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THE MINERAL POLICY OF MINNESOTA

AS REFLECTED BY ITS LAWS

Minnesota Department of Natural Resources
Division of Minerals
Mineral Leasing and Mineral Rights Management Section

February, 1989

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Minnesota Department of Natural Resources

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TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
I. Policies on State-Owned or Administered Land	
A. Reservation of mineral rights upon sale of land	3
B. Promotion of mining operations	
1. Enabling provisions	4
2. Rights and duties of permit holders	6
3. Mining practices and conditions of state mining leases	7
4. Modifications and extensions of iron ore/taconite leases	8
5. Surface of land leased for mineral purposes	10
6. Use of state land for auxiliary mining purposes	10
7. Use of state water for mining purposes	12
II. Environmental and Safety Policies on all Exploration and Mining Activities	
A. Regulation of drillers of exploratory borings	13
B. Mine safety and inspection	15
C. Reclamation standards	16
D. Environmental review and permits	18
E. Management of minerals in the B.W.C.A.	20
III. Tax Policies Affecting all Mining Operations	
A. Limitations on taxation	20
B. Ad valorem taxes	22
C. Production taxes	23
D. Occupation taxes/Corporate income taxes	
1. Iron ore and taconite ores	25
2. Other ores	26
E. Royalty Taxes.	27
F. Net Proceeds Taxes	28
IV. Policies on Severed Mineral Interest Ownership	29
V. Policies Recognizing Importance of Mining	30
Conclusion	32
Appendix-Executive Orders No. 82-1 and 85-18	33

1. 1. 1.

2. 2. 2.

3. 3. 3.

4. 4. 4.

THE MINERAL POLICY OF MINNESOTA AS REFLECTED BY ITS LAWS

INTRODUCTION

Minnesota's mineral policy is found in the Minnesota Constitution and the laws of the state. Simply stated, the mineral policy of the state encourages the development of mining, with due concern and consideration about the effects of mining on the environment.

A policy is defined as a plan or course of action guiding decisions, actions and other matters. In recent years, new laws have often included a policy section which explicitly states the intent and purpose of the laws being enacted. In the 1800s and the first part of the 1900s, the purpose and intent of the laws were considered and debated when the proposed laws were drafted and enacted, but the laws did not usually include a policy section. The Minnesota Legislature believed in those instances that the actual laws themselves implicitly reflected their purpose and intent and the policy they were adopting.

Therefore, to determine the mineral policy of the state, it is necessary to review the laws regarding minerals and the development of mineral resources. Since the state began addressing this subject soon after its admission to the Union, a substantive body of law is in existence today. Most of these laws have established precedents and many have been challenged and upheld in court .

The technological advances of the iron ore industry, the discovery of new resources, and concerns for the environment have led to the enactment or amendment of laws and a Minnesota Constitutional amendment. Similar or other matters of concern will lead to new laws in the future. The mineral policy of the state is continually evolving.

In recognition of the state's policy, Governors Rudy Perpich, and Albert H. Quie by Executive Orders, directed the state departments and agencies to recognize the importance of mining in Minnesota, the tremendous potential for future mineral development in the state, and the impact of their programs on mining. These departments and agencies are furthermore directed to encourage the development of mining in this state, with due concern for the effects of mining on the environment.

* A copy of Executive Orders No. 82-1 and 85-18 may be found in the Appendix.

Some key points of policy found in Minnesota's laws are as follows:

- It is the policy of the state to provide for diversification of the state's mineral economy through long-term support of mineral exploration, evaluation, development, production and commercialization.
- Discovery and mining of minerals is a matter of public interest.
- Production of iron ore is essential to the economic security of the country in time of peace and its defense in time of war.
- Business of mining, producing or beneficiating copper-nickel is in the public interest and necessary to the public welfare.
- Use of property for mining, producing or beneficiating copper-nickel is a public use and purpose.
- To provide for reclamation of certain lands subjected to mining of metallic minerals.
- Planning of future land utilization while at the same time promoting the orderly development of mining is encouraged.
- In determining the extent and type of regulation required for mineland reclamation, the commissioner shall consider the future and economic effect of such regulations; the effect upon employment in the state; the effect upon future mining and development of metallic minerals owned by the state and others, and the revenues received therefrom; and the practical problems of the mine operators and mineral owners.
- Public interest and purpose served by identifying and clarifying ownership of severed mineral interests so that development of mineral interests is not impaired.
- Mining companies allowed credits against occupation taxes for utilization of low-grade, underground, and high labor cost ores; for conducting research to aid in discovery, development or beneficiation of Minnesota iron ores or other Minnesota ores; and for the installation of equipment which abates or controls pollution.
- Exploratory borings drillers are required to register and be licensed in order to protect the health and general welfare of the public and to provide for development and protection of underground water.

A more detailed summary of Minnesota's Mineral laws and the policies reflected therein follows.

I. POLICIES ON STATE-OWNED OR ADMINISTERED LAND

A. Reservation of Mineral Rights Upon Sale of Land

POLICY
LANGUAGE

The state reserves for its own use all the iron, coal, copper, gold and other valuable minerals in or upon all lands which now or hereafter may belong to it by virtue of any act of the U.S. Congress.

Minn. Stat. 93.01 (discretionary for counties of St. Louis, Cook and Lake from 1889; mandatory for all counties from 1901)

The state reserves all iron ore and other minerals on, in or under lands within this state which lie beneath the waters of navigable lakes and rivers.

Minn. Stat. 93.06 (enacted in 1909)

Any sale of tax-forfeited lands shall be subject to exceptions and reservations in this state of all minerals and mineral rights.

Minn. Stat. 282.12 (enacted in 1935)

Minn. Stat. 282.20 (enacted in 1939)

Minn. Stat. 282.225 (Red Lake Game Preserve)

If the state exchanges any public lands for lands of the United States or privately held lands, the state shall reserve all minerals and water power rights.

Minn. Const. Art. XI, Sec. 10

Minn. Stat. 94.343, subd. 4

Minn. Stat. 94.344, subd. 4

Where the state executes any patent or conveyance of lands under any land grants made to any railroad company to aid in the construction of any railroad, there shall be expressly reserved to and retained in the state all the iron, coal, copper, gold and other valuable minerals in or upon all such lands.

Minn. Stat. 93.03 (enacted in 1913)

The state reserves for its own use all the iron, coal, copper and other valuable minerals in or upon all lands which may be sold as surplus state-owned land; and any contract for deed or quitclaim deed shall contain a clause reserving all such minerals for the use of the state.

Minn. Stat. 94.14 (enacted in 1909)

All lands now or hereafter owned by the state which are chiefly valuable by reason of deposits of peat in commercial quantities are withdrawn from sale.

Minn. Stat. 92.461

Counties may sell, lease, or convey any property owned by the county, but shall not dispose of any lands without reserving to the county any and all iron ore and other valuable minerals in and upon the lands, with the right to explore for, mine, and remove the minerals.

Minn. Stat. 373.01

POLICY
APPLICATION,
EXPLANATION

These laws indicate the recognition by state officials that minerals are a valuable property interest. The reservations afford the state policy control over significant portions of the mineral resources located in the state, since lands reserved are extensive and often located in prime areas of mineralization.

B. Promotion of Mining Operations

1. Enabling provisions

POLICY
LANGUAGE

The Commissioner of Natural Resources may execute permits to prospect for and leases to mine and remove iron ore and other ores upon lands belonging to the state or in which the state has an interest and leases for the mining of such ores. Except as otherwise expressly provided by law, prospecting permits shall only be issued by public sale.

Minn. Stat. 84.027, Subd. 2, 93.14, 93.16, 93.19, 93.192, 93.335

The commissioner of natural resources, with the approval of the state executive council, may issue permits to prospect for, and leases to mine and remove, gold, silver, copper, cobalt, graphite, coal, and petroleum and other minerals than iron ore upon any lands owned by the state and the beds of any waters belonging to the state adjacent to such lands.

Minn. Stat. 84.027, Subd. 2, 93.25

The department of natural resources, with the approval of the state executive council, shall adopt rules and regulations for the issuance of permits to prospect for and leases to mine and remove gold, silver, copper, cobalt, coal, graphite, petroleum, sand, gravel, stone, natural gas, and all minerals, excepting iron ore, under the waters of any public lake or stream in the state.

Minn. Stat. 373.01

(See Minn. Stat. 93.335 for leasing of tax-forfeited minerals)

Minn. Stat. 93.08

Except as otherwise expressly provided by law, leases to prospect for, mine, and remove metallic minerals owned by the state shall be issued only upon public sale.

*Minnesota Rules, part 6125.0500

The commissioner of natural resources may issue permits to prospect for, and leases to mine and remove iron ore situated in the bed of any public lake or river within the state.

Minn. Stat. 93.192, 93.351, 93.354

The commissioner of natural resources may execute permits to prospect for and leases to mine and remove iron ore under lands belonging to the state or lands classified (in accordance with Minn. Stat. 92.283, subd. 2) as not known to contain merchantable deposits of iron ore, including lands in conservation areas, game refuges, forest areas, or state or national forests, but excluding lands within any state park.

Minn. Stat. 93.283

The commissioner of natural resources may issue permits to prospect for and leases to mine and remove stockpiled iron ore, which is an artificial pile or other accumulation of any type of iron-bearing material.

Minn. Stat. 93.285

The commissioner may lease severed mineral interests in which the owner fails to comply with Minn. Stat. 93.52 governing registration of such rights. However, the lessee may not mine under such lease until forfeiture proceedings are complete. The term "mine" for the purposes of this subdivision does not include exploration activities, exploratory boring, trenching, test pitting, test shafts and drifts, and related activities.

Minn. Stat. 93.55, Subd. 1a, as enacted by Laws of MN 1988, Ch. 508, Sec. 2.

A county may issue a mining lease covering iron ore and other valuable minerals owned by that county, with such mining lease to be in similar general form to the state iron ore mining lease.

* Chapter 6125 of the Minnesota Rules is the Department of Natural Resource's rules on permits and leases for metallic minerals, except iron ores and taconite ores.

Minn. Stat. 373.01

(See Minn. Stat. 93.335 for leasing of tax-forfeited minerals)

The commissioner may lease, at public or private sale and at such prices and under such terms and conditions as he or she may prescribe, any lands under his or her jurisdiction and control for the purpose of taking and removing sand, gravel, clay, rock, marl, peat and black dirt. Leases for the removal of peat and commercial leases for more than 10 years shall be approved by the executive council.

Minn. Stat. 92.50, as amended by Laws of MN 1988, Ch. 628, Sec. 12.

POLICY
APPLICATION,
EXPLANATION

These statutes are enabling provisions which authorize and encourage the issuance of prospecting permits and mining leases for iron ores and other valuable minerals on state-owned or administered lands. The statutes specify the procedures for public sale of the permits, the limited circumstances under which negotiated leases are authorized, the fees for the permits, the rental and minimum royalty rates for the leases, and other mandatory conditions and requirements.

2. Rights and duties of permit holders.

POLICY
LANGUAGE

The holder of any permit to prospect for iron ore issued upon public sale shall have the right to prospect for such ore on the land described in the permit for one year, but no ore shall be removed until a lease has been issued. For iron ore permits covering lands not known to contain merchantable deposits, the term of the permit shall be two years. Permits covering gold, silver, copper, cobalt, graphite, coal, and petroleum and other minerals than iron ore shall not be issued for a term exceeding two years.

Minn. Stat. 93.18, 93.25, 93.283

The work of prospecting under a permit shall begin in a substantial manner: (1) Within 90 days of issuance for an iron ore permit issued upon public sale, or (2) within six months from issuance for iron ore permits issued covering lands not known to contain merchantable deposits. Such prospecting shall continue until the permit expires or is surrendered or a lease is requested by the holder of the permit.

Minn. Stat. 93.18, 93.283

The permit holder shall submit written exploration reports and a portion of all exploration samples.

Minn. Stat. 93.18, 93.283

Minnesota Rules, part 6125.0700, subd. 16

If the permit holder complies with all the terms and conditions of the permit and applicable provisions of the law, the permit holder has the right to receive a mining lease.

Minn. Stat. 93.08, 93.19, 93.25, 93.354

POLICY
APPLICATION,
EXPLANATION

These statutes limit the time in which a permit holder may prospect and require active prospecting. This policy promotes timely prospecting and discourages dilatory prospecting. Permit holders have a right to a mining lease on the lands covered by the permit if they have complied with all the terms and conditions of the permit.

3. Mining practices and conditions of state mining leases

POLICY
LANGUAGE

In the state mining leases the state reserves the right to sell and dispose of all the timber upon the land leased, but such cutting and removal of the timber shall not unnecessarily or materially interfere with the mining operations.

Minn. Stat. 93.20, subd. 6
Minnesota Rules, part 6125.0700, subd. 5

In the state mining leases the state reserves the right to grant leases, permits or licenses to any portion of the surface of the leased premises to any person or corporation, without let or hindrance of the mineral lessee, but such leases, permits or licenses shall not unnecessarily or materially interfere with the mining operations.

Minn. Stat. 93.20, subd. 6
Minnesota Rules, part 6125.0700, subd. 5

The state reserves in the state metallic minerals lease the right to lease or grant to other persons or corporations the right to explore for, mine, remove and beneficiate iron ores, taconite ores, coal, oil, gas, and other liquid or gaseous hydrocarbon substances located in said leased premises. Any state lease covering iron ores, taconite ores, coal, oil, gas or other liquid or gaseous hydrocarbon substances that is granted on land covered by a state metallic minerals lease will provide that mining operation under the lease will not cause any unnecessary or unreasonable injury or hindrance to the metallic minerals mining operations; and the metallic mineral lessee agrees not to cause any unnecessary or unreasonable injury or hindrance to mining operations for iron ores, taconite ores, coal, oil, gas or other liquid or gaseous hydrocarbon substances.

Minnesota Rules, part 6125.0700, subd. 4

All materials mined from state leased* premises and not otherwise lawfully disposed of shall be deposited or disposed of in such a manner as will not hinder or embarrass subsequent operations or activities. Any material having present or potential value shall be deposited only on land covered by the state lease, or other land belonging to the state, unless the commissioner shall approve in writing its disposal in some other manner.

Minn. Stat. 93.20, subd. 28(2)
Minnesota Rules, part 6125.0700, subd. 20

Lessees of state mineral leases shall conduct their mining operations only as is usual and customary in skillful and proper mining operations and in accordance with the requirements, methods and practices of good mining engineering. The mining operations shall not cause any unnecessary loss of minerals or unusual or permanent injury to the leased lands. The surface use of the land shall be conducted in such manner as to prevent or reduce scarring and erosion of the land and pollution of air and water.

Minnesota Rules, part 6125.0700, subd. 24
Minn. Stat. 93.20, subd. 28 (1)

POLICY
APPLICATION,
EXPLANATION

The policy of the state recognizes the value of timber located on mining lands and reserves the right to sell such timber. The right to allow parties other than the mining lessee to use the surface of the mining lands is also recognized as an important interest. Both timber sale and other surface use acknowledge the importance of mining operations by providing that timber sale and removal and surface leases will not unnecessarily or materially interfere with the mining operations.

The restrictions on stockpiling of waste materials or ore materials with present or potential value provide that disposal of such materials would not cause damage or loss to subsequent mining operations and should not cover up deposits which will be mined in the future. Mining operations shall be conducted in a manner which minimizes pollution and permanent injury to the land.

4. Modifications and extensions of iron/ore taconite leases

POLICY
LANGUAGE

The holder of any iron ore mining lease from the state not containing a schedule of royalties covering taconite ore may apply to the Commissioner of Natural Resources for a modification of the lease to include such a schedule.

Minn. Stat. 93.191

The holder of any iron ore mining lease may apply to the Commissioner of Natural Resources to designate such lease as a taconite iron ore mining lease subject to annual rentals for such taconite leases.

Minn. Stat. 93.191

If the permit holder's application for a lease indicated that the lands covered by the permit were principally valuable for the taconite thereon or that he desires a taconite lease, and the commissioner issues a taconite iron ore mining lease, such act is construed as a determination that such lands were principally valuable for the taconite thereon.

Minn. Stat. 93.202

Holders of taconite iron ore mining leases in effect in 1957 could apply for 18 months for extension of those leases for an additional period of 25 years beyond their original term. The rentals and royalties to be paid during the extended period are negotiated between the commissioner and the applicant and approved by the state executive council.

Minn. Stat. 93.193

Holders of iron ore mining leases in effect in 1959 could apply for six months for extension of those leases for an additional period of 25 years beyond their original term. The rentals, royalties, and additional terms for the extended period are negotiated between the commissioner and the applicant and approved by the state executive council.

Minn. Stat. 93.193

POLICY
APPLICATION,
EXPLANATION

The statutes encourage the development of taconite by providing that taconite schedules can be added to iron ore leases which did not contain a schedule for taconite, and that covering lands principally valuable for taconite could be designated as taconite mining leases (and thus result in lower annual rentals). The statutes authorizing extensions provided a limited time in which to apply, but did not limit the time in which to negotiate the provisions of the extension agreements. Even if a leaseholder has not yet exercised its right to negotiate for an extension, it retains that right if an application was timely filed.

The policy of allowing extension of leases recognized that the development of the taconite processing technology had taken almost half of the lease term of most leases in effect. The extensions were also authorized in recognition of the importance of developing the taconite industry and extensions of state leases encouraged companies to make long-range plans and large capital expenditures in order to establish the taconite industry in Minnesota.

5. Surface of land leased for mineral purposes

POLICY
LANGUAGE

In all cases where the surface of state lands have been sold and a mining lease is issued covering the mineral rights, the holder of the mineral lease may enter upon the lands and prospect thereon. Before entering on the lands, the mineral lease holder shall pay or secure to the surface owner of the lands all damages which may arise therefrom.

Minn. Stat. 93.05; 93.20, subd. 29
Minnesota Rules, part 6125.0700, subd. 25

The commissioner of natural resources may lease any state-owned lands under his jurisdiction and control for the purpose of taking and removing sand, gravel, clay, rock, marl, peat, and black dirt, for storing ore, waste materials from mines, or rock and tailings from ore milling plants, for roads or railroads, or for any other consistent with the interests of the state. All leases shall be made subject to sale and leasing of the land for mineral purposes and contain a provision for cancellation at any time by the commissioner for just cause upon six months' written notice. A longer notice period not exceeding three years may be provided in leases for storing ore waste material from mines or rock tailings from ore milling plants. The commissioner may determine the terms and conditions, including the notice period, for cancellations of peat leases.

Minn. Stat. 92.50, subd. 1, as amended by Laws of MN
1988, Ch. 628, Sec. 12

POLICY
APPLICATION,
EXPLANATION

In instances where the state does not own the surface of the land being leased, the state leases require that the surface owner may be compensated by the leaseholder for any damages to the surface which may arise from mining activities. This policy recognizes the right of a mineral rights owner or lessee to enter upon the land to the extent necessary to explore for, mine and remove minerals, but also recognizes that the surface owner should be paid for any damage to the surface of the land.

The state policy recognizes the importance of mineral development by providing that surface leases shall be subject to leasing of the land for mineral purposes and contain a cancellation provision. This law recognizes the importance of using state land for mineral purposes and provides that mineral use can take precedence over non-mineral use.

6. Use of state land for auxiliary mining purposes

POLICY
LANGUAGE

The commissioner may, at public or private venue and at such prices and upon such terms and conditions as he may prescribe, lease the surface of any unsold state lands for the purpose of stockpiling, storing, handling or depositing thereon any ore, ore material, stripping, or waste taken from other state lands which may be under state mineral lease, and remove therefrom

any such ore, or material, stripping or waste taken from such other state land and stocked, stored, handled or deposited thereon.

Minn. Stat. 93.33

The commissioner of natural resources is authorized to grant permits or licenses on and across lands owned by the state to any corporation or association engaged in the business of or preparing to engage in the business of mining, and beneficiating taconite, semitaconite, copper, copper-nickel or nickel for pipelines, pole lines, conduits, sluiceways, roads, railways, tramways or flowage, and to lease any lands owned by the state to any such corporation or association for the depositing of stripping, lean ores, tailings, or waste products of such business. The county auditor, with the approval of the county board, is authorized to grant permits, licenses or leases for all such purposes of or across tax-forfeited lands held by the state in trust for any and all taxing districts, upon such conditions and for such considerations and for such period of time as the county board may determine.

Minn. Stat. 93.43

Minn. Stat. 117.47, 117.471

If the commissioner of natural resources notifies the county auditor of any county that the minerals in any tax-forfeited land have been designated as a mining unit or that such minerals are subject to a mining permit or lease, the surface of such tax-forfeited land shall be subject to disposal and use for mining purposes and shall be withheld from sale or lease by the county; provided, that the surface of such tax-forfeited land may be leased by the county auditor as provided by law, with the written approval of the commissioner.

Minn. Stat. 282.01, subd. 8

The county auditor, with the approval of the county board, is authorized to grant permits, licenses and leases to tax-forfeited lands for the depositing of stripping, lean ores, tailings, or waste products from mines or ore milling plants, upon such conditions and for such consideration and for such period of time, not exceeding 15 years; said permits, licenses or leases to be subject to approval by the Commissioner of Natural Resources.

Minn. Stat. 282.04, subd. 1

The Commissioner of Natural Resources may lease, at public or private venue and, at the prices and under the terms and conditions as he or she may prescribe, lease any state-owned lands under his or her jurisdiction and control for storing ore, waste materials from mines, or rock and tailings from ore milling plants, for roads or railroads, or for any other uses consistent with the interests of the state.

Minn. Stat. 92.50, subd. 1, as amended by Laws of MN
1988, Ch. 628, Sec. 12

When any road, including any street within a city, crosses mineral land and the road interferes with mining operations on the land, the owner or lessee of the land may request that the road be relocated. The road authority shall, in the manner provided by law, relocate the road so as not to interfere with the mining operations.

Minn. Stat. 160.10

POLICY
APPLICATION
EXPLANATION

It is recognized that use of state lands for auxiliary purpose, is in the public interest, necessary to the public welfare and serves a public purpose. The stockpiling and storage of materials away from the mines serves to facilitate mining operations. The policy of the state recognizes that roads should be relocated if they interfere with mining operations.

7. Use of state water for mining purposes

POLICY
LANGUAGE

The commissioner of natural resources may grant permits for the drainage, diversion, control, or use of any waters under his jurisdiction when necessary for the mining of iron ore, taconite, copper, copper-nickel or nickel. The proposed action must be necessary for the mining of substantial deposits of ore; the action must not substantially impair the interests of the public in lands or waters or the substantial beneficial use thereof except as authorized in the permit; and the action must be in the public interest, must not endanger public health or safety and the public benefits resulting therefrom must be sufficient to warrant the proposed action.

Minn. Stat. 105.64

The commissioner of natural resources is authorized to license the flooding of state lands in connection with any permit or authorization, issued by the legislature or by the commissioner pursuant to law, for the use of public waters for mining purposes.

Minn. Stat. 93.43

Minn. Stat. 117.47

It shall be unlawful for any individual, co-partnership or corporation to drain any meandered public lake for the purpose of mining of minerals without first having received the consent of the executive council.

Minn. Stat. 93.13;93.34, subd. 2

The commissioner may grant leases and licenses, for terms not exceeding 25 years, to deposit tailing of any iron ore beneficiation plant in any public lake not exceeding 160 acres. Prior to issuing any such lease or license, a public hearing shall be held and no lease or license shall be issued unless it is found that the use of such lake is necessary and in the best interest of the public and the proposed use will not result in pollution or sedimentation of any outlet stream.

Any company or association engaged in or about to engage in the mining, production and beneficiation or concentration of copper, copper-nickel or nickel ores is authorized to use water from Birch Lake (situated in St. Louis and Lake Counties) and to use water from the South Kawishiwi River, a tributary of said lake, in connection with any such operations, and, so far as may be necessary, to flood or otherwise affect lands of the state adjacent to said lake and river. A permit or permits for the use of such waters shall first be obtained from the commissioner of natural resources. All water withdrawn, except that lost by evaporation or contained in the concentrates produced, shall be returned to the drainage basin in conformity with required water quality standards.

Laws of Minn. 1967, C. 556

POLICY
EXPLANATION
APPLICATION,

The policy of the state authorizes the drainage, diversion, control and use of public waters in order to facilitate mining operations. The law regarding waters from Birch Lake and the Kawishiwi River was enacted pursuant to Minn. Stat. 110.13 ("Little Shipstead-Nolan Act"). Minn. Stat. 110.13 bars dam construction and alteration of natural water level or volume of flowage of any body of public water within or bordering state lands within the Superior National Forest, unless specific authority is first obtained from the legislature. The state recognizes the importance of copper-nickel mining and the existence of a copper-nickel resource in this area of the state, and provides a controlled exception to the Little Shipstead-Nolan Act.

II. ENVIRONMENTAL AND SAFETY POLICIES ON ALL EXPLORATION AND MINING ACTIVITIES

A. Regulation of Drillers of Exploratory Borings

POLICY
LANGUAGE

It is the legislative intent and purpose to reduce and minimize the waste of ground water resources within this state by reasonable legislation in licensing of drillers or makers of water wells and the regulation of exploratory borings in Minnesota and to protect the health and general welfare by providing a means for the development and protection of the natural resource of underground water in an orderly, sanitary, and reasonable manner.

Minn. Stat. 156A.01 (enacted in 1980)

In furtherance of the intents and purposes of the legislature in enacting legislation on drillers of exploratory borings, and in recognition of the effects of exploration and mining of metallic minerals on ground water resources, the legislature finds that it is necessary to require submission of factual data generated by exploratory borings to the state, for the purpose of controlling possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practice,

and the recognition and identification of the beneficial aspects of mining.

Minn. Stat. 156A.01

An explorer engaging in exploratory boring shall obtain a license to do so from the Commissioner of Health and register with the Commissioner of Natural Resources.

Minn. Stat. 156A.071, subds. 2 & 3

At least 10 days prior to commencement of any exploratory boring, the explorer shall submit a county road map indicating the location of each proposed exploratory boring. The commissioner of health, the commissioner of natural resources, the director of the pollution control agency, the county health officer, and their officers and employees shall have access to exploratory boring sites for the purpose of inspecting the drill holes, drilling, and abandonment, and for the purpose of sampling ambient air and drilling waters and measuring the radioactivity of the waste drill cuttings at the drilling site at the time of on-site observation.

Minn. Stat. 156A.071, subds. 4 & 5

The explorer shall promptly notify the commissioner of health, the commissioner of natural resources, the pollution control agency, and the county health officer of any occurrence during exploratory boring that has a potential for significant adverse health or environmental effects and shall take such action as may be reasonably possible to minimize such adverse effects.

Minn. Stat. 156A.071, subd. 6

Permanent and temporary abandonment of exploratory borings shall be accomplished in the manner prescribed by rules adopted by the commissioner of health. Within 30 days of permanent or temporary abandonment of an exploratory boring, the explorer shall submit a report, (containing specified information) to the commissioners of health and natural resources.

Minn. Stat. 156A.071, subds. 7 & 8

The exploratory borings law does not limit the lawful authority of local units of government to prohibit mineral exploration within their boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, consistent with the state laws and rules promulgated thereunder.

Minn. Stat. 156A.075

POLICY
APPLICATION,
EXPLANATION

The exploratory borings law governs exploration activities on all lands in the state, not just state-owned or administered lands. The policy of the law is to protect the ground water of the state, control possible adverse environmental effects of mining, and encourage the planning of future land

utilization, while at the same time promoting orderly development of mining, encouragement of good mining practices, and recognition and identification of the beneficial aspects of mining.

The law provides for identification of the parties drilling exploratory borings and where the drilling is occurring. State officials and employees have access to inspect the drill holes and take tests for possible pollution. If any drilling raises a potential for significant adverse health or environmental effects, the explorer is required to notify state officials and take action to minimize adverse effects. Procedures for abandonment are specified and reports on abandonment are required. Violation of the exploratory borings law is a misdemeanor.

The enactment of this law addressed and balanced a number of concerns, which, if not dealt with, could have eventually led to greater restrictions on exploration activities.

B. Mine Safety and Inspection

POLICY
LANGUAGE

The duties of the inspector of mines shall be to visit all the working mines of his county at least once every 90 days, and more often if requested to do so, and closely inspect the mines so visited and condemn all such places where he shall find that the employees are in danger from any cause. If the mine inspector shall condemn a place because of its dangerousness, it shall be his duty immediately to order the men engaged in the work at that place to quit work; and to notify the superintendent, agent, or person in charge to secure the place from the existing danger, clearly define the limits of the dangerous place, and specify the work to be done to render the same secure, ordinary mine risks excepted.

Minn. Stat. 180.03, subd. 1

The inspector of mines shall order the persons or corporations working any mine to furnish all shafts, open pits, caves and chutes of such mine where danger exists with some secure safeguard at the top of the shaft, open pit, cave, or chute to guard against accidents by persons falling therein or by material falling down the same.

Minn. Stat. 180.03, subd. 1

Every person, firm or corporation that is or has been engaged in the business of mining or removing iron ore, taconite, semitaconite or other minerals except sand, crushed rock and gravel shall erect and maintain as a minimum a three-strand wire fence along the outside perimeter of the excavation, open pit or shaft of any mine in which mining operations have ceased for a period of six consecutive months or longer or when any mine is idle or abandoned.

Minn. Stat. 180.03, Subd. 2 & 3, as amended by Laws of MN 1988, Ch. 530, Secs. 5-6.

POLICY
APPLICATION,
EXPLANATION

The policy of the state recognizes the need to have a government official inspect mining operations to determine the safety of the operations. The laws authorize the inspector to shut down and order repairs of mining conditions which cause danger to the workers work of the mining operations. The state also seeks to protect against accidents of people or animals falling into shafts, caves or open pits by requiring fencing around idle or abandoned mines.

C. Reclamation Standards

POLICY
LANGUAGE

In recognition of the effects of mining upon the environment, it is hereby declared to be the policy of this state to provide for the reclamation of certain lands hereafter subjected to the mining of metallic minerals or peat where such reclamation is necessary, both in the interest of the general welfare and as an exercise of the police power of the state, to control possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining.

Minn. Stat. 93.44

In determining the extent and type of mineland reclamation regulations that are required, the commissioner shall give due consideration to the effects of mining upon the following: (a) environment; (b) the future utilization of the land upon completion of mining; and (c) the wise utilization and protection of the natural resources including but not limited to the control of erosion, the prevention of land or rock slides, and air and water pollution. The commissioner also shall give due consideration to (a) the future and economic effect of such regulations upon the mine operators and landowners, the surrounding communities, and the State of Minnesota; (b) the effect upon employment in the state; (c) the effect upon the future mining and development of metallic minerals owned by the State of Minnesota and others, and the revenues received therefrom; and (d) the practical problems of mine operators and mineral owners including, but not limited to, slope gradients as achieved by good mining or soil stabilization practices.

Minn. Stat. 93.47, subd. 2

The commissioner shall develop procedures to identify areas or type of areas which, if mined, could not be reclaimed with existing techniques to satisfy the mineland reclamation rules promulgated pursuant to the mineland reclamation law, and the commissioner will not issue permits to mine such areas until the commissioner

determines technology is available to satisfy the mineland reclamation rules so promulgated.

Minn. Stat. 93.47, subd. 3

The commissioner may, if it is determined that no substantial change would result, upon application by the landowner or mine operator, modify or permit variance from the established mineland reclamation rules if he shall determine that such modification or variance is consistent with the general welfare.

A variance shall be granted if it is consistent with the general purpose and welfare of these parts and that exceptional circumstances render strict adherence to these rules as unreasonable or as causing undue hardship and that the permittee or permit applicant has provided acceptable alternative means of accomplishing reclamation goals.

Minn. Stat. 93.48

Minnesota Rules 6130.4900 and 6130.5800

Minnesota Rules 6131.0200 and 6131.0290

No person shall engage in or carry out a mining operation for metallic minerals or remove peat for commercial purposes within the state unless the person has first obtained a permit to mine from the commissioner of natural resources.

Minn. Stat. 93.481, subd. 1

The application for permit to mine shall include environmental setting maps, environmental setting analysis, mining and reclamation maps, and a mining and reclamation plan.

Minnesota Rules 6130.4300

Minn. Stat. 93.481

By written order to the permittee, the commissioner may suspend operations under a permit if he finds it necessary in an emergency to protect the public health or safety or to protect public interests in lands or waters against imminent danger of substantial injury in any manner or to any extent not expressly authorized by the permit, or to protect persons or property against such danger, and may require the permittee to take any measures necessary to prevent or remedy such injury.

Minn. Stat. 93.481, subd. 4 (d)

POLICY
APPLICATION,
EXPLANATION

The legislature has declared that reclamation of lands subjected to metallic mining and peat mining is a policy goal of the state. The statutes mandate that concerns for the environment and future land utilization are balanced against concerns for employment, future mine development, economic effects, and the practical problems of mine operators and mineral owners.

The commissioner of natural resources is authorized to adopt rules and regulations regarding mine waste disposal, mining

areas and permits to mine. The laws authorize the commissioner to grant a variance from the reclamation rules if he determines that such a variance is consistent with the public's general welfare. The commissioner shall not issue permits to mine for areas, which could not be reclaimed with existing technology, until technology is available to satisfy the reclamation rules.

D. Environmental Review and Permits

POLICY
LANGUAGE

The legislature, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high density urbanization, industrial expansion, resources exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the state government, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state's people.

Minn. Stat. 116D.02, subd. 1

It is the continuing responsibility of the state government to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state plans, functions, programs and resources to the end that the state may:

...
(c) Discourage ecologically unsound aspects of population, economic and technological growth, and develop and implement a policy such that growth occurs only in an environmentally acceptable manner;

...
(1) Minimize wasteful and unnecessary depletion of non-renewable resources;

...
(o) Provide for reclamation of mined lands and assure that any mining is accomplished in a manner compatible with environmental protection.

Minn. Stat. 116D.02, subd. 2

Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The EIS shall describe the proposed action in detail, analyze its significant environmental

impacts, discuss appropriate alternatives to the proposed action and their impacts, and explore methods by which adverse environmental impacts of an action could be mitigated. The EIS shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented.

Minn. Stat. 116D.04, subd. 2a

If an EIS or EAW is required under Minn. Stat. 116D.04, Subd. 2a, a project may not be started nor may a final governmental decision be made to grant a permit, approve or begin a project until: a petition for an EAW is dismissed; a negative declaration has been issued on the need for an EIS; the EIS has been determined adequate; or, a variance has been granted from making an EIS by the environmental quality board.

Minn. Stat. 116D.04, Subd. 2b, as enacted by Laws of MN 1988, Ch. 501, Sec. 3.

An environmental assessment worksheet shall be prepared on the following (unless specifically exempted by other rules):

- A. Mineral deposit evaluation of metallic mineral deposits other than natural iron ore and taconite.
- B. Expansion of a stockpile, tailings basin, or mine by 320 or more acres.
- C. Expansion of a metallic mineral plant processing facility that is capable of increasing production by 25 percent per year or more, provided that increase is in excess of 1,000,000 tons per year in the case of facilities to processing natural iron ore or taconite.

Minnesota Rules, 4410.4300, subp. 11

- A. Development of a facility for the extraction or mining of peat which will result in the excavation of 160 or more acres of land during its existence.

Minnesota Rules, part 4410.4300, subp. 12

POLICY
APPLICATION,
EXPLANATION

The policy of the state is that any development, including mining operations, should mitigate, to the extent possible, adverse environmental impacts. For certain types of proposed mining operations, an EAW is required. If a proposed mining operation has the potential for significant environmental effects, an EIS is required.

Along with the environmental review requirements, any mining operation is subject to the pollution control laws regulating all industry in the state. Some of the laws affecting mining operations include: air emission standards, water discharge

permits, solid waste permits, hazardous waste permits, and noise level standards. These laws combine to minimize the impact of the mining industry on the state's environment, while at the same time recognizing the importance of the mining industry to the social and economic welfare of the citizens of the state.

E. Management of Minerals in the B.W.C.A.

POLICY
LANGUAGE

The legislature finds that a combination of state legislative and administrative actions and court decisions have established a public policy of primarily wilderness management for state lands and waters within the boundary waters canoe area. This state policy, together with a similar federal policy and international actions consistent with these state and federal policies, has created an area of hundreds of thousands of acres of land and water containing myriad lakes and streams, wooded shores, virgin forests, and other natural attractions of surpassing scenic beauty and solitude, free from substantially all commercial activities and artificial development, such as hydroelectric dams and power lines, resorts, roads, sawmills, and timber harvesting in no-cut zones.

Minn. Stat. 84.523, subd. 2

Except with the prior approval of the legislature in those cases of national emergency which have been declared by the U.S. Congress and which direct the need for exploitation of peat deposits, or exploration and mining of federal lands within the B.W.C.A. and the commissioner of natural resources investigates and determines that there are no reasonable alternative methods for providing the needed resources, no state-owned or administered land may be leased for the purpose of harvesting peat or for exploration or mining of minerals, and no state permits, licenses or leases shall be issued to use any other state natural resources for the purpose of harvesting peat or for any mineral exploration or mining operations in the B.W.C.A.

Minn. Stat. 84.523, subds. 3 & 4

POLICY
APPLICATION,
EXPLANATION

The state legislature has recognized the B.W.C.A. as an unique area of surpassing scenic beauty and solitude. State lands and resources in the B.W.C.A. shall not be used for any commercial activities or artificial development. The only exception to this mandate is the use of state land for mining operations and purposes in the case of a national emergency where the U.S. Congress directs the need for mining on federal lands in the B.W.C.A., the Commissioner of Natural Resources determines there are no reasonable alternatives to exploitation of natural resources in the area, and the state legislature gives its approval.

III. TAX POLICIES AFFECTING ALL MINING OPERATIONS

A. Limitations on Taxation

POLICY
LANGUAGE

The combined occupation, royalty and excise taxes imposed upon or required to be paid with respect to the mining,

production, or beneficiation of taconite or semi-taconite by any person or corporation engaged in such mining, production, or beneficiation, shall not be increased so as to exceed the greater of (a) the amount which would be payable if such taxes were computed under the laws in existence as of July 1, 1963, or (b) the amount which would be payable if such person or corporation were taxed with respect to such mining, production, or beneficiation under the income, franchise, and excise laws generally applicable to manufacturing corporations transacting business within the state, as such laws may be enacted or amended from time to time (procedure for computation under (b) for certain items is specified).

Minn. Stat. 298.40, subd. 1 repealed by Laws of MN 1987, Ch. 268 Art. 9, Sec. 43(c) with repeal effective for iron ore and taconite concentrates mined after Dec. 31, 1989)

Laws of Minnesota 1963, Chapter 81, relating to the taxation of taconite and semi-taconite, and facilities for the mining, production and beneficiation thereof shall not be repealed, modified or amended, nor shall any laws in conflict therewith be valid until November 4, 1989. Laws may be enacted fixing or limiting for a period not extending beyond the year 1990, the tax to be imposed on persons engaged in (1) the mining, production or beneficiation of copper, (2) the mining, production of beneficiation of copper-nickel, or (3) the mining, production of beneficiation of nickel. Taxes imposed on the mining or quarrying of taconite or semitaconite and on the production of iron ore concentrates therefrom, which are in lieu of a tax on real or personal property, shall not be considered to be occupation, royalty, or excise taxes within the meaning of this amendment.

MN Const., Art. X, Sec. 6 (adopted 1964)

During the period prescribed in Minnesota Constitution, Article X, Section 6, the combined occupation, royalty, income and excise or franchise taxes imposed or required to be paid with respect to the mining, production or beneficiation of copper-nickel ore by any person or corporation engaged in such mining, production or beneficiation shall not be increased so as to exceed the combined amount of such taxes if such taxes were computed under the laws in existence as of May 23, 1967, unless income, excise and franchise taxes imposed on manufacturing corporations transacting business within this state as of May 23, 1967, are also increased and then only to the same extent and in the same proportion that income, excise and franchise taxes on such manufacturing corporations are increased, nor shall any other taxes be imposed upon the mining, production or beneficiation of copper-nickel ore or upon any person or corporation engaged in such mining, production or beneficiation unless such other taxes are also imposed with equal effect on such manufacturing corporations. Nothing contained herein shall restrict the power of the legislature to amend, repeal, modify, increase or decrease the production taxes imposed or required to be paid with respect to the mining, production or beneficiation of copper-nickel ore.

Minn. Stat. 298.66 (enacted in 1967, repealed by Laws of MN 1987, Ch. 268, Art. 9, Sec. 43(b)*, with repeal effective for taxable years beginning after Dec. 31, 1986)

POLICY
APPLICATION,
EXPLANATION

In order to encourage development of the taconite industry in Minnesota, the state enacted a policy which limited the occupation, royalty and excise taxes imposed upon companies engaged in mining, producing or beneficiating taconite. The citizens of the state approved an amendment to the Minnesota Constitution (commonly called the "Taconite Amendment") to provide that this law limiting the taxes could not be repealed, modified or amended for 25 years. Thus, the taconite companies were assured that the combination of occupation, royalty and excise taxes would not exceed the amount payable under laws in existence in 1963 or the amount payable if they were taxed as a manufacturing corporation transacting business in the state, whichever is greater, for at least 25 years. The laws do not limit production taxes imposed on mining taconite.

The Constitutional Amendment also authorized the legislature to impose limitations, for a period not exceeding 25 years, with respect to the taxes imposed upon or required to be paid with respect to the mining, production, or beneficiation of copper, copper-nickel and nickel. In 1967, the legislature enacted laws which imposed income, occupation, royalty and production taxes on the mining and beneficiation of copper-nickel ores. The law does not limit the production taxes imposed on mining copper-nickel.

In 1987 the legislature enacted new tax laws. For all metallic minerals, except iron ores and taconite ores, a net proceeds tax was added. The occupation tax on copper-nickel ores was repealed and the new occupation tax is computed according to the corporate franchise (income) tax. The production tax and royalty tax on copper-nickel ores was also repealed in 1987.

B. Ad Valorem Taxes

POLICY
LANGUAGE

Unmined iron ore included in class 5 paragraph (b) must be assessed with and as a part of the real estate in which it is located, but its gross tax capacity would be as established in section 273.13, subd. 31. Unmined iron ore and low-grade iron-bearing formations have a tax capacity of 5.25 percent of market value. The real estate in which iron ore is located, other than the ore, must be classified and assessed in accordance with the provisions of the appropriate classes. In assessing any tract or lot of real estate in which iron ore is known to exist, the assessable value of the ore exclusive of the land in which it is located, and the assessable value of the land exclusive of the ore must be determined and set down separately and the aggregate of the two must be assessed against the tract or lot.

Minn. Stat. 273.165, subd. 2, as amended by Laws of MN 1988, Ch. 719, Art. 5, Sec. 27
Minn. Stat. 273.13, subd. 31(b), as amended by Laws of MN 1988, Ch. 719, Art. 5, Sec. 19.

The term value as applied to iron ore shall be deemed to be three times the present value of future income, notwithstanding other provisions that all property shall be valued at its market value.

Minn. Stat. 273.1104, subd. 1; 273.11

In any year in which at least 1,000 tons of iron ore concentrate is not produced from any 40 acre tract or governmental lot containing taconite or iron sulfides, a tax may be assessed upon the taconite or iron sulfides therein, but the tax shall not exceed \$10 per acre.

Minn. Stat. 298.26

It is the duty of every county assessor and board to estimate and determine the value of lands for the purpose of taxation. Notwithstanding the provisions of this section or any other section, no additional value shall be assessed for unmined mineral value except for iron ore or taconite.

Minn. Stat. 273.12

The changes made in 1987 in the mining tax laws included the removal of any ad valorem tax on the value of minerals other than taconite or iron ore. The removal of this tax on ore reserves is to encourage the current interest in exploration for base and precious metals.

POLICY
APPLICATION,
EXPLANATION

The state policy is to impose an ad valorem tax on iron ore higher than some other types of property. In contrast with the 5.25% tax capacity rate, the rate on other types of property ranges from 3.3% to 5.25% on commercial and industrial properties and ranges from 1.44% to 2.25% on farm properties. Also, whereas other property is taxed on its market value, iron ore is taxed on three times its present value of future income.

Any forty-acre tract used for taconite production or for beneficiation facilities is exempt from ad valorem taxes. (Production taxes on taconite and semi-taconite have been imposed in lieu of the ad valorem taxes.) However, an ad valorem tax not exceeding \$10 acre is authorized for lands from which little or no taconite is produced. Once again, taconite is given special treatment in order to encourage development of the resource.

C. Production Taxes

POLICY
LANGUAGE

There is hereby imposed upon taconite and iron sulfides, and upon the mining and quarrying thereof, and upon the production of iron ore concentrate therefrom, and upon the concentrate so produced a tax for 1986 and 1987 of \$1.90 per gross ton of merchantable iron ore concentrate produced therefrom.

For taconite concentrates produced in 1988 and subsequent year of 34,000,000 or more tons, the tax rate shall be equal to the preceding year's tax rate plus an amount equal to the preceding year's tax multiplied by the percentage increase in the implicit price deflator from the fourth quarter of the second preceding year to the fourth quarter of the preceding year. For amounts less than 34,000,000 for a given year, the taxes for that year shall be the rate of the tax imposed for the previous year with the tax imposed on the average of the production for the current year and the previous two years. The rate of tax imposed will be the current year's tax rate. If any tax hereunder is deemed unconstitutional a tax of \$1.90 per gross ton of merchantable iron ore shall be imposed. The commissioner may indirectly determine the weight of flux pellets by subtracting the weight of limestone, dolomite, or olivine derivatives or other base flux additives included in the pellets from the weight of the pellets.

Minn. Stat. 298.24, subd. 1(a) (See Minn. Stat. 298.35 for rate of production tax on semi-taconite)

The production taxes imposed upon taconite and iron sulfides shall be in addition to the occupation taxes imposed upon the business of mining and producing iron ore and in addition to the royalty tax imposed upon royalties received for permission to mine and produce iron ore. Except as herein otherwise provided, such taxes shall be in lieu of all other taxes upon such taconite or iron sulfides, or the lands in which they are contained, or upon the mining or quarrying thereof, or the production of concentrate therefrom, or upon the concentrate produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying, or production, or upon the lands occupied by, or used in connection with, such mining, quarrying or production facilities.

Minn. Stat. 298.25

POLICY
APPLICATION

The production tax on the mining of taconite and semi-taconite is in lieu of ad valorem taxes on the ore reserves and any beneficiation facilities. The 1987 legislature made certain changes in determining the weight of flux pellets by allowing that certain flux additives may be subtracted from the weight of the flux pellets in determination of the production tax. Since the Minnesota Constitution does not prohibit changes in the production tax on the mining of taconite and semi-taconite, the tax rate has increased several times in the past 18 years. Natural iron ore is not subject to a production tax, but is subject to an ad valorem tax.

The state policy in regard to taconite, semi-taconite is that a general property tax should not be imposed until there is actual production from the land. Thus, development of the industry is encouraged, and the company is not subject to taxation until it is receiving money for the ore produced.

This policy developed when taconite had little value since no method had been developed to profitably produce iron ore concentrates. As the taconite technology developed, the production tax rates increased and a small ad valorem tax imposed on minimal or non-producing lands.

The changes made in 1987 in the mining tax laws included the repeal of a production tax on copper-nickel ores. A net proceeds tax for all metallic minerals except iron ores and taconite ores was enacted.

D. Occupation Taxes/Corporate Income Taxes

1. Iron ore and taconite ores

POLICY
LANGUAGE

Every person engaged in the business of mining or producing ores or other ores in this state shall pay to the state an occupation tax on the valuation of all ores mined or produced, which tax shall be in addition to all other taxes provided by law.

MN Const. Art. X, Sec. 3

Every person engaged in the business of mining or producing iron ore or taconite concentrates in this state shall pay to the State of Minnesota an occupation tax equal to 14 percent of the valuation of the ores mined or produced after December 31, 1986.

The tax shall be in addition to all other taxes provided for by law and is due on or before June 15 of the year next succeeding the calendar year.

Minn. Stat. 298.01, subd. 1, repealed by Laws of MN 1987, Ch. 268, Art. 9, Sec. 43(c) for iron ore and taconite concentrates mined after December 31, 1989.

For the purpose of increasing employment and the utilization of low-grade, underground, and high labor cost ores, a credit is allowed against the occupation tax because of the mining or production of such ore from any mine; with such credit calculated as a percentage of labor costs. In lieu of this credit, the taxpayer may elect to take a credit based on the total production of iron ore from any mine which is converted into pig iron, sponge iron, or powdered iron, within the limits of the state.

Minn. Stat. 298.02, subs. 1 & 2, repealed by Laws of MN 1987, Ch. 268, Art. 9, Sec. 43(c), with repeal effective for iron ore and taconite concentrates mined after Dec. 31, 1989

A credit is allowed against the occupation tax for the cost of all research, experimentation, pilot plant tests and exploration work performed in Minnesota in such year for the express purpose of furthering the discovery, development, or beneficiation of Minnesota iron ore or other Minnesota ores.

Minn. Stat. 298.026, repealed by Laws of MN 1987, Ch. 268, Art. 9, Sec. 43(c), with repeal effective for iron ore and taconite concentrates mined after Dec. 31, 1989

A credit is allowed against the occupation tax where the allowable costs for any mine (as specified by statute), except taconite and semi-taconite, exceed the value of the ore at the place where the same is brought to the surface of the earth. The said allowable costs shall not include amounts attributable to or payable by reason of the termination of mining operations.

Minn. Stat. 298.027, repealed by Laws of MN 1987, Ch. 268, Art. 9, Sec. 43(c), with repeal effective for iron ore and taconite concentrate mined after Dec. 31, 1989

A credit of five percent of the net cost of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules or standards to the extent the property is so used may be deducted from the occupation tax in the first year in which the equipment is installed. The credit allowed shall not exceed so much of the liability for tax for the taxable year as does not exceed \$75,000. The credit shall apply only if the equipment meets rules prescribed by the Minnesota Pollution Control Agency and is installed or operated in accordance with a permit or order issued by the agency.

Minn. Stat. 298.028, subd. 1, repealed by Laws of MN 1987, Ch. 268, Art. 9, Sec. 43(c), with repeal effective for iron ore and taconite concentrates mined after Dec. 31, 1989

Starting in 1990, a person engaged in the business of mining or producing of iron ore or taconite concentrates shall pay an occupation tax to the State of Minnesota. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided for in Minn. Stat. Ch. 290 (Corporate Franchise Income Tax), except that sections 290.01, subd. 19c, clause 11, 19d, clause 7 and 290.05, subdivision do not apply.

Corporations and individuals shall be subject to the alternative minimum taxes imposed under chapter 290. The tax is in addition to all other taxes and is due and payable on or before June 15 of the succeeding calendar year.

Minn. Stat. 298.01, subd. 4 - effective for iron ore and taconite concentrates mined after December 31, 1989, and as amended by Laws of MN 1988, Ch. 712, Art. 2, Sec. 52.

2. Other Ores

Starting in 1987, every person engaged in the business of mining or producing ores, except iron ore or taconite concentrates, shall pay an occupation tax to the State of Minnesota. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at rates provided for in Minn.

Stat. Ch. 290 (Corporate Franchise Income Tax, except that sections 290.01, subd. 19c, clause 11, 19d, clause 7 and 290.05, subdivision 1, clause (a) do not apply. Corporations and individuals shall be subject to the alternative minimum taxes imposed under chapter 290. The tax is in addition to all other taxes and is due and payable on or before June 15 of the succeeding calendar year.

Minn. Stat. 298.01, subd. 3, as amended by Laws of MN,
Ch. 719, Art. 2, Sec. 51

POLICY
APPLICATION
EXPLANATION

By 1990, the occupation tax imposed on all mining operations will be computed in the same manner as the corporate franchise-income tax. The 1987 income tax law reduces the rate from 12% to 9.5%, but also imposes an alternative minimum tax.

The state policy authorizes allowances against the occupation tax for production costs. The state law also authorizes credits against the occupation tax for research and exploration work performed in Minnesota for the express purpose of furthering development of Minnesota iron ore or other Minnesota ores.

E. Royalty Taxes

POLICY
LANGUAGE

There shall be levied and collected upon all royalty received during each calendar year for permission to explore, mine, take out and remove iron ore or taconites from land in this state, a tax of 15 percent before January 1, 1986, a tax of 14.5 percent after December 31, 1985, and before January 1, 1987, and a tax of 14 percent after December 31, 1986.

Minn. Stat. 299.01, as amended by Laws of MN 1988, Ch. 719, Art. 2, Sec. 54. Note that this section is repealed, effective for taxable years after December 31, 1989, by Laws of MN 1987, Ch. 268, Art. 9, Sec. 43(a).

Minn. Stat. 299.013 (a), repealed by Laws of MN 1987, Ch. 268, Art. 9, Sec. 43), with repeal effective for taxable years after December 31, 1989.

Starting in 1990, every person making payment of royalties shall deduct and withhold upon the royalties a tax based upon tables prepared and distributed by the commissioner of revenue. The amount withheld shall approximate as closely as possible the tax levied and imposed for that taxable year upon the person's income subject to tax.

Minn. Stat. 299.923 - effective for taxable years beginning after December 31, 1989

POLICY
APPLICATION,

The royalty payments made by a mining company to the landowner are a deduction in arriving at the valuation or ore subject to occupation taxes. Thus, the tax on royalties assures that the mining company which owns its own mineral interest has its ore subject to the same tax burden as the company which leases a mineral interest and pays a royalty thereon.

After 1989, the royalty tax is eliminated. Royalties from mining operations will be subject to income tax withholding and the recipient will be taxed under the state's income tax laws.

F. Net Proceeds Tax

POLICY
LANGUAGE

A person engaged in the business of mining shall pay the state a net proceeds tax of 2% of the net proceeds from mining. The tax applies to all mineral and energy resources mined or extracted within the state except for sand, silica sand, gravel, building stones, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, soil, iron ore, and taconite concentrates. Net proceeds means the gross proceeds from mining, less allowed deductions.

Minn. Stat. 298.15 - effective for taxable years after December 31, 1986

If the sale of minerals is by an arms-length transaction, the gross proceeds are equal to the proceeds from the sale. If the minerals are disposed of in a non-arms-length transaction, such as shipments to a wholly owned smelter or transactions between affiliated companies, then the gross proceeds are determined by the commissioner of revenue using the alternative computation in Minn. Stat. 298.016, Subd. 3.

Minn. Stat. 298.016, subds. 1 & 2

For purposes of calculating the net proceeds the following expenses are not deductible: (1) all sales, marketing, and interest expenses; (2) all insurance expense and taxes, except as specifically allowed; (3) all administrative expenses outside the state; (4) all research expense prior to production; (5) all reclamation expenses after production ends; (6) royalty expenses, depletion allowances, and cost of mining land.

Minn. Stat. 298.017, subd. 1

In calculating the net proceeds tax, only specified deductions are allowed. The deductions allowed include:

- (1) Ordinary and necessary expenses actually paid for the mining, production, processing, beneficiation, smelting or refining of metal or mineral products for:
 - (a) Labor, including wages, salaries, fringe benefits, unemployment and worker's compensation insurance,
 - (b) Machinery, equipment and supplies, including any sales and use tax paid on it, except that machinery and equipment subject to depreciation are deductible only as depreciation,
 - (c) Administrative expenses inside Minnesota;
- (2) Ordinary and necessary expenses of transporting metal or mineral products if the costs are included in the sale price of the products;
- (3) Expenses of exploration, research, or development in this state for the mining and processing of minerals within Minnesota paid in a production year are deductible in the production year;
- (4) Expenses of exploration and development in Minnesota incurred prior to production must be amortized and deducted on a straight-line basis over the first five years of production.

Minn. Stat. 298.017, subd. 2

POLICY
APPLICATION
EXPLANATION

Starting in 1987, all metallic minerals, except iron ore and taconite concentrates, are subject to a 2% net proceeds tax. The net proceeds tax allows the mine operators to first deduct certain operating costs before the revenue is subject to taxation.

IV. POLICIES ON SEVERED MINERAL INTEREST OWNERSHIP

POLICY
LANGUAGE

Because the ownership condition of many severed mineral interests is becoming obscure and further fractionalized with the passage of time, the development of mineral interests is often impaired. Therefore, it is in the public interest and serves a public purpose to identify and clarify these interests.

Minn. Stat. 93.52, subd. 1

Every owner of a fee simple interest in minerals, which interest is owned separately from the fee title to the surface of the property upon or beneath which the mineral interest exists, shall file a statement of such ownership for record in the county recorder office or, if registered property, in the registrar of titles' office in the county where the mineral interest is located.

Minn. Stat. 93.52, subd. 2

If the owner fails to file the statement of ownership (within specified time limits), the mineral interest shall forfeit to the state after notice and opportunity for hearing. In a forfeiture proceeding, the owner, to avoid forfeiture, would have to prove that severed mineral interests taxes were timely paid and that the county records specified the true ownership or, in the alternative, that proceedings affecting the title to the interest had been timely initiated and diligently pursued by the true owner during the time when the interest should have been registered.

Minn. Stat. 93.55, subds. 1 & 2

Severed mineral interests are taxed at the annual rate of \$.25 per acre or portion of an acre, unless the mineral interests are valued and taxed under other laws or the mineral interests are exempt from taxation pursuant to constitutional or related statutory provisions.

Minn. Stat. 273.165, subd. 1

POLICY	Over the years the ownership of severed minerals became
APPLICATION,	obscure and fractionalized. The prohibitive expense of
EXPLANATION	title searches necessary to determine ownership of
	fractional interests impaired mineral development and made
	taxation difficult. The legislature addressed these
	concerns by requiring registration of such ownership and
	payment of an annual tax. Failure to comply with the law
	results in forfeiture of those interests to the state.

V. POLICIES RECOGNIZING IMPORTANCE OF MINING AND MINERAL DEVELOPMENT

POLICY	It is the policy of the state to provide for the diversifi-
LANGUAGE	cation of the state's mineral economy through long-term
	support of mineral exploration, evaluation, development,
	production and commercialization.

Minn. Stat. 93.001

The mineral coordinating committee is established consisting of the director of the Minerals Division, the director of the Minnesota Geological Survey, the director of the University of Minnesota Mineral Resources Research Center, and the director of the Natural Resources Research Institute.

The committee shall prepare and adopt a ten-year plan for mineral diversification. The plan will include a strategy to:

- (a) increase the knowledge of the state's mineral potential;
- (b) stimulate the development of mineral resources in the state;

(c) promote basic minerals research.

Minn. Stat. 93.002

In recognition of the unique combination of cultural, geological, industrial, historical, recreational, and scenic characteristics of Minnesota's iron ranges, an "Iron Range Trail" is hereby established on the Vermillion, Mesabi and Cuyuna iron ranges and at related points on Lake Superior.

Minn. Stat. 93.45, subd. 1

The owner or owners of a half interest or more in mineral land that has more than one owner of record may bring an action for permission to mine the land. The action must be brought in the district court in the county where the land is. Mineral land is defined as real property on or in which veins, loads, deposits of iron, iron ores, minerals or mineral ores of any kind, stone, coal, clay, sand, gravel, or peat are known to or do exist. The owner or owner of record of mineral land means one who has an interest in the land as shown by a properly executed deed or a lease having more than one year to run. The deed or lease must be of record in the county where the mineral land is.

Minn. Stat. 560.01, subds. 1-3

POLICY
APPLICATION,
EXPLANATION

Recent legislation reflects state policy of encouraging diversification of the state's mineral economy by increasing the knowledge of the state's mineral potential and promoting basic minerals research. The mineral coordinating committee further reflects the state's policy toward mineral development and diversification. The laws also indicate the importance of mineral development by providing a procedure that allows a majority of landowners to open up a mine with provisions for protection of the interests of the minority owners not joining in the opening of such mining operations.

CONCLUSION

This review of Minnesota's laws shows that the state has a large and comprehensive body of laws on the development of minerals in the state. Through the decades, the legislature has enacted laws opening state-owned and administered land for exploration and mining, controlling the effects of mining on the environment and taxing the mineral industry.

Many of these laws have the invaluable characteristic of precedent; they have been interpreted and enforced for many years, and can be used as an example or authority for identical or similar issues which might arise in the future. The Attorney General's office has issued opinions on the interpretation of numerous mineral laws. Some of these laws have been challenged in court and, if necessary, modified to comply with the court's decision.

The mineral industry has been important to the social and economic welfare of Minnesota and has the potential to continue and expand that role in the future. As new concerns arise regarding mineral development, they will be addressed by the legislature and the governmental agencies. Minnesota's mineral policy has the valuable ability of being able to change enough to address new developments or concerns, while still retaining its basic goal of encouraging the development of Minnesota's mineral resources.

EXECUTIVE ORDERS

Executive Order No. 82-1

Directing State Departments and Agencies to Recognize Importance of Mining to Minnesota

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution of the State of Minnesota and applicable statutes, do hereby issue this Executive Order:

WHEREAS, Minnesota ranks first among all states in the value of iron ore produced and ranks in the top three states in total nonfuel mineral production; and

WHEREAS, the iron ore and taconite industry has been an important industry to Minnesota throughout this century; and

WHEREAS, there is tremendous potential for other mineral industries in Minnesota, especially base metal mining; and

WHEREAS, Minnesota has developed a large and comprehensive body of laws relating to the development of minerals in the state; and

WHEREAS, the laws of Minnesota encourage the development of mining, with due consideration and concern about the effects of mining on the environment; and

WHEREAS, the United States Congress has restated in similar terms in the National Materials and Minerals Policy, Research and Development Act of 1980, that the ongoing mineral policy of the United States is to "promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resources conservation and social needs"; and

WHEREAS, it is desirable at this point in Minnesota's history to reaffirm the importance of mining to the state and the significance of the body of law which authorizes and guides mineral development in the state;

NOW, THEREFORE, I ORDER:

The responsible departments and agencies of the State of Minnesota are directed to recognize the importance of mining to Minnesota, the tremendous potential for future mineral development, and the impact of their programs on mining; and further, these responsible Departments and agencies are directed to encourage the development of mining in this state, with due concern for the effects of mining on the environment.

Pursuant to Minnesota Statutes 1981, § 4.035, this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minnesota Statutes 1981, Section 4.035.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 26th day of January, 1982.



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EXECUTIVE ORDER NO. 85-18

**DIRECTING STATE DEPARTMENTS AND AGENCIES
TO RECOGNIZE THE IMPORTANCE OF
MINERAL EXPLORATION AND MINING TO MINNESOTA**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

Whereas, Minnesota ranks first among all states in the value of iron ore produced and ranks in the top four states in total nonfuel mineral production; and

Whereas, the iron ore and taconite industry has been an important industry to Minnesota throughout this century; and

Whereas, there is tremendous potential for other mineral industries in Minnesota, especially base and precious metal and precious minerals mining; and

Whereas, Minnesota has developed a large and comprehensive body of laws relating to the development of minerals in the state; and

Whereas, the laws of Minnesota encourage the development of mining, with due consideration and concern about the effects of mining on the environment; and

Whereas, the United States Congress has restated in similar terms in the National Materials and Minerals Policy, Research and Development Act of 1980, that the ongoing mineral policy of the United States is to "promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resources conservation and social needs;" and

Whereas, it is desirable at this point in Minnesota's history to reaffirm the importance of past, present and future mining to the State and the significance of the body of law which authorizes and guides mineral development in the state;

NOW, THEREFORE, I hereby order that:


The responsible Departments and Agencies of the State of Minnesota are directed to recognize the importance of mining to Minnesota, the tremendous potential for future mineral development, and the impact of their programs on mineral exploration and mining; and further, these responsible Departments and Agencies are directed to encourage the development of mineral exploration and mining in this state, with due concern for the effects of mining on the environment.

Pursuant to Minnesota Statutes, Section 4.035, this Order shall be effective fifteen (15) days after publication in the State Register and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 16th day of
December, 1985.


RUBY PERPICH
Governor

Filed According to Law:


JOAN ANDERSON GROWE
Secretary of State

