

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

PART 634
SMALL NATIVE COPPER MINES

324.63401 Definitions.

Sec. 63401. As used in this part:

(a) "Administratively complete" refers to an application for a mining permit under this part that includes the fee and all of the documents and other information required under this part and any rules promulgated under this part.

(b) "Conformance bond" means a surety bond that has been executed by a surety company authorized to do business in this state, cash, a certificate of deposit, a letter of credit, or other security filed by a person and accepted by the department to ensure compliance with this part or rules promulgated under this part.

(c) "Department" means the department of environmental quality.

(d) "Fund" means the small native copper mine surveillance fund created in section 63415.

(e) "Life of the mine" means the period from initiation of mining activities through the completion of reclamation.

(f) "Mine" or "mining" means an operation to excavate or remove earth material that generates not less than 10,000 tons and not more than 75,000 tons of waste rock in a calendar year or disturbs not less than 1 acre and not more than 10 acres of land in a calendar year in the regular operation of a business for the primary purpose of extracting native copper by 1 or both of the following:

(i) Removing the overburden lying above natural deposits of native copper and excavating directly from the natural deposits thus exposed or by excavating directly from deposits lying exposed in their natural state.

(ii) Excavating from below the surface of the ground by means of shafts, tunnels, or other subsurface openings.

(g) "Mining activity" means any of the following activities within a mining area for the purpose of, or associated with, mining:

(i) Clearing and grading of land.

(ii) Drilling and blasting.

(iii) Excavation of earth materials to access or remove ore.

(iv) Crushing, grinding, or separation activities.

(v) Reclamation.

(vi) Transportation of overburden, waste rock, ore, and tailings within the mining area.

(vii) Storage, relocation, and disposal of overburden, waste rock, ore, and tailings within a mining area, including backfilling of mined areas.

(viii) Construction of water impoundment and drainage features.

(ix) Construction of haul roads.

(x) Construction of utilities or extension of existing utilities.

(xi) Withdrawal, transportation, and discharge of water in connection with mining.

(h) "Mining area" means all of the following:

(i) Land from which material is removed by surface or open pit mining methods.

(ii) Land on which adits, shafts, or other openings between the land surface and underground mine workings are located.

(iii) Land on which material from mining is deposited.

(iv) Land on which crushing, grinding, or separation facilities are located.

(v) Land on which water reservoirs used in connection with mining are located.

(i) "Mining permit" or "permit" means a permit issued under section 63405 for conducting mining activities.

(j) "Native copper" means copper in its elemental form.

(k) "Operator" means a person that is engaged in or preparing to engage in mining activities, whether individually or jointly, or through agents, employees, or contractors, and that has overall responsibility for the mining activities.

(l) "Permittee" means a person that holds a mining permit.

(m) "Waste rock" means earth material that is excavated during mining, from which the economically recoverable native copper has been separated, and that is stored on the surface for 1 year or more. Waste rock does not include earth material from excavation or grading done in preparation for commencement of mining.

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324.63403 Enforcement and administration of part; rules; inspection and investigation by department; regulation by local governmental unit; restrictions.

Sec. 63403. (1) The department shall administer and enforce this part. In addition to other powers granted to it, the department may promulgate rules it considers necessary to carry out its duties under this part.

(2) The department may enter at any reasonable time in or upon a mining area for the purpose of inspecting and investigating conditions relating to mining activities.

(3) Subject to subsections (4) and (5), a local unit of government shall not regulate or control mining or reclamation activities that are subject to this part, including construction, operation, closure, postclosure monitoring, reclamation, and remediation activities, and does not have jurisdiction concerning the issuance of permits for those activities.

(4) A local unit of government may enact, maintain, and enforce ordinances or regulations affecting mining if the ordinances or regulations do not duplicate, contradict, or conflict with this part and are reasonable in accommodating customary mining activities.

(5) Subsections (3) and (4) do not prohibit a local unit of government from conducting water quality monitoring.

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324.63405 Mining permit; application.

Sec. 63405. (1) A person shall not engage in mining activities except as authorized by a mining permit issued by the department. A separate mining permit is required for each mine.

(2) An application for a mining permit shall be submitted by the operator to the department on a form prescribed by the department. The application shall include all of the following:

(a) A permit application fee of \$5,000.00. The department shall forward the permit application fee to the state treasurer for deposit in the fund.

(b) Provisions for a conformance bond as described in section 63409.

(c) A mining and reclamation plan as described in subsection (3) that addresses mining activities proposed in the application.

(3) The mining and reclamation plan required in subsection (2) shall include all of the following:

(a) A map or maps showing the locations and dimensions of the following:

(i) Proposed adits, shafts, underground mine workings, and surface pits.

(ii) Proposed overburden, waste rock, and ore stockpiles.

(iii) Any crushing, grinding, or separation equipment that will be utilized.

(b) A description of the mining methods that will be utilized.

(c) Plans and descriptions of measures that will minimize soil erosion and sedimentation during mining activities.

(d) A map and description of fencing or other techniques to minimize public safety hazards.

(e) Plans and schedules for reclamation of the mining area following cessation of mining activities. The plans and schedules shall address mining activities proposed in the application and provide for grading, revegetation, and stabilization that will do all of the following:

(i) Minimize soil erosion and sedimentation.

(ii) Protect public safety.

(iii) Establish conditions that promote future beneficial use and do not require perpetual care.

(f) Plans and schedules for baseline water quality sampling, which must be conducted before mining commences. Samples shall be collected from the existing water supply wells available for sampling and located within 1,320 feet of the proposed mining area. However, samples are not required from more than 3 such water supply wells. In addition, samples shall be collected from the nearest surface water body located within 1,320 feet of the proposed mining area, if any. The samples shall be analyzed for pH, copper, and nitrate using laboratory methods approved by the United States Environmental Protection Agency.

(4) Within 7 days after receiving an application for a mining permit, the department shall give notice in writing to the county and municipality where the mine is proposed to be located of the specific location of the proposed mine. Within 14 days after receiving an application for a mining permit, the department shall publish notice of the application in a newspaper of local distribution in the area of the proposed mine and shall post a copy of the application on its website.

(5) Subject to subsection (6), effective 14 days after the department receives an application for a mining permit, the application shall be considered to be administratively complete.

(6) If, before the date indicated by subsection (5), the department notifies the applicant that the application is not administratively complete, specifying the information or fee necessary to make the application administratively complete, the running of the 14-day period under subsection (5) is tolled until the applicant submits to the department the specified information or fee.

(7) Subject to subsection (8), the department shall grant or deny a mining permit within 45 days after an application is considered or determined to be administratively complete under subsection (5) or (6). If a mining permit is denied, the reasons shall be stated in a written report to the applicant.

(8) If the department determines that information in the application is insufficient to determine whether a permit may be granted, the department may request additional information or clarification from the applicant. The 45-day period under subsection (7) is tolled until the applicant submits the requested information.

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324.63407 Mining permit; validity; revocation; termination; transfer; amendment.

Sec. 63407. (1) A mining permit is valid for the life of the mine. However, the department may revoke a permit if the permittee has not commenced mining activities covered by the permit within 3 years after the date of issuance of the permit.

(2) The department may terminate a mining permit upon request of the permittee if the department determines that the permittee has complied with all applicable provisions of this part.

(3) A 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 in the approved mining and reclamation plan and provide a conformance bond as set forth in section 63409. Pending the transfer of the existing permit, the person seeking to acquire the permit shall not operate the mine.

(4) A mining permit shall not be transferred to a person who has been determined by the department to be in violation of this part, rules promulgated under this part, or a condition of a permit issued under this part, until the person acquiring the permit has corrected the violation or the department has accepted a compliance schedule and the person that will acquire the permit has entered into a written consent agreement to correct the violation.

(5) If the permittee has been notified by the department of a violation of this part, rules promulgated under this part, or a condition of the permit issued under this part at the mining area involved in the transfer, the mining permit shall not be transferred to a person until the permittee has corrected the violation or the person that will acquire the permit has entered into a written consent agreement to correct the violation.

(6) A mining permit may be amended upon submission to the department of a request by the permittee. The department shall determine whether the requested amendment constitutes a significant change to the mining and reclamation plan. If the department determines that the requested amendment constitutes a significant change, the department shall submit the request for amendment to the same review process as provided for a new permit application in section 63405(4) to (8). If the department determines that the requested amendment does not constitute a significant change, the department shall approve the request within 14 days after receiving the request.

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324.63409 Conformance bond; amount; duration; violation.

Sec. 63409. (1) For each mine, an operator shall maintain a conformance bond in the amount of \$50,000.00 during mining activities and until the department determines that all reclamation has been completed in compliance with the mining permit.

(2) If an operator violates subsection (1), the department may order immediate suspension of mining activities, including the removal of native copper from the site.

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324.63411 Mine operator; compliance with applicable requirements; duties upon suspension of mining activities; beginning and completing final reclamation of mining area; time period; extension; compliance with other applicable state or federal statutes or regulations.

Sec. 63411. (1) An operator shall comply with all other applicable requirements of this act.

(2) An operator shall conduct mining activities at a mining area in conformance with the approved mining and reclamation plan.

(3) If mining activities are suspended for a continuous period exceeding 240 days, the operator shall maintain, monitor, and secure the mining area and shall conduct any interim sloping or stabilizing of surfaces necessary to protect the environment, natural resources, or public health and safety in accordance with the mining permit.

(4) Subject to subsection (5), an operator shall begin final reclamation of a mining area within 3 years after the date of cessation of other mining activities and shall complete reclamation within the time set forth in the mining and reclamation plan approved by the department under section 63405.

(5) Upon written request of the operator, the department may approve an extension of time to begin or complete final reclamation.

(6) Compliance with this part does not relieve a person of the responsibility to comply with all other applicable state or federal statutes or regulations.

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324.63413 Fees and penalties.

Sec. 63413. (1) For purposes of surveillance, monitoring, administration, and enforcement of this part, an operator shall pay the department by February 15 of each year an operating fee of \$5,000.00 for each mine where mining activities were ongoing as of December 31 of the previous year. The fee is due each year until the mining activities cease and the department has released the conformance bond.

(2) The department shall assess a penalty equal to 2% of the amount due against the operator for each month or part of a month during which an operating fee has not been paid after the due date.

(3) The department shall forward all annual operating fees and penalties collected under this section to the state treasurer for deposit in the fund.

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324.63415 Small native copper mine surveillance fund; creation; deposit of money or other assets; investment; interest and earnings; money remaining at close of fiscal year; expenditures.

Sec. 63415. (1) The small native copper mine 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 fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

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

(4) The department shall expend money from the fund, upon appropriation, only for surveillance, monitoring, administration, and enforcement under this part.

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324.63417 Failing or neglecting to perform reclamation in conformance with part or rules; notice of determination; service; reclamation to be conducted by department; liability for expenses of department; claim; order to immediately suspend mining activities; findings; duration; extension; action by attorney general.

Sec. 63417. (1) If the department determines that an operator has failed or neglected to perform reclamation in conformance with this part or rules promulgated under this part, the department shall give

notice of this determination, in writing, to the operator and to the surety executing the conformance bond under section 63409. The notice of determination shall be served upon the operator and surety in person or by registered mail. If the operator or surety fails or neglects to properly commence the required reclamation within 90 days after the date of personal service or mailing of the notice or fails to proceed with reclamation at a rate that will conclude the reclamation within the period specified in the mining and reclamation plan, the department may enter into and upon any private or public property on which the mining area is located and upon and across any private or public property necessary to reach the mining area and conduct necessary reclamation, and the operator and surety are jointly and severally liable for all expenses incurred by the department. The department shall certify to the operator and surety the claim of this state in writing, listing the items of expense incurred in reclamation. The claim shall be paid by the operator or surety within 30 days. If the claim is not paid within that time, the department may bring suit against the operator or surety, jointly or severally, for the collection of the claim in any court of competent jurisdiction in Ingham County.

(2) The department may order immediate suspension of any mining activities if the department finds that there exists an emergency endangering the public health and safety or an imminent threat to the natural resources of this state.

(3) An order suspending mining activities under subsection (2) shall be in effect until the endangerment to the public health and safety 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 mining activities 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 activities shall not be more than 30 days.

(4) At the request of the department, the attorney general may institute an action in a circuit court of the county in which the mining area is located for a restraining order or injunction or other appropriate remedy to prevent or preclude a violation of this part or a rule promulgated under this part.

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324.63418 Mining of earth material having significant acid-forming or leachable characteristics; exception.

Sec. 63418. Mining of earth material that has significant acid-forming or leachable characteristics is not subject to this part.

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