

# 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**

and Fitters, the State Board of Veterinary Medicine, the State Board of Certification for Geologists and Soil Scientists and the State Board of Alcohol and Drug Counselors.

See title page for effective date.

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## CHAPTER 387

S.P. 764 - L.D. 2156

### An Act to Amend the Laws Governing the Construction of Salt and Sand Storage Facilities

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

**Sec. 1. 23 MRSA §1851**, as amended by PL 1989, c. 502, Pt. A, §89, is repealed and the following enacted in its place:

**§1851. State cost-share program for salt and sand storage facilities**

The Department of Transportation may administer funds for the construction of municipal or county salt and sand storage facilities in order to reduce salt pollution of ground and surface waters. In administering these funds, the department shall provide reimbursement to municipal and county governmental entities for approved projects in the following order, according to priorities established pursuant to Title 38, section 411:

**1. Priority 1 projects.** Priority 1 projects, as long as the site was registered with the Department of Environmental Protection pursuant to Title 38, section 413 before October 15, 1997, regardless of the date the priority rating was designated;

**2. Priority 2 projects.** Priority 2 projects, as long as the site was registered with the Department of Environmental Protection pursuant to Title 38, section 413 before October 15, 1997, regardless of the date the priority rating was designated;

**3. Priority 3 projects.** Priority 3 projects that were designated before October 15, 1997 and continue to be so designated on April 1, 2000 and Priority 3 projects designated on April 1, 2000 that were designated Priority 5 projects prior to October 15, 1997;

**4. Priority 4 projects.** Priority 4 projects that were constructed before November 1, 1999 with plans and financial information submitted to the Department of Transportation by November 1, 1999. Notwith-

standing any other provision of this section, 20% of all funds authorized by the Legislature after January 1, 1999 for municipal reimbursement of sand and salt storage facility construction costs must be used to reimburse municipalities with Priority 4 projects eligible under this subsection until all such eligible projects have been fully reimbursed. The department shall reimburse municipalities eligible under this subsection in the order in which those municipalities complete the submission of all required documentation;

**5. Priority changes.** Priority 3 projects designated on April 1, 2000 that were designated Priority 4 projects as of October 15, 1997;

**6. Priority 5 projects.** Priority 5 projects that were constructed before November 1, 1999, with plans and financial information submitted to the Department of Transportation by November 1, 1999;

**7. Other projects.** All other projects eligible for reimbursement. Priority 4 and Priority 5 sites designated on April 1, 2000 are not eligible for reimbursement.

Allocation of funds must be based upon the sum of 25% of the expenses permitted plus 1.25 times the ratio of miles of state and state aid roads maintained for winter maintenance, as described in sections 1001 and 1003, to all miles maintained for winter maintenance by the municipality, quasi-municipal agency or county. The Department of Transportation shall establish guidelines to reimburse eligible local government entities in a consistent and timely manner.

The Department of Transportation shall review and approve municipal and county plans and specifications pursuant to established departmental guidelines for design, construction and size before a municipality or county constructs a facility. Municipal actions inconsistent with such guidelines are reimbursed at the sole discretion of the department.

Reimbursable expenses under this section do not include land acquisition or debt service.

**Sec. 2. 23 MRSA §1852**, as amended by PL 1997, c. 551, §1, is further amended to read:

**§1852. Salt and sand storage facilities**

In addition to the provisions of section 1851, and prior to calculating reimbursement under that section, the department shall reimburse each municipality and county for 25% of the expenses permitted under section 1851 and incurred for the construction of salt and sand storage facilities approved under section 1851.

~~If an owner or operator of a project classified by the Department of Environmental Protection on May 1, 1997 as a Priority 1, 2 or 3 project under Title 38, section 451-A, subsection 1-A has not submitted to the department in writing by October 15, 1997 a preliminary plan and estimate, a notice of a completed or partially completed facility or a notice of a signed contract for imminent construction of a facility, the department may make any funds committed or otherwise obligated to that project under this section and section 1851 available to any constructed Priority 3, 4 or 5 project that is eligible for reimbursement and has sent all required submissions to the department. A project that loses its funding under this paragraph remains eligible for reimbursement at a later date, subject to the subsequent availability of funds.~~

If funds are available for grants to an owner or operator of a project in the funding order established in section 1851, yet if within one year of notice of availability of the funds the owner or operator fails to submit to the Department of Transportation in writing a preliminary plan and estimate, a notice of a completed or partially completed facility or a notice of a signed contract for imminent construction of a facility, the Department of Transportation may make any funds committed or otherwise obligated to that project under this section and section 1851 available to any constructed project of a lower funding priority under section 1851 that has sent all required submissions to the department. A project that loses its funding under this paragraph remains eligible for reimbursement at a later date, subject to availability of funds.

The department may not reimburse a municipality or county under this section or section 1851 for that portion of construction expenses paid for with a grant awarded in accordance with Public Law 1991, chapter 849, section 3 or under the Community Development Block Grant Program.

**Sec. 3. 38 MRSA §411, 6th ¶**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §24, is further amended to read:

The commissioner shall develop a project priority list, for approval and adoption by the board, for pollution abatement construction and salt or sand-salt storage building projects. The factors considered in developing the priority lists include, but are not limited to, protection of ~~ground~~ groundwater and surface water ~~supplies~~, land use, shellfish, general public health hazards and water contact activities. The commissioner shall revise the project priority list for municipal and county salt and sand-salt storage facilities by October 1, 1999 and for all other sand and salt storage facilities by April 1, 2000. An owner or operator of a salt or sand-salt storage area may appeal the ranking and provide new information to the commissioner within 120 days of notification, which

may change final priority ranking. The board shall release a final project priority list of municipal and county sites by April 1, 2000, and for all other sand and salt storage facilities by July 1, 2000. The board may not change the priority ranking for a municipality or county that prior to January 1, 1999 built a facility and also registered the site with the department pursuant to section 413.

**Sec. 4. 38 MRSA §413, sub-§2-D**, as amended by PL 1997, c. 794, Pt. A, §12, is further amended to read:

**2-D. Exemptions; road salt or sand-salt storage piles.** The commissioner may exempt any road salt or sand-salt storage area from the need to obtain a license under this section for discharges to groundwaters of the State when the commissioner finds that the exempt activity will not have a significant adverse effect on the quality or classifications of the groundwaters of the State. In making this finding, the commissioner's review must include, but is not limited to, the location, structure and operation of the storage area.

Owners of salt storage areas shall register the location of storage areas with the department on or before January 1, 1986. As required by section 411, the department shall prioritize municipal or quasi-municipal sand-salt storage areas prior to November 1, 1986.

New or existing salt or sand-salt storage areas registered after October 1, 1999 may be exempt from licensing under this section as long as such areas comply with siting, operational and best management practices adopted by rule by the department. Storage areas other than those owned by municipalities or counties and registered prior to October 1, 1999 are exempt from licensing under this section as long as such areas comply with section 451-A, subsection 1-A and with operational and best management practices adopted by rule by the department. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 5. 38 MRSA §451-A, sub-§1-A**, as amended by PL 1993, c. 54, §1, is further amended to read:

**1-A. Time schedule for salt and sand-salt storage program.** An owner or operator of a salt or sand-salt storage area is not in violation of any ~~ground~~ water groundwater classification or reclassification adopted on or after January 1, 1980, ~~at any time prior to October 1, 2003,~~ with respect to discharges to the ~~ground water~~ groundwater from those facilities, if ~~by that time~~ the owner or operator has completed all steps ~~then~~ required to be completed by the schedules set forth in this subchapter. The commissioner shall administer this schedule according to the project

priority list adopted by the board pursuant to section 411 and the provisions of this subsection. A municipal or county site classified as Priority 4 or Priority 5 as of April 1, 2000, which was registered pursuant to section 413 prior to October 15, 1997, may not be in violation of any groundwater classification or reclassification with respect to discharges to the groundwater from those facilities.

A. ~~Preliminary plans and engineers' estimates notice~~ must be completed and submitted to the Department of Transportation by the following dates:

(1) For Priority 1 and 2 projects ~~January 1996;~~ the latest of the following dates:

(a) One year from a designation under section 411;

(b) One year from notice of availability of a state grant, if eligible; or

(c) January 1996.

(2) ~~For Priority 3 project January 1997; For municipal, state and county Priority 3 projects, the later of the following dates:~~

(a) One year from notice of availability of a state grant, if eligible; or

(b) January 2003.

(3) ~~For Priority 4 project January 1998; and other Priority 3 projects, the later of the following dates:~~

(a) One year from a designation under section 411; or

(b) January 1997.

(4) ~~For Priority 5 project January 1999.~~

~~B. Arrangements for administration and financing must be completed within 12 months of the dates established in paragraph A for each priority category.~~

~~C. Detailed engineering and final plan formulation must be completed within 24 months of the dates established in paragraph A for each priority category.~~

D. Review For municipal and county sites only, review of final plans with the Department of Transportation must be completed ~~and construction commenced~~ within 36 12 months of the dates established in paragraph A for each priority category. ~~The Department of Transportation~~

~~shall consult with the commissioner in reviewing final plans.~~

E. Construction must be completed and the facility in operation within ~~48 24~~ months of the dates established in paragraph A for each priority category.

In no case may violations of the lowest ~~ground-water groundwater~~ classification be allowed. In addition, no violations of any ~~ground-water groundwater~~ classifications adopted after January 1, 1980, may be allowed for more than 3 years from the date of an offer of a state grant for the construction of those facilities ~~or after January 1, 2003, whichever is earlier.~~

The department may not issue time schedule variances under subsection 1 to owners or operators of salt or sand-salt storage areas.

An owner or operator of a salt or sand-salt storage area who is in compliance with this section is exempt from the requirements of licensing under section 413, subsection 2-D.

An owner or operator is not in violation of a schedule established pursuant to this subsection if the owner or operator is eligible for a state grant to implement the schedule and the state grant is not available.

**Sec. 6. Report to Legislature.** The Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2001. The report must include the extent of remaining threats to groundwater and surface water due to storage of road salt, and the extent to which current law and available or proposed funding addresses those threats. The report may include proposed laws and rules that would guide the operation and management of otherwise unregulated sites. The report must include stakeholder efforts that guided the drafting of such laws and rules. Nothing in this section restricts the Department of Environmental Protection's ability to adopt rules under the Maine Revised Statutes, Title 38, section 413, subsection 2-D.

**Sec. 7. Retroactivity.** That section of this Act that enacts the Maine Revised Statutes, Title 23, section 1851, subsection 4 applies retroactively to January 1, 1999.

See title page for effective date.

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