

MAINE STATE LEGISLATURE

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L.D. 1302

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STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "B" to H.P. 929,
L.D. 1302, Bill, "An Act To Amend the Maine Metallic Mineral Mining Act To Protect
Water Quality"

Amend the amendment by striking out all of sections 1 and 2 and inserting the
following:

Sec. 1. 38 MRSA §490-OO, sub-§2, ¶C, as enacted by PL 2011, c. 653, §23
and affected by §33, is amended to read:

C. An environmental protection, reclamation and closure plan for the proposed
mining operation, including beneficiation operations, that will reasonably avoid,
minimize and mitigate 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 must address unique issues associated with mining and must include,
but not be limited to, the following:

(1) A description of materials, methods and techniques that will be used;

(2) Information that demonstrates that the methods, materials and techniques
proposed to be used are capable of accomplishing their stated objectives in
protecting the environment and public health. 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 and
the affected area following cessation of mining operations and plans and
schedules for measures taken during suspension of operations, including
contemporaneous reclamation, to the extent practicable;

(4) A description of the geochemistry of the ore, waste rock, overburden,
peripheral rock, spent leach material and tailings, including characterization of
leachability, reactivity and acid-forming characteristics;

(5) A mining operations closure plan, including provisions to minimize post-
closure water treatment to the extent practicable, which may not include a plan
for perpetual water treatment;

- 1 (6) Provisions for the prevention, control and monitoring of acid-forming waste
- 2 products and other waste products from the mining process in accordance with
- 3 standards in subsection 4, paragraphs D and E;
- 4 (7) Storm water and surface water management provisions;
- 5 (8) A water quality monitoring plan;
- 6 (9) A description of the wastewater discharge management plan;
- 7 (10) A description of any tailings impoundment and the methods, materials and
- 8 techniques to be used;
- 9 (11) A plan for the storage of hazardous materials; ~~and~~
- 10 (12) An estimate of costs for reclamation, closure and environmental protection;
- 11 and
- 12 (13) A waste rock management plan that includes a plan to ensure that waste
- 13 rock is not used in the construction of roads;

14 **Sec. 2. 38 MRSA §490-OO, sub-§2, ¶D-1** is enacted to read:

15 D-1. An estimate of the costs to close the mining operation, including estimated

16 costs sufficient for the department to undertake the activities and measures identified

17 in section 490-RR, subsection 2, and a verification of the adequacy of the estimate by

18 a qualified 3rd party selected by the department. The department shall ensure the 3rd

19 party does not have a conflict of interest with the applicant. The applicant shall pay

20 the costs associated with producing the estimate;

21 **Sec. 3. 38 MRSA §490-OO, sub-§2, ¶¶E and F**, as enacted by PL 2011, c. 653,

22 §23 and affected by §33, are amended to read:

- 23 E. Financial assurance as described in section 490-RR; ~~and~~
- 24 F. A list of other state and federal permits or approvals anticipated by the applicant
- 25 to be required; and

26 **Sec. 4. 38 MRSA §490-OO, sub-§2, ¶G** is enacted to read:

27 G. An estimate of the number and types of direct and indirect jobs expected to be

28 created by the mining operation and estimates of the expected duration of those jobs

29 and the number of jobs by type that will likely be filled by individuals in the State's

30 workforce who have the necessary expertise.

31 **Sec. 5. 38 MRSA §490-OO, sub-§2-A** is enacted to read:

32 2-A. Identification of responsible mining operations. In addition to the

33 requirements in subsection 2, an application for a mining permit for a mining operation in

34 a sulfide ore body must include an analysis and description of at least 3 mines operating

35 in the United States that the applicant believes represent responsible mining operations

36 and demonstrate the use of best practices for preventing contamination of groundwater

37 and surface water and other negative impacts on the environment. The analysis must

38 describe the environmental issues present at each of the 3 mines, the practices and

1 technologies used to minimize pollution and environmental impacts and how the
 2 applicant will use those best practices in the proposed mining operation.

3 **Sec. 6. 38 MRSA §490-OO, sub-§4, ¶K** is enacted to read:

4 K. The applicant has designed the mining operation to ensure that waste rock is not
 5 used in the construction of roads.

6 **Sec. 7. 38 MRSA §490-QQ, sub-§3**, as enacted by PL 2011, c. 653, §23 and
 7 affected by §33, is amended to read:

8 **3. Water quality monitoring.** Through rulemaking the department shall establish
 9 standards for monitoring groundwater as close as practicable to any mining area that may
 10 pose a threat to groundwater except, in the case of downgradient monitoring, compliance
 11 monitoring wells must be placed no greater than 100 feet away from such a mining area,
 12 unless placing such wells at a greater distance enhances the ability to detect a release
 13 from the mining area. A permittee shall conduct groundwater and surface water
 14 monitoring in accordance with the provisions of a mining permit during mining
 15 operations, during suspension of mining operations, during closure and during the post-
 16 closure monitoring period. The post-closure monitoring period must be at least 30 years
 17 following cessation of mining, subject to the following conditions.

18 A. The permittee shall provide to the department a written request to terminate post-
 19 closure monitoring not less than 18 months before the proposed termination date and
 20 shall provide the department with technical data and information demonstrating the
 21 basis for the termination of the post-closure monitoring.

22 B. The department may shorten the post-closure monitoring period at any time upon
 23 determining that there is no significant potential for water contamination resulting
 24 from the mining operation.

25 C. The department shall extend the post-closure monitoring period in increments of
 26 up to 20 years unless the department determines, approximately one year before the
 27 end of a post-closure monitoring period or post-closure incremental monitoring
 28 period, that there is no significant potential for surface water or groundwater
 29 contamination resulting from the mining operation.

30 **Sec. 8. 38 MRSA §490-RR, sub-§3**, as enacted by PL 2011, c. 653, §23 and
 31 affected by §33, is amended to read:

32 **3. Form of financial assurance.** ~~The financial assurance may consist of~~ Before any
 33 construction for the mining operation may begin, the applicant shall provide the financial
 34 assurance required under subsection 1 through the following instruments, either alone or
 35 in combination: a surety bond, escrow, cash, certificate of deposit, trust, and irrevocable
 36 letter of credit issued by a financial institution acceptable to the department, ~~or other~~
 37 ~~equivalent security, or combination thereof, as long as the department approves the~~
 38 ~~financial assurance as proposed by the applicant.~~ The instruments must provide the total
 39 amount of the required financial assurance upon demand of the State to cover the costs
 40 identified in subsection 2. When determining the appropriate security to require, the
 41 department shall take into consideration the type and location of the mining operation and
 42 the type of security that is adequate to protect the State's financial interest. The financial
 43 assurance must be in a form that cannot be cancelled, withdrawn, revoked or otherwise

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1 reduced without the express written consent of the commissioner after a finding that the
2 reduced amount is appropriate given the conditions related to the mining operation,
3 including, but not limited to, the potential cost of long-term maintenance and monitoring,
4 closure and any necessary response to episodic maintenance. A permittee shall provide
5 the department with notice 90 days prior to the expiration of a financial assurance
6 instrument and within 2 business days of the renewal and execution of an instrument.

7 **Sec. 9. 38 MRSA §490-RR, sub-§3-A** is enacted to read:

8 **3-A. Standby trust fund requirements.** A permittee using any of the financial
9 assurance instruments authorized in subsection 3, except a trust, shall establish a standby
10 trust fund that stands ready to receive funds from a financial assurance instrument
11 required pursuant to subsection 3 for costs to undertake the activities and measures
12 identified in section 490-RR, subsection 2. The standby trust fund must provide for
13 administration and oversight identical to those for an active trust fund.

14 **Sec. 10. Effective date.** This Act takes effect June 1, 2014.'

15 **SUMMARY**

16 This amendment strikes Committee Amendment "B" and makes the following
17 changes to the Maine Metallic Mineral Mining Act.

18 1. It requires a mining operations closure plan to include provisions to minimize
19 post-closure water treatment to the extent practicable, which may not include a plan for
20 perpetual water treatment.

21 2. It requires that, in the case of downgradient monitoring, compliance monitoring
22 wells must be placed no greater than 100 feet away from a mining area that may pose a
23 threat to groundwater, unless placing such wells at a greater distance enhances the ability
24 to detect a release from the mining area.

25 3. It requires an application to include a waste rock management plan.

26 4. It adds to the approval criteria to require that the Department of Environmental
27 Protection find the mining operation is designed to ensure that waste rock is not used in
28 the construction of roads.

29 5. It requires an application to include information related to the number and types
30 of jobs expected to be created.

31 6. For an application for a mining operation in a sulfide ore body, it requires an
32 application to include information related to 3 responsible mining operations.

33 7. It requires an application to include an estimate of the costs to close the mining
34 operation, including estimated costs sufficient for the department to undertake the
35 activities and measures specified in the financial assurance requirements, and a 3rd-party
36 verification of the adequacy of the estimate.

37 8. It amends the financial assurance provisions to require that financial assurance
38 must be provided before any construction may begin.

39 9. It provides that the financial assurance instruments must provide the total amount
40 of the required financial assurance upon demand of the State to cover the costs for

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "B" to H.P. 929, L.D. 1302

1 activities necessary for the investigation, monitoring, closure, treatment, remediation,
2 reclamation, operation and maintenance and any other necessary environmental
3 protection measures.

4 10. It requires a permittee to provide the department with notice prior to the
5 expiration of a financial assurance instrument and the renewal and execution of an
6 instrument.

7 11. It requires the establishment of a standby trust fund, except when a trust is the
8 financial assurance instrument used.

9 SPONSORED BY:

10 (Senator JACKSON, T.)

11 COUNTY: Aroostook