

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1497

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H.P. 1074

House of Representatives, May 2, 2013

**An Act To Make Minor Changes and Corrections to Statutes  
Administered by the Department of Environmental Protection**

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Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.  
Reference to the Committee on Environment and Natural Resources suggested and ordered  
printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative WELSH of Rockport.  
Cosponsored by Senator: BOYLE of Cumberland.

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

2 **Sec. 1. 5 MRSA §3341, sub-§2, ¶B**, as amended by PL 1997, c. 393, Pt. A, §11,  
3 is further amended to read:

4 B. Establish a simple and expedient application process. ~~Not later than February 1st~~  
5 ~~of each year, the Court Alternative Dispute Resolution Service shall send to the chair~~  
6 ~~of the Land and Water Resources Council a copy of each completed application~~  
7 ~~received and each agreement signed during the previous calendar year; and~~

8 **Sec. 2. 5 MRSA §9051-A, sub-§3**, as enacted by PL 1987, c. 653, §1, is amended  
9 to read:

10 **3. Notice to the public.** Notice to the public ~~shall~~ must be given by:

11 A. Publication twice in a newspaper of general circulation in the area of the proposed  
12 activity and in areas affected by the license application as determined by the agency  
13 or board to the best of its ability.

14 (1) Notice ~~shall~~ must be published in plain and clear English ~~which~~ that can be  
15 readily understood by the general public.

16 (2) The notice ~~shall~~ must be published in the legal notices section in a form  
17 readily noticeable ~~to~~ by the general public.

18 (3) With respect to notice of an opportunity for a hearing pursuant to subsection  
19 1, the date of the first publication ~~shall~~ must be 30 days next prior to the date of  
20 the expected agency decision on the license application.

21 (4) With respect to notice of a hearing pursuant to subsection 2, the date of the  
22 first publication ~~shall~~ must be 30 days next prior to the hearing.

23 (5) With respect to notice of an opportunity for a hearing pursuant to subsection  
24 1, the date of the ~~second~~ 2nd publication ~~shall~~ must be at least 7 days and no  
25 more than 13 days before the date of the expected agency decision on the license  
26 application.

27 (6) With respect to notice of an opportunity for a hearing pursuant to subsection  
28 2, the date of the ~~second~~ 2nd publication ~~shall~~ must be at least 7 days and no  
29 more than 13 days before the date of the hearing.

30 ~~B. The issuance of press releases describing the date, place, time and nature of the~~  
31 ~~hearing. The press releases shall be sent at least 7 days and no more than 13 days~~  
32 ~~before the date of the expected agency decision or the scheduled hearing to the news~~  
33 ~~desks of television stations and newspapers of general circulation in the area of the~~  
34 ~~proposed activity; and~~

35 ~~C. Public service radio and television announcements. The first announcement shall~~  
36 ~~be provided to radio and television stations 21 days next prior to the first hearing and~~  
37 ~~the 2nd announcement shall be provided no less than 7 and no more than 10 days~~  
38 ~~prior to the first scheduled hearing.~~

1           **Sec. 3. 10 MRSA §1099-A, sub-§7**, as enacted by PL 1989, c. 774, §4, is  
2 amended to read:

3           **7. Properly installed.** "Properly installed" means a boiler or furnace installed in  
4 accordance with NFPA Standard 31 or subsequent NFPA installation standards adopted  
5 by the ~~state Oil and Solid~~ Maine Fuel Board.

6           **Sec. 4. 10 MRSA §1099-A, sub-§8**, as enacted by PL 1989, c. 774, §4, is  
7 amended to read:

8           **8. Qualified boiler or furnace.** "Qualified boiler or furnace" means any new or  
9 replacement boiler or furnace fueled wholly or in part by waste oil that produces energy  
10 for space heating or cooling or for use in a manufacturing process and is listed by the ~~Oil~~  
11 ~~and Solid~~ Maine Fuel Board as a waste oil boiler or furnace.

12           **Sec. 5. 30-A MRSA §4331, first ¶**, as amended by PL 2011, c. 655, Pt. JJ, §18  
13 and affected by §41, is further amended to read:

14           The department shall conduct an ongoing evaluation process to determine the  
15 effectiveness of state, regional and local efforts under this chapter to achieve the purposes  
16 and goals of this chapter. ~~Working through the Land and Water Resources Council, the~~  
17 The department shall seek the assistance of other state agencies. If requested, all state  
18 agencies shall render assistance to the department in this effort.

19           **Sec. 6. 30-A MRSA §4346, sub-§5**, as amended by PL 2011, c. 655, Pt. JJ, §20  
20 and affected by §41 and amended by c. 657, Pt. W, §5, is further amended to read:

21           **5. Coordination.** State agencies with regulatory or other authority affecting the  
22 goals established in this subchapter shall conduct their respective activities in a manner  
23 consistent with the goals established under this subchapter, including, but not limited to,  
24 coordinating with municipalities, regional councils and other state agencies in meeting  
25 the state goals; providing available information to regions and municipalities as described  
26 in section 4326, subsection 1; cooperating with efforts to integrate and provide access to  
27 geographic information system data; making state investments and awarding grant money  
28 as described in section 4349-A; and conducting reviews of growth management programs  
29 as provided in section 4347-A, subsection 3, paragraph A. Without limiting the  
30 application of this section to other state agencies, the following agencies shall comply  
31 with this subchapter. ~~The Land and Water Resources Council shall periodically, but in no~~  
32 ~~event less than biannually, review the effectiveness of agency coordination efforts,~~  
33 ~~including, but not limited to, those in section 4349-A:~~

- 34           B. Department of Economic and Community Development;
- 35           C. Department of Environmental Protection;
- 36           D. Department of Agriculture, Conservation and Forestry;
- 37           E. Department of Inland Fisheries and Wildlife;
- 38           F. Department of Marine Resources;
- 39           G. Department of Transportation;

- 1 G-1. Department of Health and Human Services;
- 2 H. Finance Authority of Maine; and
- 3 I. Maine State Housing Authority.

4 **Sec. 7. 38 MRSA §343-C, sub-§2, ¶A**, as enacted by PL 1991, c. 804, Pt. C, §3,  
5 is amended to read:

- 6 A. Operate a telephone hotline to enhance accessibility of the program; and

7 **Sec. 8. 38 MRSA §343-C, sub-§2, ¶B**, as enacted by PL 1991, c. 804, Pt. C, §3,  
8 is repealed.

9 **Sec. 9. 38 MRSA §352, sub-§2, ¶E**, as enacted by PL 1991, c. 384, §3 and  
10 affected by §16, is amended to read:

- 11 E. The air emission license fees assessed under section 353-A for those facilities  
12 licensed under section 590 must be assessed to support activities for ~~the Bureau of~~  
13 ~~Air Quality Control~~ air quality control including licensing, compliance, enforcement,  
14 monitoring, data acquisition and administration.

15 **Sec. 10. 38 MRSA §353-A, sub-§10**, as enacted by PL 2007, c. 297, §1, is  
16 amended to read:

- 17 **10. Fees for general permit.** ~~Rock crushers~~ Licensees regulated under a general  
18 permit from the department are subject to an annual fee not to exceed the minimum  
19 license fee established under subsection 4.

20 **Sec. 11. 38 MRSA §568-A, sub-§2, ¶C**, as amended by PL 2009, c. 501, §9, is  
21 further amended to read:

- 22 C. Conditional deductibles for aboveground facilities and tanks are as follows.

- 23 (1) For aboveground tanks subject to the jurisdiction of the State Fire Marshal  
24 pursuant to 16-219 CMR, chapter 34, the deductibles are:

- 25 (a) Five thousand dollars for failure to obtain a construction permit from the  
26 Office of the State Fire Marshal, when required under Title 25, chapter 318  
27 and 16-219 CMR, chapter 34 or under prior applicable law;

- 28 (b) Five thousand dollars for failure to design and install piping in  
29 accordance with section 570-K and rules adopted by the department;

- 30 (c) Five thousand dollars for failure to comply with an existing consent  
31 decree, court order or outstanding deficiency statement regarding violations  
32 at the aboveground facility;

- 33 (d) Five thousand dollars for failure to implement a certified spill prevention  
34 control and countermeasure plan, if required;

- 35 (e) Five thousand dollars for failure to install any required spill control  
36 measures, such as dikes;

- 1 (f) Five thousand dollars for failure to install any required overfill  
2 equipment;
- 3 (g) Five thousand dollars if the tank is not approved for aboveground use;  
4 and
- 5 (h) Ten thousand dollars for failure to report any leaks at the facility.
- 6 (2) For aboveground tanks subject to the jurisdiction of the ~~Oil and Solid~~ Maine  
7 Fuel Board, the deductibles are:
- 8 (a) One hundred and fifty dollars for failure to install the facility in  
9 accordance with rules adopted by the ~~Oil and Solid~~ Maine Fuel Board and in  
10 effect at the time of installation;
- 11 (b) Two hundred and fifty dollars for failure to comply with the rules of the  
12 ~~Oil and Solid~~ Maine Fuel Board;
- 13 (c) Two hundred and fifty dollars for failure to make a good faith effort to  
14 properly maintain the facility; and
- 15 (d) Five hundred dollars for failure to notify the department of a spill.

16 **Sec. 12. 38 MRSA §569-A, sub-§8, ¶A**, as amended by PL 2005, c. 157, §1, is  
17 further amended to read:

18 A. Administrative expenses, personal services and equipment costs of the department  
19 related to the administration and enforcement of this subchapter, except that total  
20 disbursements for personal services may not exceed ~~\$3,700,000 per fiscal year~~  
21 ~~multiplied by an annual adjustment factor of 4% beginning in fiscal year 2005-06~~  
22 \$4,500,000;

23 **Sec. 13. 38 MRSA §585-B, sub-§5**, as amended by PL 2009, c. 535, §1, is  
24 further amended to read:

25 **5. Standards for mercury.** Notwithstanding subsection 1, an air emission source  
26 may not emit mercury in excess of 45.4 kilograms, or 100 pounds, per year after January  
27 1, 2000; 22.7 kilograms, or 50 pounds, per year after January 1, 2004; 15.9 kilograms, or  
28 35 pounds, after January 1, 2007; and 11.4 kilograms, or 25 pounds, after January 1,  
29 2010. As an alternative to not emitting mercury in excess of 11.4 kilograms, or 25  
30 pounds, after January 1, 2010, an air emission source may reduce mercury emissions by  
31 90 percent by weight after January 1, 2010. Compliance with these limits must be  
32 specified in the license of the air emission source. ~~The board~~ department shall establish  
33 by rule testing protocols and measurement methods for emissions sources for which the  
34 ~~board~~ department has not established such protocols and methods for determining  
35 compliance with the emission standard for mercury. These rules are routine technical  
36 rules under Title 5, chapter 375, subchapter 2-A.

37 An air emission source may apply to the board for an extension or modification of the  
38 11.4-kilogram, or 25-pound, limit as follows.

39 A. An emission source may submit an application to the board no later than January  
40 1, 2009 for a 6-month extension of the January 1, 2010 deadline to meet the 11.4-

1 kilogram, or 25-pound, limit. The board shall grant the extension if the board  
2 determines, based on information presented by the source, that compliance with the  
3 limit is not achievable by the deadline due to engineering constraints, availability of  
4 equipment or other justifiable technical reasons.

5 B. An emission source may submit an application to the board no later than January  
6 1, 2009 for a license modification establishing an alternative emission limit for  
7 mercury. The board shall grant the license modification if the board finds that the  
8 proposed mercury emission limit meets the most stringent emission limitation that is  
9 achievable and compatible with that class of source, considering economic feasibility.

10 Pending a decision on an application for an extension or a license modification under this  
11 subsection, the 15.9-kilogram, or 35-pound, limit applies to the emission source.

12 Notwithstanding the January 1, 2000 compliance date in this subsection, a resource  
13 recovery facility that is subject to an emissions limit for mercury adopted by rule by the  
14 board before January 1, 2000 shall comply with the 45.4-kilogram, or 100-pound,  
15 mercury emissions limit after December 19, 2000.

16 For determining compliance with this subsection, the results of multiple stack tests may  
17 be averaged in accordance with guidance provided by the department.

18 **Sec. 14. 38 MRSA §590-E, sub-§1**, as enacted by PL 1991, c. 220, §5, is  
19 amended to read:

20 **1. Registration.** The fuel-burning equipment is registered with the ~~Oil and Solid~~  
21 Maine Fuel Board;

22 **Sec. 15. 38 MRSA §603-A, sub-§2, ¶A**, as amended by PL 2009, c. 604, §1, is  
23 further amended to read:

24 A. The sulfur content for liquid fossil fuels is as follows.

25 (1) In the Central Maine, Downeast, Aroostook County and Northwest Maine  
26 Air Quality Control Regions and the Metropolitan Portland Air Quality Control  
27 Region outside the Portland Peninsula Air Quality Control Region, a person may  
28 not use any residual fuel oil with a sulfur content greater than 2.0% by weight;  
29 beginning January 1, 2018, the limit for those regions is 0.5% by weight.

30 (2) In the Portland Peninsula Air Quality Control Region, a person may not use  
31 any residual fuel oil with a sulfur content greater than 1.5% by weight; beginning  
32 January 1, 2018, the limit for that region is 0.5% by weight.

33 (3) Statewide, a person may not use a distillate fuel:

34 (a) Beginning ~~January~~ July 1, 2016, with a sulfur content greater than  
35 0.005% by weight; and

36 (b) Beginning January 1, 2018, with a sulfur content greater than 0.0015%  
37 by weight.

38 The sulfur content requirements in this subparagraph do not apply to the use of  
39 distillate fuel for manufacturing purposes.

1           **Sec. 16. 38 MRSA §1871, first ¶**, as enacted by PL 2001, c. 434, Pt. B, §2, is  
2 amended to read:

3           The Interagency Task Force on Invasive Aquatic Plants and Nuisance Species, as  
4 established by Title 5, section 12004-D, subsection 6 and referred to in this chapter as the  
5 "task force," is established to advise the ~~Land and Water Resources Council, established~~  
6 ~~in Title 5, section 3331,~~ department on matters pertaining to research, control and  
7 eradication of invasive aquatic plants and nuisance species.

8           **Sec. 17. 38 MRSA §1871, sub-§4**, as enacted by PL 2001, c. 434, Pt. B, §2, is  
9 amended to read:

10           **4. Duties.** The task force may make recommendations to the ~~Land and Water~~  
11 ~~Resources Council~~ department on:

12           A. The importation and transportation of invasive aquatic plants and nuisance  
13 species;

14           B. Monitoring and educational programs aimed at the control of invasive aquatic  
15 plants and nuisance species;

16           C. A comprehensive state invasive aquatic plants and nuisance species management  
17 plan that meets the requirements of the National Invasive Species Act of 1996, 16  
18 United States Code, Section 4722;

19           D. A statewide inventory of invasive aquatic plants and nuisance species;

20           E. Methods to improve cooperation of state, provincial, federal and nongovernmental  
21 agencies in the area of invasive aquatic plants and nuisance species prevention and  
22 control;

23           F. Recommendations on the feasibility of implementing lake protection assessment  
24 districts that allow residents and owners of land within 250 feet of inland waters to  
25 assess themselves to raise funds to assist in the prevention and control of invasive  
26 aquatic plants; and

27           G. Other recommendations as necessary to control the introduction of invasive  
28 aquatic plants and nuisance species in the State.

29           **Sec. 18. 38 MRSA §1872, first ¶**, as enacted by PL 2001, c. 434, Pt. B, §2, is  
30 amended to read:

31           The task force shall also recommend to the ~~Land and Water Resources Council~~  
32 department an action plan to protect the State's inland waters from invasive aquatic plants  
33 and nuisance species. That plan may include, but is not limited to:

34           **Sec. 19. 38 MRSA §2124-A, 3rd ¶**, as amended by PL 2011, c. 655, Pt. GG, §31  
35 and affected by §70, is further amended to read:

36           ~~Beginning on January 1, 2013 and every odd-numbered year thereafter, the~~ The  
37 report submitted under this section must include an analysis of how the rate of fill at each  
38 solid waste landfill has affected the expected lifespan of that solid waste landfill and an



1 analysis of consolidation of ownership in the disposal, collection, recycling and hauling  
2 of solid waste.

3 **Sec. 20. 38 MRSA §2124-A, 4th ¶**, as amended by PL 2011, c. 655, Pt. GG, §31  
4 and affected by §70, is repealed.

5 **Sec. 21. 38 MRSA §2133, sub-§2-A**, as amended by PL 2011, c. 655, Pt. GG,  
6 §33 and affected by §70, is further amended to read:

7 **2-A. Assistance with managing solid waste.** ~~In accordance with section 343-C, the~~  
8 The department shall assist municipalities with managing solid waste. The department  
9 may also provide planning assistance to municipalities and regional organizations for  
10 managing municipal solid waste. Planning assistance may include cost and capacity  
11 analysis and education and outreach activities. The department shall provide assistance  
12 pursuant to this subsection in accordance with the waste management hierarchy in section  
13 2101. Preference in allocating resources under this section must be given to  
14 municipalities that take advantage of regional economies of scale.

15 **Sec. 22. 38 MRSA §2133, sub-§2-B**, as amended by PL 2011, c. 655, Pt. GG,  
16 §33 and affected by §70, is further amended to read:

17 **2-B. Household hazardous waste collection.** The department may, within available  
18 resources, award grants to eligible municipalities, regional associations, sanitary districts  
19 and sewer districts for household hazardous waste collection and disposal programs. In  
20 implementing this program, the department shall attempt to:

- 21 A. Coordinate the household hazardous waste collection programs with overall  
22 recycling and waste management;
- 23 B. Encourage regional economies of scale;
- 24 C. Coordinate programs between private and public institutions;
- 25 D. Maximize opportunities for federal grants and pilot programs; and
- 26 E. By January 1, 2002 and as necessary thereafter, fund capital improvements and  
27 operating expenses to facilitate the development of collection programs throughout  
28 the State for hazardous waste that is universal waste, as identified in board rules,  
29 generated by households, small-quantity generators, public schools and  
30 municipalities.

31 ~~Preference in allocating resources under this subsection must be given to municipalities~~  
32 ~~that participate in a household hazardous waste collection region as defined in subsection~~  
33 ~~2-D.~~

34 At a minimum, the department shall award grants to public schools and municipalities for  
35 reasonable costs incurred as a result of managing waste mercury-added products  
36 generated by those public schools and municipalities, in compliance with the  
37 requirements in sections 1663 and 1664, that would not otherwise be incurred by  
38 complying with existing laws, rules or regulations as of July 15, 2002.

