

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 271**

October 31, 2001 – Offered by ENVIRONMENTAL RESOURCES.

1 **AN ACT** *to amend* 289.05 (2), 291.01 (7), 293.15 (9), 293.15 (11) and 293.93; and
2 *to create* 291.05 (2m), 293.17 and 293.38 of the statutes; **relating to:**
3 environmental regulation of mining and notice to transferees of interests in
4 mining sites.

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

5 **SECTION 1.** 289.05 (2) of the statutes is amended to read:
6 289.05 (2) With the advice and comment of the metallic mining council, the
7 department shall promulgate rules for the identification and regulation of metallic
8 mining wastes. The rules promulgated to identify metallic mining wastes and to
9 regulate the location, design, construction, operation, and maintenance of facilities
10 for the disposal of metallic mining wastes shall be in accordance with ~~any or all of~~
11 the provisions under this chapter and chs. 30 and 283. The rules shall take into
12 consideration ~~the special requirements of metallic mining operations in the location,~~

1 ~~design, construction, operation and maintenance of facilities for the disposal of~~
2 ~~metallic mining wastes as well as any special environmental concerns that will arise~~
3 ~~as a result of the disposal of metallic mining wastes. In promulgating the rules, the~~
4 ~~department shall give consideration to research, studies, data, and~~
5 ~~recommendations of the U.S. environmental protection agency on the subject of~~
6 ~~metallic mining wastes arising from the agency's efforts to implement the resource~~
7 ~~conservation and recovery act. The department may not promulgate rules under this~~
8 ~~subsection that are less stringent than the rules promulgated under subs. (1) and (3).~~

9 **SECTION 2.** 291.01 (7) of the statutes is amended to read:

10 291.01 (7) "Hazardous waste" or "waste" means any solid waste identified by
11 the department as hazardous under s. 291.05 (1), (2), ~~(2m)~~, or (4).

12 **SECTION 3.** 291.05 (2m) of the statutes is created to read:

13 291.05 (2m) Notwithstanding subs. (1) and (2) and any exemption under 42
14 USC 6921 (b), the department shall identify a solid waste as a hazardous waste if the
15 solid waste is from the extraction, beneficiation, or processing of ores and minerals,
16 and the solid waste otherwise satisfies the criteria under 42 USC 6921 (a) or has the
17 characteristics, or is listed, under 42 USC 6921 (b).

18 **SECTION 4.** 293.15 (9) of the statutes is amended to read:

19 293.15 (9) Promulgate rules by which the department may grant an exemption,
20 modification, or variance, either making a requirement more or less restrictive, from
21 any rule promulgated under ~~chs. 289 to 292~~ and this chapter, if the exemption,
22 modification, or variance does not result in the violation of any federal
23 environmental statute or regulation or state environmental law statute or rule, other
24 than the rule from which the exemption, modification, or variance is granted, or
25 endanger public health, safety, or welfare or the environment.

1 **SECTION 5.** 293.15 (11) of the statutes is amended to read:

2 293.15 **(11)** Notwithstanding chs. 289 and 291, promulgate rules establishing
3 groundwater quality standards or groundwater quantity standards, or both, for any
4 prospecting or mining activity, including standards for any mining waste site. If the
5 department establishes groundwater quality standards under this subsection, the
6 department shall require the use of a 3-dimensional design management zone for
7 purposes of facility design, the review of facility performance, and enforcement that
8 extends no further than 150 feet from the outer waste boundary or the edge of a
9 facility other than a waste facility or no further than the boundary of the property
10 owned or leased by the applicant, whichever distance is less.

11 **SECTION 6.** 293.17 of the statutes is created to read:

12 **293.17 Limitation on department power.** The department may not grant,
13 for the storage or disposal of solid waste from mining or prospecting, an exemption,
14 modification, or variance that makes less restrictive a requirement in a rule
15 promulgated under ch. 289 or 291.

16 **SECTION 7.** 293.38 of the statutes is created to read:

17 **293.38 Notice to transferee.** Before a person who holds an ownership
18 interest in a mining site for which an application under s. 293.37 is pending with the
19 department transfers an ownership interest in that mining site, the person shall
20 notify the transferee in writing of the provisions of ss. 289.05 (2), 291.05 (2m), 293.13
21 (2), 293.17, and 293.93 and of rules promulgated under those provisions.

22 **SECTION 8.** 293.93 of the statutes is amended to read:

23 **293.93 Effect of other statutes.** If there is a standard under other state or
24 federal statutes, regulations, or rules which specifically regulates in whole an
25 activity also regulated under this chapter the other state or federal statutes,

1 regulations, or rules shall be the controlling standard, unless that standard is less
2 stringent than a standard under this chapter. If the ~~other~~ another state or federal
3 statute, regulation, or rule only specifically regulates the activity in part, it shall ~~only~~
4 be controlling as to that part, unless that standard is less stringent than a standard
5 under this chapter.

6 **SECTION 9. Initial applicability.**

7 (1) This act first applies to mining operations for which the department of
8 natural resources issues a permit on the effective date of this subsection.

9 (END)