An Act To Sustain Good-paying Jobs in the Forest Products Industry by Ensuring Consistency between Comprehensive River Resource Management Plans and State Water Quality Standards

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.
Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Presented by President JACKSON of Aroostook.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §407, as amended by PL 2011, c. 655, Pt. EE, §17 and affected by §30 and amended by c. 657, Pt. W, §5, is repealed and the following enacted in its place:

§407. Comprehensive river resource management plans

1. Plan required. The Department of Agriculture, Conservation and Forestry, with assistance from the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Environmental Protection, the Governor's Energy Office and other state agencies as needed, shall develop 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 that provides a basis for state agency comments, recommendations and permitting decisions.

2. Plan components. A comprehensive river resource management plan developed pursuant to subsection 1:

A. Must, at a minimum, include as applicable:

(1) Minimum flows;
(2) Impoundment level regimes;
(3) Upstream and downstream fish passage survival rates;
(4) Maintenance plans for aquatic habitat and habitat productivity; and
(5) Plans for public access and recreational opportunities; and

B. Must give consideration to existing uses.

3. State management plan. A comprehensive river resource management plan developed pursuant to subsection 1 must update, complement and, after public notice, comment and hearings in the watershed, be adopted as components of the State's comprehensive rivers management plan.

4. Rules. A comprehensive river resource management plan and any amendment to a comprehensive river resource management plan adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 38 MRSA §464, sub-§4, ¶F, as amended by PL 1991, c. 66, Pt. B, §1, is further amended by enacting a new subparagraph (7) to read:

(7) Notwithstanding any provision of law to the contrary, a person that meets a condition relating to any effect or potential effect on a species that is listed under the United States Endangered Species Act of 1973, Public Law 93-205, as amended, that is imposed or proposed to be imposed by the Federal Energy Regulatory Commission in granting a new license pursuant to 18 Code of Federal Regulations, Part 16, as amended, is considered to have met the State’s water quality standards in the event that no equivalent state standard has been set.

SUMMARY

This bill requires that a comprehensive river resource management plan for a watershed with a hydropower project give consideration to existing uses. The bill also classifies a
comprehensive river resource management plan as a major substantive rule subject to the review of the Legislature.