

# MAINE STATE LEGISLATURE

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L.D. 2107

(Filing No. H-575 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
112TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to H.P. 1495, L.D. 2107,  
Bill, "AN ACT to Clarify the Application of Water  
Quality Standards to Hydroelectric Projects."

Amend the bill by striking out everything after  
the enacting clause and before the statement of fact  
and inserting in its place the following:

'Sec. 1. 38 MRSA §363-C is enacted to read:

§363-C. Water quality certification of hydroelectric  
proposals

In determining the appropriate water quality  
standards to apply to a hydroelectric project appli-  
cation under section 636, the board or, where appro-  
priate pursuant to chapter 5, subchapter I, article  
1, subarticle 1-B, the Maine Land Use Regulation Com-  
mission shall apply the provisions of this section  
for the purpose of water quality certification deter-  
minations pursuant to the United States Water Pollu-  
tion Control Act, Section 401.

Where the board or, where appropriate pursuant to  
chapter 5, subchapter I, article 1, subarticle 1-B,  
the Maine Land Use Regulation Commission determines  
that the impoundment of the proposed hydroelectric  
development would become thermally stratified, caus-  
ing the dissolved oxygen concentrations in the lower  
portions of the water column, known as the  
hypolimnion, to fall below the water quality stan-  
dards of the existing classification, those waters  
will not be considered to be failing to attain their  
classification on account of that condition, provided  
that the dissolved oxygen concentrations in the upper  
portions of the stratified impoundment, known as the  
epilimnion, will meet or exceed the applicable dis-

HOUSE AMENDMENT "A" to H.P. 1495, L.D. 2107

1 solved oxygen standard of the existing classification  
2 for that water in addition to all other applicable  
3 water quality requirements of this Title.

4 Sec. 2. 38 MRSA §636, sub-§8 is enacted to read:

5 8. Water quality certification. The project  
6 meets the requirements of state and federal water  
7 quality law for the issuance of a water quality cer-  
8 tificate pursuant to the United States Water Pollu-  
9 tion Control Act, Section 401.

10 STATEMENT OF FACT

11 The purpose of this amendment is to provide a  
12 reasonable, administrative procedure for dealing with  
13 the ambiguity of the existing water quality standards  
14 when applied to hydroelectric proposals. This proce-  
15 dure allows hydroelectric developments to be approved  
16 when the dissolved oxygen characteristics of the pro-  
17 posed impoundment are "lake-like" so long as all oth-  
18 er provisions of the hydropower licensing and water  
19 quality laws are met.

20 The amendment strengthens "one-stop" licensing by  
21 requiring that findings related to federal water  
22 quality certification be made as part of the rivers  
23 bill hydropower licensing process. The amendment  
24 makes it clear that, in order to approve a hydropower  
25 license, the Board of Environmental Protection or the  
26 Maine Land Use Regulation Commission must find that

HOUSE AMENDMENT "H" to H.P. 1495, L.D. 2107

1 the project meets the requirements of federal and  
2 state water quality law.

3 6848031386

Filed by Rep. Coles of Harpswell  
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