

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 1994 to June 30, 1995**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 29, 1995**

**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**  
**1995**

administered under Title 10, chapter 110, subchapter III and are not payable from any other assets or funds of the Finance Authority of Maine. In addition to all other applicable provisions, the requirements of Title 10, section 1045-A apply to loans for electric rate stabilization projects.

**Sec. 4. PL 1993, c. 712, §9** is amended to read:

**Sec. 9. Reports.** The Finance Authority of Maine shall report by ~~April 15, 1995~~ February 1, 1996 to the joint standing committee of the Legislature having jurisdiction over utilities matters on all loans made to electric utilities for electric rate stabilization projects, as defined in the Maine Revised Statutes, Title 10, section 963-A. The report must identify each loan made, to whom the loan was made, the amount of the loan and the general description of the electric rate stabilization project for which the loan was made. The report may include recommendations for extending the period during which loans to electric utilities may be made or any other suggestions for changes to the provisions of this Act. The Public Utilities Commission shall report by ~~April 15, 1995~~ February 1, 1996 to the joint standing committee of the Legislature having jurisdiction over utilities matters on all electric rate stabilization agreements for which an application for a certificate of approval has been processed pursuant to Title 35-A, section 3156. The report must identify the number of applications received by the commission, the identity of the applicants, a general description of each application and, for each application, whether the application was approved or denied. The report may include recommendations for extending the period during which certificates of approval may be issued to electric utilities or any other suggestions for changes to the provisions of this Act.

**Sec. 5. Retroactivity.** This Act applies retroactively to May 1, 1995.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 17, 1995.

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**CHAPTER 121**

**H.P. 1086 - L.D. 1529**

**An Act to Prohibit the Stocking of Alewives in Hogan Pond and Whitney Pond in the Town of Oxford**

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

**Whereas,** the Department of Marine Resources and the Department of Inland Fisheries and Wildlife are conducting a stocking program in the waters affected by this legislation; and

**Whereas,** the next introduction of alewives into those waters is scheduled to occur June 1, 1995; 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. 12 MRSA §7775** is enacted to read:

**§7775. Certain stocking prohibited**

**1. Alewives.** Alewives may not be stocked in Hogan Pond or Whitney Pond in the Town of Oxford.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 17, 1995.

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**CHAPTER 122**

**S.P. 25 - L.D. 56**

**An Act to Protect Forest Management as a Viable Land Use**

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

**Sec. 1. 12 MRSA §8869, sub-§8,** as amended by PL 1991, c. 863, §1, is further amended to read:

**8. Relationship to municipal rules and regulations.** Nothing in this subchapter may be construed to preempt or otherwise limit the existing authority of municipalities to regulate harvesting, except that municipalities regulating timber harvesting shall adopt definitions for forestry terms used in their ordinances that are consistent with forestry terms adopted by the commissioner pursuant to this subchapter. A municipality may not adopt an ordinance that regulates timber harvesting unless ~~the ordinance is developed in consultation with the department and is reviewed by a professional forester prior to adoption.~~ the following process is followed in the development and review of the ordinance:

A. A licensed professional forester must participate in the development of the ordinance;

B. A face-to-face meeting must take place during the development of the ordinance between representatives of the department and municipal officials involved in developing the ordinance. Discussion at the meeting must include, but is not limited to, the timber harvesting goals of the municipality;

C. The municipality shall hold a public hearing to review a proposed ordinance at least 45 days before a vote is held on the ordinance. The municipality shall provide public notice of the hearing according to the method the municipality uses for its regular public meetings; and

D. The municipality shall notify the department of the public hearing and provide the department with a copy of the proposed ordinance that will be reviewed at the hearing at least 30 days before the date of the hearing.

The proposed ordinance may be revised after the public hearing. The revised ordinance or the proposed ordinance, if no changes are made following the public hearing, must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances.

The department must provide a municipality guidance on how the municipality may use sound forestry practices to achieve its timber harvesting goals.

**Sec. 2. Application.** This Act applies to municipal ordinances enacted after the effective date of this Act. This Act applies to the portions of existing ordinances that are amended after the effective date of this Act, but not to the portions of existing ordinances that are not amended.

See title page for effective date.

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## CHAPTER 123

H.P. 167 - L.D. 215

### An Act to Amend the Laws Regarding Consent Agreements of the Department of Environmental Protection

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

**Sec. 1. 4 MRSA §18, sub-§6**, as amended by PL 1989, c. 702, Pt. E, §1, is further amended to read:

**6. Fees.** When the court refers parties to the Court Mediation Service after the filing of a complaint or petition under Title 19, section 214 or 581, or Title 19, chapter 13, the court shall assess the parties a fee to be apportioned equally between the parties, unless the court otherwise directs. The court may not assess the parties any fees beyond the initial fee, unless one or both of the parties files under Title 19, section 214 or 581, or Title 19, chapter 13, a motion to amend a final decree, a motion to enforce a final decree or a motion for contempt. When the court refers the parties to the Court Mediation Service after the filing under Title 19, section 214 or 581, or Title 19, chapter 13, of a motion to amend a final decree, a motion to enforce a final decree or a motion for contempt, the court shall assess the parties another fee to be apportioned equally between the parties, unless the court otherwise directs.

A party may file an in forma pauperis application for waiver of a fee. If the court finds that the party does not have sufficient funds to pay the fee, it shall order the fee waived.

When the court refers parties to the Court Mediation Service pursuant to Title 38, section 347-A, subsection 4, paragraph E, the court shall assess a fee to be apportioned equally among the parties. The fee must be deposited in the dedicated account created in subsection 6-A. The court shall set the fees at a level sufficient to cover the full cost of mediation services provided pursuant to Title 38, section 347-A, subsection 4, paragraph E.

**Sec. 2. 4 MRSA §18, sub-§6-A** is enacted to read:

**6-A. Environmental Mediation Fund.** The Environmental Mediation Fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected for mediation services rendered pursuant to Title 38, section 347-A, subsection 4, paragraph E must be deposited in the fund. The Administrative Office of the Courts shall use resources in the fund to cover the costs of providing mediation services as required under that law.

**Sec. 3. 38 MRSA §347-A, sub-§4, ¶B**, as enacted by PL 1993, c. 204, §2, is amended to read:

B. All proposed administrative consent agreements sent to the alleged violator must be accompanied by written correspondence from the department, in language reasonably understandable to a citizen, explaining the alleged violator's rights and responsibilities with respect to the proposed administrative consent agreement. The correspondence must include an explanation of the factors considered by the commissioner in determining the proposed civil penalty, a state-