

MAINE STATE LEGISLATURE

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December 1, 1972

Donald C. Hoxie

Health and Welfare

John M. R. Paterson, Assistant

Attorney General

Honey Wagons

In your memo of June 30, 1972 you inquired as to whether so-called Honey Wagons are subject to the provision of Title 30 M.R.S.A. § 4359. The demands of other work has unfortunately delayed a more prompt response to your inquiry.

In my judgment Honey Wagons do not fall within the ambit of sewage disposal units as defined in that section. The statute appears to comprehend primarily stationary sewage disposal systems which are the subject of the Plumbing Code. A mobile unit which cleans or pumps such systems is not customarily thought of as a sewage disposal unit.

In addition, I would note that there are several problems with use of this section. Malfunctioning is a rather broad word. In any particular case it would be necessary to establish precisely what was meant by "malfunctioning." In all probability it would mean not functioning in accordance with Plumbing Code standards or in such a manner as to endanger public health. Without further definition of the term, however, one could anticipate problems on this issue.

In any situation where Honey Wagons' drainage goes to State waters, then the D.E.P. can act. Absent such a situation, I think you may have to rely largely on general health and nuisance statutes and other "saber rattling" techniques. If you have a specific situation which needs attention, please advise me and we can attempt to deal with it.

Finally, I suggest that you might consider legislation on this subject, perhaps in conjunction with D.E.P.

JMRP/ec