



Water Withdrawal Regulation at MDEP

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MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Protecting Maine's Air, Land and Water

§ 404 Ground Water Rights

- 38 M.R.S. § 404, Adopted in 1987
- Creates a cause of action for homeowners whose domestic wells are impacted by other, non-domestic groundwater withdrawals, giving them a statutory right to sue for damages including the cost of restoring water to their property



Natural Resource Protection Act

Significant Groundwater Well

- P.L. 2007, Chapter 399, created permitting requirement for a “Significant Groundwater Well” (SGW) under the Natural Resources Protection Act (NRPA)
- Title 38, Section 480-B(9-A), Definition
- Title 38, Section 480-D(10), Standard



SGW Definition

- (1) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook; or



SGW Definition cont.

- (2) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook.



SGW Exemptions

- Withdrawals for firefighting or preoperational testing not included
- A public water system as defined in Title 22, section 2601, subsection 8, unless the system is used solely to bottle water for sale;
- Individual home domestic supply;
- Agricultural use or storage;



SGW Exemptions cont.

- Dewatering of a mining operation
- A development or part of a development requiring a permit pursuant to article 6 (Site Location), article 7 (Gravel Pits) or article 8-A (Quarries); or
- A structure or development requiring a permit from the Maine Land Use Regulation Commission.



NRPA-SGW Standard

- Applicant must demonstrate that the activity will not have an undue unreasonable effect on waters of the State, as defined in section 361-A, subsection 7, water-related natural resources and existing uses, including, but not limited to, public or private wells within the anticipated zone of contribution to the withdrawal.



SGW Standard cont.

- In making findings under this subsection, the department shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals.



Site Law Jurisdiction

- "Development of state or regional significance that may substantially affect the environment," means any federal, state, municipal, quasi-municipal, educational, charitable, residential, commercial or industrial development that:
- Occupies a land or water area in excess of 20 acres or 3 acres stripped and not revegetated, etc.



Site Law Standard

- 38 M.R.S § 484 (F), Same as SGW standard:
- Not have an undue unreasonable effect on waters of the State, water-related natural resources and existing uses
- Department shall consider both the direct effects of the proposed water withdrawal and its effects in combination with existing water withdrawals.



Chapter 587, In-stream Flows and Lake and Pond Water Levels

- Establishes minimum river and stream flows and lake and pond water levels to protect natural aquatic life and other designated uses in surface waters threatened by significant water withdrawals



Chapter 587 Goals

- Protect aquatic life and other uses
- Based on natural variation of flow
- Allow variance if uses protected
- Criteria for most at risk waters



Chapter 587 Jurisdiction

- Applies to withdrawals or other direct or indirect removal, diversion, activities, or use of these waters that causes the natural flow or water level to be altered for all non-tidal fresh surface waters of the State.



Chapter 587 Exemptions

- Public Emergency
- Storage Ponds
- Nonconsumptive Use
- Existing Community Water Supplies
- Hydropower Projects





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