

MAINE STATE LEGISLATURE

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DATE: 6/20/95

(Filing No. H-552)

MAJORITY
NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 989, L.D. 1397, Bill, "An Act to Amend Certain Laws Affecting the Department of Environmental Protection"

Amend the bill in section 1 in subsection 2-G in paragraph A in the last 2 lines (page 1, lines 35 and 36 in L.D.) by striking out the following: "and applicable water quality laws and standards are maintained" and inserting in its place the following: 'or the commissioner's designee'

Further amend the bill in section 1 in subsection 2-G in paragraph B in the 4th line (page 1, line 41 in L.D.) by inserting after the following: "instructions of" the following: 'the commissioner or the commissioner's designee and, where applicable,'

Further amend the bill in section 1 in subsection 2-G in paragraph B in the last 3 lines (page 1, lines 43 to 45 in L.D.) by striking out the following: ", the National Oil and Hazardous Substance Contingency Plan and applicable water quality laws and standards are maintained"

Further amend the bill by inserting after section 2 the following:

'Sec. 3. 38 MRS A §480-Q, sub-§17 is enacted to read:

17. Displacement or bulldozing of sediment within a lobster pound. Displacement or bulldozing of sediment within a lobster pound, provided the sediment is not removed from the area inundated as a result of the impoundment.

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

Sec. 4. 38 MRSA §488, sub-§10, as enacted by PL 1993, c. 383, §26 and affected by §42, is amended to read:

10. Roads and railroad tracks. A structure consisting only of a road or a road together with the structure area within a residential lot, as described in subsection 17 is exempt from the requirements of this article. Railroad tracks other than tracks within yards or stations are exempt from review under this article.

Sec. 5. 38 MRSA §488, sub-§§16 to 18 are enacted to read:

16. Waste facilities. Waste facilities regulated by the department under section 1310-N, 1319-R or 1319-X are exempt from review under this article. This exemption applies to new facilities, modifications of facilities, transfers of facilities and relicensing of facilities.

17. Structure area within residential lots. Buildings, roads, paved areas or areas to be stripped or graded and not revegetated that are located within lots used solely for single-family residential housing are not counted toward the 3-acre threshold described in section 382, subsection 6, paragraph B for purposes of determining jurisdiction. A road associated only with such lots is also not counted toward the 3-acre threshold. For purposes of this subsection, "single-family residential housing" does not include multi-unit housing such as condominiums and apartment buildings.

18. Roundwood and lumber storage yards. A roundwood or lumber storage yard and any road associated with the yard is exempt from review under this article, as provided in this subsection.

A. A roundwood or lumber storage yard and any road associated solely with the yard, constructed on or after the effective date of this subsection, is exempt from review under this article provided it is constructed and operated in accordance with the erosion and sedimentation control standards and storm water management standards contained in board rules. The person conducting these activities shall file a notice of intent to comply with the department prior to clearing and construction.

B. A roundwood or lumber storage yard and any road associated solely with the yard, constructed prior to the

effective date of this subsection, is exempt from review under this article provided the following requirements are met.

(1) Within one year after the effective date of this subsection, a notice of intent to comply must be provided to the department.

(2) Within 2 years of the effective date of this subsection, construction and operation of the yards and roads must be in compliance with the erosion and sedimentation control standards and storm water standards contained in board rules.

(3) Any expansion or alteration of such facilities must meet the requirements of paragraph A.

C. Notice of intent filed under this subsection must be complete, submitted on forms approved by the department and mailed by certified mail, return receipt requested. The notice must include a fee of \$250.

D. For guidance in complying with board rules regarding erosion and sedimentation control standards and storm water management standards, a person may consult "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices" (1991) and "Stormwater Management for Maine: Best Management Practices" as revised (1995).

E. For purposes of this subsection only, "roundwood" means logs, bolts and other round sections of wood as they are cut from the tree.'

Further amend the bill by inserting after section 11 the following:

'Sec. 12. 38 MRS A §585-E is enacted to read:

§585-E. Gasoline station vapor recovery requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Stage II vapor recovery system" means a system for gasoline vapor recovery of emissions from the fueling of motor vehicles as described in Section 182(b)(3) of the federal Clean Air Act, 42 United States Code, Section 7511a(b)(3) (1995).

2 B. "Volatile organic compound 15% reduction plan" or "15%
3 reduction plan" means the plan for reasonable further
4 progress required in Section 182(b)(1) of the federal Clean
5 Air Act, 42 United States Code, Section 7511a(b)(1) (1995).

6 2. Stage II rule adoption. The board may adopt a rule
7 requiring installation of Stage II vapor recovery systems in
8 gasoline stations in Cumberland, York and Sagadahoc counties.
9 The rule may impose the requirements only on stations that sold
10 1,000,000 gallons of gasoline or more in calendar year 1994 or a
11 subsequent calendar year, unless department information gathering
12 indicates that a threshold of 1,000,000 gallons is insufficient
13 to provide emission reduction credits needed to meet the volatile
14 organic compound 15% reduction plan requirement. The department
15 shall confer with the joint standing committee of the Legislature
16 having jurisdiction over natural resource matters at least one
17 week before the public hearing on any rule that proposes a
18 threshold lower than 1,000,000 gallons per calendar year.

19 3. Status report. On or before February 1, 1996, the
20 commissioner shall submit a status report to the Governor and to
21 the joint standing committee of the Legislature having
22 jurisdiction over natural resource matters on the following
23 matters:

24 A. The status of United States Environmental Protection
25 Agency approval, disapproval, review or comment on the
26 State's volatile organic compound 15% reduction plan,
27 including inventory of sources and credits for proposed
28 control programs;

29 B. The status of the State's request to be exempt from the
30 auto emissions inspection program requirement;

31 C. The status of the State's requests for redesignation of
32 air planning areas; and

33 D. A description of federal regulations for which the
34 United States Environmental Protection Agency will allow the
35 State to take credit in its volatile organic compound 15%
36 reduction plan.

37 4. Conference with legislative committee. The Governor
38 shall confer with the joint standing committee of the Legislature
39 having jurisdiction over natural resource matters no later than
40 March 1, 1996 to discuss the commissioner's report submitted
41 under subsection 3 and to review whether the Stage II vapor
42 recovery system rule should be amended or repealed.

5. Controls needed for 15% reduction plan. If the State receives written notice from the United States Environmental Protection Agency disapproving the State's 15% reduction plan, or otherwise disallowing reduction credits necessary for approval, the board shall adopt rules to provide additional controls of emissions of volatile organic compounds as needed to meet the 15% reduction plan requirement, which may include revision or readoption of the Stage II vapor recovery system rule. The department shall confer with the joint standing committee of the Legislature having jurisdiction over natural resource matters before it proposes revision or readoption of a Stage II vapor recovery system rule at a threshold lower than 1,000,000 gallons per year.'

Further amend the bill by inserting after section 15 the following:

Sec. 16. Legislation authorized. If the Department of Environmental Protection or the Governor is required to confer with the Joint Standing Committee on Natural Resources pursuant to the Maine Revised Statutes, Title 38, section 585-E, the Joint Standing Committee on Natural Resources is authorized to report out a committee bill relating to the requirement for the installation of Stage II vapor recovery systems, if a majority of the committee votes to report out a bill.'

Further amend the bill by striking out all of section 16 and inserting in its place the following:

Sec. 16. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 38, section 413, subsection 2-G applies retroactively to October 13, 1993. That section of this Act that enacts Title 38, section 488, subsection 16 applies retroactively to September 14, 1993. Those sections of this Act that amend Title 38, section 488, subsection 10 and enact Title 38, section 488, subsection 17 apply retroactively to any residential subdivision or amendment or revision to any residential subdivision approved by the Environmental Improvement Commission, the Commissioner of Environmental Protection, the Board of Environmental Protection, the Department of Environmental Protection, the Maine Land Use Regulation Commission or any municipal planning board on or after May 9, 1970.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

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FISCAL NOTE

The Board of Environmental Protection within the Department of Environmental Protection will incur some minor additional costs to modify certain board-adopted shoreland zoning ordinances and to adopt certain rules pertaining to the installation of vapor recovery systems. These costs can be absorbed within the board's existing budgeted resources.'

STATEMENT OF FACT

This amendment, the majority report of the Joint Standing Committee on Natural Resources, removes language exempting discharges to water during cleanup of an oil or hazardous waste spill from licensing only if applicable water quality laws and standards are maintained during the cleanup. The amendment also exempts bulldozing or displacement of sediment within a lobster pound from the permit requirement under the natural resources protection laws, exempts certain roads and structures from the 3-acre development threshold under the site location of development laws and exempts roundwood and lumber storage yards from review under the site location of development laws, provided erosion and sedimentation control standards and storm water management standards are met.

The amendment authorizes the Board of Environmental Protection to adopt rules requiring installation of Stage II vapor recovery equipment in gasoline stations in Cumberland, York and Sagadahoc counties. The requirement may be applied to stations that sell less than 1,000,000 gallons of gasoline in a calendar year only if information gathered by the Department of Environmental Protection indicates that a 1,000,000 gallon threshold will not yield sufficient credits to meet the 15% volatile organic compound reduction plan requirement of the federal Clean Air Act. The department is required to confer with the legislative committee of jurisdiction before the public hearing on any rule proposed at a threshold lower than 1,000,000 gallons.

The amendment requires the Commissioner of Environmental Protection to report to the Joint Standing Committee on Natural Resources by February 1, 1996 on several federal Clean Air Act issues, including the status of the State's 15% reduction plan, the State's efforts to be exempt from auto emissions inspection requirements, the State's efforts to redesignate certain air planning areas and a review of federal control programs for which the State may take credit. The Governor is to confer with the

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committee by March 1, 1996 to review the need for Stage II vapor
recovery controls. A majority of the committee is authorized to
report out a committee bill when the department or the Governor
confers with the committee.

If the State's 15% plan is disapproved or credits are
disallowed, the board is directed to adopt rules to provide
additional controls. If the plan includes revision or readoption
of a Stage II vapor recovery rule at a threshold lower than
1,000,000 gallons per calendar year, the department must confer
with the legislative committee of jurisdiction.

The amendment also adds a fiscal note to the bill.