

CHAPTER 6125
DEPARTMENT OF NATURAL RESOURCES
MINERAL RESOURCES

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**PERMITS AND LEASES FOR METALLIC MINERALS, EXCEPT
IRON ORES AND TACONITE ORES**

6125.0100 PURPOSE.

The purpose of parts 6125.0100 to 6125.0700 is to promote and regulate exploration for, mining, and removing ores that are primarily valuable for their metallic minerals content, and the rules hereunder shall be construed to carry out that purpose.

Statutory Authority: *MS s 93.08 to 93.12; 93.25*

History: *12 SR 2512; 19 SR 2434*

6125.0200 DEFINITIONS.

Subpart 1. **Scope of terms.** For purposes of parts 6125.0100 to 6125.0700, the following words have the meanings given them.

Subp. 1a. **Associated mineral products.** "Associated mineral products" means those intermingled or associated materials and substances recovered from each ton of crude ore mined from the mining unit that are excluded from the definition of metallic minerals.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of natural resources of the state of Minnesota, or the commissioner's designated representative.

Subp. 2a. **Metallic minerals.** "Metallic minerals," whether singular or plural, means any mineral substances of a metalliferous nature, except iron ores and taconite ores.

Subp. 3. **Mining unit.** "Mining unit" means the land and water area designated as such by the commissioner, wherein the state owns an interest in the minerals and mineral rights.

Subp. 4. **Ton.** "Ton" means 2,000 pounds avoirdupois after removal of all free moisture from the material weighed, by drying at 212 degrees Fahrenheit.

Subp. 5. **Troy ounce.** "Troy ounce" means a unit of mass equal to 480 grains or 31.1035 grams or 1.0971 avoirdupois ounces.

Statutory Authority: *MS s 93.08 to 93.12; 93.25*

History: *12 SR 2512*

6125.0300 [Repealed, 19 SR 2434]

6125.0400 LEASES.

The commissioner, with the approval of the state Executive Council, may issue leases to explore for, mine, and remove metallic minerals on lands where an interest in the minerals is owned by the state, including trust fund lands, land forfeited for nonpayment of taxes and held in trust by the state, lands where severed mineral interests have forfeited under Minnesota Statutes, section 93.55, lands where severed mineral interests have been otherwise acquired, lands where severed mineral interests may be leased by the commissioner under Minnesota Statutes, section 93.55, subdivisions 1a and 3, the beds of public waters, and lands otherwise acquired that have been designated by the commissioner as mining units. Each lease shall cover one mining unit. No lease shall be issued for a term longer than 50 years.

Statutory Authority: *MS s 93.08 to 93.12; 93.25*

History: *12 SR 2512; 19 SR 2434*

6125.0410 QUALIFICATION TO HOLD LEASE AND AUTHORIZATION TO CONDUCT GEOLOGICAL DATA GATHERING ACTIVITIES.

The right to apply for, acquire, and hold a lease to prospect for, mine, and remove metallic minerals owned by the state, and the right to apply for and to hold an authorization to conduct geological data gathering activities, are subject to items A and B.

A. The applicant is qualified to do business in Minnesota as shown by:

- (1) if a corporation organized under the laws of Minnesota, a certificate of incorporation from the secretary of state's office;
- (2) if a corporation organized under the laws of any state other than Minnesota or another country, a certificate of authority to transact business in Minnesota from the secretary of state's office;
- (3) if a limited partnership, a certificate of limited partnership from the secretary of state's office;
- (4) if an individual, proof of United States citizenship and of legal age; or
- (5) if a general partnership or other business entity, evidence that the general partners or individuals controlling the business entity meet the requirements in this part.

B. The applicant is qualified to conduct exploratory borings in Minnesota by fulfilling the requirements of Minnesota Statutes, section 103I.601, subdivision 3.

The commissioner may request additional evidence that the applicant is technically and financially capable of performing under the terms of a state minerals lease or an authorization to conduct geological data gathering activities and that the applicant has shown the capability to comply with environmental laws and permits. Such evidence may include but is not limited to a corporate report, an audited financial statement, resumes of corporate officers, and evidence of past compliance with environmental laws and permits in this or other states or in other countries. If such evidence is requested, the applicant must submit the evidence within 45 days of receipt of the request.

Statutory Authority: *MS s 93.08 to 92.12*

History: *19 SR 2434*

6125.0420 NOTICES OF PUBLIC LEASE SALES, NEGOTIATED LEASES, AND PREFERENCE RIGHTS LEASES.

The commissioner shall maintain a list of all persons who have registered with the department for the purpose of receiving notices of public lease sales, the filing of applications for negotiated leases, and notices of intent to offer lands available through preference rights leasing. The department may inquire as to whether those persons on the list wish to maintain their names on the list and may remove names for which there is a negative reply or no reply within 60 days.

When the commissioner publishes a notice under part 6125.0500, subpart 1, or 6125.0610, subpart 2, or receives an application under part 6125.0600, a copy of the notice or application shall be sent to all persons registered with the department to receive the notices.

Statutory Authority: *MS s 93.08 to 92.12*

History: *19 SR 2434*

6125.0500 PUBLIC SALE OF LEASES.

Subpart 1. **Time, place, and notice.** Except as otherwise expressly provided by law, or as otherwise provided in parts 6125.0600 and 6125.0610, leases to explore for, mine, and remove metallic minerals owned by the state shall be issued only upon public sale authorized by the commissioner.

The public sale of leases shall be held at such times and places as may be designated by the commissioner. The commissioner shall give public notice of intent to hold a public sale by publication in the State Register and the EQB Monitor and such other publications as the commissioner may direct at least 90 days prior to the proposed date of sale. The commissioner shall give public notice of each sale by publication for three successive weeks in a qualified newspaper that has its known office of issue in the county seat of the county in which the mining units to be leased are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board of that county. The first publication shall be at least 30 days before the date of sale. Like notice shall be published in the State Register and the EQB Monitor and may be published in additional newspapers and trade magazines as the commissioner may direct. Each notice shall contain the following information:

- A. time and place of holding the sale;
- B. the place or places where the list of mining units to be offered for sale will be available for purchase or inspection, and where bid forms may be obtained; and
- C. such other information as the commissioner may direct.

Subp. 2. **Mining unit books.** Those interested in obtaining a copy of the mining unit book may obtain one by submitting a request to the commissioner. The request must be accompanied by a check or money order, payable to the Department of Natural Resources, in the amount specified by the commissioner, based on copying and mailing costs, as a fee for a mining unit book. Unit books will be available for inspection at the Hibbing and Saint Paul offices of the Division of Minerals, Department of Natural Resources.

Subp. 3. **Bids.** Bids shall be submitted on a form obtained from the commissioner. The bid form must require identification of which mining units, as designated in the mining unit book, are being bid upon. The bid form will also require identification of the additional bid royalty rate offered for each mining unit being bid upon. Each bid form must be accompanied by a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources, in the sum of the following amounts:

- A. an application fee of \$100 for each mining unit being bid upon; and
- B. rental for one full calendar year for each mining unit being bid upon. For the purposes of the bid, the rental is calculated at \$1.50 per acre times the gross acreage of the lands offered for lease. The remaining rentals, due at the time the lease is issued, shall be due upon the effective date of the lease.

The bid form, together with the certified check, cashier's check, or bank money order, shall be submitted in a sealed envelope marked CONFIDENTIAL – BIDS FOR STATE MINERAL LEASES. Each sealed bid envelope shall be delivered in person or by mail to the commissioner at Saint Paul, Minnesota. Bids may be submitted at any time before 4:30 p.m., Saint Paul, Minnesota time, on the last business day before the day specified for the opening of the bids, and no bids submitted after that time shall be considered. Upon receipt, the commissioner shall endorse upon each sealed bid envelope the exact time of presentation and preserve the same, unopened in the commissioner's office.

At the time specified, the commissioner shall then publicly open the bids and announce the amount of each bid separately. The commissioner shall request each high bidder to provide evidence the bidder is qualified to hold state mineral leases pursuant to part 6125.0410. The evidence must be provided within 45 days of the request from the commissioner or the bids from that high bidder will be rejected.

Subp. 4. **Issuance of leases.** Leases shall be awarded by the commissioner, with the approval of the state Executive Council, to the highest bidder for the respective mining units, but no bids shall be accepted that do not equal or exceed the base royalty rates in part

6125.0700. The right is reserved to the state, through the Executive Council, to reject any or all bids. Tie bids will be resolved by the commissioner, with the approval of the state Executive Council, by the random drawing of the name of one tied bidder from a pool comprised of the names of all the tied bidders. Upon the award of a lease, the application fee submitted with the bid shall be deposited with the commissioner of finance as a fee for the lease. All bids not accepted shall become void, and the application fee and rental payment accompanying the bids shall be returned to the respective bidders; provided, however, the application fee and rental payment accompanying a bid shall not be returned if the bidder was the high bidder and subsequently withdrew the bid prior to the awarding of a lease.

Statutory Authority: *MS s 93.08 to 93.12; 93.25*

History: *12 SR 2512; 19 SR 2434; L 2003 c 112 art 2 s 50*

6125.0600 NEGOTIATED LEASES.

Subpart 1. **Purpose and eligibility for negotiated leases.** When the commissioner finds that the best interests of the state will be served and the circumstances in this subpart exist, the commissioner, with the approval of the Executive Council, may issue a lease to explore for, mine, and remove metallic minerals through negotiations, to an applicant qualified under part 6125.0410.

A lease may be issued through negotiations under any of the following circumstances:

A. the state's mineral ownership interest in the lands to be leased is an undivided fractional interest and the applicant holds under control a majority of the remaining undivided fractional metallic mineral interests in the lands to be leased;

B. the applicant holds a state metallic minerals lease covering other lands within the same government section of land;

C. the applicant holds, within one-half mile of the requested lands to be leased, a state metallic minerals lease or a private metallic minerals lease and no other party holds a state metallic minerals lease covering land within the same government section of land where the requested lands to be leased are located; or

D. the lands to be leased contain an identified mineral resource, and the applicant holds under its control the majority of the same type of minerals in the remaining lands containing the identified mineral resource.

Subp. 2. **After acquired or later identified state mineral ownership.** The state may acquire additional mineral ownership in a government section where its mineral interests are held under a metallic minerals lease or there may be identification of additional state mineral ownership not known at the time the state mineral ownership in that government section of land was leased. When an applicant applies for a negotiated lease under these circumstances and the commissioner determines it is in the best interests of the state to issue a negotiated lease to the applicant, the royalty rate for the newly acquired or identified lands shall be the same as that contained in the state mineral lease held by the applicant if there has been no new drilling or production since the state metallic minerals lease was issued under parts 6125.0100 to 6125.0700.

Subp. 3. **Application for negotiated lease.** Applications for a negotiated lease shall be submitted on a form obtained from the commissioner and shall contain information as the commissioner may prescribe. The applicant shall submit with the application a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources in the sum of \$100 as a fee for filing the application. The application fee will not be refunded under any circumstances.

The right is reserved to the state to reject any or all applications for negotiated leases.

Subp. 4. **Issuance of lease.** The leases so issued shall be in the form set forth in part 6125.0700, with such additional terms and conditions consistent with the lease as may be agreed upon. The rental and royalty rates agreed upon shall be not less than those prescribed in part 6125.0700.

No lease shall be issued under this part for the removal of metallic minerals from any mining unit for which notice of public sale has been published, until the public sale has been held.

Statutory Authority: *MS s 93.08 to 93.12; 93.25*

History: *12 SR 2512; 19 SR 2434*

6125.0610 PREFERENCE RIGHTS LEASES.

Subpart 1. **Purpose.** When the commissioner determines the best interests of the state will be served, the commissioner may establish a list of mining units available for preference rights leasing through application. Mining units may only be included in the preference rights lease availability list if they do not contain an identified mineral resource and the area is not being explored by multiple parties.

Subp. 2. **Compilation of preference rights lease availability list.** Mining units may be included in a preference rights lease availability list only if they meet all of the following criteria:

A. the mining unit has been offered at a public metallic minerals lease sale held under parts 6125.0100 to 6125.0700 after December 31, 1994;

B. the mining unit has been offered at a public metallic minerals lease sale held under parts 6125.0100 to 6125.0700 within the last four years;

C. the mining unit does not contain an identified mineral resource;

D. state metallic minerals leases are not in effect within three miles of the mining unit, unless the state metallic minerals leases are held by only one party;

E. a state metallic minerals lease is not in effect for other lands in the same government section of lands as covered by the mining unit under consideration; and

F. the mining unit is not within an area being offered at a public metallic minerals lease sale, as identified through a published notice of intent to hold a public metallic minerals lease sale.

Parties may submit to the commissioner suggestions of mining units to be considered for inclusion on the preference rights lease availability list.

Prior to including selected mining units on the preference rights lease availability list, the commissioner shall give public notice of intent to offer mining units available through preference rights leasing. The public notice shall be published in the State Register, the EQB Monitor, and a qualified newspaper that has its known office of issue in the county seat of the county in which the mining units to be included on the preference rights lease availability list are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board of that county. Like notice may be published in other publications as the commissioner may direct. The notice shall be published at least 30 days prior to including the selected mining units on the preference rights lease availability list.

The commissioner may add mining units to the preference rights lease availability list only on the first business day of each month. The commissioner may withdraw mining units from the preference rights lease availability list at any time. Mining units shall be deemed withdrawn from the preference rights lease availability list without any further action by the commissioner as soon as the mining units no longer meet the criteria to be included on the list.

A written record must be maintained of the date and time of all additions and withdrawals from the preference rights lease availability list.

Subp. 3. **Preference rights lease availability list.** The preference rights lease availability list must be maintained and available for inspection in the office of the Division of Minerals, Department of Natural Resources, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045.

Those interested in obtaining a copy of the preference rights lease availability list may obtain one by submitting a request to the commissioner. The commissioner shall charge a fee for each copy of the list based on copying and mailing costs.

Subp. 4. **Application for preference rights lease.** Application for a preference rights lease shall be submitted on a form obtained from the commissioner and shall contain information the commissioner may prescribe. The applicant shall submit with the application evidence that the applicant is qualified to hold a mineral lease as specified in part 6125.0410. The applicant shall submit with the application a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources, in the sum of the following amounts:

A. an application fee of \$100 for each mining unit for which a preference rights lease is requested; and

B. rental for one full calendar year for each mining unit for which a preference rights lease is requested. For the purposes of this payment, rental is calculated at \$1.50 per acre times the gross acreage of the lands for which a preference rights lease is requested. The remaining rentals, due at the time the lease is issued, shall be due upon the effective date of the lease.

If the application for a preference rights lease is rejected, the rental payment accompanying the application shall be returned to the applicant. The application fee will not be refunded under any circumstances.

Applications may be submitted in person or by mail to the office of the Division of Minerals, Department of Natural Resources, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045. Applications will only be accepted during the hours of 8:30 a.m. to 4:00 p.m. on regularly scheduled business days. Applications received at any other time will not be officially accepted until the next regularly scheduled business day, and the commissioner assumes no responsibility for applications submitted in person at any time other than the time specified in this subpart. Applications will not be accepted by facsimile transmission.

Subp. 5. **Commissioner's review of application.** Within ten days after receipt of an application, the commissioner will send written acknowledgment that the application was received. The commissioner must review the application to determine if:

A. the application was completed and signed;

B. the application fee was submitted; and

C. evidence of qualification to hold a state lease, as specified in part 6125.0410, was submitted.

The applicant must also be advised if additional evidence is required by the commissioner to determine if the applicant is qualified to hold a state lease as specified in part 6125.0410.

Subp. 6. **Rejection of application.** Applications for preference rights leases will be rejected by the commissioner under the following circumstances:

A. the application was not completed or signed;

B. the application fee was not submitted;

C. the applicant failed to submit evidence of qualification to hold a state lease as specified in part 6125.0410, or the applicant failed to submit additional evidence, within 45 days of receipt of the commissioner's request, as to qualification to hold a state lease as specified in part 6125.0410;

D. there was a simultaneous filing of applications for a preference rights lease on the same mining unit and more than one of the applicants meets the requirements of part 6125.0410. For the purpose of parts 6125.0100 to 6125.0700, "simultaneous filings" means filings that arrive in the mail or in person on the same day;

E. an application for a preference rights lease was filed on a prior day for the same mining unit and the commissioner has determined that the prior applicant meets the requirements of part 6125.0410, and the prior application is not rejected pursuant to this part;

F. the mining unit was not on the preference rights lease availability list at the time of the application; or

G. the mining unit had been deemed withdrawn from the preference rights lease availability list prior to the time of application because the mining unit no longer met the criteria to be included on the preference rights lease availability list.

Prior to filing an application for a preference rights lease, any party may contact the commissioner for information as to whether the circumstances described in this part exist as to the mining units the party is interested in for a lease. Prior to filing an application for a preference rights lease, any party may contact the commissioner for a review of the party's qualification to hold a mineral lease as specified in part 6125.0410.

The right is reserved to the state to reject any or all applications for preference rights leases. However, if the commissioner rejects the application based on item D, then no preference rights lease may be issued for the mining unit until after it has first been offered at public lease sale.

Subp. 7. Issuance of leases. A lease shall be awarded by the commissioner, with the approval of the state Executive Council, to the first qualified applicant who files an application that is not rejected pursuant to subpart 6. The preference rights leases so issued shall be in the form set forth in part 6125.0700. The rental and royalty rates shall not be less than those prescribed in part 6125.0700.

Subp. 8. Report to state Executive Council. The commissioner must provide annual reports to the state Executive Council on the use and results of the preference rights leasing system.

Statutory Authority: *MS s 93.08 to 92.12*

History: *19 SR 2434*

6125.0620 AUTHORIZATION TO CONDUCT GEOLOGICAL DATA GATHERING ACTIVITIES.

As an alternative to applying for a state mineral lease, any party may apply to the commissioner for authorization to conduct geological data gathering activities on state-owned land. The applicant must meet the qualifications to hold an authorization to conduct geological data gathering activities as specified in part 6125.0410.

For the purposes of this authorization, geological data gathering activities include geophysical and geochemical activities, sampling of glacial overburden, and the sampling and drilling of bedrock, provided that any drilling and sampling of bedrock is limited to a maximum penetration of 20 feet into bedrock. Each authorization granted by the commissioner is limited to the size of one township, or portion of the township. The fee for each authorization is \$100. The authorization does not grant any rights to a mineral lease and is nonexclusive.

Statutory Authority: *MS s 93.08 to 92.12*

History: *19 SR 2434*

6125.0700 FORM OF LEASE.

The form of lease for exploration for, mining, and removing metallic minerals belonging to the state shall consist of the following provisions, with insertions, changes, or additions as may be necessary to incorporate the royalty rates and other particulars applicable to each lease as may be authorized under parts 6125.0100 to 6125.0700:

This lease agreement is entered into on the _____ day of _____, _____. The parties to this lease are the State of Minnesota, called the state, and _____, called the lessee.

1. Term; description of mining unit. The state, in consideration of the sum of _____ Dollars, paid by the lessee, being the rental provided in this lease for the unexpired portion of the current calendar year and for the next succeeding two (2) calendar years, the receipt whereof is hereby acknowledged, and in further consideration of the covenants and conditions of this lease to be performed by the lessee, agrees to lease to the lessee for a term of _____ (____) years beginning the _____ day of _____, _____, the following-described mining unit, situated in the county of _____, in the State of Minnesota:

2. Definitions. For the purposes of this lease, the following words have the meanings given them:

a. "Associated mineral products" means those intermingled or associated materials and substances recovered from each ton of crude ore mined from the mining unit that are excluded from the definition of metallic minerals.

b. "Commissioner" means the commissioner of natural resources of the state of Minnesota, or the commissioner's designated representative.

c. "Metallic minerals," whether singular or plural, means any mineral substances of a metalliferous nature, except iron ores and taconite ores.

d. "Ton" means 2,000 pounds avoirdupois after removal of all free moisture from the material weighed, by drying at 212 degrees Fahrenheit.

e. "Troy ounce" means a unit of mass equal to 480 grains or 31.1035 grams or 1.0971 avoirdupois ounces.

3. Use of surface of lands. The mining unit is leased to the lessee for the purpose of exploration for, mining, and removing ores primarily valuable for metallic minerals content that are found on or in the mining unit.

The lessee has the right to construct or make buildings, excavations, openings, ditches, drains, railroads, roads, and other improvements on the mining unit as necessary or suitable for those purposes. All buildings and ditches must be constructed according to applicable local ordinances. The locations of railroads, roads, and other improvements are subject to review by the commissioner. The lessee has the right to mill and concentrate the ore so mined, either upon the mining unit or elsewhere, but the right to mill and concentrate does not include the right to reduce or smelt ore upon the mining unit without an agreement between the lessee and the commissioner, authorizing that use of the surface of the land and providing for the necessary protection of life and property. The lessee may contract with others for doing any work authorized or required under this lease, or for the use of the mining unit or any part of it for the purposes of the lease, but no contract of this type relieves the lessee from any duty, obligation, or liability under the lease. No such contract providing for shipping, handling, or removal of ore bearing material becomes effective for any purpose until three executed duplicates of the contract have been filed with the commissioner.

4. State's right to lease iron ores, taconite ores, coal, oil, gas, and other liquid or gaseous hydrocarbon substances. The state reserves the right to lease or grant to other persons or corporations the right to explore for, mine, remove, and beneficiate iron ores, taconite ores, coal, oil, gas, and other liquid or gaseous hydrocarbon substances, that are located in the mining unit. The state agrees that any permit or lease granted by it to any person or corporation to explore for, develop, mine, or dispose of the iron ores, taconite ores, coal, oil, gas, and other liquid or gaseous hydrocarbon substances shall contain a provision that the permittee or lessee shall exercise those rights so as not to cause any unnecessary or unreasonable injury or hindrance to the operations of the lessee of this lease in the exploration for, or the development, mining, or removal of metallic minerals other than iron ores, taconite ores, coal, oil, gas, and other liquid or gaseous hydrocarbon substances covered by that permit or lease. The lessee of this lease agrees that it will exercise the rights granted to it by this lease in such manner as not to cause any unnecessary or unreasonable injury or hindrance to the operations of any permittee or lessee of the state in the exploration for, or the development, mining, or removal of iron ores, taconite ores, coal, oil, gas, and other liquid or gaseous hydrocarbon substances.

Written notice shall be provided by the commissioner to the lessee whenever the commissioner is planning to issue a mineral lease according to the rights reserved under this paragraph. The commissioner must meet with the lessee to obtain information for terms and conditions under which multiple mineral development could occur.

5. State's right to lease surface and sell timber. The state reserves the right to sell and dispose of all the timber upon the mining unit without hindrance from the lessee and according to the law now or hereafter governing the sale of timber on state lands, and reserves to the state and to the purchaser of the timber, and the purchaser's agents, the right at all times to enter the mining unit, and to cut and remove timber from it according to the terms of the purchaser's permit from the state. The timber purchaser shall not unduly interfere with the exploration or mining operations. The state further reserves the right to grant leases, permits, or licenses to any portion of the surface of the mining unit to any person, partnership, corporation, or other association under the authority of Minnesota Statutes, section 92.50, or other applicable laws, after consultation with lessee. The surface leases, permits, or licenses shall not unduly interfere with the exploration or mining operations conducted on the mining unit.

6. Annual rental. The lessee agrees to pay to the state rental for the mining unit at the rate of \$1.50 per acre of land and water area included in the mining unit, per calendar year, payable in advance, for the unexpired portion of the current calendar year from the effective date of this lease and for the next succeeding two calendar years; and after that time at the rate of \$5 per acre per calendar year, payable quarterly for the three succeeding calendar years; and after that time at the rate of \$15 per acre per calendar year, payable quarterly for the five succeeding calendar years; and after that time at the rate of \$30 per acre per calendar year, payable quarterly for the remainder of the term of this lease.

The mining unit may include lands where an interest in the minerals is owned by the state, including trust fund lands, land forfeited for nonpayment of taxes and held in trust by the state, lands where severed mineral interests have forfeited under Minnesota Statutes, section 93.55, lands where severed mineral interests have been otherwise acquired, lands where severed mineral interests may be leased by the commissioner under Minnesota Statutes, section 93.55, subdivisions 1a and 3, the beds of public waters, and lands otherwise acquired. Any amount paid for rental, at the time of payment, shall be allocated to the proper fund as determined by the mineral ownership.

Any amount paid and accrued for rental in excess of the rate of \$5 per acre per year for any calendar year shall be credited on any royalty that may become due for ore removed under this lease during the same calendar year in which the rental was due but no further, and only to the extent that the rental was paid or deposited into the particular fund to which the royalty for the ore is due. Any amount paid for royalty in excess of rental at the rate of \$5 per acre per year for any calendar year must be credited on rental, if any, subsequently accruing for that same calendar year but no further, and only to the extent that the royalty was paid or deposited into the particular fund to which the rental is due.

Rental payments must be made on or before May 20, August 20, November 20, and February 20 for the previous calendar quarters. The first calendar quarter is the first three calendar months of the year, and so on. Any rental payments not received by the date due are subject to interest at the rate of six percent per year from the due date.

When the lessee exercises the right under paragraph 30 of this lease to surrender any part or parts of the mining unit, the annual rental payment may be discontinued as to those parts for all subsequent calendar years; however, the rentals paid on the parts surrendered must not be credited on any royalties due for ore removed from that part of the mining unit which remains under lease.

Where the state owns only a fractional undivided interest in the minerals in any portion of the mining unit, only that fractional part of the rentals and royalties established in this lease shall be paid for that portion.

If at any time during the term of this lease it is determined in a proper proceeding that the state does not own the minerals in a part of the area included in the mining unit, the commissioner shall delete from the description of the mining unit the part not owned by the state, and only if that determination is made prior to the fifth anniversary date of this lease is the lessee entitled to a refund, or in the case of tax forfeited minerals to receive credit on future payments due the same fund, for payments made to the state on that part prior to the determination. If the commissioner deems it necessary, additional time to make the determination may be granted.

7. Tonnage for royalty purposes. Royalty must be computed on the dry weight of the crude ore. The dry weight of the crude ore shall be calculated from natural crude ore weights and moisture percentages from samples taken at the time the crude ore is weighed.

8. Royalty.

a. The royalty to be paid to the state by the lessee for the metallic minerals and associated mineral products recovered from each ton of ore mined from the mining unit is the sum of the base rate described in this paragraph and an additional bid rate of ___ percent multiplied by the net return value of the metallic minerals and associated mineral products recovered from each ton of dried crude ore.

b. The base rate must not be less than 3.95 percent nor more than 20 percent and varies with the net return value of the metallic minerals and associated mineral products recovered

from each ton of ore mined from the mining unit. The base rate must be determined from the Base Royalty Rate Table which is found in Exhibit A and which is made a part of this lease.

c. If in any month: (1) the net return value of the metallic minerals and associated mineral products recovered from each ton of dried crude ore mined from the mining unit exceeds \$75; and (2) the unadjusted Producer Price Index for All Commodities (1982 equals 100), as originally published (unrevised) by the Bureau of Labor Statistics of the United States Department of Labor, or any succeeding federal government agency publishing the Index, in the monthly publication titled Producer Price Indexes, for the first month in the calendar quarter for which royalty payment is to be made, exceeds 121.5, which was the originally published (unrevised) level of the index for November 1994 (hereinafter called the "Base Index"), then an adjustment to the base rate must be computed in the manner hereinafter provided.

The adjustment to the base rate must be computed by multiplying \$75 by a fraction, the denominator of which is the Base Index and the numerator of which is equal to the amount by which the Producer Price Index for All Commodities for the month in question exceeds the Base Index. The resulting products must be carried to four decimal places and then rounded to the nearest one-hundredth of a dollar. The difference between this rounded product and the net return value must then be determined. The Royalty Base Rate Table must be referred to and the difference resulting from this computation must be used instead of the net return value to determine the base rate.

For example, the Base Index under this lease is 121.5 and if the Producer Price Index for All Commodities for January 1996 was 132.7, the adjustment to the base rate would be computed as follows:

$$\begin{array}{r} \$ 75 \times (132.7 - 121.5) \\ \hline 121.5 \end{array} = \$6.9136, \text{ rounded to } \$6.91$$

If the net return value of the metallic minerals and associated mineral products recovered from each ton of dried crude ore equalled \$85, then the difference between the net return value and \$6.91 would be computed as follows:

$$\$85 - 6.91 = \$78.09$$

The resulting difference of \$78.09 would then be used instead of the net return value to determine the base rate.

If some period other than 1982 is used as a base of 100 in determining the Producer Price Index for All Commodities, for the purposes of this lease provision the index must be adjusted so as to be in correct relationship to the 1982 base. In the event the index is not published by any federal agency, the index to be used as previously provided must be the index independently published, which, after necessary adjustments, if any, provides the most reasonable substitute for the Producer Price Index for All Commodities during any period after November 1994, it being intended to substitute an index that most accurately reflects fluctuations in the prices of commodities in the all commodities index in the manner presently reported by the Producer Price Index for All Commodities (1982 equals 100), published by the Bureau of Labor Statistics of the United States Department of Labor.

d. The lessee may apply to the commissioner and the commissioner may grant the lessee a partial deferral of the lessee's obligation to pay royalties under this lease. Up to 50 percent of royalties due and payable less any credits against royalties as provided in paragraph 6, may be deferred by the commissioner. Any deferral granted applies only to the royalties due and payable during the first consecutive years, up to a maximum of the first five consecutive years, beginning with the first year that any royalties are due and payable under this lease, or to royalties due and payable during the first one-half of the expected operational life of the first mine established under this lease in the mining unit, whichever is less.

The amount of royalties deferred for each calendar quarter as provided above, plus interest at the rate of six percent per year, becomes finally due and payable on the future date that is determined by adding the total number of years of deferral granted under this section to the date on which royalties would have been due and payable had there been no deferral.

The commissioner in considering the lessee's application for deferral of royalties may consider factors including, but not limited to, the expected operational life of the mine producing the royalties, the express purposes for which the money deferred is proposed to be used by the lessee, the cash flow analysis of the mine, the amount of either the capital invested or to be invested, or both, by the lessee in exploration and mining operations under this lease, and the technical and financial capabilities of the lessee.

9. Net return value of metallic minerals and associated mineral products.

a. If the final metal product is recovered in a smelter, the net return value of metallic minerals and associated mineral products recovered from each ton of dried crude ore must be determined monthly as follows: Multiply the total pounds respectively of each metal and associated mineral product recovered during the month in the mill concentrate from the mining unit, by the average market price per pound respectively for that month of each fully refined metal and of each associated mineral product. Subtract from that total, the allowable charges, as later defined in this lease, to obtain the net return value of each metallic mineral and each associated mineral product. Add the net return values thus obtained for each metallic mineral and each associated mineral product for the month, and divide the sum by the total number of tons of dried crude ore from the mining unit concentrated in the mill during the month, to obtain the net return value of the metallic minerals and associated mineral products recovered from each ton of dried crude ore. The net return value must be carried to four decimal places and rounded to the nearest one-hundredth of a dollar.

The allowable charges in determining the net return value of metallic minerals and associated mineral products recovered in a smelter from each ton of dried crude ore are limited to the following:

(1) the base smelter treatment and refinery charges assessed by the smelter for treating each ton of the mill concentrate; and

(2) the smelter losses, refinery losses, and penalties for impurities that are deducted from the assay or market values to arrive at the gross payment to the lessee for each of the metallic minerals and associated mineral products paid for by the smelter.

b. If the final metal product is recovered in a hydrometallurgical process, or in a combination hydrometallurgical and pyrometallurgical process, the net return value of metallic minerals and associated mineral products recovered from each ton of dried crude ore must be determined monthly as follows: Multiply the total pounds respectively of each metal and associated mineral product recovered from the mining unit during the month in the final metal product from a hydrometallurgical process or a combination hydrometallurgical and pyrometallurgical process by the average market price per pound respectively for that month of each fully refined metal and of each associated mineral product. Subtract from that total the allowable charges, as later defined in this lease, to obtain the net return value of each metallic mineral and each associated mineral product. Add the net return values thus obtained for each metallic mineral and each associated mineral product for the month, and divide the sum by the total number of tons of dried crude ore from the mining unit processed by hydrometallurgy or by a combination of hydrometallurgy and pyrometallurgy during the month to obtain the net return value of the metallic minerals and associated mineral products recovered from each ton of dried crude ore. The net return value must be carried to four decimal places and rounded to the nearest one-hundredth of a dollar.

As used in this lease for the purpose of determining the net return value of metallic minerals, "hydrometallurgy" means that phase of metallurgy which involves the extraction and recovery of metals using aqueous or organic solutions, and "pyrometallurgy" means that phase of metallurgy which involves the extraction and recovery of metals using heat. The unit processes of hydrometallurgy include the leaching of ores or concentrate for recovery of metals, the separation of the leaching solution from the spent ore, and the recovery of the dissolved metal from the leaching solution.

The allowable charges in determining the net return value of metallic minerals and associated mineral products recovered in a hydrometallurgical process or a combination hydrometallurgical and pyrometallurgical process are limited to the following: charges attributable to recovery of dissolved metal from the leaching solution by chemical purification, pressurization, roasting of concentrate, melting of concentrate, filtration, absorption, solvent extraction, evaporation, distillation, electrolysis, ion exchange, or precipitation. The charges

attributable to the direct leaching of ores for recovery of metals, or to the separation of the leaching solution from the spent ore, are nonallowable charges.

c. When metallic minerals and associated mineral products recovered during the month are sold during the same month, only those metallic minerals and associated mineral products recovered that are actually paid for by the smelter, refiner, or other purchaser must be included as part of the metallic minerals and associated mineral products recovered during the month. When metallic minerals and associated mineral products recovered during the month are not sold during the same month, the net return value of the metallic minerals and associated mineral products recovered during the month must be adjusted, if necessary, at the time they are sold to reflect the market price at the time of sale, and to reflect any recovered metallic minerals and associated mineral products that are not actually paid for by a smelter, refiner, or other purchaser. Any prior payment of royalty that becomes an overpayment of royalty as a result of the adjustment of net return value under this paragraph is a credit against future royalty payments due under this lease.

d. Metallic minerals and associated mineral products sold by the lessee to a nonaffiliate shall be deemed sold at the time the metallic minerals and associated mineral products are delivered to the nonaffiliate. Metallic minerals and associated mineral products sold or transferred by lessee to an affiliate shall be deemed sold by lessee at the time of delivery to the affiliate and net return value must be calculated on the basis of the market prices at the time of the deemed sale of the metallic minerals and of the associated mineral products sold or transferred to the affiliate. Metallic minerals and associated mineral products retained by the lessee for its own internal use and consumption shall be deemed sold when they are removed from the mining unit and net return value must be calculated on the basis of the market prices at the time of the removal of the metallic minerals and of the associated mineral products retained for internal use and consumption. For the purpose of this lease "affiliate" means the lessee, or any business entity that is effectively owned or controlled directly or indirectly by the lessee or that directly or indirectly effectively owns or controls the lessee, or any business entity operated by or that operates the lessee.

e. If material is recovered and sold on a basis other than for the purpose of recovering the fully refined metals and the associated mineral products contained in the material, such as the recovery and sale of titanium dioxide for paint pigment uses, then the net return value of the material recovered and sold, for royalty calculation purposes, is subject to agreement between the commissioner and the lessee.

f. If the metallic minerals and associated mineral products are treated at a smelter or hydrometallurgical processing facility owned by, or directly or indirectly effectively controlled by, the lessee or its affiliate, or that the lessee or its affiliate operates or manages, then the allowable charges are equal to the allowable charges that the smelter or hydrometallurgical processing facility would assess or charge an unaffiliated third party desiring to have substantially similar metallic minerals and associated mineral products treated at the smelter or hydrometallurgical processing facility. If the smelter or hydrometallurgical processing facility owned by, operated by, or effectively controlled by the lessee or its affiliate does not provide treatment services to unaffiliated third parties, then the allowable charges are equal to the mean of the allowable charges assessed and charged for substantially similar metallic minerals and associated mineral products in contracts between unaffiliated parties. The lessee shall provide to the state certified copies of all smelter contracts, settlement sheets, and other agreements, to which the lessee is a party, which detail and describe the allowable charges under this lease to arrive at the net return value as defined in this lease. For purposes of such net return value determination, the state may disapprove and reject, in whole or in part, the lessee's smelter contracts, settlement sheets, and other agreements. Should the state reject the agreements or otherwise disagree with the allowable charges, the lessee has the burden of proof of substantiating the allowable charges.

g. The average market price of copper per pound for each month is that quoted for U.S. producers, cathode, as reported in Metals Week. The average market price of nickel per pound for each month is that quoted for N.Y. merchant, spot, as reported in Metals Week. The average market price of gold per troy ounce for each month is that quoted for London, 3:00 p.m., as reported in Metals Week. The average market price of silver per troy ounce for each month is that quoted for Handy & Harman, N.Y., as reported in Metals Week. The average

market price of zinc per pound for each month is that quoted for U.S. special High Grade, as reported in Metals Week. The average market price of lead per pound for each month is that quoted for U.S. and Canadian producers, as reported in Metals Week. The average market price of palladium per troy ounce for each month is that quoted for London p.m. fix, as reported in Metals Week. The average market price of platinum per troy ounce for each month is that quoted for London p.m. fix, as reported in Metals Week. The average market price of other metallic minerals and of associated mineral products per pound for each month shall be that quoted for the usual and customary shipping quantities, f.o.b. the usual and customary place of shipment, United States import duty (if any) included, as reported in Metals Week. If Metals Week does not or ceases to report an average monthly market price for any metallic mineral or associated mineral product, then the average monthly market price of that metallic mineral or associated mineral product is the arithmetic average of the daily market prices for the metallic mineral or associated mineral product for that month as reported in Metals Week. If Metals Week or its successors cease to furnish such quotations, or its quotations cease to be recognized in the trade, or a particular metallic mineral or associated mineral product is not listed, then the quotations of such other source as the parties may agree upon shall govern.

10. **Commingled ores.** The lessee has the right to commingle ore from the mining unit with other ore, either in the mine, in stockpile, in the mill, or in the smelter, but the ores must be kept entirely separate and distinct until their quantities and metal and mineral contents have been separately measured and determined. Ratios of concentration, percent mill recoveries, and any other factors necessary for determining the beneficiating amenability of the commingled ores, the allocation of values and the royalties, must be separately measured and determined by methods approved by the commissioner and shall be reported on a monthly basis. "Ratio of concentration" means the dry weight of the crude ore divided by the dry weight of the concentrate derived from the crude ore. "Percent mill recovery" means the dry weight of the metal in the concentrate divided by the dry weight of the metal in the crude ore, expressed as a percent.

11. **Quarterly payment on ore removed.** The lessee agrees to pay to the state, on or before May 20, August 20, November 20, and February 20 in each year during the period this lease continues in force, royalty at the rates specified in paragraph 8 for all of the ore removed from the mining unit during the previous calendar quarter. The lessee also agrees to pay to the state on or before May 20 of each year all royalty due and payable as a result of the adjustment to value of the metallic minerals and associated mineral products sold during the previous calendar year as provided for in paragraph 9b.

The lessee is liable for payment of royalty when due on all ore removed from the mining unit for concentration elsewhere or for any other purpose, from the actual time of removal; and if the royalty due on the ore is not determined and accounted for as provided by the next royalty payment date, the commissioner may determine the royalty by any method as the commissioner deems appropriate and consistent with the royalty rates set forth in this lease. Any amount paid for royalty must be allocated to the proper fund as determined by the mineral ownership. Any royalty payments not received by the date due are subject to interest at the rate of six percent per year from the due date.

12. **Lessee to transmit statement of ore removed and royalty due.** The lessee shall transmit to the commissioner with each royalty payment an exact and truthful statement of the tonnage and royalty value of the ore mined and removed from the mining unit during each of the three months for which the payment is made, and the amount of royalty due on the ore, separated as to the various state fund ownerships. The lessee shall provide for all the operations required for these determinations except as otherwise specified.

13. **Weighing.** The methods of obtaining the weights used to determine tonnage for the calculation of royalty, or to determine other weights required by the state, are subject to the approval of the commissioner.

14. **Sampling.** Samples for royalty purposes must be taken of the ores and their products at places and intervals subject to the approval of the commissioner. A portion of each sample or composite sample must be delivered to the commissioner unless, by mutual agreement, it has been decided that certain of such portions are not needed by the state. Except as otherwise permitted by the commissioner, all ore mined from this mining unit must be sampled and its weight determined before being commingled with any other ores.

Each royalty sample must be analyzed at the expense of the lessee by competent chemists or assayers approved in writing by the commissioner. The elements in the royalty sample for which analytical determinations will be made are subject to agreement between the commissioner and the lessee.

15. Monthly reports. Except as otherwise permitted by the commissioner, the lessee shall transmit within 20 days after the end of each calendar month, statements for that calendar month in the form the commissioner may require, covering the tonnages and analyses of the following: all material mined from the mining unit, all material milled from the mining unit, all material stockpiled from the mining unit, all concentrates produced from the mining unit, all material mined from any source and commingled with material from the mining unit, all commingled material concentrated, all commingled material stockpiled, all commingled concentrates produced during that calendar month, and such other information as may reasonably be required by the commissioner for the purpose of verifying the amount of royalty due.

The weight of ore as set forth in the monthly statements shall prima facie be binding as between the parties, but the state has the right to sample the ore, check the analyses, and inspect, review and test the correctness of the methods, books, records and accounts of the lessee in sampling, analyzing, recording, and reporting the weights, and to inspect, review, and test the correctness of the weights and scales and other equipment used in measuring the amount of ore, it being understood that any errors in these reports, when ascertained, shall be corrected.

16. Additional monthly and annual reports to be furnished by lessee; exploration; mine samples required. Except as otherwise permitted by the commissioner, in addition to other reports or statements required in this lease, the lessee shall furnish the following:

a. Copies of all exploration data, including, but not limited to, all logs and drill hole records; all maps and coordinates showing drill holes, geophysical grids, geochemical and geologic sampling, trenching, and survey data; all mineral analyses and assays; all chemical and analytical data and information; all laboratory test data; all geophysical, geochemical, and geologic records; all results of mine and metallurgical testings; and all periodic mine maps, analyses maps, cross-sections, and development plans. All material required under this subparagraph must be available to the commissioner, or the commissioner's representative, at all reasonable times. Copies must be submitted annually to the commissioner when the data is in the form customarily prepared for permanent record of the operations on the mining unit. Material available to and furnished to the commissioner under this subparagraph and subparagraph b. shall be considered confidential during the life of this lease or any extension of it.

b. At least a quarter portion of all exploration samples, and when requested by the commissioner in writing, a quarter portion of mine or mill samples. In the event that the lessee requires certain exploration samples in their entirety, the commissioner or the commissioner's representative may waive the requirement for a quarter portion of such exploration samples, provided that the lessee grants the state an opportunity to examine and classify such samples before they are crushed or processed.

c. A monthly report showing the estimated weights and analyses of all materials stockpiled, including lean ore, waste and tailings, and divided as to property of origin and deposition.

d. Certified copies of smelter statements, schedules, agreements, and settlement sheets or receipts from sales involving materials produced from this mining unit showing the product sold and factors relevant to the calculation of royalties.

e. Not later than March 1 of each year during the term of this lease, a summary statement of the tonnage of all ore mined and all ore milled from the premises and all ore materials placed in or removed from stockpile during the previous calendar year, divided as to the property of origin and the disposition of the ore materials and showing such analyses of them as the commissioner may require.

17. How remittances and reports are to be transmitted. All remittances by the lessee under this lease must be made payable to the Department of Natural Resources. All such remit-

tances and all reports, notices and documents required under this lease must be transmitted to the commissioner through the director of the division of minerals at Saint Paul, Minnesota.

18. State inspection; inspectors at plants and mines. The commissioner may at all reasonable times enter the mining unit and any other premises used or operated by the lessee in connection with the operation of the mining unit, inspect the operations conducted under this lease, and conduct such engineering and sampling procedures and other investigations as the commissioner may require, not unreasonably hindering or interrupting the operations of the lessee.

The lessee shall provide, upon written request of the commissioner, a suitable room in the dry or wash house or in some other suitable place on the mining unit or elsewhere when necessary, with water, light, and heat, all without cost to the state, for the use of state inspectors. The room must be at least equal in size and equipment to that customarily furnished for the use of the mine engineer.

Whenever royalties or rentals due the state are required to be distributed to more than one fund, or when ore from the mining unit is commingled with other ore, or when ore from the mining unit is concentrated at the same plant as other ore, the commissioner may appoint special inspectors as the commissioner considers necessary to insure proper accounting and protect the interests of the state. The lessee shall reimburse the state monthly for the cost of this inspection service upon notification by the commissioner.

19. Removal of ore for experimental purposes. Notwithstanding paragraph 11, upon written application of the lessee, the commissioner may authorize the removal of ore from the mining unit for experimental purposes without payment of royalty; and it is further understood that the removal of samples obtained by drilling, trenching, or testpitting, for the purposes of exploration, is not subject to the payment of royalty.

20. Stockpiled materials. All materials mined and not shipped from the mining unit remains the property of the state and shall be stockpiled only in such manner and on such sites as may be authorized by the commissioner in writing. When, however, the commissioner agrees that substantially all minerals of value have been extracted from the mill tailings, the material may be used for stope filling on the mining unit or elsewhere, and the tailings material used shall be considered abandoned, and title to the material shall revert to the mineral owners of the property in which it is deposited.

21. Reversion of title on land conveyed to the state for stockpiling purposes. When the commissioner determines that it is necessary and that the interests of the state will be fully protected, the lessee may convey land to the state upon the condition that it be used for the storage of ore or other materials having present or potential value belonging to the state. The commissioner may accept a conveyance that provides for the state's interest in the land to terminate and title to revert to the lessee when the land is no longer needed or used for storage of ore or other materials. No consideration shall be paid for the conveyance unless authorized by law.

22. Cross mining rights. The lessee is hereby granted the right to mine and remove any ores from the mining unit through any shafts, openings, or pits that may be made upon adjoining and nearby premises controlled by the lessee; and the lessee may, if it so desires, use the mining unit and any shafts, openings, or pits, made on it for the mining or removal of any ores from adjoining or nearby premises, not, however, preventing or interfering with the mining or removal of ore from said mining unit. The ores taken from the mining unit must at all times be kept entirely separate and distinct from any other ores until measured and sampled as provided in this lease so that the rights of the lessor are at all times preserved and protected. The lessor recognizes the rights and liens of the owners of any nearby or adjoining premises in any ores mined from them and transported through the mining unit.

23. Lessee's obligations under state and federal laws and regulations. The provisions of this lease are subject to all applicable state and federal statutes, orders, rules and regulations, and all operations under this lease shall be conducted in conformity with them. All activities shall be conducted in conformity with the applicable mine land reclamation statutes and rules. No interference, diversion, use or appropriation of any waters over which the commissioner or any other state agency has jurisdiction, may be undertaken unless authorized in writing by the commissioner or the state agency.

24. Operations to be conducted in accordance with good mining, metallurgical, and environmental engineering. The lessee shall open, use, and work the mine or mines on the mining unit and conduct metallurgical operations in such manner only as is usual and customary in skillful and proper mining and milling operations in accordance with the requirements, methods, and practices of good mining, metallurgical, and environmental engineering, and in such manner as not to cause any unnecessary loss of minerals, or unusual permanent injury to the mining unit. Surface lands owned by the state in the mining unit are not to be cleared or used for construction or stockpiling purposes until such use has been approved by the commissioner in writing. The surface use of the mining unit must be conducted in such manner as to prevent or reduce scarring and erosion of the land and pollution of air and water.

25. Notice to owner of surface estate. When the leased premises do not include the surface estate, the lessee shall give notice, in writing, to the owner or administrator of the surface estate at least 20 days in advance of any activities which will require use of the surface estate on the leased premises. The notice shall sufficiently describe the activities to enable the owner or administrator of the surface estate to evaluate the extent of the use of the surface estate.

26. Review of exploration; exploration site closure and stabilization. "Exploration" means the act of searching for or investigating a mineral deposit. Exploration includes examination of an area to determine the quality and quantity of minerals, including obtaining a bulk sample by drilling, excavating, trenching, constructing shafts, ramps, tunnels, pits, and producing refuse and other associated activities. Exploration does not include activities intended, by themselves, for commercial exploitation of the ore body.

a. The lessee shall advise the commissioner, in writing, at least 20 days in advance of any exploration on the leased premises. The lessee shall specify:

i. the location of proposed activities depicted on a 1:24,000 scale United States Geological Survey 7-1/2 minute quadrangle map, or other map of the same scale;

ii. the exploration activities that will be performed, including but not limited to the type of activity, method of sampling, and types and sizes of vehicles and equipment that will be used;

iii. the approximate beginning and ending dates of the proposed activities;

iv. for exploration activities at sites with special features or uses, methods of mitigation to be used in the exploration to minimize to the extent practicable adverse impacts on the special features or uses;

v. the location and method of access to the exploration site, and if new roads or trails are to be constructed, the location of the proposed roads or trails; and

vi. the proposed plan for site closure and stabilization, if needed.

The commissioner will identify special features or uses within the leased premises. Conditions identified as special features or uses may include: wildlife management areas and sites; peatland watershed areas of the peatland scientific and natural areas; the Black Bay Management Area; natural heritage sites and features; designated trout streams; state canoe and boating routes; state trails; historic and archaeological sites; rights-of-way; fire towers; campgrounds; public access sites; state highway rest areas; and other existing easements, sites, conditions, and encumbrances. The commissioner may require the lessee to adjust exploration plans or plans for construction of roads or trails due to special features or uses within the leased premises or due to other natural resource management concerns.

Unless notified to the contrary by the commissioner within 20 days after receipt of the exploration plans by the commissioner, the lessee may proceed with exploration as described in the submitted exploration plans.

b. Upon completion of the exploration, the lessee must promptly remove all supplies and equipment and must restore the leased premises and roads to a condition satisfactory to the commissioner. The lessee must, when needed, implement and complete closure and stabilization of the exploration site to the satisfaction of the commissioner. The lessee shall be relieved of obligations imposed by the plan for exploration site closure and stabilization only when the lessee notifies the commissioner in writing that site closure and stabilization has been completed and release has been granted by the commissioner.

27. Lessee's obligation for damages. It is understood and agreed that in case any interest in the land or minerals covered by this lease is owned by anyone other than the state, this lease

shall not be construed as authorizing any invasion of or trespass upon such other interest. The lessee hereby agrees and is obligated to indemnify and hold the state harmless from all damages or losses caused directly or indirectly by operations under this lease, whether to land, timber, minerals, growing crops, or buildings, or to any person or other property, including damages suffered by that other owner of the surface or mineral rights, and the state shall not be liable for them.

28. Lessee to pay all taxes. The lessee agrees to pay when due all taxes, general and specific, personal and real that may be assessed against the mining unit and the improvements made on it, and the ore materials in it or mined from it, and any personal property on the mining unit owned, used, or controlled by the lessee. This covenant does not apply to taxes assessed against any part of the mining unit as a result of any other lease granted by the state to other parties. The cancellation, termination, or expiration of this lease does not relieve the lessee of the obligation to pay taxes assessed during the continuance of the lease, even though such taxes may be due or payable after the cancellation, termination, or expiration date.

29. State lien for unpaid sums due. The state reserves and shall at all times have a lien upon all ore mined from the mining unit, all ore concentrated from it, smelter returns due the lessee for the ore, and all improvements made under this lease for any sums not paid when due.

30. Lessee's right to terminate lease. The lessee may at any time deliver to the commissioner written notice of intention to terminate this lease, and this lease shall terminate 60 days after the delivery unless the notice is revoked by the lessee by further written notice delivered to the commissioner before the expiration of 60 days. On December 31 following the tenth anniversary date of this lease, and on any succeeding December 31, the lessee may surrender its rights and privileges granted in this lease on any part or parts of the mining unit, by giving the lessor written notice of its intention so to do at least 60 days before the date of such surrender. For the purposes of this paragraph, "part of the mining unit" means a quarter section of a quarter section or a government lot as described by the public land survey, or a bed of public waters. All sums due to the state under this lease up to the effective date of termination must be paid by the lessee. Any sums not received within 20 days after the effective date of termination are subject to interest at the rate of six percent per year from the effective date of termination.

31. Lessor's right to cancel lease upon lessee's failure to meet production requirements. The state may cancel this lease as provided in paragraph 32 if the lessee has not met both of the following conditions by the end of the 20th full calendar year of this lease:

(a) The lessee must be actively engaged in mining ore under this lease from:

- i. the mining unit;
- ii. a metallic mineral mine within the government township in which the mining unit is located; or
- iii. a metallic mineral mine within a government township that has at least one point in common along its boundary line with the government township in which the mining unit is located.

(b) The lessee must have paid to the state at least \$100,000 in earned royalty under a metallic minerals lease. This amount must be paid during a single calendar year.

The state may exercise its option to cancel the lease during the 21st calendar year of the lease. If it does not do so, and if the conditions have not been met by the end of the 35th full calendar year of this lease, it may exercise its option to cancel during the 36th calendar year of the lease. The commissioner shall take the lessee's financing needs and the state's proportional ownership interest into consideration in determining whether the requirements of this paragraph have been met.

The lessee, at any time, may request a determination and the commissioner, at any time in response to such a request, may determine whether the state will exercise its option to cancel the lease. If the state decides in response to such a request not to exercise its option to cancel the lease, such a decision may require the lessee to meet additional conditions and may include the option to cancel at a time other than the times specified in this paragraph.

32. Lessor's right to cancel lease upon default. This lease is granted upon the express condition that, if any sum owed under it by the lessee for rental, royalty, or otherwise remains

unpaid after the time when it became due, or if the lessee or its agent or servant knowingly or willfully makes any false statement in any report, account, or tabulation submitted to the state or to the commissioner, or any of the commissioner's agents pertaining to any matter under this lease, or if the lessee fails to perform any of the conditions required by this lease, the commissioner may cancel this lease by mailing or delivering to the lessee 60 days' notice of the cancellation in writing, specifying such nonpayment or other default as the case may be. This lease shall terminate at the expiration of the 60 days, and the lessee and all persons claiming under the lessee shall be wholly excluded from the mining unit except as hereinafter provided in paragraph 31. Termination does not relieve the lessee from any liability for payment or other liability incurred under this lease. If the default consists of a nonperformance of an act required under this lease other than payment of royalty or rental, the lessee may perform within the period of 60 days and the lease continues in effect. If the correction of any such default requires more time than 60 days after the notice has been received by the lessee, the commissioner, upon written request of the lessee and for good cause shown, may, at the commissioner's discretion, grant an extension of the period of 60 days. If the default consists of a nonpayment of royalty or rental and the lessee performs within 15 days from the mailing or delivery of notice of cancellation, the lease continues in effect; and if the lessee performs at any time thereafter within the period of 60 days, the commissioner, at the commissioner's discretion, may continue the lease in effect.

33. Rights of lessor and lessee during 180-day period following termination. Upon termination of this lease, whether by expiration of its term or by act of either party, except as necessary to comply with applicable mineland reclamation statutes and rules, the lessee has 180 days after termination in which to remove all equipment, materials, railroad tracks, structures and other property placed or erected by the lessee upon said mining unit. Property not removed within that time shall, at the discretion of the commissioner, either be removed by the state at the lessee's expense or become the property of the state. The lessee shall not remove or impair any supports placed in any mine or mines on the mining unit, or any timber or framework necessary to the use or maintenance of shafts or other approaches to such mine or mines or tramways within the mining unit, all of which become the property of the state. During the period of 180 days, the lessee shall, at its own expense, properly and adequately fence all pits, and do all other work which the commissioner deems necessary to leave the premises in a safe and orderly condition to protect against injury or damage to persons or property. Subject to the foregoing, upon the termination of this lease, whether by expiration of the term hereof or otherwise, the lessee shall quietly and peaceably surrender possession of the mining unit to the state.

34. Recovery of expenses. If it is necessary for the state to incur expenses by court action or otherwise for the ejectment of the lessee, or removal from the leased premises of the lessee's property, or recovery of rent or royalties, or for any other remedy of the state under this lease, and the state prevails in the court action or otherwise, then the lessee shall pay to the state all expenses, including attorney's fees, thus incurred by the state.

35. Mining of minerals other than metallic minerals. If any ore found on or in the mining unit is primarily valuable for other than its metallic minerals content, the terms and conditions upon which the ore may be mined or products recovered from it shall be as may be agreed upon by the lessee and the commissioner and approved by the state Executive Council. This provision does not apply to iron ores, taconite ores, coal, oil, gas, and other liquid or gaseous hydrocarbon substances.

36. Agreements, assignments, or contracts. All assignments, agreements, or contracts affecting this lease must be made in writing and signed by all parties thereto, witnessed by two witnesses, properly acknowledged and must contain the post office addresses of all parties thereto, and when so executed must be presented in triplicate to the commissioner for record. No such instrument is valid until approved in writing by the commissioner and approved as to form and execution by the attorney general. No assignment or other agreement relieves the lessee of any obligation or liability imposed by this lease, and all assignees, sublessees, and subcontractors are also liable for all obligations or liabilities imposed by this lease.

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37. Lease binding on assignees and successors. The covenants, terms, and conditions of this lease run with the land and extend to and bind all assignees and other successors in interest of the lessee.

38. Notices. For the purposes of this lease, the addresses of the parties are as follows, unless changed by written notice to all parties: For the state — Commissioner of Natural Resources, State of Minnesota, 500 Lafayette Road, Saint Paul, Minnesota 55155-4037; for the lessee — _____.

Exhibit A. Base Royalty Rate Table

Net return value per ton	Base royalty rate (%)	Net return value per ton	Base royalty rate (%)
\$ 0.01- 75	3.9500	\$ 75.01- 76	3.9574
\$ 76.01- 77	3.9650	\$ 77.01- 78	3.9728
\$ 78.01- 79	3.9808	\$ 79.01- 80	3.9890
\$ 80.01- 81	3.9974	\$ 81.01- 82	4.0060
\$ 82.01- 83	4.0147	\$ 83.01- 84	4.0237
\$ 84.01- 85	4.0329	\$ 85.01- 86	4.0422
\$ 86.01- 87	4.0518	\$ 87.01- 88	4.0615
\$ 88.01- 89	4.0715	\$ 89.01- 90	4.0816
\$ 90.01- 91	4.0919	\$ 91.01- 92	4.1025
\$ 92.01- 93	4.1132	\$ 93.01- 94	4.1241
\$ 94.01- 95	4.1352	\$ 95.01- 96	4.1465
\$ 96.01- 97	4.1580	\$ 97.01- 98	4.1697
\$ 98.01- 99	4.1816	\$ 99.01-100	4.1937
\$100.01-101	4.2060	\$101.01-102	4.2185
\$102.01-103	4.2311	\$103.01-104	4.2440
\$104.01-105	4.2571	\$105.01-106	4.2703
\$106.01-107	4.2838	\$107.01-108	4.2974
\$108.01-109	4.3113	\$109.01-110	4.3253
\$110.01-111	4.3395	\$111.01-112	4.3540
\$112.01-113	4.3686	\$113.01-114	4.3834
\$114.01-115	4.3984	\$115.01-116	4.4136
\$116.01-117	4.4290	\$117.01-118	4.4446
\$118.01-119	4.4604	\$119.01-120	4.4764
\$120.01-121	4.4926	\$121.01-122	4.5089
\$122.01-123	4.5255	\$123.01-124	4.5423
\$124.01-125	4.5592	\$125.01-126	4.5764
\$126.01-127	4.5938	\$127.01-128	4.6113
\$128.01-129	4.6290	\$129.01-130	4.6470
\$130.01-131	4.6651	\$131.01-132	4.6834
\$132.01-133	4.7020	\$133.01-134	4.7207
\$134.01-135	4.7396	\$135.01-136	4.7587
\$136.01-137	4.7780	\$137.01-138	4.7975
\$138.01-139	4.8172	\$139.01-140	4.8371
\$140.01-141	4.8571	\$141.01-142	4.8774
\$142.01-143	4.8979	\$143.01-144	4.9186
\$144.01-145	4.9394	\$145.01-146	4.9605
\$146.01-147	4.9817	\$147.01-148	5.0032
\$148.01-149	5.0248	\$149.01-150	5.0466
\$150.01-151	5.0687	\$151.01-152	5.0909
\$152.01-153	5.1133	\$153.01-154	5.1359
\$154.01-155	5.1587	\$155.01-156	5.1818
\$156.01-157	5.2050	\$157.01-158	5.2283
\$158.01-159	5.2519	\$159.01-160	5.2757
\$160.01-161	5.2997	\$161.01-162	5.3239
\$162.01-163	5.3482	\$163.01-164	5.3728
\$164.01-165	5.3976	\$165.01-166	5.4225

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\$166.01-167	5.4477	\$167.01-168	5.4730
\$168.01-169	5.4986	\$169.01-170	5.5243
\$170.01-171	5.5502	\$171.01-172	5.5763
\$172.01-173	5.6027	\$173.01-174	5.6292
\$174.01-175	5.6559	\$175.01-176	5.6828
\$176.01-177	5.7099	\$177.01-178	5.7372
\$178.01-179	5.7647	\$179.01-180	5.7924
\$180.01-181	5.8202	\$181.01-182	5.8483
\$182.01-183	5.8766	\$183.01-184	5.9050
\$184.01-185	5.9337	\$185.01-186	5.9626
\$186.01-187	5.9916	\$187.01-188	6.0209
\$188.01-189	6.0503	\$189.01-190	6.0799
\$190.01-191	6.1098	\$191.01-192	6.1398
\$192.01-193	6.1700	\$193.01-194	6.2004
\$194.01-195	6.2310	\$195.01-196	6.2618
\$196.01-197	6.2928	\$197.01-198	6.3240
\$198.01-199	6.3554	\$199.01-200	6.3870
\$200.01-201	6.4188	\$201.01-202	6.4507
\$202.01-203	6.4829	\$203.01-204	6.5153
\$204.01-205	6.5478	\$205.01-206	6.5806
\$206.01-207	6.6135	\$207.01-208	6.6467
\$208.01-209	6.6800	\$209.01-210	6.7135
\$210.01-211	6.7473	\$211.01-212	6.7812
\$212.01-213	6.8153	\$213.01-214	6.8496
\$214.01-215	6.8841	\$215.01-216	6.9188
\$216.01-217	6.9537	\$217.01-218	6.9888
\$218.01-219	7.0241	\$219.01-220	7.0596
\$220.01-221	7.0953	\$221.01-222	7.1311
\$222.01-223	7.1672	\$223.01-224	7.2035
\$224.01-225	7.2399	\$225.01-226	7.2766
\$226.01-227	7.3134	\$227.01-228	7.3505
\$228.01-229	7.3877	\$229.01-230	7.4251
\$230.01-231	7.4628	\$231.01-232	7.5006
\$232.01-233	7.5386	\$233.01-234	7.5768
\$234.01-235	7.6152	\$235.01-236	7.6538
\$236.01-237	7.6926	\$237.01-238	7.7316
\$238.01-239	7.7708	\$239.01-240	7.8102
\$240.01-241	7.8498	\$241.01-242	7.8895
\$242.01-243	7.9295	\$243.01-244	7.9697
\$244.01-245	8.0100	\$245.01-246	8.0506
\$246.01-247	8.0913	\$247.01-248	8.1323
\$248.01-249	8.1734	\$249.01-250	8.2147
\$250.01-251	8.2563	\$251.01-252	8.2980
\$252.01-253	8.3399	\$253.01-254	8.3820
\$254.01-255	8.4243	\$255.01-256	8.4668
\$256.01-257	8.5095	\$257.01-258	8.5524
\$258.01-259	8.5955	\$259.01-260	8.6388
\$260.01-261	8.6822	\$261.01-262	8.7259
\$262.01-263	8.7698	\$263.01-264	8.8138
\$264.01-265	8.8581	\$265.01-266	8.9025
\$266.01-267	8.9472	\$267.01-268	8.9920
\$268.01-269	9.0371	\$269.01-270	9.0823
\$270.01-271	9.1277	\$271.01-272	9.1733
\$272.01-273	9.2192	\$273.01-274	9.2652
\$274.01-275	9.3114	\$275.01-276	9.3578
\$276.01-277	9.4044	\$277.01-278	9.4512
\$278.01-279	9.4981	\$279.01-280	9.5453
\$280.01-281	9.5927	\$281.01-282	9.6403
\$282.01-283	9.6880	\$283.01-284	9.7360
\$284.01-285	9.7841	\$285.01-286	9.8325

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\$286.01-287	9.8810	\$287.01-288	9.9298
\$288.01-289	9.9787	\$289.01-290	10.0278
\$290.01-291	10.0772	\$291.01-292	10.1267
\$292.01-293	10.1764	\$293.01-294	10.2263
\$294.01-295	10.2764	\$295.01-296	10.3267
\$296.01-297	10.3772	\$297.01-298	10.4279
\$298.01-299	10.4788	\$299.01-300	10.5299
\$300.01-301	10.5811	\$301.01-302	10.6326
\$302.01-303	10.6843	\$303.01-304	10.7361
\$304.01-305	10.7882	\$305.01-306	10.8404
\$306.01-307	10.8929	\$307.01-308	10.9455
\$308.01-309	10.9984	\$309.01-310	11.0514
\$310.01-311	11.1046	\$311.01-312	11.1580
\$312.01-313	11.2116	\$313.01-314	11.2654
\$314.01-315	11.3195	\$315.01-316	11.3736
\$316.01-317	11.4280	\$317.01-318	11.4826
\$318.01-319	11.5374	\$319.01-320	11.5924
\$320.01-321	11.6476	\$321.01-322	11.7029
\$322.01-323	11.7585	\$323.01-324	11.8143
\$324.01-325	11.8702	\$325.01-326	11.9264
\$326.01-327	11.9827	\$327.01-328	12.0392
\$328.01-329	12.0960	\$329.01-330	12.1529
\$330.01-331	12.2100	\$331.01-332	12.2673
\$332.01-333	12.3249	\$333.01-334	12.3826
\$334.01-335	12.4405	\$335.01-336	12.4986
\$336.01-337	12.5569	\$337.01-338	12.6153
\$338.01-339	12.6740	\$339.01-340	12.7329
\$340.01-341	12.7920	\$341.01-342	12.8512
\$342.01-343	12.9107	\$343.01-344	12.9704
\$344.01-345	13.0302	\$345.01-346	13.0903
\$346.01-347	13.1505	\$347.01-348	13.2109
\$348.01-349	13.2716	\$349.01-350	13.3324
\$350.01-351	13.3934	\$351.01-352	13.4546
\$352.01-353	13.5161	\$353.01-354	13.5777
\$354.01-355	13.6395	\$355.01-356	13.7015
\$356.01-357	13.7637	\$357.01-358	13.8260
\$358.01-359	13.8886	\$359.01-360	13.9514
\$360.01-361	14.0144	\$361.01-362	14.0775
\$362.01-363	14.1409	\$363.01-364	14.2045
\$364.01-365	14.2682	\$365.01-366	14.3322
\$366.01-367	14.3963	\$367.01-368	14.4606
\$368.01-369	14.5252	\$369.01-370	14.5899
\$370.01-371	14.6548	\$371.01-372	14.7199
\$372.01-373	14.7852	\$373.01-374	14.8507
\$374.01-375	14.9164	\$375.01-376	14.9823
\$376.01-377	15.0484	\$377.01-378	15.1147
\$378.01-379	15.1812	\$379.01-380	15.2479
\$380.01-381	15.3147	\$381.01-382	15.3818
\$382.01-383	15.4491	\$383.01-384	15.5165
\$384.01-385	15.5842	\$385.01-386	15.6520
\$386.01-387	15.7201	\$387.01-388	15.7883
\$388.01-389	15.8567	\$389.01-390	15.9254
\$390.01-391	15.9924	\$391.01-392	16.0632
\$392.01-393	16.1324	\$393.01-394	16.2018
\$394.01-395	16.2714	\$395.01-396	16.3412
\$396.01-397	16.4112	\$397.01-398	16.4814
\$398.01-399	16.5518	\$399.01-400	16.6223
\$400.01-401	16.6931	\$401.01-402	16.7641
\$402.01-403	16.8352	\$403.01-404	16.9066
\$404.01-405	16.9781	\$405.01-406	17.0499

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\$406.01–407	17.1218	\$407.01–408	17.1940
\$408.01–409	17.2663	\$409.01–410	17.3388
\$410.01–411	17.4115	\$411.01–412	17.4844
\$412.01–413	17.5576	\$413.01–414	17.6309
\$414.01–415	17.7044	\$415.01–416	17.7781
\$416.01–417	17.8519	\$417.01–418	17.9260
\$418.01–419	18.0003	\$419.01–420	18.0748
\$420.01–421	18.1494	\$421.01–422	18.2243
\$422.01–423	18.2994	\$423.01–424	18.3746
\$424.01–425	18.4501	\$425.01–426	18.5257
\$426.01–427	18.6016	\$427.01–428	18.6776
\$428.01–429	18.7538	\$429.01–430	18.8302
\$430.01–431	18.9069	\$431.01–432	18.9837
\$432.01–433	19.0607	\$433.01–434	19.1379
\$434.01–435	19.2153	\$435.01–436	19.2929
\$436.01–437	19.3707	\$437.01–438	19.4487
\$438.01–439	19.5268	\$439.01–440	19.6052
\$440.01–441	19.6838	\$441.01–442	19.7625
\$442.01–443	19.8415	\$443.01–444	19.9207
\$444.01 and above	20.0000		

Statutory Authority: *MS s 93.08 to 93.12; 93.25*

History: *12 SR 2512; 17 SR 1279; 19 SR 2434*

6125.1000 [Repealed, 19 SR 2434]

6125.1100 [Repealed, 19 SR 2434]

6125.1200 [Repealed, 19 SR 2434]

6125.1300 [Repealed, 19 SR 2434]

6125.1400 [Repealed, 19 SR 2434]

6125.1500 [Repealed, 19 SR 2434]

6125.1600 [Repealed, 19 SR 2434]

6125.1700 [Repealed, 19 SR 2434]

6125.1800 [Repealed, 19 SR 2434]

6125.1900 [Repealed, 19 SR 2434]

6125.2000 [Repealed, 19 SR 2434]

6125.2100 [Repealed, 19 SR 2434]

6125.2200 [Repealed, 19 SR 2434]

6125.2300 [Repealed, 19 SR 2434]

6125.2400 [Repealed, 19 SR 2434]

6125.2500 [Repealed, 19 SR 2434]

6125.2600 [Repealed, 19 SR 2434]

6125.2700 [Repealed, 19 SR 2434]

6125.2800 [Repealed, 19 SR 2434]

6125.2900 [Repealed, 19 SR 2434]

6125.3000 [Repealed, 19 SR 2434]

6125.3100 [Repealed, 19 SR 2434]

6125.3200 [Repealed, 19 SR 2434]

6125.3300 [Repealed, 19 SR 2434]

6125.3400 [Repealed, 19 SR 2434]

6125.3500 [Repealed, 19 SR 2434]

6125.3600 [Repealed, 19 SR 2434]

6125.3700 [Repealed, 19 SR 2434]

6125.3800 [Repealed, 19 SR 2434]

6125.3900 [Repealed, 19 SR 2434]

6125.4000 [Repealed, 19 SR 2434]

6125.4100 [Repealed, 19 SR 2434]

6125.4500 [Repealed, 19 SR 2433]

6125.4600 [Repealed, 19 SR 2433]

6125.4700 [Repealed, 19 SR 2433]

6125.4800 [Repealed, 19 SR 2433]

6125.4900 [Repealed, 19 SR 2433]

6125.5000 [Repealed, 19 SR 2433]

6125.5100 [Repealed, 19 SR 2433]

6125.5200 [Repealed, 19 SR 2433]

6125.5300 [Repealed, 19 SR 2433]

6125.5400 [Repealed, 19 SR 2433]

6125.5500 [Repealed, 19 SR 2433]

6125.5600 [Repealed, 19 SR 2433]

6125.5700 [Repealed, 19 SR 2433]

PERMITS AND LEASES FOR SAND AND GRAVEL

6125.6000 AUTHORITY FOR RULES.

Pursuant to authority vested in me by law, I, Chester S. Wilson, commissioner of natural resources, do hereby prescribe the following rules for the issuance of permits to prospect for sand and gravel under the waters of public lakes or streams, and for the issuance of leases for the mining and removal thereof.

Statutory Authority: *MS s 93.08*

6125.6100 APPLICATION PROCESS.

Subpart 1. **Fee and area covered by permits.** The fee for each prospecting permit shall be \$25. No permit shall be issued for a period to exceed one year, nor cover an area larger than 40 acres of contiguous underwater area, except where operating conditions shall be found by the director of the Division of Waters, Soils, and Minerals to require an increase in acreage, in which event 25 percent in additional acreage may be granted. Each permit shall authorize prospecting only within the area designated therein.

Subp. 2. **Plats.** All applications for prospecting permits shall be accompanied by plats in quadruplicate, showing the definite location of the area applied for, together with a metes and bounds description thereof, and shall be signed and acknowledged by all the parties interested therein.

Subp. 3. **Statements.** All applications shall be accompanied by quadruplicate signed statements reciting that the mining and removal of the materials for which it is proposed to prospect will not in their opinion violate the rules of or the statutes relating to the administration of the functions and duties of the following state agencies: Department of Natural Resources, Department of Health, Board of Animal Health. Such statements shall be signed by the head or the acting head of these agencies.

Subp. 4. **Method of mineral recovery.** Applications for permits and leases shall describe the means and methods of operation proposed to be used for the removal or recovery of the material covered by such permits and leases, and such proposed means and methods of operation shall be incorporated in and become a part of the terms and conditions of the permits and leases.

Subp. 5. **Hearing on the application.** No permit or lease shall be granted hereunder until after a public hearing on the application therefor. Notice of such hearing shall be given and such hearing shall be conducted as provided by Minnesota Statutes 1949, section 105.44. Notice of such hearing shall also be mailed by the applicant at least two weeks before the hearing to all persons listed on the last tax assessment records in the office of the county treasurer as owners of land riparian to the waters affected, or any interest therein, within such area as the commissioner may designate by order, which area shall be described in the notice. Except as otherwise hereinafter provided, prior to the issuance of any permit, the applicant shall obtain and file with the commissioner of natural resources an appropriate instrument, approved by the attorney general, from each owner of land, or any interest therein, within the area designated by the commissioner as hereinbefore provided, other than land owned or controlled by the applicant for the purposes of such operations, by which instrument the owner shall waive any and all claims for damages which may result from such operations, and shall release the applicant and the state of Minnesota and all officers, agents, and employees of the state from any and all such claims.

Subp. 6. **Bonds.** In lieu of obtaining and filing such waiver and release of claims for damages, the commissioner may, in the commissioner's discretion, permit the applicant to furnish a bond to the state of Minnesota in such amount as the commissioner may determine, to secure the state, its officers, agents, and employees, and all property owners affected within the area designated by the commissioner as hereinbefore provided, against any damages or loss which may result from such operations, and with such other terms and conditions as the commissioner may prescribe; provided that the furnishing of such bond in lieu of a waiver or release shall not be permitted in any case where the commissioner finds upon the evidence produced at the hearing that there is reason to believe that the property affected will be substantially damaged by the proposed operations, unless the owner of such property shall agree in writing to the furnishing of a bond as hereinbefore provided.

Such bond shall be subject to approval by the commissioner and as to form and execution by the attorney general, and shall be filed with the commissioner. The commissioner may require an additional bond at any time under the foregoing provisions if the commissioner deems it necessary for protection of the interests of the state or any property owner affected, upon 30 days' written notice to the permittee or lessee. Any person entitled to the protection of any bond furnished hereunder may bring action thereon in like manner and under like conditions and with like effect as provided by law in the case of a bond furnished by a contractor with the state; provided, that neither the state nor the commissioner of natural resources nor any other officer, agent, or employee of the state shall incur or be subject to any liability by reason of failure to require a bond in any case as herein provided.

Statutory Authority: *MS s 93.08*

History: *17 SR 1279*

6125.6200 LIABILITY FOR DAMAGES.

The permittee or lessee shall be liable for any loss, damage, or injury to person or property of others resulting from any operations under such permit or lease, and shall hold the state and its officers, agents, and employees harmless against any and all claims on account thereof. Nothing in any permit or lease issued or bond furnished hereunder shall impair or

abridge any right of action of any owner of property affected by the operations under the permit or lease.

Statutory Authority: *MS s 93.08*

6125.6300 RIGHT OF PERMIT HOLDER TO A LEASE.

At any time prior to the expiration of any such prospecting permit, the holder thereof shall have the right to a lease giving the holder the exclusive right to mine and remove sand and gravel within the area specified therein provided the permittee has kept and performed in a substantial manner all the terms and covenants of the permit, a copy of which lease shall be attached to each permit. Such lease shall cover the same area of lake and stream bed as that described in the permit, unless the holder of the permit selects a smaller acreage within such area, in which case a lease for such smaller area may be issued in the discretion of the commissioner. No lease shall be made for a longer term than 25 years and may be made for any period less than that, in the discretion of the commissioner.

Statutory Authority: *MS s 93.08*

History: *17 SR 1279*

6125.6400 REMOVAL OF MATERIALS UNDER PERMIT.

None of the materials for which the permit to prospect is issued may be removed from the land until the formal execution of a lease therefor, except such as may be reasonably needed for assay, analysis, and record purposes.

Statutory Authority: *MS s 93.08*

6125.6500 PROSPECTING.

The work of prospecting shall be commenced in a substantial manner within 90 days from the date upon which the permit is executed, unless, in the opinion of the commissioner, either water, ice, or other conditions beyond control of permittee make such work hazardous or impracticable, and shall continue until the term of the permit expires, is surrendered, or a lease demanded. No prospecting work as herein required shall be postponed or suspended, except upon written authority of the commissioner or the commissioner's duly authorized representative.

The commissioner or the commissioner's representative shall have the right at all reasonable times to inspect the work done under the permit or the lease issued pursuant thereto, and carry on such engineering and sampling work as the commissioner may wish to do, not unnecessarily or unreasonably interfering with the work of the permittee or lessee.

Statutory Authority: *MS s 93.08*

History: *17 SR 1279*

6125.6600 TERMINATION OR CANCELLATION OF PERMITS OR LEASES.

Subpart 1. **Holder's default.** In the event the holder of such permit or lease shall fail to comply with all the provisions contained therein, or the laws and regulations governing the same to be by the permit or lease holder performed and observed, and such default shall continue for 30 days, the commissioner, upon 30 days' notice to the holder of such permit or lease by registered mail to the address of such holder as shown by the records of the commissioner, may declare such permit or lease and all the rights acquired thereunder forfeited. The commissioner may when the commissioner deems it necessary to the best interest of the public, cancel such lease or permit at any time by 90 days' notice in writing mailed as hereinabove provided. Upon the filing of the order of forfeiture with the commissioner of natural resources, all rights under such lease or permit shall cease.

Subp. 2. **Cancellation of lease by lessee.** The lessee may cancel a lease issued hereunder by 30 days' notice in writing mailed to the commissioner by registered mail, provided that no such cancellation shall become effective until all sums due to the state are paid in full.

Subp. 3. **Yielding possession.** Upon cancellation of such lease for any cause, the lessee shall quietly and peaceably yield possession of the leased premises, and no such cancellation shall work a forfeiture on any rents, royalties, taxes, or other moneys due thereunder.

Statutory Authority: *MS s 93.08*

History: *17 SR 1279*

6125.6700 RECORDS OF MATERIALS REMOVED AND SOLD.

The lessee shall keep records of all sand and gravel removed and the sales thereof, which records shall be open for inspection by the agents of the commissioner of natural resources at all reasonable times. The lessee shall, on or before the 15th day of each month, make a report in writing to the commissioner, verified under oath, on forms provided by the commissioner, covering all usable or salable material removed or recovered during the preceding month, showing the quantity thereof in cubic yards, the royalty computed to be due thereon, and such other information pertaining thereto as the commissioner may require.

Statutory Authority: *MS s 93.08*

6125.6800 RENTALS, ROYALTIES, AND TAXES.

Subpart 1. Amount of royalty. Royalties to be paid to the state on all sand and gravel leases issued hereunder shall be based on cubic yards of usable materials removed and shall be ten cents per cubic yard, and shall be paid on or before the 15th day of each month for the sand and gravel removed during the preceding month.

Subp. 2. Annual rental fee. Every lease shall provide for a minimum annual rental of \$150 per calendar year, or fraction thereof, payable in advance. Such rental shall be payable annually on or before the 20th day of January each year during the term thereof. Any amount paid for rental accrued during any calendar year shall be credited on any royalty that may become due for sand and gravel removed under said lease during the same calendar year but no further.

Subp. 3. Records of materials removed from demised premises. All usable or salable sand and gravel taken from the demised premises shall be measured by the lessee as it is removed or stockpiled which measurements shall be recorded daily. Such sand and gravel when stockpiled shall be kept separate and not mixed with materials from other sources until measured as hereinabove provided. All operations shall be conducted in accordance with acceptable mining practices and so as not to cause any unnecessary or unusual permanent injury to the lands or to inconvenience or hinder subsequent operations in the same area. All waste materials shall be disposed of and all water returned to the stream or body of water. They shall be treated as directed by the commissioner or the commissioner's agents in charge of such operations.

Subp. 4. Payments to commissioner of finance. All permit fees and all rents and royalties paid under leases shall be paid to the commissioner of finance, and shall be credited to the permanent school funds of the state.

Subp. 5. Taxes. All leases shall provide that the lessee shall pay, when due, all taxes levied against the premises, the personal property, and improvements thereon during the continuance of the lease.

Statutory Authority: *MS s 93.08*

History: *17 SR 1279; L 2003 c 112 art 2 s 50*

6125.6900 OBSERVANCE OF NAVIGATION LAWS.

Lessee shall observe all federal, state, and municipal laws, rules, regulations, and ordinances regarding navigation on the waters from which sand or gravel is removed.

Statutory Authority: *MS s 93.08*

6125.7000 ASSIGNMENTS AND OTHER AGREEMENTS AFFECTING PERMITS AND LEASES.

No assignment, sublease, or any other instrument affecting any permit or lease issued hereunder shall be valid unless made in writing with the written approval of the commissioner endorsed thereon.

Statutory Authority: *MS s 93.08*

6125.7100 ADDITIONAL PERMITS REQUIRED.

Before any prospecting permit or lease shall be issued by the commissioner for the removal of sand or gravel hereunder, the applicant shall first secure a permit from the commis-

sioner pursuant to Minnesota Statutes 1949, chapter 105, and acts amendatory thereof, which permit shall be deemed to be a part of the prospecting permit or lease issued hereunder, and no operations shall be conducted in violation thereof.

Statutory Authority: *MS s 93.08*

LEASES OF STATE LANDS FOR SELECTED INDUSTRIAL MINERALS

6125.8000 PURPOSE.

The purpose of parts 6125.8000 to 6125.8700 is to set forth procedures and standards to be followed by the commissioner of natural resources when leasing state-owned lands for the exploring for, mining, and removal of selected industrial minerals. Each lease issued under parts 6125.8000 to 6125.8700 will identify which of the industrial minerals are covered by that particular lease.

Due to the variable nature of mining, selling, and processing various industrial minerals, several of the provisions of each lease will need to be developed within the framework of the model lease form contained in part 6125.8700. Parts 6125.8100 to 6125.8700 prescribe minimum standards as to the term of the lease, rental rates, and royalty rates.

Statutory Authority: *MS s 93.25*

History: *19 SR 2433*

6125.8100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 6125.8000 to 6125.8700, the following words have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of natural resources of Minnesota, or the commissioner's designated representative.

Subp. 3. **Industrial minerals.** "Industrial minerals," whether singular or plural, includes any of the following: apatite, diamonds, dimension stone, feldspar, gemstones, graphite, kaolin, marl, quartz, silica sand, and other similar minerals of a nonmetalliferous nature. The term industrial minerals does not include, and parts 6125.8000 to 6125.8700 do not cover, the following minerals:

A. iron ores and taconite ores, which are leased under the provisions of Minnesota Statutes, chapter 93;

B. metallic minerals, which are leased under the provisions of parts 6125.0100 to 6125.0700 and Minnesota Statutes, chapter 93;

C. coal, oil, gas, and other liquid or gaseous hydrocarbon substances, which the state is authorized to lease under the provisions of Minnesota Statutes, chapter 93; and

D. peat and construction sand and gravel, which are leased under the provisions of Minnesota Statutes, section 92.50.

Subp. 4. **Leased minerals.** "Leased minerals," whether singular or plural, are the selected industrial minerals that are defined in and covered by a lease issued under parts 6125.8000 to 6125.8700.

Subp. 5. **Metallic minerals.** "Metallic minerals," whether singular or plural, means any mineral substances of a metalliferous nature, except iron ores and taconite ores.

Subp. 6. **Ton.** "Ton" means 2,000 pounds avoirdupois after removal of all free moisture from the material weighed, by drying at 212 degrees Fahrenheit.

Statutory Authority: *MS s 93.25*

History: *19 SR 2433*

6125.8200 LANDS COVERED BY LEASES AND LEASE TERM.

The commissioner may issue leases to explore for, mine, and remove industrial minerals on lands where an interest in the minerals is owned by the state, including trust fund lands, lands forfeited for nonpayment of taxes and held in trust by the state, lands where severed

mineral interests have forfeited under Minnesota Statutes, section 93.55, lands where severed mineral interests have been otherwise acquired, lands where severed mineral interests may be leased by the commissioner under Minnesota Statutes, section 93.55, subdivisions 1a and 3, the beds of public waters, and lands otherwise acquired.

No lease may be issued for a term longer than 50 years.

Statutory Authority: *MS s 93.25*

History: *19 SR 2433*

6125.8300 QUALIFICATIONS TO HOLD LEASE.

The right to apply for, acquire, and hold a lease to explore for, mine, and remove industrial minerals owned by the state, and the right to apply for and hold an authorization to conduct geological data gathering activities, are subject to the following:

A. the applicant is qualified to do business in Minnesota as shown by:

(1) if a corporation organized under the laws of Minnesota, a Certificate of Incorporation from the Minnesota secretary of state's office;

(2) if a corporation organized under the laws of any state other than Minnesota or another country, a Certificate of Authority to Transact Business in Minnesota from the Minnesota secretary of state's office;

(3) if a limited partnership, a Certificate of Limited Partnership from the Minnesota Secretary of State's office;

(4) if an individual, proof of United States citizenship and of legal age; or

(5) if a general partnership or other business entity, evidence that the general partners or individuals controlling the business entity meet the requirements listed in sub-items (1) to (4); and

B. if applicable as to the industrial minerals the applicant wants to lease, the applicant is qualified to conduct exploratory borings in Minnesota by having fulfilled the requirements of Minnesota Statutes, section 103I.601, subdivision 3.

The commissioner may request additional evidence that the applicant is technically and financially capable of performing under the terms of a state industrial minerals lease or an authorization to conduct geological data gathering activities and that the applicant has shown the capability to comply with environmental laws and permits. Examples of evidence the commissioner may request are corporate reports, audited financial statements, and evidence of the applicant's compliance with environmental regulations of other jurisdictions. If such evidence is requested, the applicant must submit the evidence within 45 days of receipt of the request.

Statutory Authority: *MS s 93.25*

History: *19 SR 2433*

6125.8400 NEGOTIATED LEASES.

Subpart 1. **Scope.** Leases to prospect for, mine, and remove industrial minerals will primarily be issued through negotiations. The commissioner reserves the right to reject any and all applications for negotiated leases. The commissioner may offer industrial minerals for leasing through public sale as provided in part 6125.8500.

Subp. 2. **Lease application.** Those parties interested in obtaining an industrial minerals lease through negotiation may submit an application to the commissioner. Application shall be submitted on a form available from the commissioner and shall require information as the commissioner may prescribe. The application must include the:

A. identification of the applicant;

B. legal description of the lands requested for leasing. The lands covered by an application are limited to a contiguous tract of 640 acres, except an area not exceeding 800 acres consisting of one government section according to the government survey thereof may be included in one lease; and

C. identification of the industrial minerals the applicant wants to lease.

The applicant shall submit with the application evidence that it is qualified to hold a mineral lease as specified in part 6125.8300. Each application must be accompanied by a

certified check, cashier's check, or bank money order, payable to the Department of Natural Resources, in the amount of \$100, which is the application fee. The application fee will not be refunded under any circumstances.

Applications may be submitted in person or by mail to the offices of the Division of Minerals, Department of Natural Resources, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045. Applications will only be accepted during the hours of 8:30 a.m. through 4:00 p.m. on regularly scheduled business days. Applications received at any other time will not be officially accepted until the next regularly scheduled business day, and the commissioner assumes no responsibility for applications submitted in person at any time other than the time specified above. Applications will not be accepted by facsimile transmission.

Subp. 3. Commissioner's review of application.

A. Within ten days after receipt of an application, the commissioner will send written acknowledgment that the application was received. The commissioner will review the application to determine if:

- (1) the application was completed and signed;
- (2) the application fee was submitted; and
- (3) evidence of qualification to hold a state lease, as specified in part 6125.8300, was submitted.

The applicant will also be advised if additional evidence is required by the commissioner to determine if the applicant is qualified to hold a state lease as specified in part 6125.8300.

B. Within 45 days after receipt of application, the commissioner will notify the applicant if the following information is required:

- (1) If the state's mineral ownership interest in the lands requested is an undivided fractional interest totaling less than 50 percent, evidence that the applicant holds under control a majority of the remaining undivided fractional interest in the mineral ownership interest of the lands requested.
- (2) If the commissioner's land records do not show state mineral ownership of the lands requested, a chain of title or other title search information showing state ownership.

Subp. 4. Rejection of application.

A. Applications for negotiated leases will be rejected by the commissioner under the following circumstances:

- (1) the application was not completed or signed;
- (2) the application fee was not submitted;
- (3) the applicant failed to submit evidence of qualification to hold a state lease as specified in part 6125.8300; or the applicant failed to submit additional evidence, within 45 days of receipt of the commissioner's request, as to qualification to hold a state lease as specified in part 6125.8300;
- (4) when the state's mineral ownership interest in the lands requested is an undivided fractional interest less than 50 percent, the applicant failed to submit additional evidence, within 45 days of receipt of the commissioner's request, as to holding a majority of the remaining undivided fractional interest in the mineral ownership interest of the lands requested;
- (5) when the commissioner's land records do not show state mineral ownership of the lands requested, the applicant failed to submit additional evidence, within 45 days of receipt of the commissioner's request, as to the chain of title or other title search information showing state ownership;
- (6) there were simultaneous filings of applications for negotiated leases on the same lands or portion thereof and more than one of the applicants meets the requirements of part 6125.8300. For the purpose of this part, simultaneous filings are those that arrive in the mail or in person on the same day;
- (7) an application for a negotiated lease was filed on a prior day for the same lands or portions thereof covering the same industrial minerals and the commissioner has determined that the prior applicant meets the requirements of part 6125.8300 and the prior application is not rejected pursuant to this part;

(8) a state mineral lease covering the same industrial minerals is currently in effect for the lands requested;

(9) state laws or rules prohibit the state from leasing the lands requested. For example, the lands are located within the Boundary Waters Canoe Area Wilderness;

(10) leasing the lands would conflict with identified environmental or land use concerns. For example, the lands are located within the Boundary Waters Canoe Area Wilderness Minerals Management Corridor or the lands are located within an active airport;

(11) mining of the industrial minerals requested would unreasonably interfere with the mining activities authorized under an existing state mineral lease covering other minerals; or negotiations or a public lease sale offering have been previously commenced for a state mineral lease covering other minerals and mining of the industrial minerals requested would unreasonably interfere with mining activities authorized under the other state mineral lease;

(12) the requested lands had been previously offered at a public lease sale within two years of the application being filed, the applicant was the high bidder at that sale for the requested lands, and the applicant had withdrawn its bid prior to the awarding of a lease; or

(13) information submitted in response to the public notice, as required under subpart 6, determines that any of the above circumstances exist.

Prior to filing an application for a negotiated lease, any party may contact the commissioner for information as to whether the circumstances described in this part exist as to the lands the party is interested in for a negotiated lease. Prior to filing an application for a negotiated lease, any party may contact the commissioner for a review of the party's qualification to hold a mineral lease as specified in part 6125.8300.

B. The right is reserved to the state, through the commissioner of natural resources, to reject any or all applications for negotiated industrial minerals leases. However, if the commissioner rejects the application based on item A, subitem (6), then no negotiated lease may be issued for the property until after it has first been offered at public lease sale.

Subp. 5. Negotiations with applicant. If the application is not rejected pursuant to subpart 4, the applicant and the commissioner will enter into negotiations as to the terms of the lease. Due to the variable nature of mining, selling, and processing different industrial minerals, several of the lease terms will need to be negotiated on a case-by-case basis.

The model form for a negotiated lease for exploring for, mining, and removing industrial minerals belonging to the state is contained in part 6125.8700. The negotiated lease may contain insertions, changes, or additions as may be necessary to incorporate other particulars applicable to each industrial mineral, subject to the following:

A. The primary term of the lease may not exceed ten years plus the unexpired portion of the calendar year in which the lease is issued.

B. The rental rates may not be less than \$1.50 per acre per year for the unexpired portion of the calendar year in which the lease is issued and the next succeeding two calendar years; \$5 per acre per year for the next succeeding three years; and \$25 per acre per year thereafter during the term of the lease.

C. The royalty rates for the following commodities may not be less than:

(1) three percent of the gross market value for dimension stone and 1-1/2 percent of the gross market value for any stone produced from waste stone and sold as a by-product;

(2) five percent of the gross market value for kaolin clay, silica sand, and diamonds and other gemstones; and

(3) three percent of the gross market value for all other industrial mineral commodities.

If the applicant and the commissioner cannot reach agreement on the negotiated terms within 180 days, the commissioner has the right to reject the negotiated lease application. The 180 day period shall commence upon the commissioner sending written notification to the applicant that it has met the requirements of subpart 3 and the request is not rejected pursuant to subpart 4.

Subp. 6. Public notice of plans to issue negotiated lease. The commissioner shall give public notice of plans to issue a negotiated lease by publication in the State Register, the EQB Monitor, and a qualified newspaper that has its known office of issue in the county seat in which the proposed lands to be leased are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board of that county. The party applying for the negotiated lease shall reimburse the commissioner for the costs of publication of these notices.

The notice shall be published at least once in the above publications. The publication shall be at least 30 days before the issuance of the lease and no more than 180 days before the issuance of the lease. Each notice shall contain the legal description of the proposed lands to be leased and such other information as the commissioner may direct.

Subp. 7. Approval by state Executive Council. All negotiated leases approved for issuance by the commissioner of natural resources that cover 160 or more acres of land must also be approved by the state Executive Council.

Statutory Authority: *MS s 93.25*

History: *19 SR 2433*

6125.8500 PUBLIC SALE OF LEASES.

Subpart 1. Time, place, and notice. The public sale of leases shall be held at such times and places as may be designated by the commissioner. The commissioner shall give public notice of each sale by publication in the State Register, the EQB Monitor, and a qualified newspaper that has its known office of issue in the county seat of the county in which the lease units to be leased are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board of that county.

The notice shall be published at least once in the above publications. The publication shall be at least 30 days but not more than 60 days before the date of the sale. Like notice may be published in additional newspapers and trade magazines as the commissioner may direct. Each notice shall contain the following information:

- A. time and place of holding the sale;
- B. the place or places where the list of lands to be offered for leasing and a copy of the lease form will be available for purchase or inspection, and where bid forms may be obtained; and
- C. such other information as the commissioner may direct.

Subp. 2. Copy of list of lands offered and lease form. Those interested in obtaining a list of the lands offered for leasing and the proposed lease form may obtain one by submitting a request to the commissioner. Each request must be accompanied by a check or money order, payable to the Department of Natural Resources, in the amount specified by the commissioner, based on copying and mailing costs, as a fee for a copy of the list and the lease form. Copies of the list and the lease form will be available for inspection at the Hibbing and Saint Paul offices of the Division of Minerals.

Subp. 3. Lease form. At least 30 days before the date of the sale, the commissioner shall prepare the lease form that will cover the lands being offered. The lease shall be based on the model form contained in part 6125.8700. The lease may contain insertions, changes, or additions as may be necessary to incorporate other particulars applicable to the industrial minerals being offered for lease at public sale, subject to the following:

- A. The primary term of the lease may not exceed ten years plus the unexpired portion of the calendar year in which the lease is issued.
- B. The rental rates may not be less than \$1.50 per acre per year for the unexpired portion of the calendar year in which the lease is issued and the next succeeding two calendar years, \$5 per acre per year for the next succeeding three years, and \$25 per acre per year thereafter during the term of the lease.
- C. The base royalty rates for the following commodities may not be less than:

(1) three percent of the gross market value for dimension stone and 1–1/2 percent of the gross market value for any stone produced from waste stone and sold as a by-product;

(2) five percent of the gross market value for kaolin clay, silica sand, and diamonds and other gemstones; and

(3) three percent of the gross market value for all other industrial mineral commodities.

Subp. 4. **Bids.** Each bid shall be submitted on a form obtained from the commissioner. The bid royalty rate shall be an additional percentage of the gross market value above the base royalty rate.

Each bid form must be accompanied by a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources, in the sum of the following amounts:

A. an application fee of \$100; and

B. rental for one full calendar year. For the purposes of the bid, the rental is calculated at \$1.50 per acre times the gross acreage of the lands offered for lease. The remaining rentals, due at the time the lease is issued, shall be due upon the effective date of the lease.

The bid, together with the certified check, cashier's check, or bank money order, shall be enclosed in a sealed envelope marked CONFIDENTIAL – BIDS FOR STATE MINERAL LEASES. Each sealed bid envelope shall be delivered in person or by mail to the commissioner at Division of Minerals, 500 Lafayette Road, Saint Paul, Minnesota 55155–4045. Bids may be submitted any time before 4:30 p.m., Saint Paul, Minnesota time on the last business day before the day specified for the opening of the bids, and no bids submitted after that time shall be considered. Upon receipt, the commissioner shall endorse upon each sealed bid envelope the exact time of presentation and preserve the same, unopened in the commissioner's office. At the time specified, the commissioner shall publicly open the bids and announce the amount of each bid separately.

The commissioner will request each high bidder to provide evidence it is qualified to hold state mineral leases pursuant to part 6125.8300. The evidence must be provided within 45 days of the request from the commissioner or the bids from that high bidder will be rejected.

Upon the award of a lease, the application fee submitted with the bid shall be deposited with the commissioner of finance as a fee for the lease. All bids not accepted shall become void and the application fee and rental payment accompanying the bids shall be returned to the respective bidders; provided, however, the application fee and rental payment accompanying a bid shall not be returned if the bidder was the high bidder and subsequently withdraws its bid prior to the awarding of a lease.

Subp. 5. **Issuance of lease.** Leases are awarded by the commissioner to the highest bidder for the lands offered for lease, provided that the bidder has shown evidence that the bidder is qualified to hold state mineral leases pursuant to part 6125.8300. Any public sale lease approved for issuance by the commissioner that covers 160 or more acres of land must also be approved by the state Executive Council.

Tie bids will be resolved by the commissioner by the random drawing of the name of one tied bidder from a pool comprised of the names of all the tied bidders.

The right is reserved to the state to reject any or all bids for leases offered at public lease sale.

Statutory Authority: *MS s 93.25*

History: *19 SR 2433; L 2003 c 112 art 2 s 50*

6125.8600 AUTHORIZATION TO CONDUCT GEOLOGICAL DATA GATHERING ACTIVITIES.

As an alternative to applying for a state mineral lease, any party may apply to the commissioner for authorization to conduct geological data gathering activities on state-owned land. The applicant must meet the qualifications to hold an authorization to conduct geological data gathering activities as specified in part 6125.8300.

For the purposes of this authorization, geological data gathering activities include geophysical and geochemical activities, sampling of glacial overburden, and the sampling and drilling of bedrock, provided that any drilling and sampling of bedrock is limited to a maximum penetration of 20 feet into bedrock. Each authorization granted by the commissioner is limited to the size of one township, or portion thereof. The fee for each authorization is \$100. The authorization will not grant any rights to a mineral lease and will be nonexclusive.

Statutory Authority: *MS s 93.25*

History: *19 SR 2433*

6125.8700 MODEL FORM OF LEASE.

The form of lease for exploring for, mining, and removing industrial minerals belonging to the state shall consist of the following provisions, with insertions, changes, or additions as may be necessary to incorporate the royalty rates and other particulars applicable to each lease as may be authorized under parts 6125.8000 to 6125.8700:

This lease agreement is entered into on the day of,, The parties to this lease are the State of Minnesota, called the state, and, called the lessee.

1. Term; description of leased premises. This lease is issued in consideration of the covenants and conditions of this lease to be performed by the lessee and \$....., being paid by the lessee and the receipt of which is hereby acknowledged. The payment of \$..... also represents the rentals for the unexpired portion of the current calendar year and for the next succeeding two calendar years at the annual rate of \$1.50 per acre of land and water area included in the leased premises.

This lease is issued for a primary term of ten years plus the unexpired portion of the calendar year in which the lease is issued. The primary term of this lease is from through The state leases to the lessee the following described leased premises, situated in the the county of, in the State of Minnesota:

2. Extension of term. The lease shall remain in effect for a primary term of ten years plus the time of the unexpired portion of the calendar year of the year in which the lease was issued.

The lessee may apply for and the state may grant an extension of the lease for an additional ten years, so long as the following has occurred:

A. During the primary term of the lease, acres have been prepared for mining operations and commercial production of leased minerals has taken place on ... contiguous acres covered by the lease; or

B. The lessee has in good faith applied for all permits necessary to conduct mining operations and has been diligent in obtaining financing needed to conduct mining operations.

At any time, the lessee may request a determination from the commissioner as to whether the state will grant an extension for an additional ten years beyond the primary term. If the state decides in response to the lessee's request that an extension will be granted, the decision may require the lessee to meet additional conditions other than the conditions specified in this part.

The term of the lease will be extended for additional ten year periods by the state upon application by the lessee, so long as there has been commercial production from the leased premises within any of the last three years of the current ten year term; except that the final term extension shall only be for a period that will extend the lease not beyond a total lease term of 50 years.

The sum of the primary term and all extensions of the term of this lease shall not exceed 50 years.

3. Definitions. For the purposes of this lease, the following words have the meanings given them:

A. "Commercial production" means that in a calendar year the royalties due for the leased minerals removed from the leased premises exceed the minimum rentals paid for that year and that the leased minerals are being mined, removed, and shipped from the leased premises and sold by the lessee on a reasonably regular basis.

B. "Commissioner" means the commissioner of natural resources of the state of Minnesota, or the commissioner's designated representative.

C. "Leased minerals," whether singular or plural, are the following selected industrial minerals:

D. "Ton" means 2,000 pounds avoirdupois after removal of all free moisture from the material weighed, by drying at 212 degrees Fahrenheit.

4. Use of surface of lands. The leased premises are leased to the lessee for the purpose of exploring for, mining, and removing the leased minerals. The lessee has the right to construct or make buildings, excavations, openings, ditches, drains, railroads, roads, and other improvements on the leased premises as necessary or suitable for those purposes. All buildings and ditches must be constructed in accordance with applicable local ordinances. The location of railroads, roads, and other improvements are subject to review by the commissioner.

The lessee may contract with others for doing any work authorized or required under this lease, or for the use of the leased premises or any parts of it for the purposes of the lease, but no contract of this type relieves the lessee from any duty, obligation, or liability under the lease. No such contract providing for shipping, handling, or removal of leased minerals becomes effective for any purpose until an executed duplicate of the contract has been filed with the commissioner.

5. State's right to lease other minerals. The state reserves the right to lease or grant to other persons or corporations the right to explore for, mine, and remove any minerals other than the leased minerals that are located in the leased premises. The lessee shall be entitled to reasonably and prudently use the leased premises as is necessary to prospect for, mine, and remove the leased minerals without unreasonable interference by any subsequent mineral lessee of the state.

Written notice shall be provided by the commissioner to the lessee whenever the commissioner is planning to issue a mineral lease in accordance with the rights reserved under this paragraph. The commissioner will meet with the lessee to obtain information for terms and conditions under which multiple mineral development could occur.

The state agrees that any permit or lease granted by it to any person or corporation to explore for, develop, mine, remove, or beneficiate any minerals other than the leased minerals shall contain a provision that the permittee or lessee shall exercise those rights so as not to cause any unnecessary or unreasonable injury or hindrance to the operations of the lessee of this lease in the exploration for or the development, mining, or removal of leased minerals from the leased premises. The lessee of this lease agrees that it will exercise the rights granted to it by this lease in such manner as not to cause any unnecessary or unreasonable injury or hindrance to the operations of any permittee or lessee of the state in the exploration for, or the development, mining, or removal of any minerals other than the leased minerals.

6. State's right to lease surface and sell timber. The state reserves the right to sell and dispose of all the timber upon the leased premises without hindrance from the lessee and according to the law now or hereafter governing the sale of timber on state lands, and reserves to the state and to the purchaser of the timber, and purchaser's agents, the right at all times to enter the leased premises, and to cut and remove timber from it according to the terms of the purchaser's permit from the state. The timber purchaser shall not unduly interfere with the exploration or mining operations. The state further reserves the right to grant leases, permits, or licenses to any portion of the surface of the leased premises to any person, partnership, corporation, or other association under the authority of Minnesota Statutes, section 92.50, or other applicable laws, after consultation with lessee. The surface leases, permits, or licenses shall not unduly interfere with the exploration or mining operations conducted on the leased premises.

7. Annual rental. The payment required under paragraph 1 of this lease also represents the rental for the unexpired portion of the calendar year from the effective date hereof and for the next succeeding two calendar years. The lessee agrees to pay to the state rental for the leased premises at the rate of \$5 per acre per calendar year for the next three succeeding calendar years of the lease; and after that time at the rate of \$25 per acre per calendar year for the remainder of the term of this lease and any extension thereof pursuant to paragraph 2.

Rental for the entire calendar year, other than the advance payment required under paragraph 1 of this lease, shall be payable as of the first day of January of each year during the

term of this lease, with payment due on or before the 20th day of January of each year. Any rental payments not received by the date due are subject to interest at the rate of six percent per year from and after the 20th day of January of the year for which rental is due.

The leased premises may include lands where an interest in the minerals is owned by the state, including trust fund lands, lands forfeited for nonpayment of taxes and held in trust by the state, lands where severed mineral interests have forfeited under Minnesota Statutes, section 93.55, lands where severed mineral interests have been otherwise acquired, lands where severed mineral interests may be leased by the commissioner under Minnesota Statutes, section 93.55, subdivisions 1a and 3, the beds of public waters, and lands otherwise acquired. Any amount paid for rental, at the time of payment, shall be allocated by the commissioner to the proper fund as determined by the mineral ownership.

Any amount paid and accrued for rental in excess of \$5 per acre per year shall be credited on any royalty that may become due for the same year in which rental was due but no further, and only to the extent that such rental was paid or deposited into the particular fund to which the royalty for such was due. If this lease is canceled, terminated, or expires during a year for which rental has been paid, there shall be no reimbursement of the rental payment for that year.

When the lessee exercises its right under paragraph 31 of this lease to surrender any part or parts of the leased premises under this lease, the annual rental payment may be discontinued as to those parts for all subsequent calendar years; however, the rentals paid on the parts surrendered must not be credited on any royalties due for minerals removed from that part of the leased premises which remains under lease.

Where the state owns only a fractional undivided interest in the minerals in any portion of the leased premises, only that fractional part of the rentals and royalties established in this lease shall be paid for that portion.

If at any time during the term of this lease it is determined in a proper proceeding that the state does not own the minerals in a part of the area included in the leased premises, the commissioner shall delete from the description of the leased premises the part not owned by the state, and only if that determination is made prior to the fifth anniversary date of this lease is the lessee entitled to receive credit on future payments due the same fund, for payments made to the state on that part prior to the determination. If the commissioner deems it necessary, additional time to make the determination may be granted.

8. Royalty. The royalty to be paid to the state for the industrial minerals recovered from the leased premises is a base rate of ... percent of the gross market value after extraction and at the mine plus an additional bid rate of ... percent of the gross market value after extraction and at the mine.

9. Gross market value at the mine. Gross market value after extraction and at the mine means the market price, including all bonuses and allowances received by the lessee, at the point of shipment from the leased premises of the first marketable product or products produced from the leased minerals and sold under a bona fide contract of sale.

It is expressly understood and agreed that none of the lessee's mining or product costs, including but not limited to, material costs, labor costs, overhead costs, transportation costs or general and administrative costs may be deducted from the market price in computing the royalty due. The receipts from all sales are subject to validation and verification by all parties to the sale and subject to review by the commissioner.

If the leased minerals are only sold or transferred by the lessee to an affiliate, or the leased minerals are to be stockpiled off the leased premises for future sales, the method to determine the gross market value of the minerals, for royalty calculation purposes, is subject to prior agreement between the commissioner and the lessee. The commissioner may require that the minerals or products be ranked or graded and inventoried prior to removal from the leased premises. Any adjustments due to differences between the method agreed to between the commissioner and the lessee and actual sales are limited to a period of six months after the leased minerals are removed from the leased premises.

For the purpose of this lease, "affiliate" means the lessee, or any business entity that is effectively owned or controlled directly or indirectly by the lessee or that directly or indirect-

ly effectively owns or controls the lessee, or any business entity operated by or that operates the lessee.

[Note: For certain industrial minerals, there are limited or no established market prices. A lease covering these minerals should include a method to determine the gross market value for royalty calculation purposes. Umpire assays or evaluations is an option for some minerals, such as diamonds. Under certain circumstances, for certain industrial minerals, there may be extensive chemical treatment of the leased minerals on the leased premises prior to shipment. A lease covering this situation should include a method to determine the point at which the first marketable product is arrived at for royalty calculation purposes.]

10. Quarterly payment on minerals removed. The lessee agrees to pay the state, on or before January 20, April 20, July 20, and October 20 in each year during the period this lease continues in force, royalty at the rates specified in paragraph 8 for all of the minerals removed from the leased premises during the previous calendar quarter. Any amount paid for royalty must be allocated by the commissioner to the proper fund as determined by the mineral ownership. The lessee is liable for payment of royalty when due on all minerals removed from the leased premises from the actual time of removal; and if the royalty due on the minerals is not determined and accounted for as provided by the next royalty payment date, the commissioner may determine the royalty by any method that the commissioner deems appropriate and consistent with the royalty rates set forth in this lease. Any royalty payments not received by the date due are subject to interest at the rate of six percent per year from the quarterly due date.

11. Method of computing royalty rates. In computing rental and royalty rates hereunder, any fraction of a cent less than five-thousandths shall be disregarded and any fraction amounting to five-thousandths or more shall be counted as one-hundredth of a cent.

12. Weighing for royalty purposes. Royalty must be computed on the dry weight of the minerals. The dry weight of the minerals shall be calculated from natural weights and moisture percentages from samples taken at the time the minerals are weighed.

The methods of obtaining the weights used in the calculation of royalty, or to determine other weights required by the state, are subject to the approval of the commissioner.

13. Lessee to transmit statement of minerals removed and royalty due. The lessee shall transmit to the commissioner with each royalty payment an exact and truthful statement of the weight and royalty value of the minerals mined and removed from the leased premises during each of the three months for which the payment is made, and the amount of royalty due on the minerals, separated as to the various state fund ownerships. The lessee shall provide for all the operations required for these determinations except as otherwise specified.

14. Commingled minerals. The lessee has the right to commingle leased minerals from the leased premises with other minerals of the same nature and type, either in the mine, in stockpile, or in the shipment, but the leased minerals must be kept entirely separate and distinct until their quantities and rank, grade or mineral content have been separately measured and the amount of royalties due are determined.

15. Sampling. The commissioner may require that samples for royalty purposes be taken of the minerals and their products at appropriate places and intervals. A portion of each sample or composite sample must be delivered to the commissioner unless, by mutual agreement, it has been decided that certain of such portions are not needed by the state. Except as otherwise permitted by the commissioner, all leased minerals mined from the leased premises must be sampled, their weight determined, and the amount of royalties due determined before being commingled with any other minerals.

Each royalty sample must be analyzed at the expense of the lessee by analytical and testing laboratories approved in writing by the commissioner. The elements in the royalty sample and the physical properties for which analytical determinations will be made are subject to agreement between the commissioner and the lessee.

16. Monthly reports. Except as otherwise permitted by the commissioner, the lessee shall transmit within 20 days after the end of each calendar month, statements for that calendar month in the form the commissioner may require, covering the weights and analyses of the following: all minerals mined from the leased premises, all minerals stockpiled from the leased premises, all minerals mined from any source and commingled with minerals from the

leased premises, all commingled minerals stockpiled, and such other information as may reasonably be required by the commissioner for the purpose of verifying the amount of royalty due.

The weight of the minerals and products as set forth in the monthly statements shall prima facie be binding as between the parties. However, the state has the right to do the following: sample the minerals; check the analyses of test results; inspect, review and test the correctness of the methods, books, records, and accounts of the lessee in sampling, analyzing, recording, and reporting the weights; and to inspect, review, and test the correctness of the weights and scales and other equipment used in measuring the amount of minerals. It is understood that any errors in these reports, when ascertained, shall be corrected.

17. Additional monthly and annual reports to be furnished by lessee; exploration; mine samples required. Except as otherwise permitted by the commissioner, in addition to other reports or statements required in this lease, the lessee shall furnish the following:

a. Copies of all exploration data, including, but not limited to, all logs and drill hole records; all maps and coordinates showing drill holes, geophysical grids, geochemical and geologic sampling, trenching, and survey data; all mineral analyses and assays; all chemical and analytical data and information; all laboratory test data; all geophysical, geochemical, and geologic records; all results of mine and mineral processing testings; and all periodic mine maps, analyses maps, cross sections, and development plans. All material required under this subparagraph must be available to the commissioner at all reasonable times. Copies must be submitted annually to the commissioner when the data is in the form customarily prepared for permanent record of the operations on the leased premises. Material available to and furnished to the commissioner under this subparagraph and subparagraph b. shall be considered confidential during the life of this lease.

b. A representative portion of all exploration samples and, when requested by the commissioner in writing, a representative portion of mine samples. In the event that the lessee requires certain exploration samples in their entirety, the commissioner may waive the requirement for a quarter-portion of such exploration samples, provided that the lessee grants the state an opportunity to examine and classify such samples before they are crushed or processed.

c. A monthly report showing the estimated weights, grades, analyses, or other appropriate measure of all minerals stockpiled and divided as to property of origin and deposition.

d. Certified copies of settlement sheets or receipts from sales involving minerals produced from the leased premises showing the product sold and factors relevant to the calculation of royalties.

e. Not later than March 1 of each year during the term of this lease, a summary statement of the weights, grades, analyses, or other appropriate measure of all minerals mined and all minerals placed in or removed from stockpile during the previous calendar year, divided as to the property of origin and the disposition of the minerals and showing such analyses of them as the commissioner may require.

18. How remittances and reports are to be transmitted. All remittances by the lessee under this lease must be made payable to the commissioner of finance. All such remittances and all reports, notices, and documents required under this lease must be transmitted to the commissioner through the director of the Division of Minerals at 500 Lafayette Road, Saint Paul, Minnesota 55155-4045.

19. State inspection; inspectors at plants and mines. The commissioner may at all reasonable times enter the leased premises and any other premises used or operated by the lessee in connection with the operation of the leased premises, inspect the operations conducted under this lease, and conduct such engineering and sampling procedures and other investigations as the commissioner may require, not unreasonably hindering or interrupting the operations of the lessee.

Whenever royalties or rentals due the state are required to be distributed to more than one fund, or when minerals from the leased premises are commingled with other minerals, or when minerals from the leased premises are concentrated at the same plant as other minerals, the commissioner may appoint special inspectors as the commissioner considers necessary to insure proper accounting and protect the interests of the state. The lessee shall reimburse

the state monthly for the cost of this inspection service upon notification by the commissioner.

20. Removal of minerals for experimental purposes. Notwithstanding paragraph 10, upon written application of the lessee, the commissioner may authorize the removal of industrial minerals from the leased premises for experimental purposes without payment of royalty. It is further understood that the removal of samples obtained by drilling, trenching, or test-pitting, for the purposes of exploration, is not subject to the payment of royalty.

21. Stockpiled minerals. All minerals mined and not shipped from the leased premises remain the property of the state and shall be stockpiled only in such manner and on such sites as may be authorized by the commissioner in writing.

22. Reversion of title on land conveyed to the state for stockpiling purposes. When the commissioner determines that it is necessary and that the interests of the state will be fully protected, the lessee may convey land to the state upon the condition that it be used for the storage of minerals or other materials having present or potential value belonging to the state. The commissioner may accept a conveyance that provides for the state's interest in the land to terminate and title to revert to the lessee when the land is no longer needed or used for storage of minerals or other materials. No consideration shall be paid for the conveyance unless authorized by law.

23. Cross-mining rights. The lessee is hereby granted the right to mine and remove any leased minerals from the leased premises through any shafts, openings, or pits that may be made upon adjoining and nearby premises controlled by the lessee. The lessee may, if it so desires, use the leased premises and any shafts, openings, or pits made on it for the mining or removal of any minerals of the same nature and type as the leased minerals from adjoining or nearby premises. The lessee's use of the leased premises for these purposes may not, however, prevent or interfere with the mining or removal of minerals from said leased premises. The minerals taken from the leased premises must at all times be kept entirely separate and distinct from any other minerals until measured and sampled as provided in this lease so that the rights of the state are at all times preserved and protected. The state recognizes the rights and liens of the owners of any nearby or adjoining premises in any minerals mined from them and transported through the leased premises.

24. Lessee's obligations under state and federal laws and regulations. The provisions of this lease are subject to all applicable state and federal statutes, orders, rules, and regulations, and all operations under this lease shall be conducted in conformity with them. No interference, diversion, use, or appropriation of any waters over which the commissioner or any other state agency has jurisdiction, may be undertaken unless authorized in writing by the commissioner or the state agency.

25. Operations to be conducted in accordance with good mining engineering. The lessee shall advise the commissioner when any mining activities on the leased premises are about to begin. The lessee shall open, use, and work the mine or mines on the leased premises in such manner only as is usual and customary in skillful and proper mining operations in accordance with the requirements, methods, and practices of good environmental and mining engineering, and in such manner as not to cause any unnecessary loss of minerals, or unusual permanent injury to the leased premises. Surface lands owned by the state in the leased premises are not to be cleared or used for roads, construction, or stockpiling purposes until such use has been approved by the commissioner in writing. The surface use of the leased premises must be conducted in such manner as to prevent or reduce scarring and erosion of the land and pollution of air and water.

26. Notice to owner of surface estate. When the leased premises do not include the surface estate, the lessee shall give notice, in writing, to the owner or administrator of the surface estate at least 20 days in advance of any activities which will require use of the surface estate on the leased premises. The notice shall sufficiently describe the activities to enable the owner or administrator of the surface estate to evaluate the extent of the use of the surface estate.

27. Review of exploration; exploration site closure and stabilization. Exploration means the act of searching for or investigating a mineral deposit. Exploration includes examination of an area to determine the quality and quantity of minerals, including obtaining a bulk sample by drilling, excavating, trenching, constructing shafts, ramps, tunnels, pits, and

producing refuse and associated activities. Exploration does not include activities intended, by themselves, for commercial exploitation of the ore body.

A. The lessee shall advise the commissioner, in writing, at least 20 days in advance of any exploration activities on the leased premises. The lessee shall specify:

(1) the location of proposed activities depicted on a 1:24,000 scale United States Geological Survey 7-1/2 minutes quadrangle map or other map of the same scale;

(2) the exploration activities that will be performed, including, but not limited to, the type of activity, method of sampling, and types and sizes of vehicles and equipment that will be used;

(3) the approximate beginning and ending dates of the proposed activities;

(4) for exploration activities at sites with special features or uses, methods of mitigation to be used in the exploration to minimize, to the extent practicable, adverse impacts on special features or uses;

(5) the location and method of access to the exploration site, and if new roads or trails are to be constructed, the location of the proposed roads or trails; and

(6) proposed plan for site closure and stabilization, if needed.

The commissioner will identify special features or uses within the leased premises. Conditions identified as special features or uses include: wildlife management areas and sites; peatland watershed areas of the peatland scientific and natural areas; the Black Bay Management Area; natural heritage sites and features; designated trout streams; state canoe and boating routes; state trails; historic and archaeological sites; rights-of-way; fire towers; campgrounds; public access sites; state highway rest areas; and other existing easements, sites, conditions, and encumbrances. The commissioner may require the lessee to adjust its exploration plans or its plans for construction of roads or trails due to special features or uses within the leased premises or due to other natural resource management concerns.

Upon completion of the exploration, the lessee must promptly remove its supplies and equipment and the lessee must restore the leased premises and roads to a condition satisfactory to the commissioner. The lessee must, when needed, implement and complete closure and stabilization of the exploration site to the satisfaction of the commissioner. The lessee shall be relieved of obligations imposed by the plan for exploration site closure and stabilization only when the lessee notifies the commissioner in writing that site closure and stabilization has been completed and release has been granted by the commissioner.

28. Lessee's obligation for damages. It is understood and agreed that in case any interest in the land or minerals covered by this lease is owned by anyone other than the state, this lease shall not be construed as authorizing any invasion of or trespass upon such other interest. The lessee hereby agrees and is obligated to indemnify and hold the state harmless from all damages or losses caused directly or indirectly by operations under this lease, whether to land, timber, minerals, growing crops, or buildings, or to any person or other property, including damages suffered by that other owner of the surface or mineral rights, and the state shall not be liable for them.

29. Lessee to pay all taxes. The lessee agrees to pay when due all taxes, general and specific, personal and real, that may be assessed against the leased premises and the improvements made on it, and the leased minerals in it or mined from it, and any personal property on the leased premises owned, used, or controlled by the lessee. This covenant does not apply to taxes assessed against any part of the leased premises as a result of any other lease granted by the state to other parties. The cancellation, termination, or expiration of this lease does not relieve the lessee of the obligation to pay taxes assessed during the continuance of the lease, even though such taxes may be due or payable after the cancellation, termination, or expiration date.

30. State lien for unpaid sums due. The state reserves and shall at all times have a lien upon all minerals mined from the leased premises and all improvement made under this lease for any sums not paid when due.

31. Lessee's right to terminate lease. The lessee may at any time deliver to the commissioner written notice of intention to terminate this lease, and this lease shall terminate 60 days after the delivery unless the notice is revoked by the lessee by further written notice delivered to the commissioner before the expiration of 60 days.

On December 31 following the third anniversary date of this lease, and on any succeeding December 31, the lessee may surrender its rights and privileges granted in this lease on any part or parts of the leased premises, by giving the lessor written notice of its intention so to do at least 60 days before the date of such surrender. For the purposes of this paragraph, "part of the leased premises" means a quarter section of a quarter section or a government lot as described by the public land survey, or a bed of public waters.

All sums due to the state under this lease up to the effective date of termination must be paid by the lessee. Any sums not received within 20 days after the effective date of termination are subject to interest at the rate of six percent per year from the effective date of termination.

32. Lessor's right to cancel lease upon default. This lease is granted upon the express condition that, if any sum owed under it by the lessee for rental, royalty, or otherwise remains unpaid after the time when it became due, or if the lessee or its agent or servant knowingly or willfully makes any false statement in any report, account, or tabulation submitted to the state or to the commissioner, or any of the commissioner's agents pertaining to any matter under this lease, or if the lessee fails to perform any of the conditions required by this lease, the commissioner may cancel this lease by mailing or delivering to the lessee 60 days' notice of the cancellation in writing, specifying such nonpayment or other default as the case may be. This lease shall terminate at the expiration of the 60 days, and the lessee and all persons claiming under the lessee shall be wholly excluded from the leased premises except as hereinafter provided in paragraph 33. Termination does not relieve the lessee from any liability for payment or other liability incurred under this lease. If the default consists of a nonperformance of an act required under this lease other than payment of royalty or rental, the lessee may perform within the period of 60 days and the lease continues in effect. If the correction of any such default requires more time than 60 days after the notice has been received by the lessee, the commissioner, upon written request of the lessee and for good cause shown, may, at the commissioner's discretion, grant an extension of the period of 60 days. If the default consists of a nonpayment of royalty or rental and the lessee performs within 15 days from the mailing or delivery of notice of cancellation, the lease continues in effect; and if the lessee performs at any time thereafter within the period of 60 days, the commissioner, at his or her discretion, may continue the lease in effect.

33. Rights of lessor and lessee during 180-day period following termination. Upon termination of this lease or surrender of any part or parts of the leased premises, whether by expiration of its terms or by act of either party, except as necessary to comply with any reclamation requirements, the lessee has 180 days after termination or surrender in which to remove all equipment, materials, railroad tracks, structures and other property placed or erected by the lessee upon said leased premises or the part surrendered thereof. Property not removed within that time shall, at the discretion of the commissioner, either be removed by the state at the lessee's expense or become the property of the state.

The lessee shall not remove or impair any supports placed in any mine or mines on the leased premises, or any timber or framework necessary to the use or maintenance of shafts or other approaches to such mine or mines or tramways within the leased premises, all of which become the property of the state. The lessee shall, at its own expense, properly and adequately fence all pits, level banks, and refill all test pits and cave-ins that may be deemed dangerous or are likely to cause damage to persons or property, and the lessee shall do all other work which the commissioner deems necessary to leave the premises in a safe and orderly condition to protect against injury or damage to persons or property, and shall restore and reclaim the premises to a condition satisfactory to the commissioner. The lessee shall complete these requirements within 180 days after termination or surrender of the lease, unless a longer period is needed in order to comply with reclamation requirements.

Subject to the foregoing, upon the termination of this lease or surrender of any parts or parts thereof, whether by expiration of the term hereof or otherwise, the lessee shall quietly and peaceably surrender possession of the leased premises or the surrendered part or parts thereof to the state.

34. Recovery of expenses. If it is necessary for the state to incur expenses by court action or otherwise for the eviction of the lessee, or removal from the leased premises of the lessee's property, or recovery of rent or royalties, or for any other remedy of the state under

this lease, and the state prevails in the court action or otherwise, then the lessee shall pay to the state all expenses, including attorney's fees, thus incurred by the state.

35. Agreements, assignments, or contracts. All assignments, agreements, or contracts affecting this lease must be made in writing and signed by all parties thereto, witnessed by two witnesses, properly acknowledged and must contain the post office addresses of all parties thereto, and when so executed must be presented in triplicate to the commissioner for record. No such instrument is valid until approved in writing by the commissioner and approved as to form and execution by the attorney general. No assignment or other agreement relieves the lessee of any obligation of liability imposed by this lease, and all assignees, sublessees, and subcontractors are also liable for all obligations or liabilities imposed by this lease.

36. Lease binding on assignees and successors. The covenants, terms, and conditions of this lease run with the land and extend to and bind all assignees and other successors in interest of the lessee.

37. Notices. For purposes of this lease, the addresses of the parties, unless changed by written notice to all parties, are: For the state; Commissioner of Natural Resources, State of Minnesota, Division of Minerals, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045; and for the lessee;

38. This lease is issued under all applicable provisions of Minnesota Statutes, chapter 93; and Minnesota Rules, parts 6125.8000 to 6125.8700.

Statutory Authority: *MS s 93.25*

History: *19 SR 2433; L 1998 c 254 art 1 s 107; L 2003 c 112 art 2 s 50*