



State of Wisconsin
2013 - 2014 LEGISLATURE

Monday



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE SUBSTITUTE AMENDMENT,

TO SENATE BILL 1

Gen Cat

only changes are on pages 1 & 2

1 AN ACT to repeal 107.001 (2) and 293.01 (8); to renumber and amend 30.123
2 (8) (c) and 87.30 (2); to amend 20.370 (2) (gh), 20.455 (1) (gh), 20.566 (7) (e),
3 20.566 (7) (v), 25.46 (7), 29.604 (4) (intro.), 29.604 (4) (c) (intro.), 30.025 (1e) (a),
4 30.025 (1m) (intro.), 30.025 (1m) (c), 30.025 (1s) (a), 30.025 (2), 30.025 (2g) (b)
5 (intro.), 30.025 (4), 30.12 (3m) (c) (intro.), 30.133 (2), 30.19 (4) (c) (intro.), 30.195
6 (2) (c) (intro.), 32.02 (12), 70.375 (1) (as), 70.375 (1) (bm), 70.375 (4) (h), 70.38
7 (2), 70.395 (1e), 70.395 (2) (dc) 1., 70.395 (2) (dc) 2., 70.395 (2) (dc) 3., 70.395 (2)
8 (dc) 4., 70.395 (2) (fm), 70.395 (2) (h) 1., 70.395 (2) (hg), 70.395 (2) (hr), 70.395
9 (2) (hw), 107.001 (1), 107.01 (intro.), 107.01 (2), 107.02, 107.03, 107.04, 107.11,
10 107.12, 107.20 (1), 107.20 (2), 107.30 (8), 107.30 (15), 107.30 (16), 160.19 (12),
11 196.491 (3) (a) 3. b., 196.491 (4) (b) 2., 281.36 (3g) (h) 2., 281.65 (2) (a), 281.75
12 (17) (b), 283.84 (3m), 287.13 (5) (e), 289.35, 289.62 (2) (g) 2. and 6., 292.01 (1m),

SA ✓

1 chapter 293 (title), 293.01 (5), 293.01 (7), 293.01 (9), 293.01 (12), 293.01 (18),
2 293.01 (25), 293.21 (1) (a), 293.25 (2) (a), 293.25 (4), 293.37 (4) (b), 293.47 (1) (b),
3 293.50 (1) (b), 293.50 (2) (intro.), 293.50 (2) (a), 293.50 (2) (b), 293.51 (1), 293.65
4 (3) (a), 293.65 (3) (b), 293.86, chapter 295 (title), 295.16 (4) (f), 299.85 (7) (a) 2.
5 and 4., 299.95, 323.60 (5) (d) 3., 706.01 (9) and 710.02 (2) (d); and **to create**
6 20.370 (2) (gi), 23.321 (2g), 25.49 (2m), 29.604 (7m), 30.025 (1e) (c), 30.025 (4m),
7 31.23 (3) (e), 87.30 (2) (b), 196.491 (3) (a) 3. c., 227.483 (3) (c), 238.14, 293.01
8 (12m), subchapter III of chapter 295 [precedes 295.40] and 323.60 (1) (gm) of
9 the statutes; **relating to:** regulation of ferrous metallic mining and related
10 activities, procedures for obtaining approvals from the Department of Natural
11 Resources for the construction of utility facilities, making an appropriation,
12 and providing penalties.

Analysis by the Legislative Reference Bureau

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

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

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

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

1 20.370 (2) (gi) *Ferrous metallic mining operations*. All moneys received under
2 subch. III of ch. 295 for the department of natural resource's operations related to
3 ferrous metallic exploration and mining.

4 **SECTION 3.** 20.455 (1) (gh) of the statutes is amended to read:

5 20.455 (1) (gh) *Investigation and prosecution*. Moneys received under ss. 23.22
6 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3),
7 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the
8 expenses of investigation and prosecution of violations, including attorney fees.

9 **SECTION 4.** 20.566 (7) (e) of the statutes is amended to read:

10 20.566 (7) (e) *Investment and local impact fund supplement*. The amounts in
11 the schedule to supplement par. (v) for the purposes of ss. 70.395, 293.33 (4) ~~and~~,
12 293.65 (5) (a), 295.443, and 295.61 (9) (a) and (c).

13 **SECTION 5.** 20.566 (7) (v) of the statutes is amended to read:

14 20.566 (7) (v) *Investment and local impact fund*. From the investment and local
15 impact fund, all moneys received under s. 70.395 (1e) and (2) (dc) and (dg), less the
16 moneys appropriated under s. 20.370 (2) (gr), to be disbursed under ss. 70.395 (2) (d)
17 to (g), 293.33 (4) ~~and~~, 293.65 (5) (a), 295.443, and 295.61 (9) (a) and (c).

18 **SECTION 6.** 23.321 (2g) of the statutes is created to read:

19 23.321 (2g) **SERVICES FOR MINING OPERATIONS**. In addition to those persons
20 authorized to request a wetland identification or confirmation under sub. (2) (b) or
21 (c), a holder of an easement may request such an identification or confirmation if the
22 identification or confirmation is associated with an application for a wetland
23 individual permit or other approval for which a wetland impact evaluation is
24 required and that is subject to s. 295.60.

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

1 25.46 (7) The fees imposed under s. 289.67 (1) for environmental management,
2 except that ~~for each ton of waste, of the fees imposed under s. 289.67 (1) (cp) or (cv),~~
3 \$3.20 for each ton of waste is for nonpoint source water pollution abatement.

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

5 29.604 (4) PROHIBITION. (intro.) Except as provided in sub. (6r) and (7m) or as
6 permitted by departmental rule or permit:

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

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

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

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

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

22 30.025 (1e) (a) Except as provided in ~~par.~~ pars. (b) and (c), this section applies
23 to a proposal to construct a utility facility if the utility facility is required to obtain,
24 or give notification of the wish to proceed under, one or more permits.

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

1 30.025 (1e) (c) This section does not apply to a proposal to construct a utility
2 facility for ferrous mineral mining and processing activities governed by subch. III
3 of ch. 295, unless the person proposing to construct the utility facility elects to
4 proceed in the manner provided under this section.

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

6 30.12 (3m) (c) (intro.) The department shall issue an individual permit to a
7 riparian owner for a structure or a deposit pursuant to an application under par. (a)
8 if the department finds that all of the following apply requirements are met:

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

11 30.123 (8) (c) (intro.) The department shall issue an individual permit
12 pursuant to an application under par. (a) if the department finds that the all of the
13 following requirements are met:

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

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

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

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

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

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

1 **30.19 (4) (c)** (intro.) The department shall issue an individual permit pursuant
2 to an application under par. (a) if the department finds that all of the following **apply**
3 requirements are met:

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

5 **30.195 (2) (c)** (intro.) The department shall issue an individual permit applied
6 for under this section to a riparian owner if the department determines that all of the
7 following **apply** requirements are met:

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

9 **31.23 (3) (e)** This subsection does not apply to a bridge that is constructed,
10 maintained, or operated in association with mining or bulk sampling that is subject
11 to subch. III of ch. 295.

12 **SECTION 27.** 32.02 (12) of the statutes is amended to read:

13 **32.02 (12)** Any person operating a plant which creates waste material which,
14 if released without treatment would cause stream pollution, for the location of
15 treatment facilities. This subsection does not apply to a person licensed with a
16 permit under ch. 293 or subch. III of ch. 295.

17 **SECTION 27g.** 70.375 (1) (ar) of the statutes is repealed and recreated to read:

18 **70.375 (1) (ar)** “Internal Revenue Code” means the federal Internal Revenue
19 Code, as amended, and applicable federal regulations adopted by the federal
20 department of the treasury.

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

22 **70.375 (1) (as)** “Mine” means an excavation in or at the earth’s surface made
23 to extract metalliferous minerals for which a permit has been issued under s. 293.49
24 or 295.58.

25 **SECTION 29.** 70.375 (1) (bm) of the statutes is amended to read:

1 70.375 (1) (bm) “Mining–related purposes” means activities which are directly
2 in response to the application for a mining permit under s. 293.37 or 295.47; directly
3 in response to construction, operation, curtailment of operation or cessation of
4 operation of a metalliferous mine site; or directly in response to conditions at a
5 metalliferous mine site which is not in operation. “Mining–related purposes” also
6 includes activities which anticipate the economic and social consequences of the
7 cessation of mining. “Mining–related purposes” also includes the purposes under s.
8 70.395 (2) (g).

9 **SECTION 30.** 70.375 (4) (h) of the statutes is amended to read:

10 70.375 (4) (h) The cost of premiums for bonds required under s. 293.51, 295.45
11 (5), or 295.59.

12 **SECTION 30d.** 70.375 (4m) of the statutes is created to read:

13 70.375 (4m) **GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.** Except as otherwise
14 provided under this section, a person subject to the tax imposed under sub. (2), shall
15 use generally accepted accounting principles to determine the person’s net proceeds
16 occupation tax liability under this section.

17 **SECTION 31.** 70.38 (2) of the statutes is amended to read:

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

22 **SECTION 32.** 70.395 (1e) of the statutes is amended to read:

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

1 in operation on November 28, 1981, to the investment and local impact fund, except
2 that, after the payments are made under sub. (2) (d) 1., 2., and 2m., the department
3 of administration shall transfer 60 percent of the amount collected from each person
4 extracting ferrous metallic minerals to the investment and local impact fund and 40
5 percent of the amount collected from any such person to the general fund.

6 **SECTION 33.** 70.395 (2) (dc) 1. of the statutes is amended to read:

7 70.395 (2) (dc) 1. Each person intending to submit an application for a mining
8 permit under s. 293.37 or 295.47 shall pay ~~\$50,000~~ \$75,000 to the department of
9 revenue for deposit in the investment and local impact fund at the time that the
10 person notifies the department of natural resources under s. 293.31 (1) or 295.465
11 of that intent.

12 **SECTION 34.** 70.395 (2) (dc) 2. of the statutes is amended to read:

13 70.395 (2) (dc) 2. A person making a payment under subd. 1. shall pay an
14 additional ~~\$50,000~~ \$75,000 upon notification by the board that the board has
15 distributed 50% of the payment under subd. 1.

16 **SECTION 35.** 70.395 (2) (dc) 3. of the statutes is amended to read:

17 70.395 (2) (dc) 3. A person making a payment under subd. 2. shall pay an
18 additional ~~\$50,000~~ \$75,000 upon notification by the board that the board has
19 distributed all of the payment under subd. 1. and 50% of the payment under subd.
20 2.

21 **SECTION 36.** 70.395 (2) (dc) 4. of the statutes is amended to read:

22 70.395 (2) (dc) 4. Six months after the signing of a local agreement under s.
23 293.41 or 295.443 for the proposed mine for which the payment is made, the board
24 shall refund any funds paid under this paragraph but not distributed under par. (fm)

1 from the investment and local impact fund to the person making the payment under
2 this paragraph.

3 **SECTION 37.** 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 37d.** 70.395 (2) (g) (intro.) of the statutes is amended to read:

13 70.395 (2) (g) (intro.) The board may distribute the revenues received under
14 sub. (1e) or proceeds thereof in accordance with par. (h) for the following purposes,
15 with a preference to private sector economic development projects under subd. 3., as
16 the board determines necessary:

17 **SECTION 37e.** 70.395 (2) (g) 3. of the statutes is amended to read:

18 70.395 (2) (g) 3. Studies and projects for local private sector economic
19 development.

20 **SECTION 38.** 70.395 (2) (h) 1. of the statutes is amended to read:

21 70.395 (2) (h) 1. Distribution shall first be made to those municipalities in
22 which metalliferous minerals are extracted or were extracted within 3 years
23 previous to December 31 of the current year, or in which a permit has been issued
24 under s. 293.49 or 295.58 to commence mining;

25 **SECTION 39.** 70.395 (2) (hg) of the statutes is amended to read:

1 70.395 (2) (hg) The board shall, by rule, establish fiscal guidelines and
2 accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub.
3 (3) and ~~s. ss. 293.65 (5) and 295.61 (9)~~.

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

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

9 **SECTION 41.** 70.395 (2) (hw) of the statutes is amended to read:

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

19 **SECTION 41m.** 77.105 of the statutes is created to read:

20 **77.105 Ferrous mining.** (1) The department may not issue an order of
21 withdrawal under s. 77.10 (1) based on the cutting of timber or other forest crops or
22 other activities on forest cropland if all of the following requirements are met:

23 (a) The cutting or activity is necessary to engage in bulk sampling, as defined
24 in s. 295.41 (7).

1 (b) The area that will be affected by the cutting or the activity does not exceed
2 5 acres.

3 (c) A bulk sampling plan has been filed with the department under s. 295.45
4 and all approvals that are required for bulk sampling have been issued by the
5 department.

6 (d) The revegetation plan that is part of the bulk sampling plan described under
7 par. (c) includes forestry practices that will ensure that the timber, forest crops, and
8 other vegetation that will be cut or otherwise affected will be restored to the greatest
9 extent possible.

10 (2) The requirement under sub. (1) (d) does not apply to forest cropland that
11 is within a mining site described in a preapplication notification under s. 295.465 or
12 in an application for a ferrous mining permit under s. 295.58.

13 **SECTION 41q.** 77.883 of the statutes is created to read:

14 **77.883 Ferrous mining.** (1) The department may not issue an order of
15 withdrawal under s. 77.88 (1) based on the cutting of timber or other activities on
16 managed forest land if all of the following requirements are met:

17 (a) The cutting or activity is necessary to engage in bulk sampling, as defined
18 in s. 295.41 (7).

19 (b) The area that will be affected by the cutting or the activity does not exceed
20 5 acres.

21 (c) A bulk sampling plan has been filed with the department under s. 295.45
22 and all approvals that are required for bulk sampling have been issued by the
23 department.

24 (d) The revegetation plan that is part of the bulk sampling plan described under
25 par. (c) includes forestry practices that will ensure that the merchantable timber and

1 other vegetation that will be cut or otherwise affected will be restored to the greatest
2 extent possible.

3 (2) The requirement under sub. (1) (d) does not apply to managed forest land
4 that is within a mining site described in a preapplication notification under s.
5 295.465 or in an application for a mining permit under s. 295.58.

6 (3) Section 77.86 (1) (c) and (d) do not apply to cutting of timber or another
7 activity on managed forest land if all of the requirements in sub. (1) (a) to (d) are met.

8 **SECTION 42.** 87.30 (2) of the statutes is renumbered 87.30 (2) (a) and amended
9 to read:

10 87.30 (2) (a) ~~Every~~ Except as provided in par. (b), every structure, building, fill,
11 or development placed or maintained within any floodplain in violation of a zoning
12 ordinance adopted under this section, or s. 59.69, 61.35 or 62.23 is a public nuisance
13 and the creation thereof may be enjoined and maintenance thereof may be abated by
14 action at suit of any municipality, the state or any citizen thereof. Any person who
15 places or maintains any structure, building, fill or development within any
16 floodplain in violation of a zoning ordinance adopted under this section, or s. 59.69,
17 61.35 or 62.23 may be fined not more than \$50 for each offense. Each day during
18 which such violation exists is a separate offense.

19 **SECTION 43.** 87.30 (2) (b) of the statutes is created to read:

20 87.30 (2) (b) Paragraph (a) does not apply to a structure, building, fill, or
21 development placed or maintained as part of a mining operation covered by a mining
22 permit under s. 295.58 except to the extent that regulation of the placement or
23 maintenance of the structure, building, fill, or development is required for
24 compliance with a floodplain zoning ordinance as provided under s. 295.607 (3).

25 **SECTION 44.** 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 45.** 107.001 (2) of the statutes is repealed.

9 **SECTION 46.** 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 47.** 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 48.** 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 49.** 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 50.** 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 51.** 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 52.** 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 53.** 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 54.** 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 55.** 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 56.** 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

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 57.** 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 58.** 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 59.** 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 60.** 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 61.** 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 62.** 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 64.** 281.36 (3g) (h) 2. of the statutes is amended to read:

4 281.36 (3g) (h) 2. If, within 30 days after an application under subd. 1. is
5 received by the department, the department does not either request additional
6 information or inform the applicant that a wetland individual permit will be required
7 as provided in par. (i), the discharge shall be considered to be authorized under the
8 wetland general permit and the applicant may proceed without further notice,
9 hearing, permit, or approval if the discharge is carried out in compliance with all of
10 the conditions of the general permit, except as provided in s. 295.60 (3) (b).

11 **SECTION 65.** 281.65 (2) (a) of the statutes is amended to read:

12 281.65 (2) (a) “Best management practices” means practices, techniques or
13 measures, except for dredging, identified in areawide water quality management
14 plans, which are determined to be effective means of preventing or reducing
15 pollutants generated from nonpoint sources, or from the sediments of inland lakes
16 polluted by nonpoint sources, to a level compatible with water quality objectives
17 established under this section and which do not have an adverse impact on fish and
18 wildlife habitat. The practices, techniques or measures include land acquisition,
19 storm sewer rerouting and the removal of structures necessary to install structural
20 urban best management practices, facilities for the handling and treatment of
21 milkhouse wastewater, repair of fences built using grants under this section and
22 measures to prevent or reduce pollutants generated from mine tailings disposal sites
23 for which the department has not approved a plan of operation under s. 289.30 or s.
24 295.51.

25 **SECTION 66.** 281.75 (17) (b) of the statutes is amended to read:

1 281.75 (17) (b) This section does not apply to contamination which is
2 compensable under subch. II of ch. 107 or s. 293.65 (4) or 295.61 (8).

3 **SECTION 67.** 283.84 (3m) of the statutes is amended to read:

4 283.84 (3m) A person engaged in mining, as defined in s. 293.01 (9) or 295.41
5 (26), prospecting, as defined in s. 293.01 (18), bulk sampling, as defined in s. 295.41
6 (7), or nonmetallic mining, as defined in s. 295.11 (3), may not enter into an
7 agreement under sub. (1).

8 **SECTION 68.** 287.13 (5) (e) of the statutes is amended to read:

9 287.13 (5) (e) Solid waste produced by a commercial business or industry which
10 is disposed of or held for disposal in an approved facility, as defined under s. 289.01
11 (3), or a mining waste site, as defined in s. 295.41 (31), covered by a mining permit
12 under s. 295.58, owned or leased by the generator or on which the generator holds
13 an easement and designed and constructed for the purpose of accepting that type of
14 solid waste.

15 **SECTION 69.** 289.35 of the statutes is amended to read:

16 **289.35 Shoreland and floodplain zoning.** Solid waste facilities are
17 prohibited within areas under the jurisdiction of shoreland and floodplain zoning
18 regulations adopted under ss. 59.692, 61.351, 62.231 and, 87.30, and 281.31, except
19 that the department may issue permits authorizing facilities in such areas. If the
20 department issues a permit under this section, the permit shall specify the location,
21 height, and size of the solid waste facility authorized under the permit.

22 **SECTION 70.** 289.62 (2) (g) 2. and 6. of the statutes are amended to read:

23 289.62 (2) (g) 2. For nonhazardous tailing solids ~~or for nonacid producing~~
24 ~~taconite tailing solids,~~ 0.2 cent per ton.

1 transported off the mining site, it shall be considered and regulated as refuse unless
2 removal is continuing at a rate of more than 12,000 cubic yards per year.

3 **SECTION 75.** 293.01 (8) of the statutes is repealed.

4 **SECTION 76.** 293.01 (9) of the statutes is amended to read:

5 293.01 (9) “Mining” or “mining operation” means all or part of the process
6 involved in the mining of nonferrous metallic minerals, other than for exploration or
7 prospecting, including commercial extraction, agglomeration, beneficiation,
8 construction of roads, removal of overburden and the production of refuse.

9 **SECTION 77.** 293.01 (12) of the statutes is amended to read:

10 293.01 (12) “Mining site” means the surface area disturbed by a mining
11 operation, including the surface area from which the nonferrous metallic minerals
12 or refuse or both have been removed, the surface area covered by refuse, all lands
13 disturbed by the construction or improvement of haulageways, and any surface areas
14 in which structures, equipment, materials and any other things used in the mining
15 operation are situated.

16 **SECTION 78.** 293.01 (12m) of the statutes is created to read:

17 293.01 (12m) “Nonferrous metallic mineral” means an ore or other earthen
18 material to be excavated from the natural deposits on or in the earth for its metallic
19 content but not primarily for its iron oxide content.

20 **SECTION 79.** 293.01 (18) of the statutes is amended to read:

21 293.01 (18) “Prospecting” means engaging in the examination of an area for the
22 purpose of determining the quality and quantity of nonferrous metallic minerals,
23 other than for exploration but including the obtaining of ~~an ore~~ a nonferrous metallic
24 mineral sample, by such physical means as excavating, trenching, construction of
25 shafts, ramps and tunnels and other means, other than for exploration, which the

1 department, by rule, identifies, and the production of prospecting refuse and other
2 associated activities. “Prospecting” shall not include such activities when the
3 activities are, by themselves, intended for and capable of commercial exploitation of
4 the underlying nonferrous ore body. However, the fact that prospecting activities and
5 construction may have use ultimately in mining, if approved, shall not mean that
6 prospecting activities and construction constitute mining within the meaning of sub.
7 (9), provided such activities and construction are reasonably related to prospecting
8 requirements.

9 **SECTION 80.** 293.01 (25) of the statutes is amended to read:

10 293.01 (25) “Refuse” means all waste soil, rock, mineral, liquid, vegetation and
11 other material, except merchantable by-products, directly resulting from or
12 displaced by the prospecting or mining and from the cleaning or preparation of
13 nonferrous metallic minerals during prospecting or mining operations, and shall
14 include all waste materials deposited on or in the prospecting or mining site from
15 other sources.

16 **SECTION 81.** 293.21 (1) (a) of the statutes is amended to read:

17 293.21 (1) (a) “Driller” means a person who performs core, rotary, percussion
18 or other drilling involved in exploration for nonferrous metallic minerals.

19 **SECTION 82.** 293.25 (2) (a) of the statutes is amended to read:

20 293.25 (2) (a) *Applicability.* Except as provided under par. (b), ss. 293.21 and
21 293.81 and rules promulgated under those sections apply to radioactive waste site
22 exploration, to activities related to radioactive waste site exploration and to persons
23 engaging in or intending to engage in radioactive waste site exploration or related
24 activities in the same manner as those sections and rules are applicable to
25 nonferrous metallic mineral exploration, to activities related to nonferrous metallic

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

3 **SECTION 83.** 293.25 (4) of the statutes is amended to read:

4 293.25 (4) REGULATION OF EXPLORATION AND RELATED PROVISIONS. Sections
5 293.13, 293.15 (1) to (12), 293.85, 293.87 and 293.89 and rules promulgated under
6 those sections apply to radioactive waste site exploration, to activities related to
7 radioactive waste site exploration and to persons engaging in or intending to engage
8 in radioactive waste site exploration or related activities in the same manner as
9 those sections and rules are applicable to nonferrous metallic mineral exploration,
10 to activities related to nonferrous metallic mineral exploration and to persons
11 engaging in or intending to engage in nonferrous metallic mineral exploration or
12 related activities.

13 **SECTION 84.** 293.37 (4) (b) of the statutes is amended to read:

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

25 **SECTION 85.** 293.47 (1) (b) of the statutes is amended to read:

1 293.47 (1) (b) “Geologic information” means information concerning
2 descriptions of ~~an~~ a nonferrous ore body, descriptions of reserves, tonnages and
3 grades of nonferrous ore, descriptions of a drill core or bulk sample including
4 analysis, descriptions of drill hole depths, distances and similar information related
5 to the nonferrous ore body.

6 **SECTION 86.** 293.50 (1) (b) of the statutes is amended to read:

7 293.50 (1) (b) “Sulfide ore body” means a mineral deposit in which nonferrous
8 metals are mixed with sulfide minerals.

9 **SECTION 87.** 293.50 (2) (intro.) of the statutes is amended to read:

10 293.50 (2) (intro.) Beginning on May 7, 1998, the department may not issue a
11 permit under s. 293.49 for the purpose of the mining of a sulfide ore body until all of
12 the following conditions are satisfied:

13 **SECTION 88.** 293.50 (2) (a) of the statutes is amended to read:

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

20 **SECTION 89.** 293.50 (2) (b) of the statutes is amended to read:

21 293.50 (2) (b) The department determines, based on information provided by
22 an applicant for a permit under s. 293.49 and verified by the department, that a
23 mining operation that operated in a sulfide ore body which, together with the host
24 nonferrous rock, has a net acid generating potential in the United States or Canada
25 has been closed for at least 10 years without the pollution of groundwater or surface

1 water from acid drainage at the tailings site or at the mine site or from the release
2 of heavy metals.

3 **SECTION 90.** 293.51 (1) of the statutes is amended to read:

4 293.51 (1) Upon notification that an application for a prospecting or mining
5 permit has been approved by the department but prior to commencing prospecting
6 or mining, the operator shall file with the department a bond conditioned on faithful
7 performance of all of the requirements of this chapter and all rules adopted by the
8 department under this chapter. The bond shall be furnished by a surety company
9 licensed to do business in this state. In lieu of a bond, the operator may deposit cash,
10 certificates of deposit or government securities with the department. Interest
11 received on certificates of deposit and government securities shall be paid to the
12 operator. The amount of the bond or other security required shall be equal to the
13 estimated cost to the state of fulfilling the reclamation plan, in relation to that
14 portion of the site that will be disturbed by the end of the following year. The
15 estimated cost of reclamation of each prospecting or mining site shall be determined
16 by the department on the basis of relevant factors including, but not limited to,
17 expected changes in the price index, topography of the site, methods being employed,
18 depth and composition of overburden and depth of nonferrous metallic mineral
19 deposit being mined.

20 **SECTION 91.** 293.65 (3) (a) of the statutes is amended to read:

21 293.65 (3) (a) An approval under s. 281.34 is required to withdraw groundwater
22 for prospecting or mining or to dewater mines if the capacity and rate of withdrawal
23 of all wells involved in the withdrawal of groundwater or the dewatering of mines
24 exceeds 100,000 gallons each day. A permit under s. 283.31 is required to discharge
25 pollutants resulting from the dewatering of mines.

1 **NONMETALLIC MINING RECLAMATION;**

2 **OIL AND GAS;**

3 **FERROUS METALLIC MINING**

4 **SECTION 95.** 295.16 (4) (f) of the statutes is amended to read:

5 295.16 (4) (f) Any mining operation, the reclamation of which is required in a
6 permit obtained under ch. 293 or subch. III of ch. 295.

7 **SECTION 96.** Subchapter III of chapter 295 [precedes 295.40] of the statutes is
8 created to read:

9 **CHAPTER 295**

10 **SUBCHAPTER III**

11 **FERROUS METALLIC MINING**

12 **295.40 Legislative findings.** The legislature finds all of the following:

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

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

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

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

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

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

8 (7) That because of the fixed location of ferrous mineral deposits in the state,
9 it is probable that mining those deposits will result in adverse impacts to wetlands
10 and that, therefore, the use of wetlands for bulk sampling and mining activities,
11 including the disposal or storage of mining wastes or materials, or the use of other
12 lands for mining activities that would have a significant adverse impact on wetlands,
13 is presumed to be necessary.

14 **295.41 Definitions.** In this subchapter:

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

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

20 (3) (a) “Approval” means, except as provided in par. (b), any permit, license,
21 certification, contract, or other authorization that the department issues, or any
22 other action by the department, that is required for exploration, to engage in bulk
23 sampling at a bulk sampling site, or to construct or operate a mining site, including
24 any action required for any of the following:

1 1. The withdrawal of land entered as county forest land under s. 28.11 and any
2 modification of, or amendment to, a county forest land use plan necessitated by the
3 withdrawal of the land.

4 2. The withdrawal of land entered as forest cropland under s. 77.10.

5 3. The withdrawal of land designated as managed forest land under subch. VI
6 of ch. 77 and any modification of, or amendment to, a managed forest land
7 management plan necessitated by the withdrawal of the land.

8 (b) “Approval” does not include a permit, license, certification, contract, or
9 other authorization related to the construction of any new plant, equipment,
10 property, or facility for the production, transmission, delivery, or furnishing of power.

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

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

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

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

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

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

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

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

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

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

11 (15) “Environmental impact statement” means a detailed statement under s.
12 1.11 (2) (c).

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

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

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

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

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

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

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

3 (23) “Groundwater quality standards” means numerical values consisting of
4 enforcement standards and preventive action limits contained in Table 1 of s. NR
5 140.10, and Table 2 of s. NR 140.12, Wis. Adm. Code, and any preventive action limits
6 for indicator parameters identified under s. NR 140.20 (2), Wis. Adm. Code.

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

10 (25) “Merchantable by-product” means all waste soil, rock, mineral, liquid,
11 vegetation, and other material directly resulting from or displaced by the mining,
12 cleaning, or preparation of minerals, during mining operations, that are determined
13 by the department to be marketable upon a showing of marketability made by the
14 operator, accompanied by a verified statement by the operator of his or her intent to
15 sell the material within 3 years from the time it results from or is displaced by
16 mining.

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

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

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

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

9 (30) “Mining waste” means tailings, waste rock, mine overburden, waste
10 treatment sludges, or other discarded material, including solid, liquid, semi–solid,
11 or contained gaseous material, resulting from mining or from the cleaning or
12 preparation of ferrous minerals during mining operations, except that “mining
13 waste” does not include topsoil and mine overburden intended to be returned to the
14 mining site or used in the reclamation process and that is placed on the mining site
15 for those purposes, as provided for in the approved mining plan, and does not include
16 merchantable by–products.

17 (31) “Mining waste site” means any land or appurtenances thereto used for the
18 storage or disposal of mining waste or for the storage of merchantable by–products,
19 but does not include land or appurtenances used in the production or transportation
20 of mining waste, such as the concentrator, haul roads, or tailings pipelines, that are
21 part of the mining site.

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

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

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

5 **(35)** “Person” means an individual, corporation, limited liability company,
6 partnership, association, local governmental agency, interstate agency, state agency,
7 or federal agency.

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

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

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

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

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

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

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

25 (a) The parent corporation of the applicant.

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

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

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

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

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

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

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

- 23 1. Wilderness areas.
- 24 2. Wild and scenic rivers.
- 25 3. National or state parks.

1 4. Wildlife refuges and areas.

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

3 **(46m)** “Wastewater and sludge storage or treatment lagoon” means a
4 man-made containment structure that is constructed primarily of earthen
5 materials, that is for the treatment or storage of wastewater, storm water, or sludge,
6 and that is not a land disposal system, as defined in s. NR 140.05 (11), Wis. Adm.
7 Code.

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

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

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

12 **295.43 Responsibilities related to mining.** The department shall serve as
13 the central unit of state government to ensure that the impact from mining and
14 reclamation on the air, lands, waters, plants, fish, and wildlife in this state will be
15 minimized and offset to the extent practicable. The administration of occupational
16 health and safety laws and rules that apply to mining remain exclusively the
17 responsibility of the department of safety and professional services. The powers and
18 duties of the geological and natural history survey under s. 36.25 (6) remain
19 exclusively the responsibility of the geological and natural history survey. Nothing
20 in this section prevents the department of safety and professional services and the
21 geological and natural history survey from cooperating with the department in the
22 exercise of their respective powers and duties.

23 **295.44 Exploration. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

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

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

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

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

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

3 (2) LICENSE. No person may engage in exploration, or contract for the services
4 of drillers for purposes of exploration, without an annual license from the
5 department. The department shall provide copies of the application for an
6 exploration license to the state geologist upon issuance of the exploration license. A
7 person seeking an exploration license shall file an application that includes all of the
8 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 1. A description of how all toxic and hazardous wastes and other solid waste
6 will be disposed of in solid or hazardous waste disposal facilities licensed under ch.
7 289 or 291 or otherwise in an environmentally sound manner.

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

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

12 4. A description of how disturbance to wetlands will be minimized to the extent
13 practicable.

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

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

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

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

23 (f) A copy of the applicant's most recent annual report to the federal securities
24 and exchange commission on form 10-K, or, if this is not available, a report of the

1 applicant's current assets and liabilities or other data necessary to establish that the
2 applicant is competent to conduct exploration in this state.

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

11 (3) BOND. (a) An applicant shall submit, as part of the application for an
12 exploration license, a bond in the amount of \$5,000 that is conditioned on faithful
13 performance of the requirements of this section, that is issued by a surety company
14 licensed to do business in this state, and that provides that the bond may not be
15 canceled by the surety, except after not less than 90 days' notice to the department
16 in writing by registered or certified mail.

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

22 (c) If the license of the surety company for a bond submitted under par. (a) is
23 revoked or suspended, the explorer, within 30 days after receiving written notice
24 from the department, shall deliver a replacement bond. If the explorer fails to submit

1 a replacement bond, the explorer may not engage in exploration until the explorer
2 submits a replacement bond.

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

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

11 (4) ISSUANCE OR DENIAL OF EXPLORATION LICENSE. (a) Except as provided in par.
12 (c), within 10 business days of receiving an administratively complete application for
13 an exploration license, the department shall issue the exploration license or provide
14 the notice required under par. (f) of intent not to issue the exploration license, unless
15 the application is for an upcoming license year. If an application is for an upcoming
16 license year, the department shall issue the exploration license or provide the notice
17 required under par. (f) of intent not to issue the exploration license within 10
18 business days of receiving an administratively complete application or on the next
19 July 1, whichever is later.

20 (b) An application for an exploration license is considered to be
21 administratively complete on the day that it is submitted, unless, before the 10th
22 business day after receiving the application, the department provides the applicant
23 with written notification that the application is not administratively complete. The
24 department may determine that an application is not administratively complete only
25 if the application does not include an exploration plan; a reclamation plan; an

1 exploration license fee; a bond; a certificate of insurance; or a copy of the applicant's
2 most recent annual report to the federal securities and exchange commission on form
3 10-K, or, if this is not available, a report of the applicant's current assets and
4 liabilities or other data necessary to establish that the applicant is competent to
5 conduct exploration in this state. The department may not consider the quality of
6 the information provided. In a notice provided under this paragraph, the
7 department shall identify what is missing from the application.

8 (c) If the department provides notification, in compliance with par. (b), that an
9 application is not administratively complete, the department shall issue the
10 exploration license or provide the notice required under par. (f) of intent not to issue
11 the license within 7 business days of receipt of the missing item, unless the
12 application is for an upcoming license year. If the application is for an upcoming
13 license year, the department shall issue the exploration license or provide the notice
14 required under par. (f) of intent not to issue the exploration license within 7 business
15 days of receipt of the missing item or on the next July 1, whichever is later.

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

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

1 (f) Before denying an application, the department shall provide the applicant
2 with written notification of its intent not to issue the exploration license, setting
3 forth all of the reasons for its intent not to issue the exploration license, including
4 reference to competent evidence supporting its position. The department shall
5 provide the person with an opportunity to correct any deficiencies in the exploration
6 plan or reclamation plan within 10 business days. If the person amends the
7 exploration plan or reclamation plan and corrects the deficiencies, the department
8 shall issue the exploration license within 10 business days of receipt of the amended
9 exploration plan or reclamation plan, unless the application is for an upcoming
10 license year. If an application is for an upcoming license year, the department shall
11 issue the exploration license within 10 business days of receipt of the amended
12 exploration plan or reclamation plan or on the next July 1, whichever is later. If the
13 department determines that the deficiencies have not been corrected, it shall deny
14 the application, in writing, setting forth all of the reasons for its determination,
15 including reference to competent evidence supporting the determination.

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

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

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

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

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

12 2. If the drillhole is constructed in sandstone formation, by filling the drillhole
13 with disinfected sand or pea gravel or, if it is physically impracticable to use sand or
14 pea gravel and if the department approves, with clay slurry, from the bottom upward
15 to a point 20 feet below the top of the first rock formation encountered below the
16 surface of the ground or to at least 40 feet below the surface of the ground, whichever
17 is the greater depth, and filling the remainder of the drillhole with concrete grout or
18 neat cement grout.

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

23 4. If the drillhole is constructed in mixed rock types, by filling the drillhole as
24 provided in subs. 1., 2., and 3., and providing a concrete grout or neat cement grout

1 plug that extends at least 20 feet above and below the point of surface contact
2 between each recognized geologic rock type.

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

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

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

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

16 (6) RENEWALS. (a) An explorer wishing to renew an exploration license shall
17 file with the department a renewal application that includes all of the following:

18 1. A renewal fee of \$150.

19 2. A bond that satisfies sub. (3) (a).

20 3. A certificate of insurance that satisfies sub. (2) (e).

21 4. A copy of the applicant's most recent annual report to the federal securities
22 and exchange commission on form 10-K, or, if this is not available, a report of the
23 applicant's current assets and liabilities or other data necessary to establish that the
24 applicant is competent to conduct exploration in this state.

1 5. Either a statement that no changes are being proposed to the exploration
2 plan and reclamation plan previously approved by the department or a new
3 exploration plan or reclamation plan if the applicant proposes to make changes.

4 (b) Except as provided in par. (d), within 10 business days of receiving an
5 administratively complete application for renewal of an exploration license, the
6 department shall renew the exploration license or provide the notice, required under
7 par. (g), of intent not to renew the exploration license.

8 (c) An application for renewal of an exploration license is considered to be
9 administratively complete on the day that it is submitted, unless, before the 10th
10 business day after receiving the application, the department provides the explorer
11 with written notification that the application is not administratively complete. The
12 department may determine that an application is not administratively complete only
13 if the application does not include a renewal fee; a bond; a certificate of insurance;
14 a copy of the applicant's most recent annual report to the federal securities and
15 exchange commission on form 10-K, or, if this is not available, a report of the
16 applicant's current assets and liabilities or other data necessary to establish that the
17 applicant is competent to conduct exploration in this state; or either a statement that
18 no changes are being proposed to the exploration plan and reclamation plan
19 previously approved by the department or a new exploration plan or reclamation
20 plan if the applicant proposes to make changes. The department may not consider
21 the quality of any information provided. In a notice provided under this paragraph,
22 the department shall identify what is missing from the application.

23 (d) If the department provides notification, in compliance with par. (c), that an
24 application is not administratively complete, the department shall renew the

1 exploration license or provide the notice, required under par. (g), of intent not to
2 renew the exploration license within 7 business days of receipt of the missing item.

3 (e) If the department does not comply with par. (b) or (d), the application for
4 renewal is automatically approved.

5 (f) Subject to par. (g), the department shall deny an application for renewal of
6 an exploration license only if the applicant has filed a new exploration plan or
7 reclamation plan and the department finds that the exploration, after the activities
8 in the new exploration plan and the new reclamation plan have been completed, will
9 have a substantial and irreparable adverse impact on the environment or present a
10 substantial risk of injury to public health and welfare.

11 (g) Before denying an application, the department shall provide the person who
12 submitted the application with written notification of its intent not to renew the
13 exploration license, setting forth all of the reasons for its intent not to renew the
14 exploration license, including reference to competent evidence supporting its
15 position. The department shall provide the person with an opportunity to correct any
16 deficiencies in the exploration plan or restoration plan within 10 business days. If
17 the person amends the exploration plan or reclamation plan and corrects the
18 deficiencies, the department shall renew the exploration license within 10 business
19 days of receipt of the amended exploration plan or reclamation plan. If the
20 department determines that the deficiencies have not been corrected, it shall deny
21 the application, in writing, setting forth all of the reasons for its determination,
22 including reference to competent evidence supporting the determination.

23 (h) The renewal of an exploration license takes effect on the date of issuance
24 and expires on the following June 30.