

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2014
6

7 H.P. 1530

House of Representatives, January 31, 1984

8 Reference to the Committee on Energy and Natural Resources. Ordered
9 printed and sent up for concurrence.

10 Submitted by the Department of Environmental Protection pursuant to
Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Representative Michael of Auburn.

11 Cosponsors: Representative Kiesman of Fryeburg, Senator Kany of
Kennebec and Representative Hall of Sangerville.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Amend Certain Provisions of the
18 Department of Environmental Protection
19 Statutes.
20

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

23 Sec. 1. 38 MRSA §342, sub-§5, as repealed and
24 replaced by PL 1983, c. 566, §2, is repealed and the
25 following enacted in its place:

26 5. Designation of deputy commissioner and as-
27 stant to the commissioner. A deputy commissioner
28 and an assistant to the commissioner shall be ap-
29 pointed by and serve at the pleasure of the commis-
30 sioner. The commissioner shall prescribe the duties
31 of the deputy and the assistant as he deems necessary
32 to fulfill the responsibilities of the department.

33 Sec. 2. 38 MRSA §347, sub-§1, as amended by PL
34 1983, c. 566, §7, is further amended to read:

1 1. General procedures. Whenever it appears to
2 the Board of Environmental Protection, after investi-
3 gation, that there is a violation of any provisions
4 of the laws or regulations which it administers, or
5 of the terms or conditions of any of its orders,
6 which does not create a substantial or immediate dan-
7 ger to public health or safety, the board may notify
8 the Attorney General or schedule a hearing thereon.
9 If a hearing is scheduled, the commissioner shall
10 give at least 30 days' written notice to the alleged
11 violator of the date, time and place of that hearing.
12 The notice shall specify the act done or omitted to
13 be done which is claimed to be in violation of law.

14 Any hearing conducted under the authority of this
15 ~~section~~ subsection shall be in accordance with the
16 provisions of the Maine Administrative Procedure Act,
17 Title 5, chapter 375.

18 At the hearing, the alleged violator may appear in
19 person or by attorney and answer the allegations of
20 violation and file a statement of the facts, includ-
21 ing the methods, practices and procedures, if any,
22 adopted or used by him to comply with this chapter
23 and present such evidence as may be pertinent and
24 relevant to the alleged violation.

25 After hearing, or in the event of a failure of the
26 alleged violator to appear on the date set for a
27 hearing, the board shall, as soon thereafter as prac-
28 ticable, make findings of fact based on the record
29 and, if it finds that a violation exists, it shall
30 issue an order aimed at ending the violation.

31 **Sec. 3. 38 MRSA §352, sub-§4, as enacted by PL**
32 **1983, c. 574, §1, is amended to read:**

33 4. Accounting system. In order to determine the
34 extent to which the aforementioned functions are nec-
35 essary for the licensing process, or are being per-
36 formed in an efficient and expeditious manner, the
37 board shall require that all employees of the depart-
38 ment involved in any aspect of these functions shall
39 keep accurate and regular daily time records describ-
40 ing the matters worked on, services performed and
41 amount of time devoted thereto, as well as amounts of
42 money expended in performing these functions.

1

TABLE I

2

MAXIMUM FEES IN DOLLARS

3	Title 12	FILING	PROCESSING	LICENSE
4	SECTION	FEE	FEE	FEE
5	4807-C, Minimum lot size	\$ 3.00	\$ 25.00	\$ 25.00
6	Title 38	FILING	PROCESSING	LICENSE
7	SECTION	FEE	FEE	FEE
8	362-A, Experiments	\$ 10.00	\$ 30.00	\$ 160.00
9	393, Great ponds	2.50	65.00	50.00
10	413, Waste discharge			
11	license			
12	A. Residential	5.00	15.00	10.00
13	B. Commercial	10.00	30.00	160.00
14	C. Industrial,	25.00	450.00	1,985.00
15	minor			
16	(based upon			
17	EPA list of ma-			
18	jor and minor			
19	source			
20	dischargers)			
21	D. Industrial,	35.00	1,130.00	2,170.00
22	major			
23	(based upon			
24	EPA list of ma-			
25	jor and minor			
26	source			
27	dischargers)			
28	<u>1. Discharges</u>	<u>35.00</u>	<u>1,130.00</u>	<u>750.00</u>
29	<u>of cooling water</u>			
30	<u>or sanitary</u>			
31	<u>waste water only</u>			
32	<u>2. All others</u>	<u>35.00</u>	<u>1,130.00</u>	<u>2,170.00</u>
33	E. Publicly	17.00	80.00	1,785.00
34	owned treatment			
35	works			

1		<u>1. Flow of</u>	<u>15.00</u>	<u>40.00</u>	<u>10.00</u>
2		<u>less than 0.5</u>			
3		<u>million gal-</u>			
4		<u>lons/day and no</u>			
5		<u>significant in-</u>			
6		<u>dustrial</u>			
7		<u>component</u>			
8		<u>2. Flow of at</u>	<u>15.00</u>	<u>60.00</u>	<u>1,785.00</u>
9		<u>least 0.5 mil-</u>			
10		<u>lion gallons/day</u>			
11		<u>but less than 5</u>			
12		<u>million gal-</u>			
13		<u>lons/day and no</u>			
14		<u>significant in-</u>			
15		<u>dustrial</u>			
16		<u>component</u>			
17		<u>3. Flow of at</u>	<u>15.00</u>	<u>80.00</u>	<u>1,785.00</u>
18		<u>least 5 million</u>			
19		<u>gallons/day or a</u>			
20		<u>significant in-</u>			
21		<u>dustrial</u>			
22		<u>component</u>			
23		<u>F. Special</u>			
24		<u>discharges</u>			
25		<u>1. Aquatic</u>	<u>10.00</u>	<u>30.00</u>	<u>10.00</u>
26		<u>pesticides</u>			
27		<u>2. Dredge</u>	<u>10.00</u>	<u>30.00</u>	<u>10.00</u>
28		<u>spoils</u>			
29	418,	Log storage	10.00	45.00	5.00
30	421,	Solid waste dis-	12.00	1,375.00	100.00
31		posal areas			
32	451,	Mixing zones	35.00	1,130.00	2,170.00
33	451-A,	Time schedule	5.00	10.00	5.00
34		variances			
35	451-B,	Industrial	500.00	2,000.00	1,500.00
36		variances			
37	471,	Coastal wetlands	3.50	115.00	100.00
38		and sand dunes			
39	482,	Site location			
40	483,	Site location			
41		A. Subdivisions	25.00	25.00/lot	25.00
42		B. Structures	25.00	1,000.00	500.00
43		C. Mining	25.00	750.00	500.00
44		D. Other	25.00	750.00	500.00
45	543,	Oily waste dis-	10.00	30.00	160.00
46		charge			

1	560,	Vessels at an-	10.00	115.00	100.00
2		chorage			
3	587,	Ambient air	50.00	5,000.00	50.00
4		quality or emis-			
5		sions standards			
6		variances			
7	590,	Air emissions			
8		licenses			
9		A. greater	50.00	10,000.00	1,200.00
10		than or equal to			
11		1,000 tons/year			
12		of any criteria			
13		air pollutant			
14		B. greater	50.00	5,000.00	400.00
15		than or equal to			
16		100 tons/year			
17		but less than			
18		1,000 tons/year			
19		of any criteria			
20		air pollutant			
21		C. less	50.00	1,000.00	100.00
22		greater than or			
23		equal to 50			
24		tons/year but			
25		less than 100			
26		tons/year of any			
27		criteria air			
28		pollutant			
29		D. less than	25.00	500.00	50.00
30		50 tons/year of			
31		any criteria air			
32		pollutant			
33	603,	Low sulfur fuel	50.00	250.00	250.00
34		exemptions			
35	<u>633,</u>	<u>Hydropower</u>	<u>25.00</u>	<u>1,500.00</u>	<u>1,000.00</u>
36		<u>projects</u>			
37	1101,	Sanitary dis-	50.00	100.00	50.00
38		tricts			
39	1304,	Waste facilities			
40		A. Septage and	12.00	500.00	500.00
41		sludge			
42		A. Septage fa-	<u>12.00</u>	<u>250.00</u>	<u>250.00</u>
43		cilities, other			
44		than landfill or			
45		landspreading			
46		sites			

1	B. Transfer	<u>12.00</u>	<u>500.00</u>	<u>500.00</u>
2	stations			
3	B. Sludge fa-	<u>12.00</u>	<u>500.00</u>	<u>500.00</u>
4	cilities, other			
5	than landfill or			
6	landspreading			
7	sites			
8	C. Landfills	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
9	C. Landspreading	<u>12.00</u>	<u>35.00</u>	<u>35.00</u>
10	sites			
11	D. Other	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
12	D. Transfer	<u>12.00</u>	<u>500.00</u>	<u>500.00</u>
13	stations			
14	E. Landfills	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
15	F. Resource	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
16	recovery and			
17	volume reduction			
18	facilities			
19	G. Other, in-	<u>12.00</u>	<u>500.00</u>	<u>250.00</u>
20	cluding land-ap-			
21	plied waste uti-			
22	lization programs			

23 Sec. 4. 38 MRSA §353, sub-§§2, 3 and 5, as en-
24 acted by PL 1983, c. 574, §1, are amended to read:

25 2. Processing fee. A processing fee shall be
26 paid within 10 days of the time the applicant is no-
27 tified that the application has been accepted for
28 processing by the commissioner and is not refundable,
29 even if the applicant withdraws the application once
30 processing has begun. Failure to pay the processing
31 fee within the 10-day period will result in the ces-
32 sation of processing until the fee has been paid.
33 The department shall refund the processing fee if the
34 application is denied by the board or the
35 commissioner.

36 3. License fee. A license fee shall be paid
37 prior to the issuance of any license or permit. If a
38 license fee is paid prior to board or commissioner
39 action on the application, the department shall re-
40 fund the license fee if the board or commissioner de-
41 nies the application.

42 5. Renewals or amendments. The filing fee for
43 renewals or amendments shall be the same as the fil-

1 ing fee for an initial application. The processing
2 fee for renewals or amendments shall be equal to di-
3 rect costs up to 1/2 the processing fee for initial
4 applications. The license fee for renewals or amend-
5 ments shall be identical to the initial license fee.
6 The license fee for amendments shall not exceed the
7 initial license fee.

8 Sec. 5. 38 MRSA §353, sub-§§6 and 7, as enacted
9 by PL 1983, c. 574, §1, are repealed and the follow-
10 ing enacted in their place:

11 6. Application deemed incomplete. An incomplete
12 application which has been returned to the applicant
13 shall be resubmitted to the department within 60 days
14 of the date the application was returned. If the
15 completed application is resubmitted after the 60-day
16 period has transpired, the resubmitted application
17 shall be considered a new application and the appro-
18 prate fees shall be assessed.

19 7. Time of payment. All fees assessed for the
20 costs of processing permits issued in accordance with
21 section 344, subsection 7, shall be paid in full when
22 the notification is submitted to the department. All
23 fees for any minor license or permit revision shall
24 be paid in full when the request for the revision is
25 submitted to the department. The applicant may also
26 choose to prepay the filing, processing and license
27 fees for applications pertaining to any other license
28 or permit category.

29 Sec. 6. 38 MRSA §361, 3rd ¶, as amended by PL
30 1983, c. 483, §5 and PL 1983, c. 566, §10, is re-
31 pealed and the following enacted in its place

32 Meetings of the board shall be held at such time
33 and place as shall be determined by the board, but
34 not less than 2 meetings per year shall be held. The
35 board may elect a secretary who shall serve until a
36 successor is elected, and who need not be chosen from
37 among the members of the board. Six members of the
38 board shall constitute a quorum, except for the pur-
39 pose of conducting any hearing. Provisions of the
40 Maine Administrative Procedure Act, Title 5, chapter
41 375, require that 4 members of the board shall con-
42 stitute a quorum for rule-making hearings.

1 Sec. 7. 38 MRSA §371-A, sub-§3, as amended by PL
2 1979, c. 281, §2, is repealed and the following en-
3 acted in its place:

4 3. Exemptions. Exemption from the "no dis-
5 charge" provision is provided for the following ac-
6 tivities:

7 A. Aquatic chemical applications approved by the
8 Board of Environmental Protection; and

9 B. Commercial extraction operations or waste
10 treatment facilities with discharges that have
11 been approved by the Board of Environmental Pro-
12 tection, provided that any great pond receiving a
13 discharge was created by the approved operation
14 or facility.

15 Sec. 8. 38 MRSA §394, as amended by PL 1983, c.
16 566, §14, is further amended to read:

17 §394. Exemptions

18 The Board of Environmental Protection shall
19 promulgate rules designed to reduce procedural re-
20 quirements and establish specific standards for these
21 alterations, the proper execution of which are deemed
22 to have no significant impact upon the great ponds
23 and which are not inconsistent with the purposes of
24 this chapter. The alterations shall include, but not
25 be limited to: The placement of water lines to serve
26 a single family house; the movement of rocks or vege-
27 tation by hand over a shorefront length not to exceed
28 10 feet; the placement of sand above the high water
29 line, when properly stabilized; the construction of
30 rock riprap erosion control devices above the high
31 water line; the installation of anchoring devices for
32 mooring small boats or holding floating structures;
33 and the installation of cables for utilities such as
34 telephone and power.

35 Maintenance and minor repair above the high water
36 line causing no additional intrusion of an existing
37 structure into the great pond is exempt from this
38 subchapter.

39 Sec. 9. 38 MRSA §418, sub-§2, as amended by PL

1 1983, c. 375, §2 and PL 1983, c. 566, §21, is re-
2 pealed and the following enacted in its place

3 2. Storage; permit. Whoever proposes to use the
4 inland waters of this State for the storage or curing
5 of logs or pulpwood, or for other purposes incidental
6 to the processing of forest products, or to transport
7 logs or pulpwood from islands to the mainland, shall
8 apply to the board for a permit for that use. Appli-
9 cations for these permits shall be in such form and
10 require such information as the board may determine.

11 If the board is able to find, on the basis of the ap-
12 plication, that the proposed use will not lower the
13 existing quality or the classification, whichever is
14 higher, of any waters, nor adversely affect the pub-
15 lic rights of fishing and navigation therein, and
16 that inability to conduct that use will impose undue
17 economic hardship on the applicant, it shall grant
18 the permit for a period not to exceed 10 years, with
19 such terms and conditions as, in its judgment, may be
20 necessary to protect the quality, standards and
21 rights.

22 In the event the board deems it necessary to solicit
23 further evidence regarding the proposed use, it shall
24 schedule a public hearing on the application.

25 At that hearing the board shall solicit and receive
26 testimony concerning the nature and extent of the
27 proposed use and its impact on existing water quali-
28 ty, water classification standards and the public
29 rights of fishing and navigation and the economic im-
30 plications upon the applicant of the use. If, after
31 hearing, the board determines that the proposed use
32 will not lower the existing quality or the classifi-
33 cation standards, whichever is higher, of any waters,
34 nor adversely affect the public rights of fishing and
35 navigation therein and that inability to conduct the
36 use will impose undue economic hardship on the appli-
37 cant, it shall grant the permit for a period not to
38 exceed 10 years, with such terms and conditions, as
39 in its judgment, may be necessary to protect the
40 quality, standards and rights.

41 Sec. 10. 38 MRSA §451-B, as enacted by PL 1975,
42 c. 683, is repealed.

1 Sec. 11. 38 MRSA §482, first ¶, as amended by PL
2 1979, c. 541, Pt. A, §263, is further amended to
3 read:

4 As used in this ~~subchapter~~ Article, unless the
5 context otherwise indicates, the following terms
6 ~~shall~~ have the following meanings.

7 Sec. 12. 38 MRSA §599, sub-§2, ¶G, as enacted by
8 PL 1983, c. 504, §7, is amended to read:

9 G. No person, firm, corporation, association,
10 municipal or state agency may engage in any open
11 burning except in conformity with ~~subsection~~
12 subsections 3 and 4.

13 Sec. 13. 38 MRSA §1303, sub-§14, as repealed and
14 replaced by PL 1981, c. 430, §3, is amended to read:

15 14. Waste facility. "Waste facility" means any
16 land area, structure, location, equipment or combina-
17 tion of them, including dumps, used for handling haz-
18 ardous or solid waste, sludge or septage. A land area
19 or structure does not become a waste facility solely
20 because:

21 A. It is used by its owner for disposing of
22 septage from his residence; ~~or~~

23 B. It is used to store for 90 days or less haz-
24 ardous wastes generated on the same premises-i

25 C. It is used by individual homeowners or les-
26 sees to open burn leaves, brush, deadwood and
27 tree cuttings accrued from normal maintenance of
28 their residential property, when such burning is
29 permitted under section 599, subsection 3; or

30 D. It is used by its residential owner to burn
31 highly combustible domestic, household trash such
32 as paper, cardboard cartons or wood boxes, when
33 such burning is permitted under section 599, sub-
34 section 3.

35 Sec. 14. 38 MRSA §1304-B, sub-§ 3, as enacted by
36 PL 1983, c. 380, §1, is amended to read:

