

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# ONE HUNDRED AND FOURTH LEGISLATURE

---

---

**Legislative Document**

**No. 658**

---

---

S. P. 228

In Senate, February 6, 1969

Referred to Committee on Natural Resources. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Reed of Sagadahoc.

---

---

## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

---

### AN ACT Creating the Maine Mineral Land Conservation Act.

---

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

R. S., T. 10, c. 401, sub-c. II, additional. Chapter 401 of Title 10 of the Revised Statutes is amended by adding a new subchapter II, to read as follows:

#### SUBCHAPTER II

#### MAINE MINERAL LAND CONSERVATION ACT

§ 2121. Short title

This subchapter may be cited as the "Maine Mineral Land Conservation Act."

§ 2122. Findings and purposes

1. Findings. The Legislature finds and declares:

A. The mineral resources of this State and the land wherein or whereon the same are located represent a significant natural resource. The development and extraction of mineral resources is an important industrial activity which contributes to the economic well-being of this State and its people.

B. The development or use of any one natural resource may have an effect upon other natural resources, and such development or use requires that due consideration be given to such possible effects, to the end that adverse effects may be prevented or minimized.

C. The development of the mineral resources of this State in a manner which does not impair other natural resources may be costly, and devising an orderly and equitable system whereby such development may be carried out in a manner which prevents or minimizes adverse effects of such development on other natural resources is of public concern.

D. The effects of mining activities within this State upon natural resources have not been widespread or particularly adverse to date, but the potential for increased development and extraction of this State's mineral resources requires that measures be adopted that will not only assure the growth of the mining industry but will prevent and minimize the adverse effects which it may have upon other natural resources.

E. The mineral resources of this State are varied as is the soil structure, composition and topography of its lands and no single standard of use and conservation can be applied to all mineral lands within the State. The mining methods employed in a given mineral development differ depending on the particular mineral deposit and the use of and effect upon land, water and other natural resources resulting from such development will likewise differ.

F. The State has the responsibility and the authority by virtue of its police powers and its duty to act for the general welfare of its inhabitants, to insure that development and production of its mineral resources are conducted in accordance with sound principles of conservation, safety and health, and with due regard for local conditions; to aid thereby in the protection of lands, waters, forests, wildlife and other natural resources; to protect or provide sources of tax revenue for the State; to safeguard the health and safety of the people of the State; and generally to improve and encourage the use and enjoyment of lands and other natural resources within the State.

2. Purpose. The purposes of this subchapter are as follows:

A. To achieve and maintain an efficient and productive mining industry within this State, and increase the economic and other benefits to this State from such industry;

B. To encourage, with due recognition of relevant regional, physical and other differences in lands, programs which will facilitate the development and use of the mineral resources of the State, on both state-owned lands and privately owned lands within the State, with due consideration for the rights and interests of the owners of such land and of all of the people of the State concerning the protection, development and use of other natural resources of the State;

C. To provide for the reclamation of lands within the State, and for the conservation of lands, minerals and other natural resources in mining areas; and

D. To protect the health and safety of the people of this State in relation to mining operations, including, without limitation, persons employed in mining operations.

**§ 2123. Definitions**

For the purposes of this subchapter, the following terms have the following meanings:

1. Bureau. "Bureau" means the Maine Mining Bureau.
2. Exploration. "Exploration" means any geological, geochemical, geophysical or other prospecting, investigation, work or activity to determine the existence, nature, quality and quantity of minerals, by any surface or underground methods and with any equipment, tools, drills or machinery.
3. Minerals. "Minerals" means any and all mineral materials, of whatever name or nature, and whether metallic or nonmetallic, except:
  - A. Crude petroleum oil and all other fluid hydrocarbons, regardless of gravity;
  - B. Natural gas, including condensate as it originally was in the gaseous phase in the reservoir; and
  - C. Sand and gravel.
4. Mining. "Mining" and "mining operations" mean the disturbance of the surface of any mining area, as the term "mining area" is defined in this subchapter, in the course of extracting or removing ore or minerals in solid form, solutions, or any other form; or in the course of extracting or removing other materials in order to remove ore or minerals; or in the course of transporting, handling, storing or depositing ore, minerals, materials, overburden, waste and tailings. The terms "mining" and "mining operations" shall not include prospecting or exploration for ore or minerals.
5. Mining area. "Mining area" means the surface of an area of land upon which mining is conducted, or is to be conducted, and which is described as such in a reclamation plan filed with the bureau.
6. Operator. "Operator" means a person named as such in a reclamation plan filed with the bureau pursuant to this subchapter.
7. Operator's bond. "Operator's bond" means the bond, pledge or deposit to be filed with the bureau as required in this subchapter.
8. Ore. "Ore" means any mineral-bearing material mined or extracted from a mining area in order to recover, extract or produce one or more mineral products from such material.
9. Person. "Person" means an individual, partnership, association, corporation or other legal entity.
10. Reclamation plan. "Reclamation plan" means a plan which defines the methods and objectives for rehabilitation of a mined area during or after, or both, operations have been conducted on the mined area.

**§ 2124. Authority, duties and powers of the bureau**

In order to accomplish the purposes of this subchapter, the bureau is empowered:

1. **Rules and regulations.** To adopt, amend, repeal, administer and enforce rules and regulations for the reclamation of mining areas, and for all other purposes of this subchapter.
2. **Orders.** To issue, in accordance with the requirements of this subchapter, orders aimed at ending violations of this subchapter.
3. **Funds.** To provide for and assure, through operator's bonds as provided, the existence and availability of funds required for reclamation, and to provide for and assure the proper use and expenditure thereof.
4. **Reclamation plans.** To review reclamation plans filed, and to approve such reclamation plans or to require modifications therein prior to approval, subject to this subchapter.
5. **Mining operations.** To study mining operations, processes and techniques for the purpose of gaining knowledge as to their effects on land, soil, water and air, on plant and animal life, on recreation, and on patterns of community or regional development or change within the State.
6. **Conservation.** To study conservation, adaption, improvement and reclamation of land and other natural surface resources.
7. **Reclamation work.** To conduct, administer and contract for reclamation work if such work is not performed by an operator.
8. **Cooperation.** To cooperate with the Federal, State and local governments, with natural resource and conservation organizations, and with any public or private entities having interests in any subject within the purview of this subchapter.

Without limiting the generality of subsections 1 to 9, the bureau is designated the public agency of the State of Maine for the purpose of cooperating with appropriate departments and agencies of the Federal Government concerning reclamation of lands in connection with development and mining of minerals in the State, and for the purpose of cooperating and consulting with federal agencies in carrying out this subchapter. For these purposes the bureau may accept federal funds which may be made available pursuant to federal law, and may accept such technical and financial assistance from the Federal Government as the bureau deems advisable and proper for purposes of this subchapter.

The bureau is further designated the public agency of the State of Maine for the purpose of meeting requirements of the Federal Government with respect to the administration of such federal funds, not inconsistent with this subchapter.

#### § 2125. Personnel

The bureau may employ, subject to the Personnel Law, such personnel as may be necessary to properly administer this subchapter, including mining engineers and persons experienced in land management and reclamation.

#### § 2126. Reclamation plan and operator's bond required

Mining operations shall not be conducted on any land within this State until an effective reclamation plan has been submitted to and approved by the bureau for the mining area on which operations will take place, and until an operator's bond for such reclamation plan is on file with the bureau. A current reclamation plan and operator's bond must be on file during the total life of the operation.

The reclamation plan and operator's bond shall be filed by or on behalf of the person named therein as the operator. Not more than one reclamation plan and one operator's bond shall be required for any one tract of land at any time.

A reclamation plan and operator's bond shall be filed prior to the commencement of mining on such land, and thereafter at the times specified in this subchapter. No person shall be required to file a reclamation plan or an operator's bond for or prior to conducting prospecting or exploration, except that the bureau by regulation may require the filing of a reclamation plan and an operator's bond for the excavation of test mining pits, exploration pits, exploration shafts and trenching. No reclamation plan or operator's bond shall be required for exploration drilling or work related thereto.

This section shall not apply to land areas disturbed by mining operations, or to mining operations undertaken, within this State prior to the effective date of this subchapter.

#### § 2127. Reclamation plan

The reclamation plan shall be in a form to be established by regulations of the bureau, and shall contain or be accompanied by the matters, information and proposals required in this section.

1. Information to be filed with reclamation plan. At the time of filing the reclamation plan, the operator shall file with the bureau the following:

- A. Such information as the bureau may by regulation require concerning the identity of the operator and ownership of the mining area.
- B. A description of the land upon which the mining operations will be conducted in such form as the bureau may by regulation require.

All lands so described are referred to in this subchapter as the "mining area."

C. A topographic map of the mining area, in such detail, and prepared in such manner, as the bureau may by regulation require, subject to this subchapter.

D. A surface disturbance schedule, hereinafter in this subchapter referred to as "the schedule," describing, in such detail and on such surface maps as the bureau may by regulation require, all open pits and mine shaft openings which the operator plans to excavate through the surface of the mining area.

The schedule shall contain a description, in such detail and on such surface maps as the bureau may by regulation require, of all mining facilities which the operator plans to construct or place on the surface of the mining area, all of which are referred to in this subchapter as "surface facilities," and which include, without limitation, buildings, structures, stockpiles, storage areas, waste and tailings deposit areas, roads, railroads, utilities and other surface improvements and surface facilities.

The schedule shall set forth the approximate times when the various surface facilities, shafts and pits will be commenced and completed, and the proposed rate of surface disturbance.

Nothing in this section shall be construed to require the filing of information, as part of a reclamation plan or amendment thereof, which tends to reveal exploration, development, mining or treatment techniques, processes or equipment, mining or operating plans, mining or operating costs, other than reclamation costs, or geological or other data concerning the quantity or quality of minerals in the premises; nor shall the operator be required to describe or show the location of any existing or proposed drill holes, underground workings, or the parts of any shaft which extend beneath the surface of the mining area.

The schedule shall be based upon the operator's plans at the time the schedule is filed, subject to the operator's right to amend such schedule as provided.

2. Contents of reclamation plan. The reclamation plan shall set forth and describe all work which the operator proposes to undertake to reclaim the mining area in the manner, to the extent, and for the purposes, required by this subchapter. Such proposed reclamation work may include work to be performed during the course of mining operations and work to be performed after completion of mining operations. The reclamation plan shall contain a schedule showing when the various stages of such proposed work will be commenced and completed.

The reclamation plan shall describe all such proposed work in such detail as will enable the bureau to determine the probable effect and cost thereof, and shall contain a statement of the operator's estimate of such costs.

### 3. Approval of reclamation plan.

A. The bureau shall review the reclamation plan and determine whether the proposed work described therein will accomplish the reclamation of the mining area upon completion of the operator's mining operations, within the requirements of this subchapter and of regulations of the bureau, and whether the additional information filed by the operator conforms to the requirements of this subchapter. The bureau shall give to the operator written notice of its determination within 60 days after the operator has filed its reclamation plan with the bureau.

If the reclamation plan and the additional information submitted conforms to the requirements of this subchapter, the bureau shall approve such plan, and shall set the amount of the operator's bond as provided in section 2128.

B. If the bureau determines that the nature, type or amount of work proposed in the reclamation plan will not accomplish the reclamation of the mining area upon completion of the operator's mining operations, within the requirements of this subchapter and of regulations of the bureau, or if the operator fails to file with the bureau the additional information specifically required in this subchapter, the bureau's notice to the operator within the above-mentioned 60-day period shall specify the modifications in the reclamation plan, or additional information, which the bureau deems necessary to meet the requirements of this subchapter.

Within 60 days after receipt of notice from the bureau that modifications or additional information with respect to a reclamation plan must be filed, or within such greater period of time as the bureau shall specify, the operator shall file with the bureau the modifications or additional information called for.

Within 20 days after the receipt of such modifications or additional information, the bureau shall notify the operator whether the reclamation plan as modified, and any additional information filed, conform to the requirements of this subchapter and regulations, specifying in the notice any further modifications or information required for such purpose. This section shall apply to the first and to all subsequent notices by the bureau to the operator prior to approval of the reclamation plan.

C. After receiving any written notice from the bureau concerning a proposed reclamation plan, the operator, if he so elects, may request a hearing before the bureau concerning the matters specified in the notice. Written request for such hearing must be given to the bureau within 20 days after the operator receives the notice, and the hearing shall be held within 30 days after the date of the request. At the hearing, the operator, by himself or through his attorney, may appear and present data and information which the operator deems necessary concerning such matters.

After hearing the bureau shall make findings of fact and determine the requirements for approval of the reclamation plan in accordance with this subchapter and regulations. A copy of the bureau's determination shall be served on the operator within 20 days after the hearing.

The operator may appeal the bureau's determination in the manner provided in this subchapter.

D. The bureau shall make regulations, setting forth, subject to this subchapter, the nature, types, amounts and standards of work which will constitute approved reclamation work for lands, including classified lands, within this State, taking into account such factors as the differences in character and use of the land, the nature of the terrain, the proximity to



urban areas, the topography and the difficulty of reclamation work, the time required for natural vegetation and natural restoration, alternate uses of the land, and the costs and benefits of various types of reclamation work.

4. Standards for approval of reclamation plans. In considering proposed reclamation plans for approval, the bureau shall be governed by the following standards in addition to all other provisions of this subchapter.

A. The plan shall accomplish the reclamation of the mining area upon completion of all of the operator's mining operations in the area.

B. The reclamation work proposed by the plan need not restore the mining area to a better condition or different use than that in which such area was or to which such area was put prior to the commencement of the operator's mining operations.

C. An operator shall not be required to fill mine pits, shafts or underground workings.

D. The bureau may provide for reclamation work to be performed according to a reclamation plan covering more than one mining area, for the purpose of achieving cost savings, efficiency and benefits to the people of the State, subject to the limitations of this subchapter as to the reclamation work, expenditures and operator's bond required of each operator or for each mining area.

5. Duration and amendment of reclamation plan. Each reclamation plan filed with and approved by the bureau as provided in this subchapter shall remain in effect until completion of all mining operations by the operator in the mining area, unless amended as provided in this subsection.

If at any time or times after an approved reclamation plan is on file with the bureau, the mining operations conducted or planned by the operator on or with respect to the mining area extend onto lands outside of the mining area, or will require more surface facilities, pits or shaft openings within the mining area than were shown in the schedule filed with the preceding reclamation plan, the operator shall so notify the bureau, and shall file with the bureau an amended schedule and an amended reclamation plan as to such additional surface areas, containing or accompanied by all of the same information as is required above concerning the previous schedule and reclamation plan, excepting information which the operator previously has submitted to the bureau concerning the same mining area, if and to the extent that such information remains accurate and current.

Upon the filing of an amended schedule and reclamation plan, the bureau shall determine the additional reclamation work, if any, required for approval of the amended reclamation plan, which determination shall be made within the same time periods, and subject to the same limitations, as provided in this subchapter for the approved reclamation plan previously filed for such mining area.

Whenever the mining operations conducted or planned by an operator in any mining area will require less reclamation work than required under a previ-

ously approved reclamation plan for the mining area, because of changes in the operator's mining plans, economics or for any other reason, the operator may file with the bureau an amended schedule and reclamation plan, setting forth such changes and reasons, and the bureau shall make appropriate reductions in the reclamation work required under the previously approved reclamation plan.

§ 2128. Operator's bond

1. Filing. After a reclamation plan has been filed by an operator and approved by the bureau, and before commencement of mining operations in the mining area described in the reclamation plan, the operator shall file with the bureau an operator's bond in an amount to be determined by the bureau subject to this section.

2. Form of operator's bond. The operator's bond shall consist of cash, or negotiable securities, or a performance bond issued by a company meeting the requirements of the bureau as established by regulation hereunder.

3. Time for setting. The bureau shall set the amount of the operator's bond within 30 days after the reclamation plan, including any modifications as provided, has been approved by the bureau. The bureau shall notify the operator of the amount thereof by written notice within the 30-day period.

4. Amount. The operator's bond shall be an amount per acre of land or fraction thereof encompassed by the mining area as set forth in the approved reclamation plan which the bureau determines to be sufficient to cover the cost of accomplishing the reclamation of such area, provided that the bureau shall not require any operator to file a bond in an amount greater than \$1,500 per acre of land or fraction thereof encompassed by such mining area.

5. Increases and decreases in amount. When the amount of the operator's bond has been fixed, and the operator has been notified of the amount thereof, the amount of the operator's bond shall not be increased or decreased thereafter except as provided.

If at any time after an operator's bond is on file with the bureau, the operator files an amended schedule and an amended reclamation plan as provided in this subchapter, the bureau shall redetermine the amount of the operator's bond and the operator shall file a new or amended operator's bond in such amount. Where the bureau, upon written request by the operator, shall determine that the operator has performed work according to an approved reclamation plan, the amount of the operator's bond shall be decreased by the fair value of such work for reclamation purposes, as determined by the bureau, and the operator shall file a new or amended operator's bond in the lesser amount to which the bond is declared.

Any determination and filing of a new or amended operator's bond shall be subject to the same procedures, time limitations and provisions as to the amount thereof, as are provided for the preceding operator's bond.

6. Duration and return of operator's bond. Each operator's bond filed shall remain on file with the bureau, and in effect, until completion of all

reclamation work required under the last approved reclamation plan on file with the bureau for such mining area, or until a new or amended operator's bond is filed.

If the operator's bond consists of a performance bond which by its terms expires prior to completion of the above work, the operator shall obtain and file renewals or amendments thereof, or new operator's bonds, at such times as may be necessary to maintain on file with the bureau an operator's bond in the amount determined hereunder.

§ 2129. Inspection; violations of Act

1. Inspections. The bureau may at all reasonable times inspect each mining area for the purpose of determining whether an operator has complied with the requirements of this subchapter and with the regulations and orders of the bureau, including the determination of whether any mining operations are being conducted on lands other than those described in the schedule on file with the bureau for the mining area.

2. Violations; hearing and order. Whenever it appears to the bureau after inspection or investigation that there is a violation of this subchapter or of any regulation made pursuant to this subchapter, the bureau shall:

A. Notify the alleged violator, in writing, setting forth the act or omission which is claimed to be in violation of applicable law or regulations, and at the written request of the alleged violator made within 10 days of receipt of the notice, the bureau shall schedule a hearing to determine whether such violation has been committed and shall send written notice of the time and place of such hearing to the alleged violator; or

B. Schedule a hearing to determine the existence of such alleged violation and notify the alleged violator, in writing, of the time and place of such hearing. The notice shall set forth in writing the act or omission which is claimed to be in violation of this subchapter.

At any hearing held pursuant to either of paragraphs A or B, the alleged violator may appear in person or by attorney, answer the allegations of violation, file a statement of the facts, including the methods, practices and procedures adopted or used by the alleged violator to comply with this subchapter or regulation, and may present such evidence as may be pertinent and relevant to the alleged violation.

After consideration of such evidence and argument, or in the event that the alleged violator fails to request a hearing within 10 days, or in the event the alleged violator fails to appear on the date set for a hearing, the bureau shall make findings of fact. If it finds that a violation exists as alleged in the notice it shall issue an order aimed at ending the violation. A full and complete record shall be kept of all hearings held under this section.

All orders of the bureau issued under this section shall be enforced by the Attorney General. If any such order of the bureau is not complied with within the time period specified, the bureau shall immediately notify the Attorney

General of this fact. Within 30 days thereafter, the Attorney General shall commence an action, designed to secure compliance with the bureau's order, in the Superior Court of any county where noncompliance with such order has taken place.

#### § 2130. Judicial review

Any person aggrieved by any rule, regulation, action, failure or refusal to act by the bureau may, within 30 days after notice of such action, rule, regulation, failure or refusal to act appeal therefrom to the Superior Court. Notice of the appeal shall be ordered by the court and the appeal shall be heard without a jury in the manner and with the rights provided by law in other civil actions so heard. The court shall receive in evidence in any proceeding a transcript of the proceedings before the bureau and shall receive such further evidence as the court in its discretion deems proper. The court shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case shall require.

#### § 2132. Mining Advisory Committee

A Mining Advisory Committee, hereinafter in this subchapter called "the committee," is created and established for the purpose set forth in this subchapter. The committee shall consist of 5 members, each of whom shall be appointed by the Governor, one appointed as chairman. Each of the members so appointed shall be a person qualified by experience or affiliation in mining, or water or land use, but need not be a resident of the State. Each member of the committee shall be appointed for a term of 2 years, and their successors shall be appointed in the same manner and subject to the same qualifications as the original members, provided that of the members first appointed and constituting the first committee, one shall be appointed for a term of one year, 2 for a term of 2 years and 2 for a term of 3 years. A vacancy in the office of a member, other than by expiration of his term, shall be filled in the same manner, but only for the remainder of such term. All members of the committee shall serve without compensation for their services.

The committee shall meet at the call of the chairman or at the request of any 4 members of the committee. Suitable accommodations for such meetings shall be provided by the bureau. Secretarial assistance shall be provided to the committee by the bureau, and the minutes of the meetings of the committee shall be recorded. The functions and purposes of the committee shall be to assist the bureau in an advisory capacity, to render such technical or other assistance to the bureau as may be appropriate, and to present information, evidence, data and recommendations in the bureau's rule making process, as is provided.

At least 30 days prior to the first publication or giving of any notice of proposed regulations and rule making, the bureau shall notify the committee in writing of the nature and purposes of the regulations or rule making which the bureau intends to propose. Within 30 days after the committee receives the notice, it may meet with the bureau, at a time convenient to the committee and to the bureau, but prior to the publication or giving of the notice

of proposed rule making. At or prior to the meeting between the bureau and the committee, the committee shall present to the bureau such data, information and recommendations as the committee may elect concerning the proposed regulations or rule making. The bureau shall consult with the committee concerning the data, information and recommendations and shall give due consideration to the same prior to publishing or giving the notice of proposed regulations or rule making.