



NR 131

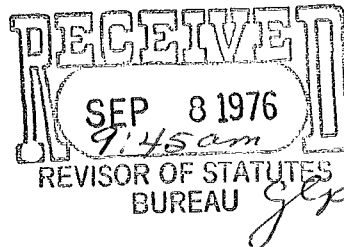
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

IN REPLY REFER TO: \_\_\_\_\_

STATE OF WISCONSIN )  
 )  
DEPARTMENT OF NATURAL RESOURCES ) ss



TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. MM-56-76 was duly approved and adopted by this Department on June 17, 1976. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at Pyare Square Building in the Village of Shorewood Hills, this 2<sup>ND</sup> day of September, 1976.

*Anthony S. Earl*  
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Anthony S. Earl, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

.....  
IN THE MATTER of creating chapters NR .  
130 and 131 of the Wisconsin Administrative .  
Code pertaining to metallic mineral pros- .  
pecting and metallic mineral mining and .  
reclamation .  
.....

MM-56-76

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 23.11, 30.06, 30.19, 144.30 and 144.80 to 144.94 and chapters 107, 162 and 227, Wisconsin Statutes, the Natural Resources Board hereby creates rules as follows:

Chapter NR 130

METALLIC MINERAL PROSPECTING

NR 130.01 Purpose	NR 130.07 Issuance of Prospecting Permit
NR 130.02 Scope	NR 130.08 Certificate of Insurance
NR 130.03 Definitions	NR 130.09 Denials
NR 130.04 Application to Prospect	NR 130.10 Reports
NR 130.05 Mineral Prospect Information Required	NR 130.11 Inspections
NR 130.06 Permits and/or Plan Approvals	NR 130.12 Enforcement
	NR 130.13 Severability

(Sections 23.11, 30.06, 30.19, 107, 144.30, 144.80 to 144.94 and 162, Wis. Stats.)

NR 130.01 Purpose. The purpose of this chapter is to provide that the air, lands, waters, plants, fish and wildlife affected by prospecting for metallic minerals in this state will receive the greatest practicable degree of protection and reclamation.

NR 130.02 Scope of the Code. This chapter shall apply to all metallic mineral prospecting operations as defined in Wis. Admin. Code section NR 130.03(7) pursuant to section 144.81(12), Wis. Stats. Due to the similarity in construction of drillholes intended for mineral exploration and those constructed to serve as water wells, with the resultant similar hazards for pollution of ground water, it is the department's policy to require such exploration drillholes to be permanently or temporarily abandoned in a manner similar to the procedures outlined in Wis. Admin. Code chapter NR 112. All persons intending to construct drillholes for the purpose of determining the existence, quality and quantity of metallic ore shall notify the department.

NR 130.03 Definitions. (1) "Exploration area" means lands on which prospecting takes place, adjoining lands, or lands not adjoining but lying within reasonably close proximity to those on which prospecting takes place.

(2) "Department" means department of natural resources.

(3) "Forfeited any bond" means the forfeiture of any performance security occasioned by noncompliance with any mining laws or rules adopted thereunder.

(4) "Mineral" means unbeneficiated metallic ore.

(5) "Operator" means any person engaged, or who has applied for a permit to engage, in prospecting operations whether individually, jointly or through subsidiaries, agents, employes or contractors.

(6) "Project" means a metallic mineral prospecting operation.

(7) "Prospecting" means engaging in the examination or exploration of an area for the purpose of determining the location, quality and quantity of minerals by such physical means as excavating, trenching or other methods which disturbs 3 tons or more for each acre of surface area located within 300 feet of the ordinary high-water mark of a navigable stream or 1,000 feet from a lake or which disturbs 100 tons or more for each acre of surface area located beyond 300 feet of the ordinary high-water mark of a navigable stream or 1,000 feet from a lake. Note: Each acre shall be defined as an individual acre and not as acres in aggregate. For purposes of this section the tons of material disturbed will include the rock and overburden disturbed in the excavating, trenching or other methods. (i.e., 1 cubic yard approximates one and one third tons)

(8) "Prospector" means any person engaged in prospecting.

NR 130.04 Application to Prospect. No person may engage in prospecting without securing a prospecting permit issued by the department.

(1) Any operator wishing to engage in prospecting shall file an application with the department upon forms prepared and furnished by the department.

(2) Any operator engaged in prospecting on the effective date of this code shall file an application with the department within 90 days after that date.

(3) The application shall be accompanied by a fee of 50 cents for each acre contained in the proposed exploration area, but the fee shall not be less than \$25.00.

NR 130.05 Mineral Prospecting Information Required with Application. All data submitted by an applicant for a prospecting permit under sections 144.80 to 144.93, Wis. Stats., shall be considered confidential, unless the prospector expressly agrees to its release. The information to be provided by the operator shall include but not be limited to the following where applicable and practicable:

(1) Map(s) delineating the exploration area. A United States Geological Survey Topographic Quadrangle map at a scale of 1:24,000 shall be used wherever available, and at a scale of 1:62,500 elsewhere.

(2) Description of the method of prospecting and sampling.

(3) Estimated volume of bedrock and overburden to be disturbed during the operation.

(4) Submission of a reclamation plan and a map on a topographic base at a scale acceptable to the department. The reclamation plan shall indicate plans for rehabilitation of the exploration area in a manner acceptable to the department, including but not limited to the following:

(a) Stabilization of soil conditions.

(b) Establishment of vegetative cover.

(c) Prevention of surface water and ground water pollution.

(5) The estimated cost of reclaiming the exploration area(s).

(6) Evidence to the department's satisfaction that the applicant is financially qualified to satisfy the conditions of the reclamation plan.

NR 130.05 Permits and/or Plan Approvals. (1) Within fifteen (15) days following receipt of the completed project information request forms, the department shall determine what plan approvals and/or permits are required and shall provide notice to the operator as follows:

(a) Information on requisite department permits.

(b) Information on requisite plan approvals.

(c) The department may request the operator to provide an environmental impact report for the project pursuant to section 23.11(5), Wis. Stats.

(2) The granting of a prospecting permit does not release the prospector from the obligation to comply with local or county zoning standards or other applicable ordinance requirements.

NR 130.07 Issuance of a Prospecting Permit. The department shall issue a prospecting permit to the operator upon satisfactory completion of all the conditions contained in this chapter, subject to the following conditions:

(1) Requisite corrective measures to insure compliance with this chapter.

(2) Environmental rehabilitation techniques to be employed.

(3) Other conditions which the department deems necessary to safeguard the natural resources of this state during and after the prospecting operation.

NR 130.08 Certificate of Insurance. The applicant shall submit a certificate of insurance certifying that he has in force a liability insurance policy issued by an insurance company authorized to do business in this state, or in lieu of a certificate of insurance, evidence that he has satisfied state or federal self-insurance requirements, covering all prospecting operations of the applicant in this state and affording personal injury and property damage protection in a total amount deemed adequate by the department but not less than \$50,000.

NR 130.09 Denials. (1) The department shall deny a prospecting permit if it finds:

(a) The operation will not comply with the minimum standards in Wis. Admin. Code section NR 130.05.

(b) The applicant is in violation of sections 144.80 to 144.94, Wis. Stats. or any provisions of this chapter.

(c) The applicant is a corporation, partnership or association which has previously failed and continues to fail to comply with sections 144.80 to 144.94, Wis. Stats.

(d) The applicant has within the previous 5 years forfeited any bond posted pursuant to mining activities within this state unless by mutual agreement with the state.

(e) The applicant is a corporation, partnership or association in which any officer, director, partner or principal owner of such corporation, partnership or association has within the previous 5 years forfeited any bond posted pursuant to mining activities within this state unless by mutual agreement with the state.

(2) Within 30 days from the date of application, the department shall furnish the applicant in writing the reasons for the denial.

NR 130.10 Reports. (1) When the operator has determined that this project is complete he shall notify the department. The department shall notify the prospector in writing of the satisfactory completion of the project.

(2) Geological reports and representative samples of bedrock are requested for the office of the state geologist at the abandonment of each project.

NR 130.11 Inspections. (1) Any duly authorized officer, employe or representative of the department may enter and inspect any property, premises or place on or at which any prospecting is being performed at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and sections 144.80 to 144.94, Wis. Stats.

(2) No person may refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials.

(3) No person may obstruct, hamper or interfere with any such inspection.

(4) The department shall furnish to the prospector or operator, as indicated in the prospecting permit, a written report setting forth all observations, relevant information and data which relate to compliance status.

NR 130.12 Enforcement. (1) Any person who makes or causes to be made in an application or report required under this chapter a statement known to the person to be false or misleading in any material respect may be fined not less than \$100 nor more than \$1000.

(2) Any person holding a prospecting permit who violates any provision of this chapter or fails to comply with sections 144.80 to 144.94, Wis. Stats., shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of the violation is a separate offense.

NR 130.13 Severability. If any section, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.



DEPARTMENT OF NATURAL RESOURCES

Chapter NR 131

METALLIC MINERAL MINING & RECLAMATION

NR 131.01 Purpose	NR 131.08 Permit Issuance Procedures
NR 131.02 Scope	NR 131.09 Bonds, Bond Release and Insurance
NR 131.03 Definitions	NR 131.10 Permit Modification Procedures
NR 131.04 Mining Permit Application for New Operations	NR 131.11 Reporting Procedures
NR 131.05 Mining Permit Application for Existing Operations	NR 131.12 Orders and Penalties
NR 131.06 Mining and Reclamation Plans	NR 131.13 Inspections
NR 131.07 Mining and Reclamation Operations	NR 131.14 Severability

(Sections 23.11, 30.06, 30.19, 107, 144.30, 144.80 to 144.94, and Chapter 162, Wis. Stats.)

NR 131.01 Purpose. The purpose of this chapter is to provide that the air, lands, waters, plants, fish and wildlife affected by mining in this state will receive the greatest practicable degree of protection and reclamation compatible with the surrounding environment and insuring beneficial use of resources.

NR 131.02 Scope. The provisions of this chapter govern the mining of metallic mineral ores and reclamation of the project sites within the state in accordance with sections 144.80 to 144.94, Wis. Stats.

NR 131.03 Definitions. (1) "Abandonment of mining" means the cessation of mining, not set forth in an operator's mining and reclamation plan or by any other sufficient written or constructive notice, extending for more than 6 consecutive months. Abandonment of mining does not include the cessation of mining due either to labor strikes or the cessation of mining due to such unforeseen developments as adverse market conditions for a period not to exceed 5 years as determined by the department after consulting with the mine reclamation council. Any site at which abandonment of mining has occurred is an abandoned project site.

(2) "Department" means the department of natural resources.

(3) "EIR" means an environmental impact report prepared by the permit applicant.

(4) "EIS" means an environmental impact statement prepared by the department of natural resources.

(5) "Environmental pollution" means contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(6) "Merchantable by-product" means all waste soil, rock, mineral, liquid, vegetation and other material directly resulting from or displaced by the mining, cleaning or preparation of minerals during mining operations which are determined by the department to be marketable upon a showing of same made by the operator, accompanied by a verified statement by the operator of his intent to sell such material within 3 years from the time it results from or is displaced by mining. If after 3 years from the time merchantable by-product results from or is displaced by mining such material has not been transported off the project site, it shall be considered and regulated as mining refuse unless removal is continuing at a rate of more than 30,000 tons per year.

(7) "Minerals" mean unbeneficiated metallic ore, but does not include mineral aggregates such as stone, sand and gravel.

(8) "Mining" means all or part of the process involved in the mining of minerals, including extraction, agglomeration, beneficiation, construction of roads and the production of mining refuse.

(9) "Mining and reclamation plan" means the operator's proposal for the mining and reclamation of the project site which must be approved by the department under section 144.85 Wis. Stats. prior to the issuance of the mining permit.

(10) "Mining permit" means the permit which is required of all operators as a condition precedent to commencing mining at a project site.

(11) "Mining refuse" means all waste soil, rock, mineral, liquid, vegetation and other material except merchantable by-products directly resulting from or displaced by the mining, cleaning or preparation of minerals during mining operations and shall include all waste materials deposited on or in the project site from other sources.

(12) "Nonconforming project site" means a project site at which mining as defined in Wis. Admin. Code section NR 131.03(8) has commenced prior to July 3, 1974.

(13) "Operator" means any person engaged or who has applied for a permit to engage in mining operations, whether individually, jointly or through subsidiaries, agents, employes or contractors.

(14) "Person" includes all individuals, partnerships, associations and bodies politic and corporate.

(15) "Principal shareholder" means any shareholder owning at least ten percent of the shares outstanding of a corporation.

(16) "Project site" means the surface area disturbed by a mining operation, including the surface area from which the minerals or mining refuse or both have been removed, the surface area covered by mining refuse, all lands disturbed by the construction or improvement of haulageways, and any surface areas in which structures, equipment, materials and any other things used in the mining operation are situated.

(17) "Reclamation" means the rehabilitation of the project site including, but not limited to, establishment of vegetative cover, stabilization of soil conditions, prevention of water pollution and where practicable, restoration of fish, plant and wildlife.

(18) "Shall" is a mandatory directive.

NR 131.04 Mining Permit Application for New Operations. A complete application for a mining permit for a proposed project site shall include the following:

(1) A completed application form as specified by the department.

(2) A fee of \$5 for each acre of surface area in the proposed project site but the fee shall not be less than \$50.

(3) (a) A description and detailed maps of the proposed project site and boundaries, indicating property ownership, drawn to scale and located with respect to a geographic reference system. The description and maps must be acceptable to the department. Aerial photographs may be accepted if they show adequate detail.

(b) An assessment acceptable to the department including maps and cross-sections of natural and physical conditions, both surface and subsurface of the proposed project site and the area within 1,000 feet of the boundaries of the proposed project site including information on:

1. Soils
2. Hydrology (surface and groundwaters)
3. Geology (also include hydrogeology)
4. Anticipated extent and qualitative mineralogic composition of the mineral deposit
5. Biotic characteristics (terrestrial and aquatic plant and animal communities, including rare and endangered species)
6. Man-made features including wells, roads, railroads, utilities, pipelines, buildings, and other appropriate features
7. Location of historical and archeological features
8. Flood plain delineation

(c) A current topographic map at a scale of 1" = 200' or other scale acceptable to the department, indicating existing conditions on and within 1,000 feet of the proposed project site.

(4) A report which adequately discusses evaluation of meteorological, climatic, scenic, historical, and archeological characteristics of the proposed site, as well as the existing air quality and water quality and quantity.

(5) The name of the nearest city or village within 3 miles of the project site.

(6) The name and address of each owner of land within the project site and each person known by the applicant to hold any option or lease thereon.

(7) A description of any land contiguous to the proposed project site which the applicant owns, leases or has an option to purchase or lease.

(8) A mining and reclamation plan utilizing information developed under (3) and in accordance with Wis. Admin. Code section NR 131.06.

(9) Evidence satisfactory to the department that the mining and reclamation plan and the comprehensive plan under section 144.85(4)(b), Wis. Stats., will conform with all applicable local and county zoning ordinances and that the operator has applied for the necessary approvals, licenses or permits including but not limited to those under chapters 30, 31, 107, 147, and 162, Wis. Stats., and this chapter.

(10) Evidence to the department's satisfaction that the applicant is technically and financially qualified to conduct mining and reclamation activities.

(11) A list of all prospecting and mining permits in this state held or requested by the applicant, or any authorized prospecting or mining activities on properties adjoining the boundaries of this state.

(12) Such other pertinent information as the department requires.

(13) The date of completed application is the date specified in Wis. Admin. Code section NR 131.03(3)(e) or (f).

(14) Every application for a mining permit will be reviewed to determine whether the department will require the applicant to submit an acceptable environmental impact report pursuant to section 23.11 (5), Wis. Stats., or if the department is required to file an environmental impact statement pursuant to section 1.11, Wis. Stats.

(15) Comprehensive Reclamation Plan. Where the department finds that the anticipated life and total area of a mineral deposit are of sufficient magnitude that reclamation of the project site consistent with sections 144.80 to 144.94, Wis. Stats., requires a comprehensive plan for the entire affected area, it may require an operator to submit with the application for a mining permit, amended project site or change in mining and reclamation plan, a comprehensive long-term plan. The plan shall show in detail satisfactory to the department, the manner, location and estimated sequential time table for reclamation of the entire area of contiguous land which may be affected by mining and which is owned, leased or under option for purchase or lease by the operator at the time of application. Where a mineral deposit lies on or under the lands of more than one operator, the department may require the operators to submit mutually consistent comprehensive plans.

NR 131.05 Mining Permit Applications for Existing Mining Operations. All operators of a nonconforming project site shall file an application for a mining permit within 90 days of the effective date of this chapter. An application for a mining permit on a nonconforming project site shall include the following:

(1) A completed application form as specified by the department.

(2) A fee of \$5 for each acre of surface area in the project site. The fee shall not be less than \$50.

(3) (a) A description and detailed maps of the project site and boundaries, indicating property ownership, drawn to scale, and located with respect to a geographic reference system. The description and maps must be acceptable to the department. Aerial photographs may be accepted if they show adequate detail.

(b) An assessment acceptable to the department including maps and cross-sections of natural and physical conditions, both surface and subsurface of the project site and the area within 1,000 feet of the boundaries of the project site including information on:

1. Soils
2. Hydrology (surface and groundwaters)
3. Geology (also include hydrogeology)
4. Extent and qualitative mineralogic composition of the mineral deposit
5. Biotic characteristics (terrestrial and aquatic plant and animal communities, including rare and endangered species)
6. Man-made features including wells, roads, railroads, utilities, pipelines, buildings, and other appropriate features
7. Location of historical and archeological features
8. Details of the nature, extent, dimensions, and configuration of existing excavations, and project site including location and production of tailings and other features
9. Flood plain delineation

(c) A current topographic map at a scale of 1" = 200' or other scale acceptable to the department, indicating existing conditions on and within 1,000 feet of the project site.

(4) A report which adequately discusses evaluation of meteorological, climatic, scenic, historical, and archeological characteristics of the site, as well as the existing air quality and water quality and quantity.

(5) The name of the nearest city or village within 3 miles of the project site.

(6) The name and address of each owner of land within the project site and each person known by the applicant to hold any option or lease thereon.

(7) The existing reclamation plan for the nonconforming project site.

(8) A proposed estimated sequential timetable for submission of a reclamation plan in accordance with Wis. Admin. Code section NR 131.06. For a mine which is to be reopened, the reclamation plan shall be submitted as part of the application.

(9) A certificate of insurance in accordance with Wis. Admin. Code section NR 131.09.

(10) A description of any land contiguous to the project site which the applicant owns, leases or has an option to purchase or lease.

(11) Evidence satisfactory to the department that the mining and reclamation plan and the comprehensive plan under section 144.85(4)(b) Wis. Stats., will conform with all applicable local and county zoning ordinances and that the operator has applied for the necessary approvals, licenses or permits required, including but not limited to those under chapters 30, 31, 107, 147 and 162, Wis. Stats., and this chapter.

(12) Such other pertinent information as the department requires.

(13) Every application for a mining permit will be reviewed to determine whether the department will require the applicant to submit an acceptable environmental impact report pursuant to section 23.11 (5), Wis. Stats., or if the department is required to file an environmental impact statement pursuant to section 1.11, Wis. Stats.

(14) Comprehensive Reclamation Plan. Where the department finds that the anticipated life and total area of a mineral deposit are of sufficient magnitude that reclamation of the project

site consistent with sections 144.80 to 144.94 Wis. Stats., requires a comprehensive plan for the entire affected area, it may require an operator to submit with the application for a mining permit, amended project site or change in mining and reclamation plan, a comprehensive long-term plan showing, in detail satisfactory to the department, the manner, location and estimated sequential timetable for reclamation of the entire area of contiguous land which may be affected by mining and which is owned, leased or under option for purchase or lease by the operator at the time of application. Where a mineral deposit lies on or under the lands of more than one operator, the department may require the operators to submit mutually consistent comprehensive plans.

NR 131.06 Mining and Reclamation Plans. (1) In addition to the information and maps otherwise required by this chapter, each mining permit application shall include a detailed mining and reclamation plan showing the manner, location and time for reclamation, including ongoing reclamation during mining of the proposed project site. The mining and reclamation plan shall be accompanied by a map subject to the requirements in Wis. Admin. Code section NR 131.06(2) which shall show the specific reclamation proposal for each area of the project site. The mining and reclamation plan shall conform to any applicable comprehensive plan created under Wis. Admin. Code sections NR 131.04(15) or NR 131.05(14) or NR 131.07.

(2) In addition, mining and reclamation plans developed on the basis of Wis. Admin. Code section NR 131.04 or NR 131.05 shall include the following:

(a) Details of the nature, extent and final configuration of the proposed excavation and project site including location and total production of tailings, and nature and depth of overburden.

(b) Details of the proposed operating procedures including:

1. Mining operation sequence
2. Handling of overburden materials
3. Tailings production and handling
4. Ore processing including milling, concentrating, smelting, etc.
5. Storage, loading and transportation of final product
6. Ground and surface water management techniques
7. Erosion and drainage control techniques
8. Plans for collection, treatment and discharge of any water resulting from the operation.



9. Plans for air quality protection

10. Mining and reclamation operations in accordance with Wis. Admin. Code section NR 131.07

(c) A detailed description of the anticipated effects of mining and reclamation on existing conditions described in Wis. Admin. Code sections NR 131.04 and NR 131.05.

(d) Detailed information and maps on mining and reclamation procedures including:

1. Manner, location, sequence and anticipated duration of mining and reclamation

2. Ongoing reclamation procedures during mining operations

3. Details on proposed interim and final topography and slope stabilization

4. Proposed final land use and relationship to surrounding land and land use

5. Plans for long-term maintenance of project site including:

a. Monitoring of wastes and water quality, and project site stabilization.

b. Names of persons legally and operationally responsible for long-term maintenance.

c. Measures for notifying the public and responsible governmental agencies of potentially hazardous conditions including the movement or accumulation of toxic wastes in ground and surface water, soils, and vegetation and other consequences of importance to public health, safety and welfare.

6. Projected costs of reclamation and proposed sources of funding for rehabilitation.

NR 131.07 Mining and Reclamation Operations. Mining and reclamation operations shall be conducted in accordance with an approved mining and reclamation plan and any permit conditions to provide the following considerations for natural resources protection where applicable and practicable:

(1) Grading and stabilization of excavation, sides and benches.

(2) Grading and stabilization of deposits of mine refuse.

(3) Stabilization of merchantable by-products.

(4) Adequate diversion and drainage of water from the project site.

(5) Backfilling.

- (6) Adequate covering or other handling acceptable to the department of all pollutant-bearing minerals or materials.
- (7) Removal and stockpiling, or other measures to protect topsoils prior to mining.
- (8) Adequate vegetative cover.
- (9) Water impoundment.
- (10) Adequate screening of the project site.
- (11) Identification and prevention of environmental pollution.
- (12) Abandonment and reclamation procedures in accordance with the reclamation plan.
- (13) Long-term maintenance of the project site in accordance with the reclamation plan.
- (14) Conformance with environmental quality standards.

131.08 Permit Issuance Procedures. (1) New or reopened project sites. Any operator not conducting mining operations on the effective date of this chapter, but wishing to do so shall submit to the department an application for a mining permit in accordance with Wis. Admin. Code section NR 131.08 (3).

(a) Exemptions. Where mining is commenced on or adjacent to an abandoned project site that portion which remains abandoned shall not be subject to this chapter. No operator may be required as a condition for securing a mining permit to reclaim or restore a project site abandoned by another operator.

(b) Applications. Applications for mining permits shall be made in writing to the department in accordance with Wis. Admin. Code section NR 131.04. An application must be made and a mining permit must be obtained for each separate project site.

(2) Nonconforming project sites. Any operator of a nonconforming project site shall submit to the department an application for a mining permit within 90 days after the effective date of this chapter. An application must be made and a mining permit must be obtained for each separate project site. No operator may be required as a condition for securing a mining permit to reclaim or restore a project site abandoned by another operator.

(3) Procedures. (a) Applicant shall submit application and EIR where required in accordance with Wis. Admin. Code sections HR 131.04 or HR 131.05.

(b) The department shall review the EIR and prepare written comments and forward them to the applicant along with a decision on its adequacy.

(c) The department shall review the application and make preliminary comments to the applicant.

(d) The department will inform the applicant of its decision on the preparation of an EIS.

(e) If no EIS is to be prepared by the department, the date of application is established as the date of determination that no EIS will be prepared, and an adequate and complete application has been received by the department.

(f) If an EIS is to be prepared by the department, the date of application is established as the date of publication of the completed EIS and receipt by the department of an adequate and complete application.

(g) The department, within 60 days of the date of application, shall hold a hearing which may cover all required approvals, licenses, permits and other matters under the jurisdiction of the department.

(h) Within 60 days of the completion of the public hearing under (g) the department, after consultation with the mine reclamation council, shall find whether the applicant's mining and reclamation plan will result in reclamation of the project site consistent with sections 144.80 to 144.94 Wis. Stats., and this chapter. Each approval or denial shall be made in findings of fact, conclusions of law and an order setting forth reasons with clarity and in detail. The department may list additional requirements that are necessary for approval.

(i) A permit approval may include conditions or requirements deemed necessary by the department to insure mining and reclamation in a manner consistent with Wis. Admin. Code section NR 131.07. These conditions are made a part of the permit and permit requirements and may be changed in accordance with Wis. Admin. Code section NR 131.10.

(j) Following approval of the permit, and as a condition of the permit the department shall determine the required bonding levels for the project and shall notify the operator.

(k) Upon notification of required bonding levels, but prior to commencing mining, the operator shall file with the department a bond conditioned as faithful performance of all requirements of sections 144.80 to 144.94 Wis. Stats., and all provisions of this chapter adopted thereunder, unless the operator is exempted under Wis. Admin. Code section NR 131.09(2).

(1) Upon notification of bonding approval and conformance with permit conditions, the mining and reclamation operation may commence.

NR 131.09 Bonds, Bond Release and Insurance. (1) Bonds generally. Upon notification of an approved mining permit application but prior to commencing mining, the operator shall file with the department a bond conditioned on faithful performance of all requirements of sections 144.80 to 144.94 Wis. Stats., and all provisions of this chapter.

(2) Exemption. Any operator of a nonconforming project site need not file a bond or deposit cash, certificates of deposit or government securities with the department to obtain the written authorization to continue mining at the respective project site.

(3) Bond Requirements. (a) Bonds shall be issued by a surety company licensed to do business in this state. If the license to do business in Wisconsin of any surety upon a bond filed with this department shall be revoked or suspended, the operator, within 30 days after receiving notice thereof from the department, shall substitute for any surety a good and sufficient corporate surety underwritten by a company approved by this department and licensed to do business in Wisconsin as a surety. Upon failure of the operator to make said substitution of surety, the department shall have the right to suspend the permit of the operator until substitution has been made.

(b) Each bond shall provide that the bond shall not be cancelled by the surety, except after not less than 90 days notice to the department in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90 day notice of cancellation, the operator must deliver to the department a replacement bond in absence of which all mining operations shall cease.

(c) The bond shall be payable to the "State of Wisconsin, Department of Natural Resources."

(d) The estimated cost of reclamation of each project shall be determined by the department on the basis of relevant factors including but not limited to: expected changes in the price index, topography of the site, mining methods being employed, depth and composition of overburden and depth of mineral deposit being mined and from data provided under Wis. Admin. Code section NR 131.06(2)(d)6. The estimated cost of reclamation shall constitute the total project bond. In any one year, the operator shall post with the department that amount of the total project bond proportionate to the percentage of the project site that will be disturbed up to and including the end of the following year.

(e) Upon written approval of the department, an operator may deposit cash, certificates of deposit, or government securities with the department in lieu of a bond. Interest received on certificates of deposit or government securities shall be paid to the operator.

(4) Bond Reevaluation. The department may reevaluate and adjust accordingly the amount of the total project bond or security deposit no sooner than 3 years after its date of filing or previous reevaluation. Such reevaluations shall be made pursuant to Wis. Admin. Code section NR 131.09(3)(d).

(5) Multiple Mining Permit Bonding. Any operator who obtains a mining permit from the department for 2 or more project sites may elect, at the time the second or subsequent site is approved, to post a single bond in lieu of separate bonds on each site. Any single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has under mining permit. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the department.

(6) Bond Release. The department shall release the operator's bond if it finds, after inspection of the project site, that the operator has carried out and completed reclamation

of the project site in accordance with the mining and reclamation plan, and has otherwise complied with sections 144.80 to 144.94, Wis. Stats., and this code adopted pursuant thereto. As a site is reclaimed, reclaimed areas shall be released from bond coverage and the amount of the bond lowered proportionately. Inspection shall be made not less than one year, nor more than 4 years, after fulfillment of the mining and reclamation plan.

(7) Certificate of Insurance. The applicant shall submit a certificate of insurance certifying that he has in force a liability insurance policy issued by an insurance company authorized to do business in this state, or in lieu of a certificate of insurance evidence that he has satisfied state or federal self-insurance requirements, covering all mining operations of the applicant in this state and affording personal injury and property damage protection in a total amount deemed adequate by the department, but not less than \$50,000.

NR 131.10 Permit Modification Procedures. (1) An operator at any time may apply for amendment or cancellation of a mining permit or for a change in the mining and reclamation plan for any project site which he owns or leases. The application for the amendment, cancellation or change shall be submitted by the operator on a form provided by the department and shall identify the tract of land to be added to or removed from the permitted project site or to be affected by a change in the mining and reclamation plan. The application for an increase or decrease in the area of a project site, or for a change in the mining and reclamation plan, shall be processed in the same manner as an original application for a mining permit. If the application is to cancel any or all of the unmined part of a project site, the department shall ascertain, by inspection, that no mining has occurred on the land. After so finding, the department shall order release of the bond or the security posted on the land being removed from the permitted project site and cancel or amend the operator's written authorization to conduct mining on the project site. No land where mining has occurred may be removed from a permitted project site or released from bond or security under this chapter unless reclamation has been completed to the satisfaction of the department.

(2) When one operator succeeds to the interest of another in any uncompleted mining operation by sale, assignment, lease or otherwise, the department shall release the first operator from the duties imposed upon him by sections 144.80 to 144.94, Wis. Stats., and this chapter, as to such operation if:

(a) Both operators have complied with the requirements of sections 144.80 to 144.94, Wis. Stats., and

(b) The successor operator assumes the duty of the former operator to complete the reclamation of the land, in which case the department shall transfer the mining permit to the successor operator upon approval of the successor operator's bond.

(3) If the department finds that because of changing conditions, including but not limited to changes in reclamation costs, reclamation technology, minimum standards under section 144.83, Wis. Stats., governmental land use plans, mining methods, or environmental quality standards, the mining and reclamation plans for a project site are no longer sufficient to provide for reclamation of the project site consistent with sections 144.80 to 144.94, Wis. Stats., and Wis. Admin. Code chapter NR 131, it shall require the applicant to submit an amended mining and reclamation plan which shall be processed in the same manner as an application for an original mining permit. The applicant shall be deemed to hold a temporary mining permit which shall be effective until the amended mining permit is issued or denied. The department may reevaluate the mining and reclamation plan no sooner than 15 years after the date of the mining permit issuance or previous reevaluation under this section.

NR 131.11 Reporting Procedures. (1) The operator shall furnish the department with a report for each project site every 12 months after issuance of the permit, within 30 days after completion of all mining at the project site and within 30 days after completion of all items within the mining and reclamation plan. Such reports shall include, in addition to such other information as the department requires, such information and maps as the department deems necessary to evaluate the extent of mining and the reclamation accomplished during the previous calendar year.

(2) The department shall cancel the mining project permit held by any operator who fails and refuses to submit reports required under this section. A notice of violation under this chapter will be sent to the operator at least 15 days prior to mining permit cancellation.

NR 131.12 Orders and Penalties. (1) Whenever the department finds a violation of law at a project site under a mining permit including unapproved deviation from the mining and reclamation plan, or any of the department's rules, it shall order the operator to comply within a specified time. Any such order shall become effective unless the person named therein requests in writing, within 10 days after the date the order is served, a hearing before the department. Upon such request and after due notice, the department shall hold a hearing. In lieu of an order, the department may require that the alleged violator appear before the department for a hearing and answer the charges complained

of, or the department may request that the department of justice initiate action under section 144.93, Wis. Stats. The department shall cancel the mining permit for a project site held by an operator who fails to comply with the order. The department shall within 14 days inform the department of justice of the cancellation. Within 30 days thereafter the department of justice shall commence action under section 144.93, Wis. Stats.

(2) If reclamation of mined land is not proceeding in accordance with the mining and reclamation plan and the operator has not commenced to rectify deficiencies within the time specified in the order, or if the reclamation is not properly completed in conformance with the mining and reclamation plan within one year after completion or abandonment of mining on any segment of the project site, excepting acts of God, such as adverse weather affecting grading, planting and growing conditions, the department, with the staff, equipment, and material under its control, or by contract with others, shall take such actions as are necessary for the reclamation of mined areas. The operator shall be liable for the cost of reclamation conducted under this section, except that no operator who has filed a bond or deposited cash, certificates of deposit or government securities under section 144.86, Wis. Stats., shall be liable for any greater amount. Any operator who is exempted from filing a bond or depositing cash, certificates of deposit or government securities by section 144.86 (6), Wis. Stats., shall not be liable for an amount greater than an amount specified by the department. The amount shall be determined in the same manner as that required under section 144.86 (5), Wis. Stats., but assuming the operator had not been exempt from such filing or depositing.

(3) Penalties. (a) Any person who makes or causes to be made in an application or report required by this Chapter a statement known to the person to be false or misleading in any material respect may be fined not less than \$100 nor more than \$1,000.

(b) Any person holding a mining permit who violates any provision of this chapter, or any order shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense.

(c) Any operator who authorizes or engages in mining on a project site not covered by a mining permit and written authorization to mine under sections 144.86(3), Wis. Stats., may be fined not less than \$5 nor more than \$100 for each acre affected and the operator shall be liable to the department for the full cost of reclaiming the affected area of land. Each day's



violation of this section shall be deemed a separate offense. If the operator is a corporation, partnership or association, any officer, director or partner who authorizes, supervises or contracts for mining shall be subject to the penalties of this section.

NR 131.13 Inspections. Any duly authorized officer, employe or representative of the department may enter and inspect any property, premises or place on or at which any metallic mining operation or facility is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and rules adopted pursuant thereto. No person may refuse entry or access to any such authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such inspection. The department shall furnish to the operator, as indicated in the mining permit, a written report setting forth all observations, relevant information and data which relate to compliance status.

NR 131.14 Severability. Should any section, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

The foregoing rules were approved and adopted by the State of Wisconsin  
Natural Resources Board on June 17, 1976.

The rules contained herein shall take effect upon publication.

Dated at Madison, Wisconsin 2 September 1976

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl  
Anthony S. Earl, Secretary

(SEAL)