

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

SUBJECT:

Request that the Board approve the Statement of Scope for Board Order WA-14-13, revisions required by the new ferrous mining law to chs. NR 130, 131, 132, 182, 500 – 555, 600 – 679, Wis. Adm. Code, and to other chapters that contain exemptions for nonferrous mining, as required by Section 103 of 2013 Wisconsin Act 1

FOR: May 2013 Board meeting

PRESENTER'S NAME AND TITLE: Ann Coakley, Director, Bureau of Waste and Materials Management

SUMMARY:

The objective of the proposed rules is to implement 2013 Wisconsin Act 1. This act generally sets forth the regulatory requirements that apply to ferrous mining.

Section 103 of the act requires the department revise the following rules:

- (a) Chapters NR 130, 131, 132, and 182, Wis. Admin. Code and other rules promulgated under section 293.13(1)(a) of the statutes to clarify these chapters do not apply to ferrous metallic mining,
- (b) Chapters NR 500 to 555 and 660 to 679, Wis. Admin. Code and any other rules promulgated under sections 289.05 and 289.06(1) of the statutes so these rules are consistent with the new ferrous mining law, subchapter III of chapter 295 of the statutes, and,
- (c) Any other rules that provide exemptions for nonferrous mining or associated activities to provide the same exemptions for ferrous mining and associated activities.

The rules that contain exemptions for nonferrous mining activities that may require revision pursuant section 103(1)(c) include NR 103, NR 123, NR 135, NR 140, NR 150, NR 213, NR 214, NR 216, NR 350, NR 406, NR 812, and NR 815, Wis. Admin. Code. In addition, other changes to rule chapters that are not specifically identified may be made if necessary to fulfill the Department's obligations under Section 103 of 2013 Wisconsin Act 1.

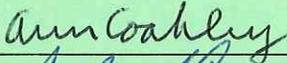
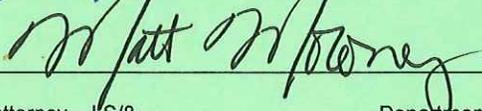
Section 103 of Wisconsin Act 1 requires DNR to submit in proposed form the rules described above to the legislative council staff under s. 227.15(1) of the statutes no later than the first day of the 5th month beginning after the Governor approves the statement of scope of the rules.

The Governor approved the statement of scope on March 27, 2013.

RECOMMENDATION: That the Board approve the statement of scope for WA-14-13 .

LIST OF ATTACHED MATERIALS (check all that are applicable):

- background memo
- Statement of scope
- Fiscal estimate and economic impact analysis (EIA) form
- Response summary
- Attachments to background memo
- Governor approval of statement of scope
- Environmental assessment or impact statement
- Board order/rule

Approved by	Signature	Date
Ann Coakley, Bureau Director		04/16/13
Pat Stevens, Administrator		4/17/13
Cathy Stepp, Secretary		4/30/13

cc: Board Liaison - AD/8

Program attorney – LS/8

Department rule coordinator – LS/8

DATE: April 16, 2013

TO: All Members of the Natural Resources Board

FROM: Cathy Stepp, Secretary

SUBJECT: Background memo on Board Order WA-14-13, relating to approval of the Statement of Scope.

Why is the rule being proposed?

Section 103 of 2013 Wisconsin Act 1 requires rule amendments to chs. NR 130, NR 131, NR 132, NR 182, Wis. Admin. Code; chs. NR 500 to 555 and 660 to 679, Wis. Admin. Code; and to other chapters that contain exemptions for nonferrous mining that may require amendment, such as chs. NR 103, NR 123, NR 135, NR 140, NR 150, NR 213, NR 214, NR 216, NR 350, NR 406, NR 812, and NR 815, Wis. Admin. Code.

Summary of rule.

The objective of the proposed rules is to implement 2013 Wisconsin Act 1. This act generally sets forth the regulatory requirements that apply to ferrous mining. Section 103 of the act requires the department revise the following rules:

- (a) Chapters NR 130, 131, 132, and 182, Wis. Admin. Code and other rules promulgated under section 293.13(1)(a) of the statutes to clarify these chapters do not apply to ferrous metallic mining,
- (b) Chapters NR 500 to 555 and 660 to 679, Wis. Admin. Code and any other rules promulgated under sections 289.05 and 289.06 (1) of the statutes so these rules are consistent with the new ferrous metallic mining law, subchapter III of chapter 295 of the statutes, and
- (c) Any other rules that provide exemptions for nonferrous mining or associated activities to provide the same exemptions for ferrous mining and associated activities. We have already identified several of the chapters which may require revision.

In addition, other changes to rule chapters that are not specifically identified may be made if necessary to fulfill the Department's obligations under Section 103 of 2013 Wisconsin Act 1.

How does this affect existing policy?

These rule revisions are to align the existing rules with the new ferrous mining law to provide clarity and consistency on the application of these rules to ferrous mining activities.

Has the Board dealt with these issues before?

No, 2013 Wisconsin Act 1 was published on March 25, 2013.

Who will be impacted by the proposed rule? How?

We expect those entities that will be affected by these changes will primarily be those parties engaged in the exploration, bulk sampling and mining of iron ore deposits in Wisconsin. This rule making effort will clarify the applicability of these existing regulations to ferrous mining.

Information on environmental analysis, if needed?

There has been no detailed environmental analysis conducted on these rule changes. These changes will clarify the applicability of existing state administrative rules to the recent ferrous mining law enacted by the state. These changes to administrative rules should not affect other non-ferrous metallic mining activities.

Small Business Analysis.

This rule drafting effort will follow the direction set forth in section 103 of 2013 Wisconsin Act 1 to clarify the applicability of metallic mining laws to ferrous mining activities and therefore is likely to have no impact in and of itself as the procedures for mining a ferrous mineral deposit as these are set forth in 2013 Wisconsin Act 1. The department does not believe this will have an economic impact on small businesses.

Manual Code 1022.4

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WA-14-13

Relating to: Rule Amendments to chs. NR 130, NR 131, NR 132, NR 182, NR 500 to 555 and 660 to 679, Wis. Admin. Code, as required by Section 103 of 2013 Wisconsin Act 1, and to other chapters that contain exemptions for nonferrous mining and that may require amendment, chs. NR 103, NR 123, NR 135, NR 140, NR 150, NR 213, NR 214, NR 216, NR 350, NR 406, NR 812, and NR 815, Wis. Admin. Code, as required by Section 103 of 2013 Wisconsin Act 1.

Rule Type: Permanent

1. Finding/nature of emergency (for Emergency Rule only).

This is not an emergency rule.

2. Detailed description of the objective of the proposed rule.

The objective of the proposed rules is to implement the rule making requirements contained in 2013 Wisconsin Act 1. This act generally sets forth the regulatory requirements that apply to ferrous mining. Section 103 of the act requires the department to revise the following rules:

- (a) Chapters NR 130, 131, 132, and 182, Wis. Admin. Code and other rules promulgated under section 293.13 (1) (a) of the statutes to clarify these chapters do not apply to ferrous metallic mining,
- (b) Chapters NR 500 to 555 and 660 to 679, Wis. Admin. Code and any other rules promulgated under sections 289.05 and 289.06 (1) of the statutes so these rules are consistent with subchapter III of chapter 295 of the statutes, and
- (c) Any other rules that provide exemptions for nonferrous mining or associated activities to provide the same exemptions for ferrous mining and associated activities. We have already identified several of the chapters which may require revision. These are listed under item 4 below.

In addition, other changes to rule chapters that are not specifically identified may be made if necessary to fulfill the Department's obligations under Section 103 of 2013 Wisconsin Act 1.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives.

These rule revisions are to align the existing rules with the new ferrous mining statutes to provide clarity and consistency on the application of these rules to ferrous mining activities.

4. Detailed explanation of statutory authority for the rule, including the statutory citation and language.

The legal authority for these rule revisions is Section 103 of 2013 Wisconsin Act 1. The purpose of these rule revisions is to clarify the applicability of metallic mining laws to ferrous mining activities. Section 103 is a non-statutory provision requiring the department to revise certain rules and to clarify the rules' Rev. 3/6/2012

applicability with the new ferrous mining law. The statutory authorities for the existing rules and the rules in the program are identified in the table.

2013 Wisconsin Act 1, SECTION 103

SECTION 103 (1)	Statute Authority for existing rules	Rules the department is to revise	Rules Title
(a)	S. 293.13 (1) (a), Wis. Statutes	Chs. NR 130, 131, 132, & 182, Wis. Adm. Code	NR 130 – Metallic mineral exploration NR 131 - Metallic mineral prospecting NR 132 - Metallic mineral mining NR 182 - Metallic mining wastes
(b)	S. 289.05 & 289.06 (1), Wis. Statutes	Chs. NR 500 to 555 & Chs. NR 660 to 679, Wis. Adm. Code	NR 500 to 555 cover solid waste management NR 660 to 679 cover hazardous waste management.
(c)	The department is to revise any rules in effect on the effective date of 2013 Wisconsin Act 1, in addition to the rules under paragraphs (a) and (b), that provide exemptions for nonferrous mining or associated activities to provide the same exemptions for ferrous mining and associated activities.		

Department staff will identify rules that may be subject to amendment under section 103(c) of 2013 Wisconsin Act 1. Section 103(c) requires the department promulgate rules revising any rules that provide exemptions for nonferrous mining and associated activities to provide the same exemption for ferrous mining activities. The rules that contain exemptions for nonferrous mining activities that may require revision pursuant section 103(1)(c) include:

- (1) NR 103 – WATER QUALITY STANDARDS FOR WETLANDS
- (2) NR 123 – WELL COMPENSATION PROGRAM
- (3) NR 135 – NONMETALLIC MINING RECLAMATION
- (4) NR 140 – GROUNDWATER QUALITY
- (5) NR 150 – ENVIRONMENTAL ANALYSIS AND REVIEW PROCEDURES FOR DEPARTMENT ACTIONS
- (6) NR 213 – LINING OF INDUSTRIAL LAGOONS AND DESIGN OF STORAGE STRUCTURES
- (7) NR 214 – LAND TREATMENT OF INDUSTRIAL LIQUID WASTES, BY-PRODUCT SOLIDS AND SLUDGES
- (8) NR 216 – STORM WATER DISCHARGE PERMITS
- (9) NR 350 – WETLAND COMPENSATORY MITIGATION
- (10) NR 406 – CONSTRUCTION PERMITS
- (11) NR 812 – WELL CONSTRUCTION AND PUMP INSTALLATION
- (12) NR 815 – INJECTION WELLS

In addition, there may be other rules subject to amendment to meet the requirements of section 103.

5. Estimate of amount of time that state employees will spend developing the rule and other resources necessary to develop the rule.

We expect the revision to the rules can be conducted in 1000 hours.

6. List with description of all entities that may be affected by the proposed rule.

We expect those entities that will be affected by these changes will primarily be those parties engaged in the exploration, bulk sampling and mining of iron ore deposits in Wisconsin.

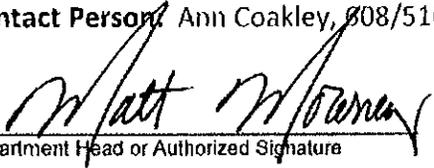
7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

These rule revisions are to align the existing rules with the new statutes to provide clarity and consistency on the application of these rules to ferrous mining activities and will result in reduced administrative rule requirements applying to ferrous mining activities. Proposed ferrous mining activities will now be covered by the statutory requirements of chapter 295, subchapter III, Ferrous Mining (ch. 295.40 through 295.79) as established by 2013 Wisconsin Act 1. These rule revisions are not being pursued or adopted to be as stringent as any applicable federal laws as there is no analogous federal ferrous mining law.

8. Anticipated economic impact of implementing the rule. Also, please note if the rule is likely to have an economic impact on small businesses.

This rule drafting effort will follow the direction set forth in section 103 of 2013 Wisconsin Act 1 to clarify the applicability of metallic mining laws to ferrous mining activities and therefore is likely to have no impact in and of itself as the procedures for mining a ferrous mineral deposit as these are set forth in 2013 Wisconsin Act 1. The department does not believe this will have an economic impact on small businesses.

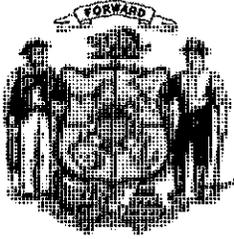
Contact Person: Ann Coakley, 608/516-2492 or 608/261-8449



Department Head or Authorized Signature

3/26/13

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

March 27, 2013

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

RE: Scope Statement for WA-14-13 relating to implementation of rulemaking requirements contained in 2013 Wisconsin Act 1.

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on March 26, 2013, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapters NR 103, 123, 130, 131, 132, 140, 150, 182, 213, 214, 216, 350, 406, 500 through 506, 600 through 669, 812, and 815 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

A handwritten signature in black ink, appearing to be "S. Walker", written over a horizontal line.

Scott Walker
Governor