

2019 DRAFTING REQUEST

Bill

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Date: 10/17/2018 May Contact:

Same as LRB:

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Pre Topic:

No specific pre topic given

Topic:

Regulation of metallic mining and related activities

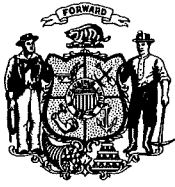
Instructions:

Redraft 17-5812 (restore law to language that existed before enactment of 2013 Act 1, 2013 Act 81, and 2017 Act 134).

Drafting History:

Table with 6 columns: Vers., Drafted, Reviewed, Submitted, Jacketed, Required. It contains three rows of drafting history data.

FE Sent For: AH Intro <END>



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

sa ✓
02/14

1 **AN ACT to repeal** 20.370 (4) (gi), 23.321 (2g), 29.604 (7m), 30.025 (1e) (c), 31.23
2 (3) (e), 77.105, 77.81 (1m), 77.81 (5m), 77.83 (2m), 77.84 (2) (bp), 77.88 (3) (d),
3 77.88 (9) (d) 2., 77.883, 87.30 (2) (b), 196.491 (3) (a) 3. c., 227.483 (3) (c), 293.01
4 (2m), 293.01 (12m), 293.15 (7m), 293.26, 293.31 (4m), 293.32 (4), 293.37 (5),
5 293.40, 293.43 (2m), 293.43 (3m), 293.43 (4m), 293.49 (1) (a) 2m., 293.495,
6 293.51 (1g), 293.51 (1m), 293.51 (1r), 293.51 (5), 293.66, subchapter III of
7 chapter 295 [precedes 295.40] and 323.60 (1) (gm); **to renumber and amend**
8 77.88 (9) (d) 1. and 87.30 (2) (a); **to amend** 20.370 (4) (gh), 20.455 (1) (gh), 20.566
9 (7) (e), 20.566 (7) (v), 29.604 (4) (intro.), 29.604 (4) (c) (intro.), 30.025 (1e) (a),
10 30.133 (2), 32.02 (12), 70.375 (1) (as), 70.375 (1) (bm), 70.375 (2) (b), 70.375 (4)
11 (h), 70.38 (2), 70.395 (1e), 70.395 (2) (dc) 1., 70.395 (2) (dc) 4., 70.395 (2) (fm),
12 70.395 (2) (g) (intro.), 70.395 (2) (g) 3., 70.395 (2) (h) 1., 70.395 (2) (hg), 70.395
13 (2) (hr), 70.395 (2) (hw), 74.25 (1) (a) 6., 74.30 (1) (f), 77.83 (2) (a), 77.84 (2) (b),
14 77.84 (2) (bm), 77.88 (5) (af) 1., 77.88 (5) (af) 2., 77.89 (2) (a), 107.001 (1), 107.01
15 (intro.), 107.01 (2), 107.02, 107.03, 107.04, 107.11, 107.12, 107.20 (1), 107.20 (2),

1 107.30 (8), 107.30 (15), 107.30 (16), 160.19 (12), 196.491 (3) (a) 3. b., 196.491 (4)
 2 (b) 2., 281.35 (5) (e), 281.36 (3g) (h) 2., 281.65 (2) (a), 281.75 (17) (b), 283.84 (3m),
 3 287.13 (5) (e), 289.62 (2) (g) 2., 289.62 (2) (g) 6., 292.01 (1m), chapter 293 (title),
 4 293.01 (5), 293.01 (7), 293.01 (9), 293.01 (12), 293.01 (18), 293.01 (25), 293.13
 5 (2) (b) (intro.), 293.13 (2) (b) 4., 293.13 (2) (b) 7., 293.13 (2) (c) (intro.), 293.13 (2)
 6 (c) 7., 293.15 (8), 293.21 (1) (a), 293.25 (2) (a), 293.25 (4), 293.31 (title), 293.31
 7 (1), 293.31 (2), 293.31 (3), 293.31 (4), 293.37 (4) (b), 293.43 (1), 293.43 (1m) (b),
 8 293.47 (1) (b), 293.49 (1) (a) (intro.), 293.51 (title), 293.51 (1), 293.51 (3), 293.55
 9 (1) (c), 293.55 (1) (d), 293.65 (3) (a), 293.65 (3) (b), 293.81, 293.86, chapter 295
 10 (title), 295.16 (4) (f), 299.85 (7) (a) 2. and 4., 299.95, 323.60 (5) (d) 3., 706.01 (9)
 11 and 710.02 (2) (d); **to repeal and recreate** 293.95; **to create** 107.001 (2),
 12 227.42 (4), 293.01 (8), 293.43 (2), 293.43 (3), 293.43 (4), 293.43 (5) and 293.50
 13 of the statutes; and **to affect** 2013 Wisconsin Act 1, section 103; **relating to:**
 14 the regulation of metallic mining and related activities. *and making an appropriation*

Analysis by the Legislative Reference Bureau

This bill changes the laws under which the Department of Natural Resources currently regulates mining so that the laws are substantially the same as they existed before enactment of 2013 Wisconsin Act 1, 2013 Wisconsin Act 81, and 2017 Wisconsin Act 134.

Under current law, DNR regulates mining for metallic minerals. Prior to the enactment of 2013 Wisconsin Act 1, the laws under which DNR regulated metallic mining applied to mining for ferrous and nonferrous minerals. 2013 Wisconsin Act 1 modified the laws regulating metallic mining so that they applied to mining for nonferrous minerals only and created new laws for regulating mining for ferrous minerals.

Under current law, certain forested land may be designated as managed forest land (MFL) under a program administered by DNR. Under this program, the owner of land designated as MFL makes an annual acreage share payment in lieu of property taxes and must open the land to the public for certain recreational activities. The landowner may designate a portion of the land as closed to public access and make an additional payment per acre. 2013 Wisconsin Act 81 generally provided that requirements regarding public access to MFL do not apply to an area

of land within a certain distance of a proposed iron mining site and required an MFL owner to make an additional payment per acre for land located in a proposed ferrous mining site if the land is not open to public access.

Prior to 2017 Wisconsin Act 134, activities relating to nonferrous metallic minerals were regulated differently depending on whether the activity involved exploration, prospecting, or mining. 2017 Act 134 added as a regulated activity bulk sampling, which is the excavation of fewer than 10,000 tons of material with a license issued by DNR.

2017 Act 134 also eliminated requirements specific to mining for sulfide ore and repealed DNR administrative rules relating to mining and wetlands. This bill restores those provisions.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.370 (4) (gh) of the statutes is amended to read:

2 20.370 (4) (gh) ~~Nonferrous metallic mining~~ *Mining regulation and*
3 *administration.* The amounts in the schedule for the administration, regulation, and
4 enforcement of ~~nonferrous metallic mining~~ exploration, bulk sampling, prospecting,
5 mining and mine reclamation activities under ch. 293. All moneys received under ch.
6 293 shall be credited to this appropriation.

7 **SECTION 2.** 20.370 (4) (gi) of the statutes is repealed.

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

9 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22
10 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3),
11 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., ~~295.79 (4) (b),~~ and 299.97 (2), for the
12 expenses of investigation and prosecution of violations, including attorney fees, and
13 for expenses related to s. 165.055 (3).

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

SECTION 4

1 20.566 (7) (e) *Investment and local impact fund supplement*. The amounts in
2 the schedule to supplement par. (v) for the purposes of ss. 70.395, 293.33 (4), and
3 293.65 (5) (a), ~~295.443~~, and ~~295.61 (9) (a) and (c)~~.

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

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

9 **SECTION 6.** 23.321 (2g) of the statutes is repealed.

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

11 29.604 (4) PROHIBITION. (intro.) Except as provided in subs. sub (6r) and ~~(7m)~~
12 or as permitted by departmental rule or permit:

13 **SECTION 8.** 29.604 (4) (c) (intro.) of the statutes is amended to read:

14 29.604 (4) (c) (intro.) No person may do any of the following to any wild plant
15 of an endangered or threatened species that is on public property or on property that
16 he or she does not own or lease, except in the course of forestry or agricultural
17 practices, or in the construction, operation, or maintenance of a utility facility, ~~or as~~
18 ~~part of bulk sampling activities under s. 295.45:~~

19 **SECTION 9.** 29.604 (7m) of the statutes is repealed.

20 **SECTION 10.** 30.025 (1e) (a) of the statutes is amended to read:

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

24 **SECTION 11.** 30.025 (1e) (c) of the statutes is repealed.

25 **SECTION 12.** 30.133 (2) of the statutes is amended to read:

1 30.133 (2) This section does not apply to riparian land located within the
2 boundary of any hydroelectric project licensed or exempted by the federal
3 government, if the conveyance is authorized under any license, rule or order issued
4 by the federal agency having jurisdiction over the project. ~~This section does not apply~~
5 ~~to riparian land that is associated with an approval required for bulk sampling or~~
6 ~~mining that is required under subch. III of ch. 295.~~

7 **SECTION 13.** 31.23 (3) (e) of the statutes is repealed.

8 **SECTION 14.** 32.02 (12) of the statutes is amended to read:

9 32.02 (12) Any person operating a plant which creates waste material which,
10 if released without treatment would cause stream pollution, for the location of
11 treatment facilities. This subsection does not apply to a person with a permit under
12 ch. 293 ~~or subch. III of ch. 295.~~

13 **SECTION 15.** 70.375 (1) (as) of the statutes is amended to read:

14 70.375 (1) (as) "Mine" means an excavation in or at the earth's surface made
15 to extract metalliferous minerals for which a permit has been issued under s. 293.49
16 ~~or 295.58.~~

17 **SECTION 16.** 70.375 (1) (bm) of the statutes is amended to read:

18 70.375 (1) (bm) "Mining-related purposes" means activities which are directly
19 in response to the application for a mining permit under s. 293.37 ~~or 295.47~~; directly
20 in response to construction, operation, curtailment of operation or cessation of
21 operation of a metalliferous mine site; or directly in response to conditions at a
22 metalliferous mine site which is not in operation. "Mining-related purposes" also
23 includes activities which anticipate the economic and social consequences of the
24 cessation of mining. "Mining-related purposes" also includes the purposes under s.
25 70.395 (2) (g).

1 **SECTION 17.** 70.375 (2) (b) of the statutes is amended to read:

2 70.375 (2) (b) The secretary may promulgate any rules necessary to implement
3 the tax under ss. 70.37 to 70.39 and 70.395 (1e). In respect to mines not in operation
4 on November 28, 1981, ss. 71.10 (1), 71.30 (1) and (2), 71.74 (2), (3), (9), (11) and (15),
5 71.77, 71.78, 71.80 (6), 71.83 (1) (a) 1. and 2. and (b) 2. and (2) (a) 3. and (b) 1. and
6 71.85 (2) apply to the administration of this section.

7 **SECTION 18.** 70.375 (4) (h) of the statutes is amended to read:

8 70.375 (4) (h) The cost of premiums for bonds required under s. 293.26 (9),
9 293.51, 295.45 (5), or 295.59.

10 **SECTION 19.** 70.38 (2) of the statutes is amended to read:

11 70.38 (2) COMBINED REPORTING. If the same person extracts metalliferous
12 minerals from different sites in this state, the net proceeds for each site for which a
13 permit has been issued under s. 293.49 or 295.58 shall be reported separately for the
14 purposes of computing the amount of the tax under s. 70.375 (5).

15 **SECTION 20.** 70.395 (1e) of the statutes is amended to read:

16 70.395 (1e) DISTRIBUTION. Fifteen days after the collection of the tax under ss.
17 70.38 to 70.39, the department of administration, upon certification of the
18 department of revenue, shall transfer the amount collected in respect to mines not
19 in operation on November 28, 1981, to the investment and local impact fund, except
20 that, after the payments are made under sub. (2) (d) 1., 2., and 2m., the department
21 of administration shall transfer 60 percent of the amount collected from each person
22 extracting ferrous metallic minerals to the investment and local impact fund and 40
23 percent of the amount collected from any such person to the general fund.

24 **SECTION 21.** 70.395 (2) (dc) 1. of the statutes is amended to read:

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

 ***NOTE: 2013 Wisconsin Act 1 changed the permit application payment amounts
under s. 70.395 (2) (dc) 1., 2., and 3. from \$50,000 to \$75,000. The bill retains the
increased amounts.

5 **SECTION 22.** 70.395 (2) (dc) 4. of the statutes is amended to read:

6 70.395 (2) (dc) 4. Six months after the signing of a local agreement under s.
7 293.41 or ~~295.443~~ for the proposed mine for which the payment is made, the board
8 shall refund any funds paid under this paragraph but not distributed under par. (fm)
9 from the investment and local impact fund to the person making the payment under
10 this paragraph.

11 **SECTION 23.** 70.395 (2) (fm) of the statutes is amended to read:

12 70.395 (2) (fm) The board may distribute a payment received under par. (dc)
13 to a county, town, village, city, tribal government or local impact committee
14 authorized under s. 293.41 (3) or ~~295.443~~ only for legal counsel, qualified technical
15 experts in the areas of transportation, utilities, economic and social impacts,
16 environmental impacts and municipal services and other reasonable and necessary
17 expenses incurred by the recipient that directly relate to the good faith negotiation
18 of a local agreement under s. 293.41 or ~~295.443~~ for the proposed mine for which the
19 payment is made.

20 **SECTION 24.** 70.395 (2) (g) (intro.) of the statutes is amended to read:

21 70.395 (2) (g) (intro.) The board may distribute the revenues received under
22 sub. (1e) or proceeds thereof in accordance with par. (h) for the following purposes,

1 ~~with a preference to private sector economic development projects under subd. 3., as~~
2 the board determines necessary:

3 **SECTION 25.** 70.395 (2) (g) 3. of the statutes is amended to read:

4 70.395 (2) (g) 3. Studies and projects for local ~~private sector economic~~
5 development.

6 **SECTION 26.** 70.395 (2) (h) 1. of the statutes is amended to read:

7 70.395 (2) (h) 1. Distribution shall first be made to those municipalities in
8 which metalliferous minerals are extracted or were extracted within 3 years
9 previous to December 31 of the current year, or in which a permit has been issued
10 under s. 293.49 ~~or 295.58~~ to commence mining;

11 **SECTION 27.** 70.395 (2) (hg) of the statutes is amended to read:

12 70.395 (2) (hg) The board shall, by rule, establish fiscal guidelines and
13 accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub.
14 (3) and ~~ss. s. 293.65 (5) and 295.61 (9)~~.

15 **SECTION 28.** 70.395 (2) (hr) of the statutes is amended to read:

16 70.395 (2) (hr) The board shall, by rule, establish procedures to recoup
17 payments made, and to withhold payments to be made, under pars. (d), (f), (fm) and
18 (g), sub. (3) and ~~ss. s. 293.65 (5) and 295.61 (9)~~ for noncompliance with this section
19 or rules adopted under this section.

20 **SECTION 29.** 70.395 (2) (hw) of the statutes is amended to read:

21 70.395 (2) (hw) A recipient of a discretionary payment under par. (f) or (g), sub.
22 (3) or ~~ss. s. 293.65 (5) and 295.61 (9)~~ or any payment under par. (d) that is restricted
23 to mining-related purposes who uses the payment for attorney fees may do so only
24 for the purposes under par. (g) 6. and for processing mining-related permits or other
25 approvals required by the municipality. The board shall recoup or withhold

1 payments that are used or proposed to be used by the recipient for attorney fees
2 except as authorized under this paragraph. The board may not limit the hourly rate
3 of attorney fees for which the recipient uses the payment to a level below the hourly
4 rate that is commonly charged for similar services.

5 **SECTION 30.** 74.25 (1) (a) 6. of the statutes is amended to read:

6 74.25 (1) (a) 6. Pay to the county treasurer 20 percent of collections of
7 occupational taxes on coal docks, 20 percent of collections of the taxes imposed under
8 ss. 77.04 and 77.84 (2) (a), and (am), ~~and (bp)~~, and 20 percent of collections of
9 payments for closed lands under s. 77.84 (2) (b) and (bm).

10 **SECTION 31.** 74.30 (1) (f) of the statutes is amended to read:

11 74.30 (1) (f) Pay to the county treasurer 20 percent of collections of occupational
12 taxes on coal docks, 20 percent of collections of the taxes imposed under ss. 77.04 and
13 77.84 (2) (a), and (am), ~~and (bp)~~, and 20 percent of collections of payments for closed
14 lands under s. 77.84 (2) (b) and (bm).

15 **SECTION 32.** 77.105 of the statutes is repealed.

16 **SECTION 33.** 77.81 (1m) of the statutes is repealed.

17 **SECTION 34.** 77.81 (5m) of the statutes is repealed.

18 **SECTION 35.** 77.83 (2) (a) of the statutes is amended to read:

19 77.83 (2) (a) Except as provided in sub. (1) and pars. (b) and (c) ~~and subs. (1)~~
20 ~~and (2m)~~, each owner of managed forest land shall permit public access to the land
21 for the purposes of hunting, fishing, hiking, sight-seeing, and cross-country skiing.

22 **SECTION 36.** 77.83 (2m) of the statutes is repealed.

23 **SECTION 37.** 77.84 (2) (b) of the statutes is amended to read:

24 77.84 (2) (b) For managed forest land orders that take effect before April 28,
25 2004, in addition to the payment under par. (a), each owner shall pay \$1 for each acre

1 that is designated as closed under s. 77.83 and for each acre that is located in a
2 proposed ferrous mining site and that is not open to all of the outdoor activities
3 specified in s. 77.83 (2) (a) for any part of the previous calendar year. The payment
4 shall be made to each municipal treasurer on or before January 31.

5 **SECTION 38.** 77.84 (2) (bm) of the statutes is amended to read:

6 77.84 (2) (bm) For managed forest land orders that take effect on or after April
7 28, 2004, in addition to the payment under par. (am), each owner of managed forest
8 land shall pay to each municipal treasurer, on or before January 31, an amount that
9 is equal to 20 percent of the average statewide property tax per acre of property
10 classified under s. 70.32 (2) (a) 6., as determined under par. (cm), for each acre that
11 is designated as closed under s. 77.83 and for each acre that is located in a proposed
12 ferrous mining site and that is not open to all of the outdoor activities specified in s.
13 77.83 (2) (a) for any part of the previous calendar year.

14 **SECTION 39.** 77.84 (2) (bp) of the statutes is repealed.

15 **SECTION 40.** 77.88 (3) (d) of the statutes is repealed.

16 **SECTION 41.** 77.88 (5) (af) 1. of the statutes is amended to read:

17 77.88 (5) (af) 1. An amount equal to the past tax liability multiplied by the
18 number of years the land was designated as managed forest land, less any amounts
19 paid by the owner under s. 77.84 (2) (a), and (am), and (bp).

20 **SECTION 42.** 77.88 (5) (af) 2. of the statutes is amended to read:

21 77.88 (5) (af) 2. Five percent of the stumpage value of the merchantable timber
22 on the land, less any amounts paid by the owner under s. 77.84 (2) (a), and (am), and
23 (bp).

24 **SECTION 43.** 77.88 (9) (d) 1. of the statutes is renumbered 77.88 (9) (d) and
25 amended to read:

1 77.88 (9) (d) ~~Except as provided in subd. 2., a~~ [✓] A withdrawal order issued before
2 December 15 of any year takes effect on the January 1 after the date of issuance, and
3 a withdrawal order issued on or after December 15 of any year takes effect on the 2nd
4 January 1 after the date of issuance.

5 **SECTION 44.** 77.88 (9) (d) 2. of the statutes [✓] is repealed.

6 **SECTION 45.** 77.883 of the statutes [✓] is repealed.

7 **SECTION 46.** 77.89 (2) (a) of the statutes is amended to read:

8 77.89 (2) (a) Each municipal treasurer shall pay 20 percent of each payment
9 received under sub. (1) (a) and (b) and under ss. 77.84 (2) (a), and (am), ~~and (bp)~~,
10 77.85, and 77.876 to the county treasurer and shall deposit the remainder in the
11 municipal treasury. The payment to the county treasurer for money received before
12 November 1 of any year shall be made on or before the November 15 after its receipt.
13 For money received on or after November 1 of any year, the payment to the county
14 treasurer shall be made on or before November 15 of the following year.

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

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

1 **SECTION 48.** 87.30 (2) (b) of the statutes is repealed.

2 **SECTION 49.** 107.001 (1) of the statutes is amended to read:

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

10 **SECTION 50.** 107.001 (2) of the statutes is created to read:

11 107.001 (2) "Metalliferous minerals" means naturally occurring minerals that
12 contain metal.

13 **SECTION 51.** 107.01 (intro.) of the statutes is amended to read:

14 **107.01 Rules governing mining rights.** (intro.) Where there is no contract
15 between the parties or terms established by the landlord to the contrary the following
16 rules and regulations shall be applied to mining contracts and leases for the digging
17 of ~~nonferrous metallic ores and~~ ores and minerals:

18 **SECTION 52.** 107.01 (2) of the statutes is amended to read:

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

1 miner's claim; and the miner shall be entitled to the ~~nonferrous metallic ores or~~
2 minerals dug after such notice.

3 **SECTION 53.** 107.02 of the statutes is amended to read:

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

23 **SECTION 54.** 107.03 of the statutes is amended to read:

24 **107.03 Conflicting claims.** In case of conflicting claims to a crevice or range
25 bearing ~~nonferrous metallic ores or~~ minerals the court may continue any action to

1 enforce a claim or grant any necessary time for the purpose of allowing parties to
2 prove up their mines or diggings if it satisfactorily appears necessary to the ends of
3 justice. In such case the court or judge may appoint a receiver and provide that the
4 mines or diggings be worked under the receiver's direction, subject to the order of the
5 court, in such manner as best ascertains the respective rights of the parties. The
6 ~~nonferrous metallic ores or~~ ores or minerals raised by either party pending the dispute shall
7 be delivered to the receiver, who may, by order of the court or judge, pay any rent or
8 other necessary expenses therefrom.

9 **SECTION 55.** 107.04 of the statutes is amended to read:

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

22 **SECTION 56.** 107.11 of the statutes is amended to read:

23 **107.11 Account of ~~nonferrous metallic minerals ore~~ ore received.** Every
24 person operating a metal recovery system and every purchaser of ~~nonferrous~~
25 ~~metallic ores and~~ ores and minerals shall keep a substantially bound book, ruled into suitable

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

10 **SECTION 57.** 107.12 of the statutes is amended to read:

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

18 **SECTION 58.** 107.20 (1) of the statutes is amended to read:

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

1 ~~metallic~~ metalliferous minerals under a prospecting permit shall be limited to a term
2 not exceeding 10 years from the date that the lessee applies for a prospecting permit
3 under s. 293.35, if the lessee applies for the prospecting permit within 10 years from
4 the date on which the exploration mining lease is recorded in the office of the register
5 of deeds of the county where the property is located.

6 **SECTION 59.** 107.20 (2) of the statutes is amended to read:

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

12 **SECTION 60.** 107.30 (8) of the statutes is amended to read:

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

18 **SECTION 61.** 107.30 (15) of the statutes is amended to read:

19 107.30 (15) "Prospecting" ~~means engaging in the examination of an area for the~~
20 ~~purpose of determining the quality and quantity of minerals, other than for~~
21 ~~exploration but including the obtaining of an ore sample, by such physical means as~~
22 ~~excavating, trenching, construction of shafts, ramps, and tunnels and other means,~~
23 ~~other than for exploration, which the department of natural resources, by rule,~~
24 ~~identifies, and the production of prospecting refuse and other associated activities.~~
25 "Prospecting" does not include such activities when the activities are, by themselves,

1 ~~intended for and capable of commercial exploitation of the underlying ore body. The~~
2 ~~fact that prospecting activities and construction may have use ultimately in mining,~~
3 ~~if approved, does not mean that prospecting activities and construction constitute~~
4 ~~mining within the meaning of sub. (8), provided such activities and construction are~~
5 ~~reasonably related to prospecting requirements has the meaning given in s. 293.01~~
6 ~~(18).~~

7 **SECTION 62.** 107.30 (16) of the statutes is amended to read:

8 107.30 (16) "Prospecting site" means the lands on which prospecting is actually
9 conducted as well as those lands on which physical disturbance will occur as a result
10 of such activity has the meaning given in s. 293.01 (21).

11 **SECTION 63.** 160.19 (12) of the statutes is amended to read:

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

19 **SECTION 64.** 196.491 (3) (a) 3. b. of the statutes is amended to read:

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

1 notice shall state the reason for the determination. An applicant may supplement
2 and refile an application that the department has determined to be incomplete.
3 There is no limit on the number of times that an applicant may refile an application
4 under this subd. 3. b. If the department fails to determine whether an application
5 is complete within 30 days after the application is filed, the application shall be
6 considered to be complete. Except as provided in s. 30.025 (4), the department shall
7 complete action on an application under this subd. 3. b. for any permit or approval
8 that is required prior to construction of a facility within 120 days after the date on
9 which the application is determined or considered to be complete.

10 **SECTION 65.** 196.491 (3) (a) 3. c. of the statutes is repealed.

11 **SECTION 66.** 196.491 (4) (b) 2. of the statutes is amended to read:

12 196.491 (4) (b) 2. The person shows to the satisfaction of the commission that
13 the person reasonably anticipates, at the time that construction of the equipment or
14 facilities commences, that on each day that the equipment and facilities are in
15 operation the person will consume no less than 70 percent of the aggregate kilowatt
16 hours output from the equipment and facilities in manufacturing processes at the
17 site where the equipment and facilities are located ~~or in ferrous mineral mining and~~
18 ~~processing activities governed by subch. III of ch. 295 at the site where the equipment~~
19 ~~and facilities are located.~~

20 **SECTION 67.** 227.42 (4) of the statutes is created to read:

21 227.42 (4) This section does not apply if a hearing on the matter was conducted
22 as a part of a hearing under s. 293.43.

23 **SECTION 68.** 227.483 (3) (c) of the statutes is repealed.

24 **SECTION 69.** 281.35 (5) (e) of the statutes is amended to read:

1 281.35 (5) (e) *Right to hearing.* Any Except as provided in s. 227.42 (4), any
2 person who receives notice of a denial or modification requirement under par. (c) is
3 entitled to a contested case hearing under ch. 227 if the person requests the hearing
4 within 30 days after receiving the notice.

5 **SECTION 70.** 281.36 (3g) (h) 2. of the statutes is amended to read:

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

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

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

1 for which the department has not approved a plan of operation under s. 289.30 or s.
2 295.51.

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

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

6 **SECTION 73.** 283.84 (3m) of the statutes is amended to read:

7 283.84 (3m) A person engaged in mining, as defined in s. 293.01 (9) or 295.41
8 (26), prospecting, as defined in s. 293.01 (18), bulk sampling, as defined in s. 293.01
9 (2m) or 295.41 (7), or nonmetallic mining, as defined in s. 295.11 (3), may not enter
10 into an agreement under sub. (1).

11 **SECTION 74.** 287.13 (5) (e) of the statutes is amended to read:

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

18 **SECTION 75.** 289.62 (2) (g) 2. of the statutes is amended to read:

19 289.62 (2) (g) 2. For nonhazardous tailing solids or for nonacid producing
20 taconite tailing solids, 0.2 cent per ton.

21 **SECTION 76.** 289.62 (2) (g) 6. of the statutes is amended to read:

22 289.62 (2) (g) 6. For nonhazardous waste rock or for nonacid producing taconite
23 waste rock, 0.1 cent per ton.

24 **SECTION 77.** 292.01 (1m) of the statutes is amended to read:

1 **SECTION 82.** 293.01 (8) of the statutes is created to read:

2 293.01 (8) "Minerals" mean unbeneficiated metallic ore but does not include
3 mineral aggregates such as stone, sand, and gravel.

4 **SECTION 83.** 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,
7 ~~bulk sampling~~, or prospecting, including commercial extraction, agglomeration,
8 beneficiation, construction of roads, removal of overburden and the production of
9 refuse.

10 **SECTION 84.** 293.01 (12) of the statutes is amended to read:

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

17 **SECTION 85.** 293.01 (12m) of the statutes ~~is~~ repealed.

18 **SECTION 86.** 293.01 (18) of the statutes is amended to read:

19 293.01 (18) "Prospecting" means engaging in the examination of an area for the
20 purpose of determining the quality and quantity of ~~nonferrous metallic~~ minerals,
21 other than for exploration ~~or bulk sampling~~ but including the obtaining of ~~a~~
22 ~~nonferrous metallic mineral~~ an ore sample, by such physical means as excavating,
23 trenching, construction of shafts, ramps and tunnels and other means, other than for
24 exploration ~~or bulk sampling~~, which the department, by rule, identifies, and the
25 production of prospecting refuse and other associated activities. "Prospecting" shall

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

7 **SECTION 87.** 293.01 (25) of the statutes is amended to read:

8 293.01 (25) "Refuse" means all waste soil, rock, mineral, liquid, vegetation and
9 other material, except merchantable by-products, directly resulting from or
10 displaced by the prospecting or mining and from the cleaning or preparation of
11 ~~nonferrous metallic~~ minerals during prospecting or mining operations, and shall
12 include all waste materials deposited on or in the prospecting or mining site from
13 other sources.

14 **SECTION 88.** 293.13 (2) (b) (intro.) of the statutes is amended to read:

15 293.13 (2) (b) (intro.) Minimum standards for exploration, ~~bulk sampling,~~
16 prospecting, and mining shall include the following:

17 **SECTION 89.** 293.13 (2) (b) 4. of the statutes is amended to read:

18 293.13 (2) (b) 4. Adequate diversion and drainage of water from the
19 exploration, ~~bulk sampling,~~ prospecting, or mining site.

20 **SECTION 90.** 293.13 (2) (b) 7. of the statutes is amended to read:

21 293.13 (2) (b) 7. Removal and stockpiling, or other measures to protect topsoils
22 prior to exploration, ~~bulk sampling,~~ prospecting, or mining.

23 **SECTION 91.** 293.13 (2) (c) (intro.) of the statutes is amended to read:

1 293.13 (2) (c) (intro.) Minimum standards for reclamation of exploration and
2 ~~bulk sampling~~ sites, where appropriate, and for prospecting and mining sites shall
3 conform to s. 293.01 (23) and include provision for the following:

4 **SECTION 92.** 293.13 (2) (c) 7. of the statutes is amended to read:

5 293.13 (2) (c) 7. Revegetation to stabilize disturbed soils and prevent air and
6 water pollution, with the objective of reestablishing a variety of populations of plants
7 and animals indigenous to the area immediately prior to exploration, ~~bulk sampling,~~
8 prospecting, or mining.

9 **SECTION 93.** 293.15 (7m) of the statutes is repealed.

10 **SECTION 94.** 293.15 (8) of the statutes is amended to read:

11 293.15 (8) Promulgate rules regulating the production, storage and disposal
12 of radioactive waste from exploration, ~~bulk sampling,~~ prospecting, or mining after
13 seeking comments from the department of health services. At a minimum, rules
14 promulgated under this subsection shall achieve the margin of safety provided in
15 applicable federal statutes and regulations. If the department promulgates rules
16 under this subsection, the department shall investigate the need for standards more
17 restrictive than the applicable federal statutes and regulations.

18 **SECTION 95.** 293.21 (1) (a) of the statutes is amended to read:

19 293.21 (1) (a) "Driller" means a person who performs core, rotary, percussion
20 or other drilling involved in exploration for ~~nonferrous~~ metallic minerals.

21 **SECTION 96.** 293.25 (2) (a) of the statutes is amended to read:

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

1 activities in the same manner as those sections and rules are applicable to
2 ~~nonferrous metallic~~ mineral exploration, to activities related to ~~nonferrous metallic~~
3 mineral exploration and to persons engaging in or intending to engage in ~~nonferrous~~
4 ~~metallic~~ mineral exploration or related activities.

5 **SECTION 97.** 293.25 (4) of the statutes is amended to read:

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

15 **SECTION 98.** 293.26 of the statutes is ^frepealed.

16 **SECTION 99.** 293.31 (title) of the statutes is amended to read:

17 **293.31 (title) ~~Preapplication notification; data~~ Data collection.**

18 **SECTION 100.** 293.31 (1) of the statutes is amended to read:

19 293.31 (1) ~~At least 12 months before filing an application for a prospecting~~
20 ~~permit under s. 293.35 or a mining permit under s. 293.37, a person proposing to~~
21 ~~engage in a prospecting or mining project shall notify the department in writing of~~
22 ~~the intention to apply for a prospecting or mining permit. A person who intends to~~
23 ~~give notice of intent to apply for a prospecting or mining permit may, prior to~~
24 ~~obtaining, collecting, or generating environmental data intended to be used to~~
25 ~~support the permit application, submit to the department the methodology that the~~

1 ~~person intends to use in obtaining, collecting, or generating the data. The~~
2 ~~department shall review the proposed methodology and shall either inform the~~
3 ~~person that the proposed methodology will be accepted by the department or provide~~
4 ~~the person with the methodology that the department requires to be used. The~~
5 ~~department may assess the person submitting the proposed methodology a fee equal~~
6 ~~to the department's costs for reviewing the proposed methodology. If a Any person~~
7 ~~obtains, collects, or generates intending to submit an application for a prospecting~~
8 ~~or mining permit shall notify the department prior to the collection of data or~~
9 ~~information intended to be used to support ~~a prospecting or mining~~ the permit~~
10 ~~application without obtaining department approval of the person's methodology~~
11 ~~under sub. (4), the department may not exclude any of the data or information that~~
12 ~~consists of application. Specific environmental data which would be pertinent to a~~
13 ~~specific prospecting or mining application, but which was obtained or collected or~~
14 ~~generated prior to the notice of intent to apply for a prospecting or mining permit,~~
15 ~~shall be submitted in writing to the department together with any substantiating~~
16 ~~background information which would assist the department in establishing the~~
17 ~~validity of the data. The department shall review the data and, if it concludes that~~
18 ~~the benefits of permitting the admission of the data outweigh the policy reasons for~~
19 ~~excluding it, and if the data is otherwise admissible, inform the person giving the~~
20 ~~notice of intent to prospect or mine that the data will be accepted by the department.~~
21 ~~Such exclusion shall not relate to general environmental information such as soil
22 characteristics, hydrologic conditions, and air and water data contained in
23 publications, maps, documents, studies, reports, and similar sources, whether public
24 or private, not prepared by or for the applicant. Such exclusion shall likewise not
25 relate to data that is otherwise admissible and collected prior to notification under~~

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

3 **SECTION 101.** 293.31 (2) of the statutes is amended to read:

4 293.31 (2) Upon receipt of notification under sub. (1), the department shall give
5 public notice of the notification in the same manner as provided under s. 293.43 (2m)
6 (3) (b).

7 **SECTION 102.** 293.31 (3) of the statutes is amended to read:

8 293.31 (3) The department shall also receive and consider any comments from
9 interested persons received within 45 days after public notice is given under sub. (2)
10 as to the information which they believe should be requested from the person giving
11 notice of intent to apply for a prospecting or mining permit and the information
12 which they believe the department should seek through independent studies. ~~If the~~
13 ~~department holds a public informational hearing to receive comments from~~
14 ~~interested persons under this section, the hearing shall be completed within 45 days~~
15 ~~after public notice is given under sub. (2).~~

16 **SECTION 103.** 293.31 (4) of the statutes is amended to read:

17 293.31 (4) ~~No later than 90 days after the period for receiving and considering~~
18 After the receipt and consideration of comments from interested persons under sub.
19 ~~(3),~~ the department shall inform the person giving notice of intent to apply for a
20 prospecting or mining permit of the type and quantity of information that it then
21 believes to be needed to support an application and, where applicable, the
22 methodology to be used in gathering information. The department shall specifically
23 inform the person giving notice of intent to apply for a prospecting or mining permit
24 of the type and quantity of information on the characteristics of groundwater
25 resources in the area in which prospecting or mining is anticipated to occur which

1 the department believes is needed to support an application, ~~including the~~
2 ~~information that the department believes should be included in the applicant's~~
3 ~~environmental impact report and the information that the department will need to~~
4 ~~prepare an environmental impact statement.~~ The department shall also inform
5 begin informing the person giving notice of intent to apply for a prospecting or mining
6 permit ~~of as to the~~ timely application date ~~and other filing requirements for all other~~
7 ~~approvals, licenses, and permits relating to the proposed prospecting or mining~~
8 ~~project so as to facilitate the consideration of all other matters at the hearing on the~~
9 prospecting or mining permit.

10 **SECTION 104.** 293.31 (4m) of the statutes is repealed.

11 **SECTION 105.** 293.32 (4) of the statutes is repealed.

12 **SECTION 106.** 293.37 (4) (b) of the statutes is amended to read:

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

24 **SECTION 107.** 293.37 (5) of the statutes is repealed.

25 **SECTION 108.** 293.40 of the statutes is repealed.

1 **SECTION 109.** 293.43 (1) of the statutes is amended to read:

2 293.43 (1) **APPLICABILITY.** This section, and ch. 227 where it is consistent, shall
3 govern all hearings on applications for prospecting or mining permits.

4 **SECTION 110.** 293.43 (1m) (b) of the statutes is amended to read:

5 293.43 (1m) (b) Except as provided in this section paragraph, for all
6 department issued approvals, licenses, and permits relating to prospecting or
7 mining, including solid waste feasibility report approvals and permits related to air
8 and water, to be issued after April 30, 1980, the notice, hearing, and comment
9 process provisions, if any, and the time for issuance of decisions shall be controlled
10 by this section and ss. 293.45 and 293.49. If an applicant fails to make application
11 for an approval, license, or permit for an activity incidental to prospecting or mining
12 in time for notice under this section to be provided, the notice and comment
13 requirements, if any, shall be controlled by the specific statutory provisions with
14 respect to that application. If notice under those specific statutory notice
15 requirements can be given for consideration of the approval, license, or permit at the
16 hearing under this section, the application shall be considered at that hearing;
17 otherwise, the specific statutory hearing provisions, if any, with respect to that
18 application shall control. The substantive requirements for the issuance of any
19 approval, permit, or license incidental to prospecting or mining are not affected by
20 the fact that a hearing on the approval, permit, or license is conducted as part of a
21 hearing under this section.

22 **SECTION 111.** 293.43 (2) of the statutes is created to read:

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

1 **SECTION 112.** 293.43 (2m) of the statutes is repealed.

2 **SECTION 113.** 293.43 (3) of the statutes is created to read:

3 293.43 (3) TIMING OF NOTICE AND OF HEARING; GIVING OF NOTICE. (a) If it is
4 determined that a statement under s. 1.11 is not required, the hearing shall be
5 scheduled for a date not less than 60 days nor more than 90 days after the
6 announcement of that determination, and the scheduling and providing of notice
7 shall be completed not later than 10 days following the announcement. Notice of the
8 hearing shall be given by mailing a copy of the notice to any known state agency
9 required to issue a permit for the proposed operation, to the regional planning
10 commission for the affected area, to the county, city, village and town within which
11 any part of the affected area lies, to all persons who have requested this notification
12 and, if applicable, to all persons specified under par. (b) 3. and s. 281.35 (5) (b) and
13 (6) (f). Written comments may be submitted to the department within 30 days of the
14 date of notice.

15 (b) If it is determined that a statement under s. 1.11 is required, or if an
16 environmental impact statement is required under s. 293.39, the department shall
17 hold at least one informational meeting regarding the preliminary environmental
18 report within 60 days of its issuance. The meeting shall be held not sooner than 30
19 days nor later than 60 days after the issuance of the report. The scheduling and
20 providing of notice of the meeting shall be completed not later than 10 days following
21 the issuance of the preliminary environmental report. A hearing referred to under
22 sub. (1m) shall be scheduled for a date not less than 120 days nor more than 180 days
23 after the issuance of the environmental impact statement. The scheduling and
24 providing of notice of the hearing shall be completed within 30 days from the date

1 of issuance of the environmental impact statement. The providing of notice shall be
2 accomplished by doing all of the following:

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

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

17 3. Mailing a copy of the notice to the U.S. environmental protection agency, U.S.
18 army corps of engineers, and other states potentially affected by the proposed
19 discharge if a water discharge permit under ch. 283 is to be considered at the hearing
20 under this section and to the U.S. environmental protection agency and appropriate
21 agencies in other states that may be affected if an air pollution control permit under
22 ch. 285 is to be considered at the hearing under this section.

23 (c) Written comments may be submitted by any governmental agency within
24 80 days of the date of issuance of the statement under par. (b). Individual persons
25 may submit written comments within 120 days of the date of issuance of the

1 statement. The last day for receipt of comments shall be specified by the department
2 in all notices.

3 **SECTION 114.** 293.43 (3m) of the statutes is repealed.

4 **SECTION 115.** 293.43 (4) of the statutes is created to read:

5 293.43 (4) PARTICIPATION BY LOCAL GOVERNMENTS. Any county, town, village or
6 city receiving notice of the filing of an application in the manner provided under sub.
7 (3) (a) or (b) shall refer the application and reclamation plan to a committee
8 established under s. 293.33 (1) or (2), if any, for review and comment. Such counties,
9 towns, villages or cities may participate as a party in the hearing on the application
10 and may make recommendations on the reclamation plan and future use of the
11 project site.

12 **SECTION 116.** 293.43 (4m) of the statutes is repealed.

13 **SECTION 117.** 293.43 (5) of the statutes is created to read:

14 293.43 (5) HEARING PROCEDURE. (a) At the opening of the hearing, the hearing
15 examiner shall advise all persons present of their right to express their views either
16 orally or in writing, under oath or otherwise, and of the legal effect of each form of
17 testimony. All interested persons, at the hearing or at a time set prior to the hearing,
18 shall be given an opportunity, subject to reasonable limitations on the presentation
19 of repetitious or irrelevant material, to express their views on any aspect of the
20 matters under consideration. The presentation of these views need not be under oath
21 nor subject to cross-examination. A written record of unsworn testimony shall be
22 made.

23 (b) Persons who wish to participate as parties shall file a written notice with
24 the hearing examiner setting forth their interest at least 30 days prior to the

1 scheduled time of the hearing or prior to the scheduled time of any prehearing
2 conference, whichever is earlier, unless good cause is shown.

3 (c) The record shall consist of the contested case portion of the proceeding.
4 Views given under par. (a) and all written comments submitted from any source shall
5 be placed in the file of the proceeding and shall be given appropriate probative value
6 by the hearing examiner or decisionmaker.

7 (d) Hearings conducted under this section may be continued for just cause.

8 (e) If evidence of conformance with applicable zoning ordinances as required
9 by s. 293.49 (1) (a) 6. is not presented by the time testimony is completed, the
10 department shall close the record and continue the hearing. The duration of the
11 continuance of the hearing shall be specified by the department at the time the
12 continuance begins, after first requesting the applicant to state the anticipated time
13 at which the evidence will be provided. The continuance may be extended by the
14 department prior to its expiration upon notice to all parties if good cause is shown.

15 (f) Each approval or denial of a license or permit considered at the hearing
16 under this section shall be made in findings of fact, conclusions of law and an order
17 setting forth reasons with clarity and in detail.

18 **SECTION 118.** 293.47 (1) (b) of the statutes is amended to read:

19 293.47 (1) (b) "Geologic information" means information concerning
20 descriptions of ~~a nonferrous~~ an ore body, descriptions of reserves, tonnages and
21 grades of ~~nonferrous~~ ore, descriptions of a drill core or bulk sample including
22 analysis, ^{and} descriptions of drill hole depths, distances and similar information related
23 to the ~~nonferrous~~ ore body.

24 **SECTION 119.** 293.49 (1) (a) (intro.) of the statutes is amended to read:

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

4 **SECTION 120.** 293.49 (1) (a) 2m. of the statutes is repealed.

5 **SECTION 121.** 293.495 of the statutes is repealed.

6 **SECTION 122.** 293.50 of the statutes is created to read:

7 **293.50 Additional requirements on issuance of permits for mining of**
8 **sulfide ore bodies.** (1) In this section:

9 (a) "Pollution" means degradation that results in any violation of any
10 environmental law as determined by an administrative proceeding, civil action,
11 criminal action or other legal proceeding. For the purpose of this paragraph,
12 issuance of an order or acceptance of an agreement requiring corrective action or a
13 stipulated fine, forfeiture or other penalty is considered a determination of a
14 violation, regardless of whether there is a finding or admission of liability.

15 (b) "Sulfide ore body" means a mineral deposit in which metals are mixed with
16 sulfide minerals.

17 (2) The department may not issue a permit under s. 293.49 for the purpose of
18 the mining of a sulfide ore body until all of the following conditions are satisfied:

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

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

7 **(2m)** (a) The department may not base its determination under sub. (2) (a) or
8 (b) on any mining operation that has been listed on the national priorities list under
9 42 USC 9605 (a) (8) (B) or any mining operation for which the operator is no longer
10 in business and has no successor that may be liable for any contamination from the
11 mining operation and for which there are no other persons that may be liable for any
12 contamination from the mining operation.

13 (b) The department may not base its determination under sub. (2) (a) or (b) on
14 a mining operation unless the department determines, based on relevant data from
15 groundwater or surface water monitoring, that the mining operation has not caused
16 significant environmental pollution, as defined in s. 293.01 (4), from acid drainage
17 at the tailings site or at the mine site or from the release of heavy metals.

18 **(3)** This section applies without regard to the date of submission of the permit
19 application.

20 **SECTION 123.** 293.51 (title) of the statutes is amended to read:

21 **293.51 (title) Bonds and other security.**

22 **SECTION 124.** 293.51 (1) of the statutes is amended to read:

23 293.51 (1) Upon notification that an application for a prospecting or mining
24 permit has been approved by the department but prior to commencing prospecting
25 or mining, the operator shall file with the department a bond conditioned on faithful

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

14 **SECTION 125.** 293.51 (1g) of the statutes is repealed.

15 **SECTION 126.** 293.51 (1m) of the statutes is repealed.

16 **SECTION 127.** 293.51 (1r) of the statutes is repealed.

17 **SECTION 128.** 293.51 (3) of the statutes is amended to read:

18 293.51 (3) Upon approval of the operator's bond or other security under subs.
19 (1), (1g), (1m), and (1r), mining application, and certificate of insurance, the
20 department shall issue written authorization to commence mining at the permitted
21 mining site in accordance with the approved mining and reclamation plans.

22 **SECTION 129.** 293.51 (5) of the statutes is repealed.

23 **SECTION 130.** 293.55 (1) (c) of the statutes is amended to read:

24 293.55 (1) (c) *Substantial changes.* The department shall determine if any
25 change in the mining or reclamation plans is substantial and provide notice of its

1 determination in the same manner as specified under s. 293.43 ~~(2m)~~ [✓](b) (3) [✓](b) 1. to
2 3.

3 **SECTION 131.** 293.55 (1) (d) of the statutes is amended to read:

4 293.55 (1) (d) *Notice.* The department shall provide notice of any modification
5 which involves an increase or decrease in the area of a mining site or a substantial
6 change in the mining or reclamation plan in the same manner as an original
7 application for a mining permit under s. 293.43 ~~(2m)~~ [✓](3). [✓]If 5 or more interested
8 persons do not request a hearing in writing within 30 days of notice, no hearing is
9 required on the modification. The notice shall include a statement to this effect.

10 **SECTION 132.** 293.65 (3) (a) of the statutes is amended to read:

11 293.65 (3) (a) An approval under s. 281.34 is required to withdraw groundwater
12 ~~for prospecting or mining~~ or to dewater mines if the capacity and rate of withdrawal
13 of all wells involved in the withdrawal of groundwater or the dewatering of mines
14 exceeds 100,000 gallons each day. A permit under s. 283.31 is required to discharge
15 pollutants resulting from the dewatering of mines.

16 **SECTION 133.** 293.65 (3) (b) of the statutes is amended to read:

17 293.65 (3) (b) The department may not issue an approval under s. 281.34 if the
18 withdrawal of groundwater for prospecting or mining purposes or the dewatering of
19 mines will result in the unreasonable detriment of public or private water supplies
20 or the unreasonable detriment of public rights in the waters of the state. No
21 withdrawal of groundwater ~~for prospecting or mining purposes~~ or the dewatering of
22 mines may be made to the unreasonable detriment of public or private water supplies
23 or the unreasonable detriment of public rights in the waters of the state.
24 ~~Notwithstanding any limitation on approval conditions in s. 281.34, if the~~
25 ~~department determines that a proposed withdrawal of groundwater or dewatering~~

1 of mines will result in the unreasonable detriment of public or private water supplies
2 or the unreasonable detriment of public rights in the waters of the state the
3 department shall include conditions in the mining or prospecting permit or in an
4 approval issued under s. 281.34 to ensure that the withdrawal or dewatering will not
5 result in the unreasonable detriment of public or private water supplies or the
6 unreasonable detriment of public rights in the waters of the state. These conditions
7 may include a requirement that the applicant for the mining or prospecting permit
8 or approval under s. 281.34 provide a replacement water supply of similar quality,
9 provide an increased amount of water to the water supply, or temporarily augment
10 the quantity of water in, or flowing into or from, the affected waters of the state that
11 is of substantially similar quality and that has substantially similar characteristics
12 to the water that was in the affected waters of the state before any proposed mining
13 or prospecting activity began.

14 **SECTION 134.** 293.66 of the statutes is repealed.

15 **SECTION 135.** 293.81 of the statutes is amended to read:

16 **293.81 Exploring, bulk sampling, prospecting, and mining without**
17 **authorization.** Any person who engages in exploration without a license or bulk
18 sampling without the necessary license or approvals shall forfeit not less than \$100
19 nor more than \$1,000 for each parcel as defined under s. 293.21 (1) (b) on which
20 unlicensed exploration or bulk sampling without the necessary license or approvals
21 took place. Any person who authorizes or engages in prospecting without a
22 prospecting permit or any operator who authorizes or engages in mining without a
23 mining permit and written authorization to mine under s. 293.51 (3) shall forfeit all
24 profits obtained from such illegal activities and not more than \$10,000 for each day
25 during which the mine was in operation. The operator shall be liable to the

1 department for the full cost of reclaiming the affected area of land and any damages
2 caused by the mining operation. Each day's violation of this section shall be deemed
3 a separate offense. If the violator is a corporation, limited liability company,
4 partnership or association, any officer, director, member, manager or partner who
5 knowingly authorizes, supervises or contracts for exploration, ~~bulk sampling,~~
6 prospecting, or mining shall also be subject to the penalties of this section.

7 **SECTION 136.** 293.86 of the statutes is amended to read:

8 **293.86 Visitorial powers of department.** Any duly authorized officer,
9 employee or representative of the department may enter and inspect any property,
10 premises or place on or at which any prospecting or metallic mining operation or
11 facility is located or is being constructed or installed at any reasonable time for the
12 purpose of ascertaining the state of compliance with this chapter and chs. 281, 285,
13 289 to 292, 295, and 299, ~~subchs. I and II of ch. 295,~~ and rules adopted pursuant
14 thereto. No person may refuse entry or access to any such authorized representative
15 of the department who requests entry for purposes of inspection, and who presents
16 appropriate credentials, nor may any person obstruct, hamper or interfere with any
17 such inspection. The department shall furnish to the prospector or operator, as
18 indicated in the prospecting or mining permit, a written report setting forth all
19 observations, relevant information and data which relate to compliance status.

20 **SECTION 137.** 293.95 of the statutes is ⁴repealed and recreated to read:

21 **293.95 Review.** Any person aggrieved by any decision of the department
22 under this chapter [✓]may obtain its review under ch. [✓]227.

23 **SECTION 138.** Chapter 295 (title) of the statutes is amended to read:

24 **CHAPTER 295**

①

oil-g

**NONMETALLIC MINING RECLAMATION; OIL AND GAS; FERROUS
METALLIC MINING**

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SECTION 139. 295.16 (4) (f) of the statutes is amended to read:

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

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SECTION 140. Subchapter III of chapter 295 [precedes 295.40] of the statutes is repealed.

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SECTION 141. 299.85 (7) (a) 2. and 4. of the statutes are amended to read:

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

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4. Notwithstanding minimum or maximum forfeitures specified in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969, 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.298 (1), (2), and (3), 30.49 (1) (a) and

1 (c), 31.23 (2), 281.75 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2), 285.41 (7), 285.57
2 (5), 285.59 (8), 285.87 (1), 287.95 (1), (2) (b), and (3) (b), 287.97, 289.96 (2) and (3) (a),
3 291.97 (1), 292.99 (1) and (1m), 293.81, 293.87 (3) and (4) (a), 295.19 (3) (a) and (b)
4 1., 295.37 (2), 295.79 (2) and (4), 299.15 (4), 299.51 (5), 299.53 (4) (c) 1., 299.62 (3) (a)
5 and (c), and 299.97 (1), if the department approves a compliance schedule under sub.
6 (6) and the regulated entity corrects the violations according to the compliance
7 schedule, the regulated entity may not be required to forfeit more than \$500 for each
8 violation, regardless of the number of days during which the violation continues.

9 **SECTION 142.** 299.95 of the statutes is amended to read:

10 **299.95 Enforcement; duty of department of justice; expenses.** The
11 attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except
12 ss. 285.57, 285.59, and 299.64, and all rules, special orders, licenses, plan approvals,
13 permits, and water quality certifications of the department, except those
14 promulgated or issued under ss. 285.57, 285.59, and 299.64 and except as provided
15 in ss. 281.36 (14) (f), 285.86 and 299.85 (7) (am). ~~Except as provided in s. 295.79 (1),~~
16 ~~the~~ The circuit court for Dane county or for any other county where a violation
17 occurred in whole or in part has jurisdiction to enforce chs. 281 to 285 and 289 to 295
18 or this chapter or the rule, special order, license, plan approval, permit, or
19 certification by injunctive and other relief appropriate for enforcement. For
20 purposes of this proceeding where chs. 281 to 285 and 289 to 295 or this chapter or
21 the rule, special order, license, plan approval, permit or certification prohibits in
22 whole or in part any pollution, a violation is considered a public nuisance. The
23 department of natural resources may enter into agreements with the department of
24 justice to assist with the administration of chs. 281 to 285 and 289 to 295 and this

1 chapter. Any funds paid to the department of justice under these agreements shall
2 be credited to the appropriation account under s. 20.455 (1) (k).

3 **SECTION 143.** 323.60 (1) (gm) of the statutes is repealed.

4 **SECTION 144.** 323.60 (5) (d) 3. of the statutes is amended to read:

5 323.60 (5) (d) 3. All facilities with 10 or more employees in major group
6 classifications 10 to 13 in the standard industrial classification manual, 1987
7 edition, published by the U.S. office of management and budget, at which a toxic
8 chemical is used at or above an applicable threshold quantity, except that compliance
9 with the toxic chemical release form requirements under this subdivision is not
10 required for the placement of a toxic chemical in a storage or disposal site or facility
11 that is located at a facility with a permit under ch. 293 or a mining permit under
12 subch. III of ch. 295 if the toxic chemical consists of or is contained in merchantable
13 by-products, as defined in s. 293.01 (7) or 295.41 (25), minerals, as defined in s.
14 293.01 (8), or refuse, as defined in s. 293.01 (25) or 295.41 (41).

15 **SECTION 145.** 706.01 (9) of the statutes is amended to read:

16 706.01 (9) "Mining company" means any person or agent of a person who has
17 a prospecting permit under s. 293.45 or a mining permit under s. 293.49 or 295.58.

18 **SECTION 146.** 710.02 (2) (d) of the statutes is amended to read:

19 710.02 (2) (d) An exploration mining lease as defined in s. 107.001 (1) and land
20 used for mining and associated activities under chs. 293 and 295.

21 **SECTION 147.** 2013 Wisconsin Act 1, section 103 is repealed.

22 **SECTION 148.** NR 132.06 (4) of the administrative code is created to read:

23 NR 132.06 (4) The department has been directed, pursuant to ch. 421, laws of
24 1977, to assure that mining activities conducted in this state result in a minimization
25 of disturbance to wetlands. The legislature has also directed, in ch. 377, laws of 1977,

1 that department rules relating to metallic mining wastes take into consideration the
2 special requirements of metallic mining operations in the location, design,
3 construction, operation and maintenance of sites and facilities for the disposal of
4 such wastes as well as any special environmental concerns that will arise as a result
5 of the disposal of the same. The department has established, in s. NR 1.95[✓] an overall
6 framework for its decisions affecting wetlands. It is, therefore, the intent of this
7 subsection to implement these directives recognizing that, depending on the location
8 and site conditions involved in a particular case, it may be relatively easy to avoid
9 entirely the use of wetlands in some cases while being virtually impossible to avoid
10 their limited and carefully contemplated use in others and that the goal of the siting
11 process shall be the selection of sites that are most favorable taking into account all
12 pertinent factors. For purposes, therefore, of administering these directives and
13 rules and acting on permits, licenses and approvals, the following standards shall be
14 applied:

15 (a) The objective of the applicant's site selection process for mining facilities,
16 and for the disposal or storage of wastes or materials produced by such activities,
17 shall be the selection of a viable site that would result in the least overall adverse
18 environmental impact.

19 (b) The applicant's site selection process shall include the identification and
20 analysis of various alternatives so that a legitimate comparison between the most
21 viable sites can be made by the department, realizing that a comparison will be made
22 between several sites, all of which may have some imperfections with regard to
23 environmental acceptability and none of which, in some cases, may be found to be
24 environmentally acceptable as a result of compliance with s. 1.11,[✓] Stats., and other
25 applicable Wisconsin laws.

1 (c) To ensure compliance with the requirement to minimize the disturbance of
2 wetlands, the applicant shall identify and the department shall analyze viable sites
3 which would result in the least overall adverse environmental impact and which
4 would also avoid the use of any wetlands. If such sites avoiding the use of wetlands
5 cannot be identified pursuant to the standards in this subsection, then the applicant
6 shall identify and the department shall analyze those viable sites which would result
7 in the least overall adverse environmental impact and which would also utilize,
8 consistent with minimizing total environmental impacts, the least acreage and the
9 least valuable wetlands directly and which would cause the least adverse impact on
10 the wetlands and waters of the state outside the proposed area of use.

11 (d) The use of wetlands for mining activities, including the disposal or storage
12 of mining wastes or materials, or the use of other lands for such uses which would
13 have a significant adverse effect on wetlands, are presumed to be unnecessary unless
14 the applicant demonstrates, taking into account economic, environmental, technical,
15 recreational and aesthetic factors, that the site proposed for use:

- 16 1. Constitutes a viable site;
- 17 2. Is the alternative which causes the least overall adverse environmental
18 impact;
- 19 3. Will be used in a manner so as to minimize the loss of wetlands functions
20 which those wetlands may serve with respect to related wetlands or other waters of
21 the state, or both, outside the proposed area of use. As used in this paragraph, a
22 presumption shall not be construed to be a prohibition, but rather the creating of a
23 burden of proof on the applicant to demonstrate by the preponderance of evidence
24 that it has complied with all the siting principles and standards of this subsection.
25 As used in this section, viable means technically and economically feasible.

1 (e) With respect to mining activities sited, in whole or in part, in wetlands and
2 predating these rules as well as ch. 377, laws of 1977, the use of such wetlands for
3 such activities shall be deemed necessary hereunder and the site of such use shall
4 be deemed a viable site. The standards of minimization herein established to the
5 extent applicable to such preexisting activities by reason of s. 293.13 (2) (c) 8., Stats.,
6 shall be so applicable only to the extent specified in s. 293.91 (2), Stats. Furthermore,
7 any additional activities undertaken in wetlands by an applicant subsequent to the
8 effective date of these rules, which additional activities are undertaken to bring
9 activities of the applicant, which were sited in wetlands prior to these rules, into
10 prompt compliance with chs. 30, 281 and 283, Stats., as well as regulations, orders
11 and decisions thereunder, shall be deemed to be necessary so long as the applicant
12 demonstrates that, taking into account economic, environmental, technical,
13 recreational and aesthetic factors, the site proposed for use by such additional
14 activities will be used in a manner so as to minimize the loss of wetlands and the net
15 loss of functions which those wetlands may serve with respect to related wetlands
16 or other waters of the state, or both, outside the proposed area of use.

17 (f) The department shall give special consideration to a site where it finds that
18 the degree of necessary improvement is of such extent and expense that compliance
19 cannot be accomplished without affecting wetlands.

20 (g) The applicant shall assist in the evaluation of environmental impacts as
21 mandated herein. All of the applicable following wetlands functions and values shall
22 be considered except as provided in par. (h):

23 1. 'Biological functions.' Wetlands are environments in which a variety of
24 biological functions occur. In many cases, wetlands are very productive ecosystems
25 which support a wide diversity of aquatic and terrestrial organisms. Many wetland

1 areas are vital spawning, breeding, nursery or feeding grounds for a variety of
2 indigenous species. Wetlands are sometimes the habitats for state or federally
3 designated rare, threatened or endangered species. Evaluation of the biological
4 functions should include consideration of the kinds, numbers and relative
5 abundance and distribution of plant and animal species supported by the area, net
6 primary productivity of plant communities, wildlife production and use, and the
7 kinds and amount of organic material transported to other aquatic systems as a
8 potential energy source for consumer organisms in those systems. Habitat
9 evaluation should consider the short- and long-term importance of the wetlands to
10 both aquatic and terrestrial species. In addition, the evaluation should include any
11 specialized wetland functions essential for an organism to complete its life cycle
12 requirements such as cover, spawning, feeding and the like. Each wetland under
13 consideration should be evaluated on a site specific basis.

14 2. 'Watershed functions.' In addition to their biological functions, wetlands
15 may serve important physical and chemical functions with respect to other wetlands
16 and waters of the state. A specific wetland, or set of wetlands, may play a critical role
17 in maintaining the stability of the entire system to which it is physically and
18 functionally related. This functional role may include the maintenance of both the
19 hydrologic patterns and the physical and chemical processes of related wetlands and
20 other related waters of the state. Evaluation of wetland functions requires a
21 thorough analysis of the manner and extent to which the wetland serves to maintain
22 the hydrologic, physical and chemical processes of the larger ecosystem to which it
23 belongs. Factors to be considered in the evaluation process are discussed below. The
24 use of non-wetland areas may alter the hydrologic, chemical and physical processes
25 of wetlands outside the proposed area of use. The possibility of such impacts from

1 the use area into wetlands and other waters of the state outside the proposed area
2 of use should be carefully considered.

3 2c. 'Hydrologic support functions.' A particular wetland may function to
4 maintain the hydrologic characteristics, and thereby the physical and chemical
5 integrity of an entire aquatic ecosystem. Assessment of the hydrologic support
6 function shall consider the effects that modifications of a particular area could have
7 on the hydrologic relations to the whole wetland or aquatic ecosystem, and on the
8 cumulative effects of piecemeal alterations. Evaluation of wetlands hydrologic
9 functions shall include consideration of the wetland's location and topographic
10 position, the areal extent of the wetland within the associated system, the degree of
11 connection with other wetlands and waters of the state, and the hydrologic regime.
12 Hydrologic regime refers to the hydrologic characteristics of a wetland such as the
13 source of the water, its velocity, depth and fluctuation, renewal rate and temporal
14 patterns on timing. The water source determines ionic composition, oxygen
15 saturation, and potential pollutant load. Velocity affects turbulence and the ability
16 of the water to carry suspended particulate matter. Water depth and fluctuation
17 patterns have a critical influence on the vegetation, wildlife, and physical-chemical
18 properties of the sediments and overlying waters. Renewal rate describes the
19 frequency of replacement of the water which depends on water depth and volume,
20 frequency of inundation and velocity. The temporal pattern refers to the frequency
21 of inundation and its regularity or predictability. The hydrologic regime of a wetland
22 influences the biological availability and transport of nutrients, detritus and other
23 organic and inorganic constituents between the particular wetland and other water
24 bodies. Other facets of the hydrologic regime may be considered in specific cases.
25 The location and topographic position of any particular wetland in relation to other

1 water systems determine in part the degree to which they are hydrologically
2 connected. The strongest hydrologic connections are likely to occur between
3 wetlands and other water systems which exchange water frequently and/or are
4 nearest to each other. The areal extent of any particular wetland in relation to the
5 total area of the surrounding watershed is an important criterion in evaluating the
6 hydrologic support function. This includes the relative spatial relationships between
7 specific areas under study and the total area of the adjacent wetland and any open
8 water areas in the watershed.

9 2f. 'Groundwater function.' Groundwater may discharge to a wetland,
10 recharge from a wetland to another area, evaporate from, and/or flow through a
11 wetland. The direction and rate of groundwater flow in a given wetland may change.
12 The criteria that should be considered for their influence on the recharge potential
13 include the total areal extent of wetlands and other waters in the particular drainage
14 basin, and the hydrologic characteristics of the associated aquifer or aquifers
15 including porosity, permeability and transmissivity.

16 2i. 'Storm and flood water storage.' Some wetlands may be important for
17 storing water and retarding flow during periods of flood or storm discharge. Even
18 wetlands without surface water connections to other water bodies may serve this
19 function. Such wetlands can reduce or at least modify the potentially damaging
20 effects of floods by intercepting and retaining water which might otherwise be
21 channelled through open flow systems. The importance of a given wetland for storm
22 and flood water storage may be modified by the cumulative effects of the proposed
23 activities and previous activities within the watershed. The flood storage capacity
24 of a particular wetland is primarily a function of its area, basin shape, substrate
25 texture and previous degree of saturation. In general, the greater the area of the

1 wetland and the coarser the texture of the substrate, the greater the potential for
2 flood water storage, given unsaturated field conditions. Similarly, wetland
3 vegetation is an important factor in reducing the energy of flood or storm water.

4 2m. 'Shoreline protection.' Wetlands also function to dissipate the energy of
5 wave motion and runoff surges from storms and snowmelt, and thus lessen the
6 effects of shoreline erosion. Wave action shielding by wetlands is not only important
7 in preserving shorelines and channels, but also in protecting valuable residential,
8 commercial and industrial acreage located adjacent to the aquatic ecosystems. The
9 capacity of a particular wetland to act as an erosional buffer for a shoreline depends
10 on such factors as the vegetation characteristics, the shape and size of the wetland
11 and the adjacent shoreline morphology. The protection of shorelines by wetlands
12 depends primarily on the floristic composition, structure and density of the plant
13 community. Shoreline morphology along with fetch, adjacent bottom topography
14 and wetland vegetation are important considerations in evaluating a wetland for its
15 shoreline protection functions. Wetlands along shorelines with long fetches are
16 likely to be associated with major waters of the state and shall not be considered for
17 use.

18 2p. 'Other watershed functions.' A wetland may perform a variety of other
19 important functions within a watershed. Wetlands may degrade, inactivate, or store
20 materials such as heavy metals, sediments, nutrients, and organic compounds that
21 would otherwise drain into waterways. However, wetlands may subsequently
22 release potentially harmful materials if the wetland soil is disturbed or its
23 oxidation-reduction conditions altered. Potential alterations of these processes
24 must be considered in the analysis, especially with regard to impacts on wetlands
25 outside the proposed area of use. In assessing the importance of a particular wetland

1 to the performance of watershed functions which influence the physical, chemical
2 and biological properties of related waters, the following shall be considered:

- 3 a. Density and distribution of plants;
- 4 b. Area, depth and basin shape;
- 5 c. Hydrologic regime;
- 6 d. Physical, chemical and biological properties of the water and soil;
- 7 e. Relationship of wetland size to watershed size;
- 8 f. The number and size of other wetlands remaining in that watershed;
- 9 g. Topography of the watershed;
- 10 h. Position of the wetland within the watershed relative to springs, lakes, rivers
11 and other waters;
- 12 i. Land use practices and trends within the watershed, or the likelihood of
13 nutrient, sediment or toxin loads increasing.

14 3. 'Recreational, cultural and economic value.' Some wetlands are particularly
15 valuable in meeting the demand for recreational areas, directly or indirectly, by
16 helping to maintain water quality and providing wildlife habitat. Examples of
17 recreational uses include: hunting, canoeing, hiking, snowshoeing, and nature
18 study. To some people and cultures certain wetlands provide an important part of
19 their economic base and/or contribute to their cultural heritage. In assessing the
20 recreational, cultural and economic potential of a particular wetland, the following
21 should be considered:

- 22 a. Wetland type;
- 23 b. Size;
- 24 c. Suitability and compatibility for the different types of recreational uses;
- 25 d. Legal access.

1 e. Accessibility without damage to other wetland values or functions;

2 f. Proximity to users;

3 g. Position in relation to lakes, rivers and other waters;

4 h. Whether it provides habitat for or produces species of recreational, cultural
5 or economic interest; and

6 i. Whether the products of some wetlands species (e.g., wild rice, furbearers,
7 fish) have special cultural value and/or provide a significant portion of the economic
8 base for the people of a region.

9 4. 'Scarcity of wetland type.' Certain wetland types (e.g., fens, wild rice lakes)
10 which are statewide or regionally scarce possess special resource significance.
11 Scarcity or rareness depends on the frequency of occurrence of the type, the area of
12 the type in existence prior to settlement, the historical conversion of the type and its
13 resultant degree of destruction, and the amount of similar habitat in the present
14 landscape of the region. In assessing the scarcity of a particular wetland, a
15 comparative measure of the commonness among all wetland types and the degree to
16 which wetlands of all types occur in the surrounding landscape should be considered.

17 5. 'Aquatic study areas, sanctuaries and refuges.' Through various local, state
18 and federal actions, large areas of the nation's wetlands have been designated and
19 preserved by public agencies for scientific study, and the protection of aquatic and
20 terrestrial habitats. Many public and private groups have also established
21 sanctuaries and refuges in wetlands. Wetland areas that are legally and/or
22 administratively controlled as such, or that are included or nominated for inclusion
23 in the national register of natural landmarks, could be comparatively important.
24 Wetland areas of significant social, cultural, or historic value, such as known
25 landmarks, are considered important.

1 6. ‘The ecosystem concept in a regional context.’ The previous subsections
2 suggest that wetlands may not only have important functions within their
3 boundaries, but may also interact with ecosystems of the surrounding region. The
4 potential impact of wetland modification may influence distant wetlands if they are
5 structurally and functionally related in the region. Similarly, the functions and
6 values of any wetland may be affected by other existing and potential water resource
7 activities in the region. Therefore, consideration should be given to those impacts
8 which are shown to be of regional concern.

9 (h) All wetlands which are to be used by the proposed activity shall be
10 inventoried and analyzed pursuant to this chapter. The use of such wetlands shall
11 be de minimis and, therefore, exempt from further application of this section, if the
12 applicant demonstrates the following by a preponderance of evidence:

13 1. The wetlands to be used are or can be made to be sufficiently hydrologically
14 isolated from the surface and underground waters of the state so that no violations
15 of applicable laws and regulations would result;

16 2. The wetlands are not special or unique utilizing the result of the analysis
17 made pursuant to this chapter; and

18 3. The area of wetlands to be used shall not exceed 5 acres.

19 **SECTION 149.** NR 132.17 (13) of the administrative code is amended to read:

20 NR 132.17 (13) Tailings transport systems, if not buried, should be designed
21 to provide for emergency tailings conveyance or storage should a pipeline break,
22 plug, freeze or require repairs and be made accessible for inspection, emergency
23 repair and maintenance. Location of emergency spill areas must be consistent with
24 the prevention of environmental pollution of surface waters and with the standards
25 of s. ss. NR 132.06 (4), 132.19, and 182.07 (2). In the event of a power failure, tailing

1 pipelines should be self draining to the tailings area or to an emergency spill area or
2 standby pumps and pipelines or standby power should be provided. In some cases
3 (e.g., a long pipeline over rough country), several spill areas may have to be provided.

4 **SECTION 150.** NR 132.18 (1) (f) of the administrative code is amended to read:

5 NR 132.18 (1) (f) Within wetlands, except pursuant to the provisions under s.
6 281.36 criteria established in s. NR 132.06 (4).

7 **SECTION 151.** NR 182.07 of the administrative code is renumbered NR 182.07

8 (1).

9 **SECTION 152.** NR 182.07 (2) of the administrative code is created to read:

10 NR 182.07 (2) Any proposal to establish a site or facility shall comply with the
11 standards and procedures in s. NR 132.06 (4), relating to the minimization of
12 disturbance to wetlands.

13 **SECTION 153.** NR 182.008 (2) (d) 8. e. of the administrative code is amended to
14 read:

15 NR 182.008 (2) (d) 8. e. A table shall be provided showing existing water quality
16 of all potentially affected surface waters. The table shall include those surface
17 waters identified under s. NR 182.07 (1). Important aquatic habitat, such as class
18 II trout stream or state scenic river, shall be indicated.

19 **SECTION 154. Nonstatutory provisions.**

20 (1) If the department of natural resources has promulgated rules under 2013
21 Wisconsin Act 1, section 103, on or before the effective date of this subsection, the
22 department of natural resources shall promulgate rules that do all of the following:

23 (a) Revise the rules promulgated under 2013 Wisconsin Act 1, section 103 (1)

24 (a) so that those rules apply to ferrous metallic mining.

1 (b) Revise the rules promulgated under 2013 Wisconsin Act 1, section 103 (1)

2 (b) so that those rules are consistent with the repeal by this act of subchapter III of
3 chapter 295 of the statutes. *subch.*

4 (c) Revise the rules promulgated under 2013 Wisconsin Act 1, section 103 (1)

5 (c) so that the exemptions specified in those rules do not apply to ferrous mining and
6 associated activities.

7 (2) The department of natural resources shall present the statement of scope

8 of the rules required under subsection (1) to the governor for approval under section 5.

9 227.135 (2) of the statutes no later than the 30th day after the effective date of this

10 subsection. The department of natural resources shall submit in proposed form the

11 rules required under subsection (1) to the legislative council staff under section 5.

12 227.15 (1) of the statutes no later than the first day of the 5th month beginning after

13 the governor approves the statement of scope of the rules.

14 (END)

Kreye, Joseph

From: LRB.Legal
Sent: Tuesday, October 23, 2018 4:03 PM
To: Wyatt, Zachary
Cc: Kreye, Joseph
Subject: FW: Draft review: LRB -0476/P1

Hi Zack and Joe, Could one of you please take care of the request below? Thank you.

Lori Parisi
Senior Program Assistant
State of WI Legislative Reference Bureau
(608)266-3561

*The foolish man seeks happiness in the distance;
the wise grows it under his feet.*
- J. Robert Oppenheimer

From: Stoa, Chris
Sent: Tuesday, October 23, 2018 3:48 PM
To: LRB.Legal <lrblegal@legis.wisconsin.gov>
Subject: RE: Draft review: LRB -0476/P1

Can we please get a /1 and a jacket for this? Thank you!

Chris Stoa
Office of Representative Gary Hebl
Phone: 608.266.7678
Fax: 608-282-3646

From: LRB.Legal
Sent: Friday, October 19, 2018 3:59 PM
To: Rep.Hebl <Rep.Hebl@legis.wisconsin.gov>
Subject: Draft review: LRB -0476/P1

Following is the PDF version of draft LRB -0476/P1.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0476/P1
ZDW&JK:ahc

1
No
Changes

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 20.370 (4) (gi), 23.321 (2g), 29.604 (7m), 30.025 (1e) (c), 31.23
2 (3) (e), 77.105, 77.81 (1m), 77.81 (5m), 77.83 (2m), 77.84 (2) (bp), 77.88 (3) (d),
3 77.88 (9) (d) 2., 77.883, 87.30 (2) (b), 196.491 (3) (a) 3. c., 227.483 (3) (c), 293.01
4 (2m), 293.01 (12m), 293.15 (7m), 293.26, 293.31 (4m), 293.32 (4), 293.37 (5),
5 293.40, 293.43 (2m), 293.43 (3m), 293.43 (4m), 293.49 (1) (a) 2m., 293.495,
6 293.51 (1g), 293.51 (1m), 293.51 (1r), 293.51 (5), 293.66, subchapter III of
7 chapter 295 [precedes 295.40] and 323.60 (1) (gm); **to renumber and amend**
8 77.88 (9) (d) 1. and 87.30 (2) (a); **to amend** 20.370 (4) (gh), 20.455 (1) (gh), 20.566
9 (7) (e), 20.566 (7) (v), 29.604 (4) (intro.), 29.604 (4) (c) (intro.), 30.025 (1e) (a),
10 30.133 (2), 32.02 (12), 70.375 (1) (as), 70.375 (1) (bm), 70.375 (2) (b), 70.375 (4)
11 (h), 70.38 (2), 70.395 (1e), 70.395 (2) (dc) 1., 70.395 (2) (dc) 4., 70.395 (2) (fm),
12 70.395 (2) (g) (intro.), 70.395 (2) (g) 3., 70.395 (2) (h) 1., 70.395 (2) (hg), 70.395
13 (2) (hr), 70.395 (2) (hw), 74.25 (1) (a) 6., 74.30 (1) (f), 77.83 (2) (a), 77.84 (2) (b),
14 77.84 (2) (bm), 77.88 (5) (af) 1., 77.88 (5) (af) 2., 77.89 (2) (a), 107.001 (1), 107.01
15 (intro.), 107.01 (2), 107.02, 107.03, 107.04, 107.11, 107.12, 107.20 (1), 107.20 (2),

1 (b) Revise the rules promulgated under 2013 Wisconsin Act 1, section 103 (1)
2 (b) so that those rules are consistent with the repeal by this act of subch. III of ch.
3 295.

4 (c) Revise the rules promulgated under 2013 Wisconsin Act 1, section 103 (1)
5 (c) so that the exemptions specified in those rules do not apply to ferrous mining and
6 associated activities.

7 (2) The department of natural resources shall present the statement of scope
8 of the rules required under sub. (1) to the governor for approval under s. 227.135 (2)
9 no later than the 30th day after the effective date of this subsection. The department
10 of natural resources shall submit in proposed form the rules required under sub. (1)
11 to the legislative council staff under s. 227.15 (1) no later than the first day of the 5th
12 month beginning after the governor approves the statement of scope of the rules.

13

(END)