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Reference: Chapters 13 and 10: Proposed Rulemaking to Repeal and Replace the Commission's Chapter 13 Rules, Metallic Mineral Exploration, Advanced Exploration and Mining, and Amend the Commission's Chapter 10 Rule Definition, Planned Development Subdistrict, and Mineral Exploration and Extraction Sections

Rebuttal Comments

I welcome and appreciate the opportunity to provide these rebuttal comments on the above referenced proposed rules related to Metallic Mineral Mining. Thank you for considering my comments below.

1. Re: Robert Marvinney April 23, 2018 comments

Bob Marvinney argues for making LUPC definitions identical to DEP definitions regarding
Exploration
Advanced Exploration
Advanced Exploration Tier 1
Advanced Exploration Tier 2
rather than LUPC definitions regarding
Level A Mineral Exploration Activities
Level B Mineral Exploration Activities

In all but one cases cited, the DEP definitions are less restrictive than the LUPC definitions. The specifics relate to:

the area of test pits (100 square feet for Level A vs no mention or 300 square feet for Level B)
damage to soil & vegetative cover (minimum disturbance to soil and vegetative cover vs trenching

and outcrop stripping)
bulk sampling (exploration samples not considered bulk sampling vs bulk sampling allowed only in Level B)
10,000 ton limit (no limit on exploration vs 10,000 ton limit on Level B)

Neither the area of disturbance nor the tonnage of material removed are based on science relative to protection of groundwater or surface water contamination (the principal hazard associated with mining activities). These metrics were arbitrary on the part of DEP. Conformity with bad arbitrary rules is not required of the LUPC and should be avoided. Preferably, LUPC should identify metrics related to groundwater contamination potential rather than area of disturbance or tonnage of material, but in the absence of bringing science to bear on these rules, the more restrictive rules should remain.

2. Re: Mark Bergeron April 19, 2018 comments

Mark Bergeron states that the proposed rules framework “is consistent with the Maine Metallic Mineral Mining Act” (pg 1) and a definition “is inconsistent with the Metallic Mineral Mining Act” (pg 2 of 3). He provides suggested re-definitions for

Level B Mineral Exploration Activities
Level A Mineral Exploration Activities
Metallic Mineral Mining Activity

The specifics of concern include

area of disturbance
new limit for clearing of vegetative cover
change in description of allowed processes

Of particular concern is the replacement of a series of specific allowed processes associated with mining activity with an all-encompassing term “activities, facilities or processes necessary for... or for ... other treatment ...” with only exploration excluded. Such an open-ended definition is of no value to the protection of the lands under LUPC jurisdiction. At the very least, operations associated with smelting should be excluded.

Again, preferably LUPC would invoke science-based rules rather than arbitrary rules.

Thank you.

