

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

manage the account as a state-held trust. Subject to the approval of the Governor, the commissioner may accept funds from any source and may accept gifts in trust to be credited to the Allagash Wilderness Waterway Permanent Endowment Fund, except that a gift may not be accepted with any encumbrances or stipulations as to the use of the gift. Interest earned on investments in the fund must be credited to the fund. With the advice of the Allagash Wilderness Waterway Advisory Council under section 1891, the director may expend money from the fund for purposes consistent with section 1871 and an approved waterway management plan.

Sec. 5. 12 MRSA §1891-B is enacted to read:
§1891-B. Reporting

The commissioner shall report on or before March 1st of each year to the joint standing committee of the Legislature having jurisdiction over conservation matters regarding the state of the waterway, including its mission and goals, administration, education and interpretive programs, historic preservation efforts, visitor use and evaluation, ecological conditions and any natural character enhancements, general finances, income, expenditures and balance of the Allagash Wilderness Waterway Permanent Endowment Fund, the department's annual budget request for the waterway operation in the coming fiscal year and current challenges and prospects for the waterway.

Sec. 6. Management as separate region. The Department of Conservation shall administer and manage the Allagash Wilderness Waterway as a separate region within the Bureau of Parks and Lands.

Sec. 7. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 12, section 1891, subsection 4 and in order to ensure a certain level of continuity of service on the Allagash Wilderness Waterway Advisory Council, the Commissioner of Conservation shall, in making the initial appointments for the advisory council, appoint 2 members to 3-year terms, 2 members to 4-year terms and 2 members to 5-year terms. The legislative committee approval requirements of Title 12, section 1891, subsection 3 apply to initial and subsequent appointments. An initial term of 3 or 4 years is considered a full term for purposes of calculating the term limitation in Title 12, section 1891, subsection 4.

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

**CONSERVATION, DEPARTMENT OF
Parks - General Operations 0221**

Initiative: Allocates funds for the per diem of the Allagash Wilderness Waterway Advisory Council.

	2007-08	2008-09
OTHER SPECIAL REVENUE FUNDS		
All Other	\$1,925	\$1,925
OTHER SPECIAL REVENUE FUNDS TOTAL	\$1,925	\$1,925

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

Effective May 21, 2007.

CHAPTER 147

H.P. 792 - L.D. 1074

An Act To Amend the Maine Commercial Fertilizer Law

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

Sec. 1. 7 MRSA §742, sub-§1 is repealed.

Sec. 2. 7 MRSA §742, sub-§9, is amended to read:

9. Guaranteed analysis. "Guaranteed analysis":

A. "Guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

- Total Nitrogen (N) per cent
- Available Phosphoric Acid (P₂O₅)..... per cent
- Soluble Potash (K₂O) per cent; and
- Magnesium (mg) per cent

B. "Guaranteed analysis" in paragraph A includes:

- (1) For unacidulated mineral phosphatic materials and basic slag, both total and available phosphorus or phosphoric acid and the degree of fineness. For bone, tankage and other organic phosphatic materials, total phosphorus or phosphoric acid; and
- (2) Additional plant nutrients expressed as the elements, when permitted by the commissioner.
- ~~(3) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton, when permitted by regulation.~~
- ~~(4) For agricultural lime the minimum percentages of total calcium and total magne-~~

sium, and for gypsum the minimum percentage of calcium and sulfur.

Sec. 3. 7 MRSA §744 is amended to read:

§744. Labeling

Any commercial fertilizer distributed in this State in containers ~~shall~~ must have placed on or affixed to the container a label setting forth in clearly legible form the information required by section 743, subsections 1 to ~~4~~ 5.

If distributed in bulk, a written or printed statement of the information required by section 743, subsections 1 to ~~4~~ 5, ~~shall~~ must accompany delivery and be supplied to the purchaser at time of delivery.

Sec. 4. 7 MRSA §745, as amended by PL 2005, c. 512, §42, is further amended to read:

§745. Inspection, sampling and analysis

The commissioner shall inspect and sample for analysis in accordance with section 490 commercial fertilizers distributed within this State to the extent as the commissioner ~~deems~~ considers necessary to determine compliance with this subchapter. The commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers, subject to this subchapter and the rules adopted pursuant to section 748.

The methods of sampling, sample preparation and analysis are those adopted from sources such as ~~the Journal of the Association of Official Agricultural Chemists~~ AOAC International. The commissioner, in determining for administrative purposes whether a commercial fertilizer is deficient in any component, 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 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. 5. 7 MRSA §747, sub-§3 is amended to read:

3. Other materials. If it is found to contain any pulverized leather, hair, ground hoofs, horns, wool waste, peat, garbage tankage or any nitrogenous ingredients derived from any inert material ~~whatsoever~~, unless the same has been so treated as to be available as plant food as determined by the methods adopted by ~~the Association of Official Agricultural Chemists~~ AOAC International, without an explicit printed statement of fact, conspicuously affixed to the package of ~~such~~ the fertilizer and accompanying and going with every lot or package of the same, in which fertil-

izer ~~the above named~~ materials named in this subsection aid in making up the required or guaranteed analysis.

Sec. 6. 7 MRSA §748, sub-§3 is enacted to read:

3. Establishment of allowances. The commissioner shall establish by rule allowances for deviations from the guaranteed analysis for plant nutrients and from the overall index value of a fertilizer. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. 7 MRSA §750, sub-§2, as enacted by PL 2003, c. 452, Pt. B, §11 and affected by Pt. X, §2, is amended to read:

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not more than ~~\$100~~ \$500 may be adjudged.

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not more than ~~\$200~~ \$1,000 may be adjudged.

Sec. 8. 7 MRSA §751 is enacted to read:

§751. Assessments for deficiencies

In addition to any fine adjudged under section 750, an assessment for deficiencies in a fertilizer must be made in accordance with this section. For the purposes of this section, a deficiency occurs when an investigational analysis determines that the allowances established in rules adopted under section 748, subsection 3 have been exceeded.

1. Primary plant nutrients; overall index. An assessment of 2 times the commercial value of the deficiency or deficiencies as determined under subsection 3 must be made if:

A. The analysis determines that a fertilizer is deficient in one or more of its guaranteed primary plant nutrients; or

B. The analysis determines that the overall index value is deficient.

When a fertilizer is subject to an assessment under both paragraphs A and B, the larger assessment applies.

2. Other deficiencies. When a fertilizer is labeled to guarantee or a bulk fertilizer is accompanied by a statement guaranteeing that the fertilizer contains recognized plant nutrients other than nitrogen, available phosphate or soluble potash, the commissioner may evaluate the fertilizer and prescribe an assessment

for deficiencies in any of the claimed nutrients based on commercial values determined under subsection 3.

3. Determination of commercial value. For the purpose of determining the commercial value of fertilizer, the commissioner shall use the amount originally invoiced to the consumer per unit of nitrogen, available phosphate, soluble potash or other nutrients that the registrant is required to or may guarantee. The values derived from the invoice must be used in determining the assessment.

4. Payment to consumer; commissioner. Assessments made under subsections 1 and 2 must be paid by the registrant to the consumer of the lot of fertilizer represented by the sample analyzed. The commissioner shall send notification of the amount of the assessment with the results of the analysis sent in accordance with section 745. Assessments must be made within 30 days of the date of the notification. If the consumer cannot be located, the registrant shall submit the assessment to the commissioner for deposit in the commercial fertilizer account under subsection 5.

5. Commercial fertilizer account. The commissioner shall deposit all assessments submitted to the commissioner in accordance with subsection 4 in a dedicated account established within the department. The account is a nonlapsing interest-bearing account. Funds from the account may only be used to pay costs of sampling and analyzing fertilizer.

See title page for effective date.

**CHAPTER 148
S.P. 215 - L.D. 678**

**An Act Regarding Eminent
Domain Authority and
Certificate of Public
Convenience and Necessity
Requirements for the
Construction of Transmission
Lines**

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

Sec. 1. 35-A MRSA §3132, first ¶, as amended by PL 1999, c. 398, Pt. A, §46 and affected by §§104 and 105, is further amended to read:

~~A transmission and distribution utility~~ Except as provided in subsection 1-B, a person may not construct any transmission line covered by subsection 2 or rebuild or relocate any transmission line as investigated by the commission under subsection 3 unless the commission has issued a certificate of public convenience and necessity approving construction.

Sec. 2. 35-A MRSA §3132, sub-§1-B is enacted to read:

1-B. Exception; generator interconnection transmission facility. The construction of a generator interconnection transmission facility is not subject to the requirements of this section. For the purposes of this subsection, "generator interconnection transmission facility" means a transmission line, together with all associated equipment and facilities, that is constructed, owned and operated by a generator of electricity solely for the purpose of electrically and physically interconnecting such generator to the transmission system of a transmission and distribution utility.

Sec. 3. 35-A MRSA §3132, sub-§2, as amended by PL 2003, c. 506, §12, is further amended to read:

2. Construction of transmission line. Except as otherwise provided in subsection 3-A, whenever any ~~transmission and distribution utility or utilities~~ propose person proposes to erect within this State a transmission line capable of operating at 100 kilovolts, or more, or a transmission line capable of operating at 69 kilovolts or more that is proposed to be financed, permitted, constructed, owned in whole or in part or operated by the Northern Maine Transmission Corporation pursuant to Title 10, chapter 1003 or financed by the Finance Authority of Maine pursuant to Title 10, section 1053, subsection 6, paragraph F, ~~the utility or utilities or project proponent~~ that person shall file a petition for the approval of the proposed line. The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes. The petition for approval must be set down for public hearing. The commission shall issue its order within 6 months after the petition is filed unless this period is extended either by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control, be unreasonably disadvantaged unless the extension were granted, provided that the party to that time had prosecuted its case in good faith and with due diligence.

At the time of filing of a petition for approval of a proposed line under this section, the ~~utility~~ person filing the petition shall send a copy of the petition by certified mail to the municipal officers of the municipality or municipalities in which the line is to be located.

Sec. 4. 35-A MRSA §3132, sub-§4, as amended by PL 1999, c. 398, Pt. A, §46 and affected by §§104 and 105, is further amended to read:

4. Corridor of proposed transmission line. The ~~transmission and distribution utility or utilities~~ person filing a petition under this section for approval of a proposed transmission line shall submit a map to the commission with its application. The map must: