

Chapter NR 130

NONFERROUS METALLIC MINERAL EXPLORATION AND BULK SAMPLING

Subchapter I — Nonferrous Metallic Mineral Exploration

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Note: See ss. 23.09, 23.11, chs. 107, 227, 280 and 293, Stats.

Note: Emerg. r. and recr. eff. 6-3-78, Chapter NR 130 as it existed on January 31, 1979 was repealed and a new chapter NR 130 created effective February 1, 1979. Chapter NR 130 as it existed on December 31, 2021, was repealed and a new chapter NR 130 was created effective January 1, 2022.

Subchapter I — Nonferrous Metallic Mineral Exploration

NR 130.101 Purpose. The purpose of this subchapter is to establish licensing and notice procedures and ensure compliance with minimum standards for nonferrous metallic mineral exploration in this state.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.102 Applicability. The provisions of this subchapter are applicable to all nonferrous metallic mineral exploration as defined in s. NR 130.103 (8). This subchapter does not apply to operators engaged in exploration on lands included in a mining and reclamation plan approved as part of a mining permit issued under s. 293.49, Stats., if the plan contains provisions relating to termination of the exploration activities.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.103 Definitions. In this chapter:

(1) “Abandonment” means filling or sealing a drillhole in accordance with the procedures specified in s. NR 130.111.

(2) “Concrete grout” means a mixture consisting of 94 pounds of cement, sand and water meeting the material specifications of s. NR 812.11 (15) (c).

(3) “Department” means the department of natural resources.

(4) “Driller” means a person who performs core, rotary, percussion, or other drilling involved in exploration for nonferrous metallic minerals.

(5) “Drilling mud” means a fluid mixture of water, drill cuttings and drilling additives approved by the department.

(6) “Drilling site” means the area disturbed by exploration including the drillhole, drill pad, sumps, staging areas, and access roads.

(7) “Explorer” means any person who engages in exploration or who contracts for the services of drillers for the purpose of exploration.

(8) “Exploration” means the on-site geologic examination from the surface of an area by core, rotary, percussion, or other drilling, where the diameter of the hole does not exceed 18 inches, for the purpose of searching for nonferrous metallic minerals or establishing the nature of a known nonferrous metallic

mineral deposit and includes associated activities such as clearing and preparing drilling sites and constructing access roads. For the purposes of the definition of exploration, geologic examination does not include drillholes constructed for the purpose of collecting soil samples, conducting geophysical surveys or groundwater investigations, or determining radioactivity by means of placement of radiation-sensitive devices.

(9) “Exploration license” means the license required under s. 293.21 (2), Stats., as a condition of engaging in exploration.

(10) “Flowing drillhole” means a drillhole that has a static water level above the ground surface.

(11) “License year” means the period commencing on July 1 of any year and ending on the following June 30.

(11m) “Metallic sulfide-bearing rock” means native rock formations that contain an average metallic sulfide content of 3 percent or greater, by volume, for the purposes of management and disposal of drilling mud and cuttings under this subchapter.

(12) “Neat cement grout” means a mixture of cement and water meeting the material specifications of s. NR 812.11 (15) (b). Powdered bentonite may be added up to a ratio of 5 pounds per 94-pound bag of cement.

(12m) “Nonferrous metallic mineral” has the meaning given in s. 293.01 (12m), Stats.

(13) “Parcel” means an identified section, fractional section, or government lot.

(14) “Permanent abandonment” means filling an exploration drillhole with concrete, neat cement grout or other approved materials as provided in s. NR 130.111 (1) (b).

(15) “Temporary abandonment” means sealing the upper end of the exploration drillhole casing with a watertight and locking threaded or welded cap.

(16) “Termination” means filling of drillholes and reclamation and revegetation of drilling sites.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22; correction in (3), (14) made under s. 35.17, Stats., and correction in (2), (11m), (12) made under s. 13.92 (4) (b) 7., Stats., Register December 2021 No. 792.

NR 130.105 Application for an exploration license.

(1) No explorer may engage in exploration without securing an exploration license.

(2) Any explorer intending to engage in exploration shall file an application for an exploration license with the department upon forms prepared and furnished by the department. The application shall be accompanied by all of the following:

(a) A fee of \$600.00.

(b) An original, signed surety bond payable to the department in the amount of \$5,000 conditioned on faithful performance of the provisions of this subchapter. The bond under this paragraph is subject to all of the following conditions:

1. The bond shall be issued by a surety company licensed to do business in Wisconsin. If the surety company's license to do business is revoked or suspended, the explorer, within 30 days after receiving written notice thereof from the department, shall substitute surety underwritten by a surety company licensed to do business in Wisconsin. Upon failure of the explorer to make a substitution of surety, the department shall suspend the explorer's exploration license until substitution has been made.

2. Each bond shall provide that the bond shall not be canceled by the surety, except after not less than 90 days' notice to the department in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the explorer shall deliver to the department a replacement bond in the absence of which all exploration shall cease.

3. The department may require that the amount of the bond be increased at any time, if the department determines that the explorer's current level of activity makes it likely that the bond would be inadequate to fund the termination of all holes drilled for which the explorer is responsible.

4. One year after all drilling sites constructed by the explorer have been issued a certificate of completion under s. NR 130.111 (4), and upon request by the explorer, the department shall release the bond and terminate the exploration license if the department determines that the explorer has complied with all provisions of this subchapter.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.106 Exploration license renewals. (1) An explorer that intends to continue exploration or that is required to maintain a bond in accordance with s. NR 130.105 (2) (b) shall file an annual renewal application with the department upon forms prepared and furnished by the department. The renewal application shall be accompanied by all of the following:

(a) A fee of \$300.00.

(b) A bond in accordance with s. NR 130.105 (2) (b) or proof that a valid surety bond in an amount adequate to cover the explorer's current level of exploration activity has been submitted and remains in force.

(c) A summary of all exploration drilling sites constructed by the licensee which continue under coverage of the bond posted in accordance with s. NR 130.105 (2) (b), including all of the following:

1. Abandonment status of all drillholes constructed under the license.

2. Estimated costs for drillhole abandonment and site reclamation for each drilling site.

3. Anticipated schedule for termination of each drilling site.

(d) Identification of notices previously submitted under s. NR 130.109 which the licensee considers active for the upcoming license year and discussion of any proposed changes to approved plans associated with each notice and approval issued under s. NR 130.109 (4).

(2) A renewal license shall be effective for a period commencing on the date of issuance and terminating on the following June 30. The department shall review and issue licenses under the time limitations under s. NR 130.107.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22; correction in (2) made under s. 13.92 (4) (b) 12., Stats., Register December 2021 No. 792.

NR 130.107 Exploration license issuance. (1) Upon

satisfactory completion of all conditions contained in this subchapter, the department shall issue an exploration license to the explorer. Licenses shall be issued within 10 business days after the department receives a complete application unless the application is for an upcoming license year. If the application is for an upcoming license year, the license shall be issued either within 10 business days after the department receives a complete application or on the following July 1, whichever is later.

(2) An explorer shall conduct exploration in compliance with all requirements of this subchapter.

(3) An explorer shall conduct exploration in compliance with minimum standards for exploration activities and reclamation of drilling sites contained in s. 293.13 (2) (b) and (c), Stats., when applicable.

(4) An explorer shall conduct exploration in compliance with any other conditions contained in the exploration license or subsequent plan approvals under s. NR 130.109 that the department deems necessary to safeguard the natural resources of this state during and after exploration.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.108 Exploration license denials. (1) The department shall deny an exploration license if the department finds any of the following:

(a) The exploration activity will not comply or has not been conducted in compliance with the minimum standards in s. 293.13 (2) (b) and (c), Stats., when applicable.

(b) The explorer is in violation of ch. 293, Stats., or any provision of this chapter.

(2) Within 10 business days from the date of application, the department shall furnish the explorer in writing the reasons for the denial.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.109 Notice procedure and exploration plans. (1) The explorer shall notify the department of the explorer's intent to drill on a parcel by registered mail at least 30 days in advance of the anticipated commencement of drilling. Notice shall be considered as given upon the date of receipt by the department of the notice. The notice of intent to drill shall include all of the following:

(a) A legal description of the parcels where the exploration will take place including identification of land ownership and maps showing the approximate drilling site locations and anticipated site access routes.

(b) A description of the means and methods that will be used for the exploration including drilling methods, anticipated drill-hole locations, diameter, and depth, source of drilling water, and anticipated use of drilling additives, if any.

(c) A description of drilling site access and site preparation needed to accommodate the drilling activity including site grading and stabilization methods.

(d) A description of how any diversion, retention, or drainage of water, including stormwater, drilling water, and water from flowing drillholes, on or around the drilling site will be conducted.

(e) A description of how drilling mud, drill cuttings, any pollutant-bearing minerals or materials, including fuel, lubricants, and drilling additives, will be handled during exploration and a description of spill prevention, containment and remediation procedures.

(f) A description of drillhole abandonment methodology. The explorer shall conduct the drillhole abandonment procedures in compliance with s. NR 130.111.

(g) A description of measures that will be taken to remove, stockpile, or otherwise protect topsoil during exploration.

(h) A description of methods and materials used to establish temporary vegetative cover, if necessary, to stabilize any part of the drilling sites and measures to control invasive species as a result of the temporary measures.

(i) Identification and prevention of pollution, as defined in s. 281.01 (10), Stats., resulting from leaching of waste materials and identification and prevention of significant environmental.

(j) A reclamation plan designed to minimize adverse effects to the environment during and after exploration that includes all of the following:

1. A description of how all liquid and solid waste generated during the exploration activity will be disposed of or otherwise managed in an environmentally sound manner.

2. A description of how topsoil, if removed and stockpiled, will be redistributed during reclamation of the drilling site.

3. A description of final drilling site reclamation and revegetation methods and materials that will be used to stabilize disturbed soils and prevent air and water pollution.

4. A description of any nearby wetlands that could be affected by the exploration activity and the measures that will be taken to minimize disturbance to wetlands, including the use of best management practices for construction in or adjacent to wetlands, and relocating or modifying the configuration of drilling sites or restricting exploration activity to the winter months.

5. A total cost estimate for drilling site termination including unit costs for drillhole permanent abandonment and drilling site reclamation.

(2) Within 5 business days after receipt of a notice under sub. (1), the department shall publish a public notice on the department's internet site describing the proposed drilling activity and the availability of the notice that was provided under sub. (1). The department shall also send the public notice to all of the following:

- (a) The clerk of any city, village, town, or county within whose boundaries any portion of the proposed exploration activity is located.

- (b) The clerk of any city, village, or town, contiguous to any city, village, or town within whose boundaries any portion of the proposed exploration activity located.

- (c) The Historic Preservation Officer of any federally recognized Indian tribes in the state.

(3) Within 15 business days after receipt of a notice under sub. (1), the department shall inform the explorer if additional information is required and shall identify all other approvals, licenses, or permits, issued by the department, including those under chs. 23, 30, 281, 283, and 289, Stats., that are required before exploration may commence.

(4) The department shall approve, conditionally approve, or deny the notice, in writing, within 30 business days of receiving the notice under sub. (1) or within 15 business days after receiving all supplemental information identified in sub. (3). The approval, if granted, may include site-specific conditions placed on the exploration to ensure compliance with the minimum standards under s. 293.13 (2) (b) and (c), Stats., and this subchapter.

(5) A notice of intent to drill shall remain in effect for one year, commencing on the date the department approves the notice. At the time of exploration license renewal under s. NR 130.106, if the explorer plans to continue exploration on the designated parcels and wishes to extend the notice of intent to drill, the explorer shall notify the department that the explorer wishes to continue exploration on those parcels and shall note if any

changes are being proposed. Any changes to the notice of intent to drill shall be approved or denied by the department in writing.

(6) The explorer shall notify the department prior to the commencement of drilling any exploration drillhole and shall specify the parcel on which the drillhole will be located and the specific anticipated date on which drilling will begin. This notice may be oral or written and shall be provided at least 48 hours before commencing drilling on any exploration drillhole.

(7) The explorer shall give the department at least 24 hours' notice, orally or in writing, of the explorer's intent to permanently abandon a drillhole. The 24-hour requirement may be reduced by the department, if appropriate due to case-specific circumstances.

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NR 130.110 Management of drilling mud and cuttings. (1) **MUD PITS.** Explorers who choose to construct excavated pits for the storage and disposal of drilling mud and cuttings from drillholes shall construct the pits in accordance with all of the following:

- (a) The base of the pit shall not be at or below the groundwater table at the time of the drilling activity and shall be constructed such that the base will remain above the normal local groundwater elevation. The pit shall be constructed of sufficient volume to contain all anticipated fluid, drilling mud, cuttings, drilling additives and other materials expected to be placed in the pit and shall not be located in areas that receive excessive amounts of runoff or are susceptible to erosion.

- (b) If the drillhole is expected to encounter metallic-sulfide bearing rock, the walls and base of the pit shall be lined with a minimum of one inch of bentonite or bentonite grout, a 20-mil or greater polyvinyl chloride or polyethylene geomembrane, or an equivalent liner material approved by the department in writing.

(2) **DISPOSAL OF DRILLING MUD AND CUTTINGS.** (a) Drilling mud and cuttings from drillholes that penetrate 50 feet or more of metallic sulfide-bearing rock shall be disposed of in accordance with one of the following:

1. Disposed at a lined, engineered solid waste facility licensed under ch. 289, Stats. Prior to disposal of the drilling mud and cuttings, any free water from the mud pit or other containment feature shall be removed and reused or properly disposed of in accordance with state and federal law. The mud and cuttings shall be mixed with either concrete, cement or lime in sufficient quantities to neutralize any acidity generated by the oxidation of the metallic sulfide minerals either at the drilling site or at the solid waste facility prior to disposal. If the cuttings were contained in a mud pit lined with plastic liner material, the liner shall be removed and disposed of at a lined, engineered solid waste facility licensed under ch. 289, Stats., and the pit shall be backfilled with native soils.

2. Disposed on site within the mud pit. Prior to in-place disposal of the drilling mud and cuttings, any free water from the mud pit shall be removed and reused or properly disposed of in accordance with state and federal law. The drilling mud and cuttings shall be mixed with a sufficient amount of cement to solidify the mud and cuttings and the pit shall be backfilled with native soils. If the mud pit is lined with plastic liner material, the liner shall either be removed prior to addition of cement to the drilling mud and cuttings, or the sides of the liner shall be folded over the top of the drilling mud and cuttings prior to backfilling the pit.

- (b) Drilling mud and cuttings from drillholes that penetrate 50 feet or less of metallic sulfide-bearing rock may be disposed on

site within the mud pit. Prior to in-place disposal of the drilling mud and cuttings, any free water from the mud pit shall be removed and reused or properly disposed of in accordance with state and federal law. The drilling mud and cuttings shall be mixed with bentonite, cement, or other clean fill and the pit shall be backfilled with native soils. If the mud pit is lined with plastic liner material, the liner shall either be removed prior to addition of cement, bentonite or other material to the drilling mud and cuttings, or the sides of the liner shall be folded over the top of the drilling mud and cuttings prior to backfilling the pit.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22; correction in (2) (a) 1. made under s. 35.17, Stats., Register December 2021 No. 792.

NR 130.111 Exploration drillhole abandonment, fee and reporting. (1) Upon completion of drilling, the explorer shall abandon each of its nonferrous metallic mineral exploration drillholes in accordance with whichever of the following applies:

(a) If the explorer intends to retain a drillhole for further exploration, monitoring or testing, the casing shall be left in place, and the upper end of the casing shall be sealed with a watertight and locking threaded or welded cap. Drillholes may remain temporarily abandoned for no longer than 5 years unless one of the following applies:

1. The drillhole is part of a proposed mining project for which a notification has been filed under s. 293.31, Stats.

2. The department grants an extension, for no more than one additional 5-year period, based on a request by the explorer that documents the need to retain the drillhole for purposes of additional exploration activities or other evaluation purposes within the period of the extension.

(b) 1. All drillholes 4 inches in diameter and smaller shall be filled from the bottom of the hole upward to the ground surface with concrete or neat cement grout.

2. Drillholes larger than 4 inches in diameter shall be filled in a manner as required in subd. 1. The department may approve alternate methods of permanently abandoning drillholes larger than 4 inches in diameter provided the methods are consistent with the procedures and materials specified in s. NR 812.26 (6) (b) and (e).

3. When permanently abandoning an exploration drillhole all of the following restrictions apply:

a. Filling material required under subd. 2. shall be applied through a conductor pipe, except that when practical a dump bailer may be used. When concrete is placed under water by a conductor pipe, the bottom end of the conductor pipe shall be submerged in the concrete at all times.

b. When removing all or part of the casing from an unconsolidated formation that will not stand open, such as sand or gravel, during permanent abandonment of a drillhole, the casing must be removed concurrently with the filling of the drillhole, and the bottom end of the casing shall be kept below the surface of the fill material throughout the filling process.

4. If a drillhole penetrates an aquifer under artesian pressure such that groundwater flows at the ground surface, approval of the method of containment of such flow and the method of eventual abandonment of the drillhole must be obtained from the department prior to abandonment.

(2) Within 30 days after completion of temporary or permanent abandonment of a drillhole the explorer shall submit an exploration abandonment report for each drillhole to the department on forms specified by the department. The abandonment report shall describe the abandonment procedures and shall provide precise locational information for the drillhole and associ-

ated drilling mud pit. All abandonment reports shall be signed by an authorized representative of the explorer attesting to the accuracy of the information provided in the report.

(3) The fee for drilling the first 20 or fewer drillholes in any license year shall be \$200.00 per drillhole and the fee for drilling each subsequent drillhole in that same license year shall be \$100.00 per drillhole. All fees shall be paid to the department upon submission of the temporary abandonment report, if temporary abandonment under sub. (1) (a) occurs, or the permanent abandonment report, if temporary abandonment does not occur. For the purpose of determining the appropriate fee, drillholes will be assigned to the license year in which drilling on that particular hole ceases and the drillhole is initially abandoned.

(4) All abandonment reports and drilling fees shall be submitted to the department's Metallic Mining Coordinator unless the department specifies another recipient.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22; correction in (1) (b) 2. made under s. 13.92 (4) (b) 7., Register December 2021 No. 792.

NR 130.112 Exploration drilling site completion of termination. (1) Following permanent abandonment of the drillhole under s. NR 130.111 (1) (b) and revegetation and regrading of the drilling site, the explorer shall notify the department of completion of termination of each drilling site. As part of the notification, the explorer shall describe the method of drill cuttings disposal and reclamation of the drilling mud pit. This notification shall be made in writing and sent to the department's metallic mining coordinator unless the department specifies another recipient.

(2) The department shall notify the explorer in writing of the satisfactory or unsatisfactory completion of termination. If termination is unsatisfactory, the department shall inform the explorer of all necessary corrective measures. Following implementation of corrective measures, the explorer shall file written notice with the department's metallic mining coordinator, unless the department specifies another recipient, specifying what measures were taken and stating that termination is complete. Failure of the explorer to comply with the department's corrective measures may result in license revocation or suspension in accordance with s. NR 130.114 or other enforcement actions as provided in s. 293.87 (4), Stats. Upon satisfactory completion of termination of a drilling site, the department shall issue a certificate of completion. The department may not issue a certificate of completion for any drilling site that includes a temporarily abandoned drillhole.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.113 Inspections. (1) Any authorized officer, employee, or representative of the department may enter and inspect any property, premises, or place on or at which any exploration is proposed, is being conducted or has been completed at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and ch. 293, Stats.

(2) No explorer may refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials.

(3) No person may obstruct, hamper, or interfere with any inspection under sub. (1).

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.114 License revocation or suspension. (1) If the department has reason to believe that a licensee has violated any statute or rule pertaining to the exploration activity authorized under an exploration license or has violated a term or condition of the license issued under this subchapter or has failed to increase bond amounts to adequate levels as specified by the

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department, the department may, after holding a hearing, suspend or revoke the exploration license.

(2) Prior to revocation or suspension of a license, the department shall do all of the following:

(a) Give written notice, by mail, to the licensee of the facts or conduct which warrant the intended action and provide the licensee with an opportunity to show compliance with all requirements for retention of the license.

(b) Conduct a hearing within 30 days of the written notice provided under par. (a), unless, prior to the hearing date the licensee provides sufficient evidence of compliance with all requirements for retention of the license.

(c) Following the hearing, if the department determines a licensee has violated any statute or rule pertaining to the exploration activity authorized under an exploration license or has violated a term or condition of the license issued under this subchapter or has failed to increase bond amounts, the department may suspend or revoke the license.

(3) A decision by the department to suspend or revoke a license is subject to judicial review under ss. 227.52 and 227.53, Stats.

(4) In addition to the actions under subs. (1) and (2), the department may take additional enforcement actions as specified under s. 293.87, Stats., if the explorer does not conduct exploration in compliance with this chapter and ch. 293, Stats.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

Subchapter II — Nonferrous Metallic Mineral Bulk Sampling

NR 130.201 Purpose. The purpose of this subchapter is to establish licensing and bulk sampling plan submittal and approval procedures and implement minimum standards applicable to nonferrous metallic mineral bulk sampling.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.202 Applicability. This subchapter is applicable to all activities that constitute bulk sampling, as defined in s. NR 130.203 (1), related to nonferrous metallic mineral deposits. This subchapter does not apply to activities that involve removal of more than 10,000 tons of material from any potential mining site, as such activity shall be subject to regulation under ch. NR 131.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22; correction made under s. 35.17, Stats., Register December 2021 No. 792.

NR 130.203 Definitions. In this subchapter:

(1) “Bulk sampling” means excavating in a potential mining site by removing less than 10,000 tons of material, including overburden and any other material removed from any portion of the excavation site, for the purposes of obtaining site-specific data to assess the quality and quantity of the nonferrous metallic mineral deposits and of collecting data from and analyzing the excavated materials in order to prepare the application for a mining permit or for any other approval. Removal of rock samples from the ground surface or outcrops using manual methods, and removal of material during nonferrous mineral exploration, soil testing, stream sediment sampling, groundwater monitoring well installation or construction of geophysical boreholes do not constitute bulk sampling. Bulk sampling does not constitute prospecting within the meaning of s. 293.01 (18), Stats.

(2) “Bulk sampling site” means all areas to be disturbed as part of bulk sampling as described in the bulk sampling plan, including excavation sites, access roads, and areas used for material stockpiling and general staging activities.

(3) “Department” means the department of natural resources.

(4) “Excavation site” means discrete non-contiguous areas on a potential mining site where excavation and removal of material, including soil, overburden and bedrock, takes place as part of a bulk sampling plan.

(5) “Licensee” means a person that has been issued a bulk sampling license authorizing that person to conduct bulk sampling in accordance with this subchapter.

(6) “Overburden” means any unconsolidated geologic material, such as till, sand and gravel and weathered bedrock that may be removed during bulk sampling.

(7) “Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(7m) “Potential mining site” means a discrete area that, based on results of exploration or other geologic evaluation, may contain valuable nonferrous metallic mineral resources and includes all areas reasonably needed for future development of the mineral resource. A single potential mining site may include multiple bulk sampling sites.

(8) “Removed,” “removal,” or “removing” means excavating or moving any soil, overburden, or bedrock from an excavation site as part of a bulk sampling activity and includes material transported off the bulk sampling site and material that is relocated within the bulk sampling site.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22; correction in numbering of (7m) made under s. 13.92 (4) (b) 7., Stats., Register December 2021 No. 792.

NR 130.204 Bulk sampling license application. (1)

No person may engage in bulk sampling without obtaining a bulk sampling license from the department.

(2) Any person intending to engage in bulk sampling shall file an application for a bulk sampling license with the department. A bulk sampling license application shall include all of the following:

(a) A bulk sampling plan that includes all of the following:

1. A description of the potential mining site to be evaluated through the proposed bulk sampling activities, including a map showing the extent of the potential mining site, extent of the bulk sampling site, the location and extent of each excavation site proposed in the bulk sampling plan and the means of access to the sites.

2. A description of the bulk sampling site, including the number of acres of land consisting of excavation sites, the total number of acres of land that will be disturbed as part of the bulk sampling activity, a detailed map of each excavation site and a description of the bulk sampling activity including the types of sampling or studies to be conducted as part of the bulk sampling.

3. A description of the methods to be used for the bulk sampling, demonstrating that the bulk sampling will comply with the minimum standards specified in s. 293.13 (2) (b) and (c), Stats.

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

5. A revegetation plan for all areas which will be disturbed during the bulk sampling that describes how the bulk sampling site will be revegetated and stabilized, how potential introduction and control of invasive species will be addressed, and how adverse impacts to the environment, including impacts to plant and wildlife habitat, will be avoided or minimized to the extent practicable.

6. An itemized cost estimate of the costs to stabilize and revegetate the area disturbed during the bulk sampling activity.

7. The estimated time for completing the bulk sampling and final stabilization and revegetation of the bulk sampling locations.

8. A description of any known adverse environmental impacts that are likely to be caused by the bulk sampling and how those impacts will be avoided or minimized to the extent practicable and an analysis showing that the proposed bulk sampling activity is proposed to be conducted at locations and using methods that result in the least overall adverse environmental impacts.

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

(b) A bond in the amount of \$5,000 or the amount equal to the bulk sampling site stabilization and revegetation costs estimated under par. (a) 6., whichever is greater. The bond shall be issued by a surety company licensed to do business in this state and shall be conditioned on faithful performance of the requirements of this subchapter. The bond shall provide that the bond may not be canceled by the surety except after not less than 90 days' notice to the department in writing by registered or certified mail. The bond under this paragraph is subject to all of the following conditions:

1. If the surety for a bond submitted under this paragraph issues a cancellation notice, the person who filed the bulk sampling plan shall deliver a replacement bond at least 30 days before the expiration of the 90-day notice period. If the person fails to submit a replacement bond, the person may not engage in bulk sampling until the person submits a replacement bond. The original bond shall remain in effect until a satisfactory replacement bond is submitted to the department.

2. If the license of the surety company for a bond submitted under this paragraph is revoked or suspended, the person who filed the bulk sampling plan, within 30 days after receiving written notice from the department, shall deliver a replacement bond. If the person fails to submit a replacement bond, the person may not engage in bulk sampling until the person submits a satisfactory replacement bond. Revocation or suspension of a surety's license does not relieve the bulk sampling licensee from any financial obligation to stabilize and revegetate the bulk sampling site in accordance with the approved bulk sampling plan.

3. The department may require that the amount of the bond submitted under this paragraph be increased at any time if the department determines that it is unlikely that the bond would be adequate to fund the cost to this state of completing the revegetation plan.

(3) Within 5 business days after receipt of a bulk sampling license application under sub. (2) the department shall publish a public notice on the department's internet site describing the proposed bulk sampling activity and the availability of the bulk sampling license application. The department shall also send the public notice to the following:

(a) The clerk of any city, village, town, or county within whose boundaries any portion of the proposed bulk sampling activity is located.

(b) The clerk of any city, village, or town, contiguous to any city, village, or town within whose boundaries any portion of the proposed bulk sampling site is located.

(c) The historic preservation officer of any federally recognized Indian tribes in the state.

(4) Within 21 days of receipt of a bulk sampling plan and license application, the department shall notify the applicant, in writing, whether the license application and bulk sampling plan are complete and, if they are not complete, the department shall identify any additional information that must be submitted.

(5) (a) Within 14 days of receipt of a complete bulk sampling license application and bulk sampling plan under sub. (2), the department shall identify for the applicant, in writing, all approvals, in addition to the bulk sampling license, that are required before the bulk sampling may be implemented, including all of the following:

1. Any waivers, exemptions, or exceptions to those approvals that are potentially available.

2. Any supplemental information that the department needs to issue the bulk sampling license and other approvals or to issue a decision on any waiver, exemption, or exception.

(b) If the bulk sampling license is the only department approval required, within 14 days of receipt of a complete bulk sampling license application and bulk sampling plan under sub. (2), the department shall notify the applicant that no other approvals are required and issue a bulk sampling license to the applicant in accordance with s. NR 130.205, or deny the license, stating the reasons for denial.

(c) All approvals identified in par. (a) shall be processed in accordance with s. 293.26 (8) and (12) to (16), Stats.

(d) If it is necessary for an applicant to revise the bulk sampling plan as a result of requirements imposed under any of the approvals identified under par. (a), the revised plan shall be reviewed as provided in sub. (4) and this subsection.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22; correction in (3) (intro.) made under s. 35.17, Stats., and correction in (5) (d) made under s. 13.92 (4) (b) 7., Stats., Register December 2021 No. 792.

NR 130.205 Bulk sampling license issuance and modification. (1) The department shall issue a bulk sampling license if it finds the bulk sampling plan reasonably ensures all of the following:

(a) The proposed bulk sampling will be conducted in compliance with the minimum standards specified in s. 293.13 (2) (b), Stats., and this subchapter.

(b) The licensee has submitted a bond in compliance with s. NR 130.204 (2) (b).

(2) The department may, if needed, include conditions in the bulk sampling license to ensure compliance with applicable standards under sub. (1) (a) and (b).

(3) A license issued under this section applies solely to activities described in a specific bulk sampling plan submitted under s. NR 130.204 (2) (a) and relating to a specific potential mining site.

(4) The department may not issue the bulk sampling license until all approvals required by the department to engage in bulk sampling and identified under s. NR 130.204 (5) (a) have been issued.

(5) If the licensee intends to modify the bulk sampling activity to include new or increased areas of disturbance on the same potential mining site, the licensee shall submit a new bulk sampling plan or a revised bulk sampling plan to the department. The department shall process any revised bulk sampling plan in the same manner as an original bulk sampling plan and license application under s. NR 130.204. The department may approve minor changes to the approved bulk sampling activity that do not result in increased area of surface disturbance or disturbance of areas

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not described in the bulk sampling plan and do not result in significant additional environmental impacts, without requiring submittal of a new or revised bulk sampling plans.

(6) A bulk sampling license or a modification to an approved bulk sampling plan and license is issued by the department upon mailing and is final and effective upon issuance.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.206 Bulk sampling site reclamation and bond release. One year after the licensee completes the bulk sampling and site stabilization and revegetation set forth in the bulk sampling plan, the department shall release the bond submitted by the licensee under s. NR 130.204 (2) (b) and terminate the bulk sampling license if the department determines that the licensee has complied with this subchapter and other approvals related to the bulk sampling.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.207 Bulk sampling site inspections. (1) Subject to applicable state and federal safety rules and regulations, any authorized officer, employee, or representative of the department may enter and inspect any property, premises, or place on or at which any bulk sampling is proposed, is being conducted or has been completed at any reasonable time for the purpose of ascertaining the state of compliance with this subchapter and ch. 293, Stats.

(2) No person may refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials.

(3) No person may obstruct, hamper, or interfere with any inspection under this section.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22.

NR 130.208 Bulk sampling license revocation or suspension. (1) If the department has reason to believe that a

licensee has violated any statute or rule pertaining to the bulk sampling activity authorized under a bulk sampling license or has violated a term or condition of the license issued under this subchapter or has failed to increase bond amounts to adequate levels as specified by the department, the department may, after holding a hearing, suspend or revoke the bulk sampling license.

(2) Prior to revocation or suspension of a license, the department shall do all of the following:

(a) Give written notice, by mail, to the licensee of the facts or conduct which warrant the intended action and provide the licensee with an opportunity to show compliance with all requirements for retention of the license.

(b) Conduct a hearing within 30 days of the written notice provided under par. (a), unless, prior to the hearing date the licensee provides sufficient evidence of compliance with all requirements for retention of the license.

(2m) Following the hearing, if the department determines a licensee has violated any statute or rule pertaining to the bulk sampling activity authorized under a bulk sampling license or has violated a term or condition of the license issued under this subchapter or has failed to increase bond amounts, the department may suspend or revoke the license.

(3) A decision by the department to suspend or revoke a license is subject to judicial review under ss. 227.52 and 227.53, Stats.

(4) In addition to the actions under subs. (1) to (2m), the department may take additional enforcement actions as specified under s. 293.87, Stats., if the person conducting bulk sampling does not conduct bulk sampling in compliance with this chapter and ch. 293, Stats.

History: CR 20-043: cr. Register December 2021 No. 792, eff. 1-1-22; change in numbering of (2m) made under s. 13.92 (4) (b) 1., Stats., and correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register December 2021 No. 792.