

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2025

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Legislative Document

No. 1073

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H.P. 695

House of Representatives, March 18, 2025

**An Act to Amend Provisions of the Maine Metallic Mineral Mining  
Act to Advance Health Equity and Improve the Well-being of  
Vulnerable Populations**

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Received by the Clerk of the House on March 14, 2025. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative RANA of Bangor.  
Cosponsored by Senator BEEBE-CENTER of Knox and  
Representatives: ANKELES of Brunswick, BELL of Yarmouth, MILLIKEN of Blue Hill,  
OSHER of Orono, PLUECKER of Warren, WARREN of Scarborough, Senators: GROHOSKI  
of Hancock, TEPLER of Sagadahoc.

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

2 **Sec. 1. 38 MRSA §490-MM, sub-§6-A** is enacted to read:

3 **6-A. Fugitive emission.** "Fugitive emission" means an unintentional emission,  
4 leakage or discharge of liquids, solids or gases into the air, water or soil from  
5 pressure-containing equipment or facilities and components, including, but not limited to,  
6 valves, piping flanges, pumps, pipelines, transportation machinery, storage tanks,  
7 compressors, retention ponds and drainage systems.

8 **Sec. 2. 38 MRSA §490-MM, sub-§10-B,** as enacted by PL 2017, c. 142, §2, is  
9 amended to read:

10 **10-B. Mine waste.** "Mine waste" means all material, including, but not limited to,  
11 overburden, rock, lean ore, leached ore or tailings, that in the process of mining ~~and,~~  
12 beneficiation, smelting or refining has been exposed or removed from the earth during  
13 advanced exploration and mining activities.

14 **Sec. 3. 38 MRSA §490-MM, sub-§11,** as amended by PL 2023, c. 398, §3, is  
15 further amended to read:

16 **11. Mining, mining operation or mining activity.** "Mining," "mining operation" or  
17 "mining activity" means activities, facilities or processes necessary for the extraction or  
18 removal of metallic minerals or overburden or for the preparation, washing, cleaning or  
19 other treatment of metallic minerals and includes the bulk sampling, advanced exploration,  
20 extraction or beneficiation of metallic minerals as well as activities and facilities for the  
21 smelting or refining of metallic minerals and waste storage and other stockpiles and  
22 reclamation activities, but does not include exploration or any of the following activities:

23 A. The physical extraction, crushing, grinding, sorting, storage or heating of calcium  
24 carbonate or limestone to produce cement when such activity is subject to article 6,  
25 article 8-A or Title 12, chapter 206-A or when such activity covers one acre or less of  
26 surface area in total;

27 B. The exploration for or physical extraction, crushing, grinding, sorting or storage of  
28 borrow, topsoil, clay or silt when such activity is subject to article 7 or Title 12, chapter  
29 206-A or when such activity covers 5 acres or less of surface area in total;

30 C. The exploration for or physical extraction, crushing, grinding, sorting or storage of  
31 gemstones, aggregate, dimension stone or other construction materials from a quarry  
32 that is subject to article 8-A or Title 12, chapter 206-A or when such activity covers  
33 one acre or less of surface area in total; and

34 D. The exploration for or physical extraction, crushing, grinding, sorting or storage of  
35 any other metallic minerals when such activity has been excluded from the  
36 requirements of this article pursuant to a determination made by the department under  
37 section 490-NN, subsection 4.

38 **Sec. 4. 38 MRSA §490-MM, sub-§12,** as enacted by PL 2011, c. 653, §23 and  
39 affected by §33, is amended to read:

40 **12. Mining area.** "Mining area" means an area of land described in a permit  
41 application and approved by the department, including but not limited to land from which  
42 earth material is removed in connection with mining, the lands on which material from that

1 mining is stored or deposited, the lands on which beneficiating or treatment facilities,  
2 including groundwater and surface water management treatment systems, are located, the  
3 lands on which smelting or refining facilities are located or the lands on which water  
4 reservoirs used in a mining operation are located.

5 **Sec. 5. 38 MRSA §490-MM, sub-§17**, as repealed and replaced by PL 2017, c.  
6 142, §3, is amended to read:

7 **17. Tailings impoundment.** "Tailings impoundment" means a surface area, contained  
8 by dikes or dams, on which is deposited the slurry of material that is separated from a  
9 metallic product in the beneficiation ~~or~~, treatment, smelting or refining of minerals,  
10 including any surrounding dikes constructed to contain such material. "Tailings  
11 impoundment" does not include a lined surface area on which dewatered tailings are  
12 stacked.

13 **Sec. 6. 38 MRSA §490-OO, sub-§2, ¶B**, as enacted by PL 2011, c. 653, §23 and  
14 affected by §33, is amended to read:

15 B. An environmental impact assessment for the proposed mining operation that  
16 describes the natural and artificial features, including, but not limited to, groundwater  
17 and surface water quality, flora, fauna, hydrology, geology and geochemistry and  
18 baseline conditions for those features in the proposed mining area and affected area  
19 that may be affected by the mining operation and the potential impacts on those features  
20 from the proposed mining operation. The environmental impact assessment must  
21 define the mining area and the affected area ~~and address~~, identify practicable  
22 alternatives to address impacts to the mining area and potential impacts to the affected  
23 area and identify the risk to flora and fauna in the mining area and affected area of  
24 biomagnification of toxic chemicals and heavy metals associated with the proposed  
25 mining operation. The department shall review the environmental impact assessment  
26 and may approve, reject or require modifications to the assessment;

27 **Sec. 7. 38 MRSA §490-OO, sub-§2, ¶B-1** is enacted to read:

28 B-1. A human health impact assessment for the proposed mining operation that  
29 identifies all potential emissions and effects from the mining operation in a proposed  
30 mining area and affected area that can reasonably be expected to cause or threaten harm  
31 to human health, including, but not limited to, harm caused by air emissions,  
32 contamination of groundwater or surface water, noise pollution, light pollution and the  
33 effects of blasting and vibrations from the mining operation. The human health impact  
34 assessment must define the mining area and affected area and identify practicable  
35 alternatives to address identified potential human health risks, accounting for specific  
36 risks to vulnerable populations, including, but not limited to, individuals who are  
37 pregnant, developing fetuses, children, individuals who are elderly and individuals  
38 whose subsistence or cultural practices are dependent upon the water, soil or  
39 environment that may be affected by the mining operation.

40 The human health impact assessment must include a baseline health data evaluation  
41 that provides, for the population surrounding the proposed mining operation, the  
42 following public health data for the 2-year period prior to the submission of the  
43 application:

44 (1) The number of premature births and instances of low birth weight;

- 1                   (2) The number of children diagnosed with or receiving services for autism  
2                   spectrum disorder or intellectual disabilities;  
3                   (3) The number of children receiving school-based special education services;  
4                   (4) The number of individuals receiving benefits under the Supplemental Nutrition  
5                   Assistance Program under Title 22, section 3104;  
6                   (5) The number of children attending public schools and eligible for free or  
7                   reduced-price meals pursuant to Title 20-A, section 6601-A;  
8                   (6) The number of individuals diagnosed with or receiving treatment for asthma;  
9                   (7) The number of individuals or households with incomes below the federal  
10                  poverty level; and  
11                  (8) The number of members of a federally recognized Indian tribe, nation or band  
12                  in the State located within 30 miles of the proposed mining operation, or, if the  
13                  proposed mining operation will involve on-site smelting or refining activities and  
14                  facilities, within 125 miles of the proposed mining operation.

15                  The human health impact assessment must include a human health risk exposure plan  
16                  that will ensure that, every 2 years following the commencement of mining, the  
17                  permittee will perform risk assessment modeling for human exposure to air emissions  
18                  from the mining operation, consistent with the human exposure model established by  
19                  the United States Environmental Protection Agency, with the results of such modeling  
20                  to be provided to the department.

21                  The department shall review the human health impact assessment and may approve,  
22                  reject or require modifications to the assessment;

23                  **Sec. 8. 38 MRSA §490-OO, sub-§2, ¶E**, as enacted by PL 2011, c. 653, §23 and  
24                  affected by §33, is amended to read:

25                  E. Financial assurance and insurance as described in section 490-RR; and

26                  **Sec. 9. 38 MRSA §490-OO, sub-§4, ¶E-1** is enacted to read:

27                  E-1. The mining operation will not involve or result in the release of perfluoroalkyl  
28                  and polyfluoroalkyl substances into the air, soil, groundwater or surface water within  
29                  any mining area or affected area. As used in this paragraph, "perfluoroalkyl and  
30                  polyfluoroalkyl substances" has the same meaning as in Title 32, section 1732,  
31                  subsection 5-A.

32                  **Sec. 10. 38 MRSA §490-OO, sub-§4, ¶J-1** is enacted to read:

33                  J-1. The mining operation will not involve the use of explosives or other blasting  
34                  materials that contain perchlorate.

35                  **Sec. 11. 38 MRSA §490-OO, sub-§4, ¶K-1** is enacted to read:

36                  K-1. The mining operation meets all applicable setback requirements specified by the  
37                  department by rule. The department shall by rule establish minimum setback  
38                  requirements for mining operations, which must include, but are not limited to,  
39                  setbacks from schools, day care facilities, residences, hospitals, national and state  
40                  parks, elder care facilities, community gardens, churches, locations considered sacred

1 by federally recognized Indian tribes, nations or bands in the State, water bodies and  
2 wildlife refuges.

3 **Sec. 12. 38 MRSA §490-OO, sub-§4, ¶N-1** is enacted to read:

4 N-1. The applicant has made adequate provision for and demonstrated specific plans  
5 to provide for and, in accordance with section 490-RR, subsection 2, paragraph A, fund  
6 the perpetual treatment and monitoring of mine waste and tailings in the event that the  
7 applicant fails to satisfy applicable mine waste or tailings management requirements,  
8 applicable closure and post-closure monitoring requirements or other applicable  
9 requirements resulting in the need for perpetual treatment of mine waste or tailings  
10 following closure.

11 **Sec. 13. 38 MRSA §490-OO, sub-§4, ¶P** is enacted to read:

12 P. The applicant has made adequate provision for and demonstrated specific plans to  
13 address natural events that may affect mining operations, including, but not limited to,  
14 wildfires and other fires, earthquakes, droughts, tidal waves, floods, explosions,  
15 subsidence and other earthwork failure, and for the implementation of climate  
16 adaptation measures in accordance with rules adopted by the department.

17 **Sec. 14. 38 MRSA §490-OO, sub-§4, ¶Q** is enacted to read:

18 Q. The applicant has demonstrated specific plans for ensuring that the mining  
19 operation, to the greatest extent practicable, will use clean energy measures and  
20 technologies, as identified by the department by rule, including, but not limited to,  
21 generation of electricity for the mining operation through the use of solar, wind or other  
22 clean energy technology; use of electric vehicles and electric-powered equipment in  
23 the mining operation; and implementation of carbon capture technology for carbon  
24 emissions from the mining operation.

25 **Sec. 15. 38 MRSA §490-QQ, sub-§3, ¶D** is enacted to read:

26 D. For a mining operation involving on-site smelting or refining activities or facilities,  
27 if the mine waste or other materials resulting from those activities or facilities are  
28 removed from the mining area for off-site storage or disposal, the department shall  
29 require the permittee to conduct post-closure monitoring of groundwater consistent  
30 with this subsection, or otherwise ensure that such monitoring is conducted, at any  
31 location at which the mine waste or other materials are stored or disposed of.

32 **Sec. 16. 38 MRSA §490-QQ, sub-§3-A** is enacted to read:

33 **3-A. Air quality monitoring.** Through rulemaking the department shall establish  
34 standards for monitoring air quality as close as practicable to any mining area that may  
35 pose a threat to air quality. A permittee shall conduct air quality monitoring in accordance  
36 with the provisions of a mining permit during mining operations, during suspension of  
37 mining operations and during closure.

38 A. The permittee shall comply with applicable air quality standards and requirements  
39 through direct measurement of emissions and not by estimating emissions  
40 concentrations. The permittee shall conduct air emissions monitoring for pollutants as  
41 required by the department pursuant to chapter 4 and for other hazardous air pollutants  
42 specified by the department by rule, which must include, but are not limited to, volatile  
43 organic compounds, polycyclic aromatic hydrocarbons, hydrogen sulfides,

1 perfluoroalkyl and polyfluoroalkyl substances as defined in Title 32, section 1732,  
2 subsection 5-A, other pollutants associated with the use of petroleum-based products  
3 and other pollutants that are heavy metals.

4 B. The permittee shall install and operate fenceline monitoring equipment for air  
5 emissions from any stack, flue, chimney, vent or other potential source of air pollution  
6 within a mining area and shall ensure the monitoring and measurement of fugitive  
7 emissions to the air within a mining area, including, but not limited to, fugitive  
8 emissions from vehicles and other equipment operated or used within the mining area.

9 C. The permittee shall conduct, on a schedule and in a manner directed by the  
10 department, air emissions dispersion modeling for air emissions generated by  
11 beneficiation, smelting and refining activities and facilities within 125 miles of the  
12 mining area.

13 **Sec. 17. 38 MRSA §490-RR, sub-§2, ¶A**, as enacted by PL 2017, c. 142, §9, is  
14 amended by amending subparagraph (1) to read:

15 (1) The cost to investigate all possible releases of contaminants at the site, monitor  
16 all aspects of the mining operation, close the mining operation in accordance with  
17 the closure plan, conduct treatment activities of all expected fluids and wastes  
18 generated by the mining operation for a minimum of 100 years, implement  
19 remedial activities for all possible releases and maintenance of structures and waste  
20 units as if these units have released contaminants to the groundwater and surface  
21 water, conduct corrective actions for potential environmental impacts to  
22 groundwater and surface water resources as identified in the environmental impact  
23 assessment and conduct all other necessary activities at the mine site in accordance  
24 with the environmental protection, reclamation and closure plan. The amount of  
25 the financial assurance must be sufficient to provide for the perpetual treatment  
26 and monitoring of mine waste and tailings, including mine waste and tailings  
27 resulting from smelting or refining activities or facilities that are removed from the  
28 mining area and stored or disposed of off-site, in the event that the permittee fails  
29 to satisfy applicable mine waste or tailings management requirements, applicable  
30 closure and post-closure monitoring requirements or other applicable requirements  
31 resulting in the need for perpetual treatment of mine waste or tailings following  
32 closure; and

33 **Sec. 18. 38 MRSA §490-RR, sub-§6** is enacted to read:

34 **6. Insurance requirement.** In accordance with rules adopted by the department, a  
35 permittee shall provide proof of and maintain comprehensive general liability insurance for  
36 the mining operation for the same duration as financial assurance is required under  
37 subsection 1. The insurance must provide sufficient coverage to address potential harm to  
38 members of the public located adjacent to or in proximity to mining areas or affected areas,  
39 including, but not limited to, harm resulting from fires, explosions or flooding originating  
40 at or caused by the mining operation and harm resulting from exposure to air, water or soil  
41 pollution caused by the mining operation. The insurance may not include any provisions  
42 or clauses that exclude coverage for harm or losses caused by pollution.

43 **Sec. 19. 38 MRSA §490-SS, sub-§2**, as enacted by PL 2011, c. 653, §23 and  
44 affected by §33, is repealed and the following enacted in its place:





- 1 A. Submit a human health impact assessment for the proposed mining operation that  
2 identifies all potential emissions and effects from the mining operation in a proposed  
3 mining area and affected area that can reasonably be expected to cause or threaten harm  
4 to human health and to particularly vulnerable populations. The assessment must  
5 include a baseline health data evaluation for the population surrounding the mining  
6 operation;
- 7 B. Demonstrate specific plans to provide for and fund the perpetual treatment and  
8 monitoring of mine waste and tailings in the event that the applicant fails to satisfy  
9 applicable mine waste or tailings management requirements, applicable closure and  
10 post-closure monitoring requirements or other applicable requirements resulting in the  
11 need for perpetual treatment of mine waste or tailings following closure;
- 12 C. Demonstrate specific plans to address natural events that may affect mining  
13 operations and for the implementation of climate adaptation measures as specified by  
14 rule; and
- 15 D. Demonstrate specific plans for ensuring that the mining operation will use clean  
16 energy measures and technologies to the greatest extent practicable.
- 17 2. In addition to other restrictions provided under current law, the bill prohibits the  
18 Department of Environmental Protection from issuing a mining permit for a mining  
19 operation that:
- 20 A. Will involve or result in the release of perfluoroalkyl and polyfluoroalkyl  
21 substances into the air, soil, groundwater or surface water within any mining area or  
22 affected area;
- 23 B. Will involve the use of explosives or other blasting materials that contain  
24 perchlorate; or
- 25 C. Does not meet all applicable setback requirements specified in rule, which must  
26 include, but are not limited to, minimum setbacks from schools, day care facilities,  
27 residences, hospitals, national and state parks, elder care facilities, community gardens,  
28 churches, locations considered sacred by federally recognized Indian tribes, nations or  
29 bands in the State, water bodies and wildlife refuges.
- 30 3. In addition to other requirements provided under current law, the bill requires a  
31 mining permittee to:
- 32 A. Comply with applicable air quality standards and requirements through direct  
33 measurement of emissions and not by estimating emissions concentrations; to conduct  
34 air emissions monitoring for the pollutants described in the State's ambient air quality  
35 standards laws and for other hazardous air pollutants specified in rule; to install and  
36 operate fence-line monitoring equipment for air emissions from any stack, flue,  
37 chimney, vent or other potential source of air pollution within a mining area; and to  
38 ensure the monitoring and measurement of fugitive emissions to the air within a mining  
39 area; and
- 40 B. Provide proof of and maintain comprehensive general liability insurance for the  
41 mining operation for the same duration as financial assurance is required by law, which  
42 must provide sufficient coverage to address potential harm to members of the public  
43 located adjacent to or in proximity to mining areas or affected areas.

1           4. The bill amends the provisions of the mining law regarding imminent endangerment  
2 to provide the department with authority to take action necessary to prevent an imminent  
3 and substantial endangerment to the public health or safety, environment or natural  
4 resources that a mining operation has the potential to cause or result in, regardless of  
5 whether a violation exists.

6           5. The bill amends certain definitions within the mining law and makes other  
7 associated changes to the mining law to provide for the regulation of smelting or refining  
8 activities and facilities that are part of the mining operation. If a mining operation involves  
9 on-site smelting or refining activities or facilities, if mine waste or other materials resulting  
10 from those activities is removed for off-site storage or disposal, the permittee must conduct  
11 post-closure groundwater monitoring at any location where the mine waste or other  
12 materials are stored or disposed.

13           6. The bill amends permittee notification requirements to require the provision of  
14 information to communities surrounding a mining operation regarding air emissions and  
15 other fugitive emissions, material safety data for all chemicals and substances used in the  
16 mining operation and the results of studies or modeling regarding the mining operation. At  
17 the request of a surrounding community that receives such information, the permittee must  
18 attend a public meeting to provide additional information.