

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document No. 2135

H.P. 1613 House of Representatives, February 27, 1984

Approved for introduction by the Legislative Council pursuant to Joint Rule 26.

Referred to the Committee on Public Utilities. Ordered printed and sent up for concurrence.

EDWIN H. PERT, Clerk

Presented by Representative Paradis of Old Town.

Cosponsors: Senator Kany of Kennebec and Representative Vose of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FOUR

AN ACT to Require Downstream Public
Notification of Release of Water Impoundments.

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

38 MRSA c. 1-A is enacted to read:

CHAPTER 1-A

RELEASE OF WATER FROM IMPOUNDMENTS

§331. Release of water; hazardous area

Whenever the Commissioner of Environmental Protection determines that the release of water from an impoundment structure may endanger public safety, he shall take action in accordance with this chapter to require the owner or operator of the structure to post signs or make other provisions for identifying the hazardous area affected by the release.

1 §332. Notice by commissioner

2 Upon registration of any dam specified in section
3 830, the owner or operator shall specify the maximum
4 water level fluctuation in feet that will take place
5 due to release of water in any 24-hour period and
6 shall specify what action the registrant will take to
7 notify the public and insure public safety.

8 The commissioner shall review the information
9 submitted and whenever the commissioner determines
10 that the release of water from an impoundment struc-
11 ture, including any power project, will result in
12 rapid increase in the water level below the structure
13 endangering the public safety, he shall send written
14 notice to the owner or operator of the structure. The
15 notice shall state:

16 1. Hazard. That the release of water from the
17 impoundment may create an unreasonable hazard to hu-
18 man life or property;

19 2. Nature of hazard. The nature and extent of
20 the hazard and shall describe the hazard;

21 3. Action required. The action which appears to
22 be necessary to minimize the hazard and the time dur-
23 ing which that action should be taken; and

24 4. Hearing request. That the owner or operator
25 may, within 15 days of the date the notice was
26 mailed, request a hearing in writing.

27 §333. Hearing

28 1. Request. The owner or operator of the im-
29 pondment structure may, within 15 days of mailing of
30 a notice pursuant to section 332, request in writing
31 a hearing on the hazard or action required to mini-
32 mize the hazard.

33 2. Hearing. Upon receipt of a request pursuant
34 to subsection 1, the commissioner shall hold a public
35 hearing on the hazard to be created by the release of
36 water and the action required to minimize the hazard.
37 Public notice of the hearing shall be posted in the
38 county or counties affected by the release at least
39 10 days prior to the hearing.

1 §334. Order

2 The commissioner shall, after hearing, if one is
3 requested, or after the expiration of the time for
4 requesting a hearing if one is not requested, deter-
5 mine if the release will result in an unreasonable
6 hazard to human life and property; and, if he so de-
7 termines, shall issue an order stating the terms,
8 limitations and conditions relating to the release of
9 water from the structure, any actions which are nec-
10 essary to minimize the hazard and the time period
11 during which those actions shall be taken. The re-
12 quired actions may include posting notices, install-
13 ing devices or utilizing notification procedures to
14 provide sufficient warning to the public at places of
15 public access downstream from the structure of possi-
16 ble dangerous fluctuation in the water level. In his
17 determination, the commissioner shall consider the
18 following: Likelihood of harm to the public; recrea-
19 tional, power and agricultural benefits; purpose of
20 the structure; water flows; extent, nature and time
21 of use by the public; and all other relevant factors.
22 The commissioner shall file a copy of the order in
23 the office of the Department of Environmental Protec-
24 tion and the order shall take effect upon that fil-
25 ing. A copy of the order shall be furnished to the
26 owner or operator of the impoundment structure.

27 §335. Action by owner

28 The owner or operator of the impoundment struc-
29 ture shall, within the time established by the com-
30 missioner in his order, take the necessary actions to
31 comply with the requirements set out in the commis-
32 sioner's order.

33 §336. Emergency procedure

34 When conditions beyond the control of an owner or
35 operator of an impoundment structure to which an or-
36 der issued pursuant to section 335 relates, threaten
37 the safety of the structure and the release of water
38 from the structure contrary to the terms, limitations
39 and conditions set out in the order is essential to
40 remove that threat:

