

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
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THE GENERAL EFFECTIVE DATE FOR
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SEPTEMBER 19, 2019

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

Augusta, Maine
2019

license in the manner set forth in the Maine Revised Statutes, Title 32, chapter 22. A limited interpreter license expires in the manner set forth in section 1528.

See title page for effective date.

CHAPTER 285

H.P. 1249 - L.D. 1754

An Act To Amend the Geologist and Soil Scientist Licensing Laws

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

Sec. 1. 5 MRSA §12004-A, sub-§19, as amended by PL 1999, c. 687, Pt. B, §1, is further amended to read:

19.

State Board of ~~Certi-~~ \$35/Day 32 MRSA
~~fication Licensure~~ for §4907
Geologists and Soil
Scientists

Sec. 2. 10 MRSA §8001, sub-§38, ¶O, as enacted by PL 1995, c. 397, §11, is amended to read:

O. State Board of ~~Certi-~~ Certification Licensure for Geologists and Soil Scientists;

Sec. 3. 12 MRSA §549-B, sub-§7, ¶A, as enacted by PL 1985, c. 201, §2, is amended to read:

A. Any person with a valid recorded exploration claim in accordance with this subchapter may make application for a mining lease to the director of the agency having jurisdiction over the state lands on which the mining lease is sought. The application ~~shall~~ must be accompanied by a report from a certified or licensed geologist or mining engineer containing all information of a geologic, engineering and operational nature ~~which that~~ is required by the director of the survey or the director of the agency having jurisdiction over the state lands on which the mining lease is sought to properly evaluate the application and an accurate survey of the property boundaries certified by a registered surveyor and evidence of ability to finance the proposed mining operations.

Sec. 4. 32 MRSA §4901, as enacted by PL 1973, c. 558, §1, is amended to read:

§4901. Title

This chapter may be cited as the "Geologists and Soil Scientists ~~Certi-~~ Certification Licensure Act."

Sec. 5. 32 MRSA §4902, as amended by PL 2007, c. 402, Pt. S, §1, is further amended to read:

§4902. Definitions

As used in this chapter, unless a different meaning clearly appears from the context, the following words ~~shall~~ have the following meanings.

1. Board. "Board" ~~shall mean~~ means the State Board of ~~Certification Licensure~~ for Geologists and Soil Scientists.

1-A. Approved. "Approved" means approved by the board.

2. Licensed geologist. "~~Certified~~ Licensed geologist" means a person entitled under this chapter to take and use the title "licensed geologist."

3. Licensed soil scientist. "~~Certified~~ Licensed soil scientist" means a person entitled under this chapter to take and use the title "licensed soil scientist."

4. Geologist. "Geologist" means a person engaged in the practice of geology.

5. Geology. "Geology" means ~~that the~~ the science ~~which that~~ treats of the earth as a whole; the investigation of its composition, its size, shape and relationships between consolidated and unconsolidated rock units in the regolith and bedrock; and the applied aspects of utilizing knowledge of the earth and its constituents; including its consolidated and unconsolidated rock units, its minerals, liquids, gases and other materials for the benefit of ~~mankind~~ humankind.

~~**6. Pedology.** "Pedology" shall mean that aspect of soil science which involves, among others, the nature, properties, formation, classification, functioning behavior and response to use and management of soils; it shall include the mapping and identification of soils, and the interpretation of soil properties. Pedology centers on soils as the biochemically weathered part of the earth's crust, the collection of natural bodies on the earth's surface, supporting plants, with a lower limit at the deeper of either the unconsolidated mineral or organic material lying within the zone of rooting of the native perennial plants; or where horizons impervious to roots have developed the upper few feet of the earth's crust having properties differing from the underlying rock material as a result of interactions between climate, living organisms, parent material and relief.~~

7. Practice of geology. "Practice of geology" means the performance of geological work or service for the public, including, but not limited to, consultation, investigation, surveys, evaluation, planning, mapping or inspection of geological work, wherein the performance is related to the public welfare or the safeguarding of life, health, property and the environment.

8. Practice of soil science. "Practice of soil science" ~~shall be held to mean~~ means any professional service ~~which that~~ requires the application of ~~pedolog-~~

ical soil science principles and data. ~~Such professional service~~ "Practice of soil science" includes identification and mapping of soils according to the standards of the National Cooperative Soil Survey, consultation or evaluation.

9. Qualified soil scientist. "Qualified soil scientist" ~~shall mean~~ means a person who, by reason of his ~~knowledge of pedology, the biological and physical sciences, acquired by professional education and practical experience, is qualified to engage in the practice of soil science as defined~~ possesses the qualifications required for licensure as described in section 4909, subsection 2-B but is not licensed under this chapter.

10. Qualified geologist. "Qualified geologist" means a person who possesses the qualifications ~~specified for certification, except that he is required for licensure as described in section 4909, subsection 2 but is not certified~~ licensed under this chapter.

11. Responsible charge of work. "Responsible charge of work" means the independent control and direction by the use of initiative, skill and independent judgment of work or the supervision of such work.

12. Subordinate. "Subordinate" means any person who assists a ~~certified~~ licensed geologist or soil scientist without assuming the responsible charge of work.

Sec. 6. 32 MRSA §4904, as amended by PL 1985, c. 785, Pt. B, §142, is further amended to read:

§4904. Corporations, partnerships, associations and government agencies

This chapter does not prohibit one or more geologists or soil scientists from practicing through the medium of a sole proprietorship, partnership, corporation or government agency. In such partnership or corporation whose primary activity consists of geological services, or in a government agency in which geological work is done, at least one partner, officer or employee ~~shall must~~ be a ~~certified~~ licensed geologist. In such partnership or corporation whose primary activity consists of soil science services, or in a government agency in which soil science work is done, at least one partner, officer or employee ~~shall must~~ be a ~~certified~~ licensed soil scientist. In the case of an agency of State Government, the Department of Administrative and Financial Services, Bureau of Human Resources shall classify officers and employees under the Civil Service Law in a manner that ensures that at least one ~~certified~~ licensed geologist or soil scientist ~~shall work~~ works for each agency in which, as the case may be, geological or soil science work is done and that any officer or employee who is engaged in the practice of geology or soil science and who is ~~uncertified not licensed~~ works as a subordinate to a ~~certified~~ licensed geologist or soil scientist, as the case may be, and does not have responsible charge of work or evaluation.

Sec. 7. 32 MRSA §4906, as amended by PL 2007, c. 402, Pt. S, §3, is further amended to read:

§4906. Exemptions

The following persons are exempt from the license requirement imposed by this chapter:

1. Nonresident practicing less than 30 days. A person not a resident of and having no established place of business in this State, practicing or offering to practice in the profession of geologist or soil scientist when that practice does not exceed in the aggregate more than 30 days in any calendar year, ~~provided as long as that the person is legally qualified by registration~~ licensed to practice the profession in ~~his the person's~~ own state or country in which the requirements and qualifications for obtaining a ~~certificate or registration~~ license are equivalent to those specified in this chapter;

2. Nonresident becoming resident or persons practicing more than 30 days. A person not a resident of and having no established place of business in this State, or who has recently become a resident thereof, practicing or offering to practice for more than 30 days in any calendar year in the profession of geologist or soil scientist, ~~if he has filed with the commission as long as the person submitted~~ an application for a ~~certification~~ licensure and has paid the fee required by this chapter. The exemption ~~shall continue~~ continues only for such time as the board requires for the consideration of the licensure application ~~for registration, provided that such a as long as the person is legally qualified to practice that profession in his the person's~~ own state or country in which the requirements and qualifications for obtaining a ~~certificate of registration~~ license are equivalent to those specified in this chapter;

3. Certain employees. An employee, associate or subordinate of a person holding a ~~certificate of registration under this chapter, license issued by the board~~ or an employee of a person ~~exempted exempt~~ from registration licensure by subsections 1 and 2; ~~provided that as long as~~ the work of all such employees, associates or subordinates does not include responsible charge of work or evaluation; and

4. United States Government employees. Officers and employees of the Government of the United States while engaged within this State in the practice of the profession of geologist or soil scientist for the government.

Sec. 8. 32 MRSA §4906-A, as amended by PL 2007, c. 402, Pt. S, §4, is further amended to read:

§4906-A. Subsurface wastewater disposal

Persons who have been licensed by the ~~Department of Professional and Financial Regulation~~ pursuant to Title 22, section 42, subsection 3-A to evaluate soil for subsurface ~~sewage~~ wastewater disposal are

exempt from the license requirement if their soil evaluation work relates solely to subsurface sewage wastewater disposal systems.

Sec. 9. 32 MRSA §4907, first ¶, as amended by PL 2007, c. 402, Pt. S, §5, is further amended to read:

The State Board of ~~Certification~~ Licensure for Geologists and Soil Scientists as established by Title 5, section 12004-A, subsection 19, shall administer this chapter. The board consists of 7 members, 5 of whom are appointed by the Governor from the following categories: One academic geologist; one independent consultant or salaried geologist; one independent consultant or salaried soil scientist; one other soil scientist; and a public member as defined in Title 5, section 12004-A. The 4 geologist ~~and soil scientist~~ members appointed by the Governor must be licensed under this chapter. The 6th and 7th members are the State Soil Scientist ~~with the Maine Soil and Water Conservation Commission~~ employed in State Government, ex officio, and the State Geologist or the State Geologist's designee, who must be a geologist employed in State Government, ex officio. No person, except the public member, is eligible for appointment to the board unless ~~certified~~ licensed under this chapter.

Sec. 10. 32 MRSA §4908, sub-§4, as amended by PL 1979, c. 663, §211, is further amended to read:

4. Liaison. The board shall establish relations with bodies ~~which that~~ regulate the practice of geology and the practice of soil science, or closely related disciplines, or ~~which that~~ certify or license geologists or soil scientists in other states, and may establish relations with such bodies in other countries for the purposes of achieving uniformly high professional standards and mutual recognition of certification and licensure.

Sec. 11. 32 MRSA §4909, as amended by PL 2007, c. 402, Pt. S, §8, is further amended to read:

§4909. Qualifications

1-A. Application. An applicant for licensure as a geologist or soil scientist shall file an application and pay the application fee as set under section 4912. An applicant for licensure as a geologist or soil scientist must be trustworthy and competent.

2. Geologist examination requirements. ~~As a geologist, to~~ To qualify to sit for the geologist licensure examination ~~for licensure~~, an applicant must:

A. Be a graduate of an accredited college or university with a major in geological sciences, or have completed 30 credits in geological sciences at an accredited college or university, or have at least 7 years of professional geological work that ~~shall include~~ includes either a minimum of 3 years

of professional geological work under the supervision of a qualified or licensed geologist or a minimum of 5 years of responsible charge of geological work;

B. Have acquired 7 years of experience in responsible charge of geological work, toward which an undergraduate degree with 30 credit hours or more in geological science courses counts as 2 years of training and each year of graduate study in the geological sciences counts as 1/2 year of training, up to a maximum of 2 years of credit; and

C. Receive credit toward the experience requirement subject to the evaluation of the board. Applicants with less than 30 credit hours in geological science courses may be given proportional work-experience credits for such academic credit hours as they may have acquired.

An applicant under this subsection may take a national fundamentals of geology examination and a Maine local knowledge examination approved in rules adopted by the board in the final year of an accredited 4-year or graduate-level program, as long as the applicant has completed the minimum 30 credits in geological sciences required in this subsection.

An applicant under this subsection may take a national practice of geology examination approved in rules adopted by the board upon completion of the work experience requirement in this subsection.

~~**2-A. Soil scientist examination requirements.**~~

~~As a soil scientist, to qualify to sit for the examination for licensure, an applicant must:~~

~~A. Be a graduate of an approved 4-year college curriculum leading to a Baccalaureate Degree, in which the applicant has successfully completed a minimum of 15 credit hours of soil or soil-related courses of a pedological nature and have a specific record of an additional 3 years or more of experience in soil science of a grade and character that indicates to the board that the applicant may be competent to practice as a soil scientist and be otherwise qualified. Teaching pedological courses in a college or university offering an approved 4-year soil science or agronomic curriculum must be considered as experience in soils investigations.~~

~~Applicants may sit for the General practice examination upon graduation from an approved 4-year college and may sit for the professional practice examination upon completion of the experience requirement as stated in this subsection.~~

~~"Additional 3 years of experience" does not imply a sequence of obtaining a degree and then experience. Experience time may not be granted for time while enrolled in courses, but summer employment must be~~

~~counted even though a degree may not have been obtained.~~

~~Actual field experience in an acceptable apprenticeship program counts as experience time.~~

~~Each degree beyond the bachelor's degree counts as one year of experience.~~

~~Soil related courses may amount to only 20% of the required 15 credits for a maximum of 3 credits.~~

2-B. Soil scientist examination requirements.
To qualify to sit for the examinations for licensure as a soil scientist, an applicant must meet the requirements in paragraph A or B.

A. An applicant must have:

(1) A minimum 4-year baccalaureate or higher degree from an accredited college or university in soils, plants, engineering, geology, biology, forestry or other natural resources science;

(2) Completed a minimum of 15 credit hours of soil or soil-related courses. Soil-related courses may amount to no more than 20% of the required 15 credit hours for a maximum of 3 credit hours; and

(3) Completed 3 or more documented years of post-baccalaureate degree work in soil professional work of a grade and character that indicates that the applicant may be competent to practice as a soil scientist.

(a) An applicant who teaches soil science courses at a college or university offering a 4-year degree in soil science may receive credit toward the required work experience under this subparagraph.

(b) Work experience obtained while an applicant is enrolled in courses does not count toward the 3-year work experience requirement under this subparagraph, but summer soil-related employment counts toward that requirement.

(c) Each graduate degree obtained in a soil or soil-related field in addition to the required 4-year baccalaureate degree counts as one year of work experience.

B. An applicant must have:

(1) Completed an associate degree from an accredited 2-year college in soils, plants, engineering, geology, biology, forestry or other natural resources science;

(2) Completed a minimum of 15 credit hours of soil or soil-related courses. Soil-related courses may amount to no more than 20% of

the required 15 credit hours for a maximum of 3 credit hours; and

(3) Completed 5 or more documented years of post-associate degree work in soil professional work of a grade and character that indicates that the applicant may be competent to practice as a soil scientist.

An applicant under this subsection may take a national fundamentals of soil science examination approved in rules adopted by the board in the final year prior to or after graduation from an accredited 2-year program or in the final year of an accredited 4-year or graduate-level program, as long as the applicant has completed the minimum 15 credit hours required in this subsection.

An applicant under this subsection may take a national soil science professional practice examination and Maine soil science professional practice examination approved in rules adopted by the board upon completion of the work experience requirement in this subsection.

3. Examination. ~~An applicant shall sit for and pass an examination before the board or its authorized representatives. Such examination will be held at certain specified times and of such scope as prescribed by the board. Examinations approved by the board must test the applicant's knowledge of geology or soil science and the applicant's ability to apply that knowledge and to assume responsible charge in the professional practice of geology or soil science.~~

4. Licensure by endorsement. ~~The board, in its discretion and upon payment of the application and license fees established pursuant to section 4912, may issue a license as a geologist or soil scientist without written examination to any person who is licensed as a geologist or soil scientist in any jurisdiction having equivalent licensure requirements, if the applicant satisfies all other requirements of this chapter.~~

~~Generally, the examinations must test the applicant's knowledge basic to geology or soil science and the applicant's ability to apply that knowledge and to assume responsible charge in the professional practice of geology or soil science.~~

~~An applicant for licensure must meet all the requirements of this chapter and, in addition, must have 3 years' experience in geology or soil science as defined by this chapter and in the rules and regulations of the board to be provided.~~

An applicant must pass the examinations required by the board. An applicant failing in an examination may be examined again ~~retake~~ the examination upon filing a new examination application and ~~the payment of the prescribed fees~~ paying the required examination fee.

~~The board, upon application therefor, and upon payment of the application and license fees, may issue a license as a geologist or soil scientist without written examination to any person holding a license as a geologist or soil scientist issued to that geologist or soil scientist by any state or country having equivalent requirements, when the applicant's qualifications meet the other requirements of this chapter and the rules established by the board.~~

~~In determining the qualifications of an applicant for licensure, a majority vote of the board is required.~~

Any applicant who has passed the examination or has otherwise qualified as a geologist or soil scientist upon receipt of a completed license application and payment of the a license fee as set under section 4912 ~~must have~~ may be issued a license as a geologist or soil scientist as appropriate.

Sec. 12. 32 MRSA §4914, as repealed and replaced by PL 1975, c. 760, §18, is repealed.

Sec. 13. 32 MRSA §4918, as repealed and replaced by PL 1975, c. 760, §20, is amended to read:

§4918. Plans prepared

All geologic plans, specifications, reports or documents ~~which that~~ are prepared by a ~~certified licensed~~ geologist or by a subordinate under ~~his the licensed geologist's~~ direction shall must be signed by ~~such the licensed geologist, which shall indicate his indicates~~ the licensed geologist's responsibility for them.

All ~~pedological soil science~~ maps, reports or documents ~~which that~~ are prepared by a ~~certified licensed~~ soil scientist or by a subordinate under ~~his the licensed soil scientist's~~ direction shall must be signed by ~~such certified the licensed soil scientist, which shall indicate his indicates~~ the licensed soil scientist's responsibility for them.

Sec. 14. 38 MRSA §439-A, sub-§3, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §47 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

3. Soil evaluation reports. Any other law notwithstanding, when a zoning ordinance adopted in conformity with this article requires a written report of soil suitability for subsurface waste disposal or commercial or industrial development, that report must be prepared and signed by a duly qualified person who has made an on-the-ground evaluation of the soil properties involved. Persons qualified to prepare these reports must be certified by the Department of Health and Human Services and include Maine State ~~Certified Licensed~~ Soil Scientists, Maine Registered Professional Engineers, Maine State ~~Certified Licensed~~ Geologists and other persons who have training and experience in the recognition and evaluation of soil properties and can provide proof of this training and experience in a manner specified by the Department of

Health and Human Services. The Department of Health and Human Services may ~~promulgate~~ adopt rules for the purpose of establishing training and experience standards required by this subsection.

Sec. 15. 38 MRSA §480-O, last ¶, as enacted by PL 1987, c. 809, §2, is amended to read:

Any permit issued under this section for a bulkhead or similar structure ~~which that~~ is not connected at both ends to another bulkhead or similar structure ~~shall be is~~ subject to only the standard conditions applicable to all permits granted under this article as well as the following conditions. The permit applicant or applicants ~~shall be are~~ responsible for reasonably maintaining the bulkhead or similar structure and for repairing damage to the frontal sand dune ~~which that~~ occurs between the end of the bulkhead or similar structure and the Scarborough town landing and ~~which that~~ is caused by the existence of the bulkhead or similar structure. The applicant or applicants shall submit a report prepared by a ~~state-certified~~ state-licensed geologist to the commissioner every 2nd year following issuance of the permit or until such time as the commissioner ~~deems~~ determines the report need not be filed or may be filed at longer intervals. The report ~~shall must~~ describe the status of the frontal sand dune between the end of the bulkhead or similar structure and the Scarborough town landing and contain whatever recommendations the geologist determines are reasonably required to maintain the frontal sand dune in that area. The applicant or applicants shall follow the recommendations.

Sec. 16. 38 MRSA §480-W, sub-§3, as enacted by PL 2005, c. 548, §2, is amended to read:

3. Emergency action exemption. Notwithstanding section 480-C, if the local code enforcement officer, a state-licensed professional engineer or a ~~state-certified~~ state-licensed geologist determines that the integrity of a seawall, bulkhead, retaining wall or similar structure in a coastal sand dune system is destroyed or threatened, the owner of property protected by the seawall, bulkhead, retaining wall or similar structure may perform or cause to be performed the following activities without obtaining a permit under this article:

A. Place riprap, sandbags or other heavy nonhazardous material to shore up the threatened structure and leave the material in place until a project designed to repair or replace the structure is permitted by the department. After such emergency action is taken and within 5 working days after the imminent threat, the property owner must provide written notice to the department of the date the emergency action was taken and a description of the emergency action taken. Within 6 months following placement of any material pursuant to this paragraph, the property owner must submit to the department an application to repair or replace the structure. The material placed pursuant to this

paragraph must be removed within 18 months from the date a permit is issued by the department; or

B. Make permanent repairs, to the extent necessary to alleviate the threat, to strengthen the seawall, bulkhead, retaining wall or other structure, to widen the footings or to secure the structure to the sand with tie-back anchors. A ~~state-certified~~ state-licensed geologist, state-licensed professional engineer or other qualified professional must make the determination that the actions taken by the property owner in accordance with this section are only those actions necessary to alleviate the imminent threat and do not include increasing the height or length of the structure.

If a local code enforcement officer, state-licensed professional engineer or ~~state-certified~~ state-licensed geologist fails to determine within 6 hours of initial contact by the property owner whether the integrity of a structure is destroyed or threatened, the property owner may proceed as if the local code enforcement officer, state-licensed professional engineer or ~~state-certified~~ state-licensed geologist had determined that the integrity of the structure was destroyed or threatened.

Sec. 17. 38 MRSA §563-B, sub-§1, ¶B, as enacted by PL 1991, c. 763, §2, is amended to read:

B. Upon abandonment or replacement of an underground tank or facility, must require site assessment to be conducted or supervised by a ~~state-certified~~ state-licensed geologist or registered professional engineer only when that tank or facility is located in a sensitive geologic area; and

See title page for effective date.

CHAPTER 286

H.P. 1194 - L.D. 1668

**An Act To Implement
Recommendations of the
Department of Environmental
Protection Regarding the
State's Mercury-added Lamp
Law**

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

Sec. 1. 38 MRSA §1672, sub-§1, ¶A-1 is enacted to read:

A-1. "Covered entity" means a person who at any one time presents for drop off at a collection location participating in a department-approved program for the recycling of mercury-added lamps under this subsection:

(1) Any number of compact fluorescent mercury-added lamps; or

(2) Ten or fewer mercury-added lamps that are not compact fluorescent mercury-added lamps.

Sec. 2. 38 MRSA §1672, sub-§1, ¶C, as enacted by PL 2009, c. 272, §1, is amended to read:

C. "Municipal collection ~~site location~~" means a solid waste disposal facility, transfer station, storage facility or recycling facility at which mercury-added lamps from ~~households~~ a covered entity are collected for recycling that is municipally owned or operated or operated by a regional association.

Sec. 3. 38 MRSA §1672, sub-§1, ¶¶E and F are enacted to read:

E. "Population center" means an urbanized area or urban cluster, as defined by the United States Department of Commerce, Bureau of the Census to identify areas of high population density and urban land use with a population of 2,500 or greater.

F. "Proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and which is not otherwise publicly available.

Sec. 4. 38 MRSA §1672, sub-§4, as amended by PL 2013, c. 315, §2, is further amended to read:

4. Manufacturer recycling programs for mercury-added lamps. ~~Effective January 1, 2011, each~~ Each manufacturer of mercury-added lamps sold or distributed ~~for household use in the State for use by~~ a covered entity on or after January 1, 2001 shall individually or collectively implement a department-approved program for the recycling of mercury-added lamps from ~~households~~ a covered entity.

A. The recycling program required under this subsection must include, but is not limited to:

(1) Convenient collection locations ~~located~~ adequate to serve the needs of covered entities in rural and urban areas throughout the State where residents a covered entity can drop off their household mercury-added lamps without cost, including but not limited to municipal collection sites locations and participating retail establishments. The program must include a method of determining the adequate number and geographic distribution of collection locations based on geographic information system modeling.

No later than January 1, 2020, the collection system implemented under the program must provide at least 90% of the residents of the