

2013 DRAFTING REQUEST

Bill

Received: **12/13/2012** Received By: **btradewe**
 Wanted: **As time permits** Same as LRB:
 For: **Timothy Cullen (608) 266-2253** By/Representing:
 May Contact: Drafter: **btradewe**
 Subject: **Environment - mining** Addl. Drafters:
Tax, Business - miscellaneous Extra Copies:

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

Pre Topic:

No specific pre topic given

Topic:

Regulation of metallic mining and taxation of iron mining

Instructions:

See attached

Drafting History:

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/P1	btradewe 12/29/2012	csicilia 12/21/2012		_____	srose 12/21/2012		State S&L
/P2	btradewe 1/9/2013	csicilia 1/2/2013	rschluet 1/2/2013	_____	sbasford 1/2/2013		State S&L
/P3	btradewe	csicilia	jmurphy	_____	srose		State

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/2		chanaman 1/21/2013		_____	chanaman 1/21/2013	srose 1/25/2013	State S&L

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→ At Intro.

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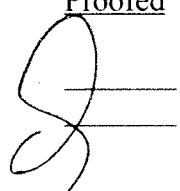
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Tradewell, Becky

From: Henning, Anna
Sent: Thursday, December 13, 2012 9:26 AM
To: Tradewell, Becky; Kite, Robin; Gibson-Glass, Mary
Cc: Konopacki, Larry
Subject: Drafting instructions - additional detail

All -

Attached, please find revised drafting instructions for the draft requested by Senator Cullen. The text in black is the original text discussed by the Senate Select Committee on Mining. The text in green is our annotations for drafting.

Larry has a committee meeting today, but I would be happy to come down to talk about this request anytime. Senator Cullen understands that we will be coming to him with additional questions.

Anna



Anna Henning
Staff Attorney
Wisconsin Legislative Council
(608) 266-0292
anna.henning@legis.wisconsin.gov

*Per Anna - Draft the green text where there are conflicts.
RET
(her added text)*

Streamlining the Permit Process

Prospecting – Eliminate the environmental impact statement and contested case proceeding for a prospecting permit.

Draft the approach taken in AB 426 for bulk sampling, including the 10,000 tons definition, the submission of a plan, etc.

Pre-application Process – Require at least one year for the pre-application process (from notice of intent to application submission).

Specify in s. 293.31 (1) that the notification provided by a potential applicant to the DNR of the potential applicant's intent to submit an application for a mining permit be provided to the DNR at least one year before submittal of the application. Do not impose this requirement to prospecting. Do not adopt corresponding changes in AB 426 (requirement to accept environmental data collected before the NOI; name change to "preapplication," etc.)

Application Costs – Maintain current law to provide that the applicant pays for the Environmental Impact Statement.

No drafting required.

Determining Completeness – Maintain current law in allowing quality to be a factor when determining administrative completeness.

No drafting required.

Establishing Expectations for All Parties – Require a Memorandum of Understanding between the DNR and federal regulatory agencies to ensure a smooth collaborative process with a higher level of certainty.

Require DNR to seek to enter into a memorandum of understanding with federal regulatory agencies as to the timelines, processes, sampling methodology, and any other issue of mutual concern related to processing a mining permit application. (See s. 23.321 (2m), Stats., as example.)

Collaboration – State should take the lead when working collaboratively with federal regulators and the applicant. The state should recognize that it is in the best interest of all parties to ensure collaboration and require DNR to work with the mining applicant and appropriate government entities in the pre-application and application processes, including federal agencies and Native American tribes.

Require DNR to seek to lead processes related to processing a mining permit application that are undertaken in coordination with federal regulatory agencies. Require DNR to work with and support the applicant and other regulatory bodies, including local, state, and federal entities, in the pre-application and application processes for a mining permit application. Require the DNR to work with and consult with Native American tribes during the pre-application and application processes.

Permitting Timeline – Require DNR to process a mining permit (from determination of a complete application to the issuance of a contested case decision) within two years.

See next comment.

Pauses in the Permitting Process – Allow DNR to pause the permitting process once – for up to six months – if: 1) the department needs more time to ensure collaboration with federal regulators, 2) there is new information presented in the process, or 3) there are

changes to the original proposal. Allow the applicant to pause the process at any point as often as it finds necessary and appropriate. The applicant and regulators are allowed to enter into a mutual agreement which establishes an alternate timeline.

Require the ALJ to issue a final decision on administrative review of an approval or denial of a mining permit by DNR within 2 years of the DNR's determination that a mining application is complete, unless this timeline is extended as provided below. To facilitate meeting this deadline, require the DNR to make a final decision on a metallic mining permit application within 520 days of the date on which the department determines that the application is complete. Allow the department to extend the timeline for any of the reasons listed above, an unlimited number of times, for a period not to exceed a total of 180 days. Require a person to request the master hearing (see below) within 30 days of the department's final permitting decision. Require the master hearing to be concluded within 180 days of the department's decision. [520 days + 180 days + (approx. 30 days for ALJ to render decision) = 730 days (two years) until final contested case decision), not including any pauses.]

Protecting the Public Voice

Master Hearing – Maintain a contested case proceeding as part of the master hearing, but require DNR to issue a permit decision prior to the contested case hearing. The master hearing is to be concluded within 180 days of DNR's final permit decision. As in current law, the burden of proof should remain with DNR in its decision to permit a mine. All parties participating in the master hearing will be provided 30 days to file challenges. If no challenges are filed after 30 days of DNR's final decision, then the permit is effective. If challenges are filed and a contested case proceeds, construction or operation of a mine may not commence until the proceedings have concluded and the permit is effective.

Maintain the required public informational hearing portion of the master hearing prior to DNR's final decisions related to the mining permit application. As noted above, DNR's final decisions must be made prior to the contested case hearing. In the contested case hearing, require the DNR to have the initial burden of proof and to be first to present evidence. Allow persons seeking to be included as parties to the contested case hearing 30 days from the DNR's final decision on the mining permit to provide notice that they wish to participate in the hearing. Provide that the applicant may first take action approved under the DNR's final decisions 30 days after issuance if no petitions for a contested case hearing are filed with the DNR during that time. Provide that the applicant may first take action approved under the DNR's final decisions upon final resolution of the contested case proceeding. With the exception of the above instructions, retain current law regarding the master hearing.

Technical Changes

Waste Characterization Studies – Direct the DNR to adopt a rule to use American Society for Testing and Materials (ASTM) standards for testing and methodologies for evaluating mining waste. Allow the department to update standards based on new technologies and practices.

Direct the DNR to adopt, by rule, an established standard for testing and methodologies related to the evaluation of mining waste. Require the DNR to initially adopt the American Society for Testing and Materials standards related to these functions, and

allow the DNR to make modifications to those standards or replace them in the future.
[Amend s. 289.05 (2).]

Planning Horizon for Water Quality Modeling – Establish that the time frame for the modeling for design of mining waste facilities to determine compliance with groundwater quality standards at the edge of the Design Management Zone be 250 years.

Amendment to s. 289.05 (1) or (2). [Issue is with the lack of time period for predicting compliance with groundwater quality standards under s. NR 182.08 (2) (e) 9., Wis. Adm. Code.]

Clarifying Existing Environmental Regulations – Direct DNR to clarify ambiguities in current rules, including NR 140 groundwater quality standards.
Require DNR to clarify whether NR 140 standards apply below the freshwater aquifer (i.e., below the saline aquifer line).

Mandatory Intervention Boundary – Require DNR to find mutual agreement with a mining applicant regarding the distance of the Mandatory Intervention Boundary (MIB). The MIB must not be less than 150 feet or more than 600 feet (or 50 percent of the Design Management Zone boundary), falling within the Design Management Zone. Current law establishes a 150-foot MIB. Evaluation of the results at the MIB should be conducted pursuant to NR 140.

Specify that the mandatory intervention boundary for a mining site is 150 feet from the sites specified under current administrative code, unless the DNR and the mining permittee or mining permit applicant agree to a longer distance, not to exceed 600 feet (specify that notwithstanding this, the MIB may not be further from the sites specified under current administrative code than 50% of the distance from those sites to the property boundary).

Irrevocable Trust Agreement – Modify and simplify the Irrevocable Trust Agreement to establish that the amount of funds required for the Irrevocable Trust Agreement be at least 20 percent, at the discretion of the department, of the amounts required for a mining company's Reclamation Bond for the full mining operation and a company's Long Term Care Bond for the full mining operation.

Codify NR 132.085 in ch. 293. Require that the irrevocable trust agreement under NR 132.085 be required to be funded in an amount equivalent to 20% of the combined amounts of the reclamation bond and long term care bond. [i.e., in make the above change, except remove the words "at least" and "at the discretion of the department".]

Bulk Sampling – Allow bulk sampling at a mining site of up to 10,000 tons of ore under the state's Exploration Permit process. The bulk sampling would be allowed through a mining exploration permit rather than a mining prospecting permit.
See comment under prospecting, above.

Protecting the Taxpayer

Gross Tonnage – Establish that tax revenue should be based on how much iron is extracted from a mine.

Apply this only to iron ore. For iron ore, impose this tax in lieu of the net proceeds tax. Borrow Minnesota's model (unit-based tax per long-ton of ore extracted.)

Local Impact Fund – Increase an applicant's Notice of Intent fee to \$100,000, intended for the Local Impact Fund. Direct the state's Local Impact Fund Board to create a policy for distributing resources to communities once active exploration begins in an area. Specify that a duty of the ILIFB is to, and authorize the ILIFB to, provide grants, if funding is available, to local governments in the area of sites that are being explored or prospected, or are the subject of a pre-application process for a mining permit, for preparation of economic impact studies. Modify three current notice of intent fees from \$50,000 to \$100,000.

Distribution of tax dollars – 70 percent of revenue raised by a mining operation will be paid to the Investment and Local Impact Fund Board, 30 percent will be paid to an economic diversification and development fund which serves the area impacted by a mine.

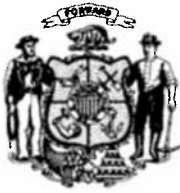
Provide that 70% of the revenue collected from the net proceeds tax assessed on a metallic mining operation is deposited into the investment and local impact fund and 30% percent is used for a regional Wisconsin diversification program to be established by the Wisconsin Economic Development Corporation (WEDC). Authorizes WEDC to use the money it receives for the regional Wisconsin diversification program for business diversification grants or loans to businesses located within 100 miles from the site of a mine, or for the purpose of catastrophe abatement or response.

Fees

Tipping Fees – Exempt mining waste from the state's recycling fee.

Exempt metallic mining waste from the recycling fee under s. 289.645 (3), Stats.

12/14/12 Re: Anna Henning - Sen. Cullen does not
want the bulk sampling provision to be optional. Require
person to submit a plan before conducting bulk sampling.
Rit



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0821/P1
RCT/JK/MPG.....

*This week if possible
(In 12/18)*

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& y's*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

SA✓

Gen Cat

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1 **AN ACT**...; relating to: regulation of metallic mining, an occupation tax on iron
2 mining, and making an appropriation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. A complete analysis will be provided in a later version of this draft.

OCCUPATION TAX ON MINING

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. The tax rates are annually adjusted to reflect the change in gross national product. Gross national product, generally, measures the output generated by U.S. enterprises, regardless of whether those enterprises are located in this country. ✓

Under this bill, instead of paying a net proceeds occupation tax based on net income, a person who is mining ferrous minerals in this state would pay a tax equal to \$2.412 for each 2,240 pounds of ferrous minerals extracted from mines in this state, based on a three-year average. The tax rate would be annually adjusted to reflect the change in the gross domestic product.

Under current law, a person who intends to apply for a mining permit must make ~~an additional~~ three payments of \$50,000 each to the investment and local impact fund. Under the bill, a person who intends to apply for a mining permit must ~~also make an additional~~ three payments of \$100,000 each to the investment and local impact fund.

instead

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 board). The revenue is then, generally, distributed to the counties and municipalities in which metallic minerals are being mined. The bill allows the board to provide grants to units of local government to prepare economic impact studies related to sites at or near the units of local government that are being explored or prospected for the potential mining of ferrous minerals.

Under the bill, 70 percent of the revenue collected from the tax on extracting ferrous metallic minerals in this state, as created in the bill, is deposited into the investment and local impact fund and 30 percent of the revenue is used for a regional Wisconsin diversification program that the bill requires the Wisconsin Economic Development Corporation (WEDC) to establish. The bill authorizes WEDC to use the moneys it receives for the regional Wisconsin diversification program for the purpose of making business diversification grants or loans in coordination with appropriate units of local government to businesses that are located in close proximity to, but no more than 100 miles from, the site of a mine for ferrous metallic minerals. The bill also authorizes WEDC to use those moneys for the purpose of catastrophe abatement or response, as determined by WEDC.

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:

1 SECTION 1. 20.192 (1) ^g of the statutes is created to read:

2 20.192 (1) ^g *Regional Wisconsin diversification program.* From the economic
3 development fund, ^A all moneys received under s. 70.395 (1e) for grants, loans, and
4 disbursements under s. 238.14.

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

6 20.370 (2) (gh) *Mining — mining regulation and administration.* The amounts
7 in the schedule for the administration, regulation and enforcement of exploration,
8 prospecting bulk sampling, mining and mine reclamation activities under ch. 293.
9 All moneys received under ch. 293 shall be credited to this appropriation.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; s. 13.92 (1) (bm) 2.

1 **SECTION 3.** 70.375 (2) (a) of the statutes is amended to read:

2 70.375 (2) (a) ~~In~~ Except as provided in sub. (7), with respect to mines not in
3 operation on November 28, 1981, there is imposed upon persons engaged in mining
4 metalliferous minerals in this state a net proceeds occupation tax effective on the
5 date on which extraction begins to compensate the state and municipalities for the
6 loss of valuable, irreplaceable metalliferous minerals. The amount of the tax shall
7 be determined by applying the rates established under sub. (5) to the net proceeds
8 of each mine. The net proceeds of each mine for each year are the difference between
9 the gross proceeds and the deductions allowed under sub. (4) for the year.

History: 1977 c. 31, 272; 1979 c. 32 s. 92 (1); 1981 c. 86, 314; 1983 a. 27 ss. 1184b to 1184m, 1803g, 1803r, 2202 (45); 1985 a. 29; 1987 a. 27; 1987 a. 312 ss. 1, 17; 1991 a. 39; 1993 a. 112; 1995 a. 27, 225, 227; 1997 a. 27, 237; 2005 a. 347.

10 **SECTION 4.** 70.375 (5) (intro.) of the statutes is amended to read:

11 70.375 (5) RATES. (intro.) ~~The~~ Except as provided in sub. (7), the tax to be
12 assessed, levied and collected upon persons engaging in mining metalliferous
13 minerals in this state shall be computed at the following rates:

History: 1977 c. 31, 272; 1979 c. 32 s. 92 (1); 1981 c. 86, 314; 1983 a. 27 ss. 1184b to 1184m, 1803g, 1803r, 2202 (45); 1985 a. 29; 1987 a. 27; 1987 a. 312 ss. 1, 17; 1991 a. 39; 1993 a. 112; 1995 a. 27, 225, 227; 1997 a. 27, 237; 2005 a. 347.

14 **SECTION 5.** 70.375 (7) of the statutes is created to read:

15 70.375 (7) PER TON RATE. (a) Notwithstanding subs. (2) and (5), for mines in
16 operation after December 31, 2012, the tax assessed, levied, and collected from a
17 person engaged in mining ferrous minerals in this state is an amount equal to \$2.412
18 for each 2,240 pounds of ferrous minerals extracted ^{by the person} from mines in this state, based
19 on the average annual amount extracted during the current year and the previous
20 2 years, not including any year in which the person is not extracting ferrous minerals
21 from mines in this state.

22 (b) Beginning in 2014, and in each year thereafter, the department shall change
23 the dollar amount rate under par. (a) to reflect the percentage change in the gross

SECTION 5

1 domestic product implicit price deflator from the ^{4th} (fourth) quarter of the 2nd preceding
 2 year to the ^{4th} (fourth) quarter of the preceding year, as determined by the federal
 3 department of commerce.

4 **SECTION 6.** 70.395 (1e) of the statutes is amended to read:

5 70.395 (1e) DISTRIBUTION. Fifteen days after the collection of the tax under ss.
 6 70.38 to 70.39, the department of administration, upon certification of the
 7 department of revenue, shall transfer the amount collected in respect to mines not
 8 in operation on November 28, 1981, to the investment and local impact fund, except
 9 that the department of administration shall transfer 70 percent of the amount
 10 collected from each person under s. 70.375 (7) to the investment and local impact
 11 fund and 30 percent of the amount collected from each person under s. 70.375 (7) to
 12 the appropriation under s. 20.192 (1) (g) for the regional Wisconsin diversification
 13 program under s. 238.14. ^g

History: 1977 c. 31, 185, 423; 1979 c. 34 s. 2102 (46) (c); 1979 c. 63; 1979 c. 175 s. 53; 1981 c. 86 ss. 27 to 36, 71; 1981 c. 374 s. 150; 1983 a. 27 ss. 1184u to 1185r, 2202 (38) and (45); 1983 a. 410 ss. 22, 2202 (38); 1985 a. 29 ss. 1214s to 1214z, 3200 (46) (a); 1985 a. 332 s. 253; 1987 a. 399; 1989 a. 31; 1991 a. 39, 259; 1995 a. 27, 227; 1997 a. 27; 1999 a. 32.

14 **SECTION 7.** 70.395 (2) (dc) 1. of the statutes is amended to read:

15 70.395 (2) (dc) 1. Each person intending to submit an application for a mining
 16 permit shall pay ~~\$50,000~~ \$100,000 to the department of revenue for deposit in the
 17 investment and local impact fund at the time that the person notifies the department
 18 of natural resources under s. 293.31 (1) of that intent.

History: 1977 c. 31, 185, 423; 1979 c. 34 s. 2102 (46) (c); 1979 c. 63; 1979 c. 175 s. 53; 1981 c. 86 ss. 27 to 36, 71; 1981 c. 374 s. 150; 1983 a. 27 ss. 1184u to 1185r, 2202 (38) and (45); 1983 a. 410 ss. 22, 2202 (38); 1985 a. 29 ss. 1214s to 1214z, 3200 (46) (a); 1985 a. 332 s. 253; 1987 a. 399; 1989 a. 31; 1991 a. 39, 259; 1995 a. 27, 227; 1997 a. 27; 1999 a. 32.

19 **SECTION 8.** 70.395 (2) (dc) 2. of the statutes is amended to read:

20 70.395 (2) (dc) 2. A person making a payment under subd. 1. shall pay an
 21 additional ~~\$50,000~~ \$100,000 upon notification by the board that the board has
 22 distributed 50% of the payment under subd. 1.

History: 1977 c. 31, 185, 423; 1979 c. 34 s. 2102 (46) (c); 1979 c. 63; 1979 c. 175 s. 53; 1981 c. 86 ss. 27 to 36, 71; 1981 c. 374 s. 150; 1983 a. 27 ss. 1184u to 1185r, 2202 (38) and (45); 1983 a. 410 ss. 22, 2202 (38); 1985 a. 29 ss. 1214s to 1214z, 3200 (46) (a); 1985 a. 332 s. 253; 1987 a. 399; 1989 a. 31; 1991 a. 39, 259; 1995 a. 27, 227; 1997 a. 27; 1999 a. 32.

1 SECTION 9. 70.395 (2) (dc) 3. of the statutes is amended to read:

2 70.395 (2) (dc) 3. A person making a payment under subd. 2. shall pay an
3 additional \$50,000 \$100,000 upon notification by the board that the board has
4 distributed all of the payment under subd. 1. and 50% of the payment under subd.
5 2.

History: 1977 c. 31, 185, 423; 1979 c. 34 s. 2102 (46) (c); 1979 c. 63; 1979 c. 175 s. 53; 1981 c. 86 ss. 27 to 36, 71; 1981 c. 374 s. 150; 1983 a. 27 ss. 1184u to 1185r, 2202 (38) and (45); 1983 a. 410 ss. 22, 2202 (38); 1985 a. 29 ss. 1214s to 1214z, 3200 (46) (a); 1985 a. 332 s. 253; 1987 a. 399; 1989 a. 31; 1991 a. 39, 259; 1995 a. 27, 227; 1997 a. 27; 1999 a. 32.

6 SECTION 10. 70.395 (2) (L) of the statutes is created to read:

7 70.395 (2) (L) Notwithstanding any other provision under this subsection, the
8 board may provide grants to units of local government, as defined in s. 238.133 (1)
9 (b), to prepare economic impact studies related to sites at or near the units of local
10 government ~~that are being explored or prospected~~ ^{subject to bulk sampling} for the potential mining of ferrous
11 minerals or the subject of a preapplication process for a permit to mine ferrous
12 minerals.

13 SECTION 11. 107.001 (1) of the statutes is renumbered 107.001 (1j).

14 SECTION 12. 107.001 (1c) of the statutes is created to read:

15 107.001 (1c) "Bulk sampling" has the meaning given in s. 293.01 (2m).

16 SECTION 13. 107.001 (3) of the statutes is amended to read:

17 107.001 (3) "Mining company" means any person or agent of a person who has
18 a ~~prospecting or~~ mining permit under s. ~~293.45 or 293.49~~ or who has filed a bulk
19 sampling plan under s. 293.315.

History: 1977 c. 253; 1979 c. 353; 1995 a. 227.

20 SECTION 14. 107.15 (2) (e) of the statutes is repealed.

21 SECTION 15. 107.15 (4) (d) (intro.), 1. and 5. of the statutes are amended to read:

22 107.15 (4) (d) (intro.) No later than upon the termination of mining or the
23 abandonment of a site subsequent to ~~prospecting~~ bulk sampling, or 10 years from the

INS
5-5

governmental units

units of local government

units of local government

subject to bulk sampling

on which exploration or bulk sampling is being conducted

x

✓

1 date core samples or drill cuttings were originally obtained, the licensee shall submit
2 to the state geologist, if not previously submitted, the following noninterpretive
3 geologic information and samples:

4 1. The name and address of the person conducting exploration and, if the
5 person is a corporation or limited liability company, the names and addresses of the
6 parent and any subsidiaries or domestic affiliates of the corporation or limited
7 liability company engaged in exploration, ~~prospecting~~ bulk sampling or mining in
8 this state;

9 5. Geologic maps of a lithologic nature of a scale smaller than one inch equals
10 200 feet normally prepared as a permanent record of an exploration, ~~prospecting~~
11 bulk sampling or mining operation; ✓

History: 1977 c. 422, 447; 1979 c. 142; 1981 c. 87; 1993 a. 112; 1995 a. 227.

12 **SECTION 16.** 107.15 (4) (f) of the statutes is amended to read:

13 107.15 (4) (f) Exploration data and samples submitted under par. (a) or (b), or
14 both, shall be kept confidential until December 31 of the 3rd year following the date
15 of submission. The confidentiality of the data and samples obtained during
16 ~~prospecting~~ bulk sampling or mining shall extend to the time of the abandonment
17 of a site subsequent to ~~prospecting~~ bulk sampling, the termination of mining if
18 mining occurs, or 10 years after the core samples or drill cuttings were obtained,
19 whichever is earliest.

History: 1977 c. 422, 447; 1979 c. 142; 1981 c. 87; 1993 a. 112; 1995 a. 227.

20 **SECTION 17.** 107.20 (1) of the statutes is amended to read:

21 107.20 (1) Any provision of an exploration mining lease entered into after April
22 25, 1978, granting an option or right to determine the presence, location, quality or
23 quantity of metalliferous minerals shall be limited to a term not exceeding 10 years
24 from the date on which the exploration mining lease is recorded in the office of the

issued under s. 293.45, 2011 stats., or a

1 register of deeds of the county where the property is located, except that any
 2 provision of an exploration mining lease entered into after April 25, 1978, granting
 3 an option or right to determine the quality and quantity of metalliferous minerals
 4 under a prospecting permit *plain text* bulk sampling plan under s. 293.315 shall be limited to
 5 a term not exceeding 10 years from the date that the lessee applies for a prospecting *plain text*
 6 permit under s. 293.35 *2011 stats. or* files a bulk sampling plan under s. 293.315, if the lessee
 7 applies for the prospecting permit *plain text* files the bulk sampling plan *or* within 10 years from
 8 the date on which the exploration mining lease is recorded in the office of the register
 9 of deeds of the county where the property is located.

History: 1977 c. 253; 1981 c. 87; 1995 a. 227.

SECTION 18. 107.25 (1) (c) of the statutes is amended to read:

107.25 (1) (c) The lessor may cancel an exploration mining lease if 10 years
 have elapsed from the date on which the lease was recorded in the office of the
 register of deeds of the county where the property is located and the lessee has not
 14 filed a bulk sampling plan under s. 293.315 or formally applied, under s. 293.35 *or*
 15 *under s.* 293.37; for either a permit to prospect or a permit to mine. In the event that the lessee
 16 files a bulk sampling plan under s. 293.315 or formally applies for a prospe *plain text*
 17 permit under s. 293.35 *2011 stats. or* a mining permit under s. 293.37 within the 10-year period,
 18 but does not receive a mining permit under s. 293.49 within the 10-year period
 19 following the date of filing the bulk sampling plan under s. 293.315 or application for
 20 the prospe *plain text* cting permit or mining permit, the lessor's right to cancel is revived.

History: 1977 c. 253; 1981 c. 87; 1983 a. 189 s. 329 (14); 1995 a. 227; 1999 a. 150 s. 672.

SECTION 19. 107.30 (1) of the statutes is renumbered 107.30 (1m).

SECTION 20. 107.30 (1c) of the statutes is created to read:

107.30 (1c) "Bulk sampling" has the meaning given in s. 293.01 (2m). ✓

SECTION 21. 107.30 (7) of the statutes is amended to read:

2011 stats., for a prospecting permit

1 107.30 (7) “Mine excavations” means either shaft or pit excavations from which
2 minerals have been extracted in ~~prospe~~pecting bulk sampling or mining.

3 History: 1979 c. 353; 1995 a. 27, ss. 3776 and 9116 (5); 1995 a. 227; 2003 a. 33; 2011 a. 32.

3 **SECTION 22.** 107.30 (9) of the statutes is amended to read:

4 107.30 (9) “Mining company” means any person who, either directly or through
5 subsidiaries, affiliates, contractors or other business arrangements, engages in
6 ~~prospe~~pecting bulk sampling, mining, refining or smelting.

7 History: 1979 c. 353; 1995 a. 27, ss. 3776 and 9116 (5); 1995 a. 227; 2003 a. 33; 2011 a. 32.

7 **SECTION 23.** 107.30 (12) of the statutes is amended to read:

8 107.30 (12) “Mining waste” means wastes directly resulting from or displaced
9 by ~~prospe~~pecting bulk sampling or mining and from the cleaning, preparation,
10 separation or purification of minerals or metals during ~~prospe~~pecting bulk sampling,
11 mining, concentrating, refining or smelting operations and includes but is not
12 limited to concentrator tailings, refinery and smelter residue, refining and smelting
13 process emissions, mining overburden and waste treatment sludges, materials in
14 process and salvageable by-products.

15 History: 1979 c. 353; 1995 a. 27, ss. 3776 and 9116 (5); 1995 a. 227; 2003 a. 33; 2011 a. 32.

15 **SECTION 24.** 107.30 (15) of the statutes is repealed. ✕

16 **SECTION 25.** 107.30 (16) of the statutes is repealed. ✕

17 **SECTION 26.** 107.32 of the statutes is amended to read:

18 **107.32 Liability of mining companies.** A mining company is liable for
19 damages for mining-related injuries resulting from its ~~prospe~~pecting bulk sampling,
20 mining, refining or smelting in this state if, and to the degree that, the elements of
21 liability are established in accordance with law, regardless of any change in the
22 nature of the ownership of the interests in the ~~prospe~~pecting bulk sampling or mining

1 site, refinery or smelter held by the mining company and regardless of any
2 reorganization, merger, consolidation or liquidation affecting the mining company.

3 History: 1979 c. 353.

SECTION 27. 107.34 of the statutes is amended to read:

4 **107.34 Application to sites where activities have ceased.** This
5 subchapter does not apply to any ~~prospecting~~ bulk sampling or mining site on which
6 ~~prospecting~~ bulk sampling or mining has ceased prior to May 22, 1980 unless
7 ~~prospecting~~ bulk sampling or mining activities are commenced at the site after May
8 22, 1980, in which case any mining-related injury is within the scope of this
9 subchapter.

10 History: 1979 c. 353.

SECTION 28. 107.35 (1) (intro.) of the statutes is amended to read:

11 107.35 (1) (intro.) If a person incurs a mining-related injury and the mining
12 waste or mine excavation was present, in whole or in part, prior to May 22, 1980 and
13 the waste or excavation was from the ~~prospecting~~ bulk sampling, mining or other
14 practice of a mining company that is actively engaged in mining or prospecting bulk
15 sampling in this state on May 22, 1980, then s. 107.31 applies only if:

16 History: 1979 c. 353.

SECTION 29. 238.14 of the statutes is created to read:

17 **238.14 Regional Wisconsin diversification program.** The corporation
18 may use moneys (received) under s. 20.192 (1) (g) only as follows: *e appropriated*

19 (1) The corporation may make a grant or loan of those moneys to a business that
20 is located within 100 miles from the site of a mine for ferrous metallic minerals in
21 this state, and the corporation shall give preference for that grant or loan to a
22 business that is located in close proximity to the site of the mine. In making a grant
23 or loan under this subsection, the corporation shall coordinate with an appropriate

governmental unit
unit of local government

1 unit of local government, as defined in s. 238.133 (1) (b), to make that grant or loan
2 on a competitive basis for the purpose of business diversification.

3 (2) The corporation may disburse those moneys for the purpose of catastrophe
4 abatement or response related to a mine for ferrous metallic minerals, as determined
5 by the corporation.

6 SECTION 30. 283.84 (3m) of the statutes is amended to read:

7 283.84 (3m) A person engaged in mining, as defined in s. 293.01 (9),
8 ~~prospecting~~ bulk sampling, as defined in s. 293.01 (18) (2m), or nonmetallic mining, ✓
9 as defined in s. 295.11 (3), may not enter into an agreement under sub. (1).

History: 1997 a. 27; 2001 a. 16; 2003 a. 33; 2011 a. 151.

10 SECTION 31. 289.01 (4) of the statutes is amended to read:

11 289.01 (4) "Approved mining facility" means an approved facility which is part
12 of a mining site, as defined under s. 293.01 (12), used for the disposal of waste
13 resulting from mining, as defined under s. 293.01 (9), or ~~prospecting~~ bulk sampling,
14 as defined under s. 293.01 (18) (2m) ✓.

History: 1979 c. 34 ss. 978k, 984rd; 1981 c. 374 ss. 20 to 27, 148; 1983 a. 425, 426; 1987 a. 384; 1989 a. 335; 1995 a. 227 s. 514 to 520, 541, 576, 585; Stats. 1995 s. 289.01; 1997 a. 241; 1999 a. 9.

15 SECTION 32. 289.01 (22) (a) of the statutes is amended to read:

16 289.01 (22) (a) A solid waste disposal facility designed exclusively for the
17 disposal of waste generated by a pulp mill, paper mill, foundry, ~~prospecting~~ bulk
18 sampling or mining operation, electric or process steam generating facility or
19 demolition activity.

History: 1979 c. 34 ss. 978k, 984rd; 1981 c. 374 ss. 20 to 27, 148; 1983 a. 425, 426; 1987 a. 384; 1989 a. 335; 1995 a. 227 s. 514 to 520, 541, 576, 585; Stats. 1995 s. 289.01; 1997 a. 241; 1999 a. 9.

20 SECTION 33. 289.28 (2) (a) of the statutes is amended to read:

1 289.28 (2) (a) Any facility which is part of a ~~prospecting~~ bulk sampling
2 operation for which a plan has been filed under s. 293.315 or a mining operation with
3 a permit under s. ~~293.45 or~~ 293.49.

4 History: 1995 a. 227 ss. 556, 557, 560, 991.

4 **SECTION 34.** 289.29 (5) of the statutes is amended to read:

5 289.29 (5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY IN CERTAIN
6 SITUATIONS INVOLVING UTILITIES AND MINING. If a determination of feasibility is
7 identified in the listing specified in s. 196.491 (3) (a) 3. a., the issuance of a final
8 determination of feasibility is subject to the time limit under s. 196.491 (3) (a) 3. b.
9 If a determination of feasibility is required under s. 293.315 or 293.43, the issuance
10 of a final determination of feasibility is subject to the time limits under s. ~~293.45 (2)~~
11 293.315 or 293.49, whichever is applicable.

12 History: 1995 a. 227 ss. 555, 558, 559, 561, 991; 1997 a. 204.

12 **SECTION 35.** 289.33 (12) (d) of the statutes is amended to read:

13 289.33 (12) (d) *Nonapplicability to mining waste facilities.* This section does
14 not apply to any waste facility which is part of a ~~prospecting~~ bulk sampling operation
15 for which a plan has been filed under s. 293.315 or a mining operation with a permit
16 under s. ~~293.45 or~~ 293.49.

17 History: 1981 c. 374; 1983 a. 128; 1983 a. 282 ss. 6 to 32, 34; 1983 a. 416 s. 19; 1983 a. 532 s. 36; 1983 a. 538; 1985 a. 182 s. 57; 1987 a. 27, 204, 399; 1987 a. 403 s. 256;
1991 a. 39; 1995 a. 201; 1995 a. 227 s. 626; Stats. 1995 s. 289.33; 1997 a. 35, 241; 1999 a. 83, 150; 2001 a. 38; 2007 a. 63; 2009 a. 28.

17 **SECTION 36.** 289.62 (2) (g) (intro.) of the statutes is amended to read:

18 289.62 (2) (g) (intro.) *Tonnage fee; mining waste.* Notwithstanding pars. (a) to
19 (c), with respect to ~~prospecting~~ bulk sampling or mining waste, the tonnage fee
20 imposed under sub. (1) (a) is:

21 History: 1995 a. 227 s. 589, 991; 1997 a. 27; 1999 a. 32.

21 **SECTION 37.** 289.62 (2) (g) 7. of the statutes is amended to read:

1 289.62 (2) (g) 7. For any ~~prospecting~~ bulk sampling or mining waste not
2 specified under subds. 1. to 6., 0.5 cent per ton.

History: 1995 a. 227 s. 589, 991; 1997 a. 27; 1999 a. 32.

3 **SECTION 38.** 289.63 (3) (b) of the statutes is amended to read:

4 289.63 (3) (b) The well compensation fee imposed under sub. (1) for solid waste
5 or hazardous waste, excluding ~~prospecting~~ bulk sampling or mining waste, is 4 cents
6 per ton.

History: 1995 a. 227 s. 592; 1997 a. 27; 2011 a. 32.

7 **SECTION 39.** 289.63 (4) of the statutes is amended to read:

8 289.63 (4) AMOUNT OF GROUNDWATER FEE; ~~PROSPECTING~~ BULK SAMPLING OR MINING
9 WASTE. The groundwater fee imposed under sub. (1) is one cent per ton for ~~prospecting~~
10 bulk sampling or mining waste, including tailing solids, sludge or waste rock.

History: 1995 a. 227 s. 592; 1997 a. 27; 2011 a. 32.

^

11 **SECTION 40.** 289.645 (4) (g) of the statutes is created to read:

12 289.645 (4) (g) The recycling fee does not apply to bulk sampling or mining
13 waste.

14 **SECTION 41.** 289.67 (1) (d) of the statutes is amended to read:

15 289.67 (1) (d) *Amount of environmental repair fee; ~~prospecting~~ bulk sampling*
16 *or mining waste.* The environmental repair fee imposed under par. (a) is one cent per
17 ton for ~~prospecting~~ bulk sampling or mining waste, including tailing solids, sludge
18 or waste rock.

History: 1995 a. 227 s. 601 to 604, 991; 1997 a. 27; 1999 a. 9; 2007 a. 20; 2009 a. 28; 2011 a. 32.

19 **SECTION 42.** 293.01 (2) of the statutes is amended to read:

20 293.01 (2) “Applicant” means a person who has submitted a bulk sampling plan
21 or applied for a ~~prospecting permit or a mining permit.~~

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 27, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

22 **SECTION 43.** 293.01 (2m) of the statutes is created to read:

✓ ✓

1 293.01 (2m) "Bulk sampling" means excavating in a potential mining site by
2 removing less than 10,000 tons of material for the purposes of obtaining site-specific
3 data to assess the quality and quantity of the ^{metallic} mineral deposits and of collecting data
4 from and analyzing the excavated materials in order to prepare the application for
5 a mining permit or for any other approval, as defined in s. 293.315 (1).

1m

6 **SECTION 44.** 293.01 (2p) of the statutes is created to read:

7 293.01 (2p) "Bulk sampling plan" means a plan filed under s. 293.315 (1).

8 **SECTION 45.** 293.01 (9) of the statutes is amended to read:

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

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 27, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

13 **SECTION 46.** 293.01 (13) of the statutes is amended to read:

14 293.01 (13) "Operator" means any person who is engaged in, or who has applied
15 for or holds a permit to engage in, ~~prospecting or~~ mining, whether individually,
16 jointly or through subsidiaries, agents, employees or contractors.

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 27, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

17 **SECTION 47.** 293.01 (18) of the statutes is repealed.

18 **SECTION 48.** 293.01 (19) of the statutes is repealed.

19 **SECTION 49.** 293.01 (20) of the statutes is repealed.

20 **SECTION 50.** 293.01 (21) of the statutes is repealed.

21 **SECTION 51.** 293.01 (22) of the statutes is repealed.

22 **SECTION 52.** 293.01 (23) of the statutes is amended to read:

23 293.01 (23) "Reclamation" means the process by which an area physically or
24 environmentally affected by ~~prospecting or~~ mining is rehabilitated to either its

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1 original state or, if this is shown to be physically or economically impracticable or
2 environmentally or socially undesirable, to a state that provides long-term
3 environmental stability. Reclamation shall provide the greatest feasible protection
4 to the environment and shall include, but is not limited to, the criteria for
5 reclamation set forth in s. 293.13 (2) (c).

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 27, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

6 **SECTION 53.** 293.01 (24) of the statutes is amended to read:

7 293.01 (24) “Reclamation plan” means the proposal for the reclamation of the
8 ~~prospecting or~~ mining site which must be approved by the department under s.
9 ~~293.45 or 293.49~~ prior to the issuance of the ~~prospecting or~~ mining permit.

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 27, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

10 **SECTION 54.** 293.01 (25) of the statutes is amended to read:

11 293.01 (25) “Refuse” means all waste soil, rock, mineral, liquid, vegetation and
12 other material, except merchantable by-products, directly resulting from or
13 displaced by the ~~prospecting or~~ mining and from the cleaning or preparation of
14 minerals during ~~prospecting or~~ mining operations, and shall include all waste
15 materials deposited on or in the ~~prospecting or~~ mining site from other sources.

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 27, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

16 **SECTION 55.** 293.01 (28) (intro.) of the statutes is amended to read:

17 293.01 (28) (intro.) “Unsuitability” means that the land proposed for
18 ~~prospecting or~~ surface mining is not suitable for such activity because the
19 ~~prospecting or~~ surface mining activity itself may reasonably be expected to destroy
20 or irreparably damage either of the following:

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 27, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

21 **SECTION 56.** 293.01 (28) (b) 6. of the statutes is amended to read:

22 293.01 (28) (b) 6. Other lands of a type designated as unique or unsuitable for
23 ~~prospecting or~~ surface mining.

History: 1973 c. 318; 1977 c. 377 s. 29m; 1977 c. 421, 447; 1983 a. 27, 517; 1987 a. 395; 1991 a. 260; 1995 a. 227 ss. 721 to 742, 994; Stats. 1995 s. 293.01.

1 **SECTION 57.** 293.11 of the statutes is amended to read:

2 **293.11 Mine effect responsibility.** The department shall serve as the central
3 unit of state government to ensure that the air, lands, waters, plants, fish and
4 wildlife affected by ~~prospecting~~ bulk sampling or mining in this state will receive the
5 greatest practicable degree of protection and reclamation. The administration of
6 occupational health and safety laws and rules that apply to mining shall remain
7 exclusively the responsibility of the department of safety and professional services.
8 The powers and duties of the geological and natural history survey under s. 36.25 (6)
9 shall remain exclusively the responsibility of the geological and natural history
10 survey. Nothing in this section prevents the department of safety and professional
11 services and the geological and natural history survey from cooperating with the
12 department in the exercise of their respective powers and duties.

History: 1973 c. 318; 1975 c. 41 s. 52; 1995 a. 27, ss. 4332 and 9116 (5); 1995 a. 227 s. 744; Stats. 1995 s. 293.11; 2011 a. 32.

13 **SECTION 58.** 293.13 (1) (b) of the statutes is amended to read:

14 293.13 (1) (b) Establish by rule after consulting with the metallic mining
15 council minimum qualifications for applicants for ~~prospecting and~~ mining permits.
16 Such minimum qualifications shall ensure that each operator in the state is
17 competent to conduct mining and reclamation ~~and each prospector in the state is~~
18 ~~competent to conduct prospecting~~ in a fashion consistent with the purposes of this
19 chapter. The department shall also consider such other relevant factors bearing
20 upon minimum qualifications, including but not limited to, any past forfeitures of
21 bonds posted pursuant to mining activities in any state.

History: 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

22 **SECTION 59.** 293.13 (2) (a) of the statutes is amended to read:

23 293.13 (2) (a) The department by rule after consulting with the metallic mining
24 council shall adopt minimum standards for exploration, ~~prospecting~~, mining and

1 reclamation to ensure that such activities in this state will be conducted in a manner
2 consistent with the purposes and intent of this chapter. The minimum standards
3 may classify exploration,~~prospecting~~ and mining activities according to type of
4 minerals involved and stage of progression in the operation.

History: 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

5 **SECTION 60.** 293.13 (2) (b) (intro.) of the statutes is amended to read:

6 293.13 (2) (b) (intro.) Minimum standards for exploration,~~prospecting~~ and
7 mining shall include the following:

History: 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

8 **SECTION 61.** 293.13 (2) (b) 4. of the statutes is amended to read:

9 293.13 (2) (b) 4. Adequate diversion and drainage of water from the
10 exploration,~~prospecting~~ or mining site.

History: 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

11 **SECTION 62.** 293.13 (2) (b) 7. of the statutes is amended to read:

12 293.13 (2) (b) 7. Removal and stockpiling, or other measures to protect topsoils
13 prior to exploration,~~prospecting~~, or mining.

History: 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

14 **SECTION 63.** 293.13 (2) (b) 10. of the statutes is amended to read:

15 293.13 (2) (b) 10. Adequate screening of the ~~prospecting or~~ mining site.

History: 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

16 **SECTION 64.** 293.13 (2) (c) (intro.) of the statutes is amended to read:

17 293.13 (2) (c) (intro.) Minimum standards for reclamation of exploration sites,
18 where appropriate, and for ~~prospecting and~~ mining sites shall conform to s. 293.01
19 (23) and include provision for the following:

History: 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

20 **SECTION 65.** 293.13 (2) (c) 3. of the statutes is amended to read:

21 293.13 (2) (c) 3. Management, impoundment or treatment of all underground
22 or surface runoff waters from open pits or underground ~~prospecting or~~ mining sites
23 so as to prevent soil erosion, flooding, damage to agricultural lands or livestock, wild

1 animals, pollution of surface or subsurface waters or damage to public health or
2 safety.

3 **History:** 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

SECTION 66. 293.13 (2) (c) 7. of the statutes is amended to read:

4 293.13 (2) (c) 7. Revegetation to stabilize disturbed soils and prevent air and
5 water pollution, with the objective of reestablishing a variety of populations of plants
6 and animals indigenous to the area immediately prior to exploration, ~~prospe~~cting or
7 mining.

8 **History:** 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

SECTION 67. 293.13 (2) (d) (intro.) of the statutes is amended to read:

9 293.13 (2) (d) (intro.) The minimum standards adopted under this subsection
10 shall also provide that if any of the following situations may reasonably be expected
11 to occur during or subsequent to ~~prospe~~cting or mining, the ~~prospe~~cting or mining
12 permit shall be denied:

13 **History:** 1995 a. 227 s. 746, 747, 994; 1997 a. 35.

SECTION 68. 293.15 (6) of the statutes is amended to read:

14 293.15 (6) Issue ~~prospe~~cting and mining permits.

15 **History:** 1995 a. 227 s. 748, 749, 754, 994; 2007 a. 20 s. 9121 (6) (a).

SECTION 69. 293.15 (8) of the statutes is amended to read:

16 293.15 (8) Promulgate rules regulating the production, storage and disposal
17 of radioactive waste from exploration, bulk sampling ~~prospe~~cting or mining after
18 seeking comments from the department of health services. At a minimum, rules
19 promulgated under this subsection shall achieve the margin of safety provided in
20 applicable federal statutes and regulations. If the department promulgates rules
21 under this subsection, the department shall investigate the need for standards more
22 restrictive than the applicable federal statutes and regulations.

23 **History:** 1995 a. 227 s. 748, 749, 754, 994; 2007 a. 20 s. 9121 (6) (a).

SECTION 70. 293.15 (11) of the statutes is amended to read:

1 293.15 (11) Notwithstanding chs. 289 and 291, promulgate rules establishing
2 groundwater quality standards or groundwater quantity standards, or both, for any
3 ~~prospecting~~ bulk sampling or mining activity, including standards for any mining
4 waste site.

History: 1995 a. 227 s. 748, 749, 754, 994; 2007 a. 20 s. 9121 (6) (a).

5 **SECTION 71.** 293.15 (13) of the statutes is amended to read:

6 293.15 (13) Monitor environmental changes concurrently with the permit
7 holder under s. ~~293.45 (3)~~ or 293.49 (7), and for such additional period of time after ✓
8 the full bond is released under s. 293.63 (3) as is necessary for the site to return to
9 a state of environmental stability. The department may conduct independent studies
10 to monitor environmental changes.

History: 1995 a. 227 s. 748, 749, 754, 994; 2007 a. 20 s. 9121 (6) (a).

11 **SECTION 72.** Subchapter IV (title) of chapter 293 [precedes s. 293.31] of the
12 statutes is amended to read:

CHAPTER 293

SUBCHAPTER IV

PROSPECTING BULK SAMPLING; MINING; RECLAMATION

hard return

15

16 **SECTION 73.** 293.31 (1) of the statutes is amended to read:

17 293.31 (1) Any person intending to submit an application for a ~~prospecting or~~
18 mining permit shall notify the department prior to the collection of data or
19 information intended to be used to support the permit application. A person shall
20 provide notice under this subsection at least 12 months before filing an application
21 for a mining permit. Specific environmental data which would be pertinent to a
22 specific ~~prospecting or~~ mining application, but which was obtained or collected or
23 generated prior to the notice of intent to apply for a ~~prospecting or~~ mining permit,
24 shall be submitted in writing to the department together with any substantiating

1 background information which would assist the department in establishing the
2 validity of the data. The department shall review the data and, if it concludes that
3 the benefits of permitting the admission of the data outweigh the policy reasons for
4 excluding it, and if the data is otherwise admissible, inform the person giving the
5 notice of intent to ~~prospect or~~ mine that the data will be accepted by the department.
6 Such exclusion shall not relate to general environmental information such as soil
7 characteristics, hydrologic conditions and air and water data contained in
8 publications, maps, documents, studies, reports and similar sources, whether public
9 or private, not prepared by or for the applicant. Such exclusion shall likewise not
10 relate to data which is otherwise admissible that is collected prior to notification
11 under this subsection for purposes of evaluating another site or sites and which is
12 not collected with intent to evade the provisions of this section.

History: 1977 c. 421; 1995 a. 227 s. 751, 752.

13 **SECTION 74.** 293.31 (3) of the statutes is amended to read:

14 293.31 (3) The department shall also receive and consider any comments from
15 interested persons received within 45 days after public notice is given under sub. (2)
16 as to the information which they believe should be requested from the person giving
17 notice of intent to apply for a ~~prospecting or~~ mining permit and the information
18 which they believe the department should seek through independent studies.

History: 1977 c. 421; 1995 a. 227 s. 751, 752.

19 **SECTION 75.** 293.31 (4) of the statutes is amended to read:

20 293.31 (4) After the receipt and consideration of comments from interested
21 persons, the department shall inform the person giving notice of intent to apply for
22 a ~~prospecting or~~ mining permit of the type and quantity of information that it then
23 believes to be needed to support an application, and where applicable, the
24 methodology to be used in gathering information. The department shall specifically

1 inform the person giving notice of intent to apply for a ~~prospecting or~~ mining permit
2 of the type and quantity of information on the characteristics of groundwater
3 resources in the area in which ~~prospecting or~~ mining is anticipated to occur which
4 the department believes is needed to support an application. The department shall
5 also begin informing the person giving notice of intent to apply for a ~~prospecting or~~
6 mining permit as to the timely application date for approvals, licenses and permits,
7 so as to facilitate the consideration of all other matters at the hearing on the
8 ~~prospecting or~~ mining permit.

History: 1977 c. 421; 1995 a. 227 s. 751, 752.

9 **SECTION 76.** 293.31 (6) of the statutes is amended to read:

10 293.31 (6) All information gathered by a person giving notice under sub. (1)
11 shall be submitted to the department as soon as it is in final form. The department
12 may at any time after consultation with the person giving notice of intent to apply
13 for a ~~prospecting or~~ mining permit revise or modify its requirements regarding
14 information which must be gathered and submitted.

History: 1977 c. 421; 1995 a. 227 s. 751, 752.

15 **SECTION 77.** 293.315[^] of the statutes is created to read:

16 **293.315 Bulk sampling plan.** (1) In this section, “approval” means any
17 permit, license, or other authorization that the department issues, or any other
18 action by the department, that is required to engage in bulk sampling at a bulk
19 sampling site.

20 (1m) Before beginning bulk sampling a person shall file a bulk sampling plan
21 with the department. The collection of data under a bulk sampling plan may include
22 sampling and analysis related to geophysical, geochemical, groundwater, and
23 surface water conditions, as well as any other data or studies necessary to prepare

1 an application for a mining permit or for any other approval required for the proposed
2 mining.

3 (2) A person shall include all of the following in a bulk sampling plan:

4 (a) A description and map of the bulk sampling site, including the number of
5 acres in the site, the number of acres of land that will be disturbed, if any, associated
6 with each bulk sampling location, and the locations and types of sampling or studies
7 to be conducted at each bulk sampling location.

8 (b) A description of the methods to be used for the bulk sampling.

9 (c) A site-specific plan for controlling surface erosion that conforms to
10 requirements under ss. 281.33 (3) and 283.33 and that identifies how impacts to
11 plant and wildlife habitats will be avoided or minimized to the extent practicable.

12 (d) A revegetation plan for each area where bulk sampling will be performed
13 that describes how adverse impacts to the environment will be avoided or minimized
14 to the extent practicable and how the site will be revegetated and stabilized and that
15 identifies how adverse impacts to plant and wildlife habitats will be avoided or
16 minimized to the extent practicable.

17 (e) The estimated time for completing the bulk sampling and revegetation of
18 the bulk sampling locations.

19 (f) A description of any known adverse environmental impacts that are likely
20 to be caused by the bulk sampling and how those impacts will be avoided or
21 minimized to the extent practicable.

22 (g) A description of any adverse effects, as defined in s. 44.31 (1), that the bulk
23 sampling might have on any historic property, as defined in s. 44.31 (3), that is a
24 listed property, as defined in s. 44.31 (4), that is on the Wisconsin inventory of historic
25 places, as defined in s. 44.31 (12), or that is on the list of locally designated historic

1 places under s. 44.45; or any scenic or recreational areas; and plans to avoid or
2 minimize those adverse effects to the extent practicable.

3 (2m) The department shall protect as confidential any information, other than
4 effluent data, contained in a bulk sampling plan and in any application for an
5 approval that is required before the bulk sampling may be implemented, upon a
6 showing that the information is entitled to protection as a trade secret, as defined in
7 s. 134.90 (1) (c), and any information relating to the location, quality, or quantity of
8 a mineral deposit, to production or sales figures, or to processes or production unique
9 to the applicant or that would tend to adversely affect the competitive position of the
10 applicant if made public.

11 (3) Within 14 days of receipt of a bulk sampling plan, the department shall
12 identify for the applicant, in writing, all approvals that are required before the bulk
13 sampling may be implemented, any waivers, exemptions, or exceptions to those
14 approvals that are potentially available, and any information that the department
15 needs to issue the approvals or to issue a decision on any waiver, exemption, or
16 exception. If no approvals are required, the department shall notify the applicant
17 that no approvals are required and that the applicant may proceed with the bulk
18 sampling.

19 (3e) If a storm water discharge permit under s. 283.33 (1) (a) or a water quality
20 certification under rules promulgated under subch. II of ch. 281 to implement 33
21 USC 1341 (a) is required before bulk sampling may be implemented, the person filing
22 the bulk sampling plan may apply for and be issued the permit or certification.

23 (3m) The department shall act on any required construction site erosion
24 control and storm water management approval, notwithstanding any authorization

1 by the department of a local program to administer construction site erosion control
2 and storm water management requirements.

3 (3s) An applicant shall submit all of the following at the same time:

4 (a) Applications for individual approvals identified under sub. (3).

5 (b) Applications for coverage under general permits or registration permits
6 identified under sub. (3).

7 (c) Applications for waivers, exemptions, or exceptions identified under sub.
8 (3).

9 (d) A bond, as provided in sub. (5).

10 (4) (a) Notwithstanding any provision in ch. 23, 29, 30^{31,} 169, 281, 283, 285, 289,
11 or 291 or in a rule promulgated under those chapters that is applicable to an approval
12 identified under sub. (3), the application for any approval, for a waiver, exemption,
13 or exception to an approval, or for a determination that the proposed bulk sampling
14 activity is below the threshold that requires an approval, is considered to be complete
15 on the 30th day after the department receives the application, unless, before that
16 day, the department provides the applicant with written notification that the
17 application is not complete, stating the reason for the determination and describing
18 the specific information necessary to make the application complete.

19 (b) If the department provides a notice under par. (a), the applicant shall
20 supplement the application by providing the specified information. The application
21 is complete when the applicant provides the information.

22 (c) If the department determines that the issuance of an approval is contingent
23 upon the issuance of a permit under s. 29.604 (6m), and if the application for the
24 permit under s. 29.604 (6m) is filed with the approval application, the department

1 may not determine that the approval application is incomplete on the basis that the
2 department has not yet issued the permit under s. 29.604 (6m).

3 (5) (a) A person who intends to engage in bulk sampling shall submit with the
4 bulk sampling plan a bond in the amount of \$5,000 that is conditioned on faithful
5 performance of the requirements of this section, that is issued by a surety company
6 licensed to do business in this state, and that provides that the bond may not be
7 canceled by the surety, except after not less than 90 days' notice to the department
8 in writing by registered or certified mail.

9 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,
10 the person who filed the bulk sampling plan shall deliver a replacement bond at least
11 30 days before the expiration of the 90-day notice period. If the person fails to submit
12 a replacement bond, the person may not engage in bulk sampling until the person
13 submits a replacement bond.

14 (c) If the license of the surety company for a bond submitted under par. (a) is
15 revoked or suspended, the person who filed the bulk sampling plan, within 30 days
16 after receiving written notice from the department, shall deliver a replacement bond.
17 If the person fails to submit a replacement bond, the person may not engage in bulk
18 sampling until the person submits a replacement bond.

19 (d) The department may require that the amount of the bond submitted under
20 this subsection be increased at any time, if the department determines that it is
21 unlikely that the bond would be adequate to fund the cost to this state of completing
22 the revegetation plan.

23 (e) The department shall release a bond submitted under this subsection one
24 year after the time for completing the bulk sampling and the revegetation set forth

1 in the bulk sampling plan if the department determines that the person who engaged
2 in bulk sampling has complied with this section.

3 (7) Notwithstanding any provision in ch. 23, 29, 30, ^{31,} 169, 281, 283, 285, 289, or
4 291 or a rule promulgated under those chapters applicable to an approval identified
5 under sub. (3), all of the following apply:

6 (a) When considering an application for an approval identified under sub. (3),
7 the department shall recognize the fixed location of the mineral deposits, the water
8 needs inherent in mining, and the need for mining waste sites and processing
9 facilities, including wastewater and sludge storage or treatment lagoons, to be
10 contiguous to the location of the mineral deposits.

11 (b) When issuing an approval, the department shall require the bulk sampling
12 activity for which the approval is issued to be conducted at locations that result in
13 the fewest overall adverse environmental impacts, to the extent practicable.

14 (8) In determining whether to approve or deny an application for an approval
15 identified under sub. (3), the department shall consider the site-specific erosion
16 control plan, ^{e and} the revegetation plan, and any mitigation under s. 295.60, any
17 measures under s. 295.605, or any conservation measures under s. 295.61 that the
18 applicant proposes to take.

19 (9) Notwithstanding any inconsistent period in ch. 23, 29, 30, ^{31,} 169, 281, 283,
20 285, 289, or 291 or in a rule promulgated under those chapters that is applicable to
21 an approval identified under sub. (3), the department shall approve or deny an
22 application within 30 days after the day on which the application is considered to be
23 complete under sub. (4) if any of the following apply: