

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 877 - L.D. 1363

**An Act to Support Extraction of Common Minerals by Amending the Maine
Metallic Mineral Mining Act**

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

Sec. 1. 38 MRSA §490-MM, sub-§3-A is enacted to read:

3-A. Cement. "Cement" means any of various calcined mixtures of clay and limestone that can be mixed with water and used as an ingredient in making mortar or concrete.

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

8. Metallic mineral. "Metallic mineral" means any mineral, ore or excavated material to be excavated from the natural deposits on or in the earth for its metallic mineral content to be used for commercial or industrial purposes. "Metallic mineral" does not include thorium or uranium that has metal or a metalloid element as its economically valuable constituent, regardless of the chemical end product of the metal or metalloid element.

Sec. 3. 38 MRSA §490-MM, sub-§11, as enacted by PL 2011, c. 653, §23 and affected by §33, is amended to read:

11. Mining, mining operation or mining activity. "Mining," "mining operation" or "mining activity" means activities, facilities or 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, advanced exploration, extraction or beneficiation of metallic minerals as well as waste storage and other stockpiles and reclamation activities, but does not include exploration- or any of the following activities:

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

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

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

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

Sec. 4. 38 MRSA §490-NN, sub-§4 is enacted to read:

4. Determination of applicability of Maine Metallic Mineral Mining Act requirements. As provided in this subsection and following the adoption of rules by the department pursuant to this subsection, a person proposing to conduct exploration for or physical extraction, crushing, grinding, sorting or storage of metallic minerals as described in section 490-MM, subsection 11, paragraph D may request a written determination from the department that the requirements of this article do not apply to the activity. The department shall adopt rules governing the requirements for issuance of such a determination under this subsection, which must include, but are not limited to:

A. Provisions for ensuring that the activity will generate only mine waste that does not have the potential to create acid rock drainage, alkali rock drainage or drainage or other discharges that could cause violations of water quality criteria or standards other than sedimentation or turbidity and will not release or expose radioactive or other materials that could endanger human health or the environment. The provisions under this paragraph must include, but are not limited to, preextraction sampling requirements;

B. Provisions for ensuring that the activity, if excluded from the requirements of this article, is subject to requirements of article 6, article 7, article 8-A or Title 12, chapter 206-A as applicable, including, but not limited to, applicable requirements and standards under those laws regarding the effect of the activity on wildlife habitat and other protected natural resources; and

C. Provisions for requiring monitoring as necessary to demonstrate compliance with applicable standards and to protect water quality and human health during and after the activity.

An activity excluded from the requirements of this article as determined by the department pursuant to this subsection is not subject to the otherwise applicable requirements of this article, the otherwise applicable rules adopted pursuant to this article, except for those rules adopted by the department pursuant to this subsection, or the fees for metallic mineral mining set forth in section 352, subsection 4-A. Rules adopted by the department pursuant to this subsection are major substantive rules, as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 38 MRSA §490-NN, sub-§5 is enacted to read:

5. Mining excise tax. A person engaging in mining activities pursuant to this article and a person, pursuant to article 6, article 7, article 8-A or Title 12, chapter 206-A, engaging in activities described in section 490-MM, subsection 11, paragraph D following a determination by the department under subsection 4 is subject to the mining excise tax under Title 36, chapter 371. A person engaging in the activities described in section 490-MM, subsection 11, paragraphs A to C is not subject to the mining excise tax under Title 36, chapter 371.