

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

This subsection does not apply until January 1, 2008 to a tank installed before December 31, 1985 that has been retrofitted to meet the requirements of subsections 1-A and 1-B.

Sec. 2. 38 MRSA §566-A, sub-§1, as amended by PL 2009, c. 501, §7, is further amended to read:

1. Abandonment. All underground oil storage facilities and tanks that have been, or are intended to be, taken out of service for a period of more than ~~12~~ 24 months must be properly abandoned by the owner or operator of the facility or tank or, if the owner or operator is unknown, dissolved or insolvent, by the current owner of the property where the facility or tank is located. All abandoned facilities and tanks must be removed, except where removal is not physically possible or practicable because the tank or other component of the facility to be removed is:

- A. Located beneath a building or other permanent structure;
- B. Of a size and type of construction that it cannot be removed;
- C. Otherwise inaccessible to heavy equipment necessary for removal; or
- D. Positioned in such a manner that removal will endanger the structural integrity of nearby tanks.

Sec. 3. 38 MRSA §566-A, sub-§1-A, as amended by PL 2009, c. 501, §8, is further amended to read:

1-A. Abandoned tanks brought back into service. Underground oil storage tanks and facilities that have been out of service for a period of more than ~~12~~ 24 months may not be brought back into service without the written approval of the commissioner. The commissioner may approve the return to service if the owner demonstrates to the commissioner's satisfaction that:

- A. The facility is in compliance with this subchapter and rules adopted pursuant to this subchapter;
- B. The underground oil storage tanks and piping have successfully passed testing as directed by the commissioner;
- C. The underground oil storage tanks and piping are constructed of fiberglass, cathodically protected steel or other equally noncorrosive material approved by the commissioner;
- D. The facility has conforming suction or double-walled pressurized piping; and
- E. The return of the facility to service does not pose an unacceptable risk to groundwater resources. In determining if the facility poses an unacceptable risk to groundwater resources, the

commissioner may consider the age and maintenance history of the storage tanks and piping, the number and consequences of past oil discharges from the tanks and piping, the proximity of the facility to drinking water supplies and the proximity of the facility to sensitive geologic areas.

The commissioner may not approve the return to service of a single-walled underground oil storage tank that has been out of service for more than ~~12~~ 24 consecutive months.

Sec. 4. Report to the Fund Insurance Review Board. By October 1, 2015, the Department of Environmental Protection shall report to the Fund Insurance Review Board, under the Maine Revised Statutes, Title 38, section 568-B, data and associated information related to all incidents of leaks or spills resulting from the exception to the required replacement of underground oil storage tanks upon the expiration of a manufacturer's warranty for double-walled underground oil storage tanks pursuant to Title 38, section 564, subsection 5.

Sec. 5. Rulemaking. The Department of Environmental Protection shall amend its rules in accordance with the Maine Revised Statutes, Title 5, chapter 375 to allow the retrofitting of single-walled underground storage tanks with secondary containment systems prior to the expiration of the tank manufacturer's warranty and to allow the upgrading of related piping. 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 277

S.P. 231 - L.D. 793

An Act To Protect Ratepayers While Enhancing Energy Independence and Security

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

Sec. 1. 38 MRSA §580-A, sub-§18-B is enacted to read:

18-B. Other independent system operator participating states. "Other independent system operator participating states" means the following states participating in the regional greenhouse gas initiative as of January 1, 2011 that are located within the New England independent system operator control area: Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont.

Sec. 2. 38 MRSA §580-B, sub-§2-A is enacted to read:

2-A. Condition for withdrawal. The State shall withdraw from the regional greenhouse gas initiative when a sufficient number of other independent system operator participating states have withdrawn such that the total carbon dioxide emissions budget for the calendar year 2009, as specified in the Memorandum of Understanding, of the remaining other independent system operator participating states is less than 35,000,000 tons. If the condition is met for withdrawal from the regional greenhouse gas initiative, the department shall:

A. Immediately take all necessary steps to withdraw the State from all memoranda of understanding and contracts with states participating in the regional greenhouse gas initiative relating to the regional greenhouse gas initiative; and

B. Submit legislation to the Legislature to make the necessary changes in law to reflect the State's withdrawal from the regional greenhouse gas initiative.

See title page for effective date.

CHAPTER 278

S.P. 147 - L.D. 514

An Act Regarding Conveyance of Easements across Railroad Rights-of-way

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

Sec. 1. 5 MRSA §6209, sub-§6, as amended by PL 1993, c. 728, §13, is further amended to read:

6. Legislative approval. ~~Land~~ Except as provided in subsection 7, land acquired under this chapter may not be sold or used for purposes other than those stated in this chapter, unless approved by a 2/3 majority of the Legislature.

Sec. 2. 5 MRSA §6209, sub-§7 is enacted to read:

7. Conveyance of an access easement across a rail trail. Notwithstanding any other provision of law, the Director of the Bureau of Parks and Lands within the Department of Conservation, with the approval of the Governor and the Commissioner of Conservation, may sell or otherwise convey in accordance with Title 12, section 1814-A access rights by easement across a rail trail acquired under this chapter.

For the purposes of this subsection, "rail trail" means a former railroad right-of-way in which the Department of Conservation holds an ownership interest and that is:

A. No longer used for rail service; and

B. Managed by the Department of Conservation for use as a recreational trail.

Sec. 3. 12 MRSA §598, sub-§4, as enacted by PL 1993, c. 639, §1, is amended to read:

4. Reduced. "Reduced" means a reduction in the acreage of an individual parcel or lot of designated land under section 598-A. "Reduced" does not mean a reduction in the value of the property. "Reduced" does not mean the conveyance of an access right by easement in accordance with section 1814-A.

Sec. 4. 12 MRSA §598, sub-§5, as amended by PL 1997, c. 678, §7, is further amended to read:

5. Substantially altered. "Substantially altered," in the use of designated lands, means changed so as to significantly alter physical characteristics in a way that frustrates the essential purposes for which that land is held by the State. The essential purposes of state parks, historic sites, public access sites, facilities for boats and the Allagash Wilderness Waterway are the protection, management and improvement of these properties for public recreation, conservation, scenic values, nature appreciation, historic preservation and interpretation, public access and related purposes. The essential purposes of public reserved and nonreserved lands are the protection, management and improvement of these properties for the multiple use objectives established in section 1847. The essential purposes of lands acquired through the Land for Maine's Future Board that are not held by the Department of Inland Fisheries and Wildlife or by the Department of Conservation are the protection, management and improvement of those lands for recreation, conservation, farming, open space, plant and animal habitat, scenic values, public access and related purposes. The essential purposes of state-owned wildlife management areas and game farms are the protection, management and improvement of those properties for fish and wildlife habitat and propagation, hunting, trapping, fishing, recreation, propagation and harvesting of forest and other natural products and related purposes. "Substantially altered" does not mean the conveyance of an access right by easement in accordance with section 1814-A.

Sec. 5. 12 MRSA §1814-A is enacted to read:

§1814-A. Easements across rail trails

To the extent permitted by the deed or other instrument of ownership, the director, with the consent of the Governor and the commissioner, may sell or otherwise convey a right of access by easement across a rail trail as provided in this section. For the purposes of this section, "rail trail" means a former railroad right-of-way that is no longer used for rail service, in which the department has an ownership interest and that is managed by the department for use as a recreational trail.