Jeffrey Crawford  
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17 State House Station  
Augusta, ME 04333

**RE: Comments to 06-096 Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining**

Formed in 1961, the MFPC is a trade association with more than 300 member companies, which represents all segments of the forest industry in Maine. We speak for logging contractors, sawmills, paper mills, biomass energy facilities, pellet manufacturers, furniture manufacturers, and on behalf of more than nine million acres of commercial working forestland in Maine.

MFPC has been supportive of the effort to revive mining in Maine in an environmentally appropriate manner. Within Maine, we have many known and potentially unknown deposits of significant minerals among our landowner members. This opportunity could serve to diversify income for Maine landowners and create opportunities for workers in Maine. Our perspective is one of trying to speak for the variety of metallic mining activities that could occur throughout Maine.

Our comments are limited to several areas in the rule that seem to vary from the Maine Metallic Mining Act. In general we appreciate the effort involved by the Maine DEP in preparing these draft rules and find them consistent with the Act.

**Subchapter 1, General Provisions. 1. Applicability; B. Prohibition. (3) Mining in or under the waters of the state:**

The prohibition of mining in or under waters of the state is too simplistic a standard. Managing the surface and subsurface waters of a site is a critical component of mining operations. For example: surface waters may require diversion as part of the water management program. Additionally underground mines may tunnel below existing streams or ponds if technically appropriate. We recommend revisiting this provision. In fact NRPA may provide appropriate safeguards for water quality.

**Subchapter 2: Exploration and Advanced Exploration.**

Since many of the deposits in Maine have not undergone extensive evaluation, most landowners interested in mining will need to conduct exploration activities. We think the structure of the exploration and advanced exploration rules are appropriate and consistent with the Act. We interpret the rules to differentiate between Tier I & II advance explorations (DEP discretionary public hearings for Tier I applications, and baseline monitoring and environmental assessments only for Tier II applications) in an appropriate manner.
**Subchapter 4. Financial Assurance. 17.B. Coverage and Financial Assurance:**

We believe the financial assurance mechanisms are well defined in the Act, but the rules are constructed on new criteria of the type of waste generated. This standard, to my knowledge, does not occur in solid waste regulation, where a variety of materials are encountered. For Class A and B wastes, acceptable financial instruments are listed as: cash, negotiable bonds or negotiable certificates of credit. These instruments are essentially cash or cash equivalents and place an undue financial burden on applicants. We think the other standard financial assurance mechanism listed in the Act will “protect the state’s financial interest” and not create a disincentive for economic development of mines in Maine.

**Subchapter 5: Mining Standards.**

**19. General Provisions; H. Independent Reviewer:**

We think this provision is important, but we believe selection of the reviewer should have consent of the applicant, who should also have input to insure that the third party is considered qualified to act as a review agent.

**20. Performance Standards. B. Siting, (4) Surface Disturbance Prohibited:**

Most of the provisions in this section create a prohibition for open pit mines based on a what we presume is detriment to visual quality (it is unclear what protection objective is desired). However, we do not believe this provision is included in the Mining Act and question this outright prohibition. Although we believe most currently identified mineral deposits will require shaft mining, this standard would be very restrictive on mineral deposits in Maine that could be potentially mined at the surface. We do not understand the reason for introducing this standard which seems arbitrary and not based on scientific information.

Creating a prohibition on surface mining within one mile of (f) Any river designated pursuant to the federal Endangered Species Act as critical habitat for Atlantic Salmon is very concerning for landowners and inappropriate. Within the current Critical Habitat designations in Maine for both Salmon (3 million acres) and Canada Lynx (6 million acres) there are currently no prohibitions for activity on private land, only project consultations with Army Corp of Engineers occur if a federal permit is triggered. Within Maine Site Law no activities are prohibited due to proximity of critical habitat, instead provisions are made to ensure no adverse effects. We recommend eliminating any prohibition of activity based on proximity to federally designated critical habitats and instead consider a no adverse effect standard based on scientific information.

We appreciate the opportunity to comment on these rules and would be glad to answer any questions you may have.

Sincerely,

Patrick Strauch,
Executive Director,
Maine Forest Products Council