

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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Director of the Bureau of Land Quality Control ~~and~~ within the Department of Environmental Protection; and

**Sec. 12. 38 MRSA §444, first ¶**, as reallocated by PL 1985, c. 481, Pt. A, §32, is amended to read:

Any person who orders or conducts any activity in violation of a municipal ordinance adopted under this chapter shall be penalized in accordance with Title 30 30-A, section 4966 4506.

**Sec. 13. 38 MRSA §445**, as enacted by PL 1985, c. 481, Pt. A, §94, is amended to read:

**§445. Guidelines for shoreland zoning along significant river segments**

In addition to the guidelines adopted under section 438 438-A, the following guidelines for the protection of the shorelands shall apply along significant river segments identified in section 437. These guidelines are intended to maintain the special values of these particular river segments by protecting their scenic beauty and undeveloped character.

**1. New principal structures.** New principal structures, except for structures related to hydropower facilities, shall be set back a minimum of 125 feet from the normal high-water ~~mark~~ line of the river. These structures shall be screened from the river by existing vegetation.

**2. New roads.** Developers of new permanent roads, except for those providing access to a structure or facility allowed in the 250-foot zone, shall demonstrate that no reasonable alternative route outside of the zone exists. When roads must be located within the zone, they shall be set back as far as practicable from the normal high-water ~~mark~~ line and screened from the river by existing vegetation.

**3. New gravel pits.** Developers of new gravel pits shall demonstrate that no reasonable mining site outside of the zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water ~~mark~~ line and no less than 75 feet and screened from the river by existing vegetation.

**Sec. 14. 38 MRSA §446**, as enacted by PL 1985, c. 481, Pt. A, §95, is amended to read:

**§446. Municipal ordinance review and certification**

Each municipality with shorelands along significant river segments, as identified in section 438 437, shall review the adequacy of the zoning on these shorelands to protect the special values cited for these river segments by the Department of Conservation's 1982 Maine Rivers Study and for consistency with the guidelines established under section 445. Prior to December 15, 1984, each such municipality shall certify to the Board of Environmental Protection either that its existing zoning for these areas is at least as restrictive as the guidelines established under section 445, or that it has amended its zoning for this purpose. This certification shall be accompanied by the ordinances and zoning maps covering

these areas. Failure to accomplish the purposes of this subsection shall result in adoption of suitable ordinances for these municipalities, as provided for in section 442 438-A.

**Sec. 15. 38 MRSA §448** is enacted to read:

**§448. Municipalities establish commercial fishing and maritime activity zones**

A municipality may, within coastal shoreland areas of that municipality, adopt zoning ordinances establishing a commercial fishing and maritime activity zone. In creating that zone, the municipality shall consider at least the following:

**1. Utilization.** The number of commercial fishermen and the utilization of the shoreland area;

**2. Availability.** The availability of shoreland area for commercial fishing;

**3. Demand for property.** The demands for shoreland property for commercial and residential purposes not related to commercial fishing or maritime activity; and

**4. Access.** Access to the shore and availability of space appropriate for commercial fishing and maritime activities.

See title page for effective date.

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## CHAPTER 404

H.P. 129 - L.D. 173

### An Act to Further Protect Freshwater Wetlands

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

**Sec. 1. 30-A MRSA §4401, sub-§2-A** is enacted to read:

**2-A. Freshwater wetland.** "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

**Sec. 2. 30-A MRSA §4404, sub-§14** is enacted to read:

14. Freshwater wetlands. All potential freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

See title page for effective date.

**CHAPTER 405**

**H.P. 748 - L.D. 1052**

**An Act to Amend the Budget to Fund a Position in the Department of Environmental Protection to Review Hydropower Applications**

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

**Sec. 1. 38 MRSA §352, sub-§4, as repealed and replaced by PL 1987, c. 787, §9, is amended to read:**

**4. Accounting system.** In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions shall keep accurate and regular daily time records. These records shall describe the matters worked on, services performed and amount of time devoted to those matters and services, as well as amounts of money expended in performing these functions. Records shall be kept for a sufficient duration as determined by the commissioner to establish to his satisfaction that the fees are appropriate. The following table is repealed on May 1, 1991.

TABLE I

MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFICATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	\$250	\$20
B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20

TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE
362-A, Experiments	\$40	\$160
393, Great Ponds	75	50
410-E, Freshwater wetlands	100	50
413, Waste discharge license		
A. Residential	225	75
B. Commercial		
1. Flow of less than 2,000 gallons per day	2,400	640
2. Flow of 2,000 to 20,000 gallons per day inclusive	2,400	2,000
3. Flow of greater than 20,000 gallons per day	2,400	4,800
C. Industrial minor (based upon EPA list of major and minor source discharges)		
1. Discharges of cooling water, sanitary waste water or treated storm water only	1,500	480
2. All others	1,500	6,000
D. Industrial major (based upon EPA list of major source discharges)		
1. Discharge of cooling water or sanitary waste water only	4,800	3,000
2. All others	4,800	8,800
E. Publicly owned treatment works		
1. Flow of less than or equal to 50,000 gallons per day and no significant industrial component	100	400
2. Flow of greater than 50,000 gallons per day, but less than 0.5 million gallons per day and no significant industrial component	100	1,400
3. Flow of at least 0.5 million gallons per day, but less than 5 million gallons per day and no significant industrial component	100	3,600
4. Flow of at least 5 million gallons per day or a significant industrial component	300	5,400
F. Special discharges		
1. Aquatic pesticides	130	75
2. Dredge spoils	130	75