

**6132.2000 SITING.**

Subpart 1. **Goals.** Mining shall be conducted on sites that minimize adverse impacts on natural resources and the public. Separations shall be maintained between mining areas and adjacent conflicting land uses. All sites shall incorporate setbacks or separations that are needed to comply with air, water, and noise pollution standards; local land use regulations; and requirements of other appropriate authorities.

Subp. 2. **Mining excluded.** Except as allowed under state and federal laws, no mining shall be conducted within the following:

A. the Boundary Waters Canoe Area Wilderness, as legally described in the Federal Register, volume 45, number 67 (April 4, 1980), with state restrictions specified in Minnesota Statutes, section 84.523, subdivision 3;

B. Voyageurs National Park, with state restrictions specified in Minnesota Statutes, section 84B.03, subdivision 1;

C. state wilderness areas, with restrictions specified in Minnesota Statutes, section 86A.05, subdivision 6;

D. Agassiz and Tamarac National Wilderness areas, and Pipestone and Grand Portage National monuments;

E. state scientific and natural areas;

F. within state peatland scientific and natural areas where such activities would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or natural features of the peatland scientific and natural areas, except in the event of a national emergency declared by Congress;

G. calcareous fens identified in Minnesota Statutes, section 103G.223; and

H. a state park, except if the park has been established as a result of its association with mining.

Subp. 3. **Surface disturbance prohibited.** No mining activities that disturb the surface shall be allowed within or on the following:

A. within the Boundary Waters Canoe Area Wilderness Mineral Management Corridor, identified on the Department of Natural Resources map entitled "Minnesota Department of Natural Resources B.W.C.A.W. Mineral Management Corridor," dated February 1991, which map is hereby incorporated by reference, is not subject to frequent change, and is available through the State Law Library;

B. within one-fourth mile of Voyageurs National Park;

C. within one-fourth mile of state wilderness areas;

D. within one-fourth mile of Agassiz and Tamarac National Wilderness areas, and Pipestone and Grand Portage National monuments;

E. within one-fourth mile of state scientific and natural areas;

F. within one-fourth mile of state parks, except surface disturbance shall be allowed if the park has been established as a result of its association with mining;

G. within one-fourth mile of calcareous fens identified under Minnesota Statutes, section 103G.223;

H. on sites designated in the National Register of Historic Places, except that surface disturbance shall be allowed if the sites have been established as a result of their association with mining;

I. on sites designated in the Registry of State Historic Sites, except surface disturbance shall be allowed if the sites have been established as a result of their association with mining;

J. within national wild, scenic, or recreational river districts of a national wild, scenic, or recreational river, and within the areas identified by the document, "A Management Plan for the Upper Mississippi River," produced by the Mississippi Headwaters Board, dated January 1981, which document is hereby incorporated by reference, is not subject to frequent change, and is available through the State Law Library, except underground mining may be permitted in accordance with the management plans developed for specific national wild, scenic, or recreational river districts;

K. within designated state land use districts, of a state wild, scenic, or recreational river, except underground mining may be permitted in accordance with the Wild and Scenic Rivers Act and the rules adopted under it;

L. within the area adjacent to the north shore of Lake Superior identified in the document entitled, "North Shore Management Plan," produced by the North Shore Management Board, dated December 1988, which document is hereby incorporated by reference, is not subject to frequent change, and is available through the State Law Library; and

M. on the following areas, provided they were in existence before the issuance of a permit to mine:

(1) within 500 feet of an occupied dwelling, public school, church, public institution, or county or municipal park, unless allowed by the owner; and

(2) within 100 feet of a cemetery, or the outside right-of-way line of a public roadway, except where mine access or haul roads cross the right-of-way.

Subp. 4. **Mining restricted.** Mining shall be conducted in the following areas only if there is no prudent and feasible siting alternative. If mining is proposed, the commissioner shall base siting approval decisions on the specific characteristics and qualities of the natural resources for which the area has been designated, and the potential impacts that are likely to result. Mining shall be allowed only if there will be either no adverse impacts on the natural resources, or provisions acceptable to the commissioner are proposed to either mitigate adverse effects, or replace, reroute, or in some other manner reclaim the affected natural resources:

A. within a national wildlife refuge, a national waterfowl production area, or on a national trail;

B. within a state wildlife management area, or on a state designated trail either listed in Minnesota Statutes, section 85.015, or acquired under the authority of Minnesota Statutes, section 84.029, subdivision 2;

C. in peatlands identified as peatland watershed protection areas in the Department of Natural Resources report entitled "Protection of Ecologically Significant Peatlands in Minnesota," dated November 1984, which report is hereby incorporated by reference, is not subject to frequent change, and is available through the State Law Library; and

D. within waters identified in the public waters inventory, conducted under Minnesota Statutes, section 103G.201, that have not been created or substantially altered in size by human activities, and within the adjoining shorelands, as defined in Minnesota Statutes, section 103F.205, subdivision 4, of the unaltered waters.

Subp. 5. **General siting criteria.** Portions of a mining operation for which there is flexibility in site selections, such as storage piles, tailings basins, water reservoirs, processing plants, offices interconnecting roadways, and auxiliary facilities, shall be sited to the extent practicable so that:

A. impacts on the public and natural resources due to wind erosion, noise, and air emissions are minimized;

B. potential injury to life due to floods, caving, or slope failure is minimized;

C. potential damage to property and natural resources due to floods, caving, or slope failure is minimized;

D. major modifications of watersheds, including diversions of surface water and alterations of groundwater levels, are minimized;

E. runoff and seepage can be managed to minimize water impacts on surface water and groundwater;

F. conflicts with natural and historical heritage sites, identified during environmental review, are minimized; and

G. former mining areas are used in preference to areas undisturbed by mining.

Subp. 6. **Wetland conservation.** Mining activities that result in the draining or filling of wetlands, identified pursuant to Minnesota Statutes, section 103G.005, subdivision 19, shall not be conducted unless the wetlands are replaced by restoring or creating wetland areas under a replacement plan approved pursuant to part 6132.5300. It must be noted that the replacement plan requires an evaluation of the affected wetland, including consideration of avoidance and mitigation techniques, before replacement by restoration or creation can even be considered.

**Statutory Authority:** *MS s 93.44 to 93.51; 103G.222*

**History:** *17 SR 2207*

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