

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2159

S.P. 848

In Senate, January 15, 1991

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by President PRAY of Penobscot

Cosponsored by Representative HOGLUND of Portland, Senator LUDWIG of Aroostook and Representative LORD of Waterboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act Related to Hydropower Relicensing Standards.



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

4 38 MRS A §465-D is enacted to read:

6 §465-D. Standards of classifications of waters affected by
8 impoundments for certain hydroelectric and storage
10 projects

12 1. Issuance of license. With regard to the issuance of a
14 license from the Federal Energy Regulatory Commission for an
16 existing hydroelectric or storage project, a water quality
18 certification pursuant to the United States Clean Water Act,
20 Public Law 92-500, Section 401, as amended, must be issued if:

22 A. The habitat and aquatic life of waters affected by
24 human-constructed impoundments, including impoundments and
26 downstream waters that are classified as Class GPA, AA or A,
28 are unimpaired;

30 B. Class A, B or C waters in human-constructed impoundments:

32 (1) Have a stable or decreasing trophic state, subject
34 only to natural fluctuations; and

36 (2) Are free of culturally induced algae blooms that
38 impair their use and enjoyment, contributed to or
40 caused by the operation of the impoundment;

42 C. Downstream waters affected by human-constructed
44 impoundments that are classified as Class A or B have
46 dissolved oxygen content of not less than 5 parts per
48 1,000,000 or 60% of saturation, whichever is higher, within
50 the first 1,000 feet below the impoundment and meet
applicable Class A or B dissolved oxygen requirements beyond
1,000 feet below the impoundment; and

D. All other standards of the classifications of fresh
surface waters and of lakes and ponds as set forth in
sections 465 and 465-A not specifically referred to in those
sections that are applicable to waters physically altered by
human-constructed impoundments are met.

STATEMENT OF FACT

The present water quality classification system was designed to ensure that the quality of water is not a limiting factor in achieving any of the designated uses identified for a specific classification.

2 The current classifications include standards for habitat,
aquatic life and dissolved oxygen that do not recognize that the
waters affected by an impoundment have been physically altered.

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6 This bill clarifies that, for applicants seeking a license
from the Federal Energy Regulatory Commission for an existing
hydroelectric or storage project, the waters that are physically
8 altered by human-constructed impoundments are not subject to
habitat, aquatic life and dissolved oxygen standards that are
10 only applicable to unaltered free-flowing water. The bill
establishes standards for ensuring that the quality of water
12 affected by human-constructed impoundments does not become a
limiting factor in achieving the designated uses of that water.

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