

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 69, L.D. 97, Bill, "An Act
to Promote Cranberry Cultivation in Maine"

Amend the bill by striking out all of section 1 and
inserting in its place the following:

'Sec. 1. 7 MRSA Pt. 6-B is enacted to read:

PART 6-B

CRANBERRY INDUSTRY

CHAPTER 541

CERTIFICATION

§2881. Application

To qualify for an exemption under Title 38, section 480-Q,
subsection 12, a person proposing to undertake the exempt
cranberry cultivation project must have received written
certification from the Department of Agriculture, Food and Rural
Resources that the requirements of this chapter have been
satisfied. The department shall provide application forms and
instructions regarding all information required for certification
review.

§2882. Certification

Within 45 days of receiving a completed application, the
department shall review the application and supporting materials
and issue a certificate of project approval if the requirements
of this section are met.

2 1. Project location. The cranberry cultivation project may
4 not be located in a wetland that has one or more of the following
 characteristics:

6 A. Is a coastal wetland or is located within 250 feet of a
 coastal wetland:

8 B. Is a great pond:

10 C. Contains endangered or threatened plant species listed
12 under Title 5, section 3315:

14 D. Contains any type of palustrine natural community of
 which there are 20 or fewer occurrences in the State:

16 E. Contains any of the following resources:

18 (1) Habitat for an endangered or threatened species
20 when there is evidence that the species is present:

22 (2) To the extent that they have been mapped and
24 defined by rule by the Commissioner of Inland Fisheries
26 and Wildlife: high-value deer wintering areas; deer
 travel corridors; high-value waterfowl or wading bird
28 habitats; shorebird nesting, feeding or staging areas;
 or seabird nesting islands; or

30 (3) Critical spawning and nesting areas for Atlantic
 sea run salmon as defined by rule by the Atlantic Sea
32 Run Salmon Commission:

34 F. Is located within 250 feet of the normal high-water line
 and within the same watershed of, any lake or pond
36 classified as GPA under Title 38, section 465-A:

38 G. Is an undisturbed, natural bog dominated by ericaceous
 shrubs, sedges and sphagnum moss and usually having a
40 saturated water regime; or

42 H. Is land adjacent to the main stem of a major river, as
 classified in Title 38, section 467, that is inundated with
44 floodwater during a 100-year flood event and that under
 normal circumstances supports a prevalence of wetland
46 vegetation typically adapted for life in saturated soils.

48 2. Project location exception; natural cranberry bogs. A
 project to cultivate indigenous cranberries may be located in
50 wetlands described in subsection 1, paragraphs F and G provided
 that the project location is a natural cranberry bog and the
52 provisions of subsection 5 are met. "Natural cranberry bog"
 means an area with indigenous large cranberries, Vaccinium

macrocarpon Ait., comprising more than 50% of the cover in the herbaceous layer. "Cover in the herbaceous layer" means all herbaceous or woody vegetation less than 10 inches in height.

3. Project design. A plan that includes the following elements must be developed and submitted to the department:

A. A top-view drawing of the entire project including existing and proposed beds, dikes, ditches, roads and reservoirs; cross-sectional drawings of beds, dams, dikes and ditches; length, width and depth of beds, dikes and ditches; delineation of the wetland boundaries and calculated area of wetlands affected; description of existing vegetation; amount and type of fill material to be discharged over the beds; location of borrow area; type and size of water control structures; and placement and description of water sources;

B. A soil erosion and sedimentation control plan that is consistent with erosion and sediment control specifications as determined by the department;

C. A plan for a water recovery system, including either a reservoir or the cranberry beds themselves, that is designed to contain the runoff from the project area during a 10-year, 24-hour storm event;

D. A plan to maintain a 75-foot buffer strip from any river or stream draining a watershed of 100 acres or more, except that excavated ditches and water intake and outfall pipes or control structures may be allowed in the 75-foot buffer area;

E. Design specifications for water intake and outfall pipes and excavated ditches, which must be consistent with best management practices for those activities as determined by the department; and

F. A plan to maintain minimum base flows for each water supply area. Minimum base flow is the aquatic base flow for that watershed equal to mean August flow or a flow less than aquatic base flow that can be shown to protect uses designated in Title 38, section 465.

4. Cultivation practices. The applicant must provide a management plan that outlines a pesticide and fertilizer program utilizing agricultural best management practices as determined by the department and recommended by the University of Maine Cooperative Extension and the Maine Agricultural Experiment Station. The plan must include the following practices:

A. The application of nutrients and soil amendments in terms of timeliness, amounts, materials and method of application;

2 B. The use of current integrated pest management practices
4 for applying pesticides properly and in the minimum amounts
 necessary to control pests; and

6 C. The management of water in terms of bed drainage, runoff
8 disposal, sprinkler irrigation, control devices to separate
 natural water from pumping supply for irrigation purposes,
 back-siphoning prevention devices and flooding.

10 5. Cultivation practices: natural cranberry bogs. A person
12 applying for project certification under subsection 2 must
14 provide a management plan that meets all of the requirements of
 subsection 4 and the requirements of this subsection.

16 A. The cranberries must be cultivated in accordance with
18 organic production standards established in Title 7, section
 551, subsection 2 and section 553, subsection 1, paragraph A.

20 B. A person may not introduce nonindigenous cranberry plants
22 to the project site. A person may not remove or transplant
 cranberry plants existing on the project site.

24 C. Cultivation practices may not alter natural drainage.
26 Filling is limited to placement each year of up to one inch
 of sand on bearing vines.

28 **§2883. Notice of certification denial**

30 If a project does not meet the certification requirements in
32 section 2882, the department shall notify the applicant of
 certification denial.

34 **§2884. Certification conditions**

36 The department shall attach as a written condition of
38 certification the requirement that the applicant implement and
 comply with all plans, management practices and other
40 representations relied on for certification.

42 **Sec. 2. 38 MRSA §480-B, sub-§2-D is enacted to read:**

44 **2-D. Floodplain wetland.** "Floodplain wetland" means lands
46 adjacent to a river, stream or brook that are inundated with
 floodwater during a 100-year flood event and that under normal
 circumstances support a prevalence of wetland vegetation
48 typically adapted for life in saturated soils.'

50 Further amend the bill by striking out all of section 4 and
 inserting in its place the following:

52 'Sec. 4. 38 MRSA §480-Q, sub-§12 is enacted to read:

2 12. Cranberry cultivation. Filling or draining a
4 freshwater or floodplain wetland for the purpose of growing
6 cranberries and constructing appurtenant facilities, including
8 ponds, berms, dikes and other water-control structures, is exempt
 from the provisions of this article if the Department of
 Agriculture, Food and Rural Resources has certified the cranberry
 cultivation project in accordance with Title 7, Part 6-B.'

10 Further amend the bill by renumbering the sections to read
12 consecutively.

14 Further amend the bill by inserting before the statement of
16 fact the following:

18 **FISCAL NOTE**

1990-91

20 Revenues

22 Other Funds (\$813)

24 This emergency legislation will reduce dedicated revenue to
26 the Maine Environmental Protection Fund of the Department of
28 Environmental Protection by \$813 in fiscal year 1990-91 from the
30 expected reduction in the collection of application and
32 processing fees from cranberry cultivations. The loss of
 dedicated revenue for fiscal year 1991-92 and fiscal year 1992-93
 can not be estimated at this time.

34 The Department of Agriculture, Food and Rural Resources will
36 be able to absorb the costs associated with the application and
38 certification review requirement. This is based on the
40 assumption that the Department of Agriculture, Food and Rural
 Resources will receive certification assistance from other state
 agencies, including the Department of Inland Fisheries and
 Wildlife and the Department of Environmental Protection, and that
 the applicant has the burden of proof.'

42 **STATEMENT OF FACT**

44 This amendment is the majority report of the Joint Standing
46 Committee on Agriculture. It limits the exemption from
48 permitting under natural resources protection law to cranberry
50 cultivation projects that have been certified by the Department
52 of Agriculture, Food and Rural Resources. The exemption for
 "other wetland crop species" is removed. The Maine Revised
 Statutes, Title 7, Part 6-B is enacted to establish certification
 procedures and requirements. In addition, specific criteria on

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2 project location and cultivation practices are established for
cultivation projects proposed for natural cranberry bogs.

Reported by the Majority of the Committee on Agriculture
Reproduced and distributed under the direction of the Clerk of the
House

(4/24/91)

(Filing No. H-175)