CHAPTER 428

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

§5011. Department; commissioner

There is created and established the Department of Agriculture, Conservation and Forestry to preserve, protect and enhance the land resources of the State of Maine; to encourage the wise use of the scenic, mineral and forest resources of the State of Maine and ensure that coordinated planning for the future allocation of lands for recreational, forest production, mining and other public and private uses is effectively accomplished; and to provide for the effective management of public lands in the State of Maine. The Department of Agriculture, Conservation and Forestry consists of a Commissioner of Agriculture, Conservation and Forestry, referred to in this Part as the "commissioner," appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over conservation matters and to confirmation by the Legislature, to serve at the pleasure of the Governor; and the following entities as previously created or established are incorporated into the Department of Agriculture, Conservation and Forestry: [PL 1995, c. 3, §3 (AMD); PL 2011, c. 657, Pt. W, §§5, 6 (REV).]

1. Forestry. Forestry Department;
[PL 1993, c. 685, Pt. B, §1 (AMD).]

2. Parks and recreation. Parks and Recreation Department;
[PL 1993, c. 685, Pt. B, §1 (AMD).]

3. Forest authority. Maine Forest Authority;
[PL 1993, c. 685, Pt. B, §1 (AMD).]

4. Mining bureau. Maine Mining Bureau;
[PL 1993, c. 685, Pt. B, §1 (AMD).]

5.

[PL 1989, c. 878, Pt. B, §11 (RP).]

6. Allagash waterway. Allagash Wilderness Waterway; and
[PL 1993, c. 685, Pt. B, §1 (AMD).]

7. Land use planning commission. Maine Land Use Planning Commission.
[PL 1993, c. 685, Pt. B, §1 (AMD); PL 2011, c. 682, §38 (REV).]

SECTION HISTORY

PL 1971, c. 491, §§1,3 (NEW). PL 1971, c. 622, §§50-A (RP). PL 1973, c. 460, §16 (NEW). PL 1975, c. 771, §156 (AMD). PL 1977, c. 78, §107 (AMD). PL 1989, c. 878, Pt. B, §11 (AMD). PL 1993, c. 685, §B1 (AMD). PL 1995, c. 3, §3 (AMD). PL 2011, c. 657, Pt. W, §§5, 6 (REV). PL 2011, c. 682, §38 (REV).

§5012. Duties of commissioner

The commissioner is the chief executive officer of the Department of Agriculture, Conservation and Forestry. The commissioner shall coordinate and supervise the activities and programs of the divisions and agencies that are part of the department; undertake comprehensive planning and analysis with respect to the functions and responsibilities of the department; and develop and implement, whenever necessary, procedures and practices to promote economy, efficiency and coordination in and between the various agencies and divisions of the department. The commissioner shall reorganize or combine the divisions of the department or the planning, operations and other functions among the

divisions of the department as the commissioner considers necessary to improve the efficiency of department services. From time to time the commissioner shall recommend to the Governor and Legislature such changes in the laws relating to the organization, functions, services or procedures of the agencies and divisions of the department as the commissioner considers desirable. The commissioner shall prepare a budget for the department and shall organize and maintain the office of the commissioner. [PL 2009, c. 213, Pt. L, §1 (AMD); PL 2011, c. 657, Pt. W, §§5, 7 (REV).]

The commissioner has the power to appoint a deputy commissioner and division heads and other staff of the department, subject to the Civil Service Law, and prescribe their duties as necessary for the proper performance of the duties of the department. [PL 2009, c. 213, Pt. L, §2 (AMD); PL 2011, c. 657, Pt. W, §7 (REV).]

The deputy commissioner and division heads serve at the pleasure of the commissioner, except that dismissal of the Executive Director of the Maine Land Use Planning Commission requires the consent of a majority of the members of that commission. [PL 2009, c. 213, Pt. L, §3 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2011, c. 682, §38 (REV).]

The commissioner may, subject to the approval of the Governor, apply for and accept on behalf of the State any funds, other personal or real property, including grants, bequests, gifts or contributions from any person, corporation or government, including the Government of the United States. Such funds shall be received by the Treasurer of State on behalf of the State and deposited in an appropriate new or existing account in the department. All such funds may, subject to the rules promulgated by the Governor, be expended by the Commissioner of Agriculture, Conservation and Forestry. [PL 1987, c. 308, §7 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

The commissioner may, on behalf of the department, enter into such agreements with any person, corporation or state or local government agency or authority as will promote the objectives of the department. [PL 1987, c. 308, §8 (AMD).]

The commissioner may from time to time make noncash awards for outstanding contributions in the field of natural resource management. [PL 1977, c. 360, §19 (NEW).]

The department may prepare and distribute printed and audio-visual materials on matters within its statutory jurisdiction. There is established within the department a revolving fund for the use of the department to cover the printing and distribution costs of these materials. The commissioner shall fix the prices at which publications of the department may be sold or delivered. The department shall retain, without charge, an appropriate number of each publication for complimentary distribution. The commissioner may fix the price at which United States Geological Survey and other maps, charts and other publications may be sold or delivered, provided that these publications are specifically authorized for resale by the originating agency and are specifically concerned with information on the state's natural resources. Income from the sale of publications that were charged to the revolving fund shall be credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the revolving funds. [PL 1981, c. 542, §2 (NEW).]

The department shall publish a compendium of laws affecting forestry including, without limitation, laws regarding boundary lines, trespass, timber harvest, wood measurement, forest fire prevention, forest land taxation, shoreland zoning and the site location of development law. The department shall publish the first compendium by January 1, 1989, and subsequent editions by 90 days after the adjournment of the 2nd regular session of the Legislature. The department shall make the compendium available to the public at cost. The department may use the revolving fund established under this section for printing and distribution. [PL 1987, c. 749, §1 (AMD).]

The commissioner may work with representatives from the College of Forest Resources and the College of Business Administration in the University of Maine System, representatives from the forest industry and representatives from the business and finance community to develop curricula for a joint Master of Business Administration and Master of Science in Forestry degree program and to develop

initiatives for forest products marketing, including continuing education courses for foresters in marketing and finance and to establish a faculty position in forest products marketing. [PL 1989, c. 875, Pt. J, §1 (NEW).]

Prior to final negotiations and legislative and administrative review of the sale of state-designated lands or an interest in designated lands that contain significant deer wintering habitat, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over conservation matters and the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters regarding the proposed sale. For purposes of this section, "designated lands" has the same meaning as in section 598-A. [PL 2011, c. 381, §2 (NEW).]

SECTION HISTORY

PL 1973, c. 460, §16 (NEW). PL 1975, c. 771, §157 (AMD). PL 1977, c. 360, §§18,19 (AMD). PL 1981, c. 542, §2 (AMD). PL 1983, c. 819, §§A15,A16 (AMD). PL 1987, c. 308, §§6-8 (AMD). PL 1987, c. 749, §1 (AMD). PL 1989, c. 875, §J1 (AMD). PL 1997, c. 24, §§QQ1,2 (AMD). PL 2009, c. 213, Pt. L, §§1-3 (AMD). PL 2011, c. 381, §2 (AMD). PL 2011, c. 657, Pt. W, §§5-7 (REV). PL 2011, c. 682, §38 (REV).

§5012-A. Dedicated accounts for sales of merchandise and acceptance of donations

The commissioner may create dedicated accounts in which to deposit money received from the sale of general merchandise products such as, but not limited to, t-shirts, audio and video recordings, coffee mugs, tote bags and calendars. Funds received by the commissioner from the sale of general merchandise products must be deposited in a dedicated account to be used only for the purpose of promoting and improving department programs. The commissioner may also accept money, goods and services donated to the department to support specific programs carried out by the department. Any money donated to the department in support of a specific program must be deposited into a dedicated account for the purpose of funding activities carried out by that program. [PL 2005, c. 57, §1 (NEW).]

Merchandise sold by the commissioner must be of good quality and appropriate for sale by the department. To the extent the commissioner needs to contract with vendors to obtain goods or services in order to develop, create or manufacture merchandise for sale, the commissioner shall, to the maximum extent practicable, contract with vendors located in this State. The commissioner shall register with the United States Library of Congress, United States Copyright Office a copyright in any original pictorial, graphic or other artwork or original work of authorship produced by or under the direction of the department as a work made for hire that is used in merchandise sold by the department. The commissioner may use, manage or administer any copyright held by or license to use copyrighted materials obtained by the department and may manage the copying, use and dissemination of copies of copyrighted materials in which the department holds a copyright or license. [PL 2005, c. 57, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 57, §1 (NEW).

§5013. Department organization

The Department of Agriculture, Conservation and Forestry shall be composed of the Maine Land Use Planning Commission and the following divisions: [PL 1973, c. 460, §16 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2011, c. 682, §38 (REV).]

1. Maine Land Use Planning Commission. The Maine Land Use Planning Commission as established by Title 5, chapter 379 shall be under the direction and supervision of a director who shall be qualified by experience in planning and administration consistent with section 681. The director shall be appointed by the commissioner, with the consent of a majority of the commission, for a term

coterminous with the commissioner, subject to removal for cause by the commissioner with the approval of the Governor;
[PL 1983, c. 812, §80 (AMD); PL 2011, c. 682, §38 (REV).]

2. Division of Forestry. The Division of Forestry, which shall be under the direction and supervision of a director, who shall be qualified by training, experience and skill in forestry. The director shall be appointed by, and serve at the pleasure of, the commissioner;
[PL 1977, c. 674, §14 (RPR); PL 2011, c. 657, Pt. W, §7 (REV).]

3. Division of Parks and Public Lands. The Division of Parks and Public Lands, which is under the direction and supervision of a director, with the assistance of a deputy director. The director and deputy director are appointed by, and serve at the pleasure of, the commissioner; and
[PL 1995, c. 502, Pt. E, §26 (RPR); PL 2011, c. 657, Pt. W, §7 (REV).]

4. Bureau of Public Lands.

[PL 1995, c. 502, Pt. E, §27 (RP).]

5. Division of Geology, Natural Areas and Coastal Resources. The Division of Geology, Natural Areas and Coastal Resources is under the direction and supervision of a director who is appointed by, and serves at the pleasure of, the commissioner.
[PL 2013, c. 405, Pt. C, §11 (AMD).]

Every person appointed as a division director or a director of planning and program services, or in another supervisory capacity in the department, must have experience and skill in the field of the functions of such position. So far as is practicable in the judgment of the commissioner, appointments to such positions must be made by promoting employees of the State serving in positions that are classified and in every instance when a person is promoted from a classified position upon termination of that person's service in such classified supervisory position, the employee, if the employee so requests, must be restored to the classified position from which the employee was promoted or to a position equivalent thereto in salary grade in the same state agency, without impairment of the employee's personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled the employee, provided that if the employee's service in such unclassified supervisory position has been terminated for cause, the employee's right to be so restored must be determined by the State Civil Service Appeals Board. [PL 2009, c. 213, Pt. L, §4 (AMD); PL 2011, c. 657, Pt. W, §7 (REV).]

SECTION HISTORY

PL 1973, c. 460, §16 (NEW). PL 1973, c. 788, §53 (AMD). PL 1975, c. 521, §2 (AMD). PL 1977, c. 360, §§20-22 (AMD). PL 1977, c. 674, §§14,15 (AMD). PL 1983, c. 812, §80 (AMD). PL 1985, c. 785, §B64 (AMD). PL 1995, c. 502, §§E26,27,32 (AMD). PL 1997, c. 24, §QQ3 (AMD). PL 1999, c. 556, §21 (AMD). PL 2009, c. 213, Pt. L, §4 (AMD). PL 2011, c. 655, Pt. KK, §14 (AMD). PL 2011, c. 655, Pt. KK, §34 (AFF). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2011, c. 682, §38 (REV). PL 2013, c. 405, Pt. C, §11 (AMD).

§5014. Delegation of Public Lands Authority

(REPEALED)

SECTION HISTORY

PL 1973, c. 460, §16 (NEW). PL 1975, c. 339, §5 (RP).

§5015. Maine Rivers Protection Fund

There is established within the Department of Agriculture, Conservation and Forestry a Maine Rivers Protection Fund, which shall be funded by donations, bequests, grants, gifts and proceeds from

the sale of Maine rivers protection promotion items. The fund shall not lapse. [PL 1985, c. 105, §1 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

Pursuant to the authority established in section 5012, the commissioner may administer a state grant-in-aid program and may promulgate rules therefor under Title 5, chapter 375, subchapter 2. The purpose of the program is to assist local governments, river conservation or management groups and landowners in activities that may include the acquisition, establishment and maintenance of access sites, parking areas, picnic areas, campsites and sanitary facilities; encouraging and securing shoreland gifts and conservation easements; financial support for river runners, litter control, signs and educational materials; the restoration and enhancement of anadromous fisheries; improving the natural productivity of inland fisheries; and supervision of recreational use and other similar or associated activities involving the protection of and public access to the State's rivers. [RR 2019, c. 2, Pt. A, §17 (COR).]

All funds of the Maine Rivers Protection Fund shall be subject to allocation by the Legislature. [PL 1985, c. 105, §1 (NEW).]

Rules adopted under this section shall become effective immediately, but shall be submitted to the Legislature no later than the next regular session for approval or modification. If the Legislature fails to act, those rules shall continue in full force and effect. [PL 1985, c. 105, §1 (NEW).]

SECTION HISTORY

PL 1985, c. 105, §1 (NEW). PL 2011, c. 657, Pt. W, §5 (REV). RR 2019, c. 2, Pt. A, §17 (COR).

§5016. Bureau of Parks and Lands

(REPEALED)

SECTION HISTORY

PL 1995, c. 502, §E28 (NEW). PL 1997, c. 678, §14 (RP).

§5017. Disclosure of interest

An applicant or permit holder who directly or indirectly retains an environmental professional for the purpose of providing information to the department shall disclose to the department if the environmental professional has either a direct or an indirect financial interest in the applicant or permit holder or in the property or activity that is the subject of the permit. [PL 2007, c. 399, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 399, §2 (NEW).

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