State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix B ... segment VII

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2011 LRB–3519/1 (For: Rep. Honadel)

has been copied/added to the drafting file for

2011 LRB–3520 (For: Rep. Honadel)

☞ Are These "Companion Bills" ?? ... No

RESEARCH APPENDIX -

PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 12/09/2011 (Per: JK)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

1. A description of the site where the exploration will take place and a map of that area showing the locations of the exploration.

2. A description of the means and method that will be used for the exploration.

3. A description of the grading and stabilization of the excavation, sides, and benches that will be conducted.

4. A description of how the grading and stabilization of any deposits of refuse will be conducted.

5. A description of how any diversion and drainage of water from the exploration site will be conducted.

6. A description of how any backfilling will be conducted.

7. A description of how any pollutant-bearing minerals or materials will be covered.

8. A description of how the topsoils will be removed and stockpiled or how other measures will be taken to protect topsoils before exploration.

9. A description of how vegetative cover will be provided.

10. A description of how any water impoundment will be accomplished.

11. Identification of the means and method that will be used to prevent significant environmental pollution to the extent practicable.

(b) A reclamation plan, designed to minimize adverse effects to the environment to the extent practicable, that includes all of the following:

1. A description of how all toxic and hazardous wastes and other solid waste will be disposed of in solid or hazardous waste disposal facilities licensed under ch. 289 or 291 or otherwise in an environmentally sound manner.

2. A description of how topsoil will be preserved for purposes of future use in reclamation.

1 3. A description of how revegetation will be conducted to stabilize disturbed
2 soils and prevent air and water pollution to the extent practicable.
3 4. A description of how disturbance to wetlands will be minimized to the extent
4 practicable.
5 5. A statement that all drillholes will be abandoned in compliance with sub. (5).
6 (c) An exploration license fee of $300.
7 (d) A bond, as provided in sub. (3) (a).
8 (e) A certificate of insurance showing that the applicant has in force a liability
9 insurance policy issued by an insurance company licensed to do business in this state
10 covering all exploration conducted or contracted for by the explorer in this state and
11 affording personal injury and property damage protection in a total amount
12 determined to be adequate by the department, but not more than $1,000,000 and not
13 less than $50,000.
14 (f) A copy of the applicant's most recent annual report to the federal securities
15 and exchange commission on form 10-K, or, if this is not available, a report of the
16 applicant's current assets and liabilities or other data necessary to establish that the
17 applicant is competent to conduct exploration in this state.
18 **(2m)** CONFIDENTIALITY. The department shall protect as confidential any
19 information, other than effluent data, contained in an application for an exploration
20 license, upon a showing that the information is entitled to protection as a trade
21 secret, as defined in s. 134.90 (1) (c), and any information relating to the location,
22 quality, or quantity of a ferrous mineral deposit, to production or sales figures, or to
23 processes or production unique to the applicant or that would tend to adversely affect
24 the competitive position of the applicant if made public.

1 **(3)** BOND. (a) An applicant shall submit, as part of the application for an
2 exploration license, a bond in the amount of $5,000 that is conditioned on faithful
3 performance of the requirements of this section, that is issued by a surety company
4 licensed to do business in this state, and that provides that the bond may not be
5 canceled by the surety, except after not less than 90 days' notice to the department
6 in writing by registered or certified mail.

7 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,
8 the explorer shall deliver a replacement bond at least 30 days before the expiration
9 of the 90 day notice period. If the explorer fails to submit a replacement bond, the
10 explorer may not engage in exploration until the explorer submits a replacement
11 bond.

12 (c) If the license of the surety company for a bond submitted under par. (a) is
13 revoked or suspended, the explorer, within 30 days after receiving written notice
14 from the department, shall deliver a replacement bond. If the explorer fails to submit
15 a replacement bond, the explorer may not engage in exploration until the explorer
16 submits a replacement bond.

17 (d) The department may require that the amount of the bond submitted under
18 this subsection be increased at any time, if the department determines that the level
19 of activity by the explorer makes it likely that the bond would be inadequate to fund
20 the termination of all drillholes for which the explorer is responsible.

21 (e) The department shall release a bond submitted under this subsection one
22 year after the issuance of the last certificate of completion of exploration under sub.
23 (9) (c) 3. if the explorer no longer holds an exploration license and the department
24 determines that the explorer has complied with this section.

1 **(4)** ISSUANCE OR DENIAL OF EXPLORATION LICENSE. (a) Except as provided in par.
2 (c), within 10 business days of receiving an administratively complete application for
3 an exploration license, the department shall issue the exploration license or provide
4 the notice required under par. (f) of intent not to issue the exploration license, unless
5 the application is for an upcoming license year. If an application is for an upcoming
6 license year, the department shall issue the exploration license or provide the notice
7 required under par. (f) of intent not to issue the exploration license within 10
8 business days of receiving an administratively complete application or on the next
9 July 1, whichever is later.

10 (b) An application for an exploration license is considered to be
11 administratively complete on the day that it is submitted, unless, before the 10th
12 business day after receiving the application, the department provides the applicant
13 with written notification that the application is not administratively complete. The
14 department may determine that an application is not administratively complete only
15 if the application does not include an exploration plan; a reclamation plan; an
16 exploration license fee; a bond; a certificate of insurance; or a copy of the applicant's
17 most recent annual report to the federal securities and exchange commission on form
18 10-K, or, if this is not available, a report of the applicant's current assets and
19 liabilities or other data necessary to establish that the applicant is competent to
20 conduct exploration in this state. The department may not consider the quality of
21 the information provided. In a notice provided under this paragraph, the
22 department shall identify what is missing from the application.

23 (c) If the department provides notification, in compliance with par. (b), that an
24 application is not administratively complete, the department shall issue the
25 exploration license or provide the notice required under par. (f) of intent not to issue

1 the license within 7 business days of receipt of the missing item, unless the
2 application is for an upcoming license year. If the application is for an upcoming
3 license year, the department shall issue the exploration license or provide the notice
4 required under par. (f) of intent not to issue the exploration license within 7 business
5 days of receipt of the missing item or on the next July 1, whichever is later.

6 (d) If the department does not comply with par. (a) or (c), the application is
7 automatically approved and the department shall issue an exploration license that
8 includes the requirements in sub. (5). The explorer may engage in exploration based
9 on the automatic approval, notwithstanding any delay by the department in issuing
10 the license.

11 (e) Subject to par. (f), the department shall deny an application for an
12 exploration license if the department finds that, after the activities in the exploration
13 plan and the reclamation plan have been completed, the exploration will have a
14 substantial and irreparable adverse impact on the environment or present a
15 substantial risk of injury to public health and welfare.

16 (f) Before denying an application, the department shall provide the applicant
17 with written notification of its intent not to issue the exploration license, setting
18 forth all of the reasons for its intent not to issue the exploration license, including
19 reference to competent evidence supporting its position. The department shall
20 provide the person with an opportunity to correct any deficiencies in the exploration
21 plan or restoration plan within 10 business days. If the person amends the
22 exploration plan or reclamation plan and corrects the deficiencies, the department
23 shall issue the exploration license within 10 business days of receipt of the amended
24 exploration plan or reclamation plan, unless the application is for an upcoming
25 license year. If an application is for an upcoming license year, the department shall

1 issue the exploration license within 10 business days of receipt of the amended
2 exploration plan or reclamation plan or on the next July 1, whichever is later. If the
3 department determines that the deficiencies have not been corrected, it shall deny
4 the application, in writing, setting forth all of the reasons for its determination,
5 including reference to competent evidence supporting the determination.

6 **(5)** REQUIREMENTS IN EXPLORATION LICENSE. The department shall include all of
7 the following in an exploration license:

8 (a) A requirement that if the explorer wishes to temporarily abandon a drillhole
9 so that the explorer may use the drillhole for future exploration, the explorer leave
10 the well casing in place and seal the upper end of the casing with a watertight
11 threaded or welded cap.

12 (b) A requirement to permanently abandon a drillhole 4 inches in diameter or
13 smaller by filling the drillhole from the bottom upward to the surface of the ground
14 with concrete grout or neat cement grout.

15 (c) A requirement to abandon a drillhole larger than 4 inches in diameter by
16 filling the drillhole from the bottom upward to the surface of the ground with
17 concrete grout or neat cement grout or in one of the following ways:

18 1. If the drillhole is constructed in limestone, dolomite, shale, or Precambrian
19 formations, such as granite, gabbro, gneiss, schist, slate, greenstone, or quartzite, by
20 filling the drillhole with gravel or crushed rock or, if it is physically impracticable to
21 use gravel or crushed rock and if the department approves, with clay slurry, from the
22 bottom upward to a point 20 feet below the top of the first rock formation encountered
23 below the surface of the ground or to at least 40 feet below the surface of the ground,
24 whichever is the greater depth, and filling the remainder of the drillhole with
25 concrete grout or neat cement grout.

1 2. If the drillhole is constructed in sandstone formation, by filling the drillhole
2 with disinfected sand or pea gravel or, if it is physically impracticable to use sand or
3 pea gravel and if the department approves, with clay slurry, from the bottom upward
4 to a point 20 feet below the top of the first rock formation encountered below the
5 surface of the ground or to at least 40 feet below the surface of the ground, whichever
6 is the greater depth, and filling the remainder of the drillhole with concrete grout or
7 neat cement grout.

8 3. If the drillhole is constructed in glacial drift or other unconsolidated
9 formation, by filling the hole with clean clay slurry to a point 20 feet below the surface
10 of the ground and filling the remainder of the drillhole with concrete grout or neat
11 cement grout.

12 4. If the drillhole is constructed in mixed rock types, by filling the drillhole as
13 provided in subds. 1., 2., and 3., and providing a concrete grout or neat cement grout
14 plug that extends at least 20 feet above and below the point of surface contact
15 between each recognized geologic rock type.

16 (d) 1. A requirement to use a conductor pipe or, when practical, a dump bailer
17 when filling a drillhole.

18 2. A requirement to keep the bottom end of the conductor pipe submerged in
19 concrete grout or neat cement grout at all times when concrete grout or neat cement
20 grout is placed under water using a conductor pipe.

21 3. A requirement to fill the drillhole at the same time that all or part of the
22 drillhole casing is removed from an unconsolidated formation, such as sand or gravel,
23 that will not remain open upon abandonment of a drillhole and to keep the end of the
24 casing below the surface of the fill material throughout the operation.

1 (e) A requirement to obtain approval from the department of the method of
2 containing the flow from, and the method of eventual abandonment of, a drillhole
3 that penetrates an aquifer under artesian pressure so that the groundwater flows at
4 the surface of the ground.

5 **(6)** RENEWALS. (a) An explorer wishing to renew an exploration license shall
6 file with the department a renewal application that includes all of the following:

7 1. A renewal fee of $150.

8 2. A bond that satisfies sub. (3) (a).

9 3. A certificate of insurance that satisfies sub. (2) (e).

10 4. A copy of the applicant's most recent annual report to the federal securities
11 and exchange commission on form 10-K, or, if this is not available, a report of the
12 applicant's current assets and liabilities or other data necessary to establish that the
13 applicant is competent to conduct exploration in this state.

14 5. Either a statement that no changes are being proposed to the exploration
15 plan and reclamation plan previously approved by the department or a new
16 exploration plan or reclamation plan if the applicant proposes to make changes.

17 (b) Except as provided in par. (d), within 10 business days of receiving an
18 administratively complete application for renewal of an exploration license, the
19 department shall renew the exploration license or provide the notice, required under
20 par. (g), of intent not to renew the exploration license.

21 (c) An application for renewal of an exploration license is considered to be
22 administratively complete on the day that it is submitted, unless, before the 10th
23 business day after receiving the application, the department provides the explorer
24 with written notification that the application is not administratively complete. The
25 department may determine that an application is not administratively complete only

1 if the application does not include a renewal fee; a bond; a certificate of insurance;
2 a copy of the applicant's most recent annual report to the federal securities and
3 exchange commission on form 10-K, or, if this is not available, a report of the
4 applicant's current assets and liabilities or other data necessary to establish that the
5 applicant is competent to conduct exploration in this state; or either a statement that
6 no changes are being proposed to the exploration plan and reclamation plan
7 previously approved by the department or a new exploration plan or reclamation
8 plan if the applicant proposes to make changes. The department may not consider
9 the quality of any information provided. In a notice provided under this paragraph,
10 the department shall identify what is missing from the application.

11 (d) If the department provides notification, in compliance with par. (c), that an
12 application is not administratively complete, the department shall renew the
13 exploration license or provide the notice, required under par. (g), of intent not to
14 renew the exploration license within 7 business days of receipt of the missing item.

15 (e) If the department does not comply with par. (b) or (d), the application for
16 renewal is automatically approved.

17 (f) Subject to par. (g), the department shall deny an application for renewal of
18 an exploration license only if the applicant has filed a new exploration plan or
19 reclamation plan and the department finds that the exploration, after completion of
20 the new exploration plan and the new reclamation plan, will have a substantial and
21 irreparable adverse impact on the environment or present a substantial risk of injury
22 to public health and welfare.

23 (g) Before denying an application, the department shall provide the person who
24 submitted the application with written notification of its intent not to renew the
25 exploration license, setting forth all of the reasons for its intent not to renew the

1 exploration license, including reference to competent evidence supporting its
2 position. The department shall provide the person with an opportunity to correct any
3 deficiencies in the exploration plan or restoration plan within 10 business days. If
4 the person amends the exploration plan or reclamation plan and corrects the
5 deficiencies, the department shall renew the exploration license within 10 business
6 days of receipt of the amended exploration plan or reclamation plan. If the
7 department determines that the deficiencies have not been corrected, it shall deny
8 the application, in writing, setting forth all of the reasons for it's determination,
9 including reference to competent evidence supporting the determination.

10 (h) The renewal of an exploration license takes effect on the date of issuance
11 and expires on the following June 30.

12 **(7)** REVOCATION OR SUSPENSION OF EXPLORATION LICENSE. After a hearing, the
13 department may revoke or suspend an exploration license if it determines that any
14 of the following apply:

15 (a) The explorer has not complied with a statute, a rule promulgated by the
16 department, or a condition in the exploration license.

17 (b) The explorer has failed to increase bond amounts to adequate levels as
18 provided under sub (3) (d).

19 **(8)** NOTICE PROCEDURE. (a) An explorer shall notify the department of the
20 explorer's intent to drill on a parcel by registered mail at least 5 days prior to the
21 beginning of drilling. Notice is considered to be given on the date that the
22 department receives the notice. In the notice, the explorer shall specify which
23 drillholes identified in the exploration plan the explorer intends to drill. The
24 explorer shall send the notice to the subunit of the department with authority over
25 mine reclamation.

1 (b) A notice of intent to drill provided under par. (a) remains in effect for one
2 year beginning on the date that the department receives the notice. If the explorer
3 wishes to continue drilling on the parcel after the notice is no longer in effect, the
4 explorer shall resubmit a notice of intent to drill on the parcel.

5 **(9)** REPORTS. (a) Within 10 days after completing the temporary or permanent
6 abandonment of a drillhole, an explorer shall file with the department an
7 abandonment report that describes the means and method used in the abandonment
8 and is signed by an authorized representative of the explorer attesting to the
9 accuracy of the information contained in the report. The explorer shall submit the
10 abandonment report to the department's district office for the district in which the
11 drilling site is located.

12 (b) After permanent abandonment of a drillhole and regrading and
13 revegetation of the drilling site, an explorer shall notify the department of
14 completion of termination of the drilling site. The explorer shall submit the notice,
15 in writing, to the department's district office for the district in which the drilling site
16 is located.

17 (c) 1. After receipt of a notice under par. (b), the department shall notify the
18 explorer in writing whether the termination is satisfactory or unsatisfactory. If the
19 termination is unsatisfactory, the department shall inform the explorer of the
20 necessary corrective measures. Following the completion of corrective measures, the
21 explorer shall file written notice with the department's district office for the district
22 in which the drilling site is located specifying the means and method used and
23 stating that termination is complete.

1 2. If an explorer fails to comply with corrective measures identified under subd.
2 1., the department may suspend the explorer's exploration license in accordance with
3 sub. (7).

4 3. Upon satisfactory completion of termination of a drilling site, the
5 department shall issue a certificate of completion. The department may not issue a
6 certificate of completion for a drilling site that has only been temporarily abandoned.

7 **(10)** DRILLING FEES. Upon the submission of a report under sub. (9) (a) of
8 temporary abandonment of a drillhole, if the drillhole is temporarily abandoned, or
9 upon submission of a report under sub. (9) (a) of permanent abandonment of a
10 drillhole, if the drillhole is not temporarily abandoned, the explorer shall pay a fee
11 to the department. The fee is $100 per drillhole for the first 20 drillholes for which
12 a report is filed in a license year and $50 for each subsequent drillhole for which a
13 report is filed in that license year.

14 **(11)** INSPECTIONS. (a) Any duly authorized officer, employee, or representative
15 of the department may enter and inspect any property, premises, or place on or at
16 which exploration is being performed at any reasonable time for the purpose of
17 ascertaining the state of compliance with this section. No explorer may refuse entry
18 or access to any authorized representative of the department who requests entry for
19 the purposes of inspection and who presents appropriate credentials.

20 (b) No person may obstruct, hamper, or interfere with any inspection
21 authorized in par. (a).

22 (c) No inspector may obstruct, hamper, or interfere with exploration activities.

23 **(12)** EXEMPTION. This section does not apply to an operator with a mining
24 permit who is engaged in exploration activities on lands included in a mining plan

1 and reclamation plan, if the mining plan or reclamation plan contains provisions
2 relating to termination of the exploration activities.

3 **(13)** ENVIRONMENTAL ANALYSIS NOT REQUIRED. The department is not required
4 to prepare an environmental impact statement or an environmental assessment for
5 an application for an exploration license.

6 **295.443 Local impact committee; local agreement. (1)** A county, town,
7 village, city, or tribal government likely to be substantially affected by potential or
8 proposed mining may designate an existing committee, or establish a committee, for
9 purposes of:

10 (a) Facilitating communications between operators and itself.

11 (b) Analyzing implications of mining.

12 (c) Reviewing and commenting on reclamation plans.

13 (d) Developing solutions to mining-induced growth problems.

14 (e) Recommending priorities for local action.

15 (f) Formulating recommendations to the investment and local impact fund
16 board regarding distribution of funds under s. 70.395 (2) (g) related to mining for
17 ferrous minerals.

18 (g) Negotiating a local agreement under sub. (1m).

19 **(1m)** A county, town, village, city, or tribal government that requires an
20 operator to obtain an approval or permit under a zoning or land use ordinance and
21 a county, town, village, or city in which any portion of a proposed mining site is
22 located may, individually or in conjunction with other counties, towns, villages,
23 cities, or tribal governments, enter into one or more agreements with an operator for
24 the development of a mining operation. The local agreement may include any of the
25 following:

1 (a) A legal description of the land subject to the agreement and the names of
2 its legal and equitable owners.
3 (b) The duration of the agreement.
4 (c) The uses permitted on the land.
5 (d) A description of any conditions, terms, restrictions, or other requirements
6 determined to be necessary by the county, town, village, city, or tribal government for
7 the public health, safety, or welfare of its residents.
8 (e) A description of any obligation undertaken by the county, town, village, city,
9 or tribal government to enable the development to proceed.
10 (f) The applicability or nonapplicability of county, town, village, city, or tribal
11 ordinances, approvals, or resolutions.
12 (g) A provision for the amendment of the agreement.
13 (h) Other provisions determined to be reasonable and necessary by the parties
14 to the agreement.
15 **(2)** A county, town, village, city, or tribal government affected in common with
16 another county, town, village, city, or tribal government by a proposed or existing
17 mine may cooperatively designate or establish a joint committee, but may also
18 maintain a separate committee under sub. (1). Committees under this section may
19 include representatives of affected units of government, business, and industry,
20 manpower, health, protective or service agencies, school districts, or environmental
21 and other interest groups or other interested parties.
22 **(3)** Persons applying for an exploration license under s. 295.44 shall thereafter
23 appoint a liaison person to any committee established under sub. (1) or (2), and shall
24 provide such reasonable information as is requested by the committee. Operators
25 and persons applying for an exploration license under s. 295.44 shall thereafter

make reasonable efforts to design and operate mining operations in harmony with community development objectives.

(4) Committees established under sub. (1) or (2) may be funded by their appointing authority, and may, through their appointing authority, submit a request for operating funds to the investment and local impact fund board under s. 70.395. Committees established under sub. (1) shall be eligible for funds only if the county, town, village or city is also a participant in a joint committee, if any, established under sub. (2). The investment and local impact fund board may not grant funds for the use of more than one committee established under sub. (1) in relation to a particular mining proposal unless a joint committee has been established under sub. (2). The investment and local impact fund board shall grant operating funds to any committee that submits a request and is eligible under this subsection and s. 70.395 (2) (fm). Committees may hire staff, enter into contracts with private firms or consultants or contract with a regional planning commission or other agency for staff services for mining-related purposes or the purposes under s. 70.395 (2) (fm).

295.45 Bulk sampling plan. (1) A person who intends to engage in bulk sampling may file a bulk sampling plan with the department. The collection of data under a bulk sampling plan may include sampling and analysis related to geophysical, geochemical, groundwater, and surface water conditions, as well as any other data or studies necessary to prepare an application for a mining permit, including the mining plan, reclamation plan, mining waste site feasibility study and plan of operation, or any other approval required for the proposed mining.

(2) A person shall include all of the following in a bulk sampling plan:

(a) A description and map of the bulk sampling site, including the number of acres in the site, the number of acres of land that will be disturbed, if any, associated

with each bulk sampling location, and the locations and types of sampling or studies to be conducted at each bulk sampling location.

(b) A description of the methods to be used for the bulk sampling.

(c) A site-specific plan for controlling surface erosion that conforms to requirements under ss. 281.33 (3) and 283.33 and that identifies how impacts to plant and wildlife habitats will be avoided or minimized to the extent practicable.

(d) A revegetation plan for each area where bulk sampling will be performed that describes how adverse impacts to the environment will be avoided or minimized to the extent practicable and how the site will be revegetated and stabilized and that identifies how adverse impacts to plant and wildlife habitats will be avoided or minimized to the extent practicable.

(e) The estimated time for completing the bulk sampling and revegetation of the bulk sampling locations.

(f) A description of any known adverse environmental impacts that are likely to be caused by the bulk sampling and how those impacts will be avoided or minimized to the extent practicable.

(g) A description of any adverse effects, as defined in s. 44.31 (1), that the bulk sampling might have on any historic property, as defined in s. 44.31 (3), that is a listed property, as defined in s. 44.31 (4), that is on the Wisconsin inventory of historic places, as defined in s. 44.31 (12), or that is on the list of locally designated historic places under s. 44.45; or any scenic or recreational areas; and plans to avoid or minimize those adverse effects to the extent practicable.

(2m) The department shall protect as confidential any information, other than effluent data, contained in a bulk sampling plan and in any application for an approval that is required before the bulk sampling may be implemented, upon a

1 showing that the information is entitled to protection as a trade secret, as defined in
2 s. 134.90 (1) (c), and any information relating to the location, quality, or quantity of
3 a ferrous mineral deposit, to production or sales figures, or to processes or production
4 unique to the applicant or that would tend to adversely affect the competitive
5 position of the applicant if made public.

6 **(3)** Within 14 days of receipt of a bulk sampling plan, the department shall
7 identify for the applicant, in writing, all approvals that are required before the bulk
8 sampling may be implemented, any waivers, exemptions, or exceptions to those
9 approvals that are potentially available, and any information that the department
10 needs to issue the approvals or to issue a decision on any waiver, exemption, or
11 exception. If no approvals are required, the department shall notify the applicant
12 that no approvals are required and that the applicant may proceed with the bulk
13 sampling.

14 **(3e)** If a storm water discharge permit under s. 283.33 (1) (a) or a water quality
15 certification under rules promulgated under subch. II of ch. 281 to implement 33
16 USC 1341 (a) is required before bulk sampling may be implemented, the person filing
17 the bulk sampling plan may apply for and be issued the permit or certification.

18 **(3m)** The department shall act on any required construction site erosion
19 control and storm water management approval, notwithstanding any authorization
20 by the department of a local program to administer construction site erosion control
21 and storm water management requirements.

22 **(3s)** An applicant shall submit all of the following at the same time:

23 (a) Applications for individual approvals identified under sub. (3).

24 (b) Applications for coverage under general permits or registration permits
25 identified under sub. (3).

1 (c) Applications for waivers, exemptions, or exceptions identified under sub.
2 (3).

3 (d) A bond, as provided in sub. (5).

4 **(4)** (a) Notwithstanding any provision in ch. 23, 29, 30, 169, 281, 283, 285, 289,
5 or 291 or in a rule promulgated under those chapters that is applicable to an approval
6 identified under sub. (3), the application for any approval, for a waiver, exemption,
7 or exception to an approval, or for a determination that the proposed bulk sampling
8 activity is below the threshold that requires an approval, is considered to be complete
9 on the 30th day after the department receives the application, unless, before that
10 day, the department provides the applicant with written notification that the
11 application is not complete, stating the reason for the determination and describing
12 the specific information necessary to make the application complete.

13 (b) If the department provides a notice under par. (a), the applicant shall
14 supplement the application by providing the specified information. The application
15 is complete when the applicant provides the information.

16 (c) If the department determines that the issuance of an approval is contingent
17 upon the issuance of a permit under s. 29.604 (6m), and if the application for the
18 permit under s. 29.604 (6m) is filed with the approval application, the department
19 may not determine that the approval application is incomplete on the basis that the
20 department has not yet issued the permit under s. 29.604 (6m).

21 **(5)** (a) A person who intends to engage in bulk sampling shall submit with the
22 bulk sampling plan a bond in the amount of $5,000 that is conditioned on faithful
23 performance of the requirements of this section, that is issued by a surety company
24 licensed to do business in this state, and that provides that the bond may not be

1 canceled by the surety, except after not less than 90 days' notice to the department
2 in writing by registered or certified mail.
3 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,
4 the person who filed the bulk sampling plan shall deliver a replacement bond at least
5 30 days before the expiration of the 90-day notice period. If the person fails to submit
6 a replacement bond, the person may not engage in bulk sampling until the person
7 submits a replacement bond.
8 (c) If the license of the surety company for a bond submitted under par. (a) is
9 revoked or suspended, the person who filed the bulk sampling plan, within 30 days
10 after receiving written notice from the department, shall deliver a replacement bond.
11 If the person fails to submit a replacement bond, the person may not engage in bulk
12 sampling until the person submits a replacement bond.
13 (d) The department may require that the amount of the bond submitted under
14 this subsection be increased at any time, if the department determines that it is
15 unlikely that the bond would be adequate to fund the cost to this state of completing
16 the revegetation plan.
17 (e) The department shall release a bond submitted under this subsection one
18 year after the time for completing the bulk sampling and the revegetation set forth
19 in the bulk sampling plan if the department determines that the person who engaged
20 in bulk sampling has complied with this section.
21 **(6)** (a) If the department determines that proposed bulk sampling will have an
22 adverse effect, as defined in s. 44.31 (1), on a historic property, as defined in s. 44.31
23 (3), that is a listed property, as defined in s. 44.31 (4), that is on the Wisconsin
24 inventory of historic places, as defined in s. 44.31 (12), or that is on the list of locally
25 designated historic places under s. 44.45, but that the applicant is taking measures

1 to minimize that adverse effect, no notice to the state historic preservation officer
2 under s. 44.40 (1) or negotiations between the department and state historic
3 preservation officer under s. 44.40 (3) are required.

4 (b) If an adverse effect described in par. (a) cannot practicably be minimized,
5 any negotiations between the department and state historic preservation officer
6 shall be concluded no later than 60 days after the date on which the application for
7 the approval that authorizes the bulk sampling activity that will have an adverse
8 effect is considered to be complete under sub. (4).

9 **(7)** Notwithstanding any provision in ch. 23, 29, 30, 169, 281, 283, 285, 289, or
10 291 or a rule promulgated under those chapters applicable to an approval identified
11 under sub. (3), all of the following apply:

12 (a) When considering an application for an approval identified under sub. (3),
13 the department shall recognize the fixed location of the metallic mineral deposits,
14 the water needs inherent in mining, and the need for mining waste sites and
15 processing facilities, including wastewater and sludge storage or treatment lagoons,
16 to be contiguous to the location of the ferrous mineral deposits.

17 (b) When issuing an approval, the department shall require the bulk sampling
18 activity for which the approval is issued to be conducted at locations that result in
19 the fewest overall adverse environmental impacts, to the extent practicable.

20 **(8)** In determining whether to approve or deny an application for an approval
21 identified under sub. (3), the department shall consider the site-specific erosion
22 control plan, the revegetation plan, and any compensation or mitigation under s.
23 295.60, any measures under s. 295.605, or any conservation measures under s.
24 295.61 that the applicant proposes to take.

1 **(9)** Notwithstanding any inconsistent period in ch. 23, 29, 30, 169, 281, 283,
2 285, 289, or 291 or in a rule promulgated under those chapters that is applicable to
3 an approval identified under sub. (3), the department shall approve or deny the
4 application within 30 days after the day on which the application is considered to be
5 complete under sub. (4) if any of the following apply:

6 (a) The application is for a waiver, exemption, or exception to an approval for
7 a bulk sampling activity or for a determination that the proposed bulk sampling
8 activity is below the threshold that requires an approval.

9 (b) The application is for a determination of eligibility for coverage under a
10 general permit or a registration permit.

11 **(10)** (a) Notwithstanding any inconsistent period in ch. 23, 29, 30, 169, 281,
12 283, 285, 289, or 291 or in a rule promulgated under those chapters that is applicable
13 to an approval identified under sub. (3), the department shall approve or deny any
14 application for an approval identified under sub. (3) to which sub. (9) does not apply
15 within 60 days after the date on which the application is considered to be complete
16 under sub. (4), unless the application is for an individual permit for which federal law
17 requires the opportunity for public comment or the ability to request a public hearing
18 prior to issuance of the approval.

19 (b) The department shall publish a class 1 notice, under ch. 985, that describes
20 the availability of information concerning the activity for which an approval
21 described in par. (a) is required, its proposed decision, its draft approval, information
22 or summaries related to the approval, the department's analyses and preliminary
23 determinations relating to the approval, the preapplication description under s.
24 295.46, any additional information that a law concerning the approval requires to be

1 made available, and the opportunity to submit written comments within 30 days
2 after the notice is published.

3 (c) In the notice under par. (b), the department shall also specify the date, time,
4 and location of the public informational hearing. The department shall send the
5 notice to any person to whom the department is required to give notice of any
6 proposed determination, application, or hearing concerning an approval described
7 in par. (a) under the laws relating to the issuance of the approval.

8 (d) If there is more than one approval described in par. (a), the department shall
9 issue one notice and coordinate the public comment period for all of the approvals.
10 If possible, the department shall coordinate the notice and the public comment
11 period for an approval that is an individual permit for which federal law requires the
12 opportunity for public comment or the ability to request a public hearing prior to
13 issuance of the approval with notice and the public comment period for the approvals
14 described in par. (a).

15 (e) The department shall hold a public informational hearing within 30 days
16 after publishing the notice under par. (b). The department shall hold the public
17 informational hearing in the county where the majority of the proposed bulk
18 sampling site is located. If there is more than one approval described in par. (a), the
19 department shall hold a single public informational hearing covering all of the
20 approvals and the preapplication description under s. 295.46. If possible, the
21 department shall include consideration of an approval that is an individual permit
22 for which federal law requires the opportunity for public comment or the ability to
23 request a public hearing prior to issuance of the approval in the public informational
24 hearing under this paragraph. The public informational hearing under this
25 paragraph is not a contested case hearing under ch. 227.

1 **(10g)** (a) If it is not possible to coordinate the public comment period and public
2 informational hearing for an approval that is an individual permit for which federal
3 law requires the opportunity for public comment or the ability to request a public
4 hearing prior to issuance of the approval with the public comment period and public
5 informational hearing under sub. (10), the department shall issue a separate public
6 notice and hold a separate public informational hearing for the approval in
7 accordance with the law governing the approval.

8 (b) The department shall approve or deny the application for an approval to
9 which par. (a) applies within 180 days after the date on which the application is
10 considered to be complete under sub. (4).

11 **(10r)** An approval identified under sub. (3) is issued upon mailing and is final
12 and effective upon issuance.

13 **(11)** The department is not required to prepare an environmental impact
14 statement or an environmental assessment for an approval required for bulk
15 sampling.

16 **295.46 Preapplication description. (1)** A person who files a bulk sampling
17 plan under s. 295.45 with regard to a proposed mining project shall file, together with
18 the bulk sampling plan, a general description of the proposed mining project. A
19 person who proposes to engage in a mining project, but who does not file a bulk
20 sampling plan, shall file a general description of the proposed mining project with
21 the department at the time that the person provides the notice of intent to file an
22 application for a mining permit under s. 295.465. The general description shall
23 include all of the following:

24 (a) A description of the proposed mining site.

25 (b) A map that shows all of the following:

1. The boundaries of the area of land that will be affected by the proposed mining project.

2. The location and names of all streams, roads, railroads, pipelines, and utility lines on or within 1,000 feet of the proposed mining site.

3. The name or names of the owner or owners of the proposed mining site.

4. The name of each city, village, or town in which the proposed mining site is located and the name of any other city, village, or town that is located within 3 miles of the proposed mining site.

5. The federal natural resources conservation service land capabilities classifications of the area affected by the proposed mining project.

6. The elevation of the water table.

(c) A general description of the nature, extent, and final configuration of the proposed excavation and mining site, including an estimate of the production of tailings, waste rock, and other refuse and the location of their disposal.

(d) A general conceptual description of the likely operating procedures of the proposed mining project.

(e) The likely location, and a general description, of the excavation, waste site, and processing facilities relating to the proposed mining project.

(2) (a) If the department provides notice to an applicant under s. 295.45 (3) that no approvals are required for bulk sampling or if a person who proposes to engage in a mining project files a preapplication description of the proposed mining project at the time that the person provides the notice of intent to file an application for a mining permit under s. 295.465 because the person did not file a bulk sampling plan, the department shall publish a class 1 notice, under ch. 985, of a public informational hearing on the proposed mining project. The department shall publish the notice

1 when if notifies the applicant that no approvals are required or after it receives the
2 notice of intent.
3 (b) In a notice under par. (a), the department shall do all of the following:
4 1. Describe the availability of the preapplication description.
5 2. Describe the opportunity to submit written comments within 30 days after
6 the notice is published.
7 3. Specify the date, time, and location of the public informational hearing.
8 (c) The department shall send a notice under par. (a) to all of the following:
9 1. The clerk of any city, village, town, or county within which any part the
10 proposed mining site lies.
11 2. The clerk of any city, village, or town, contiguous to any city, village, or town
12 within which any portion of the proposed mining site is located.
13 3. Any regional planning commission for the area within which the affected
14 area lies.
15 4. Any state agency that the department knows may be required to grant a
16 permit or other authorization necessary for the proposed mining project.
17 5. Any interested person who has requested notification.
18 (d) The department shall hold a public informational hearing within 30 days
19 after publishing the notice under par. (a). The department shall hold the public
20 informational hearing in the county in which the majority of the proposed mining site
21 is located.
22 **295.465 Preapplication notification. (1)** At least 12 months before filing
23 an application for a mining permit under s. 295.47, a person proposing to engage in
24 a mining project shall notify the department in writing of the intention to file an
25 application for a mining permit. After receiving the notification, the department

1 shall hold at least one meeting with the person to make a preliminary assessment
2 of the project's scope, to make an analysis of alternatives, to identify potential
3 interested persons, and to ensure that the person making the proposal is aware of
4 all of the following:

5 (a) The approvals, including the filing requirements for the approvals, that the
6 person may be required to obtain for the mining project.

7 (b) The requirements for submission of an environmental impact report and for
8 submission of any other information required by the department to prepare an
9 environmental impact statement under s. 295.53.

10 (c) The information the department will require to enable the department to
11 process the application for the mining permit in a timely manner.

12 **(2)** Within 60 days of a meeting under sub. (1), the department shall provide
13 all of the following to the person:

14 (a) A detailed written summary of the requirements under sub. (1) (a) to (c).

15 (b) Any available information relevant to the potential impacts of the mining
16 project on rare, threatened, or endangered species and historic or cultural resources
17 and any other information relevant to potential impacts that may occur from the
18 project that are required to be considered under s. 1.11.

19 (c) Available information to evaluate the environmental impact of the project
20 and to expedite the preparation of the environmental impact report and the
21 environmental impact statement, including information concerning preliminary
22 environmental reviews, field studies, and investigations; monitoring programs to
23 establish baseline water quality; laboratory studies and investigations; advisory
24 services; and the timing and the processes associated with any necessary
25 consultations with other state or federal agencies and within the department, such

1 as those required for endangered resources and cultural resource consultations and
2 approvals.

3 **295.47 Application for mining permit. (1)** (a) No person may engage in
4 mining or reclamation at any mining site unless the mining site is covered by a
5 mining permit and by written authorization to mine under s. 295.59 (3). An
6 applicant shall submit an application for a mining permit to the department in
7 writing and in reproducible form and shall provide the number of copies that are
8 requested by the department. An application and a mining permit are required for
9 each separate mining site. The applicant shall distribute copies of the application
10 to the clerk of any city, village, town, or county with zoning jurisdiction over the
11 proposed site, to the clerk of any city, village, town, or county within whose
12 boundaries any portion of the proposed mining site is located, and to the main public
13 library of each city, village, town, or county with zoning jurisdiction over the proposed
14 site or within whose boundaries any portion of the proposed site is located.

15 (b) If a person proposes to conduct mining at a mining site that includes an
16 abandoned mining site, the person shall include plans for reclamation of the
17 abandoned mining site, or the portion of the abandoned mining site that is included
18 in the mining site, in its mining plan and reclamation plan.

19 **(2)** As a part of each application for a mining permit, the applicant shall furnish
20 all of the following:

21 (a) A mining plan under s. 295.48.

22 (b) A reclamation plan under s. 295.49.

23 (c) A mining waste site feasibility study and plan of operation under s. 295.51.

1 (e) The name and address of each owner of land within the mining site and each
2 person known by the applicant to hold any option or lease on land within the mining
3 site.

4 (f) A list of all mining permits in this state held by the applicant.

5 (g) Evidence the applicant has applied or will apply for necessary permits or
6 other permissions under all applicable zoning ordinances and that the applicant has
7 applied or will apply to the department for any approval and has applied or will apply
8 for any other license or permit required under state law.

9 (h) 1. The information specified in subd. 2. concerning the occurrence of any of
10 the following within 10 years before the application is submitted:

11 a. A forfeiture by the applicant, principal shareholder of the applicant, or a
12 related person of a mining reclamation bond that was sufficient to cover all costs of
13 reclamation and was posted in accordance with a permit or other approval for a
14 mining operation in the United States, unless the forfeiture was by agreement with
15 the entity for whose benefit the bond was posted.

16 b. A felony conviction of the applicant, a related person, or an officer or director
17 of the applicant for a violation of a law for the protection of the natural environment
18 arising out of the operation of a mining site in the United States.

19 c. The bankruptcy or dissolution of the applicant or a related person that
20 resulted in the failure to reclaim a mining site in the United States in violation of a
21 state or federal law.

22 d. The permanent revocation of a mining permit or other mining approval
23 issued to the applicant or a related person if the permit or other mining approval was
24 revoked because of a failure to reclaim a mining site in the United States in violation
25 of state or federal law.

1 2. The applicant shall specify the name and address of the person involved in
2 and the date and location of each occurrence described in subd. 1.
3 (i) A description of any land contiguous to the proposed mining site that the
4 applicant owns or leases or has an option to purchase or lease.
5 (j) Any other pertinent information that the applicant believes may be useful
6 to the department.
7 **295.48 Mining plan. (1)** GENERAL. An applicant for a mining permit shall
8 submit as part of the application a mining plan that includes a description of the
9 proposed mining site and either a detailed map drawn to a scale approved by the
10 department or aerial photographs, if the photographs show the details to the
11 satisfaction of the department, prepared and certified by a competent engineer,
12 surveyor, or other person approved by the department that show all of the following:
13 (a) The boundaries of the area of land that will be affected.
14 (b) The drainage area above and below the area that will be affected.
15 (c) The location and names of all streams, roads, railroads, pipelines, and
16 utility lines on or within 1,000 feet of the mining site.
17 (d) The name or names of the owner or owners of the mining site.
18 (e) The name of the city, village, or town in which the mining site is located and
19 the name of any other city, village, or town that is within 3 miles of the mining site.
20 **(2)** DESCRIPTIVE DATA. The applicant shall provide descriptive data to
21 accompany the map or photographs under sub. (1), including all of the following:
22 (a) The federal natural resources conservation service land capabilities
23 classifications of the affected area.
24 (b) The elevation of the water table.

1 (c) Details of the nature, extent, and final configuration of the proposed
2 excavation and mining site, including the total estimated production of tailings,
3 waste rock, and other refuse and the location of their disposal.
4 (d) The nature and depth of the overburden.
5 **(3)** OPERATING PROCEDURES. The applicant shall also include in the mining plan
6 the details of the proposed operating procedures, including descriptions of all of the
7 following:
8 (a) The sequence of mining operations.
9 (b) The handling of overburden materials.
10 (c) The production, handling, and final disposition of tailings.
11 (d) The milling, concentrating, refining, and other processing of ferrous
12 minerals.
13 (e) The storage, loading, and transportation of the final product.
14 (f) Groundwater and surface water management techniques, including
15 provisions for erosion protection and drainage control, and a water management
16 plan showing water sources, flow paths and rates, storage volumes, and release
17 points.
18 (g) Plans for collection, treatment, and discharge of any water resulting from
19 the mining.
20 (h) Plans for protecting air quality under ch. 285.
21 (hm) A plan for monitoring environmental changes at the mining site.
22 (hr) An assessment of the risk of the occurrence of an accidental health or
23 environmental hazard in connection with the operation of the mine. The assessment
24 shall include, with specificity, a description of the assumptions that the applicant
25 used in making the risk assessment and the contingency measures that the applicant

1 proposes to take in the event of that an accidental health or environmental hazard
2 occurs.

3 (i) Measures for notifying the public and responsible governmental agencies of
4 potentially hazardous conditions, including the movement or accumulation of toxic
5 wastes in groundwater and surface water, soils, and vegetation, and other
6 consequences of the operation of importance to public health, safety, and welfare.

7 (j) All surface facilities associated with the mining site and any use of mining
8 waste in reclamation or the construction of any facility or structure.

9 (k) All geological and geotechnical investigations and drilling programs.

10 (L) A plan for completing and submitting a preblasting survey to the
11 department before any blasting is conducted.

12 **(4)** REQUIRED DEMONSTRATIONS. The applicant shall demonstrate in the mining
13 plan that the proposed mining will be consistent with the reclamation plan under s.
14 295.49 and that all of the following will apply, at a minimum:

15 (a) Handling and storage of all materials on the mining site will be done in an
16 environmentally sound manner.

17 (b) Buildings and other structures will be painted and maintained in a manner
18 that is visually compatible with the surrounding vegetational and earth conditions,
19 except that if a building or other structure cannot be painted and maintained in a
20 manner that is visually compatible or if painting and maintaining a building or other
21 structure in a manner that is visually compatible would cause safety concerns, the
22 building or structure will be made as visually inconspicuous as is practicable.

23 (c) Effective means will be taken to limit access to the mining site to minimize
24 exposure of the public to hazards.

1 (d) The use of mine mill chemicals and processing reagent wastes will be
2 governed by all of the following:
3 1. Reagents and mine mill chemicals will not be used in a manner that will
4 result in substantial harm to public safety or health or to the environment.
5 2. Reagents and mine mill chemicals that consist of or contain water soluble
6 salts or metals will be used in accordance with any applicable approval.
7 3. Reagents will not be used or stored at the mining site if they are not included
8 in the mining waste site feasibility study and plan of operation or in the mining plan,
9 except for reagents for laboratory, testing, research, or experimental purposes.
10 (e) Provisions will be made for back-up equipment in the event of the
11 breakdown of critical operation equipment.
12 (f) The design and operation specifications for mining site facilities include
13 features, which may include emergency power supplies, redundant equipment, or
14 temporary holding facilities, to deal with emergency conditions.
15 (g) Mining site facilities are designed to minimize disturbance to surface areas,
16 to the extent practicable.
17 (h) Where practicable, elevation differences in water-based transport systems
18 will be used for gravity flows to minimize pumping facilities and pressures.
19 (i) The following apply:
20 1. Systems for transporting tailings in slurry through pipelines that are not
21 buried are designed to provide for emergency tailings conveyance or storage in case
22 a pipeline breaks, plugs, freezes, or needs repairs and will be accessible for
23 inspection, emergency repair, and maintenance.
24 2. The location of emergency spill containment areas is consistent with the
25 prevention of substantial environmental pollution of surface waters.

1 3. In the event of a power failure, tailings pipelines will be self draining to a
2 tailings area or an emergency spill containment area or standby pumps and pipelines
3 or standby power is provided.

4 4. More than one emergency spill containment area is provided if necessary.

5 (j) If practicable, all liquid effluents from the mining site will be directed to a
6 common point, for treatment if necessary, before discharge to a natural watercourse.

7 (L) If sanitary wastes will be directed to a tailings area they will be
8 appropriately treated.

9 **295.49 Reclamation plan. (1)** An applicant for a mining permit shall submit
10 as part of the application a reclamation plan, designed to minimize adverse effects
11 to the environment to the extent practicable, that includes all of the following:

12 (a) A description of the manner, location, sequence, and timing of reclamation
13 of the mining site, including the mine, mining waste site, and sites for the disposal
14 of wastes that are not mining wastes.

15 (am) Prereclamation and postreclamation drawings.

16 (b) A map showing the specific reclamation proposal for each area of the mining
17 site.

18 (c) A description of ongoing reclamation procedures during mining.

19 (d) A description of proposed interim and final topography and slope
20 stabilization.

21 (e) A description of the proposed final land use and the relationship to
22 surrounding land and land use.

23 (f) Plans for the long-term care of the mining site, that include all of the
24 following:

1. Monitoring of the mine; mining waste sites; sites for the disposal of wastes that are not mining wastes; groundwater quality; and surface water quality.

2. The names of persons legally and operationally responsible for long-term care.

(g) Projected costs of reclamation, including the estimated cost of fulfilling the reclamation plan.

(2) The applicant shall demonstrate in the reclamation plan that all of the following will apply to the proposed reclamation, at a minimum:

(a) All toxic and hazardous wastes will be disposed of in conformance with applicable state and federal laws.

(b) At the conclusion of mining activity, each tunnel, shaft, and other underground opening will be sealed in a manner that will prevent seepage of water in amounts that may be expected to create a safety, health, or environmental hazard, unless the applicant demonstrates alternative uses for the tunnel, shaft, or other underground opening that do not endanger public health or safety and that conform to applicable environmental protection and mine safety laws and rules.

(c) Grading and stabilization of the excavation, sides, benches, and final slope will conform with state and federal environmental and safety requirements and will prevent erosion and environmental pollution to the extent practicable.

(d) Grading and stabilization of the mining waste site and sites for the disposal of wastes that are not mining wastes will conform with state and federal environmental and safety requirements.

(e) Merchantable by-products will be stabilized.

(f) Diversion and drainage of water from the mining site, including the mining waste site and sites for the disposal of wastes that are not mining wastes, will be

1 adequate to prevent erosion and contamination of surface water and groundwater
2 to the extent practicable.
3 (g) Backfilling with tailings, waste rock, overburden, or borrow materials will
4 be conducted where the backfilling will not interfere with the mining and will not
5 cause an applicable groundwater quality standard to be exceeded.
6 (h) All underground and surface runoff waters from the mining site will be
7 managed, impounded, or treated in compliance with any approval that regulates
8 construction site erosion control or storm water management or discharge.
9 (i) All surface structures constructed as part of the mining activities will be
10 removed unless an alternate use is approved in the reclamation plan.
11 (j) Adequate measures will be taken to prevent significant subsidence, but if
12 subsidence does occur, the affected area will be reclaimed.
13 (k) All recoverable topsoil from surface areas disturbed by the mining will be
14 removed and stored in an environmentally acceptable manner for use in reclamation
15 or in the mitigation or minimization of adverse environmental impacts.
16 (L) All disturbed surface areas will be revegetated as soon as practicable after
17 the disturbance to stabilize slopes and minimize air pollution and water pollution,
18 with the objective of reestablishing a variety of plants and animals indigenous to the
19 area immediately prior to mining to the extent practicable.
20 (m) Plant species not indigenous to the area will be used for revegetation only
21 if necessary to provide rapid stabilization of slopes and prevention of erosion and only
22 with the approval of the department, but the objective under par. (L) will be
23 maintained.
24 **(3)** If it is physically or economically impracticable or environmentally or
25 socially undesirable for the reclamation process to return the area affected by mining

to its original state, the applicant shall provide, in the reclamation plan, the reasons it would be impracticable or undesirable and a discussion of alternative conditions and uses to which the affected area can be put.

295.51 Mining waste site location criteria; feasibility study, and plan of operation. (1) DEFINITIONS. In this section:

(a) "Groundwater flow net" means a drawing showing equipotential contour lines and the direction that groundwater will flow.

(c) "Regional" means relating to the area that may affect or be affected by a proposed mining waste site, which ordinarily will not exceed the area within a radius of 5 miles of the mining waste site.

(e) "Water budget" means an assessment of water inputs, outputs, and net changes to a natural system or engineered facility over a fixed period.

(f) "Well nest" means 2 or more wells constructed to different depths and installed within 10 feet of each other at the ground surface.

(1e) HAZARDOUS MINING WASTE. (a) Prior to the informational hearing under s. 295.57 (5) the department shall designate any mining wastes identified by the department as hazardous under s. 291.05 (1).

(b) The disposal of any mining wastes that are identified by the department as hazardous under s. 291.05 (1) in a mining waste site is subject to this subchapter, and not to chs. NR 660 to 669, Wis. Adm. Code, except as necessary to comply with applicable federal regulations adopted under the federal Resource Conservation and Recovery Act, 42 USC 6901 to 6991m.

(1m) LOCATION CRITERIA. (a) Except as provided in par. (b), no person may locate or operate a mining waste site, excluding the portion of a mining site from which

1 ferrous minerals are extracted and that is backfilled with mining waste, within 1,000
2 feet of any of the following:
3 1. The nearest edge of the right-of-way of any state trunk highway, as defined
4 in s. 340.01 (60).
5 2. The boundary of any state or national park.
6 3. The boundary of a scenic easement purchased by the department or the
7 department of transportation.
8 4. The boundary of a designated scenic or wild river.
9 5. A scenic overlook designated by the department by rule.
10 6. A hiking or biking trail designated by the department or the U.S. Congress.
11 (b) The prohibition in par. (a) does not apply if, regardless of season, the
12 proposed mining waste site is visually inconspicuous due to screening or being
13 visually absorbed due to natural objects, compatible natural plantings, earth berm,
14 or other appropriate means; or if, regardless of season, the proposed mining waste
15 site is screened so as to be as aesthetically pleasing and inconspicuous as is feasible.
16 (be) Except as provided in par. (bn), no person may locate or operate a mining
17 waste site, excluding the portion of a mining site from which ferrous minerals are
18 extracted and that is backfilled with mining waste, within 1,000 feet of a navigable
19 water that is a lake, pond, or flowage.
20 (bg) Except as provided in par. (bn), no person may locate or operate a mining
21 waste site, excluding the portion of a mining site from which ferrous minerals are
22 extracted and that is backfilled with mining waste, within 300 feet of a navigable
23 water that is a river or stream.

1 (bn) The prohibitions in pars. (be) and (bg) do not apply to an activity that is
2 associated with a mining waste site and that is approved by the department under
3 s. 295.60, 295.605, or 295.61.

4 (bq) No person may locate or operate a mining waste site, excluding the portion
5 of a mining site from which ferrous minerals are extracted and that is backfilled with
6 mining waste, within a floodplain.

7 (bt) No person may locate or operate a mining waste site, excluding the portion
8 of a mining site from which ferrous minerals are extracted and that is backfilled with
9 mining waste, in an area within the property owned by the mining operator and on
10 which the mining site is located if the area is closer than 200 feet to the outer
11 boundary of that property.

12 (c) No person may locate or operate a mining waste site, excluding the portion
13 of a mining site from which ferrous minerals are extracted and that is backfilled with
14 mining waste, within 1,200 feet of any public or private water supply well that
15 provides water for human consumption.

16 (d) No person may locate or operate a mining waste site, excluding the portion
17 of a mining site from which ferrous minerals are extracted and that is backfilled with
18 mining waste, within an area that contains mineral resources that are known at the
19 time the application for the mining permit is issued, are likely to be mined in the
20 future, and lie within 1,000 feet of the surface.

21 **(1s)** BACKFILLED WASTE SITE. For surface mining, the portion of a mining site
22 from which ferrous minerals are extracted and that is backfilled with mining waste
23 and any buildings, structures, roads, or drainage controls associated with that
24 portion of the mining site may be considered a single mining waste site.

1 **(2)** GENERAL. An applicant for a mining permit shall submit as part of the
2 application a mining waste site feasibility study and plan of operation that
3 demonstrates the suitability of the proposed mining waste site for the disposal of
4 mining wastes and that describes the operation of the mining waste site.

5 **(3)** WASTE CHARACTERIZATION AND ANALYSIS. For the purposes of this section, the
6 applicant shall perform waste characterization and analysis, to identify the
7 quantities, variability, and physical, radiological, and chemical properties of each
8 mining waste as necessary to assess the potential environmental impact of handling,
9 storage, and disposal. The applicant may include in the waste characterization and
10 analysis a review of the literature and results from similar existing facilities,
11 materials, or studies. For the purpose of the waste characterization and analysis,
12 the applicant shall conduct testing on representative samples of materials available,
13 on individual mining wastes from the mining process, and if the applicant proposes
14 mixed storage or disposal of individual mining wastes, on composite mining wastes.
15 If physical or chemical segregation of a mining waste is proposed, the applicant shall
16 test each individual waste resulting from the physical or chemical segregation. The
17 applicant shall complete all of the following components of the waste
18 characterization and analysis:

19 (a) Identification of all mining wastes that will be disposed of or stored in the
20 mining waste site, including classification of mining waste types, estimates of the
21 rates of generation and volumes of each type, and an explanation of the proposed
22 ultimate disposition of each type.

23 (b) Chemical, radiological, physical, and mineralogical analyses of each type
24 of mining waste.

25 (c) Analyses of the particle size of the mining wastes.

1 (d) Chemical and physical characteristics testing, including testing to
2 determine the leaching potential of the mining wastes and the composition of the
3 resulting leachate, using, at a minimum, the method in federal environmental
4 protection agency publication EPA 600/2-78-054, except that this testing is not
5 required if the applicant demonstrates, based on the analyses in pars. (b) and (c) or
6 on past experience, that there is not a probability for significant environmental
7 damage or a probability of an adverse impact on public health, safety, or welfare.

8 **(4)** SITE SPECIFIC INFORMATION. In addition to performing the mining waste
9 characterization and analysis under sub. (3), for the purposes of the mining waste
10 site feasibility study and plan of operation, an applicant shall conduct field and
11 laboratory investigations to determine physical, chemical, and biological
12 characteristics of the proposed mining waste site. The applicant shall do all of the
13 following:

14 (a) Perform field investigations to determine the specific topography, soil types,
15 and depth to bedrock and groundwater.

16 (b) Perform at least one soil boring, to bedrock or refusal, every 80 acres,
17 characterizing the major geomorphic features such as ridges and lowlands and
18 characterizing each major soil layer according to the unified soil classification
19 system.

20 (c) Prepare a boring log for each soil boring, including soil and rock descriptions,
21 method of drilling, method of sampling, sample depths, date of boring, and water
22 level measurements and dates, with elevations referring to United States geological
23 survey mean sea level datum.

1 (d) Collect soil samples to adequately determine the geology and ensure the
2 proper design and monitoring of the mining waste site, including doing all of the
3 following:

4 1. Collecting the soil samples at not greater than 5 foot depth intervals, unless
5 physical conditions such as soil homogeneity indicate that greater intervals are
6 adequate.

7 2. Collecting the soil samples using generally accepted techniques for sampling
8 undisturbed soils, where that is appropriate.

9 3. Classifying all soil samples according to the unified soil classification
10 system.

11 (e) Perform soil tests as necessary for classification and correlation purposes
12 and to develop necessary geotechnical design parameters for the mining waste site,
13 without compositing soil samples.

14 (f) Determine the hydraulic conductivity of the various soil strata, using in situ
15 hydraulic conductivity testing procedures as appropriate to confirm values
16 determined in the laboratory.

17 (g) Determine horizontal and vertical groundwater flow patterns in and around
18 the proposed mining waste site based on data obtained from groundwater
19 monitoring wells and piezometers constructed in conformity with ch. NR 141, Wis.
20 Adm. Code.

21 (h) Conduct a program to establish baseline water quality through monitoring
22 groundwater and surface water in the vicinity of the mine and the proposed mining
23 waste site on a monthly basis and establishing physical-chemical and biological
24 characteristics of the concentrations of substances in the water before mining begins
25 at the mining site. The applicant shall do all of the following:

1. Select physical-chemical parameters based on transport and transformation mechanisms in the environment as well as other factors affecting the mobility and toxicity of pollutants.

2. Select biological parameters based on the environmental characterizations under sub. (5) (g), the degree of impact predicted, and the potentially affected organism's sensitivity to contaminants.

3. Establish a final parameter list for groundwater and surface water based on preliminary sampling and known information concerning the waters in the vicinity of the mine and the mining waste site, consideration of applicable water quality standards, and the geology and composition of the ferrous mineral deposit that will be mined. At a minimum, in the program under this paragraph the applicant shall collect water quality data for all of the following parameters:

a. Specific conductance.

b. Temperature.

c. Hydrogen ion concentration (pH).

d. Dissolved oxygen.

e. The major anions sulfate, chloride, and bicarbonate.

f. The major cations calcium, magnesium, potassium, and sodium.

g. Other total and dissolved metals, including aluminum, iron, and manganese, that may be introduced by the mining activities.

h. General chemistry, including total alkalinity, total organic carbon, gross alpha, gross beta, ammonia, nitrate, total dissolved solids, total hardness, and total suspended solids.

(5) CONTENTS RELATED TO WASTE SITE FEASIBILITY. An applicant shall include all of the following in the mining waste site feasibility study and plan of operation:

(a) A description of the mining waste site location, proposed acreage, proposed mining waste site life and range of disposal capacity, and estimated types and quantities of mining wastes to be contained.

(b) A description of the mining waste characterization and analysis conducted under sub. (3), including a description of the test methods used in evaluating the characteristics of the mining waste and the procedures and records for documenting the chain of custody of the test samples.

(c) An existing site conditions plan sheet consisting of a topographic survey of the area, with elevations tied to United States geological survey mean sea level datum, illustrating the property boundaries, proposed boundaries of the mining waste site, survey grid and north arrow, buildings, water supply wells, utility lines, other man-made features, soil boring locations, observation well locations, and other pertinent information.

(d) A series of geologic cross-sections illustrating existing topography; soil borings; soil classification; soil properties; interpreted soil stratigraphy; bedrock; well and boring locations and constructions; and stabilized water level readings.

(e) A water table map, using the existing site conditions plan under par. (c) as a base, that is based on stabilized water level readings and, if seasonal changes in groundwater levels are significant, maps those changes.

(f) If more than 2 well nests are constructed, groundwater flow nets to illustrate horizontal and vertical flow, which may be illustrated on the geologic cross-sections under par. (d), if appropriate.

(g) An environmental characterization that describes the structure and functional relationships of ecosystems potentially affected by the proposed mining waste site.

1 (h) A report on the water quality data collected under the baseline monitoring
2 program under sub. (4) (h) to establish baseline water quality.
3 (i) A land use map, using the existing site conditions plan under par. (c) as a
4 base, showing plant communities, wildlife habitat, places where rare and
5 endangered species have been sighted, archaeological or historic sites, buildings,
6 and areas of social importance.
7 (j) A table showing existing water quality of all potentially affected surface
8 waters, indicating important aquatic habitat.
9 (k) Local climatological data for seasonal precipitation, evaporation, air
10 temperature, and wind velocity and direction. The applicant may use an annual
11 record on the proposed mining waste site or adequate data to correlate the proposed
12 mining waste site conditions to an existing observation station as the basis for this
13 data.
14 (L) A discussion of regional conditions, supplemented with maps or
15 cross-sections where appropriate, addressing all of the following:
16 1. Topography.
17 2. Hydrology, including surface water drainage patterns and important
18 hydrologic features such as navigable waters, springs, drainage divides, and
19 wetlands.
20 3. Geology, including the nature and distribution of bedrock and
21 unconsolidated deposits.
22 4. Hydrogeology, including depth of groundwater, flow directions, recharge and
23 discharge areas, groundwater divides, aquifers, and the identification of the aquifers
24 used by all public and private wells within at least 1,200 feet of the proposed mining
25 waste site.

1 5. Groundwater and surface water quality and precipitation chemistry.

2 6. Climatology.

3 7. Identification of owners of land adjacent to the proposed mining waste site.

4 8. Zoning.

5 9. Existing land uses with particular emphasis on known recreational, historic,
6 archaeological, scientific, cultural, or scenic significance.

7 10. Existing or proposed access roads and weight restrictions on those roads.

8 11. Identification of aquatic and terrestrial ecosystems such as stream orders
9 and classifications.

10 (m) A discussion of alternative methods of disposing of mining waste materials,
11 including an analysis of the practicability of the reuse, sale, recovery, or processing
12 of the mining wastes for other purposes.

13 (n) An analysis of the results of the mining waste characterizations under sub.
14 (3), the site specific information under sub. (4) and this subsection, and the regional
15 information under par. (L) in relation to the approach for locating the mining waste
16 site and developing appropriate design, construction, operation, monitoring, and
17 long-term care requirements for each type of mining waste.

18 (o) A proposed mining waste site design, based on conclusions resulting from
19 analysis of the mining waste characterizations under sub. (3) and the site data under
20 sub. (4), that includes all of the following:

21 1. A map, using the existing site conditions plan under par. (c) as a base, that
22 shows proposed access, lateral extent of filling, and phases of mining waste site
23 development.

24 2. A series of cross-sections, using the geological cross-sections under par. (d)
25 as the base, that show existing topography, proposed base grades, and final grades.

1 3. Preliminary earthwork balance calculations, showing amounts of materials
2 expected to be moved on the mining waste site prior to the disposal of mining waste.
3 4. Proposed methods for leachate control.
4 5. Proposed methods of mining waste site development, phasing, access control,
5 and other special design features.
6 6. Expected material balances showing the quantities of each type of mining
7 waste identified in par. (a) showing the amounts generated, disposed of on site, and
8 taken off site, including all of the following:
9 a. The projected conditions existing at the end of a typical year of production.
10 b. The projected conditions existing at the end of operations.
11 c. The projected conditions existing at the end of reclamation.
12 7. A discussion of the reasoning behind the design of the major features of the
13 mining waste site, such as traffic routing, base grade and relationships to subsurface
14 conditions, anticipated waste types and characteristics, phases of development,
15 mining waste site monitoring, and similar design features.
16 8. A proposed monitoring program, based on potential variations in the quality
17 and quantity of mining waste and methods of processing, transport and disposal, and
18 on the variability of important environmental conditions, designed to monitor the
19 proposed mining waste site for compliance with all environmental standards that
20 are applicable under this subchapter.
21 9. The results of engineering and hydrologic modeling to assess mining waste
22 site performance relative to compliance with applicable groundwater quality
23 standards to a depth of not more than 1,000 feet into the Precambrian bedrock or to
24 the final depth of the mining excavation, whichever is greater, and to compliance
25 with applicable surface water quality standards, examining a period equal to the

1 proposed period in which the mining waste site is proposed to operate plus 100 years
2 after closure of the mining waste site. The applicant may also include information
3 from other mining operations and operations for the extraction of nonferrous
4 metallic minerals to substantiate that the proposed mining waste site design,
5 including associated contingency plans and monitoring and response plans, will
6 allow for the operation and closure of the mining waste site in a manner that will not
7 substantially adversely affect groundwater and surface water quality in accordance
8 with applicable standards.

9 10. If the applicant proposes to expand an existing mining waste site, an
10 evaluation of the existing mining waste site design and operation.

11 (p) Preliminary water budgets for the periods before construction, during
12 construction, and after closure of the mining waste site, each addressing
13 climatological situations depicting dry, wet, and average precipitation and
14 evaporation conditions, based on climatological records. In preparing the water
15 budget, the applicant shall consider precipitation, slurry water input and return,
16 evaporation, surface runoff, evapotranspiration, the moisture holding capacity of
17 soil and mining waste, and the velocities and volumes of groundwater flow. In the
18 water budget, the applicant shall describe the estimated amount and quality of
19 seepage and discharge to surface water and groundwater.

20 (q) An analysis of the impact of the mining waste site on aesthetics and how
21 any impact can be minimized or mitigated to the extent practicable.

22 (r) Data regarding the safety factors of tailings basin embankments,
23 considering the following, on a case-by-case basis:

24 1. Geology of the mining waste site including type and homogeneity of the
25 foundation.

1 2. Materials and methods to be used for embankment construction.

2 3. Physical and chemical characteristics of the mining waste as deposited and
3 predicted changes through time.

4 4. The potential area to be affected in case of failure, considering land use and
5 the surrounding environment.

6 5. Requirements of the mine safety and health administration of the federal
7 department of labor.

8 (s) An economic analysis, including an engineer's cost estimate, for mining
9 waste site closure and long-term care.

10 (t) Identification and analysis of alternatives to the design and location of any
11 new proposed mining waste site and discussion of operation alternatives to the
12 extent they have a significant impact on design and location alternatives.

13 (u) An appendix that includes all of the following:

14 1. Boring logs, soil tests, well construction data, and water level
15 measurements.

16 2. A description of the methods and equations used in the analysis of the raw
17 data.

18 3. References.

19 **(6)** CONTENTS RELATING TO OPERATION. An applicant for a mining permit shall
20 submit as part of the mining waste site feasibility study and plan of operation
21 provisions relating to operation of the mining waste site including all of the following:

22 (a) Engineering plans consisting of all of the following:

23 1. An existing site conditions plan sheet indicating site conditions before
24 development to the extent not provided under sub. (5).

1 2. A base grade plan sheet indicating mining waste site base grades or the
2 appearance of the mining waste site if it were excavated in its entirety to the base
3 elevation, before installation of any engineering modifications and before disposal
4 of any mining wastes.

5 3. An engineering modifications plan sheet indicating the appearance of the
6 mining waste site after installation of engineering modifications.

7 4. A final site topography plan sheet indicating the appearance of the site at
8 closing including the details necessary to prepare the mining waste site for
9 reclamation and long-term care.

10 5. A series of phasing plan sheets showing initial mining waste site
11 preparations for each subsequent major phase or new area where substantial mining
12 waste site preparation must be performed, along with a list of construction items and
13 quantities projected to be necessary to prepare the phase indicated.

14 6. A site monitoring plan sheet showing the location of all devices for the
15 monitoring of leachate quality, leachate production, and groundwater quality and
16 levels in both the natural zone of saturation and that developed within the mining
17 waste site, along with a table indicating the parameters to be monitored for and the
18 frequency of monitoring before and during mining waste site development.

19 7. A long-term care plan sheet showing the completion of closure and
20 indicating those items anticipated to be performed during the period of long-term
21 care for the mining waste site, along with a discussion of the procedures to be used
22 for the inspection and maintenance of runoff control structures, settlement, erosion
23 damage, leachate control facilities, and leachate and groundwater monitoring and
24 a table listing those items and the anticipated schedule for monitoring and
25 maintenance.

1 8. If applicable, the following information on the plan sheets under subds. 1.
2 to 7.:
3 a. A survey grid with baselines and monuments to be used for field control.
4 b. Limits of filling for each major mining waste type or fill area.
5 c. All drainage patterns and surface water drainage control structures both
6 within the actual fill area and at the perimeter of the mining waste site, including
7 any berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets,
8 velocity breaks, sodding, erosion matting, vegetation, or other methods of erosion
9 control.
10 d. The method of placing mining waste within each phase.
11 e. Ground surface contours at the time represented by the drawing, indicating
12 spot elevations for key features.
13 f. Areas to be cleared, grubbed, and stripped of topsoil.
14 g. Borrow areas for liner materials, granular materials for filter beds, berms,
15 roadway construction, and cover materials.
16 h. All soil stockpiles, including soils to be used for cover, topsoil, liner materials,
17 filter bed materials, and other excavation.
18 i. Access roads and traffic flow patterns to and within the active fill area.
19 j. All temporary and permanent fencing.
20 k. The methods of screening such as berms, vegetation, or special fencing.
21 L. Leachate collection, control, and treatment systems, including any pipes,
22 manholes, trenches, berms, collection sumps or basins, pumps, risers, liners, and
23 liner splices.
24 m. Leachate and groundwater monitoring devices and systems.
25 n. Disposal areas for severe weather operations.