



Testimony in Opposition to LD 795, An Act to Exempt Pegmatite Mining from the Maine Metallic Mineral Mining Act and Establish a Permit-by-rule Process

Before the Committee on Environment and Natural Resources

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Senator Tepler, Representative Doudera, and distinguished members of the Environment and Natural Resources Committee, my name is Luke Frankel, and I am the Staff Scientist at the Natural Resources Council of Maine (NRCM). I am here today to testify in opposition to LD 795, An Act to Exempt Pegmatite Mining from the Maine Metallic Mineral Mining Act and Establish a Permit-by-rule Process.

In 2017, this Committee provided leadership in developing the current version of the Maine Metallic Mineral Mining Act. Through extensive public hearings and work sessions that involved members of the public, the Department of Environmental Protection (DEP), the State Geologist, and many outside mining experts, this committee reported out LD 820 as amended 12-1. The bill passed the Senate 34-0 and passed the House 126-14. It was then enacted into law over the objection of the Governor by a vote of 35-0 in the Senate and 122-21 in the House.

This legislative history is relevant because it demonstrates the overwhelming bipartisan support that secured enactment of Maine's Mining Law. NRCM was deeply involved in that process and firmly believes that our existing law provides the protection necessary for water quality and the environment, for public health, and for Maine taxpayers from the many risks associated with mining metallic minerals found in sulfide ore deposits.

In 2023, the Committee again provided leadership in crafting additional amendments for materials that do not fit neatly into the regulatory structure for sulfide ore deposits, such as spodumene, which is mined for lithium. The Committee unanimously approved LD 1363, directing the DEP to develop rules for such deposits.

That resulted in the development of Chapter 200 rules by the DEP that were approved by the Board of Environmental Protection and then enacted unanimously by this committee in LD 1471, which also was approved unanimously by the House and Senate.

The Chapter 200 rules provide a path forward for these ore bodies that do not neatly fit into the framework of Maine's mining law, such as spodumene and other non-reactive metallic minerals. But that path is only accessible if an applicant can demonstrate through site characterization that the ore body is inert and would not pose a risk to water quality, the environment, or human health due to co-occurring reactive minerals. The rules also require that an applicant provide ongoing water quality monitoring during excavation to help ensure that pre-mining characterization did not miss potential contaminants such as acid-generating minerals.

LD 795 would exempt pegmatite from Maine's mining law. Pegmatite deposits, like other igneous rock formations, contain high concentrations of metallic minerals like spodumene.

However, these deposits can also contain lead- and sulfur-bearing minerals, which when exposed to air and water can generate acid mine drainage that pollutes water and kills fish and other aquatic life.

By proposing a permit-by-rule process for the extraction of pegmatite deposits and exempting these activities from excise taxes, LD 795 would overturn the consensus approach enacted last year through the amendments to DEP's Chapter 200 rules.

We do not believe that a permit-by-rule approach is appropriate for mining operations. The risks from non-compliance are simply too large. Allowing a permit-by-rule makes sense for routine projects where the risks are low and the requirements for compliance are straight forward and do not necessitate extensive technical analysis and expert review. But that is not the case for demonstrating through boreholes that acid-generating materials are not present in an applicant's ore deposit. If a mining operation involving pegmatite failed to identify sulfide-bearing ore in preliminary testing, the result could be that a community's drinking water supply is contaminated with toxic pollution or fish and wildlife are harmed from toxic acid mine drainage.

Over the past decade and a half, this Committee has worked hard to establish a science-based approach to metallic mineral mining here in Maine. LD 795 would represent a severe erosion of this hard work, and for this reason, we strongly urge the Committee to vote Ought Not to Pass on LD 795. Thank you for your time and consideration.