

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 11, 2000**

**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**  
**2000**

**3. Same duties and powers as sheriffs.** In addition to their specified duties and powers, wardens have the same duties and powers throughout the several counties of the State as sheriffs have in their respective counties, except that a warden's primary responsibility is enforcement of laws protecting fish and wildlife.

A. Wardens have the same rights as sheriffs to require aid in executing the duties of their offices.

B. Wardens are entitled to the same fees as sheriffs and their deputies for like services, except before the District Court. All the fees ~~shall~~ must be paid to the commissioner.

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

Effective April 25, 2000.

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## CHAPTER 739

S.P. 955 - L.D. 2496

### An Act to Clarify the Authority of State Environmental and Public Health Officials to Monitor and Regulate Nuclear Power Plant Decommissioning, Site Cleanup and Restoration Activities

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** it is crucial that the Legislature clarify the necessary authority of state environmental and health agencies to identify and properly oversee the cleanup of radioactive and toxic contamination at the Maine Yankee nuclear power plant site during decommissioning; and

**Whereas,** without this necessary authority neither the public nor businesses interested in potential reuse of the Maine Yankee site can be assured that the site meets the environmental and health standards established by the State; and

**Whereas,** the decommissioning of the Maine Yankee nuclear power plant is currently underway on a "fast track" and within the next year the existing structure will be demolished or shipped off site; and

**Whereas,** due to the fast-track nature of the decommissioning, if the necessary authority of state agencies is not clarified as soon as possible by the Legislature, the decommissioning process will proceed

beyond the point at which state environmental and health agencies can adequately determine that state standards have been met and public health and the environment have been protected; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 22 MRSA §664, sub-§2,** as amended by PL 1997, c. 686, §5, is further amended to read:

**2. Monitoring.** Each facility licensee shall permit monitoring, for the purposes of this chapter, of the premises, equipment and materials, including source, special nuclear and by-product materials, in its possession or use, or subject to its control and any vehicle or means of transportation used to remove materials or equipment from the site, including, but not limited to, by rail, water, roadway or air. ~~For the purposes of this subsection, "monitoring" means observing the conduct of operations, including maintenance, quality assurance activities, the preparation, transportation and handling of radioactive waste, emissions monitoring, radiation protection and the observation of emergency preparedness tests and drills. Nothing in this chapter prohibits a State Nuclear Safety Inspector from participating in licensee training activities that are scheduled for licensee personnel. Monitoring of vehicles or other means of transportation used to remove materials or equipment from the site must be undertaken in a manner that is safe, that employs properly calibrated instruments and that does not result in unreasonable delays in the removal of materials or equipment from the site.~~

For the purposes of this subsection, "monitoring" means any one or combination of the following:

A. Observing the conduct of operations, including maintenance, quality assurance activities, the preparation, transportation and handling of radioactive waste, emissions monitoring, radiation protection and the observation of emergency preparedness tests and drills;

B. Taking analytical radiological measurements using properly calibrated instruments to confirm:

(1) The results of quality assurance activities undertaken by or on behalf of the facility licensee;

(2) That the preparation, transportation and handling of radioactive waste is undertaken in accordance with applicable standards;

(3) The results of emissions monitoring undertaken by or on behalf of the facility licensee; or

(4) That adequate radiation protection measures are in place; or

C. Taking radiological measurements for the purpose of verifying compliance with applicable state laws, including, but not limited to, Title 38, section 1455, and confirming and verifying compliance with the standards of the United States Nuclear Regulatory Commission for unrestricted license termination, provided that the taking of such measurements employs techniques, protocols, instruments and quality assurance practices in accordance with generally accepted scientific or industry practices, including, but not limited to, those described in the federal Multi-Agency Radiation Survey and Site Investigation Manual.

The licensee shall, upon request, provide split samples to the State Nuclear Safety Inspector. All analytical measurements taken pursuant to this subsection must be shared with the licensee. The licensee may provide data to explain any conflicts between measurements taken by the licensee and measurements taken pursuant to this subsection.

Nothing in this chapter prohibits the State Nuclear Safety Inspector from participating in licensee training activities that are scheduled for licensee personnel.

**Sec. 2. 38 MRSA §1305-B, sub-§1,** as enacted by PL 1999, c. 366, §1, is amended to read:

**1. Disposal; notice.** A person may not dispose of decommissioning waste or transfer decommissioning waste to a facility defined in section 1303-C, subsection 30 or 31 in this State without giving notice to the municipality in which the decommissioning waste is to be disposed of. Notice must be given at least 5 working days before the first scheduled disposal. The notice must include:

A. The type of decommissioning waste to be delivered to the ~~landfill~~ facility;

B. The anticipated amount of decommissioning waste to be delivered to the ~~landfill~~ facility;

C. The anticipated number of loads that will be delivered to the ~~landfill~~ facility; and

D. The estimated delivery schedule of the decommissioning waste, including dates for delivery.

**Sec. 3. 38 MRSA §1455** is enacted to read:

**§1455. Nuclear facility decommissioning cleanup**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Average member of the critical group" means a member of the critical group who is subjected to the most likely exposure situation based on prudently conservative exposure assumptions and parameter values within the model calculations.

B. "Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

C. "Nuclear facility owner" means the owner of a nuclear power plant or decommissioned nuclear power plant in the State.

D. "Total effective dose equivalent" has the same meaning as in 10 Code of Federal Regulations, Section 20.1003, as in effect on January 1, 2000.

**2. Radiation dose standard.** The site at which the decommissioning of a nuclear power plant has been completed must meet the following standards, as determined by the department:

A. The residual radioactivity distinguishable from background radiation results in a total effective dose equivalent to an average member of the critical group of not more than 10 millirems, or 0.10 millisievert, per year, including that from groundwater sources of drinking water; and

B. The residual radioactivity distinguishable from background radiation in groundwater sources of drinking water results in a total effective dose equivalent of not more than 4 millirems, or 0.04 millisievert, per year to the average member of the critical group.

A nuclear facility owner shall demonstrate compliance with this subsection using actual measurements and the analytic methodology approved by the United States Nuclear Regulatory Commission and supplemented by modeling the effects of engineering controls that have been designed to reduce exposure.

In order to determine compliance with this subsection, the department may require appropriate testing and analysis, including, but not limited to, analysis of the effectiveness and integrity of engineering controls.

**3. Cumulative risk assessment.** The department shall evaluate the cumulative risk posed by

radiological and chemical contaminants that will remain at the site at which the decommissioning of a nuclear power plant is occurring or has been completed. In undertaking its evaluation, the department shall consider any proposed institutional and engineering controls.

**4. Compliance with applicable law; assessment of compliance.** A nuclear facility owner must obtain and be in compliance with all licenses, permits and approvals required under this Title, including, but not limited to, those required under chapter 3, article 6 and chapter 13 for the site at which the decommissioning of a nuclear power plant is occurring or has been completed. In addition to its existing authority to require monitoring wells and other measures for nonradiological environmental issues under chapters 3, 13, 13-B and other applicable laws, the department may require radiological monitoring, use of monitoring wells, use of liners, soil sampling and other measures at the site to allow the department to assess and ensure compliance with applicable requirements of this Title, including, but not limited to, subsection 2, and the terms of any licenses and permits issued pursuant to this Title with respect to the site.

**5. Provision of information.** As part of any permit application by a nuclear facility owner or site investigation by the department pursuant to this Title, the nuclear facility owner shall provide to the department information necessary for the department to establish compliance with the provisions of this section or other applicable laws.

**Sec. 4. 38 MRSA §1482, sub-§1-A** is enacted to read:

**1-A. State ownership; exception.** Notwithstanding subsection 1, if a low-level radioactive waste disposal facility is developed at the site of a decommissioned nuclear power plant in the course of or as a result of the decommissioning process, the State is not required to own the facility.

**Sec. 5. Interpretation and effect.** Nothing in this Act may be interpreted as legislative approval of any particular method of handling or disposing of radioactive material, including, but not limited to, any method of encapsulating or burying such material at the site of a decommissioned nuclear power plant.

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

Effective April 26, 2000.

## CHAPTER 740

S.P. 1019 - L.D. 2588

### An Act to Establish a Method of Determining Employer Contributions to the Unemployment Compensation Trust Fund

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

**Sec. 1. 26 MRSA §1190** is enacted to read:

#### **§1190. Study of benefit changes**

**1. Referral for review and evaluation.** Whenever a legislative measure containing an unemployment compensation benefit change is proposed, the bureau shall complete a review and evaluation pursuant to subsection 2 in advance of the public hearing on the proposed measure. Once a review and evaluation has been completed, the joint standing committee of the Legislature having jurisdiction over the proposal shall review the findings of the bureau. A proposed benefit change may not be enacted into law unless review and evaluation pursuant to subsection 2 has been completed. For purposes of this section, a "benefit change" means any change in law that will cause a change in the number of people eligible as well as any increase or decrease in the dollar amount, maximum amount or duration of benefits payable.

**2. Content of review.** The review and evaluation must include, at a minimum and to the extent information is available, the following:

A. Total change in cost to the unemployment compensation trust fund;

B. Future impact on the planned yield adjustment and the experience rating records of employers, sorted by size and industry;

C. Review of the impact of a proposed benefit change on recipient groups, including an analysis by gender, income levels and geographic distribution; and

D. Any other information that the bureau considers appropriate to assist the Legislature in deciding on the proposed benefit change.

**Sec. 2. 26 MRSA §1221, sub-§4-A, ¶B**, as enacted by PL 1999, c. 464, §9, is amended by repealing and replacing subparagraph (3) to read:

(3) The commissioner shall compute a reserve multiple to determine the schedule and planned yield in effect for a rate year. The reserve multiple is determined by di-