

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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
1995

K. Tanks must be protected from vehicular traffic by location or protection with bollards or similar devices.

3. Operational requirements. In order to qualify for the waiver of reimbursement under section 1319-G, subsection 3, the owners and operators of used oil collection centers:

A. May accept no more than 20 gallons of used oil from any entity or individual in a 24-hour period;

B. Shall inspect each load of used oil by sight or scent before accepting the used oil for collection;

C. Shall keep the used oil collection tank locked at all times, except when used oil is being added or removed;

D. Shall supervise the addition of used oil to the tank;

E. Shall provide ongoing maintenance and repairs at the used oil collection center to avoid any environmental hazards such as spills, leaks, discharges, fires and explosions;

F. May offer used oil only to persons licensed with the department as waste oil transporters pursuant to section 1319-O, subsection 2, paragraph A;

G. Shall report to the Department of Public Safety within 2 hours of becoming aware of a discharge and immediately take action to contain and remove any discharges of used oil; and

H. Shall notify the department no later than 24 hours after discovery that used oil delivered to or collected at the center is a hazardous waste.

See title page for effective date.

CHAPTER 574

S.P. 678 - L.D. 1735

An Act to Clarify the Agency Rule-making Process

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

Sec. 1. 5 MRSA §8071, sub-§1, as enacted by PL 1995, c. 463, §2, is amended to read:

1. Legislative action. All new rules authorized to be adopted by delegation of legislative authority that ~~are~~ is enacted after January 1, 1996, including new rules authorized by amendment of provisions of

laws in effect on that date, must be assigned by the Legislature to one of 2 categories and subject to the appropriate level of rule-making procedures as provided in this subchapter. The Legislature shall assign the category and level of review to all rules at the time it enacts the authorizing legislation. The Legislature may assign different categories and levels of review to different types of rules authorized by the same legislation.

Sec. 2. 5 MRSA §8072, sub-§§2 and 3, as enacted by PL 1995, c. 463, §2, are amended to read:

2. Submission of materials. At the time an agency provisionally adopts a rule, the agency shall submit to the Executive Director of the Legislative Council 20 copies of:

A. The full text of the rule provisionally adopted by the agency with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible;

B. A concise summary of the content of the rule and a description and a copy of any existing rule the agency proposes to amend or repeal;

C. A statement of the circumstances that require the rule;

D. A statement of the economic impact of the rule on the State and its residents; and

E. Any other information required by law.

3. Assignment to committee of jurisdiction. Upon receipt of the required copies of the provisionally adopted rule and related information, the Executive Director of the Legislative Council shall ~~determine the~~ immediately forward the materials to the Secretary of the Senate and the Clerk of the House for placement on the Advance Journal and Calendar and distribution to a committee as provided in this subsection. The secretary and clerk shall jointly suggest reference to a joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt. After floor action on referral of the rule to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related information to each member of that committee. Each rule submitted for legislative review must be reviewed by the appropriate joint standing committee at a meeting called for that purpose in accordance with legislative rules. A committee may review more than one rule and the rules of more than one agency at a

meeting. The committee shall notify the affected agency of the meeting on its proposed rules.

See title page for effective date.

CHAPTER 575

S.P. 730 - L.D. 1834

An Act to Amend the Laws Relating to Regulation of Wetlands

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

Sec. 1. 38 MRSA §480-Q, sub-§17, as enacted by PL 1995, c. 460, §6, is amended to read:

17. Minor alterations in freshwater wetlands. Activities that alter less than 4,300 square feet of freshwater wetlands ~~and that do not occur in, on or over another protected natural resource, except that any activity occurring within a shoreland zone regulated by a municipality pursuant to chapter 3, subchapter I, article 2-B is not exempt. An activity qualifies for exemption under this section only if the entire activity qualifies, including all phases of a multiphased project taken as a whole. Activities authorized or legally conducted prior to the effective date of this subsection are not considered in calculating the size of the alteration, as long as:~~

A. The activity does not occur in, on or over another protected natural resource;

B. A 25-foot setback from other protected natural resources is maintained and erosion control measures are used;

C. The activity is not located in a shoreland zone regulated by a municipality pursuant to chapter 3, subchapter I, article 2-B or in the wetland or water body protected by the shoreland zone;

D. The activity does not occur in a wetland normally consisting of or containing at least 20,000 square feet of open water, aquatic vegetation or emergent marsh vegetation, except for artificial ponds or impoundments;

E. The activity does not take place in a wetland containing or consisting of peat land dominated by shrubs, sedges and sphagnum moss; and

F. The entire activity constitutes a single, complete project.

An activity does not qualify for exemption under this subsection if that activity is part of a larger project, including a multiphase development, that does not

qualify as a whole project. Activities authorized or legally conducted prior to September 29, 1995 may not be considered in calculating the size of the alteration.

Sec. 2. 38 MRSA §480-Q, sub-§20 is enacted to read:

20. Constructed ponds. Alteration of legally created constructed ponds that are not considered part of a great pond, coastal wetland, river, stream or brook, as long as the constructed pond is not expanded beyond its original size.

Sec. 3. 38 MRSA §480-X, sub-§5, as enacted by PL 1995, c. 460, §7 and affected by §12, is amended to read:

5. Additional projects not eligible for Tier 2 review. An activity in freshwater wetlands containing a natural community that is imperiled ~~(S1)~~ (S2) or critically imperiled ~~(S2)~~ (S1), as defined by the Natural Areas Program pursuant to Title 5, section 13076 is not eligible for Tier 2 review unless the department determines that the activity will not negatively affect the freshwater wetlands and other protected natural resources present.

See title page for effective date.

CHAPTER 576

H.P. 244 - L.D. 346

An Act to Change the Maine Rule of Evidence That Currently Allows the Admission of Subsequent Remedial Measures as Evidence of Negligence

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

Sec. 1. 14 MRSA §1403 is enacted to read:

§1403. Admission of evidence

Notwithstanding any court rule to the contrary, when, after an event, measures are taken that, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This section does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control or feasibility of precautionary measures, if controverted, or impeachment.