

1973 Senate Bill 39

Date published:
July 2, 1974

CHAPTER 318, Laws of 1973
(Vetoed in Part)

AN ACT to renumber 144.55; and to create 15.347 (8), 20.370 (5) (h), 144.55 (2) and 144.80 to 144.94 of the statutes, relating to regulation of metallic ore prospecting and mining, creating a mine reclamation council in the department of natural resources, providing penalties, granting rule-making power and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Legislative findings. The legislature recognizes that the prospecting for and the mining of minerals which are limited in quantity and restricted in occurrence is a basic and essential activity making an important contribution to the economic well-being of the state and nation. At the same time, proper reclamation of

land disturbed by prospecting or mining is necessary to prevent environmental pollution, including undesirable air, land and water conditions that would be detrimental to the property rights, health, safety and general welfare of the citizens of the state. The purpose of this act is to provide that the air, lands, waters, plants, fish and wildlife affected by prospecting and mining in this state will receive the greatest practicable degree of protection and reclamation.

SECTION 2. 15.347 (8) of the statutes is created to read:

15.347 (8) MINE RECLAMATION COUNCIL. There is created in the department of natural resources a mine reclamation council consisting of 5 members, appointed by the governor for staggered 5-year terms, subject to the following:

(a) One member shall be a person who is engaged in the mining industry and who has a recognized interest in and knowledge of the science of metal mining operations.

(b) One member shall be a landscape architect who has an interest in and knowledge of the methods of land reclamation.

(c) One member shall be a person who has a recognized interest in and knowledge of soil conservation.

(d) One member shall be a person who has a recognized interest in and knowledge of water resources management.

(e) One member shall be the state geologist or his designated representative.

SECTION 3. 20.370 (5) (h) of the statutes is created to read:

20.370 (5) (h) *Prospecting and mine reclamation; fees.* All moneys received from fees collected by the department under ss. 144.80 to 144.94 for the administration of prospecting and mine reclamation activities under those sections.

SECTION 4. 144.55 of the statutes is renumbered 144.55 (1).

SECTION 5. 144.55 (2) of the statutes is created to read:

144.55 (2) Any duly authorized officer, employe or representative of the department may enter and inspect any property, premises or place on or at which any prospecting or metallic mining operation or facility is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and rules adopted pursuant thereto. ~~No owner or operator shall be held liable for any injury to the department's representative, except injuries caused by willful or malicious failure to guard or to warn against a dangerous condition, use, structure or activity.~~ No person may refuse entry or access to any such authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such inspection. The department shall furnish to the prospector or operator, as indicated in the prospecting or mining permit, a written report setting forth all observations, relevant information and data which relate to compliance status.

Vetoed
in Part

SECTION 6. 144.80 to 144.94 of the statutes are created to read:

144.80 Metallic mining reclamation act. (1) Sections 144.80 to 144.94 shall be known and may be cited as the "Metallic Mining Reclamation Act".

(2) The purpose of ss. 144.80 to 144.94 is to provide that the air, lands, waters, fish and wildlife affected by prospecting or mining in this state will receive the greatest practicable degree of protection and reclamation.

144.81 Definitions. In ss. 144.80 to 144.94:

(1) "Abandonment of mining" means the cessation of mining, not set forth in an operator's mining and reclamation plan or by any other sufficient written or constructive notice, extending for more than 6 consecutive months. Abandonment of mining does not include the cessation of mining due either to labor strikes or the cessation of mining due to such unforeseen developments as adverse market conditions for a period not to exceed 5 years as determined by the department after consulting with the mine reclamation council. Any site at which abandonment of mining has occurred is an abandoned project site.

(2) "Exploration area" means adjoining lands or lands not adjoining but lying within reasonably close proximity on which prospecting takes place.

(3) "Merchantable by-product" means all waste soil, rock, mineral, liquid, vegetation and other material directly resulting from or displaced by the mining, cleaning or preparation of minerals during mining operations which are determined by the department to be marketable upon a showing of same made by the operator, accompanied by a verified statement by the operator of his intent to sell such material within 3 years from the time it results from or is displaced by mining. If after 3 years from the time merchantable by-product results from or is displaced by mining such material has not been transported off the project site, it shall be considered and regulated as mining refuse unless removal is continuing at a rate of more than 30,000 tons per year.

(4) "Minerals" mean unbeneficiated metallic ore but does not include mineral aggregates such as stone, sand and gravel.

(5) "Mining" means all or part of the process involved in the mining of minerals, including extraction, agglomeration, beneficiation, construction of roads and the production of mining refuse.

(6) "Mining and reclamation plan" means the operator's proposal for the mining and reclamation of the project site which must be approved by the department under s. 144.85 prior to the issuance of the mining permit.

(7) "Mining permit" means the permit which is required of all operators as a condition precedent to commencing mining at a project site.

(8) "Mining refuse" means all waste soil, rock, mineral, liquid, vegetation and other material except merchantable by-products directly resulting from or displaced by the mining, cleaning or preparation of minerals during mining operations and shall include all waste materials deposited on or in the project site from other sources.

(9) "Operator" means any person engaged or who has applied for a permit to engage in mining operations, whether individually, jointly or through subsidiaries, agents, employees or contractors.

(10) "Principal shareholder" means any shareholder owning at least 10% of the shares outstanding of a corporation.

(11) "Project site" means the surface area disturbed by a mining operation, including the surface area from which the minerals or mining refuse or both have been removed, the surface area covered by mining refuse, all lands disturbed by the construction or improvement of haulageways, and any surface areas in which structures, equipment, materials and any other things used in the mining operation are situated.

(12) "Prospecting" means engaging in the examination or exploration of an area for the purpose of determining the location, quality and quantity of minerals by such

physical means as excavating, trenching or other methods which disturbs 3 tons or more for each acre of surface area located within 300 feet of the ordinary high-water mark of a navigable stream or 1,000 feet from a lake or which disturbs 100 tons or more for each acre of surface area located beyond 300 feet of the ordinary high-water mark of a navigable stream or 1,000 feet from a lake.

(13) "Prospecting permit" means the permit which is required of all persons as a condition precedent to commencing prospecting at a location.

(14) "Prospector" means any person engaged in prospecting.

(15) "Reclamation" means the rehabilitation of the prospecting location or project site including, but not limited to, establishment of vegetative cover, stabilization of soil conditions, prevention of water pollution and where practicable, restoration of fish, plant and wildlife.

144.815 Mine reclamation council. The mine reclamation council shall serve as a problem solving body to work as a liaison between the department and the metallic mining industry. The council shall advise the department on matters relating to the reclamation of mined land in this state, and on whether certain rules and specific mining and reclamation plans will be reasonably certain to provide for reclamation of mining operations in this state consistent with the purposes of ss. 144.80 to 144.94.

144.82 Mine effect responsibility. The department shall serve as the central unit of state government to ensure that the air, lands, waters, plants, fish and wildlife affected by prospecting or mining in this state will receive the greatest practicable degree of protection and reclamation. The administration of occupational health and safety laws and rules that apply to mining shall remain exclusively the responsibility of the department of industry, labor and human relations. The powers and duties of the geological and natural history survey under ss. 36.23 to 36.30 shall remain exclusively the responsibility of the geological and natural history survey. Nothing in this section prevents the department of industry, labor and human relations and the geological and natural history survey from cooperating with the department in the exercise of their respective powers and duties.

144.83 Department powers and duties. (1) The department shall:

(a) Adopt rules, including rules for prehearing discovery, implementing and consistent with ss. 144.80 to 144.94.

(b) Establish by rule after consulting with the mine reclamation council minimum qualifications for applicants for prospecting and mining permits. Such minimum qualifications shall ensure that each operator in the state is competent to conduct mining and reclamation and each prospector in the state is competent to conduct prospecting in a fashion consistent with the purposes of ss. 144.80 to 144.94. The department shall also consider such other relevant factors bearing upon minimum qualifications, including but not limited to, any past forfeitures of bonds posted pursuant to mining activities in any state.

(2) On or before July 1, 1974, the department by rule after consulting with the mine reclamation council shall adopt minimum standards for prospecting, mining and reclamation to ensure that prospecting, mining and reclamation including ongoing reclamation in this state will be conducted in a manner consistent with the purposes and intent of ss. 144.80 to 144.94. The minimum standards may classify prospecting and mining activities according to type of minerals involved and stage of progression in the operation. The minimum standards shall include, but not be limited to, the following, where applicable and practicable:

- (a) Grading and stabilization of excavation, sides and benches.
- (b) Grading and stabilization of deposits of mine refuse.
- (c) Stabilization of merchantable by-products.
- (d) Adequate diversion and drainage of water from the project site.
- (e) Backfilling.
- (f) Adequate covering of all pollutant-bearing minerals or materials.
- (g) Removal and stockpiling, or other measures to protect topsoils prior to mining.
- (h) Adequate vegetative cover.
- (i) Water impoundment.
- (j) Adequate screening of the project site.
- (k) Identification and prevention of pollution as defined in s. 144.01 (11) resulting from leaching of waste materials.
- (L) Identification and prevention of significant environmental pollution as defined in s. 144.30 (9).

(3) On or before July 1, 1976, the department and the geological and natural history survey shall submit to the governor and the legislature a comprehensive state program of mineral resources zoning and financial incentives for the purpose of discouraging those uses of lands which tend to preclude the mining of minerals lying beneath. This program shall be consistent with the purposes and provisions of ss. 144.80 to 144.94.

(4) The department may:

(a) Hold hearings relating to any aspect of the administration of ss. 144.80 to 144.94 and, in connection therewith, compel the attendance of witnesses and production of evidence.

(b) Cooperate or contract with the geological and natural history survey to secure necessary scientific, technical, administrative and operations services, including research, projects and laboratory facilities.

(c) Issue orders directing particular prospectors or operators to comply with the provisions and purposes of ss. 144.80 to 144.94.

(d) Supervise and provide for such educational programs as appear necessary to carry out the purposes of ss. 144.80 to 144.94.

(e) Accept, receive and expend gifts and donations on behalf of the state.

(f) At its own expense, with the staff, equipment and material under its control, or by contract with others, take such actions as are necessary for the reclamation of abandoned project sites.

(g) Issue prospecting and mining permits.

(h) Cancel the prospecting permit for that exploration area that was the site of a violation of ss. 144.80 to 144.94 for which the prospector has been convicted in a court of record.

(i) Cancel the mining permit for a project site that was the site of a violation of ss. 144.80 to 144.94 for which the operator has been convicted in a court of record.

(5) The department may require all persons under its jurisdiction to submit such informational reports as the department deems necessary for performing its duties under ss. 144.80 to 144.94.

144.84 Prospecting Permits. (1) No person may engage in prospecting without securing a prospecting permit issued under this section. Application for prospecting permits shall be made in writing to the department upon forms prepared and furnished by the department. An application must be made, and a prospecting permit obtained for each separate exploration area. As a part of each application for a prospecting permit, the applicant shall furnish a description of the proposed exploration area, the number of acres in the proposed exploration area, and such other relevant information as the department may require. An application shall be accompanied by a fee of 50 cents for each acre contained in the proposed exploration area, but the fee shall not be less than \$25.

(2) The department shall issue a prospecting permit under this section to an applicant within 30 days of the application date if it finds that the operation will comply with the minimum standards adopted under s. 144.83 (2). The department may impose such reasonable conditions on the permit as it finds necessary to provide for reclamation of the prospecting location. Except as otherwise provided in ss. 144.80 to 144.94, prospecting permits shall be valid unless canceled or until the prospecting authorized by the prospecting permit is completed.

(3) The department shall deny a prospecting permit if it finds that the operation will not comply with the minimum standards adopted under s. 144.83 (2) or that the applicant is in violation of ss. 144.80 to 144.94 or any rules adopted thereunder. If the applicant is a corporation, partnership or association which has previously failed and continues to fail to comply with ss. 144.80 to 144.94, or if the applicant has within the previous 5 years forfeited any bond posted pursuant to mining activities in this state unless by mutual agreement with the state, the department shall not issue a prospecting permit. If the applicant is a corporation, partnership or association, the department shall not issue a prospecting permit if it finds that any officer, director, partner or principal owner of such corporation, partnership or association has within the previous 5 years forfeited any bond posted pursuant to mining activities in this state unless by mutual agreement with the state. In this paragraph, "forfeited any bond" means the forfeiture of any performance security occasioned by noncompliance with any mining laws or rules adopted thereunder. If an application for a prospecting permit is denied, the department, within 30 days from the date of application, shall furnish to the applicant in writing the reasons for the denial.

144.85 Mining permits. (1) No operator may engage in mining or reclamation at any project site that is not covered by a mining permit and by written authorization to mine under s. 144.86 (3). Applications for mining permits shall be made in writing to the department upon forms prepared and furnished by it. An application must be made, and a mining permit obtained for each separate project site. Where mining is commenced on or adjacent to an abandoned project site and the operator meets the requirements of sub. (5) (b) and (c), that portion which remains abandoned shall not be subject to this section.

Vetoed
in Part

(2) ~~(a)~~ The application shall be accompanied by a fee of \$5 for each acre of surface area in the proposed project site but the fee shall not be less than \$50. Except as otherwise provided in ss. 144.87 and 144.91, mining permits shall be valid unless canceled or until the mining authorized by the mining permit is completed or abandoned.

~~(b) If, on reviewing a verified petition by any operator, the department finds that the preparation costs and acreage fees of a mining permit application are of such a magnitude that they prohibit or substantially curtail commencement of mining at a project site, it may permit the applicant to defer the payment of no more than 80% of the fees provided by this section, in equal amounts, for a period of not more than 10 years or the year before the cessation of mining, whichever is shorter. The instalments of fees deferred under this section shall be submitted with the annual report under s. 144.89 (1).~~ Vetoed
in Part

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

(a) A description and a detailed map of the proposed project site drawn to a scale approved by the department. Aerial photographs may be accepted if the photographs show the details to the satisfaction of the department. Such map, plan or photograph shall be prepared and certified by a competent engineer, surveyor or other person approved by the department, and shall show the boundaries of the area of land which will be affected, the drainage area above and below the area, the location and names of all streams, roads, railroads, pipelines and utility lines on or within 1,000 feet of the project site, the name of the owner or owners of the project site and the nearest city or village if within 3 miles of the project site. The map or photograph shall be accompanied by descriptive data as required by the department, including but not limited to the soil conservation service soil capabilities classifications of the affected area, the anticipated geometry of the excavation, the estimated total production of tailings produced, the nature and depth of the overburden, the elevation of the water table and such other information about the geology of the deposit as the department, after consultation with the geological and natural history survey, finds is necessary to evaluate the applicant's mining and reclamation plan.

(b) In addition to the information and maps otherwise required by this subsection, each mining permit application shall include a detailed mining and reclamation plan showing the manner, location and time for reclamation, including ongoing reclamation during mining, of the proposed project site. The mining and reclamation plan shall be accompanied by a map subject to the requirements in par. (a) which shall show the specific reclamation proposal for each area of the project site. The mining and reclamation plan shall conform to any applicable comprehensive plan created under sub. (4) (b), and to any applicable minimum standard created under s. 144.83 (2). No operator may be required to reclaim or restore a project site abandoned by another operator as a condition for securing a mining permit.

(c) The application shall include the name and address of each owner of land within the project site and each person known by the applicant to hold any option or lease thereon and shall list all prospecting and mining permits in this state held by the applicant.

(d) The application shall contain evidence satisfactory to the department that the mining and reclamation plan and the comprehensive plan under sub. (4) (b) conform with all applicable zoning ordinances and that the operator has applied for the necessary approval, licenses or permits required including but not limited to those under chs. 30, 31, 107 and 162 and this chapter.

(e) Such other pertinent information as the department requires.

(4) (a) The department may require an applicant for a mining permit, amended project site or change in mining and reclamation plan to furnish as part of the mining permit application information necessary to estimate the cost of reclamation of the site.

CHAPTER 318

932

(b) Where the department finds that the anticipated life and total area of a mineral deposit are of sufficient magnitude that reclamation of the project site consistent with ss. 144.80 to 144.94 requires a comprehensive plan for the entire affected area, it may require an operator to submit with the application for a mining permit, amended project site or change in mining and reclamation plan, a comprehensive long-term plan showing, in detail satisfactory to the department, the manner, location and time for reclamation of the entire area of contiguous land which may be affected by mining and which is owned, leased or under option for purchase or lease by the operator at the time of application. Where a mineral deposit lies on or under the lands of more than one operator, the department may require the operators to submit mutually consistent comprehensive plans.

(c) The department may require an applicant to describe any land contiguous to the proposed project site which he owns, leases or has an option to purchase or lease.

(4m) The department, within 60 days of receipt of an application, shall hold a hearing which may cover all required approvals, licenses, permits, environmental impact statements and other matters under the jurisdiction of the department.

(5) (a) Within 60 days of the completion of the public hearing under sub. (4m), the department, after consultation with the mine reclamation council, shall find whether the applicant's mining and reclamation plan is reasonably certain to result in reclamation of the project site consistent with ss. 144.80 to 144.94 and any rules adopted pursuant thereto. If it finds in the affirmative, it shall approve issuance of the mining permit, and if it does not so find, it shall deny issuance of the permit. 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 list such additional requirements that are necessary for its approval.

(b) The department shall deny a mining permit if it finds that the applicant is in violation of ss. 144.80 to 144.94 or any rules adopted thereunder. If the applicant is a corporation, partnership or association which has previously failed and continues to fail to comply with ss. 144.80 to 144.94, or if the operator has within the previous 5 years forfeited any bond posted pursuant to mining activities in this state, unless by mutual agreement with the state, the department shall not issue a mining permit. If the applicant is a corporation, partnership or association, the department shall not issue a mining permit if it finds that any officer, director, partner or principal shareholder of such corporation, partnership or association has within the previous 5 years forfeited any bond posted pursuant to mining activities in this state, unless by mutual agreement with the state. In this paragraph, "forfeited any bond" means the forfeiture of any performance security, occasioned by noncompliance with any mining laws or rules adopted thereunder.

(c) The department shall send its statement, together with a copy of its rules and finding as to whether the applicant has otherwise satisfied the requirements of ss. 144.80 to 144.94, to the applicant.

144.86 Bonds. (1) Upon notification that an application for a mining permit has been approved by the department but prior to commencing mining, the operator shall file with the department a bond conditioned on faithful performance of all of the requirements of ss. 144.80 to 144.94 and all rules adopted by the department thereunder. The bond shall be furnished by a surety company licensed to do business in this state. In lieu of a bond, the operator may deposit cash, certificates of deposit or government securities with the department. Interest received on certificate of deposit and government securities shall be paid to the operator. The amount of the bond or other security required to be filed with each application for a mining permit or to

Vetoed
in Part

~~Increase the area of a project site previously permitted,~~ shall be equal to that amount of the estimated cost of reclamation of the project site as is proportionate to the percentage of the project site that will be disturbed by the end of the following year. The estimated cost of reclamation of each project site shall be determined by the department on the basis of relevant factors including, but not limited to, expected changes in the price index, topography of the site, mining methods being employed, depth and composition of overburden and depth of mineral deposit being mined. As a site is reclaimed, reclaimed areas shall be released from bond coverage and the amount of the bond lowered proportionately. Vetoed
in Part

(2) The applicant shall submit a certificate of insurance certifying that he has in force a liability insurance policy issued by an insurance company authorized to do business in this state, or in lieu of a certificate of insurance evidence that he has satisfied state or federal self-insurance requirements, covering all mining operations of the applicant 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.

(3) Upon approval of the operator's bond, application and certificate of insurance, the department shall issue written authorization to commence mining at the permitted project site in accordance with the approved mining and reclamation plans.

(4) Any operator who obtains a mining permit from the department for 2 or more project sites may elect, at the time the 2nd or any subsequent site is approved, to post a single bond in lieu of separate bonds on each site. Any single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has under mining permit. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the department.

(5) The department may reevaluate and adjust accordingly the amount of any bond or security deposit no sooner than 3 years after its date of filing or previous reevaluation. Such reevaluation shall be made pursuant to sub. (1).

(6) Any person who is engaged in mining on the effective date of this act (1973) ~~and any person who has filed an environmental impact statement under s. 11, 12, in connection with the commencement of mining~~ need not file a bond or deposit cash, certificates of deposits or government securities with the department under this section to obtain the written authorization to commence mining under sub. (3). Vetoed
in Part

144.87 Modifications. (1) An operator at any time may apply for amendment or cancellation of a mining permit or for a change in the mining and reclamation plan for any project site which he owns or leases. The application for the amendment, cancellation or change shall be submitted by the operator on a form provided by the department and shall identify the tract of land to be added to or removed from the permitted project site or to be affected by a change in the mining and reclamation plan. The application for an increase or decrease in the area of a project site, or for a change in the mining and reclamation plan shall be processed in the same manner as an original application for a mining permit. If the application is to cancel any or all of the unmined part of a project site, the department shall ascertain, by inspection, that no mining has occurred on the land. After so finding, the department shall order release of the bond or the security posted on the land being removed from the permitted project site and cancel or amend the operator's written authorization to conduct mining on the project site. No land where mining has occurred may be removed from a permitted project site or released from bond or security under this

subsection, unless reclamation has been completed to the satisfaction of the department.

(2) When one operator succeeds to the interest of another in any uncompleted mining operation by sale, assignment, lease or otherwise, the department shall release the first operator from the duties imposed upon him by ss. 144.80 to 144.94 as to such operation if:

(a) Both operators have complied with the requirements of ss. 144.80 to 144.94; and

(b) The successor operator assumes the duty of the former operator to complete the reclamation of the land, in which case the department shall transfer the mining permit to the successor operator upon approval of the successor operator's bond.

(3) If the department finds that because of changing conditions, including but not limited to changes in reclamation costs, reclamation technology, minimum standards under s. 144.83 or governmental land use plans, the mining and reclamation plans for a project site are no longer sufficient to reasonably provide for reclamation of the project site consistent with ss. 144.80 to 144.94 and any rules adopted pursuant thereto, it shall require the applicant to submit an amended mining and reclamation plan which shall be processed in the same manner as an application for an original mining permit. The applicant shall be deemed to hold a temporary mining permit which shall be effective until the amended mining permit is issued or denied. The department may reevaluate the mining and reclamation plan no sooner than 15 years after the date of the mining permit issuance or previous reevaluation under this section.

144.88 Prospecting and mining without a permit. Any person who authorizes or engages in prospecting without a prospecting permit or any operator who authorizes or engages in mining on a project site not covered by a mining permit and written authorization to mine under s. 144.86 (3) may be fined not less than \$5 nor more than \$100 for each acre affected and the operator shall be liable to the department for the full cost of reclaiming the affected area of land. Each day's violation of this section shall be deemed a separate offense. If the prospector or operator is a corporation, partnership or association, any officer, director or partner who authorizes, supervises or contracts for prospecting or mining shall be subject to the penalties of this section.

144.89 Reports; fees. (1) The operator shall furnish the department with a report for each project site every 12 months after issuance of the permit, within 30 days after completion of all mining at the project site and within 30 days after completion of the mining and reclamation plan. Such reports shall include, in addition to such other information as the department requires, such information and maps as the department deems necessary to evaluate the extent of mining and the reclamation accomplished during the previous calendar year.

Vetoed
in Part

(2) The department shall cancel the mining project permit held by any operator who ~~knowingly~~ fails and refuses to submit reports required under this section.

144.90 Bond release. The department shall release the operator's bond if it finds, after inspection of the project site, that the operator has carried out and completed reclamation of all or part of the project site in accordance with the mining and reclamation plan, and has otherwise complied with ss. 144.80 to 144.94 and rules adopted pursuant thereto. Such inspection shall be made not less than one year nor more than 4 years after completion of the mining and reclamation plan.

144.91 Mining and reclamation; orders. (1) Whenever the department finds a violation of law at a project site under a mining permit including unapproved deviation from the mining and reclamation plan, or any of the department's rules, it shall order

the operator to comply within a specified time. Any such order shall become effective unless the person named therein requests in writing within 10 days after the date the order is served a hearing before the department. Upon such request and after due notice, the department shall hold a hearing. In lieu of an order, the department may require that the alleged violator appear before the department for a hearing and answer the charges complained of, or the department may request that the department of justice initiate action under s. 144.93. The department shall cancel the mining permit for a project site held by an operator who fails to comply with the order. The department shall within 14 days inform the department of justice of the cancellation. Within 30 days thereafter the department of justice shall commence an action under s. 144.93.

(2) If reclamation of mined land is not proceeding in accordance with the mining and reclamation plan and the operator has not commenced to rectify deficiencies within the time specified in the order, or if the reclamation is not properly completed in conformance with the mining and reclamation plan within one year after completion or abandonment of mining on any segment of the project site, excepting acts of God, such as adverse weather affecting grading, planting and growing conditions, the department, with the staff, equipment and material under its control, or by contract with others, shall take such actions as are necessary for the reclamation of mined areas. The operator shall be liable for the cost of reclamation conducted under this section, except that no operator who has filed a bond or deposited cash, certificates of deposits or government securities under s. 144.86 shall be liable for an amount greater than the bond, cash, certificates of deposit or government securities furnished under s. 144.86. Any operator who is exempted from filing a bond or depositing cash, certificates of deposits or government securities by s. 144.86 (6) shall not be liable for an amount greater than an amount specified by the department, such specified amount to be equal to and determined in the same manner as the amount of the bond or other security required under s. 144.86 (5) but assuming the operator had not been exempt from such filing or depositing.

144.92 Nonconforming project sites. (1) All prospectors and operators conducting mining operations in this state on the effective date of this act (1973) shall submit to the department, within 90 days after that date, applications for prospecting permits or mining permits as provided in ss. 144.84 and 144.85. Sections 144.83 (1) (b) and 144.85 (5) (b) shall not apply to such operators.

(2) Modification of existing project sites and of operating procedures to conform with ss. 144.80 to 144.94 and rules adopted pursuant thereto shall be accomplished as promptly as possible, but the department shall give special consideration to a project site where it finds that the degree of necessary improvement is of such extent and expense that compliance cannot be accomplished.

144.925 Data. (1) All data submitted by an applicant for a prospecting permit under ss. 144.80 to 144.93 shall be considered confidential, unless the prospector expressly agrees to its publication.

(2) If the department finds beyond a reasonable doubt, on verified application by an operator, that any specific data submitted under ss. 144.80 to 144.93 relating to controls, tonnages or grades of ore production, if made public would divulge methods or processes entitled to protection as trade secrets of such operator, the department shall consider such data, or portion thereof, as limited for the confidential use of the department unless such operator expressly agrees to its publication or public availability. All data relating to prospecting permits held by the operator shall be considered confidential.

(3) The department shall forward copies of all reports received by it from prospectors and operators under ss. 144.80 to 144.93 to the geological and natural history survey. The survey may receive and store all reports, maps, drill records and other information determined to be confidential under sub. (1), subject to the provisions of confidentiality contained under sub. (1). Nothing in this section shall prevent the use of such data by the survey in publishing general analyses or summaries of mining information. The department shall not publish such analyses or summaries, except in cooperation with the geological and natural history survey.

144.93 Enforcement. (1) All orders issued, fines incurred, bond liabilities incurred or other violations committed under ss. 144.80 to 144.94 shall be enforced by the department of justice. The circuit court of Dane county or any other county where the violation occurred shall have jurisdiction to enforce ss. 144.80 to 144.93 or any orders issued or rules adopted thereunder, by injunctive or other appropriate relief.

(2) Any person who makes or causes to be made in an application or report required by ss. 144.80 to 144.94 a statement known to the person to be false or misleading in any material respect may be fined not less than \$100 nor more than \$1,000.

(3) Any person holding a prospecting or mining permit who violates ss. 144.80 to 144.93 or any order issued or rule adopted thereunder shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense.

144.94 Review. Any person aggrieved by any decision of the department under ss. 144.80 to 144.93 may obtain its review under ch. 227.

SECTION 7. Program responsibility citations. In the list of program responsibility citations enumerated for the department of justice under section 15.251 (intro.) of the statutes, reference to sections "144.91 (1)" and "144.93 (1)" are inserted.

SECTION 8. Appropriation increase. The appropriation under section 20.370 (5) (a) of the statutes, as affected by the laws of 1973, is increased by \$15,000 for fiscal year 1973-74 and by \$51,000 for fiscal year 1974-75 to enable the department of natural resources to carry out its responsibilities under chapter 318, laws of 1973.
