

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2046

H.P. 1430

House of Representatives, December 21, 2007

An Act Concerning Certain Excavations

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 19, 2007. Referred to the Committee on Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FLOOD of Winthrop.
Cosponsored by Senator RAYE of Washington and
Representatives: GILES of Belfast, SAVIELLO of Wilton.

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

2 **Sec. 1. 38 MRSA §480-Q, sub-§25**, as amended by PL 2005, c. 330, §15, is
3 further amended to read:

4 **25. Existing agricultural fields and pastures.** Maintenance, but not enlargement,
5 of agricultural fields and pastures ~~in~~ existence on September 1, 2002 that are adjacent to a
6 river, stream or brook not regulated by a municipality under chapter 3, subchapter 1,
7 article 2-B; and

8 **Sec. 2. 38 MRSA §480-Q, sub-§26**, as enacted by PL 2005, c. 330, §16, is
9 amended to read:

10 **26. Overboard wastewater system.** Installation, maintenance or removal of a
11 licensed overboard discharge treatment system, including the outfall pipe, if:

- 12 A. Erosion control measures are taken to prevent sedimentation of the water;
- 13 B. Effects of construction activity on the protected natural resource are minimized;
14 and
- 15 C. The activity is approved by the department as provided in the department's rules
16 concerning overboard discharges adopted pursuant to section 414-A; and

17 **Sec. 3. 38 MRSA §480-Q, sub-§27** is enacted to read:

18 **27. Certain mining excavations within high-value and moderate-value inland**
19 **wading and waterfowl habitat.** A mining excavation for borrow, clay, topsoil, silt or
20 **rock that is located within high-value or moderate-value inland wading and waterfowl**
21 **habitat and was authorized under Article 6, 7 or 8-A on or before June 8, 2006. For**
22 **purposes of this subsection, "excavation" does not include expansion beyond the area**
23 **authorized on or before June 8, 2006.**

24 **Sec. 4. 38 MRSA §490-D, sub-§5-A**, as amended by PL 2007, c. 364, §2, is
25 further amended to read:

26 **5-A. Protected natural resources.** A natural buffer strip must be maintained
27 between the working edge of an excavation and a river, stream, brook, great pond or
28 coastal wetland as defined in section 480-B. A natural buffer strip must also be
29 maintained between the working edge of an excavation and certain freshwater wetlands
30 as defined in section 480-B and having the characteristics listed in paragraph B.
31 Excavation activities conducted within 100 feet of a protected natural resource must
32 comply with the applicable permit requirement under article 5-A. The width
33 requirements for natural buffer strips are as follows.

- 34 A. A natural buffer strip at least 100 feet wide must be maintained between the
35 working edge of the excavation and the normal high water line of a great pond
36 classified as GPA, a river flowing to a great pond classified as GPA or a segment of
37 the Kennebec River identified in Title 12, section 403, subsection 7.

1 B. A natural buffer strip at least 75 feet wide must be maintained between the
2 working edge of the excavation and any other water body, river, stream, brook,
3 coastal wetland or significant wildlife habitat contained within a freshwater wetland
4 or a freshwater wetland consisting of or containing:

5 (1) Under normal circumstances, at least 20,000 square feet of aquatic
6 vegetation, emergent marsh vegetation or open water, except for artificial ponds
7 or impoundments; or

8 (2) Peat lands dominated by shrubs, sedges and sphagnum moss.

9 For purposes of this subsection, the width of a natural buffer strip is measured from the
10 upland edge of floodplain wetlands; if no floodplain wetlands are present, the width of
11 the natural buffer strip is measured from the normal high water mark of a great pond,
12 river, stream or brook or the upland edge of a freshwater or coastal wetland. The
13 department may ~~not grant a variance from this subsection~~ allow excavation to occur
14 under this subsection provided a permit is obtained pursuant to article 5-A.

15 SUMMARY

16 The bill clarifies that new protections to waterfowl wading habitat apply to new
17 excavations and do not apply to gravel pits and quarries authorized by the Department of
18 Environmental Protection prior to June 8, 2006.

19 The bill also amends the performance standards for gravel pits and quarries to clarify
20 that the department may allow excavation if a permit has been obtained under the Natural
21 Resources Protection Act.