

MAINE STATE LEGISLATURE

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1 1. Jurisdiction. Any municipality which elects
2 to regulate the siting, construction or operation of
3 borrow pits not otherwise within the jurisdiction of
4 the Department of Environmental Protection, pursuant
5 to Title 38, chapter 3, subchapter I, article 6, shall
6 adopt, as part of its ordinance, the following
7 requirements.

8 A. The average slope of any cut bank measured from
9 a point located 10 feet from the boundary of any
10 abutting property to the bottom of the cut bank in
11 the pit shall not exceed a horizontal to vertical
12 ratio of 2:1. The owner of the borrow pit is
13 responsible for maintaining this condition.

14 B. The top of the cut bank of the borrow pit
15 shall, at no time, be closer than 10 feet from the
16 property boundary of any abutting landowner.

17 2. Minimum. Any municipality which elects to
18 regulate the siting, construction or operation of
19 borrow pits not otherwise within the jurisdiction of
20 the Department of Environmental Protection, pursuant
21 to Title 38, chapter 3, subchapter I, article 6, may
22 adopt standards which exceed the requirements of
23 subsection 1.

24 3. No municipal ordinance in force. The owner of
25 a borrow pit not otherwise within the jurisdiction of
26 the Department of Environmental Protection, pursuant
27 to Title 38, chapter 3, subchapter I, article 6, and
28 not subject to a municipal ordinance consistent with
29 the requirements of subsection 1 is subject to the
30 following provisions.

31 A. The owner shall comply with the provisions of
32 subsection 1, paragraphs A and B.

33 B. Any abutting landowner may request the
34 municipal officers to provide an inspection of the
35 borrow pit in order to ascertain compliance with
36 this subsection.

37 C. Upon request of any abutting landowner, the
38 municipal officers shall conduct an inspection of

1 the borrow pit. The municipal officers may
2 request the Department of Transportation, Bureau
3 of Project Development, Construction Division, to
4 conduct an inspection of the borrow pit in lieu of
5 the municipal inspection.

6 D. The Construction Division shall conduct an
7 inspection of the borrow pit in question when
8 requested to do so by the municipal officers and
9 shall report its findings to the municipal
10 officers, the abutting landowner initiating the
11 request and the owner of the borrow pit. The
12 division shall make its measurements from the
13 property line designated by the abutting property
14 owner initiating the request. The liability of
15 the department and its personnel for any
16 activities connected with such inspections shall
17 be governed by the provisions of Title 14, chapter
18 741.

19 E. If the borrow pit is in violation of the
20 provisions of this subsection, the owner is liable
21 for the cost of the inspection. If the borrow pit
22 is not in violation of the provisions of this
23 subsection, the abutting landowner initiating the
24 request is liable for the cost of the inspection.

25 F. Upon notification of any violation under this
26 subsection, the owner of the borrow pit shall
27 bring the borrow pit into compliance with the
28 provisions of this subsection within 60 days. The
29 municipal officers may require a shorter
30 compliance period if they find that the violation
31 poses an imminent danger to public safety or
32 private property.

33 4. Civil penalty. Any person who violates the
34 provisions of subsection 3 is subject to a civil
35 penalty not to exceed \$50 per day for every day
36 elapsing after the expiration of the compliance
37 schedule established under subsection 3, payable to
38 the municipality in which the borrow pit is located,
39 to be recovered in a civil action brought by the
40 municipality.

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STATEMENT OF FACT

2 The purpose of this new draft is to eliminate the
3 role envisioned in the original bill for the
4 Department of Environmental Protection in the
5 regulation of small borrow pits.

6 The new draft establishes minimum standards for
7 any municipal ordinances regulating small borrow pits.

8 The new draft also establishes a procedure for
9 complaints brought by abutting landowners in towns
10 without such ordinances. The Department of
11 Transportation will conduct inspections of the borrow
12 pits upon the request of a town. The costs will be
13 paid by either the owner of the pit or the complainant
14 depending on the compliance status of the borrow pit.
15 The owner of a borrow pit found not to be in
16 compliance is required to bring the pit into
17 compliance within 60 days or such shorter period as
18 the municipal officers determine is necessary to
19 protect safety and property.

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