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Legislative Document

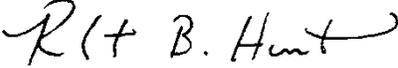
No. 884

H.P. 603

House of Representatives, March 12, 2015

An Act To Amend Laws Concerning Water Quality Standards

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on Environment and Natural Resources suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative CAMPBELL of Orrington.
Cosponsored by Senator SAVIELLO of Franklin and
Representatives: BUCKLAND of Farmington, DUCHESNE of Hudson, HANLEY of Pittston,
HARLOW of Portland, WHITE of Washburn.

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

2 **Sec. 1. 38 MRSA §465, sub-§1, ¶C**, as amended by PL 2013, c. 193, §2, is
3 further amended to read:

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

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

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

17 ~~(a) The department may issue no more than a total of 3 discharge licenses~~
18 ~~pursuant to this subparagraph and subsection 2, paragraph C, subparagraph~~
19 ~~(2).~~

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

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

26 (4) Discharges of aquatic pesticides approved by the department for the control of
27 mosquito-borne diseases in the interest of public health and safety using materials
28 and methods that provide for protection of nontarget species are allowed. When
29 the department issues a license for the discharge of aquatic pesticides authorized
30 under this subparagraph, the department shall notify the municipality in which
31 the application is licensed to occur and post the notice on the department's
32 publicly accessible website.

33 (5) Discharges of pesticides approved by the department are allowed that are:

34 (a) Unintended and an incidental result of the spraying of pesticides;

35 (b) Applied in compliance with federal labeling restrictions; and

36 (c) Applied in compliance with statute, Board of Pesticides Control rules and
37 best management practices.

38 **Sec. 2. 38 MRSA §465, sub-§2, ¶C**, as amended by PL 2013, c. 193, §3, is
39 further amended to read:

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

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

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

22 ~~(a) The department may issue no more than a total of 3 discharge licenses~~
23 ~~pursuant to this subparagraph and subsection 1, paragraph C, subparagraph~~
24 ~~(2).~~

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

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

31 (4) For the purpose of allowing the discharge of aquatic pesticides approved by
32 the department for the control of mosquito-borne diseases in the interest of public
33 health and safety, the department may find that the discharged effluent will be
34 equal to or better than the existing water quality of the receiving waters as long as
35 the materials and methods used provide protection for nontarget species. When
36 the department issues a license for the discharge of aquatic pesticides authorized
37 under this subparagraph, the department shall notify the municipality in which
38 the application is licensed to occur and post the notice on the department's
39 publicly accessible website.

40 (5) This paragraph does not apply to discharges of pesticides approved by the
41 department that are:

42 (a) Unintended and an incidental result of the spraying of pesticides;

43 (b) Applied in compliance with federal labeling restrictions; and

1 (c) Applied in compliance with statute, Board of Pesticides Control rules and
2 best management practices.

3 **Sec. 3. 38 MRSA §467, sub-§3, ¶B**, as amended by PL 2005, c. 330, §11, is
4 further amended to read:

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

6 (1) All tributaries entering below the Route 191 bridge in Jacksonville, except as
7 specified in subparagraph (7) - Class B.

8 (2) Beaverdam Brook (also known as Beaverdam Stream) - Class AA.

9 (3) Seavey Brook in Crawford - Class AA.

10 (4) Harmon Brook in Crawford - Class AA.

11 (5) Northern Stream in Township 19 Eastern Division - Class AA.

12 (6) Creamer Brook in Township 19 Eastern Division - Class AA.

13 (7) Clifford Brook (also known as Clifford Stream) in Marion Township - Class
14 AA.

15 **Sec. 4. 38 MRSA §467, sub-§5, ¶B**, as amended by PL 2003, c. 663, §3, is
16 further amended to read:

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

18 (1) All tributaries entering below Route 1A in Whitneyville - Class B.

19 (2) Mopang Stream, from the outlet of Mopang Second Lake to its confluence
20 with the Machias River - Class AA.

21 (3) Old Stream, from the outlet of First Lake to its confluence with the Machias
22 River - Class AA.

23 (4) West Branch of the Machias River, from the outlet of Lower Sabao Lake to
24 its confluence with the Machias River - Class AA.

25 (5) New Stream, in Northfield and Wesley - Class AA.

26 (6) Crooked Stream (also known as Crooked River) - Class AA.

27 (7) Fletcher Brook in Township 36 Middle Division - Class AA.

28 (8) Magazine Brook in Township 43 Middle Division - Class AA.

29 (9) Bowles Brook in Day Block Township ~~31 Middle Division~~ - Class AA.

30 (10) Chain Lakes Stream in Day Block Township ~~31~~ - Class AA.

31 (11) Pembroke Stream in Day Block Township ~~31 Middle Division~~ - Class AA.

32 (12) Holmes Brook in Northfield - Class AA.

33 (13) Bog Brook - Class AA.

34 (14) Pineo Brook in Wesley - Class AA.

1 (15) Black Brook in Township 25 Middle Division - Class AA.

2 **Sec. 5. 38 MRSA §467, sub-§6-A, ¶B**, as amended by PL 2003, c. 317, §11, is
3 further amended to read:

4 B. Narraguagus River, tributaries - Class A unless otherwise specified.

5 (1) All tributaries entering below the river's confluence with the West Branch -
6 Class B.

7 (2) West Branch of the Narraguagus River in T22 MD BPP, T16 MD BPP, T10
8 SD BPP and Cherryfield - Class AA.

9 (3) Baker Brook - Class AA.

10 (4) Pork Brook - Class AA.

11 (5) Schoodic Brook - Class AA.

12 (6) Shorey Brook - Class AA.

13 (7) West Branch Stream in Township 34 Middle Division - Class AA.

14 (8) Gould Brook in Township 28 Middle Division - Class AA.

15 (9) Rocky Brook in Devereaux Township - Class AA.

16 (10) Sinclair Brook in Devereaux Township - Class AA.

17 (11) Humpback Brook in Township 28 Middle Division - Class AA.

18 (12) Little Narraguagus River in Township 22 Middle Division - Class AA.

19 (13) Great Falls Branch downstream of Route 193 in Deblois, excluding any
20 tributaries - Class AA.

21 (14) Lawrence Brook - Class AA.

22 **Sec. 6. 38 MRSA §467, sub-§9, ¶B**, as amended by PL 2009, c. 163, §7, is
23 further amended to read:

24 B. Presumpscot River, tributaries - Class A unless otherwise specified.

25 (1) All tributaries entering below the outlet of Sebago Lake - Class B.

26 (2) Crooked River and its tributaries, except as otherwise provided, excluding
27 existing impoundments - Class AA.

28 (3) Stevens Brook (Bridgton) - Class B.

29 (4) Mile Brook (also known as Mill Brook) (Casco) - Class B.

30 **Sec. 7. 38 MRSA §467, sub-§15, ¶C**, as amended by PL 2009, c. 163, §10, is
31 further amended to read:

32 C. Aroostook River Drainage.

33 (1) Aroostook River, main stem.

- 1 (a) From the confluence of Millinocket Stream and Munsungan Stream to
2 the Route 11 bridge - Class AA.
- 3 (b) From the Route 11 bridge to the Sheridan Dam - Class B.
- 4 (c) From the Sheridan Dam to its confluence with Presque Isle Stream,
5 including all impoundments - Class B.
- 6 (d) From its confluence with Presque Isle Stream to a point located 3.0 miles
7 upstream of the intake of the Caribou water supply, including all
8 impoundments - Class C.
- 9 (e) From a point located 3.0 miles upstream of the intake of the Caribou
10 water supply to a point located 100 yards downstream of the intake of the
11 Caribou water supply, including all impoundments - Class B.
- 12 (f) From a point located 100 yards downstream of the intake of the Caribou
13 water supply to the international boundary, including all impoundments -
14 Class C.
- 15 (2) Aroostook River, tributaries, those waters lying within the State - Class A
16 unless otherwise specified.
- 17 (a) All tributaries of the Aroostook River entering below the confluence of
18 the Machias River that are not otherwise classified - Class B.
- 19 (b) Little Machias River and its tributaries - Class A.
- 20 (c) Little Madawaska River and its tributaries, including Madawaska Lake
21 tributaries above the Caribou-Connor Township line - Class A.
- 22 (d) Machias River, from the outlet of Big Machias Lake to the Aroostook
23 River - Class AA.
- 24 (e) Millinocket Stream, from the outlet of Millinocket Lake to its confluence
25 with Munsungan Stream - Class AA.
- 26 (f) Munsungan Stream, from the outlet of Little Munsungan Lake to its
27 confluence with Millinocket Stream - Class AA.
- 28 (g) Presque Isle Stream and its tributaries above the Mapleton-Presque Isle
29 town line - Class A.
- 30 (h) St. Croix Stream from its confluence with Hall Brook in T.9, R.5,
31 W.E.L.S. to its confluence with the Aroostook River - Class AA.
- 32 (j) ~~Squa Pan~~ Scopan Stream from the outlet of ~~Squa Pan~~ Scopan Lake to its
33 confluence with the Aroostook River - Class C.
- 34 (k) Limestone Stream from the Long Road bridge to the Canadian border -
35 Class C.
- 36 (l) Beaver Brook and its tributaries (T.14 R.6 W.E.L.S., T.14 R.5 W.E.L.S.,
37 T.13 R.5 W.E.L.S., Portage Lake, Ashland, Castle Hill) - Class A.
- 38 (m) Gardner Brook and its tributaries (T.14 R.5 W.E.L.S., T.13 R.5
39 W.E.L.S., Wade) - Class A.

1 **Sec. 8. 38 MRSA §467, sub-§15, ¶F**, as amended by PL 2009, c. 163, §11, is
2 further amended to read:

3 F. St. John River, minor tributaries, those waters lying within the State - Class A
4 unless otherwise specified.

5 (1) Except as otherwise classified, all minor tributaries of the St. John River
6 entering below the international bridge in Fort Kent, those waters lying within the
7 State - Class B.

8 (2) Baker Stream and Baker Branch St. John River, from the headwaters at the
9 Upper First St. John Ponds Pond to its confluence with the Southwest Branch -
10 Class AA.

11 (3) Big Black River, from the international boundary to its confluence with the
12 St. John River - Class AA.

13 (4) Northwest Branch, from the outlet of Beaver Pond in T.12, R.17, W.E.L.S. to
14 its confluence with the St. John River - Class AA.

15 (5) Prestile Stream from its source to Route 1A in Mars Hill - Class A.

16 (6) Southwest Branch, from a point located 5 miles downstream of the
17 international boundary to its confluence with the Baker Branch - Class AA.

18 (7) Violette Stream and its tributaries, from its source to the confluence with
19 Caniba Brook - Class A.

20 **Sec. 9. 38 MRSA §468, sub-§5, ¶C**, as enacted by PL 1999, c. 277, §23, is
21 repealed.

22 **Sec. 10. 38 MRSA §468, sub-§7, ¶G** is enacted to read:

23 G. Winterport.

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

25 **Sec. 11. 38 MRSA §469, sub-§1**, as amended by PL 2011, c. 206, §11, is further
26 amended to read:

27 **1. Cumberland County.** All estuarine and marine waters lying within the
28 boundaries of Cumberland County and that are not otherwise classified are Class SB
29 waters.

30 A. Cape Elizabeth.

31 (1) Tidal waters of the Spurwink River system lying north of a line at latitude
32 43°-33'-44" N. - Class SA.

33 ~~B. Cumberland.~~

34 ~~(1) Tidal waters located within a line beginning at a point located on the~~
35 ~~Cumberland-Portland boundary at approximately latitude 43°-41'-18"N., longitude~~
36 ~~70°-05'-48"W. and running northeasterly to a point located on the Cumberland-~~
37 ~~Harpswell boundary at approximately latitude 43°-42'-57"N., longitude 70°-~~

1 ~~03' 50" W.; thence running southwesterly along the Cumberland Harpswell~~
2 ~~boundary to a point where the Cumberland, Harpswell and Portland boundaries~~
3 ~~meet; thence running northeasterly along the Cumberland Portland boundary to~~
4 ~~point of beginning - Class SA.~~

5 B-1. Chebeague Island.

6 (1) Tidal waters of the Town of Chebeague Island located within the area
7 described by the following points: from a point located at latitude 43° - 38'-21"
8 N., longitude 70° - 09'-06" W.; thence northeasterly to a point located at latitude
9 43° - 43'-08" N., longitude 70° - 03'-36" W.; thence running southeasterly to a
10 point located at latitude 43° - 42'-02" N., longitude 70° - 00'-00" W.; thence
11 running due south to a point located at latitude 43° - 38'-21" N., longitude 70° -
12 00'-00" W.; thence running due west to point of beginning - Class SA.

13 C. Falmouth.

14 (1) Tidal waters of the Town of Falmouth located westerly and northerly, to
15 include the Presumpscot estuary, of a line running from the southernmost point of
16 Mackworth Island; thence running northerly along the western shore of
17 Mackworth Island and the Mackworth Island Causeway to a point located where
18 the causeway joins Mackworth Point - Class SC.

19 D. Harpswell.

20 ~~(1) Tidal waters of the Town of Harpswell located within a line beginning at a~~
21 ~~point located on the Cumberland Harpswell boundary at approximately latitude~~
22 ~~43° - 42' 57" N., longitude 70° - 03' 50" W. and running the area described by the~~
23 ~~following points: from a point located at latitude 43° - 38'-21" N., longitude 70° -~~
24 ~~09'-06" W.; thence northeasterly to a point located at latitude 43° - 43'-08" N.,~~
25 ~~longitude 70° - 03'-36" W.; thence running southeasterly to a point located at~~
26 ~~latitude 43° - 42'-02" N., longitude 70° - 00'-00" W.; thence running due south to~~
27 ~~the Harpswell Portland boundary; thence running northwesterly along the~~
28 ~~Harpswell Portland boundary to a point where the Cumberland, Harpswell and~~
29 ~~Portland boundaries meet; thence running northwesterly along the Cumberland-~~
30 ~~Harpswell boundary to a point located at latitude 43° - 38'-21" N., longitude 70° -~~
31 ~~00'-00" W.; thence running due west to point of beginning - Class SA.~~

32 D-1. Long Island.

33 (1) Tidal waters of the Town of Long Island located within the area described by
34 the following points: from a point located at latitude 43° - 38'-21" N., longitude
35 70° - 09'-06" W.; thence northeasterly to a point located at latitude 43° - 43'-08"
36 N., longitude 70° - 03'-36" W.; thence running southeasterly to a point located at
37 latitude 43° - 42'-02" N., longitude 70° - 00'-00" W.; thence running due south to
38 a point located at latitude 43° - 38'-21" N., longitude 70° - 00'-00" W.; thence
39 running due west to point of beginning - Class SA.

40 E. Portland.

41 (1) Tidal waters of the City of Portland located within a line beginning at a point
42 located on the Cumberland Portland boundary at approximately latitude 43° - 41'-
43 18" N., longitude 70° - 05' 48" W. and running southeasterly along the

1 ~~Cumberland-Portland boundary to a point where the Cumberland, Harpswell and~~
2 ~~Portland boundaries meet; thence running southeasterly along the Harpswell-~~
3 ~~Portland boundary to the area described by the following points: from a point~~
4 ~~located at latitude 43° - 38'-21" N., longitude 70° - 09'-06" W.; thence~~
5 ~~northeasterly to a point located at latitude 43° - 43'-08" N., longitude 70° - 03'-36"~~
6 ~~W.; thence running southeasterly to a point located at latitude 43° - 42'-02" N.,~~
7 ~~longitude 70° - 00'-00" W.; thence running due south to a point located at latitude~~
8 ~~43° - 38'-21" N., longitude 70° - 00'-00" W.; thence running due west to a point~~
9 ~~located at latitude 43° - 38'-21" N., longitude 70° - 09'-06" W.; thence running~~
10 ~~northeasterly to point of beginning - Class SA.~~

11 (2) Tidal waters of the City of Portland lying northwesterly of a line beginning at
12 Spring Point Light in South Portland to the easternmost point of Fort Gorges
13 Island, thence running northerly to the southernmost point of Mackworth Island -
14 Class SC.

15 E-1. Scarborough.

16 (1) Tidal waters of the Scarborough River system lying north of a line running
17 easterly from a point where the old Boston and Maine Railroad line intersects the
18 marsh at latitude 43°-33'-06" N., longitude 70°-20'-58" W. to a point of land north
19 of Black Rock at latitude 43°-33'-06" N., longitude 70°-19'-25" W., excluding
20 those tidal waters of Phillips Brook lying upstream of a point 500 feet south of
21 U.S. Route 1 - Class SA.

22 (2) Tidal waters of the Spurwink River system lying north of a line extending
23 from Higgins Beach at latitude 43°-33'-44" N. to the town line - Class SA.

24 F. South Portland.

25 (1) Tidal waters of the City of South Portland lying westerly of a line beginning
26 at Spring Point Light to the easternmost point of Fort Gorges Island in Portland -
27 Class SC.

28 **Sec. 12. 38 MRSA §469, sub-§4, ¶A,** as enacted by PL 1985, c. 698, §15, is
29 amended to read:

30 A. Hampden.

31 (1) Tidal waters lying southerly of a line extended in an east-west direction from
32 ~~the outlet of Reed Brook in the Village of Hampden Highlands~~ a point 1.25 miles
33 upstream of the confluence of Reeds Brook in Hampden - Class SC.

34 **Sec. 13. 38 MRSA §469, sub-§5, ¶B,** as amended by PL 2011, c. 206, §11, is
35 further amended to read:

36 B. Phippsburg.

37 (1) Offshore waters east of longitude 69°-50'-05" W. and west of longitude 69°-
38 47'-00" W., including the tidal waters of the Morse River and the Sprague River,
39 - Class SA.

40 (2) Tidal waters of The Basin, including The Narrows east of ~~a line drawn~~
41 between longitude 69°-51'-57" W. and 43°-48'-14" N. - Class SA.

1 (3) Tidal waters of the Kennebec River in Phippsburg within 500 feet of shore,
2 beginning at a point of land at the head of Atkins Bay located at longitude 69°-
3 48'-14" W. and latitude 43°-44'-40.4" N. and extending along the southeast shore
4 of Atkins Bay to a point 500 feet off Fort Popham located at longitude 69°-47'-
5 00" W. and latitude 43°-45'-23.89" N. - Class SA.

6 **SUMMARY**

7 This bill makes the following changes to the laws concerning water quality.

8 1. It allows the Department of Environmental Protection to issue more than 3
9 discharge licenses to allow discharges to Class AA waters for the purpose of assisting in
10 the restoration of Atlantic salmon and returning the waters to a state that is closer to
11 historically natural chemical quality.

12 2. It allows the Department of Environmental Protection to issue more than 3
13 discharge licenses to allow discharges to Class A waters for the purpose of assisting in
14 the restoration of Atlantic salmon and returning the waters to a state that is closer to
15 historically natural chemical quality.

16 3. It recognizes an alternate name for Beaverdam Brook and Clifford Brook.

17 4. It recognizes an alternate name for Crooked Stream and that the name of
18 Township 31 Middle Division has been changed to Day Block Township.

19 5. It clarifies the location of the West Branch of the Narraguagus River.

20 6. It recognizes an alternate name for Mile Brook.

21 7. It recognizes that the names of Squa Pan Stream and Squa Pan Lake have been
22 changed to Scopan Stream and Scopan Lake.

23 8. It clarifies the description of the Class AA waters within the St. John River basin
24 and specifies where the headwaters start.

25 9. In the law concerning minor drainage areas, which is organized by county, it lists
26 the Town of Winterport under the proper heading of Waldo County.

27 10. It recognizes that town lines have been redrawn in Casco Bay and that the Class
28 SA area encompassing Jewell and other islands, which previously was divided between
29 Portland, Cumberland and Harpswell, is now divided between the towns of Chebeague
30 Island, Harpswell, Long Island and Portland.

31 11. In the laws concerning classification of waters as estuarine and marine, it
32 corrects a conflict between descriptions of 2 stream segments and clarifies that the marine
33 classification extends to the head of tide.

34 12. It clarifies a description of a line at the mouth of The Basin in Phippsburg.