

Quarries and Blasting Assaulted at Legislature

As reported in the winter edition, a small residential community located in Augusta pushed legislation for more stringent regulation of gravel pits and quarries. A myriad of changes to current laws were debated. The most contentious focused on further strictures on blasting, but there were a number of less debated issues of importance to the aggregate industry. Here's a summary list of issue considered this winter by the Maine State Legislature and discussed in this newsletter:

- State licensing of blasters,
- Changes to specific blasting standards including increased setbacks, more monitoring & reporting, limits on hours of operation, presumption of liability for blasting activities, and prohibition of blasting near

DEP Public Workshop on Statewide General Permit for Rock Crushers Air Emission License

**September 18, 2007,
9 AM to 12 PM
Augusta Civic Center**

See Story on Page 4

residential areas;

- Increased regulating of construction blasting;
- Modifications to applicability, general definitions, notification & variance requirements, and standards of under Maine's excavation and quarry regulations;
- Permissive language to enable the DEP to adopt a Statewide General Permit for air emission licenses for Rock Crushers.

MAA opposed and was successful in defeating the most extreme proposals such as banning blasting in residential areas, increasing setbacks for quarries to 500 feet from property lines and 1,500 feet from adjacent structures, increasing the presumption of liability for alleged damage associated with blasting activity, and increasing setbacks from the Kennebec River retroactively. However, the DEP and some legislators were intent on making changes and the final legislation represented a compromise between legislators, the Maine DEP, members of the public and representatives of Maine's aggregate industry.

LD 895, Sponsored by Senator Mitchell, was significantly

amended, then enacted and passed into law (PL 2007 Chapter 297) and included:

- Projects Licensed under the Site Location of Developments laws that are required to submit a blast plan must, unless approved by the DEP, meet the blasting standards in the performance standards for quarries standards;
- Clarification that gravel pits or quarries 5 or more acres in size under a common ownership or operator even on different adjacent parcels are subject to the notification and performance standards of the law;
- Requiring notice to abutters be sent by certified mail;
- That setbacks between any excavation or quarry and any public drinking water source apply only to those existing prior to filing a notice⁴ of intent to comply;
- Requiring notification to the DEP within 48 hours if a blasting activity exceeds the blasting performance standards and authority to the DEP to suspend blasting until the cause of the reported nonconformance is identified and appropriate steps are taken to prevent repeat occurrences;
- Requiring a plan that provides opportunity for prior notification of a planned blast for anyone located within 1,000 feet

What's Inside...

Stop the Fatalities pg 3

Air Emissions Licenses for Rock Crushers pg 4

Do you need an SPPC Plan? pg 5

Equipment Operations Training At SMCC pg 6

(Continued on page 2)

MAA BOARD OF DIRECTORS

Larry Grondin, President
R.J. Grondin & Sons, Gorham

Paul Labbe, Vice President
Ray Labbe & Sons, Brunswick

Joel Wardwell, Treasurer
Bucksport Sand & Gravel, Bucksport

Don McFadden, Secretary
MAI Environmental, South Portland

Tim Walton
Cianbro Corporation, Pittsfield

Douglas Foglio
D.C. Foglio, Inc., Waterboro

Ron Dearborn
Dearborn Brothers Construction, Gorham

Francis R. Carroll
F.R. Carroll, Inc., Limerick

Cole Leavitt
Gorham Tractor & Equipment, Buxton

Tom Shaw
Gorham Sand & Gravel, Gorham

Ivan Hanscom,
Jonesboro Sand & Gravel, Machias

Eugene Weldon
Lane Construction, Bangor

Mike Marriner
Marriners Inc., Rockport

Jason Folsom
Owen J. Folsom, Inc., Stillwater

John Koris
Pike Industries, Lewiston

Parker Laite, Jr..
Sargent Corporation, Hampden

Daniel Shaw
Shaw Brothers Construction, Gorham

Shawn Frank
Sebago Tehcnics, Westbrook

All Directors are elected for one year terms that expire June 30, 2006. New directors will be elected at the Annual Meeting on April 25, 2007

(Continued from page 1)

Quarry & Blasting Legislation

- of the proposed blast site;
- Requiring the DEP, State Police and State Fire Marshall to study methods for the regulation of blasters including certification and best management practices and submit a report, including recommendation for legislation, to the Legislature by January 15, 2008, and finally,
 - Authorization for the DEP to collect the same annual fee for rock crushers for air emissions currently collected, but under a newly implemented statewide general permit for air emissions from rock crushers (See related story on page on page 4).

For more information contact MAA or the Maine DEP in Augusta, Molly Zogby at 287-5786, and in Portland, Mark Stebbins at 822-6367.

GOVERNMENT AT ITS BEST OR MAYBE NOT?

MAA longstanding position that statewide regulations should not be used to address local issues was generally persuasive. The most contentious issues were proposed in response to complaints by one small neighborhood against a specific operation, which are best be resolved at the municipal level. However, political expediency won over sound public policy.

The Legislature enacted LD 1590, “**An Act to Protect the Scenic Value of the Kennebec River**” also sponsored by Senator Elizabeth Mitchell’s (D-Kennebec). This legislation was introduced at the behest of the small Augusta neighborhood group that opposes a specific operation that operates legally under both state and City of Augusta permits. As introduced, the bill offered no specifics, only the objective stated in its title, but with a last minute amendment from Senator Mitchell, LD 1590 was amended to increase from 75 to 100 feet the setback for gravel pits and quarries located along the Kennebec River and would have applied to all excavations retroactively. Opposition from MAA forced deletion of the retroactive provision, but the 100-foot setback was passed. The increased setback applies only to new excavations.

Again, the purported objective of this legislation was to “*Protect the Scenic Value of the Kennebec River.*” However, considering that subdivisions, industrial developments, timber clearcuts, snow dumps and waste dumps have only a 75-foot setback from the Kennebec or any other river, and only gravel pits and quarries is the setback 100 feet, one might question the true intent.

We often hear politicians lament about low voter turn-out and public cynicism toward our government; do they really wonder why?



Twenty-Two Metal and Nonmetal Miners

Killed

Since January 2, 2007, twenty-six metal and non-metal miners have been killed. MSHA is requesting that you take time out to talk to your employees about the causes of these accidents. We need to take action now to STOP the Fatalities. Sharing information and discussing these recent accidents with the employees can help them to avoid these types of accidents in the future.

A significant contributing cause in most accidents is insufficient attention to the task at hand or multi-tasking. Employees must pay careful attention to what is going on around them and to the tasks they are performing.

More details on these accidents can be found at the MSHA website: www.msha.gov/fatals/fabm2007.asp.

Contractors and pit operators can help avoid these accidents by providing proper training to their employees. MSHA regulations require that people involved in Sand, Gravel & Surface Stone Mining Operations must have specific documented training. Mining Operations means mine development, drilling, blasting, extraction, milling, crushing,

screening, or sizing of materials at a mine. Which include many Maine Aggregate Association members.

Information on the specific training can be obtained from the MSHA's Education & Policy Development Department website or by contacting Cheryl Ramsey at the Small Mines Office, (724) 772-2333 or email: ramsey.cheryl@dol.gov.

MSHA has a long-established policy that communications with the agency about safety and health regulations or other safety and health related subjects shall not trigger enforcement action. This policy reflects the fact that the agency's objective is to provide assistance to help operators prevent and reduce workplace fatali-

ties, illnesses and injuries. This policy does not extend to inquiries that indicate the existence of imminent danger or a fatality or which constitute a report by a miner or a miners' representative indicating the existence of a violation of the Act or standards. Finally, it is also our policy that operator inquiries will not prevent regular inspections, as mandated by the Mine Act.

Mine operators and other inquirers should be made aware of the variety of compliance assistance and outreach products and services offered by the agency. These include: MSHA's webpage; education and training courses; technical support services; educational field services; and the services tailored for small mines.

So far this year the Small Mines Office has assisted 9 new mine operations. Most of these are the result of enforcement by MSHA inspectors.

This story was submitted by MAA Member Chip Laite of Sargent Corporation.

Visit Maine Aggregate Association Website
www.maineaggregate.org

**Members, want a link to your business on the
MAA website or got an interesting story?**

Email us at: info@maineaggregate.org

Program Streamlines Regulations for Rock Crusher Air Emission Licenses

Almost all rock crushers are required under federal and state laws to obtain an air emission license in order to operate. The process in Maine involves an application process, public notices, annual fees and renewal every five years. Any changes to the operation or additional rock crushers could include filing amendments with the DEP. The filing, processing and tracking of these individual permits is costly, time consuming and sometime tedious for the aggregate industry and state bureaucrats. Interestingly, with few exceptions, the standards for licensed rocks are the same: limits of 10% opacity on dust, use of water sprays to control dust, use of low-sulfur fuel, and recording keeping of maintenance and hours of operation. Still, practically every rock crusher has had to obtain an individual license.

Another issue is how to license, lease or rental crushers. Under state and federal law there is no exception from obtaining an air emission license just because a rock crusher is leased or rented. Yet, and this is a big one, it will likely take longer to obtain the license than the typical rental or lease period. This conflict makes licensing rental or leased crushers impractical at best. For the most part,

DEP has overlooked the lack of licenses for leased or rental crusher, but recently, operators that have rented or leased rock crushers have had DEP inspections and received warnings, or in a few cases, fined, for failing to have the required air emission license.

To address these issues and streamline the process, Maine DEP is proposing to issue a Statewide General Permit for air emission licenses for rock crushers. Under the proposal owners/operators of stationary and portable nonmetallic mineral processing plants (rock crushers) that are subject to Federal EPA New Source Performance Standards (NSPS) and those subject to State Regulations may obtain coverage under this General Permit regulation in lieu of an individual air emission license. Rock crusher can qualify by obtaining a Crusher Identification Number (CIN) for each individual crusher and submitting a Notification of Intent to Comply (NOITC) which will attest to their formal agreement to abide by the conditions of the general permit. Other associated equipment (i.e. generator sets and diesel drives) do not require a CIN but are subject to the provisions of the General Permit when associated with crushing activities. If the construction, modification, or operation of a rock crusher would not comply with all conditions of this regulation, the operator must obtain an individual state air emission license before beginning the operations.

Once a rock crusher is under the general permit, the owner/operator is subject to the same annual fee as a individual permit, however, the general permit doesn't expire and the license does not need to be reviewed. Furthermore, the standards for operation are easily understood, consistent between operations and the process for licensing is greatly streamline reducing time and costs for both industry and state regulators.

MAA Directors have worked closely with the DEP for the past two years to ensure the new general permit resulted in a more efficient, flexible system that applies to all rock crushers, including those from out-of-state operators or equipment rental companies.

The DEP will hold a public workshop on the proposed rules for the General Permit on Tuesday, September 18, 2007, 9:00 AM to 12:00 PM at the Augusta Civic Center. A copy of the draft rules can be seen on the MAA website:

www.maineaggregate.org

Sand & Gravel News

Sand & Gravel News is a periodic publication of the Maine Aggregate Association and is available free as a service to its membership. For a membership application or to read the newsletter visit us online at:

**Maine Aggregate Association
PO Box 9**

Limerick, Maine 04048

(207) 793-8615

www.maineaggregate.org

Is your facility required to have an SPCC Plan?

Most facilities in Maine that store oil (petroleum products) in aboveground storage tanks (ASTs) are required to have what is known as an SPCC (Spill Prevention, Control, and Countermeasures) Plan.

The United States Environmental Protection Agency (EPA) oil pollution prevention regulations presented in Title 40, Code of Federal Regulations, Part 112 (40 CFR Part 112), requires an SPCC Plan to be implemented for a facility if the facility could reasonably be expected to discharge oil into navigable water of the U.S. or adjoining shorelines (Maine DEP guidance documents assume any location within Maine meets this requirement), **AND** one of the following conditions is met:

1. The facility has more than 1,320 gallons of aboveground oil storage capacity, **OR**
2. The facility has more than 42,000 gallons capacity of underground oil storage.

Amendments to the federal SPCC Rule were made in December of 2006 and became effective on February 26, 2007.

Based on the recent amendments to the SPCC Rule the minimum volume threshold when determining facility capacity is now 55 gallons, which means any oil container less than 55 gallons in size is not counted toward the 1,320 gallon facility capacity. The recent amendments have exempted "motive power containers," bulk storage containers used primarily to power the movement of a motor vehicle (i.e., loaders, excavators, dozers, etc.). However, oil storage associated with stationary equipment (i.e., crushers, screens, generators, etc.) must be counted toward the total oil storage capacity of the facility. Under the SPCC Rule, "oil" includes petroleum oils such as gasoline, diesel, kerosene, liquid asphalt, machine oils, etc.

Under the EPA SPCC Rule, any facility that meets the volume thresholds stated above must currently have a SPCC plan. Compliance deadlines for amendments to existing plans are as follows:

<i>A facility starting operation...</i>	<i>Must...</i>
On or before August 16, 2002	Maintain existing Plan Amend and implement the Plan no later than July 1, 2009
After August 16, 2002 through July 1, 2009	Prepare and implement a Plan no later than July 1, 2009
After July 1, 2009	Prepare and implement a Plan before beginning operations

Most SPCC Plans require certification by a Professional Engineer (P.E.). However, the recent amendments to the SPCC Rules provide an option to allow the owners or operators of facilities with an aboveground oil storage capacity of 10,000 gallons or less, which meet other qualifying criteria, to self-certify their SPCC Plans in lieu of review and certification by a PE.

For more information on Federal SPCC Rule requirements and to determine whether your facility requires P.E. certification or whether you can self-certify your SPCC Plan, contact Don McFadden at MAI Environmental, by phone at 767-3663 or by e-mail at d.mcfadden@maienvironmental.com or Ted Johnston at Resource Policy Group, by phone at 685-4583 or by e-mail at tedjohnston@gwi.net

This story was submitted by MAA Member Don McFadden of MAI Environmental

SMCC Breaks Ground for Heavy Equipment Operations Program

Southern Maine Community College has announced plans to offer a Heavy Equipment Operations certificate program this fall. The program is designed to produce operators trained on earth-moving equipment such as dozers, backhoes, excavators, and graders. An associate in applied science degree is in the planning stages.

The certificate program, which combines classroom studies with simulation lab and on-site "pit" training, will prepare graduates to work in county, state, or interstate highway construction, agricultural construction, airport development, and commercial and residential construction. The program utilizes a curriculum recognized by the National Center for Construction Education and Research (NCCER).

Seven MAA member companies partnered with the College to make the program possible. R. J. Grondin

& Sons, White Bros., Cianbro, Shaw Brothers, Gorham Sand & Gravel, Pike Industries, and Dearborn Brothers will each donate approximately \$7,500 to purchase and equip the simulators including software, computers, joysticks, seats, building materials for portable booths, and necessary wiring and electrical components. Phil Grondin of R. J. Grondin & Sons, and Roger Mallar of Mallar Associates, have acted as industry representatives.

MAA members Chadwick-BaRoss and Milton CAT have expressed an interest in donating equipment time while other industry partners will provide pit locations for students to perform fieldwork.

SMCC developed the new curriculum to provide an avenue for employment as the demand in this industry grows. Typical pay for heavy equipment operators can range from \$25 to \$30 per hour, says Kevin Murphy of RJ Grondin & Sons, who is also a member of

the SMCC Foundation Board. "Every year the construction industry has thousands of good paying jobs that go unfilled. Programs like SMCC's, with partnerships from industry and vocational high school programs, will help fill these vacancies."

The College will also partner with Westbrook Regional Vocational Center (WRVC), providing an articulation agreement that allows high school students to take college courses in Heavy Equipment Operations.

"The new HEO program will enable our students to get advanced training on the latest equipment, giving them a competitive edge in the industry," said SMCC President James Ortiz.

Classes begin October 8. For more information on the program visit the website at

www.smccme.edu
or call 207-741-5500.

Sand & Gravel NEWS

MAINE AGGREGATE ASSOCIATION

P.O. Box 9

Limerick, Maine 04048

www.maineaggregate.org