

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

108

L.D. 1397

DATE: 6/20/95

(Filing No. H- 553 )

MINORITY  
NATURAL RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

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

COMMITTEE AMENDMENT "B" 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 MRSA §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.'

**COMMITTEE AMENDMENT**

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

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

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

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

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

22 **17. Structure area within residential lots.** Buildings,  
24 roads, paved areas or areas to be stripped or graded and not  
revegetated that are located within lots used solely for  
26 single-family residential housing are not counted toward the  
3-acre threshold described in section 382, subsection 6,  
28 paragraph B for purposes of determining jurisdiction. A road  
associated only with such lots is also not counted toward the  
30 3-acre threshold. For purposes of this subsection,  
32 "single-family residential housing" does not include multi-unit  
housing such as condominiums and apartment buildings.

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

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

50 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 MRSA §585-E is enacted to read:

**§585-E. Gasoline station vapor recovery requirements**

1. Definition. As used in this section, "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. Stage II vapor recovery system rule prohibited. The board may not adopt a rule requiring installation of Stage II vapor recovery systems in any gasoline station in the State.'

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:

**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. These costs can be absorbed within the board's existing budgeted resources.

The prohibition on any rule requiring the installation of Stage II vapor recovery systems will jeopardize the receipt of federal highway funds for failure to comply with certain provisions of the federal Clean Air Act, unless alternative ozone precursor controls are adopted.'

**STATEMENT OF FACT**

This amendment, the minority 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

COMMITTEE AMENDMENT "B" to H.P. 989, L.D. 1397

2 pound from the permit requirement under the natural resources  
3 protection laws, exempts certain roads and structures from the  
4 3-acre development threshold under the site location of  
5 development laws and exempts roundwood and lumber storage yards  
6 from review under the site location of development laws, provided  
7 erosion and sedimentation control standards and storm water  
8 management standards are met.

9  
10 The amendment prohibits the Board of Environmental  
11 Protection from adopting a rule requiring installation of Stage  
12 II vapor recovery equipment in any gasoline station in the State.

The amendment also adds a fiscal note.