

April 2016

MINNESOTA'S MINING LAWS

Minnesota began addressing the development of the state's mineral resources soon after its admission to the Union. Thus, a substantive body of law is in existence today to guide the development of mining in the state.

Minnesota's mining laws are found in Minnesota's Constitution, statutes, and administrative rules. The following is a guide to the major laws that directly address mineral issues. This list is not exhaustive, and the reader is directed to Minnesota Statutes and Minnesota Rules for a thorough search of all relevant laws.

This list is broken down as follows:

- A. Laws on state-owned or administered lands and mineral rights,
- B. Laws on regulation of all exploration and mining activities,
- C. Laws on taxation of mineral interests, and
- D. Other mineral related laws.

The Minnesota Statutes and Minnesota Rules listed in this document may be accessed on the Internet at: www.revisor.leg.state.mn.us.

Department of Natural Resources
Division of Lands and Minerals
500 Lafayette Road
St. Paul, MN 55155-4045
(651) 259-5959

A. **Laws on State-Owned or Administered Lands and Mineral Rights**

(1) **Leasing of state-owned lands**

The provisions for leasing state-owned lands and mineral rights for iron ore or taconite are found in Minnesota Statutes, secs. 93.14 to 93.42. The iron ore/taconite lease form is in Minnesota Statutes, sec. 93.20. The provisions for negotiating iron ore/taconite leases are in Minnesota Statutes, sec. 93.1925. Leasing of stockpiled iron ore is under Minnesota Statutes, sec. 93.285. Leasing of iron-bearing material for construction purposes is under Minnesota Statutes, sec. 93.41.

The provision for leasing state-owned lands and mineral rights for non-ferrous metallic minerals and other minerals, other than iron ore, is found in Minnesota Statutes, sec. 93.25. This statute requires the commissioner to adopt rules for each leasing program.

Minnesota Rules, parts 6125.0100-.0700, cover leases for metallic minerals, except iron ores and taconite ores.

Minnesota Rules, parts 6125.8000-.8700 cover leases for selected industrial minerals.

State-owned lands and mineral rights administered by the commissioner of natural resources may be leased for peat, sand, gravel, stone, clay, rock, and marl under Minnesota Statutes, sec. 92.50.

The counties may lease tax-forfeited land for peat, sand, gravel, clay, rock, and marl, and tax-forfeited stockpiled iron-bearing material under Minnesota Statutes, sec. 282.04, subd. 1. Counties may issue mineral leases for county-owned land (tax-forfeited land is not county-owned land) under Minnesota Statutes, sec. 373.01, subd. 1. The surface of tax-forfeited land may be leased by the counties for use in stockpiling ore or waste ore material under Minnesota Statutes, sec. 282.04, subd. 1.

The surface of state-owned lands administered by the commissioner of natural resources may be leased for stockpiling of ore or waste ore materials or for auxiliary mining uses under Minnesota Statutes, secs. 92.50, 93.33, 93.43, and 117.47-.471.

(2) **Distribution of proceeds from state mineral leases**

Revenue received from the state mineral and peat leases is deposited into the minerals management account and the appropriate fund or account based on land classification under Minnesota Statutes, sec. 93.22 for payments made

under Minn. Statutes, secs. 93.14 to 93.285.

Minerals management account, Minnesota Statutes, sec. 93.2236.

Permanent school fund (includes school, swamp, and internal improvement fund lands): Minnesota Constitution Art. XI, Sec. 8; Minnesota Statutes, secs. 11A.16 and 127A.32 to 127A.34.

Permanent university fund: Minnesota Constitution, Art. XI, Sec. 9; Minnesota Statutes, sec. 137.022.

Tax forfeited lands held in trust for taxing districts and mineral rights forfeited under severed mineral interests law: Minnesota Statutes, secs. 93.335, and 93.55, subd. 3.

Consolidated conservation area lands: Minnesota Statutes, secs. 84A.51 and Laws of MN 1961, Ch. 612.

Volstead lands: Laws of MN 1963, Ch. 390; Minnesota Statutes, sec. 89.035.

Lands acquired for state forest purposes, tax-forfeited lands in which county relinquished its equity for state forest purposes, and land utilization project lands: Minnesota Statutes, sec. 89.035.

Tax-forfeited lands held free from the trust in favor of taxing districts pursuant to resolution of county board: Minnesota Statutes, sec. 282.01, subd. 2.

Rural credit lands: Minnesota Statutes, secs. 93.22 and 16A.72.

Revenue received under groups of certain state negotiated taconite leases covering several land types is deposited into the Taconite Iron Ore Special Advance Royalty Account, as provided by Minnesota Statutes, sec. 93.222, until mining occurs and the revenue can be distributed to the appropriate fund.

(3) Reservation of mineral rights and peat to state

The state has a policy of reserving the mineral rights upon the sale of the land. This policy first applied to trust fund lands.

Lands acquired from federal government: Minnesota Statutes, secs. 93.01-.02 and 93.04 (discretionary for counties of St. Louis, Cook and Lake from 1889; mandatory for all counties from 1901).

Minerals under navigable lakes and rivers: Minnesota Statutes, sec. 93.06 (enacted 1909).

Tax-forfeited lands: Minnesota Statutes, secs. 282.12 (enacted 1935), 282.20 (enacted 1939), and 282.225 (Red Lake Game Preserve).

Land exchanges: Minnesota Constitution Art. XI, Sec. 10; Minnesota Statutes, secs. 94.343, subd. 6, 94.344, subd. 4, and 94.3495, subd. 7(b).

Land grants to railroads: Minnesota Statutes, secs. 93.03 and 222.025 (easements).

Sale of surplus state-owned land: Minnesota Statutes, sec. 94.14 (enacted 1909).

Sale of county-owned land: Minnesota Statutes, sec. 373.01, subd. 1.

State lands containing commercial deposits of peat are withdrawn from sale under Minnesota Statutes, sec. 92.461.

The surface of tax forfeited land held under mining lease or in mining unit status is withheld from sale by Minnesota Statutes, sec. 282.01, subd. 8. Tax forfeited lands may not be repurchased if the lands are under state mining permit or lease prior to the time of repurchase as provided by Minnesota Statutes, sec. 282.241.

(4) Severed mineral interests

The commissioner of natural resources may bring a court action under Minnesota Statutes, sec. 93.55, subd. 2, to forfeit severed mineral interests to the state for failure to file a severed mineral interest statement required under Minnesota Statutes, sec. 93.52. The commissioner may lease severed mineral interests, pursuant to Minnesota Statutes, sec. 93.55, both when the interest has forfeited to the state and where the owner has failed to comply with the severed mineral interest law.

(5) Restrictions on use of state minerals

Certain laws restrict or prohibit the leasing of state-owned minerals.

Management of state's mineral rights, peat, waters, and lands in the B.W.C.A.W.: Minnesota Statutes, secs. 84.523 and 103G.545, and Laws of MN 1967, Ch. 556.

Management of state's mineral rights in Voyageurs National Park: Minnesota Statutes, sec. 84B.03, subd. 1.

Upper Mississippi Headwaters: Minnesota Statutes, sec.103F.369, subd. 2.

Peatland Scientific and Natural Areas: Minnesota Statutes, secs. 84.035-.036.

B. Laws on Regulation of All Exploration and Mining Activities

(1) Regulation of drillers of exploratory borings

Every party who drills for metallic minerals, oil, natural gas or kaolin clay is subject to laws on the drilling activity.

Exploratory boring procedures: Minnesota Statutes, sec. 103I.601.

Submission of data: Minnesota Statutes, sec. 103I.605.

Registration with Department of Natural Resources: Minnesota Statutes, sec. 103I.601, subd. 3.

Regulation and licensing by Department of Health: Minnesota Statutes, secs. 103I.501 and 103I.601, subd. 2.

Registration of drilling machines: Minnesota Statutes, sec. 103I.545.

Nonapplicability to certain mining areas: Minnesota Statutes, sec. 103I.113.

Definitions: Minnesota Statutes, secs. 103I.005 and 103I.601, subd. 1.

(2) Confidentiality of mineral data

Some mineral data is nonpublic information under the state's data privacy law.

Requests for lands to be included in public mineral lease sale and exploration data received by the commissioner under the terms of a state mineral lease: Minnesota Statutes, sec. 13.793.

Analysis of state-owned or state-controlled drill core that is public data:

Minnesota Statutes, secs. 13.793, 13.7931, subd. 4, and 103I.605, subd. 4.

(3) Mine safety and inspection

The counties may appoint inspectors of mines under Minnesota Statutes, secs. 180.01-.13. Mine operators and landowners are responsible for fencing of mining properties under Minnesota Statutes, sec. 180.03.

(4) Reclamation of mining and peat lands

Lands that are mined for metallic minerals or peat are subject to reclamation pursuant to Minnesota Statutes, secs. 93.44-.51, and the rules adopted under those laws.

Minnesota Rules, parts 6130.0100-.6300 cover metallic mineral mining operations from which iron is predominant metal extracted.

Minnesota Rules, parts 6131.0100-.0340 cover peatland mining operations. Minnesota Rules parts 6132.0100-.5300 cover nonferrous metallic mineral mining.

(5) Environmental review and permits

The state has adopted an environmental policy, under Minnesota Statutes, secs. 116D.01-.045 and an environmental rights law, under Minnesota Statutes, secs. 116B.01-.13. Minnesota Rules, chapter 4410, covers the environmental review process.

The permits for diversion, drainage, control, or use of state waters for mining are issued under Minnesota Statutes, sec. 103G.297. Procedures for relocating roads that interfere with mining operations are set forth in Minnesota Statutes, sec. 160.10.

The Minnesota Pollution Control Agency has authority for the issuance of air

emission permits, water discharge permits, solid and hazardous waste permits, and noise permits, under Minnesota Statutes, chapters 115 and 116.

E. **Laws on Taxation of Mineral Interests**

Also see the Minnesota Mining Tax Guide, prepared by the Minnesota Department of Revenue, for more information on mining taxation laws and the distribution of mineral tax revenue.

(1) **Occupation tax and income tax**

Every person engaged in the business of mining or producing iron ore or other ores must pay an occupation tax as required by the Minnesota Constitution, Art. X, sec. 3. This tax is computed according to Minnesota Statutes, secs. 298.014, 298.16 to 298.18, and most provisions of the corporate franchise (income) tax, Minnesota Statutes, sec. 290.02.

Income tax withholding is required for mineral royalty payments under Minnesota Statutes, sec. 290.923.

(2) **Production tax**

The taconite industry pays a taconite production tax, pursuant to Minnesota Statutes, secs. 298.24, 298.27, and 298.28, instead of an ad valorem tax on taconite and lands containing taconite.

For the first five years of production, there is a reduced production tax rate for direct reduced iron under Minnesota Statutes, sec. 298.24, subd. 1.

(3) **Net proceeds tax**

A net proceeds tax is assessed under Minnesota Statutes, secs. 298.015-.018, for all mineral and energy resources mined in the state, except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, clay, soil, iron ore, and taconite concentrates.

(4) **Ad valorem tax**

Auxiliary taconite mining lands are subject to ad valorem tax under Minnesota Statutes, sec. 272.01. The rate for the ad valorem tax on unmined taconite is specified in Minnesota Statutes, sec. 298.26. The ad valorem tax for unmined natural iron is specified in Minnesota Statutes, secs. 272.02, 273.03, 273.1104, 273.12, 273.13, and 273.165.

Mineral and energy resources subject to the net proceeds tax, and taconite and iron-sulphide deposits subject to the production tax, are exempt from ad valorem taxes under Minnesota Statutes, sec. 273.12. The plant and buildings used for the mining and processing of minerals subject to the net proceeds tax are subject to ad valorem tax under Minnesota Statutes, secs. 272.01, 272.03, 273.12, and 273.13.

State lands that are leased for mining purposes are subject to assessment for real property tax that is collected and assessed as a personal property tax under Minnesota Statutes, secs. 272.01, subd. 2, and 273.01.

(5) Severed mineral interests tax

Mineral interests owned separately from the surface interest are subject to a severed mineral interest tax under Minnesota Statutes, secs. 272.039, 272.04, subd. 1, and 273.165, subd. 1. (Also see Contos v. Herbst, 278 N.W.2d 732 (Minn. 1979))

(6) Stockpiled metallic minerals material tax

Stockpiled metallic minerals material is included in the definition of real property from and after July 1, 1997, pursuant to Minnesota Statutes, sec. 273.1651, subd.3.

Stockpiled metallic minerals material located on property that forfeited prior to July 1, 1997, or forfeits for a judgement for delinquent taxes issued prior to July 1, 1997, is subject to a tax as real property under Minnesota Statutes, sec. 273.1651, subds. 4 and 5.

(7) Aggregate material tax

Some counties have the authority to impose an aggregate material tax on importers and operators of aggregate material under Minnesota Statutes, sec. 298.75.

D. Other related laws

Minerals

Inventory and classification of aggregate resources, Minnesota Statutes, sec. 84.94.
Policy to provide for diversification of mineral economy: Minnesota Statutes, sec. 93.001.

Mineral coordinating committee, Minnesota Statutes, sec. 93.0015.

Iron mining plants must be maintained in saleable condition for one year: Minnesota Statutes, sec. 93.003.

Miscellaneous

Records of the former department of rural credit: Minnesota Statutes, sec. 84.0262 to 84.0263.

School trust lands

Commissioner's school fund authority, Minnesota Statutes, sec. 84.027, subd. 18.

Exchange of PSF lands where revenue generation is limited or prohibited, Minnesota Statutes, sec. 92.121.

Legislative Permanent School Fund Commission, Minnesota Statutes, sec. 127A.30.

School trust lands director, Minnesota Statutes, sec. 127A.351 to 127A.353.