

# MAINE STATE LEGISLATURE

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

3 FIRST REGULAR SESSION  
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE  
6

7 Legislative Document

No. 1722

8  
9 S.P. 599

In Senate, June 1, 1983

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

12 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

13  
14 STATE OF MAINE  
15

16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-THREE  
18

19 AN ACT Relating to the  
20 Management of Maine's Outstanding  
21 Rivers.  
22

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

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

26 CHAPTER 200

27 MAINE'S RIVERS

28 §401. Maine's rivers

29 The Legislature finds:

30 1. Rivers and streams a natural resource. That  
31 the State's nearly 32,000 miles of rivers and streams

1 comprise one of its most important natural resources,  
2 historically vital to the state's commerce and indus-  
3 try and to the quality of life enjoyed by Maine  
4 people;

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

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

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

29 §402. Declaration of policy

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

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

40 2. Revitalization of waterfronts. Revitalize  
41 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  
6 dams on the river and stream segments subject to this  
7 special protection without the specific authorization  
8 of 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 physical  
17 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 constitute  
20 violations of the state's water quality standards.  
21 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 Chemquasabamticook Stream  
36 from its inlet into Long Lake to the outlet of  
37 Chemquasabamticook 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; and the Shin Brook  
30 from the Seboeis River to the outlet of lower Shin  
31 Pond, excluding Passamagamet Lake, Webster Lake and  
32 White Horse Lake;

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

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

39           15. Saco River. The Saco River from the Little  
40 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 §685-A, sub-§6-A is enacted to  
14 read:

15 §6-A. River shoreland zoning in plantations. No  
16 land use standards stricter than those provisions  
17 contained in section 4816 may be applied to the sig-  
18 nificant or outstanding river segments within planta-  
19 tions.

20 Sec. 3. 12 MRSA §4811, as amended by PL 1973, c.  
21 564, §1, is further amended by adding after the first  
22 paragraph a new paragraph to read:

23 It is further declared that, in accordance with  
24 section 402, certain river and stream segments, as  
25 identified in the Department of Conservation's 1982  
26 Maine Rivers Study and as specifically delineated in  
27 section 4811-B, are significant river segments and  
28 deserve special shoreland zoning controls designed to  
29 protect their natural and recreation features.

30 Sec. 4. 12 MRSA §4811-A, as enacted by PL 1973,  
31 c. 564, §2, is repealed and the following enacted in  
32 its place:

33 §4811-A. Definitions

34 As used in this chapter, unless the context indi-  
35 cates otherwise, the following terms have the follow-  
36 ing meanings.

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

8           2. Principal structure. "Principal structure"  
9 means a building other than one which is used for  
10 purposes wholly incidental or accessory to the use of  
11 another building on the same premises.

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

15           4. Screening. "Screening" means a buffer strip  
16 of vegetation retained between the permitted use and  
17 the normal high water mark of a protected river  
18 segment. Within this buffer strip, no clear cutting  
19 is permitted, except that openings not greater than  
20 30 feet in width for every 100 feet of shoreline may  
21 be created. Selective cutting of no more than 40% of  
22 the trees 4 inches or more in diameter measured at 4  
23 1/2 feet above ground level is allowed in any 10-year  
24 period, provided that a well-distributed stand of  
25 trees remains.

26           Sec. 5. 12 MRSA §§4811-B and 4811-C are enacted  
27 to read:

28           §4811-B. Significant river segments identified

29           For purposes of this chapter, significant river  
30 segments include the following:

31           1. Aroostook River. The Aroostook River from  
32 St. Croix Stream in Masardis to the Masardis and  
33 T.10, R.6, W.E.L.S. townline, excluding segments in  
34 T.9, R.5, W.E.L.S.; including its tributary the Big  
35 Machias River from the Aroostook River in Ashland to  
36 the Ashland and Garfield Plantation townlines;

37           2. Dennys River. The Dennys River from the  
38 railroad bridge in Dennysville Station to the dam at  
39 Meddybemps Lake, excluding the western shore in  
40 Edmunds Township and No. 14 Plantation;

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

7           4. Fish River. The Fish River from the bridge  
8 in Fort Kent Mills to the Fort Kent and Wallgrass  
9 Plantation townline, and from the Portage Lake and  
10 T.14, R.6, townline to the Portage Lake and T.13,  
11 R.7, W.E.L.S. townline, excluding Portgage Lake;

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

15           6. Mattawamkeag River. The Mattawamkeag River  
16 from the outlet of Mattakeunk Stream in Winn to the  
17 Mattawamkeag and Kingman Township townline, and from  
18 the Reed Plantation and Bancroft townline to the East  
19 Branch, including its tributaries the West Branch  
20 from the Mattawamkeag River to the Haynesville T.3,  
21 R.3, W.E.L.S. townline and from its inlet into Upper  
22 Mattawamkeag Lake to the Route 2 bridge; the East  
23 Branch from the Mattawamkeag River to the Haynesville  
24 and Forkstown Township townline and from the T.4, R  
25 3, W.E.L.S. and Oakfield townline to Red Bridge in  
26 Oakfield; the Fish Stream from the Route 95 bridge in  
27 Island Falls to the Crystal-Patten townline; and the  
28 Baskehegan Stream from its inlet into Crooked Brook  
29 Flowage in Danforth to the Danforth and Brookton  
30 Township townline;

31           7. Narraguagus River. The Narraguagus River  
32 from the ice dam above the railroad bridge in  
33 Cherryfield to the Beddington and Devereaux Township  
34 townline, excluding Beddington Lake;

35           8. East Branch of Penobscot. The East Branch of  
36 the Penobscot from the Route 157 bridge in Medway to  
37 the East Millinocket and Grindstone Township  
38 townline;

39           9. Pleasant River. The Pleasant River from the  
40 railroad bridge in Columbia Falls to the Columbia and  
41 T.18, M.D., B.P.P. townline, and from the T.24, M.D.,

1 B.P.P. and Beddington townline to the outlet of  
2 Pleasant River Lake;

3 10. Rapid River. The Rapid River from the  
4 Magalloway Plantation and Upton townline to the  
5 outlet of Pond in the River;

6 11. West Branch Pleasant River. The West Branch  
7 Pleasant River from the East Branch to the Brownville  
8 and Williamsburg Township townline; and

9 12. West Branch of Union River. The West Branch  
10 of the Union River from the Route 9 bridge in Amherst  
11 to the outlet of Great Pond in the Town of Great  
12 Pond.

13 §4811-C. Outstanding river segments

14 For the purposes of this chapter, outstanding  
15 river segments include the following:

16 1. Aroostook River. The Aroostook River from  
17 the Canadian border to the Masardis and T.10, R.6,  
18 W.E.L.S. townline, excluding the segment in T.9, R.5,  
19 W.E.L.S.;

20 2. Carrabassett River. The Carrabassett River  
21 from the Kennebec River to the Carrabassett Valley  
22 and Mt. Abram Township townline;

23 3. Crooked River. The Crooked River from its  
24 inlet into Sebago Lake to the Waterford and Albany  
25 Township townline;

26 4. Damariscotta River. The Damariscotta River  
27 from the Route 1 bridge in Damariscotta to the dam at  
28 Damariscotta Mills;

29 5. Dennys River. The Dennys River from the  
30 Route 1 bridge to the outlet of Meddybemps Lake,  
31 excluding the western shore in Edmunds Township and  
32 No 14 Plantation;

33 6. East Michias River. The East Machias River,  
34 including the Maine River, from 1/4 of a mile above  
35 the Route 1 bridge to the East Machias and T.18,  
36 E.D., B.P.P. townline, from the T.19, E.D., B.P.P.

1 and Wesley townline to the outlet of Crawford Lake,  
2 and from the No. 21 Plantation and Alexander townline  
3 to the outlet of Pocomoonshine Lake, excluding Hadley  
4 Lake, Lower Mud Pond and Upper Mud Pond;

5       7. Fish River. The Fish River from the bridge  
6 at Fort Kent Mills to the Fort Kent and Wallagrass  
7 Plantation townline, from the T.16, R.6, W.E.L.S. and  
8 Eagle Lake townline to the Eagle Lake and  
9 Winterville Plantation townline, and from the T.14,  
10 R.6, W.E.L.S. and Portage Lake townline to the Por-  
11 tagage Lake and T.13, R.7, W.E.L.S. townline, excluding  
12 Portage Lake;

13       8. Kennebago River. The Kennebago River from  
14 its inlet into Cupsuptic Lake to the Rangeley and  
15 Lower Cupsuptic Township townline;

16       9. Kennebec River. The Kennebec River from  
17 Thorns Head Narrows in North Bath to the Edwards Dam  
18 in Augusta, excluding Perkins Township, and from the  
19 Route 148 bridge in Madison to the Caratunk and The  
20 Forks Plantation townline, excluding the western  
21 shore in Concord Township, Pleasant Ridge Plantation  
22 and Carrying Place Township and excluding Wyman Lake;

23       10. Machias River. The Machias River from the  
24 Route 1 bridge to the Northfield and T.19, M.D.,  
25 B.P.P. townline;

26       11. Mattawamkeag River. The Mattawamkeag River  
27 from the Penobscot River to the Mattawamkeag and  
28 Kingman Township townline, and from the Reed  
29 Plantation and Bancroft townline to the East Branch  
30 in Haynesville;

31       12. Narraguagus River. The Narraguagus River  
32 from the ice dam above the railroad bridge in  
33 Cherryfield to the Beddington and Devereaux Township  
34 townlines, excluding Beddington Lake;

35       13. Penobscot River. The Penobscot River,  
36 including the Eastern Channel, from Sandy Point in  
37 Stockton Springs to the Veazie Dam and its tributary  
38 the East Branch of the Penobscot from the Penobscot  
39 River to the East Millinocket and Grindstone Township  
40 townline;

- 1           14. Piscataquis River. The Piscataquis River  
2 from the Penobscot River to the Monson and Blanchard  
3 Plantation townline;
- 4           15. Pleasant River. The Pleasant River from the  
5 bridge in Addison to the Columbia and T.18, M.D.,  
6 B.P.P. townline, and from the T.24, M.D., B.P.P. and  
7 Beddington townline to the outlet of Pleasant River  
8 Lake;
- 9           16. Rapid River. The Rapid River from the  
10 Magalloway Plantation and Upton townline to the  
11 outlet of Pond in the River;
- 12           17. Saco River. The Saco River from the Little  
13 Ossipee River to the New Hampshire border;
- 14           18. St. Croix River. The St. Croix River from  
15 the Route 1 bridge in Calais to the Calais and Baring  
16 Plantation townline, from the Baring Plantation and  
17 Baileyville townline to the Baileyville and Fowler  
18 Township townline, and from the Lambert Lake Township  
19 and Vanceboro townline to the outlet of Spednik Lake,  
20 excluding Woodland Lake and Grand Falls Flowage;
- 21           19. St. George River. The St. George River from  
22 the Route 1 bridge in Thomaston to the outlet of Lake  
23 St. George in Liberty, excluding White Oak Pond,  
24 Seven Tree Pond, Round Pond, Sennebec Pond, Trues  
25 Pond, Stevens Pond and Little Pond;
- 26           20. St. John River. The St. John River from the  
27 Van Buren and Hamlin Plantation townline to the Ft.  
28 Kent and St. John Plantation townline, and from the  
29 St. John Plantation and St. Francis townline to the  
30 Allagash and St. Francis townline;
- 31           21. Sandy River. The Sandy River from the  
32 Kennebec River to the Madrid and Township E townline;
- 33           22. Sheepscot River. The Sheepscot River from  
34 the railroad bridge in Wiscasset to the Halldale Road  
35 in Montville, excluding Long Pond and Sheepscot Pond,  
36 including its tributary the West Branch of the  
37 Sheepscot from its confluence with the Sheepscot  
38 River in Whitefield to the outlet of Branch Pond in  
39 China;

1           23. West Branch Pleasant River. The West Branch  
2 Pleasant River from the East Branch in Brownville to  
3 the Brownville and Williamsburg Township townline;  
4 and

5           24. West Branch Union River. The West Branch  
6 Union River from the Route 181 bridge in Mariaville  
7 to the outlet of Great Pond in the Town of Great  
8 Pond.

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

11       §4815. Enforcement

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

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

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

29       §4816. Guidelines for shoreland zoning along sig-  
30 nificant and outstanding river segments

31           1. Additional guidelines. In addition to the  
32 guidelines adopted under section 4812, the following  
33 guidelines for the protection of the shorelands shall  
34 apply. These guidelines are intended to maintain the  
35 special values of these particular river segments by  
36 protecting their scenic beauty and undeveloped char-  
37 acter.



1           2. Significant river segments. The following  
2 requirements shall apply to significant river seg-  
3 ments identified in section 4811-B.

4           A. New principal structures, except for struc-  
5 tures related to hydropower facilities, shall be  
6 set back a minimum of 100 feet from the normal  
7 high-water mark of the river. These structures  
8 shall be screened from the river by existing  
9 vegetation.

10           B. Developers of new permanent roads, except for  
11 those providing access to a structure or facility  
12 allowed in the 250-foot zone, shall demonstrate  
13 that no reasonable alternative route outside of  
14 the zone exists. When roads must be located  
15 within the zone, they shall be set back as far as  
16 practicable from the normal high-water mark and  
17 screened from the river by existing vegetation.

18           C. Developers of new gravel pits shall demon-  
19 strate that no reasonable mining site outside of  
20 the zone exists. When gravel pits must be locat-  
21 ed within the zone, they shall be set back as far  
22 as practicable from the normal high-water mark  
23 and no less than 75 feet and screened from the  
24 river by existing vegetation.

25           3. Outstanding river segments. The following  
26 requirements shall apply to outstanding river seg-  
27 ments identified in section 4811-C.

28           A. New principal structures, except for struc-  
29 tures related to hydropower facilities, shall be  
30 set back a minimum of 100 feet from the normal  
31 high-water mark of the river. These structures  
32 shall be screened from the river by existing  
33 vegetation.

34           B. New principal structures, except for struc-  
35 tures related to hydropower facilities, shall  
36 have a combined lot shore frontage and setback  
37 from the normal high-water mark of at least 300  
38 feet. This frontage and setback provision shall  
39 not apply within areas zoned as general develop-  
40 ment or its equivalent.

1        §4817. Municipal ordinance review and certification

2            Each municipality with shorelands along signifi-  
3 cant or outstanding river segments, as identified in  
4 sections 4811-B and 4811-C, shall review the adequacy  
5 of the zoning on these shorelands to protect the spe-  
6 cial values cited for these river segments by the  
7 Department of Conservation's 1982 Maine Rivers Study  
8 and for consistency with the guidelines established  
9 under section 4816. Prior to December 15, 1984, each  
10 such municipality shall certify to the State Planning  
11 Office either that its existing zoning for these  
12 areas is at least as restrictive as the guidelines  
13 established under section 4816, or that it has  
14 amended its zoning for this purpose. This certifica-  
15 tion shall be accompanied by the ordinances and  
16 zoning maps covering these areas. Failure to accom-  
17 plish the purposes of this subsection shall result in  
18 adoption of suitable ordinances for these municipali-  
19 ties, as provided for in section 4813.

20            Sec. 7. 12 MRSA §7776-A is enacted to read:

21        §7776-A. Special protection for outstanding river  
22            segments

23            In accordance with section 402, outstanding river  
24            segments shall include:

25            1. Aroostook River. The Aroostook River from  
26 the Canadian border to the Masardis and T.10, R.6,  
27 W.E.L.S. townline, excluding the segment in T.9, R.5,  
28 W.E.L.S., including its tributaries the Big Machias  
29 River from the Aroostook River to the Ashland and  
30 Garfield Plantation townline and the St. Croix  
31 Stream from the Aroostook River in Masardis to the  
32 Masardis and T.9, R.5, W.E.L.S. townline;

33            2. Carrabassett River. The Carrabassett River  
34 from the Kennebec River to the Carrabassett Valley  
35 and Mt. Abram Township townline;

36            3. Crooked River. The Crooked River from its  
37 inlet into Sebago Lake in Casco to the Waterford and  
38 Albany Township townlines;

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

5           5. East Machias River. The East Machias River,  
6 including the Maine River, from the old powerhouse in  
7 East Machias to the East Machias and T.18, E.D.,  
8 B.P.P. townline, from the T.19, E.D., B.P.P. and  
9 Wesley townline to the outlet of Crawford Lake, and  
10 from the No. 21 Plantation and Alexander townline to  
11 the outlet of Pocomoonshine Lake, excluding Hadley  
12 Lake, Lower Mud Pond and Upper Mud Pond;

13           6. Fish River. The Fish River from the bridge  
14 in Fort Kent Mills to the Fort Kent and Wallagrass  
15 Plantation townline, from the T.16, R.6, W.E.L.S.  
16 and Eagle Lake townline to the Eagle Lake and  
17 Winterville Plantation townline, and from the T.14,  
18 R.6, W.E.L.S. and Portage Lake townline to the Por-  
19 tagage Lake and T.13, R.7, W.E.L.S. townline, excluding  
20 Portage Lake;

21           7. Kennebago River. The Kennebago River from  
22 its inlet into Cupsuptic Lake to the Rangeley and  
23 Lower Cupsuptic Township townline;

24           8. Kennebec River. The Kennebec River from the  
25 Route 148 bridge in Madison to the Caratunk and The  
26 Forks Plantation townline, excluding the western  
27 shore in Concord Township, Pleasant Ridge Plantation  
28 and Carrying Place Township, and excluding Wyman  
29 Lake;

30           9. Machias River. The Machias River from the  
31 Route 1 bridge to the Northfield and T.19, M.D.,  
32 B.P.P. townline, including its tributaries the Old  
33 Stream from the Machias River to the northern most  
34 crossing of the Wesley and T.31, M.D., B.P.P.  
35 townline, excluding the segments in T.25, M.D.,  
36 B.P.P. and T.31, M.D., B.P.P.;

37           10. Mattawamkeag River. The Mattawamkeag River  
38 from the Penobscot River to the Mattawamkeag and  
39 Kingman Township townline, and from the Reed  
40 Plantation and Bancroft townline to the East Branch,  
41 including its tributaries the West Branch from the

1 Mattawamkeag River to the Haynesville and T.3, R.3,  
2 W.E.L.S. townline and from its inlet into Upper  
3 Mattawamkeag Lake in Island Falls to the Hersey and  
4 Moro Plantation townline; the East Branch from the  
5 Mattawamkeag River to the Haynesville and Forkstown  
6 Township townline and from the T.4, R.3, W.E.L.S. and  
7 Oakfield townline to the Smyrna and Dudley Township  
8 townline; the Fish Stream for the West Branch of the  
9 Mattawamkeag River to the Crystal and Patten  
10 townline; the Molunkus Stream from the Silver Ridge  
11 Township and Benedicta townline to the East Branch  
12 Molunkus Stream; the Macwahoc Stream from the Silver  
13 Ridge Township and Sherman townline to the outlet of  
14 Macwahoc Lake; and the Baskehegan Stream from the  
15 Mattawamkeag River to the Danforth and Brookton Town-  
16 ship townline, and from the Brookton Township and  
17 Topsfield townline to the Topsfield and Kossuth Town-  
18 ship townline, excluding Baskehegan Lake and Crooked  
19 Brook Flowage;

20 11. Narraguagus River. The Narraguagus River  
21 from the ice dam above the railroad bridge in  
22 Cherryfield to the Beddington and Devereaux Township  
23 townline, excluding Beddington Lake;

24 12. Penobscot River. The Penobscot River from  
25 the Bangor Dam in Bangor to the Veazie Dam and its  
26 tributary the East Branch of the Penobscot from the  
27 Penobscot River to the East Millinocket and  
28 Grindstone Township townline;

29 13. Piscataquis River. The Piscataquis River  
30 from the Penobscot River to the Monson and Blanchard  
31 Plantation townline, including its tributaries the  
32 East and West Branches of the Piscataquis River from  
33 the Blanchard Plantation and Shirley townline to the  
34 Shirley and Little Squaw Township townline; the  
35 Seboeis Stream from its confluence with the  
36 Piscataquis River in Howland to the Howland and  
37 Mattamiscontis Township townline and from the  
38 Mattamiscontis and Maxfield townline to the Maxfield  
39 and Seboeis Plantation townline, excluding Shirley  
40 Pond and West Shirley Bog;

41 14. Pleasant River. The Pleasant River from the  
42 dam in Columbia Falls (formerly the Hathaway Dam) to  
43 the Columbia and T.18, M.D., B.P.P. townline, and

1 from the T.24, M.D., B.P.P. and Beddington townline  
2 to the outlet of Pleasant River Lake in Beddington;

3 15. Rapid River. The Rapid River from the  
4 Magalloway Plantation and Upton townline to the  
5 outlet of Pond in the River;

6 16. Saco River. The Saco River from the Little  
7 Ossipee River to the New Hampshire border;

8 17. St. Croix River. The St. Croix River from  
9 the cotton mill dam in Milltown to the Calais and  
10 Baring Plantation townline, from the Baring  
11 Plantation and Baileyville townline to the  
12 Baileyville and Fowler Township townline, and from  
13 the Lambert Lake Township and Vanceboro townline to  
14 the outlet of Spednik Lake, excluding Woodland Lake  
15 and Grand Falls Flowage;

16 18. St. George River. The St. George River from  
17 the Route 90 bridge in Warren to the outlet of Lake  
18 St. George in Liberty, excluding White Oak Pond,  
19 Seven Tree Pond, Round Pond, Sennebec Pond, Trues  
20 Pond, Stevens Pond and Little Pond;

21 19. St. John River. The St. John River from the  
22 Hamlin Plantation and Van Buren townline to the Ft.  
23 Kent and St. John Plantation townline, and from the  
24 St. John Plantation and St. Francis townline to the  
25 Allagash and St. Francis townline;

26 20. Sandy River. The Sandy River from the  
27 Kennebec River to the Madrid and Township E townline;

28 21. Sheepscot River. The Sheepscot River from  
29 the Head Tide dam in Alna to the Hall-Dale Road in  
30 Montville, excluding Long Pond and Sheepscot Pond,  
31 including its tributary the West Branch of the  
32 Sheepscot from its confluence with the Sheepscot  
33 River in Whitefield to the outlet of Branch Pond in  
34 China;

35 22. West Branch Pleasant River. The West Branch  
36 Pleasant River from the East Branch to the Brownville  
37 and Williamsburg Township townline; and

1           23. West Branch Union River. The West Branch  
2 Union River from the Route 181 bridge in Mariaville  
3 to the outlet of Great Pond in the Town of Great  
4 Pond.

5           Sec. 8. 12 MRSA §7777, sub-§1, as enacted by PL  
6 1979, c. 420, §1, is amended to read:

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

10           A. Unreasonably interfere with existing recrea-  
11 tional and navigational uses;

12           B. Cause unreasonable soil erosion;

13           C. Unreasonably interfere with the natural flow  
14 of any waters;

15           D. Unreasonably harm any wildlife habitat; and

16           E. Lower the quality of any waters.

17 If the proposed activity is a crossing of an out-  
18 standing river segment, as identified in section  
19 7776-A, the applicant shall demonstrate that no  
20 reasonable alternative exists which would have less  
21 adverse effect upon the natural and recreation fea-  
22 tures of the river segment.

23           Sec. 9. 12 MRSA §7780, sub-§1, as enacted by PL  
24 1979, c. 420, §1, is amended to read:

25           1. Public works and private crossing and dam  
26 projects. Notwithstanding section 7776, that section  
27 shall not apply to river, stream or brook crossings  
28 in connection with public works projects which alter  
29 not more than a total of 300 feet in any mile of  
30 shore nor to private crossing or dam projects which  
31 alter not more than a total of 100 feet in any mile  
32 of shore. Alterations to both shores of the river,  
33 stream or brook shall be combined in arriving at a  
34 total shore footage. This exception shall not apply  
35 to any project on outstanding river segments, as  
36 identified in section 7776-A.

1           Sec. 10. 30 MRSA c. 203-A is enacted to read:

2                                   CHAPTER 203-A

3                                   RIVER CORRIDOR COMMISSIONS

4   §1961. River corridor commissions encouraged

5           1. Findings. The Legislature finds:

6           A. That the effectiveness of local governments  
7           in implementing their responsibilities under  
8           shoreland zoning can be enhanced by coordination  
9           and cooperation among municipalities;

10          B. That river corridor commissions have proven  
11          their effectiveness as one mechanism to bring  
12          about such coordination and cooperation;

13          C. That additional river corridor commissions  
14          are not likely to be formed without state assis-  
15          tance and encouragement; and

16          D. That such cooperation serves state interests  
17          as stated in Title 12, section 402 and chapter  
18          424.

19          2. Purpose. It is the policy of the State to  
20          encourage the formation of river corridor commis-  
21          sions. The purpose of this law is to:

22          A. Clarify procedures for forming river corridor  
23          commissions; and

24          B. Grant additional powers to those river corri-  
25          dor commissions beyond those provided for in  
26          chapter 203.

27   §1962. Definitions

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

31           1. Commission. "Commission" means a river cor-  
32           ridor commission authorized by statute.

1           2. Commissioner. "Commissioner" means the Com-  
2           missioner of Conservation.

3           3. Department. "Department" means the Depart-  
4           ment of Conservation.

5           §1963. Assistance to corridor commissions

6           The commissioner shall, on request, assist munic-  
7           ipalities that have shoreland abutting common river  
8           systems in developing interlocal agreements and ini-  
9           tiating planning that may be required prior to  
10          seeking statutory authorization for a river corridor  
11          commission.

12          §1964. Interlocal agreement

13          In addition to the requirements of section 1953,  
14          the interlocal agreements 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. Ordinance

26          Ordinances to implement the comprehensive plan  
27          shall be at least as restrictive as the state's  
28          guidelines for municipal shoreland zoning ordinances  
29          and shall supersede existing shoreland zoning ordi-  
30          nances. The ordinance shall contain adequate proce-  
31          dures for processing permit requests and for consid-  
32          ering appeals of a decision made by the commission.

33          Sec. 11. 33 MRSA §668, first ¶, as enacted by PL  
34          1969, c. 566, §2, is amended to read:



1 No conservation restriction as defined in section  
2 667 held by any governmental body or held on a river  
3 shoreline by a private nonprofit corporation of this  
4 State, whose purposes include conservation of land or  
5 water areas or of a particular such area, shall may  
6 be unenforceable on account of lack of privity of  
7 estate or contract or lack of benefit to particular  
8 land or on account of the benefit being assignable or  
9 being assigned to any other governmental body or, a  
10 private nonprofit corporation of this State with like  
11 purposes. All such restrictions shall be duly  
12 recorded and indexed in the registry of deeds for the  
13 county where the land lies so as to affect its title,  
14 in the manner of other conveyances of interests in  
15 land, and shall describe the land subject to said the  
16 restrictions by adequate legal description or by refer-  
17 ence to a recorded plan showing its boundaries.

18 Sec. 12. 38 MRSA §621, as enacted by PL 1979, c.  
19 465, is repealed.

20 Sec. 13. 38 MRSA §622, as amended by PL 1981, c.  
21 470, Pt. A, §168, is repealed.

22 Sec. 14. 38 MRSA §§623-625, as enacted by PL  
23 1979, c. 465, are repealed.

24 Sec. 15. 38 MRSA §626, as amended by PL 1981, c.  
25 470, Pt. A, §169, is repealed.

26 Sec. 16. 38 MRSA c. 5, sub-c. 1, Art. 1,  
27 sub-art. 1-B is enacted to read:

28 Subarticle 1-B. Permits for hydropower projects  
29 §630. Short title

30 This subarticle may be cited and referred to in  
31 proceedings and agreements as the "Maine Waterway  
32 Development and Conservation Act."

33 §631. Purposes

34 1. Findings. The Legislature finds and declares  
35 that the surface waters of the State constitute a  
36 valuable indigenous and renewable energy resource;  
37 and that hydropower development utilizing these

1 waters is unique in its benefits and impacts to the  
2 natural environment, and makes a significant contri-  
3 bution to the general welfare of the citizens of the  
4 State for the following reasons.

5 A. Hydropower is the state's only economically  
6 feasible, large-scale energy resource which does  
7 not rely on combustion of a fuel, thereby avoid-  
8 ing air pollution, solid waste disposal problems,  
9 and hazards to human health from emissions,  
10 wastes and by-products. Hydropower can be devel-  
11 oped at many sites with minimal environmental  
12 impacts, especially at sites with existing dams  
13 or where current type turbines can be used.

14 B. Like all energy generating facilities,  
15 hydropower projects can have adverse effects; in  
16 contrast with other energy sources they may also  
17 have positive environmental effects. For  
18 example, hydropower dams can control floods and  
19 augment downstream flow to improve fish and wild-  
20 life habitats, water quality and recreation  
21 opportunities.

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

26 2. Policy and purpose. The Legislature declares  
27 that hydropower justifies singular treatment. The  
28 Legislature further declares that it is the policy of  
29 the State to support and encourage the development of  
30 hydropower projects by simplifying and clarifying re-  
31 quirements for permits, while assuring reasonable  
32 protection of natural resources and the public inter-  
33 est in use of waters of the State. It is the purpose  
34 of this subarticle to require a single application  
35 and permit for the construction of all hydropower  
36 projects and for the reconstruction or structural  
37 alteration of certain projects, including water stor-  
38 age projects. The permit application process shall  
39 be administered by the Department of Environmental  
40 Protection, except that, for hydropower projects  
41 within the jurisdiction of the Maine Land Use Regula-  
42 tion Commission, the commission shall administer the  
43 permit application process under this subarticle.

1     §632. Definitions

2           As used in this subarticle, unless the context  
3 indicates otherwise, the following terms have the  
4 following meanings.

5           1. Board. "Board" means the Board of Environ-  
6 mental Protection, except that, for any hydropower  
7 project within the jurisdiction of the Maine Land Use  
8 Regulation Commission, "board" means the Maine Land  
9 Use Regulation Commission.

10          2. Department. "Department" means the Depart-  
11 ment of Environmental Protection.

12          3. Hydropower project. "Hydropower project"  
13 means any development which utilizes the flow of  
14 water as a source of electrical or mechanical power  
15 or which regulates the flow of water for the purpose  
16 of generating electrical or mechanical power. A  
17 hydropower project development includes all  
18 powerhouses, dams, water conduits, transmission  
19 lines, water impoundments, roads and other appurtenant  
20 works and structures that are part of the devel-  
21 opment.

22     §633. Prohibition

23          1. Permit required. No person may initiate con-  
24 struction or reconstruction of a hydropower project,  
25 or structurally alter a hydropower project in ways  
26 which change water levels or flows above or below the  
27 dam, without first obtaining a permit from the board.

28          2. Exceptions. This subarticle shall not apply  
29 to activities for which, prior to the effective date  
30 of this Act, a permit or permits have been issued  
31 pursuant to any of the following laws: Land use  
32 regulation laws, Title 12, sections 681 to 689;  
33 stream alteration laws, Title 12, sections 7776 to  
34 7780; great ponds laws, sections 391 to 394; altera-  
35 tion of coastal wetlands laws, sections 471 to 478;  
36 site location of development laws, sections 481 to  
37 490; and small hydroelectric generating facilities  
38 laws, sections 621 to 626.

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

4           A. The activity does not involve any dredging or  
5 filling below the normal high-water line of any  
6 great pond, coastal wetland, river, stream or  
7 brook; and

8           B. The activity does not involve any dredging or  
9 filling on the land adjacent to any great pond,  
10 coastal wetland, river, stream or brook such that  
11 any dredged spoil, fill or structure may fall or  
12 be washed into those waters.

13           §634. Permit requirements

14           1. Coordinated permit review. Permits required  
15 under the following laws shall not be required by any  
16 state agency for projects reviewed or exempted from  
17 review under this subarticle: Land use regulation  
18 laws, Title 12, sections 681 to 689; stream altera-  
19 tion laws, Title 12, sections 7776 to 7780; great  
20 ponds laws, sections 391 to 394; alteration of  
21 coastal wetlands laws, sections 471 to 478; and site  
22 location of development laws, sections 481 to 490.  
23 Notwithstanding section 654, the board may attach  
24 reasonable conditions consistent with this Act con-  
25 cerning the operation of hydropower projects. The  
26 board shall give written notice to the Commissioner  
27 of Inland Fisheries and Wildlife and the Commis-  
28 sioner of Marine Resources of the intent of any  
29 applicant for a permit to construct a dam.

30           Issuance of a water quality certificate required  
31 under the United States Water Pollution Control Act,  
32 Section 401, shall be coordinated for the applicant  
33 under this subarticle by the Department of Environ-  
34 mental Protection. The issuance of a water quality  
35 certificate shall be mandatory in every case where  
36 the board approves an application under this  
37 subarticle. The coordination function of the depart-  
38 ment with respect to water quality certification  
39 shall not include any proceedings or substantive cri-  
40 teria in addition to those otherwise required by this  
41 subarticle.

1           2. Application. An application for a permit re-  
2 quired by section 633 shall be made on forms provided  
3 by the board and shall be filed with the board.  
4 Public notice of the filing shall be made as required  
5 by the board.

6           3. Application review. Within 10 working days  
7 of receiving a completed application, the Commis-  
8 sioner of Environmental Protection or the Director of  
9 the Maine Land Use Regulation Commission, as appro-  
10 priate, shall notify the applicant of the official  
11 date on which the application was accepted.

12 The commissioner or the director, as appropriate,  
13 shall circulate the application among the Department  
14 of Environmental Protection, Department of Conserva-  
15 tion, Department of Inland Fisheries and Wildlife,  
16 Department of Marine Resources, Department of Trans-  
17 portation, Maine Historic Preservation Commission,  
18 Office of Energy Resources, Public Utilities Commis-  
19 sion and the municipal officials of the municipality  
20 in which the project is located. The Office of  
21 Energy Resources and the Public Utilities Commission  
22 shall submit written comments on section 636, subsec-  
23 tion 7, paragraph F. For projects within the jurisdic-  
24 tion of the Maine Land Use Regulation Commission,  
25 the director may request and obtain technical assis-  
26 tance and recommendations from the staff of the  
27 department. The department shall respond to the  
28 requests in a timely manner. The department's recom-  
29 mendations shall be considered by the commission in  
30 acting upon a project application.

31 §635. Board decision

32           The board shall, within 30 days of receipt of a  
33 completed application, either:

34           1. Approval. Approve the proposed project upon  
35 such terms and conditions as are appropriate and  
36 reasonable to protect and preserve the environment  
37 and the public's health, safety and general welfare,  
38 including the public interest in replacing oil with  
39 hydroelectric energy. These terms and conditions may  
40 include, but are not limited to:

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

3           B. Establishment of instantaneous minimum flows  
4           for the body of water affected by a hydropower  
5           project; and

6           C. Provision for the construction and mainte-  
7           nance of fish passage facilities;

8           In those cases where the proposed project involves  
9           maintenance, reconstruction or structural alteration  
10           at an existing hydropower project and where the pro-  
11           posed project will not alter historic water levels or  
12           flows after its completion, the board may impose  
13           temporary terms and conditions of approval relating  
14           to paragraph A or paragraph B but shall not impose  
15           permanent terms and conditions that alter historic  
16           water levels or flows;

17           2. Disapproval. Disapprove the proposed proj-  
18           ect, setting forth in writing the reasons for the  
19           disapproval; or

20           3. Hearing. Schedule a hearing on the proposed  
21           project. Any hearing held under this subsection  
22           shall follow the notice requirements and procedures  
23           for an adjudicatory hearing under Title 5, chapter  
24           375, subchapter IV. Within 45 days after the board  
25           adjourns any hearing held under this subsection, it  
26           shall make findings of facts and issue an order  
27           approving or disapproving the proposed project, as  
28           provided in subsections 1 and 2.

29           §636. Approval criteria

30           The board shall approve a project when it finds  
31           that the applicant has demonstrated that the follow-  
32           ing criteria have been met.

33           1. Financial capability. The applicant has the  
34           financial capability and technical ability to under-  
35           take the project. In the event that the applicant is  
36           unable to demonstrate financial capability, the board  
37           may grant the permit contingent upon the applicant's  
38           demonstration of financial capability prior to com-  
39           menement of the activities permitted.

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

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

7           4. Traffic movement. The applicant has made ad-  
8 equade provisions for traffic movement of all types  
9 out of or into the development areas.

10           5. Land Use Regulation Commission. Within the  
11 jurisdiction of the Maine Land Use Regulation Commis-  
12 sion, the project is consistent with zoning adopted  
13 by the commission.

14           6. Environmental mitigation. The applicant has  
15 made reasonable provisions to realize the environ-  
16 mental benefits of the project, if any, and to miti-  
17 gate its adverse environmental impacts.

18           7. Environmental and energy considerations. The  
19 advantages of the project are greater than the direct  
20 and cumulative adverse impacts over the life of the  
21 project based upon the following considerations:

22           A. Whether the project will result in signifi-  
23 cant benefit or harm to soil stability, water  
24 quality, coastal and inland wetlands or the natu-  
25 ral environment of any surface waters and their  
26 shorelands;

27           B. Whether the project will result in signifi-  
28 cant benefit or harm to fish and wildlife  
29 resources. In making its determination, the  
30 board shall consider other existing uses of the  
31 watershed and fisheries management plans adopted  
32 by the Department of Inland Fisheries and Wild-  
33 life, the Department of Marine Resources and the  
34 Atlantic Sea Run Salmon Commission;

35           C. Whether the project will result in signifi-  
36 cant benefit or harm to historic and  
37 archeological resources;

1           D. Whether the project will result in signifi-  
2           cant benefit or harm to the public rights of ac-  
3           cess to and use of the surface waters of the  
4           State for navigation, fishing, fowling, recrea-  
5           tion and other lawful public uses;

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

8           F. Whether the project will result in signifi-  
9           cant hydroelectric energy benefits, including the  
10          increase in generating capacity and annual energy  
11          output resulting from the project, and the amount  
12          of nonrenewable fuels it would replace.

13          The board shall make a written finding of fact with  
14          respect to the nature and magnitude of the impact of  
15          the project on each of the considerations under this  
16          subsection, and a written explanation of their use of  
17          these findings in reaching their decision.

18                 **Sec. 17. Commission on Local Land Use Viola-**  
19                 **tions.** Swift effective enforcement against suspected  
20                 violations of land use laws and ordinances is essen-  
21                 tial to the intended purpose of these statutes, but  
22                 it is commonly asserted that the court system is not  
23                 being used effectively, especially by small towns, to  
24                 resolve these cases. There is created a Commission  
25                 on Local Land Use Violations, known in this section  
26                 as the "commission."

27                 The commission shall be composed of 11 members as  
28                 follows: Two members appointed by the President of  
29                 the Senate, one to be a member of the Joint Standing  
30                 Committee on Energy and Natural Resources and one to  
31                 be a Senator knowledgeable about land use issues; 2  
32                 members appointed by the Speaker of the House of  
33                 Representatives, one to be a member of the Joint  
34                 Standing Committee on Judiciary and one to be a  
35                 Representative knowledgeable about land use issues;  
36                 and 7 members appointed by the Governor, one to be a  
37                 local elected official, one to be an appointed local  
38                 official, one to be a representative of the court  
39                 system, one to be a representative of the Maine Asso-  
40                 ciation of Planners, one to be a representative of  
41                 the Maine Bar Association, one to represent real  
42                 estate interests, and one to be a representative of



1 the general public, knowledgeable about land use  
2 issues. The commission shall hold an organizational  
3 meeting within 30 days after the adjournment of the  
4 Legislature at the call of the Chairman of the Legis-  
5 lative Council. At this meeting, the commission  
6 shall elect a chairman and a vice-chairman from  
7 within the membership.

8 The commission shall review the use of the  
9 state's court system to resolve suspected violations  
10 of local ordinances under the mandatory shoreland  
11 zoning laws, Title 12, chapter 424; the subdivision  
12 laws Title 30, section 4956; the state plumbing laws,  
13 Title 22, section 42; and other land use laws  
14 enforced by municipalities. This review shall exam-  
15 ine the extent to which such local ordinances are or  
16 are not being adequately enforced, especially by  
17 small towns, where court action appears to provide  
18 the only existing appropriate recourse. The commis-  
19 sion shall determine the causes for any problems  
20 uncovered and document examples to support its find-  
21 ings. The commission shall evaluate alternatives to  
22 the existing court procedures, including the estab-  
23 lishment of a statewide system of land use hearing  
24 examiners. The commission shall make recommendations  
25 to secure just, swift, inexpensive and effective  
26 resolution of suspected land use violation cases,  
27 especially by small towns, without creating unreason-  
28 able burdens for the state's courts system.

29 The commission shall report its findings,  
30 together with any suggested legislation, to the  
31 Second Regular Session of the 11th Legislature on or  
32 before January 13, 1984.

33 The State Planning Office and the Division of  
34 Health Engineering in the Department of Human Ser-  
35 vices shall provide staff support to the commission  
36 and administer its functions.

37 All executive departments are directed to give  
38 prompt assistance to the commission.

39 The commission may accept funds from any agency  
40 of the United States.

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STATEMENT OF FACT

This new draft differs from the other report of the committee in 3 areas.

First, section 2 of the new draft prohibits the Maine Land Use Regulation Commission from adopting standards stricter than the provisions dealing with outstanding river segments for those rivers within plantations.

Second, the new draft removes the special subdivision provisions on outstanding rivers and adds new controls for these rivers under shoreland zoning. The requirement for combined setback and frontage has been reduced from 500 to 300 feet, but it will apply to all new principal structures on these segments and not just to new subdivisions. This will also make the restrictions easier to implement and enforce.

Finally, the new draft limits the role of the Commissioner of Conservation in creating river corridor commissions. Section 10 makes it clear that the role of the State is limited to encouraging these commissions, so that the necessary impetus can come from the local level.

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