

1 remain exclusively the responsibility of the geological and natural history survey.  
2 Nothing in this section prevents the department of safety and professional services  
3 and the geological and natural history survey from cooperating with the department  
4 in the exercise of their respective powers and duties.

5 **295.44 Exploration. (1) DEFINITIONS.** In this section:

6 (a) "Abandonment" means the filling or sealing of a drillhole.

7 (b) "Clay slurry" means a fluid mixture of native clay formation or commercial  
8 clay or clay mineral products and water prepared with only the amount of water  
9 necessary to produce fluidity.

10 (c) "Concrete grout" means a mixture consisting of type A portland cement and  
11 an equal or lesser volume of dry sand combined with water.

12 (d) "Driller" means a person who performs core, rotary, percussion, or other  
13 drilling involved in exploration for ferrous minerals.

14 (e) "Drilling site" means the area disturbed by exploration, including the  
15 drillhole.

16 (f) "Dump bailer" means a cylindrical container with a valve that empties the  
17 contents of the container at the bottom of a drillhole.

18 (g) "Explorer" means any person who engages in exploration or who contracts  
19 for the services of drillers for the purpose of exploration.

20 (h) "Exploration" means the on-site geologic examination from the surface of  
21 an area by core, rotary, percussion, or other drilling, where the diameter of the hole  
22 does not exceed 18 inches, for the purpose of searching for ferrous minerals or  
23 establishing the nature of a known ferrous mineral deposit, including associated  
24 activities such as clearing and preparing sites or constructing roads for drilling.  
25 "Exploration" does not include drilling for the purpose of collecting soil samples or

1 for determining radioactivity by means of placement of devices that are sensitive to  
2 radiation.

3 (i) "License year" means the period beginning on July 1 of any year and ending  
4 on the following June 30.

5 (j) "Neat cement grout" means a mixture consisting of type A portland cement  
6 and water.

7 (k) "Termination" means the filling of drillholes and the reclamation of a  
8 drilling site.

9 (2) LICENSE. No person may engage in exploration, or contract for the services  
10 of drillers for purposes of exploration, without an annual license from the  
11 department. The department shall provide copies of the application for an  
12 exploration license to the state geologist upon issuance of the exploration license. A  
13 person seeking an exploration license shall file an application that includes all of the  
14 following:

15 (a) An exploration plan that includes all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

11           1. A description of how all toxic and hazardous wastes and other solid waste  
12 will be disposed of in solid or hazardous waste disposal facilities licensed under ch.  
13 289 or 291 or otherwise in an environmentally sound manner.

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

16           3. A description of how revegetation will be conducted to stabilize disturbed  
17 soils and prevent air and water pollution to the extent practicable.

18           4. A description of how disturbance to wetlands will be minimized to the extent  
19 practicable.

20           5. A statement that all drillholes will be abandoned in compliance with sub. (5).

21           (c) An exploration license fee of \$300.

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

23           (e) A certificate of insurance showing that the applicant has in force a liability  
24 insurance policy issued by an insurance company licensed to do business in this state  
25 covering all exploration conducted or contracted for by the explorer in this state and

1     affording personal injury and property damage protection in a total amount  
2     determined to be adequate by the department, but not more than \$1,000,000 and not  
3     less than \$50,000.

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

8           **(2m) CONFIDENTIALITY.** The department shall protect as confidential any  
9     information, other than effluent data, contained in an application for an exploration  
10    license, upon a showing that the information is entitled to protection as a trade  
11    secret, as defined in s. 134.90 (1) (c), and any information relating to the location,  
12    quality, or quantity of a ferrous mineral deposit, to production or sales figures, or to  
13    processes or production unique to the applicant or that would tend to adversely affect  
14    the competitive position of the applicant if made public.

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

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

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

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

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

14 **(4) ISSUANCE OR DENIAL OF EXPLORATION LICENSE.** (a) Except as provided in par.  
15 (c), within 10 business days of receiving an administratively complete application for  
16 an exploration license, the department shall issue the exploration license or provide  
17 the notice required under par. (f) of intent not to issue the exploration license, unless  
18 the application is for an upcoming license year. If an application is for an upcoming  
19 license year, the department shall issue the exploration license or provide the notice  
20 required under par. (f) of intent not to issue the exploration license within 10  
21 business days of receiving an administratively complete application or on the next  
22 July 1, whichever is later.

23 (b) An application for an exploration license is considered to be  
24 administratively complete on the day that it is submitted, unless, before the 10th  
25 business day after receiving the application, the department provides the applicant

1 with written notification that the application is not administratively complete. The  
2 department may determine that an application is not administratively complete only  
3 if the application does not include an exploration plan; a reclamation plan; an  
4 exploration license fee; a bond; a certificate of insurance; or a copy of the applicant's  
5 most recent annual report to the federal securities and exchange commission on form  
6 10-K, or, if this is not available, a report of the applicant's current assets and  
7 liabilities or other data necessary to establish that the applicant is competent to  
8 conduct exploration in this state. The department may not consider the quality of  
9 the information provided. In a notice provided under this paragraph, the  
10 department shall identify what is missing from the application.

11 (c) If the department provides notification, in compliance with par. (b), that an  
12 application is not administratively complete, the department shall issue the  
13 exploration license or provide the notice required under par. (f) of intent not to issue  
14 the license within 7 business days of receipt of the missing item, unless the  
15 application is for an upcoming license year. If the application is for an upcoming  
16 license year, the department shall issue the exploration license or provide the notice  
17 required under par. (f) of intent not to issue the exploration license within 7 business  
18 days of receipt of the missing item or on the next July 1, whichever is later.

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

24 (e) Subject to par. (f), the department shall deny an application for an  
25 exploration license if the department finds that, after the activities in the exploration

1 plan and the reclamation plan have been completed, the exploration will have a  
2 substantial and irreparable adverse impact on the environment or present a  
3 substantial risk of injury to public health and welfare.

4 (f) Before denying an application, the department shall provide the applicant  
5 with written notification of its intent not to issue the exploration license, setting  
6 forth all of the reasons for its intent not to issue the exploration license, including  
7 reference to competent evidence supporting its position. The department shall  
8 provide the person with an opportunity to correct any deficiencies in the exploration  
9 plan or reclamation plan within 10 business days. If the person amends the  
10 exploration plan or reclamation plan and corrects the deficiencies, the department  
11 shall issue the exploration license within 10 business days of receipt of the amended  
12 exploration plan or reclamation plan, unless the application is for an upcoming  
13 license year. If an application is for an upcoming license year, the department shall  
14 issue the exploration license within 10 business days of receipt of the amended  
15 exploration plan or reclamation plan or on the next July 1, whichever is later. If the  
16 department determines that the deficiencies have not been corrected, it shall deny  
17 the application, in writing, setting forth all of the reasons for its determination,  
18 including reference to competent evidence supporting the determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 20           1. A renewal fee of \$150.  
21           2. A bond that satisfies sub. (3) (a).  
22           3. A certificate of insurance that satisfies sub. (2) (e).  
23           4. A copy of the applicant's most recent annual report to the federal securities  
24 and exchange commission on form 10-K, or, if this is not available, a report of the

1 applicant's current assets and liabilities or other data necessary to establish that the  
2 applicant is competent to conduct exploration in this state.

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

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

10 (c) An application for renewal of 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 explorer  
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 a renewal fee; a bond; a certificate of insurance;  
16 a copy of the applicant's most recent annual report to the federal securities and  
17 exchange commission on form 10-K, or, if this is not available, a report of the  
18 applicant's current assets and liabilities or other data necessary to establish that the  
19 applicant is competent to conduct exploration in this state; or either a statement that  
20 no changes are being proposed to the exploration plan and reclamation plan  
21 previously approved by the department or a new exploration plan or reclamation  
22 plan if the applicant proposes to make changes. The department may not consider  
23 the quality of any information provided. In a notice provided under this paragraph,  
24 the department shall identify what is missing from the application.

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

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

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

13 (g) Before denying an application, the department shall provide the person who  
14 submitted the application with written notification of its intent not to renew the  
15 exploration license, setting forth all of the reasons for its intent not to renew the  
16 exploration license, including reference to competent evidence supporting its  
17 position. The department shall provide the person with an opportunity to correct any  
18 deficiencies in the exploration plan or restoration plan within 10 business days. If  
19 the person amends the exploration plan or reclamation plan and corrects the  
20 deficiencies, the department shall renew the exploration license within 10 business  
21 days of receipt of the amended exploration plan or reclamation plan. If the  
22 department determines that the deficiencies have not been corrected, it shall deny  
23 the application, in writing, setting forth all of the reasons for its determination,  
24 including reference to competent evidence supporting the determination.

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

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

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

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

10 (8) NOTICE PROCEDURE. (a) An explorer shall notify the department of the  
11 explorer's intent to drill on a parcel by registered mail at least 5 days prior to the  
12 beginning of drilling. Notice is considered to be given on the date that the  
13 department receives the notice. In the notice, the explorer shall specify which  
14 drillholes identified in the exploration plan the explorer intends to drill. The  
15 explorer shall send the notice to the subunit of the department with authority over  
16 mine reclamation.

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

21 (9) REPORTS. (a) Within 10 days after completing the temporary or permanent  
22 abandonment of a drillhole, an explorer shall file with the department an  
23 abandonment report that describes the means and method used in the abandonment  
24 and is signed by an authorized representative of the explorer attesting to the  
25 accuracy of the information contained in the report. The explorer shall submit the

1 abandonment report to the department's district office for the district in which the  
2 drilling site is located.

3 (b) After permanent abandonment of a drillhole and regrading and  
4 revegetation of the drilling site, an explorer shall notify the department of  
5 completion of termination of the drilling site. The explorer shall submit the notice,  
6 in writing, to the department's district office for the district in which the drilling site  
7 is located.

8 (c) 1. After receipt of a notice under par. (b), the department shall notify the  
9 explorer in writing whether the termination is satisfactory or unsatisfactory. If the  
10 termination is unsatisfactory, the department shall inform the explorer of the  
11 necessary corrective measures. Following the completion of corrective measures, the  
12 explorer shall file written notice with the department's district office for the district  
13 in which the drilling site is located specifying the means and method used and  
14 stating that termination is complete.

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

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

21 **(10) DRILLING FEES.** Upon the submission of a report under sub. (9) (a) of  
22 temporary abandonment of a drillhole, if the drillhole is temporarily abandoned, or  
23 upon submission of a report under sub. (9) (a) of permanent abandonment of a  
24 drillhole, if the drillhole is not temporarily abandoned, the explorer shall pay a fee  
25 to the department. The fee is \$100 per drillhole for the first 20 drillholes for which

1 a report is filed in a license year and \$50 for each subsequent drillhole for which a  
2 report is filed in that license year.

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

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

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

12 (12) EXEMPTION. This section does not apply to an operator with a mining  
13 permit who is engaged in exploration activities on lands included in a mining plan  
14 and reclamation plan, if the mining plan or reclamation plan contains provisions  
15 relating to termination of the exploration activities.

16 (13) ENVIRONMENTAL ANALYSIS NOT REQUIRED. The department is not required  
17 to prepare an environmental impact statement or an environmental assessment for  
18 an application for an exploration license.

19 **295.443 Local impact committee; local agreement.** (1) A county, town,  
20 village, city, or tribal government likely to be substantially affected by potential or  
21 proposed mining may designate an existing committee, or establish a committee, for  
22 purposes of:

23 (a) Facilitating communications between operators and itself.

24 (b) Analyzing implications of mining.

25 (c) Reviewing and commenting on reclamation plans.

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

2 (e) Recommending priorities for local action.

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

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

7 **(1m)** A county, town, village, city, or tribal government that requires an  
8 operator to obtain an approval or permit under a zoning or land use ordinance and  
9 a county, town, village, or city in which any portion of a proposed mining site is  
10 located may, individually or in conjunction with other counties, towns, villages,  
11 cities, or tribal governments, enter into one or more agreements with an operator for  
12 the development of a mining operation. The local agreement may include any of the  
13 following:

14 (a) A legal description of the land subject to the agreement and the names of  
15 its legal and equitable owners.

16 (b) The duration of the agreement.

17 (c) The uses permitted on the land.

18 (d) A description of any conditions, terms, restrictions, or other requirements  
19 determined to be necessary by the county, town, village, city, or tribal government for  
20 the public health, safety, or welfare of its residents.

21 (e) A description of any obligation undertaken by the county, town, village, city,  
22 or tribal government to enable the development to proceed.

23 (f) The applicability or nonapplicability of county, town, village, city, or tribal  
24 ordinances, approvals, or resolutions.

25 (g) A provision for the amendment of the agreement.

1 (h) Other provisions determined to be reasonable and necessary by the parties  
2 to the agreement.

3 (2) A county, town, village, city, or tribal government affected in common with  
4 another county, town, village, city, or tribal government by a proposed or existing  
5 mine may cooperatively designate or establish a joint committee, but may also  
6 maintain a separate committee under sub. (1). Committees under this section may  
7 include representatives of affected units of government, business, and industry,  
8 manpower, health, protective or service agencies, school districts, or environmental  
9 and other interest groups or other interested parties.

10 (3) Persons applying for an exploration license under s. 295.44 shall thereafter  
11 appoint a liaison person to any committee established under sub. (1) or (2), and shall  
12 provide such reasonable information as is requested by the committee. Operators  
13 and persons applying for an exploration license under s. 295.44 shall thereafter  
14 make reasonable efforts to design and operate mining operations in harmony with  
15 community development objectives.

16 (4) Committees established under sub. (1) or (2) may be funded by their  
17 appointing authority, and may, through their appointing authority, submit a request  
18 for operating funds to the investment and local impact fund board under s. 70.395.  
19 Committees established under sub. (1) shall be eligible for funds only if the county,  
20 town, village or city is also a participant in a joint committee, if any, established  
21 under sub. (2). The investment and local impact fund board may not grant funds for  
22 the use of more than one committee established under sub. (1) in relation to a  
23 particular mining proposal unless a joint committee has been established under sub.  
24 (2). The investment and local impact fund board shall grant operating funds to any  
25 committee that submits a request and is eligible under this subsection and s. 70.395

1 (2) (fm). Committees may hire staff, enter into contracts with private firms or  
2 consultants or contract with a regional planning commission or other agency for staff  
3 services for mining-related purposes or the purposes under s. 70.395 (2) (fm).

4 **295.45 Bulk sampling plan.** (1) A person who intends to engage in bulk  
5 sampling may file a bulk sampling plan with the department. The collection of data  
6 under a bulk sampling plan may include sampling and analysis related to  
7 geophysical, geochemical, groundwater, and surface water conditions, as well as any  
8 other data or studies necessary to prepare an application for a mining permit,  
9 including the mining plan, reclamation plan, mining waste site feasibility study and  
10 plan of operation, or any other approval required for the proposed mining.

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

12 (a) A description and map of the bulk sampling site, including the number of  
13 acres in the site, the number of acres of land that will be disturbed, if any, associated  
14 with each bulk sampling location, and the locations and types of sampling or studies  
15 to be conducted at each bulk sampling location.

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

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

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

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

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

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

12 **(2m)** The department shall protect as confidential any information, other than  
13 effluent data, contained in a bulk sampling plan and in any application for an  
14 approval that is required before the bulk sampling may be implemented, upon a  
15 showing that the information is entitled to protection as a trade secret, as defined in  
16 s. 134.90 (1) (c), and any information relating to the location, quality, or quantity of  
17 a ferrous mineral deposit, to production or sales figures, or to processes or production  
18 unique to the applicant or that would tend to adversely affect the competitive  
19 position of the applicant if made public.

20 **(3)** Within 14 days of receipt of a bulk sampling plan, the department shall  
21 identify for the applicant, in writing, all approvals that are required before the bulk  
22 sampling may be implemented, any waivers, exemptions, or exceptions to those  
23 approvals that are potentially available, and any information that the department  
24 needs to issue the approvals or to issue a decision on any waiver, exemption, or  
25 exception. If no approvals are required, the department shall notify the applicant

1 that no approvals are required and that the applicant may proceed with the bulk  
2 sampling.

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

7 **(3m)** The department shall act on any required construction site erosion  
8 control and storm water management approval, notwithstanding any authorization  
9 by the department of a local program to administer construction site erosion control  
10 and storm water management requirements.

11 **(3s)** An applicant shall submit all of the following at the same time:

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

13 (b) Applications for coverage under general permits or registration permits  
14 identified under sub. (3).

15 (c) Applications for waivers, exemptions, or exceptions identified under sub.  
16 (3).

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

18 **(4)** (a) Notwithstanding any provision in ch. 23, 29, 30, 169, 281, 283, 285, 289,  
19 or 291 or in a rule promulgated under those chapters that is applicable to an approval  
20 identified under sub. (3), the application for any approval, for a waiver, exemption,  
21 or exception to an approval, or for a determination that the proposed bulk sampling  
22 activity is below the threshold that requires an approval, is considered to be complete  
23 on the 30th day after the department receives the application, unless, before that  
24 day, the department provides the applicant with written notification that the

1 application is not complete, stating the reason for the determination and describing  
2 the specific information necessary to make the application complete.

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

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

11 (5) (a) A person who intends to engage in bulk sampling shall submit with the  
12 bulk sampling plan a bond in the amount of \$5,000 that is conditioned on faithful  
13 performance of the requirements of this section, that is issued by a surety company  
14 licensed to do business in this state, and that provides that the bond may not be  
15 canceled by the surety, except after not less than 90 days' notice to the department  
16 in writing by registered or certified mail.

17 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,  
18 the person who filed the bulk sampling plan shall deliver a replacement bond at least  
19 30 days before the expiration of the 90-day notice period. If the person fails to submit  
20 a replacement bond, the person may not engage in bulk sampling until the person  
21 submits a replacement bond.

22 (c) If the license of the surety company for a bond submitted under par. (a) is  
23 revoked or suspended, the person who filed the bulk sampling plan, within 30 days  
24 after receiving written notice from the department, shall deliver a replacement bond.

1 If the person fails to submit a replacement bond, the person may not engage in bulk  
2 sampling until the person submits a replacement bond.

3 (d) The department may require that the amount of the bond submitted under  
4 this subsection be increased at any time, if the department determines that it is  
5 unlikely that the bond would be adequate to fund the cost to this state of completing  
6 the revegetation plan.

7 (e) The department shall release a bond submitted under this subsection one  
8 year after the time for completing the bulk sampling and the revegetation set forth  
9 in the bulk sampling plan if the department determines that the person who engaged  
10 in bulk sampling has complied with this section.

11 (7) Notwithstanding any provision in ch. 23, 29, 30, 169, 281, 283, 285, 289, or  
12 291 or a rule promulgated under those chapters applicable to an approval identified  
13 under sub. (3), all of the following apply:

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

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

22 (8) In determining whether to approve or deny an application for an approval  
23 identified under sub. (3), the department shall consider the site-specific erosion  
24 control plan, the revegetation plan, and any mitigation under s. 295.60, any

1 measures under s. 295.605, or any conservation measures under s. 295.61 that the  
2 applicant proposes to take.

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

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

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

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

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

1 295.46, any additional information that a law concerning the approval requires to be  
2 made available, and the opportunity to submit written comments within 30 days  
3 after the notice is published.

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

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

16 (e) The department shall hold a public informational hearing within 30 days  
17 after publishing the notice under par. (b). The department shall hold the public  
18 informational hearing in the county where the majority of the proposed bulk  
19 sampling site is located. If there is more than one approval described in par. (a), the  
20 department shall hold a single public informational hearing covering all of the  
21 approvals and the preapplication description under s. 295.46. If possible, the  
22 department shall include consideration of an approval that is an individual permit  
23 for which federal law requires the opportunity for public comment or the ability to  
24 request a public hearing prior to issuance of the approval in the public informational

1 hearing under this paragraph. The public informational hearing under this  
2 paragraph is not a contested case hearing under ch. 227.

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

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

13 (10r) An approval identified under sub. (3) is issued upon mailing and is final  
14 and effective upon issuance.

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

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

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

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

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

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

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

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

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

13 6. The elevation of the water table.

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

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

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

21 **(2)** (a) If the department provides notice to an applicant under s. 295.45 (3) that  
22 no approvals are required for bulk sampling or if a person who proposes to engage  
23 in a mining project files a preapplication description of the proposed mining project  
24 at the time that the person provides the notice of intent to file an application for a  
25 mining permit under s. 295.465 because the person did not file a bulk sampling plan,

1 the department shall publish a class 1 notice, under ch. 985, of a public informational  
2 hearing on the proposed mining project. The department shall publish the notice  
3 when it notifies the applicant that no approvals are required or after it receives the  
4 notice of intent.

5 (b) In a notice under par. (a), the department shall do all of the following:

6 1. Describe the availability of the preapplication description.

7 2. Describe the opportunity to submit written comments within 30 days after  
8 the notice is published.

9 3. Specify the date, time, and location of the public informational hearing.

10 (c) The department shall send a notice under par. (a) to all of the following:

11 1. The clerk of any city, village, town, or county within which any part the  
12 proposed mining site lies.

13 2. The clerk of any city, village, or town, contiguous to any city, village, or town  
14 within which any portion of the proposed mining site is located.

15 3. Any regional planning commission for the area within which the affected  
16 area lies.

17 4. Any state agency that the department knows may be required to grant a  
18 permit or other authorization necessary for the proposed mining project.

19 5. Any interested person who has requested notification.

20 (d) The department shall hold a public informational hearing within 30 days  
21 after publishing the notice under par. (a). The department shall hold the public  
22 informational hearing in the county in which the majority of the proposed mining site  
23 is located.

24 **295.465 Preapplication notification.** (1) Except as provided in sub. (3), at  
25 least 12 months before filing an application for a mining permit under s. 295.47, a

1 person proposing to engage in a mining project shall notify the department in writing  
2 of the intention to file an application for a mining permit. After receiving the  
3 notification, the department shall hold at least one meeting with the person to make  
4 a preliminary assessment of the project's scope, to make an analysis of alternatives,  
5 to identify potential interested persons, and to ensure that the person making the  
6 proposal is aware of all of the following:

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

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

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

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

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

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

21 (c) Available information to evaluate the environmental impact of the project  
22 and to expedite the preparation of the environmental impact report and the  
23 environmental impact statement, including information concerning preliminary  
24 environmental reviews, field studies, and investigations; monitoring programs to  
25 establish baseline water quality; laboratory studies and investigations; advisory

1 services; and the timing and the processes associated with any necessary  
2 consultations with other state or federal agencies and within the department, such  
3 as those required for endangered resources and cultural resource consultations and  
4 approvals.

5 (3) A person who files an application under s. 295.47 for a mining proposal is  
6 not required to provide notice under sub. (1) if the person files the application no  
7 more than one year after the department denied the person's application for the same  
8 mining proposal.

9 **295.47 Application for mining permit.** (1) (a) No person may engage in  
10 mining or reclamation at any mining site unless the mining site is covered by a  
11 mining permit and by written authorization to mine under s. 295.59 (3). An  
12 applicant shall submit an application for a mining permit to the department in  
13 writing and in reproducible form and shall provide the number of copies that are  
14 requested by the department. An application and a mining permit are required for  
15 each separate mining site. The applicant shall distribute copies of the application  
16 to the clerk of any city, village, town, or county with zoning jurisdiction over the  
17 proposed site, to the clerk of any city, village, town, or county within whose  
18 boundaries any portion of the proposed mining site is located, to the elected  
19 governing body of any federally recognized American Indian tribe or band with a  
20 reservation the boundaries of which are within 20 miles of the proposed site, and to  
21 the main public library of each city, village, town, or county with zoning jurisdiction  
22 over the proposed site or within whose boundaries any portion of the proposed site  
23 is located.

24 (b) If a person proposes to conduct mining at a mining site that includes an  
25 abandoned mining site, the person shall include plans for reclamation of the

1 abandoned mining site, or the portion of the abandoned mining site that is included  
2 in the mining site, in its mining plan and reclamation plan.

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

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

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

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

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

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

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

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

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

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

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

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

8 2. The applicant shall specify the name and address of the person involved in  
9 and the date and location of each occurrence described in subd. 1.

10 (i) A description of any land contiguous to the proposed mining site that the  
11 applicant owns or leases or has an option to purchase or lease.

12 (j) Any other pertinent information that the applicant believes may be useful  
13 to the department.

14 **295.48 Mining plan. (1) GENERAL.** An applicant for a mining permit shall  
15 submit as part of the application a mining plan that includes a description of the  
16 proposed mining site and either a detailed map drawn to a scale approved by the  
17 department or aerial photographs, if the photographs show the details to the  
18 satisfaction of the department, prepared and certified by a competent engineer,  
19 surveyor, or other person approved by the department that show all of the following:

20 (a) The boundaries of the area of land that will be affected.

21 (b) The drainage area above and below the area that will be affected.

22 (c) The location and names of all streams, roads, railroads, pipelines, and  
23 utility lines on or within 1,000 feet of the mining site.

24 (d) The name or names of the owner or owners of the mining site.

1 (e) The name of the city, village, or town in which the mining site is located and  
2 the name of any other city, village, or town that is within 3 miles of the mining site.

3 (2) DESCRIPTIVE DATA. The applicant shall provide descriptive data to  
4 accompany the map or photographs under sub. (1), including all of the following:

5 (a) The federal natural resources conservation service land capabilities  
6 classifications of the affected area.

7 (b) The elevation of the water table.

8 (c) Details of the nature, extent, and final configuration of the proposed  
9 excavation and mining site, including the total estimated production of tailings,  
10 waste rock, and other refuse and the location of their disposal.

11 (d) The nature and depth of the overburden.

12 (3) OPERATING PROCEDURES. The applicant shall also include in the mining plan  
13 the details of the proposed operating procedures, including descriptions of all of the  
14 following:

15 (a) The sequence of mining operations.

16 (b) The handling of overburden materials.

17 (c) The production, handling, and final disposition of tailings.

18 (d) The milling, concentrating, refining, and other processing of ferrous  
19 minerals.

20 (e) The storage, loading, and transportation of the final product.

21 (f) Groundwater and surface water management techniques, including  
22 provisions for erosion protection and drainage control, and a water management  
23 plan showing water sources, flow paths and rates, storage volumes, and release  
24 points.

1 (g) Plans for collection, treatment, and discharge of any water resulting from  
2 the mining.

3 (h) Plans for protecting air quality under ch. 285.

4 (hm) A plan for monitoring environmental changes at the mining site.

5 (hr) An assessment of the risk of the occurrence of an accidental health or  
6 environmental hazard in connection with the operation of the mine. The assessment  
7 shall include, with specificity, a description of the assumptions that the applicant  
8 used in making the risk assessment and the contingency measures that the applicant  
9 proposes to take in the event of that an accidental health or environmental hazard  
10 occurs.

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

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

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

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

20 (4) REQUIRED DEMONSTRATIONS. The applicant shall demonstrate in the mining  
21 plan that the proposed mining will be consistent with the reclamation plan under s.  
22 295.49 and that all of the following will apply, at a minimum:

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

1 (b) Buildings and other structures will be painted and maintained in a manner  
2 that is visually compatible with the surrounding vegetational and earth conditions,  
3 except that if a building or other structure cannot be painted and maintained in a  
4 manner that is visually compatible or if painting and maintaining a building or other  
5 structure in a manner that is visually compatible would cause safety concerns, the  
6 building or structure will be made as visually inconspicuous as is practicable.

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

9 (d) The use of mine mill chemicals and processing reagent wastes will be  
10 governed by all of the following:

11 1. Reagents and mine mill chemicals will not be used in a manner that will  
12 result in substantial harm to public safety or health or to the environment.

13 2. Reagents and mine mill chemicals that consist of or contain water soluble  
14 salts or metals will be used in accordance with any applicable approval.

15 3. Reagents will not be used or stored at the mining site if they are not included  
16 in the mining waste site feasibility study and plan of operation or in the mining plan,  
17 except for reagents for laboratory, testing, research, or experimental purposes.

18 (e) Provisions will be made for back-up equipment in the event of the  
19 breakdown of critical operation equipment.

20 (f) The design and operation specifications for mining site facilities include  
21 features, which may include emergency power supplies, redundant equipment, or  
22 temporary holding facilities, to deal with emergency conditions.

23 (g) Mining site facilities are designed to minimize disturbance to surface areas,  
24 to the extent practicable.

1 (h) Where practicable, elevation differences in water-based transport systems  
2 will be used for gravity flows to minimize pumping facilities and pressures.

3 (i) The following apply:

4 1. Systems for transporting tailings in slurry through pipelines that are not  
5 buried are designed to provide for emergency tailings conveyance or storage in case  
6 a pipeline breaks, plugs, freezes, or needs repairs and will be accessible for  
7 inspection, emergency repair, and maintenance.

8 2. The location of emergency spill containment areas is consistent with the  
9 prevention of substantial environmental pollution of surface waters.

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

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

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

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

18 **295.49 Reclamation plan. (1)** An applicant for a mining permit shall submit  
19 as part of the application a reclamation plan, designed to minimize adverse effects  
20 to the environment to the extent practicable, that includes all of the following:

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

24 (am) Prereclamation and postreclamation drawings.

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

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

4 (d) A description of proposed interim and final topography and slope  
5 stabilization.

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

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

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

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

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

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

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

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

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

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

7 (e) Merchantable by-products will be stabilized.

8 (f) Diversion and drainage of water from the mining site, including the mining  
9 waste site and sites for the disposal of wastes that are not mining wastes, will be  
10 adequate to prevent erosion and contamination of surface water and groundwater  
11 to the extent practicable.

12 (g) Backfilling with tailings, waste rock, overburden, or borrow materials will  
13 be conducted where the backfilling will not interfere with the mining and will not  
14 cause an applicable groundwater quality standard to be exceeded.

15 (h) All underground and surface runoff waters from the mining site will be  
16 managed, impounded, or treated in compliance with any approval that regulates  
17 construction site erosion control or storm water management or discharge.

18 (i) All surface structures constructed as part of the mining activities will be  
19 removed unless an alternate use is approved in the reclamation plan.

20 (j) Adequate measures will be taken to prevent significant subsidence, but if  
21 subsidence does occur, the affected area will be reclaimed.

22 (k) All recoverable topsoil from surface areas disturbed by the mining will be  
23 removed and stored in an environmentally acceptable manner for use in reclamation  
24 or in the mitigation or minimization of adverse environmental impacts.

1 (L) All disturbed surface areas will be revegetated as soon as practicable after  
2 the disturbance to stabilize slopes and minimize air pollution and water pollution,  
3 with the objective of reestablishing a variety of plants and animals indigenous to the  
4 area immediately prior to mining to the extent practicable.

5 (m) Plant species not indigenous to the area will be used for revegetation only  
6 if necessary to provide rapid stabilization of slopes and prevention of erosion and only  
7 with the approval of the department, but the objective under par. (L) will be  
8 maintained.

9 (3) If it is physically or economically impracticable or environmentally or  
10 socially undesirable for the reclamation process to return the area affected by mining  
11 to its original state, the applicant shall provide, in the reclamation plan, the reasons  
12 it would be impracticable or undesirable and a discussion of alternative conditions  
13 and uses to which the affected area can be put.

14 **295.51 Mining waste site location criteria; feasibility study, and plan**  
15 **of operation. (1) DEFINITIONS. In this section:**

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

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

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

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

1           **(1e) HAZARDOUS MINING WASTE.** (a) Prior to the informational hearing under s.  
2 295.57 (5) the department shall designate any mining wastes identified by the  
3 department as hazardous under s. 291.05 (1).

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

9           **(1m) LOCATION CRITERIA.** (a) Except as provided in par. (b), no person may locate  
10 or operate a mining waste site, excluding the portion of a mining site from which  
11 ferrous minerals are extracted and that is backfilled with mining waste, within 1,000  
12 feet of any of the following:

13           1. The nearest edge of the right-of-way of any state trunk highway, as defined  
14 in s. 340.01 (60).

15           2. The boundary of any state or national park.

16           3. The boundary of a scenic easement purchased by the department or the  
17 department of transportation.

18           4. The boundary of a designated scenic or wild river.

19           5. A scenic overlook designated by the department by rule.

20           6. A hiking or biking trail designated by the department or the U.S. Congress.

21           (b) The prohibition in par. (a) does not apply if, regardless of season, the  
22 proposed mining waste site is visually inconspicuous due to screening or being  
23 visually absorbed due to natural objects, compatible natural plantings, earth berm,  
24 or other appropriate means; or if, regardless of season, the proposed mining waste  
25 site is screened so as to be as aesthetically pleasing and inconspicuous as is feasible.

1 (be) Except as provided in par. (bn), no person may locate or operate a mining  
2 waste site, excluding the portion of a mining site from which ferrous minerals are  
3 extracted and that is backfilled with mining waste, within 1,000 feet of a navigable  
4 water that is a lake, pond, or flowage.

5 (bg) Except as provided in par. (bn), no person may locate or operate a mining  
6 waste site, excluding the portion of a mining site from which ferrous minerals are  
7 extracted and that is backfilled with mining waste, within 300 feet of a navigable  
8 water that is a river or stream.

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

12 (bq) 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 a floodplain.

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

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

24 (d) No person may locate or operate a mining waste site, excluding the portion  
25 of a mining site from which ferrous minerals are extracted and that is backfilled with

1 mining waste, within an area that contains mineral resources that are known at the  
2 time the application for the mining permit is issued, are likely to be mined in the  
3 future, and lie within 1,000 feet of the surface.

4 (1s) BACKFILLED WASTE SITE. For surface mining, the portion of a mining site  
5 from which ferrous minerals are extracted and that is backfilled with mining waste  
6 and any buildings, structures, roads, or drainage controls associated with that  
7 portion of the mining site may be considered a single mining waste site.

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

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

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

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

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

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

15 (4) SITE SPECIFIC INFORMATION. In addition to performing the mining waste  
16 characterization and analysis under sub. (3), for the purposes of the mining waste  
17 site feasibility study and plan of operation, an applicant shall conduct field and  
18 laboratory investigations to determine physical, chemical, and biological  
19 characteristics of the proposed mining waste site. The applicant shall do all of the  
20 following:

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

23 (b) Perform at least one soil boring, to bedrock or refusal, every 80 acres,  
24 characterizing the major geomorphic features such as ridges and lowlands and

1 characterizing each major soil layer according to the unified soil classification  
2 system.

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

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

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

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

15 3. Classifying all soil samples according to the unified soil classification  
16 system.

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

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

23 (g) Determine horizontal and vertical groundwater flow patterns in and around  
24 the proposed mining waste site based on data obtained from groundwater

1 monitoring wells and piezometers constructed in conformity with ch. NR 141, Wis.  
2 Adm. Code.

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

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

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

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

20 a. Specific conductance.

21 b. Temperature.

22 c. Hydrogen ion concentration (pH).

23 d. Dissolved oxygen.

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

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

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

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

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

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

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

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

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

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

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

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

10 (h) A report on the water quality data collected under the baseline monitoring  
11 program under sub. (4) (h) to establish baseline water quality.

12 (i) A land use map, using the existing site conditions plan under par. (c) as a  
13 base, showing plant communities, wildlife habitat, places where rare and  
14 endangered species have been sighted, archaeological or historic sites, buildings,  
15 and areas of social importance.

16 (j) A table showing existing water quality of all potentially affected surface  
17 waters, indicating important aquatic habitat.

18 (k) Local climatological data for seasonal precipitation, evaporation, air  
19 temperature, and wind velocity and direction. The applicant may use an annual  
20 record on the proposed mining waste site or adequate data to correlate the proposed  
21 mining waste site conditions to an existing observation station as the basis for this  
22 data.

23 (L) A discussion of regional conditions, supplemented with maps or  
24 cross-sections where appropriate, addressing all of the following:

25 1. Topography.

1           2. Hydrology, including surface water drainage patterns and important  
2 hydrologic features such as navigable waters, springs, drainage divides, and  
3 wetlands.

4           3. Geology, including the nature and distribution of bedrock and  
5 unconsolidated deposits.

6           4. Hydrogeology, including depth of groundwater, flow directions, recharge and  
7 discharge areas, groundwater divides, aquifers, and the identification of the aquifers  
8 used by all public and private wells within at least 1,200 feet of the proposed mining  
9 waste site.

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

11          6. Climatology.

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

13          8. Zoning.

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

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

17          11. Identification of aquatic and terrestrial ecosystems such as stream orders  
18 and classifications.

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

22          (n) An analysis of the results of the mining waste characterizations under sub.  
23 (3), the site specific information under sub. (4) and this subsection, and the regional  
24 information under par. (L) in relation to the approach for locating the mining waste

1 site and developing appropriate design, construction, operation, monitoring, and  
2 long-term care requirements for each type of mining waste.

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

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

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

11 3. Preliminary earthwork balance calculations, showing amounts of materials  
12 expected to be moved on the mining waste site prior to the disposal of mining waste.

13 4. Proposed methods for leachate control.

14 5. Proposed methods of mining waste site development, phasing, access control,  
15 and other special design features.

16 6. Expected material balances showing the quantities of each type of mining  
17 waste identified in par. (a) showing the amounts generated, disposed of on site, and  
18 taken off site, including all of the following:

19 a. The projected conditions existing at the end of a typical year of production.

20 b. The projected conditions existing at the end of operations.

21 c. The projected conditions existing at the end of reclamation.

22 7. A discussion of the reasoning behind the design of the major features of the  
23 mining waste site, such as traffic routing, base grade and relationships to subsurface  
24 conditions, anticipated waste types and characteristics, phases of development,  
25 mining waste site monitoring, and similar design features.

1           8. A proposed monitoring program, based on potential variations in the quality  
2           and quantity of mining waste and methods of processing, transport and disposal, and  
3           on the variability of important environmental conditions, designed to monitor the  
4           proposed mining waste site for compliance with all environmental standards that  
5           are applicable under this subchapter.

6           9. The results of engineering and hydrologic modeling to assess mining waste  
7           site performance relative to compliance with applicable groundwater quality  
8           standards to a depth of not more than 1,000 feet into the Precambrian bedrock or to  
9           the final depth of the mining excavation, whichever is greater, and to compliance  
10          with applicable surface water quality standards, examining a period equal to the  
11          proposed period in which the mining waste site is proposed to operate plus 100 years  
12          after closure of the mining waste site. The applicant may also include information  
13          from other mining operations and operations for the extraction of nonferrous  
14          metallic minerals to substantiate that the proposed mining waste site design,  
15          including associated contingency plans and monitoring and response plans, will  
16          allow for the operation and closure of the mining waste site in a manner that will not  
17          substantially adversely affect groundwater and surface water quality in accordance  
18          with applicable standards.

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

21          (p) Preliminary water budgets for the periods before construction, during  
22          construction, and after closure of the mining waste site, each addressing  
23          climatological situations depicting dry, wet, and average precipitation and  
24          evaporation conditions, based on climatological records. In preparing the water  
25          budget, the applicant shall consider precipitation, slurry water input and return,

1 evaporation, surface runoff, evapotranspiration, the moisture holding capacity of  
2 soil and mining waste, and the velocities and volumes of groundwater flow. In the  
3 water budget, the applicant shall describe the estimated amount and quality of  
4 seepage and discharge to surface water and groundwater.

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

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

9 1. Geology of the mining waste site including type and homogeneity of the  
10 foundation.

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

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

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

16 5. Requirements of the mine safety and health administration of the federal  
17 department of labor.

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

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

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

24 1. Boring logs, soil tests, well construction data, and water level  
25 measurements.

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

3           3. References.

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

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

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

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

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

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

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

23           6. A site monitoring plan sheet showing the location of all devices for the  
24 monitoring of leachate quality, leachate production, and groundwater quality and  
25 levels in both the natural zone of saturation and that developed within the mining