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STATE OF MAINE

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Augusta, Maine
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sanitary processes used by poultry producers whose products are exempt from inspection under this section. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Enforcement. The commissioner shall enforce the provisions of this section.

6. Violation; penalty. A person who violates this section is subject to penalties under section 2524.

Sec. 6. 22 MRSA §2518, as amended by PL 2009, c. 354, §4, is further amended to read:

§2518. Periodic review of noninspected licensed and registered establishments

1. Review by inspector. The commissioner may cause establishments that are required to be licensed under section 2514 or registered under section 2515 but are exempt from inspection under section 2512, subsection 2, paragraph K to be periodically reviewed by inspectors to ensure that the provisions of this chapter and the rules adopted under this chapter are satisfied and that the public health, safety and welfare are protected. The commissioner shall cause establishments that are required to be licensed under section 2514 or registered under section 2515 but are exempt from inspection under section 2517-C to be reviewed annually by inspectors to ensure that the provisions of this chapter and the rules adopted under this chapter are satisfied and that the public health, safety and welfare are protected.

2. Review of certain slaughter or preparation establishments. Inspection may not be provided under this chapter at any establishment for the slaughter of livestock or poultry or the preparation of any livestock products or poultry products that are not intended for use as human food, but these products must, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified, as prescribed by rules of the commissioner, to deter their use for human food. These licensed or registered establishments are subject to periodic review.

3. Subject to review. A periodic review under this section must include an examination of:

A. The licensed or registered establishment's sanitation practices;

B. Sanitation in the areas where meat and poultry products are prepared, stored and displayed;

C. The adequacy of a refrigeration system used for meat food products and poultry products;

D. Labeling; and

E. Meat food products or poultry products for wholesomeness or adulteration.

In addition, the inspector conducting the periodic review may conduct any other examination necessary to ensure compliance with this chapter and the rules adopted pursuant to this chapter.

4. Access. For purposes of a periodic review of a licensed or registered establishment, inspectors have access during normal business hours to every part of a licensed or registered establishment required to have inspection under this chapter, whether the licensed or registered establishment is operated or not.

Sec. 7. Legislative intent. It is the intent of the Legislature to provide maximum flexibility to Maine's poultry processors while still maintaining compliance with federal requirements. It is the intent of the Legislature that Maine's meat and poultry inspection program continue to attain its high standards while allowing for maximum flexibility.

See title page for effective date.

CHAPTER 324

S.P. 124 - L.D. 328

An Act Relating to Radon Testing and Disclosure to Tenants

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

Sec. 1. 14 MRSA §6001, sub-§3, ¶A, as amended by PL 2009, c. 566, §2, is further amended to read:

A. Asserted the tenant's rights pursuant to section 6021 or section 6030-D;

Sec. 2. 14 MRSA §6030-D, as amended by PL 2011, c. 96, §3 and c. 157, §1, is further amended to read:

§6030-D. Radon testing

1. Testing. By March 1, 2014, and, unless a mitigation system has been installed in that residential building, every 10 years thereafter when requested by a tenant, a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall have the air of the residential building tested for the presence of radon. ~~A~~ For a residential building constructed or that begins operation after March 1, 2014, a landlord or other person acting on behalf of a landlord shall have the air of the residential building tested for the presence of radon within 12 months of the occupancy of the building by a tenant. Except as provided in subsection 5, a test required to be performed under this section must be conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165.

1-A. Short-term rentals. As used in this section, "residential building" does not include a building used exclusively for rental under short-term leases of 100 days or less where no lease renewal or extension can occur.

2. Notification. ~~A~~ Within 30 days of receiving results of a test with respect to existing tenants or before a tenant enters into a lease or tenancy at will agreement or pays a deposit to rent or lease a property, a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall provide written notice, as prescribed by the Department of Health and Human Services, to a tenant ~~or potential tenant~~ regarding the presence of radon in the building, including the date and results of the most recent test conducted under subsection 1, 5 or 6, whether mitigation has been performed to reduce the level of radon, notice that the tenant has the right to conduct a test and the risk associated with radon. Upon request by a prospective tenant, a landlord or other person acting on behalf of a landlord shall provide oral notice regarding the presence of radon in a residential building as required by this subsection. The Department of Health and Human Services shall prepare a standard disclosure statement form for a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for real property to use to disclose to a tenant ~~or potential tenant~~ information concerning radon. The form must include an acknowledgment that the tenant ~~or potential tenant~~ has received the disclosure statement required by this subsection. The department shall post and maintain the forms required by this subsection on its publicly accessible website in a format that is easily downloaded.

~~**3. Mitigation.** When the test of a residential building under subsection 1 reveals a level of radon of 4.0 picocuries per liter of air or above, the landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for that building shall, within 6 months, mitigate the level of radon in the residential building until it is reduced to a level below 4.0 picocuries per liter of air. If a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building is required to obtain a permit under a local or municipal ordinance, mitigation must occur within 6 months after obtaining any necessary permit. Mitigation services must be provided by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165. After mitigation has been performed pursuant to this subsection to reduce the level of radon, the landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for the residential building shall provide written notice to tenants that radon levels have been mitigated.~~

4. Penalty; breach of implied warranty. A person who violates this section commits a civil violation for which a fine of not more than $250 per violation may be assessed. The failure of a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building to provide the notice required under subsection 2 or the falsification of a test or test results by the landlord or other person is a breach of the implied warranty of fitness for human habitation in accordance with section 6021.

5. Testing by landlords. A landlord or other person acting on behalf of a landlord may conduct a test required to be performed under this section on a residential building that, at a minimum, does not include an elevator shaft, an unsealed utility chase or open pathway, a forced hot air or central air system or private well water unless the water has been tested for radon by a person registered under Title 22, chapter 165 and the results show a radon level acceptable to the Department of Health and Human Services, or on a building otherwise defined in rules adopted by the Department of Health and Human Services. A test or testing equipment used as permitted under this subsection must conform to any protocols identified in rules adopted by the Department of Health and Human Services.

6. Testing by tenants; disputed test results. A tenant may conduct a test for the presence of radon in the tenant's dwelling unit in a residential building in conformity with rules adopted by the Department of Health and Human Services or have a test conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165. After receiving notice of a radon test from a tenant indicating the presence of radon at or in excess of 4.0 picocuries per liter of air, either the landlord shall disclose those results as required by subsection 2 or the landlord or other person acting on behalf of the landlord shall have a test conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165 and shall disclose the results of that test to the tenant as required by subsection 2.

7. Reporting of test results. A landlord or a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165 who has conducted a test of a residential building as required by this section or accepted the results of a tenant-initiated test as set forth in subsection 6 shall report the results of the test to the Department of Health and Human Services within 30 days of receipt of the results in a form and manner required by the department.

8. Termination of lease or tenancy at will. If a test of a residential building under this section reveals a level of radon of 4.0 picocuries per liter of air or

above, then either the landlord or the tenant may terminate the lease or tenancy at will with a minimum of 30 days' notice. Except as provided in section 6033, a landlord may not retain a security deposit or a portion of a security deposit for a lease or tenancy at will terminated as a result of a radon test in accordance with this subsection.

Sec. 3. Rulemaking. By November 1, 2013, the Department of Health and Human Services shall adopt rules, in accordance with the Maine Revised Statutes, Title 5, chapter 375, to implement the requirements of this Act regarding the definition of those residential buildings where a radon test must be conducted by a person registered with the department and standards related to testing equipment that may be used by a landlord or other person. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. Prior tests. If a residential building was tested for the presence of radon in accordance with protocols identified by the Department of Health and Human Services prior to November 1, 2013, this Act may not be construed to require a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building to conduct another test before March 1, 2014.

Sec. 5. Department of Health and Human Services; modification to disclosure statement form. By November 1, 2013, the Department of Health and Human Services shall modify the standard disclosure statement form required under the Maine Revised Statutes, Title 14, section 6030-D, subsection 2 as necessary to reflect the changes made by this Act.

See title page for effective date.

CHAPTER 325

H.P. 260 - L.D. 385

An Act To Improve Wind Energy Development Permitting

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

Sec. 1. 35-A MRSA §3451, sub-§1-A is enacted to read:

1-A. Best practical mitigation. "Best practical mitigation" means methods or technologies used during construction or operation of a wind energy development that control or reduce to the lowest feasible level impacts to scenic or wildlife resources in accordance with rules adopted by the department. "Best practical mitigation" may include, but is not limited to, turbine and blade coloration to reduce visual impacts, aircraft detection technologies to reduce the need for aircraft hazard warning lighting, technologies to detect at-risk animal populations and modification or curtailment of operations during specified times or conditions to reduce bird and bat mortality.

Sec. 2. 35-A MRSA §3452-A is enacted to read:

§3452-A. Impact on Bicknell's Thrush habitat; adverse effect

If any portion of the generating facilities or associated facilities of a wind energy development is proposed to be located within a conterminus area of coniferous forest that lies above 2,700 feet in elevation, is at least 25 acres in size and provides suitable habitat for Bicknell's Thrush, Catharsus bicknelli, and in which sightings of Bicknell's Thrush have been documented to occur during the bird's breeding season within the previous 15 years, there is a rebuttable presumption that the development would constitute a significant adverse effect on natural resources for the purposes of Title 38, section 484, subsection 3. The presumption extends to the entire conterminus area of suitable habitat and is not limited to the parts of the area immediately proximate to where Bicknell's Thrush sightings have been documented.

Sec. 3. 35-A MRSA §3459 is enacted to read:

§3459. Best practical mitigation

1. Process. An application for a grid-scale wind energy development must contain, and the primary siting authority shall require, best practical mitigation for all aspects of construction and operation of generating facilities. In determining best practical mitigation options, the primary siting authority shall consider:

A. The existing state of technology;

B. The effectiveness of available technologies or methods for reducing impacts; and

C. The economic feasibility of the type of mitigation under consideration.

2. Rules. The department shall adopt rules governing best practical mitigation under this section. Rules adopted under this subsection are major substantive rules as described in Title 5, chapter 375, subchapter 2-A. Any amendments to the rules after final adoption of the major substantive rules are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 4. 38 MRSA §344, sub-§2-A, ¶D is enacted to read:

D. For an application for a permit for a grid-scale wind energy development, as defined in Title 35-A, section 3451, subsection 6, the following procedures apply.

(1) Except as provided in subparagraph (2), if 5 or more interested persons request in