purposes of presenting to all interested persons the proposed classification for each particular water body and obtaining public input.
- C. The board may recommend changes in classification it deems necessary to the Legislature.
- D. The Legislature shall have sole authority to make any changes in the classification of the waters of the State.

**2-A. Removal of designated uses; creation of subcategories of designated uses.** Removal of designated uses and creation of subcategories of designated uses are governed by the provisions of this subsection and 40 Code of Federal Regulations, Part 131, as amended.

A. The board must conduct a use attainability analysis:

- (1) Prior to proposing to the Legislature a designated use of a specific water body that does not include the uses specified in the Federal Water Pollution Control Act, Public Law 92-500, Section 101(a)(2), as amended; or

(2) Prior to proposing to the Legislature the removal of a designated use or the adoption of a subcategory of such a designated use that requires less stringent criteria.

B. The board may not recommend to the Legislature the removal of a designated use or the establishment of a subcategory of the use, if:

(1) It is an existing use as defined in section 464, subsection 4, paragraph F, subparagraph (1), unless another designated use is adopted requiring more stringent criteria;

(2) The use can be attained by implementing effluent limits required under the Federal Water Pollution Control Act, Public Law 92-500, Sections 301(b) and 306, as amended and by implementing cost-effective and reasonable best management practices for nonpoint source control;

(3) The water body in question is currently attaining the designated use; or

(4) Adoption of the recommendation allows the introduction of a new discharge or the expansion of an existing discharge into the water body in question that is not attaining the designated use.

C. The board may adopt any recommendation under this subsection only after holding a public hearing in the affected area or adjacent to the affected area. Conduct of the public hearing and the board's subsequent decision are governed by Title 5, chapter 375, subchapter IV.

D. A finding by the board that attainment of a designated use is not feasible must be supported by a demonstration that the conditions of 40 Code of Federal Regulations 131.10(g) are met.

E. If the board adopts a proposal to enact a designated use under paragraph A, subparagraph (1) or to remove a designated use or adopt a subcategory of a designated use under paragraph A, subparagraph (2), it shall forward that proposal to the joint standing committee of the Legislature having jurisdiction over natural resources matters at the next regular session of the Legislature. The board may not forward any other recommendation to the Legislature under this subsection. The Legislature has sole authority to make changes in the designated uses of the waters of the State, including the creation of a subcategory of a designated use.

F. For the purposes of this subsection, "designated use" means the use specified in water quality standards for each water body or segment under sections 465 to 465-C and sections 467 to 470 whether or not that use is being attained. A designated use includes its associated habitat characteristic under sections 465 to 465-C.

**2-B. Temporary removal of designated uses; use attainability analysis and creation of subcategory of uses for combined sewer overflows.** When designated uses are not being met as a result of combined sewer overflow discharges, the board may, consistent with this subsection and 40 Code of Federal Regulations, Part 131, temporarily remove designated uses that are not existing uses and create a temporary combined sewer overflow subcategory referred to as a CSO subcategory. Notwithstanding this subsection, it remains the goal of the State to fully maintain and restore water quality and eliminate or control combined sewer overflows as soon as practicable.

A. The board may create temporary CSO subcategories in classes B, C and SB and SC waters only when, due to the age, condition and design of an existing sewer system, technical or financial limitations prevent the timely attainment of all designated uses. In a CSO subcategory, uses are suspended only in the smallest area possible, for the shortest duration practicable and include only those designated uses and areas determined by the board to have the least potential for public benefit.

B. Notwithstanding subsections 2 and 2-A, CSO subcategories may be created by the board upon application by a municipality or quasi-municipality having licensed combined sewer overflow discharges, if the following standards are met.

(1) The applicant submits to the department for approval, with or without conditions, a study and plan, including an implementation schedule, for combined sewer overflow abatement, referred to as the CSO plan. In order for the board to create a CSO subcategory, the CSO plan must:

(a) Place high priority on abatement of combined sewer overflows that affect waters having

the greatest potential for public use or benefit and plan to relocate any remaining discharges to areas where minimal impacts or losses of uses would occur; and

(b) Provide for the implementation as soon as practical of technology-based control methods to achieve best practicable treatment or ensure that cost-effective best management practices are being implemented.

(2) The board finds that attainment of a designated use is not feasible and such determination must be supported by demonstration that the conditions of 40 Code of Federal Regulations, Part 131.10(g) are met.

(3) The board finds that the uses to be affected are not existing uses as defined in subsection 4, paragraph F, subparagraph (1).

(4) The board finds that discharges from combined sewer overflows are not affecting uses that, in the board's judgment, constitute high value or important resources. In determining if a resource is high value or important the board shall consider its economic, recreational and ecological significance, the likelihood that removal of a combined sewer overflow will lead to utilization of that resource and the effects of other discharges or conditions on that resource.

C. Prior to creating any CSO subcategory, the board shall adopt rules regarding required studies, best practicable treatment, abatement options and related issues for combined sewer overflows. CSO subcategories may be created only after completion of the following.

(1) Either during or following development of combined sewer abatement plans, licensees shall conduct public hearings in the area that would be affected by a CSO subcategory. Notices and records of hearings must be kept and included as part of an application made to the board.

(2) Combined sewer overflow abatement plans must be submitted to the department for technical review and approval.

(3) Licensees proposing CSO subcategories shall submit formal applications to the board. Information in the application must include: description of the areas and uses to be affected, the time and duration of effects, comments received at public hearings, a description of continuing efforts to abate impacts and proposals for periodic review and update of abatement plans.

(4) The board shall provide public notice of applications for CSO subcategories and solicit public comments. The board shall also consult with agencies, public officials and other persons identified as having interest in the area to be affected. Based on the results of public hearings held by the applicant, the comments received and the nature of the application, the board may hold a public hearing.

(5) The board may approve, approve with conditions or deny applications for CSO subcategories. In cases when a water body is affected by combined sewer overflows from more than one licensee, the board shall, to the maximum extent possible, consider regional impacts and seek to establish common goals and uses for those waters.

(6) In a manner prescribed by the board, applicants receiving approval of CSO subcategories shall provide notice to the public in the area affected, describing the limitations on use of the water body.

D. Upon creation of a CSO subcategory and removal of a designated use, the board may temporarily suspend or modify water quality criteria associated with that use as appropriate, but only to the extent and duration that those criteria are affected by the licensee for whom the assignment is made. Action by the board under this subsection does not relieve other discharge sources from any requirement to provide necessary treatment or best management practices or to comply with water quality criteria.

E. Either independently or in conjunction with the requirements of subsection 3 and upon renewal of individual waste discharge licenses, the department shall periodically review all CSO subcategories. Reviews of CSO subcategories must take into consideration water quality criteria and uses, combined sewer overflow abatement technology, monitoring data, financial information and regulatory

requirements affecting CSO subcategories.

Upon petition by the department or any person or on its own motion, the board may, at its discretion, and following notice and opportunity for hearing, revise or revoke a CSO subcategory when it finds any change in the conditions under which the existing designation was made. The failure to comply with the measures specified in an approved combined sewer overflow abatement plan is cause for revocation of a CSO subcategory.

**3. Reports to the Legislature.** The department shall periodically report to the Legislature as governed by the following provisions.

A. The commissioner shall submit to the first regular session of each Legislature a report on the quality of the State's waters which describes existing water quality, identifies waters that are not attaining their classification and states what measures are necessary for the attainment of the standards of their classification.

B. The board shall, from time to time, but at least once every 3 years, hold public hearings for the purpose of reviewing the water quality classification system and related standards and, as appropriate, recommending changes in the standards to the Legislature.

C. The commissioner shall report annually to each regular session of the Legislature on the status of licensed discharges.

D. [Repealed. Laws 1989, c. 890, Pt. A, §40]

**4. General provisions.** The classification system for surface waters established by this article shall be subject to the following provisions.

A. Notwithstanding section 414-A, the department may not issue a water discharge license for any of the following discharges:

(1) Direct discharge of pollutants to waters having a drainage area of less than 10 square miles, except that:

(a) Discharges into these waters that were licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist;

(b) Storm water discharges in compliance with state and local requirements are exempt from this subparagraph;

(c) Aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species are exempt from this subparagraph; and

(d) Chemical discharges for the purpose of restoring water quality in GPA waters approved by the department are exempt from this subparagraph;

(2) New direct discharge of domestic pollutants to tributaries of Class-GPA waters;

(3) Any discharge into a tributary of GPA waters that by itself or in combination with other activities causes water quality degradation that would impair the characteristics and designated uses of downstream GPA waters or causes an increase in the trophic state of those GPA waters except for aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species in the GPA waters or a tributary to the GPA waters;

(4) Discharge of pollutants to waters of the State that imparts color, taste, turbidity, toxicity, radioactivity or other properties that cause those waters to be unsuitable for the designated uses and characteristics ascribed to their class;

(5) Discharge of pollutants to any water of the State that violates sections 465, 465-A and 465-B,

except as provided in section 451; causes the "pH" of fresh waters to fall outside of the 6.0 to 8.5 range; or causes the "pH" of estuarine and marine waters to fall outside of the 7.0 to 8.5 range;

(6) New discharges of domestic pollutants to the surface waters of the State that are not conveyed and treated in municipal or quasi-municipal sewage facilities. For the purposes of this subparagraph, "new discharge" means any overboard discharge that was not licensed as of June 1, 1987, except discharges from vessels and those discharges that were in continuous existence for the 12 months preceding June 1, 1987, as demonstrated by the applicant to the department with clear and convincing evidence. The volume of the discharge from an overboard discharge facility that was licensed as of June 1, 1987 is determined by the actual or estimated volume from the facilities connected to the overboard discharge facility during the 12 months preceding June 1, 1987 or the volume allowed by the previous license, whichever is less, unless it is found by the department that an error was made during prior licensing. The months during which a discharge may occur from an overboard discharge facility that was licensed as of June 1, 1987 must be determined by the actual use of the facility at the time of the most recent license application prior to June 1, 1987 or the actual use of the facility during the 12 months prior to June 1, 1987, whichever is greater. If the overboard discharge facility was the primary residence of an owner at the time of the most recent license application prior to June 1, 1987 or during the 12 months prior to June 1, 1987, then the facility is considered a year-round residence. "Year-round residence" means a facility that is continuously used for more than 8 months of the year. For purposes of licensing, the department shall treat an increase in the licensed volume or quantity of an existing discharge or an expansion in the months during which the discharge takes place as a new discharge of domestic pollutants;

(7) After the Administrator of the United States Environmental Protection Agency ceases issuing permits for discharges of pollutants to waters of this State pursuant to the administrator's authority under the Federal Water Pollution Control Act, Section 402(c)(1), any proposed license to which the administrator has formally objected under 40 Code of Federal Regulations, Section 123.44, as amended, or any license that would not provide for compliance with applicable requirements of that Act or regulations adopted thereunder;

(8) Discharges for which the imposition of conditions can not ensure compliance with applicable water quality requirements of this State or another state;

(9) Discharges that would, in the judgment of the Secretary of the United States Army, substantially impair anchorage or navigation;

(10) Discharges that would be inconsistent with a plan or plan amendment approved under the Federal Water Pollution Control Act, Section 208(b); and

(11) Discharges that would cause unreasonable degradation of marine waters or when insufficient information exists to make a reasonable judgment whether the discharge would cause unreasonable degradation of marine waters.

Notwithstanding subparagraph (6), the department may issue a wastewater discharge license allowing for an increase in the volume or quantity of discharges of domestic pollutants from any university, college or school administrative unit sewage facility, as long as the university, college or school administrative unit has a wastewater discharge license valid on the effective date of this paragraph and the increase in discharges does not violate the conditions of subparagraphs (1) to (5) and (7) to (11) or other applicable laws.

B. All surface waters of the State shall be free of settled substances which alter the physical or chemical nature of bottom material and of floating substances, except as naturally occur, which impair the characteristics and designated uses ascribed to their class.

C. Where natural conditions, including, but not limited to, marshes, bogs and abnormal concentrations of wildlife cause the dissolved oxygen or other water quality criteria to fall below the minimum standards specified in sections 465, 465-A and 465-B, those waters shall not be considered to be failing to attain their classification because of those natural conditions.

D. Except as otherwise provided in this paragraph, for the purpose of computing whether a discharge will violate the classification of any river or stream, the assimilative capacity of the river or stream must be computed using the minimum 7-day low flow which can be expected to occur with a frequency of once in 10 years. The department may use a different flow rate only for those toxic substances regulated under section 420. To use a different flow rate, the department must find that the flow rate is consistent with the risk being addressed.

E. The waters contained in excavations approved by the department for wastewater treatment purposes are unclassified waters.

F. The antidegradation policy of the State is governed by the following provisions.

(1) Existing in-stream water uses and the level of water quality necessary to protect those existing uses must be maintained and protected. Existing in-stream water uses are those uses which have actually occurred on or after November 28, 1975, in or on a water body whether or not the uses are included in the standard for classification of the particular water body.

Determinations of what constitutes an existing in-stream water use on a particular water body must be made on a case-by-case basis by the department. In making its determination of uses to be protected and maintained, the department shall consider designated uses for that water body and:

(a) Aquatic, estuarine and marine life present in the water body;

(b) Wildlife that utilize the water body;

(c) Habitat, including significant wetlands, within a water body supporting existing populations of wildlife or aquatic, estuarine or marine life, or plant life that is maintained by the water body;

(d) The use of the water body for recreation in or on the water, fishing, water supply, or commercial activity that depends directly on the preservation of an existing level of water quality. Use of the water body to receive or transport waste water discharges is not considered an existing use for purposes of this antidegradation policy; and

(e) Any other evidence that, for divisions (a), (b) and (c), demonstrates their ecological significance because of their role or importance in the functioning of the ecosystem or their rarity and, for division (d), demonstrates its historical or social significance.

(1-A) The department may only issue a waste discharge license pursuant to section 414-A, or approve a water quality certification pursuant to the United States Clean Water Act, Section 401, Public Law 92-500, as amended, when the department finds that:

(a) The existing in-stream use involves use of the water body by a population of plant life, wildlife, or aquatic, estuarine or marine life, or as aquatic, estuarine, marine, wildlife, or plant habitat, and the applicant has demonstrated that the proposed activity would not have a significant impact on the existing use. For purpose of this division, significant impact means:

(i) Impairing the viability of the existing population, including significant impairment to growth and reproduction or an alteration of the habitat which impairs viability of the existing population; or

(b) The existing in-stream use involves use of the water body for recreation in or on the water, fishing, water supply or commercial enterprises that depend directly on the preservation of an existing level of water quality and the applicant has demonstrated that the proposed activity would not result in significant degradation of the existing use.

The department shall determine what constitutes a population of a particular species based upon the degree of geographic and reproductive isolation from other individuals of the same species.

If the department fails to find that the conditions of this subparagraph are met, water quality

certification, pursuant to the United States Clean Water Act, Section 401, Public Law 92-500, as amended, is denied.

(2) Where high quality waters of the State constitute an outstanding national resource, that water quality must be maintained and protected. For purposes of this paragraph, the following waters are considered outstanding national resources: those water bodies in national and state parks and wildlife refuges; public reserved lands; and those water bodies classified as Class AA and SA waters pursuant to section 465, subsection 1; section 465-B, subsection 1; and listed under sections 467, 468 and 469.

(3) The department may only issue a discharge license pursuant to section 414-A or approve water quality certification pursuant to the Federal Water Pollution Control Act, Section 401, Public Law 92-500, as amended, if the standards of classification of the water body and the requirements of this paragraph are met. The department may issue a discharge license or approve water quality certification for a project affecting a water body in which the standards of classification are not met if the project does not cause or contribute to the failure of the water body to meet the standards of classification.

(4) When the actual quality of any classified water exceeds the minimum standards of the next highest classification, that higher water quality must be maintained and protected. The board shall recommend to the Legislature that that water be reclassified in the next higher classification.

(5) The department may only issue a discharge license pursuant to section 414-A or approve water quality certification pursuant to the United States Clean Water Act, Section 401, Public Law 92-500, as amended, which would result in lowering the existing quality of any water body after making a finding, following opportunity for public participation, that the action is necessary to achieve important economic or social benefits to the State and when the action is in conformance with subparagraph (3). That finding must be made following procedures established by rule of the board.

G. [Repealed. Laws 1989, c. 442, §5]

H. A hydropower project, as defined by section 632, constructed after the effective date of this paragraph may cause some change to the habitat and aquatic life of the project's impoundment and the waters immediately downstream of and measurably affected by the project, so long as the habitat and aquatic life criteria of those waters' classification under sections 465, 465-A, 467, and 468 are met. This paragraph does not constitute any change in the criteria for habitat and aquatic life under sections 465 and 465-A.

I. [Repealed. T. 38, §464, sub-§4, paragraph I]

**5. Rulemaking.** In accordance with the Maine Administrative Procedure Act, the board shall promulgate rules necessary to implement the water quality classification system established by this article. In promulgating rules, the board shall solicit and consider, in addition to any other materials, information on the economic and environmental impact of those rules.

Rules shall be promulgated by January 1, 1987, and as necessary thereafter, and shall include, but are not limited to, sampling and analytical methods, protocols and procedures for satisfying the water quality criteria, including evaluation of the impact of any discharge on the resident biological community.

Rules adopted pursuant to this subsection shall become effective upon adoption. Rules adopted pursuant to this subsection shall be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources for review during the next regular session of the Legislature following adoption. This committee may submit legislation it deems necessary to clarify legislative intent regarding rules adopted pursuant to this subsection. If the committee takes no action, the rules shall continue in effect.

**6. Implementation of biological water quality criteria.** The implementation of water quality criteria pertaining to the protection of the resident biological community shall be governed by the

provisions of this subsection.

A. At any time during the term of a valid wastewater discharge license that was issued prior to the effective date of this article, the board may modify that license in accordance with section 341-D, subsection 3 if the discharger is not in compliance with the water quality criteria pertaining to the protection of the resident biological community. When a discharge license is modified under this subsection, the board shall establish a reasonable schedule to bring the discharge into compliance with the water quality criteria pertaining to the protection of the resident biological community.

B. When a discharge license is issued after the effective date of this article and before the effective date of the rules adopted pursuant to subsection 5, the department shall establish a reasonable schedule to bring the discharge into compliance with the water quality criteria pertaining to the protection of the resident biological community.

C. A discharger seeking a new discharge license following the effective date of the rules adopted under subsection 5 shall comply with the water quality criteria of this article.

**7. Interdepartmental coordination.** The commissioner, the Commissioner of Marine Resources and the Commissioner of Health and Human Services shall jointly:

A. Make available accurate and consistent information on the requirements of this section, section 411-A and section 414-A, subsection 1-B; and

B. Certify wastewater treatment and disposal technologies which can be used to replace overboard discharges.

**8. Development of group systems.** Subject to the provisions of section 414-A, subsection 1-B, the commissioner shall coordinate the development and implementation of wastewater treatment and disposal systems serving more than one residence or commercial establishment when individual replacement systems are not feasible.

**9. Existing hydropower impoundments managed as great ponds; habitat and aquatic life criteria.** [Repealed. Laws 2005, c. 159, §1]

**9-A. Existing hydropower impoundments managed as great ponds; habitat and aquatic life criteria.** The following provisions govern habitat and aquatic life criteria for existing hydropower impoundments managed as great ponds.

A. For the purposes of water quality certification under the Federal Water Pollution Control Act, Public Law 92-500, Section 401, as amended, and licensing of modifications under section 636, the hydropower project located on the water body referenced in section 467, subsection 7, paragraph C, subparagraph (1), division (b-1), is deemed to have met the habitat characteristics and aquatic life criteria in the existing impoundment if:

(1) The project is in existence on June 30, 1992;

(2) The project creates an impoundment that remains classified under section 465-A after June 30, 1992;

(3) The project creates an impoundment that is subject to water level fluctuations that have an effect on the habitat and aquatic life in the littoral zone so that the habitat and aquatic life differ significantly from that found in an unimpounded great pond; and

(4) The existing impounded waters are able to support all species of fish indigenous to those waters and the structure and function of the resident biological community in the impounded waters is maintained.

B. For the purposes of water quality certification under the Federal Water Pollution Control Act, Public Law 92-500, Section 401, as amended, and licensing of modifications under section 636, Ragged Lake, located in the Penobscot River, West Branch drainage, is deemed to have met the habitat characteristics and aquatic life criteria in the existing impoundment if that habitat and aquatic life satisfy the aquatic life criteria contained in section 465, subsection 4, paragraph C, except that

habitat and aquatic life in the portions of the water body affected by annual drawdowns of up to 20 feet may reflect the effects of such drawdowns, based on a use attainability analysis conducted by the board pursuant to subsection 2-A.

C. For the purposes of water quality certification under the Federal Water Pollution Control Act, Public Law 92-500, Section 401, as amended, and licensing of modifications under section 636, Seboomook Lake, located in the Penobscot River, West Branch drainage, is deemed to have met the habitat characteristics and aquatic life criteria in the existing impoundment if that habitat and aquatic life satisfy the aquatic life criteria contained in section 465, subsection 4, paragraph C, except that habitat and aquatic life in the portions of the water body affected by annual drawdowns of up to 17 feet may reflect the effects of such drawdowns, based on a use attainability analysis conducted by the board pursuant to subsection 2-A.

D. Other than those described in paragraphs A, B and C, all hydropower projects with impoundments in existence on June 30, 1992 that remain classified under section 465-A after June 30, 1992 and that do not attain the habitat and aquatic life criteria of that section must, at a minimum, satisfy the aquatic life criteria contained in section 465, subsection 4, paragraph C.

E. When the actual water quality of the impounded waters attains any more stringent characteristic or criteria of those waters' classification under section 465-A, that water quality must be maintained and protected.

**10. Existing hydropower impoundments managed under riverine classifications; habitat and aquatic life criteria.** For the purposes of water quality certification under the Federal Water Pollution Control Act, Public Law 92-500, section 401, as amended, and the licensing of modifications under section 636, hydropower projects in existence on the effective date of this subsection, the impoundments of which are classified under section 465, are subject to the provisions of this subsection in recognition of some changes to aquatic life and habitat that have occurred due to the existing impoundments of these projects.

A. Except as provided in paragraphs B and D, the habitat characteristics and aquatic life criteria of Classes A and B are deemed to be met in the existing impoundments classified A or B of those projects if:

(1) The impounded waters achieve the aquatic life criteria of section 465, subsection 4, paragraph C.

B. The habitat characteristics and aquatic life criteria of Classes A and B are not deemed to be met in the existing impoundments of those projects referred to in paragraph A if:

(1) Reasonable changes can be implemented that do not significantly affect existing energy generation capability; and

(2) Those changes would result in improvement in the habitat and aquatic life of the impounded waters.

If the conditions described in subparagraphs (1) and (2) occur, those changes must be implemented and the resulting improvement in habitat and aquatic life must be achieved and maintained.

C. If the conditions described in paragraph B, subparagraphs (1) and (2) occur at a project in existence on the effective date of this subsection, the impoundment of which is classified C, the changes described in paragraph B, subparagraphs (1) and (2) must be implemented and the resulting improvement in habitat and aquatic life must be achieved and maintained.

D. When the actual water quality of waters affected by this subsection attains any more stringent characteristic or criteria of those waters' classification under sections 465, 467 and 468, that water quality must be maintained and protected.

**11. Downstream stretches affected by existing hydropower projects.** Hydropower projects in existence on the effective date of this subsection that are located on water bodies referenced in section 467, subsection 4, paragraph A, subparagraphs (1) and (7), and section 467, subsection 12, paragraph A,

subparagraphs (7) and (9) are subject to the provisions of this subsection.

For the purposes of water quality certification of hydropower projects under the Federal Water Pollution Control Act, Public Law 92-500, Section 401, as amended, and licensing of modifications to these hydropower projects under section 636, the habitat characteristics and aquatic life criteria of Class A are deemed to be met in the waters immediately downstream of and measurably affected by the projects listed in this subsection if the criteria contained in section 465, subsection 4, paragraph C are met.

**12. Discharges from certain fish hatcheries.** An unlicensed discharge from a fish hatchery is considered, and continues to be considered after it is licensed pursuant to section 413, the same as a discharge licensed prior to January 1, 1986 for the purposes of subsection 4, paragraph A, subparagraph (1); section 465, subsection 2, paragraph C; and section 465-A, subsection 1, paragraph C if the following conditions are met:

- A. The discharge was in existence prior to January 1, 1986;
- B. The fish hatchery is licensed to cultivate fish by the Department of Inland Fisheries and Wildlife on the effective date of this subsection; and
- C. An application from the hatchery for a waste discharge license is accepted as complete for processing by the Department of Environmental Protection within 90 days of notification that a waste discharge license is required pursuant to section 413.

The Department of Environmental Protection shall notify a fish hatchery with an unlicensed discharge that a waste discharge license is required pursuant to section 413 within 90 days of the effective date of this subsection or within 90 days of finding the unlicensed discharge.

**13. Measurement of dissolved oxygen in riverine impoundments.** Compliance with dissolved oxygen criteria in existing riverine impoundments must be measured as follows.

- A. Compliance with dissolved oxygen criteria may not be measured within 0.5 meters of the bottom of existing riverine impoundments.
- B. Where mixing is inhibited due to thermal stratification in an existing riverine impoundment, compliance with numeric dissolved oxygen criteria may not be measured below the higher of:
  - (1) The point of thermal stratification when such stratification occurs; or
  - (2) The point proposed by the department as an alternative depth for a specific riverine impoundment based on all factors included in section 466, subsection 11-A and for which a use attainability analysis is conducted if required by the United States Environmental Protection Agency.

For purposes of this paragraph, "thermal stratification" means a change of temperature of at least one degree Celsius per meter of depth, causing water below this point in an impoundment to become isolated and not mix with water above this point in the impoundment.

- C. Where mixing is inhibited due to natural topographical features in an existing riverine impoundment, compliance with numeric dissolved oxygen criteria may not be measured within that portion of the impoundment that is topographically isolated. Such natural topographic features may include, but not be limited to, natural deep holes or river bottom sills.

Notwithstanding the provisions of this subsection, dissolved oxygen concentrations in existing riverine impoundments must be sufficient to support existing and designated uses of these waters. For purposes of this subsection, "existing riverine impoundments" means all impoundments of rivers and streams in existence as of January 1, 2001 and not otherwise classified as GPA.

#### **§465. Standards for classification of fresh surface waters (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

The department shall have 4 standards for the classification of fresh surface waters which are not classified as great ponds.

**1. Class AA waters.** Class AA shall be the highest classification and shall be applied to waters which are outstanding natural resources and which should be preserved because of their ecological, social, scenic or recreational importance.

A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See Title 38, section 470-H<sup>2</sup>) Class AA waters shall be of such quality that they are suitable for the designated uses of drinking water after disinfection, fishing, recreation in and on the water and navigation and as habitat for fish and other aquatic life. The habitat shall be characterized as free flowing and natural.

A. (TEXT EFFECTIVE ON CONTINGENCY: See Title 38, section 470-H) Class AA waters must be of such quality that they are suitable for the designated uses of drinking water after disinfection, fishing, agriculture, recreation in and on the water, navigation and as habitat for fish and other aquatic life. The habitat must be characterized as free-flowing and natural.

B. The aquatic life, dissolved oxygen and bacteria content of Class AA waters shall be as naturally occurs.

C. Except as provided in this paragraph, there may be no direct discharge of pollutants to Class AA waters.

(1) Storm water discharges that are in compliance with state and local requirements are allowed.

(2) A discharge to Class AA waters that are or once were populated by a distinct population segment of Atlantic salmon as determined pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, is allowed if, in addition to satisfying all the requirements of this article, the applicant, prior to issuance of a discharge license, objectively demonstrates to the department's satisfaction that the discharge is necessary, that there are no other reasonable alternatives available and that the discharged effluent is for the purpose of and will assist in the restoration of Atlantic salmon and will return the waters to a state that is closer to historically natural chemical quality.

(a) The department may issue no more than a total of 3 discharge licenses pursuant to this subparagraph and subsection 2, paragraph C, subparagraph (2).

(b) A discharge license issued pursuant to this subparagraph may not be effective for more than 5 years from the date of issuance.

(3) Aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species are allowed.

**2. Class A waters.** Class A shall be the 2nd highest classification.

A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See Title 38, section 470-H) Class A waters shall be of such quality that they are suitable for the designated uses of drinking water after disinfection; fishing; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; and navigation; and as habitat for fish and other aquatic life. The habitat shall be characterized as natural.

A. (TEXT EFFECTIVE ON CONTINGENCY: See Title 38, section 470-H) Class A waters must be of such quality that they are suitable for the designated uses of drinking water after disinfection; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as habitat for fish and other aquatic life. The habitat must be characterized as natural.

B. The dissolved oxygen content of Class A waters shall be not less than 7 parts per million or 75% of saturation, whichever is higher. The aquatic life and bacteria content of Class A waters shall be as naturally occurs.

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<sup>2</sup> For a description of the contingency for this and related changes that insert "agriculture" into the list of designated uses, see unallocated law provision Laws 2003, ch. 227, §9 at the end of this booklet.

C. Except as provided in this paragraph, direct discharges to these waters licensed after January 1, 1986 are permitted only if, in addition to satisfying all the requirements of this article, the discharged effluent will be equal to or better than the existing water quality of the receiving waters. Prior to issuing a discharge license, the department shall require the applicant to objectively demonstrate to the department's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available. Discharges into waters of this classification licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist.

(1) This paragraph does not apply to a discharge of storm water that is in compliance with state and local requirements.

(2) This paragraph does not apply to a discharge to Class A waters that are or once were populated by a distinct population segment of Atlantic salmon as determined pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, if, in addition to satisfying all the requirements of this article, the applicant, prior to issuance of a discharge license, objectively demonstrates to the department's satisfaction that the discharge is necessary, that there are no other reasonable alternatives available and that the discharged effluent is for the purpose of and will assist in the restoration of Atlantic salmon and will return the waters to a state that is closer to historically natural chemical quality.

(a) The department may issue no more than a total of 3 discharge licenses pursuant to this subparagraph and subsection 1, paragraph C, subparagraph (2).

(b) A discharge license issued pursuant to this subparagraph may not be effective for more than 5 years from the date of issuance.

(3) This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species.

D. Storm water discharges to Class A waters must be in compliance with state and local requirements.

E. Material may not be deposited on the banks of Class A waters in any manner that makes transfer of pollutants into the waters likely.

### **3. Class B waters.** Class B shall be the 3rd highest classification.

A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See Title 38, section 470-H) Class B waters shall be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; and navigation; and as habitat for fish and other aquatic life. The habitat shall be characterized as unimpaired.

A. (TEXT EFFECTIVE ON CONTINGENCY: See Title 38, section 470-H) Class B waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired.

B. The dissolved oxygen content of Class B waters may not be less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration may not be less than 9.5 parts per million and the 1-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of *Escherichia coli* bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures.

C. Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community. This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species.

**4. Class C waters.** Class C shall be the 4th highest classification.

A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See Title 38, section 470-H) Class C waters shall be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; and navigation; and as a habitat for fish and other aquatic life.

A. (TEXT EFFECTIVE ON CONTINGENCY: See Title 38, section 470-H) Class C waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as a habitat for fish and other aquatic life.

B. The dissolved oxygen content of Class C water may be not less than 5 parts per million or 60% of saturation, whichever is higher, except that in identified salmonid spawning areas where water quality is sufficient to ensure spawning, egg incubation and survival of early life stages, that water quality sufficient for these purposes must be maintained. In order to provide additional protection for the growth of indigenous fish, the following standards apply.

(1) The 30-day average dissolved oxygen criterion of a Class C water is 6.5 parts per million using a temperature of 22 degrees centigrade or the ambient temperature of the water body, whichever is less, if:

(a) A license or water quality certificate other than a general permit was issued prior to March 16, 2004 for the Class C water and was not based on a 6.5 parts per million 30-day average dissolved oxygen criterion; or

(b) A discharge or a hydropower project was in existence on March 16, 2005 and required but did not have a license or water quality certificate other than a general permit for the Class C water.

This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004.

(2) In Class C waters not governed by subparagraph (1), dissolved oxygen may not be less than 6.5 parts per million as a 30-day average based upon a temperature of 24 degrees centigrade or the ambient temperature of the water body, whichever is less. This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004.

The department may negotiate and enter into agreements with licensees and water quality certificate holders in order to provide further protection for the growth of indigenous fish. Agreements entered into under this paragraph are enforceable as department orders according to the provisions of sections 347-A to 349.

Between May 15th and September 30th, the number of *Escherichia coli* bacteria of human and domestic animal origin in Class C waters may not exceed a geometric mean of 126 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The board shall adopt rules governing the procedure for designation of spawning areas. Those rules must include provision for periodic review of designated spawning areas and consultation with affected persons prior to designation of a stretch of water as a spawning area.

C. Discharges to Class C waters may cause some changes to aquatic life, except that the receiving waters must be of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community. This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species.

#### **§465-A. Standards for classification of lakes and ponds**

The department shall have one standard for the classification of great ponds and natural lakes and ponds less than 10 acres in size. Impoundments of rivers that are defined as great ponds pursuant to section 480-B are classified as GPA or as specifically provided in sections 467 and 468.

**1. Class GPA waters.** Class GPA shall be the sole classification of great ponds and natural ponds and lakes less than 10 acres in size.

A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See Title 38, section 470-H) Class GPA waters shall be of such quality that they are suitable for the designated uses of drinking water after disinfection, recreation in and on the water, fishing, industrial process and cooling water supply, hydroelectric power generation and navigation and as habitat for fish and other aquatic life. The habitat shall be characterized as natural.

A. (TEXT EFFECTIVE ON CONTINGENCY: See Title 38, section 470-H) Class GPA waters must be of such quality that they are suitable for the designated uses of drinking water after disinfection, recreation in and on the water, fishing, agriculture, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other aquatic life. The habitat must be characterized as natural.

B. Class GPA waters shall be described by their trophic state based on measures of the chlorophyll "a" content, Secchi disk transparency, total phosphorus content and other appropriate criteria. Class GPA waters shall have a stable or decreasing trophic state, subject only to natural fluctuations and shall be free of culturally induced algal blooms which impair their use and enjoyment. The number of *Escherichia coli* bacteria of human origin in these waters may not exceed a geometric mean of 29 per 100 milliliters or an instantaneous level of 194 per 100 milliliters.

C. There may be no new direct discharge of pollutants into Class GPA waters. The following are exempt from this provision:

- (1) Chemical discharges for the purpose of restoring water quality approved by the department;
- (2) Aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species; and
- (3) Storm water discharges that are in compliance with state and local requirements.

Discharges into these waters licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist. Materials may not be placed on or removed from the shores or banks of a Class GPA water body in such a manner that materials may fall or be washed into the water or that contaminated drainage may flow or leach into those waters, except as permitted pursuant to section 480-C. A change of land use in the watershed of a Class GPA water body may not, by itself or in combination with other activities, cause water quality degradation that impairs the characteristics and designated uses of downstream GPA waters or causes an increase in the trophic state of those GPA waters.

#### **§465-B. Standards for classification of estuarine and marine waters**

The department shall have 3 standards for the classification of estuarine and marine waters.

**1. Class SA waters.** Class SA shall be the highest classification and shall be applied to waters

which are outstanding natural resources and which should be preserved because of their ecological, social, scenic, economic or recreational importance.

A. Class SA waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as free-flowing and natural.

B. The estuarine and marine life, dissolved oxygen and bacteria content of Class SA waters shall be as naturally occurs.

C. There may be no direct discharge of pollutants to Class SA waters, except storm water discharges that are in compliance with state and local requirements.

**2. Class SB waters.** Class SB waters shall be the 2nd highest classification.

A. Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.

B. The dissolved oxygen content of Class SB waters must be not less than 85% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 8 per 100 milliliters or an instantaneous level of 54 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration.

C. Discharges to Class SB waters shall not cause adverse impact to estuarine and marine life in that the receiving waters shall be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There shall be no new discharge to Class SB waters which would cause closure of open shellfish areas by the Department of Marine Resources.

**3. Class SC waters.** Class SC waters shall be the 3rd highest classification.

A. Class SC waters must be of such quality that they are suitable for recreation in and on the water, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as a habitat for fish and other estuarine and marine life.

B. The dissolved oxygen content of Class SC waters must be not less than 70% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 14 per 100 milliliters or an instantaneous level of 94 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers of total coliform bacteria or other specified indicator organisms in samples representative of the waters in restricted shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration.

C. Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community.

#### **§465-C. Standards of classification of ground water**

The department shall have 2 standards for the classification of ground water.

**1. Class GW-A.** Class GW-A shall be the highest classification and shall be of such quality that it can be used for public water supplies. These waters shall be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair usage of these waters, other than that occurring from natural phenomena.

**2. Class GW-B.** Class GW-B, the 2nd highest classification, shall be suitable for all usages other than public water supplies.

#### **§466. Definitions**

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

**1. Aquatic life.** "Aquatic life" means any plants or animals which live at least part of their life cycle in fresh water.

**2. As naturally occurs.** "As naturally occurs" means conditions with essentially the same physical, chemical and biological characteristics as found in situations with similar habitats free of measurable effects of human activity.

**2-A. Color pollution unit.** "Color pollution unit" means that measure of water color derived from comparison with a standard measure prepared according to the specifications of the current edition of "Standard Methods for Examination of Water and Wastewater," adopted by the United States Environmental Protection Agency, or an equivalent measure.

**2-B. Combined sewer overflow.** "Combined sewer overflow" means a discharge of excess wastewater from a municipal or quasi-municipal sewerage system that conveys both sanitary wastes and storm water in a single pipe system and that is in direct response to a storm event or snowmelt. Combined sewer overflow discharges do not include dry weather discharges that occur as a result of nonstorm events or are caused solely by groundwater infiltration.

**3. Community function.** "Community function" means mechanisms of uptake, storage and transfer of life-sustaining materials available to a biological community which determines the efficiency of use and the amount of export of the materials from the community.

**4. Community structure.** "Community structure" means the organization of a biological community based on numbers of individuals within different taxonomic groups and the proportion each taxonomic group represents of the total community.

**5. Direct discharge.** "Direct discharge" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

**6. Domestic pollutants.** "Domestic pollutants" means any material, including, without limitation, sanitary wastes, waste water from household activities or waste waters with similar chemical characteristics, which are generated at residential or commercial locations.

**7. Estuarine and marine life.** "Estuarine and marine life" means any plants or animals which live at least part of their life cycle in salt water.

**8. Indigenous.** "Indigenous" means supported in a reach of water or known to have been supported according to historical records compiled by State and Federal agencies or published scientific literature.

**8-A. Invasive species.** "Invasive species" means an invasive animal as determined by the Department of Inland Fisheries and Wildlife or an invasive aquatic plant as listed under section 410-N or as determined by the department. A species may be determined to be invasive for all waters or for specific waters.

**9. Natural.** "Natural" means living in, or as if in, a state of nature not measurably affected by human activity.

**9-A. Overboard discharge.** "Overboard discharge" means discharge to the surface waters of the State of domestic pollutants not conveyed to and treated in municipal or quasi-municipal sewerage treatment facilities.

**9-B. Quasi-municipal.** "Quasi-municipal" means any form of ownership and management by a governmental unit embracing a portion of a municipality, a single municipality or several municipalities which is created by law to deliver public waste water treatment services, but which is not a state governmental unit.

**9-C. Pounds per ton as unit of measure.** "Pounds per ton" means the unit for measurement of color in the discharge from the production of wood pulp. The numerator of this unit is the product of the number of color pollution units multiplied by 8.34 multiplied by the volume of effluent discharged measured in millions of gallons. The denominator of this unit is measured in tons of actual production of unbleached wood pulp as measured on an air dried basis.

**10. Resident biological community.** "Resident biological community" means aquatic life expected to exist in a habitat which is free from the influence of the discharge of any pollutant. This shall be established by accepted biomonitoring techniques.

**11. Unimpaired.** "Unimpaired" means without a diminished capacity to support aquatic life.

**11-A. Use attainability analysis.** "Use attainability analysis" means a structured scientific assessment of the factors affecting the attainment of a designated use in a water body. The assessment may include consideration of physical, chemical, biological and economic factors.

**12. Without detrimental changes in the resident biological community.** "Without detrimental changes in the resident biological community" means no significant loss of species or excessive dominance by any species or group of species attributable to human activity.

#### **§467. Classification of major river basins**

All surface waters lying within the boundaries of the State that are in river basins having a drainage area greater than 100 square miles that are not classified as lakes or ponds are classified in this section.

##### **1. Androscoggin River Basin.**

A. Androscoggin River, main stem, including all impoundments.

- (1) From the Maine-New Hampshire boundary to its confluence with the Ellis River - Class B.
- (2) From its confluence with the Ellis River to a line formed by the extension of the Bath-Brunswick boundary across Merrymeeting Bay in a northwesterly direction - Class C.

B. Little Androscoggin River Drainage.

- (1) Little Androscoggin River, main stem.
  - (a) From the outlet of Bryant Pond to the Maine Central Railroad bridge in South Paris - Class A.
  - (b) From the Maine Central Railroad bridge in South Paris to its confluence with the Androscoggin River - Class C.
- (2) Little Androscoggin River, tributaries - Class B unless otherwise specified.
  - (a) Outlet of Thompson Lake in Oxford - Class C.
  - (b) Andrews Brook in Woodstock - Class A.
  - (c) Black Brook in Woodstock - Class A.
  - (d) Cushman Stream in Woodstock - Class A.
  - (e) Meadow Brook in Woodstock - Class A.
  - (f) Bog Brook and tributaries in Minot, Oxford and Hebron - Class A.

C. Androscoggin River, Upper Drainage; that portion within the State lying above the river's most upstream crossing of the Maine-New Hampshire boundary - Class A unless otherwise specified.

- (1) Cupsuptic River and its tributaries - Class AA.
- (2) Kennebago River and its tributaries except for the impoundment of the dam at Kennebago Falls - Class AA.
- (3) Rapid River, from a point located 1,000 feet downstream of Middle Dam to its confluence with Umbagog Lake - Class AA.
- (4) Magalloway River and tributaries above Aziscohos Lake in Lynchton Township, Parmachenee Township and Bowmantown Township - Class AA.
- (5) Little Magalloway River and tributaries in Parmachenee Township and Bowmantown Township - Class AA.
- (6) Long Pond Stream in Rangeley - Class AA.
- (7) Dodge Pond Stream in Rangeley - Class AA.

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

- (1) All tributaries of the Androscoggin River that enter between the Maine-New Hampshire boundary in Gilead and its confluence with, and including, the Ellis River and that are not otherwise classified - Class A.
- (2) Bear River - Class AA.
- (3) Sabattus River from Sabattus Lake to limits of the Lisbon urban area - Class C.
- (4) Webb River - Class A.
- (5) Swift River, and its tributaries, above the Mexico-Rumford boundary - Class A.
- (6) Nezinscot River, east and west branches above their confluence in Buckfield - Class A.
- (7) Wild River in Gilead, Batchelders Grant - Class AA.

## **2. Dennys River Basin.**

A. Dennys River, main stem.

- (1) From the outlet of Meddybemps Lake to the Bunker Hill Road bridge - Class AA.
- (2) From the Bunker Hill Road bridge to tidewater - 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.

B. Dennys River, tributaries - Class A unless otherwise specified.

- (1) All tributaries entering below the Bunker Hill Road bridge - Class B.
- (2) Venture Brook in Edmunds Township - Class AA.
- (3) Cathance Stream below the Great Works Impoundment in Edmunds Township - Class AA.

## **3. East Machias River Basin.**

A. East Machias River, main stem.

- (1) From the outlet of Pocomoonshine Lake to a point located 0.25 miles above the Route 1 bridge - Class AA.
- (2) From a point located 0.25 miles above the Route 1 bridge to tidewater - 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.

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

- (1) All tributaries entering below the Route 191 bridge in Jacksonville, except as specified in

subparagraph (7) - Class B.

(2) Beaverdam Brook - Class AA.

(3) Seavey Brook in Crawford - Class AA.

(4) Harmon Brook in Crawford - Class AA.

(5) Northern Stream in Township 19 Eastern Division - Class AA.

(6) Creamer Brook in Township 19 Eastern Division - Class AA.

(7) Clifford Brook in Marion Township - Class AA.

#### **4. Kennebec River Basin.**

##### **A. Kennebec River, main stem.**

(1) From the east outlet of Moosehead Lake to a point 1,000 feet below the lake - Class A.

(2) From the west outlet of Moosehead Lake to a point 1,000 feet below the lake - Class A.

(3) From a point 1,000 feet below Moosehead Lake to its confluence with Indian Pond - Class AA.

(4) From Harris Dam to a point located 1,000 feet downstream from Harris Dam - Class A.

(5) From a point located 1,000 feet downstream from Harris Dam to its confluence with the Dead River - Class AA.

(6) From its confluence with the Dead River to the confluence with Wyman Lake, including all impoundments - Class A.

(7) From the Wyman Dam to its confluence with the impoundment formed by the Williams Dam - Class A.

(8) From the confluence with the Williams impoundment to the Route 201A bridge in Anson-Madison, including all impoundments - Class A.

(9) From the Route 201A bridge in Anson-Madison to the Fairfield-Skowhegan boundary, including all impoundments - Class B.

(10) From the Fairfield-Skowhegan boundary to its confluence with Messalonskee Stream, including all impoundments - Class C.

(11) From its confluence with Messalonskee Stream to the Sidney-Augusta boundary, including all impoundments - Class B.

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

(13) From the Father John J. Curran Bridge in Augusta to a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point - 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. Further, the license limits for total residual chlorine and bacteria for existing direct discharges of wastewater to this segment as of January 1, 2003 must remain the same as the limits in effect on that date and must remain in effect until June 30, 2009 or upon renewal of the license, whichever comes later. Thereafter, license limits for total residual chlorine and bacteria must be those established by the department in the license and may include a compliance schedule pursuant to section 414-A, subsection 2.

(14) From a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point, to a line across the southwesterly area of Merrymeeting Bay formed by an extension of the Brunswick-Bath boundary across the bay in a northwesterly direction to the westerly shore of Merrymeeting Bay and to a line drawn from Chop Point in Woolwich to West Chop Point in Bath - 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.

B. Carrabassett River Drainage.

(1) Carrabassett River, main stem.

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

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

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

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

(a) South Branch Carrabassett River - Class AA. The Legislature finds, however, that permitted water withdrawal from this river segment provides significant social and economic benefits and that this existing use may be maintained.

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

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

C. Cobbosseecontee Stream Drainage.

(1) Cobbosseecontee Stream, main stem - Class B.

(2) Cobbosseecontee Stream, tributaries - Class B.

D. Dead River Drainage.

(1) Dead River, main stem.

(a) From the Long Falls Dam to a point 5,100 feet below the dam - Class A.

(b) From a point 5,100 feet below Long Falls Dam to its confluence with the Kennebec River - Class AA.

(2) Dead River, tributaries - Class A unless otherwise specified.

(a) Black Brook below Dead River Hatchery - Class B.

(b) Stratton Brook, Eustis, from the upper Route 16/27 bridge to its confluence with Flagstaff Lake - Class B.

(c) Spencer Stream and Little Spencer Stream - Class AA.

(d) Horseshoe Stream in Chain of Ponds Township - Class AA.

E. Messalonskee Stream Drainage.

(1) Messalonskee Stream, main stem.

(a) From the outlet of Messalonskee Lake to its confluence with the Kennebec River, including all impoundments except Rice Rips Lake - Class C.

(2) Messalonskee Stream, tributaries - Class B unless otherwise specified.

(a) Rome Trout Brook in Rome - Class A.

F. Moose River Drainage.

(1) Moose River, main stem.

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

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

(c) From the outlet of Attean Pond to the Route 201 bridge in Jackman - Class A.

(d) From the Route 201 bridge in Jackman to its confluence with Long Pond - Class B.

(e) From the outlet of Long Pond to its confluence with Moosehead Lake - Class A.

(2) Moose River, tributaries - Class A.

#### G. Sandy River Drainage.

(1) Sandy River, main stem.

(a) From the outlet of Sandy River Ponds to the Route 142 bridge in Phillips - Class AA.

(b) From the Route 142 bridge in Phillips to its confluence with the Kennebec River - Class B.

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

(a) All tributaries entering above the Route 142 bridge in Phillips - Class A.

(b) Wilson Stream, main stem, below the outlet of Wilson Pond - Class C.

#### H. Sebasticook River Drainage.

(1) Sebasticook River, main stem, including all impoundments.

(a) From the confluence of the East Branch and the West Branch to its confluence with the Kennebec River - Class C.

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

(a) Sebasticook River, East Branch from the outlet of Corundel Lake to its confluence with the West Branch - Class C.

(b) Sebasticook River, West Branch main stem, from the outlet of Great Moose Lake to its confluence with the East Branch, including all impoundments - Class C.

(c) Johnson Brook and tributaries in Burnham - Class A.

(d) Martin Stream and tributaries upstream of the Ridge Road in Plymouth - Class A.

(e) Halfmoon Stream upstream of Route 220 in Thorndike and Knox - Class A.

(f) Crosby Brook in Unity and Thorndike - Class A.

(g) Hall Brook in Thorndike - Class A.

#### I. Kennebec River, minor tributaries - Class B unless otherwise specified.

(1) All minor tributaries entering above Wyman Dam that are not otherwise classified - Class A.

(2) All tidal portions of tributaries entering between Edwards Dam and a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point - Class C.

(3) Cold Stream, West Forks Plantation - Class AA.

(4) Moxie Stream, Moxie Gore, below a point located 1,000 feet downstream of the Moxie Pond dam - Class AA.

(5) Austin Stream and its tributaries above the highway bridge of Route 201 in the Town of Bingham - Class A.

### **5. Machias River Basin.**

#### A. Machias River, main stem.

(1) From the outlet of Fifth Machias Lake to a point 100 feet upstream of the Route 1A bridge in Whitneyville - Class AA.

(2) From a point 100 feet upstream of the Route 1A bridge in Whitneyville to tidewater - 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.

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

- (1) All tributaries entering below Route 1A in Whitneyville - Class B.
- (2) Mopang Stream, from the outlet of Mopang Second Lake to its confluence with the Machias River - Class AA.
- (3) Old Stream, from the outlet of First Lake to its confluence with the Machias River - Class AA.
- (4) West Branch of the Machias River, from the outlet of Lower Sabao Lake to its confluence with the Machias River - Class AA.
- (5) New Stream, in Northfield and Wesley - Class AA.
- (6) Crooked Stream - Class AA.
- (7) Fletcher Brook in Township 36 Middle Division - Class AA.
- (8) Magazine Brook in Township 43 Middle Division - Class AA.
- (9) Bowles Brook in Township 31 Middle Division - Class AA.
- (10) Chain Lakes Stream in Township 31 - Class AA.
- (11) Pembroke Stream in Township 31 Middle Division - Class AA.
- (12) Holmes Brook in Northfield - Class AA.
- (13) Bog Brook - Class AA.
- (14) Pineo Brook in Wesley - Class AA.
- (15) Black Brook in Township 25 Middle Division - Class AA.

**5-A. Medomak River Basin.**

A. Medomak River, main stem.

- (1) From its source in the Town of Liberty to the Wagner Bridge Road in the Town of Waldoboro - Class A.
- (2) From the Wagner Bridge Road in the Town of Waldoboro to the bridge at old Route 1 - Class B.

B. Medomak River, tributaries - Class A unless otherwise specified.

**6. Mousam River Basin.**

A. Mousam River, main stem.

- (1) From the outlet of Mousam Lake to a point located 0.5 mile above Mill Street in Springvale - Class B.
- (2) From a point located 0.5 mile above Mill Street in Springvale to its confluence with Estes Lake - Class C.
- (3) From the outlet of Estes Lake to tidewater - Class B.

B. Mousam River, tributaries - Class B.

**6-A. Narraguagus River Basin.**

A. Narraguagus River, main stem.

- (1) From the outlet of Eagle Lake to the confluence with the West Branch of the Narraguagus River in Cherryfield - Class AA.
- (2) From the confluence with the West Branch of the Narraguagus River in Cherryfield to tidewater - Class B.

B. Narraguagus River, tributaries - Class A unless otherwise specified.

- (1) All tributaries entering below the river's confluence with the West Branch - Class B.
- (2) West Branch of the Narraguagus River - Class AA.
- (3) Baker Brook - Class AA.
- (4) Pork Brook - Class AA.
- (5) Schoodic Brook - Class AA.
- (6) Shorey Brook - Class AA.
- (7) West Branch Stream in Township 34 Middle Division - Class AA.
- (8) Gould Brook in Township 28 Middle Division - Class AA.
- (9) Rocky Brook in Devereaux Township - Class AA.
- (10) Sinclair Brook in Devereaux Township - Class AA.
- (11) Humpback Brook in Township 28 Middle Division - Class AA.
- (12) Little Narraguagus River in Township 22 Middle Division - Class AA.
- (13) Great Falls Branch downstream of Route 193 in Deblois, excluding any tributaries - Class AA.
- (14) Lawrence Brook - Class AA.

## **7. Penobscot River Basin.**

### **A. Penobscot River, main stem.**

- (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.
- (3) From the confluence of Cambolasse Stream to the West Enfield Dam - Class B.
- (5) From the West Enfield Dam, including the Stillwater Branch, to the Veazie Dam, including all impoundments - Class B.
- (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.
- (7) From the Maine Central Railroad bridge in Bangor to a line extended in an east-west direction from a point 1.25 miles upstream of 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.

### **B. Penobscot River, East Branch Drainage.**

- (1) East Branch of the Penobscot River, main stem.
  - (a) Above its confluence with Grand Lake Mattagamon - Class A.
  - (b) From the dam at the outlet of Grand Lake Mattagamon to a point located 1,000 feet downstream from the dam - Class A.
  - (c) From a point located 1,000 feet downstream from the dam at the outlet of Grand Lake Mattagamon to its confluence with the West Branch - Class AA.
- (2) East Branch of the Penobscot River, tributaries - Class A unless otherwise specified.
  - (a) All tributaries, any portion of which is located within the boundaries of Baxter State Park - Class AA.

- (b) Sawtelle Brook, from a point located 1,000 feet downstream from the dam at the outlet of Sawtelle Deadwater to its confluence with the Seboeis River - Class AA.
- (c) Seboeis River, from the outlet of Snowshoe Lake to its confluence with the East Branch - Class AA.
- (d) Wassataquoik Stream, from the boundary of Baxter State Park to its confluence with the East Branch - Class AA.
- (e) Webster Brook, from a point located 1,000 feet downstream from the dam at the outlet of Telos Lake to its confluence with Webster Lake - Class AA.

C. Penobscot River, West Branch Drainage.

- (1) West Branch of the Penobscot River, main stem.
  - (a) From the dam at the outlet of Seboomook Lake to a point located 1,000 feet downstream from the dam at the outlet of Seboomook Lake - Class B.
  - (b) From a point located 1,000 feet downstream from the dam at the outlet of Seboomook Lake to its confluence with Chesuncook Lake - Class A.
  - (b-1) From its confluence with Chesuncook Lake to Ripogenus Dam - Class GPA as modified by section 464, subsection 9-A.
  - (c) From Ripogenus Dam through Ripogenus Gorge to the McKay powerhouse - Class B.
  - (d) From the McKay powerhouse to its confluence with Ambajejus Lake - Class A.
  - (e) From the outlet of Elbow Lake to the outlet of Ferguson and Quakish Lakes - Class B.
  - (f) From the outlet of Ferguson and Quakish Lakes to its confluence with the East Branch of the Penobscot River, including all impoundments - Class C.
- (2) West Branch of the Penobscot River, tributaries - Class A unless otherwise specified.
  - (a) Those segments of any tributary that are within the boundaries of Baxter State Park - Class AA.
  - (b) Those tributaries above the confluence with the Debsconeag Deadwater, any portion of which is located within the boundaries of Baxter State Park - Class AA.
  - (c) Millinocket Stream, from the railroad bridge near the Millinocket-T.3 Indian Purchase boundary to its confluence with the West Branch Canal - Class B.
  - (d) Millinocket Stream from the confluence of the West Branch Canal to its confluence with the West Branch of the Penobscot River - Class C.

D. Mattawamkeag River Drainage.

- (1) Mattawamkeag River, main stem.
  - (a) From the confluence of the East Branch and the West Branch to the Kingman-Mattawamkeag boundary - Class A.
  - (b) From the Kingman-Mattawamkeag boundary to its confluence with the Penobscot River - Class AA.
- (2) Mattawamkeag River, tributaries - Class A unless otherwise specified.
  - (a) East Branch Mattawamkeag River above Red Bridge - Class B.
  - (b) West Branch Mattawamkeag River from Interstate 95 to its confluence with Mattawamkeag Lake - Class B.
  - (c) Fish Stream - Class B.

E. Piscataquis River Drainage.

(1) Piscataquis River, main stem.

(a) From the confluence of the East Branch and the West Branch to the Route 15 bridge in Guilford - Class A.

(b) From the Route 15 bridge in Guilford to the Maine Central Railroad bridge in Dover-Foxcroft - Class B.

(c) From the Maine Central Railroad bridge in Dover-Foxcroft to its confluence with the Penobscot River - Class B.

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

(a) Except as otherwise provided, East and West Branches of the Piscataquis River and their tributaries above their confluence near Blanchard - Class A.

(b) East Branch of the Piscataquis River from 1,000 feet below Shirley Pond to its confluence with the West Branch - Class AA.

(c) Pleasant River, East Branch and its tributaries - Class A.

(d) Pleasant River, West Branch, from the outlet of Fourth West Branch Pond to its confluence with the East Branch - Class AA.

(e) Pleasant River, West Branch tributaries - Class A.

(f) Sebec River and its tributaries above Route 6 in Milo - Class A.

(g) West Branch of the Piscataquis River from 1,000 feet below West Shirley Bog to its confluence with the East Branch - Class AA.

(h) Black Stream - Class A.

(i) Cold Stream - Class A.

(j) Kingsbury Stream - Class A.

(k) Schoodic Stream - Class A.

(l) Scutaze Stream - Class A.

(m) Sebois Stream, including East and West Branches - Class A.

F. Penobscot River, minor tributaries - Class B unless otherwise specified.

(1) Cambolasse Stream (Lincoln) below the Route 2 bridge - Class C.

(2) Great Works Stream (Bradley) and its tributaries above the Route 178 bridge - Class A.

(3) Kenduskeag Stream (Bangor) below the Bullseye Bridge - Class C.

(4) Mattanawcook Stream (Lincoln) below the outlet of Mattanawcook Pond - Class C.

(5) Olamon Stream and its tributaries above the bridge on Horseback Road - Class A.

(6) Passadumkeag River and its tributaries - Class A, unless otherwise specified.

(a) Passadumkeag River from the Pumpkinhill Dam to its confluence with the Penobscot River - Class AA.

(b) Ayers Brook - Class AA.

(7) Souadabscook Stream above head of tide - Class AA.

(8) Sunkhaze Stream and its tributaries - Class AA.

(9) Birch Stream - Class A.

(10) Hemlock Stream - Class A.

(11) Mattamiscontis Stream - Class A.

- (12) Medunkeunk Stream - Class A.
- (13) Rockabema Stream - Class A.
- (14) Salmon Stream - Class A.
- (15) Salmon Stream in Winn - Class A.
- (16) Little Salmon Stream in Medway - Class A.
- (17) Narrimissic River in Bucksport and Orland, including all impoundments - Class B.

**8. Pleasant River Basin.**

A. Pleasant River, main stem.

- (1) From the outlet of Pleasant River Lake to the Maine Central Railroad bridge - Class AA.
- (2) From the Maine Central Railroad bridge to tidewater - 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.

B. Pleasant River, tributaries - Class A unless otherwise specified.

- (1) All tributaries entering below the Maine Central Railroad bridge - Class B.
- (2) Bog Stream (Deblois) - Class B.
- (3) Beaver Meadow Brook (Deblois) - Class B.
- (4) Eastern Little River in Columbia Falls - Class AA.
- (5) Western Little River from its confluence with Montegail Stream to the Pleasant River in Columbia, Township 18 Middle Division and Township 19 Middle Division - Class AA.

**9. Presumpscot River Basin.**

A. Presumpscot River, main stem.

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

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.

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

B. Presumpscot River, tributaries - Class A unless otherwise specified.

- (1) All tributaries entering below the outlet of Sebago Lake - Class B.
- (2) Crooked River and its tributaries, except as otherwise provided, excluding existing impoundments and excluding that area of the river previously impounded at Scribners Mill - Class AA.
- (3) Stevens Brook (Bridgton) - Class B.
- (4) Mile Brook (Casco) - Class B.

**10. Narraguagus River Basin.** [Repealed. Laws 1999, c. 277, §13]

## **11. Royal River Basin.**

### A. Royal River, main stem.

- (1) From the outlet of Sabbathday Pond to its confluence with Collyer Brook - Class A.
- (2) From its confluence with Collyer Brook to tidewater - Class B.

### B. Royal River, tributaries - Class B unless otherwise specified.

- (1) Collyer Brook from Route 202 to the confluence with the Royal River - Class A.

## **12. Saco River Basin.**

### A. Saco River, main stem.

- (1) From the Maine-New Hampshire boundary to its confluence with the impoundment of the Swan's Falls Dam - Class A.
- (2) From its confluence with the impoundment of the Swan's Falls Dam to a point located 1,000 feet below the Swan's Falls Dam - Class A.
- (3) From a point located 1,000 feet below the Swan's Falls Dam to its confluence with the impoundment of the Hiram Dam - Class AA.
- (4) From its confluence with the impoundment of the Hiram Dam to a point located 1,000 feet below the Hiram Dam - Class A.
- (5) From a point located 1,000 feet below the Hiram Dam to its confluence with the Little Ossipee River - Class AA.
- (6) From its confluence with the Little Ossipee River to the West Buxton Dam, including all impoundments - Class A.
- (7) From the West Buxton Dam to its confluence with the impoundment formed by the Bar Mills Dam - Class A.
- (8) From its confluence with the impoundment formed by the Bar Mills Dam to the confluence with the impoundment formed by the Skelton Dam - Class A.
- (9) From Skelton Dam to its confluence with the impoundment formed by the Cataract Project Dams - Class A.
- (10) From the confluence with the impoundment formed by the Cataract Project Dams to the Interstate 95 bridge, including all impoundments - Class A.
- (11) From the Interstate 95 bridge to tidewater - Class B.

### B. Saco River, tributaries, those waters lying within the State - Class B unless otherwise specified.

- (1) All tributaries entering above the confluence of the Ossipee River lying within the State and not otherwise classified - Class A.
- (2) Wards Brook (Fryeburg) - Class C.
- (3) Buff Brook (Waterboro) - Class A.
- (4) Ossipee River Drainage - Class B unless otherwise specified.
  - (a) Emerson Brook in Parsonsfield - Class A.

## **13. St. Croix River Basin.**

### A. St. Croix River, main stem.

- (1) Except as otherwise provided, from the outlet of Chiputneticook Lakes to its confluence with the Woodland Lake impoundment, those waters lying within the State - Class A.
- (2) Those waters of the Grand Falls Flowage between Route 1 (Princeton and Indian Township) and Black Cat Island - Class B.

(3) Woodland Lake impoundment - Class C.

(4) From the Woodland Dam to tidewater, those waters lying within the State, including all impoundments - Class C.

B. St. Croix River, tributaries, those waters lying within the State - Class B unless otherwise specified.

(1) All tributaries entering upstream from the dam at Calais, the drainage areas of which are wholly within the State - Class A unless otherwise classified.

(2) Tomah Stream - Class AA.

(3) Monument Brook - Class A.

(4) Waters connecting the Chiputneticook Lakes, including The Thoroughfare, Forest City Stream and Mud Lake Stream - Class A.

#### **14. St. George River Basin.**

A. St. George River, main stem.

(1) From the outlet of Little Pond to a point located 2,000 feet below the pond - Class A.

(2) From a point located 2,000 feet below the outlet of Little Pond to the confluence with Stevens Pond, from the outlet of Stevens Pond to the confluence with Trues Pond and from the outlet of Trues Pond to the confluence with Sennebec Pond - Class AA.

(3) From the outlet of Sennebec Pond to Route 90, excluding segments that are great ponds - Class A.

(4) From Route 90 to tidewater - Class B.

B. St. George River, tributaries - Class A unless otherwise specified.

(1) Quiggle Brook (Warren, Union, Hope) - Class B.

(2) All tributaries entering downstream of Route 90 in Warren - Class B.

#### **15. St. John River Basin.**

A. St. John River, main stem.

(1) From the confluence of the Northwest Branch and the Southwest Branch to a point located one mile above the foot of Big Rapids in Allagash - Class AA.

(2) From a point located one mile above the foot of Big Rapids in Allagash to the international bridge in Fort Kent, those waters lying within the State, including all impoundments - Class A.

(3) From the international bridge in Fort Kent to the international bridge in Madawaska, those waters lying within the State, including all impoundments - Class B.

(4) From the international bridge in Madawaska to where the international boundary leaves the river in Hamlin, those waters lying within the State, including all impoundments - Class C.

B. Allagash River Drainage.

(1) Allagash River, main stem.

(a) From Churchill Dam to a point located 1,000 feet downstream from Churchill Dam - Class A.

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

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

(2) Allagash River, tributaries - Class A unless otherwise specified.

(a) Allagash Stream, from the outlet of Allagash Lake to its confluence with Chamberlain Lake - Class AA.

(b) Chemquasabamticook Stream, from the outlet of Chemquasabamticook Lake to its confluence with Long Lake - Class AA.

(c) Musquacook Stream, from the outlet of Third Musquacook Lake to its confluence with the Allagash River - Class AA.

C. Aroostook River Drainage.

(1) Aroostook River, main stem.

(a) From the confluence of Millinocket Stream and Munsungan Stream to the Route 11 bridge - Class AA.

(b) From the Route 11 bridge to the Sheridan Dam - Class B.

(c) From the Sheridan Dam to its confluence with Presque Isle Stream, including all impoundments - Class B.

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

(e) From a point located 3.0 miles upstream of the intake of the Caribou water supply to a point located 100 yards downstream of the intake of the Caribou water supply, including all impoundments - Class B.

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

(2) Aroostook River, tributaries, those waters lying within the State - Class A unless otherwise specified.

(a) All tributaries of the Aroostook River entering below the confluence of the Machias River that are not otherwise classified - Class B.

(b) Little Machias River and its tributaries - Class A.

(c) Little Madawaska River and its tributaries, including Madawaska Lake tributaries above the Caribou-Connor Township line - Class A.

(d) Machias River, from the outlet of Big Machias Lake to the Aroostook River - Class AA.

(e) Millinocket Stream, from the outlet of Millinocket Lake to its confluence with Munsungan Stream - Class AA.

(f) Munsungan Stream, from the outlet of Little Munsungan Lake to its confluence with Millinocket Stream - Class AA.

(g) Presque Isle Stream and its tributaries above the Mapleton-Presque Isle town line - Class A.

(h) St. Croix Stream from its confluence with Hall Brook in T.9, R.5, W.E.L.S. to its confluence with the Aroostook River - Class AA.

(j) Squa Pan Stream from the outlet of Squa Pan Lake to its confluence with the Aroostook River - Class C.

(k) Limestone Stream from the Long Road bridge to the Canadian border - Class C.

D. Fish River Drainage.

(1) Fish River, main stem.

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

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

- (c) From the outlet of Eagle Lake to its confluence with Perley Brook - Class A.
- (d) From its confluence with Perley Brook to the St. John River - Class B.
- (2) Fish River, tributaries - Class B unless otherwise specified.
  - (a) All tributaries entering above the Route 11 bridge - Class A.
- E. Meduxnekeag River Drainage.
  - (1) Meduxnekeag River, main stem.
    - (a) From the outlet of Meduxnekeag Lake to the international boundary - Class B.
  - (2) Meduxnekeag River, tributaries - Class B unless otherwise specified.
    - (a) North Branch of the Meduxnekeag River and its tributaries above the Monticello - T.C, R.2, W.E.L.S. boundary - Class A.
    - (b) Moose Brook and its tributaries, upstream of the Ludlow Road in Ludlow - Class A.
    - (c) South Branch of the Meduxnekeag River and its tributaries, upstream of the Oliver Road in Cary - Class A.
    - (d) B Stream and tributaries upstream of the Burnt Brow Bridge in Hammond - Class A.
- F. St. John River, minor tributaries, those waters lying within the State - Class A unless otherwise specified.
  - (1) Except as otherwise classified, all minor tributaries of the St. John River entering below the international bridge in Fort Kent, those waters lying within the State - Class B.
  - (2) Baker Branch, from the headwaters at the St. John Ponds to its confluence with the Southwest Branch - Class AA.
  - (3) Big Black River, from the international boundary to its confluence with the St. John River - Class AA.
  - (4) Northwest Branch, from the outlet of Beaver Pond in T.12, R.17, W.E.L.S. to its confluence with the St. John River - Class AA.
  - (5) Prestile Stream from its source to Route 1A in Mars Hill - Class A.
  - (6) Southwest Branch, from a point located 5 miles downstream of the international boundary to its confluence with the Baker Branch - Class AA.

**16. Salmon Falls River Basin.**

- A. Salmon Falls River, main stem.
  - (1) From the outlet of Great East Lake to the Route 9 bridge - Class B.
  - (2) From the Route 9 bridge to tidewater - Class C.
- B. Salmon Falls River, tributaries, those waters lying within the State - Class B unless otherwise specified.
  - (1) Chicks Brook (South Berwick, York) - Class A.

**17. Sheepscot River Basin.**

- A. Sheepscot River, main stem.
  - (1) From its origin in Montville to Sheepscot Lake - Class A.
  - (2) From Sheepscot Lake to Route 17 - 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.
  - (3) From Route 17 to tidewater - Class AA.

B. Sheepscot River, tributaries - Class B unless otherwise specified.

- (1) West Branch of the Sheepscot River, main stem, from the outlet of Branch Pond to its confluence with the Sheepscot River - Class AA.
- (2) Trout Brook - Class A.
- (3) Choate Brook - Class A.
- (4) Weaver Brook - Class A.
- (5) Ben Brook - Class A.
- (6) Finn Brook - Class A.
- (7) Hewitt Brook - Class A.
- (8) Dearborn Brook - Class A.
- (9) Culvert Pond Brook - Class A.

**18. Union River Basin.**

A. Union River, main stem.

- (1) From the outlet of Graham Lake to tidewater - Class B.

B. Union River, tributaries - Class A unless otherwise specified.

- (1) Tributaries entering below the outlet of Graham Lake - Class B.
- (2) Outlet of Green Lake (Ellsworth) - Class B.

**§468. Classifications of minor drainages**

All surface waters lying within the boundaries of the State that are in basins having a drainage area less than 100 square miles that are not classified as lakes or ponds are classified in this section.

**1. Cumberland County.** Those waters draining directly or indirectly into tidal waters of Cumberland County, with the exception of the Androscoggin River Basin, the Presumpscot River Basin, the Royal River Basin and tributaries of the Androscoggin River Estuary and Merrymeeting Bay, entering above the Chops - Class B unless otherwise specified.

A. Freeport.

- (1) Frost Gully Brook - Class A.

B. Portland.

- (1) All minor drainages unless otherwise specified - Class C.
- (2) Stroudwater River from its origin to tidewater - Class B.

C. Scarborough.

- (1) All minor drainages - Class C unless otherwise specified.
- (2) Finnard Brook - Class B.
- (3) Stuart Brook - Class B.

D. South Portland.

- (1) All minor drainages - Class C.

E - I. [Repealed. Laws 1989, c. 764, §21]

**2. Hancock County.** Those waters draining directly or indirectly into tidal waters of Hancock County, with the exception of the Union River Basin - Class B unless otherwise specified.

A. All brooks, streams and segments of those brooks and streams that are within the boundaries of Acadia National Park - Class AA.

B. Blue Hill.

(1) Carleton Stream, main stem, between First Pond and Second Pond - Class C.

(2) Carleton Stream, main stem, from the outlet of First Pond to tidewater at Salt Pond - Class C.

C. Orland.

(1) Alamoosook Lake, tributaries - Class A.

D - M.

N. Township 7 Southern Division.

(1) Whitten Parritt Stream - Class A.

**3. Knox County.** Those waters draining directly or indirectly into tidal waters of Knox County, with the exception of the St. George River Basin - Class B unless otherwise specified.

A - H. [Repealed. Laws 1989, c. 764, §21]

**4. Lincoln County.** Those waters draining directly or indirectly into tidal waters of Lincoln County entering above the Chops, with the exception of the Sheepscot River Basin and tributaries of the Kennebec River Estuary and Merrymeeting Bay - Class B unless otherwise specified.

A - C. [Repealed. Laws 1989, c. 764, §21]

**5. Penobscot County.** Those waters draining directly or indirectly into tidal waters of Penobscot County, with the exception of tributaries of the Penobscot River Estuary entering north of a line extended in an east-west direction from the outlet of Reeds Brook in the village of Hampden Highlands - Class B unless otherwise specified.

A. [Repealed. Laws 1989, c. 764, §21]

B. [Repealed. Laws 1989, c. 764, §21]

C. Winterport.

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

**6. Sagadahoc County.** Those waters draining directly or indirectly into tidal waters of Sagadahoc County entering above the Chops, with the exception of tributaries of the Androscoggin River Estuary, the Kennebec River Estuary and Merrymeeting Bay - Class B unless otherwise specified.

A. [Repealed. Laws 1989, c. 764, §21]

**7. Waldo County.** Those waters draining directly or indirectly into tidal waters of Waldo County - Class B unless otherwise specified.

A. Ducktrap River from the outlet of Tilden Pond to tidewater - Class AA.

B. [Repealed. Laws 1989, c. 764, §21]

C. [Repealed. Laws 1989, c. 764, §21]

**8. Washington County.** Those waters draining directly or indirectly into tidal waters of Washington County, including impoundments of the Pennamaquan River, with the exception of the Dennys River Basin, the East Machias River Basin, the Machias River Basin, the Narraguagus River Basin and the Pleasant River Basin - Class B unless otherwise specified.

A. Jonesboro.

(1) Chandler River and its tributaries above the highway bridge on Route 1 - Class A.

B. Whiting.

(1) Orange River and its tributaries above the highway bridge on Route 1 - Class A.

C - I. [Repealed. Laws 1989, c. 764, §21]

J. Edmunds.

(1) Hobart Stream - Class AA.

K. Steuben.

(1) Whitten Parritt Stream - Class A.

(2) Tunk Stream and tributaries upstream of Route 1 - Class A.

L. Harrington.

(1) Harrington River and tributaries - Class A.

M. Columbia.

(1) Harrington River and tributaries - Class A.

N. Addison.

(1) Indian River - Class A.

O. Jonesport.

(1) Indian River - Class A.

**9. York County.** Those waters draining directly or indirectly into tidal waters of York County, with the exception of the Saco River Basin, the Salmon Falls River Basin and the Mousam River Basin - Class B unless otherwise specified.

A. Kennebunk.

(1) Branch Brook - Class A.

B. Sanford.

(1) Branch Brook - Class A.

(2) Merriland River - Class A.

C. Wells.

(1) Branch Brook - Class A.

(2) Merriland River - Class A.

(3) Webhannet River above Route 1 - Class A.

(4) Depot Brook - Class A.

(5) Blacksmith Brook above Route 1 - Class A.

(6) Ogunquit River and tributaries above Interstate 95 - Class A.

D. [Repealed. Laws 1989, c. 764, §21]

**§469. Classifications of estuarine and marine waters**

All estuarine and marine waters lying within the boundaries of the State and which are not otherwise classified are Class SB waters.

**1. Cumberland County.**

A. Cape Elizabeth.

(1) Tidal waters of the Spurwink River system lying north of a line at latitude 43°-33'-44" N. - Class SA.

B. Cumberland.

(1) Tidal waters located within a line beginning at a point located on the Cumberland-Portland boundary at approximately latitude 43°41'-18"N., longitude 70° - 05'-48"W. and running northeasterly to a point located on the Cumberland-Harpswell boundary at approximately latitude 43° - 42'-57"N., longitude 70° - 03'-50" W.; thence running southwesterly along the

Cumberland-Harpswell boundary to a point where the Cumberland, Harpswell and Portland boundaries meet; thence running northeasterly along the Cumberland-Portland boundary to point of beginning - Class SA.

C. Falmouth.

(1) Tidal waters of the Town of Falmouth located westerly and northerly, to include the Presumpscot estuary, of a line running from the southernmost point of Mackworth Island; thence running northerly along the western shore of Mackworth Island and the Mackworth Island Causeway to a point located where the causeway joins Mackworth Point - Class SC.

D. Harpswell.

(1) Tidal waters located within a line beginning at a point located on the Cumberland-Harpswell boundary at approximately latitude 43° - 42'-57" N., longitude 70° - 03'-50" W. and running northeasterly to a point located at latitude 43° - 43'-08" N., longitude 70° - 03'-36"W.; thence running southeasterly to a point located at latitude 43° - 42'-02" N., longitude 70° - 00'-00" W.; thence running due south to the Harpswell-Portland boundary; thence running northwesterly along the Harpswell-Portland boundary to a point where the Cumberland, Harpswell and Portland boundaries meet; thence running northwesterly along the Cumberland-Harpswell boundary to point of beginning - Class SA.

E. Portland.

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

(2) Tidal waters of the City of Portland lying northwesterly of a line beginning at Spring Point Light in South Portland to the easternmost point of Fort Gorges Island, thence running northerly to the southernmost point of Mackworth Island - Class SC.

E-1. Scarborough.

(1) Tidal waters of the Scarborough River system lying north of a line running easterly from a point where the old Boston and Maine Railroad line intersects the marsh at latitude 43°-33'-06" N., longitude 70°-20'-58" W. to a point of land north of Black Rock at latitude 43°-33'-06" N., longitude 70°-19'-25" W., excluding those tidal waters of Phillips Brook lying upstream of a point 500 feet south of U.S. Route 1 - Class SA.

(2) Tidal waters of the Spurwink River system lying north of a line extending from Higgins Beach at latitude 43°-33'-44" N. to the town line - Class SA.

F. South Portland.

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

G. [Repealed. Laws 1989, c. 764, §24]

**2. Hancock County.**

A. Bar Harbor.

(1) Tidal waters, except those lying within 500 feet of privately owned shoreline, lying northerly of latitude 44° - 16'-36" N., southerly of latitude 44° - 20'-27" N., and westerly of longitude 68° - 09'-28" W. - Class SA.

A-1. Brooksville.

(1) Tidal waters of the Bagaduce River lying southerly of Young's Island - Class SA.

B. Bucksport.

(1) All tidal waters - Class SC.

C. Cranberry Isles.

(1) Tidal waters, except those lying within 500 feet of privately owned shoreline, lying within 0.5 mile of the shore of Baker Island - Class SA.

D. Mount Desert.

(1) Tidal waters, except those lying within 500 feet of privately owned shoreline, lying northerly of latitude 44° - 16'-36" N. and easterly of longitude 68° - 13'-08" 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., except those waters of Broad Cove lying west of a line running from the point of land immediately south of the cove northerly to Navigation Can #7 and those waters lying within 500 feet of overboard discharges licensed as of January 1, 1999 - Class SA.

(3) Tidal waters of Somes Sound lying within 500 feet of overboard discharges licensed as of January 1, 1999 - Class SA.

E. Orland.

(1) Tidal waters lying northerly of the southernmost point of land on Verona Island - Class SC.

E-1. Penobscot.

(1) Tidal waters of the Bagaduce River lying southerly of Winslow Island and easterly of the westernmost point of Young's Island - Class SA.

E-2. Sedgewick.

(1) Tidal waters of the Bagaduce River - Class SA.

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.

G. Tremont.

(1) Tidal waters lying northerly of latitude 44° - 12'-44" -" N., southerly of latitude 44° - 14'-13" N. and easterly of longitude 68° - 20'-30" W. - Class SA.

H. Verona Island.

(1) Tidal waters lying northerly of the southernmost point of land on Verona Island - Class SC.

I. Winter Harbor.

(1) Tidal waters lying south of a line running west from the northernmost tip of Frazer Point to longitude 68°-05'-00" W. and east of longitude 68°-05'-00" W. - Class SA.

**3. Knox County.**

A. Isle Au Haut.

(1) Tidal waters, except those lying within 500 feet of privately owned shoreline, lying northerly of latitude 44° - 00'-00" N., southerly of latitude 44° - 03'-06" N., easterly of longitude 68° - 41'-00" W. and westerly of longitude 68° - 35'-00" W. - Class SA.

**B. Owls Head.**

(1) Tidal waters lying westerly of a line running between the southernmost point of land on Jameson Point and the northernmost point of land on Battery Point - Class SC.

**C. Rockland.**

(1) Tidal waters lying westerly of a line running between the southernmost point of land on Jameson Point and the northernmost point of land on Battery Point - Class SC.

**3-A. Lincoln County.**

**A. Boothbay.**

(1) Tidal waters lying south of the northernmost point of Damariscove Island and west of longitude 69°-36'-00" W. - Class SA.

**4. Penobscot County.**

**A. Hampden.**

(1) Tidal waters lying southerly of a line extended in an east-west direction from the outlet of Reed Brook in the Village of Hampden Highlands - Class SC.

**B. Orrington.**

(1) Tidal waters lying southerly of a line extended in an east-west direction from the outlet of Reed Brook in the Village of Hampden Highlands - Class SC.

**5. Sagadahoc County.**

**A. Georgetown.**

(1) Tidal waters located within a line beginning at a point on the shore located at latitude 43° - 47'-16" N., longitude 69° -43'-09" W. and running due east to longitude 69° -42'-00" W.; thence running due south to latitude 43° - 42'-52" N.; thence running due west to longitude 69° -44' -25" W.; thence running due north to a point on the shore located at latitude 43° - 46'-15" N., longitude 69° -44'-25" W.; thence running northerly along the shore to point of beginning - Class SA.

**B. Phippsburg.**

(1) Tidal waters east of longitude 69°-50'-05" W. and west of longitude 69°-47'-00" W. - Class SA.

**6. Waldo County.**

**A. Frankfort.**

(1) All tidal waters - Class SC.

**B. Prospect.**

(1) All tidal waters - Class SC.

**C. Searsport.**

(1) Tidal waters located within a line beginning at the southernmost point of land on Kidder Point and running southerly along the western shore of Sears Island to the southernmost point of Sears Island; thence running due south to latitude 44°-25'-25" N.; thence running due west to latitude 44°-25'-25" N., longitude 68°-54'-30" W.; thence running due north to the shore of Mack Point at longitude 68°-54'-30" W.; thence running along the shore in an easterly direction to point of beginning - Class SC.

D. Stockton Springs.

(1) Tidal waters lying northerly of the southernmost point of land on Verona Island - Class SC.

E. Winterport.

(1) All tidal waters - Class SC.

**7. Washington County.**

A. Beals.

(1) Tidal waters lying east of the line extending from the westernmost point of Three Falls Point to the easternmost point of Crumple Island; thence south along longitude 67°-36'-47" W. - Class SA.

(2) Tidal waters lying south of a line extending from the easternmost point of the southern shore of the Mud Hole; thence extending along latitude 44°-29'-00" N. to the town line - Class SA.

B. Calais.

(1) Tidal waters of the St. Croix River and its tidal tributaries lying westerly of longitude 67°-14'-28" W. - Class SC.

C. Cutler.

(1) All tidal waters except those waters in Machias Bay and Little Machias Bay north of a line running from the town line due east to the southernmost point of Cross Island; thence running northeast to the southeasternmost point of Cape Wash Island; thence running northeast to the westernmost point of Deer Island; thence running due north to the mainland; and those waters lying northwest of a line running from the easternmost point of Western Head to the easternmost point of Eastern Knubble - Class SA.

D. Eastport.

(1) Tidal waters lying southerly of latitude 44°-54'-50" N., easterly of longitude 67°-02'-00" W. and northerly of latitude 44°-53'-15" N. - Class SC.

E. Edmunds.

(1) All tidal waters - Class SA.

F. Lubec.

(1) Tidal waters, except those lying within 500 feet of West Quoddy Head Light, south of a line beginning at a point located on the northern shore of West Quoddy Head at latitude 44°-49'-22" N., longitude 66°-59'-17" W. and running northeast to the international boundary at latitude 44°-49'-45" N., longitude 66°-57'-57" W. - Class SA.

(2) Tidal waters west of a line running from the easternmost point of Youngs Point to the easternmost point of Leighton Neck in Pembroke - Class SA.

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 easterly to a point 1,000 feet from mean high tide on the northernmost point of Pond Island; thence along a line running 1,000 feet from mean high tide along the east side of Pond Island to the southernmost point of the island; thence running due south - Class SA.

H. Pembroke.

(1) Tidal waters west of a line running from the easternmost point of Leighton Neck to the easternmost point of Youngs Point in Lubec - Class SA.

I. Steuben.

(1) Tidal waters southeast of a line beginning at Yellow Birch Head at latitude 44°-25'-05" N.;

thence running to longitude 67°-55'-00" W.; thence running due south along longitude 67°-55'-00" W. - Class SA.

(2) Tidal waters southwest of a line beginning at a point located south of Carrying Place Cove at latitude 44°-26'-18" N., longitude 67°-53'-14" W.; thence running along latitude 44°-26'-18" N. east to the town line - Class SA.

J. Trescott.

(1) All tidal waters - Class SA.

K. Whiting.

(1) Tidal waters of the Orange River - Class SA.

**8. York County.**

A. Biddeford.

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

B. Kennebunk.

(1) Tidal waters of the Little River system lying north of latitude 43°-20'-10" N. - Class SA.

C. Kittery.

(1) Tidal waters of the Piscataqua River and its tidal tributaries lying westerly of longitude 70°-42'-52" W., southerly of Route 103 and easterly of Interstate Route 95 - Class SC.

(2) Tidal waters lying northeast of a line from Sisters Point; thence south along longitude 70°-40'-00" W. to the Maine-New Hampshire border; thence running southeast along the Maine-New Hampshire border to Cedar Ledge beyond the Isles of Shoals, except waters within 500 feet of the Isles of Shoals Research Station - Class SA.

D. Old Orchard Beach.

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

E. Saco.

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

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

F. Wells.

(1) Tidal waters of the Little River system lying north of latitude 43°-20'-10" N. - Class SA.

G. York.

(1) Tidal waters lying southwest of a line from Seal Head Point east along latitude 43°-07'-15" N. - Class SA.

**§470. Classification of ground water**

All ground water shall be classified as not less than Class GW-A, except as otherwise provided in this section. The board may recommend to the Legislature the reclassification of any ground water, after careful consideration, public hearings and in consultation with other state agencies and the municipalities and industries involved, and where the board finds that it is in the best interests of the public that the waters be so classified.

## Article 4-B: WATER WITHDRAWAL REPORTING PROGRAM

### §470-A. Definitions

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

**1. Nonconsumptive use.** "Nonconsumptive use" means any use of water that results in the water being discharged back into the same water source within 1/4 mile upstream or downstream from the point of withdrawal such that the difference between the volume withdrawn and the volume returned is no more than the threshold amount per day. This also includes withdrawals from groundwater that are discharged to a subsurface system or to a hydraulically connected surface water body such that no more than the threshold amount is consumed.

**2. Water source.** "Water source" means any river, stream or brook as defined in section 480-B, any lake or pond classified GPA pursuant to section 465-A or groundwater located anywhere in the State.

**3. Water withdrawal; withdrawal of water.** "Water withdrawal" or "withdrawal of water" means the removal, diversion or taking of water from a water source. All withdrawals of water from a particular water source that are made or controlled by a single person are considered to be a single withdrawal of water.

### §470-B. Threshold volumes for reporting

Except as otherwise provided in this article, a person making a water withdrawal in excess of the threshold volumes established in this section shall file a water withdrawal report in accordance with section 470-D covering the 12 months ending on the previous September 30th. The threshold volumes for reporting are as follows.

**2. Withdrawals from river, stream or brook.** The threshold volume for reporting on withdrawals from a river, stream or brook or groundwater within 500 feet of a river, stream or brook is 20,000 gallons on any day or, if the watershed area at the point of withdrawal exceeds 75 square miles, a volume in gallons per day for any day that is:

A. One percent of the estimated low-flow volume of water to occur for 7 days once in 10 years based on historical flows for rivers, streams or brooks with an adequate record of gauge data;

B. One percent of the estimated low-flow volume of water to occur for 7 days once in 10 years based on an estimated low-flow value for a river, stream or brook below a dam where flow is limited by gate settings or leakage; or

C. If paragraphs A and B are not applicable, then a threshold volume calculated using the formula  $V=168.031 \text{ times } A \text{ to } 1.1 \text{ power}$ , where V is the volume in gallons per day and A is the watershed area in square miles.

**2. Withdrawals from GPA lake or pond or certain groundwater sources.** The threshold volume for reporting on withdrawals from a Class GPA lake or pond or groundwater within 500 feet of the lake or pond is determined from the following table:

Lake area in acres	gallons/ week
< 10	30,000
10-30	100,000
31-100	300,000
101-300	1,000,000
301-1000	3,000,000
1001-3000	10,000,000

**3. Withdrawals from other groundwater sources.** The threshold volume for reporting on withdrawals from groundwater greater than 500 feet from a river, stream, brook or GPA classified lake or pond is 50,000 gallons on any day, unless the person making the water withdrawal demonstrates to the department's satisfaction that the withdrawal will not impact any adjacent surface water body.

#### **§470-C. Exemptions**

The following are exempt from the reporting requirements of this article:

**1. Nonconsumptive uses.** Nonconsumptive uses. Dams are explicitly exempt as nonconsumptive uses, including hydropower dams licensed by the Federal Energy Regulatory Commission, storage dams and dams subject to a water level setting order pursuant to sections 840 to 843;

**2. Household uses.** A water withdrawal for ordinary household uses;

**3. Public water systems.** A public water system that is regulated by the Department of Health and Human Services pursuant to Title 22, chapter 601;

**4. Subject to existing reporting requirements.** Water withdrawals subject to water withdrawal reporting requirements established in any state permitting or licensing program prior to the effective date of this article, including, but not limited to, the site location of development laws, natural resources protection laws, Maine Land Use Regulation Commission laws and Maine waste discharge laws, provided that the water user files a notice of intent to be covered by this exemption on a form to be provided by the department;

**5. Public emergencies.** A water withdrawal from surface or groundwater for fire suppression or other public emergency purposes;

**6. Commercial or industrial storage ponds.** A water withdrawal from a storage pond or water supply system in existence prior to the effective date of this article provided that the withdrawal is for a commercial or industrial use, the water user has filed a water use plan as part of a state license application and the water user files a notice of intent to be covered by this exemption on a form to be provided by the department;

**7. Off-stream storage ponds.** A water withdrawal from an artificial storage pond that does not have a river, stream or brook as an inlet or outlet, constructed for the purpose of storing water for crop irrigation or other uses;

**8. In-stream storage ponds.** A water withdrawal from an artificial pond constructed in a stream channel provided that it is subject to a minimum-flow release requirement in an existing permit, and the water user files a notice of intent to be covered by this exemption on a form to be provided by the department; and

**9. Duplication of reporting.** A water withdrawal that is reported to any other state agency under any program requiring substantially similar data provided that the other agency has entered into a memorandum of agreement with the department for the collection and sharing of that data.

#### **§470-D. Filing of reports by users; aggregation of data**

Unless exempted under section 470-C, a person withdrawing more than the threshold volume of water established in this article must file an annual water withdrawal report on December 1, 2003 and on every December 1st thereafter as provided in this section.

Water withdrawal reports must be submitted to either the Commissioner of Environmental Protection, the Commissioner of Conservation, the Commissioner of Health and Human Services or the Commissioner of Agriculture, Food and Rural Resources in a form or manner prescribed by that commissioner. No later than January 1, 2003, those commissioners shall jointly publish a list indicating which classes of users are to report to which department. The form and manner of reporting must be determined by each commissioner, provided that the required information is collected from each user

above the threshold and in a manner that allows that data to be combined with data collected by the other commissioners. The reports must include information on actual and anticipated water use, the identification of the water source, the location of the withdrawal including the distance of each groundwater withdrawal from the nearest surface water source, the volume of the withdrawals that might be reasonably anticipated under maximum high-demand conditions and the number of days those withdrawals may occur each month and the location and volume of each point of discharge. The reporting may allow volumes to be reported in ranges established by the commissioners and reported volumes may be calculated estimates of volumes. The board, the Department of Agriculture, Food and Rural Resources, the Department of Conservation and the Department of Health and Human Services may adopt routine technical rules as defined in Title 5, chapter 375, subchapter II-A as necessary to implement the reporting provisions of this article.

Individual water withdrawal reports filed under this article are confidential and are not public records as defined in Title 1, section 402, subsection 3.

#### **§470-F. Local water use policies encouraged**

The department shall encourage and cooperate with state, regional or municipal agencies, boards or organizations in the development and adoption of regional or local water use policies that protect the environment from excessive drawdown of water sources during low-flow periods. The department shall encourage those entities, in developing those policies, to review previously adopted low-flow policies, including any such policies adopted by the Aroostook Water and Soil Management Board established in Title 7, section 332.

#### **§470-G. Report to Legislature**

The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on January 15, 2003, and annually thereafter, on all aspects of water use reporting, data aggregation and the development of water use standards required by this article. That report must summarize water use reporting data on a regional basis and in a manner that does not allow for the identification of any individual user. The report must compare cumulative water use and availability of water in watersheds and assess water use issues and priorities on a watershed basis. The report must also identify any impediments to implementing any of the requirements of this article and must include recommendations for addressing those impediments and may include recommendations on any other aspect of the reporting or water use standards provisions of this article. In preparing these reports, the commissioner shall encourage and assist in establishing regional task forces with cooperating agencies to assess regional water use issues and options for addressing those issues. The commissioner shall also solicit input from the Commissioner of Agriculture, Food and Rural Resources, the Commissioner of Conservation and the Commissioner of Health and Human Services on all aspects of the requirements of this article and shall include in the report all comments and recommendations received from those departments on these requirements.

#### **§470-H. Water use standards; rules**

The board shall adopt rules that establish water use standards for maintaining in-stream flows and GPA lake or pond water levels that are protective of aquatic life and other uses and that establish criteria for designating watersheds most at risk from cumulative water use. Standards adopted under this section must be based on the natural variation of flows and water levels, allowing variances if use will still be protective of water quality within that classification. Rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Article 5-A: PROTECTION OF NATURAL RESOURCES**

**Article 6: SITE LOCATION OF DEVELOPMENT**

**Article 7: PERFORMANCE STANDARDS FOR EXCAVATIONS FOR  
BORROW, CLAY, TOPSOIL OR SILT**

**Article 8-A: PERFORMANCE STANDARDS FOR QUARRIES**

**[Each of these articles is available as a separate publication]**

## **Subchapter 2: INTERSTATE WATER POLLUTION CONTROL**

### **Article 1: COMPACT**

#### **§491. Applicability of provisions -- Article I**

It is agreed between the signatory states that this compact shall apply to streams, ponds and lakes which are contiguous to 2 or more signatory states or which flow through 2 or more signatory states or which have a tributary contiguous to 2 or more signatory states or flowing through 2 or more signatory states, and shall apply to tidal waters ebbing and flowing past the boundaries of 2 states.

#### **§491-A. Reaffirmation of support -- Article I-A**

The State reaffirms its support of the cooperative approach to the abatement and control of water pollution as embodied in the New England Interstate Water Pollution Control Compact. In view of the increases in population concentrations, the growing need of industry and agriculture for water of reasonable quality and the quality requirements of water based recreation and other uses, the New England Interstate Water Pollution Control Commission shall develop and maintain its programs, including research on water quality problems, at such levels, including, to the extent necessary, levels above those originally provided when this State first enacted the compact, as may be appropriate.

#### **§492. Creation of commission -- Article II**

The New England Interstate Water Pollution Control Commission, as heretofore created and in this subchapter referred to as the commission, shall be a body corporate and politic, having the powers, duties and jurisdiction herein enumerated and such other and additional powers as shall be conferred upon it by the act or acts of a signatory state concurred in by the others.

This State concurs in the conferring of any powers or duties on the New England Interstate Water Pollution Control Commission by other states in addition to those conferred by provision of this compact.

The concurrence is subject to the following limitations:

**1. Limitations.** Unless this State specifically confers a power or duty on the commission, other than one conferred by the compact itself, no financial or other burden or duties shall be placed upon this State, or any agency, officer or subdivision thereof by reason of the conferring or exercise of the powers or duty. At any time, the Governor, Attorney General or the Treasurer of State shall have the power to make inquiry of the commission and to examine its books and records in order to ascertain the state of compliance with this compact.

**2. Rights.** The rights, privileges and responsibilities of this State with respect to the New England Interstate Water Pollution Control Compact and the commission established thereby shall not be limited or impaired.

**3. Account.** The commission shall include in its annual report to the Governor and the Legislature of this State a full account of any additional powers or duties administered by it.

#### **§493. Membership of commission -- Article III**

The commission shall consist of 5 commissioners from each signatory state, each of whom shall be a resident voter of the state from which he is appointed. The commissioners shall be chosen in the manner and for the terms provided by law of the state from which they shall be appointed. For each state there shall be on the commission a member representing the state health department, a member representing the state water pollution control board, if such exists, and, except where a state in its enabling legislation decides that the best interests of the state will be otherwise served, a member representing municipal interests, a member representing industrial interests and a member representing an agency acting for fisheries or conservation.

#### **§494. Organization and operation -- Article IV**

The commission shall annually elect from its members a chairman and vice-chairman and shall

appoint and at its pleasure remove or discharge such officers. It may appoint and employ a secretary who shall be a professional engineer versed in water pollution and may employ such stenographic or clerical employees as shall be necessary, and at its pleasure remove or discharge such employees. It shall adopt a seal and suitable bylaws and shall promulgate rules and regulations for its management and control. It may maintain an office for the transaction of its business and may meet at any time or place within the signatory states. Meetings shall be held at least twice each year. A majority of the members shall constitute a quorum for the transaction of business, but no action of the commission imposing any obligation on any signatory state or on any municipal agency or subdivision thereof or on any person, firm or corporation therein shall be binding unless a majority of the members from such signatory state shall have voted in favor thereof. Where meetings are planned to discuss matters relevant to problems of water pollution control affecting only certain of the signatory states, the commission may vote to authorize special meetings of the commissioners of the states especially concerned. The commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor and the legislature of each signatory state setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the signatory states which may be necessary to carry out the intent and purpose of this compact. The commission shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the signatory states adequate to meet the same; nor shall the commission pledge the credit of any of the signatory states. Each signatory state reserves the right to provide hereafter by law for the examination and audit of the accounts of the commission. The commission shall appoint a treasurer who may be a member of the commission, and disbursements by the commission shall be valid only when authorized by the commission and when vouchers therefor have been signed by the secretary and countersigned by the treasurer. The secretary shall be custodian of the records of the commission with authority to attest to and certify such records or copies thereof.

In addition to the minimal personnel authorization contained in this Article, the commission may employ such engineering, technical and other professional, secretarial and clerical personnel as the proper administration and functioning of the commission may require.

#### **§495. Standards and classifications -- Article V**

It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, industrial and agricultural uses, bathing and other recreational purposes, maintenance and propagation of fish life, shellfish culture, navigation and disposal of wastes.

The commission shall establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory states through appropriate agencies will prepare a classification of its interstate waters in entirety or by portions according to present and proposed highest use and for this purpose technical experts employed by state departments of health and state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting 2 or more states. Each signatory state agrees to submit its classification of its interstate waters to the commission for approval. It is agreed that after such approval, all signatory states through their appropriate state health departments and water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet standards established by the commission for classified waters. The commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity.

#### **§496. Abatement and control of pollution -- Article VI**

Each of the signatory states pledges to provide for the abatement of existing pollution and for the control of future pollution of interstate inland and tidal waters as described in Article I, and to put and

maintain the waters thereof in a satisfactory condition consistent with the highest classified use of each body of water.

#### **§496-A. Personnel and programs -- Article VI-A**

The commission may develop standards for the training, educational and experience requirements for operating personnel necessary to the proper operation of sewage and other waste treatment plants.

The commission may administer programs of training and certification for such personnel, and may make classifications thereof. Any certificate issued by the commission shall be accepted by this State and all agencies and subdivisions thereof as conclusive evidence that the holder has the training, education and experience necessary for certification for the class of position or responsibility described therein. The Board of Environmental Protection may impose and the Commissioner of Environmental Protection may administer any other requirements for certification within any applicable provisions of law, but the commissioner shall not reexamine or reinvestigate the applicant for a certificate with respect to the applicant's training, education or experience qualifications.

The commission shall keep a record of all certificates issued by it, and in response to any inquiry concerning such a certificate, the commission shall inform the inquirer concerning its issuance and validity. The commission shall annul any certificate issued by it, if the commission finds that the certificate was obtained by misrepresentation of any material fact relating to the education, training or experience of the applicant. Such annulment shall be pursuant to rules and regulations of the commission which shall afford due notice to the certificate holder and an opportunity to present relevant evidence for consideration by the commission.

Nothing contained in this section shall limit or abridge the authority of the commission to revise its standards and to issue new or additional certificates. In any such case, the Commissioner of Environmental Protection may require an applicant for a certificate to present a certificate or certificates which evidence training, education and experience meeting the current standards of the commission.

Certificates issued by the commission shall be recognized and given in connection with personnel employed in or having responsibilities for plants discharging into any waters of this State.

Nothing in this section shall be construed to require any person to have a certificate in order to be employed in the operation of a sewage or other waste treatment plant. Such requirements, if any, shall be as set forth in or pursuant to other laws of this State: Provided that in any case where a certificate is required, an appropriate certificate issued by the commission shall be accepted in lieu of any certificate otherwise required.

To the extent that the authority conferred upon the commission by this section is not otherwise exercisable by the commission under the compact, the commission shall not require the financial or other support of the program or programs authorized hereby by any state not having enacted legislation substantially similar to this section.

#### **§496-B. Water quality network -- Article VI-B**

The commission, in cooperation with this State and such other states signatory to the New England Interstate Water Pollution Control Compact as may participate, shall establish and maintain a water quality sampling and testing network. The network shall, to the fullest extent practicable, rely upon the sampling and testing programs of this State, such other participating states, and upon information available from agencies of the Federal Government, and shall not duplicate any of their activities. However, if the sampling and testing programs of this State and other states, and the information available from agencies of the Federal Government are insufficient to provide the commission with records of water quality adequate for its needs, the commission may supplement the sampling and testing otherwise available to it.

Sampling pursuant to this section shall be at points at or near the places where waters cross a boundary of this State, and the samples shall be tested in order to determine their quality. The sampling and testing provided for herein shall be scheduled by the commission or in accordance with its requests, and shall include such factors or elements as the commission shall request. Any sampling and testing

done by the Commissioner of Environmental Protection of this State as part of the activities of the commission's network shall be reported fully and promptly by such agency to the commission, together with the results thereof.

**§496-C. Limitations -- Article VI-C**

Unless otherwise conferred by law, the commission shall not have power to issue permits or licenses in connection with the discharge or treatment of wastes, or pass upon plans or specifications for particular waste treatment or collection equipment or facilities.

**§497. Additional controls; pending actions -- Article VII**

Nothing in this compact shall be construed to repeal or prevent the enactment of any legislation or prevent the enforcement of any requirement by any signatory state imposing any additional condition or restriction to further lessen the pollution of waters within its jurisdiction. Nothing herein contained shall affect or abate any action now pending brought by any governmental board or body created by or existing under any of the signatory states.

**§498. Appropriations -- Article VIII**

The signatory states agree to appropriate for the salaries, office, administrative, travel and other expenses such sum or sums as shall be recommended by the commission. The Commonwealth of Massachusetts obligates itself only to the extent of \$6,500 in any one year, the State of Connecticut only to the extent of \$3,000 in any one year, the State of Rhode Island only to the extent of \$1,500 in any one year, and the States of New Hampshire, Maine and Vermont each only to the extent of \$1,000 in any one year.

**§499. Separability of provisions -- Article IX**

Should any part of this compact be held to be contrary to the constitution of any signatory state or of the United States, all other parts thereof shall continue to be in full force and effect.

**§500. Negotiation with New York state -- Article X**

The commission is authorized to discuss with appropriate state agencies in New York state questions of pollution of waters which flow into the New England area from New York state or vice versa and to further the establishment of agreements on pollution abatement to promote the interests of the New York and New England areas.

Whenever the commission by majority vote of the members of each signatory state shall have given its approval and the state of New York shall have taken the necessary action to do so, the state of New York shall be a party to this compact for the purpose of controlling and abating the pollution of waterways common to New York and the New England states signatory to this compact but excluding the waters under the jurisdiction of the Interstate Sanitation Commission (New York, New Jersey and Connecticut).

**§501. Effective date -- Article XI**

This compact shall become effective immediately upon the adoption of the compact by any 2 contiguous states of New England but only insofar as applies to those states and upon approval by federal law. Thereafter upon ratification by other contiguous states, it shall become effective as to those states.

## **Article 2: Administrative Provisions**

### **§531. Execution by Governor; form of execution**

The Governor of this State is authorized and directed to execute a compact, on behalf of the State of Maine, with any one or more of the states of New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island and New York, to be known as the New England Interstate Water Pollution Control Compact, heretofore adopted by the states of Massachusetts, Connecticut, Rhode Island, New York, Vermont and New Hampshire and approved by Act of the Congress of the United States, and to execute any supplementary agreements with the states now parties to such compact and the operation thereof.

When the Governor, on behalf of the State, executes such compact or any agreement supplementary thereto, he shall affix his signature thereto under a recital that the compact or agreement is executed pursuant to the provisions thereof, subject to the limitations and qualifications contained in this subchapter.

### **§532. Commissioners; appointment**

There shall be 5 members, hereinafter in this subchapter called Commissioners of the New England Interstate Water Pollution Control Commission from the State of Maine, as authorized by Title 5, section 12004-K, subsection 3. One commissioner shall be the Commissioner of Health and Human Services and one the Commissioner of Environmental Protection or a designee. The term of any such commissioner shall terminate at the time that commissioner ceases to hold said state office and a successor in that office shall be the successor as commissioner on this commission. The Governor shall appoint 3 more commissioners who shall be citizens of the State, one to represent municipal interests, one to represent industrial interests and one to represent the public generally. The term of the last 3 said commissioners shall be for a period of 3 years and shall hold office until a successor shall be appointed and qualified. The terms of each of the initial 5 members shall begin at the date of the appointment, provided the said compact shall then have been executed by the Governor of this State as prescribed in section 531; otherwise they shall begin upon the effective date of the compact in accordance with section 537.

Any commissioner may be removed from office by the Governor upon charges and after a hearing.

### **§533. Compensation**

The commissioners shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties.

### **§534. Reservations and limitations**

Notwithstanding any contrary provisions hereinbefore contained, it is hereby specifically provided that

**1. Classification.** The members representing the State of Maine on the New England Interstate Water Pollution Control Commission shall have no authority to vote in favor of or to commit said State of Maine or any administrative agency thereof or any municipal corporation or administrative agency thereof, or any person, firm or corporation therein,

A. To any classification of the interstate waters of the State of Maine or to any standards of water quality appertaining to any such classification, which in any aspect shall impose a higher classification or higher water quality than are established by the laws of the State of Maine for such waters, or

B. To any classification and pertinent standards of water quality in respect to such interstate waters of the State of Maine as have not been assigned a classification under the laws of the State of Maine.

**2. Prior classifications and standards.** No classification of waters or standards of water quality thereto appertaining which shall have been approved by the New England Water Pollution Control Commission prior to August 20, 1955, as established in section 537, shall be binding upon the State of Maine or any administrative agency thereof or any municipal corporation or administrative agency thereof, or any person, firm or corporation therein, with relation to any interstate waters of the State of

Maine.

**§535. Appropriations**

The State agrees to appropriate from the General Fund and contribute to the commission such annual amount as may be required for its several purposes under the terms of such compact, not in excess of \$1,000, which limitation is imposed by the State as a condition under which it shall become a party thereto. The State, as a further condition under which it shall become a party to the compact, reserves the right to withdraw there from at any time upon 60 days' notice to the chairman of the commission.

The Governor shall determine if and when it shall be for the best interests of the State to withdraw from such compact. In the event the Governor shall determine that the State should withdraw from such compact, he shall have full power and authority to give the notice as required herein and to take any and all steps necessary and proper to effect the withdrawal of the State from the compact.

**§536. Interpretation and purpose**

The form and contents of such compact are as set forth in this subchapter and the effect of its provisions shall be interpreted and administered in conformity with this subchapter.

**New England Interstate Water Pollution Control Compact**

Whereas, the growth of population and the development of the territory of the New England states has resulted in serious pollution of certain interstate streams, ponds and lakes, and of tidal waters ebbing and flowing past the boundaries of 2 or more states; and

Whereas, such pollution constitutes a menace to the health, welfare and economic prosperity of the people living in such area; and

Whereas, the abatement of existing pollution and the control of future pollution in the interstate waters of the New England area are of prime importance to the people and can best be accomplished through the cooperation of the New England states in the establishment of an interstate agency to work with the states in the field of pollution abatement; now, therefore, the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont do agree and are bound as provided in this subchapter.

**§537. Effective date**

This compact, when executed by the Governor as prescribed in section 531, shall be deemed to be fully adopted and shall thereupon become binding upon the State of Maine as between it and the several other signatory states agreeably to the true tenor and extent thereof. Such compact, supplementary agreements and notices of withdrawal shall be filed in the office of the Secretary of State of the State of Maine.

**Subchapter 2-A: OIL DISCHARGE PREVENTION AND POLLUTION CONTROL**

**[Not included in this publication]**

**Subchapter 3: CRIMINAL LIABILITY**

**§571. Corrupting waters forbidden**

Whoever intentionally or knowingly poisons, defiles or in any way corrupts the waters of any well, spring, brook, lake, pond, river or reservoir used for domestic purposes for man or beast, or knowingly corrupts the sources of any public water supply, or the tributaries of those sources of supply in a manner which affects the purity of the water supplied, or knowingly defiles that water in any manner, whether the water be frozen or not, or puts the carcass of any dead animal or other offensive material in those waters or upon the ice thereof, shall be guilty of a Class A crime.

## APPENDIX A. Repealed sections.

### **38 § 361. Organization; compensation; meetings; duties (REPEALED)**

#### **38 § 361-B. Processing applications (REPEALED)**

Section History: 1975, c301 (NEW). 1977, c.300, § 13 (RP).

#### **38 § 361-C. Petition for reconsideration (REPEALED)**

Section History: 1975, c. 390 (NEW). 1975, c. 770, § 208 (AMD). 1977, c. 300, § 14 (RP).

#### **38 § 361-D. Radioactive waste facilities (REPEALED)**

Section History: 1979, c. 519, § 2 (NEW). 1983, c. 381, § 8 (RP).

### **38 § 363. Standards of classification of fresh waters (REPEALED)**

Section History:

1967, c. 475, § 4 (RPR). 1969, c. 431, § 1,2 (AMD). 1971, c. 461, § 2 (AMD). 1971, c. 618, § 12 (AMD). 1973, c. 450, § 5,6 (AMD). 1973, c. 788, § 207 (AMD). 1977, c. 373, § 1-5 (AMD). 1979, c. 529 (AMD). 1985, c. 698, § 4 (RP).

#### **38 § 363-A. Standards of classification of great ponds (REPEALED)**

Section History:

1977, c. 373, § 6 (NEW). 1979, c. 495, § 1,2 (AMD). 1981, c. 153, § 1,2 (AMD). 1985, c. 698, § 5 (RP).

#### **38 § 363-B. Standards of classification of ground water (REPEALED)**

Section History:

1979, c. 472, § 10 (NEW). 1985, c. 698, § 6 (RP).

#### **38 § 363-C. Classification for certain hydroelectric impoundments (REPEALED)**

Section History:

1985, c. 772, § 1 (NEW). 1989, c. 309, § 1 (RP).

### **38 § 364. Tidal or marine waters (REPEALED)**

Section History:

1967, c. 475, § 5 (RPR). 1969, c. 431, § 3 (AMD). 1969, c. 581, § 2 (AMD). 1971, c. 470, § 2,3 (AMD). 1971, c. 618, § 12 (AMD). 1977, c. 373, § 7-9 (AMD). 1985, c. 698, § 7 (RP).

### **38 § 365. Classification procedure (REPEALED)**

Section History:

1971, c. 527, § 3 (AMD). 1971, c. 618, § 12 (AMD). 1977, c. 300, § 15 (AMD). 1985, c. 698, § 8 (RP).

### **38 § 366. Cooperation with other departments and agencies (REPEALED)**

Section History:

1967, c. 475, § 6 (AMD). 1971, c. 618, § 12 (AMD). 1989, c. 890, § A35,40 (RP).

### **38 § 367. Classification of surface waters (REPEALED)**

Section History:

1967, c. 475, § 6-A (AMD). 1971, c. 470, § 4 (AMD). 1971, c. 527, § 4 (AMD). 1971, c. 618, § 12 (AMD). 1971, c. 622, § 135 (AMD). 1979, c. 127, § 208 (AMD). 1979, c. 495, § 3 (AMD). 1985, c. 698, § 9 (RP).

### **38 § 368. -- Inland waters (REPEALED)**

Section History:

1965, c. 179, § 1,2 (AMD). 1965, c. 336 (AMD). 1965, c. 42, § 1-3 (AMD). 1965, c. 83, § 1,2 (AMD). 1967, c. 156 (AMD). 1967, c. 18, § 1 (AMD). 1967, c. 18, § 2 (RP). 1967, c. 180, § 1-3 (AMD). 1967, c.

19, § 1,2 (AMD). 1967, c. 304, § 1-18 (AMD). 1967, c. 446 (AMD). 1967, c. 451, § 1,2 (AMD). 1967, c. 475, § 7 (AMD). 1969, c. 120 (AMD). 1969, c. 268 (AMD). 1969, c. 286 (AMD). 1969, c. 431, § 9 (AMD). 1969, c. 88 (AMD). 1971, c. 106, § 1,2 (AMD). 1971, c. 138, § 1 (AMD). 1971, c. 273 (AMD). 1971, c. 612 (AMD). 1971, c. 618, § 12 (AMD). 1973, c. 401 (AMD). 1977, c. 373, § 10 TO 27-B (AMD). 1979, c. 495, § 4-6 (AMD). 1985, c. 698, § 10 (RP).

**38 § 369. -- coastal streams (REPEALED)**

Section History:

1965, c. 153 (AMD). 1965, c. 425, § 22 (AMD). 1967, c. 17 (AMD). 1967, c. 304, § 19-23 (AMD). 1969, c. 538, § 1 (AMD). 1971, c. 138, § 2 (AMD). 1971, c. 470, § 5 (AMD). 1973, c. 423, § 4-6 (AMD). 1977, c. 373, § 28,29 (AMD). 1979, c. 495, § 7,8 (AMD). 1985, c. 698, § 11 (RP).

**38 § 370. -- tidal waters (REPEALED)**

Section History:

1965, c. 179, § 3-7 (AMD). 1965, c. 425, § 23 (AMD). 1965, c. 84 (AMD). 1967, c. 153, § 1,2 (AMD). 1967, c. 154, § 1,2 (AMD). 1967, c. 155 (AMD). 1967, c. 304, § 24-26 (AMD). 1967, c. 447, § 1,2 (AMD). 1967, c. 475, § 8,9 (AMD). 1967, c. 516, § 1-10 (AMD). 1969, c. 121, § 1,2 (AMD). 1969, c. 431, § 9 (AMD). 1969, c. 538, § 2 (AMD). 1971, c. 618, § 12 (AMD). 1973, c. 267 (AMD). 1979, c. 495, § 9,10 (AMD). 1985, c. 698, § 12 (RP).

**38 § 371. -- great ponds (REPEALED)**

Section History:

1967, c. 342, § 1,2 (AMD). 1971, c. 335 (AMD). 1971, c. 618, § 12 (AMD). 1973, c. 29 (AMD). 1977, c. 373, § 30 (RP).

**38 § 371-A. Classification of great ponds (REPEALED)**

Section History:

1977, c. 373, § 31 (NEW). 1979, c. 281, § 2 (AMD). 1979, c. 495, § 11-15 (AMD). 1981, c. 153, § 3 (AMD). 1983, c. 743, § 9 (AMD). 1985, c. 698, § 13 (RP).

**38 § 371-B. Classification of ground water (REPEALED)**

Section History:

1979, c. 472, § 11 (NEW). 1985, c. 698, § 14 (RP).

**Article 1-A**

**GREAT PONDS PROGRAM (HEADING: PL 1987, c. 809, §1 (rp))**

**38 § 380. Findings; purpose (REPEALED)**

Section History:

1973, c. 608, § 1 (NEW). 1977, c. 123, § 1 (RP).

**38 § 381. Great pond defined (REPEALED)**

Section History:

1973, c. 608, § 1 (NEW). 1977, c. 123, § 1 (RP).

**38 § 382. Powers and duties (REPEALED)**

Section History:

1973, c. 608, § 1 (NEW). 1977, c. 123, § 1 (RP).

**38 § 383. Data bank (REPEALED)**

Section History:

1973, c. 608, § 1 (NEW). 1977, c. 123, § 1 (RP).

**38 § 384. Research (REPEALED)**

Section History:

1973, c. 608, § 1 (NEW). 1977, c. 123, § 1 (RP).

**38 § 385. Funds (REPEALED)**

Section History:

1973, c. 608, § 1 (NEW). 1977, c. 123, § 1 (RP).

**38 § 386. Findings; purpose (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1987, c. 809, § 1 (RP).

**38 § 387. Powers and duties (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1983, c. 566, § 11 (AMD). 1987, c. 809, § 1 (RP).

**38 § 388. Data bank (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1987, c. 809, § 1 (RP).

**38 § 389. Research (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1987, c. 809, § 1 (RP).

**38 § 390. Funds (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1987, c. 809, § 1 (RP).

**38 § 390-A. Lake Restoration and Protection Financial Aid Program (REPEALED)**

Section History:

1981, c. 509, § 1,3 (NEW). 1983, c. 483, § 7 (AMD). 1983, c. 566, § 12 (AMD). 1985, c. 162, § 5 (AMD). 1987, c. 192, § 9 (AMD). 1987, c. 809, § 1 (RP). 1987, c. 842, § 1,2 (AMD). 1989, c. 502, § A142 (RP).

**38 § 391. Prohibitions (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1983, c. 819, § A62 (AMD). 1987, c. 771, § 3 (RP). 1987, c. 809, § 1 (RP).

**38 § 391-A. Prohibitions (REPEALED)**

Section History:

1987, c. 771, § 4 (NEW). 1989, c. 890, § A40,B20 (RP).

**38 § 392. Definitions (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1983, c. 566, § 13 (AMD). 1987, c. 809, § 1 (RP).

**38 § 393. Permit; standards (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1987, c. 809, § 1 (RP).

**38 § 394. Exemptions (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1979, c. 663, § 227 (AMD). 1983, c. 566, § 14 (AMD). 1983, c. 743, § 10 (AMD). 1985, c. 746, § 18 (AMD). 1987, c. 192, § 10 (RPR). 1987, c. 809, § 1 (RP).

**38 § 395. Violations (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1977, c. 564, § 135 (RPR). 1987, c. 809, § 1 (RP).

**38 § 396. Enforcement (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1979, c. 663, § 228 (AMD). 1987, c. 809, § 1 (RP).

**38 § 397. Injunction; restoration (REPEALED)**

Section History:

1977, c. 123, § 2 (NEW). 1977, c. 564, § 136 (RP).

**Article 1-C**

**FRESHWATER WETLANDS (HEADING: PL 1987, c. 809, §1 (rp))**

**38 § 405. Statement of findings and purpose (REPEALED)**

Section History:

1985, c. 485, § 3 (NEW). 1987, c. 809, § 1 (RP).

**38 § 406. Definitions (REPEALED)**

Section History:

1981, c. 705, § W1 (NEW). 1987, c. 809, § 1 (RP).

**38 § 407. Identification of freshwater wetlands (REPEALED)**

Section History:

1981, c. 705, § W1 (NEW). 1985, c. 485, § 4 (RP).

**38 § 407-A. Identification of freshwater wetlands (REPEALED)**

Section History:

1985, c. 485, § 5 (NEW). 1987, c. 402, § A197 (AMD). 1987, c. 809, § 1 (RP).

**38 § 408. Prohibitions (REPEALED)**

Section History:

1985, c. 485, § 6 (NEW). 1987, c. 809, § 1 (RP).

**38 § 409. Standards (REPEALED)**

Section History:

1985, c. 485, § 6 (NEW). 1987, c. 809, § 1 (RP).

**38 § 410. Delegation of permit granting authority to municipality (REPEALED)**

Section History:

1985, c. 485, § 6 (NEW). 1987, c. 809, § 1 (RP).

**38 § 410-A. Permits; grants; denials; suspensions (REPEALED)**

Section History:

1985, c. 485, § 6 (NEW). 1987, c. 809, § 1 (RP).

**38 § 410-B. Violations (REPEALED)**

Section History:

1985, c. 485, § 6 (NEW). 1987, c. 809, § 1 (RP).

**38 § 410-C. Enforcement (REPEALED)**

Section History:

1985, c. 485, § 6 (NEW). 1987, c. 809, § 1 (RP).

**38 § 410-D. Exemptions (REPEALED)**

Section History:

1985, c. 485, § 6 (NEW). 1987, c. 809, § 1 (RP).

**38 § 410-E. Fees (REPEALED)**

Section History:

1985, c. 746, § 19 (NEW). 1987, c. 809, § 1 (RP).

**ARTICLE 8**

**PERFORMANCE STANDARDS FOR SMALL ROAD QUARRIES (REPEALED)**

**38 § 415. Appeals (REPEALED)**

Section History:

1967, c. 475, § 10 (RPR). 1969, c. 431, § 3-B (AMD). 1971, c. 304 (RPR). 1971, c. 461, § 5 (AMD). 1971, c. 618, § 12 (AMD). 1977, c. 300, § 20 (RP).

**38 § 416. Discharge of oil prohibited (REPEALED)**

Section History:

1969, c. 431, § 4,9 (AMD). 1969, c. 572, § 2 (AMD). 1971, c. 458, § 1 (RPR). 1971, c. 618, § 12 (AMD). 1973, c. 450, § 16 (AMD). 1977, c. 375, § 1 (RP).

**38 § 421. Solid waste disposal areas; location (REPEALED)**

Section History:

1971, c. 440 (NEW). 1971, c. 618, § 12 (AMD). 1971, c. 622, § 138 (AMD). 1973, c. 156 (AMD). 1979, c. 472, § 15 (AMD). 1981, c. 545, § 1,2 (AMD). 1989, c. 890, § A40,B41-43 (AMD). 1991, c. 499, § 15 (AMD). 1993, c. 378, § 1 (RP).

**38 § 422. Dredging permits (REPEALED)**

Section History:

1971, c. 599 (NEW). 1971, c. 618, § 10 (NEW). 1973, c. 423, § 7 (AMD). 1973, c. 625, § 273 (RP). 1973, c. 788, § 211 (AMD). 1975, c. 388, § 3,4 (AMD). 1977, c. 564, § 137 (RP).

**Article 2-A**

**ALTERATION OF RIVERS STREAMS AND BROOKS (HEADING: PL 1987, c. 809, §1 (rp))**

**38 § 425. Prohibited acts (REPEALED)**

Section History:

1985, c. 481, § A83 (NEW). 1987, c. 809, § 1 (RP). 38 § 426. Special protection for outstanding river segments (REPEALED)

Section History:

1985, c. 481, § A85 (NEW). 1987, c. 809, § 1 (RP).

**§426. Special protection for outstanding river segments (REPEALED)**

Section History:

1985, Ch. 481, §A85 (NEW). 1987, Ch. 809, §1 (RP).

**§427. Permits (REPEALED)**

Section History:

PL 1985, Ch. 481, §A86 (NEW). PL 1987, Ch. 192, §12 (AMD). PL 1987, Ch. 809, §1 (RP).

**38 § 428. Appeal (REPEALED)**

Section History:

1979, c. 420, § 1 (NEW). 1985, c. 481, § A48 (RAL). 1987, c. 809, § 1 (RP).

**38 § 429. Penalties (REPEALED)**

Section History:

1979, c. 420, § 1 (NEW). 1983, c. 796, § 6 (RPR). 1985, c. 481, § A49 (RAL). 1987, c. 809, § 1 (RP).

**38 § 430. Exceptions (REPEALED)**

Section History:

1985, c. 481, § A87 (NEW). 1985, c. 746, § 20 (AMD). 1987, c. 192, § 13 (AMD). 1987, c. 809, § 1 (RP).

**38 § 431. Transfer of files (REPEALED)**

Section History:

1985, c. 481, § A88 (NEW). 1987, c. 809, § 1 (RP).

**38 § 451-B. Variances (REPEALED)**

Section History:

1975, c. 683 (NEW). 1983, c. 743, § 12 (RP).

**38 § 453. Penalties (REPEALED)**

Section History:

1969, c. 422 (AMD). 1971, c. 256, § 3 (AMD). 1971, c. 618, § 12 (AMD). 1973, c. 450, § 20,21 (AMD). 1977, c. 300, § 27 (RP).

**38 § 454. Injunctions, civil and criminal actions (REPEALED)**

Section History:

1971, c. 256, § 4 (AMD). 1971, c. 359, § 4 (RPR). 1971, c. 544, § 132 (RPR). 1971, c. 618, § 12 (AMD). 1973, c. 450, § 22 (AMD). 1977, c. 300, § 27 (RP).

**38 § 455. Sardine processing facilities (REPEALED)**

Section History:

1981, c. 695 (NEW). 1983, c. 592, § 1 (AMD). 1983, c. 646 (AMD). 1987, c. 192, § 16 (RP).

**Article 4**

**AIR POLLUTION AND ENVIRONMENTAL IMPROVEMENT**

**§§ 460 to 463. Repealed. 1975, c.595, § 2.**

**Article 4-B**

**WATER WITHDRAWAL REPORTING PROGRAM**

**§470-E. Water use standards (REPEALED)**

Section History:

§T.38, SEC.470E (RP). PL 2001, Ch. 619, §1 (NEW).

## **Article 5**

### **ALTERATION OF COASTAL WETLANDS (HEADING: PL 1987, c. 809, §1 (rp))**

#### **38 § 471. Prohibitions (REPEALED)**

Section History:

1975, c. 595, § 3 (NEW). 1979, c. 504, § 1 (AMD). 1987, c. 809, § 1 (RP).

#### **38 § 472. Definition (REPEALED)**

Section History:

1975, c. 595, § 3 (NEW). 1979, c. 504, § 2 (RPR). 1987, c. 809, § 1 (RP).

#### **38 § 473. Permit granting authority (REPEALED)**

Section History:

1975, c. 595, § 3 (NEW).; 1987, c. 192, § 24 (AMD).; 1987, c. 809, § 1 (RP).

#### **38 § 474. Permits; standards (REPEALED)**

Section History:

1975, c. 595, § 3 (NEW).; 1979, c. 504, § 3 (RPR); 1983, c. 453, § 5 (AMD).; 1985, c. 649 (AMD).; 1987, c. 809, § 1 (RP).

#### **38 § 475. Penalties (REPEALED)**

Section History:

1975, c. 595, § 3 (NEW).; 1977, c. 300, § 28 (AMD).; 1983, c. 566, § 30 (AMD).; 1987, c. 809, § 1 (RP).

#### **38 § 476. Enforcement (REPEALED)**

Section History:

1975, c. 595, § 3 (NEW).; 1981, c. 470, § A165 (AMD).; 1987, c. 809, § 1 (RP).

#### **38 § 477. Injunction; restoration (REPEALED)**

Section History:

1975, c. 595, § 3 (NEW).; 1977, c. 300, § 29 (RP).

#### **38 § 478. Exemptions (REPEALED)**

Section History:

1975, c. 595, § 3 (NEW).; 1987, c. 809, § 1 (RP).

*Selected provisions of unallocated law*

**Laws 2003, ch. 227, §9**

**Sec. 9. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 38, section 465, subsection 1, paragraph A; subsection 2, paragraph A; subsection 3, paragraph A; and subsection 4, paragraph A and section 465-A, subsection 1, paragraph A take effect when the water use standards for maintaining in-stream flows are finally adopted as provided in Title 38, section 470-H.