

# MAINE STATE LEGISLATURE

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L.D. 1621

(Filing No. H-497)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1167, L.D. 1621, Bill, "An Act to Ensure Notification and Participation by the Public in Licensing and Relicensing of Hydroelectric Dams and to Further Ensure the Equal Consideration of Fisheries and Recreational Uses in Licensing and Relicensing"

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. 12 MRSA §407 is enacted to read:

§407. Comprehensive river resource management plans

The State Planning Office, with assistance from the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Environmental Protection and other state agencies as needed, shall develop, subject to the Maine Administrative Procedures Act, Title 5, section 375, a comprehensive river resource management plan for each watershed with a hydropower project licensed under the Federal Power Act or to be licensed under the Federal Power Act. These plans shall provide a basis for state agency comments, recommendations and permitting decisions and shall at a minimum include, as applicable, minimum flows, impoundment level regimes, upstream and downstream fish passage, maintenance of aquatic habitat and habitat productivity, public access and recreational opportunities. These plans shall update, complement and, after public notice, comment, and hearings in the watershed, be adopted as components of the State's comprehensive rivers management plan.

Sec. 2. 38 MRSA c. 5, sub-c I, art. 1, sub-art. 1-C is enacted to read:

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Subarticle 1-C. Public Participation in the Licensing and Relicensing of Hydroelectric Dams

§640. Public participation

Unless otherwise provided in accordance with regulations promulgated by the Federal Energy Regulatory Commission, for all existing hydropower projects located in Maine currently licensed under the Federal Power Act, and for all proposed hydropower projects requiring a license to operate under the Federal Power Act, all state agencies that review, comment on and consult in the proposed studies, plans, terms and conditions in the course of licensing or relicensing these projects, including the State Planning Office, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife and the Department of Marine Resources, shall cooperatively take the following steps to ensure that interested members of the public are informed of, and allowed to participate in, the review and comment process.

1. Publication. At the commencement of the consultation, review and comment process, the state agencies involved shall publish notification of this fact, informing the public of the issues anticipated to be involved in the licensing or relicensing process, the timetable for processing of the license and the opportunities the public has to comment on and participate in the process. The notice shall be designed to reach readership both statewide and in the vicinity of the hydropower project, including all persons that have contacted the agencies with an interest in this matter and all potentially interested persons.

2. Written notification of status. During the entire consultation process and including the filing of the license application under the Federal Power Act, the state agencies shall inform in writing all members of the public that have indicated an interest in the particular licensing process of the status of that process, including all requirements that the agencies may be placing upon the license applicant. That information shall be provided no less than once every 4 months.

3. Public comment. State agencies shall provide meaningful opportunities for public comment on the plans, studies, terms and conditions to be recommended by the agencies for inclusion in the license.

4. Release of public information. All information submitted to the agencies by the applicants for a license under the Federal Power Act shall constitute a public record pursuant to Title 1, section 402, unless such information is otherwise exempted from public disclosure by state law. Release of this information to members of the public shall be governed by Title 1, section 408.'

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### STATEMENT OF FACT

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7 This amendment requires the State Planning Office to  
coordinate the development of river management plans to be used  
9 for guidance in hydropower licensing proceedings. The plans will  
be open to public comment and review and will set forth the  
11 State's policies and guidelines for resource management on rivers  
with impoundments.

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15 This amendment also coordinates public comment requirements  
as part of the Federal Energy Regulatory Commission with the  
public participation requirements proposed in the original bill.  
17 Finally, the amendment provides an exemption for releasing  
information to the public that is protected from public  
disclosure elsewhere in Maine law. For example, archaeological  
19 sites would not be subject to public disclosure.

Reported by the Committee on Energy and Natural Resources  
Reproduced and distributed under the direction of the Clerk of the  
House  
6/13/89 (Filing No. H-497)