

(3) Upon receipt of satisfactory reclamation bond and the certificate of insurance, the department shall give written authorization to the operator to commence prospecting in accordance with the prospecting and reclamation plans.

History: Cr. Register, August, 1982, No. 320, eff. 9-1-82.

NR 131.10 Denial. (1) The department shall deny a prospecting permit if it finds any of the following:

- (a) The prospecting site is unsuitable for prospecting.
- (b) The prospecting site is unsuitable for surface mining absent a certification not to surface mine.
- (c) The prospecting plan and the reclamation plan will not comply with the minimum standards for prospecting and reclamation as provided in ss. NR 131.07 and 131.08.
- (d) The applicant is in violation of ss. 144.80 to 144.94, Stats., and the provisions of this chapter.
- (e) The applicant has within the previous 20 years forfeited any bond posted in accordance with prospecting or mining activities in this state, unless by mutual agreement with the state.
- (f) Any officer or director 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 20 years forfeited any bond posted in accordance with prospecting or mining activities in this state unless by mutual agreement with the state.
- (g) The proposed prospecting operation may reasonably be expected to create any of the following situations:
 - 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, Stats., 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.

4. Irreparable environmental damage to lake or stream bodies despite adherence to the requirements of ss. 144.80 to 144.94, Stats. 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 be authorized notwithstanding any other provision of the law.

(2) If an application for a prospecting permit is denied, the department, within 30 days from date of application denial, shall furnish the operator in writing the reasons for the denial.

History: Cr. Register, August, 1982, No. 320, eff. 9-1-82.

NR 131.11 Monitoring. (1) The operator shall monitor the prospecting site in accordance with the monitoring plan contained in the prospecting permit. The department may require the operator to perform additional monitoring of environmental changes during the course of the permitted activity and for such additional periods of time as is necessary to satisfactorily complete reclamation.

(2) The department may monitor environmental changes concurrently with the operator as stated in sub. (1) and for an additional period of time after the full bond is released pursuant to s. 144.90 (5), Stats.

(3) (a) Baseline data and monitoring data including the monitoring plan shall be reviewed at the time of annual permit review, or at such time as the operator requests any modification of the prospecting permit or reclamation plan.

(b) Baseline data and monitoring data shall be considered by the department in all enforcement actions including issuance of a stop order to an operator, requiring an immediate cessation of prospecting, in whole or in part, at any time that the department determines that there exists an immediate substantial threat to public health and safety or the environment.

(c) If the analyses of samples indicate that the quality of the groundwater is statistically significantly different from either baseline or background the owner shall notify the department immediately.

(4) Any request for modification of the monitoring plan contained in the prospecting permit shall comply with the procedures in s. NR 131.12.

(5) Bacteriological analyses of water samples, and all radiological analyses, shall be performed by the state laboratory of hygiene or at a laboratory certified or approved by the department of health and social services. Other laboratory test results submitted to the department under this chapter shall be performed by a laboratory certified or registered under ch. NR 149. The following tests are excluded from this requirement:

- (a) Physical testing of soil,
- (b) Air quality tests,
- (c) pH,
- (d) Chlorine residual,
- (e) Temperature.

Register, April, 1986, No. 364

Note: The requirement in this section to submit data from a certified or registered laboratory is effective on August 28, 1986.

History: Cr. Register, August, 1982, No. 320, eff. 9-1-82; cr. (5) Register, April, 1986, No. 363, eff. 8-28-86.

NR 131.12 Permit review and modification. (1) Eighteen months after the issuance of a prospecting permit and annually thereafter until prospecting ceases, the department shall review the operator's prospecting permit, reclamation plan and bond to ascertain adequacy, compliance with state or federal laws enacted after the issuance of the permit and technological currency.

(2) If the department after review determines that the plan should be modified or the bond amount changed, the department shall notify the permit holder of the necessary modifications or changes. If the permit holder does not request a hearing within 30 days, the modification or changes shall be deemed accepted.

(3) (a) If the permit holder desires to modify the permit, an amended application shall be submitted to the department on forms provided by the department. If the proposed amendment substantially changes the scope of the original prospecting proposal, the department shall process the amended application in the same manner as an original application for a prospecting permit.

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