



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 919**

March 26, 1996 - Offered by Representatives SERATTI and OURADA.

1 **AN ACT to amend** 144.441 (2) (b) 1.; and **to create** 144.441 (2) (b) 2m. and 144.441  
2 (2) (g) of the statutes; **relating to:** the duration of the requirement to maintain  
3 proof of financial responsibility for long-term care of a mining waste facility.

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

4 **SECTION 1.** 144.441 (2) (b) 1. of the statutes is amended to read:

5 144.441 (2) (b) 1. Except as provided in subd. 2. or 2m., the owner of an  
6 approved facility shall maintain proof of financial responsibility as provided in s.  
7 144.443 during the operation of the approved facility and for 40 years after the  
8 closing of the approved facility unless the obligation is extended under par. (f).

9 **SECTION 2.** 144.441 (2) (b) 2m. of the statutes is created to read:

10 144.441 (2) (b) 2m. The owner of an approved mining facility that commences  
11 operation after the effective date of this subdivision .... [revisor inserts date], shall  
12 maintain proof of financial responsibility as provided in s. 144.443 during the  
13 operation of the approved mining facility and after the closing of the approved

1 mining facility. The owner's obligation to maintain proof of financial responsibility  
2 terminates only as provided in par. (g).

3 **SECTION 3.** 144.441 (2) (g) of the statutes is created to read:

4 144.441 (2) (g) *Proof of financial responsibility for approved mining facility;*  
5 *termination.* 1. The owner of an approved mining facility may apply, at any time at  
6 least 40 years after the closing of the facility, to the department for termination of  
7 the owner's obligation to maintain proof of financial responsibility for long-term care  
8 of the facility. Upon receipt of an application under this subdivision, the department  
9 shall publish a class 1 notice under ch. 985 in the official newspaper designated  
10 under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give notice in the  
11 area of the facility. The notice shall include a statement that the owner has applied  
12 to terminate the owner's obligation to maintain proof of financial responsibility for  
13 the long-term care of the facility. The notice shall invite the submission of written  
14 comments by any person within 30 days after the notice is published. The notice  
15 shall describe the methods by which a hearing may be requested under subds. 2. and  
16 3. The department shall distribute a copy of the notice to the owner of the facility.  
17 In any hearing on the matter, the burden is on the owner to prove by a preponderance  
18 of the evidence that continuation of the requirement to provide proof of financial  
19 responsibility for long-term care is not necessary for adequate protection of human  
20 health or the environment. Within 120 days after the publication of the notice or  
21 within 60 days after any hearing is adjourned, whichever is later, the department  
22 shall determine whether proof of financial responsibility for long-term care of the  
23 facility continues to be required. A determination that proof of financial  
24 responsibility for long-term care is no longer required terminates the owner's  
25 obligation to maintain proof of financial responsibility for long-term care. The owner

1 may not submit another application under this subdivision until at least 5 years after  
2 the previous application has been rejected by the department.

3 2. Within 30 days after the notice under subd. 1. is published, any county, city,  
4 village or town, the applicant or any 6 or more persons may file a written request for  
5 an informational hearing on the matter with the department. The request shall  
6 indicate the interests of the municipality or persons who file the request and state  
7 the reasons why the hearing is requested.

8 3. Within 30 days after the notice under subd. 1. is published, any county, city,  
9 village or town, the applicant or any 6 or more persons may file a written request that  
10 the hearing under subd. 2. be treated as a contested case, as provided under s. 227.42.  
11 A county, city, village or town, the applicant or any 6 or more persons have a right  
12 to have the hearing treated as a contested case only if all of the following apply:

13 a. A substantial interest of the person requesting the treatment of the hearing  
14 as a contested case is injured in fact or threatened with injury by the department's  
15 action or inaction on the matter.

16 b. The injury to the person requesting the treatment of the hearing as a  
17 contested case is different in kind or degree from injury to the general public caused  
18 by the department's action or inaction on the matter.

19 c. There is a dispute of material fact.

20 **(END)**