

State of Wisconsin



1995 Assembly Bill 919

Date of enactment: **May 30, 1996**
Date of publication*: **June 13, 1996**

1995 WISCONSIN ACT 377

AN ACT to amend 144.441 (2) (b) 1.; and to create 144.441 (2) (b) 2m. and 144.441 (2) (g) of the statutes; relating to: the duration of the requirement to maintain proof of financial responsibility for long-term care of a mining waste facility.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 144.441 (2) (b) 1. of the statutes is amended to read:

144.441 (2) (b) 1. Except as provided in subd. 2. or 2m., the owner of an approved facility shall maintain proof of financial responsibility as provided in s. 144.443 during the operation of the approved facility and for 40 years after the closing of the approved facility unless the obligation is extended under par. (f).

SECTION 2. 144.441 (2) (b) 2m. of the statutes is created to read:

144.441 (2) (b) 2m. The owner of an approved mining facility that commences operation after the effective date of this subdivision [revisor inserts date], shall maintain proof of financial responsibility as provided in s. 144.443 during the operation of the approved mining facility and after the closing of the approved mining facility. The owner's obligation to maintain proof of financial responsibility terminates only as provided in par. (g).

SECTION 3. 144.441 (2) (g) of the statutes is created to read:

144.441 (2) (g) *Proof of financial responsibility for approved mining facility; termination.* 1. The owner of an approved mining facility may apply, at any time at least 40 years after the closing of the facility, to the de-

partment for termination of the owner's obligation to maintain proof of financial responsibility for long-term care of the facility. Upon receipt of an application under this subdivision, the department shall publish a class 1 notice under ch. 985 in the official newspaper designated under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give notice in the area of the facility. The notice shall include a statement that the owner has applied to terminate the owner's obligation to maintain proof of financial responsibility for the long-term care of the facility. The notice shall invite the submission of written comments by any person within 30 days after the notice is published. The notice shall describe the methods by which a hearing may be requested under subs. 2. and 3. The department shall distribute a copy of the notice to the owner of the facility. In any hearing on the matter, the burden is on the owner to prove by a preponderance of the evidence that continuation of the requirement to provide proof of financial responsibility for long-term care is not necessary for adequate protection of human health or the environment. Within 120 days after the publication of the notice or within 60 days after any hearing is adjourned, whichever is later, the department shall determine whether proof of financial responsibility for long-term care of the facility continues to be required. A determination that proof of financial responsibility for long-term care is no longer required terminates the own-

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

er's obligation to maintain proof of financial responsibility for long-term care. The owner may not submit another application under this subdivision until at least 5 years after the previous application has been rejected by the department.

2. Within 30 days after the notice under subd. 1. is published, any county, city, village or town, the applicant or any 6 or more persons may file a written request for an informational hearing on the matter with the department. The request shall indicate the interests of the municipality or persons who file the request and state the reasons why the hearing is requested.

3. Within 30 days after the notice under subd. 1. is published, any county, city, village or town, the applicant or any 6 or more persons may file a written request that

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the hearing under subd. 2. be treated as a contested case, as provided under s. 227.42. A county, city, village or town, the applicant or any 6 or more persons have a right to have the hearing treated as a contested case only if all of the following apply:

a. A substantial interest of the person requesting the treatment of the hearing as a contested case is injured in fact or threatened with injury by the department's action or inaction on the matter.

b. The injury to the person requesting the treatment of the hearing as a contested case is different in kind or degree from injury to the general public caused by the department's action or inaction on the matter.

c. There is a dispute of material fact.
