

1           293.37 (1) (a) No operator may engage in mining or reclamation at any mining  
2 site that is not covered by a mining permit and by written authorization to mine  
3 under s. 293.51 (3). Applications for mining permits shall be made in writing and  
4 in reproducible form to the department upon forms prepared and furnished by it and  
5 in such multiples as required by rule of the department. An application shall be  
6 made, and a mining permit obtained for each separate mining site. ~~No application~~  
7 ~~for surface mining at a site may be entertained by the department if within the~~  
8 ~~previous 5 years the applicant, or a different person who had received a prospecting~~  
9 ~~permit for the site had certified under s. 293.35 (1) that he or she would not~~  
10 ~~subsequently make application for a permit to conduct surface mining at the site.~~

11           **SECTION 82.** 293.37 (2) (b) of the statutes is amended to read:

12           293.37 (2) (b) In addition to the information and maps otherwise required by  
13 this subsection, a detailed reclamation plan showing the manner, location and time  
14 for reclamation, including ongoing reclamation during mining, of the proposed  
15 mining site. The reclamation plan shall be accompanied by a map subject to the  
16 requirements in par. (a) which shall show the specific reclamation proposal for each  
17 area of the site. The reclamation plan shall conform to any applicable comprehensive  
18 plan created under sub. (4) (b), and to any applicable minimum standard created  
19 under ~~ss. s.~~ 293.13 (2) and 293.35 (2) and (3).

20           **SECTION 83.** 293.37 (2) (c) of the statutes is amended to read:

21           293.37 (2) (c) The name and address of each owner of land within the mining  
22 site and each person known by the applicant to hold any option or lease on land  
23 within the mining site and all ~~prospecting and~~ mining permits in this state held by  
24 the applicant.

25           **SECTION 84.** 293.37 (2) (f) of the statutes is amended to read:

1 293.37 (2) (f) Information relating to whether unsuitability may exist for  
2 surface mining to the extent not fully considered under s. 293.45.

3 **SECTION 85.** 293.39 (3) of the statutes is repealed.

4 **SECTION 86.** 293.43 (1) of the statutes is amended to read:

5 293.43 (1) APPLICABILITY. This section, and ch. 227 where it is not inconsistent,  
6 shall govern all hearings on applications for ~~prospecting or~~ mining permits.

7 **SECTION 87.** 293.43 (1m) (a) and (b) of the statutes are amended to read:

8 293.43 (1m) (a) The hearing on the ~~prospecting or~~ mining permit shall cover  
9 the application and any statements prepared under s. 1.11 and, to the fullest extent  
10 possible, all other applications for approvals, licenses and permits issued by the  
11 department. The department shall inform the applicant as to the timely application  
12 date for all approvals, licenses and permits issued by the department, so as to  
13 facilitate the consideration of all other matters at the hearing on the ~~prospecting or~~  
14 mining permits.

15 (b) Except as provided in this paragraph, for all department issued approvals,  
16 licenses and permits relating to ~~prospecting or~~ mining including solid waste  
17 feasibility report approvals and permits related to air and water, to be issued after  
18 April 30, 1980, the notice, hearing and comment provisions, if any, and the time for  
19 issuance of decisions, shall be controlled by this section and ~~ss. 293.45 and s. 293.49.~~  
20 If an applicant fails to make application for an approval, license or permit for an  
21 activity incidental to ~~prospecting or~~ mining in time for notice under this section to  
22 be provided, the notice and comment requirements, if any, shall be controlled by the  
23 specific statutory provisions with respect to that application. If notice under those  
24 specific statutory notice requirements can be given for consideration of the approval,  
25 license or permit at the hearing under this section, the application shall be

1 considered at that hearing; otherwise, the specific statutory hearing provisions, if  
2 any, with respect to that application shall control. The substantive requirements for  
3 the issuance of any approval, permit or license incidental to ~~prospecting or~~ mining  
4 are not affected by the fact that a hearing on the approval, permit or license is  
5 conducted as part of a hearing under this section.

6 **SECTION 88.** 293.43 (2) of the statutes is amended to read:

7 293.43 (2) LOCATION. The hearing shall be held in the county where the  
8 ~~prospecting or~~ mining site, or the largest portion of the ~~prospecting or~~ mining site,  
9 is located, but may subsequently be adjourned to other locations.

10 **SECTION 89.** 293.43 (3) (b) 1. and 2. of the statutes are amended to read:

11 293.43 (3) (b) 1. Mailing a copy of the notice to all known departments and  
12 agencies required to grant any permit necessary for the proposed operation, to any  
13 regional planning commission within which the affected area lies, to the governing  
14 bodies of all towns, villages, cities and counties within which any part of the proposed  
15 ~~prospecting or~~ mining site lies, to the governing bodies of any towns, villages or cities  
16 contiguous to any town, village or city within which any part of the proposed  
17 ~~prospecting or~~ mining site lies and to any interested persons who have requested  
18 such notification.

19 2. Publication of a class 2 notice, under ch. 985, utilizing a display advertising  
20 format, in the weekly newspaper published in the closest geographic proximity to the  
21 proposed ~~prospecting or~~ mining site, in the newspaper having the largest circulation  
22 in the county within which the proposed site lies and in those newspapers published  
23 in counties contiguous to the county within which the proposed site lies which have  
24 a substantial circulation in the area of, or adjacent to, the proposed ~~prospecting or~~  
25 mining site.

1           **SECTION 90.** 293.45 of the statutes is repealed.

2           **SECTION 91.** 293.47 of the statutes is repealed.

3           **SECTION 92.** 293.49 (1) (a) 3. of the statutes is amended to read:

4           293.49 (1) (a) 3. In the case of a surface mine, the site is not unsuitable for  
5 mining. ~~The preliminary determination that a site was not unsuitable for mining~~  
6 ~~under s. 293.45 may not be conclusive in the determination of the site's suitability~~  
7 ~~for mining under this section. However, at the hearing held under this section and~~  
8 ~~s. 293.43, testimony and evidence submitted at the prospecting permit proceeding~~  
9 ~~relevant to the issue of suitability of the proposed mining site for surface mining may~~  
10 ~~be adopted, subject to the opportunity for cross-examination and rebuttal, if not~~  
11 ~~unduly repetitious.~~

12           **SECTION 93.** 293.49 (4) of the statutes is repealed.

13           **SECTION 94.** 293.49 (6) of the statutes is amended to read:

14           293.49 (6) Except as otherwise provided in ss. 293.53 (2), 293.55 to 293.59,  
15 293.63, 293.81 and 293.83, mining permits shall be valid for the life of the project  
16 unless canceled under s. 293.83 (1) or (3) or 293.85 or revoked under s. 293.87 (2) or  
17 (3).

18           **SECTION 95.** 293.51 (1) of the statutes is amended to read:

19           293.51 (1) Upon notification that an application for a prospecting or mining  
20 permit has been approved by the department but prior to commencing prospecting  
21 or mining, the operator shall file with the department a bond conditioned on faithful  
22 performance of all of the requirements of this chapter and all rules adopted by the  
23 department under this chapter. The bond shall be furnished by a surety company  
24 licensed to do business in this state. In lieu of a bond, the operator may deposit cash,  
25 certificates of deposit or government securities with the department. Interest

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

9 **SECTION 96.** 293.53 (1) of the statutes is repealed.

10 **SECTION 97.** 293.53 (2) of the statutes is renumbered 293.53 and 293.53 (2), as  
11 renumbered, is amended to read:

12 293.53 (2) Annually, the department shall review the mining and reclamation  
13 plans and bonds, using the procedure specified under sub. (1) to ascertain adequacy,  
14 compliance with state or federal laws enacted after the issuance of the permit, and  
15 technological currency. If the department after review determines that a plan should  
16 be modified or the bond amount changed, it shall notify the permit holder of the  
17 necessary modifications or changes. If the permit holder does not request a hearing  
18 within 30 days, the modifications or changes shall be considered accepted.

19 **SECTION 98.** 293.57 (2) of the statutes is amended to read:

20 293.57 (2) The successor operator discloses whether it has forfeited any  
21 performance security because of noncompliance with any ~~prospecting~~ bulk sampling  
22 or mining laws within the previous 20 years, posts any bond required under s. 293.51  
23 and assumes all responsibilities of all applicable permits, licenses and approvals  
granted to the predecessor operator.

24 **SECTION 99.** 293.63 (5) of the statutes is repealed.

Insert  
33-8

Insert  
33-25

1           **SECTION 100.** 293.65 (1) of the statutes is amended to read:

2           293.65 (1) SCOPE. This section governs the withdrawal of groundwaters or  
3 surface waters by persons engaged in ~~prospecting~~ bulk sampling or mining.  
4 Discharges of waters are subject to ch. 283, construction of necessary dams or other  
5 structures is subject to chs. 30 and 31 and construction of wells is subject to ch. 280,  
6 to the extent applicable.

7           **SECTION 101.** 293.65 (2) (a) of the statutes is amended to read:

8           293.65 (2) (a) Any person intending to withdraw surface waters for ~~prospecting~~  
9 bulk sampling or mining shall apply to the department for a permit. The forms and  
10 procedures used under s. 30.18 apply to the extent practicable.

11           **SECTION 102.** 293.65 (3) (b) of the statutes is amended to read:

12           293.65 (3) (b) The department may not issue an approval under s. 281.34 if the  
13 withdrawal of groundwater for ~~prospecting~~ bulk sampling or mining purposes or the  
14 dewatering of mines will result in the unreasonable detriment of public or private  
15 water supplies or the unreasonable detriment of public rights in the waters of the  
16 state. No withdrawal of groundwater or dewatering of mines may be made to the  
17 unreasonable detriment of public or private water supplies or the unreasonable  
18 detriment of public rights in the waters of the state.

19           **SECTION 103.** 293.65 (4) (b) of the statutes is amended to read:

20           293.65 (4) (b) A person claiming damage to the quantity or quality of his or her  
21 private water supply caused by ~~prospecting~~ bulk sampling or mining may file a  
22 complaint with the department and, if there is a need for an immediate alternative  
23 source of water, with the town, village or city where the private water supply is  
24 located. The department shall conduct an investigation and if the department  
25 concludes that there is reason to believe that the ~~prospecting~~ bulk sampling or

1 mining is interrelated to the condition giving rise to the complaint, it shall schedule  
2 a hearing.

3 **SECTION 104.** 293.65 (4) (d) of the statutes is amended to read:

4 293.65 (4) (d) If the department concludes after the hearing that ~~prospecting~~  
5 bulk sampling or mining is the principal cause of the damage to the private water  
6 supply, it shall issue an order to the operator requiring the provision of water to the  
7 person found to be damaged in a like quantity and quality to that previously obtained  
8 by the person and for a period of time that the water supply, if undamaged, would be  
9 expected to provide a beneficial use, requiring reimbursement to the town, village or  
10 city for the cost of supplying water under par. (c), if any, and requiring the payment  
11 of compensation for any damages unreasonably inflicted on the person as a result of  
12 damage to his or her water supply. The department shall order the payment of full  
13 compensatory damages up to \$75,000 per claimant. The department shall issue its  
14 written findings and order within 60 days after the close of the hearing. Any  
15 judgment awarded in a subsequent action for damages to a private water supply  
16 caused by ~~prospecting~~ bulk sampling or mining shall be reduced by any award of  
17 compensatory damages previously made under this subsection for the same injury  
18 and paid by the operator. The dollar amount under this paragraph shall be changed  
19 annually according to the method under s. 70.375 (6). Pending the final decision on  
20 any appeal from an order issued under this paragraph, the operator shall provide  
21 water as ordered by the department. The existence of the relief under this section  
22 is not a bar to any other statutory or common law remedy for damages.

23 **SECTION 105.** 293.65 (4) (e) of the statutes is amended to read:

24 293.65 (4) (e) If the department concludes after the hearing that ~~prospecting~~  
25 bulk sampling or mining is not the cause of any damage, reimbursement to the town,

1 village or city for the costs of supplying water under par. (c), if any, is the  
2 responsibility of the person who filed the complaint.

3 **SECTION 106.** 293.65 (4) (f) of the statutes is amended to read:

4 293.65 (4) (f) Failure of an operator to comply with an order under par. (d) is  
5 grounds for suspension or revocation of a ~~prospecting~~ or mining permit.

6 **SECTION 107.** 293.65 (5) (a) of the statutes is amended to read:

7 293.65 (5) (a) Costs incurred by a town, village or city in monitoring the effects  
8 of ~~prospecting~~ bulk sampling or mining on surface water and groundwater resources,  
9 in providing water to persons claiming damage to private water supplies under sub.  
10 (4) (c), or in retaining legal counsel or technical consultants to represent and assist  
11 the town, village or city appearing at the hearing under sub. (4) (b) are reimbursable  
12 through the investment and local impact fund under s. 15.435.

13 **SECTION 108.** 293.81 of the statutes is amended to read:

14 **293.81 Exploring, prospecting and mining without authorization.** Any  
15 person who engages in exploration without a license shall forfeit not less than \$100  
16 nor more than \$1,000 for each parcel as defined under s. 293.21 (1) (b) on which  
17 unlicensed exploration took place. Any person who authorizes or engages in  
18 ~~prospecting without a prospecting permit~~ bulk sampling without filing a bulk  
19 sampling plan or any operator who authorizes or engages in mining without a mining  
20 permit and written authorization to mine under s. 293.51 (3) shall forfeit all profits  
21 obtained from such illegal activities and not more than \$10,000 for each day during  
22 which the mine was in operation. The operator shall be liable to the department for  
23 the full cost of reclaiming the affected area of land and any damages caused by the  
24 mining operation. Each day's violation of this section shall be deemed a separate  
25 offense. If the violator is a corporation, limited liability company, partnership or



1 association, any officer, director, member, manager or partner who knowingly  
2 authorizes, supervises or contracts for exploration, ~~prospecting~~ bulk sampling, or  
3 mining shall also be subject to the penalties of this section.

4 **SECTION 109.** 293.83 (2) of the statutes is amended to read:

5 293.83 (2) If reclamation of a mining site is not proceeding in accordance with  
6 the reclamation plan and the operator has not commenced to rectify deficiencies  
7 within the time specified in the order, or if the reclamation is not properly completed  
8 in conformance with the reclamation plan within one year after completion or  
9 abandonment of mining on any segment of the mining site, or if the exploration  
10 license or ~~prospecting~~ or mining permit is revoked under s. 293.87 (2) and (3),  
11 excepting acts of God, such as adverse weather affecting grading, planting and  
12 growing conditions, the department, with the staff, equipment and material under  
13 its control, or by contract with others, shall take such actions as are necessary for the  
14 reclamation of mined areas. The operator shall be liable for the cost to the state of  
15 reclamation conducted under this section. Any operator who is exempted from filing  
16 a bond or depositing cash, certificates of deposits or government securities by s.  
17 293.51 (6) shall not be liable for an amount greater than an amount specified by the  
18 department. The specified amount shall be equal to and determined in the same  
19 manner as the amount of the bond or other security otherwise required under s.  
20 293.51 (1), assuming the operator had not been exempt from such filing or depositing.

21 **SECTION 110.** 293.83 (3) of the statutes is amended to read:

22 293.83 (3) All other ~~prospecting~~ and mining permits held by an operator who  
23 refuses to reclaim a mining site in compliance with the reclamation plan after the  
24 completion of mining or after the cancellation of a mining permit shall be canceled.  
25 The department may not issue any ~~prospecting~~ or mining permits for that site or any

1 other site in this state to an operator who refused to reclaim a mining site in  
2 compliance with the reclamation plan.

3 **SECTION 111.** 293.85 (1) of the statutes is repealed.

4 **SECTION 112.** 293.85 (3) of the statutes is amended to read:

5 293.85 (3) A mining ~~or prospecting~~ permit, if the permit holder intentionally  
6 made a false statement in the permit application or intentionally omitted  
7 information from the permit application which was material to permit issuance.

8 **SECTION 113.** 293.86 of the statutes is amended to read:

9 **293.86 Visitorial powers of department.** Any duly authorized officer,  
10 employee or representative of the department may enter and inspect any property,  
11 premises or place on or at which any ~~prospecting~~ bulk sampling or metallic mining  
12 operation or facility is located or is being constructed or installed at any reasonable  
13 time for the purpose of ascertaining the state of compliance with this chapter and chs.  
14 281, 285, 289 to 292, 295 and 299 and rules adopted pursuant thereto. No person may  
15 refuse entry or access to any such authorized representative of the department who  
16 requests entry for purposes of inspection, and who presents appropriate credentials,  
17 nor may any person obstruct, hamper or interfere with any such inspection. The  
18 department shall furnish to the ~~prospector~~ person conducting the bulk sampling or  
19 the operator, as indicated in the ~~prospecting~~ bulk sampling plan or the mining  
20 permit, a written report setting forth all observations, relevant information and data  
21 which relate to compliance status.

22 **SECTION 114.** 293.87 (2) of the statutes is amended to read:

23 293.87 (2) Any person who makes or causes to be made in an application or  
24 report required by this chapter a statement known to the person to be false or  
25 misleading in any material respect or who refuses to file an annual report under s.

1 293.53 ~~(2)~~ (a) (1) or who refuses to submit information required by the ~~prospecting~~  
2 ~~or~~ mining permit may be fined not less than \$1,000 nor more than \$5,000. If the false  
3 or misleading statement is material to the issuance of the permit, the permit may be  
4 revoked. If any violation under this subsection is repeated the permit may be  
5 revoked.

6 **SECTION 115.** 293.87 (3) of the statutes is amended to read:

7 293.87 (3) Any person holding a ~~prospecting or~~ mining permit who violates this  
8 chapter or any order issued or rule adopted under this chapter shall forfeit not less  
9 than \$10 nor more than \$10,000 for each violation. Each day of violation is a separate  
10 offense. If the violations continue after an order to cease has been issued, the permit  
11 shall be revoked.

12 **SECTION 116.** 293.91 of the statutes is repealed.

13 **SECTION 117.** 706.01 (9) of the statutes is amended to read:

14 706.01 (9) "Mining company" means any person or agent of a person who has  
15 a ~~prospecting or~~ mining permit under s. ~~293.45 or 293.49~~ or has filed a bulk sampling  
16 plan under s. 293.315.

17 **SECTION 118.** 710.02 (2) (d) of the statutes is amended to read:

18 710.02 (2) (d) An exploration mining lease as defined in s. 107.001 (4) ~~(1)~~ (1j) and  
19 land used for mining and associated activities.

20

(END)

Insert 39-19

Note

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**Insert 11-2**

**SECTION 1.** 289.05 (2) of the statutes is amended to read:

289.05 (2) With the advice and comment of the metallic mining council, the department shall promulgate rules for the identification and regulation of metallic mining wastes. The rules promulgated to identify metallic mining wastes and to regulate the location, design, construction, operation and maintenance of facilities for the disposal of metallic mining wastes shall be in accordance with any or all of the provisions under this chapter and chs. 30 and 283. The rules shall take into consideration the special requirements of metallic mining operations in the location, design, construction, operation and maintenance of facilities for the disposal of metallic mining wastes as well as any special environmental concerns that will arise as a result of the disposal of metallic mining wastes. In promulgating the rules, the department shall give consideration to research, studies, data and recommendations of the U.S. environmental protection agency on the subject of metallic mining wastes arising from the agency's efforts to implement the resource conservation and recovery act. In the rules, the department shall adopt the standards of the American Society for Testing and Materials for testing and other methodologies related to the evaluation of mining waste. After the department promulgates rules adopting those standards, the department may modify or replace the rules to reflect new technologies or industry practices.

History: 1995 a. 227 ss. 530, 534.

**Insert 20-8**      ^

**SECTION 2.** 293.313 of the statutes is created to read:

**293.313 Collaboration.** The department shall do all of the following:

1 (1) Provide assistance to a person who provides notice under s. 293.31 during  
2 the processes under this subchapter.

3 (2) Work with and consult with federally recognized American Indian tribes or  
4 bands in this state during the processes under this subchapter concerning proposed  
5 mining in which the tribes and bands have an interest.

6 (3) Work with and provide assistance to other regulatory agencies, including  
7 local, state, and federal agencies, during the processes under this subchapter <sup>related to</sup> ~~(for)~~  
8 proposed mining in which the agencies have an interest.

9 (4) After the department receives a notice under s. 293.31, seek to enter into  
10 a memorandum of understanding with any federal regulatory agency with  
11 responsibilities related to the potential mining operation covering timelines,  
12 sampling metrology, and any other issue of mutual concern related to processing an  
13 application for a mining permit.

14 (5) Seek to take the lead in processes related to processing an application for  
15 a mining permit that are undertaken in coordination with federal regulatory  
16 agencies.

17 **Insert 30-2**

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x 18 **SECTION 3.** 293.37 (2) (gm) of the statutes is created to read:

19 293.37 (2) (gm) A proposed irrevocable trust agreement to provide funds for  
20 activities to avoid or remedy any adverse environmental consequences from the  
21 mining operation.

22 **Insert 33-8**

23 **SECTION 4.** 293.51 (2m) of the statutes is created to read:

24 293.51 (2m) Upon notification that an application for a mining permit has been  
25 approved by the department but prior to commencing mining, the operator shall

1 establish an irrevocable trust, in accordance with the proposed agreement under s.  
 2 293.37 (2) (gm), in an amount equal to 20 percent of <sup>the</sup> amount of the bond or other  
 3 security required under sub. (1) plus 20 percent of the amount of the proof of financial  
 4 responsibility required under s. 289.41 <sup>2</sup> (8) for the mining waste site.

5 SECTION 5. 293.51 (3) of the statutes is amended to read:

6 293.51 (3) Upon approval of the operator's bond, mining application and  
 7 certificate of insurance and receipt of evidence of the establishment of the trust  
 8 under sub. (2m), the department shall issue written authorization to commence  
 9 mining at the permitted mining site in accordance with the approved mining and  
 10 reclamation plans.

11 History: 1973 c. 318; 1977 c. 421; 1979 c. 102 s. 236 (3); 1979 c. 176; 1995 a. 227 ss. 784, 994; Stats. 1995 s. 293.51.

12 **Insert 33-25**

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13 SECTION 6. 293.64 of the statutes is created to read:

14 **293.64 Groundwater quality.** (1) (a) In the feasibility report under s. 289.24  
 15 for a mining waste facility, an applicant shall submit information based on predictive  
 16 modeling to demonstrate whether there is a reasonable certainty that the facility will  
 17 result in a violation of groundwater quality standards beyond the design  
 18 management zone, determined under s. 160.21 (2) (d), within 250 years after  
 construction of the facility.

19 (b) In determining whether to approve, under s. 289.29, a feasibility report for  
 20 a mining waste facility and in determining under s. 293.49 (1) (a) 2. whether a mining  
 21 waste facility will comply with groundwater laws and rules of the department, the  
 22 department may not consider the effect that the facility might have on groundwater  
 23 quality more than 250 years after the construction of the facility.

For the purposes of ~~s.~~ s. NR 182.075(1s) and (1u), Wis. Adm. Code,

(2) The horizontal distance to the mandatory intervention boundary for a mining waste site is 150 feet from the outer waste boundary or the outer edge of the excavation or a longer distance, up to 600 feet, agreed to by the applicant and the department, notwithstanding s. NR 182.075 (1) (c) Wis. Adm. Code, except that the horizontal distance to the mandatory intervention boundary may not exceed 50 percent of the horizontal distance from the outer waste boundary or the outer edge of the excavation to the boundary of the design management zone, determined under s. 160.21 (2) (d), for the facility mining waste site

**Insert 39-19**

**SECTION 7. Nonstatutory provisions.**

(1) REPORT CONCERNING GROUNDWATER STANDARDS. The department of natural resources shall study whether, in connection with metallic mining, groundwater standards under chapter NR 140, Wisconsin Administrative Code, should apply in an aquifer containing saline water and shall report its conclusions to the legislature, in the manner under section 13.172 (2) of the statutes, no later than the first day of the 12th month beginning after the effective date of this subsection.



**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  
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LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

1/3/13 Per Anna Henning - Sen. Cullen wants to delete every thing related to bulk sampling.  
JRET

## Tradewell, Becky

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**From:** Henning, Anna  
**Sent:** Thursday, January 03, 2013 5:21 PM  
**To:** Tradewell, Becky  
**Cc:** Konopacki, Larry  
**Subject:** FW: LRB-0821

Hi Becky, one clarification to the below –

The timeline for a DNR decision should be 60 days after the date on which the application is considered to be complete, rather than 60 days from the date of submission.

Thanks!

---

Anna Henning  
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**From:** Henning, Anna  
**Sent:** Thursday, January 03, 2013 5:10 PM  
**To:** Tradewell, Becky  
**Cc:** Konopacki, Larry  
**Subject:** LRB-0821

Hi Becky,

I have a drafting instruction for LRB-0821:

Please amend the draft to generally retain current law with regard to prospecting. However, with respect to prospecting in which less than 10,000 tons of material is proposed to be excavated, do the following:

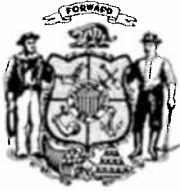
- ✓ In s. 293.45, specify that for this type of prospecting, DNR must approve or deny the prospecting permit and all related approvals within 60 days of the submission of applications for the prospecting permit and related approvals, unless an application is for an individual permit for which federal law requires the opportunity for public comment or the ability to request a public hearing prior to issuance of the approval.
- ✓ Require that the DNR hold a public informational hearing for such prospecting. Section 293.43 (1m) and (2) should apply to the hearing, but the timelines and procedures in the other provisions of s. 293.43 should not apply.
- ✓ - Specify in s. 293.35 (5) that no EIS or EA is required for this type of prospecting.
- ✓ - Amend s. 227.42 (4) to specify that there is no right to a hearing with regard to this type of prospecting.

Thanks very much, and please let me know if you have any questions.

Anna

---

Anna Henning  
Staff Attorney



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0821/P 3

RCT&JK:cjs:rs

File 1/11 by 2:00  
if possible

Stays RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SAV  
PWP  
1/11/13  
[Signature]

Note

please regenerate  
↓

1 **AN ACT to repeal** ~~107.15 (2)~~ (e), 107.30 (15), 107.30 (16), 293.01 (18), 293.01 (19),  
2 293.01 (20), 293.01 (21), 293.01 (22), 293.35, 293.39 (3), 293.45, 293.47, 293.49  
3 (4), 293.53 (1), 293.63 (5), 293.85 (1) and 293.91; **to renumber** 107.001 (1) and  
4 107.30 (1); **to renumber and amend** 293.53 (2); **to amend** 20.370 (2) (gh),  
5 70.375 (2) (a), 70.375 (5) (intro.), 70.395 (1e), 70.395 (2) (dc) 1., 70.395 (2) (dc)  
6 2., 70.395 (2) (dc) 3., 70.395 (2) (g) (intro.), 107.001 (3), 107.15 (4) (d) (intro.), 1.  
7 and 5., 107.15 (4) (f), 107.20 (1), 107.25 (1) (c), 107.30 (7), 107.30 (9), 107.30 (12),  
8 107.32, 107.34, 283.84 (3m), 289.01 (4), 289.01 (22) (a), 289.05 (2), 289.28 (2) (a),  
9 289.29 (5), 289.33 (12) (d), 289.62 (2) (g) (intro.), 289.62 (2) (g) 7., 289.63 (3) (b),  
10 289.63 (4), 289.67 (1) (d), 293.01 (2), 293.01 (9), 293.01 (13), 293.01 (23), 293.01  
11 (24), 293.01 (25), 293.01 (28) (intro.), 293.01 (28) (b) 6., 293.11, 293.13 (1) (b),  
12 293.13 (2) (a), 293.13 (2) (b) (intro.), 293.13 (2) (b) 4., 293.13 (2) (b) 7., 293.13 (2)  
13 (b) 10., 293.13 (2) (c) (intro.), 293.13 (2) (c) 3., 293.13 (2) (c) 7., 293.13 (2) (d)  
14 (intro.), 293.15 (3), 293.15 (6), 293.15 (8), 293.15 (11), 293.15 (13), subchapter  
15 IV (title) of chapter 293 [precedes s. 293.31], 293.31 (1), 293.31 (3), 293.31 (4),

1           293.31 (6), 293.32, 293.37 (1) (a), 293.37 (2) (b), 293.37 (2) (c), 293.37 (2) (f),  
2           293.43 (1), 293.43 (1m) (a) and (b), 293.43 (2), 293.43 (3) (b) 1. and 2., 293.49 (1)  
3           (a) 3., 293.49 (6), 293.51 (1), 293.51 (3), 293.57 (2), 293.65 (1), 293.65 (2) (a),  
4           293.65 (3) (b), 293.65 (4) (b), 293.65 (4) (d), 293.65 (4) (e), 293.65 (4) (f), 293.65  
5           (5) (a), 293.81, 293.83 (2), 293.83 (3), 293.85 (3), 293.86, 293.87 (2), 293.87 (3),  
6           706.01 (9) and 710.02 (2) (d); and *to create* 20.192 (1) (g), 70.375 (7), 70.395 (2)  
7           (L), 107.001 (1c), 107.30 (1c), 238.14, 289.645 (4) (g), 293.01 (2m), 293.01 (2p),  
8           293.313, 293.315, 293.37 (2) (gm), 293.51 (2m) and 293.64 of the statutes;  
9           **relating to:** regulation of metallic mining, an occupation tax on iron mining,  
10          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 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 instead make three payments of \$100,000 each to the investment and local impact fund.

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 on which exploration or bulk sampling is being conducted 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.* All moneys received  
3 under s. 70.395 (1e) for grants, loans, and disbursements under s. 238.14.

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

5           20.370 (2) (gh) *Mining — mining regulation and administration.* The amounts  
6 in the schedule for the administration, regulation and enforcement of exploration,  
7 ~~prospecting~~ bulk sampling, mining and mine reclamation activities under ch. 293.  
8 All moneys received under ch. 293 shall be credited to this appropriation.

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

10           70.375 (2) (a) ~~In~~ Except as provided in sub. (7), with respect to mines not in  
11 operation on November 28, 1981, there is imposed upon persons engaged in mining  
12 metalliferous minerals in this state a net proceeds occupation tax effective on the  
13 date on which extraction begins to compensate the state and municipalities for the

1 loss of valuable, irreplaceable metalliferous minerals. The amount of the tax shall  
2 be determined by applying the rates established under sub. (5) to the net proceeds  
3 of each mine. The net proceeds of each mine for each year are the difference between  
4 the gross proceeds and the deductions allowed under sub. (4) for the year.

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

6 70.375 (5) RATES. (intro.) The Except as provided in sub. (7), the tax to be  
7 assessed, levied and collected upon persons engaging in mining metalliferous  
8 minerals in this state shall be computed at the following rates:

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

10 70.375 (7) PER TON RATE. (a) Notwithstanding subs. (2) and (5), for mines in  
11 operation after December 31, 2012, the tax assessed, levied, and collected from a  
12 person engaged in mining ferrous minerals in this state is an amount equal to \$2.412  
13 for each 2,240 pounds of ferrous minerals extracted by the person from mines in this  
14 state, based on the average annual amount extracted during the current year and  
15 the previous 2 years, not including any year in which the person is not extracting  
16 ferrous minerals from mines in this state.

17 (b) Beginning in 2014, and in each year thereafter, the department shall change  
18 the dollar amount rate under par. (a) to reflect the percentage change in the gross  
19 domestic product implicit price deflator from the 4th quarter of the 2nd preceding  
20 year to the 4th quarter of the preceding year, as determined by the federal  
21 department of commerce.

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

23 70.395 (1e) DISTRIBUTION. Fifteen days after the collection of the tax under ss.  
24 70.38 to 70.39, the department of administration, upon certification of the  
25 department of revenue, shall transfer the amount collected in respect to mines not

1 in operation on November 28, 1981, to the investment and local impact fund, except  
2 that the department of administration shall transfer 70 percent of the amount  
3 collected from each person under s. 70.375 (7) to the investment and local impact  
4 fund and 30 percent of the amount collected from each person under s. 70.375 (7) to  
5 the appropriation under s. 20.192 (1) (g) for the regional Wisconsin diversification  
6 program under s. 238.14.

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

8 70.395 (2) (dc) 1. Each person intending to submit an application for a mining  
9 permit shall pay ~~\$50,000~~ \$100,000 to the department of revenue for deposit in the  
10 investment and local impact fund at the time that the person notifies the department  
11 of natural resources under s. 293.31 (1) of that intent.

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

13 70.395 (2) (dc) 2. A person making a payment under subd. 1. shall pay an  
14 additional ~~\$50,000~~ \$100,000 upon notification by the board that the board has  
15 distributed 50% of the payment under subd. 1.

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

17 70.395 (2) (dc) 3. A person making a payment under subd. 2. shall pay an  
18 additional ~~\$50,000~~ \$100,000 upon notification by the board that the board has  
19 distributed all of the payment under subd. 1. and 50% of the payment under subd.  
20 2.

21 **SECTION 10.** 70.395 (2) (g) (intro.) of the statutes is amended to read:

22 70.395 (2) (g) (intro.) The board may distribute the revenues received by the  
23 investment and local impact fund under sub. (1e) or proceeds thereof in accordance  
24 with par. (h) for the following purposes, as the board determines necessary:

25 **SECTION 11.** 70.395 (2) (L) of the statutes is created to read:



1           70.395 (2) (L) Notwithstanding any other provision under this subsection, the  
 2 board may provide grants to local governmental units, as defined in s. 238.133 (1) (b),  
 3 to prepare economic impact studies related to sites at or near the local governmental  
 4 units on which exploration or bulk sampling <sup>or prospecting</sup> is being conducted for the potential  
 5 mining of ferrous minerals or the subject of a preapplication process for a permit to  
 6 mine ferrous minerals.

7           **SECTION 12.** 107.001 (1) of the statutes is renumbered 107.001 (1j).

8           **SECTION 13.** 107.001 (1c) of the statutes is created to read:

9           107.001 (1c) "Bulk sampling" has the meaning given in s. 293.01 (2m).

10          **SECTION 14.** 107.001 (3) of the statutes is amended to read:

11           107.001 (3) "Mining company" means any person or agent of a person who has  
 12 a ~~prospecting or~~ mining permit under s. ~~293.45 or 293.49~~ or who has filed a bulk  
 13 sampling plan under s. 293.315.

14          **SECTION 15.** 107.15 (2) (e) of the statutes is repealed.

15          **SECTION 16.** 107.15 (4) (d) (intro.), 1. and 5. of the statutes are amended to read:

16           107.15 (4) (d) (intro.) No later than upon the termination of mining or the  
 17 abandonment of a site subsequent to ~~prospecting~~ bulk sampling, or 10 years from the  
 18 date core samples or drill cuttings were originally obtained, the licensee shall submit  
 19 to the state geologist, if not previously submitted, the following noninterpretive  
 20 geologic information and samples:

- 21           1. The name and address of the person conducting exploration and, if the  
 22 person is a corporation or limited liability company, the names and addresses of the  
 23 parent and any subsidiaries or domestic affiliates of the corporation or limited  
 24 liability company engaged in exploration, ~~prospecting~~ bulk sampling or mining in  
 25 this state;

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

**SECTION 17.** 107.15 (4) (f) of the statutes is amended to read:

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

**SECTION 18.** 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 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 minerals under a prospecting permit issued under s. 293.45, 2011 stats., or a bulk sampling plan under s. 293.315 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, 2011 stats., or files a bulk sampling plan under s. 293.315, if the lessee applies for the prospecting permit or files the bulk sampling plan within 10 years from the date on which the

X 1 exploration mining lease is recorded in the office of the register of deeds of the county  
2 where the property is located.

3 **SECTION 19.** 107.25 (1) (c) of the statutes is amended to read:

4 107.25 (1) (c) The lessor may cancel an exploration mining lease if 10 years  
5 have elapsed from the date on which the lease was recorded in the office of the  
6 register of deeds of the county where the property is located and the lessee has not  
7 filed a bulk sampling plan under s. 293.315 or formally applied, under s. 293.35, 2011  
8 stats., for a prospecting permit or under s. 293.37, for either a permit to prospect or  
9 a permit to mine. In the event that the lessee files a bulk sampling plan under s.  
10 293.315 or formally applies for a prospecting permit under s. 293.35, 2011 stats., or  
11 a mining permit under s. 293.37 within the 10-year period, but does not receive a  
12 mining permit under s. 293.49 within the 10-year period following the date of filing  
13 the bulk sampling plan under s. 293.315 or application for the prospecting permit or  
14 mining permit, the lessor's right to cancel is revived.

15 **SECTION 20.** 107.30 (1) of the statutes is renumbered 107.30 (1m).

16 **SECTION 21.** 107.30 (1c) of the statutes is created to read:

17 107.30 (1c) "Bulk sampling" has the meaning given in s. 293.01 (2m).

18 **SECTION 22.** 107.30 (7) of the statutes is amended to read:

19 107.30 (7) "Mine excavations" means either shaft or pit excavations from which  
20 minerals have been extracted in prospecting bulk sampling or mining.

21 **SECTION 23.** 107.30 (9) of the statutes is amended to read:

22 107.30 (9) "Mining company" means any person who, either directly or through  
23 subsidiaries, affiliates, contractors or other business arrangements, engages in  
24 prospecting bulk sampling, mining, refining or smelting.

25 **SECTION 24.** 107.30 (12) of the statutes is amended to read:

X

1           107.30 (12) "Mining waste" means wastes directly resulting from or displaced  
2 by ~~prospecting~~ bulk sampling or mining and from the cleaning, preparation,  
3 separation or purification of minerals or metals during ~~prospecting~~ bulk sampling,  
4 mining, concentrating, refining or smelting operations and includes but is not  
5 limited to concentrator tailings, refinery and smelter residue, refining and smelting  
6 process emissions, mining overburden and waste treatment sludges, materials in  
7 process and salvageable by-products.

8           **SECTION 25.** 107.30 (15) of the statutes is repealed.

9           **SECTION 26.** 107.30 (16) of the statutes is repealed.

10          **SECTION 27.** 107.32 of the statutes is amended to read:

11           **107.32 Liability of mining companies.** A mining company is liable for  
12 damages for mining-related injuries resulting from its ~~prospecting~~ bulk sampling,  
13 mining, refining or smelting in this state if, and to the degree that, the elements of  
14 liability are established in accordance with law, regardless of any change in the  
15 nature of the ownership of the interests in the ~~prospecting~~ bulk sampling or mining  
16 site, refinery or smelter held by the mining company and regardless of any  
17 reorganization, merger, consolidation or liquidation affecting the mining company.

18          **SECTION 28.** 107.34 of the statutes is amended to read:

19           **107.34 Application to sites where activities have ceased.** This  
20 subchapter does not apply to any ~~prospecting~~ bulk sampling or mining site on which  
21 ~~prospecting~~ bulk sampling or mining has ceased prior to May 22, 1980 unless  
22 ~~prospecting~~ bulk sampling or mining activities are commenced at the site after May  
23 22, 1980, in which case any mining-related injury is within the scope of this  
24 subchapter.

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

In 95  
9-24

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

3           (1) The corporation may make a grant or loan of those moneys to a business that  
4 is located within 100 miles from the site of a mine for ferrous metallic minerals in  
5 this state, and the corporation shall give preference for that grant or loan to a  
6 business that is located in close proximity to the site of the mine. In making a grant  
7 or loan under this subsection, the corporation shall coordinate with an appropriate  
8 local governmental unit, as defined in s. 238.133 (1) (b), to make that grant or loan  
9 on a competitive basis for the purpose of business diversification.

INS  
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A

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

Insert  
10-13  
12B

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

14           283.84 (3m) A person engaged in mining, as defined in s. 293.01 (9),  
15 prospecting bulk sampling, as defined in s. 293.01 ~~(18)~~ (2m), or nonmetallic mining,  
16 as defined in s. 295.11 (3), may not enter into an agreement under sub. (1).

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

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

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

23           289.01 (22) (a) A solid waste disposal facility designed exclusively for the  
24 disposal of waste generated by a pulp mill, paper mill, foundry, prospecting bulk

1 sampling or mining operation, electric or process steam generating facility or  
2 demolition activity.

3 **SECTION 33.** 289.05 (2) of the statutes is amended to read:

4 289.05 (2) With the advice and comment of the metallic mining council, the  
5 department shall promulgate rules for the identification and regulation of metallic  
6 mining wastes. The rules promulgated to identify metallic mining wastes and to  
7 regulate the location, design, construction, operation and maintenance of facilities  
8 for the disposal of metallic mining wastes shall be in accordance with any or all of  
9 the provisions under this chapter and chs. 30 and 283. The rules shall take into  
10 consideration the special requirements of metallic mining operations in the location,  
11 design, construction, operation and maintenance of facilities for the disposal of  
12 metallic mining wastes as well as any special environmental concerns that will arise  
13 as a result of the disposal of metallic mining wastes. In promulgating the rules, the  
14 department shall give consideration to research, studies, data and recommendations  
15 of the U.S. environmental protection agency on the subject of metallic mining wastes  
16 arising from the agency's efforts to implement the resource conservation and  
17 recovery act. In the rules, the department shall adopt the standards of the American  
18 Society for Testing and Materials for testing and other methodologies related to the  
19 evaluation of mining waste. After the department promulgates rules adopting those  
20 standards, the department may modify or replace the rules to reflect new  
21 technologies or industry practices.

22 **SECTION 34.** 289.28 (2) (a) of the statutes is amended to read:

23 289.28 (2) (a) Any facility which is part of a prospecting bulk sampling  
24 operation for which a plan has been filed under s. 293.315 or a mining operation with  
25 a permit under s. ~~293.45~~ or 293.49.

Insert

11-21

1 SECTION 35. 289.29 (5) of the statutes is amended to read:

2 289.29 (5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY IN CERTAIN  
3 SITUATIONS INVOLVING UTILITIES AND MINING. If a determination of feasibility is  
4 identified in the listing specified in s. 196.491 (3) (a) 3. a., the issuance of a final  
5 determination of feasibility is subject to the time limit under s. 196.491 (3) (a) 3. b.  
6 If a determination of feasibility is required under s. ~~293.315~~<sup>293.42</sup> or 293.43, the issuance  
7 of a final determination of feasibility is subject to the time limits under s. ~~293.45 (2)~~<sup>293.42(8) plan</sup>;  
8 ~~293.315~~<sup>293.42</sup> or 293.49, whichever is applicable.

9 SECTION 36. 289.33 (12) (d) of the statutes is amended to read:

10 289.33 (12) (d) *Nonapplicability to mining waste facilities.* This section does  
11 not apply to any waste facility which is part of a prospecting bulk sampling operation  
12 for which a plan has been filed under s. 293.315 or a mining operation with a permit  
13 under s. ~~293.45~~ or 293.49.

14 SECTION 37. 289.62 (2) (g) (intro.) of the statutes is amended to read:

15 289.62 (2) (g) (intro.) *Tonnage fee; mining waste.* Notwithstanding pars. (a) to  
16 (c), with respect to prospecting bulk sampling or mining waste, the tonnage fee  
17 imposed under sub. (1) (a) is:

18 SECTION 38. 289.62 (2) (g) 7. of the statutes is amended to read:

19 289.62 (2) (g) 7. For any prospecting bulk sampling or mining waste not  
20 specified under subs. 1. to 6., 0.5 cent per ton.

21 SECTION 39. 289.63 (3) (b) of the statutes is amended to read:

22 289.63 (3) (b) The well compensation fee imposed under sub. (1) for solid waste  
23 or hazardous waste, excluding prospecting bulk sampling or mining waste, is 4 cents  
24 per ton.

25 SECTION 40. 289.63 (4) of the statutes is amended to read:

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

4           -SECTION 41. 289.645 (4) (g) of the statutes is created to read:

5           289.645 (4) (g) The recycling fee does not apply to bulk sampling or mining  
6           waste. *prospecting*

7           SECTION 42. 289.67 (1) (d) of the statutes is amended to read:

8           289.67 (1) (d) *Amount of environmental repair fee; prospecting bulk sampling*  
9           *or mining waste.* The environmental repair fee imposed under par. (a) is one cent per  
10          ton for prospecting bulk sampling or mining waste, including tailing solids, sludge  
11          or waste rock.

12          SECTION 43. 293.01 (2) of the statutes is amended to read:

13          293.01 (2) "Applicant" means a person who has submitted a bulk sampling plan  
14          or applied for a ~~prospecting permit~~ or a mining permit.

15          SECTION 44. 293.01 (2m) of the statutes is created to read:

16          293.01 (2m) "Bulk sampling" means excavating in a potential mining site by  
17          removing less than 10,000 tons of material for the purposes of obtaining site-specific  
18          data to assess the quality and quantity of the metallic mineral deposits and of  
19          collecting data from and analyzing the excavated materials in order to prepare the  
20          application for a mining permit or for any other approval, as defined in s. 293.315 (1).

21          SECTION 45. 293.01 (2p) of the statutes is created to read:

22          293.01 (2p) "Bulk sampling plan" means a plan filed under s. 293.315 (1m).

23          SECTION 46. 293.01 (9) of the statutes is amended to read:

24          293.01 (9) "Mining" or "mining operation" means all or part of the process  
25          involved in the mining of metallic minerals, other than for exploration or prospecting



1 bulk sampling, including commercial extraction, agglomeration, beneficiation,  
2 construction of roads, removal of overburden and the production of refuse.

3 **SECTION 47.** 293.01 (13) of the statutes is amended to read:

4 293.01 (13) "Operator" means any person who is engaged in, or who has applied  
5 for or holds a permit to engage in, ~~prospecting or~~ mining, whether individually,  
6 jointly or through subsidiaries, agents, employees or contractors.

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

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

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

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

11 **SECTION 52.** 293.01 (22) of the statutes is repealed.

12 **SECTION 53.** 293.01 (23) of the statutes is amended to read:

13 293.01 (23) "Reclamation" means the process by which an area physically or  
14 environmentally affected by ~~prospecting or~~ mining is rehabilitated to either its  
15 original state or, if this is shown to be physically or economically impracticable or  
16 environmentally or socially undesirable, to a state that provides long-term  
17 environmental stability. Reclamation shall provide the greatest feasible protection  
18 to the environment and shall include, but is not limited to, the criteria for  
19 reclamation set forth in s. 293.13 (2) (c).

20 **SECTION 54.** 293.01 (24) of the statutes is amended to read:

21 293.01 (24) "Reclamation plan" means the proposal for the reclamation of the  
22 ~~prospecting or~~ mining site which must be approved by the department under s.  
23 293.45 ~~or~~ 293.49 prior to the issuance of the ~~prospecting or~~ mining permit.

24 **SECTION 55.** 293.01 (25) of the statutes is amended to read:

1           293.01 (25) "Refuse" means all waste soil, rock, mineral, liquid, vegetation and  
2 other material, except merchantable by-products, directly resulting from or  
3 displaced by the ~~prospecting or~~ mining and from the cleaning or preparation of  
4 minerals during ~~prospecting or~~ mining operations, and shall include all waste  
5 materials deposited on or in the ~~prospecting or~~ mining site from other sources.

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

7           293.01 (28) (intro.) "Unsuitability" means that the land proposed for  
8 ~~prospecting or~~ surface mining is not suitable for such activity because the  
9 ~~prospecting or~~ surface mining activity itself may reasonably be expected to destroy  
10 or irreparably damage either of the following:

11           **SECTION 57.** 293.01 (28) (b) 6. of the statutes is amended to read:

12           293.01 (28) (b) 6. Other lands of a type designated as unique or unsuitable for  
13 ~~prospecting or~~ surface mining.

14           **SECTION 58.** 293.11 of the statutes is amended to read:

15           **293.11 Mine effect responsibility.** The department shall serve as the central  
16 unit of state government to ensure that the air, lands, waters, plants, fish and  
17 wildlife affected by ~~prospecting~~ bulk sampling or mining in this state will receive the  
18 greatest practicable degree of protection and reclamation. The administration of  
19 occupational health and safety laws and rules that apply to mining shall remain  
20 exclusively the responsibility of the department of safety and professional services.  
21 The powers and duties of the geological and natural history survey under s. 36.25 (6)  
22 shall remain exclusively the responsibility of the geological and natural history  
23 survey. Nothing in this section prevents the department of safety and professional  
24 services and the geological and natural history survey from cooperating with the  
25 department in the exercise of their respective powers and duties.

1           **SECTION 59.** 293.13 (1) (b) of the statutes is amended to read:

2           293.13 (1) (b) Establish by rule after consulting with the metallic mining  
3 council minimum qualifications for applicants for ~~prospecting and~~ mining permits.  
4 Such minimum qualifications shall ensure that each operator in the state is  
5 competent to conduct mining and reclamation and ~~each prospector in the state is~~  
6 ~~competent to conduct prospecting~~ in a fashion consistent with the purposes of this  
7 chapter. The department shall also consider such other relevant factors bearing  
8 upon minimum qualifications, including but not limited to, any past forfeitures of  
9 bonds posted pursuant to mining activities in any state.

10           **SECTION 60.** 293.13 (2) (a) of the statutes is amended to read:

11           293.13 (2) (a) The department by rule after consulting with the metallic mining  
12 council shall adopt minimum standards for exploration, ~~prospecting~~, mining and  
13 reclamation to ensure that such activities in this state will be conducted in a manner  
14 consistent with the purposes and intent of this chapter. The minimum standards  
15 may classify exploration, ~~prospecting~~ and mining activities according to type of  
16 minerals involved and stage of progression in the operation.

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

18           293.13 (2) (b) (intro.) Minimum standards for exploration, ~~prospecting~~ and  
19 mining shall include the following:

20           **SECTION 62.** 293.13 (2) (b) 4. of the statutes is amended to read:

21           293.13 (2) (b) 4. Adequate diversion and drainage of water from the  
22 exploration, ~~prospecting~~ or mining site.

23           **SECTION 63.** 293.13 (2) (b) 7. of the statutes is amended to read:

24           293.13 (2) (b) 7. Removal and stockpiling, or other measures to protect topsoils  
25 prior to exploration, ~~prospecting~~, or mining.

1           **SECTION 64.** 293.13 (2) (b) 10. of the statutes is amended to read:

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

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

4           293.13 (2) (c) (intro.) Minimum standards for reclamation of exploration sites,  
5 where appropriate, and for ~~prospecting and~~ mining sites shall conform to s. 293.01  
6 (23) and include provision for the following:

7           **SECTION 66.** 293.13 (2) (c) 3. of the statutes is amended to read:

8           293.13 (2) (c) 3. Management, impoundment or treatment of all underground  
9 or surface runoff waters from open pits or underground ~~prospecting or~~ mining sites  
10 so as to prevent soil erosion, flooding, damage to agricultural lands or livestock, wild  
11 animals, pollution of surface or subsurface waters or damage to public health or  
12 safety.

13           **SECTION 67.** 293.13 (2) (c) 7. of the statutes is amended to read:

14           293.13 (2) (c) 7. Revegetation to stabilize disturbed soils and prevent air and  
15 water pollution, with the objective of reestablishing a variety of populations of plants  
16 and animals indigenous to the area immediately prior to exploration, ~~prospecting or~~  
17 mining.

18           **SECTION 68.** 293.13 (2) (d) (intro.) of the statutes is amended to read:

19           293.13 (2) (d) (intro.) The minimum standards adopted under this subsection  
20 shall also provide that if any of the following situations may reasonably be expected  
21 to occur during or subsequent to ~~prospecting or~~ mining, the ~~prospecting or~~ mining  
22 permit shall be denied:

23           **SECTION 69.** 293.15 (3) of the statutes is amended to read:

24           293.15 (3) Issue orders directing particular ~~prospectors or~~ operators to comply  
25 with the provisions and purposes of this chapter.



PROSPECTING BULK SAMPLING;  
MINING; RECLAMATION

SECTION 75. 293.31 (1) of the statutes is amended to read:

293.31 (1) Any person intending to submit an application for a ~~prospecting or~~ <sup>plain text</sup> mining permit shall notify the department prior to the collection of data or information intended to be used to support the permit application. A person shall provide notice under this subsection at least 12 months before filing <sup>of that</sup> an application for a mining permit. <sup>plain text</sup> Specific environmental data which would be pertinent to a specific ~~prospecting or~~ <sup>plain text</sup> mining application, but which was obtained or collected or generated prior to the notice of intent to apply for a ~~prospecting or~~ <sup>plain text</sup> mining permit, shall be submitted in writing to the department together with any substantiating background information which would assist the department in establishing the validity of the data. The department shall review the data and, if it concludes that the benefits of permitting the admission of the data outweigh the policy reasons for excluding it, and if the data is otherwise admissible, inform the person giving the notice of intent to ~~prospect or mine~~ <sup>plain text</sup> that the data will be accepted by the department. Such exclusion shall not relate to general environmental information such as soil characteristics, hydrologic conditions and air and water data contained in publications, maps, documents, studies, reports and similar sources, whether public or private, not prepared by or for the applicant. Such exclusion shall likewise not relate to data which is otherwise admissible that is collected prior to notification under this subsection for purposes of evaluating another site or sites and which is not collected with intent to evade the provisions of this section.

SECTION 76. 293.31 (3) of the statutes is amended to read:

1           293.31 (3) The department shall also receive and consider any comments from  
2 interested persons received within 45 days after public notice is given under sub. (2)  
3 as to the information which they believe should be requested from the person giving  
4 notice of intent to apply for a ~~prospecting or~~ mining permit and the information  
5 which they believe the department should seek through independent studies.

6           **SECTION 77.** 293.31 (4) of the statutes is amended to read:

7           293.31 (4) After the receipt and consideration of comments from interested  
8 persons, the department shall inform the person giving notice of intent to apply for  
9 a ~~prospecting or~~ mining permit of the type and quantity of information that it then  
10 believes to be needed to support an application, and where applicable, the  
11 methodology to be used in gathering information. The department shall specifically  
12 inform the person giving notice of intent to apply for a ~~prospecting or~~ mining permit  
13 of the type and quantity of information on the characteristics of groundwater  
14 resources in the area in which ~~prospecting or~~ mining is anticipated to occur which  
15 the department believes is needed to support an application. The department shall  
16 also begin informing the person giving notice of intent to apply for a ~~prospecting or~~  
17 mining permit as to the timely application date for approvals, licenses and permits,  
18 so as to facilitate the consideration of all other matters at the hearing on the  
19 ~~prospecting or~~ mining permit.

20           **SECTION 78.** 293.31 (6) of the statutes is amended to read:

21           293.31 (6) All information gathered by a person giving notice under sub. (1)  
22 shall be submitted to the department as soon as it is in final form. The department  
23 may at any time after consultation with the person giving notice of intent to apply  
24 for a ~~prospecting or~~ mining permit revise or modify its requirements regarding  
25 information which must be gathered and submitted.

1        ~~SECTION 79.~~ 293.313 of the statutes is created to read:

2        **293.313 Collaboration.** The department shall do all of the following:

3           (1) Provide assistance to a person who provides notice under s. 293.31 during  
4 the processes under this subchapter.

5           (2) Work with and consult with federally recognized American Indian tribes or  
6 bands in this state during the processes under this subchapter concerning proposed  
7 mining in which the tribes and bands have an interest.

8           (3) Work with and provide assistance to other regulatory agencies, including  
9 local, state, and federal agencies, during the processes under this subchapter related  
10 to proposed mining in which the agencies have an interest.

11          (4) After the department receives a notice under s. 293.31, seek to enter into  
12 a memorandum of understanding with any federal regulatory agency with  
13 responsibilities related to the potential mining operation covering timelines,  
14 sampling metrology, and any other issue of mutual concern related to processing an  
15 application for a mining permit.

16          (5) Seek to take the lead in processes related to processing an application for  
17 a mining permit that are undertaken in coordination with federal regulatory  
18 agencies.

19        **SECTION 80.** 293.315 of the statutes is created to read:

20        **293.315 Bulk sampling plan.** (1) In this section, “approval” means any  
21 permit, license, or other authorization that the department issues, or any other  
22 action by the department, that is required to engage in bulk sampling at a bulk  
23 sampling site.

24           (1m) Before beginning bulk sampling a person shall file a bulk sampling plan  
25 with the department. The collection of data under a bulk sampling plan may include



1 sampling and analysis related to geophysical, geochemical, groundwater, and  
2 surface water conditions, as well as any other data or studies necessary to prepare  
3 an application for a mining permit or for any other approval required for the proposed  
4 mining.

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

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

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

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

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

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

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

24 (g) A description of any adverse effects, as defined in s. 44.31 (1), that the bulk  
25 sampling might have on any historic property, as defined in s. 44.31 (3), that is a

1 listed property, as defined in s. 44.31 (4), that is on the Wisconsin inventory of historic  
2 places, as defined in s. 44.31 (12), or that is on the list of locally designated historic  
3 places under s. 44.45; or any scenic or recreational areas; and plans to avoid or  
4 minimize those adverse effects to the extent practicable.

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

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

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

1           **(3m)** The department shall act on any required construction site erosion  
2 control and storm water management approval, notwithstanding any authorization  
3 by the department of a local program to administer construction site erosion control  
4 and storm water management requirements.

5           **(3s)** An applicant shall submit all of the following at the same time:

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

7           (b) Applications for coverage under general permits or registration permits  
8 identified under sub. (3).

9           (c) Applications for waivers, exemptions, or exceptions identified under sub.  
10 (3).

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

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

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

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

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

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

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

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

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

24 (e) The department shall release a bond submitted under this subsection one  
25 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,  
4 or 291 or a rule promulgated under those chapters applicable to an approval  
5 identified 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 and the revegetation plan.

17 (9) Notwithstanding any inconsistent period in ch. 23, 29, 30, 31, 169, 281, 283,  
18 285, 289, or 291 or in a rule promulgated under those chapters that is applicable to  
19 an approval identified under sub. (3), the department shall approve or deny an  
20 application within 30 days after the day on which the application is considered to be  
21 complete under sub. (4) if any of the following apply:

22 (a) The application is for a waiver, exemption, or exception to an approval for  
23 a bulk sampling activity or for a determination that the proposed bulk sampling  
24 activity is below the threshold that requires an approval.