

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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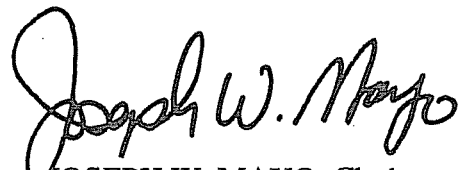
H.P. 1035

House of Representatives, April 30, 1993

An Act to Regulate the Impacts of Metallic Mining on Groundwater.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative ROTONDI of Athens.
Cosponsored by Representatives: ANDERSON of Woodland, DEXTER of Kingfield, GOULD of Greenville, TRACY of Rome, Senator: LUDWIG of Aroostook.

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

2 **Sec. 1. 38 MRSA §490**, as affected by PL 1989, c. 890, Pt. A,
4 §40 and amended by Pt. B, §103, is further amended to read:

6 **§490. Mine site controls and reclamation**

8 **1. Requirement.** All mining activities must include
10 provisions for safety and reclamation of the land area affected
12 or otherwise comply with an approval issued pursuant to this
14 chapter. For a metallic ore mine mining activities, these
16 provisions must include a plan for the maintenance of the mine
18 site during mining and for a period after termination of mining,
20 including the methods and annual estimated costs for gas
22 monitoring; leachate pumping, transportation, monitoring and
24 treatment; ~~ground-water~~ groundwater monitoring, collection and
26 analysis; such revegetation as the department determines
28 necessary; and activities necessary for prevention of soil
30 erosion and for protection of ~~ground--and~~ surface waters; and
32 provisions for effluent limitations based on treatment of mine
34 site groundwater discharges and impacts using best practicable
36 treatment for each category or class of discharge source provided
38 that all drinking water standards must be met for existing public
40 and private drinking water systems affected by those activities.
42 In determining best practicable treatment for each category or
44 class, the department shall consider the existing state of
46 technology, the effectiveness of the available alternatives for
48 control of the type of discharge, the economic feasibility of
50 those alternatives and the Legislature's determinations provided
in Title 36, section 2851. Best practicable treatment of
groundwater discharges and the impacts to groundwater pursuant to
this section are in lieu of any other requirement concerning
discharges and the impacts to groundwater in this subchapter,
including, without limitation, rules adopted pursuant to section
349-A and the classification provided in section 470, and is a
condition of and form a part of any license required by section
413.

2. **Bonds.** The department may require a bond payable to the
State with sureties satisfactory to the department or such other
security as the department may determine will adequately secure
compliance with this chapter, conditioned upon the faithful
performance of the requirements set forth in this chapter and of
the rules of the board. Other security may include a security
deposit with the State, an escrow account and agreement,
insurance or an irrevocable trust. In ~~determining~~ determining the
amount of the bond or the security, the department shall take
into consideration the character and nature of the overburden,
the future suitable use of the land involved and the cost of
grading and reclamation to be required. All proceeds of

2 forfeited bonds or other security must be expended by the
3 department for the reclamation of the area for which the bond was
4 posted, and any remainder returned to the operator.

6 **2-A. Metallic ore mines.** Security is required of a person
7 engaged in the mining of metallic ores. However, if the
8 department finds that the person's net worth or that of any
9 affiliated person who guarantees performance, as shown on audited
10 financial statements, exceeds 5 times the estimated costs of
11 reclamation, it may waive this requirement. If security is not
12 required, that person or the affiliated person guaranteeing
13 performance shall submit to the commissioner annually, copies of
14 that person's audited financial statements. The commissioner
15 shall review these statements annually and, if the commissioner
16 finds at any time that that person's or affiliated person's
17 financial capacity is insufficient to secure adequately
18 compliance with this chapter, the commissioner shall require a
19 bond or other security.

20 **3. Time schedules.** It is the duty of a person engaged in a
21 mining activity to commence the reclamation of the area of land
22 affected by the mining activity as soon as possible after the
23 beginning of the mining activity of that area in accordance with
24 plans previously approved by the department. If it appears that
25 planting to provide vegetative cover of an affected area may not
26 be successful, the department may authorize the deferring of the
27 planting until the soil has become suitable for those purposes
28 and a yearly report must be filed with the commissioner
29 indicating the soil conditions until a successful planting or
30 seeding has been completed.

32 **4-A. Acquisition of property.** The department may acquire,
33 by purchase, lease, condemnation, donation or otherwise any real
34 property or any interest in real property that the board
35 determines, by 2/3 majority vote, is necessary to conduct
36 remedial action under this section. There may be no cause of
37 action to compel the department to acquire any interest in real
38 property under this section. Upon completion of reclamation
39 work, the land may be sold or conveyed or remain property of the
40 State. The department may accept funds from private or other
41 sources, which shall must be used for reclamation purposes,
42 whether in conjunction with appropriated funds of the State or
43 otherwise.

44 **5. Cooperation with others.** The department shall cooperate
45 with the federal, state and local governments, with natural
46 resource and conservation organizations, and with any public or
47 private entities having interests in any subject within the
48 purview of this chapter.

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2 The department is designated the public agency of the State for
the purpose of cooperating with appropriate departments and
4 agencies of the Federal Government concerning reclamation of
lands in connection with development and mining of minerals in
6 the State, and for the purpose of cooperating and consulting with
federal agencies in carrying out this chapter. For these
8 purposes, the department may accept federal funds which that may
be made available pursuant to federal law, and may accept such
10 technical and financial assistance from the Federal Government as
the department determines advisable and proper for purposes of
this chapter.

12 The department is further designated the public agency of the
14 State for the purposes of meeting requirements of the Federal
Government with respect to the administration of these federal
16 funds, not inconsistent with this chapter.

18 **6. Fees.** All fees collected and other funds received by
the department pursuant to this section must be placed in a
20 reclamation fund to carry out the purposes of this chapter. This
fund does not lapse.

22 **7. Definition.** For the purpose of this section,
24 "~~reclamation~~" "reclamation," when applied to a metallic ore mine,
includes continued maintenance of land affected by mining for a
26 period after termination of mining activity.

28 **8. Rules.** The board may adopt or amend rules to carry out
this section, including rules ~~relating~~ related to operational or
30 maintenance plans; standards for determining the reclamation
period; annual revisions of those plans; limits, terms and
32 conditions on bonds or other security; proof of financial
responsibility of a person engaged in mining activity or the
34 affiliated person who guarantees performance; estimation of
reclamation costs; reports on reclamation activities; or the
36 manner of determining when the bond or other security may be
discharged.

38 **9. Enforcement.** If, after an opportunity for a hearing,
40 the commissioner determines that the owner of a mine site or the
person who was engaged in mining at the mine site has violated
42 this section, the commissioner shall direct the department staff
or contractors under the supervision of the commissioner to enter
44 on the property and carry out the necessary reclamation. The
person engaged in mining or any affiliated person who guarantees
46 performance at the mine site is liable for the reasonable
expenses of this necessary reclamation. The commissioner may use
48 the bond or other security to meet the reasonable expenses of
reclamation.

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STATEMENT OF FACT

This bill provides for the regulation of the impact to groundwater of metallic mining activities and protects existing drinking water uses. During the drafting and adoption of the Comprehensive Rules for Metallic Mineral Exploration, Advanced Exploration and Mining it was acknowledged that metallic mining will have an impact on groundwater. This bill requires the case-by-case establishment of groundwater impact and effluent limits for each mining proposal on a site-specific basis. The bill requires that all drinking water standards be met for all existing public and private drinking water systems. This bill requires the use of best practicable treatment prior to any discharge or impact that is a standard used for surface waters. The bill is for metallic mining only and does not require any changes to the new comprehensive mining rules.