

Permit to Mine – Formal Objections and Petitions for a Contested Case Hearing

In addition to the public comment process, Minnesota law provides qualifying individuals and entities with the option of submitting formal objections or petitioning for a contested case hearing as part of the permit to mine process. Even if you do not qualify to submit a formal objection or a petition for a contested case, the DNR welcomes your public comment on the draft permit to mine. Details on how to submit a public comment are provided in the [DNR Effective Commenting fact sheet](#).

This fact sheet is intended to help you become more familiar with Minnesota Statutes and Rules governing the objection and petition for contested case hearing processes. This fact sheet is not intended to provide legal advice and you should consult legal counsel, as appropriate, regarding compliance with the regulatory and statutory procedures discussed below. Nothing in this fact sheet supersedes, alters, or otherwise changes any provision of applicable statutes and rules.

How is a comment different from an objection or a petition for a contested case hearing?

The DNR will accept public comments, written objections, and written petitions for contested case hearing on the draft permit to mine. These submissions will be considered prior to making any final decision. The general public has the ability to submit any comments on the draft permit to mine during the public comment period. The objection and petition processes are distinct from the general public's ability to submit comments. Minnesota Statutes and Rules detail how qualifying individuals or entities may submit formal written objections or petitions for a contested case on a draft permit to mine. Minnesota Statute section 93.483 details who may petition for a contested case hearing and identifies the information that must be included in any petition. Similarly, there are established procedures for submitting formal written objections and an individual or entity submitting a written objection must meet specific criteria and include all information outlined in Minnesota Rules 6132.4000 subp. 2. These requirements are discussed in further detail below.

Formal Objections

What are the requirements to be an objector?

An individual or entity filing an objection must meet 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 DNR 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 a permit to mine.

What needs to be included with an objection?

An individual or entity submitting an objection to the DNR must 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 DNR 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 DNR to investigate the merits of the person's position.

Can I make an oral objection at a public meeting?

No. Minnesota Rules specify that an objection must be provided in written form. Qualified individuals and entities may submit a written objection at one of the public meetings, or via the project portal or US Mail as outlined below.

What is the deadline for objections?

The deadline for objections is March 6, 2018—i.e., the same as the public comment deadline.

How can I submit my objections in writing?

Written objections may be submitted at any time during the public comment period through the State's portal for the project: <http://polymet.mn.gov/>

Written objections may also be submitted to:

MN Department of Natural Resources
Division of Lands and Minerals
500 Lafayette Road, Box 45
St. Paul, MN 55155-4045

Petitions for Contested Case Hearing

What is a petition for a contested case hearing?

Minnesota Statutes section 93.483, subd. 1 details the process for submitting a petition for a contested case on an application for a permit to mine. In addition to this petition process, the commissioner can order a contested case hearing on an application.

Who can submit a petition for a contested case hearing?

Under Minnesota Statutes section 93.483, subd. 1, any person owning property that will be affected by the proposed operation identified in an application for a permit to mine or any federal, state, or local government having responsibilities affected by the proposed operation may file a petition to hold a contested case hearing on an application for a permit to mine. In addition, the applicant can request a contested case hearing under Minnesota Statutes section 93.483, subd. 4.

What needs to be included in a petition for a contested case hearing?

A petition for a contested case hearing must be in writing and must include the following information:

- (1) A statement of reasons or proposed findings that would support a commissioner's decision to hold a contested case hearing. To grant a petition, the commissioner must determine that:
 - (a) there is a material issue of fact in dispute concerning the application before the commissioner;
 - (b) the commissioner has jurisdiction to make a determination on the disputed material issue of fact; and
 - (c) there is a reasonable basis underlying a disputed material issue of fact so that a contested case hearing would allow the introduction of information that would aid the commissioner in resolving the disputed facts in order to make a final decision on the application.
- (2) A statement of the issues proposed to be addressed by a contested case hearing.

In addition, a petitioner may include the following information in a petition for a contested case, to the extent that it is known:

- (1) A proposed list of prospective witnesses to be called, including experts, with a brief description of the proposed testimony or a summary of evidence to be presented at a contested case hearing;
- (2) A proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing; and
- (3) An estimate of time required for the petitioner to present the matter at a contested case hearing.

What is the deadline for submitting a petition for a contested case hearing?

Effective January 5, 2018, qualified individuals and entities may submit petitions for a contested case hearing. The deadline for submitting a petition for a contested case hearing will be 30 days after the application is deemed complete and filed. Under Minnesota Rule 6132.4000, subp. 1, the application is only deemed filed upon submission of an affidavit from the printer verifying publication of the advertisement of the application for four successive weeks in a qualified newspaper that is circulated in the locality of the proposed mining operation. The DNR will issue a GovDelivery notice identifying the deadline for submission of a petition for a contested case once the application is deemed filed. Based on the date of first publication in qualified newspapers, DNR anticipates this deadline will be before the public comment period ends on March 6, 2018.

Can I make an oral petition for a contested case hearing at a public meeting?

No. Minnesota Statutes specify that a petition for a contested case hearing must be provided in writing. Qualified individuals and entities may submit a written petition for a contested case hearing at one of the public meetings on the draft permit to mine, or via US Mail as outlined below.

How can I submit a petition for a contested case hearing?

A petition for a contested case hearing may be submitted in writing to:

MN Department of Natural Resources
Division of Lands and Minerals
500 Lafayette Road, Box 45
St. Paul, MN 55155-4045

Petitions for a contested case hearing may not be submitted electronically through the public comment portal.

Review of Submissions

What's the process following the period for submission of formal objections or petitions for contested case hearing?

After March 6, 2018, DNR and its consultants will review all public comments, objections, and petitions received on the draft permit to mine and make any changes to the draft permit that may be warranted. DNR will then determine whether to hold a pre-decisional contested case hearing and the scope of any such hearing. If no contested case hearing is held, DNR will proceed to making its final decision on the permit to mine. If a pre-decisional contested case hearing is held, DNR will defer its final permit to mine decision until after the conclusion of that contested case process.

All formal objections and petitions for contested case hearing will become part of the official record and will be managed in accordance with the Minnesota Government Data Practices Act.