

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

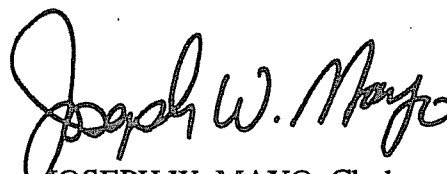
No. 519

H.P. 406

House of Representatives, February 16, 1993

An Act to Exempt Gravel Pits with Less Than 5 Unreclaimed Acres from Regulation by the Department of Environmental Protection under the Site Location of Development Act.

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative LORD of Waterboro.
Cosponsored by Representatives: AHEARNE of Madawaska, ANDERSON of Woodland, BAILEY of Farmington, BOWERS of Washington, CARROLL of Gray, CLARK of Millinocket, DEXTER of Kingfield, DiPIETRO of South Portland, FARREN of Cherryfield, GOULD of Greenville, HEINO of Boothbay, HUSSEY of Milo, KERR of Old Orchard Beach, KNEELAND of Easton, LOOK of Jonesboro, MARSH of West Gardiner, MORRISON of Bangor, MURPHY of Berwick, NICKERSON of Turner, REED of Dexter, SPEAR of Nobleboro, STEVENS of Sabattus, STROUT of Corinth, TARDY of Palmyra, VIGUE of Winslow, Senator: SUMMERS of Cumberland.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 30-A MRSA §3105, sub-§2**, as amended by PL 1989, c.
104, Pt. C, §§8 and 10, is further amended to read:

6 **2. Municipal jurisdiction.** A municipality may enact
8 ordinances under its home rule authority regulating the siting,
10 construction or operation of borrow pits not within the
12 jurisdiction of the Department of Environmental Protection, under
14 Title 38, chapter 3, subchapter I, article 6. The ordinance
16 must, at a minimum, include the requirements of this section and
18 subsection 1, paragraph A, but may include standards which that
exceed those requirements.

14 A. A municipal ordinance regulating the siting,
16 construction or operation of a borrow pit not regulated
18 under Title 38, chapter 3, subchapter I, article 6, must, at
a minimum, include standards that:

20 (1) The operator of the borrow pit submit the
22 following information to the municipality:

24 (a) The applicant or operator's name, address and
telephone number;

26 (b) A map showing the location and acreage of the
28 entire site; and

30 (c) A plan describing the manner of site
32 excavation and the completion date of the
extraction;

34 (2) The operator of the borrow pit conform to the
following standards:

36 (a) Dust must be kept to a minimum;

38 (b) Erosion of soil must be minimized using
40 generally accepted practices and soil must be
contained within the site;

42 (c) Storm water must be controlled on the
44 extraction site;

46 (d) Fuel may not be stored on site without
municipal approval;

48 (e) A minimum buffer strip of 50 feet must be
observed, except that the buffer strip is

2 waived if a consent letter is obtained from the
3 abutter;

4 (f) Permanent processing facilities must be
5 approved by the municipality; and

6 (g) All debris and stumps must be handled in an
7 environmentally safe manner; and

10 (3) Excavated land be reclaimed by returning the land
11 to farming, reforesting the land or placing at least 2
12 inches of topsoil on the land, seeding and mulching
13 that land and returning it to fields. The grade of
14 reclaimed land may not exceed a horizontal to vertical
15 ratio of 2.5:1 and finished grade must be more than 5
16 feet above the water table.

18 **Sec. 2. 38 MRSA §482, sub-§1-A is enacted to read:**

20 **1-A. Borrow pit.** "Borrow pit" means a mining operation
21 undertaken primarily to extract and remove sand, fill or gravel.
22 A borrow pit does not mean a mining operation undertaken to
23 extract or remove rock or clay.

26 **Sec. 3. 38 MRSA §482, sub-§2, as repealed and replaced by PL**
27 **1987, c. 812, §§2 and 18, is amended to read:**

28 **2. Development that substantially affects the environment.**
29 "Development which that may substantially affect the
30 environment," in this article called "development," means any
31 state, municipal, quasi-municipal, educational, charitable,
32 residential, commercial or industrial development which that:

- 34 A. Occupies a land or water area in excess of 20 acres;
- 36 B. Contemplates drilling for or excavating natural
38 resources on land or under water where the area affected is
 in excess of 60,000 square feet;
- 40 C. Is a mining activity as defined in this section;
- 42 D. Is a hazardous activity as defined in this section;
- 44 E. Is a structure as defined in this section;
- 46 F. Is a conversion of an existing structure that meets the
48 definition of structure in this section;
- 50 G. Is a subdivision as defined in this section; or

2 H. Is a ~~multi-unit~~ multiunit housing development as defined
in this section located wholly or in part within the
4 shoreland zone.

6 This term does not include state highways, state aid highways and
~~borrow pits for sand, fill or gravel of less than 5 acres~~ ,
8 borrow pits that conform to the provisions of section 488,
9 subsection 9 or when regulated by the Department of
Transportation, and such borrow pits entirely within the
10 jurisdiction of the Maine Land Use Regulation Commission under
Title 12, chapter 206-A, and those activities regulated by the
12 Department of Marine Resources under Title 12, section 6072.

14 Sec. 4. 38 MRSA §488, sub-§9 is enacted to read:

16 9. Borrow pits; progressive 5-acre extraction sites. A
17 borrow pit that does not exceed 5 acres of unreclaimed land at
18 any time and consists of 40 or fewer acres of reclaimed land and
19 unreclaimed land is exempt from review under this article. For
20 the purposes of this subsection, the term "reclaimed land" is
21 land reclaimed in a manner consistent with the provisions of
22 Title 30-A, section 3105, subsection 2, paragraph A, subparagraph
23 (3).

24 Sec. 5. 38 MRSA §489-A, sub-§1, ¶E, as enacted by PL 1991, c.
26 761, §2, is amended to read:

28 E. Sand, fill or gravel pit mining operations consisting of
30 5 or more acres of unreclaimed land.

32 Sec. 6. 38 MRSA §489-A, sub-§2, ¶D-1, as enacted by PL 1991, c.
761, §3, is amended to read:

34 D-1. Land use regulations have been adopted that regulate
36 all sand, fill or gravel pit mining operations consisting of
37 5 or more acres of unreclaimed land. The regulations must
38 be determined by the board to be at least as stringent as
the criteria set forth in section 484;

40 STATEMENT OF FACT

42 This bill exempts gravel pits that consist of less than 5
44 acres of unreclaimed land from regulation by the Department of
Environmental Protection under the site location of development
46 laws. Under this bill, excavation of up to 40 acres of land
could occur without site-law review by the Department of
48 Environmental Protection as long as the total acreage of
unreclaimed land does not exceed 5 acres at any one time.
50

2 Municipalities may continue to exercise their existing
3 authority to regulate gravel pits not otherwise regulated by the
4 Department of Environmental Protection, except that minimum
5 standards of performance are set forth in this bill that must be
6 incorporated into any borrow pit ordinance adopted by a
7 municipality.

8 Gravel pits with 5 or more acres of unreclaimed land remain
9 subject to site-law review by the Department of Environmental
10 Protection and eligible municipalities retain the option of
11 assuming the authority to substitute local permits for state
12 permits issued under the site location of development laws.