ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION


Amend the bill by striking out everything after the enacting clause and inserting the following:

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

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

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

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

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

11. Mining, mining operation or mining activity. "Mining," "mining operation" or "mining activity" means activities, facilities or processes necessary for the extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of metallic minerals and includes the bulk sampling, advanced exploration, extraction or beneficiation of metallic minerals as well as waste storage and other stockpiles and reclamation activities, but does not include exploration or any of the following activities:

A. The physical extraction, crushing, grinding, sorting, storage or heating of calcium carbonate or limestone to produce cement when such activity is subject to article 6, article 8-A or Title 12, chapter 206-A or when such activity covers one acre or less of surface area in total;
B. The exploration for or physical extraction, crushing, grinding, sorting or storage of
borrow, topsoil, clay or silt when such activity is subject to article 7 or Title 12, chapter
206-A or when such activity covers 5 acres or less of surface area in total;
C. The exploration for or physical extraction, crushing, grinding, sorting or storage of
gemstones, aggregate, dimension stone or other construction materials from a quarry
that is subject to article 8-A or Title 12, chapter 206-A or when such activity covers
one acre or less of surface area in total; and
D. The exploration for or physical extraction, crushing, grinding, sorting or storage of
any other metallic minerals when such activity has been excluded from the
requirements of this article pursuant to a determination made by the department under
section 490-NN, subsection 4.

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

4. Determination of applicability of Maine Metallic Mineral Mining Act
requirements. As provided in this subsection and following the adoption of rules by the
department pursuant to this subsection, a person proposing to conduct exploration for or
physical extraction, crushing, grinding, sorting or storage of metallic minerals as described
in section 490-MM, subsection 11, paragraph D may request a written determination from
the department that the requirements of this article do not apply to the activity. The
department shall adopt rules governing the requirements for issuance of such a
determination under this subsection, which must include, but are not limited to:
A. Provisions for ensuring that the activity will generate only mine waste that does not
have the potential to create acid rock drainage, alkali rock drainage or drainage or other
discharges that could cause violations of water quality criteria or standards other than
sedimentation or turbidity and will not release or expose radioactive or other materials
that could endanger human health or the environment. The provisions under this
paragraph must include, but are not limited to, preextraction sampling requirements;
B. Provisions for ensuring that the activity, if excluded from the requirements of this
article, is subject to requirements of article 6, article 8-A or Title 12, chapter 206-A as
applicable; and
C. Provisions for requiring monitoring as necessary to demonstrate compliance with
applicable standards and to protect water quality and human health during and after the
activity.

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

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

5. Mining excise tax. A person engaging in mining activities pursuant to this article
and a person, pursuant to article 6, article 8-A or Title 12, chapter 206-A, engaging in
activities described in section 490-MM, subsection 11, paragraph D following a
COMMITTEE AMENDMENT “ ” to H.P. 877, L.D. 1363

determination by the department under subsection 4 is subject to the mining excise tax under Title 36, chapter 371. A person engaging in the activities described in section 490-MM, subsection 11, paragraphs A to C is not subject to the mining excise tax under Title 36, chapter 371.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill. Like the bill, it amends the definition of "metallic mineral" in the Maine Metallic Mineral Mining Act. It also amends the definition of "mining" to exclude under specific circumstances the physical extraction, crushing, grinding, sorting, storage or heating of calcium carbonate or limestone to produce cement and the exploration for or physical extraction, crushing, grinding, sorting and storage of borrow, topsoil, clay or silt and gemstones, aggregate, dimension stone or other construction materials from a quarry. It also provides that a person engaging in mining activities pursuant to the Maine Metallic Mineral Mining Act is subject to the mining excise tax under the Maine Revised Statutes, Title 36, chapter 371.

The amendment also establishes a mechanism by which a person proposing to conduct exploration for or physical extraction, crushing, grinding, sorting or storage of metallic minerals may request a written determination from the Department of Environmental Protection that the requirements of the Maine Metallic Mineral Mining Act do not apply to the activity. The department is directed to adopt major substantive rules governing such determinations, which must require, for such exclusion, that the activity will generate only mine waste that does not have the potential to create acid rock drainage, alkali rock drainage or drainage or other discharges that could cause violations of water quality criteria or standards other than sedimentation or turbidity and will not release or expose radioactive or other materials that could endanger human health or the environment. The rules must also require that the activity, if excluded from the requirements of the Maine Metallic Mineral Mining Act, is subject to requirements of Title 38, chapter 3, subchapter 1, article 6 or article 8-A or Title 12, chapter 206-A, as applicable, and the amendment provides that such activities are subject to the mining excise tax under Title 36, chapter 371.

FISCAL NOTE REQUIRED
(See attached)