

6132.4000 PROCEDURES FOR OBTAINING A PERMIT TO MINE.

Subpart 1. **Application and publication.** The process for requesting a permit to mine begins with a preapplication conference and site visit under part 6132.1100, subpart 1, followed by the submission of an application to the commissioner under parts 6132.1000 to 6132.1400. After the commissioner determines the application is complete, the commissioner shall publish a notice in the State Register and the EQB Monitor stating the department has received an application for a permit to mine. The applicant shall also publish an advertisement as required by part 6132.4900. 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. **Objection to proposed mining operations.** Objection related to a proposed mining operation may be filed with the commissioner according to Minnesota Statutes, sections 93.44 to 93.51.

A. Written objections to a proposed mining operation and permit may be filed with the commissioner no later than 30 days following the last date of publication of an applicant's newspaper advertisement required under part 6132.4900.

B. A person submitting an objection to the commissioner shall include the following information:

(1) a statement of the person's interest in the proposed mining operation and permit;

(2) a statement of the action that the person wants the commissioner to take, including specific references to applicable sections of Minnesota Statutes, sections 93.44 to 93.51, parts 6132.0100 to 6132.5300, or the permit application; and

(3) the reasons supporting the person's position, stated with sufficient specificity to allow the commissioner to investigate the merits of the person's position.

C. Within ten days after the receipt of the objection, the commissioner shall determine whether the person filing the objection meets one of the following criteria:

(1) owns property that will be affected by the proposed operation;

(2) is a federal, state, or local governmental agency having responsibilities affected by the proposed operation; or

(3) raises a material issue of fact, relating to the proposed operation, for which the commissioner has jurisdiction under Minnesota Statutes, sections 93.44 to 93.51, and there is a reasonable basis underlying the issue of fact such that holding a hearing would allow the presentation or introduction of relevant information that would aid the

commissioner in resolving the issues and in making a final determination on the issuance of the permit to mine.

D. If objections were filed by a person meeting one of the criteria in item C, the commissioner shall attempt to resolve the issue by:

(1) allowing the applicant to change the operation to the mutual satisfaction of the objector and the commissioner, provided that a substantial change to the operation may necessitate republication of the applicant's newspaper advertisement, with an explanation of the proposed change; or

(2) proceeding with a hearing under subpart 3.

E. If objections were filed by a person not meeting the requirements of item C, the commissioner shall inform the person of that fact, stating reasons for the decision, and proceed with processing the application as if no objection had been received.

Subp. 3. **Determination with hearing.** Hearings shall be held by the commissioner according to items A to C.

A. The commissioner shall conduct a hearing if:

(1) objections are received from a person meeting the requirements of subpart 2, item C, and the commissioner is unable to resolve the issue to the satisfaction of that person and the applicant under subpart 2, item D, subitem (1);

(2) the commissioner determines it will be necessary to require additional provisions or conditions not contained in the permit application before approval of the application; or

(3) the commissioner determines the application should be denied.

B. To conduct a hearing, the commissioner shall:

(1) select a hearing date 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 part 1400.5600, except that part 1400.5600, subpart 3, does not apply, and in no event shall such an order be served less than 20 days before the hearing;

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

(4) publish notice of the subject, time, date, and place of the hearing at least once before the hearing in a newspaper that must be both a qualified newspaper under Minnesota Statutes, section 331A.02, and circulated in the locality of the proposed mining operation.

C. Within 120 days after the close of the hearing record or 90 days after service of the hearing examiner's report, whichever comes later, the commissioner shall grant the permit with or without modifications or conditions or deny the permit stating reasons for the denial.

Subp. 4. **Determination without hearing.** The commissioner shall process the permit without a hearing according to items A and B.

A. No hearing is required if the commissioner determines that the proposed operation can be permitted without provisions or conditions and if within 30 days following the last date of publication of the applicant's newspaper advertisement:

- (1) no objections were filed;
- (2) objections were filed, but the person objecting did not meet the requirement of subpart 2, item C; or
- (3) objections were filed but were resolved under subpart 2, item D, subitem (1).

B. Within 120 days after the last date on which a person can object to the proposed mining operation, the commissioner shall approve the application.

Subp. 5. **Review of annual report.** Each year following the granting of the permit to mine, the commissioner shall review the annual report required under part 6132.1300 to determine whether it complies with the provisions of the permit to mine. On completion of this review, the commissioner shall inform the permittee of the compliance determination.

A. If the annual report complies, the commissioner shall direct the permittee to implement the reclamation plan proposed for the upcoming year.

B. If the annual report does not comply, the commissioner shall:

- (1) require the permittee to prepare an explanation of why the report does not comply with the permit to mine, and what is proposed to achieve compliance;
- (2) direct the permittee to take corrective action under part 6132.3200 to address the violations, deficiencies, or inadequacies that are reported to have occurred during the past year; or
- (3) require the permittee to develop a new plan for activities to be conducted during the upcoming year that will comply with the permit to mine.

Statutory Authority: *MS s 93.44 to 93.51; 103G.222*

History: *17 SR 2207*

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