



Representative Robert Wittke, Chair
Assembly Committee on Jobs and the Economy
Room 18 West, State Capitol
PO Box 8953
Madison, WI 53708

Senator Robert L. Cowles, Chair
Senate Committee on Natural Resources and Energy
Room 118 South, State Capitol
PO Box 7882
Madison, WI 53707

Subject: Modification to Clearinghouse Rule 20-043

Representative Wittke and Senator Cowles:

In response to a motion of the Assembly Committee on Jobs and the Economy at its May 4, 2021 meeting, the Natural Resources Board adopted the following modifications at its June 23, 2021 meeting.

The changes consist of renumbering or reorganizing specific provisions within the definitions of “unsuitability” contained in chapters NR 131 and NR 132. Specifically, the provision formerly in s. NR 131.103 (25) (c) has been incorporated into the preceding paragraph and renumbered as s. NR 131.103 (25) (b) 7. and the provision formerly in s. NR 132.103 (28) (c) has also been incorporated into the preceding paragraph and renumbered as s. NR 132.103 (28) (b) 7. The respective rule provisions are reproduced below.

s. NR 131.103 (25) - “Unsuitable” or “unsuitability” means that the land proposed for prospecting is not suitable for such activity because the prospecting activity itself may reasonably be expected to destroy or irreparably damage any of the following:

- (a) Habitat required for survival of species of vegetation or wildlife as designated in ch. NR 27, if such endangered species cannot be firmly reestablished elsewhere.
- (b) Unique features of the land, as determined by state or federal designation as any of the following, that cannot have their unique characteristic preserved by relocation or replacement elsewhere:
 1. Wilderness areas designated by statute or administrative rule.
 2. Wild and scenic rivers designated by statute or administrative rule.
 3. National or state parks designated by statute or administrative rule.
 4. Wildlife refuges and areas designated by statute or administrative rule.
 5. Properties of historical significance identified as listed properties under s. 44.31 (4), Stats., and archaeological sites as defined under s. 44.47 (1) (b), Stats.
 6. State natural areas designated under s. 23.28, Stats.
 - ~~(c)~~ 7. Other areas of a type designated by statute or administrative rule as unique or unsuitable for prospecting or surface mining.

s. NR 132.103 (28) - “Unsuitable” or “unsuitability” means that the land proposed for prospecting is not suitable for such activity because the prospecting activity itself may reasonably be expected to destroy or irreparably damage any of the following:

- (a) Habitat required for survival of species of vegetation or wildlife as designated in ch. NR 27, if such endangered species cannot be firmly reestablished elsewhere.
- (b) Unique features of the land, as determined by state or federal designation as any of the following, that cannot have their unique characteristic preserved by relocation or replacement elsewhere:
1. Wilderness areas designated by statute or administrative rule.
 2. Wild and scenic rivers designated by statute or administrative rule.
 3. National or state parks designated by statute or administrative rule.
 4. Wildlife refuges and areas designated by statute or administrative rule.
 5. Properties of historical significance identified as listed properties under s. 44.31 (4), Stats., and archaeological sites as defined under s. 44.47 (1) (b), Stats.
 6. State natural areas designated under s. 23.28, Stats.
 - ~~(e)~~7. Other areas of a type designated by statute or administrative rule as unique or unsuitable for prospecting or surface mining.

Attached is a copy of Natural Resources Board Order No. EA-14-18 (Clearinghouse Rule No. 20-043) incorporating these modifications.

Under s. 227.19 (4) (b) 2., Stats., the Department of Natural Resources refers this action to your committees for an additional 10 working day review.

Thank you for your consideration of these modifications. If you have any questions, please contact Sean Kennedy, Seanp.Kennedy@wisconsin.gov, (608)-400-2115.

Sincerely,

Preston D. Cole, Secretary