

MAINE STATE LEGISLATURE

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L.D. 1846

Date: 3-26-12

(Filing No. S-485)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
SENATE
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ **A** ” to S.P. 641, L.D. 1846, “Resolve, Directing the Department of Environmental Protection To Adopt Rules Pertaining to Petroleum Storage and Gravel Pits”

Amend the resolve by striking out everything after the title and before the summary and inserting the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, rules of the Department of Environmental Protection do not allow aboveground oil storage tanks in significant sand and gravel aquifers; and

Whereas, a majority of gravel pits in the State are located in significant sand and gravel aquifers and therefore gravel pit operators are not permitted to fuel heavy equipment on site without undertaking an onerous and complicated process or using temporary fueling trucks, which are less protective of the environment; and

Whereas, immediate enactment of this legislation will facilitate quick adoption of an amended department rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Department of Environmental Protection; adopt emergency rule; aboveground oil storage tanks. Resolved: That, notwithstanding Public Law 2007, chapter 569, section 7, the Commissioner of Environmental Protection shall adopt an emergency rule pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2 to allow aboveground oil storage tanks that are used for the supply of diesel fuel to be located in excavations for borrow, clay, topsoil or silt and quarries that are in significant sand and gravel aquifers. An emergency rule adopted pursuant to this section is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A. Following adoption of

COMMITTEE AMENDMENT

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1 the emergency rule, the commissioner shall complete nonemergency routine technical
2 rulemaking to allow aboveground oil storage tanks that are used for the supply of diesel
3 fuel to be located in excavations for borrow, clay, topsoil or silt and quarries that are in
4 significant sand and gravel aquifers. Subsequent amendments to the rule are major
5 substantive rules and must be adopted by the Board of Environmental Protection in
6 accordance with Title 38, section 341-H.

7 **Emergency clause.** In view of the emergency cited in the preamble, this
8 legislation takes effect when approved.'

9 **SUMMARY**

10 This amendment adds an emergency preamble and emergency clause and replaces the
11 resolve. It provides that the emergency rule is a routine technical rule and provides for
12 nonemergency routine technical rulemaking following adoption of the emergency rule. It
13 also provides that subsequent amendments to the rule are major substantive rules. Under
14 current law, Public Law 2007, chapter 569, subsection 7, the rule is a major substantive
15 rule.

16 **FISCAL NOTE REQUIRED**

17 (See attached)



125th MAINE LEGISLATURE

LD 1846

LR 2807(02)

**Resolve, Directing the Department of Environmental Protection To Adopt Rules Pertaining to
Petroleum Storage and Gravel Pits**

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

The bill provides that the emergency rule and the non-emergency rule following adoption of an emergency rule allowing aboveground oil storage tanks to be located in significant sand and gravel aquifers are routine technical rules rather than major substantive rules, and that subsequent amendments to the rule are major substantive rules. The use of the routine rulemaking processes in these instances will reduce the costs of rulemaking to the Department of Environmental Protection. Any additional costs to adopt these rules related to above-ground oil storage tanks can be absorbed by the Department of Environmental Protection within existing budgeted resources.