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125th Maine Legislature
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HP 1371, LD 1853

An Act to Improve Environmental Oversight and Streamline Permitting
for Mining in Maine

Committee Amendment “B”

Sec. 1 is amended as follows:

§490-CCC. Definitions

6. Mining. “Mining,” “mining operation,” or “mining activity” means ~~an activity~~ activities, facilities, or and processes necessary for the extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of metallic minerals, and includes the bulk sampling, extraction or beneficiation of metallic minerals as well as waste storage and other stockpiles and reclamation activities, but not including test sampling methods conducted in accordance with rules adopted by the department such as test boring, test drilling, hand sampling and digging of test pits with a limited maximum surface opening or methods determined by the department to cause minimal disturbance of soil or vegetative cover.

§490-DDD. Nonferrous metallic mineral mining; administration and enforcement; rules; regulation or control by local units of government

1. Administration; jurisdiction; rules. The department shall administer and enforce this article in all areas of the State, including the unorganized territories, in order to regulate nonferrous metallic mineral mining. The provisions of chapter 3, subchapter 1, articles 6, 7, ~~8~~ and 8-A, and chapter 13, and Title 38 section 420-D, do not apply to projects reviewed under this article. Except for permits required under the natural resource protection laws, chapter 3, subchapter I, article 5-A, waste discharge licenses required under chapter 3, subchapter 1, article 2, section 413 for discharges of pollutants to surface waters of the State, and permits required under the protection and improvement of air laws, chapter 4, projects reviewed under this article do not require any other permits by any state agency. In addition to other powers granted to it, the department shall promulgate new rules to carry out its duties under this article, including standards for construction, operation, closure, postclosure monitoring, reclamation, and remediation of a nonferrous metallic mineral mine, by no later than May 1, 2013. Rules adopted under this article shall not be considered major substantive rules for purposes of Title 5, chapter 375, subchapter 2-A and Title 38, section 341-H. Rules regulating nonferrous metallic

mineral mining promulgated under the authority of other statutory provisions have no continuing force or effect after the department has adopted the rules authorized above.

2. Land Use Regulation Commission.

- A. Subject to paragraph B and C, the Land Use Regulation Commission shall not regulate or control mining or reclamation activities and structures that are subject to this article, including construction, operation, closure, postclosure monitoring, reclamation, and remediation activities, and does not have jurisdiction concerning the issuance of permits or the application of zoning and land use districts and regulations for those activities and structures.
- B. The Land Use Regulation Commission shall have jurisdiction over non-mining-related buildings located in a mining area located in the unorganized or deorganized territory of the State.
- C. By no later than May 1, 2013 the Land Use Regulation Commission shall, by rule, designate specific locations in which mining activities are not permitted. Such designations shall be based on a finding that mining in the specified locations would have significant adverse impacts on existing uses and resources even with the implementation of the most protective measures available to avoid or minimize such impacts.

3. Municipal authority not affected. This article does not prevent municipalities from regulating or controlling mining or reclamation activities that are subject to this article, including construction, operation, closure, postclosure monitoring, reclamation, and remediation activities.

§490-EEE. Mining permit; application procedure

2. Application procedure. An application for a mining permit shall be submitted to the department in a format to be developed by the department. The application shall include all of the following:

- C. Environmental protection, reclamation, and closure plan.** A mining, reclamation, and environmental protection plan for the proposed mining operation, including beneficiation operations, that will reasonably minimize the actual and potential adverse impacts on natural resources, the environment, and public health and safety within the mining area and the affected area. The plan shall address the unique issues associated with nonferrous metal mining and shall include all of the following:
- (1) A description of materials, methods, and techniques that will be utilized.
 - (2) Information that demonstrates that the methods, materials, and techniques proposed to be utilized are capable of accomplishing their stated objectives in protecting the environment and public health, ~~except that such information may not be required for methods, materials, and techniques that are widely used in mining or other industries and are generally accepted as effective.~~ The required information may consist of results of actual testing,

modeling, documentation by credible independent testing and certification organizations, or documented applications in similar uses and settings.

- (3) Plans and schedules for interim and final reclamation of the mining area following cessation of mining operations, including contemporaneous reclamation, to the extent practical.
- (4) A description of the geochemistry of the ore, waste rock, overburden, peripheral rock, spent leach material, and tailings, including characterization of leachability and reactivity.
- (5) Provisions for the control and monitoring of acid-forming waste products and other waste products from the mining process.
- (6) Storm and surface water management provisions.
- (7) A water quality monitoring plan.

4. Criteria for approval. Subject to subsection (3), the department shall approve a mining permit whenever it finds the following:

F. Flooding. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure. Mining operations may be placed in flood plains or flood hazard areas provided that they are designed, constructed, operated and reclaimed in a manner that complies with this criterion. This criterion shall not prohibit the placement of mining waste, stockpiles, ore leaching operations, and tailings impoundments within flood hazard zones and floodplains.

Sec. 7. is amended as follows:

4-A. Maximum fees for nonferrous metal mining. ~~Notwithstanding the fees for mining established in subsections 4 and 5, t~~The maximum fees for nonferrous metal mining are as follows:

- A. ~~The preapplication fee is \$20,000 until the one time allocation made pursuant to section 1319 E, subsection 1, paragraph F, has been repaid. Thereafter the preapplication fee is \$10,000;~~
- B. The processing fee is \$30,000; and
- C. The annual license fee is \$10,000, and shall be used for department costs incurred to ensure compliance with the mining permit.

