

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
OCTOBER 9, 1991

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  
1991

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

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

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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1991-92 1992-93

Article 1-F

PUBLIC UTILITIES COMMISSION

Public Utilities Commission  
Regulatory Fund

Personal Services	\$683,166	\$793,604
All Other	411,834	746,396

Funds to be used for increases in personnel and general operating expenses and to fund 22 positions previously transferred from the General Fund.

PUBLIC UTILITIES COMMISSION TOTAL	<u>\$1,095,000</u>	<u>\$1,540,000</u>
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**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 18, 1991.

**CHAPTER 344**

**S.P. 679 - L.D. 1801**

**An Act to Clarify the Termination of Intensive Supervision**

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

**17-A MRSA §1262, sub-§4-A** is enacted to read:

4-A. If, while on the Intensive Supervision Program, a prisoner is convicted of another crime, that person is no longer suitable for participation in the Intensive Supervision Program and the Department of Corrections shall petition the court to require the prisoner to serve in institutional confinement the remaining portion of the unsuspended term that was to have been served in the Intensive Supervision Program.

See title page for effective date.

**CHAPTER 345**

**H.P. 987 - L.D. 1432**

**An Act to Establish and Implement the Maine Nonpoint Source Pollution Control Program**

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

**38 MRSA c. 3, sub-c. I, art. 1-F** is enacted to read:

NONPOINT SOURCE POLLUTION PROGRAM

§410-H. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Best management practice guidelines. "Best management practice guidelines" means recommended techniques or procedures or a combination of techniques or procedures that are determined by the appropriate agency identified in section 410-J to be the most effective practicable means of preventing or reducing pollution generated by nonpoint sources.

2. Nonpoint source. "Nonpoint source" means any source, excluding any source defined as a direct discharge in section 466, that discharges pollutants into the surface or ground waters of the State, including, but not limited to, sources related to agriculture, construction and maintenance of bridges, railways and roads, forest management and commercial, industrial or residential development.

§410-I. Cooperation with agencies

1. Agency cooperation. The commissioner shall cooperate and coordinate with the Commissioner of Agriculture, Food and Rural Resources; the Commissioner of Conservation; the Commissioner of Transportation; the Commissioner of Economic and Community Development; the Commissioner of Human Services; the Commissioner of Marine Resources; and the Director of the State Planning Office to ensure a coordinated approach to nonpoint source pollution control for agriculture, forestry, transportation and development.

2. Ranking of watersheds. In cooperation with the commissioner, the agencies identified in subsection 1 shall identify those watersheds that should receive highest priority for corrective action for nonpoint source pollution.

§410-J. Program implementation

1. Agriculture. The Department of Agriculture, Food and Rural Resources shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from agricultural activities. The Department of Agriculture, Food and Rural Resources may recommend to farmers the use of best management practice guidelines.

2. Forestry. The Department of Conservation, Bureau of Forestry in cooperation with the commissioner shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from wood harvesting and forest management activities. The Bureau of Forestry may publish best management practice guidelines for use by landowners and wood harvesters. Landowners and wood

harvesters must be notified of these guidelines and assisted in their efforts to implement the guidelines in accordance with the Bureau of Forestry advisory programs under Title 12, sections 8611 and 8612.

**3. Transportation.** The Department of Transportation in cooperation with the commissioner shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from transportation-related activities. The Department of Transportation shall encourage all state or federally funded projects to use the best management practice guidelines. The Department of Transportation may provide technical assistance to municipalities.

**4. Development.** The commissioner shall develop best management practice guidelines to reduce and prevent nonpoint source pollution from development-related activities. The commissioner shall provide guidance and technical assistance to the Department of Economic and Community Development and municipalities to support implementation through growth management programs required by the growth management laws, Title 30-A, chapter 187, subchapter II and municipal subdivision ordinances.

#### **§410-K. Program review**

Prior to January 1, 1993 the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over energy and natural resources matters a report detailing the effectiveness of the program and making recommendations for program improvements. The commissioner shall make recommendations on the advisability of enacting statutory or regulatory exemptions from the water quality discharge licensing requirements of section 413 for those activities conducted in compliance with best management practice guidelines under this article. The commissioner shall submit with these recommendations an analysis of the legal and enforcement issues raised by these exemptions, specifically, the need to adopt by rule best management practice guidelines.

See title page for effective date.

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## CHAPTER 346

### H.P. 693 - L.D. 992

#### An Act to Amend the Mandatory Zoning and Subdivision Control Laws

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

**Sec. 1. 38 MRSA c. 3, sub-c. I, art. 2-B, first 3 lines,** are repealed and the following enacted in their place:

**Article 2-B**  
**MANDATORY SHORELAND ZONING**

**Sec. 2. 38 MRSA §436-A, sub-§5,** as amended by PL 1989, c. 403, §4, is further amended to read:

**5. Freshwater wetlands.** "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

A. Of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that, in a natural state, the combined surface area is in excess of 10 acres; and

B. 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.

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

**Sec. 3. 38 MRSA §436-A, sub-§11-A,** as enacted by PL 1989, c. 403, §5, is amended to read:

**11-A. Stream.** "Stream" means a free-flowing body of water from the outlet of a great pond or the point of confluence of 2 perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area.

**Sec. 4. 38 MRSA §438-A, sub-§3,** as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §44, is further amended to read:

**3. Commissioner approval.** Municipal ordinances, amendments and any repeals of ordinances are not effective unless approved by the commissioner. In determining whether to approve municipal ordinances or amendments, the commissioner shall consider the legislative purposes described in section 435, the minimum guidelines and any special local conditions which, in the judgment of the commissioner, justify a departure from the requirements of the minimum guidelines in a manner not inconsistent with the legislative purposes described in section 435. Recognizing that the guidelines are intended as minimum standards, the commissioner shall approve a municipal ordinance that imposes more restrictive standards than those in the guidelines. If an ordinance or an amendment adopted by a municipality contains standards inconsistent with or less stringent than the minimum guidelines, the commissioner, after notice and hearing to the municipality, may approve the proposed ordinances or amendment with conditions imposing the minimum guidelines in place of the inconsistent or less stringent standard or standards. Those conditions are effective and binding within the municipality