

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date June 2020</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) NR 130 - Nonferrous Metallic Mineral Exploration and Bulk Sampling, NR 131 - Nonferrous Metallic Mineral Prospecting, NR 132 - Nonferrous Metallic Mineral Mining, NR 182 - Nonferrous Metallic Mineral Mining Waste Management.</p>	
<p>4. Subject Revision of administrative rules pertaining to regulation of nonferrous metallic mineral mining and related activities.</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input checked="" type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected s. 20.370(9)(gh), Stats.</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect   <input checked="" type="checkbox"/> Increase Existing Revenues   <input type="checkbox"/> Increase Costs   <input checked="" type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b></p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$501,900 for each mining project, from exploration through the life of the mining project. (Approximately one project will be approved over a 10-year period).</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The administrative rules pertaining to nonferrous metallic mineral mining and related activities have remained relatively unchanged since their inception in the early 1980s. In that time, numerous changes have been made to the controlling statutes resulting in rules that are inconsistent with the laws. In addition, many provisions in the rules are outdated in terms of technological currency and consistency with requirements and standards in other regulatory programs administered by the department. The proposed changes will bring the rule into conformance with the statutes and up to date with current technological and regulatory approaches.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The department solicited review and comments on early drafts of the proposed rules from representatives from tribal interests, the mining industry and environmental groups. A representative of the mining industry was contacted for input on quantification of the economic impacts of the proposed rules and generally concurs with the estimated impacts.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. This rule does not impact local government units directly. However, the department intends to notify and solicit input specifically from several counties in which potential mining activity could occur (Forest, Oneida, Marathon and Taylor Counties) so that those local governments are aware of this rulemaking. Through county and municipal associations such as the Wisconsin Counties Association and Wisconsin Towns Association, other local governmental units will be consulted as part of the solicitation process.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) There are limited potential cost increases related to each of the proposed rules. Costs are expected to be incurred by</p>	

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exploration companies and applicants for prospecting or mining permits and operators of prospecting or mining projects. No other entities are expected to be directly or significantly affected by the proposed revisions to the nonferrous mining rules.

Nonferrous metallic mineral mining and related activities are not common occurrences in the state and it is not anticipated that nonferrous mining projects will be widespread in the future. However, for purposes of this analysis the department must make assumptions regarding the frequency of such activities. Over the past forty years, the department has approved only one new nonferrous metallic mineral mine, and several other projects were proposed, but the applicants did not complete the permitting process. Based on this experience, the department is assuming that one new nonferrous mining project will be considered every ten years and the projected cost increases discussed below are based on that overlying assumption.

NR 130 - Under the proposed rules, exploration license fees and drillhole fees are increased. Increased costs could also be incurred due to changes in the notification procedures and license renewal requirements. Annual costs for a typical licensee would increase by approximately \$4,800 during the period of active exploration and costs related to extended licensing and reporting could result to an increase in costs of \$1300/year over five years following drilling activities.

Details of the estimated cost increases are as follows:

License fee increase: \$300/year

Notice of Intent to Drill preparation: (\$2000)

Drillhole fees: \$1500/year (\$100/drillhole with 15 holes drilled per year)

Drillhole reporting as part of annual license renewal: \$1000.

Extended licensing and drillhole reporting: \$6500 (\$1300/year for five years)

Based on levels of exploration in the state over the past 20 years, it is assumed that there would be one active exploration licensee each year. The total cost increase for that licensee would be \$4800 for each year of active exploration and \$1300 for each year of extended licensing (up to five years). If the active exploration program extends for three years, the total cost increase would be \$20,900 over an eight-year period.

Subchapter II of Ch. NR 130 establishes licensing and approval procedures pertaining to nonferrous mineral bulk sampling. This is a newly regulated activity, recently created by statute, and the rule implements the statutory requirements, including bulk sampling plan development, plan implementation and submittal of financial surety. These elements of the rules are specifically required in the law and the rule provides additional structure and detail regarding these requirements. The rule identifies specific information that must be included in a bulk sampling plan. Development of this plan will comprise the bulk of the regulatory costs for a prospective licensee. It is estimated that development of a bulk sampling plan will cost approximately \$22,000 (80 hours @ \$300/hour). The department does not anticipate bulk sampling will be a common activity. For purposes of this analysis it is assumed that one bulk sampling project is proposed every ten years period for a total cost increase of \$22,000 over a ten year period.

NR 131 - Under the proposed rule revisions, permitting costs for prospecting projects could increase due to additional information and plans required as part of a prospecting permit application. The nature of the cost increases would be similar to those described in greater detail below as related to Chs. NR 132 and NR 182, but the magnitude of the potential cost increases would be much less. It is estimated that the total costs, including those as a result of changes to NR 182, could increase by approximately \$75,000 for a typical prospecting project but could also vary significantly depending on the specific project proposal. Based on the fact that there have been no permitted prospecting operations and only one proposed application in the past 40 years, the department does not anticipate nonferrous mineral prospecting will be a common occurrence. For purposes of this analysis, the department does not foresee any prospecting projects over the next ten year period.

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NR 132 -The proposed rule revisions specify that an applicant for a mining permit develop and submit, as part of a mining permit application, substantially more detailed mining and reclamation plans than required under existing rules and also specifies additional reporting requirements for operating mines. Specifically, for the permitting phase, greater detail is required for stormwater management, monitoring and reclamation procedures and reclamation success criteria and operators will be required to submit annual reclamation implementation plans and evaluation reports. The department would generally require all of this information as part of its conditional issuance of a mining permit but the rule revisions explicitly require the information. By requiring most of this information as part of the application process, the review process is enhanced by ensuring applicants are aware of all requirements at the start of the process, there will be less potential conflict over requested information and more certainty in the department's analysis, review and decision-making processes. It is estimated that preparation of more detailed mining plans and reclamation plans would result in an increase in costs of approximately \$30,000 for each mining permit application (\$300/hour x 100 hours). Over the past forty years the department has issued one mining permit for a new mining project the permitting process was initiated but not completed three other times. For purposes of this analysis, the department is assuming that one nonferrous metallic mineral mining project is proposed every ten years. Increased costs related to compliance with the proposed changes to NR 132 will result in a total cost increase of \$30,000 over a ten year period.

NR 182 - The proposed changes specify substantially greater detail as part of the feasibility report, plan of operation and construction documentaton reports compared to existing rules. In addition, under the proposed rules, an operator is required to submit a detailed pre-construction report and participate in a preconstruction meeting prior to commencing construction of a mining waste facility. Most of the detail added to the feasibility report, plan of operation and construction documentation reports would be required as conditions of permitting. Similarly, costs related to the pre-construction report and meetings would likely be incurred under existing rules, as those have been required as permit conditions in the past. While these costs would likely be incurred under current rules, for purposes of this analysis, they are summarized below, since they will be explicitly required in the rule. Costs related to the revisions in Ch. NR 182 are as follows:

Feasibility Report - \$300/hr x 160 hours >>>\$48,000

Plan of Operation - \$300/hr x 320 hours >>>\$96,000

Preconstruction Report - \$300/hr x 400 hours >>> \$120,000 for each major phase of construction/closure

Construction Documentation Report - \$300/hr x 500 hours>>> \$150,000 for each major phase of construction/closure

Total estimated cost increase - \$414,00/ for each mining waste facility

For purposes of this analysis, as stated above, the department is assuming there will be one nonferrous mining project proposed every ten years. The department is also assuming that each of these proposals would include a mining waste facility regulated under ch. NR 182. The projected increased costs related to compliance with the proposed changes to ch. NR 182 will be approximately \$414,000 over a ten year period.

Changes to Chapters NR 131, NR 132 and NR 182 may result in a modest increase in revenues and decrease in costs incurred by the department. As described above, additional detail and augmented plans currently required to be submitted after permit issuance will be submitted as part of the permitting proces. Since these expanded requirements will be part of the permit applications, feasibility report and plan of operation, the department will recover the costs of review under the permitting cost recovery system provided in the statutes. Under the current framework, the costs associated with review of such information submitted after permit issuance is not reimbursable. Total additional increases in revenue and corresponding decreases in cost are estimated to be about \$15,000 for any given mining project. (150 hours @ \$100/hour).

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Summary: For a typical nonferrous mineral mining project, the proposed rule revisions could increase costs by a total of approximately \$501,900 beginning at the exploration phase and continuing through the life of the mining project. The potential cost increases include: \$20,900 (exploration), \$22,000 (bulk sampling), \$30,000 (mining permit application), \$414,000 (mining waste facility) and \$15,000 (additional review fees paid to the department). As stated previously, the costs are expected to be incurred by exploration companies and applicants for prospecting or mining permits and operators of prospecting or mining projects over a ten year period.

#### **Economic Impacts on Local Governments, Utility Rate Payers and Public Entities**

The department does not anticipate that local governments, utility rate payers, and public entities will be economically impacted by the implementation of the proposed rules.

#### **Economic Impact on Small Business**

The proposed rule changes are not expected to result in a significant economic impact on small businesses. Given the capital-intensive nature of metallic mineral exploration and mining project development, such activities have generally not been conducted by small businesses. Since the department began regulating these activities in the late 1970's, the vast majority of companies engaged in exploration and all of the companies pursuing mining permits in this state have been large corporations.

#### **Fiscal Impact**

The department does not anticipate negative impacts to the state's economy. The rule revisions are not projected to increase state costs and may result in minor increases in state revenue due to increases in exploration license fees and drillhole fees under ch. NR 130 and the additional review fee collected under ch. NR 132. Total increased revenues are estimated to average approximately \$3300/ year over a ten year period (\$1800/year for exploration fees and \$1500/year for mining project review fees).

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#### **15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule**

The rules, if revised, will be consistent with existing statutes and up to date with current technical and regulatory approaches implemented in other environmental protection programs administered by the department.

The alternative to proceeding with the the rule revisions would be to rely on the existing rules. Under this alternative, confusion over applicability of rule provisions will continue since the rules are inconsistent with the current statutes. In addition, outdated requirements and ineffective provisions will continue to be implemented as contained in the current rules resulting a less effective and efficient regulatory process.

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#### **16. Long Range Implications of Implementing the Rule**

The proposed rules implement existing statutes and incorporate current technical specifications. These revisions will benefit applicants, other interested parties and department staff in having a clear understanding of the regulatory requirements applicable to nonferrous metallic mining-related activities. Such changes will make the rules more effective and regulation of future mining activities will be more straightforward and consistent.

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#### **17. Compare With Approaches Being Used by Federal Government**

While there is no nationwide regulatory program applicable to nonferrous metallic mining, the requirements specified in this set of administrative rules is similar to the requirements imposed by the U.S. Forest Service, U.S. Bureau of Land Management and other federal agencies in regard to mining and mining-related activities on lands under their management and control. The federal agencies review exploration and mining proposals for their economic and environmental feasibility and conduct technical reviews to ensure compliance with applicable federal laws including the National Environmental Policy Act, Endangered Species Act, Clean Water Act and Clean Air Act.

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#### **18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)**

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Of the states bordering Wisconsin, Michigan and Minnesota are those that have comparable geology and potential for development of nonferrous metallic mineral mining of a type similar to that which has and could take place in Wisconsin. Michigan and Minnesota have each developed or revised their metallic mining regulations in the past 10-15 years in response to new mining development activity. The laws and rules in each of those states are comparable to the regulatory framework in place in Wisconsin and would be consistent with the proposed rule changes. While each state follows procedures that are unique to their state, the overall approaches are similar in that each requires extensive pre-permitting environmental analyses, thorough engineering and technical evaluations of the proposed project and demonstrated compliance with all applicable permitting criteria as part of the review and approval process for nonferrous metallic mineral mining projects.

Neither Illinois nor Iowa contain metallic mineral deposits similar to those identified in northern Wisconsin and therefore have not developed specific regulatory frameworks comparable to those in Wisconsin, Minnesota and Michigan. While both states, along with Wisconsin, experienced historic metallic mining activity as part of the Tri-state Upper Mississippi Valley lead/zinc mining district, there has been no metallic mining activity in either state for over forty years.

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### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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