

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**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**  
**1999**

(1) Notice to the commissioner upon receipt of an application, including a description of the project;

(2) Notice of issuance and denial to the applicant and commissioner, including the reason for denial;

(3) Public notification of the application and any hearings; and

(4) Satisfactory hearing procedures;

G. Procedures for appeal by aggrieved parties of local decisions are defined; and

H. A registration form, provided by the commissioner, has been completed and submitted by the municipality, demonstrating compliance with the criteria under this subsection.

**Sec. 20. 38 MRSA §840, sub-§1**, as amended by PL 1995, c. 630, §2, is further amended to read:

**1. Power.** The commissioner may on the commissioner's own motion and shall, at the request of the owner, lessee or person in control of a dam, the Commissioner of Inland Fisheries and Wildlife or the Commissioner of Marine Resources, or upon receipt of petitions from the lesser of at least 25% or 50 of the littoral or riparian proprietors or from a water utility having the right to withdraw water from the body of water for which the water level regime is sought, conduct an adjudicatory hearing for the purpose of establishing a water level regime and, if applicable, minimum flow requirements for the body of water impounded by any dam that is not:

A. Operating with a license or exemption issued by the Federal Energy Regulatory Commission or determined by the Federal Energy Regulatory Commission to be subject to the jurisdiction of that commission;

D. Operating with a permit setting water levels issued under the protection of natural resources laws, sections 480-A to 480-S; the site location of development laws, sections 481 to 490; the small hydroelectric generating facilities laws, sections 631 to 636; the land use regulation laws, Title 12, sections 681 to 689; or any other statute regulating the construction or operation of dams;

E. A dam regulated by one or more municipalities by ordinance or interlocal agreement pursuant to Title 30-A, chapter 187, subchapter VI; or

F. Regulated by the International Joint Commission.

Notwithstanding the provisions of this subsection, after an order establishing a water level regime or minimum flow requirement has been issued pursuant to this section or former Title 12, section 304, the commissioner is not required to hold a hearing to establish a new water level regime or minimum flow requirement for the same body of water in response to a petition from littoral or riparian proprietors unless the commissioner determines that there has been a substantial change in conditions or other circumstances materially affecting the impact of water levels and minimum flows on the public and private resources identified in subsection 4 since the order was issued.

**Sec. 21. PL 1997, c. 748, §5, last ¶** is amended to read:

The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation to the ~~First Regular Session of the~~ 119th Legislature regarding buffer strips along water resources and substandard subsurface disposal systems.

See title page for effective date.

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## CHAPTER 244

H.P. 1275 - L.D. 1836

### An Act Concerning the Sea Urchin Fishery

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

**Sec. 1. 12 MRSA §§6404-B and 6404-C** are enacted to read:

**§6404-B. Suspension based on conviction of fishing on closed days for sea urchin fishing**

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of violating section 6749-W. The suspension must be for one year from the date of conviction.

**§6404-C. Suspension based on conviction of sea urchin fishing in zone for which person is not licensed**

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of violating section 6749-P. The suspension must be for one year from the date of conviction.

**Sec. 2. 12 MRSA §6749-R, sub-§1**, as amended by PL 1997, c. 685, §6, is further amended to read:

**1. Uses of the fund.** The commissioner shall use the fund for research directly related to sea urchin fishery management information needs and for reporting to licensed sea urchin harvesters, boat tenders, processors and buyers on the results of research and the use of fund revenues. The purpose of that research must be to determine, with the highest reliability possible given available resources, the greatest level of effort that may be applied to the sea urchin fishery without harming the long-term economic and biological sustainability of the sea urchin fishery. The commissioner shall consult with the Sea Urchin Zone Council under section 6749-X before deciding upon research projects and awarding grants from the fund. The fund may also be used for ~~personnel services for law enforcement and support for the Sea Urchin Zone Council.~~ Up to 30% of allotted revenues may be used for ~~personnel services for law enforcement purposes.~~

**Sec. 3. 12 MRSA §6749-S,** as enacted by PL 1993, c. 740, §3, is repealed and the following enacted in its place:

**§6749-S. Log books for sea urchin buyers and processors**

**1. Log book; rules.** The commissioner shall adopt rules requiring any person holding a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit to maintain a log book. The rules must indicate the type of data that must be recorded in the log book, the manner for producing the log books and the method for analyzing data from the log books. The commissioner shall charge a fee for the log book that is sufficient to recover all costs associated with the production of the log book and analysis of the data, except that any personnel and operating costs associated with the log book must be paid from allocations from the Sea Urchin Research Fund. Fees received by the department from the sale of log books are dedicated revenue and must be used by the department for the purposes of this section. The log book and data analysis may be produced and conducted by the department or may be produced and conducted by a public or private entity under contract with the department. Disclosure of any data collected under this section is subject to the confidentiality provisions of section 6173.

**2. Reporting.** The commissioner may deny an application for the renewal of a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit if the license holder fails to maintain a log book or report the data required by rule pursuant to subsection 1.

Rules adopted by the commissioner to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 4. 12 MRSA §6749-W, sub-§1,** as enacted by PL 1995, c. 595, §5 and affected by §6, is amended to read:

**1. Prohibition.** It is unlawful for a person to ~~possess aboard a vessel,~~ fish for or take sea urchins on any day not designated as open to sea urchin harvesting under this section.

**Sec. 5. 12 MRSA §6749-X, sub-§1,** as amended by PL 1997, c. 685, §10, is further amended to read:

**1. Appointment; composition.** The Sea Urchin Zone Council, referred to in this section as the "council," established by Title 5, section 12004-I, subsection 57-B, consists of 19 members. The commissioner shall appoint the members as follows:

- A. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 1;
- B. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 2;
- C. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 1;
- D. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 2;
- E. ~~One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 1; Two individuals whose base of operation is located in Zone 1 and who hold either a current sea urchin processor's permit or a current sea urchin buyer's permit;~~
- F. ~~One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 2; Two individuals whose base of operation is located in Zone 2 and who hold either a current sea urchin processor's permit or a current sea urchin buyer's permit;~~
- G. ~~One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 1;~~
- H. ~~One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 2;~~

I. Two scientists who have expertise in marine resources management; and

J. One sea urchin harvester who holds a current boat tender's license.

In making appointments under paragraphs A, B, C and D, the commissioner shall select members to ensure a geographic distribution of representation from each zone.

**Sec. 6. 12 MRSA §6749-X, sub-§3, ¶B,** as amended by PL 1997, c. 685, §11, is further amended to read:

B. Research projects and grants funded by the Sea Urchin Research Fund under section 6749-R. The council may seek advice from scientists who have expertise in marine resource management in determining the research needs for the sea urchin fishery;

**Sec. 7. 12 MRSA §6749-Z, sub-§3,** as enacted by PL 1995, c. 595, §5, is amended to read:

**3. Conditions for authorization.** ~~The commissioner shall authorize zone change requests for a zone if the number of licenses issued for that zone in the previous calendar year is less than the number of licenses issued for that zone in the year before the previous calendar year. The total number of authorized change requests for a zone during a licensing year may not exceed the number by which the number of licenses issued for that zone in the previous calendar year is less than the number of licenses issued for that zone in the year before the previous calendar year. Zone 1 during a licensing year must equal the total authorized requests for Zone 2. The commissioner shall authorize zone change requests in chronological order of requests received under this section.~~

**Sec. 8. Transition provision.** Members of the Sea Urchin Zone Council who were appointed under the Maine Revised Statutes, Title 12, section 6749-X prior to the effective date of this Act and whose membership is affected by this Act shall continue to serve on the council until their current terms expire.

**Sec. 9. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
MARINE RESOURCES, DEPARTMENT OF		
Division of Administrative Services		
All Other	\$7,230	\$9,930

Allocates funds to support the activities of the Sea Urchin Zone Council.

See title page for effective date.

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**CHAPTER 245**

**S.P. 706 - L.D. 1981**

**An Act to Revise the Accountancy Laws**

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

**Sec. 1. 32 MRSA §12201, sub-§3-A** is enacted to read:

**3-A. Defined service.** For purposes of section 12275, subsections 12 and 13, "defined service" means providing the following services:

A. Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards, SAS;

B. Any review of a financial statement or compilation of a financial statement to be performed in accordance with the Statement on Standards for Accounting and Review Services, SSARS; or

C. Any examination of prospective financial information to be performed in accordance with the Statement on Standards for Attestation Engagements, SSAE.

The statements on standards specified in this definition are those developed for general application by recognized national accountancy organizations.

**Sec. 2. 32 MRSA §12201, sub-§12** is enacted to read:

**12. Substantial equivalency.** "Substantial equivalency" is a determination by the board that the education, examination and experience requirements for certified public accountants contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements of the board or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements of the board.

**Sec. 3. 32 MRSA §12228, sub-§3,** as amended by PL 1997, c. 265, §2, is further amended to read: