

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 Blasting near Residential Areas

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

Sec. 1. 38 MRSA §353-A, sub-§10 is enacted to read:

10. Fees for rock crusher general permit. Rock crushers regulated under a general permit from the department are subject to an annual fee not to exceed the minimum license fee established under subsection 4.

Sec. 2. 38 MRSA §484, sub-§9 is enacted to read:

9. Blasting. Blasting will be conducted in accordance with the standards in section 490-Z, subsection 14 unless otherwise approved by the department.

Sec. 3. 38 MRSA §490-B, first ¶, as enacted by PL 1995, c. 700, §22, is amended to read:

Sections 490-A to 490-K apply to any excavation for borrow, clay, topsoil or silt, whether alone or in combination, ~~if the total excavated area on a parcel is 5 or more acres, including reclaimed and unreclaimed areas, and section~~ if the total excavated area on a parcel is 5 or more acres or the total excavated area on adjacent parcels under a common owner or operator is 5 or more acres. Section 490-M applies to a total excavated area of less than 5 acres. This article applies if the excavation is located in whole or in part within an organized area of this State.

Sec. 4. 38 MRSA §490-C, first ¶, as amended by PL 2005, c. 158, §3, is further amended to read:

Except as provided in section 484-A, a person intending to create or operate an excavation under this article must file a notice of intent to comply before the total area of excavation on the parcel equals 5 or more acres excavated since January 1, 1970. Both reclaimed and unreclaimed areas are added together in determining whether this 5-acre threshold is met. A notice filed under this section must be complete, submitted on forms approved by the department and mailed to the municipality, the department, the Maine Historic Preservation Commission and each abutting property owner. The notice that is mailed to the municipality and each abutting property owner must be ~~mailed~~ sent by certified mail at least 7 days prior to filing the notice of intent to comply with the regulator. The notice that is mailed to the regulator must be sent by certified mail, return receipt requested. Upon receiving the postal receipt, the owner or operator may commence operation. The municipality where the proposed excavation is located may submit comments to the department if the proposed excavation may pose an unreasonable adverse impact under the standards in section 490-D. Within 30 days of receipt of the notice of intent to comply, the department must respond to the comments made by the municipality. Abutting property owners, the Maine Historic Preservation Commission or other interested persons may submit comments directly to the department.

Sec. 5. 38 MRSA §490-D, sub-§3, ¶C, as amended by PL 1995, c. 700, §24, is further amended to read:

C. Separation must be maintained between any ~~excavation~~affected land and any public drinking water source existing prior to the filing of a notice of intent to comply under section 490-C as follows:

- (1) For systems serving a population of 500 persons or less, the minimum separation must be 300 feet;
- (2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet;
- (3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and
- (4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet.

The department may grant a variance from the provisions of this paragraph upon consultation with the public water supply affected by the excavation. The department may not grant a waiver from the provisions of paragraph A, B or D.

Sec. 6. 38 MRSA §490-D, sub-§3, ¶G, as enacted by PL 1995, c. 700, §24, is amended to read:

G. In the event of excavation below the seasonal high water table, a 300-foot separation must be maintained between the permitted limit of excavation and any predevelopment private drinking water supply, and a ~~1000-foot~~1,000-foot separation must be maintained between the permitted limit of excavation and any predevelopment public drinking water source or area previously designated for potential use as a public drinking water source by a municipality or private water company.

Sec. 7. 38 MRSA §490-D, sub-§16 is enacted to read:

16. Blasting. Blasting must be conducted in accordance with the standards in section 490-Z, subsection 14 unless otherwise approved by the department.

Sec. 8. 38 MRSA §490-X, first ¶, as enacted by PL 1995, c. 700, §35, is amended to read:

This article applies to any quarry ~~that, including reclaimed and unreclaimed areas, if the quarry is more than one acre in size, the total excavated area including reclaimed and unreclaimed areas, adjacent parcels under a common owner or operator is more than one acre in size or at which~~ underground production blasting is proposed.

Sec. 9. 38 MRSA §490-Y, first ¶, as amended by PL 2005, c. 158, §10, is further amended to read:

Except as provided in section 484-A, a person intending to create or operate a quarry under this article must file a notice of intent to comply before the total area of excavation of rock or overburden on the parcel exceeds one acre. Both reclaimed and unreclaimed areas are added together in determining whether this one-acre threshold is exceeded. A notice filed under this section must be complete, submitted on forms approved by the department and mailed to the municipality where the quarry is located, the department, the Maine Historic Preservation Commission and each abutting property owner. The notice

that is mailed to the municipality and each abutting property owner must be mailed ~~sent~~ by certified mail at least 7 days before the notice of intent to comply is filed with the regulator. The notice that is mailed to the department must be sent by certified mail, return receipt requested. Upon receiving the postal receipt, the owner or operator may commence operation of the quarry. The municipality where the proposed quarry is located may submit comments to the department if the proposed quarry may pose an unreasonable adverse impact under the standards in section 490-Z. Within 30 days of receipt of the notice of intent to comply, the department shall respond to the comments made by the municipality. Abutting property owners, the Maine Historic Preservation Commission or other interested persons may submit comments directly to the department.

Sec. 10. 38 MRSA §490-Z, sub-§14, ¶N is enacted to read:

N. If any blasting activity exceeds the standards in this subsection, the department must be notified within 48 hours of the blast event. Notification must include the name of the blasting operator, the location, date and time of the blasting event and a description of the specific occurrence that is in noncompliance with this subsection. Use of explosives at the quarry may be suspended by the department until the cause of the noncompliance is identified and appropriate steps are implemented to reduce, prevent or eliminate reoccurrence.

Sec. 11. 38 MRSA §490-Z, sub-§14, ¶O is enacted to read:

O. Prior to blasting, the owner or operator shall develop and implement a plan that provides an opportunity for prior notification of a planned blast for all persons located within 1,000 feet of the blast site. Notification may be by telephone, in writing, by public notice in a newspaper of general circulation in the area affected or by other means identified in the plan. The plan must be in writing and available for inspection by the department.

Sec. 12. Agency study. The Department of Environmental Protection, the Department of Public Safety and the Office of the State Fire Marshal, referred to in this section as "the agencies," shall study 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. The Joint Standing Committee on Natural Resources may submit legislation related to the report to the Second Regular Session of the 123rd Legislature.

Effective September 20, 2007