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1 (10) DRILLING FEES. Upon the submission of a report under sub. (9) (a) of
2 temporary abandonment of a drillhole, if the drillhole is temporarily abandoned, or
3 upon submission of a report under sub. (9) (a) of permanent abandonment of a
4 drillhole, if the drillhole is not temporarily abandoned, the explorer shall pay a fee
5 to the department. The fee is \$100 per drillhole for the first 20 drillholes for which
6 a report is filed in a license year and \$50 for each subsequent drillhole for which a
7 report is filed in that license year.

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

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

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

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

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

24 **295.443 Local impact committee; local agreement.** (1) A county, town,
25 village, city, or tribal government likely to be substantially affected by potential or

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1 proposed mining may designate an existing committee, or establish a committee, for
2 purposes of:

3 (a) Facilitating communications between operators and itself.

4 (b) Analyzing implications of mining.

5 (c) Reviewing and commenting on reclamation plans.

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

7 (e) Recommending priorities for local action.

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

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

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

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

21 (b) The duration of the agreement.

22 (c) The uses permitted on the land.

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

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

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

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

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

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

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

21 (4) Committees established under sub. (1) or (2) may be funded by their
22 appointing authority, and may, through their appointing authority, submit a request
23 for operating funds to the investment and local impact fund board under s. 70.395.
24 Committees established under sub. (1) shall be eligible for funds only if the county,
25 town, village or city is also a participant in a joint committee, if any, established

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1 under sub. (2). The investment and local impact fund board may not grant funds for
2 the use of more than one committee established under sub. (1) in relation to a
3 particular mining proposal unless a joint committee has been established under sub.
4 (2). The investment and local impact fund board shall grant operating funds to any
5 committee that submits a request and is eligible under this subsection and s. 70.395
6 (2) (fm). Committees may hire staff, enter into contracts with private firms or
7 consultants or contract with a regional planning commission or other agency for staff
8 services for mining-related purposes or the purposes under s. 70.395 (2) (fm).

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

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

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

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

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

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1 (d) A revegetation plan for each area where bulk sampling will be performed
2 that describes how adverse impacts to the environment will be avoided or minimized
3 to the extent practicable and how the site will be revegetated and stabilized and that
4 identifies how adverse impacts to plant and wildlife habitats will be avoided or
5 minimized to the extent practicable.

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

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

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

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

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1 **(3)** Within 14 days of receipt of a bulk sampling plan, the department shall
2 identify for the applicant, in writing, all approvals that are required before the bulk
3 sampling may be implemented, any waivers, exemptions, or exceptions to those
4 approvals that are potentially available, and any information that the department
5 needs to issue the approvals or to issue a decision on any waiver, exemption, or
6 exception. If no approvals are required, the department shall notify the applicant
7 that no approvals are required and that the applicant may proceed with the bulk
8 sampling.

9 **(3e)** If a storm water discharge permit under s. 283.33 (1) (a) or a water quality
10 certification under rules promulgated under subch. II of ch. 281 to implement 33
11 USC 1341 (a) is required before bulk sampling may be implemented, the person filing
12 the bulk sampling plan may apply for and be issued the permit or certification.

13 **(3m)** The department shall act on any required construction site erosion
14 control and storm water management approval, notwithstanding any authorization
15 by the department of a local program to administer construction site erosion control
16 and storm water management requirements.

17 **(3s)** An applicant shall submit all of the following at the same time:

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

19 (b) Applications for coverage under general permits or registration permits
20 identified under sub. (3).

21 (c) Applications for waivers, exemptions, or exceptions identified under sub.
22 (3).

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

24 **(4)** (a) Notwithstanding any provision in ch. 23, 29, 30, 31, 169, 281, 283, 285,
25 289, or 291 or in a rule promulgated under those chapters that is applicable to an

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1 approval identified under sub. (3), the application for any approval, for a waiver,
2 exemption, or exception to an approval, or for a determination that the proposed bulk
3 sampling activity is below the threshold that requires an approval, is considered to
4 be complete on the 30th day after the department receives the application, unless,
5 before that day, the department provides the applicant with written notification that
6 the application is not complete, stating the reason for the determination and
7 describing the specific information necessary to make the application complete.

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

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

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

22 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,
23 the person who filed the bulk sampling plan shall deliver a replacement bond at least
24 30 days before the expiration of the 90-day notice period. If the person fails to submit

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

3 (c) If the license of the surety company for a bond submitted under par. (a) is
4 revoked or suspended, the person who filed the bulk sampling plan, within 30 days
5 after receiving written notice from the department, shall deliver a replacement bond.
6 If the person fails to submit a replacement bond, the person may not engage in bulk
7 sampling until the person submits a replacement bond.

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

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

16 (7) Notwithstanding any provision in ch. 23, 29, 30, 31, 169, 281, 283, 285, 289,
17 or 291 or a rule promulgated under those chapters applicable to an approval
18 identified under sub. (3), the department shall require the bulk sampling activity for
19 which the approval is issued to be conducted at locations that result in the fewest
20 overall adverse environmental impacts.

21 (8) (a) In determining whether to approve or deny an application for an
22 approval identified under sub. (3), the department shall consider the site-specific
23 erosion control plan, the revegetation plan, and any mitigation program under s.
24 295.60 (8), any measures under s. 295.605, or any conservation measures under s.
25 295.61 that the applicant proposes to take.

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1 (b) The department may modify the application for an approval identified
2 under sub. (3) in order to meet the requirements applicable to the approval, and, as
3 modified, approve the application.

4 (9) Notwithstanding any inconsistent period in ch. 23, 29, 30, 31, 169, 281, 283,
5 285, 289, or 291 or in a rule promulgated under those chapters that is applicable to
6 an approval identified under sub. (3), the department shall approve or deny an
7 application within 30 days after the day on which the application is considered to be
8 complete under sub. (4) if any of the following apply:

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

12 (b) The application is for a determination of eligibility for coverage or
13 authorization to proceed under a general permit or a registration permit.

14 (10) (a) Notwithstanding any inconsistent period in ch. 23, 29, 30, 31, 169, 281,
15 283, 285, 289, or 291 or in a rule promulgated under those chapters that is applicable
16 to an approval identified under sub. (3), the department shall approve or deny any
17 application for an approval identified under sub. (3) to which sub. (9) does not apply
18 within 60 days after the date on which the application is considered to be complete
19 under sub. (4), unless the application is for an individual permit for which federal law
20 requires the opportunity for public comment or the ability to request a public hearing
21 prior to issuance of the approval.

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

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1 to the approval, the department's analyses and preliminary determinations relating
2 to the approval, the preapplication description under s. 295.46, any additional
3 information that a law concerning the approval requires to be made available, and
4 the opportunity to submit written comments within 30 days after the date of the
5 publication of the notice. The date on which the department first publishes the notice
6 on its Internet site shall be considered the date of the publication of the notice
7 required to be published under this paragraph.

8 (c) In the notice under par. (b), the department shall also specify the date, time,
9 and location of the public informational hearing under par. (e). The department shall
10 send the notice to any person to whom the department is required to give notice of
11 any proposed determination, application, or hearing concerning an approval
12 described in par. (a) under the laws relating to the issuance of the approval and to
13 any person who has requested notice. The department's notice to interested persons
14 under this paragraph may be given through an electronic notification system
15 established by the department.

16 (d) If there is more than one approval described in par. (a), the department shall
17 issue one notice and coordinate the public comment period for all of the approvals.
18 If possible, the department shall coordinate the notice and the public comment
19 period for an approval that is an individual permit for which federal law requires the
20 opportunity for public comment or the ability to request a public hearing prior to
21 issuance of the approval with notice and the public comment period for the approvals
22 described in par. (a).

23 (e) The department shall hold a public informational hearing within 30 days
24 after the date of the publication of the notice under par. (b). The department shall
25 hold the public informational hearing in the county where the majority of the

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1 proposed bulk sampling site is located. If there is more than one approval described
2 in par. (a), the department shall hold a single public informational hearing covering
3 all of the approvals and the preapplication description under s. 295.46. If possible,
4 the department shall include consideration of an approval that is an individual
5 permit for which federal law requires the opportunity for public comment or the
6 ability to request a public hearing prior to issuance of the approval in the public
7 informational hearing under this paragraph. The public informational hearing
8 under this paragraph is not a contested case hearing under ch. 227.

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

16 (b) The department shall approve or deny the application for an approval that
17 is an individual permit for which federal law requires the opportunity for public
18 comment or the ability to request a public hearing prior to issuance of the approval
19 within 180 days after the date on which the application is considered to be complete
20 under sub. (4).

21 **(10r)** An approval identified under sub. (3) is issued upon mailing and is final
22 and effective upon issuance.

23 **(11)** The department is not required to prepare an environmental impact
24 statement or an environmental assessment for an approval required for bulk
25 sampling.

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1 **295.46 Preapplication description.** (1) A person who files a bulk sampling
2 plan under s. 295.45 with regard to a proposed mining project shall file, together with
3 the bulk sampling plan, a general description of the proposed mining project. A
4 person who proposes to engage in a mining project, but who does not file a bulk
5 sampling plan, shall file a general description of the proposed mining project with
6 the department at the time that the person provides the notice of intent to file an
7 application for a mining permit under s. 295.465. The general description shall
8 include all of the following:

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

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

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

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

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

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

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

21 6. The elevation of the water table.

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

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

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

5 (2) (a) If the department provides notice to an applicant under s. 295.45 (3) that
6 no approvals are required for bulk sampling or if a person who proposes to engage
7 in a mining project files a preapplication description of the proposed mining project
8 at the time that the person provides the notice of intent to file an application for a
9 mining permit under s. 295.465 because the person did not file a bulk sampling plan,
10 the department shall publish a class 1 notice, under ch. 985, and shall publish notice
11 on the department's Internet site, of a public informational hearing on the proposed
12 mining project. The date on which the department first publishes the notice on its
13 Internet site shall be considered the date of the publication of the notice required to
14 be published under this paragraph. The department shall publish the notice when
15 it notifies the applicant that no approvals are required or after it receives the notice
16 of intent.

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

- 18 1. Describe the availability of the preapplication description.
- 19 2. Describe the opportunity to submit written comments within 30 days after
20 the date of the publication of the notice.
- 21 3. Specify the date, time, and location of the public informational hearing.

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

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

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

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

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

7 5. Any interested person who has requested notification. The department's
8 notice under this subdivision may be given through an electronic notification system
9 established by the department.

10 (d) The department shall hold a public informational hearing within 30 days
11 after the date of the publication of the notice under par. (a). The department shall
12 hold the public informational hearing in the county in which the majority of the
13 proposed mining site is located.

14 **295.465 Preapplication notification.** (1) Except as provided in sub. (3), at
15 least 12 months before filing an application for a mining permit under s. 295.47, a
16 person proposing to engage in a mining project shall notify the department and the
17 U.S. Army Corps of Engineers in writing of the intention to file an application for a
18 mining permit. After receiving the notification, the department shall hold at least
19 one meeting with the person to make a preliminary assessment of the project's scope,
20 to make an analysis of alternatives, to identify potential interested persons, and to
21 ensure that the person making the proposal is aware of all of the following:

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

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

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

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

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

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

13 (c) Available information to evaluate the environmental impact of the project
14 and to expedite the preparation of the environmental impact report and the
15 environmental impact statement, including information concerning preliminary
16 environmental reviews, field studies, and investigations; monitoring programs to
17 establish baseline water quality; laboratory studies and investigations; advisory
18 services; and the timing and the processes associated with any necessary
19 consultations with other state or federal agencies and within the department, such
20 as those required for endangered resources and cultural resource consultations and
21 approvals.

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

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1 (4) After providing notice to the U.S. Army Corps of Engineers under sub. (1),
2 a person shall make a good faith effort to meet with the U.S. Army Corps of Engineers
3 to discuss the mining project, the environmental impact report, and information
4 related to federal requirements that may be applicable to the mining project.

5 **295.47 Application for mining permit.** (1) (a) No person may engage in
6 mining or reclamation at any mining site unless the mining site is covered by a
7 mining permit and by written authorization to mine under s. 295.59 (3). An
8 applicant shall submit an application for a mining permit to the department in
9 writing and in reproducible form and shall provide the number of copies that are
10 requested by the department. An application and a mining permit are required for
11 each separate mining site. The applicant shall distribute copies of the application
12 to the clerk of any city, village, town, or county with zoning jurisdiction over the
13 proposed site, to the clerk of any city, village, town, or county within whose
14 boundaries any portion of the proposed mining site is located, to the elected
15 governing body of any federally recognized American Indian tribe or band with a
16 reservation the boundaries of which are within 20 miles of the proposed site, and to
17 the main public library of each city, village, town, or county with zoning jurisdiction
18 over the proposed site or within whose boundaries any portion of the proposed site
19 is located.

20 (b) If a person proposes to conduct mining at a mining site that includes an
21 abandoned mining site, the person shall include plans for reclamation of the
22 abandoned mining site, or the portion of the abandoned mining site that is included
23 in the mining site, in its mining plan and reclamation plan.

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

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- 1 (a) A mining plan under s. 295.48.
- 2 (b) A reclamation plan under s. 295.49.
- 3 (c) A mining waste site feasibility study and plan of operation under s. 295.51.
- 4 (e) The name and address of each owner of land within the mining site and each
5 person known by the applicant to hold any option or lease on land within the mining
6 site.
- 7 (f) A list of all mining permits in this state held by the applicant.
- 8 (g) Evidence the applicant has applied or will apply for necessary permits or
9 other permissions under all applicable zoning ordinances and that the applicant has
10 applied or will apply to the department for any approval and has applied or will apply
11 for any other license or permit required under state law.
- 12 (h) 1. The information specified in subd. 2. concerning the occurrence of any of
13 the following within 10 years before the application is submitted:
- 14 a. A forfeiture by the applicant, principal shareholder of the applicant, or a
15 related person of a mining reclamation bond that was sufficient to cover all costs of
16 reclamation and was posted in accordance with a permit or other approval for a
17 mining operation in the United States, unless the forfeiture was by agreement with
18 the entity for whose benefit the bond was posted.
- 19 b. A felony conviction of the applicant, a related person, or an officer or director
20 of the applicant for a violation of a law for the protection of the natural environment
21 arising out of the operation of a mining site in the United States.
- 22 c. The bankruptcy or dissolution of the applicant or a related person that
23 resulted in the failure to reclaim a mining site in the United States in violation of a
24 state or federal law.

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

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

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

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

11 **295.48 Mining plan.** (1) GENERAL. An applicant for a mining permit shall
12 submit as part of the application a mining plan that includes a description of the
13 proposed mining site and either a detailed map drawn to a scale approved by the
14 department or aerial photographs, if the photographs show the details to the
15 satisfaction of the department, prepared and certified by a competent engineer,
16 surveyor, or other person approved by the department that show all of the following:

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

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

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

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

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

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

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

3 (b) The elevation of the water table.

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

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

8 **(3) OPERATING PROCEDURES.** The applicant shall also include in the mining plan
9 the details of the proposed operating procedures, including descriptions of all of the
10 following:

11 (a) The sequence of mining operations.

12 (b) The handling of overburden materials.

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

14 (d) The milling, concentrating, refining, and other processing of ferrous
15 minerals.

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

17 (f) Groundwater and surface water management techniques, including
18 provisions for erosion protection and drainage control, and a water management
19 plan showing water sources, flow paths and rates, storage volumes, and release
20 points.

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

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

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

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

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

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

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

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

16 (4) REQUIRED DEMONSTRATIONS. The applicant shall demonstrate in the mining
17 plan that the proposed mining will be consistent with the reclamation plan under s.
18 295.49 and that all of the following will apply, at a minimum:

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

21 (b) Buildings and other structures will be painted and maintained in a manner
22 that is visually compatible with the surrounding vegetational and earth conditions,
23 except that if a building or other structure cannot be painted and maintained in a
24 manner that is visually compatible or if painting and maintaining a building or other

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1 structure in a manner that is visually compatible would cause safety concerns, the
2 building or structure will be made as visually inconspicuous as is practicable.

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

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

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

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

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

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

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

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

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

23 (i) The following apply:

24 1. Systems for transporting tailings in slurry through pipelines that are not
25 buried are designed to provide for emergency tailings conveyance or storage in case

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1 a pipeline breaks, plugs, freezes, or needs repairs and will be accessible for
2 inspection, emergency repair, and maintenance.

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

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

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

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

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

13 **295.49 Reclamation plan.** (1) An applicant for a mining permit shall submit
14 as part of the application a reclamation plan, designed to minimize adverse effects
15 to the environment to the extent practicable, that includes all of the following:

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

19 (am) Prereclamation and postreclamation drawings.

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

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

23 (d) A description of proposed interim and final topography and slope
24 stabilization.

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

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

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

7 2. The names of persons legally and operationally responsible for long-term
8 care.

9 (g) Projected costs of reclamation, including the estimated cost of fulfilling the
10 reclamation plan.

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

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

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

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

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

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

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

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

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

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

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

19 (k) All recoverable topsoil from surface areas disturbed by the mining will be
20 removed and stored in an environmentally acceptable manner for use in reclamation
21 or in offsetting or minimizing adverse environmental impacts.

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

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

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

10 **295.51 Mining waste site location criteria; feasibility study, and plan**
11 **of operation.** (1) DEFINITIONS. In this section:

12 (a) “Groundwater flow net” means a drawing showing equipotential contour
13 lines and the direction that groundwater will flow.

14 (c) “Regional” means relating to the area that may affect or be affected by a
15 proposed mining waste site, which ordinarily will not exceed the area within a radius
16 of 5 miles of the mining waste site.

17 (e) “Water budget” means an assessment of water inputs, outputs, and net
18 changes to a natural system or engineered facility over a fixed period.

19 (f) “Well nest” means 2 or more wells constructed to different depths and
20 installed within 10 feet of each other at the ground surface.

21 (1e) HAZARDOUS MINING WASTE. (a) Prior to the informational hearing under s.
22 295.57 (5) the department shall designate any mining wastes identified by the
23 department as hazardous under s. 291.05 (1).

24 (b) The disposal of any mining wastes that are identified by the department as
25 hazardous under s. 291.05 (1) in a mining waste site is subject to this subchapter, and

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1 not to chs. NR 660 to 679, Wis. Adm. Code, except as necessary to comply with
2 applicable federal regulations adopted under the federal Resource Conservation and
3 Recovery Act, 42 USC 6901 to 6991m.

4 **(1m) LOCATION CRITERIA.** (a) Except as provided in par. (b), no person may locate
5 or operate a mining waste site, excluding the portion of a mining site from which
6 ferrous minerals are extracted and that is backfilled with mining waste, within 1,000
7 feet of any of the following:

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

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

11 3. The boundary of a scenic easement purchased by the department or the
12 department of transportation.

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

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

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

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

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

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

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

8 (bq) No person may locate or operate a mining waste site, excluding the portion
9 of a mining site from which ferrous minerals are extracted and that is backfilled with
10 mining waste, within a floodplain.

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

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

20 (d) No person may locate or operate a mining waste site, excluding the portion
21 of a mining site from which ferrous minerals are extracted and that is backfilled with
22 mining waste, within an area that contains mineral resources that are known at the
23 time the application for the mining permit is issued, are likely to be mined in the
24 future, and lie within 1,000 feet of the surface.

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

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

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

23 (a) Identification of all mining wastes that will be disposed of or stored in the
24 mining waste site, including classification of mining waste types, estimates of the

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1 rates of generation and volumes of each type, and an explanation of the proposed
2 ultimate disposition of each type.

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

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

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

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

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

22 (b) Perform at least one soil boring, to bedrock or refusal, every 80 acres,
23 characterizing the major geomorphic features such as ridges and lowlands and
24 characterizing each major soil layer according to the unified soil classification
25 system.

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

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

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

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

13 3. Classifying all soil samples according to the unified soil classification
14 system.

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

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

21 (g) Determine horizontal and vertical groundwater flow patterns in and around
22 the proposed mining waste site based on data obtained from groundwater
23 monitoring wells and piezometers constructed in conformity with ch. NR 141, Wis.
24 Adm. Code.

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

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

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

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

18 a. Specific conductance.

19 b. Temperature.

20 c. Hydrogen ion concentration (pH).

21 d. Dissolved oxygen.

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

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

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

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

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

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

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

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

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

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

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

4 (g) An environmental characterization that describes the structure and
5 functional relationships of ecosystems potentially affected by the proposed mining
6 waste site.

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

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

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

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

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

22 1. Topography.

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

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- 1 3. Geology, including the nature and distribution of bedrock and
2 unconsolidated deposits.
- 3 4. Hydrogeology, including depth of groundwater, flow directions, recharge and
4 discharge areas, groundwater divides, aquifers, and the identification of the aquifers
5 used by all public and private wells within at least 1,200 feet of the proposed mining
6 waste site.
- 7 5. Groundwater and surface water quality and precipitation chemistry.
- 8 6. Climatology.
- 9 7. Identification of owners of land adjacent to the proposed mining waste site.
- 10 8. Zoning.
- 11 9. Existing land uses with particular emphasis on known recreational, historic,
12 archaeological, scientific, cultural, or scenic significance.
- 13 10. Existing or proposed access roads and weight restrictions on those roads.
- 14 11. Identification of aquatic and terrestrial ecosystems such as stream orders
15 and classifications.
- 16 (m) A discussion of alternative methods of disposing of mining waste materials,
17 including an analysis of the practicability of the reuse, sale, recovery, or processing
18 of the mining wastes for other purposes.
- 19 (n) An analysis of the results of the mining waste characterizations under sub.
20 (3), the site specific information under sub. (4) and this subsection, and the regional
21 information under par. (L) in relation to the approach for locating the mining waste
22 site and developing appropriate design, construction, operation, monitoring, and
23 long-term care requirements for each type of mining waste.

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

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

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

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

11 4. Proposed methods for leachate control.

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

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

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

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

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

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

24 8. A proposed monitoring program, based on potential variations in the quality
25 and quantity of mining waste and methods of processing, transport and disposal, and

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1 on the variability of important environmental conditions, designed to monitor the
2 proposed mining waste site for compliance with all environmental standards that
3 are applicable under this subchapter.

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

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

19 (p) Preliminary water budgets for the periods before construction, during
20 construction, and after closure of the mining waste site, each addressing
21 climatological situations depicting dry, wet, and average precipitation and
22 evaporation conditions, based on climatological records. In preparing the water
23 budget, the applicant shall consider precipitation, slurry water input and return,
24 evaporation, surface runoff, evapotranspiration, the moisture holding capacity of
25 soil and mining waste, and the velocities and volumes of groundwater flow. In the

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1 water budget, the applicant shall describe the estimated amount and quality of
2 seepage and discharge to surface water and groundwater.

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

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

7 1. Geology of the mining waste site including type and homogeneity of the
8 foundation.

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

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

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

14 5. Requirements of the mine safety and health administration of the federal
15 department of labor.

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

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

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

22 1. Boring logs, soil tests, well construction data, and water level
23 measurements.

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

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1 3. References.

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

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

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

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

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

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

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

21 6. A site monitoring plan sheet showing the location of all devices for the
22 monitoring of leachate quality, leachate production, and groundwater quality and
23 levels in both the natural zone of saturation and that developed within the mining
24 waste site, along with a table indicating the parameters to be monitored for and the
25 frequency of monitoring before and during mining waste site development.

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1 7. A long-term care plan sheet showing the completion of closure and
2 indicating those items anticipated to be performed during the period of long-term
3 care for the mining waste site, along with a discussion of the procedures to be used
4 for the inspection and maintenance of runoff control structures, settlement, erosion
5 damage, leachate control facilities, and leachate and groundwater monitoring and
6 a table listing those items and the anticipated schedule for monitoring and
7 maintenance.

8 8. If applicable, the following information on the plan sheets under subds. 1.
9 to 7.:

10 a. A survey grid with baselines and monuments to be used for field control.

11 b. Limits of filling for each major mining waste type or fill area.

12 c. All drainage patterns and surface water drainage control structures both
13 within the actual fill area and at the perimeter of the mining waste site, including
14 any berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets,
15 velocity breaks, sodding, erosion matting, vegetation, or other methods of erosion
16 control.

17 d. The method of placing mining waste within each phase.

18 e. Ground surface contours at the time represented by the drawing, indicating
19 spot elevations for key features.

20 f. Areas to be cleared, grubbed, and stripped of topsoil.

21 g. Borrow areas for liner materials, granular materials for filter beds, berms,
22 roadway construction, and cover materials.

23 h. All soil stockpiles, including soils to be used for cover, topsoil, liner materials,
24 filter bed materials, and other excavation.

25 i. Access roads and traffic flow patterns to and within the active fill area.

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- 1 j. All temporary and permanent fencing.
- 2 k. The methods of screening such as berms, vegetation, or special fencing.
- 3 L. Leachate collection, control, and treatment systems, including any pipes,
4 manholes, trenches, berms, collection sumps or basins, pumps, risers, liners, and
5 liner splices.
- 6 m. Leachate and groundwater monitoring devices and systems.
- 7 n. Disposal areas for severe weather operations.
- 8 o. Support buildings, utilities, gates, and signs.
- 9 p. Handling areas for the segregation of various types of mining waste.
- 10 q. Construction notes and references to details.
- 11 r. On the appropriate plan sheet, the location of each cross-section under subd.
12 9., with the section labeled using the mining waste site grid system.
- 13 9. A series of mining waste site cross-sections, drawn perpendicular and
14 parallel to the mining waste site baseline at a maximum distance of 500 feet between
15 cross-sections and at points of important construction features, each cross-section
16 showing, where applicable: existing and proposed base and final grades; soil borings
17 and monitoring wells that the section passes through or is adjacent to; soil types,
18 bedrock, and water table; leachate control, collection, and monitoring systems;
19 quantity of mining waste and area filled by each major mining waste type; drainage
20 control structures; access roads and ramps on the mining waste site perimeter and
21 within the active fill area; the filling sequence or phases; and other appropriate site
22 features.
- 23 10. Drawings and typical sections for, as appropriate, drainage control
24 structures, tailings distribution systems, access roads, fencing, leachate control
25 systems and monitoring devices, buildings, signs, and other construction details.

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1 (b) A plan for initial site preparations, including a discussion of the field
2 measurements, photographs to be taken, and sampling and testing procedures to be
3 used to verify that the in-field conditions encountered were the same as those
4 defined in the mining waste site feasibility study and plan of operation and to
5 document that the mining waste site was constructed according to the engineering
6 plans and specifications submitted for department approval.

7 (c) A description of typical daily operations, including a discussion of the
8 timetable for development; methods for determining mining waste types disposed of
9 or excluded; typical mining waste handling techniques; hours of operation; traffic
10 routing; drainage and erosion control; windy, wet, and cold weather operations; fire
11 protection equipment; methods for dust control; method of placing mining waste
12 materials; monitoring; closure of filled areas; leachate control methods; and critical
13 backup equipment.

14 (d) An analysis of the financial responsibility for closure and long-term care
15 from the time of closing of the mining waste site to termination of the obligation to
16 maintain proof of financial responsibility for long-term care.

17 (e) A description of procedures for backfilling all soil borings and monitoring
18 wells when they are abandoned.

19 (f) A contingency plan to prevent or minimize damage to human health or the
20 environment in the event of an accidental or emergency discharge or other condition
21 that does not comply with conditions of the mining permit or other applicable
22 standards. The applicant shall ensure that the plan does all of the following:

23 1. Follows the spill prevention, control, and countermeasures plan in
24 regulations promulgated under 33 USC 1321.

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1 2. Indicates, for the monitoring programs required under sub. (5) (o) 8., the
2 levels of substances that if exceeded require the operator to activate the contingency
3 plan.

4 3. Includes a provision for more concentrated and frequent monitoring in the
5 area of any excessive measurement.

6 4. Describes possible accidental or emergency discharges or other unplanned
7 events and identifies the corresponding corrective action or alternative action to be
8 implemented should the criteria for action be exceeded.

9 5. Specifies the action to be taken if an analysis of groundwater samples
10 requires a response.

11 (g) A list of the groundwater and surface water quality parameters for which
12 the applicant will monitor under s. 295.643 and a description of the methods for
13 groundwater and surface water sample collection, preservation, and analysis that
14 will be used.

15 **(7) REQUIRED DEMONSTRATIONS.** Through the mining waste site feasibility study
16 and plan of operation, the applicant shall demonstrate that all of the following apply
17 or will apply with respect to the operation of the mining waste site, excluding the area
18 from which ferrous minerals will be extracted and that is backfilled with mining
19 waste:

20 (a) No mining waste will be deposited in such a way that the mining waste or
21 leachate from the mining waste will result in a violation of any applicable surface
22 water quality criteria or standards, applicable wetland water quality standards, or
23 applicable groundwater quality standards.

24 (b) Surface water drainage will be diverted away from and off the active fill
25 area.

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1 (c) Access to the mining waste site will be restricted through the use of fencing,
2 natural barriers, or other methods approved by the department.

3 (d) The entire perimeter of the mining waste site will be made accessible for
4 inspection and for earth moving equipment required for emergency maintenance.

5 (e) Any area to be used for the disposal of mining waste and any borrow areas
6 will first be stripped of all topsoil to ensure that adequate amounts are available for
7 reclamation and closure activities.

8 (f) Effective means will be taken to control dust resulting from the mining
9 waste site.

10 (g) Provisions will be made for back-up equipment in the event of the
11 breakdown of critical operating equipment.

12 (h) The design and operation specifications for mining waste site facilities
13 include contingency measures, which may include emergency power supplies,
14 redundant equipment, or temporary holding facilities, to deal with emergency
15 conditions.

16 (hm) Any mining waste site designed with a liner or situated in soils with
17 sufficiently low permeability to either partially or completely contain leachate is
18 designed with a leachate management system that can effectively remove leachate,
19 prevent surface seepage, and promote adequate settlement to permit final
20 reclamation.

21 (i) All surface water drainage ditches, culverts, and other drainage control
22 structures are designed for a rainfall event measured in terms of the depth of the
23 rainfall occurring within a 24-hour period and having an expected recurrence
24 interval of once in 100 years.

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1 (j) The final slopes of the completed mining waste site will be no less than 20
2 percent and no greater than 50 percent, unless the mining waste site is specifically
3 designed for a final use compatible with other slopes.

4 (k) The final cover design for the mining waste site is based on the results of
5 the mining waste characterization and engineering needs identified in studying the
6 mining waste site feasibility.

7 (L) Provisions are made for collection and treatment of leachate for all areas
8 designed to contain leachate.

9 (m) The mining waste site is located and designed, and will be constructed and
10 operated, so that any liner system or naturally occurring soil barrier is compatible
11 with all mining waste that is disposed of or stored in the mining waste site.

12 (n) For any dam, sufficient freeboard, measured from the inside of the top of
13 the dam, to contain a rainfall event measured in terms of the depth of the rainfall
14 occurring within a 24-hour period and having an expected recurrence interval of
15 once in 100 years and to prevent overtopping by waves during such a rainfall event
16 or a minimum of 2 feet of freeboard, whichever is greater, will be provided.

17 (o) Drainage or filter bed material has been selected and designed to promote
18 drainage, reduce the potential for piping, and be stable under leaching conditions.

19 (p) Material used in earth embankments or drainage or filter beds will be free
20 of vegetation, organic soils, frozen soils, and other extraneous matter that could
21 affect the compactibility, density, permeability, or shear strength of the finished
22 embankment.

23 (q) Embankment materials and drainage or filter bed materials will be
24 compacted to 90 percent of the maximum dry density as determined by the standard
25 proctor compaction test, ASTM D698, or to a greater density as necessitated by the

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1 embankment height, and the materials will be compacted in appropriate layers as
2 determined through the slope stability analysis, except that compaction and
3 crushing of waste rock for use outside an earth core is not required.

4 (r) Emergency spill containment areas will be provided near the tailings
5 pipeline in case of power or pipeline failure.

6 (s) Tailings pipelines will be self-draining to the tailings area or to an
7 emergency spill containment area.

8 (t) The mining waste site is located in the same watershed as the surface
9 facilities for the mining unless it is not practicable to locate the mining waste site in
10 the same watershed as the surface facilities for the mining, as determined on a site
11 specific basis.

12 (u) The disposal of the mining waste will minimize the discharge of
13 environmental pollutants to groundwater to the extent practicable.

14 (w) Tailings pipelines are as short as practicable.

15 (x) Upstream rainfall catchment areas are minimized.

16 (y) The outside of the top of any dam is higher than the inside of the top of the
17 dam so that runoff from the top is forced to the inside of the dam.

18 (z) The mining waste site design includes staged reclamation, if practicable.

19 **(8) LIMITATION ON REGULATION OF CERTAIN MINING WASTE.** The department may
20 not regulate the use of mining waste in reclamation or in the construction of any
21 facility or structure on a mining site except through the department's review of the
22 mining plan and reclamation plan and the approval of the application for the mining
23 permit.

24 **(9) APPLICABILITY OF OTHER LAWS.** Subchapters I to V and VIII of ch. 289 and
25 rules promulgated under those subchapters do not apply to a mining waste site, to

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1 the disposal of mining waste in a mining waste site, or to mining wastes used in the
2 reclamation or construction of facilities and structures on the mining site.

3 **295.53 Environmental impact statement.** (1) CONSULTANTS. The
4 department may enter into contracts for environmental consultant services under
5 s. 23.41 to assist in the preparation of an environmental impact statement or to
6 provide assistance to applicants.

7 (2) NOTICE. After the department receives an application for a mining permit,
8 it shall notify the public and affected agencies that an environmental impact
9 statement will be prepared for the proposed mine and that the process of identifying
10 major issues under s. NR 150.21 (3), Wis. Adm. Code, is beginning.

11 (3) ENVIRONMENTAL IMPACT REPORT. (a) An applicant shall prepare an
12 environmental impact report for the mining project. In the environmental impact
13 report, the applicant shall provide a description of the proposed mining project, the
14 present environmental conditions in the area and the anticipated environmental
15 impacts of the proposed mining project, the present socioeconomic conditions in the
16 area and the anticipated socioeconomic impacts of the proposed mining project,
17 details of any wetlands mitigation program under s. 295.60 (8), any measures for
18 navigable waters under s. 295.605 (4), any proposed changes to the forest
19 designations specified in sub. (4) (c), and the alternatives to the proposed mining
20 project. As the applicant provides more information or makes modifications to the
21 proposed mining project, the department may revise the requirements it specified
22 under s. 295.465 (1) (b) to ensure the potential environmental effects can be
23 identified in the department's environmental impact statement.

24 (b) The department shall assist the applicant in meeting the deadlines for
25 ultimate submission and review of any scientific analyses consistent with this

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1 subchapter. If a particular scientific analysis is not completed as of the date the
2 environmental impact report is required to be submitted, the applicant shall identify
3 in the environmental impact report the scope of the analysis and anticipated date
4 that it will be submitted.

5 (c) 1. The applicant shall submit the environmental impact report with the
6 application for the mining permit.

7 3. Upon receipt of the environmental impact report, the department shall
8 review the environmental impact report and, if the department finds that the
9 environmental impact report does not contain information reasonably necessary for
10 the department to evaluate the proposed mining project and its environmental
11 effects, the department may request additional information from the applicant.

12 (d) The department shall accept original data from an environmental impact
13 report for use in the environmental impact statement and need not verify all original
14 data provided by the applicant to accept the data as accurate. The department shall
15 use original data from an environmental impact report in the environmental impact
16 statement if the data contains the information identified under s. 295.465 (1) (b) and
17 any of the following conditions is met:

18 1. The department, its consultant, or a cooperating state or federal agency
19 collects sufficient data to perform a limited statistical comparison with data from the
20 environmental impact report that demonstrates that the data sets are statistically
21 similar within a reasonable confidence limit.

22 2. An expert who is employed by, or is a consultant to, the department or is
23 employed by, or is a consultant to, a cooperating state or federal agency determines
24 that the data is within the range of expected results.

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1 3. The department, its consultant or a cooperating state or federal agency
2 determines that the methodology used in the environmental impact report is
3 scientifically and technically adequate for the tests being performed.

4 **(4) PROCEDURE FOR ENVIRONMENTAL IMPACT STATEMENT.** (a) The department shall
5 prepare an environmental impact statement for every application for a mining
6 permit. In preparing the environmental impact statement, the department shall
7 comply with s. 1.11 (2) and s. NR 150.22 (2), Wis. Adm. Code.

8 (b) The department shall include in the environmental impact statement a
9 description of the significant long-term and short-term impacts, including impacts
10 after the mining has ended, on all of the following:

- 11 1. Tourism.
- 12 2. Employment.
- 13 3. Schools and medical care facilities.
- 14 4. Private and public social services.
- 15 5. The tax base.
- 16 6. The local economy.

17 (c) The department and other state agencies shall address the application for
18 a mining permit, for any approval, and for any action relating to the mining project
19 involving other state agencies in one comprehensive analysis in the environmental
20 impact statement prepared by the department, including any environmental
21 analysis required by the department with regard to any of the following:

- 22 1. The withdrawal of land entered as county forest land under s. 28.11 and any
23 modification of, or amendment to, a county forest land use plan necessitated by the
24 withdrawal of the land.
- 25 2. The withdrawal of land entered as forest cropland under s. 77.10.

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1 3. The withdrawal of land designated as managed forest land under subch. VI
2 of ch. 77 and any modification of, or amendment to, a managed forest land
3 management plan necessitated by the withdrawal of the land.

4 4. The transfer of land for which amounts were awarded by the department,
5 including under s. 23.09 (17m), 26.38, 28.11 (5r), or 77.895, to fund the acquisition
6 of, or to fund activities conducted on, forest land and any modification of, or
7 amendment to, a forest stewardship management plan or other plan necessitated by
8 the transfer of the land.

9 (d) The public notice, informational hearing, and comment provisions in s.
10 295.57, the provision concerning the effective date of approvals in s. 295.58 (6), and
11 the provisions for review in s. 295.77 (1) and (2) apply to an environmental impact
12 statement prepared under this subsection. If the department revises and
13 redistributes an environmental impact statement or portion of an environmental
14 impact statement prepared under this subsection, the department shall distribute
15 the environmental impact statement or portion of the environmental impact
16 statement as provided in s. 295.57, but the period for public comment is 30 days,
17 rather than 45 days.

18 (e) The department shall conduct its environmental review process jointly with
19 any federal or local agency that consents to a joint environmental review process.
20 The department may adopt any environmental analysis prepared by another state
21 agency or by a federal or local agency. The department may enter into a written
22 agreement with any of those agencies that have a major responsibility related to or
23 that are significantly affected by the proposed mining. In the written agreement, the
24 parties shall define the responsibility of each agency in the development of a single
25 environmental impact statement on the proposed mining and outline the procedures

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1 to be used in the regulatory process. The department shall be the lead agency for any
2 environmental review process involving other state agencies. To the extent that any
3 federal or local agency's environmental review process conflicts with the provisions
4 of this section or s. 295.57, the department shall follow the provisions of this section
5 and s. 295.57 and may only coordinate its environmental review to the extent
6 consistent with the provisions of this section and s. 295.57. The department shall
7 comment on any federal agency's environmental assessment or environmental
8 impact statement associated with a mining project in accordance with s. NR 150.30,
9 Wis. Adm. Code.

10 (5) RELATIONSHIP TO OTHER LAWS. This section and s. 295.57 govern the
11 department's obligations under ss. 1.11 and 1.12 with respect to a mining project.
12 Sections 23.11 (5) and 23.40 and ss. NR 2.085, 2.09, and 2.157, Wis. Adm. Code, do
13 not apply with respect to a mining project. The rest of ch. NR 2, Wis. Adm. Code, only
14 applies with respect to a mining project to the extent that it does not conflict with this
15 section and s. 295.57. Sections NR 150.24 and 150.25, Wis. Adm. Code, do not apply
16 with respect to a mining project. The rest of ch. 150, Wis. Adm. Code, only applies
17 with respect to a mining project to the extent that it does not conflict with this section
18 and s. 295.57.

19 **295.56 Exemptions.** (1) The department may grant an exemption, as
20 provided in this section, from any of the requirements of this subchapter applicable
21 to any of the following:

22 (a) A mining permit application, including the mining plan, reclamation plan,
23 and mining waste site feasibility study and plan of operation.

24 (b) A mining permit.

25 (c) Any other approval.

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1 (2) (a) An applicant shall submit a request for an exemption in writing and
2 shall describe the grounds for the exemption and provide documentation identifying
3 the conditions requiring the exemption, the reasons for the exemption, and the
4 reasonableness of the exemption.

5 (b) An applicant may obtain an exemption only if the applicant submits the
6 request no later than the 180th day after the application for the mining permit is
7 administratively complete under s. 295.57 (2), unless the condition that is the basis
8 for the requested exemption is not known to the applicant before that day, in which
9 case the deadline is extended to the 20th day before the deadline under s. 295.57 (7)
10 (a).

11 (c) The department shall issue a decision on a request for an exemption no later
12 than the 15th day after the day on which it received the request under par. (a).
13 Subject to par. (b) and except as provided in par. (d), the department shall grant the
14 exemption if it is consistent with the purposes of this subchapter and will not violate
15 any applicable environmental law outside of this subchapter and if one of the
16 following applies:

17 1. The exemption will not result in significant adverse environmental impacts.

18 2. The exemption will result in significant adverse environmental impacts, but
19 the applicant will offset those impacts through a mitigation program, as provided in
20 s. 295.60 (8), through the measures provided in s. 295.605, or through the
21 conservation measures provided in s. 295.61.

22 (d) 1. The department shall deny a request for an exemption if granting the
23 exemption would violate federal law.

24 2. If federal law imposes a standard for an exemption that differs from the
25 standard in par. (c) and that cannot be modified by state law, and if that standard has

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1 been approved by the federal government for use by the state through a delegation
2 agreement, federally approved state implementation plan, or other program
3 approval, then the department shall determine whether to grant the request for the
4 exemption using the federal standard.

5 **295.57 Application procedure.** (1) SUBMISSION. (a) An applicant shall
6 submit the application for a mining permit as provided in s. 295.47.

7 (b) The department shall protect as confidential any information, other than
8 effluent data, contained in an application for a mining permit, upon a showing that
9 the information is entitled to protection as a trade secret, as defined in s. 134.90 (1)
10 (c), and any information relating to production or sales figures or to processes or
11 production unique to the applicant or that would tend to adversely affect the
12 competitive position of the applicant if made public.

13 (2) DETERMINATION OF ADMINISTRATIVE COMPLETENESS. (a) The department shall
14 review an application for a mining permit and, within 30 days after the application
15 is submitted, shall determine either that the application is complete or that
16 additional information is needed. If the department determines that the application
17 is complete, the department shall notify the applicant in writing of that fact within
18 the 30-day period and the date on which the department sends the notice is the day
19 on which the application is administratively complete.

20 (b) If the department determines under par. (a) that an application is
21 incomplete, the department shall notify the applicant in writing and may make one
22 request for additional information during the 30-day period specified in par. (a).
23 Within 10 days after receiving additional requested information from the applicant,
24 the department shall notify the applicant in writing as to whether it has received all
25 of the requested information. The day on which the department sends the 2nd notice

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1 under this paragraph is the day on which the application is administratively
2 complete.

3 (c) If the department fails to meet the 30-day time limit under par. (a) or the
4 10-day time limit under par. (b), the application is administratively complete on the
5 last day of the 30-day time limit or 10-day time limit.

6 (d) The department may request additional information needed to process a
7 mining application from the applicant after the application is administratively
8 complete, but the department may not delay the determination of administrative
9 completeness based on a request for additional information.

10 **(3) NOTICE OF ADDITIONAL APPROVALS.** Within 30 days after the mining permit
11 is administratively complete under sub. (2), the department shall notify the
12 applicant in writing of any approval required for the construction or operation of the
13 mining site that was not previously identified by the department.

14 **(3m) RECEIPT OF CERTAIN APPROVALS.** If a storm water discharge permit under
15 s. 283.33 (1) (a) or a water quality certification under rules promulgated under subch.
16 II of ch. 281 to implement 33 USC 1341 (a) is needed for a mining operation, the
17 person applying for the mining permit may apply for and be issued the permit or
18 certification.

19 **(4) PUBLIC INFORMATION AND NOTICE.** (a) The department shall make available
20 for review in the city, village, or town in which the proposed mining site is located,
21 information concerning the proposed mining, including all of the following:

22 1. The application for the mining permit, including the mining plan,
23 reclamation plan, and mining waste site feasibility study and plan of operation.

24 2. Any of the following relating to an approval other than the mining permit:

25 a. The application.

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1 b. A draft approval.

2 c. Information or summaries relating to the approval.

3 3. The environmental impact statement, environmental impact report, and any
4 additional supporting information used in the department's evaluation of the
5 proposed mining.

6 4. The department's analyses and preliminary determinations relating to any
7 approval.

8 (b) The department shall distribute a notice that describes the availability of
9 the information under par. (a); the opportunity for written public comment, including
10 an invitation for the submission of written comments by any person within 45 days
11 after the date of the publication of the notice; and the date, time, and location of the
12 public informational hearing and that includes any additional information that a law
13 concerning any approval requires to be provided. The department shall publish the
14 notice as a class 1 notice under ch. 985 and shall publish notice on the department's
15 Internet site. The date on which the department first publishes the notice on its
16 Internet site shall be considered the date of the publication of the notice required to
17 be published under this paragraph. The department shall also send the notice to all
18 of the following:

19 1. The clerk of any city, village, town, or county with zoning jurisdiction over
20 the proposed mining site.

21 2. The clerk of any city, village, town, or county within whose boundaries any
22 portion of the proposed mining site is located.

23 3. The clerk of any city, village, or town, contiguous to any city, village, or town
24 within whose boundaries any portion of the proposed mining site is located.

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1 4. The main public library of each city, village, town, or county with zoning
2 jurisdiction over the proposed mining site or within whose boundaries any portion
3 of the proposed mining site is located.

4 5. Any regional planning commission for the area within which the proposed
5 mining site lies.

6 6. Any state agency that the department knows is required to grant a permit
7 or other authorization necessary for the construction or operation of the proposed
8 mining project.

9 7. The federal environmental protection agency, U.S. Army Corps of Engineers,
10 and states potentially affected by the proposed discharge if a water discharge permit
11 under ch. 283 or a wetland permit that constitutes a water quality certification as
12 required by 33 USC 1341 (a) is to be considered at the public informational hearing.

13 8. The federal environmental protection agency and appropriate agencies in
14 other states that may be affected if an air pollution control permit under ch. 285 is
15 to be considered at the public informational hearing.

16 9. If a water withdrawal permit under s. 295.61 for a withdrawal of surface
17 water is to be considered at the public informational hearing, the persons specified
18 in s. 30.18 (4) (a).

19 10. If an individual permit under s. 30.12 for a structure through which water
20 transferred from the Great Lakes basin would be returned to the source watershed
21 through a stream tributary to one of the Great Lakes is to be considered at the public
22 informational hearing, the governing body of each city, village, and town through
23 which the stream flows or that is adjacent to the stream downstream from the point
24 at which the water would enter the stream.

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1 11. Any person upon request. The department's notice under this subdivision
2 may be given through an electronic notification system established by the
3 department.

4 12. The applicant.

5 13. Any other person to whom the department is required to give notice of any
6 proposed determination, application, or hearing concerning an approval under the
7 laws relating to the issuance of any approval or under s. 1.11.

8 (c) The department shall coordinate the public comment period for the mining
9 permit with the public comment period for any other approval for the mining
10 operation, except that if an application for an approval is filed too late to allow public
11 comment within the public comment period for the mining permit, the department
12 shall issue separate notice, as described in par. (b), for the approval after the
13 application is filed.

14 (5) INFORMATIONAL HEARING. The department shall hold a public informational
15 hearing before it approves or denies an application for a mining permit and not less
16 than 30 days after the date of the publication of the notice under sub. (4) (b). The
17 department shall hold the public informational hearing in the county where the
18 majority of the proposed mining site is located. The department shall hold a single
19 public informational hearing covering the mining permit, all other approvals, and
20 the environmental impact statement, except that if an application for an approval
21 is filed too late to allow the application to be considered at the public informational
22 hearing for the mining permit, the department shall hold a separate public
23 informational hearing on the approval in the county where the majority of the
24 proposed mining site is located not less than 30 days after the date of the publication
25 of the notice under sub. (4) (b) for the approval. The public informational hearing

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1 under this subsection is not a contested case hearing under ch. 227. At the hearing,
2 the department shall take testimony on all of the following with regard to any
3 proposed withdrawal of groundwater or surface water:

4 (a) The public rights in any body of water and the related environment that may
5 be injured by the proposed withdrawal of groundwater or surface water.

6 (b) The public benefits provided by increased employment, economic activity,
7 and tax revenues from the proposed mining operation.

8 (c) The direct and indirect social and economic costs and benefits of the
9 proposed mining operation.

10 (d) Whether the proposed withdrawal of groundwater or surface water will
11 consume nonsurplus water.

12 (e) The rights of competing users of the groundwater or surface water.

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

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

19 **(7) DEADLINE FOR ACTING ON MINING PERMIT APPLICATION.** (a) No more than 420
20 days after the day on which the application for a mining permit is administratively
21 complete under sub. (2), the department shall approve the application, and issue a
22 mining permit, or deny the application, in accordance with s. 295.58, unless the
23 department and the applicant agree to extend the deadline. The department and the
24 applicant may agree to not more than one extension and that extension may not

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1 exceed 60 days. The department and the applicant may enter into an extension only
2 if one of the following applies:

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

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

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

10 (c) If the department does not comply with the deadline under par. (a),
11 including any extension agreed to by the applicant, the applicant may bring an action
12 for mandamus in the circuit court for the county in which the majority of the proposed
13 mining site is located to compel the department to approve or deny the application.
14 Notwithstanding s. 814.04 (1), in an action under this paragraph the court shall
15 award the applicant its costs, including reasonable attorney fees, if it determines
16 that the department did not comply with the deadline under par. (a).

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

23 (b) Except as provided in par. (c) if an applicant files an application for an
24 approval other than a mining permit more than 60 days after the day on which the
25 application for the mining permit is administratively complete under sub. (2), the

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1 deadline for acting on the application is extended beyond the deadline under sub. (7)
2 (a), including any extension agreed to by the applicant, by the number of days beyond
3 the 60th day after the day on which the application for the mining permit is
4 administratively complete that the applicant files the application for the approval.

5 (c) The deadlines in pars. (a) and (b) do not apply to the application for an air
6 pollution control permit under s. 285.62 for which the department receives an
7 objection from the federal environmental protection agency under s. 285.62 (6).

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

12 (8m) SUBMISSION OF TECHNICAL REVIEW TO GREAT LAKES REGIONAL BODY. If an
13 applicant files an application under s. 281.346 for an approval for a withdrawal of
14 surface water or groundwater that is subject to regional review or council approval,
15 the department shall provide its technical review, as defined in s. 281.346 (1) (u), to
16 the regional body, as defined in s. 281.346 (1) (q), no later than 90 days after the
17 applicant files the application for the approval.

18 (9) APPLICABLE PROCEDURE. The provisions of this section and ss. 295.58 (5) and
19 (6) and 295.77 concerning public notice, comment, and hearing; issuance of
20 department decisions; effective date of department decisions; and review of
21 department decisions; and the duration of approvals apply to any approval,
22 notwithstanding any provisions related to those matters in s. 44.40 or 169.25, subch.
23 I or VI of ch. 77, ch. 23, 29, 30, 31, 169, 281, 283, 285, 289, or 291, or rules promulgated
24 under those provisions, except as provided in s. 281.343 (7r) and except that if a
25 withdrawal of surface water or groundwater is subject to regional review or council

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1 approval under s. 281.346, the applicable provisions related to regional review or
2 council approval apply.

3 **295.58 Mining; department grant or denial of permit. (1) CRITERIA FOR**
4 **APPROVAL.** (a) Except as provided in sub. (2) and except with respect to property
5 specified in s. 41.41 (11), the department shall issue a mining permit if it finds all of
6 the following:

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

9 2. That the waste site feasibility study and plan of operation complies with s.
10 295.51.

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

13 3m. That the proposed mining is likely to meet or exceed the regulations that
14 apply to municipal floodplain zoning ordinances contained in the uniform rules
15 promulgated by the department for preparation and implementation of municipal
16 floodplain zoning ordinances.

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

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

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

23 (b) The department shall approve or deny an application for a mining permit
24 in writing and shall include the reasons for its decision with clarity and in detail.

25 The department may modify the applicant's proposed mining plan, reclamation plan,

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1 or mining waste site feasibility study and plan of operation in order to meet the
2 requirements of this subchapter, and, as modified, approve the application. The
3 approval of the application for a mining permit constitutes the approval of the
4 mining plan, reclamation plan, and waste site feasibility study and plan of operation.
5 In its decision on the application for a mining permit, the department shall include
6 a final decision on compliance with s. 1.11 and the requirements of s. 295.53,
7 discussing all of the following:

8 1. Whether the department has considered the environmental impact
9 statement and comments received on it.

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

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

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

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

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

19 1. Hazards resulting in irreparable, substantial physical damage to any of the
20 following that cannot be prevented under the requirements of this subchapter,
21 avoided to the extent practicable by removal from the area of hazard, or offset by
22 purchase or by obtaining the consent of the owner:

23 a. A dwelling house.

24 b. A public building.

25 c. A school.

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1 d. A church.

2 e. A cemetery.

3 f. A commercial or institutional building.

4 g. A public road.

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

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

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

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

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

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

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

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

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

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

17 **(3) EXCEPTION FROM DENIAL CRITERIA.** The department may not deny a mining
18 permit under sub. (2) (d) to (g) if the person subject to the convictions, forfeiture,
19 permanent revocation, bankruptcy, or dissolution is a related person but the
20 applicant shows that the person was not the parent corporation of the applicant, a
21 person that holds more than a 30 percent ownership in the applicant, or a subsidiary
22 or affiliate of the applicant in which the applicant holds more than a 30 percent
23 interest at the time of the convictions, forfeiture, permanent revocation, bankruptcy,
24 or dissolution.

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

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

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

8 (c) An approval issued for a mining project under ch. 23, 29, 30, 31, 169, 281,
9 283, 285, 289, or 291, except for a permit under ch. 283 or 285 that is subject to a
10 federal requirement limiting its duration, remains valid for the life of the mining
11 project, subject to the enforcement provisions applicable to the approval.

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

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

19 (8) GENERAL CONTRACTOR OR AFFILIATE. No operator may engage a general
20 contractor or affiliate to operate a mining site if the general contractor or affiliate has
21 been convicted of more than one felony for violation of a law for the protection of the
22 natural environment arising out of the operation of a mining site in the United States
23 within 10 years before the issuance of the operator's mining permit, unless the
24 general contractor or affiliate receives the department's approval of a plan to prevent

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1 the occurrence in this state of events similar to the events that directly resulted in
2 the convictions.

3 **295.59 Bonds and other security. (1) SECURITY FOR RECLAMATION.** (a) Upon
4 notification that an application for a mining permit has been approved by the
5 department but before beginning mining, the operator shall furnish one of the
6 following to the department:

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

10 2. Cash.

11 3. Certificates of deposit.

12 4. Government securities.

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

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

24 **(2) CERTIFICATE OF INSURANCE.** The operator shall submit a certificate of
25 insurance certifying that the applicant has in force a liability insurance policy issued

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1 by an insurer authorized to do business in this state or, in lieu of a certificate of
2 insurance, evidence that the applicant has satisfied state or federal self-insurance
3 requirements, covering all mining operations of the operator in this state and
4 affording personal injury and property damage protection in a total amount
5 determined to be adequate by the department but not more than \$1,000,000 and not
6 less than \$50,000.

7 **(2m) PROOF OF FINANCIAL RESPONSIBILITY FOR LONG-TERM CARE OF MINING WASTE**
8 **SITE.** An operator shall maintain proof of financial responsibility ensuring the
9 availability of funds for compliance with the long-term care requirements specified
10 in the waste site feasibility study and plan of operation for a period of 40 years after
11 closing of the mining waste site. The operator shall furnish the proof of financial
12 responsibility to the department in one of the following forms:

- 13 (a) A bond.
14 (b) Cash.
15 (c) Certificates of deposit.
16 (d) Government securities.
17 (e) Insurance.

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

23 **(4) RECLAMATION BOND FOR MORE THAN ONE MINING SITE.** Any operator who
24 obtains mining permits from the department for 2 or more mining sites may elect,
25 at the time that the mining permit for the 2nd or any subsequent mining site is

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1 approved, to post a single bond under sub. (1) in lieu of separate bonds for each
2 mining site. An operator who chooses to post a single bond under this subsection
3 shall post a bond in an amount equal to the estimated cost to the state determined
4 under sub. (1) of reclaiming all mining sites the operator has under mining permits.
5 When an operator elects to post a single bond in lieu of separate bonds previously
6 posted on individual mining sites, the department may not release the separate
7 bonds until the department accepts the new bond.

8 (5) REVIEW OF AMOUNTS. If an operator disagrees with the amount of the bonds
9 or other security that the department requires under this section, the operator may
10 seek review under s. 295.77 (3) of the amount required. The operator may post a bond
11 or other security in the amount required by the department and begin mining
12 without forfeiting its right to seek review.

13 **295.60 Impacts to wetlands. (1) DEFINITIONS.** In this section:

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

17 (b) “Ceded territory” means the territory in Wisconsin ceded by the Chippewa
18 Indians to the United States in the treaty of 1837, 7 Stat. 536, and the treaty of 1842,
19 7 Stat. 591.

20 (c) “Federal wetland” means a wetland that is subject to federal jurisdiction
21 under 33 USC 1344.

22 (d) “Fill material” has the meaning given in 33 CFR 323.2 (e), as the meaning
23 exists on July 1, 2012.

24 (e) “Mitigation” means the restoration, enhancement, creation, or preservation
25 of wetlands to compensate for adverse impacts to other wetlands.

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1 (f) “Mitigation bank” means a system of accounting for wetland loss and
2 compensation that includes one or more sites where wetlands are restored,
3 enhanced, created, or preserved to provide credits to be subsequently applied or
4 purchased in order to compensate for adverse impacts to other wetlands.

5 (g) “On-site location” means a location that is on a mining site or within
6 one-half mile of an outer boundary of a mining site.

7 (h) “Practicable” means reasonably available and capable of being
8 implemented after taking into consideration cost, site availability, available
9 technology, logistics, and proximity to the proposed project site, in light of the overall
10 purpose and scope of the project.

11 (i) “Water basin” means the Lake Michigan basin, the Lake Superior basin, or
12 the Mississippi River basin or other water basin established by the department.

13 (j) “Water management unit” means a subdivision of a water basin that is
14 established on a hydrological basis by the department.

15 (k) “Water quality standard” means a wetland water quality standard specified
16 under sub. (5) or any other water quality standard set by rule under s. 281.15.

17 (L) “Wetland impact evaluation” means an evaluation of impacts to a wetland.

18 **(2) WETLAND DETERMINATIONS AND DELINEATIONS.** For purposes of this section,
19 wetland determinations and wetland boundary delineations shall be consistent with
20 the U.S. Army Corps of Engineers 1987 Wetlands Delineation Manual and any final
21 regional supplement to the manual. Any owner or lessee of land, or a holder of an
22 easement in land, may request that the department provide a wetland determination
23 or wetland boundary delineation for an application for a wetland individual permit
24 under this section or for another approval for which a wetland impact evaluation is
25 required. The department may rely on wetland determinations and wetland

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1 boundary delineations made by other agencies and consultants. If the applicant has
2 provided information to the department that is identified in the manual or any final
3 regional supplement as being sufficient to make a wetland determination or a
4 delineation of boundaries, the department may visit a mining site to conduct surveys
5 or gather additional site-specific quantitative data provided that the department
6 does not discontinue the processing of the application to do so.

7 (3) SCOPE; DISCHARGES; OTHER IMPACTS. (a) *Scope*. Except as otherwise provided
8 under this section, this section applies to wetland individual permits and any other
9 approvals for which wetland impact evaluations are required.

10 (b) *Discharges of dredged or fill material*. No person may discharge dredged
11 material or fill material associated with a mining operation or bulk sampling unless
12 the discharge is authorized under a wetland individual permit issued under this
13 section or under a wetland general permit issued under s. 281.36 (3g). The
14 department may not issue a wetland individual permit unless it makes a finding
15 under sub. (6) (a) that the discharge will comply with all applicable water quality
16 standards. Section 281.36 (3g) and (11), and the rules promulgated under s. 281.36
17 (3g) and (11), apply to authorizations to proceed under general permits.
18 Notwithstanding s. 281.36 (3g) (h) 2., a person receiving authorization to proceed
19 under a wetland general permit may not proceed until a mining permit is issued.

20 (c) *Other impacts*. For an approval which requires a wetland impact evaluation
21 for an activity other than a discharge of dredged material or fill material, the
22 approval may not be issued unless the department determines that the activity will
23 comply with all applicable water quality standards.

24 (4) REVIEW BY DEPARTMENT. (a) *Avoidance or minimization of impacts*. When
25 applying for a wetland individual permit or for another approval for which a wetland

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1 impact evaluation is required, an applicant shall include in the application an
2 analysis of the practicable alternatives that will avoid and minimize the adverse
3 impacts on wetland functional values and that will not result in any other significant
4 adverse environmental consequences.

5 (b) *Practicable alternatives.* The department shall review the analysis of
6 practicable alternatives included in the application under par. (a). The department
7 shall limit its review to those practicable alternatives that are located at the site of
8 the discharge or other activity and that are located adjacent to that site if the
9 applicant has demonstrated that the proposed project causing the discharge or other
10 activity will result in a demonstrable economic public benefit.

11 (c) *Assessing impacts.* In its review under this subsection, the department shall
12 consider all of the following factors when it assesses the impacts to wetland
13 functional values;

14 1. The direct impacts of the proposed discharge or other activity to wetland
15 functional values.

16 2. The cumulative impacts attributable to the proposed discharge or other
17 activity that may occur to wetland functional values based on past impacts or
18 reasonably anticipated impacts caused by similar discharges or activities in the area
19 affected by the discharge or activity.

20 3. Potential secondary impacts of the proposed discharge or other activity to
21 wetland functional values.

22 4. The impact on functional values resulting from the mitigation program
23 under sub. (8)

24 5. The net positive or negative environmental impact of the mining operation.

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1 (d) *Assessing impacts; geographical scope.* In its review under this subsection,
2 the department shall evaluate whether the discharge or other activity will result in
3 a significant adverse impact to wetland functional values by doing all of the
4 following:

5 1. Comparing the functional values of the wetland with other wetlands located
6 within the boundaries of the mining site or within the same water management unit
7 as the mining site and with other waters of the state that are located in the same
8 water management unit.

9 2. Taking into consideration the floristic province in which the mining site is
10 located.

11 (e) *Method for assessing impacts.* In issuing a wetland individual permit under
12 this section or in conducting a wetland impact evaluation, the department shall
13 determine the impact of a proposed discharge or other activity upon the wetland
14 functional values by using wetland ecological evaluation methods that are jointly
15 accepted by the U.S. Army Corps of Engineers and the department and that are
16 appropriate to the affected wetland.

17 (f) *General permits.* Paragraphs (a) to (e) do not apply to authorizations to
18 proceed under a general permit issued under s. 281.36 (3g).

19 **(5) WETLAND WATER QUALITY STANDARDS.** The following wetland water quality
20 standards apply to any wetland individual permit issued under this section or to any
21 wetland impact evaluation:

22 (a) Adverse impacts to the functional values and water quality of wetlands and
23 adverse impacts to other waters of the state that are influenced by wetlands shall be
24 minimized, and any significant adverse impacts remaining after minimization shall

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1 be subject to a mitigation program under sub. (8). For purposes of this section,
2 functional values consist of all of the following:

3 1. Storm and flood water storage and retention and the moderation of water
4 level fluctuation extremes.

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

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

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

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

16 6. Habitat for resident and transient wildlife species, including mammals,
17 birds, reptiles, and amphibians, for breeding, resting, nesting, escape cover, travel
18 corridors, and food.

19 7. Recreational, cultural, educational, scientific, and natural scenic beauty
20 values and uses.

21 (b) All of the following shall be minimized in order to avoid significant adverse
22 impacts for the purpose of maintaining or enhancing the wetland functional values
23 identified under par. (a), and any minimization of the following must be taken into
24 account in the department's evaluation of significant adverse impacts:

25 1. The use of liquids, fill, or other solids or gases.

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- 1 2. The presence of floating or submerged debris, oil, or other material.
- 2 3. The use of materials producing color, odor, taste, or unsightliness.
- 3 4. The presence of concentrations or combinations of substances that are toxic
- 4 or harmful to human, animal, or plant life.
- 5 5. Adverse effects on hydrological conditions necessary to support the biological
- 6 and physical characteristics that are naturally present in wetlands. For purposes
- 7 of this subdivision, the hydrological conditions include all of the following:
- 8 a. Water currents and erosion and sedimentation patterns.
- 9 b. Water temperature variations.
- 10 c. The chemical, nutrient, and dissolved oxygen regime of the wetland.
- 11 d. The movement of aquatic fauna.
- 12 e. The pH of the wetland.
- 13 f. Water levels or elevations.
- 14 6. Adverse effects on existing habitat and populations of animals and
- 15 vegetation found in wetlands.
- 16 **(6) DECISION BY DEPARTMENT.** (a) The department shall make a finding that a
- 17 a discharge of dredged material or fill material is in compliance with all applicable
- 18 water quality standards and shall issue a wetland individual permit if the
- 19 department determines that all of the following apply:
- 20 1. The proposed project of which the discharge is a part represents the least
- 21 environmentally damaging practicable alternative taking into consideration
- 22 practicable alternatives that avoid wetland impacts.
- 23 2. All practicable measures to minimize the adverse impacts to wetland
- 24 functional values will be taken.

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1 3. The proposed discharge will not result in significant adverse impact to
2 wetland functional values, subject to par. (b); in significant adverse impact to water
3 quality; or in other significant adverse environmental consequences.

4 (b) Notwithstanding par. (a) 3., if significant adverse impacts to wetland
5 functional values will remain after the adverse impacts have been avoided and
6 minimized to the extent practicable, the department shall issue the permit if the
7 department determines that the remaining impacts will be compensated for under
8 a mitigation program under sub. (8).

9 (c) The department may not deny an approval for an activity for which a
10 wetland impact evaluation is required, other than a discharge of dredged material
11 or fill material, on the basis of the impacts from the activity on wetlands if the
12 department determines that all of the following apply:

13 1. The proposed project of which the activity is a part represents the least
14 environmentally damaging practicable alternative taking into consideration
15 practicable alternatives that avoid wetland impacts.

16 2. All practicable measures to minimize the adverse impacts to wetland
17 functional values will be taken.

18 3. The proposed activity will not result in significant adverse impact to wetland
19 functional values, subject to par. (d); in significant adverse impact to water quality;
20 or in other significant adverse environmental consequences.

21 (d) Notwithstanding par. (c) 3., if significant adverse impacts to wetland
22 functional values will remain after the adverse impacts have been avoided and
23 minimized to the extent practicable, the department may not deny the permit on the
24 basis of the impacts from the activity on wetlands if the department determines that

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1 the remaining impacts will be compensated for under a mitigation program under
2 sub. (8).

3 (e) Paragraphs (a) to (d) do not apply to authorizations to proceed under a
4 general permit issued under s. 281.36 (3g).

5 **(7) FEDERAL WETLANDS.** (a) For a wetland individual permit under this section
6 which involves a federal wetland, any mitigation program submitted by the
7 applicant under sub. (8) shall include all the federal mitigation measures proposed
8 by the applicant. The department shall review the federal mitigation measures and
9 shall determine whether it has reasonable assurance that these will compensate for
10 any significant adverse impacts to wetland functional values, any significant
11 adverse impacts to water quality, and any other significant adverse environmental
12 consequences. The department shall recognize all federal compensatory mitigation
13 measures as being eligible for the purpose of making this determination. If the
14 department determines that reasonable assurance exists, the department may not
15 impose any additional conditions on the permit. If the department determines that
16 reasonable assurance does not exist, it may impose conditions on the permit that are
17 in addition to required federal compensatory mitigation measures, but such
18 conditions shall be limited to those that are necessary to compensate for any
19 significant adverse impacts to wetland functional values, any significant adverse
20 impacts to water quality, and any other significant adverse environmental
21 consequences that will remain after completion of the federal mitigation measures.
22 Any conditions imposed by the department may be satisfied through a mitigation
23 program as provided in sub. (8). In imposing any conditions under this paragraph,
24 the department may not require that the number of acres to be mitigated be greater
25 than the number that is required under federal law.