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June 19, 2020

Mark C. Draper, Chair
Board of Environmental Protection
c/o Ruth Ann Burke
17 State House Station
Augusta, ME 04333-0017

**RE: Central Maine Power Company, New England Clean Energy Connect
Department Order L-27625-26-A-N, L-27625-TB-B-N, L-27625-2C-C-N,
L27625-VP-D-N, L27625-IW-E-N**

Dear Mr. Draper:

Enclosed for filing please find the Response of Western Mountains & River Corporation ("WM&RC" or "Group 7") in response to the Request for Stay of the Department's May 11, 2020 Order filed by Natural Resources Council of Maine ("NRCM"), along with Exhibits 1 and 2 attached thereto.

Please call if you have any questions.

Sincerely,



Benjamin J. Smith, Esq.

BJS/mg
cc : Parties via Service List
Enclosures

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF

CENTRAL MAINE POWER COMPANY)
NEW ENGLAND CLEAN ENERGY CONNECT)
#L-27625-26-A-N/#L-27625-TG-B-N/)
#L-27625-2C-C-N/#L-27625-VP-D-N/)
#L-27625-IW-E-N)

**OPPOSITION OF WESTERN MOUNTAINS AND RIVERS CORPORATION
TO NRCM'S APPLICATION FOR STAY**

Western Mountains & Rivers Corporation ("WM&RC" or "Group 7") hereby responds to the June 10, 2020 Request of Natural Resource Council of Maine ("NRCM") that the Board of Environmental Protection ("BEP" or "Board") Stay the May 11, 2020 Order ("DEP Order") of the Commissioner of the Department of Environmental Protection ("DEP") that approved the application by Central Maine Power Corporation ("CMP") for the New England Clean Energy Connect Project ("NECEC" or "Project").

I. NRCM Fails to Show That the Board Must Assert Jurisdiction Over the Project.

NRCM's arguments that controlling statutes "require" the Board to take and review CMP's application de novo are entirely without merit, unsupported, and are contrary to plain language of the statute.

Contrary to NRCM's assertion, state law does not mandate that the Board take jurisdiction over applications involving projects of statewide significance. Rather, Section 341-D(2) simply provides that the Board will decide applications and approval of licenses and permits that "*in its judgment represent* a project of statewide significance." 38 M.R.S. § 341-D(2) (emphasis added). From this language, it is clear the statute provides the Board with the discretion – but not the obligation – to assert jurisdiction if it

believes that three of the four applicable criteria for projects of statewide significance are met.¹ Despite having the ability to do so as early as November 2017, the BEP declined to exercise jurisdiction over the project.²

Other instances in which the Board *may* assume jurisdiction are projects in which (1) the Commissioner has determined an application meets at least three of the four criteria for jurisdiction, or where (2) both the Commissioner and the applicant request Board jurisdiction over an application. Neither of these additional triggering events have occurred in this case.

For these reasons, NRCM's arguments fall flat and the Board is not required to exercise jurisdiction.

II. NRCM Has Failed to Meet the High Burden That is Required of Parties Requesting Stays or Injunctive relief.

Parties seeking a stay or other injunctive relief bear a high burden, such remedies are extraordinary. *Bar Harbor Banking & Tr. Co. v. Alexander*, 411 A.2d 74, 79 (Me. 1980) (citing *R. Whitehouse, Equity Jurisdiction* s 563 (1900)) (stating that injunctive relief is “an extraordinary remedy only to be granted with utmost caution when justice urgently demands it and the remedies at law fail to meet the requirements of the case.”).

Pursuant to the Maine Administrative Procedure Act (“MAPA”) a party seeking a

¹ Under 38 M.R.S. § 341-D(2), the Board may find that a project is of statewide significance if it finds that at least 3 of the 4 following criteria are met: (1) The project will have an environmental or economic impact in more than one municipality, territory or county; (2) The project involves an activity not previously permitted or licensed in the State; (3) The project is likely to come under significant public scrutiny; and (4) The project is located in more than one municipality, territory or county.

² As shown by the Board's Nov. 2, 2017 Meeting Minutes (page 2) as well as the BEP packet for that meeting (pages 33 and 34), which are attached hereto respectively as Exhibits 1 and 2, the BEP reviewed the list of “Applications Accepted for Processing” and the DEP accepted the NECEC applications for processing. The BEP thus clearly had the opportunity – and ultimately declined – to assert jurisdiction.

stay must demonstrate: (1) irreparable injury to the petitioner, (2) a strong likelihood of success on the merits, and (3) no substantial harm to adverse parties or the general public. 5 M.R.S. § 11004. Failure to meet these criteria requires a denial of injunctive relief. See *Bangor Historic Track, Inc. v. Dep't of Agric.*, 2003 ME 140, ¶ 10, 837 A.2d 129, 132-33 (Me. 2003).

A. NRCM Can Demonstrate No Irreparable Injury.

“Irreparable injury” is defined as one “for which there is no adequate remedy at law.” *Bar Harbor Banking & Trust Co. v. Alexander*, 411 A.2d 74, 79 (Me. 1980)). The “irreparable” harms that have been cited by NRCM relate to the impact of the Project upon the environment, including fisheries and wildlife, and their resulting economic impact on local guides. See NRCM Application at 6-8.

NRCM fails to demonstrate that any of the alleged harms would constitute “irreparable injuries.” In fact, the Commissioner’s own findings relating to the application negate the arguments being advanced by NRCM.

The Order found that the Project would not unreasonably impact significant wildlife habitat or fisheries. *Id.* at 86-87. The Order also found that the Project made adequate provision for threatened or endangered species. *Id.* at 88. The Order imposed several conditions to ensure that wildlife, fisheries, unusual natural areas, significant wildlife habitat and freshwater wetlands were not adversely impacted. These conditions, included, but were not limited to, maintaining taller vegetation in certain areas, leaving trees cut during routine maintenance to enhance cover and habitat, maintaining 100 foot riparian buffers, limiting construction access and activities to certain areas to protect natural resources and wildlife habitat, and the dedication of various parcels for preservation and conservation. *Id.* at 90, 91.

By requiring CMP to meet these conditions and other requirements under Section 7 of the Order, the Commission found that the Project would “avoid[] and minimize[] natural resource impacts to the greatest extent practicable, and ... represents the least environmentally damaging alternative that meets the overall purpose of the project.” Id. at 90.

As part of the Commissioner’s consideration of the Project’s impact in the context of the Natural Resources Protection Act³ and the Site Location of Development Act,⁴ the Commissioner also determined that “the scenic impact of the project is not unreasonable” and that the “project will not have an unreasonable adverse effect on existing uses that are related to the scenic character.” DEP Order at 56. The Commissioner found with respect to Segment 1, the undeveloped 53 mile section located largely in unorganized areas where industrial forestry operations are common, that “the project will not have an unreasonable adverse impact on existing uses, including recreational or navigational uses.” DEP Order at 56-58.

Given the conditions imposed by the DEP that ensure no adverse impact on wildlife and fisheries associated with construction of the Project, coupled with the fact that any trees/vegetation or other habitat disturbed would be more than capable of growing back and returning to a natural state, NRCM is unable to demonstrate any irreparable harm to the environment. Furthermore, because no irreparable harm to the environment can be shown, it follows that NRCM can show no associated economic harm associated with commercial guiding operations or similar outfitting activities.⁵

³ 38 M.R.S. § 480-D(1).

⁴ 38 M.R.S. § 484(3).

⁵ WMRC would further note that many of its members, who themselves are guides and outfitters in the areas of outdoor recreation, including, whitewater rafting, hunting, and fishing, support the Project. In the

B. NRCM Can Show No Likelihood of Success on the Merits.

NRCM also fails to show that it is likely to succeed on the merits. Importantly, it is not sufficient for a party appealing an agency to simply cite evidence that may support a contrary conclusion. Under Maine law, a petitioner must show not only a possibility of prevailing, but a strong likelihood of success. *In re Maine Today Media, Inc.*, 2013 ME 12, ¶ 13, 59 A.3d 499, 502 (Me. 2013); citing *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 129 S. Ct. 365, 375-376 (2008) (“Plaintiffs must show a strong likelihood of success...”). On appeal, the Commissioner’s findings will be upheld provided that there is any competent evidence in the record to support them. *Concerned Citizens v. BEP*, 2011 ME 39, ¶ 24, 15 A.3d 1263, 1271 (Me. 2011). This means that NRCM must demonstrate that there is no evidence on the record to support the Commissioner’s conclusions in order to prevail on a request for a stay.

NRCM claims that the Department’s mitigation efforts are insufficient to protect brook trout and that the conditions will not compensate for the harm caused to wildlife, including deer, birds, and other native species. NRCM also questions the climate benefits from the Project.

Essentially, NRCM is re-arguing the very issues it raised in the underlying proceeding. Such re-litigation attempts do not meet a showing of “strong likelihood of success.” Because the Commissioner’s findings were supported by substantial and competent evidence in the record, as noted in the DEP Order, there can be no demonstration that NRCM is likely to succeed on the merits of its appeal.

C. NRCM Can Show no Substantial Harm to Adverse Parties or the General Public.

underlying proceeding, WM&RC offered testimony and evidence to demonstrate the benefits of the Project on these activities.

NRCM fails to show that a stay will not result in substantial harm to adverse parties or the general public. As noted by NRCM, additional federal permitting may be necessary before CMP can break ground, and voters in November may be asked to entertain a ballot question.⁶ However, these additional processes do not mean that Mainers will suffer no adverse effects from Project delays that may occur if a stay is granted. In short, granting a stay, in light of litigation that could ensue for several months or even years, could jeopardize the Project entirely and prevent WM&RC and other Maine businesses and residents from realizing the benefits of the Project.

CMP needs to commence construction in order to meet a 2022 in-service date. If a stay were granted and the Project were delayed in a manner that prevented CMP from meeting the in-service date, WM&RC, other ratepayers, and members of the public would be directly adversely affected.

Environmental and economic benefits flowing from the Project are well documented in the DEP Order and in the decision of the Maine Public Utilities Commission (“Commission”). The record in this proceeding shows the Project will result in as many as 1,600 jobs per year in Maine and an increase to Maine’s GDP by nearly 64 million over six years. The Commission also found substantial economic benefits to Maine’s residents and electricity ratepayers as well as ratepayers in the greater ISO-New England region. The Law Court affirmed the Commission’s findings of these benefits.⁷

⁶ The suggestion by NRCM that the November 2020 referendum may cause a reversal of a CPCN previously granted by the Maine Public Utilities Commission is entirely irrelevant to the stay criteria to be considered by the Board. That referendum has no bearing on the strong likelihood of success on the merits of NRCM’s appeal. Moreover, even assuming the referendum is found to be constitutional and appears on the November ballot, the outcome is unknown.

⁷ See *NextEra Energy Resources, LLC v. Maine Public Utilities Commission, et al.*, 2020 ME 34, ¶¶ 8, 24-

Furthermore, granting a stay would deprive WM&RC and others of significant environmental benefits. The Commission found that the Project would result in a reduction of greenhouse gas emissions, a finding which affirmed by the Law Court.⁸ The Commissioner similarly found in this proceeding that the Project is integral to Maine's fight against climate change, "the single greatest threat to Maine's natural environment. DEP Order at 105. For these reasons, the Board should find that any delay in the Project caused by a stay would prevent Maine from realizing significant economic and environmental benefits and that NRCM has failed to meet the third criterion for a stay.

For the foregoing reasons, the Board should deny NRCM's request for a stay of the May 11, 2020 DEP Order.

Dated: June 19, 2020

Respectfully Submitted,

/s/ Benjamin J. Smith
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27. The Law Court rejected appellants' arguments and found that the stipulation, which included 38 pages and a myriad of benefits to ratepayers was appropriately approved by the Commission pursuant to its criteria, which require findings that the stipulation is in the "public interest" and that the Commission did not err in finding that "'public need' is a general standard of meeting public interest." The Court also affirmed the Commission's findings that the Project would result in a reduction of greenhouse gas emissions *Id.* at ¶¶ 8, 24-27.

⁸ *Id.* at ¶¶ 30, 36-37.



STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

James W. Parker, Chair

Cynthia S. Bertocci
Executive Analyst

Ruth Ann Burke
Board Clerk

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

November 2, 2017

A meeting of the Board of Environmental Protection was held on Thursday, November 2, 2017 at the Civic Center, 76 Community Drive, Augusta, Maine. James Parker, Chair, called the meeting to order at 9:00 am with the following individuals present:

Board: Thomas Dobbins, Mark Draper, Thomas Eastler, Jonathan Mapes, and James Parker. Alvin Ahlers and Kathleen Chase were absent.

Staff: Jeff Crawford, Office of the Commissioner
Mark Stebbins, Mining Coordinator, Bureau of Land Resource Regulation
John Hopeck, Senior Geologist, Bureau of Water Quality

Others: Paul Mercer, Commissioner
Mary Sauer, Assistant Attorney General
Peggy Bensinger, Assistant Attorney General
Cynthia Bertocci, BEP Executive Analyst
Ruth Ann Burke, BEP Clerk and Administrative Assistant

I. Departmental

- A. **Commissioner's Comments:** Commissioner Mercer noted that the field season is over and staff are back in the office.
- B. **Comments from the BEP Chair:** None
- C. **Executive Analyst Comments:** Ms. Bertocci commented that the Board's Government Evaluation Act, Program Evaluation Report has been submitted to the Legislature.
- D. **Board Calendar:** Reviewed. The Board's next meeting is November 16th. The agenda will likely include a second deliberative session on Chapter 418 Beneficial Use of Solid Wastes. The appeal previously scheduled for the November 16th meeting has been withdrawn.
- E. **Departmental Orders / Applications Accepted for Processing:** Reviewed.

II. Regular Agenda Items:

1. BEP Meeting Minutes: September 7, 2017 (approval)

The Board voted (4-0-1-2) on a motion by Thomas Dobbins, seconded by Jonathan Mapes, to approve the minutes for September 7, 2017 as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D.

Board members Thomas Dobbins, Mark Draper, Jonathan Mapes, and James Parker voted to support the motion. Thomas Eastler abstained. Alvin Ahlers and Kathleen Chase were absent.

2. Chapter 200 Metallic Mineral Exploration, Advanced Exploration, and Mining (final adoption)

Staff: Jeffrey Crawford, Office of the Commissioner

Mr. Crawford reviewed the procedural history of Chapter 200, which is a major substantive rule. The Board provisionally adopted Chapter 200 on January 5, 2017 and submitted it to the Legislature for review. Several mining related bills were considered by the Legislature in 2017. Ultimately, the Legislature enacted Public Law 2017, c. 142 "An Act to Protect Maine's Clean Water and Taxpayers from Mining Pollution", which made numerous changes to the Mining Act and the laws governing mining on state lands. The Legislature authorized final adoption of the January 5, 2017 provisionally adopted Chapter 200 contingent upon the incorporation of the revisions directed by the Legislature in P.L. 2017, c. 142.

Following Mr. Crawford's summary of the legislatively authorized revisions to the rule as presented in the Board packet, the Board provided an opportunity for public comment pursuant to 38 M.R.S. § 341-H(3)(C). Two persons provided comment on several provisions.

Following review of the public comments with Department staff, Board members supported the following changes to the rule as presented in the Board packet, with additions indicated by double underline and deletions indicated by double strikethrough:

- Page 51 of the Board packet, Section 9(K) Contingency Plan. Further modify Section 9(K)(1)(f) of the rule as follows: "Settling pond, or dry stack tailings management structure, tailings disposal area or ~~embankment failure;~~"
- Pages 65 and 66 of the Board packet, Section 12(A) Standard Conditions. With the deletion of Item #21, renumber the remaining items in the list.
- Page 72 of the Board packet, Section 17(B) Coverage of Financial Assurance. Modify the first sentence of Section 17(B)(1) as follows: "Financial assurance under this section applies to mining, including advanced exploration, and reclamation operations that are subject to a mining permit."
- Page 88 of the Board packet, Section 20(H) Containment Structures. Modify the last sentence of Section 20(H)(2) as follows: "Liner and leachate collection systems, ~~if required,~~ must meet the minimum design standards contained in section 21 of this Chapter."
- Page 98 of the Board packet, Section 21 Mine Waste Unit Design Standards. Modify Section 21(A)(4) as follows: "If stabilization of Group A and Group B mine waste may be ineffective in preventing pollutant release, the design must include a system for detection of leaks and leak recovery, or other engineered system as ~~may be~~ required by the Department."

The Board voted (5-0-0-2) on a motion by Mark Draper, seconded by Thomas Dobbins, to repeal and replace existing Chapter 200, and finally adopt Chapter 200 with the revisions presented to the Board today, with the additional revisions based on today's public comments as read by Ms. Bertocci, and adopt the associated Basis Statement and Response to Comments, and authorize staff to make typographical, formatting and similar corrections.

The vote was taken pursuant to 38 M.R.S. § 341-H(1), §§ 490-LL et seq., and P.L. 2017, c. 142.

Board members Thomas Dobbins, Mark Draper, Thomas Eastler, Jonathan Mapes, and James Parker voted to support the motion. Alvin Ahlers and Kathleen Chase were absent

3. Procedures Governing Appeal a Commissioner License Decision (informational session)

Staff: Cynthia Bertocci, Board Executive Analyst
Peggy Bensinger, Assistant Attorney General

Staff reviewed with Board members the procedures set forth in the Department's Chapter 2 *Rule Concerning the Processing of Applications and Other Administrative Matters* that govern the processing of an appeal of a Commissioner license decision.

(The meeting adjourned at approximately 11:45 a.m.)

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/]
Augusta Civic Center, 76 Community Drive, Augusta
Thursday, November 2, 2017 at 9:00 AM
Agenda

I. Departmental

- A. Commissioner's Comments
- B. Chair's Comments
- C. Executive Analyst's Comments
- D. [Board Calendar](#)
- E. [Department Orders](#) / [Applications Accepted](#) for Processing

II. Regular Agenda Items

1. [BEP Minutes September 7, 2017 \(approval\)](#)
2. Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining (final adoption)
 - [Staff memorandum](#)
 - [P.L. 2017, c. 142 \(LD 820\) "An Act to Protect Maine's Clean Water and Taxpayers from Mining Pollution" / Annotated to indicate sections of the rule modified to incorporate changes directed by the Legislature](#)
 - [Chapter 200 as Provisionally Adopted with Changes in Legislative Format](#)
 - [Chapter 200 Basis Statement and Response to Comments](#)
 - [Maine Metallic Mineral Mining Act \(2012\)](#)

<p><u>Opportunity for Additional Public Comment:</u> At this meeting the Board will accept additional public comment on the rule proposed for final adoption in accordance with 38 M.R.S. § 341-H(3)(C). Additional comment must be directly related to changes made to the proposed rule in response to Public Law 2017, c.142. The Board does not accept additional written comment at this meeting; comments must be made orally except by leave of the Chair.</p>

3. Appeal of Commissioner's License Decision / Informational Session

No packet materials for this agenda item.

Next Regular Meeting: Thursday, November 16, 2017, Civic Center, 76 Community Drive, Augusta

BOARD OF ENVIRONMENTAL PROTECTION

CALENDAR

2017

- | | |
|-------------------|---|
| November 2, 2017 | <u>Regular Meeting</u> ~ Board of Environmental Protection
Civic Center, 76 Community Drive, Augusta |
| November 16, 2017 | <u>Regular Meeting</u> ~ Board of Environmental Protection
Civic Center, 76 Community Drive, Augusta |
| December 7, 2017 | <u>Regular Meeting</u> ~ Board of Environmental Protection
Civic Center, 76 Community Drive, Augusta |
| December 21, 2017 | <u>Regular Meeting</u> ~ Board of Environmental Protection
Civic Center, 76 Community Drive, Augusta |

Department of Environmental Protection
Signed Department Orders Filed with the Board

From: 8/16/2017 To: 10/20/2017

Signed Department Orders Filed with the Board for: **AIR**

TAMBRANDS INC. DEP Number: A-000044-71-T-R/M DESCRIPTION: renewal/minor revision to remove boiler and change fuels for 2 boilers	DISPOSITION: Approved DATE ACCEPTED: 09/09/2016	LOCATION: AUBURN DECISION FILED: 09/25/2017
INDUSTRIAL CONNECTIONS & SOLUTIONS LLC DEP Number: A-000152-71-K-R/A DESCRIPTION: Renewal for the facility's processes that includes metal finishing and electroplating	DISPOSITION: Approved DATE ACCEPTED: 01/21/2015	LOCATION: AUBURN DECISION FILED: 09/26/2017
INDUSTRIAL CONNECTIONS & SOLUTIONS LLC DEP Number: A-000152-71-K-R/A DESCRIPTION: license Boilers #1 and #2 to only fire natural gas; to remove fuel limits on the External Combustion Sources; to license two previously installed Make-up Air Units, Make-up Air Units A and B. to remove Line 9; and to introduce VOC emission limits for Aerosol Can Painting;	DISPOSITION: Approved DATE ACCEPTED: 01/21/2015	LOCATION: AUBURN DECISION FILED: 09/26/2017
INTERNATIONAL PAPER COMPANY DEP Number: A-000461-71-O-M DESCRIPTION: Request to classify gluing operation as an insignificant activity	DISPOSITION: Approved DATE ACCEPTED: 07/07/2017	LOCATION: AUBURN DECISION FILED: 08/17/2017
SOUTHPORT YACHTS, LLC DEP Number: A-001122-71-B-T DESCRIPTION: Transfer application for the transfer of license A-1122-71-A-N from Southport Boats, LLC to Southport Yachts, LLC.	DISPOSITION: Approved DATE ACCEPTED: 08/28/2017	LOCATION: AUGUSTA DECISION FILED: 09/26/2017
WOODLAND PULP LLC DEP Number: A-000215-70-P-A DESCRIPTION: to incorporate NSR #13 to increase CO lb/hr from #3 Recovery Boiler	DISPOSITION: Approved DATE ACCEPTED: 02/28/2017	LOCATION: BAILEYVILLE DECISION FILED: 10/03/2017
WOODLAND PULP LLC DEP Number: A-000215-70-R-A DESCRIPTION: Admin Revision to align PM testing deadlines with boiler MACT	DISPOSITION: Approved DATE ACCEPTED: 08/21/2017	LOCATION: BAILEYVILLE DECISION FILED: 10/03/2017
WOODLAND PULP LLC DEP Number: A-000215-77-13-A DESCRIPTION: to increase CO limits from #3 recovery boiler	DISPOSITION: Approved DATE ACCEPTED: 02/28/2017	LOCATION: BAILEYVILLE DECISION FILED: 10/03/2017
WOODLAND PULP LLC DEP Number: A-000215-77-14-A DESCRIPTION: to install an additional water bath gas heater (3.0 MMBtu/hr firing NG)	DISPOSITION: Approved DATE ACCEPTED: 05/03/2017	LOCATION: BAILEYVILLE DECISION FILED: 09/12/2017
A.C. ELECTRIC CORP. DEP Number: A-000919-71-E-R DESCRIPTION: Renewal of equipment associated with electric motor repair facility	DISPOSITION: Approved DATE ACCEPTED: 07/07/2017	LOCATION: BANGOR DECISION FILED: 09/01/2017
ATHENAHEALTH, INC. DEP Number: A-000991-71-C-A DESCRIPTION: Amendment to replace 2 distillate fired boilers with 4 propane fired boilers and add an emergency generator.	DISPOSITION: Approved DATE ACCEPTED: 07/27/2017	LOCATION: BELFAST DECISION FILED: 09/06/2017
FIBER MATERIALS INC. DEP Number: A-000262-71-AA-M DESCRIPTION: Replacement of Boiler #4 with two new 1.1 MMBtu/hr gas-fired boilers	DISPOSITION: Approved DATE ACCEPTED: 09/25/2017	LOCATION: BIDDEFORD DECISION FILED: 09/25/2017
UNIVERSITY OF NEW ENGLAND DEP Number: A-000487-71-Q-A DESCRIPTION: installation of a new emergency generator at a new building and a fuel use increase	DISPOSITION: Approved DATE ACCEPTED: 07/27/2017	LOCATION: BIDDEFORD DECISION FILED: 09/01/2017
PIKE INDUSTRIES, INC. DEP Number: A-000624-71-I-R/M DESCRIPTION: Renewal for 2 grid powered crushers	DISPOSITION: Approved DATE ACCEPTED: 02/27/2017	LOCATION: FAIRFIELD DECISION FILED: 09/12/2017

Department of Environmental Protection

10/20/2017

Signed Department Orders Filed with the Board

From: 8/16/2017 To: 10/20/2017

Signed Department Orders Filed with the Board for: **AIR**

PIKE INDUSTRIES, INC. DEP Number: A-000624-71-I-R/M DESCRIPTION: remove all generators	DISPOSITION: Approved DATE ACCEPTED: 02/27/2017	LOCATION: FAIRFIELD DECISION FILED: 09/12/2017
HOULTON REGIONAL HOSPITAL DEP Number: A-000208-71-J-R DESCRIPTION: renewal of the facilities existing air emission license and amendments	DISPOSITION: Approved DATE ACCEPTED: 01/17/2017	LOCATION: HOULTON DECISION FILED: 09/25/2017
ENTERPRISE CASTINGS, LLC DEP Number: A-000108-71-H-T DESCRIPTION: transfer of air emission license from PRR Enterprise Inc. to Enterprise Castings, LLC	DISPOSITION: Approved DATE ACCEPTED: 03/10/2017	LOCATION: LEWISTON DECISION FILED: 09/14/2017
LEWISTON-AUBURN WATER POLLUTION CONTROL AUTHORITY DEP Number: A-001054-71-F-R/A DESCRIPTION: Ch. 115 renewal	DISPOSITION: Approved DATE ACCEPTED: 02/23/2016	LOCATION: LEWISTON DECISION FILED: 10/13/2017
LEWISTON-AUBURN WATER POLLUTION CONTROL AUTHORITY DEP Number: A-001054-71-F-R/A DESCRIPTION: amendment to replace/rebuild engine #2 for replacement in kind language; inc. into renewal	DISPOSITION: Approved DATE ACCEPTED: 01/12/2017	LOCATION: LEWISTON DECISION FILED: 10/13/2017
THE DINGLEY PRESS, INC. DEP Number: A-000506-70-P-A DESCRIPTION: Significant Mod to incorporate the requirements of NSR#4 (Press #9 A&B)	DISPOSITION: Approved DATE ACCEPTED: 05/03/2017	LOCATION: LISBON DECISION FILED: 10/17/2017
MAIBEC LUMBER INC. DEP Number: A-000165-70-G-A DESCRIPTION: Part 70 Significant Mod to incorporate the requirements of A-165-77-3-A	DISPOSITION: Approved DATE ACCEPTED: 07/17/2017	LOCATION: MASARDIS DECISION FILED: 10/03/2017
JSI STORE FIXTURES INCORPORATED DEP Number: A-001065-71-C-R DESCRIPTION: 115 Renewal	DISPOSITION: Approved DATE ACCEPTED: 12/15/2016	LOCATION: MILO DECISION FILED: 10/04/2017
UNUM CORPORATION DEP Number: A-000657-71-M-M DESCRIPTION: minor revision to update non-emergency operating limitations on emergency generators	DISPOSITION: Approved DATE ACCEPTED: 07/06/2017	LOCATION: PORTLAND DECISION FILED: 09/25/2017
ROCKLAND MARINE CORPORATION DEP Number: A-001126-71-A-N DESCRIPTION: application for a new license	DISPOSITION: Approved DATE ACCEPTED: 03/03/2017	LOCATION: ROCKLAND DECISION FILED: 08/23/2017
MAINE MEDICAL CENTER DEP Number: A-000934-71-F-A DESCRIPTION: Addition of an 80 kW emergency generator	DISPOSITION: Approved DATE ACCEPTED: 08/17/2017	LOCATION: SCARBOROUGH DECISION FILED: 09/28/2017
LIGNETICS OF MAINE, LLC DEP Number: A-000342-71-X-M DESCRIPTION: Installation of blend air duct and bypass stack	DISPOSITION: Approved DATE ACCEPTED: 08/28/2017	LOCATION: STRONG DECISION FILED: 09/06/2017
GRIMMEL IND., INC. DEP Number: A-000760-71-D-R/A DESCRIPTION: renewal of existing license for an 8.9 MMBtu/hr generator with an amendment to add 4.1 MMBtu/hr generator to their license	DISPOSITION: Approved DATE ACCEPTED: 04/06/2017	LOCATION: TOPSHAM DECISION FILED: 10/13/2017
WESTBROOK CITY OF DEP Number: A-000114-71-H-R/A DESCRIPTION: renewal with a minor revision to remove a boiler	DISPOSITION: Approved DATE ACCEPTED: 02/10/2017	LOCATION: WESTBROOK DECISION FILED: 09/12/2017

Department of Environmental Protection

Signed Department Orders Filed with the Board

From: 8/16/2017 To: 10/20/2017

Accepted applications for: **LAND**

BOUFFARD & MCFARLAND BUILDERS	Disposition:	APPROVED	Location:	AUBURN
DEP Number: L-027587-TB- A-N	Date Accepted:	8/31/2017	Decision Filed:	10/13/2017
DESCRIPTION:	ATF / CONSTRUCTION OF ROAD TO ALLOW ACCESS TO RECENTLY SUBDIVIDED LOTS THE ROADWAY WILL CROSS AN UNNAMED WETLAND			
AUGUSTA, CITY OF	Disposition:	APPROVED	Location:	AUGUSTA
DEP Number: L-027440-4P- A-N	Date Accepted:	6/16/2017	Decision Filed:	9/14/2017
DESCRIPTION:	REPLACE 4 CONCRETE PIERS AT THE EAST SIDE BOAT LANDING / INSTALL RIRAP TO ARMOR THE PIERS & STABILIZE THE SHORELINE IN THE AREA			
AUGUSTA ESTATES LIMITED PARTNERSHIP	Disposition:	APPROVED	Location:	AUGUSTA
DEP Number: L-006730-87- M-T	Date Accepted:	8/3/2017	Decision Filed:	8/30/2017
DESCRIPTION:	TRANSFERRED FROM MAINE INVESTMENTS LLC			
FDS OF MAINE LLC	Disposition:	APPROVED	Location:	AUGUSTA
DEP Number: L-027588-NJ- A-N	Date Accepted:	8/16/2017	Decision Filed:	9/25/2017
DESCRIPTION:	REDEVELOPMENT OF FORMER MDOT MAINTNENCE FACILITY SITE / NEW DEVELOPMENT WILL FEATURE 2 OFFICE BUILDINGS WITH SUPPORTING PARKING FACILITIES & UTILITIES			
WEBBS RV CENTER	Disposition:	APPROVED	Location:	BANGOR
DEP Number: L-018112-26- F-D	Date Accepted:	10/17/2017	Decision Filed:	
DESCRIPTION:	RV STIORAGE LOT BUILDING ON PREVIOUSLY PERMITTED PAVED AREA			
MOUNT HOPE CEMETERY CORP	Disposition:	APPROVED	Location:	BANGOR
DEP Number: L-019881-L6- B-N	Date Accepted:	9/8/2017	Decision Filed:	10/3/2017
DESCRIPTION:	DREDGE SEDIMENTS FORM POND & DISPOSE ON SITE			
ALRIG USA LLC	Disposition:	APPROVED	Location:	BANGOR
DEP Number: L-027072-NJ- A-N	Date Accepted:	7/25/2017	Decision Filed:	8/31/2017
DESCRIPTION:	A 9440 SF MULTI TENANT BLDG WITH MEDICAL RETAIL & RESTAURANT USERS & UNDERGROUND BASIN			
THE JACKSON LABORATORY	Disposition:	APPROVED	Location:	BAR HARBOR
DEP Number: L-015327-TE-AT-N	Date Accepted:	6/30/2017	Decision Filed:	8/30/2017
DESCRIPTION:	BUILDING 62: CORE OPERATIONS CENTER - CONSTRUCTION OF A NEW FACILITIES BLDG INCLUDING LOADING DOCKS WAREHOUSING & MAINTENANCE OPERATIONS SUPPORT			
THE JACKSON LABORATORY	Disposition:	APPROVED	Location:	BAR HARBOR
DEP Number: L-015327-26-AU-B	Date Accepted:	6/30/2017	Decision Filed:	8/30/2017
DESCRIPTION:	BUILDING 62: CORE OPERATIONS CENTER - CONSTRUCTION OF A NEW FACILITIES BLDG INCLUDING LOADING DOCKS WAREHOUSING & MAINTENANCE OPERATIONS SUPPORT			
MAINE MARITIME MUSEUM	Disposition:	APPROVED	Location:	BATH
DEP Number: L-003042-4P- D-N	Date Accepted:	7/11/2017	Decision Filed:	10/3/2017
DESCRIPTION:	EXPANSION OF THE "FITTING OUT PIER" TO INCLUDE THE ADDITION OF NEW FLOATS, GANGWAY, CRIB TAKOFF PIER & MOORINGS			

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STEVEN & TINA HINTZ	Disposition: APPROVED	Location: BELFAST
DEP Number: L-027448-4D- A-N	Date Accepted: 7/18/2017	Decision Filed: 10/13/2017
DESCRIPTION: STABILIZE ERODING SHORELINE AT RESIDENTIAL RIVERSIDE PROPERTY / INSTALL NEW ABUTMENT FOR DOCK LANDING, SEASONAL RAMP & FLOAT		
OTIS SOUTH LLC	Disposition: APPROVED	Location: BETHEL
DEP Number: L-027443-80- A-N	Date Accepted: 7/5/2017	Decision Filed: 8/21/2017
DESCRIPTION: EXCAVATING CLOSER THAN 100 FT TO A PUBLIC ROAD / AN AREA GREATER THAN 10 ACRES FOR THE WORKING PIT		
MIKE & MARTHA LONG	Disposition: APPROVED	Location: BLUE HILL
DEP Number: L-027057-4D- A-N	Date Accepted: 6/9/2017	Decision Filed: 8/25/2017
DESCRIPTION: CONSTRUCT ~195 LIN FT RIPRAP SHORELINE STABILIZATION		
MIKE & MARTHA LONG	Disposition: APPROVED	Location: BLUE HILL
DEP Number: L-027057-TW- B-N	Date Accepted: 6/9/2017	Decision Filed: 8/25/2017
DESCRIPTION: CONSTRUCT ~195 LIN FT RIPRAP SHORELINE STABILIZATION		
BRUCE B & NANCY D TINDAL	Disposition: APPROVED	Location: BOOTHBAY
DEP Number: L-027555-4D- A-N	Date Accepted: 7/6/2017	Decision Filed: 10/4/2017
DESCRIPTION: INSTALLO RIPRAP & PLANTINGS TO STABILIZE SHORELINE		
LESLIE & JOHN MALONE	Disposition: APPROVED	Location: BOOTHBAY
DEP Number: L-027583-TA- A-N	Date Accepted: 8/4/2017	Decision Filed: 8/30/2017
DESCRIPTION: FILL 600 SF OF FRESHWATER WETLAND ALONG DIRT ACCESS ROAD SO IT IS PASSABLE IN ALL SEASONS		
DEBORAH R & ROBERT W BARRIS III	Disposition: APPROVED	Location: BOOTHBAY
DEP Number: L-027447-4P- A-N	Date Accepted: 6/29/2017	Decision Filed: 9/21/2017
DESCRIPTION: ADD TO THE PILE SUPPORTS & ADD ADDITIONAL FLOAT PERPENDICULAR TO SHORE / A LANDING AT THE START OF THE PIER, A KAYAK RACK & STORAGE BOX		
PGC1 LLC / PGC2 LLC	Disposition: APPROVED	Location: BOOTHBAY
DEP Number: L-019814-28- Q-M	Date Accepted: 2/27/2017	Decision Filed: 9/12/2017
DESCRIPTION: MINOR REVISION / EXPAND PATIO / ELIMINATE 4 PADDLEBALL COURTS & REPLACE WITH 2 PICKLE BALL COURTS / SHIFT TENNIS COURTS TO THE NORTH & ADDITIONAL MODIFICATIONS		
WILLIAM & INGA ROGERS	Disposition: APPROVED	Location: BOOTHBAY HARBOR
DEP Number: L-027550-4P- A-N	Date Accepted: 7/6/2017	Decision Filed: 8/29/2017
DESCRIPTION: CONSTRUCT ACCESS BRIDGE, ACCESS RAMP, PIER, RAMP, FLOAT & FLOAT HAULOUT		
SEASCAPE INVESTMENTS LLC	Disposition: APPROVED	Location: BOOTHBAY HARBOR
DEP Number: L-027425-NJ- B-M	Date Accepted: 8/8/2017	Decision Filed: 9/25/2017
DESCRIPTION: CONSTRUCT 3 NEW BUILDINGS / STORMWATER CONTROLS INCLUDE SOIL MEDIA FILTER POND & BUFFERS		
BREMEN, TOWN OF	Disposition: APPROVED	Location: BREMEN
DEP Number: L-027000-TA- E-N	Date Accepted: 8/11/2017	Decision Filed: 9/14/2017
DESCRIPTION: NEW BRIDGE BEING BUILT OFF ALIGNMENT TO SOFTEN THE CURVE OF THE ROAD AS WELL AS KEEPING THE EXISTING BRIDGE AS ACCESS TO RESIDENTS		

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CANTON MOUNTAIN WIND LLC	Disposition: APPROVED	Location: CANTON
DEP Number: L-025558-24- H-C	Date Accepted: 7/17/2017	Decision Filed: 10/13/2017
DESCRIPTION: CONDITION COMPLIANCE / CONDITION 11 / COPY OF POST-CONSTRUCTION MONITORING PLAN		
CANTON MOUNTAIN WIND LLC	Disposition: APPROVED	Location: CANTON
DEP Number: L-025558-24- I-C	Date Accepted: 7/17/2017	Decision Filed: 8/28/2017
DESCRIPTION: CONDITION COMPLIANCE / CONDITION 22 / COPY OF PROJECT'S SPCC PLAN		
CANTON MOUNTAIN WIND LLC	Disposition: APPROVED	Location: CANTON
DEP Number: L-025558-24- J-C	Date Accepted: 8/4/2017	Decision Filed: 9/25/2017
DESCRIPTION: CONDITION COMPLIANCE / CONDITION 7 / DOCUMENT REGARDING SOUND LEVEL COMPLIANCE		
MAXWELL WOODS LLC	Disposition: APPROVED	Location: CAPE ELIZABETH
DEP Number: L-022723-87- D-N	Date Accepted: 4/28/2017	Decision Filed: 9/25/2017
DESCRIPTION: A 65-UNIT MULTIPLEX DEVELOPMENT AND ASSOCIATED ACCESS ROAD		
CARMEL DMEP LLC	Disposition: APPROVED	Location: CARMEL
DEP Number: L-027063-TB- A-N	Date Accepted: 7/17/2017	Decision Filed: 8/30/2017
DESCRIPTION: 9100 SF DOLLAR GENERAL RETAIL STORE WITH ADDITIONAL IMPERVIOUS PARKING		
CARMEL DMEP LLC	Disposition: APPROVED	Location: CARMEL
DEP Number: L-027063-NB- B-N	Date Accepted: 7/17/2017	Decision Filed: 8/30/2017
DESCRIPTION: 9100 SF DOLLAR GENERAL RETAIL STORE WITH ADDITIONAL PARKING		
HELEN & ERNEST COPLEY	Disposition: APPROVED	Location: CUMBERLAND
DEP Number: L-025376-L3- G-M	Date Accepted: 6/7/2017	Decision Filed: 8/31/2017
DESCRIPTION: ENCROACHMENT INTO 100 FT STREAM SETBACK ZONE		
MAPLE JUICE COVE PROPERTIES LLC	Disposition: APPROVED	Location: CUSHING
DEP Number: L-027348-4P- B-N	Date Accepted: 7/20/2017	Decision Filed: 10/10/2017
DESCRIPTION: CONSTRUCT A PIER WITH SEASONAL GANGWAY & FLOAT		
STUART PRATT	Disposition: APPROVED	Location: CUSHING
DEP Number: L-027048-4D- B-N	Date Accepted: 8/9/2017	Decision Filed: 8/31/2017
DESCRIPTION: SHORELINE STABILIZATION WITH RIPRAP & REVEGETATION METHODS		
JASPER WYMAN & SON INC	Disposition: APPROVED	Location: DEBLOIS
DEP Number: L-027074-L6- A-N	Date Accepted: 8/14/2017	Decision Filed: 9/25/2017
DESCRIPTION: RAISE BROOK LOT DAM 3 FEET EXTEND OUTLET PIPE & INSTALL RIPRAP APRON AT OUTLET PIPE & REGRADE DOWNSTREAM DAM SLOPE		
JASPER WYMAN & SON INC	Disposition: APPROVED	Location: DEBLOIS
DEP Number: L-027074-TA- B-N	Date Accepted: 8/14/2017	Decision Filed: 9/25/2017
DESCRIPTION: RAISE BROOK LOT DAM 3 FEET EXTEND OUTLET PIPE & INSTALL RIPRAP APRON AT OUTLET PIPE & REGRADE DOWNSTREAM DAM SLOPE		

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JASPER WYMAN & SON INC	Disposition: APPROVED	Location: DEBLOIS
DEP Number: L-027074-IW- C-N	Date Accepted: 8/14/2017	Decision Filed: 9/25/2017
DESCRIPTION: RAISE BROOK LOT DAM 3 FEET EXTEND OUTLET PIPE & INSTALL RIPRAP APRON AT OUTLET PIPE & REGRADE DOWNSTREAM DAM SLOPE		
ACM NARM MAINE LLC	Disposition: APPROVED	Location: EAST MILLINOCKET
DEP Number: L-016637-20- W-M	Date Accepted: 9/25/2017	Decision Filed: 10/4/2017
DESCRIPTION: PLUGGING OF CATCH BASINS ASSOCIATED WITH THE COLLECTION OF TRENCH DRAINS FROM THE MILL DEMOLITION AREA		
KEN BOUDIN	Disposition: APPROVED	Location: EDGECOMB
DEP Number: L-027558-4D- A-N	Date Accepted: 7/18/2017	Decision Filed: 8/29/2017
DESCRIPTION: FIX & CONTINUE ROCK WALL ABOVE HIGH WATER MARK FOR EROSION CONTROL		
PAUL & KRISTINE NADEAU	Disposition: APPROVED	Location: ELIOT
DEP Number: L-027557-TW- B-N	Date Accepted: 7/11/2017	Decision Filed: 9/19/2017
DESCRIPTION: CONSTRUCT PIER WITH ACCESS LANDING, SEASONAL RAM, & SEASONAL FLOATS		
PAUL & KRISTINE NADEAU	Disposition: APPROVED	Location: ELIOT
DEP Number: L-027557-4P- A-N	Date Accepted: 7/11/2017	Decision Filed: 9/19/2017
DESCRIPTION: CONSTRUCT PIER WITH ACCESS LANDING, SEASONAL RAM, & SEASONAL FLOATS		
ROBERT & MELINDA LONGTIN	Disposition: APPROVED	Location: ELIOT
DEP Number: L-027568-TW- B-N	Date Accepted: 7/26/2017	Decision Filed: 10/3/2017
DESCRIPTION: RESIDENTIAL PIER		
ROBERT & MELINDA LONGTIN	Disposition: APPROVED	Location: ELIOT
DEP Number: L-027568-4P- A-N	Date Accepted: 7/26/2017	Decision Filed: 10/3/2017
DESCRIPTION: RESIDENTIAL PIER		
ANDREW R BERUBE	Disposition: APPROVED	Location: FALMOUTH
DEP Number: L-020781-NJ- F-A	Date Accepted: 6/30/2017	Decision Filed: 8/25/2017
DESCRIPTION: DIVISION OF LOT 5 INTO 2 LOTS FOR RESIDENTIAL USE		
OCEAN VIEW RETIREMENT COMMUNITY LLLC	Disposition: APPROVED	Location: FALMOUTH
DEP Number: L-010704-87- S-A	Date Accepted: 6/1/2017	Decision Filed: 9/19/2017
DESCRIPTION: AMENDMENT / RENOVATIONS & 10 UNIT EXPANSION TO THE FALMOUTH HOUSE ASSISTED LIVING FACILITY		
JAMES CUMMINGS	Disposition: APPROVED	Location: FALMOUTH
DEP Number: L-027434-NJ- A-N	Date Accepted: 6/7/2017	Decision Filed: 8/21/2017
DESCRIPTION: CONSTRUCT A 32-UNIT CONDOMINIUM DEVELOPMENT WITH AN ACCESS ROAD & ASSOCIATED UTILITIES		
DAVID CHASE	Disposition: APPROVED	Location: FALMOUTH
DEP Number: L-026446-NJ- B-M	Date Accepted: 7/28/2017	Decision Filed: 8/31/2017
DESCRIPTION: MINOR REVISION / REVISION TO THE BUILDING CONFIGURATION & ACCESS DRIVE		

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THE HAMPTONS LLC DEP Number: L-027556-TW- B-N DESCRIPTION: CONSTRUCT PIER WITH BATTER PILINGS, RAMP, FLOAT & FLOAT HAULOUT	Disposition: APPROVED Date Accepted: 7/10/2017	Location: FRIENDSHIP Decision Filed: 8/31/2017
THE HAMPTONS LLC DEP Number: L-027556-4P- A-N DESCRIPTION: CONSTRUCT PIER WITH BATTER PILINGS, RAMP, FLOAT & FLOAT HAULOUT	Disposition: APPROVED Date Accepted: 7/10/2017	Location: FRIENDSHIP Decision Filed: 8/31/2017
AUBURN ASPHALT DEP Number: L-019861-39- M-C DESCRIPTION: CONDITION COMPLIANCE / CONDITIONS 1-24 / ERECTING A NEW OFFICE - MAINTENANCE BUILDING WITH ASSOCIATED PARKING	Disposition: APPROVED Date Accepted: 7/7/2017	Location: GARDINER Decision Filed: 8/31/2017
MARSHALL FELIX DEP Number: L-027559-TA- A-N DESCRIPTION: CONSTRUCT SINGLE FAMILY HOME	Disposition: APPROVED Date Accepted: 7/21/2017	Location: GEORGETOWN Decision Filed: 8/29/2017
MARISSA / MEGHANN RITZ / CARRASCO DEP Number: L-022803-39- D-B DESCRIPTION: MINOR AMENDMENT / CONSTRUCT A 6,160 SF STRUCTURE TO BE USED FOR A CHILDCARE FACILITY	Disposition: APPROVED Date Accepted: 7/20/2017	Location: GORHAM Decision Filed: 10/3/2017
GORHAM, TOWN OF DEP Number: L-027579-TC- A-N DESCRIPTION: MAKE IMPROVEMENTS TO RAIL TRAIL WALKING & BICYCLE PATH BETWEEN NEW PORTLAND RD & LIBBY AVE	Disposition: APPROVED Date Accepted: 8/9/2017	Location: GORHAM Decision Filed: 9/14/2017
W A ONE DEP Number: L-027354-TB- B-N DESCRIPTION: FILL FRESHWATER WETLAND FOR A 9 LOT RESIDENTIAL SUBDIVISION, ROADWAY & UTILITIES	Disposition: APPROVED Date Accepted: 3/17/2017	Location: GORHAM Decision Filed: 10/3/2017
60 HUTCHERSON DRIVE LLC DEP Number: L-000003-39-AQ-B DESCRIPTION: MINOR AMENDMENT / CONSTRUCT 2 MULTI-UNIT BUILDINGS / PH INDUSTRIAL DEVELOPMENT	Disposition: APPROVED Date Accepted: 5/10/2017	Location: GORHAM Decision Filed: 8/17/2017
422 OCEAN LLC DBA MAINE COAST KITCHEN INC DEP Number: L-027581-TB- A-N DESCRIPTION: DEVELOP AN INDUSTRIAL BUILDING WITH ASSOCIATED DRIVE, PARKING & LOADING AREAS	Disposition: APPROVED Date Accepted: 8/7/2017	Location: GORHAM Decision Filed: 9/14/2017
CHARLES COLWELL DEP Number: L-027060-4D- A-N DESCRIPTION: FILL UNDERNEATH EXISTING TRAP SHACK & WHARF TO PREVENT FURTHER DAMANGE BY INCREASINGLY HIGH TIDES	Disposition: APPROVED Date Accepted: 6/20/2017	Location: GOULDSBORO Decision Filed: 8/31/2017
SNOWFIELDS MANAGEMENT LLC DEP Number: L-015190-87-AF-M DESCRIPTION: MINOR REVISION / EXTENSION TO HILLSIDE CONDOS	Disposition: APPROVED Date Accepted: 11/7/2016	Location: GREENWOOD Decision Filed: 8/31/2017

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SNOWFIELDS MANAGEMENT LLC	Disposition: APPROVED	Location: GREENWOOD
DEP Number: L-015190-TC-AG-M	Date Accepted: 11/7/2016	Decision Filed: 8/31/2017
DESCRIPTION: MINOR REVISION / EXTENSION TO HILLSIDE CONDOS		
ALLAN PARROT	Disposition: APPROVED	Location: HANCOCK
DEP Number: L-027058-2F- A-N	Date Accepted: 6/15/2017	Decision Filed: 8/21/2017
DESCRIPTION: 800 LF SHIORELINE STABILIZATION		
WALTER SCOTT MOODY	Disposition: APPROVED	Location: HARPSWELL
DEP Number: L-027033-4P- B-N	Date Accepted: 6/28/2017	Decision Filed: 9/25/2017
DESCRIPTION: ATF / WET STORAGE BUILDING TO BE USED AS UPWELLER & PUMP HOUSE TO PUMP WATER INTO A DEPURATION TANK		
DIANE LOUGHLIN	Disposition: APPROVED	Location: HARPSWELL
DEP Number: L-020013-4P- E-M	Date Accepted: 6/21/2017	Decision Filed: 8/31/2017
DESCRIPTION: MINOR REVISION /		
PHILIP / LORRAINE MONGADA / RUGGIANO	Disposition: APPROVED	Location: HARPSWELL
DEP Number: L-027552-2F- A-N	Date Accepted: 7/21/2017	Decision Filed: 10/19/2017
DESCRIPTION: CONSTRUCT STONE RIPRAP & TIMBER BULKHEAD / CONSTRUCT DOCK, RAMP & FLOAT		
BETTY LINCOLN	Disposition: APPROVED	Location: HARPSWELL
DEP Number: L-014160-4P- B-M	Date Accepted: 8/7/2017	Decision Filed: 8/30/2017
DESCRIPTION: REPLACE EXISTING FLOAT / MODIFY FLOAT SIZE FROM 12 FT X 12 FT TO 12 FT X 16 FT		
PHILIP / LORRAINE MONGADA / RUGGIANO	Disposition: APPROVED	Location: HARPSWELL
DEP Number: L-027552-4P- B-N	Date Accepted: 7/21/2017	Decision Filed: 10/19/2017
DESCRIPTION: CONSTRUCT STONE RIPRAP & TIMBER BULKHEAD / CONSTRUCT DOCK, RAMP & FLOAT		
JAMES GLETTING	Disposition: APPROVED	Location: JONESPORT
DEP Number: L-027070-2F- A-N	Date Accepted: 8/4/2017	Decision Filed: 10/3/2017
DESCRIPTION: RIPRAP SHORELINE TO PREENT FURTHER EROSION		
HOWARD J HALL	Disposition: APPROVED	Location: KENNEBUNK
DEP Number: L-027414-NJ- C-N	Date Accepted: 6/20/2017	Decision Filed: 9/6/2017
DESCRIPTION: DEVELOP 1 COMMERCIAL LOT & 30 UNIT MULTI-FAMILY SUBDIVISION / WEBHANNET PLACE VILLAGE		
HOWARD J HALL	Disposition: APPROVED	Location: KENNEBUNK
DEP Number: L-027414-TA- D-N	Date Accepted: 6/20/2017	Decision Filed: 9/6/2017
DESCRIPTION: WETLAND IMPACTS AS PART OF A MIXED USE PROJECT (ROAD / DRIVEWAY CROSSINGS)		
ANDREW NELSON	Disposition: APPROVED	Location: KENNEBUNK
DEP Number: L-027575-TA- A-N	Date Accepted: 8/15/2017	Decision Filed: 9/19/2017
DESCRIPTION: REDEVELOPMENT OF NELSON ANALYTICAL SITE / CONSTRUCT NEW BUILDING & PARKING AREA		

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MELISSA WINSTANLY	Disposition:	APPROVED	Location:	KENNEBUNKPORT
DEP Number: L-024816-4E- I-M	Date Accepted:	7/20/2017	Decision Filed:	9/19/2017
DESCRIPTION: MINOR REVISION / DISPOSAL AT THE CAPE ARUNDEL DISPOSAL SITE RATHER THAN UPLAND DISPOSAL				
PETER & CYNTHIA GUTERMANN	Disposition:	APPROVED	Location:	KENNEBUNKPORT
DEP Number: L-027423-4I- A-N	Date Accepted:	6/5/2017	Decision Filed:	9/25/2017
DESCRIPTION: ATF / BUILDING RECONSTRUCTION WITHIN REQUIRED SETBACKS				
BINNACLE HILL DEVELOPMENT LLC	Disposition:	APPROVED	Location:	KENNEBUNKPORT
DEP Number: L-027363-L3- C-C	Date Accepted:	9/1/2017	Decision Filed:	9/19/2017
DESCRIPTION: CONDITION COMPLIANCE / BLASTING PLAN				
FRANKLIN LAND ASSOCIATES LLC	Disposition:	APPROVED	Location:	KINGFIELD
DEP Number: L-024534-26- C-T	Date Accepted:	7/26/2017	Decision Filed:	8/21/2017
DESCRIPTION: TRANSFERRED FROM JORDAN VENTURES				
BRIAN COOPER	Disposition:	APPROVED	Location:	KITTERY
DEP Number: L-027427-TW- B-N	Date Accepted:	6/13/2017	Decision Filed:	9/5/2017
DESCRIPTION: CONSTRUCT PERMANENT PIER WITH RAMP & FLOAT				
RICHARD & GAIL MARSHALL	Disposition:	APPROVED	Location:	KITTERY
DEP Number: L-027416-4P- A-N	Date Accepted:	5/26/2017	Decision Filed:	8/24/2017
DESCRIPTION: CONSTRUCT PLATFORM, ACCESS STAIRS WITH MID-STAIRS PLATFORM, PIER WITH BATTER PILINGS & STAIRS TO BEACH, RAMP & 2 FLOATS WITH 2 DOLPHIN MOORINGS				
BRIAN COOPER	Disposition:	APPROVED	Location:	KITTERY
DEP Number: L-027427-4P- A-N	Date Accepted:	6/13/2017	Decision Filed:	9/5/2017
DESCRIPTION: CONSTRUCT PERMANENT PIER WITH RAMP & FLOAT				
NORWICH INVESTMENTS LLC	Disposition:	APPROVED	Location:	KITTERY
DEP Number: L-027446-NJ- A-N	Date Accepted:	7/13/2017	Decision Filed:	9/21/2017
DESCRIPTION: SUBDIVIDE LOT INOT 8 LOTS WITH OPEN SPACE TO MANAGED BY THE HOMEOWNERS ASSOCIATION / UPGRADE GRAVEL ROADWAY, CONSTRUCT NEW ROADWAY, GRADING & UTILITIES INSTALLATIION				
NORWICH INVESTMENTS LLC	Disposition:	APPROVED	Location:	KITTERY
DEP Number: L-027446-TA- B-N	Date Accepted:	7/13/2017	Decision Filed:	9/21/2017
DESCRIPTION: SUBDIVIDE LOT INTO 8 LOTS WITH OPEN SPACE TO MANAGED BY THE HOMEOWNERS ASSOCIATION / UPGRADE GRAVEL ROADWAY, CONSTRUCT NEW ROADWAY, GRADING & UTILITIES INSTALLATIION				
LEWISTON PUBLIC SCHOOLS	Disposition:	APPROVED	Location:	LEWISTON
DEP Number: L-018581-28- M-C	Date Accepted:	8/21/2017	Decision Filed:	8/31/2017
DESCRIPTION: CONDITION COMPLIANCE / CONDITION 4 / EVIDENCE OF LINE OF CREADIT OR LOAN / ROBERT V CONNORS ELEMENTARY SCHOOL				
SCOTT DAVIS	Disposition:	APPROVED	Location:	LIMERICK
DEP Number: L-000049-L3-BY-C	Date Accepted:	8/21/2017	Decision Filed:	9/25/2017
DESCRIPTION: CONDITION COMPLIANCE / CONDITION 1E / SEPTIC DESIGN WITH PERMIT / SITE PLAN / LIMERICK MAP 39				

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LOUIE LACASSE	Disposition: APPROVED	Location: LITCHFIELD
DEP Number: L-027574-TA- A-N	Date Accepted: 7/28/2017	Decision Filed: 8/30/2017
DESCRIPTION: FILL IN LOW SPOT		
LONG ISLAND, TOWN OF	Disposition: APPROVED	Location: LONG ISLAND
DEP Number: L-018988-4P- C-N	Date Accepted: 7/11/2017	Decision Filed: 9/26/2017
DESCRIPTION: RESUBMITTAL / EXPANSION OF MUNICIPAL DOCK FACILITY / EXPANSION OF FLOAT SYSTEM WITH NEW GUIDE PILES / ADDITON OF A NEW ADA COMPLIANT GANGWAY & GANGWAY PLATFORM / UPGRADES TO WAVE SCREEN / CONSTRUCT AN EXTENDED SECTION OF WAVE SCREEN		
LONG ISLAND, TOWN OF	Disposition: APPROVED	Location: LONG ISLAND
DEP Number: L-018988-TW- D-N	Date Accepted: 7/11/2017	Decision Filed: 9/26/2017
DESCRIPTION: RESUBMITTAL / EXPANSION OF MUNICIPAL DOCK FACILITY / EXPANSION OF FLOAT SYSTEM WITH NEW GUIDE PILES / ADDITON OF A NEW ADA COMPLIANT GANGWAY & GANGWAY PLATFORM / UPGRADES TO WAVE SCREEN / CONSTRUCT AN EXTENDED SECTION OF WAVE SCREEN		
DAVID & JUANITA PRESSLEY	Disposition: APPROVED	Location: LUBEC
DEP Number: L-027076-2F- A-N	Date Accepted: 8/25/2017	Decision Filed: 9/25/2017
DESCRIPTION: STABILIZE ~254 FT OF SHORELINE WITH RIPRAP		
RICHARD LYFORD	Disposition: APPROVED	Location: MACHIASPORT
DEP Number: L-018278-2F- B-N	Date Accepted: 7/25/2017	Decision Filed: 8/25/2017
DESCRIPTION: CONSTRUCT RIPRAP SHORELINE STABILIZATION OVER 120 FT SECTION AND A 170 FT SECTION OF SHORELINE		
SOMERSET ACQUISITIONS LLC	Disposition: APPROVED	Location: MADISON
DEP Number: L-006136-20- M-A	Date Accepted: 5/23/2017	Decision Filed: 9/12/2017
DESCRIPTION: AMENDMENT / DEMOLISH SELECTED STRUCTURES IN 2 PHASES / PHASE 1 WILL CONSIST OF REMOVAL OF CERTAIN STRUCTURES FROM LOWER MILL / PHASE II WILL CONSIST OF REMOVAL OF CERTAIN STRUCTURES FROM UPPER MILL		
HYPONEX CORPORATION	Disposition: APPROVED	Location: MEDWAY
DEP Number: L-027061-TG- A-N	Date Accepted: 6/29/2017	Decision Filed: 10/4/2017
DESCRIPTION: ATF: CONSTRUCT ACCESS RD TRUCK SCALES & RAW MATERIAL PILES		
MLM REALTY LLC	Disposition: APPROVED	Location: NAPLES
DEP Number: L-023140-28- K-A	Date Accepted: 5/5/2017	Decision Filed: 10/5/2017
DESCRIPTION: AMENDMENT / CONSTRUCT 3 NEW BUILDINGS / CONSTRUCT GRAVEL DRIVES & PARKING AREAS		
NAPLES GOLF & COUNTRY CLUB	Disposition: APPROVED	Location: NAPLES
DEP Number: L-018686-L3- G-B	Date Accepted: 6/3/2016	Decision Filed: 10/5/2017
DESCRIPTION: MINOR AMENDMENT / CREATE 2 SINGLE FAMILY RESIDENTIAL LOTS ON LAND WHERE CLUBHOUSE & MAINTENANCE BLDGS CURRENTLY EXIST		
R H RENY INC	Disposition: APPROVED	Location: NEWCASTLE
DEP Number: L-020719-25- F-B	Date Accepted: 4/25/2017	Decision Filed: 8/31/2017
DESCRIPTION: MINOR ADMENDMENT / CONSTRUCT A 29,020 SF ADDITION / RENY WAREHOUSE & DISTRIBUTION CENTER		
RSU 19	Disposition: APPROVED	Location: NEWPORT
DEP Number: L-020403-22- C-A	Date Accepted: 5/4/2017	Decision Filed: 8/16/2017
DESCRIPTION: REMOVE NOKOMIS HS & CONSTRUCT NEW HIGH/MIDDLE SCHOOL - CONVERT EXISTING MIDDLE SCHOOL TO ELEMENTARY SCHOOL		

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OLD ORCHARD BEACH, TOWN OF DEP Number: L-027420-FS- B-N DESCRIPTION: WALKWAY / HANDICAP ACCESS RAMPS FOR ACCESS TO THE BEACH	Disposition: APPROVED Date Accepted: 6/5/2017	Location: OLD ORCHARD BEACH Decision Filed: 9/13/2017
OLD ORCHARD BEACH, TOWN OF DEP Number: L-027420-4H- A-N DESCRIPTION: WALKWAY / HANDICAP ACCESS RAMPS FOR ACCESS TO THE BEACH	Disposition: APPROVED Date Accepted: 6/5/2017	Location: OLD ORCHARD BEACH Decision Filed: 9/13/2017
ROSS ROAD LLC DEP Number: L-027442-NJ- A-N DESCRIPTION: DEVELOP A 20-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION INCLUDING NEW PUBLIC ROADS, SIDEWALKS UTILITIES & STORMWATER MANAGEMENT FACILITIES	Disposition: APPROVED Date Accepted: 7/5/2017	Location: OLD ORCHARD BEACH Decision Filed: 9/19/2017
NATHAN S RUSSELL DEP Number: L-027269-2F- A-N DESCRIPTION: STABILIZE PORTIONS OF THE SHORELINE TO ELIMINATE ONGOING EROSION	Disposition: APPROVED Date Accepted: 11/29/2016	Location: OWLS HEAD Decision Filed: 9/12/2017
BB DEVELOPMENT LLC DEP Number: L-025203-28- I-B DESCRIPTION: MINOR AMENDMENT / PARKING LOT EXPANSION / A NEW 401 SPACE PARKING LOT / OXFORD RESORT CASINO	Disposition: APPROVED Date Accepted: 5/17/2017	Location: OXFORD Decision Filed: 9/14/2017
ANTHONY COLLINS DEP Number: L-027071-TC- A-N DESCRIPTION: ATF: 50' X 100' AUCTION HOUSE SEATING 100 & 80' X 100' PARKING LOT	Disposition: APPROVED Date Accepted: 8/7/2017	Location: PALMYRA Decision Filed: 9/14/2017
MAINE ARMY NATIONAL GUARD DEP Number: L-026010-26- D-B DESCRIPTION: PLYMOUTH TRAINING FACILITY MANEUVER TRAIL IMPROVEMENTS - CONSTRUCT ~9000 FT OF 12' WIDE GRAVEL TRAIL & 2 CONCRETE BOX CULVERTS	Disposition: APPROVED Date Accepted: 7/14/2017	Location: PLYMOUTH Decision Filed: 8/30/2017
MAINE ARMY NATIONAL GUARD DEP Number: L-026010-TC- E-N DESCRIPTION: PLYMOUTH TRAINING FACILITY MANEUVER TRAIL IMPROVEMENTS - CONSTRUCT ~9000 FT OF 12' WIDE GRAVEL TRAIL & 2 CONCRETE BOX CULVERTS	Disposition: APPROVED Date Accepted: 7/14/2017	Location: PLYMOUTH Decision Filed: 8/30/2017
THOR ENTERPRISES LLC DEP Number: L-026006-NJ- B-T DESCRIPTION: TRANSFER FROM SKYWAY TRAILER PARK INC	Disposition: APPROVED Date Accepted: 8/24/2017	Location: PRESQUE ISLE Decision Filed: 9/19/2017
READFIELD, TOWN OF DEP Number: L-027563-2F- A-N DESCRIPTION: REPURPOSE TO OF DAM TO ALLOW PUBLIC ACCESS / CREATE SMALL PARK AREA / CONSTRUCT CRUSHED ROCK PATH TO ACCESS TOP OF DAM / UTILIZE HISTORIC ROAD AS PATH TO ACCESS OVERLOOK / IMPROVE PATH TO STREAM WITH SHORT BOARDWALK ALONG BASE OF DAM	Disposition: APPROVED Date Accepted: 7/19/2017	Location: READFIELD Decision Filed: 8/29/2017
JONATHAN SHIRLEY DEP Number: L-027066-2F- A-N DESCRIPTION: SHORELINE STABILIZATION ON ST. CROIX RIVER	Disposition: APPROVED Date Accepted: 7/31/2017	Location: ROBBINSTON Decision Filed: 8/25/2017

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PENOBSCOT BAY MEDICAL CENTER	Disposition:	APPROVED	Location:	ROCKPORT
DEP Number: L-000746-19- U-B	Date Accepted:	4/13/2017	Decision Filed:	10/10/2017
DESCRIPTION:	DEVELOP AN APPROXIMATE 41,000 SF MEDICAL OFFICE BUILDING & ASSOCIATED PARKING, LANDSCAPING & DRAINAGE INFRASTRUCTURE			
PENOBSCOT BAY MEDICAL CENTER	Disposition:	APPROVED	Location:	ROCKPORT
DEP Number: L-000746-TE- V-N	Date Accepted:	4/13/2017	Decision Filed:	10/10/2017
DESCRIPTION:	DEVELOP AN APPROXIMATE 41,000 SF MEDICAL OFFICE BUILDING & ASSOCIATED PARKING, LANDSCAPING & DRAINAGE INFRASTRUCTURE			
FFC REALTY LLC	Disposition:	APPROVED	Location:	SACO
DEP Number: L-021687-39- G-C	Date Accepted:	7/27/2017	Decision Filed:	8/30/2017
DESCRIPTION:	CONDITION COMPLIANCE / CONDITION 15 / PLAN SET SHOWING 28,000 SF BLDG WITH 36 SPACE PARKING LOT, ETC / MILL BROOK BUSINESS PARK LOT 6			
VICTOR / PETER VISOCKIS / VISOCKIS	Disposition:	APPROVED	Location:	SACO
DEP Number: L-027444-4K- A-N	Date Accepted:	7/10/2017	Decision Filed:	10/6/2017
DESCRIPTION:	ATF / LIFT HOUSE ABOVE FLOOD & GRADE ACCORDINGLY / PIER SYSTEM			
JASON LABONTE	Disposition:	APPROVED	Location:	SACO
DEP Number: L-027177-TC- B-N	Date Accepted:	8/31/2017	Decision Filed:	10/6/2017
DESCRIPTION:	FILL FORESTED WETLAND FOR CONSTRUCTION OF OWENS WAY			
FLEMISH MASTER WEAVERS INC	Disposition:	APPROVED	Location:	SANFORD
DEP Number: L-024196-26- C-N	Date Accepted:	5/1/2017	Decision Filed:	10/19/2017
DESCRIPTION:	A 74,368 SF EXPANSION TO FACILITY, NEW PARKING AREAS & LOADING DOCK			
SANFORD, CITY OF	Disposition:	APPROVED	Location:	SANFORD
DEP Number: L-026754-2F- D-N	Date Accepted:	7/17/2017	Decision Filed:	9/29/2017
DESCRIPTION:	CONVERT AN UNAUTHORIZED ATV TRAIL INTO A CONTROLLED-ACCESS BICYCLE & PEDESTRIAN TRAIL WITH LIGHTING & BENCHES FOR RESTING & VIEWING WILDLIFE			
SANFORD, CITY OF	Disposition:	APPROVED	Location:	SANFORD
DEP Number: L-026754-IW- E-N	Date Accepted:	7/17/2017	Decision Filed:	9/29/2017
DESCRIPTION:	CONVERT AN UNAUTHORIZED ATV TRAIL INTO A CONTROLLED-ACCESS BICYCLE & PEDESTRIAN TRAIL WITH LIGHTING & BENCHES FOR RESTING & VIEWING WILDLIFE			
108 MUSSEY LLC	Disposition:	APPROVED	Location:	SCARBOROUGH
DEP Number: L-022103-TG-AA-N	Date Accepted:	6/30/2017	Decision Filed:	10/3/2017
DESCRIPTION:	REDEVELOP PROPERTY TO CONTAIN A 3,000 SF COMMERCIAL BUILDING WITH ASSOCIATED PARKING, UTILITES & STORMWATER INFRASTRUCTURE			
108 MUSSEY LLC	Disposition:	APPROVED	Location:	SCARBOROUGH
DEP Number: L-022103-NJ- Z-N	Date Accepted:	6/30/2017	Decision Filed:	10/3/2017
DESCRIPTION:	REDEVELOP PROPERTY TO CONTAIN A 3,000 SF COMMERCIAL BUILDING WITH ASSOCIATED PARKING, UTILITES & STORMWATER INFRASTRUCTURE			
BRUYETTE FAMILY COTTAGE LLC	Disposition:	APPROVED	Location:	SCARBOROUGH
DEP Number: L-027419-4J- A-N	Date Accepted:	6/1/2017	Decision Filed:	8/29/2017
DESCRIPTION:				

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RISBARA PROPERTIES LLC	Disposition:	APPROVED	Location:	SCARBOROUGH
DEP Number: L-027445-NJ- A-N	Date Accepted:	7/12/2017	Decision Filed:	8/31/2017
DESCRIPTION: 10 LOT RESIDENTIAL SUBDIVISION				
JEFFREY H BRAGG	Disposition:	APPROVED	Location:	SIDNEY
DEP Number: L-027561-TA- A-N	Date Accepted:	7/19/2017	Decision Filed:	9/19/2017
DESCRIPTION: INSTALL DRIVEWAY TO HOUSE SITE				
S D WARREN CO - SOMERSET MILL	Disposition:	APPROVED	Location:	SKOWHEGAN
DEP Number: L-000902-20- X-M	Date Accepted:	8/25/2017	Decision Filed:	9/7/2017
DESCRIPTION: MINOR REVISION / INSTALL TEMPORARY 3 ACRE GRAVEL PAD ON EAST SIDE OF #3 PM TO STORE EQUIPMENT FOR THE #1 PM REBUILD PROJECT				
NORTH POND PARTNERS LLC	Disposition:	APPROVED	Location:	SMITHFIELD
DEP Number: L-027433-2B- A-N	Date Accepted:	6/15/2017	Decision Filed:	9/7/2017
DESCRIPTION: DREDGE APPROX 500 FT OF STREAM CHANNEL / REPAIR APPROX 400 FT OF RETAINING WALL WITH RIPRAP / REPLACE WALKWAYS ALONG THE RETAINING WALL				
STEVEN / STACY GUTTENTAG / WINICK	Disposition:	APPROVED	Location:	SOUTH BRISTOL
DEP Number: L-025460-4P- B-M	Date Accepted:	8/16/2017	Decision Filed:	8/31/2017
DESCRIPTION: MINOR REVISION / ADDITIONAL PILINGS ADDED FOR REINFORCEMENT / PIER EXTENSION				
NECG MALLSIDE BH LLC	Disposition:	APPROVED	Location:	SOUTH PORTLAND
DEP Number: L-011123-23- G-T	Date Accepted:	7/6/2017	Decision Filed:	8/30/2017
DESCRIPTION: TRANSFERRED FROM KIMCO MALLSIDE PLAZA 1381 INC				
110 DARTMOUTH STREET LLC	Disposition:	APPROVED	Location:	SOUTH PORTLAND
DEP Number: L-019932-26- C-B	Date Accepted:	1/17/2017	Decision Filed:	8/31/2017
DESCRIPTION: MINOR AMENDMENT / CONSTRUCT A 14,800 SF CULTIVATION FACILITY WITH 8 PARKING SPACES, STORAGE & MANEUVERING AREAS				
GULF OIL LP	Disposition:	APPROVED	Location:	SOUTH PORTLAND
DEP Number: L-019088-4E- I-N	Date Accepted:	5/12/2017	Decision Filed:	8/25/2017
DESCRIPTION: REPAIR BOTH STEEL SHEET PILE CELLS BY DRIVING NEW SHEET PILE AROUND THE PERIMETER OF EACH FILLING THE VOID BETWEEN WALLS WITH CONCRETE & STEEL REINFORCEMENT / REMOVE DETERIORATED CONCRETE ON TOP OF CELLS & REPLACE W/ NEW REINFORCED CONCRETE				
MARCIA WHITTEN	Disposition:	APPROVED	Location:	SOUTH THOMASTON
DEP Number: L-027562-4D- A-N	Date Accepted:	7/19/2017	Decision Filed:	10/13/2017
DESCRIPTION: STABILIZE PORTIONS OF THE SHORELINE TO ELIMINATE EROSION				
GREGORY L HOWLAND	Disposition:	APPROVED	Location:	ST GEORGE
DEP Number: L-027571-TC- A-N	Date Accepted:	8/9/2017	Decision Filed:	9/19/2017
DESCRIPTION: ATF / FILL APPROX 7300 SF OF FRESHWATER WETLAND TO CONSTRUCT A BUILDING CONTAINING A BAR, SEATING , FOOD PREPARATION & STORAGE SECTIONS, AN OUTDOOR BARBEQUE & MEAT SMOKING AREA ALONG WITH LAWN & LANDSCAPING				
DRAGON PRODUCTS COMPANY LLC	Disposition:	APPROVED	Location:	THOMASTON
DEP Number: L-004152-26-AA-A	Date Accepted:	1/27/2017	Decision Filed:	8/31/2017
DESCRIPTION: MINOR AMENDMENT / ADDITION OF APPROX 1.7 ACRES OF IMPERVIOUS AREA CONSISTING OF PLANT UPGRADES, STOCKPILE & STORAGE AREA CREATION & EXPANSION, ROAD MODIFCATION & VARIOUS IMPROVEMENTS				

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TOM & MARY BETH LINDEN	Disposition: APPROVED	Location: TRENTON
DEP Number: L-027075-2F- A-N	Date Accepted: 8/25/2017	Decision Filed: 10/3/2017
DESCRIPTION: STABILIZE ERODING SHORELINE WITH BOULDERS RIPRAP & VEGETATION		
ALFRED S OSGOOD TRUST	Disposition: APPROVED	Location: VINALHAVEN
DEP Number: L-019505-4P- C-M	Date Accepted: 7/19/2017	Decision Filed: 8/28/2017
DESCRIPTION: MINOR REVISION / EXPANSION OF AN EXISTING COMMERCIAL WHARF		
RSU 57	Disposition: APPROVED	Location: WATERBORO
DEP Number: L-019872-22- F-B	Date Accepted: 6/7/2017	Decision Filed: 8/22/2017
DESCRIPTION: MINOR AMENDMENT / ADD 5 NEW TENNIS COURTS / ASSOCIATED SITE IMPROVEMENTS INCLUDING SITE GRADING, STORMWATER MANAGEMENT, FENCING & LIGHTING / MASSABESIC HIGH SCHOOL		
WATERVILLE, CITY OF	Disposition: APPROVED	Location: WATERVILLE
DEP Number: L-022054-L6- C-N	Date Accepted: 6/5/2017	Decision Filed: 8/29/2017
DESCRIPTION: CONSTRUCTION OF "KENNEBEC RIVER WALK" A RIVERSIDE PEDESTRIAN TRAIL & PARK AREA WITH A VARIETY OF LANDSCAPING FEATURES, HISTORICAL SIGNAGE, EDUCATIONAL FEATURES & SMALL STRUCTURES WITH 25' OF THE RIVER		
HANNAFORD BROTHERS CO LLC	Disposition: APPROVED	Location: WELLS
DEP Number: L-015534-23- E-B	Date Accepted: 5/24/2017	Decision Filed: 8/31/2017
DESCRIPTION: MINOR AMENDMENT / CREATE A 26,538 SF SEASONAL GRAVEL PARKING AREA & TEMPORARY SNOW STORAGE AREA		
WELLS BEACH ENVIRONMENTAL & RECYCLING SERVICE	Disposition: APPROVED	Location: WELLS
DEP Number: L-027565-NJ- A-N	Date Accepted: 7/27/2017	Decision Filed: 8/31/2017
DESCRIPTION: CONSTRUCT A RECYCLING FACILITY CONSISTING OF A GRAVEL YARD, OFFICE BLDG, GARAGE BLDG, VEHICLE SCALE-SCALE HOUSE BLDG, GRAVEL PARKING & LOADING AREAS, ON-SITE SEPTIC SYSTEM & WATER SUPPLY AND STORMWATER MANAGEMENT INFRASTRUCTURE		
CATHY CUMIER-DENNIS	Disposition: APPROVED	Location: WEST GARDINER
DEP Number: L-027195-IW- B-N	Date Accepted: 6/26/2017	Decision Filed: 9/25/2017
DESCRIPTION: CONSTRUCT A RESIDENTIAL STRUCTURE WITH ASSOCIATED DEVELOPMENT WITHIN A HIGH VALUE INLAND WATERFOWL & WADING BIRD HABITAT		
WHITNEYVILLE, TOWN OF	Disposition: APPROVED	Location: WHITNEYVILLE
DEP Number: L-027067-TB- A-N	Date Accepted: 7/18/2017	Decision Filed: 8/21/2017
DESCRIPTION: ADD GRAVEL FILL TO CREATE A PARKING LOT FOR USERS OF THE SUNRISE TRAIL		
MOOSE LANDING NORTH LLC	Disposition: APPROVED	Location: WINDHAM
DEP Number: L-027551-NJ- A-N	Date Accepted: 7/20/2017	Decision Filed: 10/3/2017
DESCRIPTION: CREATE A 5 LOT COMMERCIAL SUBDIVISION		
MOOSE LANDING NORTH LLC	Disposition: APPROVED	Location: WINDHAM
DEP Number: L-027551-TC- B-N	Date Accepted: 7/20/2017	Decision Filed: 10/3/2017
DESCRIPTION: CREATE A 5 LOT COMMERCIAL SUBDIVISION		
PAUL PROPERTIES LLC	Disposition: APPROVED	Location: WOOLWICH
DEP Number: L-002652-39- L-C	Date Accepted: 8/10/2017	Decision Filed: 9/14/2017
DESCRIPTION: CONDITION COMPLIANCE / CONDITION 2 / LANDSCAPING & SPECIFIC USE PLANS / ALSO DETAILED EROSION & SEDIMENTATION PLANS / ALSO SPECIFIC SEWAGE DISPOSAL PLANS		

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MAINE TURNPIKE AUTHORITY	Disposition:	APPROVED	Location:	YORK
DEP Number: L-027241-TP- B-N	Date Accepted:	11/9/2016	Decision Filed:	9/14/2017
DESCRIPTION: YORK TOLL PLAZA				

MAINE TURNPIKE AUTHORITY	Disposition:	APPROVED	Location:	YORK
DEP Number: L-027241-TG- A-N	Date Accepted:	11/9/2016	Decision Filed:	9/14/2017
DESCRIPTION: CONSTRUCT NEW TOLL PLAZA IN VICINITY OF MILE 8.8 OF I-95				

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From: 8/16/2017 To: 10/20/2017

Accepted applications for: **SOLID WASTE**

BRUNSWICK SEWER DISTRICT	Disposition: APPROVED	Location: BOWDOINHAM
DEP Number: S-021098-SI- B-M	Date Accepted: 1/10/2017	Decision Filed: 9/18/2017
DESCRIPTION: MINOR REVISION TO LANDSPREAD SLUDGE-GEORGE CHRISTOPHER		
CUMBERLAND, TOWN OF	Disposition: APPROVED	Location: CUMBERLAND
DEP Number: S-022329-CB- B-N	Date Accepted: 7/27/2017	Decision Filed: 9/21/2017
DESCRIPTION: COMPOST FACILITY		
DANFORTH, TOWN OF	Disposition: APPROVED	Location: DANFORTH
DEP Number: S-021490-WH- B-M	Date Accepted: 6/28/2017	Decision Filed: 9/12/2017
DESCRIPTION: AFTER THE FACT-MINOR REVISION TO CHANGE BURN SITE		
FIBERIGHT LLC, INC	Disposition: APPROVED	Location: HAMPDEN
DEP Number: S-022458-WK- C-C	Date Accepted: 8/11/2017	Decision Filed: 9/1/2017
DESCRIPTION: COMPLIANCE WITH CONDITION #3, LIC# S-022458-WK-A-N		
FIBERIGHT LLC & MUNICIPAL REVIEW COMMITTEE IN	Disposition: APPROVED	Location: HAMPDEN
DEP Number: S-022458-WK- D-C	Date Accepted: 9/15/2017	Decision Filed: 9/26/2017
DESCRIPTION: CONDITION COMPLIANCE WITH CONDITIONS #4,5, AND 6, LIC# S-022458-WK-A-N		
FIBERIGHT LLC & MUNICIPAL REVIEW COMMITTEE, I	Disposition: APPROVED	Location: HAMPDEN
DEP Number: S-022458-WK- E-M	Date Accepted: 9/26/2017	Decision Filed: 9/26/2017
DESCRIPTION: MINOR REVISION TO REVISE LICENSE S-022458-WK-A-N-TO ADD COASTAL AS A LICENSEE		
REENERGY LEWISTON, LLC	Disposition: APPROVED	Location: LEWISTON
DEP Number: S-013266-WK- I-M	Date Accepted: 6/28/2017	Decision Filed: 9/12/2017
DESCRIPTION: MINOR REVISION TO INSTALL CONCRETE PAD AND PAVED ACCESS WAYS, LIC# S-013266-WK-A-N		
NORTHLAND SERVICES, INC.	Disposition: APPROVED	Location: MILFORD
DEP Number: S-021840-WK- D-A	Date Accepted: 1/20/2017	Decision Filed: 8/28/2017
DESCRIPTION: AMENDMENT FOR AFER THE FACT APPROVAL TO OPERATE BARK MULCH PROCESSING FACILITY		
NORTH HAVEN, TOWN OF	Disposition: APPROVED	Location: NORTH HAVEN
DEP Number: S-020140-S3- G-R	Date Accepted: 6/28/2017	Decision Filed: 9/14/2017
DESCRIPTION: SEPTAGE SITE RENEWAL		
MILWAUKEE METROPOLITAN SEWERAGE DISTRICT	Disposition: APPROVED	Location: NOT DESIGNATED
DEP Number: S-022036-SC- C-M	Date Accepted: 6/19/2017	Decision Filed: 9/12/2017
DESCRIPTION: MINOR REVISION TO LIC# S-022036-SC-B-M TO REDUCE THE SAMPLING FREQUENCY FOR FECAL COLIFORM FROM 3 TIMES PER MONTH TO ONCE PER MONTH		

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From: 8/16/2017 To: 10/20/2017

NEPW LOGISTICS, INC

Disposition: APPROVED

Location: PARIS

DEP Number: S-022484-WK- A-N

Date Accepted: 5/15/2017

Decision Filed: 8/21/2017

DESCRIPTION: PROCESSING FACILITY FOR PLASTIC BOTTLE SHREDDING

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Accepted applications for: **WATER**

BERWICK SEWER DISTRICT DEP Number: W-000566-5M- H-M DESCRIPTION: MOD	Disposition: APPROVED Date Accepted: 6/19/2017	Location: BERWICK Decision Filed: 9/1/2017
SUSAN D. SKLANKA REVOCABLE TRUST DEP Number: W-003768-5A- D-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 7/25/2017	Location: BIDDEFORD Decision Filed: 8/28/2017
B & B REALTY TRUST AND B & B2 REALTY TRUST DEP Number: W-002318-5B- E-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 7/27/2017	Location: BOOTHBAY Decision Filed: 8/30/2017
SEARYE, LLC DEP Number: W-003901-5A- F-R DESCRIPTION: RES OBD TRANSFER	Disposition: APPROVED Date Accepted: 9/12/2017	Location: BOOTHBAY Decision Filed: 10/17/2017
ALEXANDER & JENNIFER BROOKE SELLAS DEP Number: W-003582-5A- D-R DESCRIPTION: RES OBD RENEWAL AND TRANSFER	Disposition: APPROVED Date Accepted: 7/25/2017	Location: BOOTHBAY HARBOR Decision Filed: 8/28/2017
DAVID & LYNN CABIBI DEP Number: W-006620-5A- F-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 7/10/2017	Location: BRADLEY Decision Filed: 8/28/2017
DAVID CRABTREE ALISON BEEDY DEP Number: W-009172-5A- G-R DESCRIPTION: RES OBD TRANSFER AND SPLIT	Disposition: APPROVED Date Accepted: 7/19/2017	Location: CHERRYFIELD Decision Filed: 8/28/2017
CHARLES & ROBERTA HAMMOND DEP Number: W-005106-5A- E-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 7/19/2017	Location: COLUMBIA FALLS Decision Filed: 8/28/2017
IAN A. UNGER DEP Number: W-007257-5A- F-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 7/10/2017	Location: CRANBERRY ISLES Decision Filed: 8/28/2017
TOWN OF DAMARISCOTTA DEP Number: W-009007-5Y- A-N DESCRIPTION: SNOW DUMP - GP	Disposition: APPROVED Date Accepted: 10/12/2017	Location: DAMARISCOTTA Decision Filed: 10/16/2017

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DAVID & DANIELLE BOURNE DEP Number: W-001037-5A- E-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 8/29/2017	Location: EDGECOMB Decision Filed: 10/4/2017
NHC PATTEN POND, LLC D/B/A PATTEN POND CAMPII DEP Number: W-003294-5J- G-R DESCRIPTION: SPRAY IRRIGATION - RENEWAL	Disposition: APPROVED Date Accepted: 10/13/2016	Location: ELLSWORTH Decision Filed: 8/28/2017
CITY OF ELLSWORTH DEP Number: W-008266-5S- A-N DESCRIPTION: DRINKING WATER BACKWASH	Disposition: APPROVED Date Accepted: 6/20/2017	Location: ELLSWORTH Decision Filed: 9/12/2017
MAINE DEPT OF INLAND FISH & WILDLIFE DEP Number: W-002029-6F- F-R DESCRIPTION: FISH HATCHERY - RENEWAL	Disposition: APPROVED Date Accepted: 3/15/2016	Location: EMBDEN Decision Filed: 10/12/2017
JAMES FISK DEP Number: W-002477-5A- D-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 8/17/2017	Location: GEORGETOWN Decision Filed: 9/19/2017
WILLIAM F. PLUMMER III FAMILY TRUST DEP Number: W-004095-5B- D-R DESCRIPTION: RES OBD RENEWAL AND SPLIT	Disposition: APPROVED Date Accepted: 8/2/2017	Location: GEORGETOWN Decision Filed: 9/12/2017
KEN, JR. & ALLISON LUBIN DEP Number: W-007530-5A- E-R DESCRIPTION: RES OBD RENEWAL & TRANSFER	Disposition: APPROVED Date Accepted: 8/10/2017	Location: GEORGETOWN Decision Filed: 9/12/2017
CARROLL & TRACI PLUMMER DEP Number: W-009175-5A- D-R DESCRIPTION: RES OBD RENEWAL AND TRANSFER AND SPLIT FROM #4095	Disposition: APPROVED Date Accepted: 8/10/2017	Location: GEORGETOWN Decision Filed: 9/12/2017
CHRISTINE CHAMP DEP Number: W-009178-5A- D-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 9/12/2017	Location: GEORGETOWN Decision Filed: 10/17/2017
HAMMOND FAMILY REALTY TRUST DEP Number: W-003458-5A- D-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 9/12/2017	Location: HARPSWELL Decision Filed: 10/17/2017
FISH & MAINE DEP Number: W-007628-5C- F-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 7/28/2017	Location: MONHEGAN ISLAND Decision Filed: 9/5/2017

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SHERMAN D. STANLEY DEP Number: W-009059-5C- B-R DESCRIPTION: COMM OBD RENEWAL - GRAYWATER	Disposition: APPROVED Date Accepted: 8/2/2017	Location: MONHEGAN ISLAND Decision Filed: 9/5/2017
BRYAN HITCHCOCK DEP Number: W-009095-5A- B-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 8/28/2017	Location: MONHEGAN ISLAND Decision Filed: 10/4/2017
SYLVIA, CHRISTINA & DAVID ALDEN DEP Number: W-001255-5A- D-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 8/28/2017	Location: OWLS HEAD Decision Filed: 10/4/2017
MAINE INLADN FISHERIES & WILDLIFE DEP Number: W-002035-6F- F-R DESCRIPTION: FISH HATCHERY - RENEWAL	Disposition: APPROVED Date Accepted: 6/17/2016	Location: PALERMO Decision Filed: 9/7/2017
PORTLAND WATER DISTRICT DEP Number: W-007182-6C- H-R DESCRIPTION: PEAKS ISLAND - RENEWAL	Disposition: APPROVED Date Accepted: 12/10/2016	Location: PORTLAND Decision Filed: 10/17/2017
CITY OF PRESQUE ISLE DEP Number: W-008088-6B- I-R DESCRIPTION: SPRAY IRRIGATION - RENEWAL	Disposition: APPROVED Date Accepted: 7/5/2016	Location: PRESQUE ISLE Decision Filed: 10/17/2017
WILDER FAMILY TRUST DEP Number: W-002315-5A- E-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 8/10/2017	Location: SOUTH BRISTOL Decision Filed: 9/12/2017
THE HOPE 1972 IRREVOCABLE TRUST DEP Number: W-002434-5A- E-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 8/28/2017	Location: SOUTH BRISTOL Decision Filed: 10/4/2017
CITY OF SOUTH PORTLAND DEP Number: W-001370-5M- K-R DESCRIPTION: 9.3 MGD POTW - RENEWAL	Disposition: APPROVED Date Accepted: 5/6/2014	Location: SOUTH PORTLAND Decision Filed: 9/5/2017
JOHN DAVID NEESON DEP Number: W-007627-5A- E-R DESCRIPTION: RES OBD RENEWAL	Disposition: APPROVED Date Accepted: 8/10/2017	Location: SOUTH THOMASTON Decision Filed: 9/12/2017
JEANETTE M. INGERSOLL DEP Number: W-001845-5A- F-R DESCRIPTION: RES OBD RENEWAL AND SPLIT	Disposition: APPROVED Date Accepted: 8/17/2017	Location: SOUTHPORT Decision Filed: 9/20/2017

Department of Environmental Protection

Signed Department Orders Filed with the Board

From: 8/16/2017 To: 10/20/2017

THEODORE & BARBARA MORGAN	Disposition: APPROVED	Location: SOUTHPORT
DEP Number: W-002141-5A- G-R	Date Accepted: 7/25/2017	Decision Filed: 8/28/2017
DESCRIPTION: RES OBD RENEWAL		
MYERS FAMILY INVESTMENT TRUST	Disposition: APPROVED	Location: SOUTHPORT
DEP Number: W-009173-5A- F-R	Date Accepted: 8/2/2017	Decision Filed: 9/5/2017
DESCRIPTION: RES OBD RENEWAL AND SPLIT		
DOROTHY HOLLY HAMMONDS	Disposition: APPROVED	Location: SOUTHPORT
DEP Number: W-009177-5A- F-R	Date Accepted: 8/28/2017	Decision Filed: 10/4/2017
DESCRIPTION: RES OBD RENEWAL AND SPLIT		
RSU #14 - WINDHAM RAYMOND SCHOOL DISTRICT	Disposition: APPROVED	Location: WINDHAM
DEP Number: W-002510-5D- E-R	Date Accepted: 8/14/2017	Decision Filed: 9/19/2017
DESCRIPTION: MEPDES OBD - RENEWAL		
DENNIS & KRISTA LABRASCA	Disposition: APPROVED	Location: YORK
DEP Number: W-003082-5A- F-R	Date Accepted: 7/19/2017	Decision Filed: 8/28/2017
DESCRIPTION: RES OBD RENEWAL AND TRANSFER		

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Applications Accepted For Processing

From: 08/16/2017 To: 10/20/2017

Accepted applications for: **AIR**

Print Date: 10/20/2017

MAINE WOODS PELLET COMPANY, LLC
A-000989 **A-000989-70-A-I**

CITY: **ATHENS**
DATE ACCEPTED: 10/11/2017

DESCRIPTION: Initial Part 70 license

DEPT OF VETERANS AFFAIRS
A-000372 **A-000372-71-R-R/A**

CITY: **AUGUSTA**
DATE ACCEPTED: 08/30/2017

DESCRIPTION: replace no 5 emergency generator with new slightly larger one. this action combined with the existing license renewal action previously submitted and accepted under tracking number 569626

SOUTHPORT YACHTS, LLC
A-001122 **A-001122-71-B-T**

CITY: **AUGUSTA**
DATE ACCEPTED: 08/28/2017

DESCRIPTION: Transfer application for the transfer of license A-1122-71-A-N from Southport Boats, LLC to Southport Yachts, LLC.

MAINE ARMY NATIONAL GUARD
A-000802 **A-000802-71-G-A**

CITY: **AUGUSTA**
DATE ACCEPTED: 09/22/2017

DESCRIPTION: amendment to their license to document changes in their equipment that has already made (converting to natural gas) as well to correct information in current license and to change interval for changing spray booth filters

WOODLAND PULP LLC
A-000215 **A-000215-70-R-A**

CITY: **BAILEYVILLE**
DATE ACCEPTED: 08/21/2017

DESCRIPTION: Admin Revision to align PM testing deadlines with boiler MACT

UNIFIRST CORPORATION
A-000644 **A-000644-71-I-M**

CITY: **BANGOR**
DATE ACCEPTED: 09/18/2017

DESCRIPTION: AVX has requested that ethylene glycol be added to their existing license

PINE GROVE CREMATORIUM
A-000949 **A-000949-71-D-A**

CITY: **BANGOR**
DATE ACCEPTED: 10/03/2017

DESCRIPTION: Amendment to remove Cremator #1 and replace it with a new, higher capacity (1,000 lb.) cremator.

FIBER MATERIALS INC.
A-000262 **A-000262-71-AA-M**

CITY: **BIDDEFORD**
DATE ACCEPTED: 09/25/2017

DESCRIPTION: Replacement of Boiler #4 with two new 1.1 MMBtu/hr gas-fired boilers

MERLIN ONE, LLC
A-000240 **A-000240-70-H-R**

CITY: **CARIBOU**
DATE ACCEPTED: 10/02/2017

DESCRIPTION: PART 70 RENEWAL

HANCOCK LUMBER COMPANY, INC.
A-000629 **A-000629-71-N-R/A**

CITY: **CASCO**
DATE ACCEPTED: 09/11/2017

DESCRIPTION: Minor modification to remove oil-fired Boiler #2, add biomass-fired Boiler #4, and replace leaky tubes on biomass-fired Boiler #3.

HOSPITAL ADMINISTRATIVE DISTRICT NO. 4
A-000186 **A-000186-71-H-M**

CITY: **DOVER-FOXCROFT**
DATE ACCEPTED: 10/11/2017

DESCRIPTION: minor revision to correct boiler capacities

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Accepted applications for: **AIR**

Print Date: 10/20/2017

PORTSMOUTH NAVAL SHIPYARD A-000452 A-000452-70-F-A	CITY: KITTERY DATE ACCEPTED: 10/05/2017
DESCRIPTION: Part 70 amendment to roll NSR #9 (installation of 60 kW emergency generator and 1.1 mW emergency turbine) into the facility's Part 70 license.	
PORTSMOUTH NAVAL SHIPYARD A-000452 A-000452-77-9-A	CITY: KITTERY DATE ACCEPTED: 10/05/2017
DESCRIPTION: NSR modification for the installation of a 60 kW emergency generator and a 1.1 mW emergency turbine.	
GERALD L. WOOD & SON, LLC A-001130 A-001130-71-A-N	CITY: MACHIASPORT DATE ACCEPTED: 09/21/2017
DESCRIPTION: initial license for 2 rock crushers, 2 screens and 4 generators	
MOOSE RIVER LUMBER COMPANY, INC. A-000779 A-000779-77-2-A	CITY: MOOSE RIVER DATE ACCEPTED: 10/02/2017
DESCRIPTION: Addition of two lumber kilns	
IRVING FOREST PRODUCTS, INC. A-000314 A-000314-77-4-M	CITY: NASHVILLE PLANTATION DATE ACCEPTED: 10/11/2017
DESCRIPTION: NSR application to extend the commence construction period by 18 months from May 6, 2018 to November 6, 2019	
TEX-TECH INDUSTRIES, INC. A-000473 A-000473-71-I-M	CITY: NORTH MONMOUTH DATE ACCEPTED: 10/02/2017
DESCRIPTION: installation of a calennder and associated stack	
FMC CORPORATION A-000366 A-000366-70-I-T	CITY: ROCKLAND DATE ACCEPTED: 10/06/2017
DESCRIPTION: Transfer from FMC Corporation to DuPont Nutrition USA, Inc.	
EVONIK CYRO LLC A-000393 A-000393-71-AB-M	CITY: SANFORD DATE ACCEPTED: 10/12/2017
DESCRIPTION: Removal of polymerization process, new framing operation, and clarification of control language	
MAINE MEDICAL CENTER A-000934 A-000934-71-F-A	CITY: SCARBOROUGH DATE ACCEPTED: 08/17/2017
DESCRIPTION: Addition of an 80 kW emergency generator	
LIGNETICS OF MAINE, LLC A-000342 A-000342-71-X-M	CITY: STRONG DATE ACCEPTED: 08/28/2017
DESCRIPTION: Installation of blend air duct and bypass stack	
DRAGON PRODUCTS COMPANY, LLC A-000326 A-000326-77-10-A	CITY: THOMASTON DATE ACCEPTED: 09/19/2017
DESCRIPTION: Amend to add new auxiliary kiln drive engine	



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Accepted applications for: **AIR**



Print Date: 10/20/2017

DRAGON PRODUCTS COMPANY, LLC
A-000326 **A-000326-70-H-A**

CITY: **THOMASTON**
DATE ACCEPTED: 09/19/2017

DESCRIPTION: Part 70 Sig Mod to incorporate NSR amendment for new auxiliary kiln drive engine

T&D WOOD ENERGY LLC
A-001129

CITY: **WEST BALDWIN**
DATE ACCEPTED: 09/28/2017

DESCRIPTION: New wood pellet manufacturing facility

Distinct Application Numbers: **23**

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Applications Accepted For Processing

From: 8/16/2017 To: 10/20/2017

Accepted applications for: **LAND**

KASSBOHRER ALL TERRAIN VEHICLES INC	LOCATION:	AUBURN
DEP Number: L-027586-26- B-D	DATE ACCEPTED:	9/29/2017
DESCRIPTION:	CONSTRUCTION OF A RECREATIONAL VEHICLHLE SALES & SERVICE FACILITY	
JOHN F MURPHY HOMES INC	LOCATION:	AUBURN
DEP Number: L-027633-TB- A-N	DATE ACCEPTED:	10/16/2017
DESCRIPTION:	CONSTRUCTION OF A NEW 14 BED, 14,000 SF NURSING HOME & ASSOCIATED INFRASTRUCTURE	
RJF MORIN BRICK LLC	LOCATION:	AUBURN
DEP Number: L-021385-80- F-M	DATE ACCEPTED:	10/10/2017
DESCRIPTION:	MINOR REVISION / ELIMINATE GROUNDWATER QUALITY MONITORING / MORIN BRICK COMPANY	
KASSBOHRER ALL TERRAIN VEHICLES INC	LOCATION:	AUBURN
DEP Number: L-027586-TB- A-N	DATE ACCEPTED:	8/16/2017
DESCRIPTION:	CONSTRUCTION OF A RECREATIONAL VEHICLHLE SALES & SERVICE FACILITY	
DEVELOPER'S COLLABORATIVE PREDEVELOPMENT LL	LOCATION:	AUBURN
DEP Number: L-027611-87- A-D	DATE ACCEPTED:	9/25/2017
DESCRIPTION:	CONSTRUCT A 36 UNIT RESIDENTIAL APARTMENT COMPLEX THAT INCLUDES OFF STREET PARKING & ACCESS TO MINOT AVE	
BOUFFARD & MCFARLAND BUILDERS	LOCATION:	AUBURN
DEP Number: L-027587-TB- A-N	DATE ACCEPTED:	8/31/2017
DESCRIPTION:	ATF / CONSTRUCTION OF ROAD TO ALLOW ACCESS TO RECENTLY SUBDIVIDED LOTS THE ROADWAY WILL CROSS AN UNNAMED WETLAND	
FDS OF MAINE LLC	LOCATION:	AUGUSTA
DEP Number: L-027588-NJ- A-N	DATE ACCEPTED:	8/16/2017
DESCRIPTION:	REDEVELOPMENT OF FORMER MDOT MAINTNENCE FACILITY SITE / NEW DEVELOPMENT WILL FEATURE 2 OFFICE BUILDINGS WITH SUPPORTING PARKING FACILITIES & UTILITIES	
HUSSON UNIVERSITY	LOCATION:	BANGOR
DEP Number: L-020222-22-AV-B	DATE ACCEPTED:	9/6/2017
DESCRIPTION:	REDEVELOPMENT OF HUSSON MAINTENANCE FACILITY - ADDED STORMWATER TREATMENT BUFFER	
LANE CONSTRUCTION CORP (THE)	LOCATION:	BANGOR
DEP Number: L-002748-80- C-M	DATE ACCEPTED:	10/18/2017
DESCRIPTION:	MINOR REVISION / MODIFICATION OF GW MONITORING PLAN	
BANGOR SAVINGS BANK	LOCATION:	BANGOR
DEP Number: L-027088-NJ- A-N	DATE ACCEPTED:	10/12/2017
DESCRIPTION:	CORPORATE CAMPUS - 2 MULTI-STORY OFFICE BLDGS WALKING PATH SURFACE PARKING LTO & 4 STORY PARKING GARAGE	

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WEBBS RV CENTER	LOCATION:	BANGOR
DEP Number: L-018112-26- F-D	DATE ACCEPTED:	10/17/2017
DESCRIPTION: RV STIORAGE LOT BUILDING ON PREVIOUSLY PERMITTED PAVED AREA		
PENQUIS CAP INC	LOCATION:	BANGOR
DEP Number: L-027085-TC- B-N	DATE ACCEPTED:	9/26/2017
DESCRIPTION: 3 STORY MULTI-UNIT SENIOR APT BLDG WITH PARKING		
MOUNT HOPE CEMETERY CORP	LOCATION:	BANGOR
DEP Number: L-019881-L6- B-N	DATE ACCEPTED:	9/8/2017
DESCRIPTION: DREDGE SEDIMENTS FORM POND & DISPOSE ON SITE		
BROADWAY HOLDINGS LLC	LOCATION:	BANGOR
DEP Number: L-027073-TC- A-N	DATE ACCEPTED:	9/26/2017
DESCRIPTION: FILL ACTIVITIES ASSOCIATED WITH BLDG PARKING & SERVICE DRIVE CONSTRUCTION		
PENQUIS CAP INC	LOCATION:	BANGOR
DEP Number: L-027085-NJ- A-N	DATE ACCEPTED:	9/26/2017
DESCRIPTION: 3 STORY MULTI-UNIT SENIOR APT BLDG WITH PARKING		
MICHAEL & ANGEL JAMISON	LOCATION:	BATH
DEP Number: L-023982-2F- E-N	DATE ACCEPTED:	9/5/2017
DESCRIPTION: ADD AN AREA FOR LOBSTER STORAGE & A BAIT SHED TO DOCK		
JOSHUA FAULKINGHAM	LOCATION:	BEALS
DEP Number: L-027078-4P- A-N	DATE ACCEPTED:	9/11/2017
DESCRIPTION: CONSTRUCT A 96' X 72' WHARF ON BARNEYS LITTLE ISLAND IN MOOSABEC RACH		
WALDO COUNTY GENERAL HOSPITAL	LOCATION:	BELFAST
DEP Number: L-019793-19- F-B	DATE ACCEPTED:	8/25/2017
DESCRIPTION: MINOR AMENDMENT / NEW 5,000 SF EMERGENCY DEPARTMENT ADDITION & 70-SPACE EXPANSION OF PARKING		
WALDO COUNTY GENERAL HOSPITAL	LOCATION:	BELFAST
DEP Number: L-019793-TE- G-N	DATE ACCEPTED:	8/25/2017
DESCRIPTION: EXPANSION OF PARKING LOT (70 SPACES) WITH ASSOCIATED SITE IMPROVEMENTS		
SHAWN & SAMANTHA GRANT	LOCATION:	BELGRADE
DEP Number: L-027636-TA- A-N	DATE ACCEPTED:	10/16/2017
DESCRIPTION: ATF / REPLACE CULVERT TO DRIVE / ADD GRAVEL & STONE AROUND CULVERT / RESURFACE ENTRANCE / RIPRAP ROADWAY EDGES		
MATT HIEBERT	LOCATION:	BETHEL
DEP Number: L-023327-L3- D-M	DATE ACCEPTED:	9/5/2017
DESCRIPTION: ATF / MINOR REVISION / NEW GARAGE WITHIN THE SETBACK / LOT 27 TIMBER CREEK		

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LAURIE & ANN ZIMMRLI & PROST	LOCATION:	BOOTHBAY
DEP Number: L-027585-4P- A-N	DATE ACCEPTED:	8/18/2017
DESCRIPTION: CONSTRUCT ACCESS PLATFORM, ACCESS STAIRS, PIER, RAMP, FLOAT & FLOAT STORAGE FRAME		
BOOTHBAY HARBOR, TOWN OF	LOCATION:	BOOTHBAY HARBOR
DEP Number: L-021502-4E- B-N	DATE ACCEPTED:	10/4/2017
DESCRIPTION: RELOCATION OF THE SOUTHER-MOST 10' X 80' FLOAT BY 11 FT FURTHER SOUTH / RELOCATE DRIFT PILING - DOLPHINS TO HOLD THE FLOAT IN NEW LOCATION / TEMPORARY FLOAT WILL BE MADE PERMANENT / ADD STORAGE BUILDING ON WHARF		
SERGEI PAVLOV	LOCATION:	BRIDGTON
DEP Number: L-027627-TA- A-N	DATE ACCEPTED:	10/20/2017
DESCRIPTION: ATF / CREATE 20 FT WIDE DRIVEWAY		
PETER G & ESTER G MEYER	LOCATION:	BRIDGTON
DEP Number: L-027605-TA- A-N	DATE ACCEPTED:	9/6/2017
DESCRIPTION: ALTER WETLANDS IN ORDER TO BUILD AN ACCESS DRIVEWAY FOR THE CONSTRUCTION OF ONE SINGLE FAMILY DWELLING		
DOUGLAS RIDGE LLC	LOCATION:	BRUNSWICK
DEP Number: L-027584-NJ- C-N	DATE ACCEPTED:	9/14/2017
DESCRIPTION: CONSTRUCT A PRIVATE DRIVE FOR A 17 LOT RESIDENTIAL SUBDIVISION		
DOUGLAS RIDGE LLC	LOCATION:	BRUNSWICK
DEP Number: L-027584-TB- D-N	DATE ACCEPTED:	9/14/2017
DESCRIPTION: DEVELOP A 17 LOT RESIDENTIAL SUBDIVISION / CONSTRUCT ACCESS ROADS, UTILITIES, STORMWATER MANAGEMENT, EROSION CONTROLS & OTHER RELATED FEATURES		
MOOSE LLC	LOCATION:	BUXTON
DEP Number: L-027604-26- A-N	DATE ACCEPTED:	9/22/2017
DESCRIPTION: SITE DESIGN FOR THE HARLEY-DAVIDSON FACILITY		
WILLIAM KIRILL	LOCATION:	CAMDEN
DEP Number: L-027606-2F- A-N	DATE ACCEPTED:	9/18/2017
DESCRIPTION: STABILIZE PORTIONS OF SHORELINE		
CLIFFORD ALLEN	LOCATION:	CANAAN
DEP Number: L-027612-2A- A-N	DATE ACCEPTED:	10/2/2017
DESCRIPTION: RETAINING WALL		
FIGULA SUMMERS LLC	LOCATION:	CHEBEAGUE ISLAND
DEP Number: L-027617-4D- A-N	DATE ACCEPTED:	9/19/2017
DESCRIPTION: STABILIZE SHORELINE WITH RIPRAP & PLANTINGS		
DAVID F & ADRIANA S WATSON	LOCATION:	CUSHING
DEP Number: L-027380-2F- C-N	DATE ACCEPTED:	8/22/2017
DESCRIPTION: STABILIZE SHORELINE TO ELIMINATE EROSION		

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ALEXANDER F & JUDITH T WATSON	LOCATION:	CUSHING
DEP Number: L-027591-2F- A-N	DATE ACCEPTED:	8/22/2017
DESCRIPTION: STABILIZE SHORELINE TO ELIMINATE EROSION		
STEWART & MARY ELLEN HOOVER	LOCATION:	CUSHING
DEP Number: L-027597-4D- A-N	DATE ACCEPTED:	8/31/2017
DESCRIPTION: SHORELINE STABILIZATION WITH RIPRAP & REVEGETATION METHODS		
WORCESTER PEAT COMPANY INC	LOCATION:	DEBLOIS
DEP Number: L-003489-24-AB-T	DATE ACCEPTED:	8/23/2017
DESCRIPTION: TRANSFER FROM AIM DEVELOPMENT USA LLC - FORMER PLAN PROPERTY TRANSFER		
WORCESTER PEAT COMPANY INC	LOCATION:	DEBLOIS
DEP Number: L-003489-24-AC-M	DATE ACCEPTED:	8/23/2017
DESCRIPTION: REVIS SUBFACE WATER QUALITY REQUIREMENTS - ADDITION OF BOG MAINTENANCE PLAN		
S DONALD SUSSMAN	LOCATION:	DEER ISLE
DEP Number: L-027082-TC- A-N	DATE ACCEPTED:	9/18/2017
DESCRIPTION: CONSTRUCT DRIVEWAY		
TRANSPORTATION, DEPT OF	LOCATION:	DIXFIELD
DEP Number: L-027598-L5- A-N	DATE ACCEPTED:	9/1/2017
DESCRIPTION: HIGHWAY RECONSTRUCTION WITH CULVERT REPLACEMENTS & SHORELINE STABILIZATION		
EAGLE INDIAN RUN LLC	LOCATION:	DRESDEN
DEP Number: L-010614-87- F-T	DATE ACCEPTED:	9/18/2017
DESCRIPTION: TRANSFERRED FROM A J INVESTMENTS LLC		
EAGLE INDIAN RUN LLC	LOCATION:	DRESDEN
DEP Number: L-010614-87- G-M	DATE ACCEPTED:	9/18/2017
DESCRIPTION: MINOR REVISION / 4 YR EXTENSION OF DEADLINE TO BEGIN CONSTRUCTION OF THE INCOMPLETE PORTION OF THE PROJECT / REVISE THE NUMBER OF PERMITTED CONSTRUCTED PADS FROM 39 TO 40		
EAST MILLINOCKET, TOWN OF	LOCATION:	EAST MILLINOCKET
DEP Number: L-000796-26- C-B	DATE ACCEPTED:	9/6/2017
DESCRIPTION: SECONDARY TOWN WASTEWATER TREATMENT FACILITY UPGRADE		
KATAHDIN KI 50 LLC	LOCATION:	EAST MILLINOCKET
DEP Number: L-016637-20- X-T	DATE ACCEPTED:	9/25/2017
DESCRIPTION: TRANSFER EAST MILLINOCKET MILL LAND FROM GNP EAST INC		
ACM NARM MAINE LLC	LOCATION:	EAST MILLINOCKET
DEP Number: L-016637-20- W-M	DATE ACCEPTED:	9/25/2017
DESCRIPTION: PLUGGING OF CATCH BASINS ASSOCIATED WITH THE COLLECTION OF TRENCH DRAINS FROM THE MILL DEMOLITION AREA		

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Applications Accepted For Processing

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EASTPORT CITY OF	LOCATION:	EASTPORT
DEP Number: L-017461-18- C-N	DATE ACCEPTED:	10/11/2017
DESCRIPTION:	EASTPORT MUNICIPAL AIRPORT - PAVED RUNWAY TAXIWAY HANGERS & SVC BLDGS & MUNICIPAL SAND & STORAGE SITE WITH BLDG	
AMP REALTY HOLDINGS LLC	LOCATION:	ELIOT
DEP Number: L-027601-NJ- A-N	DATE ACCEPTED:	9/20/2017
DESCRIPTION:	CONVERT PROPERTY TO COMMERCIAL DEVELOPMENT WITH BOTH RETAIL & OFFICE SPACE ALONG WITH ASSOCIATED PARKING & STORMWATER FACILITES	
DOUGLAS MACMILLAN	LOCATION:	ELIOT
DEP Number: L-027618-4P- A-N	DATE ACCEPTED:	10/5/2017
DESCRIPTION:	CONSTRUCT NEW FIXED PIER , GANGWAY & FLOAT SECURED BY MOORINGS	
KENNETH & JACQUELINE SCARPETTI	LOCATION:	ELIOT
DEP Number: L-023937-4D- C-M	DATE ACCEPTED:	8/18/2017
DESCRIPTION:	ATF / MINOR REVISION / AS-BUILT STONEWALL WHICH REPLACED PRE-EXISTING STONE WALL	
FALMOUTH, TOWN OF	LOCATION:	FALMOUTH
DEP Number: L-027620-L6- A-N	DATE ACCEPTED:	10/6/2017
DESCRIPTION:	WIDEN TRAVEL WAY OF RTE 100 / 26 // ADD SHOULDERS, SIDEWALKS, GUARDRAILS, DITCHES & BIKE LANES // INSTALL UNDERGROUND UTILITIES, INCLUDING SEWER & WATER	
WOODLANDS SENIOR LIVING OF FARMINGTON LLC	LOCATION:	FARMINGTON
DEP Number: L-027161-19- D-C	DATE ACCEPTED:	9/18/2017
DESCRIPTION:	CONDITION COMPLIANCE / CONDITION 4 / EVIDENCE OF FINANCIAL CAPACITY	
KIM & TAMMY SUHR	LOCATION:	GEORGETOWN
DEP Number: L-027159-4P- C-N	DATE ACCEPTED:	10/10/2017
DESCRIPTION:	ADD FLOAT, 4 POSITION PILINGS & A 2ND FLIP-UP FLOAT STORAGE FRAME	
SUMMERWIND HOLDINGS LLC	LOCATION:	GORHAM
DEP Number: L-023520-TC- D-N	DATE ACCEPTED:	10/13/2017
DESCRIPTION:	DEVELOP A LOT IN AN APPROVED INDUSTRIAL SUBDIVISION	
CUMBERLAND FARMS INC	LOCATION:	GRAY
DEP Number: L-027637-NJ- A-N	DATE ACCEPTED:	10/16/2017
DESCRIPTION:	RAZE EXISTING FACILITY & 2 RESIDENTIAL DWELLINGS / CONSTRUCT A CUMBERLAND FARMS RETAIL MOTOR FUEL OUTLET	
THE REID MACK FAMILY TRUST	LOCATION:	HARPSWELL
DEP Number: L-027610-4P- A-N	DATE ACCEPTED:	9/25/2017
DESCRIPTION:	CONSTRUCT A FLOAT HAULOUT FOR OFF-SEASON STORAGE OF FLOAT	
MACKEREL COVE REALTY LLC	LOCATION:	HARPSWELL
DEP Number: L-027582-4P- A-N	DATE ACCEPTED:	8/22/2017
DESCRIPTION:	CONSTRUCT DOCK CONSISTING OF A PIER, RAMP & FLOAT / INCLUDES CONSTRUCTION OF A FLOAT HAULOUT FOR OFF-SEASON STORAGE OF THE FLOAT	

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JOHN LIBBY	LOCATION:	HARPSWELL
DEP Number: L-027623-4P- A-N	DATE ACCEPTED:	9/26/2017
DESCRIPTION: CONSTRUCT FIXED DOCK, SEASONAL RAMP, SEASONAL FLOAT WITH MOORINGS & COMBO OF STAIRS & LANDINGS		
JAMES & ELAINE LANG	LOCATION:	HARPSWELL
DEP Number: L-027621-4P- A-N	DATE ACCEPTED:	9/29/2017
DESCRIPTION: CONSTRUCT ACCESS PLATFORM, ACCESS STAIRS, PIER WITH STAIRS TO SHORE, RAMP, FLOAT & FLOAT HAULOUT		
THORBURN COMMON HOMEOWNERS ASSOCIATION	LOCATION:	HARPSWELL
DEP Number: L-027602-TW- B-N	DATE ACCEPTED:	9/21/2017
DESCRIPTION: CONSTRUCT A 55 FT LONG RIPRAP SHORELINE STABILIZATION SYSTEM		
THORBURN COMMON HOMEOWNERS ASSOCIATION	LOCATION:	HARPSWELL
DEP Number: L-027602-4D- A-N	DATE ACCEPTED:	9/21/2017
DESCRIPTION: CONSTRUCT A 55 FT LONG RIPRAP SHORELINE STABILIZATION SYSTEM		
LOU / ROBIN KIMBALL / CASEY	LOCATION:	HARPSWELL
DEP Number: L-026844-4P- B-M	DATE ACCEPTED:	10/11/2017
DESCRIPTION: MINOR REVISION / ADDITION OF A FLOAT HAUL OUT		
WEST SHORE DRIVE LLC	LOCATION:	ISLESBORO
DEP Number: L-025081-4P- D-M	DATE ACCEPTED:	8/21/2017
DESCRIPTION: ATF / MINOR REVISION / SHORELINE STABILIZATION		
WEST SHORE DRIVE LLC	LOCATION:	ISLESBORO
DEP Number: L-025081-TW- E-M	DATE ACCEPTED:	8/21/2017
DESCRIPTION: MINOR REVISION / SHORELINE STABILIZATION		
DONNA WALLACE	LOCATION:	JEFFERSON
DEP Number: L-027630-2A- A-N	DATE ACCEPTED:	10/13/2017
DESCRIPTION: INSTALL BOULDER RETAINING WALL & RIPRAP SHORELINE STABILIZATION, SUFACE GRADING & STONE STEPS OR PATH TO RESOURCE		
ROBERTA & VICTORIA ROBINSON	LOCATION:	JONESPORT
DEP Number: L-027080-2F- A-N	DATE ACCEPTED:	9/25/2017
DESCRIPTION: SHORELINE STABILIZATION		
BETTY BEVIER	LOCATION:	JONESPORT
DEP Number: L-027083-2F- A-N	DATE ACCEPTED:	9/22/2017
DESCRIPTION: RIPRAP EMBANKMENT & ADD VEGETATION		
ADAM BLALKIE & ASSOCIATES LLC	LOCATION:	KENNEBUNK
DEP Number: L-027590-NJ- A-N	DATE ACCEPTED:	8/25/2017
DESCRIPTION: CONSTRUCTION OF A 24 UNIT SUBDIVISION		

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ADAM BLALKIE & ASSOCIATES LLC	LOCATION:	KENNEBUNK
DEP Number: L-027590-TB- B-N	DATE ACCEPTED:	8/25/2017
DESCRIPTION: CONSTRUCTION OF A 24 UNIT SUBDIVISION		
DAVID / REBECCA MCCULLOUGH / ROBERTS	LOCATION:	KENNEBUNK
DEP Number: L-027594-TA- A-N	DATE ACCEPTED:	9/18/2017
DESCRIPTION: IMPACT 1,450 SF OF WETLAND TO CONSTRUCT A ROADWAY TO SERVE A FOUR LOT RESIDENTIAL SUBDIVISION		
WILSON & ELIZABETH GOODWIN & WITT-GOODW	LOCATION:	KENNEBUNKPORT
DEP Number: L-027609-4P- A-N	DATE ACCEPTED:	9/22/2017
DESCRIPTION: CONSTRUCT A DOCK CONSISTING OF A PIER, RAMP & FLOAT		
WILSON & ELIZABETH GOODWIN & WITT-GOODW	LOCATION:	KENNEBUNKPORT
DEP Number: L-027609-TW- B-N	DATE ACCEPTED:	9/22/2017
DESCRIPTION: CONSTRUCT A DOCK CONSISTING OF A PIER, RAMP & FLOAT		
BINNACLE HILL DEVELOPMENT LLC	LOCATION:	KENNEBUNKPORT
DEP Number: L-027363-L3- C-C	DATE ACCEPTED:	9/1/2017
DESCRIPTION: CONDITION COMPLIANCE / BLASTING PLAN		
KEVIN & THERESA MCCOY	LOCATION:	KITTERY
DEP Number: L-027599-TW- B-N	DATE ACCEPTED:	9/21/2017
DESCRIPTION: CONSTRUCT A DOCK CONSISTING OF A PIER, RAMP & FLOAT / ALSO CONSTRUCT A FLOAT HAULOUT FOR OFF SEASON STORAGE OF THE FLOAT		
KEVIN & THERESA MCCOY	LOCATION:	KITTERY
DEP Number: L-027599-4P- A-N	DATE ACCEPTED:	9/21/2017
DESCRIPTION: CONSTRUCT A DOCK CONSISTING OF A PIER, RAMP & FLOAT / ALSO CONSTRUCT A FLOAT HAULOUT FOR OFF SEASON STORAGE OF THE FLOAT		
ALEX CAVALLARO	LOCATION:	LEBANON
DEP Number: L-027632-2B- A-N	DATE ACCEPTED:	10/20/2017
DESCRIPTION: PRIVATE OFF ROAD PARK & BOAT LAUNCH		
CENTRAL MAINE POWER COMPANY	LOCATION:	LEWISTON
DEP Number: L-027625-26- A-N	DATE ACCEPTED:	10/13/2017
DESCRIPTION: A NEW HVDC TRANSMISSION LINE, NEW AC TRANSMISSION LINES & ASSOCIATED DC TO AC CONVERTER STATION & STATCOM SUBSTATION		
CENTRAL MAINE POWER COMPANY	LOCATION:	LEWISTON
DEP Number: L-027625-TG- B-N	DATE ACCEPTED:	10/13/2017
DESCRIPTION: A NEW HVDC TRANSMISSION LINE, NEW AC TRANSMISSION LINES & ASSOCIATED DC TO AC CONVERTER STATION & STATCOM SUBSTATION		
RANCOURT ASSOCIATES LLC	LOCATION:	LEWISTON
DEP Number: L-026265-TA- D-N	DATE ACCEPTED:	10/6/2017
DESCRIPTION: DEVELOP A COMMERCIAL BUILDING & ASSOCIATED PARKING & ACCESS DRIVEWAY		

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BUCKEYE PARTNERS LP	LOCATION:	LEWISTON
DEP Number: L-027576-L6- A-N	DATE ACCEPTED:	8/21/2017
DESCRIPTION: RESTORE PROTECTIVE COVER TO PORTION OF PIPELINE / INSTALL A CABLE CONCRETE MAT SYSTEM		
LEWISTON PUBLIC SCHOOLS	LOCATION:	LEWISTON
DEP Number: L-018581-28- M-C	DATE ACCEPTED:	8/21/2017
DESCRIPTION: CONDITION COMPLIANCE / CONDITION 4 / EVIDENCE OF LINE OF CREDIT OR LOAN / ROBERT V CONNORS ELEMENTARY SCHOOL		
CENTRAL MAINE POWER COMPANY	LOCATION:	LEWISTON
DEP Number: L-027625-2C- C-N	DATE ACCEPTED:	10/13/2017
DESCRIPTION: A NEW HVDC TRANSMISSION LINE, NEW AC TRANSMISSION LINES & ASSOCIATED DC TO AC CONVERTER STATION & STATCOM SUBSTATION		
CENTRAL MAINE POWER COMPANY	LOCATION:	LEWISTON
DEP Number: L-027625-VP- D-N	DATE ACCEPTED:	10/13/2017
DESCRIPTION: A NEW HVDC TRANSMISSION LINE, NEW AC TRANSMISSION LINES & ASSOCIATED DC TO AC CONVERTER STATION & STATCOM SUBSTATION		
CENTRAL MAINE POWER COMPANY	LOCATION:	LEWISTON
DEP Number: L-027625-IW- E-N	DATE ACCEPTED:	10/13/2017
DESCRIPTION: A NEW HVDC TRANSMISSION LINE, NEW AC TRANSMISSION LINES & ASSOCIATED DC TO AC CONVERTER STATION & STATCOM SUBSTATION		
SCOTT DAVIS	LOCATION:	LIMERICK
DEP Number: L-000049-L3-BY-C	DATE ACCEPTED:	8/21/2017
DESCRIPTION: CONDITION COMPLIANCE / CONDITION 1E / SEPTIC DESIGN WITH PERMIT / SITE PLAN / LIMERICK MAP 39		
DAVID & JUANITA PRESSLEY	LOCATION:	LUBEC
DEP Number: L-027076-2F- A-N	DATE ACCEPTED:	8/25/2017
DESCRIPTION: STABILIZE ~254 FT OF SHORELINE WITH RIPRAP		
EMERA MAINE	LOCATION:	MADAWASKA
DEP Number: L-027084-2F- A-N	DATE ACCEPTED:	9/27/2017
DESCRIPTION: BANK STABILIZATION ALONG THE ST JOHN RIVER		
SCOTT WYMAN	LOCATION:	MILO
DEP Number: L-027065-TC- B-N	DATE ACCEPTED:	9/1/2017
DESCRIPTION: ATF: FILLED WETLAND FOR SMALL PARKING AREA		
CORINA & LEIF BURKE & ISAACSON	LOCATION:	MOUNT DESERT
DEP Number: L-027092-2F- A-N	DATE ACCEPTED:	10/18/2017
DESCRIPTION: 70 LF OF SHORELINE STABILIZATION WITH VEGETATED STONE SLOPE		
ORLAND TOWN OF	LOCATION:	ORLAND
DEP Number: L-027086-TC- A-N	DATE ACCEPTED:	9/28/2017
DESCRIPTION: DEVELOP A TRANSFER STATION ON TOWN PROPERTY ON GREY MEADOW RD		

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STROUDWATER DEVELOPMENT PARTNERS LLC	LOCATION:	PORTLAND
DEP Number: L-027619-L3- B-D	DATE ACCEPTED:	10/10/2017
DESCRIPTION:	CREATE 98 SINGLE FAMILY HOUSE LOTS, A SEPARATE LOT FOR RESIDENTIAL UNIT DEVELOPMENT WITH 25 TOWNHOUSES AND 24 ACRES OF OPEN SPACE WITHIN THE DEVELOPMENT SUBDIVISION	
STROUDWATER DEVELOPMENT PARTNERS LLC	LOCATION:	PORTLAND
DEP Number: L-027619-TC- A-N	DATE ACCEPTED:	10/4/2017
DESCRIPTION:	FILL 14,980 SF	
THOR ENTERPRISES LLC	LOCATION:	PRESQUE ISLE
DEP Number: L-026006-NJ- B-T	DATE ACCEPTED:	8/24/2017
DESCRIPTION:	TRANSFER FROM SKYWAY TRAILER PARK INC	
PRESQUE ISLE, CITY OF	LOCATION:	PRESQUE ISLE
DEP Number: L-026485-NJ- C-M	DATE ACCEPTED:	9/5/2017
DESCRIPTION:	CONSTRUCT A NEW SPLASH PAD BY PAVING SOME OF THE GRAVEL & LAWN AREA AROUND COMMUNITY BLDG	
LIFE STORAGE LP	LOCATION:	SACO
DEP Number: L-027424-TE- D-N	DATE ACCEPTED:	8/22/2017
DESCRIPTION:	EXPANSION OF A SELF-STORAGE FACILITY TO INCLUDE NEW 3 STORY CLIMATE CONTROLLED SELF-STORAGE BUILDING, PARKING, ACCESS DRIVE, GRADING, DRAINAGE & STORMWATER MANAGEMENT FEATURES	
JOHN F MURPHY HOMES INC	LOCATION:	SACO
DEP Number: L-027593-TC- A-N	DATE ACCEPTED:	9/18/2017
DESCRIPTION:	CONSTRUCT A NEW PARKING AREA & STORMWATER AREAS AT THE MARGARET MURPHY CENTERS FOR CHILDREN	
JASON LABONTE	LOCATION:	SACO
DEP Number: L-027177-TC- B-N	DATE ACCEPTED:	8/31/2017
DESCRIPTION:	FILL FORESTED WETLAND FOR CONSTRUCTION OF OWENS WAY	
S D WARREN CO - SOMERSET MILL	LOCATION:	SKOWHEGAN
DEP Number: L-000902-20- X-M	DATE ACCEPTED:	8/25/2017
DESCRIPTION:	MINOR REVISION / INSTALL TEMPORARY 3 ACRE GRAVEL PAD ON EAST SIDE OF #3 PM TO STORE EQUIPMENT FOR THE #1 PM REBUILD PROJECT	
STEVEN / STACY GUTTENTAG / WINICK	LOCATION:	SOUTH BRISTOL
DEP Number: L-025460-4P- B-M	DATE ACCEPTED:	8/16/2017
DESCRIPTION:	MINOR REVISION / ADDITIONAL PILINGS ADDED FOR REINFORCEMENT / PIER EXTENSION	
KTJ 307 LLC	LOCATION:	SOUTH PORTLAND
DEP Number: L-027596-NJ- A-N	DATE ACCEPTED:	8/30/2017
DESCRIPTION:	DEVELOP PARCEL FOR A 12,950 SF COMMERCIAL RETAIL STORE	
ANN ROBERTS	LOCATION:	SOUTHWEST HARBOR
DEP Number: L-022156-4P- D-N	DATE ACCEPTED:	9/26/2017
DESCRIPTION:	CONSTRUCT NEW PILE SUPPORTED PIER/DOCK USING EXISTING GANGWAY SECTIONS & PLACE EXISTING FLOAT AT THE END	

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CARROLL MADEIRA	LOCATION:	SOUTHWEST HARBOR
DEP Number: L-027077-4D- A-N	DATE ACCEPTED:	9/8/2017
DESCRIPTION: CONSTRUCT A SEAWALL IN FRONT OF EXISTING SEAWALL TO STABILIZE PROPERTY		
JAMES H KNOWLES	LOCATION:	ST GEORGE
DEP Number: L-027607-2F- A-N	DATE ACCEPTED:	9/11/2017
DESCRIPTION: STABILIZE PORTIONS OF SHORELINE		
SHAW ACRES COMMUNITY ASSOCIATION	LOCATION:	STANDISH
DEP Number: L-019087-2B- B-N	DATE ACCEPTED:	10/18/2017
DESCRIPTION: DREDGE		
VIVIAN PYLE	LOCATION:	SURRY
DEP Number: L-027090-2F- A-N	DATE ACCEPTED:	10/17/2017
DESCRIPTION: INSTALL BOULDER WALL FOR SHORLINE STABILIZATION		
82 WATER ST LLC	LOCATION:	THOMASTON
DEP Number: L-026781-4C- D-N	DATE ACCEPTED:	8/28/2017
DESCRIPTION: PLACE 141 LF STEEL SHEET PILE BULKHEAD & BACKFILL SEAWARD OF WOOD CRIB, GRADE, INSTALL NEW RECONFIGURED PILE SUPPORTED WHARF & REPLACE FLOAT SYSTEM , INSTALL NEW DOLPHIN PILES & CHAINS IN INTERTIDAL / SUBTIDAL AREA		
82 WATER ST LLC	LOCATION:	THOMASTON
DEP Number: L-026781-TW- E-N	DATE ACCEPTED:	8/28/2017
DESCRIPTION: PLACE 141 LF STEEL SHEET PILE BULKHEAD & BACKFILL SEAWARD OF WOOD CRIB, GRADE, INSTALL NEW RECONFIGURED PILE SUPPORTED WHARF & REPLACE FLOAT SYSTEM , INSTALL NEW DOLPHIN PILES & CHAINS IN INTERTIDAL / SUBTIDAL AREA		
MSAD 75	LOCATION:	TOPSHAM
DEP Number: L-019854-22- N-A	DATE ACCEPTED:	9/21/2017
DESCRIPTION: CONSTRUCT NEW HIGH SCHOOL & TRACK / FOOTBALL FIELD		
MSAD 75	LOCATION:	TOPSHAM
DEP Number: L-019854-TB- O-N	DATE ACCEPTED:	9/21/2017
DESCRIPTION: CONSTRUCT NEW HIGH SCHOOL, TRACK / FOOTBALL FIELD & ASSOCIATED PARKING, PEDESTRIAN ACCESS & STORMWATER CONTROLS		
PAUL BERNER	LOCATION:	TREMONT
DEP Number: L-027093-2F- A-N	DATE ACCEPTED:	10/18/2017
DESCRIPTION: 65 LF OF SHORE STABILIZATION WITH VEGETATED STONE SLOPE		
FAULKNER FAMILY RECREATIONAL PROPERTY TRUST	LOCATION:	TRENTON
DEP Number: L-027079-2F- A-N	DATE ACCEPTED:	9/27/2017
DESCRIPTION: SHORELINE STABILIZATION AT 2 NUTTING ROAD		
MICHAEL ROATH TRUST	LOCATION:	TRENTON
DEP Number: L-013171-2F- B-N	DATE ACCEPTED:	10/18/2017
DESCRIPTION: SHORELINE STABILIZATION - RIPRAP		

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STEVEN RICHARDSON	LOCATION:	TRENTON
DEP Number: L-027087-2F- A-N	DATE ACCEPTED:	10/18/2017
DESCRIPTION: SHORELINE STABILIZATION WITH RIPRAP		
WATERS EDGE WAY LLC	LOCATION:	TRENTON
DEP Number: L-027094-4D- A-N	DATE ACCEPTED:	10/19/2017
DESCRIPTION: ~100 LF CLEARING & RIPRAP FILL TO STABILIZE BLUFF		
TOM & MARY BETH LINDEN	LOCATION:	TRENTON
DEP Number: L-027075-2F- A-N	DATE ACCEPTED:	8/25/2017
DESCRIPTION: STABILIZE ERODING SHORELINE WITH BOULDERS RIPRAP & VEGETATION		
CARLTON JOHNSON	LOCATION:	TRENTON
DEP Number: L-027081-4D- A-N	DATE ACCEPTED:	9/18/2017
DESCRIPTION: SHORELINE STABILIZATION AT BAYSIDE RD STATE RT #230		
MOOSE CROSSING GARDEN CENTER INC	LOCATION:	WALDOBORO
DEP Number: L-027589-26- A-N	DATE ACCEPTED:	8/28/2017
DESCRIPTION: ATF / 6.39 ACRES OF IMPERVIOUS AREA & 6.5 ACRES OF DEVELOPED AREA		
3569 REALTY LLC	LOCATION:	WALDOBORO
DEP Number: L-027615-NJ- A-N	DATE ACCEPTED:	9/18/2017
DESCRIPTION: CONSTRUCT A TOTAL OF 39,400 SF OF SELF-STORAGE IN 7 BUILDINGS		
3569 REALTY LLC	LOCATION:	WALDOBORO
DEP Number: L-027615-TC- B-N	DATE ACCEPTED:	9/18/2017
DESCRIPTION: CONSTRUCT OF A NEW SELF-STORAGE FACILITY		
THE DANIEL CHASE FAMILY REAL ESTATE TRUST	LOCATION:	WELLS
DEP Number: L-027578-NJ- A-N	DATE ACCEPTED:	8/21/2017
DESCRIPTION: CREATE A 36 LOT SUBDIVISION / 35 LOTS TO BE SINGLE FAMILY HOME / LOT 36 WILL BE LEFT FOR POSSIBLE FUTURE DEVELOPMENT		
THE DANIEL CHASE FAMILY REAL ESTATE TRUST	LOCATION:	WELLS
DEP Number: L-027578-TC- B-N	DATE ACCEPTED:	8/21/2017
DESCRIPTION: CREATE A 36 LOT SUBDIVISION / 35 LOTS TO BE SINGLE FAMILY HOME / LOT 36 WILL BE LEFT FOR POSSIBLE FUTURE DEVELOPMENT		
BRENDA & DEREK MARCOU	LOCATION:	WELLS
DEP Number: L-027616-4J- A-N	DATE ACCEPTED:	10/5/2017
DESCRIPTION: REPLACE 3,509 SF HOME & GARAGE WITH NEW 3,235 SF HOUSE / RECONFIGURE DRIVEWAY & WALKWAYS		
SUSANNA CHATAMETLKOOOL	LOCATION:	WEST BATH
DEP Number: L-027614-TW- B-N	DATE ACCEPTED:	9/29/2017
DESCRIPTION: STABILIZE SHORELINE WITH RIPRAP & PLANTINGS		

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SUSANNA CHATAMETLKOOOL	LOCATION:	WEST BATH
DEP Number: L-027614-4D- A-N	DATE ACCEPTED:	9/29/2017
DESCRIPTION: STABILIZE SHORELINE WITH RIPRAP & PLANTINGS		
JENNIFER / ANDY GRIFFIN / GROTT	LOCATION:	WESTPORT ISLAND
DEP Number: L-027608-TW- B-N	DATE ACCEPTED:	9/8/2017
DESCRIPTION: CONSTRUCT PIER, PILE ON LEDGE, ACCESS RAMP TO PIER, SEASONAL RAMP & SEASONAL FLOAT		
JENNIFER / ANDY GRIFFIN / GROTT	LOCATION:	WESTPORT ISLAND
DEP Number: L-027608-4P- A-N	DATE ACCEPTED:	9/8/2017
DESCRIPTION: CONSTRUCT PIER, PILE ON LEDGE, ACCESS RAMP TO PIER, SEASONAL RAMP & SEASONAL FLOAT		
AGJH LLC	LOCATION:	WINDSOR
DEP Number: L-022973-80- B-T	DATE ACCEPTED:	9/12/2017
DESCRIPTION: TRANSFERRED FROM L A QUARRY LLC / HAGAN PIT A		
STEPHEN PARKER	LOCATION:	YARMOUTH
DEP Number: L-026569-4P- E-M	DATE ACCEPTED:	9/19/2017
DESCRIPTION: MINOR REVISION / RELOCATION OF STAIRS		
ELIZABETH CUSHMAN	LOCATION:	YARMOUTH
DEP Number: L-027603-4P- A-N	DATE ACCEPTED:	9/20/2017
DESCRIPTION: ISLAND ACCESS DOCK		
YORK, TOWN OF	LOCATION:	YORK
DEP Number: L-026573-4P- D-M	DATE ACCEPTED:	9/7/2017
DESCRIPTION: MINOR REVISION / CHANGE PLANS FOR RETAINING WALL TO A BOARDWALK		
YORK, TOWN OF	LOCATION:	YORK
DEP Number: L-026573-4D- E-M	DATE ACCEPTED:	9/7/2017
DESCRIPTION: MINOR REVISION / CHANGE PLANS FOR RETAINING WALL TO A BOARDWALK		
YORK, TOWN OF	LOCATION:	YORK
DEP Number: L-026573-TW- F-M	DATE ACCEPTED:	9/7/2017
DESCRIPTION: MINOR REVISION / CHANGE PLANS FOR RETAINING WALL TO A BOARDWALK		
RICHARD CIAMPA	LOCATION:	YORK
DEP Number: L-027622-4C- A-N	DATE ACCEPTED:	10/5/2017
DESCRIPTION: EXTEND CIAMPA DR APPROX 520 FT THROUGH A WETLAND TO ACCESS VACANT LOTS / CONSTRUCTION WILL INCLUDE 9 BOX CULVERTS & A PIPE CULVERT		
JOHN & BRENDA TRUE	LOCATION:	YORK
DEP Number: L-027592-TA- A-N	DATE ACCEPTED:	9/11/2017
DESCRIPTION: PLACE FILL IN FRESHWATER WETLAND TO CONSTRUCT A RESIDENTIAL DWELLING, DRIVEWAY & ASSOCIATED DEVELOPMENT		

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Accepted applications for: **SOLID WASTE**

DUBOIS LIVESTOCK, INC.	LOCATION:	ARUNDEL
DEP Number: S-021843-CG- L-M	DATE ACCEPTED:	8/22/2017
DESCRIPTION: MINOR REVISION AGRICULTURAL COMPOSTING OPERATION LIC S-021843-CG-F-A		
BAR HARBOR, TOWN OF	LOCATION:	BAR HARBOR
DEP Number: S-014480-WH- B-M	DATE ACCEPTED:	10/4/2017
DESCRIPTION: MINOR REVISION FOR TRANSFER STATION IMPROVEMENTS		
FIBERIGHT LLC & MUNICIPAL REVIEW COMMITTEE IN	LOCATION:	HAMPDEN
DEP Number: S-022458-WK- D-C	DATE ACCEPTED:	9/15/2017
DESCRIPTION: CONDITION COMPLIANCE WITH CONDITIONS #4,5, AND 6, LIC# S-022458-WK-A-N		
FIBERIGHT LLC & MUNICIPAL REVIEW COMMITTEE, I	LOCATION:	HAMPDEN
DEP Number: S-022458-WK- E-M	DATE ACCEPTED:	9/26/2017
DESCRIPTION: MINOR REVISION TO REVISE LICENSE S-022458-WK-A-N-TO ADD COASTAL AS A LICENSEE		
ORLAND, TOWN OF	LOCATION:	ORLAND
DEP Number: S-022496-WH- A-N	DATE ACCEPTED:	10/13/2017
DESCRIPTION: NEW TRANSFER STATION		
PEAKS ISLAND LAND PRESERVE (PILP)	LOCATION:	PORTLAND
DEP Number: S-022494-W8- A-N	DATE ACCEPTED:	8/22/2017
DESCRIPTION: BENEFICIAL USE OF DREDGE MATERIAL - REDUCED PROCEDURES-ONE TIME		
DUPONT NUTRITION USA, INC. FORMERLY FMC CORP	LOCATION:	ROCKLAND
DEP Number: S-022125-SX- H-T	DATE ACCEPTED:	10/6/2017
DESCRIPTION: TRANSFERRED FROM FMC CORPORATION		
SEBAGO, TOWN OF	LOCATION:	SEBAGO
DEP Number: S-020718-WH- B-M	DATE ACCEPTED:	9/25/2017
DESCRIPTION: MINOR REVISION FOR SITE CHANGE, LIC# S-020718-WH-A-N		
TURNERS ISLAND, LLC	LOCATION:	SOUTH PORTLAND
DEP Number: S-022495-WH- A-N	DATE ACCEPTED:	9/13/2017
DESCRIPTION: NEW TRANSFER STATION		
NEW ENGLAND WASTE SERVICES OF ME, INC. DBA F	LOCATION:	UNITY TWP
DEP Number: S-020115-CK-BY-M	DATE ACCEPTED:	9/18/2017
DESCRIPTION: MINOR REVISION TO ACCEPT BIOSOLIDS FROM THE CHATHAM, MA WATER POLLUTION CONTROL FACILITY, LIC# S-020115-60-A-N		

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Accepted applications for: **WATER**

ROBERT HORGAN	LOCATION:	BOOTHBAY
DEP Number: W-001699-5A- F-R	DATE ACCEPTED:	9/20/2017
DESCRIPTION: RES OBD RENEWAL AND TRANSFER		
SEARYE, LLC	LOCATION:	BOOTHBAY
DEP Number: W-003901-5A- F-R	DATE ACCEPTED:	9/12/2017
DESCRIPTION: RES OBD TRANSFER		
JOAN P. MCGEE REVOCABLE LIVING TRUST	LOCATION:	BOOTHBAY HARBOR
DEP Number: W-002266-5A- F-R	DATE ACCEPTED:	10/20/2017
DESCRIPTION: RES OBD RENEWAL		
MELANIE HOWE	LOCATION:	BOOTHBAY HARBOR
DEP Number: W-006667-5A- G-R	DATE ACCEPTED:	10/13/2017
DESCRIPTION: RES OBD RENEWAL		
CITY OF BREWER	LOCATION:	BREWER
DEP Number: W-002679-5M- J-M	DATE ACCEPTED:	9/8/2017
DESCRIPTION: MOD		
CATHY DAVISON	LOCATION:	BRISTOL
DEP Number: W-004668-5A- E-T	DATE ACCEPTED:	9/20/2017
DESCRIPTION: RES OBD TRANSFER		
JEFFERSON & CAROL KIRBY	LOCATION:	BRISTOL
DEP Number: W-009167-5A- E-T	DATE ACCEPTED:	9/20/2017
DESCRIPTION: RES OBD TRANSFER		
CARIBOU UTILITIES DISTRICT	LOCATION:	CARIBOU
DEP Number: W-001001-6D- L-M	DATE ACCEPTED:	9/15/2017
DESCRIPTION: MINOR REVISION		
TOWN OF DAMARISCOTTA	LOCATION:	DAMARISCOTTA
DEP Number: W-009007-5Y- A-N	DATE ACCEPTED:	10/12/2017
DESCRIPTION: SNOW DUMP - GP		
DAVID & DANIELLE BOURNE	LOCATION:	EDGECOMB
DEP Number: W-001037-5A- E-R	DATE ACCEPTED:	8/29/2017
DESCRIPTION: RES OBD RENEWAL		

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CITY OF ELLSWORTH	LOCATION:	ELLSWORTH
DEP Number: W-009082-6D- D-R	DATE ACCEPTED:	8/16/2017
DESCRIPTION: POTW - RENEWAL		
JAMES FISK	LOCATION:	GEORGETOWN
DEP Number: W-002477-5A- D-R	DATE ACCEPTED:	8/17/2017
DESCRIPTION: RES OBD RENEWAL		
CHRISTINE CHAMP	LOCATION:	GEORGETOWN
DEP Number: W-009178-5A- D-R	DATE ACCEPTED:	9/12/2017
DESCRIPTION: RES OBD RENEWAL		
HARRY & MARTHA METZLER	LOCATION:	GOULDSBORO
DEP Number: W-003834-5A- D-R	DATE ACCEPTED:	10/10/2017
DESCRIPTION: RES OBD RENEWAL AND SPLIT		
MARY B PARKS JOAN QUINTAL	LOCATION:	GOULDSBORO
DEP Number: W-009180-5A- D-R	DATE ACCEPTED:	10/10/2017
DESCRIPTION: RES OBD RENEWAL AND SPLIT		
NOT THE POINT, LLC	LOCATION:	HARPSWELL
DEP Number: W-001692-5A- E-R	DATE ACCEPTED:	9/25/2017
DESCRIPTION: RES OBD RENEWAL & TRANSFER		
HAMMOND FAMILY REALTY TRUST	LOCATION:	HARPSWELL
DEP Number: W-003458-5A- D-R	DATE ACCEPTED:	9/12/2017
DESCRIPTION: RES OBD RENEWAL		
BRYAN HITCHCOCK	LOCATION:	MONHEGAN ISLAND PLT
DEP Number: W-009095-5A- B-R	DATE ACCEPTED:	8/28/2017
DESCRIPTION: RES OBD RENEWAL		
CITY OF OLD TOWN	LOCATION:	OLD TOWN
DEP Number: W-009097-5S- B-R	DATE ACCEPTED:	10/3/2017
DESCRIPTION: POOL - RENEWAL		
PENOBSCOT INDIAN NATION	LOCATION:	OLD TOWN
DEP Number: W-002672-6B- E-R	DATE ACCEPTED:	10/17/2017
DESCRIPTION: POTW - RENEWAL		
SYLVIA, CHRISTINA & DAVID ALDEN	LOCATION:	OWLS HEAD
DEP Number: W-001255-5A- D-R	DATE ACCEPTED:	8/28/2017
DESCRIPTION: RES OBD RENEWAL		

Department of Environmental Protection

Applications Accepted For Processing

From: 8/16/2017 To: 10/20/2017

ALLYN & BARBARA CHASE	LOCATION:	PORTLAND
DEP Number: W-009181-5A- D-R	DATE ACCEPTED:	10/20/2017
DESCRIPTION: RES OBD RENEWAL AND SPLIT FROM #1976		
FRESH ATLANTIC USA	LOCATION:	PORTLAND
DEP Number: W-009008-5P- D-R	DATE ACCEPTED:	10/2/2017
DESCRIPTION: FOOD PROCESSING - RENEWAL		
DUPONT NUTRITION USA, INC.	LOCATION:	ROCKLAND
DEP Number: W-001999-5R- I-T	DATE ACCEPTED:	10/6/2017
DESCRIPTION: TRANSFER		
FMC CORPORATION	LOCATION:	ROCKLAND
DEP Number: W-001999-5R- H-R	DATE ACCEPTED:	9/1/2017
DESCRIPTION: COOLING WATER - RENEWAL		
BAYLEY'S QUALITY SEAFOOD	LOCATION:	SCARBOROUGH
DEP Number: W-000990-5P- E-R	DATE ACCEPTED:	10/2/2017
DESCRIPTION: FOOD PROCESSING - RENEWAL		
THE HOPE 1972 IRREVOCABLE TRUST	LOCATION:	SOUTH BRISTOL
DEP Number: W-002434-5A- E-R	DATE ACCEPTED:	8/28/2017
DESCRIPTION: RES OBD RENEWAL		
JEANETTE M. INGERSOLL	LOCATION:	SOUTHPORT
DEP Number: W-001845-5A- F-R	DATE ACCEPTED:	8/17/2017
DESCRIPTION: RES OBD RENEWAL AND SPLIT		
MCKEE LIVING TRUST	LOCATION:	SOUTHPORT
DEP Number: W-002834-5A- F-R	DATE ACCEPTED:	9/20/2017
DESCRIPTION: RES OBD RENEWAL AND TRANSFER		
DOROTHY HOLLY HAMMONDS	LOCATION:	SOUTHPORT
DEP Number: W-009177-5A- F-R	DATE ACCEPTED:	8/28/2017
DESCRIPTION: RES OBD RENEWAL AND SPLIT		
DAVID WARNER	LOCATION:	SOUTHPORT
DEP Number: W-003932-5A- E-R	DATE ACCEPTED:	10/20/2017
DESCRIPTION: RES OBD RENEWAL		
HENRY LANFORD	LOCATION:	TREMONT
DEP Number: W-006799-5A- D-R	DATE ACCEPTED:	10/10/2017
DESCRIPTION: RES OBD RENEWAL		

Department of Environmental Protection

10/20/2017

Applications Accepted For Processing

From: 8/16/2017 To: 10/20/2017

MAINE DEPT OF TRANSPORTATION	LOCATION:	TREMONT
DEP Number: W-002982-5D- D-R	DATE ACCEPTED:	9/25/2017
DESCRIPTION: GOV OBD - RENEWAL		
VEAZIE SEWER DISTRICT	LOCATION:	VEAZIE
DEP Number: W-002754-6C- K-R	DATE ACCEPTED:	8/18/2017
DESCRIPTION: POTW - RENEWAL		
TOWN OF VINALHAVEN	LOCATION:	VINALHAVEN
DEP Number: W-008146-6C- G-R	DATE ACCEPTED:	10/16/2017
DESCRIPTION: POTW - RENEWAL		
RUSSELL DIONNE	LOCATION:	WEST BATH
DEP Number: W-009146-5A- B-T	DATE ACCEPTED:	9/18/2017
DESCRIPTION: RES OBD TRANSFER		
WINTER HARBOR UTILITIES DISTRICT	LOCATION:	WINTER HARBOR
DEP Number: W-000562-6C- G-M	DATE ACCEPTED:	10/17/2017
DESCRIPTION: MINOR REVISION		



PAUL R. LEPAGE
GOVERNOR

James W. Parker, Chair

Cynthia S. Bertocci
Executive Analyst

Ruth Ann Burke
Board Clerk

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

September 7, 2017

A meeting of the Board of Environmental Protection was held on Thursday, September 7, 2017 at the Civic Center, 76 Community Drive, Augusta, Maine. James Parker, Chair, called the meeting to order at 9:00 am with the following individuals present:

Board: Alvin Alhers, Kathleen Chase, Thomas Dobbins, Mark Draper, Jonathan Mapes, and James Parker. Thomas Eastler was absent.

Staff: Stacy Ladner, Bureau of Remediation and Waste Management
Jeff Crawford, Office of the Commissioner
Paula Clark, Director of the Division of Solid Waste, Bureau of Remediation and Waste Management (BRWM)
Cyndi Darling, Environmental Specialist IV, BRWM
Marc Cone, Director, Bureau of Air Quality
Mark Bergeron, Director, Bureau of Land Resource Regulation
David Burns, Director, Bureau of Remediation and Waste Management

Others: Paul Mercer, Commissioner
Peter LaFond, Assistant Attorney General
Kate Tierney, Assistant Attorney General
Cynthia Bertocci, BEP Executive Analyst
Ruth Ann Burke, BEP Clerk and Administrative Assistant

I. Departmental

- A. **Commissioner's Comments:** Commissioner Mercer thanked members for their commitment to the Board, and invited members to tour the Department's offices and meet and speak with Department staff.
- B. **Comments from the BEP Chair:** None
- C. **Executive Analyst Comments:** Ms. Bertocci noted that Chair Parker has reviewed a draft of the Board's Government Evaluation Act report which must be submitted to the Legislature by November 1, 2017. Board members will receive a draft for their review and discussion at a future Board meeting. She also noted that Department staff is working on revisions requested by the Legislature to provisionally adopted Chapter 200 *Metallic Mineral Exploration, Advanced Exploration and Mining*. The revised rule is tentatively scheduled to come back to the Board for final adoption at the Board's November 2, 2017 meeting.
- D. **Board Calendar:** Reviewed
- E. **Departmental Orders / Applications Accepted for Processing:** Reviewed.

II. Regular Agenda Items:

1. BEP Meeting Minutes: June 15, 2017 (approval)

The Board voted (6-0-0-1) on a motion by Thomas Dobbins, seconded by Kathleen Chase, to approve the minutes for June 15, 2017 as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D.

Board members Alvin Ahlers, Kathleen Chase, Thomas Dobbins, Mark Draper, Jonathan Mapes, and James Parker voted to support the motion. Thomas Eastler was absent.

2. Clean Harbors Environmental Services, Inc. Waste Oil Storage and Treatment Facility License Renewal #O-154-97-F-R (decision)

Staff: Stacy Ladner, Bureau of Remediation and Waste Management

Clean Harbors Environmental Services, Inc. applied for renewal of its existing waste oil storage and treatment facility located in Rigby Yard Industrial Park, South Portland. The facility, which was initially licensed by the Department in 1996, receives and processes up to 250,000 gallons of waste oil for resale to end users each week. The Department did not receive any public comments on the renewal application.

The Board voted (6-0-0-1) on a motion by Thomas Dobbins, seconded by Kathleen Chase, to approve the application by Clean Harbors Environmental Services, Inc. for renewal of its waste oil storage and treatment facility license as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D, 38 M.R.S. §§ 1301 to 1319-Y, and 06-096 C.M.R. ch. 860.

Board members Alvin Ahlers, Kathleen Chase, Thomas Dobbins, Mark Draper, Jonathan Mapes, and James Parker voted to support the motion. Thomas Eastler was absent.

3. Chapter 502 Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams / Amendments (provisional adoption)

Staff: Jeffrey Crawford, Office of the Commissioner

Chapter 502 of the Department's rules is a major substantive rule that sets forth the criteria used to identify the direct watersheds of lakes most at risk from new development and urban impaired streams, and lists those waterbodies. A lake is placed on the list if it is identified by the Department as being in violation of Class GPA water quality standards (sustained and repeated blue green algal blooms or a documented trend of increasing trophic state), or as particularly sensitive to eutrophication. A stream is placed on the urban impaired streams list if it fails to meet water quality standards (most often aquatic life standards), primarily due to the effects of past or recent urbanization, and particularly the stormwater related effects.

The Board held a public hearing on the proposed amendments on June 15, 2017. Only one comment was received, noting a scrivener's error. There were no comments from the public at the provisional adoption meeting.

The Board voted (6-0-0-1) on a motion by Mark Draper, seconded by Jonathan Mapes, to provisionally adopt amendments to Chapter 502 and the associated basis statement as presented.

The vote was taken pursuant to 38 M.R.S. §§ 341-H(1), 420-D, and 484.
Board members Alvin Ahlers, Kathleen Chase, Thomas Dobbins, Mark Draper, Jonathan Mapes, and James Parker voted to support the motion. Thomas Eastler was absent

4. Chapter 418 Beneficial Use of Solid Waste / Amendments (deliberative session)

Staff: Paula Clark, Director, Division of Materials Management, BRWM
Cyndi Darling, Environmental Specialist IV, BRWM
Mark Bergeron, Director, Bureau of Land
Marc Cone, Director, Bureau of Air Quality
David Burns, Director, Bureau of Remediation and Waste Management

The Board held a public hearing on the proposed amendments to Chapter 418 on June 15, 2017. The written comment period closed on June 26, 2017. The purpose of the deliberative session was to review hearing testimony and written comments received on the proposed amendments. Board members and staff discussed, among other issues, proposed changes to Appendix A "Screening Standards for Beneficial Use," use of de-watered dredge material as construction fill and for beach nourishment, proposed standards for use of emulsified asphalt encapsulated contaminated soil, and fuel substitution. Board members requested, among other things, information on the proposed changes to Appendix A for review at a future deliberative session.

Staff presented a proposed addition to Section 7 “Reduced Procedures for Select Beneficial Use Activities” of the rule for use of de-watered dredge material as beach nourishment.

The Board voted (6-0-0-1) on a motion by Mark Draper, seconded by Kathleen Chase, to post proposed Section 7.B. “Reduced Procedure Beneficial Use of De-watered Dredge Material as Beach Nourishment Fill Standards” for a 30-day written comment period.

The vote was taken pursuant to 38 M.R.S. § 341-H(1) and 5 M.R.S. § 8052(5)(B).

Board members Alvin Ahlers, Kathleen Chase, Thomas Dobbins, Mark Draper, Jonathan Mapes, and James Parker voted to support the motion. Thomas Eastler was absent

(The meeting adjourned at approximately 12:45 p.m.)



PAUL R. LEPAGE
GOVERNOR

PAUL MERCER
COMMISSIONER

Memorandum

To: Board of Environmental Protection

From: Jeffrey S. Crawford, Office of the Commissioner

Date: November 2, 2017

Re: Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining-Final Adoption

BACKGROUND:

In 2011, the Maine Legislature passed Public Law 2011, Chapter 653, *An Act to Improve Environmental Oversight and Streamline Permitting for Metallic Mineral Mining in Maine*, establishing the new Maine Metallic Mineral Mining Act (Mining Act) at 38 M.R.S. Section 490-LL *et seq.* The Mining Act provides the statutory framework for the regulation of metallic mineral mining activities by the Department, including but not limited to:

- Administration, rulemaking, and local participation;
- Mining permit application procedures;
- Mining permit duration, termination, revocation, transfer and amendment procedures;
- Performance, operation and reclamation standards;
- Financial assurance requirements;
- Mining and reclamation reporting requirements; and
- Enforcement and violation provisions.

P.L. 2011, Chapter 653 directed the Department to promulgate revised rules to modernize Maine's mining requirements and consolidate the multiple environmental permits necessary for mining activities.

In response to this Legislative directive, the Department presented a proposed rule to the Board in September 2013. A public hearing on the proposed rule was held on October 17, 2013, and after extensive public comment and Board deliberations, the Board provisionally adopted a rule on January 10, 2014. The Department subsequently submitted the provisionally adopted rule to the Legislature for review and approval. After extensive deliberation, the Legislature disapproved the provisionally adopted rule. In 2015, the Department again submitted Chapter

200 as provisionally adopted by the Board on January 10, 2014 for Legislative review and approval; the Legislature again voted not to authorize final adoption.

CURRENT RULEMAKING

While the existing Chapter 200 rule (last amended April 21, 2013) continues to remain in effect, a number the licensing requirements are inconsistent with the Mining Act (P.L. 2011, Chapter 653). Therefore, in August 2016, the Department presented a revised proposal to repeal and replace the existing Chapter 200 regulations, and provide a comprehensive application and permitting process within the statutory framework for exploration, advanced exploration and mining activities established in the Mining Act. The 2016 proposed rule was based on the 2014 provisionally-adopted rule, but incorporated revisions to address numerous environmental, technical and legal concerns expressed by Legislators, Board members, stakeholders, and the public during the prior rulemaking proceedings. Like the earlier proposal, the new draft rule established a tiered system of requirements for exploration, advanced exploration and mining activities to reflect the differing potential impacts of these activities on the environment and public health and safety.

— Exploration

Exploration activities are mining activities that are conducted to determine the location, extent and composition of metallic mineral deposits. Typically performed by hand sampling, test drilling or the digging of test pits, exploration activities are limited to no more than one acre in total area, and do not require a permit. Instead, persons conducting exploration activities are required to submit an exploration work plan prepared by a qualified professional prior to initiating any activities at an exploration site and meet a number of performance standards designed to protect natural resources and properly restore the exploration site. Persons conducting exploration activities are also required to submit a closure report documenting that all restoration plan requirements have been completed.

— Advanced Exploration

Advanced exploration activities involve more extensive sampling to determine the feasibility, method, or manner of extracting and processing metallic minerals, and have greater potential impacts on the environment and public health and safety. The provisionally adopted rule bifurcates advanced exploration activities into two general permit categories based on their potential environmental and public health and safety impacts. Tier One advanced exploration activities involve the excavation and removal of up to 2,000 tons of mine waste, while Tier Two advanced exploration activities may involve up to 10,000 tons of mine waste¹.

Under an advanced exploration mining permit, the on-site processing of samples is limited to mechanical size alteration (crushing) and sorting; chemical or other treatment of ores is not allowed. All testing and characterization must take place in enclosed facilities, and all waste

¹ Mine waste means all material removed from the earth during advanced exploration or mining, including but not limited to, overburden, rock, lean ore, leached ore or tailings.

generated from on-site testing and characterization must be transported off-site for proper disposal.

— **Mining**

Mining activities which involve the excavation of 10,000 tons of mine waste or more are subject to a comprehensive suite of requirements. Since mining at this scale has the greatest potential impact on the environment and public health and safety, mining activities are subject to a more extensive review process and must meet additional performance standards.

On September 15, 2016, the Board held a public hearing on the Department's proposed rule. The Department received comments on its proposal from nearly 500 interested parties during two public comment periods². The proposed rule was subsequently revised to incorporate a number of suggested changes, including: 1) prohibiting the wet storage of tailings (tailings ponds); 2) prohibiting the use of wet mine waste (waste rock) units after closure of a mine; 3) requirements for all mining operations to be inspected and monitored by a qualified independent inspector through the construction, operation and closure of the mine; 4) financial assurance requirements that include the cost to investigate and remediate any and all possible releases of contaminants at the site, and conduct treatment activities for all expected fluids and wastes generated at the facility for a minimum of one hundred (100) years; and 5) standards for the protection of historic sites, unusual natural areas, scenic character, wildlife and fisheries.

The Board provisionally adopted the Department's proposal on January 5, 2017, and the Department subsequently submitted this major substantive rule for legislative review pursuant to 5 M.R.S. § 8072. The Board also submitted recommended revisions to the Mining Act to the Joint Standing Committee on Environment and Natural Resources. These recommendations addressed several concerns that could not be addressed through the Department's rulemaking authority, including: 1) permitting mining activities within floodplains and flood hazard areas; 2) allowing discharges to the groundwater within mining areas; and 3) allowing mining activities on public lands.

LEGISLATIVE ACTION – PUBLIC LAW 2017, CHAPTER 142

The Joint Standing Committee on Environment and Natural Resources considered many mining-related bills in 2017, with proposals ranging from a repeal of the Mining Act to the approval of the January 5, 2017 provisionally adopted Chapter 200. Ultimately, the Maine Legislature enacted Public Law 2017, Chapter 142 (a copy of which is enclosed), that made numerous changes to the Mining Act and the laws governing mining on state lands, and authorized the final

² Following the close of the initial public comment period on September 26, 2016, the Board held two deliberative sessions to discuss key issues raised by commenters. On November 3, 2016, the Board directed the Department to provide an opportunity for public comment pursuant to 5 M.R.S. § 8052(5)(B) on certain changes to the proposal that may be substantial including, but not limited to: 1) provisions related to mine waste storage (including tailings impoundments); 2) prohibitions against mining in or on great ponds, rivers and coastal wetlands; 3) provisions pertaining to the protection of historic sites, unusual natural areas, scenic character, and wildlife and fisheries; 4) financial assurance requirements; and 5) the mandatory use of independent third-party compliance inspectors throughout the life of a project.

adoption of the January 5, 2017 provisionally adopted Chapter 200 contingent upon the incorporation of specific revisions providing consistency with these laws. Public Law 2017, Chapter 142 addressed many of the public's and Board's outstanding concerns regarding the Mining Act and the Department's rules, including limitations and/or prohibitions on certain mining operations, financial assurance requirements and groundwater contamination. Department staff has revised the January 5, 2017 provisionally adopted rule to incorporate the changes directed by the Legislature, including the following:

Prohibitions

The Mining Act and the Department's revised rule now prohibit many specific mining operations and activities, including:

- The use of open-pit mining, which is defined as the use of surface pits or excavations having greater than 3 acres of surface area in the aggregate or by means of a surface pit excavated using one or more horizontal benches;
- The use of wet mine waste units, except that waste rock that is neutralized or otherwise treated to prevent contamination of groundwater or surface water may be placed in a mine shaft (tailings must be stored in a dry stack tailings management unit);
- The removal of metallic minerals, the storage of metallic minerals or mine waste, the processing of metallic minerals or the treatment of mine waste in or on floodplains or flood hazard areas;
- The removal of metallic minerals in, on or from a river, stream or brook, a great pond, a freshwater wetland or a coastal wetland;
- The placement of a mine shaft in, on or under a significant or outstanding river segment, an outstanding river, a high or moderate value waterfowl and wading bird habitat, a great pond or a coastal wetland; and
- The issuance of a mining permit if any part of the proposed mining operation will be located wholly or partially in, on or under any designated land, state historic site, state park, public reserved land, submerged land or state-owned wildlife management area or the Allagash Wilderness Waterway;

Financial Assurance

The financial assurance provisions of statute and the rule have been revised as follows:

- The coverage and form of financial assurance for mining operations was revised to ensure that the amount of financial assurance is sufficient to cover not only the cost to fully close the mining operation and treat all fluids and wastes for a minimum period of 100 years, but that it is also sufficient to cover a worst-case catastrophic mining event or failure including, but not limited to, the cost of restoring, repairing and remediating any damage to public or private property or the environment.
- The amount of the proposed financial assurance must now be reviewed by a qualified, independent 3rd-party reviewer approved by the Department, with these costs paid by the

applicant.

- Finally, the Mining Act and the Department's rule were revised to limit the acceptable forms of financial assurance. All mining operations will now be required to fund their financial assurance obligations with a trust fund secured by one or more of the following negotiable instruments: 1) a cash account; 2) negotiable bonds issued by the United States or a state or municipality; or 3) negotiable certificates of deposit.

Groundwater Contamination

Public Law 2017, Chapter 142 also amended the mining permit approval conditions to allow only limited contamination of groundwater within a mining area³, provided that this contamination does not result in the following:

- contamination of groundwater beyond the mining area;
- contamination of groundwater within the mining area that exceeds certain water quality criteria for pollutants;
- contamination of groundwater within the mining area due to pH or metals that exceeds limits set forth in the mining permit based on site-specific geologic and hydrologic characteristics;
- any violation of surface water quality standards; or,
- if groundwater or surface water quality within the mining area prior to the commencement of mining activity exceeds applicable water quality standards, further degradation of such groundwater or surface water quality.

The final Chapter Metallic Mineral Exploration, Advanced Exploration and Mining rule was amended to incorporate these changes, along with additional revisions necessary to ensure conformity with Public Law 2017, Chapter 142 and other state laws. In addition, the Department also made grammatical, formatting and other non-substantive amendments prior to final adoption. The attached copy of P.L. 2017, c.142 has been annotated to indicate sections of the rule that have been modified to incorporate the changes directed by the Legislature.

REQUESTED ACTION:

The Department is requesting that the Board adopt proposed Chapter 200 as revised in accordance with Public Law 2017, Chapter 142.

³ This amendment also provided a narrow definition of the term "mining area" applicable only to this provision on discharges causing groundwater contamination. the term "mining area" for the purpose of compliance with these groundwater standards cannot exceed 100 feet in any direction from a mine shaft, surface pit or surface excavation, and does not include the land on which mining material is stored or deposited, the land on which beneficiating or treatment facilities are located, the land on which groundwater or surface water treatment facilities are located, or the land on which water reservoirs used in mining operations are located.

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PUBLIC Law, Chapter 142, LD 820, 128th Maine State Legislature
An Act To Protect Maine's Clean Water and Taxpayers from Mining Pollution

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Protect Maine's Clean Water and Taxpayers from Mining Pollution

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

Sec. 1. 12 MRSA §549-B, sub-§7, ¶C-1 is enacted to read:

C-1. Notwithstanding any other provision of law to the contrary, the director of the agency having jurisdiction over the state lands on which a mining lease is sought may not grant a mining lease under this section that authorizes mining operations proposed to be located wholly or partially in, on or under any of the following state lands:

- (1) Designated lands under section 598-A;
- (2) Historic sites as defined in section 1801, subsection 5;
- (3) Parks as defined in section 1801, subsection 7;
- (4) Public reserved lands as defined in section 1801, subsection 8;
- (5) Submerged lands as defined in section 1801, subsection 9;
- (6) The Allagash Wilderness Waterway as established under chapter 220, subchapter 6; and
- (7) State-owned wildlife management areas acquired in accordance with section 10109, subsection 1.

Commented [CJS1]: This prohibition against mining in on or under these state lands was incorporated in Chapter 200; see comment #25, below.

Sec. 2. 38 MRSA §490-MM, sub-§§5-A, 10-A, 10-B, 10-C and 13-A are enacted to read:

5-A. Dry stack tailings management. "Dry stack tailings management" means the process of disposing of dewatered, compacted mine tailings into a freestanding, stable structure on an area with an impervious liner designed to shed water to a water collection and treatment system.

10-A. Mine shaft. "Mine shaft" means a vertical, inclined or horizontal excavation, including all underground workings, with a surface opening not exceeding 1,000 square feet.

10-B. Mine waste. "Mine waste" means all material, including, but not limited to, overburden, rock, lean ore, leached ore or tailings, that in the process of mining and beneficiation has been exposed or removed from the earth during advanced exploration and mining activities.

10-C. Mine waste unit. "Mine waste unit" means any land area, structure, location, equipment or combination thereof on or in which mine wastes are managed. A structure or area of land

Commented [CJS2]: These definitions were incorporated in Chapter 200; see comments #18-22, below.

PUBLIC Law, Chapter 142, LD 820, 128th Maine State Legislature
An Act To Protect Maine's Clean Water and Taxpayers from Mining Pollution

does not become a mine waste unit solely because it is used to store nonreactive mine wastes generated on the site, such as soil or overburden, for 90 days or less.

13-A. Open-pit mining. "Open-pit mining" means, for any single mining operation permitted under this article, the process of mining a metallic mineral deposit by use of surface pits or excavations having greater than 3 acres of surface area in aggregate or by means of a surface pit excavated using one or more horizontal benches.

Sec. 3. 38 MRSA §490-MM, sub-§17, as enacted by PL 2011, c. 653, §23 and affected by §33, is repealed and the following enacted in its place:

17. Tailings impoundment. "Tailings impoundment" means a surface area, contained by dikes or dams, on which is deposited the slurry of material that is separated from a metallic product in the beneficiation or treatment of minerals, including any surrounding dikes constructed to contain such material. "Tailings impoundment" does not include a lined surface area on which dewatered tailings are stacked.

Sec. 4. 38 MRSA §490-MM, sub-§18 is enacted to read:

18. Wet mine waste unit. "Wet mine waste unit" means a mine waste unit in which mine wastes are placed under water to minimize sulfide oxidation, acid formation or particulate pollution.

Sec. 5. 38 MRSA §490-NN, sub-§1, ¶B, as enacted by PL 2011, c. 653, §23 and affected by §33, is amended to read:

B. In addition to other powers granted to it, the department shall adopt rules to carry out its duties under this article, including, but not limited to, standards for exploration, advanced exploration, construction, operation, closure, post-closure monitoring, reclamation and remediation. Except as otherwise provided, rules adopted under this article are major substantive rules for purposes of Title 5, chapter 375, subchapter 2-A and are subject to section 341-H. Notwithstanding Title 5, section 8072, subsection 11, or any other provision of law to the contrary, rules provisionally adopted by the department in accordance with this article and submitted for legislative review may not be finally adopted by the department unless legislation authorizing final adoption of those rules is enacted into law.

Sec. 6. 38 MRSA §490-NN, sub-§2, as enacted by PL 2011, c. 653, §23 and affected by §33 and amended by c. 682, §38, is further amended to read:

2. Maine Land Use Planning Commission. The department may not approve a permit under this article in an unorganized territory unless the Maine Land Use Planning Commission certifies to the department that:

- A. The proposed mining is an allowed use within the subdistrict or subdistricts in which it is to be located; and
- B. The proposed mining meets any land use standard established by the Maine Land Use Planning Commission and applicable to the project that is not considered in the department's review.

The Maine Land Use Planning Commission shall adopt rules in accordance with this subsection relating

Commented [CJS3]: This definition has been incorporated; see comment #23, below.

Commented [CJS4]: This definition has been incorporated; see comment # 24, below.

Commented [JC5]: Procedural requirements. The final adoption of the provisionally-adopted Chapter 200 rules is authorized by PL 2017, ch. 142.

PUBLIC Law, Chapter 142, LD 820, 128th Maine State Legislature
An Act To Protect Maine's Clean Water and Taxpayers from Mining Pollution

to the certification of mining permit applications under this article. Notwithstanding any other provision of law to the contrary, rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. 38 MRSA §490-OO, sub-§4, ¶¶D and H, as enacted by PL 2011, c. 653, §23 and affected by §33, are amended to read:

D. There is reasonable assurance that discharges of pollutants from the mining operation will not violate applicable water quality standards. Notwithstanding sections 465-C and 470, ~~discharges to~~ contamination of groundwater from activities permitted under this article may occur within a mining area, but such dischargescontamination must be limited and may not result in contamination of groundwater beyond each mining area. In determining compliance with this standard, the department shall require groundwater monitoring consistent with the standards established pursuant to section 490-QQ, subsection 3.

(1)Contamination of groundwater beyond the mining area;

(2)Contamination of groundwater within the mining area that exceeds applicable water quality criteria for pollutants other than pH or metals;

(3)Contamination of groundwater within the mining area due to pH or metals that exceeds limits set forth in the mining permit by the department based on site-specific geologic and hydrologic characteristics;

(4)Any violation of surface water quality standards under section 413 or article 4-A; or

(5)If groundwater or surface water quality within the mining area prior to the commencement of any mining activity exceeds applicable water quality standards, further degradation of such groundwater or surface water quality.

In determining compliance with this standard, the department shall require groundwater monitoring consistent with the standards established pursuant to section 490-QQ, subsection 3.

Notwithstanding section 490-MM, subsection 12, for the purposes of this paragraph, "mining area" means an area of land, approved by the department and set forth in the mining permit, not to exceed 100 feet in any direction from a mine shaft, surface pit or surface excavation, and does not include the following lands, regardless of the distance of such land from a mine shaft, surface pit or surface excavation: the land on which material from mining is stored or deposited, the land on which beneficiating or treatment facilities are located, the land on which groundwater and surface water management systems are located or the land on which water reservoirs used in a mining operation are located.

H. The mining operation will not unreasonably cause or increase the flooding of the area that is altered by the mining operation or adjacent properties or create an unreasonable flood hazard to any

Commented [JC6]: Section 11(A)(2)(c)
Section 20(J)

PUBLIC Law, Chapter 142, LD 820, 128th Maine State Legislature
An Act To Protect Maine's Clean Water and Taxpayers from Mining Pollution

~~structure. Mining. Notwithstanding any provision of law to the contrary, mining operations involving the removal of metallic minerals, the storage of metallic minerals or mine waste, the processing of metallic minerals or the treatment of mine waste may not be placed in or on flood plains or flood hazard areas as long as they are designed, constructed, operated and reclaimed in a manner that complies with the approval criteria in this subsection and the Natural Resources Protection Act.~~

Sec. 8. 38 MRSA §490-OO, sub-§4, ¶¶K to O are enacted to read:

K. No part of the mining operation will be located wholly or partially in, on or under any state land listed in Title 12, section 549-B, subsection 7, paragraph C-1.

L. The mining operation will not involve the removal of metallic minerals in, on or from a river, stream or brook, as defined in section 480-B, subsection 9; a great pond, as defined in section 480-B, subsection 5; a freshwater wetland, as defined in section 480-B, subsection 4; or a coastal wetland, as defined in section 480-B, subsection 2.

M. The mining operation will not involve placement of a mine shaft in, on or under a significant river segment, as identified in section 437; an outstanding river segment, as identified in section 480-P; an outstanding river, as identified in Title 12, section 403; a high or moderate value waterfowl and wading bird habitat that is a significant wildlife habitat pursuant to section 480-B, subsection 10, paragraph B, subparagraph (2); a great pond, as defined in section 480-B, subsection 5; or a coastal wetland, as defined in section 480-B, subsection 2.

N. The mining operation will use dry stack tailings management and will not use wet mine waste units or tailings impoundments for the management of mine waste and tailings, except that the mining operation may involve the placement into a mine shaft of waste rock that is neutralized or otherwise treated to prevent contamination of groundwater or surface water.

O. The mining operation will not use open-pit mining.

Sec. 9. 38 MRSA §490-RR, sub-§2, as enacted by PL 2011, c. 653, §23 and affected by §33, is repealed and the following enacted in its place:

2. Coverage and form of financial assurance. The financial assurance required under subsection 1 applies to all mining and reclamation operations that are subject to a mining permit.

A. The amount of the financial assurance must be sufficient to cover the cost for the department to administer, and hire a 3rd party to implement, all necessary investigation, monitoring, closure, post-closure, treatment, remediation, corrective action, reclamation, operation and maintenance activities under the environmental protection, reclamation and closure plan, including, but not limited to:

(1) The cost to investigate all possible releases of contaminants at the site, monitor all aspects of the mining operation, close the mining operation in accordance with the closure plan, conduct treatment activities of all expected fluids and wastes generated by the mining operation for a minimum of 100 years, implement remedial activities for all possible releases and maintenance of structures and waste units as if these units have released contaminants to the groundwater and surface water, conduct corrective actions for potential environmental impacts

Commented [CJS7]: Section 11(A)(2)(h)
Section 20(B)(1)

Commented [CJS8]: Section 11(A)(2)(n)
Section 20(B)(5)

Commented [CJS9]: Section 11(A)(2)(o)
Section 20(B)(3)

Commented [CJS10]: Section 11(A)(2)(p)
Section 20(B)(6)

Commented [CJS11]: Section 2(KK)
Section 2(YYYY)
Section 3(F)
Section 9(D)(12)
Section 11(A)(2)(q)
Section 20(G)(1)
Section 20 (H)(1) and (2)
Section 21(C)
Section 24(A)(3)(c)
Section 24(B)5

Commented [JC12]: Section 1(B)(4)
Section 2(RRR)
Section 3(G)
Section 11(A)(2)(r)
Section 23(M)

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An Act To Protect Maine's Clean Water and Taxpayers from Mining Pollution

to groundwater and surface water resources as identified in the environmental impact assessment and conduct all other necessary activities at the mine site in accordance with the environmental protection, reclamation and closure plan; and

(2)The cost to respond to a worst-case catastrophic mining event or failure, including, but not limited to, the cost of restoring, repairing and remediating any damage to public facilities or services, to private property or to the environment resulting from the event or failure.

Commented [CJS13]: Section 9(l)(5) (i) and (iii)
Section 17(B)(1)

B. An applicant for a mining permit must include with its application a review of the proposed financial assurance amounts required under this section as performed by a qualified, independent 3rd-party reviewer approved by the department. The costs of the 3rd-party review must be paid by the applicant. Estimates of the costs of a worst-case catastrophic mining event or failure under paragraph A, subparagraph (2) provided by the applicant may not include costs to the applicant associated with loss of use of any mining operation or facility or the costs of repairing any damaged mining operation or facility to restore operations or other functionality.

Commented [CJS14]: Section 17(B)(2)

C. The department shall require the applicant to provide financial assurance in the amount determined by the 3rd-party reviewer under paragraph B to be sufficient for the department to conduct all activities listed under paragraph A. Financial assurance estimates provided by the applicant and reviewed by the 3rd-party reviewer under this section must use the highest cost option for all estimates and include a minimum 20% contingency to account for unexpected expenses.

Commented [CJS15]: Section 17(B)(4)

D. The financial assurance required by department under this subsection must consist of a trust fund that is secured with any of the following forms of negotiable property, or a combination thereof, as approved by the department:

(1)A cash account in one or more federally insured accounts;

(2)Negotiable bonds issued by the United States or by a state or a municipality having a Standard and Poor's credit rating of AAA or AA or an equivalent rating from a national securities credit rating service; or

(3) Negotiable certificates of deposit in one or more federally insured depositories.

Commented [CJS16]: Section 17(C)

E. The financial assurance required by the department under this section must be posted by the applicant before the department issues a permit to mine under this article.

Commented [CJS17]: Section 11(A)(2)(s)
Section 17(A)

Sec. 10. 38 MRSA §490-RR, sub-§3, as enacted by PL 2011, c. 653, §23 and affected by §33, is repealed.

Sec. 11. Department of Environmental Protection; approval of final adoption.

Final adoption of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a provisionally adopted major substantive rule of the Department of Environmental Protection that was submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A on January 13, 2017, is authorized only if the following changes are made:

1. The rule must be amended in section 2 to define "dry stack tailings management" consistent with

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the statutory definition of "dry stack tailings management" under Title 38, section 490-MM, subsection 5-A;

Commented [CJS18]: Section 2(KK)

2. The rule must be amended in section 2 to define "mine shaft" consistent with the statutory definition of "mine shaft" under Title 38, section 490-MM, subsection 10-A;

Commented [CJS19]: Section 2(III)

3. The rule must be amended in section 2 to amend the definition of "mine waste" as necessary to ensure consistency with the statutory definition of "mine waste" under Title 38, section 490-MM, subsection 10-B;

Commented [CJS20]: Section 2(JJJ)

4. The rule must be amended in section 2 to amend the definition of "mine waste unit" as necessary to ensure consistency with the statutory definition of "mine waste unit" under Title 38, section 490-MM, subsection 10-C;

Commented [CJS21]: Section 2(KKK)

5. The rule must be amended in section 2 to define "open-pit mining" consistent with the statutory definition of "open-pit mining" under Title 38, section 490-MM, subsection 13-A;

Commented [CJS22]: Section 2(RRR)

6. The rule must be amended in section 2 to amend the definition of "tailings impoundment" as necessary to ensure consistency with the statutory definition of "tailings impoundment" under Title 38, section 490-MM, subsection 17;

Commented [CJS23]: Section 2(OOOO)

7. The rule must be amended in section 2 to amend the definition of "wet mine waste unit" as necessary to ensure consistency with the statutory definition of "wet mine waste unit" under Title 38, section 490-MM, subsection 18;

Commented [CJS24]: Section 2(YYYY)

8. The rule must be amended, as necessary, in section 11(A), section 20(B) and any other affected sections to incorporate the statutory prohibition against the permitting of a mining operation located in, on or under any state land listed in Title 12, section 549-B, subsection 7, paragraph C-1, as provided in Title 38, section 490-OO, subsection 4, paragraph K;

Commented [CJS25]: Section 11(A)(2)(n) and 20(B)(5)

9. The rule must be amended, as necessary, in section 11(A), section 20(B) and any other affected sections to incorporate the statutory prohibition against the permitting of a mining operation involving the removal of metallic minerals in, on or from certain natural resources as provided in Title 38, section 490-OO, subsection 4, paragraph L;

Commented [CJS26]: Section 11(A)(2)(o) and 20(B)(3)_

Commented [CJS27]: Section 11(A)(2)(p) and 20(B)(6)

10. The rule must be amended, as necessary, in section 11(A), section 20(B) and any other affected sections to incorporate the statutory prohibition against the permitting of a mining operation involving the placement of a mine shaft in, on or under certain natural resources as provided in Title 38, section 490-OO, subsection 4, paragraph M;

Commented [CJS28]: Section 2(KK)

Section 2(YYYY)
Section 3(F)
Section 9(D)(12)
Section 11(A)(2)(q)
Section 20(G)(1)
Section 20 (H)(1) and (2)
Section 21(C)
Section 24(A)(3)(c)
Section 24(B)5

11. The rule must be amended, as necessary, in section 11(A), section 21, section 24 and any other affected sections to incorporate the statutory requirement for the use of dry stack tailings management and the statutory prohibition against the permitting of a mining operation involving the use of wet mine waste units or tailings impoundments as provided in Title 38, section 490-OO, subsection 4, paragraph N;

Commented [CJS29]: Section 1(B)(4)

Section 2(RRR)
Section 11(A)(2)(r)
Section 23(M)

12. The rule must be amended, as necessary, in section 11(A) and any other affected sections to incorporate the statutory prohibition against the permitting of a mining operation that uses open-pit mining as provided in Title 38, section 490-OO, subsection 4, paragraph O;

13. The rule must be amended in section 17 and any other affected sections to clarify the coverage and form of required financial assurance pursuant to Title 38, section 490-RR, subsection 2;

Commented [CJS30]: Section 9(I)(5)(ii) and (iii)
Section 17 (numerous locations)

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14. The rule must be amended in section 22 and any other affected sections to clarify the limited definition of "mining area" pursuant to Title 38, section 490-OO, subsection 4, ~~paragraph D~~:

15. All necessary grammatical, formatting, punctuation or other technical nonsubstantive editing changes must be made to the rule, including, but not limited to, the addition of subsection headings in section 2 and the removal of strikethrough letters or words remaining from prior drafts and edits; and

16. All other necessary changes must be made to the rule to ensure conformity throughout the rule and consistency with the provisions of this Act.

Sec. 12. Maine Land Use Planning Commission rulemaking; certification of mining permit applications. By July 1, 2018, the Maine Land Use Planning Commission shall adopt rules related to commission certification of metallic mineral mining permit applications in accordance with the Maine Revised Statutes, Title 38, section 490-NN, subsection 2. Rules adopted pursuant to this section must include any additional provisions necessary to ensure consistency with the Maine Metallic Mineral Mining Act and rules related to the Maine Metallic Mineral Mining Act adopted by the Department of Environmental Protection.

Effective 90 days following adjournment of the 128th Legislature, First Regular Session, unless otherwise indicated.

Commented [CJS31]: Section 11(A)(2)(c)
Section 20(J)(5)
Section 21(B)(1)(a)
Section 21(B)(4)
Section 21(B)(12)(c)
Section 22 (B)(1)

Commented [CJS32]: Numerous locations, including:
Section 11(A)(2)(h)
Section 13(A)
Section 24(A)(1)(b)(iv)
Section 24(A)(3)(c)
Section 32(A)

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Chapter 200: METALLIC MINERAL EXPLORATION, ADVANCED EXPLORATION AND MINING

Provisionally Adopted with Legislatively Directed Revisions

11/2/17

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**06-096 Chapter 200: METALLIC MINERAL EXPLORATION, ADVANCED EXPLORATION
AND MINING**

Subchapter 1: GENERAL PROVISIONS

1. Applicability.

- A. To all metallic mineral exploration, advanced exploration and mining activities after the effective date of this Chapter.

NOTE: Persons seeking to conduct exploration activities in the unorganized or deorganized areas of the State should contact the Maine Land Use Planning Commission.

- B. The following activities are prohibited, and no permit shall be issued under this Chapter to a mining operation that includes:

(1) Heap, percolation or in-situ leaching.

(2) Mining for thorium or uranium ore.

(3) Block caving.

(4) Open-pit mining.

(5) Wet mine waste units and tailings impoundments are prohibited, except that a mining operation may place into a mine shaft waste rock that is neutralized or otherwise treated to prevent contamination of groundwater or surface water.

- 2. Definitions.** As used in this Chapter, unless the context otherwise indicates, the following terms have the following meanings:

A. Acid Potential. “Acid potential” or “acid generating potential” means the ability of a rock or geologic material to produce acid leachates.

B. Acid Rock Drainage. “Acid rock drainage” means the drainage that occurs as a result of oxidation of sulfide minerals contained in rock which is exposed to air and water.

C. Act. “Act” means the Maine Metallic Mineral Mining Act at 38 M.R.S. § 490-LL *et seq.*

D. Active Treatment System. “Active treatment system” or “active treatment” means a system that treats water or wastewater with the active addition of chemical reagents or the application of external energy. Active treatment does not include periodic inspections and routine maintenance such as the mowing of vegetation.

E. Administratively Complete. “Administratively complete” means an application for a mining permit under this Chapter that is determined by the Department to contain all of the documents and information required to initiate processing under this Chapter.

- F. Advanced Exploration.** “Advanced exploration” or “advanced exploration activity” means any metallic mineral bulk sampling or exploratory activity that exceeds those activities that are exploration activities, but removes 10,000 tons or less of mine waste. Samples taken as part of “exploration” are not considered bulk sampling.
- G. Advanced Exploration Mining Permit.** “Advanced exploration mining permit” means a mining permit to conduct metallic mineral advanced exploration activities.
- H. Advanced Exploration Site.** “Advanced exploration site” means the area and facilities within which advanced exploration or activities incidental to it occur, or may reasonably be expected to occur.
- I. Adverse Impact or Adverse Effect.** “Adverse impact” or “adverse effect” means an unreasonable impact or effect on the associated attribute, as determined by the Department based on an evaluation of information that considers the value of the resource and the degree of impact or effect, on an associated existing attribute such as environment, scenic character, natural resource, or public health and safety.
- J. Affected Area.** “Affected area” means an area outside of a mining area where the land surface, surface water, groundwater, air resources, soils, or existing uses are potentially affected by mining operations as determined through an environmental impact assessment.
- K. Air Contaminants.** “Air contaminants” or “air contaminant” includes, but is not limited to dust, fumes, gas, mist, particulate matter, smoke, vapor or any combination thereof.
- L. Applicant.** “Applicant” means any person who applies to the Department for a mining permit.
- M. Approved Suspension.** “Approved suspension” means a temporary suspension of mining issued pursuant to section 29 of this Chapter and approved in writing by the Department.
- N. Aquifer.** “Aquifer” means a geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water as identified by the Division of Geology, Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Agriculture, Conservation and Forestry.
- O. Assurance Instrument.** “Assurance instrument” means a financial instrument executed in favor of the Department in a form approved by the Department and which is insured by an agency of the United States government or whose letter of credit operations are overseen or are regulated and examined by a federal or state agency.
- P. Baseline Conditions.** “Baseline conditions” or “baseline site conditions” means pre-mining conditions for a specific location and shall include, but not be limited to, characterization of the following resources: wildlife; surface water and groundwater quality and quantity; vegetation, including the presence or absence of rare, threatened or endangered species; and air quality.
- Q. Beneficiation.** “Beneficiation” means the treatment of ore to liberate or concentrate its valuable constituents. “Beneficiation” includes, but is not limited to, crushing, grinding, washing, dissolution, crystallization, filtration, sorting, sizing, drying, sintering, pelletizing, briquetting, calcining, roasting in preparation for leaching to produce a final or intermediate product that does not undergo further beneficiation or processing, gravity concentration, magnetic separation,

electrostatic separation, flotation, ion exchange, solvent extraction, electrowinning, precipitation, amalgamation, and dump, vat, tank and in situ leaching.

R. Blasting. “Blasting” means the use of explosives to break up or otherwise aid in the extraction or removal of a rock or other consolidated natural formation.

S. Block Caving. “Block caving” is an underground hard rock mining method that involves undermining an ore body and allowing it to progressively collapse under its own weight. In block caving, a large section of rock is undercut, creating an artificial cavern that fills with its own rubble as it collapses. This broken ore falls into a pre-constructed series of funnels and access tunnels underneath the broken ore mass.

T. Board. “Board” means the Board of Environmental Protection.

U. Buffer. “Buffer” means actions or structures used to separate, shield, screen, or lessen the effect of the mine operation on the surrounding area by reducing noise or dust, improving aesthetics, controlling stormwater, and protecting the public health, safety, and welfare.

V. Bulk Sampling. “Bulk sampling” means the removal of samples for the purpose of testing to determine the feasibility, method, or manner of extraction and/or processing of metallic minerals. Such testing may include milling or grinding tests and/or pilot plant and processing tests. Methods of bulk sampling may include, but are not limited to, drilling and boring, digging of shafts and tunnels, or digging of pits and trenches. For purposes of this Chapter, bulk sampling of metallic mineral deposits is included in advanced exploration and is limited to the removal of no more than 10,000 tons of mine waste.

W. Closure. “Closure” means activities undertaken to manage a mining area and, if necessary, an affected area, pursuant to the mine plan approved by the Department. “Closure” includes, but is not limited to, actions taken to contain metallic mineral wastes on site and to ensure the integrity of waste management structures and the permanent securement of pits, shafts, and underground workings.

X. Coastal Wetlands. “Coastal wetlands” means all tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat, or other contiguous lowland that is subject to tidal action during the highest tide level for the year in which an activity is proposed, as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Y. Commencement of construction. “Commencement of construction” means that a Permittee or other person has physically altered a mining area or proposed mining area including, but not limited to, the clearing of trees and other vegetation, site preparation work, bulk sampling, and the construction of roads and other infrastructure upgrades.

Z. Commissioner. “Commissioner” means the Commissioner of the Maine Department of Environmental Protection.

AA. Containment Structure. “Containment Structure” is an engineered structure or system designed to prevent the release of materials or substances from a designated area. Containment structures may be utilized to prevent releases from a variety of stored materials including, but not

limited to overburden, ore, tailings and hazardous substances. Hazardous substances must be stored in accordance with the federal Resource Conservation Recovery Act (RCRA) and state laws and regulations.

BB. Contamination

- (1) As applied to groundwater, “contamination” means nonattainment of water quality standards, the cause of which is attributable to a mining operation, as:
 - (a) Specified in rules relating to primary drinking water standards adopted pursuant to 22 M.R.S. § 2611; or
 - (b) Demonstrated by a statistically significant change in measured parameters that indicates deterioration of water quality determined through assessment monitoring.
- (2) As applied to surface water, “contamination” means a condition created by any direct or indirect discharge that causes or contributes to nonattainment of applicable water quality or licensing standards under 38 M.R.S. §§ 414-A or 420. The nonattainment may be attributable to the mining operation either by itself or in combination with other discharges.

CC. Contemporaneous Reclamation. “Contemporaneous reclamation” means mining in a manner that creates areas that can be reclaimed continuously and as soon as practicable after the commencement of construction and throughout the life of the operation as described in the mine plan.

DD. Contingency Plan. “Contingency plan” means the contingency plan required by subsection 9(K) of this Chapter for all permit applications and mining operations.

EE. Corrective Action. “Corrective action” means action taken by the Permittee to correct a violation or to meet a performance requirement in a mining permit or advanced exploration mining permit, or other applicable rule or law.

FF. Cumulative Impact. “Cumulative impact” means the environmental impacts that result from the proposed mining activities when added to other past, present, and reasonably foreseeable future activities.

GG. Department. “Department” means the Maine Department of Environmental Protection.

HH. Designated Chemical Materials. “Designated chemical materials” means toxic or acidic chemicals used within the mining area in extractive metallurgical processing, the use of which, at certain concentrations, represents a potential threat to human health, property or the environment.

II. Drilling. “Drilling” means the making of holes with a drill for exploration, development of a metallic mineral deposit, evaluating water quality, or collecting hydrogeological and geotechnical data.

JJ. Drill Hole. “Drill hole” means the cavity created by drilling.

KK. Dry Stack Tailings Management. “Dry stack tailings management” means the process of disposing of dewatered, compacted mine tailings into a freestanding, stable structure on an area with an impervious liner designed to shed water to a water collection and treatment system.

LL. Endangered or Threatened Species. “Endangered or threatened species” means any species of fish or wildlife designated as endangered or threatened under 12 M.R.S. § 12803 or the federal Endangered Species Act.

MM. Environmental Protection, Reclamation and Closure Plan. “Environmental protection, reclamation and closure plan” means the portion of the mine plan that relates to the environmental protection, reclamation and closure activities required by subsection 9(I) of this Chapter for all permit applications and mining operations.

NN. Event of Force Majeure. “Event of Force Majeure” means an event beyond the control of the Department and the Permittee, including but not limited to:

- (1) An act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods);
- (2) War, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition, or embargo;
- (3) Rebellion, revolution, insurrection, or military or usurped power, or civil war;
- (4) Riot, commotion, strikes, go slows, lock outs or disorder; or
- (5) Acts or threats of terrorism.

OO. Exploration. “Exploration” or “exploration activity” means activities conducted in accordance with this Chapter for the purpose of determining the location, extent, and composition of metallic mineral deposits, test boring, test drilling, hand sampling, the digging of test pits, trenching or outcrop stripping for the removal of overburden having a maximum surface opening of 300 square feet per test pit or trench, or other test sampling methods determined by the Department to cause minimal disturbance of soil and vegetative cover.

PP. Exploration Site. “Exploration site” means the area within which exploration or activities incidental thereto occur, or may reasonably be expected to occur.

QQ. Financial Assurance. “Financial assurance” means an assurance instrument or statement of financial responsibility provided by an Applicant or Permittee to ensure compliance with the Act, this Chapter, mining permit conditions, instructions, or orders of the Department.

RR. Financial Interest. “Financial interest” means:

- (1) If the Applicant is a business entity:
 - (a) any officers, directors and partners;
 - (b) all other persons or business concerns having managerial or executive authority over the Applicant or Permittee and holding more than 5 percent of the equity in or debt of that business unless the debt is held by a chartered lending institution;

(c) all other persons or business concerns other than a chartered lending institution holding 25 percent or greater of the equity in or debt of that business unless the debt is held by a chartered lending institution; and

(d) the managerial person with operational responsibility for the facility; or

(2) If the Applicant is a public entity, all persons having managerial or executive authority over the mining operation.

SS. Floodplain. “Floodplain or floodplain wetland” means lands adjacent to a river, stream, or brook that are inundated with floodwater during a 100-year flood event and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

TT. Groundwater. “Groundwater” means all the waters found beneath the surface of the earth which are contained within or under this State or any portion thereof, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State.

UU. Groundwater Basin. “Groundwater basin” is the underground volume of an aquifer or aquifer system that is separated and defined by geologic or hydrologic boundaries.

VV. Group A Waste. “Group A waste” means a mine waste having an acid-generation potential or exhibiting a characteristic of hazardous waste as defined in 06-096 C.M.R. ch. 850.

WW. Group B Waste. “Group B waste” means a mine waste having no acid-generation potential that may release soluble pollutants at concentrations which exceed performance requirements for groundwater or surface water.

XX. Group C Waste. “Group C waste” means a mine waste that does not have the potential to violate water quality standards other than sedimentation or turbidity.

YY. Heap or Percolation Leaching. “Heap or percolation leaching” means a process used for the primary purpose of recovering metallic minerals in an outdoor environment from a stockpile of crushed or excavated ore by percolating water or a solution through the ore and collecting the leachate.

ZZ. Historic Site. “Historic site” means any site listed in the National Register of Historic Places or judged eligible for national register listing by the Maine Historic Preservation Commission.

AAA. Intervenor. “Intervenor” or “general intervenor” means a person who, in accordance with the Maine Administrative Procedure Act, 5 M.R.S. §§ 9054(1) and (2), and Department rules governing hearings, has been granted leave to participate as a party in a license application or appeal proceeding where a decision has been made to hold a hearing.

BBB. Lean Ore. “Lean ore” means rock containing metallic mineralization that is not profitable to process using technologies that exist at the mining operation.

CCC. Life of Mine. “Life of mine” means the period from issuance of a mining permit through post-closure of the mine.

DDD. Metallic Mineral. “Metallic mineral” means any ore or 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 ores of thorium or uranium.

EEE. Metallic Mineral Operator. “Metallic mineral operator” means a Permittee or other person who is engaged in, or who is preparing to engage in, mining operations for metallic minerals, whether individually or jointly or through agents, employees or contractors.

FFF. Metal Leaching. “Metal leaching” means the dissolution and removal of metals and metalloids as a result of chemical processes commonly associated with minerals containing sulfides.

GGG. Metallic Product. “Metallic product” means a commercially salable mineral or metal produced primarily for its metallic mineral content in its final marketable form or state.

HHH. Mine Plan. “Mine pPlan” means all aspects of the plan to develop a mine including, but not limited to, siting, design, development, operation, reclamation, closure, post-closure, and corrective action activities throughout the life of a mine.

III. Mine Shaft. “Mine shaft” means a vertical, inclined or horizontal excavation, including all underground workings, with a surface opening not exceeding 1,000 square feet.

JJJ. Mine Waste. “Mine waste” means all material, including, but not limited to, overburden, rock, lean ore, leached ore, or tailings, that in the process of mining and beneficiation has been exposed or removed from the earth during advanced exploration and mining activities.

KKK. Mine Waste Unit. “Mine waste unit” means any land area, structure, location, equipment, or combination thereof on or in which mine wastes are managed. A structure or area of land does land area or structure shall not become a mine waste unit solely because it is used to store nonreactive mine wastes generated on the site, such as soil or overburden, for 90 days or less.

LLL. Mine Workings. “Mine workings” means the system of pits, shafts and underground workings in a mine.

MMM. Mining. “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.

NNN. Mining Area. “Mining area,” or “metallic mineral mining area” means an area of land described in a permit application and approved by the Department, including, but not limited to, land from which earth material is removed in connection with mining, the lands on which material from that mining is stored or deposited, the lands on which beneficiating or treatment facilities, including groundwater and surface water management treatment systems, are located, or the lands on which water reservoirs used in a mining operation are located. Each mining activity or operation shall establish a separate mining area. The Applicant shall propose, and the Department shall approve the location and extent of each mining area.

OOO. Mining Permit. “Mining permit” means a permit issued pursuant to 38 M.R.S. § 490-LL *et seq.* and this Chapter for conducting advanced exploration or mining operations.

PPP. Monitoring. “Monitoring” means activities including, but not limited to, observation, sampling, collection, analysis, recording, and reporting necessary for siting, development, operation, corrective action, suspension of operation, closure, or post-closure activities or to demonstrate compliance with a mining permit including any special permit conditions and approved plans. The Department shall approve the quality assurance plans for all monitoring activities.

QQQ. Municipal or County Commissioner Intervenor. “Municipal or County Commissioner Intervenor” means an intervenor status granted to the municipal officers, or their designees, from each municipality in which the mining area or affected area may be located or, in the unorganized territory, the county commissioners, or their designees, for each county in which the mining area or affected area may be located pursuant to 38 M.R.S. § 490(OO)(6)(D).

RRR. Open-Pit Mining. “Open-pit mining” means, for any single mining operation permitted under this 38 M.R.S. § 490-LL *et seq.* and this Chapter, the process of mining a metallic mineral deposit by use of surface pits or excavations having greater than 3 acres of surface area in aggregate or by means of a surface pit excavated using one or more horizontal benches.

SSS. Ore. “Ore” means rock containing sufficient metallic mineralization to process using technologies that exist at the mining operation.

TTT. Overburden. “Overburden” means soil, rock or other materials which lie above or between the natural mineral deposits to be mined.

UUU. Passive Treatment System. “Passive treatment system” means the process of removing metals or acidity or both, through the use of chemical, biological, and physical removal processes that occur naturally in the environment such as topographical gradient, microbial metabolic energy, photosynthesis and chemical energy that do not require power or chemicals after construction and operates successfully over its design life with regular but infrequent maintenance.

VVV. Performance-Based Standards. “Performance-based standards” means a regulatory approach that establishes defined results and measurable outcomes without specific direction regarding how those results are to be obtained.

WWW. Permittee. “Permittee” means a person to whom a mining permit is issued.

XXX. Perpetual Treatment. “Perpetual treatment” means active treatment for more than 10 years post-closure.

YYY. Person. “Person” means an individual, firm, partnership, association, company, limited liability company, corporation, joint venture, municipality, state agency, federal agency, or other legal entity.

ZZZ. Post-closure Maintenance. “Post-closure maintenance” means an activity that may be required to sustain reclamation after cessation of a mining operation, as well as all activities undertaken at a closed mine waste unit, to maintain the integrity of containment features and to monitor compliance with applicable performance standards and permit conditions.

AAAA. Post-closure Monitoring Period. “Post-closure monitoring period” means a period following closure during which a Permittee is required to conduct monitoring of groundwater and surface water and other monitoring as specified in a mining permit.

BBBB. Practicable. "Practicable" means available and capable of being implemented after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

CCCC. Probable Maximum Flood. “Probable maximum flood” means the largest flood that may reasonably be expected to occur at a given point on a stream from the most severe combination of critical meteorologic and hydrologic conditions that are reasonably possible on a particular watershed. This term identifies estimates of hypothetical flood characteristics (peak discharge, volume, and hydrograph shape) that are considered to be the most severe that are reasonably possible at a particular location, based on comprehensive hydrometeorological analyses of critical runoff-producing precipitation (and snowmelt, if pertinent) and hydrologic factors favorable for maximum flood runoff.

DDDD. Protected Location. The locations described in 06-096 C.M.R. ch. 375, § 10(G)(16) constitute protected locations.

EEEE. Qualified Professional. “Qualified professional” or “qualified person” means a scientist, engineer, or professional in a technical discipline with sufficient training and experience to enable the individual to make sound professional judgments regarding conducting technical analyses or regarding the design, construction, and operation of regulated units and ancillary structures who, if accreditation is the norm in the profession, is accredited in the State of Maine, or subject to review and approval by the Department, is accredited in another jurisdiction.

FFFF. Reactive Mine Waste. “Reactive mine waste” means any natural geologic formation or mined material that, when exposed to air and water, may develop acid rock drainage, or any other natural geologic or mined material that is shown through characterization studies to release substances that may adversely impact natural resources and the environment.

GGGG. Reclamation. “Reclamation” or “reclamation operation” means the rehabilitation of a mining area, affected area and any other area of land or water body affected by mining under a mine plan approved by the Department. “Reclamation” includes, but is not limited to, stabilization of slopes, creation of safety benches, planting of forests, seeding of grasses and legumes for grazing purposes, planting of crops for harvest and enhancement of wildlife and aquatic resources.

HHHH. Related Person. “Related person” means any person with a financial interest in a proposed mining operation.

IIII. Remediation. “Remediation” means the cleanup, removal or containment of contaminants or contamination within a mining area or an affected area. Remediation may include, but is not limited to, removing contaminants or contamination, containing or treating waste on site, and identifying and removing sources of groundwater contamination and halting further migration of contaminants.

JJJJ. Responsible Officer. “Responsible officer” means:

- (1) A person holding a principal executive position in a corporation as established by the charter or by-laws of the corporation;

- (2) A general partner or the proprietor, as appropriate, of a partnership or sole proprietorship; or
- (3) A principal executive officer or ranking elected official of a municipal, state, federal, or other public agency.

KKKK. Storage Pile. “Storage pile” means a manmade landform used for the temporary storage of material generated during mining, such as overburden, waste rock, lean ore, ore, or topsoil, provided that these materials have an identified final destination in the facility’s mine plan or are part of the materials to be processed through beneficiation.

LLLL. Statistically Significant Change. “Statistically significant change” is a change that is likely the result of causes other than random variation as determined by statistical testing methodologies.

MMMM. Surface Water Resources. “Surface water resources” are coastal and freshwater wetlands, great ponds, rivers, streams and brooks as defined in 38 M.R.S. § 480-B.

NNNN. Tailings. “Tailings” means the product resulting from the milling and mineral concentration process remaining after extraction of minerals by physical or chemical means.

OOOO. Tailings Impoundment. “Tailings impoundment” means a surface area, contained by dike or dams, ~~an area on which is deposited, by hydraulic or other means,~~ the slurry of material that is separated from ~~a~~ the metallic product in the beneficiation or treatment of minerals, including any surrounding dikes constructed to contain such ~~the~~ material. “Tailings impoundment” does not include a lined surface area on which dewatered tailings are stacked.

PPPP. Topsoil. “Topsoil” means the material at the earth’s surface which has been so modified and acted upon by physical, chemical and biological agents that it will support rooted plants.

QOOO. Underground Mine Openings. “Underground mine openings” or “mine openings” means all openings and voids in the earth created in the process of mining, during development, or operation of the site.

RRRR. Unusual Natural Area. “Unusual natural area” means any land or water area, usually only a few acres in size, which is undeveloped and which contains natural features of unusual geological, botanical, zoological, ecological, hydrological, other scientific, educational, scenic, or recreational significance. By way of illustration, and not limitation, these may include: rare or exemplary plant communities; individual plant species of unusual interest because of size, species or other reasons; unusual or exemplary bogs; unusually important wildlife habitats, particularly those of rare or endangered species; unusual land forms; fossils and other deposits of importance to geologists; outstanding scenic areas; and others of similar character.

SSSS. Upper and Lower Predictive Limits. “Upper and lower predictive limits” are the statistically determined bounds of the prediction interval which is an estimate of an interval where future observations will fall.

TTTT. Visual Resources. “Visual resources” means the composite of basic terrain, geologic features, hydrologic features, vegetative patterns, and land use effects that make up the scenic character of the site and the area surrounding the site, especially as viewed from a protected natural resource.

UUUU. Waste Rock. “Waste rock” means rock material removed to access the ore body that may or may not contain metallic mineralization, but that is not processed to extract metallic minerals.

VVVV. Watershed. “Watershed” means the land that drains, via overland flow, drainageways, waterbodies, or wetlands to a given waterbody or wetland.

WWWW. Waters of the State. “Waters of the State” means any and all surface and subsurface waters that are contained within, flow through, or under, or border upon this State, or any portion of the State, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State, but not excluding waters susceptible to use in interstate or foreign commerce, or whose use, degradation or destruction would affect interstate or foreign commerce.

XXXX. Wellhead Protection Area. “Wellhead protection area” means a specific geographic area which is approved by the Department, and if applicable, the Department of Health and Human Services, as the surface and subsurface area surrounding a water well or well field that supplies a public water system and through which contaminants are reasonably likely to move toward and reach the water well or well field.

YYYY. Wet Mine Waste Unit. “Wet mine waste unit” means a mine waste unit in which mine wastes are placed under water to minimize sulfide oxidation, acid formation or particulate pollution. ~~that uses water as a cover to minimize oxygen advection and diffusion to Group A waste in a manner that effectively inhibits the formation of acid rock drainage. Mine workings that are either partly, or wholly flooded after closure are not wet mine waste units.~~

3. General Prohibitions. This section applies to all exploration, advanced exploration and mining activities.

A. It shall be unlawful for any person to engage in any exploration, advanced exploration or mining activity, or initiate the construction of such, except as authorized pursuant to this Chapter.

NOTE: Qualified exploration activities conducted pursuant to the standards established in section 7 of this Chapter do not require a mining permit.

B. The Department may not approve a mining permit in an unorganized or deorganized area of the State unless the Maine Land Use Planning Commission certifies to the Department that:

- (1) The proposed mine is an allowed use within the subdistrict or subdistricts in which the project is located; and
- (2) The proposed mine meets any land use standard established by the Maine Land Use Planning Commission applicable to the project that is not considered in the Department’s review.

C. The Department may not authorize a discharge of pollutants as defined at 38 M.R.S. § 361-A(4-A) to waters of the State under this Chapter.

NOTE: Discharges of pollutants to waters to the state require a waste discharge license pursuant to 38 M.R.S. § 413, including permits for construction and industrial discharge issued by the Department pursuant to 40 CFR § ~~Section~~ 122.26.

- D. No chemical or oil, products or waste, shall be discharged, mixed, or released onto, into, or under the ground or waters of the State. This prohibition includes, but is not limited to, discharges into or from onsite wastewater treatment plants, mine pits or tunnels, or beneficiation units. All chemicals and oils shall be managed so as to prevent their release and mishandling, including compliance with all applicable management rules and laws including 06-096 C.M.R. ch. 800, 801, 850 through 858, and 860. Chemicals or oils utilized for their intended purpose as a part of the wastewater treatment process, beneficiation process, or other mining activities may be utilized only when identified in the mining permit application or exploration work plan, documented as chemicals or oils that are the least toxic materials available for their intended purpose, being used in appropriate quantities, used solely for their intended purpose and not as a means of disposal, and as approved by the Department. The use of underground injection for disposal is prohibited.
- E. Waste rock shall not be used for roads or any other construction purpose, except for Group C waste.
- F. ~~Tailings impoundments that use water as a cover are prohibited under this Chapter.~~

4. Relation to Other Rules. This section applies to all exploration, advanced exploration and mining activities. Compliance with the provisions of this Chapter, the mining permit, and the Act does not:

- A. Relieve a Permittee of the obligation to comply with all other applicable state, federal, or local statutes, regulations, or ordinances, including but not limited to the regulations for air emissions, water discharges, hazardous waste management for wastes not exempted from the federal hazardous waste management requirements under 40 CFR 261.4(b)(3) or (b)(7) (July 1, 2015), and underground storage tanks; permits required under 38 M.R.S. Chapter 3, Subchapter 1, Article 5-A (Natural Resources Protection Act), waste discharge licenses required under 38 M.R.S. § 413 for discharges of pollutants to groundwater via an underground injection well or discharges of pollutants to surface waters of the State, including permits for construction and industrial discharge issued by the Department pursuant to 40 CFR § ~~Section~~ 122.26; licenses required under 38 M.R.S. Chapter 4 (Protection and Improvement of Air); hazardous waste management licenses and other permits or licenses issued pursuant to any United States Environmental Protection Agency federally delegated or authorized program.

NOTE: Pursuant to 38 M.R.S. § 490-NN(1)(A), the provisions of Chapter 3, Subchapter 1, Article 6 (Site Location of Development), Article 7 (Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt), and Article 8-A (Performance Standards for Quarries); Chapter 13 (Waste Management); and 38 M.R.S. § 420-D (Storm Water Management) do not apply to applications reviewed under the Act and this Chapter, except when permits or licenses are issued pursuant to any United States Environmental Protection Agency federally delegated or authorized program, as also set forth at 38 M.R.S. § 490-NN(1)(A). In the case of waste management, the Department has interpreted the Act to exclude only those mine wastes that have been excluded by Subchapter 3 of the Resource Conservation and Recovery Act, 42 CFR § 6901 *et seq.* and 40 CFR § 261.4(b)(3) and (b)(7) (July 1, 2015).

- B. Prevent a municipality from regulating or controlling mining or reclamation activities; and

- C. Prevent a municipality from regulating the routes, hours, and weights of transportation of ore, rock, tailings, and other mining-related materials on public streets and roads in order to protect the public health, safety, and welfare.

Subchapter 2: ENVIRONMENTAL REQUIREMENTS FOR EXPLORATION AND ADVANCED EXPLORATION

- 5. **Purpose of Exploration and Advanced Exploration Requirements.** The purpose of this subchapter is to establish environmental procedures and standards for exploration and advanced exploration activities.
- 6. **Applicability of Exploration and Advanced Exploration Requirements.** This subchapter applies to any person proposing to conduct or engaging in exploration activities in the organized areas of the State and advanced exploration activities statewide.
- 7. **Exploration Activities.** A mining permit is not required for exploration under this Chapter, however, the submittal of an exploration work plan is required under section 7(C)(1) prior to initiating any activities at an exploration site within the organized areas of the State. The exploration work plan must contain the submission requirements listed in subsection 7(C) of this Chapter.

NOTE: Geophysical surveys are considered exploration for the purposes of this Chapter and the submissions and standards under section 7 of this Chapter if they involve some disturbance of soil or vegetation, such as cutting or clearing of vegetation along a survey grid. Non-intrusive methods, such as aeromagnetic surveys or other remote-sensing methods that do not involve any disturbance of soil or vegetation are not considered exploration for the purposes of this Chapter. The submission of an exploration work plan is not required for hand sampling activities (soil sampling with auger or shovel, stream sediment sampling and rock chip sampling); however, these activities may require approval under other laws and regulations administered by the Department (e.g., the Natural Resource Protection Act, 38 M.R.S. § 480-C).

NOTE: Persons seeking to conduct exploration activities in the unorganized or deorganized areas of the State should contact the Maine Land Use Planning Commission.

- A. **Other Applicable Permit Requirements.** Depending upon the location, type and extent of activity, a permit may be required under other statutes or rules of the Department and the Maine Geological Survey. Persons seeking to conduct exploration activities should check with the appropriate agencies to determine applicable requirements. Requirements for exploration activities may include, but are not limited to, the following:
 - (1) Bureau of Resource Information and Land Use Planning. See Mining on State Lands, 12 M.R.S. §549, *et seq.*; and
 - (2) Natural Resources Protection Act Permit. See Natural Resources Protection Act, 38 M.R.S. §480-A, *et seq.*
- B. **Standards.** The following minimum standards must be met for exploration activities in the organized areas of the State:

- (1) Existing access ways shall be maintained to ensure that runoff is delivered immediately to stable ditches and vegetated buffer areas. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.
- (2) Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream. With the exception of crossings, an undisturbed buffer strip of at least seventy-five (75) feet must be maintained between access ways and streams.
- (3) Erosion control measures must be implemented to prevent unreasonable erosion of soil or sediment beyond the exploration site or into a protected natural resource as defined in 38 M.R.S. § 480-B; these measures must be in place before exploration activity, or related activities including, but not limited to, clearing and road construction, begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must be taken and the site must be maintained to prevent unreasonable erosion and sedimentation.
- (4) For stream crossings and activities involving the disturbance of soil adjacent to a wetland or water body in organized areas, a permit under the Natural Resources Protection Act may be required. See 38 M.R.S. § 480-C and the Department's Permit by Rule Standards, 06-096 C.M.R. ch. 305, § 10.
- (5) Topsoil which is stripped or removed must be stockpiled for use in reclaiming disturbed land areas. Soil stockpiles shall be seeded, mulched, and anchored or otherwise stabilized.
- (6) The exploration site shall be restored to a physical state that is similar to, and compatible with, that which existed prior to any exploration. Within 30 working days following completion of exploration at an exploration site, any person conducting exploration activities shall accomplish the following:
 - (a) Disposal of all debris in accordance with applicable state laws and regulations;
 - (b) Grading of the surface of the site so that the final graded slope conforms with the original contour of the land; and
 - (c) Placement of topsoil and reseeded and stabilization of graded topsoil with vegetation native to the area.
- (7) Within 30 working days after completion of exploration, all excavations including trenches, test pits, and mud pits shall be capped, refilled or secured. All settling ponds or sumps must be backfilled, covered with topsoil, and seeded.
- (8) Drill pump stations must be located at least 25 feet from a river, stream, brook, or great pond or an area of open water of one-half acre or more within a freshwater wetland.
- (9) All drill additives should be non-toxic as indicated by the manufacturer's product publications, such as Safety Data Sheets, and biodegradable to the extent reasonably possible. Drill fluids, additives and cuttings may not be released and must be confined to the drill site by the use of storage tanks or sumps unless an alternative disposal method is approved by the Department. All excavation sites and resulting waste must be managed to ensure no untreated water is released to the environment and released volumes will not adversely impact existing

stream flows. The discharge of pollutants to surface and groundwater during exploratory mining is prohibited without prior approval pursuant to 38 M.R.S. § 413.

- (10) No bulk sampling may take place under an exploration work plan.
- (11) Sealing of all drill holes, whether temporary or permanent, shall be completed within 30 days of cessation of drilling or testing activities such as “down-the-hole” geophysical surveys or other similar activities. All artesian wells shall be capped or sealed within 48 hours after cessation of drilling or the onset of artesian conditions. No drill hole may be temporarily sealed for more than 3 years unless the drill hole is being used during the time it is temporarily sealed for sampling or other studies related to a mineral deposit or general hydrological conditions of the area. A drill hole that has remained temporarily sealed for more than 3 years and is not being used for sampling or other studies shall be sealed permanently.

NOTE: For guidance on sealing drill holes, see “Guidance for Well and Boring Abandonment,” produced by the Department’s Bureau of Remediation and Waste Management, Division of Technical Services, dated January 7, 2009.

- (a) Within 30 working days after permanent sealing of a drill hole, any person conducting exploration activities shall submit to the Department a report including, but not limited to, the following information for each drill hole:
- (i) Location and identification of the drill hole;
 - (ii) Dimensions of the drill hole;
 - (iii) Identification of depth, static elevation, and estimated flow of any groundwater encountered, if known; and
 - (iv) Methods of sealing the drill hole, demonstrating compliance with subsection 7(B)(11).
- (12) All facilities and equipment shall be promptly removed from the exploration site when they are no longer needed for exploration, except for those facilities and equipment which the Department has determined may remain on-site in order to:
- (a) Provide additional environmental quality data;
 - (b) Detect, reduce or control the onsite or offsite effects of the exploration activities; or
 - (c) Facilitate future mining and restoration operations by the person conducting the exploration, under a work plan described in subsection 7(C) below.
- (13) The Department may enter any exploration site, take samples, and conduct tests in order to determine compliance with any provision of this Chapter or other applicable requirements. The Department may require the submission of annual self-inspection reports, signed by a qualified professional, on exploration activities conducted by the Permittee.
- (14) Any person conducting exploration activities shall notify the Department and/or the Land Use Planning Commission orally within 24 hours and in writing within 5 working days of

any activity or occurrence during the course of exploration or reclamation which results in a discharge or has the potential to damage public health or the environment.

NOTE: Other reporting requirements may exist under federal laws and the laws administered by the Department of Environmental Protection and the Land Use Planning Commission. For oil spills, call 1-800-482-0777 which is available 24 hours a day. For spills of toxic or hazardous material, call 1-800-452-4664 which is available 24 hours a day. For more information, visit the Department's website at: <http://www.maine.gov/dep/spills/emergspillresp/>

(15) Beneficiation is prohibited under an exploration work plan.

C. Submission Requirements.

- (1) At least 30 days prior to the commencement of any exploration activities, an exploration work plan shall be submitted to the Department on forms provided by the Department, prepared and signed by a qualified professional, which provides the following information, at a minimum:
 - (a) Documentation of the property boundaries, landowner information, and description of the area to be explored;
 - (b) Evidence of the applicant's title, right, or interest in the pertinent property for access to the area to be explored and to conduct exploration activities and restoration;
 - (c) A site plan showing the proposed access routes and exploration areas;
 - (d) Identification of any existing roads or clearings;
 - (e) A site plan with wetlands or other protected natural resources as defined under the Natural Resources Protection Act and other sensitive environmental features identified;
 - (f) A sediment and erosion control plan, including a stormwater management plan consistent with the Department's standards for stormwater management for access roads, excavation and stockpile areas, and other areas affected by the activity;
 - (g) A description of proposed drilling and excavation activities and methods, including petroleum products and chemical handling procedures and spill management, estimated quantities of material that must be removed to obtain samples, and best management practices to be employed in conducting the exploration activities;
 - (h) A plan for backfill and restoration of exploration sites which will address subsidence, drill holes, structural safety, water management, restoration of disturbed areas including access roads, and the abatement of any physical hazards; and
 - (i) A plan showing the exploration drilling area, maximum number of drill holes, and the maximum total linear drilling footage.
- (2) Within 60 days of the completion of the exploration activities the Applicant shall submit a report, prepared and signed by a qualified professional documenting that all of the requirements of the restoration plan were completed.

D. If specified by the Department, additional measures to protect the environment shall be adopted by the person engaged in exploration activities.

8. **Advanced Exploration.** A person may not engage in advanced exploration without an advanced exploration permit issued by the Department. Advanced exploration activity permits are divided into two categories: Tier One and Tier Two. Under a Tier One approval, bulk sampling may not exceed two thousand tons of mine waste. Under a Tier Two approval, bulk sampling may not exceed ten thousand tons of mine waste. Under an advanced exploration permit, on-site processing of bulk samples is limited to mechanical size alteration and sorting. Any additional on-site testing and characterization must occur within enclosed, portable facilities. Any waste generated from this additional on-site testing and characterization must be transported off-site for disposal.

A. **General Standards and Requirements.** Applications for all advanced exploration activities must demonstrate compliance with the standards for exploration listed under subsection 7(B) of this Chapter. Tier One advanced exploration activities must also meet the requirements of subsection 8(C), and Tier Two advanced exploration activities must meet the criteria for approval of mining activities in ~~s~~Section 11 of this Chapter together with any additional site-specific conditions required under the advanced exploration permit.

(1) The Department may enter any advanced exploration site, take samples, and conduct tests in order to determine compliance with any provision of this Chapter or other applicable requirements.

(2) The Department may require the submission of quarterly self-inspection reports, signed by a qualified professional on the advanced exploration activities conducted by the Permittee.

B. **Submission Requirements.** Applications for advanced exploration activities must comply with all applicable requirements in section 9 of this Chapter. A pre-application meeting is required prior to submission to the Department of a new application for any advanced exploration activity pursuant to this Chapter. The Applicant must meet the requirements in section 10 of Rules Concerning the Processing of Applications, 06-096 C.M.R. ch. 2. A pre-submission meeting is required unless waived as provided in 06-096 C.M.R. ch. 2, § 10(D).

C. **Tier One Advanced Exploration.** To qualify for Tier One advanced exploration, exploration activities may exceed those permitted under section 7, "Exploration," of this Chapter, but bulk sampling shall not remove in excess of 2,000 tons of mine waste from the exploration site for mineral testing or extraction. These activities may include: larger scale trenching or blasting than permitted under "Exploration" (i.e., greater than 300 sq. ft. for each test pit, trench or outcrop stripping site) but no more than one acre in total area in the area of exploration; road building/reconstruction; and temporary camp construction. Baseline monitoring or environmental assessment pursuant to section 9 of this Chapter is not required to obtain approval under Tier One for advanced exploration, but the Department may require water quality monitoring or other monitoring and sampling as described in paragraph (3) below. In addition, an adjudicatory hearing is not required for a Tier One Advanced Exploration.

(1) Application. Prior to commencement of any Tier One advanced exploration activities, an application shall be submitted for review and approval on forms provided by the Department. This application shall provide all information required by subsection 7(C) of this Chapter, evidence of the applicant's mining experience as it relates to advanced exploration activities, and evidence to demonstrate that the proposed activity meets the standards set forth in subsection 8(C)(2).

- (2) Standards. The standards for Tier One advanced exploration activities include the minimum exploration standards listed under subsection 7(B), the blasting standards in subsection 20(K), the performance standards in subsection 20, and the reclamation standards in subsections 23(I), 23(J), 23(M), and 23(N) of this Chapter. The Applicant must also demonstrate and maintain financial assurance in accordance with the requirements of section 17 of this Chapter.
- (3) Submission Requirements. The Applicant shall submit with its application information to demonstrate that all applicable standards are met. The Applicant shall also submit with its application a reactive mine waste characterization work plan that includes the information required by subsection 20(E) of this Chapter. The plan must include, if determined to be necessary by the Department, measures to prevent or minimize adverse impacts on the environment, including, but not limited to control and monitoring of acid rock drainage, of metal leaching, and of areas impacted or potentially impacted by acid rock drainage.

D. Tier Two Advanced Exploration. To qualify for Tier Two advanced exploration, activities may exceed those permitted under Tier One advanced exploration activities and may include underground exploration tunnels, shaft sinking, and excavation work that disturbs more than one acre in area (which may involve multiple sites within the identified area of exploration) but not more than a total of three acres in area or a total of five percent of the advanced exploration site, whichever is less. Bulk sampling shall not remove in excess of 10,000 tons of mine waste from the advanced exploration site for mineral testing or extraction.

- (1) Submission Requirements. Prior to commencement of any Tier Two advanced exploration activities, an application shall be submitted for review and approval on forms provided by the Department. This application shall provide the information required by subsection 9(B) through 9(L) of this Chapter, unless waived by the Department, to demonstrate that the mining operation meets the performance standards and approval criteria of this Chapter.

Subchapter 3: PERMITS

9. Application Requirements

A. Pre-application Meeting

- (1) Prior to preparing an application for a mining permit, the Applicant shall meet with the Department for a pre-application meeting and a site visit. The purpose of the pre-application meeting, as set forth in 06-096 C.M.R. ch. 2, is to help the Applicant understand the application process, to exchange information, to discuss the application fee, and to review the proposed metallic mineral mining and reclamation operation, and for the Department to provide direction on the process for preparing an application for a mining permit.
 - (a) The Applicant shall provide the Department the following information prior to the pre-application meeting:
 - (i) Identities and contact information of the persons associated with the proposed mine, including landowners, lessees, the Applicant, and other associated persons;
 - (ii) Location, including a description of town or township, range, section, and depiction of the metallic mineral mining areas and affected area on a diagram;

- (iii) A general description of natural features including physical, geographic, hydrologic, biologic, and infrastructure description of the proposed mine and affected area including administrative features such as land use, zoning, surface and mineral ownership, and areas of special environmental designation;
 - (iv) A description of geologic resources, including:
 - (A) Geologic map indicating known stratigraphy, structure, and fault systems with appropriate cross-sections;
 - (B) Narrative of geologic history;
 - (C) Discussion of the metallic mineral deposit including mineralogic and chemical nature of the ore and waste rock;
 - (D) Geologic stability of the affected area including regional seismicity, known landslides, and fault systems; and
 - (E) Unique geologic features;
 - (v) A description of the target mineral deposit, based on existing exploration data;
 - (vi) A conceptual advanced exploration plan, if necessary, and a conceptual metallic mineral mining, beneficiation, and reclamation plan;
 - (vii) A conceptual mine waste and designated chemical materials characterization work plan that meets the requirements of subsection 20(E) of this Chapter; and
 - (viii) A conceptual baseline characterization work plan that addresses at a minimum the requirements of subsection 9(C) of this Chapter.
- (b) At the pre-application meeting the Department will provide an overview of:
- (i) The Act, applicable rules and the permit application process;
 - (ii) The fees for metallic mineral mining and the maximum fee for processing an application; and
 - (iii) The relationship of the Act and rules to other laws and regulations.
- (2) Public Information Meeting. A public information meeting is also required pursuant to 06-096 C.M.R. ch. 2.

B. Application Contents. The Applicant shall provide all submissions that the Department determines are necessary to evaluate the application under the criteria for a permit under the applicable laws and rules. The Applicant shall prepare and submit to the Department an application for a mining permit, which shall at a minimum contain:

- (1) Applicant Information. Information about the Applicant and the proposed activity must be provided including, but not limited to, the following:

- (a) The name, mailing address, and phone number of the Applicant and principal representative of the applicant;
- (b) The general organizational structure of the applicant, any parent companies, owners, principal stockholders, partners, and joint ventures;
- (c) Evidence of title, right, or interest in all of the property that is proposed for development or use;
- (d) All entities with a financial interest in the proposed activity;
- (e) Any managing agents or subsidiaries which are or may be involved in the proposed activity;
- (f) Organizational and legal relationships between or among joint applicants;
- (g) The applicant's registered agent for service of process in the State;
- (h) Evidence of the applicant's ability to undertake the proposed activity, including:
 - (i) A statement of the applicant's prior experience and/or training as it relates to the proposed activity;
 - (ii) The names and qualifications of all key personnel who will be involved with site preparation, extraction, beneficiation, reclamation, closure, and post-closure maintenance;
- (i) A summary of the applicant's and its responsible officers' and related persons' record of compliance with environmental and land use laws and financial requirements of Maine and other jurisdictions, as follows:
 - (i) Criminal Convictions. A listing and explanation of any criminal convictions of the State, other states, the United States, or another country of the persons required to disclose under this section;
 - (ii) Civil Violations. A listing and explanation of any adjudicated civil violations of environmental laws or rules administered by the State, other states, the United States, or another country by any of the persons required to disclose under this section in the 10 years immediately preceding the filing of the application;
 - (iii) Consent Decrees and Administrative Orders or Agreements. A listing and explanation of administrative agreements or consent decrees entered into by, or administrative orders directed at, any of the persons required to disclose under this section for violations of environmental laws administered by the Department, the State, other states, the United States or another country in the 10 years immediately preceding the filing of the application;
 - (iv) Other Proceedings. A listing and explanation of any ongoing court proceeding, administrative consent agreement negotiation, or similar ongoing administrative enforcement action not already provided in which the Applicant or any of the persons

required to disclose under this section is a party and which concerns environmental laws administered by the Department or the State.

The Department may require the Applicant to update the list set forth in subsection 9(B)(i) subsequent to the filing of the application; and

- (j) Documentation of sufficient financial assurance and insurance required under subchapter 4 of this Chapter and proof of a comprehensive general liability insurance policy in force for the mining to provide personal injury and property damage protection in an amount adequate to compensate persons who might be damaged as a result of the mining operation or any reclamation or restoration connected with the operation.
- (2) Location. The location of the proposed activity must be provided including, but not limited to, the following:
- (a) The location of the proposed site, including the municipality or township, and county;
 - (b) A legal description of the proposed site;
 - (c) Whether or not the proposed site is within the jurisdiction of the Land Use Planning Commission, and if so, the land use district(s) encompassing the site; and
 - (d) The names and addresses of abutting property owners.
- (3) Evidence of Legal Authority. Evidence of the Applicant's legal authority to conduct business in the United States and the State of Maine must be provided in the form of the Information Summary sheet from the Bureau of Corporations, Elections and Commissions.
- (4) Other Permits. A list must be provided of all other federal, state, and local permits, licenses, and approvals required for the proposed activity, including the status of such permits, licenses, and approvals or applications for such approvals that are pending.
- (5) Mining Experience. A list must be provided of all mines controlled or operated, in whole or in part, by the applicant, parent companies, subsidiaries, predecessors, or related persons, in the United States and abroad. This list shall include mine site addresses, nature and duration of affiliation with the site, a brief description of each mine, and the compliance record with regard to applicable mining permits, authorizations, rules, and laws of the applicable jurisdiction.
- (6) Reactive Mine Waste Report. The Applicant shall submit with its application a reactive mine waste report that includes the information required by subsection 20(E) of this Chapter consisting of all test data concerning waste analysis for each type of mine material, waste and designated chemical material, the testing program objective together with an interpretation of the results, and options for the control of acid generation and metal leaching.

C. Baseline Site Characterization Report. A baseline site characterization report shall be included as part of the application. This report must define existing conditions within the proposed mining areas and affected areas prior to commencement of the proposed activity. Baseline studies must provide sufficient data to allow qualitative and quantitative analysis of the study areas under a baseline work plan approved by the Department. All data collection and analyses must be performed by qualified professionals in the relevant disciplines. The use of already available (or

pre-existing) data may be allowed subject to prior review and approval by the Department. All pre-existing data shall be clearly marked “pre-existing data” within the baseline plan. The Applicant shall discuss the manner and time in which the data were acquired, the analytical or investigative methods used and any other factors relevant to the quality and applicability of the data. The Department shall accept or reject the use of pre-existing data prior to the acceptance of the baseline work plan. All pre-existing data must be supplemented with new data collected within the mining areas and affected areas. The proposed baseline site characterization report must include, if required by the Department, each of the following:

- (1) Documentation of aquatic and terrestrial flora and fauna species presence, distribution and abundance including the existence of endangered or threatened species and significant wildlife habitats and may include analyses of fish tissue, fish population, invertebrate population and abundance, and any other measure of ecological health the Department deems necessary to gauge potential impacts.
- (2) A water balance of the metallic mineral mining and affected area including, but not limited to, consideration of precipitation, evapotranspiration, infiltration, runoff, surface and groundwater flow, hydraulic gradients, velocity, flowpaths, and elevations, and groundwater/surface water interactions;
- (3) An ambient water quality monitoring plan and monitoring results that provide baseline water quality information for any surface or groundwater that potentially may be impacted as a result of the mining activity. Surface and groundwater baseline monitoring is required for (1) metallic elements for which maximum contaminant levels (MCLs) have been established by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act, or for which applicable Effluent Guidelines and Standards for Ore Mining and Dressing Point Source Categories have been established pursuant to 40 CFR 440; and (2) for any toxics for which criteria have been developed by EPA under Section 304(a) of the Clean Water Act or by the Department under 38 M.R.S. § 420, and other indicators that could adversely impact water quality. In addition, the Department may require testing which includes, but is not limited to, the following:

acidity	magnesium
alkalinity	manganese
aluminum	mercury
ammonia	molybdenum
antimony	nickel
arsenic	nitrate-nitrite
barium	pH
beryllium	phenols
biochemical oxygen demand	potassium
boron	radium 226 and 228
bicarbonates	selenium
cadmium	silver
calcium	silica
carbonates	sodium
cation-anion balance	sulfate
chemical oxygen demand	sulfide
chloride	temperature
chromium	thallium
conductivity	total dissolved solids

copper	total Kjeldahl nitrogen
cyanide	total organic carbon
dissolved oxygen	fluoride
hardness	total phosphorus
iron	total suspended solids
lead	vanadium
zinc	volatile organic compounds
	total petroleum hydrocarbons

Baseline water quality monitoring shall include at least two years' data collected over 24 or more consecutive months unless pre-existing data are approved for use by the Department, and shall generate the information necessary to:

- (a) Determine upper and lower predictive limits, with 95% level of confidence, for baseline physical hydrologic conditions (water levels, stream stage, and discharge) at each monitoring location, for each parameter and for each hydrologic season. Storm frequency, intensity and flow/volume analyses shall be conducted for 2, 10, 25, 100 and 500-year storms;
- (b) Provide a basis to evaluate future operational, reclamation, corrective action, closure and post-closure monitoring data for the presence of a statistically significant change from baseline conditions;
- (c) Characterize baseline water quality and sediment in streams, ponds and wetlands for parameters representative of mine materials, wastes, and designated chemical materials, and associated reaction and transformation products that present a potential risk of release during metallic mineral mining;
- (d) Characterize baseline water quality and sediment in streams, ponds and wetlands for parameters that likely serve as general indicators of baseline conditions; and
- (e) Provide a groundwater flow numerical model for baseline, operational and post closure conditions that will be used for determining potential hydrogeological impact;
- (4) Documentation of baseline climatological and meteorological conditions including temperature, precipitation, precipitation forms, wind speed, wind direction, solar radiation, relative humidity, barometric pressure, atmospheric gas composition, and atmospheric dust;
- (5) Documentation of all watersheds, groundwater basins and aquifers, and an inventory of wells, springs and seeps within mining areas and affected areas;
- (6) A study documenting soils and other surficial deposits present, including descriptions of type, extent, thickness, and physical and chemical properties; and
- (7) Documentation of cultural, historic and scenic resources.

D. Mining Operation Plan. A mining operation plan shall be included as part of the application. The mining operation plan shall provide a detailed metallic mineral mining feasibility study including, but not limited to, designs, plans and specifications, analyses, and schedules along with supporting data and information, as applicable, of the following:

- (1) Type and method of metallic mineral mining proposed, and the expected operating life of the mine, including a mining and production schedule;
- (2) Area, volume, type, and mineralogy of ore to be excavated, and schedule of metallic mineral mining and stockpiling of ore;
- (3) Area, volume, and characteristics of topsoil, overburden, lean ore, ore, and waste rock to be excavated, including plans and schedules for excavating, segregating, processing, storing, and stabilizing these materials. All mine waste must be characterized according to their potential to generate acid rock drainage or otherwise discharge contaminants to the environment, and plans for excavation, segregation, processing, storage and stabilization of each type of material must specifically address the nature of the material identified by this characterization;
- (4) Locations, designs, schedules of development, proposed use, and dimensions of stockpiles;
- (5) Location, extent, depth, dimensions, and elevation contours of excavations, pits, of ~~subsidence~~ of underground mine openings and workings, shafts, portals, and other openings to the land surface, including a schedule of development;
- (6) Locations, dimensions, and proposed use of buildings, facilities, and structures including those used for storage and transfer of chemicals, and location, dimensions, and proposed use of fuel and explosives storage, washdown, and maintenance areas;
- (7) Transportation plan, including off-site ore concentrate or metallic product hauling;
- (8) Plan for providing necessary general infrastructure requirements to the mining operation including electrical power requirements, water, wastewater, and general solid waste disposal, and access roads for transportation of equipment, materials and labor required for the mining and restoration operation. This plan shall include details on the addition of the mining operation to existing civil infrastructures within the metallic mineral mining and affected areas;
- (9) Beneficiation plan describing type, methods, extent and sequences, as well as associated materials, reagents, wastes, products, equipment, and processes;
- (10) Tailings management plan, including a description of the quantity, ~~disposal~~ method, location, sequence, and schedule;
- (11) Water management plan for storm water, surface water, groundwater, potable water, and process water describing:
 - (a) Withdrawal sources, quantities, rates, and duration of use;
 - (b) Expected hydrologic impacts on water supply sources, groundwater, and wetlands and other surface water resources;
 - (c) Purpose, location, size, capacities, design, operating procedures of all ponds, impoundments, dewatering systems, diversions, and other water control structures and treatment facilities;

- (d) Location and estimated volumes, rates, quality, and duration of discharges;
- (e) Anticipated wastewater treatment methodology, design and procedures; and

NOTE: For some activities in, on, over or adjacent to a wetland or waterbody, a permit under the Natural Resources Protection Act may be required. See 38 M.R.S. § 480-B and the Department's Wetlands and Waterbodies Protection rule, 06-096 C.M.R. ch. 310. Any discharge to the Waters of the State requires a permit pursuant to 38 M.R.S. § 413.

(12) Waste management plan including descriptions by waste stream type, source, anticipated volumes, characteristics, provisions for minimization, treatment, on-site storage, containment, management, transportation, and disposal endpoints. Waste management plans shall not include perpetual treatment methodologies. ~~Wet mine waste units shall not be used for storage or treatment of mine waste after closure.~~

(13) Dust management plan for the control of dust and other fugitive emissions.

E. Engineering Report. An engineering report shall be included as part of the application. The engineering report for the mine facility must present the basis for the engineering design and the proposed construction procedures. The engineering report must discuss site-specific factors considered during design and address design selection for engineered structures. The report must also include a narrative evaluating the potential modes and significance of failures in engineered systems. All calculations and assumptions used in the evaluation and design of the proposed facility must be submitted. Engineering designs, reports, plans and other technical engineering documents must be signed by a qualified professional.

F. Quality Assurance Plan (QAP). A QAP must be established and included as part of the application to assure that design specifications and performance requirements for all mining operations are met during construction, operation, reclamation, and closure. The QAP must include, but is not limited to, the following:

- (1) A description of the Construction Quality Assurance (CQA) measures to be implemented;
- (2) A description of the relationship between the QAP, construction quality control, and the construction contract bid documents. The construction contract bid documents must also clearly define this relationship;
- (3) A description of the extent and scope of the responsibility and authority of organizations and/or personnel involved in permitting, designing, constructing, and certifying construction, operation, reclamation and closure of the mining operation. This must also include a description of a construction problem resolution process that incorporates the roles and responsibilities of all parties, including the Applicant /Permittee, CQA personnel, contractors, and the Department.
- (4) The required qualifications of the CQA personnel and testing laboratories. Personnel qualifications must include recognized industry certifications where available and applicable. Testing laboratories must be certified by the appropriate state and national accreditation programs for the tests to be performed;

- (5) The inspections and tests to be performed to ensure that the mining operation conforms to the requirements of the mining permit, this Chapter and the Act;
- (6) The sampling activities, sample size, methods for determining sample locations, frequency of sampling, acceptance and rejection criteria, and methods for ensuring that corrective measures are implemented;
- (7) Record keeping and reporting requirements for CQA and inspection activities;
- (8) A list and description of all items requiring CQA certifications, including identification of the engineer(s) responsible for these certifications; and
- (9) A description of the process for evaluating CQA and inspector performance, and for terminating CQA personnel and inspectors, including notification to the Department.

G. Environmental Impact Assessment. An environmental impact assessment shall be included as part of the application. Preparation of an environmental impact assessment must include the public participation requirements described in section 10 of this Chapter. The environmental impact assessment report shall include:

- (1) Project Description. The project description shall include:
 - (a) A map showing the metallic mineral mining areas and affected areas, including a rationale and basis supporting the proposed mining area boundaries and affected area boundaries and locations of protected natural resources as defined at 38 M.R.S. § 480-B(8) within, adjacent to or potentially impacted by the mining areas or affected area. Each mining activity must have a defined mining area;
 - (b) A statement of purpose and need for the proposed mine and mining activity components; and
 - (c) A summary of the mine plan.
- (2) Resource and Setting. A description of and documentation of the metallic mineral mining areas, affected areas, natural and artificial features, and where applicable, anticipated seasonal and longer term variations of those features using data and information from the baseline characterization, the reactive mine waste and designated chemical materials characterization, as well as other site-specific information, credible regional studies, and studies of other sites having documented similar conditions. This assessment must include the quality, flora, fauna, hydrology, geology, geochemistry, and baseline conditions for these features, including, but not limited to:
 - (a) Topography and land use;
 - (b) Climate;
 - (c) Visual resources;
 - (d) Geology, including, but not limited to, the areal extent, thickness, lithology, permeability, and geochemistry of soils, overburden, and the bedrock and ore body;

- (e) Water resources including, but not limited to, the hydrologic attributes of surface water and groundwater resources and the physical and spatial attributes of aquifers, groundwater basins, watersheds, and natural and artificial surface water resources;
- (f) Locations of designated or recorded administrative features including:
 - (i) Hydrologic features such as wild, scenic or recreational rivers, wellhead protection areas, floodplains, and wetlands;
 - (ii) Towns, villages, counties and other civic jurisdictions;
 - (iii) Recreational, historical, cultural, archeological, scientific, and natural areas or similar features such as parks, refuges, wilderness areas, and state and national monuments; and
 - (iv) Public rights of way, zoning and associated land use plans for the metallic mineral mining areas;
- (g) Biologic resources including, but not limited to, the presence of or recorded locations of rare, endangered and threatened species, the presence or absence of species of special concern, significant wildlife habitats, deer wintering areas, aquatic and terrestrial flora and fauna species and abundance, and ecological systems; and
- (h) Manmade structures, including descriptions, locations and uses of:
 - (i) Water supply sources for drinking, cooling, irrigation, geothermal, industrial, and other purposes;
 - (ii) Dwellings, places of business or worship, schools, hospitals, government buildings, and other buildings used for human occupancy;
 - (iii) Private, public, and institutional infrastructure such as utilities, transportation corridors, dams, bridges, and tunnels;
 - (iv) Past metallic mineral mining facilities including storage piles, tailings basins, pits, underground workings, and beneficiating plants; and
 - (v) Waste disposal facilities or sites of environmental contamination.
- (3) Impact Analysis. The environmental impact assessment must identify potential impacts to the resources and setting identified in subsection 9(G)(2), above.
- (4) Use of Federal Permit Submissions. An Environmental Impact Statement or equivalent document prepared as part of Federal permitting requirements for an application under this activity may be accepted in lieu of the State's required Environmental Impact Assessment, at the discretion of the Department. The Department may require these documents to be supplemented to meet the requirements of the Chapter.
- (5) Environmental impact assessment results, analyses, and findings and supporting information and data shall be submitted in a report to the Department as part of the application for a mining permit.

H. Alternatives Analysis. An alternatives analysis shall be included as part of the application and must include the following information and analysis. This analysis will be incorporated into the Department's determination of whether the proposed project would unreasonably adversely affect existing uses, scenic character, air quality, water quality, and other natural resources.

- (1) The alternatives analysis must demonstrate the consideration of siting alternatives as well as alternative technologies, modified scale or magnitude, and alternatives incorporating practicable mitigation measures for portions of a metallic mineral mining operation ancillary to the removal of material in connection with the commercial production of metallic minerals, and for which there is some flexibility in site selection, such as storage piles, ~~tailings basins~~, water reservoirs, beneficiation operation processing plants, chemical and fuel storage and handling areas, wastewater treatment plants and disposal alternatives, offices, roadways, and auxiliary facilities.
- (2) The alternatives analysis for removal of material must demonstrate minimization including location, removal techniques, and reasonable mitigation measures.
- (3) Alternatives that were considered but eliminated based on information developed through the environmental impact assessment must be discussed and the reason for their elimination must be stated.
- (4) Data and analysis shall be commensurate with the importance of the impact and the relevance of the information to a reasoned choice among alternatives and to the consideration of the need for mitigation measures.
- (5) Impact Analysis. There shall be an analysis of potentially significant adverse or beneficial environmental effects generated, directly, indirectly, or cumulatively for the proposed mine and each major alternative.
- (6) Mitigation. Measures that could reasonably eliminate or minimize any adverse environmental effects, of the proposed project shall be identified, including, but not limited to:
 - (a) Minimizing an impact by not taking a certain action or parts of an action;
 - (b) Rectifying an impact by repairing, rehabilitating, or restoring the affected environment;
 - (c) Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; and
 - (d) Compensating for an impact by replacing the affected significant wildlife habitat.

I. Mine Plan. A mine plan shall be included as part of the application. The mine plan shall describe the metallic mineral mining operation plan and include the siting, design, development, operation (including beneficiation operations), reclamation, closure, post-closure and corrective action methods to be used during construction, operation, reclamation, remediation, closure and post-closure to avoid, minimize and mitigate actual and potential adverse impacts to natural resources, the environment, and public health and safety. The mine plan must include an environmental protection, reclamation and closure plan. The mine plan must address the unique issues associated with mining and must include, at a minimum, the following:

- (1) A description of each aspect of the mine siting, design, development, operation, reclamation, closure, post closure, and corrective actions, and the potential adverse impacts to natural resources, the environment, and public health and safety that are avoided, minimized, and/or mitigated;
- (2) Detailed designs, plans, specifications, techniques, methods, materials, standard operating procedures, construction methods, and schedules for each aspect of the mine plan;
- (3) The basis for the applicant's contention that the proposed plan for each of these aspects prevents adverse impacts to natural resources, the environment, and public health and safety;
- (4) A description of the reclamation plan, including, at a minimum:
 - (a) A reclamation plan as required in section 23 of this Chapter;
 - (b) A plan for contemporaneous reclamation activities along with an explanation if contemporaneous reclamation will not be practicable in certain aspects of the project;
 - (c) Closure and post-closure maintenance, identifying reclamation activities that would be taken by the Applicant if operations cease or are suspended. The plan shall address all of the components stipulated in section 24 of this Chapter and be updated annually; and
 - (d) A schedule for expected reclamation activities;
- (5) A detailed written cost estimate and cost rationale for each category of the mine plan, including, at a minimum:
 - (i) The cost of designing and constructing the mine and operational costs for the first five years of operation; ~~and~~
 - (ii) The cost to investigate all possible releases of contaminants at the site, monitor all aspects of the mining operation, close the mining operation in accordance with the closure plan, conduct treatment activities of all expected fluids and wastes generated by the mining operation for a minimum of 100 years, implement remedial activities for all possible releases and maintenance of structures and waste units as if these units have released contaminants to the groundwater and surface water, conduct corrective actions for potential environmental impacts to groundwater and surface water resources as identified in the environmental impact assessment and conduct all other necessary activities at the mine site in accordance with the environmental protection, reclamation and closure plan; and
 - (iii) The cost to respond to a worst-case catastrophic mining event or failure, including, but not limited to, the cost of restoring, repairing and remediating any damage to public facilities or services, to private property or to the environment resulting from the event or failure.

~~The cost to investigate any and all possible releases of contaminants at the site, monitor all aspects of the facility, close the facility in accordance with the proposed closure plan, conduct treatment activities of all expected fluids and wastes generated at the facility for a minimum of one hundred (100) years, implement remedial activities for releases and maintenance of structures and waste units as if these units~~

~~have released contaminants to the groundwater and/or surface water, conduct corrective actions for potential environmental impacts from pathways from the mining areas to adjacent groundwater and surface water resources as identified in the Environmental Impact Assessment, and conduct activities at the mine site in accordance with the proposed mine plan.~~

All cost estimates shall be in current dollars, shall include at least a 20% contingency, and shall assume the hiring by the Department of a third party to complete all tasks. Cost estimates shall include Department oversight costs equal to 30% of the cost of hiring a third party to complete all tasks. No salvage value of products, waste, mine structures, equipment, land, or other assets associated with the mining operations shall be included in the cost estimate.

J. Monitoring Plan. A monitoring plan must be included as part of the application. The contents of the monitoring plan must meet the requirements described in section 22 of this Chapter.

K. Contingency Plan. A contingency plan must be included as part of the application. The contingency plan shall include all of the following:

- (1) An assessment of the risk to public health and safety associated with potential accidents or failures involving the following:
 - (a) Release or threat of release of reactive mine waste or toxic materials;
 - (b) Storage, transportation, and handling of explosives;
 - (c) Fuel storage and distribution;
 - (d) Fires;
 - (e) Wastewater collection and treatment system failure or upset;
 - (f) Settling pond or ~~dry stack tailings management structure~~ ~~tailings disposal area~~ embankment failure;
 - (g) Air emissions;
 - (h) Spills of hazardous substances;
 - (i) Other specific natural risks defined by the environmental impact assessment;
 - (j) Power disruption;
 - (k) Unplanned subsidence; and
 - (l) Leaks from containment systems for stockpiles or storage or disposal facilities.
- (2) A description of the detection and warning systems to be used in alerting the Applicant or the Department of the accidents or failures above.

- (3) A complete Spill Prevention, Control, and Countermeasures Plan if required by 40 CFR Part 112 or other federal or state statutes and regulations.
- (4) Response measures that will be followed for each potential accident or failure.
- (5) The procedure for notifying the general public, public authorities, and safety agencies in the event of an emergency including:
 - (a) A list, by title, of employees of the Permittee to be contacted and their duties and responsibilities;
 - (b) The actions to be taken to restrict access of nonessential personnel to the area;
 - (c) If evacuation of the public is necessary, the procedure for conducting the evacuation;
 - (d) A list of emergency equipment and its location;
 - (e) A list of emergency telephone numbers for the following people or entities:
 - (i) Representatives of the Permittee;
 - (ii) The local municipality emergency management coordinator;
 - (iii) Local ambulance services;
 - (iv) Local hospitals;
 - (v) Local fire and police Departments;
 - (vi) Department of Environmental Protection;

NOTE: Other reporting requirements may exist under federal laws and the laws administered by the Department of Environmental Protection and the Land Use Planning Commission. For oil spills, call 1-800-482-0777 which is available 24 hours a day. For spills of toxic or hazardous material, call 1-800-452-4664 which is available 24 hours a day. For more information, visit the Department's website at: <http://www.maine.gov/dep/spills/emergspillresp/>

- (vii) Pollution emergency alerting system;
 - (viii) Federal regulatory agencies, as appropriate;
 - (ix) Department of Agriculture, Conservation and Forestry; and
 - (x) Local unit of government.
- (6) A plan for testing the contingency plan to assure its effectiveness.
 - (7) The contingency plan, including contact information, shall be updated and re-submitted to the Department on an annual basis.

(8) The Applicant shall submit a copy of the contingency plan to each emergency management coordinator having jurisdiction over the metallic mineral mining affected area at the time the application is submitted to the Department.

L. Financial Assurance. A description of the type or types and amounts of financial assurance to be provided that will satisfy the requirements of subchapter 4 of this Chapter and 38 M.R.S. § 490-RR must be included in the application. This submittal must be adequate to demonstrate the financial ability of the Applicant in accordance with subchapter 4 of this Chapter.

10. Public and Local Participation

A. Notification and Participation Requirements. These requirements apply to an application for an advanced exploration activity or mining permit. This section details the notification and participation requirements for the pre-application phase, which includes the baseline work plan and the scoping document for the environmental impact assessment. In addition, the application phase, which includes the advance notice requirements, notice of intent to file, adjudicatory hearing and intervenor grants must meet the requirements of Chapter 2 of the Department Rules and the Maine Administrative Procedure Act, 5 M.R.S. chapter 375.

B. Pre-application Phase – Publication and Notice of Baseline Work Plan. Prior to the collection of any baseline data, the Applicant shall submit a baseline work plan to the Department. The baseline work plan shall describe methods used for acquiring data, sampling locations, sampling frequency, analytical methods, a timetable for data collection, and a quality assurance (QA) project plan. Upon submittal of a baseline work plan, the Applicant shall provide public notice of the availability of the baseline work plan for public review and comment by publishing notice in at least one newspaper of general circulation in the area where the activity is proposed, and in one newspaper with a circulation area of the entire State of Maine. Following notice of publication of the baseline work plan, there shall be 30 days for public review and comment.

(1) Review and Acceptance of Baseline Work Plan. Within 30 days after the close of the public comment period, after review of the proposed baseline work plan and consideration of comments received, the Department shall either accept the baseline work plan or require revisions to the plan prior to acceptance.

(2) After the baseline work plan has been accepted by the Department, the Applicant shall submit to the Department a proposed amendment if:

- (a) Changes in the siting of the proposed activity necessitate an expansion of the study area;
- (b) Changes in the scope of the proposed activity necessitate additional studies; or
- (c) Any other information is necessary for the Department to evaluate the proposed activity under all applicable permit review criteria.

C. Preparation of Environmental Impact Assessment Scoping Document.

(1) A scoping process shall be used before preparation of an environmental impact assessment (EIA) to identify environmental issues relevant to the proposed activity; determine the appropriate level of analysis and contents of the EIA; identify the factors to be assessed in the EIA; and set a timetable for preparation. At a minimum, the scope of an EIA shall encompass the environmental, human health and safety, physical, cultural, and land use

impacts of a proposed activity; measures for mitigating significant impacts; the physical characteristics of the project site and design/operation alternatives.

- (2) Prior to the preparation of the EIA, a draft scoping document must be submitted to the Department by the applicant. The draft scoping document must be submitted before the application is filed, and shall include, but is not limited to, the following:
 - (a) Identification of the Applicant and the location and description of the activity;
 - (b) Identification of other reviewing agencies;
 - (c) Identification of potential environmental impacts and issues that require investigation including interconnection of the proposed mining areas to adjacent groundwater and surface water resources;
 - (d) Detailed work plan for the analysis of each potential environmental impact and issue identified above including proposed evaluations;
 - (e) Copy of the baseline work plan, if previously accepted;
 - (f) Identification of the baseline data that will be incorporated into the EIA and how it will be incorporated; and
 - (g) Preliminary outline of the EIA.
- (3) Public Notice and Availability of Draft Scoping Document
 - (a) Upon submittal of the draft scoping document, the Applicant shall provide public notice of the availability of the draft scoping document for public review and comment by publishing notice in at least one newspaper of general circulation in the area where the activity is located.
 - (b) The Applicant shall also notify, by certified mail, abutting landowners, the municipal officers of the municipality in which the activity is proposed or, if within the unorganized and deorganized areas of the State, the county commissioners with jurisdiction where the activity is proposed.
- (4) Public Comment Period. Following notice of publication of the draft scoping document, there shall be 45 days for public comment.
- (5) Public Scoping Meeting. During the comment period, the Department may hold a public scoping meeting to gather further comments on the draft scoping document if the Department determines that such a meeting is necessary or useful to the review process.

D. Application Phase – Advanced Notice of Intent to File

- (1) The Applicant shall notify by certified mail the municipal officers of each municipality in which the mining areas or affected areas may be located or, in an unorganized and deorganized areas of the State, the county commissioners for each county in which the mining areas and affected areas may be located, of the Applicant's intent to file a mining permit application at least 60 days prior to submitting an application to the Department.

- (a) The notice shall contain all of the following:
 - (i) A statement of intent to apply for a mining permit;
 - (ii) The name, address, and telephone number of the applicant;
 - (iii) The name of a designated contact person;
 - (iv) The type of mine proposed and a figure clearly showing the location of the mining areas and the affected areas;
 - (v) The anticipated date of submittal of the permit application.
 - (vi) A description of the right of the municipal officers or county commissioners to apply for intervenor grants, their right to receive grants not exceeding \$50,000 to support certain activities to intervene before the Department, and the requirement that they must request intervenor status within 60 days of this notification or be deemed to have waived the right to receive intervenor grants.
- (2) At the same time the Applicant shall provide a copy of this notice to the Department and the Director of the Bureau of Resource Information and Land Use Planning within the Department of Agriculture, Conservation and Forestry.

E. Notice of Intent to File Applications. Within 30 days prior to filing, an Applicant shall give public Notice of Intent to File an application for a new, transferred, or amended permit. An application that has been previously returned as incomplete pursuant to the Department's administrative rules must comply with these requirements if the application is not resubmitted within 30 days of the date it was returned to the applicant. The notice must be mailed by certified mail to abutters, as determined by local tax records or other reliable means, to the municipal office of the municipality(ies) where the project is located and, if the project is located in the unorganized or deorganized areas of the State, to the appropriate county commissioners. The notice must also be published once per week for four (4) successive weeks in a newspaper circulated in the area where the project is located. Copies of the published Notice of Intent to File and a list of abutters to whom notice was provided must be submitted with the application. The notice must include the following information:

- (1) Name, address, and telephone number of the applicant;
- (2) Citation of the statutes or rules under which the application is being processed;
- (3) Location of the activity;
- (4) Summary of the activity;
- (5) Anticipated date for filing the application with the Department;
- (6) A statement providing the local filing location where the application can be examined;

- (7) A statement that public comments on the application may be provided to the Department, together with the name and email address of the Department contact person and the mailing address of the Department; and
- (8) Any other information required by applicable rule or law.

F. Application Phase – Adjudicatory Hearings. The Department will hold an adjudicatory hearing within the municipality in which an Tier II advanced exploration or mining operation may be located or, in the unorganized or deorganized areas of the State, in a location convenient to the vicinity of the proposed mining operation no later than 180 days after the application is accepted as complete for processing and at least 30 days prior to the issuance of a draft permit decision. This timeframe does not apply if the Board takes jurisdiction over the application. Public notice of such a hearing will be provided in accordance with the Maine Administrative Procedure Act, 5 M.R.S. § 9051-A. The hearing will be conducted in conformance with the requirements of the Maine Administrative Procedure Act, 5 M.R.S. §§ 9051-9063, and the Department’s *Rules Governing the Conduct of Licensing Hearings*, 06-096 C.M.R. ch. 3.

G. Application Phase – Intervenor Status

- (1) Petitions for General Intervenor Status. A request for general intervenor status may be filed in any application proceeding for an advanced exploration mining permit or a mining permit under this Chapter. Petitions for intervenor status are governed by the Department’s *Rules Governing the Conduct of Licensing Hearings*, 06-096 C.M.R. ch. 3, except as otherwise provided in subsection 10(G)(2) of this Chapter.
- (2) Requests for Municipal and County Intervenor Status. As provided in 38 M.R.S § 490-OO(6)(D), the municipal officers, or their designees, from each municipality in which the mining areas or affected areas may be located or, in the unorganized or deorganized areas of the State, the county commissioners or their designees, for each county in which the mining areas or affected areas may be located have intervenor status if they request it within 60 days after notification under subsection 10(D). Immediately upon the Commissioner’s receipt of a request for intervenor status from such a municipality or county, the intervenors have all rights and responsibilities commensurate with this status.

H. Assistance Grants for Municipal and County Intervenor Status. The Commissioner shall reimburse or make assistance grants for the direct expenses of intervention by municipalities and county commissioners granted intervenor status.

- (1) Grant Agreements. The Department shall draft a grant agreement as soon as possible after a qualified municipality or county commissioner has requested intervenor status. This agreement will formalize the type of services to be used; the frequency and conditions of billing, grant payment or reimbursement; the required documentation of costs and work output; and audit and grant repayment conditions.
 - (a) The Applicant shall pay the Department an amount sufficient for the Department to reimburse or make assistance grants for the direct expenses of intervention for any municipality or county commissioner granted intervenor status under this section.
 - (b) The amount of any such grant may not to exceed \$50,000 per project per intervenor.

- (c) The Department shall coordinate, evaluate, and approve or deny in writing all requests by intervenors for grants or project expense reimbursement.
 - (2) Grant Reimbursement. Allowable expenses include hydrologic studies, traffic analyses, the retention of expert witnesses and attorneys, and other related expenses. Expenses not incurred in support of direct, substantive participation in the proceedings before the Department, including attorneys' fees related to judicial appeals, are not eligible for grant funding or reimbursement under this provision. Reimbursement requests shall include the following:
 - (a) Not more often than monthly, a municipal or county intervenor seeking reimbursement for expenses shall submit detailed documentation of eligible expenses to the Department up to the maximum amount approved by the Department.
 - (b) Documentation shall include the following:
 - (i) A description of the expense incurred, the names of the person or entity performing the work or providing the testimony and the dates on which that work was performed or the study or testimony provided; and
 - (ii) Hourly rates and the number of hours worked, if applicable, or the cost for each person providing services or testimony.
 - (3) Upon approval of a grant agreement, grant payments must be made upon the request of the municipal or county intervenor unless payment is denied for one of the following reasons:
 - (a) The work was undertaken before the municipality or county commissioners had intervenor status, after the intervenor had been notified by the Applicant that the application was withdrawn, or after withdrawal of the intervenor;
 - (b) False statements were made in the grant submission; or
 - (c) Expenses are ineligible for payment under section 10(H)(2).
 - (4) The municipal or county intervenor shall maintain all documentation of expenses pertaining to costs incurred under the grant agreement. These materials must be provided upon request by the Department.
 - (5) Any grant funds not spent by an intervenor for eligible costs must be returned to the Applicant within 60 days of the Department's final disbursement to the municipal or county intervenor, but in no case later than 120 days after approval or denial of the application.
- I. Access to the Site by Intervenors.** Both general intervenors and municipal officers and county commissioner intervenors shall have access to the proposed mining site at reasonable times for purposes of inspection and investigation, as follows:
- (1) An intervenor must submit a request in writing for entry to the site to the Department explaining the dates and times of requested entry, names of persons to gain entry, specific location of proposed work, and a detailed description of work to be conducted.
 - (2) The intervenor shall provide a copy of the written request for access to all other intervenors and the applicant.

- (3) If the Applicant and the requesting intervenor are unable to reach agreement within a reasonable time for the intervenor's access to the site, the Department will arrange for the site access for the intervenor.
- (4) A designated representative of the mining permit Applicant shall accompany the intervenor on at least the first site visit and may approve non-accompanied future intervenor visits.

J. Public Information Website. The application, review comments and supplemental application materials shall be made available on the Department's website. The Applicant shall reimburse the Metallic Mining Fund for all costs associated with development and maintenance of this website.

11. Criteria for Mining Permit Approval. A person may not engage in metallic mineral mining except as authorized in a mining permit issued by the Department.

A. Permit Approval. The Department shall issue a mining permit whenever it finds the following:

- (1) The Applicant has the authority and technical ability to develop the proposed mine in a manner consistent with applicable state environmental standards and with the provisions of this Chapter and the Act.
- (2) The Applicant has demonstrated that its proposed mining operation meets the requirements of all of the following:
 - (a) The Applicant has made adequate provisions for fitting the mining operation harmoniously into the existing natural environment, and the development will not unreasonably adversely affect existing uses, scenic character, air quality, water quality or other natural resources;
 - (b) The mining operation is located on soil and rock types and geological structures that are suitable to the nature of the mining operation;
 - (c) There is a reasonable assurance the mining operation will not violate applicable surface water quality standards, ~~within or outside the mining areas, or groundwater standards outside the mining areas~~ Notwithstanding 38 M.R.S. §§ 465-C and 470, contamination of groundwater from activities permitted under this Chapter may occur within a mining area, but such contamination must be limited and may not result in:
 - (i) Contamination of groundwater beyond the mining area;
 - (ii) Contamination of groundwater within the mining area that exceeds applicable water quality criteria for pollutants other than pH or metals;
 - (iii) Contamination of groundwater within the mining area due to pH or metals that exceeds limits set forth in the mining permit by the Department based on site-specific geologic and hydrologic characteristics;
 - (iv) Any violation of surface water quality standards under 38 M.R.S. § 413 or Title 38 Chapter 3, Subchapter 1, Article 4-A (Water Classification Program) ; or

(v) If groundwater or surface water quality within the mining area prior to the commencement of any mining activity exceeds applicable water quality standards, further degradation of such groundwater or surface water quality.

In determining compliance with this standard, the Department shall require groundwater monitoring consistent with the standards established pursuant to 38 M.R.S. § 490-OO(3) and section 22 of this Chapter.

Notwithstanding subsection 2(NNN) of this Chapter, for the purposes of this subsection “mining area” means an area of land, approved by the Department and set forth in the mining permit, not to exceed 100 feet in any direction from a mine shaft, surface pit or surface excavation, and does not include the following lands, regardless of the distance of such land from a mine shaft, surface pit or surface excavation: the land on which material from mining is stored or deposited; the land on which beneficiating or treatment facilities are located; the land on which groundwater and surface water management systems are located or the land on which water reservoirs used in a mining operation are located.

- (d) The mining operation will not result in a direct or indirect discharge that, either by itself or in combination with other discharges, will cause or contribute to nonattainment of applicable surface water quality standards under the Water Classification Program, 38 M.R.S. §§ 464-469;
- (e) The mining operation will not result in a direct or indirect discharge that, either by itself or in combination with other discharges, will cause or contribute to nonattainment of groundwater standards outside the mining areas under the Water Classification Program, 38 M.R.S. §§ 464, 465-C and 470;
- (f) Withdrawals of groundwater and surface water related to the mining operation will comply with the Water Withdrawal Reporting Program, 38 M.R.S. § 470-A *et seq.* and 06-096 C.M.R. ch. 587;
- (g) The Applicant has made adequate provisions for utilities, water supplies, wastewater treatment facilities and solid waste disposal required for the mining operation, and the mining operation will not have an unreasonable adverse effect on the existing or proposed utilities in a municipality or area served by those services;
- (h) The mining operation will not unreasonably cause or increase flooding of the area that is altered by the mining operation or adjacent properties or create an unreasonable flood hazard to any structure. Mining operations involving the removal of metallic minerals, the storage of metallic minerals or mine waste, the processing of metallic minerals, or the treatment of mine waste may not be placed in or on floodplains or flood hazard areas. Mining operations may be placed in flood plains or flood hazard areas as long as they are designed, constructed, operated and reclaimed in a manner that complies with the approval criteria in this subsection and the Natural Resources Protection Act;
- (i) The Applicant has made adequate provision for protection of public health and safety;
- (j) The mining operation will not use heap, percolation leaching, in-situ leaching, or block caving;
- (k) The mining operation meets the performance standards of this Chapter;

- (l) The Applicant has demonstrated a reasonable assurance of being able to meet all terms and conditions specified by the Department in a mining permit; ~~and~~
- (m) The Applicant has demonstrated that there is reasonable assurance that public and private water supplies will not be affected by the mining operation.;
- (n) No part of the mining operation will be located wholly or partially in, on or under any state land listed in 12 M.R.S. § 549-B(7)(C-1);
- (o) The mining operation will not remove metallic minerals in, on or from a river, stream or brook, as defined in 38 M.R.S. § 480-B(9); a great pond, as defined in 38 M.R.S. § 480-B(5); a freshwater wetland, as defined in 38 M.R.S. § 480-B(4); or a coastal wetland, as defined in 38 M.R.S. § 480-B(2) is prohibited;
- (p) The mining operation will not involve placement of a mine shaft in, on or under a significant river segment, as identified in 38 M.R.S. § 437; an outstanding river segment, as identified in 38 M.R.S. § 480-P; an outstanding river, as identified in 12 M.R.S. § 403; a high or moderate value waterfowl and wading bird habitat that is a significant wildlife habitat pursuant to 38 M.R.S. § 480-B(10)(B)(2); a great pond, as defined in 38 M.R.S. § 480-B(5); or a coastal wetland as defined in 38 M.R.S. § 480-B(2);
- (q) The mining operation will use dry stack tailings management and will not use wet mine waste units or tailings impoundments for the management of mine waste and tailings, except that the mining operation may involve the placement into a mine shaft of waste rock that is neutralized or otherwise treated to prevent contamination of groundwater or surface water;
- (r) The mining operation will not use open-pit mining; and
- (s) The financial assurance required pursuant to 38 M.R.S. § 490-RR and section 17 of this Chapter has been posted and fully funded.

B. Requirements. The Department shall process each permit application required and submitted by the Applicant under 38 M.R.S. § 490-NN(1), and identified by the Applicant in the permit application under the requirements of subsection 9(B)(4) of this Chapter in a coordinated fashion. The coordinated process shall include consolidation of public hearings and the issuance of a joint decision on all applications for permits required by the Department.

C. Effect of Current Violation. The Department may not issue a mining permit if the Applicant or any person in a position to control the operations of the Applicant is in violation of any state or federal law, rule, permit, or order that the Department determines in the permit decision is relevant to the issuance of a mining permit, unless the person has corrected the violation or the person has agreed in a judicially enforceable document to correct the violation.

D. Effect of Compliance History. The Department may not issue a mining permit if the Applicant or any person in a position to control the operations of the Applicant has documented violation(s) of state or federal land use or environmental laws, or documented violations of land use or environmental laws of a foreign country, demonstrating that the Applicant would not be capable of complying with the terms and conditions of a mining permit. An Applicant may present evidence of changed conditions or circumstances demonstrating the current ability to comply with

all permit terms and conditions notwithstanding any prior violations. If that evidence is sufficient to warrant a finding by the Department that the Applicant is capable of compliance, the Department may issue a permit.

- E. Effect of Financial Assurance Defaults.** The Department may not issue a mining permit if the Applicant or any person in a position to control the operations of the Applicant has defaulted on or otherwise violated a financial assurance requirement including, but not limited to, a letter of credit, bond, trust fund, guarantee, or financial test.

12. Permit Conditions

- A. Standard Conditions.** The following standard conditions must be included in all mining permits.
- (1) **Relation of Permit to Application.** The plans, specifications, descriptions, and other documentation submitted by the Permittee in support of the application, and approved by the Department in issuing the permit, constitute terms of the permit. Any variation or change in the plans, specifications, descriptions, or other documentation must be approved by the Department prior to implementation. Upon completion of any construction or alteration, the Permittee must submit to the Department a written certification by a qualified professional that the site has been constructed or altered in accordance with the terms of the permit.
 - (2) **Duty to Comply.** The Permittee must comply with all terms and conditions of the permit. Any noncompliance constitutes a violation of law and is grounds for enforcement action, permit suspension, or revocation.
 - (3) **Duty to Halt or Reduce Activity.** It is not a defense in an enforcement action that halting or reducing the permitted activity would have been necessary in order to maintain compliance with the conditions of the permit.
 - (4) **Duty to Mitigate.** The Permittee shall take all steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.
 - (5) **Proper Operation and Maintenance.** The Permittee shall at all times properly operate and maintain all facilities and systems which are installed or used by the Permittee to achieve compliance with the conditions of the permit.
 - (6) **Permit Actions.** The Department, after notice and an opportunity for a hearing as required under the Maine Administrative Procedure Act, 5 M.R.S. §§ 10003 & 10051 and 38 M.R.S. § 342(11-B), may modify a permit or may act to suspend or revoke the permit. The Department may also modify a permit in response to an application for a modification filed by the Permittee. The filing of a request by the Permittee for a permit modification does not stay any permit condition. If the Department determines that a violation of the Mining Act, this Chapter, a Department Order or this permit is causing or resulting in imminent and substantial endangerment to the public health or safety, environment or natural resources, the Commissioner may issue an order requiring immediate suspension of mining activities, including the removal of metallic product from the site.
 - (7) **Property Rights.** The permit does not convey any sort of property right or exclusive privilege.

- (8) Duty to Provide Information. The Permittee shall furnish any information which the Commissioner requests in order to determine whether cause exists for modifying, suspending, or revoking the permit or to determine compliance with the permit. The Permittee shall also, upon request, furnish to the Department copies of records required by law or by the permit to be kept by the Permittee, and not otherwise required to be filed with the Department. The information shall be submitted in accordance with the timeframe requested by the Commissioner.
- (9) Monitoring Reports. All monitoring results shall be reported to the Department according to this Chapter, the mining permit, and the Act within 60 days of the sampling event unless an alternative time is requested or approved by the Department.
- (10) Noncompliance and Occurrence Reporting. The Permittee shall report to the Department any noncompliance, any unpermitted or otherwise unlawful release or discharge of pollutants including accidents and failures specified in the approved Contingency Plan. Information shall be provided in accordance with the approved Contingency Plan or, if not addressed in the Contingency Plan, orally within 2 hours of the time the Permittee becomes aware of the circumstances, and in writing within 5 working days. If the noncompliance, release or discharge of pollutants, or cause of fire or explosion has not been corrected, the anticipated time it is expected to continue must be given, together with the steps taken or planned to reduce, eliminate and prevent recurrence. The written submission must include the following:
- (a) Name, address, and telephone number of the owner or operator;
 - (b) Name, address, and telephone number of the facility, if applicable;
 - (c) Date, time, type, and description of incident;
 - (d) Name and quantity of any waste(s) involved;
 - (e) The extent of injuries, if any;
 - (f) An assessment of actual or potential hazards to the environment and human health inside and outside the site, when applicable; and
 - (g) Estimated quantity and disposition of any pollutants released or discharged.
- (11) Other Information. When the Permittee becomes aware that it has failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department including any sampling data evaluating the site, the Permittee shall promptly submit such facts or information to the Department.
- (12) Signatory Requirement. All applications, reports, or information submitted to the Department shall be signed by a responsible officer. Such responsible officer shall make the following certification:
- “I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I am aware there are significant penalties for submitting false information.”

- (13) Construction/Operation within 4 Years. After public notice, the Department may terminate or request surrender of a mining permit if the Permittee has not commenced construction of mining facilities or conducted mining activities covered by the mining permit within 4 years after the effective date of the mining permit, unless the Permittee is issued an extension pursuant to section 14 of this Chapter. If the mining permit is terminated or surrendered, the Applicant may reapply to the Department for a permit. No construction or operation may be undertaken until a new permit is granted. A new application filed for a project previously approved must state the reasons why construction or operation was not begun within 4 years from the granting of the initial permit, and the reasons why construction or operation will be able to begin within 4 years from the granting of the new permit. The new application may incorporate, by reference, information submitted in the initial application, but must include all information required by law or rule at the time the new application is submitted.
- (14) Commencement of Operations. Prior to the commencement of operations:
- (a) The Permittee shall submit to the Department by certified mail or hand delivery a letter signed by the Permittee and a State of Maine Licensed Professional Engineer stating that the site has been constructed, altered, or modified in compliance with the permit; and
 - (b) The site must be inspected by the Department and found to be in compliance with the conditions of the permit.
- (15) Other Permits and Licenses. The Applicant and Permittee shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, approvals, conditions, agreements, and orders prior to and during construction, alteration, modification, operation, reclamation, and closure as appropriate.
- (16) Bid Specification. A copy of the Permit approval must be included in or attached to all contract bid specifications for the site.
- (17) Contractor Copy. The Permittee may not direct or allow any work within the scope of the permit to be done by a contractor until the contractor(s) has been given a copy of the mining permit. The Permittee shall certify to the Department that the contractor(s) has received a copy of the permit.
- (18) Annual Fee. The Applicant or Permittee shall pay an annual fee as required by 38 M.R.S. § 352(4-A)(E). The permit is not effective until and unless the annual fee has been paid.
- (19) Inspection and Entry. Employees and authorized representatives of the Department must be allowed access to the site and affected area during business hours, and at such other times as the Department deems necessary, for the purpose of performing tests, collecting samples, conducting inspections, examining records relating to the site, or developing or enforcing any rule, statute or order.
- (20) As a condition of a mining permit, the permittee shall retain the services of a qualified third-party independent inspector to monitor compliance with permit conditions during construction, operations and closure. More than one inspector may be needed to obtain the qualifications necessary to monitor different activities. An inspector retained under this section cannot also serve as a qualified professional under Section 25 of this Chapter.

- (a) Inspector selection. At least 30 days prior to starting any permitted activity on the site, the applicant must submit the names of at least two inspector candidates to the Department. Each candidate must meet the minimum qualifications listed below. The inspector may not be an employee, partner, or contracted consultant involved with the permitting of the project or otherwise employed by the same company or agency except that the Department may accept subcontractors who worked for the project's primary consultant on some aspect of the project such as, but not limited to, completing wetland delineations, identifying significant wildlife habitats, or conducting geotechnical investigations, but who were not directly employed by the applicant, as independent inspectors on a case by case basis. The Department will have 15 days from receiving the names to select one of the candidates as the inspector or to reject both candidates. If the MDEP rejects both candidates, then the MDEP shall state the particular reasons for the rejections. In this case, the applicant may either dispute the rejection to the Commissioner, or start the selection process over by nominating two, new candidates.
- (i) The Permittee may not terminate the services of a qualified third-party independent inspector without prior Department approval.
- (ii) In the event the qualified third-party independent inspector is terminated or voluntarily resigns, the Permittee must select and retain the services of a replacement inspector within 30 days.
- (b) Inspector qualifications. A qualified third party independent inspector must be a qualified professional and must have the following minimum qualifications:
- (i) A degree from an accredited program in environmental science, civil engineering, mining engineering, geology, or other demonstrated expertise;
- (ii) A practical knowledge of mining principles, stormwater control and waste management;
- (iii) Experience in management or supervision on large construction projects;
- (iv) The ability to understand and articulate permit conditions to contractors;
- (v) The ability to clearly document activities being inspected;
- (vi) Appropriate facilities and, if necessary, support staff to carry out the duties and responsibilities set forth in subsection (4), below, in a timely manner; and
- (vii) No ownership or financial interest in the permitted activities other than that created by being retained as the third-party inspector.
- (c) Inspector Duties and Responsibilities. The inspector's work shall include the following duties and responsibilities:
- (i) Prior to construction, the inspector will become thoroughly familiar with the project plans and specifications, including those for containment structures and impoundments, mine operations buildings and structures associated with ore handling and processing, detention basins, those for installing the erosion control measures to be used on the site, and those for stabilizing disturbed soils.

- (ii) During construction, the inspector will monitor activities required by the permit and contained in the approved construction documents.
 - (iii) The inspector will keep logs recording activities on the site, discussions with contractor(s) and/or mine operations personnel, and possible violations of the approved construction documents or the permit terms and conditions.
 - (iv) The inspector will inspect the site at least twice per week from the commencement of construction until closure. The site must be inspected at least monthly during the post-closure monitoring period.
 - v) The inspector will notify the designated person at the Department immediately of potential violations of the mining permit.
- (d) Inspection Reports. The inspector will submit written reports, including photographic documentation, in a format approved by the Department to the designated person at the Department. Reports shall be submitted to the Department in accordance with a schedule determined by the Department,
- (i) The report will state the start and end dates for the reporting period.
 - (ii) The report will state the date(s) and time(s) when the inspector was on the site making inspections.
 - (iii) The report will describe the permittee's activities over the reporting period.
 - (iv) The report will summarize the inspection results, identify and describe any deficiencies noted, and provide recommendations for correcting deficiencies.
- ~~(21) Financial Responsibility. The Permittee shall not commence construction or continue operation at the site until and unless:~~
- ~~(a) All required insurance coverage is in force and effect;~~
 - ~~(b) All assurance of insurance, reclamation, corrective action, closure and post-closure funding is made as required;~~
 - ~~(c) All financial responsibilities are met as required;~~
 - ~~(d) All cash deposits or payments and letters of credit are delivered as required; and~~
 - ~~(e) Financial assurance is fully funded before the permit is issued;~~
- (22) Preconstruction. All preconstruction terms and conditions must be met before any construction begins.
- (23) Advertising. Advertising relating to matters included in the permit application may refer to the Permit approval only if it notes that the approval has been granted with conditions, and indicates where copies of the permit may be obtained.

- (24) Transfer of Ownership. Unless otherwise provided in the permit, the Permittee may not sell, lease, assign, or otherwise transfer the site or any portion thereof, or cause or allow any other action where the purpose or consequence is to transfer any of the obligations of the Permittee as incorporated in the permit, without prior written approval of the Department pursuant the 06-096 C.M.R. ch. 2(21).
- (25) Deed Notation. Whenever any site, or portion thereof, previously used for mining or advanced exploration is transferred by deed, the following must be expressly stated in the deed:
- (a) The type(s) of waste unit(s) located on the site, the dates of establishment and closure of each, and a description of the location, composition, extent, and depth of waste deposited in each; and
 - (b) The heading and date of issuance of the permit, the identification number of the permit, and the fact that it was issued by the Department of Environmental Protection.
- (26) Event of Force Majeure. The Permittee's responsibility for meeting all requirements of the Act, this Chapter and the mining permit shall not be discharged due to an Event of Force Majeure.

B. Special Conditions. The Department may place special terms and conditions on a permit issued under this Chapter as necessary to ensure that the construction, operation, and reclamation of the proposed mining operation is implemented in compliance with the law and terms of the permit and to protect the environment and public health and safety. However, terms and conditions must specify particular means of satisfying minor or easily corrected problems, relating to compliance with this Chapter and with the applicable law, and may not substitute for or reduce the burden of proof on the Applicant to affirmatively demonstrate to the Department that each of the applicable standards has been met.

13. Duration of Permit

- A.** If construction and/or operation commences within 4 years after the effective date of a mining permit, a permit granted pursuant to this Chapter continues in effect as long as:
- (1) The ~~Department Commissioner~~ Commissioner or a court has not issued an ~~obtained a court~~ order terminating or revoking the permit pursuant to section 32 of this Chapter, 38 M.R.S. § 342(11-B), and the Maine Administrative Procedure Act, 5 M.R.S. § 10051(1); or
 - (2) There is a Department-approved suspension of mining operations as provided in section 29 of this Chapter;
- B.** All other permits associated with the mining activities and mine waste site expire in accordance with their terms and conditions.
- C.** The Department shall conduct annual reviews of the mining operations and assess compliance with the permit terms. If the Department determines at any time that the Permittee is in noncompliance with the Act, rules, permit, or order, and determines that the violation is causing an imminent and substantial endangerment, the Commissioner may issue an order requiring that the Permittee cease mining for metallic metals, and cease the removal of metallic metals from the site until the compliance issues are corrected to the Department's satisfaction. In addition to

requiring the correction of the violations, the Department may pursue enforcement action including the termination or revocation of the permit.

14. Termination of Permit

A. Requirements

- (1) After public notice the Department may terminate or request surrender of a mining permit if the Permittee has not conducted mining activities covered by the mining permit within 4 years after the effective date of the mining permit.
- (2) The Permittee may file a written request with the Department for approval of an extension of time to conduct mining activities covered by the mining permit prior to Department-ordered termination or surrender of a mining permit. The request must set forth:
 - (a) The reasons for the delay in the construction of mining facilities or commencement of mining activities;
 - (b) The date of anticipated construction of mining facilities or commencement of mining activities; and
 - (c) The factors that will influence the decision for construction of mining facilities or commencement of mining activities.

B. The Department may approve an extension of time to commence construction of mining facilities or conduct mining activities covered by the mining permit if the Permittee demonstrates that the mining operations are expected to commence within a reasonable period of time as determined by the Department.

C. The Department may terminate or request surrender of a mining permit if the following conditions have been achieved:

- (1) The Permittee has requested termination of the mining permit and has demonstrated that:
 - (a) The requirements of the mine plans have been satisfied;
 - (b) Final reclamation of the mining areas and, as necessary, the affected areas have been completed, including post-closure monitoring; and
 - (c) The mine is in compliance with all requirements of the permit, this Chapter, and the Act.
- (2) The Department has:
 - (a) Determined that the documentation provided by the Permittee is complete and adequate to make a determination that the conditions required to terminate a mining permit have been achieved;
 - (b) Completed a field inspection of the mine and determined that:
 - (i) The Permittee has complied with all requirements of the permit, applicable rules and the Act;

- (ii) Air, water, or other natural resources are not contaminated or impaired from the mining operation;
 - (iii) The Permittee has fulfilled all conditions determined to be necessary by the Department to protect the public health, safety and welfare, and the environment; and
 - (iv) Requirements for the post-closure monitoring period have been satisfied; and
- (c) Completed public notice requirements pursuant to 38 M.R.S. § 490-PP(4).

15. Transfer of Permit. No permit issued pursuant to the Act and these rules may be transferred without prior written approval of the Department. Prior to the transfer of a mining permit to another person, the acquiring person, the Transferee, shall submit to the Department a request for the transfer of the mining permit.

- A.** A Transferee shall submit to the Department a request for the transfer of the mining permit on a form provided by the Department.
- B.** A Transferee shall provide the following to the Department as part of the request:
 - (1) Evidence of title, right, or interest in all of the property that is proposed for development or use;
 - (2) An update to the contingency plan;
 - (3) A demonstration of financial capacity and technical ability;
 - (4) A summary of the Transferee's and its responsible officers' and related corporations' record of compliance with environmental and land use laws and financial requirements of Maine and other jurisdictions, as follows:
 - (a) **Criminal Convictions.** A listing and explanation of any criminal convictions of the State, other states, the United States, or another country of the persons required to disclose under this section;
 - (b) **Civil Violations.** A listing and explanation of any adjudicated civil violations of environmental laws or rules administered by the State, other states, the United States, or another country by any of the persons required to disclose under this section in the 10 years immediately preceding the filing of the application;
 - (c) **Consent Decrees and Administrative Orders or Agreements.** A listing and explanation of administrative agreements or consent decrees entered into by, or administrative orders directed at, any of the persons required to disclose under this section for violations of environmental laws administered by the Department, the State, other states, the United States or another country in the 10 years immediately preceding the filing of the application;
 - (d) **Other Proceedings.** A listing and explanation of any ongoing court proceeding, administrative consent agreement negotiation, or similar ongoing administrative enforcement action not already provided in which the Applicant or any of the persons

required to disclose under this section is a party and which concerns environmental laws administered by the Department or the State.

The Department may require the Applicant to update the list set forth in this subsection subsequent to the filing of the request to transfer a mining permit.

- (5) An update to the financial assurance plan;
 - (6) Documentation stipulating acceptance of all aspects of the mining permit and a commitment to adhere to the requirements of this Chapter and the Act;
 - (7) Any proposed changes to the mining operation plan or the mine plan ;
 - (8) Transfer fee; and
 - (9) The Transferee shall complete the public notice requirements specified in subsection 10(E) of this Chapter.
- C.** The Department shall hold a public meeting pursuant to 06-096 C.M.R. ch. 2 for all mining permit transfers.
- D.** The Department shall inspect the mining operation and determine whether the existing Permittee is in compliance with the mining permit, this Chapter and the Act. If a Permittee is determined by the Department to be in violation of the mining permit, this Chapter or the Act, the mining permit of the mine subject to the transfer may not be transferred until the Permittee has completed the necessary corrective actions or the person acquiring the mining permit has agreed in a legally enforceable document to correct the violation pursuant to a compliance schedule approved by the Department.
- E.** The Department may not transfer a mining permit if the Transferee or any person in a position to control the operations of the Tansferee has documented violation(s) of state or federal land use or environmental laws, or documented violations of land use or environmental laws of a foreign country, demonstrating that the Transferee would not be capable of complying with the terms and conditions of a mining permit. A Transferee may present evidence of changed conditions or circumstances demonstrating the current ability to comply with all permit terms and conditions notwithstanding any prior violations. If that evidence is sufficient to warrant a finding by the Department that the Transferee is capable of compliance, the Department may transfer the permit.
- F.** A permit transfer is not effective until:
- (1) The Department is satisfied that the Transferee has provided evidence of the financial assurance required by the mining permit, this Chapter and the Act;
 - (~~2~~) All other applicable permits and authorizations have been transferred to the acquiring Permittee; and
 - (3) A Transferee has demonstrated to the Department's satisfaction the intent to:
 - (a) Comply with all terms and conditions of the mining permit, this Chapter, and the Act; and

(b) Satisfy all applicable statutory and regulatory criteria.

G. A Permittee may not convey authority to operate a mine to another person until a mining permit is granted to the Transferee by the Department.

16. Amendment of Permit. A mining permit may be amended in accordance with the requirements of this section to address changes in the mining operation, natural or human-made conditions, technology, deficiencies in the reasonable protection of the environment, natural resources, or public health and safety, or to correct an oversight.

A. Requirements

- (1) A Permittee may submit to the Department a request to amend a mining permit to address anticipated changes in the mining operation.
- (2) The Department may require the Permittee to submit a request to amend a mining permit if the Department determines that the terms and conditions of the mining permit are not providing reasonable protection of the environment, natural resources, or public health and safety.
- (3) The Permittee shall provide revisions of any of the following that are, or reasonably could be, affected by the proposed amendment:
 - (a) Environmental impact assessment;
 - (b) Mine plan;
 - (c) Contingency plan;
 - (d) Mining operation plan;
 - (e) Financial assurance provisions;
 - (f) Other applicable federal, state, and local permits and licenses that are anticipated to be required; and
 - (g) Other terms and conditions of the mining permit.
- (4) The Permittee shall pay all costs incurred by the Department in processing an application.
- (5) The Permittee shall comply with the public notice requirement specified in 38 M.R.S. § 490-00(6)(B).

B. Within 15 working days after receiving a request to amend a mining permit, the Department shall determine whether the request constitutes a significant change from conditions of the approved mining permit, and whether the submitted documentation is administratively complete.

C. In the event that the Department determines that an amendment is a minor revision, the Department shall consider the request for amendment automatically approved within 60 working days of an administratively complete submittal, unless the Department requests additional information or the application is denied.

- D.** In the event that the Department determines that an amendment is not a minor revision, the Applicant shall submit an application for permit amendment, including any applicable fees. Applications for permit amendment will be processed in accordance with *Rules Concerning the Processing of Applications*, 06-096 C.M.R. ch. 2. In addition, the Department may require any additional application requirements specified section 9 of this Chapter. The Applicant will not be required to submit any information which duplicates applicable previous submittals. The Applicant shall clearly describe where the information not included in the amendment application, but necessary to render the amendment technically adequate, may be found in the original application and supporting documents.

Subchapter 4: FINANCIAL ASSURANCE AND INSURANCE

17. Financial Assurance and Insurance Requirements

- A. Requirements.** Financial assurance and insurance is required for all advanced exploration and mining activities and must be posted and fully funded prior to the issuance of a mining permit.
- (1) The Permittee shall continuously maintain financial assurance, as a condition of the mining permit, until the Department determines that all reclamation, closure, post-closure maintenance and monitoring, and corrective actions have been completed.
 - (2) The Permittee shall be required to maintain financial assurance for as long as the Department determines that the mining operation and any associated waste material could create an unreasonable threat to public health and safety or the environment.
 - (3) Financial assurance must be available and made payable to the Department when requested by the Department.
 - (4) Financial assurance may not be canceled by the Permittee unless it is replaced by alternative mechanisms in the appropriate amount and with the express written consent of the Commissioner after 30 days public notice in a paper of statewide coverage.
 - (5) Financial assurance must be fully valid, binding, and enforceable under state and federal law.
 - (6) All financial assurances obtained under this Chapter must be in a form such that it would not be subject to discharge under any and all provisions of the Bankruptcy Reform Act of 1978, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23, 11 U.S.C. § 101 *et seq.* (as may be further amended from time to time) (the “United States Bankruptcy Code”) and must be in a form such that it will not be considered property of the bankruptcy estate under any and all provisions of the United State Bankruptcy Code in the event that a bankruptcy petition is filed by or against the Permittee.
 - (7) All forms of financial assurance and terms and conditions of financial assurances must be approved by the Department and must be analyzed by individuals with documented experience in material handling and construction, mining costs, and financial analysis. If the Department does not have adequate in-house expertise, the Department shall hire third parties with documented experience in material handling and construction, mining costs, risk analysis, and financial analysis to analyze and evaluate the proposed terms and conditions of financial assurance required for the Applicant or Permittee. The individuals and company hired to perform this function shall have no conflict of interest with the applicant, related

persons, applicant's consultants, attorneys or any of their employees. All costs of the third-party evaluation must be paid by the Applicant pursuant to 38 M.R.S. § 352(4-A).

- (8) Failure of financial providers. The financial assurance shall provide a mechanism for a bank ~~or surety company~~ or guarantor to give prompt notice by certified mail to the Department and the Permittee of any administrative or judicial action filed or initiated alleging the insolvency or bankruptcy of the bank, ~~surety company~~ or the Permittee, or alleging any violations which could result in suspension or revocation of the bank ~~or surety company~~ charter or license to do business.
- (9) Upon incapacity of a bank ~~or surety company~~ or guarantor by reason of bankruptcy, insolvency, suspension or revocation of charter or license for any other reason, the Permittee shall be deemed to be without financial assurance coverage and shall cease mining and immediately begin to conduct reclamation, closure, post-closure maintenance and monitoring, and corrective actions measures in accordance with the mine plan. The Department may, for good cause shown, grant up to two 30-day extensions prior to the initiation of reclamation and closeout measures. Mining operations shall not resume until the Department has determined that an acceptable replacement financial assurance has been provided.
- 10) Advance notice
 - (a) The Permittee shall notify the Department within 30 days thereof if its and/or its parent company's credit rating falls below investment grade as determined by Moody's Investor Services, Standard & Poor, or other comparable ratings service.
 - (b) If the Permittee's and/or its parent company's credit rating falls below investment grade, within 30 days of such determination the Permittee shall secure an irrevocable standby letter of credit in an amount and form approved by the Commissioner.
 - (c) The Permittee shall notify the Department of the availability on line of quarterly financial statements (filed by it and/or its parent company) within 30 days of when such statements are filed with the U.S. Securities and Exchange Commission (SEC). If quarterly financial statements become unavailable on line, the Permittee shall submit these statements in writing to the Department within 30 days of when such statements are filed with the SEC.

B. Coverage of Financial Assurance

- (1) Financial assurance under this section applies to mining and reclamation operations that are subject to a mining permit. ~~and must be sufficient for the Department to:~~ The amount of financial assurance must be sufficient to cover the cost for the Department to administer, and hire a 3rd-party to implement all necessary investigation, monitoring, closure, post-closure, treatment, remediation, corrective action, reclamation, operation and maintenance activities under the environmental protection, reclamation and closure plan, including, but not limited to:
 - (a) The cost to investigate all possible releases of contaminants at the site, monitor all aspects of the mining operation, close the mining operation in accordance with the closure plan, conduct treatment activities of all expected fluids and wastes generated by the mining operation for a minimum of 100 years, implement remedial activities for all possible releases and maintenance of structures and waste units as if these units have released contaminants to the groundwater and surface water, conduct corrective actions for

potential environmental impacts to groundwater and surface water resources as identified in the environmental impact assessment and conduct all other necessary activities at the mine site in accordance with the environmental protection, reclamation and closure plan; and

(b) The cost to respond to a worst-case catastrophic mining event or failure, including, but not limited to, the cost of restoring, repairing and remediating any damage to public facilities or services, to private property or to the environment resulting from the event or failure.

~~(a) Administer all activities necessary for the investigation, monitoring, closure, post closure, treatment, remediation, corrective action, reclamation, operation and maintenance under the mine plan. Financial assurance must be sufficient to cover the cost to investigate any and all possible releases of contaminants at the site, monitor all aspects of the facility, close the facility in accordance with the proposed closure plan, conduct treatment activities of all expected fluids and wastes generated at the facility for a minimum of one hundred (100) years, implement remedial activities for all possible releases and maintenance of structures and waste units as if these units have released contaminants to the groundwater and/or surface water, conduct corrective actions for potential environmental impacts from pathways from the mining areas to adjacent groundwater and surface water resources as identified in the Environmental Impact Assessment, and conduct activities at the mine site in accordance with the proposed mine plan; and~~

~~(b) Implement other necessary environmental protection measures, including restoring and remediating any damaged public facilities or services and restoring and remediating any air, surface water, or groundwater contamination.~~

~~(2) Financial assurance must be adequate for the Department to hire a third party to implement all activities required by this Chapter including, but not limited to, sections 23, 24, 25, and 30 below of this Chapter.~~

(2) An Applicant for a mining permit must include with its application a review of the proposed financial assurance amounts required under 38 M.R.S. § 490-RR(2) and this Chapter as performed by a qualified, independent 3rd-party reviewer approved by the Department. The costs of the 3rd-party reviewer must be paid by the Applicant. Estimates of the costs of a worst-case catastrophic mining event or failure under subsection 17(B)(1)(b) provided by the applicant may not include costs to the applicant associated with the loss of use of any mining operation or facility or the costs of repairing any damaged mining operation or facility to restore operations or other functions.

(3) The Applicant or Permittee must provide detailed documentation of the estimated cost to implement the activities in the mine plan and the provisions of subsection 9(I)(5) of this Chapter with the application for permit, in the corrective action plan, and in other submittals as follows:

(a) Cost estimates must be in current U.S. dollar value;

(b) No salvage value attributed to the sale of products, wastes, facility structures, equipment, land or other assets may be used for estimating purposes; and

(c) Cost estimates must be re-evaluated and updated at any time that the Department requires a corrective action, a change to the mining permit or changes to the cost estimates, and

the financial assurance amount must be adjusted accordingly within 30 days of the filing of a new or modified corrective action plan, mine plan or when the permit or cost estimates are changed.

- ~~(34) The Applicant or Permittee must provide financial assurance in the amount determined by the 3rd-party reviewer under subsection 17(B)(2) to be sufficient for the Department to conduct all activities listed under subsection 17(B)(1). Financial assurance estimates provided by the Applicant and reviewed by the 3rd-party reviewer under this section must use the highest cost option for all estimates, include a minimum 20% contingency to account for unexpected expenses, assume that all activities are to be completed concurrently, and base cost estimates on the maximum permitted quantities and volumes. Cost estimates must reflect reclamation, closure and post-closure monitoring costs for each mine plan activity included in the advanced exploration or mining permit and for activities required by the Department, and must:~~
- ~~(a) Utilize the highest alternative cost option for all estimates and include a minimum of a 20% contingency to account for unexpected expenses;~~
 - ~~(b) Assume that all activities are to be completed concurrently; and~~
 - ~~(c) Base cost estimates on the maximum permitted quantities and volumes.~~
- ~~(5) Tailings impoundments. Any mining operation including a tailings impoundment shall submit the following additional information:~~
- ~~(a) Information assessing the potential risk for a failure of the tailings impoundment that would pose a threat to public health or the environment;~~
 - ~~(b) Information estimating the cost of responding to a failure of the tailings impoundment, including, but not limited to, the cost of restoring and repairing any damaged public facilities or services and the cost of restoring and remediating any damage to the environment resulting from a failure of the tailings impoundment; and~~
 - ~~(c) All costs shall be based on the maximum permitted size of the tailings impoundment and may not include the costs to the Applicant associated with the loss of the tailings impoundment for operations or the costs of repairing the tailings impoundment to restore operations.~~
- ~~(56) The financial assurance must be updated annually and adjusted using the implicit price deflator for gross national product as published by the U.S. Department of Commerce, Survey of Current Business, and must be submitted to the Department on or before March 15 of each year. The financial assurance shall not be adjusted downward in the event of a negative implicit price deflator.~~
- ~~(67) The financial assurance must not include funds from the Maine Mining Oversight Fund as established at 36 M.R.S. § 2866.~~
- ~~(78) Without limitation, changes in the financial assurance may be required due to modifications of the permit, changed financial or site conditions, technology changes, inflation, anticipated changes in mining activity and waste unit utilization, or changes in requirements for closure, post-closure maintenance, corrective action, or reclamation. The Permittee shall annually~~

report to the Department, subject to the Department's approval, an estimate of cost changes as provided in this Chapter on or before March 15. The permit remains in effect only if all required deposits or increases are made within 30 days of the due date provided in this rule. The obligation to make deposits or increases ceases only upon approval from the Department.

C. Allowable Forms of Financial Assurance. The financial assurance must consist of a trust fund that is secured with any of the following forms of negotiable property, or a combination thereof as approved by the Department; be in a form that cannot be canceled, withdrawn, revoked, or otherwise reduced without the express written consent of the Department.

(1) A cash account in one or more federally insured accounts;

(2) Negotiable bonds issued by the United States, a state or municipality having a Standard and Poor's credit rating of AAA or AA, or an equivalent rating from a national securities rating service; or

(3) Negotiable certificates of deposit in one or more federally insured depositories.

The financial assurance must be in a form that cannot be canceled, withdrawn, revoked, or otherwise reduced without the express written consent of the Department.

~~(1) Mining operations that will produce Group A or B wastes. Financial assurance for a mining operation that will produce Group A or B wastes must consist of a trust fund that is secured with negotiable property. Acceptable forms of negotiable property are limited to:~~

~~(a) A cash account in one or more federally insured accounts;~~

~~(b) Negotiable bonds issued by the United States, a state or municipality having a Standard and Poor's rating of AAA or AA, or an equivalent rating from a national securities rating service;~~

~~(c) Negotiable certificates of deposit in one or more federally insured depositories; and~~

~~(d) Irrevocable letter of credit.~~

~~At least 15% of the financial assurance for a mining operation that will produce Group A or B wastes must be secured by cash, negotiable bonds or negotiable certificates of deposit.~~

~~(2) Mining operations that will produce Group C wastes. Financial assurance for a mining operation that will produce only Group C wastes must consist of a trust fund secured by any of the options listed in subsection C(1) above, or:~~

~~(a) Surety bond guaranteeing payment into the trust fund;~~

~~(b) Other equivalent security as approved by the Department; or~~

~~(c) Combination of above.~~

D. General Terms and Conditions of Financial Assurance

- (1) Trust fund requirements. ~~When a trust fund is utilized as the financial assurance instrument,~~ The Permittee must ~~shall~~ deposit the required financial assurance in a trust fund prior to the issuance of a mining permit. The trust fund must be fully funded with one or more of the instruments identified in subsection 17(C) above.
- (a) The Department shall be a party to the trust agreement as beneficiary and shall have the right to withdraw and use part or all of the funds in the trust fund or to require the liquidation of the assets of the trust fund, at its sole discretion, to carry out the Act requirements including all associated regulations, permit, and other requirements as the Department determines necessary. The trust agreement must provide that there shall be no withdrawals from the trust fund except as authorized in writing by the Department.
- (b) The trust fund must not constitute an asset of the trustee or Permittee, and must be established in such a manner so as to ensure the funds in the account will be available to the Department and not any creditor, including in the event of bankruptcy or reorganization of the trustee or Permittee. The Permittee shall pay all costs of managing the fund and compensating the trustee.
- (c) The trustee must not invest assets of the trust fund in any real estate or real estate investment trust, any contract for the future sale or delivery of commodities or foreign currency, any state, municipal or corporate bond, or any other equity instrument or security, except that assets of the trust fund may be invested in securities issued by the United States Treasury.
- (d) The trustee shall notify the Department immediately in the event that any payment from the Permittee is not remitted by the due date.
- (e) The trustee shall submit to the Department an annual statement of deposits, letters of credit, investments, and any income and principal in the trust fund, and changes in the same over the prior year.
- (f) The financial institution serving as a trustee is subject to Department approval, and is limited to the following:
- (i) A bank or trust company chartered by the State of Maine;
 - (ii) A national bank chartered by the Office of the Comptroller of Currency; or
 - (iii) An operating subsidiary of a national bank chartered by the Office of the Comptroller of Currency.

E. Financial Assurance Mechanisms.

- (1) Cash accounts and Certificates of Deposits. When the Department has authorized the Applicant or Permittee to meet its financial assurance obligations through the establishment of a trust fund secured with a cash account or certificate of deposit, the following requirements apply:

- (a) Any interest paid on a cash account must be retained in the account and applied to the account; and
 - (b) The Department shall require that certificates of deposit be made payable to or assigned to the Department, both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against the certificates prior to the Department's acceptance.
- (2) Negotiable bonds. The Department may authorize the Applicant or Permittee to meet its financial assurance obligations through the establishment of a trust fund secured with negotiable bonds.
- (a) Negotiable bonds shall have a fair market value at the time of permit approval in excess of the financial assurance amount by at least 10%. The amount of such excess shall reflect changes in value anticipated over a period of five years, including depreciation, appreciation, marketability and market fluctuation. In any event, the Department shall require a margin for legal fees and costs of disposition of the bonds in the event of forfeiture.
 - (b) The financial assurance value of the negotiable bonds used to secure a trust fund may be evaluated at any time by the trustee or the Department. The Permittee shall increase the assets in the trust fund as necessary. In no case shall the value attributed to the negotiable bonds exceed market value.
- ~~(3) Letters of credit Financial assurances utilizing a letter of credit must meet the terms below, and be unconditional, irrevocable, issued for a period of at least 1 year, include a standby trust, and otherwise be in a form satisfactory to the Department.~~
- ~~(c) Any irrevocable letter of credit must be issued by a separate financial institution from the trust fund financial institution.~~
 - ~~(b) A letter of credit must be issued by:
 - ~~(i) A bank chartered by the State of Maine;~~
 - ~~(ii) A national bank chartered by the Office of the Comptroller of Currency; or~~
 - ~~(iii) An operating subsidiary of a national bank chartered by the Office of the Comptroller of Currency.~~~~
 - ~~(e) When a letter of credit is used as financial assurance, the issuing financial institutions must be acceptable to the Department and the institution must have sufficient resources and assets to demonstrate that there is certainty the money will be available should the Department need to draw the funds.~~
 - ~~(d) At least 120 days before the expiration date, the financial institution issuing the letter of credit shall notify the Permittee and the Department if the letter of credit will not be renewed for an additional 1 year period. If the Permittee is unable to obtain a letter of credit that complies with this Chapter prior to 45 days before the expiration of the current letter of credit, the financial assurance shall be forfeited and the Department shall~~

~~immediately draw all funds under the letter of credit and deposit those in the standby trust fund. Mining operations shall not resume until the Department has determined that an acceptable replacement financial assurance has been provided. If an acceptable financial assurance is provided within a timeframe specified by the Department, not to exceed 180 days, the forfeited funds, less any costs associated with the forfeiture including the Department costs, will be refunded to the financial institution issuing the letter of credit. If adequate financial assurance is not provided within the specified timeframe, the Department will authorize reclamation, closure, post-closure maintenance and monitoring, and corrective actions of the mining operation using the forfeited funds. The Permittee must also take all other measures necessary to maintain the letter(s) of credit as provided herein and to assure such letter(s) do not expire unless replaced with another duly qualified letter.~~

~~(e) The Permittee and the letter of credit institution must be independent of one another. A financial arrangement in the form of a bond but that otherwise qualifies as a letter of credit meeting the requirements of this section, including the ability of the Department to draw upon the bond at its sole discretion, shall be considered a letter of credit for purposes of this Chapter.~~

~~(f) The letter of credit, trust fund, and standby trust fund language must be modeled after the respective instrument language in 40 CFR 264.151 as modified to cover mining activities and meet the needs of this Chapter.~~

~~(4) Surety bond requirements. Mining operations producing only Group C wastes and utilizing a surety bond must meet the following requirements:~~

~~(a) Surety bonds must be properly executed by an acceptable surety licensed to conduct business in the State of Maine, with the seal of corporate surety affixed, accompanied by the power of attorney showing proof of signing authority as surety's representative. Surety bonds must be issued by a qualified surety approved by the U.S. Department of Treasury and must have an A- or greater rating on the AM Best requirements.~~

~~NOTE: A listing of U.S. Department of Treasury certified surety companies may be found at <http://www.fms.treas.gov/e570>~~

~~(b) Surety bonds shall be non-cancellable during their terms and be written such that they guarantee payment into the trust fund.~~

~~(c) Surety bonds shall be established for a minimum of ten (10) years. The surety must send notice of cancellation of the surety bond to the Department and the Permittee one hundred and twenty (120) days prior to the expiration of the term if the surety intends to not renew the surety. The Permittee must within ninety (90) days provide the Department with a continuation surety bond or another form of financial assurance in compliance with these rules to replace the surety bond. If adequate financial assurance is not provided 30 days prior to the expiration of the term of the original surety bond, the Permittee shall cease operations and forfeit the existing surety bond. Mining operations shall not resume until the Department has determined that an acceptable replacement financial assurance has been provided. If an acceptable financial assurance is provided within a timeframe specified by the Department, not to exceed 180 days, the forfeited funds, less any costs associated with the forfeiture including the Department costs, will be refunded to the~~

~~surety company. If adequate financial assurance is not provided within the specified timeframe, the Department will undertake reclamation, closure, post-closure maintenance and monitoring, and corrective actions of the mining operation using the forfeited funds.~~

F. Release of Financial Assurance

- (1) When requesting release of financial assurance funds, the Permittee shall submit to the Department:
 - (a) An environmental evaluation of the mining operation, mining site, affected areas, waste units, reclamation and any required corrective action to ensure that any remaining problems are identified and corrected before financial assurance funds are released;
 - (b) A detailed cost breakdown of the expended funds and the amount of money requested by the Permittee to be released from the trust fund; and
 - (c) A detailed cost breakdown of the funds needed to complete the actions contained in subsection 17(F)(1)(a) above.
- (2) At the time the financial assurance release request is filed with the Department, the Permittee shall submit proof that notice of the request has been mailed by certified mail to abutters, as determined by local tax records or other reliable means, to the municipal office of the municipality(ies) where the project is located and, if the project is located in the unorganized or deorganized areas of the State, to the appropriate county commissioners. The notice must also be published once per week for four (4) successive weeks in a newspaper with statewide circulation. Copies of the published notice must be submitted with the application. The notice must include the following information:
 - (a) The Permittee's name;
 - (b) Permit number and approval date;
 - (c) The precise location of the real property affected;
 - (d) The number of acres;
 - (e) The type and amount of financial assurance;
 - (f) The type and appropriate dates of reclamation, closure, post-closure maintenance, monitoring, and corrective actions;
 - (g) A description of compliance with the Permittee's approved permit and mine plan; and
 - (h) The name and address of the Department contact, to whom written comments, objections, or requests for public hearings on the financial assurance release request may be submitted.
- (3) The Department shall provide notice of the receipt of the request for release of financial assurance to the Department of Inland Fisheries and Wildlife, Department of Agriculture, Conservation and Forestry, and other state and federal agencies deemed appropriate.

- (4) The Department shall post the public notice on the Department webpage dedicated to this permit.
- (5) Release inspection by the Department. Upon receipt of the complete request for release of financial assurance, the Department shall conduct a release inspection and evaluation of the reclamation, closure, post-closure maintenance and monitoring, and corrective actions completed at the mine site. The surface owner or lessor of the real property, other state and federal agencies as listed in this section, and any persons who have requested advance notice of the inspection shall be given notice of the release inspection and may be present at that inspection as may other members of the interested public to the extent reasonably practicable. The Department may arrange with the Permittee to allow access to the permit area, upon request, by any person with an interest in the financial assurance release, for the purpose of gathering information relevant to the proceeding. Nothing in this subsection prevents the Department from making additional inspections of the reclamation, closure, post-closure maintenance and monitoring, and corrective actions completed at the mine site
- (6) Public Hearing
 - (a) The Department shall hold a public hearing on all requests for release of the financial assurance, and the Department shall inform all persons who have requested notice of hearings and persons who have filed written objections in regard to the request of the time and place of the hearing at least 30 days in advance of the public hearing. The hearing shall be held in the area of the permitted facility.
 - (b) The date, time and location of the public hearing shall be advertised by the Department in a newspaper of statewide circulation once a week for two consecutive weeks. All persons who have submitted a written request in advance to the Department to receive notices of hearings shall be provided notice at least 30 days prior to the hearing. The hearing procedures of 06-096 C.M.R. ch. 3 will be followed.
 - (c) Within 90 days after a public hearing has been held pursuant to this section, the Department shall notify in writing the Permittee, trustee, ~~surety~~ or other persons with an interest in collateral, and the persons who either filed objections in writing or participants in the hearing proceedings who supplied their contact information to the Department, if any, of the decision to release the financial assurance. The Department does not release the Permittee from any mining obligations, reclamation, closure, post-closure, or corrective action requirements or third party liability as a result of releasing any funds.
 - (d) If the Department denies the release application or portion thereof, the Department shall notify the Permittee, ~~the surety~~ and any person with an interest in collateral in writing, stating the reason for denial.

G. Forfeiture of Financial Assurance to the Department. If a Permittee refuses or is unable to conduct or complete reclamation, closure, post-closure maintenance and monitoring, and corrective actions of the mining operation, if the terms and conditions of the permit are not met, or if the Permittee fails to comply with the conditions under which the financial assurance was accepted, the Department shall take the following action to require forfeiture of all or part of the financial assurance for the mine or an increment of the mine.

- (1) Send written notification by certified mail, return receipt requested, to the Permittee, and the Trustee ~~and the surety, if any~~, informing them of the determination to forfeit all or part of the

financial assurance, including the reasons for the forfeiture, and the amount to be forfeited. The amount shall be based on the estimated total costs of completing reclamation, closure, post-closure maintenance and monitoring, and corrective actions.

- (2) Upon failure to comply with the conditions under which the financial assurance was accepted, the Department may cause the forfeiture of any and all financial assurances to complete reclamation, closure, post-closure maintenance and monitoring, and corrective actions for which the financial assurance was provided. Financial assurance liability shall extend to the entire mining site under conditions of forfeiture.

H. Insurance Requirement. The Applicant must include, as part of its application, and the Permittee must provide annually thereafter as part of the mining and reclamation report required under subsection 26(B) of this Chapter, proof of comprehensive general liability insurance for the site for sudden and accidental occurrences. Non-sudden occurrence insurance may be required by the Department on a case by case basis and, and shall be required whenever there are land disposal units, land storage units, or mine waste units. The insurance underwriter(s) must be approved by the Department. Requirements include, but are not limited to, the following:

- (1) Liability insurance coverage must be provided during operation, reclamation, corrective actions, closure, and, where mine wastes will remain on the site after closure, during the post-closure maintenance period;
- (2) The level of coverage for sudden and accidental insurance must be at least \$10 million per occurrence and \$20 million annual aggregate, unless because of a greater risk, a higher minimum is required by the Department for a particular site;
- (3) The level of coverage for non-sudden insurance must be at least \$6 million per occurrence and \$12 million annual aggregate, unless because of a greater risk, a higher minimum is required by the Department for a particular site;
- (4) All liability insurance coverage amounts must be exclusive of legal defense costs;
- (5) An Applicant/Permittee may not self-insure. If liability insurance is unavailable, an irrevocable letter of credit drawn upon a reputable bank which meets the following criteria of ~~subsection 17(E) above~~, may be utilized in lieu of liability insurance for sudden and accidental and non-sudden occurrences:

(a) Letters of credit must meet the terms below, and be unconditional, irrevocable, issued for a period of at least 1 year, and otherwise be in a form satisfactory to the Department.

(i) Any irrevocable letter of credit must be issued by a separate financial institution from the trust fund financial institution.

(ii) A letter of credit must be issued by:

(A) A bank chartered by the State of Maine;

(B) A national bank chartered by the Office of the Comptroller of Currency; or

(C) An operating subsidiary of a national bank chartered by the Office of the Comptroller of Currency; and

(b) When a letter of credit is used as liability insurance, the issuing financial institutions must be acceptable to the Department and the institution must have sufficient resources and assets to demonstrate that there is certainty the money will be available should the Department need to draw the funds;

(c) The Permittee and the letter of credit institution must be independent of one another; and

(d) The letter of credit must be modeled after the respective instrument language in 40 CFR 264.151 as modified to cover mining activities and meet the needs of this Chapter.

(6) The liability insurance policy may not be written as a “claims made” policy unless approved by the Department.

18. Failure to Maintain Financial Assurance. A failure to provide financial assurance in accordance with this Chapter constitutes grounds for the Commissioner to order the immediate suspension of mining activities including, but not limited to, suspending the extraction of metallic product or removal of metallic product from the site.

Subchapter 5: STANDARDS FOR ADVANCED EXPLORATION AND MINING STANDARDS

19. General Provisions

- A. Compliance.** A Permittee or Applicant shall comply with all applicable standards and requirements under the Act, the provisions of the mining permit, and this Chapter.
- B. Performance-Based Standards.** To the extent feasible, standards contained in this Chapter are performance-based. To the extent that this Chapter includes standards that are not performance-based, a Permittee or Applicant may propose an alternative means of compliance that achieves equivalent performance. If the Applicant proposes a control device or measure, it must demonstrate that there is reasonable assurance that the device or measure will achieve the performance standard. The Department is not required to approve any alternative means of compliance. Control devices or measures may be reassessed at any time, and if the Department determines that the control device or measure no longer achieves the performance standard, the Department may require remedial actions, including but not limited to, the implementation of additional control devices or measures, a corrective action work plan, temporary suspension of mining activity, and the cessation of all mining activity.
- C. Burden.** The Permittee or Applicant shall affirmatively demonstrate that all proposed or undertaken actions, devices, or measures will meet the minimum requirements of this Chapter, the Act, and the mining permit.
- D. Disclosure.** The Permittee or Applicant must disclose fully all relevant facts applicable to the provisions of this Chapter, the Act, and the mining permit.
- E. Required Information.** The Permittee or Applicant must provide the information necessary to demonstrate that the methods, materials, and techniques proposed to be used are capable of accomplishing their stated objectives in protecting the environment and public health and safety. The information may consist of results of actual testing, modeling, documentation by credible independent testing and certified organizations, or documented applications in similar uses and settings.

- F. Certification.** All submitted information must be accurate, complete, and acknowledged as such by the signature of an authorized agent of the Permittee or Applicant. Documents, plans, and reports submitted in support of applications must be signed and stamped by qualified professionals as required.
- G. Qualified Professional.** All data collection, analyses, modeling, design, inspection, operation, monitoring, data synthesis, and documentation and reporting shall be conducted by qualified professionals.
- H. Independent Reviewer.** The Department may retain an independent reviewer to assist in the review of documents, plans, models, designs, studies, analysis, characterizations, applications, amendments, financial assurance mechanisms, field operations, and any other submission.
- I. Additional Information.** If required by the Department to establish that the Applicant has met the minimum requirements of the rule, Act and mining permit, the Applicant or Permittee shall provide any additional data, monitoring, testing, modeling, characterization, or additional synthesis and interpretation of submitted data, analysis, and information required by the Department.
- J. Public Health and Safety.** The Permittee and Applicant shall make adequate provisions for the protection of public health and safety.

20. Performance Standards

- A. General Requirements.** All mine operations and waste units shall be designed, constructed, operated and maintained during the development, operation, closure, and post-closure maintenance period in a manner that:
- (1) Meets the performance requirements for groundwater, surface water, air, soils, or surficial materials established under this Chapter;
 - (2) Minimizes acid generation, metal leaching, and acid rock drainage within the mining areas;
 - (3) Provides structural stability;
 - (4) Protects public health and the environment including all applicable air and water quality standards and criteria;
 - (5) Otherwise complies with applicable federal, state, county and municipal laws, regulations and ordinances; and
 - (6) Eliminates the need for perpetual treatment following closure.
- B. Siting**
- (1) Mining operations involving the removal of metallic minerals, the storage of metallic minerals or mine waste, the processing of metallic minerals, or the treatment of mine waste may not be placed in or on floodplains or flood hazard areas, ~~as long as they are designed, constructed, operated and reclaimed in a manner that complies with the approval criteria of the Natural Resources Protection Act, 38 M.R.S. § 480-A et seq. and the Department~~

~~regulations implementing it.~~ The Applicant must demonstrate that all development not prohibited in these areas is secure from flooding and erosion under flood height and velocity conditions equal to or greater than the 500-year flood.

- (2) Buffers. Mining operations shall be designed, constructed, and monitored so that the operation is compatible with surrounding non-mining uses.
 - (a) Existing terrain and vegetation or vegetated berms must be used to diminish impacts of mining activities.
 - (b) Buffers must be marked or otherwise established in any area of the site where their construction is determined by the Department to be necessary to mitigate sound or visual impact, provide water quality treatment or for any other purpose before beginning operations.
 - (c) Mine waste units and beneficiation facilities must be set back a minimum of 1,000 feet from a property boundary of lands not owned or controlled by the Permittee or a public or private drinking water supply. Mine waste units and beneficiation facilities may not be located in the wellhead protection areas or source water protection areas of public water supplies.
 - (d) The limit of excavation must be set back a minimum of 1,000 feet from a public water system and 300 feet from a private water system and a property boundary of lands not owned or controlled by the Permittee. Upon receipt of written permission from the abutting property owners and all owners of property whose wells are located within 300 feet of the limit of excavation, the 300-foot setback may be reduced to 100 feet.
 - (e) All activities other than mine waste units and beneficiation facilities and the limit of excavation must be set back a minimum of 300 feet from a property boundary of lands not owned or controlled by the Permittee, a public or private drinking water system, or a public road. Upon receipt of written permission from the abutting property owner, the 300-foot property boundary setback may be reduced to 100 feet.
 - (f) The minimum setback requirements described above apply to any mining project; however, the Department may require a greater setback if submission materials or other information demonstrate an increased setback or buffer is necessary to protect the environment and public health and safety.
- (3) The removal of metallic minerals in, on or from a river, stream or brook, as defined in 38 M.R.S. § 480-B(9); a great pond, as defined in 38 M.R.S. § 480-B(5); a freshwater wetland, as defined in 38 M.R.S. § 480-B(4); or a coastal wetland, as defined in 38 M.R.S. § 480-B(2) is prohibited. ~~Mining prohibited. Removal of ore, preparation, washing, cleaning or other treatment of metallic minerals in or on great ponds, rivers, brooks and streams, and coastal wetlands as defined in 38 M.R.S. § 480-B is prohibited,~~ except that gold panning and recreational motorized gold prospecting are permitted pursuant to 38 M.R.S. §§ 480-Q(5) and 480-Q(5-A) and are exempt from the requirements of this Chapter.
- (4) Surface mining shall not be allowed within 1 mile, and underground mining within ¼ mile of the jurisdictional limits of the following unless the Applicant can demonstrate to the satisfaction of the Department that there are topographical features that provide sufficient protection of the resource, the environment and public health and safety. These setbacks

shall apply unless and until another state or federal agency with management authority determines that mining is allowed in or on the following:

- (a) National and state parks;
- (b) National wilderness areas;
- (c) National wildlife refuges;
- (d) The Allagash Wilderness Waterway;
- (e) State-owned wildlife management areas pursuant to 12 M.R.S. § 10109(1);
- (f) State or national historic sites;
- (g) Any river designated pursuant to the federal Endangered Species Act as critical habitat for Atlantic salmon;
- (h) One of the 66 great ponds located in the State's organized area identified as having outstanding or significant scenic quality in the "Maine's Finest Lakes" study published by the Executive Department, State Planning Office in October 1989; and
- (i) One of the 280 great ponds in the State's unorganized or de-organized areas designated as outstanding or significant from a scenic perspective in the "Maine Wildlands Lakes Assessment" published by the Maine Land Use Regulation Commission in June 1987.

The Department may require a greater setback if submission materials or other information demonstrate an increased setback is necessary to protect the environment and public health and safety.

(5) No part of the mining operation may be located wholly or partially in, on or under any state land listed in 12 M.R.S. § 549-B(7)(C-1).

(6) The mining operation may not involve placement of a mine shaft in, on or under a significant river segment, as identified in 38 M.R.S. § 437; an outstanding river segment, as identified in 38 M.R.S. § 480-P; an outstanding river, as identified in 12 M.R.S. § 403; a high or moderate value waterfowl and wading bird habitat that is a significant wildlife habitat pursuant to 38 M.R.S. § 480-B(10)(B)(2); a great pond, as defined in 38 M.R.S. § 480-B(5); or a coastal wetland, as defined in 38 M.R.S. § 480-B(2).

C. Erosion, Stormwater, and Dust Management. All affected areas and mining areas of the site must be designed, constructed, and operated so as to:

- (1) Effectively control erosion. The mining activity shall not cause or contribute to unreasonable erosion of soil or sediment, nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment. The erosion and sedimentation control practices must:

NOTE: For guidance on erosion and sedimentation control practices, consult with the *Maine Erosion and Sediment Control Best Management Practices (BMPs)*.

- (a) Maintain the stability of the site including, but not limited to, preventing unacceptable settling, subsidence, voids, caving, or slope failures. All excavated and reclaimed areas must be designed, constructed and stabilized to:
 - (i) Withstand natural geologic processes and climatic conditions without failure that would be a threat to public safety and the environment;
 - (ii) Minimize post-reclamation visual contrasts between reclamation lands and adjacent lands appropriate for the final land use specified in the reclamation plan; and
 - (iii) Either exclude humans and wildlife, or provide safe ingress and egress at selected locations, from any temporary or permanent water bodies resulting from the mining activities.
 - (b) Place overburden and other materials approved by the Department in a manner that promotes vegetation establishment.
 - (c) Stockpile and stabilize all topsoil until it can be used for reclamation.
- (2) Effectively manage stormwater. Stormwater management practices must meet the standards of 06-096 C.M.R. ch. 500.
- (3) Effectively manage dust. Dust generated by mining operations, including dust associated with traffic to and from the mining areas and affected area, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Visible emissions from a fugitive emission source may not exceed an opacity of 20% for more than 5 minutes in any one-hour period.

D. Underground Mine Openings. The Applicant and Permittee shall design, construct, operate and maintain underground mine openings to prevent unauthorized entry and, to the extent feasible and practicable, to minimize the risk of unacceptable settling, subsidence, voids, or caving.

E. Reactive Mine Waste Characterization. All designated chemical materials potentially encountered, used or generated during metallic mineral mining or advanced exploration must be analyzed and characterized as follows:

- (1) Testing. Mine waste and designated chemical materials characterization and analysis must identify the characteristics of the mine wastes. This analysis must evaluate the quantities, variability, physical and chemical properties of mine waste necessary for predicting the potential environmental impacts of mine waste handling, storage, treatment, and disposal, and for determining specific treatment, disposal, and storage design. This evaluation must be conducted prior to the issuance of a permit and thereafter as determined by the Department and must include, but not be limited to, evaluation of the following:
 - (a) Changes in the character of the mine waste, and designated chemical materials managed at the site; and
 - (b) Changes in the design, operation, or management at the site which may potentially alter the characterization or the stability or other characteristics of tailings and other mine waste.

- (2) Mine Waste Evaluation. Testing must be performed on representative samples of individual mine waste from the extraction and beneficiation process, and of composite mine waste or other materials where mixed storage or disposal of individual mining waste is proposed. The major components of mine waste characterization and analysis must include, but are not limited to, the following:
 - (a) Identification of all mine waste which will be disposed of, stored or handled at the site, or removed from the site including classification of waste types, estimation of the generation rates and volumes of each type, and an explanation of the ultimate disposition of each type;
 - (b) Chemical, petrological, and mineralogic analyses of the mine wastes;
 - (c) Description of expected particle size distributions of waste rock and analysis of particle size distribution of mill tailings;
 - (d) Determination of the potential for metal leaching and acid rock drainage for mine waste (waste rock, tailings, and mine walls). At a minimum, the characterization must consider the short- and long-term acid generating characteristics of the mine waste, considering the acid generating content of the materials, the particle size and particle form of the acid generating material, and the spatial distribution of its particles, the neutralizing effect of host materials and the effects of weathering, erosion, and sedimentation; and
 - (e) Determination of the leaching potential of the mine wastes and determination of the composition of the resulting leachate.
- (3) Mine Waste Characterization. The Applicant shall describe in detail its proposed mine waste characterization work plan including, but not limited to, the methods of obtaining samples of mine waste, sample size, sample preparation, sample shipment, testing schedule, and frequency and chain-of-custody methods employed in evaluating the mine waste characteristics, and must provide justification for the use of such methods. The metal leaching and acid generating potential for mine waste must be determined by a static test method and confirmed by a kinetic test method. The Applicant shall submit its mine waste characterization work plan to the Department for review and approval.

F. Mine Waste Classification. Based on the mine waste characterization required above, the Applicant shall propose, subject to the approval of the Department, classification of each mine waste as a Group A, Group B, or Group C waste according to the following criteria:

- (1) The mine waste has an acid-generating potential or exhibits a characteristic of hazardous waste as defined in 06-096 C.M.R. ch. 850. Such waste must be classified as Group A wastes.

NOTE: Group A wastes may include, but are not limited to, waste rock, tailings, and leachate derived from those wastes.

- (2) The mine waste has no acid-generating potential and may release soluble pollutants at concentrations which exceed performance requirements for groundwater or surface water. Such waste must be classified as Group B waste.
- (3) The mine waste does not have the potential to violate water quality standards other than sedimentation or turbidity. Such waste must be classified as Group C waste.

G. Reactive Mine Waste and Designated Chemical Materials Management Systems

- (1) Reactive mine waste and designated chemical materials management systems must provide for containment, unless the material has been neutralized or stabilized and will not cause a direct or indirect discharge of pollutants that could reasonably result in a condition of nonattainment of water quality standards or noncompliance with the performance standards of this Chapter. Mining operations must use dry stack tailings management for the management of mine waste and tailings, except that the mining operation may involve the placement into a mine shaft of waste rock that is neutralized or otherwise treated to prevent contamination of groundwater or surface water. Reactive mine waste and designated chemical materials management systems must be designed and operated to prevent the contamination of groundwater and surface water or generate acid rock drainage above the primary drinking water standards adopted pursuant to 22 M.R.S. § 2611, applicable water quality-based license conditions established pursuant to 38 M.R.S. § 413 and §§ 464, 465-C, and 470 or groundwater quality baseline conditions.
- (2) Reactive mine waste and designated chemical materials management systems must provide for the collection, treatment and disposal of any water containing mining activity contamination derived from reactive mine waste, designated chemical materials, or combinations of reactive mine waste and designated chemical materials with a reasonable potential of migrating beyond designated containment areas in compliance with the Act, this Chapter and the mining permit as well as other applicable state and federal standards. The collection, treatment and disposal methods must be designed to ensure that discharges to affected areas must meet water quality standards without requiring treatment as soon as practicable, but in no case greater than 10 years post-closure. The Permittee must design mine waste units capable of operating without such treatment after that time.

H. Containment Structures

- (1) Containment structures include waste containments, dry stack tailings management structures, tailings impoundments, water impoundments, and other on-site-constructed tanks and containments.
- (2) Waste rock, dry stack tailings management structures and waste containments, ~~and tailings impoundments~~ must be designed based on the results of the waste classification determined through the Reactive Mine Waste requirements of this Chapter. Liner and leachate collection systems, if required, must meet the minimum design standards contained in section 21 of this Chapter.
- (3) Containment structures must be designed, constructed, and maintained to prevent embankment overtopping, with adequate freeboard, during the Probable Maximum Flood (PMF) precipitation and snowmelt event considering maximum wind and fetch.
- (4) Containment structures must be designed and constructed to be structurally stable. The stability assessment must include analysis of potential failure planes which pass through or along: the foundation soils, the waste mass, and/or liner system components for both static and seismic conditions. The stability assessment must be supported by corroborative field and laboratory data that defines the site geology and hydrogeology, the geotechnical characteristics, the waste mass characteristics, and the geosynthetic characteristics, as applicable. If approved by the Department, projected strength gain of the foundation soils

may be incorporated into the analysis provided monitoring adequate to verify the projected strength gain is proposed. Stability assessments must meet the following requirements.

- (a) Containment structures built with an earthen component must have minimum static factors of safety of 1.30 during construction and operations and 1.50 following closure. The Department may require higher factors of safety based on the risks and consequences of failure.
- (b) Containment structures built with an earthen component must meet the following seismic stability requirements:
 - (i) The minimum factor of safety must be 1.10 when designed to withstand the peak ground acceleration having a 10% probability of exceedance in 50 years (a 475-year return period) during construction and operations. The Department may require higher factors of safety based on the risks and consequences of failure.
 - (ii) The minimum factor of safety must be 1.00 when designed to withstand the peak ground acceleration having a 2% probability of exceedance in 50 years (a 2475-year return period) following closure. The Department may require higher factors of safety based on the risks and consequences of failure.
 - (iii) The peak ground accelerations must be determined from the National Seismic Hazard Maps published by the United States Geological Survey or a site specific seismic shaking hazard assessment and must be amplified as appropriate considering the properties of the soils underlying the containment structure, the engineered systems, and/or the waste mass; and
 - (iv) Unless otherwise approved by the Department, the seismic stability assessment must include an evaluation of permanent deformation, an evaluation of waste and soil strength loss due to cyclic loading, an evaluation of post-cyclic stability, and an evaluation of liquefaction potential.
- (6) Containment structures must contain adequate slope protection to prevent erosion.
- (6) Containment structures must be operated to place a cover over reactive mine materials as soon as practicable to isolate the reactive mine materials from precipitation and air.
- (7) Containment structures must be operated in a manner that provides for segregation of designated chemical and reactive mine materials, metallic mineral product, ore, tailings, lean ore, waste rock, surface overburden, and topsoil, as applicable, unless these materials are placed together for a beneficial purpose as described in the mine plan.
- (8) Containment structures must be designed, constructed and maintained to promote contemporaneous reclamation.

I. Storage Piles. The Applicant and Permittee shall design, construct, operate and maintain storage piles:

- (1) Such that the function and stability of the piles are suitable to their purpose and they do not represent a substantial threat to the environment and public health and safety;

- (2) In a manner that promotes contemporaneous reclamation;
- (3) Such that runoff water is removed by drainage control structures and receives treatment appropriate to the nature and volume of the water and the nature of the material stockpiled; and
- (4) Such that each storage pile is constructed, operated, and monitored according to standard operating procedures consistent with this Chapter and these practices are documented with detailed designs, schedules and monitoring and operating procedures approved by the Department.

J. Water Quality and Water Management Systems. The Applicant and Permittee shall design, construct, operate, and maintain all mining operations and related activities water management systems:

- (1) So as to minimize disturbances to the prevailing hydrologic balance of the affected areas to the extent practicable and feasible;
- (2) In a manner that does not cause or increase the potential for injury to life or damage to property or natural resources due to hydrologic changes compared to baseline conditions;
- (3) In a manner that mining activity withdrawals of groundwater or surface water will not adversely affect existing uses or natural resources and that comply with the Natural Resources Protection Act, 38 M.R.S. § 480-A *et seq.* and the Water Classification Program, 38 M.R.S. §§ 464-470;
- (4) Such that pollutants attributable to mining activities do not cause or contribute to non-attainment of applicable water quality criteria in surface water resources and comply with the terms and conditions of applicable waste discharge licenses issued pursuant to 38 M.R.S. § 413;
- (5) Such that pollutants attributable to the mining operation do not contaminate groundwater resources of the affected areas; Notwithstanding 38 M.R.S. §§ 465-C and 470, contamination of groundwater from activities permitted under this Chapter may occur within a mining area, but such contamination must be limited and may not result in:
 - (a) Contamination of groundwater beyond the mining area;
 - (b) Contamination of groundwater within the mining area that exceeds applicable water quality criteria for pollutants other than pH or metals;
 - (c) Contamination of groundwater within the mining are due to pH or metals that exceeds limits set forth in the mining permit by the Department based on site-specific geologic and hydrologic characteristics;
 - (d) Any violation of surface water quality standards under 38 M.R.S. § 413 or Title 38 Chapter 3, Subchapter 1, Article 4-A (Water Classification Program); or
 - (e) If groundwater or surface water quality within the mining area prior to the commencement of any mining activity exceeds applicable water quality standards, further degradation of such groundwater or surface water quality.

In determining compliance with this standard, the Department shall require groundwater monitoring consistent with the standards established pursuant to 38 M.R.S. § 490-00(3) and section 22 of this Chapter.

Notwithstanding subsection 2(NNN) of this Chapter, for the purposes of this subsection “mining area” means an area of land, approved by the Department and set forth in the mining permit, not to exceed 100 feet in any direction from a mine shaft, surface pit or surface excavation, and does not include the following lands, regardless of the distance of such land from a mine shaft, surface pit or surface excavation: the land on which material from mining is stored or deposited; the land on which beneficiating or treatment facilities are located; the land on which groundwater and surface water management systems are located or the land on which water reservoirs used in a mining operation are located;

- (6) Such that surface water and stormwater from the mining areas and affected areas are managed consistently with subsections 20(C), 20(G), and 20(H), above; and
- (7) Such that run-on/runoff control systems include:
 - (a) A run-on control system to prevent or control surface water flow onto the mine waste unit during the peak discharge from at least a 24-hour, 500-year storm;
 - (b) A runoff control system to collect, control and treat surface water from the mine waste unit of at least the water volume resulting from a 24-hour, 500-year storm; and
 - (c) Surface impoundments associated with waste units, if any, that are designed, constructed, maintained, and operated to prevent overtopping as a result of a 24-hour, 500-year storm event. An emergency overflow spillway shall be provided for storm events equivalent to the 24-hour, 500-year storm.

K. Blasting. The Applicant and Permittee must ensure that the blasting is conducted in accordance with applicable standards of the State Fire Marshal’s Office.

- (1) The Permittee shall use sufficient stemming, matting or natural protective cover to prevent flyrock from leaving property owned or under control of the Permittee or from entering protected natural resources or natural buffer strips. Crushed rock or other suitable material must be used for stemming when available. Native gravel, drill cuttings, or other material may be used for stemming only if no other suitable material is available.
- (2) The maximum allowable airblast at any inhabited building not owned or controlled by the Permittee may not exceed 129 decibels peak when measured by an instrument having a flat response (+ or - 3 decibels) over the range of 5 to 200 hertz.
- (3) Monitoring of airblast levels is required in all cases for which a preblast survey is required by paragraph 4. The Department may waive the monitoring requirement if the Permittee secures the permission of affected property owners to increase allowable airblast levels on their property and the Department determines that no protected natural resource will be adversely affected by the increased airblast levels.
- (4) A preblast survey is required for all blasting and must extend a minimum radius of 1/2 mile from the blast site. The preblast survey must document any preexisting damage to structures

and buildings and any other physical features within the survey radius that could reasonably be affected by blasting. Assessment of features such as pipes, cables, transmission lines and wells and other water supply systems must be limited to surface conditions and other readily available data, such as well yield and water quality. The preblast survey must be conducted prior to the initiation of blasting at the operation. The Permittee shall retain a copy of all preblast surveys for at least one year from the date of the last blast on each mining area, as applicable.

- (5) Blasting may not occur in the period between sundown and sunrise the following day or in the period between 7:00 p.m. and 7:00 a.m., whichever is greater. Routine production blasting is not allowed in the daytime on Sunday. Detonation of misfires may occur outside of these times but must be reported to the Department within 5 business days of the misfire detonation. Blasting may not occur more frequently than 4 times per day. Underground production blasting may be exempted from these requirements provided that a waiver is granted by the Department.
- (6) Sound from blasting may not exceed the following limits at any protected location:

Number of Blasts Per Day	Sound Level Limit
1	129 decibels
2	126 decibels
3	124 decibels
4	123 decibels

- (7) The Permittee shall monitor blasting for peak particle velocity using a seismograph capable of measuring three mutually perpendicular peak particle velocities. Seismic measurements shall be conducted adjacent to structures located on lands not owned or controlled by the Permittee, or other locations as determined by the Department. The maximum peak particle velocity at inhabitable structures not owned or controlled by the Permittee may not exceed the levels published by the United States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1, dated 1980.
 - (a) The Department may grant a variance to allow ground vibration levels greater than 2 inches per second on undeveloped property not owned or controlled by the Applicant if the Department determines that no protected natural resource, unusual natural area or historic site will be adversely affected by the increased ground vibration levels. If inhabitable structures are constructed on the property after approval of the development and prior to completion of blasting, the developer immediately must notify the Department and modify blasting procedures to remain in compliance with the standards of this subsection.
 - (b) The Permittee may apply for a variance of the ground vibration monitoring requirement prior to conducting blasting if the Permittee agrees to design all blasts so that the weight of explosives per 8 millisecond or greater delay does not exceed that determined by the equation $W=(D/Ds)^2$, where W is the maximum allowable weight of explosives per delay of 8 milliseconds or greater, D is the shortest distance between any area to be blasted and

any inhabitable structure not owned or controlled by the developer and D_s equals 70 ft./lb.^{1/2}. As a condition of the variance, the Department may require submission of records certified as accurate by the blaster and may require the Permittee to document compliance with the conditions of this paragraph.

- (c) Based upon an approved engineering study, the Department may grant a variance to allow higher vibration levels for certain buildings and infrastructure. In reviewing a variance application, the Department shall take into account that the standards in this subsection are designed to protect conventional low-rise structures such as churches, homes and schools. In cases of practical difficulty, the Department may grant a variance from the ground-vibration standard, with written approval of the property owner, if it can be demonstrated that no adverse impacts on existing infrastructure or protected natural resources, unusual natural areas or historic sites will result, and that no practical alternative to exceeding the ground-vibration standard exists.
- (8) A record of each blast, including seismographic data, must be kept for at least one year from the date of the last blast, and must be available for inspection at the mining site or at the offices of the owner or operator if the mine has been closed, completed or abandoned before the one-year limit has passed. The record must contain at a minimum the following data:
 - (a) Name of blasting company or blasting contractor;
 - (b) Location, date and time of blast;
 - (c) Type of material blasted;
 - (d) Number and spacing of holes and depth of burden or stemming;
 - (e) Diameter and depth of holes;
 - (f) Type of explosives used;
 - (g) Total amount of explosives used;
 - (h) Maximum amount of explosives used per delay period of 8 milliseconds or greater;
 - (i) Maximum number of holes per delay period of 8 milliseconds or greater;
 - (j) Method of firing and type of circuit;
 - (k) Direction and distance in feet to the nearest dwelling, public building, school, church, or commercial or institutional building neither owned nor controlled by the Permittee;
 - (l) Weather conditions, including factors such as wind direction and cloud cover;
 - (m) Height or length of stemming;
 - (n) Amount of mats or other protection used;
 - (o) Type of detonators used and delay periods used;

- (p) The exact location of each seismograph and the distance of each seismograph from the blast;
 - (q) Seismographic readings;
 - (r) Name and signature of the person operating each seismograph; and
 - (s) Names of the person and the firm analyzing the seismographic data.
- (9) All field seismographs must record the full analog wave form of each of the 3 mutually perpendicular components of motion in terms of particle velocity. All seismographs must be capable of sensor check and must be calibrated according to the manufacturer's recommendations.
- (10) Prior to blasting, the Permittee shall develop and implement a plan that provides an opportunity for prior notification of a planned blast for all persons located within 1,000 feet of the blast site. Notification may be by telephone, in writing, by public notice in a newspaper of general circulation in the area affected or by other means identified in the plan. The plan must be in writing and available for inspection by the Department. This plan must include descriptions of audible warnings prior to blasting and other blast safety and notification measures as may be required by other authorities.

L. Air Quality Standards

- (1) Ambient air quality standards. Mining operations shall not discharge air contaminants into the ambient air in such a manner as to violate the Maine ambient air quality standards or emission standards established pursuant to 38 M.R.S. §§ 585, 585-B or 585-K. Mining operations must be designed, constructed and operated in a manner that prevents adverse impacts on air quality, considering:
- (a) The volume and physical and chemical characteristics of potential sources of air emissions at the site, including their potential for volatilization and wind dispersal;
 - (b) The existing air quality, including other sources of air emissions and their cumulative impact on the air;
 - (c) The potential damage to the environment and public health and safety caused by air emissions from the site; and
 - (d) The persistence and permanence of the potential adverse effects to the environment and public health and safety.
- (2) Fugitive emissions. Best management practices and control technology shall be required to control fugitive emissions and other contamination into or upon any land. Where fugitive emissions are anticipated, the Applicant must submit a best management practices plan for control of fugitive emissions indicating the methods the applicant intends to use to minimize fugitive emissions resulting from the mining operation such that emissions and air quality standards are not exceeded. If the Department determines that emissions released from, or as a result of, the mining operation create a risk to the environment or public health and safety, a numeric performance requirement may be established for those emissions. Such risk shall be

determined based on impacts including, but not limited to, direct contact, bioaccumulation in plants and animals, and foodchain concentration that may occur on or off-site.

M. Noise. The Applicant and Permittee shall design, construct, operate and maintain the mining operation so as to prevent an unreasonable noise impact, and must meet the standards established by 06-096 C.M.R. ch. 375, § 10.

N. Preservation of Historic Sites. The Department may not issue a mining permit for a proposed mining operation that will have an adverse impact on the preservation of historic sites.

- (1) **Scope of Review.** In determining whether a proposed mining operation will have an adverse effect on the preservation of historic sites either on or near the mine site, the Department shall consider all relevant evidence to that effect.
- (2) **Terms and Conditions.** The Department, may as a term or condition of approval, establish any reasonable requirement to ensure that a proposed mining operation will not adversely affect preservation of any historic site.

O. Preservation of Unusual Natural Areas. The Department may not issue a mining permit for a proposed mining operation that will have an adverse impact on the preservation of unusual natural areas.

- (1) **Scope of Review.** In determining whether a mining operation will have an adverse effect on the preservation of unusual natural areas either on or near the development site, the Department shall consider all relevant evidence to that effect.
- (2) **Terms and Conditions.** The Department may, as a term or condition of approval, establish any reasonable requirement to ensure that a proposed mining operation will not adversely affect the preservation of unusual natural areas.

P. No Unreasonable Effect on Scenic Character. The Department may not issue a mining permit for a proposed mining operation that will have an unreasonable effect on scenic character.

- (1) **Scope of Review.** In determining whether the proposed mining operation will have an unreasonable adverse effect on the scenic character of the surrounding area, the Department shall consider all relevant evidence to that effect, such as evidence that:
 - (a) The design of the proposed mining operation takes into account the scenic character of the surrounding area.
 - (b) A mining operation which is not in keeping with the surrounding scenic character will be located, designed and landscaped to minimize its visual impact to the fullest extent possible.
 - (c) Structures will be designed and landscaped to minimize their visual impact on the surrounding area.
 - (d) The plans for the proposed mining operation provide for the preservation of existing elements of the mining site which contribute to the maintenance of scenic character.

- (2) Submissions. Applications for approval of proposed developments must include evidence that affirmatively demonstrates that there will be no unreasonable adverse effect on the scenic character of the surrounding area, including information such as the following, when appropriate:
 - (a) Sketches of the proposed mining operation indicating how the mine fits into the scenic character of the area.
 - (b) Landscaping plans for minimizing the visual impact of the parking lots, mining operations and other types of developments.
- (3) Terms and Conditions. The Department may, as a term or condition of approval, establish any reasonable requirement to ensure that the proposed mining operation will have no unreasonable adverse effect on scenic character, such as requiring that:
 - (1) Illumination of the mining operation be limited.
 - (2) Vegetative or architectural screens be established.

Q. Protection of Wildlife and Fisheries. The Department may not issue a mining permit for a proposed mining operation that has not made adequate provisions for the protection of wildlife and fisheries.

- (1) Scope of Review. In determining whether the developer has made adequate provision for the protection of wildlife and fisheries, the Department shall consider all relevant evidence to that effect, such as evidence that:
 - (a) A buffer strip of sufficient area will be established to provide wildlife with travel lanes between areas of available habitat.
 - (b) Proposed alterations and activities will not adversely affect wildlife and fisheries lifecycles.
 - (c) There will be no unreasonable disturbance to:
 - (i) High and moderate value deer wintering areas:
 - (ii) Habitat of any species declared threatened or endangered by the Commissioner, Maine Department of Inland Fisheries and Wildlife or the Director of the U.S. Fish and Wildlife Service:
 - (iii) Seabird nesting islands;
 - (iv) Significant vernal pools;
 - (v) High and moderate value waterfowl and wading bird habitat; and
 - (vi) Shorebird nesting, feeding, and staging areas.
- (2) Submissions. Applications for approval of a proposed mining operation shall include evidence that affirmatively demonstrates that the Applicant has made adequate provision for the

protection of wildlife and fisheries, including information such as the following, when appropriate:

- (a) The location of natural buffer strips and adequate provision for their maintenance; and
 - (b) Plans to mitigate adverse effects on wildlife and fisheries through means that at a minimum include, but are not limited to, design considerations, pollution-abatement practices, the timing of construction activities, and on-site or off-site habitat improvements or preservation.
- (3) Terms and Conditions. The Department may, as a term or condition of approval, establish any reasonable requirement to ensure that an applicant has made adequate provision for the protection of wildlife and fisheries.
- (4) Wildlife Exclusion
- (a) Fencing. All open waters which contain any chemical(s) at levels harmful to wildlife shall be fenced to exclude terrestrial animals. The fence bottom shall be secured tight to the ground to prevent animals from gaining access under the fence. These fences shall be inspected and maintained to prevent wildlife access.
 - (b) Covering or Containment. All waters that contain any chemical(s) at levels harmful to wildlife must be covered or contained in a manner that shall prevent access by wildlife. All covers or containers shall be maintained in a manner that shall continue to prevent access by wildlife for as long as the pond or container could be harmful to wildlife.
 - (c) Chemical Neutralization or Isolation. Any chemical-laden fluids that are the result of any process and that are impounded in an area that is too large to cover or contain must be rendered non-harmful to wildlife prior to outside storage.
- (6) Wildlife Reports. The Permittee shall maintain a record of any wildlife mortalities that occur in association with the permitted facility. Those reports shall be provided quarterly to the Department. In addition, the Permittee shall report all wildlife mortalities that are associated with chemical containing tanks or impoundments by the beginning of the next working day following the occurrence or observation of those mortalities.

21. Mine Waste Unit Design Standards

A. Requirements. Mine wWaste units shall be designed to prevent the direct or indirect discharge of pollutants that could reasonably result in a condition of nonattainment or noncompliance with the performance standards of this Chapter.

- (1) The design of waste units for the management of Group A mine waste shall provide for a liner system which includes a composite liner. A leachate collection and removal system above the composite liner shall be incorporated into the design. A composite liner shall consist of the following:
 - (a) A clay or compacted till bottom liner having a permeability of less than or equal to 1×10^{-6} cm/sec with a minimum 2-foot thickness; and
 - (b) A High-Density Polyethylene (HDPE) liner having a minimum thickness of 60 mils.

- (2) The design of waste units for the management of Group B mine waste must provide for a clay or till bottom liner having a permeability of less than or equal to 1×10^{-7} cm/sec with a minimum 3-foot thickness. A leachate collection and removal system above the liner must be incorporated into the design.
- (3) Leachate ponds must be provided with the composite liner system described in subsection 21(A)(1) of this Chapter except that leachate collection and removal are not required. An emergency spillway must be included in the design. Leachate ponds must have a minimum 2 feet of freeboard measured to the lowest spillway elevation or an additional capacity volume equal to 25% of the total required capacity, whichever provides greater storage volume. Additional freeboard or other measures may be required to contain wave action as necessary. Leachate ponds must have a means installed to measure leachate depth within the ponds.
- (4) If stabilization of Group A and Group B mine waste may be ineffective in preventing pollutant release, the design must include a system for detection of leaks and leak recovery, or other engineered system as may be required by the Department.
- (5) If a mine waste unit will generate leachate, the Applicant shall provide a description of the leachate management methods for the unit, including a process flow diagram for water use and reuse at the site, and a water balance for each unit. In evaluating the water balance for each unit, the volume of leachate generated must be based on the most recent historical annual precipitation data, with a minimum of a 15-year database, and the leachate storage volume must include capacity for the precipitation from a 24-hour, 500-year storm falling on the mine waste unit and the leachate storage pond.
- (6) Leachate collection and removal systems must be designed to maintain 12 inches or less of leachate head on the liner system.
- (7) The Department reserves the right to require additional and/or alternative waste unit design elements if necessary to protect the environment and public health and safety.

B. Alternative Design Process. Alternatives to the minimum design standards and requirements may be proposed by the applicant. A variance request is not required for proposals which meet the requirements of this paragraph. The Applicant shall submit the following documentation to clearly and convincingly demonstrate technical equivalency of a proposed alternative:

- (a) A discussion of the benefits of the proposed alternative technology;
- (b) A discussion of the risks and drawbacks of the proposed alternative technology;
- (c) An assessment of similar applications of the proposed alternative technology;
- (d) A demonstration that the alternative technology will provide equal or superior performance to the component it is proposed to replace, or that its inclusion within a system will result in equal or superior performance of that system;
- (e) An assessment of the feasibility of constructing the proposed alternative, including the ability to provide an adequate level of quality assurance and quality control. A demonstration of the feasibility of construction may be required; and

- (f) An assessment of the likelihood that the proposed alternative will perform as designed through operations, closure, and post-closure periods.

C. Tailings Management. All tailings must be managed in dry stack tailings management units. Notwithstanding section 21(B), no alternative tailings management designs or technologies will be approved.

22. Monitoring and Reporting Requirements

- A. The Permittee shall conduct monitoring in accordance with this Chapter, the mining permit, and the Act. The Applicant shall prepare an integrated environmental monitoring plan for the site.
 - (1) The plan detailing how the Applicant proposes to comply with this section must be submitted with the application and will be reviewed and approved by the Department as part of the application. All sample collection and analysis conducted under the monitoring program must specify sampling frequencies, procedures and techniques for sample collection, sample preservation and shipment, sample data sheets, analytical procedures and detection limits, chain-of-custody control, data validation and reporting methods, sampling and analytical quality assurance, quality control procedures, and include a description of sampling locations, a sampling location map, dates of sample collection, and other information determined to be necessary by the Department. The monitoring plan must be prepared by a qualified professional.
 - (2) Parameters analyzed from any samples at each monitoring point shall be based on the potential threat from the mine, mine waste or designated chemical materials used on the site, the transformation and degradation products of those materials as well as general indicator parameters of contamination associated with a release of those materials.
 - (3) Baseline conditions specific to each monitoring location and parameter identified in the monitoring plan must be established such that a statistically significant change from baseline conditions indicative of declining water quality, or other evidence of adverse environmental impact may be identified in the compliance monitoring dataset.
 - (4) All monitoring data shall be submitted to the Department in an electronic format prescribed by the Department.
- B. The monitoring plan must include the following elements:
 - (1) Groundwater. The following groundwater monitoring criteria apply to all mining operations:
 - (a) The monitoring system must have a sufficient number of groundwater wells, at appropriate depths and locations, to detect contamination of groundwater. Downgradient monitoring wells must be placed as close to all mining operations as practicable, but in no case greater than 100 feet away, unless placing additional wells at a greater distance enhances the ability to detect a release from the site as determined by the Department. In such a case, the Department may require the placement of additional monitoring wells more than 100 feet from the mining operations.
 - (i) The points to be monitored for compliance with the groundwater standards for the purposes of determining contamination pursuant to 38 M.R.S. § 490-MM(5) and subsection 2(BB) of this Chapter are the downgradient boundaries of all mining

operations as they exist at the time any sample is collected. Areas of the site proposed and approved for future use or stripped of topsoil and vegetation and graded or otherwise prepared for future construction are not considered mining operations for the purposes of compliance with this standard. Establishment of additional monitoring locations and abandonment of wells and other monitoring locations, in accordance with procedures described in this Chapter, may be required, and applicants should design monitoring networks with this in mind. Any new monitoring location to be used as a compliance point must be established to allow collection of at least one year of data prior to its becoming a compliance point;

NOTE: The Department will consider the phasing of operations in determining the location of compliance monitoring wells.

- (ii) The Department may require groundwater monitoring within any mining area as defined at 38 M.R.S. § 490-MM(12) if the Department determines such monitoring to be necessary to assess the performance of pollution control measures or the potential for contamination as defined at 38 M.R.S. 490-MM(5) and section 2(BB) of this Chapter outside any mining area;
- (iii) The Department may require groundwater monitoring at any location to determine the potential for groundwater discharges to surface waters that would cause or contribute to nonattainment of applicable water quality criteria. Failure of groundwater to meet applicable water quality criteria at points of baseflow discharge constitutes contamination as defined at 38 M.R.S. § 490-MM(5) and section 2(BB) of this Chapter; and-
- (iv) The Department may require groundwater monitoring within any mining area as defined at 38 M.R.S. § 490-OO(4)(D) for the purpose of that subsection if the Department determines such monitoring to be necessary to assess compliance with the standards established in 38 M.R.S. § 490-OO(4)(D) and this Chapter.
- (b) Background groundwater quality monitoring well(s) must be established in an area or areas unaffected by mining operations and hydrologically upgradient of the mining areas to be monitored. Background groundwater quality may be measured at wells that are not upgradient of mining operations if those locations are determined to be representative by the Department;
- (c) Wells must be cased to maintain the integrity of the bore hole. Casing must be screened or perforated and the annular space packed with gravel or sand, where necessary, to enable collection of samples. Any annular space above the sampling depth must be sealed to prevent contamination of samples and groundwater;
- (d) Design, location, installation, development, and decommissioning of any monitoring wells, piezometers, and other measurement, sampling, and analytical devices require review and approval by the Department prior to action by the Applicant and must be documented in the Mining and Reclamation Reports required pursuant to section 26(B) of this Chapter;

- (e) Monitoring wells, piezometers, and other measurement sampling, and analytical devices must be operated and maintained so that they conform to design specifications throughout the life of the monitoring program;
 - (f) The number, spacing, location and depths of monitoring wells and other instruments must be proposed by the Applicant and must be approved by the Department prior to installation. The Department may require additional monitoring wells or other instruments it determines to be necessary. The Applicant shall consider the following in its monitoring system design:
 - (i) Characterization of saturated and unsaturated geologic units and fill materials overlying and underlying the uppermost aquifer including, but not limited to, thicknesses, stratigraphy, lithology, hydraulic conductivities, and porosities; and
 - (ii) Characterization of the uppermost aquifer including, but not limited to, the thickness, flow rate, and flow direction.
 - (g) Parameters for which the Applicant must monitor include, but are not limited to, those for which groundwater performance requirements are established. Changes in parameters to be monitored may be made as determined by the Department;
 - (h) Monitoring for all parameters except specific conductance and pH must take place at least quarterly during the life of the mine, including any post-closure maintenance period or more frequently if determined to be necessary by the Department. Less frequent monitoring may be performed as approved by the Department. The monitoring results must be submitted to the Department within 10 days of the end of each quarter in a format approved by the Department;
 - (i) The Department may require continuous monitoring of certain parameters including, but not limited to, specific conductance and pH, in groundwater seepage and other seepage to lagoon underdrains, drains of impoundment structures, or similar engineered facilities, in natural geologic features with high conductivity, or other locations as determined necessary by the Department. Continuous monitoring results exceeding any established parameter threshold must be submitted electronically to the Department within 24 hours in a format prescribed by the Department; and
 - (j) Any revisions to the plan are subject to review and approval by the Department.
- (2) Surface Water and Sediments
- (a) The Applicant shall establish a surface water monitoring system that is capable of detecting direct or indirect discharges to surface waters from mining operations, including, but not limited to, discharges licensed under 38 M.R.S. § 413, of any parameter for which a performance requirement has been established or indicator parameters as determined to be necessary by the Department. This system must be capable of detecting any exceedance of performance requirements and violations of water quality standards and criteria pursuant to 38 M.R.S. §§ 464-469.
 - (b) The Applicant shall establish a sediment monitoring system capable of detecting accumulations of pollutants in sediments within water bodies affected by mining operations.

- (c) Surface water and sediment monitoring programs are subject to review and approval of the Department and must, at a minimum, meet the following criteria:
- (i) Provision for surface water and sediment monitoring to determine background levels in the receiving water. Background samples must be collected as close in time as possible to the collection of samples at the monitoring points; and
 - (ii) For the surface water and sediment monitoring program, specification of the monitoring frequencies for each parameter and media. Monthly monitoring is required for all monitored parameters in surface water, except that continuous monitoring is required for certain parameters including, but not limited to, water depth, specific conductance, pH, temperature, and dissolved oxygen. Sediments must be monitored at least annually. The Department shall determine which additional parameters require continuous monitoring. Monthly monitoring results shall be submitted within 10 days of the end of each monitoring period. Continuous monitoring results exceeding any established parameter threshold shall be submitted electronically to the Department within 24 hours in a format prescribed by the Department.
- (3) Hydrology. Hydrology of the mining areas and affected areas must be monitored where mining activities have reasonable potential for measurable impact on surface water and groundwater.
- (4) Biological Resources. Biological resources of the background locations, all mining areas and affected areas shall be monitored where mining activities have a reasonable potential for measurable impact to these resources. This monitoring must include analyses of fish tissue, fish population, invertebrate population and abundance, and any other measure of ecological health determined to be necessary by the Department.
- (5) Mining operations. The Department may require collection of samples for analysis and other monitoring procedures at certain structures on the site including, but not limited to, lagoon underdrains, leachate collection systems, and impoundment drains.
- (6) Initiation of Monitoring. Monitoring, except baseline monitoring activities, must start at the time when extraction or removal of metallic minerals, overburden or mine waste is initiated pursuant to an advanced exploration or mining permit.
- (7) Duration of monitoring. Unless the Department determines that a reduction or cessation is appropriate, monitoring must continue for at least 30 years after closure of the mine subject to the following conditions:
- (a) If the mining-related activity or disturbance resulting in the reasonable potential for measurable impact has ceased and the results from post-closure monitoring confirm that there is no significant potential for future impact resulting from the mining operation, the monitoring period may be reduced or terminated.
 - (b) If the mining-related activity or disturbance has ceased and the resulting impacts have been reclaimed or mitigated in conformance with mining permit conditions and the results from post-closure monitoring confirm that there is no significant potential for future impact resulting from the mining operation and that the implemented reclamation

or mitigation measures are self-sustaining, the monitoring period may be reduced or terminated.

- (c) The Permittee may provide the Department a written request to terminate all or specific aspects of monitoring not less than 18 months before the proposed termination date and if such a request is made must provide supporting data and information demonstrating that the conditions required to terminate monitoring have been achieved. The Department may reduce the 18-month notification requirement on a case-by-case basis.
 - (d) The Department may reduce the default 30-year post-closure monitoring period at any time upon determining that there is a reasonable assurance of no significant potential for environmental, natural resource, public health and safety, and/or property damage impacts resulting from the mining operation and that implemented reclamation or mitigation measures are self-sustaining.
 - (e) The Department shall extend the post-closure monitoring period in increments of up to 20 years for all or specific aspects of monitoring unless the Department determines, approximately one year before the end of a post-closure monitoring period or post-closure incremental increase to the monitoring period, that there is a reasonable assurance of no significant potential for environmental, natural resource, public health and safety, and/or property damage impacts resulting from the mining operations and that implemented reclamation or mitigation measures are self-sustaining.
- (8) **Methods.** Monitoring methods, parameters, frequencies and locations will be reviewed and are subject to approval by the Department and must be sufficient to verify that potential and actual mining-related impacts, including those identified in the environmental impact assessment, are avoided, or where unavoidable are adequately minimized, compensated for, or mitigated and that reclamation is effective and complete and self-sustaining as specified in the mining permit application documents, and required by the Act, this Chapter and the mining permit.
- (9) **Reference location.** At least one reference monitoring location must be established outside of each mining area and the affected area with the purpose of providing data relevant to non-mine related influences on monitored parameters and conditions.
- (10) **Exceedances.** The Applicant shall propose to the Department for approval, as part of the permit application, levels indicative of statistically significant change from baseline conditions for each parameter at each monitoring point, and where appropriate, for specific time periods such as hydrologic season. The Department may accept these for use or require different levels, limits, or other performance criteria, based on its review of the data and site conditions.
- (11) **Submission of data.** Unless otherwise specified in this Chapter or otherwise required by the Department, the Permittee shall submit all monitoring data to the Department in a format specified by the Department. Monitoring data must be submitted to the Department within 10 days of its receipt by the Permittee.
- (12) **Notification of Exceedances and Deterioration of Site Conditions.** The Permittee shall notify the Department at such time as monitoring indicates that one or more of the following compliance standards has been exceeded or a statistically significant change has been identified at any monitoring station.

- (a) For surface water, the compliance standards are the ambient water quality criteria for toxic pollutants, or applicable water quality-based permit conditions established pursuant to 38 M.R.S. §§ 413 and 464-469.
 - (b) For ground water, the compliance standards are the primary drinking water standards adopted pursuant to 22 M.R.S. § 2611, applicable water quality-based license conditions established pursuant to 38 M.R.S. §§ 413, 464, 465-C, and 470 or ground water quality baseline conditions.
 - (c) Within mining areas as defined in 38 M.R.S. 490-OO(4)(D) and section 11(A)(2)(c) of this Chapter, the compliance standards for pollutants other than pH or metals are the primary drinking water standards adopted pursuant to 22 M.R.S. § 2611, applicable water quality-based license conditions established pursuant to 38 M.R.S. §§ 413, 464, 465-C and 470 or ground water quality baseline conditions. The compliance standards for pH and metals will be established in the mining permit by the Department based on site-specific geologic and hydrologic characteristics. In determining compliance with these standards, the Department will require groundwater monitoring consistent with the requirements established pursuant to 38 M.R.S. § 490-QQ(3) and this section.
 - (c) For biological criteria, sediment, or other relevant environmental criteria, compliance standards are established pursuant to 38 M.R.S. §§ 413 and 464-469, baseline conditions, or as determined by the Department.
- (13) Minimum elements of notification. The notification must consist of:
- (a) A table and chart presenting all data for that monitoring location;
 - (b) Data from associated reference or upgradient monitoring locations;
 - (c) The associated standard or baseline;
 - (d) An analysis of that data relative to the presence or absence of a statistically significant decline in water quality or other evidence of adverse environmental impact; and
 - (e) An analysis of the probability that an observed statistically significant change indicative of declining water quality or other evidence of adverse environmental impact from baseline conditions is related to the mining operation.
- (14) Corrective action required. Failure to meet a performance standard or evidence of a deterioration of site conditions requires the Permittee to undertake corrective action to identify whether the data are accurate, and to identify and eliminate or correct the problem. The Department must be notified within 24 hours of the failure to meet a compliance standard at any monitoring location. The Department may require the Permittee to resample the location or locations to confirm the result; confirmation resamples, if required, must be taken within 7 days of the initial Department notification. As part of the corrective action plan, the Department may require such actions as the Department deems necessary, including the actions listed below:
- (a) Increased monitoring;

- (b) Source investigation;
 - (c) Corrective action;
 - (d) Modification of active or post-closure mining activity; or
 - (e) Other action as determined to be necessary by the Department.
- (15) Duration of corrective action. The corrective action shall continue, and may be amended from time to time, until such time as the Department determines that corrective actions are complete, the site meets all performance standards including achievement of baseline conditions, the site is expected to continue to meet such standards and conditions without further corrective actions, and all discharges causing or contributing to failure to comply with water quality standards are eliminated or mitigated to correct all compliance issues.
- (16) Other conditions requiring corrective actions. The Department may require any action listed in subsection 22(B)(14) if it identifies in the submitted data or from any other information, indications of discharges of contaminants, deterioration in site conditions, or observes conditions on the site indicative of discharges of contaminants or deterioration in site conditions.
- (17) Air monitoring.
- (a) Air emissions, including fugitive emissions, shall be monitored in accordance with a plan approved by the Department.
 - (b) If at any time during operation, closure or post-closure for the mining operation, the monitoring demonstrates that the performance standards are not being met, a corrective action plan must be implemented, the details of which must be specified or approved by the Department.

23. Reclamation. Reclamation shall be completed on all mining areas and if necessary any affected areas.

- A.** A Permittee shall commence and complete reclamation of each mining area and, if necessary, any affected areas, consistent with mining permit conditions and the Department-approved plan.
- B.** Upon written request of a Permittee, the Department may approve with conditions an extension of time to begin or complete final reclamation.
- C.** To the extent feasible and practicable and considering changes caused by non-mining activities or other natural events, the Permittee shall reclaim the mining areas and affected areas to the ecological conditions that approximate pre-mining conditions.
- D.** Contemporaneous reclamation of the mining areas must be conducted consistent with the performance standards of this Chapter.
- E.** Safe ingress and egress must be provided for people and wildlife to water bodies accessible after reclamation.

- F.** Structures and equipment not required in meeting the approved mine plan must be dismantled and removed from each mining area.
- G.** The prevailing hydrologic balance of the affected area must be restored to conditions that approximate baseline conditions.
- H.** To the extent practical and feasible, intermittent and perennial streams diverted during mining activity must be returned to original channels or, if the original channel has been disturbed or destroyed, to a reconstructed channel having grades, pools (substrate, floodplains) and meanders comparable to baseline conditions.

NOTE: Other or additional standards may apply under the *Natural Resources Protection Act* to a project located in or adjacent to a protected natural resource. For example, a person who conducts, or causes to be conducted, an activity that involves filling, displacing or exposing soil or other earthen materials may need to take measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource as defined in 38 M.R.S. §480-B.

- I.** Surface water and storm water from each mining area and each affected area must be managed to ensure that:
 - (1) Erosion and sedimentation control practices are in accordance with the *Maine Erosion and Sediment Control BMPs*;
 - (2) Water impoundments are removed unless necessary for pollution control or to meet other conditions of the permit; and
 - (3) Peak stormwater discharge from the area does not exceed baseline conditions.
- J.** Vegetation appropriate to the approved final post-mining land use must be established.
 - (1) Introduced, naturalized or nonnative plant species may be used only if they are suitable to the post-mining land use and approved by the Department.
 - (2) Where establishment of vegetative cover is required by the reclamation plan, the land must be reclaimed with a diverse, self-regenerating, no- or low-maintenance cover of native vegetation that is appropriate to the safety, stability, environmental protection, and natural resource goals of the plan.
 - (3) Transitional vegetative cover may be used to provide the greatest probability of success in plant establishment considering site conditions as well as slope stability, erosion control, and hydrologic and water quality goals associated with successful establishment of vegetative cover.
- K.** The Permittee shall create and attach enforceable covenants on each mining area in accordance with the Uniform Environmental Covenant Act at 38 M.R.S. § 3001 *et seq.* as required by the Department. These covenants must limit future use of the mining area such that the goals of this Chapter, the Act, and the mining permit are maintained or enhanced until there is no unreasonable threat to public health and safety or the environment.

- L. Following closure and reclamation, the landowner or lessee of a mining area in an unorganized territory may petition the Maine Land Use Planning Commission for rezoning to an appropriate subdistrict designation.
- M. All pitwalls, ~~open pits~~ and mine openings shall be adequately marked or fenced, and all markers and fencing must be maintained by the Permittee to provide notice to the public of a dangerous condition. The Department may determine, following closure and reclamation of a mining area from which potential sources of contamination have been removed, that the area may no longer be designated as a mining area.
- N. Highwalls, or quarry faces, must be treated in such a manner as to leave them in a condition that minimizes the possibility of rock falls, slope failures and collapse. A highwall that is loose must be controlled by the use of blasting or scaling, the use of safety benches, the use of flatter slopes or reduced face heights or the use of benching near the top of the face or rounding the edge of the face.
- O. Drill and auger holes, adits, shafts, underground workings and pits must be permanently secured.
- P. All unused fuel, designated chemical materials and explosives must be removed from the mine site in accordance with applicable rules.

24. Closure and Post-Closure Maintenance Standards

A. Closure Maintenance Criteria

(1) Performance Standards

- (a) The Applicant shall design the closure of the mine to minimize the need for maintenance, and to control the release of mine waste and constituents into the air and the groundwater and surface water, and to ensure protection of public health and safety, and the environment. Closure activities must:
 - (i) Restore the mine site to approximate pre-mining baseline hydrologic and geologic conditions and ensure that mining wastes will not contaminate ground and surface water;
 - (ii) Meet performance requirements;
 - (iii) Comply with design, monitoring and operating criteria approved in the closure plan for the mine and each mine waste unit; and
 - (iv) Comply with the general technical requirements below.
- (b) The Permittee shall undertake the following activities:
 - (i) Provide certification by a qualified professional(s) that each mine waste unit, given its location, composition, and construction, is designed to meet current standards of practice for geotechnical engineering;
 - (ii) Institute or maintain a run-on/runoff control system that meets the requirements of this Chapter; and

- (iii) Implement and maintain monitoring systems as approved in the closure plan; ~~and~~
 - (iv) ~~Close surface impoundments used to manage Group C mine wastes in a manner that will minimize erosion and the threat of water quality degradation from sedimentation.~~
- (c) For leachate management systems, surface impoundments, ore leaching facilities including associated solution ponds, and collection systems including trenches, piping, leachate collection systems, and equipment, which contain leach solutions, the Permittee shall ensure the following:
- (i) Water that is not to be recycled for processing shall be treated and disposed of in a manner that ensures compliance with the performance requirements and shall in any event comply with the terms and conditions of the permit; and
 - (ii) Leachate collection and management systems must continue until leachate no longer contains constituents in concentrations above those described in the performance requirements for the period of time specified in the permit or otherwise provided by the Department.

(2) Closure Plan

- (a) A closure plan must be submitted at the time of application for a permit. At a minimum, the plan must include the following information for each mine waste unit:
 - (i) The methods, designs, procedures, and processes necessary to satisfy the closure performance standards for each mine waste unit;
 - (ii) An estimate of the maximum capacity and maximum volume of mine waste that can be managed in the unit at any time during the life of the mine waste unit;
 - (iii) A description of activities required to close leaching operations, including compliance with the standards at the time of closure;
 - (iv) A schedule of closure activities; and
 - (v) A detailed cost estimate of closure activities.
- (b) Closure plans must be amended to reflect applicable changes in unit design, operations, or mine waste management technology, and applicable legal requirements, at intervals not to exceed 5 years.
- (c) The closure plan for each mine waste unit must minimize the onsite and offsite use or contact with mine waste if such use or contact would pose a significant risk to the environment or public health and safety.
- (d) A copy of the closure plan must be kept at the site or at an alternate location approved by the Department until the post-closure maintenance period has ended.

(3) Closure Design Requirements

- (a) Closure design must be based on the following factors:
 - (i) The geology and geologic setting of the unit;
 - (ii) The character of the waste, including waste treatment;
 - (iii) The potential for and degree of contamination of the environment at or in the vicinity of the mining operation, if applicable;
 - (iv) Corrective action(s) in place or planned, if applicable;
 - (v) The operating practices at the waste unit;
 - (vi) The geographic location of the unit; and
 - (vii) Any other factors which are necessary for an informed determination of an appropriate design.
 - (b) The closure design must minimize maintenance and control the release of contaminants to ensure that performance requirements are met.
 - (c) Final closure requirements for ~~dry~~ mine waste units including, but not limited to, dry stack tailings management structures are as follows:
 - (i) Final cover for a mine waste unit must have a permeability less than or equal to the permeability of the primary liner system;
 - (ii) The cover must be designed and constructed to function with the minimum maintenance possible;
 - (iii) Closed mine waste units must be graded and maintained to prevent ponding and to divert surface drainage from covered wastes;
 - (iv) Areas with slopes greater than 10%, surface drainage courses, and areas subject to erosion by water and wind must be protected to prevent such erosion; and
 - (v) No discharge to surface or groundwater may be allowed except as licensed by the Department.
 - (d) A protected, permanent benchmark must be established on each closed mine waste unit. This benchmark shall be shown on all recorded drawings.
- (4) Closure Trigger
- (a) Closure must begin if for the preceding 12 months the mine waste unit has not received for disposal more than 10% of the average annual volume of waste received during the mine life to date as measured from the arrival of a substantial quantity of waste at that mine unit and not including time elapsed during any suspension of mining, unless the Permittee has applied for the extension described in this section.

- (b) The Department may grant an extension to the initiation of closure if the Permittee demonstrates that:
 - (i) The mine waste unit is planned to be used within the next 7 years;
 - (ii) The mine waste unit is in compliance with performance, design, and operating requirements; and
 - (iii) The mine waste unit will continue to comply with performance, design, and operating requirements during the extension.
- (c) The Department may grant a 12-month extension, up to a maximum of seven extensions.

(5) Certification of Closure

- (a) Within the 90-day period following closure of the mine waste unit, the Permittee must submit certification to the Department verifying that closure has been completed in accordance with an approved closure plan.
- (b) Certification shall be based on a review of the mine waste facility by a qualified professional approved by the Department, ~~and also made by~~ a responsible officer of the Permittee and an inspection of the facility by the Department.

B. Post-Closure Maintenance Criteria

- (1) Applicability. Following certification of the closure, the Permittee shall commence post-closure maintenance for the closed mine waste unit.
- (2) Performance Standards
 - (a) The Permittee shall conduct post-closure maintenance activities to ensure the continued protection of public health and safety, and the environment, and to ensure the performance requirements continue to be met.
 - (b) Site access during the post-closure maintenance period must be controlled as necessary to prevent the removal of mine waste and ensure continued effectiveness of closure and post-closure maintenance activities.
 - (c) Post-closure land uses shall not impair the integrity of containment structures.
- (3) Requirements
 - (a) The Department may require the Permittee to conduct, at a minimum, any or all of the following activities during post-closure maintenance:
 - (i) Periodic sampling of the mine waste as necessary to characterize the mobilization or conversion of mine wastes or parameters;
 - (ii) Inspection and maintenance activities necessary to maintain the structural and chemical stability of the mine waste unit;

- (iii) Continued operation and maintenance of run-on/runoff control systems and leachate management systems, if any;
 - (iv) Continued operation and maintenance of groundwater and surface water monitoring stations and other monitoring locations; and
 - (v) Any other measure necessary to prevent a violation of a performance standard or other legal requirement and otherwise to protect public health and the environment.
- (b) All post-closure monitoring activities shall continue until such time as the Department provides written approval for their cessation. In addition, the Department may alter post-closure requirements in response to monitoring information or other assessments.
- (c) Mine waste units that have been closed may be reactivated or re-utilized only under a new or amended permit. The Permittee shall ensure that:
- (i) Operations conform to the performance requirements, design operating criteria, and monitoring requirements of this Chapter; and
 - (ii) If mining wastes remain in the mine waste unit following the removal of materials for additional beneficiation, or at the completion of additional storage or disposal activities, the mine waste unit is closed in compliance with the requirements of this section.
- (d) If any performance requirement is not met, the Permittee shall develop and implement a corrective action plan pursuant to section 30(A) of this Chapter.

(4) Post-Closure Maintenance Plan

- (a) The Applicant shall prepare and submit a detailed post-closure maintenance plan as part of the application. At a minimum, the plan must include the following information:
- (i) A description of activities and frequency of activities necessary to satisfy the performance standards;
 - (ii) A detailed estimate of post-closure maintenance costs;
 - (iii) A description of the planned use of the property to satisfy the post-closure maintenance performance standards, including the following information:
 - (A) Prevention of exposure of mine waste or constituents to the environment, unless such exposure would pose no significant risk to health or environment and is within licensed limits; and
 - (B) Continued maintenance of the structural and operational components of closure and post-closure; and
 - (iv) The name, address, and telephone number of the Permittee's contact during the post-closure maintenance period.

- (b) A copy of the post-closure maintenance plan shall be kept at the mine waste unit or alternate location as approved by the Department throughout the post-closure maintenance period.
- (5) Length of the Post-Closure Care Period. The collection, treatment and disposal methods must be designed to ensure that discharges to affected areas must meet water quality standards without requiring active treatment as soon as practicable, but in no case greater than 10 years post-closure. ~~Wet mine waste units may not be used for storage or treatment of mine waste after closure.~~ The post-closure care period for Group A and Group B wastes must end 30 years from the time of closure certification, provided the Department determines the mine waste unit has been closed in compliance with the performance requirements of this Chapter and the post-closure performance standards of this section, and that the site will continue to remain in compliance with such standards. The post-closure care period for Group C waste must be 5 years from the time of closure certification.
- (6) Deed Notation
 - (a) During the first year following closure certification the Permittee shall record a notation on the deed to property, or other instrument normally examined during a title search, if any mine waste or constituent remain at the site.
 - (b) The deed notation must state that the land has been used for the management of mine waste, that mine waste or constituents remain at the mine waste unit and, if applicable, that land use is restricted.
- (7) Post-Closure Certification
 - (a) After completion of post-closure maintenance for the mine waste unit, the Permittee shall submit certification to the Department verifying completion of post-closure maintenance. All inspection records and reports pertaining to certification shall be submitted to the Department.
 - (b) The certification must be based on a review of the mine waste unit by a qualified professional approved by the Department and executed by a responsible officer of the Permittee and an inspection of the facility by the Department.
 - (c) Approval of certification of the completion of postclosure maintenance of a waste unit by the Department does not release the Permittee from any subsequent corrective action requirements or other legal responsibility including the requirement for any monitoring determined to be necessary by the Department.

Subchapter 6: MINING INSPECTION, RECORDKEEPING AND REPORTING REQUIREMENTS

25. Inspection and Maintenance. The Permittee, using qualified professionals, shall inspect all phases of the mining operation to ensure compliance with the design and construction specifications, standard operating procedures, the mining permit, applicable rules and the Act. Nothing in this section limits the ability of the Department to conduct inspections in any area of the property or to require corrective actions to address deficiencies identified in the monitoring data or as a result of such inspections. A qualified professional under this section cannot also serve as a third-party independent inspector under section 12.

- A.** A Permittee shall allow all inspections and comply with maintenance and monitoring requirements contained in the permit.
- B.** Each phase of mine construction, operation, and closure must be inspected by qualified professionals in accordance with the Quality Assurance Plan (QAP) approved by the Department.
 - (1) For construction of containment structures and impoundments, Construction Quality Assurance (CQA) must include continuous site inspections by the CQA personnel. Inspection, testing, and certification must be done by CQA personnel separate from the Permittee. As determined by the Department, this requirement may also apply to storage piles depending on the nature and extent of the particular storage pile.
 - (a) For the purposes of this section, separate from the Permittee means CQA personnel are not in the direct employment of the Permittee. Direct employment of the owner/operator does not include CQA personnel employed by a company under a contractual relationship with the owner/operator, provided that the CQA personnel are employed by a company that:
 - (i) Offers and performs quality assurance services for other companies not affiliated with the owner/operator; and
 - (ii) Has a management structure that exists and operates separately from the owner/operator, such that CQA personnel are not directly compensated by, and are completely free of any direct reporting obligation to the owner/operator.
 - (2) All other phases of mine construction must be inspected by qualified professionals and the inspections must be conducted with the frequency and level of detail and documentation necessary to allow the qualified professional to certify that the structures were constructed consistent with the design.
 - (3) Mine operations must be inspected at least weekly by qualified professionals in order to verify that the mine is operated consistent with permit requirements and that structures and practices designed to protect natural resources, the environment and public health and safety are functioning as designed, intended and required by the mining permit, this Chapter and the Act, and not susceptible to failure due to significant weather, seismic or other events.
 - (4) Inspection and maintenance requirements and schedules for the operation, reclamation, closure, and post closure phases of the mining operation. These requirements must at a minimum apply to any feature or structure that represents a potential threat to natural

resources, the environment and public health and safety, as well as to hydrologic and biologic features in the mining and affected area.

- (a) During operation, reclamation and closure, the mining areas and affected areas must be inspected by qualified persons at least monthly.
- (b) During the post-closure monitoring period, the mining areas and affected areas must be inspected by qualified persons at least twice per year.
- (c) Within 30 days of the inspections required under this section, the qualified person shall submit to the Permittee and the Department:
 - (i) A summary of activities that occurred at the mine site during the reporting period, and results of analyses conducted to monitor compliance with permit conditions;
 - (ii) Certification that the mining areas and affected areas are in good condition and in compliance with the mining permit, this Chapter, and the Act; or
 - (iii) Identification of the corrective measures that must be undertaken by the Permittee to reach compliance. Within 10 days of receipt of the necessary corrective measures, the Permittee shall propose a plan and schedule to the Department for review and approval for implementing the corrective measures.

26. Reporting Requirements

A. Requirements. A Permittee shall file with the Department an updated mining and reclamation report:

- (1) On or before March 15th of each year;
- (2) During the period the mine is operating;
- (3) During suspension of mining operations; and
- (4) During the post-closure monitoring period.

B. Mining and Reclamation Report. The mining and reclamation report must contain a description of mining and reclamation activities conducted during the preceding year, including:

- (1) A description of the status of mining and reclamation;
 - (a) The types and amounts (tons) of materials moved from the ore body and to storage piles, including a distinction among ore, lean ore, overburden or mine waste;
 - (b) The acreage disturbed;
 - (c) Changes to the beneficiation process and to tailings and waste disposal;
 - (d) The amount of metallic product (tons) produced at the facility;
 - (e) The amount of waste rock and tailings disposed of at the facility by disposal unit;

- (f) The amount of leachate collected and treated from each disposal unit;
 - (g) An evaluation of the effectiveness of the leachate treatment and disposal system; and
 - (h) An update on mine waste characterization including a characterization of new mine waste encountered during mining that has not been previously characterized under section 20 of this Chapter.
- (2) An update of the contingency plan:
 - (a) Documentation that the updated plan has been submitted to the municipality or county commissioners, as applicable; and
 - (b) A description of amendments to the contingency plan as a result of changes in mining and beneficiation.
 - (3) A description of reclamation conducted, including acreage and a discussion of the success of revegetation efforts;
 - (4) A report of monitoring results for the preceding calendar year;
 - (5) A list of the notifications required under section 27 of this Chapter, for the preceding calendar year;
 - (6) The estimated cost to implement the reclamation plan, closure and post-closure plan, and corrective action plan if the mining operations were to cease in the next year;
 - (7) A description of any proposed amendments to the amount and type of financial assurance;
 - (8) A description of proposed mining, beneficiation, tailings disposal and reclamation activities; during the current year;
 - (9) A summary of inspection results; and
 - (10) An evaluation of the facility's operations to verify compliance with approved plans, licenses, and regulatory requirements. This evaluation must be performed either by qualified facility personnel or a qualified professional.

27. Notification Requirements. A Permittee shall promptly notify the Department and each municipality or county commissioners in the unorganized or deorganized areas of the State in which the mining areas and the affected areas are located of any incident, act of nature or violation of a permit standard or condition related to the mining operation that has created, or may create, a threat to the environment, natural resources, or public health and safety.

- A.** Notification to an authorized representative of the Department during normal business hours, or to the Department pollution emergency alerting system between 5 p.m. and 8 a.m. and on weekends and holidays shall be made by telephone or in person as soon as possible, and in any case within 2 hours following the incident, act of nature or exceedance.

- B.** The Permittee shall submit to the Department a detailed written incident report of the incident, act of nature or exceedance within 5 days of discovery, including:
- (1) The name of the Permittee;
 - (2) The name of the person reporting the incident, act of nature, or exceedance;
 - (3) The date and time of the incident, act of nature, or exceedance;
 - (4) The nature of the incident, act of nature, or exceedance;
 - (5) The nature and degree of the threat to the environment, natural resources, or public health or safety; and
 - (6) Response actions taken or planned.
- C.** If the response to the incident, act of nature or exceedance is not concluded at the time the written incident report is required, then the Permittee shall submit to the Department a written final incident report within 30 days after the incident response is concluded. The final incident report must contain a summary of the initial incident report and an account of all response actions taken. If the final response to the incident, act of nature or exceedance is not concluded within 30 days, then the Department may require periodic progress reports.
- D.** Records upon which reports are based must be preserved by the Permittee in accordance with section 28 of this Chapter.

28. Recordkeeping Requirements. Records must be retained by the Permittee as follows:

- A.** All records required pursuant to the Act, Chapter 200 and the mining permit must be preserved by the Permittee for 6 years, or preserved for a longer period of required by the Department.
- B.** Any retained record must be available to the Department upon request.
- C.** Records upon which incident reports under section 27 of this Chapter are based must be preserved by the Permittee for 6 years, or until the end of the post-closure monitoring period, whichever is later.

Subchapter 7: SUSPENSION OF MINING

29. Suspension of Mining and Resumption of Mining after Suspension.

A. Requirements

- (1) Any Permittee requesting a temporary suspension of mining must file a written request for approval of a temporary suspension of mining to the Department at least 30 days prior to suspending mining for a continuous period of 90 days or more. A temporary suspension of mining must be limited to 365 days. Activity that deviates substantially from the approved mine plan may not constitute part of a continuous period of mining for the purposes of this section. The request for a temporary suspension must set forth:
 - (a) The reasons for the temporary suspension of mining;

- (b) The start date and expected duration of the temporary suspension of mining;
 - (c) The factors that will influence the decision for resumption of mining;
 - (d) Measures to maintain and monitor the mining areas;
 - (e) Security measures to be taken during the temporary suspension of mining;
 - (f) Interim sloping or stabilization of surfaces;
 - (g) An update to financial assurance;
 - (h) Interim measures that will be taken during the temporary suspension of mining to comply with its mine plan and mining permit;
 - (i) Interim measures that will be taken to protect the environment, natural resources, and public health and safety; and
 - (j) Verification that all required, routine operations will continue during the suspension, including but not limited to, treatment operations, inspections, monitoring, corrective actions (if any), and annual reporting.
- (3) Prior to considering the request for approval or modification of a request for temporary suspension of mining operations, the Department shall verify Permittee compliance with the Act, applicable rules and the mining permit.
- (4) The Department may require more information from the applicant, a partial closure of mining operations, an adjustment to financial assurance, corrective actions or additional measures to protect the environment, natural resources and public health and safety as a condition of approval.
- (5) The Permittee shall file a revised request for temporary suspension of mining to the Department for approval if modifications to elements of the original request are required by the Permittee or the Department.
- (6) The Permittee may request an increase in the duration of the period of suspension of mining, and as part of this request, the Permittee must:
- (a) Provide an explanation as to why the Permittee has not recommenced operations; and
 - (b) Provide a demonstration of continued commitment to conduct mining within 365 days from the date of temporary suspension of mining.
- (7) The Permittee is considered to have ceased mining and all requirements applicable to the closure take effect if mining operations are suspended for a continuous period exceeding 365 days, not counting any nominal activity, unless the Department agrees in writing to delay the implementation of the closure plan based on a written submission by the Permittee that demonstrates to the satisfaction of the Department that the mining operations are expected to recommence within one year or less. In any case, the Department may require partial closure of the mining operation during such suspension.

- (8) For any suspension of mining operations greater than 60 days from the original date of request, prior to resuming operations, the Permittee shall inspect the facility and provide certification to the Department that all systems are functioning as designed and are capable of resuming operations.

B. Exemption from licensing requirements. A request to suspend mining activities pursuant to this section is exempt from licensing requirements under 06-096 C.M.R. ch. 2.

Subchapter 8: ENFORCEMENT AND COMPLIANCE

30. Permittee Required to Correct Violations and Deterioration in Site Conditions. The Commissioner may order a Permittee to correct a violation of the Act, this Chapter, an order of the Department, or a mining permit.

A. Corrective Action Plan. The Permittee shall develop and submit a corrective action plan on a schedule determined by the Department.

- (1) This plan shall, at a minimum:
 - (a) Be protective of public health and environment;
 - (b) Propose a remedy to control the sources of releases and ensure compliance with the performance requirements throughout operation, reclamation, closure, and post-closure maintenance;
 - (c) Propose a schedule for implementing corrective action;
 - (d) Provide a detailed cost estimate for corrective action activities; and
 - (e) Provide financial assurance for corrective action costs pursuant to section 9(I) and 17 of this Chapter.
- (2) In developing the corrective action plan, at a minimum, the following shall be considered:
 - (a) Extent, nature and cause of contamination;
 - (b) Identification of remedies to achieve compliance with the performance requirements and to prevent future exceedances or deterioration of site conditions;
 - (c) Availability of alternative treatment or disposal measures during implementation of the corrective action;
 - (d) Evaluation of performance, reliability, timing and ease of implementation, and potential impacts (including safety and cross-media environmental impacts) of alternative corrective actions;
 - (e) Potential risk to public health and the environment prior to completion of corrective actions;

- (f) Evaluation of requirements (e.g., federal, state and local permit requirements, environmental or public health requirements) that could substantially affect implementation of potential corrective actions; and
 - (g) Other relevant factors specified by the Department.
- B.** When the Permittee is aware of a violation of the Act, this Chapter, an order of the Department or a mining permit, the Permittee shall:
- (1) Take immediate action to correct the violation; and
 - (2) Notify the Department of the violation and of the action being implemented to correct the violation.
- D.** The Permittee shall correct the violation as soon as practicable.
- E.** The Department may pursue enforcement action in accordance with 38 M.R.S. §§ 347-A, 348 and 349, or any other statutory authority and may require changes to the corrective action plan.
- 31. Imminent Endangerment.** If the Commissioner determines that a violation is causing or resulting in an imminent and substantial endangerment to the public health and safety, the environment, or natural resources, the Department may take action necessary to abate or eliminate the endangerment, including one or more of the following:
- A.** Taking action to suspend or revoke the mining permit as authorized by the Act, 38 M.R.S. § 342 (11-B) and the Maine Administrative Procedure Act;
 - B.** Recommend to the Board pursuant to 38 M.R.S. § 342(11-C) that the Board modify or take corrective action on the permit pursuant to 38 M.R.S. § 341-D(3).
 - C.** Issuing an order to the Permittee requiring immediate suspension of mining activities;
 - D.** Issuing an order prohibiting the removal of metallic product from the site;
 - E.** Ordering the Permittee to undertake such other response actions as may be necessary to abate or eliminate the endangerment;
 - F.** Issuing an emergency order as authorized by 38 M.R.S. § 347-A(3);
 - G.** Notifying municipal officers and county commissioners or their designees, from each municipality and county in which the mining areas and affected areas may be located;
 - H.** Notifying the public through publication of the action in a newspaper of general circulation in the area; and
 - I.** Refer the violation to the Attorney General for civil or criminal prosecution pursuant to 38 M.R.S. §§ 347-A or 348.

32. Effect of Revocation of a Mining Permit or Suspension of Mining Activities.

- A. The revocation of a mining permit by the Commissioner or a court, or the suspension of mining activities by the Department does not relieve the Permittee from its responsibilities to continue the following actions as directed by the Department or a court:
- (1) Complete all reclamation, closure, post-closure maintenance and monitoring, and corrective actions;
 - (2) Maintain financial assurance under 38 M.R.S. § 490-RR and this Chapter; and
 - (3) Undertake all appropriate measures to protect the environment, natural resources, and public health and safety.

33. Enforcement and Compliance Orders Issued Under This Chapter

- A. Any enforcement or compliance order issued under this Chapter, except an emergency order as authorized by 38 M.R.S. § 347-A(3) and for which the procedure is set forth in that section, shall be governed by this section.

NOTE: This section does not apply to license orders of the Commissioner, which may be appealed as set forth in 38 M.R.S. §§ 344(2-A) and 346 and 06-096 C.M.R. ch. 2, § 24.

- B. Any order issued under this Chapter must contain findings of fact. Service of a copy of the Commissioner's order must be made by the Sheriff or Deputy Sheriff or by hand delivery by an authorized representative of the Department in accordance with the Maine Rules of Civil Procedure. The person to whom the order is directed shall comply immediately.
- C. A person to whom such an order is directed may apply to the Board for a hearing on the order if the application is made within 7 working days after receipt of the order by the person to whom the order was directed. Within 14 working days after receipt of the application, the Board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the Board chair using any means for signature authorized in the Department's rules and published within 2 working days after the hearing and vote. The nature of the hearing is an appeal. At the hearing, all witnesses must be sworn and the Commissioner shall first establish the basis for the order and for naming the person to whom the order was directed. The burden of going forward then shifts to the person appealing to demonstrate based upon a preponderance of the evidence, that the order should be modified or rescinded. The decision of the Board may be appealed to the Superior Court in accordance with 38 M.R.S. § 346 and Title 5, chapter 375, subchapter 7.

NOTE: A person to whom an order is directed also may appeal directly to the Superior Court pursuant to 38 M.R.S. § 346(1) and Title 5, chapter 375, subchapter 7.

Basis Statement
Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining
Final Adoption
November 2, 2017

The Mining Act

This rule implements the Maine Metallic Mineral Mining Act (“2012 Mining Act”), 38 M.R.S. §§ 490-LL *et seq.* and will repeal and replace the existing Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining rule. The 2012 Mining Act was enacted in 2012 by Public Law 2011, Chapter 653, An Act to Improve Environmental Oversight and Streamline Permitting for Metallic Mineral Mining in Maine. Section 30 of that law directed the Department to provisionally adopt and submit to the Legislature for review major substantive rules related to the 2012 Mining Act. The 2012 Mining Act provides the statutory framework governing metallic mineral mining activities in Maine, including:

- Administration and enforcement, rules and local jurisdiction requirements;
- Mining permit application procedures;
- Mining permit duration, termination, revocation transfer and amendment procedures;
- Performance, operation and reclamation standards;
- Financial assurance requirements;
- Mining and reclamation reporting requirements; and
- Enforcement and violation provisions.

Initial Rulemaking

The Department initiated rulemaking activities to update and amend the exploration and advanced exploration permitting requirements in its existing mining rules in 2012. This routine technical rulemaking provided specific application, permitting and performance requirements for individuals seeking to conduct exploration or advanced exploration activities. The Department completed this rulemaking in March of 2013.

The formal rulemaking process for the major substantive mining rules began in mid-September, 2013, when the Department presented its proposal to the Board of Environmental Protection (Board), and requested that a public hearing be held on October 17, 2013. During the October 17th public hearing, the Board heard testimony from a number of consultants, interested parties and the general public. Additional comments were received during the written comment period, which closed on October 28, 2013.

Beginning in early November, the Board held four deliberative sessions on the proposal to discuss key issues raised by commenters with Department staff. At the conclusion of these sessions, the Board identified a number of suggested changes, and posted these changes to an additional written comment period ending on December 23, 2013.

On January 10, 2014, the Board reviewed a number of changes that were made to the proposal in response to public comments, and after receiving additional oral comments on the proposal pursuant to

Title 38, section 341-H(3)(c), deliberated, and voted to provisionally adopt the Department's proposal with several additional changes as identified by Board members. The Legislature passed a resolve in April 2014 disapproving the provisionally adopted rule, the Governor vetoed the resolve, and the Legislature sustained the veto. The sections of the 2012 Mining Act amending Title 38 (38 M.R.S. §§ 490-LL *et seq.*), went into effect on June 1, 2014.

2016-2017 Rulemaking

In January 2015, the Department re-submitted the provisionally adopted rule to the Legislature. The Environment and Natural Resources (ENR) Committee of the Legislature, in the majority report for L.D. 750, recommended specific revisions to the provisionally adopted rule, but the bill did not pass.

On August 18, 2016, the Department requested that the Board post further revisions to Chapter 200 for public hearing. The Department developed the proposed rule from the version provisionally adopted by the Board in 2014, and included revisions requested by the Legislature in 2015 in LD 750 along with other revisions to address testimony and public comments received by the Board and the ENR Committee. The proposal addressed many significant concerns raised by commenters during rulemaking and legislative sessions, while still adhering to the provisions of the 2012 Mining Act and the jurisdictional limits of the Department.

The rule that was posted for public comment in 2016 updates Maine's mining regulations to provide a comprehensive application and permitting process for several types of activities related to mining, including exploration, advanced exploration and mining. Under the rule, exploration activities, which limit excavations to a maximum surface opening of no more than 300 square feet, would not require a permit, but must instead submit a work plan and meet a number of performance standards designed to protect natural resources and properly restore the exploration site. Advanced exploration activities, which involve more extensive sampling (along with the potential for more significant environmental impacts) fall within into two general categories: Tier One advanced exploration activities involve the excavation and removal of up to 2,000 tons of material, while Tier Two advanced exploration activities may involve up to 10,000 tons of excavated material. Under an advanced exploration mining permit, the on-site processing of samples is limited to mechanical size alteration (crushing) and sorting. All testing and characterization must take place in enclosed facilities, and all waste generated from on-site testing and characterization must be transported off-site for disposal. Tier Two advanced exploration activities are subject to comprehensive permitting requirements. Mining activities that involve the excavation of 10,000 tons or more of material are subject to a wide-ranging suite of requirements and more importantly, since these mining activities can include on-site beneficiation of ore and disposal of reactive mine wastes, applicants must demonstrate that mine waste units meet performance requirements designed to prevent the contamination of surface water and groundwater.

The Department received comments on its proposal from nearly 500 interested parties during two public comment periods. The final proposal before the Board in January 2017 incorporated a number of suggested changes, including: 1) prohibiting the wet storage of tailings (tailings ponds); 2) prohibiting the use of wet mine waste units after closure of a mine; 3) requirements for all mining operations to be inspected and monitored by a qualified independent inspector through the construction, operation and closure of the mine; 4) financial assurance requirements that address a worst-case scenario including the cost to investigate and remediate any and all possible releases of contaminants at the site, and conduct

treatment activities for all expected fluids and wastes generated at the facility for a minimum of one hundred (100) years; and 5) standards for the protection of historic sites, unusual natural areas, scenic character, wildlife and fisheries. The public comments and the Department's responses and changes to the proposed rule are discussed in the attached Supplemental Basis Statement dated January 5, 2017. The Department also made a number of formatting and other minor changes to the final proposal. On January 5, 2017, the Board provisionally adopted the Department's proposal after addressing several errata and revising the Department's response to Comment #41 to acknowledge that mining under water bodies has been successfully done in other jurisdictions, and that the lack of a prohibition does not constitute approval. The Department subsequently submitted the provisionally-adopted Chapter 200 to the Legislative Council on January 12, 2017.

Legislative Review of the Provisionally Adopted Rule

On June 7, 2017, the Maine Legislature enacted Public Law 2017, Chapter 142, An Act to Protect Maine's Clean Water and Taxpayers from Mining Pollution. Chapter 142 amended the Maine Metallic Mineral Mining Act and other laws while also authorizing the final adoption of this major substantive rule, subject to the incorporation of specified amendments that provide consistency with these laws. The required amendments to the Department's rule include:

- (1) Prohibiting the issuance of a mining permit if any part of the proposed mining operation will be located wholly or partially located in, on or under any designated lands, state historic sites, state parks, public reserved lands, submerged lands, the Allagash Wilderness Waterway or certain state-owned wildlife management areas;
- (2) Adding or revising definitions for the terms "dry stack tailings management," "mine shaft," "mine waste," "mine waste unit," "open-pit mining" and "wet mine waste unit," and amending the existing definition for the term "tailings impoundment;"
- (3) Amending the mining permit approval conditions to allow only limited contamination of groundwater within a mining area, provided that this contamination does not result in: contamination of groundwater beyond the mining area; contamination of groundwater within the mining area that exceeds certain water quality criteria for pollutants; contamination of groundwater within the mining area due to pH or metals that exceeds limits set forth in the mining permit based on site-specific geologic and hydrologic characteristics; any violation of surface water quality standards; or, if groundwater or surface water quality within the mining area prior to the commencement of mining activity exceeds applicable water quality standards, further degradation of such groundwater or surface water quality. This amendment also provides a narrow definition of the term "mining area" applicable only to this provision on discharges causing groundwater contamination;
- (4) Prohibiting the placement of mining operations involving the removal of metallic minerals, the storage of metallic minerals or mine waste, the processing of metallic minerals or the treatment of mine waste in or on a flood plain or a flood hazard area;
- (5) Prohibiting the removal of metallic minerals in, on or from a river, stream or brook, a great pond, a freshwater wetland or a coastal wetland;
- (6) Prohibiting the placement of a mine shaft in, on or under a significant or outstanding river segment, an outstanding river, a high or moderate value waterfowl and wading bird habitat, a great pond or a coastal wetland;
- (7) Requiring the use of dry stack tailings management and prohibiting the use of wet mine waste units or tailings impoundments for the management of mine waste and tailings;

- (8) Prohibiting open-pit mining; and
- (9) Clarifying the financial assurance provisions to require the use of a trust fund secured with negotiable assets, provide for a mandatory third-party review of financial assurance obligations, and require an applicant for a permit or a permittee under the Mining Act to provide special financial assurance coverage for a worst-case catastrophic mining event or failure.

The mining rule that was provisionally adopted by the Board on January 5, 2017 was required to incorporate these legislatively-directed changes, along with additional changes necessary to ensure conformity with Public Law 2017, Chapter 142 and other state laws. In addition, the Department also made grammatical, formatting and other non-substantive amendments prior to final adoption.

**Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining
Response to Comments
Provisional Adoption
January 5, 2017**

1) General

Comment: A large number of commenters expressed general opposition to the Department's proposal on grounds that the proposed rules weaken Maine's mining regulations and do not adequately protect public health and the environment, and would also threaten Maine's tourism, recreation and commercial fishing economy. Specific concerns identified by these commenters included:

- a) The proposal would allow mining on and under public reserved and other state lands;
- b) Dangerous waste disposal facilities for mine waste and tailings would be allowed;
- c) Mining operations would be allowed in floodplains and flood hazard areas;
- d) The proposed financial assurance requirements are insufficient, not based on a worst case scenario, and would ultimately leave the Maine taxpayers responsible for cleaning up mining sites;
- e) The rules would allow open pit mining;
- f) The rules would put at risk Aroostook County's sustainable economy of outdoor sports, agriculture and forestry, all of which are dependent on clean water. Far more long-term sustainable jobs would be at risk than could be gained by a mine with a temporary life;
- g) In lieu of new mining rules and or updated statutes, Maine should simply ban mining or repeal the mining law since the environmental risks and overall negative impacts on the economy far outweigh any benefits;
- h) Sulfide deposits like Bald Mountain are especially risky to mine because of the highly reactive nature of the minerals on the site;
- i) The rules do not consider the long term economic viability of a mining project;
- j) Opposition to moving forward with rulemaking in the absence of legislative changes; and
- k) The rules are not based on best management practices.

Commenters: c-288 c-472 c206, c-138,c-20, c-433, c-153, c-450, c-64, c-252, c-229, c-240, c-261, c-326, c-393, c-358, c-405, c-265, c-284, c-356, c-307, c-325, c-383, c-344, c-290, c-235, c-249, c-69, c-355, c-315, c-275, c-257, c-253, c-312, c-386, c-342, c-285, c-362, c-283, c-268, c-372, c-251, c-286, c-256, c-297, c-233, c-404, c-258, c-279, c-361, c-337, c-353, c-264, c-376, c-336, c-391, c-338, c-208, c-305, c-246, c-301, c-309, c-263, c-218, c-365, c-400, c-318, c-399, c-247, c-412, c-354, c-254, c-384, c-302, c-276, c-328, c-414, c-230, c-340, c-295, c-368, c-349, c-345, c-413, c-389, c-348, c-222, c-375, c-

357, c-269, c-277, c-270, c-308, c-380, c-212, c-333, c-379, c-146, c-96, c-403, c-278, c-408, c-397, c-202, c-331, c-199, c-385, c-313, c-210, c-272, c-280, c-242, c-223, c-316, c-227, c-416, c-211, c-197, c-335, c-291, c-262, c-388, c-415, c-299, c-304, c-298, c-300, c-234, c-294, c-225, c-248, c-267, c-271, c-73, c-289, c-390, c-209, c-303, c-281, c-231, c-228, c-296, c-364, c-332, c-317, c-245, c-343, c-319, c-196, c-377, c-371, c-221, c-214, c-243, c-314, c-282, c-287, c-347, c-322, c-213, c-374, c-292, c-351, c-219, c-255, c-306, c-207, c-273, c-396, c-341, c-407, c-329, c-215, c-311, c-216, c-392, c-402, c-381, c-310, c-241, c-394, c-321, c-323, c-239, c-250, c-194, c-293, c-203, c-334, c-232, c-200, c-201, c-378, c-367, c-274, c-369, c-195, c-266, c-387, c-363, c-339, c-21, c-59, c-401, c-112, c-95, c-350, c-9, c-13, c-224, c-91, c-147, c-189, c-99, c-18, c-175, c-171, c-151, c-16, c-15, c-441, c-61, c-27, c-36, c-352, c-106, c-101, c-118, c-425, c-92, c-133, c-448, c-17, c-140, c-424, c-71, c-87, c-461, c-51, c-28, c-144, c-177, c-454, c-54, c-97, c-86, c-430, c-25, c-421, c-20, c-90, c-179, c-433, c-121, c-162, c-153, c-57, c-150, c-450, c-79, c-78, c-244, c-3, c-149, c-438, c-62, c-157, c-2, c-127, c-176, c-137, c-102, c-68, c-11, c-440, c-142, c-449, c-30, c-108, c-4, c-42, c-130, c-8, c-154, c-105, c-143, c-434, c-174, c-184, c-382, c-60, c-85, c-422, c-443, c-124, c-455, c-428, c-156, c-145, c-23, c-89, c-466, c-65, c-31, c-464, c-65, c-31, c-464, c-81, c-148, c-452, c-98, c-39, c-467, c-29, c-66, c-437, c-417, c-168, c-435, c-80, c-136, c-111, c-181, c-75, c-77, c-160, c-445, c-456, c-107, c-447, c-172, c-119, c-122, c-14, c-129, c-187, c-100, c-164, c-123, c-226, c-120, c-135, c-115, c-152, c-163, c-114, c-33, c-186, c-116, c-453, c-182, c-88, c-158, c-420, c-110, c-190, c-173, c-76, c-169, c-431, c-94, c-442, c-471, c-113, c-126, c-418, c-19, c-470, c-427, c-161, c-436, c-457, c-260, c-5, c-419, c-217, c-469, c-468, c-330, c-104, c-35, c-259, c-134, c-444, c-398, c-132, c-395, c-185, c-409, c-451, c-370, c-26, c-7, c-58, c-166, c-74, c-426, c-462, c-37, c-10, c-167, c-458, c-6, c-63, c-165, c-192, c-40, c-183, c-109, c-180, c-82, c-423, c-117, c-52, c-56, c-125, c-55, c-188, c-22, c-278, c-159, c-155, c-1, c-24, c-446, c-320, c-178, c-346, c-463, c-366, c-67, c-198, c-439, c-406, c-327, c-83, c-38, c-465, c-170, c-432, c-41, c-53, c-128, c-359, c-220, c-238, c-496, c-492, c-489, c-488, c-486, c-484, c-483, c-481, c-477, c-493, c-473, c-474, c-475, c-352, c-478

Response: The general opposition to the Department’s proposal focuses on several key issues, most of which are either beyond the scope of the Department’s rulemaking authority or already exist in current regulations. For example, while a large number of commenters are opposed to mining on or under public lands, the Department has only limited authority to categorically ban such activities. Instead, the Department must review any mining operations on public lands in accordance with the same review and approval criteria as all other mining proposals. Similarly, many commenters are opposed to siting mining operations in floodplains and flood hazard areas. Here too, the Department is limited in its ability to prohibit or otherwise restrict these activities, since they are specifically allowed by statute.

Many commenters are concerned that the proposal would allow open pit mining (since this type of mining is not proscribed), although it is already allowed under the Department’s existing Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining rule. A large majority of commenters are opposed to the use of wet mine waste units and tailings impoundments for the permanent storage of mine waste, although these are also already allowed under the Department’s existing rules. Many of these same commenters contend that the Department’s proposed financial assurance requirements are inadequate to address a “worst-case” scenario, and fail to protect the Maine taxpayers from unfunded remediation costs. The Department’s proposal however, provides far more comprehensive and secure financial assurance requirements than the existing rule.

Many commenters also asserted that the existing rule should not be revised based on the belief that it either remains unaffected by statutory changes in 2012, or that the existing rule was made entirely void

by the changes. There are myriad inconsistencies between the Metallic Mineral Mining Act and the Department's existing Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining rule. In the event of conflicting provisions in statute and rule, statute controls. Ignoring these inconsistencies, as some suggest, will not prevent metallic mineral mining in Maine; it will only introduce broad uncertainties and discretion into the licensing process.

In summary, the Department recognizes the commenters' concerns, and has developed a rule that provides for stringent environmental protections while adhering to the statutory requirements established in the Maine Metallic Mineral Mining Act. The Department has addressed the commenters' specific concerns in the following comments.

2) Financial assurance

Comment: While a large number of commenters questioned the adequacy of the financial assurance provisions, several provided more specific testimony, citing risks from mining of high sulfur deposits and their concern that the taxpayer will be left with the cost of remediation. They cited the state's experience with contamination at the Callahan Mine and the Kerr-American Mine, and catastrophic failures at currently operating mines (generally from the failure of tailings impoundments). These commenters contend that the financial assurance requirements must be sufficient to cover a "worst-case" scenario, with the rules requiring an independent third party estimate of the cost to fully address this worst case scenario mine failure. Commenters also contend the cost to address a worst case scenario should be a required permit condition, and that the mining company should be required to maintain financial assurance for as long as such a risk exists.

Commenters: c-288, c-472, c-138, c-153, c-64, c-12, c-146, c-237, c-429, c-481, c-485

Response: A careful reading of the Department's proposal will demonstrate that it already establishes financial assurance requirements that address the commenters' concerns with respect to the use of a "worst-case" scenario, independent third-party estimates, requiring financial assurance as a permit condition, and maintaining financial assurance as long as any risks exist:

- a) Use of a "worst-case" scenario to establish financial assurance coverage requirements. The Department's August 24, 2016 proposal already utilized a "worst-case" scenario to establish financial assurance coverage requirements. Section 9(I)(5)(ii) of the Department's proposal required an applicant to provide a detailed written cost estimate of:

The cost to investigate a release of contaminants at the site, monitor all aspects of the facility, close the facility in accordance with the proposed closure plan, conduct treatment activities for a minimum of one hundred (100) years of all expected fluids generated at the facility, implement remedial activities for releases and maintenance of structures and waste units as if these units have released contaminants to the groundwater and/or surface water, conduct corrective actions for potential environmental impacts from pathways from the mining areas to adjacent groundwater and surface water resources as identified in the Environmental Impact Assessment, and conduct activities at the mine site in accordance with the proposed mine plan. All cost estimates shall be in current dollars, shall include at least a 20% contingency, and shall assume the hiring by the Department of a third party to complete all tasks. Cost estimates shall include Department oversight costs equal to 30% of the cost of hiring a third party to complete all tasks. No salvage

value of products, waste, mine structures, equipment, land, or other assets associated with the mining operations shall be included in the cost estimate.

This requirement was then cross-referenced in the financial assurance requirements (section 17(B)(1)(a) of the proposal). On November 16, 2016, the Board of Environment Protection posted additional changes to these (and other) requirements to an additional 30-day written public comment period. To provide greater clarity and certainty that the proposal's financial assurance requirements would be sufficient to address a worst-case scenario, Section 9(I)(5)(ii) was revised to state:

(ii) The cost to investigate any and all possible releases of contaminants at the site, monitor all aspects of the facility, close the facility in accordance with the proposed closure plan, conduct treatment activities of all expected fluids and wastes generated at the facility for a minimum of one hundred (100) years, implement remedial activities for releases and maintenance of structures and waste units as if these units have released contaminants to the groundwater and/or surface water, conduct corrective actions for potential environmental impacts from pathways from the mining areas to adjacent groundwater and surface water resources as identified in the Environmental Impact Assessment, and conduct activities at the mine site in accordance with the proposed mine plan. All cost estimates shall be in current dollars, shall include at least a 20% contingency, and shall assume the hiring by the Department of a third party to complete all tasks. Cost estimates shall include Department oversight costs equal to 30% of the cost of hiring a third party to complete all tasks. No salvage value of products, waste, mine structures, equipment, land, or other assets associated with the mining operations shall be included in the cost estimate.

In addition, this language was explicitly incorporated in Section 17(B)(1) of the revised proposal (rather than being cross-referenced).¹

(b) Independent third party estimates. The Department's proposal already provides for an independent third party estimate of financial assurance requirements. Section 17(A)(7) states:

(7) All forms of financial assurance and terms and conditions of financial assurances must be approved by the Department and must be analyzed by individuals with documented experience in material handling and construction, mining costs, and financial analysis. If the Department does not have adequate in-house expertise,² the Department shall hire third parties with documented experience in material handling and construction, mining costs, risk analysis, and financial analysis to analyze and evaluate the proposed terms and conditions of financial assurance required for the Applicant or Permittee. The individuals and company hired to perform this function shall have no conflict of interest with the applicant, related persons, applicant's consultants, attorneys or any of their employees. All costs of the third party evaluation must be paid by the Applicant pursuant to 38 M.R.S. § 352(4-A).

¹ It should be noted that the Department's proposal is consistent with "worst-case scenarios" employed by researchers in other jurisdictions.

(e.g., <http://www.csp2.org/files/reports/Greens%20Creek%20Mine%20Financial%20Assurance%20Review%281%29.pdf>).

² The Department recognizes that it may not have this in-house expertise at this point in time, but reserves the right to conduct these analyses if, and when, it has sufficient expertise.

(c) Requiring financial assurance as a permit condition. The Department's proposal already requires the Permittee to maintain financial assurance coverage as a permit condition.³ Section 17(A)(1) of the proposal states:

A. Requirements. Financial assurance and insurance is required for all advanced exploration and mining activities and must be fully funded prior to the issuance of a mining permit

(1) The Permittee shall continuously maintain financial assurance, *as a condition of the mining permit* (emphasis added), until the Department determines that all reclamation, closure, post-closure maintenance and monitoring, and corrective actions have been completed.

(d) Maintaining financial assurance as long as any risks exist. Again, the Department's proposal already requires the Permittee to maintain financial assurance for as long as any environmental or public health risks exist. Section 17(A)(2) of the proposal states:

(2) The Permittee shall be required to maintain financial assurance for as long as the Department determines that the mining operation and any associated waste material could create an unreasonable threat to public health and safety or the environment.

In summary, the Department's proposal establishes comprehensive financial assurance requirements that ensure sufficient funds will be available to address a worst-case scenario throughout the life of a mine and as long as there is a risk that the mining operation and/or waste could create a threat to the environment or public health and safety. Any mine operation producing waste with the potential for producing acid leachate, hazardous waste, or high levels of soluble pollutants must use only the most secure forms of financial assurance, and place this financial assurance in trust, helping to ensure that sufficient funds will be available to complete any and all reclamation, closure, post-closure maintenance and monitoring, and corrective actions.

3) Public lands

Comment: A large number of commenters expressed general opposition to mining on public lands (especially public reserved lands), and believe that the rules should provide stronger protections for Maine's rivers, lakes and coastal waters. Commenters noted these lands are managed by the state to serve public interests, but would be potentially open to mining development under these rules. Other commenters provided more specific comments as detailed below.

Commenters: c-411, c-237, c-205, c-472, c-429, c-288, c-472, c-20, c-153, c-324, c-399, c-235, c-302, c-326, c-348, c-392, c-344, c-200, c-342, c-414, c-362, c-222, c-268, c-277, c-256, c-212, c-233, c-212, c-258, c-379, c-361, c-223, c-376, c-227, c-391, c-197, c-208, c-229, c-386, c-240, c-285, c-261, c-283, c-393, c-372, c-405, c-286, c-307, c-297, c-383, c-336, c-290, c-338, c-249, c-305, c-355, c-358, c-275, c-265, c-257, c-356, c-312, c-339, c-401, c-20, c-153, c-244, c-84, c-34, c-11, c-177, c-145, c-111, c-77, c-14, c-100, c-226, c-115, c-116, c-76, c-94, c-113, c-19, c-161, c-60, c-443, c-23, c-65, c-81, c-98, c-29,

³ It should be noted that failure to maintain and comply with the conditions of the financial assurance requirements constitutes grounds for the Commissioner to not only order the immediate suspension of mining activities including, but not limited to, suspending the extraction of metallic product or removal of metallic product, but also forfeiture of the financial assurance to the Department pursuant to Section 17(G) of the proposal.

c-80, c-181, c-160, c-107, c-164, c-120, c-152, c-453, c-419, c-370, c-468, c-426, c-35, c-37, c-444, c-167, c-132, c-6, c-185, c-165, c-451, c-26, c-22, c-58, c-159, c-74, c-1, c-462, c-446, c-10, c-178, c-458, c-463, c-63, c-5, c-192, c-104, c-183, c-180, c-423, c-52, c-125, c-155, c-24, c-320, c-330, c-259, c-398, c-395, c-166, c-439, c-12, c-411, c-137, c-205, c-206, c-472, c-429, c-496, c-495, c-492, c-484, c-481, 485, c-477

More specific comments on the Department's proposal included:

(a) **Comment:** Sections 20(B)(3) and (4) of the proposal are confusing, and not sufficiently protective of these public resources. Although the Department is proposing to prohibit the removal of ore in, on or under great ponds, rivers, brooks and stream and coastal wetlands in section 20(B)(3), it lists numerous other waterbodies and state lands in Section 20(B)(4) over which it says it has only limited jurisdiction ("these setbacks shall apply unless and until another state or federal agency with management authority determines that mining is allowed in, on or under the following"). Public lands and public waters need more protection. The rules appear to provide a high level of protection to surface waters by prohibiting removal of ore under rivers, brooks, streams and coastal wetlands. But they go on to defer to "another state or federal agency with management authority" if it "determines mining is allowed in, on or under" a list of state and federal conservation lands. DEP appears to cede its authority to another agency that wants to promote mining. Former versions of these rules provided clear prohibitions on mining in many of these. The public deserves to know whether public lands and waters are either protected or not protected by these rules. And potential mine developers deserve to know where they are or are not allowed to mine. For example, why do the rules protect great ponds with outstanding scenic resources, but not those with outstanding fish or wildlife resources?

The Department should address these inconsistencies and explicitly state where mining is not allowed; preferably by striking the following sentence from section 20(B)(4):

"These setbacks shall apply unless or until another state or federal agency with management authority determines that mining is allowed in, on or under the following"

Response: Pursuant to 12 M.R.S. § 1801 *et seq.*, the Bureau of Parks and Lands (Bureau) within the Department of Agriculture, Conservation and Forestry has "jurisdiction, custody and control over and responsibility for managing" state parks, historic sites, public reserved lands, nonreserved public lands, and submerged lands. Its responsibilities include classifying land as state parks, historic sites, public reserved lands, and nonreserved public lands; promulgating rules; and managing the lands pursuant to the appropriate subchapter of Title 12, chapter 220. Although Title 12, chapter 220 does not explicitly state whether mining is an allowed use on each type of Bureau-controlled lands, it is clear that the Legislature contemplated the possibility of mining on state lands since it enacted an entire subchapter pertaining to mining on state lands at 12 M.R.S. § 549-549-C.

The Metallic Mineral Mining Act (2011 P.L., ch. 653, § 30) directs the DEP to provisionally adopt rules related to metallic mineral mining that it deems "necessary to protect the public health and safety and environment." Those rules may include standards "regarding preservation of historic sites, preservation of unusual natural areas, effects on scenic character and protection of fisheries and

wildlife.” At the same time, the Metallic Mineral Mining Act does not explicitly authorize the DEP to ban mining on state lands or make land use determinations as required by 12 M.R.S. § 549-B(6).

Section 20(B)(3) of the Department’s revised proposal restricts certain mining activities on protected natural resources as follows:

Mining prohibited. Removal of ore, preparation, washing, cleaning or other treatment of metallic minerals in or on great ponds, rivers, brooks and streams, and coastal wetlands as defined in 38 M.R.S. § 480-B is prohibited, except that gold panning and recreational motorized gold prospecting are permitted pursuant to 38 M.R.S. §§ 480-Q(5) and 480-Q(5-A) and are exempt from the requirements of this Chapter.

Although these restrictions may at first seem impermissible in light of Title 12 and the limitations imposed by the Metallic Mineral Mining Act, these prohibitions are consistent with the Department’s authority under other statutory provisions, namely the Natural Resources Protection Act. The Natural Resources Protection Act (38 M.R.S. § 480-D) establishes standards for the protection of natural resources, and states (in relevant part):

The Department shall grant a permit upon proper application and upon such terms as it considers necessary to fulfill the purposes of this article. The Department shall grant a permit when it finds that the applicant has demonstrated that the proposed activity meets the standards set forth in subsection 1 to 11...

The standards established in 38 M.R.S. §§ 480-D(1) through (11) address a number of impacts on protected natural resources, with the Department finding that undertaking the prohibited activities (i.e., removal of ore, preparation, washing, cleaning or other treatment of metallic minerals in or on great ponds, rivers, brooks and streams, and coastal wetlands) would be impossible to conduct without having an unreasonable impact on these protected natural resources.

With respect to the setbacks, which are primarily intended to address scenic and aesthetic impacts, the Department acknowledges the Commenter’s confusion, but believes that given the Department’s limited authority, this approach maximizes the protection of these resources. Section 20(B)(4) states:

(4) Surface mining shall not be allowed within 1 mile, and underground mining within ¼ mile of the jurisdictional limits of the following unless the Applicant can demonstrate to the satisfaction of the Department that there are topographical features that provide sufficient protection of the resource, the environment and public health and safety. These setbacks shall apply unless and until another state or federal agency with management authority determines that mining is allowed in or on, the following:

- (a) National and state parks;
- (b) National wilderness areas;
- (c) National wildlife refuges;
- (d) The Allagash Wilderness Waterway;
- (e) State-owned wildlife management areas pursuant to 12 M.R.S. § 10109(1);
- (f) State or national historic sites;
- (g) Any river designated pursuant to the federal Endangered Species Act as critical habitat for Atlantic salmon;

- (h) One of the 66 great ponds located in the State's organized area identified as having outstanding or significant scenic quality in the "Maine's Finest Lakes" study published by the Executive Department, State Planning Office in October 1989; and
- (i) One of the 280 great ponds in the State's unorganized or de-organized areas designated as outstanding or significant from a scenic perspective in the "Maine Wildlands Lakes Assessment" published by the Maine Land Use Regulation Commission in June 1987.

The Department may require a greater setback if submission materials or other information demonstrate an increased setback is necessary to protect the environment and public health and safety.

Since the Department does not have authority to categorically prohibit mining on public lands, establishing a setback requirement from an approved public land mining site would be nonsensical. Although the approval of mining activities in, on or under most of these resources may be highly unlikely,⁴ it is at least conceivable that mining activities could be permitted on or near some sites. The Department's proposal simply recognizes that the Department's authority to establish these setbacks is limited, and conditional upon the actions of other agencies. See also, Comment #40.

(b) **Comment:** DEP has also stated orally to the Board that it has no authority to protect Public Reserved Lands. Does that mean that it believes mining is acceptable anywhere in those lands, including in on or under waterbodies?

Response: The Metallic Mineral Mining Act (2011 P.L., ch. 653, § 30) directs the DEP to provisionally adopt rules related to metallic mineral mining that the DEP deems "necessary to protect the public health and safety and environment." Those rules may include standards "regarding preservation of historic sites, preservation of unusual natural areas, effects on scenic character and protection of fisheries and wildlife." Mining on public lands would be subject to the same environmental requirements and approval criteria as other sites. The Metallic Mineral Mining Act however, does not explicitly authorize the DEP to categorically ban mining on state lands or make the land use determinations required by 12 M.R.S.A. § 549-B(6). The absence of a prohibition does not constitute a finding of acceptability or other approval.

For a discussion of the Department's authority to prohibit mining in or on certain protected natural resources, See response to Comment 3(a), above.

(c) **Comment:** Title 12 Section 549 et seq. contains laws related to mining on state lands. Title 12 549-C states "nothing in this subchapter may be deemed to relieve any explorer or mining lessee from the obligation to comply with all applicable environmental or other regulatory laws and rules of the state". A plain reading of this statute seems to mean that any mining company would have to comply with all DEP rules on any state lands, including public reserved lands and lots. Even if DEP is correct in their assertion that they lack authority to protect state lands, it has had five years to ask for the statutory authority to do so.

⁴ Note that mining in or on great ponds, rivers streams and brooks and coastal wetlands is categorically prohibited by the proposal.

Response: The Commenter is correct in stating that exploration and mining activities on state lands are subject to all requirements of the Department's Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining rules. At the same time, it is important to recognize that the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry has "jurisdiction, custody and control over and responsibility for managing" state parks, historic sites, public reserved lands, nonreserved public lands, and submerged lands. Mining on state lands first requires the agencies having jurisdiction over that state land (e.g., Bureau of Parks and Lands or Department of Inland Fisheries and Wildlife) to make a determination that mining is an allowed use, which in some cases may trigger the 2/3 vote requirement pursuant to 12 M.R.S. § 598-A and the Maine Constitution, Article IX, section 23. A mining operation on state lands still requires approval under Chapter 200, and remains subject to all other applicable Department standards including the Natural Resources Protection Act.

(d) **Comment:** The Board of Environmental Protection and Department should ask the Legislature for authority to prohibit mines in, on, or under public lands, floodplains, great ponds, rivers, streams and coastal wetlands. It is important to remember that while Maine's public lands are managed for multiple uses, they are still held in public trust. As an example, there are three public reserve lots within the Moosehead Lake region where the Appalachian Mountain Club owns and manages 70,000 acres. The Katahdin Iron Works Conservation project (partially funded with \$6 million dollars of public money) is managed for conservation and public access. These public lots fall wholly or partially within this conservation property, and have been managed for decades for remote recreation, deer wintering habitat and sustainable timber development. Opening these parcels to mining development directly contradicts and undermines decades of careful management by the state and millions of dollars investment by Maine citizens on the conservation of these lands. These public reserve lots are scattered all across the state and should not be jeopardized by the risk of mining development.

Response: See Response to Comment 14, below.

(e) **Comment:** The Office of the Maine Attorney General has stated that Maine's public lands, and specifically Maine's public reserve lands may currently be mined for metallic minerals under 12 M.R.S. § 549. I do not believe that this is the case because 12 M.R.S. § 549 was not passed in accordance with the Constitution of the State of Maine, Article IX Section 23. This constitutional article states in part, "State Park land, public lots or other real estate held by the state for conservation or recreation purposes and designated by legislation implementing this section may not be reduced or its use substantially altered except on the vote of 2/3 of all the members elected to each House." Since 12 M.R.S. § 1847 Management of Public Reserved Lands states in part:

1. Purpose. The Legislature declares that...public reserved lands be managed under the principles of multiple use to produce a sustained yield of products and services...

It follows that metallic mining does not meet this requirement since mining is by its nature an extractive use which forever alters the physical characteristics of the land in a way that frustrates the essential purposes for which the land is held by the state for conservation and recreational purposes.

Since metallic mining of public reserved lands qualifies as a substantially altered use, 12 M.R.S. § 549 must have been passed by the Legislature by 2/3 of the members elected to each house to meet

the requirements of Maine's Constitution Article IX Section 23. As such, the passage of 12 M.R.S. § 549 does not pass constitutional muster and must be nullified. Metallic mineral mining on public reserved lands is unconstitutional unless and until 12 M.R.S.A. § 549 is passed by 2/3 of the members elected to each house of the Legislature.

Response: This Comment focusses on 12 M.R.S. § 549. The BEP is promulgating these rules pursuant to 38 M.R.S. § 341-H and the Metallic Mineral Mining Act, not 12 M.R.S. § 549. Regardless, 12 M.R.S. § 549, which grants certain authority to the agency with jurisdiction over state-owned lands and the Division of Geology, Natural Areas and Coastal Resources (within the Department of Agriculture, Conservation, and Forestry) "for the purpose of mineral development and mining on that [state-owned] land," was enacted in 1985, prior to the enactment in 1993 of Me. Const. art. IX, sec. 23. Accordingly, the enactment of 12 M.R.S. § 549 was not subject to the two-thirds mandate contained in Me. Const. art. IX, sec. 23, even assuming that such a statute could trigger the 2/3 legislative vote requirement. No changes were made in response to this comment.

In summary, while the Department has statutory authority to regulate mining activities (or how mining is conducted), it does not have broad authority to determine whether mining would be a permissible activity on specific state-owned lands.

4) Floodplains and flood hazard areas

Comment: The rules should prohibit dangerous components of mines from floodplains and flood hazard areas. Allowing mine pits, shafts, waste rock piles and tailings ponds in floodplains and flood hazard areas is very dangerous. There is no way to make these sorts of facilities safe from a 500-year flood as required by section 20(B)(1). Mining is a very risky activity under any circumstance, and these risks are exacerbated by in flood-prone areas. Other than the building and operation of roads to and from a mining site (as permitted under the Natural Resources Protection Act), mining activities should be prohibited in floodplains and flood hazard areas.

Commenters: c-288, c-472, c-324, c-253, c-348, c-312, c-408, c-342, c-416, c-362, c-200, c-268, c-247, c-256, c-414, c-233, c-222, c-258, c-277, c-361, c-212, c-391, c-379, c-208, c-223, c-386, c-227, c-285, c-211, c-283, c-197, c-372, c-229, c-286, c-240, c-297, c-261, c-336, c-393, c-338, c-405, c-305, c-307, c-358, c-383, c-265, c-290, c-356, c-249, c-344, c-355, c-326, c-275, c-235, c-257, c-315, c-389, c-401, c-153, c-244, c-84, c-34, c-11, c-177, c-111, c-158, c-190, c-77, c-169, c-14, c-126, c-100, c-470, c-226, c-436, c-115, c-116, c-76, c-94, c-113, c-19, c-161, c-60, c-443, c-23, c-65, c-81, c-98, c-29, c-80, c-181, c-160, c-107, c-164, c-120, 181-152, c-453, c-419, c-370, c-468, c-167, c-35, c-6, c-444, c-165, c-132, c-185, c-22, c-451, c-159, c-26, c-1, c-58, c-461, c-74, c-178, c-462, c-463, c-10, c-5, c-458, c-63, c-192, c-183, c-180, c-423, c-52, c-125, c-155, c-330, c-259, c-398, c-395, c-370, c-166 c-426, c-439, c-12, c-411, c-429, c-61, c-496, c-481, c-237, c-485, c-477

Response: The Metallic Mineral Mining Act at 38 M.R.S. § 490-OO(4)(H) provides that "Mining operations may be placed in flood plains or flood hazard areas as long as they are designed, constructed, operated and reclaimed in a manner that complies with the approval criteria in this subsection and the Natural Resources Protection Act."

An administrative rule such as the proposed Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining rule, is adopted by an agency to make the law it enforces or administers more specific or to govern the agency's organization or procedure, and is subordinate to laws established by the Maine Legislature. As such, these rules must be consistent with statute. In fact, the Maine Administrative Procedures Act (5 M.R.S. § 8056) requires all rules to be reviewed and approved as to form and legality by the Attorney General. The Department could not implement a prohibition against the placement of mining operations in floodplains or flood hazard areas because such prohibition would be inconsistent with the Metallic Mineral Mining Act, and would not be approvable pursuant to 5 M.R.S. § 8056.

At the same time, it should be noted that the Department's proposal utilizes a 500-year event for the analysis of run-on/runoff control systems and floodplain or flood hazard areas to better address the recent increase in stronger precipitation events (when compared to historical data compiled by the National Oceanic and Atmospheric Administration (NOAA)). We also note that the design standards for containment structures in section 20(H) require designs to address the "Probable Maximum Flood" as this term is defined in Section 2. Given the size and setting for the types of structures associated with mining activities, coupled with the consequences of failure, the Department believes the 500-year standard is appropriate to address the potential for extreme precipitation events and flooding.

The rule is consistent with the statute, and no changes have been made to the rule as a result of this comment. See also, Response to Comment 14.

5) Wet waste units

Comment: The requirements that wet mine waste units only operate during the active life of a mine are unenforceable and meaningless. It would force Maine to cope with large quantities of submerged acid-generating waste forever.

The reason mining companies place mine wastes underwater is because doing so helps reduce acid generation by limiting exposure to oxygen. This does not eliminate acid generation because oxygen is also present in water. Companies must keep highly acid-generating rock or tailings covered with water permanently.

It makes no sense to allow water covers only during the life of a mine. How will any mining company move millions of tons of wasterock from underwater to some other sort of storage? This will never happen. Instead, Maine will have to deal with large quantities of submerged acid generating waste permanently. Over time, the waste will eventually contaminate ground water and surface water.

The Mackay School of Mines is the leading expert in allowable technology available in the mining process, and maintains that the use of wet mine waste units results in permanent waste ponds requiring perpetual treatment and care. It is not possible to successfully dewater and remediate these waste ponds and tailings ponds. The use of dry mine waste storage technologies is the only option available for the storage of mine waste if the people of Maine do not want to be responsible for the perpetual care and treatment of wet mine waste units and tailings ponds.

The Department should remove any reference to the use of wet mine waste units and tailings ponds from its proposed rules. The use of dry mine waste storage technologies is the only available option for the storage of mine wastes if the people of Maine do not want to be responsible for the perpetual care and treatment of wet waste. This also means that DEP would need to deny permits for ore bodies that generate large amounts of acid-generating wastes that require wet covers.

Commenters: c-204, c-228, c-472, c-206, c-20, c-11, c-111, c-158, c-190, c-77, c-169, c-14, c-126, c-100, c-470, c-226, c-436, c-115, c-116, c-76, c-94, c-113, c-19, c-161, c-60 c-443, c-23, c-65, c-81, c-98, 29, c-80, c-181, c-160, c-107, c-164, c-120, c-152, c-435, c-419, c-468, c-35, c-132, c-185, c-451, c-58, c-74, c-462, c-10, c-458, c-192, c-183, c-180, c-423, c-52, c-125, c-155, c-330, c-259, c-398, c-166, c-426, c-37, c-167, c-6, c-165, c-22, c-159, c-1, c-446, c-178, c-463, c-5, c-439, c-12, c-429, c-490, c-237, c-485, c-478

Response: Water covers, according to the Global Acid Rock Drainage (GARD) Guide⁵ are recognized as a “best global practice” to prevent and minimize the generation of acid rock drainage. The Department has received numerous requests to include best practices in developing the rule. An outright ban on the use of water covers for the storage of reactive mine waste eliminates a successful prevention and mitigation technique. During the operation of a mine, a temporary mine waste unit may be required to store reactive waste rock until closure activities commence. These activities may include removing the reactive rock from the mine waste unit and permanently placing the material back in the pit or underground workings for closure. One company (Aquila Resources Inc.) has proposed a similar closure plan for its proposed Back Forty Project in Stephenson, Michigan.⁶

Many commenters expressed concern specifically about one type of wet waste unit - tailings impoundments. To address these outstanding concerns regarding the less stable slurry nature of tailings and catastrophic failures of tailings impoundments, the Department is proposing to prohibit tailings impoundments that use water as a cover. See Response to Comment #6.

6) Tailings impoundments

Comment: Mining debacles are not things of the past. They are obviously not events that any company will predict would happen, and they occur with some regularity. The last two massive spills were Imperial Metals’ Mt Polley Mine in August 2014, in British Columbia, the largest tailings pond dam failure in Canadian history, and Samarco’s Bento Rodrigues mine in Mariana, Brazil in November of last year, the largest tailings dam failure ever, anywhere. Both projects were built in full compliance with local law and regulations.

Here in Maine, we are at risk for even more irremediable consequences than from these last two massive, but acute, calamities which were due to breaches in mine tailings storage systems. A mine gone bad at some sites in our state could create a rent in the fabric of Maine’s geology which, once created, could bleed acid mine drainage in perpetuity, like a wound that festers but cannot heal. The drainage could begin during the life of the mine, or decades later, after the demise of the company that operated it. It could last for decades, or for centuries. If by permanent we usually mean “as long we

⁵ www.gardguide.com

⁶ Treatment and Containment Plan for Tailings and Waste Rock, Back Forty Project, Aquila Resources, Inc., October 2015

and many generations of our descendants live,” it could contaminate our water quality permanently, and damage Maine’s brand, which is a vital economic resource in Maine’s economy, permanently.

Over the last two years at hearings just like this, we’ve heard a series of distinguished geologists and hydrologists testify that open pit sulfide mining in some parts of our state risks courting precisely this magnitude of slow-motion, long-term disaster. Those professional assessments were based on the unique combination of Maine’s massive acid reactive deposits, the lack of adequate natural neutralizing capacity in the surrounding landmass, our naturally wet environment, and the near certainty of accelerated climate change that will bring, almost predictably, unprecedented extreme weather events.

In the face of a disaster of this scale and duration, the deliberations of legislative committees, environmental bureaus, or courts of law about the appropriate size of reclamation bonds, mitigation strategies, public vs private liabilities, would be rendered beside the point. There will be no fund large enough and no remediation possible.

As in previous versions of these rules, DEP does not clarify why a tailings pond is different than a wet mine waste unit. Tailings ponds contain the waste slurry from ore processing. The slurry is a mix of processing chemicals, water and fine waste rock. At sulfide metal mines, the subject of these rules, the tailings often generate acid when exposed to air and water. Companies therefore keep tailings flooded to reduce acid generation. How is this different from a “wet mine waste unit? Does DEP plan to require using tailings ponds only during the active life of a mine? If so, where does DEP expect a mining company to take its tailings once operations are concluded? Or, does DEP plan to allow companies to take waste out of wet mine waste units and put it in tailings ponds?

If DEP wants an effective requirement that mine companies not use wet management after closure, it needs to require that mining companies plan accordingly from the start. Allowing wet management of tailings and other mine waste during the life of a mine but not after will not significantly lower the risk of tailings dam failures, since the majority of these failures occur during the active life of a mine.

The draft rules allow tailings impoundments or “wet mine waste units” during the life of the mine, but not after. The rules prohibit these facilities for post-closure treatment, but we believe they should be prohibited outright. If the Department’s intent is to end up with an alternative waste management plan post-closure, they should require the applicant to plan and design their waste management from the beginnings with that end in mind. Wet mine waste units are the most dangerous type of waste disposal and processing- eighty percent of tailings impoundment dam failures occur during the active life of a mine. The Department should prohibit the use of (wet) tailings impoundments.

Commenters: c-45, c-72, c-2, c-153, c-84, c-177, c-158, c-190, c-169, c-126, c-470, c-436, c-444, c-26, c-63, c-370, c-56, c-55, c-469, c-104, c-12, c-170 ,c-228, c-472, c-20, c-153, c-72, c-495, c-478

Response: Under the Department’s proposed rule a tailings impoundment is a type of wet mine waste unit. The Department’s revised proposal includes a prohibition on tailings impoundments that use water as a cover in Section 3(F). The intent of the prohibition is to address public concerns associated with the need to maintain the long-term integrity of the dam structure for slurry type tailings. The Department is also proposing a revision to the definition of “tailings” to better distinguish tailings from other mine wastes that could be in a wet waste unit.

Tailings. “Tailings” means the product resulting from the milling and mineral concentration process ~~those portions of a metallic mineral deposit~~ remaining after extraction of minerals by physical or chemical means.

However, the Department still proposes to allow the temporary use of water covers for other types of mine waste such as waste rock.

7) Citizen Intervenors

Comment: The proposed rules should allow citizen intervenors.

Commenter: c-472

Response: The Department’s proposed rule does allow citizens to obtain intervenor status. The proposal establishes two categories of intervenors; 1) General Intervenors; and 2) Municipal or County Commissioner Intervenors. General Intervenors are those persons who have been granted intervenor status in accordance with the Maine Administrative Procedures Act, 5 M.R.S. §§ 9054(1) and (2) and the Department’s rules governing hearings. Section 10(G)(1) of the proposal states:

G. Application Phase – Intervenor Status

- (1) Petitions for General Intervenor Status. A request for general intervenor status may be filed in any application proceeding for an advanced exploration mining permit or a mining permit under this Chapter. Petitions for intervenor status are governed by the Department’s Rules Governing the Conduct of Licensing Hearings, 06-096 C.M.R. ch. 3, except as otherwise provided in subsection 10(G)(2) of this Chapter.

General Intervenors are subject to the following provisions established by Section 11(A) of Chapter 3:

- A. **Intervention.** The Commissioner, the Board, or the Presiding Officer pursuant to section 4(C)(5) of this rule shall decide petitions for leave to intervene in a licensing proceeding where a decision has been made to hold a hearing.
 - (1) Except as provided in this subsection, any person who wants to participate in a hearing as an intervenor must file a petition for leave to intervene within ten (10) days of the Department’s publication of notice of opportunity to intervene, or within such other time as may be specified in the notice. The petition must include: identification of the petitioner, a description of the effect of the proposed activity on the petitioner; specific contentions regarding the subject matter of the hearing and the relevant statutory criteria; the name of the spokesperson for the petitioner; and a statement regarding the ability of the petitioner to participate in the proceeding. If the petitioner is a group or organization, the petition shall include a general description of the purpose and membership of the group or organization. A petition shall be granted if it demonstrates that the petitioner is or may be, or is a member of a class which is or may be, substantially and directly affected by the proceeding. The Department may, at its discretion, allow any other person to intervene and participate as a party to the proceeding. A petition for leave to intervene may be granted to allow participation as a full or limited party to the proceeding.

- (2) Any state, federal, municipal or other governmental agency that wants to participate as a party shall be granted intervenor status if it files a petition for leave to intervene within ten (10) days of the Department's publication of notice of opportunity to intervene, or within such other time as may be specified in the notice.
- (3) An appellant and a licensee shall be granted automatic intervenor status in an appeal where the Board has decided to hold a hearing and need not file a petition for leave to intervene.
- (4) A petition for leave to intervene which is not timely filed will be denied unless the petitioner shows good cause for failure to file on time, including but not limited to failure to receive reasonable notice.
- (5) An intervenor is a party to the proceeding and has the right to offer testimony and evidence, and conduct cross examination. An intervenor shall be permitted to participate in the hearing, subject, however, to such reasonable terms as the Presiding Officer may direct.
- (6) Intervenors may be required by the Presiding Officer to consolidate their presentations of evidence and argument in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite or simplify the hearing without prejudice to the rights of any party. A consolidation under this section may be for all purposes of the proceeding, all of the issues of the proceeding, or with respect to any one or more issues thereof.
- 7) A Presiding Officer shall allow an intervenor to withdraw from participation in a licensing proceeding. The Presiding Officer shall evaluate whether any testimony or evidence presented by the withdrawing party must be stricken from the record because a witness is no longer available for cross-examination or inclusion of evidence would cause undue prejudice to remaining parties. Any decision regarding such materials shall be made in writing by the Presiding Officer, except that any such decision that occurs during the hearing shall be stated on the record.

The proposal provides special status to Municipal or County Commissioner Intervenors. Under the Metallic Mineral Mining Act, municipal officers or their designees, from each municipality in which the mining area or affected area may be located, or in the unorganized territory, the county commissioners, or their designees, for each county in which the mining area may be located, are automatically granted intervenor status if they request it within 60 days of being notified by the Applicant and are not subject to the requirements for general intervenors. In addition, the Metallic Mineral Mining Act also established assistance grants that may be used only by Municipal or County Commissioner Intervenors for the direct expenses of their intervention. With these two exceptions (i.e., the granting of intervenor status and availability of assistance grants) both categories of intervenors have the same rights and obligations, including access to proposed sites. No changes have been made to the rule as a result of this comment.

8) Exploration

Comment: The proposal allows exploration without a permit. In the 1980's, exploration activities were conducted on Bald Mountain, with more than 500 test holes bored across the site. Many of these holes were never properly closed, and remain open today. Drilling silt from these test borings remains today on Carr Pond, more than 2 miles from the site.

Commenters: c-416, c-472, c-416

Response: Due to the low impacts and risk from exploration activity, the Department chose not to include a mandatory review and approval process for the work plan. The submittal of a work plan however, provides the Department notice that an exploration activity is occurring and allows the Department to inspect the site for compliance. In addition, exploration activity must conform to the performance standards contained in Section 7(B) of the proposed rule. The exploration performance standards contained in the rule are based on best practices developed by other regulatory jurisdiction. These performance standards include erosion control measures and standardize requirements for sealing drill holes.

9) Smelting and beneficiation

Comment: Smelting and beneficiation of ores by sintering, roasting and briquetting increases the environmental impacts and health effects.

Commenters: c-349, c-316, c-350, c-449, c-403

Response: The Department's proposal regulates metallic mineral exploration, advanced exploration and mining activities as defined by 38 M.R.S. § 490-MM, and does not address smelting, which is a process distinct from roasting, sintering, and other pyrometallurgical operations. The beneficiation of ores by sintering, roasting and briquetting is addressed by the Department's Chapter 200 proposal and also would be subject to state and federal air emission control requirements like any other source of air emissions. Relevant state air pollution control requirements for mining operations could include (depending on emissions):

- 06-096 CMR Chapter 100 Definitions Regulation
- 06-096 CMR Chapter 101 Visible Emissions Regulation
- 06-096 CMR Chapter 103 Fuel Burning Equipment Particulate Emission Standard
- 06-096 CMR Chapter 105 General Process Source Particulate Emission Standard
- 06-096 CMR Chapter 113 Growth Offset Regulation
- 06-096 CMR Chapter 115 Major and Minor Source Air Emission License Regulations
- 06-096 CMR Chapter 116 Prohibited Dispersion Techniques
- 06-096 CMR Chapter 117 Source Surveillance
- 06-096 CMR Chapter 126 Capture Efficiency Test Procedures
- 06-096 CMR Chapter 137 Emission Statements
- 06-096 CMR Chapter 134 Reasonably Available Control Technology for Facilities that Emit Volatile Organic Compounds (VOC-RACT)
- 06-096 CMR Chapter 138 Reasonably Available Control Technology for Facilities that Emit Nitrogen Oxides
- 06-096 CMR Chapter 140 Part 70 Air Emission License Regulations
- 06-096 CMR Chapter 143 New Source Performance Standards (NSPS)
- 06-096 CMR Chapter 144 National Emission Standards for Hazardous Pollutants (NESHAPS)

No changes were made as a result of this comment.

10) Long-term oversight of waste units

Comment: I am concerned that the Department's proposal abrogates its responsibility to ensure that mine wastes are properly stored. It seems as though the proposed 10-year post-closure treatment period reduces the long term oversight of a mine waste unit.

Commenter: c-416

Response: The Department has established a 10-year post-closure period as the acceptable time period for active mine waste treatment activities, and is intended to eliminate the need for long-term (or perpetual) active treatment of mine wastes. The proposal does not eliminate the ongoing obligation for the mine operator to conduct periodic inspections, routine maintenance, and monitoring.

11) Tribal Involvement

Comment: Mining and mining exploration, especially near water, could disturb or, more likely, destroy invaluable, even sacred Wabanaki cultural resources, yet there is no requirement to notify Wabanaki tribes of proposed mining activity. Although the proposed rules provide a buffer between mining and a number of state lands and public resources, there is no such protection for tribal lands, which represent the last remnants of our homeland where we can practice our hunter-gatherer traditions and sustain them for future generations. To better address tribal concerns, the rules should be amended to:

- 1) Include tribal notification requirements in the public notice provisions;
- 2) Require tribal consultation regarding tribal historic/archeological resources that could be affected by mining activities;
- 3) Include all tribal lands within the list of resources provided a buffer from mining activity; and
- 4) Give tribes intervenor status given the potential for significant impacts to resources of great importance to tribal cultural traditions and practices.

Commenters: c-83, c-334, c-498

Response: The Department believes that the proposed rule provides adequate opportunities for public participation by all interested parties, including tribes. The public and local participation requirements established in Section 10 of the proposed rule provide all interested parties an opportunity to participate in the permitting process, beginning with the pre-application phase and ending with the closure of the mine and the release of financial assurance obligations; this process will allow tribes to voice their concerns regarding tribal historic and archeological resources. With respect to a categorical setback for all tribal lands, the Department does not believe that such a setback is appropriate, just as a similar setback would not be appropriate for a town. Finally, the proposed rule allows tribes to apply for intervenor status in the same manner as other interested parties pursuant to the Maine Administrative

Procedures Act and the Department's Chapter 3 Rules Governing the Conduct of Licensing Hearings.⁷ No changes were made as a result of this comment.

12) Discharges to groundwater

Comment: The Maine Legislature's decision to adopt a policy that allows the discharge of waste into the ground within the mining area (and the contamination of this groundwater) is not defensible for a host of reasons drawn from the scientific fields of chemistry, geology and ecology. Both the Metallic Mineral Mining Act and the Department's proposed rules abrogate the state's responsibility to protect the environment. Although the Department has evolved their definition of "mining area," the actual written definition in the rule still needs clarification. Discharges to the groundwater should be prohibited due to the risk of widespread ground and surface water contamination.

Unfortunately, even if the definition of mining area is clarified, it will serve only to reduce the areas within which groundwater is allowed to be contaminated. Again, this is a problem with the 2012 statute, and one we wish that DEP staff had asked the Legislature to correct. We believe it is not possible to allow contamination of groundwater and simultaneously prevent discharge to surface water, as these rules require. We are unaware of any other activity that has specific statutory authority to contaminate groundwater. There is good reason for this - groundwater in Maine is closely connected to surface water, and any contamination of groundwater will lead to contaminated surface waters.

Again, we appreciate DEP staff's attempt to craft rules that minimize the amount of groundwater contamination and make clear that groundwater contamination is not allowed to create surface water contamination. We understand that the statute required them to craft the rule this way. But again, we believe the DEP - and now the Board - should ask the Legislature to fix this problem in the statute, treat mining like other activities, and not grant specific authorization for groundwater contamination

Commenters: c-84, c-96, c-146, c-429, c-12, c-403, c-481, c-478, c-498

Response: As noted by the commenters, discharges of pollutants to groundwater within mining areas are allowed by Metallic Mineral Mining At, 38 M.R.S. § 490-OO(4)(D), although these discharges may not "cause a discharge or indirect discharge of pollutants into surface waters or discharge groundwater containing pollutants into surface waters that results in a condition that is in nonattainment of or noncompliance with the standards in article 4-A or section 414-A or 420" (38 M.R.S. § 490-OO(4)(E)). Since the Department may not enforce stricter groundwater quality standards without statutory authorization, its proposed rule minimizes the potential for contamination of surface waters or groundwater outside the mining area by clarifying the definition of "mining area" and requiring an applicant to affirmatively demonstrate that reactive mine waste and designated chemical management systems will not cause a direct or indirect discharge of pollutants that could result in a condition of nonattainment of water quality standards or noncompliance with the performance standards of the proposal. Section 20(G) of the proposal states:

G. Reactive Mine Waste and Designated Chemical Materials Management Systems

⁷ To the extent an application contemplates mining on a tribal reservation, the tribe may be afforded municipal intervenor status, since the Maine Indian Claims Settlement (30 M.R. S. Chapter 601) provides reservations with the "rights and responsibilities" of municipalities.

(1) Reactive mine waste and designated chemical materials management systems must provide for containment, unless the material has been neutralized or stabilized and will not cause a direct or indirect discharge of pollutants that could reasonably result in a condition of nonattainment of water quality standards or noncompliance with the performance standards of this Chapter. Reactive mine waste and designated chemical materials management systems must be designed and operated to prevent the contamination of groundwater and surface water or generate acid rock drainage above the primary drinking water standards adopted pursuant to 22 M.R.S. § 2611, applicable water quality-based license conditions established pursuant to 38 M.R.S. § 413 and §§ 464, 465-C, and 470 or groundwater quality baseline conditions.

(2) Reactive mine waste and designated chemical materials management systems must provide for the collection, treatment and disposal of any water containing mining activity contamination derived from reactive mine waste, designated chemical materials, or combinations of reactive mine waste and designated chemical materials with a reasonable potential of migrating beyond designated containment areas; in compliance with the Act, this Chapter and the mining permit to mine as well as other applicable state and federal standards. The collection, treatment and disposal methods must be designed to ensure that discharges to affected areas must meet water quality standards without requiring treatment as soon as practicable, but in no case greater than 10 years post-closure. The Permittee must design mine waste units capable of operating without such treatment after that time. Wet mine waste units shall not be used for storage or treatment of mine waste after closure.

No changes were made as a result of this comment. See also, Response to Comment 14.

13) Support for revisions

Comment: While the Appalachian Mountain Club (AMC) has concerns about other aspects of the proposal, they expressed their appreciation for the Department's efforts in revising and improving the 2014 provisionally-adopted rules, and noted that many of the changes in this version of the rule improve protections for land and water. The AMC specifically supports:

- a) the new definition of perpetual treatment which limits active treatment to no more than 10 years post closure;
- b) the added requirements for continuous surface water monitoring for pH levels and other parameters. These additional and clear technical monitoring standards serve to further protect the land and environment; and
- c) the August 24, 2016 proposal's prohibition on using wet mine waste units as storage or treatment post mine closure.

Commenter: c-12

Response: The Department appreciates the commenter's positive feedback and believes it has crafted a rule that provides for stringent environmental protections while adhering to the statutory requirements established in the Maine Metallic Mineral Mining Act.

14) Statutory changes

Comment: A number of commenters suggested that since the Department may be constrained in the scope of its rulemaking by the 2012 Metallic Mineral Mining Act and other statutes that limit the Department's jurisdiction over mining regulations, it should propose legislation to address both the issue of mining on public lands and floodplains. More specifically, commenters suggested:

- a) in lieu of the proposed regulations, the Department and Board should recommend changes to address what they see as the "inherent problems of the Metallic Mineral Mining Act." Although the DEP staff point out some areas where the new proposed rules appear to offer more protection than the 1991 rules, on balance, these new rules are less protective, particularly because they specifically authorize contamination of groundwater and prevent an alternatives analysis that includes "no mining" during consideration of a permit application. Title 38, section 341-B defining the purpose of the Board of Environmental Protection includes at its end "recommending changes in law to the Legislature." The Board can, and should, make such recommendations. The Board is the only proper official body to address the disconnect between current statute and the proposed rules, and unlike the Department's staff, has explicit authority to recommend statutory changes, which should include:
 - i. Banning metallic mineral mining in, on or under publicly owned lands, great ponds, rivers, streams and coastal wetlands;
 - ii. A prohibition against siting mining operations in, on or under flood hazard areas and flood plains;
 - iii. Clarifying that the "mining area" within which groundwater may be contaminated should be as discrete as possible, along with clarifying the vague statutory language; and
 - iv. Eliminating the language allowing the contamination of groundwater;
- b) the Department and Legislature should enact a 10-year (at a minimum) moratorium on any metallic mineral mining bill or rulemaking effort, and instead establish a panel of "best qualified scientists and educators" to review current technology, currently successful mining practices, past mining practices that have failed, and other relevant issues including financial assurance requirements. This expert committee could then (after the end of the moratorium) propose statutory and regulatory revisions in a fully inclusive public process that includes both a Legislative review and citizens vote in a referendum-type process;
- c) if DEP truly believes that it needs additional authority from the Legislature to prohibit mines in, on, or under public lands, floodplains, great ponds, rivers, streams, and coastal wetlands, it should ask the Legislature for this authority. Given the concern about mining in these areas among the public and legislators, the Legislature would likely support such a request. DEP has had many opportunities to ask for changes to the 2012 mining law. In 2015, DEP supported a number of amendments to the 2012 law in LD 750, and it could have asked for more. DEP could also have asked for changes in the 2016 legislative session, but it did nothing related to the mining law or these proposed rules. We urge the BEP to recommend that the Administration ask the Legislature for authority to prohibit mines in, on, or under public lands, floodplains, great ponds, rivers, streams, and coastal wetlands if the BEP believes that DEP lacks this authority. Otherwise, the BEP should amend these rules to prohibit mining in these areas.

d) Much of the extensive public comment throughout both series of public hearings regarding these rules focused on the problem that Maine's current mining statute doesn't address questions essential to issues of environmental and public safety raised by the prospect of metallic mining in our state. These issues include the specific risks posed by Maine's volcanogenic massive sulfide deposits and Maine's wet climate. You may be aware of numerous metallic mining failures, in this country and abroad, none of them, of course, predicted. To be specific, here are four salient findings from a study that compared predicted vs actual water quality, looking at 25 in-depth case studies of modern era U.S. mines. I've provided the link.*

- 64% of the time, mitigation measures predicted to prevent exceeding water quality limits failed.
- 76% of the mines violated groundwater or surface water standards, or both.
- 89% of the mines that specifically predicted there would be no acid drainage, did develop acid drainage.
- 100% of the 19 mines that failed to comply with water quality standards had predicted they would comply with them.

All of these mining failures in the U.S. occurred in areas whose climate and geology are far more hospitable to metallic mining safety than is Maine's, given our wet conditions and unique geology of volcanogenic massive sulfide deposits. Amplifying these risks is the spectre of unpredictable and possibly unprecedented climate change which makes extrapolation from past experience tenuous. During previous hearings on the DEP's proposed mining rules, the public heard a number of geologists and hydrologists with extensive mining experience state flatly and with near unanimity that open-pit sulfide mining in Maine is tantamount to courting disaster.

Given this history, relevant issues posed by metallic mining in Maine include judgments about what degrees of risk of catastrophic mining failure that may result in irremediable water quality damage or unaffordable financial liability -from public or private coffers - should be deemed acceptable to Mainers. If, for example, legislators decide that a precautionary principle should guide decisions regarding the acceptability of certain risks, then certain projects in certain locales may be deemed inappropriate at the outset.

If a statute doesn't ask these kinds of questions, rules that the DEP writes can't possibly answer them. The calculus of environmental and public safety risks which Mainers should tolerate vs the possible benefits of metallic mining projects is a question that legislators writing laws, not rule-writers writing regulations, need to answer. All that the DEP can really do at this point, which they have done, is to try to address the problem that the current mining statute has inconsistencies with the most recent rules approved in 1991, since rules proposed to replace them were rejected in 2013 and again in 2015. And they have made some additional changes to the rules to try to address some, but hardly all, of the public and legislative criticism that led to their rejection last year.

However, the bigger, framing, questions about mining in Maine referenced above can't be addressed by amended rules, only by revised statute. If you don't mind a metaphor ill-suited to mining, the DEP at this point is not seeing the forest for the trees.

Commenters: c-432, c-146, c-411, c-289, c-12, c-237, c-494, c-477, c-73

Response: The Department’s proposal maximizes environmental and public health protections within the framework of the Metallic Mineral Mining Act. Department staff and members of the Board of Environmental Protection discussed potential legislative changes at its January 5, 2017 meeting. The Department identified several areas of Maine’s Metallic Mineral Mining Law that the Legislature could consider amending to address outstanding concerns raised by commenters to this rulemaking. No changes to the proposed rule were made as a result of this comment.

15) Legislature

Comment: What steps has the Department taken over the last four years to inform and educate the Legislature about the need for amendments to the Mining Act? At the Public Hearing the Department clearly stated it thinks there are serious environmental problems with The Act. The Department blamed the Mining Act for several elements of their draft rule that the Maine public has repeatedly testified they find environmentally unacceptable. Yet I have heard no indication that the Department has ever gone to the Legislature to recommend revisions to the Mining Act that would better protect Maine’s environment and public lands. As a former Maine Department of Environmental Protection employee, I am aware that in the past the Department has fulfilled its mission of “environmental protection” by advising the Legislature when changes are needed in existing statutes, or when new statutes are needed to protect the environment. Why have the Department and the Board acted helpless over the long contentious saga of the public’s adamant and repeated rejection of weak metallic mineral mining rules for Maine, and the Administration’s insistence on forcing industrial mining on the State?

Commenter: c-96

Response: Since the enactment of the Metallic Mineral Mining Act (P.L. 2011, ch. 653) in 2012, the Department has testified on at least seven mining bills, and participated in more than 25 related work and informational sessions. In addition, several members of the 126th and 127th Legislature have been actively involved in the Department’s rulemaking efforts. Most recently, the Department testified in support of L.D. 750 (Amended), An Act to Allow Regulated Metal Mining in Maine. L.D. 750 would have authorized final adoption of the Board’s 2014 provisionally-adopted rules, conditional upon making a number of specified changes to the rule,⁸ and also provided for a number of corresponding changes to the Metallic Mineral Mining Act. Also, as noted in the Response to Comment 14, the Department discussed possible legislative changes at the Board’s January 5, 2017 meeting. No changes were made in response to this comment.

16) Conflict between rule and law

Comment: A number of commenters questioned the Department’s need to promulgate new mining rules under the Metallic Mineral Mining Act and address inconsistencies between the existing rules and statutes that could hamper the Department’s ability to thoroughly review a mining permit application. These commenters correctly noted that the Department’s existing rules (as amended through routine

⁸ The Department’s current rulemaking proposal incorporates many of the changes proposed by the Environment and Natural Resources Committee in the amended L.D. 750.

technical rulemaking in 2013) remain in effect until new major substantive rules are approved by the Legislature. The 2012 statute clearly states the following:

Rules regulating metallic mineral mining adopted by the Department of Environmental Protection and the Maine Land Use Regulation Commission prior to the effective date of this section remain in effect until the Legislature approves major substantive rules provisionally adopted by the Department of Environmental Protection pursuant to this Act.

This means that DEP does have a regulatory system in place for processing permits and does not need to rush these proposed rules through. DEP has already waited nearly five years since the 2012 statute passed because it has come up with rules that large, bipartisan majorities of the Legislature rejected. There is no conflict between the 2012 mining statute and the existing rules, and since there no longer appears to be any interest in developing new mining sites in Maine, there is therefore no rush to finalize these rules to facilitate that development.

Commenters: c-38, c-289, c-429, c-146, c-73

Response: Commenters are correct that the Department could process a permit application and issue a mining permit under the version of Chapter 200 that is currently in effect. However, there are many environmental protection standards in Chapter 200 that have been rendered unenforceable by the Metallic Mineral Mining Act. 38 M.R.S. §490-NN(1)(A) states:

The provisions of articles 6, 7 and 8-A, chapter 13 and section 420-D⁹ do not apply to projects reviewed under this article. Projects reviewed under this article do not require any other permits from the department except for permits required under section 490-OO; permits required under article 5-A; waste discharge licenses required under section 413 for discharges of pollutants to groundwater via an underground injection well or discharges of pollutants to surface waters of the State, including permits for construction and industrial discharge issued by the department pursuant to 40 Code of Federal Regulations, Section 122.26; licenses required under chapter 4; and other permits or licenses issued pursuant to any United States Environmental Protection Agency federally delegated program.

Due to this provision in the Metallic Mineral Mining Act, none of the provisions in those portions of Maine law deemed inapplicable to mining projects, nor any requirements in the currently effective version of Chapter 200 that are based on these authorities can be imposed on applicants for a permit for metallic mineral mining except to the extent they are required by the US EPA. The Department has the ability now to establish comparable or better performance standards and other environmental protections by completing a major substantive rulemaking for Chapter 200.

There are many sections in the currently effective Chapter 200 that are affected by the exclusions in 38 M.R.S. §490-NN (1)(A), including:

- Section 5, which would require a consolidated permit to include review, approval, and establishment of licensing conditions under Site Location of Development (Title 38, Chapter 3, Subchapter 1, Article 6) and the Solid Waste Management Act (Title 38, Chapter 13), excluding solid waste permits for non-mine waste;
- Section 22(B), which would provide solid waste intervenor grants under Title 38, Chapter 13;

⁹ Article 6 is Site Location of Development; Article 7 is Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt; Article 8-A is Performance Standards for Quarries; Chapter 13 is Waste Management; and 420-D is Stormwater.

- Section 23(D)(7), which would require a hazardous waste management plan under the Department's hazardous waste rules authorized by Title 38, Chapter 13;
- Section 23(D)(11), which would require financial responsibility for construction through post-closure under the Department's Site Location of Development rules authorized by Title 38, Chapter 3, Subchapter 1, Article 6;
- Section 23(D)(15), which would require a stormwater management plan and Section 25(C), which would apply design standards for stormwater management under the Department's Site Location of Development rules;
- Section 26(E), which would impose operational requirements for blasting and noise under the Department's Site Location of Development rules; and
- Section 33(D)(4)(e), which would require an engineering report on any proposed treatment system for hazardous mine based on the Department's hazardous waste facilities rule authorized by Title 38, Chapter 13.

The Metallic Mineral Mining Act, P.L. 2011, ch. 653 also overrides the 5-year permit term provided in the current Chapter 200, Section 10 with a non-expiring permit under 38 M.R.S. §490-PP.

These inconsistencies between the Department's Chapter 200 and the Metallic Mineral Mining Act (Title 38, Chapter 3, Subchapter 1, Article 9) are best resolved when there are no applications in process under the existing Chapter 200 with the Department. The Board and Department do not have information at this time to determine if or when a metallic mineral mining permit application may be submitted, but there are no currently pending applications.

17) Existing Chapter 200 is void

Comment: The Department has justified this new rulemaking proposal on the argument that there are a number of inconsistencies between the Department's existing (2013) mining rules and the Metallic Mineral Mining Act, and that these inconsistencies would present significant administrative difficulties in the event that an application for metallic mineral mining were submitted to the Department. Since the old (mining) statute has been repealed, the old mining regulation is also void because the original authorization has similarly been repealed. As a result, any application for mining is moot, and un-actionable because the Department no longer has any basis upon which to consider it, much less approve it. To even receive an application, let alone consider it under such circumstances would be improper and illegal, and would exceed the limits of the Department's authority and responsibility

Commenter: c-146

Response: The Metallic Mineral Mining Act (P.L. 2011, ch. 653) did not repeal the Department's existing (2013) Metallic Mineral Exploration Advanced Exploration and Mining rule. P.L. 2011, ch. 653, § 31 states:

Sec. 31. Existing rules; exploration and advanced exploration; rulemaking.

1. Existing rules. Except as otherwise provided in this section, rules regulating metallic mineral mining adopted by the Department of Environmental Protection and the Maine Land Use Regulation Commission prior to the effective date of this section remain in effect until the Legislature approves

major substantive rules provisionally adopted by the Department of Environmental Protection pursuant to this Act.

2. Exploration and advanced exploration. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall jointly amend their rules related to exploration and advanced exploration activities to clarify the permitting requirements for exploration and advanced exploration. Rules adopted pursuant to this subsection remain in effect until the Legislature approves major substantive rules provisionally adopted by the Department of Environmental Protection pursuant to this Act. Rules adopted to this subsection are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

The Department's existing Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining rules (as amended by the Department in 2013 pursuant to subsection 2, above) therefore remain in effect. See also, Response to Comment 16, above.

18) Costs of pollution

Comment: There are significant risks associated with mining and keeping and storing the toxic liquids that result, and the risks from mining far outweigh any potential benefits. These risks are even higher in Maine, since we have little or no experience in overseeing mining operations. According to the U.S. Environmental Protection Agency's Toxics release inventory, metal mining is the #1 toxic polluter. Here in Maine, the Kerramerican mine leaked 10-20,000 pounds of zinc per year, and almost 40 years after the mining ended, the taxpayers had to pay to clean it up (which is still being monitored to ensure the cap is working). The Callahan mine hasn't been cleaned up after 40 years and a cost of \$23 million of taxpayers' money. Neither of these mines made enough money, except for their owners, to justify the expense to taxpayers of the results of the pollution they caused.

Commenters: c-465, c-170

Response: The Department's proposal requires applicants to provide sufficient financial assurance with their permit application to cover the costs of any and all costs of pollution created by the proposed mining operation. Section 17(B) states:

B. Coverage of Financial Assurance

- (1) Financial assurance under this section applies to mining and reclamation operations that are subject to a mining permit, and must be sufficient for the Department to:
 - (a) Administer all activities necessary for the investigation, monitoring, closure, post closure, treatment, remediation, corrective action, reclamation, operation and maintenance under the mine plan. Financial assurance must be sufficient to cover the cost to investigate any and all possible releases of contaminants at the site, monitor all aspects of the facility, close the facility in accordance with the proposed closure plan, conduct treatment activities of all expected fluids and wastes generated at the facility for a minimum of one hundred (100) years, implement remedial activities for all possible releases and maintenance of structures and waste units as if these units have released contaminants to the groundwater and/or surface water, conduct corrective actions for potential environmental impacts from pathways from the mining areas to adjacent groundwater and surface water resources as

identified in the Environmental Impact Assessment, and conduct activities at the mine site in accordance with the proposed mine plan; and

- (b) Implement other necessary environmental protection measures, including restoring and remediating any damaged public facilities or services and restoring and remediate any air, surface water, or groundwater contamination.

An applicant cannot receive a permit without making sufficient financial resources available to the Department to meet this requirement. No changes were made in response to this comment.

19) Third party inspector

Comment: The Department should utilize a different regulatory approach. Rather than using the commonplace post-failure enforcement mechanism, we need to have strong on-going control mechanisms with monitoring by independent experts, including an independent third-party inspector, to ensure that a failure does not occur.

Commenters: c-70, c-497

Response: The Department agrees with the need for an independent third-party inspector, and proposed requirements for a mandatory (as a condition of a mining permit) third-party independent inspector to monitor compliance with permit conditions during construction, operations and closure of a mine. Under the Department's proposal, the independent third-party inspector may not be an employee, partner, or contracted consultant involved with the permitting of the project or otherwise employed by the same company or agency¹⁰, and must be a qualified professional having a degree from an accredited program in environmental science, civil engineering, mining engineering, geology, and with demonstrated expertise and practical knowledge of mining principles, stormwater control and waste management. The independent inspector must have no ownership or financial interest in the permitted activities other than that created by being retained as the third-party inspector.

The independent third-party inspector provisions require a mining site to be inspected at least twice per week from the commencement of construction until closure (the site must be inspected at least monthly during the post-closure monitoring period), and require the inspector to provide written reports summarizing the inspection results, identifying and describing any deficiencies that were noted, and providing recommendations for correcting any deficiencies.

20) Geosynthetic cover

Comment: The partial remediation efforts at the Kerramerican mine, involving the use of a geosynthetic cover, have not yielded the expected reductions in surface water contamination. The Department should not allow the use of geosynthetic covers at sulfide mines unless, and until, the failure of the Kerramerican remediation site is understood.

¹⁰ The Department may accept subcontractors who worked for the project's primary consultant on some aspect of the project such as, but not limited to, completing wetland delineations, identifying significant wildlife habitats, or conducting geotechnical investigations, but who were not directly employed by the applicant, as independent inspectors on a case by case basis.

Commenter: c-70

Response: The Department's proposed waste unit design standards (Section 21) utilize the most chemically-resistant geomembrane (High Density Polyethylene – HDPE) for inclusion in the liner system. HDPE is commonly used to line landfills, whether for hazardous or solid waste. The Geosynthetic Institute (GSI) performs testing on all types of geosynthetic materials, frequently publishing test information, guidance documents, material specifications, and quality assurance information. GSI White Paper #6 addresses the lifetime prediction for HDPE geomembranes under various conditions. Environmental conditions are important factors affecting the life of a geosynthetic membrane. As demonstrated by GSI's results, temperature is one of the most important factors in determining the "half-life" of the geomembrane. Half-life is defined as the time it takes for a material to reach a 50% reduction in a specific design property. At the lower temperatures expected in a mine waste unit application the expected half-life for the HDPE component of the liner system is expected to be in excess of 400 years. At this time, the HDPE will continue to function; it simply has reached an arbitrarily defined service life, namely its half-life. Also important to remember is that the HDPE material is a component of the liner system. There is a compacted, 2' thick, low permeability soil layer directly beneath the HDPE material. Should there be a long-term issue with the HDPE component of the liner system the soil layer will still be effective in limiting leakage through the liner.

The geosynthetic cap on the former Plant Site at the Kerramerican mine was installed in 2007. Surface water sampling results since remedial activities were completed in 2007 suggest that remaining contributions to metal concentrations may be from the former tailings area altered by local beaver activity, and other historic mines and waste rock deposits in the area. While remediation efforts at the Kerramerican mine have not been successful in eliminating all surface water contamination, the ongoing contamination does not indicate a failure of the remediation efforts (or geosynthetic cover) but is instead likely due to numerous other waste sites that remain un-remediated. No changes were made as result of this comment.

21) Tiered permitting

Comment: The Aroostook Partnership fully supports the proposed rules to allow minor exploration through the use of work plan and standards, and requiring a mining permit for more extensive advanced exploration activities. In Aroostook County, potential mining sites have had previous exploration, but that was decades ago, and updated exploration is justified. The Bald Mountain region is owned by J.D. Irving and they have a modern and prudent approach for exploration, along with the resources necessary to fund the most advanced technology for exploration or mining should that develop. J.D. Irving also has an interest in maintaining the long term viability of its property for timber harvesting activities.

Commenter: c-410

Response: The Department agrees that its tiered approach, whereby exploration activities are subject to work practice standards and advanced exploration activities are subject to increasingly comprehensive requirements (based on their potential impacts to the environment and public health), establishes environmentally appropriate standards for these activities.

22) Economic development

Comment: The potential for mining is one of the most significant economic development opportunities in Aroostook County. Estimates are that a \$1 billion investment could bring up to 300 new jobs to our region, 10 to 20 new firms to support these operations, provide a \$45 million increase per year in County economic activity and provide millions of dollars in taxes to Maine. The Aroostook Partnership views this as a way to balance economic development with protecting our valuable natural resources. While many point to elevated levels of arsenic in these deposits, the facts are that the waters in this region already have elevated arsenic levels due to these mineral deposits. Modern mining can use the most advanced water treatment systems that essentially leave distilled water as a byproduct of the effort, and should mining activities materialize, Irving plans to spend over \$100 million to develop the best water treatment available. These technologies have already been used, and proven in New Brunswick.

Commenter: c-410

Response: The Department's proposal establishes robust requirements for baseline assessments and environmental protection throughout the life of a mine. The use of performance-based standards will enable applicants to seek the best and newest technologies and methodologies to prevent adverse impacts from mining activities. Applicants will need to employ and contract with many individuals and companies with wide-ranging expertise in areas such as engineering, geology, pollution control, site development, construction, and materials handling. Fulfilling the requirements of this proposal will necessitate substantial short-term and long-term investments.

23) Support for revisions

Comment: The Nature Conservancy appreciates the time spent, and the hard work, of the Department staff in revising the 2014 provisionally adopted rules. We believe this time and effort has led to many improvements. In particular, we appreciate that the Department:

- a) Defined monitoring and added a continuous monitoring requirement for surface water pH and other parameters. We believe these draft rules could be strengthened even further if a continuous monitoring requirement for PH and other parameters was required for groundwater, rather than being at the discretion of the Department;
- b) Incorporated existing air and water quality standards into the requirements for performance based standards, along with defining "performance-based standards;" and
- c) Changed the definition of "perpetual treatment" to mean active treatment for more than 10 years post closure. This provision substantially reduces the risk that a mine operator will run out of money for treatment and consequently substantially reduces the risk of contamination of Maine's waters.

Commenter: c-411

Response: The Department appreciates the Commenter's support for improvements to the rule. We believe that our proposal goes far towards addressing the concerns of many stakeholders in the environmental community. The Department's proposal establishes comprehensive groundwater

monitoring requirements in Section 22(B)(1).¹¹ For example, Section 22(B)(1)(a) requires that the groundwater monitoring system have a sufficient number of groundwater wells, at appropriate depths and locations, to detect contamination of groundwater, and that these downgradient monitoring wells must be placed as close to all mining operations as practicable, but in no case greater than 100 feet away, unless placing additional wells at a greater distance enhances the ability to detect a release from the site as determined by the Department.

The Department's proposal requires that monitoring for all parameters except specific conductance and pH take place at least quarterly during the life of the mine, including any post-closure maintenance period, or more frequently if determined to be necessary by the Department. The Department may require continuous monitoring of certain parameters including, but not limited to, specific conductance and pH, in groundwater seepage and other seepage to lagoon underdrains, drains of impoundment structures, or similar engineered facilities, in natural geologic features with high conductivity, or other locations as determined necessary by the Department.

Although counterintuitive, continuous monitoring of groundwater is usually neither necessary nor desirable for many parameters. The natural temporal variability and highly autocorrelated nature of groundwater quality data mean that a quarterly sampling frequency is often sufficient for many parameters, although more frequent monitoring may be preferred for reactive chemical constituents.¹² The proposal provides sufficient authority to require continuous (or other frequency) groundwater monitoring of pH and other parameters when the Department determines these frequencies enhance the effectiveness of the groundwater monitoring protocol, but do not mandate these increased frequencies because they are not technically justified for all cases. No changes were made as a result of this comment.

24) Advanced Exploration

Comment: As written, the standards enumerated in Subchapter 5 apply only to mining. The Conservancy believes these standards should apply to advanced exploration as well, since it is a substantial undertaking with concomitant risks. We recommend revising the subchapter title to read "Subchapter 5: Advanced Exploration and Mining Standards" and adding a clause at the beginning of section 19 as follows: "**A. Applicability.** Subchapter 5 standards apply to advanced exploration and mining except where the Department makes a finding that certain standards in Subchapter 5 are not relevant to a specific advanced exploration activity."

Commenter: c-411

Response: The Department agrees with commenter that the rule should be clarified regarding applicable standards for advanced exploration. The Department is proposing to revise the title of Subchapter 5 to "Advanced Exploration and Mining Standards." The Department has also revised Subchapter 2 to clarify the submission requirements for Tier II advanced exploration activities to include the mining information required in subsection 9(B) through 9(L). See also, Response to Comment 37.

¹¹ Surface water monitoring requirements may be found in Section 22(B)(2) of the proposal.

¹² It should also be remembered that most contaminants will migrate only slowly through soils.

25) Insurance

Comment: The health threats posed by open pit mines, and their toxic residues in or on land and water must be acknowledged and addressed. There must be blanket liability insurance to cover the immediate medical effects of pollution as well as “occurrence insurance coverage” for years to come. Liability insurance must cover the general population.

Although the Department’s November 16, 2016 proposal was revised to incorporate additional requirements for calculating financial assurance coverage requirements, the proposal falls short of requiring sufficient financial assurance to cover a worst case scenario. Given the spate of recent mining disasters despite the use of the most advanced mining technology, it is important that medical care for acute injury and chronic exposure to pollutants is added to the requirements in section 17(B)(1)(a). Although section 17(H)(1) and (2) covers liability, the addition of acute and chronic medical care to financial assurance is necessary because: 1) liability coverage for medical care is not specifically mandated in Section 17(H)(1) and (2) of the proposal; 2) a pollution exclusion in the liability policy is not prohibited; 3) the required insurance limits are totally inadequate for a worst-case scenario; and 4) the rules will allow a claims made liability- this policy should be categorically prohibited Section 17(H)(6).

The mining operation must have liability insurance without pollution exclusion. It must be mandated that there be occurrence coverage for medical injuries that result from both chronic exposure to metallic mining pollution and an acute catastrophic event. This coverage must be in place until all toxic waste is remediated. There must be coverage for any adverse effect from pollution, contamination or toxic waste arising from any mining operation.

Commenter: c-53, c-96, c-403, c-491

Response: The Department’s proposal establishes minimum liability insurance coverage requirements for both sudden and accidental occurrences and non-sudden occurrences. While the proposal does not establish mandatory coverage requirements for medical injuries resulting from acute or chronic exposures, or acute catastrophic events, the Department has sufficient regulatory authority to require such coverage as part of the mining permit. Section 17(H) of the proposal states:

H. Insurance Requirement. The Applicant must include, as part of its application, and the Permittee must provide annually thereafter as part of the mining and reclamation report required under subsection 26(B) of this Chapter, proof of comprehensive general liability insurance for the site for sudden and accidental occurrences. Non-sudden occurrence insurance may be required by the Department on a case by case basis and, and shall be required whenever there are land disposal units, land storage units, or mine waste units. The insurance underwriter(s) must be approved by the Department. Requirements include, but are not limited to, the following:

- (1) Liability insurance coverage must be provided during operation, reclamation, corrective actions, closure, and, where mine wastes will remain on the site after closure, during the post-closure maintenance period;
- (2) The level of coverage for sudden and accidental insurance must be at least \$10 million per occurrence and \$20 million annual aggregate, *unless because of a greater risk, a higher minimum is required by the Department for a particular site* (emphasis added);

- (3) The level of coverage for non-sudden insurance must be at least \$6 million per occurrence and \$12 million annual aggregate, *unless because of a greater risk, a higher minimum is required by the Department for a particular site* (emphasis added);
- (4) All liability insurance coverage amounts must be exclusive of legal defense costs;
- (5) An Applicant/Permittee may not self-insure. If liability insurance is unavailable, an irrevocable letter of credit drawn upon a reputable bank which meets the criteria of subsection 17(E) above, may be utilized in lieu of liability insurance for sudden and accidental and non-sudden occurrences; and
- (6) The liability insurance policy may not be written as a “claims made” policy unless approved by the Department.

It should also be noted that Section 17(H)(1) requires liability insurance coverage throughout the life of a mine, including the post-closure maintenance period, if mine wastes remain on site. No changes were made a result of this comment

26) Air quality

Comment: Attention should be devoted to strengthening the air quality standards within the rule, thereby guarding against the harm that can be caused by mining and the particulate matter it produces, as well as the toxic fallout from processes such as smelting.

Commenter: c-53, c-403

Response: The Department’s proposal establishes a wide range of air quality control requirements addressing dust (fugitive emissions), air contaminants and hazardous air pollutants:

- Section 20(C)(3) of the proposal establishes opacity limits for fugitive dust based on the Department’s 06-096 CMR 101 Visible Emissions Regulation, and dust generated by mining operations, including dust associated with traffic to and from the mining areas and affected area, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Visible emissions from a fugitive emission source may not exceed an opacity of 20% for more than 5 minutes in any one-hour period.
- Section 20(L)(1) of the proposal includes air quality requirements that are consistent with those for other sources, and prohibits the discharge of air contaminants causing a violation of the Maine ambient air quality standards as established in statute at 38 M.R.S. § 584-A and the Department’s Chapter 110 Ambient Air Quality Standards rules. The proposal also prohibits mining operations from violating any emission standards established by the Department to limit emissions of air contaminants pursuant to 38 M.R.S. §585, or hazardous air pollutants pursuant to 38 M.R.S. § 585-B. Mining operations (depending on emissions) are subject to the Department’s 06-096 CMR 115 Major and Minor Source Air Emissions Licensing Regulations and the 06-096 CMR Chapter 140 Part 70 Air Emission License Regulations and would be required to install and operate best available control technology (BACT).¹³

¹³ Air quality guidelines and standards for workplace exposure to air contaminants are addressed by the Occupational Safety and Health Administration.

- Section 20(L)(2) of the proposal establishes best management practices and control technology requirements for fugitive emissions and other contamination into or upon any land. Where fugitive emissions are anticipated, the Applicant must submit a best management practices plan for control of fugitive emissions indicating the methods the applicant intends to use to minimize fugitive emissions resulting from the mining operation such that emissions and air quality standards are not exceeded. If the Department determines that emissions released from, or as a result of, the mining operation create a risk to the environment or public health and safety, a numeric performance requirement may be established for those emissions.¹⁴
- Section 22(B)(17) of the proposal authorizes specific air monitoring requirements (in addition to any required pursuant to other Department rules) and provides for the development and implementation of a corrective action plan if any air quality performance standards are not being met.

In summary, mining operations are subject to a wide range of air quality control and monitoring requirements and must meet the same stringent standards as all other sources in Maine. No changes were made as a result of this comment.¹⁵

27) Best practices

Comment: The proposed rule does not meet performance-based, nor best practice mining technology that use proven technology for environmental security as required by statute. It also does not require adequate nor important preventative measures that ascertain no negative environmental impact going forward. It is an industry support based set of rules that leave the Maine taxpayer and downstream habitats at severe risk of pollution contamination. A simple and complete standard of adherence to best practices, best technology and best knowledge for attainment of an environmental security standard of no off-site degradation and no on-site groundwater contamination must be required. A statutorily mandated independent panel of experts to vet all deposits for suitability of development and review of applications for development to assure standards of best practice, best knowledge and best proven technology must be included as well.

Commenter: c-50, c-359

Response: The Department's proposal utilizes performance based standards and prescriptive standards as required by statutes concerning the reclamation of the mining area and affected area. Although some states (e.g., Wisconsin) require an assessment of best management practices (BMPs) as part of the mining application process, it is important to remember that best practice does not necessarily equate to state-of-the-art practice. Best management practice is instead a concept that there is a methodology that is more effective at delivering a particular outcome than any other technique. At the same time, best management practices for complex problems (such as mining) are usually dependent on the context, and

¹⁴ The risk shall be determined based on impacts including, but not limited to, direct contact, bioaccumulation in plants and animals, and food chain concentration that may occur on or off-site.

¹⁵ The Department's proposal regulates metallic mineral exploration, advanced exploration and mining activities as defined by 38 M.R.S. § 490-MM, and does not address smelting, which is a distinct process that is not authorized by the Metallic Mineral Mining Act.

it is more appropriate to view best management practice as an adaptive learning process rather than a fixed set of rules or guidelines. Given that best management practices are site-specific, the proposed assessment at three other sites is of questionable value. At the same time, it should be recognized that specific best management practices may provide useful guidance for the applicant. For example, there are a number of BMPs that have been developed for reclamation of mined lands; one or more of these may provide the applicant with information on the most effective reclamation practices. No changes were made in response to this comment.

28) Stormwater

Comment: The nature of our climate, increasing and greater risk of much larger storms, dictates that engineering of structures to contain tailings, mine wastes, and other industrial activities will likely not be adequate to withstand design year storms. A monitoring plan to ensure against failure, and bonds necessary to repair and reinforce damages should be in place, and held for longer, rather than shorter timeframes. Stormwater pollution prevention plans should be updated and subject to revision and public comment. Funding must also be ensured for long term and appropriate training for monitoring and staff to enact maintenance and control measures as well as enforcement personnel. In my career I have witnessed the aftermath of catastrophic failures of a landfill (in Norridgewock) and a site construction project (in Benton). Failures took place after heavy rain events (though neither was a 24 hour 500-year storm event), despite the fact that DEP staff had approved and oversaw both projects. Given that mining projects operating under the proposed Chapter 200 rules incorporate “wet mine waste units” (leachate ponds) for containment of acid mine drainage, not merely soil piles as in the two projects cited, I have little confidence that DEP staff can effectively oversee projects under conditions of exceptional rainfall that could cause catastrophic failure of containment. This is especially so given the increased intensity of some rainfall events in the Northeast, due to climate change. It is my belief that stormwater standards 38 M.R.S. Section 420-D as referred to in section 20(C)(2) are insufficient for the reactive mine wastes that would flow out of wet mine waste units derived from Groups A and B Mine Wastes (section 20(F)(1) and (2)). For these reasons I recommend against BEP acceptance of DEP Rules, Chapter 200 as recently amended. The changes as written are insufficient to overcome the environmental damage that is likely from mining of massive sulfide deposits in Maine. This is especially so when considering the real life examples I have provided of DEP limitations in oversight of projects with considerably smaller scope. This is not to cast aspersions on the qualifications or integrity of DEP staff. However, a massive sulfide mining operation is orders of magnitude more complicated than the management of an established landfill or a new construction site. Failures do occur and my point is that of failure of any one of several portions of a massive sulfide mining project would be catastrophic by comparison.

Commenter: c-238, c-141

Response: The Department has included stringent design standards for water management systems throughout the proposed rule. By way of example, the design storm event for run-on/runoff control systems is the 24-hour, 500-year storm event as compared to the more frequently used 24-hour, 100-year storm event. This same larger storm event is required for designing the capacity for the leachate pond, and the leachate pond storage capacity also requires the design to be based on the most recent 15-year historical precipitation database. Both of these design standards are in recognition of the increased frequency of larger precipitation events that have been observed recently. In addition, the proposed rule

requires the mandatory use of independent third-party compliance inspectors throughout the life of a project to ensure compliance during construction, operation and closure of a mine.

The stormwater standards of Section 20(C)(2) are not the only standards applied to water discharges at a site; they reflect a minimum standard consistent with that applied by the Department to other developments that would generate runoff with characteristics similar to those regulated under this basic stormwater quality standard. For certain portions of any mine site, including those in which ore, Group A and B wastes, or certain other materials would be handled, additional standards apply, including but not limited to those at Section 20(G), Section 21(A)(5), Section 22(B)(12), and all monitoring requirements determined to be necessary by the Department under Section 22(B)(1 – 5).

29) Water supply setbacks

Comment: I am surprised at the relatively limited buffers required (Section 20(B)(2)), including the siting of excavations within a few hundred feet of private wells and property boundaries and mine waste units 1000 feet from public water supplies. From my personal experience, a private well can be contaminated to exceptional concentrations from a town sand/salt pile located 1000 feet away. From what I understand of the very limited mining that was done in Brooksville in the five years from 1968-1972, that environmental damage was widespread. Others will comment on how widespread and the tax dollars required to repair the damage.

Commenter: c-238

Response: Note that Section 20(B)(2)(c) requires that “Mine waste units and beneficiation facilities may not be located in the wellhead protection areas or source water protection areas of public water supplies.” In addition, Section 20(B)(2)(f) states that “the Department may require a greater setback if submission materials or other information demonstrate an increased setback or buffer is necessary to protect the environment and public health and safety.” Applicants are required to identify potential impacts on water supply wells by Section 9(D)(11)(b); this information, together with other information in the application or otherwise available to the Department, will be used by the Department to determine when and where such increased setbacks or buffers will be required.

30) Water quality

Comment: The development of the public groundwater supply in Tenants Harbor provides a good example of the potential impacts from even lower levels of sulfide minerals. The aquifer there is a fractured granite with a minor mineral component (<0.5%) of pyrite. Water withdrawn from the Water District’s Production Wells initially contained iron close to the drinking water standard of 0.3 parts per million. (Water with a higher concentration is objectionable because it results in rusting bathroom fixtures.) Following successful testing and permitting, the system engineers did not consider that the drawdown caused by pumping the wells was a novel situation in the bedrock aquifer because it had never occurred prior to the installation and use of the public supply wells. That drawdown exposed pyrite in the granite to oxygenated groundwater. Within a year the quality of groundwater pumped from the Tenants Harbor wells showed increasing concentrations of iron, sulfate and acidity. The water then needed to be treated to reduce excessive concentrations of iron and to increase pH. The Water District will need to treat their water in perpetuity for these issues. The above story illustrates what can happen to water quality given even a slight change in exposure of the rock to a new regime of groundwater flow. This story illustrates what can happen even with very low percentages of sulfide minerals

in the rock and essentially no removal of material from the ground.

The same geochemical process will be multiplied many fold by mining of massive sulfide deposits if any projects are permitted according to Maine's proposed mining rules. This is due to three facts:

1. All sulfide minerals follow a similar transition to that illustrated in the equation above if exposed to oxygenated water;
2. I understand that the massive sulfide deposits in Maine may consist of up to 50% of the volume of the rock being mined; and
3. The rock will be removed from the ground and exposed to air and rainwater or groundwater.

Additional geochemical reactions come into play under such circumstances, resulting in additional dissolution and increases in acidity (= much lower pH). If these proposed rules go into effect, it will be imperative that DEP staff be certain that Subchapter 5, Mining Standards, Sections G, H, I and J (Reactive Mine and Designated Chemical Materials Management Systems, Containment Structures, Storage Piles and Water Management Systems) can contain the inevitable production of huge quantities of dissolved metals and neutralize the acid drainage resulting from exposure of broken rock to oxygen and precipitation over the area of the mining operation.

Though I am not a mining engineer, I have not found convincing reference to any such systems for mine waste water management in my on-line researches in preparation of this testimony. Furthermore, the litany of mining sites across the country that have failed this basic chemistry test and left a legacy of acid mine drainage for others (taxpayers) to clean up does not give me comfort in supporting the mining of massive sulfides while guaranteeing maintenance of high quality surface waters in Maine. This is especially so in Maine, which has one of the wettest climates in the country, and with the rest of the US Northeast has experienced a general increase in precipitation of between 5 and 20% for the period 1991-2012 compared to 1901-1991. On the subject of surface waters, it is a truism that all groundwater eventually drains to surface water. So I don't understand the premise of the regulations that some groundwater will inevitably be contaminated by mining, yet surface water draining from the site will not be contaminated. Furthermore, there is a very large difference between water quality standards for groundwater (22(B)(12)(b)), which are mostly Primary Drinking Water Standards, and ambient water quality criteria for the protection of aquatic life in surface waters.

Surface water standards for the protection of aquatic life are orders of magnitude lower than the Drinking Water Standards (arsenic is the large exception). This suggests that even if groundwater quality standards can be met beyond the defined area of the mine (which I doubt without pumping to constrain groundwater flow from the mine area to a treatment system on site, a system that is maintained for up to 30 years following mine closure), it is difficult to imagine how surface water quality criteria can be met given the inevitable generation of acid mine drainage.

Those involved in the exploration for metallic ore deposits use changes in surface water chemistry in streams emanating from the ore to locate likely prospects. These changes are caused by natural dissolution of the kind I illustrated for the Tenants Harbor Water District wells at the beginning of this testimony. Mining, however, greatly increases the rate of dissolution by increasing by orders of magnitude the exposure of ore deposits to air and water. The product is acid mine drainage on steroids. Given the abundance of precipitation and groundwater recharge in Maine (exceeded only in the Pacific Northwest coastal ranges and the Mississippi Delta region), it is difficult to imagine how contamination

of groundwater and surface waters downgradient of any mine by acid mine drainage can be avoided.

Commenter: c-238, c-493

Response: The Department is familiar with the Tenants Harbor site and other areas in which groundwater drawdown due to pumping or other factors, including recent drought conditions, has resulted in adverse changes in water quality. This effect was also considered in the reviews of potential mining operations at Bald Mountain and in other areas of the state during the 1990's. Note that Applicants are required to establish baseline geochemical conditions as part of Section 9(C) of the rule, must evaluate the effects of groundwater drawdown as required by Section 9(D)(11), and must assess the geochemistry of the soils and bedrock as part of the analysis under Section 9(G). Numerical models of the site in predevelopment, operational, and post-closure conditions are required by Section 9(C)(3)(e), and characterization of the geochemistry and reactivity of wastes and other materials is required in Section 9(D), Section 20(E), and elsewhere in the rule. Among the purposes of the monitoring program required by Section 22 is demonstrating that physical and geochemical conditions during operation and post-closure are consistent with potential impacts described in the assessment required under Section 9(G).

31) Regulatory certainty

Comment: The School of Forest Resources at the University of Maine is currently conducting a study on Maine resident's perceptions of metallic mineral mining in the state. The study uses qualitative and survey data to determine Maine resident's acceptance level of metallic mineral mining, along with barriers that might prevent public acceptance of mining. One of our goals is to present our findings to policy makers so that they can be as informed as possible of Maine resident's attitudes towards mining, and be better able to address any concerns in the proposed rules. An increasingly important concept for the mining industry is what is known as a social license to operate. A social license refers to the acceptance or approval of mining operations by local communities and other stakeholders, who can affect the profitability of these operations. Section 4 of the proposal (relation to other rules) provides an example of how a social license or lack thereof could impact the profitability of a mining operation, since a municipality could greatly affect the success of a mining proposal. If a municipality is opposed to mining, they could create restrictions that negatively affect its profitability, while the lack of a social license can affect profitability in other ways, such as protests, public outrage, creating a negative image, law suits etc.

In a 2015 article, researchers Airong Zhang and Kieran Moffat, studied public acceptance of mining activities in Australia, and found that residents were not willing to compromise their environmental concerns even if they recognized that mining created many benefits. They also found that confidence in governance structures played a significant role in residents' acceptance levels. Environmental concerns were offset, and the level of acceptance increased if residents perceived that there were strong regulations and the government had the ability to hold the mining industry accountable. Conversely, when governance was perceived to be weak, acceptance level significantly decreased, even for those with low environmental concerns.

If these findings are correct, then counter intuitively, strict and clear regulations that reflect the values of residents can actually lead to more profitable mining regulations and larger economic benefits to

communities. Strong regulations can also mitigate the tensions and length of debates between communities and mining companies. To that end, the Board and state regulatory agencies should thoughtfully consider the implications of vague language or loose standards on both our natural resources and the profitability of potential mining activities.

Commenter: c-273

Response: The Department looks forward to the release of the University of Maine’s study, as it will likely have relevance to a broad range of public policy initiatives beyond mining. The benefits of regulatory certainty have long been espoused for the regulated community, and it is not surprising that clear and strict regulations could engender greater public acceptance of mining and other development projects. At the same time, regulatory agencies need to carefully guard against overly prescriptive regulations utilizing a “one size fits all” approach. Instead, experience has shown that better results are obtained through the use of performance-based standards that establish defined results and measurable outcomes without specific direction regarding how those results are to be obtained. Performance-based standards provide for increased flexibility (and often reduced costs of control) while providing equivalent or even greater environmental outcomes. The Department’s proposal utilizes a combination of prescriptive and performance-based standards to maximize environmental protections while potentially reducing costs to the regulated community. No changes were made as a result of this comment.

32) Mining area

Comment: The definition of mining area remains vague and should be improved. It refers to both individual “activity areas” within a given mining project and to the total footprint of a mine. Because the statute and these rules allow contamination of groundwater within the “mining area”, this uncertainty is meaningful. It is not at all clear how large an area (the “mining area”) may be legally contaminated under these provisions. The larger this area is, the more likely it is that contaminated groundwater will spread and contaminate surface water. Although DEP staff assert otherwise, and show a diagram to explain that the intent of these rules is to define a series of “mining areas” within the overall mine footprint, we do not see this clarity in the statute. Since 2012, we have consistently argued that the statute and rule must include two separate terms - one that defines the individual mining activity areas and another that defines the entire footprint of the mine. The rules would then need to be revised to reflect which of these is the appropriate reference for the various standards in the rules. Of greatest importance is to ensure that the statutory allowance that groundwater can be contaminated under the “mining area” is limited to very discrete areas. (Please note, however, that we continue to object to the 2012 statutory change that allows any contamination of groundwater.) We have again proposed language for these definitions and they appear at the end of my written testimony. We believe these will limit but not prevent contamination of surface water by contaminated groundwater. We appreciate DEP staff’s attempt to address this concept, but we frankly believe a change in statute is required to make this clear, and we think DEP should have requested that statutory change. Since they have not, we are asking the Board to do so.

We suggest the BEP add a definition of “Mining Activity Unit” and that the definition of “Mining Area” be amended as follows:

Mining activity unit. "Mining activity unit" means an area of land within a mining area where a particular mining activity takes place, including, but not limited to, an area from which earth material is removed; an area where overburden, waste rock and ore are stored; a tailings impoundment or other tailings storage area; an area where ore is processed; an area where groundwater and surface water management treatment systems are located; a waste disposal area; and an area where any other activity associated with mining occurs.

Mining area. "Mining area" means an area of land described in a permit application and approved by the department, including but not limited to land from which earth material is removed in connection with mining, the lands on which material from that mining is stored or deposited, the lands on which beneficiating or treatment facilities, including groundwater and surface water management treatment systems, are located or the lands on which water reservoirs used in a mining operation are located. A mining area may include more than one activity unit.

Commenters: c-429, c-273, c-485

Response: The proposal clarifies that each mining activity may be in a separate mining area on a permitted site. See also Response to Comment 14.

33) Open pit mining

Comment: The Eagle Mine is not necessarily a "model mine". The Eagle Mine in Michigan was a topic of discussion at the September 15, 2016 hearing. This mine is very new and started production in 2014. The owner trucks ore to a refurbished iron mill for processing. It disposes of tailings in an old iron mine pit that contains large quantities of tailings from past gold processing. Maine is unlikely to have a mine with a comparable arrangement using an existing mine pit for waste disposal or that transports raw ore off-site for refining.

The Eagle Mine tailings are acid generating and will need to stay under water permanently. Over time, the disposal pit may pose significant environmental problems. In addition, the Eagle Mine is discharging both treated and untreated wastewater from the pit to neighboring wetlands as new tailings displace pit water. The long-term environmental impacts of this remain unknown, and there is significant public concern about these impacts.

The Eagle Mine is very small. The ore body at the site is about four million tons, much smaller than the 35-million ton ore body at Bald Mountain. It is also an underground mine. Most of the recent discussion on mining in Maine has focused on an open-pit mine at Bald Mountain, which is what J.D. Irving proposed there. In general, underground mines generate about 10 percent of the waste that open-pit mines do. In this respect, the Eagle Mine is using an environmentally preferable mining practice. NRCM believes the BEP should consider prohibiting open-pit mines in Maine as a means of lowering the quantity of waste mines generate and the risks they pose to the environment.

Commenter: c-289

Response: The Eagle Mine is the most recent mining operation to be licensed under a relatively new set of mining rules developed by the State of Michigan. The Michigan mining regulation, Part 632, was

used in part to develop the Maine Metallic Mineral Mining Act. The location of some of the metallic mineral deposits in Maine allows for the transport of ore for offsite processing provided that these offsite facilities are upgraded to meet project needs. The option for offsite processing is addressed in Section 9(D) of the proposed rule under the mining operation plan. A review of the Eagle Mine application materials and an onsite visit by staff reveal that two wastewater plants were constructed to treat process water from the mine facilities. Sub-aqueous deposition is used for the tailings, which is in an existing water-filled pit. In addition, a bentonite slurry wall has been constructed between the pit and the adjacent wetlands preventing groundwater flow between them. An onsite wastewater treatment plant collects groundwater from the pit and discharges the treated effluent into the wetland.

The rule specifically requires an alternative analysis to consider a modified scale or magnitude for the mine. Although, it is not an outright prohibition on open pit mining, it allows the Department to evaluate and consider the impacts of open pit mining versus underground mining. In addition, an outright prohibition on open pit mining may eliminate other types of deposits that may not generate acid such as the manganese deposit in Aroostook County. Also, any prohibition language for open pit mining should be statutory.

34) Board conduct

Comment: As a Maine citizen I was offended that Tom Eastler, a member of the citizen's Board of Environmental Protection, presented such a blatantly biased and "dug-in" position at the September 15th 2016 Public Hearing. I do not think it is appropriate for a member of the BEP to directly counter testimony offered by public citizens, during their testimony, in a way that is stridently biased. I observed Dr. Eastler interrupt the testimony of several members of the public during their statements, and counter their statements with his own opinions in support of mining interests. This behavior is damaging to the public's trust that Board members are genuinely receptive to the public's testimony. Noting that the Public Hearing heard from 23 citizen's OPPOSED to the rules and only one state employee speaking in support of the rules, I ask the Chairman of the Board of Environmental Protection and other Members of the Board to answer as to whether they find Dr. Eastler's publicly biased and confrontational behavior to be an acceptable model for Board Members before the public they serve?

Commenter: c-96

Response: The Department regrets that the Commenter was offended by a Board member's statement. As noted by the commenter the Board of Environmental Protection is a citizens' board created by the Legislature to provide informed, independent and timely decisions on the interpretation, administration and enforcement of laws relating to environmental protection and to provide for credible, fair and responsible public participation in Department decisions.

Citizens' boards, such as the Board of Environmental Protection, help to foster engagement among members of the public, state agencies, and elected officials. Since their members are chosen from members of the public, they are often able to better represent the diverse ideas and expertise that exist within the greater community. The Board's diversity means that it is uniquely equipped to deal with conflict as it uses a broad range of expertise and positions in its deliberations to reach a well-reasoned resolution to many of the more significant environmental problems facing our state. The Department is hopeful the public recognizes the value provided by the Board members as they deliberate during

rulemaking proceedings. No changes were made in response to this comment.

35) Toxics

Comment: Of the 7 major industrial sectors in the US EPA's annual Toxic Release Inventory¹⁶, the metallic mining sector has consistently generated almost half (45% in the most recently published inventory) of all the waste from all the industrial sectors. More concerning, 99% of metallic mining waste is left as on site disposal - that is left on the land forever. The EPA has identified 156 mining sites nationwide that have the potential to cost between \$7 billion and \$24 billion to clean up. 59% of mining sites are estimated to need 40 years of cleanup and mines with acid mine drainage are likely to require water treatment in perpetuity. No mining operations in the world have ever stood the test of time without inadvertent or deliberate excursions of regulations that resulted in serious environmental contamination.

Maine is already burdened with environmental toxicity from metals - lead, mercury and arsenic. Besides arsenic, uranium has been found in our water wells. In 2014 the journal Environmental Health published a study from 3 school districts in rural Maine that showed significant reductions in Full Scale IQ scores of 5 to 6 points when exposed to well water containing arsenic, some levels were even as low as low as 5 ug/l (the EPA drinking water standard is 10 ug/L). Elise Gould from the Economic Policy Institute estimated that for the loss of every single IQ point, life time earning decreases approximately \$21,000 in today's dollars. This does not include loss of income taxes to the state, or societal costs for medical care of problems such as cancer, diabetes, cardiovascular disease associated with toxic exposures, or psychological care and special education.

The data clearly demonstrates that despite the mining industry's claims, metallic mining continues to leave increasingly greater amounts of highly toxic materials in our environment. In Oklahoma, the effects of living near a mining site are well demonstrated. The Pediatric Clinics of North America (February 2007) showed the pervasiveness of the neurotoxic heavy metal lead from the Tar Creek mining Superfund site on children's intellectual development. Lead toxicity from mining has also been reported in Australia, Poland and Mexico.

In August 2016, another study about Tar Creek mining Superfund site from the Harvard School of Public Health examined maternal and umbilical cord blood samples at delivery from 622 mother-infant pairs. Maternal blood arsenic was negatively associated with fetal growth. The authors concluded from the Tar Creek data that "Given the potential for relatively common fetal and early childhood arsenic exposures, our finding that *prenatal arsenic can adversely affect birth outcomes is of considerable public health importance*" (Henn, Environmental Health Perspectives, 2016).

In the proposed rule, I counted approximately 47 times public health was mentioned. But specifics to protect from adverse effects were lacking. There should be a human health assessment performed early in the permitting process to determine baseline health conditions of those who would be adversely affected if there was a decrement in air, water or soil quality. The recent metallic mining disasters at Mount Polley, Brazils Rio Doce River and Colorado's Gold King mine on the Animas River are examples of massive acute incidents that can have a profound and lasting effect on human health. The chronic lower dose but continual exposure to mining toxics on vulnerable populations must be

¹⁶ (https://www.epa.gov/sites/production/files/2014-01/documents/complete_2012_tri_na_overview_document.pdf)

evaluated.

Due to the demonstrable toxic risk from metallic mining, a Human Health Assessment must be required in subchapter 3 in the permitting process. This must identify any prior existing base line exposures such as to arsenic and also vulnerable populations that will be more adversely affected by the health effects of metallic mining operations, and should include those in close proximity with the mining area and those who would be affected by distant migration of toxics from the mining area. Cumulative risk (not cumulative impact) must be evaluated. Although the National Environmental Policy Act (NEPA) may apply to a mining project, it only addresses non- human ecological effects and potential economic effects, not human health.

Commenters: c-96, c-403

Response: The Department’s proposal establishes stringent performance standards along with comprehensive oversight and compliance monitoring requirements to prevent adverse impacts on human health. The Department’s authority to address the potential acute and chronic health impacts of any proposed mining operation is through stringent environmental standards constructed to prevent the release of pollutants that would impact public health, and to ensure that any releases that could cause an adverse impact on public health are remediated. Conducting health assessments under baseline conditions to determine whether to issue a permit presumes that a permittee will violate the environmental protections that would be established in that permit. However, under the proposed rule, if an applicant fails to demonstrate they will not cause an adverse impact on the environment they will not qualify for a permit. No changes were made in response to this comment.

36) Off-site disposal

Comment: Off-site deposition of toxic waste must require a separate permit under this rule. The CAS classification, weight, method or transfer, route and receiving site must be specified and determined to be acceptable.

Commenter: c-403

Response: Any sites in Maine where mine waste would be accepted for disposal, that are not mining areas subject to this proposal, would be subject to Maine’s laws and rules for waste management under Title 38, Chapter 13 and all applicable federal laws and regulations for solid and hazardous waste management. As provided in Section 4(A) of the proposal, the Permittee must “comply with all other applicable state, federal, or local statutes, regulations, or ordinances, including but not limited to the regulations for air emissions, water discharges, hazardous waste management for wastes not exempted from the federal hazardous waste management requirements under 40 CFR 261.4(b)(3) or (b)(7) (July 1, 2015).” Additionally, subsection 9(D)(12) requires that applications must include a waste management plan that describes all disposal endpoints. No changes were made as a result of this comment.

37) Advanced exploration

Comment: We support the Department’s November 16, 2016 revisions to the Advanced Exploration permitting requirements. These revisions provide increased clarity, and should help to strengthen environmental

safeguards for advanced exploration. The Nature Conservancy does recommend one point of clarification, namely that the Department should specify that advanced exploration activities must meet “all performance standards relevant to advanced exploration activities” listed in Section 20, rather than the “general performance standards” in Section 20. This change would not substantively alter the overall requirements captured by the “general performance standards,” but would provide clarity to both advanced exploration operator and to the Department.

Commenter: c-494

Response: The Department agrees with Commenter and has made the suggested change to Section 8(C)(2) of the proposal:

- (2) Standards. The standards for Tier One advanced exploration activities include the minimum exploration standards listed under subsection 7(B), the blasting standards in subsection 20(K), the ~~general~~ performance standards in subsection 20, and the reclamation standards in subsections 23(I), 23(J), 23(M), and 23(N) of this Chapter. The Applicant must also demonstrate and maintain financial assurance in accordance with the requirements of section 17 of this Chapter.

Also, Section 8(A) refers to Section 11 for Tier Two activities. Section 11(A)(2)(k) requires:

- (2) The Applicant has demonstrated that its proposed mining operation meets the requirements of all of the following:
 - (k) The mining operation meets the performance standards of this Chapter;

This proposed language will enable the Department to apply any of the performance standards in Section 20 that pertain to activities an applicant is requesting a permit for, and identifies the specific subsections of Section 23 that are relevant for advanced exploration.

38) Third party inspector

Comment: Requiring qualified, independent third-party inspectors to monitor for permit compliance would give mine operators an additional incentive to abide by their permitting terms. If implemented faithfully, this provision would likely lower the probability of unreported noncompliance and subsequent environmental degradation. The Nature Conservancy suggests the following revisions that could further strengthen these provisions:

1. The rule should set parameters that govern when (and if) a permittee may fire (or terminate) an inspector. Under the current proposal in Section 12(A)(20), there are no parameters governing this process, which leaves the door open to a permittee firing an inspector for any reason, including reporting of noncompliance. The rules should make clear that dismissal of an inspector for properly monitoring noncompliance is not allowed; and
2. Similarly, the rules should set parameters on how quickly a permittee must hire a new inspector should its existing inspector be terminated or voluntarily leave their job.

Commenter: c-494

Response: The Department agrees with the Commenter and has revised Section 20(a) of its proposal to state:

(a) Inspector selection. At least 30 days prior to starting any permitted activity on the site, the applicant must submit the names of at least two inspector candidates to the Department. Each candidate must meet the minimum qualifications listed below. The inspector may not be an employee, partner, or contracted consultant involved with the permitting of the project or otherwise employed by the same company or agency except that the Department may accept subcontractors who worked for the project's primary consultant on some aspect of the project such as, but not limited to, completing wetland delineations, identifying significant wildlife habitats, or conducting geotechnical investigations, but who were not directly employed by the applicant, as independent inspectors on a case by case basis. The Department will have 15 days from receiving the names to select one of the candidates as the inspector or to reject both candidates. If the MDEP rejects both candidates, then the MDEP shall state the particular reasons for the rejections. In this case, the applicant may either dispute the rejection to the Commissioner, or start the selection process over by nominating two, new candidates.

(i) The Permittee may not terminate the services of a qualified third-party independent inspector without prior Department approval.

(ii) In the event the qualified third-party independent inspector is terminated or voluntarily resigns, the Permittee must select and retain the services of a replacement inspector within 30 days.

39) Public lands

Comment: The Nature Conservancy supports the proposed revisions establishing requirements for the preservation of unusual natural areas and the protection of wildlife and fisheries in Sections 20(O) and 20(Q) of the November 16, 2016 proposal. If implemented carefully, these provisions may result in better outcomes for ecologically sensitive areas. Unfortunately, other provisions in the draft rule and its authorizing statute, such as mining under great ponds and coastal wetlands, and on public lands, would work to counter the intent of this provision.

Commenters: c-494, c-478

Response: The Department has successfully implemented similar standards for the protection of unusual natural areas and wildlife and fisheries and is confident the proposed standards (along with protections for historic sites and scenic areas) can help to protect and preserve these resources. As noted in Comment 3, the Department has only limited statutory authority to prohibit mining on public lands. No changes were made as a result of this comment.

40) Wet waste units

Comment: The Nature Conservancy supports the November 16, 2016 proposal's prohibition against water covers for tailings impoundments storing Group A wastes. This proposal will prevent the possibility of a tailings dam failure that releases acid-generating material in its flood path. However, the proposed rules still

allow for wet mine waste units, both during and after the life of the mine. Given that wet mine waste units are functionally equivalent to the prohibited tailings impoundments (those that Group A waste), if the Department believes that tailings impoundments containing Group A waste are too risky and should be prohibited, this logic must also extend to wet mine waste units.¹⁷ For this reason, the Nature Conservancy recommends a prohibition on wet mine waste units.

To be clear, the Nature Conservancy is not stating its opposition to mine workings that are either partly or wholly flooded after closure. The issue with flooded mine workings is qualitatively different than the issue of storing acid-generating waste produced during mining operations. The mine operator should backfill the mine pit or shaft to prevent rainwater accumulation (and to avoid producing waste rock piles that require cover), but if backfilling is infeasible (as credibly demonstrated to the Department) rainwater accumulation in mine workings must be governed properly, which this language seeks to accomplish. In any event, the Department must ensure that management of the accumulated rainwater or exultant runoff will not result in a violation of groundwater or surface water standards.

Lastly, the Nature Conservancy would like to note that the prohibition on tailings impoundments containing Group A wastes raises concerns as to the safeguards necessary for tailings impoundments more generally. The draft rules make reference to the integrity of waste management/containment structures, but there are few specific requirements to ensure proper structural integrity. As the Department considers the role of waste management in the final rules, we recommend revisiting and potentially strengthening tailings impoundments safeguards.

Commenter: c-494

Response: The Department’s proposal prohibits tailings impoundments that use water as a cover, clarifies that wet waste units do not include flooded mine workings, and prohibits use of wet covers after closure. See also, Comments 5 and 6.

41) Mining under waters and wetlands

Comment: Section 20(B) of the November 16, 2016 proposal was revised to allow mining under great ponds, rivers, brooks and streams, and coastal wetlands. We urge the Department to rescind this provision. Maine’s waterbodies provide critical wildlife habitat and are essential to the state’s recreational and commercial fishing economies. They provide pristine drinking water used by residents across the state, including restaurants, commercial water bottlers and breweries who identify their product with the Maine brand that centers on high quality water. Our coastal wetlands provide aquaculture opportunities unparalleled on the east coast. Even if Mine operators can successfully carry out most mining activities under waterbodies, just one accident involving the collapse of a mine and a pond or wetland draining into the mine shaft would tarnish Maine’s reputation and discourage investment in our water-based economy. The marginal returns to mining under a water body, especially when mining is allowed in so many other places in Maine, cannot justify the elevated risk to Maine’s citizens, wildlife and economy.

Commenters: c-494, c-487, c-491, c-476, c-478

¹⁷ A wet mine waste unit (for Group A waste) is simply Group A waste placed under water, while the prohibited tailings impoundment is Group A waste mixed with water and other chemicals.

Response: The BEP deliberated on this issue at its November 3, 2016 meeting and believes a categorical prohibition on mining under great ponds, rivers, brooks and streams, and coastal wetlands should not be included in the rule.¹⁸ Board members noted that mining under waterbodies and coastal wetlands has been successfully done in other jurisdictions and should not be categorically prohibited. The absence of a prohibition does not constitute approval. Any applicant proposing to mine under a water body or coastal wetland must demonstrate that it could meet the licensing criteria set forth in statute and rule.

42) Documentation

Comment: The Department has made an attempt to appease the more than 400 commenters on this proposal, yet it fails to protect the waters of Maine and the public health. I would like to see a list of all the suggested changes, along with those that you have actually incorporated, including LD 1853. Many Commenters have researched this issue extensively, and have contributed our awareness of the dangers of metallic mineral mining in Maine.

Commenter: c-493

Response: All proposed drafts of the rule, all written comments received on the drafts, and testimony from the public hearing were made publicly available on the Department's website. All suggested changes can be found in this documentation. Revisions to the proposed rule have been highlighted in the rule language so they can be identified as changes, and the Department's response to comments describes how many of the revisions are reflective of comments received.

43) Economic viability

Comment: The rules should be revised using the advice of Dr. Chambers¹⁹ who has already predicted major mining design faults around the world, including Maine's Bald Mountain. The referenced study, "*The Risk, Public Liability, & Economics of Tailings Storage Facility Failures*," analyzes failures and incidents with "tailings storage facilities" along with costs to remediate some of the more serious tailings dam failures since 1990. The researchers concluded that advances in mining technology have made it feasible to mine lower grades of ore, but that these technologies generally result in expanded volumes of waste rock, tailings and waste water. These new technologies come at a cost, and the authors contend that the increased costs associated with modern mining technologies often result in unfunded environmental liabilities. Consequently, regulators must understand and address both the financial capacity of the miner and the financial feasibility of mining itself both in permitting criteria and in the oversight of mine water throughout the life of the mine.

Commenters: c-44, c-50, c-493

Response: The Department's proposal, which been revised to prohibit tailings impoundments that use water as a cover and permanent wet mine waste units (See Response to Comment 5 and 6), virtually eliminates the possibility of a tailings dam failure, since tailings must now be stored in a dry storage facility. As noted

¹⁸ Mining under these resources would still be subject to all review and approval criteria including the Natural Resources Protection Act.

¹⁹ https://www.earthworksaction.org/files/pubs-others/BowkerChambers-RiskPublicLiability_EconomicsOfTailingsStorageFacility%20Failures-23Jul15.pdf

previously (see the Response to Comment 2), the Department's proposal includes comprehensive financial assurance requirements that provide funds sufficient to address a "worst-case" scenario. With respect to the actual financial feasibility of a mining site, the Department believes it highly unlikely that a site with marginal economic returns will be mined, given the costs to permit and operate a mine (including the financial assurance requirements). No changes were made in response to this comment.

44) Wet waste unit prohibition

Comment: The changes proposed to the definition of wet mine waste unit in the November 16, 2016 proposal engenders one of the crucial issues of metallic mining, the safety and treatment of massive volumes of toxic waste. The definition of wet mine waste should retain the redacted phrase "wet mine waste unit shall not be used for storage or treatment of mine waste after closure." The Department recognized the inherent risks in wet mine waste storage, as evidenced by its proposal to prohibit tailings impoundments that use water covers. Since the use of "water as a cover to minimize oxygen advection and diffusion to Group A waste" is a fundamental constituent to both, allowing the use of wet mine waste units is a substantial inconsistency. Wet mine waste units should not be allowed either after or before mine closure.

Commenter: c-491

Response: The Department agrees with the commenter, and has revised the proposal in subsection 9(D)(12) to state:

- (12) Waste management plan including descriptions by waste stream type, source, anticipated volumes, characteristics, provisions for minimization, treatment, on-site storage, containment, management, transportation, and disposal endpoints. Waste management plans shall not include perpetual treatment methodologies. Wet mine waste units shall not be used for storage or treatment of mine waste after closure.

This same provision was already, and remains, in the proposal in subsection 24(B)(5):

- (5) Length of the Post-Closure Care Period. The collection, treatment and disposal methods must be designed to ensure that discharges to affected areas must meet water quality standards without requiring active treatment as soon as practicable, but in no case greater than 10 years post-closure. Wet mine waste units may not be used for storage or treatment of mine waste after closure. The post-closure care period for Group A and Group B wastes must end 30 years from the time of closure certification, provided the Department determines the mine waste unit has been closed in compliance with the performance requirements of this Chapter and the post-closure performance standards of this section, and that the site will continue to remain in compliance with such standards. The post-closure care period for Group C waste must be 5 years from the time of closure certification.

45) Consumer Price Index adjustment

Comment: The 15% or greater of the financial assurance, along with other financial assurance and insurance, must be adjusted yearly for an increase (decrease) in the Consumer Price Index. This will assure adequate monetary coverage at a later date. Without protection from inflation, the value of the financial assurance and insurance instruments can decrease significantly over time, and may no longer be sufficient to address all necessary actions.

Commenter: c-491

Response: The Department’s proposal already contains a mechanism to adjust the financial assurance requirements in response to inflationary prices. Section 17(B)(6) of the proposal states:

(6) The financial assurance must be updated annually and adjusted using the implicit price deflator²⁰ for gross national product as published by the U.S. Department of Commerce, Survey of Current Business, and must be submitted to the Department on or before March 15 of each year. The financial assurance shall not be adjusted downward in the event of a negative implicit price deflator.

It should be noted that the requirement to adjust the financial assurance upwards in response to inflationary pressures applies to both the total financial assurance requirement and the requirement that at least 15% of the financial assurance for a mining operation that will produce Group A or B wastes must be secured by cash, negotiable bonds or negotiable certificates of deposit. No changes were made in response to this comment.

46) Financial assurance

Comment: The November 16, 2016 proposal should require a third-party estimate of the cost of a worst-case scenario mine failure, require any applicant to provide financial assurance in that amount as a permit condition, and require the applicant to pay for the third party estimate. The changes DEP has proposed do not even use the words “worst-case scenario,” and they do not require a third-party analysis.

Commenter: c-487

Response: As detailed in the Response to Comment 2, the Department’s proposed financial assurance requirements do, in fact, establish a requirement that the financial assurance be sufficient to address a worst-case scenario. While true that the proposed rule does not use the term “worst-case scenario,” the proposal nevertheless requires the Applicant (and Permittee) to secure financial assurance sufficient for the Department to address a “worst-case scenario”:

- (a) Administer all activities necessary for the investigation, monitoring, closure, post closure, treatment, remediation, corrective action, reclamation, operation and maintenance under the mine plan. Financial assurance must be sufficient to cover the cost to investigate **any and all** (emphasis added) possible releases of contaminants at the site, monitor all aspects of the facility, close the facility in accordance with the proposed closure plan, conduct treatment activities of all expected fluids and wastes generated at the facility for a minimum of one hundred (100) years, implement remedial activities for all possible releases and maintenance of structures and waste units as if these units have released contaminants to the groundwater and/or surface water, conduct corrective actions for potential environmental impacts from pathways from the mining areas to adjacent groundwater and surface water resources as

²⁰ Although the Consumer Price Index (CPI) and Implicit Price Deflator are both commonly used measures of inflation, the Implicit Price Deflator is more appropriate for updating financial assurance requirements because the CPI only takes into the cost of consumer items; machines and the industrial equipment are not considered.

identified in the Environmental Impact Assessment, and conduct activities at the mine site in accordance with the proposed mine plan; and

- (b) Implement other necessary environmental protection measures, including restoring and remediating any damaged public facilities or services and restoring and remediate any air, surface water, or groundwater contamination.

With respect to the use of third party experts and the Applicant's responsibility to pay for these experts, Section 17(A)(7) of the proposal already states (in relevant part):

If the Department does not have adequate in-house expertise, the Department shall hire third parties with documented experience in material handling and construction, mining costs, risk analysis, and financial analysis to analyze and evaluate the proposed terms and conditions of financial assurance required for the Applicant or Permittee. The individuals and company hired to perform this function shall have no conflict of interest with the applicant, related persons, applicant's consultants, attorneys or any of their employees. All costs of the third party evaluation must be paid by the Applicant pursuant to 38 M.R.S. § 352(4-A).

Finally, Section 17(A)(1) of the proposal already includes a requirement that the Permittee shall continuously maintain financial assurance, as a condition of the mining permit. No changes were made as a result of this comment.

47) Wet waste unit definition

Comment: NRCM still does not understand the term "wet mine waste unit." DEP made up this term and its meaning remains unclear. What would a wet mine waste unit for the storage of millions of tons of waste rock look like? How would a mining company create such a unit? Would it dig a vast hole in the ground or impound a river or stream.

Commenter: c-487

Response: The term wet mine waste unit was derived from the 1991 version of Chapter 200 *Metallic Mineral Exploration, Advanced Exploration and Mining*. Under the 1991 closure design requirements, mine waste management units were closed by a dry cover or water cover. If a water cover is used it typically requires an engineered structure (embankment) to maintain a flooded condition. As reported in the GARD Guide, placing acid generating materials below a water cover is a proven best practice for limiting acid rock drainage generation. The Gard Guide in Section 6.6.7 (Water Cover Methods) provides some schematics of water covers.

Existing statute, 38 M.R.S. §464, Classification of Maine Water, provides the framework for protecting waters of the State. Under the State's anti-degradation policy "existing in-stream water uses and level of water quality necessary to protect those existing uses must be maintained and protected". Impounding a river, stream or brook to dispose of mine waste fails the State's anti-degradation laws.

48) Release of financial assurance

Comment: A public hearing should be held prior to the release of financial assurance. This will ensure transparency of the process. As with the Callahan Corporation Mine, improper remediation and closure

can detrimentally affect taxpayers both within and outside the state of Maine. Citizens of the state have the right to ensure that all permit requirements are satisfactorily met, since they are at risk of ultimately becoming a responsible party. A public hearing will help ensure that the public's health and the environment are not at risk.

Commenter: c-491

Response: The Department agrees with the Commenter and has amended subsection 17(F)(6) of the proposal as follows:

(6) Public Hearing

- (a) The Department shall hold a public hearing on all requests for release of the financial assurance, and ~~Within 30 days from the date of the release inspection, a person with an interest that is or will be adversely affected by the proposed financial assurance release may file written objections to the proposed release with the Department. If written objections are filed and a hearing is requested,~~ the Department shall inform all persons who have requested notice of hearings and persons who have filed written objections in regard to the request of the time and place of the hearing at least 30 days in advance of the public hearing. The hearing shall be held in the area of the permitted facility.
- (b) ~~If a hearing is scheduled,~~†The date, time and location of the public hearing shall be advertised by the Department in a newspaper of statewide circulation once a week for two consecutive weeks. All persons who have submitted a written request in advance to the Department to receive notices of hearings shall be provided notice at least 30 days prior to the hearing. The hearing procedures of 06-096 CMR ch. 3 will be followed. ~~The Department may also hold a public hearing at its own discretion.~~
- (c) ~~Within 90 days from the inspection, if no public hearing is held pursuant to this section, or, within 90 days after a public hearing has been held pursuant to this section,~~ the Department shall notify in writing the Permittee, trustee, surety or other persons with an interest in collateral, and the persons who either filed objections in writing or participants in the hearing proceedings who supplied their contact information to the Department, if any, of the decision to release the financial assurance. The Department does not release the Permittee from any mining obligations, reclamation, closure, post-closure, or corrective action requirements or third party liability as a result of releasing any funds.

49) Liability insurance

Comment: Non sudden occurrence insurance must be required for the entire life of operations, including post-closure. The “may” should be redacted and the original “shall” be retained. Since non-sudden insurance shall be required, the Department ruling on a case-by-case basis is not need and should be deleted.

Commenter: c-491

Response: See Response to Comment 25.

50) Emission controls

Comment: The lowest achievable emission rate (LAER) should be required for all air emissions, not just fugitive emissions. Emitted pollutants subject to LAER should include, but not be limited to, PM_{2.5}, sulfur dioxide, and metals. In addition, PM_{2.5} sulfur dioxide and metals should be speciated and quantified.

Commenter: c-491

Response: Emission control requirements will be established in accordance with existing Department rules for air emission sources, which include federal requirements for control of hazardous air pollutants such as metals and other control requirements that have been approved by the U.S. Environmental Protection Agency. See Response to Comment 9. No changes were made as a result of this comment.

51) Stability

Comment: Since some types of failures involve long-term weathering of mine waste materials creating unstoppable acid reactive drainage, a plan for development must be consistent with maintaining the mining site in a geologically stable condition during and after resource extraction.

Commenter: c-70

Response: Section 20(H) of the Department's proposal establishes requirements to ensure that mine waste units and other facilities are sited on geologically stable sites. Section 20(H) states:

H. Containment Structures

- (1) Containment structures include waste containments, tailings impoundments, water impoundments, and other on-site-constructed tanks and containments.
- (2) Waste rock, waste containment, and tailings impoundments must be designed based on the results of the waste classification determined through the Reactive Mine Waste requirements of this Chapter. Liner and leachate collection systems, if required, must meet the minimum design standards contained in section 21 of this Chapter.
- (3) Containment structures must be designed, constructed, and maintained to prevent embankment overtopping, with adequate freeboard, during the Probable Maximum Flood (PMF) precipitation and snowmelt event considering maximum wind and fetch.
- (4) Containment structures must be designed and constructed to be structurally stable. The stability assessment must include analysis of potential failure planes which pass through or along: the foundation soils, the waste mass, and/or liner system components for both static and seismic conditions. The stability assessment must be supported by corroborative field and laboratory data that defines the site geology and hydrogeology, the geotechnical characteristics, the waste mass characteristics, and the geosynthetic characteristics, as applicable. If approved by the Department, projected strength gain of the foundation soils may be incorporated into the

analysis provided monitoring adequate to verify the projected strength gain is proposed. Stability assessments must meet the following requirements.

(a) Containment structures built with an earthen component must have minimum static factors of safety of 1.30 during construction and operations and 1.50 following closure. The Department may require higher factors of safety based on the risks and consequences of failure.

(b) Containment structures built with an earthen component must meet the following seismic stability requirements:

(i) The minimum factor of safety must be 1.10 when designed to withstand the peak ground acceleration having a 10% probability of exceedance in 50 years (a 475-year return period) during construction and operations. The Department may require higher factors of safety based on the risks and consequences of failure.

(ii) The minimum factor of safety must be 1.00 when designed to withstand the peak ground acceleration having a 2% probability of exceedance in 50 years (a 2475-year return period) following closure. The Department may require higher factors of safety based on the risks and consequences of failure.

(iii) The peak ground accelerations must be determined from the National Seismic Hazard Maps published by the United States Geological Survey or a site specific seismic shaking hazard assessment and must be amplified as appropriate considering the properties of the soils underlying the containment structure, the engineered systems, and/or the waste mass; and

(iv) Unless otherwise approved by the Department, the seismic stability assessment must include an evaluation of permanent deformation, an evaluation of waste and soil strength loss due to cyclic loading, an evaluation of post-cyclic stability, and an evaluation of liquefaction potential.

(4) Containment structures must contain adequate slope protection to prevent erosion.

(6) Containment structures must be operated to place a cover over reactive mine materials as soon as practicable to isolate the reactive mine materials from precipitation and air.

(7) Containment structures must be operated in a manner that provides for segregation of designated chemical and reactive mine materials, metallic mineral product, ore, tailings, lean ore, waste rock, surface overburden, and topsoil, as applicable, unless these materials are placed together for a beneficial purpose as described in the mine plan.

(8) Containment structures must be designed, constructed and maintained to promote contemporaneous reclamation.

No changes were made in response to this Comment.

52) De facto moratorium

Comment: At present these statute/rules inconsistencies create in effect, a temporary moratorium on

metallic mining in Maine. But let's not conflate a dilemma for mining companies with a crisis for Mainers in need of immediate remedy. Far worse would be regulations that comport with Maine's mining law but don't address the critical questions that LD 1853 never bothered to ask.

You can spare us what has now become an annual exercise of public policy tunnel vision that can't illuminate the critical mining issues that need resolution. The most constructive public policy action the BEP can undertake is to support our current de facto moratorium, rather than to consign all parties involved to what will feel like yet another episode of mining ground hog day. To do so, all you need do is thank the DEP for its good-faith efforts, and then not proceed any further with these rules until Maine has the mining statute it deserves. There's no rush.

Commenters: c-73, c-289

Response: See Response to Comments 16 and 17. As stated in those responses, Chapter 200 is currently in effect and the Department could receive a permit application and issue a permit under the existing Chapter 200 at any time. Due to the inconsistencies between the existing Chapter 200 and the Mining Act, such a permitting process would involve far less environmental protections than would be established in this proposal. No changes were made as a result of this comment.

53) Class AA and A waters

Comment: The streams around Bald Mountain have been classified by the Legislature as AA or A. Class AA and A narrative standards state that aquatic life shall be "as naturally occurs." No discharges are allowed in AA waters and only a discharge of "equal to or better" is allowed in class A waters. Mining activities, especially those in and around Bald Mountain pose a significant threat to a number of class AA and A streams, which are critical habitat for the eastern brook trout.

Commenter: c-352

Response: Neither the Metallic Mineral Mining Act nor the Department's proposal allow discharges of pollutants to waters of the State. Any proposed discharge to waters of the State requires a separate license pursuant to 38 M.R.S. § 413(1). The Commenter is correct that with very limited exception, Maine's water quality standards do not allow a new discharge to Class AA waters. Discharges to Class A waters must, among other conditions, be equal to or better in quality than the existing water quality of the receiving waters. Proposed discharges to waters of the State will be evaluated for compliance with all applicable water quality standards. The Metallic Mineral Mining Act also specifically states at 38 M.R.S. § 490-OO(4)(E) that a "mining operation will not cause a direct or indirect discharge of pollutants into surface waters or discharge groundwater containing pollutants into surface waters that results in a condition that is in nonattainment of or noncompliance with the standards in article 4-A or section 414-A or 420." Section 22 of the rule requires programs for monitoring or groundwater, surface water, and facilities that store or handle possible sources of pollutants that are intended to prevent discharges not specifically allowed in the Mining Act or by other provisions of Maine law. Nothing in this Chapter allows or suggests that a use attainability analysis (UAA) will be granted for discharges resulting from mining activities. No changes were made as a result of this comment.

54) Underground injection

Comment: The rule must be strengthened. Underground injection wells, specifically class I, III, and V, should not be allowed.

Commenter: c-403

Response: Section 3(D) of the Department's proposal already prohibits underground injection:

- D. No chemical or oil, products or waste, shall be discharged, mixed, or released onto, into, or under the ground or waters of the State. This prohibition includes, but is not limited to, discharges into or from onsite wastewater treatment plants, mine pits or tunnels, or beneficiation units. All chemicals and oils shall be managed so as to prevent their release and mishandling, including compliance with all applicable management rules and laws including 06-096 C.M.R. ch. 800, 801, 850 through 858, and 860. Chemicals or oils utilized for their intended purpose as a part of the wastewater treatment process, beneficiation process, or other mining activities may be utilized only when identified in the mining permit application or exploration work plan, documented as chemicals or oils that are the least toxic materials available for their intended purpose, being used in appropriate quantities, used solely for their intended purpose and not as a means of disposal, and as approved by the Department. The use of underground injection for disposal is prohibited.

The Department's Chapter 543 Rules to Control the Subsurface Discharge of Pollutants rule also categorically prohibits all Class I, II, III, and most Class IV and Class V wells. No changes were made in response to this comment.

55) Conflict with statute

Comment: The 11/16/16 draft proposal includes regulatory language in direct conflict with the statute in section 3(D).

Commenter: c-478

Response: Section 3(D) of the Department's proposal states:

No chemical or oil, products or waste, shall be discharged, mixed, or released onto, into, or under the ground or waters of the State. This prohibition includes, but is not limited to, discharges into or from onsite wastewater treatment plants, mine pits or tunnels, or beneficiation units. All chemicals and oils shall be managed so as to prevent their release and mishandling, including compliance with all applicable management rules and laws including 06-096 C.M.R. ch. 800, 801, 850 through 858, and 860. Chemicals or oils utilized for their intended purpose as a part of the wastewater treatment process, beneficiation process, or other mining activities may be utilized only when identified in the mining permit application or exploration work plan, documented as chemicals or oils that are the least toxic materials available for their intended purpose, being used in appropriate quantities, used solely for their intended purpose and not as a means of disposal, and as approved by the Department. The use of underground injection for disposal is prohibited.

The Department's proposal is consistent with the Metallic Mineral Mining Act which only exempts

mining operations from the provisions of Chapter 3, Subchapter 1, Article 6 (Site Location of Development), Article 7 (Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt), and Article 8-A (Performance Standards for Quarries); Chapter 13 (Waste Management); and 38 M.R.S. § 420-D (Storm Water Management). Those provisions do not apply to applications reviewed under the Act and this Chapter, except when permits or licenses are issued pursuant to any United States Environmental Protection Agency federally delegated or authorized program, as also set forth at 38 M.R.S. § 490-NN(1)(A). In the case of waste management, the Department has interpreted the Act to exclude only those mine wastes that have been excluded by Subchapter 3 of the Resource Conservation and Recovery Act, 42 CFR 6901 *et seq.* and 40 CFR 261.4(b)(3) and (b)(7) (July 1, 2015). No changes were made in response to this comment.

56) Regulatory discretion

Comment: The proposed rule provides significant regulatory discretion for the Department, but the Agency's lack of transparency and less than systematic approach to rulemaking raise doubts about both the guidance and the oversight of the entire process. Confidence that DEP should be allowed expansive discretion in the exercise of the authority proposed to be granted them, other than "presence" or "absence" judgments, is correspondingly lessened, and, therefore, discretionary authority should be minimized by deleting section 21(B) - Alternative Design Process.

Commenter: c-478

Response: The alternatives reference within this section is to Subchapter 5, Section 21(B) "Alternative Design Process." This section is very specific to lay out a process for evaluating alternatives to the minimum design standards of this section. By way of example, a common use of this approach within the State's solid waste program is to demonstrate the effectiveness and equivalency of replacing one component of a liner or cover system with an alternative technology that will perform equally to the component it replaces and performs equally within the overall liner or cover system. It is not meant to be a review of alternatives to placing a mine site or mine process at a particular location, nor is it intended to be a review of alternative mining approach technologies. No changes were made in response to this comment.

57) Event of force majeure

Comment: *The Department has included a new definition for an "Event of Force Majeure" which means: "an event beyond the control of the Department and the Permittee, including but limited to:*

- 1) An act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves, and floods:
- 2) War, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition, or embargo;
- 3) Rebellion, revolution, insurrection, or military or usurped power, or civil war;
- 4) Riot, commotion, strikes, go slows, lock outs, or disorder; or

5) Acts or threats of terrorism.”

Fine, except there are all sorts of measures, general and specific, that responsible authorities, public and private, are expected to take as a matter of routine due diligence to mitigate various aspects of these kinds of risks. For example, in Section 12(A)(26) of the proposal, it serves as a kind of “get out of jail free” for all conceivable obligations and costs of the Act, Chapter 200, or the permit. The addition of the “force majeure” concept is both a good and a bad. Recognizing that they're a factor tied to the risk of mining is a good. Allowing it to absolve a permittee of responsibility for remediating a contamination would be bad. Given the risks brought about by newly emerging climate and ground instability the regulations must do a better job of anticipating and encompassing them than they currently do or accept the consequence of giving up metallic mining in Maine altogether.

Commenter: c-478

Response: Section 12(A)(26) of the Department’s proposal states:

(26) Event of Force Majeure. The Permittee’s responsibility for meeting all requirements of the Act, this Chapter and the mining permit *shall not be discharged* (emphasis added) due to an Event of Force Majeure.

The proposal does not absolve the Permittee of any obligations. In fact, it requires the Permittee to meet all requirements even if there are events beyond the control of the Department or Permittee. With respect to other regulatory requirements, the Department has included stringent design standards throughout the proposed rule. By way of example, the design storm event for run-on/runoff control systems is the 24-hour, 500-year storm event as compared to the more frequently used 24-hour, 100-year storm event. This same larger storm event is required for designing the capacity for the leachate pond, and the leachate pond storage capacity also requires the design to be based off of the most recent 15-year historical precipitation database. Both of these design standards are in recognition of the increased frequency of larger precipitation events that have been observed recently. In addition, containment structures are also required to “...be designed, constructed, and maintained to prevent embankment overtopping, with adequate freeboard, during the Probable Maximum Flood (PMF) precipitation and snowmelt event considering maximum wind and fetch.” No changes were made in response to this comment.

58) Scrivener’s errors

Comment: There are a number of typographical and number errors in the draft proposals. These included:

- 1) Pagination inaccuracies in the table of contents;
- 2) Page 23: In the columns of reasons for testing, the left column should close up the space following “dissolve oxygen,” “hydrocarbons” (in the right column) should be placed below “hardness” in the left column, and the resulting space after “total petroleum” in the right column closed up;
- 3) Page 32: In “Section 10. Public and Local Participation, A. Notification and Participation

Requirements,” the last line is portrayed as a new strike when it was actually struck in the preceding draft;

- 4) Page 64: at “(H) (2)” line 4 “section”;
- 5) Page 78: “(2) (c) (ii)” the sub-paragraph should be aligned with “(2) (c) (i)” and in the fourth line the word “tom,” should be, possibly, “to”?; and
- 6) In Section 17(F), Release of Financial Assurance, subsection (F)(1) (c) refers to “a detailed cost breakdown of the funds needed to complete the actions in (E)(1)(a) above,”. This reference should be corrected to cite subsection (F)(1)(a).

Commenter: c-478

Response: The Department made the suggested corrections, as appropriate.

59) Contingency costs

Comment: What is the explanation for the apparent vacillation (ranging over time from 15, to 20, to 33%) for contingency pertaining to cost estimates required in Section 9(I)(5)(ii)?

Commenter: c-478

Response: This was a typographical error; the Department’s final proposal requires a 20% contingency.

60) Prohibited activities

Comment: Why weren’t in-situ leaching and block caving cited in the section 11(A)(2)(j) (Criteria for Mining Permit Approval) as well as in section 1(B)?

Commenter: c-478

Response: The Department has revised its proposal to include in-situ leaching and block caving in section 11(A)(2)(j).

61) Waste management

Comment: In Section 20(H)(7), there is equivocal language which says Permittees “must . . . segregat(e)” various diverse waste materials “unless they are placed together for a beneficial purpose....” Why? And wouldn’t the combined waste need to be treated in terms of the standards promulgated for the most demanding category of waste included?

Commenter: c-478

Response: The Department’s proposal allows waste materials with different physical but similar geochemical characteristics to be placed together. As an example, placing waste materials of differing aggregate size (but similar geochemical characteristics) together may enhance stability of materials in temporary storage. No changes were made in response to this comment.

62) Monitoring

Comment: In sections 22(7)(d) and (e), it is not particularly clear, given the potential for environmental damage caused by (1) exposure of powdered sulfite ore to air and water and (2) uncertainties associated with swiftly changing climate conditions what kind of evidence would lead to the “reasonable assurance” referenced in these subsections.

Commenter: c-478

Response: A reasonable assurance would be determined through an examination of water quality data for both surface water and groundwater as required by Mining Act in 38 M.R.S. §490-QQ (3)(B) and (C).

63) Reclamation

Comment: In Section 23(K), there is a sentence that reads in part “that the goals of this Chapter, the Act, and the mining permit are maintained or enhanced until there is no *unreasonable* [emphasis added] threat to public health and safety or the environment.” Surely that is not what is intended? Strike the “un”?

Commenter: c-478

Response: The standard of “no unreasonable” threat to public health or safety is a statutory requirement. An unreasonable threat is evaluated on a case-by-case basis and considers the impacts of a proposed activity on affected resources. No changes were made in response to this comment.

64) Lagoons

Comment: On page 77 (third line from the bottom) and page 78 (second line from the bottom) the concept of “lagoon underdrains” is introduced but not defined there or in “Subchapter 1, 1. Definitions.” What is a lagoon? What is the relationship, if any, with Wet Mine Waste Units?

Commenter: c-478

Response: Lagoons or ponds are used to collect and treat wastewater from a variety of manufacturing, including mining, and agricultural activities. Lagoons can include leachate ponds, stormwater ponds, recycled water storage and wastewater ponds. In Section 21(A)(1), the design standards require a liner system with a leachate collection system for both Group A and Group B mine waste units. Since the Department is proposing to prohibit tailings impoundments that use water as a cover and require only dry mine waste units for tailings, these types of mine waste units will also require a leachate pond to collect drainage from these waste units for further treatment.

65) Support for proposal

Comment: The Maine Geological Survey supports the rule proposed by the Department. The rules are stricter than Michigan’s, which was used to develop the framework law. Specifically the rule is stricter

by prohibiting mining beneath great ponds, rivers and streams, prohibits wet tailings impoundments post closure, and provides a 10-year post closure for active treatment. The commenter also provided a summary of the statute *Mining on State Lands* depicting the authorities of the agency having jurisdiction over state lands and noted the concerns express by the public concerning mining on state lands. These authorities include: authority to explore, exploration for mining of hydrocarbons, location of exploration claims, recording claims, fees, land use rulings, mining leases, common and undivided lots, royalty, rights of way, mining under bodies of water, annual reports, termination and violations.

Commenter: c-93

Response: The Department appreciates the commenter's positive feedback and the summary of the *Mining on State Lands* statute. The Board may make recommendations to the Legislature to clarify the DEP's regulatory authority for metallic mineral mining activity on public lands.

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1/5/2017

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TITLE 38 ARTICLE 9

MAINE METALLIC MINERAL MINING ACT

§ 490-LL. Short title

This article may be known and cited as "the Maine Metallic Mineral Mining Act."

§ 490-MM. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Advanced exploration. "Advanced exploration" means any metallic mineral bulk sampling or exploratory activity that exceeds those activities that are exploration activities and are specified in rules adopted by the department. Samples taken as part of exploration are not considered bulk sampling.

2. Affected area. "Affected area" means an area outside of a mining area where the land surface, surface water, groundwater, air resources, soils or existing uses are potentially affected by mining operations as determined through an environmental impact assessment.

3. Beneficiation. "Beneficiation" means the treatment of ore to liberate or concentrate its valuable constituents. "Beneficiation" includes, but is not limited to, crushing, grinding, washing, dissolution, crystallization, filtration, sorting, sizing, drying, sintering, pelletizing, briquetting, calcining, roasting in preparation for leaching to produce a final or intermediate product that does not undergo further beneficiation or processing, gravity concentration, magnetic separation, electrostatic separation, flotation, ion exchange, solvent extraction, electrowinning, precipitation, amalgamation and dump, vat, tank and in situ leaching.

4. Closure. "Closure" means activities undertaken to manage a mining area and, if necessary, an affected area, pursuant to an environmental protection, reclamation and closure plan approved by the department. "Closure" includes, but is not limited to, actions taken to contain metallic mineral wastes on site and to ensure the integrity of waste management structures and the permanent securement of pits, shafts and underground workings.

5. Contamination. As applied to groundwater, "contamination" means nonattainment of water quality standards, the cause of which is attributable to a mining operation, as:

- A. Specified in rules relating to primary drinking water standards adopted pursuant to Title 22, section 2611; or
- B. Demonstrated by a statistically significant change in measured parameters that indicates deterioration of water quality determined through assessment monitoring.

As applied to surface water, "contamination" means a condition created by any direct or indirect discharge that causes or contributes to nonattainment of applicable water quality or licensing standards under section 414-A or 420. The nonattainment may be attributable to the mining operation either by itself or in combination with other discharges.

6. Exploration. "Exploration" or "exploration activity" means the following activities when conducted in accordance with rules adopted by the department for the purpose of determining the location, extent and composition of metallic mineral deposits: test boring, test drilling, hand sampling, the digging of test pits, trenching or outcrop stripping for the removal of overburden having a maximum surface opening of 300 square feet per test pit or trench or other test sampling methods determined by the department to cause minimal disturbance of soil and vegetative cover.

7. Heap or percolation leaching. "Heap or percolation leaching" means a process for the primary purpose of recovering metallic minerals in an outdoor environment from a stockpile of crushed or excavated ore by percolating water or a solution through the ore and collecting the leachate.

8. Metallic mineral. "Metallic mineral" means any ore or 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.

9. Metallic mineral operator. "Metallic mineral operator" means a permittee or other person who is engaged in, or who is preparing to engage in, mining operations for metallic minerals, whether individually or jointly or through agents, employees or contractors.

10. Metallic product. "Metallic product" means a commercially salable mineral or metal produced primarily for its metallic mineral content in its final marketable form or state.

11. Mining. "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.

12. Mining area. "Mining area" means an area of land described in a permit application and approved by the department, including but not limited to land from which earth material is removed in connection with mining, the lands on which material from that mining is stored or deposited, the lands on which beneficiating or treatment facilities, including groundwater and surface water management treatment systems, are located or the lands on which water reservoirs used in a mining operation are located.

13. Mining permit. "Mining permit" means a permit issued under this article for conducting mining and reclamation operations.

14. Permittee. "Permittee" means a person who is issued a mining permit.

15. Post-closure monitoring period. "Post-closure monitoring period" means a period following closure during which a permittee is required to conduct monitoring of groundwater and surface water and other environmental parameters as specified in a mining permit.

16. Reclamation. "Reclamation" or "reclamation operation" means the rehabilitation of the mining area, affected area and any other area of land or water body affected by mining under an environmental protection, reclamation and closure plan approved by the department. "Reclamation" includes, but is not limited to, stabilization of slopes, creation of safety benches, planting of forests, seeding of grasses and legumes for grazing purposes, planting of crops for harvest and enhancement of wildlife and aquatic resources.

17. Tailings impoundment. "Tailings impoundment" means land on which is deposited, by hydraulic or other means, material that is separated from the metallic product in the beneficiation or treatment of minerals, including any surrounding dikes constructed to contain the material.

§ 490-NN. Administration and enforcement; rules; regulation by local units of government

1. Administration; jurisdiction; rules. The department shall administer and enforce this article in all areas of the State, including the unorganized territory, in order to regulate mining.

A. The provisions of articles 6, 7 and 8-A, chapter 13 and section 420-D do not apply to projects reviewed under this article. Projects reviewed under this article do not require any other permits from the department except for permits required under section 490-OO; permits required under article 5-A; waste discharge licenses required under section 413 for discharges of pollutants to groundwater via an underground injection well or discharges of pollutants to surface waters of the State, including permits for construction and industrial discharge issued by the department pursuant to 40 Code of Federal Regulations, Section 122.26; licenses required under chapter 4; and other permits or licenses issued pursuant to any United States Environmental Protection Agency federally delegated program. This article does not prohibit the department from adopting rules to implement standards for mining that are necessary to protect human health and the environment.

B. In addition to other powers granted to it, the department shall adopt rules to carry out its duties under this article, including, but not limited to, standards for exploration, advanced exploration, construction, operation, closure, post-closure monitoring, reclamation and remediation. Except as otherwise provided, rules adopted under this article are major substantive rules for purposes of Title 5, chapter 375, subchapter 2-A and are subject to section 341-H.

2. Maine Land Use Regulation Commission. The department may not approve a permit under this article in an unorganized territory unless the Maine Land Use Regulation Commission certifies to the department that:

A. The proposed mining is an allowed use within the subdistrict or subdistricts in which it is to be located; and

B. The proposed mining meets any land use standard established by the Maine Land Use Regulation Commission and applicable to the project that is not considered in the department's review.

3. Municipal authority. This article does not prevent a municipality from regulating or controlling mining or reclamation activities that are subject to this article, including, but not limited to, construction, operation, closure, post-closure monitoring, reclamation and remediation activities.

§ 490-00. Mining permit; application procedure

1. Permit required. A person may not engage in mining without a permit issued by the department under this article.

2. Application procedure. An application for a mining permit must be submitted to the department in a format to be developed by the department. The application must include the following:

A. The fees established in section 352. All costs incurred by the department in processing an application must be paid for by the applicant;

B. An environmental impact assessment for the proposed mining operation that describes the natural and artificial features, including, but not limited to, groundwater and surface water quality, flora, fauna, hydrology, geology and geochemistry and baseline conditions for those features in the proposed mining area and affected area that may be affected by the mining operation and the potential impacts on those features from the proposed mining operation. The environmental impact assessment must define the mining area and the affected area and address practicable alternatives to address impacts to the mining area and potential impacts to the affected area. The department shall review the environmental impact assessment and may approve, reject or require modifications to the assessment;

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;

(6) Provisions for the prevention, control and monitoring of acid-forming waste products and other waste products from the mining process in accordance with standards in subsection 4, paragraphs D and E;

(7) Storm water and surface water management provisions;

(8) A water quality monitoring plan;

(9) A description of the wastewater discharge management plan;

(10) A description of any tailings impoundment and the methods, materials and techniques to be used;

(11) A plan for the storage of hazardous materials; and

(12) An estimate of costs for reclamation, closure and environmental protection.

D. A contingency plan that includes an assessment of the risk to the environment and public health and safety associated with potential significant incidents or failures related to the mining operation and describes the metallic mineral operator's notification and response plans. When the application is accepted as complete for processing by the department, the applicant shall provide a copy of the contingency plan to each municipality in which the mining area and affected area may be located or, in the unorganized territory, to the county commissioners for each county in which the mining area or affected area may be located. The department may require amendments to the contingency plan;

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

F. A list of other state and federal permits or approvals anticipated by the applicant to be required.

3. Permit issuance if violation exists. A mining permit may not be issued or transferred to a person if the department has determined that person to be in violation of this article, rules adopted under this article, a mining permit, an order of the department issued pursuant to this article or any other state law, rule, permit or order that the department determines through rulemaking is relevant to the issuance or transfer of a mining permit unless the person has corrected the violation or the person has agreed in a judicially enforceable document to correct the violation pursuant to a compliance schedule approved by the department.

4. Criteria for approval. Except as provided for in subsection 3, the department shall approve a mining permit whenever it finds the following.

A. The applicant has the financial capacity and technical ability to develop the project in a manner consistent with applicable state environmental standards and with the provisions of this article.

B. The applicant has made adequate provision for fitting the mining operation harmoniously into the existing natural environment and the development will not unreasonably adversely affect existing uses, scenic character, air quality, water quality or other natural resources.

(1) In making a determination under this paragraph regarding a mining operation's effects on natural resources regulated by the Natural Resources Protection Act, the department shall apply the same standards applied under the Natural Resources Protection Act.

(2) The applicant must demonstrate that there is reasonable assurance that public and private water supplies will not be affected by the mining operations.

(3) The applicant must demonstrate that rules to protect human health and the environment adopted by the department pursuant to this article will be met.

C. The mining operation will be located on soil types that are suitable to the nature of the mining operation.

D. There is reasonable assurance that discharges of pollutants from the mining operation will not violate applicable water quality standards. Notwithstanding sections 465-C and 470, discharges to groundwater from activities permitted under this article may occur within a mining area, but such discharges may not result in contamination of groundwater beyond each mining area. In determining compliance with this standard, the department shall require groundwater monitoring consistent with the standards established pursuant to section 490-QQ, subsection 3.

E. The mining operation will not cause a direct or indirect discharge of pollutants into surface waters or discharge groundwater containing pollutants into surface waters that results in a condition that is in nonattainment of or noncompliance with the standards in article 4-A or section 414-A or 420.

F. Withdrawals of groundwater and surface water related to the mining operation will comply with article 4-B.

G. The applicant has made adequate provision of utilities, including water supplies, wastewater facilities and solid waste disposal, required for the mining operation, and the mining operation will not have an unreasonable adverse effect on the existing or proposed utilities in a municipality or area served by those services.

H. The mining operation will not unreasonably cause or increase the flooding of the area that is altered by the mining operation or adjacent properties or create an unreasonable flood hazard to any structure. Mining operations may be placed in flood plains or flood hazard areas as long as they are designed, constructed, operated and reclaimed in a manner that complies with the approval criteria in this subsection and the Natural Resources Protection Act.

I. The applicant has made adequate provision for protection of public safety.

J. The mining operation will not use heap or percolation leaching.

5. Permit coordination. If a person submits an application for a mining permit under this article and an application to the department for any other permit required pursuant to section 490-NN, subsection 1, the department shall process the applications in a coordinated fashion and issue a joint decision. The coordinated permit process must include consolidation of public hearings.

6. Public and local participation. In addition to provisions for public participation pursuant to Title 5, chapter 375 and department rules relating to public participation in the processing of applications, the following provisions apply to an application for a mining permit.

A. At least 60 days prior to submitting an application to the department, the applicant shall notify by certified mail the municipal officers of each municipality in which the mining area or affected area may be located or, in the unorganized territory, the county commissioners for each county in which the mining area or affected area may be located. The applicant at the same time shall provide a copy of the notice to the department and the Director of the Bureau of Geology and Natural Areas within the Department of Conservation.

B. At the time an application is submitted to the department, the applicant shall provide written notice to the municipal officers of each municipality in which the mining area and affected area may be located or, in the unorganized territory, to the county commissioners for each county in which the mining area or affected area may be located and shall publish notice of the application in a newspaper of general circulation in the area.

C. The department shall hold an adjudicatory public hearing within the municipality in which the mining operation may be located or, in the unorganized territory, in a convenient location in the vicinity of the proposed mining operation. Administrative expenses of a hearing held pursuant to this paragraph must be paid for by the applicant.

D. The municipal officers, or their designees, from each municipality in which the mining area or affected area may be located or, in the unorganized territory, the county commissioners, or their designees, for each county in which the mining area or affected area may be located have intervenor status if they request it within 60 days after notification under paragraph B. The intervenor status granted under this paragraph applies in any proceeding for a permit under this article. Immediately upon the commissioner's receipt of a request for intervenor status under this paragraph, the intervenors have all rights and responsibilities commensurate with this status.

E. The commissioner shall reimburse or make assistance grants for the direct expenses of intervention of any party granted intervenor status under paragraph D, not to exceed \$50,000. The department shall adopt rules governing payment by an applicant to the department of fees necessary for the department to award intervenor assistance grants and governing the award and management of intervenor assistance grants and reimbursement of expenses to ensure that the funds are used in support of direct, substantive participation in the proceedings before the department. Allowable expenses include, without limitation, hydrogeological studies, traffic analyses, the retention of expert witnesses and attorneys and other related items. Expenses not used in support of direct, substantive participation in the proceedings before the department, including attorney's fees related to court appeals, are not eligible for reimbursement under this subsection. Expenses otherwise eligible under this subsection that are incurred by the municipality or county commissioners after notification pursuant to paragraph B are eligible for reimbursement under this paragraph only if a completed application is accepted by the department. The department shall also establish rules governing the process by which an intervenor under paragraph D may gain entry to the proposed mining site for purposes of reasonable inspection and site investigations under the auspices of the department. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 490-PP. Mining permit; duration; termination; revocation; transfer; amendment

1. Duration of permit. A mining permit issued by the department remains in effect until terminated or revoked by the department. The duration of other permits issued for the mining operation must be provided for in those permits. The department shall conduct annual reviews of the mining operations and assess compliance with the permit terms.

2. Termination of permit. After public notice, the department may terminate or request surrender of a mining permit if:

A. The permittee has not commenced construction of mining facilities or conducted mining activities covered by the mining permit within 4 years after the effective date of the mining permit; or

B. The permittee has satisfied the requirements of the environmental protection, reclamation and closure plan and completed final reclamation of the mining area and, if necessary, the affected area and requests the termination of the mining permit and the department determines all of the following:

- (1) The air, water or other natural resources are not polluted or impaired from the mining operation;
- (2) The permittee has otherwise fulfilled all conditions determined to be necessary by the department to protect the public health, safety and welfare and the environment; and
- (3) The requirements for the post-closure monitoring period have been satisfied.

3. Revocation of permit. The department may revoke a mining permit after public notice pursuant to section 490-TT.

4. Transfer of permit. After public notice and unless otherwise provided in this article, a mining permit may be transferred with prior written approval of the department in accordance with the provisions of this subsection.

A. The person acquiring the mining permit shall submit to the department on forms provided by the department a request for transfer of the mining permit and shall provide the financial assurance required under section 490-RR.

B. A person acquiring a mining permit must accept the conditions of the existing mining permit and adhere to the requirements set forth in this article.

C. If a permittee is determined by the department to be in violation of this article or the rules adopted under this article at the mining site that is the subject of the transfer, the mining permit may not be transferred until the permittee has completed the necessary corrective actions or the person acquiring the mining permit has entered into a written consent agreement to correct all of the violations.

D. A transferee shall demonstrate to the department's satisfaction the technical and financial capacity and intent to:

(1) Comply with all terms and conditions of the mining permit; and

(2) Satisfy all applicable statutory and regulatory criteria, including, but not limited to, providing adequate evidence of the financial assurance required by section 490-RR.

5. Amendment of permit. After public notice, a mining permit may be amended in accordance with this subsection.

A. A permittee may submit to the department a request to amend a mining permit to address anticipated changes in the mining operation, including, if applicable, amendments to the environmental impact assessment and to the environmental protection, reclamation and closure plan.

B. The department may require a mining permit to be amended if the department determines that the terms and conditions of the mining permit are not providing reasonable protection of the environment, natural resources or public health and safety.

§ 490-QQ. Performance, operation and reclamation standards

1. Performance standards. Standards adopted by the department through rulemaking must be performance-based to the extent feasible, and the department may require that the applicant implement control devices or measures necessary to achieve the performance standards. If the rules include standards that are not performance-based, the rules may allow a permittee to

propose an alternative means of compliance that achieves equivalent environmental performance. The department is not required to approve the proposed alternative means of compliance. If the applicant proposes a control device or measure, it must demonstrate that there is reasonable assurance that the device or measure will achieve the performance standard.

2. Suspension of mining operations. If mining operations are suspended for a continuous period exceeding 90 days, the permittee shall provide notice to the department and take actions, consistent with its environmental protection, reclamation and closure plan, to maintain, monitor and secure the mining area and shall conduct any interim sloping or stabilizing of surfaces necessary to protect the environment, natural resources and public health and safety in accordance with the mining permit. If mining operations are suspended for a continuous period exceeding 365 days, the permittee is considered to have ceased mining operations and all requirements applicable to closure take effect unless the department agrees in writing to delay the implementation of the closure plan based on a written submission by the permittee that demonstrates that the mining operations are expected to recommence within a reasonable period of time as determined by the department. The department may require partial closure of mining operations.

3. Water quality monitoring. Through rulemaking the department shall establish standards for monitoring groundwater as close as practicable to any mining area that may pose a threat to groundwater. A permittee shall conduct groundwater and surface water monitoring in accordance with the provisions of a mining permit during mining operations, during suspension of mining operations, during closure and during the post-closure monitoring period. The post-closure monitoring period must be at least 30 years following cessation of mining, subject to the following conditions.

- A. The permittee shall provide to the department a written request to terminate post-closure monitoring not less than 18 months before the proposed termination date and shall provide the department with technical data and information demonstrating the basis for the termination of the post-closure monitoring.
- B. The department may shorten the post-closure monitoring period at any time upon determining that there is no significant potential for water contamination resulting from the mining operation.
- C. The department shall extend the post-closure monitoring period in increments of up to 20 years unless the department determines, approximately one year before the end of a post-closure monitoring period or post-closure incremental monitoring period, that there is no significant potential for surface water or groundwater contamination resulting from the mining operation.

4. Reclamation. The following reclamation requirements apply.

- A. Except as provided in paragraph B, a permittee shall commence and complete final reclamation of a mining area and, if necessary, any affected area consistent with mining permit conditions and the environmental protection, reclamation and closure plan approved by the department.

B. Upon written request of a permittee, the department may approve an extension of time to begin or complete final reclamation.

C. Both the mining area and the affected area must be reclaimed with the goal that the affected area be returned to the ecological conditions that approximate pre-mining conditions to the extent feasible and practicable and considering any changes caused by non-mining activities or other natural events.

D. Following closure and reclamation, the landowner or lessee of a mining area in an unorganized territory shall petition the Maine Land Use Regulation Commission for rezoning to an appropriate subdistrict designation.

5. Inspection and maintenance. A permittee shall fully comply with all inspection, maintenance and monitoring requirements contained in a mining permit. After closure, mining areas and affected areas must be inspected at least twice per year. All waste piles and impoundments or any other pile or storage facility must be inspected by a licensed civil engineer with expertise in structural stability of waste piles and impoundments. The engineer shall either certify that the mining area and affected area are in good condition and not susceptible to failure due to significant weather, seismic or other events or identify the corrective measures that must be undertaken by the permittee. The inspections must document that all permit requirements, including storm water control, sediment and erosion control, dust migration, access controls, land use restrictions, waste pile or impoundment stabilization measures and treatment systems are fully compliant with the mining permit conditions and that there are no known conditions that could present an unreasonable threat to public health and safety or the environment. A permittee shall notify the department of any recommended corrective measures as soon as practicable after the inspection. A permittee shall submit an inspection report to the department within 21 days after the inspection.

§ 490-RR. Financial assurance

1. Duration of financial assurance. A permittee shall maintain financial assurance during mining operations until the department determines that all reclamation has been completed and during the post-closure monitoring period except that financial assurance must be reduced or released immediately upon termination of a mining permit under section 490-PP, subsection 2, paragraph A. The department may require financial assurance to remain in effect for as long as the mining operation and any associated waste material could create an unreasonable threat to public health and safety or the environment.

2. Coverage of financial assurance. The financial assurance required under subsection 1 applies to all mining and reclamation operations that are subject to a mining permit and must be sufficient to cover the cost for the department to administer, and hire a 3rd party to implement, activities necessary for the investigation, monitoring, closure, treatment, remediation, reclamation, operation and maintenance under the environmental protection, reclamation and closure plan as well as other necessary environmental protection measures, including remediation of any contamination of the air, surface water or groundwater.

3. Form of financial assurance. The financial assurance may consist of a surety bond, escrow, cash, certificate of deposit, trust, irrevocable letter of credit issued by a financial institution acceptable to the department, or other equivalent security, or combination thereof, as long as the department approves the financial assurance as proposed by the applicant. When determining the appropriate security to require, the department shall take into consideration the type and location of the mining operation and the type of security that is adequate to protect the State's financial interest. The financial assurance must be in a form that cannot be cancelled, withdrawn, revoked or otherwise reduced without the express written consent of the commissioner after a finding that the reduced amount is appropriate given the conditions related to the mining operation, including, but not limited to, the potential cost of long-term maintenance and monitoring, closure and any necessary response to episodic maintenance.

4. Updates to financial assurance. A permittee shall provide to the department an annual statement of financial responsibility, and the department may require that the financial assurance be adjusted to ensure that the financial assurance is sufficient for the purposes of subsection 2.

5. Failure to provide financial assurance. Failure to provide financial assurance under this section constitutes grounds for the department to order immediate suspension of mining activities pursuant to section 490-TT, including, but not limited to, the removal of metallic product from the mining area.

§ 490-SS. Mining and reclamation report

1. Filing requirement. A permittee shall file with the department a mining and reclamation report on or before March 15th of each year, during the period the mine is operating, during suspension of mining operations and during the post-closure monitoring period. The mining and reclamation report must contain the following:

- A. A description of the status of mining and reclamation operations;
- B. An update of the contingency plan. The permittee shall provide a copy of the update to the municipality or county commissioners, as applicable;
- C. A report of monitoring results for the preceding calendar year;
- D. A report of the total tons of material mined from the mining area and the amount of metallic product by weight produced from the mine for the preceding calendar year; and
- E. A list of the notifications required under subsection 2 for the preceding calendar year.

2. Notification requirement. A permittee shall promptly notify the department and each municipality in which the mining area and the affected area are located, or, in the unorganized territory, the county commissioners for each county in which the mining area and the affected area

are located, of any incident, act of nature or exceedance of a permit standard or condition related to the mining operation that has created, or may create, a threat to the environment, natural resources or public health and safety.

3. Records. Records must be retained as follows.

A. Records upon which mining and reclamation reports are based must be preserved by the permittee for 6 years. The permittee shall make the records available to the department upon request.

B. Records upon which incident reports under subsection 2 are based must be preserved by the permittee for 6 years or until the end of the post-closure monitoring period, whichever is later.

§ 490-TT. Violations

1. Permittee required to correct violations. If the department determines that a permittee has violated this chapter, a rule adopted under this article, an order of the department or a mining permit issued under this article, the department shall require the permittee to correct the violation and the department may pursue enforcement action pursuant to sections 347-A, 348 and 349.

2. Imminent endangerment. If the department determines that a violation under subsection 1 is causing or resulting in an imminent and substantial endangerment to the public health or safety, environment or natural resources, the department shall take action necessary to abate or eliminate the endangerment. Such action may include one or more of the following:

A. Revoking the mining permit as authorized by section 342, subsection 11-B;

B. Issuing an order to the permittee requiring immediate suspension of mining activities, including, but not limited to, the removal of metallic product from the site;

C. Issuing an order to the permittee to undertake such other response actions as may be necessary to abate or eliminate the endangerment; and

D. Issuance of an emergency order as authorized by section 347-A, subsection 3.

3. Effect of revocation or suspension. The revocation of a mining permit or suspension of mining activities under subsection 2 does not relieve a permittee of the responsibility to complete closure, reclamation, operation and maintenance and monitoring, to maintain financial assurance required under section 490-RR and to undertake all appropriate measures to protect the environment, natural resources and public health and safety.

4. Compliance with Maine Administrative Procedure Act. The department shall comply with the Maine Administrative Procedure Act in its actions under this section.