

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2156

S.P. 764

In Senate, April 7, 1999

An Act to Amend the Laws Governing the Construction of Salt and Sand Storage Facilities.

Submitted by the Department of Transportation pursuant to Joint Rule 204.
Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator O'GARA of Cumberland.
Cosponsored by Representative SAVAGE of Union.

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

4 **Sec. 1. 23 MRSA §1851**, as amended by PL 1989, c. 502, Pt. A, §89, is repealed and the following enacted in its place:

6 **§1851. State cost-share program for salt and sand storage facilities**

8
10 The Department of Transportation may administer funds for the construction of municipal or county salt and sand storage facilities in order to reduce salt pollution of ground and surface waters. In administering these funds, the department shall provide reimbursement to municipal and county governmental entities for approved projects in the following order, according to priorities established pursuant to Title 38, section 411:

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16
18 1. Priority 1 projects. Priority 1 projects, as long as the site was registered with the Department of Environmental Protection pursuant to Title 38, section 413 before October 15, 1997, regardless of the date the priority rating was designated;

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22 2. Priority 2 projects. Priority 2 projects, as long as the site was registered with the Department of Environmental Protection pursuant to Title 38, section 413 before October 15, 1997, regardless of the date the priority rating was designated;

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26
28 3. Priority 3 projects. Priority 3 projects that were designated before October 15, 1997 and continue to be so designated on April 1, 2000;

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32 4. Priority 4 projects. Priority 4 projects that were constructed before January 1, 1999 with plans and financial information submitted to the Department of Transportation by November 1, 1999;

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36 5. Priority changes. Priority 3 projects designated on April 1, 2000 that were designated Priority 4 projects as of October 15, 1997;

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40 6. Priority 5 projects. Priority 5 projects that were constructed before January 1, 1999, with plans and financial information submitted to the Department of Transportation by November 1, 1999;

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46 7. Other projects. All other projects eligible for reimbursement. Priority 4 and Priority 5 sites designated on April 1, 2000, are not eligible for reimbursement.

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50 Allocation of funds must be based upon the sum of 25% of the expenses permitted plus 1.25 times the ratio of miles of state

2 and state aid roads maintained for winter maintenance, as
4 described in sections 1001 and 1003, to all miles maintained for
6 winter maintenance by the municipality, quasi-municipal agency or
8 county. The Department of Transportation shall establish
10 guidelines to reimburse eligible local government entities in a
12 consistent and timely manner.

14 The Department of Transportation shall review and approve
16 municipal and county plans and specifications pursuant to
18 established departmental guidelines for design, construction and
20 size before a municipality or county constructs a facility.
22 Municipal actions inconsistent with such guidelines are
24 reimbursed at the sole discretion of the department.

26 Reimbursable expenses under this section do not include land
28 acquisition or debt service.

30 Sec. 2. 23 MRSA §1852, as amended by PL 1997, c. 551, §1, is
32 further amended to read:

34 **§1852. Salt and sand storage facilities**

36 ~~In addition to the provisions of section 1851, and prior to~~
38 ~~calculating reimbursement under that section, the department~~
40 ~~shall reimburse each municipality and county for 25% of the~~
42 ~~expenses permitted under section 1851 and incurred for the~~
44 ~~construction of salt and sand storage facilities approved under~~
46 ~~section 1851.~~

48 ~~If an owner or operator of a project classified by the~~
50 ~~Department of Environmental Protection on May 1, 1997 as a~~
Priority 1, 2 or 3 project under Title 38, section 451-A,
subsubsection 1-A has not submitted to the department in writing by
October 15, 1997 a preliminary plan and estimate, a notice of a
completed or partially completed facility or a notice of a signed
contract for imminent construction of a facility, the department
may make any funds committed or otherwise obligated to that
project under this section and section 1851 available to any
constructed Priority 3, 4 or 5 project that is eligible for
reimbursement and has sent all required submissions to the
department. A project that loses its funding under this
paragraph remains eligible for reimbursement at a later date,
subject to the subsequent availability of funds.

52 If funds are available for grants to an owner or operator of
54 a project in the funding order established in section 1851, yet
56 if within one year of notice of availability of the funds the
58 owner or operator fails to submit to the Department of
60 Transportation in writing a preliminary plan and estimate, a
notice of a completed or partially completed facility or a notice

2 of a signed contract for imminent construction of a facility, the
3 Department of Transportation may make any funds committed or
4 otherwise obligated to that project under this section and
5 section 1851 available to any constructed project of a lower
6 funding priority under section 1851 that has sent all required
7 submissions to the department. A project that loses its funding
8 under this paragraph remains eligible for reimbursement at a
9 later date, subject to availability of funds.

10 The department may not reimburse a municipality or county
11 under this section or section 1851 for that portion of
12 construction expenses paid for with a grant awarded in accordance
13 with Public Law 1991, chapter 849, section 3 or under the
14 Community Development Block Grant Program.

15 **Sec. 3. 38 MRSA §411, 6th ¶**, as affected by PL 1989, c. 890,
16 Pt. A, §40 and amended by Pt. B, §24, is further amended to read:
17

18 The commissioner shall develop a project priority list, for
19 approval and adoption by the board, for pollution abatement
20 construction and salt or sand-salt storage building projects. The
21 factors considered in developing the priority lists include, but
22 are not limited to, protection of ~~ground~~ groundwater and surface
23 water supplies, shellfish, general public health hazards and
24 water contact activities. The commissioner shall revise the
25 project priority list for salt and sand-salt storage facilities
26 by October 1, 1999. An owner or operator of a salt or sand-salt
27 storage building project may appeal the ranking and provide new
28 information to the commissioner within 120 days of notification,
29 which may change final priority ranking. The commissioner shall
30 release a final project priority list by April 1, 2000. The
31 commissioner may not change the priority ranking for a
32 municipality or county that prior to January 1, 1999 built a
33 facility and also registered the site with the department
34 pursuant to section 413.

35 **Sec. 4. 38 MRSA §413, sub-§2-D**, as amended by PL 1997, c. 794,
36 Pt. A, §12, is further amended to read:
37

38 **2-D. Exemptions; road salt or sand-salt storage piles.** The
39 commissioner may exempt any road salt or sand-salt storage area
40 from the need to obtain a license under this section for
41 discharges to groundwaters of the State when the commissioner
42 finds that the exempt activity will not have a significant
43 adverse effect on the quality or classifications of the
44 groundwaters of the State. In making this finding, the
45 commissioner's review must include, but is not limited to, the
46 location, structure and operation of the storage area.
47
48

2 Owners of salt storage areas shall register the location of
storage areas with the department on or before January 1, 1986.
4 As required by section 411, the department shall prioritize
municipal or quasi-municipal sand-salt storage areas prior to
6 November 1, 1986.

8 New or existing salt or sand-salt storage areas registered after
October 1, 1999 may be exempt from licensing under this section
as long as such areas comply with siting, operational and best
10 management practices adopted by rule by the department. Storage
areas other than those owned by municipalities or counties and
12 registered prior to October 1, 1999 are exempt from licensing
under this section as long as such areas comply with section
14 451-A, subsection 1-A and with operational and best management
practices adopted by rule by the department. Rules adopted
16 pursuant to this section are routine technical rules as defined
in Title 5, chapter 375, subchapter II-A.

18 **Sec. 5. 38 MRSA §451-A, sub-§1-A, as amended by PL 1993, c.**
20 **54, §1, is further amended to read:**

22 **1-A. Time schedule for salt and sand-salt storage program.**
An owner or operator of a salt or sand-salt storage area is not
24 in violation of any ~~ground-water~~ groundwater classification or
reclassification adopted on or after January 1, 1980, ~~at any time~~
26 ~~prior to October 1, 2003,~~ with respect to discharges to the
~~ground-water~~ groundwater from those facilities, if ~~by that time~~
28 the owner or operator has completed all steps ~~then~~ required to be
completed by the schedules set forth in this subchapter. The
30 commissioner shall administer this schedule according to the
project priority list adopted by the board pursuant to section
32 411 and the provisions of this subsection. A municipal or county
site classified as Priority 4 or Priority 5 as of April 1, 2000,
34 which was registered pursuant to section 413 prior to October 15,
1997, may not be in violation of any groundwater classification
36 or reclassification with respect to discharges to the groundwater
from those facilities.

38 A. Preliminary ~~plans and engineers' estimates~~ notice must
40 be completed and submitted to the Department of
Transportation by the following dates:

42 (1) For Priority 1 and 2 projects ~~January 1996,~~
44 the latest of the following dates:

46 (a) One year from a designation under section 411;

48 (b) One year from notice of availability of a
50 state grant, if eligible; or

(c) January 1996.

2

(2) For Priority 3 project January 1997; For municipal, state and county Priority 3 projects, the later of the following dates:

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6

(a) One year from notice of availability of a state grant, if eligible; or

8

10

(b) January 2003.

12

(3) For Priority 4 project January 1998; and other Priority 3 projects, the later of the following dates:

14

16

(a) One year from a designation under section 411; or

18

(b) January 1997.

20

(4) For Priority 5 project January 1999.

22

~~B. Arrangements for administration and financing must be completed within 12 months of the dates established in paragraph A for each priority category.~~

24

26

~~C. Detailed engineering and final plan formulation must be completed within 24 months of the dates established in paragraph A for each priority category.~~

28

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D. Review of final plans with the Department of Transportation must be completed and construction commenced within ~~36~~ 12 months of the dates established in paragraph A for each priority category. ~~The Department of Transportation shall consult with the commissioner in reviewing final plans.~~

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E. Construction must be completed and the facility in operation within ~~48~~ 24 months of the dates established in paragraph A for each priority category.

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In no case may violations of the lowest ~~ground-water~~ groundwater classification be allowed. In addition, no violations of any ~~ground-water~~ groundwater classifications adopted after January 1, 1980, may be allowed for more than 3 years from the date of an offer of a state grant for the construction of those facilities ~~or after January 1, 2003, whichever is earlier.~~

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The department may not issue time schedule variances under subsection 1 to owners or operators of salt or sand-salt storage areas.

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2 An owner or operator of a salt or sand-salt storage area who is
in compliance with this section is exempt from the requirements
of licensing under section 413, subsection 2-D.

4
6 An owner or operator is not in violation of a schedule
established pursuant to this subsection if the owner or operator
is eligible for a state grant to implement the schedule and the
8 state grant is not available.

10 **Sec. 6. Report to Legislature.** The Department of Environmental
Protection shall report to the joint standing committee of the
12 Legislature having jurisdiction over natural resources matters by
January 15, 2001. The report must include the extent of
14 remaining threats to groundwater and surface water due to storage
of road salt, and the extent to which current law and available
16 or proposed funding addresses those threats. The report may
include proposed laws and rules that would guide the operation
18 and management of otherwise unregulated sites. The report must
include stakeholder efforts that guided the drafting of such laws
20 and rules. Nothing in this section restricts the Department of
Environmental Protection's ability to adopt rules under the Maine
22 Revised Statutes, Title 38, section 413, subsection 2-D.

24
26 **SUMMARY**

This bill amends the laws on the construction of salt and
28 sand storage facilities. It repeals the current state mandate
that municipalities or counties with Priority 4 or Priority 5
30 sand-salt storage sites build a building. It provides for a
reassessment of environmental priority levels of all sites, yet
32 retains the current order of expected financial reimbursement for
construction of a building. It requires that state and private
34 Priority 4 and 5 storage sites follow best management practices
to prevent water pollution. This bill also requires the
36 Department of Environmental Protection to report on the remaining
threats to groundwater and surface water due to storage of road
38 salt and how to address those threats.