

CHAPTER 6130

DEPARTMENT OF NATURAL RESOURCES

FERROUS METALLIC MINERAL MINING

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6130.0100 DEFINITIONS.

Subpart 1. **Acceptable research.** "Acceptable research" means research that is site related, is reasonably designed for the purpose of demonstrating that the goals contained in part 6130.2000 can be achieved, is no larger than necessary to adequately demonstrate the proposed measures, and includes, for comparison, the standards specified in parts 6130.2400, item A; 6130.2500; 6130.2700, item A; and 6130.2900, item A, which the proposed measures are intended to replace.

Subp. 2. **Auxiliary facilities.** "Auxiliary facilities" means all permittee owned stationary physical property used in a mining operation, including: power plants and associated facilities; transmission lines; pipelines; roads; railroads; docks and associated facilities; borrow areas and leased borrow areas and associated facilities; blasting agent and fuel production or preparation facilities; and parking areas, shops, offices, buildings, structures, and storage facilities located within the area where mining is conducted. This does not include common carrier transportation facilities.

Subp. 3. **Beneficiating plants.** "Beneficiating plants" means all metallic mineral processing plants, such as crushers, mills, concentrators, agglomerating and sintering facilities, smelters, refineries, and other metal making facilities.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of natural resources, or any duly authorized representative.

Subp. 5. **Deactivation.** "Deactivation" means the process of finally terminating and reclaiming any specific portion of a mining operation. Deactivation begins when, as prescribed in the permit to mine, all mining activities and uses have ceased and there will be no renewed use or activity by the permittee.

Subp. 6. **Hereafter.** "Hereafter" means after August 25, 1980.

Subp. 7. **Mine waste.** "Mine waste" means any material, such as surface overburden, rock, lean ore, or tailings which in the process of mining and beneficiation has been removed from the earth and stored elsewhere on the surface.

Subp. 8. **Mining.** "Mining" means the process of removing, stockpiling, processing, storing, transporting (excluding use of common carriers and public transportation systems), and reclaiming any material in connection with the commercial production of metallic minerals. This includes exploration activities such as the taking of large bulk samples.

Subp. 9. **Mining area or area subjected to mining.** "Mining area" or "area subjected to mining" means any area of land from which material is hereafter removed in connection with the production or extraction of metallic minerals, the lands upon which material from such mining is hereafter deposited, the lands upon which beneficiation plants and auxiliary facilities are hereafter located, lands upon which the water reservoirs used in the mining process are hereafter located, and auxiliary lands which are hereafter used or intended to be used in a particular mining operation.

Subp. 10. **Mining operation.** "Mining operation" means all of a mining project without regard to political, administrative, or ownership boundaries, which includes all of the facilities used in "mining" as defined in subpart 8.

Subp. 11. **Natural resources.** "Natural resources" means all mineral, animal, plant, air, water, land, timber, soil, quietude, recreational, historical, scenic, and aesthetic resources.

Subp. 12. **Operator.** "Operator" means any owner or lessee of mineral rights engaged in or preparing to engage in a mining operation.

Subp. 13. **Permit to mine.** "Permit to mine" means legal approval given by the commissioner to conduct a mining operation or a scam mining operation.

Subp. 14. **Reclamation.** "Reclamation" means the successful accomplishment of the goals in parts 6130.1000 to 6130.4100.

Subp. 15. **Reference area.** "Reference area" means a vegetated land unit which is designated for comparatively measuring reclamation vegetation success.

Subp. 16. **Scram mining operation.** "Scram mining operation" means a mining operation which produces natural iron ore or natural iron ore concentrates as defined by Minnesota Statutes, section 93.20, subdivisions 12 to 17, from previously developed stockpiles, tailings basins, underground mine workings, or open pits, which involves no more than 80 acres of land not previously affected by mining. Greater areas shall be allowed if the operator can demonstrate that impacts would be substantially the same as other scam operations. "Lands not previously affected by mining" means lands upon which mine wastes have not been deposited and lands from which materials have not been removed in connection with the production or extraction of metallic minerals.

Subp. 17. **Stockpile.** "Stockpile" means an accumulation of mine waste. It does not include tailings basins, fossil fuel, finished product, or surge piles.

Statutory Authority: *MS s 93.47*

6130.0200 PURPOSE AND POLICY.

The purpose of parts 6130.0100 to 6130.6300 is to implement Minnesota Statutes, sections 93.44 to 93.51 in order to control possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement

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of good mining practices, and the recognition and identification of the beneficial aspects of mining.

Statutory Authority: *MS s 93.47*

6130.0300 SCOPE.

Subpart 1. **Persons currently engaged in metallic mining.** Any person engaged in metallic mining shall apply for a mining permit or a scam mining permit within 180 days of August 25, 1980.

Subp. 2. **Permits before commencement of operations.** Any person hereafter intending to conduct a new mining operation or reactivate an inactive mining operation shall obtain a mining permit or a scam mining permit prior to commencing operations.

Subp. 3. **Term of mining permit.** The term of a mining permit shall be the period determined necessary by the commissioner for the completion of the proposed mining operation, based on information provided pursuant to part 6130.4300.

Subp. 4. **Term of scam mining permit.** The term of a scam mining permit shall not exceed five years.

Subp. 5. **Iron as predominant extract in mining operations.** These parts apply to metallic mining operations from which iron is the predominant metal extracted:

A. all portions of any mining operation initiated hereafter, including both new operations and reactivated inactive operations; and

B. the following portions of existing mining operations:

(1) any portion of such operation which is hereafter created or used, provided that the siting requirements shall not apply to that portion already constructed;

(2) all of any existing tailings basin, settling pond or water reservoir (including dams, dikes, deltas, beaches, seepage control structures, and water control devices) where any portion thereof is hereafter used for the deposition of tailings or sediment or for water storage; provided that the siting requirements shall not apply; and

(3) all existing permittee owned power plants and associated facilities, transmission lines, pipelines, docks and associated facilities, and railroads shall comply only with the deactivation, reporting, and procedural requirements of parts 6130.4100, 6130.4200 to 6130.4700, and 6130.5400.

Subp. 6. **Waiver.** When part of any mining area is included in the mining and reclamation plans of two or more persons who are not copermittees, that portion of the reclamation requirements which is the responsibility of the persons who first performs the mining may be waived by the commissioner provided:

A. subsequent disturbance by another operator is scheduled, according to such operator's permit to mine;

B. the operator who will perform subsequent mining presents plans, and accepts responsibility for the performance of any necessary reclamation which may be incurred as a result of the previous mining operation; and

C. no significant environmental damage is likely to occur as a result of the waiver.

Subp. 7. **Effect on other rules, statutes, or ordinances.** Nothing in these parts waives the requirements of any other applicable rules of the Department of Natural Resources or any other agency or governmental unit or of any other applicable statute or ordinance.

Subp. 8. **Conflict in rules.** Where these parts conflict with other applicable statutes, rules, and ordinances, the most restrictive provision shall apply.

Subp. 9. **Other rights.** Subject to Minnesota Statutes, section 93.47, subdivision 3, these parts shall be subject to any rights existing pursuant to any permit, license, lease,

or other valid existing authorization issued by the commissioner, the Minnesota Pollution Control Agency, or any other governmental entity or their predecessors office.

Statutory Authority: *MS s 93.47*

6130.0400 SEVERABILITY.

If any provision of these parts is held invalid, such invalidity shall not affect any other provision of the rules which can be given effect without the invalid provision, and to this end the provisions of these parts are declared to be severable.

Statutory Authority: *MS s 93.47*

TACONITE AND IRON ORE RECLAMATION STANDARDS

6130.1000 SITING GOALS.

Mining shall be conducted on sites that minimize adverse impacts on the environment and the public. Separations shall be maintained between mining areas and adjacent conflicting land uses. All sites shall incorporate setbacks or separations which are needed to comply with air, water, and noise pollution standards; local land use regulations; and requirements of other appropriate authorities.

Statutory Authority: *MS s 93.47*

6130.1100 GENERAL CRITERIA FOR SITE SELECTIONS.

Portions of a mining operation for which there is flexibility in site selections, such as stockpiles, tailings basins, water reservoirs, processing plants, offices interconnecting roadways and auxiliary facilities, shall be sited so that:

- A. impacts on the public due to wind erosion, noise, and air emissions are minimized;
- B. potential injury to life, property, and natural resources due to dam or slope failure is minimized;
- C. major modifications of watersheds, including diversions of surface water and alterations of groundwater levels are minimized;
- D. runoff and seepage can be managed to minimize environmental effects;
- E. spilled material resulting from pipeline rupture or emergency release can be contained and controlled;
- F. former mining areas are used in preference to areas undisturbed by mining; and
- G. conflicts with natural resource sites identified by the commissioner such as those listed in V 21 Natural Resources Sites, Minesite Data Manual, Minnesota Department of Natural Resources, are minimized.

Statutory Authority: *MS s 93.47*

6130.1200 EXCLUSION AREAS FOR MINING.

No mining shall be conducted within any of the following areas unless the commissioner determines that a state or national emergency exists which would require the exploitation of the mineral resources within such areas:

- A. On and within one-fourth mile of the Boundary Waters Canoe Area, as defined in chapter 6140, state or national wilderness areas, state or national parks and national monuments, except where such areas are established as a result of their association with mining.
- B. Within a national, wild, scenic, or recreational river district or within one-fourth mile of a national wild, scenic, or recreational river (whichever is greater): and within a designated state land use district or within one-fourth mile of any state wild, scenic, or recreational river (whichever is greater) however, underground mining may be permitted to the extent consistent with the governing Wild and Scenic Rivers Act and the rules promulgated thereunder.

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C. On sites designated in the state Registry of Historic Sites or National Register of Historic Places, except where such areas are established as a result of their association with mining, and on designated state scientific or natural areas.

D. Within 300 feet of any state designated trout stream, any river listed in Minnesota Statutes, section 85.32, subdivision 1, and the Redwood, Yellow Medicine, Chippewa, Bois de Sioux, Red River of the North, Roseau, Rainy, Vermillion, Kawishiwi, and Pigeon Rivers.

E. Within 400 feet of any natural watercourse located within the area defined by the federal Shipsted-Newton-Nolan Act, United States Code, title 16, sections 577 to 577b.

F. Within any lake greater than 80 acres in size and any stream trout lake designated by the commissioner.

G. Within that area adjacent to the north shore of Lake Superior classified as the lake orientation zone in the DNR report North Shore Characterization Study. However, within this zone existing processing and by-product disposal shall be allowed at Silver Bay. The storage and transshipment of product and fuel, add docks and associated facilities shall be allowed at Duluth, Two Harbors, Silver Bay, and Taconite Harbor. The removal of ore by underground mining within this zone may be permitted subject to conditions prescribed by the commissioner when such mining can be conducted in a manner consistent with these parts.

H. Within the following setback areas containing dwellings, buildings, roads, or facilities which are in existence prior to the issuance of a permit to mine:

(1) 500 feet of any occupied dwelling, public school, church, public institution, county or municipal park, or cemetery unless allowed by the owner; and

(2) 100 feet of the outside right-of-way line of any public roadway, except where mine access or haul roads cross such right-of-way line.

I. Within any area except federal areas added to the categories listed in part 6130.1200 which is designated hereafter but prior to the issuance of a permit to mine involving such area provided that such designation is made by a process which includes a public hearing.

Statutory Authority: *MS s 93.47*

6130.1300 AVOIDANCE AREAS FOR MINING.

When there is a feasible and prudent alternative, no mining shall be conducted within the following areas:

A. Within any national wildlife refuge or waterfowl production area. State wildlife management area or on lands designated as national natural landmarks or national trails or any state designated trail listed in Minnesota Statutes, section 85.015.

B. Within any shorelands defined in Minnesota Statutes, section 103F.205, which county or municipal shoreland management ordinances have been established in compliance with Minnesota Statutes, sections 103F.201 to 103F.221.

C. Within that area near the north shore of Lake Superior classified as the transition zone in the DNR report North Shore Characterization Study.

D. Within any area added to the categories listed in this part which is designated hereafter but prior to the issuance of a permit to mine involving such area.

Statutory Authority: *MS s 93.47*

6130.1400 IN-MINE DISPOSAL.

Subpart 1. **Goals.** Mining shall be conducted to maximize use of past, present, and future mining areas so as to minimize the amount of land disturbed by mining and reduce the loss of nonmineral resources.

Subp. 2. **Requirements.** Requirements:

- A. The commissioner may require in-mine disposal of mine waste.
- B. Mining methods and schedules shall be used which provide areas for waste disposal at the earliest opportunity.
- C. The commissioner will consider factors such as the following to determine the extent to which in-mine disposal shall be required:
 - (1) the ease of reclamation;
 - (2) pollution potential;
 - (3) public safety and welfare;
 - (4) natural resource preservation;
 - (5) land use demands;
 - (6) ownership of the minerals;
 - (7) mineral resource values; and
 - (8) physical and economic feasibility.
- D. Mine waste which is placed within an open pit mine below the ultimate pit water elevation shall be exempted from the requirements of parts 6130.2000 to 6130.3600. These shall be designed and constructed to prevent adverse environmental effects.

Statutory Authority: *MS s 93.47*

6130.1500 BUFFERS AND BARRIERS.

Subpart 1. **Goals.** A mining operation shall be designed, constructed, and maintained so that the operation is compatible with surrounding nonmining uses.

Subp. 2. **Requirements.** Requirements:

- A. Naturally existing terrain and vegetation, or vegetated mine waste which appear similar to natural terrain shall be used to minimize problems such as: noise, dust and chemical air pollutants, view, mine traffic, access, and erosion.
- B. Buffering shall be implemented prior to beginning operations in a portion of a mining area that needs buffering.
- C. Buffers may be constructed within the setback areas described in part 6130.1200, item H provided their primary purpose fulfills item A.

Statutory Authority: *MS s 93.47*

6130.2000 GOALS OF SLOPING AND LANDFORM DESIGN.

Landforms shall be designed and constructed to complement nearby natural terrain, minimize adverse water quality and quantity effects on receiving waters, enhance the survival and propagation of vegetation, be structurally sound, control erosion, promote early completion and progressive reclamation, and encourage the prompt conversion from mining to an approved subsequent use.

Statutory Authority: *MS s 93.47*

6130.2100 STOCKPILE DESIGN AND CONSTRUCTION STANDARDS.

All stockpiles shall be designed and constructed according to the following standards:

- A. Existing stockpiles shall be incorporated or extended to the extent possible.
- B. Water shall be drained away from the top of any stockpile in a manner which will not adversely affect the structural stability of the stockpile and will minimize erosion.
- C. All runoff and drainage control measures shall be designed to withstand a 100-year frequency, 24-hour duration storm as developed using good hydraulic and hydrologic practices.

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D. If runoff from stockpiles has caused or is likely to cause violations of water quality standards, the runoff shall be collected and held in a settling basin until it meets, or is treated to meet, effluent limitations.

E. Runoff or drainage controls shall be designed by a qualified person proficient in hydrologic analysis and water channel design.

F. When a water quality problem has occurred or is likely to result from leaching of stockpiled material, the commissioner shall require one or more of the following based on the type of material and the nature and location of the problem:

- (1) the design of a monitoring system and the monitoring of water quality;
- (2) the construction of an impermeable base pad to isolate the stockpile from the groundwater;
- (3) the construction of a permeable base pad containing soil material capable of absorbing and holding the toxic materials in the leachates;
- (4) the diversion of surface waters around and away from the stockpile;
- (5) covering of stockpiles to minimize the infiltration of precipitation;
- (6) the use of internal layers of soil or other material to hold the toxic materials in the leachate;
- (7) the use of material which controls pH of the leachate; and
- (8) the collection and treatment of leachate.

Statutory Authority: *MS s 93.47*

6130.2200 MANAGEMENT OF RUNOFF.

Mining areas shall be managed so that watershed modifications are minimized. Runoff from these areas shall be discharged without injury to life, property, and natural resources. Upon deactivation, any runoff from drainage areas altered by mining shall be discharged into receiving waters within the same watershed as existed before mining. When conditions do not allow discharge into the premining watershed, runoff shall be discharged at locations, and in volumes and rates which can be accepted by the receiving waters without injury to life, property, and natural resources.

Statutory Authority: *MS s 93.47*

6130.2300 EXAMINATION BY ENGINEER.

When mine waste is deposited on areas with unstable foundations such as peat, muskeg, bedded lacustrine deposits, fault zones, and areas above underground mine workings, an engineer shall examine the foundation and design the landforms to be stable.

Statutory Authority: *MS s 93.47*

6130.2400 STANDARDS FOR ROCK, LEAN ORE, AND COARSE TAILINGS STOCKPILES.

Rock, lean ore, and coarse tailings stockpiles, unless they are an integral part of a tailings impoundment, shall be designed and constructed according to either of the following standards:

- A. The final exterior slopes shall consist of benches and lifts as follows:
 - (1) no lift shall exceed 30 feet in height;
 - (2) no bench width shall be less than 30 feet wide, measured from the crest of the lower lift to the toe of the next lift;
 - (3) the sloped area between benches shall be no steeper than the angle of repose;
 - (4) benches shall be designed and constructed to control runoff;
 - (5) when vegetation is required pursuant to part 6130.3600, subpart 2, item D, the sloped areas between benches shall be prepared to support vegetation; and

(6) when the sloped area between benches is covered with surface overburden and vegetated, lifts may be raised to a maximum of 40 feet.

B. Based upon acceptable research the commissioner shall approve other measures which satisfy part 6130.2000.

Statutory Authority: *MS s 93.47*

6130.2500 SURFACE OVERBURDEN.

A minimum of two feet of surface overburden shall be placed upon the completed portions of each bench and top of any rock, lean ore, or coarse tailing stockpile and upon other portions of such stockpiles for which vegetation has been required or approved. Based upon acceptable research the commissioner shall approve other measures which satisfy part 6130.2000.

Statutory Authority: *MS s 93.47*

6130.2600 SPECIAL TREATMENT OF STOCKPILES WITH RAPIDLY DECOMPOSING MATERIALS.

Rock, lean ore, or coarse tailings stockpiles consisting of rapidly decomposable material which is susceptible to wind or water erosion or highly erodible soils shall receive treatment such as:

- A. covering with less erodible material;
- B. shortening or flattening the slopes; and
- C. vegetating the slopes.

Statutory Authority: *MS s 93.47*

6130.2700 STANDARDS FOR SURFACE OVERBURDEN STOCKPILE DESIGN AND CONSTRUCTION.

Surface overburden stockpiles shall be designed and constructed according to either of the following standards:

- A. The final exterior slopes shall consist of benches and lifts as follows:
 - (1) No lift shall exceed 40 feet in height.
 - (2) No bench width shall be less than 30 feet wide, measured from the crest of the lower lift to the toe of the next lift.
 - (3) The sloped area between benches shall be no steeper than 2.5:1.
 - (4) Benches shall be sloped toward the interior to control runoff. They shall be large enough to handle runoff water until it can be infiltrated into the stockpile, or a drainage control system shall be constructed to remove water consistent with part 6130.2100, items B and C.
 - (5) Rock, lean ore, or coarse tailings shall not be used to cover surface overburden stockpiles in order to avoid compliance with sloping and vegetation requirements. This shall not preclude the abutting of rock, lean ore, or coarse tailings stockpiles with surface overburden stockpiles, or the placement of rock, lean ore, or coarse tailing lifts atop surface overburden pads or lifts.

B. Based upon acceptable research the commissioner shall approve other measures which satisfy part 6130.2000.

Statutory Authority: *MS s 93.47*

6130.2800 SEPARATION OF MATERIALS IN STOCKPILES.

Iron formation and Duluth complex formation materials of varying grades and types shall be segregated within the same stockpile or placed in separate stockpiles. Materials which require different means of beneficiation shall not be commingled.

Statutory Authority: *MS s 93.47*

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6130.2900 STANDARDS FOR DESIGN AND CONSTRUCTION OF SURFACE OVERBURDEN PORTIONS OF PITWALLS.

Surface overburden portions of pitwalls shall be designed and constructed to either of the following standards:

A. The final exterior slopes shall consist of benches and lifts as follows:

(1) the toe of the surface overburden portion shall be set back at least 20 feet from the crest of the rock portion of the pitwall;

(2) lift heights shall range from 40 to 60 feet and shall be selected based on the need to protect public safety; the location of the pitwall in relation to the surrounding land uses; the soil types and their erosion characteristics; the variability of overburden thickness; and the potential uses of the pit following mining;

(3) the sloped area between benches shall be no steeper than 2.5:1; and

(4) benches shall be sloped into the overburden to control runoff. They shall be large enough to handle runoff water until it can infiltrate into the slope, or a drainage control system shall be constructed to remove water consistent with part 6130.2100, items B and C.

B. Based upon acceptable research the commissioner shall approve other measures which satisfy part 6130.2000.

Statutory Authority: *MS s 93.47*

6130.3000 DESIGN, CONSTRUCTION, AND OPERATION OF TAILINGS BASINS.

Tailings basins shall be designed, constructed, and operated according to the following:

A. The storage of tailings within an approved site shall be maximized while meeting part 6130.2000.

B. A means of draining the pond area and managing runoff shall be provided consistent with part 6130.2200.

C. During the mining operation dust generation shall be minimized by maximizing the area of permanently reclaimed tailings. The remaining active tailings areas shall be covered with water to the maximum extent possible and beach areas shall be temporarily stabilized consistent with part 6130.3700.

D. Tailings basins shall be designed, by registered professional engineers proficient in geotechnical and other aspects of design, construction, operation, and maintenance of tailings basins. The construction, operation, and maintenance of basins shall be periodically reviewed by such engineers to ensure compliance with the design.

Statutory Authority: *MS s 93.47*

6130.3500 GOALS OF VEGETATION.

Vegetation shall be established to control erosion, prevent and control leaching of toxic substances, screen mining areas from noncompatible uses, and provide wildlife habitat or other uses such as pasture or timber land.

Statutory Authority: *MS s 93.47*

6130.3600 VEGETATION REQUIREMENTS.

Subpart 1. **Location of vegetation.** Vegetation shall be established on the following:

A. surface overburden stockpiles;

B. exposed soils along diversion channels and roads;

C. cuts, pits, trenches, and other areas disturbed during the process of obtaining borrow materials or bulk samples, except those entirely included in larger mining landforms;

D. benches and tops of rock and lean ore stockpiles;

- E. tailings basins;
- F. dikes and dams;
- G. exposed soils adjacent to water reservoirs;
- H. areas exposed or disturbed during deactivation procedures such as building sites, parking lots, pipeline routes, storage areas, transmission routes, and roads not used for subsequent access;
- I. surface overburden portions of pitwalls;
- J. buffers and barriers; and
- K. subsided areas not permanently covered by water.

Subp. 2. **Other vegetative measures.** Other vegetative measures shall be undertaken, as necessary, to:

- A. control access to pits and other hazardous areas, for safety purposes;
- B. control wind erosion, provide buffering and enhance the establishment of approved specific subsequent uses, through the development plant communities with specific density and composition;
- C. control dust on temporarily inactive tailings basins to which the nonvegetative methods prescribed pursuant to part 6130.3700 are not being applied;
- D. provide aesthetic and compatible areas on rock, lean ore, and coarse tailings stockpile slopes, within one-fourth mile of residential and designated public use areas, except designated trails; and
- E. control the quality of water which would otherwise contact rapidly decomposable material or material subject to leaching.

Subp. 3. **Timing and techniques of vegetation establishment.** The establishment of vegetation shall be initiated during the first normal planting period following the point when according to the permit to mine, a surface, structure, facility, or element is no longer scheduled to be disturbed or used in a manner that would interfere with the establishment and maintenance of vegetation, or after it has otherwise been required, using techniques such as grading, disking, or chisel plowing to reduce compaction, seeding or planting, fertilizing, mulching, and irrigating.

Subp. 4. **Vegetation standards.** The following standards apply to the areas listed in subpart 1:

A. After three growing seasons following the point when according to the permit to mine, a surface, structure, facility, or element is no longer scheduled to be disturbed or used in a manner that would interfere with establishment and maintenance of vegetation, a 90 percent ground cover, consisting of living vegetation and its litter, shall exist on all areas, except slopes which primarily face south and west. Such sloped areas shall attain the 90 percent ground cover requirement within five growing seasons following the point when initiation of vegetation is required. Where this standard is not met, or where unvegetated rills or gullies more than nine inches deep form and erosion is occurring, the surface shall be repaired and replanted during the next normal planting period.

B. Within ten growing seasons after the point when according to the permit to mine, a surface, structure, facility, or element is no longer scheduled to be disturbed or used in a manner that would interfere with the establishment and maintenance of vegetation, an area shall have a vegetative community with characteristics similar to those in an approved reference area. The vegetation on a reference area may be either planted or naturally occurring. For the purpose of controlling erosion, it shall be self-sustaining, regenerating, or a stage in a recognized vegetation succession which provides wildlife habitat or other uses such as pasture or timber land. Reference areas must be representative of the site conditions and possible uses which might exist on mining landforms. No release pursuant to part 6130.5400 shall be granted until the area has such characteristics.

Statutory Authority: *MS s 93.47*

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6130.3700 AIR POLLUTION.

Subpart 1. **Goal.** Mining shall be managed to control avoidable dust.

Subp. 2. **Requirement.** Avoidable dust shall be controlled by techniques such as water spray, chemical binders, anchored mulches, vegetation, and enclosure and containment.

Statutory Authority: *MS s 93.47*

6130.3800 GOAL OF BLASTING.

Effects of air overpressure and ground vibrations from production blasts shall be kept at levels which will not be injurious to human health or welfare and property outside mining areas.

Statutory Authority: *MS s 93.47*

6130.3900 BLASTING REQUIREMENTS.

Subpart 1. **Air overpressure standards.** Air overpressure standards:

A. Air overpressure on lands not owned or controlled by the permittee shall not exceed 130 decibels as measured on a linear peak scale, sensitive to a frequency band ranging from six cycles per second to 200 cycles per second.

B. All open pit blasts shall be monitored by the operator. Monitoring stations shall be located adjacent to the nearest structure located on lands not owned or controlled by the permittee, and where the commissioner deems necessary to investigate complaints. Scram operators are not required to conduct air overpressure monitoring except as required for complaint investigation.

C. All open pit mining operators shall keep a blaster's log of production blasts for a period of at least six years containing the following:

- (1) date and time of blast;
- (2) type of explosive used;
- (3) ignition layout with locations of blast holes and time intervals of delay;
- (4) pounds of explosives per each delay of eight milliseconds or more;
- (5) total pounds of explosives;
- (6) type of material blasted;
- (7) monitoring locations and results of monitoring when conducted;
- (8) meteorological conditions, including temperature inversions, wind speed, and directions as can be determined from the U. S. Weather Bureau, and ground-based observations;
- (9) directional orientation of free faces of bench to be blasted; and
- (10) other information which the commissioner finds necessary to determine if the standards of this part and part 6130.3800 are achieved.

D. If a focusing condition is detected which could cause the blast to adversely affect populated areas, blasting shall be postponed until the condition is no longer present.

E. Blasting shall take place only during daylight hours unless a hazardous condition requires blasting at another time.

Subp. 2. **Ground vibration control.** Ground vibration control:

A. The maximum peak particle velocity from blasting shall not exceed one inch per second at the location of any structure located on lands not owned or controlled by the permittee.

B. The permittee shall either:

- (1) monitor production blasts for peak particle velocity using a seismograph capable of measuring three mutually perpendicular peak particle velocities, with the peak particle velocity being the largest of these measurements; or

(2) utilize the scale distance formula $W=(d/60)^2$

where: W= the charge weight per delay (eight milliseconds or more), and d= the distance (in feet) from the blast to the nearest structure located on lands not owned or controlled by the permittee to determine the weight of allowable explosive per decay.

When the monitoring is chosen, or complaints are received, seismic measurements shall be conducted adjacent to the nearest structure located on lands not owned or controlled by the permittee and where the commissioner deems necessary to investigate complaints.

C. In the event of a complaint or when ground vibrations have or are likely to exceed the one inch per second standard, the commissioner shall require permittees using underground mining methods to maintain a blaster's log for the purpose of assessing ground vibration control.

Subp. 3. **Retention of monitoring data.** All monitoring data collected shall be saved for a period of six years and made available to the commissioner upon request.

Statutory Authority: *MS s 93.47*

6130.4000 SUBSIDENCE AND OTHER SURFACE DISPLACEMENT.

Subpart 1. **Goal.** Mining operations shall be conducted in a manner which will prevent or mitigate hazardous conditions which result from slumping, heaving, and subsidence.

Subp. 2. **Requirements.** Techniques shall be employed which prevent slumping and heaving.

In the event of actual or likely subsidence the permittee shall establish ground control survey locations and conduct surveys to document the extent of ground movement.

After subsidence has ceased, affected areas shall be contoured or filled to remove hazards and where necessary to protect public health and safety or natural resources, a drainage system shall be established in a manner consistent with part 6130.2200.

Statutory Authority: *MS s 93.47*

6130.4100 DEACTIVATION AND RELEASE.

Subpart 1. **Goal.** The mining area shall be deactivated so that it is nonpolluting, is stable, is free of hazards, minimizes the need for fencing, has current land use and future land use potential which recognizes the needs of the surrounding area, and is maintenance free to the maximum extent possible.

Subp. 2. **Requirements.** Requirements:

A. At least two years prior to deactivation of any portion of the mining area, proposed subsequent uses shall be presented to the commissioner for approval, pursuant to part 6130.5000. The proposed uses shall be selected based on:

- (1) compatibility of adjacent uses;
- (2) the needs of the area;
- (3) the productivity of the site;
- (4) projected land use trends;
- (5) public health and safety;
- (6) pollution of air and water; and
- (7) compatibility with local land use plans and plans of the surface owners.

B. The mining area shall be managed during deactivation to achieve the approved subsequent uses.

C. Within one year after deactivation begins, or within such longer period which may reasonably be necessary to accomplish these activities, debris and mobile equipment which will not be used for reclamation shall be removed from the area being deactivated.

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D. Within three years after deactivation begins, or within a such longer period which may reasonably be necessary to accomplish these activities the following shall be accomplished:

(1) removal of roads, parking areas, and storage pads except those the commissioner deems necessary for access;

(2) permittee-owned power plants and associated facilities (except public utilities), transmission lines, pipelines, docks and associated facilities, and railroads (except common carrier transportation facilities) shall be removed or provisions made for continued subsequent use in accordance with an approved deactivation plan pursuant to part 6130.5400; and

(3) all other equipment, facilities, and structures shall be removed and foundations razed and covered with a minimum of two feet of soil.

E. Exposed underground mine workings shall be promptly sealed as approved by the commissioner and the county mine inspector.

F. Within three years after deactivation of an open pit begins, the following shall be accomplished:

(1) establishment of at least one safe access to the bottom of the pit;

(2) construction of fences for safety where required by the commissioner or the county mine inspector; and

(3) where open pits contain materials which may become a water quality problem due to leaching, the commissioner shall require one or more of the following:

(a) monitoring pit water quality;

(b) removing or covering leachable material;

(c) grouting leachable areas;

(d) rapid filling of the pit with water;

(e) using material to control pH or other toxic materials in the pit water;

(f) treating the water discharged from the pit; and

(g) continuing maintenance after deactivation.

G. Within three years after deactivation of a tailings or settling basin begins, or within such longer period which may reasonably be necessary for the accomplishment of these activities, the permittee shall in a manner consistent with part 6130.2200:

(1) drain surface water from the basin, unless the commissioner permits or requires the retention of water in specific areas within the basin for water storage, wildlife habitat, or other purposes;

(2) shape and contour the surface to ensure permanent drainage away from the interior of the basin in a manner which will not result in erosion or adversely affect structural stability, and to maximize topographic relief; and

(3) make provisions for the continued maintenance of all dams and overflow or seepage control structures.

H. Within three years after the commencement of deactivation of a reservoir, or within such longer period which may reasonably be necessary to accomplish these activities, the permittee shall in a manner consistent with part 6130.2200:

(1) drain the reservoir and reintegrate the area into the natural watershed, pursuant to item G; or

(2) make provisions for the continued maintenance of all dams and overflow or seepage control structures.

I. When continued maintenance is necessary after deactivation, pursuant to parts 6130.1000 to 6130.4100, and as a condition for release pursuant to part 6130.4700, operating plans, schedules, and funding arrangements for providing the maintenance shall be submitted to the commissioner.

Statutory Authority: *MS s 93.47*

METALLIC MINERALS MINING PERMIT

6130.4200 PERMIT TO MINE METALLIC MINERALS.

Subpart 1. **In general.** No person shall carry out a mining operation for metallic minerals in this state without first obtaining a permit to mine from the commissioner. Where two or more persons are or will be engaged in a mining operation, all such persons shall join in the application and the permit to mine shall be issued on a joint basis. Where a person is or will be engaged in only a portion of the operation, that person need only be a joint permittee in the portion in which that person is participating.

Subp. 2. **Mines in operation on August 25, 1980.** A person conducting a mining operation on August 25, 1980, who applied for a permit to mine within 180 days, after August 25, 1980, may continue to conduct such operation during the pendency of the application.

Subp. 3. **Application contents.** Applications shall include, pursuant to part 6130.4300: documents, organizational data, environmental setting maps, environmental setting analysis, mining and reclamation maps, mining and reclamation plan, and operating plan covering the current or immediate upcoming planning period.

Subp. 4. **Mine with life of five years or less.** If the life of the mine will be five years or less, the application and deactivation plan may be combined, pursuant to part 6130.4600.

Subp. 5. **Information required after permit issued.** After receiving a permit to mine, the permittee shall provide the commissioner with the following, pursuant to parts 6130.4400 to 6130.4700: operating plans for succeeding years of operation, annual reports, a deactivation plan, and a request for release.

Subp. 6. **Combined documents.** When the submittal dates for annual reports and operating plans correspond, they may be combined into one document.

Statutory Authority: *MS s 93.47*

6130.4300 PERMIT APPLICATIONS.

Subpart 1. **In general.** An application for a permit to mine shall be submitted in duplicate by the applicant to the commissioner in the form hereby prescribed.

An application for a mining permit shall include all information pursuant to this part. An application for a scam mining permit shall include all information, pursuant to subparts 2, 3, 6, and 7.

Subp. 2. **Documents.** The following documents are required:

A. a certificate or evidence of insurance, as required in Minnesota Statutes, section 93.481, subdivision 1, clause (2);

B. the notice and affidavit of publication, pursuant to part 6130.4800, subpart 1;

C. if the applicant is a foreign corporation, as defined by Minnesota Statutes, sections 300.02 and 303.02, a certified copy of the certificate of authority to transact business in the state of Minnesota; and

D. financial and income statements from all applicants for the previous three years, consisting of annual reports or, if annual reports are not available, a similar statement describing financial capability to perform reclamation obligations.

Subp. 3. **Organizational data.** The following organizational data are required:

A. the post office address of the applicant;

B. the general organizational structure of the applicant, any parent companies, owners, principal stockholders, partners, and joint venturers;

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C. any managing agents or subsidiaries which are or may be involved in the mining operation; and

D. organizational relationships between or among joint applicants.

Subp. 4. **Environmental setting maps.** The commissioner shall make available to the applicant, at the applicant's expense, copies of all relevant publication information in the commissioner's possession for the applicant's use in preparing environmental setting submissions. The applicant shall submit the following information on overlays to 7-1/2 minute USGS quadrangle or other maps of the same scale delineating the mining area. Maps shall include such adjacent lands as required by the commissioner, to show the areas directly or indirectly affected by the mining operation. Overlays shall include:

A. Bedrock geology, including the general shape of orebody and known or inferred reserves and resources within and adjacent to the mine area. Appropriate cross-sections which show the horizontal and vertical relationships shall also be included.

B. Water basins, water courses, and wetlands which are or could be affected by the mining operation.

C. Boundaries of watersheds which are or could be affected by the mining operation.

D. Details of ground water conditions based on best available information and exploratory drill holes.

E. Natural resource sites identified by the commissioner, such as those listed in Minesite Data Manual, V21 Natural Resources Sites, Minnesota Department of Natural Resources.

F. A forest inventory, including species, density, size class, and height.

G. A soil inventory including soil type, extent, and thickness.

H. Past mining facilities including stockpiles, tailings basins, mines, and processing plants.

I. Surface ownership of record within the mining area, and severed mineral ownership as set forth in verified statements pursuant to Minnesota Statutes, section 93.52 or in an order or decree pursuant to Minnesota Statutes, section 93.55, subdivision 2, filed in the county recorder's office with respect to severed mineral interests in parts of the mining area which will be excavated or covered with mine wastes. An owner's agent may be identified in place of the owner. No error in the designation of surface or mineral ownership shall affect the validity of the application. This requirement shall not apply to lands occupied by existing railroads not located in mine or plant areas.

J. Exclusion, avoidance, and setback areas, pursuant to parts 6130.1000 to 6130.1300.

Subp. 5. **Environmental setting analysis.** Based on the environmental setting data submitted pursuant to subpart 4, the applicant shall provide the commissioner with an environmental analysis including:

A. a copy of any environmental reports prepared relative to the mining operation; and

B. an explanation of the basis for siting those parts of operation which will be developed hereafter, including a description of the positive and negative aspects of all sites considered, and how the selected site will aid in the attainment of the reclamation goals.

Subp. 6. **Mining and reclamation maps.** The applicant shall submit maps and cross-sections containing all features normally found on a USGS quadrangle map, at a scale which is normally used by the operator for the mine planning purposes, which:

A. define the shape and extent of the orebody which will support the operating life of the mine;

- B. identify all known and inferred mineral reserves or resources which are located within the mining area but which have not been included as part of the mining plan;
- C. identify lands proposed for use as vegetative reference areas;
- D. depict the detailed drainage patterns for waters which may contact leachable materials; and
- E. depict at appropriate intervals, approved by the commissioner, the status of:
 - (1) mining the ore body;
 - (2) watershed modifications (including changes in the boundaries, diversions, disposition of surface water flows, and runoff);
 - (3) construction (including shape, extent, and content) and reclamation (including contouring, dust control, temporary stabilization, vegetation, and deactivation) of each: stockpile, tailings basin, mine, reservoir, dam, diversion channel, drainage control, settling basin, and auxiliary facilities.

Subp. 7. **Mining and reclamation plan.** This plan shall describe:

- A. the operating life of the mine, including the rate of mining and anticipated changes in that rate, and the factors used to determine the minable reserves and changes which would expand or diminish such reserves;
- B. the mining activities to be conducted, including:
 - (1) the types, amounts, sequence, and schedule for mining the orebody and stockpiling materials, including the distinctions among ore, lean ore, and waste rock; a discussion of in-mine disposal; and the physical and chemical character of mine waste; and
 - (2) the ore beneficiating process, including a discussion of the type and amount of any chemicals to be added and the types, amounts, sequence, schedule, and means of tailings disposal; and
- C. the methods, sequence, and schedules of reclamation which address the goals and meet the requirements of parts 6130.1000 to 6130.4100, including anticipated reclamation research.

Statutory Authority: *MS s 93.47*

History: *17 SR 1279*

6130.4400 MINE OPERATING PLAN.

The permittee shall submit to the commissioner in duplicate an operating plan covering a forthcoming period, which does not exceed five years in length. The operating plan shall consist of the plans normally prepared for the mining operation which shall include the following:

- A. any changes in the rate of mining or minable reserves pursuant to part 6130.4300, subpart 7, item A;
- B. the mining activities pursuant to part 6130.4300, subpart 7, item B;
- C. the reclamation activities pursuant to part 6130.4300, subpart 7, item C; and
- D. a map in the form prescribed by part 6130.4300, subpart 6, which depicts the status of mining, construction, reclamation, and watershed modifications pursuant to part 6130.4300, subpart 6, item E.

Subsequent plans shall be submitted 90 days before the end of the prior plan.

Statutory Authority: *MS s 93.47*

6130.4500 ANNUAL MINING REPORT.

The permittee shall submit for the previous year an annual report to the commissioner in duplicate on or before January 31 of each year. The report shall detail:

- A. annual financial and income statements for the preceding fiscal year pursuant to part 6130.4300, subpart 2, item D;

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B. the actual rate of mining and the remaining minable reserves pursuant to part 6130.4300, subpart 7, item A and consistent with part 6130.4400, item A;

C. the actual mining activities pursuant to part 6130.4300, subpart 7, item B, and consistent with part 6130.4400, item B;

D. the actual reclamation activities pursuant to part 6130.4300, subpart 7, item C and consistent with part 6130.4400, item C; and

E. a map in the form prescribed by part 6130.4300, subpart 6, which depicts the status of mining, construction, reclamation, and watershed modifications pursuant to part 6130.4300, subpart 6, item E.

Statutory Authority: *MS s 93.47*

6130.4600 PLAN FOR DEACTIVATION.

The permittee shall submit to the commissioner in duplicate a deactivation plan at least two years prior to beginning deactivation for any portion of the mining area. This plan shall replace the operating plan for the portion to be deactivated and shall contain:

A. plans, designs, specifications, and supporting data for reclamation activities which comply with parts 6130.1000 to 6130.4100;

B. a reclamation compliance schedule; and

C. a discussion of how the land will be managed until the permittee requests release pursuant to part 6130.5400.

Statutory Authority: *MS s 93.47*

6130.4700 REQUEST FOR RELEASE.

The permittee shall submit to the commissioner in duplicate, a request for release, pursuant to part 6130.5400. This request shall include the following:

A. certification of compliance with the applicable sections of these rules, the approved deactivation plans, and the permit to mine;

B. a detailed description of provisions for continued maintenance;

C. identification of the ownership of the mining area and all remaining structures and facilities; and

D. a map in the form prescribed by part 6130.4300, subpart 6, which depicts the following:

(1) the final topography;

(2) the postmining drainage system including the amounts and locations of discharge to receiving waters;

(3) the extent and type of vegetation;

(4) the existing and expected level of pit water and the year in which this level will be reached;

(5) the location of the safe access to the bottom of the pit;

(6) the location of fences and other access barriers; and

(7) the areal extend and (as applicable) the height, depth, and physical and chemical characteristics of each stockpile, tailings basin, mine, reservoir, dam, diversion channel, drainage control, structure settling basin, and the location of all auxiliary facilities within the mining area.

Statutory Authority: *MS s 93.47*

6130.4800 PROCEDURES FOR OBTAINING A PERMIT TO MINE.

Subpart 1. **Application and publication.** The process for requesting a permit to mine is commenced by submitting an application to the commissioner pursuant to parts 6130.1000 to 6130.4700. After the commissioner determines the application is complete,

the applicant shall publish an advertisement as required by part 6130.5700. Within seven days after the last date of publication, the applicant shall submit to the commissioner a copy of the advertisement and an affidavit from the printer verifying publication. The application shall then be considered filed.

Subp. 2. Determination with hearing. Determination with hearing:

A. Written objections and a request for a hearing may be filed with the commissioner according to provisions of Minnesota Statutes, section 93.481, subdivision 2.

B. Within ten days after the receipt of the objections, the commissioner shall determine whether the person filing the objection is entitled to object. If the objections were filed by a person entitled to object, the commissioner shall:

(1) Select a hearing date which shall be no more than 30 days after the last date of opportunity to object.

(2) Serve an order for hearing in the form and manner required by the provisions of part 1400.5600, except those in part 1400.5600, subpart 3, which shall not apply. In no event shall such an order be served less than 20 days prior to the hearing.

(3) Mail a copy of the order for hearing to all persons who filed objections and all local units of government in which all or a part of the operation is located.

(4) Publish notice of subject, time, date, and place of the hearing at least once prior to the hearing in a newspaper which must be both a legal newspaper, within the meaning of Minnesota Statutes, section 331A.02, and circulated in the locality of the proposed mining operation.

If the objections were filed by a person not entitled to object, the commissioner shall notify that person in writing by mail of such determination giving reasons therefor.

C. The commissioner may hold a hearing on the proposed application without receipt of objections if the commissioner deems it necessary to protect public health, safety, and welfare.

D. Within 120 days after the close of the hearing record, or 90 days after service of the administrative law judge's report whichever comes later, the commissioner shall grant the permit to mine with or without modifications or conditions or deny the permit to mine stating reasons therefor.

Subp. 3. Determination without hearing. Determination without hearing:

A. If, within 30 days after the last publication required by part 6130.5700, no objections to an application are received from persons entitled to object, the commissioner within 120 days, may without hearing process the application in accordance with the following:

(1) grant the permit to mine with or without modifications or conditions;

(2) deny the permit to mine stating reasons therefor; or

(3) request in writing that the applicant provide additional information.

B. If the commissioner has made a request for additional information within 120 days after receiving such information, the commissioner shall grant the permit to mine with or without modifications or conditions or deny the permit to mine stating reasons therefor.

Subp. 4. Hearing upon demand of applicant. Hearing upon demand of applicant:

A. If the commissioner processes the application without a hearing, the applicant may, within 30 days after mailed notice of the commissioner's order on the application, file with the commissioner a demand for hearing pursuant to Minnesota Statutes, chapter 14. The application shall thereupon be fully heard on notice.

B. Within 120 days after the close of the hearing record or 90 days after service of the administrative law judge's report, whichever comes later, the commissioner shall grant the permit to mine with or without modifications or conditions or deny the permit to mine stating reasons therefor.

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Subp. 5. **Review of operating plan.** After granting the permit to mine, the commissioner shall review the operating plan required by part 6130.4400, to determine if it complies with the provisions of the permit to mine and these rules. Upon completion of this review, the commissioner shall inform the permittee regarding compliance of the plan with the permit to mine and these parts.

Statutory Authority: *MS s 93.47*

History: *L 1984 c 640 s 32; 17 SR 1279*

6130.4900 VARIANCES.

Subpart 1. **Application for variance.** A proceeding for requesting a variance from these rules is commenced when the permit applicant or permittee files an application for a variance with the commissioner. The application shall include information necessary for the commissioner to determine that the proposed variance is consistent with the general welfare and the goals of these rules.

Subp. 2. **Determination by commissioner.** Within 30 days after receipt of the application, the commissioner shall determine whether the proposed variance constitutes a substantial change from the requirements of these parts.

If the commissioner determines that a substantial change would result, the applicant shall follow the procedures for permit to mine applications, as set forth in part 6130.4800.

If the commissioner determines that there would be no substantial change the commissioner shall without a hearing allow the variance with or without additional terms or conditions which are consistent with these parts, or deny the application stating reasons therefor.

Subp. 3. **Demand for a hearing.** If the commissioner processes the application without a hearing, pursuant to subpart 2, the applicant may file with the commissioner a demand for hearing on the decision pursuant to part 6130.4800, subpart 4.

Subp. 4. **Simultaneous filing of applications.** Applications for variance from these rules may be filed simultaneously with an application for a permit to mine, provided that the advertisement contains all information required for applications for permits to mine and for variance.

Statutory Authority: *MS s 93.47*

6130.5000 AMENDMENTS TO PERMITS TO MINE.

Subpart 1. **Application for amendment.** A proceeding for requesting an amendment of a permit to mine is commenced when the permittee files an application for an amendment with the commissioner. The application shall include information necessary for the commissioner to determine that the proposed amendment meets the lawful requirements and these rules.

Subp. 2. **Determination by commissioner.** Within 30 days after receipt of the application, the commissioner shall determine whether the proposed amendment constitutes a substantial change in the permit to mine.

If the commissioner determines that a substantial change would occur, the applicant shall follow the procedures for permit to mine applications, as set forth in part 6130.4800.

If the commissioner determines that there would be no substantial change, the commissioner shall without a hearing allow the amendment with or without additional terms or conditions which are consistent with these rules, or deny the applications stating reasons therefor.

Subp. 3. **Demand for a hearing.** If the commissioner processes the application without a hearing pursuant to subpart 2, the applicant may file with the commissioner a demand for hearing on the decision pursuant to part 6130.4800, subpart 4.

Statutory Authority: *MS s 93.47*

6130.5100 CANCELLATION OF PERMIT.

Subpart 1. **Cancellation at the request of permittee.** A proceeding to cancel a permit to mine at the request of the permittee is commenced when a permittee files a written request with the commissioner. The request shall identify the permittee and give reasons for the cancellation.

Within 30 days after the receipt of a request, the commissioner shall determine whether cancellation would have a significant adverse effect on any public interest relating to the goals of these parts.

If the commissioner determines that cancellation shall have such adverse effect the permittee shall publish an advertisement pursuant to part 6130.5700 and the commissioner shall proceed as if the commissioner had received an application for a permit to mine, pursuant to part 6130.4800.

If the commissioner determines that the cancellation shall not have such adverse effect, the permit may be canceled with or without conditions.

Subp. 2. **Cancellation with consent of permittee.** A proceeding to cancel a permit to mine with the consent of the permittee is commenced when the commissioner serves the permittee with written request giving reasons for the cancellation.

If no reply or an affirmative reply is filed with the commissioner within 30 days, procedures pursuant to subpart 1 shall be commenced except that the commissioner shall publish an advertisement pursuant to part 6130.5700.

If a negative reply is filed with the commissioner within 30 days, the permit to mine will continue in effect or a proceeding to revoke the permit to mine pursuant to part 6130.5200 shall be commenced.

Statutory Authority: *MS s 93.47*

History: *17 SR 1279*

6130.5200 REVOCATION OR MODIFICATION OF A PERMIT TO MINE.

Subpart 1. **Commencement of proceedings.** A proceeding to revoke or modify a permit to mine, to require a performance bond, or to assess a civil penalty shall be commenced by serving upon the permittee:

A. a notice and order for hearing in the form and manner pursuant to part 1400.5600;

B. a proposed order revoking or modifying the permit to mine, requiring a performance bond, or assessing a civil penalty; and

C. a statement of the measures, if any, required to correct the situation and the time available therefor.

If conditions that provided the grounds for such an action are corrected to the commissioner's satisfaction, within a period, established by the commissioner, of not less than 15 days after the notice, or as appropriate, approved measures are taken to ensure that such conditions do not reoccur, the proceedings shall be canceled.

Subp. 2. **Hearing prior to determination.** Hearing prior to determination:

A. The commissioner shall hold a hearing prior to the determination to revoke or modify a permit to mine, require a performance bond, or assess a civil penalty if, within 15 days after commencement of the proceeding, any permittee serves an answer on the commissioner and all other parties. If an answer is served, the commissioner, without further notice, shall hold the hearing at the time and place specified in the order for hearing. No hearing shall be held less than 30 days after commencement of the proceeding.

An answer shall contain the following: a written statement of the defenses to each violation alleged in the order for hearing, and a specific admission, denial, or explanation of each fact alleged in the order for hearing, or, if the permittee is without knowledge thereof, a statement to that effect.

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Allegations of a complaint not thus answered shall be deemed to have been admitted.

B. If an answer contains an admission to an alleged fact no hearing shall be held on that fact and the allegation shall prevail.

C. Failure of a permittee to serve an answer, pursuant to subpart 2, item A, or to appear at the hearing shall be deemed to constitute a waiver of a hearing on the allegations of the order for hearing and the contents of the proposed order. Such waiver authorizes the commissioner, without further notice to the permittee and without proceeding further with the hearing, to adopt the proposed order, or that much as is applicable if the proposed order is in the alternative or if there have been correction measures attempted. Said order shall be the commissioner's final decision on the matter.

D. If the permittee appears at the hearing the commissioner, in reaching a final decision, shall not be bound by the proposed order.

Statutory Authority: *MS s 93.47*

History: *17 SR 1279*

6130.5300 SUSPENSION OF PERMIT TO MINE.

The permit to mine may be suspended by the commissioner, pursuant to Minnesota Statutes, section 93.481, subdivision 4, clause (d). The commissioner's order suspending the permit to mine for the specified period, once served, constitutes the commissioner's final decision on the matter.

Statutory Authority: *MS s 93.47*

6130.5400 DEACTIVATION AND RELEASE OF PERMITTEE.

Subpart 1. **Deactivation.** The commissioner shall review the deactivation plan, pursuant to part 6130.4600, to determine if it complies with the requirements of the permit to mine and these rules, in the same manner as if the commissioner had received an application for an amendment pursuant to part 6130.5000.

Subp. 2. **Release.** A proceeding to release the permittee from responsibility on any portion of a deactivated mining area is commenced when the permittee submits a request for release pursuant to part 6130.4700.

The commissioner shall review the request and determine if all terms and conditions of applicable sections of these rules, the permit to mine, and the approved deactivation plan have been satisfied; and that it is not necessary to defer such release until other portions of the mining area have been deactivated.

Within 270 days after receipt of the request the commissioner shall release the permittee with or without modifications or conditions, or deny the request stating reasons therefor.

Statutory Authority: *MS s 93.47*

6130.5500 ASSIGNMENT OF PERMIT TO MINE.

Pursuant to Minnesota Statutes, section 93.481, subdivision 5, the commissioner shall allow the assignment of a permit to mine only if the commissioner determines that the assignee will perform all outstanding obligations of the act, these parts, and the permit to mine.

Statutory Authority: *MS s 93.47*

6130.5600 HEARING PROCEDURES.

Procedures pursuant to parts 1400.5100 to 1400.8500 shall apply to any contested case hearing under these parts, except as otherwise provided in Minnesota Statutes, sections 93.44 to 93.51 and these parts.

Statutory Authority: *MS s 93.47*

6130.5700 PUBLICATION.

When an advertisement is required, it shall be published once each week for four successive weeks in a legal newspaper, pursuant to Minnesota Statutes, section 331A.02, which is circulated in the locality of the proposed mining operation. This advertisement shall contain:

- A. A statement and map indicating the location and boundaries of the mining area.
- B. The names of all surface owners of record within the mining area, and severed mineral ownership as set forth in verified statements pursuant to Minnesota Statutes, section 93.52, or in an order or decree pursuant to Minnesota Statutes, section 93.55, subdivision 2, filed in the county recorder's office with respect to severed mineral interests in parts of the mining area which will be excavated or covered with mine wastes. An owner's agent may be identified in place of the owner. No error in the designation of surface or mineral ownership shall affect the validity of the publication. This requirement shall not apply to lands occupied by existing railroads not located in mine or plant areas.
- C. The schedule for accomplishing what is being proposed.
- D. A notice of the deadline date for filing objections.
- E. The following information:
 - (1) if application is made for a permit to mine, a description of the proposed mining operation including the general kinds of reclamation or restoration measures to be undertaken pursuant to the reclamation plan;
 - (2) if an amendment to a permit to mine is requested, a description of the purpose and nature of the proposed amendment;
 - (3) if a cancellation of a permit to mine is requested, an explanation of the request for cancellation and the consequences of allowing such a request; or
 - (4) if a variance from these rules is requested, a description of the purpose and nature of the requested variance and a description of the proposed alternative means which will be used to meet the goals and comply with the requirements of these parts.

Statutory Authority: *MS s 93.47*

6130.5800 VARIANCES (SEE PART 6130.4900).

Subpart 1. **Granting of a variance.** The commissioner shall grant a variance from the requirements of these parts upon application by a permit applicant or permittee, if it is determined that:

- A. a variance is consistent with the general welfare and general purposes of these parts;
- B. by reason of exceptional circumstances, the strict enforcement of the reclamation requirements would cause undue hardship or strict conformity with the requirements of these rules would be unreasonable or not feasible; and
- C. acceptable alternative means of accomplishing the goals, pursuant to parts 6130.1000 to 6130.4100, have been provided by the permit applicant or permittee.

Subp. 2. **Conditional granting.** The commissioner shall grant a variance upon such conditions as shall be necessary for the prevention, control, or correction of adverse environmental effects, consistent with the requirements of these parts and Minnesota Statutes.

Statutory Authority: *MS s 93.47*

6130.5900 REVOCATION OR MODIFICATION OF PERMIT TO MINE.

The commissioner may revoke a permit to mine or modify any of its terms or conditions, pursuant to Minnesota Statutes, section 93.481, subdivision 4. A permittee shall not

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be considered to have commenced substantial construction of plant facilities unless erection of the primary plant facilities has begun. Planning, securing capital, purchasing land and materials, and otherwise preparing for construction are not sufficient.

Statutory Authority: *MS s 93.47*

6130.6000 PERFORMANCE BONDS.

Subpart 1. **Need for bond.** At any time during the pendency of a permit application, during the mining operation, or following the completion of mining but prior to the release of the permittee, the commissioner:

A. shall require the operator to furnish a performance bond if the commissioner determines that the operator has failed to:

- (1) perform any part of a reclamation measure required by the permit to mine or any amendment or modification thereto;
- (2) comply with a provision of these parts; or
- (3) perform any research required, pursuant to Minnesota Statutes, sections 93.44 to 93.51; or

B. may require the operator to furnish a performance bond if there is reasonable doubt that the operator will be financially able to comply with the requirements of the permit to mine or these parts.

Subp. 2. **Amount of bond.** The amount of a performance bond shall be determined by the commissioner and shall be equal to the estimated cost, to the Department of Natural Resources, of satisfactorily accomplishing reclamation of all lands disturbed and unreclaimed up to the date of annual bond review.

Subp. 3. **Conditions of bond.** A performance bond required pursuant to this part shall be conditioned upon the performance by the operator within a time period established by the commissioner of all actions necessary to correct the deficiency or noncompliance for which reason the bond is required. For the purpose of the bond "performance" shall mean the accomplishment as determined by the commissioner of all actions required under the bond. The bond shall also provide that the surety or the surety's successors or assigns are not released in any way from liability thereunder by any amendment of the terms or conditions of the permit to mine; provided that, regardless of amendment, the surety shall be liable for no more than the amount specified in the bond. The need for and amount of all bonds shall be reviewed annually.

Subp. 4. **Other security and assurance.** When required to furnish a performance bond pursuant to this part, the operator may, in lieu thereof:

A. Submit as security to the commissioner for deposit with the commissioner of management and budget, assignable bonds or notes of the United States in a sum equal, at their par value, to the amount of the required performance bond.

B. Give a lien against a real or personal property as its wholesale value in lieu of a bond. Such property must remain in the state for the duration of the agreement and be managed and repaired by the permittee as necessary to maintain its value. Failure to maintain value shall allow the commissioner to modify or revoke the permit to mine, or to require bonds or notes to be deposited as a replacement bond. The commissioner shall accept such property as assurance if it is determined, by the commissioner, that no other liens exist on said property; the wholesale value is adequate to cover reclamation costs; and sufficient market exists, such that, the sale of said property can occur rapidly.

C. Submit other security or assurances as may be acceptable to the commissioner.

The permittee shall submit an agreement authorizing the commissioner to collect or sell the bonds, notes, property, or other security or assurance so submitted or deposited, upon the same conditions as would constitute a default under a performance bond. The acceptance of United States bonds, notes, a lien on property, or other security or assurance,

in lieu of a performance bond, shall have the same force and effect as if a performance bond has been furnished.

Subp. 5. **Return of security or assurance to permittee.** When it is determined during the annual bond review that such security is no longer necessary, any bonds, notes, lien, or other security or assurance deposited pursuant to subpart 4 shall be returned to the permittee.

Subp. 6. **Access to mining areas after forfeiture.** Upon forfeiture of a bond the permittee shall allow access to the commissioner and the commissioner's designated contractors into all mining areas for the purpose of reclaiming all lands disturbed and unreclaimed.

Statutory Authority: *MS s 93.47*

History: *17 SR 1279; L 2003 c 112 art 2 s 50; L 2009 c 101 art 2 s 109*

6130.6100 CIVIL PENALTIES.

Subpart 1. **Amount.** If any person violates any provision of Minnesota Statutes, sections 93.44 to 93.51, these parts, or any permit to mine issued thereunder, the commissioner may order imposition of a civil penalty of not more than \$1,000 per day for each violation of each provision or the same provision in more than one portion of the mining area.

Subp. 2. **Determining the amount.** In determining the amount of a penalty, the commissioner shall consider the severity of the violation, the need to deter future violations, and the magnitude of potential or actual gains resulting from the violation.

Subp. 3. **Collection.** The commissioner shall collect any assessed civil penalty in the same manner as any other debt owed the state.

Statutory Authority: *MS s 93.47*

6130.6200 SUSPENSION OF PERMIT.

The commissioner may suspend all or any part of a permit to mine pursuant to Minnesota Statutes, section 93.481, subdivision 4. Any suspension ordered pursuant to this part shall be for such period and upon such terms as the commissioner deems appropriate to correct the conditions which necessitated suspension.

Statutory Authority: *MS s 93.47*

6130.6300 INSPECTION OF MINING AREA.

The permittee shall allow the commissioner to inspect all mining operations and records needed to monitor compliance with the permit to mine and these parts after reasonable prior notice.

Statutory Authority: *MS s 93.47*