

Exhibit 15

DNR analysis of changes made to Wis. Admin. Code § NR 182.075 in 1998

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING, RENUMBERING
AND AMENDING, AMENDING AND REPEALING AND RECREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal NR 182.075(intro.), (lg), (lm), (lp)(intro.) and (a) to (c)(intro.), (lr), and (ls)(c), renumber and amend NR 182.075(lp)(c)4., amend R 182.07(1)(j), NR 182.075(ls)(title) and (a), (lu)(a) to (e), and (lx)(a)(intro.), 182.08(2)(e)9. and 182.14(2)(e), and repeal and recreate NR 182.075(1) and (ls)(b) relating to regulation of groundwater quality at metallic mining sites.

Order SW-21-97(B)

Analysis prepared by the Department of Natural Resources

Statutory Authority: ss. 293.13, 293.15, and 227.11(2), Stats.
Statutes Interpreted: ss. 293.13 and 293.15, Stats.

The proposed changes to Ch. NR 182 pertaining to groundwater quality protection basically serve to impose the requirements of Ch. NR 140 on prospecting and mining activities. Under the proposed rules, prospecting and mining operators would be subject to the same enforcement standards, preventive action limits and response procedures as other regulated facilities in the state. The proposed rule also would replace the current concept of a compliance boundary for prospecting and mining facilities with a design management zone and would establish the distance to the boundary of the design management zone for various facilities on metallic prospecting and mining sites. Specifically, the distance to the boundary of the design management zone for prospecting excavations, mines and mining waste facilities is proposed to be set at 1,200 feet from the outer waste limits or the edge of the facility, unless it has been reduced for reasons specified in Ch. NR 140, or at the property boundary, whichever distance is less. For all other facilities on a prospecting or mining site, the distance to the boundary of the design management zone is proposed to be 150 feet, unless expanded or reduced pursuant to Ch. NR 140, or at the property boundary, whichever distance is less. The rule also creates the concept of a mandatory intervention boundary, sets the mandatory intervention boundary at 150 feet from the facility, specifies that groundwater monitoring wells be located at the mandatory intervention boundary and requires that a response in accordance with ch. NR 140 be implemented if groundwater quality standards are reached or exceeded at the mandatory intervention boundary.

SECTION 1. NR 182.07(1)(j) is amended to read:

NR 182.07(1)(j) Within an area where the department ~~after investigation~~ finds ~~that there is a reasonable probability that disposal of solid mining waste within such an area will result in a violation of~~ cause groundwater quality criteria and enforcement standards as to be attained or exceeded beyond the design management zone specified in this chapter s. NR 182.075.

SECTION 2. NR 182.075(intro.) is repealed.

SECTION 3. NR 182.075(1) is repealed and recreated to read:

NR 182.075(1) GROUNDWATER QUALITY. (a) Applicability. Notwithstanding the applicability provisions of s. NR 140.03, under the authority of s. 293.15(11), Stats., mining waste facilities regulated under this chapter and other facilities situated on a prospecting site regulated under ch. NR 131 or a mining site regulated under ch. NR 132, approved after the effective date of this rule ... [revisor insert date] shall comply with ch. NR 140.

(b) Design management zones. 1. The horizontal distance to the boundary of the design management zone for mining waste facilities regulated under this chapter shall be 1,200 feet from the outer waste boundary, unless reduced pursuant to s. NR 140.22(3), or at the boundary of property owned or leased by the applicant, whichever distance is less. The outer waste boundary shall be the outermost limit at which waste from a facility has been stored or disposed of, or permitted or approved for storage or disposal.

2. The horizontal distance to the boundary of the design management zone for a metallic mineral surface mine or surface prospecting excavation shall be 1,200 feet from the edge of the mine or prospecting excavation, unless reduced pursuant to s. NR 140.22(3), or at the boundary of property owned or leased by the applicant, whichever distance is less.

3. The horizontal distance to the boundary of the design management zone for an underground metallic mineral mine or prospecting excavation shall be 1,200 feet from the maximum outer edge of the underground prospecting or mine workings adjacent to the ore body as projected to the land surface, unless reduced pursuant to s. NR 140.22(3), or at the boundary of property owned or leased by the applicant, whichever distance is less.

4. The horizontal distance to the boundary of the design management zone for facilities, other than the prospecting excavation, mine and mining waste facility, situated on a prospecting site regulated under ch. NR 131 or a mining site regulated under ch. NR 132 shall be as specified in Table 4 of Ch. NR 140, if listed, or 150 feet from the edge of the facility, unless expanded or reduced pursuant to s. NR 140.22(3), or at the boundary of property owned or leased by the applicant, whichever distance is less.

(c) Mandatory intervention boundary. The horizontal distance to the mandatory intervention boundary for a metallic mining waste facility or a surface or underground metallic mineral mine or prospecting excavation shall be 150 feet from the outer waste boundary, the outer edge of the mine or prospecting excavation, or the outer edge of the underground workings as projected to the land surface, unless the boundary of the design management zone is within 300 feet of the outer waste boundary, mine, prospecting excavation, or underground prospecting or mine workings. In no case may the mandatory intervention boundary extend more than one half the distance from the outer waste boundary, mine, prospecting excavation, or underground prospecting or mine workings to the boundary of the design management zone. The mandatory intervention boundary shall apply as specified in s. NR 182.075(1s) and (1u).

SECTION 4. NR 182.075(1g) and (1m) are repealed.

SECTION 5. NR 182.075(1p) (intro.) and (a) to (c) (intro.) are repealed.

SECTION 6. NR 182.075(1p)(c)4. is renumbered 182.075(1p) and amended to read:

NR 182.075(1p) For any substance for which ~~the department does not specify a groundwater quality standard pursuant to sub. (1m)~~ there is not an enforcement standard and preventive action limit in ch. NR 140, the waste site, mine and other facilities on a mining site ~~shall~~ may not cause concentrations which have a substantial deleterious impact on a current beneficial use or on a significant future beneficial use of groundwater, such as drinking, irrigation, aquaculture, maintenance of livestock, or maintenance of aquatic and terrestrial ecosystems, as designated at a hearing held pursuant to s. 144.836 293.43, Stats. ~~This section shall not be construed to require the department to designate uses of groundwater in order to act pursuant to subs. (1m) and (1p).~~

SECTION 7. NR 182.075(1r) is repealed.

SECTION 8. NR 182.075(1s)(title) and (a) are amended to read:

NR 182.075(1s)(title) CONTINGENCY PLAN. (a) At the hearing conducted under s. 144.836 293.43, Stats., the department shall ~~require the applicant to submit a~~ determine the adequacy of the contingency plan submitted by the applicant which specifies the ~~remedial action and intervention~~ which will be taken if an analysis of groundwater samples indicates with a reasonable probability that a violation of subs. (1) to (1r) will occur requires a response under s. NR 140.24 to 140.27 and 182.13(2)(g). The contingency plan shall provide that the response protocol include a comparison of the observed sampling results to the results of the original predictive modeling, completed as part of the mine permitting process, and updated predictive modeling performed subsequent to the start of operation. If the comparison indicates that the observed sampling results are consistent with the design and expected performance of the facility, and the sampling results indicate that an enforcement standard or a preventive action limit has not been exceeded beyond the mandatory intervention boundary, the operator may recommend a no response action in accordance with s. NR 140.24.

[Drafter's Note: The range of responses under Ch. NR 140 are contained in Tables 5 and 6 of that code. Tables 5 and 6 are reproduced here for information purposes only and will not be incorporated into Ch. NR 182.

Table 5
Range of Responses for Exceedances of a Preventive Action Limit
for Indicator Parameters and Substances of Health or Welfare Concern

1. No action pursuant to s. NR 140.24 (5) and consistent with s. 160.23, Stats.
2. Require the installation and sampling of groundwater monitoring wells.
3. Require a change in the monitoring program, including increased monitoring.
4. Require an investigation of the extent of groundwater contamination.
5. Require a revision of the operational procedures at the facility, practice or activity.
6. Require a change in the design or construction of the facility, practice or activity.
7. Require an alternate method of waste treatment or disposal.
8. Require prohibition or closure and abandonment of a facility, practice or activity in accordance with sub. (6).
9. Require remedial action to renovate or restore groundwater quality.
10. Require remedial action to prevent or minimize the further discharge or release of the substance to groundwater.
11. Revise rules or criteria on facility design, location or management practices.
12. Require the collection and evaluation of data to determine whether natural attenuation can be effective to restore groundwater quality within a reasonable period of time, considering applicable criteria specified in ss. NR 140.24, 722.07 and 722.09 or 722.11, and require monitoring to determine whether or not natural attenuation is occurring in compliance with the response objectives in s. NR 140.24 (2).

Table 6
Range of Responses for Exceedances of Enforcement Standards
for Substances of Health or Welfare Concern

1. Require a revision of the operational procedures at a facility, practice or activity.
2. Require a change in the design or construction of the facility, practice or activity.
3. Require an alternate method of waste treatment or disposal.
4. Require prohibition or closure and abandonment of a facility, practice or activity.
5. Require remedial action to renovate or restore groundwater quality.
6. Require remedial action to prevent or minimize the further release of the substance to groundwater.
7. Revise rules or criteria on facility design, location or management practices.
8. Require the collection and evaluation of data to determine whether natural attenuation can be effective to restore groundwater quality within a reasonable period of time, considering applicable criteria specified in ss. NR 140.24, 722.07 and 722.09 or 722.11, and require monitoring to determine whether or not natural attenuation is occurring in compliance with the requirements of s. NR 140.26 (2) (a).]

Section 9. NR 182.075(1s) (b) is repealed and recreated to read:

NR 182.075(1s) (b) 1. If a preventive action limit or an enforcement standard has been exceeded beyond the mandatory intervention boundary, the department shall require a response in accordance with s. NR 140.24, but may not approve a no action response under s. NR 140.24(5).

2. If a response under s. NR 140.24(5) has previously been taken, and if subsequent monitoring results are consistent with updated predictive modeling projections and indicate that the groundwater standards will not be attained or exceeded at the design management zone, the department may determine that no additional response is necessary.

3. Notwithstanding the provisions of s. NR 182.19, no exemption under s. NR 182.19 may be granted to subd. 1. of this subsection.

SECTION 10. NR 182.075(1s) (c) is repealed.

SECTION 11. NR 182.075(1u) (a) and (b) are amended to read:

NR 182.075(1u) (a) The operator of a waste prospecting or mining site shall monitor groundwater quality at locations approved by the department along the compliance- mandatory intervention boundary and the boundary of the design management zone.

(b) The operator of a waste prospecting or mining site shall monitor groundwater quality at locations approved by the department within the compliance mandatory intervention boundary and the design management zone.

SECTION 12. NR 182.075(1u) (c) is amended to read:

NR 182.075(1u) (c) Intervention by the operator in accordance with the provisions of the contingency plan, developed in accordance with s. NR 182.09 (2) (d) and approved in accordance with s. NR 182.08 (2) and 182.09 (1), shall be required, regardless of the holding of any hearing pursuant to sub. (1~~ex~~), when analyses of samples from intermediate monitoring points within the design management zone or within the mandatory intervention boundary show a reasonable probability that, without intervention, there may be a violation of the established groundwater quality standards at the compliance boundary of the design management zone. Criteria against which "reasonable probability" shall be measured are the results of the predictive modeling submitted by the applicant as part of the feasibility report and other information available to the department.

SECTION 13. NR 182.075(1u)(d) and (e) are amended to read:

NR 182.075(1u)(d) Additional monitoring locations and tests may be specified by the department so that the actual effects of the waste mining site on groundwater quality may be compared with the effects projected in the feasibility report and the plan of operation, mining permit application and waste water engineering report.

(e) Groundwater shall be monitored at locations approved by the department in the vicinity of the waste prospecting or mining site on a monthly basis for at least 12 consecutive months prior to disposing of waste during the initial site preparation and construction phase at the prospecting or mining site to determine baseline water quality. Parameters analyzed shall include those substances identified in the state or national primary and secondary drinking water standards ch. NR 140 and specified by the department for monitoring, indicator parameters as specified by the department, parameters identified as important in the waste material, and any other parameters deemed appropriate by the department for the specific conditions of the waste site.

SECTION 14. NR 182.075(1x)(a)(intro.) is amended to read:

NR 182.075(1x)(a)(intro.) If the department has reason to believe that a site is not in compliance with the requirements of this section, or if the department ~~has good reason to project~~ projects with reasonable probability that a site will not achieve such compliance at the compliance boundary of the design management zone, it shall refer the matter to the department of justice pursuant to s. ~~144.98~~ 293.95, Stats., or hold a class 2 contested case hearing pursuant to s. ~~144.83(4)~~ 293.15(1), Stats., after giving 30 days notice to the persons identified in s. ~~144.836(3)(b)~~ 293.43, Stats. Notice to the operators shall include the specific information on which the department has based its determination. The purpose of the hearing shall be to determine the existence and extent of noncompliance or, if noncompliance does not exist, whether a site will not achieve compliance at the ~~compliance~~ boundary of the design management zone. Pursuant to ~~such~~ the hearing, the department:

SECTION 15. NR 182.08(2)(e)9. is amended to read:

NR 182.08(2)(e)9. The applicant shall ~~identify any changes in groundwater quality which may occur at or beyond the outer perimeter of the waste site~~ submit information based on predictive modeling to demonstrate there is a reasonable certainty that the facility will not result in a violation of the groundwater quality standards, specified in ch. NR 140, beyond the design management zone. If any statistically significant change in baseline groundwater quality is predicted, the applicant shall prepare a specific assessment of any adverse environmental impacts reasonably expected to result. If it is expected, with reasonable certainty, that a preventive action limit will be exceeded beyond the design management zone, the applicant shall request an exemption under s. NR 140.28 and 182.19 which shall include an assessment of why it is not technically and economically feasible to achieve the preventive action limit.

SECTION 16. NR 182.14(2)(e) is amended to read:

NR 182.14(2)(e) The owner shall submit an annual summary report containing statistical summaries of annual and cumulative project data. The data summaries shall be compared to waste characterization, leachate characterizations, effluent predictions, and baseline and background water quality data as contained in the feasibility report or plan of operation. The report shall also include the results of verification procedures and present the error associated with each parameter presented. Information from unimpacted control stations should include a discussion on whether the

baseline values should be modified due to natural variability and what the new values would be. At a frequency determined by the department, the report shall periodically include updated results of predictive groundwater modeling by incorporating currently available data into the original predictive model, submitted as part of the feasibility report.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on December 3, 1997.

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

Dated at Madison, Wisconsin March 24, 1998

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

BY George E. Meyer
George E. Meyer, Secretary

(SEAL)



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of season, the site is screened so as to be as aesthetically pleasing and inconspicuous as is feasible.

(f) Within 1,200 feet of any public or private water supply well.

(g) Within an area which contains known mineral resources at the time of initial application which are likely to be mined in the future and lie within 1,000 feet of the surface.

(h) Within 200 feet of the property line.

(i) Within an area where the department after investigation finds that there is a reasonable probability that disposal of solid waste within such an area will result in a violation of surface water quality criteria and standards as specified in chs. NR 102 to 104.

(j) Within an area where the department finds there is a reasonable probability that disposal of mining waste within such an area will cause groundwater quality enforcement standards to be attained or exceeded beyond the design management zone specified in s. NR 182.075.

(2) Any proposal to establish a site or facility shall comply with the standards and procedures in s. NR 132.06 (4), relating to the minimization of disturbance to wetlands.

History: Cr. Register, August, 1982, No. 320, eff. 9-1-82; am. (1) (j), Register, May, 1998, No. 509, eff. 6-1-98; correction in (1) (a) was made under s. 13.93 (2m) (b) 7., Stats.

NR 182.075 Groundwater standards. (1) GROUNDWATER QUALITY. (a) Applicability. Notwithstanding the applicability provisions of s. NR 140.03, under the authority of s. 293.15 (11), Stats., mining waste facilities regulated under this chapter and other facilities situated on a prospecting site regulated under ch. NR 131 or a mining site regulated under ch. NR 132, approved after June 1, 1998, shall comply with ch. NR 140.

(b) *Design management zones.* 1. The horizontal distance to the boundary of the design management zone for mining waste facilities regulated under this chapter shall be 1,200 feet from the outer waste boundary, unless reduced pursuant to s. NR 140.22 (3), or at the boundary of property owned or leased by the applicant, whichever distance is less. The outer waste boundary shall be the outermost limit at which waste from a facility has been stored or disposed of, or permitted or approved for storage or disposal.

2. The horizontal distance to the boundary of the design management zone for a metallic mineral surface mine or surface prospecting excavation shall be 1,200 feet from the edge of the mine or prospecting excavation, unless reduced pursuant to s. NR 140.22 (3), or at the boundary of property owned or leased by the applicant, whichever distance is less.

3. The horizontal distance to the boundary of the design management zone for an underground metallic mineral mine or prospecting excavation shall be 1,200 feet from the maximum outer edge of the underground prospecting or mine workings adjacent to the ore body as projected to the land surface, unless reduced pursuant to s. NR 140.22 (3), or at the boundary of property owned or leased by the applicant, whichever distance is less.

4. The horizontal distance to the boundary of the design management zone for facilities, other than the prospecting excavation, mine and mining waste facility, situated on a prospecting site regulated under ch. NR 131 or a mining site regulated under ch. NR 132 shall be as specified in Table 4 of ch. NR 140, if listed, or 150 feet from the edge of the facility, unless expanded or reduced pursuant to s. NR 140.22 (3), or at the boundary of property owned or leased by the applicant, whichever distance is less.

(c) *Mandatory intervention boundary.* The horizontal distance to the mandatory intervention boundary for a metallic mining waste facility or a surface or underground metallic mineral mine or prospecting excavation shall be 150 feet from the outer waste boundary, the outer edge of the mine or prospecting excavation, or the outer edge of the underground workings as projected to the land surface, unless the boundary of the design management zone is within 300 feet of the outer waste boundary, mine, prospecting excavation, or underground prospecting or mine work-

ings. In no case may the mandatory intervention boundary extend more than one half the distance from the outer waste boundary, mine, prospecting excavation or underground prospecting or mine workings to the boundary of the design management zone. The mandatory intervention boundary shall apply as specified in s. NR 182.075 (1s) and (1u).

(1p) For any substance for which there is not an enforcement standard and preventive action limit in ch. NR 140, the waste site, mine and other facilities on a mining site may not cause concentrations which have a substantial deleterious impact on a current beneficial use or a significant future beneficial use, of groundwater, such as drinking, irrigation, aquaculture, maintenance of livestock, or maintenance of aquatic and terrestrial ecosystems, as designated at a hearing held pursuant to s. 293.43, Stats.

(1s) **CONTINGENCY PLAN. (a)** At the hearing conducted under s. 293.43, Stats. the department shall determine the adequacy of the contingency plan submitted by the applicant which specifies the action which will be taken if an analysis of groundwater samples requires a response under ss. NR 140.24 to 140.27 and 182.13 (2) (g). The contingency plan shall provide that the response protocol include a comparison of the observed sampling results to the results of the original predictive modeling, completed as part of the mine permitting process, and updated predictive modeling performed subsequent to the start of operation. If the comparison indicates that the observed sampling results are consistent with the design and expected performance of the facility, and the sampling results indicate that an enforcement standard or a preventive action limit has not been exceeded beyond the mandatory intervention boundary, the operator may recommend a no response action in accordance with s. NR 140.24.

(b) 1. If a preventive action limit or an enforcement standard has been exceeded beyond the mandatory intervention boundary, the department shall require a response in accordance with s. NR 140.24, but may not approve a no action response under s. NR 140.24 (5).

2. If a response under s. NR 140.24 (5) has previously been taken, and if subsequent monitoring results are consistent with updated predictive modeling projections and indicate that the groundwater standards will not be attained or exceeded at the design management zone, the department may determine that no additional response is necessary.

3. Notwithstanding the provisions of s. NR 182.19, no exemption under s. NR 182.19 may be granted to subd. 1. of this subsection.

(1u) The following requirements are to be applied in conjunction with those of ss. NR 132.11 and 182.13. The department shall specify the parameters for groundwater analysis and may include those considered indicator parameters, those important parameters identified from the waste characterization studies, and others which might be appropriate under the specific conditions.

(a) The operator of a prospecting or mining site shall monitor groundwater quality at locations approved by the department along the mandatory intervention boundary and the boundary of the design management zone.

(b) The operator of a prospecting or mining site shall monitor groundwater quality at locations approved by the department within the mandatory intervention boundary and the design management zone.

(c) Intervention by the operator in accordance with the provisions of the contingency plan, developed in accordance with s. NR 182.09 (2) (d) and approved in accordance with ss. NR 182.08 (2) and 182.09 (1), shall be required, regardless of the holding of any hearing pursuant to sub. (1x), when analyses of samples from monitoring points within the design management zone or within the mandatory intervention boundary show a reasonable probability that, without intervention, there may be a violation of the established groundwater quality standards at the boundary of the design management zone. Criteria against which "reasonable

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probability" shall be measured are the results of the predictive modeling submitted by the applicant as part of the feasibility report and other information available to the department.

(d) Additional monitoring locations and tests may be specified by the department so that the actual effects of the mining site on groundwater quality may be compared with the effects projected in the feasibility report, mining permit application and waste water engineering report.

(e) Groundwater shall be monitored at locations approved by the department in the vicinity of the prospecting or mining site on a monthly basis for at least 12 consecutive months during the initial site preparation and construction phase at the prospecting or mining site to determine baseline water quality. Parameters analyzed shall include those substances identified in ch. NR 140 and specified by the department for monitoring, indicator parameters as specified by the department, parameters identified as important in the waste material, and any other parameters deemed appropriate by the department for the specific conditions of the site.

(f) Monitoring shall also be performed with respect to the quality of groundwater which is not affected by the site but which is in the aquifers near the site.

(1x) (a) If the department has reason to believe that a site is not in compliance with the requirements of this section, or if the department projects with reasonable probability that a site will not achieve such compliance at the boundary of the design management zone, it shall refer the matter to the department of justice pursuant to s. 293.95, Stats., or hold a class 2 contested case hearing pursuant to s. 293.15 (1), Stats., after giving 30 days notice to the persons identified in s. 293.43, Stats. Notice to the operators shall include the specific information on which the department has based its determination. The purpose of the hearing shall be to determine the existence and extent of noncompliance or, if non-compliance does not exist, whether a site will not achieve compliance at the boundary of the design management zone. Pursuant to the hearing, the department:

1. Shall determine whether the same constitutes an immediate and substantial threat to public health and safety or the environment pursuant to s. 293.83, Stats., and, therefore, requires the issuance of a stop order;

2. Shall determine whether to cancel the mining or prospecting permit if the site is in violation of ch. 293, Stats., according to the provisions of s. 293.85, Stats.;

3. Shall determine if the noncompliance constitutes a grievous and continuous failure to comply with the approved plan of operation pursuant to s. 289.30 (7) or 289.31 (1), Stats., and, therefore, requires license revocation; and

4. Shall determine, if appropriate, if any other sanctions authorized by s. 293.15 (3) or 293.83, Stats., are necessary to assure compliance.

(b) A decision shall be issued with respect to a hearing held pursuant to par. (a) within 30 days of its conclusion, and shall be in writing accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise and separate statement of the ultimate conclusions upon each material issue of fact with recital of evidence.

(2) GROUNDWATER QUANTITY. (a) If the department finds that the proposed waste site will adversely affect or reduce the availability of water to any public utility, as defined in s. 196.01 (5), Stats., in furnishing water to or for the public, it shall either deny the license or grant a license under which it imposes such conditions as to location, depth, construction and ultimate use so that the water supply of any public utility engaged in furnishing water to or for the public will not be impaired.

(b) If the department finds that the waste site would cause unreasonable harm to any person through lowering the water table or reducing artesian pressure, it shall deny the license or grant a license under which it imposes conditions whereby such unreasonable harm will be precluded.

(c) If the department finds that the waste site will have a direct and substantial effect upon a watercourse or lake, and that such water used by or coming from the site will:

1. Be put to an unreasonable use and will cause harm to an existing use of a watercourse or lake by a riparian proprietor or a nonriparian who holds a grant from a riparian proprietor of the grantor's right to use the water, or

2. Cause harm to a nonriparian exercising a right to use public or private waters created by government authority, permit, or license, or

3. Interfere with the exercise of a public right to use the waters; then the department shall deny the license or grant a license imposing conditions whereby such harm will be precluded.

(d) The department shall not deny the waste site license merely because operation of the site will interfere with or prevent the initiation of a new use of groundwater, or a new use of the water or a watercourse or lake by a riparian proprietor.

(e) For the purpose of par. (c), the determination of the reasonableness of the use of water depends on a consideration of the interests of the user, of any person harmed thereby, and of society. Factors which affect the determination include the following:

1. The purpose of the respective uses;

2. The suitability of the uses of the watercourse, lake or aquifer;

3. The economic value of the uses;

4. The social value of the uses;

5. The extent and amount of the harm caused;

6. The practicality of avoiding the harm by adjusting the use or method of use of one party or the other;

7. The practicality of adjusting the quantity of water used by each party;

8. The protection of existing values of water uses, land, investments and enterprises; and

9. The justice of requiring the user causing harm to bear the loss.

History: Cr. Register, August, 1982, No. 320, eff. 9-1-82; corrections made under s. 13.93 (2m) (b) 1. and 7., Stats., Register, September, 1995, No. 477; r. (intro.), (1g), (1m) and (1r), r. and recr. (1), and (1s) (b), renum. and am. (1p) (c) 4., to be (1p) and am. (1s) (a), (1u) (a), (b), (c), (d), (e), and (1x) (a), Register, May, 1998, No. 509, eff. 6-1-98; corrections in (1x) (b) and (2) (a) made under s. 13.93 (2m) (b) 7., Stats.

NR 182.08 Feasibility report. (1) Any applicant is encouraged to contact the department during the early stages of project planning and development to determine what permits and approvals may be required and to assure that submissions are consistent with department requirements.

(2) No person may establish or construct a waste site or expand an existing waste site not in operation as of May 21, 1978, without first obtaining approval of a feasibility report and a plan of operation from the department. The purpose of the feasibility report is to determine whether the site may be approved for the purpose intended and to identify any conditions which must be included in the plan of operation and in the license issued pursuant to this chapter. The feasibility report shall be submitted in accordance with s. NR 182.06 (1) and be consistent with ch. NR 132. If the proposed waste site is a surface mine backfilled with mining waste, the feasibility report submittal provisions of this section may be satisfied by including the information required by this section in the mining permit application submitted pursuant to ch. NR 132 and issuance of the mining permit shall constitute approval of the feasibility report requirements and favorable determination of site feasibility. The amount of regional and site specific information and data required for each waste site may vary and shall be based on the waste characterization, but shall, at a minimum, contain the following, unless such information is contained in submittal of documents required under ch. NR 132 or 150 or s. 23.11 (5), Stats.: