



DEPARTMENT OF ENVIRONMENTAL QUALITY
POLICY AND PROCEDURES

**SUBJECT: REVIEW AND PROCESSING OF NONFERROUS METALLIC
MINERAL MINING PERMIT APPLICATIONS**

Number: 09-011

Date: December 20, 2007

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ISSUE:

Review and processing of applications for Mining Permits under Part 632, Nonferrous Metallic Mineral Mining, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA) and the promulgated administrative rules.

APPLICABLE STATUTES:

Part 632, Nonferrous Metallic Mineral Mining, of the NREPA; MCL 324.63201 to 324.63223.

DEFINITIONS:

Application: Form Number EQP 7000 and attachments for a Nonferrous Metallic Mineral Mining Permit under Part 632 unless otherwise specified.

Application File: A two-part file consisting of (1) a paper file kept at the Office of Geological Survey (OGS) central office, and (2) an electronic file on a shared network drive that is accessible to the OGS Chief, Minerals and Mapping Unit Supervisor, Mining Specialist, Mining Team Coordinator, Mining Team Members, Deputy Director, and other Department of Environmental Quality (DEQ) staff members as may be designated by the OGS Chief or Deputy Director.

DEQ: The Department of Environmental Quality.

GSS Supervisor: Supervisor of the Geological Services Section of the OGS.

Mining Specialist: An OGS geologist or mining engineer designated to oversee mining operations.

Mining Team: A multi-disciplinary team comprised of the OGS Mining Specialist and any other technical specialists and contractors designated to review an Application.

Mining Team Coordinator: The OGS Mining Specialist, unless another person is designated by the OGS Chief or DEQ Director.

MMU Supervisor: Supervisor of the Minerals and Mapping Unit of the OGS.

OGS: The Office of Geological Survey.

Mining Permit: A Nonferrous Metallic Mineral Mining Permit under Part 632.

FORMS USED:

Application for Permit, Form Number EQP 7000.

POLICY:

All applications shall receive a rigorous and thorough review. The DEQ shall provide for and encourage effective public participation in the review and evaluation processes.

OTHER PERMITS:

An application must list all other state and federal permits that are anticipated to be required. A mining

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permit is not effective until all other required permits and licenses have been obtained and are in effect.

MINING TEAM - ROLES AND RESPONSIBILITIES:

A multi-disciplinary Mining Team will be established to review each application for a mining permit. Members of a Mining Team will be chosen based on specific expertise related to one or more aspects of the application, as needed. Mining Teams will be comprised of employees of the DEQ and other state agencies, such as the Department of Natural Resources, and may include outside contractors when required expertise is not available among state agency employees. The Mining Team may consult experts outside of the Mining Team as necessary on specific aspects of the application.

The Mining Team shall operate under the direction and guidance of a Mining Team Coordinator. The Mining Team Coordinator is responsible for setting meeting schedules and assuring that each member of the Mining Team provides input in accordance with the schedule as established by this procedure. Members of the Mining Team will represent the positions of their respective divisions or agencies in forming comments, recommendations, and draft documents, and are responsible for raising any program issues for resolution through the chain of command within their respective divisions or agencies within the time frames and deadlines under this procedure. Members of the Mining Team will provide comments and recommendations verbally or in writing (including by electronic mail) as appropriate and as determined by agreement between the Mining Team Coordinator and Mining Team members or by agreements to be reached between agencies.

The Mining Team Coordinator will represent the comments and recommendations of the team members in communications with DEQ management, and will provide an opportunity for review by team members of all comments and recommendations of the team by either circulating a draft document or placing the draft document in an electronic file (the Application File) for review by team members. The Mining Team Coordinator serves as single point of contact to request clarifications or explanations from an applicant based on questions raised by the Mining Team or by consultants to the Mining Team.

The Mining Team members shall strive to achieve consensus in their individual and collective recommendations. If consensus cannot be reached on any aspect of an application at any time in the review process, the issue shall be referred to the next supervisory level to be resolved between managers at corresponding levels in two or more bureaus, divisions, offices, or departments, or between the next supervisory level and the outside contractor, as applicable. If not resolved at a lower level, the Deputy Director will make the final determination.

All draft documents described in the procedure shall be retained in the designated location or format until they are superceded by an approved new draft or final document.

PROCEDURE:

Notes:

The DEQ Director and DEQ managers may designate another position to carry out any or all of the responsibilities of a specific position designated by this procedure within their respective chain of command.

Day or days, as used in this procedure, refers to calendar days. Deadlines for action steps are selected to meet statutory deadlines for stages of the application review. Extra time may be allowed in cases where a weekend or holiday falls within a three-day deadline; however, this may necessitate a corresponding decrease in the time allowed under other steps in order to meet a statutory deadline.

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RESPONSIBILITY

ACTION

PRE-APPLICATION

- | | |
|--|--|
| OGS Mining Specialist | 1. Upon learning of potential application, notifies MMU Supervisor of potential application and other anticipated permits required under NREPA. Encourages potential applicant to schedule a pre-application meeting or meetings with OGS and other bureaus, divisions, offices, and agencies, as appropriate, at least 30 days prior to submitting application. Files correspondence and any supporting documents in pre-application file. |
| MMU Supervisor | 2. Notifies GSS Supervisor and OGS Chief of potential application. |
| OGS Chief | 3. Notifies Deputy Director and Director of potential application and advises them on establishment of Mining Team to review potential application.

4. Directs OGS Senior Executive Management Assistant to establish Application File. |
| OGS Senior Executive Management Assistant | 5. Establishes Application File. Transfers all documents in pre-application file to Application File. |
| DEQ Director | 6. In consultation with DEQ Senior Management Team, designates staff members for participation on Mining Team. Contacts Directors of other agencies for designation of their staff members for participation as deemed necessary. Approves outside contractors for participation on, or consultation with, the Mining Team.

<i>Note: This step may occur later in the process, depending on when sufficient information is available; however, it should occur as early as reasonably possible. Additional members of the Mining Team may be designated later in the process as deemed necessary.</i> |
| DEQ
Bureau/Division/Office
Managers and other
involved agencies | 7. Assign staff participation on Mining Team as designated by Director. |
| OGS Mining
Specialist/Mining Team
Coordinator | 8. Arranges for contracts with designated outside contractors. |

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RESPONSIBILITY

ACTION

9. Coordinates pre-application meeting or meetings with potential applicant, members of Mining Team, and other DEQ staff as appropriate, including staff potentially involved in other NREPA permits that may be required for the proposed project.

Files correspondence and any supporting documents in Application File.

INITIAL APPLICATION REVIEW

MMU Supervisor

10. Receives 10 paper copies and electronic copy of application, and Mail Transmittal Form showing \$5,000 permit application fee received in DEQ Cashier's Office. Retains at least two paper copies of application at central office for review by staff and public. Distributes remaining paper copies as follows.

- a. One copy to OGS Mining Specialist.
- b. One copy to a public library or other public building in the county where the mine is proposed to be located.
- c. One copy to the township where the mine is proposed to be located.
- d. One copy to OGS central office files to be made available for public viewing.
- e. One copy to OGS District Office to be made available for public viewing.
- f. Other copies may be distributed as deemed appropriate to facilitate public access.

Files application in Application File.

Ensures that sufficient copies are provided to the OGS Mining Specialist.

Arranges for application materials to be posted on DEQ Web site.

Within 24 hours of receiving Mail Transmittal Form, forwards account coding for permit application fee to OGS Budget Unit for processing.

Receives Deposit Transaction Detail Report as confirmation of posted permit application fee. Files in Application File.

Mining Team
Coordinator

11. Notifies Mining Team members of means to access application. Within five days of receipt of application, sets schedule of review and initial meeting of Mining Team.

Files Mining Team correspondence in the Application File.

OGS Mining Specialist

12. Reviews application for administrative completeness. Within eight days after receipt of application (or supplemental information, if required under Step No. 14), sends memorandum to MMU Supervisor with recommendation.

Files correspondence and any supporting documents in Application File.

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RESPONSIBILITY	ACTION
MMU Supervisor	<p>13. Reviews recommendation on administrative completeness; within two days after receipt of memorandum from OGS Mining Specialist, forwards memorandum with comments to OGS Chief, and copies GSS Supervisor.</p> <p>Files recommendation in Application File.</p>
OGS Chief	<p>14. Makes determination on administrative completeness; within two days after receipt of recommendation from MMU Supervisor, sends letter to applicant advising of determination.</p> <p>If application is not administratively complete, letter specifies supplemental information needed, and the 14-day period for determining administrative completeness is tolled until the applicant submits to the DEQ the supplemental information and the DEQ reviews the information.</p> <p>Files letter to applicant in Application File.</p>
MMU Supervisor	<p>15. Arranges for determination of administrative completeness to be posted on DEQ Web site and copy placed at same locations as application (see Step No. 10).</p> <p>If application is administratively complete, go to Step No. 17.</p> <p>16. Receives specified supplemental information to make application administratively complete. Return to Step No. 12.</p>
Mining Team Members	<p>17. <i>Note: Step No. 17 begins simultaneously with Step No. 12.</i></p> <p>Beginning at time of receipt of application, review aspects of application within their respective areas of expertise; participate in Mining Team meetings; provide input and recommendations to Mining Team Coordinator.</p> <p>18. Within 28 days after application is determined to be complete, provide comments and recommendations on any deficiencies in application to Mining Team Coordinator.</p>
Mining Team Coordinator	<p>19. If no deficiencies are found, skip Step Nos. 19–22 and 34-36.</p> <p>Within seven days after receiving comments from Mining Team members on deficiencies, drafts a deficiency letter to the applicant addressing the unresolved issues identified by the Mining Team and forwards to MMU Supervisor.</p> <p>Files comments from Mining Team members and draft deficiency letter in Application File.</p>

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RESPONSIBILITY	ACTION
MMU Supervisor	20. Within three days after receipt of draft deficiency letter, reviews letter and forwards to OGS Chief with recommendations, and copies GSS Supervisor. Files revised draft deficiency letter in the Application File.
OGS Chief	21. Within 3 days after receipt of draft deficiency letter, finalizes deficiency letter and sends to applicant, with deadline for applicant to respond within 28 days. Replaces draft deficiency letter with final deficiency letter in Application File.
MMU Supervisor	22. Arranges for final deficiency letter to be posted on DEQ Web site.

PUBLIC MEETING AND RESPONSE

MMU Supervisor	23. <i>Note: Step Nos. 23–28 occurs simultaneously with Step Nos. 17–21.</i> Arranges for a public meeting to take place within 42 days after the application is determined to be administratively complete. Oversees procurement of meeting place, necessary equipment, and transcriber. 24. Provides notice of the public meeting 14 to 28 days before the date of the meeting as follows. <ul style="list-style-type: none">a. By written notice to city, village, or township and the county where the mine is proposed to be located, and to all affected federally recognized Indian tribes.b. By publication in a newspaper of local distribution in the area where the proposed mining operation is to be located. Arranges for notice of the public meeting to be posted on the DEQ Calendar 14 to 28 days before the date of the public meeting. Coordinates public meeting with other state permitting agencies. Files notice in Application File.
OGS Chief	25. Consults with Deputy Director on participation in public meeting.
Deputy Director	26. Designates staff members who will attend public meeting, and what their respective roles will be. Designates staff for moderator, security, and support functions. Advises senior management of DEQ and other involved agencies.

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RESPONSIBILITY	ACTION
DEQ Bureau/Division/Office Managers and other involved agencies	27. Assign staff participation in public meeting as designated by Deputy Director.
DEQ and other agency staff as assigned	28. Participate in public meeting.
MMU Supervisor	29. Receives written public comments for 28 days following public meeting; forwards comments to Mining Team Coordinator. Files public meeting transcript and written public comments in Application File (for duplicate comments or form letters, only one document will be filed in the electronic file; other duplicative documents will be filed in the paper copy file only).
Mining Team Coordinator	30. In consultation with MMU Supervisor and Mining Team members as necessary, writes draft summary and response to public comments. Provides draft summary and response document to MMU Supervisor within 14 days after close of public comment period. Files draft summary and response document in Application File.
MMU Supervisor	31. Within three days after receipt, reviews draft summary and response to comments; forwards to OGS Chief with recommendations and copies GSS Supervisor.
OGS Chief	32. Within three days after receipt, finalizes and approves summary and response document.
MMU Supervisor	33. Arranges for final summary and response document to be posted on DEQ web site and copy to be placed at same locations as Application (see Step No. 10). Replaces draft summary and response document with final document in Application File.

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RESPONSIBILITY	ACTION	
	<p>34. <i>Note: Step Nos. 34–36 occurs simultaneously with Steps 29–32.</i></p> <p>Receives response to deficiency letter from applicant; forwards to Mining Team Coordinator within one day of receipt.</p> <p>Arranges for response to deficiency letter to be posted on DEQ Web site and copies of deficiency letter and response letter to be placed at same locations as application (see Step No. 10).</p> <p>Files response to deficiency letter in Application File.</p>	
Mining Team Coordinator	35. Within three days of receipt, forwards applicant's response to deficiency letter to applicable members of Mining Team and schedules meeting of Mining Team if necessary.	
Mining Team Members	36. Within 14 days of receipt of applicant's response to deficiency letter (if deficiencies were identified) or within 14 days after close of public comments after public hearing, provide to Mining Team Coordinator recommendation on proposed permit decision and recommendations for proposed permit conditions should the Mining Permit ultimately be issued.	
Mining Team Coordinator	37. Within three days of receiving recommendations from Mining Team on proposed permit decision and proposed permit conditions (if any), forwards recommendations to MMU Supervisor.	
MMU Supervisor	38. Within three days of receiving recommendations from Mining Team Coordinator, prepares document explaining the basis for the proposed permit decision; forwards recommendations on proposed permit decision and proposed permit conditions (if any), and basis for decision document, to OGS Chief.	
OGS Chief	39. Within three days of receipt from MMU Supervisor, finalizes proposed permit conditions (if any) and basis for decision document and issues proposed permit decision.	Files proposed permit decision, basis for decision document, and proposed permit conditions (if any) in Application File.
	<i>PROPOSED DECISION AND HEARING</i>	
MMU Supervisor	40. Arranges for proposed permit decision, basis for decision document, and proposed permit conditions (if any), and announcement of public hearing to be posted on DEQ Web site and copies to be placed at same locations as application (see Step No. 10) within one day after receipt.	Files above documents in Application File.

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	<p>41. Arranges for a public hearing on the proposed permit decision. Coordinates public hearing to the extent possible with other bureaus, divisions, offices, and agencies that require a permit or approval for the proposed mine.</p>
MMU Supervisor	<p>42. Provides for notice of public hearing 14 to 28 days before the date of hearing as follows.</p> <p>a. By written notice to city, village, or township, and the county where the mine is proposed to be located, and to all affected federally recognized Indian tribes.</p> <p>b. By publication in a newspaper of local distribution in the area where the proposed mining operation is to be located.</p> <p>If a coordinated hearing will be held, arranges for written notice and publication that meets all requirements (possibly requiring multiple notices). Arranges for notice of the public hearing to be posted on the DEQ Calendar 14 to 28 days before the date of the public hearing. Oversees procurement of meeting place, necessary equipment, and transcriber.</p> <p>Files written notice and publication notice in Application File.</p>
OGS Chief	<p>43. Consults with Deputy Director on participation in public hearing.</p>
Deputy Director	<p>44. Designates staff members who will attend public meeting, and what their respective roles will be. Designates staff for moderator, security, and support functions. Advises senior management of DEQ and other involved agencies.</p>
DEQ Bureau/Division/Office Managers and other involved agencies	<p>45. Assign staff participation in public hearing as designated by Deputy Director.</p>
DEQ and other agency staff as assigned	<p>46. Participate in public hearing.</p>
MMU Supervisor	<p>47. Receives written public comments for 28 days following public hearing. Files transcript and written public comments in Application File. For duplicate comments or form letters, only one document will be filed in the electronic file; other duplicative documents will be filed in the paper copy file only.</p>

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RESPONSIBILITY	ACTION
Mining Team Coordinator	<p>48. <i>Note: Step No. 48 occurs simultaneously with Step Nos. 51-54.</i></p> <p>In consultation with MMU Supervisor and Mining Team members as necessary, writes draft summary and response to public comments pursuant to public hearing, and forwards to MMU Supervisor within 14 days after close of public comments.</p> <p>Files draft summary and response document in Application File.</p>
MMU Supervisor	<p>49. Within three days after receipt, reviews draft summary and response document and forwards to OGS Chief with recommendations, and copies GSS Supervisor.</p>
OGS Chief	<p>50. Within three days after receipt, finalizes summary and response document.</p> <p>Replaces draft summary and response document with final document in Application File.</p>
Mining Team Coordinator	<p>51. <i>Note: Step Nos. 51-54 occurs simultaneously with Step No. 48.</i></p> <p>Consults with Mining Team members to determine whether public comments submitted at and after the public hearing identify need for additional information. If not, skip Step Nos. 52-59.</p> <p>52. If public comments identify need for additional information, drafts memorandum listing additional information needed and forwards to MMU Supervisor within seven days after close of public comments.</p> <p>Files draft memorandum on recommendations for additional information needed in Application File.</p>
MMU Supervisor	<p>53. Within three days after receipt, reviews recommendations for additional information needed; drafts letter to applicant requesting additional information and forwards to OGS Chief, and copies GSS Supervisor.</p> <p>Files draft letter requesting additional information in Application File.</p>
OGS Chief	<p>54. Within three days after receipt, finalizes letter requesting additional information and sends to applicant.</p> <p>The 28-day period to make a proposed decision is tolled until the applicant submits to the DEQ the specified information and the DEQ reviews the information.</p> <p>Files final letter requesting additional information in Application File.</p>

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- | RESPONSIBILITY | ACTION |
|-------------------------|---|
| MMU Supervisor | 55. Arranges for letter requesting additional information to be posted on DEQ Web site. |
| OGS Chief | 56. Receives applicant's response to letter requesting additional information; forwards immediately to Mining Team Coordinator and MMU Supervisor.

Note: Part 632 is silent on what additional public comment opportunities should be provided when additional information is requested of an applicant under MCL 324.63205(9). It is the intent of the DEQ to clarify this issue through development of an appropriate policy with stakeholder input. |
| MMU Supervisor | 57. Arranges for response to letter requesting additional information to be posted on DEQ Web site and placed at same locations as application (see Step No. 10).

Files response to letter in Application File. |
| Mining Team Coordinator | 58. Within three days of receipt, forwards applicant's response to letter requesting additional information to applicable members of Mining Team and schedules meeting of Mining Team if necessary. |
| Mining Team Members | 59. Provide to Mining Team Coordinator recommendations as to whether Mining Permit should be granted or denied by the following dates:
a. Within 14 days after the close of public comments pursuant to the public hearing, if no additional information is required of the applicant.
b. Within three days after receiving applicant's response if additional information is required of the applicant. |

FINAL PERMIT DECISION

- | | |
|-------------------------|--|
| Mining Team Coordinator | 60. Drafts memorandum relating Mining Team recommendation on final permit decision within three days after receiving recommendations from Mining Team members.

Schedules de-briefing meeting with the OGS Chief.

Files memorandum in Application File. |
| MMU Supervisor | 61. Within three days after receipt, reviews memorandum on Mining Team recommendations on final permit decision; forwards to OGS Chief with recommendations, and copies GSS Supervisor. |

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RESPONSIBILITY	ACTION
OGS Chief	62. Reviews and finalizes Mining Team recommendations on final permit decision within three days of receipt from MMU Supervisor, and forwards to Deputy Director.
Deputy Director	63. Issues final permit decision within three days of receipt from OGS Chief, and returns to MMU Supervisor through OGS Chief.
MMU Supervisor	64. Arranges for summary and response to public comments pursuant to public hearing, final permit decision, and Mining Permit (with final permit conditions) or denial letter, as applicable, to be posted on DEQ Web site and copies placed at same locations as application (see Step No. 10).
MMU Supervisor	65. By the following dates, arranges for all documents except Mining Permit and final permit conditions to be removed from DEQ Web site, and notifies responsible person at public library or other public building and the township where documents have been placed (as identified in Step No. 10), that the documents may be removed or discarded: a. Sixty to 75 days after issuance of the final permit decision, if no person files a petition requesting a contested case hearing or an appeal to the courts. b. Sixty to 75 days after issuance of a contested case decision, if a contested case hearing is held and no person files an appeal to the courts. c. Ten to 15 days after the court issues a final decision on appeal and all further rights of appeal are exhausted, if an appeal is filed.

Approved: _____



Date: _____

1-2-08