State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment III

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2011 LRB–3458/2 (For: Rep. Honadel)

has been copied/added to the drafting file for

2011 LRB–3520 (For: Rep. Honadel)

☞ Are These "Companion Bills" ?? ... No

RESEARCH APPENDIX -

PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 11/22/2011 (Per: JK)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

1 nonferrous rock, has a net acid generating potential in the United States or Canada
2 for at least 10 years without the pollution of groundwater or surface water from acid
3 drainage at the tailings site or at the mine site or from the release of heavy metals.

4 **SECTION 99.** 293.50 (2) (b) of the statutes is amended to read:

5 293.50 **(2)** (b) The department determines, based on information provided by
6 an applicant for a permit under s. 293.49 and verified by the department, that a
7 mining operation that operated in a sulfide ore body which, together with the host
8 nonferrous rock, has a net acid generating potential in the United States or Canada
9 has been closed for at least 10 years without the pollution of groundwater or surface
10 water from acid drainage at the tailings site or at the mine site or from the release
11 of heavy metals.

12 **SECTION 100.** 293.51 (1) of the statutes is amended to read:

13 293.51 **(1)** Upon notification that an application for a prospecting or mining
14 permit has been approved by the department but prior to commencing prospecting
15 or mining, the operator shall file with the department a bond conditioned on faithful
16 performance of all of the requirements of this chapter and all rules adopted by the
17 department under this chapter. The bond shall be furnished by a surety company
18 licensed to do business in this state. In lieu of a bond, the operator may deposit cash,
19 certificates of deposit or government securities with the department. Interest
20 received on certificates of deposit and government securities shall be paid to the
21 operator. The amount of the bond or other security required shall be equal to the
22 estimated cost to the state of fulfilling the reclamation plan, in relation to that
23 portion of the site that will be disturbed by the end of the following year. The
24 estimated cost of reclamation of each prospecting or mining site shall be determined
25 by the department on the basis of relevant factors including, but not limited to,

expected changes in the price index, topography of the site, methods being employed, depth and composition of overburden and depth of nonferrous metallic mineral deposit being mined.

SECTION 101. 293.65 (3) (a) of the statutes is amended to read:

293.65 **(3)** (a) An approval under s. 281.34 is required to withdraw groundwater for prospecting or mining or to dewater mines if the capacity and rate of withdrawal of all wells involved in the withdrawal of groundwater or the dewatering of mines exceeds 100,000 gallons each day. A permit under s. 283.31 is required to discharge pollutants resulting from the dewatering of mines.

SECTION 102. 293.65 (3) (b) of the statutes is amended to read:

293.65 **(3)** (b) The department may not issue an approval under s. 281.34 if the withdrawal of groundwater for prospecting or mining purposes or the dewatering of mines will result in the unreasonable detriment of public or private water supplies or the unreasonable detriment of public rights in the waters of the state. No withdrawal of groundwater for prospecting or mining purposes or the dewatering of mines may be made to the unreasonable detriment of public or private water supplies or the unreasonable detriment of public rights in the waters of the state.

SECTION 103. 293.86 of the statutes is amended to read:

293.86 Visitorial powers of department. Any duly authorized officer, employee or representative of the department may enter and inspect any property, premises or place on or at which any prospecting or ~~metallic~~ mining operation or facility is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and chs. 281, 285, 289 to 292, ~~295~~ and 299, subchs. I and II of ch. 295, and rules adopted pursuant thereto. No person may refuse entry or access to any such authorized representative

of the department who requests entry for purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such inspection. The department shall furnish to the prospector or operator, as indicated in the prospecting or mining permit, a written report setting forth all observations, relevant information and data which relate to compliance status.

SECTION 104. Chapter 295 (title) of the statutes is amended to read:

CHAPTER 295

NONMETALLIC MINING RECLAMATION;

OIL AND GAS;

FERROUS METALLIC MINING

SECTION 105. 295.16 (4) (f) of the statutes is amended to read:

295.16 **(4)** (f) Any mining operation, the reclamation of which is required in a permit obtained under ch. 293 or subch. III of ch. 295.

SECTION 106. Subchapter III of chapter 295 [precedes 295.40] of the statutes is created to read:

CHAPTER 295

SUBCHAPTER III

FERROUS METALLIC MINING

295.40 Legislative findings. The legislature finds all of the following:

(1) That attracting and aiding new mining enterprises and expanding the mining industry in Wisconsin is part of Wisconsin public policy.

(2) That mining for nonferrous metallic minerals is different from mining for ferrous minerals because in mining for nonferrous metallic minerals, sulfite minerals react, when exposed to air and water, to form acid drainage.

1 **(3)** That if the mineral products and waste materials associated with
2 nonferrous metallic sulfide mining operations are not properly managed and
3 controlled, they can cause significant damage to the environment, affect human
4 health, and degrade the quality of life of the affected community.

5 **(4)** That the special concerns surrounding nonferrous metallic mining warrant
6 more stringent regulatory measures than those warranted for ferrous mining
7 operations.

8 **(5)** That the provisions in ch. 293, 2009 stats., are a deterrent to ferrous mining
9 in this state and are not necessary to ensure that ferrous mining will be conducted
10 in an environmentally sound manner.

11 **(6)** That simplifying and shortening the permitting process for ferrous metallic
12 mineral mining when compared to nonferrous metallic mineral mining, as
13 Minnesota and Michigan have done, will encourage ferrous metallic mineral mining
14 in Wisconsin and create jobs and generate resources for the state.

15 **(7)** That because of the fixed location of ferrous mineral deposits in the state,
16 it is probable that mining those deposits will result in adverse impacts to areas of
17 special natural resource interest and to wetlands, including wetlands located within
18 areas of special natural resource interest and that, therefore, the use of wetlands for
19 bulk sampling and mining activities, including the disposal or storage of mining
20 wastes or materials, or the use of other lands for mining activities that would have
21 a significant adverse impact on wetlands, is presumed to be necessary.

22 **295.41 Definitions.** In this subchapter:

23 **(1)** "Air pollution" means the presence in the atmosphere of one or more air
24 contaminants in such quantities and of such duration as is injurious to human health
25 or welfare, animal or plant life, or property.

1 **(2)** "Applicant" means a person who applies for, or is preparing to apply for, an
2 exploration license or a mining permit or who files a bulk sampling plan.
3 **(3)** "Approval" means any permit, license, certification, contract, or other
4 authorization that the department issues, or any other action by the department,
5 that is required for exploration, to engage in bulk sampling at a bulk sampling site,
6 or to construct or operate a mining site, including any action required for any of the
7 following:
8 (a) The withdrawal of land entered as county forest land under s. 28.11 and any
9 modification of, or amendment to, a county forest land use plan necessitated by the
10 withdrawal of the land.
11 (b) The withdrawal of land entered as forest cropland under s. 77.10.
12 (c) The withdrawal of land designated as managed forest land under subch. VI
13 of ch. 77 and any modification of, or amendment to, a managed forest land
14 management plan necessitated by the withdrawal of the land.
15 **(4)** "Background water quality" means the concentration of a substance in
16 groundwater as determined by monitoring at locations that will not be affected by
17 a mining site.
18 **(5)** "Baseline water quality" means the concentration of a substance in
19 groundwater or surface water as determined by monitoring before mining operations
20 begin.
21 **(6)** "Borrow materials" means soil or rock used in construction or reclamation
22 activities.
23 **(7)** "Bulk sampling" means excavating in a potential mining site by removing
24 less than 10,000 tons of material for the purposes of obtaining site–specific data to
25 assess the quality and quantity of the ferrous mineral deposits and of collecting data

1 from and analyzing the excavated materials in order to prepare the application for
2 a mining permit or for any other approval.

3 **(8)** "Closing" means the time at which a mining waste site ceases to accept
4 mining wastes.

5 **(9)** "Closure" means the actions taken by an operator to prepare a mining waste
6 site for long–term care and to make it suitable for other uses.

7 **(10)** "Construct" means to engage in a program of on–site construction,
8 including site clearing, grading, dredging, or filling of land.

9 **(11)** "Department" means the department of natural resources.

10 **(12)** "Disposal" means the discharge, deposit, injection, dumping, or placing of
11 a substance into or on any land or water.

12 **(14)** "Environmental impact report" means a document submitted by a person
13 seeking a mining permit that discloses environmental impacts of the proposed
14 mining.

15 **(15)** "Environmental impact statement" means a detailed statement under s.
16 1.11 (2) (c).

17 **(16)** "Environmental pollution" means contaminating or rendering unclean or
18 impure the air, land, or waters of the state, or making the air, land, or waters of the
19 state injurious to public health or animal or plant life.

20 **(17)** "Exploration license" means a license under s. 295.44.

21 **(18)** "Ferrous mineral" means an ore or earthen material in natural deposits
22 in or on the earth that primarily exists in the form of an iron oxide, including taconite
23 and hematite.

24 **(19)** "Fill area" means an area proposed to receive or that is receiving direct
25 application of mining waste.

1 **(20)** "Freeboard" means the height of the top of a dam above the adjacent liquid
2 surface within the impoundment.

3 **(21)** "Groundwater" means any of the waters of the state occurring in a
4 saturated subsurface geological formation of rock or soil.

5 **(22)** "Groundwater quality" means the chemical, physical, biological, thermal,
6 or radiological quality of groundwater at a site or within an underground aquifer.

7 **(23)** "Groundwater quality standards" means numerical values consisting of
8 enforcement standards and preventive action limits contained in Table 1 of s. NR
9 140.10, and Table 2 of s. NR 140.12, Wis. Adm. Code, and any preventive action limits
10 for indicator parameters identified under s. NR 140.20 (2).

11 **(24)** "Leachable" or Leachate means water or other liquid that has been contaminated by
12 dissolved or suspended materials due to contact with refuse disposed of on the
13 mining site.

14 **(25)** "Merchantable by–product" means all waste soil, rock, mineral, liquid,
15 vegetation, and other material directly resulting from or displaced by the mining,
16 cleaning, or preparation of minerals, during mining operations, that are determined
17 by the department to be marketable upon a showing of marketability made by the
18 operator, accompanied by a verified statement by the operator of his or her intent to
19 sell the material within 3 years from the time it results from or is displaced by
20 mining.

21 **(26)** "Mining" means all or part of the process involved in the mining of a
22 ferrous mineral, other than for exploration, including commercial extraction,
23 agglomeration, beneficiation, construction of roads, removal of overburden, and the
24 production of refuse, involving the removal of more than 15,000 tons of earth

1 material a year in the regular operation of a business for the purpose of extracting
2 a ferrous mineral.

3 **(27)** "Mining permit" means the permit under s. 295.58.

4 **(28)** "Mining plan" means a proposal for mining on a mining site, including a
5 description of the systematic activities to be used for the purpose of extracting
6 ferrous minerals.

7 **(29)** "Mining site" means the surface area disturbed by mining, including the
8 surface area from which the ferrous minerals or refuse or both have been removed,
9 the surface area covered by refuse, all lands disturbed by the construction or
10 improvement of haulageways, and any surface areas in which structures,
11 equipment, materials, and any other things used in the mining are situated.

12 **(30)** "Mining waste" means tailings, waste rock, mine overburden, waste
13 treatment sludges, or other discarded material, including solid, liquid, semi–solid,
14 or contained gaseous material, resulting from mining or from the cleaning or
15 preparation of ferrous minerals during mining operations, except that "mining
16 waste" does not include topsoil and mine overburden intended to be returned to the
17 mining site or used in the reclamation process and that is placed on the mining site
18 for those purposes, as provided for in the approved mining plan, and does not include
19 merchantable by–products.

20 **(31)** "Mining waste site" means any land or appurtenances thereto used for the
21 storage or disposal of mining waste or for the storage of merchantable by–products,
22 but does not include land or appurtenances used in the production or transportation
23 of mining waste, such as the concentrator, haul roads, or tailings pipelines, that are
24 part of the mining site.

1 **(32)** "Nonferrous metallic mineral" means an ore or other earthen material to
2 be excavated from natural deposits on or in the earth for its metallic content but not
3 primarily for its iron oxide content.

4 **(33)** "Operator" means any person who is engaged in mining, or who holds a
5 mining permit, whether individually, jointly, or through subsidiaries, agents,
6 employees, or contractors.

7 **(34)** "Overburden" means any unconsolidated material that overlies bedrock.

8 **(35)** "Person" means an individual, corporation, limited liability company,
9 partnership, association, local governmental agency, interstate agency, state agency,
10 or federal agency.

11 **(36)** "Piping" means the progressive erosion of materials from an embankment
12 or foundation caused by the seepage of water.

13 **(37)** "Principal shareholder" means any person who owns at least 10 percent
14 of the beneficial ownership of an applicant or operator.

15 **(38)** "Reagent" means a substance or compound that is added to a system in
16 order to bring about a chemical reaction or is added to see if a reaction occurs to
17 confirm the presence of another substance.

18 **(39)** "Reclamation" means the process by which an area physically or
19 environmentally affected by exploration or mining is rehabilitated to either its
20 original state or to a state that provides long–term environmental stability.

21 **(40)** "Reclamation plan" means the proposal for the reclamation of an
22 exploration site under s. 295.44 (2) (b) or a mining site under s. 295.49.

23 **(41)** "Refuse" means all mining waste and all waste materials deposited on or
24 in the mining site from other sources, except merchantable by–products.

1 **(42)** "Related person" means any person that owns or operates a mining site
2 in the United States and that is one of the following when an application for a mining
3 permit is submitted to the department:
4 (a) The parent corporation of the applicant.
5 (b) A person that holds more than a 30 percent ownership interest in the
6 applicant.
7 (c) A subsidiary or affiliate of the applicant in which the applicant holds more
8 than a 30 percent ownership interest.
9 **(44)** "Subsidence" means lateral or vertical ground movement caused by a
10 failure, initiated at the mine, of a man–made underground mine, that directly
11 damages residences or commercial buildings, except that "subsidence" does not
12 include lateral or vertical ground movement caused by earthquake, landslide, soil
13 conditions, soil erosion, soil freezing and thawing, or roots of trees and shrubs.
14 **(45)** "Tailings" means waste material resulting from beneficiation of crushed
15 ferrous minerals at a concentrator or from washing, concentration, or treatment of
16 crushed ferrous mineral. S
17 **(46)** "Unsuitable" means that the land proposed for mining is not suitable for
18 mining because the mining activity will more probably than not destroy or
19 irreparably damage any of the following:
20 (a) Habitat required for survival of species of vegetation or wildlife designated
21 as endangered through prior inclusion in rules adopted by the department, if the
22 endangered species cannot be reestablished elsewhere.
23 (b) Unique features of the land, as determined by state or federal designation
24 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. Listed properties, as defined in s. 44.31 (4).

(46m) "Wastewater and sludge storage or treatment lagoon" means a man–made containment structure that is constructed primarily of earthen materials, that is for the treatment or storage of wastewater, storm water, or sludge, and that is not a land disposal system, as defined in s. NR 140.05 (11), Wis. Adm. Code.

(47) "Waters of the state" has the meaning given in s. 281.01 (18).

(48) "Water supply" means the sources and their surroundings from which water is supplied for drinking or domestic purposes.

(49) "Wetland" has the meaning given in s. 23.32 (1).

295.43 Responsibilities related to mining. The department shall serve as the central unit of state government to ensure that the impact from mining and reclamation on the air, lands, waters, plants, fish, and wildlife in this state will be minimized and mitigated to the extent practicable. The administration of occupational health and safety laws and rules that apply to mining remain exclusively the responsibility of the department of ~~commerce~~ safety and professional services. The powers and duties of the geological and natural history survey under s. 36.25 (6) remain exclusively the responsibility of the geological and natural history survey. Nothing in this section prevents the department of ~~commerce~~ safety and professional services and the geological and natural history survey

1 from cooperating with the department in the exercise of their respective powers and
2 duties.

3 **295.44 Exploration. (1)** DEFINITIONS. In this section:

4 (a) "Abandonment" means the filling or sealing of a drillhole.

5 (b) "Clay slurry" means a fluid mixture of native clay formation or commercial
6 clay or clay mineral products and water prepared with only the amount of water
7 necessary to produce fluidity.

8 (c) "Concrete grout" means a mixture consisting of type A portland cement and
9 an equal or lesser volume of dry sand combined with water.

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

12 (e) "Drilling site" means the area disturbed by exploration, including the
13 drillhole.

14 (f) "Dump bailer" means a cylindrical container with a valve that empties the
15 contents of the container at the bottom of a drillhole.

16 (g) "Explorer" means any person who engages in exploration or who contracts
17 for the services of drillers for the purpose of exploration.

18 (h) "Exploration" means the on–site geologic examination from the surface of
19 an area by core, rotary, percussion, or other drilling, where the diameter of the hole
20 does not exceed 18 inches, for the purpose of searching for ferrous minerals or
21 establishing the nature of a known ferrous mineral deposit, including associated
22 activities such as clearing and preparing sites or constructing roads for drilling.
23 "Exploration" does not include drilling for the purpose of collecting soil samples or
24 for determining radioactivity by means of placement of devices that are sensitive to
25 radiation.

1 (i) "License year" means the period beginning on July 1 of any year and ending
2 on the following June 30.
3 (j) "Neat cement grout" means a mixture consisting of type A portland cement
4 and water.
5 (k) "Termination" means the filling of drillholes and the reclamation of a
6 drilling site.
7 **(2)** LICENSE. No person may engage in exploration, or contract for the services
8 of drillers for purposes of exploration, without an annual license from the
9 department. The department shall provide copies of the application for an
10 exploration license to the state geologist upon issuance of the exploration license. A
11 person seeking an exploration license shall file an application that includes all of the
12 following:
13 (a) An exploration plan that includes all of the following:
14 1. A description of the site where the exploration will take place and a map of
15 that area showing the locations of the exploration.
16 2. A description of the means and method that will be used for the exploration.
17 3. A description of the grading and stabilization of the excavation, sides, and
18 benches that will be conducted.
19 4. A description of how the grading and stabilization of any deposits of refuse
20 will be conducted.
21 5. A description of how any diversion and drainage of water from the
22 exploration site will be conducted.
23 6. A description of how any backfilling will be conducted.
24 7. A description of how any pollutant–bearing minerals or materials will be
25 covered.

1 8. A description of how the topsoils will be removed and stockpiled or how other
2 measures will be taken to protect topsoils before exploration.
3 9. A description of how vegetative cover will be provided.
4 10. A description of how any water impoundment will be accomplished.
5 11. Identification of the means and method that will be used to prevent
6 significant environmental pollution to the extent practicable.
7 (b) A reclamation plan, designed to minimize adverse effects to the
8 environment to the extent practicable, that includes all of the following:
9 1. A description of how all toxic and hazardous wastes and other solid waste
10 will be disposed of in solid or hazardous waste disposal facilities licensed under ch.
11 289 or 291 or otherwise in an environmentally sound manner.
12 2. A description of how topsoil will be preserved for purposes of future use in
13 reclamation.
14 3. A description of how revegetation will be conducted to stabilize disturbed
15 soils and prevent air and water pollution to the extent practicable.
16 4. A description of how disturbance to wetlands will be minimized to the extent
17 practicable.
18 5. A statement that all drillholes will be abandoned in compliance with sub. (5).
19 (c) An exploration license fee of $300.
20 (d) A bond, as provided in sub. (3) (a).
21 (e) A certificate of insurance showing that the applicant has in force a liability
22 insurance policy issued by an insurance company licensed to do business in this state
23 covering all exploration conducted or contracted for by the explorer in this state and
24 affording personal injury and property damage protection in a total amount

1 determined to be adequate by the department, but not more than $1,000,000 and not
2 less than $50,000.
3 (f) A copy of the applicant's most recent annual report to the federal securities
4 and exchange commission on form 10–K, or, if this is not available, a report of the
5 applicant's current assets and liabilities or other data necessary to establish that the
6 applicant is competent to conduct exploration in this state.
7 **(2m)** CONFIDENTIALITY. The department shall protect as confidential any
8 information, other than effluent data, contained in an application for an exploration
9 license, upon a showing that the information is entitled to protection as a trade
10 secret, as defined in s. 134.90 (1) (c), and any information relating to the location,
11 quality, or quantity of a ferrous mineral deposit, to production or sales figures, or to
12 processes or production unique to the applicant or that would tend to adversely affect
13 the competitive position of the applicant if made public.
14 **(3)** BOND. (a) An applicant shall submit, as part of the application for an
15 exploration license, a bond in the amount of $5,000 that is conditioned on faithful
16 performance of the requirements of this section, that is issued by a surety company
17 licensed to do business in this state, and that provides that the bond may not be
18 canceled by the surety, except after not less than 90 days' notice to the department
19 in writing by registered or certified mail.
20 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,
21 the explorer shall deliver a replacement bond at least 30 days before the expiration
22 of the 90 day notice period. If the explorer fails to submit a replacement bond, the
23 explorer may not engage in exploration until the explorer submits a replacement
24 bond.

1 (c) If the license of the surety company for a bond submitted under par. (a) is
2 revoked or suspended, the explorer, within 30 days after receiving written notice
3 from the department, shall deliver a replacement bond. If the explorer fails to submit
4 a replacement bond, the explorer may not engage in exploration until the explorer
5 submits a replacement bond.

6 (d) The department may require that the amount of the bond submitted under
7 this subsection be increased at any time, if the department determines that the level
8 of activity by the explorer makes it likely that the bond would be inadequate to fund
9 the termination of all drillholes for which the explorer is responsible.

10 (e) The department shall release a bond submitted under this subsection one
11 year after the issuance of the last certificate of completion of exploration under sub.
12 (9) (c) 3. if the explorer no longer holds an exploration license and the department
13 determines that the explorer has complied with this section.

14 **(4)** ISSUANCE OR DENIAL OF EXPLORATION LICENSE. (a) Except as provided in par.
15 (c), within 10 business days of receiving an administratively complete application for
16 an exploration license, the department shall issue the exploration license or provide
17 the notice required under par. (f) of intent not to issue the exploration license, unless
18 the application is for an upcoming license year. If an application is for an upcoming
19 license year, the department shall issue the exploration license or provide the notice
20 required under par. (f) of intent not to issue the exploration license within 10
21 business days of receiving an administratively complete application or on the next
22 July 1, whichever is later.

23 (b) An application for an exploration license is considered to be
24 administratively complete on the day that it is submitted, unless, before the 10th
25 business day after receiving the application, the department provides the applicant

1 with written notification that the application is not administratively complete. The
2 department may determine that an application is not administratively complete only
3 if the application does not include an exploration plan; a reclamation plan; an
4 exploration license fee; a bond; a certificate of insurance; or a copy of the applicant's
5 most recent annual report to the federal securities and exchange commission on form
6 10–K, or, if this is not available, a report of the applicant's current assets and
7 liabilities or other data necessary to establish that the applicant is competent to
8 conduct exploration in this state. The department may not consider the quality of
9 the information provided. In a notice provided under this paragraph, the
10 department shall identify what is missing from the application.

11 (c) If the department provides notification, in compliance with par. (b), that an
12 application is not administratively complete, the department shall issue the
13 exploration license or provide the notice required under par. (f) of intent not to issue
14 the license within 7 business days of receipt of the missing item, unless the
15 application is for an upcoming license year. If the application is for an upcoming
16 license year, the department shall issue the exploration license or provide the notice
17 required under par. (f) of intent not to issue the exploration license within 7 business
18 days of receipt of the missing item or on the next July 1, whichever is later.

19 (d) If the department does not comply with par. (a) or (c), the application is
20 automatically approved and the department shall issue an exploration license that
21 includes the requirements in sub. (5). The explorer may engage in exploration based
22 on the automatic approval, notwithstanding any delay by the department in issuing
23 the license.

24 (e) Subject to par. (f), the department shall deny an application for an
25 exploration license if the department finds that, after the activities in the exploration

1 plan and the reclamation plan have been completed, the exploration will have a
2 substantial and irreparable adverse impact on the environment or present a
3 substantial risk of injury to public health and welfare.

4 (f) Before denying an application, the department shall provide the applicant
5 with written notification of its intent not to issue the exploration license, setting
6 forth all of the reasons for its intent not to issue the exploration license, including
7 reference to competent evidence supporting its position. The department shall
8 provide the person with an opportunity to correct any deficiencies in the exploration
9 plan or restoration plan within 10 business days. If the person amends the
10 exploration plan or reclamation plan and corrects the deficiencies, the department
11 shall issue the exploration license within 10 business days of receipt of the amended
12 exploration plan or reclamation plan, unless the application is for an upcoming
13 license year. If an application is for an upcoming license year, the department shall
14 issue the exploration license within 10 business days of receipt of the amended
15 exploration plan or reclamation plan or on the next July 1, whichever is later. If the
16 department determines that the deficiencies have not been corrected, it shall deny
17 the application, in writing, setting forth all of the reasons for its determination,
18 including reference to competent evidence supporting the determination.

19 **(5)** REQUIREMENTS IN EXPLORATION LICENSE. The department shall include all of
20 the following in an exploration license:

21 (a) A requirement that if the explorer wishes to temporarily abandon a drillhole
22 so that the explorer may use the drillhole for future exploration, the explorer leave
23 the well casing in place and seal the upper end of the casing with a watertight
24 threaded or welded cap.

1 (b) A requirement to permanently abandon a drillhole 4 inches in diameter or
2 smaller by filling the drillhole from the bottom upward to the surface of the ground
3 with concrete grout or neat cement grout.
4 (c) A requirement to abandon a drillhole larger than 4 inches in diameter by
5 filling the drillhole from the bottom upward to the surface of the ground with
6 concrete grout or neat cement grout or in one of the following ways:
7 1. If the drillhole is constructed in limestone, dolomite, shale, or Precambrian
8 formations, such as granite, gabbro, gneiss, schist, slate, greenstone, or quartzite, by
9 filling the drillhole with gravel or crushed rock or, if it is physically impracticable to
10 use gravel or crushed rock and if the department approves, with clay slurry, from the
11 bottom upward to a point 20 feet below the top of the first rock formation encountered
12 below the surface of the ground or to at least 40 feet below the surface of the ground,
13 whichever is the greater depth, and filling the remainder of the drillhole with
14 concrete grout or neat cement grout.
15 2. If the drillhole is constructed in sandstone formation, by filling the drillhole
16 with disinfected sand or pea gravel or, if it is physically impracticable to use sand or
17 pea gravel and if the department approves, with clay slurry, from the bottom upward
18 to a point 20 feet below the top of the first rock formation encountered below the
19 surface of the ground or to at least 40 feet below the surface of the ground, whichever
20 is the greater depth, and filling the remainder of the drillhole with concrete grout or
21 neat cement grout.
22 3. If the drillhole is constructed in glacial drift or other unconsolidated
23 formation, by filling the hole with clean clay slurry to a point 20 feet below the surface
24 of the ground and filling the remainder of the drillhole with concrete grout or neat
25 cement grout.

1 4. If the drillhole is constructed in mixed rock types, by filling the drillhole as
2 provided in subds. 1., 2., and 3., and providing a concrete grout or neat cement grout
3 plug that extends at least 20 feet above and below the point of surface contact
4 between each recognized geologic rock type.

5 (d) 1. A requirement to use a conductor pipe or, when practical, a dump bailer
6 when filling a drillhole.

7 2. A requirement to keep the bottom end of the conductor pipe submerged in
8 concrete grout or neat cement grout at all times when concrete grout or neat cement
9 grout is placed under water using a conductor pipe.

10 3. A requirement to fill the drillhole at the same time that all or part of the
11 drillhole casing is removed from an unconsolidated formation, such as sand or gravel,
12 that will not remain open upon abandonment of a drillhole and to keep the end of the
13 casing below the surface of the fill material throughout the operation.

14 (e) A requirement to obtain approval from the department of the method of
15 containing the flow from, and the method of eventual abandonment of, a drillhole
16 that penetrates an aquifer under artesian pressure so that the groundwater flows at
17 the surface of the ground.

18 **(6)** RENEWALS. (a) An explorer wishing to renew an exploration license shall
19 file with the department a renewal application that includes all of the following:

20 1. A renewal fee of $150.

21 2. A bond that satisfies sub. (3) (a).

22 3. A certificate of insurance that satisfies sub. (2) (e).

23 4. A copy of the applicant's most recent annual report to the federal securities
24 and exchange commission on form 10–K, or, if this is not available, a report of the

1 applicant's current assets and liabilities or other data necessary to establish that the
2 applicant is competent to conduct exploration in this state.
3 5. Either a statement that no changes are being proposed to the exploration
4 plan and reclamation plan previously approved by the department or a new
5 exploration plan or reclamation plan if the applicant proposes to make changes.
6 (b) Except as provided in par. (d), within 10 business days of receiving an
7 administratively complete application for renewal of an exploration license, the
8 department shall renew the exploration license or provide the notice, required under
9 par. (g), of intent not to renew the exploration license.
10 (c) An application for renewal of an exploration license is considered to be
11 administratively complete on the day that it is submitted, unless, before the 10th
12 business day after receiving the application, the department provides the explorer
13 with written notification that the application is not administratively complete. The
14 department may determine that an application is not administratively complete only
15 if the application does not include a renewal fee; a bond; a certificate of insurance;
16 a copy of the applicant's most recent annual report to the federal securities and
17 exchange commission on form 10–K, or, if this is not available, a report of the
18 applicant's current assets and liabilities or other data necessary to establish that the
19 applicant is competent to conduct exploration in this state; or either a statement that
20 no changes are being proposed to the exploration plan and reclamation plan
21 previously approved by the department or a new exploration plan or reclamation
22 plan if the applicant proposes to make changes. The department may not consider
23 the quality of any information provided. In a notice provided under this paragraph,
24 the department shall identify what is missing from the application.

1 (d) If the department provides notification, in compliance with par. (c), that an
2 application is not administratively complete, the department shall renew the
3 exploration license or provide the notice, required under par. (g), of intent not to
4 renew the exploration license within 7 business days of receipt of the missing item.
5 (e) If the department does not comply with par. (b) or (d), the application for
6 renewal is automatically approved.
7 (f) Subject to par. (g), the department shall deny an application for renewal of
8 an exploration license only if the applicant has filed a new exploration plan or
9 reclamation plan and the department finds that the exploration, after completion of
10 the new exploration plan and the new reclamation plan, will have a substantial and
11 irreparable adverse impact on the environment or present a substantial risk of injury
12 to public health and welfare.
13 (g) Before denying an application, the department shall provide the person who
14 submitted the application with written notification of its intent not to renew the
15 exploration license, setting forth all of the reasons for its intent not to renew the
16 exploration license, including reference to competent evidence supporting its
17 position. The department shall provide the person with an opportunity to correct any
18 deficiencies in the exploration plan or restoration plan within 10 business days. If
19 the person amends the exploration plan or reclamation plan and corrects the
20 deficiencies, the department shall renew the exploration license within 10 business
21 days of receipt of the amended exploration plan or reclamation plan. If the
22 department determines that the deficiencies have not been corrected, it shall deny
23 the application, in writing, setting forth all of the reasons for it's determination,
24 including reference to competent evidence supporting the determination.

1 (h) The renewal of an exploration license takes effect on the date of issuance
2 and expires on the following June 30.
3 **(7)** REVOCATION OR SUSPENSION OF EXPLORATION LICENSE. After a hearing, the
4 department may revoke or suspend an exploration license if it determines that any
5 of the following apply:
6 (a) The explorer has not complied with a statute, a rule promulgated by the
7 department, or a condition in the exploration license.
8 (b) The explorer has failed to increase bond amounts to adequate levels as
9 provided under sub (3) (d).
10 **(8)** NOTICE PROCEDURE. (a) An explorer shall notify the department of the
11 explorer's intent to drill on a parcel by registered mail at least 5 days prior to the
12 beginning of drilling. Notice is considered to be given on the date that the
13 department receives the notice. In the notice, the explorer shall specify which
14 drillholes identified in the exploration plan the explorer intends to drill. The
15 explorer shall send the notice to the subunit of the department with authority over
16 mine reclamation.
17 (b) A notice of intent to drill provided under par. (a) remains in effect for one
18 year beginning on the date that the department receives the notice. If the explorer
19 wishes to continue drilling on the parcel after the notice is no longer in effect, the
20 explorer shall resubmit a notice of intent to drill on the parcel.
21 **(9)** REPORTS. (a) Within 10 days after completing the temporary or permanent
22 abandonment of a drillhole, an explorer shall file with the department an
23 abandonment report that describes the means and method used in the abandonment
24 and is signed by an authorized representative of the explorer attesting to the
25 accuracy of the information contained in the report. The explorer shall submit the

1 abandonment report to the department's district office for the district in which the
2 drilling site is located.

3 (b) After permanent abandonment of a drillhole and regrading and
4 revegetation of the drilling site, an explorer shall notify the department of
5 completion of termination of the drilling site. The explorer shall submit the notice,
6 in writing, to the department's district office for the district in which the drilling site
7 is located.

8 (c) 1. After receipt of a notice under par. (b), the department shall notify the
9 explorer in writing whether the termination is satisfactory or unsatisfactory. If the
10 termination is unsatisfactory, the department shall inform the explorer of the
11 necessary corrective measures. Following the completion of corrective measures, the
12 explorer shall file written notice with the department's district office for the district
13 in which the drilling site is located specifying the means and method used and
14 stating that termination is complete.

15 2. If an explorer fails to comply with corrective measures identified under subd.
16 1., the department may suspend the explorer's exploration license in accordance with
17 sub. (7).

18 3. Upon satisfactory completion of termination of a drilling site, the
19 department shall issue a certificate of completion. The department may not issue a
20 certificate of completion for a drilling site that has only been temporarily abandoned.

21 **(10)** DRILLING FEES. Upon the submission of a report under sub. (9) (a) of
22 temporary abandonment of a drillhole, if the drillhole is temporarily abandoned, or
23 upon submission of a report under sub. (9) (a) of permanent abandonment of a
24 drillhole, if the drillhole is not temporarily abandoned, the explorer shall pay a fee
25 to the department. The fee is $100 per drillhole for the first 20 drillholes for which

a report is filed in a license year and $50 for each subsequent drillhole for which a report is filed in that license year.

(11) INSPECTIONS. (a) Any duly authorized officer, employee, or representative of the department may enter and inspect any property, premises, or place on or at which exploration is being performed at any reasonable time for the purpose of ascertaining the state of compliance with this section. No explorer may refuse entry or access to any authorized representative of the department who requests entry for the purposes of inspection and who presents appropriate credentials.

(b) No person may obstruct, hamper, or interfere with any inspection authorized in par. (a).

(c) No inspector may obstruct, hamper, or interfere with exploration activities.

(12) EXEMPTION. This section does not apply to an operator with a mining permit who is engaged in exploration activities on lands included in a mining plan and reclamation plan, if the mining plan or reclamation plan contains provisions relating to termination of the exploration activities.

(13) ENVIRONMENTAL ANALYSIS NOT REQUIRED. The department is not required to prepare an environmental impact statement or an environmental assessment for an application for an exploration license.

295.443 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) related to mining for ferrous minerals.

under sub. (1m).

(g) Negotiating a local agreement between an operator and one or more counties, towns, villages, cities, or tribal governments. insert 76-6 The local agreement may include any of the following:

(a) ~~1.~~ A legal description of the land subject to the agreement and the names of its legal and equitable owners.

(b) ~~2.~~ The duration of the agreement.

(c) ~~3.~~ The uses permitted on the land.

(d) ~~4.~~ A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the county, town, village, city, or tribal government for the public health, safety, or welfare of its residents.

(e) ~~5.~~ A description of any obligation undertaken by the county, town, village, city, or tribal government to enable the development to proceed.

(f) ~~6.~~ The applicability or nonapplicability of county, town, village, city, or tribal ordinances, approvals, or resolutions.

(g) ~~7.~~ A provision for the amendment of the agreement.

(h) ~~8.~~ Other provisions determined to be reasonable and necessary by the parties to the agreement.

(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

1 include representatives of affected units of government, business, and industry,
2 manpower, health, protective or service agencies, school districts, or environmental
3 and other interest groups or other interested parties.

4 **(3)** Persons applying for an exploration license under s. 295.44 shall thereafter
5 appoint a liaison person to any committee established under sub. (1) or (2), and shall
6 provide such reasonable information as is requested by the committee. Operators
7 and persons applying for an exploration license under s. 295.44 shall thereafter
8 make reasonable efforts to design and operate mining operations in harmony with
9 community development objectives.

10 **(4)** Committees established under sub. (1) or (2) may be funded by their
11 appointing authority, and may, through their appointing authority, submit a request
12 for operating funds to the investment and local impact fund board under s. 70.395.
13 Committees established under sub. (1) shall be eligible for funds only if the county,
14 town, village or city is also a participant in a joint committee, if any, established
15 under sub. (2). The investment and local impact fund board may not grant funds for
16 the use of more than one committee established under sub. (1) in relation to a
17 particular mining proposal unless a joint committee has been established under sub.
18 (2). The investment and local impact fund board shall grant operating funds to any
19 committee that submits a request and is eligible under this subsection and s. 70.395
20 (2) (fm). Committees may hire staff, enter into contracts with private firms or
21 consultants or contract with a regional planning commission or other agency for staff
22 services for mining–related purposes or the purposes under s. 70.395 (2) (fm).

23 **295.45 Bulk sampling plan. (1)** A person who intends to engage in bulk
24 sampling may file a bulk sampling plan with the department. The collection of data
25 under a bulk sampling plan may include sampling and analysis related to

1 geophysical, geochemical, groundwater, and surface water conditions, as well as any
2 other data or studies necessary to prepare an application for a mining permit,
3 including the mining plan, reclamation plan, mining waste site feasibility study and
4 plan of operation, or any other approval required for the proposed mining.

5 **(2)** A person shall include all of the following in a bulk sampling plan:

6 (a) A description and map of the bulk sampling site, including the number of
7 acres in the site, the number of acres of land that will be disturbed, if any, associated
8 with each bulk sampling location, and the locations and types of sampling or studies
9 to be conducted at each bulk sampling location.

10 (b) A description of the methods to be used for the bulk sampling.

11 (c) A site–specific plan for controlling surface erosion that conforms to
12 requirements under ss. 281.33 (3) and 283.33 and that identifies how impacts to
13 plant and wildlife habitats will be avoided or minimized to the extent practicable.

14 (d) A revegetation plan for each area where bulk sampling will be performed
15 that describes how adverse impacts to the environment will be avoided or minimized
16 to the extent practicable and how the site will be revegetated and stabilized and that
17 identifies how adverse impacts to plant and wildlife habitats will be avoided or
18 minimized to the extent practicable.

19 (e) The estimated time for completing the bulk sampling and revegetation of
20 the bulk sampling locations.

21 (f) A description of any known adverse environmental impacts that are likely
22 to be caused by the bulk sampling and how those impacts will be avoided or
23 minimized to the extent practicable.

24 (g) A description of any adverse effects, as defined in s. 44.31 (1), that the bulk
25 sampling might have on any historic property, as defined in s. 44.31 (3), that is a

1 listed property, as defined in s. 44.31 (4), that is on the Wisconsin inventory of historic
2 places, as defined in s. 44.31 (12), or that is on the list of locally designated historic
3 places under s. 44.45; or any scenic or recreational areas; and plans to avoid or
4 minimize those adverse effects to the extent practicable.

5 **(2m)** The department shall protect as confidential any information, other than
6 effluent data, contained in a bulk sampling plan and in any application for an
7 approval that is required before the bulk sampling may be implemented, upon a
8 showing that the information is entitled to protection as a trade secret, as defined in
9 s. 134.90 (1) (c), and any information relating to the location, quality, or quantity of
10 a ferrous mineral deposit, to production or sales figures, or to processes or production
11 unique to the applicant or that would tend to adversely affect the competitive
12 position of the applicant if made public.

13 **(3)** Within 14 days of receipt of a bulk sampling plan, the department shall
14 identify for the applicant, in writing, all approvals that are required before the bulk
15 sampling may be implemented, any waivers, exemptions, or exceptions to those
16 approvals that are potentially available, and any information that the department
17 needs to issue the approvals or to issue a decision on any waiver, exemption, or
18 exception. If no approvals are required, the department shall notify the applicant
19 that no approvals are required and that the applicant may proceed with the bulk
20 sampling.

21 **(3e)** If a storm water discharge permit under s. 283.33 (1) (a) or a water quality
22 certification under rules promulgated under subch. II of ch. 281 to implement 33
23 USC 1341 (a) is required before bulk sampling may be implemented, the person filing
24 the bulk sampling plan may apply for and be issued the permit or certification.

1 **(3m)** The department shall act on any required construction site erosion
2 control and storm water management approval, notwithstanding any authorization
3 by the department of a local program to administer construction site erosion control
4 and storm water management requirements.

5 **(3s)** An applicant shall submit all of the following at the same time:

6 (a) Applications for individual approvals identified under sub. (3).

7 (b) Applications for coverage under general permits or registration permits
8 identified under sub. (3).

9 (c) Applications for waivers, exemptions, or exceptions identified under sub.
10 (3).

11 (d) A bond, as provided in sub. (5).

12 **(4)** (a) Notwithstanding any provision in ch. 23, 29, 30, 169, 281, 283, 285, 289,
13 or 291 or in a rule promulgated under those chapters that is applicable to an approval
14 identified under sub. (3), the application for any approval, for a waiver, exemption,
15 or exception to an approval, or for a determination that the proposed bulk sampling
16 activity is below the threshold that requires an approval, is considered to be complete
17 on the 30th day after the department receives the application, unless, before that
18 day, the department provides the applicant with written notification that the
19 application is not complete, stating the reason for the determination and describing
20 the specific information necessary to make the application complete.

21 (b) If the department provides a notice under par. (a), the applicant shall
22 supplement the application by providing the specified information. The application
23 is complete when the applicant provides the information.

24 (c) If the department determines that the issuance of an approval is contingent
25 upon the issuance of a permit under s. 29.604 (6m), and if the application for the

1 permit under s. 29.604 (6m) is filed with the approval application, the department
2 may not determine that the approval application is incomplete on the basis that the
3 department has not yet issued the permit under s. 29.604 (6m).

4 **(5)** (a) A person who intends to engage in bulk sampling shall submit with the
5 bulk sampling plan a bond in the amount of $5,000 that is conditioned on faithful
6 performance of the requirements of this section, that is issued by a surety company
7 licensed to do business in this state, and that provides that the bond may not be
8 canceled by the surety, except after not less than 90 days' notice to the department
9 in writing by registered or certified mail.

10 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,
11 the person who filed the bulk sampling plan shall deliver a replacement bond at least
12 30 days before the expiration of the 90–day notice period. If the person fails to submit
13 a replacement bond, the person may not engage in bulk sampling until the person
14 submits a replacement bond.

15 (c) If the license of the surety company for a bond submitted under par. (a) is
16 revoked or suspended, the person who filed the bulk sampling plan, within 30 days
17 after receiving written notice from the department, shall deliver a replacement bond.
18 If the person fails to submit a replacement bond, the person may not engage in bulk
19 sampling until the person submits a replacement bond.

20 (d) The department may require that the amount of the bond submitted under
21 this subsection be increased at any time, if the department determines that it is
22 unlikely that the bond would be adequate to fund the cost to this state of completing
23 the revegetation plan.

24 (e) The department shall release a bond submitted under this subsection one
25 year after the time for completing the bulk sampling and the revegetation set forth

in the bulk sampling plan if the department determines that the person who engaged in bulk sampling has complied with this section.

(6) (a) If the department determines that proposed bulk sampling will have an adverse effect, as defined in s. 44.31 (1), on a historic property, as defined in s. 44.31 (3), that is a listed property, as defined in s. 44.31 (4), that is on the Wisconsin inventory of historic places, as defined in s. 44.31 (12), or that is on the list of locally designated historic places under s. 44.45, but that the applicant is taking measures to minimize that adverse effect, no notice to the state historic preservation officer under s. 44.40 (1) or negotiations between the department and state historic preservation officer under s. 44.40 (3) are required.

(b) If an adverse effect described in par. (a) cannot practicably be minimized, any negotiations between the department and state historic preservation officer shall be concluded no later than 60 days after the date on which the application for the approval that authorizes the bulk sampling activity that will have an adverse effect is considered to be complete under sub. (4).

(7) Notwithstanding any provision in ch. 23, 29, 30, 169, 281, 283, 285, 289, or 291 or a rule promulgated under those chapters applicable to an approval identified under sub. (3), all of the following apply:

(a) When considering an application for an approval identified under sub. (3), the department shall recognize the fixed location of the metallic mineral deposits, the water needs inherent in mining, and the need for mining waste sites and processing facilities, including wastewater and sludge storage or treatment lagoons, to be contiguous to the location of the ferrous mineral deposits.

1 (b) When issuing an approval, the department shall require the bulk sampling
2 activity for which the approval is issued to be conducted at locations that result in
3 the fewest overall adverse environmental impacts, to the extent practicable.

4 **(8)** In determining whether to approve or deny an application for an approval
5 identified under sub. (3), the department shall consider the site–specific erosion
6 control plan, the revegetation plan, and any compensation or mitigation under s.
7 295.60, any measures under s. 295.605, or any conservation measures under s.
8 295.61 that the applicant proposes to take.

9 **(9)** Notwithstanding any inconsistent period in ch. 23, 29, 30, 169, 281, 283,
10 285, 289, or 291 or in a rule promulgated under those chapters that is applicable to
11 an approval identified under sub. (3), the department shall approve or deny the
12 application within 30 days after the day on which the application is considered to be
13 complete under sub. (4) if any of the following apply:

14 (a) The application is for a waiver, exemption, or exception to an approval for
15 a bulk sampling activity or for a determination that the proposed bulk sampling
16 activity is below the threshold that requires an approval.

17 (b) The application is for a determination of eligibility for coverage under a
18 general permit or a registration permit.

19 **(10)** (a) Notwithstanding any inconsistent period in ch. 23, 29, 30, 169, 281,
20 283, 285, 289, or 291 or in a rule promulgated under those chapters that is applicable
21 to an approval identified under sub. (3), the department shall approve or deny any
22 application for an approval identified under sub. (3) to which sub. (9) does not apply
23 within 60 days after the date on which the application is considered to be complete
24 under sub. (4), unless the application is for an individual permit for which federal law

1 requires the opportunity for public comment or the ability to request a public hearing
2 prior to issuance of the approval.
3 (b) The department shall publish a class 1 notice, under ch. 985, that describes
4 the availability of information concerning the activity for which an approval
5 described in par. (a) is required, its proposed decision, its draft approval, information
6 or summaries related to the approval, the department's analyses and preliminary
7 determinations relating to the approval, the preapplication description under s.
8 295.46, any additional information that a law concerning the approval requires to be
9 made available, and the opportunity to submit written comments within 30 days
10 after the notice is published.
11 (c) In the notice under par. (b), the department shall also specify the date, time,
12 and location of the public informational hearing. The department shall send the
13 notice to any person to whom the department is required to give notice of any
14 proposed determination, application, or hearing concerning an approval described
15 in par. (a) under the laws relating to the issuance of the approval.
16 (d) If there is more than one approval described in par. (a), the department shall
17 issue one notice and coordinate the public comment period for all of the approvals.
18 If possible, the department shall coordinate the notice and the public comment
19 period for an approval that is an individual permit for which federal law requires the
20 opportunity for public comment or the ability to request a public hearing prior to
21 issuance of the approval with notice and the public comment period for the approvals
22 described in par. (a).
23 (e) The department shall hold a public informational hearing within 30 days
24 after publishing the notice under par. (b). The department shall hold the public
25 informational hearing in the county where the majority of the proposed bulk

1 sampling site is located. If there is more than one approval described in par. (a), the
2 department shall hold a single public informational hearing covering all of the
3 approvals and the preapplication description under s. 295.46. If possible, the
4 department shall include consideration of an approval that is an individual permit
5 for which federal law requires the opportunity for public comment or the ability to
6 request a public hearing prior to issuance of the approval in the public informational
7 hearing under this paragraph. The public informational hearing under this
8 paragraph is not a contested case hearing under ch. 227.

9 **(10g)** (a) If it is not possible to coordinate the public comment period and public
10 informational hearing for an approval that is an individual permit for which federal
11 law requires the opportunity for public comment or the ability to request a public
12 hearing prior to issuance of the approval with the public comment period and public
13 informational hearing under sub. (10), the department shall issue a separate public
14 notice and hold a separate public informational hearing for the approval in
15 accordance with the law governing the approval.

16 (b) The department shall approve or deny the application for an approval to
17 which par. (a) applies within 180 days after the date on which the application is
18 considered to be complete under sub. (4).

19 **(10r)** An approval identified under sub. (3) is issued upon mailing and is final
20 and effective upon issuance.

21 **(11)** The department is not required to prepare an environmental impact
22 statement or an environmental assessment for an approval required for bulk
23 sampling.

24 **295.46 Preapplication description. (1)** A person who files a bulk sampling
25 plan under s. 295.45 with regard to a proposed mining project shall file, together with

1 the bulk sampling plan, a general description of the proposed mining project. A
2 person who proposes to engage in a mining project, but who does not file a bulk
3 sampling plan, shall file a general description of the proposed mining project with
4 the department at the time that the person provides the notice of intent to file an
5 application for a mining permit under s. 295.465. The general description shall
6 include all of the following:

7 (a) A description of the proposed mining site.

8 (b) A map that shows all of the following:

9 1. The boundaries of the area of land that will be affected by the proposed
10 mining project.

11 2. The location and names of all streams, roads, railroads, pipelines, and utility
12 lines on or within 1,000 feet of the proposed mining site.

13 3. The name or names of the owner or owners of the proposed mining site.

14 4. The name of each city, village, or town in which the proposed mining site is
15 located and the name of any other city, village, or town that is located within 3 miles
16 of the proposed mining site.

17 5. The federal natural resources conservation service land capabilities
18 classifications of the area affected by the proposed mining project.

19 6. The elevation of the water table.

20 (c) A general description of the nature, extent, and final configuration of the
21 proposed excavation and mining site, including an estimate of the production of
22 tailings, waste rock, and other refuse and the location of their disposal.

23 (d) A general conceptual description of the likely operating procedures of the
24 proposed mining project.

1 (e) The likely location, and a general description, of the excavation, waste site,
2 and processing facilities relating to the proposed mining project.
3 **(2)** (a) If the department provides notice to an applicant under s. 295.45 (3) that
4 no approvals are required for bulk sampling or if a person who proposes to engage
5 in a mining project files a preapplication description of the proposed mining project
6 at the time that the person provides the notice of intent to file an application for a
7 mining permit under s. 295.465 because the person did not file a bulk sampling plan,
8 the department shall publish a class 1 notice, under ch. 985, of a public informational
9 hearing on the proposed mining project. The department shall publish the notice
10 when if notifies the applicant that no approvals are required or after it receives the
11 notice of intent.
12 (b) In a notice under par. (a), the department shall do all of the following:
13 1. Describe the availability of the preapplication description.
14 2. Describe the opportunity to submit written comments within 30 days after
15 the notice is published.
16 3. Specify the date, time, and location of the public informational hearing.
17 (c) The department shall send a notice under par. (a) to all of the following:
18 1. The clerk of any city, village, town, or county within which any part the
19 proposed mining site lies.
20 2. The clerk of any city, village, or town, contiguous to any city, village, or town
21 within which any portion of the proposed mining site is located.
22 3. Any regional planning commission for the area within which the affected
23 area lies.
24 4. Any state agency that the department knows may be required to grant a
25 permit or other authorization necessary for the proposed mining project.

1 5. Any interested person who has requested notification.

2 (d) The department shall hold a public informational hearing within 30 days
3 after publishing the notice under par. (a). The department shall hold the public
4 informational hearing in the county in which the majority of the proposed mining site
5 is located.

6 **295.465 Preapplication notification. (1)** At least 12 months before filing
7 an application for a mining permit under s. 295.47, a person proposing to engage in
8 a mining project shall notify the department in writing of the intention to file an
9 application for a mining permit. After receiving the notification, the department
10 shall hold at least one meeting with the person to make a preliminary assessment
11 of the project's scope, to make an analysis of alternatives, to identify potential
12 interested persons, and to ensure that the person making the proposal is aware of
13 all of the following:

14 (a) The approvals, including the filing requirements for the approvals, that the
15 person may be required to obtain for the mining project.

16 (b) The requirements for submission of an environmental impact report and for
17 submission of any other information required by the department to prepare an
18 environmental impact statement under s. 295.53.

19 (c) The information the department will require to enable the department to
20 process the application for the mining permit in a timely manner.

21 **(2)** Within 60 days of a meeting under sub. (1), the department shall provide
22 all of the following to the person:

23 (a) A detailed written summary of the requirements under sub. (1) (a) to (c).

24 (b) Any available information relevant to the potential impacts of the mining
25 project on rare, threatened, or endangered species and historic or cultural resources

1 and any other information relevant to potential impacts that may occur from the
2 project that are required to be considered under s. 1.11.
3 (c) Available information to evaluate the environmental impact of the project
4 and to expedite the preparation of the environmental impact report and the
5 environmental impact statement, including information concerning preliminary
6 environmental reviews, field studies, and investigations; monitoring programs to
7 establish baseline water quality; laboratory studies and investigations; advisory
8 services; and the timing and the processes associated with any necessary
9 consultations with other state or federal agencies and within the department, such
10 as those required for endangered resources and cultural resource consultations and
11 approvals.
12 **295.47 Application for mining permit. (1)** (a) No person may engage in
13 mining or reclamation at any mining site unless the mining site is covered by a
14 mining permit and by written authorization to mine under s. 295.59 (3). An
15 applicant shall submit an application for a mining permit to the department in
16 writing and in reproducible form and shall provide the number of copies that are
17 requested by the department. An application and a mining permit are required for
18 each separate mining site. The applicant shall distribute copies of the application
19 to the clerk of any city, village, town, or county with zoning jurisdiction over the
20 proposed site, to the clerk of any city, village, town, or county within whose
21 boundaries any portion of the proposed mining site is located, and to the main public
22 library of each city, village, town, or county with zoning jurisdiction over the proposed
23 site or within whose boundaries any portion of the proposed site is located.
24 (b) If a person proposes to conduct mining at a mining site that includes an
25 abandoned mining site, the person shall include plans for reclamation of the

1 abandoned mining site, or the portion of the abandoned mining site that is included
2 in the mining site, in its mining plan and reclamation plan.

3 **(2)** As a part of each application for a mining permit, the applicant shall furnish
4 all of the following:

5 (a) A mining plan under s. 295.48.

6 (b) A reclamation plan under s. 295.49.

7 (c) A mining waste site feasibility study and plan of operation under s. 295.51.

8 (e) The name and address of each owner of land within the mining site and each
9 person known by the applicant to hold any option or lease on land within the mining
10 site.

11 (f) A list of all mining permits in this state held by the applicant.

12 (g) Evidence the applicant has applied or will apply for necessary permits or
13 other permissions under all applicable zoning ordinances and that the applicant has
14 applied or will apply to the department for any approval and has applied or will apply
15 for any other license or permit required under state law.

16 (h) 1. The information specified in subd. 2. concerning the occurrence of any of
17 the following within 10 years before the application is submitted:

18 a. A forfeiture by the applicant, principal shareholder of the applicant, or a
19 related person of a mining reclamation bond that was sufficient to cover all costs of
20 reclamation and was posted in accordance with a permit or other approval for a
21 mining operation in the United States, unless the forfeiture was by agreement with
22 the entity for whose benefit the bond was posted.

23 b. A felony conviction of the applicant, a related person, or an officer or director
24 of the applicant for a violation of a law for the protection of the natural environment
25 arising out of the operation of a mining site in the United States.

1 c. The bankruptcy or dissolution of the applicant or a related person that
2 resulted in the failure to reclaim a mining site in the United States in violation of a
3 state or federal law.

4 d. The permanent revocation of a mining permit or other mining approval
5 issued to the applicant or a related person if the permit or other mining approval was
6 revoked because of a failure to reclaim a mining site in the United States in violation
7 of state or federal law.

8 2. The applicant shall specify the name and address of the person involved in
9 and the date and location of each occurrence described in subd. 1.

10 (i) A description of any land contiguous to the proposed mining site that the
11 applicant owns or leases or has an option to purchase or lease.

12 (j) Any other pertinent information that the applicant believes may be useful
13 to the department.

14 **295.48 Mining plan. (1)** GENERAL. An applicant for a mining permit shall
15 submit as part of the application a mining plan that includes a description of the
16 proposed mining site and either a detailed map drawn to a scale approved by the
17 department or aerial photographs, if the photographs show the details to the
18 satisfaction of the department, prepared and certified by a competent engineer,
19 surveyor, or other person approved by the department that show all of the following:

20 (a) The boundaries of the area of land that will be affected.

21 (b) The drainage area above and below the area that will be affected.

22 (c) The location and names of all streams, roads, railroads, pipelines, and
23 utility lines on or within 1,000 feet of the mining site.

24 (d) The name or names of the owner or owners of the mining site.

1 (e) The name of the city, village, or town in which the mining site is located and
2 the name of any other city, village, or town that is within 3 miles of the mining site.
3 **(2)** DESCRIPTIVE DATA. The applicant shall provide descriptive data to
4 accompany the map or photographs under sub. (1), including all of the following:
5 (a) The federal natural resources conservation service land capabilities
6 classifications of the affected area.
7 (b) The elevation of the water table.
8 (c) Details of the nature, extent, and final configuration of the proposed
9 excavation and mining site, including the total estimated production of tailings,
10 waste rock, and other refuse and the location of their disposal.
11 (d) The nature and depth of the overburden.
12 **(3)** OPERATING PROCEDURES. The applicant shall also include in the mining plan
13 the details of the proposed operating procedures, including descriptions of all of the
14 following:
15 (a) The sequence of mining operations.
16 (b) The handling of overburden materials.
17 (c) The production, handling, and final disposition of tailings.
18 (d) The milling, concentrating, refining, and other processing of ferrous
19 minerals.
20 (e) The storage, loading, and transportation of the final product.
21 (f) Groundwater and surface water management techniques, including
22 provisions for erosion protection and drainage control, and a water management
23 plan showing water sources, flow paths and rates, storage volumes, and release
24 points.

1 (g) Plans for collection, treatment, and discharge of any water resulting from
2 the mining.
3 (h) Plans for protecting air quality under ch. 285.
4 (hm) A plan for monitoring environmental changes at the mining site.
5 (hr) An assessment of the risk of the occurrence of an accidental health or
6 environmental hazard in connection with the operation of the mine. The assessment
7 shall include, with specificity, a description of the assumptions that the applicant
8 used in making the risk assessment and the contingency measures that the applicant
9 proposes to take in the event of that an accidental health or environmental hazard
10 occurs.
11 (i) Measures for notifying the public and responsible governmental agencies of
12 potentially hazardous conditions, including the movement or accumulation of toxic
13 wastes in groundwater and surface water, soils, and vegetation, and other
14 consequences of the operation of importance to public health, safety, and welfare.
15 (j) All surface facilities associated with the mining site and any use of mining
16 waste in reclamation or the construction of any facility or structure.
17 (k) All geological and geotechnical investigations and drilling programs.
18 (L) A plan for completing and submitting a preblasting survey to the
19 department before any blasting is conducted.
20 **(4)** REQUIRED DEMONSTRATIONS. The applicant shall demonstrate in the mining
21 plan that the proposed mining will be consistent with the reclamation plan under s.
22 295.49 and that all of the following will apply, at a minimum:
23 (a) Handling and storage of all materials on the mining site will be done in an
24 environmentally sound manner.

1 (b) Buildings and other structures will be painted and maintained in a manner
2 that is visually compatible with the surrounding vegetational and earth conditions,
3 except that if a building or other structure cannot be painted and maintained in a
4 manner that is visually compatible or if painting and maintaining a building or other
5 structure in a manner that is visually compatible would cause safety concerns, the
6 building or structure will be made as visually inconspicuous as is practicable.

7 (c) Effective means will be taken to limit access to the mining site to minimize
8 exposure of the public to hazards.

9 (d) The use of mine mill chemicals and processing reagent wastes will be
10 governed by all of the following:

11 1. Reagents and mine mill chemicals will not be used in a manner that will
12 result in substantial harm to public safety or health or to the environment.

13 2. Reagents and mine mill chemicals that consist of or contain water soluble
14 salts or metals will be used in accordance with any applicable approval.

15 3. Reagents will not be used or stored at the mining site if they are not included
16 in the mining waste site feasibility study and plan of operation or in the mining plan,
17 except for reagents for laboratory, testing, research, or experimental purposes.

18 (e) Provisions will be made for back–up equipment in the event of the
19 breakdown of critical operation equipment.

20 (f) The design and operation specifications for mining site facilities include
21 features, which may include emergency power supplies, redundant equipment, or
22 temporary holding facilities, to deal with emergency conditions.

23 (g) Mining site facilities are designed to minimize disturbance to surface areas,
24 to the extent practicable.

1 (h) Where practicable, elevation differences in water–based transport systems
2 will be used for gravity flows to minimize pumping facilities and pressures.
3 (i) The following apply:
4 1. Systems for transporting tailings in slurry through pipelines that are not
5 buried are designed to provide for emergency tailings conveyance or storage in case
6 a pipeline breaks, plugs, freezes, or needs repairs and will be accessible for
7 inspection, emergency repair, and maintenance.
8 2. The location of emergency spill containment areas is consistent with the
9 prevention of substantial environmental pollution of surface waters.
10 3. In the event of a power failure, tailings pipelines will be self draining to a
11 tailings area or an emergency spill containment area or standby pumps and pipelines
12 or standby power is provided.
13 4. More than one emergency spill containment area is provided if necessary.
14 (j) If practicable, all liquid effluents from the mining site will be directed to a
15 common point, for treatment if necessary, before discharge to a natural watercourse.
16 (L) If sanitary wastes will be directed to a tailings area they will be
17 appropriately treated.
18 **295.49 Reclamation plan. (1)** An applicant for a mining permit shall submit
19 as part of the application a reclamation plan, designed to minimize adverse effects
20 to the environment to the extent practicable, that includes all of the following:
21 (a) A description of the manner, location, sequence, and timing of reclamation
22 of the mining site, including the mine, mining waste site, and sites for the disposal
23 of wastes that are not mining wastes.
24 (am) Prereclamation and postreclamation drawings.

1 (b) A map showing the specific reclamation proposal for each area of the mining
2 site.
3 (c) A description of ongoing reclamation procedures during mining.
4 (d) A description of proposed interim and final topography and slope
5 stabilization.
6 (e) A description of the proposed final land use and the relationship to
7 surrounding land and land use.
8 (f) Plans for the long–term care of the mining site, that include all of the
9 following:
10 1. Monitoring of the mine; mining waste sites; sites for the disposal of wastes
11 that are not mining wastes; groundwater quality; and surface water quality.
12 2. The names of persons legally and operationally responsible for long–term
13 care.
14 (g) Projected costs of reclamation, including the estimated cost of fulfilling the
15 reclamation plan.
16 **(2)** The applicant shall demonstrate in the reclamation plan that all of the
17 following will apply to the proposed reclamation, at a minimum:
18 (a) All toxic and hazardous wastes will be disposed of in conformance with
19 applicable state and federal laws.
20 (b) At the conclusion of mining activity, each tunnel, shaft, and other
21 underground opening will be sealed in a manner that will prevent seepage of water
22 in amounts that may be expected to create a safety, health, or environmental hazard,
23 unless the applicant demonstrates alternative uses for the tunnel, shaft, or other
24 underground opening that do not endanger public health or safety and that conform
25 to applicable environmental protection and mine safety laws and rules.

1 (c) Grading and stabilization of the excavation, sides, benches, and final slope
2 will conform with state and federal environmental and safety requirements and will
3 prevent erosion and environmental pollution to the extent practicable.
4 (d) Grading and stabilization of the mining waste site and sites for the disposal
5 of wastes that are not mining wastes will conform with state and federal
6 environmental and safety requirements.
7 (e) Merchantable by–products will be stabilized.
8 (f) Diversion and drainage of water from the mining site, including the mining
9 waste site and sites for the disposal of wastes that are not mining wastes, will be
10 adequate to prevent erosion and contamination of surface water and groundwater
11 to the extent practicable.
12 (g) Backfilling with tailings, waste rock, overburden, or borrow materials will
13 be conducted where the backfilling will not interfere with the mining and will not
14 cause an applicable groundwater quality standard to be exceeded.
15 (h) All underground and surface runoff waters from the mining site will be
16 managed, impounded, or treated in compliance with any approval that regulates
17 construction site erosion control or storm water management or discharge.
18 (i) All surface structures constructed as part of the mining activities will be
19 removed unless an alternate use is approved in the reclamation plan.
20 (j) Adequate measures will be taken to prevent significant subsidence, but if
21 subsidence does occur, the affected area will be reclaimed.
22 (k) All recoverable topsoil from surface areas disturbed by the mining will be
23 removed and stored in an environmentally acceptable manner for use in reclamation
24 or in the mitigation or minimization of adverse environmental impacts.

1 (L) All disturbed surface areas will be revegetated as soon as practicable after
2 the disturbance to stabilize slopes and minimize air pollution and water pollution,
3 with the objective of reestablishing a variety of plants and animals indigenous to the
4 area immediately prior to mining to the extent practicable.

5 (m) Plant species not indigenous to the area will be used for revegetation only
6 if necessary to provide rapid stabilization of slopes and prevention of erosion and only
7 with the approval of the department, but the objective under par. (L) will be
8 maintained.

9 **(3)** If it is physically or economically impracticable or environmentally or
10 socially undesirable for the reclamation process to return the area affected by mining
11 to its original state, the applicant shall provide, in the reclamation plan, the reasons
12 it would be impracticable or undesirable and a discussion of alternative conditions
13 and uses to which the affected area can be put.

14 **295.51 Mining waste site location criteria; feasibility study, and plan**
15 **of operation. (1)** DEFINITIONS. In this section:

16 (a) "Groundwater flow net" means a drawing showing equipotential contour
17 lines and the direction that groundwater will flow.

18 (c) "Regional" means relating to the area that may affect or be affected by a
19 proposed mining waste site, which ordinarily will not exceed the area within a radius
20 of 5 miles of the mining waste site.

21 (e) "Water budget" means an assessment of water inputs, outputs, and net
22 changes to a natural system or engineered facility over a fixed period.

23 (f) "Well nest" means 2 or more wells constructed to different depths and
24 installed within 10 feet of each other at the ground surface.

1 **(1e)** HAZARDOUS MINING WASTE. (a) Prior to the informational hearing under s.
2 295.57 (5) the department shall designate any mining wastes identified by the
3 department as hazardous under s. 291.05 (1).
4 (b) The disposal of any mining wastes that are identified by the department as
5 hazardous under s. 291.05 (1) in a mining waste site is subject to this subchapter, and
6 not to chs. NR 660 to 669, Wis. Adm. Code, except as necessary to comply with
7 applicable federal regulations adopted under the federal Resource Conservation and
8 Recovery Act, 42 USC 6901 to 6991m.
9 **(1m)** LOCATION CRITERIA. (a) Except as provided in par. (b), no person may locate
10 or operate a mining waste site, excluding the portion of a mining site from which
11 ferrous minerals are extracted and that is backfilled with mining waste, within 1,000
12 feet of any of the following:
13 1. The nearest edge of the right–of–way of any state trunk highway, as defined
14 in s. 340.01 (60).
15 2. The boundary of any state or national park.
16 3. The boundary of a scenic easement purchased by the department or the
17 department of transportation.
18 4. The boundary of a designated scenic or wild river.
19 5. A scenic overlook designated by the department by rule.
20 6. A hiking or biking trail designated by the department or the U.S. Congress.
21 (b) The prohibition in par. (a) does not apply if, regardless of season, the
22 proposed mining waste site is visually inconspicuous due to screening or being
23 visually absorbed due to natural objects, compatible natural plantings, earth berm,
24 or other appropriate means; or if, regardless of season, the proposed mining waste
25 site is screened so as to be as aesthetically pleasing and inconspicuous as is feasible.

1 (be) Except as provided in par. (bn), no person may locate or operate a mining
2 waste site, excluding the portion of a mining site from which ferrous minerals are
3 extracted and that is backfilled with mining waste, within 1,000 feet of a navigable
4 water that is a lake, pond, or flowage.

5 (bg) Except as provided in par. (bn), no person may locate or operate a mining
6 waste site, excluding the portion of a mining site from which ferrous minerals are
7 extracted and that is backfilled with mining waste, within 300 feet of a navigable
8 water that is a river or stream.

9 (bn) The prohibitions in pars. (be) and (bg) do not apply to an activity that is
10 associated with a mining waste site and that is approved by the department under
11 s. 295.60, 295.605, or 295.61.

12 (bq) No person may locate or operate a mining waste site, excluding the portion
13 of a mining site from which ferrous minerals are extracted and that is backfilled with
14 mining waste, within a floodplain.

15 (bt) No person may locate or operate a mining waste site, excluding the portion
16 of a mining site from which ferrous minerals are extracted and that is backfilled with
17 mining waste, in an area within the property owned by the mining operator and on
18 which the mining site is located if the area is closer than 200 feet to the outer
19 boundary of that property.

20 (c) No person may locate or operate a mining waste site, excluding the portion
21 of a mining site from which ferrous minerals are extracted and that is backfilled with
22 mining waste, within 1,200 feet of any public or private water supply well that
23 provides water for human consumption.

24 (d) No person may locate or operate a mining waste site, excluding the portion
25 of a mining site from which ferrous minerals are extracted and that is backfilled with