MINNESOTA

# Gas Resources Technical Advisory Committee (GTAC)

**Draft as of November 15, 2024**

# Working Recommendations and Statutory Language for Permitting Gas Resource Development Under a Temporary Regulatory Framework

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# Introduction

The Minnesota legislature enacted legislation on May 22, 2024, directing the DNR to form and lead the Gas Resources Technical Advisory Committee (GTAC). The multi-agency committee was charged with developing recommendations on a temporary regulatory framework for regulating gas projects during rulemaking.

The accidental discovery of helium gas in the northeastern part of the state in 2011 and the result of an exploratory boring in February 2024 by a helium exploration company that shows they could start commercial exploration of helium within the next 12-18 months necessitated the regulatory framework. Specifically, GTAC was required to provide recommendations on the following topics:

- Statutory and policy changes that govern permitting requirements and processes
- Financial assurance
- Taxation
- Boring monitoring and inspection protocols
- Environmental review
- Other topics (e.g. well construction)
- Minimizing environmental impacts and reclamation

GTAC is a committee of representatives of five agencies who have worked together to create the draft recommendations. The agencies are:

- Environmental Quality Board (EQB)
- Department of Health (MDH)
- Department of Natural Resources (DNR)
- Pollution Control Agency (MPCA)
- Department of Revenue (DOR)

The committee is charged with delivering recommendations and proposed legislation to the legislature by January 15, 2025. The committee is required to hold one public meeting on this topic and consider testimony from stakeholders and Tribes.

The process for developing the recommendations and legislation has included convening the agencies that formed GTAC, engaging gas exploration consultants, holding committee meetings, developing draft recommendations. Moving forward the process includes engaging Tribes and stakeholders, holding public meetings, and finalizing the draft recommendations.

## GTAC Recommendations

Recommendations below are categorized by state agency and are in the following format:

- Agency background
- Recommendation
- Support for recommendation
- Referenced related statutory language

Following the recommendations is drafted statutory language that supports the recommendations.

## Department of Natural Resources

### *Agency background*

The Gas Resources Technical Advisory Committee (GTAC) was directed by its enabling legislation to make recommendations "…relating to the production of oil and gas in the state to guide the creation of a temporary regulatory framework that will govern permitting before the rules authorized in Minnesota Statutes, section 93.514, are adopted." Recommendations are required by the enabling legislation to address statutory and policy changes for the following:

- Permitting requirements and processes;
- Financial assurance;
- Taxation;
- Boring monitoring and inspection protocols;
- Environmental review; and,
- Other topics that provide for gas and oil production to be conducted in a manner that will reduce environmental impacts to the extent practicable, mitigate unavoidable impacts, and ensure that the production area is restored to a condition that protects natural resources and minimizes harm and that any ongoing maintenance required to protect natural resources is provided.

The Department of Natural Resources has recommendations that cover most of these required topics. A breakdown of covered topics and the associated DNR recommendations is provided in the following table:

| **Required Topic** | **DNR Recommendations** |
|---|---|
| Permitting requirements and processes | Recommendations DNR-3 to DNR-13 |
| Financial assurance | DNR 14 to DNR-17 |
| Taxation | No DNR recommendations on this topic |
| Boring monitoring and inspection protocols | No DNR recommendations on this topic |
| Environmental review | DNR-11 |
| Other topics | DNR-1, DNR-2 |

The DNR is also making recommendations for topics that weren't identified in the enabling legislation, but are needed to support a temporary regulatory framework for permitting gas resource development projects during rulemaking:

- Pooling and Spacing (recommendations DNR-18 to DNR-28)
- Gas development on forfeited severed mineral interests (recommendation DNR-29)

***Recommendation DNR-1: Focus on gas resource development during construction of a temporary regulatory framework and during expedited rulemaking.***

**Recommendation**
N-ewly proposed or amended statutes and rules developed under expedited rulemaking should focus solely on the development of the state's gas resources.

**Draft statutory language:** Chapter 93.

**Rationale-**
There is not currently any indication that there are crude oil resources in the state (see Minnesota Geological Survey, 1984), and there's currently no industry interest in drilling for oil in Minnesota. Since Minnesota does have a known helium resource and there is high potential for natural hydrogen resources, the state should focus statutory and rulemaking efforts on gas production. If crude oil resources are discovered, or there is future interest in oil exploration in the state, the statutes and rules for gas production could be amended later to include oil.

## Gas Wells

***Recommendation DNR-2: Give MDH rulemaking authority for the sealing of gas wells.***

**Recommendation**
DNR recommends that statutory language requiring the commissioner of natural resources to write rules for "conversion of an exploratory boring to a production well" and "well abandonment" be struck.

**Draft statutory language:** 93.414

**Rationale**
MDH is recommending that "natural gas" be removed from the statutory definition of exploratory boring, and that it be given rulemaking authority for gas wells irrespective of their identified purpose (i.e. exploration, appraisal, or production). In line with that recommendation, the DNR proposes that the statutory language requiring it to write rules for converting an exploratory boring into a production well should be struck, as it will no longer needed.

MDH also recommends that it be given rulemaking authority for the abandonment of gas wells, providing it the same kind of regulatory oversight that it currently holds for water wells and exploratory borings. The DNR therefore recommends that statutory language requiring it to write rules for well abandonment also be struck (with that authority transferred to MDH). This will provide for a single set of rules governing the proper sealing of all gas wells, including wells that failed to yield commercial quantities of gas (i.e. "dry holes"), or gas wells that an operator chose not to put into production, for one reason or another.

The abandonment of gas production wells falls within the scope of reclamation activities and financial assurance requirements that are under DNR's purview. A person that applies for a gas resource development permit will be required to include well abandonment within their required reclamation plan, and the cost of abandoning those well must be included within the reclamation cost estimate that is subject to financial assurance (guaranteeing that funds will be available to seal the wells if they are abandoned or orphaned by the operator). Under a gas resource development permit, an operator desiring to seal one or more of their gas wells will be directed to notify the department of health and

follow MDH well sealing requirements. Project closure and the release of financial assurance that targets well sealing will not be provided until MDH notifies DNR that the gas wells have been properly sealed.

## Permitting and Related Processes

***Recommendation DNR-3: Use existing statutes and rules for permitting mine projects in Minnesota as a model for establishing comparable permitting requirements and policies for gas resource development projects.***

**Recommendation**

Use the framework in existing statutes and rules for the evaluation and permitting of nonferrous mining projects as a model for the creation of new statutes related to gas resource development. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.51710 to 93.5179

**Rationale**

Minnesota lacks a regulatory framework for permitting gas resource development projects. It does, however, have a robust regulatory framework for permitting other types of mineral resource production, such as nonferrous metallic mine projects (see Mn Statutes 93.44-93.51, Mn Rules Chapter 6132). While DNR could recommend a regulatory framework that is created from scratch and patterned after the permitting requirements and procedures in other U.S. states (e.g. North Dakota, Colorado, Michigan) the DNR believes that new statutes and rules for permitting gas resource development in Minnesota should closely follow comparable regulations for evaluating and permitting mining projects, with modifications as needed to reflect the differences between gas resource development and the mining of solid minerals. This approach provides:

- a degree of uniformity in how natural resource development projects are evaluated and, if they meet all requirements, permitted;
- statutory language and rules that are familiar to the legislature and Minnesotans, and,
- a regulatory design that has been tested in the courts.

***Recommendation DNR-4: Permits for gas resource development projects should be required before gas wells are drilled.***

**Recommendation**

Permits for gas resource development projects should be required before a gas well is drilled, rather than after drilling but before that gas well goes into production and extracts commercial quantities of a gas resource. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.51711, Subd. 11 and 93.5174

**Rationale**

DNR recommends a permitting process to be completed by DNR for a gas well project This process will require environmental review. Once a gas development project permit is approved by DNR, then the

permittee will submit notification to MDH so MDH is made aware of the proposed gas wells and can inspect the construction of the gas well to ensure protection of public health and groundwater.

Some may suggest that drilling of gas wells be treated similarly to mineral exploration borings. The drilling of exploratory borings is not subject to environmental review and permitting requirements in state law. There are substantive differences between the drilling of a gas production well and a mineral exploration boring. Mineral exploratory borings are used to discover and define a subsurface resource but aren't used to extract that resource during the production phase. Conducting permitting (and environmental review) before a well is drilled ensures that all proper environmental and public health and safety measures are in place for production of that well an allows an operator to bring that gas well into production relatively quickly, since it avoids a pause between drilling a gas well and being permitted to put the well into production.

### *Recommendation DNR-5: Permits for gas resource development projects should apply to "gas resource development locations," where gas development operations disturb the ground surface.*

**Recommendation**

A gas resource development permit should be required whenever gas resource development operations would disturb the ground surface. These areas, defined as "gas resource development locations," are distinct from spacing units or extraction areas that are the undisturbed surface expression of subsurface gas extraction. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5174

**Rationale**

Gas wells are typically drilled on drill pads up to ten acres in size and, if the gas well goes into production, the site might be in operation for several years. As a result, the DNR is recommending that environmental review and permitting take place at gas resource development locations before any drilling takes place. DNR recommends and that these evaluations assess all gas resource development locations, including proximal ancillary buildings such as centralized gas enrichment plants that don't sit on a gas well's drill pad.

### *Recommendation DNR-6: The extraction of gas resources should be limited to gas wells at permitted gas resource development locations.*

**Recommendation**

The extraction of gas resources from exploratory borings that are located outside of permitted gas resource development locations should be prohibited by statute. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5174

**Rationale**

Gas wells require blowout prevention systems and construction materials and methods that protect workers and the environment from potential risks associated with intersecting pressurized gas reservoirs.

One need not look beyond Minnesota's borders to gather support for this assertion; the 2011 discovery of helium in Minnesota occurred when a drill rig designed for metallic mineral exploration encountered a pressurized gas pocket that, when released, had enough energy to push the drill rod and mud more than 1,700 feet up to the surface, and then launch that drill rod into the air. The construction materials and methods typically used for drilling water wells and exploratory borings are also suboptimal for the production of gas resources, which increases the risk of groundwater impacts and cross-aquifer contamination. It therefore makes sense to limit gas production to gas wells located at permitted gas resource development locations. This ensures that operators looking to construct gas wells use the appropriate drilling equipment, materials, and methods, and that their drill locations are appropriately sited and permitted.

### *Recommendation DNR-7: The application fee and annual development fee for gas resource development projects should mirror comparable fees for nonferrous mine projects.*

**Recommendation**

The DNR recommends a $50,000 application fee for a gas resource development permit as well as the ability to assess supplemental fees to cover the costs of reviewing an application above the application fee amount. The DNR also recommends that permittees for gas resource development projects pay a $75,000 annual permit fee. These recommendations would apply to both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5175

**Rationale**

The DNR's recommended $50,000 application fee for a gas resource development permit, matches the application fee paid for a permit to mine for a nonferrous metallic minerals operation (93.481). This fee is, in practice, not so much a fee as it is an advance payment for the costs incurred by the DNR to review a permit application and prepare a draft permit. When the DNR determines the reasonable costs, the $50,000 application fee is subtracted from the total, and the applicant is assessed the balance (if due). The purpose of this application fee is to demonstrate firm intentions by the applicant, and to cover agency costs if the applicant decides to withdraw their application before a supplemental application fee is paid (but after the agency has incurred staff time and costs).

Should the reasonable costs of reviewing and preparing a gas resource development fee be less than the nonrefundable application fee, the remaining money may be used by the commissioner to cover the indirect costs incurred by the agency that may not be readily identifiable but are nonetheless necessary for permit review and preparation (e.g. wages for operational services, business office and administrative staff, office rent, equipment). A much more direct cost that is not assessed to permit applicants are costs of responding to lawsuits filed after a permit decision has been made. The $50,000 application fee paid by one nonferrous mine permittee, for example, has been dwarfed by orders of magnitude by the legal fees paid by the DNR to defend the related permit decision in court.

In Minnesota, annual permit fees for mining projects defray the salary costs incurred by the DNR to administer the permitted operations and complete tasks such as site inspections and the review of annual reporting. It is similar in scope and purpose to a supplemental application fee, except that it is a set fee that varies based on the type of mining operation involved. Annual permit fees range from $1000

~~per year for peat mining to $75,000 for nonferrous metallic mining operations. This range reflects the amount of staff time required to administer a permit, but also reflects, in part, the value of the natural resource that is developed under the permit.~~

The DNR recommends that permittees for gas resource development projects pay the same $75,000 annual permit fee charged for nonferrous metallic mining projects. While this is most likely higher than annual fees assessed to operators of oil and gas projects in other U.S. states, there are multiple reasons why this amount is justified:

- In most states with oil and gas resources, the programmatic costs of regulating oil and gas production can be borne by dozens or even hundreds of operators who are producing oil and gas from thousands of wells. In Minnesota, there is currently only one operator developing a potential gas resource, and it is uncertain whether the number of operators and gas wells and gas resource development projects will grow dramatically anytime soon.
- Gas resource development is a nascent industry in Minnesota, with a regulatory framework that is just as new. The costs required to build out a regulatory program of staff with expertise in gas resource development are not experienced in states with a mature oil and gas industry.
- Some states that do not charge annual permit fees for their gas regulatory programs and instead generate program-supporting revenue by other means, such as a production-based fee (e.g. Michigan), or a severance tax on oil and gas development (e.g. North Carolina). At this time, the DNR is not proposing a dedicated revenue stream linked to gas production.
- Finally, as mentioned above, the range of annual mine permit fees reflects, in part, the value of the resources being produced. A helium development company working in Minnesota has suggested that production from gas wells tapping into a helium-rich gas reservoir could potentially generate as much as a million dollars per day per well. That type of revenue generation from natural resource development is far more in line with nonferrous metallic mining projects than, by comparison, peat mining.

***Recommendation DNR-8: Gas resource development permits issued during rulemaking and under a temporary regulatory framework should continue to remain valid after the completion of the rulemaking process. If a gas resource project permitted under the temporary framework requires a permit amendment or substantively changes its operations after rules are promulgated, their permit would then need to be updated to reflect the permanent regulatory framework.***

**Recommendation**

Gas resource development permits issued under a temporary regulatory framework should not be considered temporary, such that they would expire once rules for a permanent regulatory framework were promulgated. A person receiving a gas resource development permit should be able to operate under those permit conditions throughout the lifetime of their project, unless or until they require a permit amendment. At that point, a new permit would need to be issued based on the permanent regulatory framework.

**Draft statutory language:** 93.513 Subd. 2; 93.5174, Subd. 2.

**Rationale**

The enabling legislation for creating a regulatory framework for gas resource development in Minnesota instructed the DNR to provide recommendations and draft statutory language that would, if acted by the legislature, create a temporary regulatory framework that would, "support the issuance of permits issued under the temporary framework in a manner that benefits the people of Minnesota while adequately protecting the state's natural resources." (Laws of Minnesota 2024, Ch. 116, Art. 3, Secs. 55).

The phrase "temporary permit" could mean: a) a permit issued under the temporary regulatory framework, b) a permit that is revoked once rules are promulgated, and the temporary regulatory framework is replaced by a permanent framework, or c) the permit is only valid for a fixed period of time, irrespective of the term requested by the permittee (93.5174, Subd. 4.). The DNR recommends that the word "temporary" be removed from the phrase "temporary permit," to make clear that a permit issued during rulemaking will not be limited to a term less than what is proposed by the applicant, nor revoked once rules are promulgated.

Given the significant costs and the unproven nature of gas resources in Minnesota, it is important to offer a clear regulatory path to a person considering exploring for or developing gas resources in our state. The risks that a permanent regulatory framework for gas resource development would be dramatically different than a temporary framework might be a strong disincentive to invest in a project if the permittee was forced to reapply for a new "permanent" permit once rules were promulgated. The benefit of being allowed to develop gas resources before rules are promulgated would also be limited by time; a permittee might only have a year or two to develop gas resources under the known regulatory framework. On balance, a prudent operator might decide to delay investing in gas resource development until rules are promulgated.

The legislature clearly desired a viable mechanism for enabling the permitting of gas resource development projects during rulemaking. We believe that a viable permitting mechanism requires a permit that doesn't expire within months of being issued. To provide a level of regulatory certainty, a permit issued under the temporary framework should be for a term proposed by the applicant and determined necessary by the commissioner for the completion of the proposed gas resource development plan, including reclamation or restoration.

The rights of a permittee holding a permit issued under a temporary framework should not be absolute. While they should be allowed to operate under the permit terms, even after new rules are promulgated, the benefits of operating under the temporary framework should only extend to the project that was permitted under that temporary framework. If a permit amendment is required after rules are promulgated, it is reasonable to require the permittee to apply for a new permit under the permanent regulatory framework that covers their entire operation (instead of just that portion that triggered the need for a permit amendment). A permittee could continue operations under the original permit terms during this new permit application.

***Recommendation DNR-9: A temporary regulatory framework for permitting gas development projects should include the same setbacks and separations used for nonferrous mining projects. The statutory language related to setbacks and separations should sunset once siting rules for gas resource development projects are promulgated.***

**Recommendation**

For the sunsetting statutory language Statutes that include regulatory language normally found in rules should be enacted to facilitate a robust temporary regulatory framework for permitting gas production projects. This "sunsetting" statutory language would only be in effect until rules are promulgated. For permitting gas resource development projects, the sunsetting statutory language should include the setbacks and separations used for non-ferrous mining projects.

**Draft statutory language:** 93.5174, Subd. 8.

**Rationale**

Statutes for permitting and related processes aren't normally meant to create a regulatory framework for natural resource development all on their own. Rules derived from statutes are needed for an effective framework for permitting gas resource development projects. That said, rules aren't available for a temporary regulatory framework. Statutes that include regulatory language normally found in rules are therefore necessary to construct an effective temporary regulatory framework. This "sunsetting" statutory language would only be in effect until rules are promulgated. For permitting gas resource development projects, the sunsetting statutory language needs to cover siting considerations and setbacks, preproduction reports, and annual reporting requirements.

Legislation passed in May 2024 requires the commissioner to develop rules for siting gas resource development projects (93.514). Gas resource development locations need to be at sites that minimize adverse impacts on natural resources and the public, with setbacks or separations that are needed to comply with environmental standards, local land use regulations, and requirements of other appropriate authorities.

During rulemaking, tailored setbacks or separations for gas resource development projects will be established that reflect the nature and scope of gas resource development operations at gas resource development locations. For the purposes of a temporary regulatory framework during permitting, the DNR proposes that the separation and setbacks established for nonferrous mining projects (6132.2000) be applied to gas resource development locations. While the potential impacts of gas resource development will likely be different than nonferrous mining projects, they are not likely to present higher risks (particularly for helium development, which is the most likely project to be permitted during rulemaking).

***Recommendation DNR-10: A temporary regulatory framework for permitting gas development projects should include annual reporting requirements that are modeled after those used for nonferrous mining projects. This statutory language regarding annual reporting should sunset once annual reporting rules specific for gas resource development projects are promulgated.***

**Recommendation**

Statutes for the temporary permitting of gas resource development projects should include annual reporting requirements that are modeled after existing statutes and rules. Since this type of language is normally found in rules, the temporary annual reporting statute should sunset once rules are promulgated.

**Draft statutory language:** 93.5174, Subd. 8.

**Rationale**

Statutes for permitting and related processes aren't enough on their own to create a robust temporary regulatory framework for permitting gas resource development projects during rulemaking. Statutes that include regulatory language normally found in rules are necessary to construct an effective temporary regulatory framework for permitting gas production projects. This "sunsetting" statutory language would only be in effect until rules are promulgated.

During rulemaking, tailored rules for annual reporting requirements for gas resource development projects will be established that reflect the nature and scope of gas resource development operations at gas resource development locations. For the purposes of a temporary regulatory framework during permitting, the DNR proposes that annual reporting requirements for permitted gas production projects model those used for nonferrous mining projects (see 6132.1300).

***Recommendation DNR-11: Prior to commercial production of gas resources, a gas resource development permittee should be required (as a permit condition) to submit to the DNR pump test data and other information derived from the gas wells drilled under the permit. The data will be used to determine whether the associated spacing units and pool areas should be adjusted. This recommendation is only for the temporary regulatory framework, with sunsetting statutory language that expires once rules are promulgated.***

**Recommendation**

The DNR recommends that prior to commercial production of gas resources, a permittee must (as a permit condition) submit to the commissioner pump test data and other information derived from the gas wells drilled under the permit. The data will be used to determine whether the associated spacing units and pool areas should be adjusted. This recommendation is only for the temporary regulatory framework, with sunsetting statutory language that expires once rules are promulgated.

**Draft statutory language:** 93.5174, Subd. 8.

**Rationale**

An operator that proposes a gas resource development project has to identify the amount of gas their project would extract, and where those gas resources would come from (in three-dimensions). This information is critical for establishing spacing units, issuing pooling orders, and to prevent unnecessary draining of reservoirs, prevent waste, and protect human health and the environment. When permits are issued and spacing units established before the operator drills their gas wells, the engineering and geological data needed to determine production rates and extraction areas must be estimated. In established or mature well fields, there might be logs and data available from dozens or even hundreds of wells drilled into the same reservoir, which allows operators to estimate with a great deal of accuracy the production rates and extraction areas of their new gas wells. Minnesota does not have a history of gas production within established well fields in the state, or even (at present) a good understanding of where gas resources might be located, or the size and shape of any gas reservoirs. This will increase the uncertainty of applicant-provided estimates for production and extraction areas.

Until more information is available about the nature and extent of Minnesota's gas resources, the DNR recommends that gas resource development permittees submit to the commissioner, as a permit condition, a pre-production report that includes the engineering and geological data obtained from any

gas wells drilled as part of their project (whether or not the permittee plans to take a gas well into production). The report must compare the hard data obtained from their gas wells against any estimates submitted to the commission before drilling. The commissioner will use the data to evaluate potential changes to an established spacing unit or pool unit and consider the potential impacts of bringing the project into production.

***Recommendation DNR-12: A person applying for a gas resource development permit or permit amendment should be assessed fees to recover the costs incurred for environmental review.***

**Recommendation**

The DNR should assess the proposer of a gas resource development project the reasonable costs of preparing, reviewing, and distributing a mandated environmental assessment worksheet. No environmental review shall commence until this fee has been paid, and no state agency may issue a permit for a gas resource development project until the final costs of this environmental review have been paid in full.

This recommendation applies to both a temporary regulatory framework for permitting gas production projects during rulemaking, and the permanent regulatory framework once rules are promulgated. As a result, the draft statutory language associated with this recommendation does not contain sunset provisions.

**Draft statutory language:** 93.5176

**Rationale**

The EQB is recommending that a mandatory Environmental Assessment Worksheet (EAW) be prepared for a gas resource development permit application under the temporary regulatory framework (see EQB Recommendation EQB-1).

Minnesota statutes currently direct a responsible governmental unit (RGU) to assess the proposal of a specific action its reasonable costs for preparing, reviewing, and distributing an environmental impact statement (EIS) (116D.045 Subd. 1.). The RGU cannot start work on the EIS until at least one-half of the assessed cost has been paid, and no permit can be issued by a state agency for the proposer's projects until a final EIS decision is made and the full costs of completing the EIS have been paid.

Comparable statutory language does not exist for payment by a project proposer of the reasonable costs of preparing, reviewing, and distributing an environmental assessment worksheet. As a result, those costs are borne by the RGU. We therefore recommend that the reasonable costs of preparing an EAW for gas production projects be borne by the applicant.

Gas resource development is new to Minnesota, so our environmental review staff don't have the background and can't draw on previously completed EAWs for similar projects. Review and preparation of an EAW for this sector will take more time and effort, but after doing the first one, potentially during rulemaking, we'll have a much better idea of required time and effort.

***Recommendation DNR-13: Contested case hearing***

**Recommendation**
Procedures set in statute for contested case hearings for nonferrous permits-to-mine should be adapted for challenges to gas resource development permit decisions.

**Draft statutory language:** 93.5176

**Rationale**
A landowner who believes that a nonferrous metallic mine project will adversely affect them, or any federal, state, or local government having responsibilities affected by a proposed nonferrous mine project may file a petition with the commissioner to hold a contested case hearing on a completed permit application (93.483). If a petition is granted, disputed aspects of the permit decision can be heard by a neutral administrative law judge, who can then, based on the facts, make a recommendation to the commissioner on whether the permit should be issued (with or without modification) or rejected. The DNR believes, as a matter of consistency, that the same opportunities to dispute facts used to make nonferrous mine permit decisions should be provided for gas resource development permits.

## Financial assurance

***Recommendation DNR-14: Financial assurance requirements for a gas resources development projects should as a guide, follow similar financial assurance processes for nonferrous metallic mining projects.***

**Recommendation**
The financial assurance requirements for gas resource development projects should largely mirror established statutes and rules for financial assurance of nonferrous metallic mining projects. This recommendation is for both the temporary and regulatory frameworks.

**Draft statutory language:** 93.5177

**Rationale**
Minnesota lacks a regulatory framework for requiring financial assurance for gas resource development projects. It does, however, have a robust regulatory framework for financial assurance for other types of mineral resource production, such as nonferrous metallic mine projects (see Mn Statutes 93.44-93.51, Mn Rules Chapter 6132). The DNR believes that new statutes and rules for gas resource development financial assurance in Minnesota should closely follow comparable regulations for mining projects, with modifications as needed to reflect the differences between gas resource development and the mining of solid minerals. This approach provides:

- a degree of uniformity in how natural resource development projects are financially assured;
- statutory language and rules that are familiar to the legislature and Minnesotans; and,
- statutory approach that has been tested in the courts.

The statutes and rules for nonferrous mine projects were established in the absence of active mine projects (as is the case for permitting gas resource development projects) and offer a clearer, robust regulatory framework.

Some might argue that would be inappropriate to apply nonferrous financial assurance rules for gas resource development projects, given the large differences in scope and scale between a large metallic mine project and a gas resource development project that could be as small as one gas well and one gas

enrichment plant on one drill pad. This recommendation, however, focusses on the overall structure and scope of the financial assurance processes, and allows for customization.

***Recommendation DNR-15: Financial assurance requirements should not rely upon corporate guarantees.***

**Recommendation**

The DNR recommends that corporate guarantees not be accepted as a stand-alone financial assurance instrument for gas resource development projects. This recommendation is for both the temporary and regulatory frameworks.

**Draft statutory language:** 93.5177 Subd. 2

**Rationale**

Financial assurances are a source of funds to be used by the DNR if the permittee fails to perform:

- Reclamation activities including closure and post-closure maintenance needed if operations cease; and
- Corrective action as required by the DNR if noncompliance with engineering design and operating criteria occurs.

Corporate guarantees are one type of financial assurance instruments that allow a company to rely on its own financial strength to provide assurance that it can and will meet its reclamation obligations. Using this type of instrument requires having the necessary expertise to monitor and evaluate a company's corporate structure assets, liabilities, and net worth to oversee such guarantees.

History shows that some companies are unable to meet corporate guarantee obligations, not having the financial capability to guarantee reclamation performance. Modern financial assurances include reclamation bonds and irrevocable letters of credit (ILOC), trusts and other bank issued financial assurance instruments to address reclamation and corrective action needs. Modern financial assurance instruments such as these are not dischargeable during a bankruptcy. Unlike modern financial assurance instruments, corporate guarantees typically do not allow regulators to access a specific financial asset if the operator cannot meet its reclamation obligations. Additionally, corporate guarantees can require considerable administrative oversight or reliance by third party auditors and are not recommended financial assurance instruments for other types of natural resource developments regulated by the DNR.

While the DNR does not recommend the use of corporate guarantees as a stand-alone financial assurance instrument, they can be useful in providing added layers of corporate accountability to a more comprehensive financial assurance package that includes modern financial assurance instruments as the primary sources of protection.

***Recommendation DNR-16: Allow money collected as part of financial assurance for gas resource development permits to be invested by the State Board of Investment.***

**Recommendation**
The DNR recommends that any money collected as part of financial assurance for gas resource development projects be allowed to be invested by the State Board of Investment.

**Draft statutory language:** 11A.236

**Rationale**
Under current statute, the State Board of Investment, when requested by the commissioner of natural resources, may invest money collected by the commissioner as part of financial assurance provided under a metallic mineral permit to mine. That money is then allowed to gain investment earnings, rather than sit in a non-interest-bearing account, typically for several years. The DNR recommends that money collected as part of financial assurance for gas resource development projects be similarly allowed to be invested by the SBI, for the same purposes and benefits.

***Recommendation DNR-17: Add statutory language for financial assurance under a temporary regulatory framework that sunsets once rules are promulgated.***

**Recommendation**
To support a temporary regulatory framework for permitting gas resource development projects during rulemaking, new statutory language is recommended that would only be in effect until rules are adopted for financial assurance requirements for gas production projects, as required under 93.514.

**Draft statutory language:** 93.5177 Subd. 3

**Rationale**
Financial assurance requirements for mining projects in Minnesota are established by statutes and rules. The statutes alone, if adapted for permitting gas resource development projects, would not be sufficient for a temporary regulatory framework. The GTAC recommendations for that temporary regulatory framework can only be taken up by the legislature in statutory language. One way to address this is to take regulatory language that would normally be in rules and place it within a statute that sunsets once rules for financial assurance for gas production projects are promulgated. GTAC's recommended statutory language for financial assurance within the temporary framework (93.5177 Subd. 3) includes a sunsetting subdivision that accomplishes that goal.

## Correlative Rights, Pooling, and Spacing Units

***Recommendation DNR-18: The correlative rights of the owners of a shared gas resource should be protected.***

**Recommendation**
The DNR recommends that a statutory definition be provided for correlative rights, and that the protection of correlative rights be identified as a compelling state interest within a declaration of state policy and called out when appropriate in statutory language covering pooling and spacing units for gas resource development projects. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5151; 93.5152, Subd. 4.; 93.5152, Subd. 3 and Subd. 4.; 93.5172

**Rationale**

"Correlative rights" means that each owner and producer in a common pool or source of supply of gas must have an equal opportunity to obtain and produce the owner's or producer's just and equitable share of the gas underlying the pool or source of supply. This is the antidote to “Rule of Capture” and protects landowner interests. Respect for the correlative rights of all owners of mineral interests within a gas resource development area is cornerstone of establishing spacing units and issuing pooling orders.

***Recommendation DNR-19: The DNR commissioner should be given statutory authority to establish or modify spacing units, with each spacing unit including the maximum area that can be efficiently and effectively extracted by an operator’s gas well or set of gas wells. The commissioner should also have statutory authority to modify those spacing units when warranted.***

**Recommendation**

The DNR recommends that the DNR commissioner be given statutory authority to establish spacing units, with each spacing unit including the maximum area that can be efficiently and effectively extracted by an operator’s gas well or set of gas wells. The commissioner should also have statutory authority to modify those spacing units when warranted. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5152.

**Rationale**

While the commissioner of natural resources has rulemaking authority to adopt rules governing the spacing of gas wells to regulate the density of drilling to prevent unnecessary draining of a gas reservoir and to prevent economic waste of products from gas wells (93.515), there is no statutory authority for the commissioner (or any other entity) to actually establish spacing units that support this goal. The DNR believes that the authority to create or modify spacing units for the development of gas resources should be derived from statute, rather than rule. And since the legislature gave the commissioner of natural resources rulemaking authority over spacing units, it follows that the commissioner also be given the authority to establish or modify spacing units that encompass the maximum area that can be efficiently and effectively developed by an operator’s gas well or set of gas wells.

***Recommendation DNR-20: The DNR commissioner should have statutory authority to determine the process for establishing operator-proposed spacing units, and to collect an application fee for operator-proposed spacing units.***

**Recommendation**

The DNR recommends that the commissioner of natural resources be given statutory authority to establish a process by which a person can propose the creation of a spacing unit. This authority includes, but is not limited to, identifying application requirements, determining the timing of applications if they are part of a gas resource development permit application, reviewing and approving spacing unit applications, and altering the size or shape of an established spacing unit, as necessary to ensure that a spacing unit closely matches the maximum area that could be drained by the operator’s gas well or set of wells. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5152.

**Rationale**

This recommendation covers a lot of ground. It gives the commissioner statutory authority to create spacing units, by determining how an applicant can propose a spacing unit for their wells or set of wells, as well as the information that needs to be included in that application. It gives the commissioner standards for approving spacing unit applications, and the right to alter the size and shape of an established spacing unit if new information comes to light about the maximum area that could be drained by the operator's gas wells or set of wells. While all of this might be implied should the commissioner be given statutory authority to establish spacing units, the intention of this recommendation is to provide clarity.

Establishing spacing units is prerequisite to issuing pooling orders, and both are required to protect correlative rights of landowners within a gas well's extraction area.

***Recommendation DNR-21: Allow landowners to voluntarily pool their mineral interests for the joint development of a shared gas resource.***

**Recommendation**

The DNR recommends that the rights of landowners to voluntarily pool their mineral interests for the joint development of a shared gas resource be recognized in statute. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5153, Subd. 1.

**Rationale**

The best way to fully protect the correlative rights of landowners with mineral interests within a spacing unit is to encourage (or, at a minimum, allow) the landowners to voluntarily pool those interests for the joint development of gas resources with that spacing unit. Most gas leases offered to private landowners include provisions that allow the lessee to pool the leased mineral interests with other landowners, without government order or intervention. The DNR also expects to have voluntary pooling provisions within negotiated gas leases issued for state-managed mineral rights.

***Recommendation DNR-22: In the absence of voluntary pooling, allow a person that owns or has secured the consent of the owners of at least fifty percent of the mineral interests within a spacing unit to apply to the DNR commissioner for a pooling order that would combine all of the mineral interests within a spacing unit for the development of gas resources within that unit. In a related action, give the DNR commissioner statutory authority to issue pooling orders, and authority to determine the application process for pooling orders. DNR also recommend that fees for involuntary pooling order applications be set in statute.***

**Recommendation**

The DNR recommends that the commissioner of natural resources be given statutory authority to issue pooling orders that allow for the equitable and efficient development of gas resources while minimizing waste and the drilling of unnecessary wells. A person that owns or has secured the consent of the owners of at least fifty percent of the mineral interests within an established spacing unit should be able to apply for a pooling order that would combine all of the mineral interests within a spacing unit for the development of gas resources within the unit. The DNR also recommendations that the commissioner be given statutory authority to determine the application process for pooling orders and the required

components of the application, and that application fees for pooling orders be set in statute. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5153. Subd. 2. thru Subd. 4.

**Rationale**

Spacing units established by statute will encompass the maximum area that can be efficiently and effectively developed by an operator's gas well or set of gas wells. If all mineral interests within that spacing unit are owned by the operator, then there is no need to pool the ownership interests within that spacing unit, since there is only one owner. If there is more than one owner of mineral interests within the spacing unit, and if all of the owners agree to jointly develop the gas resources, then there is no need for the state to pool the ownership interests, since they would already be voluntarily pooled. However, if there are owners within the spacing unit that are unwilling to have their equitable share of the gas resource developed, or refuse to jointly develop the identified gas resource, then the state may have a compelling interest to pool the interests of both consenting and nonconsenting owners, subject to the conditions identified by statute. Pooling prevents wasteful and scattered gas resource development and the drilling of unnecessary wells, and keeps the decisions of nonconsenting owners from infringing on the right of their consenting neighbors to develop their proportionate share of the gas resource. Pooling orders necessarily protect the correlative interests of nonconsenting owners, who are still provided an equitable share of the profits from gas resource development.

The DNR recommends that a person applying for a pooling order control at least fifty-percent of the mineral interests within an established spacing unit. Many states do not have a minimum percentage ownership requirement for pooling, while the thresholds in other states are as high as seventy-five percent (based on a 2015 state-by-state summary of pooling and spacing requirements). DNR believes that control of at least one-half of the ownership interests is reasonable, with slight allowances made for the slight variations in acreage within sectional units and subunits that reflect the curvature of the Earth.

***Recommendation DNR-23: To protect the correlative interests of the owners of unleased mineral rights within a spacing unit, processes and procedures must be put in place that allows an owner to challenge a proposed pooling order, and for challenges to be resolved before a pooling order is issued.***

**Recommendation**

The DNR recommends that the rights of the owners of unleased mineral interests within a spacing to challenge a proposed pooling order be protected in statute. Policies and procedures must be put in place by the commissioner to allow for such challenges, and a pooling order should not be issued until a challenge is resolved. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5153. Subd. 5.

**Rationale**

An applicant for a pooling order has to assert that they control at least fifty percent of the mineral interests within a spacing unit. While the state will make a good-faith effort to verify this assertion by reviewing the supplemental information provided by the applicant, the owners of mineral interests located inside a spacing unit should have the right and opportunity to independently challenge those

assertions, and for their challenges to be fairly considered by the commissioner, and resolved before a pooling order is issued.

***Recommendation DNR-24: A gas well should not be drilled before a pooling order is issued for the associated spacing unit.***

**Recommendation**
The DNR recommends that the drilling of a gas well not be permitted until a pooling order tied to that gas well is issued. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5153. Subd. 6.

**Rationale**
With policies and procedures established that allow the owners of mineral interests within a spacing unit to challenge a pooling order application, it makes sense to require the resolution of those challenges before allowing a gas well or set of wells to be drilled. This is because a successful challenge to the assertion made by the applicant that they control at least half of the mineral interests within a spacing unit would prevent a pooling order from being issued (at least until the operator obtains control of enough additional mineral interests to meet the established threshold).

***Recommendation DNR-25: Statutory language should be adopted that describes how pooled mineral interests are managed during gas development operations, and how the correlative interests of nonconsenting mineral interest owners are protected by ensuring they receive a proportionate share of the profits from a gas resource development project.***

**Recommendation**
The DNR recommends that statutory language should be adopted that describes how pooled mineral interests are managed during gas development operations, and how the correlative interests of nonconsenting mineral interest owners are protected by ensuring they receive a proportionate share of the profits from a gas resource development project. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5153. Subd. 8. and Subd. 9.

**Rationale**
Statutory language that sets requirements for the management of pooled mineral interests and describes in sufficient detail the rights and responsibilities of the operator of wells within a spacing unit is needed to protect the correlative interests of both nonconsenting owners of mineral interests within a spacing unit and those landowners who have voluntarily pooled their mineral interests for joint development of a gas resource.

***Recommendation DNR-26: A person applying for a pooling order must present evidence to the DNR commissioner that they have made reasonable offers, in good faith, to lease all of the mineral interests within a spacing unit. They must also prove that they provided each owner relevant information about their ownership interests within the pooled area and informed them about the pooling procedures described in these new statutes and their options under these statutes.***

**Recommendation**

The DNR recommends that person applying for a pooling order must present evidence to the DNR commissioner that they have made reasonable offers, in good faith, to lease all of the mineral interests within a spacing unit. They should also prove that they provided each owner relevant information about their ownership interests within the pooled area, and informed them about the pooling procedures described in these new statutes and their options under these statutes. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5153. Subd. 10.

**Rationale**

This recommendation protects the correlative interests of landowners within a spacing unit by ensuring that the owners of mineral interests that are not under control of the operator were given a fair and reasonable offer to voluntarily pool their interests by accepting a lease offer by that operator. Landowners who refuse to lease their mineral interests should know that their mineral interests could still be included within a state-issued pooling order, understand their rights under that pooling order (including the right to challenge a pooling order application), and realize that they will receive fair compensation for the development of their proportionate share of the pooled gas resource. Requiring the operator to provide a state-created document that explains correlative rights and the pooling order process will ensure that a nonconsenting owner receives the right information and contact information at the DNR if they have any questions.

***Recommendation DNR-27: The operator of gas wells under a pooling order should provide monthly statements to nonconsenting landowners of all costs incurred, together with the amount of gas produced and the proceeds realized from the sale of production during the previous month.***

**Recommendation**

The DNR recommends that the operator of wells under a pooling order in which there is a nonconsenting owner furnish the nonconsenting owner with a monthly statement of all costs incurred, together with the quantity of gas produced, and the amount of proceeds realized from the sale of production during the preceding month.

**Draft statutory language:** 93.5153. Subd. 12.

**Rationale**

This recommendation protects the correlative rights of nonconsenting owners by requiring monthly statements by the operator of wells under a pooling order that provide financial and production data needed to ensure that those rights are protected.

***Recommendation DNR-28: Unleased mineral interests tied to an American Indian tribe or band owning reservation lands in Minnesota or owned by the federal government should be shielded from pooling orders.***

**Recommendation**

The DNR recommends that unleased mineral interests tied to an American Indian tribe or band owning

reservation lands in Minnesota should be shielded by state law from state-issued pooling orders. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.5153. Subd. 7.

**Rationale**

Under federal law, state-issued pooling orders for the development of gas resources do not apply to unleased "Federal or Indian oil and gas." While a state statute that shields unleased American Indian tribe or band owned reservation lands in Minnesota from pooling orders might therefore seem redundant, such a statute would serve as an effective backstop if there were changes to federal law. The recommended application of this proposed statutory language to "American Indian tribe or band owning reservation lands" is based on the statutory language in 93.52, Subd. 2.

We note that this recommendation is only for unleased reservation lands. Tribes are free to lease their mineral interests (including oil and gas rights) to operators seeking to develop gas resources, and operators who are applying for a pooling order for a spacing unit that includes Tribal lands must obtain a lease from the Tribes.

## Gas Development on Forfeited Severed Mineral Interests

***Recommendation DNR-29: Set in statute that commercial extraction of gas resources is prohibited on forfeited severed mineral interests.***

**Recommendation**

The DNR recommends that existing statutory language for forfeited severed mineral interests be amended to say that neither mining nor extraction of gas or other mineral resources can occur on forfeited severed mineral interests until a court determines the forfeiture of those mineral interests to be absolute. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

**Draft statutory language:** 93.55 Subd. 2

**Rationale**

Under current statute, the DNR is allowed to lease forfeited severed mineral interests for mineral exploration and development, but the lessee is barred from mining on those mineral interests until a court determines the forfeiture of those mineral interests to be absolute. While gas resources such as helium or hydrogen are tied to the mineral estate, these gases are not "mined;" instead, gas resources are commonly describes as being "produced" or "extracted" from the subsurface. Amending this statute to say that, "A lessee holding a lease issued under this subdivision may not mine or extract mineral resources under the lease until the commissioner completes the procedures…" clarifies that neither mining solid minerals nor extracting gas resources is allowed on forfeited severed mineral interests until the commissioner of natural resources completes a legal process and, "…a court has adjudged the forfeiture of the mineral interest to be absolute."

## Department of Health

### *Agency background*

Minnesota Statutes, chapter 103I, authorizes the Commissioner of Health to license persons wanting to explore or prospect for natural gas, receive exploratory borings notifications, and regulate the construction of temporary sealing, and permanent sealing of exploratory borings. Minnesota Rules, chapter 4727, provides requirements under the described authorization for the regulation of exploratory borings and persons conducting regulated work. The Minnesota Department of Health (MDH or Department) collects applicable fees for the described work, which supports the inspection of exploratory borings and the protection of public health and groundwater.

February of 2024, a licensed explorer submitted an exploratory boring notification to MDH under the requirements of Minnesota Statutes, chapter 103I, and Minnesota Rules, chapter 4727, communicating the boring was for exploring and prospecting for helium gas. Minnesota Rules, chapter 4727, has no provisions for production of gas from an exploratory boring, nor for the construction of a gas well for production of gas. It is the Department's understanding that boreholes drilled and cased by the gas development industry are not typically for exploration or prospecting but also for gas production. Currently, Minnesota Statutes, chapter 103I, define that exploratory borings are for exploration and prospecting and not for production of gas.

As a direction of the 2024 Minnesota Legislature, MDH became a member of the Minnesota Gas and Oil Technical Advisory Committee (GTAC) because of the Department's regulatory authority over exploration of natural gas and was provided expansive authority for oversight of exploratory boring construction to Minnesota Rules, chapter 4727.

The following recommendations outline the requirements necessary to ensure the safe construction and sealing of gas wells providing protection of public health and groundwater. Included in these recommendations is creating a new rule chapter to regulate gas wells. Most of the recommended requirements are like those in effect for other types of regulated wells and borings.

### *Recommendation MDH-1: Repeal Commissioner of Health's existing authority to explore and prospect for natural gas and oil.*

**Recommendation**
Repeal Commissioner of Health's existing authority to explore and prospect for natural gas and oil under exploratory boring definition within Minnesota Statutes, section 103I.005, subdivision 9, and section 93.514, paragraph a, clause 2.

**Draft statutory language:** Minnesota Statutes, section 103I.005, subdivision 9; Minnesota Statutes, section 93.514, paragraph a, clause 2.

**Rationale**
Other states regulating the extraction and production of natural gas generally use the term "well" rather than "boring". To remain consistent with industry terminology, MDH is recommending repealing the authority to explore and prospect for gas through an exploratory boring. When a well is constructed to explore and prospect for gas, the same well is used to extract natural gas for production. Exploratory borings, regulated by Minnesota Rules, chapter 4727, do not authorize the extraction or mining of

materials and minerals from the subsurface. Thus, extracting gas from an exploratory boring is prohibited under current regulation.

The GTAC authority to submit a recommendation to the legislature (Laws of Minnesota 2024, chapter 116, article 3, section 55) on boring monitoring and inspection is proposed to be repealed. MDH recommends using new rulemaking authority for gas wells to regulate inspections for gas wells.

MDH does not have any indications that there are crude oil resources in the state, and MDH is not aware of any industry interest in drilling for oil in Minnesota. If crude oil resources are discovered, or there is future interest in oil exploration in the state, the statutes and rules for gas production could be amended to include oil.

***MDH-2: Repeal natural gas from the well definition; and grant new rulemaking and fee authority to the Commissioner of Health for the regulation of gas wells.***

**Recommendation**
Repeal natural gas from the well definition within Minnesota Statutes, section 103I.005, subdivision 21. Grant new rulemaking and fee authority to the Commissioner of Health for regulation of gas wells.

**Draft statutory language:** Minnesota Statutes, section 103I.005, subdivision 21; Minnesota Statutes, section 103I.706, subdivision 1; Minnesota Statutes, section 103I.706, subdivision 2.

**Rationale**
MDH is recommending clarification of the exemption in the "well" definition (Minnesota Statutes, section 103I.005, subdivision 21) that a well does not include an excavation made to obtain or prospect for gas. This clarifies the current definition of "well" to refer only to a well accessing groundwater. A new definition for a "gas well" would be created to specifically define a well used for the purposes of prospecting and extracting gas. MDH is recommending newly granted rulemaking and fee authority to clarify and provide comprehensive authority to regulate the construction and sealing of gas wells. Creating a new rule chapter specifically to address the exploration and extraction of gas will allow for distinction between the regulation of gas wells and wells accessing groundwater. Current rulemaking authority for wells and borings under Minnesota Statutes, chapter 103I, do not provide for the construction and sealing of gas wells, nor the extraction of gas from a well.

***Recommendation MDH-3: Ensure a person or company has a license issued by the Commissioner of Health to conduct regulated work on gas wells.***

**Recommendation**
Ensure a person or company has a license issued by the Commissioner of Health to conduct regulated work on gas wells including, construction and sealing.

**Draft statutory language:** Minnesota Statutes, section 103I.706, subdivision 4.

**Rationale**
Existing Minnesota Rules, chapters 4725 and 4727, regulate persons constructing and sealing wells or borings, but not gas wells. MDH is recommending to model licensure and certification requirements for regulated work on gas well after existing rule requirements. A person constructing or sealing gas wells

would be licensed and certified in a manner like an explorer is under existing rule chapter 4727. Ensuring a licensed and certified person conducts regulated work on gas wells is protective of public health and groundwater. This person would be required to meet similar professional experience as an explorer to be licensed and certified.

***Recommendation MDH-4: A person must submit a gas well construction notification and fee for each proposed gas well.***

**Recommendation**
A person must submit a gas well construction notification and fee for each proposed gas well to the Commissioner of Health. A gas well construction notification and fee cannot be submitted to the Commissioner of Health until the person has a valid a gas resource development permit from the commissioner of natural resources.

**Draft statutory language:** Minnesota Statutes, section 103I.706, subdivision 2; Minnesota Statutes, section 103I.707, subdivision 3; Minnesota Statutes, section 103I.706, subdivision 5.

**Rationale**
Prior to a person beginning to drill a gas well, the person must obtain a gas resource development permit from the Commissioner of Natural Resources and must submit a well construction notification to the Commissioner of Health. This allows for Department of Natural Resources review of the gas development project, including environmental review, and provides a mechanism for MDH to be informed of the intent to construct the proposed gas well. The gas well construction notification allows for the Department to plan for and inspect gas well construction to ensure compliance and the protection of public health and groundwater. The construction notification fee will financially support the processing of the received notifications and inspections of gas wells. The proposed gas well notification is like existing notification requirements in Minnesota Rules, chapter 4725, for other well construction.

***Recommendation MDH-5: A person must grant the commissioner of health access to a gas well site to inspect.***

**Recommendation**
A person must grant the Commissioner of health access to a gas well site to inspect the constructing and sealing of a gas well.

**Draft statutory language:** Minnesota Statutes, section 103I.706, subdivision 6.

**Rationale**
MDH has authority to enter a site to inspect a gas well, including the construction and sealing of gas wells. The Department must be able enter gas well sites and inspect gas wells to ensure compliance with Minnesota Statutes to protect public health and groundwater.

***Recommendation MDH-6: A person must notify Commissioners of Health, Natural Resources and the Pollution Control Agency of an occurrence during a construction or sealing of a gas well that has a potential for significant adverse public health or environmental effect.***

**Recommendation**
A person must notify Commissioners of Health, Natural resources, and the Pollution Control Agency of an occurrence during a construction or sealing of a gas well that has a potential for significant adverse public health or environmental effect.

**Draft statutory language:** Minnesota Statutes, section 103I.706, subdivision 7.

**Rationale**
The Minnesota Department of Health, Minnesota Department of Natural Resources, and Minnesota Pollution Control Agency must be made aware of situations that have potential to significantly affect public health or the environment. Upon notification of a situation, these agencies will provide information about required mitigation actions to protect public health and the environment.

***Recommendation MDH-7: A person must not use a gas well to inject or dispose surface water, groundwater, or any other liquid, gas, or chemical.***

**Recommendation**
A person must not use a gas well to inject or dispose surface water, groundwater, or any other liquid, gas, or chemical. MDH is recommending that this does not prohibit the injection of approved drilling fluids and allows for injection and disposal under a Class 2 injection well[1] permit, authorized by the Environmental Protection Agency (EPA).

**Draft statutory language:** Minnesota Statutes, section 103I.707, subdivision 4.

**Rationale**
The injection or disposal of liquids, gases, and chemicals may cause significant contamination to groundwater and risk to public health. Injection or disposal increases the likelihood of introducing contaminants to a drinking water source, adversely impacting water quality and public health. The prohibition on injection or disposal of unapproved liquids, gases, or chemicals is consistent with existing requirements in Minnesota Rules, chapters 4725 and 4727.

***Recommendation MDH-8: A person is prohibited from hydraulic fracturing a gas well.***

**Draft statutory language:** Minnesota Statutes, section 103I.707, subdivision 5.

**Rationale**
Helium gas currently being pursued in Minnesota has been identified in the same geologic formation used for supplying drinking water. Hydraulic fracturing a gas well could connect fractures in the gas well with fractures supplying water to drinking water wells.

***Recommendation MDH-9: A person must ensure that drilling fluids, cuttings, treatment chemicals, and discharge water are disposed of according to federal, state, and local requirements.***

**Recommendation**
A person must ensure that drilling fluids, cuttings, treatment chemicals, and discharge water are

[1] https://www.epa.gov/uic/class-ii-oil-and-gas-related-injection-wells

containerized and disposed of off-site according to federal, state, and local requirements. However, an approved Class 2 injection well permit, authorized by the EPA, may be used.

**Draft statutory language:** Minnesota Statutes, section 103I.707, subdivision 6.

**Rationale**

Improper collection and disposal of drilling fluid, cuttings, treatment chemicals, and discharge water could contaminate soil, groundwater, and surface water. These materials and fluids may contain contaminants that may adversely impact public health or the environment.

***Recommendation MDH-10: Drilling fluids used during the construction of a gas well must be water or air based and additives must meet the requirements of ANSI/NSF standard 60.***

**Recommendation**

Drilling fluids used during the construction of a gas well must be water or air based and additives must meet the requirements of ANSI/NSF standard 60.

**Draft statutory language:** Minnesota Statutes, section 103I.707, subdivision 7.

**Rationale**

Drilling fluids allowed for other wells and borings regulated by MDH under Minnesota Statutes, chapter 103I, and Minnesota Rules, chapters 4725 and 4727, must be potable water with a free chlorine residual or air. Any drilling fluid additives must meet the requirements of American National Standard Institute (ANSI)/National Sanitary Foundation (NSF) standard 60. ANSI/NSF standard 60 establishes the minimum health-effects requirements for chemicals added to drinking and includes well drilling additives. Limiting drilling fluid additives to ANSI/NSF standard 60 approved products reduces the threat to public health and groundwater.

***Recommendation MDH-11: A person must meet gas well casing and grout requirements.***

**Recommendation**

A person must meet gas well casing and grout requirements to ensure protection of groundwater from surface contaminants entering the well and spread of contaminants across multiple aquifers.

**Draft statutory language:** Minnesota Statutes, section 103I.707, subdivision 8.

**Rationale**

A person must ensure a gas well is constructed in a manner to protect public health and groundwater. Proper installation of casing and grout materials protects against interconnecting aquifers or allow surface contaminants to enter the well. This requirement is consistent with existing requirements in Minnesota Rules, chapters 4725 and 4727, which protect against contaminants entering a well or spread across multiple aquifers.

***Recommendation MDH-12: A person must meet gas well isolation distances.***

**Recommendation**
A person must meet isolation distances to provide physical separation of a gas well for the protection of public health and groundwater.

**Draft statutory language:** Minnesota Statutes, section 103I.707, subdivision 9.

**Rationale**
MDH is recommending physical separation of a gas well from residential buildings, water supply wells, schools, and childcare centers to provide the necessary time to identify and mitigate a potential contamination event. Providing physical separation of a gas well from nearby people and water supply wells protects against adverse effects to public health and groundwater.

***Recommendation MDH-13: A person must protect groundwater during the construction and sealing of a gas well.***

**Recommendation**
A person must protect groundwater during the construction and sealing of a gas well. A gas well must not be constructed to interconnect aquifers or allow surface contaminants to enter the well.

**Draft statutory language:** Minnesota Statutes, section 103I.707, subdivision 10.

**Rationale**
During construction of a gas well surface contaminants must be excluded from the well and interconnection of aquifers is prohibited. If surface materials or fluids are allowed to enter the well during construction activities, contaminants may distribute into and through the groundwater. Interconnected aquifers may allow for contamination to spread and increase the risk to public health or the environment.

***Recommendation MDH-14: A person must seal a gas well to prevent contamination of groundwater and the environment.***

**Recommendation**
A person must seal a well to prevent contamination of groundwater and escape of gas to the environment.

**Draft statutory language:** Minnesota Statutes, section 103I.707, subdivision 11.

**Rationale**
Proper sealing of a gas well is needed to ensure contaminants do not enter groundwater through the well, which may be a drinking water source. Proper sealing ensures protection of public health, groundwater, and the environment.

***Recommendation MDH-15: A person must submit a gas well sealing notification and fee for each proposed gas well to be sealed.***

**Recommendation**
A person must submit a gas well sealing notification and fee for each proposed gas well to be sealed.

**Draft statutory language (Appendix A):** Minnesota Statutes, section 103I.706, subdivision 8; Minnesota Statutes, section 103I.706, subdivision 2; Minnesota Statutes, section 103I.707, subdivision 11.

### Rationale

Prior to a person beginning to seal a gas well, the Department must be informed of the intent to seal the proposed gas well. This allows for the Department to plan for and inspect gas well sealing to ensure compliance and the protection of public health and groundwater. The sealing notification fee will financially support the processing of the received notification and inspection of gas wells. The proposed gas well notification is like existing notification requirements in Minnesota Rules, chapter 4725, for other well sealing.

## Environmental Quality Board

### *Agency background*

A key component of this regulatory framework – temporary or permanent - is the need to define when a project is subject to mandatory environmental review.

The function of Minnesota's Environmental Review Program is to provide information about future projects to avoid and minimize damage to Minnesota's environmental resources caused by public and private actions. The program accomplishes this by requiring certain proposed projects to undergo review, following defined procedures, prior to obtaining needed approvals and permits. Environmental review provides an opportunity for both the public and decision makers to understand the potential for significant environmental effects from a project prior to the project moving forward.

The Minnesota Environmental Policy Act identifies environmental review as a requirement for any project that has the potential for significant environmental effects. The Environmental Quality Board, as administrator of the Environmental Review program, identifies in rule all project types for which environmental review is mandatory. These rules are referred to as the mandatory category rules, and define a threshold for when certain project types, based on the size or scope, may or will have the potential for significant environmental effects. If a project is one listed within the mandatory categories and meets or exceed the thresholds defined by the rules, then environmental review is required.

The mandatory categories can require one of two different levels or processes of review. The Environmental Assessment Worksheet (EAW) process is used to review a project that may have the potential for significant environmental effects. An Environmental Impact Statement (EIS) is the process for reviewing a project that does have the potential for significant environmental effects. The EIS has increased requirements for the level of information provided and analyzed as well as the amount of interaction required with the public. For example, an EIS must include evaluation of alternative scenarios of the proposed project in order to explore methods of reducing adverse environmental effects. Mandatory category thresholds are usually based on project size; EAW thresholds typically align with a smaller size project while an EIS is triggered by a larger project.

A project that meets a mandatory category threshold for an EAW may have the potential for significant environmental effects; it is the role of the environmental review process to identify if the project may lead to actual significant effects or if mitigation efforts and regulatory requirements can allow the project to proceed without the potential for significant environmental effects. If the EAW process identifies that the project does have the potential for significant environmental effects, then the project review will proceed to the EIS process to further analyze the effects from the project compared to potential alternatives.

The rules assign a unit of government – the Responsible Governmental Unit (RGU) – to conduct the review, following standardized public processes to disclose information about environmental effects and ways to minimize and avoid them.

***Recommendation EQB-1: Require a mandatory environmental assessment worksheet (EAW) for any gas resource development project. The DNR will serve as the responsible governmental unit (RGU).***

**Rationale**

Establishing a new mandatory category or requirement for environmental review necessitates understanding the potential for significant environmental effects from a project; defining what size of project and at what phase of development needs review; and identifying an RGU to complete the review.

**Draft statutory language:** 116D.04 Subd. 16a.

**Potential for significant environmental effects:**

EQB staff believe that for the duration of a temporary regulatory framework it is appropriate to require an EAW for all gas development projects, recognizing that any projects of this type may have the potential for significant environmental effects. A gas development project may have the potential for significant environmental effects relating to air quality, land use, transportation, noise, and water quality.

**Timing for environmental review and defining of gas projects:**

Mandatory categories are written to ensure that a project proposer and responsible governmental unit understand what project action triggers environmental review. Construction, expansion, and development are common terms used within the rules to define the need for environmental review at a certain project phase.

The environmental review process needs to ensure that the impacts from a gas project can be properly evaluated prior to permitting, making the timing of the review and its tie to the triggering event important. For many mining or extractive projects, typically exploratory boring is completed to evaluate the subsurface extent of the natural resource that is intended to be extracted. In those cases, the initial exploration may not require environmental review; instead, review may not be required until a more complete mining project plan is needed. In these cases, the environmental impacts are tied much more to the overall project development rather than the initial exploration.

However, gas extraction projects work differently. The drilling of even an "exploratory" well for gas extraction is likely to result in a permanent location, from which the project developer will likely proceed to extract and produce gas (if any gas is found). Therefore, the environmental effects are most closely tied to the initial project steps.

Because of this, the recommendation from the EQB includes the language "gas resource development project" and is intended to ensure environmental review takes place before any drilling, even what might be considered "exploratory drilling", take place. This language is tied to the gas resources development permit that is being recommended by the Department of Natural Resources (DNR). Those recommendations include the need to obtain a gas development permit before drilling any well.

The existing framework for drilling wells (or exploratory borings) in Minnesota does not require a permit or government approval prior to drilling the well, and therefore does not meet the requirements for environmental review. DNR's recommendations to require issuance of a development permit prior to drilling a gas well would allow for environmental review to evaluate the potential environmental impacts from the project as a whole, including the drilling of the well and the long-term extraction and production of the gas. If these projects are allowed to proceed following the existing framework for exploratory borings and well notifications, then environmental review will likely not encompass the project as a whole and will only have the opportunity to evaluate a portion of the project before it proceeds to permitting.

Gas production is new to Minnesota. Completing an environmental review can be extremely beneficial for a new project type; new project types are likely to raise a lot of questions, and the environmental review process informs the public and decision-makers about a project's potential environmental impact prior to permitting.

Additionally, requiring an EAW for any gas project as a part of the interim temporary framework allows the EQB and permitting agencies to gather information about potential environmental effects, supporting future work to further develop a mandatory category in rule that includes a scientifically supported size threshold for the type of projects expected to take place in Minnesota.

While EQB staff are not recommending a mandatory EIS threshold for a gas project at this time, the RGU maintains the responsibility to evaluate and decide whether any project going through the EAW process does have the potential for significant environmental effects and will require an EIS.

**Responsible Governmental Unit:**

The final component of a framework for environmental review is determining who should serve as the Responsible Governmental Unit. EQB recommends that the Department of Natural Resources serve as the Responsible Governmental Unit. The DNR is the natural fit for serving as the RGU as they have the greatest responsibility for supervising or approving the project as a whole and the greatest expertise as an RGU in reviewing these project types.

## MN Pollution Control Agency

### *Agency background*

The Minnesota Pollution Control Agency (MPCA) plays a unique role in state government. The MPCA monitors environmental quality, offers technical and financial assistance and enforces environmental regulations. The MPCA finds and cleans up spills or leaks that can affect our health and environment. The MPCA also develops statewide policy, supports environmental education and helps ensure pollution does not have a disproportionate impact on any group of citizens. The MPCA plays a key role in the statewide outcome of "a clean, healthy environment with sustainable uses of natural resources."

Further, the MPCA issues permits with the goal of limiting pollution and protecting human health. MPCA monitors the conditions of air, land, groundwater, and surface water at more than 2,320 sites. MPCA also inspects and licenses more than 40,000 sites that involve hazardous waste, feedlots, and storage tanks.

As noted throughout this report, gas production is the focus of this writeup. Helium gas production has not previously been regulated at the MPCA. The media and regulations under MPCA's authority that are pertinent to this industry include: water quality permits: wastewater, industrial stormwater, and construction stormwater; air quality permitting, storage tank regulation; and solid waste. Therefore, recommendations that MPCA makes for temporary and permanent regulations are as follows:

***Recommendation MPCA-1: Minnesota currently has rule and regulations in place to regulate the proposed gas production industry. Following established rules and regulations will protect the environment and human health. Furthermore, the MPCA will comply with Minnesota Statute Section 10.65 which requires timely and meaningful consultation between the state and tribal governments on matters under MPCA's authority that may have Tribal implications.***

#### Rationale

Water Quality Permits: Stormwater

Construction Stormwater: Any project proposer that plans to disturb more than one acre of land needs to apply for a Construction Stormwater National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) permit. If your project is under an acre in size, but is part of a larger common plan of development, you will also need a permit. More information on CSW permits can be found on MPCA's website here: https://www.pca.state.mn.us/business-with-us/construction-stormwater

Industrial Stormwater: Facilities in specific industries that store materials, waste, or equipment outdoors are subject to industrial stormwater regulations administered by the MPCA. These facilities must take steps to monitor and manage stormwater on their properties where stormwater may come into contact with harmful pollutants including toxic metals, oil, grease, de-icing salts, and other chemicals. Industrial stormwater permittees in Minnesota are regulated by a general permit that is reissued every five years. A project proposer would need to apply for an Industrial Stormwater (ISW) general NPDES/SDS permit for any activity as required under the permit. More information can be found on the MPCA ISW webpage at: https://www.pca.state.mn.us/business-with-us/industrial-stormwater

Wastewater

Any waste and wastewater resulting from gas well production including, but not limited to: surface water, groundwater, or any other liquid, gas, or chemical must be in accordance with Minnesota Department of Health's statutory gas well language at Minn. R. 4725.2050 administered by Minnesota Department of Health. This does not prohibit the injection of approved drilling fluids as provided in Subd. 9 for drilling and development of a gas well.

Options for disposal of wastewater associated with a gas well include:

Class 2 Injection well. Class 2 injection wells are currently permitted and regulated under the US Environmental Protection Agency (EPA). Minnesota does not have Class 2 injection well primacy so any permit would need to be obtained through US EPA. More information can be obtained here: https://www.epa.gov/uic/class-ii-oil-and-gas-related-injection-wells

A project proposer can contain and dispose of any wastewater at an authorized wastewater treatment facility (WWTF) willing to accept the waste.

A project proposer can apply for an individual NPDES/SDS permit to treat and surface discharge any wastewater. Effluent Limit Guidelines 40 CFR 435 do not apply to this industry. Therefore, an individual NPDES/SDS permit developed with best professional judgement (BPJ) and water quality based effluent limits (WQBELs) is appropriate.

Air Quality Permits

If there is equipment for on-site electricity generation (e.g., diesel generator), internal combustion engine requirements in state (Minn. R. 7011.2300) and federal rules (40 CFR 60 Subpart IIII or JJJJ; 40 CFR 63, Subpart ZZZZ) would likely apply and an air permit would likely be required. While it does not appear that federal standards and guidelines for crude oil and natural gas facilities (40 CFR Subpart OOOO) would apply, an official EPA applicability determination has not been made. If any of these federal requirements would apply, an air permit would likely be required. The exact state and federal standards and permitting requirements cannot be determined without having site-specific information on all the equipment, how the facility will be operated, and all potential air emissions.

Currently, there are no known regulatory gaps that exist unless the MPCA would like to regulate the greenhouse gases (e.g., CO2 and CH4) that may be released. Given that the well gas contains the greenhouse gases methane and carbon dioxide (CO2) (approximately 5% and 71%, respectively), the MPCA may consider regulating those gases to minimize their release to the atmosphere and maximize their beneficial use. Where recovery and use of the methane is not feasible, converting the methane to CO2 through flaring may be the next best option. Flaring, sometimes used in managing landfill gases, would also provide the benefit of reducing or eliminating non-methane hydrocarbons, air toxics, and odor causing compounds that may be found at lower concentrations in the well gas and that would otherwise be released to the atmosphere.

Aboveground Storage Tanks (AST)

The MPCA's AST rules as written do not allow the MPCA to regulate gases stored in tanks in a permit; MPCA's permits as currently written would not be applicable to storage of gases due to the nature of gases. The MPCA's AST program was setup as a water (i.e., surface and groundwater) protection program

from inception. This is the same for the small AST program and major facility AST program (i.e., cumulative capacity of one million gallons or more).

The rules that govern the scope and procedures for "major facility substance storage permits" (note: this is the specific rule name for MPCA AST permits) are in:

> Minn. R. 7001.0020.H, which is the rule that says MPCA permits are subject to the general MPCA permit procedures in 7001.0010 to .0210 (this applies to all media, for example, air, water, hazardous waste, etc. permits), unless otherwise specified, and
>
> Minn. R. 7001.4200 to .4250, which has the scope and procedures specific to AST permits.

Further, substances which are inherently a gas like helium or hydrogen are not subject to AST permits, per 7001.4205.4 which says, "Substance means any liquid material which is not gaseous or solid at ambient temperature and pressure...". The reason that gases are excluded from this rule is because AST permits regulate "liquids only" and is reiterated by Minn. R. 7001.4201; the purpose is to protect against entry of stored substances into waters of the state (i.e., groundwater and surface water). In regards to a gas, if it were to escape a tank, it would enter the air but would not enter any water of the state.

In summary, if there are ASTs at either type of operation, exploration or production, which do not add up to one million gallons, a permit is not required, but the tanks are still regulated by Minn Chapter 7151 rules for small ASTs. Therefore, the existing AST rules, as written and intended, will cover AST storage for this type of operation adequately, but regulating the storage of gases is exempt and outside of current AST rule scope. Should regulation of gases be desired, new rules would have to be written.

Solid Waste

No solid waste permits would be required. This is not an industrial activity that treats, transfers, stores, processes, or disposes of solid waste. However, a guidance document on water filter backwash solids has criteria for the disposal level criteria for radium. Should there be a need to dispose of solid waste that has radium contained in, the acceptable radium disposal limit is in guidance only.

Moving forward, the MPCA could consider adding a rule disposal restriction related to radium levels for any waste generated from the gas industry in the section that lists the industrial waste types that must be addressed in the Industrial Solid Waste Management Plans (ISWMPs) in Minn. R. 7035.2535, subp. 5. The disposal level restriction would then have to be included in the facility's ISWMP if they accept waste from it.

## MN Department of Revenue

### *Agency background*

The Department of Revenue is a named participant on GTAC and is tasked with developing recommendations on taxation of gas and oil mining or extraction, including helium. Minnesota Statutes already contain tax administration laws covering the assessment of taxes for iron, iron ore, and other non-ferrous minerals but do not contain provisions for taxing gas or oil mined or extracted in the state.

There are commonly two types of taxes collected on mining in Minnesota and nationally: A severance tax for removing the natural resource from the earth and an income tax. In Minnesota, the severance tax for non-ferrous minerals is known as the Gross Proceeds Tax and the income tax for all mining is known as the Occupation Tax. The scope of recommendations on taxation includes incorporating gas and oil into existing mining tax laws, aligning the exemptions for the newly created gas and oil taxes with exemptions in place for existing mining industries, and improving tax administration for both the taxpayer and Revenue. Rulemaking is not included in the scope of these recommendations. Rulemaking is not specifically included in the scope of these recommendations because the Department believes the draft statutory language is sufficient on its own. The Department already has rule making authority under Minnesota Statutes, section 270C.06, should it be determined rules are needed later.

### *Recommendation DOR-1: Incorporate gas and oil into existing Occupation Tax.*

#### Recommendation

Occupation Tax currently applies to all mining companies in the state of Minnesota. New statute definitions were created and existing statute definitions were modified to incorporate gas and oil in the Occupation Tax law.

#### Draft statutory language

289A.02, subdivision 6; 298.001, subdivision 3a; section 298.001, subdivision 10a; section 298.001, subdivision 14; section 298.001; subdivision 15; section 298.001, subdivision 16; 298.01, subdivision 3; section 298.17

#### Rationale

The mining industry in Minnesota has had an Occupation Tax (in place of Corporate Income Tax) for many years. Incorporating gas and oil into existing Occupation Tax laws promotes consistent application of the Occupation Tax across all types of mining companies in Minnesota.

### *Recommendation DOR-2: Incorporate gas and oil into existing Gross Proceeds Tax.*

#### Recommendation

Gross Proceeds Tax applies to all mining companies that mine non-ferrous minerals, such as copper or nickel, in the state of Minnesota. New statute definitions were created and existing statutes were modified to incorporate gas and oil in the Gross Proceeds Tax law.

#### Draft statutory language

289A.02, subdivision 6; 298.001, subdivision 3a; section 298.001, subdivision 10a; section 298.001, subdivision 14; section 298.001; subdivision 15; section 298.001, subdivision 16; 298.01, subdivision 3a; 298.01, subdivision 3b; 298.01, subdivision 4a; 298.01, subdivision 4b; 298.015; 298.015, subdivision1; 298.015, subdivision 2; 298.016; 298.016, subdivision 4; 298.016, subdivision 4a;

#### Rationale

Non-ferrous mining in Minnesota is subject to Gross Proceeds Tax (in place of Property Tax). Incorporating gas and oil into existing Gross Proceeds Tax laws promotes consistent application of the tax across all types of non-ferrous mining companies in Minnesota.

### *Recommendation DOR-3: Modify the Gross Proceeds Tax rate section to allow different tax rates for different gases, minerals, and oils.*

Currently, non-ferrous mining companies are subject to a Gross Proceeds Tax equal to 0.4% of the gross proceeds from mining in Minnesota. Current statutes are modified to allow for different tax rates for copper, nickel, other non-ferrous minerals, different types of gases— including but not limited to helium, and oil. No specific new rates have been included in this draft.

#### Draft statutory language

298.015, subdivision 1

#### Rationale

Incorporating different tax rates for the non-ferrous minerals, gases, and oil would provide comparable effective tax rates to be applied across the board. This will provide a uniform tax structure among the different types of gases, minerals, and oils to ensure a fair and consistent tax rate.

### *Recommendation DOR- 4: Require Gross Proceeds taxpayers to provide sales information by May 1 filing date each year.*

Statutory language is being proposed to require mining companies subject to the Gross Proceeds Tax to file an informational report by May 1 following the close of the calendar year.

#### Draft statutory language

289A.12, subdivision 19; 289A.19, subdivision 2;

#### Rationale

Revenue generated by the Gross Proceeds Tax is distributed to different parties under current Minnesota Statute 298.018. Currently, Minnesota law requires Gross Proceeds taxpayers to file an annual return by May 1 following the close of the calendar year. Taxpayers are granted an automatic seven-month extension, making the extended due date December 1. Distributions related to Gross Proceeds revenue must be made by December 15. This short timeframe does not allow Revenue sufficient time to verify the reported sales or revenue totals before the distribution date. Requiring the informational report, which would be due on the normal return due date of May 1, would allow Revenue an appropriate amount of time to verify sales or revenue totals before making the required distributions.

### *Recommendation DOR-5: Apply the same exemptions and exclusions for gas and oil producers that exist for other mining operations.*

Current law provides certain exemptions and exclusions applicable to non-ferrous mining companies subject to the Gross Proceeds Tax. These exemptions and exclusions should be modified to include any oil and gas producers that become subject to the Gross Proceeds Tax.

#### Statutory language

290.0134, subdivision 9; 290.0135; 290.05, subdivision 1; 290.923, subdivision 1; 297A.68, subdivision 5; 297A.71, subdivision 14; 298.01, subdivision 5; section 298.01, subdivision 6;

### Rationale

All non-ferrous mining companies that are subject to Minnesota's Gross Proceeds Tax should be treated the same regardless of what they mine, including oil and gas.

***Recommendation DOR-6: Legislature should establish distribution model for gas and oil.***

Current law establishes the method to distribute proceeds from non-ferrous metals and minerals. The legislature could decide to follow that method or choose to create a different distribution method for gas and oil tax proceeds. The recommendations exclude gas and oil proceeds from following the established distribution formula and creates two new subdivisions with blank distribution placeholders to allow the legislature to determine how proceeds from gas and oil shall be distributed in the state.

### Draft statutory language

section 298.018

### Rationale

Distribution of proceeds is a policy decision. This recommendation ensures that policy makers establish a distribution formula they deem appropriate for gas and oil proceeds.

## Statutory Language

**Section 1. Section 11A.236 is amended as follows:**

**ACCOUNT TO INVEST FINANCIAL ASSURANCE MONEY FROM PERMITS TO MINE AND GAS RESOURCE DEVELOPMENT PERMITS.**

Subdivision 1. **Establishment; appropriation.** (a) The State Board of Investment, when requested by the commissioner of natural resources, may invest money collected by the commissioner as part of financial assurance provided under a permit to mine or gas resource development permit issued under chapter 93. The State Board of Investment may establish one or more accounts into which money may be deposited for the purposes of this section, subject to the policies and procedures of the State Board of Investment. Use of any money in the account is restricted to the financial assurance purposes identified in sections 93.46 to 93.518 and rules adopted thereunder and as authorized under any trust fund agreements or other conditions established under a permit to mine or gas resource development permit.

(b) Money in an account established under paragraph (a) is appropriated to the commissioner of natural resources for the purposes for which the account is established under this section.

Subd. 2. **Account maintenance and investment.** (a) The commissioner of natural resources may deposit money in the appropriate account and may withdraw money from the appropriate account for the financial assurance purposes identified in sections 93.46 to 93.518 and rules adopted thereunder and as authorized under any trust fund agreements or other conditions established under the permit to mine or gas resource development permit for which the financial assurance is provided, subject to the policies and procedures of the State Board of Investment.

(b) Investment strategies related to an account established under this section must be determined jointly by the commissioner of natural resources and the executive director of the State Board of Investment. The authorized investments for an account are the investments authorized under section 11A.24 that are made available for investment by the State Board of Investment.

(c) Investment transactions must be at a time and in a manner determined by the executive director of the State Board of Investment. Decisions to withdraw money from the account must be determined by the commissioner of natural resources, subject to the policies and procedures of the State Board of Investment. Investment earnings must be credited to the appropriate account for financial assurance under the identified permit to mine.

(d) The commissioner of natural resources may terminate an account at any time, so long as the termination is in accordance with applicable statutes, rules, trust fund agreements, or other conditions established under the permit to mine or gas resource development permit, subject to the policies and procedures of the State Board of Investment.

**Section 2. 93.5121 DECLARATION OF POLICY**

It is the policy of the state to provide for the beneficial and orderly development of the state's gas resources through laws and policies that prevent waste, avoid the drilling of unnecessary wells, protect correlative rights, and provide for the reclamation of gas resource development locations in a manner that controls adverse environmental effects.

**Section 3. 93.5122 DEFINITIONS**

Subd. 1. **Applicability.** The definitions in this section apply to 93.5122 through 93.5180

Subd. 2. **Exploration and Production Waste**. Exploration and production waste shall mean those wastes associated with operations to locate or remove gas resources from the ground or to remove impurities from such substances and which are uniquely associated with and intrinsic to gas exploration, development, or production operations that are exempt from regulation under Subtitle C of the Resource Conservation and Recovery Act, 42 USC Sections 6921, et seq. For gas projects, primary field operations include those production-related activities at or near the wellhead and at the gas plant (regardless of whether or not the gas plant is at or near the wellhead), but prior to transport of the gas from the gas plant to market.

Subd. 3 **Gas.** "Gas" includes both hydrocarbon and nonhydrocarbon gases.

Subd. 4 **Gas well.** "Gas well" shall mean a gas well, as defined in Minnesota Statutes, section 103I.005, subd. 10b that is sited at a gas resource development location.

Subd. 5. **Gas resource development facility.** "Gas resource development facility" means equipment or improvements used or installed at a gas development location for the exploration, production, withdrawal, treatment, or processing of gas resources.

Subd. 6. **Gas resource development location.** "Gas resource development location" shall mean a definable area where an operator has disturbed or intends to disturb the land surface in order to locate a gas development facility.

Subd. 7. **Gas resource development operations.** "Gas resource development operations" means exploring for gas by the drilling of exploratory borings; siting, drilling, deepening, recompleting, reworking, or abandoning a gas well; producing operations related to any gas well, including installing flowlines; the generating, transporting, storing, treating, or disposing of exploration and production wastes; and any constructing, site preparing, or reclaiming activities associated with such operations.

**Section 4. Section 93.513 is amended to read:**

Subdivision 1. **Permit required.** Except as provided in section 103I.681, a person must not engage in or carry out production of gas or oil from consolidated or unconsolidated formations in the state unless the person has first obtained a gas resource development permit for the production of gas or oil from the commissioner of natural resources.

Any permit under this section must be protective of natural resources and must not be issued until the requirements identified in 93.5151 through 93.5153 are met. ~~require a demonstration of control of the extraction area through ownership, lease, or agreement~~. For purposes of this section, "gas" includes

both hydrocarbon and nonhydrocarbon gases. For purposes of this section, "production" includes extraction and beneficiation of gas or oil.

Subd. 2. **Moratorium.** Until rules are adopted under section 93.514, the commissioner may not grant a permit for the production of gas or oil unless the legislature approves a temporary permit framework that allows issuance of ~~temporary~~ permits.

**Section 5. Section 93.514 is amended to read:**

(a) The following agencies may adopt rules governing gas and oil exploration or production, as applicable:

(2) ~~the commissioner of health may adopt or amend rules on groundwater and surface water protection, exploratory boring construction, drilling registration and licensure, and inspections as they pertain to the exploration and appraisal of gas and oil resources;~~

(4) the commissioner of natural resources must adopt or amend rules pertaining to ~~the conversion of an exploratory boring to a production well,~~ pooling, spacing, unitization, ~~well abandonment,~~ siting, financial assurance, and reclamation for the production of gas and oil; and

**Section 6. 93.5151 DECLARATION OF POLICY**

In recognition of the need to prevent or to assist in preventing waste, to avoid the drilling of unnecessary wells, and to protect correlative rights, it is hereby declared to be the policy of this state to provide for the orderly development of this state's gas resources through the establishment of spacing units that regulate the density of drilling, pooling units that combine tracts and mineral interests, and rules for the unitization of gas reservoirs.

**Section 7. 93.5152 DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of sections 93.5151 to 93.5179, the terms defined in this section have the meanings given to them.

Subd.2. **Department.** "Department" means the Department of Natural Resources.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 4. **Correlative rights.** "Correlative rights" means each owner and producer in a common pool or source of supply of gas resources must have an equal opportunity to obtain and produce the owner's or producer's just and equitable share of the gas resources underlying the pool or source of supply.

Subd. 5. **Spacing unit.** "Spacing unit" means lands allocated by the commissioner of natural resources to a single gas well, or multiple gas wells, for the development of gas resources under a spacing order.

Subd. 6. **Spacing order.** "Spacing order" means the act by the commissioner of natural resources of allocating lands to a spacing unit.

Subd. 7. **Operator.** "Operator" means any owner or lessee of gas rights engaged in or preparing to engage in gas resource development operations.

Subd. 8. **Notice.** "Notice" means publication in the *State Register*, the *EQB Monitor*, Department of Natural Resources website, and a qualified newspaper that has its known office of issue in the county seat in which the lands at issue are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board of that county. Notice shall be published at least once in the above publications at least 60 days prior to a hearing and no more than 180 days prior to a hearing. The notice shall contain information as the commissioner of natural resources may direct.

**Section 8. 93.5152 SPACING UNIT**

Subd. 1. **Spacing unit.** An operator must propose to the commissioner a new spacing unit for each gas well or set of gas wells that it plans to drill at a gas resource development location. A spacing unit must include the maximum area that can be efficiently and effectively drained by the operator's well or set of wells. The minimum area of a proposed spacing unit is a quarter-quarter section of land.

Subd. 2. **Spacing unit application.** An application for a spacing unit under this section must be submitted by an operator to the commissioner of natural resources. An operator must submit with the application a certified check, cashier's check, or bank money order payable to the Department of Natural Resources in the sum of $100 as a fee for filing the application. The application fee must not be refunded under any circumstances. The right is reserved to the state to reject any or all applications for a spacing unit. The commissioner must prescribe the information to be included in a spacing unit application.

a) Until such time rules are promulgated by the commissioner regarding spacing, a spacing unit application must include, but not be limited to, the following:

(i) For at least one portion of a mineral tract within the proposed unit, documentation showing the applicant's status as an owner or lessee within the unit. Acceptable forms of documentation include, but are not limited to:

1. Mineral deed;

2. Mineral lease or memorandum of lease; or

3. Any other agreement confirming the applicant's right to drill into and produce from a pool, or a memorandum of such agreement.

4. For federal minerals, certification that the applicant will comply with any applicable federal unit agreement or communitization agreement requirements.

(ii) Certification that the operations in the spacing unit will be conducted in a reasonable manner to protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources.

(iii) The unit boundary and, if proposing more than one well within a spacing unit, the setback distances between each well.

(iv) Geologic and operational data used by the operator to establish the boundaries of a spacing unit.

(v) The total number of wells within the proposed unit.

(vi) The Gas Resource Development Locations that are proposed for the unit.

(vii) Identification of the associated gas resource development permit application. If the proposed spacing unit and drilling operations are tied to an existing gas resource development plan, the operator should identify both the approved plan and associated application for a permit amendment.

Subd. 3. **Establishment of a spacing unit.** (a) After notice and a public meeting in the county where the proposed unit is located, the commissioner has the authority to establish spacing units by issuing a spacing order. Proposed spacing units may be modified as to size or shape by the commissioner.

(b) Until such time rules are promulgated by the commissioner regarding spacing, in determining whether to approve, approve with modifications, or deny a proposed spacing unit, the commissioner will consider whether the proposed spacing unit:

(i) Protects and minimizes adverse impacts to public health, safety, welfare, the environment, and wildlife resources;

(ii) Prevents waste of gas resources;

(iii) Avoids the drilling of unnecessary wells; and

(iv) Protects correlative rights.

Subd. 4. **Modification of established spacing units.** (a) Spacing units established under a spacing order issued by the commissioner may be modified by the commissioner, upon application. The size of the established spacing unit may be decreased or increased or additional wells permitted to be drilled within the established unit in order to prevent or assist in preventing waste or to avoid the drilling of unnecessary wells, or to protect correlative rights.

(b) An application to modify an established spacing unit may be filed with the commissioner by the operator or an interested party.

Subd. 5. **Temporary exploratory spacing units.** If the commissioner is unable to determine, based on information presented at the public meeting, the existence of a pool and the appropriate acreage to be included within a spacing unit and the shape thereof, the commissioner is authorized to establish exploratory spacing units for the purpose of obtaining evidence as to the existence of a pool and the appropriate size and shape of the spacing unit to be applied thereto. In establishing the size and shape of the exploratory spacing unit, the commissioner may consider, but is not limited to, the size and shape of spacing units previously established by the commissioner for the same gas-bearing rock units in other areas of the same geologic rock formation. Any spacing regulation made by the commissioner shall apply to each individual pool separately and not to all units on a statewide basis.

Subd. 6. **Appeals.** Spacing orders issued by the commissioner may be appealed pursuant to section 93.50.

**Section 9. 93.5153 POOLING**

**Subd. 1. Voluntary pooling.** When two or more separately owned tracts, including state-owned tracts, are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then persons owning the interests may pool their interests for the development and operation of the spacing unit.

**Subd. 2. Involuntary pooling.** In the absence of voluntary pooling, the commissioner, upon the application of a person that owns or leases at least fifty percent of the mineral interests to be pooled, may issue an order pooling all interests in the spacing unit for the development and operation of the spacing unit.

A draft pooling order shall be made after notice and a public meeting in the county where the pooling area is located and must be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, a just and equitable share. The pooling order must protect each owner's correlative rights.

The commissioner must serve a copy of a draft order by certified mail on all of the owners listed in the affidavit provided under subdivision 3. The applicant, any party served with the order, or any other party with an ownership interest within the spacing unit may demand a contested case hearing within 30 days of the date of mailing. The contested case hearing must be conducted pursuant to chapter 14. Following the contested case hearing, the commissioner will issue a final order.

**Subd. 3. Pooling order application.** (a) An application for a pooling order under this section must be submitted by an operator to the commissioner of natural resources. An operator must submit with the application a certified check, cashier's check, or bank money order payable to the Department of Natural Resources in the sum of $100 as a fee for filing the application. The application fee must not be refunded under any circumstances. The right is reserved to the state to reject any or all applications for a pooling order. The commissioner must prescribe the information to be included in a pooling order application.

(b) An application for a pooling order submitted to the commissioner must include the following:

(i) Proof that the applicant has obtained at least fifty percent of the mineral interests to be pooled;

(ii) Map showing location of ownership interests within spacing unit;

(iii) Identification of mineral interests within the spacing unit that are not owned or leased by the applicant. Applicant must include the location and name and address of the owner for all such interests;

(iv) Affidavit by the applicant that it made a good faith effort to lease these other mineral interests. The affidavit must contain information as to any lease offer made to a mineral interest owner, or efforts to contact a mineral interest owner.

**Subd. 4. Drilling and extraction prohibited prior to pooling order issued**. On and after January 1, 2025, if a spacing unit contains the mineral interests of any unleased mineral interest owner that has

rejected an offer to lease, an operator shall not drill or extract gas resources from the spacing unit before a pooling order is entered by the commissioner.

**Subd. 5. Lands excluded from pooling order.** Notwithstanding any provision in this section to the contrary, the commissioner shall not enter a pooling order that pools the mineral interests of an unleased mineral interest owner if that owner is:

(a) the federal government; or

(b) an American Indian tribe or band.

If a pooling order application proposes to pool mineral interests described in this subdivision, the commissioner shall deny the application, unless the applicant amends the application to no longer request the pooling of the unleased mineral interests described in this subdivision.

Nothing in this subdivision affects, limits, or expands the federal government's or an American Indian tribe or band's authority to lease, refuse to lease, voluntarily pool, or otherwise dispose of their unleased mineral interests.

**Subd. 6. Pooling orders.** (a) Operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of operations upon each separately owned tract in the unit by the several owners of each separately owned tract. That portion of the production allocated or applicable to each tract included in a unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from the tract by a well drilled on it.

(b) Each pooling order must:

(i) make provision for the drilling of one or more wells on the drilling unit, if not already drilled, for the operation of the wells, and for the payment of the reasonable actual cost of the wells, including a reasonable charge for supervision and storage. Except as provided in subdivision 9 of this section, as to each nonconsenting owner who refuses to agree to bear a proportionate share of the costs and risks of drilling and operating the wells, the order must provide for reimbursement to the consenting owners who pay the costs of the nonconsenting owner's proportionate share of the costs and risks out of, and only out of, production from the unit representing the owner's interest, excluding royalty or other interest not obligated to pay any part of the cost thereof, if and to the extent that the royalty is consistent with the lease terms prevailing in the area and is not designed to avoid the recovery of costs provided for in subdivision 8(c) of this section. In the event of any dispute as to the costs, the commissioner shall determine the proper costs as specified in subdivision 8(c) of this section;

(ii) determine the interest of each owner in the unit and provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production from the wells applicable to the owner's interest in the wells and, unless the owner has agreed otherwise, a proportionate part of the nonconsenting owner's share of the production until costs are recovered and that each nonconsenting owner is entitled to own and to receive the share of the production applicable to the owner's interest in the unit after the consenting owners have recovered the nonconsenting owner's share of the costs out of production;

(iii) specify that a nonconsenting owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from gas resource development operations on the spacing unit; and

(iv) prohibit the operator from using the surface owned by a nonconsenting owner without permission from the nonconsenting owner.

(c) Upon the determination of the commissioner, proper costs recovered by the consenting owners of a spacing unit from the nonconsenting owner's share of production from such a unit shall be as follows:

(i) One hundred percent of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operation of the well or wells commencing with first production and continuing until the consenting owners have recovered such costs. It is the intent that the nonconsenting owner's share of these costs of equipment and operation will be that interest that would have been chargeable to the nonconsenting owner had the owner initially agreed to pay the owner's share of the costs of the well or wells from the beginning of the operation.

(ii) Two hundred percent of that portion of the costs and expenses of permitting, environmental review, surveying, well site preparation, obtaining rights-of-way, rigging up, drilling, reworking, deepening or plugging back, testing, and completing the well, after deducting any cash contributions received by the consenting owners, and two hundred percent of that portion of the cost of equipment in the well, including the wellhead connections.

**Subd. 7. Costs and royalties for nonconsenting owners.** A nonconsenting owner of a tract in a drilling unit that is not subject to any lease or other contract for gas development shall be deemed to have a landowner's proportionate royalty of eighteen and three-quarters percent until the consenting owners recover the costs specified in subdivision (8)(c) of this section. For the purpose of calculating costs, this royalty will be subtracted from the nonconsenting owner's proportionate share of production as described in subdivision 8(b)(i).

After recovery of the costs, the nonconsenting owner then owns his or her full proportionate share of the wells, surface facilities, and production and then is liable for further costs as if the nonconsenting owner had originally agreed to drilling of the wells.

**Subd. 8. Good-faith effort of lease offer to nonconsenting owners.** The commissioner shall not enter an order pooling an unleased, nonconsenting mineral owner under this section over the protest of such owner unless the commissioner has received evidence that the unleased mineral owner has been:

(1) tendered, no less than sixty days before the hearing, a reasonable offer, made in good faith, to participate and pay their proportionate share of costs or to lease upon terms no less favorable than those currently prevailing in the area at the time application for the order is made; and
(2) furnished, in writing, the owner's share of the estimated drilling and completion cost of the gas wells, the location and objective depth of the gas wells, and the estimated spud date for the gas wells or range of time within which spudding is to occur.

The offer to participate or lease must include a copy of or link to a brochure supplied by the commissioner that clearly and concisely describes the pooling procedures specified in this section and the mineral owner's options pursuant to those procedures.

**Subd. 9. Commissioner retains jurisdiction over pooling unit.** During the period of cost recovery provided under this section, the commissioner retains jurisdiction to determine the reasonableness of costs of operation of the wells attributable to the interest of the nonconsenting owner. A nonconsenting owner can file an application with the commissioner for the review of the reasonableness of costs. Cost orders issued by the commissioner may be appealed pursuant to section 93.50.

**Subd. 10. Duty of operator to nonconsenting owners.** The operator of gas wells under a pooling order in which there is a nonconsenting owner shall furnish the nonconsenting owner with a monthly statement of all costs incurred, together with the quantity of gas produced, and the amount of proceeds realized from the sale of production during the preceding month. If the consenting owners recover the costs specified in subdivision 8 of this section, the nonconsenting owner shall own the same interest in the wells and the production there from and be liable for the further costs of the operation, as if the nonconsenting owner had participated in the initial drilling operations.

**RECLAMATION OF GAS RESOURCE DEVELOPMENT LOCATIONS**

**Section 10. 93. 5171 DECLARATION OF POLICY.**

In recognition of the effects of the development of gas resources upon the environment, it is the policy of this state to provide for the reclamation of gas resource development locations 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 the development of gas resources, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of gas resources, the encouragement of good gas resource development practices, and recognizing the beneficial aspects of gas resource development.

**Section 11. 93.51711 DEFINITIONS**

Subdivision 1. **Applicability.** For the purposes of sections 93.5171 to 93.51780, the terms defined in this section have the meanings given to them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 3. **Contingency reclamation plan.** “Contingency reclamation plan” means a plan that identifies reclamation activities, including closure and post closure maintenance work, that would be implemented by the permittee if operations ceased or if producing gas wells were idled for more than 36 months. This plan must include methods, sequence, and schedule of reclamation activities, maps and cross sections that depict gas resource development locations both before and after reclamation activities are completed, and cost estimates necessary to implement the contingency reclamation plan.

Subd. 4. **Corrective action.** “Corrective action” means the immediate actions that must be taken to correct observed violations of the gas resource development permit. Corrective action may consist of

immediately curing the violation, or submitting, within two weeks, a corrective action plan for approval before the permittee implements the corrective action.

Subd. 5. **Department.** "Department" means the Department of Natural Resources.

Subd. 6 **Gas.** "Gas" shall include both petroleum and non-petroleum gases.

Subd. 7 **Gas well.** "Gas well" shall mean a gas well as defined in Minnesota Statutes, section 103I.005, subd. 10b, sited at a gas resource development location.

Subd. 8. **Natural Resources.** "Natural resources" means all mineral, animal, botanical, air, water, land, timber, soil, quietude, recreational, historical, scenic, and aesthetic resources in accordance with Minnesota Statutes, section 116B.02, subdivision 4.

Subd. 9. **Gas resource development plan.** "Gas resource development plan" means a plan to develop gas resources at one or more gas resource development locations.

Subd. 10. **Gas resource development facility.** "Gas resource development facility" means equipment or improvements used or installed at a gas resource development location for the exploration, production, withdrawal, treatment, or processing of E&P waste or gas.

Subd. 11. **Gas resource development location.** "Gas resource development location" shall mean a definable area where an operator has disturbed or intends to disturb the land surface in order to locate a gas resource development facility.

Subd. 12. **Gas resource development operations.** "Gas resource development operations" means exploring for gas resources by siting, drilling, deepening, recompleting, reworking, or abandoning a gas well; producing operations related to any gas well, including installing flowlines; the generating, transporting, storing, treating, or disposing exploration and production wastes; and any constructing, site preparing, or reclaiming activities associated with such operations.

Subd. 13. **Operator.** "Operator" means any owner or lessee of mineral rights engaged in or preparing to engage in gas resource development operations with respect thereto.

Subd. 14. **Person.** "Person" includes firms, partnerships, corporations, and other groups.

Subd. 15. **Permittee.** "Permittee" is a person who holds a gas resource development permit. All persons engaged in or carrying out the operation must jointly hold the permit. This includes all parent companies of persons involved in the operation.

Supd. 16. **Reclamation.** "Reclamation" means the actions required to comply with sections 93.5171 to 93.51780 regarding decommissioning of a gas resource development facility and restoration of any associated gas resource development locations.

**Section 12. 93.5172 DUTIES AND AUTHORITY OF COMMISSIONER.**

The commissioner must administer and enforce sections 93.5171 to 93.51780 and the rules adopted pursuant thereto and authorized by section 93.514. In so doing the commissioner may:

(1) conduct such investigations and inspections as the commissioner deems necessary for the proper administration of sections 93.5171 to 93.51780;

(2) enter upon any parts of a gas resource development location in connection with any such investigation and inspection without liability to the operator or landowner provided that reasonable prior notice of intention to do so must have been given the operator or landowner;

(3) conduct such research or enter into contracts related to gas resource development locations and the reclamation thereof as may be necessary to carry out the provisions of sections 93.5171 to 93.51780; and

(4) allocate surplus wetland credits that are approved by the commissioner under a gas resource development permit and that are not otherwise deposited in a state wetland bank.

**Section 13. 93.5173 VARIANCE.**

The commissioner may, upon application by the operator, modify or permit variance from the established rules adopted hereunder if it is determined that such modification or variance is consistent with the general welfare.

**Section 14. 93.5174 GAS RESOURCE DEVELOPMENT PERMIT.**

Subdivision 1. **Prohibition against gas resource development operations without permit; application for permit.** No person may engage in or carry out gas resource development operations at gas resource development locations, including the drilling of gas wells or extraction of gas resources, within the state unless the person has first obtained a gas resource development permit from the commissioner. Any person applying to the commissioner of natural resources for such a permit must submit such information as the commissioner may require, including but not limited to the following:

(1) an application fee of $50,000.

(2) a certificate issued by an insurance company authorized to do business in the United States that the applicant has a public liability insurance policy in force for the development of gas resources for which the permit is sought, or evidence that the applicant has satisfied other state or federal self-insurance requirements, to provide personal injury and property damage protection in an amount adequate to compensate any persons who might be damaged as a result of the gas resource development operations or any reclamation or restoration operations connected with gas resource development locations;

(3) a map that identifies the location of established or applicant-proposed spacing units, the location and extent of all proposed gas resource development locations, access roads, gas wells and setback distances between each gas well and areas with special land uses within the proposed spacing unit, as identified in subd. 8.

(4) a plan map that shows the planned locations of planned gas resource development facilities on all gas resource development locations, including drill pads, gas enrichment facilities, storage tanks and flowlines

(5) a proposed plan for construction of gas resource development facilities, including but not limited to gas wells, processing or gas enrichment plants, and connecting flowlines;

(6) a proposed plan for gas resource development operations, including but not limited to duration of project, processes and procedures for gas extraction, enrichment, storage and gas transport to market, and the isolation and management of noncommercial gases extracted from gas wells;

(7) a proposed plan, including timeline, for the reclamation or restoration, or both, of any gas resource development location affected by operations to be conducted on and after the date on which permits are required for the development of gas resources under this section;

(8) characterization of any exploration and production waste to be stored temporarily or permanently at a gas resource development location;

(9) plans for financial assurance instrument(s) addressing cost to close all gas resource development facilities and reclaim all gas resource development locations;

(10) a copy of the applicant's advertisement of the ownership, location, and boundaries of the proposed gas resource development locations, which advertisement must be published in a legal newspaper in the locality of the proposed site at least once a week for four successive weeks before the application is filed.

Subd. 2. **Permits issued during rulemaking.** A gas resource development permit issued during the pendency of expedited rulemaking authorized under 93.514 will not expire once those rules are promulgated, so long as the person holding that permit continues to operate under permitted conditions. Should a person holding such a permit apply for a permit amendment after rules are promulgated, the promulgated rules will apply to operations covered by both the amendment and the original permit, and the application for a permit amendment must include such information as the commissioner may require as in subdivision 1 and in accordance with promulgated rules for the entire project.

Subd. 3. **Commissioner's review; hearing.** After receiving an application the commissioner has deemed complete and filed, the commissioner must grant the permit applied for, with or without modifications or conditions, or deny the application unless a contested case hearing is requested or ordered under section 93.5176. The commissioner's decision to grant the permit, with or without modifications, or deny the application constitutes a final order for purposes of section 93.5179. The commissioner in granting a permit with or without modifications must determine that the reclamation or restoration planned for the operation complies with lawful requirements and can be accomplished under available technology and that a proposed reclamation or restoration technique is practical and workable under available technology. The commissioner may hold public meetings on the application.

Subd. 4. **Term of permit; amendment.** (a) A permit issued by the commissioner pursuant to this section must be granted for the term determined necessary by the commissioner for the completion of the proposed gas resource development plan, including reclamation or restoration.

(b) A permit may be amended upon written application to the commissioner. A permit amendment application fee must be submitted with the written application. The permit amendment application fee is ten percent of the amount provided for in subdivision 1, clause (3) for an application for a gas resource development permit. If the commissioner determines that the proposed amendment constitutes a substantial change to the permit, the person applying for the amendment must publish notice in the same manner as for a new permit. An amendment may be granted by the commissioner if the commissioner determines that lawful requirements have been met.

Subd. 5. **Revocation; modification; suspension.** A permit is irrevocable during its term except as follows:

(1) The permittee has not commenced substantial construction of plant facilities or actual production and reclamation or restoration operations covered by the permit within 36 months of issuance of the permit.

(2) A permit may be canceled at the request of or with the consent of the permittee upon such conditions as the commissioner determines necessary for the protection of the public interests.

(3) Subject to the rights of the permittee to contest the commissioner's action under sections 14.57 to 14.59 and related sections, a permit may be modified or revoked by the commissioner in case of any breach of the terms or conditions thereof or in case of violation of law pertaining thereto by the permittee, or agents of the permittee, or in case the commissioner finds such modification or cancellation necessary to protect the public health or safety, or to protect the public interests in lands or waters against injury resulting in any manner or to any extent not expressly authorized by the permit, or to prevent injury to persons or property resulting in any manner or to any extent not so authorized, upon at least 30 days' written notice to the permittee, stating the grounds of the proposed modification or revocation or providing a reasonable time of not less than 15 days in which to take corrective action and giving the permittee an opportunity to be heard thereon.

(4) By written order to the permittee, the commissioner may suspend operations under a permit if the commissioner 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. No suspension order under this clause may be in effect more than 30 days from the date thereof without giving the permittee at least ten days' written notice of the order and an opportunity to be heard thereon.

Subd. 6. **Assignment.** A permit may not be assigned or otherwise transferred without the written approval of the commissioner. A permit assignment application fee must be submitted with the written application. The permit assignment application fee is ten percent of the amount provided for in subdivision 1, clause (1). A permit assignment application may be combined with a permit.

Subd. 7. Gas resource administration account. The gas resource administration account is established as an account in the natural resources fund. Fees charged to owners, operators, or managers of operations under sections 93.515 to 93.51780 shall be credited to the gas resource administration account and are appropriated to the commissioner to cover the costs of providing and monitoring gas resource development permits. Earnings accruing from investment of the account remain with the account.

Section 15. **Temporary regulatory framework**. To support a temporary regulatory framework for permitting gas production projects during rulemaking, the following items are in effect until rules are adopted for siting, permitting and reclamation requirements for gas production projects, as required under 93.514:

(1) All gas resource development locations must 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.

(2) A gas resource development location must not be located 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.

(3) A gas resource development location must not be allowed within or on the following, but activities that do not disturb the surface are allowed:

(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 gas resource development operations 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 gas resource development operations 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;

(k) within designated state land use districts, of a state wild, scenic, or recreational river, and,

(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.

(4) Gas resource development locations shall be allowed in the following areas only if there is no prudent and feasible siting alternative, as determined by the commissioner:

(1) 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.

(5) A gas resource development permit must include as a permit condition a requirement that a permittee submit to the commissioner a preproduction report at least 60 days prior to the

commercial extraction of gas resources from gas wells drilled at gas resource development locations. This report must include data and test results from completed gas wells that can be used to evaluate the production rates and extraction areas that were incorporated by the permittee into their permit application, prior to drilling the gas wells. The specific types of data and other report components must be identified by the commissioner within the associated gas resource development permit.

(6) A permittee must submit an annual report to the commissioner by March 31 of each year that describes actual gas production and reclamation completed during the past year, gas production and reclamation activities planned for the upcoming year, and a contingency reclamation plan to be implemented if operations cease or gas wells were idled for more than 36 months. The annual report must include, at a minimum, reporting for the previous calendar year and projections for the upcoming calendar year on the volume and average composition of raw gas extracted from each gas well covered by the gas resource development plan, quantities and final grades of commercial gas products transported to market, any changes in the production or gas enrichment processes, a description of reclamation activities and correction actions, evidence of continued liability insurance, and a discussion of any changes in ownership and organization structure of the permittee.

**Section 16. 93.5175 RECLAMATION FEES.**

Subdivision 1. **Annual gas resource development permit fee.** (a) The commissioner must charge every person holding a gas resource development permit an annual permit fee. The fee is payable to the commissioner by June 30 of each year, beginning in 2025. If a temporary permit is issued after June 30 of any year, the permittee must pay the annual fee within 60 days of permit issuance.

(b) The annual permit fee for gas resource development is $75,000 if the operation had production within the calendar year immediately preceding the year in which payment is due and $37,500 if there was no production within the immediately preceding calendar year.

Subd. 2. **Supplemental application fee.** (a) In addition to the application fee specified in section 93.5174, the commissioner must assess a person submitting an application for a gas resource development permit the reasonable costs for reviewing the application and preparing the permit. The commissioner must also assess reasonable costs for monitoring construction of the gas resource development facilities.

(b) The commissioner must give the applicant an estimate of the supplemental application fee under this subdivision. The estimate must include a brief description of the tasks to be performed and the estimated cost of each task. The application fee under section 93.5174 must be subtracted from the estimate of costs to determine the supplemental application fee.

(c) The applicant and the commissioner must enter into a written agreement to cover the estimated costs to be incurred by the commissioner.

(d) The commissioner must not issue the gas resource development permit until the applicant has paid all fees in full. Upon completion of construction of all gas resource development facilities, the commissioner must refund the unobligated balance of the monitoring fee revenue.

**Section 17. 93.5176 CONTESTED CASE.**

Subdivision 1. **Petition for contested case hearing.** Any person owning property that will be affected by the proposed gas resource development operations or any federal, state, or local government having responsibilities affected by the proposed operation identified in the application for a gas resource development permit under section 93.5174 may file a petition with the commissioner to hold a contested case hearing on the completed application. To be considered by the commissioner, a petition must be submitted in writing, must contain the information specified in subdivision 2, and must be submitted to the commissioner within 30 days after the application is deemed complete and filed. In addition, the commissioner may, on the commissioner's own motion, order a contested case hearing on the completed application.

Subd. 2. **Petition contents.** (a) A petition for a contested case hearing must include the following information:

(1) a statement of reasons or proposed findings supporting the commissioner's decision to hold a contested case hearing pursuant to the criteria in subdivision 3; and

(2) a statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

(b) To the extent known by the petitioner, a petition for a contested case hearing may also include:

(1) a proposed list of prospective witnesses to be called, including experts, with a brief description of the proposed testimony or a summary of evidence to be presented at a contested case hearing;

(2) a proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing; and

(3) an estimate of time required for the petitioner to present the matter at a contested case hearing.

(c) A petitioner is not bound or limited to the witnesses, materials, or estimated time identified in the petition if the requested contested case is granted by the commissioner.

(d) Any person may serve timely responses to a petition for a contested case hearing. The commissioner shall establish deadlines for responses to be submitted.

Subd. 3.**Commissioner's decision to hold hearing.** (a) The commissioner must grant the petition to hold a contested case hearing or order upon the commissioner's own motion that a contested case hearing be held if the commissioner finds that:

(1) there is a material issue of fact in dispute concerning the completed application before the commissioner;

(2) the commissioner has jurisdiction to make a determination on the disputed material issue of fact; and

(3) there is a reasonable basis underlying a disputed material issue of fact so that a contested case hearing would allow the introduction of information that would aid the commissioner in resolving the disputed facts in order to make a final decision on the completed application.

(b) The commissioner must make the determination of whether to grant a petition or otherwise order a contested case hearing within 120 days after the commissioner deems the application complete and filed.

Subd. 4.**Hearing upon request of applicant.** The applicant may, within 30 days after the application is deemed complete and filed, submit a request for a contested case. Within 30 days of the applicant's request, the commissioner shall grant the petition and initiate the contested case hearing process.

Subd. 5.**Scope of hearing.** If the commissioner decides to hold a contested case hearing, the commissioner shall identify the issues to be resolved and limit the scope and conduct of the hearing in accordance with applicable law, due process, and fundamental fairness. The commissioner may, before granting or ordering a contested case hearing, develop a proposed permit or permit conditions to inform the contested case. The contested case hearing must be conducted in accordance with sections 14.57 to 14.62. The final decision by the commissioner to grant, with or without modifications or conditions, or deny the application after a contested case shall constitute a final order for purposes of section 93.5179.

**Section 18. 93.5177 ENVIRONMENTAL REVIEW FEES.**

Subdivision 1. **Assessment**. The commissioner of natural resources must assess a gas resource development permit applicant the reasonable costs of preparing, reviewing, and distributing the associated environmental assessment worksheet through the Record of Decision, as required by (EQB draft statute number). The applicant and the commissioner must enter into a written agreement to cover the estimated costs to be incurred by the commissioner.

Subd. 2. **Full cost to be paid**. The commissioner must not commence the preparation of an environmental assessment worksheet until the full assessed cost of the environmental assessment worksheet is paid pursuant to subdivision 1. Other laws nothwithstanding, no state agency may issue any permits for the development of gas resources for which an environmental assessment worksheet is prepared until the final assessed cost for the environmental assessment worksheet has been paid in full.

**Section 19. 93.5178 FINANCIAL ASSURANCE OF OPERATOR.**

Subdivision 1. **Requirement for financial assurance.** The commissioner must require a bond or other security or other financial assurance satisfactory to the commissioner from a permittee. The commissioner must review at least annually the extent of each operator's financial assurance under this section.

Subd. 2. **Criteria for financial assurance.** Financial assurance for reclamation and for corrective action must meet the following criteria:

(1) assurance of funds sufficient to cover the costs estimated under Subd. 3;

(2) assurance that the funds will be available and made payable to the commissioner when needed;

(3) assurance that the funds will be fully valid, binding, and enforceable under state and federal law;

(4) assurance that the funds will not be dischargeable through bankruptcy;

(5) financial assurance shall not include any corporate guarantees unless a guarantee is deemed necessary by the commissioner as an additional layer of assurance beyond the use of bonds, other securities, or other financial assurance mechanisms that meet criteria 1 through 4 and 5 of this subdivision and in no case shall a corporate guarantee be approved as a stand-alone financial assurance ; and

(5) all terms and conditions of the financial assurance must be approved by the commissioner.

Section 20. **Temporary regulatory framework**. To support a temporary regulatory framework for permitting gas production projects during rulemaking, the following items are in effect until rules are adopted for financial assurance requirements for gas production projects, as required under 93.514:

(5) A person intending to develop gas resources shall submit, as part of an application for a gas resource development permit, a documented estimate of costs necessary for the reclamation or restoration, or both, of any oil and gas locations upon which the person proposes to conduct oil and gas operations. The procedures for completing this cost estimate and its required elements shall be determined by the commissioner.

(6) If a corrective action is required during implementation of the gas resource development plan to minimize waste and protect human health or the environment, the permittee shall submit to the commissioner a cost estimate for completing the required actions. The commissioner shall determine the procedures and required elements for completing this corrective action cost estimate.

(7) The commissioner shall evaluate submitted cost estimates and cost estimate adjustments using individuals with documented experience in material handling and the reclamation or restoration of oil and gas locations. The applicant must pay the costs incurred by the commissioner to hire third parties to perform this evaluation.

(8) Financial assurance in the amount equal to the contingency reclamation cost estimate shall be submitted to the commissioner for approval before issuance of a gas resource development permit and before granting an amendment to the permit, shall be continuously maintained by the permittee, and annually adjusted based on the new cost estimate.

(9) Financial assurance in the amount equal to the corrective action cost estimate under paragraph (6) shall be submitted to the commissioner for approval as part of the corrective action cost estimate, continuously maintained by the permittee until the commissioner determines it is no longer necessary; and annually adjusted based on the new cost estimate.

(10) Financial assurances may be canceled by the permittee, on approval by the commissioner, only after it is replaced by an alternate mechanism or after the permittee is released from financial assurance once the commissioner determines, through inspection of the permitted oil and gas locations, that all reclamation activities have been completed according to the gas resource development permit, conditions necessitating postclosure maintenance no longer exist and are not likely to recur, and corrective actions have been successfully accomplished.

(11) The permittee must ensure that the provider of financial assurance gives the commissioner 120 days' notice prior to cancellation of the financial assurance mechanism. Upon receipt of this notice, the commissioner shall initiate a proceeding to access the financial assurance.

(12) If the gas resource development permit is assigned, the new permittee must be in compliance with requirements of this part before the commissioner approves the assignment. On the assignee's demonstration of compliance with this part, the former permittee shall be released from the requirements of this part.

(13) Financial assurance must be made available to the commissioner when the operator is not in compliance with either a contingency reclamation plan or corrective action plan.

(14) The commissioner may deny, suspend, revoke or modify a gas resource development permit or assess civil penalties if the permittee fails to comply with any portion of this part.

**Section 21. 93.5179. APPEAL.**

Any person aggrieved by any final order, ruling, or decision of the commissioner may obtain judicial review of such order, ruling, or decision under sections 14.63 to 14.69.

**Section 22. 93.5180. PENALTIES FOR VIOLATION.**

Subdivision 1. **Civil penalty.** If any person fails to comply with any provision of sections 93.5171 to 93.51780, or any rules promulgated pursuant to these sections, or any permit condition required by these sections or the rules, for a period of 15 days after notice of such failure, or the expiration of time for corrective action as provided for in section 93.5174, subdivision 5, such person must be liable for a civil penalty of not more than $10,000 per day per violation for each and every day of the continuance of such failure. The commissioner may assess and collect any such penalty for deposit in the mining administration account.

Subd. 2. **Criminal penalty; injunctive relief.** Any person who knowingly and willfully violates or refuses to comply with any rule, decision, order, or ruling of the commissioner must upon conviction be guilty of a gross misdemeanor. At the request of the commissioner, the attorney general may institute a civil action in a district court of the state for a restraining order or injunction or other appropriate remedy to prevent or preclude a violation of the terms and conditions of any rules promulgated hereunder. The district court of the state of Minnesota in which district the extraction operation affected is conducted must have jurisdiction to issue such order or injunction or to provide other appropriate remedies.

**103I.001 LEGISLATIVE INTENT.**

This chapter is intended to protect the health and general welfare by providing a means for the ~~development and~~ protection of the natural resource of groundwater in an orderly, healthful, and reasonable manner.103I.005

**103I.005 DEFINITIONS.**

Subd. 9. **Exploratory boring.** "Exploratory boring" means a surface drilling done to explore or prospect for ~~oil, natural gas,~~ apatite, diamonds, graphite, gemstones, kaolin clay, and metallic minerals, including iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium.~~, and a drilling or boring for petroleum.~~

Subd. 10a. **Gas.** "Gas" includes both hydrocarbon and nonhydrocarbon gases.

Subd. 10b. **Gas well.** "Gas well" means an excavation that is constructed to locate, extract, or produce gas.

Subd. 10c. **Gas well contractor.** "Gas well contractor" means a person with a gas well contractor's license issued by the commissioner.

Subd. 21. **Well.** "Well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed if the excavation is intended for the location, diversion, artificial recharge, monitoring, testing, remediation, or acquisition of groundwater. Well includes environmental wells, drive point wells, and dewatering wells. "Well" does not include:

(1) an excavation by backhoe, or otherwise for temporary dewatering of groundwater for nonpotable use during construction, if the depth of the excavation is 25 feet or less;

(2) an excavation made to obtain or prospect for ~~oil, natural gas,~~ minerals, or products of mining or quarrying;

(3) an excavation to insert media to repressure oil or natural gas bearing formations or to store petroleum, natural gas, or other products;

(4) an excavation for nonpotable use for wildfire suppression activities; ~~or~~

(5) borings; or

(6) gas and oil wells.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

**103I.706 GAS WELLS**.

Subdivision 1. **Rulemaking Authority.** The commissioner of health shall adopt rules for gas wells according to chapter 14.

Subd. 2. **Fees.** (a) A person must meet the gas well contractor license requirements and fee requirements to construct, repair, or seal a gas well. The fee for a gas well contractor license is $350.00. The fee for a gas well contractor license renewal is $350.00.

(b) A gas well contractor must designate a certified representative. The certified representative must meet the application and fee requirements. The application fee is $125.00. The renewal fee is $125.00.

(c) A person must meet the registration and fee requirements for rigs used to construct, repair, service, or seal a gas well. The fee to register gas well rigs is $125.00. The fee to renew rig registration is $125.00.

(d) If a licensee or certified representative under items (a) and (b) fails to submit all information required for renewal in or submits the application and information after the required renewal date:

(1) the licensee or certified representative must include a late fee of $75; and

(2) the licensee or certified representative may not conduct activities authorized by the gas well contractor's license or certified representative's certification until the renewal application, renewal application fee, and all other information required is submitted.

(e) A person must submit a notification for construction of a proposed gas well on a form prescribed by the commissioner, with a fee of $76,000.

(f) A person must submit a notification for sealing a gas well on a form prescribed by the commissioner, with the fee of $50,000.

Subd. 3. **Rig registration.** (a) Rigs used to drill, maintain, repair, or seal a gas well, including drilling rigs and workover rigs, must be registered with the commissioner.

(b) A person must file an application to register a rig on a form provided by the commissioner and fee, under section 103I.706, subdivision 2, with the commissioner.

(c) A registration is valid until the date prescribed by the commissioner in the registration.

(d) A person must file an application and fee, under section 103I.706, subdivision 2, to renew the registration by the date prescribed by the commissioner in the registration.

Subd. 4**. Gas Well Contractor's License.** (a) A person must not construct, repair, or seal a gas well, without a gas well contractor's license issued by the commissioner.

(1) A person must file a complete application on a form provided by the commissioner and fee, under section 103I.706, subdivision 2, with the commissioner. The person applying must meet the qualifications for a gas well contractor license.

(2) A gas well contractor's license is valid until the date prescribed by the commissioner in the license.

(3) A gas well contractor must file a complete application and fee, under section 103I.706, subdivision 2, to renew the license by the date prescribed by the commissioner in the license. A person

must not construct, repair, or seal a gas well until a gas well contractor's license is renewed. The commissioner may not renew a license until the renewal fee is paid.

(4) A gas well contractor must include information at the time of renewal that the applicant has met the continuing education requirements established by the commissioner in rule.

(b) A gas well contractor must designate a certified representative to supervise and oversee regulated work on gas wells.

(1) A person must file a complete application on a form provided by the commissioner and fee, under section 103I.706, subdivision 2, to qualify as a certified representative.

(2) A certified representative must file an application and fee, under section 103I.706, subdivision 2, to renew the certification by the expiration date prescribed by the commissioner on the certification. A certified representative may not supervise or oversee regulated work on a gas well until the renewal application and application fee are submitted. The commissioner may not review a certification until the renewal fee is paid.

(3) A certified representative must include information at the time of renewal that the applicant has met the continuing education requirements established by the commissioner in rule.

(c) The commissioner of natural resources may require a bond, security, or other assurance from a gas well contractor if the commissioner of natural resources has reasonable doubts about the person's financial ability to comply with requirements of law relating to reclamation of a gas well and process to restore the land disturbed by a gas well drilling and production operations back to a condition of original state.

(d) The commissioner may suspend or revoke a licensee's license according to Minnesota Statutes, section 144.99.

Subd. 5. **Gas well notification required.** (a) A gas well contractor must file the gas well notification, and fee, with the commissioner.

(b) A gas well contractor must not begin drilling or constructing a gas well until the person has a valid gas resource development permit from the commissioner of natural resources. The person must submit a notification to the commissioner of health to construct a gas well after receiving permit approval from the commissioner of natural resources and prior to drilling or constructing a gas well.

Subd. 6. **Access to drill sites.** (a) The commissioner of health shall have access to gas well sites to inspect gas wells, including the drilling, construction and sealing of gas wells.

(b) The commissioner of health has enforcement authority according to Minnesota Statutes, section 144.99.

Subd. 7. **Emergency notification.** In the event of an occurrence during a construction, repair, or sealing of a gas well that has a potential for significant adverse public health or environmental effects, the person drilling or constructing a gas or well must promptly:

(a) take reasonable action to minimize the adverse effects; and,

(b)notify the commissioners of health, natural resources, and the Pollution Control Agency immediately by informing the Minnesota Duty Officer.

Subd. 8. **Gas well sealing notification.** (a) A gas well, including an unsuccessful gas well, that is not in use must be sealed by a gas well contractor.

(b) A gas well contractor must file a notification, and fee, with the commissioner prior to sealing a gas well.

Subd. 9. **Report of work.** Within 60 days after completion or sealing of a gas well, the gas well contractor must submit a verified report to the commissioner on a form prescribed by the commissioner, or in a format approved by the commissioner.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

**103I.707 GAS WELL NOTIFICATION AND CONSTRUCTION**

Subd.1**. Definitions.**

(a) For the purposes of this section, the following words have the meanings given them.

(b) “Casing” means an impervious durable pipe placed in a well to prevent the walls from caving and to seal off surface drainage or undesirable water, gas, or other fluids to prevent their entering the well and the groundwater.

(c) "Confining layer" means a geological material that restricts water movement relative to an aquifer. A confining layer includes:

i. a stratum of unconsolidated materials or bedrock ten feet or more in vertical thickness that has a vertical hydraulic conductivity of $10^{-6}$ centimeters per second or less;

ii. a stratum of clay, sandy clay, or silty clay ten feet or more in vertical thickness, as defined in the Soil Survey Manual, incorporated by reference in United States Bureau of Plant Industry, Soils and Agricultural Engineering, Soil Survey Manual, United States Department of Agriculture Handbook, no. 18 (1951), pages 205 to 213.; or

iii. any portion of the Decorah, Glenwood, St. Lawrence, or Eau Claire sedimentary bedrock formations as described in Paleozoic Lithostratigraphy of Southeastern Minnesota, incorporated by reference in George Austin, "Paleozoic Lithostratigraphy of Southeastern Minnesota," in Geology of Minnesota: A Centennial Volume in Honor of George M. Schwartz (P.K. Sims and G.B. Morey eds., 1972), pages 459 to 473.

(d) “Drilling fluid additive” is a substance added to the air or water used in the fluid system of drilling a gas well.

(e) “Hydraulic Fracturing Treatment” means all stages of the treatment of a well by the application of fluid under pressure that is expressly intended to initiate or propagate fractures in a target geologic formation to enhance production of oil and gas.(f) “Neat cement grout” means a mixture in the proportion of 94 pounds of Portland cement and not more than six gallons of clean water. Bentonite up

to five percent by weight of cement (4.7 pounds of bentonite per 94 pounds of Portland cement) may be used to reduce shrinkage. Admixtures meeting the standard specifications of ASTM Standard C494 may be used to reduce permeability and/or control time of set.

(g) "Person" means an individual, firm, partnership, association, or corporation or any other entity including the United States government, any interstate body, the state, and any agency, department, or political subdivision of the state.

(h) “Production” includes extraction and beneficiation of gas from consolidated or unconsolidated formations in the state.

(i) “Surface casing” means a string of casing set and cemented in a gas well to prevent lost circulation while drilling deeper and to protect strata known or reasonably expected to serve as a source of drinking water for human consumption.

(j) "Tremie pipe" means a pipe or hose used to insert grout into an annular space or to seal gas well.

Subd. 2. **Gas well contractor’s license qualifications**. (a) A person must meet the requirements of a gas well contractor’s license, under section 103I.706, subdivision 4, and fee, under section 103I.706, subdivision 2, to supervise and oversee regulated work on gas wells.

(b) A certified representative must be a professional engineer or geoscientist licensed under sections 326.02 to 326.15 or a professional geologist certified by the American Institute of Professional Geologists.

Subd. 3. **Gas well construction notification requirements**. (a) a gas well contractor must file a gas well notification, under section 103I.706, subdivision 5, and fee, under section 103I.706, subdivision 2.

(b) A gas well construction notification is valid for 18 months.

(c) A new notification must be filed with the commissioner if:

(i) a gas well contractor other than the one listed on the original notification constructs the gas well;

(ii) the gas well is completed on a property other than that listed in the original notification;

(iii) a gas well will be deepened or have casing installed or removed below the frost line.

(d) A person intending to construct a gas well must notify the commissioner at least 24 hours prior to:

(i) beginning of gas well construction;

(ii) setting casing; and

(iii) placing grout.

(e) A person must not convert a gas well to any other type of well or boring and a person must not convert a well or boring of another type to a gas well.

(f) An exploratory boring is exempt from item (e) and may be converted to a gas well if constructed before enactment of section 103I.707 and constructed in compliance with section 103I.707.

Subd. 4. **Injection prohibited**. A gas well must not be used to inject or dispose surface water, groundwater, or any other liquid, gas, or chemical. This does not prohibit the injection of approved drilling fluids as provided in Subd. 7 for drilling and development of a gas well or a Class 2 injection well permit, authorized by the Environmental Protection Agency.

Subd. 5. **Hydraulic fracturing treatment.** Hydraulic fracturing treatment is prohibited in a gas well.

Subd. 6. **Disposal of material.** Drilling fluid, cuttings, treatment chemicals, and discharge water must be:

(a) containerized;

(b) disposed of off-site or obtain a Class 2 injection well permit, authorized by the Environmental Protection Agency; and,

(c) disposed of according to federal, state, and local requirements.

Subd. 7. **Drilling fluids.** (a) Drilling fluids used for a gas well must be water or air based. Water must come from a potable water system and contain a free chlorine residual at all times.

(b) Drilling fluid additives must meet the requirements of ANSI/NSF Standard 60.

Subd.8. **Casing and grout.** (a) Casing for a gas well must be steel casing that meets API Specification 5CT and is of appropriate grade for the pressures and conditions. Casing installed for the construction of a gas well must be new casing. Casing must be marked by the manufacturer according to API Specification 5CT. Markings must be rolled, stamped, or stenciled by the manufacturer.

(b) Centralizers must be installed at a minimum of 20-foot interval on the casing.

(c) A blowout preventer that is appropriate for the gas pressures expected must be installed on the casing during all drilling after a surface casing has been installed.

(d) Casing offsets are prohibited.

(e) Casing must not be driven.

(f) The diameter of the drilled hole in which surface casing will be set must be least 1.5 inches greater than the nominal outside diameter of the casing that will be installed. All other casings must have at least 0.84 inches between the nominal outside diameter of the casing being cemented and the previously set casing's inside nominal diameter.

(g) A gas well must be cased and grouted to prevent migration of gas and water from one formation to another. During drilling, drilling fluids must be monitored continuously for the presence of gas. Casing must be set to the depth of first detection of gas and grouted from the bottom of the casing up to the established ground surface with neat cement grout.

(h) Neat cement grout must be used for all grouting.

(i) Grouting must start immediately on completion of drilling.

(j) Grout must be pumped into the annular space from the bottom up through the casing, drill rods, or a tremie pipe. Neat cement grout must be allowed to set a minimum of 48 hours. Rapid setting cement must be allowed to set a minimum of 12 hours. Drilling is prohibited during the time the cement is setting.

(k) The annular space between an inner casing and an outer casing must be grouted for its entire length by pumping neat cement grout through a tremie pipe, a drill rod, or the casing. Neat cement grout must be allowed to set a minimum of 48 hours. Rapid setting cement must be allowed to set a minimum of 12 hours. Drilling is prohibited during the time the cement is setting.

(l) The inner casing of a gas well must extend vertically at least one foot above the established ground surface and at least five feet above the regional flood level. The established ground surface immediately adjacent to the casing must be graded to divert water away from the casing. Termination of the top of the casing below the established ground surface, such as in a vault or pit, is prohibited.

(m) The casing of a gas well must be covered with threaded or bolted and flanged gas tight cover equivalent to the casing in weight and strength.

(n) The casing of a gas well must be protected by placing three posts at least four inches square or four inches in diameter around the boring at equal distances from each other and two feet from the gas well. The posts must extend two feet above the established ground surface and four feet below the established ground surface, or to a depth of two feet if each post is set in concrete to a depth of two feet. The posts must be made of reinforced concrete, decay-resistant wood, or schedule 40 steel pipe. Steel pipe must be covered with an overlapping, threaded, or welded steel or iron cap or be filled with concrete or cement.

Subd. 9. **Isolation Distance**. A person must not place, construct, or install a gas well less than 500 feet from a residential building; 500 feet from a water supply well; or 2000 feet from a school facility or childcare center.

Subd. 10. **Groundwater protection.** (a) During the drilling and sealing process, the gas well shall be constructed and maintained to prevent the introduction of surface contaminants into the well and to prevent the passage of water from one aquifer to another; and covered and protected to prevent vandalism or entry of debris into the well.

(b) A gas well must not be constructed to interconnect aquifers separated by a confining layer.

Subd. 11. **Sealing gas wells.** (a) A gas well contractor must file a notification, under section 103I.706, subdivision 8, and fee, under section 103I.706, subdivision 2, to the commissioner.

(b) A gas well sealing notification is valid for 18 months.

(c) A new sealing notification must be filed with the commissioner if a gas well contractor other than the one listed on the original notification will seal the gas well.

(d) The gas well contractor must notify the commissioner of health:

(i) after receiving authorization from the department of natural resources to decommission a gas well; and

(ii) at least 24 hours prior to the start of sealing the gas well.

(e) Materials, debris, and obstructions that may interfere with sealing must be removed from the gas well.

(f) A gas well must be sealed by filling the gas well, including any open annular space, with neat cement grout. The grout must be pumped through a tremie pipe or the casing from the bottom of the gas well or annular space upward to within two feet of the established ground surface. The bottom of the tremie pipe must remain submerged in grout while grouting.

(g) Open annular space surrounding a casing must be grouted by:

(i) filling the annular space with grout according to item (iii);

(ii) removing the casing and filling the well with grout. If casing is to be removed from a collapsing formation, grout must be inserted so the bottom of the casing remains submerged in grout;

(iii) perforating the casing with a minimum of one 1/2-square-inch hole in each foot of casing and forcing grout through the perforations; or

(iv) ripping a minimum of five feet of casing for every 20 feet of casing and forcing grout through the ripped casing, except that casing must be ripped through the entire length of a confining layer.

(h) The gas resource development permittee must have a licensed gas well contractor seal a gas well if:

(i) the gas well contributes to the spread of contamination;

(ii) the gas well was attempted to be sealed but was not sealed according to the provisions of this chapter; or

(iii) the gas well is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.

(i) The licensed gas well contractor must seal the gas well consistent with provisions of this chapter.

Subd.12. **Rules.** A person requesting to construct a gas well must comply with Minnesota Statutes, section 103I.707 until permanent rules for gas wells adopted by the commissioner are published in the State Register.

**EFFECTIVE DATE.** This section is effective the day after final enactment and expires on December 31 of the year that the permanent rules are adopted pursuant to 103I.706.

**103I.708. OIL WELLS.** A person shall not explore, prospect, or construct an oil well until an environmental review has been completed and a production permit has been obtained from the commissioner of natural resources.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

**116D.04 ENVIRONMENTAL IMPACT STATEMENTS**

Subd. 16a. **Gas resource development projects.** Until a final rule is adopted, an environmental assessment worksheet must be prepared for any gas resource development project for which a permit is required by Minn. Statute 93.513 Subd 1. The Department of Natural Resources is the responsible governmental unit.

Section __. Minnesota Statutes 2024, section 272.02, subdivision 97 is amended to read:

Subd. 97. **Property used in business of mining subject to gross proceeds tax.** The following property used in the business of mining that is subject to the gross proceeds tax under section 298.015 is exempt:

(1) deposits of ores, metals, ~~and~~ minerals, gas, and oil in this state, and the lands in which they are contained;

(2) all real and personal property used in mining, quarrying, producing, or refining ores, minerals, ~~or~~ metals, gas, or oil, including lands occupied by or used in connection with the mining, quarrying, production, or ore refining facilities; and

(3) concentrate.

This exemption applies for each year that a person subject to tax under section 298.015 uses the property for mining, quarrying, producing, or refining ores, metals, ~~or~~ minerals, gas, or oil.

**EFFECTIVE DATE.** This section is effective for assessment year 2025 and thereafter.

Section __. Minnesota Statutes 2024, section 272.03, subdivision 1 is amended to read:

Subdivision 1. **Real property.** (a) For the purposes of taxation, but not for chapter 297A, "real property" includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore, ~~and~~ taconite minerals, other ores, minerals, metals, gas, or oil, not otherwise exempt, quarries, fossils, and trees on or under it.

(b) A building or structure shall include the building or structure itself, together with all improvements or fixtures annexed to the building or structure, which are integrated with and of permanent benefit to the building or structure, regardless of the present use of the building, and which cannot be removed without substantial damage to itself or to the building or structure.

(c)(i) Real property does not include tools, implements, machinery, and equipment attached to or installed in real property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment, and mine shafts, tunnels, and other underground openings used to extract ores, ~~and~~ minerals, metals, gas, or oil taxed under chapter 298 together with steel, concrete, and other materials used to support such openings.

(ii) The exclusion provided in clause (i) shall not apply to machinery and equipment includable as real estate by paragraphs (a) and (b) even though such machinery and equipment is used in the business or production activity conducted on the real property if and to the extent such business or production activity consists of furnishing services or products to other buildings or structures which are subject to taxation under this chapter.j(iii) The exclusion provided in clause (i) does not apply to the exterior shell of a structure which constitutes walls, ceilings, roofs, or floors if the shell of the structure has structural, insulation, or temperature control functions or provides protection from the elements, unless the structure is primarily used in the production of biofuels, wine, beer, distilled beverages, or dairy products. Such an exterior shell is included in the definition of real property even if it also has special functions distinct from that of a building, or if such an exterior shell is primarily used for the storage of ingredients or materials used in the production of biofuels, wine, beer, distilled beverages, or dairy products, or for the storage of finished biofuels, wine, beer, distilled beverages, or dairy products.i(d) The term real property does not include tools, implements, machinery, equipment, poles, lines, cables, wires, conduit, and station connections which are part of a telephone communications system, regardless of attachment to or installation in real property and regardless of size, weight, or method of attachment or installation.e

**EFFECTIVE DATE.** This section is effective for assessment year 2025 and thereafter.

Section __. Minnesota Statutes 2024, section 273.01, is amended to read:

**273.12 ASSESSMENT OF REAL PROPERTY.**

It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to every element and factor affecting the market value thereof, including its location with reference to roads and streets and the location of roads and streets thereon or over the same, and to take into consideration a reduction in the acreage of each tract or lot sufficient to cover the amount of land actually used for any improved public highway and the reduction in area of land caused thereby. It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to lands which are comparable in character, quality, and location, to the end that all lands similarly located and improved will be assessed upon a uniform basis and without discrimination and, for agricultural lands, to consider and give recognition to its earning potential as measured by its free market rental rate.

When mineral, clay, or gravel deposits exist on a property, and their extent, quality, and costs of extraction are sufficiently well known so as to influence market value, such deposits shall be recognized in valuing the property; except for mineral and energy-resource deposits, metals, gas, and oil which are subject to taxation under section 298.015, and except for taconite and iron-sulphide deposits which are exempt from the general property tax under section 298.25.

**EFFECTIVE DATE.** This section is effective for assessment year 2025 and thereafter.

Section __. Minnesota Statutes 2024, section 289A.02, subdivision 6 is amended to read:

Subd. 6. **Mining company**. "Mining company" means a person engaged in the business of mining or producing ores, minerals, metals, gas, or oil in Minnesota subject to the taxes imposed by section 298.01 or 298.015.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 289A.12, is amended to add a new subdivision to read:

Subd. 19. **Information report by mining companies**. (a) A mining company required to file an annual tax return under section 289A.08, subdivision 15, for the payment of taxes imposed under section 298.015, must also file an annual information report with the commissioner containing the following information: (1) sales used to compute gross proceeds under section 298.016; (2) the location of the mine or well where the ore, mineral, metal, gas, or oil product is mined, extracted, refined or produced that is used to compute gross proceeds under section 298.016; and (3) other information necessary to collect tax under section 298.015 and to distribute the tax proceeds under section 298.018. The commissioner shall prescribe the content, format, and manner of the annual information report. The annual information report must be filed using a form prescribed by the commissioner. The annual information report must be filed on or before May 1 following the close of the calendar year.

(b) The extension of time provided in section 289A.19, subdivision 2, for the filing of the annual tax return required under section 289A.08, subdivision 15, does not apply to the filing of the annual information report.g **EFFECTIVE DATE.** This section is effective for annual information reports due after December 31, 2024.

Section __. Minnesota Statutes 2024, section 289A.19, subdivision 2 is amended to read:

Subd. 2. **Corporate franchise and mining company taxes**. (a) Except as provided in paragraph (b), ~~C~~corporations or mining companies shall receive an extension of seven months or the amount of time granted by the Internal Revenue Service, whichever is longer, for filing the return of a corporation subject to tax under chapter 290 or for filing the return of a mining company subject to tax under sections 298.01 and 298.015. Interest on any balance of tax not paid when the regularly required return is due must be paid at the rate specified in section 270C.40, from the date such payment should have been made if no extension was granted, until the date of payment of such tax.

If a corporation or mining company does not:

(1) pay at least 90 percent of the amount of tax shown on the return on or before the regular due date of the return, the penalty prescribed by section 289A.60, subdivision 1, shall be imposed on the unpaid balance of tax; or

(2) pay the balance due shown on the regularly required return on or before the extended due date of the return, the penalty prescribed by section 289A.60, subdivision 1, shall be imposed on the unpaid balance of tax from the original due date of the return.

(b) If a mining company does not file the annual information report required under section 289A.12, subdivision 19, by May 1 following the close of the calendar year, then the mining company subject to tax under section 298.015 shall not receive the extension of time for filing its annual tax return.

**EFFECTIVE DATE.** This section is effective for annual information reports due after December 31, 2024.

Section __. Minnesota Statutes 2024, section 290.0134, subdivision 9, is amended to read:

Subd. 9. **Exempt mining and production income.** Income or gains from the business of mining, ~~and~~or the production of gas or oil, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota franchise tax are a subtraction.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 290.0135, is amended to read:

**290.0135 BASIS MODIFICATIONS AFFECTING GAIN OR LOSS ON DISPOSITION OF PROPERTY.**

(a) For individuals, estates, and trusts, the basis of property is its adjusted basis for federal income tax purposes except as set forth in paragraphs (e) and (f). For corporations, the

basis of property is its adjusted basis for federal income tax purposes, without regard to the time when the property became subject to tax under this chapter or to whether out-of-state losses or items of tax preference with respect to the property were not deductible under this chapter, except that the modifications to the basis for federal income tax purposes set forth in paragraphs (b) to (i) are allowed to corporations, and the resulting modifications to federal taxable income must be made in the year in which gain or loss on the sale or other disposition of property is recognized.e

(b) The basis of property shall not be reduced to reflect federal investment tax credit.

(c) For property acquired before January 1, 1933, the basis for computing a gain is the fair market value of the property as of that date. The basis for determining a loss is the cost of the property to the taxpayer less any depreciation, amortization, or depletion, actually sustained before that date. If the adjusted cost exceeds the fair market value of the property, then the basis is the adjusted cost regardless of whether there is a gain or loss.

(d) The basis is reduced by the allowance for amortization of bond premium if an election to amortize was made pursuant to Minnesota Statutes 1986, section 290.09, subdivision 13, and the allowance could have been deducted by the taxpayer under this chapter during the period of the taxpayer's ownership of the property.

(e) For assets placed in service before January 1, 1987, corporations, partnerships, or individuals engaged in the business of mining or producing minerals, metals, gas, oil, or ores, other than iron ore or taconite concentrates, subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(f) For assets placed in service before January 1, 1990, corporations, partnerships, or individuals engaged in the business of mining iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(g) In applying the provisions of sections 301(c)(3)(B), 312(f) and (g), and 316(a)(1) of the Internal Revenue Code, the dates December 31, 1932, and January 1, 1933, shall be substituted for February 28, 1913, and March 1, 1913, respectively.

(h) In applying the provisions of section 362(a) and (c) of the Internal Revenue Code, the date December 31, 1956, shall be substituted for June 22, 1954.

(i) The basis of property shall be increased by the amount of intangible drilling costs not previously allowed due to differences between this chapter and the Internal Revenue Code.

(j) The adjusted basis of any corporate partner's interest in a partnership is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (b) to (i). The adjusted basis of a partnership in which the partner is an individual, estate, or trust is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (e) and (f).t

(k) The modifications contained in paragraphs (b) to (i) also apply to the basis of property that is determined by reference to the basis of the same property in the hands of a different taxpayer or by reference to the basis of different property.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 290.05, subdivision 1, is amended to read:

Subdivision 1. **Exempt entities**. The following corporations, individuals, estates, trusts, and organizations shall be exempted from taxation under this chapter, provided that every such person or corporation claiming exemption under this chapter, in whole or in part, must establish to the satisfaction of the commissioner the taxable status of any income or activity:

(a) corporations, individuals, estates, and trusts engaged in the business of mining or producing iron ore, ~~and~~ or mining, producing, or refining other ores, metals, and minerals, or the production of gas or oil, the mining, production, or refining of which is subject to the occupation tax imposed by section 298.01; but if any such corporation, individual, estate, or trust engages in any other business or activity or has income from any property not used in such business it shall be subject to this tax computed on the net income from such property or such other business or activity. Royalty shall not be considered as income from the business of mining or producing iron ore, or mining, producing, or refining other ores, metals and minerals, or the production of gas or oil, within the meaning of this section;

(b) the United States of America, the state of Minnesota or any political subdivision of either agencies or instrumentalities, whether engaged in the discharge of governmental or proprietary functions; and

(c) any insurance company, other than a disqualified captive insurance company.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 290.923, subdivision 1, is amended to read:

Subdivision 1. **Definition**. In this section, "royalty" means the amount in money or value of property received by any person having any right, title, or interest in any tract of land in this state for permission to explore, mine, take out, and remove ore, mineral, metal, gas, or oil from the land.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 297A.68, subdivision 5, is amended to read:

Subd. 5. **Capital equipment.** (a) Capital equipment is exempt.

"Capital equipment" means machinery and equipment purchased or leased, and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process of manufacturing, fabricating, mining, or refining. Capital equipment also includes machinery and equipment used primarily to electronically transmit results retrieved by a customer of an online computerized data retrieval system. (b) Capital equipment includes, but is not limited to:

(1) machinery and equipment used to operate, control, or regulate the production equipment;

(2) machinery and equipment used for research and development, design, quality control, and testing activities;

(3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;

(4) materials and supplies used to construct and install machinery or equipment;

(5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;

(6) materials used for foundations that support machinery or equipment;

(7) materials used to construct and install special purpose buildings used in the production process;

(8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed as part of the delivery process regardless if mounted on a chassis, repair parts for ready-mixed concrete trucks, and leases of ready-mixed concrete trucks; and

(9) machinery or equipment used for research, development, design, or production of computer software.

(c) Capital equipment does not include the following:

(1) motor vehicles taxed under chapter 297B;

(2) machinery or equipment used to receive or store raw materials;

(3) building materials, except for materials included in paragraph (b), clauses (6) and (7);

(4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: plant security, fire prevention, first aid, and hospital stations; support operations or administration; pollution control; and plant cleaning, disposal of scrap and waste, plant communications, space heating, cooling, lighting, or safety;

(5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13;

(6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property;

(7) machinery and equipment used by restaurants in the furnishing, preparing, or serving of prepared foods as defined in section 297A.61, subdivision 31;

(8) machinery and equipment used to furnish the services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii);

(9) machinery or equipment used in the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products. This clause does not apply to machinery or equipment used to blend petroleum or biodiesel fuel as defined in section 239.77; or

(10) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and computer software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner. (3) "Integrated production process" means a process or series of operations through which tangible personal property is manufactured, fabricated, mined, or refined. For purposes of this clause, (i) manufacturing begins with the removal of raw materials from inventory and ends when the last process prior to loading for shipment has been completed; (ii) fabricating begins with the removal from storage or inventory of the property to be assembled, processed, altered, or modified and ends with the creation or production of the new or changed product; (iii) mining begins with the removal of overburden from the site of the ores, minerals, stone, peat deposit, metal, gas, or oil, or surface materials and ends when the last process before stockpiling is completed; and (iv) refining begins with the removal from inventory or storage of a natural resource and ends with the conversion of the item to its completed form.

(4) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through completion of the product, including packaging of the product.c(5) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(6) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in

the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail. (7) "Mining" means the extraction or production of stone or peat, or the extraction or production of minerals, ores, metal, gas, or oil, when such substances are extracted from beneath the surface of the earth in Minnesota. Gas and oil shall have the meaning given to those terms in section 298.001, subdivisions 14 and 15.

(8) "Online data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(9) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product, including the treatment of water to be sold at retail.

(11) This subdivision does not apply to telecommunications equipment as provided in subdivision 35a, and does not apply to wire, cable, or poles for telecommunications services.

**EFFECTIVE DATE.** This section is effective for sales and purchases made after December 31, 2024.

Section __. Minnesota Statutes 2024, section 297A.71, subdivision 14, is amended to read:

Subd. 14. **Mineral production facilities.** Building materials, equipment, and supplies used for the construction of the following mineral production facilities are exempt.

The mineral production facilities that qualify for this exemption are:

(1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent;

(2) a facility used for the manufacture of fluxed taconite pellets as defined in section 298.24;

(3) a new capital project that has a total cost of over $40,000,000 that is directly related to production, cost, or quality at an existing taconite facility that does not qualify under clause (1) or (2); and

(4) a new mine or minerals processing plant for any mineral, ore, metal, gas, or oil subject to the gross proceeds tax imposed under section 298.015.

The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

**EFFECTIVE DATE.** This section is effective for sales and purchases made after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.001, subdivision 3a is amended read:

Subd. 3a. **Producer**. "Producer" means a person engaged in the business of mining or producing iron ore, taconite concentrate, ~~or~~ direct reduced ore ~~in this state~~, other ore, minerals, metals, gas, or oil in Minnesota, when such substances are extracted from beneath the surface of the earth in Minnesota.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.001, is amended to add a subdivision to read:

Subd. 10a. **Producing**. "Producing" means and is limited to drilling, extracting, separating, or beneficiating:

(1) gas or oil products subject to tax under section 298.015; and

(2) carried out by the entity, or affiliated entity, that drilled, extracted, separated, or beneficiated the gas or oil subject to tax under section 298.015.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.001, is amended by adding a subdivision to read:

Subd. 14. **Gas.** "Gas" means all gases, both hydrocarbon and nonhydrocarbon, that occur naturally beneath the earth's surface in Minnesota. "Gas" includes, but is not limited to, natural gas, hydrogen, carbon dioxide, nitrogen, hydrogen sulfide, helium, methane and a mixture of some or all of these gases.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.001, is amended by adding a subdivision to read:

Subd. 15. **Oil. "**Oil" means all oils that occur naturally beneath the earth's surface in Minnesota. "Oil" includes, but is not limited to, petroleum, crude oil, condensate, casinghead gasoline, or other mineral oils and a mixture of some or all of these oils.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.001, is amended by adding a subdivision to read:

Subd. 16. **Gas or Oil Production**. "Gas or oil production," "the production of gas or oil," and "producing gas or oil" mean the action of taking gas or oil, in its natural state, out from beneath the earth's surface in Minnesota, and includes drilling, extracting, separating or beneficiating that gas or oil.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.01, subdivision 3, is amended to read:

Subd. 3. **Occupation tax; other ores; gas and oil**. Every person engaged in the business of mining, refining, or producing ores, metals, minerals, gas, or oil, when such substances are extracted, in their natural state, from beneath the surface of the earth in Minnesota, except iron ore or taconite concentrates, shall pay an occupation tax to the state of Minnesota as provided in this subdivision. For purposes of this subdivision, mining includes the application of hydrometallurgical processes. Hydrometallurgical processes are processes that extract the ores, metals, or minerals, by use of aqueous solutions that leach, concentrate, and recover the ore, metal, or mineral. The tax is determined in the same manner as the tax imposed by section 290.02, except that sections 290.05, subdivision 1, clause (a), 290.17, subdivision 4, and 290.191, subdivision 2, do not apply, and the occupation tax must be computed by applying to taxable income the rate of 2.45 percent.

The tax is in addition to all other taxes.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.01, subdivision 3a, is amended to read:

Subd. 3a. **Gross income.** (a) For purposes of determining a person's taxable income under subdivision 3, gross income is determined by the amount of gross proceeds from mining, refining or producing of other ores, metals, minerals, gas, or oil in Minnesota under section 298.016 and includes any gain or loss recognized from the sale or disposition of assets used in the business in this state. If more than one ore, mineral, ~~or~~ metal, gas, or oil referred to in section 298.016 is mined, produced ~~and~~or processed at the same mine, well, and plant, a gross income for each ore, mineral, ~~or~~ metal, gas, or oil must be determined separately. The gross incomes may be combined on one occupation tax return to arrive at the gross income of all production.

(b) In applying section 290.191, subdivision 5, transfers of ores, metals, ~~or~~ minerals, gas, or oil that are subject to tax under this chapter are deemed to be sales in this state.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.01, subdivision 3b, is amended to read:

Subd. 3b. **Deductions.** (a) For purposes of determining taxable income under subdivision 3, the deductions from gross income include only those expenses necessary to convert raw ores, metals, minerals, gas, or oil to marketable quality. Such expenses include costs associated with refinement but do not include expenses such as transportation, stockpiling, marketing, or marine insurance that are incurred after marketable ores, metals, minerals, gas, or oil are produced, unless the expenses are included in gross income. The allowable deductions from a mine, well, or plant that mines and produces more than one ore, mineral, metal, ~~or~~ energy resource, gas, or oil must be determined separately for the purposes of computing the deduction in section 290.0133, subdivision 9. These deductions may be combined on one occupation tax return to arrive at the deduction from gross income for all production.

(b) The provisions of sections 290.0133, subdivisions 7 and 9, and 290.0134, subdivisions 7 and 9, are not used to determine taxable income.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.01, subdivision 4a, is amended to read:

Subd. 4a. **Gross income.** (a) For purposes of determining a person's taxable income under subdivision 4, gross income is determined by the mine value of the ore mined in Minnesota and includes any gain or loss recognized from the sale or disposition of assets used in the business in this state.

(b) Mine value is the value, or selling price, of iron ore or taconite concentrates, f.o.b. mine. The mine value is calculated by multiplying the iron unit price for the period, as determined by the commissioner, by the tons produced and the weighted average analysis.

(c) In applying section 290.191, subdivision 5, transfers of iron ore and taconite concentrates are deemed to be sales in this state.

(d) If iron ore, ~~or~~ taconite and ~~a~~an other ore, ~~and a~~ mineral, ~~or~~ metal, ~~or~~energy resource, gas, or oil referred to in section 298.016 is mined and processed at the same mine and plant, a gross income for each other ore, mineral, metal, ~~or~~energy resource, gas, or oil must be determined separately from the mine value for the iron ore or taconite. The gross income may be combined on one occupation tax return to arrive at the gross income from all production.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.01, subdivision 4b, is amended to read:

Subd. 4b. **Deductions.** For purposes of determining taxable income under subdivision 4, the deductions from gross income include only those expenses necessary to convert raw iron ore or taconite concentrates to marketable quality. Such expenses include costs associated with beneficiation and refinement but do not include expenses such as transportation, stockpiling, marketing, or marine insurance that are incurred after marketable iron ore or taconite pellets are produced. The allowable deductions from a mine, well, or plant that mines and produces iron ore or taconite and one or more mineral, ~~or~~ metal, gas or oil referred to in section 298.016 must be determined separately for the purposes of computing the deduction in section 290.0133, subdivision 9. These deductions may be combined on one occupation tax return to arrive at the deduction from gross income for all production.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.01, subdivision 5, is amended to read:

Subd. 5. **If declared unconstitutional.** If the taxes imposed in subdivisions 3 and 4 are found unconstitutional by any court of last resort, then persons engaged in the business of mining or producing iron ore, or other ores, metals, minerals, gas, or oil shall pay the occupation tax imposed in Minnesota Statutes 1986, chapter 298. For purposes of applying Minnesota Statutes 1986, chapter 298, the term "other ores" as used in that chapter includes ores other than iron ore as well as minerals, metals, gas, or oil.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.01, subdivision 6, is amended to read:

Subd. 6. **Deductions applicable to mining taconite, and other ores, gas or oil; ratio applied**. If a person is engaged in the business of mining or producing both iron ores, taconite concentrates, or direct reduced ore, and other ores, minerals, metals, gas or oil from the same mine, well, or facility, that person must separately determine the mine value of (1) the iron ore, taconite concentrates, and direct reduced ore, and (2) the amount of gross proceeds from mining other ores, minerals, metals, gas, or oil in Minnesota. The ratio of mine value from iron ore, taconite concentrates, and direct reduced ore to gross proceeds from mining other ores, minerals, metals, gas or oil must be applied to deductions common to both processes to determine taxable income for tax paid pursuant to subdivisions 3 and 4.

**EFFECTIVE DATE**. This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.015, subdivision 1, is amended to read:

Subdivision 1. **Tax imposed.** (a) Except as provided in paragraph (b), a~~A~~ person engaged in the business of mining, extracting, producing, or refining in Minnesota shall pay to the state of Minnesota for distribution as provided in section 298.018 a gross proceeds tax equal to 0.4 percent of the gross proceeds as defined in section 298.016. The tax applies to all ores, metals, ~~and~~ minerals, gas, or oil mined, extracted, produced, or refined within the state of Minnesota, when such substances are extracted, in their natural state, from beneath the surface of the earth in Minnesota, except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, clay, soil, iron ore, and taconite concentrates. The tax is in addition to all other taxes provided for by law.

(b) The following tax rates apply to the gas products listed:

(i) ___% of the gross proceeds for helium products;

(ii) __% of the gross proceeds for _____ products; and

(iii) __% of the gross proceeds for _____ products.

(c) A person engaged in the business of producing gas or oil in this state is not subject to the minimum payment under subdivision 3.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.016, is amended to read:

**298.016 GROSS PROCEEDS.**

Subdivision 1. **Computation; arm's-length transactions.** When a metal ~~or~~, mineral, gas, or oil product is sold by the producer in an arm's-length transaction, and such product is produced from substances extracted, in their natural state, beneath the surface of the earth in Minnesota, the gross proceeds are equal to the proceeds from the sale of the product. This subdivision applies to sales realized on all metal ~~or~~, mineral, gas, or oil products produced from mining or production, including reduction, beneficiation, or any treatment or process used by a producer to obtain a metal ~~or~~, mineral, gas, or oil product which is commercially marketable.

Subd. 2. **Other transactions.** When a metal ~~or~~, mineral, gas, or oil product is used by the producer or disposed of in a non-arm's-length transaction, the gross proceeds must be determined using the alternative computation in subdivision 3. Transactions subject to this subdivision include, but are not limited to, shipments to a wholly owned smelter, transactions with associated or affiliated companies, and any other transactions which are not at arm's length.

Subd. 3. **Alternative computation.** (a) Except as provided in paragraph (c), the commissioner of revenue shall determine the alternative computation of gross proceeds using the following procedure:

(1) Metal and mineral prices shall be determined by using the average annual market price as published in the Engineering and Mining Journal;

(2) For metals or mineral products with a monthly or weekly price quotation in the Engineering and Mining Journal, but for which no average annual price has been published, an arithmetic average of the monthly or weekly prices published in the Engineering and Mining Journal shall be used;

(3) If the price of a particular metal or mineral product is not published in the Engineering and Mining Journal, another recognized published price, as established by the commissioner of revenue will be used.

(b) The quantity of each particular metal or mineral product recovered and paid or credited for by the smelter will be multiplied by the average annual market price as determined in ~~clause~~paragraph (a). Special smelter charges for particular metals will be allowed as a deduction from this price. The resulting amount will be the gross proceeds for calculating the tax in section 298.015.

(c) For purposes of determining the alternative computation of gross proceeds for gas or oil products, a recognized published price, as established by the commissioner of revenue will be used. If there is no currently available recognized published price, the commissioner shall determine the fair market value of the gas or oil product using the method described below which results in the greater fair market value:

(i) A recognized price published historically, as established by the commissioner. The commissioner shall adjust the historical published price for inflation, which adjustment shall be determined as provided in section 270C.22, using the year in which the most recent historical price is published as the statutory year. s(ii) The commissioner may use an arm's length transaction price paid by other parties for gas or oil products of like quantity. The commissioner may adjust this arm's length transaction price to account

for differences in quality, recency, inflation, terms and conditions, and other relevant circumstances under which the arm's length transaction price was paid in relation to the non-arm's-length transaction price computed under this subdivision.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.016, subdivision 4, is amended to read:

Subd. 4. **Metal, ~~or~~mineral, gas, or oil products; definition**. For the purposes of this section, "metal, ~~or~~mineral, gas, or oil products" means all ores, metals, ~~and~~ minerals, gases, or oils subject to the tax provided in section 298.015.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.016, is amended to add a new subdivision to read:

Subd. 4a. **Gas or oil products; definition**. For purposes of this section, "gas or oil products" mean all gases and oils subject to the tax imposed in section 298.015.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.018, is amended to read:

Subdivision 1. **Within taconite assistance area.** (a) Except as provided in subdivision 1a, the ~~The~~ proceeds of the tax paid under sections 298.015 and 298.016 on ores, metals, or minerals mined or extracted within the taconite assistance area defined in section 273.1341, shall be allocated as follows:

(1) except as provided under paragraph (b), five percent to the city or town within

which the ores, metals, or minerals~~, or energy resources~~ are mined or extracted, or within which the concentrate was produced. If the mining and concentration, or different steps in either process, are carried on in more than one taxing district, the commissioner shall apportion equitably the proceeds among the cities and towns by attributing 50 percent of the proceeds of the tax to the operation of mining or extraction, and the remainder to the production plant or concentrating plant and to the processes of production and concentration, and with respect to each thereof giving due consideration to the relative extent of the respective operations performed in each taxing district;

(2) ten percent to the taconite municipal aid account to be distributed as provided in section 298.282, subdivisions 1 and 2, on the dates provided under this section;

(3) ten percent to the school district within which the ores, metals, or minerals~~, or energy resources~~ are mined or extracted, or within which the concentrate was produced. If the mining, production and concentration, or different steps in ~~either~~ those processes, are carried on in more than one school district, distribution among the school districts must be based on the apportionment formula prescribed in clause (1);

(4) 20 percent to a group of school districts comprised of those school districts wherein the ores, metals, or minerals~~, or energy resources~~ was mined or extracted or in which there is a qualifying municipality as defined by section 273.134, paragraph (b), in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 126C.05 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapters 122A, 126C, and 127A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions;

(5) ten percent to the county within which the ores, metals, or minerals ~~or energy resources,~~ are mined or extracted, or within which the concentrate was produced. If the mining, production and concentration, or different steps in ~~either~~ those processes, are carried on in more than one county, distribution among the counties must be based on the apportionment formula prescribed in clause (1), provided that any county receiving distributions under this clause shall pay one percent of its proceeds to the Range Association of Municipalities and Schools;

(6) five percent to St. Louis County acting as the counties' fiscal agent to be distributed as provided in sections 273.134 to 273.136;

(7) 20 percent to the commissioner of Iron Range resources and rehabilitation for the purposes of section 298.22;

(8) three percent to the Douglas J. Johnson economic protection trust fund;

(9) seven percent to the taconite environmental protection fund; and

(10) ten percent to the commissioner of Iron Range resources and rehabilitation for capital improvements to Giants Ridge Recreation Area.

(b) If the ores, metals, or minerals, ~~materials or energy resources~~ are mined, extracted, or concentrated in School District No. 2711, Mesabi East, then the amount under paragraph (a), clause (1), must instead be distributed pursuant to this paragraph. The cities of Aurora, Babbitt, Ely, and Hoyt Lakes must each receive 20 percent of the amount. The city of Biwabik and Embarrass Township must each receive ten percent of the amount.

(c) For the first five years that tax paid under section 298.015, subdivisions 1 and 2, is distributed under this subdivision, ten percent of the total proceeds distributed in each year must first be distributed pursuant to this paragraph. The remaining 90 percent of the total proceeds distributed in each of those years must be distributed as outlined in paragraph (a). Of the amount available under this paragraph, the cities of Aurora, Babbitt, Ely, and Hoyt Lakes must each receive 20 percent. Of the amount available under this paragraph, the city of Biwabik and Embarrass Township must each receive ten percent. This paragraph applies only to tax paid under section 298.015, subdivision 1, paragraph (a), by a person engaged in the business of mining within the area described in section 273.1341, clauses (1) and (2).

Subd. 1a. The proceeds of the tax paid under sections 298.015 and 298.016 on gas or oil produced within the taconite assistance area defined in section 273.1341, shall be allocated as follows: _____.

Subd. 1~~a~~b. **Distribution Date**. The proceeds of the tax allocated under subdivision 1 shall be distributed on December 15 each year. Any payment of proceeds received after December 15 shall be distributed on the next gross proceeds tax distribution date.

Subd. 2. **Outside taconite assistance area**. (a) Except as provided in paragraph (b), the proceeds of the tax paid under sections 298.015 and 298.016 on ores, metals, or minerals mined or extracted outside of the taconite assistance area defined in section 273.1341, shall be deposited in the general fund.

(b) The proceeds of the tax paid under sections 298.015 and 298.016 on gas or oil produced outside the taconite assistance area defined in section 273.1341, shall be allocated as follows: _____.

Subd. 1b. **Distribution Date**. The proceeds of the tax allocated under subdivision 2 shall be distributed on December 15 each year. Any payment of proceeds received after December 15 shall be distributed on the next gross proceeds tax distribution date.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.

Section __. Minnesota Statutes 2024, section 298.17, is amended to read:

**298.17 OCCUPATION TAXES TO BE APPORTIONED.**

(a) All occupation taxes paid by persons, copartnerships, companies, joint stock companies, corporations, and associations, however or for whatever purpose organized, engaged in the business of mining or producing iron ore, ~~or~~ other ores, metals, minerals, gases, or oils, when collected shall be apportioned and distributed in accordance with the Constitution of the state of Minnesota, article X, section 3, in the manner following: 90 percent shall be deposited in the state treasury and credited to the general fund of which four-ninths shall be used for the support of elementary and secondary schools; and ten percent of the proceeds of the tax imposed by this section shall be deposited in the state treasury and credited to the general fund for the general support of the university.

(b) Of the money apportioned to the general fund by this section: (1) there is annually appropriated and credited to the mining environmental and regulatory account in the special revenue fund an amount equal to that which would have been generated by a 2-1/2 cent tax imposed by section 298.24 on each taxable ton produced in the preceding calendar year. Money in the mining environmental and regulatory account is appropriated annually to the commissioner of natural resources to fund agency staff to work on environmental issues and provide regulatory services for ferrous and nonferrous mining and production operations in this state. Payment to the mining environmental and regulatory account shall be made by July 1 annually. The commissioner of natural resources shall execute an interagency agreement with the Pollution Control Agency to assist with the provision of environmental regulatory services such as monitoring and permitting required for ferrous and nonferrous mining and production operations; (2) there is annually appropriated and credited to the Iron Range resources and rehabilitation account in the special revenue fund an amount equal to that which would have been generated by a 1.5 cent tax imposed by section 298.24 on each taxable ton produced in the preceding calendar year, to be expended for the purposes of section 298.22; and (3) there is annually appropriated and credited to the Iron Range resources and rehabilitation account in the special revenue fund for transfer to the Iron Range schools and community development account under section 298.28, subdivision 7a, an amount equal to that which would have been generated by a six cent tax imposed by section 298.24 on each taxable ton produced in the preceding calendar year. Payment to the Iron Range resources and rehabilitation account shall be made by May 15 annually.

(c) The money appropriated pursuant to paragraph (b), clause (2), shall be used (i) to provide environmental development grants to local governments located within any county in region 3 as defined in governor's executive order number 60, issued on June 12, 1970, which does not contain a municipality qualifying pursuant to section 273.134, paragraph (b), or (ii) to provide economic development loans or grants to businesses located within any such county, provided that the county board or an advisory group appointed by the county board to provide recommendations on economic development shall make recommendations to the commissioner of Iron Range resources and rehabilitation regarding the loans. Payment to the Iron Range resources and rehabilitation account shall be made by May 15 annually.

(d) Of the money allocated to Koochiching County, one-third must be paid to the Koochiching County Economic Development Commission.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2024.