

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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This is a preliminary draft of the substitute amendment to the iron mining bill.

Joe Kreye drafted the proposed tax changes. My approach to the rest of the draft was to change the procedures for issuing DNR approvals for iron mines to be consistent with the Minnesota procedures, to the extent possible, with the addition of a notice of intent requirement. The draft makes no changes to environmental standards.

One of the main changes that this draft makes to current law, is providing that the necessary DNR approvals other than the mining permit are processed separately from the mining permit, using the procedures used for any nonmining activity. As part of this change, this draft provides that there is not a master hearing for iron mines. The ordinary administrative process under ch. 227, including the opportunity for contested case hearing on each approval, will thus apply, as it does in Minnesota.

Another major change is creating an environmental impact statement (EIS) process for proposed iron mining. This is modeled on, but not identical to, the Minnesota process. It was necessary to make some changes because of differences in state governmental structure and preexisting laws and I simplified some aspects of the process a bit (I think). I have tried, though, to maintain the Minnesota timeline.

Minnesota law provides a 120-day deadline for acting on a mining permit application. It also (in the EIS law) prohibits an agency from acting on an application for any kind of permit before the EIS process is complete, and generally requires an agency to act on an application within 90 days after the EIS process is complete. I am not certain how these deadlines are interpreted. Currently, this draft gives the deadlines relating to the EIS process priority over the 120-day time limit for acting on a ferrous mining permit application. It also appears to me that Minnesota law includes a determination of the completeness of a mining permit application and delays the deadline for acting on the mining permit application if the application is not complete. I have not yet determined whether there is a time limit for the Minnesota DNR to make the completeness determination. This draft contains a completeness determination with no time limit.

Please note that the draft makes no changes related to prospecting permits, so the current process applies. One option to make the law more similar to Minnesota law would be to exempt iron ore prospecting from the permitting requirement under ch. 293.

This draft should be reviewed carefully. I will try to do that and ask Anna Henning and Larry Konopacki to try to do so as well.

Please contact me with any questions or redraft instructions.

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