

# 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 A, §142, is repealed.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.

nance, careless operation, poor design or any other reasonably preventable condition or preventable equipment breakdown. The burden of proof is on the licensee seeking the exemption under this subsection. In the event of an unavoidable malfunction, the licensee shall notify the commissioner ~~in writing~~ within 48 hours and submit a written report, together with any exemption requests, to the department on a quarterly basis. The commissioner shall annually report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters with regard to the exercise of this authority.

**Sec. 2. 38 MRSA §605**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §174, is further amended to read:

#### **§605. Malfunctions**

Any person owning or operating any emission source that suffers a malfunction or breakdown in any component part and that malfunction or breakdown causes a violation of any emission standards shall notify the commissioner ~~in writing~~ within 48 hours and submit a written report to the department on a quarterly basis.

See title page for effective date.

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## **CHAPTER 236**

### **S.P. 64 - L.D. 93**

#### **An Act to Amend the Maine Tree Growth Tax Law**

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

**Sec. 1. 36 MRSA §573, sub-§2-A** is enacted to read:

**2-A. Commercial harvesting or harvesting for commercial use.** "Commercial harvesting" or "harvesting for commercial use" means the harvesting of forest products that have commercial value, as defined in subsection 3-B.

**Sec. 2. 36 MRSA §573, sub-§3-A**, as amended by PL 1991, c. 428, §2, is further amended to read:

**3-A. Forest management and harvest plan.** "Forest management and harvest plan" means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not

limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities. The plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a licensed professional forester as consistent with this subsection and with sound silvicultural practices.

**Sec. 3. 36 MRSA §573, sub-§3-B** is enacted to read:

**3-B. Forest products that have commercial value.** "Forest products that have commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.

**Sec. 4. 36 MRSA §574-B, sub-§1, ¶A**, as amended by PL 1993, c. 576, §1, is further amended to read:

A. By April 1, ~~1996~~ 1999, file a sworn statement that a revised management plan has been prepared for the parcel of forest land;

**Sec. 5. 36 MRSA §574-B, sub-§1, ¶C**, as amended by PL 1995, c. 8, §1, is further amended to read:

C. Notwithstanding section 581, withdraw from tree growth classification pursuant to this paragraph for the 1996 tax year.

For withdrawal from tree growth classification under this paragraph, the entire parcel subject to that classification in 1993 must be withdrawn from classification for the 1996 tax year. Persons electing to withdraw under this paragraph shall notify the assessor before April 1, 1996 and pay a penalty equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the property was first classified, preceding that withdrawal had the real estate been assessed in each of those years at its fair market value on the date of withdrawal less all taxes paid on that real estate over the preceding 5 years and interest at the legal rate from the date or dates on which those amounts would have been payable. Persons electing to withdraw under this paragraph may pay the penalty owed in 5 equal annual installments with interest at the legal rate to begin 60 days after the date of assessment. Notwithstanding section 943, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months instead of 18 months. The procedure for withdrawal provided in this