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Public Law
123rd Legislature
First Regular Session

Chapter 235
H.P. 592 - L.D. 774

An Act To Coordinate the Implementation of the In-stream Flow and Water Level Rules among the Department of Environmental Protection, the Drinking Water Program of the Department of Health and Human Services and the Public Utilities Commission

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the provisions of this legislation must take effect immediately to provide the statutory basis for major substantive rules authorized to be finally adopted when approved; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §470-H, as enacted by PL 2005, c. 330, §12, is amended to read:

§ 470-H. In-stream flow and water level requirements; rules

The board shall adopt rules that establish water use ~~standards~~requirements for maintaining in-stream flows and ~~GPA~~ lake or pond water levels that are protective of aquatic life and other uses and that establish criteria for designating watersheds most at risk from cumulative water use. ~~Standards~~Requirements adopted under this section must be based on the natural variation of flows and water levels, allowing variances if use will still be protective of water quality within that classification. The board shall incorporate into the rules a mechanism to reconcile, to the extent feasible, the objective of protecting aquatic life and other uses as provided for in this section and the objective of allowing community water systems to use their existing water supplies to provide water service. Before the department issues a community water system withdrawal certificate, the certificate must be reviewed and approved by the drinking water program of the Department of Health and Human Services, with technical assistance from the Public Advocate on economic issues, to ensure that conditions contained in the certificate are economically affordable and technically feasible and will not jeopardize the safety, dependability or financial viability of the community water system. Except as necessary to meet the requirements in this section and rules adopted pursuant to this section, a community water system does not forfeit the rights, powers or responsibilities related to water use that are contained in its legislative charter

or similar authority. Rules adopted under this section are state water use rules in accordance with the authority reserved to states under the federal Clean Water Act. A water user that fails to comply with the requirements of the rules adopted under this section is subject to penalties pursuant to section 349. For purposes of this section, "community water system" has the same meaning as in Title 22, section 2660-B, subsection 2. Rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 6, 2007.