

1 (j) Sequential numbers or letters or other method, as approved by the  
2 department, permanently assigned to portions of the mining site that have been  
3 abandoned before abandonment of the entire mining operation.

4 (k) Changes in the surface area disturbed by mining during the preceding year,  
5 indicated by vertical crosshatching or other method approved by the department.

6 (L) Anticipated changes in the surface area disturbed by mining during the  
7 current year, indicated by horizontal crosshatching or other method approved by the  
8 department.

9 (m) Elevations of stockpiles and tailings basins.

10 (n) Drainage on and away from the surface area disturbed by mining, showing  
11 directional flow of water in drainage ways, natural watercourses, and streams,  
12 intermittent and flowing, including discharge from the mining.

13 (o) The name of the geologist, engineer, or surveyor responsible for the  
14 preparation of the map.

15 (p) The date the map was prepared.

16 **(2m)** Annually, the department shall review the bond or other security under  
17 s. 295.59 (1) to ascertain its adequacy. If the department after review determines  
18 that the amount of the bond or other security should be changed, it shall notify the  
19 permit holder of the necessary changes. If the permit holder does not seek a  
20 contested case hearing under s. 295.77 (3) within 30 days, the changes are considered  
21 to be accepted.

22 **(3)** If the department finds that a change requested under sub. (1) (a) would  
23 make substantial compliance with the approved mining plan, reclamation plan, or  
24 mining waste site feasibility study and plan of operation impossible or it finds, based  
25 on a review conducted no more frequently than every 5 years, that because of

1 changing conditions, including changes in reclamation costs or reclamation  
2 technology, the reclamation plan for a mining site is no longer sufficient to  
3 reasonably provide for reclamation of the mining site consistent with this  
4 subchapter, it shall require the operator to submit an amended mining plan,  
5 reclamation plan, or mining waste site feasibility study and plan of operation and  
6 applications for amending any approval associated with the proposed amendments  
7 to the mining plan, reclamation plan, or mining waste site feasibility study and plan  
8 of operation. The public notice, public comment, and public hearing procedures in  
9 s. 295.57 apply to amended plans and applications under this subsection. The  
10 department shall approve or deny the amended mining plan, reclamation plan, or  
11 mining waste site feasibility study and plan of operation in accordance with s.  
12 295.58, within 30 days following the close of the public comment period. The  
13 applicant may continue to operate under the existing mining permit until the  
14 amended mining permit is issued or denied.

15 **295.635 Required mining waste site inspections, record keeping,**  
16 **reporting, and responses.** (1) DEFINITIONS. In this section:

17 (a) “Active dam” means a dam and associated settling area into which tailings  
18 or wastewater are being introduced or that has not been reclaimed in a manner  
19 approved by the department.

20 (b) “Inactive dam” means a dam and associated settling area that is no longer  
21 being used for disposal of tailings or wastewater and that has been reclaimed in a  
22 manner approved by the department.

23 (2) GENERAL. The operator shall, at least monthly, visually inspect all of the  
24 following and record observations in a mining waste site operating log:

1 (a) The active portions of the mining waste site for possible damage or  
2 structural weakening.

3 (b) Mining waste handling and monitoring equipment and readings, to ensure  
4 normal operation and measurements.

5 (c) Fences or barriers around the mining waste site, for possible damage.

6 (d) The buffer area around the mining waste site, for possible environmental  
7 damage related to its operation.

8 **(3) ACTIVE DAMS.** The operator shall, at least monthly, inspect active dams and  
9 record the findings in the mining waste site operating log. The operator shall record  
10 at least all of the following findings:

11 (a) Condition of vegetation on the dam and within 50 feet from the outside base.

12 (b) Piezometric levels within the mass of the dam.

13 (c) Condition of soil surfaces on the top and slopes of the dam and within 50 feet  
14 from the outside base.

15 (d) Condition of drainage ditches near the base of the dam.

16 (e) Liquid surface level and amount of freeboard.

17 (f) Condition of spillways, conduits, and water level control structures.

18 **(4) INACTIVE DAMS.** The operator shall inspect inactive dams quarterly and  
19 record the findings in the mining waste site operating log. The operator shall record  
20 at least all of the following findings:

21 (a) Condition of soil surfaces on the top and slopes of the dam and within 50 feet  
22 from the outside base.

23 (b) Piezometric levels within the mass of the dam if that instrumentation has  
24 been determined to be necessary or is required in the long-term care provisions of  
25 the mining waste site feasibility study and plan of operation.

1 (c) Condition of spillways, conduits, and water level control structures.

2 (5) DEFECTIVE CONDITIONS OF DAMS POSING RISK OF ADVERSE IMPACT. When a  
3 defective condition that poses a significant risk of adverse impact to the environment  
4 is found during an inspection of a dam, the operator shall ensure that it is recorded  
5 and corrected at the earliest practicable time. At the earliest practicable time, the  
6 operator shall make a written report to the department of the condition and the  
7 actions proposed and taken for its correction. Within 5 business days of receipt of a  
8 written report, the department may confirm the correction of the condition and  
9 specify any necessary additional corrective action. An operator shall consider any  
10 of the following items as indicating a condition that requires prompt investigation  
11 and that may require corrective action:

12 (a) Seepage on the outer face of the dam accompanied by boils, sand cones, or  
13 deltas.

14 (b) Silt accumulations, boils, deltas, or cones in the drainage ditches at the base  
15 of the dam.

16 (c) Cracking of soil surface on the top or either face of the dam.

17 (d) Bulging of the outside face of the dam.

18 (e) Seepage, damp areas, or boils in the vicinity of, or erosion around, a conduit  
19 through the dam.

20 (f) Any shrinkage of the top or faces of the dam.

21 (6) POTENTIAL DEFECTS OF DAMS. All of the following conditions indicate  
22 potential defects and the operator shall closely check them on subsequent  
23 inspections for an active dam and conduct an intermediate inspection if they exist  
24 for an inactive dam:

1 (a) Patches of overgrown vegetation on the outside face or close to the base of  
2 the dam.

3 (b) Surface erosion, gulying, or wave erosion on the inside of the dam.

4 (c) Surface erosion, gulying, or damp areas on the outside of the dam, including  
5 the berm and the area within 50 feet from the outside base.

6 (d) Erosion below any conduit.

7 (e) Wet areas or soggy soil on the outside of, or in natural soil below, the dam.

8 **(7) RECORD KEEPING RELATED TO DAMS.** (a) The operator shall retain all records  
9 relating to dam monitoring, analytical, and verification activities and data,  
10 including all original strip chart recordings and instrumentation, calibration, and  
11 maintenance records, until termination of operator responsibility, except to the  
12 extent that copies of those records have previously been provided to the department.

13 (b) The operator shall maintain in a permanent file all of the following  
14 construction records pertaining to any dam in case they are needed for future  
15 reference:

16 1. Aerial photos of the construction site before construction.

17 2. Construction drawings and modifications of the drawings.

18 3. Construction specifications and modifications of the specifications.

19 4. Results of all soil tests on foundations and fill materials.

20 5. Logs of borings and engineering geology reports.

21 6. Copies of construction progress inspections pertinent to core trench, toe  
22 drain, internal drains, and other significant phases of the structure including, at the  
23 option of the operator, photographs of various structural items.

24 7. Aerial photos of the entire dam taken within 90 days after all construction  
25 is completed.

1           8. A description of and justification for all deviations or variances from the  
2 construction plans and specifications.

3           **(8) RESPONSES TO UNPLANNED EVENTS.** If a mining waste site has an accidental  
4 or emergency discharge, a fire, an explosion, or other unplanned or unpredicted  
5 event that is likely to damage human health or the environment, the operator shall  
6 follow the procedures set forth in the contingency plan under s. 295.51 (6) (f) and  
7 shall report the incident to the department and to county, town, and tribal  
8 governmental agencies immediately after the operator has discovered the event.

9           **(9) ANNUAL REPORT.** The operator shall submit to the department an annual  
10 summary report concerning the mining waste site containing all of the following:

11           (a) Statistical summaries of annual and cumulative data.

12           (b) A comparison of the summaries under par. (a) to mining waste  
13 characterization, leachate characterizations, effluent predictions, and baseline  
14 water quality and background water quality data as contained in the approved  
15 mining waste site feasibility study and plan of operation.

16           (c) The results of verification procedures and a presentation of the error  
17 associated with each parameter reported.

18           (d) Information from monitoring wells that have not been affected, including  
19 a discussion of whether the baseline values should be modified due to natural  
20 variability and what the new values should be.

21           **(10) APPLICABILITY.** This section does not apply to a surface mine that is  
22 backfilled with mining waste.

23           **295.64 Mining site monitoring; general. (1) GENERAL.** The department,  
24 as a condition of a mining permit, shall require the operator to perform adequate  
25 monitoring of environmental changes during the course of the mining and for the

1 additional period of time that is necessary to satisfactorily complete reclamation and  
2 completely release the operator from any bonds or other security required. The  
3 department may monitor environmental changes concurrently with the operator  
4 and for an additional period after the security is released.

5 (2) ANALYSES. (a) The department shall review baseline water quality data  
6 with respect to groundwater and monitoring data associated with the mine, mining  
7 waste sites, and sites for the disposal of wastes that are not mining wastes at the time  
8 of each review of the mining permit or reclamation plan under s. 295.63 (3) and when  
9 the operator requests a modification of the mining permit or reclamation plan.

10 (b) An operator shall have bacteriological analyses of water samples and all  
11 radiological analyses associated with the mining site performed by the state  
12 laboratory of hygiene or at a laboratory certified or approved by the department of  
13 health services. An operator shall have other laboratory tests the results of which  
14 are submitted to the department under this subchapter performed by a laboratory  
15 certified or registered under s. 299.11, except that this requirement does not apply  
16 to any of the following:

- 17 1. Physical testing of soil.
- 18 2. Air quality tests.
- 19 3. Tests for hydrogen ion concentration (pH).
- 20 4. Tests for chlorine residual.
- 21 5. Tests for temperature.

22 **295.643 Mining waste site monitoring.** (1) GENERAL. The department may  
23 require the monitoring of groundwater, surface water, leachate, or other physical  
24 features associated with a mining waste site.

1           (2) PHYSICAL FEATURES. The department may require the monitoring of air  
2           quality, berms, embankments, vegetation growth, and drainage control structures  
3           associated with the mining waste site. The department may require monitoring of  
4           other chemical or biological conditions, if the department determines that the  
5           monitoring is necessary to assess the impact of the mining waste site on critical  
6           aquatic and terrestrial ecosystems.

7           (3) MONITORING WELLS AND OTHER DEVICES. (a) The department shall require  
8           the installation of groundwater monitoring wells at a mining waste site. The  
9           department may require installation of leachate monitoring wells, lysimeters,  
10          moisture probes, and similar devices and associated water quality sampling and  
11          analysis programs to detect the effects of leachate on groundwater.

12          (b) The department shall determine the required number of groundwater  
13          monitoring wells based on the size of the mining waste site, the design of the mining  
14          waste site, the types of mining waste, and the hydrologic and geologic setting of the  
15          mining waste site. The department shall ensure that the number of wells is adequate  
16          to yield samples representative of the groundwater quality both up gradient and  
17          down gradient of the mining waste site.

18          (c) An operator shall construct all monitoring wells in accordance with ch. NR  
19          141, Wis. Adm. Code, and in such a manner as to prevent, to the extent practicable,  
20          the exchange of water between aquifers.

21          (4) DESTRUCTION OF MONITORING DEVICES. (a) If for any reason a monitoring well  
22          or other monitoring device associated with a mining waste site is destroyed or  
23          otherwise fails to function properly, the operator shall notify the department in  
24          writing within 5 days of discovering the destruction or malfunction.



1 (b) The operator shall either restore the monitoring well or other device or  
2 properly abandon it and replace it with a functioning device within 60 days of  
3 notifying the department under par. (a) unless the department notifies the operator  
4 otherwise in writing within 30 days of receiving notice from the operator.

5 (5) SAMPLING OTHER WELLS. The department may require an operator to sample  
6 public or private wells as part of a regular monitoring program or to determine the  
7 extent of groundwater contamination associated with a mining waste site. If the  
8 owner of a well does not authorize access for sampling, the operator shall promptly  
9 notify the department.

10 (6) REQUIRED MONITORING AND ANALYSIS. (a) An operator shall monitor  
11 groundwater at locations identified in the waste site feasibility study and plan of  
12 operation on a quarterly basis, during March, June, September, and December,  
13 unless the department agrees to an alternate schedule. The department may base  
14 an alternate schedule on the hydrogeologic system's characteristics, such as flow  
15 velocity and stratigraphy, and on fluctuations in quality as determined through  
16 background water quality or baseline water quality sampling and mining waste  
17 type. The operator shall analyze for the parameters listed in the approved waste site  
18 feasibility study and plan of operation.

19 (b) An operator shall use the methods for groundwater and surface water  
20 sample collection, preservation, and analysis that are specified in the approved  
21 mining waste site facility study and plan of operation.

22 (7) WATER ELEVATION MEASUREMENTS. The operator shall make water elevation  
23 measurements on a quarterly basis.

24 (8) OPERATIONS REPORT. The department may require an operator to submit an  
25 operations report to assess the effectiveness and environmental acceptability of

1 mining waste site operations. The operator may include in the report a discussion  
2 of confinement of the active fill area and an analysis of leachate and other  
3 monitoring, surface water control and erosion control, revegetation, settlement,  
4 volume of the mining waste site utilized, leachate quantity and quality, slope  
5 stability, equipment performance, volume and type of waste disposed of, and other  
6 relevant parameters.

7 (9) **REPORTS OF MONITORING DATA.** The operator shall forward to the department,  
8 within 60 days after sampling, 3 copies of the monitoring data required by this  
9 section to be collected during each quarter.

10 **295.645 Groundwater quality, monitoring, and response. (1)**

11 **DEFINITIONS.** In this section:

12 (a) “Alternative concentration limit” means the concentration of a substance  
13 in groundwater established by the department to replace a groundwater quality  
14 standard when the department grants an exemption.

15 (b) “Statistically significantly different” means an amount of change  
16 determined by the use of statistical tests for measuring significance at the 95 percent  
17 confidence level.

18 (2) **DESIGN MANAGEMENT ZONE.** (a) Notwithstanding the rule-making authority  
19 in s. 160.21 (2) and except as provided under par. (b), for the purposes of ch. 160, the  
20 horizontal distance to the boundary of the design management zone for a mining  
21 operation is 1,200 feet from the limits of the engineered structures of the mining  
22 waste site, including any wastewater and sludge storage or treatment lagoons, the  
23 edge of the mine, and the adjacent mine mill and ferrous mineral processing facilities  
24 or at the boundary of the property owned or leased by the applicant or on which the  
25 applicant holds an easement, whichever distance is less.

1           (b) When issuing or modifying a mining permit or issuing or reissuing any other  
2 approval, the department may expand the design management zone by a horizontal  
3 distance of up to an additional 1,200 feet in any direction as provided in this  
4 paragraph, but not beyond the boundary of the property owned or leased by the  
5 applicant or on which the applicant holds an easement. The department may not  
6 expand the design management zone unless the applicant demonstrates all of the  
7 following:

8           1. That preventive action limits and enforcement standards or alternative  
9 concentration limits cannot be met at the boundary of the design management zone  
10 if it is not expanded.

11           2. That preventive action limits and enforcement standards or alternative  
12 concentration limits will be met at the boundary of the expanded design  
13 management zone.

14           (c) Notwithstanding the rule-making authority in s. 160.21 (2), for the  
15 purposes of ch. 160, the vertical distance to the boundary of the design management  
16 zone for a mining site, including any mining waste site, extends no deeper than 1,000  
17 feet into the Precambrian bedrock or than the final depth of the mining excavation,  
18 whichever is greater.

19           **(3) POINT OF STANDARDS APPLICATION.** (a) Any point at which groundwater is  
20 monitored is a point of standards application to determine whether a preventive  
21 action limit or an alternative concentration limit to a preventive action limit has been  
22 attained or exceeded for an activity regulated under a mining permit or another  
23 approval related to the mining operation. Any of the following is a point of standards  
24 application to determine whether an enforcement standard or an alternative  
25 concentration limit to an enforcement standard has been attained or exceeded for an

1 activity regulated under a mining permit or another approval related to the mining  
2 operation:

3 1. Any point of present groundwater use.

4 2. Any point beyond the boundary of the property on which the activity is  
5 conducted, subject to par. (b).

6 3. Any point that is within the boundary of the property on which the activity  
7 is conducted but is beyond the design management zone, subject to par. (b).

8 (b) No point at a depth of greater than 1,000 feet into the Precambrian bedrock  
9 or than the final depth of the mining excavation, whichever is greater, is a point of  
10 standards application under this subsection.

11 (c) Section 160.21 (2) does not apply to an activity regulated under this  
12 subchapter.

13 (4) CHANGE IN GROUNDWATER QUALITY. If the analysis of samples collected  
14 through monitoring indicates that the quality of groundwater is statistically  
15 significantly different from either baseline water quality or background water  
16 quality and the evaluation of the data shows a reasonable probability that without  
17 intervention groundwater quality standards or alternative concentration limits will  
18 be attained or exceeded, the operator shall do all of the following:

19 (a) Notify the department within 10 days after the operator receives the results  
20 of the analysis of the samples.

21 (b) Determine, if possible, the cause of the difference in water quality, such as  
22 a spill, a design failure, or an improper operational procedure.

23 (c) Determine the extent of groundwater contamination or the potential for  
24 groundwater contamination.

25 (d) Implement the applicable portions of the approved contingency plan.

1           **(5) RESPONSE CONCERNING PREVENTIVE ACTION LIMITS.** In accordance with s. NR  
2 140.24 (1) to (5), Wis. Adm. Code, the department shall evaluate the range of  
3 responses proposed by the operator when a preventive action limit or an alternative  
4 concentration limit to a preventive action limit is attained or exceeded and the  
5 analysis of samples indicates that the quality of groundwater is statistically  
6 significantly different from either baseline water quality or background water  
7 quality at a point of standards application. In designating the appropriate response,  
8 the department shall evaluate the operator's proposed range of responses, including  
9 any alternate responses to those identified in s. NR 140.24, Wis. Adm. Code. For any  
10 alternate responses, the department shall consider the technical and economic  
11 feasibility of alternate responses, the practicality of stopping the further release of  
12 the substance, and the risks and benefits of continued mining operations. The  
13 department shall designate the appropriate response, except that, notwithstanding  
14 s. 160.21 (3) and the rule-making authority under s. 160.21 (1), the department may  
15 not prohibit a practice or activity or require closure and abandonment of a mining  
16 waste site, including any wastewater and sludge storage or treatment lagoon, unless  
17 it has followed the procedures in s. 295.78 and satisfies the requirements of s. 160.23  
18 (4) and (6). The department may determine that no response is necessary and that  
19 an exemption is not required when the requirements of s. NR 140.24 (5) (a) or (b), Wis.  
20 Adm. Code are met.

21           **(6) RESPONSE CONCERNING ENFORCEMENT STANDARDS.** (a) In accordance with s.  
22 NR 140.26 (1) and (2), Wis. Adm. Code, the department shall evaluate the range of  
23 responses proposed by the operator based on the responses listed in Table 6 of s. NR  
24 140.26, Wis. Adm. Code, when an enforcement standard or an alternative  
25 concentration limit to an enforcement standard is attained or exceeded and the

1 analysis of samples indicates that the quality of groundwater is statistically  
2 significantly different from either baseline water quality or background water  
3 quality at a point of standards application. In designating the appropriate response,  
4 the department shall evaluate the operator's proposed range of responses against  
5 those identified in Table 6 of s. NR 140.26, Wis. Adm. Code. The department shall  
6 designate the appropriate response, except that, notwithstanding ss. 160.21 (3) and  
7 160.25 (1) (a) and the rule-making authority under s. 160.21 (1), the department may  
8 not prohibit a practice or activity or require closure and abandonment of a mining  
9 waste site, including any wastewater and sludge storage or treatment lagoon, unless  
10 it has followed the procedures in s. 295.78 and all of the following apply:

11 1. The department bases its decision upon reliable test data.

12 2. The department determines, to a reasonable certainty, by the greater weight  
13 of the credible evidence, that no other remedial action would prevent the violation  
14 of the enforcement standard at the point of standards application.

15 3. The department establishes the basis for the boundary and duration of the  
16 prohibition.

17 4. The department ensures that any prohibition imposed is reasonably related  
18 in time and scope to maintaining compliance with the enforcement standard at the  
19 point of standards application.

20 5. If the substance involved is naturally occurring, unless the substance  
21 involved is carcinogenic, teratogenic, or mutagenic in humans, the department  
22 considers the existence of the background concentration of the substance in  
23 evaluating response options to the noncompliance with the enforcement standard or  
24 alternative concentration limit for that substance and determines that the proposed  
25 prohibition will result in the protection of or substantial improvement in

1 groundwater quality notwithstanding the background concentrations of the  
2 substance.

3 (b) The department may only require a remedial action to be taken if the  
4 remedial action is reasonably related in time and scope to the substance, activity, or  
5 practice that caused the enforcement standard or alternative concentration limit to  
6 an enforcement standard to be attained or exceeded and the quality of groundwater  
7 to be statistically significantly different from either baseline water quality or  
8 background water quality at the point of standards application.

9 (c) If nitrates or any substance of welfare concern attains or exceeds an  
10 enforcement standard and if the analysis of samples indicates that the quality of  
11 groundwater is statistically significantly different from either baseline or  
12 background water quality, then the department shall evaluate whether the  
13 enforcement standard was attained or exceeded in whole or in part due to high  
14 background water quality concentrations of the substance and whether the  
15 additional concentrations represent a public welfare concern before it designates the  
16 appropriate response and, notwithstanding ss. 160.21 (3) and 160.25 (1) (a) and the  
17 rule-making authority under s. 160.21 (1), the department may not prohibit a  
18 practice or activity or require closure and abandonment of a mining waste site,  
19 including any wastewater and sludge storage or treatment lagoon, unless it has  
20 followed the procedures in s. 295.78 and par. (a) 1. to 4. apply.

21 (d) If compliance with an enforcement standard is achieved at a point of  
22 standards application, then sub. (5) applies.

23 **(6m)** MANDATORY INTERVENTION BOUNDARY FOR MINING WASTE SITE AND MINE. (a)  
24 Except as provided under par. (am), the horizontal distance to the mandatory  
25 intervention boundary for a mining waste site is 300 feet from the outer waste

1 boundary or the outer edge of the excavation, unless the boundary of the design  
2 management zone is within 600 feet of the outer waste boundary or the outer edge  
3 of the excavation, in which case the mandatory intervention boundary is one-half  
4 the distance from the outer waste boundary or the outer edge of the excavation to the  
5 boundary of the design management zone.

6 (am) The department may reduce the mandatory intervention boundary under  
7 par. (a) by a horizontal distance of up to 150 feet if the department determines that  
8 the reduction is necessary to adequately identify and respond to potential  
9 groundwater quality issues.

10 (b) An operator shall monitor groundwater quality at locations approved by the  
11 department along the mandatory intervention boundary, except for any portion of  
12 the mandatory intervention boundary that is within another mandatory  
13 intervention boundary, and within the mandatory intervention boundary. When  
14 approving locations for monitoring, the department shall ensure that duplicative  
15 monitoring is not required within overlapping mandatory intervention boundaries.

16 (c) 1. Notwithstanding sub. (5), if a preventive action limit or an enforcement  
17 standard has been exceeded beyond the mandatory intervention boundary, the  
18 department shall require a response in accordance with s. NR 140.24, Wis. Adm.  
19 Code, except that s. NR 140.24 (5), Wis. Adm. Code, does not apply.

20 2. If sampling results indicate that an enforcement standard or a preventive  
21 action limit has been exceeded within, but not beyond, the mandatory intervention  
22 boundary and a comparison of sampling results to the results of modeling indicates  
23 that the sampling results are consistent with the design and expected performance  
24 of the mining waste site, the operator may recommend a no response action, and the



1 department may approve a no response action if that is authorized under s. NR  
2 140.24 (5), Wis. Adm. Code.

3 (7) ENVIRONMENTAL ANALYSIS NOT REQUIRED. An action under sub. (5) or (6) with  
4 respect to a specific site does not constitute a major state action under s. 1.11 (2).

5 (8) EXEMPTIONS TO GROUNDWATER QUALITY STANDARDS. When issuing or  
6 modifying a mining permit or issuing or reissuing any other approval, the  
7 department may grant an exemption from a groundwater quality standard and  
8 establish an alternative concentration limit to a groundwater quality standard.

9 (9) APPLICABILITY OF OTHER LAW. Chapter NR 140, Wis Adm. Code, applies to  
10 mining operations and mining sites, including mining waste sites, only to the extent  
11 that it does not conflict with this section.

12 **295.65 Successors.** (1) When one operator succeeds to the interest of another  
13 in an uncompleted mining operation by sale, assignment, lease, or otherwise, the  
14 department shall release the first operator from the duties imposed upon the first  
15 operator by this subchapter as to the mining operation and transfer the mining  
16 permit and any approvals under ss. 295.60, 295.605, and 295.61 to the successor  
17 operator if all of the following apply:

18 (a) The successor operator agrees to comply with the requirements of this  
19 subchapter.

20 (b) The successor operator discloses whether it has forfeited any performance  
21 security because of noncompliance with any mining laws within the previous 10  
22 years, posts any bond or other security required under s. 295.59, and assumes all  
23 responsibilities of all applicable approvals granted to the predecessor operator.

24 (2) The department is not required to prepare an environmental impact  
25 statement or an environmental assessment for the purposes of this section.

1           **295.66 Cessation of mining or reclamation.** If there is a cessation of  
2 mining or reclamation for 30 days or more that is not set forth in either the mining  
3 plan or the reclamation plan, the operator shall notify the department of the  
4 cessation within 48 hours of the cessation of mining and shall begin stabilization of  
5 the mining site. The department may require the operator to provide technical,  
6 engineering, and any other information that the operator believes shows that its  
7 actions to stabilize the mining site are adequate. If the department determines, after  
8 reviewing the information provided by the operator, that the proposed stabilization  
9 of the mining site will result in a substantial adverse impact to the environment, the  
10 department shall order the operator to begin additional measures to protect the  
11 environment, including, if the cessation is reasonably anticipated to extend for a  
12 protracted period of time, reclamation according to the reclamation plan or part of  
13 the reclamation plan. Usual and regular shutdown of operations on weekends, for  
14 maintenance or repair of equipment or facilities, or for other customary reasons do  
15 not constitute a cessation of mining.

16           **295.67 Determination of abandonment of mining.** (1) Except as provided  
17 in sub. (2), abandonment of mining occurs if there is a cessation of mining, not set  
18 forth in an operator's mining plan or reclamation plan or by any other sufficient  
19 written or constructive notice, extending for more than 6 consecutive months.

20           (2) Abandonment of mining does not occur if all of the following apply:

21           (a) The cessation of mining is due either to labor strikes or to unforeseen  
22 developments such as adverse market conditions.

23           (b) The cessation of mining does not continue beyond the time, not to exceed  
24 5 years, specified by the department.

1           (c) The mining site is maintained in an environmentally stable manner during  
2 the cessation of mining.

3           (d) The reclamation of the mining site continues according to the reclamation  
4 plan during the cessation of mining to the extent practicable.

5           **295.68 Certificates of completion and release of security.** (1) Upon the  
6 petition of the operator, but not less than 4 years after notification to the department  
7 by the operator of the completion of the reclamation plan or not less than one year  
8 after notification to the department by the operator of the completion of the  
9 reclamation plan as to a portion of the mining site, if the department finds that the  
10 operator has completed reclamation of any portion of the mining site in accordance  
11 with the reclamation plan and this subchapter, the department shall issue a  
12 certificate of completion setting forth a description of the area reclaimed and a  
13 statement that the operator has fulfilled its duties under the reclamation plan as to  
14 that area.

15           (2) Upon the issuance of any certificate of completion under sub. (1) for any  
16 portion of the mining site, but not for the entire mining site, the department shall  
17 allow the operator to reduce the amount of the bond or other security provided under  
18 s. 295.59 (1) to an amount equal to the estimated cost of reclamation of the portion  
19 of the mining site that is disturbed or for which reclamation has been completed but  
20 no certificate of completion has been issued.

21           (3) Upon issuance of a certificate or certificates of completion of reclamation  
22 for the entire mining site, the department shall require the operator to maintain a  
23 bond or other security under s. 295.59 (1) equal to at least 10 percent of the cost to  
24 the state of reclamation of the entire mining site, except that if the mining site in the

1 mining plan is less than 10 acres, the department may release the bond or other  
2 security after issuance of the certificate of completion for the entire mining site.

3 (4) After 10 years after the issuance of a certificate or certificates of completion  
4 for the entire mining site, the department shall release the remaining bond or other  
5 security provided under s. 295.59 (1) if the department finds that the reclamation  
6 plan has been complied with.

7 **295.69 Termination of proof of financial responsibility for long-term**  
8 **care of mining waste site.** (1) One year after closure, and annually thereafter  
9 until the department terminates the obligation to maintain proof of financial  
10 responsibility for long-term care of a mining waste site under sub. (2) (c), an operator  
11 who has carried out all necessary long-term care during the preceding year, may  
12 apply to the department for a reduction in the amount of the proof of financial  
13 responsibility provided under s. 295.59 (2m) equal to the costs of long-term care for  
14 that year. The operator shall provide an itemized list of costs incurred. If the  
15 department determines that the costs incurred are in accordance with the long-term  
16 care requirements in the approved waste site feasibility study and plan of operation  
17 and that adequate funds exist to complete required long-term care for the remainder  
18 of the 40-year period on which the amount of the proof of financial responsibility was  
19 originally determined, the department shall authorize in writing a reduction in the  
20 amount of proof of financial responsibility provided. The department shall make its  
21 determinations within 90 days of an application.

22 (2) (a) An operator may apply to the department for termination of its  
23 obligation to maintain proof of financial responsibility for long-term care of the  
24 mining waste site under s. 295.59 (2m) at any time after the mining waste site has  
25 been closed for 20 years by submitting an application that demonstrates that

1 continuation of the obligation to maintain proof of financial responsibility for  
2 long-term care is not necessary for adequate protection of public health or the  
3 environment. The burden is on the operator to prove by a preponderance of the  
4 evidence that continuation of the obligation to maintain proof of financial  
5 responsibility for long-term care is not necessary for adequate protection of public  
6 health or the environment.

7 (b) Within 30 days of receiving an application under par. (a), the department  
8 shall provide notice to the public of the application for termination of the obligation  
9 to maintain proof of financial responsibility for long-term care. In the notice, the  
10 department shall invite the submission of written comments by any person on the  
11 application within 30 days of the date of the publication of the notice. The  
12 department shall provide the notice by publishing a class 1 notice under ch. 985 in  
13 the official newspaper designated under s. 985.04 or 985.05 or, if none exists, in a  
14 newspaper likely to give notice in the area of the mining waste site, and shall publish  
15 notice on the department's Internet site. The date on which the department first  
16 publishes the notice on its Internet site shall be considered the date of the publication  
17 of the notice required to be published under this paragraph. The department shall  
18 also send the notice to the operator.

19 (c) Within 120 days of the date of the publication of the notice under par. (b),  
20 the department shall determine either that proof of financial responsibility for  
21 long-term care of the mining waste site is no longer required, in which case the  
22 applicant is relieved of the responsibility of providing proof of financial responsibility  
23 for long-term care, or that proof of financial responsibility for long-term care of the  
24 mining waste site is still required, in which case the applicant may not submit

1 another application under par. (a) until at least 5 years have elapsed since the  
2 previous application.

3 **295.695 Inspections by the department.** (1) Any duly authorized officer,  
4 employee, or representative of the department who has received the safety training  
5 under 30 CFR 48.31 may enter and inspect any property, premises, or place on or at  
6 which any mining operation or facility is located or is being constructed or installed  
7 at any reasonable time for the purpose of ascertaining the state of compliance with  
8 this subchapter and the provisions of chs. 281, 283, 285, 289, 291, 292, and 299 and  
9 rules promulgated under those chapters that are applicable to the mining operation.  
10 No person may refuse entry or access to any authorized representative of the  
11 department who requests entry for purposes of inspection, and who presents  
12 appropriate credentials.

13 (2) No person may obstruct, hamper, or interfere with any inspection  
14 authorized in sub. (1).

15 (3) The department shall furnish to the operator a written report on any  
16 inspection setting forth all observations, relevant information, and data that relate  
17 to compliance status.

18 **295.73 Fees.** (1) (a) Except as provided in par. (b), an applicant for a mining  
19 permit is not required to pay any application or filing fee for any approval other than  
20 a mining permit, notwithstanding any fee required under ch. 23, 29, 30, 31, 169, 281,  
21 283, 285, 289, or 291, or rules promulgated under those chapters.

22 (b) An applicant for a mining permit shall pay any fee required under s. 281.343

23 (3) (c) 1.

24 (3) (a) The department shall assess an applicant a fee equal to its costs, other  
25 than costs of a contract under par. (d), for evaluating the mining project, including

1 the costs for consultants retained by the department to evaluate the application for  
2 the mining permit and the application for any other approval, or \$2,000,000,  
3 whichever is less.

4 (b) The applicant shall pay the fees under par. (a) as follows:

5 1. One hundred thousand dollars shall be paid at the time that the bulk  
6 sampling plan is filed under s. 295.45 or at the time that the notice of the intention  
7 to file a mining permit application is filed, whichever is first.

8 2. Two hundred fifty thousand dollars when the department provides cost  
9 information demonstrating that the payment under subd. 1. has been fully allocated  
10 against actual costs.

11 3. Two hundred fifty thousand dollars when the department provides cost  
12 information demonstrating that the payment under subd. 2. has been fully allocated  
13 against actual costs.

14 4. Two hundred fifty thousand dollars when the department provides cost  
15 information demonstrating that the payment under subd. 3. has been fully allocated  
16 against actual costs.

17 5. Two hundred fifty thousand dollars when the department provides cost  
18 information demonstrating that the payment under subd. 4. has been fully allocated  
19 against actual costs.

20 6. Two hundred fifty thousand dollars when the department provides cost  
21 information demonstrating that the payment under subd. 5. has been fully allocated  
22 against actual costs.

23 7. Two hundred fifty thousand dollars when the department provides cost  
24 information demonstrating that the payment under subd. 6. has been fully allocated  
25 against actual costs.

1           8. Two hundred fifty thousand dollars when the department provides cost  
2 information demonstrating that the payment under subd. 7. has been fully allocated  
3 against actual costs.

4           9. One hundred fifty thousand dollars when the department provides cost  
5 information demonstrating that the payment under subd. 8. has been fully allocated  
6 against actual costs.

7           (c) After the department approves or denies the application for a mining permit  
8 or, if the applicant withdraws the application for a mining permit, after the applicant  
9 withdraws the application, the department shall refund to the applicant any amount  
10 paid by the applicant under par. (a) but not fully allocated against the department's  
11 actual costs.

12           (d) In addition to the fees under par. (a), if the department contracts under s.  
13 295.53 (1) with a consultant to assist in preparation of an environmental impact  
14 statement and awards the contract on the basis of competitive bids, the applicant  
15 shall pay the full costs as provided in the contract.

16           (4) Subchapter VI of ch. 289 does not apply to mining waste disposed of in a  
17 mining waste site covered by a mining permit, except that an operator shall pay the  
18 fees specified in ss. 289.63 (4), 289.64 (3), and 289.67 (1) (d).

19           **295.75 Effect of other laws.** (1) Except as provided in sub. (2), if there is a  
20 conflict between a provision in this subchapter and a provision in ch. 23, 29, 30, 31,  
21 160, 169, 281, 283, 285, 289, or 291 or in a rule promulgated under one of those  
22 chapters, the provision in this subchapter controls.

23           (2) (a) If there is a conflict between a provision in this subchapter and a  
24 provision in s. 281.343, the provision in s. 281.343 controls.



1 (b) If there is a conflict between a provision in this subchapter and a provision  
2 in s. 281.346, the provision in s. 281.346 controls, except as provided in s. 295.57 (9).

3 *Insert*  
4 *182-2* **295.77 Review. (1) LIMITS ON CONTESTED CASE HEARINGS. (a) Before initial**  
5 *mining permit decision.* No person is entitled to a contested case hearing on a  
6 decision by the department related to a proposed mining operation, including the  
7 decision on the environmental impact statement for the proposed mining operation,  
8 and any decision on an approval associated with the proposed mining operation,  
9 before the department issues the decision to approve or deny the application for the  
10 mining permit for the proposed mining operation.

11 (b) *Before decision on amended plan.* No person is entitled to a contested case  
12 hearing on a decision by the department related to an amended mining plan,  
13 reclamation plan, or mining waste site feasibility study and plan of operation  
14 required under s. 295.63 (3) or to any amendment to an approval associated with the  
15 amended mining plan, reclamation plan, or mining waste site feasibility study and  
16 plan of operation before the department issues the decision to approve or deny the  
17 amended mining plan, reclamation plan, or mining waste site feasibility study and  
18 plan of operation.

19 **(2) CONTESTED CASE HEARINGS; AFTER INITIAL MINING PERMIT DECISION OR DECISION**  
20 **ON AMENDED PLAN. (a) Entitlement. 1.** A person is entitled to a contested case hearing  
21 on a decision by the department related to a mining permit for a proposed mining  
22 operation, including a decision related to the environmental impact statement for  
23 the proposed mining operation, or on any decision related to an approval associated  
24 with the proposed mining operation to which the deadline in s. 295.57 (8) (a) applied,  
only if the person is entitled to a contested case hearing under s. 227.42 and the

1 person requests the hearing within 30 days after the department issues the decision  
2 to approve or deny the application for the mining permit.

3 2. A person is entitled to a contested case hearing on a decision by the  
4 department related to an amended mining plan, reclamation plan, or mining waste  
5 site feasibility study and plan of operation required under s. 295.63 (3) or to any  
6 amendment to an approval associated with the amended mining plan, reclamation  
7 plan, or mining waste site feasibility study and plan of operation only if the person  
8 is entitled to a contested case hearing on the decision under s. 227.42 and the person  
9 requests the hearing within 30 days after the department issues the decision to  
10 approve or deny the amended mining plan, reclamation plan, or mining waste site  
11 feasibility study and plan of operation.

12 3. All issues raised by all persons requesting a contested case hearing in  
13 accordance with subd. 1. or 2. in connection with the same mining operation shall be  
14 considered in one contested case hearing.

15 (b) *Deadline for decision.* 1. The hearing examiner presiding over a contested  
16 case hearing under this subsection shall issue a final decision on the case no more  
17 than 150 days after the department issues the decision to grant or deny the mining  
18 permit or the decision to approve or deny the amended mining plan, reclamation  
19 plan, or mining waste site feasibility study and plan of operation.

20 2. If the hearing examiner does not issue a final decision by the deadline under  
21 subd. 1., the decision of the department being reviewed by the hearing examiner is  
22 affirmed.

23 (c) *Restriction on orders.* The hearing examiner may not issue an order  
24 prohibiting activity authorized under a decision of the department that is being  
25 reviewed in the contested case hearing.

1 (d) *Judicial review.* A person seeking judicial review of the decision in a  
2 contested case hearing under this subsection shall comply with the requirements for  
3 service and filing in s. 227.53 (1) (a) and shall commence the action in the circuit court  
4 for the county in which the majority of the proposed mining site is located no more  
5 than 30 days after service of the decision or, if the hearing examiner does not issue  
6 a final decision by the deadline under par. (b) 1., no more than 30 days after that  
7 deadline.

8 (3) **CONTESTED CASE HEARINGS IN OTHER SITUATIONS.** Except as provided in sub.  
9 (1) (b), a person is entitled to a contested case hearing on a decision by the department  
10 related to a mining operation to which s. 295.57 (8) (b) or (c) applies or that is issued  
11 after the department issues the decision to approve the application for the mining  
12 permit for the mining operation if the person is entitled to a contested case hearing  
13 under s. 227.42.

14 **295.78 Mining and reclamation; orders.** (1) (a) If the department finds a  
15 violation of law or any unapproved deviation from the mining plan, reclamation plan,  
16 or mining waste site feasibility study and plan of operation at a mining site under  
17 a mining permit, the department shall do one of the following:

18 1. Issue an order requiring the operator to comply with the law, mining plan,  
19 reclamation plan, or mining waste site feasibility study and plan of operation within  
20 a specified time.

21 2. Require the alleged violator to appear before the department for a hearing  
22 and answer the department's charges.

23 3. Request the department of justice to initiate action under s. 295.79.

24 (b) Any order issued under par. (a) 1. following a hearing takes effect  
25 immediately. Any other order takes effect 10 days after the date the order is served,

1 unless the person named in the order requests in writing a hearing before the  
2 department within the 10-day period.

3 (c) If no hearing on an order issued under par. (a) 1. was held and if the  
4 department receives a request for a hearing within 10 days after the date the order  
5 is served, the department shall provide due notice and hold a hearing. If after the  
6 hearing the department finds that no violation has occurred, it shall rescind its order.

7 (d) If an operator fails to comply with an order issued under par. (a) 1. within  
8 the time for compliance specified in the order, the department shall suspend the  
9 mining permit until the operator fully complies with the order, except that if the  
10 operator seeks review of the order under s. 295.77 (3), mining may continue until the  
11 final disposition of the action, except as provided under sub. (4).

12 (e) The department shall inform the department of justice of a suspension  
13 under par. (d) within 14 days. After receiving notice of a suspension, the department  
14 of justice may commence an action under s. 295.79.

15 **(2)** If reclamation of a mining site is not proceeding in accordance with the  
16 reclamation plan and the operator has not begun to rectify deficiencies within the  
17 time specified in an order, or if the reclamation is not properly completed in  
18 conformance with the reclamation plan within one year after completion or  
19 abandonment of mining on any portion of the mining site, unless because of acts of  
20 God, such as adverse weather affecting grading, planting, and growing conditions,  
21 the department, with the staff, equipment, and material under its control, or by  
22 contract with others, shall take the actions that are necessary for the reclamation of  
23 mined areas. The operator is liable for the cost to the state of reclamation conducted  
24 under this subsection.

1           (3) The department shall cancel all other mining permits held by an operator  
2 who refuses to reclaim a mining site in compliance with the reclamation plan after  
3 the completion of mining or after the cancellation of a mining permit. The  
4 department may not issue any mining permit for that mining site or any other  
5 mining site in this state to an operator who refused to reclaim the mining site in  
6 compliance with the reclamation plan.

7           (4) At any time that the department determines that the continuance of mining  
8 constitutes an immediate and substantial threat to public health and safety or the  
9 environment, the department may request the department of justice to institute an  
10 action in circuit court of the county in which the mine is located for a restraining  
11 order or injunction or other appropriate remedy to stop mining until the immediate  
12 and substantial threat is eliminated.

13           (5) Section 281.346 (7m) does not apply to a water withdrawal associated with  
14 a mining operation for which a mining permit has been issued.

15           **295.79 Enforcement; penalties.** (1) The department of justice shall enforce  
16 this subchapter and any order issued under this subchapter. The circuit court of the  
17 county where the violation occurred has jurisdiction to enforce this subchapter or any  
18 orders issued under this subchapter, by injunction or other appropriate relief.

19           (2) (a) Any person who authorizes or engages in mining without a mining  
20 permit and written authorization to mine under s. 295.59 (3) shall forfeit all profits  
21 obtained from those illegal activities and not more than \$5,000 for each day during  
22 which the mine was in operation.

23           (b) A person to whom par. (a) applies is also liable to the department for the full  
24 cost of reclaiming the affected area of land and any damages caused by the mining.

1           (c) If the violator of par. (a) is a corporation, limited liability company,  
2           partnership, or association, any officer, director, member, manager, or partner who  
3           knowingly authorizes, supervises, or contracts for mining is also subject to the  
4           penalties in this subsection.

5           **(3)** Any person who makes or causes to be made in an application or report  
6           required by this subchapter a statement known to the person to be false or  
7           misleading in any material respect or who refuses to submit information required by  
8           a mining permit or by this subchapter may be fined not less than \$1,000 nor more  
9           than \$5,000. If the false or misleading statement is material to the issuance of the  
10          mining permit and the mining permit would not have been issued had the false or  
11          misleading statement not been made, the court may revoke the mining permit. If any  
12          violation under this subsection is repeated the court may revoke the mining permit.

13          **(4) (a)** Any person who commits a violation of this subchapter or any permit or  
14          order issued under this subchapter, except for the violations enumerated in subs. (2)  
15          and (3), shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each  
16          day of continued violation is a separate offense, except that no forfeiture may be  
17          imposed during the time that continued mining is authorized under s. 295.63 (3).  
18          While an order is suspended, stayed, or enjoined, this penalty does not accrue.

19          **(b)** In addition to the penalties provided under par. (a), the court may award  
20          the department of justice the reasonable and necessary expenses of the investigation  
21          and prosecution of the violation, including attorney fees. The department of justice  
22          shall deposit in the state treasury for deposit into the general fund all moneys that  
23          the court awards to the department or the state under this paragraph. These moneys  
24          shall be credited to the appropriation account under s. 20.455 (1) (gh).

**SECTION 96**

1           (5) Any person having an interest that is or may be adversely affected may  
2 intervene as a matter of right, in any enforcement action brought under this section.

3           **SECTION 97.** 299.85 (7) (a) 2. and 4. of the statutes are amended to read:

4           299.85 (7) (a) 2. Notwithstanding minimum or maximum forfeitures specified  
5 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,  
6 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and  
7 (3), 30.49 (1) (a) and (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2),  
8 285.41 (7), 285.57 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97,  
9 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a),  
10 295.19 (3) (a) and (b) 1., 295.37 (2), 295.79 (2) and (4), 299.15 (4), 299.51 (5), 299.53  
11 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if a regulated entity that qualifies  
12 under sub. (2) for participation in the Environmental Compliance Audit Program  
13 corrects violations that it discloses in a report that meets the requirements of sub.  
14 (3) within 90 days after the department receives the report that meets the  
15 requirements of sub. (3), the regulated entity may not be required to forfeit more than  
16 \$500 for each violation, regardless of the number of days during which the violation  
17 continues.

18           4. Notwithstanding minimum or maximum forfeitures specified in ss. 29.314  
19 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969, 29.971 (1) (a), (1m)  
20 (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and (3), 30.49 (1) (a) and  
21 (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2), 285.41 (7), 285.57  
22 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97, 289.96 (2) and (3) (a),  
23 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a), 295.19 (3) (a) and (b)  
24 1., 295.37 (2), 295.79 (2) and (4), 299.15 (4), 299.51 (5), 299.53 (4) (c) 1., 299.62 (3) (a)  
25 and (c), and 299.97 (1), if the department approves a compliance schedule under sub.

1 (6) and the regulated entity corrects the violations according to the compliance  
2 schedule, the regulated entity may not be required to forfeit more than \$500 for each  
3 violation, regardless of the number of days during which the violation continues.

4 **SECTION 98.** 299.95 of the statutes is amended to read:

5 **299.95 Enforcement; duty of department of justice; expenses.** The  
6 attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except  
7 ss. 285.57, 285.59, and 299.64, and all rules, special orders, licenses, plan approvals,  
8 permits, and water quality certifications of the department, except those  
9 promulgated or issued under ss. 285.57, 285.59, and 299.64 and except as provided  
10 in ss. 285.86 and 299.85 (7) (am). The Except as provided in s. 295.79 (1), the circuit  
11 court for Dane county or for any other county where a violation occurred in whole or  
12 in part has jurisdiction to enforce chs. 281 to 285 and 289 to 295 or this chapter or  
13 the rule, special order, license, plan approval, permit, or certification by injunctive  
14 and other relief appropriate for enforcement. For purposes of this proceeding where  
15 chs. 281 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan  
16 approval, permit or certification prohibits in whole or in part any pollution, a  
17 violation is considered a public nuisance. The department of natural resources may  
18 enter into agreements with the department of justice to assist with the  
19 administration of chs. 281 to 285 and 289 to 295 and this chapter. Any funds paid  
20 to the department of justice under these agreements shall be credited to the  
21 appropriation account under s. 20.455 (1) (k).

22 **SECTION 99.** 323.60 (1) (gm) of the statutes is created to read:

23 323.60 (1) (gm) “Minerals” mean unbeneficiated metallic ore but does not  
24 include mineral aggregates such as stone, sand, and gravel.

25 **SECTION 100.** 323.60 (5) (d) 3. of the statutes is amended to read:



**SECTION 100**

1           323.60 (5) (d) 3. All facilities with 10 or more employees in major group  
2           classifications 10 to 13 in the standard industrial classification manual, 1987  
3           edition, published by the U.S. office of management and budget, at which a toxic  
4           chemical is used at or above an applicable threshold quantity, except that compliance  
5           with the toxic chemical release form requirements under this subdivision is not  
6           required for the placement of a toxic chemical in a storage or disposal site or facility  
7           that is located at a facility with a permit under ch. 293 or a mining permit under  
8           subch. III of ch. 295 if the toxic chemical consists of or is contained in merchantable  
9           by-products, as defined in s. 293.01 (7) or 295.41 (25), minerals ~~as defined in s. 293.01~~  
10          (8), or refuse, as defined in s. 293.01 (25) or 295.41 (41).

11           **SECTION 101.** 706.01 (9) of the statutes is amended to read:

12           706.01 (9) “Mining company” means any person or agent of a person who has  
13           a prospecting permit under s. 293.45 or a mining permit under s. 293.45 ~~or 293.49~~  
14           or 295.58.

15           **SECTION 102.** 710.02 (2) (d) of the statutes is amended to read:

16           710.02 (2) (d) An exploration mining lease as defined in s. 107.001 (1) and land  
17           used for mining and associated activities under chs. 293 and 295.

18           **SECTION 103. Nonstatutory provisions.**

19           (1) RULES.

20           (a) The department of natural resources shall promulgate rules revising  
21           chapters NR 130, 131, 132, and 182, Wisconsin Administrative Code, that are in  
22           effect on the effective date of this paragraph and revising any other rules  
23           promulgated under section 293.13 (1) (a) of the statutes that are in effect on the  
24           effective date of this paragraph to clarify that chapters NR 130, 131, 132, and 182,

1 Wisconsin Administrative Code, and any other rules promulgated under section  
2 293.13 (1) (a) of the statutes do not apply to ferrous metallic mining.

3 (b) The department of natural resources shall promulgate rules revising  
4 chapters NR 500 to 555 and 660 to 679, Wisconsin Administrative Code, that are in  
5 effect on the effective date of this paragraph and revising any other rules  
6 promulgated under sections 289.05 and 289.06 (1) of the statutes that are in effect  
7 on the effective date of this paragraph so that the rules are consistent with  
8 subchapter III of chapter 295, of the statutes, as created by this act.

9 (c) The department of natural resources shall promulgate rules revising any  
10 rules of the department that are in effect on the effective date of this paragraph, in  
11 addition to the rules under paragraphs (a) and (b), that provide exemptions for  
12 nonferrous mining or associated activities to provide the same exemptions for  
13 ferrous mining and associated activities.

14 (d) The department of natural resources shall present the statement of scope  
15 of the rules required under paragraphs (a) to (c) to the governor for approval under  
16 section 227.135 (2) of the statutes no later than the 30th day after the effective date  
17 of this paragraph. The department of natural resources shall submit in proposed  
18 form the rules required under paragraphs (a) to (c) to the legislative council staff  
19 under section 227.15 (1) of the statutes no later than the first day of the 5th month  
20 beginning after the governor approves the statement of scope of the rules.

21

(END)