

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

S.P. 329 - L.D. 938

An Act To Clarify Maine's Fertilizer Quality Control Laws

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

Sec. 1. 7 MRSA §742, sub-§9, ¶A, as amended by PL 2007, c. 147, §2, is further amended to read:

A. "Guaranteed analysis" ~~shall mean~~ means the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen (N) ~~per cent~~ %

Available ~~Phosphoric Acid~~ Phosphate (P₂O₅)..... ~~per cent~~ %

Soluble Potash (K₂O) ~~per cent~~ %; and

Sec. 2. 7 MRSA §743, as amended by PL 2005, c. 12, Pt. EEE, §1, is further amended to read:

§743. Registration

Each brand and grade of commercial fertilizer must be registered before being offered for sale, sold or distributed in this State. The application for registration must be submitted to the commissioner on forms furnished by the commissioner and must be accompanied by an annual fee of ~~\$100~~ \$125 per product. All registrations expire on December 31st or in a manner consistent with the provisions as to license expiration of the Maine Administrative Procedure Act, Title 5, section 10002, whichever is later. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee. The commissioner may refuse to register or renew or may suspend or cancel registration for failure to comply with this subchapter or with rules adopted pursuant to this subchapter. This refusal, suspension or cancellation is considered rulemaking as that term is defined in the Maine Administrative Procedure Act, Title 5, chapter 375 and notice and opportunity for a hearing must be provided in a manner consistent with the Maine Administrative

Procedure Act, Title 5, chapter 375. The application must include the following information:

1. **Weight.** The net weight;
2. **Brand and grade.** The brand and grade;
3. **Analysis.** The guaranteed analysis;
4. **Registrant's name and address.** The name and address of the registrant; and
5. **Additional information.** Additional information as required in rules adopted by the department.

~~The fees so~~ Of the fee collected by the commissioner shall under this section, \$100 must be deposited in the General Fund and \$25 must be deposited in a dedicated, nonlapsing account established under section 765, subsection 2 and used for the purpose of administering and enforcing this subchapter and subchapter 5-A.

A distributor ~~shall~~ is not be required to register any brand and grade of commercial fertilizer ~~which that~~ is already registered under this subchapter by another person.

The plant nutrient content of each and every brand and grade of commercial fertilizer must remain uniform for the period of registration.

The commissioner shall review annually the fertilizer inspection and sampling program established under this subchapter and report findings and any recommendations for changes to the program by February 1st annually to the joint standing committee of the Legislature having jurisdiction over agricultural matters, which after receiving the report may report out a bill to the Legislature to make adjustments to the program.

Sec. 3. 7 MRSA §743-A, sub-§1, as amended by PL 2011, c. 607, §1, is further amended to read:

1. Registrants required to report. On or before September 1st of each year, a registrant shall file with the commissioner, on a form prescribed by the commissioner, the number of tons of each brand and grade of commercial fertilizer sold by the registrant in the State during the 12 months preceding July 1st of that year. ~~A fee of \$1 per ton sold during the 12 months preceding July 1st of that year must accompany the form.~~

Sec. 4. 7 MRSA §743-A, sub-§2, as enacted by PL 2009, c. 393, §3, is repealed.

Sec. 5. 7 MRSA §743-A, sub-§3, as enacted by PL 2009, c. 393, §3, is amended to read:

3. Commissioner's report. The commissioner or the commissioner's agent may publish and distribute annually, to each registrant and other interested persons, a report showing the total tons of commercial fertilizer and the total tons by grade sold in the State.

Sec. 6. 7 MRSA §745, first ¶, as amended by PL 2007, c. 147, §4, is further amended to read:

The commissioner shall inspect and sample for analysis in accordance with section 490 commercial fertilizers distributed within this State to the extent the commissioner considers necessary to determine compliance with this subchapter. The commissioner or the commissioner's agent is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers, subject to this subchapter and the rules adopted pursuant to section 748.

Sec. 7. 7 MRSA §751, sub-§3, as enacted by PL 2007, c. 147, §8, is amended to read:

3. Determination of commercial value. For the purpose of determining the commercial value ~~of fertilizer to be applied in determining assessment under this section,~~ the commissioner shall ~~use the amount originally invoiced to the consumer~~ determine and publish annually the values per unit of total nitrogen, available phosphate, and soluble potash or other nutrients that the registrant is required to or may guarantee in fertilizers in this State. The values ~~derived from the invoice so determined and published~~ must be used in determining the assessment and assessing penalty payments.

Sec. 8. 7 MRSA §765, sub-§2, as amended by PL 2009, c. 393, §4, is further amended to read:

2. Fees; nonlapsing fund. The commissioner shall collect all fees under this subchapter and section ~~743-A~~ 743 and deposit them with the Treasurer of State in a separate account to be used for carrying out this subchapter and subchapter 5, including the cost of inspection, sampling and analysis of commercial fertilizers and agricultural liming materials. These funds do not lapse, but remain in a carry-over account.

Sec. 9. 7 MRSA §766, sub-§1, as amended by PL 2011, c. 607, §2, is further amended to read:

1. By registrants. On or before September 1st in each year each registrant shall file with the commissioner, on forms prescribed by the commissioner, the number of tons of each agricultural liming material sold during the 12 months preceding July 1st of that year. ~~A fee of \$1 per ton sold during the 12 months preceding July 1st of that year must accompany the form.~~