



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0762/P1 2

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT** *to repeal* 107.001 (2) and 293.01 (8); *to renumber and amend* 30.123
2 (8) (c), 70.395 (1e) and 87.30 (2); *to amend* 20.370 (2) (gh), 20.455 (1) (gh),
3 20.566 (7) (e), 20.566 (7) (v), 25.46 (7), 29.604 (4) (intro.), 29.604 (4) (c) (intro.),
4 30.025 (1e) (a), 30.025 (1m) (intro.), 30.025 (1m) (c), 30.025 (1s) (a), 30.025 (2),
5 30.025 (2g) (b) (intro.), 30.025 (4), 30.12 (3m) (c) (intro.), 30.133 (2), 30.19 (4) (c)
6 (intro.), 30.195 (2) (c) (intro.), 70.375 (1) (as), 70.375 (1) (bm), 70.375 (2) (a),
7 70.375 (6), 70.38 (2), 70.395 (2) (dc) 1., 70.395 (2) (dc) 2., 70.395 (2) (dc) 3., 70.395
8 (2) (dc) 4., 70.395 (2) (dg), 70.395 (2) (fm), 70.395 (2) (h) 1., 70.395 (2) (hg), 70.395
9 (2) (hr), 70.395 (2) (hw), 107.001 (1), 107.01 (intro.), 107.01 (2), 107.02, 107.03,
10 107.04, 107.11, 107.12, 107.20 (1), 107.20 (2), 107.30 (8), 107.30 (15), 107.30
11 (16), 160.19 (12), 196.491 (3) (a) 3. b., 196.491 (4) (b) 2., 281.65 (2) (a), 281.75
12 (17) (b), 287.13 (5) (e), 289.35, 289.62 (2) (g) 2. and 6., 292.01 (1m), chapter 293
13 (title), 293.01 (5), 293.01 (7), 293.01 (9), 293.01 (12), 293.01 (18), 293.01 (25),
14 293.21 (1) (a), 293.25 (2) (a), 293.25 (4), 293.37 (4) (b), 293.47 (1) (b), 293.50 (1)
15 (b), 293.50 (2) (intro.), 293.50 (2) (a), 293.50 (2) (b), 293.51 (1), 293.65 (3) (a),

1 293.65 (3) (b), 293.86, chapter 295 (title), 295.16 (4) (f), 299.85 (7) (a) 2. and 4.,
2 299.95, 323.60 (5) (d) 3. and 710.02 (2) (d); and **to create** 20.370 (2) (gi), 20.445
3 (1) (gm), 25.49 (2m), 29.604 (7m), 30.025 (1e) (c), 30.025 (4m), 31.23 (3) (e),
4 70.375 (2b), 70.375 (2c), 70.395 (1e) (a), 70.395 (1e) (b), 87.30 (2) (b), 106.05,
5 106.35, 196.491 (3) (a) 3. c., 227.483 (3) (c), 238.14, 293.01 (12m), subchapter III
6 of chapter 295 [precedes 295.40] and 323.60 (1) (gm) of the statutes; **relating**
7 **to:** regulation of ferrous metallic mining and related activities, procedures for
8 obtaining approvals from the Department of Natural Resources for the
9 construction of utility facilities, making an appropriation, and providing
10 penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version
of this draft.

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

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

12 20.370 (2) (gh) *Mining— Nonferrous metallic mining regulation and*
13 *administration.* The amounts in the schedule for the administration, regulation and
14 enforcement of nonferrous metallic mining exploration, prospecting, mining and
15 mine reclamation activities under ch. 293. All moneys received under ch. 293 shall
16 be credited to this appropriation.

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

18 20.370 (2) (gi) *Ferrous metallic mining operations.* All moneys received under
19 subch. III of ch. 295 for the department of natural resource's operations related to
20 ferrous metallic exploration and mining.

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SECTION 3. 20.445 (1) (gm) of the statutes is created to read:

20.445 (1) (gm) *Mining industry jobs training grants.* All moneys credited to this appropriation account under s. 70.395 (1e) (a), for mining skills training grants under s. 106.05 and for mining equipment manufacturing training grants under s. 106.35.

SECTION 4. 20.455 (1) (gh) of the statutes is amended to read:

20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3), 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the expenses of investigation and prosecution of violations, including attorney fees.

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

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

SECTION 6. 20.566 (7) (v) of the statutes is amended to read:

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

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

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

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

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

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

2 29.604 (4) PROHIBITION. (intro.) Except as provided in sub. (6r) and (7m) or as
3 permitted by departmental rule or permit:

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

5 29.604 (4) (c) (intro.) No person may do any of the following to any wild plant
6 of an endangered or threatened species that is on public property or on property that
7 he or she does not own or lease, except in the course of forestry or agricultural
8 practices ~~or~~, in the construction, operation, or maintenance of a utility facility, or as
9 part of bulk sampling activities under s. 295.45:

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

11 29.604 (7m) BULK SAMPLING ACTIVITIES. A person may take, transport, or
12 possess a wild animal on the department's endangered and threatened species list
13 without a permit under this section if the person avoids and minimizes adverse
14 impacts to the wild animal to the extent practicable, if the taking, transporting, or
15 possession does not result in wounding or killing the wild animal, and if the person
16 takes, transports, or possesses the wild animal for the purpose of bulk sampling
17 activities under s. 295.45.

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

19 30.025 (1e) (a) Except as provided in ~~par.~~ pars. (b) and (c), this section applies
20 to a proposal to construct a utility facility if the utility facility is required to obtain,
21 or give notification of the wish to proceed under, one or more permits.

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

23 30.025 (1e) (c) This section does not apply to a proposal to construct a utility
24 facility for ferrous mineral mining and processing activities governed by subch. III

1 of ch. 295, unless the person proposing to construct the utility facility elects to
2 proceed in the manner provided under this section.

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

4 30.025 (1m) PREAPPLICATION PROCESS. (intro.) Before filing an a combined
5 application ~~under this section~~ for permits under sub. (1s) with the department in lieu
6 of separate applications, a person proposing to construct a utility facility shall notify
7 the department of the intention to file an a combined application under sub. (1s).
8 After receiving such notice, the department shall confer with the person, in
9 cooperation with the commission, to make a preliminary assessment of the project's
10 scope, to make an analysis of alternatives, to identify potential interested persons,
11 and to ensure that the person making the proposal is aware of all of the following:

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

13 30.025 (1m) (c) The timing of information submissions that the person will be
14 required to provide in order to enable the department to participate in commission
15 review procedures and to process the combined application for permits in a timely
16 manner.

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

18 30.025 (1s) (a) Any person proposing to construct a utility facility to which this
19 section applies shall, in lieu of separate application for permits, submit one combined
20 application for permits together with any additional information required by the
21 department. The combined application for permits shall be filed with the
22 department at the same time that an application for a certificate is filed with the
23 commission under s. 196.49 or in a manner consistent with s. 196.491 (3) and shall
24 include the detailed information that the department requires to determine whether
25 an a combined application for permits is complete and to carry out its obligations

1 under sub. (4). The department may require supplemental information to be
2 furnished thereafter.

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

4 30.025 (2) HEARING. Once the applicant meets the requirements of sub. (1s) (a),
5 the department may schedule the matter for a public hearing. Notice of the hearing
6 shall be given to the applicant and shall be published as a class 1 notice under ch.
7 985 and as a notice on the department's Internet Web site. The department may give
8 such further notice as it deems proper, and shall give notice to interested persons
9 requesting same. The department's notice to interested persons may be given
10 through an electronic notification system established by the department. Notice of
11 a hearing under this subsection published as a class 1 notice, as a notice on the
12 department's Internet Web site, and through the electronic notification system
13 established by the department shall include the time, date, and location of the
14 hearing, the name and address of the applicant, a summary of the subject matter of
15 the combined application for permits, and information indicating where a copy of the
16 combined application for permits may be viewed on the department's Internet Web
17 site. The summary shall contain a brief, precise, easily understandable, plain
18 language description of the subject matter of the application. One copy of the
19 combined application for permits shall be available for public inspection at the office
20 of the department, at least one copy in the regional office of the department, and at
21 least one copy at the main public library, of the area affected. Notwithstanding s.
22 227.42, the hearing shall be an informational hearing and may not be treated as a
23 contested case hearing nor converted to a contested case hearing.

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

1 30.025 (2g) (b) (intro.) The department shall participate in commission
2 investigations or proceedings under s. 196.49 or 196.491 (3) with regard to any
3 proposed utility facility ~~that is subject to this section~~ for which a combined
4 application for permits is filed under sub. (1s). In order to ensure that the
5 commission's decision is consistent with the department's responsibilities, the
6 department shall provide the commission with information that is relevant to only
7 the following:

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

9 30.025 (4) PERMIT CONDITIONS. The permit may be issued, or the authority to
10 proceed under a permit may be granted, upon stated conditions deemed necessary
11 to assure compliance with the criteria designated under sub. (3). The department
12 shall grant or deny the combined application for ~~a permit~~ permits for the utility
13 facility within 30 days of the date on which the commission issues its decision under
14 s. 196.49 or 196.491 (3).

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

16 30.025 (4m) PROCEDURE FOR A SINGLE PERMIT APPLICATION. A person proposing
17 to construct a utility facility that is related to mining, as defined in s. 295.41 (26), and
18 for which not more than one permit is required, may submit an application for that
19 single permit with the department in the same manner as a combined application
20 for permits may be submitted under sub. (1s). If the applicant elects to submit the
21 application in the same manner as a combined application for permits, the
22 procedures under this section that apply to a combined application for permits shall
23 apply to that application for a single permit.

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

SECTION 21

1 30.12 (3m) (c) (intro.) The department shall issue an individual permit to a
2 riparian owner for a structure or a deposit pursuant to an application under par. (a)
3 if the department finds that all of the following ~~apply requirements are met:~~

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

6 30.123 (8) (c) (intro.) The department shall issue an individual permit
7 pursuant to an application under par. (a) if the department finds that ~~the~~ all of the
8 following requirements are met:

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

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

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

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

14 30.133 (2) This section does not apply to riparian land located within the
15 boundary of any hydroelectric project licensed or exempted by the federal
16 government, if the conveyance is authorized under any license, rule or order issued
17 by the federal agency having jurisdiction over the project. This section does not apply
18 to riparian land that is associated with an approval required for bulk sampling or
19 mining that is required under subch. III of ch. 295.

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

21 30.19 (4) (c) (intro.) The department shall issue an individual permit pursuant
22 to an application under par. (a) if the department finds that all of the following ~~apply~~
23 requirements are met:

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

1 30.195 (2) (c) (intro.) The department shall issue an individual permit applied
2 for under this section to a riparian owner if the department determines that all of the
3 following ~~apply~~ requirements are met:

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

5 31.23 (3) (e) This subsection does not apply to a bridge that is constructed,
6 maintained, or operated in association with mining or bulk sampling that is subject
7 to subch. III of ch. 295.

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8 **SECTION 27.** 70.375 (1) (as) of the statutes is amended to read:

9 70.375 (1) (as) "Mine" means an excavation in or at the earth's surface made
10 to extract metalliferous minerals for which a permit has been issued under s. 293.49
11 or 295.58.

12 **SECTION 28.** 70.375 (1) (bm) of the statutes is amended to read:

13 70.375 (1) (bm) "Mining-related purposes" means activities which are directly
14 in response to the application for a mining permit under s. 293.37 or 295.47; directly
15 in response to construction, operation, curtailment of operation or cessation of
16 operation of a metalliferous mine site; or directly in response to conditions at a
17 metalliferous mine site which is not in operation. "Mining-related purposes" also
18 includes activities which anticipate the economic and social consequences of the
19 cessation of mining. "Mining-related purposes" also includes the purposes under s.
20 70.395 (2) (g).

21 **SECTION 29.** 70.375 (2) (a) of the statutes is amended to read:

22 70.375 (2) (a) ~~In~~ Except as provided in subs. (2b) and (2c), with respect to mines
23 not in operation on November 28, 1981, there is imposed upon persons engaged in
24 mining metalliferous minerals in this state a net proceeds occupation tax effective
25 on the date on which extraction begins to compensate the state and municipalities

x x

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

5 **SECTION 30.** 70.375 (2b) of the statutes is created to read:

6 70.375 (2b) MINIMUM TAX. With respect to mines in operation after December
7 31, 2012, beginning with the month in which a permit is issued to a person under s.
8 295.58, and for each of the 60 months following that month, the amount of the tax
9 imposed on that person is the greater of the tax computed under sub. (2) or an amount
10 equal to \$83,333 for each month.

11 **SECTION 31.** 70.375 (2c) of the statutes is created to read:

12 70.375 (2c) CREDIT. With respect to mines in operation after December 31,
13 2012, if a person subject to sub. (2b) would have paid less tax under sub. (2) than
14 under sub. (2b), the person may claim as a credit against the tax imposed under sub.
15 (2) or (2b) an amount equal to the difference between the amount paid under sub. (2b)
16 and the amount that the person would have paid under sub. (2), except that the
17 person may not claim a credit amount that would result in less than the total
18 minimum tax liability computed under sub. (2b) for the period for which the person
19 is subject to sub. (2b). The person may carry forward the amount of any unused credit
20 under this subsection, as adjusted under sub. (6), to claim against the person's tax
21 liability in subsequent years until the total amount of the credit is used.

22 **SECTION 32.** 70.375 (6) of the statutes is amended to read:

23 70.375 (6) INDEXING. For calendar year 1983 and corresponding fiscal years and
24 thereafter, the dollar amounts in sub. (5) and s. 70.395 (1) and (2) (d) 1m. and 5. a.
25 and (dg), and the amount of any unused credit under sub. (2c), shall be changed to

X

X

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Insert
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X

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1 reflect the percentage change between the gross national product deflator for June
2 of the current year and the gross national product deflator for June of the previous
3 year, as determined by the U.S. department of commerce as of December 30 of the
4 year for which the taxes are due, except that no annual increase may be more than
5 10%. For calendar year 1983 and corresponding fiscal years and thereafter until
6 calendar year 1997 and corresponding fiscal years, the dollar amounts in s. 70.395
7 (1m), 1995 stats., shall be changed to reflect the percentage change between the gross
8 national product deflator for June of the current year and the gross national product
9 deflator for June of the previous year, as determined by the U.S. department of
10 commerce as of December 30 of the year for which the taxes are due, except that no
11 annual increase may be more than 10%. The revised amounts shall be rounded to
12 the nearest whole number divisible by 100 and shall not be reduced below the
13 amounts under sub. (5) on November 28, 1981. Annually, the department shall
14 adopt any changes in dollar amounts required under this subsection and incorporate
15 them into the appropriate tax forms.

16 **SECTION 33.** 70.38 (2) of the statutes is amended to read:

17 70.38 (2) COMBINED REPORTING. If the same person extracts metalliferous
18 minerals from different sites in this state, the net proceeds for each site for which a
19 permit has been issued under s. 293.49 or 295.58 shall be reported separately for the
20 purposes of computing the amount of the tax under s. 70.375 (5).

21 **SECTION 34.** 70.395 (1e) of the statutes is renumbered 70.395 (1e) (intro.) and
22 amended to read:

23 70.395 (1e) DISTRIBUTION. (intro.) Fifteen days after the collection of the tax
24 under ss. 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 as follows:

x 3 **SECTION 35.** 70.395 (1e) (a) of the statutes is created to read:

4 70.395 (1e) (a) For the first 24 months following the month in which a person
5 is issued a permit under s. 295.58, the department of administration shall credit the
6 amount collected from any such person, not to exceed \$1,000,000 annually or
7 \$2,000,000 total, to the appropriation under s. 20.445 (1) (gm) and shall transfer any
8 amount in excess of \$1,000,000 annually, or \$2,000,000 total, as provided under par.
9 (b).

x 10 **SECTION 36.** 70.395 (1e) (b) of the statutes is created to read:

11 70.395 (1e) (b) Except as provided under par. (a), the department of
12 administration shall transfer 60 percent of the amount collected from each person
13 extracting ferrous metallic minerals in this state to the investment and local impact
14 fund and 40 percent of the amount collected from any such person into the economic
15 development fund.

16 **SECTION 37.** 70.395 (2) (dc) 1. of the statutes is amended to read:

17 *Invest 12-15* 70.395 (2) (dc) 1. Each person intending to submit an application for a mining
18 permit under s. 293.37 or 295.47 shall pay ~~\$50,000~~ \$75,000 to the department of
19 revenue for deposit in the investment and local impact fund at the time that the
20 person notifies the department of natural resources under s. 293.31 (1) or 295.465
21 of that intent.

22 **SECTION 38.** 70.395 (2) (dc) 2. of the statutes is amended to read:

23 70.395 (2) (dc) 2. A person making a payment under subd. 1. shall pay an
24 additional ~~\$50,000~~ \$75,000 upon notification by the board that the board has
25 distributed 50% of the payment under subd. 1.

1 **SECTION 39.** 70.395 (2) (dc) 3. of the statutes is amended to read:

2 70.395 (2) (dc) 3. A person making a payment under subd. 2. shall pay an
3 additional ~~\$50,000~~ \$75,000 upon notification by the board that the board has
4 distributed all of the payment under subd. 1. and 50% of the payment under subd.
5 2.

6 **SECTION 40.** 70.395 (2) (dc) 4. of the statutes is amended to read:

7 70.395 (2) (dc) 4. Six months after the signing of a local agreement under s.
8 293.41 or 295.443 for the proposed mine for which the payment is made, the board
9 shall refund any funds paid under this paragraph but not distributed under par. (fm)
10 from the investment and local impact fund to the person making the payment under
11 this paragraph.

x 12 **SECTION 41.** 70.395 (2) (dg) of the statutes is amended to read:

13 70.395 (2) (dg) Each person constructing a metalliferous mining site shall pay
14 to the department of revenue for deposit in the investment and local impact fund, as
15 a construction fee, an amount sufficient to make the construction period payments
16 under par. (d) 5. in respect to that site. Any person paying a construction fee under
17 this paragraph may credit against taxes due under s. 70.375 an amount equal to the
18 payments that the taxpayer has made under this paragraph, provided that the credit
19 does not reduce the taxpayer's liability under s. 70.375 below the amount needed to
20 make the first-dollar payments under par. (d) 1., 2. and 2m. for that year in respect
21 to the taxpayer's mine. For the first 24 months following the month in which the
22 taxpayer is issued a permit under s. 295.58, the taxpayer may not use the credit to
23 reduce the taxpayer's liability under s. 70.375 below the minimum amount required
x 24 under s. 70.375 (2b), but the taxpayer may use the credit in subsequent years to
25 reduce the taxpayer's liability under s. 70.375 below the minimum amount required

1 under s. 70.375 (2b). Any amount not creditable because of that limitation in any
2 year may be carried forward.

3 **SECTION 42.** 70.395 (2) (fm) of the statutes is amended to read:

4 70.395 (2) (fm) The board may distribute a payment received under par. (dc)
5 to a county, town, village, city, tribal government or local impact committee
6 authorized under s. 293.41 (3) or 295.443 only for legal counsel, qualified technical
7 experts in the areas of transportation, utilities, economic and social impacts,
8 environmental impacts and municipal services and other reasonable and necessary
9 expenses incurred by the recipient that directly relate to the good faith negotiation
10 of a local agreement under s. 293.41 or 295.443 for the proposed mine for which the
11 payment is made.

12 **SECTION 43.** 70.395 (2) (h) 1. of the statutes is amended to read:

13 70.395 (2) (h) 1. Distribution shall first be made to those municipalities in
14 which metalliferous minerals are extracted or were extracted within 3 years
15 previous to December 31 of the current year, or in which a permit has been issued
16 under s. 293.49 or 295.58 to commence mining;

17 **SECTION 44.** 70.395 (2) (hg) of the statutes is amended to read:

18 70.395 (2) (hg) The board shall, by rule, establish fiscal guidelines and
19 accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub.
20 (3) and ~~s. ss.~~ 293.65 (5) and 295.61 (9).

21 **SECTION 45.** 70.395 (2) (hr) of the statutes is amended to read:

22 70.395 (2) (hr) The board shall, by rule, establish procedures to recoup
23 payments made, and to withhold payments to be made, under pars. (d), (f), (fm) and
24 (g), sub. (3) and ~~s. ss.~~ 293.65 (5) and 295.61 (9) for noncompliance with this section
25 or rules adopted under this section.

1 **SECTION 46.** 70.395 (2) (hw) of the statutes is amended to read:

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

11 **SECTION 47.** 87.30 (2) of the statutes is renumbered 87.30 (2) (a) and amended
12 to read:

13 87.30 (2) (a) ~~Every~~ Except as provided in par. (b), every structure, building, fill,
14 or development placed or maintained within any floodplain in violation of a zoning
15 ordinance adopted under this section, or s. 59.69, 61.35 or 62.23 is a public nuisance
16 and the creation thereof may be enjoined and maintenance thereof may be abated by
17 action at suit of any municipality, the state or any citizen thereof. Any person who
18 places or maintains any structure, building, fill or development within any
19 floodplain in violation of a zoning ordinance adopted under this section, or s. 59.69,
20 61.35 or 62.23 may be fined not more than \$50 for each offense. Each day during
21 which such violation exists is a separate offense.

22 **SECTION 48.** 87.30 (2) (b) of the statutes is created to read:

23 87.30 (2) (b) Paragraph (a) does not apply to a structure, building, fill, or
24 development placed or maintained as part of a mining operation covered by a mining
25 permit under s. 295.58 except to the extent that regulation of the placement or

1 maintenance of the structure, building, fill, or development is required for
2 compliance with a floodplain zoning ordinance as provided under s. 295.607 (3).

X 3 ~~SECTION 49.~~ 106.05 of the statutes is created to read:

4 **106.05 Mining skills training grants.** From the appropriation account
5 under s. 20.445 (1) (gm), the department, in consultation with the Wisconsin
6 Economic Development Corporation, shall award a grant annually of not more than
7 \$500,000 to Cooperative Educational Service Agency Number 12 or to an
8 organization operating a skills improvement apprenticeship program that is
9 authorized to administer the operating engineers certification program and to
10 provide training in the operation of heavy equipment for the purpose of establishing,
11 funding, and facilitating cross-training partnership programs between that agency
12 and that organization.

X 13 **SECTION 50.** 106.35 of the statutes is created to read:

14 **106.35 Mining equipment manufacturing training grants.** From the
15 appropriation account under s. 20.445 (1) (gm), the department, in consultation with
16 the Wisconsin Economic Development Corporation, shall award a grant annually of
17 not more than \$500,000 to Cooperative Educational Service Agency Number 1 or to
18 an organization operating an economic and workforce development center in the
19 southeastern area of this state to establish, fund, and facilitate cross-training
20 partnership programs between that service agency and that organization for the
21 purpose of establishing classroom curriculum and hands-on job training programs
22 that provide individuals with the opportunity to receive instruction relating to the
23 performance of manufacturing jobs in facilities in that area that are involved in
24 producing equipment and products related to the mining industry.

25 **SECTION 51.** 107.001 (1) of the statutes is amended to read:

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

8 **SECTION 52.** 107.001 (2) of the statutes is repealed.

9 **SECTION 53.** 107.01 (intro.) of the statutes is amended to read:

10 **107.01 Rules governing mining rights.** (intro.) Where there is no contract
11 between the parties or terms established by the landlord to the contrary the following
12 rules and regulations shall be applied to mining contracts and leases for the digging
13 of ~~ores and~~ nonferrous metallic minerals:

14 **SECTION 54.** 107.01 (2) of the statutes is amended to read:

15 107.01 (2) The discovery of a crevice or range containing ~~ores or minerals~~
16 nonferrous metallic minerals shall entitle the discoverer to the ~~ores or minerals~~
17 nonferrous metallic minerals pertaining thereto, subject to the rent due the
18 discoverer’s landlord, before as well as after the ~~ores or minerals~~ nonferrous metallic
19 minerals are separated from the freehold; but such miner shall not be entitled to
20 recover any ~~ores or minerals~~ nonferrous metallic minerals or the value thereof from
21 the person digging on the miner’s range in good faith and known to be mining thereon
22 until the miner shall have given notice of the miner’s claim; and the miner shall be
23 entitled to the ~~ores or minerals~~ nonferrous metallic minerals dug after such notice.

24 **SECTION 55.** 107.02 of the statutes is amended to read:

1 **107.02 Mining statement; penalty.** When there is no agreement between the
2 parties to any mining lease, license or permit, to mine or remove ~~ore~~ nonferrous
3 metallic minerals from any lands in this state, regulating the method of reporting
4 the amount of ~~ore~~ nonferrous metallic minerals taken, the person mining and
5 removing the ~~ore or ores~~ nonferrous metallic minerals shall keep proper and correct
6 books, and therefrom to make and deliver by or before the fifteenth day of each month
7 to the lessor, owner or person entitled thereto, a detailed statement covering the
8 operations of the preceding month. The statement shall show the total amount of
9 tons or pounds of each kind of ~~ore~~ nonferrous metallic minerals produced; if sold, then
10 to whom sold, giving the date of sale, date of delivery to any railroad company,
11 naming the company, and the station where delivered or billed for shipment; the
12 name and address of the purchaser; the price per ton at which sold and the total value
13 of each kind of ~~ore~~ nonferrous metallic minerals so sold. The books shall be always
14 open to any owner, lessor, licensor or stockholder, if the owner, lessor or licensor is
15 a corporation, and to any person or stockholder interested in any such mining
16 operations, for the purpose of inspection and taking copies thereof or abstracts
17 therefrom. Any person and every officer, agent or employee of any thereof, who
18 violates this section, or who makes any false or incomplete entries on any such books
19 or statements, shall be fined not less than \$100 or imprisoned in the county jail for
20 not more than 3 months or both.

21 **SECTION 56.** 107.03 of the statutes is amended to read:

22 **107.03 Conflicting claims.** In case of conflicting claims to a crevice or range
23 bearing ~~ores or~~ nonferrous metallic minerals the court may continue any action to
24 enforce a claim or grant any necessary time for the purpose of allowing parties to
25 prove up their mines or diggings if it satisfactorily appears necessary to the ends of

1 justice. In such case the court or judge may appoint a receiver and provide that the
2 mines or diggings be worked under the receiver's direction, subject to the order of the
3 court, in such manner as best ascertains the respective rights of the parties. The ores
4 or nonferrous metallic minerals raised by either party pending the dispute shall be
5 delivered to the receiver, who may, by order of the court or judge, pay any rent or other
6 necessary expenses therefrom.

7 **SECTION 57.** 107.04 of the statutes is amended to read:

8 **107.04 Lessee's fraud; failure to work mine.** Any miner who conceals or
9 disposes of any ores or nonferrous metallic minerals or mines or diggings for the
10 purpose of defrauding the lessor of rent or who neglects to pay any rent on ores or
11 nonferrous metallic minerals raised by the miner for 3 days after the notice thereof
12 and claim of the rent, shall forfeit all right to his or her mines, diggings or range; and
13 the landlord after the concealment or after 3 days have expired from the time of
14 demanding rent, may proceed against the miner to recover possession of the mines
15 or diggings in circuit court as in the case of a tenant holding over after the
16 termination of the lease. If a miner neglects to work his or her mines or diggings
17 according to the usages of miners, without reasonable excuse, he or she shall likewise
18 forfeit the mines or diggings and the landlord may proceed against the miner in like
19 manner to recover possession of the mines or diggings.

20 **SECTION 58.** 107.11 of the statutes is amended to read:

21 **107.11 Account of ore nonferrous metallic minerals received.** Every
22 person operating a metal recovery system and every purchaser of ores and
23 nonferrous metallic minerals shall keep a substantially bound book, ruled into
24 suitable columns, in which shall be entered from day to day, as ores or nonferrous
25 metallic minerals are received, the following items: the day, month and year when

1 received; the name of the person from whom purchased; the name of the person by
2 whom hauled and delivered; name of the owner of the land from which the ~~ores or~~
3 nonferrous metallic minerals were obtained, or if not known, the name of the
4 diggings or some distinct description of the land. The bound book shall be kept at the
5 furnace or at the usual place of business of such person or purchaser or his or her
6 agent in this state, and shall be open to authorized representatives of the department
7 of revenue at reasonable times for inspection and taking extracts.

8 **SECTION 59.** 107.12 of the statutes is amended to read:

9 **107.12 Penalty.** If any person operating a metal recovery system or purchaser
10 of ~~ores and~~ nonferrous metallic minerals or the agent of any such person or purchaser
11 doing business fails to keep such a book or to make such entries as required under
12 s. 107.11 or unreasonably refuses to show the book for inspection or taking extracts
13 or makes false entries in the book he or she shall forfeit \$10 for each offense, one-half
14 to the use of the prosecutor; and each day such failure or refusal continues shall be
15 deemed a distinct and separate offense.

16 **SECTION 60.** 107.20 (1) of the statutes is amended to read:

17 107.20 (1) Any provision of an exploration mining lease entered into after April
18 25, 1978, granting an option or right to determine the presence, location, quality or
19 quantity of ~~metalliferous~~ nonferrous metallic minerals shall be limited to a term not
20 exceeding 10 years from the date on which the exploration mining lease is recorded
21 in the office of the register of deeds of the county where the property is located, except
22 that any provision of an exploration mining lease entered into after April 25, 1978,
23 granting an option or right to determine the quality and quantity of ~~metalliferous~~
24 nonferrous metallic minerals under a prospecting permit shall be limited to a term
25 not exceeding 10 years from the date that the lessee applies for a prospecting permit

1 under s. 293.35, if the lessee applies for the prospecting permit within 10 years from
2 the date on which the exploration mining lease is recorded in the office of the register
3 of deeds of the county where the property is located.

4 **SECTION 61.** 107.20 (2) of the statutes is amended to read:

5 107.20 (2) Any provision of an exploration mining lease entered into after April
6 25, 1978, granting an option or right to develop or extract ~~metalliferous~~ nonferrous
7 metallic minerals shall be limited to a term not exceeding 50 years from the date on
8 which the exploration mining lease is recorded in the office of the register of deeds
9 of the county where the property is located.

10 **SECTION 62.** 107.30 (8) of the statutes is amended to read:

11 107.30 (8) “Mining” or “mining operation” ~~has the meaning set forth in s. 293.01~~
12 (9) means all or part of the process involved in the mining of metallic minerals, other
13 than for exploration or prospecting, including commercial extraction,
14 agglomeration, beneficiation, construction of roads, removal of overburden, and the
15 production of refuse.

16 **SECTION 63.** 107.30 (15) of the statutes is amended to read:

17 107.30 (15) “Prospecting” ~~has the meaning set forth in s. 293.01~~ (18) means
18 engaging in the examination of an area for the purpose of determining the quality
19 and quantity of minerals, other than for exploration but including the obtaining of
20 an ore sample, by such physical means as excavating, trenching, construction of
21 shafts, ramps, and tunnels and other means, other than for exploration, which the
22 department of natural resources, by rule, identifies, and the production of
23 prospecting refuse and other associated activities. “Prospecting” does not include
24 such activities when the activities are, by themselves, intended for and capable of
25 commercial exploitation of the underlying ore body. The fact that prospecting

SECTION 63

1 activities and construction may have use ultimately in mining, if approved, does not
2 mean that prospecting activities and construction constitute mining within the
3 meaning of sub. (8), provided such activities and construction are reasonably related
4 to prospecting requirements.

5 **SECTION 64.** 107.30 (16) of the statutes is amended to read:

6 107.30 (16) “Prospecting site” ~~has the meaning set forth in s. 293.01 (21)~~ means
7 the lands on which prospecting is actually conducted as well as those lands on which
8 physical disturbance will occur as a result of such activity.

9 **SECTION 65.** 160.19 (12) of the statutes is amended to read:

10 160.19 (12) The requirements in this section shall not apply to rules governing
11 an activity regulated under ch. 293 or subch. III of ch. 295, or to a solid waste facility
12 regulated under subch. III of ch. 289 which is part of an activity regulated under ch.
13 293 or subch. III of ch. 295, except that the department may promulgate new rules
14 or amend rules governing this type of activity, practice or facility if the department
15 determines that the amendment or promulgation of rules is necessary to protect
16 public health, safety or welfare.

17 **SECTION 66.** 196.491 (3) (a) 3. b. of the statutes is amended to read:

18 196.491 (3) (a) 3. b. ~~Within~~ Except as provided under subd. 3. c., within 20
19 days after the department provides a listing specified in subd. 3. a. to a person, the
20 person shall apply for the permits and approvals identified in the listing. The
21 department shall determine whether an application under this subd. 3. b. is complete
22 and, no later than 30 days after the application is filed, notify the applicant about
23 the determination. If the department determines that the application is incomplete,
24 the notice shall state the reason for the determination. An applicant may
25 supplement and refile an application that the department has determined to be

1 incomplete. There is no limit on the number of times that an applicant may refile
2 an application under this subd. 3. b. If the department fails to determine whether
3 an application is complete within 30 days after the application is filed, the
4 application shall be considered to be complete. The department shall complete action
5 on an application under this subd. 3. b. for any permit or approval that is required
6 prior to construction of a facility within 120 days after the date on which the
7 application is determined or considered to be complete.

8 **SECTION 67.** 196.491 (3) (a) 3. c. of the statutes is created to read:

9 196.491 (3) (a) 3. c. The 20-day deadline specified in subd. 3. b. for applying
10 for the applicable permits and approvals specified in the listing provided by the
11 department does not apply to a person proposing to construct a utility facility for
12 ferrous mineral mining and processing activities governed by subch. III of ch. 295.

13 **SECTION 68.** 196.491 (4) (b) 2. of the statutes is amended to read:

14 196.491 (4) (b) 2. The person shows to the satisfaction of the commission that
15 the person reasonably anticipates, at the time that construction of the equipment or
16 facilities commences, that on each day that the equipment and facilities are in
17 operation the person will consume no less than 70% of the aggregate kilowatt hours
18 output from the equipment and facilities in manufacturing processes at the site
19 where the equipment and facilities are located or in ferrous mineral mining and
20 processing activities governed by subch. III of ch. 295 at the site where the equipment
21 and facilities are located.

22 **SECTION 69.** 227.483 (3) (c) of the statutes is created to read:

23 227.483 (3) (c) If the proceeding relates to mining for ferrous minerals, as
24 defined in s. 295.41 (18), that the petition, claim, or defense was commenced, used,

1 or continued primarily for the purpose of causing delay to an activity authorized
2 under a license that is the subject of the hearing.

3 SECTION 70. 238.14 of the statutes is created to read:

4 238.14 Business development grants and loans. When funds described in
5 s. 25.49 (2m) are appropriated to the corporation, the corporation shall use the funds
6 to make grants and loans to businesses in this state, and the corporation shall give
7 preference for grants and loans to businesses located in an area affected by mining
8 for ferrous minerals.

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9 SECTION 71. 281.65 (2) (a) of the statutes is amended to read:

10 281.65 (2) (a) "Best management practices" means practices, techniques or
11 measures, except for dredging, identified in areawide water quality management
12 plans, which are determined to be effective means of preventing or reducing
13 pollutants generated from nonpoint sources, or from the sediments of inland lakes
14 polluted by nonpoint sources, to a level compatible with water quality objectives
15 established under this section and which do not have an adverse impact on fish and
16 wildlife habitat. The practices, techniques or measures include land acquisition,
17 storm sewer rerouting and the removal of structures necessary to install structural
18 urban best management practices, facilities for the handling and treatment of
19 milkhouse wastewater, repair of fences built using grants under this section and
20 measures to prevent or reduce pollutants generated from mine tailings disposal sites
21 for which the department has not approved a plan of operation under s. 289.30 or s.
22 295.51.

23 SECTION 72. 281.75 (17) (b) of the statutes is amended to read:

24 281.75 (17) (b) This section does not apply to contamination which is
25 compensable under subch. II of ch. 107 or s. 293.65 (4) or 295.61 (8).

Insert →
24-25

1 293.01 (5) “Mineral exploration” or “exploration”, unless the context requires
2 otherwise, means the on-site geologic examination from the surface of an area by
3 core, rotary, percussion or other drilling, where the diameter of the hole does not
4 exceed 18 inches, for the purpose of searching for nonferrous metallic minerals or
5 establishing the nature of a known nonferrous metallic mineral deposit, and includes
6 associated activities such as clearing and preparing sites or constructing roads for
7 drilling.

8 **SECTION 79.** 293.01 (7) of the statutes is amended to read:

9 293.01 (7) “Merchantable by-product” means all waste soil, rock, mineral,
10 liquid, vegetation and other material directly resulting from or displaced by the
11 mining, cleaning or preparation of nonferrous metallic minerals during mining
12 operations which are determined by the department to be marketable upon a
13 showing of marketability made by the operator, accompanied by a verified statement
14 by the operator of his or her intent to sell such material within 3 years from the time
15 it results from or is displaced by mining. If after 3 years from the time merchantable
16 by-product results from or is displaced by mining such material has not been
17 transported off the mining site, it shall be considered and regulated as refuse unless
18 removal is continuing at a rate of more than 12,000 cubic yards per year.

19 **SECTION 80.** 293.01 (8) of the statutes is repealed.

20 **SECTION 81.** 293.01 (9) of the statutes is amended to read:

21 293.01 (9) “Mining” or “mining operation” means all or part of the process
22 involved in the mining of nonferrous metallic minerals, other than for exploration or
23 prospecting, including commercial extraction, agglomeration, beneficiation,
24 construction of roads, removal of overburden and the production of refuse.

25 **SECTION 82.** 293.01 (12) of the statutes is amended to read:

1 293.01 (12) “Mining site” means the surface area disturbed by a mining
2 operation, including the surface area from which the nonferrous metallic minerals
3 or refuse or both have been removed, the surface area covered by refuse, all lands
4 disturbed by the construction or improvement of haulageways, and any surface areas
5 in which structures, equipment, materials and any other things used in the mining
6 operation are situated.

7 **SECTION 83.** 293.01 (12m) of the statutes is created to read:

8 293.01 (12m) “Nonferrous metallic mineral” means an ore or other earthen
9 material to be excavated from the natural deposits on or in the earth for its metallic
10 content but not primarily for its iron oxide content.

11 **SECTION 84.** 293.01 (18) of the statutes is amended to read:

12 293.01 (18) “Prospecting” means engaging in the examination of an area for the
13 purpose of determining the quality and quantity of nonferrous metallic minerals,
14 other than for exploration but including the obtaining of ~~an ore~~ a nonferrous metallic
15 mineral sample, by such physical means as excavating, trenching, construction of
16 shafts, ramps and tunnels and other means, other than for exploration, which the
17 department, by rule, identifies, and the production of prospecting refuse and other
18 associated activities. “Prospecting” shall not include such activities when the
19 activities are, by themselves, intended for and capable of commercial exploitation of
20 the underlying nonferrous ore body. However, the fact that prospecting activities and
21 construction may have use ultimately in mining, if approved, shall not mean that
22 prospecting activities and construction constitute mining within the meaning of sub.
23 (9), provided such activities and construction are reasonably related to prospecting
24 requirements.

25 **SECTION 85.** 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 nonferrous metallic minerals during prospecting or mining operations, and shall
5 include all waste materials deposited on or in the prospecting or mining site from
6 other sources.

7 **SECTION 86.** 293.21 (1) (a) of the statutes is amended to read:

8 293.21 (1) (a) “Driller” means a person who performs core, rotary, percussion
9 or other drilling involved in exploration for nonferrous metallic minerals.

10 **SECTION 87.** 293.25 (2) (a) of the statutes is amended to read:

11 293.25 (2) (a) *Applicability.* Except as provided under par. (b), ss. 293.21 and
12 293.81 and rules promulgated under those sections apply to radioactive waste site
13 exploration, to activities related to radioactive waste site exploration and to persons
14 engaging in or intending to engage in radioactive waste site exploration or related
15 activities in the same manner as those sections and rules are applicable to
16 nonferrous metallic mineral exploration, to activities related to nonferrous metallic
17 mineral exploration and to persons engaging in or intending to engage in nonferrous
18 metallic mineral exploration or related activities.

19 **SECTION 88.** 293.25 (4) of the statutes is amended to read:

20 293.25 (4) REGULATION OF EXPLORATION AND RELATED PROVISIONS. Sections
21 293.13, 293.15 (1) to (12), 293.85, 293.87 and 293.89 and rules promulgated under
22 those sections apply to radioactive waste site exploration, to activities related to
23 radioactive waste site exploration and to persons engaging in or intending to engage
24 in radioactive waste site exploration or related activities in the same manner as
25 those sections and rules are applicable to nonferrous metallic mineral exploration,

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

4 **SECTION 89.** 293.37 (4) (b) of the statutes is amended to read:

5 293.37 (4) (b) If the department finds that the anticipated life and total area
6 of a nonferrous metallic mineral deposit are of sufficient magnitude that reclamation
7 of the mining site consistent with this chapter requires a comprehensive plan for the
8 entire affected area, it shall require an operator to submit with the application for
9 a mining permit, amended mining site or change in mining or reclamation plan, a
10 comprehensive long-term plan showing, in detail satisfactory to the department, the
11 manner, location and time for reclamation of the entire area of contiguous land which
12 will be affected by mining and which is owned, leased or under option for purchase
13 or lease by the operator at the time of application. Where a nonferrous metallic
14 mineral deposit lies on or under the lands of more than one operator, the department
15 shall require the operators to submit mutually consistent comprehensive plans.

16 **SECTION 90.** 293.47 (1) (b) of the statutes is amended to read:

17 293.47 (1) (b) “Geologic information” means information concerning
18 descriptions of an a nonferrous ore body, descriptions of reserves, tonnages and
19 grades of nonferrous ore, descriptions of a drill core or bulk sample including
20 analysis, descriptions of drill hole depths, distances and similar information related
21 to the nonferrous ore body.

22 **SECTION 91.** 293.50 (1) (b) of the statutes is amended to read:

23 293.50 (1) (b) “Sulfide ore body” means a mineral deposit in which nonferrous
24 metals are mixed with sulfide minerals.

25 **SECTION 92.** 293.50 (2) (intro.) of the statutes is amended to read:

1 293.50 (2) (intro.) Beginning on May 7, 1998, the department may not issue a
2 permit under s. 293.49 for the purpose of the mining of a sulfide ore body until all of
3 the following conditions are satisfied:

4 **SECTION 93.** 293.50 (2) (a) of the statutes is amended to read:

5 293.50 (2) (a) The department determines, based on information provided by
6 an applicant for a permit under s. 293.49 and verified by the department, that a
7 mining operation has operated in a sulfide ore body which, together with the host
8 nonferrous rock, has a net acid generating potential in the United States or Canada
9 for at least 10 years without the pollution of groundwater or surface water from acid
10 drainage at the tailings site or at the mine site or from the release of heavy metals.

11 **SECTION 94.** 293.50 (2) (b) of the statutes is amended to read:

12 293.50 (2) (b) The department determines, based on information provided by
13 an applicant for a permit under s. 293.49 and verified by the department, that a
14 mining operation that operated in a sulfide ore body which, together with the host
15 nonferrous rock, has a net acid generating potential in the United States or Canada
16 has been closed for at least 10 years without the pollution of groundwater or surface
17 water from acid drainage at the tailings site or at the mine site or from the release
18 of heavy metals.

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

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

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

11 **SECTION 96.** 293.65 (3) (a) of the statutes is amended to read:

12 293.65 (3) (a) An approval under s. 281.34 is required to withdraw groundwater
13 for prospecting or mining or to dewater mines if the capacity and rate of withdrawal
14 of all wells involved in the withdrawal of groundwater or the dewatering of mines
15 exceeds 100,000 gallons each day. A permit under s. 283.31 is required to discharge
16 pollutants resulting from the dewatering of mines.

17 **SECTION 97.** 293.65 (3) (b) of the statutes is amended to read:

18 293.65 (3) (b) The department may not issue an approval under s. 281.34 if the
19 withdrawal of groundwater for prospecting or mining purposes or the dewatering of
20 mines will result in the unreasonable detriment of public or private water supplies
21 or the unreasonable detriment of public rights in the waters of the state. No
22 withdrawal of groundwater for prospecting or mining purposes or the dewatering of
23 mines may be made to the unreasonable detriment of public or private water supplies
24 or the unreasonable detriment of public rights in the waters of the state.

25 **SECTION 98.** 293.86 of the statutes is amended to read:

1 **295.40 Legislative findings.** The legislature finds all of the following:

2 (1) That attracting and aiding new mining enterprises and expanding the
3 mining industry in Wisconsin is part of Wisconsin public policy.

4 (2) That mining for nonferrous metallic minerals is different from mining for
5 ferrous minerals because in mining for nonferrous metallic minerals, sulfide
6 minerals react, when exposed to air and water, to form acid drainage.

7 (3) That if the mineral products and waste materials associated with
8 nonferrous metallic sulfide mining operations are not properly managed and
9 controlled, they can cause significant damage to the environment, affect human
10 health, and degrade the quality of life of the affected community.

11 (4) That the special concerns surrounding nonferrous metallic mining warrant
12 more stringent regulatory measures than those warranted for ferrous mineral
13 mining operations.

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

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

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

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

3 **295.41 Definitions.** In this subchapter:

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

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

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

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

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

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

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

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

4 (6) “Borrow materials” means soil or rock used in construction or reclamation
5 activities.

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

11 (8) “Closing” means the time at which a mining waste site ceases to accept
12 mining wastes.

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

15 (10) “Construct” means to engage in a program of on-site construction,
16 including site clearing, grading, dredging, or filling of land.

17 (11) “Department” means the department of natural resources.

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

20 (14) “Environmental impact report” means a document submitted by a person
21 seeking a mining permit that discloses environmental impacts of the proposed
22 mining.

23 (15) “Environmental impact statement” means a detailed statement under s.
24 1.11 (2) (c).

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

4 (17) “Exploration license” means a license under s. 295.44.

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

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

10 (20) “Freeboard” means the height of the top of a dam above the adjacent liquid
11 surface within the impoundment.

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

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

16 (23) “Groundwater quality standards” means numerical values consisting of
17 enforcement standards and preventive action limits contained in Table 1 of s. NR
18 140.10, and Table 2 of s. NR 140.12, Wis. Adm. Code, and any preventive action limits
19 for indicator parameters identified under s. NR 140.20 (2), Wis. Adm. Code.

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

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

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

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

11 (27) “Mining permit” means the permit under s. 295.58.

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

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

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

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

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

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

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

14 (34) “Overburden” means any unconsolidated material that overlies bedrock.

15 (35) “Person” means an individual, corporation, limited liability company,
16 partnership, association, local governmental agency, interstate agency, state agency,
17 or federal agency.

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

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

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

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

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

6 (41) “Refuse” means all mining waste and all waste materials deposited on or
7 in the mining site from other sources, except merchantable by-products.

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

11 (a) The parent corporation of the applicant.

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

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

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

21 (45) “Tailings” means waste material resulting from beneficiation of crushed
22 ferrous minerals at a concentrator or from washing, concentration, or treatment of
23 crushed ferrous minerals.

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

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

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

11 1. Wilderness areas.

12 2. Wild and scenic rivers.

13 3. National or state parks.

14 4. Wildlife refuges and areas.

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

16 **(46m)** “Wastewater and sludge storage or treatment lagoon” means a
17 man-made containment structure that is constructed primarily of earthen
18 materials, that is for the treatment or storage of wastewater, storm water, or sludge,
19 and that is not a land disposal system, as defined in s. NR 140.05 (11), Wis. Adm.
20 Code.

21 **(47)** “Waters of the state” has the meaning given in s. 281.01 (18).

22 **(48)** “Water supply” means the sources and their surroundings from which
23 water is supplied for drinking or domestic purposes.

24 **(49)** “Wetland” has the meaning given in s. 23.32 (1).

1 **295.43 Responsibilities related to mining.** The department shall serve as
2 the central unit of state government to ensure that the impact from mining and
3 reclamation on the air, lands, waters, plants, fish, and wildlife in this state will be
4 minimized and mitigated ^{offset} to the extent practicable. The administration of
5 occupational health and safety laws and rules that apply to mining remain
6 exclusively the responsibility of the department of safety and professional services.
7 The powers and duties of the geological and natural history survey under s. 36.25 (6)
8 remain exclusively the responsibility of the geological and natural history survey.
9 Nothing in this section prevents the department of safety and professional services
10 and the geological and natural history survey from cooperating with the department
11 in the exercise of their respective powers and duties.

12 **295.44 Exploration.** (1) DEFINITIONS. In this section:

13 (a) “Abandonment” means the filling or sealing of a drillhole.

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

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

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

21 (e) “Drilling site” means the area disturbed by exploration, including the
22 drillhole.

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

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

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

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

13 (j) “Neat cement grout” means a mixture consisting of type A portland cement
14 and water.

15 (k) “Termination” means the filling of drillholes and the reclamation of a
16 drilling site.

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

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

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

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

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

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

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

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

9 7. A description of how any pollutant-bearing minerals or materials will be
10 covered.

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

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

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

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

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

19 1. A description of how all toxic and hazardous wastes and other solid waste
20 will be disposed of in solid or hazardous waste disposal facilities licensed under ch.
21 289 or 291 or otherwise in an environmentally sound manner.

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

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

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

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

4 (c) An exploration license fee of \$300.

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

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

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

16 **(2m) CONFIDENTIALITY.** The department and the state geologist shall protect as
17 confidential any information, other than effluent data, contained in an application
18 for an exploration license, upon a showing that the information is entitled to
19 protection as a trade secret, as defined in s. 134.90 (1) (c), and any information
20 relating to the location, quality, or quantity of a ferrous mineral deposit, to
21 production or sales figures, or to processes or production unique to the applicant or
22 that would tend to adversely affect the competitive position of the applicant if made
23 public.

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

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

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

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

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

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

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

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

7 (b) An application for an exploration license is considered to be
8 administratively complete on the day that it is submitted, unless, before the 10th
9 business day after receiving the application, the department provides the applicant
10 with written notification that the application is not administratively complete. The
11 department may determine that an application is not administratively complete only
12 if the application does not include an exploration plan; a reclamation plan; an
13 exploration license fee; a bond; a certificate of insurance; or a copy of the applicant's
14 most recent annual report to the federal securities and exchange commission on form
15 10-K, or, if this is not available, a report of the applicant's current assets and
16 liabilities or other data necessary to establish that the applicant is competent to
17 conduct exploration in this state. The department may not consider the quality of
18 the information provided. In a notice provided under this paragraph, the
19 department shall identify what is missing from the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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