

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

board may be seized. The penalty imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B.

See title page for effective date.

CHAPTER 558

H.P. 1596 - L.D. 2235

An Act To Sustain Maine's Core Wastewater Licensing Program and Adjust Related Provisions

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

Sec. 1. 38 MRSA §352, sub-§5-A, as amended by PL 2007, c. 399, §9, is further amended to read:

5-A. Accounting system. In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions keep accurate and regular daily time records. These records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate.

TABLE I

MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFICA- TION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	\$250	\$20
B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20

TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE
344, sub-§7, Permit by rule	\$50	\$0
413, Waste discharge licenses	See section 353-B	
420-D, Storm water manage- ment		
A. If structural means of storm water control are used	\$400 for the first acre of disturbed area, plus \$200 for each additional whole acre of disturbed area	\$100 for the first acre of disturbed area, plus \$50 for each addi- tional whole acre of dis- turbed area
B. If solely vegetative means of storm water con- trol are used	\$200 for the first acre of disturbed area, plus \$100 for each additional whole acre of disturbed area	\$50 for the first acre of disturbed area, plus \$25 for each addi- tional whole acre of dis- turbed area
C. When a permit by rule is required	\$55	none
<u>If a project described in paragraph A or B is reviewed and ap- proved by a professional engineer at a soil and water conserva- tion district office that has a memorandum of understanding with the department concerning review of projects pursuant to this section, the total applicable fee is reduced to a processing fee of \$100 for the first acre of disturbed area, plus a license fee of \$50 for each additional whole acre of disturbed area.</u>		
480-E, Natural resources pro- tection		
A. Any alteration of a protected natural resource, except coastal wetlands and coastal sand dunes, causing less than 20,000 square feet of alteration of the resource	140	50
B. Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource	240	60
C. Any alteration of a pro- tected natural resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource	.015/sq. ft. alteration	.005/sq. ft. alteration
C-1. Significant groundwa- ter well	4,577	1,961

C-2. Activity within a community public water supply primary protection area-	183	64	3. Bioash	300	275
D. Any alteration of a coastal sand dune	3,500	1,500	4. Wood ash	300	75
E. Condition compliance	84	0	5. Food waste	300	75
F. Minor modification	184	0	6. Other residuals	300	175
485-A, Site location of development			C. Landfill		
A. Residential subdivisions			1. Closing plans for secure landfills	1,500	1,500
1. Affordable housing	50/lot	50/lot	2. Closing plans for attenuation landfills	500	500
2. On public water and sewers	175/lot	175/lot	3. Post-closure report	175	175
3. All Other	250/lot	250/lot	4. Preliminary information reports	175	175
B. Industrial parks	460/lot	460/lot	5. License transfers	500	175
C. Mining	1,500	1,000	6. Special waste disposal		
D. Structures	4,000	2,000	a. One-time disposal of quantities of 6 cubic yards or less	50	50
E. Other	1,000	1,000	b. One-time disposal of quantities greater than 6 cubic yards	100	100
543, Oily waste discharge	40	160	c. Program approval for routine disposal of a special waste	300	300
560, Vessels at anchorage	125	100	7. Minor revision for secure landfills <u>landfills</u>	600	100
587, Ambient air quality or emissions standards variances	5,050	50	8. Minor revision for attenuation landfills	100	100
590, Air emissions licenses	See section 353-A		9. Public benefit determination	175	175
633, Hydropower projects			D. Incineration facility		
A. New or expanded generating capacity	450/MW	50/MW	2. License transfer	175	175
B. Maintenance and repair or other structural alterations not involving an increase in generating capacity	150	150	E. License transfer other than for landfills and incinerators	100	100
33 United States Code, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project licensing or relicensing			F. Minor revision for septage facilities and solid waste facilities other than landfills	100	100
A. Initial consultation	1,000	0	G. Permit by rule for one-time activities	100	100
B. Second consultation	1,000	0			
C. Application					
1. Storage	1,000	0			
2. Generating	300/MW	50/MW			
1304, Waste management					
A. Septage disposal					
1. Site designation	50	25			
B. Land application of sludges and residuals program approval					
1. Industrial sludge	400	400			
2. Municipal sludge	300	275			

TABLE II

WASTE MANAGEMENT FEES - ANNUAL LICENSE

MAXIMUM FEES IN DOLLARS

TITLE 38 SECTION	PROCESSING FEE	ANNUAL LICENSE FEE	5. Nonsecure wood waste or demolition debris landfills, or both, if less than or equal to 6 acres	700	750
1304, Waste management					
A. Septage disposal			B. Incineration facilities		
1. Landspreading	\$550	\$250	1. New or expanded for the acceptance of mu- nicipal or special wastes, or both	3,500	5,000
2. Storage	50	75	2. Municipally owned and operated solid waste incinerators with li- censed capacity of 10 tons per day or less	3,500	1,000
B. Residuals compost facility			C. Transfer station and storage facility	750	175
1. Type I	150	150	D. Tire storage facility	400	450
3. Type II and Type III less than 3,500 cubic yards	700	500	F. Processing facility other than municipal solid waste composting	700	700
5. Type II and Type III 3,500 cubic yards or greater	1,400	850	G. Beneficial use activities other than agronomic utili- zation		
C. Land application of sludges and residuals			3. Fuel substitution	700	500
1. Sites with program approval			4. Beneficial use with- out risk assessment	700	200
a. Industrial sludge	150	250	5. Beneficial use with risk assessment	1,400	500
b. Municipal sludge	75	200	H. Permit by rule for ongo- ing activities	100	100
c. Bioash	75	200			
d. Wood ash	50	125			
e. Food waste	50	125			
f. Other residuals	50	125			
2. Sites without program approval					
a. Industrial sludge	300	550			
b. Municipal sludge	150	250			
c. Bioash	150	250			
d. Wood ash	75	200			
e. Food waste	75	200			
f. Other	75	200			
1310-N, Solid waste facility siting					
A. Landfill					
1. Existing, nonsecure municipal solid waste landfills accepting waste from fewer than 15,000 people	3,500	1,000			
2. Existing, nonsecure municipal solid waste landfills accepting waste from more than 15,000 people	3,500	3,500			
3. New or expanded for secure landfill	5,000	8,500			

Sec. 2. 38 MRSA §353-B, sub-§1, as enacted by PL 1997, c. 794, Pt. B, §7, is amended to read:

1. Fees assessed. After the effective date of this section, licensees must pay annual waste discharge license fees consisting of a base or minimum plus fee, an annualized license renewal service fee and amounts from paragraph B; reflecting the quantity of pollutants actually discharged or licensed to be discharged and from paragraph C; in consideration of the potential for water quality impact.

A. A base fee is and an annualized license renewal service fee are assessed for the categories of waste discharge licenses identified in subsection 2, paragraph A. When a license authorizes discharges in more than one category, only the largest base fee and the associated annualized li-
cense renewal service fee may be applied to the license. When discharge fees described in paragraph B are not applicable or appropriate for a particular license group or discharge activity, only the base fee is and annualized license renewal service fees are assessed.

B. In addition to the base fee ~~amount~~ and ~~annualized license renewal service fee amounts~~, fees are assessed in consideration of the quantity and nature of pollutants discharged. When data are available, average daily discharge quantities are used in computing fees for conventional and non-conventional pollutants discharged from publicly owned sanitary and industrial process wastewater sources. When data are not available and for other pollutants and categories, fees are determined using the discharge limits established in a waste discharge license.

C. In addition to the base, annualized license renewal service and discharge fees described in paragraphs A and B, fees may be assessed for the following.

(1) The base fee may be increased by a factor reflecting the initial dilution of an effluent as discharged to the receiving water. This assessment is applied to ~~publicly owned sanitary nonresidential domestic wastewater~~ and industrial process wastewater sources licensed for more than 50,000 gallons per day and having initial dilutions of less than 1,000 to one, except those sources where the licensed flow is less than 50,000 gallons per day and the initial dilution is greater than 50 to one. The assessment is determined by multiplying the applicable base fee times 1.5 divided by the square root of the chronic dilution factor.

(2) When a license authorizes multiple discharge points from the same location, there is an additional fee of \$35 per discharge point.

D. If there are no discharges pursuant to a waste discharge license during an entire year, only the base ~~fee is~~ and annualized license renewal service fees are assessed for that year plus applicable water quality impact and multiple discharge points adjustments from paragraph C may be assessed.

E. If a licensee continues to discharge following expiration of the license, the licensee shall continue to pay any applicable waste discharge license fees provided for in this section. This paragraph does not authorize the discharge and does not affect the applicability of any penalty or enforcement provision.

Sec. 3. 38 MRSA §353-B, sub-§2, as amended by PL 2005, c. 602, §1, is further amended to read:

2. Maximum fee amounts and rates. Waste discharge license fees are as set out in this section.

A. The base, annualized license renewal service and maximum fees that may be assessed to categories of discharge activities are as follows.

Discharge Group		Base fee not to exceed	Maximum fee for individual in group	Annualized license renewal service fee
Publicly owned treatment facilities, greater than 6,000 gallons per day but less than 5 million gallons per day and no significant industrial waste	annual fee	\$175	none	
Publicly owned treatment facilities, 6,000 10,000 gallons per day or less	annual fee	\$60 <u>\$67</u>	\$180 <u>none</u>	\$150
Publicly owned treatment facilities, more than 10,000 gallons per day to 0.1 million gallons per day	annual fee	\$219	none	\$150
Publicly owned treatment facilities, more than 0.1 million gallons per day to 1.0 million gallons per day	annual fee	\$219	none	\$225

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Publicly owned treatment facilities, more than 1.0 million gallons per day to 5.0 million gallons per day	annual fee	\$219	none	<u>\$450</u>	Noncontact cooling water	annual fee	\$90	\$7,000	<u>\$60</u>
					Industrial or commercial sources, miscellaneous or incidental non-process wastewater	annual fee	\$115	\$2,100	<u>\$150</u>
Publicly owned treatment facilities, greater than 5 million gallons per day or with significant industrial waste	annual fee	\$770	none	<u>\$650</u>	Municipal combined sewer overflow	annual fee	\$115	\$1,400	<u>\$150</u>
					Sanitary wastewater, excluding overboard discharge	annual fee	\$60	\$1,200	<u>\$300</u>
Major industrial facility, process wastewater (based on EPA list of major source discharges)	annual fee	\$1,850	none	<u>\$650</u>	Sanitary overboard discharge, commercial sources	annual fee	\$210	\$1,200	
					Sanitary overboard discharge, residential sources 600 gallons per day and less	annual fee	\$175	---	
Other industrial facility, process wastewater	annual fee	\$630	none	<u>\$300</u>					
Food handling or packaging waste-water	annual fee	\$315	\$2,100	<u>\$150</u>	Sanitary overboard discharge, residential sources more than 600 gallons per day	annual fee	\$200	\$600	
Fish rearing facility over 0.1 million gallons per day	annual fee	\$230 <u>\$288</u>	\$1,400 <u>\$1,753</u>	<u>\$300</u>					
Fish rearing facility 0.1 million gallons per day or less	annual fee	<u>\$288</u>	<u>\$400</u>	none	Sanitary overboard discharge, public sources	annual fee	\$210	\$500	
Marine aquaculture facility	annual fee*	<u>\$288</u>	---	none	Aquatic pesticide application	annual fee*	\$200	---	<u>\$370</u>

Snow dumps	annual fee*	\$125	---	<u>\$150</u>	ceed the maximum fee for the most significant category plus 1/2 of the maximum fee for each of the other applicable categories.	
Salt and sand storage pile	annual fee*	\$150	---	<u>\$225</u>	B. The annual rate per unit for various pollutants and groups of discharges used in computing discharge and license quantity fees may not exceed the limits set out in this paragraph. When a license authorizes the discharge of pollutants fitting more than one category, the appropriate fee is due for each group and type of pollutant.	
Log storage permit	annual fee*	\$200	---	<u>\$150</u>		
General permit coverage for industrial storm water discharges (except construction)	annual fee*	\$300	---		License group or type of pollutant	Rate
					Conventional pollutants, license rate	\$1.25 per pound
					Conventional pollutants, discharge rate	\$2.40 per pound
<u>General permit coverage for marine aquaculture facility</u>	<u>annual fee*</u>	<u>\$125</u>	---	<u>none</u>	Conventional pollutants, primary treatment only	\$0.55 per pound
General permit coverage (other)	annual fee*	\$100	---	<u>\$30</u>	Conventional pollutants, food handling or packing facilities	\$0.05 per pound
					Nonconventional or toxic pollutants	Variable*
Experimental discharge license	license fee*	\$500	---	<u>\$225</u>	Heat (as licensed flow x temperature x 8.34)	\$0.045 per million BTU
Mixing <u>New or amended mixing zone, in addition to other applicable fees</u>	flat fee*	\$4,000	---		Flow: fish rearing facilities	\$45 per million gallons
					Flow: combined sewer overflows (based on treatment facility design)	\$55 per million gallons
Formation of sanitary district	flat fee*	\$300	---		Flow: nonprocess from industrial or commercial sources	\$175 per million gallons
Transfer of license for residential or commercial sanitary wastewater	flat fee*	\$100	---		Flow: publicly owned treatment facilities, greater than 6,000 <u>10,000</u> gallons per day	\$630 per million gallons
					Flow: process from industrial or commercial sources	\$630 per million gallons
					Flow: treated storm water	\$17.50 per million gallons

*Discharge or license quantity fees do not apply to these categories.

When a license authorizes multiple discharge points in different categories in the same license, the total maximum fee for the license may not ex-

Flow: sanitary, from commercial sources excluding overboard discharge \$0.02 per gallon

Flow: from publicly owned facilities, ~~6,000~~ 10,000 gallons per day or less \$0.02 per gallon

Flow: sanitary from overboard discharge \$0.05 per gallon

*The license rate per pound is \$10.50 divided by the licensed effluent concentration in ~~milligrams~~ milligrams per liter. The discharge rate per pound is \$21 divided by the licensed effluent concentration in ~~milligrams~~ milligrams per liter.

For the purposes of this section, the term "conventional pollutant" means oxygen-demanding compounds, suspended or dissolved solids, oil and grease. The term "nonconventional pollutants" means other chemical constituents subject to fees. Excluded from fees are the following: pH, residual chlorine, settleable solids, bacteria, whole effluent toxicity tests, color, any compound without numeric license limitations and effluent concentrations reported as being below acceptable detection limits.

Annual discharge or license quantity fees may be calculated using either pounds of pollutants or allowable flow, as is most appropriate for the circumstances of a particular discharge category, situation or location. License limits may be supplemented by applications and related supporting materials when necessary to calculate effluent quantities or concentrations.

Sec. 4. 38 MRSA §353-B, sub-§6, as enacted by PL 1997, c. 794, Pt. B, §7, is repealed.

Sec. 5. 38 MRSA §420-D, sub-§12, as enacted by PL 2005, c. 219, §7, is repealed.

See title page for effective date.

CHAPTER 559

S.P. 765 - L.D. 1971

An Act Concerning Gasoline Station Vapor Recovery Requirements

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

Sec. 1. 38 MRSA §585-E, sub-§3, as enacted by PL 1995, c. 493, §15, is repealed.

Sec. 2. 38 MRSA §585-E, sub-§4, as enacted by PL 1995, c. 493, §15, is repealed.

Sec. 3. 38 MRSA §585-E, sub-§5, as enacted by PL 1995, c. 493, §15, is repealed.

Sec. 4. 38 MRSA §585-E, sub-§6, as amended by PL 2001, c. 233, §§1 and 2, is further amended to read:

6. Section repeal. ~~No later than April 1, 2002 the department shall provide to the joint standing committee of the Legislature having jurisdiction over natural resources matters an appropriate date for the repeal of this~~ This section is repealed January 1, 2012.

Sec. 5. 38 MRSA §585-E, sub-§7 is enacted to read:

7. Exemptions. A gasoline station is exempt from the provisions of this section:

A. After January 1, 2008 if it has at least an annual throughput of 1,000,000 gallons of gasoline;

B. If, upon department verification and approval, excavation of one or more storage tanks is required in order to install or repair a below-ground component of the Stage II vapor recovery system; or

C. If it is constructed after the effective date of this subsection.

See title page for effective date.

CHAPTER 560

H.P. 1631 - L.D. 2268

An Act To Implement the Recommendations of the Joint Standing Committee on Education and Cultural Affairs Regarding Review of the Maine State Museum Commission under the Government Evaluation Act and To Revise the Review Schedule

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

Sec. 1. 3 MRSA §959, sub-§1, ¶E, as amended by PL 2005, c. 605, §1, is further amended to read:

E. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs shall use the following list as a guideline for scheduling reviews:

(2) Department of Education in 2005;

(2-A) State Board of Education in 2005;