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

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

295.443 Local impact committee; local agreement. (1) A county, town, village, city, or tribal government likely to be substantially affected by potential or proposed mining may designate an existing committee, or establish a committee, for purposes of:

(a) Facilitating communications between operators and itself.

(b) Analyzing implications of mining.

(c) Reviewing and commenting on reclamation plans.

(d) Developing solutions to mining–induced growth problems.

(e) Recommending priorities for local action.

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

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

(1m) A county, town, village, city, or tribal government that requires an operator to obtain an approval or permit under a zoning or land use ordinance and a county, town, village, or city in which any portion of a proposed mining site is located may, individually or in conjunction with other counties, towns, villages, cities, or tribal governments, enter into one or more agreements with an operator for

the development of a mining operation. The local agreement may include any of the following:

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

(b) The duration of the agreement.

(c) The uses permitted on the land.

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

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

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

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

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

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

(3) Persons applying for an exploration license under s. 295.44 shall thereafter appoint a liaison person to any committee established under sub. (1) or (2), and shall

provide such reasonable information as is requested by the committee. Operators and persons applying for an exploration license under s. 295.44 shall thereafter make reasonable efforts to design and operate mining operations in harmony with community development objectives.

(4) Committees established under sub. (1) or (2) may be funded by their appointing authority, and may, through their appointing authority, submit a request for operating funds to the investment and local impact fund board under s. 70.395. Committees established under sub. (1) shall be eligible for funds only if the county, town, village or city is also a participant in a joint committee, if any, established under sub. (2). The investment and local impact fund board may not grant funds for the use of more than one committee established under sub. (1) in relation to a particular mining proposal unless a joint committee has been established under sub. (2). The investment and local impact fund board shall grant operating funds to any committee that submits a request and is eligible under this subsection and s. 70.395 (2) (fm). Committees may hire staff, enter into contracts with private firms or consultants or contract with a regional planning commission or other agency for staff services for mining–related purposes or the purposes under s. 70.395 (2) (fm).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) (a) Notwithstanding any provision in ch. 23, 29, 30, 31, 169, 281, 283, 285, 289, or 291 or in a rule promulgated under those chapters that is applicable to an approval identified under sub. (3), the application for any approval, for a waiver, exemption, or exception to an approval, or for a determination that the proposed bulk sampling activity is below the threshold that requires an approval, is considered to be complete on the 30th day after the department receives the application, unless, before that day, the department provides the applicant with written notification that the application is not complete, stating the reason for the determination and describing the specific information necessary to make the application complete.

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

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

(5) (a) A person who intends to engage in bulk sampling shall submit with the bulk sampling plan a bond in the amount of $5,000 that is conditioned on faithful

performance of the requirements of this section, that is issued by a surety company licensed to do business in this state, and that provides that the bond may not be canceled by the surety, except after not less than 90 days' notice to the department in writing by registered or certified mail.

(b) If the surety for a bond submitted under par. (a) issues a cancellation notice, the person who filed the bulk sampling plan shall deliver a replacement bond at least 30 days before the expiration of the 90–day notice period. If the person fails to submit a replacement bond, the person may not engage in bulk sampling until the person submits a replacement bond.

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

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

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

(7) Notwithstanding any provision in ch. 23, 29, 30, 31, 169, 281, 283, 285, 289, or 291 or a rule promulgated under those chapters applicable to an approval identified under sub. (3), the department shall require the bulk sampling activity for

which the approval is issued to be conducted at locations that result in the fewest overall adverse environmental impacts.

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

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

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

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

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

(10) (a) Notwithstanding any inconsistent period in ch. 23, 29, 30, 31, 169, 281, 283, 285, 289, or 291 or in a rule promulgated under those chapters that is applicable to an approval identified under sub. (3), the department shall approve or deny any application for an approval identified under sub. (3) to which sub. (9) does not apply within 60 days after the date on which the application is considered to be complete

under sub. (4), unless the application is for an individual permit for which federal law requires the opportunity for public comment or the ability to request a public hearing prior to issuance of the approval.

(b) The department shall publish a class 1 notice, under ch. 985, and shall publish notice on the department's Internet site, that describes the availability of information concerning the activity for which an approval described in par. (a) is required, its proposed decision, its draft approval, information or summaries related to the approval, the department's analyses and preliminary determinations relating to the approval, the preapplication description under s. 295.46, any additional information that a law concerning the approval requires to be made available, and the opportunity to submit written comments within 30 days after the date of the publication of the notice. The date on which the department first publishes the notice on its Internet site shall be considered the date of the publication of the notice required to be published under this paragraph.

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

(d) If there is more than one approval described in par. (a), the department shall issue one notice and coordinate the public comment period for all of the approvals. If possible, the department shall coordinate the notice and the public comment

period for an approval that is an individual permit for which federal law requires the opportunity for public comment or the ability to request a public hearing prior to issuance of the approval with notice and the public comment period for the approvals described in par. (a).

(e) The department shall hold a public informational hearing within 30 days after the date of the publication of the notice under par. (b). The department shall hold the public informational hearing in the county where the majority of the proposed bulk sampling site is located. If there is more than one approval described in par. (a), the department shall hold a single public informational hearing covering all of the approvals and the preapplication description under s. 295.46. If possible, the department shall include consideration of an approval that is an individual permit for which federal law requires the opportunity for public comment or the ability to request a public hearing prior to issuance of the approval in the public informational hearing under this paragraph. The public informational hearing under this paragraph is not a contested case hearing under ch. 227.

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

(b) The department shall approve or deny the application for an approval that is an individual permit for which federal law requires the opportunity for public comment or the ability to request a public hearing prior to issuance of the approval

within 180 days after the date on which the application is considered to be complete under sub. (4).

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

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

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

(a) A description of the proposed mining site.

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

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

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

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

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

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

6. The elevation of the water table.

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

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

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

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

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

1. Describe the availability of the preapplication description.

2. Describe the opportunity to submit written comments within 30 days after the date of the publication of the notice.

3. Specify the date, time, and location of the public informational hearing.

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

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

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

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

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

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

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

295.465 Preapplication notification. (1) Except as provided in sub. (3), at least 12 months before filing an application for a mining permit under s. 295.47, a person proposing to engage in a mining project shall notify the department and the U.S. Army Corps of Engineers in writing of the intention to file an application for a mining permit. After receiving the notification, the department shall hold at least one meeting with the person to make a preliminary assessment of the project's scope,

to make an analysis of alternatives, to identify potential interested persons, and to ensure that the person making the proposal is aware of all of the following:

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

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

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

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

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

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

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

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

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

(5) After receiving notice under sub. (1), the department shall seek to enter into a memorandum of understanding with any federal regulatory agency with responsibilities related to the potential mining operation covering timelines, sampling metrology, and any other issue of mutual concern related to processing an application for a mining permit.

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

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

(am) For the purposes of s. 295.57 (7) (a), as part of the application for a mining permit, an applicant may specify a deadline for the department to act on the mining permit that is more than 420 days after the day on which the application is administratively complete under s. 295.57 (2).

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

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

(a) A mining plan under s. 295.48.

(b) A reclamation plan under s. 295.49.

(c) A mining waste site feasibility study and plan of operation under s. 295.51.

(e) The name and address of each owner of land within the mining site and each person known by the applicant to hold any option or lease on land within the mining site.

(f) A list of all mining permits in this state held by the applicant.

(g) Evidence the applicant has applied or will apply for necessary permits or other permissions under all applicable zoning ordinances and that the applicant has applied or will apply to the department for any approval and has applied or will apply for any other license or permit required under state law.

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

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

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

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

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

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

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

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

295.48 Mining plan. (1) GENERAL. An applicant for a mining permit shall submit as part of the application a mining plan that includes a description of the

proposed mining site and either a detailed map drawn to a scale approved by the department or aerial photographs, if the photographs show the details to the satisfaction of the department, prepared and certified by a competent engineer, surveyor, or other person approved by the department that show all of the following:

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

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

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

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

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

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

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

(b) The elevation of the water table.

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

(d) The nature and depth of the overburden.

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

(a) The sequence of mining operations.

(b) The handling of overburden materials.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Buildings and other structures will be painted and maintained in a manner that is visually compatible with the surrounding vegetational and earth conditions, except that if a building or other structure cannot be painted and maintained in a manner that is visually compatible or if painting and maintaining a building or other structure in a manner that is visually compatible would cause safety concerns, the building or structure will be made as visually inconspicuous as is practicable.

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

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

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

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

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

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

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

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

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

(i) The following apply:

1. Systems for transporting tailings in slurry through pipelines that are not buried are designed to provide for emergency tailings conveyance or storage in case a pipeline breaks, plugs, freezes, or needs repairs and will be accessible for inspection, emergency repair, and maintenance.

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

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

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

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

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

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

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

(am) Prereclamation and postreclamation drawings.

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

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

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

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

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

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

2. The names of persons legally and operationally responsible for long–term care.

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

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

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

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

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

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

(e) Merchantable by–products will be stabilized.

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

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

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

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

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

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

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

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

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

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

(a) "Groundwater flow net" means a drawing showing equipotential contour lines and the direction that groundwater will flow.

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

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

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

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

(b) The disposal of any mining wastes that are identified by the department as hazardous under s. 291.05 (1) in a mining waste site is subject to this subchapter, and not to chs. NR 660 to 679, Wis. Adm. Code, except as necessary to comply with applicable federal regulations adopted under the federal Resource Conservation and Recovery Act, 42 USC 6901 to 6991m.

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

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

2. The boundary of any state or national park.

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

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

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

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

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

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

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

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

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

(bt) No person may locate or operate a mining waste site, excluding the portion of a mining site from which ferrous minerals are extracted and that is backfilled with mining waste, in an area within the property owned or leased by the mining operator,

or on which the mining operator holds an easement, and on which the mining site is located if the area is closer than 200 feet to the outer boundary of that property.

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

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

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

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

(3) WASTE CHARACTERIZATION AND ANALYSIS. For the purposes of this section, the applicant shall perform waste characterization and analysis, to identify the quantities, variability, and physical, radiological, and chemical properties of each mining waste as necessary to assess the potential environmental impact of handling, storage, and disposal. The applicant may include in the waste characterization and analysis a review of the literature and results from similar existing facilities,

materials, or studies. For the purpose of the waste characterization and analysis, the applicant shall conduct testing on representative samples of materials available, on individual mining wastes from the mining process, and if the applicant proposes mixed storage or disposal of individual mining wastes, on composite mining wastes. If physical or chemical segregation of a mining waste is proposed, the applicant shall test each individual waste resulting from the physical or chemical segregation. The applicant shall complete all of the following components of the waste characterization and analysis:

(a) Identification of all mining wastes that will be disposed of or stored in the mining waste site, including classification of mining waste types, estimates of the rates of generation and volumes of each type, and an explanation of the proposed ultimate disposition of each type.

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

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

(d) Chemical and physical characteristics testing, including testing to determine the leaching potential of the mining wastes and the composition of the resulting leachate, using, at a minimum, static testing, kinetic testing, and microscopic testing for mineralization characterization, except that this testing is not required if the applicant demonstrates, based on the analyses in pars. (b) and (c) or on past experience, that there is not a probability for significant adverse environmental impact or a probability of an adverse impact on public health, safety, or welfare.

(4) SITE SPECIFIC INFORMATION. In addition to performing the mining waste characterization and analysis under sub. (3), for the purposes of the mining waste

site feasibility study and plan of operation, an applicant shall conduct field and laboratory investigations to determine physical, chemical, and biological characteristics of the proposed mining waste site. The applicant shall do all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Establish a final parameter list for groundwater and surface water based on preliminary sampling and known information concerning the waters in the vicinity of the mine and the mining waste site, consideration of applicable water quality standards, and the geology and composition of the ferrous mineral deposit that will

be mined. At a minimum, in the program under this paragraph the applicant shall collect water quality data for all of the following parameters:

a. Specific conductance.

b. Temperature.

c. Hydrogen ion concentration (pH).

d. Dissolved oxygen.

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

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

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

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

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

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

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

(c) An existing site conditions plan sheet consisting of a topographic survey of the area, with elevations tied to United States geological survey mean sea level datum, illustrating the property boundaries, proposed boundaries of the mining

waste site, survey grid and north arrow, buildings, water supply wells, utility lines, other man–made features, soil boring locations, observation well locations, and other pertinent information.

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

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

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

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

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

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

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

(k) Local climatological data for seasonal precipitation, evaporation, air temperature, and wind velocity and direction. The applicant may use an annual

record on the proposed mining waste site or adequate data to correlate the proposed mining waste site conditions to an existing observation station as the basis for this data.

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

1. Topography.

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

3. Geology, including the nature and distribution of bedrock and unconsolidated deposits.

4. Hydrogeology, including depth of groundwater, flow directions, recharge and discharge areas, groundwater divides, aquifers, and the identification of the aquifers used by all public and private wells within at least 1,200 feet of the proposed mining waste site.

5. Groundwater and surface water quality and precipitation chemistry.

6. Climatology.

7. Identification of owners of land adjacent to the proposed mining waste site.

8. Zoning.

9. Existing land uses with particular emphasis on known recreational, historic, archaeological, scientific, cultural, or scenic significance.

10. Existing or proposed access roads and weight restrictions on those roads.

11. Identification of aquatic and terrestrial ecosystems such as stream orders and classifications.

(m) A discussion of alternative methods of disposing of mining waste materials, including an analysis of the practicability of the reuse, sale, recovery, or processing of the mining wastes for other purposes.

(n) An analysis of the results of the mining waste characterizations under sub. (3), the site specific information under sub. (4) and this subsection, and the regional information under par. (L) in relation to the approach for locating the mining waste site and developing appropriate design, construction, operation, monitoring, and long–term care requirements for each type of mining waste.

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

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

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

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

4. Proposed methods for leachate control.

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

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

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

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

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

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

8. A proposed monitoring program, based on potential variations in the quality and quantity of mining waste and methods of processing, transport and disposal, and on the variability of important environmental conditions, designed to monitor the proposed mining waste site for compliance with all environmental standards that are applicable under this subchapter.

9. The results of engineering and hydrologic modeling to assess mining waste site performance relative to compliance with applicable groundwater quality standards to a depth of not more than 1,000 feet into the Precambrian bedrock or to the final depth of the mining excavation, whichever is greater, and to compliance with applicable surface water quality standards, examining a period equal to the proposed period in which the mining waste site is proposed to operate plus 250 years after closure of the mining waste site. The applicant may also include information from other mining operations and operations for the extraction of nonferrous metallic minerals to substantiate that the proposed mining waste site design, including associated contingency plans and monitoring and response plans, will allow for the operation and closure of the mining waste site in a manner that will not substantially adversely affect groundwater and surface water quality in accordance with applicable standards.

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

(p) Preliminary water budgets for the periods before construction, during construction, and after closure of the mining waste site, each addressing climatological situations depicting dry, wet, and average precipitation and evaporation conditions, based on climatological records. In preparing the water budget, the applicant shall consider precipitation, slurry water input and return, evaporation, surface runoff, evapotranspiration, the moisture holding capacity of soil and mining waste, and the velocities and volumes of groundwater flow. In the water budget, the applicant shall describe the estimated amount and quality of seepage and discharge to surface water and groundwater.

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

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

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

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

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

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

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

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

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

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

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

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

3. References.

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

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

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

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

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

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

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

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

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

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

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

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

c. All drainage patterns and surface water drainage control structures both within the actual fill area and at the perimeter of the mining waste site, including

any berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets, velocity breaks, sodding, erosion matting, vegetation, or other methods of erosion control.

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

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

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

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

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

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

j. All temporary and permanent fencing.

k. The methods of screening such as berms, vegetation, or special fencing.

L. Leachate collection, control, and treatment systems, including any pipes, manholes, trenches, berms, collection sumps or basins, pumps, risers, liners, and liner splices.

m. Leachate and groundwater monitoring devices and systems.

n. Disposal areas for severe weather operations.

o. Support buildings, utilities, gates, and signs.

p. Handling areas for the segregation of various types of mining waste.

q. Construction notes and references to details.

r. On the appropriate plan sheet, the location of each cross–section under subd. 9., with the section labeled using the mining waste site grid system.

9. A series of mining waste site cross–sections, drawn perpendicular and parallel to the mining waste site baseline at a maximum distance of 500 feet between cross–sections and at points of important construction features, each cross–section showing, where applicable: existing and proposed base and final grades; soil borings and monitoring wells that the section passes through or is adjacent to; soil types, bedrock, and water table; leachate control, collection, and monitoring systems; quantity of mining waste and area filled by each major mining waste type; drainage control structures; access roads and ramps on the mining waste site perimeter and within the active fill area; the filling sequence or phases; and other appropriate site features.

10. Drawings and typical sections for, as appropriate, drainage control structures, tailings distribution systems, access roads, fencing, leachate control systems and monitoring devices, buildings, signs, and other construction details.

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

(c) A description of typical daily operations, including a discussion of the timetable for development; methods for determining mining waste types disposed of or excluded; typical mining waste handling techniques; hours of operation; traffic routing; drainage and erosion control; windy, wet, and cold weather operations; fire protection equipment; methods for dust control; method of placing mining waste

materials; monitoring; closure of filled areas; leachate control methods; and critical backup equipment.

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

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

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

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

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

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

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

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

(g) A list of the groundwater and surface water quality parameters for which the applicant will monitor under s. 295.643 and a description of the methods for

groundwater and surface water sample collection, preservation, and analysis that will be used.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) Embankment materials and drainage or filter bed materials will be compacted to 90 percent of the maximum dry density as determined by the standard proctor compaction test, ASTM D698, or to a greater density as necessitated by the embankment height, and the materials will be compacted in appropriate layers as determined through the slope stability analysis, except that compaction and crushing of waste rock for use outside an earth core is not required.

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

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

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

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

(w) Tailings pipelines are as short as practicable.

(x) Upstream rainfall catchment areas are minimized.

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

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

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

(9) APPLICABILITY OF OTHER LAWS. Subchapters I to V and VIII of ch. 289 and rules promulgated under those subchapters do not apply to a mining waste site, to the disposal of mining waste in a mining waste site, or to mining wastes used in the reclamation or construction of facilities and structures on the mining site.

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

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

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

(b) The department shall assist the applicant in meeting the deadlines for ultimate submission and review of any scientific analyses consistent with this subchapter. If a particular scientific analysis is not completed as of the date the environmental impact report is required to be submitted, the applicant shall identify in the environmental impact report the scope of the analysis and anticipated date that it will be submitted.

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

3. Upon receipt of the environmental impact report, the department shall review the environmental impact report and, if the department finds that the environmental impact report does not contain information reasonably necessary for

the department to evaluate the proposed mining project and its environmental effects, the department may request additional information from the applicant.

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

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

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

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

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

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

1. Tourism.

2. Employment.

3. Schools and medical care facilities.

4. Private and public social services.

5. The tax base.

6. The local economy.

7. Archaeological sites.

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

1. The withdrawal of land entered as county forest land under s. 28.11 and any modification of, or amendment to, a county forest land use plan necessitated by the withdrawal of the land.

2. The withdrawal of land entered as forest cropland under s. 77.10.

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

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

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

(e) The department shall conduct its environmental review process jointly with any federal or local agency that consents to a joint environmental review process. The department may adopt any environmental analysis prepared by another state agency or by a federal or local agency. The department may enter into a written agreement with any of those agencies that have a major responsibility related to or that are significantly affected by the proposed mining. In the written agreement, the parties shall define the responsibility of each agency in the development of a single environmental impact statement on the proposed mining and outline the procedures to be used in the regulatory process. The department shall be the lead agency for any environmental review process involving other state agencies. To the extent that any federal or local agency's environmental review process conflicts with the provisions of this section or s. 295.57, the department shall follow the provisions of this section and s. 295.57 and may only coordinate its environmental review to the extent consistent with the provisions of this section and s. 295.57. The department shall comment on any federal agency's environmental assessment or environmental

impact statement associated with a mining project in accordance with s. NR 150.30, Wis. Adm. Code.

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

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

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

(b) A mining permit.

(c) Any other approval.

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

(b) An applicant may obtain an exemption only if the applicant submits the request no later than the 180th day after the application for the mining permit is administratively complete under s. 295.57 (2), unless the condition that is the basis