

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Change the Classification of Certain Waters of the State**

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

**Sec. 1. 38 MRSA §464, sub-§2, ¶E** is enacted to read:

E. The Legislature may raise the classification of a water body and establish an effective date for that new classification to commence. The commissioner shall expedite the means considered necessary for the water body to attain standards and designated uses of the new classification by the effective date. If the commissioner determines that the water body attains the standards and designated uses of the new classification before the effective date established by the Legislature, the commissioner shall report such findings to the Legislature.

**Sec. 2. 38 MRSA §467, sub-§1, ¶C**, as amended by PL 2003, c. 317, §2, is further amended to read:

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.

(4-A) Abbott Brook and its tributaries in Lincoln Plantation - 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.

**Sec. 3. 38 MRSA §467, sub-§1, ¶D**, as amended by PL 2003, c. 317, §3, is further amended to read:

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.

(8) Aunt Hannah Brook and its tributaries in Dixfield - Class A.

**Sec. 4. 38 MRSA §467, sub-§4, ¶A**, as amended by PL 2003, c. 317, §6 and affected by §25, is further amended to read:

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 the Shawmut Dam - Class C.

(10-A) From the Shawmut Dam to its confluence with Messalonskee Stream, excluding all impoundments - Class B.

(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.

**Sec. 5. 38 MRSA §467, sub-§4, ¶I**, as repealed and replaced by PL 1989, c. 228, §2, is amended to read:

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~~ the Sidney-Vassalboro-Augusta town line and a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point - Class ~~CB~~, unless otherwise specified.

(a) Eastern River from head of tide to its confluence with the Kennebec River - 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.

**Sec. 6. 38 MRSA §467, sub-§7, ¶E**, as amended by PL 1999, c. 277, §11, is further amended to read:

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~~Seboeis Stream, including East and West Branches, and tributaries - Class A.

(n) Alder Stream and its tributaries - Class A.

**Sec. 7. 38 MRSA §467, sub-§7, ¶F**, as amended by PL 2003, c. 317, §13, is further amended to read:

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.

(7-A) Souadabscook Stream, tributaries of - Class B, unless otherwise specified.

(a) West Branch Souadabscook Stream (Hampden, Newburgh) - Class A.

(b) Brown Brook (Hampden) - Class A.

(8) Sunkhaze Stream and its tributaries - Class AA.

(9) Birch Stream - Class A.

(10) Hemlock Stream - Class A.

(11) Mattamiscontis Stream and its tributaries - 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.

**Sec. 8. 38 MRSA §467, sub-§9, ¶B**, as amended by PL 1991, c. 499, §16, is further amended to read:

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.

**Sec. 9. 38 MRSA §467, sub-§12, ¶B**, as amended by PL 2003, c. 317, §15, is further amended to read:

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, those waters lying within the State - Class B unless otherwise specified.

(a) Emerson Brook in Parsonsfield - Class A.

(b) South River and its tributaries (Parsonsfield), those waters lying within the State - Class A.

**Sec. 10. 38 MRSA §467, sub-§13, ¶A**, as repealed and replaced by PL 1989, c. 764, §14, is amended to read:

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~~impounded in the Grand Falls Flowage including those waters between Route 1 (Princeton and Indian Township) and Black Cat Island~~Grand Falls Dam~~ - Class ~~B~~GPA.

(3) Woodland Lake impoundment - Class C.

(4) From the Woodland Dam to tidewater, those waters lying within the State, including all impoundments - Class C.

**Sec. 11. 38 MRSA §467, sub-§15, ¶A**, as repealed and replaced by PL 1989, c. 764, §16, is amended to read:

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~~a point 1/2 mile above the confluence with the Fish River in Fort Kent, those waters lying within the State, including all impoundments - Class A.

(3) From ~~the international bridge~~ a point 1/2 mile above the confluence with the Fish River 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.

**Sec. 12. 38 MRSA §467, sub-§15, ¶C**, as amended by PL 2003, c. 317, §17, is further amended to read:

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.

(l) Beaver Brook and its tributaries (T.14 R.6 W.E.L.S., T.14 R.5 W.E.L.S., T.13 R.5 W.E.L.S., Portage Lake, Ashland, Castle Hill) - Class A.

(m) Gardner Brook and its tributaries (T.14 R.5 W.E.L.S., T.13 R.5 W.E.L.S., Wade) - Class A.

**Sec. 13. 38 MRSA §467, sub-§15, ¶F**, as amended by PL 2003, c. 317, §18, is further amended to read:

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.

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

**Sec. 14. 38 MRSA §467, sub-§16, ¶B,** as amended by PL 1999, c. 277, §22, is further amended to read:

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

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

(2) Little River and its tributaries (Berwick, North Berwick, Lebanon) - Class A.

**Sec. 15. 38 MRSA §468, sub-§1, ¶A-1** is enacted to read:

A-1. Cape Elizabeth.

(1) Trout Brook, those waters that form the town boundary with South Portland - Class C.

**Sec. 16. 38 MRSA §468, sub-§1, ¶B,** as repealed and replaced by PL 1989, c. 764, §21, is amended to read:

B. Portland.

(1) All minor drainages unless otherwise specified - Class C.

(2) Stroudwater River from its origin to tidewater, including all tributaries - Class B.

**Sec. 17. 38 MRSA §468, sub-§1, ¶C**, as repealed and replaced by PL 1989, c. 764, §21, is amended to read:

C. Scarborough.

(1) All minor drainages - Class C unless otherwise specified.

(2) Finnard Brook - Class B.

(3) Stuart Brook - Class B.

(4) Nonesuch River from the headwaters to a point 1/2 mile downstream of Mitchell Hill Road crossing - Class B.

(5) Stroudwater River from its origin to tidewater, including all tributaries - Class B.

**Sec. 18. 38 MRSA §468, sub-§1, ¶D**, as repealed and replaced by PL 1989, c. 764, §21, is amended to read:

D. South Portland.

(1) All minor drainages - Class C.

(2) Trout Brook downstream of the first point where the brook becomes the town boundary between South Portland and Cape Elizabeth - Class C.

**Sec. 19. 38 MRSA §468, sub-§4, ¶D** is enacted to read:

D. Bristol.

(1) Pemaquid River and its tributaries, all freshwater sections below Pemaquid Pond - Class A.

**Sec. 20. 38 MRSA §468, sub-§7, ¶D** is enacted to read:

D. Black Brook in Lincolnville - Class A.

**Sec. 21. 38 MRSA §468, sub-§7, ¶E** is enacted to read:

E. Kendall Brook in Lincolnville - Class A.

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

F. Tucker Brook in Lincolnville - Class A.

**Sec. 23. 38 MRSA §469, sub-§5, ¶B**, as enacted by PL 1989, c. 764, §27, is amended to read:

B. Phippsburg.

(1) Tidal waters east of longitude 69°-50'-05" W. and west of longitude 69°-47'-00" W. - Class SA.

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

**Sec. 24. Report concerning procedures for reclassification.** The Department of Environmental Protection shall review the current procedures for reclassification contained in the Maine Revised Statutes, Title 38, section 464, subsection 2 and suggest any changes or clarifications needed to make to the procedures more consistent and efficient while maintaining a full public review process. The recommendations may include draft legislation. The report must be submitted to the Joint Standing Committee on Natural Resources by January 15, 2010 and the committee may submit legislation related to this report to the Second Regular Session of the 124th Legislature.

## SUMMARY

This bill does the following.

1. It adds a condition in the water classification law that allows the Legislature to make classification changes and set effective dates for those changes. It allows the commissioner to make changes in management to allow water quality to attain the new classification by an effective date determined by the Legislature.

2. It upgrades the classification of Abbott Brook and tributaries in Lincoln Plantation from Class A to Class AA.

3. It upgrades the classification of Aunt Hannah Brook and its tributaries in Dixfield from Class B to Class A.

4. It upgrades the classification of the Kennebec River from downstream of the Shawmut Dam to the confluence with Messalonskee Stream, excluding impoundments, from Class C to Class B.

5. It upgrades the classification of tidal sections of tributaries entering the Kennebec River between the Sidney, Vassalboro and Augusta town line and a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point from Class C to Class B, except that the tidal section of the Eastern River would remain Class C.

6. It upgrades the classification of Alder Stream and its tributaries from Class B to Class A and upgrades tributaries to Seboeis Stream from Class B to Class A.

7. It upgrades the classification of selected tributaries of Souadabscook Stream from Class B to Class A. It also upgrades the classification of tributaries to Mattamiscontis Stream from Class B to Class A.

8. It upgrades the classification of Crooked River at Scribners Mill from A to AA.

9. It upgrades the classification of South River and its tributaries from Class B to Class A.
10. It clarifies the Maine Revised Statutes, Title 38, section 467, subsection 13, paragraph A to recognize that the ecological functioning of the described section of the St. Croix River is more similar to a great pond than a river. The classification would be changed from Class B to Class GPA.
11. It changes the landmark used to designate the classification change from Class A to Class B on the St. John River.
12. It upgrades the classification of Beaver Brook and its tributaries in T.14 R.6 W.E.L.S., T.14 R.5 W.E.L.S., T.13 R.5 W.E.L.S., Portage Lake, Ashland, Castle Hill from Class B to Class A. It also upgrades the classification of Gardner Brook and its tributaries in T.14 R.5 W.E.L.S., T.13 R.5 W.E.L.S. and Wade from Class B to Class A.
13. It upgrades the classification of Violette Stream and its tributaries from its source to the confluence with Caniba Brook from Class B to Class A.
14. It upgrades the classification of the Little River and its tributaries in Berwick, North Berwick and Lebanon from Class B to Class A.
15. It clarifies that the segment of Trout Brook that serves as the town border between Cape Elizabeth and South Portland is Class C.
16. It clarifies that all of Stroudwater River in Portland, including its tributaries, is Class B.
17. It upgrades the classification of the upper reaches of the Nonesuch River to a point 1/2 mile downstream of Mitchell Hill Road crossing from Class C to Class B and upgrades the Stroudwater River and its tributaries in Scarborough to Class B.
18. It clarifies that Trout Brook downstream of the first point where the brook becomes the town boundary between South Portland and Cape Elizabeth is Class C.
19. It upgrades the Pemaquid River in Bristol, including tributaries, below Pemaquid Pond from Class B to Class A.
20. It upgrades the classification of Black Brook, Kendall Brook and Tucker Brook in Lincolnville from Class B to Class A.
21. It upgrades the classification of tidal waters of The Basin, including The Narrows, east of a line drawn between 69°-51'-57" W. and 43°-48'-14" N. from Class SB to Class SA.
22. It provides for a report to the Joint Standing Committee on Natural Resources from the Department of Environmental Protection by January 15, 2010 concerning a review of reclassification procedures.