

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

J.S. McCarthy Company
Augusta, Maine
1997

having jurisdiction over marine resources matters may report out legislation during the First Regular Session of the 120th Legislature regarding the sea urchin license lottery system, the licensing of sea urchin harvesters or the State's regulation of the sea urchin resource.

Sec. 16. Allocation. The following funds are allocated from the Sea Urchin Research Fund to carry out the purposes of this Act.

1998-99

**MARINE RESOURCES,
DEPARTMENT OF**

Bureau of Marine Patrol

Personal Services \$30,000

Allocates funds needed for the costs of an increased number of enforcement overtime hours.

See title page for effective date.

CHAPTER 686

S.P. 714 - L.D. 1960

**An Act to Amend and Clarify Laws
Concerning Nuclear Safety**

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

Whereas, there is an immediate need for adequate funding for state activities related to the decommissioning of the Maine Yankee Nuclear Power Plant; 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 §565-A, as enacted by PL 1993, c. 664, §5, is amended to read:

§565-A. Coordination with State Radiation Control Agency

The Health and Environmental Testing Laboratory shall provide laboratory services for environ-

mental testing and analysis as necessary to implement the radiation protection services of the department conducted pursuant to section 680, subsection 2, paragraph D. Each ~~nuclear power plant facility~~, as defined in section 662, shall pay a fee to the Health and Environmental Testing Laboratory to the special revenue account established in section 568 to carry out the purposes of this section. The fee is \$90,000 annually except that for fiscal year 1997-98 the fee is \$122,000.

Sec. 2. 22 MRSA §661, as amended by PL 1991, c. 824, Pt. A, §40, is further amended to read:

§661. Public policy

In the interests of the public health and welfare of the people of this State, it is the declared public policy of this State that ~~the operation of nuclear power facilities~~ a facility licensed to operate by the United States Nuclear Regulatory Commission and situated in the State must be accomplished in a manner consistent with protection of the public health and safety and in compliance with the environmental protection policies of this State. It is the purpose of this chapter, in conjunction with sections 671 to 690; Title 25, sections 51 and 52; ~~Title 37-B, chapter 17;~~ and Title 35-A, sections 4331 to 4393; and Title 37-B, chapter 17, to exercise the jurisdiction of the State to the maximum extent permitted by the United States Constitution and federal law and to establish in cooperation with the Federal Government a State Nuclear Safety Inspector Program for the on-site monitoring, regulatory review and oversight of ~~the operations of commercial nuclear power facilities~~ a facility within the State that ~~hold an operating~~ holds a license issued by the United States Nuclear Regulatory Commission. Nothing in this chapter may be construed as an attempt by the State to regulate radiological health and safety reserved to the Federal Government by reason of the United States Atomic Energy Act of 1954, as amended.

Sec. 3. 22 MRSA §662, sub-§1, as enacted by PL 1987, c. 519, §1, is amended to read:

1. Facility. A ~~"commercial nuclear power facility" or "facility"~~ means a production or utilization facility situated in this State ~~which that~~ holds an operating permit or license issued by the United States Nuclear Regulatory Commission. It also means a power reactor licensee situated in the State, whether decommissioned or not, with a possession-only license issued by the United States Nuclear Regulatory Commission for special nuclear material, by-product material and source material. It also includes spent fuel or high-level waste storage facilities.

Sec. 4. 22 MRSA §663, sub-§2, as enacted by PL 1987, c. 519, §1, is amended to read:

2. Duties. The State Nuclear Safety Inspector shall serve as an on-site nuclear safety inspector of ~~commercial nuclear power facilities~~ a facility and ~~of the on-site storage and transportation of high-level or low-level nuclear waste.~~

Sec. 5. 22 MRSA §664, as amended by PL 1997, c. 395, Pt. F, §1, is further amended to read:

§664. Responsibility of facility licensees

The responsibility of ~~nuclear power plant~~ facility licensees is as follows.

1. Records. Each ~~nuclear power plant~~ facility licensee shall permit the inspection and copying, for the purposes of this chapter, of its books and records, maintained in any form, ~~provided except~~ that books and records that are privileged as a matter of law, proprietary, security-related, or restricted by federal law, ~~shall~~ are not be open to inspection. Subject to the approval of the United States Nuclear Regulatory Commission and of the ~~nuclear power plant~~ facility licensee, access to books and records ~~which that~~ are proprietary, security-related or restricted by federal law may be granted, if the State Nuclear Safety Inspector, on behalf of the State, enters into a nondisclosure agreement. For purposes of this section, proprietary information includes personnel records, manufacturers' proprietary information, licensee proprietary information and trade secrets, as defined by Title 26, section 1711, subsection 12.

2. Monitoring. Each ~~nuclear power plant~~ 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. 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.

3. Access. The facility licensee shall provide the State Nuclear Safety Inspector with unescorted access to the plant at all times and on an identical basis as that provided to licensee personnel with unescorted access clearance, ~~provided that as long as~~ the State Nuclear Safety Inspector complies with the licensee's applicable access control measures for security, radiological protection, personal safety and fitness for duty. The State Nuclear Safety Inspector ~~shall be~~ is subject to and ~~shall~~ comply with such continuing security procedures and periodic medical testing ~~which that~~ is applicable to all licensee

employees as may be required to retain unrestricted facility access.

4. On-site facilities. ~~Any nuclear power plant~~ A facility licensee, upon the request of the commissioner, shall provide rent-free space, including all necessary utility and janitorial services, for the exclusive use of the State Nuclear Safety Inspector. The office ~~shall~~ must be convenient to and have full access to the ~~nuclear power~~ facility and ~~shall~~ must provide the State Nuclear Safety Inspector with privacy.

5. Fees. Each ~~nuclear power plant~~ facility licensee whose operations are monitored under this chapter shall pay a fee to the State Nuclear Safety Inspector to the permanent fund established in section 680, subsection 7. The fee must take the form of a yearly payment indicated in this subsection for the fiscal year from the fund established in section 680, subsection 7, for the full cost of the on-site inspection program, including the cost to the State for personnel and fringe benefits.

The State Nuclear Safety Inspector fee is \$180,000 annually.

Sec. 6. 22 MRSA §665, as enacted by PL 1987, c. 519, §1, is amended to read:

§665. United States Nuclear Regulatory Commission activities

The State Nuclear Safety Inspector shall take all reasonable steps to cooperate with any on-site resident inspectors employed by the United States Nuclear Regulatory Commission in a manner ~~which that~~ enables these employees to fulfill their responsibilities under federal law and regulation. Subject to the approval of the United States Nuclear Regulatory Commission and of the facility licensee, and pursuant to Title 25, section 51, the State Nuclear Safety Inspector shall observe United States Nuclear Regulatory Commission inspections, meetings and audits as they pertain to the safety of the facility licensee's operations and procedures.

Sec. 7. 22 MRSA §666, as amended by PL 1991, c. 151, §1, is further amended to read:

§666. Responsibilities of the State Nuclear Safety Inspector

The responsibilities of the State Nuclear Safety Inspector are as follows.

1. Damages to public health and safety. In the event the State Nuclear Safety Inspector has reason to believe that any activity poses a danger to public health and safety, and after notifying the ~~operator of the~~ facility licensee and the United States Nuclear

Regulatory Commission, the inspector shall immediately notify the Governor, the Commissioner of Human Services and the State Nuclear Safety Advisor within the State Planning Office. This provision ~~should~~ may not be construed as precluding the State Nuclear Safety Inspector from discussing ~~his~~ the safety inspector's concerns with the United States Nuclear Regulatory Commission or others before making a determination that any activity poses a danger to public health and safety.

2. Reports. The State Nuclear Safety Inspector, with the cooperation of the Director of Health Engineering, shall prepare a report of the safety inspector's activities under this chapter to be submitted July 1st of each year to the State Nuclear Safety Advisor and the Legislature. The State Nuclear Safety Inspector shall prepare monthly reports for the State Nuclear Safety Advisor, the President of the Senate and the Speaker of the House, with copies to the United States Nuclear Regulatory Commission and the facility licensee.

3. Confidential and privileged information. The State Nuclear Safety Inspector shall keep confidential and privileged the identity of any person providing communications ~~which that~~, in the opinion of the State Nuclear Safety Inspector, support a presumption of unsafe activities, conduct or operation of a ~~commercial nuclear power~~ facility or ~~which that~~ indicate any violation of the facility licensee's ~~operating~~ license issued by the United States Nuclear Regulatory Commission, unless the request for confidentiality is waived or withdrawn by such person. The safety inspector shall make all prudent efforts to investigate the basis for any related allegation of unsafe or improper ~~operation~~ activities and shall cooperate to the extent feasible with the United States Nuclear Regulatory Commission personnel in this effort. Any information brought to the attention of the ~~state~~ safety inspector ~~which that~~ involves the safety of the plant or a possible violation of United States Nuclear Regulatory Commission regulations ~~shall~~ must be immediately brought to the attention of the United States Nuclear Regulatory Commission and the facility licensee.

Sec. 8. 22 MRSA §667, as enacted by PL 1987, c. 519, §1, is amended to read:

§667. Liability

Notwithstanding the immunities set forth in Title 14, section 8103, the State ~~shall be~~ is liable for the negligent acts or omissions of the State Nuclear Safety Inspector, or any personnel under ~~his~~ the safety inspector's direct supervision and control, ~~which that~~ occur on the site of a ~~commercial nuclear power~~ facility. All other provisions of Title 14, chapter 741, including notice requirements, defense and indemnifi-

cation of employees and limitations on damage amounts, ~~shall~~ apply.

Sec. 9. 22 MRSA §673, sub-§3-A, as enacted by PL 1987, c. 519, §2, is amended to read:

3-A. Facility. A ~~"commercial nuclear power facility" or "facility"~~ means a production or utilization facility situated in this State ~~which that~~ holds an operating permit or license issued by the United States Nuclear Regulatory Commission. It also means a power reactor licensee situated in the State, whether decommissioned or not, with a possession-only license issued by the United States Nuclear Regulatory Commission for special nuclear material, by-product material and source material. It also includes spent fuel or high-level waste storage facilities.

Sec. 10. 22 MRSA §680, sub-§1, as amended by PL 1997, c. 395, Pt. F, §2, is repealed and the following enacted in its place:

1. Facilities. The registration fee for a facility for:

A. Fiscal year 1997-98 is \$100,000; and

B. Fiscal year 1998-99 is \$25,000.

Sec. 11. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Maine Environmental Protection Fund		
All Other	\$70,000	\$100,000
Allocates funds for departmental regulatory functions in the closure of the Maine Yankee Nuclear Power Plant in Wiscasset.		
Notwithstanding any other provision of law, the department may transfer funds by financial order to establish no more than 3 project positions or for the journaling of appropriate costs from authorized positions in other accounts.		

DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	\$70,000	\$100,000
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Health		
Capital Expenditures	\$32,000	
Allocates funds for capital equipment in the Health and Environmental Testing Laboratory to be used in activities related to the closure of the Maine Yankee Nuclear Power Plant in Wiscasset.		
Bureau of Health		
All Other		(\$75,000)
Deallocates funds to reflect a loss of revenue to the Radiation Control Program.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	\$32,000	(\$75,000)
TOTAL ALLOCATIONS	\$102,000	\$25,000

Sec. 12. Reimbursement. Maine Yankee Atomic Power Company shall reimburse the Department of Environmental Protection for actual costs incurred in conducting activities related to decommissioning by the department's regular or project staff or by the department's contractors. Reimbursement charges may not exceed \$70,000 in fiscal year 1997-98 or \$100,000 in fiscal year 1998-99.

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

Effective April 3, 1998.

CHAPTER 687

H.P. 1433 - L.D. 1997

**An Act to Expand Access to
Employment Security Data to
Authorized Agents of Child Support
Enforcement Agencies**

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

Sec. 1. 26 MRSA §1082, sub-§7, as amended by PL 1985, c. 537, is further amended to read:

7. Records and reports. Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. These records ~~shall~~ must be open to inspection and be subject to being copied by the commissioner or ~~his~~ the commissioner's authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, ~~which that~~ the commissioner ~~deems~~ considers necessary for the effective administration of this chapter. Information thus obtained or obtained from any individual pursuant to the administration of this chapter ~~shall~~, except to the extent necessary for proper presentation of a claim, must be held confidential and ~~shall may~~ not be published or ~~be open~~ opened to public inspection, other than to public employees in the performance of their public duties or to any agent of an agency that is under contract with a state or local child-support agency, or to any agent of an agency that is under contract or subcontract with the state employment and job training agency, pursuant to safeguards established by the commissioner, in any manner revealing the individual's or employing unit's identity, but the department shall, upon request, provide to any party to an adjudicatory proceeding information from the records relating to the proceeding. Final decisions of adjudicatory proceedings are available to the public provided that the names and addresses of claimants and employers are deleted from the decisions. Records, with any necessary authentication thereof, required in the prosecution of any criminal action brought by another state for misrepresentation to obtain benefits under the law of this State ~~shall~~ must be made available to the agency administering the employment security law of any such state for the purpose of such prosecution. Any person who violates any provision of this subsection ~~shall be~~ is guilty of a Class E crime. Any agent of an agency that is under contract with a state or local child-support agency, or any agent of an agency that is under contract or subcontract with the state employment and job training agency who discloses any information that is confidential pursuant to this subsection, other than disclosure authorized by this subsection, is guilty of a Class E crime.

See title page for effective date.
