

MAINE STATE LEGISLATURE

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**STATE OF MAINE
117TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
NATURAL RESOURCES**

JUNE 1996

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Sen. W. John Hathaway
Sen. Richard P. Ruhlin*

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**ONE HUNDRED SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION**

***Summary Of Legislation Before The Joint Standing Committees
June 1996***

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER</i>	<i>Bill carried over to Second Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Not signed by Governor within 10 days</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

8. Allows DEP to issue an advance ruling on whether a proposed project meet the site law's traffic requirements;
9. Adds a section requiring the Department of Environmental Protection to develop by rule a process for granting a planning permit under the site law to allow for prepermitting of projects;
10. Amends the standards under the site law for soil type and erosion;
11. Repeals the exemption for certain residential subdivisions;
12. Directs the Land and Water Resources Council to form a committee to develop recommendations concerning legislation required to address the storage, use and handling of petroleum products, hazardous materials and certain other substances with the potential to contaminate groundwater. The Department of Environmental Protection in concert with others is directed to develop a program to minimize the potential for unreasonable adverse impacts on the availability of groundwater to support existing uses and present recommendations concerning any statutory requirements to the Land and Water Resources Council. Recommendations are due to the Legislature by January 10, 1998;
13. Establishes standards outside the site law for controlling erosion and sedimentation from any project that involves filling, displacing or exposing soil; it requires a person performing the project to take steps to prevent unreasonable erosion beyond the project site or into a protected natural resource, and requires a person to install and maintain erosion control and stabilization measures; and
14. Establishes a new permit requirement to regulate storm water runoff created by certain types of projects. The DEP will adopt stormwater quantity and quality standards for projects subject to the law, which will include projects that create more than 5 acres of disturbed area, 1/2 acre of impervious area in the watershed of a waterbody at risk from development or 1 acre of impervious area in other areas. The department will be required to list watersheds of bodies of water most at risk. Stormwater quality standards will only apply in certain geographic areas, which will also be defined by DEP by rule. All rules relating to stormwater permitting are "major substantive" rules and will be reviewed by the Legislature before becoming effective. Certain types of projects are exempt from this permitting requirement, including: certain forest management activities; single-family residence construction or expansion projects; permitted waste facilities, and certain transportation projects subject to storm water standards to be developed by the Department of Environmental Protection and the Department of Transportation or the Maine Turnpike Authority.

The law takes effect July 1, 1997, except that rulemaking is authorized beginning 90 days after adjournment of the 117th, Second Session (July 4, 1996).

LD 1854

An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries

PUBLIC 700

Sponsors(s)

Committee Report

Amendments Adopted

OTP-AM MAJ
 ONTP MIN

H-872

Current law establishes performance standards for certain medium sized borrow pits (internally drained gravel or sand excavations between 5 and 30 acres), and allows a person to operate such a

pit without obtaining a permit, provided they notify the department of their operation and comply with the performance standards. All other mining activities regulated by the State require a permit under the Site Location of Development laws. LD 1854 proposed to allow most regulated mining activities to proceed under a notification/performance standards system, rather than a prior permitting system, except metallic mineral mining and peat mining. Metallic mineral mining would still require a site law permit and peat mining would be regulated by the natural resources protection laws.

To achieve this change in regulation, the bill proposed to change the current law regarding medium sized borrow pits by:

1. Amending the applicability section of the law to include excavations for topsoil, clay or silt;
2. Allowing persons with a valid site location of development law permit for mining activities to file a notice of intent to comply with the performance standards rather than continue under the permit;
4. Authorizing a variance to allow excavation into the seasonal high water table. The owner or operator of an excavation would be required to replace a public or private drinking water supply if the excavation activities impact the drinking water supply;
5. Authorizing a variance to allow externally drained excavations;
6. Making the traffic standards the same as those under the site location of development laws, effective January 1, 1997;
7. Authorizing a variance from the noise standards adopted by the Board of Environmental Protection;
8. Allowing the department to require financial assurance for a variance application for a larger working pit;
9. Altering the variance process to include requirements for a public information meeting, public notice and an appeal process; and
10. Adding performance standards for erosion control for excavations for clay, topsoil or silt less than 5 acres in size.

The bill also proposed to create a separate article to regulate quarries, where rock is removed by underground blasting. The notification requirements and performance standards are the same as for borrow pits and other excavations described above. Additional standards are imposed on the blasting activities.

Committee Amendment "A" (H-872) proposed to allow a municipality in which a proposed excavation is located, which believes that the excavation may cause unreasonable adverse impacts, to submit comments to the Department of Environmental Protection and requires the department to respond to the comments. It also requires an owner or operator of an excavation to mail notice to the municipality and to abutting property owners at least 7 days prior to mailing notice to the regulator and commencing excavation activity.

This amendment also proposed to add language specifying that rules relating to variance standards and reclamation requirements are major substantive rules and that the variance standard rules must be provisionally adopted by January 1, 1997. It also proposed that variances are not available until March 1, 1997, except to those owners or operators who filed a notice of intent to comply prior to the effective date of this legislation.

Finally, the amendment proposed to change the effective date of new traffic standards to coincide with the effective date of the site law bill and to clarify that public informational meetings are required for variances.

Enacted law summary

Current law establishes performance standards for certain medium sized borrow pits (internally drained gravel or sand excavations between 5 and 30 acres), and allows a person to operate such a pit without obtaining a permit, provided they notify the department of their operation and comply with the performance standards. All other mining activities regulated by the State require a permit under the Site Location of Development laws. Public Law 1995, chapter 700 amends the law to allow most regulated mining activities to proceed under a notification/performance standards system, rather than a prior permitting system, except metallic mineral mining and peat mining. Metallic mineral mining will still require a site law permit and peat mining will be regulated by the natural resources protection laws. The law also changes some of the performance standards.

Current law regarding medium sized borrow pits is changed by:

1. Amending the applicability section of the law to include excavations for topsoil, clay or silt;
2. Requiring excavation owners or operators to send notice to abutting property owners at least 7 days prior to submitting notice to regulators.
3. Allowing persons with a valid site location of development law permit for mining activities to file a notice of intent to comply with the performance standards rather than continue under the permit;
4. Authorizing a variance to allow excavation into the seasonal high water table. The owner or operator of an excavation would be required to replace a public or private drinking water supply if the excavation activities impact the drinking water supply;
5. Authorizing a variance to allow externally drained excavations;
6. Making the traffic standards the same as those under the site location of development laws, effective July 1, 1997;
7. Authorizing a variance from the noise standards adopted by the Board of Environmental Protection;
8. Allowing the department to require financial assurance for a variance application for a larger working pit;
9. Altering the variance process to include requirements for a public information meeting, public notice and an appeal process; and
10. Adding performance standards for erosion control for excavations for clay, topsoil or silt less than 5 acres in size; and
11. Allowing a municipality in which a proposed excavation is located to submit comments to the Department of Environmental Protection if it believes that the excavation may cause unreasonable adverse environmental impacts and requires the department to respond to the comments.

The law also creates a separate article to regulate quarries, where rock is removed by underground blasting. The notification requirements and performance standards are the same as for borrow pits and other excavations described above. Additional standards are imposed on the blasting activities.

Rules relating to the variance standards and reclamation requirements are major substantive rules and the variance standard rules must be provisionally adopted by January 1, 1997. Variances are not available until March 1, 1997, except to those owners or operators who filed a notice of intent to comply prior to the effective date of this law.

LD 1858 An Act Regarding Agricultural Irrigation Ponds

PUBLIC 659
EMERGENCY

Sponsors(s)
KIEFFER
DONNELLY

Committee Report
OTP-AM

Amendments Adopted
S-531

LD 1858 proposed to establish a general permit under the Natural Resources Protection Act for alteration of a stream to construct an irrigation pond. The general permit would be deemed approved 30 days from the date an application was accepted for processing by the department, unless the applicant is notified that legal requirements have not been met. When eligibility criteria and specified standards are met, the general permit would replace the requirement for an individual permit under the Natural Resources Protection Act.

This bill also proposed to require the Department of Environmental Protection to report back to the joint standing committee of the Legislature having jurisdiction over natural resource matters concerning the effectiveness of the new general permit.

Committee Amendment "A" (S-531) proposed to add a provision to correct a technical error in the designation of imperiled natural communities and to add a provision to the bill to remove the 10-acre limit on the size of farm and fire ponds that are exempted from permitting under the site location of development laws.

Enacted law summary

Public Law 1995, chapter 659 establishes a general permit under the Natural Resources Protection Act for alteration of a stream to construct an irrigation pond. The general permit is deemed approved 30 days from the date an application is accepted for processing by the department, unless the applicant is notified that legal requirements have not been met. When eligibility criteria and specified standards are met, the general permit replaces the requirement for an individual permit under the Natural Resources Protection Act.

This law also requires the Department of Environmental Protection to report back to the joint standing committee of the Legislature having jurisdiction over natural resource matters concerning the effectiveness of the new general permit.