

1977 Assembly Bill 1045

Date published: June 2, 1978

CHAPTER 421, Laws of 1977

AN ACT to repeal 144.80 (2), 144.83 (3) and (4) (i), 144.85 (4m) and 144.86 (5); to renumber 144.83 (2) (a) to (L) and 144.85 (3) (e); to renumber and amend 144.81 (8) and (11), 144.83 (2) (intro.) and 144.85 (1), (2) and (5) (c); to amend 20.370 (3) (h), 144.81 (1), (3), (5), (6), (7), (9), (10), (12) and (15), 144.83 (2) (b) 2, 4, 7 and 10, as renumbered, 144.84, 144.85 (3) (a) to (d), (4) and (5) (a) and (b), 144.86 (1), (3) and (4), 144.87 (1), (2) (intro.) and (3), 144.88, 144.89 (1) and (2), 144.91, 144.92 (title) and (2), 144.93 (2) and (3) and 144.94; to repeal and recreate 144.81 (2), 144.83 (4) (h), 144.87 (2) (b) and 144.90; and to create 144.81 (1m), (2m), (13m), (13n), (16) and (18), 144.83 (2) (b) (intro.), (c) and (d) and (6), 144.831, 144.832, 144.834, 144.836, 144.838, 144.84 (4) and (5), 144.85 (1) (b), (2) (b), (3) (e) and (f) and (5) (c) and (d), 144.875, 144.89 (1m), 144.91 (3) and (4), 144.935, 144.937 and 144.939 of the statutes; and to repeal chapter 318, laws of 1973, section 1 (legislative findings), relating to revising the metallic mining reclamation act, granting rule-making authority subject to legislative review, increasing an appropriation, and providing penalties.

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

SECTION 1. Statement of purpose. It is declared to be the purpose of this act to prevent adverse effects to society and the environment resulting from unregulated mining operations; to ensure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances to the land are protected from unregulated mining operations; to ensure that mining operations are not conducted where reclamation, as required by this act, is not possible; to ensure that mining operations are conducted so as to prevent unreasonable degradation to land and water resources, and, to ensure that reclamation of all mined lands is accomplished as contemporaneously as practicable with the mining, while recognizing that the extraction of minerals by responsible mining operations is a basic activity making an important contribution to the economic well-being of this state and nation.

SECTION 1a. 20.370 (3) (h) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

20.370 (3) (h) (title) *Exploration, prospecting, mining, and mine reclamation fees.* All moneys received from fees collected by the department under ss. 144.80 to 144.94 for the administration, regulation and enforcement of exploration, prospecting, mining and mine reclamation activities under those sections.

SECTION 1m. 144.80 (2) of the statutes is repealed.

SECTION 2. 144.81 (1) of the statutes is amended to read:

144.81 (1) "Abandonment of mining" means the cessation of mining, not set forth in an operator's mining ~~and or~~ reclamation plan plans 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.~~

SECTION 3. 144.81 (1m) of the statutes is created to read:

144.81 (1m) "Applicant" means a person who has applied for a prospecting permit or a mining permit.

SECTION 4. 144.81 (2) of the statutes is repealed and recreated to read:

144.81 (2) "Exploration" means the onsite geologic examination from the surface of an area by core, rotary, percussion or other drilling, where the diameter of the hole does not exceed 18 inches, for the purpose of searching for metallic minerals or establishing the nature of a known metallic mineral deposit, and includes associated activities such as clearing and preparing sites or constructing roads for drilling.

SECTION 5. 144.81 (2m) of the statutes is created to read:

144.81 (2m) "Exploration license" means the license required under s. 144.832 (2) as a condition of engaging in exploration.

SECTION 6. 144.81 (3) of the statutes is amended to read:

144.81 (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~~ marketability made by the operator, accompanied by a verified statement by the operator of his or her 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~~ mining site, it shall be considered and regulated as ~~mining~~ refuse unless removal is continuing at a rate of more than ~~30,000 tons~~ 12,000 cubic yards per year.

SECTION 7. 144.81 (5), (6) and (7) of the statutes are amended to read:

144.81 (5) “Mining” or “mining operation” means all or part of the process involved in the mining of metallic minerals, other than for exploration or prospecting, including commercial extraction, agglomeration, beneficiation, construction of roads, removal of overburden and the production of mining refuse.

(6) “~~Mining and reclamation plan~~” means the ~~operator’s~~ proposal for the mining ~~and reclamation~~ of the ~~project~~ mining site which ~~must~~ shall 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~~ mining site.

SECTION 8. 144.81 (8) of the statutes is renumbered 144.81 (17) and amended to read:

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

SECTION 9. 144.81 (9) and (10) of the statutes are amended to read:

144.81 (9) “Operator” means any person who is engaged in, or who has applied for or holds a permit to engage in, prospecting or mining operations, whether individually, jointly or through subsidiaries, agents, employes or contractors.

(10) “Principal shareholder” means any ~~shareholder owning person who owns~~ at least 10% of the ~~shares outstanding of a corporation~~ beneficial ownership of an operator.

SECTION 10. 144.81 (11) of the statutes is renumbered 144.81 (8) and amended to read:

144.81 (8) “~~Project Mining~~ 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.

SECTION 11. 144.81 (12) of the statutes is amended to read:

144.81 (12) “Prospecting” means engaging in the examination ~~or exploration~~ of an area for the purpose of determining the ~~location~~, quality and quantity of minerals, other than for exploration but including the obtaining of an ore sample, 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~~, construction of shafts, ramps and tunnels and other means, other than for exploration, which the department, by rule, identifies, and the production of prospecting refuse and other associated activities. “Prospecting” shall not include such activities when the activities are, by themselves, intended for and capable of commercial exploitation of the underlying ore body. However, the fact that prospecting activities and construction may have use ultimately in mining, if approved, shall not mean that prospecting activities and construction constitute mining within the meaning of sub. (5), provided such activities and construction are reasonably related to prospecting requirements.

SECTION 12. 144.81 (13m) and (13n) of the statutes are created to read:

144.81 (13m) “Prospecting plan” means the proposal for prospecting of the prospecting site, which shall be approved by the department under s. 144.84 prior to the issuance of the prospecting permit.

(13n) "Prospecting site" means the lands on which prospecting is actually conducted as well as those lands on which physical disturbance will occur as a result of such activity.

SECTION 13. 144.81 (15) of the statutes is amended to read:

144.81 (15) "Reclamation" means the ~~rehabilitation of the prospecting location or project site including, but~~ process by which an area physically or environmentally affected by prospecting or mining is rehabilitated to either its original state or, if this is shown to be physically or economically impracticable or environmentally or socially undesirable, to a state that provides long-term environmental stability. Reclamation shall provide the greatest feasible protection to the environment and shall include, but ~~is not limited to, establishment of vegetative cover, stabilization of soil conditions, prevention of water pollution and where practicable, restoration of fish, plant and wildlife~~ the criteria for reclamation set forth in s. 144.83 (2) (c).

SECTION 14. 144.81 (16) and (18) of the statutes are created to read:

144.81 (16) "Reclamation plan" means the proposal for the reclamation of the prospecting or mining site which must be approved by the department under s. 144.84 or 144.85 prior to the issuance of the prospecting or mining permit.

(18) "Unsuitability" means that the land proposed for prospecting or surface mining is not suitable for such activity because the prospecting or surface mining activity itself may reasonably be expected to destroy or irreparably damage either of the following:

(a) Habitat required for survival of species of vegetation or wildlife designated as endangered through prior inclusion in rules adopted by the department, if such endangered species cannot be firmly reestablished elsewhere.

(b) Unique features of the land, as determined by state or federal designation and incorporated in rules adopted by the department, as any of the following, which cannot have their unique characteristic preserved by relocation or replacement elsewhere:

1. Wilderness areas.
2. Wild and scenic rivers.
3. National or state parks.
4. Wildlife refuges and areas.
5. Historical landmarks, sites or archaeological areas.
6. Other lands of a type designated as unique or unsuitable for prospecting or surface mining.

SECTION 15. 144.83 (2) (intro.) of the statutes is renumbered 144.83 (2) (a) and amended to read:

144.83 (2) (a) ~~On or before July 1, 1974, the~~ The department by rule after consulting with the mine reclamation council shall adopt minimum standards for exploration, prospecting, mining and reclamation to ensure that prospecting, mining and reclamation including ongoing reclamation such activities 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 exploration, 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:~~

SECTION 16. 144.83 (2) (a) to (L) of the statutes are renumbered 144.83 (2) (b) 1 to 12, respectively, and 144.83 (2) (b) 2, 4, 7 and 10, as renumbered, are amended to read:

144.83 (2) (b) 2. Grading and stabilization of deposits of ~~mine~~ refuse.

4. Adequate diversion and drainage of water from the ~~project~~ exploration, prospecting or mining site.

7. Removal and stockpiling, or other measures to protect topsoils prior to exploration, prospecting or mining.

10. Adequate screening of the ~~project~~ prospecting or mining site.

SECTION 17. 144.83 (2) (b) (intro.), (c) and (d) of the statutes are created to read:

144.83 (2) (b) (intro.) Minimum standards for exploration, prospecting and mining shall include the following:

(c) Minimum standards for reclamation of exploration sites, where appropriate, and for prospecting and mining sites shall conform to s. 144.81 (15) and include provision for the following:

1. Disposal of all toxic and hazardous wastes, refuse, tailings and other solid waste in solid or hazardous waste land disposal facilities licensed under this chapter or otherwise in an environmentally sound manner.

2. Sealing off tunnels, shafts or other underground openings, and prevention of seepage in amounts which may be expected to create a safety, health or environmental hazard, unless the applicant can demonstrate alternative uses of tunnels, shafts or other openings which do not endanger public health and safety and which conform to applicable environmental protection laws and rules.

3. Management, impoundment or treatment of all underground or surface runoff waters from open pits or underground prospecting or mining sites so as to prevent soil erosion, flooding, damage to agricultural lands or livestock, wild animals, pollution of surface or subsurface waters or damage to public health or safety.

4. Removal of all surface structures, unless they are converted to an alternate use.

5. Prevention or reclamation of substantial surface subsidence.

6. Preservation of topsoil for purposes of future use in reclamation.

7. Revegetation to stabilize disturbed soils and prevent air and water pollution, with the objective of reestablishing a variety of populations of plants and animals indigenous to the area immediately prior to exploration, prospecting or mining.

8. Minimization of disturbance to wetlands.

(d) The minimum standards adopted under this subsection shall also provide that if any of the following situations may reasonably be expected to occur during or subsequent to prospecting or mining, the prospecting or mining permit shall be denied:

1. Landslides or substantial deposition from the proposed operation in stream or lake beds which cannot be feasibly prevented.

2. Significant surface subsidence which cannot be reclaimed because of the geologic characteristics present at the proposed site.

3. Hazards resulting in irreparable damage to any of the following, which cannot be prevented under the requirements of ss. 144.80 to 144.94, avoided to the extent applicable by removal from the area of hazard or mitigated by purchase or by obtaining the consent of the owner:

a. Dwelling houses.

b. Public buildings.

c. Schools.

d. Churches.

e. Cemeteries.

f. Commercial or institutional buildings.

g. Public roads.

h. Other public property designated by the department by rule.

4. Irreparable environmental damage to lake or stream bodies despite adherence to the requirements of ss. 144.80 to 144.94. This subdivision does not apply to an activity which the department has authorized pursuant to statute, except that the destruction or filling in of a lake bed shall not be authorized notwithstanding any other provision of law.

SECTION 18. 144.83 (3) of the statutes is repealed.

SECTION 19. 144.83 (4) (h) of the statutes is repealed and recreated to read:

144.83 (4) (h) Issue exploration licenses.

SECTION 20m. 144.83 (4) (i) of the statutes is repealed.

SECTION 20. 144.83 (6) of the statutes is created to read:

144.83 (6) The department may, after hearing, cancel:

(a) The prospecting permit for a prospecting site that is the site of a violation of ss. 144.80 to 144.94.

(b) The mining permit for a mining site that is the site of a violation of ss. 144.80 to 144.94.

(c) A mining or prospecting permit, if the permitholder intentionally made a false statement in the permit application or intentionally omitted information from the permit application which was material to permit issuance.

SECTION 21. 144.831 of the statutes is created to read:

144.831 Data collection; monitoring. (1) Any person intending to submit an application for a prospecting or mining permit shall notify the department prior to the collection of data or information intended to be used to support the permit application. Specific environmental data which would be pertinent to a specific prospecting or mining application, but which was obtained or collected or generated prior to the notice of intent to apply for a prospecting or mining permit, shall be submitted in writing to the department together with any substantiating background information which would assist the department in establishing the validity of the data. The department shall review the data and, if it concludes that the benefits of permitting the admission of the data outweigh the policy reasons for excluding it, and if the data is otherwise admissible, inform the person giving the notice of intent to prospect or mine that the data will be accepted by the department. Such exclusion shall not relate to general environmental information such as soil characteristics, hydrologic conditions and air and water data contained in publications, maps, documents, studies, reports and similar sources, whether public or private, not prepared by or for the applicant. Such exclusion shall likewise not relate to data which is otherwise admissible that is collected prior to notification under this subsection for purposes of evaluating another site or sites and which is not collected with intent to evade the provisions of this section.

(2) Upon receipt of notification under sub. (1), the department shall give public notice of the notification in the same manner as provided under s. 144.836 (3) (b).

(3) The department shall also receive and consider any comments from interested persons received within 45 days after public notice is given under sub. (2) as to the information which they believe should be requested from the person giving notice of intent to apply for a prospecting or mining permit and the information which they believe the department should seek through independent studies.

(4) After the receipt and consideration of comments from interested persons, the department shall inform the person giving notice of intent to apply for a prospecting or mining permit of the type and quantity of information that it then believes to be needed to support an application, and where applicable, the methodology to be used in gathering information. The department shall specifically inform the person giving notice of intent to apply for a prospecting or mining permit of the type and quantity of information on the characteristics of ground water resources in the area in which prospecting or mining is anticipated to occur which the department believes is needed

to support an application. The department shall also begin informing the person giving notice of intent to apply for a prospecting or mining permit as to the timely application date for approvals, licenses and permits, so as to facilitate the consideration of all other matters at the hearing on the prospecting or mining permit.

(5) The department may conduct studies necessary to verify information which may be submitted at the time of a permit application.

(6) All information gathered by a person giving notice under sub. (1) shall be submitted to the department as soon as it is in final form. The department may at any time after consultation with the person giving notice of intent to apply for a prospecting or mining permit revise or modify its requirements regarding information which must be gathered and submitted.

(7) The department, in granting any application for a permit under s. 144.84 or 144.85, shall require the permitholder to perform adequate monitoring of environmental changes during the course of the permitted activity and for such additional period of time as is necessary to satisfactorily complete reclamation and completely release the permitholder from any bonds required.

(8) The department may monitor environmental changes concurrently with the permitholder under sub. (7), and for such additional period of time after the full bond is released under s. 144.90 (3) as is necessary for the site to return to a state of environmental stability. The department may conduct independent studies to monitor environmental changes.

SECTION 22. 144.832 of the statutes is created to read:

144.832 Exploration. (1) DEFINITIONS. In this section:

(a) "Driller" means a person who performs core, rotary, percussion or other drilling involved in exploration for metallic minerals.

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

(c) "Termination" means filling of drillholes and reclamation and revegetation of drilling sites.

(2) LICENSE. All persons intending to engage in exploration, or who contract for the services of drillers for purposes of exploration, shall be licensed by the department. Exploration licenses shall be issued annually by the department, and shall be applied for on forms provided by the department. The department shall provide copies of the application form for an exploration license to the state geologist upon issuance of the license. The department shall, by rule, establish an annual license fee plus a schedule of additional fees based on the number of holes drilled. The level of fees shall reflect the department's actual cost in administering this section. The fees set under this subsection may be adjusted for persons to reflect the payment of fees for the same services to meet other requirements.

(3) BOND. (a) Applications for licenses shall be accompanied by a bond in the amount of \$5,000 conditioned on faithful performance of the requirements of the department relating to termination.

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

(c) The department shall, by rule, establish a procedure for release of exploration sites from bond coverage.

(4) NOTICE PROCEDURE. (a) Commencement of drilling on a parcel shall be preceded by notice from the licensee to the department of intent to drill, given at least 10 days in advance of the commencement of drilling, and identifying the particular parcel. The department shall transmit a copy of the notice of intent to drill to the state geologist.

(b) The department shall, by rule, establish notification and inspection procedures applicable to the various stages of drilling and termination and procedures for the proper termination of drillholes.

(5) LICENSE REVOCATION. The department may revoke or suspend an exploration license issued under this section if it determines, after hearing, that:

(a) Statutes or rules of the department have not been complied with; or

(b) There has been a failure to increase bond amounts to adequate levels as specified by the department.

(6) EXEMPTION. This section does not apply to operators engaged in exploration activities on lands included in a mining and reclamation plan, if the plan contains provisions relating to termination of the exploration activities.

SECTION 23. 144.834 of the statutes is created to read:

144.834 Reclamation plans. (1) A reclamation plan shall accompany all applications for prospecting or mining permits. If it is physically or economically impracticable or environmentally or socially undesirable for the reclamation process to return the affected area to its original state, the plan shall set forth the reasons therefor and shall discuss alternative conditions and uses to which the affected area can be put.

(2) The plan shall specify how the applicant intends to accomplish, to the fullest extent possible, compliance with the minimum standards under s. 144.83 (2) (c).

SECTION 24. 144.836 of the statutes is created to read:

144.836 Hearings on permit applications. This section, and ch. 227 where it is not inconsistent, shall govern all hearings on applications for prospecting or mining permits.

(1) SCOPE. The hearing on the prospecting or mining permit shall cover the application and any statements prepared under s. 1.11 and, to the fullest extent possible, all other applications for approvals, licenses and permits issued by the department. The department shall inform the applicant as to the timely application date for all approvals, licenses and permits issued by the department, so as to facilitate the consideration of all other matters at the hearing on the prospecting or mining permits.

(2) LOCATION. The hearing shall be held in the county where the prospecting or mining site, or the largest portion of the prospecting or mining site, is located, but may subsequently be adjourned to other locations.

(3) TIMING OF NOTICE AND OF HEARING; GIVING OF NOTICE. (a) If it is determined that a statement under s. 1.11 is not required, the hearing shall be scheduled for a date not more than 90 days after the announcement of such determination, and the scheduling shall be completed not later than 10 days following the announcement. Notice of the hearing shall be given within 15 days following the date of announcement by mailing a copy of the notice to any known state agency required to issue a permit for the proposed operation, to the regional planning commission for the affected area, to the county, city, village and town within which any part of the affected area lies and to all persons who have requested such notification. Written comments may be submitted to the department within 30 days of the date of notice.

(b) If it is determined that a statement under s. 1.11 is required, the department shall hold at least one informational hearing regarding the preliminary environmental report within 60 days of its issuance. The scheduling shall be completed not later than 10 days following the issuance of the preliminary environmental report. A hearing shall be scheduled for a date not less than 120 days nor more than 180 days after the issuance of the environmental impact statement. Notice of the hearing shall be given within 30 days from the date of issuance of the environmental impact statement by:

1. Mailing a copy of the notice to all known departments and agencies required to grant any permit necessary for the proposed operation, to any regional planning commission within which the affected area lies, to the governing bodies of all towns, villages, cities and counties within which any part of the proposed prospecting or mining site lies, to the governing bodies of any towns, villages or cities contiguous to any town, village or city within which any part of the proposed prospecting or mining site lies and to any interested persons who have requested such notification.

2. Publication of a class 2 notice, under ch. 985, utilizing a display advertising format, in the weekly newspaper published in the closest geographic proximity to the proposed prospecting or mining site, in the newspaper having the largest circulation in the county within which the proposed site lies and in those newspapers published in counties contiguous to the county within which the proposed site lies which have a substantial circulation in the area of, or adjacent to, the proposed prospecting or mining site.

(c) Written comments may be submitted by any governmental agency within 80 days of the date of issuance of the statement under par. (b). Individual persons may submit written comments within 120 days of the date of issuance of the statement. The last day for receipt of comments shall be specified by the department in all notices.

(4) HEARING PROCEDURE. (a) At the opening of the hearing, the hearing examiner shall advise all persons present of their right to express their views either orally or in writing, under oath or otherwise, and of the legal effect of each such form of testimony. All interested persons, at the hearing or at a time set prior to the hearing, shall be given an opportunity, subject to reasonable limitations on the presentation of repetitious or irrelevant material, to express their views on any aspect of the matters under consideration. The presentation of such views need not be under oath nor subject to cross-examination. Persons presenting their views may not be parties. A written record of unsworn testimony shall be made.

(b) Persons qualifying as parties to the hearing and who wish to participate as parties shall file written notice setting forth their interest and shall participate in the contested case portion of the hearing.

(c) The record shall consist of the contested case portion of the proceeding. Views given under par. (a) and all written comments submitted from any source shall be placed in the file of the proceeding and shall be given appropriate probative value by the hearing examiner or decisionmaker.

(d) Hearings conducted under this section may be continued for just cause.

(e) If evidence of conformance with applicable zoning ordinances as required by s. 144.85 (5) (a) 1. f is not presented by the time testimony is completed, the department shall close the record and continue the hearing. The duration of the continuance of the hearing shall be specified by the department at the time the continuance begins, after first requesting the applicant to state the anticipated time at which the evidence will be provided. The continuance may be extended by the department prior to its expiration upon notice to all parties if good cause is shown.

SECTION 25. 144.838 of the statutes is created to read:

144.838 Local impact committee. (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).

(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 giving notice under s. 144.831 (1) 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 giving notice under s. 144.831 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). 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.

(5) Any county, town, village or city receiving notice of the filing of an application in the manner provided under s. 144.836 (3) (a) or (b) shall refer the application and reclamation plan to a committee established under sub. (1) or (2), if any, for review and comment. Such counties, towns, villages or cities may participate as a party in the hearing on the application and may make recommendations on the reclamation plan and future use of the project site.

SECTION 26. 144.84 of the statutes is amended to read:

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 prospecting site.~~ Applications shall be submitted in reproducible form in such multiples as required by rules of the department. As a part of each application for a prospecting permit, the applicant shall furnish a description of the proposed ~~exploration area prospecting site,~~ the number of acres in the proposed exploration area prospecting site, a prospecting plan, a reclamation plan meeting the requirements of s. 144.834 and a timetable for reclamation, information relating to whether the area may be unsuitable for prospecting or surface mining, unless the applicant conclusively certifies that he or she will not subsequently make application for a permit to conduct surface mining at the site and such other relevant information as the department may require, including information as to whether the applicant, its parent corporation, any of its principal shareholders, or any of the applicant's subsidiaries or affiliates in which the applicant owns more than a 40% interest, has forfeited any mining bonds in other states within the last 20 years, and the dates and locations, if any. 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 such fee as is required by the department by rule which shall cover the estimated cost of evaluating the prospecting permit application. After completing its evaluation, the department shall revise the fee to reflect the actual cost of evaluation. The fee may be revised for persons to reflect the payment of fees for the same services to meet other requirements.~~

(2) The department shall issue a prospecting permit under this section to an applicant within ~~30 60~~ days of the application following the date of the completion of the hearing record if, on the basis of the application, the department's investigation and hearing and any written comments, 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 site is not unsuitable for prospecting or, absent a certification under sub. (1), surface mining, and the reclamation plan complies with ss. 144.83 (2) and 144.834 and rules promulgated under ss. 144.83 (2) and 144.834. The department may modify any part of the application or reclamation plan and approve it as modified. Except as otherwise provided in ss. 144.80 to 144.94, prospecting permits

shall be valid ~~for the life of the project, unless canceled or until the prospecting authorized by the prospecting permit is completed~~ under s. 144.83 (6) or 144.91 (1) or (3) or revoked under s. 144.93 (2) or (3).

(3) The department shall deny a prospecting permit within 60 days following the date of the completion of the hearing record if it finds that ~~the operation will not comply with the minimum standards adopted under s. 144.83 (2) site is unsuitable for prospecting or, absent certification under sub. (1), surface mining, or the reclamation plan, including the bond, does not comply with ss. 144.83 (2) and 144.834 and rules promulgated under ss. 144.83 (2) and 144.834 or that the applicant is in violation of ss. 144.80 to 144.94 or any rules adopted thereunder under ss. 144.80 to 144.94.~~ 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 20 years forfeited any bond posted ~~pursuant to in accordance with prospecting or mining activities in this state,~~ unless by mutual agreement with the state, the department shall may not issue a prospecting permit. ~~If the applicant is a corporation, partnership or association, the~~ The department shall may not issue a prospecting permit if it finds that any officer, or director, ~~partner or principal owner of such corporation, partnership or association of the applicant has, while employed by the applicant, the applicant's parent corporation, any of the applicant's principal shareholders, or any of the applicant's subsidiaries or affiliates, in which the applicant owns more than a 40% interest,~~ within the previous 5 20 years forfeited any bond posted ~~pursuant to in accordance with prospecting or 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 prospecting or mining laws or implementing rules adopted thereunder. If an application for a prospecting permit is denied, the department, within 30 days from the date of application denial, shall furnish to the applicant in writing the reasons for the denial.

SECTION 27. 144.84 (4) and (5) of the statutes are created to read:

144.84 (4) (a) Eighteen months after the issuance of a prospecting permit, and annually thereafter until prospecting ceases, the department shall review the permit, reclamation plan and bond to ascertain adequacy, compliance with state or federal laws enacted after the issuance of the permit and technological currency. If the department after review determines that the plan should be modified or the bond amount changed, it shall notify the permitholder of the necessary modifications or changes. If the permitholder does not request a hearing within 30 days, the modifications or changes shall be deemed accepted.

(b) If the permitholder desires to modify the permit, an amended application shall be submitted to the department, which shall process the amendment as if it were an original application if the proposed modification substantially broadens or changes the scope of the original prospecting proposal.

(c) To the extent that testimony and evidence submitted at the original prospecting permit proceedings or from previous modification hearings is relevant to the issues of modification or granting or denial or the amendment, it may be adopted in the subsequent proceedings, subject to the opportunity for cross-examination and rebuttal, if not unduly repetitious.

(5) If the department determines that a statement under s. 1.11 is required for consideration of an application for a prospecting permit, the statement need not consider impacts unrelated to the proposed prospecting activity, other than the issue of unsuitability for surface mining, absent a certification under sub. (1).

SECTION 28. 144.85 (1) and (2) of the statutes are renumbered 144.85 (1) (a) and (2) (a) and amended to read:

144.85 (1) (a) No operator may engage in mining or reclamation at any project mining 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

and in reproducible form to the department upon forms prepared and furnished by it and in such multiples as required by rule of the department. An application must shall be made, and a mining permit obtained for each separate project mining 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. No application for surface mining at a site may be entertained by the department if within the previous 5 years the applicant, or a different person who had received a prospecting permit for the site had certified under s. 144.84 (1) that he or she would not subsequently make application for a permit to conduct surface mining at the site.

(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 established by the department, by rule, which shall cover the estimated cost of evaluating the mining permit application. After completing its evaluation, the department shall revise the fee to reflect the actual cost of evaluation. The fee may be revised for persons to reflect the payment of fees for the same services to meet other requirements.

SECTION 29. 144.85 (1) (b) and (2) (b) of the statutes are created to read:

144.85 (1) (b) If a person commences mining at a mining site which includes an abandoned site, plans for reclamation of the abandoned site, or the portion of the abandoned site which is included in the mining site, shall be included in its mining plan and reclamation plan.

(2) (b) Except as otherwise provided in ss. 144.87 to 144.91, mining permits shall be valid for the life of the project unless canceled under s. 144.83 (6) or 144.91 (1) or (3) or revoked under s. 144.93 (2) or (3).

SECTION 30. 144.85 (3) (a) to (d) of the statutes are amended to read:

144.85 (3) (a) A mining plan, including a description and a detailed map of the proposed project mining 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 The 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 plan 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 mining 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. ss. 144.83 (2) and 144.834. 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 mining site and each person known by the applicant to hold any option or lease thereon on land within the mining site and shall list all prospecting and mining permits in this state held by the applicant.~~

(d) ~~The application shall contain evidence~~ Evidence satisfactory to the department that the ~~mining and reclamation plan and the comprehensive plan under sub. (4) (b) conform with~~ applicant has applied for necessary approvals and permits under all applicable zoning ordinances and that the operator has applied for the necessary approval, licenses or permits required by the department including, but not limited to, those under chs. 30, 31, 107, 147 and 162 and this chapter.

SECTION 31. 144.85 (3) (e) of the statutes is renumbered 144.85 (3) (g).

SECTION 32. 144.85 (3) (e) and (f) of the statutes are created to read:

144.85 (3) (e) Information as to whether the applicant, its parent, any of its principal shareholders, or any of its subsidiaries or affiliates in which it owns more than a 40% interest, has forfeited any mining bonds in other states within the past 20 years, and the dates and locations, if any.

(f) Information relating to whether unsuitability may exist for surface mining to the extent not fully considered under s. 144.84.

SECTION 33. 144.85 (4) of the statutes is amended to read:

144.85 (4) (a) The department ~~may~~ shall require an applicant for a mining permit, amended ~~project site mining permit~~ or change in ~~either the mining and or~~ reclamation plan to furnish, as part of the mining permit application ~~information necessary to estimate the cost of reclamation of the site,~~ an itemized statement showing the applicant's estimation of the cost to the state of reclamation. The department may, at the applicant's expense, contract with an independent person to estimate the cost to the state of reclamation if it has reason to believe that the applicant's estimated cost of reclamation may not be accurate.

(b) ~~Where~~ If the department finds that the anticipated life and total area of a mineral deposit are of sufficient magnitude that reclamation of the ~~project mining~~ site consistent with ss. 144.80 to 144.94 requires a comprehensive plan for the entire affected area, it ~~may~~ shall require an operator to submit with the application for a mining permit, amended ~~project mining~~ site or change in mining ~~and or~~ 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~~ will 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~~ shall require the operators to submit mutually consistent comprehensive plans.

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

SECTION 34. 144.85 (4m) of the statutes is repealed.

SECTION 35. 144.85 (5) (a) and (b) of the statutes are amended to read:

144.85 (5) (a) 1. Within 60 90 days of the completion of the public hearing under sub. (4m) record, the department, ~~after consultation with the mine reclamation council,~~ shall find whether the applicant's issue the mining permit if it finds:

a. The mining plan and reclamation plan is are reasonably certain to result in reclamation of the project mining 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 under s. 144.80 to 144.94.

b. The proposed operation will comply with all applicable air, ground and surface water and solid and toxic waste disposal laws and rules of the department.

c. In the case of a surface mine, the site is not unsuitable for mining. The preliminary determination that a site was not unsuitable for mining under s. 144.84 may not be conclusive in the determination of the site's suitability for mining under this section. However, at the hearing held under this section and s. 144.836, testimony and evidence submitted at the prospecting permit proceeding relevant to the issue of suitability of the proposed mining site for surface mining may be adopted, subject to the opportunity for cross-examination and rebuttal, if not unduly repetitious.

d. The proposed mine will not endanger public health, safety or welfare.

e. The proposed mine will not result in a net substantial adverse economic impact in the area reasonably expected to be most impacted by the activity.

f. The proposed mining operation conforms with all applicable zoning ordinances.

2. 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 modify the operator's proposed mining or reclamation plans in order to meet the requirements of ss. 144.80 to 144.94, and, as modified, grant its approval.

(b) The department shall deny a mining permit within 90 days following the date of the completion of the hearing record if it finds that the site is unsuitable for surface mining, where the application pertains to a proposed surface mine, or that the applicant is in violation of ss. 144.80 to 144.94 or any rules adopted thereunder under ss. 144.80 to 144.94. 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 applicant has within the previous 5 20 years forfeited any bond posted pursuant to in accordance with mining activities in this state, unless by mutual agreement with the state, the department shall may not issue a mining permit. If the applicant is a corporation, partnership or association, the The department shall may not issue a mining permit if it finds that any officer, or director, partner or principal shareholder of such corporation, partnership or association of the applicant, while employed by the applicant, the applicant's parent corporation, any of the applicant's principal shareholders or any of the applicant's subsidiaries or affiliates in which the applicant owns more than a 40% interest, has within the previous 5 20 years forfeited any bond posted pursuant to in accordance with 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 prospecting or mining laws or implementing rules adopted thereunder.

SECTION 36. 144.85 (5) (c) of the statutes is renumbered 144.85 (5) (e) and amended to read:

144.85 (5) (e) 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 and to the other parties.

SECTION 37. 144.85 (5) (c) and (d) of the statutes are created to read:

144.85 (5) (c) To the extent that an environmental impact statement on a prospecting permit application under s. 144.84, if prepared, fully considered unsuitability of the prospecting site for surface mining by virtue of unique features of the land as enumerated in s. 144.81 (18), that portion of the previous impact statement may be adopted in the impact statement on the mining permit application.

(d) The prior issuance of a prospecting permit under s. 144.84 for all or part of a site shall, in and of itself, be given no weight in the decision to grant or deny a mining permit under this section, and the department must find, in any order granting, or granting with conditions, a mining permit that no weight was given in the decision to the prior issuance of a prospecting permit. However, to the extent that testimony and evidence submitted at the prospecting permit proceedings is relevant to the issue of whether to grant or deny a mining permit, the testimony and evidence may be adopted in the mining permit proceedings, subject to the opportunity for cross-examination and rebuttal to the extent that the testimony and evidence are not unduly repetitious.

SECTION 38. 144.86 (1), (3) and (4) of the statutes are amended to read:

144.86 (1) Upon notification that an application for a prospecting or mining permit has been approved by the department but prior to commencing prospecting or 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~~ under ss. 144.80 to 144.94. 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 certificates of deposit and government securities shall be paid to the operator. The amount of the bond or other security required 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~~ the estimated cost to the state of fulfilling the reclamation plan, in relation to that portion of the site that will be disturbed by the end of the following year. The estimated cost of reclamation of each project prospecting or mining 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.~~

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

(4) Any operator who obtains a mining ~~permit~~ permits from the department for 2 or more ~~project~~ mining 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 ~~to the state determined under sub. (1)~~ of reclaiming all sites the operator has under mining permit permits. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds ~~shall~~ may not be released until the new bond has been accepted by the department.

SECTION 39. 144.86 (5) of the statutes is repealed.

SECTION 40. 144.87 (1) and (2) (intro.) of the statutes are amended to read:

144.87 (1) An operator at any time may apply for amendment or cancellation of a mining permit or for a change in the mining ~~and or~~ reclamation plan plans for any ~~project site~~ mining operation which ~~he~~ the operator 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~~ mining site or to be affected by a change in the mining ~~and or~~ reclamation plan plans. The application for an increase or decrease in the area of a ~~project~~ mining site, or for a change in the mining ~~and or~~ reclamation plan plans shall be processed in the same manner as an original application for a mining permit. If 5 or more interested persons do not request a hearing in writing within 30 days of notice under s. 144.836 (3), which notice shall include a statement to this effect, no hearing need be held on the modification. If a hearing is held, testimony and exhibits from the hearing on either the original applications for a mining permit or from previous modification hearings which are relevant to the instant modification may be adopted, subject to cross-examination and rebuttal if not unduly repetitious. If the application is to cancel any or all of the unmined part of a ~~project~~ mining 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~~ mining site and cancel or amend the operator's written authorization to conduct mining on the ~~project~~ mining site. No land where mining has occurred may be removed from a permitted ~~project~~ mining site or released from bond or security under this subsection, unless reclamation has been completed to the satisfaction of the department.

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

SECTION 41. 144.87 (2) (b) of the statutes is repealed and recreated to read:

144.87 (2) (b) The successor operator discloses whether it has forfeited any bond, as defined under s. 144.85 (3) and (5) (b), within the previous 20 years, posts any bond required under s. 144.86 and assumes all responsibilities of all applicable permits, licenses and approvals granted to the predecessor operator.

SECTION 42. 144.87 (3) of the statutes is amended to read:

144.87 (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 plan~~ for a ~~project mining site~~ are is 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 under ss. 144.80 to 144.94~~, it shall require the applicant to submit ~~an~~ amended mining and reclamation ~~plan plans~~ 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~~ shall review the mining and reclamation ~~plan no sooner than 15 years~~ plans annually after the date of the mining permit issuance or previous ~~reevaluation~~ review under this section.

SECTION 43. 144.875 of the statutes is created to read:

144.875 Cessation of mining or reclamation. If there is a cessation of mining or reclamation which is not set forth in either the mining plan or the reclamation plan, the operator shall so notify the department within 48 hours and shall commence stabilization of the mining site according to rules established by the department. If the department determines after hearing that stabilization of the mining site is inadequate to protect the environment, the department shall order the operator to commence additional measures to protect the environment, including, if the cessation is reasonably anticipated to extend for a protracted period of time, reclamation according to the reclamation plan or part of the reclamation plan. Usual and regular shutdown of operations on weekends, for maintenance or repair of equipment or facilities or for other customary reasons shall not constitute a cessation of mining.

SECTION 44. 144.88 of the statutes is amended to read:

144.88 (title) Exploring, prospecting and mining without authorization. Any person who engages in exploration without a license shall forfeit not less than \$100 nor more than \$1,000 for each parcel as defined under s. 144.832 (1) (c) on which unlicensed exploration took place. 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~~ without 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~~ shall forfeit all profits obtained from such illegal activities and not more than \$10,000 for each day during which the mine was in operation. The operator shall be liable to the department for the full cost of reclaiming the affected area of land and any damages caused by the mining operation. Each day's violation of this section shall be deemed a separate offense. If the ~~prospector or operator~~ violation is a corporation, partnership or association, any officer, director or partner who knowingly authorizes, supervises or contracts for exploration, prospecting or mining shall also be subject to the penalties of this section.

SECTION 45. 144.89 (1) of the statutes is amended to read:

144.89 (1) The operator shall furnish the department with a report for each ~~project~~ mining site every 12 months after issuance of the permit, within 30 days after completion of all mining at the ~~project mining~~ site and within 30 days after completion of the mining plan and of the reclamation plan. ~~Such~~ The 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.

SECTION 46. 144.89 (1m) of the statutes is created to read:

144.89 (1m) Annually, the department shall review the mining and reclamation plans and bonds, using the procedure specified under s. 144.84 (4).

SECTION 47. 144.89 (2) of the statutes is amended to read:

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

SECTION 48. 144.90 of the statutes is repealed and recreated to read:

144.90 Certificate of completion, partial completion and bond release. (1) Upon the petition of the operator, but not less than 4 years after notification to the department by the operator of the completion of the reclamation plan, if the department finds after conducting a hearing that the operator has completed reclamation for any portion of the mining site in accordance with the reclamation plan and ss. 144.80 to 144.94, the department shall issue a certificate of completion setting forth a description of the area reclaimed and a statement that the operator has fulfilled its duties under the reclamation plan as to that area.

(2) Upon the issuance of any certificate of completion under sub. (1) for any portion of the mining site, but not for the entire mining site, the department shall allow the operator to reduce the amount of the bond to an amount which shall equal the estimated cost of reclamation of the portion of the mining site which is disturbed or for which reclamation has been completed but no certificate of completion has been issued.

(3) Upon issuance of a certificate or certificates of completion of reclamation for the entire mining site, the department shall require that the operator maintain a bond equal to at least 10% of the cost to the state of reclamation of the entire mining site if mining of the site was wholly underground, and at least 20% of the cost to the state of reclamation of the entire mining site if any surface mining was conducted. Where the mining site in the mining plan is less than 10 acres, the department may release the bond after issuance of the certificate under sub. (1).

(4) After 20 years after the issuance of a certificate or certificates of completion for the entire mining site, the department shall release the bond if the department finds that the reclamation plan has been complied with.

(5) The department shall, by rule, establish a procedure for release of reclamation bonds for prospecting sites similar to subs. (1) to (4), but with shorter time periods.

SECTION 49. 144.91 of the statutes is amended to read:

144.91 Mining and reclamation; orders. (1) Whenever the department finds a violation of law at a ~~project mining~~ site under a mining permit including unapproved deviation from the mining ~~and or~~ 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 in the order~~ 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 mining~~ 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~~ a mining site 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~~ mining site, or if the exploration license or prospecting or mining permit is revoked under s. 144.93 (2) and (3), 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 to the state 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.~~ The specified amount to shall be equal to and determined in the same manner as the amount of the bond or other security otherwise required under s. 144.86 (5) but 144.86 (1), assuming the operator had not been exempt from such filing or depositing.

SECTION 50. 144.91 (3) and (4) of the statutes are created to read:

144.91 (3) All other prospecting and mining permits held by an operator who refuses to reclaim a mining site in compliance with the reclamation plan after the completion of mining or after the cancellation of a mining permit shall be canceled. The department may not issue any prospecting or mining permits for that site or any other site in this state to an operator who refused to reclaim a mining site in compliance with the reclamation plan.

(4) (a) The department may issue a stop order to an operator, requiring an immediate cessation of mining, in whole or in part, at any time that the department determines that the continuance of mining constitutes an immediate and substantial threat to public health and safety or the environment.

(b) The department shall schedule a hearing on the stop order, to be held within 5 days of issuance of the order, and shall incorporate notice of the hearing in the copy of the order served upon the operator. Notice shall also be given to any other persons who have previously requested notice of such proceedings.

(c) Within 72 hours after commencement of the hearing, unless waived by agreement of the parties, the department shall issue a decision affirming, modifying or setting aside the stop order. The department may apply to the circuit court for an order extending the time, for not more than 10 days, within which the stop order must be affirmed, modified or set aside.

(d) The department shall set aside the stop order at any time, with adequate notice to the parties, upon a showing by the operator that the conditions upon which the order was based no longer exist.

SECTION 51. 144.92 (title) and (2) of the statutes are amended to read:

144.92 (title) Nonconforming sites. (2) Modification of existing ~~project prospecting and mining~~ sites and of operating procedures to conform with ss. 144.80 to 144.94 and rules adopted ~~pursuant thereto~~ under ss. 144.80 to 144.94 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.

SECTION 52. 144.93 (2) and (3) of the statutes are amended to read:

144.93 (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 or who refuses to file an annual report under s. 144.89 (1) or who refuses to submit information required by the prospecting or mining permit may be fined not less than \$100 \$1,000 nor more than \$1,000 \$5,000. If the false or misleading statement is material to the issuance of the permit, the permit may be revoked. If any violation under this subsection is repeated the permit may be revoked.

(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~~ under ss. 144.80 to 144.93 shall forfeit not less than \$10 nor more than ~~\$5,000~~ \$10,000 for each violation. Each day of violation is a separate offense. If the violations continue after an order to cease has been issued, the permit shall be revoked.

SECTION 53. 144.935 of the statutes is created to read:

144.935 Citizen suits. (1) Except as provided in sub. (2), any citizen may commence a civil action on his or her own behalf:

(a) Against any person who is alleged to be in violation of ss. 144.80 to 144.94.

(b) Against the department where there is alleged to be a failure of the department to perform any act or duty under ss. 144.80 to 144.94 which is not discretionary with the department.

(2) No action may be commenced:

(a) Under sub. (1) (a):

1. Prior to 30 days after the plaintiff has given notice of the alleged violation to the department and to the alleged violator; or

2. If the department has commenced and is diligently prosecuting a civil or criminal action, but in any such action any citizen may intervene as a matter of right.

(b) Under sub. (1) (b) prior to 30 days after the plaintiff has given notice of such action to the department.

(3) The court, in issuing any final order in any action brought under this section, shall award costs of litigation including reasonable attorney and expert witness fees to the plaintiff if he or she prevails, and the court may do so if it determines that the outcome of the controversy is consistent with the relief sought by the plaintiff irrespective of the formal disposition of the civil action. In addition, the court shall award treble damages to any plaintiff proving damages caused by a person mining without a permit or wilfully violating ss. 144.80 to 144.94 or any permits or orders issued under ss. 144.80 to 144.94.

(4) Nothing in this section restricts any right which any person or class of persons may have under any other statute or common law.

SECTION 54. 144.937 of the statutes is created to read:

144.937 Effect of other statutes. If there is a standard under other state or federal statutes or rules which specifically regulates in whole an activity also regulated under ss. 144.80 to 144.94 the other state or federal statutes or rules shall be the controlling standard. If the other state or federal statute or rule only specifically regulates the activity in part, it shall only be controlling as to that part.

SECTION 54m. 144.939 of the statutes is created to read:

144.939 Approval of rules. This section does not apply to emergency rules adopted under s. 227.027.

(1) **ROLE OF LEGISLATIVE COUNCIL.** Prior to any public hearing on a proposed rule under ss. 144.80 to 144.94, or if no public hearing is required, prior to notification of the standing committees, the department shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the department and the revisor to:

(a) Review the statutory authority under which the department intends to adopt the rule. The legislative council shall notify the department, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

(b) Ensure that the procedures for the promulgation of a rule required by this section and ch. 227 are followed.

- (c) Review proposed rules for form, style and placement in the administrative code.
- (d) Review proposed rules to avoid conflict with or duplication of existing rules.
- (e) Review proposed rules to provide adequate references to relevant statutes, related rules and forms.
- (f) Streamline and simplify the rule-making process.
- (g) Review proposed rules for clarity, grammar and punctuation and to ensure plain language.
- (h) Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(2) **LEGISLATIVE COUNCIL TO ASSIST STANDING COMMITTEES.** The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the department submits under ss. 144.80 to 144.94.

(3) **NOTIFICATION OF STANDING COMMITTEES.** The department shall notify appropriate standing committees when proposed rules under ss. 144.80 to 144.94 are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The department may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

(4) **FORM OF NOTICE.** The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(5) **STANDING COMMITTEE REVIEW.** (a) A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the department to attend the meeting and hold public hearings to review the proposed rule.

(b) The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the department to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

(c) The department may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

(d) Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the department may promulgate the rule.

(6) **JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES.** (a) If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

(b) The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

(c) The department may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or until the bill in subd. 5 fails of enactment. The department may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

(d) The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review

period. The joint committee may remand the proposed rule to the department for further consideration or public hearings or both. If the joint committee disapproves a proposed rule, the department may not promulgate the proposed rule until the bill in subd. 5 fails of enactment.

(e) When the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the committee shall as soon as possible place before the legislature, a bill to support the disapproval. If such bill is defeated, or fails of enactment in any other manner, the proposed rule or portion of the proposed rule may be promulgated. If the bill becomes law, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

SECTION 55. 144.94 of the statutes is amended to read:

144.94 Review. Any person aggrieved by any decision of the department under ss. 144.80 to ~~144.93~~ 144.937 may obtain its review under ch. 227.

SECTION 56. Chapter 318, laws of 1973, section 1 (legislative findings), is repealed.

SECTION 57. **Transition.** (1) Any person engaged in the collection of data or information intended to be used to support its application for a prospecting or mining permit, or who has submitted an application for such a permit which has neither been issued nor denied by the department, may use such data in support of the application, providing that the department is notified of the fact of collection under section 144.831 of the statutes, as created by this act, within 30 days after the effective date of this act.

(2) Persons engaged in exploration shall, within 60 days following the effective date of this act, apply for licensure under section 144.832 of the statutes, as created by this act. Such persons, however, if otherwise in compliance with then existing law, may continue exploration activities until such time as their application for an exploration license is either denied, in which case they shall immediately cease exploration, or granted, in which case they shall act in accordance with the provisions of such license and the law applicable to the license.

(3) Commencing with the effective date of this act, the department of natural resources shall review all applications for prospecting or mining permits previously submitted to it, for compliance with this act. The department shall require the applicants to conform their applications to the substantive requirements of sections 144.80 to 144.94 of the statutes, as affected by this act, but shall complete action on such applications according to the procedures in effect at the time the application was submitted, unless the department and all parties to the proceeding mutually agree, within 30 days after the effective date of this act, to adopt the procedures applicable under this act.

(4) Not more than 90 days after the effective date of this act, the department of natural resources shall prepare the rules required pursuant to this act and shall notify the appropriate standing committees of each house of the legislature as determined by the presiding officer of each house as required under section 227.018 (2) of the statutes. Until such time as the department of natural resources shall promulgate rules required pursuant to this act, the department of natural resources shall adopt interim rules to carry out the purposes of this act. Interim rules shall be adopted by the department of natural resources using the procedures prescribed under section 227.027 of the statutes and shall remain in effect until final rules are promulgated.

SECTION 58. **Appropriation increase.** The appropriation to the department of natural resources under section 20.370 (3) (a) of the statutes, as affected by the laws of 1977, is increased by \$37,800 for fiscal year 1978-79 to authorize and fund 2 project positions for the purpose of administering and enforcing this act.