

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**

**July 29, 2005**

**SECOND REGULAR SESSION**

**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND SPECIAL SESSION**

**NON-EMERGENCY LAWS IS**

**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND REGULAR SESSION**

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**AUGUST 23, 2006**

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

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**Penmor Lithographers**

**Lewiston, Maine**

**2006**

commercial fertilizer is deficient in any component, ~~shall be~~ is guided solely by the official sample as defined and obtained and analyzed as provided for in this section.

When the inspection and analysis of an official sample indicate a commercial fertilizer has been adulterated or misbranded, ~~the results of analysis shall be forwarded by the commissioner~~ shall forward the results of the analysis to the distributor or manufacturer. Upon request within 30 days, the commissioner shall furnish to the registrant a portion of the sample concerned.

**Sec. 43. 7 MRSA §1007-A, sub-§6,** as enacted by PL 1997, c. 538, §1, is amended to read:

**6. Civil penalties.** Any person who violates any of the requirements of this section or any rules adopted under this section commits a civil violation for which a ~~forfeiture fine~~ fine of not more than \$1,000 for each violation, together with not more than ~~\$200~~ \$1,000 for each succeeding day of a continuing violation, may be adjudged.

**Sec. 44. 10 MRSA §1661-B, sub-§3,** as enacted by PL 2003, c. 452, Pt. E, §4 and affected by Pt. X, §2, is amended to read:

**3. Enforcement.** The Commissioner of Agriculture, Food and Rural Resources shall enforce this section pursuant to Title 7, section 44 13.

See title page for effective date.

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**CHAPTER 513**

**H.P. 1312 - L.D. 1872**

**An Act To Provide Forest Certification Cost-share Incentives to Forest Landowners and Licensed Foresters**

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

**Sec. 1. 12 MRSA c. 801-A,** as amended, is further amended by repealing the chapter headnote and enacting the following in its place:

**CHAPTER 801-A**

**FOREST CERTIFICATION INCENTIVE COST-SHARE FUND**

**Sec. 2. 12 MRSA §8011,** as enacted by PL 2001, c. 439, Pt. KKKK, §1, is repealed and the following enacted in its place:

**§8011. Cost-share fund established; purpose**

A forest certification incentive cost-share fund, referred to in this chapter as "the fund," is established as a nonlapsing dedicated account to provide incentives to licensed foresters and landowners for obtaining independent 3rd-party certification and recertification. The bureau shall administer the fund in accordance with section 8014. The bureau may accept donations and grants from public and private sources for deposit in the fund.

**Sec. 3. 12 MRSA §8012, sub-§3,** as enacted by PL 2001, c. 439, Pt. KKKK, §1, is amended to read:

**3. Independent 3rd-party certification.** "Independent 3rd-party certification" means a system that verifies ~~sustainable forest management through an independent 3rd party audit of a licensed professional forester's management of a client's forest lands.~~ that forest management is consistent with a certification program's standards through an independent 3rd-party audit of the management of forest lands. To be considered an "independent 3rd-party certification" system:

A. The certification program, including, but not limited to, the standards for awarding certification and the protocols for ascertaining compliance, must be developed and administered by an entity with no financial interest in the entity seeking certification except by reason of the contract for certification services; and

B. The organization retained to perform the certification audit may not receive any financial benefit from timber harvesting on the land or from the entity being audited, except for the contractual relationship for the audit service.

**Sec. 4. 12 MRSA §8012, sub-§4,** as enacted by PL 2001, c. 439, Pt. KKKK, §1, is amended to read:

**4. Licensed forester.** "Licensed professional forester" means a person licensed pursuant to Title 32, chapter ~~75~~ 76.

**Sec. 5. 12 MRSA §8013,** as enacted by PL 2001, c. 439, Pt. KKKK, §1, is repealed.

**Sec. 6. 12 MRSA §8014** is enacted to read:

**§8014. Administration of cost-share fund; procedure**

The bureau shall administer the fund to reimburse eligible persons for a portion of the costs of obtaining independent 3rd-party certification in accordance with this section.

**1. Eligibility.** The following persons are eligible for cost-share funds:

A. A licensed forester who has obtained independent 3rd-party certification or recertification as a forest resource manager in order that the forester's client landowners may obtain the benefits accruing from such certification;

B. A landowner who owns 1,000 acres or less of forest land statewide and has obtained independent 3rd-party certification or recertification for the land; and

C. A group of landowners who have collectively obtained 3rd-party certification or recertification for their land as long as some or all of the landowners own 1,000 acres or less.

**2. Maximum amount of cost-share funds distributed.** The amount of cost-share funds distributed to a person eligible for reimbursement under subsection 1, paragraph A or B may not exceed 50% of the cost of obtaining independent 3rd-party certification.

The maximum amount of cost-share funds distributed to a group of landowners eligible for reimbursement under subsection 1, paragraph C is calculated by multiplying the number of landowners in the group who own 1,000 acres or less of forest land by 50% of the cost of obtaining independent 3rd-party certification and dividing the product by the total number of landowners in the group.

For the purposes of this subsection, "cost of obtaining independent 3rd-party certification" means the fee paid to an external auditor to complete the certification process.

**3. Repayment required.** A licensed forester, landowner or group of landowners that accepts cost-share funds in accordance with this chapter but that fails to retain certification for the full certification period shall repay the full amount of the cost-share funds received to the bureau. The bureau may impose a reasonable interest rate on the amount of the funds to be repaid. The bureau shall deposit all repayments and interest received under this subsection into the fund.

**4. Forms.** The bureau shall provide application forms for licensed foresters, landowners and groups of landowners seeking cost-share funds pursuant to this chapter.

See title page for effective date.

## CHAPTER 514

H.P. 1303 - L.D. 1863

### An Act To Permit Supplemental Environmental Projects for Forest Practices Violations

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

**Sec. 1. 12 MRSA §8870, sub-§4,** as enacted by PL 2003, c. 694, §1, is repealed.

**Sec. 2. 12 MRSA §8870, sub-§5** is enacted to read:

**5. Supplemental environmental projects.** In settling a civil enforcement action for any violation of this subchapter or any rule adopted under this subchapter, the parties may agree to a supplemental environmental project that mitigates not more than 80% of the assessed penalty. "Supplemental environmental project" means an environmentally beneficial project primarily benefiting the public health or the environment that a violator is not otherwise required or likely to perform.

A. An eligible supplemental environmental project is limited to the following categories:

(1) Environmental enhancement projects in the same ecosystem or geographic area of the violation that significantly improve an area beyond what is required to remediate any damage caused by the violation that is the subject of the enforcement action;

(2) Community forestry projects in the same ecosystem or geographic area of the violation that are conducted in accordance with the purposes of section 8705;

(3) Environmental awareness projects substantially related to the violation that provide training, publications or technical support to members of the public and that are regulated by the Department of Conservation; or

(4) Scientific research and data collection projects that advance the scientific basis on which regulatory decisions are made.

B. A supplemental environmental project may not be used in the following situations:

(1) Repeat violations of the same or a substantially similar law administered by the Department of Conservation by the same person;