

Notice of Agency Rule-making Proposal

AGENCY: **01-672 MAINE LAND USE PLANNING COMMISSION**, *Department of Agriculture, Conservation and Forestry*

CHAPTER NUMBER AND TITLE: **01-672 CHAPTER 13**, Proposed Rule Amendment to the Commission’s Chapter 13, “*Metallic Mineral Exploration, and Certification of Advanced Exploration and Mining*” Subchapters 1 and 2; and Chapter 10, “*Land Use Districts and Standards*”, as Required by §29, sub-§3 of Public Law 2011, Chapter 653 (LD 1853).

PROPOSED RULE NUMBER (*leave blank; assigned by Secretary of State*):

CONTACT PERSON FOR THIS FILING: Samantha Horn Olsen, Maine Land Use Planning Commission, Department of Agriculture, Conservation and Forestry, 22 State House Station, Augusta, Maine 04333-0022. Telephone: 207-287-4932. TTY: 888-577-6690. Email: Samantha.Horn-Olsen@maine.gov

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different):

PUBLIC HEARING: Not applicable

COMMENT DEADLINE: Written comments April 11, 2014; rebuttal comments April 18, 2014

BRIEF *SUMMARY: The Land Use Planning Commission is seeking public comment on a proposed rule change to amend the Commission’s Chapter 13, “*Metallic Mineral Exploration, and Certification of Advanced Exploration and Mining*” by replacing Subchapters 1 and 2 and Chapter 10, Land Use Districts and Standards to update the Commission’s rules for metallic and non-metallic mineral exploration activities. This will increase consistency with the Maine Metallic Mineral Mining Act and with the DEP’s regulations.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None

STATUTORY AUTHORITY FOR THIS RULE: 12 M.R.S.A. §684; §685-A,3; §685-C, 5; and Public Law 2011 Chapter 653, LD 1853, 125th Legislature

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): None

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: mari-wells@maine.gov

* Check one of the following two boxes.

The above summary is for use in both the newspaper and website notices.

The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____
 (authorized signature)

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	01A	9200	91		4946	

Notice of Agency Rule-making Proposal

DETAILED BASIS STATEMENT / SUMMARY:

The Land Use Planning Commission is seeking public comment on a proposed rule change to amend the Commission's Chapter 13, "*Metallic Mineral Exploration, and Certification of Advanced Exploration and Mining*" by replacing Subchapters 1 and 2 and Chapter 10, Land Use Districts and Standards to update the Commission's rules for metallic and non-metallic mineral exploration activities. This will increase consistency with the Maine Metallic Mineral Mining Act and with the DEP's regulations.

The proposed routine technical rules effectively replace the existing subchapters 1 and 2 of Chapter 13 with new subchapters 1 and 2. When combined with the Commission's major substantive rulemaking that creates new subchapter 3 and repeals the other existing subchapters, the result is a new Chapter 13 with subchapters 1 through 3. The proposed routine technical rules, as well as the separate major substantive rules, will both be timed to take effect on June 1, 2014. The proposed subchapters 1 and 2 correspond to the Department's draft Chapter 200 rule changes, which are currently being reviewed by the legislature and are intended to take effect on June 1, 2014.

The proposed amendment entails removing standards applicable only to advanced exploration and mining and clarifying the requirements for exploration. These rules pertain to metallic mineral exploration activities located in Maine's unorganized and deorganized areas. While exploration is a use allowed without a permit subject to standards in some subdistricts, in others this activity will continue to require a permit, and in a few subdistricts is a use allowed only by special exception.

Several amendments to the Commission's Chapter 10 rules also are proposed, for the purpose of clarifying the implementation of Chapter 13, as a part of these routine technical rule changes:

- Section 10.02, 98, Level C Mineral Exploration
- Sections 6 and 9 of 10.21,G, the D-PD Planned Development Subdistrict rules
- Section 10.27,C, the rules for non-metallic Mineral Exploration and Extraction

The changes in Section 10.21,G were included in the Basis Statement for Chapter 12 in response to a public comment, stating that the correction would be made as soon as possible. During the preparation of the Chapter 13 routine technical rules, it became apparent that changes to Section 10.02,98 and Section 10.27,C would also be needed. On change in Section 10.27, C would also alter the requirements for vegetative buffering of non-metallic mineral exploration activities.

A copy of the above proposed rule changes may be viewed at the Commission's main office at 18 Elkins Lane, Harlow Building, Augusta, Maine or may be downloaded from the agency's web site at www.maine.gov/doc/lupc/. To view the proposed rule changes at the Augusta office, please call the office in advance at 207-287-2631.

**Proposed Routine Technical Rule Repeal and Replace¹ to
the Commission’s Chapter 13**

**“*Metallic Mineral Exploration, and Certification of² Advanced Exploration and
Mining*”**

Subchapter 1 and Subchapter 2

and

Amendment To the Commission’s Chapter 10

Definitions, Section 10.02, 98;

Planned Development Subdistrict, Sections 10.21,G,6 and 9; and

Mineral Exploration and Extraction, Section 10.27,C

In response to Public Law 2011, Chapter 653 (LD 1853)

**- DRAFT -
January 8, 2014**

The following proposes to replace subchapters 1 and 2 of Chapter 13 “*Metallic Mineral Exploration, and Certification of Advanced Exploration and Mining,*” and to amend certain sections of the Commission’s Chapter 10 rules. The proposed subchapters 1 and 2 of Chapter 13 will replace the existing subchapters 1 and 2. The proposed changes to Chapter 10 are shown in ~~strikeout~~ and underline format.

¹ This rule revision anticipates legislative approval of the repeal of subchapters 1 and 2, as part of a separate rule change which was provisionally adopted by the Commission January 8, 2014. This revision replaces subchapters 1 and 2 herein.

² This rule revision anticipates the change to the name of Chapter 13, as part of a separate rule change which was provisionally adopted by the Commission January 8, 2014. This revision includes the new chapter name herein.

CHAPTER 13
METALLIC MINERAL EXPLORATION,
AND CERTIFICATION OF ADVANCED EXPLORATION AND MINING

TABLE OF CONTENTS

Subchapter 1. General Provisions

1.1	Applicability	1
1.2	Definitions.....	1
1.3	Prohibition.....	2
1.4	Relation to Other Rules.....	2
1.5	Relation to Chapter 10	3

Subchapter 2. Exploration

2.1	Purpose of Exploration Requirements	4
2.2	Applicability of Exploration Requirements	4
2.3	Requirements for Exploration Activities	4
	A. Applicability of Standards	4
	B. Standards.....	4
	C. Submission Requirements.....	6
	D. Permit Conditions	7

SUB-CHAPTER 1: GENERAL PROVISIONS

1.1 Applicability.

This Chapter applies to all exploration activity and all mining activity, including advanced exploration, in the unorganized and deorganized areas of the State.

1.2 Definitions.

As used in this Chapter, unless the context otherwise indicates, the following terms have the following meanings:

- A. Advanced Exploration.** “Advanced exploration” or “advanced exploration activity” means any metallic mineral bulk sampling or exploratory activity that exceeds those activities that are exploration activities, but remove 5,000 tons or less of ore. Samples taken as part of “exploration” are not considered bulk sampling.
- B. Bulk Sampling.** “Bulk sampling” means the removal of samples for the purpose of testing to determine the feasibility, method, or manner of extraction and/or processing of metallic minerals. Such testing may include milling or grinding tests, and/or pilot plant and processing tests. Methods of bulk sampling may include, but are not limited to, drilling and boring, digging of shafts and tunnels, or digging of pits and trenches. For purposes of this rule, bulk sampling of metallic mineral deposits is included in advanced exploration and is limited to the removal of no more than 5,000 tons of ore.
- C. Commission.** “Commission” means “the Maine Land Use Planning Commission” and, unless clearly stated otherwise or clearly evident from the context, includes Commission staff where, consistent with Chapter 3 of its rules, the Commission has delegated authority to its staff to act on behalf of the Commission.
- D. Department.** “Department” means the Maine Department of Environmental Protection.
- E. Director.** “Director” means the Director of the Maine Land Use Planning Commission.
- F. Drilling.** “Drilling” means the making of holes with a drill for exploration of a metallic mineral deposit.
- G. Drill Hole.** “Drill hole” means the cavity created by drilling.
- H. Exploration.** “Exploration” or “exploration activity” means activities conducted in accordance with this Chapter for the purpose of determining the location, extent and composition of metallic mineral deposits, test boring, test drilling, hand sampling, the digging of test pits, trenching or outcrop stripping for the removal of overburden having a maximum surface opening of 300 square feet per test pit or trench, or other test sampling methods determined by the Commission, in consultation with the Department, to cause minimal disturbance of soil and vegetative cover.
- I. Exploration Permit.** “Exploration permit” means a permit issued by the Commission pursuant to Chapter 10, *Land Use Districts and Standards*, and in accordance with Chapter 13, authorizing metallic mineral exploration activities.
- J. Exploration Site.** “Exploration site” means the area within which exploration or activities incidental thereto occur, or may reasonably be expected to occur.

- K. Groundwater.** “Groundwater” means all the waters found beneath the surface of the earth which are contained within or under this State or any portion thereof, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State.
- L. Metallic Mineral.** “Metallic mineral” or “metallic mineral deposit” means any ore or 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. For purposes of this rule, the term “metallic mineral” does not include thorium or uranium.
- M. Mining or Mining Activity.** “Mining” 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.
- N. Ore.** “Ore” means rock containing metallic mineralization that is profitable to process using technologies that exist at the mining operation.
- O. Overburden.** “Overburden” means all of the earth and other materials which lie above the natural mineral deposits to be mined.
- P. Person.** “Person” shall mean an individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity.
- Q. Qualified Professional.** “Qualified professional” or “qualified person” means a scientist, engineer, or professional in a technical discipline with sufficient training and experience to enable the individual to make sound professional judgments regarding conducting technical analyses or regarding the design, construction, and operation of regulated units and ancillary structures who, if accreditation is the norm in the profession, is accredited in the State of Maine, or subject to review and approval by the Commission, is accredited in another jurisdiction.
- R. Reclamation.** “Reclamation” means the rehabilitation of the area of land affected by the exploration activities, including but not limited to, the stabilization of slopes and the creation of safety benches, the planting of vegetation including grasses, crops, shrubs, and/or trees, and the enhancement of wildlife and aquatic habitat and aquatic resources.

1.3 Prohibition.

It shall be unlawful for any person to engage in any exploration or mining activity, including advanced exploration, or to initiate construction in preparation for conducting these activities, except as authorized pursuant to this Chapter.

1.4 Relation to Other Rules.

This Chapter is intended to supplement rules administered by the Commission. No activity described in this Chapter is exempt from a requirement contained in any Commission rule unless such requirement, and rule, is specifically cited and described as inapplicable.

- A. Obligation to Comply.** Compliance with the provisions of this Chapter, or an exploration permit or certification determination issued in accordance with this Chapter does not relieve a person of the obligation to comply with all other applicable state or federal statutes or regulations, including but not limited to, the regulations for air emissions, waste discharges, solid and hazardous waste management, underground oil storage facilities, oil discharge pollution prevention measures and facilities, and waste oil.

B. Other Permits. Depending upon the location, type and extent of activity, a permit may be required under other rules or statutes. Persons seeking to conduct exploration or mining activities should check with the appropriate agencies, including the Department and the Maine Geological Survey to determine applicable requirements.

1.5 Relation to Chapter 10.

The Commission's Chapter 10 rules, *Land Use Districts and Standards*, establishes in which subdistricts exploration activities and mining activities, including advanced exploration, are an allowed use. Chapter 10 categorizes all exploration and advanced exploration activities as falling into one of the following three use listings: Level A Mineral Exploration, Level B Mineral Exploration, or Level C Mineral Exploration. The Chapter 10 use listing "Level A Mineral Exploration" solely consists of activities defined as exploration in these Chapter 13 rules. The Chapter 10 use listing "Level B Mineral Exploration" consists of exploration activities, as well as some advanced exploration activities, as defined in these Chapter 13 rules. The Chapter 10 use listing "Level C Mineral Exploration" solely consists of activities defined as advanced exploration in these Chapter 13 rules. All Level A Mineral Exploration, as well as Level B Mineral Exploration that qualifies as exploration under this Chapter, is subject to subchapter 2. All Level C Mineral Exploration, as well as Level B Mineral Exploration that qualifies as advanced exploration under this Chapter, is subject to subchapter 3.

SUB-CHAPTER 2: EXPLORATION

2.1 Purpose of Exploration Requirements.

The purpose of this subchapter is to establish procedures and standards for exploration activities.

2.2 Applicability of Exploration Requirements.

This subchapter applies to any person proposing to conduct exploration activities.

NOTE: Geophysical surveys are considered as exploration for the purposes of this Chapter and the standards and submissions under Section 2.3, provided that they require some disturbance of soil or vegetation, such as cutting or clearing of vegetation along a survey grid. Non-intrusive methods, such as aeromagnetic surveys or other remote-sensing methods that do not require any disturbance of soil or vegetation are not considered part of exploration for the purposes of this Chapter.

2.3 Requirements for Exploration Activities.

A. Applicability of Standards. The Commission's Chapter 10 rules identify in which subdistricts exploration is an allowed use. Where an allowed use, exploration is allowed without a permit subject to standards, allowed with a permit, or allowed with a permit upon obtaining special exception approval. To be allowed without a permit subject to standards, the person engaging in exploration must comply with the standards in Section 2.3,B, and not the standards in Section 10.27,C1, of the Commission's Chapter 10 rules. Where exploration is allowed only after obtaining a permit, whether or not special exception approval is required, the person applying for a permit must demonstrate compliance with the standards in Section 2.3,B, and not the standards in Section 10.27,C,1, of the Commission's Chapter 10 rules. Notwithstanding the general requirement that a person engaging in exploration must comply with the standards in Section 2.3,B, exploration that would not comply with these standards may be allowed upon issuance of a permit from the Commission, provided that exploration is an allowed use in the subdistrict involved. An applicant for such a permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards in Section 2.3,B, shall be conducted in a manner that produces no undue adverse impact upon the resources and uses in the area

B. Standards. Except as provided in Section 2.3,A, the following minimum standards must be met for exploration activities:

- (1) Access ways shall involve little or no recontouring of the land or ditching, and shall not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.
- (2) Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.
- (3) Erosion control measures must be implemented to prevent unreasonable erosion of soil or sediment beyond the exploration site or into sensitive areas such as slopes exceeding 15% and areas that drain directly into water bodies, drainage systems, water crossings, or wetlands; these measures must be in place before exploration activity, or related activities including, but not limited to, clearing and road construction, begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must be taken and the site must be maintained to prevent unreasonable erosion and sedimentation.

- (4) Exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of a flowing water, body of standing water, tidal water, or wetland identified as a P-WL1 subdistrict:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
<30	75
30	85
40	105
50	125
60	145
70	165

Table 13.1. Unscarified filter strip width requirements for exposed mineral soil created by mineral exploration activities or associated access ways.

The provisions of Section 2,B(4) apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of Section 10.27,C,1,b do not apply where access ways cross such waters.

- (5) Except when surface waters are frozen, access ways for exploration activities shall not utilize stream channels bordered by P-SL2 Shoreland Protection Subdistricts except to cross the same by the shortest possible route. Unless culverts or bridges are installed in accordance with Sections 10.27,D, 2 and 5 of the Commission's Chapter 10 rules such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (6) Soil which is stripped or removed must be stockpiled for use in reclaiming disturbed land areas. Soil stockpiles shall be seeded, mulched, and anchored or otherwise stabilized.
- (7) The affected land shall be restored to a physical state that is similar to and compatible with that which existed prior to any exploration. Within 30 working days following completion of exploration at an exploration site, any person conducting exploration activities shall accomplish the following:
- (a) Disposal of all debris in accordance with applicable state laws and regulations;
 - (b) Grading of the surface of the site so that the final graded slope conforms with the original contour of the land; and
 - (c) Reseeding and stabilization of graded topsoil with vegetation native to the area. Any person conducting exploration activities shall follow the "Guidelines for Vegetative Stabilization," Appendix B of the Commission's Chapter 10 rules.
- (8) Within 30 working days after completion of exploration activities, all excavations including trenches, test pits, and mud pits shall be capped, refilled or secured. All settling ponds or sumps must be backfilled, covered with topsoil and seeded.
- (9) In accordance with the provisions of Section 10.26,G, 5 of the Commission's Chapter 10 rules, drill pump stations may be located closer than the setbacks required for structures from waterbodies or wetlands in Section 10.26,D,2 of the Commission's Chapter 10 rules, but at no time shall the drill pump station be located closer than 25 feet to a wetland or waterbody.
- (10) Except for samples collected for exploration purposes, all drilling mud, water and other fluids, as well as waste cuttings must be confined to the drill site by the use of storage tanks or

sumps. All excavation sites and resulting waste must be managed to ensure no untreated water is released to the environment and released volumes will not adversely impact existing stream flows.

- (11) Sealing of all drill holes, whether temporary or permanent, shall be completed within 30 days of cessation of drilling or testing activities such as “down-the-hole” geophysical surveys or other similar activities. All artesian wells shall be capped or sealed within 48 hours after cessation of drilling or the onset of artesian conditions. No drill hole may be temporarily sealed for more than 3 years unless the drill hole is being used for sampling or other studies related to a mineral deposit or general hydrological conditions of the area. A drill hole that has remained temporarily sealed for more than 3 years and is not being used for sampling or other studies shall be sealed permanently. All sealing activities will be conducted according to the “Guidance for Well and Boring Abandonment,” produced by the Department’s Bureau of Remediation and Waste Management, Division of Technical Services, dated January 7, 2009.
 - (a) Within 30 working days after permanent sealing of the final drill hole of a drill program, any person conducting exploration activities shall submit to the Commission a report including, but not limited to, the following information for each drill hole:
 - (i) Location and identification of the drill hole;
 - (ii) Dimensions of the drill hole;
 - (iii) Identification of depth, static elevation, and estimated flow of any groundwater encountered, if known; and
 - (iv) Methods of sealing the drill hole, demonstrating compliance with Section 2.3,B(7).
- (12) All facilities and equipment shall be promptly removed from the exploration site when they are no longer needed for the exploration activity, or for any reclamation activities or monitoring required for the exploration activity. However, such facilities or equipment which are otherwise allowed under the Commission’s rules, or that would be used for an advanced exploration or mining activity under review by the Department, may remain on site, provided that any required permits are obtained.
- (13) The Commission may enter any exploration site, take samples, and conduct tests in order to determine compliance with any provision of this Chapter or other applicable requirements. The Commission may require the submission of annual self-inspection reports, signed by a qualified professional on exploration activities conducted by the permittee.
- (14) Any person conducting exploration activities shall notify the Commission orally within 24 hours and in writing within 5 working days of any activity or occurrence during the course of exploration or reclamation which has the potential to damage public health or the environment.

C. Submission Requirements.

- (1) At least 30 days prior to commencing any drilling activities, or when submitting an application for any exploration permit, a person planning to drill or filing such an application shall submit a work plan to the Commission. The work plan shall be prepared and signed by a qualified professional and provides the following information, at a minimum:
 - (a) Documentation of the property boundaries, landowner information, and description of the area to be explored;
 - (b) Evidence of the applicant’s title, right or interest for access to the area to be explored and to conduct exploration activities;
 - (c) A site plan showing the proposed access routes and exploration areas;
 - (d) Identification of any proposed new access ways, roads, or clearings;
 - (e) A site plan with wetlands or other sensitive environmental features identified;

- (f) A sediment and erosion control plan, including a stormwater management plan consistent with standards for stormwater management for access roads, excavation and stockpile areas, and other areas affected by the activity;
 - (g) A description of proposed drilling and excavation activities and methods, including petroleum products and chemical handling procedures and spill management, estimated quantities of material that must be removed to obtain samples, and best management practices to be employed in conducting the exploration activities. If specified by the Commission, additional measures to protect the environment shall be adopted by the person engaged in exploration activities;
 - (h) A plan for backfill and restoration of exploration sites which will address subsidence, drill holes, structural safety, water management, restoration of disturbed areas including access roads, and the abatement of any physical hazards; and
 - (i) A plan showing the exploration drilling area, maximum number of drill holes, and the maximum total drilling footage.
- (2) Within 60 days of the completion of the exploration activities the person required to have submitted a work plan pursuant to paragraph (1) above shall submit to the Commission a report, prepared and signed by a qualified professional, documenting that all of the requirements of the restoration plan were completed.
- (3) Hand sampling activities (soil sampling with auger or shovel, stream sediment sampling and rock chip sampling) are exempt from the submission of an exploration work plan; however, these activities may require approval under other laws and regulations administered by the Commission.

D. Permit Conditions. Where an exploration permit is required, such a permit shall be subject to the following.

- (1) **Noncompliance and Occurrence Reporting.** The permittee shall provide notice to the Commission of any noncompliance; and to the Department and the Commission of any unpermitted or otherwise unlawful release or discharge of pollutants, fire or explosion at the site. Notice shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances, and in writing within 5 working days. If the noncompliance, release or discharge of pollutants, or cause of fire or explosion has not been corrected, the anticipated time it is expected to continue shall be given, together with the steps taken or planned to reduce, eliminate and prevent recurrence. This notice requirement does not supercede or replace any other State or federal spill, release, or discharge reporting requirement.

EFFECTIVE DATE: August 26, 1991

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 4, 1996

NON-SUBSTANTIVE CHANGES: September 2, 1997 - minor spelling, formatting and layout.

EFFECTIVE DATE: June 1, 2014

CHAPTER 10 LAND USE DISTRICTS AND STANDARDS

Section 10.02 - Definitions Sections 10.21,G, 6 and 9 – Planning Development Subdistricts Section 10.27,C – Mineral Exploration and Extraction

10.02 DEFINITIONS

98. Level C Mineral Exploration Activities:

Metallic mineral exploration activities ~~means involving~~ the disturbance of a site, by excavation, of more than two (2) acres of surface area or the excavation or removal of more than ten thousand (10,000) cubic yards of soil, overburden, ore or other earthen materials from the site of exploration.

Removal of more than 5,000 tons of ore is not included in Level C Mineral Exploration Activities and shall be considered Metallic Mineral Mining.

10.21 DEVELOPMENT SUBDISTRICTS

G. PLANNED DEVELOPMENT SUBDISTRICT (D-PD)

6. Procedure

The procedures set forth ~~below and those set forth~~ in Sections 10.21,G, 6, 7 and 8 apply to all developments except ~~a. T~~ those related to metallic mineral mining and Level C mineral exploration activities which are governed by the procedures set forth in Chapters 12 and 13 of the Commission's rules.

The procedures set forth in Section 10.21,G,9 apply only to: b. Those D-PD subdistricts approved or accepted for processing by the Commission prior to September 1, 2012; and activities not requiring Maine Department of Environmental Protection review under the Site Location of Development Law within D-PD subdistricts accepted for processing after September 1, 2012 not requiring review under Site Law; and exploration, as defined in the Maine Metallic Mineral Mining Act, within D-PD subdistricts which in addition to those sections set forth above shall also be governed by the procedures set forth in 10.21,G,9.

The Planned Development review procedure shall consist of three stages:

- (1) Preapplication Conference;
- (2) Submission of Preliminary Development Plan / Zoning Petition; and
- (3) Submission of a Final Development Plan or amendment to a Final Development Plan for those projects described in Section 6,(b).

The Preapplication Conference serves to inform the prospective applicant, prior to formal application, of the proposed plan's filing requirements. Formal application is made by submitting a Preliminary Development Plan / Zoning Petition that meets the requirements specified herein. No decision thereon can be made until a Public Hearing is held. Thereafter, the Commission may approve or deny the petition. An approval will amend the subdistrict(s) to a D-PD subdistrict and will include a preliminary development approval that specifies under what conditions, if any, the Commission will accept the Preliminary Development Plan / Zoning Petition proposal as the standard against which future certification requests, amendments to existing Final Development Plans, or new Final Development Plans are judged. No development will be allowed except for activities necessary to gather site data for the permit and/or certification applications until such an application is submitted and approved. Necessary site data gathering activities must be consistent with the proposed description as submitted in the Preliminary Development Plan / Zoning Petition and are allowed without a permit.

9. Final Development Plan

The procedures set forth in Section 10.21,G,9 apply ~~only to: all~~ D-PD subdistricts accepted for processing by the Commission prior to September 1, 2012; activities not requiring Maine Department of Environmental Protection review under the Site Location of Development Law and development within D-PD subdistricts accepted for processing after September 1, 2012; that does not require review under Site Law; and exploration, as defined in the Maine Metallic Mineral Mining Act, within D-PD subdistricts.

10.27 ACTIVITY-SPECIFIC STANDARDS

C. MINERAL EXPLORATION AND EXTRACTION

Mineral exploration and extraction activities for non-metallic minerals that are not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

Mineral exploration and extraction activities for metallic minerals are not subject to the following subsections. Metallic mineral exploration and extraction are subject to Chapter 13, Metallic Mineral Exploration and Certification of Advanced Exploration and Mining, including but not limited to the standards for metallic mineral exploration in that chapter.

The following ~~standards~~requirements for mineral exploration and extraction activities for non-metallic minerals shall apply in all subdistricts except as otherwise hereinafter provided:

- 1. Mineral Exploration.** The following ~~standards~~requirements shall apply to mineral exploration activities for non-metallic minerals:

- a. All excavations, including test pits and holes, shall be promptly capped, refilled or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety.
- b. Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of a flowing water, body of standing water, tidal water, or wetland identified as a P-WL1 subdistrict:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
<30	75
30	85
40	105
50	125
60	145
70	165

Table 10.27,C-1. Unscarified filter strip width requirements for exposed mineral soil created by mineral exploration activities or associated access ways.

The provisions of Section 10.27,C,1,b apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of Section 10.27,C,1,b do not apply where access ways cross such waters.

- c. Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by P-SL2 subdistricts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 10.27,D,2 and 5, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
 - d. Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.
 - e. In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all area of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.
2. **Mineral Extraction.** The following ~~standards-requirements~~ shall apply to mineral extraction activities for non-metallic minerals in all subdistricts:
- a. A vegetative buffer strip shall be retained between the ground area disturbed by the extraction activity and:
 - (1) 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, any flowing water draining less than 50 square miles, tidal water, or wetland identified as a P-WL1 subdistrict; and

- (2) 100 feet of the normal high water mark of any body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
- b.** No portion of any ground area disturbed by the extraction activity shall be closer than 250 feet from any public roadway, or 250 feet from any property line in the absence of the prior written agreement of the owner of such property.
- c.** Within 250 feet of any water body the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.

Any such control device shall be deemed part of the extraction area for the purposes of Section 10.27,C,2,a, above;

- d.** A natural vegetative screen of not less than 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and
- e.** If any mineral extraction operation located within 250 feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter.