

A bill for an act
relating to natural resources; providing standards for prevention of water
contamination by nonferrous metallic mineral mining operations; specifying
financial assurance instruments required of nonferrous metallic mineral mining
owners; proposing coding for new law in Minnesota Statutes, chapter 93.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[93.491] FINANCIAL ASSURANCE OF NONFERROUS METALLIC
MINERAL MINING OPERATOR.**

Subdivision 1. **Financial assurance.** (a) The commissioner may issue a permit to
a nonferrous metallic mineral mining facility only upon determining that the owner or
operator has demonstrated adequate financial assurance to the commissioner as provided
by this subdivision.

(b) The commissioner shall establish the amount of financial assurance adequate
to ensure protection of the public and natural resources during the operation of the mine
and in the performance of closure and postclosure care of closed nonferrous metallic
mineral mining operations.

Subd. 2. **Closure and postclosure responsibility and liability.** An owner or
operator of a nonferrous metallic mineral mining facility is responsible for closure of the
facility and postclosure care relating to the facility. If an owner or operator fails to provide
the required closure or postclosure care of the facility the commissioner may take action
according to rules adopted by the commissioner. The owner or operator is liable for the
costs of the closure and postclosure care taken by the commissioner.

Subd. 3. **Financial assurance rules.** (a) The commissioner shall adopt rules
requiring the owner or operator of a nonferrous metallic mineral mining facility to submit
to the commissioner proof of the owner's or operator's financial capability to provide:

- (1) reasonable and necessary response during the operating life of the facility; and
(2) necessary closure and postclosure care following closure of the facility.

(b) The amount of financial assurance required from nonferrous metallic mineral mine owners as a condition to receive an original permit or a permit for expansion shall be based on the contingency reclamation cost estimates established by rules adopted by the commissioner.

(c) The rules governing the financial assurance requirements may be satisfied if an owner or operator, prior to issuance of a permit for nonferrous metallic mineral mining activity, provides any one or more of the following:

(1) a trust fund established according to rules adopted by the commissioner;

(2) a surety bond or other form of insurance guarantee issued by a corporate surety authorized to do business in this state;

(3) an irrevocable, nonexpiring letter of credit in favor of the state of Minnesota issued by a bank authorized to do business in the United States;

(4) a certificate of deposit; or

(5) proof of adequate self-insurance that meets the financial tests established by rules adopted by the commissioner.

(d) Each financial assurance instrument must be in a form that ensures the instrument will not become an asset of a bankruptcy estate or subject to discharge in a bankruptcy proceeding.

(e) When examining the adequacy of the amount of financial assurance required for permitting nonferrous metallic mineral mining operations, the commissioner shall consider any risks indicated by the financial records of the operator and the operator's parent companies and adjust the amount of financial assurance required accordingly.

(f) Proof of financial responsibility is required from the owner or operator of a facility receiving an original permit or a permit for expansion after the effective date of the rules adopted under this section.

(g) Within 180 days of the effective date of rules adopted under this section or by January 15, 2009, whichever is later, proof of financial responsibility is required from an owner or operator of a nonferrous metallic mineral mining facility in operation at the time the rules are adopted. Compliance with the rules and the requirements of paragraph (b) is a condition of obtaining or retaining a permit to operate the facility.

Subd. 4. Annual review. The commissioner shall annually review the extent of each owner's or operator's financial assurance under this section and shall make adjustments necessitated by any changes to the owner's or operator's nonferrous metallic mineral mining operation or costs.