

1 (f) Any other water withdrawal issues identified by the department as relevant
2 to the decision of whether to issue or deny a permit.

3 **(6) SUMMARY.** After considering the comments received under subs. (4) and (5)
4 and before acting on the application for the mining permit, the department shall
5 prepare a summary of the comments and the department's response to the
6 comments.

7 **(7) DEADLINE FOR ACTING ON MINING PERMIT APPLICATION.** (a) No more than 420
8 days after the day on which the application for a mining permit is administratively
9 complete under sub. (2), the department shall approve the application, and issue a
10 mining permit, or deny the application, in accordance with s. 295.58, unless the
11 department and the applicant agree to extend the deadline. The department and the
12 applicant may agree to not more than one extension and that extension may not
13 exceed 60 days. The department and the applicant may enter into an extension only
14 if one of the following applies:

15 1. An extension is necessary to enable the department and the U.S. Army Corps
16 of Engineers to jointly prepare their environmental impact statements.

17 2. New information or a change to the mining proposal necessitates additional
18 time to review the application.

19 (b) If the department does not comply with the deadline under par. (a),
20 including any extension agreed to by the applicant, the department shall refund the
21 fees under s. 295.73 (3) (a) and (d) that were paid by the applicant.

22 (c) If the department does not comply with the deadline under par. (a),
23 including any extension agreed to by the applicant, the applicant may bring an action
24 for mandamus to compel the department to approve or deny the application.
25 Notwithstanding s. 814.04 (1), in an action under this paragraph the court shall

1 award the applicant its costs, including reasonable attorney fees, if it determines
2 that the department did not comply with the deadline under par. (a).

3 (8) DEADLINE FOR ACTING ON OTHER APPROVALS. (a) Except as provided in par.
4 (c), if an applicant files an application for an approval other than a mining permit
5 no later than 60 days after the day on which the application for the mining permit
6 is administratively complete under sub. (2), the department shall approve the
7 application, and issue the approval or deny the application no later than the deadline
8 under sub. (7) (a), including any extension agreed to by the applicant.

9 (b) Except as provided in par. (c) if an applicant files an application for an
10 approval other than a mining permit more than 60 days after the day on which the
11 application for the mining permit is administratively complete under sub. (2), the
12 deadline for acting on the application is extended beyond the deadline under sub. (7)
13 (a), including any extension agreed to by the applicant, by the number of days beyond
14 the 60th day after the day on which the application for the mining permit is
15 administratively complete that the applicant files the application for the approval.

16 (c) Paragraphs (a) and (b) do not apply to the application for an air pollution
17 control permit under s. 285.62.

18 (d) The department shall incorporate an approval other than a mining permit
19 into a single document with the mining permit, unless the application for the
20 approval was filed more than 60 days after the day on which the application for the
21 mining permit is administratively complete under sub. (2).

22 (8m) SUBMISSION OF TECHNICAL REVIEW TO GREAT LAKES REGIONAL BODY. If an
23 applicant files an application under s. 281.346 for an approval for a withdrawal of
24 surface water or groundwater that is subject to regional review or council approval,
25 the department shall provide its technical review, as defined in s. 281.346 (1) (u), to

1 the regional body, as defined in s. 281.346 (1) (q), no later than 90 days after the
2 applicant files the application for the approval.

3 (9) APPLICABLE PROCEDURE. The provisions of this section and ss. 295.58 (5) and
4 (6) and 295.77 concerning public notice, comment, and hearing; issuance of
5 department decisions; effective date of department decisions; and review of
6 department decisions; and the duration of approvals apply to any approval,
7 notwithstanding any provisions related to those matters in s. 44.40 or 169.25, subch.
8 I or VI of ch. 77, ch. 23, 29, 30, 169, 281, 283, 285, 289, or 291, or rules promulgated
9 under those provisions, except as provided in s. 281.343 (7r) and except that if a
10 withdrawal of surface water or groundwater is subject to regional review or council
11 approval under s. 281.346, the applicable provisions related to regional review or
12 council approval apply.

13 **295.58 Mining; department grant or denial of permit.** (1) CRITERIA FOR
14 APPROVAL. (a) Except as provided in sub. (2) and except with respect to property
15 specified in s. 41.41 (11), the department shall issue a mining permit if it finds all of
16 the following:

17 1. That the mining plan and reclamation plan are reasonably certain to result
18 in reclamation of the mining site consistent with this subchapter.

19 2. That the waste site feasibility study and plan of operation complies with s.
20 295.51.

21 3. That the applicant has committed to conducting the proposed mining in
22 compliance with the mining permit and any other approvals issued for the mining.

23 3m. That the proposed mining is likely to meet or exceed the regulations that
24 apply to municipal floodplain zoning ordinances contained in the uniform rules

1 promulgated by the department for preparation and implementation of municipal
2 floodplain zoning ordinances.

3 4. That the proposed mining is not likely to result in substantial adverse
4 impacts to public health, safety, or welfare.

5 5. That the proposed mining will result in a net positive economic impact in the
6 area reasonably expected to be most impacted by the mining.

7 6. That the applicant has applied for all necessary zoning approvals applicable
8 to the proposed mining.

9 (b) The department shall approve or deny an application for a mining permit
10 in writing and shall include the reasons for its decision with clarity and in detail.
11 The department may modify the applicant's proposed mining plan, reclamation plan,
12 or mining waste site feasibility study and plan of operation in order to meet the
13 requirements of this subchapter, and, as modified, approve the application. The
14 approval of the application for a mining permit constitutes the approval of the
15 mining plan, reclamation plan, and waste site feasibility study and plan of operation.
16 In its decision on the application for a mining permit, the department shall include
17 a final decision on compliance with s. 1.11 and the requirements of s. 295.53,
18 discussing all of the following:

19 1. Whether the department has considered the environmental impact
20 statement and comments received on it.

21 2. Whether the department has complied with ss. 1.11 and 295.53.

22 3. Whether, consistent with social, economic, and other essential
23 considerations, the department has adopted all practicable means within its
24 authority to avoid or minimize any harm to the environment and, if not, why not.

1 **(2) CRITERIA FOR DENIAL.** The department shall deny the mining permit if it
2 finds any of the following:

3 (a) That the site is unsuitable for mining.

4 (b) That the proposed mining may reasonably be expected to create any of the
5 following situations:

6 1. Hazards resulting in irreparable, substantial physical damage to any of the
7 following that cannot be prevented under the requirements of this subchapter,
8 avoided to the extent practicable by removal from the area of hazard, or mitigated
9 by purchase or by obtaining the consent of the owner:

10 a. A dwelling house.

11 b. A public building.

12 c. A school.

13 d. A church.

14 e. A cemetery.

15 f. A commercial or institutional building.

16 g. A public road.

17 2. Irreparable substantial environmental damage to lake or stream bodies
18 despite adherence to the requirements of this subchapter. This subdivision does not
19 apply to an activity that the department has authorized under statute, except that
20 the destruction or filling in of a lake bed may not be authorized unless it is authorized
21 under s. 295.60, 295.605, or 295.61.

22 3. Landslides or substantial deposition from the proposed mining operation in
23 stream or lake beds which cannot feasibly be prevented and which have not been
24 authorized under s. 295.60 or 295.605.

1 (c) That the applicant has violated, and continues to fail to comply with, this
2 subchapter.

3 (d) Subject to sub. (3), that the applicant, principal shareholder of the
4 applicant, or a related person has within 10 years before the application is submitted
5 forfeited a mining reclamation bond that was posted in accordance with a permit or
6 other authorization for a mining operation in the United States, unless the forfeiture
7 was by agreement with the entity for whose benefit the bond was posted and the
8 amount of the bond was sufficient to cover all costs of reclamation.

9 (e) Subject to sub. (3), that the applicant, a related person, or an officer or
10 director of the applicant has, within 10 years before the application is submitted,
11 been convicted of more than one felony for violations of laws for the protection of the
12 natural environment arising out of the operation of a mining site in the United
13 States, unless one of the following applies:

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

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

17 3. The applicant included in its permit application under s. 295.47 a plan to
18 prevent the occurrence in this state of events similar to the events that directly
19 resulted in the convictions.

20 (f) Subject to sub. (3), that the applicant or a related person has, within 10 years
21 before the application is submitted, declared bankruptcy or undergone dissolution
22 that resulted in the failure to reclaim a mining site in the United States in violation
23 of a state or federal law and that failure has not been remedied and is not being
24 remedied.

1 (g) Subject to sub. (3), that, within 10 years before the application is submitted,
2 a mining permit or other authorization for mining issued to the applicant or a related
3 person was permanently revoked because of a failure to reclaim a mining site in the
4 United States in violation of state or federal law and that failure has not been and
5 is not being remedied.

6 **(3) EXCEPTION FROM DENIAL CRITERIA.** The department may not deny a mining
7 permit under sub. (2) (d) to (g) if the person subject to the convictions, forfeiture,
8 permanent revocation, bankruptcy, or dissolution is a related person but the
9 applicant shows that the person was not the parent corporation of the applicant, a
10 person that holds more than a 30 percent ownership in the applicant, or a subsidiary
11 or affiliate of the applicant in which the applicant holds more than a 30 percent
12 interest at the time of the convictions, forfeiture, permanent revocation, bankruptcy,
13 or dissolution.

14 **(4) STATEMENT.** The department shall send a statement as to whether the
15 applicant has satisfied the requirements of this subchapter to the applicant and to
16 the other persons specified in s. 295.57 (4) (b) 1. to 9.

17 **(5) DURATION OF APPROVALS.** (a) A mining permit is valid for the life of the
18 mining project, subject to the enforcement provisions under s. 295.79.

19 (b) An approval under s. 295.60 or 295.61 remains valid for the life of the
20 mining, subject to the enforcement provisions under s. 295.79.

21 (c) An approval issued for a mining project under ch. 23, 29, 30, 169, 281, 283,
22 285, 289, or 291, except for a permit under ch. 283 or 285 that is subject to a federal
23 requirement limiting its duration, remains valid for the life of the mining project,
24 subject to the enforcement provisions applicable to the approval.

1 **(6) EFFECTIVE DATE OF APPROVALS.** A mining permit and any other approval is
2 issued upon mailing and is final and effective upon issuance.

3 **(7) MERCHANTABLE BY-PRODUCTS.** In a mining permit, the department shall
4 require the operator to treat merchantable by-products as refuse if after 3 years from
5 the time the merchantable by-products result from or are displaced by mining the
6 material has not been transported off the mining site, unless removal is continuing
7 at a rate of more than 12,000 cubic yards per year.

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

16 **295.59 Bonds and other security. (1) SECURITY FOR RECLAMATION.** (a) Upon
17 notification that an application for a mining permit has been approved by the
18 department but before beginning mining, the operator shall furnish one of the
19 following to the department:

20 1. A bond, furnished by a surety company licensed to do business in this state,
21 conditioned on faithful performance of all of the requirements of this subchapter and
22 all rules adopted by the department under this subchapter.

23 2. Cash.

24 3. Certificates of deposit.

25 4. Government securities.

1 (b) The department shall pay to the operator interest received on certificates
2 of deposit or government securities furnished under par. (a).

3 (c) The operator shall furnish the security required under par. (a) in the amount
4 equal to the estimated cost to the state of fulfilling the reclamation plan, other than
5 the cost of long-term care of the mining waste site, in relation to the portion of the
6 mining site that will be disturbed by the end of the following year. The department
7 shall determine the estimated cost of reclamation of each mining site on the basis of
8 relevant factors, including the character and nature of the lands to be reclaimed, the
9 future suitable use of the land involved, the topography of the mining site, the
10 methods of reclamation being employed, the depth and composition of overburden,
11 and the depth of the ferrous mineral deposit being mined.

12 **(2)** CERTIFICATE OF INSURANCE. The operator shall submit a certificate of
13 insurance certifying that the applicant has in force a liability insurance policy issued
14 by an insurer authorized to do business in this state or, in lieu of a certificate of
15 insurance, evidence that the applicant has satisfied state or federal self-insurance
16 requirements, covering all mining operations of the operator in this state and
17 affording personal injury and property damage protection in a total amount
18 determined to be adequate by the department but not more than \$1,000,000 and not
19 less than \$50,000.

20 **(2m)** PROOF OF FINANCIAL RESPONSIBILITY FOR LONG-TERM CARE OF MINING WASTE
21 SITE. An operator shall maintain proof of financial responsibility ensuring the
22 availability of funds for compliance with the long-term care requirements specified
23 in the waste site feasibility study and plan of operation for a period of 40 years after
24 closing of the mining waste site. The operator shall furnish the proof of financial
25 responsibility to the department in one of the following forms:

1 (a) A bond

2 (b) Cash.

3 (c) Certificates of deposit.

4 (d) Government securities.

5 (e) Insurance.

6 **(3) WRITTEN AUTHORIZATION TO MINE.** Upon approval of the operator's bonds or
7 other security under subs. (1) and (2m), mining application, and certificate of
8 insurance, the department shall issue written authorization to begin mining at the
9 permitted mining site in accordance with the approved mining plan, reclamation
10 plan, and mining waste site feasibility study and plan of operation.

11 **(4) RECLAMATION BOND FOR MORE THAN ONE MINING SITE.** Any operator who
12 obtains mining permits from the department for 2 or more mining sites may elect,
13 at the time that the mining permit for the 2nd or any subsequent mining site is
14 approved, to post a single bond under sub. (1) in lieu of separate bonds for each
15 mining site. An operator who chooses to post a single bond under this subsection
16 shall post a bond in an amount equal to the estimated cost to the state determined
17 under sub. (1) of reclaiming all mining sites the operator has under mining permits.
18 When an operator elects to post a single bond in lieu of separate bonds previously
19 posted on individual mining sites, the department may not release the separate
20 bonds until the department accepts the new bond.

21 **(5) REVIEW OF AMOUNTS.** If an operator disagrees with the amount of the bonds
22 or other security that the department requires under this section, the operator may
23 seek review under s. 295.77 of the amount required. The operator may post a bond
24 or other security in the amount required by the department and begin mining
25 without forfeiting its right to seek review.

1 **295.60 Impacts to wetlands. (1) DEFINITIONS.** In this section:

2 (b) “Artificial wetland” means a landscape feature where hydrophytic
3 vegetation may be present as a result of human modifications to the landscape or
4 hydrology and for which there is no prior wetland or stream history.

5 (cm) “Ceded territory” means the territory in Wisconsin ceded by the Chippewa
6 Indians to the United States in the treaty of 1837, 7 Stat. 536, and the treaty of 1842,
7 7 Stat. 591.

8 (e) “Federal compensatory mitigation requirement” means any mitigation
9 requirement that is imposed by the federal government.

10 (f) “Federal wetland” means a wetland that is subject to federal jurisdiction
11 under 33 USC 1344.

12 (g) “Functional values and water quality” means the water quality related
13 wetland functional values and uses specified in sub. (6).

14 (h) “Impact” means a permanent, temporary, cumulative, secondary, direct or
15 indirect result that is attributable to a discharge to which the wetland water quality
16 standards apply.

17 (i) “Mitigation” means the restoration, enhancement, or creation of wetlands
18 to offset significant adverse impacts to other wetlands.

19 (j) “Mitigation bank” means a system of accounting for wetland loss and
20 mitigation that includes one or more sites where wetlands are restored, enhanced,
21 or created to provide transferable credits to be subsequently applied to offset
22 significant adverse impacts to other wetlands.

23 (k) “Nonfederal wetland” means a wetland that is not subject to federal
24 jurisdiction under 33 USC 1344.

1 (L) “On-site location” means a location that is within one-half mile of an outer
2 boundary of a mining site.

3 (m) “Practicable” means available and capable of being implemented after
4 taking into consideration cost, available technology, and logistics in light of the
5 overall project purposes and the needs for bulk sampling or a mining operation.

6 (n) “Riparian restoration project” means a project that will restore or enhance
7 the natural beneficial uses and value of a watercourse.

8 (o) “Water basin” means the Lake Michigan basin, the Lake Superior basin, or
9 the Mississippi River basin or other water basin established by the department.

10 (p) “Water management unit” means a subdivision of a water basin that is
11 established on a hydrological basis by the department.

12 (q) “Watershed” means an area of land where all of the water drains into a
13 common waterway.

14 (r) “Wetland water quality standard” means a water quality standard specified
15 under sub. (6).

16 **(2) SCOPE.** This section applies to any water quality certification, or any other
17 approval that involves an evaluation of impact to wetlands, that is associated with
18 mining or bulk sampling.

19 **(3) WETLAND DETERMINATIONS AND DELINEATIONS.** For purposes of this section,
20 wetland determinations and wetland boundary delineations shall be consistent with
21 the U.S. Army Corps of Engineers 1987 Wetlands Delineation Manual and any final
22 regional supplement to the manual. The department may rely on wetland
23 determinations and wetland boundary delineations made by other agencies and
24 consultants. If the applicant for a water quality certification or for any other
25 approval for an activity involving impacts to wetlands has provided information to

1 the department that is identified in the manual or any final regional supplement as
2 being sufficient to make a wetland determination or a delineation of boundaries, the
3 department may visit the site to conduct surveys or gather additional site-specific
4 quantitative data provided that the department does not discontinue the processing
5 of the application to do so.

6 (4) WATER QUALITY CERTIFICATION FOR FEDERAL WETLANDS. (a) For purposes of
7 issuing a water quality certification that is required pursuant to 33 USC 1341 (a) for
8 a discharge associated with a mining operation or bulk sampling into a federal
9 wetland or for issuing any other approval associated with a mining operation for an
10 activity that involves any impact to a federal wetland, the department shall review
11 the federal compensatory mitigation requirements proposed as part of the federal
12 permit application.

13 (b) For purposes of determining whether to issue a water quality certification
14 or other approval that requires an evaluation of impacts to federal wetlands, the
15 department shall determine whether it has reasonable assurance that the federal
16 permitting process and federal compensatory mitigation requirements will offset
17 any significant adverse impact to the functional values and water quality of the
18 federal wetland. If the department determines that reasonable assurance exists, the
19 department may not impose any additional conditions.

20 (c) If the department determines that reasonable assurance does not exist
21 under par. (b), it may impose conditions in the water quality certification or other
22 approval if such conditions are limited to those that are necessary to offset any
23 significant adverse impacts to the federal wetland that are not offset by the federal
24 compensatory mitigation requirements in the federal permit or other approval. Any

1 conditions imposed by the department shall permit a mitigation program as provided
2 in sub. (8).

3 (d) In imposing conditions under par. (c), the department may not increase the
4 number of acres to be mitigated under the federal compensatory mitigation
5 requirements that are applicable to the federal wetland.

6 (e) The department shall issue a water quality certification under this
7 subsection if the federal permitting process, including any federal compensatory
8 mitigation requirement, offsets the significant adverse impacts to the functional
9 values and water quality of the federal wetland.

10 **(5) WATER QUALITY CERTIFICATION FOR NONFEDERAL WETLANDS.** (a) *Certification*
11 *required.* No person may discharge dredge or fill material associated with a mining
12 operation or bulk sampling into a nonfederal wetland unless the discharge is
13 authorized under a water quality certification issued under this section.

14 (b) *Avoidance or minimization of impacts.* For purposes of issuing a water
15 quality certification for a discharge subject to par. (a) or evaluating impacts to
16 nonfederal wetlands for any approval requiring an evaluation of impacts to
17 nonfederal wetlands, the department shall first determine whether any impact to
18 the nonfederal wetland caused by the mining operation or bulk sampling can be
19 avoided or minimized to the extent practicable. If the impacts have been avoided or
20 minimized to the extent practicable, any remaining impacts to nonfederal wetlands
21 may not be a basis for a denial of a water quality certification provided that any
22 remaining significant adverse impacts are offset under a mitigation program under
23 sub. (8).

1 (c) *Siting analysis.* 1. An applicant for a water quality certification for a
2 nonfederal wetland shall submit a siting analysis to the department for review. In
3 reviewing the siting analysis, the department shall recognize all of the following:

4 a. The limitations associated with the proposed location of the ferrous mineral
5 deposits to be mined or associated with bulk sampling.

6 b. The need for the mining waste sites and any processing facilities to be
7 contiguous to the location of the ferrous mineral deposits to be mined.

8 c. The presumption that nonfederal wetlands will be impacted.

9 2. The siting analysis shall be limited to an analysis of alternative
10 configurations associated with the areas of the proposed ferrous mineral deposits to
11 be mined at the mining site and with the areas that are contiguous to those deposits.

12 3. If it is impracticable to avoid an impact to, or the use of, a nonfederal wetland,
13 the applicant shall identify in the siting analysis, and the department shall review,
14 those configurations that would result in impacts to the fewest acres of nonfederal
15 wetlands to the extent practicable. The department shall determine which
16 configuration will minimize the impacts to the fewest acres.

17 4. After the department makes the determination under subd. 3., the
18 department shall evaluate the impact of the mining operation to the functional
19 values and water quality of the nonfederal wetland.

20 **(5m)** EVALUATION OF IMPACTS. The department shall determine the impact of a
21 proposed activity upon the functional values and water quality of a wetland by using
22 wetland ecological evaluation methods jointly accepted by the U.S. Army Corps of
23 Engineers and the department and appropriate to the affected wetland.

24 **(6)** WETLAND WATER QUALITY STANDARDS. The following wetland water quality
25 standards shall apply to any water quality certification under sub. (4) or (5):

1 (a) Adverse impacts to the functional values and water quality of wetlands and
2 adverse impacts to other waters of the state that are influenced by wetlands shall be
3 minimized, and any significant adverse impacts remaining after minimization shall
4 be subject to a mitigation program under sub. (8). For purposes of this section,
5 functional values and uses consist of all of the following:

6 1. Storm and flood water storage and retention and the moderation of water
7 level fluctuation extremes.

8 2. Hydrologic functions including the maintenance of dry season streamflow,
9 the discharge of groundwater to a wetland, the recharge of groundwater from a
10 wetland to another area, and the flow of groundwater through a wetland.

11 3. Filtration or storage of sediments, nutrients, or toxic substances that would
12 otherwise adversely impact the quality of waters of the state.

13 4. Shoreline protection against erosion through the dissipation of wave energy
14 and water velocity and anchoring of sediments.

15 5. Habitat for aquatic organisms in the food web including fish, crustaceans,
16 mollusks, insects, annelids, and planktonic organisms and the plants and animals
17 upon which these aquatic organisms feed and depend upon for their needs in all life
18 stages.

19 6. Habitat for resident and transient wildlife species, including mammals,
20 birds, reptiles, and amphibians, for breeding, resting, nesting, escape cover, travel
21 corridors, and food.

22 7. Recreational, cultural, educational, scientific, and natural scenic beauty
23 values and uses.

24 (b) All of the following shall be minimized in order to avoid significant adverse
25 impacts for the purpose of maintaining or enhancing the functional values and water

1 quality identified under par. (a), and any minimization of the following must be taken
2 into account in the department's evaluation of significant adverse impacts:

3 1. The use of liquids, fill, or other solids or gases.
4 2. The presence of floating or submerged debris, oil, or other material.
5 3. The use of materials producing color, odor, taste, or unsightliness.
6 4. The presence of concentrations or combinations of substances that are toxic
7 or harmful to human, animal, or plant life.

8 5. Adverse effects on hydrological conditions necessary to support the biological
9 and physical characteristics that are naturally present in wetlands. For purposes
10 of this subdivision, the hydrological conditions include of all of the following:

11 a. Water currents and erosion and sedimentation patterns.
12 b. Water temperature variations.
13 c. The chemical, nutrient, and dissolved oxygen regime of the wetland.
14 d. The movement of aquatic fauna.
15 e. The pH of the wetland.
16 f. Water levels or elevations.

17 6. Adverse effects on existing habitat and populations of animals and
18 vegetation found in wetlands.

19 **(6m)** SCOPE OF EVALUATION. For purposes of issuing a water quality certification
20 under sub. (4) or (5), the department shall evaluate whether an activity will result
21 in a significant adverse impact to the functional values and water quality associated
22 with a wetland by doing all of the following:

23 (a) Comparing the functional values and water quality of the wetland with
24 other wetlands located within the boundaries of the mining site or within the same

1 water management unit as the mining site and with other waters of the state that
2 are located in the same water management unit.

3 (b) Taking into consideration the floristic province in which the mining site is
4 located.

5 (7) APPROVAL BY DEPARTMENT; NONFEDERAL WETLANDS. The department shall
6 issue a water quality certification under this section for a nonfederal wetland, if the
7 department determines all of the following:

8 (a) All practicable measures will be taken to minimize the adverse impacts to
9 wetlands.

10 (b) Any significant adverse impacts to functional values and water quality that
11 remain are offset through a mitigation program under sub. (8).

12 (8) MITIGATION PROGRAM. (a) *Contents.* A mitigation program to offset
13 significant adverse impacts to functional values and water quality of wetlands shall
14 contain all of the following:

15 1. Proposed projects for mitigation and a schedule for implementing the
16 projects. These projects may be performed by a person other than the applicant,
17 subject to the department's approval of the projects and schedule.

18 2. If the program is applicable to a federal wetland, all federal compensatory
19 mitigation requirements associated with the federal wetland application.

20 (b) *Option of applicant.* An applicant submitting a program under par. (a) may
21 submit options for mitigation. These options may include any combination of the
22 types of mitigation specified in par. (d). In preparing the program, the applicant shall
23 identify and consider mitigation that could be conducted within the same watershed
24 in which the mining site is located.

1 (c) *Ratios for mitigation.* The amount of mitigation required may not exceed
2 1.5 acres of mitigation for each acre of adversely impacted wetland. For purpose of
3 credits in a mitigation bank, each acre that is subject to mitigation shall count as at
4 least one credit.

5 (d) *Sequence.* If it is not practicable or ecologically preferable to conduct
6 mitigation at an on-site location or if there is no on-site location that will provide
7 sufficient wetland acreage, the department shall allow the applicant to conduct
8 mitigation at a site other than an on-site location, subject to par. (e). Mitigation
9 under a program under par. (a) shall be accomplished through the following types:

10 1. Implementation of a project for mitigation.

11 2. Purchase of mitigation credits from a mitigation bank for a site in a
12 mitigation bank that is located anywhere in the state subject to par. (e).

13 3. Purchase of mitigation credits from a mitigation bank established prior to
14 February 1, 2002, if the department determines that the bank sponsor is in
15 compliance with any applicable memorandum of understanding between the bank
16 sponsor and the department.

17 4. Participation in the in lieu fee subprogram, if such a subprogram is
18 established under s. 281.36 (3r) (e).

19 (e) If a mining operation is located in whole or in part within the ceded territory,
20 any mitigation including mitigation accomplished through the purchase of
21 mitigation bank credits and the in-lieu fee subprogram that is authorized or
22 required by the department shall occur within the ceded territory.

23 **(9) MINING PERMIT.** Any water quality certification issued by the department,
24 including all of the conditions imposed as part of the certification, shall be included
25 in the mining permit.

1 **(10) CONSERVATION EASEMENTS.** (a) A person who is the holder of a water quality
2 certification that authorizes mitigation to be implemented by the holder of the
3 certification at an on-site location shall grant a conservation easement under s.
4 700.40 to the department to ensure that the wetland that is subject to the mitigation
5 will not be destroyed or substantially degraded by any subsequent proprietor or
6 holder of interest in the property on which the wetland is located. The department
7 shall suspend the mining permit if the holder of the permit fails to grant the
8 easement within the time limit set forth in the mining permit. If the holder
9 subsequently grants the conservation easement to the department, the department
10 shall reinstate the mining permit.

11 (b) Notwithstanding par. (a), the department shall modify or release a
12 conservation easement granted under par. (a) if all of the following apply:

13 1. The department determines that part or all of the wetland subject to the
14 mitigation ceases to be a wetland.

15 2. The person who is required to grant the conservation easement did not
16 contribute to the loss of the wetland as specified in subd. 1.

17 3. Any subsequent proprietor or holder of interest in the property on which
18 the wetland specified in subd. 1. is located did not contribute to the loss of the
19 wetland.

20 **(11) EXEMPTIONS.** (a) *Artificial wetlands.* All of the following artificial wetlands
21 that are associated with a mining operation are exempt from the water quality
22 certification provisions and mitigation provisions under this section and under any
23 other statute or rule relating to impacts on wetlands:

1 1. An artificial wetland that is a sedimentation or stormwater detention basin
2 or associated conveyance feature operated and maintained only for sediment
3 detention and flood storage purposes.

4 2. An artificial wetland that is an active sewage lagoon, cooling pond, waste
5 disposal pit, fish rearing pond, or landscape pond.

6 3. An artificial wetland that is actively maintained farm drainage and roadside
7 ditches.

8 4. An artificial wetland as part of an active mining operation.

9 (c) *Other exempted activities.* For nonfederal wetlands, all of the following
10 activities that are associated with a mining operation or bulk sampling are exempt
11 from the water quality provisions and mitigation provisions under this section and
12 any other law relating to impact on wetlands if the applicant minimizes any adverse
13 effect on the environment as a result of the activities:

14 1. Maintenance, emergency repair, or reconstruction of damaged parts of
15 structures that are in use in a wetland.

16 2. Construction or maintenance of irrigation or drainage ditches.

17 3. Construction or maintenance of farm roads, forest roads, or temporary
18 mining roads that is performed in accordance with best management practices, as
19 determined by the department.

20 **(12) RELATIONSHIP TO OTHER LAWS.** None of the following apply to a mining
21 operation or bulk sampling:

22 (a) Section 281.36, except as otherwise specifically provided in this section.

23 (b) Any rule promulgated by the department relating to wetlands that conflicts
24 with this section, except that no rule promulgated by the department under s. 281.36
25 applies to a mining operation or bulk sampling.

1 **295.605 Impacts to navigable waters. (1) DEFINITION.** In this section,
2 “navigable water activity” means an activity for which a permit or contract is
3 required under s. 30.12, 30.123, 30.19, 30.195, or 30.20.

4 **(2) PERMIT OR CONTRACT REQUIRED.** No person may engage in any navigable
5 water activity associated with bulk sampling or mining unless the person has been
6 issued a permit or entered into a contract as provided under sub. (4).

7 **(3) APPLICATION; RIPARIAN STATUS.** (a) Any person who intends to engage in a
8 navigable water activity associated with bulk sampling or mining need not be a
9 riparian owner to do any of the following:

10 1. Apply for and be issued an individual permit for a navigable water activity
11 under s. 30.12, 30.123, 30.19, or 30.195.

12 1m. Enter into a contract under s. 30.20.

13 2. Engage in an activity that is exempt under s. 30.12, 30.123, 30.19, 30.195,
14 or 30.20.

15 3. Seek authorization under a general permit issued under s. 30.12, 30.123,
16 30.19, or 30.20.

17 (b) If a person is applying for more than one permit or contract for a navigable
18 water activity associated with bulk sampling or mining, the person may file a single
19 application. The application shall include any information requested by the
20 department under s. 295.45 (3).

21 **(4) REQUIREMENTS.** (a) *Generally.* The department shall issue a permit, or enter
22 into a contract, for a navigable water activity if the navigable water activity meets
23 all of the following requirements:

24 1. The navigable water activity will not significantly impair public rights and
25 interests in a navigable water.

1 2. The navigable water activity will not significantly reduce the effective flood
2 flow capacity of a stream.

3 3. The navigable water activity will not significantly affect the rights of
4 riparian owners or the applicant obtains the consent of the riparian owners.

5 4. The navigable water activity will not significantly degrade water quality.

6 (b) *Measures.* The person applying for the permit or contract shall submit a
7 plan to the department containing proposed measures to meet the requirements
8 under par. (a) and a proposed schedule for implementing the measures. The plan
9 shall include one or more of the following measures:

10 1. Measures to offset significant impacts to navigable waters by providing
11 public access to, restoring, or enlarging up to 1.5 acres of navigable waters in
12 exchange for each acre of navigable waters that is significantly impacted.

13 2. Measures to improve public rights or interests in navigable waters.

14 3. Measures to offset significant impacts to water quality or quantity.

15 4. Measures to enhance flood storage.

16 5. Mitigation as provided under s. 295.60.

17 6. Conservation measures as provided in s. 295.61.

18 (bn) *Plan review; finding.* In reviewing the plan, the department may require
19 that measures that are in addition to, or in conjunction with, one or more of the
20 measures specified in par. (b) 1. to 6. be included in the plan. After reviewing the plan
21 and application, if the department finds that the requirements under par. (a) will be
22 met by implementing some or all of the measures contained in the plan, the
23 department shall determine which measures shall be required, shall approve a
24 schedule for implementation, and shall issue the permit or enter into the contract.

1 (c) *Applicability of requirements.* The requirements that are specified in par.
2 (a) 1. to 4. are in lieu of any requirements required for permits under ss. 30.12 (3m)
3 (c), 30.123 (8) (c), 30.19 (4) (c), and 30.195 (2) (c) and are in lieu of any requirements
4 for contracts under s. 30.20 that relate to the state's or public's interests and shall
5 be used, in conjunction with the measures required under par. (b), in any evaluation
6 by the department pursuant to 33 USC 1341.

7 (5) PERMIT CONDITIONS. The department may impose conditions in a permit for
8 a navigable water activity that it determines to be necessary to ensure that the
9 navigable water activities subject to the permit meet the requirements under par. (a).

10 (6) RELATIONSHIP TO OTHER LAWS. (a) Chapter 30 and any rules promulgated
11 under that chapter apply to any navigable water activity subject to this section to the
12 extent that they do not conflict with this section, except as provided in par. (b).

13 (b) Sections 30.208, 30.209, and 30.2095 and any rules promulgated under
14 those sections, do not apply to any navigable water activity that is subject to this
15 section.

16 **295.607 Shoreland and floodplain zoning.** (1) (a) In this section:

17 1. "Development or construction activity" means a waste site, structure,
18 building, fill, or other development or construction activity.

19 2. "Floodplain zoning ordinance" means a municipal floodplain zoning
20 ordinance adopted under s. 87.30.

21 3. "Shoreland zoning ordinance" means a shoreland zoning ordinance or
22 regulation adopted under s. 59.692, 61.351, 62.231, or 281.31.

23 (2) (a) The department may not prohibit a development or construction activity
24 to be located in an area that would otherwise be prohibited under a shoreland

1 ordinance if the development or construction activity is authorized by the
2 department as part of a mining operation covered by a mining permit under s. 295.58.

3 (b) A development or construction activity located in an area that would
4 otherwise be prohibited under a shoreland zoning ordinance does not violate the
5 applicable ordinance if the development or construction activity is authorized by the
6 department as part of a mining operation covered by a mining permit under s. 295.58.
7 No shoreland zoning variance is required for a development or construction activity
8 located as provided under this paragraph.

9 (3) A municipal floodplain zoning ordinance under s. 87.30 may not prohibit
10 development or construction activity authorized by the department as part of a
11 mining operation covered by a mining permit under s. 295.58, except to the extent
12 necessary for the municipality to which the floodplain zoning ordinance applies to
13 maintain eligibility for participation in the National Flood Insurance Program.

14 **295.61 Withdrawals of surface waters and groundwater. (1)**

15 DEFINITIONS. In this section:

16 (a) “Authorized base level of water loss” has the meaning given in s. 281.35 (1)

17 (b).

18 (b) “Environmentally sound and economically feasible water conservation
19 measures” has the meaning given in s. 281.346 (1) (i).

20 (c) “Great Lakes basin” has the meaning given in s. 281.35 (1) (d).

21 (d) “High capacity well” has the meaning given in s. 281.34 (1) (b).

22 (e) “Interbasin diversion” has the meaning given in s. 281.35 (1) (g).

23 (em) “Riparian restoration project” means a project that will restore or enhance
24 the natural beneficial uses and value of a watercourse.

25 (f) “Upper Mississippi River basin” has the meaning given in s. 281.35 (1) (j).

1 (g) Unless the context otherwise requires, “use” includes dewatering.

2 (h) “Water loss” has the meaning given in s. 281.35 (1) (L).

3 (i) “Withdrawal” has the meaning given in s. 281.35 (1) (m).

4 **(2) PERMIT REQUIRED.** No person may engage in any withdrawal or use of surface
5 water as part of a mining operation or bulk sampling unless the person has been
6 issued a water withdrawal permit under this section. No person may engage in any
7 withdrawal or use of groundwater as part of a mining operation or bulk sampling if
8 the capacity and rate of withdrawal of all wells involved in the withdrawal of
9 groundwater or the dewatering of mines exceeds 100,000 gallons each day unless the
10 person has been issued a water withdrawal permit under this section.

11 **(3) PERMIT APPLICATION.** (a) *Application.* Any person applying for a water
12 withdrawal permit is required to submit only one application. A person applying for
13 such a permit need not be a riparian owner. An application for a water withdrawal
14 permit shall include any information requested by the department under s. 295.45
15 (3).

16 (b) *Siting analysis.* If withdrawal of water at a mining operation or for bulk
17 sampling will involve one or more high capacity wells, the department shall require
18 an applicant for a water withdrawal permit to submit a siting analysis for the
19 purpose of determining the location of the high capacity wells. The analysis shall
20 include alternate proposed locations for each high capacity well. In evaluating a
21 submitted analysis, the department shall recognize there is a need for mining waste
22 sites, processing facilities, including wastewater and sludge storage or treatment
23 lagoons, to be contiguous to the location of the ferrous mineral deposit, and shall
24 allow any high capacity well to be located so that need will be met. The department

1 shall approve the location of each high capacity well as part of the permit issued
2 under sub. (4).

3 (c) *Entry to land.* After an application for a water withdrawal permit has been
4 submitted under this section, the applicant may enter any land from which the
5 applicant proposes to withdraw water or use water for the purpose of making any
6 surveys required for the mining operation or bulk sampling, but no work may be
7 commenced necessary for the mining operation or the bulk sampling until the
8 department issues the permit under this section.

9 (4) PERMIT ISSUANCE. (a) *General requirements.* The department shall issue
10 a water withdrawal permit if it determines that the withdrawal or use of the surface
11 water or groundwater meets all of the following requirements:

12 1. The proposed withdrawal and uses of the water are substantially consistent
13 with the protection of public health, safety, and welfare and will not be significantly
14 detrimental to the public interest.

15 2. The proposed withdrawal and uses of the water will not have a significant
16 adverse impact on the environment and ecosystem of the Great Lakes basin or the
17 Upper Mississippi River basin.

18 3. The proposed withdrawal and use of the water will not be significantly
19 detrimental to the quantity and quality of the waters of the state.

20 4. The proposed withdrawal and use of the water will not significantly impair
21 the rights of riparian owners or the applicant obtains the consent of the riparian
22 owners.

23 5. The proposed withdrawal and use of the water will not result in significant
24 injury to public rights in navigable waters.

1 6. If the withdrawal or the use of the water will result in an interbasin
2 diversion, the requirements of s. 281.35 (5) (d) 7. are met.

3 7. The proposed withdrawal or use of the water will comply with any
4 requirements imposed by the department under par. (cm).

5 (b) *Conservation measures.* The person applying for the permit shall submit
6 a plan to the department containing proposed conservation measures to meet the
7 requirements under par. (a) and a proposed schedule for implementing the
8 measures. The plan shall include one or more of the following measures:

9 1. Environmentally sound and economically feasible water conservation
10 measures.

11 2. Restoration of hydrologic conditions and functions of the source watershed,
12 or if the withdrawal is from a stream tributary to one of the Great Lakes, restoration
13 of the hydrologic conditions and functions of that stream.

14 3. Protection of important upland groundwater recharge areas.

15 4. Stabilization of shorelands.

16 5. Restoration or enhancement of the natural beneficial uses and values of a
17 stream or river.

18 6. Implementation of any feasible methods to offset impacts to water quality
19 or quantity.

20 7. Supplementation of additional water to water bodies to offset lower water
21 levels.

22 8. Taking steps to improve public rights or interests in navigable waters, if
23 navigable waters are subject to the permit.

24 9. Mitigation as provided in s. 295.60.

1 10. Measures to offset significant impacts to navigable waters by providing
2 public access to, restoring, or enlarging up to 1.5 acres of navigable waters in
3 exchange for each acre of natural navigable waters that is significantly impacted.

4 11. A riparian restoration project.

5 12. Measures as provided in s. 295.605.

6 (bn) *Plan review; finding.* In reviewing the plan, the department may require
7 that conservation measures that are in addition to, or in conjunction with, one or
8 more of the conservation measures specified in par. (b) 1. to 12. be included in the
9 plan. After reviewing the plan and application, if the department finds that the
10 requirements under par. (a) will be met by implementing some or all of the
11 conservation measures contained in the plan, the department shall determine which
12 measures shall be required, shall approve a schedule for implementation, and shall
13 issue the permit.

14 (cm) *Impacts to water supplies.* If the department determines that a proposed
15 withdrawal or use of water will result in a significant impact to a public or private
16 water supply, the department shall require the applicant to offset that impact in a
17 manner approved by the department, which may include a requirement that the
18 applicant provide a replacement water supply of similar quality or provide an
19 increased amount of water to the water supply.

20 (e) *Use of nonriparian waters.* Water withdrawn in accordance with a water
21 withdrawal permit may be used on nonriparian property.

22 (f) *Limits on permit denials.* If the department determines that one of the water
23 withdrawal activities subject to an application for a water withdrawal permit does
24 not meet the requirements for issuing the permit under par. (a) and will not be
25 authorized under the permit, the failure to authorize the activity may not affect the

1 department's determination as to whether to approve or deny the permit for other
2 water withdrawal activities that are subject to the application.

3 **(5) PERMIT CONDITIONS.** (a) The department may impose reasonable conditions
4 in a water withdrawal permit that, except as provided in par. (b), may not interfere
5 with the mining operation or bulk sampling or limit the amount of water needed for
6 the mining operation or bulk sampling and that relate to any of the following:

7 1. The location of the withdrawal or use.

8 2. The authorized base level of water loss from the withdrawal or use.

9 3. The dates on which or seasons during which withdrawal or use of the water
10 may occur.

11 4. The purposes for the withdrawal or use of the water.

12 5. The amount and quality of return flow required and the place of the
13 discharge.

14 6. The requirements for reporting volumes and rates of withdrawal and any
15 other data specified by the department.

16 7. Any other conditions that the department determines are necessary to
17 protect the environment and the public health, safety, and welfare and to ensure the
18 conservation and proper management of the waters of the state.

19 (b) If the department determines that a high capacity well that would be
20 covered by a water withdrawal permit may impair a privately owned high capacity
21 well, the department shall include in the water withdrawal permit conditions that
22 will ensure that the privately owned high capacity well will not be impaired, unless
23 the private high capacity well owner agrees to the impairment.

24 **(6) PERMIT MODIFICATIONS.** (a) 1. An operator to whom a permit has been issued
25 under this section may request a modification of any condition in the permit.

1 2. If the request for a modification under subd. 1. does not result in an increase
2 in an existing withdrawal resulting in a water loss averaging more than 2,000,000
3 gallons per day in any 30–day period above the operator's authorized base level of
4 water loss, within 30 days of receiving the request the department shall approve the
5 request and amend the permit to incorporate the modification.

6 3. a. If the request for a modification under subd. 1. results in an increase in
7 an existing withdrawal resulting in a water loss averaging more than 2,000,000
8 gallons per day in any 30–day period above the operator's authorized base level of
9 water loss, the department shall determine whether it is required, under ch. NR 150,
10 Wis. Adm. Code, to prepare an environmental assessment or environmental impact
11 statement and, if so, shall prepare an environmental assessment or an
12 environmental impact statement. If the department determines that, under ch. NR
13 150, Wis. Adm. Code, the operator must prepare an environmental impact report, the
14 department may only request information in the environmental impact report that
15 relates to decisions that the department makes under this section related to the
16 permit and the department shall limit its analysis to an evaluation of the request for
17 the modification.

18 b. The department shall publish a class 1 notice, under ch. 985, of the
19 availability of information about a request to which this subdivision applies, its
20 proposed decision on the request, the opportunity to comment within 30 days after
21 the notice is published, and the opportunity to request a public informational
22 hearing. The department shall also provide the notice to the applicant, the persons
23 specified in s. 30.18 (4) (a), and if the modification involves a structure through which
24 water transferred from the Great Lakes basin would be returned to the source
25 watershed through a stream tributary to one of the Great Lakes, the governing body

1 of each city, village, and town through which the stream flows or that is adjacent to
2 the stream downstream from the point at which the water would enter the stream.

3 c. Within 180 days of receiving a request to which this subdivision applies, the
4 department shall approve or deny as provided in sub. (4) the request and, if it
5 approves the request, shall amend the permit to incorporate the modification.

6 (b) 1. The department may propose modifications to any of the conditions in the
7 water withdrawal permit. If it proposes a modification, the department shall
8 determine whether it is required, under ch. NR 150, Wis. Adm. Code, to prepare an
9 environmental assessment or environmental impact statement and, if so, shall
10 prepare an environmental assessment or an environmental impact statement. If the
11 department determines that, under ch. NR 150, Wis. Adm. Code, the operator must
12 prepare an environmental impact report, the department may only request
13 information in the environmental impact report that relates to decisions that the
14 department makes under this section related to the permit and the department shall
15 limit its analysis to an evaluation of the proposed modification.

16 2. The department shall publish a class 1 notice, under ch. 985, of the
17 availability of information about a proposed modification under this paragraph, the
18 opportunity to comment within 30 days after the notice is published, and the
19 opportunity to request a public informational hearing. The department shall also
20 provide the notice to the applicant, the persons specified in s. 30.18 (4) (a), and if the
21 modification involves a structure through which water transferred from the Great
22 Lakes basin would be returned to the source watershed through a stream tributary
23 to one of the Great Lakes, the governing body of each city, village, and town through
24 which the stream flows or that is adjacent to the stream downstream from the point
25 at which the water would enter the stream.

1 3. The department may not impose the modification until after the end of the
2 public comment period under subd. 2.

3 4. Any modified condition under this paragraph may not interfere with the
4 mining operation or limit the amount of water needed for the mining operation if the
5 holder of the water withdrawal permit is implementing any conservation measures
6 that are applicable under the permit.

7 **(7) RELATIONSHIP TO OTHER LAWS.** None of the following apply to water
8 withdrawal or use that is associated with mining operations or bulk sampling:

9 (a) Sections 30.18, 281.34, and 281.35 and any rules promulgated under those
10 sections, except as specifically provided in this section.

11 (b) Any provision of ch. NR 812, Wis. Adm. Code, that conflicts with this section,
12 except that s. NR 812.08, Wis. Adm. Code, does not apply to water withdrawal or use
13 that is associated with mining operations or bulk sampling.

14 **(8) DAMAGE CLAIMS.** (a) As used in this subsection, “person” does not include
15 a city, village, or town.

16 (b) A person claiming damage to the quantity or quality of the person’s private
17 water supply caused by bulk sampling or mining may file a complaint with the
18 department and, if there is a need for an immediate alternative source of water, with
19 the city, village, or town where the private water supply is located. The department
20 shall conduct an investigation and if the department concludes that there is reason
21 to believe that the bulk sampling or mining is interrelated to the condition giving rise
22 to the complaint, it shall schedule a hearing.

23 (c) The city, village, or town in which is located the private water supply that
24 is the subject of a complaint under par. (a) shall, upon request, supply necessary
25 amounts of water to replace the water formerly obtained from the damaged private

1 supply. Responsibility to supply water begins at the time the complaint is filed and
2 ends at the time the decision of the department made at the conclusion of the hearing
3 is implemented.

4 (d) If the department concludes after the hearing that bulk sampling or mining
5 is the principal cause of the damage to the private water supply, it shall issue an order
6 to the operator requiring the provision of water to the person found to be damaged
7 in a like quantity and quality to that previously obtained by the person and for a
8 period of time that the water supply, if undamaged, would be expected to provide a
9 beneficial use, requiring reimbursement to the city, village, or town for the cost of
10 supplying water under par. (c), if any, and requiring the payment of compensation
11 for any damages unreasonably inflicted on the person as a result of damage to the
12 person's water supply. The department shall order the payment of full compensatory
13 damages up to \$75,000 per claimant. The department shall issue its written findings
14 and order within 60 days after the close of the hearing. Any judgment awarded in
15 a subsequent action for damages to a private water supply caused by bulk sampling
16 or mining shall be reduced by any award of compensatory damages previously made
17 under this subsection for the same injury and paid by the operator. The department
18 shall change the dollar amount under this paragraph annually, beginning with 1978,
19 according to the method under s. 70.375 (6). Pending the final decision on any appeal
20 from an order issued under this paragraph, the operator shall provide water as
21 ordered by the department. The existence of the relief under this section is not a bar
22 to any other statutory or common law remedy for damages.

23 (e) If the department concludes after the hearing that bulk sampling or mining
24 is not the cause of any damage, reimbursement to the city, village, or town for the

1 costs of supplying water under par. (c), if any, is the responsibility of the person who
2 filed the complaint.

3 (f) Failure of an operator to comply with an order under par. (d) is grounds for
4 suspension or revocation of a mining permit or any approval required for bulk
5 sampling.

6 **(9) COSTS REIMBURSED.** (a) Costs incurred by a city, village, or town in
7 monitoring the effects of bulk sampling or mining on surface water and groundwater
8 resources, in providing water to persons claiming damage to private water supplies
9 under sub. (8) (c), or in retaining legal counsel or technical consultants to represent
10 and assist the city, village, or town appearing at the hearing under sub. (8) (b) are
11 reimbursable through the investment and local impact fund under s. 15.435.

12 (b) Any costs paid to a city, village, or town through the investment and local
13 impact fund under par. (a) shall be reimbursed to the fund by the city, village, or town
14 if the city, village, or town receives funds from any other source for the costs incurred
15 under par. (a).

16 (c) If an order under sub. (8) (d) requiring the operator to provide water or to
17 reimburse the city, village, or town for the cost of supplying water is appealed and
18 is not upheld, the court shall order the cost incurred by the operator in providing
19 water or in reimbursing the city, village, or town pending the final decision to be
20 reimbursed from the investment and local impact fund under s. 15.435.

21 **295.62 Mining waste site construction and completion reports.** (1) An
22 operator shall construct a mining waste site substantially in accordance with the
23 approved mining waste site feasibility study and plan of operation.

24 (2) The operator shall inspect the mining waste site before it is used and ensure
25 that all associated structures are in substantial compliance with the mining waste

1 site feasibility study and plan of operation. The operator shall have a professional
2 engineer, registered as such under ch. 443, document mining waste site construction
3 and render an opinion as to whether the mining waste site has been constructed in
4 substantial conformance with the mining waste site feasibility study and plan of
5 operation. The engineer may use aerial or ground photographs to document the
6 inspection, but photographs do not in themselves constitute compliance with this
7 subsection. The operator shall maintain a complete file describing the items
8 inspected and their condition.

9 (3) An operator shall notify the department in writing when the mining waste
10 site has been constructed in substantial compliance with the mining waste site
11 feasibility study and plan of operation.

12 (4) (a) Within 5 business days of receipt of written notice from an operator that
13 the mining waste site has been constructed in substantial compliance with the
14 mining waste site feasibility study and plan of operation, the department shall either
15 review and inspect the mining waste site to ensure that it was constructed according
16 to the approved mining waste site feasibility study and plan of operation or notify the
17 operator that the department will not conduct a review and inspection before
18 disposal of mining waste in the mining waste site. Within 3 business days of any
19 review and inspection, the department shall notify the operator that the mining
20 waste site may be used for the disposal of mining waste or identify all steps that must
21 be completed to bring the mining waste site into substantial compliance with the
22 mining waste site plan of operation. After the operator completes the steps, the
23 operator shall notify the department that the steps have been completed.

24 (b) An operator may dispose of mining waste in a mining waste site after one
25 of the following occurs:

1 1. The operator receives notice from the department under par. (a) that the
2 department will not conduct a review and inspection before disposal of mining waste
3 in the mining waste site.

4 2. The operator receives notice from the department under par. (a) that the
5 mining waste site may be used for the disposal of mining waste.

6 3. The operator provides notice to the department under par. (a) that any steps
7 required by the department to be completed under par. (a) have been completed.

8 **295.63 Modifications; reporting.** (1) (a) An operator at any time may
9 request a change to a mining permit, the mining plan, the reclamation plan, or the
10 mining waste site feasibility study and plan of operation for any mining site that the
11 operator owns or leases, or request cancellation of the mining permit for any or all
12 of the unmined part of a mining site. The operator shall submit an application for
13 the change or cancellation in the form of a letter giving notice to the department of
14 the proposed change or cancellation and shall identify in the letter the tract of land
15 to be affected by a change in the mining plan, reclamation plan, or mining waste site
16 feasibility study and plan of operation or to be removed from the permitted mining
17 site.

18 (b) The department shall grant a request under par. (a) unless it determines
19 that the requested change makes it impossible for the permit holder to substantially
20 comply with the approved mining plan, reclamation plan, or mining waste site
21 feasibility study and plan of operation. If the department determines that the
22 requested change would make substantial compliance impossible, it shall follow the
23 procedure in sub. (3).

24 (c) If the request under par. (a) is to cancel any or all of the unmined part of a
25 mining site, the department shall ascertain, by inspection, if mining has occurred on

1 the land. If the department finds that no mining has occurred, the department shall
2 order release of the bond or other security posted for the land being removed from
3 the permitted mining site and cancel or amend the operator's written authorization
4 to conduct mining on the mining site. The department may not approve the removal
5 of land where mining has occurred from a permitted mining site, or release that land
6 from the bond or other security under this subsection, unless the operator has
7 completed reclamation to the satisfaction of the department.

8 **(2)** The operator shall furnish the department with a report for each mining
9 site within 30 days after the end of every 12-month period after issuance of the
10 permit, within 30 days after completion of all mining at the mining site, and within
11 30 days after completion of the mining plan and of the reclamation plan, describing
12 any reclamation work accomplished, or experimental reclamation work performed,
13 during the preceding year. The operator shall include in the reports an annual plan
14 map, color-coded and with a legend, showing all of the following, as of December 31
15 of the previous year, or as near to December 31 of the previous year as mining
16 operations permit:

17 (a) Location and boundary of the mining area.

18 (b) Any mine mill.

19 (c) Any open pit.

20 (d) Stockpiles of overburden.

21 (e) Stockpiles of waste rock.

22 (f) Ferrous ore stockpiles.

23 (g) Streams, lakes, and reservoirs.

24 (h) Tailings basins.

25 (i) Roads.