

MEMORANDUM

TO: The Board of Environmental Protection

FROM: Mark Stebbins, Bureau of Land & Water Quality, Augusta

RE: Adoption of amendments to Chapter 378 Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay & Silt and the Performance Standards for the Storage of Petroleum Products

DATE: February 15, 2007

Statute and Rule Reference:

38 M.R.S.A. Section 341-D provides the Board of Environmental Protection with the authority to adopt, amend and repeal rules as necessary for the conduct of its business. This rulemaking for Chapter 378 is part of normal program maintenance under the Performance Standards for Excavations, 38 M.R.S.A. §490-E and the Performance Standards for Quarries, 38 M.R.S.A. §490-CC

Location / Applicability:

The proposed rule only applies to the organized areas of the State and mining operations licensed under the Performance Standards for Excavations, 38 M.R.S.A. §490-E and the Performance Standards for Quarries, 38 M.R.S.A. §490-CC.

This section of rule was designated by the Legislature as routine technical (see P.L. 2005 Chapter 602). Updates to the rule have a sunset provision of March 1, 2007 as mandated by the law. In addition, the change is minor in nature and meets the definition of “routine technical” under the Maine Administrative Procedures Act, 5 M.R.S.A. Section 8001.

The amendments to Chapter 378 that I am asking you to adopt are necessary to administer the gravel pit program due to changes in the Department’s stormwater rules. The change to Chapter 378 is suggested to eliminate the discrepancies between the standards contained under the Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay & Silt and the Performance Standards for the Storage of Petroleum Products and those contained in the Stormwater Management Law. The proposed amendments ensure consistency and predictability between the programs.

Description:

The public gave comments. Specifically, Maine Aggregate Association (MAA) supported the rule as written. Gene Weldon, Lane Construction Corporation, had questions concerning State Fire Marshal’s Office requirements for above ground storage tanks (AST) associated with asphalt burners and the redundancy of having spills kits required for each refueling vehicle when one is already required to be located at the site. A few minor changes were made in response to comments.

Department Recommendation:

The department recommends that the Board adopt the amendments to Chapters 378 as revised in response to public comment.

Estimated Time of Presentation:

15 minutes.