

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1543

S.P. 517

In Senate, April 10, 2003

An Act To Modify the Exemption for Compost under the Nutrient Management Law and the Nutrient Management Review Board's Authority To Hear Appeals

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRYANT of Oxford.
Cosponsored by Representative CARR of Lincoln and
Senator: KNEELAND of Aroostook, Representatives: HONEY of Boothbay, LUNDEEN of Mars Hill.

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

2
4 **Sec. 1. 7 MRSA §4201, sub-§6**, as amended by PL 1999, c. 530,
§1, is further amended to read:

6 **6. Regulated residual.** "Regulated residual" means a
8 residual regulated by the Department of Environmental Protection
pursuant to Title 38, chapter 13 that is used primarily for its
10 nitrogen and phosphorous value as determined by the Department of
Agriculture, Food and Rural Resources. "Regulated residual" does
12 not include ~~weed-ash-or~~ compost in quantities less than 100 tons
per year or wood ash.

14 **Sec. 2. 7 MRSA §4203, sub-§1**, as amended by PL 1999, c. 530,
§3, is further amended to read:

16 **1. Duties.** The board's duties are as follows:

18 A. The board shall review and approve all proposed
20 amendments to the original rules adopted in accordance with
this chapter; and

22 B. When an aggrieved party within 30 days of the
24 commissioner's decision appeals a decision of the
commissioner regarding a livestock operations permit under
26 section 4205, a request for a variance under section 4204,
subsection 8 or a certification under section 4210, the
28 board shall hold a hearing in accordance with Title 5,
chapter 375, subchapter IV 4. The board may affirm, amend or
30 reverse a permit or certification decision made by the
commissioner. The board's decision is a final agency
32 action; and

34 C. When an aggrieved party within 30 days of the
36 commissioner's decision appeals a decision of the
38 commissioner regarding site-specific best management
40 practices prescribed for a farm or other issue governed
42 under Title 17, sections 2701-B or 2805, the board shall
44 hold a hearing in accordance with Title 5, chapter 375,
46 subchapter 4. The board may affirm, amend or reverse a
decision made by the commissioner. The board's decision is
a final agency action. The board may also conduct an
information-gathering meeting at the request of the
department or any party with a legitimate interest to
facilitate the complaint resolution process under Title 17,
sections 2701-B or 2805.

48 **Sec. 3. 7 MRSA §4203, sub-§2-A** is enacted to read:

2 2-A. Temporary membership. When the subject matter of an
3 appeal or complaint resolution process under this section is
4 other than manure or nutrient management, the commissioner may
5 appoint up to 3 temporary board members for the purpose of
6 hearing an appeal, conducting an information-gathering meeting or
7 facilitating the complaint resolution process under Title 17,
8 section 2805. At least one temporary member must have expertise
9 with the subject matter of the complaint or problem and one
10 temporary member must represent the agricultural sector
11 involved. The terms for temporary members expire when the board
12 determines that it has taken final action on the appeal or
13 complaint resolution process.

14 **Sec. 4. 7 MRSA §4209**, as amended by PL 1999, c. 530, §6, is
15 further amended to read:

16 **§4209. Penalties**

17
18 Failure to develop a nutrient management plan in accordance
19 with section 4204 or to obtain a livestock operations permit in
20 accordance with section 4205 constitutes a civil violation for
21 which a ~~forfeiture~~ fine of up to \$1,000 plus up to \$250 per day
22 for every day that the violation continues may be adjudged.

23
24 Failure to implement a nutrient management plan according to
25 the requirements of section 4204 and the rules adopted pursuant
26 to that section constitutes a civil violation for which a
27 ~~forfeiture~~ fine of up to \$1,000 with an additional penalty of up
28 to \$250 per day for every day that the violation continues may be
29 adjudged. Prior to development of a plan, a person is not
30 subject to a penalty for failure to implement a nutrient
31 management plan.

32
33 Failure to comply with the conditions set forth in a
34 livestock operations permit or a variance constitutes a civil
35 violation for which a ~~forfeiture~~ fine of up to \$1,000 with an
36 additional penalty of up to \$250 per day for every day that the
37 violation continues may be adjudged.

38
39 Winter spreading of manure in violation of section 4207
40 constitutes a civil violation for which a ~~forfeiture~~ fine of up
41 to \$1,000 per day for every day that spreading occurs may be
42 adjudged.

43
44 **Sec. 5. 17 MRSA §2701-B**, as amended by PL 1993, c. 124, §2,
45 is further amended by adding after the 2nd indented paragraph a
46 new indented paragraph to read:

47
48 Failure to apply best management practices in accordance
49 with this section constitutes a separate civil violation for

2 which a fine of up to \$1,000, together with an additional fine of
3 up to \$250 per day for every day that the violation continues,
4 may be adjudged.

5 **Sec. 6. 17 MRS §2805, sub-§6**, as amended by PL 1999, c. 723,
6 §2, is further amended to read:

7 **6. Failure to adopt best management practices.** If the
8 person responsible for the farm or farm operation does not apply
9 best management practices as required by the Commissioner of
10 Agriculture, Food and Rural Resources, the commissioner shall
11 send a written report to an appropriate agency if a federal or
12 state law has been violated and to the Attorney General. The
13 Attorney General may institute an action to abate a nuisance or
14 to enforce the provisions of this section or any other applicable
15 state law, and the court may order the abatement with costs as
16 provided under section 2702, such injunctive relief as provided
17 in this section or by other applicable law, or that a civil
18 violation has been committed. Failure to apply best management
19 practices in accordance with this section constitutes a separate
20 civil violation for which a ~~forfeiture~~ fine of up to \$1,000,
21 together with an additional ~~forfeiture~~ fine of up to \$250 per day
22 for every day that the violation continues, may be adjudged.
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SUMMARY

29 This bill changes a current provision in the laws relating
30 to nutrient management that allows any amount of compost material
31 to be imported and used on a farm without triggering the
32 requirement for a nutrient management plan. The language change
33 in this provision allows less than 100 tons of compost annually
34 to be brought onto a farm without triggering a nutrient
35 management plan, making it consistent with the requirements for
36 manure imported onto a farm.

37 This bill gives the Nutrient Management Review Board within
38 the Department of Agriculture, Food and Rural Resources the
39 authority to hear appeals and resolve disputes involving issues
40 relating to site-specific best management practices. Currently
41 the board has the authority to address only disputes that are
42 manure- or nutrient-related.
43

44 This bill also authorizes the appointment of up to 3
45 temporary members to the Nutrient Management Review Board for the
46 purpose of hearing an appeal, conducting an information-gathering
47 meeting or facilitating the complaint resolution process relating
48 to best management practices.
49

2 This bill also adds a penalty to the laws relating to manure
for failure to implement best management practices that have been
4 prescribed by the Department of Agriculture, Food and Rural
Resources in response to complaints about manure handling and
6 storage. The penalty is consistent with the penalties for
violations under the laws relating to the right to farm and
nutrient management.

8
10 This bill also makes nonsubstantive changes to the
terminology in the penalty sections relating to nutrient
12 management and best management practices by changing "forfeiture"
to "fine."