Request for Comments

Minnesota Department of Natural Resources

Lands and Minerals Division

Possible Amendment to Rules Governing Inflation Adjustment to Nonferrous State Mineral Lease Royalty, Minnesota Rules, part 6125.0700, Item 8; Revisor's ID Number R-4875

Introduction. The Minnesota Department of Natural Resources (Department) is considering an amendment to rules to ensure nonferrous state mineral royalties properly account for inflation. The DNR requests comments to aid in that process.

Subject of Rules. The Department is considering a rule amendment that would modify the formula and methodology used to adjust for inflation for nonferrous royalty rates.

The nonferrous royalty rates are established by rule. The rule (Minn. Rules, part 6125.0700) provides a formula and methodology to adjust for inflation, but it is flawed and needs to be modified. The proposed modification would not alter the royalty rates in rule, but rather would make changes to properly adjust for inflation.

The DNR recently became aware of an issue in the current inflation adjustment method. The magnitude of this issue will continue to grow as long as inflation continues to rise. However, since nonferrous mining has not occurred in state minerals, this inflation adjustment problem has not had an impact on actual royalty payments to date.

The rules for nonferrous mineral royalties were last amended in 1995. The current rules use a precise royalty rate lookup chart, which varies the royalty rate from a minimum of 3.95% of net return value ($) per ton to a maximum royalty rate of 20% of net return value ($) per ton. Net return value is the value of certain products (e.g., concentrate or refined metals) made with state minerals and sold by the company, minus any allowable charges such as refining costs, as defined in the lease. The royalty rates in the lookup chart escalate from 3.95% to 20%, in a progressive curve based on a quadratic equation, that considers factors like mineral concentrations and market value. The proposed rule would not change the curve, the quadratic equation or the values within the lookup chart. Rather it would address language in the 1995 rule that adjusts only the first $75 per ton of the net return value for inflation. The proposed rule language would fully adjust the total net return value for inflation. This would be done by modifying a step in the calculation process to use the full net return value when adjusting for inflation to determine which cell in the lookup table is applicable.

With this rule change, the net return value would be fully adjusted for inflation. The new formula would correct royalty rates that would be higher, and sometimes much higher, if calculated under the current, flawed formula. Continued inflation increases over time will exacerbate this issue if left uncorrected.

Persons Affected. The amendment to the rules would most directly affect the following groups and individuals:

- Exploration and mining companies wishing to mine state-managed nonferrous minerals in Minnesota.
- Communities in the vicinity of state-managed nonferrous minerals.
- Beneficiaries of state royalties, which include counties, local schools, towns, public universities, and K-12 public education throughout the state.

Statutory Authority. *Minnesota Statutes*, section 93.25, subdivision 2, states that royalties shall be fixed by the commissioner of natural resources according to rules adopted by the commissioner for leases described in Section 93.25 subdivision 1, to prospect for, mine, and remove minerals other than iron ore upon any landed owned by the state, including trust fund lands, lands forfeited for nonpayment of taxes whether held in trust or otherwise, and lands otherwise acquired, and the beds of any waters belonging to the state.

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m. on December 19, 2024.

The Department will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments.

The Department does not plan to appoint an advisory committee to comment on the possible rules.

This public comment opportunity is associated with the development of possible rules. Comments received in response to this notice will not be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The Department is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submit comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews your comments, you must resubmit the comments after the rules are formally proposed.

Rules Drafts. The Department has drafted the following possible changes to amend Minnesota Rules, part 6125.0700, item 8 (c):

> c. If in any month~~:~~ ~~(1) the net return value of the metallic minerals and associated~~ ~~mineral products recovered from each ton of dried crude ore mined from the mining unit~~ ~~exceeds $75; and (2)~~ the unadjusted Producer Price Index for All Commodities (1982 equals 100), as originally published (unrevised) by the Bureau of Labor Statistics of the United States Department of Labor, or any succeeding federal

government agency publishing the Index, in the monthly publication titled Producer Price Indexes, for the first month in the calendar quarter for which royalty payment is to be made, exceeds 121.5, which was the originally published (unrevised) level of the index for November 1994 (hereinafter called the "Base Index"), then an adjustment to the base rate must be computed in the manner hereinafter provided.

The adjustment to the base rate must be computed by multiplying ~~$75 is represented by~~ a fraction, the ~~denominator~~ numerator of which is the Base Index and the ~~numerator~~ denominator of which is equal ~~to the amount by which the~~to the Producer Price Index for All Commodities for the month in question, by the net return value of the metallic minerals and associated mineral projects recovered from each ton of dried crude ore mined from the mining unit ~~exceeds the Base Index~~. The resulting ~~products~~ product must be carried to four decimal places and then rounded to the nearest one-hundredth of a dollar. ~~The difference between this rounded product and the net return value must then be determined.~~. This product must ~~and would~~ be used instead of the net return value to reference ~~The~~ Appendix A: Royalty Base Rate Table ~~must be referred to and the difference resulting from this computation must be used instead of the net return value~~ and to determine the base rate.

For example, (1) the Base Index under this lease is 121.5, and if (2) the Producer Price Index for All Commodities for January 2026~~1996 was~~ is 132.7, and (3) the net return value per ton for the month of January 2026 is calculated at $85 per ton, the adjustment to the base rate would be computed as follows ~~net return value per ton for the period January 1996 was calculated at $85/ton~~:

~~(132.7 –~~ 121.5~~)~~

$~~75~~85 x ------------------------- = $~~6.9136~~77.8259, rounded to $~~6.91~~77.83

~~121.5~~132.7

~~If the net return value of the metallic minerals and associated mineral products recovered from each ton of dried crude ore equalled $85, then the difference between the net return value and $6.91 would be computed as follows:~~

~~$85 - 6.91 = $78.09~~

The resulting ~~difference~~ product of $~~78.09~~77.83 would then be used instead of the net return value of $85 to determine the base rate.

If some period other than 1982 is used as a base of 100 in determining the Producer Price Index for All Commodities, for the purposes of this lease provision the index must be adjusted so as to be in correct relationship to the 1982 base. In the event the index is not published by any federal agency, the index to be used as previously provided must be the index independently published, which, after necessary adjustments, if any, provides the most reasonable substitute for the Producer Price Index for All Commodities during any period after November 1994, it being intended to substitute an index that most accurately reflects fluctuations in the prices of commodities in the all commodities index in the manner presently reported by the

Producer Price Index for All Commodities (1982 equals 100), published by the Bureau of Labor Statistics of the United States Department of Labor.

Agency Contact Person. Written comments, questions, and requests for more information on these possible rules should be directed to: Ted Anderson at Department of Natural Resources, 500 Lafayette Road, Saint Paul, MN 55155-4046 and *LAMrules.DNR@state.mn.us*.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

10/30/2024	/s/ SARAH STROMMEN
Date	Sarah Strommen, Commissioner
	Department of Natural Resources