



CR 84-172

State of Wisconsin / DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

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STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) ss

APR 2 1985
3:45 pm
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. M-43-84 was duly approved and adopted by this Department on January 23, 1985. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 27th day of March, 1985.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

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6-1-85

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

.....
 IN THE MATTER of creating Chapter NR 133 .
 of the Wisconsin Administrative Code . M-43-84
 pertaining to radioactive waste .
 site exploration .

Analysis Prepared by Department of Natural Resources

Recently enacted s. 144.833, Stats., authorizes the Department of Natural Resources to regulate high level radioactive waste site exploration drilling and specifies that this activity be regulated in a similar manner as metallic mineral exploration. Proposed Chapter NR 133, Wis. Adm. Code, combines the pertinent sections of Chapter NR 130, Metallic Mineral Exploration with the special provisions contained in s. 144.833, Stats., to form a comprehensive and consistent approach to regulating radioactive waste site exploration drilling.

The proposed code specifies that no person may engage in radioactive waste site exploration without first securing an exploration license. A complete application includes the appropriate fee, a \$5,000 performance bond (or adequate guarantees by the federal government) and a certificate of insurance.

Once licensed, the explorer must submit a preliminary project description for each county in which radioactive waste site exploration is proposed to occur. Approval to drill on each parcel identified in the preliminary project description will be issued or denied following completion of a contested case hearing held in the county where drilling is proposed to occur.

Following approval of individual parcels, the notification and recordkeeping requirements contained in proposed Chapter NR 133 are the same as those specified in Chapter NR 130, Metallic Mineral Exploration. Specifically, an explorer must notify the department prior to the start of drilling, before permanently abandoning a drillhole, and following termination of a drilling site and must submit an abandonment report accompanied by the appropriate fee within 10 days after completing abandonment of a drillhole.

The proposed code specifies that permanent abandonment is accomplished by filling the hole from the bottom of the hole upward to the ground surface with concrete grout, neat cement grout or other material approved by the department.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 144.83, and 227.014(2)(a), Stats., the State of Wisconsin Natural Resources Board hereby creates rules interpreting ss. 144.80 to 144.94, Stats., as follows:

DEPARTMENT OF NATURAL RESOURCES

Chapter NR 133

RADIOACTIVE WASTE SITE EXPLORATION

NR 133.01 Purpose	NR 133.07 Revocation and suspension
NR 133.02 Applicability	NR 133.08 Denials
NR 133.03 Definitions	NR 133.09 Preliminary project description approval
NR 133.04 Application for an exploration license	NR 133.095 Modifications
NR 133.05 Issuance	NR 133.10 Notice procedure
NR 133.06 Renewals	NR 133.11 Reports
	NR 133.12 Inspections

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

NR 133.01 PURPOSE. The purpose of this chapter is to establish a licensing procedure and minimum standards for radioactive waste site exploration in this state.

NR 133.02 APPLICABILITY. The provisions of this chapter are applicable to all radioactive waste site exploration as defined in s. 144.833(1)(c), Stats.

NR 133.03 DEFINITIONS. In this chapter:

(1) "Abandonment" means filling or sealing a drillhole in accordance with the procedures specified under s. NR 133.05.

(2) "Concrete grout" means a mixture consisting of 94 pounds of type A portland cement and an equal or lesser volume of dry sand combined with approximately 6 gallons of water.

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

(4) "Driller" means a person who performs core, rotary, percussion or other drilling involved in radioactive waste site exploration.

(5) "Drilling site" means the area disturbed by radioactive waste site exploration including the drillhole.

(6) "Explorer" means any person who engages in radioactive waste site exploration.

(7) "Exploration license" means the license required under s. 144.832 (2), Stats., as a condition of engaging in radioactive waste site exploration.

(8) "License year" means the period of time commencing on July 1 of any year and ending on the following June 30.

(9) "Neat cement grout" means a mixture consisting of 94 pounds of type A portland cement and approximately 6 gallons of water.

(10) "Parcel" means an identified section, fractional section or government lot.

(11) "Radioactive waste" means high-level radioactive waste and transuranic waste, as defined in s. 16.08(1)(c) and (d), Stats.

(12) "Radioactive waste disposal site" means any site or facility for the long-term storage or disposal of radioactive waste including any underground storage area and related facilities.

(13) "Radioactive waste site exploration" means the on-site geologic examination from the surface of an area by core, rotary, percussion or other drilling for the purpose of determining the subsurface and geologic characteristics of an area in order to establish whether the area is suitable for a radioactive waste disposal site and includes associated activities such as clearing and preparing sites or constructing roads for drilling. For the purposes of this definition, geologic examination does not include construction of drillholes for the purpose of collecting soil samples or monitoring or sampling groundwater in unconsolidated deposits.

(14) "Termination" means permanent abandonment of drillholes and reclamation and revegetation of drilling sites.

NR 133.04 APPLICATION FOR AN EXPLORATION LICENSE. (1) No person may engage in radioactive waste site exploration without securing an exploration license.

(2) Any person wishing to engage in radioactive waste site exploration shall file an application for an exploration license with the department upon forms prepared and furnished by the department. The application shall be accompanied by the following:

(a) A fee of \$300 for the exploration license.

(b) 1. A bond payable to the department in the amount of \$5,000 conditioned on faithful performance of the provisions of this chapter.

a. The bond shall be issued by a surety company licensed to do business in Wisconsin. If the surety company's license to do business is revoked or suspended, the explorer, within 30 days after receiving written notice from the department, shall substitute surety underwritten by a surety company licensed to do business in Wisconsin. Upon failure of the explorer to make a substitution of surety, the department shall suspend the explorer's exploration license until substitution has been made.

b. Each bond shall provide that the bond may not be cancelled by the surety, except after 90 days written notice to the department by registered or certified mail. Not less than 30 days prior to the expiration of the 90 day notice of cancellation, the explorer shall deliver to the department a replacement bond in the absence of which all radioactive waste site exploration being conducted in this state by the explorer shall cease.

c. The department may require that the amount of the bond be increased at any time, if the department determines that the explorer's current level of activity makes it likely that the bond may be inadequate to fund the termination of all holes drilled for which the explorer is responsible.

d. One year after the issuance of the last certificate of completion, and provided that the explorer is not holding an exploration license, the department shall release the bond if the department determines that the explorer has complied with provisions of this chapter.

2. Notwithstanding subd. 1. the department may waive the bond requirement for an explorer who is authorized to engage in radioactive waste site exploration by a federal agency if the federal agency provides sufficient guarantees that the explorer or the federal agency will comply with the requirements of the department relating to termination.

(c) A certificate of insurance certifying that the explorer has in force a liability insurance policy issued by an insurance company authorized to do business in this state covering all radioactive waste site exploration of the explorer in this state and affording personal injury and property damage protection in a total amount deemed adequate by the department but not less than \$50,000.

NR 133.05 ISSUANCE. Upon satisfactory completion of all conditions contained in this chapter, the department shall issue an exploration license to the explorer and shall provide copies of the license and license application to the Radioactive Waste Review Board and the Wisconsin Geological and Natural History Survey. Licenses shall be issued within 10 business days

after the department receives a complete application unless the application is for the immediately forthcoming license year. If the application is for the immediately forthcoming license year, the license shall be issued either within 10 business days after the department receives a complete application or on the following July 1, whichever is later. The issuance of an exploration license is subject to the following conditions:

(1) Immediately following completion of drilling, radioactive waste site exploration drillholes shall be abandoned as follows:

(a) Permanent abandonment. 1. Filling Material. All drillholes shall be filled from the bottom of the hole upward to the ground surface with concrete grout, neat cement grout or other material approved by the department.

2. Filling procedure restrictions. a. Filling material shall be applied through a conductor pipe, except that when practical a dump bailer may be used. When concrete is placed under water by a conductor pipe, the bottom end of the conductor pipe shall be submerged in the concrete at all times.

b. Upon removal of all or part of the casing from an unconsolidated formation that may not stand open (such as sand or gravel) upon abandonment of a drillhole, the casing shall be removed concurrently with the filling of the drillhole, and the bottom end of the casing shall be kept below the surface of the fill material throughout the abandonment operation.

3. Flowing drillhole. Prior to permanently abandoning a drillhole which penetrates an aquifer under artesian pressure such that groundwater flows at the ground surface, the explorer shall obtain approval of the abandonment procedures from the department.

(b) Temporary abandonment. If the explorer wants to temporarily retain a drillhole for further evaluation, the casing shall be left in place, and the upper terminal of the casing shall be sealed with a watertight threaded or welded cap.

(2) The explorer shall comply with minimum standards for radioactive waste site exploration activities and reclamation of drilling sites as contained in s. 144.83(2)(b) and (c), Stats., where applicable.

(3) The fee for drilling the first 20 drillholes or less in any license year shall be \$100 per drillhole and the fee for drilling each subsequent drillhole in that same license year shall be \$50 per drillhole. All fees shall be paid to the department upon submission of the temporary abandonment report, if temporary abandonment occurs, or the permanent abandonment report if temporary abandonment does not occur. For the purpose of determining the appropriate fee, drillholes shall be assigned to the license year in which drilling on that particular hole ceases and the drillhole is initially abandoned either temporarily or permanently. Within 30 business days after receipt of the abandonment report, the department may adjust the fee to accurately reflect the actual costs incurred by the department in administering this chapter, including costs associated with monitoring or verification activities conducted by the department or other state agencies as a condition of the approval issued under s. NR 133.09(6), provided that these activities are not funded through other available means.

(4) The explorer must comply with other conditions which the department deems necessary to safeguard the natural resources of this state during and after radioactive waste site exploration.

NR 133.06 RENEWALS. (1) An explorer may renew an exploration license by filing an annual renewal application with the department upon forms prepared and furnished by the department. The renewal application shall be accompanied by the following:

(a) A fee of \$150.00.

(b) A bond in accordance with s. NR 133.04(2)(b) unless the bond requirement is waived in accordance with s. NR 133.04(2)(h)2.

(c) A certificate of insurance in accordance with . NR 133.05(2)(c).

(2) Renewal licenses shall be for a period commencing on the date of issuance and terminating on the following June 30. Renewal applications shall be reviewed and licenses issued under the same time limitations specified in s. NR 133.05.

NR 133.07 LICENSE REVOCATION OR SUSPENSION. (1) After a due process hearing, the department may revoke or suspend an exploration license if it is determined that:

(a) Statutes or rules of the department or any condition in the exploration license or approval under s. NR 133.09(6) have not been complied with; or

(b) The explorer has failed to increase bond amounts to adequate levels as provided in s. NR 133.04(2)(b)3.

(2) The department shall notify the Radioactive Waste Review Board upon the revocation or suspension of any exploration license.

NR 130.08 DENIALS. (1) The department shall deny an exploration license if the department finds:

(a) The radioactive waste site exploration activity may not comply with the minimum standards in ss. 144.83(2)(b)1. to 12. and (c)1. to 8., Stats., where applicable.

(b) The explorer is in violation of ss. 144.80 to 144.94, Stats., or any provision of this chapter.

(2) Within 10 business days from the date of application, the department shall furnish the explorer in writing the reasons for the denial.

NR 133.09 PRELIMINARY PROJECT DESCRIPTION APPROVAL. (1) Any explorer who holds a valid exploration license and intends to conduct radioactive waste site exploration in this state shall submit 15 copies of the preliminary project description to the department for each county in which drilling is expected to occur. The preliminary project description shall include, at a minimum, the identification of affected parcels, the proposed number and anticipated depth and diameter of the drillholes, the proposed methods of construction and termination, a description of site access, documentation that the explorer has applied for or intends to apply for necessary approvals and permits required under other applicable state laws and rules and local ordinances and the projected date of commencement of exploration. If the explorer is the federal department of energy or an agent or employee of the federal department of energy, the preliminary project description must include evidence that the radioactive waste review board has certified that the explorer has complied with any requirement imposed by the radioactive waste review board under s.16.08, Stats., or any agreement entered into under that section. The preliminary project description shall be submitted to the

department at least 120 days prior to the proposed date of commencement of exploration and shall be considered as submitted on the date of its receipt by the department. Upon receipt, the department shall provide copies of the preliminary project description to the Radioactive Waste Review Board and the Wisconsin Geological and Natural History Survey. The explorer shall also submit a copy of the preliminary project description to the county clerk of the county, within which the radioactive waste site exploration is to take place.

(2) Each preliminary project description shall be accompanied by a fee of \$1500 which shall cover the cost to the department of evaluating the preliminary project description and preparing for and conducting the hearing under s. 144.833(2)(c), Stats. After issuance of a decision under sub.(6) the department may revise the fee to reflect actual costs incurred.

(3) Upon receipt of a complete preliminary project description, the department shall determine, under s. NR 150.04, whether a statement under s. 1.11, Stats., is required for the proposed exploration. In making this determination the department shall limit its consideration of environmental effects to those impacts associated with the proposed radioactive waste site exploration. The department may require the explorer to submit additional information concerning the proposed exploration. If it is determined that a statement under s. 1.11, Stats., is required, the explorer shall reimburse the department for the preparation of an Environmental Impact Statement under s. NR 150.11.

(4) Within 15 business days after completing the process required to comply with s. 1.11, Stats., the department shall schedule the hearing under s. 144.833(2)(c), Stats. Notice of the hearing shall be published in the

official newspaper designated under s. 985.04 or 985.05, Stats., or if none exists, in a newspaper likely to give notice in the area of the proposed activity.

(5) The hearing conducted under s. 144.833(2)(c), Stats., shall be held in the county where the radioactive waste site exploration is proposed to occur.

(6) Within 60 business days of the close of the hearing record, the department shall issue or deny approvals authorizing drilling on the individual parcels identified in the preliminary project description. Each approval or denial shall be made in findings of fact, conclusions of law and an order setting forth reasons with clarity and in detail. The department may modify the explorer's preliminary project description in order to meet the requirements of ss. 144.80 to 144.94, Stats., and as modified grant the approval or may impose conditions on the approval as appropriate.

NR 133.095 MODIFICATIONS. (1) The explorer may at any time seek modification of the preliminary project description, as approved by the department under s. NR 133.09(6). All requests for modifications shall be made in writing to the department and shall fully document the need for the modification. The department shall approve or deny requests for modifications within 15 business days after receiving the modification request unless the modification involves conducting exploration on a parcel not identified in the preliminary project description, in which case, the limitations under sub.(2)(b) shall apply.

(2)(a) If a modification request is for approval to drill on a parcel not identified in the preliminary project description, the department shall provide notice of the modification request in the same manner as the hearing

notice under s. NR 133.09(4) within 15 business days after receipt of the modification request. If five or more interested persons do not request a hearing in writing within 20 business days of notice, no hearing is required on the modification. The notice shall include a statement to this effect.

(b) The department shall approve or deny requests for modifications under par. (1) within 35 business days after publication of the notice under par. (1) if no hearing is requested or within 20 business days after the close of the hearing record if a hearing is held.

NR 133.10 NOTICE PROCEDURES. (1) If a specific parcel is approved by the department under s. NR 133.09(6), the explorer shall notify the department by registered or certified mail of the explorer's intent to drill on that parcel at least 10 days in advance of the commencement of exploration. The explorer shall provide a copy of the notice of intent to drill to the county clerk of each county in which drilling is proposed to occur as specified in the notice. The notice of intent to drill shall indicate the legal description of the affected parcel, the number of drillholes expected to be constructed and the date that exploration is expected to begin. The 10 day notice of intent to drill shall be considered as given on the date of its receipt by the department. The department shall transmit copies of the notice of intent to drill to the Radioactive Waste Review Board and the Wisconsin Geological and Natural History Survey.

(2) The explorer shall notify the department prior to the actual commencement of drilling on an approved parcel. This notice may be oral or written and shall be made to the department's district office in Rhineland.

(3) The explorer shall notify the department at least 24 hours in advance of permanently abandoning a drillhole. The 24 hour requirement may be reduced by the department. This notice may be oral or written and shall be made to the department's district office in Rhinelander.

(4) If a drillhole penetrates an aquifer under artesian pressure such that groundwater flows at the ground surface, the explorer shall contact the department and seek approval of the method of containing such flow and the procedures for permanently abandoning the drillhole.

NOTE: The 10-day notice of intent to drill shall be sent to the Mine Reclamation Section, P.O. Box 7921, Madison, WI 53707.

NR 133.11 REPORTS. (1) Within 10 days after completion of temporary or permanent abandonment of a drillhole the explorer shall file an exploration abandonment report with the department on forms supplied by the department and signed by an authorized representative of the explorer attesting to the accuracy of the information contained therein.

(2) All abandonment reports shall be submitted to the department's district office in Rhinelander.

(3) Following permanent abandonment of the drillhole, and regrading and revegetation of the drilling site, the explorer shall notify the department of completion of termination of each drilling site. This notification shall be made in writing and sent to the department's district office in Rhinelander.

(4) The department shall notify the explorer in writing of the satisfactory or unsatisfactory completion of termination. If termination is unsatisfactory, the department shall inform the explorer of all necessary

corrective measures. Following implementation of corrective measures, the explorer shall file written notice with the department's district office in Rhinelander specifying what measures were taken and stating that termination is complete. Failure of the explorer to comply with the department's corrective measures may result in license revocation or suspension in accordance with s. NR 133.07. Upon satisfactory completion of termination of a drilling site, the department shall issue a certificate of completion. No temporarily abandoned drilling site will receive a certificate of completion until permanently abandoned in accordance with the provisions of this chapter.

NOTE: The address and telephone number of the department's district office in Rhinelander are:

Department of Natural Resources
North Central District Headquarters
107 Sutliff
P.O. Box 818
Rhinelander, WI 54501
Telephone: (715)362-7616

NR 133.12 INSPECTIONS. (1) Any duly authorized officer, employe or representative of the department may enter and inspect any property, premises or place on or at which any radioactive waste site exploration is being performed at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and ss. 144.80 to 144.94, Stats.

(2) No explorer may refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials.

(3) No person may obstruct, hamper or interfere with any such inspection.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on January 23, 1985.

The rules contained herein shall take effect as provided in s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin March 26, 1985

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carol D. Jesolun

(SEAL)

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