2013 DRAFTING REQUEST

Bill

Received:	**1/11/2013**	Received By:	**btradewe**
Wanted:	**As time permits**	Same as LRB:	**-0762**
For:	**Scott Suder (608) 267-0280**	By/Representing:	**Jen (Sen. Tiffany's office)**
May Contact:		Drafter:	**btradewe**
Subject:	**Environment - mining** **Nat. Res. - nav. waters** **Nat. Res. - wet/shore/flood** **Tax, Business - miscellaneous**	Addl. Drafters:	**jkreye** **mglass** **rkite**
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Suder@legis.wisconsin.gov**
Carbon copy (CC) to: **larry.konopacki@legis.wisconsin.gov**
anna.henning@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Iron mining regulation

Instructions:

Like 13-0762/1

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	btradewe 1/12/2013	csicilia 1/14/2013	phenry 1/14/2013	_____ _____	sbasford 1/14/2013	sbasford 1/18/2013	State S&L

FE Sent For:
1/16/2013 12:00:00 AM

<END>

2013 DRAFTING REQUEST

Bill

Received:	**1/11/2013**	Received By:	**btradewe**
Wanted:	**As time permits**	Same as LRB:	**-0762**
For:	**Scott Suder (608) 267-0280**	By/Representing:	**Jen (Sen. Tiffany's office)**
May Contact:		Drafter:	**btradewe**
Subject:	**Environment - mining** **Nat. Res. - nav. waters** **Nat. Res. - wet/shore/flood** **Tax, Business - miscellaneous**	Addl. Drafters:	**jkreye** **mglass** **rkite**
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Suder@legis.wisconsin.gov**
Carbon copy (CC) to: **larry.konopacki@legis.wisconsin.gov**
anna.henning@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Iron mining regulation

Instructions:

Like 13-0762/1

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	btradewe 1/12/2013	csicilia 1/14/2013	phenry 1/14/2013	_____ _____	sbasford 1/14/2013		State S&L

FE Sent For:

01-16-2013 ("/1") <END>

see attached

2013 DRAFTING REQUEST

Bill

Received:	**1/11/2013**	Received By:	**btradewe**
Wanted:	**As time permits**	Same as LRB:	**-0762**
For:	**Scott Suder (608) 267-0280**	By/Representing:	**Jen (Sen. Tiffany's office)**
May Contact:		Drafter:	**btradewe**
Subject:	**Environment - mining** **Nat. Res. - nav. waters** **Nat. Res. - wet/shore/flood** **Tax, Business - miscellaneous**	Addl. Drafters:	**jkreye** **mglass** **rkite**
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Suder@legis.wisconsin.gov**
Carbon copy (CC) to: **larry.konopacki@legis.wisconsin.gov**
anna.henning@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Iron mining regulation

Instructions:

Like 13-0762/1

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	btradewe						State S&L

FE Sent For:

<END>

State of Wisconsin
2013 – 2014 LEGISLATURE

-1129/1

LRB-0762/1
RCT/MGG/RK/JK:cjs:ph

Monday 1/14

stays

companion PM run

2013 BILL

No change

Cer Cat

AN ACT ***to repeal*** 107.001 (2) and 293.01 (8); ***to renumber and amend*** 30.123 (8) (c) and 87.30 (2); ***to amend*** 20.370 (2) (gh), 20.455 (1) (gh), 20.566 (7) (e), 20.566 (7) (v), 25.46 (7), 29.604 (4) (intro.), 29.604 (4) (c) (intro.), 30.025 (1e) (a), 30.025 (1m) (intro.), 30.025 (1m) (c), 30.025 (1s) (a), 30.025 (2), 30.025 (2g) (b) (intro.), 30.025 (4), 30.12 (3m) (c) (intro.), 30.133 (2), 30.19 (4) (c) (intro.), 30.195 (2) (c) (intro.), 32.02 (12), 70.375 (1) (as), 70.375 (1) (bm), 70.375 (4) (h), 70.38 (2), 70.395 (1e), 70.395 (2) (dc) 1., 70.395 (2) (dc) 2., 70.395 (2) (dc) 3., 70.395 (2) (dc) 4., 70.395 (2) (fm), 70.395 (2) (h) 1., 70.395 (2) (hg), 70.395 (2) (hr), 70.395 (2) (hw), 107.001 (1), 107.01 (intro.), 107.01 (2), 107.02, 107.03, 107.04, 107.11, 107.12, 107.20 (1), 107.20 (2), 107.30 (8), 107.30 (15), 107.30 (16), 160.19 (12), 196.491 (3) (a) 3. b., 196.491 (4) (b) 2., 281.36 (3g) (h) 2., 281.65 (2) (a), 281.75 (17) (b), 283.84 (3m), 287.13 (5) (e), 289.35, 289.62 (2) (g) 2. and 6., 292.01 (1m), chapter 293 (title), 293.01 (5), 293.01 (7), 293.01 (9), 293.01 (12), 293.01 (18), 293.01 (25), 293.21 (1) (a), 293.25 (2) (a), 293.25 (4), 293.37 (4) (b), 293.47 (1) (b),

293.50 (1) (b), 293.50 (2) (intro.), 293.50 (2) (a), 293.50 (2) (b), 293.51 (1), 293.65 (3) (a), 293.65 (3) (b), 293.86, chapter 295 (title), 295.16 (4) (f), 299.85 (7) (a) 2. and 4., 299.95, 323.60 (5) (d) 3., 706.01 (9) and 710.02 (2) (d); and ***to create*** 20.370 (2) (gi), 23.321 (2g), 25.49 (2m), 29.604 (7m), 30.025 (1e) (c), 30.025 (4m), 31.23 (3) (e), 87.30 (2) (b), 196.491 (3) (a) 3. c., 227.483 (3) (c), 238.14, 293.01 (12m), subchapter III of chapter 295 [precedes 295.40] and 323.60 (1) (gm) of the statutes; **relating to:** regulation of ferrous metallic mining and related activities, procedures for obtaining approvals from the Department of Natural Resources for the construction of utility facilities, making an appropriation, and providing penalties.

Analysis by the Legislative Reference Bureau

OVERVIEW

This bill makes changes in the laws relating to the regulation of iron mining.

IRON MINING, GENERALLY

Under current law, DNR regulates mining for metallic minerals. The laws under which DNR regulates metallic mining apply to mining for ferrous minerals (iron) and mining for nonferrous minerals, such as copper or zinc.

This bill creates new statutes for regulating iron mining and modifies the current laws regulating metallic mining so that they cover only mining for nonferrous minerals.

Under current law, a person who proposes to mine for metallic minerals must obtain a mining permit and any other permit, license, certification, or other authorization (approval) that is required under the environmental and natural resources laws, other than the mining laws, for example, wastewater discharge permits, high capacity well approvals, and permits for discharges into wetlands.

Under the bill, a person who proposes to mine for iron ore must obtain an iron mining permit. The person must obtain some of the approvals under other environmental and natural resources laws, for example, wastewater discharge permits, but the bill provides approvals specific to iron mining in lieu of some current approvals, for example, high capacity well approvals and permits for discharges into wetlands. The standards and procedures for granting, and the requirements related to, an iron mining permit and the other approvals specific to iron mining differ in some respects from the standards, procedures, and requirements under current law, as described below.

Current law requires DNR to promulgate rules specifying standards for metallic mining and for the reclamation of mining sites. The rules relating to mining must contain standards for grading and stabilization, backfilling, vegetative cover, prevention of pollution resulting from leaching of waste materials, and prevention of significant environmental pollution. The rules relating to reclamation must contain provisions for disposal of wastes in disposal facilities licensed under the solid waste laws or otherwise in an environmentally sound manner, for management of runoff so as to prevent soil erosion, flooding, and water pollution, and for minimization of disturbance to wetlands. DNR has promulgated rules on these matters.

The bill places standards for iron mining and for the reclamation of iron mining sites in the statutes, rather than requiring rule–making. The standards in the bill are similar in many respects to DNR's current rules and are less stringent in other respects.

Current law prohibits DNR from issuing a permit for metallic mining in a sulfide ore body (a mineral deposit in which metals are mixed with sulfide minerals) unless it finds, based on information provided by the applicant, that two conditions are satisfied. The first condition is that a mining operation has operated in a sulfide ore body that has a net acid generating potential for at least ten years without causing water pollution from acid drainage or the release of heavy metals. The second condition is that a mining operation that operated in a sulfide ore body that has a net acid generating potential has been closed for at least ten years without causing water pollution from acid drainage or the release of heavy metals.

Under the bill, these conditions on issuing a permit for metallic mining in a sulfide ore body do not apply to issuing a permit for iron mining.

PREAPPLICATION PROCESS

Under current law, a person who intends to apply for a permit for mining for metallic ore must notify DNR before collecting data intended to be used to support the application. DNR is required to provide public notice when it receives such a notification. After considering public comments, DNR must tell the person who filed the notice of intent what information DNR believes is needed to support an application for a mining permit. The person must submit the information as soon as it is in final form. Under this bill, these provisions do not apply to a person who intends to apply for an iron mining permit.

This bill requires a person who is contemplating an iron mining project to provide DNR with a general description of the proposed mining project. The description must include a description of the mining site, including the nature, extent, and final configuration of the proposed excavation and mining site and certain other informations including a map showing the boundaries of the area of land that will be affected by the mining project. The bill requires the person to include this information with the bulk sampling plan, described below, or if the person does not file a bulk sampling plan, with the person's notification to DNR of the person's intent to apply for an iron mining permit. The bill requires DNR to conduct a public informational hearing on a proposed mining project after receiving

the general description, either as part of the hearing on approvals required for bulk sampling or, if there is no such hearing, as a separate hearing.

This bill requires a person who intends to apply for an iron mining permit to notify DNR of that intention at least 12 months before filing the application. The bill requires DNR to meet with the applicant to make a preliminary assessment of the project's scope, to make an analysis of alternatives, to identify potential interested persons, and to ensure that the person intending to apply for an iron mining permit is aware of the approvals that the person may be required to obtain. DNR must also ensure that the person is aware of the requirements for submission of an environmental impact report and of the information DNR will require to enable it to process the application for the mining permit in a timely manner.

After the meeting, DNR must provide to the applicant any available information relevant to the potential impact of the project on threatened or endangered species and historic or cultural resources and any other information relevant to impacts that are required to be considered in the environmental impact statement.

APPLICATION FOR MINING PERMIT

Under current law, a person who wishes to obtain a permit for metallic mining must submit an application to DNR that includes a mining plan, a reclamation plan, information about the owners of the mining site, and information related to the failure to reclaim mining sites and to any criminal convictions for violations of environmental laws in the course of mining by persons involved in the proposed mining. The application must also include evidence that the applicant has applied for necessary approvals under applicable zoning ordinances and for any approvals issued by DNR that are necessary to conduct the mining, such as air pollution permits and wastewater discharge permits.

This bill includes similar provisions for the application for an iron mining permit, except that the applicant may provide evidence that the applicant will apply, rather than has applied, for necessary zoning approvals and for other approvals issued by DNR.

The required content of the mining plan for iron mining under the bill is similar to that required under current statutes and DNR rules. The required content of the reclamation plan for iron mining is also similar to that required under current law.

Current law requires the applicant for a metallic mining permit to show that the mining and reclamation will comply with specified minimum standards. The bill requires showings by the applicant for an iron mining permit that differ in some ways from current law. For example, current law requires a demonstration that water runoff from the mining site will be managed so as to prevent soil erosion to the extent practicable, flooding, damage to agricultural lands or livestock, damage to wild animals, pollution of ground or surface waters, and damage to public health and safety. The bill, instead, requires a showing that water runoff from an iron mining site will be managed in compliance with any approval that regulates construction site erosion control or storm water management.

PERMITTING PROCESS

Environmental impact statement

Current law requires DNR to prepare an environmental impact statement (EIS) for every proposed metallic mine. An EIS contains detailed information about the environmental impact of a proposed project, including any adverse environmental effects that cannot be avoided if the proposal is implemented, alternatives to the proposed project, the beneficial aspects of the proposal, and the economic advantages and disadvantages of the proposal. For a metallic mining project, current law requires a description of significant long–term and short–term impacts, including impacts after the mining has ended, on tourism, employment, schools, social services, the tax base, the local economy, and "other significant factors."

This bill requires DNR to prepare an EIS for every proposed iron mine. The bill requires DNR to include a description of significant impacts on most of the same matters as under current metallic mining law.

Under current law, when a person applies for a permit or other approval for which DNR is required to complete an EIS, DNR is generally authorized to require the applicant to prepare an environmental impact report (EIR) that discloses environmental impacts of the proposed project to assist DNR in preparing the EIS. Current law authorizes DNR to enter into an agreement with a person considering applying to DNR for approval of a project that is large, complex, or environmentally sensitive to provide preapplication services necessary to evaluate the environmental impact of the project and to expedite the anticipated preparation of an EIS for the project.

The bill requires the applicant for a mining permit to prepare an EIR. The bill requires the applicant for a mining permit to submit the EIR with the application for the mining permit.

Current law authorizes DNR to conduct the processes related to an EIS jointly with other agencies who have responsibilities related to a proposed project.

The bill requires DNR to conduct its environmental review process for a proposed iron mine jointly with other state agencies and requires the preparation of one joint EIS. The bill requires DNR to conduct its environmental review process jointly with any federal or local agency that consents to a joint process.

Current law requires DNR to hold at least one informational meeting on a preliminary environmental report for a mining project before it issues the EIS. This bill does not require such an informational meeting.

Mining hearing

Current law requires DNR to hold a public hearing, called a master hearing, on an application for a metallic mining permit between 120 and 180 days after it issues the EIS for the proposed mine and before it acts on the mining permit application. The hearing includes both a contested case hearing, with testimony under oath and the opportunity for cross–examination, and a public informational hearing. The law requires the hearing to cover the EIS and all other approvals issued by DNR that are required for the mining project, to the extent possible. Under current law, the provisions related to notice, hearing, and comment in the metallic mining law apply

to any other needed approval, unless the applicant fails to make an application for an approval in time for it to be considered at the master hearing.

This bill requires DNR to hold a public informational hearing for a proposed iron mining project before it acts on a mining permit application. The hearing does not include a contested case hearing. The hearing must cover the mining permit, the EIS, and all other approvals issued by DNR that are required for the mining project, unless the application for an approval is filed too late to allow the approval to be considered at the mining hearing. The bill requires DNR to take testimony at the hearing on certain issues with regard to a proposed withdrawal of groundwater or surface water including the public rights in any body of water and the related environment that may be injured by the proposed withdrawal, the public benefits provided by increased employment, economic activity, and tax revenues from the proposed mining, and the rights of competing users of the groundwater or surface water. Under the bill, the provisions related to notice, hearing, and comment in the iron mining law apply to any other required approval.

Deadline; for acting on permit application

Current law does not specify a time, after the application for a mining permit is filed, within which DNR must act on a metallic mining permit application. It does require the master hearing to be held between 120 days and 180 days after DNR issues the EIS and requires DNR to act on the permit within 90 days after the completion of the record for the public hearing.

The bill requires DNR to act on an application for an iron mining permit no more than 420 days after the application is considered to be complete unless DNR and the applicant agree to extend the deadline. The parties may agree to only one extension, which may not exceed 60 days. DNR and the applicant may agree to an extension only if an extension is necessary to allow DNR and the U.S. Army Corps of Engineers to jointly prepare the EIS or if new information or a change to the mining proposal necessitates additional time to review the application. Under the bill, if the applicant submits the application for another approval within 60 days after the application for the mining permit is considered to be complete, DNR must also act on the application for that approval by the deadline for acting on the mining permit application. If the applicant files the application for another approval more than 60 days after the application for the mining permit is considered to be complete, the deadline for DNR's action on the approval is extended by the number of days the application is late.

If DNR does not act within the deadline for acting on the application for an iron mining permit, DNR must refund the fees paid by the applicant. The bill also authorizes the applicant to bring a court action to compel DNR to act on the mining permit.

Determination of completeness

The bill requires DNR to review the application for a mining permit and, within 30 days, determine whether the application is complete. If DNR determines that the application is complete, it notifies the applicant and the date of the notification is the date on which the application is considered to be complete. If DNR determines that the application is incomplete, it notifies the applicant and may make one request for

additional information within the 30–day review period. If DNR fails to provide a notice during the 30–day review period, the application is considered to be complete at the end of that period. Within 10 days after receiving additional requested information, DNR notifies the applicant whether it has received all of the requested information. The day on which DNR sends the second notice is the day on which the application is considered to be complete. If DNR fails to provide a notice during the 10–day period, the application is considered to be complete at the end of that period.

The bill authorizes DNR to request additional information needed to process the application for a mining permit after the application is considered to be complete, but it may not delay the determination that the application is complete based on a request for additional information.

GRANT OR DENIAL OF MINING PERMIT

Grounds for denial

Current law requires DNR to deny an application for a metallic mining permit for a proposed surface mine if the site is unsuitable for surface mining. A site is unsuitable for surface mining if the surface mining may reasonably be expected to destroy or damage either: 1) habitats required for the survival of endangered species of vegetation or wildlife that cannot be firmly reestablished elsewhere; or 2) unique features of the land, as determined by state or federal designation, as, for example, wilderness areas, national or state parks, archaeological areas, and other lands of a type specified by DNR by rule, as unique or unsuitable for surface mining. DNR has designated more than 150 specific scientific areas for the purposes of the determination of unsuitability.

This bill requires DNR to deny an application for an iron mining permit under the same standards for unsuitability as under current law, except that archaeological areas and areas designated by DNR as being unique or unsuitable for surface mining are not considered for the purposes of determining unsuitability.

Current law requires DNR to deny an application for a metallic mining permit if the mining operation is reasonably expected to cause the destruction or filling in of a lake bed or to cause landslides or substantial deposition in stream or lake beds that cannot be feasibly prevented.

The bill requires DNR to deny an application for an iron mining permit if the mining operation is reasonably expected to cause the destruction or filling in of a lake bed, unless DNR has authorized the destruction or filling in of the lake bed under the provisions of the bill related to wetlands, navigable waters, or water withdrawals. The bill requires DNR to deny an application for an iron mining permit if the mining operation is reasonably expected to cause landslides or substantial deposition in stream or lake beds that cannot be feasibly prevented, unless DNR has authorized the landslides or substantial deposition in stream or lake beds under the provisions of the bill related to wetlands or navigable waters.

Current law requires DNR to deny an application for a mining permit if the mining operation is reasonably expected to cause hazards resulting in irreparable damage to specified kinds of structures, such as residences, schools, or commercial buildings, to public roads, or to other public property designated by DNR by rule, if

the damage cannot be prevented under the mining laws, avoided by removal from the area of hazard, or mitigated by purchase or by obtaining the consent of the owner.

The bill requires DNR to deny an application for an iron mining permit if the mining operation is reasonably expected to cause hazards resulting in irreparable, substantial physical damage to the specified kinds of structures or to public roads, but not to other public property designated by DNR by rule, if the damage cannot be prevented under the mining laws created by the bill, avoided to the extent practicable by removal from the area of hazard, or offset by purchase or by obtaining the consent of the owner.

The bill requires DNR to deny an application for an iron mining permit if the mining operation is reasonably expected to cause irreparable substantial environmental damage to lake or stream bodies despite adherence to the mining laws, unless DNR has authorized the activity that causes the damage.

As under the current metallic mining laws, the bill requires DNR to deny an iron mining permit if the applicant has violated and continues to fail to comply with this state's mining laws. As also provided under current metallic mining law, the bill contains requirements for the denial of an iron mining permit based on the failure to reclaim mining sites, and based on criminal convictions for violations of environmental laws in the course of mining, in the United States by persons involved in the proposed iron mining.

Standards for approval

Under current law, if none of the grounds for denial of the application for a metallic mining permit apply, DNR must issue the mining permit if it finds the following: 1) the mining plan and reclamation plan are reasonably certain to result in reclamation of the mining site as required by current law and DNR has approved the mining plan; 2) the proposed mining operation will comply with all applicable air, groundwater, surface water, and solid and hazardous waste management statutes and rules; 3) the proposed mine will not endanger public health, safety, or welfare; 4) the proposed mine will result in a net positive economic impact in the area expected to be most impacted by the mine; and 5) the proposed mining operation conforms with all applicable zoning ordinances.

Under this bill, the standards for approval of an iron mining permit differ in some respects from the standards under current law. Under the bill, if none of the grounds for denial of the application for an iron mining permit apply, DNR must issue an iron mining permit if it finds the following: 1) the mining plan and reclamation plan are reasonably certain to result in reclamation of the mining site as required by the provisions of this bill; 2) the applicant has committed to conducting the proposed iron mining in compliance with the mining permit and any other approvals issued by DNR; 3) the proposed iron mining is not likely to result in substantial adverse impacts to public health, safety, or welfare; 4) the proposed iron mine will result in a net positive economic impact in the area expected to be most impacted by the mine; 5) the applicant has applied for all applicable zoning approvals; 6) the waste site feasibility study and plan of operation comply with the provisions of the bill (described below) and; 7) the proposed iron mining is likely to meet or exceed regulations that apply to floodplain zoning ordinances.

REVIEW OF DNR DECISIONS

Generally, under current law, a person aggrieved by a decision of a state agency may obtain a contested case administrative hearing under this state's administrative procedure laws. If the matter was covered in the contested case hearing conducted before DNR acts on an application for a metallic mining permit, this general right to a contested case hearing after a decision has been made does not apply.

This bill does not allow a contested case hearing on any decision by DNR related to a proposed iron mine before DNR acts on the application for the iron mining permit. Under the bill, the right to a contested case hearing applies if a person is aggrieved by a decision to grant or deny an iron mining permit or a related DNR approval or a final decision on the EIS for a proposed iron mine and the person seeking the hearing requests the hearing within 30 days after DNR issues the decision on the iron mining permit application. One consolidated hearing is held on all of the issues raised by persons requesting a hearing.

The bill requires the hearing examiner presiding over the contested case hearing to issue a final decision no more than 150 days after DNR issues its decision. If the hearing examiner does not meet this deadline, DNR's decision is affirmed. Under the bill, the hearing examiner may not issue an order prohibiting activity authorized under the DNR decision that is being reviewed in the hearing.

Under current law, if a hearing examiner finds that a claim is frivolous, the hearing examiner is required to award the successful party the costs and reasonable attorney fees that are directly attributable to responding to the claim. To find a that a claim is frivolous, the hearing examiner must find that the claim was made in bad faith, solely for the purpose of harassing or maliciously injuring another or that the party or the party's attorney knew, or should have known, that the claim was without any reasonable basis in law and could not be supported by a good faith argument for an extension, modification, or reversal of existing law.

This bill adds that a hearing examiner may find that a claim is frivolous in a proceeding relating to iron mining if the hearing examiner finds that the claim was made primarily for the purpose of causing delay to an activity authorized under an approval that is the subject of the hearing.

Current law authorizes citizen suits against a person alleged to be in violation of the metallic mining laws and against DNR when there is alleged to be a failure of DNR to perform a duty under those laws.

The bill does not provide for citizen suits related to iron mining.

WETLANDS

This bill makes various changes in current law relating to iron mining and impacts to wetlands and establishes different requirements than those found under current law. All of the changes explained below regarding wetlands apply only to wetlands that are impacted by iron mining.

Overview of the wetland permitting process

Under current law, with certain exceptions, no person may discharge dredged or fill material into a wetland unless the discharged is authorized by a wetland general permit or wetland individual permit issued by DNR. DNR may not issue a

individual permit or authorize a discharge under a general permit unless DNR determines that the discharge will comply with all applicable water quality standards. Current law requires that DNR issue statewide general permits for various types of discharges. These include general permits covering discharges that affect not more than two acres of wetland and that are necessary for dewatering or for the treatment of hazardous waste or toxic pollutants provided that hazardous waste or toxic pollutants are not part of the discharge. If a person cannot, or chooses not to seek authorization to, proceed under a general permit, the person may apply for an wetland individual permit. Also, DNR may require a person to apply for an individual permit if DNR determines that additional restrictions on the discharge are required in order to assure that no significant adverse impacts to wetland functional values will occur.

Wetland water quality standards

Wetland water quality standards that are promulgated as rules by DNR require that various functional values that are provided by wetlands be protected from adverse impacts. These functional values include providing protection from flooding, recharging groundwaters, providing habitat for wildlife, and providing protection to shorelines from erosion. Current law also sets forth criteria to be used to assure the maintenance or enhancement of these functional values. These criteria include requiring that certain solids, debris, or toxic substances be absent. This bill incorporates all of the functional values and criteria that are contained in the DNR rules for water quality standards for wetlands.

Wetland individual permits

The bill creates separate provisions for issuing wetland individual permits that apply to wetlands that are affected by an iron mining operation. These provisions contain somewhat different requirements than those found under current law that are applicable to wetland individual permits in general.

Under current law and under the bill, the person applying for a wetland individual permit must include in the application for DNR's review an analysis of the practicable alternatives that will avoid and minimize the adverse impacts of the discharge on the wetland's functional values and that will not result in any other significant adverse environmental consequences. Under current law, DNR limits its review to the practicable alternatives that are located at or that are adjacent to the discharge site if the proposed project that will cause the discharge will result in a demonstrable economic public benefit, if the proposed project is for a facility that is in existence at the time the application is filed, or if the proposed project will occur in an industrial park. Under the bill, DNR limits its review of practicable alternatives only if the proposed project will result in a demonstrable economic public benefit.

Also in current law and under the bill, DNR in its review must consider the direct, secondary, and cumulative impacts that may occur to wetland functional values, the net positive or negative impact of the proposed project, and the impact that will result from the mitigation that is required (see below).

The bill also requires that, in evaluating the significant adverse impacts as part of its review, DNR must compare the functional values of the wetlands that will be impacted by the mining site with other wetlands and water bodies in the region.

Under current law, DNR may, but is not required to, issue a wetland individual permit if it finds that the proposed project represents the least environmentally damaging practicable alternative, taking into consideration practicable alternatives that avoid wetland impacts; that all practicable measures to minimize adverse impacts will be taken; and that the project will not result in significant adverse impacts to wetland functional values or to water quality or in other significant adverse environmental consequences. Under the bill, DNR must issue a wetland individual permit if it finds that the project will meet these requirements. Also, the bill specifically requires DNR to issue the permit if any significant adverse impact to wetland functional values that remains after the impacts are avoided or minimized to the extent practicable will be compensated for under a mitigation program (see below).

Other approvals that require a wetland impact evaluation

Under this bill, some of the provisions that apply to wetland individual permits apply to other DNR approvals that regulate activities affecting wetlands, other than discharges of dredged or fill material, and that require an evaluation of the impact on the wetland. Under the bill, DNR may not issue such an approval unless DNR determines that the activity will comply with all the applicable wetland water quality standards that are described above. The bill also requires DNR to go through the same process in reviewing an application for one of these other approvals as is required for wetland individual permits. After completing the reviewing process, the department may not deny the approval on the basis of the impacts from the activity on the wetland if it finds that the proposed project represents the least environmentally damaging practicable alternative, taking into consideration practicable alternatives that avoid wetland impacts; that all practicable measures to minimize adverse wetland impacts will be taken; and that the project will not result in significant adverse impacts to wetland functional values or to water quality or in other significant adverse environmental consequences. Also, the bill prohibits DNR from denying the approval permit if any significant adverse impact to wetland functional values that will remain after the impacts are avoided or minimized to the extent practicable will be compensated for under a mitigation program (see below).

Wetland general permits

Current law requires that DNR issue statewide general permits for various types of discharges of dredged and fill material into wetlands. These include general permits covering discharges that affect not more than two acres of wetland and that are necessary for dewatering or for the treatment of hazardous waste or toxic pollutants provided that hazardous waste or toxic pollutants are not part of the discharge. The general permits also include discharges that affect not more than 10,000 square feet of wetlands that are part of developments for commercial, residential, agricultural, municipal, or recreational purposes. In order to proceed with a discharge that is authorized under a general permit, a person has to give written notification to DNR not less that 30 days before beginning the discharge. If,

within 30 days after receiving the application, DNR does not either request additional information or inform the person giving notification that a wetland individual permit will be required, the person may proceed with the discharge without any further authorization from DNR.

These provisions relating to general permits also apply to discharges of dredged and fill materials into wetlands that are associated with iron mining except that a person may not proceed with a discharge until the mining permit is issued.

Discharges of dredged or fill material into wetland subject to federal jurisdiction

Under federal law, activities involving the discharge of dredged or fill material into wetlands subject to federal jurisdiction (federal wetlands) must comply with certain guidelines contained in regulations promulgated by the federal Environmental Protection Agency in order for a federal permit to be issued by the U.S. Army Corps of Engineers (ACE). Before a federal permit may be issued, DNR must issue a water quality certification. Under current law, a wetland individual or general permit issued by DNR that authorizes a discharge of dredged or fill material constitutes water quality certification for federal purposes. Under the bill, a wetland individual permit or other approval for which a wetland impact evaluation is required constitutes a federal water quality certification for a federal wetland.

Mitigation

Under current law, mitigation is required as part of a wetland individual permit. Mitigation may be accomplished by creating, enhancing, preserving, or restoring a wetland in order to compensate for adverse impacts to other wetlands. The mitigation program established by DNR must allow as mitigation the purchasing of credits from a mitigation bank established in the state and completing actual mitigation within the same watershed as the discharge site or within one–half mile of the discharge site if not in the same watershed. A wetland mitigation bank is a system of accounting for wetland loss that includes one or more sites where wetlands are improved to provide transferable credits to be subsequently applied to offset adverse impacts to other wetlands. Current law sets a minimum ratio of at least 1.2 acres of mitigation for each acre affected by a discharge. The mitigation program may also include an in lieu fee subprogram, if one is established by DNR. The in lieu fee subprogram is a program under which payments are made to DNR or another entity for the purposes of restoring, enhancing, creating, or preserving wetlands or other water resource features. Wetlands that benefit from the in lieu fee subprogram must be open to the public for nonmotorized activities such as hunting, cross–country skiing, and hiking.

Under the bill, as under current law, mitigation may be accomplished by creating, enhancing, restoring, or preserving another wetland. Under the bill, mitigation can include a mitigation project performed by an applicant for a mining permit, purchase of mitigation credits from a mitigation bank for a site located anywhere in the state or from certain mitigation banks established before February 1, 2002. Mitigation can also include participation in the in lieu fee program as described above.

Under the bill, if is not practicable or ecologically preferable to conduct mitigation at a location on the mining site or within one–half mile of the outer boundary of the mining site (on–site location) or if there is no on–site location that will provide sufficient wetland acreage, DNR must allow the applicant to conduct mitigation at a site other than an on–site location. However, If a mining operation is located in whole or in part within the ceded territory, any mitigation, including mitigation accomplished through the purchase of mitigation bank credits and the in lieu fee subprogram, that is required to compensate for adverse impacts to wetlands in the ceded territory shall occur within the ceded territory. The bill defines "ceded territory" to be the territory located in the state that was ceded by the Chippewa Indians to the United States in two treaties in 1837 and 1842. The bill sets a maximum ratio of 1.5 acres of mitigation for each acre of adversely impacted wetland.

The bill establishes a different procedure for reviewing mitigation measures for a federal wetland. Under the bill, DNR reviews the applicable mitigation measures under federal law and determines whether DNR has reasonable assurance that these measures will compensate for any significant adverse impacts to wetland functional values, any significant adverse impacts to water quality, and any other significant adverse environmental consequences (significant adverse effects). If DNR determines it has reasonable assurance that the mitigation measures will compensate for these significant adverse effects, DNR may not impose any additional conditions. If DNR determines that it does not have reasonable assurance, it may impose additional conditions, but these are limited to those that are necessary to compensate for any remaining significant adverse effects. The bill also provides that DNR may not increase the number of acres to be mitigated under the federal compensatory mitigation requirements.

Exemptions

Under current law, certain activities in wetlands do not require authorization under a wetland individual permit. These activities include normal farming, silviculture, and ranching activities and certain activities related to drainage and irrigation ditches, temporary mining roads, and damaged parts of structures that are in use of a wetland. Under current law, these activities lose the exemption under certain circumstances, such as using a wetland for a use for which it was not previously used or conducting an activity that may impair the flow of a wetland. Under the bill, some of these exemptions apply to iron mining activities. However, the provision regarding losing an exemption does not apply. Instead, the exemptions only apply if the person conducting the activity minimizes the adverse effect to the environment.

Under current rules promulgated by the DNR, certain artificial wetlands are exempt from the wetland permitting requirements unless DNR determines that significant functional values are present. These exemptions include artificial wetlands that are within active nonmetallic mining operations. Under this bill, these same artificial wetlands are exempt from the wetland permitting requirements, except that the exemption for mining is limited to iron mining and the exception regarding significant functional values does not apply.

Other provisions

Under current law, for purposes of delineating the boundary of a wetland, DNR must use the procedures contained in the wetlands delineation manual published by the ACE. The bill provides that if the applicant has provided information to DNR that is identified in the manual as being sufficient for determining where a wetland is or for delineating a wetland's boundaries, DNR may visit the mining site to conduct surveys or gather site–specific data provided that DNR does not discontinue processing the application to do so.

Current law requires a person holding a wetland individual permit to grant an easement to DNR or to execute a comparable legal instrument, to ensure that a wetland that is improved under a mitigation program is not destroyed or substantially degraded by subsequent owners. Under the bill a person who is issued a wetland individual permit or other approval for which a wetland impact evaluation is required must grant such an easement or execute such an instrument, and DNR must suspend the wetland permit or approval if the permit or approval holder fails to grant the easement or execute the instrument within the time limit set forth in the mining permit.

GROUNDWATER QUALITY

Groundwater quality standards

Under current law, DNR and the Department of Health Services (DHS) establish groundwater quality standards, consisting of enforcement standards and preventive action limits, for substances that contaminate groundwater. The preventive action limit for a substance is 10 percent, 20 percent, or 50 percent of the enforcement limit depending on the type of substance.

Under this bill, the enforcement standards and preventive action limits established by DNR and DHS continue to apply to iron mining operations, but the bill changes the manner in which they apply.

Point of standards application

Current law generally requires each state regulatory agency, including DNR, to promulgate rules containing design and operational criteria for facilities and activities affecting groundwater that are designed, to the extent technically and economically feasible, to minimize the level of substances in groundwater and to maintain compliance with preventive action limits, unless compliance with the preventive action limits is not technically and economically feasible. Current law requires each regulatory agency to promulgate rules that specify the range of responses that the regulatory agency may take or that it may require the person controlling a facility or activity to take if a preventive action limit is attained or exceeded at what is called a point of standards application. Under current law and under this bill, any point at which groundwater is monitored is a point of standards application to determine whether a preventive action limit has been attained or exceeded.

Current law generally prohibits a regulatory agency from promulgating rules containing design and operational criteria that allow an enforcement standard to be exceeded at a point of standards application. Under current law and under this bill,

for determining whether an enforcement standard has been attained or exceeded, a point of standards application is any point beyond the boundary of the property on which the regulated facility or activity is located, any point of present groundwater use, and, for certain facilities, such as waste disposal facilities, any point beyond a three–dimensional design management zone (DMZ) established by DNR by rule.

Design management zone

Under DNR's rules, the horizontal dimensions of a DMZ vary depending on the type of facility. For a metallic mining waste site, the horizontal distance to the boundary of the DMZ is generally 1,200 feet from the outer waste boundary or at the boundary of the property owned or leased by the applicant, whichever distance is less. For a metallic surface mine, the horizontal distance to the boundary of the DMZ is generally 1,200 feet from the edge of the mining excavation or at the property boundary, whichever distance is less. For other mining facilities, the horizontal distance to the boundary of the DMZ is generally 150 feet from the edge of the facility or at the property boundary, whichever distance is less. Generally, the smaller the DMZ, the more likely that a preventive action limit or enforcement standard will be attained or exceeded at the boundary and the more likely that the operator will be required to implement a response.

Under this bill, for an iron mining site, the horizontal distance to the boundary of the DMZ is generally 1,200 feet from the engineered structures of a mining waste site, including any wastewater and sludge storage or treatment lagoon, the edge of the mine and adjacent mine mill and ferrous mineral processing and other facilities or at the property boundary, whichever distance is less.

Under current rules, DNR may reduce the horizontal distance to the boundary of the DMZ on a metallic mining site if certain conditions are met, but may not expand it.

Under the bill, DNR may not reduce the horizontal distance to the boundary of the DMZ on an iron mining site but may expand it by an additional 1,200 feet in any direction if DNR determines that preventive action limits and enforcement standards will be met at the boundary of the expanded DMZ and that preventive action limits and enforcement standards cannot be met at the boundary of the DMZ if it is not expanded.

Under DNR's rules, a DMZ extends vertically from the land surface through all saturated geological formations. Under the bill, the vertical distance to the boundary of the DMZ for an iron mining site extends no deeper than 1,000 feet into the Precambrian bedrock or than the final depth of the mining excavation, whichever is greater.

Mandatory intervention boundary

Currently, for metallic mining waste sites and metallic mines, in addition to the DMZ, DNR's rules provide for a mandatory intervention boundary that is 150 feet from the outer waste boundary or the edge of the mine. Under the rules, if a preventive action limit or an enforcement standard is exceeded beyond the mandatory intervention boundary, DNR must require a response by the operator.

Under the bill, the horizontal distance to the mandatory intervention boundary for an iron mining site is generally 300 feet from the outer waste boundary or the

outer edge of the excavation. The bill authorizes DNR to reduce the mandatory intervention boundary by up to 150 feet if it determines that the reduction is necessary to adequately identify and respond to potential groundwater quality issues. Under the bill, if a preventive action limit or enforcement standard is exceeded beyond the mandatory intervention boundary, DNR must require a response by the operator.

Response when preventive action limit is attained or exceeded

Under DNR's groundwater rules, when a preventive action limit is attained or exceeded at a point of standards application, DNR must determine the appropriate response, taking into consideration the response proposed by the operator. The response must be designed and implemented to minimize the concentration of the substance in groundwater at the point of standards application to the extent feasible, to regain and maintain compliance with the preventive action limit, and to ensure that the enforcement standard is not attained or exceeded at the point of standards application. DNR's rules specify a range of responses for when a preventive action limit is attained or exceeded at a point of standards application, including requiring a revision of operational procedures and requiring remedial action to restore groundwater quality.

Under the bill, when a preventive action limit is attained or exceeded at a point of standards application and the quality of groundwater is statistically significantly different from the quality of the groundwater unaffected by the iron mining, DNR must evaluate the range of responses proposed by the operator, including alternate responses to the responses specified in DNR's rules, and designate the appropriate response. DNR may determine that no response is necessary if it determines that the preventive action limit will not be attained or exceeded at any point outside the DMZ or, in some cases, if the natural concentration of the substance is above the preventive action limit.

Response when enforcement standard is attained or exceeded

Under DNR's groundwater rules, when an enforcement standard is attained or exceeded at a point of standards application for a solid or hazardous waste facility, DNR must require responses as necessary to prevent any new releases of the substance from traveling beyond the DMZ and to restore the contaminated groundwater within a reasonable period. When an enforcement standard is attained or exceeded at a point of standards application for a facility that is not a solid or hazardous waste facility, DNR must generally prohibit the activity that uses or produces the substance and require remedial actions, unless it can be shown that an alternative response will achieve compliance with the enforcement standard at the point of standards application.

Under the bill, for an iron mining operation when an enforcement standard is attained or exceeded at a point of standards application and the quality of groundwater is statistically significantly different from the quality of the groundwater unaffected by the iron mining, DNR must evaluate the operator's proposed range of responses and designate an appropriate response. DNR may not prohibit an activity or require closure of a mining waste site unless DNR determines

that no other remedial action would prevent the violation of the enforcement standard at the point of standards application.

DISPOSAL OF MINING WASTE

Approval of facility

Under current law, no person may construct or operate a solid waste disposal facility, such as a landfill, without the approval of DNR under the solid waste statutes and rules. The rules under which metallic mining waste facilities are regulated differ in some ways from the rules for other solid waste facilities.

Under this bill, the current solid waste laws do not apply to iron mining waste facilities. Instead, the standards for an iron mining waste facility are specified in the iron mining laws created in the bill and the process for approving an iron mining waste facility is part of the process for approving the iron mining permit. Under the bill, if a mining site will include a disposal facility for waste that is not mining waste, such as trash from an office or cafeteria, the current solid waste laws apply to that disposal facility.

Location of facility

Current law requires DNR to promulgate rules for the location of solid waste facilities. Unless DNR grants an exemption, as described below (in the section on exemptions), the rules prohibit the location of a mining waste site in any of the following areas: 1) within 1,000 feet of a state trunk highway, a state park or scenic easement or overlook, a scenic or wild river, or a hiking or bike trail, unless the proposed waste site is visually inconspicuous or is screened; 2) within an area designated in the statutes as being unsuitable for surface mining, such as a wilderness area, a wildlife refuge, or a state or national park; 3) within 200 feet of the property boundary; 4) within a floodplain; 5) within 300 feet of a navigable river or stream; 6) within 1,000 feet of a lake; or 7) within 1,200 feet of a private or public water supply well.

Under this bill, the limits on the location of a mining waste site do not apply to the portion of an iron mine that is backfilled with mining waste. Otherwise, the bill includes the first, third, fourth, and seventh prohibitions described above. The bill does not prohibit locating an iron mining waste site in an area designated in the statutes as being unsuitable for surface mining. (See the discussion of unsuitability under **GRANT OR DENIAL OF MINING PERMIT**, ***Grounds for denial***, above.) Also, the bill allows an activity associated with an iron mining waste site to be located within 300 feet of a navigable river or stream or within 1,000 feet of a lake if DNR approves the activity under the provisions of the bill related to wetlands, water withdrawals, or navigable waters.

Waste site feasibility study and plan of operation

The current solid waste statutes require an applicant for the approval of a solid waste disposal facility to submit a waste site feasibility study that demonstrates the suitability of the site for the disposal of solid waste and a plan of operation for the facility. DNR's rules concerning metallic mining waste facilities contain extensive requirements for the waste site feasibility study and plan of operation.

This bill requires an applicant for an iron mining permit to submit a waste site feasibility study and plan of operation as part of the application for the mining permit. The bill contains extensive requirements for the waste site feasibility study and plan of operation, many of which are similar to the requirements in DNR's current rules. Some of the technical requirements in the bill differ from the current rules.

The bill requires the applicant to perform analyses to assess the potential environmental impact of mining waste handling, storage, and disposal. The applicant must conduct investigations on the proposed waste site and in the laboratory to determine the characteristics of the site through measures such as soil borings and tests and determining groundwater levels and flow patterns and premining groundwater quality. The applicant must provide information about the ecosystems and climatology in the vicinity of the proposed mining waste site and about the geology, zoning, and land use in the area.

Under the bill, the applicant must submit a proposed waste site design that includes proposed methods for controlling water that has been contaminated by dissolved materials (leachate) and for controlling access to the facility; engineering plans for the iron mining waste facility; and a description of typical daily operations of the facility.

Proof of financial responsibility

Under current law and under this bill, before beginning mining the operator must furnish to DNR a bond or other security in an amount sufficient to cover the cost of reclamation of the mining site, in relation to the portion of the mining site that will be disturbed at the end of the following year.

Current law also requires the operator of a mining waste facility to provide proof of financial responsibility for the costs of the care, maintenance, and monitoring of the facility after it is closed (long–term care). The requirement to provide proof of financial responsibility for long–term care continues until DNR terminates that requirement, which it may not do until at least 40 years after closure of the mine.

Under this bill, the operator of an iron mining waste facility is also required to provide proof of financial responsibility for the costs of the long–term care of the facility. Under the bill, the requirement to provide proof of financial responsibility for long–term care of the mining waste facility terminates after 40 years.

WATER WITHDRAWALS

Under current law

There are several laws that may currently apply to withdrawals of groundwater or surface water.

Current law requires a permit (surface water withdrawal permit) issued by DNR for certain withdrawals of water from a stream or lake, including withdrawals for metallic mining. The law requires DNR to deny a surface water withdrawal permit for metallic mining if the injury to public rights caused by the withdrawal exceeds the public benefits generated by the mining or if the withdrawal would unreasonably injure rights of riparian (waterfront) property owners unless the riparian property owners consent to the proposed withdrawal. Current law also

regulates withdrawals of groundwater. The law prohibits a property owner from constructing a well that, together with other wells on the same property, has a capacity of more than 100,000 gallons per day (a high capacity well) or from engaging in the removal of more than 100,000 gallons per day of water from a mine without an approval from DNR. Current law prohibits DNR from issuing an approval for the withdrawal of groundwater for mining or for removing water from (dewatering) a mine if the withdrawal or removal would result in the unreasonable detriment of public or private water supplies or the unreasonable detriment of public rights in the waters of the state. Current law provides that if DNR determines that a proposed high capacity well may impair the water supply of a public utility, then DNR may not approve the well unless it includes certain approval conditions that will ensure that the water supply of the public utility will not be impaired. If DNR determines that a proposed high capacity well that has a water loss of 95 percent of the amount of water withdrawn, may have a significant impact on a spring, or is located in an area within 1,200 feet of certain outstanding or exceptional resource waters or certain trout streams, then DNR generally may not approve the well unless it includes certain approval conditions that will ensure that the high capacity well will not cause significant adverse environmental impact.

Current law also provides that if a person to whom DNR has issued a surface water withdrawal permit or a high capacity well approval proposes to begin a new withdrawal or increase an existing withdrawal that will result in a water loss beyond a specified threshold amount, then that person must apply to DNR for approval (water loss application). A water loss is a loss of water from the basin from which it is withdrawn as a result of interbasin diversion or consumptive use. The water loss application must contain certain information including the place and source of the proposed withdrawal, the estimated average volumes and rates of water loss, the anticipated costs of any proposed construction, and a description of the conservation practices that the applicant intends to follow. To approve a water loss application, DNR must find, among other things, that the proposed withdrawal and use of the water is consistent with the protection of public health, safety, and welfare and will not be detrimental to the public interest; that the proposed withdrawal will not have a significant detrimental effect on the quantity and quality of the waters of the state; that no public rights in navigable waters will be adversely affected; and that the applicant incorporates reasonable conservation practices. If DNR approves the water loss application, it must specify certain conditions with regard to the water withdrawal, such as the amount of water loss that is allowed and any other conditions necessary to protect the environment and public health, safety, and welfare.

Finally, the current law that implements the Great Lakes Water Resources Compact requires water use permits for certain withdrawals of groundwater or surface water.

This bill establishes different requirements for surface water and groundwater withdrawals relating to iron mining, except that the current law that implements the Great Lakes Water Resources Compact continues to apply. In lieu of a surface water withdrawal permit, an approval for a high capacity well or dewatering a mine, and

approval of a water loss application, a person who, as part of an iron mining operation or bulk sampling (explained below), engages in a surface water withdrawal, in a withdrawal of groundwater that exceeds 100,000 gallons a day, or in the dewatering of mines that exceeds 100,000 gallons a day, must obtain a water withdrawal permit from DNR (mining water withdrawal permit). This bill specifies that a person is not required to be the owner of riparian property in order to obtain a permit to withdraw surface water from that riparian property if the person leases the riparian property from the owner or holds an easement on the riparian property. The bill also specifies that a person is not required to be the owner of a piece of property in order to obtain a permit to withdraw groundwater from that piece of property if the person leases the piece of property from the owner, the person holds an easement on the piece of property, or the person has obtained permission from the owner to withdraw groundwater from that piece of property. If the withdrawal of water will involve one or more high capacity wells, DNR must require the applicant to submit a siting analysis that includes alternate proposed locations for each well. In evaluating the siting analysis, DNR must recognize that there is a need for mining waste sites and processing facilities to be contiguous to the location of the ferrous mineral deposits and must allow any high capacity well to be located so that need will be met. DNR must approve the location of each well as part of the process for issuing a mining water withdrawal permit.

The bill requires DNR to issue a mining water withdrawal permit if the withdrawal meets certain requirements (general requirements). Among those requirements is that the proposed withdrawal and use of the water is substantially consistent with the protection of public health, safety, and welfare and will not be significantly detrimental to the public interest; that it will not be significantly detrimental to the quantity or quality of the waters of this state; that it will not significantly impair the rights of riparian owners or the applicant obtains the consent of riparian owners; and that it will not result in significant injury to public rights in navigable waters. The bill requires that the applicant submit a plan to DNR that contains proposed conservation measures, such as mitigation, compensation, or offsetting of significant impacts to navigable waters by restoring or enlarging up to 1.5 acres of a natural navigable water in exchange for each acre of a natural navigable water that is significantly impacted (offsetting impacts to navigable waters). After DNR reviews the application and plan, DNR must issue a permit if it finds that the general requirements will be met by implementing some or all of the conservation measures.

Under the bill, if DNR determines that a high capacity well proposed by an applicant may impair a privately owned high capacity well, DNR must include conditions in the water withdrawal permit that will ensure that the privately owned well will not be impaired, unless the owner of the private well agrees to the impairment. The bill authorizes DNR to impose other reasonable conditions in the mining water withdrawal permit, as long as the conditions do not interfere with, or limit the amount of water needed for, the iron mining operation or bulk sampling. The bill also allows an iron mining operator to request a modification of any condition in the mining water withdrawal permit and establishes certain deadlines under

which DNR must approve or deny the request for modification. The bill specifies that if a request for modification results in an increase in an existing withdrawal resulting in a water loss averaging more than a specified number of gallons per day in a 30–day period, then DNR must determine whether, under its rules, it is required to prepare an environmental assessment or environmental impact statement. If so, then DNR must prepare the environmental assessment or environmental impact statement.

NAVIGABLE WATERS

Under current law, DNR regulates certain activities that occur in or near navigable waterways. In order for a person to conduct such an activity, the person may be required to obtain one or more permits from DNR. Among the permits that DNR issues are permits to place structures or deposits in navigable waters, permits to construct or maintain bridges and culverts, permits to enlarge or connect waterways, permits to change the courses of streams and rivers, and permits to remove material from beds of navigable waterways (waterway permits). Current law also requires that DNR have in place general permits for some of these activities. Under current law, some activities are exempt from these requirements.

In order to receive an individual waterway permit for the navigable waters activities regulated by DNR, the activity must meet certain requirements. These requirements vary depending on the type of permit issued, and may include requirements that address possible environmental pollution, obstruction to navigation, reduction to flood flow capacity, and interference with the rights of other riparian owners. The bill modifies certain of these requirements for the purpose of issuing individual waterway permits associated with bulk sampling or iron mining. Under the bill, in lieu of these requirements in current law, an individual waterway permit will be issued if it will not significantly impair the public's rights and interests in navigable waters, will not significantly reduce flood flow capacity, will not significantly affect riparian rights, and will not significantly degrade water quality. Requirements for issuing individual waterway permits under current law that are not modified under the bill continue to apply to the extent that they do not conflict with any other provision in the bill. The bill requires that the applicant submit a plan to DNR that contains proposed measures, such as improving public rights in navigable waters, conducting wetland mitigation, or offsetting impacts to navigable waters. After DNR reviews the application and plan, DNR must issue a permit if it finds that the requirements will be met by implementing some or all of the measures. Under current law, to qualify for some individual waterway permits or to conduct activities under certain permit exemptions, a person must be an owner of riparian property. This bill provides that for the purposes of obtaining an individual waterway permit associated with bulk sampling or iron mining, a person who is not a riparian owner may exercise a riparian right held by a riparian owner if the person exercises that right with respect to riparian property that the person leases or on which the person holds an easement.

EXEMPTIONS

Current law authorizes DNR to promulgate rules under which it may grant to an applicant for a metallic mining permit an exemption to a rule promulgated under

the solid waste, hazardous waste, or metallic mining laws, but not to a statute, if the exemption does not result in a violation of any federal or state environmental statute or endanger public health, safety, or welfare or the environment.

This bill authorizes an applicant for an iron mining permit to request an exemption from any requirement in the iron mining laws created in the bill applicable to a mining permit application, a mining permit, or any other approval issued by DNR that is needed to conduct the iron mining. The request must be submitted no more than 180 days after the application for the mining permit is considered to be complete. DNR must grant or deny the exemption within 15 days. DNR must grant the exemption if it is consistent with the purposes of the iron mining laws created in the bill; it does not violate other applicable environmental laws; and either: 1) it will not result in significant adverse environmental impacts, or 2) it will result in significant adverse environmental impacts but the applicant will offset those impacts through compensation, mitigation, or conservation measures, except that DNR may not grant the exemption if granting it would violate federal law.

RELATION TO OTHER LAWS

Current law provides that if there is a standard under other state or federal statutes or rules that specifically regulates in whole an activity also regulated under the metallic mining law, the standard under the other statutes or rules is the controlling standard. If the other federal or state statute or rule only specifically regulates the activity in part, it is controlling as to that part.

Under this bill, if there is a conflict between a provision of the iron mining laws and a provision in another state environmental law, other than the law related to the Great Lakes Water Resources Compact, the provision in the iron mining laws controls.

EXPLORATION

Current law requires a person who intends to engage in exploration to be licensed by DNR. Exploration is drilling to search for minerals or to establish the nature of a known mineral deposit. The law requires DNR to promulgate rules containing minimum standards for exploration and for the reclamation of exploration sites.

This bill also requires a person who intends to engage in exploration for iron ore to be licensed by DNR. The bill requires an applicant for an exploration license to file an exploration plan and a reclamation plan that include provisions related to the matters for which DNR is required to establish standards under current law. The bill contains requirements for filling drillholes once exploration has been completed that are similar to the requirements in DNR's current rules.

Under the current rules, DNR must deny the application for an exploration license if it finds that the exploration will not comply with the standards for exploration and reclamation or if the explorer is in violation of the rules.

Under the bill, DNR must deny the application for an exploration license if it concludes that, after the reclamation plan has been completed, the exploration will have a substantial and irreparable adverse impact on the environment or present a substantial risk of injury to public health and welfare. If DNR intends to deny a

license, it must notify the applicant of that intent and the reasons for the intended denial and give the applicant ten days to correct the problems with its application.

As under current DNR rules, the bill generally requires DNR to issue or deny an application for an exploration license within ten business days of receipt of the application. Under the bill, however, if DNR does not comply with that deadline, the exploration license is automatically issued.

BULK SAMPLING

Under current law, a person may not prospect for metallic ore without a prospecting permit from DNR. Prospecting is examining an area to determine the quantity and quality of metallic minerals by means other than drilling, for example, by excavating. Under current law, the process for obtaining a prospecting permit is similar to the process for obtaining a mining permit. When a person completes prospecting, the person must conduct reclamation, that is, must rehabilitate the site to either its original state or, if that is physically or economically impracticable or environmentally or socially undesirable, to a state that provides long–term environmental stability.

Under the bill, a person intending to examine an area to determine the quantity and quality of iron ore by means other than drilling is not required to obtain a prospecting license.

The bill allows a person who intends to engage in bulk sampling to file a bulk sampling plan with DNR. Bulk sampling is excavating in a potential mining site to assess the quality and quantity of iron ore deposits and to collect and analyze data to prepare the application for a mining permit or other approval. A person who files a bulk sampling plan must do all of the following:

1. Describe the bulk sampling site and the methods to be used for bulk sampling.

2. Submit a plan for controlling surface erosion that identifies how adverse impacts to plant and wildlife habitats will be avoided or minimized to the extent practicable.

3. Submit a plan for revegetation, but not for reclamation, that describes how adverse environmental impacts will be avoided or minimized to the extent practicable, how the site will be revegetated and stabilized, and how adverse impacts to plant and wildlife habitats will be avoided or minimized to the extent practicable.

4. Describe any known adverse environmental impacts that are likely to be caused by bulk sampling and how those impacts will be avoided or minimized to the extent practicable.

5. A description of any adverse effects that the bulk sampling might have on any historic property or on any scenic or recreational areas and plans to avoid or minimize those adverse effects to the extent practicable.

The bill requires DNR, within 14 days of receipt of a bulk sampling plan, to identify in writing any kind of approval that DNR issues that is needed to conduct the proposed bulk sampling, such as a wastewater discharge permit or a permit for a discharge into wetlands, and any waivers, exemptions, or exceptions to those approvals that may be available.

The bill requires a person who has submitted a bulk sampling plan to submit all applications for approvals and for waivers, exemptions, or exceptions to approvals for the bulk sampling at one time.

The bill specifies deadlines for DNR to act on approvals needed to conduct bulk sampling that would not otherwise apply to those types of approvals. When a person who files a bulk sampling plan applies for an approval or a waiver, exemption, or exception to an approval, the application is considered to be complete on the 30th day after DNR receives the application, unless before that day DNR informs the person that the application is not complete. Once an application is considered to be complete, DNR must act within 30 days on an application for a waiver, exemption, or exception to an approval, for a determination that an activity is below the threshold that requires an approval, or for a determination of eligibility for coverage under a general permit or a registration permit. For other approvals, DNR must act within 60 days after the application is considered to be complete, except that DNR must act on an approval for an individual permit, such as a wastewater discharge permit, for which federal law requires an opportunity for public comment or the ability to request a hearing before issuance of the permit within 180 days.

DNR is not required to prepare an environmental impact statement for proposed bulk sampling. Also, the bill requires DNR to act on any required construction site erosion control or storm water management approval, even if DNR has authorized a local program to issue approvals for construction site erosion control or stormwater management. This bill does not allow a contested case hearing on any approval needed to conduct bulk sampling.

FEES

Under current law, a person who gives notice of intent to apply for a metallic mining permit must pay a fee established by DNR by rule designed to cover the costs incurred by DNR in connection with the proposed mining during the year following receipt of the notice of intent. The person must also pay fees for any approvals other than the mining permit that are needed to conduct the mining. The law requires DNR to annually compare the fees paid by an applicant with the costs incurred by DNR in connection with the proposed mining. If the costs incurred by DNR exceed the fees paid, the person must pay a fee equal to the difference.

Under this bill, an applicant is required to pay a mining permit application fee, but is not required to pay an application or filing fee for any other approval, except for an application fee for an approval for a water diversion for which review by the other parties to the Great Lakes Water Resources Compact is required. The bill requires DNR to assess a mining permit application fee equal to its costs for evaluating a mining project or $2,000,000, whichever is less. An applicant must pay $100,000 with the bulk sampling plan or, if no bulk sampling plan is filed, with the notice of intent to file a mining permit application and then must make $250,000 payments when DNR shows that the previous payments have been fully allocated against actual costs. In addition to these fees, if DNR contracts with a consultant to assist in preparation of the EIS and awards that contract on the basis of competitive bids, the applicant must pay the full costs under the contract.

Current law imposes fees on the disposal of solid waste, commonly called tipping fees. Of those fees, under the bill, the operator of a mining waste site must pay the groundwater fee, the environmental repair fee, and the solid waste facility siting board fee but is not subject to the recycling fee.

NET PROCEEDS OCCUPATION TAX

Under current law, the state imposes a net proceeds occupation tax on the mining of metallic minerals in this state. The tax is based, generally, on a percentage of net income from the sale of ore or minerals after certain mining processes have been applied to the ore or minerals.

Under current law, the revenue collected from the net proceeds occupation tax is deposited into the investment and local impact fund. The fund is managed by the local impact fund board. The revenue is then, generally, distributed to the counties and municipalities in which metallic minerals are being mined.

Under the bill, 60 percent of the revenue collected from the net proceeds occupation tax on extracting ferrous metallic minerals in this state is deposited into the investment and local impact fund and 40 percent of the revenue is deposited into the economic development fund.

The bill provides that when the revenue that is deposited into the economic development fund is appropriated to the Wisconsin Economic Development Corporation (WEDC), WEDC must use the revenue to make grants and loans to businesses in this state, giving preference to businesses in an area affected by iron mining.

Under current law, in addition to paying the net proceeds occupation tax, a person who intends to apply for a mining permit must make three payments of $50,000 each to the investment and local impact fund. The bill increases the payments to $75,000 each.

OTHER

Procedures for utility facility approvals

Under current law, with certain exceptions, a person may not begin the construction of certain utility facilities before the Public Service Commission (PSC) has issued to the person either a certificate of public convenience and necessity (CPCN) or a certificate authorizing the person to transact public utility business (PSC certificate). Current law also provides that a utility facility that is required to obtain a PSC certificate and that is required to obtain one or more permits from the Department of Natural Resources (DNR), such as a permit allowing the placement of a structure in navigable waters, must use a procedure that requires the utility facility to submit only one application to DNR for all of the required DNR permits (combined permit procedure) rather than submitting separate applications to DNR for each permit. Current law also specifies that the applicant under the combined permit procedure must submit the combined application for permits to DNR at the same time that the applicant files an application for a PSC certificate.

This bill makes the combined permit procedure optional for an applicant proposing to construct a utility facility for iron mining activities and allows the applicant to submit separate applications to DNR for each required permit. Under the bill, if the utility facility does not use the combined permit procedure, it is not

required to file a DNR permit application at the same time that it files an application for a PSC certificate.

Current law requires a person proposing to construct a large electric generating facility or high–voltage transmission line (facility) to provide DNR with an engineering plan or project plan for the facility at least 60 days before filing an application with PSC for a CPCN. Within 30 days thereafter, DNR must provide the person with a listing of each DNR approval that appears to be required for the construction or operation of the facility. Current law requires the person to file the application for these approvals within 20 days after receiving the listing from DNR. This bill eliminates this 20–day deadline for a person proposing to construct a facility for iron mining activities and also specifies that the person must only apply for those approvals identified in the listing that are applicable.

Shoreland and floodplain zoning

Current law prohibits locating a solid waste facility in an area that is covered by a shoreland or floodplain zoning ordinance unless the facility is authorized under a permit issued by DNR. This bill requires DNR to specify in the permit the authorized location, height, and size of the facility that may be located in the area. This bill also specifies that DNR may not prohibit a waste site, structure, building, fill, or other development or construction activity (activity) to be located in an area that would otherwise be prohibited under a shoreland zoning ordinance if the activity is authorized by DNR as part of a mining operation covered by an iron mining permit.

Current law provides that a structure, building, fill, or development (structure) that is placed or maintained in a floodplain in violation of a floodplain zoning ordinance is a public nuisance and provides that any person placing or maintaining the structure may be subject to a fine. The bill specifies that these provisions do not apply to a structure placed or maintained as part of a mining operation covered by an iron mining permit issued by DNR, except to the extent necessary for the municipality to which the ordinance applies to maintain eligibility for participation in the National Flood Insurance Program.

Local impact committees

Current law authorizes a local or tribal government likely to be substantially affected by proposed metallic mining to establish a local impact committee for purposes that include facilitating communications with the mining company, reviewing and commenting on reclamation plans, and negotiating an agreement between the local or tribal government and the mining company. The law requires the mining company to appoint a person to be the liaison with the local impact committee and requires the mining company to make reasonable efforts to design and carry out mining operations in harmony with community development objectives. Under some circumstances, a local impact committee may receive funding from the investment and local impact fund board.

This bill provides for local impact committees for proposed iron mines in a manner similar to the manner in which those committees are established under current law.

Rights and conditions relating to mining contracts and leases

Current law establishes certain rights and imposes certain conditions with respect to contracts or leases that authorize a person to dig for ores and minerals, including the conditions under which a miner may retain ore and minerals discovered on the land, a miner's obligation to keep and to provide certain records concerning mine operations, and the consequences to a miner who conceals or disposes of any ores or minerals for the purpose of defrauding a lessor. Current law also establishes a maximum term for exploration mining leases with regard to minerals that contain metals.

This bill limits these current law provisions to mining activities relating to nonferrous metallic mining.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. 23.321 (2g) of the statutes is created to read:

23.321 **(2g)** SERVICES FOR MINING OPERATIONS. In addition to those persons authorized to request a wetland identification or confirmation under sub. (2) (b) or (c), a holder of an easement may request such an identification or confirmation if the identification or confirmation is associated with an application for a wetland individual permit or other approval for which a wetland impact evaluation is required and that is subject to s. 295.60.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30.025 **(2)** HEARING. Once the applicant meets the requirements of sub. (1s) (a), the department may schedule the matter for a public hearing. Notice of the hearing shall be given to the applicant and shall be published as a class 1 notice under ch. 985 and as a notice on the department's Internet Web site. The department may give such further notice as it deems proper, and shall give notice to interested persons requesting same. The department's notice to interested persons may be given through an electronic notification system established by the department. Notice of a hearing under this subsection published as a class 1 notice, as a notice on the department's Internet Web site, and through the electronic notification system established by the department shall include the time, date, and location of the hearing, the name and address of the applicant, a summary of the subject matter of the combined application for permits, and information indicating where a copy of the combined application for permits may be viewed on the department's Internet Web site. The summary shall contain a brief, precise, easily understandable, plain language description of the subject matter of the application. One copy of the combined application for permits shall be available for public inspection at the office of the department, at least one copy in the regional office of the department, and at least one copy at the main public library, of the area affected. Notwithstanding s. 227.42, the hearing shall be an informational hearing and may not be treated as a contested case hearing nor converted to a contested case hearing.

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

30.025 **(2g)** (b) (intro.) The department shall participate in commission investigations or proceedings under s. 196.49 or 196.491 (3) with regard to any proposed utility facility ~~that is subject to this section~~ for which a combined

application for permits is filed under sub. (1s). In order to ensure that the commission's decision is consistent with the department's responsibilities, the department shall provide the commission with information that is relevant to only the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 27. 32.02 (12) of the statutes is amended to read:

32.02 **(12)** Any person operating a plant which creates waste material which, if released without treatment would cause stream pollution, for the location of treatment facilities. This subsection does not apply to a person ~~licensed~~ with a permit under ch. 293 or subch. III of ch. 295.

SECTION 28. 70.375 (1) (as) of the statutes is amended to read:

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

SECTION 29. 70.375 (1) (bm) of the statutes is amended to read:

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

SECTION 30. 70.375 (4) (h) of the statutes is amended to read:

70.375 **(4)** (h) The cost of premiums for bonds required under s. 293.51, 295.45 (5), or 295.59.

SECTION 31. 70.38 (2) of the statutes is amended to read:

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

SECTION 32. 70.395 (1e) of the statutes is amended to read:

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

SECTION 33. 70.395 (2) (dc) 1. of the statutes is amended to read:

70.395 **(2)** (dc) 1. Each person intending to submit an application for a mining permit under s. 293.37 or 295.47 shall pay ~~$50,000~~ $75,000 to the department of revenue for deposit in the investment and local impact fund at the time that the person notifies the department of natural resources under s. 293.31 (1) or 295.465 of that intent.

SECTION 34. 70.395 (2) (dc) 2. of the statutes is amended to read:

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

SECTION 35. 70.395 (2) (dc) 3. of the statutes is amended to read:

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

SECTION 36. 70.395 (2) (dc) 4. of the statutes is amended to read:

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

SECTION 37. 70.395 (2) (fm) of the statutes is amended to read:

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

SECTION 38. 70.395 (2) (h) 1. of the statutes is amended to read:

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

SECTION 39. 70.395 (2) (hg) of the statutes is amended to read:

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

SECTION 40. 70.395 (2) (hr) of the statutes is amended to read:

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

SECTION 41. 70.395 (2) (hw) of the statutes is amended to read:

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

SECTION 42. 87.30 (2) of the statutes is renumbered 87.30 (2) (a) and amended to read:

87.30 **(2)** (a) ~~Every~~ Except as provided in par. (b), every structure, building, fill, or development placed or maintained within any floodplain in violation of a zoning ordinance adopted under this section, or s. 59.69, 61.35 or 62.23 is a public nuisance and the creation thereof may be enjoined and maintenance thereof may be abated by action at suit of any municipality, the state or any citizen thereof. Any person who

places or maintains any structure, building, fill or development within any floodplain in violation of a zoning ordinance adopted under this section, or s. 59.69, 61.35 or 62.23 may be fined not more than $50 for each offense. Each day during which such violation exists is a separate offense.

SECTION 43. 87.30 (2) (b) of the statutes is created to read:

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

SECTION 44. 107.001 (1) of the statutes is amended to read:

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

SECTION 45. 107.001 (2) of the statutes is repealed.

SECTION 46. 107.01 (intro.) of the statutes is amended to read:

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

SECTION 47. 107.01 (2) of the statutes is amended to read:

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

SECTION 48. 107.02 of the statutes is amended to read:

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

operations, for the purpose of inspection and taking copies thereof or abstracts therefrom. Any person and every officer, agent or employee of any thereof, who violates this section, or who makes any false or incomplete entries on any such books or statements, shall be fined not less than $100 or imprisoned in the county jail for not more than 3 months or both.

SECTION 49. 107.03 of the statutes is amended to read:

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

SECTION 50. 107.04 of the statutes is amended to read:

107.04 Lessee's fraud; failure to work mine. Any miner who conceals or disposes of any ~~ores or~~ nonferrous metallic minerals or mines or diggings for the purpose of defrauding the lessor of rent or who neglects to pay any rent on ~~ores or~~ nonferrous metallic minerals raised by the miner for 3 days after the notice thereof and claim of the rent, shall forfeit all right to his or her mines, diggings or range; and the landlord after the concealment or after 3 days have expired from the time of demanding rent, may proceed against the miner to recover possession of the mines or diggings in circuit court as in the case of a tenant holding over after the

termination of the lease. If a miner neglects to work his or her mines or diggings according to the usages of miners, without reasonable excuse, he or she shall likewise forfeit the mines or diggings and the landlord may proceed against the miner in like manner to recover possession of the mines or diggings.

SECTION 51. 107.11 of the statutes is amended to read:

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

SECTION 52. 107.12 of the statutes is amended to read:

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

SECTION 53. 107.20 (1) of the statutes is amended to read:

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

SECTION 54. 107.20 (2) of the statutes is amended to read:

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

SECTION 55. 107.30 (8) of the statutes is amended to read:

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

SECTION 56. 107.30 (15) of the statutes is amended to read:

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

SECTION 57. 107.30 (16) of the statutes is amended to read:

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

SECTION 58. 160.19 (12) of the statutes is amended to read:

160.19 **(12)** The requirements in this section shall not apply to rules governing an activity regulated under ch. 293 or subch. III of ch. 295, or to a solid waste facility regulated under subch. III of ch. 289 which is part of an activity regulated under ch. 293 or subch. III of ch. 295, except that the department may promulgate new rules or amend rules governing this type of activity, practice or facility if the department

determines that the amendment or promulgation of rules is necessary to protect public health, safety or welfare.

SECTION 59. 196.491 (3) (a) 3. b. of the statutes is amended to read:

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

SECTION 60. 196.491 (3) (a) 3. c. of the statutes is created to read:

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

SECTION 61. 196.491 (4) (b) 2. of the statutes is amended to read:

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

SECTION 62. 227.483 (3) (c) of the statutes is created to read:

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

SECTION 63. 238.14 of the statutes is created to read:

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

SECTION 64. 281.36 (3g) (h) 2. of the statutes is amended to read:

281.36 **(3g)** (h) 2. If, within 30 days after an application under subd. 1. is received by the department, the department does not either request additional information or inform the applicant that a wetland individual permit will be required as provided in par. (i), the discharge shall be considered to be authorized under the wetland general permit and the applicant may proceed without further notice,

hearing, permit, or approval if the discharge is carried out in compliance with all of the conditions of the general permit, except as provided in s. 295.60 (3) (b).

SECTION 65. 281.65 (2) (a) of the statutes is amended to read:

281.65 **(2)** (a) "Best management practices" means practices, techniques or measures, except for dredging, identified in areawide water quality management plans, which are determined to be effective means of preventing or reducing pollutants generated from nonpoint sources, or from the sediments of inland lakes polluted by nonpoint sources, to a level compatible with water quality objectives established under this section and which do not have an adverse impact on fish and wildlife habitat. The practices, techniques or measures include land acquisition, storm sewer rerouting and the removal of structures necessary to install structural urban best management practices, facilities for the handling and treatment of milkhouse wastewater, repair of fences built using grants under this section and measures to prevent or reduce pollutants generated from mine tailings disposal sites for which the department has not approved a plan of operation under s. 289.30 or s. 295.51.

SECTION 66. 281.75 (17) (b) of the statutes is amended to read:

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

SECTION 67. 283.84 (3m) of the statutes is amended to read:

283.84 **(3m)** A person engaged in mining, as defined in s. 293.01 (9) or 295.41 (26), prospecting, as defined in s. 293.01 (18), bulk sampling, as defined in s. 295.41 (7), or nonmetallic mining, as defined in s. 295.11 (3), may not enter into an agreement under sub. (1).

SECTION 68. 287.13 (5) (e) of the statutes is amended to read:

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

SECTION 69. 289.35 of the statutes is amended to read:

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

SECTION 70. 289.62 (2) (g) 2. and 6. of the statutes are amended to read:

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

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

SECTION 71. 292.01 (1m) of the statutes is amended to read:

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

SECTION 72. Chapter 293 (title) of the statutes is amended to read:

CHAPTER 293

NONFERROUS METALLIC MINING

SECTION 73. 293.01 (5) of the statutes is amended to read:

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

SECTION 74. 293.01 (7) of the statutes is amended to read:

293.01 **(7)** "Merchantable by–product" means all waste soil, rock, mineral, liquid, vegetation and other material directly resulting from or displaced by the mining, cleaning or preparation of nonferrous metallic minerals during mining operations which are determined by the department to be marketable upon a showing of marketability made by the operator, accompanied by a verified statement by the operator of his or her intent to sell such material within 3 years from the time it results from or is displaced by mining. If after 3 years from the time merchantable by–product results from or is displaced by mining such material has not been transported off the mining site, it shall be considered and regulated as refuse unless removal is continuing at a rate of more than 12,000 cubic yards per year.

SECTION 75. 293.01 (8) of the statutes is repealed.

SECTION 76. 293.01 (9) of the statutes is amended to read:

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

SECTION 77. 293.01 (12) of the statutes is amended to read:

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

SECTION 78. 293.01 (12m) of the statutes is created to read:

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

SECTION 79. 293.01 (18) of the statutes is amended to read:

293.01 **(18)** "Prospecting" means engaging in the examination of an area for the purpose of determining the quality and quantity of nonferrous metallic minerals, other than for exploration but including the obtaining of ~~an ore~~ a nonferrous metallic mineral sample, by such physical means as excavating, trenching, construction of shafts, ramps and tunnels and other means, other than for exploration, which the department, by rule, identifies, and the production of prospecting refuse and other associated activities. "Prospecting" shall not include such activities when the activities are, by themselves, intended for and capable of commercial exploitation of the underlying nonferrous ore body. However, the fact that prospecting activities and construction may have use ultimately in mining, if approved, shall not mean that prospecting activities and construction constitute mining within the meaning of sub. (9), provided such activities and construction are reasonably related to prospecting requirements.

SECTION 80. 293.01 (25) of the statutes is amended to read:

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

SECTION 81. 293.21 (1) (a) of the statutes is amended to read:

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

SECTION 82. 293.25 (2) (a) of the statutes is amended to read:

293.25 **(2)** (a) *Applicability.* Except as provided under par. (b), ss. 293.21 and 293.81 and rules promulgated under those sections apply to radioactive waste site exploration, to activities related to radioactive waste site exploration and to persons engaging in or intending to engage in radioactive waste site exploration or related activities in the same manner as those sections and rules are applicable to nonferrous metallic mineral exploration, to activities related to nonferrous metallic mineral exploration and to persons engaging in or intending to engage in nonferrous metallic mineral exploration or related activities.

SECTION 83. 293.25 (4) of the statutes is amended to read:

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

to activities related to nonferrous metallic mineral exploration and to persons engaging in or intending to engage in nonferrous metallic mineral exploration or related activities.

SECTION 84. 293.37 (4) (b) of the statutes is amended to read:

293.37 **(4)** (b) If the department finds that the anticipated life and total area of a nonferrous metallic mineral deposit are of sufficient magnitude that reclamation of the mining site consistent with this chapter requires a comprehensive plan for the entire affected area, it shall require an operator to submit with the application for a mining permit, amended mining site or change in mining or reclamation plan, a comprehensive long–term plan showing, in detail satisfactory to the department, the manner, location and time for reclamation of the entire area of contiguous land which will be affected by mining and which is owned, leased or under option for purchase or lease by the operator at the time of application. Where a nonferrous metallic mineral deposit lies on or under the lands of more than one operator, the department shall require the operators to submit mutually consistent comprehensive plans.

SECTION 85. 293.47 (1) (b) of the statutes is amended to read:

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

SECTION 86. 293.50 (1) (b) of the statutes is amended to read:

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

SECTION 87. 293.50 (2) (intro.) of the statutes is amended to read:

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

SECTION 88. 293.50 (2) (a) of the statutes is amended to read:

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

SECTION 89. 293.50 (2) (b) of the statutes is amended to read:

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

SECTION 90. 293.51 (1) of the statutes is amended to read:

293.51 **(1)** Upon notification that an application for a prospecting or mining permit has been approved by the department but prior to commencing prospecting or mining, the operator shall file with the department a bond conditioned on faithful performance of all of the requirements of this chapter and all rules adopted by the department under this chapter. The bond shall be furnished by a surety company licensed to do business in this state. In lieu of a bond, the operator may deposit cash,

certificates of deposit or government securities with the department. Interest received on certificates of deposit and government securities shall be paid to the operator. The amount of the bond or other security required shall be equal to the estimated cost to the state of fulfilling the reclamation plan, in relation to that portion of the site that will be disturbed by the end of the following year. The estimated cost of reclamation of each prospecting or mining site shall be determined by the department on the basis of relevant factors including, but not limited to, expected changes in the price index, topography of the site, methods being employed, depth and composition of overburden and depth of nonferrous metallic mineral deposit being mined.

SECTION 91. 293.65 (3) (a) of the statutes is amended to read:

293.65 **(3)** (a) An approval under s. 281.34 is required to withdraw groundwater for prospecting or mining or to dewater mines if the capacity and rate of withdrawal of all wells involved in the withdrawal of groundwater or the dewatering of mines exceeds 100,000 gallons each day. A permit under s. 283.31 is required to discharge pollutants resulting from the dewatering of mines.

SECTION 92. 293.65 (3) (b) of the statutes is amended to read:

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

SECTION 93. 293.86 of the statutes is amended to read:

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

SECTION 94. Chapter 295 (title) of the statutes is amended to read:

CHAPTER 295

NONMETALLIC MINING RECLAMATION;

OIL AND GAS;

FERROUS METALLIC MINING

SECTION 95. 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 96. 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, sulfide 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 mineral mining operations.

(5) That the provisions in ch. 293, 2011 stats., are a deterrent to ferrous mineral mining in this state and are not necessary to ensure that ferrous mineral mining will be conducted in an environmentally sound manner.

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

(7) That because of the fixed location of ferrous mineral deposits in the state, it is probable that mining those deposits will result in adverse impacts to wetlands and that, therefore, the use of wetlands for bulk sampling and mining activities, including the disposal or storage of mining wastes or materials, or the use of other

lands for mining activities that would have a significant adverse impact on wetlands, is presumed to be necessary.

295.41 Definitions. In this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(25) "Merchantable by–product" means all waste soil, rock, mineral, liquid, vegetation, and other material directly resulting from or displaced by the mining, cleaning, or preparation of minerals, during mining operations, that are determined

by the department to be marketable upon a showing of marketability made by the operator, accompanied by a verified statement by the operator of his or her intent to sell the material within 3 years from the time it results from or is displaced by mining.

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

(27) "Mining permit" means the permit under s. 295.58.

(28) "Mining plan" means a proposal for mining on a mining site, including a description of the systematic activities to be used for the purpose of extracting ferrous minerals.

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

(30) "Mining waste" means tailings, waste rock, mine overburden, waste treatment sludges, or other discarded material, including solid, liquid, semi–solid, or contained gaseous material, resulting from mining or from the cleaning or preparation of ferrous minerals during mining operations, except that "mining waste" does not include topsoil and mine overburden intended to be returned to the mining site or used in the reclamation process and that is placed on the mining site

for those purposes, as provided for in the approved mining plan, and does not include merchantable by–products.

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

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

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

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

(35) "Person" means an individual, corporation, limited liability company, partnership, association, local governmental agency, interstate agency, state agency, or federal agency.

(36) "Piping" means the progressive erosion of materials from an embankment or foundation caused by the seepage of water.

(37) "Principal shareholder" means any person who owns at least 10 percent of the beneficial ownership of an applicant or operator.

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

(39) "Reclamation" means the process by which an area physically or environmentally affected by exploration or mining is rehabilitated to either its original state or to a state that provides long–term environmental stability.

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

(41) "Refuse" means all mining waste and all waste materials deposited on or in the mining site from other sources, except merchantable by–products.

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

(a) The parent corporation of the applicant.

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

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

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

(45) "Tailings" means waste material resulting from beneficiation of crushed ferrous minerals at a concentrator or from washing, concentration, or treatment of crushed ferrous minerals.

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

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

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

1. Wilderness areas.

2. Wild and scenic rivers.

3. National or state parks.

4. Wildlife refuges and areas.

5. Listed properties, as defined in s. 44.31 (4).

(46m) "Wastewater and sludge storage or treatment lagoon" means a man–made containment structure that is constructed primarily of earthen materials, that is for the treatment or storage of wastewater, storm water, or sludge, and that is not a land disposal system, as defined in s. NR 140.05 (11), Wis. Adm. Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) LICENSE. No person may engage in exploration, or contract for the services of drillers for purposes of exploration, without an annual license from the department. The department shall provide copies of the application for an exploration license to the state geologist upon issuance of the exploration license. A person seeking an exploration license shall file an application that includes all of the following:

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

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

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

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

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

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

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

7. A description of how any pollutant–bearing minerals or materials will be covered.

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

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

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

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

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

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

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

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

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

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

(c) An exploration license fee of $300.

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

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

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

(2m) CONFIDENTIALITY. The department and the state geologist shall protect as confidential any information, other than effluent data, contained in an application for an exploration license, upon a showing that the information is entitled to protection as a trade secret, as defined in s. 134.90 (1) (c), and any information relating to the location, quality, or quantity of a ferrous mineral deposit, to production or sales figures, or to processes or production unique to the applicant or that would tend to adversely affect the competitive position of the applicant if made public.

(3) BOND. (a) An applicant shall submit, as part of the application for an exploration license, a bond in the amount of $5,000 that is conditioned on faithful

performance of the requirements of this section, that is issued by a surety company licensed to do business in this state, and that provides that the bond may not be canceled by the surety, except after not less than 90 days' notice to the department in writing by registered or certified mail.

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

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

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

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

(4) ISSUANCE OR DENIAL OF EXPLORATION LICENSE. (a) Except as provided in par. (c), within 10 business days of receiving an administratively complete application for an exploration license, the department shall issue the exploration license or provide

the notice required under par. (f) of intent not to issue the exploration license, unless the application is for an upcoming license year. If an application is for an upcoming license year, the department shall issue the exploration license or provide the notice required under par. (f) of intent not to issue the exploration license within 10 business days of receiving an administratively complete application or on the next July 1, whichever is later.

(b) An application for an exploration license is considered to be administratively complete on the day that it is submitted, unless, before the 10th business day after receiving the application, the department provides the applicant with written notification that the application is not administratively complete. The department may determine that an application is not administratively complete only if the application does not include an exploration plan; a reclamation plan; an exploration license fee; a bond; a certificate of insurance; or a copy of the applicant's most recent annual report to the federal securities and exchange commission on form 10–K, or, if this is not available, a report of the applicant's current assets and liabilities or other data necessary to establish that the applicant is competent to conduct exploration in this state. The department may not consider the quality of the information provided. In a notice provided under this paragraph, the department shall identify what is missing from the application.

(c) If the department provides notification, in compliance with par. (b), that an application is not administratively complete, the department shall issue the exploration license or provide the notice required under par. (f) of intent not to issue the license within 7 business days of receipt of the missing item, unless the application is for an upcoming license year. If the application is for an upcoming license year, the department shall issue the exploration license or provide the notice

required under par. (f) of intent not to issue the exploration license within 7 business days of receipt of the missing item or on the next July 1, whichever is later.

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

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

(f) Before denying an application, the department shall provide the applicant with written notification of its intent not to issue the exploration license, setting forth all of the reasons for its intent not to issue the exploration license, including reference to competent evidence supporting its position. The department shall provide the person with an opportunity to correct any deficiencies in the exploration plan or reclamation plan within 10 business days. If the person amends the exploration plan or reclamation plan and corrects the deficiencies, the department shall issue the exploration license within 10 business days of receipt of the amended exploration plan or reclamation plan, unless the application is for an upcoming license year. If an application is for an upcoming license year, the department shall issue the exploration license within 10 business days of receipt of the amended exploration plan or reclamation plan or on the next July 1, whichever is later. If the department determines that the deficiencies have not been corrected, it shall deny

the application, in writing, setting forth all of the reasons for its determination, including reference to competent evidence supporting the determination.

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

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

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

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

1. If the drillhole is constructed in limestone, dolomite, shale, or Precambrian formations, such as granite, gabbro, gneiss, schist, slate, greenstone, or quartzite, by filling the drillhole with gravel or crushed rock or, if it is physically impracticable to use gravel or crushed rock and if the department approves, with clay slurry, from the bottom upward to a point 20 feet below the top of the first rock formation encountered below the surface of the ground or to at least 40 feet below the surface of the ground, whichever is the greater depth, and filling the remainder of the drillhole with concrete grout or neat cement grout.

2. If the drillhole is constructed in sandstone formation, by filling the drillhole with disinfected sand or pea gravel or, if it is physically impracticable to use sand or pea gravel and if the department approves, with clay slurry, from the bottom upward

to a point 20 feet below the top of the first rock formation encountered below the surface of the ground or to at least 40 feet below the surface of the ground, whichever is the greater depth, and filling the remainder of the drillhole with concrete grout or neat cement grout.

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

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

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

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

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

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

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

1. A renewal fee of $150.

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

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

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

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

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

(c) An application for renewal of an exploration license is considered to be administratively complete on the day that it is submitted, unless, before the 10th business day after receiving the application, the department provides the explorer with written notification that the application is not administratively complete. The department may determine that an application is not administratively complete only if the application does not include a renewal fee; a bond; a certificate of insurance; a copy of the applicant's most recent annual report to the federal securities and exchange commission on form 10–K, or, if this is not available, a report of the applicant's current assets and liabilities or other data necessary to establish that the

applicant is competent to conduct exploration in this state; or either a statement that no changes are being proposed to the exploration plan and reclamation plan previously approved by the department or a new exploration plan or reclamation plan if the applicant proposes to make changes. The department may not consider the quality of any information provided. In a notice provided under this paragraph, the department shall identify what is missing from the application.

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

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

(f) Subject to par. (g), the department shall deny an application for renewal of an exploration license only if the applicant has filed a new exploration plan or reclamation plan and the department finds that the exploration, after the activities in the new exploration plan and the new reclamation plan have been completed, will have a substantial and irreparable adverse impact on the environment or present a substantial risk of injury to public health and welfare.

(g) Before denying an application, the department shall provide the person who submitted the application with written notification of its intent not to renew the exploration license, setting forth all of the reasons for its intent not to renew the exploration license, including reference to competent evidence supporting its position. The department shall provide the person with an opportunity to correct any deficiencies in the exploration plan or restoration plan within 10 business days. If the person amends the exploration plan or reclamation plan and corrects the

deficiencies, the department shall renew the exploration license within 10 business days of receipt of the amended exploration plan or reclamation plan. If the department determines that the deficiencies have not been corrected, it shall deny the application, in writing, setting forth all of the reasons for it's determination, including reference to competent evidence supporting the determination.

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

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

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

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

(8) NOTICE PROCEDURE. (a) An explorer shall notify the department of the explorer's intent to drill on a parcel by registered mail at least 5 days prior to the beginning of drilling. Notice is considered to be given on the date that the department receives the notice. In the notice, the explorer shall specify which drillholes identified in the exploration plan the explorer intends to drill. The explorer shall send the notice to the subunit of the department with authority over mine reclamation.

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

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

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

(c) 1. After receipt of a notice under par. (b), the department shall notify the explorer in writing whether the termination is satisfactory or unsatisfactory. If the termination is unsatisfactory, the department shall inform the explorer of the necessary corrective measures. Following the completion of corrective measures, the explorer shall file written notice with the department's district office for the district in which the drilling site is located specifying the means and method used and stating that termination is complete.

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

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