



State of Wisconsin
2011 - 2012 LEGISLATURE

50379/1



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RCT/MGG/RK/JK:kf&cs:jf

Today if possible

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VMMR

SENATE SUBSTITUTE AMENDMENT,

TO 2011 ^{Senate} ASSEMBLY BILL ~~426~~ 488

3
only changes
they are from the
CCC - I clipped
(50386/1) pages.

Regen

1 AN ACT *to repeal* 107.001 (2) and 293.01 (8); *to renumber and amend* 30.123
2 (8) (c), 70.395 (1e) and 87.30 (2); *to amend* 20.370 (2) (gh), 20.455 (1) (gh),
3 20.566 (7) (e), 20.566 (7) (v), 25.46 (7), 29.604 (4) (intro.), 29.604 (4) (c) (intro.),
4 30.025 (1e) (a), 30.025 (1m) (intro.), 30.025 (1m) (c), 30.025 (1s) (a), 30.025 (2),
5 30.025 (2g) (b) (intro.), 30.025 (4), 30.12 (3m) (c) (intro.), 30.133 (2), 30.19 (4) (c)
6 (intro.), 30.195 (2) (c) (intro.), 70.375 (1) (as), 70.375 (1) (bm), 70.375 (2) (a),
7 70.375 (6), 70.38 (2), 70.395 (2) (dc) 1., 70.395 (2) (dc) 2., 70.395 (2) (dc) 3., 70.395
8 (2) (dc) 4., 70.395 (2) (dg), 70.395 (2) (fm), 70.395 (2) (h) 1., 70.395 (2) (hg), 70.395
9 (2) (hr), 70.395 (2) (hw), 107.001 (1), 107.01 (intro.), 107.01 (2), 107.02, 107.03,
10 107.04, 107.11, 107.12, 107.20 (1), 107.20 (2), 107.30 (8), 107.30 (15), 107.30
11 (16), 160.19 (12), 196.491 (3) (a) 3. b., 196.491 (4) (b) 2., 281.65 (2) (a), 281.75
12 (17) (b), 287.13 (5) (e), 289.35, 289.62 (2) (g) 2. and 6., 292.01 (1m), chapter 293
13 (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), 20.445
5 (1) (gm), 25.49 (2m), 29.604 (7m), 30.025 (1e) (c), 30.025 (4m), 31.23 (3) (e),
6 70.375 (2b), 70.375 (2c), 70.395 (1e) (a), 70.395 (1e) (b), 87.30 (2) (b), 106.05,
7 106.35, 196.491 (3) (a) 3. c., 227.483 (3) (c), 238.14, 293.01 (12m), subchapter III
8 of chapter 295 [precedes 295.40] and 323.60 (1) (gm) of the statutes; **relating**
9 **to:** regulation of ferrous metallic mining and related activities, procedures for
10 obtaining approvals from the Department of Natural Resources for the
11 construction of utility facilities, making an appropriation, and providing
12 penalties.

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

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

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

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

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

23 **SECTION 3.** 20.445 (1) (gm) of the statutes is created to read:

1 20.445 (1) (gm) *Mining industry jobs training grants.* All moneys credited to
2 this appropriation account under s. 70.395 (1e) (a), for mining skills training grants
3 under s. 106.05 and for mining equipment manufacturing training grants under s.
4 106.35.

5 **SECTION 4.** 20.455 (1) (gh) of the statutes is amended to read:

6 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22
7 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3),
8 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the
9 expenses of investigation and prosecution of violations, including attorney fees.

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

11 20.566 (7) (e) *Investment and local impact fund supplement.* The amounts in
12 the schedule to supplement par. (v) for the purposes of ss. 70.395, 293.33 (4) ~~and~~,
13 293.65 (5) (a), 295.443, and 295.61 (9) (a).

14 **SECTION 6.** 20.566 (7) (v) of the statutes is amended to read:

15 20.566 (7) (v) *Investment and local impact fund.* From the investment and local
16 impact fund, all moneys received under s. 70.395 (1e) and (2) (dc) and (dg), less the
17 moneys appropriated under s. 20.370 (2) (gr), to be disbursed under ss. 70.395 (2) (d)
18 to (g), 293.33 (4) ~~and~~, 293.65 (5) (a), 295.443, and 295.61 (9) (a).

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

20 25.46 (7) The fees imposed under s. 289.67 (1) for environmental management,
21 except that ~~for each ton of waste, of the fees imposed under s. 289.67 (1) (cp) or (cv),~~
22 \$3.20 for each ton of waste is for nonpoint source water pollution abatement.

23 **SECTION 8.** 25.49 (2m) of the statutes is created to read:

24 25.49 (2m) The moneys transferred under s. 70.395 (1e).

25 **SECTION 9.** 29.604 (4) (intro.) of the statutes is amended to read:

1 29.604 (4) PROHIBITION. (intro.) Except as provided in sub. (6r) and (7m) or as
2 permitted by departmental rule or permit:

3 **SECTION 10.** 29.604 (4) (c) (intro.) of the statutes is amended to read:

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

9 **SECTION 11.** 29.604 (7m) of the statutes is created to read:

10 29.604 (7m) BULK SAMPLING ACTIVITIES. A person may take, transport, or
11 possess a wild animal on the department's endangered and threatened species list
12 without a permit under this section if the person avoids and minimizes adverse
13 impacts to the wild animal to the extent practicable, if the taking, transporting, or
14 possession does not result in wounding or killing the wild animal, and if the person
15 takes, transports, or possesses the wild animal for the purpose of bulk sampling
16 activities under s. 295.45.

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

18 30.025 (1e) (a) Except as provided in ~~par.~~ pars. (b) and (c), this section applies
19 to a proposal to construct a utility facility if the utility facility is required to obtain,
20 or give notification of the wish to proceed under, one or more permits.

21 **SECTION 13.** 30.025 (1e) (c) of the statutes is created to read:

22 30.025 (1e) (c) This section does not apply to a proposal to construct a utility
23 facility for ferrous mineral mining and processing activities governed by subch. III
24 of ch. 295, unless the person proposing to construct the utility facility elects to
25 proceed in the manner provided under this section.

1 **SECTION 14.** 30.025 (1m) (intro.) of the statutes is amended to read:

2 30.025 (1m) PREAPPLICATION PROCESS. (intro.) Before filing ~~an a combined~~
3 application ~~under this section for permits under sub. (1s) with the department in lieu~~
4 ~~of separate applications~~, a person proposing to construct a utility facility shall notify
5 the department of the intention to file ~~an a combined~~ application under sub. (1s).
6 After receiving such notice, the department shall confer with the person, in
7 cooperation with the commission, to make a preliminary assessment of the project's
8 scope, to make an analysis of alternatives, to identify potential interested persons,
9 and to ensure that the person making the proposal is aware of all of the following:

10 **SECTION 15.** 30.025 (1m) (c) of the statutes is amended to read:

11 30.025 (1m) (c) The timing of information submissions that the person will be
12 required to provide in order to enable the department to participate in commission
13 review procedures and to process the combined application for permits in a timely
14 manner.

15 **SECTION 16.** 30.025 (1s) (a) of the statutes is amended to read:

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

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

2 30.025 (2) HEARING. Once the applicant meets the requirements of sub. (1s) (a),
3 the department may schedule the matter for a public hearing. Notice of the hearing
4 shall be given to the applicant and shall be published as a class 1 notice under ch.
5 985. The department may give such further notice as it deems proper, and shall give
6 notice to persons requesting same. One copy of the combined application for permits
7 shall be available for public inspection at the office of the department, at least one
8 copy in the regional office of the department, and at least one copy at the main public
9 library, of the area affected. Notwithstanding s. 227.42, the hearing shall be an
10 informational hearing and may not be treated as a contested case hearing nor
11 converted to a contested case hearing.

12 **SECTION 18.** 30.025 (2g) (b) (intro.) of the statutes is amended to read:

13 30.025 (2g) (b) (intro.) The department shall participate in commission
14 investigations or proceedings under s. 196.49 or 196.491 (3) with regard to any
15 proposed utility facility ~~that is subject to this section~~ for which a combined
16 application for permits is filed under sub. (1s). In order to ensure that the
17 commission's decision is consistent with the department's responsibilities, the
18 department shall provide the commission with information that is relevant to only
19 the following:

20 **SECTION 19.** 30.025 (4) of the statutes is amended to read:

21 30.025 (4) PERMIT CONDITIONS. The permit may be issued, or the authority to
22 proceed under a permit may be granted, upon stated conditions deemed necessary
23 to assure compliance with the criteria designated under sub. (3). The department
24 shall grant or deny the combined application for ~~a permit~~ permits for the utility

1 facility within 30 days of the date on which the commission issues its decision under
2 s. 196.49 or 196.491 (3).

3 **SECTION 20.** 30.025 (4m) of the statutes is created to read:

4 30.025 (4m) PROCEDURE FOR A SINGLE PERMIT APPLICATION. (a) A person
5 proposing to construct a utility facility that is related to mining, as defined in s.
6 295.41 (26), and for which not more than one permit is required, may submit an
7 application for that single permit with the department in the same manner as a
8 combined application for permits may be submitted under sub. (1s). If the applicant
9 elects to submit the application in the same manner as a combined application for
10 permits, the procedures under this section that apply to a combined application for
11 permits shall apply to that application for a single permit.

12 **SECTION 21.** 30.12 (3m) (c) (intro.) of the statutes is amended to read:

13 30.12 (3m) (c) (intro.) The department shall issue an individual permit to a
14 riparian owner for a structure or a deposit pursuant to an application under par. (a)
15 if the department finds that all of the following apply requirements are met:

16 **SECTION 22.** 30.123 (8) (c) of the statutes is renumbered 30.123 (8) (c) (intro.)
17 and amended to read:

18 30.123 (8) (c) (intro.) The department shall issue an individual permit
19 pursuant to an application under par. (a) if the department finds that the all of the
20 following requirements are met:

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

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

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

25 **SECTION 23.** 30.133 (2) of the statutes is amended to read:

1 30.133 (2) This section does not apply to riparian land located within the
2 boundary of any hydroelectric project licensed or exempted by the federal
3 government, if the conveyance is authorized under any license, rule or order issued
4 by the federal agency having jurisdiction over the project. This section does not apply
5 to riparian land that is associated with an approval required for bulk sampling or
6 mining that is required under subch. III of ch. 295.

7 **SECTION 24.** 30.19 (4) (c) (intro.) of the statutes is amended to read:

8 30.19 (4) (c) (intro.) The department shall issue an individual permit pursuant
9 to an application under par. (a) if the department finds that all of the following ~~apply~~
10 requirements are met:

11 **SECTION 25.** 30.195 (2) (c) (intro.) of the statutes is amended to read:

12 30.195 (2) (c) (intro.) The department shall issue an individual permit applied
13 for under this section to a riparian owner if the department determines that all of the
14 following ~~apply~~ requirements are met:

15 **SECTION 26.** 31.23 (3) (e) of the statutes is created to read:

16 31.23 (3) (e) This subsection does not apply to a bridge that is constructed,
17 maintained, or operated in association with mining or bulk sampling that is subject
18 to subch. III of ch. 295.

19 **SECTION 27.** 70.375 (1) (as) of the statutes is amended to read:

20 70.375 (1) (as) “Mine” means an excavation in or at the earth’s surface made
21 to extract metalliferous minerals for which a permit has been issued under s. 293.49
22 or 295.58.

23 **SECTION 28.** 70.375 (1) (bm) of the statutes is amended to read:

24 70.375 (1) (bm) “Mining–related purposes” means activities which are directly
25 in response to the application for a mining permit under s. 293.37 or 295.47; directly

1 in response to construction, operation, curtailment of operation or cessation of
2 operation of a metalliferous mine site; or directly in response to conditions at a
3 metalliferous mine site which is not in operation. "Mining-related purposes" also
4 includes activities which anticipate the economic and social consequences of the
5 cessation of mining. "Mining-related purposes" also includes the purposes under s.
6 70.395 (2) (g).

7 **SECTION 29.** 70.375 (2) (a) of the statutes is amended to read:

8 70.375 (2) (a) ~~In~~ Except as provided in subs. (2b) and (2c), with respect to mines
9 not in operation on November 28, 1981, there is imposed upon persons engaged in
10 mining metalliferous minerals in this state a net proceeds occupation tax effective
11 on the date on which extraction begins to compensate the state and municipalities
12 for the loss of valuable, irreplaceable metalliferous minerals. The amount of the tax
13 shall be determined by applying the rates established under sub. (5) to the net
14 proceeds of each mine. The net proceeds of each mine for each year are the difference
15 between the gross proceeds and the deductions allowed under sub. (4) for the year.

16 **SECTION 30.** 70.375 (2b) of the statutes is created to read:

17 70.375 (2b) MINIMUM TAX. With respect to mines in operation after December
18 31, 2011, beginning with the month in which a permit is issued to a person under s.
19 295.47^{295.58}, and for each of the 60 months following that month, the amount of the tax
20 imposed on that person is the greater of the tax computed under sub. (2) or an amount
21 equal to \$83,333 for each month.

22 **SECTION 31.** 70.375 (2c) of the statutes is created to read:

23 70.375 (2c) CREDIT. With respect to mines in operation after December 31,
24 2011, if a person subject to sub. (2b) would have paid less tax under sub. (2) than
25 under sub. (2b), the person may claim as a credit against the tax imposed under sub.

1 (2) or (2b) an amount equal to the difference between the amount paid under sub. (2b)
2 and the amount that the person would have paid under sub. (2), except that the
3 person may not claim a credit amount that would result in less than the total
4 minimum tax liability computed under sub. (2b) for the period for which the person
5 is subject to sub. (2b). The person may carry forward the amount of any unused credit
6 under this subsection, as adjusted under sub. (6), to claim against the person's tax
7 liability in subsequent years until the total amount of the credit is used.

8 **SECTION 32.** 70.375 (6) of the statutes is amended to read:

9 70.375 (6) INDEXING. For calendar year 1983 and corresponding fiscal years and
10 thereafter, the dollar amounts in sub. (5) and s. 70.395 (1) and (2) (d) 1m. and 5. a.
11 and (dg), and the amount of any unused credit under sub. (2c), shall be changed to
12 reflect the percentage change between the gross national product deflator for June
13 of the current year and the gross national product deflator for June of the previous
14 year, as determined by the U.S. department of commerce as of December 30 of the
15 year for which the taxes are due, except that no annual increase may be more than
16 10%. For calendar year 1983 and corresponding fiscal years and thereafter until
17 calendar year 1997 and corresponding fiscal years, the dollar amounts in s. 70.395
18 (1m), 1995 stats., shall be changed to reflect the percentage change between the gross
19 national product deflator for June of the current year and the gross national product
20 deflator for June of the previous year, as determined by the U.S. department of
21 commerce as of December 30 of the year for which the taxes are due, except that no
22 annual increase may be more than 10%. The revised amounts shall be rounded to
23 the nearest whole number divisible by 100 and shall not be reduced below the
24 amounts under sub. (5) on November 28, 1981. Annually, the department shall

1 adopt any changes in dollar amounts required under this subsection and incorporate
2 them into the appropriate tax forms.

3 **SECTION 33.** 70.38 (2) of the statutes is amended to read:

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

8 **SECTION 34.** 70.395 (1e) of the statutes is renumbered 70.395 (1e) (intro.) and
9 amended to read:

10 70.395 (1e) DISTRIBUTION. (intro.) Fifteen days after the collection of the tax
11 under ss. 70.38 to 70.39, the department of administration, upon certification of the
12 department of revenue, shall transfer the amount collected in respect to mines not
13 in operation on November 28, 1981, to the investment and local impact fund, except
14 as follows:

15 **SECTION 35.** 70.395 (1e) (a) of the statutes is created to read:

16 70.395 (1e) (a) For the first 24 months following the month in which a person
17 is issued a permit under s. ~~295.47~~ ^{295.58}, the department of administration shall credit the
18 amount collected from any such person, not to exceed \$1,000,000 annually or
19 \$2,000,000 total, to the appropriation under s. 20.445 (1) (gm) and shall transfer any
20 amount in excess of \$1,000,000 annually, or \$2,000,000 total, as provided under par.
21 (b).

22 **SECTION 36.** 70.395 (1e) (b) of the statutes is created to read:

23 70.395 (1e) (b) Except as provided under par. (a), the department of
24 administration shall transfer 60 percent of the amount collected from each person
25 extracting ferrous metallic minerals in this state to the investment and local impact

1 fund and 40 percent of the amount collected from any such person into the economic
2 development fund.

3 **SECTION 37.** 70.395 (2) (dc) 1. of the statutes is amended to read:

4 70.395 (2) (dc) 1. Each person intending to submit an application for a mining
5 permit under s. 293.49 or 295.47 shall pay ~~\$50,000~~ \$75,000 to the department of
6 revenue for deposit in the investment and local impact fund at the time that the
7 person notifies the department of natural resources under s. 293.31 (1) or 295.465
8 of that intent.

9 **SECTION 38.** 70.395 (2) (dc) 2. of the statutes is amended to read:

10 70.395 (2) (dc) 2. A person making a payment under subd. 1. shall pay an
11 additional ~~\$50,000~~ \$75,000 upon notification by the board that the board has
12 distributed 50% of the payment under subd. 1.

13 **SECTION 39.** 70.395 (2) (dc) 3. of the statutes is amended to read:

14 70.395 (2) (dc) 3. A person making a payment under subd. 2. shall pay an
15 additional ~~\$50,000~~ \$75,000 upon notification by the board that the board has
16 distributed all of the payment under subd. 1. and 50% of the payment under subd.
17 2.

18 **SECTION 40.** 70.395 (2) (dc) 4. of the statutes is amended to read:

19 70.395 (2) (dc) 4. Six months after the signing of a local agreement under s.
20 293.41 or 295.443 for the proposed mine for which the payment is made, the board
21 shall refund any funds paid under this paragraph but not distributed under par. (fm)
22 from the investment and local impact fund to the person making the payment under
23 this paragraph.

24 **SECTION 41.** 70.395 (2) (dg) of the statutes is amended to read:

1 70.395 (2) (dg) Each person constructing a metalliferous mining site shall pay
2 to the department of revenue for deposit in the investment and local impact fund, as
3 a construction fee, an amount sufficient to make the construction period payments
4 under par. (d) 5. in respect to that site. Any person paying a construction fee under
5 this paragraph may credit against taxes due under s. 70.375 an amount equal to the
6 payments that the taxpayer has made under this paragraph, provided that the credit
7 does not reduce the taxpayer's liability under s. 70.375 below the amount needed to
8 make the first-dollar payments under par. (d) 1., 2. and 2m. for that year in respect
9 to the taxpayer's mine. For the first 24 months following the month in which the
10 taxpayer is issued a permit under s. ^{295.58}~~295.47~~, the taxpayer may not use the credit to
11 reduce the taxpayer's liability under s. 70.375 below the minimum amount required
12 under s. 70.375 (2b), but the taxpayer may use the credit in subsequent years to
13 reduce the taxpayer's liability under s. 70.375 below the minimum amount required
14 under s. 70.375 (2b). Any amount not creditable because of that limitation in any
15 year may be carried forward.

16 **SECTION 42.** 70.395 (2) (fm) of the statutes is amended to read:

17 70.395 (2) (fm) The board may distribute a payment received under par. (dc)
18 to a county, town, village, city, tribal government or local impact committee
19 authorized under s. 293.41 (3) or 295.443 only for legal counsel, qualified technical
20 experts in the areas of transportation, utilities, economic and social impacts,
21 environmental impacts and municipal services and other reasonable and necessary
22 expenses incurred by the recipient that directly relate to the good faith negotiation
23 of a local agreement under s. 293.41 or 295.443 for the proposed mine for which the
24 payment is made.

25 **SECTION 43.** 70.395 (2) (h) 1. of the statutes is amended to read:

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

5 **SECTION 44.** 70.395 (2) (hg) of the statutes is amended to read:

6 70.395 (2) (hg) The board shall, by rule, establish fiscal guidelines and
7 accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub.
8 (3) and ~~s. ss.~~ 293.65 (5) and 295.61 (9).

9 **SECTION 45.** 70.395 (2) (hr) of the statutes is amended to read:

10 70.395 (2) (hr) The board shall, by rule, establish procedures to recoup
11 payments made, and to withhold payments to be made, under pars. (d), (f), (fm) and
12 (g), sub. (3) and ~~s. ss.~~ 293.65 (5) and 295.61 (9) for noncompliance with this section
13 or rules adopted under this section.

14 **SECTION 46.** 70.395 (2) (hw) of the statutes is amended to read:

15 70.395 (2) (hw) A recipient of a discretionary payment under par. (f) or (g), sub.
16 (3) or ~~s. ss.~~ 293.65 (5) and 295.61 (9) or any payment under par. (d) that is restricted
17 to mining-related purposes who uses the payment for attorney fees may do so only
18 for the purposes under par. (g) 6. and for processing mining-related permits or other
19 approvals required by the municipality. The board shall recoup or withhold
20 payments that are used or proposed to be used by the recipient for attorney fees
21 except as authorized under this paragraph. The board may not limit the hourly rate
22 of attorney fees for which the recipient uses the payment to a level below the hourly
23 rate that is commonly charged for similar services.

24 **SECTION 47.** 87.30 (2) of the statutes is renumbered 87.30 (2) (a) and amended
25 to read:

1 87.30 (2) (a) ~~Every~~ Except as provided in par. (b), every structure, building, fill,
2 or development placed or maintained within any floodplain in violation of a zoning
3 ordinance adopted under this section, or s. 59.69, 61.35 or 62.23 is a public nuisance
4 and the creation thereof may be enjoined and maintenance thereof may be abated by
5 action at suit of any municipality, the state or any citizen thereof. Any person who
6 places or maintains any structure, building, fill or development within any
7 floodplain in violation of a zoning ordinance adopted under this section, or s. 59.69,
8 61.35 or 62.23 may be fined not more than \$50 for each offense. Each day during
9 which such violation exists is a separate offense.

10 **SECTION 48.** 87.30 (2) (b) of the statutes is created to read:

11 87.30 (2) (b) Paragraph (a) does not apply to a structure, building, fill, or
12 development placed or maintained as part of a mining operation covered by a mining
13 permit under s. 295.58 except to the extent that regulation of the placement or
14 maintenance of the structure, building, fill, or development is required for
15 compliance with a floodplain zoning ordinance as provided under s. 295.607 (3).

16 **SECTION 49.** 106.05 of the statutes is created to read:

17 **106.05 Mining skills training grants.** From the appropriation account
18 under s. 20.445 (1) (gm), the department, in consultation with the Wisconsin
19 Economic Development Corporation, shall award a grant annually of not more than
20 \$500,000 to Cooperative Educational Service Agency Number 12 or to an
21 organization operating a skills improvement apprenticeship program that is
22 authorized to administer the operating engineers certification program and to
23 provide training in the operation of heavy equipment for the purpose of establishing,
24 funding, and facilitating cross-training partnership programs between that agency
25 and that organization.

1 **SECTION 50.** 106.35 of the statutes is created to read:

2 **106.35 Mining equipment manufacturing training grants.** From the
3 appropriation account under s. 20.445 (1) (gm), the department, in consultation with
4 the Wisconsin Economic Development Corporation, shall award a grant annually of
5 not more than \$500,000 to Cooperative Educational Service Agency Number 1 or to
6 an organization operating an economic and workforce development center in the
7 southeastern area of this state to establish, fund, and facilitate cross-training
8 partnership programs between that service agency and that organization for the
9 purpose of establishing classroom curriculum and hands-on job training programs
10 that provide individuals with the opportunity to receive instruction relating to the
11 performance of manufacturing jobs in facilities in that area that are involved in
12 producing equipment and products related to the mining industry.

13 **SECTION 51.** 107.001 (1) of the statutes is amended to read:

14 107.001 (1) “Exploration mining lease” means any lease, option to lease, option
15 to purchase or similar conveyance entered into for the purpose of determining the
16 presence, location, quality or quantity of ~~metalliferous~~ nonferrous metallic minerals
17 or for the purpose of mining, developing or extracting ~~metalliferous~~ nonferrous
18 metallic minerals, or both under ch. 293. Any lease, option to lease, option to
19 purchase or similar conveyance entered into by a mining company is rebuttably
20 presumed to be an exploration mining lease.

21 **SECTION 52.** 107.001 (2) of the statutes is repealed.

22 **SECTION 53.** 107.01 (intro.) of the statutes is amended to read:

23 **107.01 Rules governing mining rights.** (intro.) Where there is no contract
24 between the parties or terms established by the landlord to the contrary the following

1 rules and regulations shall be applied to mining contracts and leases for the digging
2 of ~~ores and~~ nonferrous metallic minerals:

3 **SECTION 54.** 107.01 (2) of the statutes is amended to read:

4 107.01 (2) The discovery of a crevice or range containing ~~ores or minerals~~
5 nonferrous metallic minerals shall entitle the discoverer to the ores or minerals
6 pertaining thereto, subject to the rent due the discoverer's landlord, before as well
7 as after the ~~ores or minerals~~ nonferrous metallic minerals are separated from the
8 freehold; but such miner shall not be entitled to recover any ~~ores or minerals~~
9 nonferrous metallic minerals or the value thereof from the person digging on the
10 miner's range in good faith and known to be mining thereon until the miner shall
11 have given notice of the miner's claim; and the miner shall be entitled to the ~~ores or~~
12 minerals nonferrous metallic minerals dug after such notice.

13 **SECTION 55.** 107.02 of the statutes is amended to read:

14 **107.02 Mining statement; penalty.** When there is no agreement between the
15 parties to any mining lease, license or permit, to mine or remove ~~ore~~ nonferrous
16 metallic minerals from any lands in this state, regulating the method of reporting
17 the amount of ~~ore~~ nonferrous metallic minerals taken, the person mining and
18 removing the ~~ore or ores~~ nonferrous metallic minerals shall keep proper and correct
19 books, and therefrom to make and deliver by or before the fifteenth day of each month
20 to the lessor, owner or person entitled thereto, a detailed statement covering the
21 operations of the preceding month. The statement shall show the total amount of
22 tons or pounds of each kind of ~~ore~~ nonferrous metallic minerals produced; if sold, then
23 to whom sold, giving the date of sale, date of delivery to any railroad company,
24 naming the company, and the station where delivered or billed for shipment; the
25 name and address of the purchaser; the price per ton at which sold and the total value

1 of each kind of ~~ore~~ nonferrous metallic minerals so sold. The books shall be always
2 open to any owner, lessor, licensor or stockholder, if the owner, lessor or licensor is
3 a corporation, and to any person or stockholder interested in any such mining
4 operations, for the purpose of inspection and taking copies thereof or abstracts
5 therefrom. Any person and every officer, agent or employee of any thereof, who
6 violates this section, or who makes any false or incomplete entries on any such books
7 or statements, shall be fined not less than \$100 or imprisoned in the county jail for
8 not more than 3 months or both.

9 **SECTION 56.** 107.03 of the statutes is amended to read:

10 **107.03 Conflicting claims.** In case of conflicting claims to a crevice or range
11 bearing ~~ores or~~ nonferrous metallic minerals the court may continue any action to
12 enforce a claim or grant any necessary time for the purpose of allowing parties to
13 prove up their mines or diggings if it satisfactorily appears necessary to the ends of
14 justice. In such case the court or judge may appoint a receiver and provide that the
15 mines or diggings be worked under the receiver's direction, subject to the order of the
16 court, in such manner as best ascertains the respective rights of the parties. The ~~ores~~
17 ~~or~~ nonferrous metallic minerals raised by either party pending the dispute shall be
18 delivered to the receiver, who may, by order of the court or judge, pay any rent or other
19 necessary expenses therefrom.

20 **SECTION 57.** 107.04 of the statutes is amended to read:

21 **107.04 Lessee's fraud; failure to work mine.** Any miner who conceals or
22 disposes of any ~~ores or~~ nonferrous metallic minerals or mines or diggings for the
23 purpose of defrauding the lessor of rent or who neglects to pay any rent on ~~ores or~~
24 nonferrous metallic minerals raised by the miner for 3 days after the notice thereof
25 and claim of the rent, shall forfeit all right to his or her mines, diggings or range; and

1 the landlord after the concealment or after 3 days have expired from the time of
2 demanding rent, may proceed against the miner to recover possession of the mines
3 or diggings in circuit court as in the case of a tenant holding over after the
4 termination of the lease. If a miner neglects to work his or her mines or diggings
5 according to the usages of miners, without reasonable excuse, he or she shall likewise
6 forfeit the mines or diggings and the landlord may proceed against the miner in like
7 manner to recover possession of the mines or diggings.

8 **SECTION 58.** 107.11 of the statutes is amended to read:

9 **107.11 Account of ~~ores~~ nonferrous metallic minerals received.** Every
10 person operating a metal recovery system and every purchaser of ~~ores and~~
11 nonferrous metallic minerals shall keep a substantially bound book, ruled into
12 suitable columns, in which shall be entered from day to day, as ~~ores or~~ nonferrous
13 metallic minerals are received, the following items: the day, month and year when
14 received; the name of the person from whom purchased; the name of the person by
15 whom hauled and delivered; name of the owner of the land from which the ~~ores or~~
16 nonferrous metallic minerals were obtained, or if not known, the name of the
17 diggings or some distinct description of the land. The bound book shall be kept at the
18 furnace or at the usual place of business of such person or purchaser or his or her
19 agent in this state, and shall be open to authorized representatives of the department
20 of revenue at reasonable times for inspection and taking extracts.

21 **SECTION 59.** 107.12 of the statutes is amended to read:

22 **107.12 Penalty.** If any person operating a metal recovery system or purchaser
23 of ~~ores and~~ nonferrous metallic minerals or the agent of any such person or purchaser
24 doing business fails to keep such a book or to make such entries as required under
25 s. 107.11 or unreasonably refuses to show the book for inspection or taking extracts

1 or makes false entries in the book he or she shall forfeit \$10 for each offense, one-half
2 to the use of the prosecutor; and each day such failure or refusal continues shall be
3 deemed a distinct and separate offense.

4 **SECTION 60.** 107.20 (1) of the statutes is amended to read:

5 107.20 (1) Any provision of an exploration mining lease entered into after April
6 25, 1978, granting an option or right to determine the presence, location, quality or
7 quantity of ~~metalliferous~~ nonferrous metallic minerals shall be limited to a term not
8 exceeding 10 years from the date on which the exploration mining lease is recorded
9 in the office of the register of deeds of the county where the property is located, except
10 that any provision of an exploration mining lease entered into after April 25, 1978,
11 granting an option or right to determine the quality and quantity of ~~metalliferous~~
12 nonferrous metallic minerals under a prospecting permit shall be limited to a term
13 not exceeding 10 years from the date that the lessee applies for a prospecting permit
14 under s. 293.35, if the lessee applies for the prospecting permit within 10 years from
15 the date on which the exploration mining lease is recorded in the office of the register
16 of deeds of the county where the property is located.

17 **SECTION 61.** 107.20 (2) of the statutes is amended to read:

18 107.20 (2) Any provision of an exploration mining lease entered into after April
19 25, 1978, granting an option or right to develop or extract ~~metalliferous~~ nonferrous
20 metallic minerals shall be limited to a term not exceeding 50 years from the date on
21 which the exploration mining lease is recorded in the office of the register of deeds
22 of the county where the property is located.

23 **SECTION 62.** 107.30 (8) of the statutes is amended to read:

24 107.30 (8) "Mining" or "mining operation" ~~has the meaning set forth in s. 293.01~~
25 (9) means all or part of the process involved in the mining of metallic minerals, other

1 than for exploration or prospecting, including commercial extraction,
2 agglomeration, beneficiation, construction of roads, removal of overburden, and the
3 production of refuse.

4 **SECTION 63.** 107.30 (15) of the statutes is amended to read:

5 107.30 (15) ~~“Prospecting” has the meaning set forth in s. 293.01 (18)~~ means
6 engaging in the examination of an area for the purpose of determining the quality
7 and quantity of minerals, other than for exploration but including the obtaining of
8 an ore sample, by such physical means as excavating, trenching, construction of
9 shafts, ramps, and tunnels and other means, other than for exploration, which the
10 department of natural resources, by rule, identifies, and the production of
11 prospecting refuse and other associated activities. “Prospecting” does not include
12 such activities when the activities are, by themselves, intended for and capable of
13 commercial exploitation of the underlying ore body. The fact that prospecting
14 activities and construction may have use ultimately in mining, if approved, does not
15 mean that prospecting activities and construction constitute mining within the
16 meaning of sub. (8), provided such activities and construction are reasonably related
17 to prospecting requirements.

18 **SECTION 64.** 107.30 (16) of the statutes is amended to read:

19 107.30 (16) ~~“Prospecting site” has the meaning set forth in s. 293.01 (21)~~ means
20 the lands on which prospecting is actually conducted as well as those lands on which
21 physical disturbance will occur as a result of such activity.

22 **SECTION 65.** 160.19 (12) of the statutes is amended to read:

23 160.19 (12) The requirements in this section shall not apply to rules governing
24 an activity regulated under ch. 293 or subch. III of ch. 295, or to a solid waste facility
25 regulated under subch. III of ch. 289 which is part of an activity regulated under ch.

1 293 or subch. III of ch. 295, except that the department may promulgate new rules
2 or amend rules governing this type of activity, practice or facility if the department
3 determines that the amendment or promulgation of rules is necessary to protect
4 public health, safety or welfare.

5 **SECTION 66.** 196.491 (3) (a) 3. b. of the statutes is amended to read:

6 196.491 (3) (a) 3. b. ~~Within~~ Except as provided under subd. 3. c., within 20
7 days after the department provides a listing specified in subd. 3. a. to a person, the
8 person shall apply for the permits and approvals identified in the listing. The
9 department shall determine whether an application under this subd. 3. b. is complete
10 and, no later than 30 days after the application is filed, notify the applicant about
11 the determination. If the department determines that the application is incomplete,
12 the notice shall state the reason for the determination. An applicant may
13 supplement and refile an application that the department has determined to be
14 incomplete. There is no limit on the number of times that an applicant may refile
15 an application under this subd. 3. b. If the department fails to determine whether
16 an application is complete within 30 days after the application is filed, the
17 application shall be considered to be complete. The department shall complete action
18 on an application under this subd. 3. b. for any permit or approval that is required
19 prior to construction of a facility within 120 days after the date on which the
20 application is determined or considered to be complete.

21 **SECTION 67.** 196.491 (3) (a) 3. c. of the statutes is created to read:

22 196.491 (3) (a) 3. c. The 20-day deadline specified in subd. 3. b. for applying
23 for the applicable permits and approvals specified in the listing provided by the
24 department does not apply to a person proposing to construct a utility facility for
25 ferrous mineral mining and processing activities governed by subch. III of ch. 295.

1 **SECTION 68.** 196.491 (4) (b) 2. of the statutes is amended to read:

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

10 **SECTION 69.** 227.483 (3) (c) of the statutes is created to read:

11 227.483 (3) (c) If the proceeding relates to mining for ferrous minerals, as
12 defined in s. 295.41 (18), that the petition, claim, or defense was commenced, used,
13 or continued primarily for the purpose of causing delay to an activity authorized
14 under a license that is the subject of the hearing.

15 **SECTION 70.** 238.14 of the statutes is created to read:

16 **238.14 Business development grants and loans.** When funds described in
17 s. 25.49 (2m) are appropriated to the corporation, the corporation shall use the funds
18 to make grants and loans to businesses in this state, and the corporation shall give
19 preference for grants and loans to businesses located in an area affected by mining
20 for ferrous minerals.

21 **SECTION 71.** 281.65 (2) (a) of the statutes is amended to read:

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

1 polluted by nonpoint sources, to a level compatible with water quality objectives
2 established under this section and which do not have an adverse impact on fish and
3 wildlife habitat. The practices, techniques or measures include land acquisition,
4 storm sewer rerouting and the removal of structures necessary to install structural
5 urban best management practices, facilities for the handling and treatment of
6 milkhouse wastewater, repair of fences built using grants under this section and
7 measures to prevent or reduce pollutants generated from mine tailings disposal sites
8 for which the department has not approved a plan of operation under s. 289.30 or s.
9 295.51.

10 **SECTION 72.** 281.75 (17) (b) of the statutes is amended to read:

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

13 **SECTION 73.** 287.13 (5) (e) of the statutes is amended to read:

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

19 **SECTION 74.** 289.35 of the statutes is amended to read:

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

1 **SECTION 75.** 289.62 (2) (g) 2. and 6. of the statutes are amended to read:

2 289.62 (2) (g) 2. For nonhazardous tailing solids ~~or for nonacid-producing~~
3 ~~taconite tailing solids~~, 0.2 cent per ton.

4 6. For nonhazardous waste rock ~~or for nonacid-producing taconite waste rock~~,
5 0.1 cent per ton.

6 **SECTION 76.** 292.01 (1m) of the statutes is amended to read:

7 292.01 (1m) "Approved mining facility" has the meaning given in s. 289.01 (4)
8 and includes a mining waste site as defined in s. 295.41 (31).

9 **SECTION 77.** Chapter 293 (title) of the statutes is amended to read:

CHAPTER 293

NONFERROUS METALLIC MINING

12 **SECTION 78.** 293.01 (5) of the statutes is amended to read:

13 293.01 (5) "Mineral exploration" or "exploration", unless the context requires
14 otherwise, means the on-site geologic examination from the surface of an area by
15 core, rotary, percussion or other drilling, where the diameter of the hole does not
16 exceed 18 inches, for the purpose of searching for nonferrous metallic minerals or
17 establishing the nature of a known nonferrous metallic mineral deposit, and includes
18 associated activities such as clearing and preparing sites or constructing roads for
19 drilling.

20 **SECTION 79.** 293.01 (7) of the statutes is amended to read:

21 293.01 (7) "Merchantable by-product" means all waste soil, rock, mineral,
22 liquid, vegetation and other material directly resulting from or displaced by the
23 mining, cleaning or preparation of nonferrous metallic minerals during mining
24 operations which are determined by the department to be marketable upon a
25 showing of marketability made by the operator, accompanied by a verified statement

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

6 **SECTION 80.** 293.01 (8) of the statutes is repealed.

7 **SECTION 81.** 293.01 (9) of the statutes is amended to read:

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

12 **SECTION 82.** 293.01 (12) of the statutes is amended to read:

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

19 **SECTION 83.** 293.01 (12m) of the statutes is created to read:

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

23 **SECTION 84.** 293.01 (18) of the statutes is amended to read:

24 293.01 (18) "Prospecting" means engaging in the examination of an area for the
25 purpose of determining the quality and quantity of nonferrous metallic minerals,

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

12 **SECTION 85.** 293.01 (25) of the statutes is amended to read:

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

19 **SECTION 86.** 293.21 (1) (a) of the statutes is amended to read:

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

22 **SECTION 87.** 293.25 (2) (a) of the statutes is amended to read:

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

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

6 **SECTION 88.** 293.25 (4) of the statutes is amended to read:

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

16 **SECTION 89.** 293.37 (4) (b) of the statutes is amended to read:

17 293.37 (4) (b) If the department finds that the anticipated life and total area
18 of a nonferrous metallic mineral deposit are of sufficient magnitude that reclamation
19 of the mining site consistent with this chapter requires a comprehensive plan for the
20 entire affected area, it shall require an operator to submit with the application for
21 a mining permit, amended mining site or change in mining or reclamation plan, a
22 comprehensive long-term plan showing, in detail satisfactory to the department, the
23 manner, location and time for reclamation of the entire area of contiguous land which
24 will be affected by mining and which is owned, leased or under option for purchase
25 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 90.** 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 91.** 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 92.** 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 93.** 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 94.** 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 95.** 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 96.** 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 97.** 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 98.** 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 99.** Chapter 295 (title) of the statutes is amended to read:

CHAPTER 295

NONMETALLIC MINING RECLAMATION;

OIL AND GAS;

FERROUS METALLIC MINING

SECTION 100. 295.16 (4) (f) of the statutes is amended to read:

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

SECTION 101. Subchapter III of chapter 295 [precedes 295.40] of the statutes is created to read:

CHAPTER 295

SUBCHAPTER III

FERROUS METALLIC MINING

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

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

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

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

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

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.