

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

Sec. A-4. 35-A MRSA §7104, sub-§5 is enacted to read:

5. Funds for Communication Equipment Fund. The commission shall annually transfer \$85,000 from a state universal service fund established pursuant to this section to the Communications Equipment Fund established under Title 26, section 1419-A. In addition to its authority under subsection 3, the commission may require contributions to the state universal service fund in an amount sufficient to collect the \$85,000.

If the Department of Labor, Bureau of Rehabilitation Services does not receive from federal or other sources funds in addition to the \$85,000 sufficient to carry out the purposes of Title 26, section 1419-A, the commission, at the request of the Department of Labor, Bureau of Rehabilitation Services, may transfer from the state universal service fund to the Communications Equipment Fund additional amounts as long as:

A. The total transfer in any year does not exceed \$122,500; and

B. Any amount in any year in excess of \$85,000 is drawn from funds otherwise available in the universal service fund. The commission is not authorized to require contributions to the state universal service fund for the purposes of this subsection in order to collect any amount in excess of \$85,000 in any year.

Sec. A-5. Application for funds; report. The Department of Labor, Bureau of Rehabilitation Services shall apply for federal homeland security funds administered by the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency to support the purposes of the Communications Equipment Fund and this Act. The Maine Emergency Management Agency and the Department of Labor, Bureau of Rehabilitation Services shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 1, 2005 detailing the amount of homeland security funding that has been provided for these purposes and for supporting access to emergency alert and news services for persons who are blind.

Sec. A-6. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Communications Equipment Fund 0799

Initiative: Provides funds to establish a base allocation in the event federal grant funds are secured to provide emergency alert notification equipment and other services for deaf and hard-of-hearing persons.

Federal Expenditures Fund	2003-04	2004-05
All Other	\$0	\$500
Federal Expenditures		
Fund Total	\$0	\$500

PART B

Sec. B-1. 35-A MRSA §7101, sub-§5 is enacted to read:

5. Homeland security and emergency alerts. The Legislature further finds that seamless, integrated, robust and redundant means of communication, including, but not limited to, voice and alphanumeric pagers, landline telephones, wireless telephones, text radio and wireless e-mail, create a robust communication system that enables rapid contact with first responders, ensures emergency alert notification to all affected persons in the State, including at-risk populations such as the hearing or visually impaired, and enhances homeland security. It is the policy of the State to encourage the deployment of the infrastructure necessary to support such a communications system.

See title page for effective date.

CHAPTER 554

H.P. 1361 - L.D. 1837

An Act Relating to the Consideration of the Cumulative Effects on Protected Natural Resources

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

Sec. 1. 38 MRSA §480-X, sub-§§2 and 3, as enacted by PL 1995, c. 460, §7 and affected by §12, are amended to read:

2. Three-tiered review process; tiers defined. Except as provided in subsection 1, an application for a permit to undertake activities altering freshwater wetlands must be reviewed in accordance with the following.

A. A Tier 1 review process applies to any activity that involves a freshwater wetland alteration up to 15,000 square feet and does not involve the alteration of freshwater wetlands listed in subsection 4.

B. A Tier 2 review process applies to any activity that involves a freshwater wetland alteration of 15,000 square feet up to one acre and does not involve the alteration of freshwater wetlands listed in subsection 4 or 5.

C. A Tier 3 review process applies to any activity that involves a freshwater wetland alteration of one acre or more or an alteration of a freshwater wetland listed in subsection 4 or 5.

If the project as a whole requires Tier 2 or Tier 3 review, then any activity that is part of the overall project and involves a regulated freshwater wetland alteration also requires the same higher level of review, unless otherwise authorized by the department.

In determining the amount of freshwater wetland to be altered, all components of a project, including all phases of a multiphased project, are treated together as constituting one single and complete project. Activity authorized or legally conducted prior to the effective date of this section is not included.

The standards of section 480-D do not apply to projects that qualify for Tier 1 ~~or Tier 2~~ review, except that water quality standards under section 480-D, subsection 5 apply to those projects. Projects that meet the eligibility requirements for Tier 1 ~~or Tier 2~~ review and that satisfy the permitting requirements set forth in subsection 3; ~~and 6 or 7~~, as applicable, are presumed not to have significant environmental impact.

3. General requirements. A person undertaking an activity for which a permit is processed pursuant to this section ~~must~~ shall satisfy the requirements of this subsection.

A. An applicant for Tier 1 ~~or~~ Tier 2 or Tier 3 review ~~must~~ shall meet the following requirements.

- (1) Alteration of freshwater wetland areas on the property must be avoided to the extent feasible considering cost, existing technology and logistics based on the overall purpose of the project.
- (2) The area of the freshwater wetland to be altered must be limited to the minimum amount necessary to complete the project.
- ~~(3) Erosion control measures must be used to prevent sedimentation of protected natural resources. A 25-foot buffer strip must be maintained between the activity and any river, stream or brook.~~
- ~~(4) The activity must comply with applicable water quality standards pursuant to section 480-D, subsection 5.~~

~~B. An applicant for Tier 1, Tier 2 or Tier 3 review for projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters, must comply with~~

~~the water quality classification standards contained in section 465.~~

C. An applicant for Tier 1 review shall meet the following requirements.

- (1) Erosion control measures must be used to prevent sedimentation of protected natural resources. A 25-foot buffer strip must be maintained between the activity and any river, stream or brook.
- (2) The activity must comply with applicable water quality standards pursuant to section 480-D, subsection 5.

D. An applicant for Tier 2 or Tier 3 review shall comply with the standards contained in section 480-D.

Sec. 2. 38 MRSA §480-X, sub-§7, ¶A, as enacted by PL 1995, c. 460, §7 and affected by §12, is amended to read:

A. An application form must be submitted, with the application fee, to the department and include the following information:

- (1) Documentation that public notice has been provided of the proposed project in accordance with department rules;
- (2) A United States Geological Survey map showing the project location;
- (3) Written certification by a knowledgeable professional experienced in wetland science that the project will not alter, or cause to be altered, a wetland described in subsection 4 or 5;
- (4) A top view drawing of the entire project, including existing and proposed fill, excavation, roads and structures; cross-sectional drawings of any fill or excavated areas; delineation of the wetland boundaries and calculated area of freshwater wetlands affected; description of existing vegetation on the project site; identification of any surface water bodies within 100 feet of the proposed alteration; and a drawing of the 25-foot buffer strip between the project and any river, stream or brook;
- (5) A soil erosion and sedimentation control plan;
- (6) For work in previously mined peatlands, information on the past mining activity, including the approximate dates of the mining activity, the area and depth to which peat has been excavated from the

site, any restoration work on the site and the current condition of the site;

(7) A statement describing why the project can not be located completely in upland areas and any alternatives that exist for the project that would either avoid or minimize the amount of proposed freshwater wetland alteration; and

(8) A plan for compensating for lost functions and values of the freshwater wetland when required by, and in accordance with, rules adopted by the department; and

(9) Any other information determined by the department to be necessary to meet the requirements of section 480-D and rules adopted by the department.

See title page for effective date.

CHAPTER 555

S.P. 235 - L.D. 671

An Act To Facilitate the Development of Cost-effective Distributed Electricity Generation in the State

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

Sec. 1. 35-A MRSA §3210-A is enacted to read:

§3210-A. Small generator aggregation

1. Standard-offer service provider purchase requirement. In accordance with rules adopted pursuant to this section, the commission, at the request of the owner or operator of a generator with a capacity of 5 megawatts or less, shall:

A. If the generator is located in an area of this State within the New England independent system operator control area, require a standard-offer service provider that serves an area of this State within the New England independent system operator control area to purchase the output of that generator at applicable market clearing prices or at such other prices determined by the commission to be financially neutral to the standard-offer service provider; and

B. If the generator is located in an area of this State in which the retail market is administered by the independent system administrator for northern Maine and the commission finds that

the market design will accommodate purchases in a manner that is financially neutral to the standard-offer service provider, require a standard-offer service provider that serves that area of the State, or a portion of that area, to purchase the output of that generator at prices determined by the commission to be financially neutral to the standard-offer service provider.

The requirements of this subsection apply only if they can be accomplished in a manner that is financially neutral to standard-offer service providers.

2. Transmission and distribution utility administration. Transmission and distribution utilities shall administer the purchase and sale of electricity required under this section. Administrative costs incurred by a transmission and distribution utility under this subsection must be paid, in a manner established by the commission, by the generators of the electricity the purchase and sale of which the utility administers.

3. Rules. The commission shall adopt rules to implement this section, including, but not limited to, rules identifying how the commission assigns purchasing obligations to particular standard-offer service providers and the timing and manner of such obligations. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 556

H.P. 1344 - L.D. 1821

An Act To Increase the Amount of Restitution Allowed for State and Municipal Fire Service

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

Sec. 1. 12 MRSA §9321, sub-§6, ¶¶A and B, as enacted by PL 1991, c. 591, Pt. E, §10, are amended to read:

A. The monetary award for restitution to a municipality may not exceed ~~\$2,000~~ \$25,000; and

B. The total combined monetary award for restitution to municipalities and State Government may not exceed ~~\$10,000~~ \$125,000.

See title page for effective date.