



# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1471

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S.P. 590

In Senate, April 5, 2023

### **An Act to Amend Provisions of the Maine Metallic Mineral Mining Act**

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Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BENNETT of Oxford.

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

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

3 B-1. A human health impact assessment for the proposed mining operation that  
4 identifies all potential emissions and effects from the mining operation in a proposed  
5 mining area and affected area that can reasonably be expected to cause or threaten harm  
6 to human health, including, but not limited to, harm caused by air emissions,  
7 contamination of groundwater or surface water, noise pollution, light pollution and the  
8 effects of blasting and vibrations from the mining operation. The human health impact  
9 assessment must define the mining area and affected area and include practicable  
10 alternatives to address identified potential human health risks. The department shall  
11 review the human health impact assessment and may approve, reject or require  
12 modifications to the assessment;

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

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

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

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

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

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

25 **Sec. 5. 38 MRSA §490-OO, sub-§4, ¶K-1** is enacted to read:

26 K-1. The mining operation meets all applicable setback requirements specified by the  
27 department by rule. The department shall by rule establish minimum setback  
28 requirements for mining operations, which must include, but are not limited to,  
29 setbacks from schools, day care facilities, residences, hospitals and national and state  
30 parks.

31 **Sec. 6. 38 MRSA §490-OO, sub-§4, ¶N-1** is enacted to read:

32 N-1. The applicant has made adequate provision for and demonstrated specific plans  
33 to provide for and, in accordance with section 490-RR, subsection 2, paragraph A, fund  
34 the perpetual treatment and monitoring of mine waste and tailings in the event that the  
35 applicant fails to satisfy applicable mine waste or tailings management requirements,  
36 applicable closure and post-closure monitoring requirements or other applicable  
37 requirements resulting in the need for perpetual treatment of mine waste or tailings  
38 following closure.

39 **Sec. 7. 38 MRSA §490-OO, sub-§4, ¶P** is enacted to read:

40 P. The applicant has made adequate provision for and demonstrated specific plans to  
41 address natural events that may affect mining operations, including, but not limited to,

1 fires, earthquakes, droughts, tidal waves and floods, and for the implementation of  
2 climate adaptation measures in accordance with rules adopted by the department.

3 **Sec. 8. 38 MRSA §490-OO, sub-§4, ¶Q** is enacted to read:

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

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

12 **3-A. Air quality monitoring.** Through rulemaking the department shall establish  
13 standards for monitoring air quality as close as practicable to any mining area that may  
14 pose a threat to air quality. A permittee shall conduct air quality monitoring in accordance  
15 with the provisions of a mining permit during mining operations, during suspension of  
16 mining operations and during closure.

17 A. The permittee shall establish compliance with applicable air quality standards and  
18 requirements through direct measurement of emissions and not by estimating emission  
19 concentrations. The permittee shall conduct air emissions monitoring for pollutants as  
20 required by the department pursuant to chapter 4 and for other hazardous air pollutants  
21 specified by the department by rule, which must include, but are not limited to, volatile  
22 organic compounds, polycyclic aromatic hydrocarbons, other pollutants associated  
23 with the use of petroleum-based products and other pollutants that are heavy metals.

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

29 **Sec. 10. 38 MRSA §490-RR, sub-§2, ¶A**, as enacted by PL 2017, c. 142, §9, is  
30 amended by amending subparagraph (1) to read:

31 (1) The cost to investigate all possible releases of contaminants at the site, monitor  
32 all aspects of the mining operation, close the mining operation in accordance with  
33 the closure plan, conduct treatment activities of all expected fluids and wastes  
34 generated by the mining operation for a minimum of 100 years, implement  
35 remedial activities for all possible releases and maintenance of structures and waste  
36 units as if these units have released contaminants to the groundwater and surface  
37 water, conduct corrective actions for potential environmental impacts to  
38 groundwater and surface water resources as identified in the environmental impact  
39 assessment and conduct all other necessary activities at the mine site in accordance  
40 with the environmental protection, reclamation and closure plan. The amount of  
41 the financial assurance must be sufficient to provide for the perpetual treatment  
42 and monitoring of mine waste and tailings in the event that the permittee fails to  
43 satisfy applicable mine waste or tailings management requirements, applicable  
44 closure and post-closure monitoring requirements or other applicable requirements



1 C. Demonstrate specific plans to address natural events that may affect mining  
2 operations and for the implementation of climate adaptation measures as specified by  
3 rule; and

4 D. Demonstrate specific plans for ensuring that the mining operation will use clean  
5 energy measures and technologies to the greatest extent practicable.

6 2. In addition to other restrictions provided by that Act, the bill prohibits the  
7 Department of Environmental Protection from issuing a mining permit for a mining  
8 operation that:

9 A. Will involve or result in the release of perfluoroalkyl and polyfluoroalkyl  
10 substances into the air, soil, groundwater or surface water within any mining area or  
11 affected area;

12 B. Will involve the use of explosives or other blasting materials that contain  
13 perchlorate; or

14 C. Does not meet all applicable setback requirements specified in rule, which must  
15 include, but are not limited to, minimum setbacks from schools, day care facilities,  
16 residences, hospitals and national and state parks.

17 3. In addition to other requirements provided by that Act, the bill requires a mining  
18 permittee to:

19 A. Establish compliance with applicable air quality standards and requirements  
20 through direct measurement of emissions and not by estimating emission  
21 concentrations; to conduct air emissions monitoring for the pollutants described in the  
22 State's ambient air quality standards laws and for other hazardous air pollutants  
23 specified in rule; to install and operate fence-line monitoring equipment for air  
24 emissions from any stack, flue, chimney, vent or other potential source of air pollution  
25 within a mining area; and to ensure the monitoring and measurement of fugitive air  
26 emissions within a mining area; and

27 B. Provide proof of and maintain comprehensive general liability insurance for the  
28 mining operation for the same duration as financial assurance is required by law, which  
29 must provide sufficient coverage to address potential harm to members of the public  
30 located adjacent to or in proximity to mining areas or affected areas.

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