

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

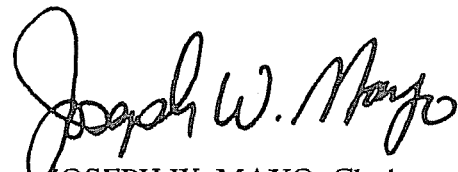
No. 1694

H.P. 1267

House of Representatives, January 11, 1994

An Act to Clarify Permitting Requirements for Cranberry Growing Operations.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative GEAN of Alfred.

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

2
4 Sec. 1. 38 MRSA §480-U, sub-§2, ¶A, as corrected by RR 1991,
c. 1, §57, is amended to read:

6 A. The application must contain written certification by a
7 knowledgeable professional that the cranberry cultivation
8 project will not be located in within the boundaries of a
9 wetland ~~that~~ system any part of which has one or more of the
10 following characteristics:

12 (1) Is a coastal wetland or is located within 250 feet
13 of a coastal wetland;

14 (2) Is a great pond;

16 (3) Contains endangered or threatened plant species
17 listed under Title 5, section 3315;

20 (4) Contains any type of palustrine natural community
21 of which there are 20 or fewer occurrences in the State;

22 (5) Contains any of the following resources:

24 (a) Habitat for species appearing on the official
25 state or federal lists of endangered or threatened
26 species when there is has been evidence that of
27 the occurrence of the species ~~is present~~;

30 (b) ~~As defined by rule by the Commissioner of~~
31 ~~Inland Fisheries and Wildlife,~~ Regardless of
32 ~~whether or not the resource has~~ following
33 resources have been mapped, high-value and
34 moderate-value deer wintering areas; deer travel
35 corridors; high-value and moderate-value waterfowl
36 or wading bird habitats, including nesting and
37 feeding areas; shorebird nesting, feeding or
38 staging areas; or seabird nesting islands; or

40 (c) Critical spawning and nesting areas for
41 Atlantic sea run salmon as defined by rule by the
42 Atlantic Sea Run Salmon Commission whether or not
43 mapped;

44 (6) Is located within 250 feet of the normal high
45 water line and within the same watershed of any lake or
46 pond classified as GPA under section 465-A;

48 (7) Is a bog dominated by ericaceous shrubs, sedges
50 and sphagnum moss and usually having a saturated water

2 regime, except that applications proposing reclamation
of previously mined peat bogs may be considered;

4 (8) Is land adjacent to the main stem of a major
6 river, as classified in section 467, that is inundated
with floodwater during a 100-year flood event and that
8 under normal circumstances supports a prevalence of
wetland vegetation, typically adapted for life in
saturated soils; or

10 (9) Contains at least 20,000 square feet of aquatic
12 vegetation, emergent marsh vegetation or open water,
except for man-made ponds or impoundments, during most
14 of the growing season in most years; except that
cranberry cultivation is allowed more than 250 feet
16 from the edge of the area of aquatic vegetation,
emergent marsh vegetation or open water.

18 A project to cultivate indigenous cranberries may be located
20 in wetlands described in subparagraphs (6) and (7) only if
the project location is a natural cranberry bog and
22 provisions of paragraph D are met. For purposes of this
paragraph, "natural cranberry bog" means an area with
24 indigenous large cranberries, *Vaccinium macrocarpon* Ait.,
comprising more than 50% of the cover in the herbaceous
26 layer; and "cover in the herbaceous layer" means all
herbaceous or woody vegetation less than 10 inches in height.

28 **Sec. 2. 38 MRSA §480-U, sub-§2, ¶B,** as enacted by PL 1991, c.
30 214, §2, is amended to read:

32 B. The application must contain a plan that includes the
following elements:

34 (1) A top view drawing, based on a survey conducted by
36 a licensed surveyor or other qualified professional, of
the entire project including existing and proposed
38 beds, dikes, ditches, roads and reservoirs;
cross-sectional drawings of beds, dams, dikes and
40 ditches; length, width and depth of beds, dikes and
ditches; delineation of the wetland boundaries and
42 calculated area of wetlands affected; description of
existing vegetation; amount and type of fill material
44 to be discharged over the beds and location of borrow
area; type and size of water control structures; and
46 placement and description of water sources;

48 (2) A soil erosion and sedimentation control plan that
is consistent with erosion and sediment control
50 specifications as determined by the Department of

2 Agriculture, Food and Rural Resources and the
department;

4 (3) A plan for a water recovery system, including
6 ~~either a reservoir or~~ other than the cranberry beds
8 themselves, that is designed to contain the runoff from
the project area during a ~~10-year~~ 50-year, 24-hour
storm event;

10 (4) A plan to maintain at least a 75-foot buffer strip
12 ~~from any river or stream draining a watershed~~ fresh
14 surface waters that support a cold-water fishery or
16 that drain an area 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;

18 (5) Design specifications for water intake and outfall
20 pipes and excavated ditches which must be consistent
with specifications as determined by the Department of
22 Agriculture, Food and Rural Resources and the
department;

24 (6) A plan to maintain minimum base flows for each
26 water supply area. Minimum base flow is the aquatic
base flow for that watershed, or a flow that can be
28 shown to protect designated uses and characteristics
assigned in section 465; and

30 (7) Appurtenant facilities, including, but not limited
32 to storage buildings, parking areas and processing
areas, may not be located in the freshwater wetland.
34 This limitation does not apply to pump houses,
roadways, service areas and other appurtenant
36 facilities directly related and needed to carry out the
water related activities; and

38 (8) A copy of the labeling, as defined in Title 7,
40 section 604, subsection 20, for each pesticide the
42 applicant anticipates applying in accordance with the
management plan provided for by subsection 2, paragraph
C.

46 STATEMENT OF FACT

48 This bill amends several provisions of the natural resources
50 protection laws that were enacted to create a general permit for
certain cranberry cultivation operations as a means to

2 facilitate growth of this industry in the State. The bill
clarifies existing requirements regarding when a site-specific
4 permit is necessary due to potential impacts on natural resources
of statewide concern and makes federal and state requirements
6 more consistent. In addition, the bill contains several
provisions designed to protect cold-water fishery resources
8 downstream from or adjoining cranberry cultivation operations and
to provide additional information related to anticipated
pesticide use.

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16 **This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.**