

# 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**

**PART C**

**Sec. C-1. 5 MRSA §12004-I, sub-§57**, as amended by PL 1989, c. 878, Pt. A, §142, is repealed.

**Sec. C-2. 30-A MRSA §2311**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**§2311. Establishment**

The municipal officers of any 2 or more municipalities; by appropriate action ~~and as authorized by Title 5, chapter 379~~, may enter into an agreement, between or among those municipalities, for the establishment of a regional council of governments.

See title page for effective date.

**CHAPTER 234****H.P. 677 - L.D. 928**

**An Act to Encourage Compliance  
with Environmental Laws  
Administered by the Department of  
Environmental Protection**

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

**Sec. 1. 38 MRSA §343-C, sub-§1**, as enacted by PL 1991, c. 804, Pt. C, §3, is amended to read:

- 1. Program components.** The program must:
  - A. Provide for the development, collection and coordination of information concerning compliance methods and technologies;
  - B. Provide for the encouragement of lawful cooperation among persons engaged in activities regulated by the department;
  - C. Provide assistance with pollution prevention and accidental release detection and prevention;
  - D. Ensure that a person engaging in an activity that is subject to regulation by the department is informed of that person's rights and obligations under environmental programs administered by the department, and assist persons in determining the applicable permitting and programmatic requirements of the department; and
  - E. Develop procedures to consider requests from regulated persons to modify work practice or technological compliance methods or the milestones for implementing those methods.

Any instance of noncompliance identified as a result of a person requesting assistance through the program must be corrected by that person. The commissioner is not required to initiate a formal enforcement action against a person found to be in noncompliance as a result of a request for assistance through the program. The commissioner, in cooperation with the Attorney General and in conformity with federal requirements, shall develop a written enforcement policy for responding to violations identified as a result of a small business requesting assistance through the program. The policy must outline conditions under which the department will forego civil penalties when the violation is not a recurrence of a violation for which a prior formal or informal enforcement response has been taken, the violation was inadvertent and did not result in significant environmental harm or risk to human health and the business acts promptly and responsibly to correct the violation.

**Sec. 2. Report; legislation authorized.** The Commissioner of Environmental Protection shall submit the written enforcement policy developed pursuant to section 1 of this Act to the members of the Joint Standing Committee on Natural Resources by February 1, 1996. The Joint Standing Committee on Natural Resources is authorized to report out legislation to the Second Regular Session of the 117th Legislature if a majority of the committee determines that legislation is advisable in response to the commissioner's policy.

See title page for effective date.

**CHAPTER 235****H.P. 354 - L.D. 474**

**An Act Relating to Equipment  
Start-up, Shutdown and Unavoidable  
Malfunction**

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

**Sec. 1. 38 MRSA §349, sub-§9**, as amended by PL 1993, c. 232, §1, is further amended to read:

**9. Unavoidable malfunctions.** The commissioner may exempt from civil penalty an air emission or a wastewater discharge in excess of license limitations if the emission or discharge occurs during start-up or shutdown or results exclusively from an unavoidable malfunction entirely beyond the control of the licensee and the licensee has taken all reasonable steps to minimize or prevent any discharge or emission and takes corrective action as soon as possible. There may be no exemption if the malfunction is caused, entirely or in part, by poor maintenance.