

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

owned or under the control of the developer.

(2) The owner or operator is not required to conduct a preblast survey on properties for which the owner or operator documents the rejection of an offer by registered letter, return receipt requested, to conduct a preblast survey. Any person owning a building within a preblast survey radius may voluntarily waive the right to a survey.

(3) The owner or operator is not required to conduct a preblast survey if the owner or operator agrees to design all blasts so that the weight of explosives per 8 millisecond or greater delay does not exceed that determined by the equation $W=(D/D_s)^2$, where W is the maximum allowable weight of explosives per delay of 8 milliseconds or greater, D is the shortest distance between any area to be blasted and any inhabitable structure not owned or controlled by the developer and D_s equals $70 \text{ ft.}/(1b.)^{1/2}$.

Sec. 16. 38 MRSA §490-EE, sub-§3, ¶B, as enacted by PL 1995, c. 700, §35, is amended to read:

B. By March 1st of each year, an annual fee of:

(1) ~~Three~~ Four hundred ~~fifty~~ dollars for an excavation from which 2,500 cubic yards or more of material will be extracted during that year; and

(2) ~~Fifty~~ One hundred dollars for all other excavations. To be eligible for the annual fee under this paragraph, the owner or operator must include with the payment of this fee a signed statement certifying that less than 2,500 cubic yards of material will be extracted during that year;

Sec. 17. 38 MRSA §490-FF is enacted to read:

§490-FF. Release

The department may grant a release from the requirements of this article to the owner or operator or a transferee after reclamation of the affected area as determined by the department. The department shall inspect the site before making this determination. The release will terminate if any further excavation on the parcel is proposed by the owner or operator or a transferee. A person proposing further excavation on the parcel must file a notice of intent to comply pursuant to section 490-Y and comply with all requirements of this article. Payment of the annual fee

under section 490-EE will resume in the year when the further excavation begins.

See title page for effective date.

CHAPTER 159

S.P. 515 - L.D. 1497

**An Act To Amend the Laws
Governing Water Quality Standards
for Ragged and Seboomook Lakes**

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

Sec. 1. 38 MRSA §464, sub-§9, as amended by PL 1993, c. 344, §2, is repealed.

Sec. 2. 38 MRSA §464, sub-§9-A is enacted to read:

9-A. Existing hydropower impoundments managed as great ponds; habitat and aquatic life criteria. The following provisions govern habitat and aquatic life criteria for existing hydropower impoundments managed as great ponds.

A. For the purposes of water quality certification under the Federal Water Pollution Control Act, Public Law 92-500, Section 401, as amended, and licensing of modifications under section 636, the hydropower project located on the water body referenced in section 467, subsection 7, paragraph C, subparagraph (1), division (b-1), is deemed to have met the habitat characteristics and aquatic life criteria in the existing impoundment if:

(1) The project is in existence on June 30, 1992;

(2) The project creates an impoundment that remains classified under section 465-A after June 30, 1992;

(3) The project creates an impoundment that is subject to water level fluctuations that have an effect on the habitat and aquatic life in the littoral zone so that the habitat and aquatic life differ significantly from that found in an unimpounded great pond; and

(4) The existing impounded waters are able to support all species of fish indigenous to those waters and the structure and function of the resident biological community in the impounded waters is maintained.

B. For the purposes of water quality certification under the Federal Water Pollution Control Act, Public Law 92-500, Section 401, as amended, and licensing of modifications under section 636, Ragged Lake, located in the Penobscot River, West Branch drainage, is deemed to have met the habitat characteristics and aquatic life criteria in the existing impoundment if that habitat and aquatic life satisfy the aquatic life criteria contained in section 465, subsection 4, paragraph C, except that habitat and aquatic life in the portions of the water body affected by annual drawdowns of up to 20 feet may reflect the effects of such drawdowns, based on a use attainability analysis conducted by the board pursuant to subsection 2-A.

C. For the purposes of water quality certification under the Federal Water Pollution Control Act, Public Law 92-500, Section 401, as amended, and licensing of modifications under section 636, Seboomook Lake, located in the Penobscot River, West Branch drainage, is deemed to have met the habitat characteristics and aquatic life criteria in the existing impoundment if that habitat and aquatic life satisfy the aquatic life criteria contained in section 465, subsection 4, paragraph C, except that habitat and aquatic life in the portions of the water body affected by annual drawdowns of up to 17 feet may reflect the effects of such drawdowns, based on a use attainability analysis conducted by the board pursuant to subsection 2-A.

D. Other than those described in paragraphs A, B and C, all hydropower projects with impoundments in existence on June 30, 1992 that remain classified under section 465-A after June 30, 1992 and that do not attain the habitat and aquatic life criteria of that section must, at a minimum, satisfy the aquatic life criteria contained in section 465, subsection 4, paragraph C.

E. When the actual water quality of the impounded waters attains any more stringent characteristic or criteria of those waters' classification under section 465-A, that water quality must be maintained and protected.

Sec. 3. 38 MRSA §467, sub-§7, ¶C, as amended by PL 1999, c. 277, §10, is further amended to read:

C. Penobscot River, West Branch Drainage.

(1) West Branch of the Penobscot River, main stem.

(a) From the dam at the outlet of Seboomook Lake to a point located 1,000 feet downstream from the dam

at the outlet of Seboomook Lake - Class B.

(b) From a point located 1,000 feet downstream from the dam at the outlet of Seboomook Lake to its confluence with Chesuncook Lake - Class A.

(b-1) From its confluence with Chesuncook Lake to Ripogenus Dam - Class GPA as modified by section 464, subsection 9 9-A.

(c) From Ripogenus Dam through Ripogenus Gorge to the McKay powerhouse - Class B.

(d) From the McKay powerhouse to its confluence with Ambajejus Lake - Class A.

(e) From the outlet of Elbow Lake to the outlet of Ferguson and Quakish Lakes - Class B.

(f) From the outlet of Ferguson and Quakish Lakes to its confluence with the East Branch of the Penobscot River, including all impoundments - Class C.

(2) West Branch of the Penobscot River, tributaries - Class A unless otherwise specified.

(a) Those segments of any tributary that are within the boundaries of Baxter State Park - Class AA.

(b) Those tributaries above the confluence with the Debsconeag Deadwater, any portion of which is located within the boundaries of Baxter State Park - Class AA.

(c) Millinocket Stream, from the railroad bridge near the Millinocket-T.3 Indian Purchase boundary to its confluence with the West Branch Canal - Class B.

(d) Millinocket Stream from the confluence of the West Branch Canal to its confluence with the West Branch of the Penobscot River - Class C.

See title page for effective date.
