

MAINE STATE LEGISLATURE

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Date: 05-30-07

(Filing No. S- 169)

NATURAL RESOURCES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

123RD LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 283, L.D. 895, Bill, "An Act Concerning Blasting near Residential Areas"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 38 MRSA §353-A, sub-§10 is enacted to read:

10. Fees for rock crusher general permit. Rock crushers regulated under a general permit from the department are subject to an annual fee not to exceed the minimum license fee established under subsection 4.

Sec. 2. 38 MRSA §484, sub-§9 is enacted to read:

9. Blasting. Blasting will be conducted in accordance with the standards in section 490-Z, subsection 14 unless otherwise approved by the department.

Sec. 3. 38 MRSA §490-B, first ¶, as enacted by PL 1995, c. 700, §22, is amended to read:

Sections 490-A to 490-K apply to any excavation for borrow, clay, topsoil or silt, whether alone or in combination, ~~if the total excavated area on a parcel is 5 or more acres, including reclaimed and unreclaimed areas, and section~~ if the total excavated area on a parcel is 5 or more acres or the total excavated area on adjacent parcels under a common owner or operator is 5 or more acres. Section 490-M applies to a total excavated area of less than 5 acres. This article applies if the excavation is located in whole or in part within an organized area of this State.

Sec. 4. 38 MRSA §490-C, first ¶, as amended by PL 2005, c. 158, §3, is further amended to read:

Except as provided in section 484-A, a person intending to create or operate an excavation under this article must file a notice of intent to comply before the total area of excavation on the parcel equals 5 or more acres excavated since January 1, 1970. Both reclaimed and unreclaimed areas are added together in determining whether this 5-acre

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1 threshold is met. A notice filed under this section must be complete, submitted on forms
2 approved by the department and mailed to the municipality, the department, the Maine
3 Historic Preservation Commission and each abutting property owner. The notice that is
4 mailed to the municipality and each abutting property owner must be ~~mailed~~ sent by
5 certified mail at least 7 days prior to filing the notice of intent to comply with the
6 regulator. The notice that is mailed to the regulator must be sent by certified mail, return
7 receipt requested. Upon receiving the postal receipt, the owner or operator may
8 commence operation. The municipality where the proposed excavation is located may
9 submit comments to the department if the proposed excavation may pose an unreasonable
10 adverse impact under the standards in section 490-D. Within 30 days of receipt of the
11 notice of intent to comply, the department must respond to the comments made by the
12 municipality. Abutting property owners, the Maine Historic Preservation Commission or
13 other interested persons may submit comments directly to the department.

14 **Sec. 5. 38 MRSA §490-D, sub-§3, ¶C**, as amended by PL 1995, c. 700, §24, is
15 further amended to read:

16 C. Separation must be maintained between any ~~excavation~~ affected land and any
17 public drinking water source existing prior to the filing of a notice of intent to comply
18 under section 490-C as follows:

- 19 (1) For systems serving a population of 500 persons or less, the minimum
20 separation must be 300 feet;
- 21 (2) For systems serving a population of 501 persons up to 1,000 persons, the
22 separation must be 500 feet;
- 23 (3) For systems serving a population of more than 1,000 persons, the separation
24 must be 1,000 feet; and
- 25 (4) For any system that holds a valid filtration waiver in accordance with the
26 federal Safe Drinking Water Act, the separation must be 1,000 feet.

27 The department may grant a variance from the provisions of this paragraph upon
28 consultation with the public water supply affected by the excavation. The department
29 may not grant a waiver from the provisions of paragraph A, B or D.

30 **Sec. 6. 38 MRSA §490-D, sub-§3, ¶G**, as enacted by PL 1995, c. 700, §24, is
31 amended to read:

32 G. In the event of excavation below the seasonal high water table, a 300-foot
33 separation must be maintained between the permitted limit of excavation and any
34 predevelopment private drinking water supply, and a ~~1000-foot~~ 1,000-foot separation
35 must be maintained between the permitted limit of excavation and any
36 predevelopment public drinking water source or area previously designated for
37 potential use as a public drinking water source by a municipality or private water
38 company.

39 **Sec. 7. 38 MRSA §490-D, sub-§16** is enacted to read:

40 **16. Blasting.** Blasting must be conducted in accordance with the standards in
41 section 490-Z, subsection 14 unless otherwise approved by the department.

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R.O.S.

1 **Sec. 8. 38 MRSA §490-X, first ¶**, as enacted by PL 1995, c. 700, §35, is
2 amended to read:

3 This article applies to any quarry ~~that, including reclaimed and unreclaimed areas, if~~
4 the quarry is more than one acre in size, the total excavated area including reclaimed and
5 unreclaimed areas, adjacent parcels under a common owner or operator is more than one
6 acre in size or at which underground production blasting is proposed.

7 **Sec. 9. 38 MRSA §490-Y, first ¶**, as amended by PL 2005, c. 158, §10, is further
8 amended to read:

9 Except as provided in section 484-A, a person intending to create or operate a quarry
10 under this article must file a notice of intent to comply before the total area of excavation
11 of rock or overburden on the parcel exceeds one acre. Both reclaimed and unreclaimed
12 areas are added together in determining whether this one-acre threshold is exceeded. A
13 notice filed under this section must be complete, submitted on forms approved by the
14 department and mailed to the municipality where the quarry is located, the department,
15 the Maine Historic Preservation Commission and each abutting property owner. The
16 notice that is mailed to the municipality and each abutting property owner must be ~~mailed~~
17 sent by certified mail at least 7 days before the notice of intent to comply is filed with the
18 regulator. The notice that is mailed to the department must be sent by certified mail,
19 return receipt requested. Upon receiving the postal receipt, the owner or operator may
20 commence operation of the quarry. The municipality where the proposed quarry is
21 located may submit comments to the department if the proposed quarry may pose an
22 unreasonable adverse impact under the standards in section 490-Z. Within 30 days of
23 receipt of the notice of intent to comply, the department shall respond to the comments
24 made by the municipality. Abutting property owners, the Maine Historic Preservation
25 Commission or other interested persons may submit comments directly to the department.

26 **Sec. 10. 38 MRSA §490-Z, sub-§14, ¶N** is enacted to read:

27 N. If any blasting activity exceeds the standards in this subsection, the department
28 must be notified within 48 hours of the blast event. Notification must include the
29 name of the blasting operator, the location, date and time of the blasting event and a
30 description of the specific occurrence that is in noncompliance with this subsection.
31 Use of explosives at the quarry may be suspended by the department until the cause
32 of the noncompliance is identified and appropriate steps are implemented to reduce,
33 prevent or eliminate reoccurrence.

34 **Sec. 11. 38 MRSA §490-Z, sub-§14, ¶O** is enacted to read:

35 O. Prior to blasting, the owner or operator shall develop and implement a plan that
36 provides an opportunity for prior notification of a planned blast for all persons
37 located within 1,000 feet of the blast site. Notification may be by telephone, in
38 writing, by public notice in a newspaper of general circulation in the area affected or
39 by other means identified in the plan. The plan must be in writing and available for
40 inspection by the department.

41 **Sec. 12. Agency study.** The Department of Environmental Protection, the
42 Department of Public Safety and the Office of the State Fire Marshal, referred to in this
43 section as "the agencies," shall study methods for the regulation of individuals and

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COMMITTEE AMENDMENT "A" to S.P. 283, L.D. 895

1 companies that conduct blasting operations, including certification and requirements for
2 best management practices. The agencies shall submit a report, including
3 recommendations and any legislation necessary to implement the recommendations, to
4 the Joint Standing Committee on Natural Resources by January 15, 2008. The Joint
5 Standing Committee on Natural Resources may submit legislation related to the report to
6 the Second Regular Session of the 123rd Legislature.'

7 **SUMMARY**

8 This amendment replaces the bill. The amendment does the following.

9 It allows the Department of Environmental Protection to charge rock crushers an
10 annual fee for an air emissions license under a general permit.

11 It adds a provision to the site location law requiring all blasting to be conducted in
12 accordance with performance standards unless otherwise approved by the department.

13 It amends the performance standards for gravel pits to clarify that the standards apply
14 to any pit with a total area of 5 or more acres that is located on more than one parcel that
15 is under a common owner or operator.

16 It amends the notice of intent to comply sections of the gravel pit laws and quarry
17 laws to require that notice to abutters and municipalities be by certified mail.

18 It amends the performance standards of the gravel pit laws to clarify that setbacks
19 from public drinking water sources apply to sources that exist at the time of filing a notice
20 of intent to comply or exist prior to obtaining a permit for excavation into groundwater.

21 It amends the performance standards for quarries to clarify that the standards apply to
22 any quarry with a total area of more than one acre that is located on more than one parcel
23 that is under a common owner or operator.

24 It amends the performance standards of the quarry law to add a standard requiring the
25 owner or operator to notify the department within 48 hours of a blast event if the event
26 exceeds any of the blasting standards. The notice must include a description of the
27 incident and its cause and the steps taken or planned to reduce, eliminate or prevent
28 reoccurrence. Further use of explosives at the quarry may be suspended until written
29 authorization to resume blasting is obtained from the department.

30 It amends the quarry law to require the owner or operator to develop and implement a
31 plan that provides an opportunity for property owners within 1,000 feet of the blast site to
32 receive prior notification of a scheduled blast. Notice may be in writing, by telephone or
33 by publishing a public notice in a daily newspaper of general circulation in the area
34 affected. The plan must be in writing and available to the department for inspection.

35 It directs the department, the Department of Public Safety and the Office of the State
36 Fire Marshal to study methods for the regulation of individuals and companies that
37 conduct blasting operations, including certification and requirements for best
38 management practices and to submit a report to the Joint Standing Committee on Natural
39 Resources.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



123rd MAINE LEGISLATURE

LD 895

LR 178(02)

An Act Concerning Blasting near Residential Areas

Fiscal Note for Bill as Amended by Committee Amendment "A "

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor cost increase - Other Special Revenue Funds

Minor revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

The bill allows the Department of Environmental Protection to charge rock crushers an annual fee for an air emission license under a general permit; the increase in dedicated revenue is unknown at this time. The additional cost associated with implementing this bill can be absorbed by the Department of Environmental Protection and the Department of Public Safety utilizing existing budgeted resources.