

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

(10) A copy of the property deed, lease, purchase and sale agreement or other legal document establishing that the applicant has title or right to or interest in the property proposed for pond development.

All design materials used to show that the dam design meets the standards of the general permit must be signed and stamped by a professional engineer.

B. Following construction and prior to operation of the irrigation pond, the permittee must submit an inspection report by a professional engineer stating that the professional engineer inspected the dam and that it was constructed in conformance with the standards established in subsection 3. The report must specifically include evidence that the proper number of compaction tests were done and proper compaction specifications have been achieved. The inspection report must include a copy of the job diary and information on when inspections were done and what was inspected.

5. Review period. Work may not commence until 30 days after the department has accepted an application for processing.

6. Notification. The department shall notify the applicant in writing within 30 days of acceptance for processing if the department determines that the requirements of this section have not been met. This notification must specifically cite the requirements of this section that have not been met. If the department has not notified the applicant under this section within the specified time period, a general permit is deemed to have been granted.

7. Fees. The department shall assess a fee for review of an application filed pursuant to this section. The fee must be equivalent to the amount assessed for activities requiring an individual permit for stream alterations.

8. Violation. A violation occurs when an activity takes place that is not in compliance with the provisions of this section or the plans submitted with the application. Any deviation from the approved plans must receive prior department approval.

Sec. 2. 38 MRSA §488, sub-§11, as enacted by PL 1993, c. 383, §26 and affected by §42, is amended to read:

11. Farm and fire ponds. A pond or ponds having a total surface area of less than 10 acres, on a parcel, that is used for irrigation of field crops, water storage for cranberry operations or fire protection determined to be necessary in that location by the municipal fire department is exempt from review

under this article. This provision does not provide an exemption for mining or advanced exploration activity.

Sec. 3. Evaluation period. The Department of Environmental Protection shall monitor the effectiveness of the general permit established by the Maine Revised Statutes, Title 38, section 480-Y from the effective date of this Act until October 1, 1997. The department shall provide an interim report by February 1, 1997 and a final report by January 1, 1998 to the joint standing committee of the Legislature having jurisdiction over natural resource matters. The reports must include information on the number of applications submitted for review and an assessment of the overall effectiveness of the general permit in terms of administrative efficiency and equivalent or enhanced protection of the natural resources affected. The reports must include recommendations on any necessary statutory changes.

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

Effective April 10, 1996.

CHAPTER 660

H.P. 1346 - L.D. 1841

An Act to Distribute the Assets of the Maine Sardine Council to Council Members upon Dissolution of the Council by the Legislature

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

Sec. 1. 32 MRSA §4167, sub-§§7, 8 and 9
are enacted to read:

7. Dissolution; assets to council members.
Upon dissolution of the council by the Legislature, all assets of the council, including property, equipment and unexpended cash balances derived from the tax imposed on sardines under Title 36, chapter 713 and any other sources, must be distributed by the Legislature in an equitable manner among all companies with representatives on the council on the date of dissolution. Prior to distributing the assets of the council, the Legislature must review recommendations from the joint standing committee of the Legislature having jurisdiction over marine resource matters regarding the distribution of assets to council members.

8. Audit prior to dissolution. Prior to the dissolution of the council, the State Auditor must conduct an audit of the financial records of the council and report the findings to the joint standing committee

of the Legislature having jurisdiction over marine resource matters. The council may request the State Auditor to conduct that audit. The council shall reimburse the State Auditor for costs incurred by the State Auditor to conduct that audit.

9. Annual report. The council shall present annually a report no later than February 1st to the joint standing committee of the Legislature having jurisdiction over marine resource matters. The report must describe the council's finances and activities in the previous calendar year.

See title page for effective date.

CHAPTER 661

H.P. 1372 - L.D. 1880

An Act to Extend the Milk Handling Tax

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

Sec. 1. 36 MRSA §4773, as enacted by PL 1995, c. 2, §5, is amended to read:

§4773. Repeal

This chapter is repealed on ~~August 1, 1996~~ November 1, 1997.

See title page for effective date.

CHAPTER 662

S.P. 753 - L.D. 1866

An Act to Improve the Child Development Services System

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

Sec. 1. 20-A MRSA §7727, sub-§2, as amended by PL 1993, c. 625, §3, is further amended to read:

2. Plan. The department shall submit the State's plan for meeting the requirements of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., to the Federal Government. The State's plan may not require services that exceed minimum federal requirements.

Sec. 2. 20-A MRSA §7730, as enacted by PL 1991, c. 843, §3, is amended to read:

§7730. Regional site board of directors

Each board of directors of a regional intermediate education unit or a private nonprofit corporation is responsible for governance of its activities, including the management and oversight of its general operations as established in section 7728. Membership must include representatives of the regional offices of the Department of Human Services and the Department of Mental Health and Mental Retardation, representatives of participating school administrative units, parents of infants and children with disabilities and other community members as determined appropriate. A regional site board member or a board member's employer may not, during the term for which the member serves on the board, derive any revenue from work performed for the Child Development Services System. A representative of a participating school administrative unit whose participation in the system is limited to work performed for the school administrative unit is exempt from the requirements of this section. Terms of membership and methods of appointment or election must be determined by board of directors bylaws, subject to approval of the department.

Sec. 3. 20-A MRSA §7730-A is enacted to read:

§7730-A. Completion of term

Notwithstanding section 7730, a board member serving on a regional site board and deriving revenue from work performed for the Child Development Services System on the effective date of this section may complete that board member's term of office.

Sec. 4. 20-A MRSA §7731, sub-§2, as enacted by PL 1991, c. 843, §3, is amended to read:

2. Employees. Employ qualified professional and other staff at the local site. The board of directors has the authority to hire, fire and supervise the staff of the regional site and to develop and adopt personnel policies for its employees; Professional therapists may be employed as site staff when the board and the state intermediate education unit find that:

A. Site staff therapists are needed to perform evaluations of children to ensure appropriate service plans;

B. Therapists serving children on a contractual basis are unable to provide required services within timelines mandated by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.; or

C. Site staff therapists are able to provide services comparable to those provided by contract therapists at an identifiable savings to the Child