

1 (b) The application is for a determination of eligibility for coverage under a  
2 general permit or a registration permit.

3 (10) (a) Notwithstanding any inconsistent period in ch. 23, 29, 30, 31, 169, 281,  
4 283, 285, 289, or 291 or in a rule promulgated under those chapters that is applicable  
5 to an approval identified under sub. (3), the department shall approve or deny any  
6 application for an approval identified under sub. (3) to which sub. (9) does not apply  
7 within 60 days after the date on which the application is considered to be complete  
8 under sub. (4), unless the application is for an individual permit for which federal law  
9 requires the opportunity for public comment or the ability to request a public hearing  
10 prior to issuance of the approval.

11 (b) The department shall publish a class 1 notice, under ch. 985, that describes  
12 the availability of information concerning the activity for which an approval  
13 described in par. (a) is required, its proposed decision, its draft approval, information  
14 or summaries related to the approval, the department's analyses and preliminary  
15 determinations relating to the approval, any additional information that a law  
16 concerning the approval requires to be made available, and the opportunity to  
17 submit written comments within 30 days after the notice is published.

18 (c) In the notice under par. (b), the department shall also specify the date, time,  
19 and location of the public informational hearing under par. (e). The department shall  
20 send the notice to any person to whom the department is required to give notice of  
21 any proposed determination, application, or hearing concerning an approval  
22 described in par. (a) under the laws relating to the issuance of the approval.

23 (d) If there is more than one approval described in par. (a), the department shall  
24 issue one notice and coordinate the public comment period for all of the approvals.  
25 If possible, the department shall coordinate the notice and the public comment

1 period for an approval that is an individual permit for which federal law requires the  
2 opportunity for public comment or the ability to request a public hearing prior to  
3 issuance of the approval with notice and the public comment period for the approvals  
4 described in par. (a).

5 (e) The department shall hold a public informational hearing within 30 days  
6 after publishing the notice under par. (b). The department shall hold the public  
7 informational hearing in the county where the majority of the proposed bulk  
8 sampling site is located. If there is more than one approval described in par. (a), the  
9 department shall hold a single public informational hearing covering all of the  
10 approvals. If possible, the department shall include consideration of an approval  
11 that is an individual permit for which federal law requires the opportunity for public  
12 comment or the ability to request a public hearing prior to issuance of the approval  
13 in the public informational hearing under this paragraph. The public informational  
14 hearing under this paragraph is not a contested case hearing under ch. 227.

15 (10g) (a) If it is not possible to coordinate the public comment period and public  
16 informational hearing for an approval that is an individual permit for which federal  
17 law requires the opportunity for public comment or the ability to request a public  
18 hearing prior to issuance of the approval with the public comment period and public  
19 informational hearing under sub. (10), the department shall issue a separate public  
20 notice and hold a separate public informational hearing for the approval in  
21 accordance with the law governing the approval.

22 (b) The department shall approve or deny the application for an approval that  
23 is an individual permit for which federal law requires the opportunity for public  
24 comment or the ability to request a public hearing prior to issuance of the approval

1 within 180 days after the date on which the application is considered to be complete  
2 under sub. (4).

3 (10r) An approval identified under sub. (3) is issued upon mailing and is final  
4 and effective upon issuance.

5 (11) The department is not required to prepare an environmental impact  
6 statement or an environmental assessment for an approval required for bulk  
7 sampling.

8 SECTION 81. 293.32 of the statutes is amended to read:

9 **293.32 ~~Prospecting and mining~~ Mining fees.** (1) When a person gives  
10 notice under s. 293.31 (1), the person shall pay a fee established by the department  
11 by rule designed to cover the costs incurred by the department in connection with the  
12 proposed ~~prospecting or~~ mining during the year following receipt of the notice, other  
13 than any costs related to the environmental impact statement for the proposed  
14 ~~prospecting or~~ mining.

15 (2) The department shall annually compare the fees paid under this section  
16 and under chs. 30, 280 to 292 and 295 to 299 in connection with proposed ~~prospecting~~  
17 ~~or~~ mining for which notice has been given under s. 293.31 (1) with the costs incurred  
18 by the department in connection with that proposed ~~prospecting or~~ mining, including  
19 the costs incurred under chs. 30, 280 to 292 and 295 to 299 but excluding costs related  
20 to the environmental impact statement. If the costs incurred exceed the fees paid,  
21 the person who notified the department shall pay a fee equal to the amount by which  
22 the costs exceed the fees previously paid.

23 (3) When the department issues or denies a ~~prospecting or~~ mining permit or  
24 when a person who gave notice under s. 293.31 (1) ceases to seek approval of the  
25 proposed ~~prospecting or~~ mining project, the department shall compare the fees paid

1 under this section and under chs. 30, 280 to 292 and 295 to 299 in connection with  
2 the proposed ~~prospecting or~~ mining with the costs incurred by the department in  
3 connection with the proposed ~~prospecting or~~ mining, including the costs incurred  
4 under chs. 30, 280 to 292 and 295 to 299 but excluding costs related to the  
5 environmental impact statement. If the costs incurred are less than the fees paid,  
6 the department shall pay the person who gave notice the amount by which the fees  
7 exceed the costs. If the costs incurred exceed the fees paid, the person who notified  
8 the department shall pay a final fee equal to the amount by which the costs exceed  
9 the fees previously paid.

× 10 **SECTION 82.** 293.35 of the statutes is repealed.

11 **SECTION 83.** 293.37 (1) (a) of the statutes is amended to read:

12 293.37 (1) (a) No operator may engage in mining or reclamation at any mining  
13 site that is not covered by a mining permit and by written authorization to mine  
14 under s. 293.51 (3). Applications for mining permits shall be made in writing and  
15 in reproducible form to the department upon forms prepared and furnished by it and  
16 in such multiples as required by rule of the department. An application shall be  
17 made, and a mining permit obtained for each separate mining site. ~~No application~~  
18 ~~for surface mining at a site may be entertained by the department if within the~~  
19 ~~previous 5 years the applicant, or a different person who had received a prospecting~~  
20 ~~permit for the site had certified under s. 293.35 (1) that he or she would not~~  
21 ~~subsequently make application for a permit to conduct surface mining at the site.~~

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

23 293.37 (2) (b) In addition to the information and maps otherwise required by  
24 this subsection, a detailed reclamation plan showing the manner, location and time  
25 for reclamation, including ongoing reclamation during mining, of the proposed

1 mining site. The reclamation plan shall be accompanied by a map subject to the  
 2 requirements in par. (a) which shall show the specific reclamation proposal for each  
 3 area of the site. The reclamation plan shall conform to any applicable comprehensive  
 4 plan created under sub. (4) (b), and to any applicable minimum standard created  
 5 under ~~ss. s. 293.13 (2) and 293.35 (2) and (3).~~

6 **SECTION 85.** 293.37 (2) (c) of the statutes is amended to read:

7 293.37 (2) (c) The name and address of each owner of land within the mining  
 8 site and each person known by the applicant to hold any option or lease on land  
 9 within the mining site and all ~~prospecting and~~ mining permits in this state held by  
 10 the applicant.

11 **SECTION 86.** 293.37 (2) (f) of the statutes is amended to read:

12 293.37 (2) (f) Information relating to whether unsuitability may exist for  
 13 surface mining to ~~the extent not fully considered under s. 293.45.~~

14 **SECTION 87.** 293.37 (2) (gm) of the statutes is created to read:

15 293.37 (2) (gm) A proposed irrevocable trust agreement to provide funds for  
 16 activities to avoid or remedy any adverse environmental consequences from the  
 17 mining operation.

18 **SECTION 88.** 293.39 (3) of the statutes is repealed.

19 **SECTION 89.** 293.43 (1) of the statutes is amended to read:

20 293.43 (1) APPLICABILITY. This section, and ch. 227 where it is not inconsistent,  
 21 shall govern all hearings on applications for ~~prospecting or~~ mining permits.

22 **SECTION 90.** 293.43 (1m) (a) and (b) of the statutes are amended to read:

23 293.43 (1m) (a) The hearing on the ~~prospecting or~~ mining permit shall cover  
 24 the application and any statements prepared under s. 1.11 and, to the fullest extent  
 25 possible, all other applications for approvals, licenses and permits issued by the

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1 department. The department shall inform the applicant as to the timely application  
2 date for all approvals, licenses and permits issued by the department, so as to  
3 facilitate the consideration of all other matters at the hearing on the ~~prospecting or~~  
4 mining permits.

5 (b) Except as provided in this paragraph, for all department issued approvals,  
6 licenses and permits relating to ~~prospecting or~~ mining including solid waste  
7 feasibility report approvals and permits related to air and water, to be issued after  
8 April 30, 1980, the notice, hearing and comment provisions, if any, and the time for  
9 issuance of decisions, shall be controlled by this section and ~~ss. 293.45 and s. 293.49.~~  
10 If an applicant fails to make application for an approval, license or permit for an  
11 activity incidental to ~~prospecting or~~ mining in time for notice under this section to  
12 be provided, the notice and comment requirements, if any, shall be controlled by the  
13 specific statutory provisions with respect to that application. If notice under those  
14 specific statutory notice requirements can be given for consideration of the approval,  
15 license or permit at the hearing under this section, the application shall be  
16 considered at that hearing; otherwise, the specific statutory hearing provisions, if  
17 any, with respect to that application shall control. The substantive requirements for  
18 the issuance of any approval, permit or license incidental to ~~prospecting or~~ mining  
19 are not affected by the fact that a hearing on the approval, permit or license is  
20 conducted as part of a hearing under this section.

21 **SECTION 91.** 293.43 (2) of the statutes is amended to read:

22 293.43 (2) LOCATION. The hearing shall be held in the county where the  
23 ~~prospecting or~~ mining site, or the largest portion of the ~~prospecting or~~ mining site,  
24 is located, but may subsequently be adjourned to other locations.

25 **SECTION 92.** 293.43 (3) (b) 1. and 2. of the statutes are amended to read:

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

9           2. Publication of a class 2 notice, under ch. 985, utilizing a display advertising  
 10 format, in the weekly newspaper published in the closest geographic proximity to the  
 11 proposed ~~prospecting or~~ mining site, in the newspaper having the largest circulation  
 12 in the county within which the proposed site lies and in those newspapers published  
 13 in counties contiguous to the county within which the proposed site lies which have  
 14 a substantial circulation in the area of, or adjacent to, the proposed ~~prospecting or~~  
 15 ~~mining site.~~

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16           **SECTION 93.** 293.45 of the statutes is repealed.

17           **SECTION 94.** 293.47 of the statutes is repealed.

18           **SECTION 95.** 293.49 (1) (a) 3. of the statutes is amended to read:

19           293.49 (1) (a) 3. In the case of a surface mine, the site is not unsuitable for  
 20 mining. ~~The preliminary determination that a site was not unsuitable for mining~~  
 21 ~~under s. 293.45 may not be conclusive in the determination of the site's suitability~~  
 22 ~~for mining under this section. However, at the hearing held under this section and~~  
 23 ~~s. 293.43, testimony and evidence submitted at the prospecting permit proceeding~~  
 24 ~~relevant to the issue of suitability of the proposed mining site for surface mining may~~

1 ~~be adopted, subject to the opportunity for cross-examination and rebuttal, if not~~  
2 ~~unduly repetitious.~~

3 **SECTION 96.** 293.49 (4) of the statutes is repealed.

X 4 **SECTION 97.** 293.49 (6) of the statutes is amended to read:

5 293.49 (6) Except as otherwise provided in ss. 293.53 (2), 293.55 to 293.59,  
6 293.63, 293.81 and 293.83, mining permits shall be valid for the life of the project  
7 unless canceled under s. 293.83 (1) or (3) or 293.85 or revoked under s. 293.87 (2) or  
8 (3).

9 **SECTION 98.** 293.51 (1) of the statutes is amended to read:

10 293.51 (1) Upon notification that an application for a ~~prospecting or~~ mining  
11 permit has been approved by the department but prior to commencing ~~prospecting~~  
12 ~~or~~ mining, the operator shall file with the department a bond conditioned on faithful  
13 performance of all of the requirements of this chapter and all rules adopted by the  
14 department under this chapter. The bond shall be furnished by a surety company  
15 licensed to do business in this state. In lieu of a bond, the operator may deposit cash,  
16 certificates of deposit or government securities with the department. Interest  
17 received on certificates of deposit and government securities shall be paid to the  
18 operator. The amount of the bond or other security required shall be equal to the  
19 estimated cost to the state of fulfilling the reclamation plan, in relation to that  
20 portion of the site that will be disturbed by the end of the following year. The  
21 estimated cost of reclamation of each ~~prospecting or~~ mining site shall be determined  
22 by the department on the basis of relevant factors including, but not limited to,  
23 expected changes in the price index, topography of the site, methods being employed,  
24 depth and composition of overburden and depth of mineral deposit being mined.

25 ~~SECTION 99.~~ 293.51 (2m) of the statutes is created to read:

← stays



1           293.51 (2m) Upon notification that an application for a mining permit has been  
2 approved by the department but prior to commencing mining, the operator shall  
3 establish an irrevocable trust, in accordance with the proposed agreement under s.  
4 293.37 (2) (gm), in an amount equal to 20 percent of the amount of the bond or other  
5 security required under sub. (1) plus 20 percent of the amount of the proof of financial  
6 responsibility required under s. 289.41 (2) for the mining waste site.

7           ~~SECTION 100.~~ 293.51 (3) of the statutes is amended to read:

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

X 13           **SECTION 101.** 293.53 (1) of the statutes is repealed.

X 14           **SECTION 102.** 293.53 (2) of the statutes is renumbered 293.53 and 293.53 (2),  
15 as renumbered, is amended to read:

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

23           **SECTION 103.** 293.57 (2) of the statutes is amended to read:

24           293.57 (2) The successor operator discloses whether it has forfeited any  
25 performance security because of noncompliance with any ~~prospecting~~ bulk sampling

1 or mining laws within the previous 20 years, posts any bond required under s. 293.51  
2 and assumes all responsibilities of all applicable permits, licenses and approvals  
3 granted to the predecessor operator.

4 **SECTION 104.** 293.63 (5) of the statutes is repealed.

5 **SECTION 105.** 293.64 of the statutes is created to read:

6 **293.64 Groundwater quality.** (1) (a) In the feasibility report under s. 289.24  
7 *prospecting or*  
for a mining waste facility, an applicant shall submit information based on predictive  
8 modeling to demonstrate whether there is a reasonable certainty that the facility will  
9 result in a violation of groundwater quality standards beyond the design  
10 management zone, determined under s. 160.21 (2) (d), within 250 years after  
11 construction of the facility.

12 (b) In determining whether to approve, under s. 289.29, a feasibility report for  
13 *prospecting or*  
a mining waste facility and in determining under s. 293.49 (1) (a) 2. whether *prospecting or*  
14 waste facility will comply with groundwater laws and rules of the department, the  
15 department may not consider the effect that the facility might have on groundwater  
16 quality more than 250 years after the construction of the facility.

17 (2) For the purposes of s. NR 182.075 (1s) and (1u), Wis. Adm. Code, the  
18 horizontal distance to the mandatory intervention boundary for *prospecting or*  
19 is 150 feet from the outer waste boundary or a longer distance, up to 600 feet, agreed  
20 to by the applicant and the department, notwithstanding s. NR 182.075 (1) (c), Wis.  
21 Adm. Code, except that the horizontal distance to the mandatory intervention  
22 boundary may not exceed 50 percent of the horizontal distance from the outer waste  
23 boundary to the boundary of the design management zone, determined under s.  
24 *prospecting or*  
160.21 (2) (d), for the mining waste site.

25 **SECTION 106.** 293.65 (1) of the statutes is amended to read:

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

6           **SECTION 107.** 293.65 (2) (a) of the statutes is amended to read:

7           293.65 (2) (a) Any person intending to withdraw surface waters for ~~prospecting~~  
8 bulk sampling or mining shall apply to the department for a permit. The forms and  
9 procedures used under s. 30.18 apply to the extent practicable.

10          **SECTION 108.** 293.65 (3) (b) of the statutes is amended to read:

11          293.65 (3) (b) The department may not issue an approval under s. 281.34 if the  
12 withdrawal of groundwater for ~~prospecting~~ bulk sampling or mining purposes or the  
13 dewatering of mines will result in the unreasonable detriment of public or private  
14 water supplies or the unreasonable detriment of public rights in the waters of the  
15 state. No withdrawal of groundwater or dewatering of mines may be made to the  
16 unreasonable detriment of public or private water supplies or the unreasonable  
17 detriment of public rights in the waters of the state.

18          **SECTION 109.** 293.65 (4) (b) of the statutes is amended to read:

19          293.65 (4) (b) A person claiming damage to the quantity or quality of his or her  
20 private water supply caused by ~~prospecting~~ bulk sampling or mining may file a  
21 complaint with the department and, if there is a need for an immediate alternative  
22 source of water, with the town, village or city where the private water supply is  
23 located. The department shall conduct an investigation and if the department  
24 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 110.** 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 111.** 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 112.** 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 113.** 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 114.** 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 115.** 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 116.** 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.

X 3 **SECTION 117.** 293.85 (1) of the statutes is repealed.

4 **SECTION 118.** 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 119.** 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 120.** 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 121.** 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.

X 12 **SECTION 122.** 293.91 of the statutes is repealed.

13 **SECTION 123.** 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 124.** 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 ~~(1)~~ (1j) and  
19 land used for mining and associated activities.

20 **SECTION 125. Nonstatutory provisions.**

21 (1) REPORT CONCERNING GROUNDWATER STANDARDS. The department of natural  
22 resources shall study whether, in connection with metallic mining, groundwater  
23 standards under chapter NR 140, Wisconsin Administrative Code, should apply in  
24 an aquifer containing saline water and shall report its conclusions to the legislature,



1 in the manner under section 13.172 (2) of the statutes, no later than the first day of  
2 the 12th month beginning after the effective date of this subsection.

3 (END)



Note

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0821/P3ins  
RCT.....

GA ✓

1 **Insert 9-24**

X 2 **SECTION 1.** 227.42 (4) of the statutes is repealed.

3 **Insert 10-12 B**

X 4 **SECTION 2.** 281.93 (3) of the statutes is amended to read:

5 281.93 (3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing  
6 on the matter is conducted as a part of a hearing under s. ~~293.43~~ 293.495.

\*\*\*NOTE: .History: 2007 a. 227.

X 7 **SECTION 3.** 283.63 (3) of the statutes is amended to read:

8 283.63 (3) Subsections (1) and (2) do not apply if a hearing on the permit  
9 application is conducted as a part of a hearing under s. ~~293.43~~ 293.495.

\*\*\*NOTE: .History: 1973 c. 74; 1979 c. 110, 221; 1985 a. 182 s. 57; 1987 a. 27, 60; 1995 a. 227 s. 875; Stats. 1995 s. 283.63; 2011 a. 167.

X 10 **SECTION 4.** 285.81 (3) of the statutes is amended to read:

11 285.81 (3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing  
12 on the matter is conducted as a part of a hearing under s. ~~293.43~~ 293.495.

\*\*\*NOTE: .History: 1979 c. 34, 221; 1985 a. 182 s. 57; 1991 a. 302; 1995 a. 227 s. 502; Stats. 1995 s. 285.81; 2003 a. 118; 2005 a. 28.

13 **Insert 11-21**

X 14 **SECTION 5.** 289.27 (3) of the statutes is amended to read:

15 289.27 (3) NONAPPLICABILITY. Notwithstanding sub. (2), this section does not  
16 apply if a hearing on the feasibility report is conducted as a part of a hearing under  
17 s. ~~293.43~~ 293.495 and the time limits, notice and hearing provisions under that  
18 section supersede the time limits, notice and hearing provisions under s. 289.25 (2)  
19 and (3) and this section.

\*\*\*NOTE: .History: 1995 a. 227 s. 554, 565, 991.

X 20 **SECTION 6.** 289.29 (5) of the statutes is amended to read:

21 289.29 (5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY IN CERTAIN  
22 SITUATIONS INVOLVING UTILITIES AND MINING. If a determination of feasibility is

1 identified in the listing specified in s. 196.491 (3) (a) 3. a., the issuance of a final  
2 determination of feasibility is subject to the time limit under s. 196.491 (3) (a) 3. b.  
3 If a determination of feasibility is required under s. 293.43, the issuance of a final  
4 determination of feasibility is subject to ~~the time limits under~~ s. 293.45 (2) or 293.49,  
5 whichever is applicable.

6 **Insert 19-6**

7 intending to submit an application for a mining permit

8 **Insert 31-13**

9 **SECTION 7.** 293.35 (5) of the statutes is amended to read:

10 293.35 (5) If the department determines that a statement under s. 1.11 is  
11 required for consideration of an application for a prospecting permit to which s.  
12 293.42 does not apply, the statement need not consider impacts unrelated to the  
13 proposed prospecting activity, other than the issue of unsuitability for surface  
14 mining, absent a certification under sub. (1).

15 \*\*\*\*NOTE: .History: 1977 c. 421; 1995 a. 227 ss. 758, 765, 768, 994; 1997 a. 169.

15 **Insert 31-18**

16 **SECTION 8.** 293.42 of the statutes is created to read:

17 **293.42 Process for certain prospecting permit applications.** If the  
18 application for a prospecting permit shows that less 10,000 tons of material is  
19 proposed to be excavated, all of the following apply:

20 (1) The department is not required to prepare a statement under s. 1.11 or an  
21 environmental analysis for consideration of the application.

22 (2) The department shall hold a public informational hearing on the  
23 application in the county where the prospecting site, or the largest portion of the  
24 prospecting site is located.

under s. 293.45

1 (3) The hearing under sub. (2), shall cover, to the fullest extent possible, all  
2 other applications for approvals, licenses, and permits issued by the department that  
3 are needed to conduct the prospecting. The department shall inform the applicant  
4 as to the timely application date for all approvals, licenses, and permits issued by the  
5 department, so as to facilitate their consideration at the hearing.

6 (4) The department shall approve the application for the prospecting permit,  
7 and issue the prospecting permit, or deny the application no later than 60 days after  
8 the department determines that the application is complete.

9 (5) For each approval, license, or permit, other than the prospecting permit,  
10 covered by the hearing under sub. (2), except for an approval, license, or permit for  
11 which federal law requires the opportunity for public comment or the ability to  
12 request a public hearing prior to issuance, the department shall approve the  
13 application and issue the approval, license, or permit or deny the application no later  
14 than 60 days after the department determines that the application for the  
15 prospecting permit is complete, notwithstanding any procedural provisions that  
16 would otherwise apply.

17 (6) Notwithstanding s. 227.42, no person is entitled to a contested case hearing  
18 on a decision by the department on the prospecting permit or on another approval,  
19 license, or permit that is covered by the public informational hearing under sub. (2).

20 **Insert 33-15**

21 **SECTION 9.** 293.43 (title) of the statutes is amended to read:

22 **293.43 (title) Hearings Public informational hearings on permit**  
23 **applications.**

24 **\*\*\*NOTE:** .History: 1977 c. 421; 1979 c. 221, 355; 1985 a. 60; 1991 a. 259; 1995 a. 227 ss. 759, 760, 762, 994; Stats. 1995 s. 293.43.

**SECTION 10.** 293.43 (1) of the statutes is repealed and recreated to read:

1           293.43 (1) APPLICABILITY. This section applies to all applications for mining  
2 permits and to those applications for prospecting permits to which s. 293.42 does not  
3 apply.

4           **SECTION 11.** 293.43 (1m) of the statutes is amended to read:

5           293.43 (1m) SCOPE. (a) ~~The hearing on the~~ Before approving or denying the  
6 application for a prospecting or mining permit shall cover, the department shall hold  
7 a public informational hearing covering the application and, any statements  
8 environmental impact statement prepared under s. 1.11 and, to the fullest extent  
9 possible, all other applications for approvals, licenses and permits issued by the  
10 department. The department shall inform the applicant as to the timely application  
11 date for all approvals, licenses and permits issued by the department, so as to  
12 facilitate the consideration of all other matters at the hearing on the prospecting or  
13 mining permits permit.

14           (b) Except as provided in this paragraph, for all department issued approvals,  
15 licenses and permits relating to prospecting or mining including solid waste  
16 feasibility report approvals and permits related to air and water, ~~to be issued after~~  
17 April 30, 1980, <sup>← NO STRIKE</sup> the notice, hearing and comment provisions, if any, and the time for  
18 issuance of decisions, shall be controlled by this section and ss. 293.45 and, 293.49,  
19 and 293.495. If an applicant fails to make application for an approval, license or  
20 permit for an activity incidental to prospecting or mining in time for notice under this  
21 section to be provided, the notice and comment requirements, if any, shall be  
22 controlled by the specific statutory provisions with respect to that application. If  
23 notice under those specific statutory notice requirements can be given for  
24 consideration of the approval, license or permit at the hearing under this section, the  
25 application shall be considered at that hearing; otherwise, the specific statutory

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

\*\*\*\*NOTE: .History: 1977 c. 421; 1979 c. 221, 355; 1985 a. 60; 1991 a. 259; 1995 a. 227 ss. 759, 760, 762, 994; Stats. 1995 s. 293.43.

5 **SECTION 12.** 293.43 (2) of the statutes is amended to read:

6 293.43 (2) LOCATION. The hearing under sub. (1m) shall be held in the county  
7 where the prospecting or mining site, or the largest portion of the prospecting or  
8 mining site, is located, but may subsequently be adjourned to other locations.

9 **SECTION 13.** 293.43 (2m) of the statutes is created to read:

10 293.43 (2m) MEETING ON PRELIMINARY ENVIRONMENTAL IMPACT STATEMENT. Before  
11 issuing a final environmental impact statement for a mining permit or for a  
12 prospecting permit, if the department determines that an environmental impact  
13 statement is required under s. 1.11 for the prospecting permit, the department shall  
14 hold at least one informational meeting regarding its preliminary environmental  
15 impact statement.

16 **SECTION 14.** 293.43 (3) (a) of the statutes is repealed.

17 **SECTION 15.** 293.43 (3) (b) (intro.) of the statutes is repealed and recreated to  
18 read:

19 293.43 (3) (b) (intro.) The department shall hold the hearing under sub. (1m) after it  
20 issues the final environmental impact statement, if an environmental impact  
21 statement is required. The department shall provide notice of the hearing under sub.  
22 (1m) by doing all of the following:

23 **SECTION 16.** 293.43 (3) (c) of the statutes is amended to read:

1           293.43 (3) (c) Written comments may be submitted by any governmental  
 2 agency ~~within 80 days of the date of~~ or any individual after the issuance of the  
 3 environmental impact statement under par. (b). ~~Individual persons may submit~~  
 4 ~~written comments within 120 days of the date of issuance of the statement.~~ The last  
 5 day for receipt of comments shall be specified by the department in all notices.

6 **\*\*\*NOTE:** .History: 1977 c. 421; 1979 c. 221, 355; 1985 a. 60; 1991 a. 259; 1995 a. 227 ss. 759, 760, 762, 994; Stats. 1995 s. 293.43.

6           **SECTION 17.** 293.43 (4) of the statutes is amended to read:

7           293.43 (4) PARTICIPATION BY LOCAL GOVERNMENTS. Any county, town, village or  
 8 city receiving notice of the filing of an application in the manner provided under sub.  
 9 (3) (a) ~~or~~ (b) shall refer the application and reclamation plan to a committee  
 10 established under s. 293.33 (1) or (2), if any, for review and comment. Such counties,  
 11 towns, villages or cities may participate ~~as a party~~ in the hearing under sub. (1m) on  
 12 the application and may make recommendations on the reclamation plan and future  
 13 use of the project site.

14 **\*\*\*NOTE:** .History: 1977 c. 421; 1979 c. 221, 355; 1985 a. 60; 1991 a. 259; 1995 a. 227 ss. 759, 760, 762, 994; Stats. 1995 s. 293.43.

14           **SECTION 18.** 293.43 (5) of the statutes is repealed.

15           **SECTION 19.** 293.45 (1) and (2) of the statutes are amended to read:

16           293.45 (1) The department shall issue a prospecting permit under this section  
 17 to an applicant ~~within 60 days following the date of the completion of the hearing~~  
 18 ~~record if, on the basis of the application, the department's investigation and hearing~~  
 19 ~~and any written comments~~ if it finds that the site is not unsuitable for prospecting  
 20 or, absent a <sup>strikecomm</sup> certification under s. 293.35 (1), surface mining, the department has  
 21 approved the prospecting plan and the reclamation plan complies with ss. 293.13 (2)  
 22 and 293.35 (2) and (3) and rules promulgated under ss. 293.13 (2) and 293.35 (2) and  
 23 (3). The department may modify any part of the application or reclamation plan and  
 24 approve it as modified. Except as otherwise provided in this chapter, prospecting

1 permits shall be valid for the life of the project, unless canceled under s. 293.83 (1)  
2 or (3) or 293.85 or revoked under s. 293.87 (2) or (3).

3 **\*\*\*\*NOTE:** .History: 1977 c. 421; 1981 c. 87; 1995 a. 227 ss. 753, 766, 994; 1999 a. 186.

3 (2) The department shall deny a prospecting permit ~~within 60 days following~~  
4 ~~the date of the completion of the hearing record~~ if it finds that the site is unsuitable  
5 for prospecting or, absent certification under s. 293.35 (1), surface mining, or the  
6 reclamation plan, including the bond, does not comply with ss. 293.13 (2) and 293.35  
7 (2) and (3) and rules promulgated under ss. 293.13 (2) and 293.35 (2) and (3) or that  
8 the applicant is in violation of this chapter or any rules adopted under this chapter.  
9 If the applicant has previously failed and continues to fail to comply with this  
10 chapter, or if the applicant has within the previous 20 years forfeited any bond posted  
11 in accordance with prospecting or mining activities in this state, unless by mutual  
12 agreement with the state, the department may not issue a prospecting permit. The  
13 department may not issue a prospecting permit if it finds that any officer, director  
14 or manager of the applicant has, while employed by the applicant, the applicant's  
15 parent corporation, any of the applicant's principal shareholders or members, or any  
16 of the applicant's subsidiaries or affiliates, in which the applicant owns more than  
17 a 40% interest, within the previous 20 years forfeited any bond posted in accordance  
18 with prospecting or mining activities in this state unless by mutual agreement with  
19 the state. In this subsection, "forfeited any bond" means the forfeiture of any  
20 performance security occasioned by noncompliance with any prospecting or mining  
21 laws or implementing rules. If an application for a prospecting permit is denied, the  
22 department, within 30 days from the date of application denial, shall furnish to the  
23 applicant in writing the reasons for the denial.

24 **\*\*\*\*NOTE:** .History: 1977 c. 421; 1981 c. 87; 1995 a. 227 ss. 753, 766, 994; 1999 a. 186.

**SECTION 20.** 293.45 (2m) of the statutes is created to read:



1           293.45 (2m) (a) The department shall approve or deny the application for a  
2           prospecting permit, other than a prospecting permit to which s. 293.42 applies, and  
3           for any other approval, license, or permit that was covered by the informational  
4           hearing under s. 293.43 (1m), no later than the 520th day after the day on which the  
5           department determines that the application for the prospecting permit is complete,  
6           except as provided in pars. (b) to (d). ✓

7           (b) The department may extend the deadline under par. (a), upon notice to the  
8           applicant, for a total of not more than 180 days, if any of the following applies:

9           1. The department needs additional time to ensure collaboration with any  
10          federal regulatory agency with responsibilities related to the prospecting operation.

11          2. The department needs additional time to evaluate information related to the  
12          prospecting operation that becomes available after the applicant files the application  
13          for the prospecting permit.

14          3. The applicant makes changes to its proposal for the prospecting operation.

15          (c) The applicant may, by providing notice to the department, extend the  
16          deadline under par. (a) as often and for any length of time that the applicant  
17          determines to be necessary.

18          (d) The department and an applicant may negotiate an agreement specifying  
19          a timeline for processing the application for a prospecting permit and for other  
20          approvals, licenses, or permits issued by the department and that timeline may  
21          include a deadline for the department to approve or deny the application for a  
22          prospecting permit that is different from the deadline under par. (a). ✓

23          **SECTION 21.** 293.49 (1) (a) (intro.) of the statutes is amended to read:

1           293.49 (1) (a) (intro.) Except as provided in sub. (2) and s. 293.50 and except  
2 with respect to property specified in s. 41.41 (11), ~~within 90 days of the completion~~  
3 ~~of the public hearing record~~, the department shall issue the mining permit if it finds:

\*\*\*\*NOTE: .History: 1995 a. 227 s. 771, 773, 777, 778, 779, 994; 1997 a. 171.

4           **SECTION 22.** 293.49 (1) (a) 3. of the statutes is amended to read:

5           293.49 (1) (a) 3. In the case of a surface mine, the site is not unsuitable for  
6 mining. The preliminary determination that a site was not unsuitable for mining  
7 under s. 293.45 may not be conclusive in the determination of the site's suitability  
8 for mining under this section. However, at the hearing held under ~~this section and~~  
9 ~~s. 293.43~~ <sup>s.</sup> 293.495, testimony and evidence submitted at the any prospecting permit  
10 proceeding relevant to the issue of suitability of the proposed mining site for surface  
11 mining may be adopted, subject to the opportunity for cross-examination and  
12 rebuttal, if not unduly repetitious.

\*\*\*\*NOTE: .History: 1995 a. 227 s. 771, 773, 777, 778, 779, 994; 1997 a. 171.

13           **SECTION 23.** 293.49 (2) (intro.) of the statutes is amended to read:

14           293.49 (2) (intro.) ~~Within 90 days of the completion of the public hearing record,~~  
15 ~~the~~ The department shall deny the mining permit if it finds any of the following:

\*\*\*\*NOTE: .History: 1995 a. 227 s. 771, 773, 777, 778, 779, 994; 1997 a. 171.

16           **SECTION 24.** 293.49 (4g) of the statutes is created to read:

17           293.49 (4g) (a) The department shall approve or deny the application for a  
18 mining permit, and for any other approval, license, or permit that was covered by the  
19 informational hearing under s. 293.43 (1m), no later than the 520th day after the day  
20 on which the department determines that the application for the mining permit is  
21 complete, except as provided in pars. (b) to (d).

22           (b) The department may extend the deadline under par. (a), upon notice to the  
23 applicant, for a total of not more than 180 days, if any of the following applies:

1           1. The department needs additional time to ensure collaboration with any  
2 federal regulatory agency with responsibilities related to the mining operation.

3           2. The department needs additional time to evaluate information related to the  
4 mining operation that becomes available after the applicant files the application for  
5 the mining permit.

6           3. The applicant makes changes to its proposal for the mining operation.

7           (c) The applicant may, by providing notice to the department, extend the  
8 deadline under par. (a) as often and for any length of time that the applicant  
9 determines to be necessary.

10          (d) The department and an applicant may negotiate an agreement specifying  
11 a timeline for processing the application for a mining permit and for other approvals,  
12 licenses, or permits issued by the department and that timeline may include a  
13 deadline for the department to approve or deny the application for a mining permit  
14 that is different from the deadline under par. (a).

15          **SECTION 25.** 293.49 (4r) of the statutes is created to read:

16          293.49 (4r) An applicant may not take any action authorized under a mining  
17 permit, or any other approval, license, or approval incidental to the proposed mining,  
18 before the 30th day after the department issues its decision to approve the mining  
19 permit. If a person files a notice of intent to participate in a contested case hearing,  
20 as provided in s. 293.495 (4), the applicant may not take any action authorized under  
21 the mining permit, or any other approval, license, or permit incidental to the  
22 proposed mining before the decision in the contested case is served under s. 227.48. ✓

23          **SECTION 26.** 293.49 (5) of the statutes is repealed and recreated to read:

24          293.49 (5) The department shall provide notice of its decision under this section  
25 to the applicant and to the persons specified in s. 293.43 (3) (b) 1.

^

1 SECTION 27. 293.495 of the statutes is created to read:

2 293.495 Contested case hearing. (1) REQUIREMENT; SCOPE. A contested case  
3 hearing shall be held on the decision to grant or deny the application for a mining  
4 permit or a prospecting permit, other than a prospecting permit to which s. 293.42  
5 applies, if a person files a notice of intent to participate under sub. (4) within 30 days  
6 after the department provides notice under sub. (3). The department's decision on  
7 any other approval, license, or permit that was covered by the informational hearing  
8 under s. 293.43 (1m) shall be considered at the contested case hearing.

9 (2) LOCATION. The contested case hearing shall be held in the county where the  
10 prospecting site or mining site, or the largest portion of the mining site or mining site,  
11 is located.

12 (3) NOTICE. The department shall provide notice of the contested case hearing  
13 by doing the following immediately after it makes its decision under s. 293.45 or  
14 293.49:

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

22 (b) Publication of a class 2 notice, under ch. 985, utilizing a display advertising  
23 format, in the weekly newspaper published in the closest geographic proximity to the  
24 proposed prospecting site or mining site; in the newspaper having the largest  
25 circulation in a county within which all or a portion of the proposed site lies; and in

all of

;

;

1 those newspapers published in counties contiguous to the counties within which all  
2 or a portion of the proposed site lies that have a substantial circulation in the area  
3 of, or adjacent to, the proposed prospecting or mining site.

4 3. Mailing a copy of the notice to the federal environmental protection agency,  
5 the U.S. army corps of engineers, and other states potentially affected by the  
6 proposed discharge if a water discharge permit under ch. 283 is to be considered at  
7 the hearing under this section and to the U.S. <sup>federal</sup> environmental protection agency and  
8 appropriate agencies in other states that may be affected if an air pollution control  
9 permit under ch. 285 is to be considered at the hearing under this section.

10 (4) PARTICIPATION. Any person, including a county, city, village, or town that  
11 receives notice under sub. (3) (b) 1., who wishes to participate as a party shall file a  
12 written notice with the hearing examiner setting forth the person's interest within  
13 30 days after the department provides notice under sub. (3), unless good cause is  
14 shown.

15 (5) REQUIREMENTS OF DEPARTMENT. In a contested case hearing under this  
16 section, the department shall proceed first with the presentation of evidence and  
17 shall have the burden of proof.

18 (6) RECORD. Views given under s. 293.43 on the proposed mining or prospecting  
19 operation and all written comments submitted from any source are not part of the  
20 record for the contested case under this section, but shall be placed in the file of the  
21 proceeding and shall be given appropriate probative value by the hearing examiner  
22 or decisionmaker.

23 (7) CONTINUATION. Hearings conducted under this section may be continued for  
24 just cause, subject to the deadline under sub. (8).

1 (8) DEADLINES. (a) The hearing examiner shall conclude the hearing under this  
2 section no later than the 180th day after the department issues its decision on the  
3 application for the mining permit under s. 293.49.

the application

4 (b) The deadline for the decision on the matters covered in the hearing under  
5 this section is the 210th day after the department issues its decision on the mining  
6 permit under s. 293.49.

7 (9) APPLICABILITY OF OTHER LAW. Chapter 227 applies to a hearing under this  
8 section to the extent it is not inconsistent with this section.

for

for the prospecting permit  
under s. 293.45  
or its decision on the  
application

<use 2x>

INS 10-12A

1 SECTION 1. 281.35 (5) (e) of the statutes is amended to read:

2 281.35 (5) (e) *Right to hearing.* ~~Except as provided in s. 227.42 (4), any~~ Any  
3 person who receives notice of a denial or modification requirement under par. (c) is  
4 entitled to a contested case hearing under ch. 227 if the person requests the hearing  
5 within 30 days after receiving the notice unless a hearing on the matter is

History: 1985 a. 60; 1987 a. 27, 186; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 32; 1991 a. 39; 1995 a. 227 s. 400; Stats., 1995 s. 281.35; 1999 a. 150 s. 672; 2003 a. 310; 2007 a. 96, 227; 2009 a. 180.

6

available as a part of a hearing  
under s. 293.495

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

LRB-0821/P3dn

RCT:/:....

gis

- Late -

This is another preliminary draft of the mining proposal. I believe that this version covers all of the requested items. *except for language to expedite the rule-making*

Please contact me with any questions or redraft instructions. ~~If no changes are wanted, please let me know and I will complete the analysis and put the draft into introducible form.~~

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

⑨ Should a provision like s. 293.49(4r) <sup>s. 293.45</sup> be created for prospecting in s. 293.45?



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

LRB-0821/P3dn  
RCT:cjs:jm

January 11, 2013

This is another preliminary draft of the mining proposal. I believe that this version covers all of the requested items, except for language to expedite the rule-making.

Should a provision like s. 293.49 (4r) be created for prospecting in s. 293.45?

Please contact me with any questions or redraft instructions.

*No per  
Lally 1/15/13*

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

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

1/14/13 - Perhaps - they want to change the language about groundwater modeling to delete s. 293.64(1)(b) and modify par. (a) so that the timeframe is tied to when the mining waste site is proposed to close, as in last session's big mining bill (e.g. 2011 SB 488).

## Tradewell, Becky

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**From:** Stoa, Jim  
**Sent:** Monday, January 14, 2013 5:27 PM  
**To:** Tradewell, Becky  
**Cc:** Konopacki, Larry; Henning, Anna  
**Subject:** Re: Proposed modeling language

Becky,

This looks good. Thanks for your continued work on this draft.

Jim

On Jan 14, 2013, at 5:15 PM, "Tradewell, Becky" <[Becky.Tradewell@legis.wisconsin.gov](mailto:Becky.Tradewell@legis.wisconsin.gov)> wrote:

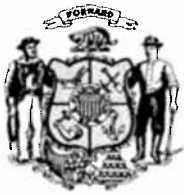
Jim,

Larry asked me to send you modified language for LRB-0821 relating to the groundwater modeling issue. My proposal is to delete the second paragraph in proposed s. 293.64 (1) [in section 47 of the draft] and modify the remaining language as follows:

293.64(1) In the feasibility report under s. 289.24 for a prospecting or mining waste facility, an applicant shall submit information based on predictive modeling to demonstrate whether there is a reasonable certainty that the facility will result in a violation of groundwater quality standards beyond the design management zone, determined under s. 160.21 (2) (d), within a period equal to the proposed period in which the mining waste site is proposed to operate plus 250 years after closure of the mining waste site.

Please let me know if you have any questions.

Becky Tradewell



TODAY, the sooner the better  
State of Wisconsin  
2013 - 2014 LEGISLATURE

if possible (In 1/15)



LRB-0821 P3  
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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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1 AN ACT to ~~repeal~~ 227.42 (4), 293.43 (3) (a) and 293.43 (5); to amend 70.375 (2)  
 2 (a), 70.375 (5) (intro.), 70.395 (1e), 70.395 (2) (dc) 1., 70.395 (2) (dc) 2., 70.395  
 3 (2) (dc) 3., 70.395 (2) (g) (intro.), 281.35 (5) (e), 281.93 (3), 283.63 (3), 285.81 (3),  
 4 289.05 (2), 289.27 (3), 289.29 (5), 293.31 (1), 293.35 (5), 293.43 (title), 293.43  
 5 (1m), 293.43 (2), 293.43 (3) (c), 293.43 (4), 293.45 (1) and (2), 293.49 (1) (a)  
 6 (intro.), 293.49 (1) (a) 3., 293.49 (2) (intro.) and 293.51 (3); to repeal and  
 7 recreate 293.43 (1), 293.43 (3) (b) (intro.) and 293.49 (5); and to create 20.192  
 8 (1) (g), 70.375 (7), 70.395 (2) (L), 238.14, 289.645 (4) (g), 293.313, 293.37 (2) (gm),  
 9 293.42, 293.43 (2m), 293.45 (2m), 293.49 (4g), 293.49 (4r), 293.495, 293.51 (2m)  
 10 and 293.64 of the statutes; relating to: regulation of metallic mining, an  
 11 occupation tax on iron 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.

Analysis  
Insert

**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 prospecting 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:*

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

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1           20.192 (1) (g) *Regional Wisconsin diversification program*. All moneys received  
2           under s. 70.395 (1e) for grants, loans, and disbursements under s. 238.14.

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

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

12          **SECTION 3.** 70.375 (5) (intro.) of the statutes is amended to read:

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

16          **SECTION 4.** 70.375 (7) of the statutes is created to read:

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

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

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

4 **SECTION 5.** 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.

14 **SECTION 6.** 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.

19 **SECTION 7.** 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.

23 **SECTION 8.** 70.395 (2) (dc) 3. of the statutes is amended to read:

24 70.395 (2) (dc) 3. A person making a payment under subd. 2. shall pay an  
25 additional \$50,000 \$100,000 upon notification by the board that the board has

1 distributed all of the payment under subd. 1. and 50% of the payment under subd.  
2 2.

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

4 70.395 (2) (g) (intro.) The board may distribute the revenues received by the  
5 investment and local impact fund under sub. (1e) or proceeds thereof in accordance  
6 with par. (h) for the following purposes, as the board determines necessary:

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

8 70.395 (2) (L) Notwithstanding any other provision under this subsection, the  
9 board may provide grants to local governmental units, as defined in s. 238.133 (1) (b),  
10 to prepare economic impact studies related to sites at or near the local governmental  
11 units on which exploration or prospecting is being conducted for the potential mining  
12 of ferrous minerals or the subject of a preapplication process for a permit to mine  
13 ferrous minerals.

14 **SECTION 11.** 227.42 (4) of the statutes is repealed.

15 **SECTION 12.** 238.14 of the statutes is created to read:

16 **238.14 Regional Wisconsin diversification program.** The corporation  
17 may use moneys appropriated under s. 20.192 (1) (g) only as follows:

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



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

4           **SECTION 13.** 281.35 (5) (e) of the statutes is amended to read:

5           281.35 (5) (e) *Right to hearing.* ~~Except as provided in s. 227.42 (4), any~~ Any  
6 person who receives notice of a denial or modification requirement under par. (c) is  
7 entitled to a contested case hearing under ch. 227 if the person requests the hearing  
8 within 30 days after receiving the notice, unless a hearing on the matter is available  
9 as a part of a hearing under s. 293.495.

10          **SECTION 14.** 281.93 (3) of the statutes is amended to read:

11          281.93 (3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing  
12 on the matter is conducted as a part of a hearing under s. ~~293.43~~ 293.495.

13          **SECTION 15.** 283.63 (3) of the statutes is amended to read:

14          283.63 (3) Subsections (1) and (2) do not apply if a hearing on the permit  
15 application is conducted as a part of a hearing under s. ~~293.43~~ 293.495.

16          **SECTION 16.** 285.81 (3) of the statutes is amended to read:

17          285.81 (3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing  
18 on the matter is conducted as a part of a hearing under s. ~~293.43~~ 293.495.

19          **SECTION 17.** 289.05 (2) of the statutes is amended to read:

20          289.05 (2) With the advice and comment of the metallic mining council, the  
21 department shall promulgate rules for the identification and regulation of metallic  
22 mining wastes. The rules promulgated to identify metallic mining wastes and to  
23 regulate the location, design, construction, operation and maintenance of facilities  
24 for the disposal of metallic mining wastes shall be in accordance with any or all of  
25 the provisions under this chapter and chs. 30 and 283. The rules shall take into

1 consideration the special requirements of metallic mining operations in the location,  
2 design, construction, operation and maintenance of facilities for the disposal of  
3 metallic mining wastes as well as any special environmental concerns that will arise  
4 as a result of the disposal of metallic mining wastes. In promulgating the rules, the  
5 department shall give consideration to research, studies, data and recommendations  
6 of the U.S. environmental protection agency on the subject of metallic mining wastes  
7 arising from the agency's efforts to implement the resource conservation and  
8 recovery act. In the rules, the department shall adopt the standards of the American  
9 Society for Testing and Materials for testing and other methodologies related to the  
10 evaluation of mining waste. After the department promulgates rules adopting those  
11 standards, the department may modify or replace the rules to reflect new  
12 technologies or industry practices.

13 **SECTION 18.** 289.27 (3) of the statutes is amended to read:

14 289.27 (3) NONAPPLICABILITY. Notwithstanding sub. (2), this section does not  
15 apply if a hearing on the feasibility report is conducted as a part of a hearing under  
16 s. ~~293.43~~ 293.495 and the time limits, notice and hearing provisions under that  
17 section supersede the time limits, notice and hearing provisions under s. 289.25 (2)  
18 and (3) and this section.

19 **SECTION 19.** 289.29 (5) of the statutes is amended to read:

20 289.29 (5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY IN CERTAIN  
21 SITUATIONS INVOLVING UTILITIES AND MINING. If a determination of feasibility is  
22 identified in the listing specified in s. 196.491 (3) (a) 3. a., the issuance of a final  
23 determination of feasibility is subject to the time limit under s. 196.491 (3) (a) 3. b.  
24 If a determination of feasibility is required under s. 293.43, the issuance of a final

1 determination of feasibility is subject to ~~the time limits under~~ s. 293.45 (2) or 293.49,  
2 whichever is applicable.

3 **SECTION 20.** 289.645 (4) (g) of the statutes is created to read:

4 289.645 (4) (g) The recycling fee does not apply to prospecting or mining waste.

5 **SECTION 21.** 293.31 (1) of the statutes is amended to read:

6 293.31 (1) Any person intending to submit an application for a prospecting or  
7 mining permit shall notify the department prior to the collection of data or  
8 information intended to be used to support the permit application. A person  
9 intending to submit an application for a mining permit shall provide notice under  
10 this subsection at least 12 months before filing that application. Specific  
11 environmental data which would be pertinent to a specific prospecting or mining  
12 application, but which was obtained or collected or generated prior to the notice of  
13 intent to apply for a prospecting or mining permit, shall be submitted in writing to  
14 the department together with any substantiating background information which  
15 would assist the department in establishing the validity of the data. The department  
16 shall review the data and, if it concludes that the benefits of permitting the  
17 admission of the data outweigh the policy reasons for excluding it, and if the data is  
18 otherwise admissible, inform the person giving the notice of intent to prospect or  
19 mine that the data will be accepted by the department. Such exclusion shall not  
20 relate to general environmental information such as soil characteristics, hydrologic  
21 conditions and air and water data contained in publications, maps, documents,  
22 studies, reports and similar sources, whether public or private, not prepared by or  
23 for the applicant. Such exclusion shall likewise not relate to data which is otherwise  
24 admissible that is collected prior to notification under this subsection for purposes

1 of evaluating another site or sites and which is not collected with intent to evade the  
2 provisions of this section.

3 **SECTION 22.** 293.313 of the statutes is created to read:

4 **293.313 Collaboration.** The department shall do all of the following:

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

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

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

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

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

21 **SECTION 23.** 293.35 (5) of the statutes is amended to read:

22 293.35 (5) If the department determines that a statement under s. 1.11 is  
23 required for consideration of an application for a prospecting permit to which s.  
24 293.42 does not apply, the statement need not consider impacts unrelated to the

1 proposed prospecting activity, other than the issue of unsuitability for surface  
2 mining, absent a certification under sub. (1).

3 **SECTION 24.** 293.37 (2) (gm) of the statutes is created to read:

4 293.37 (2) (gm) A proposed irrevocable trust agreement to provide funds for  
5 activities to avoid or remedy any adverse environmental consequences from the  
6 mining operation.

7 **SECTION 25.** 293.42 of the statutes is created to read:

8 **293.42 Process for certain prospecting permit applications.** If the  
9 application for a prospecting permit shows that less 10,000 tons of material is  
10 proposed to be excavated, all of the following apply:

11 (1) The department is not required to prepare a statement under s. 1.11 or an  
12 environmental analysis for consideration of the application.

13 (2) The department shall hold a public informational hearing on the  
14 application in the county where the prospecting site, or the largest portion of the  
15 prospecting site, is located.

16 (3) The hearing under sub. (2), shall cover, to the fullest extent possible, all  
17 other applications for approvals, licenses, and permits issued by the department that  
18 are needed to conduct the prospecting. The department shall inform the applicant  
19 as to the timely application date for all approvals, licenses, and permits issued by the  
20 department, so as to facilitate their consideration at the hearing.

21 (4) The department shall approve the application for the prospecting permit,  
22 and issue the prospecting permit, or deny the application, under s. 293.45, no later  
23 than 60 days after the department determines that the application is complete.

24 (5) For each approval, license, or permit, other than the prospecting permit,  
25 covered by the hearing under sub. (2), except for an approval, license, or permit for

1 which federal law requires the opportunity for public comment or the ability to  
2 request a public hearing prior to issuance, the department shall approve the  
3 application and issue the approval, license, or permit or deny the application no later  
4 than 60 days after the department determines that the application for the  
5 prospecting permit is complete, notwithstanding any procedural provisions that  
6 would otherwise apply.

7 (6) Notwithstanding s. 227.42, no person is entitled to a contested case hearing  
8 on a decision by the department on the prospecting permit or on another approval,  
9 license, or permit that is covered by the public informational hearing under sub. (2).

10 SECTION 26. 293.43 (title) of the statutes is amended to read:

11 293.43 (title) **Hearings Public informational hearings on permit**  
12 **applications.**

13 SECTION 27. 293.43 (1) of the statutes is repealed and recreated to read:

14 293.43 (1) APPLICABILITY. This section applies to all applications for mining  
15 permits and to those applications for prospecting permits to which s. 293.42 does not  
16 apply.

17 SECTION 28. 293.43 (1m) of the statutes is amended to read:

18 293.43 (1m) SCOPE. (a) ~~The hearing on the~~ Before approving or denying the  
19 application for a prospecting or mining permit shall cover, the department shall hold  
20 a public informational hearing covering the application and, any statements  
21 environmental impact statement prepared under s. 1.11 and, to the fullest extent  
22 possible, all other applications for approvals, licenses and permits issued by the  
23 department. The department shall inform the applicant as to the timely application  
24 date for all approvals, licenses and permits issued by the department, so as to

1 facilitate the consideration of all other matters at the hearing on the prospecting or  
2 mining ~~permits~~ permit.

3 (b) Except as provided in this paragraph, for all department issued approvals,  
4 licenses and permits relating to prospecting or mining including solid waste  
5 feasibility report approvals and permits related to air and water, ~~to be issued after~~  
6 ~~April 30, 1980~~, the notice, hearing and comment provisions, if any, and the time for  
7 issuance of decisions, shall be controlled by this section and ss. 293.45 ~~and~~, 293.49,  
8 ~~and 293.495~~. If an applicant fails to make application for an approval, license or  
9 permit for an activity incidental to prospecting or mining in time for notice under this  
10 section to be provided, the notice and comment requirements, if any, shall be  
11 controlled by the specific statutory provisions with respect to that application. If  
12 notice under those specific statutory notice requirements can be given for  
13 consideration of the approval, license or permit at the hearing under this section, the  
14 application shall be considered at that hearing; otherwise, the specific statutory  
15 hearing provisions, if any, with respect to that application shall control. The  
16 substantive requirements for the issuance of any approval, permit or license  
17 incidental to prospecting or mining are not affected by the fact that a hearing on the  
18 approval, permit or license is conducted as part of a hearing under this section.

19 **SECTION 29.** 293.43 (2) of the statutes is amended to read:

20 293.43 (2) LOCATION. The hearing under sub. (1m) shall be held in the county  
21 where the prospecting or mining site, or the largest portion of the prospecting or  
22 mining site, is located, but may subsequently be adjourned to other locations.

23 **SECTION 30.** 293.43 (2m) of the statutes is created to read:

24 293.43 (2m) MEETING ON PRELIMINARY ENVIRONMENTAL IMPACT STATEMENT. Before  
25 issuing a final environmental impact statement for a mining permit or for a

1 prospecting permit, if the department determines that an environmental impact  
2 statement is required under s. 1.11 for the prospecting permit, the department shall  
3 hold at least one informational meeting regarding its preliminary environmental  
4 impact statement.

5 **SECTION 31.** 293.43 (3) (a) of the statutes is repealed.

6 **SECTION 32.** 293.43 (3) (b) (intro.) of the statutes is repealed and recreated to  
7 read:

8 293.43 (3) (b) (intro.) The department shall hold the hearing under sub. (1m)  
9 after it issues the final environmental impact statement, if an environmental impact  
10 statement is required. The department shall provide notice of the hearing under sub.  
11 (1m) by doing all of the following:

12 **SECTION 33.** 293.43 (3) (c) of the statutes is amended to read:

13 293.43 (3) (c) Written comments may be submitted by any governmental  
14 agency ~~within 80 days of the date of~~ or any individual after the issuance of the  
15 environmental impact statement under par. (b). ~~Individual persons may submit~~  
16 ~~written comments within 120 days of the date of issuance of the statement.~~ The last  
17 day for receipt of comments shall be specified by the department in all notices.

18 **SECTION 34.** 293.43 (4) of the statutes is amended to read:

19 293.43 (4) PARTICIPATION BY LOCAL GOVERNMENTS. Any county, town, village or  
20 city receiving notice of the filing of an application in the manner provided under sub.  
21 (3) ~~(a) or~~ (b) shall refer the application and reclamation plan to a committee  
22 established under s. 293.33 (1) or (2), if any, for review and comment. Such counties,  
23 towns, villages or cities may participate as a party in the hearing under sub. (1m) on  
24 the application and may make recommendations on the reclamation plan and future  
25 use of the project site.



1           **SECTION 35.** 293.43 (5) of the statutes is repealed.

2           **SECTION 36.** 293.45 (1) and (2) of the statutes are amended to read:

3           293.45 (1) The department shall issue a prospecting permit under this section  
4 to an applicant ~~within 60 days following the date of the completion of the hearing~~  
5 ~~record if, on the basis of the application, the department's investigation and hearing~~  
6 ~~and any written comments, if it finds that the site is not unsuitable for prospecting~~  
7 or, absent a certification under s. 293.35 (1), surface mining, the department has  
8 approved the prospecting plan and the reclamation plan complies with ss. 293.13 (2)  
9 and 293.35 (2) and (3) and rules promulgated under ss. 293.13 (2) and 293.35 (2) and  
10 (3). The department may modify any part of the application or reclamation plan and  
11 approve it as modified. Except as otherwise provided in this chapter, prospecting  
12 permits shall be valid for the life of the project, unless canceled under s. 293.83 (1)  
13 or (3) or 293.85 or revoked under s. 293.87 (2) or (3).

14           (2) The department shall deny a prospecting permit ~~within 60 days following~~  
15 ~~the date of the completion of the hearing record~~ if it finds that the site is unsuitable  
16 for prospecting or, absent certification under s. 293.35 (1), surface mining, or the  
17 reclamation plan, including the bond, does not comply with ss. 293.13 (2) and 293.35  
18 (2) and (3) and rules promulgated under ss. 293.13 (2) and 293.35 (2) and (3) or that  
19 the applicant is in violation of this chapter or any rules adopted under this chapter.  
20 If the applicant has previously failed and continues to fail to comply with this  
21 chapter, or if the applicant has within the previous 20 years forfeited any bond posted  
22 in accordance with prospecting or mining activities in this state, unless by mutual  
23 agreement with the state, the department may not issue a prospecting permit. The  
24 department may not issue a prospecting permit if it finds that any officer, director  
25 or manager of the applicant has, while employed by the applicant, the applicant's

1 parent corporation, any of the applicant's principal shareholders or members, or any  
2 of the applicant's subsidiaries or affiliates, in which the applicant owns more than  
3 a 40% interest, within the previous 20 years forfeited any bond posted in accordance  
4 with prospecting or mining activities in this state unless by mutual agreement with  
5 the state. In this subsection, "forfeited any bond" means the forfeiture of any  
6 performance security occasioned by noncompliance with any prospecting or mining  
7 laws or implementing rules. If an application for a prospecting permit is denied, the  
8 department, within 30 days from the date of application denial, shall furnish to the  
9 applicant in writing the reasons for the denial.

10 **SECTION 37.** 293.45 (2m) of the statutes is created to read:

11 293.45 (2m) (a) The department shall approve or deny the application for a  
12 prospecting permit, other than a prospecting permit to which s. 293.42 applies, and  
13 for any other approval, license, or permit that was covered by the informational  
14 hearing under s. 293.43 (1m), no later than the 520th day after the day on which the  
15 department determines that the application for the prospecting permit is complete,  
16 except as provided in pars. (b) to (d).

17 (b) The department may extend the deadline under par. (a), upon notice to the  
18 applicant, for a total of not more than 180 days, if any of the following applies:

19 1. The department needs additional time to ensure collaboration with any  
20 federal regulatory agency with responsibilities related to the prospecting operation.

21 2. The department needs additional time to evaluate information related to the  
22 prospecting operation that becomes available after the applicant files the application  
23 for the prospecting permit.

24 3. The applicant makes changes to its proposal for the prospecting operation.