

The Mine Permitting Process in Wisconsin

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Who has an interest?

- **Federal government:**
environment, Native American rights
- **State government:**
environment, socioeconomic impact
- **Local government:**
environment, socioeconomic impact
- **Environmental groups:**
environmental protection
- **Native Americans:** cultural resources, socioeconomic impact
- **Mining company:** economic impact for stockholders
- **Others:** individual perspectives (pro, con, etc)

Permitting a metal mine = policy + science + legal process

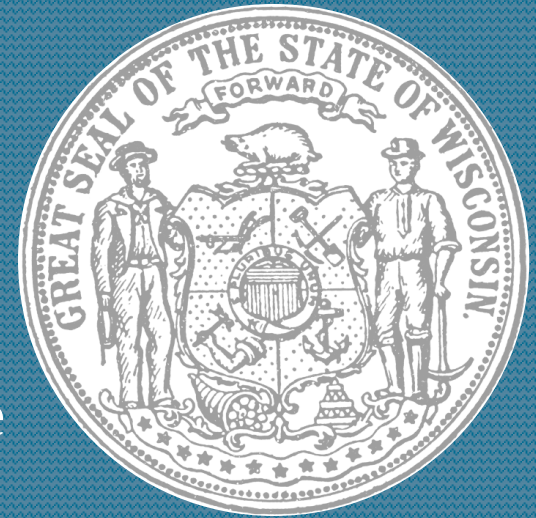
Policy establishes a context for governmental actions

Science establishes the basis for decision making

Legal process establishes the pathway for decisions to be made that are consistent with policy and science

Wisconsin's mining policy is ...

- **Responsible mining** is acceptable
- **Reclamation** is the primary goal
- Environmental impacts are **inevitable, but are limited** by law/rule
- **Local governments** and their citizens are instrumental in the decision-making process
- **Mining applicant pays** for project review, environmental assessments, and for long-term financial impacts



Department **shall issue** permit if ...

- Mining and reclamation plans are “reasonably certain” to result in reclamation of the mining site
- Proposed monitoring of these activities is determined to be adequate by an independent decisionmaker
- Proposed operation will comply with all air, surface water, groundwater, solid and hazardous waste laws and rules
- For a surface mine ... “the site is not unsuitable”

... also, DNR **shall issue** permits if...

- Will not endanger public health, safety, and welfare
- Will result in a net positive economic benefit
- Conforms with applicable zoning requirements
- All of these questions must be answered 'Yes' or the mining permits and approvals cannot be granted

Department **shall deny** permit if ...

- Proposed site is unsuitable for a surface mine if the application is for a surface mine
- Applicant has violated and continues to fail to comply with laws and rules under ch. 293
- Environmental track record is not determined to be acceptable as specified in ch. 293.49 (c)-(f)

What are the basic elements of the current regulatory process?

- **Notice of Intent** initiates permitting process
- DNR prepares **environmental impact statement**
- Company submits **permits and plans** for DNR review
- **Master Hearing** provides for independent review; data becomes **evidence**; opinion becomes **testimony**
- ALJ issues **Findings and Conclusions**; decision-maker?
- Decisions are **appealable** to the Courts

Other features of the process

- Project **requires local approval**
- Company **carries various financial sureties** for waste-disposal, groundwater, reclamation, and long-term care, and pays an additional special tax on net proceeds
- Applicant must address so-called **moratorium** requirement (ch. 293.50) if a sulfide ore body
- Applicant establishes **irrevocable trust fund** under NR 132.085 (remedial actions: spills, later releases, waste facility failure, replace water supply, and other measures to avoid environmental failures)

Process of project review begins ...

Proposed mine

Gogebic Taconite has purchased an option to lease the mineral rights on 22,000 acres in the Penokee Range in northern Wisconsin.



Journal Sentinel



...with filing a **Notice of Intent** to collect data to support a mine-permit application

Public input on the decisions



FORMAL OPPORTUNITIES:

1. Notice of intent hearing
2. Draft environmental impact statement hearing
3. Master hearing

INFORMAL OPPORTUNITIES:

1. Local leaders, citizen groups, elected representatives
2. Local Mining Impact Committee meetings
3. Applicant, DNR, UW-Extension



How has it worked?

- JCIC Mine (69, 81-83) – ferrous (taconite) operation: application, **permit**, **reclaimed/closure** [county park]
- Flambeau 1 (early 70s) – Cu, Zn, Au: hearing suspended, **withdrawal**
- Crandon 1 (81- 86) – Cu, Zn, Au, Ag: NOI, application, **withdrawal**
- Flambeau 2 (Flambeau Mine; 87-97) – Cu, Au, Zn: NOI, **permit**, operation (93-97), **reclaimed**, **partial closure** of site]
- Lynne 1 (90-93) – Zn, Pb, Ag: NOI, application, **withdrawal**; new leasing?
- Crandon 2 (94-03) – NOI, application, sale, **withdrawal**
- Reef – Au: **ongoing exploration**; Penokee – ferrous: early interest, exploration proposed

Modifying the Process for Iron – the Philosophy

- Mining policy supports **attracting and aiding** new mining enterprises
- Mining ferrous mineral deposits is **inherently less difficult or problematic** than mining sulfide ore bodies and, therefore, ch. 293, Wis. Stats, should not apply
- **Simplifying and shortening** permitting process for ferrous ore bodies **will encourage ferrous mining and create jobs** and generate resources for state
- Since ferrous ore bodies can occur in areas associated with wetlands and areas of special natural resource interest, create a **presumption that use of such lands for iron mining purposes** is necessary for the public good and allow mitigation project offsets.

Paraphrased from Proposed Legislative Findings: LRB 2035/3

Modifying the permitting process for iron mining – the concerns

- Mine permitting process is **too long** (several years)
- **Bulk sampling** activities should not require a state prospecting permit (unnecessary, repetitive, too long)
- Other state permits already take 9 months (**integrate**)
- **Iron mining is intrinsically different** from other metal-mining activity; Michigan and Minnesota processes are more appropriate (more experienced)
- Special natural resource areas and wetlands are likely to be affected by iron mining; a **separate regulatory framework** for such lands is warranted by policy change

The roles of politics, science, and the legal process

- Politics provides the **legal framework** (the policy) for making complex, inherently controversial, decisions
- Science and engineering provides a **factual basis** for making complex, inherently controversial, decisions
- The Master Hearing is a mechanism to make **legal judgments, subject to judicial review**, for resolving issues about complex, inherently controversial, decisions

Where can I get more information?

- **Company** contacts and resources
- **Department** of Natural Resources
- University of Wisconsin – Extension (**local expertise**)
- Wisconsin Geological and Natural History Survey
wisconsin geological survey.org for **Special Report 13:**
An Overview of Metallic Mineral Regulation in
Wisconsin [download free or purchase]