

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0821/P2dn  
RCT:cjs:rs

January 2, 2013

This version of the mining draft adds provisions to address several more items in the request. The provisions that were in the /P1 version are unchanged. This draft adds the following:

1. The amendment of s. 289.05, intended to carry out the instruction on waste characterization.

Please review this language to ensure that it complies with the intent of the instruction. You may wish to add to the draft provisions to speed up the process of promulgating the required rules by providing exemptions from some of the statutory steps in the rule-making process. Please let me know if you would like to discuss options for this.

2. The creation of s. 293.313, intended to carry out the instructions on establishing expectations for all parties and on collaboration.

I am uncertain whether the intent is to have DNR seek a memorandum of understanding with federal agencies about each particular mine or about processing mining applications generally. This draft provides for the former. However, I'm not sure when the requirement to try to enter into an MOU should kick in. Sampling methodology would probably not be an issue after the mining permit application is received. Is after the receipt of a notice of intent too early? Should it be when a person files a bulk sampling plan? Should the subject of the MOU be broader than concerns related to processing a mining permit application? Please review s. 293.313 (4) and let me know whether it should be changed.

3. The creation of ss. 293.37 (2) (gm) and 293.51 (2m) and the amendment of s. 293.51 (3), intended to carry out the instruction on the irrevocable trust.

Please note that the statute on proof of financial responsibility for long term care of a waste facility, s. 289.41, allows a company that satisfies specified criteria to establish proof of financial responsibility based on its net worth, rather than using a standard method, such as posting a bond. If a mining company met the net worth criteria, it is not clear to me how the amount of the irrevocable trust would be determined.

4. The creation of s. 293.64, intended to carry out the instructions on the planning horizon for water quality modeling and the mandatory intervention boundary.

5. The nonstatutory provision, intended to carry out the instruction on the applicability of groundwater standards to saline aquifers.

I am continuing to work on the timeline and contested case provisions.

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)