LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

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1. Redomestication of foreign insurers to Maine. Any stock or mutual insurer that is organized under the laws of any other state and has a valid certificate of authority to do business in this State may become a domestic insurer with approval of the superintendent by amending its ~~certificate of organization~~ articles of incorporation or equivalent corporate charter and by designating a location in this State as its principal place of business. The redomestication must be approved if the chief insurance regulatory official of the other state certifies to the superintendent that the redomestication is in compliance with all requirements established by the laws of that state, and the superintendent determines that the insurer's operations and corporate organization will comply with the requirements of this chapter and that the redomestication is not contrary to the interests of policyholders or the public. The amendments to the insurer's ~~certificate of organization~~ articles of incorporation may provide that the corporation is a continuation of the corporate identity of the original foreign corporation and that the original date of incorporation in its original domiciliary state is the date of incorporation of the domestic insurer. The insurer's certificate of authority must be amended as of the effective date of the superintendent's approval to reflect the insurer's status as a domestic insurer and its new home office, and the insurer is thereafter subject to all provisions of this Title applicable to domestic insurers.

2. Redomestication of domestic insurers. Any domestic insurer may, upon the approval of the superintendent, transfer its domicile to any other state in which it is authorized to transact the business of insurance in accordance with the procedures established by the laws of that state. The proposed redomestication must be approved if the superintendent determines that the ~~certificate of organization has~~ articles of incorporation have been amended in conformance with section 3310 and that the redomestication is not contrary to the interests of policyholders or the public. The insurer ceases to be a domestic insurer as of the date the redomestication is recognized by its new state of domicile. Unless the superintendent determines that the insurer no longer qualifies for a certificate of authority, the insurer's certificate of authority must be amended as of the effective date of the redomestication to reflect the insurer's status as a domestic insurer and its new home office in its new state of domicile, and the insurer is thereafter subject to all provisions of this Title applicable to foreign insurers.

Sec. 20. 24-A MRSA §3605, as enacted by PL 1969, c. 132, §1, is amended to read:

§3605. Formation of new assessment plan insurers

Assessment plan insurers ~~shall hereafter~~ must be formed under the applicable provisions of sections 3306 (incorporation of domestic stock, mutual insurers) to 3309 (completion of incorporation; general powers, duties)~~;~~, except~~,~~ that the ~~certificate of organization~~ articles of incorporation of the corporation ~~shall~~ must stipulate that the corporation is formed to transact insurance on the assessment plan~~,~~ and other provisions contained in the certificate ~~shall~~ must be consistent with the applicable provisions of this chapter.

Sec. 21. 24-A MRSA §3609, as enacted by PL 1969, c. 132, §1, is amended to read:

§3609. New assessment plan insurers; conversion

Mutual insurers ~~hereafter~~ organized to transact insurance on the assessment plan ~~shall~~ are not ~~be~~ authorized to transact any kind of insurance other than property insurance~~,~~ or to transact insurance of any kind on the cash premium plan, unless the insurer qualifies for such authority in accordance with the requirements of domestic mutual insurers ~~hereafter~~ organized under chapter 47 (organization, corporate powers, procedures of domestic legal reserve stock and mutual insurers), and by appropriate amendment to its ~~certificate of organization~~ articles of incorporation converts to such a legal reserve insurer.

See title page for effective date.

CHAPTER 300
H.P. 1074 - L.D. 1497

An Act To Make Minor Changes and Corrections to Statutes Administered by the Department of Environmental Protection

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

Sec. 1. 5 MRSA §3341, sub-§2, ¶B, as amended by PL 1997, c. 393, Pt. A, §11, is further amended to read:

B. Establish a simple and expedient application process~~. Not later than February 1st of each year, the Court Alternative Dispute Resolution Service shall send to the chair of the Land and Water Resources Council a copy of each completed application received and each agreement signed during the previous calendar year~~; and

Sec. 2. 5 MRSA §9051-A, sub-§3, as enacted by PL 1987, c. 653, §1, is amended to read:

3. Notice to the public. Notice to the public ~~shall~~ must be given by:

A. Publication twice in a newspaper of general circulation in the area of the proposed activity and in areas affected by the license application as determined by the agency or board to the best of its ability.

(1) Notice ~~shall~~ must be published in plain and clear English ~~which~~ that can be readily understood by the general public.

(2) The notice ~~shall~~ must be published in the legal notices section in a form readily noticeable ~~to~~ by the general public.

(3) With respect to notice of an opportunity for a hearing pursuant to subsection 1, the date of the first publication ~~shall~~ must be 30 days next prior to the date of the expected agency decision on the license application.

(4) With respect to notice of a hearing pursuant to subsection 2, the date of the first publication ~~shall~~ must be 30 days next prior to the hearing.

(5) With respect to notice of an opportunity for a hearing pursuant to subsection 1, the date of the ~~second~~ 2nd publication ~~shall~~ must be at least 7 days and no more than 13 days before the date of the expected agency decision on the license application.

(6) With respect to notice of an opportunity for a hearing pursuant to subsection 2, the date of the ~~second~~ 2nd publication ~~shall~~ must be at least 7 days and no more than 13 days before the date of the hearing~~;~~.

~~B. The issuance of press releases describing the date, place, time and nature of the hearing. The press releases shall be sent at least 7 days and no more than 13 days before the date of the expected agency decision or the scheduled hearing to the news desks of television stations and newspapers of general circulation in the area of the proposed activity; and~~

~~C. Public service radio and television announcements. The first announcement shall be provided to radio and television stations 21 days next prior to the first hearing and the 2nd announcement shall be provided no less than 7 and no more than 10 days prior to the first scheduled hearing.~~

Sec. 3. 10 MRSA §1099-A, sub-§7, as enacted by PL 1989, c. 774, §4, is amended to read:

7. Properly installed. "Properly installed" means a boiler or furnace installed in accordance with NFPA Standard 31 or subsequent NFPA installation standards adopted by the ~~state Oil and Solid~~ Maine Fuel Board.

Sec. 4. 10 MRSA §1099-A, sub-§8, as enacted by PL 1989, c. 774, §4, is amended to read:

8. Qualified boiler or furnace. "Qualified boiler or furnace" means any new or replacement boiler or furnace fueled wholly or in part by waste oil that produces energy for space heating or cooling or for use in a manufacturing process and is listed by the ~~Oil and Solid~~ Maine Fuel Board as a waste oil boiler or furnace.

Sec. 5. 30-A MRSA §4331, first ¶, as amended by PL 2011, c. 655, Pt. JJ, §18 and affected by §41, is further amended to read:

The department shall conduct an ongoing evaluation process to determine the effectiveness of state, regional and local efforts under this chapter to achieve the purposes and goals of this chapter. ~~Working through the Land and Water Resources Council, the~~ The department shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the department in this effort.

Sec. 6. 30-A MRSA §4346, sub-§5, as amended by PL 2011, c. 655, Pt. JJ, §20 and affected by §41 and amended by c. 657, Pt. W, §5, is further amended to read:

5. Coordination. State agencies with regulatory or other authority affecting the goals established in this subchapter shall conduct their respective activities in a manner consistent with the goals established under this subchapter, including, but not limited to, coordinating with municipalities, regional councils and other state agencies in meeting the state goals; providing available information to regions and municipalities as described in section 4326, subsection 1; cooperating with efforts to integrate and provide access to geographic information system data; making state investments and awarding grant money as described in section 4349-A; and conducting reviews of growth management programs as provided in section 4347-A, subsection 3, paragraph A. Without limiting the application of this section to other state agencies, the following agencies shall comply with this subchapter~~. The Land and Water Resources Council shall periodically, but in no event less than biannually, review the effectiveness of agency coordination efforts, including, but not limited to, those in section 4349-A~~:

B. Department of Economic and Community Development;

C. Department of Environmental Protection;

D. Department of Agriculture, Conservation and Forestry;

E. Department of Inland Fisheries and Wildlife;

F. Department of Marine Resources;

G. Department of Transportation;

G-1. Department of Health and Human Services;

H. Finance Authority of Maine; and

I. Maine State Housing Authority.

Sec. 7. 38 MRSA §343-C, sub-§2, ¶A, as enacted by PL 1991, c. 804, Pt. C, §3, is amended to read:

A. Operate a telephone hotline to enhance accessibility of the program; and

Sec. 8. 38 MRSA §343-C, sub-§2, ¶B, as enacted by PL 1991, c. 804, Pt. C, §3, is repealed.

Sec. 9. 38 MRSA §352, sub-§2, ¶E, as enacted by PL 1991, c. 384, §3 and affected by §16, is amended to read:

E. The air emission license fees assessed under section 353-A for those facilities licensed under section 590 must be assessed to support activities for ~~the Bureau of Air Quality Control~~ air quality control including licensing, compliance, enforcement, monitoring, data acquisition and administration.

Sec. 10. 38 MRSA §353-A, sub-§10, as enacted by PL 2007, c. 297, §1, is amended to read:

10. Fees for general permit. ~~Rock crushers~~ Licensees regulated under a general permit from the department are subject to an annual fee not to exceed the minimum license fee established under subsection 4.

Sec. 11. 38 MRSA §568-A, sub-§2, ¶C, as amended by PL 2009, c. 501, §9, is further amended to read:

C. Conditional deductibles for aboveground facilities and tanks are as follows.

(1) For aboveground tanks subject to the jurisdiction of the State Fire Marshal pursuant to 16-219 CMR, chapter 34, the deductibles are:

(a) Five thousand dollars for failure to obtain a construction permit from the Office of the State Fire Marshal, when required under Title 25, chapter 318 and 16-219 CMR, chapter 34 or under prior applicable law;

(b) Five thousand dollars for failure to design and install piping in accordance with section 570-K and rules adopted by the department;

(c) Five thousand dollars for failure to comply with an existing consent decree, court order or outstanding deficiency statement regarding violations at the aboveground facility;

(d) Five thousand dollars for failure to implement a certified spill prevention control and countermeasure plan, if required;

(e) Five thousand dollars for failure to install any required spill control measures, such as dikes;

(f) Five thousand dollars for failure to install any required overfill equipment;

(g) Five thousand dollars if the tank is not approved for aboveground use; and

(h) Ten thousand dollars for failure to report any leaks at the facility.

(2) For aboveground tanks subject to the jurisdiction of the ~~Oil and Solid~~ Maine Fuel Board, the deductibles are:

(a) One hundred and fifty dollars for failure to install the facility in accordance with rules adopted by the ~~Oil and Solid~~ Maine Fuel Board and in effect at the time of installation;

(b) Two hundred and fifty dollars for failure to comply with the rules of the ~~Oil and Solid~~ Maine Fuel Board;

(c) Two hundred and fifty dollars for failure to make a good faith effort to properly maintain the facility; and

(d) Five hundred dollars for failure to notify the department of a spill.

Sec. 12. 38 MRSA §569-A, sub-§8, ¶A, as amended by PL 2005, c. 157, §1, is further amended to read:

A. Administrative expenses, personal services and equipment costs of the department related to the administration and enforcement of this subchapter, except that total disbursements for personal services may not exceed ~~$3,700,000 per fiscal year multiplied by an annual adjustment factor of 4% beginning in fiscal year 2005-06~~ $4,500,000 per fiscal year adjusted annually based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics;

Sec. 13. 38 MRSA §585-B, sub-§5, as amended by PL 2009, c. 535, §1, is further amended to read:

5. Standards for mercury. Notwithstanding subsection 1, an air emission source may not emit mercury in excess of 45.4 kilograms, or 100 pounds, per year after January 1, 2000; 22.7 kilograms, or 50 pounds, per year after January 1, 2004; 15.9 kilograms, or 35 pounds, after January 1, 2007; and 11.4 kilograms, or 25 pounds, after January 1, 2010. As an alternative to not emitting mercury in excess of 11.4 kilograms, or 25 pounds, after January 1, 2010, an air emission source may reduce mercury emissions by 90 percent by weight after January 1, 2010. Compliance with these limits must be specified in the license of the air emission source. The ~~board~~ department shall establish by rule testing protocols and measurement methods for emissions sources for which the ~~board~~

department has not established such protocols and methods for determining compliance with the emission standard for mercury. These rules are routine technical rules under Title 5, chapter 375, subchapter 2-A.

An air emission source may apply to the board for an extension or modification of the 11.4-kilogram, or 25-pound, limit as follows.

A. An emission source may submit an application to the board no later than January 1, 2009 for a 6-month extension of the January 1, 2010 deadline to meet the 11.4-kilogram, or 25-pound, limit. The board shall grant the extension if the board determines, based on information presented by the source, that compliance with the limit is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons.

B. An emission source may submit an application to the board no later than January 1, 2009 for a license modification establishing an alternative emission limit for mercury. The board shall grant the license modification if the board finds that the proposed mercury emission limit meets the most stringent emission limitation that is achievable and compatible with that class of source, considering economic feasibility.

Pending a decision on an application for an extension or a license modification under this subsection, the 15.9-kilogram, or 35-pound, limit applies to the emission source.

Notwithstanding the January 1, 2000 compliance date in this subsection, a resource recovery facility that is subject to an emissions limit for mercury adopted by rule by the board before January 1, 2000 shall comply with the 45.4-kilogram, or 100-pound, mercury emissions limit after December 19, 2000.

For determining compliance with this subsection, the results of multiple stack tests may be averaged in accordance with guidance provided by the department.

Sec. 14. 38 MRSA §590-E, sub-§1, as enacted by PL 1991, c. 220, §5, is amended to read:

1. Registration. The fuel-burning equipment is registered with the ~~Oil and Solid~~ Maine Fuel Board;

Sec. 15. 38 MRSA §603-A, sub-§2, ¶A, as amended by PL 2009, c. 604, §1, is further amended to read:

A. The sulfur content for liquid fossil fuels is as follows.

(1) In the Central Maine, Downeast, Aroostook County and Northwest Maine Air Quality Control Regions and the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, a person may not use any residual fuel oil with a sulfur content greater than 2.0% by weight; beginning January 1, 2018, the limit for those regions is 0.5% by weight.

(2) In the Portland Peninsula Air Quality Control Region, a person may not use any residual fuel oil with a sulfur content greater than 1.5% by weight; beginning January 1, 2018, the limit for that region is 0.5% by weight.

(3) Statewide, a person may not use a distillate fuel:

(a) Beginning ~~January~~ July 1, 2016, with a sulfur content greater than 0.005% by weight; and

(b) Beginning January 1, 2018, with a sulfur content greater than 0.0015% by weight.

The sulfur content requirements in this subparagraph do not apply to the use of distillate fuel for manufacturing purposes.

Sec. 16. 38 MRSA §1871, first ¶, as enacted by PL 2001, c. 434, Pt. B, §2, is amended to read:

The Interagency Task Force on Invasive Aquatic Plants and Nuisance Species, as established by Title 5, section 12004-D, subsection 6 and referred to in this chapter as the "task force," is established to advise the ~~Land and Water Resources Council, established in Title 5, section 3331,~~ department on matters pertaining to research, control and eradication of invasive aquatic plants and nuisance species.

Sec. 17. 38 MRSA §1871, sub-§4, as enacted by PL 2001, c. 434, Pt. B, §2, is amended to read:

4. Duties. The task force may make recommendations to the ~~Land and Water Resources Council~~ department on:

A. The importation and transportation of invasive aquatic plants and nuisance species;

B. Monitoring and educational programs aimed at the control of invasive aquatic plants and nuisance species;

C. A comprehensive state invasive aquatic plants and nuisance species management plan that meets the requirements of the National Invasive Species Act of 1996, 16 United States Code, Section 4722;

D. A statewide inventory of invasive aquatic plants and nuisance species;

E. Methods to improve cooperation of state, provincial, federal and nongovernmental agencies in the area of invasive aquatic plants and nuisance species prevention and control;

F. Recommendations on the feasibility of implementing lake protection assessment districts that allow residents and owners of land within 250 feet of inland waters to assess themselves to raise funds to assist in the prevention and control of invasive aquatic plants; and

G. Other recommendations as necessary to control the introduction of invasive aquatic plants and nuisance species in the State.

Sec. 18. 38 MRSA §1872, first ¶, as enacted by PL 2001, c. 434, Pt. B, §2, is amended to read:

The task force shall also recommend to the ~~Land and Water Resources Council~~ department an action plan to protect the State's inland waters from invasive aquatic plants and nuisance species. That plan may include, but is not limited to:

Sec. 19. 38 MRSA §2124-A, 3rd ¶, as amended by PL 2011, c. 655, Pt. GG, §31 and affected by §70, is further amended to read:

~~Beginning on January 1, 2013 and every odd-numbered year thereafter, the~~ The report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill and an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.

Sec. 20. 38 MRSA §2124-A, 4th ¶, as amended by PL 2011, c. 655, Pt. GG, §31 and affected by §70, is repealed.

Sec. 21. 38 MRSA §2133, sub-§2-A, as amended by PL 2011, c. 655, Pt. GG, §33 and affected by §70, is further amended to read:

2-A. Assistance with managing solid waste. ~~In accordance with section 343-C, the~~ The department shall assist municipalities with managing solid waste. The department may also provide planning assistance to municipalities and regional organizations for managing municipal solid waste. Planning assistance may include cost and capacity analysis and education and outreach activities. The department shall provide assistance pursuant to this subsection in accordance with the waste management hierarchy in section 2101. Preference in allocating resources under this section must be given to municipalities that take advantage of regional economies of scale.

Sec. 22. 38 MRSA §2133, sub-§2-B, as amended by PL 2011, c. 655, Pt. GG, §33 and affected by §70, is further amended to read:

2-B. Household hazardous waste collection. The department may, within available resources, award grants to eligible municipalities, regional associations, sanitary districts and sewer districts for household hazardous waste collection and disposal programs. In implementing this program, the department shall attempt to:

A. Coordinate the household hazardous waste collection programs with overall recycling and waste management;

B. Encourage regional economies of scale;

C. Coordinate programs between private and public institutions;

D. Maximize opportunities for federal grants and pilot programs; and

E. By January 1, 2002 and as necessary thereafter, fund capital improvements and operating expenses to facilitate the development of collection programs throughout the State for hazardous waste that is universal waste, as identified in board rules, generated by households, small-quantity generators, public schools and municipalities.

~~Preference in allocating resources under this subsection must be given to municipalities that participate in a household hazardous waste collection region as defined in subsection 2-D.~~

At a minimum, the department shall award grants to public schools and municipalities for reasonable costs incurred as a result of managing waste mercury-added products generated by those public schools and municipalities, in compliance with the requirements in sections 1663 and 1664, that would not otherwise be incurred by complying with existing laws, rules or regulations as of July 15, 2002.

Sec. 23. 38 MRSA §2133, sub-§2-D, as amended by PL 2011, c. 655, Pt. GG, §33 and affected by §70, is repealed.

See title page for effective date.

CHAPTER 301

S.P. 588 - L.D. 1545

An Act To Make Technical Changes to Maine's Marine Resources Laws and Elver Enforcement Mechanisms

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

Sec. 1. 12 MRSA §6072, sub-§13, ¶G, as amended by PL 2003, c. 660, Pt. A, §12, is further amended to read:

G. For adding or deleting authorization for the holder of an aquaculture lease to grow specific species and use specific gear on the lease site~~;~~ ~~and~~. A change in authorization is not an adjudica-