

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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

---

---

J.S. McCarthy Company  
Augusta, Maine  
1993

---

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

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

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

---

**Sec. C-2. 5 MRSA §351**, as amended by PL 1991, c. 780, Pt. Y, §29, is repealed.

**Sec. C-3. 5 MRSA §352**, as amended by PL 1985, c. 785, Pt. A, §37, is repealed.

**Sec. C-4. 5 MRSA §12004-I, sub-§79**, as enacted by PL 1987, c. 786, §5, is repealed.

#### PART D

**Sec. D-1. 5 MRSA §251**, as amended by PL 1989, c. 503, Pt. B, §10, is repealed.

**Sec. D-2. 5 MRSA §12004-J, sub-§5**, as enacted by PL 1987, c. 786, §5, is repealed.

#### PART E

**Sec. E-1. 25 MRSA §2904, sub-§2, ¶A**, as enacted by PL 1977, c. 138, §3, is amended to read:

A. The Legislative Council, for all legislative offices, as established by Title 3, section 162;

See title page for effective date.

## CHAPTER 362

### H.P. 329 - L.D. 417

#### An Act to Clarify the Maine Administrative Procedure Act

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

**Sec. 1. 5 MRSA §8002, sub-§§1-A and 3-A** are enacted to read:

**1-A. Adopt.** "Adopt" means action certified by the dated signature of an authorized representative that a rule is accepted as official by an agency.

**3-A. Effective date.** "Effective date" means the date a rule goes into effect. If a date is not assigned by the agency, the effective date is assigned by the Secretary of State in accordance with section 8052, subsection 6. Unless otherwise stated in law, emergency rules filed in accordance with section 8054 are effective at the time they are filed with the Secretary of State.

**Sec. 2. 5 MRSA §8052, sub-§2, ¶B**, as amended by PL 1985, c. 737, Pt. A, §18, is further amended to read:

B. In the case of a rule authorized to be adopted by a single agency member, either the agency member or, a person in a major policy-influencing posi-

tion, as listed in chapter 71, or a designee who has a policy-making responsibility over the subject matter to be discussed at the hearing; shall hold and conduct the hearing.

**Sec. 3. 5 MRSA §8052, sub-§6**, as amended by PL 1981, c. 524, §5, is further amended to read:

**6. Effective date.** No rule, except emergency rules adopted under section 8054, may become becomes effective until at least 5 days after filing with the Secretary of State under section 8056, subsection 1, paragraph B.

When the effective date of a rule is contingent upon the occurrence or nonoccurrence of an event, notification of the occurrence or nonoccurrence must be filed with the Secretary of State when known.

**Sec. 4. 5 MRSA §8056, sub-§3, ¶A-1**, as amended by PL 1991, c. 541, §1, is further amended to read:

A-1. Compile, edit, index and arrange for publication and distribution all current rules of state agencies as available resources permit. Compilations must be supplemented or revised at least annually;

**Sec. 5. 5 MRSA §8056, sub-§3, ¶A-2** is enacted to read:

A-2. Publish an annual list of current rules of state agencies;

**Sec. 6. 5 MRSA §8056, sub-§10** is enacted to read:

**10. Minor errors.** The Secretary of State may correct minor, nonsubstantive errors in spelling and format in proposed or adopted rules if the agency is notified.

**Sec. 7. 5 MRSA §8060, sub-§2**, as enacted by PL 1989, c. 547, §8, is amended to read:

**2. Due date.** A regulatory agenda must be issued prior to between the beginning of a regular legislative session and 100 days after adjournment of each regular session of the Legislature.

**Sec. 8. 5 MRSA §8064**, as enacted by PL 1991, c. 540, §2, is amended to read:

#### §8064. Limitation

Except for emergency rules; as provided in section 8060, subsection 6, an agency may not adopt any rule unless the agency has complied with the provisions in sections 8053-A and 8060, which includes include legislative review of the rule. When an agency proposes a rule not in its current regulatory agenda, the agency must file

an amendment to its agenda with the Legislature and Secretary of State under section 8053-A at the time of rule proposal.

See title page for effective date.

**CHAPTER 363**

**H.P. 797 - L.D. 1083**

**An Act to Establish the Fund Insurance Review Board**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the Legislature needs to ensure that applicants for coverage to the Groundwater Protection Fund's insurance provisions are handled quickly and without undue hardship to the applicants; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 5 MRSA §12004-G, sub-§11-A** is enacted to read:

<b>11-A.</b>	<u>Fund</u>	<u>Expenses</u>	<u>38 MRSA</u>
<u>Environ-</u>	<u>Insurance</u>	<u>Only for</u>	<u>§568-B</u>
<u>ment/</u>	<u>Review</u>	<u>Certain</u>	
<u>Natural</u>	<u>Board</u>	<u>Members</u>	
<u>Resources</u>			

**Sec. 2. 38 MRSA §562-A, sub-§§1-A and 1-B** are enacted to read:

**1-A. Aboveground oil storage facility.** “Aboveground oil storage facility” also referred to as a “facility” means any aboveground oil storage tank or tanks, together with associated piping, transfer and dispensing facilities located over land or water of the State at a single location for more than 4 months per year and used or intended to be used for the storage or supply of oil. Oil terminal facilities, as defined in section 542, subsection 7 and propane facilities are not included in this definition and are not eligible for coverage by the fund.

**1-B. Aboveground oil storage tank.** “Aboveground oil storage tank” also referred to as a “tank” means any aboveground container, less than 10% of the capacity of which is beneath the surface of the ground and is used or intended to be used for the stor-

age or supply of oil. Included in this definition are any tanks situated upon or above the surface of a floor and in such a manner that they may be readily inspected.

**Sec. 3. 38 MRSA §562-A, sub-§2,** as enacted by PL 1989, c. 865, §2, is amended to read:

**2. Applicant.** “Applicant” means the owner or operator of an underground oil storage facility or an aboveground oil storage facility that may have a discharge of oil and who is seeking coverage of eligible clean-up costs and 3rd-party damage claims from the fund.

**Sec. 4. 38 MRSA §562-A, sub-§9-A** is enacted to read:

**9-A. Fund Insurance Review Board.** “Fund Insurance Review Board” or “review board” means the board created in section 568-B.

**Sec. 5. 38 MRSA §562-A, sub-§14,** as enacted by PL 1989, c. 865, §2, is amended to read:

**14. Occurrence.** “Occurrence” means a contamination incident or prohibited discharge associated with one or more tanks or piping at an underground oil storage facility or an aboveground oil storage facility within one year.

**Sec. 6. 38 MRSA §562-A, sub-§17, ¶¶C and D,** as enacted by PL 1989, c. 865, §2, are amended to read:

C. Any person other than those identified in paragraph A or B who caused the prohibited discharge of oil or who had custody or control of the oil at the time of the prohibited discharge; or

D. Any person who owned or operated the underground oil storage facility from the time any oil arrived at that facility; ; or

**Sec. 7. 38 MRSA §562-A, sub-§17, ¶E** is enacted to read:

E. With regard to sections 568-A, 569-A and 570, persons described in paragraphs A to D with regard to aboveground oil storage facilities.

**Sec. 8. 38 MRSA §568-A, sub-§1, ¶A,** as enacted by PL 1989, c. 865, §15 and affected by §§24 and 25 and amended by PL 1991, c. 433, §3 and affected by §7, is repealed and the following enacted in its place:

A. The applicant must submit within 180 days of reporting the discharge a written request to the commissioner to be covered by the fund. The request must include:

(1) A description of the discharge and the locations threatened or affected by the discharge, to the extent known;