

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act Concerning Certain Excavations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## SUMMARY

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

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