

**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.

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*

**Published Electronically:** *October 8, 2013*