

Ordinance 803 - NONFERROUS METALLIC MINERAL MINING LAND USE AND  
RECLAMATION

Table of Contents

803.01 TITLE .....	803-6
803.02 FINDINGS .....	803-6
803.03 INTENT .....	803-6
803.04 STATUTORY AUTHORITY .....	803-7
803.05 INTERPRETATION.....	803-7
803.06 SEVERABILITY .....	803-7
803.07 APPLICABILITY .....	803-7
803.08 ADMINISTRATION .....	803-7
803.09 EFFECTIVE DATE.....	803-7
803.10 DEFINITIONS.....	803-7
803.11 LEGAL REFERENCES CITED.....	803-8
803.12 APPLICATION OF STANDARDS .....	803-10
803.13 GENERAL STANDARDS .....	803-11
803.14 SPECIAL STANDARDS .....	803-15
803.15 NOTICE OF INTENT TO COLLECT DATA .....	803-16
803.16 NOTICE OF INTENT WITH RESPECT TO FEDERAL LANDS .....	803-17
803.17 ADMINISTRATIVE FEE REQUIRED .....	803-17
803.18 ASSUMPTIONS.....	803-17
803.19 LICENSE REQUIRED.....	803-17
803.20 APPLICATION FOR LICENSE .....	803-18
803.21 ADDITIONAL INFORMATION.....	803-21
803.22 ADMINISTRATIVE FEE REQUIRED .....	803-21
803.23 GENERAL.....	803-22
803.24 SELECTION AND CONTENT OF CONDITIONS OF LICENSURE .....	803-22
803.25 EXAMPLES .....	803-22
803.26 ADMINISTRATIVE FEE PROCEDURES .....	803-29
803.27 HEARING REGARDING THE INTENT TO COLLECT DATA.....	803-31
803.28 RECEIPT OF APPLICATION FOR LICENSE .....	803-31
803.29 PROCEDURES FOR APPLICATION REVIEW AND PUBLIC HEARINGS .....	803-32
803.30 LICENSE DENIAL .....	803-37
803.31 LICENSE MODIFICATION.....	803-39
803.32 TRANSFER OF LICENSE.....	803-41

803.33 DURATION OF LICENSE .....	803-41
803.34 EXPIRATION OF LICENSE .....	803-42
803.35 EXPANSION OF MINING OPERATIONS .....	803-42
803.36 SUSPENSION OR TERMINATION OF MINING .....	803-42
803.37 COMMENCEMENT OF RECLAMATION .....	803-43
803.38 RIGHT OF ENTRY AND INSPECTION BY THE COUNTY .....	803-43
803.39 PENALTIES .....	803-44
803.40 REVOCATION OF LICENSE .....	803-44

**ORDINANCE 803**  
**NONFERROUS METALLIC MINERAL MINING LAND USE AND RECLAMATION**  
**WOOD COUNTY, WISCONSIN**

**PART I – GENERAL**

- 803.01 Title.
- 803.02 Findings.
- 803.03 Intent.
- 803.04 Statutory Authority.
- 803.05 Interpretation.
- 803.06 Severability.
- 803.07 Applicability.
- 803.08 Administration.
- 803.09 Effective Date.
- 803.10 Definitions.
- 803.11 Legal References Cited.
  - 803.11 (1) Statutes.
  - 803.11 (2) Administrative Codes.

**PART II – STANDARDS**

- 803.12 Application of Standards.
- 803.13 General Standards.
  - 803.13 (1) Location and Operation.
  - 803.13 (2) Environmental Impact Study.
  - 803.13 (3) Financial Assurance.
  - 803.13 (4) Control of Environmental Pollution.
  - 803.13 (5) Natural Beauty.
  - 803.13 (6) Groundwater Protection.
  - 803.13 (7) Surface Water Protection.
  - 803.13 (8) Water Supplies.
  - 803.13 (9) Hydrologic Studies.
  - 803.13 (10) Well Monitoring.
  - 803.13 (11) Air Quality Standards.
  - 803.13 (12) Hazardous Waste Standards.
  - 803.13 (13) Solid Waste Standards.
  - 803.13 (14) Mine Reclamation Standards.
  - 803.13 (15) Topsoil Preservation for Use in Reclamation.
  - 803.13 (16) Indigenous Plant Species Required.
  - 803.13 (17) Adjustment for Inflation.
- 803.14 Special Standards.
  - 803.14 (1) Public Health, Safety and Welfare.
  - 803.14 (2) Traffic Safety, Roadway Maintenance and Infrastructure.

- 803.14 (3) Mine Safety and Security.
- 803.14 (4) Prevention of Harm to Agricultural Lands or Livestock.
- 803.14 (5) Limitations on Blasting.
- 803.14 (6) Financial Assurance.
- 803.14 (7) Economic Impact Study.

### **PART III – NOTICE OF INTENT**

- 803.15 Notice of Intent to Collect Data.
- 803.16 Notice of Intent with Respect to Federal Lands.
- 803.17 Administrative Fee Required.

### **PART IV – METALLIC MINERAL MINING LICENSING**

- 803.18 Assumptions.
- 803.19 License Required.
- 803.20 Application for License.
  - 803.20 (1) Application.
  - 803.20 (2) Environmental Impact Report.
  - 803.20 (3) County Impact Summary.
  - 803.20 (4) Incomplete Application.
- 803.21 Additional Information.
- 803.22 Administrative Fee Required.

### **PART V – CONDITIONS ON METALLIC MINERAL MINING LICENSE**

- 803.23 General.
- 803.24 Selection and Content of Conditions of Licensure.
- 803.25 Examples.
  - 803.25 (1) Strict Compliance.
  - 803.25 (2) Changes to Laws.
  - 803.25 (3) Conflict of Laws.
  - 803.25 (4) Administrative Fee Deposit.
  - 803.25 (5) Financial Assurance.
    - 803.25 (5) (a) Performance Bond.
    - 803.25 (5) (b) Cash Deposit to Trust for Roadway Damage Compensation.
    - 803.25 (5) (c) Cash Deposit to Trust for Land Value Compensation.
    - 803.25 (5) (d) Cash Deposit to Well Fund.
  - 803.25 (6) Annual Operations Report.
  - 803.25 (7) Quarterly Inspection Summary.
    - 803.25 (7) (a) Daily Inspections.
    - 803.25 (7) (b) Monthly Inspections.
    - 803.25 (7) (c) Natural Event Inspections.
  - 803.25 (8) Inspection Logs.
  - 803.25 (9) Commencement of Construction.
  - 803.25 (10) Survival of Obligations.

803.25 (11) Any other condition that the committee deems appropriate.

## **PART VI – ADMINISTRATION AND PROCEDURES**

803.26 Administrative Fee Procedures.

803.27 Hearing Regarding the Intent to Collect Data.

803.28 Receipt of Application for License.

803.29 Procedures for Application Review and Public Hearings.

803.30 License Denial.

803.30 (1) Denial Required.

803.30 (2) Denial Allowed.

803.30 (3) Denial must be in writing.

803.30 (4) Re-Submittal.

803.31 License Modification.

803.32 Transfer of License.

803.33 Duration of License.

803.34 Expiration of License.

803.35 Expansion of Mining Operations.

803.36 Suspension or Termination of Mining.

803.37 Commencement of Reclamation.

## **PART VII - ENFORCEMENT**

803.38 Right of Entry and Inspection by the County.

803.38 (1) Compliance Inspections.

803.38 (2) Right to Sample.

803.38 (3) Records Review.

803.38 (4) Investigation of Complaints.

803.39 Penalties.

803.40 Revocation of License.

## **PART I – GENERAL**

**803.01 TITLE.** Nonferrous Metallic Mineral Mining Land Use and Reclamation Ordinance of Wood County, Wisconsin.

### **803.02 FINDINGS.**

(1) Wood County (the “County”) is a rural region largely dominated by and economically dependent on agricultural-lands and recreational-lands forest-lands. Clean air and clean water are necessary to maintain a healthy environment and support public health, safety and wellbeing within the County. Water is an especially precious natural resource in Wood County.

(2) If not properly regulated, metallic mineral mining could result in environmental degradation that would have substantial adverse consequences to the residents of Wood County.

(3) Metallic mineral mining can only occur in the few locations where the forces of nature have deposited the minerals in abundance. Metallic minerals are a necessary component of products in daily use throughout the County. Metallic mineral mining has the potential to become the County’s most environmentally intensive industrial activity and has the potential to adversely impact the environment and beneficially or adversely affect the public health, safety, welfare and economic well-being of the residents and transients of Wood County.

(4) Water and air resources move by natural forces throughout the County, carrying their life-sustaining qualities or noxious residues across property boundaries. If not properly regulated, metallic mineral mining, reclamation and mine waste management could have an adverse impact on the environmental quality and character of the County and the social and economic qualities and general welfare of the communities in Wood County. The County has a duty to apply its police powers to ensure that its environment and the health, safety, general welfare and interests of its residents are protected to the same extent that the environment and residents of other counties are protected, including the interests of Wood County residents in having a clean, safe and healthy environment and water supply.

**803.03 INTENT.** The Board of Supervisors ordains that all unincorporated areas of the County be uniformly subject to the County’s regulation as set forth in this chapter to regulate within those areas how nonferrous metallic mineral mining may be conducted so as to promote the public peace and good order within the County including, without limitation, the purposes set forth in Section 59.69(1), Wisconsin State Statutes. Accordingly, nonferrous metallic mineral mining activities shall only be conducted in the County pursuant to a license to

mine issued in conformance with this chapter and containing conditions that the County determines necessary to achieve the intent of this chapter. The general intent of this chapter is to regulate the location, construction, installation, alteration, design, operation, use, reclamation and long term care of all nonferrous metallic mines and restrict the conduct of nonferrous metallic mineral mining activities within Wood County as necessary so as to protect and promote the public health, safety, prosperity and general welfare of residents and transients; preserve the public peace and good order within the County; further the appropriate use of land, air and water resources of Wood County; promote aesthetic values; provide for environmentally sound reclamation of land disturbed by mining activities; and promote the administration and enforcement of this chapter and provide penalties for its violation. This chapter is not intended to regulate the mining of any "ferrous mineral" as that term is defined in Chapter 295 of the Wisconsin State Statutes.

**803.04 STATUTORY AUTHORITY.** This Chapter is adopted under authority of the powers set forth in Sections 59.01, 59.03, 59.04, 59.51, 59.54(6), 59.57, 59.70, 92.07, 293.41 and 293.43(4), Wisconsin State Statutes.

**803.05 INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any power granted by the Wisconsin State Statutes.

**803.06 SEVERABILITY.** Should any portion of this chapter be determined invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall remain in full force and effect.

**803.07 APPLICABILITY.** This chapter applies to the use and proposed use of land within all unincorporated areas of Wood County for the purpose of nonferrous metallic mineral mining regardless of when such use is commenced.

**803.08 ADMINISTRATION.** The provisions of this chapter shall be administered by the Wood County Conservation, Education and Economic Development Committee (CEED) in conjunction with the Land and Water Conservation Department and Planning and Zoning Department, as provided in this chapter.

**803.09 EFFECTIVE DATE.** This chapter shall become effective upon its adoption and publication by the Wood County Board of Supervisors.

**803.10 DEFINITIONS.**

- (1) Any term not expressly defined herein shall have the meaning set forth in Chapter 293, Wisconsin State Statutes, ("Ch. 293") and if not defined therein then as defined in Ch. NR 132, Wisconsin Administrative Code ("NR 132"), and if not defined therein then as defined in Chapter 182, Wisconsin

Administrative Code (“NR 182”) as those definitions exist on the effective date of this chapter.

- (2) As used in this chapter:
- (a) “Administrator” shall mean the Wood County Land and Water Conservation Department.
  - (b) “Applicant” shall mean a person or business entity that has applied for a Wood County Metallic Mineral Mining License.
  - (c) “Committee” shall mean the Wood County Conservation, Education and Economic Development Committee (CEED).
  - (d) “County” shall mean Wood County, State of Wisconsin.
  - (e) “Department” or “WDNR” shall mean the Wisconsin Department of Natural Resources.
  - (f) “License” or “Metallic Mineral Mining License” shall mean a license to mine nonferrous metallic minerals that is duly issued by the County in accordance with this chapter.
  - (g) “Licensee” shall mean a person or business entity to whom a Wood County Metallic Mineral Mining License has been awarded.
  - (h) "Mining" or "mining operation" means all or part of the process involved in the mining of nonferrous metallic minerals, other than for exploration or prospecting, including commercial extraction, agglomeration, beneficiation, construction of roads, removal of overburden and the production of refuse.
  - (i) "Mining site" means the surface area disturbed by a mining operation, including the surface area from which the minerals or refuse or both have been removed, the surface area covered by refuse, all lands disturbed by the construction or improvement of haulageway, and any surface areas in which structures, equipment, materials and any other things used in the mining operation are situated.
  - (j) “Nonferrous metallic mineral” means an ore or other earthen material to be excavated from natural deposits on or in the earth for its metallic content but not primarily for its iron oxide content.

**803.11 LEGAL REFERENCES CITED.** For convenience, the titles of legal references used in this chapter on effective date are set forth below.



(1) Statutes.

- Wis. Stat. § 30: Navigable waters, harbors and navigation
- Wis. Stat. § 31: Regulation of dams and bridges affecting navigable water
- Wis. Stat. § 59.01: Body corporate; status
- Wis. Stat. § 59.03: Home rule
- Wis. Stat. § 59.04: Construction of powers
- Wis. Stat. § 59.51: Board powers
- Wis. Stat. § 59.54: Public protection and safety
- Wis. Stat. § 59.57: Economic and industrial development
- Wis. Stat. § 59.70: Environmental protection and land use
- Wis. Stat. § 92.11: Regulation of local soil and water resource management practices
- Wis. Stat. § 280: Pure drinking water
- Wis. Stat. § 281: Water and sewage
- Wis. Stat. § 283: Pollution Discharge Elimination
- Wis. Stat. § 285: Air Pollution
- Wis. Stat. § 291: Hazardous Waste Management
- Wis. Stat. § 293: Nonferrous Metallic Mineral Mining
- Wis. Stat. § 293.01: Definitions
- Wis. Stat. § 293.37: Application for mining permit
- Wis. Stat. § 293.41: Local agreements
- Wis. Stat. § 293.65: Withdrawal of surface waters; withdrawal of groundwater; damage claims
- Wis. Stat. § 295: Nonmetallic Mining Reclamation; Oil and Gas; Ferrous Metallic Mineral Mining
- Wis. Stat. § 985: Publication of legal notices; public newspapers; fees

(2) Administrative Codes.

- Wis. Admin. Code Ch. NR 102: Water quality standards for Wisconsin surface waters
- Wis. Admin. Code Ch. NR 103: Water quality standards for wetlands
- Wis. Admin. Code Ch. NR 104: Uses and designated standards and secondary values
- Wis. Admin. Code Ch. NR 105: Surface water quality criteria for toxic substances
- Wis. Admin. Code Ch. NR 132: Metallic mineral mining
- Wis. Admin. Code Ch. NR 132.03: Definitions
- Wis. Admin. Code Ch. NR 132.05: Notification of intent to collect data
- Wis. Admin. Code Ch. NR 132.07: Mining plan
- Wis. Admin. Code Ch. NR 132.08: Reclamation plan
- Wis. Admin. Code Ch. NR 132.17: Minimum design and operation requirements

- Wis. Admin. Code Ch. NR 132.18: Location criteria and environmental standards
- Wis. Admin. Code Ch. NR 135: Nonmetallic mining reclamation
- Wis. Admin. Code Ch. NR 140: Groundwater quality
- Wis. Admin. Code Ch. NR 142: Wisconsin water management and conservation
- Wis. Admin. Code Ch. NR 150: Environmental analysis and review procedures
- Wis. Admin. Code Ch. NR 151: Runoff management
- Wis. Admin. Code Ch. NR 182: Metallic mineral mining waste
- Wis. Admin. Code Ch. NR 200: Application for discharge permits
- Wis. Admin. Code Ch. NR 207: Water quality antidegradation
- Wis. Admin. Code Ch. NR 216: Storm water discharge permits
- Wis. Admin. Code Ch. NR 269: Stone, gravel and sand segment of mineral mining and processing
- Wis. Admin. Code Ch. NR 270: Ore mining and dressing
- Wis. Admin. Code Ch. NR 300: Time limits and fees for waterway and wetland permit decisions
- Wis. Admin. Code Ch. NR 400: Air pollution control definitions
- Wis. Admin. Code Ch. NR 500: General solid waste management requirements
- Wis. Admin. Code Ch. NR 528: Management of accumulated sediment from storm water management structures
- Wis. Admin. Code Ch. NR 538: Beneficial use of industrial byproducts
- Wis. Admin. Code Ch. NR 660: Hazardous waste management: general
- Wis. Admin. Code Ch. NR 662: Hazardous waste generator standards
- Wis. Admin. Code Ch. NR 820: Groundwater quantity protection

## **PART II - STANDARDS**

**803.12 APPLICATION OF STANDARDS.** All applications for license pursuant to this chapter shall be evaluated in accordance with the minimum standards, which are set forth in this subchapter, for the purpose of establishing conditions on and enforcing any license granted pursuant to this chapter. The committee shall evaluate the best available evidence and determine by a majority vote whether any standard has been or would be violated. The committee may recommend the County enter one or more local agreements pursuant to Section 293.41, Wisconsin State Statutes, and the provisions of any such local agreement shall determine the applicability of this chapter, in whole and in part. Except as provided by a local agreement to which the County is made a party, no license shall be granted to an applicant whose mining operation is projected to violate any applicable standard, except as the license establishes conditions that eliminate or mitigate the projected violations to the committee's satisfaction. If in evaluating whether a standard would be violated the committee relies on any provision of any local agreement to

which the County is or will be made a party, the committee shall recommend that compliance with such local agreement be made a condition of licensure. The chapters and sections of Wisconsin State Statutes and Wisconsin Administrative Codes referenced in this subchapter are hereby adopted in full, as they are written on the effective date of this chapter, for the purpose of incorporating and enforcing the standards and procedures there set forth as standards of this chapter. If any of these standards should conflict, the strictest applicable standard shall control.

**803.13 GENERAL STANDARDS.** All proposed metallic mineral mining operations that would take place on lands in Wood County are subject to the standards in this section and any other considerations deemed necessary by the committee, except as set forth in any applicable local agreement to which the County is made a party.

- (1) Location and Operation. A metallic mineral mining project shall be located, designed, constructed and operated in such a manner so as to prevent any surface or subsurface discharge from the facility into navigable waters or groundwater that would cause a violation of any applicable water quality standard contained in or promulgated pursuant to Chapters 281 or 283, Wisconsin State Statutes, or constitute an unlawful discharge of any hazardous substance under Chapter 292, Wisconsin State Statutes, or under any other State, Federal or local law.
- (2) Environmental Impact Study. A license for a metallic mineral mine operation shall be denied unless an environmental impact report prepared by the applicant has been reviewed by the committee and all environmental impacts of the proposed mining operation have been considered and addressed to the committee's satisfaction.
- (3) Financial Assurance. The licensee shall provide financial assurance, adequate in kinds and amounts and to the committee's satisfaction, of the licensee's ability to undertake and complete the proposed mining operation in a manner that address all environmental impacts arising from the proposed mining operation in accordance with this chapter.
- (4) Control of Environmental Pollution. The licensee shall comply with the standards of Wisconsin State Statute Chapters 280, 281, 283, 285, 291, and 293, and related Administrative Code Chapters including but not limited to Chapters NR 102, 103, 105, 132, 135, 140, 142, 151, 182, 200 et seq., 300 et seq., 500 et seq., and 660, Wisconsin Administrative Code.
- (5) Natural Beauty. The licensee shall comply with the requirements of Sections NR 132.07(4)(j), 132.17(1) and (11), Wisconsin Administrative Code.

- (6) Groundwater Protection. The Preventive Action Limits and Enforcement Standards set forth in Chapters NR 140 and 820, Wisconsin Administrative Code, shall apply to metallic mineral mining activities in Wood County, and shall be applied and enforced as set forth in this chapter, including but not limited to application of the provisions of Chapters NR 132 and 182, Wisconsin Administrative Code.
- (7) Surface Water Protection.
- (a) The Non-Agricultural Performance Standards set forth in Chapter NR 151 shall apply to metallic mineral mining activities in Wood County, and shall be applied and enforced as set forth in this chapter, including but not limited to application of the provisions of Chapters NR 132 and 182, Wisconsin Administrative Code.
  - (b) The water quality standards set forth in Chapters NR 102, 103, 104 and 105 shall apply to metallic mineral mining activities in Wood County, and shall be applied and enforced as set forth in this chapter, including but not limited to application of the provisions of Chapters NR 132 and 182 and Chapters NR 207, 216, 269, 270, Wisconsin Administrative Code.
- (8) Water Supplies. The mining operation shall be conducted in compliance with the requirements of Section 293.65, Wisconsin State Statutes, and Chapters 30, 31, 280 and 281, Wisconsin State Statutes, and related Administrative Code Standards and Federal laws.
- (9) Hydrologic Studies. A hydrologic study, including well and surface water monitoring, shall be conducted as part of the application and license requirements by an independent consultant agreeable to the applicant/licensee and the committee. The hydrologic information obtained prior to Application for License shall be included in the environmental impact report prepared pursuant to this chapter, and submitted to the administrator and the town clerks of townships that contain any portion of the proposed mining operation and all adjacent townships, to be kept on file and available to the public. Each owner of a well in an affected township shall be given a copy of the information relevant to his well or wells upon request and shall receive a full copy of the full hydrologic study upon payment of costs for photocopying and delivery. Should a license be granted, the licensee shall continue hydrologic studies and reporting as required by conditions set forth in the license.
- (10) Well Monitoring. For a period of two years prior to commencement of construction of any mine, and during the period of operation of

any mine, and for thirty (30) years after completion of mine reclamation as determined by the committee, the applicant/licensee shall monitor on a continuous basis all private and public wells located within two miles of the perimeter of the mining site and any other wells that the hydrologic study recommends should be monitored, in order to provide baseline data concerning quantity and quality of water adequate for all purposes, including, but not limited to, determining the validity of any well damage claim. The well monitoring intervals and analytical parameters shall be established at the time of permit application and included in the permit as a condition of permit approval. The well monitoring required under this chapter shall be performed by an independent consultant agreeable to both the committee and the applicant. The identity of the consultant shall be set forth in the license, and any change in the identity thereafter shall be approved by the committee. That consultant shall employ the split sample technique upon request of the Administrator, committee, applicant or license and shall make samples available upon request to the committee or any person or consultant designated by the committee to receive such samples. The information obtained in this monitoring program shall be included in the environmental impact report specified in this subchapter and shall be filed with the Administrator. Who keeps track of this, where do they submit this data too.

- (11) Air Quality Standards. The standards set forth in Chapters NR 400 et. seq., Wisconsin Administrative Code, shall apply to metallic mineral mining activities in Wood County, and shall be applied and enforced as set forth in this chapter.
- (12) Hazardous Waste Standards. The standards set forth in Chapters NR 662 et. seq., Wisconsin Administrative Code, shall apply to hazardous wastes generated by metallic mineral mining activities in Wood County, and shall be applied and enforced as set forth in this chapter.
- (13) Solid Waste Standards. The standards set forth in Chapters NR 182, 528 and 538, Wisconsin Administrative Code, shall apply to metallic mineral mining activities in Wood County, and shall be applied and enforced as set forth in this chapter.
- (14) Mine Reclamation Standards. The standards set forth in Sections NR 132.08(2) and (3), Wisconsin Administrative Code, shall apply to metallic mineral mining activities in Wood County, and shall be applied and enforced as set forth in this chapter.

- (15) Topsoil Preservation for Use in Reclamation. The mining operation shall be conducted in compliance with the requirements of Section NR 132.07(4)(g), Wisconsin Administrative Code.
- (16) Indigenous Plant Species Required in Reclamation. The mining operation shall be conducted in compliance with the requirements of Section NR 132.08(2)(g), Wisconsin Administrative Code.
- (17) Adjustment for Inflation. The dollar amount to be paid for any fee, deposit or other amount fixed pursuant to this chapter shall be adjusted to reflect the percentage change in the “Consumer Price Index” for all urban consumers (CPI-U) for the U.S. City Average price data for “all items” as published by the United States Department of Labor, Bureau of Labor Statistics, provided however that in any event, the amounts payable shall not be reduced below the amounts fixed in this chapter or fixed in any license issued pursuant to this chapter. If said Consumer Price Index ceases to be published during the effective lifetime of this chapter, another standard indexing technique shall be designated by the committee and become immediately effective except with respect to any licensee then in effect, for which the committee and the licensee shall attempt to negotiate a mutually agreeable indexing technique before the committee establishes the actual new indexing technique. Disputes over the proper calculation shall be resolved by reference to the procedures, provisions and data of the U.S. Department of Labor, including but not limited to those currently available for inspection at <http://www.bls.gov/cpi/cpi1998d.htm>.
- (a) Definitions. The charge fixed by this chapter for the Reference Year shall be deemed the “Base Charge.” The year for which a payment is due shall be deemed the “Applicable Year.” The term “index” shall mean the “all items” group of the United States City Average Consumer Price Index (CPI-U) (1982-84=100) issued monthly by the Bureau of Labor Statistics of the United States Department of Labor, or its successor. The Reference Year for amounts fixed by this chapter shall be the year 2011 and the annual average for the Reference Year shall be 224.939. The Reference Year for amounts that are not fixed by this chapter but are fixed and required to be paid by any license issued pursuant to this chapter, shall be the calendar year prior to the year in which the subject license is awarded. The charge in successive years shall be the Base Charge increased or decreased for inflation relative to the Reference Year.

- (b) General Explanation. The Base Charge fixed by this chapter shall be multiplied by the inflation adjustment for the Applicable Year relative to the Reference Year to yield the actual amount payable for the Applicable Year.
- (c) Specific Calculation. Each payment due shall be equal to the product of the Base Charge multiplied by the fraction, the numerator of which is the "index" for the Applicable Year and the denominator of which is 224.939, as expressed by the following formula: Amount Due = Base Charge x (Index for Applicable Year / 224.939).

**803.14 SPECIAL STANDARDS.** In addition to all other standards in this chapter and except as set forth in any applicable local agreement to which the County is made a party, all proposed metallic mineral mining operations that would take place in Wood County on lands that are not owned by the United States or any agency thereof shall be subject to the standards in this section.

- (1) Public Health, Safety and Welfare. All mines licensed pursuant to this chapter shall be located, constructed, operated and reclaimed to protect the public health, safety and general welfare. A proposed mining operation shall be deemed in violation of this standard if the committee determines the proposed mining operation would result in a measurable, overall negative effect to public health, safety and general welfare of the residents and transients of Wood County in the short-term or the long-term, pursuant to the committee's analysis and as evidenced by the best available data on parameters approved by the committee. The committee's analysis shall include, at minimum, the following parameters: changes in per capita rates of illness, disease, accidents and injuries; reasonably foreseeable and measurable changes in recreational opportunities and other indices of well-being; reasonably foreseeable and measurable changes to the natural environment; per capita income; average wage rate including benefits; total employment; unemployment rate; tax base; availability of quality housing stock; availability of quality health care; traffic congestion; social well-being; economic and social changes to the affected communities; and other reasonably foreseeable and measurable direct and indirect impacts of the mining operation on the residents and economy of Wood County, all as the committee finds relevant and appropriate. As determined by the committee in accordance with this paragraph and, considering all reasonably foreseeable direct and indirect detriments and benefits of the mining operation, an analysis performed to the committee's satisfaction must demonstrate a positive overall benefit for the public health, safety and general welfare combined, or the mining operation shall be deemed in violation of this standard.

- (2) Traffic Safety, Roadway Maintenance and Infrastructure. All studies, plans, reports and analyses regarding roadways, traffic, traffic safety, drainage, utilities, and public utilities shall be in conformance with Wisconsin Department of Transportation standards.
- (3) Mine Safety and Security. The licensee shall comply with the requirements of Sections NR 132.07(3)(i) and (j), NR 132.07(4)(m), and NR 132.17(2), Wisconsin Administrative Code.
- (4) Prevention of Harm to Agricultural Lands or Livestock. The mining operation shall be conducted in compliance with the requirements of Section NR 132.08(2)(c), Wisconsin Administrative Code.
- (5) Limitations on Blasting. The licensee shall comply with the requirements of Section NR 132.07(5), Wisconsin Administrative Code. However, should the committee and licensee disagree on the scope of the pre-blasting survey, the committee's reasonable determination shall prevail and will be set forth in the license.
- (6) Financial Assurance. The licensee shall provide financial assurance, adequate in kinds and amounts and to the committee's satisfaction, of the licensee's ability to undertake and complete the proposed mining operation in accordance with this chapter including, without limitation, the ability of the licensee to address in conformance with this chapter all adverse economic impacts arising from the proposed mining operation.
- (7) Economic Impact Study. A license for operation of a metallic mineral mine shall be denied if on the basis of all information provided by the applicant and gathered by the committee, the committee projects that the mining operation will result in a net adverse economic impact on the County or the residents of the County. The economic impact study shall include all relevant post-mining costs and losses including costs and losses related to environmental impacts of the mining operation.

### **PART III – NOTICE OF INTENT**

**803.15 NOTICE OF INTENT TO COLLECT DATA.** A person or business entity intending to collect data leading to submission of an application for Wood County Metallic Mineral Mining License, Wisconsin Metallic Mineral Mining Permit or Federal authorization to conduct metallic mineral mining operations shall, prior to collecting any such data, provide the administrator with a nonrefundable fee in amount of \$25,000.00 and a notice of intent which shall include all the materials specified in Section NR 132.05, Wisconsin Administrative Code. The notice required by this section shall be known as the Notice of Intent and shall be submitted to the committee in care of the



administrator, who shall promptly provide a copy to the current chair of the Committee.

**803.16 NOTICE OF INTENT WITH RESPECT TO FEDERAL LANDS.** Any person or business entity who submits a Notice of Intent or Plan of Operation filing pursuant to Section 228.4 of Title 36 of the U.S. Code of Federal Regulations (revision dated July 1, 2012) or as the same may be superseded, with respect to lands in Wood County shall supply a duplicate copy of the filing to the administrator on the date of such filing in addition to materials submitted in satisfaction of the preceding section.

**803.17 ADMINISTRATIVE FEE REQUIRED.**

- (1) The person or business entity intending to collect data leading to submission of an application for metallic mineral mining license shall pay all extraordinary costs associated with the County's review of and response to the Notice of Intent, such as legal and consulting fees to review the notice of intent, assist with the hearing and assist the committee understand and appropriately respond to the notice of intent. The County's Notice of Intent review shall be deemed complete upon the latter of the withdrawal of Notice of Intent, receipt by the County of application for a license or after all appeals of any issue related to the Notice of Intent have been exhausted.
- (2) The required administrative fee shall include the initial fee of \$25,000.00 to be paid with submittal of the Notice of Intent. The County reserves the right to require, and the person or business entity intending to collect data shall promptly submit, as required by the committee, payment of additional funds as necessary to complete the County's review of and response to the Notice of Intent.

**PART IV – METALLIC MINERAL MINING LICENSING**

**803.18 ASSUMPTIONS.** In ordaining this chapter, Wood County assumes that the state mining regulations in effect on the effective date of this chapter including, without limitation, Chapter 293 of the Wisconsin State Statutes and Chapters NR 132 and NR 182 of the Wisconsin Administrative Code, will apply to any metallic mine in Wood County.

**803.19 LICENSE REQUIRED.**

- (1) No person or business entity may commence construction of a metallic mine or conduct metallic mineral mining in Wood County except in conformance with a valid Metallic Mineral Mining License issued by the County pursuant to this chapter.

- (2) Licenses issued in accordance with this chapter may contain conditions, restrictions and limitations on mine construction and performance of Mining activities as necessary to achieve the intent of this chapter.
- (3) Conditions established by any license granted pursuant to this chapter must be met at all times or the licensee may be found in violation and be subject to enforcement, fines, penalties and license revocation as provided herein.
- (4) Except as provided in this chapter, a license issued pursuant to this chapter shall become valid on the date the applicant is awarded a State of Wisconsin Metallic Mineral Mining Permit for the same mining site. If a State of Wisconsin Metallic Mineral Mining Permit for the same mining site is not required, then any Metallic Mineral Mining License awarded pursuant to this chapter shall not be effective until the licensee has procured all necessary permits, licenses and approvals from applicable state and federal agencies to construct, operate, reclaim and close the mining operation.
- (5) Any license issued pursuant to this chapter may be in addition to any Local Agreement entered into by the County and the applicant.
- (6) Any license issued pursuant to this chapter may be in addition to any other State, Federal or local permits, licenses or approvals necessary for any mine construction or any aspect of the mining operation.

### **803.20 APPLICATION FOR LICENSE.**

- (1) Application. An application for a Wood County Metallic Mineral Mining License shall be filed with the administrator and shall include a fee of \$50,000, and an electronic copy and 25 paper copies of the following original materials:
  - (a) A request for license;
  - (b) A copy of the applicant's application for State of Wisconsin metallic mineral Mining Permit;
  - (c) If for any reason a State of Wisconsin metallic mineral Mining Permit is not required to conduct the mining operation or the State of Wisconsin will not require an application for a Metallic Mineral Mining Permit, or if the application requirements for State of Wisconsin metallic mineral Mining Permit should change substantially from those in effect on the effective date of this chapter, the applicant shall provide the administrator with all of the information, materials and application content that would be

required to be provided to the Department under the mine permit application process;

- (d) Other materials as required by this chapter;
- (e) A statement signed by the applicant and notarized by a Wisconsin notary public in which the applicant certifies to all of the following:
  - 1. The applicant's name and address;
  - 2. All information provided in the application is accurate and complete to the best of the applicant's knowledge;
  - 3. The applicant agrees to abide and be bound , during and after the application process, by all of the provisions and requirements of this chapter, applicable County, State and Federal laws and regulations and any permits, licenses and approvals granted under such ordinances, laws and regulations; and
  - 4. As a condition of applying for a Metallic Mineral Mining License, the applicant agrees that the County ordinances are valid and agrees not to challenge in court the validity of any County Code chapter pertaining to the application for or granting of a Metallic Mineral Mining License, provided the applicant may challenge any denial of a license.

(2) Environmental Impact Report. The application shall include an environmental impact report as described under the version of Section NR 150.25, Wisconsin Administrative Code, which shall be limited in scope to baselines and impacts in Wood County and shall include such contents as may be specified by the committee including, without limitation, the existing baseline conditions and the likely and potential impacts of the mine with respect to each of the following baselines:

- (a) Employment, economic activity and tax base.
- (b) Population and housing stock.
- (c) Government services and utilities.
- (d) Major and minor land uses and the percentage of lands devoted to each use.
- (e) Traffic impact analysis.

- (f) Air quality and classification per state and federal standards.
  - (g) Environmental characteristics of the mine site, including wildlife, vegetation and physical parameters of groundwater quality and quantity, and surface water quality and quantity, including wetlands.
  - (h) Environmental characteristics within Wood County including, without limitation, air, groundwater, surface water and acres of disposal facilities for any waste
  - (i) Aesthetic features and conditions.
  - (j) Cultural features including an analysis of historical and/or cultural preservation concerns.
  - (k) Ambient noise within five (5) miles of mining site and along major roadways within 10 miles of the mining site.
- (3) County Impact Summary. The application shall include a county impact summary report, which shall include a thorough narrative description of the project in sufficient detail to allow the County to assess probable physical, environmental and developmental impacts of the proposed mine and assess and summarize the potential and estimated impacts on the human health, safety and welfare and economic well-being of residents and transients of the County, based on the potential environmental and socioeconomic impacts of the proposed mining operation. The report shall include a life-of-mine analysis of mining impacts upon social and environmental baseline parameters through completion of reclamation, and shall address such phenomenon as the boom/bust cycle. The county impact summary report shall identify all reasonably foreseeable roadway construction and maintenance needs arising in Wood County from operation of the proposed mine and reasonably foreseeable secondary impacts of the mining operation which may result in the demand for additional roadway improvements. With respect to roads in Wood County, the county impact summary report shall identify and describe the anticipated needs for roadway modifications resulting from the likely mine-related traffic impacts, including both primary and secondary impacts and shall fully describe the existing reasonably foreseeable mine-related changes to traffic patterns, traffic volume, the class of roadways associated with those patterns, and any load-related needs and restrictions.
- (4) Incomplete Application. If any required information is not provided with the initial application materials, the application shall not be considered

complete until all required submittals are provided and the applicant shall provide an estimated date when such materials will be provided.

### **803.21 ADDITIONAL INFORMATION.**

- (1) The applicant is responsible for providing any documents required under any other section of this chapter.
- (2) The applicant must submit to the administrator copies of application materials submitted for all other permits, licenses and approvals required by any County ordinance, state or federal law or regulation.
- (3) The committee, upon determining that sufficient information has not been provided as required by any provision of this chapter or that additional information is necessary for adequate consideration of the proposed project, may request supplemental information from the applicant. Such request will be in writing and with as much specificity as reasonably possible. Should the committee request additional information, it may halt its review until such information is provided by the applicant.

### **803.22 ADMINISTRATIVE FEE REQUIRED.**

- (1) The applicant shall pay a fee to cover all costs associated with the County's review of the application, which shall be known as the administrative fee. application review shall be deemed complete upon the latter of issuance of a license, after all appeals of any denial have been exhausted, or after the County completes its work following any withdrawal of the application by the applicant.
- (2) An application fee in the amount of \$50,000.00 shall be deposited with the County as the initial payment of the required administrative fee. The County reserves the right to require payment of additional funds as necessary to pay for the extraordinary expenses to complete application review, which include but are not limited to the cost of legal counsel, consultants and the cost of any additional staff the administrator must hire to handle the workload created by the application review and other tasks the County finds necessary to comply with this chapter. The applicant shall promptly submit supplemental application review deposits as recommended by the committee and required by the County. The applicant shall maintain an adequate administrative fee deposit balance at all times as a condition of maintaining an application in good standing.

## **PART V – CONDITIONS ON METALLIC MINERAL MINING LICENSE**

**803.23 GENERAL.** A Metallic Mineral Mining License shall be issued only upon such conditions as necessary to fulfill the intent of this chapter and ensure that the impacts of the mining operation are consistent with the protection of public health, safety and general welfare of the residents of Wood County and conservation of the environmental resources of Wood County; the impacts of the mining operation will not violate any County ordinance; and lawful conduct of the mining operation would promote the economic well-being of the residents of Wood County. It is not the intent of this chapter to duplicate in type and amount any financial assurance that will be provided by the applicant pursuant to any state or federal requirement.

**803.24 SELECTION AND CONTENT OF CONDITIONS OF LICENSURE.** The Committee shall determine such conditions as it finds necessary to achieve the intent of this chapter and shall make a final recommendation to the Board of Supervisors regarding the appropriate conditions of licensure, appropriate conditions of County local agreement, approval of County local agreement and issuance of a license so as to achieve the intent of this chapter. The paragraphs below in this subchapter are examples of conditions that may or may not be recommended by the committee, or may be revised, rewritten or supplemented with additional conditions addressing the same or any other issues as the committee deems appropriate to achieving the intent of this chapter. The committee may recommend conditions be required in a license, in a County local agreement or both. The committee shall act on a case by case basis, upon the facts and circumstances presented, to devise and recommend any conditions that it finds appropriate, including devising conditions to address topics that are not expressly addressed in this chapter or recommending no conditions if the mining operation will be satisfactorily regulated by the state or federal government or the mining operation will be satisfactorily regulated by conditions set forth in a local agreement to which the County is a party. In establishing conditions, the Committee shall be mindful that the conditions it may establish for award of a license may vary depending on whether the mining operation is proposed to be conducted on federal lands.

**803.25 EXAMPLES.** Types of issues which may be considered as conditions of license and how these issues might be addressed.

- (1) Strict Compliance. Strict compliance with all applicable State and Federal laws, regulations and permits shall be required of any licensee. Failure to comply with such laws, regulations or permits shall constitute a violation of the County Metallic Mineral Mining License and shall give the County the right to suspend or revoke the County Metallic Mineral Mining License and take other enforcement action.
- (2) Changes to Laws. If State laws or regulations are amended or created and are less restrictive than previous law or federal law, the licensee shall comply with the standards that were in place at the time the Metallic

Mineral Mining License was granted. Under changing law circumstances, the licensee may request a license modification in accordance with this chapter, but if the license is opened for modification the licensee shall not be entitled to retain the original license conditions.

- (3) Conflict of Laws. Whenever State, Federal or County requirements may be in conflict, the strictest standard shall govern.
- (4) Administrative Fee Deposit. The licensee shall pay all costs associated with the County's administration of the license, including but not limited to fees charged by consultants and other experts, legal fees, and administrative costs incurred by the County to handle the workload created by administering the license and other tasks necessary to comply with this chapter. Maintaining an adequate administrative fee deposit balance at all times shall be a condition of maintaining a license. The County shall notify the licensee annually of the anticipated fee which shall be paid in advance on a quarterly basis and shall be reconciled and adjusted on an annual basis. All administrative fees paid shall be deposited to an Assigned Account and the County shall issue statements at least annually of such account showing all deposits and categories and amounts of expenses incurred. The account shall remain funded as provided in this chapter, conditions to the license or any agreement in force between the County and the applicant or licensee, but the minimum amount on deposit shall not be allowed to fall below \$100,000.00. The account shall remain funded until after all required mine reclamation is determined by the committee to be complete and all mine waste facilities are closed to the committee's satisfaction and then only then shall any amount remaining on deposit be refunded to the applicant.
- (5) Financial Assurance. After consulting with the applicant and considering all relevant information including but not limited to the amount of financial assurance provided by the applicant to comply with applicable state and federal financial assurance requirements and information gathered at public hearings and provided by the applicant and the County, the committee may require the licensee to provide any means and amount of financial assurance the committee deems necessary to fulfill the intent of this chapter. The following subsections provide examples of some of the possible means of financial assurance.
  - (a) Performance Bond. The committee may require the licensee to post an irrevocable bond issued by a surety company authorized to conduct surety business in Wisconsin, in an amount the committee shall determine, the amount of which shall be sufficient to cover 100% of all reasonably foreseeable costs of mine reclamation, long-term care of any mine waste facility, and possible damages and negative impacts arising

from mining operations which are not, to the committee's satisfaction, already adequately bonded or otherwise provided for under other local, State or Federal financial assurance requirements. The amount of the required bond may be increased or reduced for cause shown, including changing conditions. If at any time there is a default on the bond provision, the Permit shall be automatically suspended until the bond deficiency has been cured. Any bond provided to satisfy an obligation arising under this paragraph may not be cancelled without first providing a replacement bond or other financial assurance and receiving the advance approval of the committee. If the issuing surety company becomes bankrupt or insolvent or ceases to be authorized to conduct business in Wisconsin, the licensee shall, within 30 days of notice, deliver a replacement bond to the committee's satisfaction. An alternative means of financial assurance, including combinations of methods, may be requested by the applicant provided the applicant supplies all supporting materials the committee believes necessary to evaluate the alternative, but the committee shall have sole discretion over the sufficiency and acceptability of any alternative means financial assurance.

(b) Cash Deposit to Trust for Roadway Damage Compensation.

The licensee agrees to enter a roadway maintenance agreement to the satisfaction of the committee and to establish and fund an irrevocable road damage trust of which the County shall be the sole beneficiary. The committee shall name a trust administrator who shall receive the initial deposit. The licensee shall initially deposit funds in an amount determined by the committee to be the reasonably anticipated cost to construct, repair and reconstruct all affected public roadways to meet the traffic demands brought about by the mining operation for one cycle of road use and rebuilding. The cost projection shall be based on a roadway improvement and maintenance engineering study conducted by the committee at the licensee's expense. As a condition of the license, the licensee shall make additional deposits to the trust as required by the roadway maintenance agreement. The County may enter agreements with other units of government affected by the proposed or actual mining operation as provided by law, including Section 59.03(2)(b), Wisconsin State Statutes, to provide for road construction, maintenance and repair; and in accordance with such agreements the County may spend or disburse funds from the road damage trust to address roads under the jurisdiction of such other governments. The committee shall seek the cooperation and assistance of the



county highway committee (HIRC) and county highway commissioner, if any, in planning and undertaking all roadway studies, planning, construction, maintenance and repair pursuant to the roadway damage trust.

- (c) Cash Deposit to Trust for Land Value Compensation. The County shall establish and the licensee shall fund an irrevocable land value compensation trust, or other mechanism mutually agreeable to the committee and licensee, to compensate affected landowners for diminution in value of their owned property, suffered as a result of the mining operation or secondary impacts of the mining operation. The committee shall name a trust administrator and determine the amount of initial deposit. The licensee shall initially deposit funds in an amount equal to the equalized value of the land and improvements the committee reasonably expects would be lost over a 10 year period at locations that are (i) within 3 miles of the mine site or (ii) contiguous to a navigable lake or stream that is likely to be adversely affected by the mining operation. Land owned or leased by the licensee and land that is part of any mining site shall not be eligible for payments under this section. Land sales between family members or relatives or affiliated business entities shall not be taken into account for purposes of price comparison. To avoid duplication of payment for the same loss, any award for diminution in value provided pursuant to this chapter shall be recorded against the pertinent property in the County Records and shall run with the land.
- i. Aggrieved landowners may apply periodically at their sole expense to receive reimbursement from the trust to compensate them for the diminution in value to their property. The landowner shall pay the County's costs to hear and decide their claim. The landowner shall bear the burden of establishing that there has been a diminution in the value of their property as a result of the mine, the amount of that diminution, and that the funds requested would not duplicate any payment for the same loss.
  - ii. It shall be the licensee's responsibility to maintain an adequate fund balance in the trust at all times during mine construction, operation and reclamation, as established by the committee after consultation with appropriate experts and considering all relevant information including, but

not limited to, information gathered at public hearings and provided by the applicant or licensee. If the licensee shows by a preponderance of the evidence that the balance in the trust is greater than necessary to compensate for actual diminution in property values, the trust administrator shall issue an appropriate refund to the licensee. The trust shall continue in force until five years after the later of completion of reclamation or closure of the last mine waste facility, at which time the balance on deposit shall be paid to the licensee or its successor in interest and the trust shall be dissolved and cease to exist.

- iii. To hear and decide claims for reimbursement from the Land Value Compensation Trust, the County may establish a board consisting of three to five residents of the County, at least one of whom shall be licensed to appraise real estate in Wisconsin and another of whom shall be a certified public accountant, and all proceedings of said board shall be in public and all decisions of said board shall be reduced to writing that is signed and dated by the board chairperson and which contains findings of fact, conclusions of the board and recommendations to the trust administrator.

(d) Cash Deposit to Well Fund. The licensee shall agree to pay into a fund established by the County to pay for replacing any wells contaminated, damaged or depleted by the mining operation and/or for providing potable water to any owner of a well adversely affected by the mining operation. Disbursement of funds from the fund account shall be at the sole discretion of the committee and shall be in accordance with any rules the committee may adopt to limit fraud and abuse of the Well Fund. The account shall be an Assigned Account and bear interest and be funded by the licensee in an amount determined by the committee based on the maximum number of wells likely to be adversely impacted based on the mining plan and hydrologic modeling of the mining site and any adverse effects to groundwater and surface water reasonably anticipated from mining related activities. Hydrology studies shall be conducted by an independent consultant named by the committee and shall

be completed before the onset of mine construction. The costs of the studies shall be at the expense of the licensee. On an annual basis the administrator shall issue a report to the committee covering the preceding calendar year and presenting the status of the fund, distributions made there from, and interest and principal balances on December 31. The committee may agree that after a certain balance has been reached or after charges against the fund have stabilized for a certain number of years, the licensee could receive all future interest paid on the fund balance. At any time after the 30th anniversary of the completion of mine reclamation, the committee may direct the administrator to disburse all remaining funds in the well fund to an Assigned Account, for use by the County in such manner as the committee deems to be appropriate.

- (6) Annual Operations Report. The licensee shall submit to the administrator an annual report by March 1 of each year for the preceding calendar year, until and through the release of financial assurances other than the well fund, or the licensee's certification of the completion of reclamation, whichever is later. Each report shall include all of the following:
- (a) The current acreage affected by the extraction process but not yet reclaimed.
  - (b) The amount of acreage that has been reclaimed to date including detailed explanations and photographs of the reclamation efforts and the cost incurred to achieve those results.
  - (c) Information identifying any instances of noncompliance, penalties, fines or complaints and the manner in which such instances were rectified.
  - (d) Records of any non-routine maintenance required on site.
  - (e) A signed certification by the licensee to the effect that: "I certify that this information is true and accurate, and except as expressly set forth herein the metallic mineral mining site described herein complies with all conditions of the applicable County license and any applicable permits, licenses and approvals."

- (7) Quarterly Inspection Summary. The licensee shall submit to the administrator, within 30 days following the close of each calendar quarter, a report summarizing the results of the following inspections.
- (a) Daily Inspections. The licensee shall inspect any tailings ponds and any other waste lagoons on a daily basis for evidence and indications of any phenomenon, activity or process which might affect the integrity of the tailings pond or dike.
  - (b) Monthly Inspections. The licensee shall designate one or more qualified senior personnel to inspect the tailings ponds and any other waste lagoons on a monthly basis and prepare, sign and date a report. If the person or persons making the monthly inspections is not a Wisconsin registered professional engineer, then the licensee shall also provide for quarterly inspections by a registered professional engineer.
  - (c) Natural Event Inspections. The licensee shall inspect the tailings ponds and any other waste lagoons after any unusual natural occurrence including, but not limited to, the following: earthquake, tornado, flood, storm event exceeding the 100-year storm threshold or any other natural event which the licensee should reasonably expect could affect the integrity of the tailings pond or dike.
- (8) Inspection Logs. All daily, monthly and quarterly inspection observations shall be recorded in a log and maintained on the premises of the mine and be made available for inspection by County officials during regular business hours. The licensee shall submit copies of inspection logs to the County upon request.
- (9) Commencement of Construction. Mine construction must be commenced within two (2) years of the effective date of the last necessary County, state, or federal permit, approval or license issued to the licensee or the County may modify or terminate the license.
- (10) Survival of Obligations. All obligations of the licensee pursuant to this license shall be continuing obligations of the licensee and shall survive commencement and termination of mining and revocation of this license.
- (11) Any other condition that the committee deems appropriate.

## **PART VI - ADMINISTRATION AND PROCEDURES**

### **803.26 ADMINISTRATIVE FEE PROCEDURES.**

- (1) The fees submitted by an applicant for Notice of Intent Review and Application for Metallic Mineral Mining License, and for deposit upon being granted a license and other administrative fee deposits received from the applicant or licensee shall be placed by the County in an Assigned Account, for which statements shall be issued at least annually, and shall be used as necessary to pay the County's reasonable administrative and enforcement expenses associated with the evaluation of the subject Notice of Intent including expert fees, legal fees and administrative expenses for Notice of Intent review, holding of required hearings, enforcement, and other matters compelled by the need to review and respond to the Notice of Intent the application for license as provided by this chapter, such as environmental monitoring. At the request of an applicant or licensee that is attempting to transfer its interest in any application or license, upon any such transfer any monies on deposit in the Assigned Account shall be held and applied for the benefit of the transferee, provided the transferee meets all requirements of this chapter and further provided that if County approval is required for the applicant or licensee to transfer such interest then such transfer must first meet with the County's approval and satisfaction.
- (2) The County will provide a periodic accounting of its expenses to the applicant as appropriate, and within 30 business days of notice from the County, the entity from which funds are requested shall deposit additional administrative fee deposits as requested by the County.
- (3) Should the applicant challenge the County's review of or response to the Notice of Intent or review of the application, the applicant shall continue to fund the administrative fee account until all of the applicant's and County's appeals have been exhausted. Should the courts not uphold the County's review of or response to the Notice of Intent or review or response to the application, and the exhaustion of appeals results in a final decision in the applicant's favor in any respect, the County shall in no circumstances be required to refund any of the administrative fee encumbered to that date nor shall the County under any circumstances be required to pay any of the applicant's costs, losses or attorney fees.
- (4) Should the Notice of Intent be withdrawn by the person or business entity that filed the Notice of Intent, the County shall complete its work on the notice of intent and within 120 days there from shall perform an accounting and send the applicant an invoice to cover the cost of the County's work or issue a refund to the applicant of all deposits that were not utilized or encumbered in the County's review and withdrawal process.

- (5) Should the applicant submit an application for metallic mineral mining license the County shall complete its work on the notice of intent and within 120 days there from shall perform an accounting and any unencumbered Notice of Intent funds from the applicant that are on deposit in the administrative fee account shall be converted to application review fees and the applicant shall be responsible to ensure that the account is and remains funded as provided in this chapter.
- (6) Should the applicant withdraw its application for metallic mineral mining license, the County shall as soon as practicable halt the application review process and perform the tasks necessary to memorialize its work regarding the application and then the County shall stop its work on the application and within 120 days there from shall perform an accounting and send the applicant an invoice to cover the cost of the County's work or issue a refund to the applicant of all deposits that were not utilized or encumbered in the County's review and withdrawal process.
- (7) Should a license be awarded, the administrative fee account of the applicant shall be and remain funded as provided in this chapter, any conditions to the license and any agreement in force between the County and the applicant or licensee.
- (8) Should the license be denied, the applicant shall fund the administrative fee account until all of the applicant's appeals have been exhausted. Should the courts uphold the County's decision to deny, and the exhaustion of appeals results in a final decision in the County's favor, within 120 days of the exhaustion of all allowable appeals the County shall perform an accounting and send the applicant an invoice to cover the cost of the County's work or issue a refund to the applicant of all deposits that were not utilized or encumbered in the County's review and withdrawal process. Should the courts not uphold the County's decision to deny, and the exhaustion of appeals results in a final decision in the applicant's favor in any respect, the County shall perform an accounting and send the applicant an invoice to cover the cost of the County's work or issue a refund to the applicant of all deposits that were not utilized or encumbered in the County's review and withdrawal process, but the County shall under no circumstances be required to refund any of the administrative fee encumbered to that date nor shall the County under any circumstances be required to pay any of the applicant's costs, losses or attorney fees.
- (9) The administrative review fees shall be in addition to any other fees necessitated by County review such as inspection fees, construction related fees, site-related fees for waste disposal or other matters and any fees necessitated by additional County approvals, licenses or permits and/or County oversight.

### **803.27 HEARING REGARDING THE INTENT TO COLLECT DATA.**

The Administrator shall schedule and conduct a public informational hearing to occur not later than 45 days following the receipt of any notice of intent to collect data. At the hearing, (i) the committee shall briefly explain the state mining regulation process, the process for obtaining a license under this chapter and explain its role in administering this chapter; (ii) the person or business entity intending to collect data shall present a brief statement summarizing its intentions and shall answer questions from and as allowed by the committee regarding the potential mining project and any information presented in the notice of intent; and (iii) the committee shall seek public comments regarding the notice of intent. This hearing may be held in conjunction with any hearing held in Wood County pursuant to Section NR 132.05(3), Wisconsin Administrative Code.

### **803.28 RECEIPT OF APPLICATION FOR LICENSE.**

- (1) Upon receipt of any application, the administrator shall immediately initial and date the original of each of the application materials filed and shall promptly prepare an affidavit by the administrator that the materials so initialed constitute the application in its entirety as presented by the applicant.
- (2) Within two business days following receipt of the application materials submitted by the applicant, the administrator shall provide the initialed original application materials to the County Clerk along with the administrator's affidavit, to be preserved with County records.
- (3) Within five business days following receipt of the application, the administrator shall distribute one copy to each of the following:
  - (a) Each member of the committee.
  - (b) The town chairman of any town in which any part of the proposed metallic mineral mining project would be located of every town adjacent thereto.
  - (c) The tribal government of any Native American community that owns tribal lands or claims ceded territory rights in any town in which any part of the proposed metallic mineral mining project would be located.
  - (d) The Secretary of the Wisconsin Department of Natural Resources.

- (e) The designee or ranking local employee of any federal agency that owns any land on which any part of the proposed mining site is located.
- (4) The remaining copies shall be made publicly available at the following locations:
  - (a) The town hall of any town in which the planned metallic mineral mining project is proposed.
  - (b) The office of the Administrator.
  - (c) The office of the County Clerk.
  - (d) The public libraries within Wood County.
- (5) Promptly after distributing the application as required above, the administrator shall ensure the application is posted on a web site established by the County.

#### **803.29 PROCEDURES FOR APPLICATION REVIEW AND PUBLIC HEARINGS.**

- (1) Nothing in this chapter shall be construed to mean that the committee or the Board of Supervisors (the "County Board") shall be required to approve an application or grant a license for metallic mineral mining.
- (2) The Mining Committee will direct the administrator as required to facilitate the committee's review of all application materials.
- (3) Within 15 business days of receipt of the application, the administrator shall publish Class 2 legal notice, under Chapter 985, Wisconsin State Statutes, announcing receipt of the application for a Metallic Mineral Mining License and providing a list of locations where the application can be reviewed, and the notice shall be posted at the office of the administrator. All public hearings pursuant to this chapter shall be preceded by Class 2 legal notice unless a Class 3 notice is required by other applicable law or regulation.
- (4) The administrator shall schedule a meeting of the committee to discuss the application review procedures to occur within 30 days of receipt of the application, and shall promptly provide notice of such meeting by registered letter to the town chairman of any town in which any part of the proposed metallic mineral mining project would be located.
- (5) The committee shall conduct at least one public informational hearing and may use other reasonable means to identify and determine which issues raised by the application are of substantial significance to the human and natural



environments. The hearing under this Section 47.29(5), Wood County Code, shall be scheduled to occur no sooner than 15 days after the committee's first meeting following receipt of the application and no later than 60 days after that committee meeting. The time allotted for any such hearing shall be determined by the committee in advance and be made part of the public notice. The hearing shall be held in a space deemed appropriate by the administrator based upon proximity to proposed mine site, available space and anticipated participants and other attendees. At least one week prior to the public hearing the administrator shall publish a summary of the application in a local newspaper and post the summary on the web site of the zoning department.

- (6) The public informational hearing under Section 803.29(5), Wood County Code, shall be conducted by the committee's designee, who shall act as moderator of the discussion to ensure a fair hearing within the guidelines established by the committee. At the hearing, the administrator, the committee or its designee shall describe the purpose of the hearing and the regulatory and local agreement process applicable to metallic mineral mining proposals. At the hearing, the applicant shall present a brief statement summarizing its intentions and shall answer first the questions from the committee, the administrator and/or the committee's designee and then from the public as called upon by the moderator. The moderator may use reasonable means to control the discussion to create efficiency and complete the hearing within the time allotted for the hearing, including the use of written question and comment cards and halting discussion of topics that have already been adequately addressed in the opinion of the moderator or the committee's chairperson.
- (7) Following the public informational hearing under Section 803.29(5), Wood County Code, during the committee's review of the application and prior to the adoption of preliminary recommendations, the committee shall accept written comments to be considered in its review of the application, and such comments shall be addressed to the committee in care of the administrator.
- (8) The committee shall consider the application, the advice of its advisors, and public comments received for at least 45 days but not more than 365 days from receipt of application, subject to any pause provided by this chapter, at which time the committee shall, at an open meeting of the committee, adopt preliminary recommendations on the application based on the committee's review of the application, public comments and any information provided by the committee's experts. If the committee's recommendations include negotiation of a local agreement that has not yet been executed by the County Board, then the committee shall present its recommendations as alternatives, which shall include the preferred recommendations if a local agreement containing specific provisions as recommended by the committee is made effective between the County and the applicant as distinguished from the second choice alternatives that are recommended if such local agreement would never become effective between the County and the applicant.

- (9) The committee's preliminary recommendations on the application shall be posted by the administrator on a web site established by the committee and a paper copy shall be made available to the public at the Wood County Land and Water Conservation Department. Within 30 days of the committee's adoption of preliminary recommendations, the administrator shall ensure that a public informational hearing is noticed and held on the committee's preliminary recommendations. The hearing may be held at the County Seat, in any town in which any part of the proposed metallic mineral mining operation would be located, or at any other appropriate facility designated by the administrator. The moderator may use reasonable means to control the discussion to create efficiency and complete the hearing within the time allowed, including the use of written question and comment cards and halting discussion of topics that have already been adequately addressed in the opinion of the moderator or the committee's Chairperson.
- (10) Following the public informational hearing under Section 803.29(9), Wood County Code, the committee shall accept written comments for a time period of 15 days. Such written comments and any comments raised in the public hearing shall be summarized by the committee's advisors and considered by the committee in preparing its final recommendations.
- (11) Within 60 days of the public hearing under Section 803.29(9), Wood County Code, the administrator shall deliver to the County Clerk a written summary of the comments received at the public hearing and the County Clerk shall promptly publish the summary as a Class 1 legal notice under Chapter 985, Wisconsin State Statutes.
- (12) Within 90 days of the public hearing under Section 803.29(9), Wood County Code, but not before 15 days following the publication of legal notice of the summary of public comments the committee shall, subject to any pause provided by this chapter, at an open meeting of the committee, consider the summary of public comments and other relevant materials and shall, by majority vote, adopt a summary response to the public comments and proposed final recommendations with respect to granting or denying a license to the applicant and any appropriate conditions of licensure, and shall promptly provide its summary response to the public comments and proposed final recommendations to the County Clerk.
- a. Each of the committee's proposed final recommendations shall be supported by written findings of the committee. The committee's proposed final recommendations shall, at minimum, address the following:
- i. Identify any standard(s) the committee finds inapplicable to the proposed mining operation and the reasons therefore.

- ii. Identify any standard(s) the committee finds applicable to the proposed mining operations and the reasons therefore.
  - iii. For each applicable standard, identify with specificity any conditions(s) the committee recommends be placed on any license issued to allow the proposed mining operation so as to meet the applicable standards or mitigate the projected impacts of the proposed mining operation to the committee's satisfaction, and for each such condition, identify the standard that will be met or adequately mitigated by inclusion of such condition.
    - 1. If the committee recommends that the County and the applicant enter into a local agreement that is not in full force and effect, then the committee shall identify each objective of such local agreement that is necessary to meet the intent of this chapter or otherwise advisable and the committee shall recommend the County not issue a license unless a local agreement meeting each recommended objective is executed by the County and the applicant.
    - 2. If the committee concludes a license should be awarded, the committee shall state its conclusion along with each condition that should be set forth in the license.
    - 3. If the committee concludes a license should be denied, the committee shall state its conclusion along with the specific reasons a license should be denied.
- (13) The County Clerk shall schedule a meeting of the County Board, which shall occur not later than 90 days after the County Clerk receives the committee's proposed final recommendations, subject to any pause requested by the applicant pursuant to Section 47.29(19), Wood County Code, and shall place the committee's proposed final recommendations on the agenda of that County Board meeting and publish the final recommendations and summary response to the public comments as a Class 1 legal notice under Chapter 985, Wisconsin State Statutes.
- (14) The County Board shall consider the proposed final recommendations of the committee at the open meeting of the County Board held pursuant to Section 803.29(13), Wood County Code, at which it shall decide when to hold public hearings regarding the committee's proposed final recommendations for local agreement and award or denial of license. The action taken at this meeting may not include awarding or denying a license.
- (15) At any time prior to voting on the committee's final recommendations, the County Board may request additional information from the committee but

such request shall not lengthen the County Board's decision-making time frame.

- (16) No sooner than 45 days before and not later than 60 days following the County Board meeting held pursuant to Section 803.29(13), Wood County Code, the County Board shall hold a public hearing on the issue of whether to award or deny a Metallic Mineral Mining License and, if any local agreement has been proposed between the County and the applicant, the public hearing shall also address the issue of whether the County and applicant should enter the proposed local agreement. A notice of hearing shall be provided in writing to the appropriate district office of the WDNR and to any federal authority that owns any land upon which any part of the mine site will be located at least ten (10) days prior to the hearing. At the public hearing, any person may appear or be represented by an attorney or agent to present testimony on the record. If after the public hearing held pursuant to Section 803.29(16), Wood County Code, and before the County Board votes to award or deny a license the committee should, by resolution, revise any of its proposed recommendations to the County Board, the committee shall submit its revised recommendations to the County Board and such revised recommendations shall become the committee's final recommendations. If the committee does not so revise any of its proposed final recommendations then the committee's proposed final recommendations shall be its final recommendations.
- (17) Within sixty (60) days of the close of the public hearing under Section 803.29(16), Wood County Code, the County Board shall, at an open meeting and by resolution supported by a majority of the County Board, either deny awarding the applicant the Metallic Mineral Mining License or approve awarding the Metallic Mineral Mining License as provided in the committee's final recommendations including any conditions regarding any local agreement, provided the County Board's approval shall not amend any conditions recommended by the committee. A copy of the resolution shall be submitted, within ten (10) days after it is adopted, to the applicant, the appropriate district office of the Department and to any federal authority that owns any land upon which any part of the mine site will be located.
- (18) Should the County Board approve awarding a license, the administrator shall issue the license as resolved by the County Board and not inconsistent with the committee's final recommendations, provided that if a local agreement is a condition of licensure the County Corporation Counsel first provides a written opinion that the local agreement is valid, fully executed, made upon adequate consideration and meets all conditions the County Board has established for inclusion in the local agreement. Every license awarded under this chapter shall contain the

condition that it will become effective on the effective date of the last to be awarded of the permits and approvals required under state and federal law for the lawful commencement of construction of the proposed mine.

- (19) The applicant may request any reasonable pause in the committee's work schedule under Section 803.29(8), (12) and/or (13), Wood County Code, to better coordinate the timing of the County's activities pursuant to this chapter with similar activities taking place within the state government, and the applicant may withdraw its application for license at any time and request cancellation of all further County consideration of its application by notifying the administrator in writing.
- (20) The committee may, upon motion duly made and supported by majority vote of the committee, increase the time schedule provided for by Section 803.29(8) and/or (12), Wood County Code, only for good cause shown, including the desire to allow additional time to address public concerns timely raised, to complete negotiations of a local agreement, to postpone a hearing or decision until relevant and appropriate materials become available for review from the state and/or federal permit process, or to allow for the County's proceedings to occur closely in time to the occurrence of similar proceedings under the state and/or federal permit processes, provided that any extension of time effected pursuant to this paragraph shall, by itself and in combination with any "pause" previously effected by the applicant Section 803.29(19), Wood County Code, allow the County to complete its decision to grant or deny a license before the state's decision to grant or deny a state mine permit.

**803.30 LICENSE DENIAL.** Only the County Board may deny awarding a license to an applicant. Any such denial shall be in accordance with Section 803.30, Wood County Code, and shall occur at the open meeting held in conformance with Section 803.29(17), Wood County Code, and only after completing the procedures set forth in Sections 803.29(1) through (16), Wood County Code.

- (1) Denial Required. A license shall be denied upon the committee's recommendation of denial to the County Board if, after reasonable attempts to establish conditions intended to mitigate the adverse effects of mining and allow the proposed mining operations to meet all applicable standards, the committee determines to its satisfaction that the mining operation, as proposed, would violate any applicable standard without adequate mitigation to the committee's satisfaction.
- (2) Denial Allowed. A license may be denied upon the committee's recommendation of denial to the County Board if the applicant is not in good standing with respect to its payment of administrative fees required under this chapter or if any of the following situations may reasonably be expected to

occur during or subsequent to mining as a result of the proposed mining operation:

- (a) Landslides or significant deposition of sediment or debris from the proposed operation into any navigable stream or on the bed of any natural lake.
- (b) Surface subsidence which cannot be stabilized or reclaimed.
- (c) Any hazard is presented that would result in irreparable and unavoidable damage to any of the following, which has not been mitigated by the applicant's obtaining of the consent of the landowner or regulatory agency:
  - (i.) Residential dwellings.
  - (ii.) Public, commercial or institutional property, structures or roads.
  - (iii.) Public roads.
  - (iv.) Culturally significant or historic properties.
  - (v.) Habitat required for survival of vegetation or wildlife designated as endangered by WDNR or Federal regulations in effect with respect to the mine site.
- (d) Any net adverse economic impact on the County as measured over the life of the proposed mine, including the reclamation phase, provided the proposed mining site is not confined to land owned by the United States.
- (e) Any detriment to public or private water supplies including, but not limited to, the impacts of withdrawals of groundwater for the operation or mine de-watering, that is not cured to the satisfaction of either the committee or the affected private landowners.
- (f) Any instance of current, substantial non-compliance at another mining site owned or operated by the applicant, located within or outside the State of Wisconsin, that has persisted for at least 365 days without formal resolution by, or commencement of remedial actions acceptable to, the regulatory agency with primary jurisdiction over the matter, provided the proposed mining site is not confined to land owned by the United States.

- (g) Any instance of significant ongoing environmental investigation, remediation, or oversight by a government entity as the result of substantial documented noncompliance at another site owned or operated by the applicant including, for example, judicial or administrative proceedings, suspensions or revocations of other permits, forfeitures of financial assurances required by other permits, or fines and penalties assessed against the applicant in excess of \$500,000 as the result of all claims pertaining to a single matter, provided the proposed mining site is not confined to land owned by the United States.
- (h) Any instance in which the applicant provides false or misleading information in any material respect or significantly limits the County's ability to properly consider all relevant information.
- (i) Any instance in which the applicant, after opportunity to make corrections or supplement the record, fails to provide to the County with an adequate license application, fee deposit, evidence of financial assurance or any other submittal required by this chapter.
- (j) Any other factors which lead the County to conclude that the proposed license would be contrary to the public health and safety of County residents, provided such factors are supported by specific factual findings of the committee as to a particular factor and a particular harm to public health and safety, and further provided the proposed mining site is not confined to land owned by the United States.

(3) Denial Must Be In Writing. Any denial under this chapter shall be in writing, signed and dated by the County Board, and shall contain detailed documentation of the reasons for denial.

(4) Re-Submittal. If the County denies a license after conducting proceedings as set forth in this chapter, the applicant may re-submit its application in accordance with this chapter, and re-submittal shall constitute a new application in conformance with all provisions of this chapter, provided that any differences between the original application and the new application shall be summarized by the applicant in a document entitled "Explanation of Reasons for Re-Submittal." An application received by re-submittal may be denied for any reason that any application may be denied.

### **803.31 LICENSE MODIFICATION.**

- (1) The County reserves the right to reopen and modify any Metallic Mineral Mining License if it is determined by the committee, upon the basis of

newly discovered evidence, including evidence presented at State or Federal hearings for the same project, that mining activity pursuant to the license would, without further conditions placed on the license, substantially endanger the public health, safety or welfare. Any action to reopen a license shall be done by hearing with at least 30 days' notice to the license holder. In order to reopen the license and modify any terms and conditions, the hearing must show that there is reasonable cause to believe that the newly discovered evidence demonstrates a substantial threat to the public health, safety or welfare. No modifications to an existing license shall be made unless supported by a preponderance of the newly discovered evidence.

- (2) The County reserves the right to reopen and modify any Metallic Mineral Mining License if newly discovered evidence shows that there is new science or technology that would substantially decrease the impact of the mine's operations on human health, safety, welfare or the environment or would substantially and cost-effectively allow the required outcome of the planned reclamation to be accomplished in less time or with greater certainty. Any action to reopen a license shall be done by hearing with at least 30 days' notice to the license holder. In order to reopen the license and modify any terms and conditions under this section, the hearing must show that there is reasonable cause to believe that the newly discovered science or technology substantially and cost-effectively allows the planned reclamation to be accomplished in significantly less time or with greater certainty. No modifications to an existing license shall be made unless supported by a preponderance of the newly discovered evidence.
- (3) For the County to reopen a license, the committee shall identify the specific terms of the license subject to reopening and shall hold a public hearing before presenting its recommendations to the County Board. The recommendations shall include the specific reason(s) for reopening the license. If the committee recommends reopening the license, the County Board shall reconvene the Metallic Mineral Mining License hearing in accordance with the procedures in this chapter.
- (4) Should the licensee desire to modify the license in any way, it may request modification by submitting a written application for and supporting such modification to the administrator. Such application shall be in substantially the same form as the original application for license, with the same level and substance of information required, although it shall be permissible to incorporate by reference any portions of the original application that still pertain. Upon receipt of the application to modify, the administrator and committee shall follow the procedures outlined in this chapter for review of an application for license.



- (5) If, subsequent to issuance of a license, State or Federal laws or regulations are created or amended to be less restrictive than previous State or Federal laws or regulations, the licensee may request a modification in accordance with this chapter, provided any such modification shall open the license to additional conditions as the committee deems necessary to meet the intent of this chapter, and further provided the applicant must comply with the standards which were in place at the time the Metallic Mineral Mining License was granted, unless and until the license is modified or this chapter is amended to provide otherwise.

**803.32 TRANSFER OF LICENSE.** When one entity succeeds to the interest of another in an un-reclaimed mining site, the County shall release the current licensee of the responsibilities imposed by the license only if:

- (1) Both the current licensee and the successor are in compliance with the requirements and standards of this chapter.
- (2) The successor assumes the responsibility of the current licensee in writing and agrees to operate, complete, and reclaim the mine in accordance with the license and all other applicable permits and approvals.
- (3) The successor shows proof of financial responsibility in substantially the same manner and amount as the current licensee and the successor agrees to maintain any instrument of financial assurance or trust fund at the same level as the current licensee.
- (4) The transfer is not valid until all required financial assurances have been submitted by the successor, accepted by the County, and the County makes a written finding that all conditions of the license will be complied with. The current licensee shall maintain compliance and all required financial assurance until 30 days after the successor has received the County's approval and license consistent with this chapter.
- (5) Failure to comply with the requirements of this section shall constitute default and shall automatically terminate the license.

**803.33 DURATION OF LICENSE.** The Metallic Mineral Mining License issued in accordance with this chapter shall last through operation and reclamation of the Metallic Mineral Mining Site so long as the licensee complies with all conditions of licensure and provisions of this chapter, provided all required licenses, permits, approvals and financial assurances are maintained, and suspension or revocation does not occur pursuant to this chapter. However, should any State or Federal permit, license or approval necessary for lawful operation of the mining operation be revoked or rescinded, the County Metallic Mineral Mining License will be deemed immediately suspended and will be

revoked for cause if evidence of cure is not delivered to the administrator within 180 days or another time period established by the committee at the licensee's request.

**803.34 EXPIRATION OF LICENSE.** A Metallic Mineral Mining License shall expire on the date the committee finds that expiration is appropriate, as suggested by any of the following.

- (1) The licensee gives written notice that it will not proceed with its project.
- (2) Mine construction has not begun and two (2) years have elapsed.
- (3) A state or federal permit necessary for the mine is denied and such denial is upheld after the final appeal or the time to appeal has elapsed.
- (4) Reclamation of all mining facilities has been completed, pursuant to the conditions of the license and all amounts payable under any financial assurance provision of the license have been paid, or sufficient sums are on deposit to pay such amounts in the future.

**803.35 EXPANSION OF MINING OPERATIONS.** Expansion of any metallic mineral mining operation that is not specifically allowed by or is inconsistent with any limitation or parameter of the existing license for such operation is prohibited and is a violation of this chapter. Performance of activities not described in the application and activities not expressly allowed by a condition of the license shall be considered an unlawful expansion. The movement of any waste, ore or concentrate to a mining site from a location outside the boundary of that mining site shall be deemed an unlawful expansion of mining operations unless such movement is specifically and expressly authorized in a license issued under this chapter.

**803.36 SUSPENSION OR TERMINATION OF MINING.**

- (1) A licensee must provide notice to the County as soon as possible of any temporary halt of mining operations lasting more than 180 days including a statement showing projected loss of employment. Notice shall include the reason for the temporary suspension as well as plans to ensure continued compliance throughout the suspension period.
- (2) The licensee must provide notice of its intent to permanently terminate all activity at the project site no later than one year before the proposed operation is terminated. The licensee must provide notice by the end of each calendar year of any significant change in the anticipated timing of each major phase of the project as originally reported in its plan of operation submitted pursuant to this chapter and explain any reasonably

foreseeable changes to the overall project lifetime based on such changes.

- (3) Upon receipt of a notice of temporary halt in mining or upon a cessation lasting more than 180 days, whichever is sooner, the committee may require that the licensee take additional measures to ensure that public health, safety and welfare are protected during the temporary cessation of mining operations, including but not limited to, a temporary cap on tailing facilities, additional security measures, additional erosion control measures, and other site stabilization measures.
- (4) A suspension longer than two (2) years shall be considered a permanent abandonment and require the licensee to commence closure and reclamation. The licensee may request the committee re-evaluate this requirement based on exceptional circumstances but the committee's eventual decision is final.

**803.37 COMMENCEMENT OF RECLAMATION.** Reclamation of any mine shall begin as soon as possible with a minimum of within one year after cessation of mining activities, whether temporary or permanent, in accordance with the Reclamation Plan.

## **PART VII - ENFORCEMENT**

### **803.38 RIGHT OF ENTRY AND INSPECTION BY THE COUNTY.**

- (1) Compliance Inspections. Upon issuance of a Metallic Mineral Mining License, the licensee is deemed as a condition of licensure to have consented to allow inspections of the mining site and all mining operations by the administrator, the committee or their designees for the purpose of determining compliance with the provisions of this chapter and the terms conditions of the license. Inspections may occur pursuant to this section upon showing of proper identification, with or without advance notice to the licensee.
- (2) Right to Sample. As a condition of licensure, the right of inspection includes the right to perform environmental sampling and testing for any purpose, including to determine compliance with the license and any health, safety and environmental laws and to determine the need to increase reclamation bonding amounts.
- (3) Records Review. All required records to demonstrate lawful operation of the mine shall be maintained by the licensee at the mining site and made available within a reasonable time to the committee's designee to assist

the committee to determine compliance with the provisions of this chapter.

- (4) Investigation of Complaints. The licensee shall provide access to the mining site to allow the County, the committee or their designees to inspect for the purpose of investigating any complaint against the licensee alleging a condition contrary to the protection of the public health, safety or welfare.

**803.39 PENALTIES.** Any violation of this chapter, a license issued pursuant to this chapter or a plan required by a license issued pursuant to this chapter may result in injunctive relief, forfeitures, or both, against the violator.

- (1) Any person or licensee who violates this chapter or any license or order issued under this chapter shall forfeit not less than \$10 nor more than \$10,000 for each violation. Each day of violation is a separate offense.
- (2) The administrator shall, promptly after verifying any violation of any provision of any license or local agreement to which the County is a party, notify the licensee in writing of such violation and require the licensee to report to the administrator within 10 days.
- (3) The County shall be entitled to recover from the violator the reasonable and necessary expenses associated with prosecution of the violation.
- (4) All funds recovered pursuant to this section will be placed in an assigned account established by the County and used at the committee's sole discretion consistent with achieving the intent of this chapter.

**803.40 REVOCATION OF LICENSE.**

- (1) Revocation of any license awarded pursuant to this chapter shall terminate the licensee's right and authority to mine pursuant to this chapter, but shall not affect the licensee's obligation to comply with any continuing obligations of the licensee under the terms of the license or any local agreement to which the County is a party.
- (2) For any violation that is not corrected to the satisfaction of the administrator and the committee, the committee shall review reports and recommendations prepared by the administrator and the violator or licensee and shall, at one or more open meetings, establish and levy an appropriate forfeiture and order an appropriate compliance schedule consistent with the intent of this chapter, the violation of which shall constitute a separate violation of this chapter.

- (3) If the licensee fails to correct or cure the violation to the committee's satisfaction in accordance with any compliance schedule approved by the committee, the committee shall immediately petition the Board of Supervisors to revoke the license and commence legal action against the licensee for injunctive relief and additional appropriate forfeitures.