



CR 88-58

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES)

RECEIVED

SEP 15 1988
1:00 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. SW-13-88 was duly approved and adopted by this Department on July 28, 1988. 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 here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 14th
day of September, 1988.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

11-1-88

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES

.....
IN THE MATTER of amending ss. NR 182.04(54), .
182.08(2)(intro.), 182.08(3)(c) and 182.09(2) .
and creating s. NR 182.02(10) and (11) of the . SW-13-88
Wisconsin Administrative Code pertaining to .
the backfilling of surface mines and submittal .
of feasibility reports and plans of operation. .
.....

Analysis Prepared by Department of Natural Resources

Statutory authority: ss. 144.435(2), 144.44(7)(g)2., 144.83(4)(k) and
227.11(2)(a), Stats.
Statutes interpreted: ss. 144.44(7)(g)2. and 144.83(4)(k), Stats.

The proposed amendments clarify that a surface mine which is backfilled with mining waste is a waste site and is subject to certain provisions of ch. NR 182, including the licensing/approval requirements and provisions relating to groundwater protection and long term care. The amendments further provide that in the case of a backfilled surface mine, the feasibility report and plan of operation requirements may be satisfied through the mining permit application submitted pursuant to ch. NR 132. Also, under the proposed amendments, the use of mining waste for construction and reclamation purposes is exempted from ch. NR 182 and a feasibility report and plan of operation for a given facility may be submitted concurrently.

SECTION 1. NR 182.02(10) and (11) are created to read:

NR 182.02(10) Mining wastes used in the reclamation or construction of facilities and structures on mining or prospecting sites or for backfilling an underground mine or a prospecting excavation shall be exempt from the requirements of ss. 144.43 to 144.47, Stats., and this chapter but shall comply with the review and approval requirements of ss. 144.80 to 144.94, Stats., and ch. NR 131 or 132.

NR 182.02(11) Surface mines which are backfilled with mining waste shall be subject to the requirements of this chapter except for ss. NR 182.07 and 182.11 to 182.14.

SECTION 2. NR 182.04(54) is amended to read:

NR 182.04(54) "Waste site" or "waste sites and facilities" means any land or appurtenances thereto used for the storage or disposal of mining waste, but does not include land or appurtenances used in the production or transportation of mining waste, such as the concentrator, haul roads, or tailings pipelines, which are permitted under ch. NR 131 or 132. ~~If mining wastes are backfilled or otherwise disposed of in an underground working~~ An underground mine or a prospecting excavation which is backfilled with mining waste in accordance with a prospecting permit or a mining permit issued under ch. NR 131 or 132, said mine shall is not be considered a waste site for purposes of this chapter, but shall be regulated under ch. 132. A surface mine which is backfilled with mining waste is subject to this chapter as set forth in s. NR 182.02, and for surface mines the mine pit and any land or appurtenances thereto used for the storage of mining waste may be considered a single waste site.

SECTION 3. NR 182.08(2) (intro.) is amended to read:

NR 182.08(2)(intro.) No person shall may establish or construct a waste site or expand an existing waste site not in operation as of May 21, 1978, without first obtaining approval of a feasibility report and a plan of operation from the department. The purpose of the feasibility report is to determine whether the site may be approved for the purpose intended and to identify any conditions which must be included in the plan of operation and in the license issued pursuant to this chapter. The feasibility report shall be submitted in accordance with s. NR 182.06(1) and be consistent with ch. NR 132. If the proposed waste site is a surface mine backfilled with mining waste, the feasibility report submittal provisions of this section may be satisfied by including the information required by this section in the

mining permit application submitted pursuant to ch. NR 132 and issuance of the mining permit shall constitute approval of the feasibility report requirements and favorable determination of site feasibility. The amount of regional and site specific information and data required for each waste site may vary and shall be based on the waste characterization, but shall, at a minimum, contain the following, unless such information is contained in submittal of documents required under ch. NR 132 or 150 or s. 23.11(5), Stats.

SECTION 4. NR 182.08(3)(c) is amended to read:

NR 182.08(3) The site may be found feasible if it meets the design, operation, location and environmental standards contained directly or by cross-reference in this chapter. Any determination made under this subsection may be conditioned upon the design, operational or other requirements deemed necessary to be included in the plan of operation. A favorable determination issued under this subsection shall specify the design capacity of the proposed site; and constitute approval of the site for the purpose intended, -and-
~~entitle the applicant to submit a plan of operation.~~

SECTION 5. NR 182.09(1) is amended to read:

NR 182.09(1) No person shall may establish or construct a waste site or expand an existing site until a plan of operation has been submitted in accordance with s. NR 182.06 and approved in writing by the department, except as otherwise provided herein. No person shall may establish, construct, operate, maintain, close, provide long-term care for, or terminate a site except in accordance with the approved plan of operation. ~~Only persons who have obtained a favorable determination of site feasibility from the department may submit a plan of operation for review and approval.~~ No person may submit a plan of operation for a facility prior to the time the person submits a feasibility report for that facility. A person may submit a plan of

operation with the feasibility report or at any time after the feasibility report is submitted. If the proposed waste site is a surface mine backfilled with mining waste, the plan of operation submittal provisions of this section may be satisfied by including the information required by this section in the mining permit application submitted pursuant to ch. NR 132 and issuance of the mining permit shall constitute approval of the plan of operation requirements.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on July 28, 1988.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin

September 14, 1988

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By

Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)

5188C
4/11/88



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

September 13, 1988

1020

Mr. Orlan L. Prestegard
Revisor of Statutes
Suite 702
30 W. Mifflin Street

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. SW-13-88. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Transportation, Tourism and Conservation pursuant to s. 227.19, Stats. A summary of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

CD Besadny
C. D. Besadny
Secretary

Enc.