

1991 Senate Bill 240

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1991 WISCONSIN ACT 260

AN ACT *to amend* 144.87 (2) (b); *to repeal and recreate* 144.85 (3) (e) and 144.85 (5) (b); and *to create* 144.81 (17m), 144.85 (1) (c) and 144.85 (5) (bm) of the statutes, **relating to:** information concerning persons who intend to engage in mining and related entities and denial of mining permits.

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

SECTION 1. 144.81 (17m) of the statutes is created to read:

144.81 (17m) "Related person" means any person that owns or operates a mining site in the United States and that is one of the following when an application for a mining permit is submitted to the department:

- (a) The parent corporation of the applicant.
- (b) A person that holds more than a 30% ownership interest in the applicant.
- (c) A subsidiary or affiliate of the applicant in which the applicant holds more than a 30% ownership interest.

SECTION 2. 144.85 (1) (c) of the statutes is created to read:

144.85 (1) (c) No operator may engage a general contractor or affiliate to operate a mining site if the general contractor or affiliate has been convicted of more than one felony for violation of a law for the protection of the natural environment arising out of the operation of a mining site in the United States within 10 years before the issuance of the operator's permit, unless the general contractor or affiliate receives the department's approval of a plan to prevent the occurrence in this state of events similar to the events that directly resulted in the convictions.

SECTION 3. 144.85 (3) (e) of the statutes is repealed and recreated to read:

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

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

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

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

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

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

SECTION 4. 144.85 (5) (b) of the statutes is repealed and recreated to read:

144.85 (5) (b) Within 90 days of the completion of the public hearing record, the department shall deny the mining permit if it finds any of the following:

1. That the site is unsuitable for surface mining, if the application is for a proposed surface mine.

2. That the applicant has violated and continues to fail to comply with ss. 144.80 to 144.94 or any rule adopted under those sections.

3. That the applicant, principal shareholder of the applicant or a related person has within 10 years before the application is submitted forfeited a mining reclamation bond that was posted in accordance with a permit or other approval for a mining operation in the United States, unless the forfeiture was by agreement with the entity for whose benefit the bond was posted and the amount of the bond was sufficient to cover all costs of reclamation.

4. That the applicant, a related person or an officer or director of the applicant has, within 10 years before the application is submitted, been convicted of more than one felony for violations of laws for the protection of the natural environment arising out of the operation of a mining site in the United States, unless one of the following applies:

a. The person convicted has been pardoned for all of the felonies.

b. The person convicted is a related person or an officer or director of the applicant with whom the applicant terminates its relationship.

c. The applicant included in its permit application under sub. (1) a plan to prevent the occurrence in this state of events similar to the events that directly resulted in the convictions.

5. That the applicant or a related person has, within 10 years before the application is submitted, declared

bankruptcy or undergone dissolution that resulted in the failure to reclaim a mining site in the United States in violation of a state or federal law and that failure has not been remedied and is not being remedied.

6. That, within 10 years before the application is submitted, a mining permit or other mining approval issued to the applicant or a related person was permanently revoked because of a failure to reclaim a mining site in the United States in violation of state or federal law and that failure has not been and is not being remedied.

SECTION 5. 144.85 (5) (bm) of the statutes is created to read:

144.85 (5) (bm) The department may not deny a mining permit under par. (b) 3. to 6. if the person subject to the convictions, forfeiture, permanent revocation, bankruptcy or dissolution is a related person but the applicant shows that the person was not the parent corporation of the applicant, a person that holds more than a 30% ownership in the applicant, or a subsidiary or affiliate of the applicant in which the applicant holds more than a 30% interest at the time of the convictions, forfeiture, permanent revocation, bankruptcy or dissolution.

SECTION 6. 144.87 (2) (b) of the statutes is amended to read:

144.87 (2) (b) The successor operator discloses whether it has forfeited any ~~bond, as defined under s. 144.85 (3) and (5) (b),~~ performance security because of noncompliance with any prospecting or mining laws within the previous 20 years, posts any bond required under s. 144.86 and assumes all responsibilities of all applicable permits, licenses and approvals granted to the predecessor operator.

SECTION 7. Initial applicability. This act first applies to a mine for which a mining permit has not been issued on or before the effective date of this SECTION.