

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 631
FERROUS MINERAL MINING

324.63101 Definitions.

Sec. 63101. As used in this part:

- (a) "Department" means the department of environmental quality.
- (b) "Ferrous mineral" or "mineral" means ferrous ore or material mined for its ferrous content.
- (c) "Ferrous mineral operator" or "operator" means a person who owns or leases the plant and equipment utilized in a mining area and is engaged in the business of mining ferrous minerals or preparing to engage in mining operations.
- (d) "Ferrous product" means a commercially salable ferrous mineral in its final marketable form or state.
- (e) "Life of the mine" means the period of time from issuance of a permit under this part through the completion of reclamation as required by this part.
- (f) "Mining area" or "area subjected to mining" means land from which material is removed in connection with the production or extraction of ferrous minerals by surface or open pit mining methods, on which material from that mining is deposited, on which beneficiating or treatment plants and auxiliary facilities are located, or on which the water reservoirs used in the mining operation are located, and includes auxiliary land that is used for these purposes.
- (g) "Mining operation" means a ferrous mineral mining operation.
- (h) "Stockpile" means material, including, but not limited to, surface overburden, rock, or lean ore, that in the process of ferrous mineral mining and beneficiation or treatment has been removed from the earth and stored on the surface. However, stockpile does not include materials that are being treated in the production of mineral products and the mineral product that has been produced by that operation.
- (i) "Supervisor of reclamation" means the department.
- (j) "Surface or open pit mining" means the mining of more than 10,000 tons of a ferrous mineral or disturbing more than 1 acre of land a year in the regular operation of a business either by removing the overburden lying above a natural deposit of a ferrous mineral and mining directly from the natural deposit exposed or by mining directly from a deposit lying exposed in the ferrous mineral's natural state. Surface or open pit mining includes all ferrous mineral mining below the water table or which will upon cessation of mining result in creating a body of water of any size. Surface or open pit mining does not include excavation or grading preliminary to a construction project.
- (k) "Tailings basin" means land on which is deposited, by hydraulic or other means, the material that is separated from the mineral product in the beneficiation or treatment of ferrous minerals including any surrounding dikes constructed to contain the material.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1997, Act 149, Imd. Eff. Dec. 2, 1997;—Am. 2004, Act 449, Imd. Eff. Dec. 27, 2004;—Am. 2011, Act 214, Imd. Eff. Nov. 8, 2011.

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324.63102 Repealed. 2011, Act 214, Imd. Eff. Nov. 8, 2011.

Compiler's note: The repealed section pertained to a study and survey conducted by supervisor of reclamation.

324.63103 Mining operations; rules.

Sec. 63103. The department may promulgate rules pertaining to mining operations conducted subsequent to their effective date, subject to any rights existing pursuant to any permit, license, lease, or other valid existing authorization issued by a governmental entity and to applicable mine safety laws or rules, for the following purposes:

- (a) The sloping, terracing, or other practical treatment of stockpiles and tailings basins where erosion is occurring or is likely to occur that results or may result in injury or damage to fish and wildlife or the pollution of public waters or that is causing or might cause injury to the property or person of others.
- (b) The vegetation or other practical treatment of tailings basins and stockpiles upon becoming permanently inactive if substantial natural vegetation is not expected within 5 years and if research reveals that vegetation can reasonably be accomplished within practical limitations.
- (c) The stabilization of the surface overburden banks of open pits in rock and the entire bank of open pits in unconsolidated materials upon their abandonment.

(d) The cleanup of mining areas and the removal of debris from those areas on termination of the mining operation.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2011, Act 214, Imd. Eff. Nov. 8, 2011.

Popular name: Act 451

Popular name: NREPA

324.63103a Mining of ferrous minerals; permit required.

Sec. 63103a. A ferrous mineral operator shall not engage in the mining of ferrous minerals except as authorized by a permit issued by the department pursuant to part 13. The department shall not issue a permit unless the applicant has submitted to the department, in addition to the permit application, a mining and reclamation plan for the proposed ferrous mining activity as prescribed by section 63103b.

History: Add. 1997, Act 149, Imd. Eff. Dec. 2, 1997;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2011, Act 214, Imd. Eff. Nov. 8, 2011.

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324.63103b Mining and reclamation plan.

Sec. 63103b. The mining and reclamation plan submitted under section 63103a shall include all of the following for the total project:

- (a) The method and direction of mining.
- (b) Surface overburden stripping plans.
- (c) The depth of grade level over the entire site from which the ferrous mineral will be removed.
- (d) Provisions for grading, revegetation, and stabilization that will minimize soil erosion, sedimentation, and public safety concerns.
- (e) The location of buildings, equipment, stockpiles, roads, or other features necessary to the mining activity and provisions for their removal and restoration of the area at the project termination.
- (f) The interim use or uses of reclaimed areas before the cessation of the entire mining operation.
- (g) Maps and other supporting documents required by the department.
- (h) Fencing or other techniques to minimize trespass or unauthorized access to the mining activity.
- (i) If required by the department when mining activity below the water table is proposed, a hydrogeological survey of the surrounding area.
- (j) If threatened or endangered species are identified, an indication of how the threatened or endangered species will be protected or, if not protected, what mitigation measures will be performed.
- (k) If the proposed mining activity includes beneficiation or treatment of the ferrous ore or material mined for its ferrous content, the application documents shall include specific plans depicting the beneficiation and treatment methods and techniques, and manufacturer's material safety data sheets on all chemicals or other additives that are not natural to the site, that will be utilized in the process. The operator shall obtain all applicable state and federal permits before beginning the beneficiation process.

History: Add. 1997, Act 149, Imd. Eff. Dec. 2, 1997;—Am. 2011, Act 214, Imd. Eff. Nov. 8, 2011.

Popular name: Act 451

Popular name: NREPA

324.63103c Ferrous mineral mining permit.

Sec. 63103c. (1) A ferrous mineral mining permit issued by the department is valid for the life of the mine. However, the department may revoke a ferrous mineral mining permit under the following conditions:

- (a) The permittee has not commenced construction of plant facilities or conducted actual mining and reclamation activities covered by the permit within 3 years after the date of issuance of the permit.
- (b) The permittee requests the revocation of the ferrous mineral mining permit and the department determines the mining activity has not polluted, impaired, or destroyed the air, water, or other natural resources or the public trust in those resources, as provided in part 17.
- (c) The permittee fails to submit the annual report of production as required by section 63103d(2).
- (d) The department finds that the permittee is not in compliance with this part, the rules promulgated under this part, or the ferrous mineral permit and there exists an imminent threat to the health and safety of the public.

(2) The department may order immediate suspension of any or all activities at a ferrous mineral mining operation, including the removal of ferrous product from the site, if the department finds there exists an emergency endangering the public health and safety or an imminent threat to the natural resources of the state.

(3) An order suspending operations shall be in effect until the operation is in compliance and protection of

the public health and safety is ensured or the threat to the natural resources has been eliminated, but not more than 10 days. To extend the suspension beyond 10 days, the department shall issue an emergency order to continue the suspension of operations and shall schedule a hearing as provided by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The total duration of the suspension of operations shall not be more than 30 days.

(4) A ferrous mineral mining permit may be transferred with approval of the department. The person seeking to acquire the permit shall submit a request for transfer of the permit to the department on forms provided by the department. The person acquiring the permit shall accept the conditions of the existing permit and adhere to the requirements set forth on the approved mining and reclamation plan. Pending the transfer of the existing permit, the person seeking to acquire the permit shall not operate the mine.

(5) A ferrous mineral mining permit shall not be transferred to a person who has been determined by the department to be in violation of any of the following, until the person acquiring the permit has corrected the violation or the department has accepted a compliance schedule and a written agreement has been reached to correct the violations:

- (a) This part.
- (b) The rules promulgated under this part.
- (c) Permit conditions.
- (d) An order of the department.

(6) If the permittee of a ferrous mineral mining operation is under notice because of unsatisfactory conditions at the mining site involved in the transfer, then the permit for the mining operation shall not be transferred to a person until the permittee has completed the necessary corrective actions or the person acquiring the permit has entered into a written agreement to correct all of the unsatisfactory conditions.

(7) A ferrous mineral mining permit may be amended upon submission to the department of a request by the permittee. Upon receipt of the request to amend an existing ferrous mineral permit, the department shall determine if the request constitutes a significant change from the conditions of the approved permit. If the department determines the request is a significant change from the conditions of the approved permit, the department may submit the request for amendment to the same review process as provided in part 13. If a request to amend the permit is denied, the reasons for denial shall be stated in a written report to the permittee. If the department determines the request for amendment does not constitute a significant change from the conditions of the approved permit, the department shall approve the amendment and notify the permittee.

History: Add. 1997, Act 149, Imd. Eff. Dec. 2, 1997;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2011, Act 214, Imd. Eff. Nov. 8, 2011.

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324.63103d Ferrous mineral surveillance fee; annual report of production.

Sec. 63103d. (1) For purposes of surveillance, monitoring, administration, and enforcement of this part, a ferrous mineral operator shall be assessed a ferrous mineral surveillance fee on the ferrous product produced for the calendar year reported as described in subsection (2). The fee shall be assessed upon ferrous product and shall not be more than 1 cent per metric ton. Funds collected by the assessment of the ferrous mineral surveillance fee shall not exceed the actual costs to the department of implementing the sections of this part that pertain to ferrous mineral mining. Surveillance fees collected under this section shall be forwarded to the state treasurer for deposit in the ferrous mineral surveillance fund created in section 63103e.

(2) A ferrous mineral operator shall file an annual report of production on or before February 15 of each year. The report shall contain the annual production of ferrous product from each ferrous mineral mine.

(3) The ferrous mineral surveillance fee described in subsection (1) is due 30 days after the department sends written notice to the ferrous mineral operator of the amount due.

(4) Failure to submit an annual report of production in compliance with rules promulgated by the department constitutes grounds for revocation of a permit.

(5) A penalty equal to 10% of the amount due, or \$1,000.00, whichever is greater, shall be assessed against the ferrous mineral operator for a fee that is not paid when due. An unpaid fee and penalty constitute a debt and the basis of a judgment against the operator. Penalties paid pursuant to this section shall be used for the implementation, administration, and enforcement of this part.

(6) Records upon which the annual report of production is based shall be preserved for 3 years and are subject to audit by the department.

History: Add. 1997, Act 149, Imd. Eff. Dec. 2, 1997;—Am. 2011, Act 214, Imd. Eff. Nov. 8, 2011.

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324.63103e Ferrous mineral surveillance fund.

Sec. 63103e. (1) The ferrous mineral surveillance fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the ferrous mineral surveillance fund. The state treasurer shall direct the investment of the ferrous mineral surveillance fund. The state treasurer shall credit to the ferrous mineral surveillance fund interest and earnings from fund investments.

(3) Money in the ferrous mineral surveillance fund at the close of the fiscal year shall remain in the ferrous mineral surveillance fund and shall not lapse to the general fund.

(4) The department shall expend money from the ferrous mineral surveillance fund, upon appropriation, only for surveillance, monitoring, administration, and enforcement under this part and for computing the surveillance fee under section 63103d.

History: Add. 1997, Act 149, Imd. Eff. Dec. 2, 1997;—Am. 2011, Act 214, Imd. Eff. Nov. 8, 2011.

Popular name: Act 451

Popular name: NREPA

324.63104 Mining operations; variance or modification from rules.

Sec. 63104. The supervisor of reclamation, on application by the landowner or operator, may modify or permit variance from the rules promulgated under this part if the supervisor of reclamation determines that the modification or variance is not contrary to the public interest.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.63105 Supervisor of reclamation; administration of part and rules; powers.

Sec. 63105. The supervisor of reclamation shall administer and enforce this part and the rules promulgated under this part. The supervisor of reclamation may do any of the following:

(a) Consult with and obtain the assistance of the other divisions of the department.

(b) Enter on the mining areas in connection with any investigation and inspection without liability to the operator or landowner if reasonable prior notice of the intention to do so has been given to the operator or landowner.

(c) Conduct research or enter into contracts related to mining areas and the reclamation of mining areas as may be necessary to implement this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.63106 Plan maps; filing by operator; form; annual changes; long-range plans.

Sec. 63106. For the purpose of information and to assist the supervisor of reclamation in proper enforcement of rules promulgated under this part, an operator shall file with the supervisor of reclamation a plan map in the form determined by the supervisor of reclamation showing all existing mining areas or areas subjected to mining by the operator. Annually thereafter, on or before March 15, the operator shall file a plan map in similar form showing any changes made during the preceding calendar year and the mining area that the operator anticipates will be subjected to mining during the current calendar year. The supervisor of reclamation periodically shall ascertain the long-range land environment plans of the operator.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.63107 Performance bond, security, or assurance of operator.

Sec. 63107. The supervisor of reclamation, if he or she has reasonable doubts as to an operator's financial ability to comply with the rules promulgated under this part as to actions to be taken after completion of mining operations or any phase of mining operations, may require an operator to furnish a performance bond or other security or assurance satisfactory to the supervisor of reclamation. The supervisor of reclamation may postpone furnishing of the bond, security, or assurance depending upon the life of the mining operation.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.63108 Injunctive relief to prevent violation of rules.

Sec. 63108. At the request of the supervisor of reclamation, the attorney general may institute an action in a circuit court of the county in which the mining operation affected is conducted for a restraining order or injunction or other appropriate remedy to prevent or preclude a violation of the terms and conditions of any rule promulgated under this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.63110 Scope of part.

Sec. 63110. This part does not apply to activities subject to part 632.

History: Add. 2004, Act 449, Imd. Eff. Dec. 27, 2004.

Popular name: NREPA