



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0379/P# 2

RCT/MGG/RK/JK:kf/nn/cs:jm

Now

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT,
TO 2011 SENATE BILL 488

Please regenerate

1 **AN ACT** ¹¹ *to repeal* 107.001 (2) and 293.01 (8); *to renumber and amend* 30.123
2 (8) (c) and 87.30 (2); *to amend* 20.370 (2) (gh), 20.455 (1) (gh), 20.566 ~~(7)~~ (e),
3 20.566 (7) (v), 25.46 (7), 29.604 (4) (intro.), 29.604 (4) (c) (intro.), 30.025 (1e) (a),
4 30.025 (1m) (intro.), 30.025 (1m) (c), 30.025 (1s) (a), 30.025 (2), 30.025 (2g) (b)
5 (intro.), 30.025 (4), 30.12 (3m) (c) (intro.), 30.133 (2), 30.19 (4) (c) (intro.), 30.195
6 (2) (c) (intro.), 70.375 (1) (as), 70.375 (1) (bm), 70.38 (2), 70.395 (1e), 70.395 (2)
7 (dc) 1., 70.395 (2) (dc) 4., 70.395 (2) (fm), 70.395 (2) (h) 1., 70.395 (2) (hg), 70.395
8 (2) (hr), 70.395 (2) (hw), 107.001 (1), 107.01 (intro.), 107.01 (2), 107.02, 107.03,
9 107.04, 107.11, 107.12, 107.20 (1), 107.20 (2), 107.30 (8), 107.30 (15), 107.30
10 (16), 160.19 (12), 196.491 (3) (a) 3. b., 196.491 (4) (b) 2., 281.65 (2) (a), 281.75
11 (17) (b), 287.13 (5) (e), 289.35, 289.62 (2) (g) 2. and 6., 292.01 (1m), chapter 293
12 (title), 293.01 (5), 293.01 (7), 293.01 (9), 293.01 (12), 293.01 (18), 293.01 (25),

1 293.21 (1) (a), 293.25 (2) (a), 293.25 (4), 293.37 (4) (b), 293.47 (1) (b), 293.50 (1)
 2 (b), 293.50 (2) (intro.), 293.50 (2) (a), 293.50 (2) (b), 293.51 (1), 293.65 (3) (a),
 3 293.65 (3) (b), 293.86, chapter 295 (title), 295.16 (4) (f), 299.85 (7) (a) 2. and 4.,
 4 299.95, 323.60 (5) (d) 3. and 710.02 (2) (d); and **to create** 20.370 (2) (gi), 29.604
 5 (7m), 30.025 (1e) (c), 30.025 (4m), 31.23 (3) (e), 87.30 (2) (b), 196.491 (3) (a) 3.
 6 c., 293.01 (12m), subchapter III of chapter 295 [precedes 295.40] and 323.60 (1)
 7 (gm) of the statutes; **relating to:** regulation of ferrous metallic mining and
 8 related activities, procedures for obtaining approvals from the Department of
 9 Natural Resources for the construction of utility facilities, making an
 10 appropriation, and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

11 **SECTION 1.** 20.370 (2) (gh) of the statutes is amended to read:

12 20.370 (2) (gh) *Mining— Nonferrous metallic mining regulation and*
 13 *administration.* The amounts in the schedule for the administration, regulation and
 14 enforcement of nonferrous metallic mining exploration, prospecting, mining and
 15 mine reclamation activities under ch. 293. All moneys received under ch. 293 shall
 16 be credited to this appropriation.

17 **SECTION 2.** 20.370 (2) (gi) of the statutes is created to read:

18 20.370 (2) (gi) *Ferrous metallic mining operations.* All moneys received under
 19 subch. III of ch. 295 for the department of natural resource's operations related to
 20 ferrous metallic exploration and mining.

21 **SECTION 3.** 20.455 (1) (gh) of the statutes is amended to read:

22 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22
 23 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3),

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1 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the
2 expenses of investigation and prosecution of violations, including attorney fees.

3 **SECTION 4.** 20.566 (7) (e) of the statutes is amended to read:

4 20.566 (7) (e) *Investment and local impact fund supplement.* The amounts in
5 the schedule to supplement par. (v) for the purposes of ss. 70.395, 293.33 (4) ~~and~~,
6 293.65 (5) (a), 295.443, and 295.61 (9) (a).

7 **SECTION 5.** 20.566 (7) (v) of the statutes is amended to read:

8 20.566 (7) (v) *Investment and local impact fund.* From the investment and local
9 impact fund, all moneys received under s. 70.395 (1e) and (2) (dc) and (dg), less the
10 moneys appropriated under s. 20.370 (2) (gr), to be disbursed under ss. 70.395 (2) (d)
11 to (g), 293.33 (4) ~~and~~, 293.65 (5) (a), 295.443, and 295.61 (9) (a).

12 **SECTION 6.** 25.46 (7) of the statutes is amended to read:

13 25.46 (7) The fees imposed under s. 289.67 (1) for environmental management,
14 except that ~~for each ton of waste, of the fees imposed under s. 289.67 (1) (cp) or (cv),~~
15 \$3.20 for each ton of waste is for nonpoint source water pollution abatement.

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SECTION 7. 29.604 (4) (intro.) of the statutes is amended to read:

17 29.604 (4) PROHIBITION. (intro.) Except as provided in sub. (6r) and (7m) or as
18 permitted by departmental rule or permit:

19 **SECTION 8.** 29.604 (4) (c) (intro.) of the statutes is amended to read:

20 29.604 (4) (c) (intro.) No person may do any of the following to any wild plant
21 of an endangered or threatened species that is on public property or on property that
22 he or she does not own or lease, except in the course of forestry or agricultural
23 practices ~~or~~, in the construction, operation, or maintenance of a utility facility, or as
24 part of bulk sampling activities under s. 295.45:

25 **SECTION 9.** 29.604 (7m) of the statutes is created to read:

1 29.604 (7m) BULK SAMPLING ACTIVITIES. A person may take, transport, or
2 possess a wild animal on the department's endangered and threatened species list
3 without a permit under this section if the person avoids and minimizes adverse
4 impacts to the wild animal to the extent practicable, if the taking, transporting, or
5 possession does not result in wounding or killing the wild animal, and if the person
6 takes, transports, or possesses the wild animal for the purpose of bulk sampling
7 activities under s. 295.45.

8 **SECTION 10.** 30.025 (1e) (a) of the statutes is amended to read:

9 30.025 (1e) (a) Except as provided in ~~par.~~ pars. (b) and (c), this section applies
10 to a proposal to construct a utility facility if the utility facility is required to obtain,
11 or give notification of the wish to proceed under, one or more permits.

12 **SECTION 11.** 30.025 (1e) (c) of the statutes is created to read:

13 30.025 (1e) (c) This section does not apply to a proposal to construct a utility
14 facility for ferrous mineral mining and processing activities governed by subch. III
15 of ch. 295, unless the person proposing to construct the utility facility elects to
16 proceed in the manner provided under this section.

17 **SECTION 12.** 30.025 (1m) (intro.) of the statutes is amended to read:

18 30.025 (1m) PREAPPLICATION PROCESS. (intro.) Before filing ~~an~~ a combined
19 application under this section for permits under sub. (1s) with the department in lieu
20 of separate applications, a person proposing to construct a utility facility shall notify
21 the department of the intention to file ~~an~~ a combined application under sub. (1s).
22 After receiving such notice, the department shall confer with the person, in
23 cooperation with the commission, to make a preliminary assessment of the project's
24 scope, to make an analysis of alternatives, to identify potential interested persons,
25 and to ensure that the person making the proposal is aware of all of the following:

1 **SECTION 13.** 30.025 (1m) (c) of the statutes is amended to read:

2 30.025 (1m) (c) The timing of information submissions that the person will be
3 required to provide in order to enable the department to participate in commission
4 review procedures and to process the combined application for permits in a timely
5 manner.

6 **SECTION 14.** 30.025 (1s) (a) of the statutes is amended to read:

7 30.025 (1s) (a) Any person proposing to construct a utility facility to which this
8 section applies shall, in lieu of separate application for permits, submit one combined
9 application for permits together with any additional information required by the
10 department. The combined application for permits shall be filed with the
11 department at the same time that an application for a certificate is filed with the
12 commission under s. 196.49 or in a manner consistent with s. 196.491 (3) and shall
13 include the detailed information that the department requires to determine whether
14 an a combined application for permits is complete and to carry out its obligations
15 under sub. (4). The department may require supplemental information to be
16 furnished thereafter.

17 **SECTION 15.** 30.025 (2) of the statutes is amended to read:

18 30.025 (2) HEARING. Once the applicant meets the requirements of sub. (1s) (a),
19 the department may schedule the matter for a public hearing. Notice of the hearing
20 shall be given to the applicant and shall be published as a class 1 notice under ch.
21 985. The department may give such further notice as it deems proper, and shall give
22 notice to persons requesting same. One copy of the combined application for permits
23 shall be available for public inspection at the office of the department, at least one
24 copy in the regional office of the department, and at least one copy at the main public
25 library, of the area affected. Notwithstanding s. 227.42, the hearing shall be an

1 informational hearing and may not be treated as a contested case hearing nor
2 converted to a contested case hearing.

3 **SECTION 16.** 30.025 (2g) (b) (intro.) of the statutes is amended to read:

4 30.025 (2g) (b) (intro.) The department shall participate in commission
5 investigations or proceedings under s. 196.49 or 196.491 (3) with regard to any
6 proposed utility facility ~~that is subject to this section~~ for which a combined
7 application for permits is filed under sub. (1s). In order to ensure that the
8 commission's decision is consistent with the department's responsibilities, the
9 department shall provide the commission with information that is relevant to only
10 the following:

11 **SECTION 17.** 30.025 (4) of the statutes is amended to read:

12 30.025 (4) PERMIT CONDITIONS. The permit may be issued, or the authority to
13 proceed under a permit may be granted, upon stated conditions deemed necessary
14 to assure compliance with the criteria designated under sub. (3). The department
15 shall grant or deny the combined application for ~~a permit~~ permits for the utility
16 facility within 30 days of the date on which the commission issues its decision under
17 s. 196.49 or 196.491 (3).

18 **SECTION 18.** 30.025 (4m) of the statutes is created to read:

19 30.025 (4m) PROCEDURE FOR A SINGLE PERMIT APPLICATION. (a) A person
20 proposing to construct a utility facility that is related to mining, as defined in s.
21 295.41 (26), and for which not more than one permit is required, may submit an
22 application for that single permit with the department in the same manner as a
23 combined application for permits may be submitted under sub. (1s). If the applicant
24 elects to submit the application in the same manner as a combined application for

1 permits, the procedures under this section that apply to a combined application for
2 permits shall apply to that application for a single permit.

3 **SECTION 19.** 30.12 (3m) (c) (intro.) of the statutes is amended to read:

4 30.12 (3m) (c) (intro.) The department shall issue an individual permit to a
5 riparian owner for a structure or a deposit pursuant to an application under par. (a)
6 if the department finds that all of the following apply requirements are met:

7 **SECTION 20.** 30.123 (8) (c) of the statutes is renumbered 30.123 (8) (c) (intro.)
8 and amended to read:

9 30.123 (8) (c) (intro.) The department shall issue an individual permit
10 pursuant to an application under par. (a) if the department finds that the all of the
11 following requirements are met:

12 1. The bridge or culvert will not materially obstruct navigation,

13 2. The bridge or culvert will not materially reduce the effective flood flow
14 capacity of a stream, and,

15 3. The bridge or culvert will not be detrimental to the public interest.

16 **SECTION 21.** 30.133 (2) of the statutes is amended to read:

17 30.133 (2) This section does not apply to riparian land located within the
18 boundary of any hydroelectric project licensed or exempted by the federal
19 government, if the conveyance is authorized under any license, rule or order issued
20 by the federal agency having jurisdiction over the project. This section does not apply
21 to riparian land that is associated with an approval required for bulk sampling or
22 mining that is required under subch. III of ch. 295.

23 **SECTION 22.** 30.19 (4) (c) (intro.) of the statutes is amended to read:

1 30.19 (4) (c) (intro.) The department shall issue an individual permit pursuant
2 to an application under par. (a) if the department finds that all of the following **apply**
3 requirements are met:

4 **SECTION 23.** 30.195 (2) (c) (intro.) of the statutes is amended to read:

5 30.195 (2) (c) (intro.) The department shall issue an individual permit applied
6 for under this section to a riparian owner if the department determines that all of the
7 following **apply requirements are met:**

8 **SECTION 24.** 31.23 (3) (e) of the statutes is created to read:

9 31.23 (3) (e) This subsection does not apply to a bridge that is constructed,
10 maintained, or operated in association with mining or bulk sampling that is subject
11 to subch. III of ch. 295.

12 **SECTION 25.** 70.375 (1) (as) of the statutes is amended to read:

13 70.375 (1) (as) "Mine" means an excavation in or at the earth's surface made
14 to extract metalliferous minerals for which a permit has been issued under s. 293.49
15 or 295.58.

16 **SECTION 26.** 70.375 (1) (bm) of the statutes is amended to read:

17 70.375 (1) (bm) "Mining-related purposes" means activities which are directly
18 in response to the application for a mining permit under s. 293.37 or 295.47; directly
19 in response to construction, operation, curtailment of operation or cessation of
20 operation of a metalliferous mine site; or directly in response to conditions at a
21 metalliferous mine site which is not in operation. "Mining-related purposes" also
22 includes activities which anticipate the economic and social consequences of the
23 cessation of mining. "Mining-related purposes" also includes the purposes under s.
24 70.395 (2) (g).

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SECTION 27. 70.38 (2) of the statutes is amended to read:

1 70.38 (2) COMBINED REPORTING. If the same person extracts metalliferous
2 minerals from different sites in this state, the net proceeds for each site for which a
3 permit has been issued under s. 293.49 or 295.58 shall be reported separately for the
4 purposes of computing the amount of the tax under s. 70.375 (5).

Insert JK-1

5 SECTION 28. 70.395 (1e) of the statutes is amended to read:

6 70.395 (1e) DISTRIBUTION. Fifteen days after the collection of the tax under ss.
7 70.38 to 70.39, the department of administration, upon certification of the
8 department of revenue, shall transfer the amount collected in respect to mines not
9 in operation on November 28, 1981, to the investment and local impact fund, except
10 that the department of administration shall transfer 60 percent of the amount
11 collected from each person extracting ferrous metallic minerals to the investment
12 and local impact fund and the department of revenue shall deposit 40 percent of the
13 amount collected from any such person into the general fund.

Insert JK-2

14 SECTION 29. 70.395 (2) (dc) 1. of the statutes is amended to read:

15 70.395 (2) (dc) 1. Each person intending to submit an application for a mining
16 permit under s. 293.49 or 295.47 shall pay ~~\$50,000~~ ^{\$75,000} to the department of revenue for
17 deposit in the investment and local impact fund at the time that the person notifies
18 the department of natural resources under s. 293.31 (1) or 295.465 of that intent.

Insert JK-3

19 SECTION 30. 70.395 (2) (dc) 4. of the statutes is amended to read:

20 70.395 (2) (dc) 4. Six months after the signing of a local agreement under s.
21 293.41 or 295.443 for the proposed mine for which the payment is made, the board
22 shall refund any funds paid under this paragraph but not distributed under par. (fm)
23 from the investment and local impact fund to the person making the payment under
24 this paragraph.

25 SECTION 31. 70.395 (2) (fm) of the statutes is amended to read:

Insert JK-4

1 70.395 (2) (fm) The board may distribute a payment received under par. (dc)
2 to a county, town, village, city, tribal government or local impact committee
3 authorized under s. 293.41 (3) or 295.443 only for legal counsel, qualified technical
4 experts in the areas of transportation, utilities, economic and social impacts,
5 environmental impacts and municipal services and other reasonable and necessary
6 expenses incurred by the recipient that directly relate to the good faith negotiation
7 of a local agreement under s. 293.41 or 295.443 for the proposed mine for which the
8 payment is made.

9 **SECTION 32.** 70.395 (2) (h) 1. of the statutes is amended to read:

10 70.395 (2) (h) 1. Distribution shall first be made to those municipalities in
11 which metalliferous minerals are extracted or were extracted within 3 years
12 previous to December 31 of the current year, or in which a permit has been issued
13 under s. 293.49 or 295.58 to commence mining;

14 **SECTION 33.** 70.395 (2) (hg) of the statutes is amended to read:

15 70.395 (2) (hg) The board shall, by rule, establish fiscal guidelines and
16 accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub.
17 (3) and ~~s. ss.~~ 293.65 (5) and 295.61 (9).

18 **SECTION 34.** 70.395 (2) (hr) of the statutes is amended to read:

19 70.395 (2) (hr) The board shall, by rule, establish procedures to recoup
20 payments made, and to withhold payments to be made, under pars. (d), (f), (fm) and
21 (g), sub. (3) and ~~s. ss.~~ 293.65 (5) and 295.61 (9) for noncompliance with this section
22 or rules adopted under this section.

23 **SECTION 35.** 70.395 (2) (hw) of the statutes is amended to read:

24 70.395 (2) (hw) A recipient of a discretionary payment under par. (f) or (g), sub.
25 (3) or ~~s. ss.~~ 293.65 (5) and 295.61 (9) or any payment under par. (d) that is restricted

1 to mining-related purposes who uses the payment for attorney fees may do so only
2 for the purposes under par. (g) 6. and for processing mining-related permits or other
3 approvals required by the municipality. The board shall recoup or withhold
4 payments that are used or proposed to be used by the recipient for attorney fees
5 except as authorized under this paragraph. The board may not limit the hourly rate
6 of attorney fees for which the recipient uses the payment to a level below the hourly
7 rate that is commonly charged for similar services.

8 **SECTION 36.** 87.30 (2) of the statutes is renumbered 87.30 (2) (a) and amended
9 to read:

10 87.30 (2) (a) ~~Every~~ Except as provided in par. (b), every structure, building, fill,
11 or development placed or maintained within any floodplain in violation of a zoning
12 ordinance adopted under this section, or s. 59.69, 61.35 or 62.23 is a public nuisance
13 and the creation thereof may be enjoined and maintenance thereof may be abated by
14 action at suit of any municipality, the state or any citizen thereof. Any person who
15 places or maintains any structure, building, fill or development within any
16 floodplain in violation of a zoning ordinance adopted under this section, or s. 59.69,
17 61.35 or 62.23 may be fined not more than \$50 for each offense. Each day during
18 which such violation exists is a separate offense.

19 **SECTION 37.** 87.30 (2) (b) of the statutes is created to read:

20 87.30 (2) (b) Paragraph (a) does not apply to a structure, building, fill, or
21 development placed or maintained as part of a mining operation covered by a mining
22 permit under s. 295.58 except ~~as provided under s. 295.607 (3) (b)~~

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23 **SECTION 38.** 107.001 (1) of the statutes is amended to read:

24 107.001 (1) "Exploration mining lease" means any lease, option to lease, option
25 to purchase or similar conveyance entered into for the purpose of determining the

1 presence, location, quality or quantity of ~~metalliferous~~ nonferrous metallic minerals
2 or for the purpose of mining, developing or extracting ~~metalliferous~~ nonferrous
3 metallic minerals, or both under ch. 293. Any lease, option to lease, option to
4 purchase or similar conveyance entered into by a mining company is rebuttably
5 presumed to be an exploration mining lease.

6 **SECTION 39.** 107.001 (2) of the statutes is repealed.

7 **SECTION 40.** 107.01 (intro.) of the statutes is amended to read:

8 **107.01 Rules governing mining rights.** (intro.) Where there is no contract
9 between the parties or terms established by the landlord to the contrary the following
10 rules and regulations shall be applied to mining contracts and leases for the digging
11 of ~~ores and~~ nonferrous metallic minerals:

12 **SECTION 41.** 107.01 (2) of the statutes is amended to read:

13 107.01 (2) The discovery of a crevice or range containing ~~ores or minerals~~
14 nonferrous metallic minerals shall entitle the discoverer to the ores or minerals
15 pertaining thereto, subject to the rent due the discoverer's landlord, before as well
16 as after the ~~ores or minerals~~ nonferrous metallic minerals are separated from the
17 freehold; but such miner shall not be entitled to recover any ~~ores or minerals~~
18 nonferrous metallic minerals or the value thereof from the person digging on the
19 miner's range in good faith and known to be mining thereon until the miner shall
20 have given notice of the miner's claim; and the miner shall be entitled to the ~~ores or~~
21 ~~minerals~~ nonferrous metallic minerals dug after such notice.

22 **SECTION 42.** 107.02 of the statutes is amended to read:

23 **107.02 Mining statement; penalty.** When there is no agreement between the
24 parties to any mining lease, license or permit, to mine or remove ore nonferrous
25 metallic minerals from any lands in this state, regulating the method of reporting

1 the amount of ~~ore~~ nonferrous metallic minerals taken, the person mining and
2 removing the ~~ore or ores~~ nonferrous metallic minerals shall keep proper and correct
3 books, and therefrom to make and deliver by or before the fifteenth day of each month
4 to the lessor, owner or person entitled thereto, a detailed statement covering the
5 operations of the preceding month. The statement shall show the total amount of
6 tons or pounds of each kind of ~~ore~~ nonferrous metallic minerals produced; if sold, then
7 to whom sold, giving the date of sale, date of delivery to any railroad company,
8 naming the company, and the station where delivered or billed for shipment; the
9 name and address of the purchaser; the price per ton at which sold and the total value
10 of each kind of ~~ore~~ nonferrous metallic minerals so sold. The books shall be always
11 open to any owner, lessor, licensor or stockholder, if the owner, lessor or licensor is
12 a corporation, and to any person or stockholder interested in any such mining
13 operations, for the purpose of inspection and taking copies thereof or abstracts
14 therefrom. Any person and every officer, agent or employee of any thereof, who
15 violates this section, or who makes any false or incomplete entries on any such books
16 or statements, shall be fined not less than \$100 or imprisoned in the county jail for
17 not more than 3 months or both.

18 **SECTION 43.** 107.03 of the statutes is amended to read:

19 **107.03 Conflicting claims.** In case of conflicting claims to a crevice or range
20 bearing ~~ores or~~ nonferrous metallic minerals the court may continue any action to
21 enforce a claim or grant any necessary time for the purpose of allowing parties to
22 prove up their mines or diggings if it satisfactorily appears necessary to the ends of
23 justice. In such case the court or judge may appoint a receiver and provide that the
24 mines or diggings be worked under the receiver's direction, subject to the order of the
25 court, in such manner as best ascertains the respective rights of the parties. The ~~ores~~

1 ~~or~~ nonferrous metallic minerals raised by either party pending the dispute shall be
2 delivered to the receiver, who may, by order of the court or judge, pay any rent or other
3 necessary expenses therefrom.

4 **SECTION 44.** 107.04 of the statutes is amended to read:

5 **107.04 Lessee's fraud; failure to work mine.** Any miner who conceals or
6 disposes of any ~~ores or~~ nonferrous metallic minerals or mines or diggings for the
7 purpose of defrauding the lessor of rent or who neglects to pay any rent on ~~ores or~~
8 nonferrous metallic minerals raised by the miner for 3 days after the notice thereof
9 and claim of the rent, shall forfeit all right to his or her mines, diggings or range; and
10 the landlord after the concealment or after 3 days have expired from the time of
11 demanding rent, may proceed against the miner to recover possession of the mines
12 or diggings in circuit court as in the case of a tenant holding over after the
13 termination of the lease. If a miner neglects to work his or her mines or diggings
14 according to the usages of miners, without reasonable excuse, he or she shall likewise
15 forfeit the mines or diggings and the landlord may proceed against the miner in like
16 manner to recover possession of the mines or diggings.

17 **SECTION 45.** 107.11 of the statutes is amended to read:

18 **107.11 Account of ~~ore~~ nonferrous metallic minerals received.** Every
19 person operating a metal recovery system and every purchaser of ~~ores and~~
20 nonferrous metallic minerals shall keep a substantially bound book, ruled into
21 suitable columns, in which shall be entered from day to day, as ~~ores or~~ nonferrous
22 metallic minerals are received, the following items: the day, month and year when
23 received; the name of the person from whom purchased; the name of the person by
24 whom hauled and delivered; name of the owner of the land from which the ~~ores or~~
25 nonferrous metallic minerals were obtained, or if not known, the name of the

1 diggings or some distinct description of the land. The bound book shall be kept at the
2 furnace or at the usual place of business of such person or purchaser or his or her
3 agent in this state, and shall be open to authorized representatives of the department
4 of revenue at reasonable times for inspection and taking extracts.

5 **SECTION 46.** 107.12 of the statutes is amended to read:

6 **107.12 Penalty.** If any person operating a metal recovery system or purchaser
7 of ~~ores and~~ nonferrous metallic minerals or the agent of any such person or purchaser
8 doing business fails to keep such a book or to make such entries as required under
9 s. 107.11 or unreasonably refuses to show the book for inspection or taking extracts
10 or makes false entries in the book he or she shall forfeit \$10 for each offense, one-half
11 to the use of the prosecutor; and each day such failure or refusal continues shall be
12 deemed a distinct and separate offense.

13 **SECTION 47.** 107.20 (1) of the statutes is amended to read:

14 107.20 (1) Any provision of an exploration mining lease entered into after April
15 25, 1978, granting an option or right to determine the presence, location, quality or
16 quantity of ~~metalliferous~~ nonferrous metallic minerals shall be limited to a term not
17 exceeding 10 years from the date on which the exploration mining lease is recorded
18 in the office of the register of deeds of the county where the property is located, except
19 that any provision of an exploration mining lease entered into after April 25, 1978,
20 granting an option or right to determine the quality and quantity of ~~metalliferous~~
21 nonferrous metallic minerals under a prospecting permit shall be limited to a term
22 not exceeding 10 years from the date that the lessee applies for a prospecting permit
23 under s. 293.35, if the lessee applies for the prospecting permit within 10 years from
24 the date on which the exploration mining lease is recorded in the office of the register
25 of deeds of the county where the property is located.

1 **SECTION 48.** 107.20 (2) of the statutes is amended to read:

2 107.20 (2) Any provision of an exploration mining lease entered into after April
3 25, 1978, granting an option or right to develop or extract ~~metalliferous~~ nonferrous
4 metallic minerals shall be limited to a term not exceeding 50 years from the date on
5 which the exploration mining lease is recorded in the office of the register of deeds
6 of the county where the property is located.

7 **SECTION 49.** 107.30 (8) of the statutes is amended to read:

8 107.30 (8) "Mining" or "mining operation" ~~has the meaning set forth in s. 293.01~~
9 ~~(9)~~ means all or part of the process involved in the mining of metallic minerals, other
10 than for exploration or prospecting, including commercial extraction,
11 agglomeration, beneficiation, construction of roads, removal of overburden, and the
12 production of refuse.

13 **SECTION 50.** 107.30 (15) of the statutes is amended to read:

14 107.30 (15) "Prospecting" ~~has the meaning set forth in s. 293.01 (18)~~ means
15 engaging in the examination of an area for the purpose of determining the quality
16 and quantity of minerals, other than for exploration but including the obtaining of
17 an ore sample, by such physical means as excavating, trenching, construction of
18 shafts, ramps, and tunnels and other means, other than for exploration, which the
19 department of natural resources, by rule, identifies, and the production of
20 prospecting refuse and other associated activities. "Prospecting" does not include
21 such activities when the activities are, by themselves, intended for and capable of
22 commercial exploitation of the underlying ore body. The fact that prospecting
23 activities and construction may have use ultimately in mining, if approved, does not
24 mean that prospecting activities and construction constitute mining within the

1 meaning of sub. (8), provided such activities and construction are reasonably related
2 to prospecting requirements.

3 **SECTION 51.** 107.30 (16) of the statutes is amended to read:

4 107.30 (16) "Prospecting site" ~~has the meaning set forth in s. 293.01 (21)~~ means
5 the lands on which prospecting is actually conducted as well as those lands on which
6 physical disturbance will occur as a result of such activity.

7 **SECTION 52.** 160.19 (12) of the statutes is amended to read:

8 160.19 (12) The requirements in this section shall not apply to rules governing
9 an activity regulated under ch. 293 or subch. III of ch. 295, or to a solid waste facility
10 regulated under subch. III of ch. 289 which is part of an activity regulated under ch.
11 293 or subch. III of ch. 295, except that the department may promulgate new rules
12 or amend rules governing this type of activity, practice or facility if the department
13 determines that the amendment or promulgation of rules is necessary to protect
14 public health, safety or welfare.

15 **SECTION 53.** 196.491 (3) (a) 3. b. of the statutes is amended to read:

16 196.491 (3) (a) 3. b. ~~Within~~ Except as provided under subd. 3. c., within 20
17 days after the department provides a listing specified in subd. 3. a. to a person, the
18 person shall apply for the permits and approvals identified in the listing. The
19 department shall determine whether an application under this subd. 3. b. is complete
20 and, no later than 30 days after the application is filed, notify the applicant about
21 the determination. If the department determines that the application is incomplete,
22 the notice shall state the reason for the determination. An applicant may
23 supplement and refile an application that the department has determined to be
24 incomplete. There is no limit on the number of times that an applicant may refile
25 an application under this subd. 3. b. If the department fails to determine whether

1 an application is complete within 30 days after the application is filed, the
2 application shall be considered to be complete. The department shall complete action
3 on an application under this subd. 3. b. for any permit or approval that is required
4 prior to construction of a facility within 120 days after the date on which the
5 application is determined or considered to be complete.

6 SECTION 54. 196.491 (3) (a) 3. c. of the statutes is created to read:

7 196.491 (3) (a) 3. c. The 20-day deadline specified in subd. 3. b. for applying
8 for the applicable permits and approvals specified in the listing provided by the
9 department does not apply to a person proposing to construct a utility facility for
10 ferrous mineral mining and processing activities governed by subch. III of ch. 295.

11 SECTION 55. 196.491 (4) (b) 2. of the statutes is amended to read:

12 196.491 (4) (b) 2. The person shows to the satisfaction of the commission that
13 the person reasonably anticipates, at the time that construction of the equipment or
14 facilities commences, that on each day that the equipment and facilities are in
15 operation the person will consume no less than 70% of the aggregate kilowatt hours
16 output from the equipment and facilities in manufacturing processes at the site
17 where the equipment and facilities are located or in ferrous mineral mining and
18 processing activities governed by subch. III of ch. 295 at the site where the equipment
19 and facilities are located.

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20 SECTION 56. 281.65 (2) (a) of the statutes is amended to read:

21 281.65 (2) (a) "Best management practices" means practices, techniques or
22 measures, except for dredging, identified in areawide water quality management
23 plans, which are determined to be effective means of preventing or reducing
24 pollutants generated from nonpoint sources, or from the sediments of inland lakes
25 polluted by nonpoint sources, to a level compatible with water quality objectives

1 established under this section and which do not have an adverse impact on fish and
2 wildlife habitat. The practices, techniques or measures include land acquisition,
3 storm sewer rerouting and the removal of structures necessary to install structural
4 urban best management practices, facilities for the handling and treatment of
5 milkhouse wastewater, repair of fences built using grants under this section and
6 measures to prevent or reduce pollutants generated from mine tailings disposal sites
7 for which the department has not approved a plan of operation under s. 289.30 or s.
8 295.51.

9 **SECTION 57.** 281.75 (17) (b) of the statutes is amended to read:

10 281.75 (17) (b) This section does not apply to contamination which is
11 compensable under subch. II of ch. 107 or s. 293.65 (4) or 295.61 (8).

12 **SECTION 58.** 287.13 (5) (e) of the statutes is amended to read:

13 287.13 (5) (e) Solid waste produced by a commercial business or industry which
14 is disposed of or held for disposal in an approved facility, as defined under s. 289.01
15 (3), or a mining waste site, as defined in s. 295.41 (31), covered by a mining permit
16 under s. 295.58, owned, or leased by the generator and designed and constructed for
17 the purpose of accepting that type of solid waste.

18 **SECTION 59.** 289.35 of the statutes is amended to read:

19 **289.35 Shoreland and floodplain zoning.** Solid waste facilities are
20 prohibited within areas under the jurisdiction of shoreland and floodplain zoning
21 regulations adopted under ss. 59.692, 61.351, 62.231 and, 87.30, and 281.31, except
22 that the department may issue permits authorizing facilities in such areas. If the
23 department issues a permit under this section, the permit shall specify the location,
24 height, or size of the solid waste facility authorized under the permit.

25 **SECTION 60.** 289.62 (2) (g) 2. and 6. of the statutes are amended to read:

1 it results from or is displaced by mining. If after 3 years from the time merchantable
2 by-product results from or is displaced by mining such material has not been
3 transported off the mining site, it shall be considered and regulated as refuse unless
4 removal is continuing at a rate of more than 12,000 cubic yards per year.

5 **SECTION 65.** 293.01 (8) of the statutes is repealed.

6 **SECTION 66.** 293.01 (9) of the statutes is amended to read:

7 293.01 (9) "Mining" or "mining operation" means all or part of the process
8 involved in the mining of nonferrous metallic minerals, other than for exploration or
9 prospecting, including commercial extraction, agglomeration, beneficiation,
10 construction of roads, removal of overburden and the production of refuse.

11 **SECTION 67.** 293.01 (12) of the statutes is amended to read:

12 293.01 (12) "Mining site" means the surface area disturbed by a mining
13 operation, including the surface area from which the nonferrous metallic minerals
14 or refuse or both have been removed, the surface area covered by refuse, all lands
15 disturbed by the construction or improvement of haulageways, and any surface areas
16 in which structures, equipment, materials and any other things used in the mining
17 operation are situated.

18 **SECTION 68.** 293.01 (12m) of the statutes is created to read:

19 293.01 (12m) "Nonferrous metallic mineral" means an ore or other earthen
20 material to be excavated from the natural deposits on or in the earth for its metallic
21 content but not primarily for its iron oxide content.

22 **SECTION 69.** 293.01 (18) of the statutes is amended to read:

23 293.01 (18) "Prospecting" means engaging in the examination of an area for the
24 purpose of determining the quality and quantity of nonferrous metallic minerals,
25 other than for exploration but including the obtaining of ~~an ore~~ a nonferrous metallic

1 mineral sample, by such physical means as excavating, trenching, construction of
2 shafts, ramps and tunnels and other means, other than for exploration, which the
3 department, by rule, identifies, and the production of prospecting refuse and other
4 associated activities. "Prospecting" shall not include such activities when the
5 activities are, by themselves, intended for and capable of commercial exploitation of
6 the underlying nonferrous ore body. However, the fact that prospecting activities and
7 construction may have use ultimately in mining, if approved, shall not mean that
8 prospecting activities and construction constitute mining within the meaning of sub.
9 (9), provided such activities and construction are reasonably related to prospecting
10 requirements.

11 **SECTION 70.** 293.01 (25) of the statutes is amended to read:

12 293.01 (25) "Refuse" means all waste soil, rock, mineral, liquid, vegetation and
13 other material, except merchantable by-products, directly resulting from or
14 displaced by the prospecting or mining and from the cleaning or preparation of
15 nonferrous metallic minerals during prospecting or mining operations, and shall
16 include all waste materials deposited on or in the prospecting or mining site from
17 other sources.

18 **SECTION 71.** 293.21 (1) (a) of the statutes is amended to read:

19 293.21 (1) (a) "Driller" means a person who performs core, rotary, percussion
20 or other drilling involved in exploration for nonferrous metallic minerals.

21 **SECTION 72.** 293.25 (2) (a) of the statutes is amended to read:

22 293.25 (2) (a) *Applicability.* Except as provided under par. (b), ss. 293.21 and
23 293.81 and rules promulgated under those sections apply to radioactive waste site
24 exploration, to activities related to radioactive waste site exploration and to persons
25 engaging in or intending to engage in radioactive waste site exploration or related

1 activities in the same manner as those sections and rules are applicable to
2 nonferrous metallic mineral exploration, to activities related to nonferrous metallic
3 mineral exploration and to persons engaging in or intending to engage in nonferrous
4 metallic mineral exploration or related activities.

5 **SECTION 73.** 293.25 (4) of the statutes is amended to read:

6 293.25 (4) REGULATION OF EXPLORATION AND RELATED PROVISIONS. Sections
7 293.13, 293.15 (1) to (12), 293.85, 293.87 and 293.89 and rules promulgated under
8 those sections apply to radioactive waste site exploration, to activities related to
9 radioactive waste site exploration and to persons engaging in or intending to engage
10 in radioactive waste site exploration or related activities in the same manner as
11 those sections and rules are applicable to nonferrous metallic mineral exploration,
12 to activities related to nonferrous metallic mineral exploration and to persons
13 engaging in or intending to engage in nonferrous metallic mineral exploration or
14 related activities.

15 **SECTION 74.** 293.37 (4) (b) of the statutes is amended to read:

16 293.37 (4) (b) If the department finds that the anticipated life and total area
17 of a nonferrous metallic mineral deposit are of sufficient magnitude that reclamation
18 of the mining site consistent with this chapter requires a comprehensive plan for the
19 entire affected area, it shall require an operator to submit with the application for
20 a mining permit, amended mining site or change in mining or reclamation plan, a
21 comprehensive long-term plan showing, in detail satisfactory to the department, the
22 manner, location and time for reclamation of the entire area of contiguous land which
23 will be affected by mining and which is owned, leased or under option for purchase
24 or lease by the operator at the time of application. Where a nonferrous metallic

1 mineral deposit lies on or under the lands of more than one operator, the department
2 shall require the operators to submit mutually consistent comprehensive plans.

3 **SECTION 75.** 293.47 (1) (b) of the statutes is amended to read:

4 293.47 (1) (b) "Geologic information" means information concerning
5 descriptions of ~~an~~ a nonferrous ore body, descriptions of reserves, tonnages and
6 grades of nonferrous ore, descriptions of a drill core or bulk sample including
7 analysis, descriptions of drill hole depths, distances and similar information related
8 to the nonferrous ore body.

9 **SECTION 76.** 293.50 (1) (b) of the statutes is amended to read:

10 293.50 (1) (b) "Sulfide ore body" means a mineral deposit in which nonferrous
11 metals are mixed with sulfide minerals.

12 **SECTION 77.** 293.50 (2) (intro.) of the statutes is amended to read:

13 293.50 (2) (intro.) Beginning on May 7, 1998, the department may not issue a
14 permit under s. 293.49 for the purpose of the mining of a sulfide ore body until all of
15 the following conditions are satisfied:

16 **SECTION 78.** 293.50 (2) (a) of the statutes is amended to read:

17 293.50 (2) (a) The department determines, based on information provided by
18 an applicant for a permit under s. 293.49 and verified by the department, that a
19 mining operation has operated in a sulfide ore body which, together with the host
20 nonferrous rock, has a net acid generating potential in the United States or Canada
21 for at least 10 years without the pollution of groundwater or surface water from acid
22 drainage at the tailings site or at the mine site or from the release of heavy metals.

23 **SECTION 79.** 293.50 (2) (b) of the statutes is amended to read:

24 293.50 (2) (b) The department determines, based on information provided by
25 an applicant for a permit under s. 293.49 and verified by the department, that a

1 mining operation that operated in a sulfide ore body which, together with the host
2 nonferrous rock, has a net acid generating potential in the United States or Canada
3 has been closed for at least 10 years without the pollution of groundwater or surface
4 water from acid drainage at the tailings site or at the mine site or from the release
5 of heavy metals.

6 **SECTION 80.** 293.51 (1) of the statutes is amended to read:

7 293.51 (1) Upon notification that an application for a prospecting or mining
8 permit has been approved by the department but prior to commencing prospecting
9 or mining, the operator shall file with the department a bond conditioned on faithful
10 performance of all of the requirements of this chapter and all rules adopted by the
11 department under this chapter. The bond shall be furnished by a surety company
12 licensed to do business in this state. In lieu of a bond, the operator may deposit cash,
13 certificates of deposit or government securities with the department. Interest
14 received on certificates of deposit and government securities shall be paid to the
15 operator. The amount of the bond or other security required shall be equal to the
16 estimated cost to the state of fulfilling the reclamation plan, in relation to that
17 portion of the site that will be disturbed by the end of the following year. The
18 estimated cost of reclamation of each prospecting or mining site shall be determined
19 by the department on the basis of relevant factors including, but not limited to,
20 expected changes in the price index, topography of the site, methods being employed,
21 depth and composition of overburden and depth of nonferrous metallic mineral
22 deposit being mined.

23 **SECTION 81.** 293.65 (3) (a) of the statutes is amended to read:

24 293.65 (3) (a) An approval under s. 281.34 is required to withdraw groundwater
25 for prospecting or mining or to dewater mines if the capacity and rate of withdrawal

1 of all wells involved in the withdrawal of groundwater or the dewatering of mines
2 exceeds 100,000 gallons each day. A permit under s. 283.31 is required to discharge
3 pollutants resulting from the dewatering of mines.

4 **SECTION 82.** 293.65 (3) (b) of the statutes is amended to read:

5 293.65 (3) (b) The department may not issue an approval under s. 281.34 if the
6 withdrawal of groundwater for prospecting or mining purposes or the dewatering of
7 mines will result in the unreasonable detriment of public or private water supplies
8 or the unreasonable detriment of public rights in the waters of the state. No
9 withdrawal of groundwater for prospecting or mining purposes or the dewatering of
10 mines may be made to the unreasonable detriment of public or private water supplies
11 or the unreasonable detriment of public rights in the waters of the state.

12 **SECTION 83.** 293.86 of the statutes is amended to read:

13 **293.86 Visitorial powers of department.** Any duly authorized officer,
14 employee or representative of the department may enter and inspect any property,
15 premises or place on or at which any prospecting or ~~metallie~~ mining operation or
16 facility is located or is being constructed or installed at any reasonable time for the
17 purpose of ascertaining the state of compliance with this chapter and chs. 281, 285,
18 289 to 292, ~~295~~ and 299, subchs. I and II of ch. 295, and rules adopted pursuant
19 thereto. No person may refuse entry or access to any such authorized representative
20 of the department who requests entry for purposes of inspection, and who presents
21 appropriate credentials, nor may any person obstruct, hamper or interfere with any
22 such inspection. The department shall furnish to the prospector or operator, as
23 indicated in the prospecting or mining permit, a written report setting forth all
24 observations, relevant information and data which relate to compliance status.

25 **SECTION 84.** Chapter 295 (title) of the statutes is amended to read:

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

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

8 (7) That because of the fixed location of ferrous mineral deposits in the state,
9 it is probable that mining those deposits will result in adverse impacts to wetlands
10 and that, therefore, the use of wetlands for bulk sampling and mining activities,
11 including the disposal or storage of mining wastes or materials, or the use of other
12 lands for mining activities that would have a significant adverse impact on wetlands,
13 is presumed to be necessary.

14 **295.41 Definitions.** In this subchapter:

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

18 (2) "Applicant" means a person who applies for, or is preparing to apply for, an
19 exploration license or a mining permit or who files a bulk sampling plan.

20 (3) "Approval" means any permit, license, certification, contract, or other
21 authorization that the department issues, or any other action by the department,
22 that is required for exploration, to engage in bulk sampling at a bulk sampling site,
23 or to construct or operate a mining site, including any action required for any of the
24 following:

1 (a) The withdrawal of land entered as county forest land under s. 28.11 and any
2 modification of, or amendment to, a county forest land use plan necessitated by the
3 withdrawal of the land.

4 (b) The withdrawal of land entered as forest cropland under s. 77.10.

5 (c) The withdrawal of land designated as managed forest land under subch. VI
6 of ch. 77 and any modification of, or amendment to, a managed forest land
7 management plan necessitated by the withdrawal of the land.

8 (4) "Background water quality" means the concentration of a substance in
9 groundwater as determined by monitoring at locations that will not be affected by
10 a mining site.

11 (5) "Baseline water quality" means the concentration of a substance in
12 groundwater or surface water as determined by monitoring before mining operations
13 begin.

14 (6) "Borrow materials" means soil or rock used in construction or reclamation
15 activities.

16 (7) "Bulk sampling" means excavating in a potential mining site by removing
17 less than 10,000 tons of material for the purposes of obtaining site-specific data to
18 assess the quality and quantity of the ferrous mineral deposits and of collecting data
19 from and analyzing the excavated materials in order to prepare the application for
20 a mining permit or for any other approval.

21 (8) "Closing" means the time at which a mining waste site ceases to accept
22 mining wastes.

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

1 (10) "Construct" means to engage in a program of on-site construction,
2 including site clearing, grading, dredging, or filling of land.

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

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

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

9 (15) "Environmental impact statement" means a detailed statement under s.
10 1.11 (2) (c).

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

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

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

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

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

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

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

1 **(23)** “Groundwater quality standards” means numerical values consisting of
2 enforcement standards and preventive action limits contained in Table 1 of s. NR
3 140.10, and Table 2 of s. NR 140.12, Wis. Adm. Code, and any preventive action limits
4 for indicator parameters identified under s. NR 140.20 (2).

5 **(24)** “Leachate” means water or other liquid that has been contaminated by
6 dissolved or suspended materials due to contact with refuse disposed of on the
7 mining site.

8 **(25)** “Merchantable by-product” means all waste soil, rock, mineral, liquid,
9 vegetation, and other material directly resulting from or displaced by the mining,
10 cleaning, or preparation of minerals, during mining operations, that are determined
11 by the department to be marketable upon a showing of marketability made by the
12 operator, accompanied by a verified statement by the operator of his or her intent to
13 sell the material within 3 years from the time it results from or is displaced by
14 mining.

15 **(26)** “Mining” means all or part of the process involved in the mining of a
16 ferrous mineral, other than for exploration, including commercial extraction,
17 agglomeration, beneficiation, construction of roads, removal of overburden, and the
18 production of refuse, involving the removal of more than 15,000 tons of earth
19 material a year in the regular operation of a business for the purpose of extracting
20 a ferrous mineral.

21 **(27)** “Mining permit” means the permit under s. 295.58.

22 **(28)** “Mining plan” means a proposal for mining on a mining site, including a
23 description of the systematic activities to be used for the purpose of extracting
24 ferrous minerals.

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

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

14 **(31)** "Mining waste site" means any land or appurtenances thereto used for the
15 storage or disposal of mining waste or for the storage of merchantable by-products,
16 but does not include land or appurtenances used in the production or transportation
17 of mining waste, such as the concentrator, haul roads, or tailings pipelines, that are
18 part of the mining site.

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

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

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

1 **(35)** “Person” means an individual, corporation, limited liability company,
2 partnership, association, local governmental agency, interstate agency, state agency,
3 or federal agency.

4 **(36)** “Piping” means the progressive erosion of materials from an embankment
5 or foundation caused by the seepage of water.

6 **(37)** “Principal shareholder” means any person who owns at least 10 percent
7 of the beneficial ownership of an applicant or operator.

8 **(38)** “Reagent” means a substance or compound that is added to a system in
9 order to bring about a chemical reaction or is added to see if a reaction occurs to
10 confirm the presence of another substance.

11 **(39)** “Reclamation” means the process by which an area physically or
12 environmentally affected by exploration or mining is rehabilitated to either its
13 original state or to a state that provides long-term environmental stability.

14 **(40)** “Reclamation plan” means the proposal for the reclamation of an
15 exploration site under s. 295.44 (2) (b) or a mining site under s. 295.49.

16 **(41)** “Refuse” means all mining waste and all waste materials deposited on or
17 in the mining site from other sources, except merchantable by-products.

18 **(42)** “Related person” means any person that owns or operates a mining site
19 in the United States and that is one of the following when an application for a mining
20 permit is submitted to the department:

21 (a) The parent corporation of the applicant.

22 (b) A person that holds more than a 30 percent ownership interest in the
23 applicant.

24 (c) A subsidiary or affiliate of the applicant in which the applicant holds more
25 than a 30 percent ownership interest.

1 **(44)** “Subsidence” means lateral or vertical ground movement caused by a
2 failure, initiated at the mine, of a man-made underground mine, that directly
3 damages residences or commercial buildings, except that “subsidence” does not
4 include lateral or vertical ground movement caused by earthquake, landslide, soil
5 conditions, soil erosion, soil freezing and thawing, or roots of trees and shrubs.

6 **(45)** “Tailings” means waste material resulting from beneficiation of crushed
7 ferrous minerals at a concentrator or from washing, concentration, or treatment of
8 crushed ferrous minerals.

9 **(46)** “Unsuitable” means that the land proposed for mining is not suitable for
10 mining because the mining activity will more probably than not destroy or
11 irreparably damage any of the following:

12 (a) Habitat required for survival of species of vegetation or wildlife designated
13 as endangered through prior inclusion in rules adopted by the department, if the
14 endangered species cannot be reestablished elsewhere.

15 (b) Unique features of the land, as determined by state or federal designation
16 and incorporated in rules adopted by the department, as any of the following, which
17 cannot have their unique characteristic preserved by relocation or replacement
18 elsewhere:

- 19 1. Wilderness areas.
- 20 2. Wild and scenic rivers.
- 21 3. National or state parks.
- 22 4. Wildlife refuges and areas.
- 23 5. Listed properties, as defined in s. 44.31 (4).

24 **(46m)** “Wastewater and sludge storage or treatment lagoon” means a
25 man-made containment structure that is constructed primarily of earthen

1 materials, that is for the treatment or storage of wastewater, storm water, or sludge,
2 and that is not a land disposal system, as defined in s. NR 140.05 (11), Wis. Adm.
3 Code.

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

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

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

8 **295.43 Responsibilities related to mining.** The department shall serve as
9 the central unit of state government to ensure that the impact from mining and
10 reclamation on the air, lands, waters, plants, fish, and wildlife in this state will be
11 minimized and mitigated to the extent practicable. The administration of
12 occupational health and safety laws and rules that apply to mining remain
13 exclusively the responsibility of the department of safety and professional services.
14 The powers and duties of the geological and natural history survey under s. 36.25 (6)
15 remain exclusively the responsibility of the geological and natural history survey.
16 Nothing in this section prevents the department of safety and professional services
17 and the geological and natural history survey from cooperating with the department
18 in the exercise of their respective powers and duties.

19 **295.44 Exploration. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

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

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

17 (i) "License year" means the period beginning on July 1 of any year and ending
18 on the following June 30.

19 (j) "Neat cement grout" means a mixture consisting of type A portland cement
20 and water.

21 (k) "Termination" means the filling of drillholes and the reclamation of a
22 drilling site.

23 (2) LICENSE. No person may engage in exploration, or contract for the services
24 of drillers for purposes of exploration, without an annual license from the
25 department. The department shall provide copies of the application for an

1 exploration license to the state geologist upon issuance of the exploration license. A
2 person seeking an exploration license shall file an application that includes all of the
3 following:

4 (a) An exploration plan that includes all of the following:

5 1. A description of the site where the exploration will take place and a map of
6 that area showing the locations of the exploration.

7 2. A description of the means and method that will be used for the exploration.

8 3. A description of the grading and stabilization of the excavation, sides, and
9 benches that will be conducted.

10 4. A description of how the grading and stabilization of any deposits of refuse
11 will be conducted.

12 5. A description of how any diversion and drainage of water from the
13 exploration site will be conducted.

14 6. A description of how any backfilling will be conducted.

15 7. A description of how any pollutant-bearing minerals or materials will be
16 covered.

17 8. A description of how the topsoils will be removed and stockpiled or how other
18 measures will be taken to protect topsoils before exploration.

19 9. A description of how vegetative cover will be provided.

20 10. A description of how any water impoundment will be accomplished.

21 11. Identification of the means and method that will be used to prevent
22 significant environmental pollution to the extent practicable.

23 (b) A reclamation plan, designed to minimize adverse effects to the
24 environment to the extent practicable, that includes all of the following:

1 1. A description of how all toxic and hazardous wastes and other solid waste
2 will be disposed of in solid or hazardous waste disposal facilities licensed under ch.
3 289 or 291 or otherwise in an environmentally sound manner.

4 2. A description of how topsoil will be preserved for purposes of future use in
5 reclamation.

6 3. A description of how revegetation will be conducted to stabilize disturbed
7 soils and prevent air and water pollution to the extent practicable.

8 4. A description of how disturbance to wetlands will be minimized to the extent
9 practicable.

10 5. A statement that all drillholes will be abandoned in compliance with sub. (5).

11 (c) An exploration license fee of \$300.

12 (d) A bond, as provided in sub. (3) (a).

13 (e) A certificate of insurance showing that the applicant has in force a liability
14 insurance policy issued by an insurance company licensed to do business in this state
15 covering all exploration conducted or contracted for by the explorer in this state and
16 affording personal injury and property damage protection in a total amount
17 determined to be adequate by the department, but not more than \$1,000,000 and not
18 less than \$50,000.

19 (f) A copy of the applicant's most recent annual report to the federal securities
20 and exchange commission on form 10-K, or, if this is not available, a report of the
21 applicant's current assets and liabilities or other data necessary to establish that the
22 applicant is competent to conduct exploration in this state.

23 **(2m) CONFIDENTIALITY.** The department shall protect as confidential any
24 information, other than effluent data, contained in an application for an exploration
25 license, upon a showing that the information is entitled to protection as a trade

1 secret, as defined in s. 134.90 (1) (c), and any information relating to the location,
2 quality, or quantity of a ferrous mineral deposit, to production or sales figures, or to
3 processes or production unique to the applicant or that would tend to adversely affect
4 the competitive position of the applicant if made public.

5 (3) BOND. (a) An applicant shall submit, as part of the application for an
6 exploration license, a bond in the amount of \$5,000 that is conditioned on faithful
7 performance of the requirements of this section, that is issued by a surety company
8 licensed to do business in this state, and that provides that the bond may not be
9 canceled by the surety, except after not less than 90 days' notice to the department
10 in writing by registered or certified mail.

11 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,
12 the explorer shall deliver a replacement bond at least 30 days before the expiration
13 of the 90 day notice period. If the explorer fails to submit a replacement bond, the
14 explorer may not engage in exploration until the explorer submits a replacement
15 bond.

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

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

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

5 (4) ISSUANCE OR DENIAL OF EXPLORATION LICENSE. (a) Except as provided in par.
6 (c), within 10 business days of receiving an administratively complete application for
7 an exploration license, the department shall issue the exploration license or provide
8 the notice required under par. (f) of intent not to issue the exploration license, unless
9 the application is for an upcoming license year. If an application is for an upcoming
10 license year, the department shall issue the exploration license or provide the notice
11 required under par. (f) of intent not to issue the exploration license within 10
12 business days of receiving an administratively complete application or on the next
13 July 1, whichever is later.

14 (b) An application for an exploration license is considered to be
15 administratively complete on the day that it is submitted, unless, before the 10th
16 business day after receiving the application, the department provides the applicant
17 with written notification that the application is not administratively complete. The
18 department may determine that an application is not administratively complete only
19 if the application does not include an exploration plan; a reclamation plan; an
20 exploration license fee; a bond; a certificate of insurance; or a copy of the applicant's
21 most recent annual report to the federal securities and exchange commission on form
22 10-K, or, if this is not available, a report of the applicant's current assets and
23 liabilities or other data necessary to establish that the applicant is competent to
24 conduct exploration in this state. The department may not consider the quality of

1 the information provided. In a notice provided under this paragraph, the
2 department shall identify what is missing from the application.

3 (c) If the department provides notification, in compliance with par. (b), that an
4 application is not administratively complete, the department shall issue the
5 exploration license or provide the notice required under par. (f) of intent not to issue
6 the license within 7 business days of receipt of the missing item, unless the
7 application is for an upcoming license year. If the application is for an upcoming
8 license year, the department shall issue the exploration license or provide the notice
9 required under par. (f) of intent not to issue the exploration license within 7 business
10 days of receipt of the missing item or on the next July 1, whichever is later.

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

16 (e) Subject to par. (f), the department shall deny an application for an
17 exploration license if the department finds that, after the activities in the exploration
18 plan and the reclamation plan have been completed, the exploration will have a
19 substantial and irreparable adverse impact on the environment or present a
20 substantial risk of injury to public health and welfare.

21 (f) Before denying an application, the department shall provide the applicant
22 with written notification of its intent not to issue the exploration license, setting
23 forth all of the reasons for its intent not to issue the exploration license, including
24 reference to competent evidence supporting its position. The department shall
25 provide the person with an opportunity to correct any deficiencies in the exploration

1 plan or reclamation plan within 10 business days. If the person amends the
2 exploration plan or reclamation plan and corrects the deficiencies, the department
3 shall issue the exploration license within 10 business days of receipt of the amended
4 exploration plan or reclamation plan, unless the application is for an upcoming
5 license year. If an application is for an upcoming license year, the department shall
6 issue the exploration license within 10 business days of receipt of the amended
7 exploration plan or reclamation plan or on the next July 1, whichever is later. If the
8 department determines that the deficiencies have not been corrected, it shall deny
9 the application, in writing, setting forth all of the reasons for its determination,
10 including reference to competent evidence supporting the determination.

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

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

17 (b) A requirement to permanently abandon a drillhole 4 inches in diameter or
18 smaller by filling the drillhole from the bottom upward to the surface of the ground
19 with concrete grout or neat cement grout.

20 (c) A requirement to abandon a drillhole larger than 4 inches in diameter by
21 filling the drillhole from the bottom upward to the surface of the ground with
22 concrete grout or neat cement grout or in one of the following ways:

23 1. If the drillhole is constructed in limestone, dolomite, shale, or Precambrian
24 formations, such as granite, gabbro, gneiss, schist, slate, greenstone, or quartzite, by
25 filling the drillhole with gravel or crushed rock or, if it is physically impracticable to

1 use gravel or crushed rock and if the department approves, with clay slurry, from the
2 bottom upward to a point 20 feet below the top of the first rock formation encountered
3 below the surface of the ground or to at least 40 feet below the surface of the ground,
4 whichever is the greater depth, and filling the remainder of the drillhole with
5 concrete grout or neat cement grout.

6 2. If the drillhole is constructed in sandstone formation, by filling the drillhole
7 with disinfected sand or pea gravel or, if it is physically impracticable to use sand or
8 pea gravel and if the department approves, with clay slurry, from the bottom upward
9 to a point 20 feet below the top of the first rock formation encountered below the
10 surface of the ground or to at least 40 feet below the surface of the ground, whichever
11 is the greater depth, and filling the remainder of the drillhole with concrete grout or
12 neat cement grout.

13 3. If the drillhole is constructed in glacial drift or other unconsolidated
14 formation, by filling the hole with clean clay slurry to a point 20 feet below the surface
15 of the ground and filling the remainder of the drillhole with concrete grout or neat
16 cement grout.

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

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

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

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

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

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

11 1. A renewal fee of \$150.

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

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

14 4. A copy of the applicant's most recent annual report to the federal securities
15 and exchange commission on form 10-K, or, if this is not available, a report of the
16 applicant's current assets and liabilities or other data necessary to establish that the
17 applicant is competent to conduct exploration in this state.

18 5. Either a statement that no changes are being proposed to the exploration
19 plan and reclamation plan previously approved by the department or a new
20 exploration plan or reclamation plan if the applicant proposes to make changes.

21 (b) Except as provided in par. (d), within 10 business days of receiving an
22 administratively complete application for renewal of an exploration license, the
23 department shall renew the exploration license or provide the notice, required under
24 par. (g), of intent not to renew the exploration license.

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

16 (d) If the department provides notification, in compliance with par. (c), that an
17 application is not administratively complete, the department shall renew the
18 exploration license or provide the notice, required under par. (g), of intent not to
19 renew the exploration license within 7 business days of receipt of the missing item.

20 (e) If the department does not comply with par. (b) or (d), the application for
21 renewal is automatically approved.

22 (f) Subject to par. (g), the department shall deny an application for renewal of
23 an exploration license only if the applicant has filed a new exploration plan or
24 reclamation plan and the department finds that the exploration, after completion of
25 the new exploration plan and the new reclamation plan, will have a substantial and

1 irreparable adverse impact on the environment or present a substantial risk of injury
2 to public health and welfare.

3 (g) Before denying an application, the department shall provide the person who
4 submitted the application with written notification of its intent not to renew the
5 exploration license, setting forth all of the reasons for its intent not to renew the
6 exploration license, including reference to competent evidence supporting its
7 position. The department shall provide the person with an opportunity to correct any
8 deficiencies in the exploration plan or restoration plan within 10 business days. If
9 the person amends the exploration plan or reclamation plan and corrects the
10 deficiencies, the department shall renew the exploration license within 10 business
11 days of receipt of the amended exploration plan or reclamation plan. If the
12 department determines that the deficiencies have not been corrected, it shall deny
13 the application, in writing, setting forth all of the reasons for its determination,
14 including reference to competent evidence supporting the determination.

15 (h) The renewal of an exploration license takes effect on the date of issuance
16 and expires on the following June 30.

17 (7) REVOCATION OR SUSPENSION OF EXPLORATION LICENSE. After a hearing, the
18 department may revoke or suspend an exploration license if it determines that any
19 of the following apply:

20 (a) The explorer has not complied with a statute, a rule promulgated by the
21 department, or a condition in the exploration license.

22 (b) The explorer has failed to increase bond amounts to adequate levels as
23 provided under sub (3) (d).

24 (8) NOTICE PROCEDURE. (a) An explorer shall notify the department of the
25 explorer's intent to drill on a parcel by registered mail at least 5 days prior to the

1 beginning of drilling. Notice is considered to be given on the date that the
2 department receives the notice. In the notice, the explorer shall specify which
3 drillholes identified in the exploration plan the explorer intends to drill. The
4 explorer shall send the notice to the subunit of the department with authority over
5 mine reclamation.

6 (b) A notice of intent to drill provided under par. (a) remains in effect for one
7 year beginning on the date that the department receives the notice. If the explorer
8 wishes to continue drilling on the parcel after the notice is no longer in effect, the
9 explorer shall resubmit a notice of intent to drill on the parcel.

10 **(9) REPORTS.** (a) Within 10 days after completing the temporary or permanent
11 abandonment of a drillhole, an explorer shall file with the department an
12 abandonment report that describes the means and method used in the abandonment
13 and is signed by an authorized representative of the explorer attesting to the
14 accuracy of the information contained in the report. The explorer shall submit the
15 abandonment report to the department's district office for the district in which the
16 drilling site is located.

17 (b) After permanent abandonment of a drillhole and regrading and
18 revegetation of the drilling site, an explorer shall notify the department of
19 completion of termination of the drilling site. The explorer shall submit the notice,
20 in writing, to the department's district office for the district in which the drilling site
21 is located.

22 (c) 1. After receipt of a notice under par. (b), the department shall notify the
23 explorer in writing whether the termination is satisfactory or unsatisfactory. If the
24 termination is unsatisfactory, the department shall inform the explorer of the
25 necessary corrective measures. Following the completion of corrective measures, the

1 explorer shall file written notice with the department's district office for the district
2 in which the drilling site is located specifying the means and method used and
3 stating that termination is complete.

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

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

10 **(10) DRILLING FEES.** Upon the submission of a report under sub. (9) (a) of
11 temporary abandonment of a drillhole, if the drillhole is temporarily abandoned, or
12 upon submission of a report under sub. (9) (a) of permanent abandonment of a
13 drillhole, if the drillhole is not temporarily abandoned, the explorer shall pay a fee
14 to the department. The fee is \$100 per drillhole for the first 20 drillholes for which
15 a report is filed in a license year and \$50 for each subsequent drillhole for which a
16 report is filed in that license year.

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

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

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