

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

8. Modification of notice of intent. The department shall provide for application and approval of modification of the notice of intent in any general permit.

Sec. 4. 38 MRSA §489-A, sub-§2, as amended by PL 1999, c. 243, §19, is further amended to read:

2. Registration. The commissioner shall register municipalities to grant permits for projects under subsection ~~4-B 1~~ **1** if the commissioner finds that the municipality meets all of the following criteria:

- A. A municipal planning board or reviewing authority is established;
- B. A comprehensive plan consistent with Title 30-A, chapter 187 has been adopted with standards and objectives determined by the department to be at least as stringent as this article;
- C. Subdivision regulations have been adopted that are consistent with Title 30-A, chapter 187, and determined by the commissioner to be at least as stringent as criteria set forth in section 484;
- D. Site plan review regulations have been adopted with criteria determined by the commissioner to be at least as stringent as section 484;
- E. The municipality has adequate resources to administer and enforce the provisions of its ordinances;
- F. Procedures for public hearing and notification have been established including:
 - (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. 5. 38 MRSA §490-D, sub-§1, as amended by PL 2007, c. 616, §3, is further amended to read:

1. Significant wildlife habitat and other protected areas. Affected land may not be located in, on or over a significant wildlife habitat or other type of protected natural resource, as defined in section

480-B, or in an area listed pursuant to the Natural Areas Program, Title 12, section 544. The department may allow excavation to occur ~~in, on or over a significant wildlife habitat or other type of protected natural resource provided under this section as long as~~ a permit is obtained pursuant to article 5-A. Permit requirements for certain excavations in, on or over high and moderate value inland waterfowl and wading bird habitat are also governed by section 480-GG.

Sec. 6. 38 MRSA §490-Z, sub-§1, as amended by PL 2007, c. 616, §6, is further amended to read:

1. Significant wildlife habitat and other protected areas. Affected land may not be located in, on or over a significant wildlife habitat or other type of protected natural resource, as defined in section 480-B, or in an area listed pursuant to the Natural Areas Program, Title 12, section 544. The department may allow excavation to occur ~~in, on or over a significant wildlife habitat or other type of protected natural resource provided under this section as long as~~ a permit is obtained pursuant to article 5-A. Permit ~~requirement~~ **requirements** for certain excavations in, on or over high and moderate value inland waterfowl and wading bird habitat are also governed by section 480-GG.

Sec. 7. Report. The Department of Environmental Protection shall review the storm water management provisions in the Maine Revised Statutes, Title 38, section 420-D and the site location of development provisions of Title 38, chapter 3, subchapter 1, article 6 that provide for the registration of municipalities for the authority to substitute local permits for state permits and exempt developments or projects from permitting or specified standards within certain municipalities or portions of municipalities. The department shall also consider whether these provisions may need to be amended in light of changes in the regulation of storm water discharges under Title 38, section 413. The department shall report concerning its review and recommend any needed statutory changes on this or related subjects to the Joint Standing Committee on Natural Resources by January 15, 2010. The committee is authorized to submit a bill related to this report to the Second Regular Session of the 124th Legislature at the time of submission of the report.

See title page for effective date.

CHAPTER 294

H.P. 851 - L.D. 1231

**An Act To Protect the
Long-term Viability of Island
Lobster Fishing Communities**

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

Sec. 1. 12 MRSA §6448, sub-§8, ¶E is enacted to read:

E. A person who has either successfully completed the requirements of the apprentice program under section 6422 or 6475 or held a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year and who has registered to enter an established island limited-entry program as described under section 6449 may declare as that person's declared lobster zone the zone in which that island limited-entry program is located when the person becomes eligible to enter the island limited-entry program.

Sec. 2. 12 MRSA §6449 is enacted to read:

§6449. Island limited-entry programs

An island limited-entry program may be established pursuant to this section in order to maintain a number of licenses appropriate for the needs of an island community and the local lobster resource.

1. Proposal to the commissioner. Notwithstanding section 6448, subsection 7, a year-round island community may petition the commissioner for the establishment of an island limited-entry zone program if a minimum of 5 island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license or 10% of the island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license, whichever is greater, signs the petition submitted to the commissioner. If 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders that are residents on the island voting in a referendum held pursuant to section 6447, subsection 6 support the establishment of an island limited-entry zone program, the commissioner may adopt rules to establish such a program, including a waiting list. Before establishing or amending the number of licenses available to island residents, the commissioner shall determine the number of licenses preferred by 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders resident on the island. The commissioner may accept the preferences proposed by 2/3 of the license holders as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for the lobster management zone in which the island is located before making the decision.

2. No longer resident. An individual who obtains a Class I, Class II or Class III lobster and crab fishing license through an island limited-entry program but who no longer wishes to maintain residency on the island is subject to the following requirements.

A. A person who held a Class I, Class II or Class III lobster and crab fishing license and maintained residency on the island for a period of not less than 8 years and who can document to the commissioner that the person harvested lobsters in each of the 8 years may end the person's residency on the island and fish elsewhere in the lobster management zone in which the island is located without going on a waiting list as established in section 6448.

B. A person who holds a Class I, Class II or Class III lobster and crab fishing license and who either has maintained residency on the island for less than 8 years or who has maintained residency on the island for at least 8 years but cannot document to the commissioner that the person harvested lobsters in each of the 8 years may end the person's residency on the island and become eligible to fish elsewhere in the lobster management zone in which the island is located if that person complies with the waiting list requirement established in accordance with section 6448.

3. Restriction. This section applies only to an island in the coastal waters with a year-round community that is not connected to the mainland by an artificial structure.

4. Rules. The commissioner shall adopt rules to implement the island limited-entry program. The rules must include but are not limited to:

- A. A definition of residency on an island;
- B. Allowances for the temporary absence from an island due to a medical condition or educational requirements; and
- C. Providing for an opportunity for increasing the number of Class I, Class II or Class III lobster and crab fishing license holders on an island, if appropriate, based on the characteristics of the island and the lobster resource.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 295
H.P. 888 - L.D. 1269**

**An Act To Clarify the Laws
Regarding Significant
Groundwater Wells**

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