

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI

GOVERNOR

DAVID P. LITTELL

COMMISSIONER

January 8, 2008

Hon. John L. Martin, Senate Chair  
Hon. Theodore S. Koffman, House Chair  
Joint Standing Committee on Natural Resources  
100 State House Station  
Augusta, Maine 04333

RE: Report on recommendations concerning the regulation of individuals and companies that conduct blasting operations as required by PL 2007, ch. 297, *An Act Concerning Blasting Near Residential Areas*

Dear Senator Martin, Representative Koffman and Members of the Committee:

Public Law 2007, chapter 297, section 12 required the Department of Environmental Protection (DEP), the Department of Public Safety (DPS), and the Office of the State Fire Marshal to study methods for the regulation of individuals and companies that conduct blasting operations, and to submit a report including any legislation necessary for implementing the recommendations by January 15, 2008.

Since this reporting requirement was put in place, it has been determined that there is already sufficient statutory authority for the development of standards regarding blasting. The Commissioner of DPS is required to adopt rules (which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A) necessary for the proper oversight of explosives and the enforcement of the provisions of 25 M.R.S.A. chapter 318, Explosives and Flammable Liquids.<sup>1</sup>

The Office of the State Fire Marshal within DPS is required to enforce rules adopted by DPS that address the storage, transport and use of explosives.<sup>2</sup>

A stakeholder group was convened with members from industry, the State Fire Marshal and the DEP. The stakeholder group agreed that due to the limited number of potential permittees, the development of a certification program for blasters may not be feasible at this time. The Committee may wish to have a representative of the Fire Marshall's Office update you on their existing regulatory process and the resources needed to administer a new certification program for blasters.

Please let me know if you have any other questions or concerns on this matter.

Sincerely,

Andrew Fisk, Director  
Bureau of Land & Water Quality

cc. Sen. Elizabeth Mitchell, Rep. Kim Silsby, Rep. Patsy Crockett, Fire Marshall

<sup>1</sup> See 25 M.R.S.A. § 2472(1).

<sup>2</sup> See 25 M.R.S.A. § 2396

January 15, 2008

Honorable John Martin, Senate Chair  
Honorable Ted Koffman, House Chair  
Committee on Natural Resources  
100 State House Station  
Augusta, Maine 04333-0100

**RE: Public Law 2007 Chapter 297 – Agency Study of Blasting Operations**

Dear Senator Martin & Representative Koffman;

Last year, the Committee on Natural Resource included language in LD 895, which was passed into Public Law Chapter 297, directing the Department of Environmental Protection, the Department of Public Safety and the Office of Office of State Fire Marshal to:

*“(S)udy methods for the regulation of individuals and companies that conduct blasting operations, including certification and requirements for best management practices. The agencies shall submit a report, including recommendations and any legislation necessary to implement the recommendations, to the Joint Standing Committee on Natural Resources by January 15, 2008.”*

Under current law, 25 MRSA §2473, the Department of Public Safety is authorized to issue a permit under certain conditions to allow a person to “*possess, use, store or transport explosives.*” One of the conditions set by statute requires the permit applicant pass a written examination administered by the department. 62 permits have been issued to date; 14 in 2006, but no written examinations have ever been administered by the department.

Last session during consideration of LD 597, Resolve, to Regulate Blasting Operators, the Committee on Business Regulation and Economic Development heard testimony the Department of Public Safety stated that it does not have personnel to develop and administer any written examination or certification process. The Committee also heard from both blasters as well as representatives from the aggregate and construction industries supporting written examinations to certify competency of individual blasters. LD 597 received a Unanimous Ought Not to Pass Report from the Committee.

On November 27, 2007, the Department of Public Safety (the department) convened a meeting with the Department of Environmental Protection (DEP), Office of State Fire Marshal (OSFM), several blasters that hold permits and representatives of Maine’s aggregate processing and construction industries that rely on blasting. Discussion focused on the legislative directive including various models for regulation of blasters including licensure, certification and registration. The small number of permittees practically excludes the creation of a licensure program similar to those that exists for some other state regulated professions.

Industry representatives suggest that written examination for competency certification of individual blaster utilizing on-line testing services of a third-party administer may be practical as

a fee based program. Initially investigations suggest that other states may use this approach and competency testing based upon nationally and professionally recognized standards may already be available. Furthermore, both blasters and users have developed internal best management practices that may be suitable as the basis to develop statewide guidelines.

While development of a fee-based written examination to certify competency for individual blasters and statewide guidelines for best management practices are supported by the department, the DEP, the blasters and industries reliant on blasting, the lack of resources and expertise within the department presents a significant obstacle. Nonetheless, the department believes these efforts are worthwhile and should be pursued.

The Office of State Fire Marshal, without adding staff would be able to collect information from the industry. The information would be third party testing and certification that already exists in the industry already. The individuals using explosives would test and be certified through these third party organizations and submit their certifications to the Office of State Fire Marshal for approvals.

If the Office of State Fire Marshal was required to test and certify blasters this would require added personnel and training.

Respectfully Submitted,

DPS, DEP,

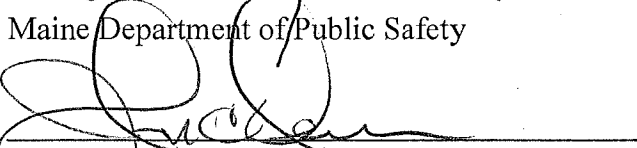
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Maine Department of Environmental Protection



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Maine Department of Public Safety



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Office of State Fire Marshal