

**Before the Assembly Mining and Rural Development Committee**

**February 19, 2015**

**Testimony of  
The Wisconsin Department of Natural Resources**

**Pertaining to  
Clearinghouse Rule 13-057 relating to 2013 Wisconsin Act 1, the Ferrous Mining Law**

2013 Wisconsin Act 1 went into effect on March 26, 2013. The law, also known as the Ferrous Mining Law, established in statute the framework by which ferrous mining projects, essentially iron mining projects and related activities, would be reviewed, permitted and regulated in Wisconsin. The Act modified existing laws relating to non-ferrous metallic mining and created subch. III of ch. 295, Stats., for the regulation of ferrous metallic mining.

Section 103 of the Act, a non-statutory provision, directed the Department to revise certain existing administrative rules to clarify the applicability of the current rules to ferrous mining activities and to ensure consistency with the new Ferrous Mining Law. Specifically, the Department was directed to:

- revise the existing metallic mining regulations in chs. NR 130, 131, 132, and 182, Wis. Adm. Code, to clarify that those rules do not apply to ferrous metallic mining regulated under subch. III of ch. 295, Stats.
- revise the existing solid waste rules in chs. NR 500 to 555, Wis. Adm. Code, and the hazardous waste rules in chs. NR 660 to 679, Wis. Adm. Code, so that the rules are consistent with the provisions of subch. III of ch. 295, Stats.
- revise any existing DNR rules that provide exemptions for nonferrous metallic mining or associated activities so that the rules provide the same exemptions for ferrous mining and associated activities in accordance with 2013 Wisconsin Act 1.

The rule package before you addresses these three objectives exclusively.

As part of this rule drafting effort, the Department reviewed all chapters of the Wisconsin Administrative Code administered by the Department and proposed amendments to those rules as required by section 103 of the Act. As necessary and appropriate, limited revisions were made to specific sections of the rules to clarify the applicability of the rule in regard to ferrous mining activities and ensure consistency with the new ferrous mining law.

The Department also determined that some rules identified in section 103 did not require revision. The Department did not propose revisions to chs. NR 540 to 555 of the solid waste rules because these rules do not apply to metallic mining. The Department also did not propose any revisions to chs. NR 660 to 679, the State's hazardous waste rules. This is the case because those rules, which are required by and track very closely federal law, were not affected by provisions contained in the new ferrous mining law.

In summary, this rule package is narrowly focused and is in response to the legislative direction provided in 2013 Wisconsin Act 1. The rule changes clarify applicability of existing DNR rules to ferrous mining activities and ensure consistency with provisions of the ferrous mining law as directed by the legislature.

**Before the Senate Committee on Sporting Heritage, Mining, and Forestry**

**February 6, 2015**

**Testimony of  
The Wisconsin Department of Natural Resources**

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Regarding Clearinghouse Rule 13-057 Relating to 2013 Wisconsin Act 1 the Ferrous  
Mining Law  
February 6, 2015

These proposed rules perpetuate and exacerbate the fallacy that “ferrous” mining cannot produce sulfides and should be regulated differently than sulfide mining. Worse, the definition of “ferrous” mining in Section 12g NR 131.03(9) is not well defined. It allows the mining company to determine whether the metallic mining laws apply to them. “Substances mined primarily for their iron oxide content” includes pyrite, as has been found in the Penokee mine area by geologists for decades. The Wisconsin Geological Survey reported as long ago as 1929 that pyrite is associated with the ore and waste rock in the Penokee Hills. The United States Geological Survey reported the same thing in 2009. More recently, geologist Marcia Bjornerud at Lawrence University found “sulfide minerals in finely disseminated form throughout the Tyler formation, and as a major mineral in one particular layer in the Ironwood formation...

Pyrite can produce large quantities of sulfide mine drainage. This information was presented in legislative hearings in February of 2012 and again in 2013. It was ignored, because the bill was based on politics and financial interests and not on scientific resource management.

“Primarily for ...iron oxide content” could also include a significant percentage of some of the sulfide minerals listed in the Note. There could be sulfides released through the mining and processing of the rock, or by leaching of the waste. The road to hell is paved with good intentions, as they say. If a mining company is trying to cut costs and maximize profits, as they do, it is in their interest to present a proposal for a “ferrous” mine and avoid proving they have operated a similar mine without contamination, holding contested case hearings, disclosure of core samples, complying with prohibitions on disposing of wastes in wetlands, and other requirements of Wisconsin’s metallic mining laws. The composition of their waste rock won’t be examined, until perhaps the whole watershed downstream is devastated.

This rule allows mining operations to define the extent of their regulation. It is inconsistent with precise regulation that provides guidance to a regulatory agency, ignores the geology and chemistry of mining and mine waste, and subjects Wisconsin citizens in mining areas to diminished local control, exceptions to nearly every rule protecting their land, air, water and health.

The second deception underlying the mining bill is that there is a mining company, Gogebic Taconite, with a realistic plan to open a taconite mine in northern Wisconsin which we must accommodate by rewriting the mining law. Gogebic Taconite has suspended operations in northern Wisconsin, has not installed water monitoring equipment, has not submitted a mining application, and did not pay the lease payment to Iron County last month to extend their lease of Iron County forest land needed to store the waste from their big pit. Their poorly defined proposal to mine keeps shrinking, and

will soon vanish as they have discovered “proliferating” wetlands on the site. Iron County government has incurred hundreds of thousands of dollars in legal fees gambling on the eventual mine that won't be built. All that remains of GTac's promises to provide jobs and economic benefit to the north is a storefront office in Hurley, and acres of taxpayer supported managed forest that are off limits to recreational users after they got another special interest law passed for their benefit.

The third and most dishonorable fraud underlying the law and ensuing rules is that people in the Penokee Hills area want the mine built there. A random poll taken by the University of Wisconsin-Superior found that the majority of Ashland and Iron County residents surveyed did not want the mine built, and most of the people at the Wisconsin Conservation Congress meetings in Iron and Ashland county voted for a resolution to repeal 2013 Act 1 and to deny Gogebic Taconite a mining permit last April. This opposition was presented at all the hearings held on the bill, by people who were able to come and sit for eight or ten hours, and those who were allowed to testify. The entire process of this bill's enactment, including the \$700,000 payoff by GTac to Club For Growth, made a mockery of democratic process.

If you are going to proceed with the deception that ferrous mining is necessarily safer than non-ferrous mining, you should at least be able to explain the difference between a ferrous mine and a ferris wheel. Because the people of Wisconsin are getting sick of it, and want to get off.

Patricia K. Hammel  
1424 Jenifer Street  
Madison WI 53703  
(608) 257-1369