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

COMMITTEE AMENDMENT "B" 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-O, subsection 12, a person proposing to undertake the exempt cranberry cultivation project must have received written certification from the Department of Environmental Protection that the requirements of this chapter have been satisfied. The Department of Agriculture, Food and Rural Resources 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 of Environmental Protection shall review the application and supporting materials and issue a certificate of

2 project approval if the requirements of this section are met.
3 When winter conditions prevent evaluation of a permit
4 application, the Department of Environmental Protection may defer
5 action for a reasonable period. The Department of Environmental
6 Protection shall notify the Department of Agriculture, Food and
7 Rural Resources upon certifying a project.

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

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

14 B. Is a great pond:

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

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

22 E. Contains any of the following resources:

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

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

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

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

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

46 H. Is land adjacent to the main stem of a major river, as
47 classified in Title 38, section 467, that is inundated with
48 floodwater during a 100-year flood event and that under
49 normal circumstances supports a prevalence of wetland
50 vegetation typically adapted for life in saturated soils.
51

2 2. Project location exception; natural cranberry bogs. A
3 project to cultivate indigenous cranberries may be located in
4 wetlands described in subsection 1, paragraphs F and G provided
5 that the project location is a natural cranberry bog and the
6 provisions of subsection 5 are met. "Natural cranberry bog"
7 means an area with indigenous large cranberries, *Vaccinium*
8 *macrocarpon* Ait., comprising more than 50% of the cover in the
9 herbaceous layer. "Cover in the herbaceous layer" means all
10 herbaceous or woody vegetation less than 10 inches in height.

11 3. Project design. A plan that includes the following
12 elements must be developed and submitted to the Department of
13 Environmental Protection:

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

24 B. A soil erosion and sedimentation control plan that is
25 consistent with erosion and sediment control specifications
26 as determined by the Department of Agriculture, Food and
27 Rural Resources;

28 C. A plan for a water recovery system, including either a
29 reservoir or the cranberry beds themselves, that is designed
30 to contain the runoff from the project area during a
31 10-year, 24-hour storm event;

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

36 E. Design specifications for water intake and outfall pipes
37 and excavated ditches, which must be consistent with best
38 management practices for those activities as determined by
39 the Department of Agriculture, Food and Rural Resources; and

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

2 4. Cultivation practices. The applicant must provide a
3 management plan that outlines a pesticide and fertilizer program
4 utilizing agricultural best management practices as determined by
5 the Department of Agriculture, Food and Rural Resources and
6 consistent with recommendations of the University of Maine
7 Cooperative Extension and the Maine Agricultural Experiment
8 Station. The plan must include the following practices:

9
10 A. The application of nutrients and soil amendments in
11 terms of timeliness, amounts, materials and method of
12 application;

13
14 B. The use of current integrated pest management practices
15 for applying pesticides properly and in the minimum amounts
16 necessary to control pests; and

17
18 C. The management of water in terms of bed drainage, runoff
19 disposal, sprinkler irrigation, control devices to separate
20 natural water from pumping supply for irrigation purposes,
21 back-siphoning prevention devices and flooding.

22 5. Cultivation practices; natural cranberry bogs. A person
23 applying for project certification under subsection 2 must
24 provide a management plan that meets all of the requirements of
25 subsection 4 and the requirements of this subsection.

26
27 A. The cranberries must be cultivated in accordance with
28 organic production standards established in section 551,
29 subsection 2 and section 553, subsection 1, paragraph A.

30
31 B. A person may not introduce nonindigenous cranberry
32 plants to the project site. A person may not remove or
33 transplant cranberry plants existing on the project site.

34
35 C. Cultivation practices may not alter natural drainage.
36 Filling is limited to placement each year of up to 1 inch of
37 sand on bearing vines.

38 §2883. Notice of certification denial

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41 If a project does not meet the certification requirements in
42 section 2882, the Department of Environmental Protection shall
43 notify the applicant and the Department of Agriculture, Food and
44 Rural Resources of certification denial. This notification must
45 include reasons for certification denial.

46 §2884. Certification conditions

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49 The Department of Environmental Protection shall attach as a
50 written condition of certification the requirement that the
51 applicant implement and comply with all plans, management
52 practices and other representations relied on for certification.

STATEMENT OF FACT

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This amendment is the minority report of the Joint Standing Committee on Agriculture. It limits the exemption from permitting under natural resources protection law to cranberry cultivation projects that have been certified by the Department of Environmental Protection. The exemption for "other wetland crop species" is removed. Title 7, Part 6-B is enacted to establish certification procedures and requirements. In addition, specific criteria on project location and cultivation practices are established for cultivation projects proposed for natural cranberry bogs.

Reported by the Minority of the Committee on Agriculture
Reproduced and distributed under the direction of the Clerk of the House
(4/24/91) (Filing No. H-176)