

Chapter NR 132

METALLIC MINERAL MINING

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(Sections 23.09, 23.11, 144.80 to 144.94, and chapters 107, 162, and 227, Stats.)

Note: Emerg. cr. eff. 6-3-78.

NR 132.01 Purpose. The purpose of this chapter is to establish a procedure and minimum standards for the regulation of metallic mineral mining in this state.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.02 Applicability. The provisions of this chapter are applicable to all metallic mineral mining as defined by s. 144.81 (5), Stats.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.03 Definitions. (1) "Abandonment of mining" means the cessation of mining, not set forth in an operator's mining or reclamation plans or by any other sufficient written or constructive notice, extending for more than 6 months. Abandonment of mining does not include the cessation of mining due either to labor strikes or the cessation of mining due to such unforeseen developments as adverse market conditions for a period not to exceed 5 years as determined by the department after consulting with the metallic mining council.

(2) "Applicant" means a person who has applied for a mining permit.

(3) "Department" means department of natural resources.

(4) "Forfeited any bond" means the forfeiture of any performance security occasioned by noncompliance with any mining laws or provisions of this chapter.

(5) "Merchantable by-product" means all waste soil, rock, mineral, liquid, vegetation and other material directly resulting from or displaced by the mining, cleaning or preparation of minerals during mining operations which are determined by the department to be marketable upon a showing of marketability made by the operator, accompanied by a verified statement by the operator of his or her intent to sell such material within 3 years from the time it results from or is displaced by mining. If after 3 years from the time merchantable by-product results from or is displaced by mining such material has not been transported off the mining site, it shall be considered and regulated as refuse unless removal is continuing at a rate of more than 12,000 cubic yards per year.

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(6) "Metallic mineral" means a naturally occurring, inorganic, metal-containing substance which is mined or proposed to be mined for the purpose of extracting a metal or metals which form all or a part of the chemical composition of the mineral. Such metals include but are not limited to iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, and uranium.

(7) "Mining or mining operation" means all or part of the process in the mining of metallic minerals other than for exploration or prospecting, including commercial extraction, agglomeration, beneficiation, construction of roads, removal of overburden and the production of refuse.

(8) "Mining plan" means the proposal for the mining of the mining site which shall be approved by the department under s. 144.85, Stats., prior to the issuance of the mining permit.

(9) "Mining permit" means the permit which is required of all operators as a condition precedent to commencing mining at a mining site.

(10) "Mining site" means the surface area distributed by a mining operation, including the surface area from which the minerals or refuse or both have been removed, the surface area covered by refuse, all lands disturbed by the construction or improvement of haulageways, and any surface areas in which structures, equipment, materials and any other things used in the mining operation are situated.

(11) "Operator" means any person who is engaged in, or who has applied for or holds a permit to engage in mining, whether individually, jointly or through subsidiaries, agents, employees or contractors.

(12) "Person" means any individual, corporation, cooperative-owner, lessee, syndicate, partnership, firm, association, trust, estate, public or private institution, political subdivision of the state of Wisconsin, any state agency, or any legal successor, representative agent or agency of the foregoing.

(13) "Principal shareholder" means any person who owns at least 10% of the beneficial ownership of an operator.

(14) "Reclamation" means the process by which an area physically or environmentally affected by mining is rehabilitated to either its original state or, if this is shown to be physically or economically impracticable or environmentally or socially undesirable, to a state that provides long-term environmental stability. Reclamation shall provide the greatest feasible protection to the environment and shall include, but is not limited to the criteria for reclamation set forth in s. 144.83 (2) (c), Stats.

(15) "Reclamation plan" means the proposal for the reclamation of the mining site which must be approved by the department under s. 144.85, Stats., prior to the issuance of the mining permit.

(16) "Refuse" means all waste soil, rock, mineral, liquid, vegetation and other material, except merchantable by-products, directly resulting from or displaced by the mining, and from the cleaning or preparation of minerals during mining operations, and shall include all waste materials deposited on or in the mining site from other sources.

(17) "Unsuitability" means that the land proposed for surface mining is not suitable for such activity because the surface mining activity itself may reasonably be expected to destroy or irreparably damage either of the following:

(a) Habitat required for survival of species of vegetation or wildlife as designated in chapter NR 27, Wis. Adm. Code, if such endangered species cannot be firmly reestablished elsewhere.

(b) Unique features of the land, as determined by state or federal designation as any of the following, which cannot have their unique characteristic preserved by relocation or replacement elsewhere:

1. Wilderness areas designated by statute or administrative rule.
2. Wild and scenic rivers designated by statute or administrative rule.
3. National or state parks designated by statute or administrative rule.
4. Wildlife refuges and areas designated by statute or administrative rule.
5. Historical landmarks, sites and archaeological areas designated by the state historical society.
6. Scientific areas as follows:
 - a. Ableman's Gorge
 - ab. Abraham's Woods
 - ac. Aurora Lake
 - ad. Avoca River Bottom Prairie
 - ae. Avon Bottoms
 - af. Bark Bay
 - b. Baxter's Hollow
 - ba. Bean Lake
 - bb. Beulah Bog
 - bc. Bear Creek Cave
 - bd. Bittersweet Lakes
 - be. Black Tern Bog
 - bf. Blackhawk Island
 - c. Blue Hills Felsenmeer
 - ca. Blue River Cactus & Dunes
 - cb. Bose Lake Hemlock-Hardwoods
 - cc. Brady's Bluff Prairie
 - cd. Browntown Oak Forest

- cc. Buena Vista Prairie & Meadow
- cf. Cactus Rock
- d. Castle Mound Pine Forest
- da. Cedar Grove Hawk Refuge
- db. Cedarburg Beech Woods
- dc. Cedarburg Bog
- dd. Charles Pond
- de. Cherokee Marsh
- df. Cherry Lake Sedge Meadow
- e. Chiwaukee Prairie
- ea. Comstock Marsh
- eb. Council Grounds Pine Forest
- ec. Crex Meadows Prairie
- ed. Dells of the Eau Claire River
- ee. Devil's Lake Red Oak Forest
- ef. Dewey Heights Prairie
- f. Dory's Bog
- fa. Douglas County Grouse Area
- fb. Dunbar Sharptail Barrens
- fc. Durst Rockshelter
- fd. Eagle Oak Opening
- fe. Endeavor Marsh
- ff. Escanaba Lake Hemlocks
- g. Fairy Chasm
- ga. Faville Prairie
- gb. Finnerud Pine Forest
- gc. Five-Mile Bluff Prairie
- gd. Flambeau River Hemlock-Hardwoods Forest
- ge. Flora Lake
- gf. Fountain Creek Prairie
- gg. Fourmile Island Rookery
- h. Frog Creek Hemlocks
- ha. Giant White Pine Grove

- hb. Gibraltar Rock
- hc. Gobbler Lake
- hd. Goose Pond
- he. Gullickson's Glen
- i. Haskell Noyes Memorial Woods
- ia. High Lake Spruce-Balsam Forest
- ib. Holmboe Conifer Forest
- ic. Honey Creek Natural Area
- id. Hub City Bog
- ie. Jackson Harbor
- j. Johnson Lake Barrens
- ja. Jung Hemlock-Beech Forest
- jb. Karcher Springs
- jc. Kettle Moraine Fen & Low Prairie
- jd. Kewaskum Woods
- je. Kohler Park Dunes
- k. Kohler Park Pines
- ka. Koshawago Springs
- kb. Lake of the Pines Conifer-Hardwoods
- kc. Lawrence Creek
- kd. Lodde's Mill Bluff
- ke. Lulu Lake Fen
- kf. Maribel Caves
- kg. Marinette County Beech Forest
- l. Mazomanie Bottoms
- la. Mayville Ledge Beachwoods
- lb. Midway Prairie
- lc. Milwaukee River and Swamp
- ld. Mescauno Cedar Swamp
- le. Moose Lake Hemlocks
- m. Moquah Barrens
- ma. Mt. Pisgah Hemlock-Hardwoods
- mb. Mud Lake

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- mc. Muir Park Natural Area
- md. Muralt Bluff Prairie
- me. Muskego Park Hardwoods
- mf. Natural Bridge & Rockshelter
- n. Necedah Oak-Pine Natural and Managed Areas
- na. Neda mine
- nb. Nelson-Trevino Bottoms
- nc. Newark Road Prairie
- nd. New Munster Bog Island
- ne. New Observatory Woods
- o. Newport Conifer-Hardwoods
- oa. Oliver Prairie
- ob. Ottawa Lake Fen
- oc. Parfrey's Glen
- od. Peat Lake
- oe. Peninsula Park Beech Forest
- p. Peninsula Park White Cedar Forest
- pa. Pine Cliff
- pb. Pine Glen
- pc. Pine Hollow
- pd. Plagge Woods
- pe. Plum Lake-Star Lake Hemlock Forest
- q. Point Beach Ridges
- qa. Powers Bluff Maple Woods
- qb. Putnam Park
- qc. Renak-Polak Maple-Beech Woods
- qd. Rice Lake-Thunder Lake Marsh
- qe. Ridges Sanctuary
- r. Ripon Prairie
- ra. Sander's Park Hardwoods
- rb. Schmidt Maple Woods
- rc. Scott Lake-Shelp Lake Natural Area
- rd. Scuppernong Prairie

- re. Seagull Bar
 - s. Silver Lake Bog
 - sa. Sister Islands
 - sb. Spring Green Reserve
 - sc. Spring Lake
 - sd. Spruce Lake Bog
 - se. Swenson Prairie and Oak Opening
 - t. Tamarack Creek Bog
 - ta. Tellock's Hill Woods
 - tb. Tiffany Bottoms
 - tc. Toft Point
 - td. Tower Hill Bottoms
 - te. Trenton Bluff Prairie
 - u. Trout Lake Conifer Swamp
 - ua. Two Creeks Buried Forest
 - ub. VanderBloemen Bog
 - uc. Washburn County Pines
 - ud. Waterloo Fen & Springs
 - ue. Waubesa Wetlands
 - v. Waupun Park Maple Forest
 - va. Wilderness Ridge
 - vb. Wyalusing Walnut Forest
 - vc. Wyalusing Hardwood Forest
 - vd. Young Prairie
7. Other areas of a type designated as unique or unsuitable for surface mining.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.04 Severability. If any section, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.05 Notification of intent to collect data. (1) Any person intending to submit an application for a mining permit shall notify the department by registered mail prior to the collection of data or information intended to be used to support the permit application.

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(2) The notice of intent to collect data shall contain the following information:

(a) The name and address and telephone number of the person submitting the notice of intent.

(b) A map showing the approximate location of the mining site.

(c) The expected date when a mining permit application may be submitted pursuant to section NR 132.06, Wis. Adm. Code.

(d) 1. Specific environmental data which was obtained, collected or generated prior to the notice of intent to collect data together with any substantiating background information which would assist the department in establishing the validity of the data. The substantiating background information shall include but not be limited to the following:

a. Date obtained and methods employed.

b. Person(s) obtaining, collecting and generating the data and their qualifications.

c. Permits that were in effect when the data and information which were obtained, collected and generated prior to the notice of intent to mine.

2. The department shall inform the person giving notice of intent to collect data that the data will or will not be accepted by the department. The department shall state in writing the reasons for not accepting all the data or portions thereof.

3. The department shall accept general environmental data or information such as soil characteristics, hydrologic conditions and air and water data contained in publications, maps, documents, studies, reports and similar sources, whether public or private, not prepared by or for the person. The department shall accept the data which is otherwise admissible that is collected prior to notification for purposes of evaluating another site or sites and which is not collected with intent to evade the provisions of this chapter.

(3) Upon receipt of the notice of intent to collect data, the department shall hold a public informational hearing on the mining proposal to determine the following:

(a) Primary environmental concerns.

(b) Desired information necessary to assess the proposed mining project.

(c) Information the department may seek through independent studies.

(d) List of persons desiring to receive notification of any departmental actions with regard to the proposed mining project.

(4) (a) After review and consideration of the testimony given at the public hearing and all written comments received by the department within 45 days after public notice of receipt of a notice of intent to mine, the department by registered mail shall notify the person giving notice of intent of specific informational requirements that the person must

provide for a mining application and an environmental impact report, the methodology to be used in gathering information, and specifically the type and quantity of information on the characteristics of ground water resources in the proposed mining site and a timely application date for all necessary approvals, licenses, certifications and permits.

(5) All information gathered by a person giving notice of intent to collect data shall be submitted to the department as soon as it is in final form. After consultation with the person giving notice of intent to collect data, the department may revise or modify the requirements regarding information which must be gathered and submitted. The department shall notify the person giving the notice of intent to collect data by registered mail of the revisions or modifications of its requirements and the reasons thereof, and if a scope of study pursuant to (6) below will be required.

(6) (a) If requested by the department, the applicant shall develop a scope of study designed to comply with the department's informational requirements for department approval. The scope of study shall include the following:

1. Identification of data requirements specified by the department.
2. Specific methodologies to be utilized in data collection, data processing, laboratory work and analysis.
3. Description of the format in which the data will be presented in the impact report, if such report is required.
4. Tentative schedule for collection of field data.
5. Persons who will be responsible for data collection, laboratory work and impact analysis, including their qualifications.

(b) The scope of study shall be submitted to the department within 120 days after the filing of notice of intent to collect data.

(c) The department shall review the proposed scope of study and shall accept, reject or make modifications in the scope of study within 60 days of its receipt.

(d) The department may require the person and the person's consultant to submit any or all raw field data.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.06 Application to mine. (1) No person may engage in mining or reclamation at any mining site that is not covered by a mining permit and a written authorization to mine as provided in section NR 132.09 (3), Wis. Adm. Code.

(2) Any operator wishing to engage in mining shall file an application in reproducible form and 25 copies thereof with the department upon forms prepared and furnished by the department. A mining application shall be submitted for each mining site. No application for surface mining will be entertained by the department if within the previous 5 years, the applicant or a different person who had received a prospecting permit for a site had certified under s. 144.84 (1), Stats., that he or she would not subsequently make application for a permit to conduct surface mining at the site.

(3) The application shall be accompanied by the following:

(a) A fee of \$10,000 to cover the estimated cost of evaluating the operator's mining permit application. Upon completion of its evaluation, the department shall adjust this fee to reflect the actual cost of evaluation less any fees paid for the same services to satisfy other requirements. Evaluation of a mining permit application shall be complete upon the issuance of an order to grant or deny a mining permit.

(b) A mining plan in accordance with section NR 132.07, Wis. Adm. Code.

(c) A reclamation plan in accordance with section NR 132.08, Wis. Adm. Code.

(d) A list of names and addresses of each owner of land within the mining site and each person known by the applicant to hold any option or lease on land within the mining site and all prospecting and mining permits in this state held by the applicant.

(e) Evidence satisfactory to the department that the applicant has applied for necessary approvals and permits under all applicable zoning ordinances and that the operator has applied for all necessary approvals, licenses or permits required by the department.

(f) Information as to whether the applicant, its parent, its principal shareholders, subsidiaries or affiliates in which it owns more than a 40% interest, has forfeited any mining bonds in other states within the past 20 years, and the dates and locations, if any.

(g) Information relating to whether unsuitability may exist for surface mining to the extent not fully considered in s. 144.84, Stats.

(h) An itemized statement showing the estimation of the cost to the state of reclamation.

(i) Descriptions of land contiguous to the proposed mining site which the applicant owns, leases or has an option to purchase or lease.

(j) Other pertinent information as the department may require.

(4) The hearing procedure outlined in s. 144.836, Stats., shall govern all hearings on the operator's mining permit application unless an applicant qualifies for and elects to proceed according to those procedures in effect at the time of the application.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.07 Mining plan. The mining plan shall include the following:

(1) A detailed map of the proposed mining site in accordance with s. 144.85 (3) (a), Stats.

(2) Details of the nature, extent and final configuration of the proposed excavation and mining site including location and total production of tailings and other mining refuse, and nature and depth of overburden.

(3) Details of the proposed operating procedures including:

(a) Mining operation sequence.

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- (b) Handling of overburden materials.
 - (c) Tailing production, handling and final disposition.
 - (d) Ore processing including milling, concentrating, refining, etc.
 - (e) Storage, loading and transportation of final product.
 - (f) Ground and surface water management techniques including provisions for erosion prevention and drainage control.
 - (g) Plans for collection, treatment and discharge of any water resulting from the operation.
 - (h) Plans for air quality protection.
 - (i) Measures for notifying the public and responsible governmental agencies of potentially hazardous conditions including the movement or accumulation of toxic wastes in ground and surface water, soils and vegetation and other consequences of the operation of importance to public health, safety and welfare.
- (4) Evidence satisfactory to the department that the proposed mining operation will comply with the following minimum standards:
- (a) Grading and stabilization of excavation, sides and benches to conform with state and federal safety requirements and to prevent erosion and environmental pollution.
 - (b) Grading and stabilization of deposits of mining refuse in conformance with state and federal safety requirements and solid waste laws and regulations.
 - (c) Stabilization of merchantable by-products.
 - (d) Adequate diversion and drainage of water from the mining site to prevent erosion and contamination of surface and ground waters.
 - (e) Backfilling of excavations where such procedure will not interfere with the mining operation.
 - (f) Adequate covering or storage of all pollutant bearing minerals or materials to conform with state and federal regulations governing such materials.
 - (g) Removal and stockpiling, or other measures to protect topsoils prior to mining.
 - (h) Maintenance of adequate vegetative cover where feasible to prevent erosion.
 - (i) Impoundment of water where necessary in a safe and environmentally acceptable manner.
 - (j) Adequate screening of the mining site where such screening is deemed necessary by the department.
 - (k) Identification and prevention of pollution as defined in s. 144.01 (11), Stats., resulting from leaching of waste materials, in accordance with state and federal solid waste laws and regulations.

(1) Identification and prevention of significant pollution as defined in s. 144.30 (9), Stats.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.08 Reclamation plan. The reclamation plan for the mining site shall include the following:

(1) Detailed information and maps on reclamation procedures including:

(a) Manner, location, sequence and anticipated duration of reclamation.

(b) Ongoing reclamation procedures during mining operations.

(c) Proposed interim and final topography and slope stabilization.

(d) Proposed final land use and relationship to surrounding land and land use.

(e) Plans for long-term maintenance of mining site including:

1. Monitoring of wastes and surface and ground water quality.

2. Names of persons legally and operationally responsible for long-term maintenance.

(f) Projected costs of reclamation including estimated cost to the state of fulfilling the reclamation plan.

(2) Evidence satisfactory to the department that the proposed reclamation will conform with the following minimum standards:

(a) All toxic and hazardous wastes, refuse, tailings and other solid waste shall be disposed of in solid or hazardous waste land disposal facilities licensed under ch. 144, Stats., or otherwise in an environmentally sound manner.

(b) All tunnels, shafts or other underground openings shall be sealed in a manner which will prevent seepage of water in amounts which may be expected to create a safety, health or environmental hazard, unless the applicant can demonstrate alternative uses which do not endanger public health and safety and which conform to applicable environmental protection and mine safety laws and rules.

(c) All underground and surface runoff waters from mining sites shall be managed, impounded or treated so as to keep soil erosion to the extent practicable, flooding, damage to agricultural lands or livestock, damage to wild animals, pollution of surface or ground waters, damage to public health or threats to public safety.

(d) All surface structures constructed as a part of the mining activities shall be removed, unless they are converted to an acceptable alternate use.

(e) Adequate measures shall be taken to prevent significant surface subsidence, but if such subsidence does occur, the affected area shall be reclaimed.

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(f) All topsoil from surface areas disturbed by the mining operation shall be removed and stored in an environmentally acceptable manner for use in reclamation.

(g) All disturbed surface areas shall be revegetated as soon as practicable after the disturbance to stabilize slopes and prevent air and water pollution, with the objective of reestablishing a variety of plants and animals indigenous to the area immediately prior to mining, unless such reestablishment is inconsistent with the provisions of s. 144.81 (15), Stats. Plant species not indigenous to the area may be used if necessary to provide rapid stabilization of slopes and prevention of erosion, if such species are acceptable to the department, but the ultimate goal of reestablishment of indigenous species shall be maintained.

(h) All operations shall minimize disturbance to wetlands and conform with all applicable state and federal laws and regulations pertaining to wetlands.

(3) If it is physically or economically impracticable or environmentally or socially undesirable for the reclamation process to return the affected area to its original state, the reasons therefor and a discussion of alternative conditions and uses to which the affected area can be put.

(4) If the anticipated life and total area of the mineral deposit are of sufficient magnitude as determined by the department, a comprehensive long-term plan showing, in detail satisfactory to the department, the manner, location and estimated sequential timetable for reclamation of the entire area of contiguous land which will be affected by mining and which is owned, leased or under option for purchase or lease by the operator at the time of application. When a mineral deposit lies on or under the lands of more than one operator, the department shall require the operators to submit mutually consistent comprehensive plans.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.09 Issuance. (1) Unless denied pursuant to section NR 132.10, Wis. Adm. Code, the department shall issue a mining permit to the applicant 90 days following completion of the public hearing record.

(2) After issuance of the permit but prior to commencing mining, the operator shall file with the department the following:

(a) A bond payable to the state of Wisconsin department of natural resources conditioned upon faithful performance of all requirements of ss. 144.80 to 144.94, Stats., and the provisions of this chapter.

1. The amount of the bond or other security required shall be equal to the estimated cost to the state of fulfilling the reclamation plan, in relation to that portion of the site that will be disturbed by the end of the following year. The estimated cost of reclamation shall be determined by the department on the basis of those factors listed in section NR 132.07, Wis. Adm. Code. In lieu of a bond, the operator may deposit cash, certificates of deposit or government securities with the department. Interest received on certificates of deposit and government securities shall be paid to the operator.

2. 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 operator, 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 operator to make a substitution, the department shall suspend the operator's mining permit until substitution has been made.

3. Each bond shall provide that the bond shall not be cancelled 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 operator shall deliver to the department a replacement bond in the absence of which all mining shall cease.

(b) A certificate of insurance certifying that the operator has in force a liability insurance policy issued by an insurance company authorized to do business in this state or in lieu of a certificate of insurance, evidence that the operator has satisfied state or federal self-insurance requirements covering all mining of the operator in this state and affording personal injury and property damage protection in a total amount deemed adequate by the department but not less than \$50,000.

(3) Upon receipt of a satisfactory reclamation bond and the certificate of insurance, the department shall give written authorization to the operator to commence mining in accordance with the mining and reclamation plans.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.10 Denial. (1) The department shall deny a mining permit if it finds the following:

(a) The mining plan and reclamation plan will not result in reclamation of the mining site consistent with ss. 144.80 to 144.94, Stats., and the provisions of this chapter.

(b) The proposed operation will not comply with all applicable air, ground and surface water and solid and toxic waste disposal laws and rules of the department.

(c) In the case of a surface mine, the site is unsuitable for surface mining.

(d) The proposed mine will endanger public health, safety or welfare.

(e) The proposed mine will result in a net substantial adverse economic impact in the area reasonably expected to be most impacted by the mining activity.

(f) The proposed mining operation does not conform with all applicable zoning ordinances.

(g) The applicant is in violation of ss. 144.80 to 144.94, Stats., and the provisions of this chapter.

(h) The applicant has previously failed and continues to fail to comply with ss. 144.80 to 144.94, Stats., and the provisions of this chapter.

(i) The applicant has within the previous 20 years forfeited any bond posted in accordance with mining activities in this state unless by mutual agreement with the state.

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(j) Any officer or director of the applicant, while employed by the applicant, the applicant's parent corporation, any of the applicant's principal shareholders or any of the applicant's subsidiaries or affiliates in which the applicant owns more than a 40% interest, has within the previous 20 years forfeited any bond posted in accordance with mining activities in this state, unless by mutual agreement with the state.

(k) The proposed mining activity may reasonably be expected to create the following situations:

1. Landslides or substantial deposition from the proposed operation in stream or lake beds which cannot be feasibly prevented.

2. Significant surface subsidence which cannot be reclaimed because of the geologic characteristics present at the proposed site.

3. Hazards resulting in irreparable damage to any of the following, which cannot be prevented under the requirements of ss. 144.80 to 144.94, Stats., avoided to the extent applicable by removal from the area of hazard or mitigated by purchase or by obtaining the consent of the owner:

a. Dwelling houses.

b. Public buildings.

c. Schools.

d. Churches.

e. Cemeteries.

f. Commercial or institutional buildings.

g. Public roads.

h. Other public property designated by the department.

4. Irreparable environmental damage to lake or stream bodies despite adherence to the requirements of ss. 144.80 to 144.94, Stats. This subdivision does not apply to an activity which the department has authorized pursuant to statute, except that the destruction or filling in of a lake bed shall not be authorized notwithstanding any other provision of law.

(2) If an application for a mining permit is denied, the department within 90 days of completion of the hearing record shall furnish the operator findings of fact, conclusions of law and order setting forth the reasons for denial.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.11 Permit review and modification. (1) The department shall review the mining and reclamation plans annually after the date of the mining permit issuance or a review as provided in section NR 132.11 (2), Wis. Adm. Code.

(2) If the department finds that because of changing conditions, including but not limited to changes in reclamation costs, reclamation technology, minimum standards in s. 144.83, Stats., or government land use plans, the reclamation plan for a mining site is no longer sufficient to

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reasonably provide for reclamation of the mining site consistent with ss. 144.80 to 144.94, Stats., and the provisions of this chapter, the department shall require the applicant to submit amended mining and reclamation plans which shall be processed in the same manner as an application for an original mining permit. The applicant shall be deemed to hold a temporary mining permit which shall be effective until the amended mining permit is issued or denied.

(3) (a) If an operator desires to amend or cancel a permit, mining plan or reclamation plan, an amended application shall be submitted to the department on forms provided by the department. An application for an increase or decrease in the area of a mining site or for a change in the mining or reclamation plans shall be processed in the same manner as an original application for a mining permit. If 5 or more interested persons do not request a hearing in writing within 30 days of notice under s. 144.836 (3), Stats., no hearing need be held on the modification.

(b) if the amended application is to cancel any or all of a mining site where no mining has taken place, the department shall order the release of the bond or security or portions thereof posted on the land being removed from the mining site and cancel or amend the operator's written authorization to conduct mining on the mining site.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.12 Certificates of completion and bond release. (1) (a) Not less than 4 years after notification to the department of completion of the reclamation plan, the operator may petition the department to reduce the amount of the bond. After public hearing conducted pursuant to s. 144.836, Stats., the department shall issue a certificate of completion provided the operator has fulfilled its duties under the reclamation plan.

(2) Upon issuance of a certificate of completion, the department shall reduce the amount of the bond or security to an amount equal to the estimated cost of reclamation of the portion of the mining site for which a certificate of completion has not been issued.

(3) Upon issuance of a certificate or certificates of completion of reclamation for the entire mining site, the department shall require the operator to maintain a bond equal to at least 10% of the cost to the state of reclaiming the entire mining site if mining of the site was wholly underground or at least 20% of the cost to the state of reclamation of the entire mining site if any surface mining was conducted.

(4) After 20 years after issuance of the latest certificate or certificates of completion for the mining site, the department shall release the bond or security if the department determines that the operator has complied with the reclamation plan.

NR 132.13 Inspections. (1) Any duly authorized officer, employee or representative of the department may enter and inspect any property, premises or place on or at a mining site at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and ss. 144.80 to 144.94, Stats.

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(2) No operator 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 such inspection.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 132.14 Confidentiality. If the department finds beyond a reasonable doubt, on verified application by an operator, that any specific data submitted under ss. 144.80 to 144.94, Stats., relating to controls, tonnages or grades of ore production, if made public would divulge methods or processes entitled to protection as trade secrets of such operator, the department shall consider such data or portion thereof as limited for the confidential use of the department unless such operator expressly agrees to its publication or public availability.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.