

CHAPTER 201-A**GEOLOGY AND NATURAL RESOURCES****SUBCHAPTER 1****DIVISION OF GEOLOGY, NATURAL AREAS AND COASTAL RESOURCES****§541. Natural Resources Information and Mapping Center established****(REPEALED)****SECTION HISTORY**

PL 1977, c. 360, §6 (NEW). PL 1995, c. 502, §E32 (AMD). PL 1999, c. 556, §11 (RP).

§541-A. Division of Geology, Natural Areas and Coastal Resources

The Division of Geology, Natural Areas and Coastal Resources is established within the Department of Agriculture, Conservation and Forestry and is administered by the commissioner. The division consists of the Maine Geological Survey, referred to in this chapter as the "survey," and the Natural Areas Program. The Director of the Bureau of Resource Information and Land Use Planning is the director of the survey. [PL 2017, c. 475, Pt. A, §18 (AMD).]

SECTION HISTORY

PL 1999, c. 556, §12 (NEW). PL 2011, c. 655, Pt. KK, §4 (AMD). PL 2011, c. 655, Pt. KK, §34 (AFF). PL 2013, c. 405, Pt. C, §3 (AMD). PL 2017, c. 284, Pt. QQ, §1 (AMD). PL 2017, c. 475, Pt. A, §18 (AMD).

§542. Survey; powers and duties

1. Information program. The survey shall develop and administer a program to gather, interpret, publish and disseminate information relating to the geologic features of the State including, but not limited to, hydrogeologic, marine-estuarine, bedrock, surficial and economic geology. [PL 1977, c. 360, §6 (NEW).]

1-A. Identification and mapping. The survey, in cooperation with the United States Geological Survey is directed to delineate those areas of the State which are underlain with porous surficial geologic materials which are aquifers capable of and likely to yield significant amounts of ground water. The survey is directed to delineate areas that serve as important aquifer recharge areas. Aquifers and aquifer recharge areas shall be identified by standard geologic and hydrologic investigations, which may include drilling observation wells, performing pumping tests, water sampling and geologic mapping. [PL 1979, c. 472, §1 (NEW).]

2. Information furnished agencies and public; environmental development applications. To the extent of its available resources, the survey shall provide, as requested, geologic information to public agencies and the general public. The survey may review the geologic aspects of environmental and site development applications under consideration by state and federal regulatory agencies. [PL 1977, c. 360, §6 (NEW).]

2-A. Solicitation of information. Insofar as possible, all state agencies shall provide any information on geological resources, including ground water, that the survey may request. The survey shall actively solicit the cooperation of private water well drillers in obtaining information on surficial geology, bedrock and the hydrology of the State.

[PL 1979, c. 472, §2 (NEW).]

3. Employees. The survey may employ or retain such professional and other employees, subject to the Civil Service Law, as are necessary to carry out the purposes of this chapter, within the limits of the funds available.

[PL 1985, c. 785, Pt. B, §58 (AMD).]

4. Mineral resources development. The survey is responsible for the orderly development of mineral resources on state-owned lands, including submerged lands and waters, both inland and tidal, acting in conjunction with the Bureau of Parks and Lands.

[PL 1977, c. 360, §6 (NEW); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

5. Research projects. The survey may initiate, contract for and manage research projects relating to the purposes of this chapter.

[PL 1977, c. 360, §6 (NEW).]

6. Royalties, fees and rents. The survey receives all royalties, fees and rents accruing to the State under this chapter, which must be paid into a separate account to be established by the Treasurer of State to be used for salaries and other expenses incurred in the administration of this chapter, subject to and to the extent permitted by section 1849. The account may not lapse but must continue from year to year.

[PL 1997, c. 678, §2 (AMD).]

7. Rules and regulations. The survey may from time to time adopt, amend, repeal, pursuant to Title 5, chapter 375, subchapter II, and enforce reasonable rules and regulations necessary to carry out the duties assigned to it.

[PL 1977, c. 694, §207 (RPR).]

8. Printing fund.

[PL 1981, c. 542, §1 (RP).]

SECTION HISTORY

PL 1977, c. 360, §6 (NEW). PL 1977, c. 694, §207 (AMD). PL 1979, c. 472, §§1,2 (AMD). PL 1981, c. 542, §1 (AMD). PL 1985, c. 785, §B58 (AMD). PL 1995, c. 502, §E30 (AMD). PL 1997, c. 678, §2 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

§543. Director of the survey

1. Director. The executive head of the survey shall be the director who shall also be the State Geologist. He shall personally attend to the duties of his office so far as practicable.

[PL 1977, c. 360, §6 (NEW).]

2. Powers and duties. The director shall exercise the powers of the office and shall be responsible for the execution of its duties.

A. The director shall administer the survey and adopt such methods of administration, not inconsistent with the law, as he may determine necessary to render the survey efficient. [PL 1977, c. 360, §6 (NEW).]

B. [PL 1987, c. 308, §1 (RP).]

C. The director shall organize such administrative divisions within the survey as are necessary to carry out the purposes of this chapter including, but not limited to, hydrogeology, marine and physical geology. [PL 1977, c. 360, §6 (NEW).]

D. The director shall prepare and submit to the Commissioner of Agriculture, Conservation and Forestry the budget for the survey. [PL 1977, c. 360, §6 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

E. The director may, upon such terms and conditions as he deems reasonable, and with the approval of the Commissioner of Agriculture, Conservation and Forestry, accept grants and funds from and enter into contracts with federal, state, local or other public entities to carry out the purposes of this chapter or to provide geological services, including mapping and inventory information. The proceeds of any such contract shall be paid into a separate account to be established by the Treasurer of State, which account shall not lapse, but shall continue from year to year and shall be available to carry out the purposes of this chapter. [PL 1977, c. 360, §6 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

F. The director shall not, when appointed or while in office, have any pecuniary interest in, directly or indirectly, any mining activity on land owned by the State, except in his official capacity. [PL 1977, c. 360, §6 (NEW).]

[PL 1987, c. 308, §1 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 1977, c. 360, §6 (NEW). PL 1985, c. 785, §B59 (AMD). PL 1987, c. 308, §1 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

§544. Natural Areas Program

1. Establishment. The Natural Areas Program is established within the Department of Agriculture, Conservation and Forestry and is administered by the commissioner.

[PL 1999, c. 556, §13 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

2. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry. [PL 1999, c. 556, §13 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

B. "Critical area" means any natural area documented by the Natural Areas Program that is conserved or protected in its natural condition through voluntary action. [PL 1999, c. 556, §13 (NEW).]

C. "Endangered plant" means any native plant species that is in danger of extinction throughout all or a significant portion of its range within the State or any species determined to be an endangered species pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended. [PL 1999, c. 556, §13 (NEW).]

D. "Natural area" means any area of land or water, or both land and water, whether publicly or privately owned, that retains or has reestablished its natural character, though it need not be completely natural and undisturbed, and that supports, harbors or otherwise contains endangered, threatened or rare plants, animals and native ecological systems, or rare or unique geological, hydrological, natural historical, scenic or other similar features of scientific and educational value benefiting the citizens of the State. [PL 1999, c. 556, §13 (NEW).]

E. "Register of critical areas" means the official listing of critical areas. [PL 1999, c. 556, §13 (NEW).]

F. "Species" means any recognized taxonomic category of the biota including species, subspecies or variety. [PL 1999, c. 556, §13 (NEW).]

G. "Threatened plant" means any species of native plant likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range in the State or any

species of plant determined to be a threatened species pursuant to the federal Endangered Species Act of 1973, Public Law 93-205, as amended. [PL 1999, c. 556, §13 (NEW).]
[PL 1999, c. 556, §13 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

3. Functions of the Natural Areas Program. The Natural Areas Program shall perform the following functions.

A. The Natural Areas Program shall conduct an ongoing, statewide inventory of the State's natural areas, including, but not limited to, rare plants, animals, natural communities and ecosystems or other geological, hydrological, natural historical, scenic or other similar features, and may conduct investigations related to the population, habitat needs, limiting factors and other biological and ecological data to support the mandates of the Natural Areas Program or other cooperating agencies. [PL 1999, c. 556, §13 (NEW).]

B. The Natural Areas Program shall maintain a biological and conservation database that must contain data from inventories and other data sources and other relevant biological, ecological or other information about natural features described in paragraph A and about ecologically significant sites that harbor these features. Information contained in the biological and conservation database may be made available as necessary or appropriate for conservation and land use planning, environmental review, scientific research and inquiry, education or other appropriate use. For the purpose of this paragraph, an appropriate use is one that will not jeopardize sensitive species or habitats. [PL 1999, c. 556, §13 (NEW).]

C. The Natural Areas Program may coordinate inventory and data management and planning activities with other appropriate state agencies or entities to maximize efficiency and increase communication among agencies and to provide appropriate data interpretation and technical services to support the mandates and programs of those agencies. [PL 1999, c. 556, §13 (NEW).]

D. The Natural Areas Program may levy appropriate charges to those using, for commercial gain, the inventory and information services provided by the Natural Areas Program to recover the costs of providing the services and a reasonable portion of the costs associated with building and maintaining the biological and conservation database. Charges must be fixed in a schedule prepared and revised as necessary by the Natural Areas Program and supported and explained by accompanying information. [PL 2007, c. 395, §8 (AMD).]

E. The Natural Areas Program may enter into cooperative agreements with federal or state agencies, political subdivisions of this State or private persons or organizations to receive or disburse funds for the purposes of this subchapter. [PL 1999, c. 556, §13 (NEW).]

F. The Natural Areas Program shall maintain a database of areas designated as ecological reserves as defined in section 1801, subsection 4-A and other public lands designated and managed for equivalent purposes and shall provide scientific review of areas on state land proposed as ecological reserves. [PL 2001, c. 471, Pt. B, §6 (NEW).]

G. The Natural Areas Program shall provide staff assistance to support the Land for Maine's Future Board established under Title 5, chapter 353. [PL 2011, c. 655, Pt. II, §3 (NEW); PL 2011, c. 655, Pt. II, §11 (AFF).]

[PL 2011, c. 655, Pt. II, §3 (AMD); PL 2011, c. 655, Pt. II, §11 (AFF).]

SECTION HISTORY

PL 1999, c. 556, §13 (NEW). PL 2001, c. 471, §B6 (AMD). PL 2007, c. 395, §8 (AMD). PL 2011, c. 655, Pt. II, §3 (AMD). PL 2011, c. 655, Pt. II, §11 (AFF). PL 2011, c. 657, Pt. W, §§5, 6 (REV).

§544-A. Natural Areas Advisory Board

(REPEALED)

SECTION HISTORY

PL 1999, c. 556, §13 (NEW). PL 2007, c. 395, §9 (RP).

§544-B. Responsibilities of commissioner

The commissioner has the following responsibilities pertaining to natural areas. [PL 1999, c. 556, §13 (NEW).]

1. Conservation of natural areas. The commissioner shall promote conservation of natural areas by:

A. Making available current and accurate information to all appropriate entities to interpret, educate or otherwise inform so as to support planning and conservation activities in this State; [PL 1999, c. 556, §13 (NEW).]

B. Promoting voluntary action to conserve and protect natural areas in this State; [PL 1999, c. 556, §13 (NEW).]

C. Entering into agreements with landowners of natural areas and registered critical areas to promote appropriate and effective management of these areas in order to maintain and enhance the natural value of these areas; and [PL 1999, c. 556, §13 (NEW).]

D. Developing and disseminating educational or technical materials for the purpose of informing the general public and other interested persons or institutions about natural areas and the value of those areas. The commissioner may charge a reasonable fee for these materials. All income received by the commissioner from the sale of these publications and materials must be credited to a nonlapsing, dedicated revenue account and used for the purposes of this paragraph. [PL 1999, c. 556, §13 (NEW).]

[PL 1999, c. 556, §13 (NEW).]

2. Register of critical areas. The commissioner shall maintain a register of critical areas that must contain natural areas classified as critical areas as follows.

A. In determining the classification of an area or site as a registered critical area, the commissioner shall consider:

- (1) The unique or exemplary natural qualities of the area or site;
- (2) The intrinsic fragility of the area or site and sensitivity to alteration or destruction;
- (3) The voluntary commitment to conserve or protect the area or site;
- (4) The present or future threat of alteration or destruction; and
- (5) The economic implications of inclusion of an area or site on the register.

The commissioner, with the advice of the board, may remove a registered critical area from the register if the commissioner determines that the area or site no longer qualifies as a critical area. [PL 1999, c. 556, §13 (NEW).]

B. Each registered critical area must be documented with at least the following information:

- (1) A general description of the area or site;
- (2) A list of the endangered or threatened species or other unique or exemplary natural features occurring at the area or site, and reasons for inclusion in the register;
- (3) The size and location of the area or site; and
- (4) The name or names of the property owner or owners, contingent upon the consent of the owner or owners. [PL 1999, c. 556, §13 (NEW).]

C. The commissioner shall notify owners of natural areas of the natural value of their land and the implications of voluntary conservation. Subsequently a natural area may be placed upon the Register of Critical Areas with at least 60 days' notice before registration and the consent of the landowner. [PL 1999, c. 556, §13 (NEW).]

[PL 2007, c. 395, §10 (AMD).]

3. Endangered plants. The commissioner has the following responsibilities related to endangered plants.

A. The commissioner shall establish and maintain the official list of native endangered and threatened plants of the State. The purpose of the list is informational and may be provided on an informational basis to public agencies, private institutions or individuals for environmental assessment, land management or educational purposes. [PL 1999, c. 556, §13 (NEW).]

B. The commissioner may establish procedures to substantiate the identification of endangered and threatened native plant species. In determining and revising the list, the commissioner shall use the rare plant database of the Natural Areas Program and the knowledge of botanists in the State. In addition, the commissioner shall consult with federal agencies, interested state agencies, other states or provinces having a common interest and other interested persons and organizations. The commissioner shall determine criteria for each category. When establishing the list, the commissioner shall consider aspects of plant biology that contribute to a species' rarity such as:

(1) Endemism. The plant species or subspecies may be geographically restricted to the State or areas immediately adjacent to the State;

(2) Scarcity. A plant species or subspecies may be numerically scarce throughout its distribution in North America and occur in only a few locations in the State;

(3) Special habitat. A plant species or subspecies may require habitat that is scarce in the State;

(4) Limit of range. A plant species or subspecies in the State may be at the edge of its distribution or disjunct from its main distribution; and

(5) Population decline or vulnerability. A plant species or subspecies may be threatened or seriously declining due to habitat modification or destruction or from overcollection for commercial, recreational or educational purposes. [PL 2007, c. 395, §11 (AMD).]

C. The commissioner shall conduct at least one public hearing to allow for public comment before establishing or revising the list. [PL 1999, c. 556, §13 (NEW).]

D. The commissioner shall review the list biennially and add or delete species based on new botanical inventory data, taxonomic or other scientific studies or other documentation. [PL 1999, c. 556, §13 (NEW).]

[PL 2007, c. 395, §11 (AMD).]

4. Sensitive information. The commissioner may withhold specific information on the location of a species or natural area and its component features if, in the judgment of the commissioner, disclosure of this information would threaten the existence of that species or natural area. The commissioner may not deny a landowner or landowner's designee information about species or natural areas occurring on the landowner's property or withhold this information from usual environmental review procedures of local, state or federal regulatory agencies.

[PL 1999, c. 556, §13 (NEW).]

SECTION HISTORY

PL 1999, c. 556, §13 (NEW). PL 2007, c. 395, §§10, 11 (AMD).

§544-C. Natural Areas Conservation Fund

The Natural Areas Conservation Fund is established as a nonlapsing separate account to be administered by the commissioner. Income from gifts, bequests, devises, grants, fees and other sources may be deposited in this fund. All money in the fund and earnings on that money must be used for the investigation, conservation and management of native plants, natural communities, ecosystems or other significant features as described in this chapter and for administrative and personnel costs for the purposes of this section. The commissioner may make grants from the fund to any person, organization, state agency or other entity to undertake inventory and research about rare plants, natural communities, ecosystems or other features of natural areas. [PL 1999, c. 556, §13 (NEW).]

Funds in the Natural Areas Conservation Fund may not be deposited in the General Fund or any other fund except as provided by law. All funds of the Natural Areas Conservation Fund are subject to allocation by the Legislature. [PL 1999, c. 556, §13 (NEW).]

SECTION HISTORY

PL 1999, c. 556, §13 (NEW).

§544-D. Maine Coastal Program

(REPEALED)

SECTION HISTORY

PL 2011, c. 655, Pt. KK, §5 (NEW). PL 2011, c. 655, Pt. KK, §34 (AFF). PL 2011, c. 657, Pt. W, §§5, 6 (REV). PL 2017, c. 284, Pt. QQ, §2 (RP).

SUBCHAPTER 1-A

MAINE CAVE PROTECTION ACT

§544-I. Short title

This subchapter may be known and cited as the "Maine Cave Protection Act." [PL 2001, c. 113, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 113, §1 (NEW).

§544-J. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words have the following meanings. [PL 2001, c. 113, §1 (NEW).]

1. Cave. "Cave" means any naturally occurring void, cavity, recess, sinkhole or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge that is large enough to permit a person to enter. "Cave" includes natural subsurface water and drainage systems, but does not include any mine, tunnel or other artificial excavation.

[PL 2001, c. 113, §1 (NEW).]

2. Cave life. "Cave life" means any life-form normally found in a cave.

[PL 2001, c. 113, §1 (NEW).]

3. Natural material. "Natural material" means stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion or other similar crystalline mineral formation found in any cave.

[PL 2001, c. 113, §1 (NEW).]

4. Owner. "Owner" means a person who owns title to land where a cave is located.

[PL 2001, c. 113, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 113, §1 (NEW).

§544-K. Prior written consent of owner

A person must obtain the prior written permission of the owner to excavate or remove an archaeological, paleontological, prehistoric or historic feature of a cave. [PL 2001, c. 113, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 113, §1 (NEW).

§544-L. Field investigations, explorations and recovery operations

All field investigations, explorations and recovery operations in a cave must ensure that the ability to recover and preserve historic, scientific, archaeological and educational information is not impeded. The excavation or removal of an artifact, object, specimen or material from a cave on state-controlled land, as those terms are defined in Title 27, section 373-A, is subject to the provisions governing excavation and removal of state-owned objects and specimens under Title 27, chapter 13. [PL 2001, c. 113, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 113, §1 (NEW).

§544-M. Liability of owners

Recreational caving is a recreational or harvesting activity for the purposes of limited liability of landowners under Title 14, section 159-A. [PL 2001, c. 113, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 113, §1 (NEW).

§544-N. Prohibited acts

1. Defacing or damaging cave prohibited. A person may not deface or damage a cave. A person defaces or damages a cave if the person, without the prior written permission of the owner:

- A. Breaks, breaks off, cracks, carves upon, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, removes, displaces, mars or harms any natural material found in a cave; [PL 2001, c. 113, §1 (NEW).]
- B. Kills, harms or disturbs plant or animal life found in a cave, except for safety reasons; [PL 2001, c. 113, §1 (NEW).]
- C. Disturbs or alters the natural condition of a cave or takes into a cave any aerosol or other container containing paints, dyes or other coloring agents; [PL 2001, c. 113, §1 (NEW).]
- D. Stores, dumps, litters, disposes of or otherwise places any refuse, garbage, dead animal, sewage or toxic substance harmful to cave life or humans in a cave; [PL 2001, c. 113, §1 (NEW).]
- E. Burns within a cave any material that produces smoke or gas that is harmful to any organism in the cave; or [PL 2001, c. 113, §1 (NEW).]
- F. Breaks, forces, tampers with, removes or otherwise disturbs a lock, gate, door, sign or other structure or obstruction designed to prevent entrance to a cave, whether or not entrance is gained. [PL 2001, c. 113, §1 (NEW).]

[PL 2001, c. 113, §1 (NEW).]

2. Forfeiture. A person who violates the provisions of this subchapter commits a civil violation for which a forfeiture of up to \$1,000 may be adjudged.

[PL 2001, c. 113, §1 (NEW).]

3. Damages may be collected by landowner. A person who intentionally defaces or damages a cave on private land in violation of subsection 1 is liable to the owner of that land for actual damages recoverable through a civil action.

[PL 2001, c. 113, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 113, §1 (NEW).

SUBCHAPTER 2

MINING ON STATE LANDS

§545. Jurisdiction

(REPEALED)

SECTION HISTORY

PL 1977, c. 360, §7 (NEW). PL 1977, c. 694, §208 (AMD). PL 1985, c. 201, §1 (RP).

§546. Definitions

(REPEALED)

SECTION HISTORY

PL 1977, c. 360, §7 (NEW). PL 1985, c. 201, §1 (RP).

§547. Permitting, licensing and leasing

(REPEALED)

SECTION HISTORY

PL 1977, c. 360, §7 (NEW). PL 1977, c. 694, §§209-215 (AMD). PL 1979, c. 214, §§1-3 (AMD). PL 1985, c. 201, §1 (RP).

§548. Compliance with regulatory laws

(REPEALED)

SECTION HISTORY

PL 1977, c. 360, §7 (NEW). PL 1985, c. 201, §1 (RP).

SUBCHAPTER 3

MINING ON STATE LANDS

§549. Jurisdiction

The Division of Geology, Natural Areas and Coastal Resources and the agencies having jurisdiction over state-owned lands have jurisdiction, as set forth in this subchapter, over all state-owned lands for the purpose of mineral development and mining on that land. The Bureau of Resource Information and Land Use Planning and the agencies having jurisdiction over state-owned lands may make such rules as each considers proper with respect to the authority delegated pursuant to this subchapter. [PL 2013, c. 405, Pt. C, §4 (AMD).]

SECTION HISTORY

PL 1985, c. 201, §2 (NEW). PL 1995, c. 502, §E32 (AMD). PL 1999, c. 556, §14 (AMD). PL 2011, c. 655, Pt. KK, §6 (AMD). PL 2011, c. 655, Pt. KK, §34 (AFF). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. C, §4 (AMD).

§549-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 201, §2 (NEW).]

1. Development. "Development" means all of the methods used in the preparation of a known and presumed economically extractable ore deposit for mining.
[PL 1985, c. 201, §2 (NEW).]

2. Director of the survey. "Director of the survey" means the Director of the Bureau of Resource Information and Land Use Planning.
[PL 2013, c. 405, Pt. C, §5 (AMD).]

3. Exploration. "Exploration" means an examination of an area for the purpose of discovering the presence of minerals with techniques which include all of the manual, mechanical, electronic or chemical methods of determining the presence, size and quality of a mineral deposit.
[PL 1985, c. 201, §2 (NEW).]

4. Explosives. "Explosives" means explosive materials which are used to explore, develop or mine a mineral deposit.
[PL 1985, c. 201, §2 (NEW).]

5. Machinery. "Machinery" means equipment or machinery, exclusive of vehicles, which is used to explore, develop or mine a mineral deposit.
[PL 1985, c. 201, §2 (NEW).]

6. Minerals. "Minerals" means all naturally occurring mineral deposits, including hydrocarbons and peat, but excluding sand, gravel and water.
[PL 1985, c. 201, §2 (NEW).]

7. Mining. "Mining" means all of the extractive and beneficiative processes necessary to remove and prepare a mineral deposit for market.
[PL 1985, c. 201, §2 (NEW).]

8. Ore. "Ore" means any mineral or an aggregate of minerals which can be extracted from the earth economically.
[PL 1985, c. 201, §2 (NEW).]

9. Person. "Person" means individuals, partnerships, corporations and other entities.
[PL 1985, c. 201, §2 (NEW).]

10. Royalty. "Royalty" means the amount paid to the State for the right to remove minerals from state land, including minimum and preproduction payments.
[PL 1985, c. 201, §2 (NEW).]

11. State lands. "State lands" means all lands owned or held in trust by the State or in which the State holds an interest, including inland and tidal submerged lands and waters.
[PL 1985, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 201, §2 (NEW). PL 1995, c. 502, §E32 (AMD). PL 1999, c. 556, §15 (AMD). PL 2011, c. 655, Pt. KK, §7 (AMD). PL 2011, c. 655, Pt. KK, §34 (AFF). PL 2013, c. 405, Pt. C, §5 (AMD).

§549-B. Exploration permits, exploration claims and mining leases

1. Authority to explore. Any individual over 18 years of age or other person may enter upon state lands, including lands held under specific trust instruments when the trust is consistent with mineral development, on receipt of an exploration permit from the director of the survey for the purpose of exploration, unless otherwise indicated in this subchapter. An exploration permit shall be issued upon payment of a fee of \$20 and shall apply to state lands only. An exploration permit shall bear a number and be dated on the date of issue of the permit and shall expire at midnight on the next June 30th. The holder of an exploration permit is entitled to a renewal of his permit upon expiration of the permit, upon making application to the director of the survey on or before June 30th, including payment of the prescribed fee, which renewal shall take effect on July 1st and bear the same number as the expired permit. Prospectors' permits in effect on June 30, 1985, shall remain in effect as exploration permits until June 30, 1986.

If machinery or explosives are to be used for exploration on state lands, the methods to be employed and the amount of explosives to be allowed shall first be approved by the director of the survey and the director of the agency having jurisdiction over the state land. The use of machinery or explosives shall be approved only where it will be done in harmony with the activities of the agency having jurisdiction over the state land and will not result in environmental harm.

[PL 1985, c. 201, §2 (NEW).]

2. Exploration for and mining of hydrocarbons. The director of the survey and the Director of the Bureau of Parks and Lands may promulgate rules governing exploration and mining of hydrocarbons on all lands within the jurisdiction of the State, public and private, in order to prevent the waste of hydrocarbons and to protect correlative rights and natural resources. The directors may promulgate rules on all lands in the State to specify the size of the area of exploration, the amount charged for exploration permits and exploration claims, the duration of those permits and claims and other matters related to the exploration and mining of hydrocarbons on state lands.

[PL 1985, c. 201, §2 (NEW); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

3. Location of exploration claim and maintenance of rights of possession. Any person or corporation which has secured an exploration permit may locate one or more exploration claims by defining the boundary lines of the claim or claims. No exploration claim may be smaller than 20 acres, except in cases where only a smaller area is available in a parcel of state-owned land. The location or record of any exploration claim shall be construed to include all surface found within the surface boundary lines, and all ledges throughout their entire vertical depth, but shall not include any portion of the ledges beyond the end and sidelines of the exploration claim or timber or growth on the exploration claim. As nearly as circumstances permit, an exploration claim shall be staked out in the following manner:

A. By erecting a post or other reasonably permanent monument at each of the corners of the exploration claim. Every post or monument shall stand not less than 4 feet above the ground, shall not be less than 4 inches in diameter and shall bear the following information: The name of the locator; the number of his exploration permit; the date of the staking; and, if the exploration claim is staked on behalf of another person, the name of the other person and the number of his exploration permit; [PL 1985, c. 201, §2 (NEW).]

B. By plainly marking the trees with paint and by trimming the underbrush along the boundary lines of the exploration claim to indicate clearly the outlines of the exploration claim. Where there are no trees or underbrush, by piling stones or placing pickets at reasonable intervals along the boundary lines of the exploration claim; or [PL 1985, c. 201, §2 (NEW).]

C. By establishing post or buoy markers to witness exploration claim corners which fall in a body of water, by placing posts on dry land and marking on the posts exact distances and directions to

over-water exploration claim corners or by such other methods as the director of the survey may by regulation establish. [PL 1985, c. 201, §2 (NEW).]

Any person who has located and recorded any exploration claim or claims shall, subject to this subchapter, have the right of possession of the premises covered by that exploration claim or claims, for the purpose of conducting exploration activities on those premises. The right of possession shall be alienable in the same manner as real estate. No alienation or transfer of the rights of possession conferred by a located and recorded exploration claim may be effective until the transferor has notified the director of the survey of the transfer and has received an acknowledgment by the director of the survey in writing of receipt of the notification. The director of the survey shall make an acknowledgment within 30 days of the receipt of the notice. Without the express prior written consent of the director of the survey and the agency of the State having jurisdiction over the state land, granted for good cause, the exploration claim shall in no way interfere with conservation, recreation, harvesting timber, leasing campsite lots or other activities of the agency having jurisdiction. [PL 1985, c. 201, §2 (NEW).]

4. Recording of exploration claim. No person may have the right of possession of any exploration claim until the exploration claim has been recorded with the director of the survey. The explorer who first records with the director of the survey a validly-staked exploration claim or claims shall be deemed the claim holder of record for the purposes of this subchapter. The record shall contain:

- A. The name of the claimant; [PL 1985, c. 201, §2 (NEW).]
- B. A general description of the minerals or metals sought; [PL 1985, c. 201, §2 (NEW).]
- C. The date of location and a description of the exploration claim as follows:
 - (1) A reference, using magnetic bearings and distances, to the natural object, permanent monument or survey corner of the state-owned parcel as will identify the claim; and
 - (2) A description, using magnetic bearings and distances, of each sideline and corner of the exploration claim; and [PL 1985, c. 201, §2 (NEW).]
- D. A United States Geological Survey quadrangle base map and an aerial photograph of a scale that shows with reasonable accuracy the outline location and corners of the exploration claim in relation to the state-owned parcel and prominent natural objects or permanent structural features so that the exploration claim may be located on the ground by the director of the survey or his representatives. [PL 1985, c. 201, §2 (NEW).]

[PL 1985, c. 201, §2 (NEW).]

5. Fees and terms of exploration claim. The fees and terms of exploration of any claim shall be as follows.

- A. The fee for recording, renewing, transferring or changing the size of a claim is \$100, which shall be paid to the director of the survey. [PL 1985, c. 201, §2 (NEW).]
- B. The term of the exploration claim shall be for one year, renewable for 5 years from the initial date of recording by written notice to the director of the survey before June 30th. For claims recorded after April 1st and before June 30th, the first renewal notice shall be due on the 2nd June 30th following. By the end of the 5-year period, any title to the claim shall lapse, unless a mining lease has been issued by the State under this subchapter. The director of the survey may, upon application and for good cause, grant an extension for an additional period not to exceed 2 years. Upon lapse or filing of notice of abandonment of a claim, no person holding the claim immediately prior to the date of the lapse of abandonment, or his representative, partner, affiliate or leasing associate, may relocate on the same area for a period of 60 days. [PL 1985, c. 201, §2 (NEW).]
- C. In addition to the recording fee, a rental fee shall be levied from the date of recordation of the claim as follows:

First year	\$.25 per acre
2nd year	\$.75 per acre
3rd year	\$1.50 per acre
4th year	\$2.50 per acre
5th year	\$5.00 per acre
6th year	\$20.00 per acre
7th year	\$30.00 per acre

The rental fee payment for the first year shall be due on the date of recordation of the claim. The rental fee payment for the 2nd year and for each year the claim is in effect shall be due on the June 30th which precedes the year for which the payment is due and shall be paid to the director of the survey. For claims recorded after April 1st and before June 30th, the 2nd rental fee payment shall be due on the 2nd June 30th following. [PL 1985, c. 201, §2 (NEW).]

D. An affidavit of investigatory and exploratory work must be filed each year with the director of the survey on June 30th. At the time of filing that affidavit, the claimant shall demonstrate to the director that investigatory work has been performed on that claim at a rate of at least \$5 per acre during the year ending June 30th. For claims recorded after April 1st and before June 30th, the first affidavit of investigatory and exploratory work must be filed on the 2nd June 30th following. All work done must be described in the affidavit and include work that tends to reveal such characteristics of the material sought as length, width, depth, thickness, tonnage and mineral or metal content, or, with respect to nonmetallic minerals, other physical characteristics of the deposit relating directly to the commercial exploitation of the deposit and such other information relating to the exploration work as the director of the survey may require. During the period of time in which the claim is in effect, this information is confidential and may not be disclosed, except that the information may be shared with other governmental agencies. [PL 2009, c. 567, §4 (AMD).]

E. The failure to comply with any of the requirements of this subsection shall operate as a forfeiture of the claim or claims. Written notice of the forfeiture shall be sent by registered or certified mail to the claimant's last known address. Any claimant who is aggrieved may file a written petition for a hearing before the director of the survey within 14 days after notice of forfeiture has been given. If the petition for a hearing is filed with the director of the survey within the 14-day period, the director of the survey shall, within 30 days, grant a hearing on the forfeiture and give the claimant 10 days' notice of the time and place of the hearing. For good cause, the director of the survey may extend the time for filing the petition. If the claimant is aggrieved by the decision of the director of the survey resulting from the hearing, he may, within 30 days thereafter, appeal to the Superior Court filing a claimant therefor. The court shall fix a time and place for hearing and cause of notice of the hearing to be given to the director of the survey and, after hearing, the court may affirm or reverse the decision of the director of the survey and the decision of the court shall be final. During the pendency of all proceedings under this paragraph, no person may lay claim to the area of dispute. The director of the survey may perform the duties of this paragraph personally or through his designee. [PL 1985, c. 201, §2 (NEW).]

F. Within 6 months of the lapse or termination of a validly located exploration claim or claims, the owner of the claim or claims shall provide to the director one copy of all factual data acquired during exploration of that claim or claims. The factual data shall include, but not be limited to, all geologic maps, drill logs, assay or other analytical data, geochemical maps, geophysical data and metallurgical or other laboratory tests, but shall not include interpretive reports derived from that data. [PL 1985, c. 201, §2 (NEW).]

[PL 2009, c. 567, §4 (AMD).]

6. Land use ruling. Any person with a recorded exploration claim shall make application to the director of the agency having jurisdiction over the state lands on which the claim is located for a ruling on the question of whether mining operations can be carried on consistent with any prior or proposed

other use by the State or any agency or instrumentality of the State. Such a ruling, that mining operations can be carried on, shall not be made without consulting the director of the survey. No mining lease may be issued under this subchapter without a land use ruling which answers the question in this subsection in the affirmative. A public hearing shall be held prior to any ruling required under this subsection. The ruling shall be made within 180 days of the date of the application and when obtained shall be binding and irrevocable for such period of time as the applicant and the State may agree.

[PL 1985, c. 201, §2 (NEW).]

7. Mining lease. Mining leases may be applied for and granted as follows.

A. Any person with a valid recorded exploration claim in accordance with this subchapter may make application for a mining lease to the director of the agency having jurisdiction over the state lands on which the mining lease is sought. The application must be accompanied by a report from a certified or licensed geologist or mining engineer containing all information of a geologic, engineering and operational nature that is required by the director of the survey or the director of the agency having jurisdiction over the state lands on which the mining lease is sought to properly evaluate the application and an accurate survey of the property boundaries certified by a registered surveyor and evidence of ability to finance the proposed mining operations. [PL 2019, c. 285, §3 (AMD).]

B. The director of the agency having jurisdiction over these state lands shall hold a hearing for the purpose of hearing evidence on whether to grant or deny a mining lease to mine under this section. The hearing shall be held within 90 days of receipt of the application and notice of the date, time and place shall be given to the applicant and public notice shall be made by causing publication of the notice twice in a newspaper of general circulation in the proposed locality or, if none, in the state paper. The date of first publication shall be at least 10 days and the last publication shall be at least 3 days before the date of the hearing. [PL 1985, c. 201, §2 (NEW).]

C. A decision in accordance with this subsection shall be issued within 120 days of the date of the hearing. [PL 1985, c. 201, §2 (NEW).]

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. [PL 2017, c. 142, §1 (NEW).]

D. The director of the agency having jurisdiction over the state lands, with the consent of the director of the survey, may issue a mining lease subject to such terms and conditions as the directors may determine. [PL 1985, c. 201, §2 (NEW).]

E. If a lease is issued, the lessee shall be required to provide a bond in an amount determined by the director of the agency having jurisdiction over the state-owned lands to be necessary to reclaim the area mined and to protect against damage that may be caused to any property located outside the leased area by the lessee's mining operations or, in lieu of a bond, other security determined by

the director of the agency having jurisdiction over the state-owned lands to provide the same protection as a bond. [PL 1985, c. 201, §2 (NEW).]
[PL 2019, c. 285, §3 (AMD).]

8. Common and undivided interests. The director of the survey and the Director of the Bureau of Parks and Lands, acting jointly, may, by regulation, establish procedures for the filing of exploration claims and issuance of exploration permits and leases covering state-owned public lands, including public reserved lands, which are comprised of state-owned common and undivided interests. The regulations may condition the issuance of an exploration permit or mining lease and the filing of an exploration claim upon the consent of a majority of the private common and undivided ownership of the parcel of land to which the exploration permit, exploration claim or mining lease relates.

Any permit or lease issued under this section shall extend only to the common and undivided interest of the State. Any partition occasioned by a negative ruling under subsection 6 or 7 shall be conducted with reasonable expedition. In any partition or location of public reserved land, the Bureau of Parks and Lands may accept a partition of the surface estate and continue as a cotenant in all or a portion of the mineral estate.

[PL 1985, c. 201, §2 (NEW); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

9. Royalty. Royalty payments shall be made as follows.

A. The holder of a lease to mine shall make royalty payments annually or more frequently if so specified in the lease. [PL 1985, c. 201, §2 (NEW).]

B. The amount of royalty payments, including minimum royalties and preproduction payments, together with the other terms and conditions of the lease, shall be set jointly by the director of the survey and the director of the agency having jurisdiction over the state lands. The royalty rate set shall reasonably relate to applicable royalty rates generally prevailing. [PL 1985, c. 201, §2 (NEW).]

[PL 1985, c. 201, §2 (NEW).]

10. Disposition of fees and royalties. All fees and royalties accruing to the survey under this subchapter must be paid into a separate account to be established by the Treasurer of State to be used for salaries and other expenses incurred in the administration of this subchapter, subject to and to the extent permitted by section 1849. The account may not lapse but must continue from year to year.

[PL 1997, c. 678, §3 (AMD).]

11. Rights-of-way. Any person who has located an exploration claim and has been issued a mining lease in accordance with this subchapter may, with the consent of the director of the agency having jurisdiction over those state lands and consistent with the law, have the right of access across any lands owned or controlled by the State to and from that location. The holder of a mining lease may be issued a permit giving him authority to open, construct, put in, maintain and use ditches, tunnels, pipes, conduits, flumes and other works through, over and upon that land for drainage and passage of water, together with the right to construct dams, provided that no such water flows on land of others, in connection with the working of his mine to bring water to the mine necessary or convenient for its operation with such conditions and restrictions as may be imposed.

[PL 1985, c. 201, §2 (NEW).]

12. Mining under bodies of water. Where any mineral is situated under or in the bed of a stream or lake, and for the efficient working of the mineral deposit, it is necessary to divert the water of that stream within the boundaries of public land, or drain any lake, the director of the agency having jurisdiction over these state-owned lands may permit the diversion or drainage to be done, subject to such provisions, for the benefit of any persons who are entitled to the use of the water of that stream or lake in its natural state, as to him may seem just and expedient.

[PL 1985, c. 201, §2 (NEW).]

13. Annual reports. Any person with a mining lease engaged in mine development or mining under this subchapter shall, in the month of June following the year the operation was carried on, pay all applicable fees, rentals and royalties and file an annual report with the director of the survey and director of the agency having jurisdiction over the state-owned land setting forth:

- A. The location of the operation; [PL 1985, c. 201, §2 (NEW).]
- B. The quality and grade of mineral products or ores produced; [PL 1985, c. 201, §2 (NEW).]
- C. The amount of royalty that has accrued on material extracted; [PL 2009, c. 567, §5 (AMD).]
- D. The number of persons ordinarily employed at operation below ground and above ground; and [PL 1985, c. 201, §2 (NEW).]
- E. Any other information, relating to the mining lease, mine development or mining, the director of the division and the director of the agency having jurisdiction over the state-owned lands may require by regulation. [PL 1985, c. 201, §2 (NEW); PL 2011, c. 657, Pt. W, §7 (REV).]

This information is confidential and may not be disclosed, except that the information may be shared with other governmental agencies.

[PL 2009, c. 567, §5 (AMD); PL 2011, c. 657, Pt. W, §7 (REV).]

14. Termination. In the event that any explorer, claimant or lessee violates any of this subchapter or any rule, the director of the survey or the director of the agency having jurisdiction over the state-owned lands shall notify the explorer, claimant or lessee, as the case may be, of the alleged violation and of the nature of the alleged violation, by sending the notice by registered or certified mail to him at his last known address. If the violation is not remedied within 30 days after the date of mailing the notice, the permit, claim or lease of the violator in existence at the time of the violation may be terminated by the State through the director of the survey or the director of the agency having jurisdiction over the state-owned lands by giving written notice of termination in the same manner specified for notice of violation. For cause, the State, through the director of the survey or the director of the agency having jurisdiction over the state-owned lands, may extend such further time for compliance as it may determine. Any person who is aggrieved may file a written petition for a hearing before the State within 30 days of the date of the giving of written notice of termination by the State. The hearing shall take place within 30 days of receipt of the petition and a decision shall be rendered by the State within 60 days following the final adjournment of the hearing. Appeals from the State's decision shall be pursuant to the Maine Rules of Civil Procedure as they apply to appeals from rulings of public agencies.

[PL 1985, c. 201, §2 (NEW).]

15. Injunctions against violation. Whenever it appears that any person is violating or threatening to violate this subchapter or any rule or order issued pursuant to this subchapter, the State may seek an injunction against that person in the Superior Court of the county in which the office of the director of the survey and the director of the agency having jurisdiction over the state-owned lands is located or of any county where the violation occurs or is threatened, or in the county in which the defendant resides or in which any defendant resides if there is more than one defendant, to restrain the person from continuing the violation or from carrying out the threat of violation. In any such action, the court shall have jurisdiction to grant to the State, without bond or other undertaking, such prohibitory or mandatory injunctions as the facts may warrant, including temporary restraining orders and preliminary injunctions.

[PL 1985, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 201, §2 (NEW). PL 1995, c. 502, §E30 (AMD). PL 1997, c. 678, §3 (AMD). PL 2009, c. 567, §§4, 5 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV). PL 2017, c. 142, §1 (AMD). PL 2019, c. 285, §3 (AMD).

§549-C. Compliance with regulatory laws

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. [PL 1985, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 201, §2 (NEW).

SUBCHAPTER 4**INFORMATION ON MINING EXPLORATION****§550. Annual exploration registration**

Annual registration shall be required as provided in this section. [PL 1985, c. 201, §3 (NEW).]

1. Registration. Any person conducting mineral exploration where the total exploration expenses incurred in a calendar year exceed \$25,000 on private, leased or otherwise acquired lands within the State must register with the director. Registration shall be valid for the fiscal year and must be renewed annually.

[PL 1985, c. 201, §3 (NEW).]

2. Information. Registration shall include the following information:

A. The name and address of the person conducting the exploration; [PL 1985, c. 201, §3 (NEW).]

B. The name and address of the parent and any subsidiaries or domestic affiliates of the corporation engaged in exploration activities in this State; and [PL 1985, c. 201, §3 (NEW).]

C. The names of counties where exploration is expected to occur. [PL 1985, c. 201, §3 (NEW).]
[PL 1985, c. 201, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 201, §3 (NEW).

§550-A. Notice of intent to file

(REPEALED)

SECTION HISTORY

PL 1985, c. 201, §3 (NEW). PL 1985, c. 819, §A17 (AMD). PL 2011, c. 653, §1 (RP). PL 2011, c. 653, §33 (AFF).

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