LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

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PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

FIRST REGULAR SESSION

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1981

	1981-82	1982-83
BUSINESS REGULATION, DEPARTMENT OF		
Bureau of Banking		
Securities Division		
Positions	(2)	(2)
Personal Services	$30,500	$30,800

Effective September 18, 1981

CHAPTER 449

S. P. 632 — L. D. 1647

AN ACT to Amend the Site Location of Development Law to Protect Ground Water.

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

Sec. 1. **1 MRSA § 2601, sub-§ 3** is enacted to read:

3. Review of hazardous activities definitions. The definition of hazardous activities contained in Title 38, section 482, shall be reviewed by January 1, 1982.

Sec. 2. **1 MRSA § 2602,** as amended by PL 1979, c. 687, § 2, is further amended by adding after the first sentence a new sentence to read:

The legislative committee having jurisdiction over the statutory provisions listed in section 2601, subsection 3, shall prepare and submit its report by April 1, 1982.

Sec. 3. **38 MRSA § 481,** as last amended by PL 1979, c. 466, § 11, is further amended by adding after the first paragraph a new paragraph to read:

The Legislature further finds that certain geological formations particularly sand and gravel deposits, contain large amounts of high quality ground water. The ground water in these formations is an important public and private resource, for drinking water supplies and other industrial, commercial and agricultural uses. The ground water in these formations is particularly susceptible to injury from pollutants, and once polluted, may not recover for hundreds of years. It is the intent of the Legislature, that activities that discharge or may discharge pollutants to ground water may not be located on these formations.

Sec. 4. 38 MRSA § 482, sub-§ 2, first ¶, as amended by PL 1979, c. 466, § 12, is further amended to read:

"Development which may substantially affect the environment," in this Article called "development," means any state, municipal, quasi-municipal, educational, charitable, commercial or industrial development, including subdivisions, which occupies a land or water area in excess of 20 acres, or which contemplates drilling for or excavating natural resources, on land or under water where the area affected is in excess of 60,000 square feet, or which is a mining activity, **or which is a hazardous activity,** or which is a structure; but excluding state highways, state aid highways, and, borrow pits for sand, fill or gravel, of less than 5 acres or when regulated by the Department of Transportation.

Sec. 5. 38 MRSA § 482, sub-§ 2-C is enacted to read:

2-C. Hazardous activity. "Hazardous activity" means any activity that consumes, generates or handles any of the following:

A. Hazardous wastes, as defined in section 1303;

B. Hazardous matter, as defined in section 1317;

C. Oil, as defined in section 542; or

D. Quantities of road salt in excess of one ton per year.

This definition shall not include an expansion of an existing development unless that expansion by itself would be a hazardous activity.

The board shall identify by regulation activities that are exempt from this definition, including domestic and other uses of substances in quantities too small to present a significant risk of ground water contamination.

Sec. 6. 38 MRSA § 482, sub-§§ 4-C and 4-D are enacted to read:

4-C. Primary sand and gravel recharge areas. "Primary sand and gravel recharge area" means the surface area directly overlying sand and gravel formations that provide direct replenishment of ground water in sand and gravel and fractured bedrock aquifers. The term does not include areas overlying formations that have been identified as unsaturated and are not contiguous with saturated formations.

4-D. Signficant ground water aquifer. "Significant ground water aquifer" means a porous formation of ice-contact and glacial outwash sand and gravel that contains significant recoverable quantities of water which is likely to provide drinking water supplies.

Sec. 7. 38 MRSA § 483, as last amended by PL 1971, c. 618, § 12, is repealed and the following enacted in its place:

§ 483. Notification required; board action; administrative appeals

1. Preliminary notice. Preliminary notice concerning the construction or operation of a development which is a hazardous activity shall be given as follows:

A. Any person intending to construct or operate a development which is a hazardous activity shall file a preliminary notice of intent with the department and the municipal officers of any municipality affected. The preliminary notice shall contain a brief description of:

(1) The nature of the proposed development; and

(2) The location of the proposed development.

Any person intending to construct or operate any other development may file this preliminary notice.

B. The department shall determine whether the proposed development is likely to discharge pollutants to a significant ground water aquifer and whether the proposed location of the development is on a primary sand and gravel recharge area. The department shall make this determination and notify the applicant within 15 days of the receipt of the preliminary notification. If both of these determinations are affirmative, or if requested by the municipal officers of any affected municipality, the applicant must then provide, as part of the notice under subsection 2, detailed information on:

(1) The nature and extent of the significant ground water aquifer, including recharge areas and flow paths;

(2) The quality and quantity of the significant ground water aquifer;

(3) Existing and potential uses of the aquifer;

(4) The nature and quantity of potentially hazardous materials to be handled; and

(5) The nature and quantity of pollutants to be discharged.

C. An applicant who proposes a development which is a hazardous activity shall not be required to file the notice under subsection 2 if both determinations in paragraph B are negative and the applicant is not otherwise required to proceed by this subchapter.

2. Application. Any person intending to construct or operate a development shall, before commencing construction or operation, notify the board in writing of his intent and of the nature and location of the development, together with other information as the board may by regulation require. The board shall within 30 days of receipt of the notification, either approve the proposed development, upon

such terms and conditions as are appropriate and reasonable or disapprove the proposed development setting forth the reasons therefor or schedule a hearing thereon in the manner hereinafter provided.

Any person as to whose development the board has issued an order without a hearing may request, in writing, within 30 days after notice, a hearing before the board. This request shall set forth, in detail, the findings and conclusions of the board to which such person objects, the basis of the objections and the nature of the relief requested. Upon receipt of the request, the board shall schedule and hold a hearing limited to the matters set forth in the request. Hearings shall be scheduled in accordance with section 484.

Sec. 8. 38 MRSA § 484, sub-§ 5 is enacted to read:

5. Ground water. The proposed development will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur.

Sec. 9. Effective date. Except for section 5, this Act shall take effect on April 1, 1982.

Effective April 1, 1982, unless otherwise indicated

CHAPTER 450

S. P. 638 — L. D. 1653

AN ACT to Encourage Small Power Production Facilities.

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

Sec. 1. 35 MRSA § 2323, sub-§ 1, as amended by PL 1979, c. 688, § 15, is further amended by adding at the end a new paragraph to read:

For purposes of this chapter, a cogenerator shall be considered not primarily engaged in the generation or sale of electric power if 50% or less of the equity interest in the cogeneration facility is owned by a public utility, a subsidiary of a public utility or an affiliate of a public utility.

Sec. 2. 35 MRSA § 2323, sub-§§ 1-A, 1-B and 1-C are enacted to read:

1-A. Associate. "Associate" means any person or corporation other than a public utility that substantially participates in the ownership or operation of a cogeneration or small power production facility, or any person or corporation that contracts to receive the thermal output of a cogeneration facility.

1-B. Existing transmission and distribution line improvement costs. "Existing transmission and distribution line improvement costs" means