

§841. Maintenance of dams

1. Prohibition. After issuance of an order under section 840, subsection 5, establishing a water level regime for any body of water, no owner, lessee or person in control of any dam impounding the body of water, nor any subsequent transferee, may operate or maintain the dam or cause or permit the dam to be operated or maintained in any manner that will cause the level of water to be higher or lower than that permitted by order of the board or commissioner or to otherwise violate the terms of the order of the board or commissioner.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §202 (AMD).]

2. Exception. An owner, lessee or person in control of a dam may not be in violation of subsection 1 when the water level fluctuation not permitted by the order was caused by unforeseeable and unpredictable meteorological conditions or operating failures of the dam or any associated equipment or by valid order of federal, state or local authorities, including an order issued pursuant to Title 37-B, section 1114, subsection 2, and when the person could not have avoided the fluctuation by promptly undertaking all reasonably available steps to regulate water flow through or over any dam under the person's control. The burden of proof is on the owner, lessee or person in control of the dam to demonstrate the applicability of this subsection.

[PL 2001, c. 460, §5 (AMD).]

3. Enforcement. The commissioner or any littoral or riparian proprietor may commence an action to enjoin the violation of any provision of this subarticle. The commissioner may enforce any order issued under section 840, subsection 5 or subsection 6 by any other appropriate remedy, including, but not limited to, entering the dam premises to carry out the terms of the order.

The violation of any order issued under section 840, subsection 5 or subsection 6, is punishable by a forfeiture of not less than \$100 and not more than \$10,000. Each day of violation is considered a separate offense.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §202 (AMD).]

4. Unregistered dam.

[PL 1993, c. 370, §11 (RP).]

5. Appeal. Any person aggrieved by an order of the board or commissioner under section 840, subsection 5 or 6 may appeal to the Superior Court under Title 5, chapter 375, subchapter VII.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §202 (AMD).]

SECTION HISTORY

PL 1983, c. 417, §6 (NEW). PL 1987, c. 118, §12 (AMD). PL 1989, c. 890, §§A40,B202 (AMD). PL 1993, c. 370, §11 (AMD). PL 2001, c. 460, §5 (AMD).

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