

STATE OF MAINE

—
 IN THE YEAR OF OUR LORD
 TWO THOUSAND AND FOURTEEN

—
 H.P. 1304 - L.D. 1817

**An Act To Amend the Law Concerning the State Cost-share Program for
 Salt and Sand Storage Facilities**

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

Whereas, the construction of salt and sand storage facilities is important for the protection of groundwater; and

Whereas, the Department of Transportation currently has funding available to assist municipalities and counties with the construction of salt and sand storage facilities; and

Whereas, sufficient time is needed for those eligible municipalities and counties to go through a public process to decide if grants from the Department of Transportation should be used in conjunction with local money to construct salt and sand storage facilities; 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Sec. 1. 23 MRSA §1851, as repealed and replaced by PL 1999, c. 387, §1 and affected by §7, is amended to read:

§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; and~~

~~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. Notwithstanding 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 MRS §1852, as amended by PL 1999, c. 387, §2, is repealed.

Sec. 3. 38 MRSA §451-A, sub-§1-A, as amended by PL 1999, c. 387, §5, 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 groundwater classification or reclassification adopted on or after January 1, 1980 with respect to discharges to the groundwater from those facilities, if the owner or operator has completed all steps 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 is not be~~ in violation of any groundwater classification or reclassification with respect to discharges to the groundwater from those facilities.

A. Preliminary notice for municipal and county Priority 3 projects must be completed and submitted to the Department of Transportation ~~by the following dates:~~ within 2 months of receipt of a certified letter from the Department of Transportation notifying the municipality or county of funds available for the construction of a facility.

~~(1) For Priority 1 and 2 projects, 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 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 other Priority 3 projects, the later of the following dates:~~

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

~~(b) January 1997.~~

D. For municipal and county ~~sites only~~ Priority 3 projects, review of final plans with the Department of Transportation must be completed within ~~12~~ 14 months of ~~the dates established in paragraph A for each priority category~~ receipt of a certified letter from the Department of Transportation notifying the municipality or county of funds available for the construction of a facility.

E. Construction of municipal and county Priority 3 projects must be completed and the facility must be in operation within ~~24~~ 26 months of ~~the dates established in paragraph A for each priority category~~ receipt of a certified letter from the Department of Transportation notifying the municipality or county of funds available for the construction of a facility.

In no case may violations of the lowest groundwater classification be allowed. In addition, no violations of any groundwater classifications adopted after January 1, 1980, may be allowed for more than ~~3 years~~ 26 months from the date of an offer of a state grant for the construction of those facilities.

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. 4. Report. By January 1, 2017, the Department of Transportation shall provide a report to the joint standing committee of the Legislature having jurisdiction over transportation matters on the status of providing funding under the Maine Revised Statutes, Title 23, section 1851 for the construction of salt and sand storage facilities in municipalities and counties with Priority 3 projects and providing reimbursement for qualified Priority 5 projects. The department shall consult with the Department of Environmental Protection, when appropriate, to identify those provisions of law governing project funding that are unnecessary and no longer relevant because all funding has been completed and shall include in the report suggested legislation making the recommended changes. The joint standing committee of the Legislature having jurisdiction over transportation matters may submit a bill to the First Regular Session of the 128th Legislature related to the recommendations in the department's report.

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