

1 Department of Natural Resources

2

3 Division of Minerals

4

5 Adopted Rules Relating to Peatland Reclamation

6

7 Rules as Adopted

8

DEPARTMENT OF NATURAL RESOURCES

9

PEATLAND RECLAMATION

10

GENERAL PROVISIONS

11 6131.0010 DEFINITIONS.

12 Subpart 1. Auxiliary facilities. "Auxiliary facilities"

13 means all permittee-owned stationary physical property used in a

14 mining operation, including power plants and associated

15 facilities; transmission lines; pipelines; roads; railroads;

16 borrow areas and leased borrow areas and associated facilities;

17 fuel production or preparation facilities; and parking areas,

18 shops, offices, buildings, structures, and storage facilities

19 located within the area where mining is conducted. This does

20 not include common carrier transportation facilities.

21 Subp. 2. Beneficiating plants. "Beneficiating plants"

22 means all processing plants and other facilities used for

23 pelletizing, chemical extraction, gasification, compaction,

24 drying, bagging, densification, pulverizing, and wet

25 carbonization.

26 Subp. 3. Commissioner. "Commissioner" means the

27 commissioner of the Department of Natural Resources, or a duly

28 authorized representative.

29 Subp. 4. Deactivation. "Deactivation" means the process

30 of finally terminating and reclaiming any specific portion of a

31 mining operation. Deactivation begins when mining activities

32 and uses associated with product production have ceased and

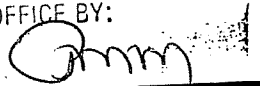
33 there will be no renewed use by the permittee that will

34 interfere with reclamation.

35 Subp. 5. Hereafter. "Hereafter" means after the effective

36 date of parts 6131.0010 to 6131.0340.

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1 Subp. 6. Mine plot. "Mine plot" means an area from which  
2 peat is or will be mined as part of a permitted mining  
3 operation. This does not include areas that have been  
4 successfully reclaimed.

5 Subp. 7. Mining area or area subjected to mining. "Mining  
6 area" or "area subjected to mining" means any area of land from  
7 which material is hereafter removed in connection with the  
8 extraction of peat; the lands upon which material from mining is  
9 hereafter deposited; the lands upon which beneficiation plants  
10 and auxiliary facilities are hereafter located; lands upon which  
11 the water reservoirs used in the mining process are hereafter  
12 located; and auxiliary lands that are hereafter used or intended  
13 to be used in a particular mining operation.

14 Subp. 8. Natural resources. "Natural resources" means all  
15 mineral, animal, plant, air, water, land, timber, soil,  
16 quietude, recreational, historic, scenic, and aesthetic  
17 resources.

18 Subp. 9. Operating life of the mine. "Operating life of  
19 the mine" means the term determined necessary by the  
20 commissioner for the completion of the proposed mining  
21 operation, including reclamation.

22 Subp. 10. Operator. "Operator" means any owner or lessee  
23 of peat resources engaged in or preparing to engage in a mining  
24 operation.

25 Subp. 11. Peat. "Peat" means organic matter, excluding  
26 coal, formed by the partial decomposition of plant material  
27 under saturated conditions.

28 Subp. 12. Peat mining. "Peat mining" means the removal of  
29 peat for commercial purposes, including draining, stockpiling,  
30 processing, storing, transporting, and reclaiming any material  
31 in connection with the commercial development of peat. "Peat  
32 mining" does not include removal of peat that is incidental to  
33 the harvesting of an agricultural or horticultural crop, or to  
34 mining of a metallic mineral that is subject to a mineland  
35 reclamation rule and a permit to mine.

36 Subp. 13. Permit to mine or mining permit. "Permit to

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1 mine" or "mining permit" means permit issued pursuant to.  
2 Minnesota Statutes, section 93.481.

3 Subp. 14. Progressive reclamation. "Progressive  
4 reclamation" means the removal of resource in a manner which  
5 creates areas that can be reclaimed as soon after initiation of  
6 the operation as practical and as continuously as practical  
7 throughout the life of the operation.

8 Subp. 15. Protected waters. "Protected waters" means  
9 those waters of the state identified as public waters or  
10 wetlands under Minnesota Statutes, section 105.37, subdivision  
11 14 or 15; or 105.391, subdivision 1.

12 Subp. 16. Reclamation. "Reclamation" means the successful  
13 accomplishment of the goals in parts 6131.0100 to 6131.0130.

14 Subp. 17. Stockpile. "Stockpile" means an accumulation of  
15 mined or processed peat.

16 6131.0020 PURPOSE AND POLICY.

17 The purpose of this chapter is to implement Minnesota  
18 Statutes, sections 93.44 to 93.51 in order to control possible  
19 adverse environmental effects of peat mining, to preserve the  
20 natural resources, and to encourage the planning of future land  
21 utilization, while at the same time promoting the orderly  
22 development of peat mining, the encouragement of good peat  
23 mining practices, and the recognition and identification of the  
24 beneficial aspects of peat mining.

25 Until more is known about the technological, economic, and  
26 environmental feasibility of reclaiming large-scale peat mining  
27 operations, the Department of Natural Resources shall adopt  
28 parts 6131.0010 to 6131.0340 to serve the state while more  
29 information and knowledge is obtained on the feasibility of  
30 mining and reclaiming large peat operations. It is the  
31 department's intention to amend parts 6131.0010 to 6131.0340 as  
32 may be needed in light of new information.

33 Because of the unique character of each individual peatland  
34 and the extreme diversity of the possible types and sizes of  
35 operations which might develop during the period when parts  
36 6131.0010 to 6131.0340 are in effect, it is the policy of parts

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1 6131.0010 to 6131.0340 that specific permit requirements for  
2 each permitted operation be negotiated within the framework set  
3 forth by parts 6131.0010 to 6131.0340. The requirements shall  
4 endeavor to fulfill the goals described herein and to attain the  
5 best reclamation plan for each individual site.

6 6131.0030 SCOPE.

7 Subpart 1. Generally. No permit to mine is required until  
8 a peat mining operation exceeds 40 acres in size, unless the  
9 commissioner determines that there is potential for significant  
10 environmental effects which may result from the peat mining  
11 operation. A person intending to engage in or carry on a peat  
12 mining operation of 40 acres or less, if the intended operation  
13 involves removal of more than 1,000 tons of air-dried peat per  
14 year, shall notify the commissioner in writing before beginning  
15 any mining, specifying the legal description of the tract to be  
16 mined and the mining methods to be used. Within 20 days after  
17 either receipt of written notice of intent to mine the tract, or  
18 after receiving additional information requested, the  
19 commissioner shall notify the person of the decision to require,  
20 or not to require, a permit.

21 Subp. 2. Persons currently engaged in peat mining. Any  
22 person engaged in a peat mining operation as of the effective  
23 date of parts 6131.0010 to 6131.0340 and not excluded by subpart  
24 1 shall apply for a permit to mine within 180 days of the  
25 effective date of parts 6131.0010 to 6131.0340. Any existing  
26 mining operation may continue during the pendency of the  
27 application.

28 Subp. 3. Permits before commencement of operations. Any  
29 person intending to conduct a new peat mining operation or  
30 reactivate an inactive peat mining operation not excluded by  
31 subpart 1 shall obtain a permit to mine prior to commencing  
32 operations.

33 Subp. 4. Mine plot size limit. No permit to mine shall be  
34 issued for a peat mining operation whose total mine plot acreage  
35 exceeds 3,000 acres.

36 Subp. 5. Term of permit. The term of a permit to mine

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1 issued under parts 6131.0010 to 6131.0340 is the period  
 2 determined necessary by the commissioner for the completion of  
 3 the proposed mining and reclamation activities, based on  
 4 information provided under part 6131.0150.

5 Subp. 6. **New, existing, and reactivated operations.** Parts  
 6 6131.0010 to 6131.0340 apply to:

7 A. all portions of a peat mining operation initiated  
 8 hereafter, including both new operations and reactivated  
 9 operations; and

10 B. all portions of existing peat mining operations  
 11 which are hereafter created or used, except that the siting  
 12 requirements shall not apply to portions constructed prior to  
 13 the effective date of parts 6131.0010 to 6131.0340.

14 Subp. 7. **Effect on other rules or statutes.** Nothing in  
 15 parts 6131.0010 to 6131.0340 shall be construed to waive the  
 16 requirements of any other applicable rules or statutes.

17 Subp. 8. **Other rights.** Pursuant to Minnesota Statutes,  
 18 section 93.47, subdivision 3, parts 6131.0010 to 6131.0340 are  
 19 subject to any rights existing pursuant to any permit, license,  
 20 lease, or other valid existing authorization issued by the  
 21 commissioner, the Pollution Control Agency, or any other  
 22 governmental entity or their predecessors in office.

23 **PEATLAND RECLAMATION STANDARDS**

24 **6131.0100 SITING.**

25 Subpart 1. **Goals.** Mining areas shall be sited to avoid  
 26 conflicts with adjacent noncompatible land uses.

27 Subp. 2. **Requirements; exclusion areas for mining.** No  
 28 peat mining shall be conducted within any of the areas in items  
 29 A to I unless the commissioner determines that a state or  
 30 national emergency exists that would require the exploitation of  
 31 the peat resources within these areas:

32 A. in and within one-fourth mile of:

33 (1) the Boundary Waters Canoe Area Wilderness as  
 34 legally described in Volume 45, No. 67, of the Federal Register  
 35 for April 4, 1980; and

36 (2) national wilderness areas, national parks,

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1 and national monuments all as they exist and are defined by law  
2 on the effective date of parts 6131.0010 to 6131.0340;

3 B. in and within one-fourth mile of state wilderness  
4 areas and state parks;

5 C. within a national wild, scenic, or recreational  
6 river district or within one-fourth mile of a national wild,  
7 scenic, or recreational river (whichever is greater), all as  
8 they exist and are defined by law on the effective date of parts  
9 6131.0010 to 6131.0340; within a designated state land use  
10 district or within one-fourth mile of any state wild, scenic, or  
11 recreational river (whichever is greater);

12 D. on sites designated in the National Register of  
13 Historic Places and in registered national natural landmarks all  
14 as they exist and are defined by law on the effective date of  
15 parts 6131.0010 to 6131.0340; on sites designated in the state  
16 Registry of Historic Sites and in designated state scientific  
17 and natural areas;

18 E. within 300 feet of:

19 (1) any state trout stream designated by  
20 commissioner's order;

21 (2) any river listed in Minnesota Statutes,  
22 section 85.32, subdivision 1; and

23 (3) the Bois de Sioux, Red River of the North,  
24 Roseau, Rainy, and Pigeon rivers;

25 F. within 400 feet of any natural watercourse located  
26 within the area defined by the federal Shipsted-Newton-Nolan Act  
27 (United States Code, title 16, sections 577-577b);

28 G. within any stream trout lake designated by  
29 commissioner's order;

30 H. within the following areas that are in existence  
31 before the issuance of a permit to mine:

32 (1) 500 feet of any occupied dwelling, public  
33 school, church, public institution, cemetery, county or  
34 municipal park, unless allowed by the owner; and

35 (2) 100 feet of the outside right-of-way line of  
36 any public roadway, except where mine access or haul roads cross

1 such right-of-way line; and

2 I. within any area, except federal areas, added to  
3 the categories listed in this subpart if the designation is made  
4 before the issuance of a permit to mine the area, and an  
5 opportunity for a public hearing has been afforded.

6 Subp. 3. Requirements; avoidance areas for mining. Peat  
7 mining within the areas in items A to F will be allowed only:  
8 if the mining and associated reclamation will enhance the  
9 existing use of the area; or, if no reasonable or prudent  
10 alternative exists and, in the case of state-owned land, the  
11 affected area will be replaced by an area of equal or greater  
12 public value serving the same purposes as the affected area:

13 A. On all lands within the boundaries of all Peatland  
14 Protection Management Areas legally described in Peatland  
15 Reclamation Report No. 1, Department of Natural Resources,  
16 December 1984, which is incorporated by reference and which is  
17 available through the Minitex Interlibrary Loan System. This  
18 document is not subject to frequent change.

19 B. Within any national wildlife refuge or waterfowl  
20 production area, or on lands designated as national natural  
21 landmarks or national trails, all as they exist and are defined  
22 by law on the effective date of parts 6131.0010 to 6131.0340.

23 C. Within any state wildlife management area and on  
24 any state designated trail listed in Minnesota Statutes,  
25 sections 84.029 and 85.015.

26 D. Within any shorelands defined in Minnesota  
27 Statutes, section 105.485, subdivision 2.

28 E. Within any protected waters except as provided in  
29 Minnesota Statutes, section 105.391, subdivision 3.

30 F. Within any area added to the categories listed in  
31 this subpart, provided the designation is made before the  
32 issuance of a permit to mine the area.

33 6131.0110 MINE DESIGN.

34 Subpart 1. Goals. Mining areas shall be designed,  
35 constructed, and managed to be compatible with surrounding  
36 nonmining land uses; to minimize adverse water quality and

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1 quantity effects; to be structurally sound; to promote  
2 progressive reclamation; and to encourage the prompt attainment  
3 of site restoration goals.

4 Subp. 2. Requirements. The requirements of mine design  
5 are contained in items A to D:

6 A. Mining shall proceed in a manner approved by the  
7 commissioner according to the following:

8 (1) Where practical, the mining area shall be  
9 developed as a series of mine plots.

10 (2) Scheduling of mine plots shall be  
11 accomplished in a manner which promotes progressive reclamation.

12 (3) Mine plots shall be designed so that when  
13 reclaimed, open water areas expected to form therein shall have  
14 a stable shoreline and a water level which shall not fluctuate  
15 to expose large areas of unvegetated land.

16 B. Adjacent permitted peat mining operations shall be  
17 separated by unmined or successfully reclaimed areas, when  
18 necessary, to mitigate environmental impacts. The extent of  
19 these separations shall be determined by the commissioner  
20 according to the following criteria:

21 (1) mine plot sizes and schedules for production  
22 and reclamation;

23 (2) the extent to which separations will mitigate  
24 impacts;

25 (3) the attainment of site restoration goals;

26 (4) the use of the peat resource; and

27 (5) land ownership.

28 C. Dewatering and ditch design shall proceed in a  
29 manner approved by the commissioner according to the following:

30 (1) Levels of surrounding protected waters shall  
31 not be lowered.

32 (2) Adjacent peatlands shall not be dewatered to  
33 the extent that the value of the resource is diminished.

34 (3) Ditches which divert waters around, or carry  
35 waters away from the mining area shall be constructed to avoid  
36 bank slumping and erosion.

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1 D. Mine wastes (including peat and wood wastes) from  
2 mining and processing shall be disposed of in a manner approved  
3 by the commissioner.

4 6131.0120 SITE RESTORATION.

5 Subpart 1. Goals. The mining area shall be progressively  
6 reclaimed so that it is nonpolluting, establishes a water system  
7 which is compatible with the surrounding regional water  
8 resource, has current land use value and future land use  
9 potential which recognizes the productivity of the site, and is  
10 maintenance-free to the maximum extent possible, unless an  
11 approved postmining management plan provides for maintenance.

12 Subp. 2. Requirements. The requirements of site  
13 restoration are contained in items A to D:

14 A. The operator shall contact the landowner to  
15 determine whether the landowner agrees to assume management  
16 responsibility for a specific postmining land use including  
17 but not limited to wildlife habitat, forest production,  
18 agriculture, or biomass production. If the landowner does not  
19 agree to assume responsibility for postmining management, then  
20 the operator shall comply with the site restoration requirements  
21 in item B. If the landowner agrees to assume postmining  
22 management, the operator and the landowner shall jointly develop  
23 a postmining management plan at the time of application for or  
24 amendment to a permit to mine. The postmining management plan  
25 shall:

- 26 (1) be compatible with restoration goals;  
27 (2) be compatible with adjacent uses;  
28 (3) consider the needs of the area;  
29 (4) consider the productivity of the site;  
30 (5) consider projected land use trends;  
31 (6) protect public health and safety;  
32 (7) avoid pollution of air and water; and  
33 (8) be compatible with local land use plans and  
34 plans of the surface owners.

35 B. Within the mining area, all mined peat surfaces,  
36 islands, littoral zones, and disturbed peat and mineral surfaces

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1 such as ditches (excluding field ditches), dredge spoil, borrow  
2 pits, plant sites, and auxiliary facilities shall be stabilized  
3 with vegetation.

4 (1) To ensure progressive reclamation, the  
5 establishment of vegetation shall be initiated during the first  
6 normal planting period following the point when according to the  
7 permit to mine, a surface, structure, facility, or element is no  
8 longer scheduled to be disturbed or used in a manner that would  
9 interfere with the establishment and maintenance of vegetation.

10 (2) During the fourth and fifth year following  
11 initiation of revegetation, a vegetated reclaimed area shall  
12 have a 75 percent live vegetative cover comprised of wetland or  
13 typical peatland species that are either planted or naturally  
14 occurring. The vegetation shall be self-sustaining, and either  
15 regenerating or in a stage of natural succession. Cover  
16 estimates of revegetation shall be measured by standard  
17 procedures approved by the commissioner for assessing ground  
18 cover and productivity. Where this standard is not met, the  
19 surface shall be repaired as necessary and replanted during the  
20 next normal planting period. No release pursuant to part  
21 6131.0250 shall be granted until the area has such  
22 characteristics.

23 (3) Water levels in open water areas shall be  
24 stable within five years following the cessation of mining.

25 C. The amount of peat that remains in a mine plot  
26 shall be dependent on the texture and type of the underlying  
27 soil and the approved mining and reclamation plans.

28 D. Plans for water control shall be implemented  
29 pursuant to part 6131.0170.

30 6131.0130 CLEANUP.

31 Subpart 1. Goals. The mining area shall be cleaned up so  
32 that it is nonpolluting, free of hazards, and maintenance-free  
33 to the maximum extent possible.

34 Subp. 2. Requirements. The requirements for cleanup are  
35 contained in items A to D:

36 A. Cleanup shall commence upon deactivation.

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1 B. The mining area shall be managed during cleanup to  
2 attain site restoration goals.

3 C. Within one year after cleanup begins or within a  
4 longer period approved by the commissioner, debris and mobile  
5 equipment which will not be used for reclamation shall be  
6 removed from the area being deactivated.

7 D. Within three years after cleanup begins, or within  
8 a longer period approved by the commissioner, the following  
9 shall be accomplished unless provisions have been made for  
10 continued subsequent use in accordance with an approved  
11 deactivation plan pursuant to part 6131.0250:

12 (1) removal of roads, parking areas, and storage  
13 pads; and

14 (2) all equipment, facilities, and structures  
15 shall be removed and the site shall be revegetated.

16 PERMIT REQUIREMENTS

17 6131.0140 PERMIT TO MINE PEAT.

18 Subpart 1. Preapplication conference and site visit.  
19 Prior to the preparation of an application for a permit to mine,  
20 a person shall meet with the commissioner for a preapplication  
21 conference and a site visit.

22 Subp. 2. Generally. Pursuant to part 6131.0030, subpart  
23 1, no person shall carry out a mining operation for peat in this  
24 state without first obtaining a permit to mine from the  
25 commissioner.

26 Subp. 3. Mines in operation on effective date. Pursuant  
27 to part 6131.0030, subpart 1, a person conducting a mining  
28 operation on the effective date of parts 6131.0010 to 6131.0340,  
29 who applies for a permit to mine within 180 days after that  
30 date, may continue to conduct the operation during the pendency  
31 of the application.

32 Subp. 4. Joint applications. Where two or more persons  
33 are or will be engaged in a mining operation, all shall join in  
34 the application and the permit to mine shall be issued on a  
35 joint basis. Where a person is or will be engaged in only a  
36 portion of the operation, that person need only be a joint

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1 permittee in the portion in which that person is participating.

2 6131.0150 PERMIT APPLICATIONS.

3 Subpart 1. Submission of application. An application for  
4 a permit to mine containing the information in subparts 2 to 6,  
5 shall be submitted in duplicate by the applicant to the  
6 commissioner.

7 Subp. 2. Documents. To comply with statutory  
8 requirements, the applicant shall submit:

9 A. a certificate or evidence of insurance as required  
10 by Minnesota Statutes, section 93.481, subdivision 1, clause (b);

11 B. the notice and affidavit of publication pursuant  
12 to part 6131.0190, subpart 1;

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

17 D. a statement documenting financial capability to  
18 perform reclamation obligations or a performance bond pursuant  
19 to part 6131.0310.

20 Subp. 3. Organizational data. To comply with statutory  
21 requirements, the applicant shall submit:

22 A. the post office address of the applicant;

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

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

28 D. organizational relationships between or among  
29 joint applicants.

30 Subp. 4. Environmental setting. To gain information on  
31 the environmental setting of the proposed mining area, the  
32 applicant shall submit:

33 A. A copy of any environmental reports prepared  
34 relative to the mining operation.

35 B. Environmental setting maps prepared as overlays to  
36 7-1/2 minute United States Geologic Survey quadrangle maps

1 delineating the mining area and such adjacent lands as required  
 2 by the commissioner to show the areas directly or indirectly  
 3 affected by the mining operation. The following information as  
 4 it exists at the time of application shall be submitted:

5 (1) shape and depth of the peatland;

6 (2) ditch locations, surface waterflow in  
 7 existing ditches, water basins, water courses, and wetlands  
 8 which are or could be affected by the mining operation;

9 (3) surface ownership of record and ownership of  
 10 easements above, on, or below the surface within the mining  
 11 area; and

12 (4) all underground uses of the property  
 13 including pipelines and cables; and

14 ~~(4)~~ (5) exclusion and avoidance areas pursuant to  
 15 part 6131.0100, subparts 2 and 3.

16 Subp. 5. Mining and reclamation maps and plans. The  
 17 purpose of mining and reclamation maps and plans is to evaluate  
 18 anticipated activities to be conducted during the term of the  
 19 permit. Minnesota Statutes, section 93.481, subdivision 3  
 20 requires that a permit be issued for the life of the operation.  
 21 Therefore, for the operating life of the mine, the applicant  
 22 shall submit:

23 A. Mining and reclamation maps and cross-sections  
 24 containing all features normally found on a United States  
 25 Geologic Survey quadrangle map, at a scale agreed upon by the  
 26 applicant and the commissioner which:

27 (1) describe the shape, depth, and type of the  
 28 peat resource that will support the operating life of the mine  
 29 and the texture and type of the underlying mineral soil;

30 (2) identify potential peat mining areas which  
 31 have not been included as part of the mining plan; and

32 (3) depict at appropriate production or time  
 33 intervals approved by the commissioner the status of development  
 34 and reclamation for:

35 (a) mine plots;

36 (b) ditches;

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- 1 (c) water control structures;
- 2 (d) settling basins;
- 3 (e) stockpiling areas; and
- 4 (f) auxiliary facilities.

5 B. Mining and reclamation plans that describe for the  
6 operating life of the mine:

7 (1) the mining activities to be conducted  
8 including:

9 (a) the types, amounts, sequence, and  
10 schedule for mining the peat; and

11 (b) the beneficiating process, including a  
12 discussion of the type and amount of any chemicals to be added,  
13 and the types, amounts, and means of waste disposal;

14 (2) the methods and schedules of reclamation  
15 activities; and

16 (3) anticipated or proposed reclamation research.

17 Subp. 6. Postmining management plan. In support of the  
18 postmining management plan required by part 6131.0120, subpart  
19 2, item A, the applicant shall submit:

20 A. documentation of the landowner's management  
21 ability; and

22 B. a copy of the written agreement between the  
23 landowner and the operator detailing fiscal and reclamation  
24 responsibilities.

25 6131.0160 ANNUAL REPORT.

26 Subpart 1. Purpose. The purpose of the annual report is  
27 to describe actual mining activities completed during the past  
28 year and mining activities planned for the upcoming year. The  
29 permittee shall submit to the commissioner in duplicate an  
30 annual report between March 1 and 31 of each year.

31 Subp. 2. Preceding calendar year. For the preceding  
32 calendar year, the report shall include:

33 A. a statement describing financial capability to  
34 perform reclamation obligations;

35 B. the actual rate of mining;

36 C. the actual mining activities; and

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1 D. the actual reclamation activities.

2 Subp. 3. Upcoming calendar year. For the upcoming  
3 calendar year, the report shall include:

4 A. the anticipated rate of mining;

5 B. the anticipated mining activities including:

6 (1) the types, amounts, and schedule for mining  
7 the peat; and

8 (2) the beneficiating process, including a  
9 discussion of the type and amount of any chemicals to be added  
10 and the types, amount, and means of waste disposal; and

11 C. the anticipated reclamation activities including  
12 methods, schedules, and research.

13 Subp. 4. Map. For the preceding and upcoming year, the  
14 report shall contain a map in the form prescribed by part  
15 6131.0150, subpart 5, item A, which depicts the status of  
16 mining, reclamation, and watershed modifications.

17 6131.0170 PLAN FOR DEACTIVATION.

18 Subpart 1. Purpose. The purpose of the deactivation plan  
19 is to describe the detailed reclamation activities to be  
20 conducted on the deactivated portion. This plan shall be  
21 approved by the commissioner pursuant to part 6131.0250 prior to  
22 its implementation.

23 Subp. 2. Deactivation plan. The permittee shall submit to  
24 the commissioner in duplicate, a deactivation plan at least two  
25 years prior to beginning deactivation for any portion of the  
26 mining area. This plan shall replace the annual report for the  
27 portion of the mining area to be deactivated. The deactivation  
28 plan shall contain:

29 A. detailed plans, schedules, designs,  
30 specifications, and supporting data for reclamation activities  
31 which comply with the mining permit;

32 B. the depth and the physical and chemical  
33 characteristics of the soil in each mine plot;

34 C. a description of water table depths;

35 D. a description of water control structures  
36 including location and extent, inspection methods and schedule,

1 potential maintenance problems and solutions, and an estimate of  
2 maintenance costs; and

3 E. an updated copy of the written agreement between  
4 the landowner and the operator detailing fiscal, reclamation,  
5 and postmining management responsibilities.

6 6131.0180 REQUEST FOR RELEASE.

7 Subpart 1. Purpose. The purpose of the request for  
8 release is to evaluate compliance with parts 6131.0010 to  
9 6131.0340, the approved deactivation plans, and the permit to  
10 mine in order to release the permittee from further  
11 responsibilities.

12 Subp. 2. Request for release. The permittee shall submit  
13 to the commissioner in duplicate a request for release pursuant  
14 to part 6131.0250. This request shall include:

15 A. a detailed description of provisions for continued  
16 maintenance;

17 B. identification of the ownership of the mining area  
18 and all remaining structures and facilities; and

19 C. a map in the form prescribed by part 6131.0150,  
20 subpart 5, item A, which depicts the following:

21 (1) the final topography;

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

24 (3) the extent and type of vegetation; and

25 (4) the existing and expected permanent water  
26 levels within the deactivated mining area and the year in which  
27 they will be reached.

28 PROCEDURES AND STANDARDS

29 6131.0190 PERMITS TO MINE.

30 Subpart 1. Application and publication. The process for  
31 requesting a permit to mine is commenced by submitting an  
32 application to the commissioner pursuant to parts 6131.0010 to  
33 6131.0340. After the commissioner determines the application is  
34 complete, the applicant shall publish an advertisement as  
35 required by part 6131.0280. Within seven days after the last

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1 date of publication, the applicant shall submit to the  
2 commissioner a copy of the advertisement and an affidavit from  
3 the printer verifying publication. The application shall then  
4 be considered filed.

5 Subp. 2. Determination with hearing. Hearings on permits  
6 to mine may be held as follows:

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

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

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

17 (2) Serve an order for hearing in the form and  
18 manner required by part 1400.5600, except those in part  
19 1400.5600, subpart 3 which shall not apply. In no event shall  
20 such an order be served less than 20 days prior to the hearing.

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

24 (4) Publish notice of subject, time, date, and  
25 place of the hearing at least once prior to the hearing in a  
26 newspaper which must be both a legal newspaper, within the  
27 meaning of Minnesota Statutes, section 331.02, and circulated in  
28 the locality of the proposed mining operation.

29 If the objections were filed by a person not entitled to  
30 object, the commissioner shall notify the person in writing by  
31 mail of the determination giving reasons for it.

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

36 D. Within 120 days after the close of the hearing

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1 record, or 90 days after service of the hearing examiner's  
2 report whichever comes later, the commissioner shall grant the  
3 permit to mine with or without modifications or conditions or  
4 deny the permit to mine stating reasons therefor.

5 Subp. 3. Determination without hearing. Determination  
6 without hearing:

7 A. If, within 30 days after the last publication  
8 required by part 6131.0280, no objections to an application are  
9 received from persons entitled to object, the commissioner  
10 within 120 days, may without hearing process the application in  
11 accordance with the following:

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

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

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

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

23 Subp. 4. Hearing upon demand of applicant. If the  
24 commissioner processes an application without a hearing, the  
25 applicant may, within 30 days after mailed notice of the  
26 commissioner's order on the application, file with the  
27 commissioner a demand for hearing pursuant to Minnesota  
28 Statutes, chapter 14. The application shall thereupon be fully  
29 heard on notice.

30 Within 120 days after the close of the hearing record or 90  
31 days after service of the hearing examiner's report, whichever  
32 comes later, the commissioner shall grant the permit to mine  
33 with or without modifications or conditions or deny the permit  
34 to mine stating reasons therefor.

35 Subp. 5. Review of annual report. After granting a permit  
36 to mine, the commissioner shall review the annual report

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1 required by part 6131.0160, to determine if it complies with the  
2 provisions of the permit to mine and parts 6131.0010 to  
3 6131.0340. Upon completion of this review, the commissioner  
4 shall inform the permittee regarding compliance of the report  
5 with the permit to mine and parts 6131.0010 to 6131.0340.

6 6131.0200 VARIANCE PROCEDURES.

7 Subpart 1. **Application for variance.** A proceeding for  
8 requesting a variance from parts 6131.0010 to 6131.0340 is  
9 commenced when the permit applicant or permittee files an  
10 application for a variance with the commissioner. The  
11 application shall include information necessary for the  
12 commissioner to determine that the proposed variance is  
13 consistent with the general welfare and the goals of parts  
14 6131.0010 to 6131.0340.

15 Subp. 2. **Determination by commissioner.** Within 30 days  
16 after receipt of the application, the commissioner shall  
17 determine whether the proposed variance constitutes a  
18 substantial change from the requirements of parts 6131.0010 to  
19 6131.0340.

20 If the commissioner determines that a substantial change,  
21 would result, the applicant shall follow the procedures for  
22 permit to mine applications in part 6131.0190.

23 If the commissioner determines that there would be no  
24 substantial change, the commissioner shall without a hearing  
25 allow the variance with or without additional terms or  
26 conditions which are consistent with parts 6131.0010 to  
27 6131.0340, or deny the application stating reasons therefor.

28 Subp. 3. **Demand for hearing.** If the commissioner  
29 processes the application without a hearing, pursuant to subpart  
30 2, the applicant may file with the commissioner a demand for  
31 hearing on the decision pursuant to part 6131.0190, subpart 4.

32 Subp. 4. **Simultaneous filing of applications.**  
33 Applications for variance from parts 6131.0010 to 6131.0340 may  
34 be filed simultaneously with an application for a permit to  
35 mine, provided that the advertisement contains all information  
36 required for applications for permits to mine and for variance.

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## 1 6131.0210 AMENDMENTS.

2 Subpart 1. **Application for amendment.** A proceeding for  
3 requesting an amendment of a permit to mine is commenced when  
4 the permittee files an application for an amendment with the  
5 commissioner. The application shall include information  
6 necessary for the commissioner to determine that the proposed  
7 amendment meets the lawful requirements and parts 6131.0010 to  
8 6131.0340.

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

13 If the commissioner determines that a substantial change  
14 would occur, the applicant shall follow the procedures for  
15 permit to mine applications in part 6131.0190.

16 If the commissioner determines that there would be no  
17 substantial change, the commissioner shall without a hearing  
18 allow the amendment with or without additional terms or  
19 conditions which are consistent with parts 6131.0010 to  
20 6131.0340, or deny the applications stating reasons therefor.

21 Subp. 3. **Demand for hearing.** If the commissioner  
22 processes the application without a hearing pursuant to subpart  
23 2, the applicant may file with the commissioner a demand for  
24 hearing on the decision pursuant to part 6131.0190, subpart 4.

## 25 6131.0220 CANCELLATION OF PERMIT.

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

31 Within 30 days after the receipt of a request, the  
32 commissioner shall determine whether cancellation would have a  
33 significant adverse effect on any public interest relating to  
34 the goals of parts 6131.0010 to 6131.0340.

35 If the commissioner determines that the cancellation has

1 such an adverse effect, the permittee shall publish an  
2 advertisement pursuant to part 6131.0280 and the commissioner  
3 shall proceed as if an application for a permit to mine pursuant  
4 to part 6131.0190 had been received.

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

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

13 If no reply or an affirmative reply is filed with the  
14 commissioner within 30 days, procedures pursuant to subpart 1  
15 shall be commenced except that the commissioner shall publish an  
16 advertisement pursuant to part 6131.0280.

17 If a negative reply is filed with the commissioner within  
18 30 days, the permit to mine will continue in effect or a  
19 proceeding to revoke the permit to mine pursuant to part  
20 6131.0220, subpart 2 shall be commenced.

21 6131.0230 REVOCATION OR MODIFICATION.

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

26 A. a notice and order for hearing in the form and  
27 manner under part 1400.5600;

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

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

33 If conditions that provided the grounds for the action are  
34 corrected to the commissioner's satisfaction, within a period,  
35 established by the commissioner, of not less than 15 days after  
36 the notice, or as appropriate, approved measures are taken to

1 ensure that the conditions do not recur, the proceedings shall  
2 be canceled.

3 Subp. 2. Hearing prior to determination. The commissioner  
4 shall hold a hearing prior to the determination to revoke or  
5 modify a permit to mine, require a performance bond, or assess a  
6 civil penalty if, within 15 days after commencement of the  
7 proceeding, any permittee serves an answer on the commissioner  
8 and all other parties. If an answer is served, the  
9 commissioner, without further notice, shall hold the hearing at  
10 the time and place specified in the order for hearing. No  
11 hearing shall be held less than 30 days after commencement of  
12 the proceeding.

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

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

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

23 Failure of a permittee to serve an answer, pursuant to  
24 subpart 2, item A or to appear at the hearing constitutes a  
25 waiver of a hearing on the allegations of the order for hearing  
26 and the contents of the proposed order. The waiver authorizes  
27 the commissioner, without further notice to the permittee and  
28 without proceeding further with the hearing, to adopt the  
29 proposed order, or that much as is applicable if the proposed  
30 order is in the alternative or if there have been correction  
31 measures attempted. The order shall be the commissioner's final  
32 decision on the matter.

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

36 6131.0240 SUSPENSION.

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

6 6131.0250 DEACTIVATION AND RELEASE OF PERMITTEE.

7 Subpart 1. Deactivation. The commissioner shall review  
8 the deactivation plan, pursuant to part 6131.0170, to determine  
9 if it complies with the requirements of the permit to mine and  
10 parts 6131.0010 to 6131.0340, in the same manner as if the  
11 commissioner had received an application for an amendment  
12 pursuant to part 6131.0210.

13 Subp. 2. Release. A proceeding to release the permittee  
14 from responsibility on any portion of a deactivated mining area  
15 is commenced when the permittee submits a request for release  
16 pursuant to part 6131.0180.

17 The commissioner shall review the request and determine if  
18 all terms and conditions of applicable provisions of parts  
19 6131.0010 to 6131.0340, the permit to mine, and the approved  
20 deactivation plan have been satisfied; and that it is not  
21 necessary to defer the release until other portions of the  
22 mining area have been deactivated.

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

27 6131.0260 ASSIGNMENT OF PERMIT.

28 Pursuant to Minnesota Statutes, section 93.481, subdivision  
29 5, the commissioner shall allow the assignment of a permit to  
30 mine only if the commissioner determines that the assignee will  
31 perform all outstanding obligations of the act, parts 6131.0010  
32 to 6131.0340, and the permit to mine.

33 6131.0270 HEARING PROCEDURES.

34 Procedures pursuant to parts 1400.5100 to 1400.8500, shall  
35 apply to any contested case hearing under parts 6131.0010 to

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1 6131.0340, except as otherwise provided in Minnesota Statutes,  
2 sections 93.44 to 93.51 and parts 6131.0010 to 6131.0340.

3 6131.0280 PUBLICATION.

4 When an advertisement is required, it shall be published  
5 once each week for four successive weeks in a legal newspaper,  
6 pursuant to Minnesota Statutes, section 331.02, which is  
7 circulated in the locality of the proposed mining operation.  
8 This advertisement shall contain:

9 A. a statement and map indicating the location and  
10 boundaries of the mining area;

11 B. the names of all surface owners of record and  
12 owners of easements above, on, or below the surface within the  
13 mining area;

14 C. the schedule for accomplishing what is being  
15 proposed;

16 D. a notice of the deadline date for filing  
17 objections; and

18 E. the following information:

19 (1) if application is made for a permit to mine,  
20 a description of the proposed mining operation including the  
21 general kinds of reclamation or restoration measures to be  
22 undertaken pursuant to the reclamation plan;

23 (2) if an amendment to a permit to mine is  
24 requested, a description of the purpose and nature of the  
25 proposed amendment;

26 (3) if a cancellation of a permit to mine is  
27 requested, an explanation of the request for cancellation and  
28 the consequences of allowing such a request; or

29 (4) if a variance from parts 6131.0010 to  
30 6131.0340 is requested, a description of the purpose and nature  
31 of the requested variance and a description of the proposed  
32 alternative means which will be used to meet the goals and  
33 comply with the requirements of parts 6131.0010 to 6131.0340.

34 6131.0290 VARIANCE STANDARDS.

35 Subpart 1. Granting of variance. The commissioner shall

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1 grant a variance from the requirements of parts 6131.0010 to  
2 6131.0340 upon application by a permit applicant or permittee,  
3 if it is determined that:

4 A. a variance is consistent with the general welfare  
5 and general purposes of parts 6131.0010 to 6131.0340;

6 B. by reason of exceptional circumstances, the strict  
7 enforcement of the reclamation requirements would cause undue  
8 hardship or strict conformity with the requirements of parts  
9 6131.0010 to 6131.0340 would be unreasonable or not feasible;  
10 and

11 C. acceptable alternative means of accomplishing the  
12 goals, pursuant to parts 6131.0100 to 6131.0130, have been  
13 provided by the permit applicant or permittee.

14 Subp. 2. **Conditional granting.** The commissioner shall  
15 grant a variance upon such conditions as shall be necessary for  
16 the prevention, control, or correction of adverse environmental  
17 effects, consistent with the requirements of parts 6131.0010 to  
18 6131.0340 and Minnesota Statutes.

19 6131.0300 REVOCATION OR MODIFICATION AUTHORITY.

20 The commissioner may revoke a permit to mine or modify any  
21 of its terms or conditions, pursuant to Minnesota Statutes,  
22 section 93.481, subdivision 4. A permittee shall not be  
23 considered to have commenced substantial construction of plant  
24 facilities unless erection of the primary plant facilities has  
25 begun. Planning, securing capital, purchasing land and  
26 materials, and otherwise preparing for construction are not  
27 sufficient.

28 6131.0310 PERFORMANCE BONDS.

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

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

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1 (1) perform any part of a reclamation measure  
2 required by the permit to mine or any amendment or modification  
3 thereto;

4 (2) comply with a provision of parts 6131.0010 to  
5 6131.0340; or

6 (3) perform any research required, pursuant to  
7 Minnesota Statutes, sections 93.44 to 93.51; or

8 B. may require the operator to furnish a performance  
9 bond if there is reasonable doubt that the operator will be  
10 financially able to comply with the requirements of the permit  
11 to mine or parts 6131.0010 to 6131.0340.

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

17 Subp. 3. Conditions of bond. A performance bond required  
18 pursuant to this part shall be conditioned upon the performance  
19 by the operator within a time period established by the  
20 commissioner of all actions necessary to correct the deficiency  
21 or noncompliance for which reason the bond is required. For the  
22 purpose of the bond, "performance" shall mean the accomplishment  
23 as determined by the commissioner of all actions required under  
24 the bond. The bond shall also provide that the surety or a  
25 successor or assign is not released in any way from liability  
26 thereunder by any amendment of the terms or conditions of the  
27 permit to mine; provided that, regardless of amendment, the  
28 surety shall be liable for no more than the amount specified in  
29 the bond. The need for and amount of all bonds shall be  
30 reviewed annually.

31 Subp. 4. Other security and assurance. Whenever an  
32 operator is required to furnish a performance bond pursuant to  
33 this part, the operator may, in lieu thereof:

34 A. Submit as security to the commissioner for deposit  
35 with the state treasurer, assignable bonds or notes of the  
36 United States in a sum equal, at their par value, to the amount

1 of the required performance bond.

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

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

16           The permittee shall submit an agreement authorizing the  
17 commissioner to collect or sell the bonds, notes, property, or  
18 other security or assurance so submitted or deposited, upon the  
19 same conditions as would constitute a default under a  
20 performance bond. The acceptance of United States bonds, notes,  
21 a lien on property, or other security or assurance, in lieu of a  
22 performance bond, shall have the same force and effect as if a  
23 performance bond has been furnished.

24           Subp. 5. Return of security or assurance to permittee.  
25 When it is determined during the annual bond review that  
26 security is no longer necessary, any bonds, notes, lien, or  
27 other security or assurance deposited pursuant to part 6131.0310  
28 shall be returned to the permittee.

29           Subp. 6. Access to mining areas after forfeiture. Upon  
30 forfeiture of a bond the permittee shall allow access to the  
31 commissioner and his or her designated contractors into all  
32 mining areas for the purpose of reclaiming all lands disturbed  
33 and unreclaimed.

34 6131.0320 CIVIL PENALTIES.

35           Subpart 1. Amount. If any person violates any provision  
36 of Minnesota Statutes, sections 93.44 to 93.51, parts 6131.0010

1 to 6131.0340, or any permit to mine issued thereunder, the  
2 commissioner may order imposition of a civil penalty of not more  
3 than \$1,000 per day for each violation of each provision or the  
4 same provision in more than one portion of the mining area.

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

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

13 6131.0330 SUSPENSION OF PERMIT.

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

20 6131.0340 INSPECTION OF MINING AREA.

21 The permittee shall allow the commissioner to inspect all  
22 mining operations and records needed to monitor compliance with  
23 the permit to mine and parts 6131.0010 to 6131.0340 after  
24 reasonable prior notice.