

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
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2019

tion and are deemed to be held in trust for the purposes of benefiting natural gas consumers ~~serviced by the gas utilities assessed under this subsection.~~ In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall ensure that the value of those funds is returned to consumers.

For purposes of this subsection, "large-volume manufacturer" means a customer that is a gas utility ratepayer engaged in manufacturing in the State and purchases at least 1,000,000 centum cubic feet of natural gas per year. For purposes of this subsection, "large-volume agricultural business" means a customer that is a gas utility ratepayer that purchases at least 1,000,000 centum cubic feet of natural gas per year and is engaged in the commercial growing or harvesting of plants or commercial aquaculture, as defined in Title 12, section 6001, subsection 1, in the State.

When determining the maximum achievable cost-effective natural gas energy efficiency resources, the commission shall apply the discount rate adopted by the trust and ensure that the calculations of avoided energy costs are consistent with rules adopted by the trust and are supported by evidence in the record. Avoided energy costs must include but are not limited to the retail value of natural gas supply including a wholesale risk premium and demand reduction induced price effects. The trust shall use, and the commission shall give deference to, values for each element of avoided energy cost from a regional avoided energy cost study as long as the analysis has been developed through a transparent process, with input from state agencies, public advocates, utilities or energy efficiency administrators from at least 3 other states in New England and the analysis has been published not more than 24 months prior to the trust's filing of the triennial plan. When values specific to the State are not available in the regional study, the trust may use, and the commission shall give deference to, regional values provided in that regional study or values determined from other sources when supported by evidence in the record.

Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 11. 35-A MRSA §10120, sub-§1, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

1. Performance metrics. The trust shall incorporate ~~measures of performance~~ metrics in the triennial plan. The ~~measures of performance~~ metrics must define the electricity, natural gas and heating fuel savings targets established in section 10104, subsection 4, paragraph F and specify the ~~measures~~ metrics for assessing progress in meeting the targets. The commission shall ratify ~~measures of performance~~ metrics incorporated in the triennial plan if it finds that these

~~measures~~ metrics satisfy the requirements of this chapter, including the principles described in section 10104, subsection 2, and are in the public interest. The commission and the trust may revise one or more of the ~~measures of performance~~ metrics in the triennial plan at any time by mutual agreement.

Sec. 12. 35-A MRSA §10120, sub-§4 is enacted to read:

4. Regional analysis of avoided costs. The commission shall participate in any New England-wide process to establish a common analysis for determining the avoided costs of energy efficiency resources. The commission shall, at a minimum, provide input on the scope of work for any analysis, provide information specific to the State that may be useful for the analysis and review and provide feedback on drafts or other regional work products. The trust shall pay that portion attributable to the State of the cost of developing an avoided cost analysis. This subsection does not limit the ability of the trust to participate in the development of a regional avoided cost analysis.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 17, 2019.

CHAPTER 314

S.P. 600 - L.D. 1776

An Act To Reduce the Membership of the Clean-up and Response Fund Review Board

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

Sec. 1. 38 MRSA §568-B, sub-§1, as amended by PL 2015, c. 319, §30, is further amended to read:

1. Clean-up and Response Fund Review Board. The Clean-up and Response Fund Review Board, as established by Title 5, section 12004-G, subsection 11-A, is created to hear and decide appeals from insurance claims-related decisions under section 568-A and monitor income and disbursements from the fund under section 551. The review board consists of ~~14~~ 9 members appointed for 3-year terms as follows:

A. ~~Two persons~~ One person representing the petroleum industry, appointed by the Governor, ~~one of whom who~~ who is a representative of a statewide association of energy dealers;

A-1. ~~Two persons~~ One person, appointed by the ~~Governor~~ President of the Senate, who ~~have~~ has expertise in oil storage facility design and installation, oil spill remediation or environmental engineering;

B. ~~Four~~ Two members of the public appointed by the Governor. ~~Of the 4 members, 2~~ who must have expertise in biological science, earth science, engineering, insurance or law. ~~The 4 members~~ and may not be employed in or have a direct and substantial financial interest in the petroleum industry;

C. The commissioner or the commissioner's designee;

D. The State Fire Marshal or the fire marshal's designee;

~~E. One member representing marine fisheries interests appointed by the President of the Senate;~~

F. One member familiar with oil spill technology appointed by the Speaker of the House of Representatives;

G. One member with expertise in coastal geology, fisheries biology, marine fisheries or coastal wildlife habitat appointed by the President of the Senate; and

H. One member who is a licensed state pilot or a licensed merchant marine officer appointed by the Speaker of the House of Representatives.

Members other than those described in paragraphs C and D are entitled to reimbursement for direct expenses of attendance at meetings of the review board or the appeals panel.

Sec. 2. 38 MRSA §568-B, sub-§2-A, as amended by PL 2015, c. 319, §30, is further amended to read:

2-A. Meetings. The Clean-up and Response Fund Review Board shall meet ~~6~~ 4 times per year unless the review board votes not to hold a meeting. Action may not be taken unless a quorum is present. A quorum is ~~8~~ a majority of the seated members.

Sec. 3. 38 MRSA §568-B, sub-§2-C, as amended by PL 2015, c. 319, §30, is further amended to read:

2-C. Appeals to review board. An applicant aggrieved by an insurance claims-related decision under section 568-A, including but not limited to decisions on eligibility for coverage, eligibility of costs and waiver and amount of deductible, may appeal that decision to the Clean-up and Response Fund Review Board. The appeals panel is composed of the ~~public members~~ member appointed under subsection 1, paragraph ~~B~~ A-1, the 2 members appointed under subsection 1, paragraph B, the member appointed under sub-

section 1, paragraph G and the member appointed under subsection 1, paragraph H. The appeals panel shall hear and decide the appeal. Action may not be taken by the appeals panel unless a quorum is present. A quorum is a majority of the seated appeals panel members. Except as provided in review board rules, the appeal must be filed within 30 days after the applicant receives the decision made under section 568-A. The appeals panel must hear an appeal at its next meeting following receipt of the appeal unless the appeal petition is received less than 30 days before the meeting or unless the appeals panel and the aggrieved applicant agree to meet at a different time. If the appeals panel overturns the decision made under section 568-A, reasonable costs, including reasonable attorney's fees, incurred by the aggrieved applicant in pursuing the appeal to the review board must be paid from the fund. Reasonable attorney's fees include only those fees incurred from the time of an insurance claims-related decision forward. Decisions of the appeals panel are subject to judicial review pursuant to Title 5, chapter 375, subchapter 7.

Sec. 4. Transition. Notwithstanding the Maine Revised Statutes, Title 38, section 568-B, appointed members of the Clean-up and Response Fund Review Board serving on the effective date of this Act may serve for the remainder of their terms.

See title page for effective date.

CHAPTER 315

S.P. 605 - L.D. 1789

An Act To Restore the Authority of the Board of Environmental Protection

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

Sec. 1. 32 MRSA §4174, 2nd and 3rd ¶¶, as amended by PL 2017, c. 137, Pt. A, §2, are further amended to read:

The ~~commissioner~~ Department of Environmental Protection shall establish the criteria and conditions for the classification of wastewater treatment plants or systems, using as a basis the standards established by the New England Water Pollution Control Association.

The ~~commissioner~~ Department of Environmental Protection shall establish by rule the qualifications, conditions and licensing standards and procedures for the certification of individuals to act as operators.

Sec. 2. 32 MRSA §4179, as amended by PL 2017, c. 137, Pt. A, §3, is further amended to read: