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BILL ANALYSIS



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Senate Bill 839 (as introduced 2-22-18)
Sponsor: Senator Tom Casperson
Committee: Natural Resources

Date Completed: 2-27-18

CONTENT

The bill would amend Part 632 (Nonferrous Metallic Mineral Mining) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **Require the Department of Environmental Quality (DEQ), in making certain determinations about amending a mining permit, to consider whether environmental impacts would be materially increased by approving proposed amendments to the permit.**
- **Require the DEQ to hold a public meeting on a request for an amendment to an approved mining permit if the request were a significant change from the conditions of the approved permit.**
- **Allow a mining operator to modify surface or underground facilities without obtaining an amendment to a mining permit, under certain conditions.**

Under NREPA, a person is prohibited from engaging in the mining of nonferrous metallic minerals except as authorized in a mining permit issued by the DEQ. A mining permit may be amended as follows:

- The permittee may submit to the DEQ a request to amend the mining permit to address anticipated changes in the mining operation, including, if applicable, amendments to the environmental impact assessment and to the mining, reclamation, and environmental protection plan.
- The DEQ may require a mining permit to be amended if it determines that the terms and conditions of the permit are not providing the intended reasonable protection of the environment, natural resources, or public health and safety.

After receiving a request to amend a mining permit, or upon a determination by the DEQ that an amendment is necessary, the DEQ must determine within 30 days whether the request constitutes a significant change from the conditions of the approved mining permit.

The bill would require the DEQ, in making the determination, to consider whether the change would result in environmental impacts that were materially increased or different from those addressed in the approved mining permit conditions, the mining permit application, or any additional information forming the basis of the approved mining permit conditions.

Currently, if the DEQ determines that the request is a significant change from the conditions of the approved mining permit, the DEQ may submit the request for amendment to the same review process as provided for a new permit application. If a request to amend the mining

permit is denied, the reasons for denial must be stated in a written report to the permittee. The bill would replace these provisions.

The bill provides that if the DEQ determined that the request was a significant change from the conditions of the approved mining permit, the DEQ would be required, in its sole discretion, either to submit the request for amendment as described above, or, within 42 days after the determination that the amendment request constituted a significant change, to hold a public meeting on the request. The DEQ would have to give notice of the public meeting in the same manner as required for a public meeting on a mining permit application. (The Act requires the DEQ to give notice between 14 and 28 days before the date of the public meeting. The notice must specify the time and place of the public meeting, which must be held in the county where the proposed mining operation is located, and must include information on how to review a copy of the application. The notice must be given in writing to the city, village, or township and the county where the proposed mining operation is to be located and to all affected federally recognized Indian tribes in the State. The notice also must be given by publication in a newspaper of local distribution in the area where the proposed mining operation is to be located.)

The DEQ would have to accept written public comment on the request for 28 days after the public meeting. Within 14 days after the expiration of the public comment period, the DEQ would have to grant or deny the request in writing.

Under NREPA, if the DEQ determines that the request for amendment does not constitute a significant change from the conditions of the approved mining permit, the DEQ must provide written notice of the determination to the city, village, or township and the county where the proposed mining operation is to be located and to all affected federally recognized Indian tribes in the State. The DEQ also must give notice of the determination by publication in a newspaper of local distribution in the area where the proposed mining operation is to be located. The DEQ must approve the amendment within 14 days after publication of the notice and must notify the permittee of the approval.

The bill also provides that a permittee could relocate, reconfigure, or modify surface or underground facilities, buildings, or equipment, other than a tailings basin or a stockpile, without obtaining an amendment to the permit if all of the following applied:

- The relocation, reconfiguration, or modification took place within the permitted mining area and did not require an amendment to any other permits issued by the DEQ.
- The permittee provided written notice to the DEQ at least 30 days before undertaking the relocation, reconfiguration, or modification.

The bill would take effect 90 days after it was enacted.

MCL 324.63207

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.