

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
MAINE LAND USE PLANNING COMMISSION

**Proposed Rulemaking: Natural Resource Protection Act and
Recreational Gold Prospecting**

**PART 1: PROPOSED WATER BODY AND WETLAND RULE CHANGES
IN CONFORMANCE WITH THE NATURAL RESOURCES PROTECTION ACT**

February 11, 2015 Draft

The following revisions propose changes to Chapter 10, *Land Use Districts and Standards for Areas served by the Maine Land Use Planning Commission*.

Underlined text indicates additions and ~~stricken text~~ indicates deletions. Text relocated without changes was not tracked for the purposes of this draft.

Note: All references to the term “stream channel” or “stream channels” will be changed to “flowing water” or “flowing waters” respectively in the following sections of this chapter: 10.25,Q; 10.27,C; and 10.27,E.

All references to the terms “tidal water,” “tidal waters,” and “marine or tidal waters” will be changed to either “coastal wetland” or “coastal wetlands” in the following sections of this chapter : 10.11,A; 10.21,F; 10.26,B; 10.26,D; 10.26,F; 10.26,G; 10.27,A; 10.27, B; 10.27, C; 10.27,E; 10.27,F; 10.27, H; 10.27,Q and Appendix F

10.02 DEFINITIONS

28. Coastal Sand Dune System: Reserved.

NOTE: *The definitions from 28 to the end of Section 10.02 will be renumbered.*

xx. Coastal Wetlands:

Tidal and subtidal lands, including any of the following: all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the ~~maximum spring tide level~~ highest astronomical tide for the current National Tidal Datum Epoch as ~~identified in tide tables~~ published by the National Oceanic and Atmospheric Administration (NOAA) ~~Service~~. Coastal wetlands may include portions of coastal sand dunes.

xx. Community Public Water System: Reserved.

xx. Community Public Water System Primary Protection Areas: Reserved.

xx. Flowing Water:

A surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks. A channel that has defined banks created by the action of surface water and has 2 or more of the following characteristics:

- a. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- b. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.
- c. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- d. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
- e. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

Such waters are commonly referred to as rivers, streams, and brooks. Flowing water does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

xx. High Mountain Area:

All mountain areas included in Mountain Area Protection Subdistricts (P-MA), as described in Section 10.23,G and shown on the Commission's Land Use Guidance Maps.

xx. Freshwater Wetland:

Freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and not part below the normal high water mark of a great pond body of standing water, coastal wetland, river, stream or brook or flowing water.

~~xxx. Mean High Water Level:~~ The shoreline of tidal waters; the average high tide level for the previous 19 years.

xxx. Motorized Recreational Gold Prospecting:

"Motorized recreational gold prospecting" means the operation of small-scale, motorized equipment for the removal, separation, refinement and redeposition of sediments and other substrates occurring below the normal high water mark of a stream for the noncommercial, recreational discovery and collecting of gold specimens. "Motorized recreational gold prospecting" includes, but is not limited to, the operation of a motorized suction dredge, sluice, pump, rocker box or winch, individually or together.

xxx. Non-Tidal Water **Bodies:**

All water bodies or portions thereof, which ~~do not are not subject to~~ ebb and flow as the result of tidal action.

xxx. Normal High Water Mark of ~~Tidal Waters~~ Coastal Wetlands:

That line on the shore of coastal wetlands ~~tidal waters~~ reached by the shoreward limit of the ~~rise of the medium tides between the spring and the neap, commonly referred to as the mean high water level. This line may be identified where appropriate by discerning the debris line left by tidal action. highest astronomical tide for the current National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration (NOAA). This is often referred to as the upland edge of the coastal wetland.~~

xxx. Normal High Water Mark of Non-Tidal Water ~~Bodies~~:

That line on the shores and banks of non-tidal water ~~bodies~~ that is discernible because of the different character of the soil or the vegetation due to the influence of surface water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (aquatic vegetation includes but is not limited to the following plants and plant groups—water lily, pond lily, pickerel weed, cat tail, wild rice, sedges, rushes, marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups—upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms, spruces, birches, beeches, larches, and maples). apparent from visible markings, changes in the character of soils due to prolonged action of the water or from changes in vegetation and that distinguishes between predominantly aquatic and predominantly terrestrial land. In places where the shore or bank is of such character that the normal high water mark cannot be easily determined (as in the case of rock slides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

xxx. Persistence:

The overall ability of a wetland to be self-sustaining, continue to exist, and serve intended functions over an indefinite period of time, although its vegetation, soils, hydrologic characteristics and precise boundaries may change.

xxx. Preservation:

The maintenance of a wetland area or associated upland areas that contribute to the wetland's functions so that it remains in a natural or undeveloped condition. Preservation measures include, but are not limited to, conservation easements and land trust acquisitions.

xxx. Protected Natural Resource:

Coastal sand dune systems, coastal wetlands, significant wildlife habitat, high mountain areas, freshwater wetlands, community public water system primary protection areas, bodies of standing water, and flowing water.

xxx. Shoreline:

The ~~mean high water level of tidal water, or the~~ normal high water mark of a coastal wetland, a body of standing water, or flowing water, ~~or stream channel.~~

xxx. Stream Channel:

~~A channel between defined banks created by the action of surface water and characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil parent material or bedrock.~~

xxx. Tidal Waters:

~~All waters or portions thereof which customarily ebb and flow as the result of tidal action.~~

xxx. Water-Dependent Uses:

Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, boat building facilities, navigation aides, basins and channels, uses dependent upon water-borne transportation that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to coastal waters~~marine or tidal waters~~.

10.07 EXEMPTIONS

Notwithstanding any other provisions contained in this chapter, and provided that unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures:

- E. Archaeological excavation adjacent to a body of standing water, flowing water, freshwater wetland, coastal wetland, or sand dune system does not require a permit from the Commission as long as the excavation is conducted by an archaeologist listed on the Maine Historic Preservation Commission level 1 or level 2 approved list, ~~and that unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.~~

10.23,L SHORELAND PROTECTION SUBDISTRICT (P-SL)

2. Description

P-SL1: Areas within 250 feet of the normal high water mark, measured as horizontal distance landward of such high water mark, of (a) ~~tidal waters~~coastal wetlands, and (b) flowing waters downstream from the point where such waters drain 50 square miles or more.

P-SL2: Areas within 75 feet, measured as a horizontal distance landward, of (a) the normal high water mark of ~~stream channels~~flowing waters upstream from the point where such channels drain 50 square miles; (b) the upland edge of those ~~coastal and inland freshwater~~ wetlands identified in Section 10.23,N,2,a,(1), (b) and (c) and (2), and (3); and (c) the normal high water mark of bodies of standing water less than 10 acres in size, but excluding bodies of standing water which are less than three acres in size and which are not fed or drained by a flowing water.

3. Land Uses

c. Uses Requiring a Permit

- (22) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings of minor flowing waters on/for land management roads; water crossings of ~~tidal waters~~coastal wetlands,

bodies of standing water, and of major flowing waters, except water crossings of ~~tidal waters~~coastal wetlands, bodies of standing water and of major flowing waters on/for land management roads;

e. Use Regulated by the Maine Forest Service

- (4) Water crossings of minor flowing waters, major flowing waters, bodies of standing water, and ~~tidal waters~~coastal wetlands on/for land management roads.

10.23,N WETLAND PROTECTION SUBDISTRICT (P-WL)

2. Description

- a.** ~~Surface w~~Water bodies and areas meeting the definition of coastal or freshwater wetlands shall be included in P-WL subdistricts as described below:

(1) **P-WL1:** Wetlands of special significance:

- (a) Areas enclosed by the normal high water mark of flowing waters, ~~stream channels~~, and bodies of standing water, except for constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
- (b) Coastal wetlands, together with areas below the normal high water mark ~~of tidal waters and~~ extending seaward to the limits of the State's jurisdiction; or
- (c) Freshwater wetlands, as follows:

(i) Within 250 feet of the normal high water mark of a coastal wetland or ~~of the normal high water mark of~~ any body of standing water greater than 10 acres;

(v) ...; ~~or~~

(vi) Within 25 ~~feet~~feet' of the normal high water mark of a ~~stream channel~~flowing water; or

(vii) Containing a natural community that is critically imperiled (S1) or imperiled (S2).

3. Land Uses

b. Uses Allowed Without a Permit Subject to Standards

- (6) Hand-carry launches: Commercial, private and public hand-carry launches within a P-WL2 or P-WL3 subdistrict or ~~within below~~ the normal high water mark of flowing waters, ~~stream channels~~, or bodies of standing water;
- (10) Service drops for telephone or electrical service, including associated vegetative clearing, provided:
- (a) the line extension does not cross or run beneath a coastal wetland, or flowing water~~river, stream, or brook~~;

- (12) Trailered ramps: Public trailered ramps within a P-WL2 or P-WL3 subdistrict or ~~within~~ extending below the normal high water mark of flowing waters, ~~stream channels~~, or bodies of standing water;

c. Uses Requiring a Permit

- (15) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except water crossings of minor flowing waters on/for land management roads; and water crossings of coastal wetlands~~tidal waters~~, bodies of standing water, and of major flowing waters, except water crossings of ~~tidal waters~~coastal wetlands, bodies of standing water, and of major flowing waters on/for land management roads;

e. Uses Regulated by the Maine Forest Service

- (3) Water crossings of minor flowing waters, major flowing waters, bodies of standing water and coastal wetlands ~~tidal waters~~ on/for land management roads.

10.25,P PROTECTED NATURAL RESOURCES~~WETLAND ALTERATIONS~~

1. Review Standards for Determinations of No Unreasonable Impacts.

The following standards apply to permit applications affecting protected natural resources as listed in Section 10.25,P, 2 through 3 and requiring determinations of no unreasonable impacts. For Tier 1 reviews, the applicable standards are limited to Section 10.25,P,1,b, c, and e.

~~(a)~~**a. Existing Uses.** The activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

~~(b)~~**b. Soil erosion.** The activity will not cause unreasonable erosion of soil ~~and~~ sediment ~~and~~ unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

~~(c)~~**c. Harm to ~~h~~Habitats; ~~f~~Fisheries.** The activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.

In determining whether there is unreasonable harm to significant wildlife habitat, the Commission may consider proposed mitigation if that mitigation does not diminish the overall value of significant wildlife habitat and species utilization of the habitat in the vicinity of the proposed activity and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity. For purposes of Section 10.25,P,1,c, “mitigation” means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant wildlife habitat, including the following:

- (1) Avoiding an impact altogether by not taking a certain action or parts of an action;
- (2) Minimizing an impact by limiting the magnitude, duration or location of an activity or by controlling the timing of an activity;
- (3) Rectifying an impact by repairing, rehabilitating or restoring the affected environment;
- (4) Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; or
- (5) Compensating for an impact by replacing the affected significant wildlife habitat.

~~(d)~~**d. Interference with ~~n~~Natural ~~w~~Water ~~f~~Flow.** The activity will not unreasonably interfere with the natural flow of any surface or subsurface water.

e. Lower Water Quality. The activity will not violate any state water quality law, including those governing the classification of the State's waters.

~~(e)~~**f. Flooding.** The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.

~~(f)~~**g. Sand ~~s~~Supply.** If the activity is on or adjacent to a sand dune, it will not unreasonably interfere with the natural supply or movement of sand or gravel within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.

~~(g)~~**h. Outstanding ~~r~~River ~~s~~Segments.** If the proposed activity is a crossing of any outstanding river segment as identified in Section 10.23,I, the applicant ~~cannot~~ shall demonstrate that no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment.

~~(h)~~**i. Dredging.** If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant ~~cannot~~ must demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable.

As provided in 38 M.R.S.A. § 480-D(9), the Commissioner of Marine Resources shall provide the Commission with an assessment of the impacts on the fishing industry of a proposed dredging operation in a coastal wetland. The assessment must consider impacts to the area to be dredged and impacts to the fishing industry of a proposed route to transport dredge spoils to an ocean disposal site. The Commissioner of Marine Resources may hold a public hearing on the proposed dredging operation. In determining if a hearing is to be held, the Commissioner of Marine Resources shall consider the potential impacts of the proposed dredging operation on fishing in the area to be dredged. If a hearing is held, it must be within at least one of the towns, townships or plantations in which the dredging operation would take place. If the Commissioner of Marine Resources determines that a hearing is not to be held, the Commissioner of Marine Resources must publish a notice of that determination in a newspaper of general circulation in the area proposed for the dredging operation. The notice must state that the Commissioner of Marine Resources will accept verbal and written comments in lieu of a public hearing. The notice must also state that if five or more persons request a public hearing within 30 days of the notice publication, the Commissioner of Marine Resources will hold a hearing. If five or more persons request a public hearing within 30 days of the notice publication, the Commissioner of Marine Resources must hold a hearing. In making its determination under this subsection, the

Commission must take into consideration the assessment provided by the Commissioner of Marine Resources. The permit must require the applicant to:

- (1) Clearly mark or designate the dredging area, the spoils disposal route and the transportation route;
- (2) Publish in a newspaper of general circulation in the area adjacent to the route the approved transportation route of the dredge spoils; and
- (3) Publish in a newspaper of general circulation in the area adjacent to the route a procedure that the applicant will use to respond to inquiries regarding the loss of fishing gear during the dredging operation.

2. Water Bodies and Wetlands.

The following requirements apply to wetland alterations for Uses Requiring a Permit and Special Exceptions in Section 10.23,N,3. Except as hereinafter provided, wetland alterations not in conformance with the standards of this section are prohibited.

1.a. Procedural Requirements.

a.(1) Transition.

~~P-WL subdistricts identified on the Commission's Land Use Guidance Maps that were adopted prior to the adoption of this section will be regulated according to standards applying to wetlands of special significance (P-WL1 subdistrict), as defined herein, until the Commission adopts amended Land Use Guidance Maps pursuant to this section, unless the applicant demonstrates, through delineation or other means acceptable to the Commission, that the P-WL is not a wetland of special significance.~~

b.(1) Area of Project Alteration.

- ~~(1)(a)~~ If a proposed activity requires a permit and will alter 15,000 or more square feet of wetland area, or 1 acre or more of overall land area, the applicant must delineate on the ground and in a site plan all wetlands within the general project area using methods described in the "Corps of Engineers Wetlands Delineation Manual." U.S. Army Corps of Engineers. (1987) and the "Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region." U.S. Army Corps of Engineers. (Version 2.0, January 2012).
- ~~(2)(b)~~ If a proposed activity requires a permit and will alter 500 or more square feet of a P-WL1 wetland or 20,000 or more square feet of a P-WL2 or P-WL3 wetland, the Commission may require, as a condition of approval, mitigation, including compensation, in conformance with the provisions of Section 10.25,P,2.
- ~~(3)(b)~~ In determining the area of wetland alteration or overall land alteration, all components of a proposed activity, including all phases of a multiphased project, are treated together as constituting one single and complete project.

e.(2) Level of Permit Review.

The level of permit review required depends upon the size of the proposed wetland alteration and the P-WL subdistrict involved. If any part of the overall project requires a

higher level of review, then the whole overall project will be reviewed under that higher tier, unless otherwise authorized by the Commission:

- ~~(1)(a)~~ Tier 1 reviews are for apply to projects altering 4,300 up to 15,000 square feet of P-WL2 ~~wetlands, or P-WL3 wetlands, or P-WL1 wetlands where the wetland is included as a P-WL1 wetland of special significance solely on the basis of its containing an S1 or S2 natural community.~~
- ~~(2)(b)~~ Tier 2 reviews are for apply to projects altering 15,000 up to 43,560 square feet (one acre) of P-WL2 or P-WL3 wetlands ~~not containing critically imperiled (S1) or imperiled (S2) natural communities.~~
- ~~(3)(c)~~ Tier 3 reviews are for apply to projects altering any area of P-WL1 wetlands except as otherwise provided in 10.25.P.2.a.(2).(a), 15,000 up to 43,560 square feet (one acre) of P-WL2 or P-WL3 wetlands containing critically imperiled (S1) or imperiled (S2) natural communities, or one acre or more of P-WL2 or P-WL3 wetlands.

Alterations of P-WL1 wetlands may be eligible for Tier 1 or 2 review if the Commission determines, at the applicant's request, that the activity will ~~have no undue adverse impact or not have an unreasonable negative affect on~~ the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.

- ~~(4)(d)~~ When wetland delineation is required, the level of permit review required will be determined by the type of wetland indicated through delineation.

(3) Seasonal Factors.

When determining the significance of a resource or impact from an activity, seasonal factors and events that temporarily reduce the numbers or visibility of plants or animals, or obscure the topography and characteristics of a wetland such as a period of high water, snow and ice cover, erosion event, or drought, are taken into account. Determinations may be deferred for an amount of time necessary to allow an assessment of the resource without such seasonal factors.

3.b. General Land Use Standards. The following standards apply to all projects dependent upon the required tier level of review.

a.(1) Avoidance.

- ~~(1)(a)~~ Projects requiring Tier 1, Tier 2, or Tier 3 review must avoid alteration of wetland areas on the property to the extent feasible considering natural features, cost, existing technology and logistics based on the overall purpose of the project.
- ~~(2)(b)~~ Projects requiring Tier 2 or Tier 3 review ~~must not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment. will be considered to result in an unreasonable impact if the activity will cause a loss in wetland area, functions, or values, and there is a practicable alternative to the activity that would be less damaging to the~~

environment. Each Tier 2 and Tier 3 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

For an activity proposed in, on or over P-WL1 wetlands of special significance, a practicable alternative less damaging to the environment is deemed to exist and the impact is unreasonable, unless the activity is described in Section 10.25,P,2,b,(1),(b),(i) or (ii) below.

(i) Certain types of projects. The activity is necessary for one or more of the purposes specified in the following subparagraphs aa through hh.

aa. Health and safety;

bb. Crossings by driveway, road, rail, trail or utility lines;

cc. Water dependent uses;

dd. Reconstruction or expansion of an existing developed area or related construction that cannot practicably be located elsewhere because of the relation to the existing developed area, if the existing developed area was created prior to August 18, 2005 (existing developed area includes structures, fill areas, and landscaped areas);

ee. Mineral excavation and appurtenant facilities;

ff. Walkways;

gg. Restoration or enhancement of the functions and values of the P-WL1 wetlands of special significance; or

hh. Shoreline stabilization.

(ii) Certain wetlands of special significance. The activity is for a purpose other than those specified in Section 10.25,P,2,b,(1),(b),(i) above, is located in a P-WL1 wetland with aquatic vegetation, emergent marsh vegetation or open water, and the activity:

aa. Is located at least 250 feet from aquatic vegetation, emergent marsh vegetation or open water; and

bb. Does not unreasonably adversely affect the functions and values of the aquatic vegetation, emergent marsh vegetation or open water, or the functions and values of the freshwater wetlands that are enhanced or served by the aquatic vegetation, emergent marsh vegetation or open water.

b.(2) Minimal Alteration. Projects requiring Tier 1, Tier 2, or Tier 3 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.

c.(3) Water Quality. ~~Projects requiring Tier 1, Tier 2 or Tier 3 review must comply with applicable water quality standards; i.e., the activity will not violate any state water quality law, including those governing the classification of the State's waters. Projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters must comply with the water quality classification standards contained in 38 M.R.S.A. §465.~~

~~d.(4) **Erosion Control.** Projects requiring Tier 1 or Tier 2 review must use erosion control measures to prevent sedimentation of surface waters. A 25-foot buffer strip must be maintained between the activity and any surface waters.~~

~~e.(3) **Compensation.** Compensation is the off-setting of a lost wetland function with a function of equal or greater value. The goal of compensation is to achieve no net loss of wetland functions and values. Every case where compensation may be applied is unique due to differences in wetland type and geographic location. For this reason, the method, location and amount of compensation work necessary is variable.~~

~~In some instances, a specific impact may require compensation on-site or within very close proximity to the affected wetland. For example, altering a wetland that is providing stormwater retention that reduces the risk of flooding downstream will likely require compensation work to ensure no net increase in flooding potential. In other cases, it may not be necessary to compensate on-site in order to off-set project impacts. Where wetland priorities have been established at a local, regional or state level, these priorities should be considered in devising a compensation plan in the area to allow the applicant to look beyond on-site and in-kind compensation possibilities.~~

~~(a) (1) Functional assessment. For projects requiring Tier 2 or Tier 3 review, the applicant must conduct a functional assessment unless exempt from this requirement under Section 10.25,P,2,b,(3),(f) or granted a waiver under Section 10.25,P,2,b,(3),(g). A functional assessment must be conducted in accordance with Section 10.25,P,2,f,(2) and be sufficient to allow the Commission to evaluate whether the proposed wetlands alteration will cause a loss or degradation of wetland functions.~~

~~(b) When compensation is required. For Tier 2 or Tier 3 projects, unless exempt under Section 10.25,P,2,b,(3),(f) or granted a waiver under Section 10.25,P,2,b,(3),(g), if the Commission determines that a wetland alteration will cause a wetland function or functions to be lost or degraded, the applicant must provide compensation for the wetland impacts.~~

~~(c) Location of compensation projects. The compensation must take place in a location:~~

~~(i) On or close to a project site, if determined necessary and appropriate by the Commission, to off-set direct impacts to an aquatic ecosystem;~~

~~(ii) Otherwise, compensation may occur in an off-site location where it will satisfy wetland priority needs as established at the local, regional or state level to achieve an equal or higher net benefit for wetland systems, if approved by the Commission.~~

~~(d) Types of compensation. Compensation may occur in the form of:~~

~~(i) Restoration of previously degraded wetlands;~~

~~(ii) Enhancement of existing wetlands;~~

~~(iii) Preservation of existing wetlands or adjacent uplands where the site to be preserved provides significant wetland functions and might otherwise be degraded by unregulated activity; or~~

(iv) Creation of wetland from upland.

More than one method of compensation may be allowed on a single project. Preference is generally given to restoration projects that will off-set lost functions within, or in close proximity to, the affected wetland. However, other types of compensation may be allowed by the Commission if the result is an equal or higher overall net benefit for wetland systems.

(e) Compensation amounts. The amount of compensation required to replace lost functions depends on a number of factors including: the size of the alteration activity; the functions of the wetland to be altered; the type of compensation to be used; and the characteristics of the compensation site. Compensation shall be performed to meet the following ratios at a minimum, unless the Commission finds that a different ratio is appropriate to directly off-set wetland functions to achieve an equal or higher net benefit for wetlands:

(i) 1:1 for restoration, enhancement or creation to compensate for impacts in wetlands not of special significance;

(ii) 2:1 for restoration, enhancement or creation to compensate for impacts in wetlands of special significance; and

(iii) 8:1 for preservation, including adjacent upland areas, to compensate for impacts in all wetlands.

(f) Exceptions. Neither a functional assessment nor compensation is required for the following single, complete projects:

(i) Freshwater wetlands

aa. Alterations of less than 500 square feet in a freshwater wetland of special significance provided that the Commission determines that there will be only a minimal effect on freshwater wetland functions and values, significant wildlife habitat, or imperiled or critically imperiled communities due to the activity;

bb. Alterations of less than 15,000 square feet in a freshwater wetland not of special significance, provided that the Commission determines that there will be only a minimal effect on freshwater wetland functions and values due to the activity;

cc. Alterations in a freshwater wetland for a road, rail or utility line crossing of a flowing water for a distance of up to 100 feet from the normal high water mark on both sides, measured perpendicular to the thread of the flowing water, provided: (i) Any affected freshwater wetland does not contain significant wildlife habitat or a critically imperiled or imperiled community; and (ii) The total project affects 500 square feet or less of the channel.

(ii) Coastal Wetlands. A coastal wetland alteration that does not cover, remove or destroy marsh vegetation, does not fill more than 500 square feet of intertidal or subtidal area, and has no adverse effect on marine resources or on wildlife

habitat as determined by the Department of Marine Resources or the Department of Inland Fisheries and Wildlife as applicable.

(iii) Bodies of Standing Water. An alteration of a body of standing water that does not place any fill below the normal high water mark, except as necessary for shoreline stabilization projects, and has no adverse effect on aquatic habitat as determined by the Department of Inland Fisheries and Wildlife or the Department of Environmental Protection.

(iv) Flowing Water. An alteration of flowing water that does not affect more than 150 feet of shoreline for a private project or more than 300 feet of shoreline for a public project.

(v) Walkways/Access Structures. A wetland alteration consisting of a walkway or access structure for public educational purposes or to comply with the Americans with Disabilities Act.

~~(2)~~(g) Waiver. The Commission may waive the requirement for a functional assessment, compensation, or both. The Commission may waive the requirement for a functional assessment if it already possesses the information necessary to determine the functions of the area proposed to be altered. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.

~~f.~~(4) No Unreasonable Impact. The following standards apply only to applications requiring Tier 2 or Tier 3 review:-

~~(4a)~~ Even if a project has no practicable alternative and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on the wetland. ~~A project will be determined to have an "Unreasonable impact" if the Commission makes means that~~ one or more of the ~~following findings~~review standards of Section 10.25,P,1 will not be met. In making this determination, the Commission shall consider:

(i) The area of wetland that will be affected by the alteration and the degree to which the wetland is altered, including wetland beyond the physical boundaries of the project;

(ii) The functions and values provided by the wetland;

(iii) Any proposed compensation and the level of uncertainty regarding it; and

(iv) Cumulative effects of frequent minor alterations on the wetland.

(b) Activities may not occur in, on or over any wetland of special significance containing threatened or endangered species unless the applicant demonstrates that:

(i) The wetland alteration will not disturb the threatened or endangered species; and

(ii) The overall project will not affect the continued use or habitation of the site by the species.

When considering whether a single activity is reasonable in relation to the direct and cumulative impacts on the resource, the Commission shall consider factors such as the degree of harm or benefit to the resource; the frequency of similar impacts; the duration of the activity and ability of the resource to recover; the proximity of the activity to protected or highly developed areas; traditional uses; the ability of the activity to perform as intended; public health or safety concerns addressed by the activity; and the type and degree of benefit from the activity (public, commercial or personal).

c. Wetland Compensation Standards.

Where compensation is required, the following standards apply:

- (1) Expertise.** The applicant shall demonstrate sufficient scientific expertise to carry out the proposed compensation work.
- (2) Financial Resources.** The applicant shall demonstrate sufficient financial resources to complete the proposed compensation work, including subsequent monitoring and corrective actions.
- (3) Persistence.** For restoration, enhancement and creation projects, on the basis of an updated functional assessment, a minimum of 85% of the compensation area must successfully replace the altered wetland's functions after a period of three years unless otherwise approved by the Commission. If this level is not achieved, or if evidence exists that the compensation site is becoming less effective, the Commission may require additional monitoring and corrective action, or additional wetland restoration, enhancement or creation in order to achieve the compensation ratio as originally approved.
- (4) Monitoring.** The applicant shall set forth a plan for interim reporting and remediation measures during monitoring of the restored or created wetland over a minimum of five years, which shall include contingency plans for replanting, contouring or other corrections if the project fails to meet project goals during that time.
- (5) Maintenance.** A compensation project that will naturally maintain itself without active intervention is preferred. However, the permittee may be required to conduct activities to assure continuation of the wetland, or the accomplishment of compensation goals, after a compensation project has been technically completed. Such activities may include, but are not limited to, water level manipulations and control of non-native plant species.
- (6) Protection.**
 - (a)** A compensation project involving restoration, enhancement or creation must provide for deed covenant and restriction or a conservation easement conveyed to a qualified holder that requires maintenance of the area as a coastal wetland, freshwater wetland or body of standing water in perpetuity. The conservation easement must list the Department of Agriculture, Conservation, and Forestry as an enforcing agent. Regardless of the size of the compensation area, any future alterations in, on or over the area must be approved by the Commission.

(b) A compensation project involving preservation must provide for a conservation easement conveyed to a qualified holder or deed covenant and restriction so that the parcel will remain undeveloped in perpetuity. The easement must list the Department of Agriculture, Conservation, and Forestry as an enforcing agent. Compensation areas may be deeded to local or state conservation groups or agencies, but any land management practices must be approved by the Commission.

(7) **Source of Water (Creation Only).** For a creation project, the Commission prefers that the created wetland be located adjacent to an existing wetland or waterbody.

(8) **Implementation Schedule.** A schedule for implementing the compensation plan must be submitted. Generally, compensation will be required to be completed prior to, or concurrent with, the permitted alteration. For on-going or long-term alterations, such as mining, compensation must be completed no later than within the first year of operation unless otherwise approved by the Commission.

d. Mitigation Banking.

(1) **Purpose.** A public or private entity may apply to the Commission to undertake wetland compensation projects for the purposes of off-setting one or more alteration projects proposed at that time or in the future. The ratios set forth in Section 10.25,P,2,b,(5),(e) will be used as guidance to determine the amount of credit required for any proposed alteration.

(2) **Location.** Compensation work must take place in the same watershed, biophysical region or in the project vicinity of the future alteration work, if feasible. Otherwise, the work must occur as close to the wetland alteration site or sites as feasible.

(3) **Effectively Functioning.** A project to be used for compensation credit must be functioning as proposed in the mitigation banking application, as demonstrated by an updated functional assessment, in order to qualify as an off-set to a proposed activity.

(4) **Limitation.** No person may use mitigation banking to compensate for more than 25 acres of wetland alteration statewide in any one-year period.

(5) **Expertise.** The applicant is required to show a combination of expertise, experience and resources sufficient to undertake and maintain land placed in mitigation banking.

e. Terms and Conditions. The Commission may, as a term or condition of approval, establish any reasonable requirement to ensure that the proposed development will meet the standards of Section 10.25,P,1, such as:

(1) Design changes to help insure the success of the project;

(2) Buffer requirements;

(3) Project supervisory requirements;

(4) Monitoring requirements;

(5) Mid-course correction or maintenance capability;

(6) Bonding or other assurances of continued financial resources to complete compensation requirements; and

(7) Timing requirements for all or portions of a project.

f. Submission Requirements.

(1) Alternatives Analysis. If required by Section 10.25,P,2,b,(1),(b), an alternatives analysis must be conducted that analyzes whether a less environmentally damaging practicable alternative to the proposed alteration, which meets the project purpose, exists. Determining whether a practicable alternative exists includes:

(a) Utilizing, managing or expanding one or more other sites that would avoid the wetland impact;

(b) Reducing the size, scope, configuration or density of the project as proposed, thereby avoiding or reducing the wetland impact;

(c) Developing alternative project designs, such as cluster development, that avoid or lessen the wetland impact; and

(d) Demonstrating the need, whether public or private, for the proposed alteration.

(2) Functional Assessments. If required by Section 10.25,P,2,b,(3),(a), a functional assessment must be conducted of the wetland to be altered, that analyzes the wetland's value based on the functions it serves and how the wetland will be affected by the proposed alteration. The functional assessment must be conducted by a qualified professional(s) using an acceptable methodology approved by the Commission. If other than an established methodology is proposed, the applicant must submit documentation describing how the methodology was developed, how the wetland functions and values are determined using the methodology, and how much field testing the technique has undergone.

In cases where the size of the wetland alteration or other factors make the use of an established assessment methodology impracticable or inappropriate, the Commission may instead accept the best professional judgment of a qualified professional. The applicant must notify the Commission if he or she intends to use best professional judgment.

f. No Unreasonable Impact. The following standards apply only to applications requiring Tier 3 review:

~~(1) Even if a project has no practicable alternative and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on the wetland. A project will be determined to have an "unreasonable impact" if the Commission makes one or more of the following findings:~~

~~(a) Existing uses. The activity will unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.~~

~~(b) Soil erosion. The activity will cause unreasonable erosion of soil or sediment or unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.~~

~~(c) Harm to habitats; fisheries. The activity will unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater or marine fisheries or other aquatic life.~~

~~In determining whether there is unreasonable harm to significant wildlife habitat, the Commission may consider proposed mitigation if that mitigation does not diminish the overall value of significant wildlife habitat and species utilization of the habitat in the vicinity of the proposed activity and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity.~~

~~(d) Interference with natural water flow. The activity will unreasonably interfere with the natural flow of any surface or subsurface water.~~

~~(e) Flooding. The activity will unreasonably cause or increase the flooding of the alteration area or adjacent properties.~~

~~(f) Sand supply. If the activity is on or adjacent to a sand dune, it will unreasonably interfere with the natural supply or movement of sand within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.~~

~~(g) Outstanding river segments. If the proposed activity is a crossing of any outstanding river segment as identified in Section 10.23, I, the applicant cannot demonstrate that no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment.~~

~~(h) Dredging. If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant cannot demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable.~~

~~(i) In determining if an activity will have an unreasonable impact, the Commission shall consider:~~

~~(i) The area of wetland that will be affected by the alteration and the degree to which the wetland is altered, including wetland beyond the physical boundaries of the project;~~

~~(ii) The functions and values provided by the wetland;~~

~~(iii) Any proposed compensation and the level of uncertainty regarding it; and~~

~~(iv) Cumulative effects of frequent minor alterations on the wetland.~~

~~(2) Activities may not occur in, on or over any wetland of special significance containing threatened or endangered species unless the applicant demonstrates that:~~

- ~~(a) The wetland alteration will not disturb the threatened or endangered species; and~~
- ~~(b) The overall project will not affect the continued use or habitation of the site by the species.~~
- ~~(3) When considering whether a single activity is reasonable in relation to the direct and cumulative impacts on the resource, the Commission shall consider factors such as the degree of harm or benefit to the resource; the frequency of similar impacts; the duration of the activity and ability of the resource to recover; the proximity of the activity to protected or highly developed areas; traditional uses; the ability of the activity to perform as intended; public health or safety concerns addressed by the activity; and the type and degree of benefit from the activity (public, commercial or personal).~~

3. High Mountain Areas.

The review standards of Section 10.25,P,1 apply to alterations for Uses Requiring a Permit and Special Exceptions in Section 10.23,G,3.c and d.

4. Coastal Sand Dune Systems. (Reserved)

5. Community Public Water System Primary Protection Areas. (Reserved)

6. Significant Wildlife Habitat. (Reserved)

10.27, D ROADS AND WATER CROSSINGS

1. The following requirements shall apply to construction and maintenance of roads:

All cut or fill banks and areas of exposed mineral soil outside the roadbed within 75 feet of a flowing water, body of standing water, ~~tidal water~~coastal wetland, or ~~freshwater a~~ wetland shall be revegetated or otherwise stabilized so as to prevent erosion and sedimentation of water bodies or wetlands;

10.27, F FILLING AND GRADING

2. Beyond 250 feet from water bodies and wetlands, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN subdistricts which are greater than 250 feet from water bodies and wetlands. In such M-GN subdistrict areas, the provisions of Section 10.27,F,4 and 6 shall apply; and
5. Within 250 feet of major flowing waters, bodies of standing water and P-WL1 wetlands, the sustained slope between the normal high water mark or the upland edge of the resource and the soil disturbance shall be no greater than 20%. For the purposes of this standard, sustained slope means a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area. The provisions of this paragraph apply only to a face sloping toward the water body or wetland; and
6. 5.Where filled or graded areas are in the vicinity of water bodies or wetlands, such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, ~~tidal water~~ a coastal wetland, or ~~the~~ upland edge of freshwater wetlands identified as P-WL1 subdistrict than the following; and
 - a. For a minor flowing water, body of standing water less than 10 acres in size, coastal wetland, or freshwater wetland: 75 feet; and
 - b. For a major flowing water and body of standing water 10 acres or greater in size: 100 feet.

~~distance indicated in the following table:~~

Average Slope of Land	Width of Strip
Between Exposed Mineral Soil and	Between Exposed Mineral Soil and
Normal High Water Mark or	Normal High Water Mark or Upland Edge
Upland Edge (Percent)	(Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

~~Table 10.27,F 1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.~~

7. 6.All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.

10.27,0 PERMANENT DOCKING STRUCTURES

2. New or Expanded Permanent Docking Structures.

a. **Special Exception Criteria for Permanent Docking Structures** ~~on Tidal and Non-Tidal Waters.~~

b. **Maximum Dimensions.** The new or expanded permanent docking structure must be no longer or wider than is necessary for the use intended, and meet the following:

(1) ~~Tidal Waters~~ Coastal Wetlands.

(a) Maximum length. A dock must not be constructed within a marked navigable channel, and

(2) **Non-Tidal Water** Bodies.

4. Construction Standards.

a. New or expanded docking structures must be constructed using methods, such as pilings, that allow for free flowing water and fish passage beneath the dock. Reconstructed docking structures must be pile-supported where feasible. Construction methods, such as rock filled cribs, that place fill below the normal high water mark of ~~tidal~~ coastal wetlands or non-tidal water bodies may only be allowed where the applicant demonstrates by a preponderance of evidence that non-fill construction techniques are not practicable;

PART 2: PROPOSED MOTORIZED RECREATIONAL GOLD PROSPECTING CHANGES

February 11, 2015 Draft

This document includes ***draft*** revisions to Section 10.27,G to conform with [Public Law, Chapter 536](#), LD 1671, 126th Maine State Legislature (An Act To Prohibit Motorized Recreational Gold Prospecting in Class AA Waters and Certain Atlantic Salmon and Brook Trout Habitats). Specifically, the LUPC staff employed the text of Title 38, Section 467, Title 38, Section 468 and LD 1671, and the Maine Department of Environmental Protection's (DEP) GIS layer named "MEDEP.Water_Classification" to aid in illustrating Class AA waters. The revisions also include updates to the names of several minor civil divisions.

10.27 ACTIVITY-SPECIFIC STANDARDS

G. MOTORIZED RECREATIONAL GOLD PROSPECTING

The following motorized recreational gold prospecting requirements shall apply ~~within~~ below the normal high water mark of flowing waters, except as otherwise provided herein.

Motorized recreational gold prospecting activities not in conformance with the standards of Section 10.27,G,1 through–5 below may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved, except that such activities are prohibited on the river and stream segments listed in Section 10.27,G,6, except as provided in [Section](#) 10.27,G,6,b. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

1. Motorized recreational gold prospecting may only be performed from June 15 to September 15, and only with written permission of the landowner(s).
2. The activity must not cause an undue adverse effect on natural resources. The area must be kept free of litter, trash, and any other materials that may constitute a hazardous or nuisance condition.
3. **Limitations on Equipment.**
 - a. Equipment must not have any fuel, oil, or hydraulic leaks, nor cause any other unlicensed discharge.
 - b. **Power Limit.** Motorized equipment must not exceed ~~six~~ seven horsepower.
 - c. **Nozzle Diameter.** The inside diameter of a suction dredge intake nozzle and hose must not exceed four inches.

- d. **Sluice Size.** The area of a sluice must not exceed 10 square feet.
 - e. Use of a flume to transport water outside of a ~~stream-channel~~flowing water is prohibited.
4. **Prohibition of Chemicals.** Use of mercury, nitric acid or other chemicals for extraction is prohibited.
5. **Specific Restrictions on Methods of Operation.**
- a. No motorized recreational gold prospecting may occur in a manner that:
 - (1) Disturbs ~~the a stream-bank of a flowing water~~, including but not limited to digging into the bank, or dredging or altering water flow within a ~~stream-channel~~flowing water in a manner that causes the bank to erode or collapse.
 - (2) Removes or damages vegetation, or woody debris such as root wads, stumps or logs within a ~~stream-channel~~flowing water, on the bank, or on nearby upland, including cutting or abrasion of trees.
 - (3) Diverts, dams, or otherwise obstructs a ~~stream~~flowing water.
 - (4) Deposits soil, rocks, or any other foreign material from outside of the channel into a ~~stream~~flowing water.
 - (5) Deposits ~~channel-stream~~ bottom sediments or rocks onto the bank or upland.
 - b. Upon completion of one or more consecutive days of prospecting, dredge spoils must be smoothed out and dredge holes refilled below the normal high water mark of the ~~stream-flowing water~~ in order to restore the approximate original contours of the ~~stream-channel~~ bottom and must not deflect the current.
6. **Closed Areas.** Motorized recreational gold prospecting is prohibited within the following areas.
- a. ~~C~~Stream-channels narrower than four feet wide.
 - b. Any area designated as Essential Wildlife Habitat by the Maine Department of Inland Fisheries and Wildlife (MDIFW) unless it is determined by MDIFW that:
 - (1) There will be no significant harm to the Essential Wildlife Habitat, and
 - (2) The activity will not violate protection guidelines adopted pursuant to the Maine Endangered Species Act.
 - c. Waters defined as Class AA waters pursuant to 38 M.R.S.A. § 465. Class AA waters as of the effective date of this rule are included in the areas listed below.
 - e.d. The Allagash Wilderness Waterway and all water bodies within 800 feet of normal high water mark of the watercourse.
 - e.e. **Aroostook County.**
 - (1) Aroostook River: T9 R5 WELS, T9 R7 WELS, T9 R8 WELS, Oxbow Plt, T10 R6 WELS
 - (2) St. Croix Stream: St. Croix Twp, T9 R5 WELS

- (3) (Big) Machias River: T12 R8 WELS, T11 R8 WELS, T11 R7 WELS, T10 R7 WELS, Garfield Plt
- (4) Musquacook Stream: T11 R11 WELS, T12 R11 WELS, T13 R11 WELS, T13 R12 WELS
- (5) Allagash River and all water bodies within 800 feet of normal high water mark of the watercourse: T10 R12 WELS, T10 R13 WELS, T11 R13 WELS, T12 R13 WELS, T13 R12 WELS, T13 R13 WELS, T14 R11 WELS, T14 R12 WELS, T15 R10 WELS, T15 R11 WELS
- (6) Chemquasabamticook Stream: T11 R13 WELS, Clayton Lake Twp~~T11 R14 WELS~~, T11 R15 WELS, T12 R13 WELS
- (7) St. John River: T11 R17 WELS, T11 R16 WELS, T12 R15 WELS, T12 R16 WELS, T13 R14 WELS, T13 R15 WELS, T14 R13 WELS, T14 R14 WELS, T15 R13 WELS, T16 R12 WELS, T16 R13 WELS, surrounding Hunnewell Island in St. John Plt, Hamlin
- (8) Northwest Branch St. John River downstream from outlet of Beaver Pond: T11 R17 WELS, T12 R17 WELS
- (9) Big Black River: T14 R14 WELS, T14 R15 WELS, T14 R16 WELS, T15 R13 WELS, T15 R14 WELS
- (10) Fish River from Mud Pond to St. Froid Lake: T13 R8 WELS, T14 R8 WELS, T14 R7 WELS, T13 R7 WELS, T14 R6 WELS
- (11) Smith Brook: T13 R8 WELS, T14 R8 WELS
- (12) Red River: T14 R8 WELS
- (13) McLean Brook: T17 R4 WELS
- (14) Macwahoc Stream: Macwahoc Plt, North Yarmouth Academy Grant, Upper Molunkus Twp
- (15) Molunkus Stream: Macwahoc Plt, North Yarmouth Academy Grant, T1 R5 WELS, Benedicta Twp, Silver Ridge Twp
- (16) Mattawamkeag River: Reed Plt
- (17) East Branch Mattawamkeag River: Forkstown Twp, T3 R3 WELS, T4 R3 WELS
- (18) West Branch Mattawamkeag River: T3 R3 WELS, T4 R3 WELS
- (19) Wytotitlock Stream: Reed Plt, Upper Molunkus Twp, T2 R4 WELS, Glenwood Plt, T3 R4 WELS
- (20) Goddard Brook: T15 R5 WELS
- (21) Unnamed stream connecting Cross Lake and Square Lake: Square Lake Twp
- (22) Unnamed stream flowing east into Square Lake at Goddard Cove: Square Lake Twp

- (23) Unnamed stream flowing northeast into Square Lake one mile northwest of Limestone Pt.: Square Lake Twp

e.f. Franklin County.

- (1) Moose River downstream from Number One Brook: Beattie Twp, Lowelltown Twp
- (2) Kennebago River and its tributaries: Davis Twp, Stetsontown Twp, Seven Ponds Twp, Chain of Ponds Twp, Massachusetts Gore, Tim Pond Twp, Lang Twp
- (3) Cupsuptic River tributaries: Seven Ponds Twp
- (4) Spencer Stream and Little Spencer Stream tributaries, including Kibby Stream: Kibby Twp, Skinner Twp
- (5) North Branch Dead River: Jim Pond Twp
- (6) Sandy River: Sandy River Plt, Township E, Madrid Twp
- (7) West Branch Carrabassett River: Freeman Twp, Salem Twp
- ~~(8) Carrabassett River, Main Stem: Mount Abram Twp~~
- (8) Bemis Stream and tributaries: Township D, Rangeley Plt
- (9) Carrabassett River and tributaries: Freeman Twp, Mount Abram Twp, Salem Twp
- (10) South Bog Stream: Rangeley Plt
- (11) Horseshoe Stream: Chain of Ponds Twp

f.g. Hancock County.

- (1) The following townships in their entirety: T9 SD, T10 SD, T16 MD, T22 MD, T28 MD, T34 MD, T35 MD, T41 MD, T4 ND
- (2) Passadumkeag River: T3 ND
- (3) Sunkhaze Stream and its tributaries: T32 MD BPP

g.h. Kennebec County.

- (1) Sebasticook River: Unity Twp

h.i. Oxford County.

- (1) Cupsuptic River and its tributaries: Lower Cupsuptic Twp, Upper Cupsuptic Twp, Oxbow Twp, Parkertown Twp, Lynchtown Twp, Seven Ponds Twp
- (2) Kennebago River and its tributaries: Lower Cupsuptic Twp, Upper Cupsuptic Twp, Oxbow Twp
- (3) Rapid River: Magalloway Twp, Township C
- (4) Bear River: Grafton Twp

- (5) Bull Branch of Sunday River and tributaries: Grafton Twp, Riley Twp
- (6) Magalloway River and tributaries, including Little Magalloway River: Bowmantown Twp, Lincoln Plt, Lynchtown Twp, Magalloway Plt, Oxbow Twp, Parkertown Twp, Parmachenee Twp
- (7) Abbott Brook and its tributaries: Lincoln Plt
- (8) Wild River: Batchelders Grant
- (9) Crooked River and its tributaries: Albany Twp

i.i. Penobscot County.

- (1) East Branch Penobscot River: Grindstone Twp, Soldiertown Twp, T3 R7 WELS, T4 R7 WELS, T4 R8 WELS, T5 R8 WELS, T6 R8 WELS
- (4)(2) East Branch Penobscot River, all tributaries, the portions of which that are located in T3 R8 WELS and within the boundaries of Baxter State Park
- (2)(3) Wassataquoik Stream: T4 R8 WELS, T3 R7 WELS, T3 R8 WELS
- (3)(4) Seboeis River: T3 R7 WELS, T4 R7 WELS, T5 R7 WELS, T6 R7 WELS, T7 R7 WELS
- (4)(5) Sawtelle Brook: T6 R7 WELS
- (5)(6) Munsungan Stream: T8 R8 WELS
- (6)(7) Millinocket Stream: T8 R8 WELS
- (7)(8) Aroostook River: T8 R8 WELS
- (8)(9) Ayers Brook: Summit Twp
- (9)(10) Madagascal Stream: Grand Falls Twp
- (40)(11) Mattagodus Stream: Kingman Twp, Webster Plt, Prentiss Twp, Carroll Plt
- (44)(12) Mattawamkeag River: Kingman Twp, Drew Plt
- (42)(13) Molunkus Stream: Kingman Twp
- (43)(14) Wytotpitlock Stream: Drew Plt
- (44)(15) Passadumkeag River: Summit Twp, Grand Falls Twp, T3 R1 NBPP, Lakeville
- (45)(16) Penobscot River: Argyle Twp, Mattamiscontis Twp, T2 R8 NWP
- (46)(17) West Branch Penobscot River: TA R7 WELS, T3 Indian Purchase, T4 Indian Purchase
- (18) Millinocket Stream: T3 Indian Purchase, T1 R8 WELS
- (47)(19) Sunkhaze Stream and its tributaries: Greenfield Twp

j.k. Piscataquis County.

- (1) East Branch Pleasant River: ~~T5 R9 NWPE~~Beemee Twp
- (2) West Branch Pleasant River: Shawtown Twp, Beaver Cove, Bowdoin College Grant East, Katahdin Iron Works Twp, Williamsburg Twp
- (3) West Branch Penobscot River: T1 R9 WELS, T2 R9 WELS, T2 R10 WELS, T3 R11 WELS
- (4) Allagash River and all water bodies within 800 feet of normal high water mark of the watercourse: T10 R12 WELS, T10 R13 WELS
- (5) Allagash Stream and all water bodies within 800 feet of normal high water mark of the watercourse: Eagle Lake Twp, T8 R14 WELS
- (6) Webster Brook: T6 R11 WELS
- (7) Millinocket Stream: T7 R9 WELS
- (8) Munsungan Stream: T8 R9 WELS
- (9) Chemquasabamticook Stream: T10 R15 WELS
- (10) Stream between Lower Portage Pond and Spider Lake: T9 R11 WELS
- (11) Stream in wetland on south end of Churchill Lake: T9 R12 WELS
- (12) Stream between Webster Lake and Telos Pond and all water bodies within 800 feet of normal high water mark of the watercourse: T6 R11 WELS
- (13) Kennebec River: ~~Big Squaw Twp~~Big Moose Twp
- (14) East Branch Piscataquis River: Blanchard Twp
- (15) West Branch Piscataquis River: Blanchard Twp

(16) West Branch Penobscot River, those segments of any tributary that are in T2 R9 WELS and are also within the portion of Baxter State Park served by the Land Use Planning Commission

k.l. Somerset County.

- (1) Dead River: Pierce Pond Twp, T3 R4 BKP WKR, Bowtown Twp, West Forks Plt, T3 R5 BKP WKR, Lower Enchanted Twp
- (2) Spencer Stream, ~~and~~ Little Spencer Stream, and Little Spencer Stream tributaries, including Kibby Stream: T3 R4 BKP WKR, T3 R5 BKP WKR, King and Bartlett Twp, Haynestown Twp ~~T5 R6 BKP WKR~~
- (3) Kennebec River above junction with Dead River: West Forks Plt, Moxie Gore, Chase Stream Twp, Indian Stream Twp, Sapling Twp, Taunton & Raynham Academy Grant Twp, Misery Gore, The Forks
- (4) Moxie Stream: Moxie Gore

- (5) Parlin Stream: Parlin Pond Twp
- (6) Doucie Brook: T9 R17 WELS
- (7) Gulliver Brook: Plymouth Twp
- (8) Moose River: Holeb Twp, Attean Twp, T5 R7 BKP WKR, Bradstreet Twp
- (9) Cold Stream and Cold Stream tributaries, including Tomhegan Stream: Chase Stream Twp. West Forks Plt, Johnson Mountain Twp
- (10) Baker Branch St. John River: T5 R17 WELS, T6 R17 WELS, St John Twp, T7 R 16 WELS, T9 R17 WELS, T8 R17 WELS, T7 R17 WELS
- (11) Southwest Branch St. John River: T9 R18 WELS, T9 R17 WELS, Big Ten Twp
- (12) Northwest Branch St. John River: Big Ten Twp
- (13) St. John River: Big Ten Twp, R40-T10 T46-R16 WELS,~~T9-R17 WELS~~
- (14) Enchanted Stream: Upper Enchanted Twp, Lower Enchanted Twp

1.m. Washington County.

- (1) The following townships and town in their entirety: T18 MD BPP, T19 MD BPP, T24 MD BPP, T25 MD BPP, T30 MD BPP, Day Block Twp~~T31 MD BPP,~~ T36 MD BPP, T37 MD BPP, T42 MD BPP, T43 MD BPP, Sakom Twp~~T5 ND BPP, No. 14 Twp~~Cathance Twp, No. 21 TwpBig Lake Twp, Berry Twp~~T18 ED BPP,~~ T19 ED BPP, T26 ED BPP, Greenlaw Chopping~~T27 ED BPP,~~ Devereaux Twp, Marion Twp, Edmunds Twp, Baring
- (2) Tomah Stream: Forest Twp, Codyville Plt, Lambert Lake Twp
- (3) Baskahegan Stream: Brookton Twp
- (4) St. Croix River: Fowler Twp, Dyer Twp, Lambert Lake Twp
- (5) Dennys River: Cathance Twp, Edmunds Twp
- (6) East Machias River: Big Lake Twp, Berry Twp~~T18 ED BPP,~~ T19 ED BPP
- (7) Venture Brook: Edmunds Twp
- (8) Cathance Stream: Edmunds Twp
- (9) Northern Stream: T19 ED BPP
- (10) Hobart Stream: Edmunds Twp
- (11) Creamer Brook: T19 ED BPP
- (12) Clifford Brook: Marion Twp
- (13) Machias River: Centerville Twp