

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 427, L.D. 1296)

2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 1721

8 S.P. 598

In Senate, June 1, 1983

9 Reported by Majority Report from the Committee on Energy and Natural
10 Resources and printed under Joint Rule 2.

11 Original bill presented by Senator Kany of Kennebec. Cosponsored by
Representative Mitchell of Vassalboro, Representative Diamond of Bangor
and Representative Davis of Monmouth.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-THREE
17

18 AN ACT to Promote the Wise Use and
19 Management of Maine's Outstanding River
20 Resources.
21

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

24 Sec. 1. 12 MRSA c. 200 is enacted to read:

25 CHAPTER 200

26 MAINE'S RIVERS

27 §401. Maine's rivers

28 The Legislature finds:

29 1. Rivers and streams a natural resource. That
30 the State's nearly 32,000 miles of rivers and streams
31 comprise one of its most important natural resources,

1 historically vital to the state's commerce and indus-
2 try and to the quality of life enjoyed by Maine
3 people;

4 2. Increase in value of rivers and streams.
5 That the value of its rivers and streams has
6 increased in recent years due to the improvement in
7 the quality of their waters, the restoration of their
8 fisheries, the growth in demand for hydropower and
9 the expanding interest in river recreation activi-
10 ties, leading at times to conflict among these uses;

11 3. Use of rivers and streams. That its rivers
12 and streams afford the state's people with major
13 opportunities for the enjoyment of nature's beauty,
14 unique recreational activities and solace from an
15 industrialized society, as well as for economic
16 expansion through the development of hydropower, the
17 revitalization of waterfronts and ports and the
18 attraction of both tourists and desirable new indus-
19 tries; and

20 4. Policy. That the best interests of the
21 state's people are served by a policy which recog-
22 nizes the importance that their rivers and streams
23 have for meeting portions of several public needs,
24 provides guidance for striking a balance among the
25 various uses which affords the public maximum benefit
26 and seeks harmony rather than conflict among these
27 uses.

28 §402. Declaration of policy

29 In its role as trustee of the public waters, the
30 Legislature declares that the well-being of the citi-
31 zens of this State depends on striking a carefully
32 considered and well-reasoned balance among the com-
33 peting uses of the state's rivers and streams. Fur-
34 ther, the Legislature declares that such a balance
35 shall:

36 1. Restoration of water. Restore waters to a
37 condition clean enough to allow fishing and swimming
38 in all our rivers and streams;

39 2. Revitalization of waterfronts. Revitalize
40 waterfronts and ports;

1 3. Maintenance of scenic beauty. Maintain, even
2 in areas where development occurs, the scenic beauty
3 and character of our rivers;

4 4. Interests of riparian owners. Recognize and
5 respect the rightful interests of riparian owners;

6 5. Increase hydroelectric power. Increase the
7 hydroelectric power available to replace foreign oil
8 in the State;

9 6. Hydropower development. Streamline proce-
10 dures to facilitate hydropower development under
11 reasoned environmental, technical and public safety
12 constraints;

13 7. Fisheries. Restore anadromous fisheries and
14 improve the productivity of inland fisheries;

15 8. Recreation. Expand the opportunities for
16 outdoor recreation; and

17 9. Outstanding river stretches. Protect the
18 special resource values of the flowing waters and
19 shorelands of the State's most outstanding river
20 stretches, as identified by the Department of
21 Conservation's 1982 Maine Rivers Study and as spe-
22 cifically delineated in this chapter.

23 Further, the Legislature finds that with careful
24 planning our foreseeable needs for all of these uses
25 may be reasonably integrated harmoniously with one
26 another on the state's 32,000 miles of rivers and
27 streams.

28 §403. Special protection for outstanding rivers

29 The Legislature declares that certain rivers,
30 because of their unparalleled natural and recrea-
31 tional values, provide irreplaceable social and eco-
32 nomical benefits to the people in their existing state.
33 It is the Legislature's intent that no new dams be
34 constructed on these river and stream segments with-
35 out the specific authorization of the Legislature,
36 and that additional development or redevelopment of
37 dams existing on these segments, as of the date of
38 the enactment of this section, shall be designed and

1 executed in a manner that either enhances or does not
2 diminish the significant resource values of these
3 river segments identified by the 1982 Maine Rivers
4 Study. No license or permit under Title 38, sections
5 630 to 636 may be issued for construction of new dams
6 on the river and stream segments subject to this spe-
7 cial protection without the specific authorization of
8 the Legislature, or for additional development or
9 redevelopment of existing dams on the river and
10 stream segments subject to this special protection
11 where the additional development or redevelopment
12 diminishes the significant resource values of these
13 river and stream segments.

14 Further, the Legislature finds that projects
15 inconsistent with this policy on new dams and
16 redevelopment of existing dams will alter the phys-
17 ical and chemical characteristics and designated uses
18 of the waters of these river and stream segments. It
19 finds that these impacts are unacceptable and consti-
20 tute violations of the state's water quality stan-
21 dards. The Legislature directs that no project which
22 fails to meet the requirements of this section may be
23 certified under the United States Clean Water Act,
24 Section 401.

25 For purposes of this section, outstanding river
26 and stream segments meriting special protection shall
27 include:

28 1. Allagash River. The Allagash River from
29 Gerald Brook in Allagash up to but not including the
30 Churchill Dam in T.10, R.12, W.E.L.S., including its
31 tributaries the Musquacook Stream from the Allagash
32 River to the outlet of Third Musquacook Lake in T.
33 11, R. 11, W.E.L.S.; Allagash Stream from its inlet
34 to Chamberlain Lake to the outlet of Allagash Pond in
35 T.9, R.15, W.E.L.S.; and Chemguasabamticook Stream
36 from its inlet into Long Lake to the outlet of
37 Chemguasabamticook Lake, excluding Round Pond in
38 T.13, R.12, W.E.L.S., Harvey Pond, Long Lake,
39 Umsaskis Lake, Musquacook Lakes (1-2), Little Round
40 Pond in T.8, R.13, W.E.L.S., Allagash Lake and
41 Clayton Lake;

42 2. Aroostook River. The Aroostook River from
43 and including the Sheridan Dam in Ashland to

- 1 Millinocket Stream, including its tributaries
2 Millinocket Stream from the Aroostook River to the
3 outlet of Millinocket Lake; Munsungan Stream from the
4 Aroostook River to the outlet of Little Munsungan
5 Lake; St. Croix Stream from the Aroostook River to
6 Hall Brook in T.9, R.5, W.E.L.S.; and the Big Machias
7 River from the Aroostook River to the outlet of Big
8 Machias Lake, excluding Round Pond in T.7, R.9,
9 W.E.L.S.;
- 10 3. Dead River. The Dead River from the Kennebec
11 River to the upstream limit of Big Eddy;
- 12 4. Dennys River. The Dennys River from Hinckley
13 Point in Dennysville to the outlet of Meddybemps
14 Lake;
- 15 5. East Machias River. The East Machias River,
16 including the Maine River, from the Route 191 bridge
17 in East Machias to the outlet of Pocomoonshine Lake,
18 excluding Hadley Lake, Second Lake, Round Lake, Craw-
19 ford Lake, Lower Mud Lake and Upper Mud Lake;
- 20 6. Fish River. The Fish River from its inlet
21 into St. Froid Lake in T.14, R. 7, W.E.L.S. to the
22 outlet of Mud Pond in T.13, R. 8, W.E.L.S., excluding
23 Portage Lake, Round Pond and Fish River Lake.
- 24 7. Kennebec River. The Kennebec River from Bay
25 Point in Georgetown to the Father Curran Bridge in
26 Augusta and from the confluence of the Dead River
27 with the Kennebec River up to, but not including, the
28 Harris Dam in Indian Stream Township;
- 29 8. Machias River. The Machias River, including
30 Fourth and Fifth Lake Streams, from Fort O'Brien in
31 Machias to the outlet of Fifth Machias Lake, includ-
32 ing its tributaries the West Branch Machias River
33 from the Machias River to the outlet of Lower Sabao
34 Lake; Old Stream from the Machias River to the outlet
35 of First Lake; and Mopang Stream from the Machias
36 River to the outlet of Mopang Second Lake, excluding
37 Machias Lakes (1-4), Lower Pond and Mopang First
38 Lake;

1 9. Mattawamkeag River. The Mattawamkeag River
2 from the Penobscot River to the Mattawamkeag and
3 Kingman Township townline.

4 10. Moose River. The Moose River from its inlet
5 into Attean Pond to its confluence with Number One
6 Brook in Beattie Township;

7 11. Narraguagus River. The Narraguagus River
8 from the Route 1 bridge in Cherryfield to the outlet
9 of Eagle Lake, excluding Beddington Lake and Deer
10 Lake;

11 12. Penobscot River. The Penobscot River,
12 including the Eastern Channel, from Sandy Point in
13 Stockton Springs up to, but not including, the Veazie
14 Dam, including its tributaries the West Branch of the
15 Penobscot from its inlet into Ambajejus Lake to the
16 western boundary of T.3, R.10, and from its inlet
17 into Chesuncook Lake up to, but not including, the
18 dam at Seboomook Lake; the East Branch Penobscot
19 River from the Penobscot River up to, but not includ-
20 ing, the dam at the outlet of Grand Lake Matagamon;
21 the Wassataquoik Stream from the East Branch of the
22 Penobscot River to Annis Brook in T.4, R.9, W.E.L.S.;
23 the Webster Brook from its inlet into Grand Lake
24 Matagamon up to, but not including, Telos Dam in T.6,
25 R.11, W.E.L.S.; the Seboeis River from the East
26 Branch of the Penobscot River to the outlet of
27 Snowshoe Lake; and the Sawtelle Brook from the
28 Seboeis River up to, but not including, the dam at
29 the outlet of Sawtelle Deadwater, excluding
30 Passamagamet Lake, Webster Lake and White Horse Lake;
31 Snowshoe Lake;

32 13. Pleasant River. The Pleasant River from
33 Seavey Point in Addison to the outlet of Pleasant
34 River Lake;

35 14. Rapid River. The Rapid River from the
36 Magalloway Plantation and Upton townline to the
37 outlet of Pond in the River;

38 15. Saco River. The Saco River from the Little
39 Ossipee River to the New Hampshire border;

1 16. St. John River. The St. John River from one
2 mile above the foot of Big Rapids in Allagash to the
3 Baker Branch, including its tributaries the Big Black
4 River from the St. John River to the Canadian border;
5 the Northwest Branch from the St. John River to the
6 outlet of Beaver Pond in T.12, R.17, W.E.L.S.; the
7 Southwest Branch from the Baker Branch to 5 miles
8 downstream of the Canadian border; and the Baker
9 Branch from the St. John River to 1.5 miles below
10 Baker Lake;

11 17. Sheepscot River. The Sheepscot River from
12 the Route 1 bridge in Wiscasset to Halldale Road in
13 Montville, excluding Long Pond and Sheepscot Pond,
14 including its tributaries the West Branch of the
15 Sheepscot from its confluence with the Sheepscot
16 River in Whitefield to the outlet of Branch Pond in
17 China; and

18 18. West Branch Pleasant River. The West Branch
19 Pleasant River from the East Branch to the outlet of
20 Fourth West Branch Pond in Shawtown Township, exclud-
21 ing Silver Lake and West Branch Ponds (1-3).

22 §404. Maine Guarantee Authority

23 The Maine Guarantee Authority may not finance any
24 energy generating system project under Title 10,
25 chapter 110, if that project is located in whole or
26 in part on any river listed in section 403.

27 §405. St. Croix River

28 1. Special consideration. In consideration of
29 the special status of the St. Croix River as an
30 international boundary governed in part by the Inter-
31 national Joint Commission and the Province of New
32 Brunswick, the Legislature establishes the following
33 provisions.

34 2. Commercial, industrial or residential devel-
35 opment. Except as provided in this subsection, no
36 person may undertake any further commercial, indus-
37 trial or residential development in the area within
38 250 feet of the St. Croix River from the Grand Falls
39 flowage to the north end of Wingdam Island. The fol-
40 lowing activities shall be exempt from these provi-
41 sions:

1 A. Development of hydroelectric or other dams,
2 plants and related facilities or improvements
3 subject to the conditions described in subsection
4 3;

5 B. A bridge at Vanceboro;

6 C. A haul road from Grand Falls;

7 D. Activities and developments related to timber
8 harvesting, mining or extraction of sand and
9 gravel; and

10 E. Any recreational management activity con-
11 ducted or approved by the State.

12 3. New hydroelectric dams. No person may
13 develop new hydroelectric dams on the St. Croix River
14 from Grand Falls to the north end of Wingdam Island
15 without first:

16 A. Having performed a feasibility study by a
17 qualified consultant approved by the Governor to
18 examine the alternative potentials for hydropower
19 development downstream from Grand Falls and make
20 the findings available to the State for review;

21 B. Having consulted with the office of the Gov-
22 ernor or other agency of the State, designated by
23 him, regarding the feasibility of this downstream
24 development; and

25 C. Having determined that there exists no eco-
26 nomically feasible site downstream from Grand
27 Falls.

28 In the event that the State disagrees with any of the
29 assumptions, findings or conclusions of the economic
30 feasibility study, the comments of the State shall be
31 considered and responded to by the consultant. These
32 comments and the responses of the consultant shall be
33 noted in the final report of the economic feasibility
34 study.

35 4. Review. This section shall be reviewed every
36 5 years, and shall be repealed on January 1, 1988,
37 unless reenacted by the Legislature for an additional

1 5-year period. In the event that the St. Croix River
2 is included in any legislative Act or regulation
3 which directly or indirectly has as its effect the
4 essential prohibition of construction of new dams or
5 development or redevelopment of existing dams on the
6 St. Croix River, this section shall be repealed on
7 the effective date of that Act or regulation.

8 §406. Report

9 The State Planning Office shall provide a report
10 no later than December 1, 1986, to the Legislature
11 detailing the status of policy accomplishments pur-
12 suant to this chapter.

13 Sec. 2. 12 MRSA §4811, as amended by PL 1973, c.
14 564, §1, is further amended by adding after the first
15 paragraph a new paragraph to read:

16 It is further declared that, in accordance with
17 section 402, certain river and stream segments, as
18 identified in the Department of Conservation's 1982
19 Maine Rivers Study and as specifically delineated in
20 section 4811-B, are significant river segments and
21 deserve special shoreland zoning controls designed to
22 protect their natural and recreation features.

23 Sec. 3. 12 MRSA §4811-A, as enacted by PL 1973,
24 c. 564, §2, is repealed and the following enacted in
25 its place:

26 §4811-A. Definitions

27 As used in this chapter, unless the context indi-
28 cates otherwise, the following terms have the follow-
29 ing meanings.

30 1. Pond. "Pond" means any inland body of water
31 which has a surface area in excess of 10 acres,
32 except where the body of water is man-made and in ad-
33 dition is completely surrounded by land held by a
34 single owner, and except those privately owned ponds
35 which are held primarily as waterfowl and fish breed-
36 ing areas or for hunting and fishing.

37 2. Principal structure. "Principal structure"
38 means a building other than one which is used for

1 purposes wholly incidental or accessory to the use of
2 another building on the same premises.

3 3. River. "River" means a free flowing body of
4 water from that point at which it provides drainage
5 for a watershed of 25 square miles to its mouth.

6 4. Screening. "Screening" means a buffer strip
7 of vegetation retained between the permitted use and
8 the normal high water mark of a protected river
9 segment. Within this buffer strip, no clear cutting
10 is permitted, except that openings not greater than
11 30 feet in width for every 100 feet of shoreline may
12 be created. Selective cutting of no more than 40% of
13 the trees 4 inches or more in diameter measured at 4
14 1/2 feet above ground level is allowed in any 10-year
15 period, provided that a well-distributed stand of
16 trees remains.

17 Sec. 4. 12 MRSA §4811-B is enacted to read:

18 §4811-B. Significant river segments identified

19 For purposes of this chapter, significant river
20 segments include the following:

21 1. Aroostook River. The Aroostook River from
22 St. Croix Stream in Masardis to the Masardis and
23 T.10, R.6, W.E.L.S. townline, excluding segments in
24 T.9, R.5, W.E.L.S.; including its tributary the Big
25 Machias River from the Aroostook River in Ashland to
26 the Ashland and Garfield Plantation townlines;

27 2. Dennys River. The Dennys River from the
28 railroad bridge in Dennysville Station to the dam at
29 Meddybemps Lake, excluding the western shore in
30 Edmunds Township and No. 14 Plantation;

31 3. East Machias River. The East Machias River
32 from 1/4 of a mile above the Route 1 bridge in East
33 Machias to the East Machias and T.18, E.D., B.P.P.
34 townline, and from the T.19, E.D., B.P.P. and Wesley
35 townline to the outlet of Crawford Lake in Crawford,
36 excluding Hadley Lake;

37 4. Fish River. The Fish River from the bridge
38 in Fort Kent Mills to the Fort Kent and Wallagrass

1 Plantation townline, and from the Portage Lake and
2 T.14, R.6, townline to the Portage Lake and T.13,
3 R.7, W.E.L.S. townline, excluding Portgage Lake;

4 5. Machias River. The Machias River from the
5 Whitneyville and Machias townline to the Northfield
6 T.19, M.D., B.P.P. townline;

7 6. Mattawamkeag River. The Mattawamkeag River
8 from the outlet of Mattakeunk Stream in Winn to the
9 Mattawamkeag and Kingman Township townline, and from
10 the Reed Plantation and Bancroft townline to the East
11 Branch, including its tributaries the West Branch
12 from the Mattawamkeag River to the Haynesville T.3,
13 R.3, W.E.L.S. townline and from its inlet into Upper
14 Mattawamkeag Lake to the Route 2 bridge; the East
15 Branch from the Mattawamkeag River to the Haynesville
16 and Forkstown Township townline and from the T.4, R
17 3, W.E.L.S. and Oakfield townline to Red Bridge in
18 Oakfield; the Fish Stream from the Route 95 bridge in
19 Island Falls to the Crystal-Patten townline; and the
20 Baskehegan Stream from its inlet into Crooked Brook
21 Flowage in Danforth to the Danforth and Brookton
22 Township townline;

23 7. Narraguagus River. The Narraguagus River
24 from the ice dam above the railroad bridge in
25 Cherryfield to the Beddington and Devereaux Township
26 townline, excluding Beddington Lake;

27 8. East Branch of Penobscot. The East Branch of
28 the Penobscot from the Route 157 bridge in Medway to
29 the East Millinocket and Grindstone Township
30 townline;

31 9. Pleasant River. The Pleasant River from the
32 railroad bridge in Columbia Falls to the Columbia and
33 T.18, M.D., B.P.P. townline, and from the T.24, M.D.,
34 B.P.P. and Beddington townline to the outlet of
35 Pleasant River Lake;

36 10. Rapid River. The Rapid River from the
37 Magalloway Plantation and Upton townline to the
38 outlet of Pond in the River;

39 11. West Branch Pleasant River. The West Branch
40 Pleasant River from the East Branch to the Brownville
41 and Williamsburg Township townline; and

1 12. West Branch of Union River. The West Branch
2 of the Union River from the Route 9 bridge in Amherst
3 to the outlet of Great Pond in the Town of Great
4 Pond.

5 Sec. 5. 12 MRSA §§4815, 4816 and 4817 are
6 enacted to read:

7 §4815. Enforcement

8 Any person who orders or conducts any activity in
9 violation of a municipal ordinance adopted under this
10 chapter shall be subject to a civil forfeiture of not
11 less than \$100 nor more than \$1,000 for each offense.

12 The Attorney General, the district attorney or
13 the municipal officers may enforce ordinances adopted
14 under this chapter. The court may award municipali-
15 ties reasonable attorney fees for actions under this
16 section, and ordinances may provide that civil for-
17 feitures shall inure to the municipality.

18 No public utility, water district, sanitary dis-
19 trict or any utility company of any kind may install
20 services to any new structure located in a shoreland
21 area, as defined by section 4811, unless written
22 authorization attesting to the validity and currency
23 of all local permits required under this chapter has
24 been issued by the appropriate municipal officials.

25 §4816. Guidelines for shoreland zoning along sig-
26 nificant river segments

27 In addition to the guidelines adopted under
28 section 4812, the following guidelines for the pro-
29 tection of the shorelands shall apply along signifi-
30 cant river segments identified in section 4811-B.
31 These guidelines are intended to maintain the special
32 values of these particular river segments by protect-
33 ing their scenic beauty and undeveloped character.

34 1. New principal structures. New principal
35 structures, except for structures related to
36 hydropower facilities, shall be set back a minimum of
37 125 feet from the normal high-water mark of the
38 river. These structures shall be screened from the
39 river by existing vegetation.

1 2. New roads. Developers of new permanent
2 roads, except for those providing access to a struc-
3 ture or facility allowed in the 250-foot zone, shall
4 demonstrate that no reasonable alternative route out-
5 side of the zone exists. When roads must be located
6 within the zone, they shall be set back as far as
7 practicable from the normal high-water mark and
8 screened from the river by existing vegetation.

9 3. New gravel pits. Developers of new gravel
10 pits shall demonstrate that no reasonable mining site
11 outside of the zone exists. When gravel pits must be
12 located within the zone, they shall be set back as
13 far as practicable from the normal high-water mark
14 and no less than 75 feet and screened from the river
15 by existing vegetation.

16 §4817. Municipal ordinance review and certification

17 Each municipality with shorelands along signifi-
18 cant river segments, as identified in section 4811-B,
19 shall review the adequacy of the zoning on these
20 shorelands to protect the special values cited for
21 these river segments by the Department of
22 Conservation's 1982 Maine Rivers Study and for con-
23 sistency with the guidelines established under
24 section 4816. Prior to December 15, 1984, each such
25 municipality shall certify to the State Planning
26 Office either that its existing zoning for these
27 areas is at least as restrictive as the guidelines
28 established under section 4816, or that it has
29 amended its zoning for this purpose. This certifica-
30 tion shall be accompanied by the ordinances and
31 zoning maps covering these areas. Failure to accom-
32 plish the purposes of this subsection shall result in
33 adoption of suitable ordinances for these municipali-
34 ties, as provided for in section 4813.

35 Sec. 6. 12 MRSA §7776-A is enacted to read:

36 §7776-A. Special protection for outstanding river
37 segments

38 In accordance with section 402, outstanding river
39 segments shall include:

1 1. Aroostook River. The Aroostook River from
2 the Canadian border to the Masardis and T.10, R.6,
3 W.E.L.S. townline, excluding the segment in T.9, R.5,
4 W.E.L.S., including its tributaries the Big Machias
5 River from the Aroostook River to the Ashland and
6 Garfield Plantation townline and the St. Croix
7 Stream from the Aroostook River in Masardis to the
8 Masardis and T.9, R.5, W.E.L.S. townline;

9 2. Carrabassett River. The Carrabassett River
10 from the Kennebec River to the Carrabassett Valley
11 and Mt. Abram Township townline;

12 3. Crooked River. The Crooked River from its
13 inlet into Sebago Lake in Casco to the Waterford and
14 Albany Township townlines;

15 4. Dennys River. The Dennys River from the
16 railroad bridge in Dennysville Station to the outlet
17 of Meddybemps Lake, excluding the western shore in
18 Edmunds Township and No. 14 Plantation;

19 5. East Machias River. The East Machias River,
20 including the Maine River, from the old powerhouse in
21 East Machias to the East Machias and T.18, E.D.,
22 B.P.P. townline, from the T.19, E.D., B.P.P. and
23 Wesley townline to the outlet of Crawford Lake, and
24 from the No. 21 Plantation and Alexander townline to
25 the outlet of Pocomoonshine Lake, excluding Hadley
26 Lake, Lower Mud Pond and Upper Mud Pond;

27 6. Fish River. The Fish River from the bridge
28 in Fort Kent Mills to the Fort Kent and Wallagrass
29 Plantation townline, from the T.16, R.6, W.E.L.S.
30 and Eagle Lake townline to the Eagle Lake and
31 Winterville Plantation townline, and from the T.14,
32 R.6, W.E.L.S. and Portage Lake townline to the Por-
33 tagage Lake and T.13, R.7, W.E.L.S. townline, excluding
34 Portage Lake;

35 7. Kennebago River. The Kennebago River from
36 its inlet into Cupsuptic Lake to the Rangeley and
37 Lower Cupsuptic Township townline;

38 8. Kennebec River. The Kennebec River from the
39 Route 148 bridge in Madison to the Caratunk and The
40 Forks Plantation townline, excluding the western

1 shore in Concord Township, Pleasant Ridge Plantation
2 and Carrying Place Township, and excluding Wyman
3 Lake;

4 9. Machias River. The Machias River from the
5 Route 1 bridge to the Northfield and T.19, M.D.,
6 B.P.P. townline, including its tributaries the Old
7 Stream from the Machias River to the northern most
8 crossing of the Wesley and T.31, M.D., B.P.P.
9 townline, excluding the segments in T.25, M.D.,
10 B.P.P. and T.31, M.D., B.P.P.;

11 10. Mattawamkeag River. The Mattawamkeag River
12 from the Penobscot River to the Mattawamkeag and
13 Kingman Township townline, and from the Reed
14 Plantation and Bancroft townline to the East Branch,
15 including its tributaries the West Branch from the
16 Mattawamkeag River to the Haynesville and T.3, R.3,
17 W.E.L.S. townline and from its inlet into Upper
18 Mattawamkeag Lake in Island Falls to the Hersey and
19 Moro Plantation townline; the East Branch from the
20 Mattawamkeag River to the Haynesville and Forkstown
21 Township townline and from the T.4, R.3, W.E.L.S. and
22 Oakfield townline to the Smyrna and Dudley Township
23 townline; the Fish Stream for the West Branch of the
24 Mattawamkeag River to the Crystal and Patten
25 townline; the Molunkus Stream from the Silver Ridge
26 Township and Benedicta townline to the East Branch
27 Molunkus Stream; the Macwahoc Stream from the Silver
28 Ridge Township and Sherman townline to the outlet of
29 Macwahoc Lake; and the Baskehegan Stream from the
30 Mattawamkeag River to the Danforth and Brookton Town-
31 ship townline, and from the Brookton Township and
32 Topsfield townline to the Topsfield and Kossuth Town-
33 ship townline, excluding Baskehegan Lake and Crooked
34 Brook Flowage;

35 11. Narraguagus River. The Narraguagus River
36 from the ice dam above the railroad bridge in
37 Cherryfield to the Beddington and Devereaux Township
38 townline, excluding Beddington Lake;

39 12. Penobscot River. The Penobscot River from
40 the Bangor Dam in Bangor to the Veazie Dam and its
41 tributary the East Branch of the Penobscot from the
42 Penobscot River to the East Millinocket and
43 Grindstone Township townline;

1 13. Piscataquis River. The Piscataquis River
2 from the Penobscot River to the Monson and Blanchard
3 Plantation townline, including its tributaries the
4 East and West Branches of the Piscataquis River from
5 the Blanchard Plantation and Shirley townline to the
6 Shirley and Little Squaw Township townline; the
7 Seboeis Stream from its confluence with the
8 Piscataquis River in Howland to the Howland and
9 Mattamiscontis Township townline and from the
10 Mattamiscontis and Maxfield townline to the Maxfield
11 and Seboeis Plantation townline, excluding Shirley
12 Pond and West Shirley Bog;

13 14. Pleasant River. The Pleasant River from the
14 dam in Columbia Falls (formerly the Hathaway Dam) to
15 the Columbia and T.18, M.D., B.P.P. townline, and
16 from the T.24, M.D., B.P.P. and Beddington townline
17 to the outlet of Pleasant River Lake in Beddington;

18 15. Rapid River. The Rapid River from the
19 Magalloway Plantation and Upton townline to the
20 outlet of Pond in the River;

21 16. Saco River. The Saco River from the Little
22 Ossipee River to the New Hampshire border;

23 17. St. Croix River. The St. Croix River from
24 the cotton mill dam in Milltown to the Calais and
25 Baring Plantation townline, from the Baring
26 Plantation and Baileyville townline to the
27 Baileyville and Fowler Township townline, and from
28 the Lambert Lake Township and Vanceboro townline to
29 the outlet of Spednik Lake, excluding Woodland Lake
30 and Grand Falls Flowage;

31 18. St. George River. The St. George River from
32 the Route 90 bridge in Warren to the outlet of Lake
33 St. George in Liberty, excluding White Oak Pond,
34 Seven Tree Pond, Round Pond, Sennebec Pond, Trues
35 Pond, Stevens Pond and Little Pond;

36 19. St. John River. The St. John River from the
37 Hamlin Plantation and Van Buren townline to the Fort
38 Kent and St. John Plantation townline, and from the
39 St. John Plantation and St. Francis townline to the
40 Allagash and St. Francis townline;

1 20. Sandy River. The Sandy River from the
2 Kennebec River to the Madrid and Township E townline;

3 21. Sheepscot River. The Sheepscot River from
4 the Head Tide dam in Alna to the Halldale Road in
5 Montville, excluding Long Pond and Sheepscot Pond,
6 including its tributary the West Branch of the
7 Sheepscot from its confluence with the Sheepscot
8 River in Whitefield to the outlet of Branch Pond in
9 China;

10 22. West Branch Pleasant River. The West Branch
11 Pleasant River from the East Branch to the Brownville
12 and Williamsburg Township townline; and

13 23. West Branch Union River. The West Branch
14 Union River from the Route 181 bridge in Mariaville
15 to the outlet of Great Pond in the Town of Great
16 Pond.

17 Sec. 7. 12 MRSA §7777, sub-§1, as enacted by PL
18 1979, c. 420, §1, is amended to read:

19 1. Eligibility. In order to obtain a permit, an
20 applicant shall demonstrate to the satisfaction of
21 the commissioner that the proposed activity will not:

22 A. Unreasonably interfere with existing recrea-
23 tional and navigational uses;

24 B. Cause unreasonable soil erosion;

25 C. Unreasonably interfere with the natural flow
26 of any waters;

27 D. Unreasonably harm any wildlife habitat; and

28 E. Lower the quality of any waters.

29 If the proposed activity is a crossing of an out-
30 standing river segment, as identified in section
31 7776-A, the applicant shall demonstrate that no
32 reasonable alternative exists which would have less
33 adverse effect upon the natural and recreation fea-
34 tures of the river segment.

35 Sec. 8. 12 MRSA §7780, sub-§1, as enacted by PL
36 1979, c. 420, §1, is amended to read:

1 1. Public works and private crossing and dam
2 projects. Notwithstanding section 7776, that section
3 shall not apply to river, stream or brook crossings
4 in connection with public works projects which alter
5 not more than a total of 300 feet in any mile of
6 shore nor to private crossing or dam projects which
7 alter not more than a total of 100 feet in any mile
8 of shore. Alterations to both shores of the river,
9 stream or brook shall be combined in arriving at a
10 total shore footage. This exception shall not apply
11 to any project on outstanding river segments, as
12 identified in section 7776-A.

13 Sec. 9. 30 MRS A c. 203-A is enacted to read:

14 CHAPTER 203-A

15 RIVER CORRIDOR COMMISSIONS

16 §1961. River corridor commissions encouraged

17 1. Findings. The Legislature finds:

18 A. That the effectiveness of local governments
19 in implementing their responsibilities under
20 shoreland zoning can be enhanced by coordination
21 and cooperation among municipalities;

22 B. That river corridor commissions have proven
23 their effectiveness as one mechanism to bring
24 about such coordination and cooperation;

25 C. That additional river corridor commissions
26 are not likely to be formed without state
27 encouragement and incentives; and

28 D. That such cooperation serves state interests
29 as stated in Title 12, section 402 and chapter
30 424.

31 2. Purpose. It is the policy of the State to
32 encourage the formation of river corridor commis-
33 sions. The purpose of this law is to:

34 A. Clarify procedures for forming river corridor
35 commissions;

1 B. Delegate authority to the Commissioner of
2 Conservation to approve acceptable proposals to
3 form the river corridor commissions;

4 C. Grant additional powers to those river corri-
5 dor commissions beyond those provided for in
6 chapter 203; and

7 D. Provide a portion of the funding for the
8 operation of the river corridor commissions.

9 §1962. Definitions

10 As used in this chapter, unless the context indi-
11 icates otherwise, the following terms have the follow-
12 ing meanings.

13 1. Commission. "Commission" means a river cor-
14 ridor commission granted approval by the commissioner
15 under section 1963.

16 2. Commissioner. "Commissioner" means the Com-
17 missioner of Conservation.

18 3. Department. "Department" means the Depart-
19 ment of Conservation.

20 §1963. Approval of river corridor commissions

21 The commissioner may grant commission status and
22 all the privileges and powers enjoyed by the commis-
23 sions, as specified in this chapter, when he finds
24 that:

25 1. Occupation of shoreland by 2 or more munici-
26 palities. Two or more municipalities, which collec-
27 tively occupy enough of the shoreland on a river
28 segment to be effective in managing the shorelands of
29 the river, have entered into an agreement, pursuant
30 to the requirements of chapter 203, which satisfies
31 the requirements of section 1964;

32 2. Comprehensive plan. The same municipalities
33 have prepared a comprehensive plan which satisfies
34 the requirements of section 1965;

1 3. Ordinance. The same municipalities have pre-
2 pared an ordinance to implement the comprehensive
3 plan which satisfies the requirements of section
4 1966; and

5 4. Other commissions. No other commission
6 exists on the same river, or the distance between the
7 proposed and existing commissions makes the formation
8 of one larger commission impractical.

9 §1964. Interlocal agreement

10 In addition to the requirements of section 1953,
11 the interlocal agreement shall be consistent with
12 regulations adopted by the commissioner under the
13 Maine Administrative Procedure Act, Title 5, chapter
14 375. These regulations may include, but are not
15 limited to:

16 1. Minimum duration. The minimum duration of
17 the agreement;

18 2. Members; appointment. How members may be
19 appointed;

20 3. Municipal responsibilities for financing.
21 What the towns' responsibilities for financing the
22 commission are; and

23 4. Withdrawal. How and under what circumstances
24 towns may withdraw from the commission.

25 §1965. Comprehensive plan

26 The comprehensive plan shall be consistent with
27 rules adopted by the commissioner under the Maine
28 Administrative Procedure Act, Title 5, chapter 375.
29 These rules may include, but are not limited to:

30 1. Resources; problems. What resources or prob-
31 lems the plan must address;

32 2. Information; analyses. Information and anal-
33 yses the plan must contain; and

34 3. Specificity; clarity. The degree of
35 specificity and clarity sought in the plan.

1 §1966. Ordinance

2 The ordinance to implement the plan shall be at
3 least as restrictive as the state's guidelines for
4 municipal shoreland zoning ordinances and shall
5 supersede existing shoreland zoning ordinances. The
6 ordinance shall contain adequate procedures for pro-
7 cessing permit requests and for considering appeals
8 of a decision made by the commission.

9 §1967. Powers of a river corridor commission

10 Notwithstanding the provisions of section 1953,
11 subsection 6, an approved commission may exercise the
12 following powers:

13 1. Amendment to comprehensive plan. To amend
14 the comprehensive plan, after notice and hearing on
15 the proposed amendment in accordance with the Maine
16 Administrative Procedure Act, Title 5, chapter 375;

17 2. Adoption of rules, regulations or ordinances.
18 To adopt and amend rules, regulations or ordinances
19 covering an area up to 500 feet from the normal high-
20 water mark necessary to implement the comprehensive
21 plan, after notice and hearing on the proposed amend-
22 ment or adoption, in accordance with the Maine Admin-
23 istrative Procedure Act, Title 5, chapter 375;

24 3. Issuance of permits. To issue permits, sub-
25 ject to reasonable conditions for activities requir-
26 ing permits, or to deny permits pursuant to ordi-
27 nances and regulations adopted by the commission;

28 4. Fees. To assess fees for permit or variance
29 applications, or for any publications of the commis-
30 sion;

31 5. Suit. To sue and be sued; and

32 6. Enforcement. To enforce the rules, ordi-
33 nances or regulations of the commission by institu-
34 ting any lawful action, injunction or other proceed-
35 ing to prevent, restrain, correct or abate any viola-
36 tion of its rules, regulations or ordinances, and to
37 impose fines as permitted under Title 12, chapter
38 424.

1 §1968. Commission budget; financing; staff

2 The commission shall prepare and submit to the
3 commissioner a biennial budget sufficient to cover
4 its operating and other expenses. Provided the com-
5 mission continues to satisfy the requirements of
6 section 1963, the commissioner shall request funds to
7 match the funds raised by the commission. In no
8 event may the state contribution exceed \$25,000 for
9 any one commission in any year. The commission may
10 accept contributions of any type from any source to
11 assist it in carrying out its assigned tasks, and
12 make such agreements with respect to the administra-
13 tion of such funds, not inconsistent with the purpose
14 of this law, as are required as conditions precedent
15 to receiving such funds, federal or otherwise. Staff
16 of the commission shall not be considered employees
17 of the State.

18 §1969. Appeals to Superior Court

19 Except where otherwise specified by law, any
20 party or person aggrieved by any order or decision
21 of the commission may, within 30 days after notice of
22 the filing of that order or decision, appeal to the
23 Superior Court by filing a notice of appeal stating
24 the grounds for appeal. The appeals shall be taken
25 pursuant to Title 5, section 11001.

26 Sec. 10. 30 MRSA §4956, sub-§1, as repealed and
27 replaced by PL 1975, c. 475, §1, is amended by adding
28 at the end a new paragraph to read:

29 A "densely developed area" is defined as any com-
30 mercial, industrial or compact residential area of 10
31 or more acres with an existing density of at least
32 one principal structure per 2 acres. A principal
33 structure is defined as any building other than one
34 which is used for purposes wholly incidental or ac-
35 cessory to the use of another building on the same
36 premises.

37 Sec. 11. 30 MRSA §4956, sub-§1-A is enacted to
38 read:

39 1-A. Special protection for the shorelands of
40 outstanding river segments. In accordance with Title

- 1 12, section 402, outstanding river segments shall
2 include:
- 3 A. The Aroostook River from the Canadian border
4 to the Masardis and T.10, R.6, W.E.L.S. townline,
5 excluding the segment in T.9, R.5, W.E.L.S.;
- 6 B. The Carrabassett River from the Kennebec
7 River to the Carrabassett Valley and Mt. Abram
8 Township townline;
- 9 C. The Crooked River from its inlet into Sebago
10 Lake to the Waterford and Albany Township
11 townline;
- 12 D. The Damariscotta River from the Route 1
13 bridge in Damariscotta to the dam at Damariscotta
14 Mills;
- 15 E. The Dennys River from the Route 1 bridge to
16 the outlet of Meddybemps Lake, excluding the
17 western shore in Edmunds Township and No. 14
18 Plantation;
- 19 F. The East Machias River, including the Maine
20 River, from 1/4 of a mile above the Route 1
21 bridge to the East Machias and T.18, E.D., B.P.P.
22 townline, from the T.19, E.D., B.P.P. and Wesley
23 townline to the outlet of Crawford Lake, and from
24 the No. 21 Plantation and Alexander townline to
25 the outlet of Pocomoonshine Lake, excluding
26 Hadley Lake, Lower Mud Pond and Upper Mud Pond;
- 27 G. The Fish River from the bridge at Fort Kent
28 Mills to the Fort Kent and Wallagrass Plantation
29 townline, from the T.16, R.6, W.E.L.S. and Eagle
30 Lake townline to the Eagle Lake and Winterville
31 Plantation townline, and from the T.14, R.6,
32 W.E.L.S. and Portage Lake townline to the Portage
33 Lake and T.13, R.7, W.E.L.S. townline, excluding
34 Portage Lake;
- 35 H. The Kennebago River from its inlet into
36 Cupsuptic Lake to the Rangeley and Lower
37 Cupsuptic Township townline;

- 1 I. The Kennebec River from Thorns Head Narrows
2 in North Bath to the Edwards Dam in Augusta,
3 excluding Perkins Township, and from the Route
4 148 bridge in Madison to the Caratunk and The
5 Forks Plantation townline, excluding the western
6 shore in Concord Township, Pleasant Ridge
7 Plantation and Carrying Place Township and
8 excluding Wyman Lake;
- 9 J. The Machias River from the Route 1 bridge to
10 the Northfield and T.19, M.D., B.P.P. townline;
- 11 K. The Mattawamkeag River from the Penobscot
12 River to the Mattawamkeag and Kingman Township
13 townline, and from the Reed Plantation and
14 Bancroft townline to the East Branch in
15 Haynesville;
- 16 L. The Narraguagus River from the ice dam above
17 the railroad bridge in Cherryfield to the
18 Beddington and Devereaux Township townlines,
19 excluding Beddington Lake;
- 20 M. The Penobscot River, including the Eastern
21 Channel, from Sandy Point in Stockton Springs to
22 the Veazie Dam and its tributary the East Branch
23 of the Penobscot from the Penobscot River to the
24 East Millinocket and Grindstone Township
25 townline;
- 26 N. The Piscataquis River from the Penobscot
27 River to the Monson and Blanchard Plantation
28 townline;
- 29 O. The Pleasant River from the bridge in Addison
30 to the Columbia and T.18, M.D., B.P.P. townline,
31 and from the T.24, M.D., B.P.P. and Beddington
32 townline to the outlet of Pleasant River Lake;
- 33 P. The Rapid River from the Magalloway
34 Plantation and Upton townline to the outlet of
35 Pond in the River;
- 36 Q. The Saco River from the Little Ossipee River
37 to the New Hampshire border;

- 1 R. The St. Croix River from the Route 1 bridge
2 in Calais to the Calais and Baring Plantation
3 townline, from the Baring Plantation and
4 Baileyville townline to the Baileyville and
5 Fowler Township townline, and from the Lambert
6 Lake Township and Vanceboro townline to the
7 outlet of Spednik Lake, excluding Woodland Lake
8 and Grand Falls Flowage;
- 9 S. The St. George River from the Route 1 bridge
10 in Thomaston to the outlet of Lake St. George in
11 Liberty, excluding White Oak Pond, Seven Tree
12 Pond, Round Pond, Sennebec Pond, Trues Pond,
13 Stevens Pond and Little Pond;
- 14 T. The St. John River from the Van Buren and
15 Hamlin Plantation townline to the Fort Kent and
16 St. John Plantation townline, and from the St.
17 John Plantation and St. Francis townline to the
18 Allagash and St. Francis townline;
- 19 U. The Sandy River from the Kennebec River to
20 the Madrid and Township E townline;
- 21 V. The Sheepscot River from the railroad bridge
22 in Wiscasset to the Halldale Road in Montville,
23 excluding Long Pond and Sheepscot Pond, including
24 its tributary the West Branch of the Sheepscot
25 from its confluence with the Sheepscot River in
26 Whitefield to the outlet of Branch Pond in China;
- 27 W. The West Branch Pleasant River from the East
28 Branch in Brownville to the Brownville and
29 Williamsburg Township townline; and
- 30 X. The West Branch Union River from the Route
31 181 bridge in Mariaville to the outlet of Great
32 Pond in the Town of Great Pond.
- 33 Sec. 12. 30 MRSA §4956, sub-§3, ¶L, as repealed
34 and replaced by PL 1971, c. 454, is amended to read:
- 35 L. Whenever situated, in whole or in part,
36 within 250 feet of any pond, lake, river or tidal
37 waters, will not adversely affect the quality of
38 such that body of water or unreasonably affect
39 the shoreline of such that body of water.

1 Furthermore, when lots in a subdivision have
2 frontage on an outstanding river segment, as de-
3 defined in subsection 1-A, the proposed subdivision
4 plan shall require principal structures to have a
5 combined lot shore frontage and setback from the
6 normal high-water mark of 500 feet. To avoid
7 circumventing the intent of this provision, when-
8 ever a proposed subdivision adjoins a shoreland
9 strip narrower than 250 feet which is not lotted,
10 the proposed subdivision shall be reviewed as if
11 lot lines extended to the shore. These frontage
12 and set-back provisions shall not apply either
13 within areas zoned as general development or its
14 equivalent under shoreland zoning, Title 12,
15 section 4813, or within areas designated by ordi-
16 nance as densely developed. The determination of
17 which areas are densely developed shall be based
18 on a finding that, as of the effective date of
19 this Act, existing development meets the require-
20 ments of subsection 1.

21 Sec. 13. 33 MRS §668, first ¶, as enacted by PL
22 1969, c. 566, §2, is amended to read:

23 No conservation restriction as defined in section
24 667 held by any governmental body or held on a river
25 shoreline by a private nonprofit corporation of this
26 State, whose purposes include conservation of land or
27 water areas or of a particular such area, shall may
28 be unenforceable on account of lack of privity of
29 estate or contract or lack of benefit to particular
30 land or on account of the benefit being assignable or
31 being assigned to any other governmental body or, a
32 private nonprofit corporation of this State with like
33 purposes. All such restrictions shall be duly
34 recorded and indexed in the registry of deeds for the
35 county where the land lies so as to affect its title,
36 in the manner of other conveyances of interests in
37 land, and shall describe the land subject to said the
38 restrictions by adequate legal description or by refer-
39 ence to a recorded plan showing its boundaries.

40 Sec. 14. 38 MRS §621, as enacted by PL 1979, c.
41 465, is repealed.

42 Sec. 15. 38 MRS §622, as amended by PL 1981, c.
43 470, Pt. A, §168, is repealed.

1 Sec. 16. 38 MRSA §§623-625, as enacted by PL
2 1979, c. 465, are repealed.

3 Sec. 17. 38 MRSA §626, as amended by PL 1981, c.
4 470, Pt. A, §169, is repealed.

5 Sec. 18. 38 MRSA c. 5, sub-c. 1, Art. 1,
6 sub-art. 1-B is enacted to read:

7 Subarticle 1-B. Permits for hydropower projects

8 §630. Short title

9 This subarticle may be cited and referred to in
10 proceedings and agreements as the "Maine Waterway
11 Development and Conservation Act."

12 §631. Purposes

13 1. Findings. The Legislature finds and declares
14 that the surface waters of the State constitute a
15 valuable indigenous and renewable energy resource;
16 and that hydropower development utilizing these
17 waters is unique in its benefits and impacts to the
18 natural environment, and makes a significant contri-
19 bution to the general welfare of the citizens of the
20 State for the following reasons.

21 A. Hydropower is the state's only economically
22 feasible, large-scale energy resource which does
23 not rely on combustion of a fuel, thereby avoid-
24 ing air pollution, solid waste disposal problems
25 and hazards to human health from emissions,
26 wastes and by-products. Hydropower can be devel-
27 oped at many sites with minimal environmental
28 impacts, especially at sites with existing dams
29 or where current type turbines can be used.

30 B. Like all energy generating facilities,
31 hydropower projects can have adverse effects; in
32 contrast with other energy sources, they may also
33 have positive environmental effects. For
34 example, hydropower dams can control floods and
35 augment downstream flow to improve fish and wild-
36 life habitats, water quality and recreational
37 opportunities.

1 C. Hydropower is presently the state's most sig-
2 nificant indigenous resource that can be used to
3 free our citizens from their extreme dependence
4 on foreign oil for peaking power.

5 2. Policy and purpose. The Legislature declares
6 that hydropower justifies singular treatment. The
7 Legislature further declares that it is the policy of
8 the State to support and encourage the development of
9 hydropower projects by simplifying and clarifying re-
10 quirements for permits, while assuring reasonable
11 protection of natural resources and the public inter-
12 est in use of waters of the State. It is the purpose
13 of this subarticle to require a single application
14 and permit for the construction of all hydropower
15 projects and for the reconstruction or structural
16 alteration of certain projects, including water stor-
17 age projects. The permit application process shall
18 be administered by the Department of Environmental
19 Protection, except that, for hydropower projects
20 within the jurisdiction of the Maine Land Use Regula-
21 tion Commission, the commission shall administer the
22 permit application process under this subarticle.

23 §632. Definitions

24 As used in this subarticle, unless the context
25 indicates otherwise, the following terms have the
26 following meanings.

27 1. Board. "Board" means the Board of Environ-
28 mental Protection, except that, for any hydropower
29 project within the jurisdiction of the Maine Land Use
30 Regulation Commission, "board" means the Maine Land
31 Use Regulation Commission.

32 2. Department. "Department" means the Depart-
33 ment of Environmental Protection.

34 3. Hydropower project. "Hydropower project"
35 means any development which utilizes the flow of
36 water as a source of electrical or mechanical power
37 or which regulates the flow of water for the purpose
38 of generating electrical or mechanical power. A
39 hydropower project development includes all
40 powerhouses, dams, water conduits, transmission
41 lines, water impoundments, roads and other appurte-

1 nant works and structures that are part of the devel-
2 opment.

3 §633. Prohibition

4 1. Permit required. No person may initiate con-
5 struction or reconstruction of a hydropower project,
6 or structurally alter a hydropower project in ways
7 which change water levels or flows above or below the
8 dam, without first obtaining a permit from the board.

9 2. Exceptions. This subarticle shall not apply
10 to activities for which, prior to the effective date
11 of this Act, a permit or permits have been issued
12 pursuant to any of the following laws: Land use
13 regulation laws, Title 12, sections 681 to 689;
14 stream alteration laws, Title 12, sections 7776 to
15 7780; great ponds laws, sections 391 to 394; altera-
16 tion of coastal wetlands laws, sections 471 to 478;
17 site location of development laws, sections 481 to
18 490; and small hydroelectric generating facilities
19 laws, sections 621 to 626.

20 3. Exemptions. Normal maintenance and repair of
21 an existing and operating hydropower project shall be
22 exempt from this subarticle, provided that:

23 A. The activity does not involve any dredging or
24 filling below the normal high-water line of any
25 great pond, coastal wetland, river, stream or
26 brook; and

27 B. The activity does not involve any dredging or
28 filling on the land adjacent to any great pond,
29 coastal wetland, river, stream or brook such that
30 any dredged spoil, fill or structure may fall or
31 be washed into those waters.

32 §634. Permit requirements

33 1. Coordinated permit review. Permits required
34 under the following laws shall not be required by any
35 state agency for projects reviewed or exempted from
36 review under this subarticle: Land use regulation
37 laws, Title 12, sections 681 to 689; stream altera-
38 tion laws, Title 12, sections 7776 to 7780; great
39 ponds laws, sections 391 to 394; alteration of

1 coastal wetlands laws, sections 471 to 478; and site
2 location of development laws, sections 481 to 490.
3 Notwithstanding section 654, the board may attach
4 reasonable conditions consistent with this Act con-
5 cerning the operation of hydropower projects. The
6 board shall give written notice to the Commissioner
7 of Inland Fisheries and Wildlife and the Commis-
8 sioner of Marine Resources of the intent of any
9 applicant for a permit to construct a dam.

10 Issuance of a water quality certificate required
11 under the United States Water Pollution Control Act,
12 Section 401, shall be coordinated for the applicant
13 under this subarticle by the Department of Environ-
14 mental Protection. The issuance of a water quality
15 certificate shall be mandatory in every case where
16 the board approves an application under this
17 subarticle. The coordination function of the depart-
18 ment with respect to water quality certification
19 shall not include any proceedings or substantive cri-
20 teria in addition to those otherwise required by this
21 subarticle.

22 2. Application. An application for a permit re-
23 quired by section 633 shall be made on forms provided
24 by the board and shall be filed with the board.
25 Public notice of the filing shall be made as required
26 by the board.

27 3. Application review. Within 10 working days
28 of receiving a completed application, the Commis-
29 sioner of Environmental Protection or the Director of
30 the Maine Land Use Regulation Commission, as appro-
31 priate, shall notify the applicant of the official
32 date on which the application was accepted.

33 The commissioner or the director, as appropriate,
34 shall circulate the application among the Department
35 of Environmental Protection, Department of Conserva-
36 tion, Department of Inland Fisheries and Wildlife,
37 Department of Marine Resources, Department of Trans-
38 portation, Maine Historic Preservation Commission,
39 Office of Energy Resources, Public Utilities Commis-
40 sion and the municipal officials of the municipality
41 in which the project is located. The Office of
42 Energy Resources and the Public Utilities Commission
43 shall submit written comments on section 636, subsec-

1 tion 7, paragraph F. For projects within the juris-
2 isdiction of the Maine Land Use Regulation Commission,
3 the director may request and obtain technical assis-
4 tance and recommendations from the staff of the
5 department. The department shall respond to the
6 requests in a timely manner. The department's recom-
7 mendations shall be considered by the commission in
8 acting upon a project application.

9 §635. Board decision

10 The board shall, within 30 days of receipt of a
11 completed application, either:

12 1. Approval. Approve the proposed project upon
13 such terms and conditions as are appropriate and
14 reasonable to protect and preserve the environment
15 and the public's health, safety and general welfare,
16 including the public interest in replacing oil with
17 hydroelectric energy. These terms and conditions may
18 include, but are not limited to:

19 A. Establishment of a water level range for the
20 body of water impounded by a hydropower project;

21 B. Establishment of instantaneous minimum flows
22 for the body of water affected by a hydropower
23 project; and

24 C. Provision for the construction and mainte-
25 nance of fish passage facilities;

26 In those cases where the proposed project involves
27 maintenance, reconstruction or structural alteration
28 at an existing hydropower project and where the pro-
29 posed project will not alter historic water levels or
30 flows after its completion, the board may impose
31 temporary terms and conditions of approval relating
32 to paragraph A or paragraph B but shall not impose
33 permanent terms and conditions that alter historic
34 water levels or flows;

35 2. Disapproval. Disapprove the proposed proj-
36 ect, setting forth in writing the reasons for the
37 disapproval; or

1 3. Hearing. Schedule a hearing on the proposed
2 project. Any hearing held under this subsection
3 shall follow the notice requirements and procedures
4 for an adjudicatory hearing under Title 5, chapter
5 375, subchapter IV. Within 45 days after the board
6 adjourns any hearing held under this subsection, it
7 shall make findings of facts and issue an order
8 approving or disapproving the proposed project, as
9 provided in subsections 1 and 2.

10 §636. Approval criteria

11 The board shall approve a project when it finds
12 that the applicant has demonstrated that the follow-
13 ing criteria have been met.

14 1. Financial capability. The applicant has the
15 financial capability and technical ability to under-
16 take the project. In the event that the applicant is
17 unable to demonstrate financial capability, the board
18 may grant the permit contingent upon the applicant's
19 demonstration of financial capability prior to com-
20 mencement of the activities permitted.

21 2. Safety. The applicant has made adequate
22 provisions for protection of public safety.

23 3. Public benefits. The project will result in
24 significant economic benefits to the public, includ-
25 ing, but not limited to, creation of employment
26 opportunities for workers of the State.

27 4. Traffic movement. The applicant has made ad-
28 equately provisions for traffic movement of all types
29 out of or into the development area.

30 5. Maine Land Use Regulation Commission. Within
31 the jurisdiction of the Maine Land Use Regulation
32 Commission, the project is consistent with zoning
33 adopted by the commission.

34 6. Environmental mitigation. The applicant has
35 made reasonable provisions to realize the environ-
36 mental benefits of the project, if any, and to miti-
37 gate its adverse environmental impacts.

1 7. Environmental and energy considerations. The
2 advantages of the project are greater than the direct
3 and cumulative adverse impacts over the life of the
4 project based upon the following considerations:

5 A. Whether the project will result in signifi-
6 cant benefit or harm to soil stability, water
7 quality, coastal and inland wetlands or the natu-
8 ral environment of any surface waters and their
9 shorelands;

10 B. Whether the project will result in signifi-
11 cant benefit or harm to fish and wildlife
12 resources. In making its determination, the
13 board shall consider other existing uses of the
14 watershed and fisheries management plans adopted
15 by the Department of Inland Fisheries and Wild-
16 life, the Department of Marine Resources and the
17 Atlantic Sea Run Salmon Commission;

18 C. Whether the project will result in signifi-
19 cant benefit or harm to historic and
20 archeological resources;

21 D. Whether the project will result in signifi-
22 cant benefit or harm to the public rights of ac-
23 cess to and use of the surface waters of the
24 State for navigation, fishing, fowling, recrea-
25 tion and other lawful public uses;

26 E. Whether the project will result in signifi-
27 cant flood control benefits or flood hazards; and

28 F. Whether the project will result in signifi-
29 cant hydroelectric energy benefits, including the
30 increase in generating capacity and annual energy
31 output resulting from the project, and the amount
32 of nonrenewable fuels it would replace.

33 The board shall make a written finding of fact with
34 respect to the nature and magnitude of the impact of
35 the project on each of the considerations under this
36 subsection, and a written explanation of their use of
37 these findings in reaching their decision.

38 Sec. 19. Commission on Local Land Use Viola-
39 tions. Swift effective enforcement against suspected

1 violations of land use laws and ordinances is essen-
2 tial to the intended purpose of these statutes, but
3 it is commonly asserted that the court system is not
4 being used effectively, especially by small towns, to
5 resolve these cases. There is created a Commission
6 on Local Land Use Violations, known in this section
7 as the "commission."

8 The commission shall be composed of 11 members as
9 follows: Two members appointed by the President of
10 the Senate, one to be a member of the Joint Standing
11 Committee on Energy and Natural Resources and one to
12 be a Senator knowledgeable about land use issues; 2
13 members appointed by the Speaker of the House of
14 Representatives, one to be a member of the Joint
15 Standing Committee on Judiciary and one to be a
16 Representative knowledgeable about land use issues;
17 and 7 members appointed by the Governor, one to be a
18 local elected official, one to be an appointed local
19 official, one to be a representative of the court
20 system, one to be a representative of the Maine Asso-
21 ciation of Planners, one to be a representative of
22 the Maine Bar Association, one to represent real
23 estate interests, and one to be a representative of
24 the general public, knowledgeable about land use
25 issues. The commission shall hold an organizational
26 meeting within 30 days after the adjournment of the
27 Legislature at the call of the Chairman of the Legis-
28 lative Council. At this meeting, the commission
29 shall elect a chairman and a vice-chairman from
30 within the membership.

31 The commission shall review the use of the
32 state's court system to resolve suspected violations
33 of local ordinances under the mandatory shoreland
34 zoning laws, Title 12, chapter 424; the subdivision
35 laws Title 30, section 4956; the state plumbing laws,
36 Title 22, section 42; and other land use laws
37 enforced by municipalities. This review shall exam-
38 ine the extent to which such local ordinances are or
39 are not being adequately enforced, especially by
40 small towns, where court action appears to provide
41 the only existing appropriate recourse. The commis-
42 sion shall determine the causes for any problems
43 uncovered and document examples to support its find-
44 ings. The commission shall evaluate alternatives to
45 the existing court procedures, including the estab-

1 lishment of a statewide system of land use hearing
2 examiners. The commission shall make recommendations
3 to secure just, swift, inexpensive and effective
4 resolution of suspected land use violation cases,
5 especially by small towns, without creating unreason-
6 able burdens for the state's courts system.

7 The commission shall report its findings,
8 together with any suggested legislation, to the
9 Second Regular Session of the 111th Legislature on or
10 before January 13, 1984.

11 The State Planning Office and the Division of
12 Health Engineering in the Department of Human Ser-
13 vices shall provide staff support to the commission
14 and administer its functions.

15 All executive departments are directed to give
16 prompt assistance to the commission.

17 The commission may accept funds from any agency
18 of the United States.

19 STATEMENT OF FACT

20 This new draft creates state policy to balance
21 the competing uses of Maine's rivers and provides the
22 mechanisms necessary to implement this policy. It
23 includes amendments to 4 existing statutes which gov-
24 ern activities in the flowing waters and on the
25 shorelands of the state's rivers and streams, includ-
26 ing the mandatory shoreland zoning statute, the
27 alteration of rivers, streams and brooks statute, the
28 subdivision statute, and the statute which governs
29 conservation easements. It creates new statutes to
30 encourage municipalities to form river corridor com-
31 missions and to consolidate the state's regulatory
32 procedures for the development of hydroelectric
33 generating facilities.

34 Maine's River Resources Policy

35 Section 1 provides a declaration of state policy
36 on the appropriate uses of Maine's river resources
37 and prohibits the permitting or licensing of new dams
38 on 1,051 miles of 18 outstanding river segments. The

1 Maine Guarantee Authority is prohibited from financ-
2 ing any hydropower projects on these river segments.
3 It also establishes that additional development or
4 redevelopment of existing dams on these river seg-
5 ments must not adversely affect the resource values
6 of the rivers, sets special protection for the St.
7 Croix, because of its status as an international
8 boundary, and requires the State Planning Office to
9 provide a report to the Legislature by December 1,
10 1986, detailing accomplishments made to implement
11 this policy.

12 Shoreland Zoning

13 Section 2 amends the shoreland zoning statute's
14 declaration of policy to acknowledge that certain
15 river segments deserve special treatment because of
16 their outstanding resource values.

17 Section 3 provides definitions for rivers used in
18 this chapter.

19 Section 4 provides a list of the 152.5 miles of
20 significant river segments subject to these amend-
21 ments to the statute.

22 Section 5 creates 3 new sections, Title 12, sec-
23 tions 4815 to 4817, dealing with shoreland zoning.

24 Title 12, section 4815, requires written authori-
25 zation from municipal officials prior to the
26 installation of public utilities in any new structure
27 in an area under shoreland zoning. This section also
28 allows the Attorney General to take action to enjoin
29 suspected violations, and permits judges to award
30 attorneys' fees to municipalities which prevail in a
31 court action involving violation of a shoreland
32 zoning ordinance.

33 Title 12, section 4816, establishes guidelines
34 for new permanent structures, roads and gravel pits
35 for use by towns to protect the special values of the
36 shorelands of the significant river segments identi-
37 fied in section 4.

38 Title 12, section 4817, establishes a procedure
39 similar to that followed in the original shoreland

1 zoning process for review and certification of local
2 zoning ordinances by December 15, 1984, or, if the
3 municipality fails to adopt an adequate local zoning
4 ordinance, imposition of a state minimum zoning ordi-
5 nance.

6 Alteration of Rivers, Streams and Brooks

7 Section 6 provides a list of the 720 miles of
8 outstanding river segments subject to these amend-
9 ments to the statutes.

10 Section 7 requires applicants for permits on the
11 listed river segments to demonstrate that there is no
12 reasonable alternative to the proposed alteration
13 which would have a less adverse effect upon the sig-
14 nificant resource values of these river segments.

15 Section 8 removes the present exemption from
16 permit requirements for specific types of projects,
17 if the projects are proposed on any of the listed
18 river segments.

19 River Corridor Commissions

20 Section 9 provides for the establishment of river
21 corridor commissions by creating Title 30, chapter
22 203-A.

23 Title 30, section 1961, provides an introduction
24 and a statement of purpose for the establishment of
25 river corridor commissions.

26 Title 30, section 1962, defines terms used in
27 Title 30, chapter 203-A.

28 Title 30, section 1963, empowers the Commissioner
29 of Conservation to grant river corridor commission
30 status, privileges and powers under specified circum-
31 stances, including an acceptable interlocal agree-
32 ment, comprehensive plan and shoreland zoning ordi-
33 nance.

34 Title 30, section 1964, allows the commissioner
35 to draft regulations for interlocal agreements estab-
36 lishing river corridor commissions.

1 Title 30, section 1965, empowers the commissioner
2 to establish regulations for approval of a proposed
3 commission's comprehensive plan.

4 Title 30, section 1966, specifies that a commis-
5 sion's zoning ordinance must be at least as restric-
6 tive as the state's guidelines for municipal shore-
7 land zoning ordinances.

8 Title 30, section 1967, enumerates powers which
9 an approved commission may exercise, beyond those
10 specified in the interlocal agreement statute. Under
11 this provision, a commission may extend the jurisdic-
12 tion for its zoning ordinance to 500 feet from the
13 normal high-water mark.

14 Title 30, section 1968, requires commissions to
15 submit a biennial budget to the Commissioner of Con-
16 servation for approval. The commissioner will
17 request state matching support for an approved river
18 corridor commission up to \$25,000 per year. A com-
19 mission may accept other funds, including federal
20 funds, for its budget. Commission employees will not
21 be state employees.

22 Title 30, section 1969, provides for appeals by
23 aggrieved parties to the Superior Court of any order
24 or decision by a commission.

25 Subdivision of Land

26 Section 10 provides definitions of additional
27 terms used in these amendments to the statute.

28 Section 11 provides a list of 701 miles of out-
29 standing river segments in municipalities subject to
30 these amendments to the statute.

31 Section 12 provides that plans for any new sub-
32 divisions with lots fronting on or within 250 feet of
33 any river segments listed in section 1 require prin-
34 cipal structures on such shorefront lots to have a
35 combined lot shore frontage and setback from the
36 normal high-water mark of 500 feet. This provision
37 does not apply to new subdivisions in densely devel-
38 oped areas.

1 Enforcement of Conservation Restrictions
2 on River Shorelands

3 Section 13 amends the statute governing the
4 registry of deeds to allow private nonprofit corpora-
5 tions to hold or administer conservation easements on
6 property with river shore frontage without having to
7 own an appurtenant property in fee simple.

8 Permits for Hydropower Projects

9 Sections 14 to 17 repeal the subarticle providing
10 for licensing of small hydroelectric generating
11 facilities.

12 Section 18 enacts the new Maine Waterway Develop-
13 ment and Conservation Act, Title 38, sections 630 to
14 636.

15 Section 630 establishes the title of the Act.

16 Section 631 is a declaration of the Legislature's
17 purposes in enacting this subarticle.

18 Section 632 contains definitions of terms used in
19 this statute. The definition of "hydropower project"
20 covers all hydroelectric generating facilities,
21 hydromechanical facilities and nongenerating water
22 storage facilities in their entirety.

23 Section 633 requires a permit for the construc-
24 tion or reconstruction of any hydropower project.
25 Hydropower activities previously approved under the
26 various statutes that regulated hydropower develop-
27 ment prior to the effective date of this Act and cer-
28 tain normal maintenance and repair activities under-
29 taken at existing and operating hydropower projects
30 are exempt from this permit requirement.

31 Section 634 lists the regulatory statutes that
32 are replaced, for the purposes of hydropower permit-
33 ting, by this Act. All construction, reconstruction
34 and structural alteration of hydropower projects is
35 subject to the sole jurisdiction of this Act. This
36 section requires coordination of notification and
37 review under other state and federal statutes and
38 establishes an application review process.

1 Section 635 outlines the actions which may be
2 taken by the Board of Environmental Protection or the
3 Maine Land Use Regulation Commission, as appropriate,
4 on an application for a permit, and specifically
5 establishes regulatory jurisdiction over water
6 levels, water flows and fish passage.

7 Section 636 establishes the criteria for project
8 approval. This section requires that a project be
9 approved only when 7 review criteria have been met.

10 Commission on Local Land Use Violations

11 Section 19 establishes a Commission on Local Land
12 Use Violations to review the use of the state's court
13 system to resolve violations of local ordinances
14 enacted under the mandatory shoreland zoning laws,
15 the subdivision laws, the state plumbing laws and
16 other land use laws. The commission will identify
17 problems with the existing system and document its
18 findings. The commission is to evaluate alternative
19 remedies, including the establishment of a statewide
20 system of land use hearing examiners. The commission
21 will report to the next session of the Legislature
22 and may recommend legislation. The State Planning
23 Office will provide staff support and other assis-
24 tance to the commission. There will be no cost to
25 the General Fund from this commission.

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