

SENATE BILL 488

SECTION 83

(a)

1 (5) PERMIT CONDITIONS. The department may impose reasonable conditions in
2 a water withdrawal permit that ~~do~~ ^{except as provided in par. (b), may} not interfere with the mining operation or bulk
3 sampling or limit the amount of water needed for the mining operation or bulk
4 sampling and that relate to any of the following:

- 5 1. ~~(a)~~ The location of the withdrawal or use.
- 6 2. ~~(b)~~ The authorized base level of water loss from the withdrawal or use.
- 7 3. ~~(c)~~ The dates on which or seasons during which withdrawal or use of the water
8 may occur.
- 9 4. ~~(d)~~ The purposes for the withdrawal or use of the water.
- 10 5. ~~(e)~~ The amount and quality of return flow required and the place of the
11 discharge.
- 12 6. ~~(f)~~ The requirements for reporting volumes and rates of withdrawal and any
13 other data specified by the department.
- 14 7. ~~(g)~~ Any other conditions that the department determines are necessary to
15 protect the environment and the public health, safety, and welfare and to ensure the
16 conservation and proper management of the waters of the state.

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(6) PERMIT MODIFICATIONS. (a) 1. An operator to whom a permit has been issued
18 under this section may request a modification of any condition in the permit.
19 2. If the request for a modification under subd. 1. does not result in an increase
20 in an existing withdrawal resulting in a water loss averaging more than 2,000,000
21 gallons per day in any 30-day period above the operator's authorized base level of
22 water loss, within 30 days of receiving the request the department shall approve the
23 request and amend the permit to incorporate the modification.
24 3. a. If the request for a modification under subd. 1. results in an increase in
25 an existing withdrawal resulting in a water loss averaging more than 2,000,000

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1 gallons per day in any 30-day period above the operator's authorized base level of
2 water loss, the department shall determine whether it is required, under ch. NR 150,
3 Wis. Adm. Code, to prepare an environmental assessment or environmental impact
4 statement and, if so, shall prepare an environmental assessment or an
5 environmental impact statement. If the department determines that, under ch. NR
6 150, Wis. Adm. Code, the operator must prepare an environmental impact report, the
7 department may only request information in the environmental impact report that
8 relates to decisions that the department makes under this section related to the
9 permit and the department shall limit its analysis to an evaluation of the request for
10 the modification.

11 b. The department shall publish a class 1 notice, under ch. 985, of the
12 availability of information about a request to which this subdivision applies, its
13 proposed decision on the request, the opportunity to comment within 30 days after
14 the notice is published, and the opportunity to request a public informational
15 hearing. The department shall also provide the notice to the applicant, the persons
16 specified in s. 30.18 (4) (a), and if the modification involves a structure through which
17 water transferred from the Great Lakes basin would be returned to the source
18 watershed through a stream tributary to one of the Great Lakes, the governing body
19 of each city, village, and town through which the stream flows or that is adjacent to
20 the stream downstream from the point at which the water would enter the stream.

21 c. Within 180 days of receiving a request to which this subdivision applies, the
22 department shall approve or deny as provided in sub. (4) the request and, if it
23 approves the request, shall amend the permit to incorporate the modification.

24 (b) 1. The department may propose modifications to any of the conditions in the
25 water withdrawal permit. If it proposes a modification, the department shall

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1 determine whether it is required, under ch. NR 150, Wis. Adm. Code, to prepare an
2 environmental assessment or environmental impact statement and, if so, shall
3 prepare an environmental assessment or an environmental impact statement. If the
4 department determines that, under ch. NR 150, Wis. Adm. Code, the operator must
5 prepare an environmental impact report, the department may only request
6 information in the environmental impact report that relates to decisions that the
7 department makes under this section related to the permit and the department shall
8 limit its analysis to an evaluation of the proposed modification.

9 2. The department shall publish a class 1 notice, under ch. 985, of the
10 availability of information about a proposed modification under this paragraph, the
11 opportunity to comment within 30 days after the notice is published, and the
12 opportunity to request a public informational hearing. The department shall also
13 provide the notice to the applicant, the persons specified in s. 30.18 (4) (a), and if the
14 modification involves a structure through which water transferred from the Great
15 Lakes basin would be returned to the source watershed through a stream tributary
16 to one of the Great Lakes, the governing body of each city, village, and town through
17 which the stream flows or that is adjacent to the stream downstream from the point
18 at which the water would enter the stream.

19 3. The department may not impose the modification until after the end of the
20 public comment period under subd. 2.

21 4. Any modified condition under this paragraph may not interfere with the
22 mining operation or limit the amount of water needed for the mining operation if the
23 holder of the water withdrawal permit is implementing any conservation measures
24 that are applicable under the permit.

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1 (7) RELATIONSHIP TO OTHER LAWS. None of the following apply to water
2 withdrawal or use that is associated with mining operations or bulk sampling:

3 (a) Sections 30.18, 281.34, and 281.35 and any rules promulgated under those
4 sections, except as specifically provided in this section.

5 (b) Any provision of ch. NR 812, Wis. Adm. Code, that conflicts with this section,
6 except that s. NR 812.08, Wis. Adm. Code, does not apply to water withdrawal or use
7 that is associated with mining operations or bulk sampling.

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8 **295.62 Mining waste site construction and completion reports.** (1) An
9 operator shall construct a mining waste site substantially in accordance with the
10 approved mining waste site feasibility study and plan of operation.

11 (2) The operator shall inspect the mining waste site before it is used and ensure
12 that all associated structures are in substantial compliance with the mining waste
13 site feasibility study and plan of operation. The operator shall have a professional
14 engineer, registered as such under ch. 443, document mining waste site construction
15 and render an opinion as to whether the mining waste site has been constructed in
16 substantial conformance with the mining waste site feasibility study and plan of
17 operation. The engineer may use aerial or ground photographs to document the
18 inspection, but photographs do not in themselves constitute compliance with this
19 subsection. The operator shall maintain a complete file describing the items
20 inspected and their condition.

21 (3) An operator shall notify the department in writing when the mining waste
22 site has been constructed in substantial compliance with the mining waste site
23 feasibility study and plan of operation.

24 (4) (a) Within 5 business days of receipt of written notice from an operator that
25 the mining waste site has been constructed in substantial compliance with the

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1 mining waste site feasibility study and plan of operation, the department shall either
2 review and inspect the mining waste site to ensure that it was constructed according
3 to the approved mining waste site feasibility study and plan of operation or notify the
4 operator that the department will not conduct a review and inspection before
5 disposal of mining waste in the mining waste site. Within 3 business days of any
6 review and inspection, the department shall notify the operator that the mining
7 waste site may be used for the disposal of mining waste or identify all steps that must
8 be completed to bring the mining waste site into substantial compliance with the
9 mining waste site plan of operation. After the operator completes the steps, the
10 operator shall notify the department that the steps have been completed.

11 (b) An operator may dispose of mining waste in a mining waste site after one
12 of the following occurs:

13 1. The operator receives notice from the department under par. (a) that the
14 department will not conduct a review and inspection before disposal of mining waste
15 in the mining waste site.

16 2. The operator receives notice from the department under par. (a) that the
17 mining waste site may be used for the disposal of mining waste.

18 3. The operator provides notice to the department under par. (a) that any steps
19 required by the department to be completed under par. (a) have been completed.

20 **295.63 Modifications; reporting.** (1) (a) An operator at any time may
21 request a change to a mining permit, the mining plan, the reclamation plan, or the
22 mining waste site feasibility study and plan of operation for any mining site that the
23 operator owns or leases, or request cancellation of the mining permit for any or all
24 of the unmined part of a mining site. The operator shall submit an application for
25 the change or cancellation in the form of a letter giving notice to the department of

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1 the proposed change or cancellation and shall identify in the letter the tract of land
2 to be affected by a change in the mining plan, reclamation plan, or mining waste site
3 feasibility study and plan of operation or to be removed from the permitted mining
4 site.

5 (b) The department shall grant a request under par. (a) unless it determines
6 that the requested change makes it impossible for the permit holder to substantially
7 comply with the approved mining plan, reclamation plan, or mining waste site
8 feasibility study and plan of operation. If the department determines that the
9 requested change would make substantial compliance impossible, it shall follow the
10 procedure in sub. (3).

11 (c) If the request under par. (a) is to cancel any or all of the unmined part of a
12 mining site, the department shall ascertain, by inspection, if mining has occurred on
13 the land. If the department finds that no mining has occurred, the department shall
14 order release of the bond or other security posted for the land being removed from
15 the permitted mining site and cancel or amend the operator's written authorization
16 to conduct mining on the mining site. The department may not approve the removal
17 of land where mining has occurred from a permitted mining site, or release that land
18 from the bond or other security under this subsection, unless the operator has
19 completed reclamation to the satisfaction of the department.

20 (2) The operator shall furnish the department with a report for each mining
21 site within 30 days after the end of every 12-month period after issuance of the
22 permit, within 30 days after completion of all mining at the mining site, and within
23 30 days after completion of the mining plan and of the reclamation plan, describing
24 any reclamation work accomplished, or experimental reclamation work performed,
25 during the preceding year. The operator shall include in the reports an annual plan

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1 map, color-coded and with a legend, showing all of the following, as of December 31
2 of the previous year, or as near to December 31 of the previous year as mining
3 operations permit:

4 (a) Location and boundary of the mining area.

5 (b) Any mine mill.

6 (c) Any open pit.

7 (d) Stockpiles of overburden.

8 (e) Stockpiles of waste rock.

9 (f) Ferrous ore stockpiles.

10 (g) Streams, lakes, and reservoirs.

11 (h) Tailings basins.

12 (i) Roads.

13 (j) Sequential numbers or letters or other method, as approved by the
14 department, permanently assigned to portions of the mining site that have been
15 abandoned before abandonment of the entire mining operation.

16 (k) Changes in the surface area disturbed by mining during the preceding year,
17 indicated by vertical crosshatching or other method approved by the department.

18 (L) Anticipated changes in the surface area disturbed by mining during the
19 current year, indicated by horizontal crosshatching or other method approved by the
20 department.

21 (m) Elevations of stockpiles and tailings basins.

22 (n) Drainage on and away from the surface area disturbed by mining, showing
23 directional flow of water in drainage ways, natural watercourses, and streams,
24 intermittent and flowing, including discharge from the mining.

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1 (o) The name of the geologist, engineer, or surveyor responsible for the
2 preparation of the map.

3 (p) The date the map was prepared.

4 **(3)** If the department finds that a change requested under sub. (1) (a) would
5 make substantial compliance with the approved mining plan, reclamation plan, or
6 mining waste site feasibility study and plan of operation impossible or it finds, based
7 on a review conducted no more frequently than every 5 years, that because of
8 changing conditions, including changes in reclamation costs or reclamation
9 technology, the reclamation plan for a mining site is no longer sufficient to
10 reasonably provide for reclamation of the mining site consistent with this
11 subchapter, it shall require the operator to submit an amended mining plan,
12 reclamation plan, or mining waste site feasibility study and plan of operation and
13 applications for amending any approval associated with the proposed amendments
14 to the mining plan, reclamation plan, or mining waste site feasibility study and plan
15 of operation. The public notice, public comment, and public hearing procedures in
16 s. 295.57 apply to amended plans and applications under this subsection. The
17 department shall approve or deny the amended mining plan, reclamation plan, or
18 mining waste site feasibility study and plan of operation in accordance with s.
19 295.58, within 30 days following the close of the public comment period. The
20 applicant may continue to operate under the existing mining permit until the
21 amended mining permit is issued or denied.

22 **295.635 Required mining waste site inspections, record keeping,**
23 **reporting, and responses. (1) DEFINITIONS.** In this section:

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1 (a) “Active dam” means a dam and associated settling area into which tailings
2 or wastewater are being introduced or that has not been reclaimed in a manner
3 approved by the department.

4 (b) “Inactive dam” means a dam and associated settling area that is no longer
5 being used for disposal of tailings or wastewater and that has been reclaimed in a
6 manner approved by the department.

7 (2) GENERAL. The operator shall, at least monthly, visually inspect all of the
8 following and record observations in a mining waste site operating log:

9 (a) The active portions of the mining waste site for possible damage or
10 structural weakening.

11 (b) Mining waste handling and monitoring equipment and readings, to ensure
12 normal operation and measurements.

13 (c) Fences or barriers around the mining waste site, for possible damage.

14 (d) The buffer area around the mining waste site, for possible environmental
15 damage related to its operation.

16 (3) ACTIVE DAMS. The operator shall, at least monthly, inspect active dams and
17 record the findings in the mining waste site operating log. The operator shall record
18 at least all of the following findings:

19 (a) Condition of vegetation on the dam and within 50 feet from the outside base.

20 (b) Piezometric levels within the mass of the dam.

21 (c) Condition of soil surfaces on the top and slopes of the dam and within 50 feet
22 from the outside base.

23 (d) Condition of drainage ditches near the base of the dam.

24 (e) Liquid surface level and amount of freeboard.

25 (f) Condition of spillways, conduits, and water level control structures.

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1 **(4) INACTIVE DAMS.** The operator shall inspect inactive dams quarterly and
2 record the findings in the mining waste site operating log. The operator shall record
3 at least all of the following findings:

4 (a) Condition of soil surfaces on the top and slopes of the dam and within 50 feet
5 from the outside base.

6 (b) Piezometric levels within the mass of the dam if that instrumentation has
7 been determined to be necessary or is required in the long-term care provisions of
8 the mining waste site feasibility study and plan of operation.

9 (c) Condition of spillways, conduits, and water level control structures.

10 **(5) DEFECTIVE CONDITIONS OF DAMS POSING RISK OF ADVERSE IMPACT.** When a
11 defective condition that poses a significant risk of adverse impact to the environment
12 is found during an inspection of a dam, the operator shall ensure that it is recorded
13 and corrected at the earliest practicable time. At the earliest practicable time, the
14 operator shall make a written report to the department of the condition and the
15 actions proposed and taken for its correction. Within 5 business days of receipt of a
16 written report, the department may confirm the correction of the condition and
17 specify any necessary additional corrective action. An operator shall consider any
18 of the following items as indicating a condition that requires prompt investigation
19 and that may require corrective action:

20 (a) Seepage on the outer face of the dam accompanied by boils, sand cones, or
21 deltas.

22 (b) Silt accumulations, boils, deltas, or cones in the drainage ditches at the base
23 of the dam.

24 (c) Cracking of soil surface on the top or either face of the dam.

25 (d) Bulging of the outside face of the dam.

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1 (e) Seepage, damp areas, or boils in the vicinity of, or erosion around, a conduit
2 through the dam.

3 (f) Any shrinkage of the top or faces of the dam.

4 (6) POTENTIAL DEFECTS OF DAMS. All of the following conditions indicate
5 potential defects and the operator shall closely check them on subsequent
6 inspections for an active dam and conduct an intermediate inspection if they exist
7 for an inactive dam:

8 (a) Patches of overgrown vegetation on the outside face or close to the base of
9 the dam.

10 (b) Surface erosion, gulying, or wave erosion on the inside of the dam.

11 (c) Surface erosion, gulying, or damp areas on the outside of the dam, including
12 the berm and the area within 50 feet from the outside base.

13 (d) Erosion below any conduit.

14 (e) Wet areas or soggy soil on the outside of, or in natural soil below, the dam.

15 (7) RECORD KEEPING RELATED TO DAMS. (a) The operator shall retain all records
16 relating to dam monitoring, analytical, and verification activities and data,
17 including all original strip chart recordings and instrumentation, calibration, and
18 maintenance records, until termination of operator responsibility, except to the
19 extent that copies of those records have previously been provided to the department.

20 (b) The operator shall maintain in a permanent file all of the following
21 construction records pertaining to any dam in case they are needed for future
22 reference:

23 1. Aerial photos of the construction site before construction.

24 2. Construction drawings and modifications of the drawings.

25 3. Construction specifications and modifications of the specifications.

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- 1 4. Results of all soil tests on foundations and fill materials.
- 2 5. Logs of borings and engineering geology reports.
- 3 6. Copies of construction progress inspections pertinent to core trench, toe
4 drain, internal drains, and other significant phases of the structure including, at the
5 option of the operator, photographs of various structural items.
- 6 7. Aerial photos of the entire dam taken within 90 days after all construction
7 is completed.
- 8 8. A description of and justification for all deviations or variances from the
9 construction plans and specifications.
- 10 **(8) RESPONSES TO UNPLANNED EVENTS.** If a mining waste site has an accidental
11 or emergency discharge, a fire, an explosion, or other unplanned or unpredicted
12 event that is likely to damage human health or the environment, the operator shall
13 follow the procedures set forth in the contingency plan under s. 295.51 (6) (f) and
14 shall report the incident to the department and to county, town, and tribal
15 governmental agencies immediately after the operator has discovered the event.
- 16 **(9) ANNUAL REPORT.** The operator shall submit to the department an annual
17 summary report concerning the mining waste site containing all of the following:
 - 18 (a) Statistical summaries of annual and cumulative data.
 - 19 (b) A comparison of the summaries under par. (a) to mining waste
20 characterization, leachate characterizations, effluent predictions, and baseline
21 water quality and background water quality data as contained in the approved
22 mining waste site feasibility study and plan of operation.
 - 23 (c) The results of verification procedures and a presentation of the error
24 associated with each parameter reported.

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1 (d) Information from monitoring wells that have not been affected, including
2 a discussion of whether the baseline values should be modified due to natural
3 variability and what the new values should be.

4 (10) APPLICABILITY. This section does not apply to a surface mine that is
5 backfilled with mining waste.

6 **295.64 Mining site monitoring; general.** (1) GENERAL. The department,
7 as a condition of a mining permit, shall require the operator to perform adequate
8 monitoring of environmental changes during the course of the mining and for the
9 additional period of time that is necessary to satisfactorily complete reclamation and
10 completely release the operator from any bonds or other security required. The
11 department may monitor environmental changes concurrently with the operator
12 and for an additional period after the security is released.

13 (2) ANALYSES. (a) The department shall review baseline water quality data
14 with respect to groundwater and monitoring data associated with the mine, mining
15 waste sites, and sites for the disposal of wastes that are not mining wastes at the time
16 of each review of the mining permit or reclamation plan under s. 295.63 (3) and when
17 the operator requests a modification of the mining permit or reclamation plan.

18 (b) An operator shall have bacteriological analyses of water samples and all
19 radiological analyses associated with the mining site performed by the state
20 laboratory of hygiene or at a laboratory certified or approved by the department of
21 health services. An operator shall have other laboratory tests the results of which
22 are submitted to the department under this subchapter performed by a laboratory
23 certified or registered under s. 299.11, except that this requirement does not apply
24 to any of the following:

- 25 1. Physical testing of soil.

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1 2. Air quality tests.

2 3. Tests for hydrogen ion concentration (pH).

3 4. Tests for chlorine residual.

4 5. Tests for temperature.

5 **295.643 Mining waste site monitoring. (1) GENERAL.** The department may
6 require the monitoring of groundwater, surface water, leachate, or other physical
7 features associated with a mining waste site.

8 **(2) PHYSICAL FEATURES.** The department may require the monitoring of air
9 quality, berms, embankments, vegetation growth, and drainage control structures
10 associated with the mining waste site. The department may require monitoring of
11 other chemical or biological conditions, if the department determines that the
12 monitoring is necessary to assess the impact of the mining waste site on critical
13 aquatic and terrestrial ecosystems.

14 **(3) MONITORING WELLS AND OTHER DEVICES. (a)** The department shall require
15 the installation of groundwater monitoring wells at a mining waste site. The
16 department may require installation of leachate monitoring wells, lysimeters,
17 moisture probes, and similar devices and associated water quality sampling and
18 analysis programs to detect the effects of leachate on groundwater.

19 **(b)** The department shall determine the required number of groundwater
20 monitoring wells based on the size of the mining waste site, the design of the mining
21 waste site, the types of mining waste, and the hydrologic and geologic setting of the
22 mining waste site. The department shall ensure that the number of wells is adequate
23 to yield samples representative of the groundwater quality both up gradient and
24 down gradient of the mining waste site.

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1 (c) An operator shall construct all monitoring wells in accordance with ch. NR
2 141, Wis. Adm. Code, and in such a manner as to prevent, to the extent practicable,
3 the exchange of water between aquifers.

4 (4) DESTRUCTION OF MONITORING DEVICES. (a) If for any reason a monitoring well
5 or other monitoring device associated with a mining waste site is destroyed or
6 otherwise fails to function properly, the operator shall notify the department in
7 writing within 5 days of discovering the destruction or malfunction.

8 (b) The operator shall either restore the monitoring well or other device or
9 properly abandon it and replace it with a functioning device within 60 days of
10 notifying the department under par. (a) unless the department notifies the operator
11 otherwise in writing within 30 days of receiving notice from the operator.

12 (5) SAMPLING OTHER WELLS. The department may require an operator to sample
13 public or private wells as part of a regular monitoring program or to determine the
14 extent of groundwater contamination associated with a mining waste site. If the
15 owner of a well does not authorize access for sampling, the operator shall promptly
16 notify the department.

17 (6) REQUIRED MONITORING AND ANALYSIS. (a) An operator shall monitor
18 groundwater at locations identified in the waste site feasibility study and plan of
19 operation on a quarterly basis, during March, June, September, and December,
20 unless the department agrees to an alternate schedule. The department may base
21 an alternate schedule on the hydrogeologic system's characteristics, such as flow
22 velocity and stratigraphy, and on fluctuations in quality as determined through
23 background water quality or baseline water quality sampling and mining waste
24 type. The operator shall analyze for the parameters listed in the approved waste site
25 feasibility study and plan of operation.

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1 (b) An operator shall use the methods for groundwater and surface water
2 sample collection, preservation, and analysis that are specified in the approved
3 mining waste site facility study and plan of operation.

4 (7) WATER ELEVATION MEASUREMENTS. The operator shall make water elevation
5 measurements on a quarterly basis.

6 (8) OPERATIONS REPORT. The department may require an operator to submit an
7 operations report to assess the effectiveness and environmental acceptability of
8 mining waste site operations. The operator may include in the report a discussion
9 of confinement of the active fill area and an analysis of leachate and other
10 monitoring, surface water control and erosion control, revegetation, settlement,
11 volume of the mining waste site utilized, leachate quantity and quality, slope
12 stability, equipment performance, volume and type of waste disposed of, and other
13 relevant parameters.

14 (9) REPORTS OF MONITORING DATA. The operator shall forward to the department,
15 within 60 days after sampling, 3 copies of the monitoring data required by this
16 section to be collected during each quarter.

17 **295.645 Groundwater quality, monitoring, and response. (1)**

18 DEFINITIONS. In this section:

19 (a) "Alternative concentration limit" means the concentration of a substance
20 in groundwater established by the department to replace a groundwater quality
21 standard when the department grants an exemption.

22 (b) "Statistically significantly different" means an amount of change
23 determined by the use of statistical tests for measuring significance at the 95 percent
24 confidence level.

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1 (2) DESIGN MANAGEMENT ZONE. (a) Notwithstanding the rule-making authority
2 in s. 160.21 (2) and except as provided under par. (b), for the purposes of ch. 160, the
3 horizontal distance to the boundary of the design management zone for a mining
4 operation is 1,200 feet from the limits of the engineered structures of the mining
5 waste site, including any wastewater and sludge storage or treatment lagoons, the
6 edge of the mine, and the adjacent mine mill and ferrous mineral processing facilities
7 or at the boundary of the property owned or leased by the applicant, whichever
8 distance is less.

9 (b) When issuing or modifying a mining permit or issuing or reissuing any other
10 approval, the department may expand the design management zone by a horizontal
11 distance of up to an additional 1,200 feet in any direction as provided in this
12 paragraph, but not beyond the boundary of the property owned or leased by the
13 applicant. The department may not expand the design management zone unless the
14 applicant demonstrates all of the following:

15 1. That preventive action limits and enforcement standards or alternative
16 concentration limits cannot be met at the boundary of the design management zone
17 if it is not expanded.

18 2. That preventive action limits and enforcement standards or alternative
19 concentration limits will be met at the boundary of the expanded design
20 management zone.

21 (c) Notwithstanding the rule-making authority in s. 160.21 (2), for the
22 purposes of ch. 160, the vertical distance to the boundary of the design management
23 zone for a mining site, including any mining waste site, extends no deeper than 1,000
24 feet into the Precambrian bedrock or than the final depth of the mining excavation,
25 whichever is greater.

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1 **(3) POINT OF STANDARDS APPLICATION.** (a) Any point at which groundwater is
2 monitored is a point of standards application to determine whether a preventive
3 action limit or an alternative concentration limit to a preventive action limit has been
4 attained or exceeded for an activity regulated under a mining permit or another
5 approval related to the mining operation. Any of the following is a point of standards
6 application to determine whether an enforcement standard or an alternative
7 concentration limit to an enforcement standard has been attained or exceeded for an
8 activity regulated under a mining permit or another approval related to the mining
9 operation:

10 1. Any point of present groundwater use.

11 2. Any point beyond the boundary of the property on which the activity is
12 conducted, subject to par. (b).

13 3. Any point that is within the boundary of the property on which the activity
14 is conducted but is beyond the design management zone, subject to par. (b).

15 (b) No point at a depth of greater than 1,000 feet into the Precambrian bedrock
16 or than the final depth of the mining excavation, whichever is greater, is a point of
17 standards application under this subsection.

18 (c) Section 160.21 (2) does not apply to an activity regulated under this
19 subchapter.

20 **(4) CHANGE IN GROUNDWATER QUALITY.** If the analysis of samples collected
21 through monitoring indicates that the quality of groundwater is statistically
22 significantly different from either baseline water quality or background water
23 quality and the evaluation of the data shows a reasonable probability that without
24 intervention groundwater quality standards or alternative concentration limits will
25 be attained or exceeded, the operator shall do all of the following:

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1 (a) Notify the department within 10 days after the operator receives the results
2 of the analysis of the samples.

3 (b) Determine, if possible, the cause of the difference in water quality, such as
4 a spill, a design failure, or an improper operational procedure.

5 (c) Determine the extent of groundwater contamination or the potential for
6 groundwater contamination.

7 (d) Implement the applicable portions of the approved contingency plan.

8 **(5) RESPONSE CONCERNING PREVENTIVE ACTION LIMITS.** In accordance with s. NR
9 140.24 (1) to (5), Wis. Adm. Code, the department shall evaluate the range of
10 responses proposed by the operator when a preventive action limit or an alternative
11 concentration limit to a preventive action limit is attained or exceeded and the
12 analysis of samples indicates that the quality of groundwater is statistically
13 significantly different from either baseline water quality or background water
14 quality at a point of standards application. In designating the appropriate response,
15 the department shall evaluate the operator's proposed range of responses, including
16 any alternate responses to those identified in s. NR 140.24, Wis. Adm. Code. For any
17 alternate responses, the department shall consider the technical and economic
18 feasibility of alternate responses, the practicality of stopping the further release of
19 the substance, and the risks and benefits of continued mining operations. The
20 department shall designate the appropriate response, except that, notwithstanding
21 s. 160.21 (3) and the rule-making authority under s. 160.21 (1), the department may
22 not prohibit a practice or activity or require closure and abandonment of a mining
23 waste site, including any wastewater and sludge storage or treatment lagoon, unless
24 it has followed the procedures in s. 295.78 and satisfies the requirements of s. 160.23
25 (4) and (6). The department may determine that no response is necessary and that

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1 an exemption is not required when the requirements of s. NR 140.24 (5) (a) or (b), Wis.
2 Adm. Code are met.

3 (6) RESPONSE CONCERNING ENFORCEMENT STANDARDS. (a) In accordance with s.
4 NR 140.26 (1) and (2), Wis. Adm. Code, the department shall evaluate the range of
5 responses proposed by the operator based on the responses listed in Table 6 of s. NR
6 140.26, Wis. Adm. Code, when an enforcement standard or an alternative
7 concentration limit to an enforcement standard is attained or exceeded and the
8 analysis of samples indicates that the quality of groundwater is statistically
9 significantly different from either baseline water quality or background water
10 quality at a point of standards application. In designating the appropriate response,
11 the department shall evaluate the operator's proposed range of responses against
12 those identified in Table 6 of s. NR 140.26, Wis. Adm. Code. The department shall
13 designate the appropriate response, except that, notwithstanding ss. 160.21 (3) and
14 160.25 (1) (a) and the rule-making authority under s. 160.21 (1), the department may
15 not prohibit a practice or activity or require closure and abandonment of a mining
16 waste site, including any wastewater and sludge storage or treatment lagoon, unless
17 it has followed the procedures in s. 295.78 and all of the following apply:

- 18 1. The department bases its decision upon reliable test data.
- 19 2. The department determines, to a reasonable certainty, by the greater weight
20 of the credible evidence, that no other remedial action would prevent the violation
21 of the enforcement standard at the point of standards application.
- 22 3. The department establishes the basis for the boundary and duration of the
23 prohibition.

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1 4. The department ensures that any prohibition imposed is reasonably related
2 in time and scope to maintaining compliance with the enforcement standard at the
3 point of standards application.

4 5. If the substance involved is naturally occurring, unless the substance
5 involved is carcinogenic, teratogenic, or mutagenic in humans, the department
6 considers the existence of the background concentration of the substance in
7 evaluating response options to the noncompliance with the enforcement standard or
8 alternative concentration limit for that substance and determines that the proposed
9 prohibition will result in the protection of or substantial improvement in
10 groundwater quality notwithstanding the background concentrations of the
11 substance.

12 (b) The department may only require a remedial action to be taken if the
13 remedial action is reasonably related in time and scope to the substance, activity, or
14 practice that caused the enforcement standard or alternative concentration limit to
15 an enforcement standard to be attained or exceeded and the quality of groundwater
16 to be statistically significantly different from either baseline water quality or
17 background water quality at the point of standards application.

18 (c) If nitrates or any substance of welfare concern attains or exceeds an
19 enforcement standard and if the analysis of samples indicates that the quality of
20 groundwater is statistically significantly different from either baseline or
21 background water quality, then the department shall evaluate whether the
22 enforcement standard was attained or exceeded in whole or in part due to high
23 background water quality concentrations of the substance and whether the
24 additional concentrations represent a public welfare concern before it designates the
25 appropriate response and, notwithstanding ss. 160.21 (3) and 160.25 (1) (a) and the

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1 rule-making authority under s. 160.21 (1), the department may not prohibit a
2 practice or activity or require closure and abandonment of a mining waste site,
3 including any wastewater and sludge storage or treatment lagoon, unless it has
4 followed the procedures in s. 295.78 and par. (a) 1. to 4. apply.

5 (d) If compliance with an enforcement standard is achieved at a point of
6 standards application, then sub. (5) applies.

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7 (7) ENVIRONMENTAL ANALYSIS NOT REQUIRED. An action under sub. (5) or (6) with
8 respect to a specific site does not constitute a major state action under s. 1.11 (2).

9 (8) EXEMPTIONS TO GROUNDWATER QUALITY STANDARDS. When issuing or
10 modifying a mining permit or issuing or reissuing any other approval, the
11 department may grant an exemption from a groundwater quality standard and
12 establish an alternative concentration limit to a groundwater quality standard.

13 (9) APPLICABILITY OF OTHER LAW. Chapter NR 140, Wis Adm. Code, applies to
14 mining operations and mining sites, including mining waste sites, only to the extent
15 that it does not conflict with this section.

16 **295.65 Successors.** (1) When one operator succeeds to the interest of another
17 in an uncompleted mining operation by sale, assignment, lease, or otherwise, the
18 department shall release the first operator from the duties imposed upon the first
19 operator by this subchapter as to the mining operation and transfer the mining
20 permit and any approvals under ss. 295.60, 295.605, and 295.61 to the successor
21 operator if all of the following apply:

22 (a) The successor operator agrees to comply with the requirements of this
23 subchapter.

24 (b) The successor operator discloses whether it has forfeited any performance
25 security because of noncompliance with any mining laws within the previous 10

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1 years, posts any bond or other security required under s. 295.59, and assumes all
2 responsibilities of all applicable approvals granted to the predecessor operator.

3 (2) The department is not required to prepare an environmental impact
4 statement or an environmental assessment for the purposes of this section.

5 **295.66 Cessation of mining or reclamation.** If there is a cessation of
6 mining or reclamation for 30 days or more that is not set forth in either the mining
7 plan or the reclamation plan, the operator shall notify the department of the
8 cessation within 48 hours of the cessation of mining and shall begin stabilization of
9 the mining site. The department may require the operator to provide technical,
10 engineering, and any other information that the operator believes shows that its
11 actions to stabilize the mining site are adequate. If the department determines, after
12 reviewing the information provided by the operator, that the proposed stabilization
13 of the mining site will result in a substantial adverse impact to the environment, the
14 department shall order the operator to begin additional measures to protect the
15 environment, including, if the cessation is reasonably anticipated to extend for a
16 protracted period of time, reclamation according to the reclamation plan or part of
17 the reclamation plan. Usual and regular shutdown of operations on weekends, for
18 maintenance or repair of equipment or facilities, or for other customary reasons do
19 not constitute a cessation of mining.

20 **295.67 Determination of abandonment of mining.** (1) Except as provided
21 in sub. (2), abandonment of mining occurs if there is a cessation of mining, not set
22 forth in an operator's mining plan or reclamation plan or by any other sufficient
23 written or constructive notice, extending for more than 6 consecutive months.

24 (2) Abandonment of mining does not occur if all of the following apply:

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1 (a) The cessation of mining is due either to labor strikes or to unforeseen
2 developments such as adverse market conditions.

3 (b) The cessation of mining does not continue beyond the time, not to exceed
4 5 years, specified by the department.

5 (c) The mining site is maintained in an environmentally stable manner during
6 the cessation of mining.

7 (d) The reclamation of the mining site continues according to the reclamation
8 plan during the cessation of mining to the extent practicable.

9 **295.68 Certificates of completion and release of security.** (1) Upon the
10 petition of the operator, but not less than 4 years after notification to the department
11 by the operator of the completion of the reclamation plan or not less than one year
12 after notification to the department by the operator of the completion of the
13 reclamation plan as to a portion of the mining site, if the department finds that the
14 operator has completed reclamation of any portion of the mining site in accordance
15 with the reclamation plan and this subchapter, the department shall issue a
16 certificate of completion setting forth a description of the area reclaimed and a
17 statement that the operator has fulfilled its duties under the reclamation plan as to
18 that area.

19 (2) Upon the issuance of any certificate of completion under sub. (1) for any
20 portion of the mining site, but not for the entire mining site, the department shall
21 allow the operator to reduce the amount of the bond or other security provided under
22 s. 295.59 (1) to an amount equal to the estimated cost of reclamation of the portion
23 of the mining site that is disturbed or for which reclamation has been completed but
24 no certificate of completion has been issued.

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1 (3) Upon issuance of a certificate or certificates of completion of reclamation
2 for the entire mining site, the department shall require the operator to maintain a
3 bond or other security under s. 295.59 (1) equal to at least 10 percent of the cost to
4 the state of reclamation of the entire mining site, except that if the mining site in the
5 mining plan is less than 10 acres, the department may release the bond or other
6 security after issuance of the certificate of completion for the entire mining site.

7 (4) After 10 years after the issuance of a certificate or certificates of completion
8 for the entire mining site, the department shall release the remaining bond or other
9 security provided under s. 295.59 (1) if the department finds that the reclamation
10 plan has been complied with.

11 **295.69 Termination of proof of financial responsibility for long-term**
12 **care of mining waste site. (1)** One year after closure, and annually thereafter
13 until the department terminates the obligation to maintain proof of financial
14 responsibility for long-term care of a mining waste site under sub.(2) (c), an operator
15 who has carried out all necessary long-term care during the preceding year, may
16 apply to the department for a reduction in the amount of the proof of financial
17 responsibility provided under s. 295.59 (2m) equal to the costs of long-term care for
18 that year. The operator shall provide an itemized list of costs incurred. If the
19 department determines that the costs incurred are in accordance with the long-term
20 care requirements in the approved waste site feasibility study and plan of operation
21 and that adequate funds exist to complete required long-term care for the remainder
22 of the 40-year period on which the amount of the proof of financial responsibility was
23 originally determined, the department shall authorize in writing a reduction in the
24 amount of proof of financial responsibility provided. The department shall make its
25 determinations within 90 days of an application.

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1 (2) (a) An operator may apply to the department for termination of its
2 obligation to maintain proof of financial responsibility for long-term care of the
3 mining waste site under s. 295.59 (2m) at any time after the mining waste site has
4 been closed for 20 years by submitting an application that demonstrates that
5 continuation of the obligation to maintain proof of financial responsibility for
6 long-term care is not necessary for adequate protection of public health or the
7 environment. The burden is on the operator to prove by a preponderance of the
8 evidence that continuation of the obligation to maintain proof of financial
9 responsibility for long-term care is not necessary for adequate protection of public
10 health or the environment.

11 (b) Within 30 days of receiving an application under par. (a), the department
12 shall provide notice to the public of the application for termination of the obligation
13 to maintain proof of financial responsibility for long-term care. In the notice, the
14 department shall invite the submission of written comments by any person on the
15 application within 30 days of the day on which the notice is published. The
16 department shall provide the notice by publishing a class 1 notice under ch. 985 in
17 the official newspaper designated under s. 985.04 or 985.05 or, if none exists, in a
18 newspaper likely to give notice in the area of the mining waste site. The department
19 shall also send the notice to the operator.

20 (c) Within 120 days of the day on which the department publishes the notice
21 under par. (b), the department shall determine either that proof of financial
22 responsibility for long-term care of the mining waste site is no longer required, in
23 which case the applicant is relieved of the responsibility of providing proof of
24 financial responsibility for long-term care, or that proof of financial responsibility
25 for long-term care of the mining waste site is still required, in which case the

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1 applicant may not submit another application under par. (a) until at least 5 years
2 have elapsed since the previous application.

3 **295.695 Inspections by the department.** (1) Any duly authorized officer,
4 employee, or representative of the department who has received the safety training
5 under 30 CFR 48.31 may enter and inspect any property, premises, or place on or at
6 which any mining operation or facility is located or is being constructed or installed
7 at any reasonable time for the purpose of ascertaining the state of compliance with
8 this subchapter and the provisions of chs. 281, 283, 285, 289, 291, 292, and 299 and
9 rules promulgated under those chapters that are applicable to the mining operation.
10 No person may refuse entry or access to any authorized representative of the
11 department who requests entry for purposes of inspection, and who presents
12 appropriate credentials.

13 (2) No person may obstruct, hamper, or interfere with any inspection
14 authorized in sub. (1).

15 (3) The department shall furnish to the operator a written report on any
16 inspection setting forth all observations, relevant information, and data that relate
17 to compliance status.

18 **295.73 Fees.** (1) (a) Except as provided in par. (b), an applicant for a mining
19 permit is not required to pay any application or filing fee for any approval other than
20 a mining permit, notwithstanding any fee required under ch. 23, 29, 30, 169, 281,
21 283, 285, 289, or 291, or rules promulgated under those chapters.

22 (b) An applicant for a mining permit shall pay any fee required under s. 281.343

23 (3) (c) 1.

24 (3) (a) The department shall assess an applicant a fee equal to its costs for
25 evaluating the mining project, including the costs for consultants retained by the

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1 department to evaluate the application for the mining permit and the application for
2 any other approval [↓] and to perform environmental analysis under s. 1.11 or
3 \$2,000,000, whichever is less.

4 (b) The applicant shall pay ^{the under par. (a) ✓} fees as follows:

5 1. One hundred thousand dollars shall be paid at the time that the bulk
6 sampling plan is filed under s. 295.45 or at the time that the notice of the intention
7 to file a mining permit application is filed, whichever is first.

8 2. Two hundred fifty thousand dollars when the department provides cost
9 information demonstrating that the payment under subd. 1. has been fully allocated
10 against actual costs.

11 3. Two hundred fifty thousand dollars when the department provides cost
12 information demonstrating that the payment under subd. 2. has been fully allocated
13 against actual costs.

14 4. Two hundred fifty thousand dollars when the department provides cost
15 information demonstrating that the payment under subd. 3. has been fully allocated
16 against actual costs.

17 5. Two hundred fifty thousand dollars when the department provides cost
18 information demonstrating that the payment under subd. 4. has been fully allocated
19 against actual costs.

20 6. Two hundred fifty thousand dollars when the department provides cost
21 information demonstrating that the payment under subd. 5. has been fully allocated
22 against actual costs.

23 7. Two hundred fifty thousand dollars when the department provides cost
24 information demonstrating that the payment under subd. 6. has been fully allocated
25 against actual costs.

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1 8. Two hundred fifty thousand dollars when the department provides cost
2 information demonstrating that the payment under subd. 7. has been fully allocated
3 against actual costs.

4 9. One hundred fifty thousand dollars when the department provides cost
5 information demonstrating that the payment under subd. 8. has been fully allocated
6 against actual costs.

7 ^c
(b) After the department approves or denies the application for a mining permit
8 or, if the applicant withdraws the application for a mining permit, after the applicant
9 withdraws the application, the department shall refund to the applicant any amount
10 paid by the applicant under par. (a) but not fully allocated against the department's
11 actual costs.

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12 (4) Subchapter VI of ch. 289 does not apply to mining waste disposed of in a
13 mining waste site covered by a mining permit, except that an operator shall pay the
14 fees specified in ss. 289.63 (4), 289.64 (3), and 289.67 (1) (d).

15 **295.75 Effect of other laws.** (1) Except as provided in sub. (2), if there is a
16 conflict between a provision in this subchapter and a provision in ch. 23, 29, 30, 160,
17 169, 281, 283, 285, 289, or 291 or in a rule promulgated under one of those chapters,
18 the provision in this subchapter controls.

19 (2) (a) If there is a conflict between a provision in this subchapter and a
20 provision in s. 281.343, the provision in s. 281.343 controls.

21 (b) If there is a conflict between a provision in this subchapter and a provision
22 in s. 281.346, the provision in s. 281.346 controls, except as provided in s. 295.57 (9).

23 **295.77 Review.** (1) Notwithstanding s. 227.42, no person is entitled to a
24 contested case hearing on a decision by the department under this subchapter or on
25 a decision by the department relating to the issuance of an approval.

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1 (2) Judicial review of a decision described in sub. (1) is the exclusive method
2 for challenging the decision. The court shall base review of a decision described in
3 sub. (1) on the administrative record before the department. The scope of the review
4 is that specified in s. 227.57. No judicial review is available before the department
5 issues the final decision on an approval.

6 **295.78 Mining and reclamation; orders.** (1) (a) If the department finds a
7 violation of law or any unapproved deviation from the mining plan, reclamation plan,
8 or mining waste site feasibility study and plan of operation at a mining site under
9 a mining permit, the department shall do one of the following:

10 1. Issue an order requiring the operator to comply with the law, mining plan,
11 reclamation plan, or mining waste site feasibility study and plan of operation within
12 a specified time.

13 2. Require the alleged violator to appear before the department for a hearing
14 and answer the department's charges.

15 3. Request the department of justice to initiate action under s. 295.79.

16 (b) Any order issued under par. (a) 1. following a hearing takes effect
17 immediately. Any other order takes effect 10 days after the date the order is served,
18 unless the person named in the order requests in writing a hearing before the
19 department within the 10-day period.

20 (c) If no hearing on an order issued under par. (a) 1. was held and if the
21 department receives a request for a hearing within 10 days after the date the order
22 is served, the department shall provide due notice and hold a hearing. If after the
23 hearing the department finds that no violation has occurred, it shall rescind its order.

24 (d) If an operator fails to comply with an order issued under par. (a) 1. within
25 the time for compliance specified in the order, the department shall suspend the

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1 mining permit until the operator fully complies with the order, except that if the
2 operator seeks review of the order under s. 295.77, mining may continue until the
3 final disposition of the action, except as provided under sub. (4).

4 (e) The department shall inform the department of justice of a suspension
5 under par. (d) within 14 days. After receiving notice of a suspension, the department
6 of justice may commence an action under s. 295.79.

7 (2) If reclamation of a mining site is not proceeding in accordance with the
8 reclamation plan and the operator has not begun to rectify deficiencies within the
9 time specified in an order, or if the reclamation is not properly completed in
10 conformance with the reclamation plan within one year after completion or
11 abandonment of mining on any portion of the mining site, unless because of acts of
12 God, such as adverse weather affecting grading, planting, and growing conditions,
13 the department, with the staff, equipment, and material under its control, or by
14 contract with others, shall take the actions that are necessary for the reclamation of
15 mined areas. The operator is liable for the cost to the state of reclamation conducted
16 under this subsection.

17 (3) The department shall cancel all other mining permits held by an operator
18 who refuses to reclaim a mining site in compliance with the reclamation plan after
19 the completion of mining or after the cancellation of a mining permit. The
20 department may not issue any mining permit for that mining site or any other
21 mining site in this state to an operator who refused to reclaim the mining site in
22 compliance with the reclamation plan.

23 (4) At any time that the department determines that the continuance of mining
24 constitutes an immediate and substantial threat to public health and safety or the
25 environment, the department may request the department of justice to institute an

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1 action in circuit court of the county in which the mine is located for a restraining
2 order or injunction or other appropriate remedy to stop mining until the immediate
3 and substantial threat is eliminated.

4 (5) Section 281.346 (7m) does not apply to a water withdrawal associated with
5 a mining operation for which a mining permit has been issued.

6 **295.79 Enforcement; penalties.** (1) The department of justice shall enforce
7 this subchapter and any order issued under this subchapter. The circuit court of the
8 county where the violation occurred has jurisdiction to enforce this subchapter or any
9 orders issued under this subchapter, by injunction or other appropriate relief.

10 (2) (a) Any person who authorizes or engages in mining without a mining
11 permit and written authorization to mine under s. 295.59 (3) shall forfeit all profits
12 obtained from those illegal activities and not more than \$5,000 for each day during
13 which the mine was in operation.

14 (b) A person to whom par. (a) applies is also liable to the department for the full
15 cost of reclaiming the affected area of land and any damages caused by the mining.

16 (c) If the violator of par. (a) is a corporation, limited liability company,
17 partnership, or association, any officer, director, member, manager, or partner who
18 knowingly authorizes, supervises, or contracts for mining is also subject to the
19 penalties in this subsection.

20 (3) Any person who makes or causes to be made in an application or report
21 required by this subchapter a statement known to the person to be false or
22 misleading in any material respect or who refuses to submit information required by
23 a mining permit or by this subchapter may be fined not less than \$1,000 nor more
24 than \$5,000. If the false or misleading statement is material to the issuance of the
25 mining permit and the mining permit would not have been issued had the false or

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1 misleading statement not been made, the court may revoke the mining permit. If any
2 violation under this subsection is repeated the court may revoke the mining permit.

3 (4) (a) Any person who commits a violation of this subchapter or any permit or
4 order issued under this subchapter, except for the violations enumerated in subs. (2)
5 or (3), shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each
6 day of continued violation is a separate offense, except that no forfeiture may be
7 imposed during the time that continued mining is authorized under s. 295.63 (3).
8 While an order is suspended, stayed, or enjoined, this penalty does not accrue.

9 (b) In addition to the penalties provided under par. (a), the court may award
10 the department of justice the reasonable and necessary expenses of the investigation
11 and prosecution of the violation, including attorney fees. The department of justice
12 shall deposit in the state treasury for deposit into the general fund all moneys that
13 the court awards to the department or the state under this paragraph. These moneys
14 shall be credited to the appropriation account under s. 20.455 (1) (gh).

15 (5) Any person having an interest that is or may be adversely affected may
16 intervene as a matter of right, in any enforcement action brought under this section.

17 SECTION 84. 299.85 (7) (a) 2. and 4. of the statutes are amended to read:

18 299.85 (7) (a) 2. Notwithstanding minimum or maximum forfeitures specified
19 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,
20 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and
21 (3), 30.49 (1) (a) and (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2),
22 285.41 (7), 285.57 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97,
23 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a),
24 295.19 (3) (a) and (b) 1., 295.37 (2), 295.79 (2), (3), and (4), 299.15 (4), 299.51 (5),
25 299.53 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if a regulated entity that

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1 qualifies under sub. (2) for participation in the Environmental Compliance Audit
2 Program corrects violations that it discloses in a report that meets the requirements
3 of sub. (3) within 90 days after the department receives the report that meets the
4 requirements of sub. (3), the regulated entity may not be required to forfeit more than
5 \$500 for each violation, regardless of the number of days during which the violation
6 continues.

7 4. Notwithstanding minimum or maximum forfeitures specified in ss. 29.314
8 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969, 29.971 (1) (a), (1m)
9 (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and (3), 30.49 (1) (a) and
10 (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2), 285.41 (7), 285.57
11 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97, 289.96 (2) and (3) (a),
12 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a), 295.19 (3) (a) and (b)
13 1., 295.37 (2), 295.79 (2), (3), and (4), 299.15 (4), 299.51 (5), 299.53 (4) (c) 1., 299.62
14 (3) (a) and (c), and 299.97 (1), if the department approves a compliance schedule
15 under sub. (6) and the regulated entity corrects the violations according to the
16 compliance schedule, the regulated entity may not be required to forfeit more than
17 \$500 for each violation, regardless of the number of days during which the violation
18 continues.

19 SECTION 85. 299.95 of the statutes is amended to read:

20 **299.95 Enforcement; duty of department of justice; expenses.** The
21 attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except
22 ss. 285.57, 285.59, and 299.64, and all rules, special orders, licenses, plan approvals,
23 permits, and water quality certifications of the department, except those
24 promulgated or issued under ss. 285.57, 285.59, and 299.64 and except as provided
25 in ss. 285.86 and 299.85 (7) (am). The Except as provided in s. 295.79 (1), the circuit

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1 court for Dane county or for any other county where a violation occurred in whole or
2 in part has jurisdiction to enforce chs. 281 to 285 and 289 to 295 or this chapter or
3 the rule, special order, license, plan approval, permit, or certification by injunctive
4 and other relief appropriate for enforcement. For purposes of this proceeding where
5 chs. 281 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan
6 approval, permit or certification prohibits in whole or in part any pollution, a
7 violation is considered a public nuisance. The department of natural resources may
8 enter into agreements with the department of justice to assist with the
9 administration of chs. 281 to 285 and 289 to 295 and this chapter. Any funds paid
10 to the department of justice under these agreements shall be credited to the
11 appropriation account under s. 20.455 (1) (k).

12 SECTION 86. 323.60 (1) (gm) of the statutes is created to read:

13 323.60 (1) (gm) "Minerals" mean unbeneficiated metallic ore but does not
14 include mineral aggregates such as stone, sand, and gravel.

15 SECTION 87. 323.60 (5) (d) 3. of the statutes is amended to read:

16 323.60 (5) (d) 3. All facilities with 10 or more employees in major group
17 classifications 10 to 13 in the standard industrial classification manual, 1987
18 edition, published by the U.S. office of management and budget, at which a toxic
19 chemical is used at or above an applicable threshold quantity, except that compliance
20 with the toxic chemical release form requirements under this subdivision is not
21 required for the placement of a toxic chemical in a storage or disposal site or facility
22 that is located at a facility with a permit under ch. 293 or a mining permit under
23 subch. III of ch. 295 if the toxic chemical consists of or is contained in merchantable
24 by-products, as defined in s. 293.01 (7) or 295.41 (25), minerals as defined in s. 293.01
25 (8), or refuse, as defined in s. 293.01 (25) or 295.41 (41).

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1 **SECTION 88.** 710.02 (2) (d) of the statutes is amended to read:

2 710.02 (2) (d) An exploration mining lease as defined in s. 107.001 (1) and land
3 used for mining and associated activities under chs. 293 and 295.

4 **SECTION 89. Nonstatutory provisions.**

5 (1) RULES.

6 (a) The department of natural resources shall submit in proposed form rules
7 revising chapters NR 130, 131, 132, and 182, Wisconsin Administrative Code, that
8 are in effect on the effective date of this paragraph and revising any other rules
9 promulgated under section 293.13 (1) (a) of the statutes that are in effect on the
10 effective date of this paragraph to the legislative council staff under section 227.15
11 (1) of the statutes no later than the first day of the 5th month beginning after the
12 effective date of this paragraph. The proposed revised rules shall clarify that
13 chapters NR 130, 131, 132, and 182, Wisconsin Administrative Code, and any other
14 rules promulgated under section 293.13 (1) (a) of the statutes do not apply to ferrous
15 metallic mining.

16 (b) The department of natural resources shall submit in proposed form rules
17 revising chapters NR 500 to 555 and 600 to 679, Wisconsin Administrative Code, that
18 are in effect on the effective date of this paragraph and revising any other rules
19 promulgated under sections 289.05 and 289.06 (1) of the statutes that are in effect
20 on the effective date of this paragraph to the legislative council staff under section
21 227.15 (1) of the statutes no later than the first day of the 5th month beginning after
22 the effective date of this paragraph. The department shall revise the rules in
23 chapters NR 500 to 555 and 600 to 679, Wisconsin Administrative Code, and any
24 other rules promulgated under sections 289.05 and 289.06 (1) of the statutes so that

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1 they are consistent with subchapter III of chapter 295, of the statutes, as created by
2 this act.

3 (c) The department of natural resources shall submit, to the legislative council
4 staff under section 227.15 (1) of the statutes, no later than the first day of the 5th
5 month beginning after the effective date of this paragraph, in proposed form rules
6 revising any rules of the department that are in effect on the effective date of this
7 paragraph, in addition to the rules under paragraphs (a) and (b), that provide
8 exemptions for nonferrous mining or associated activities to provide the same
9 exemptions for ferrous mining and associated activities.

10 (d) Notwithstanding section 227.137 (2) of the statutes, the department of
11 natural resources is not required to prepare an economic impact report for the
12 revised rules required under paragraphs (a) to (c).

13 (END)

D. N. K.