



State of Wisconsin  
2011 – 2012 LEGISLATURE



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**ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2011 ASSEMBLY BILL 426**

January 26, 2012 – Offered by Representative Bewley.

\*\*\* AUTHORS SUBJECT TO CHANGE \*\*\*

1 **AN ACT** *to amend* 70.375 (2) (a), 70.375 (5) (intro.), 70.375 (6), 70.395 (2) (dc) 1.,  
2 70.395 (2) (dc) 2., 70.395 (2) (dc) 3., 293.32, 293.33 (3), 293.49 (1) (a) 3. and  
3 293.51 (3); and *to create* 70.375 (7), 293.01 (4e), 293.01 (4m), 293.39 (4) and (5)  
4 and 293.495 of the statutes; **relating to:** environmental review of proposed iron  
5 mines, the process for issuance of mining permits and other approvals for iron  
6 mines, and taxes imposed on iron mining operations.

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***Analysis by the Legislative Reference Bureau***

**PERMITTING PROCESS FOR IRON MINES**

***Overview***

Under current law, the Department of Natural Resources (DNR) regulates mining for metallic minerals. The laws under which DNR regulates metallic mining apply to mining for ferrous minerals (iron mining) and mining for nonferrous minerals, such as copper or zinc. Under current law, a person who proposes to mine for metallic minerals must obtain a mining permit and any other permit, license, certification, or other authorization (approval) that is required under the environmental and natural resources laws other than the mining laws, for example, an air pollution control permit or a water quality certification for wetlands.

This substitute amendment changes the process for reviewing mining permit applications and applications for other DNR approvals for iron mining, except that the changes do not apply if DNR determines that it is likely that any of the disturbed areas will contain significant amounts of sulfide minerals. The substitute amendment does not change substantive standards applicable to iron mining under current environmental or natural resources laws.

***Notice of intent***

Current law requires a person who intends to submit an application for a metallic mining permit to notify DNR before collecting data intended to be used to support the permit application. The substitute amendment requires a person who intends to submit an application for an iron mining permit to notify DNR at least 12 months before submitting the application for the mining permit or an environmental impact report, whichever is earlier, rather than before collecting data.

***Coordination of mining permit and other applications; master hearing***

Under current law, the process for reviewing mining permit applications also applies to applications for other DNR approvals for the proposed mine, that is, the processing of the applications is coordinated. Under the substitute amendment, the process for reviewing an application for an iron mining permit is not coordinated with the review of applications for other DNR approvals required for an iron mine. Instead the current process for reviewing an application not related to mining applies for each other kind of DNR approval.

Current law requires a person who proposes to conduct metallic mining to have applied for other DNR approvals and for any necessary zoning approvals before applying for a mining permit. Under the substitute amendment, this requirement does not apply to proposed iron mining.

Under current law, DNR holds one master hearing on the application for the mining permit, the environmental impact statement (EIS), and, generally, the applications for all other DNR approvals before DNR acts on the applications for the permit and other approvals. The master hearing includes a public informational hearing and a contested case hearing. The substitute amendment does not provide for a master hearing for proposed iron mining, instead, a contested case hearing is available on each application for a DNR approval, as provided under this state's administrative procedure laws.

***Iron mining permit process***

The substitute amendment requires DNR to determine whether an application for an iron mining permit is complete within 30 days after receiving the application, except that the period may be extended with the consent of the applicant. After DNR notifies the applicant that the permit application is complete, the applicant must publish a notice about the proposed iron mining in a newspaper in the area of the proposed mine once a week for four successive weeks and then notify DNR that it has done so.

As mentioned above, current law requires DNR to consider the application for a metallic mining permit as part of a required master hearing.

Under the substitute amendment, within 30 days after the publication of the last notice about a proposed iron mine, a person owning property that will be affected

by the proposed mine or a federal, state, or local governmental agency with responsibilities affected by the proposed mine may file objections to the mining permit application, in which case, DNR must hold a hearing no more than 30 days after receiving the objections. DNR may hold a hearing without receiving objections if it determines that a hearing is necessary to protect public health, safety, or the environment.

Current law does not specify a time, after the application for a metallic mining permit is filed, within which DNR must act on the permit application. It does require the mining master hearing to be held between 120 days and 180 days after DNR issues the EIS for the proposed mine and requires DNR to act on the permit within 90 days after the completion of the record for the public hearing.

This substitute amendment requires DNR to act on an application for an iron mining permit no later than 120 days after being notified that the applicant has complied with the requirement to publish notice or, if a hearing is held, 120 days after holding the hearing, except that DNR may not act on the application for the iron mining permit before it has determined that the EIS is adequate.

#### **ENVIRONMENTAL REVIEW PROCESS FOR IRON MINES**

Current law requires DNR to prepare an EIS for every proposed metallic mine. An EIS contains detailed information about the environmental impact of a proposed project, including any adverse environmental effects that cannot be avoided if the proposal is implemented, alternatives to the proposed project, the beneficial aspects of the proposal, and the economic advantages and disadvantages of the proposal.

The substitute amendment retains the requirement that DNR prepare an EIS for every proposed iron mine.

Under current law, when a person applies for a permit or other approval for which DNR is required to complete an EIS, DNR is generally authorized to require the applicant to prepare an environmental impact report (EIR) that discloses environmental impacts of the proposed project to assist DNR in preparing the EIS. The substitute amendment requires the applicant for mining permit for an iron mine to prepare an EIR.

Under current law, the EIS is prepared and reviewed as part of the metallic mining permit process described above. The law requires DNR to prepare a preliminary EIS and to hold at least one informational meeting on the preliminary EIS within 60 days of its issuance and before conducting the master hearing.

The substitute amendment establishes a process and timeline for the preparation and review of an EIS for proposed iron mining, including all of the following provisions:

1. DNR must determine whether an EIR is adequate not later than 30 days after receiving the EIR and must notify the applicant no more than five days after making that determination.
2. DNR must prepare a draft statement of the scope of matters to be considered in the EIS no more than 30 days after providing the notice under item 1.
3. DNR must publish public notice about the proposed mine and the proposed scoping statement no more than ten days after preparing the draft scoping statement and provide the notice to specified federal, local, and tribal governmental bodies.

4. DNR must hold at least one public informational meeting to discuss the scope of the EIS.

5. DNR must issue its decision on the scope of the EIS no more than 45 days after publishing the notice under item 3.

6. No later than 30 days after issuing the scoping decision, DNR must submit to the applicant a proposed agreement for payment of its costs for preparing the EIS. The applicant may request changes in the proposed cost agreement. If, within 30 days after DNR submits the proposed cost agreement, DNR and the applicant have not signed a cost agreement, either party may refer the matter to the secretary of administration for resolution.

7. The applicant must pay half of the amount it is required to pay under the cost agreement no later than ten days after finalizing the cost agreement.

8. No later than 45 days after receiving that payment, DNR must publish a notice containing a summary of the scoping decision.

9. After publishing the notice, DNR prepares a preliminary EIS, provides notice of completion of the preliminary EIS, and holds a public informational meeting on the adequacy of the preliminary EIS.

10. After the meeting, DNR prepares a final EIS, taking into consideration the comments on the preliminary version, publishes notice of the final EIS, and accepts written comments on the adequacy of the final EIS.

11. DNR must determine whether the final EIS is adequate within 280 days after publication of the notice under item 8., except that the deadline may be extended by consent of the applicant or by the governor for good cause.

12. If DNR determines that the EIS is inadequate, it must prepare an adequate EIS within 60 days of that determination.

The substitute amendment prohibits DNR from making final decisions on any approvals for the iron mine that were considered in the EIS process, including the mining permit, before the EIS is determined to be adequate. DNR must generally make final decisions on those approvals within 90 days after the determination of adequacy, but the deadline may be extended with the consent of the applicant and the deadline does not apply if a longer period is required for an approval by federal law or other state law.

#### **NET PROCEEDS OCCUPATION TAX**

Under current law, the state imposes a net proceeds occupation tax on the mining of metallic minerals in this state. The tax is based, generally, on a percentage of net income from the sale of ore or minerals after certain mining processes have been applied to the ore or minerals. The tax rates are annually adjusted to reflect the change in gross national product. Gross national product, generally, measures the output generated by U.S. enterprises, regardless of whether those enterprises are located in this country.

Under current law, the revenue collected from the net proceeds occupation tax is deposited into the investment and local impact fund. The fund is managed by the local impact fund board. The revenue is then distributed to the counties and municipalities in which metallic minerals are being mined. In addition to paying the net proceeds occupation tax, a person who intends to apply for a mining permit must

make an additional three payments of \$50,000 each to the investment and local impact fund. Those payment amounts are not annually adjusted to reflect the change in gross national product.

Under the substitute amendment, instead of paying a net proceeds occupation tax based on net income, a person who is mining ferrous minerals in this state would pay a tax equal to \$2.38 for each 2,240 pounds of mining product sold, based on a three-year average. The tax rate would be annually adjusted to reflect the change in the gross domestic product. Gross domestic product, generally, measures the total output produced within the United States, regardless of whether the output is produced by foreign companies. Under the substitute amendment, a person who intends to apply for a mining permit must also make an additional three payments of \$100,000 each to the investment and local impact fund. Those payment amounts are annually adjusted to reflect the change in gross domestic product.

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

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

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

10           **SECTION 2.** 70.375 (5) (intro.) of the statutes is amended to read:

11           70.375 (5) RATES. (intro.) ~~The~~ Except as provided in sub. (7), the tax to be  
12 assessed, levied and collected upon persons engaging in mining metalliferous  
13 minerals in this state shall be computed at the following rates:

14           **SECTION 3.** 70.375 (6) of the statutes is amended to read:

1           70.375 **(6)** INDEXING. ~~For~~ Except as provided in sub. (7), for calendar year 1983  
2 and corresponding fiscal years and thereafter, the dollar amounts in sub. (5) and s.  
3 70.395 (1) and (2) (d) 1m. and 5. a. and (dg) shall be changed to reflect the percentage  
4 change between the gross national product deflator for June of the current year and  
5 the gross national product deflator for June of the previous year, as determined by  
6 the U.S. department of commerce as of December 30 of the year for which the taxes  
7 are due, except that no annual increase may be more than 10%. For calendar year  
8 1983 and corresponding fiscal years and thereafter until calendar year 1997 and  
9 corresponding fiscal years, the dollar amounts in s. 70.395 (1m), 1995 stats., shall be  
10 changed to reflect the percentage change between the gross national product deflator  
11 for June of the current year and the gross national product deflator for June of the  
12 previous year, as determined by the U.S. department of commerce as of December  
13 30 of the year for which the taxes are due, except that no annual increase may be  
14 more than 10%. The revised amounts shall be rounded to the nearest whole number  
15 divisible by 100 and shall not be reduced below the amounts under sub. (5) on  
16 November 28, 1981. Annually, the department shall adopt any changes in dollar  
17 amounts required under this subsection and incorporate them into the appropriate  
18 tax forms.

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

20           70.375 **(7)** PER TON RATE. (a) Notwithstanding subs. (2), (5), and (6), for mines  
21 in operation after December 31, 2011, the tax assessed, levied, and collected from a  
22 person engaged in mining ferrous minerals in this state is an amount equal to \$2.38  
23 for each 2,240 pounds of mining product sold, based on the average annual amount  
24 sold during the current year and the previous 2 years, not including any year in  
25 which no ferrous minerals are extracted in this state.

1 (b) Beginning in 2013, and in each year thereafter, the department shall change  
2 the dollar amounts under par. (a) and s. 70.395 (2) (dc) 1., 2., and 3. to reflect the  
3 percentage change between the gross domestic product deflator for June of the  
4 current year and the gross domestic product deflator for June of the previous year,  
5 as determined by the federal department of commerce on December 30 of the year  
6 in which the taxes are due.

7 **SECTION 5.** 70.395 (2) (dc) 1. of the statutes is amended to read:

8 70.395 (2) (dc) 1. Each person intending to submit an application for a mining  
9 permit shall pay ~~\$50,000~~ \$100,000, as adjusted under s. 70.375 (7) (b). to the  
10 department of revenue for deposit in the investment and local impact fund at the  
11 time that the person notifies the department of natural resources under s. 293.31 (1)  
12 or 293.495 (2) of that intent.

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

14 70.395 (2) (dc) 2. A person making a payment under subd. 1. shall pay an  
15 additional ~~\$50,000~~ \$100,000, as adjusted under s. 70.375 (7) (b). upon notification by  
16 the board that the board has distributed 50% of the payment under subd. 1.

17 **SECTION 7.** 70.395 (2) (dc) 3. of the statutes is amended to read:

18 70.395 (2) (dc) 3. A person making a payment under subd. 2. shall pay an  
19 additional ~~\$50,000~~ \$100,000, as adjusted under s. 70.375 (7) (b). upon notification by  
20 the board that the board has distributed all of the payment under subd. 1. and 50%  
21 of the payment under subd. 2.

22 **SECTION 8.** 293.01 (4e) of the statutes is created to read:

23 293.01 (4e) “Ferrous mineral” means an ore or earthen material in natural  
24 deposits in or on the earth that primarily exists in the form of an iron oxide, including  
25 taconite and hematite.

1           **SECTION 9.** 293.01 (4m) of the statutes is created to read:

2           293.01 **(4m)** “Ferrous mining” means the mining of ferrous minerals at a  
3 mining site where the department determines that it is not likely that any of the  
4 disturbed areas will contain significant amounts of sulfide minerals.

5           **SECTION 10.** 293.32 of the statutes is amended to read:

6           **293.32 Prospecting and mining fees. (1)** When a person gives notice under  
7 s. 293.31 (1) or 293.495 (2), the person shall pay a fee established by the department  
8 by rule designed to cover the costs incurred by the department in connection with the  
9 proposed prospecting or mining during the year following receipt of the notice, other  
10 than any costs related to the environmental impact statement for the proposed  
11 prospecting or mining.

12           **(2)** The department shall annually compare the fees paid under this section  
13 and under chs. 30, 280 to 292 and 295 to 299 in connection with proposed prospecting  
14 or mining for which notice has been given under s. 293.31 (1) or 293.495 (2) with the  
15 costs incurred by the department in connection with that proposed prospecting or  
16 mining, including the costs incurred under chs. 30, 280 to 292 and 295 to 299 but  
17 excluding costs related to the environmental impact statement. If the costs incurred  
18 exceed the fees paid, the person who notified the department shall pay a fee equal  
19 to the amount by which the costs exceed the fees previously paid.

20           **(3)** When the department issues or denies a prospecting or mining permit or  
21 when a person who gave notice under s. 293.31 (1) or 293.495 (2) ceases to seek  
22 approval of the proposed prospecting or mining project, the department shall  
23 compare the fees paid under this section and under chs. 30, 280 to 292 and 295 to 299  
24 in connection with the proposed prospecting or mining with the costs incurred by the  
25 department in connection with the proposed prospecting or mining, including the

1 costs incurred under chs. 30, 280 to 292 and 295 to 299 but excluding costs related  
2 to the environmental impact statement. If the costs incurred are less than the fees  
3 paid, the department shall pay the person who gave notice the amount by which the  
4 fees exceed the costs. If the costs incurred exceed the fees paid, the person who  
5 notified the department shall pay a final fee equal to the amount by which the costs  
6 exceed the fees previously paid.

7 **SECTION 11.** 293.33 (3) of the statutes is amended to read:

8 293.33 (3) Persons giving notice under s. 293.31 (1) or 293.495 (2) shall  
9 thereafter appoint a liaison person to any committee established under sub. (1) or (2),  
10 and shall provide such reasonable information as is requested by the committee.  
11 Operators and persons giving notice under s. 293.31 or 293.495 (2) shall thereafter  
12 make reasonable efforts to design and operate mining operations in harmony with  
13 community development objectives.

14 **SECTION 12.** 293.39 (4) and (5) of the statutes are created to read:

15 293.39 (4) (a) A person proposing to engage in ferrous mining shall prepare and  
16 submit to the department an environmental impact report for the ferrous mining  
17 project.

18 (b) The department shall determine whether an environmental impact report  
19 submitted under par. (a) or (c) is complete no later than 30 days after receiving the  
20 environmental impact report. The department shall notify the person submitting  
21 the environmental impact report of its determination no later than 5 days after  
22 making the determination.

23 (c) If the department determines that an environmental impact report  
24 submitted under par. (a) is incomplete, the person proposing to engage in ferrous

1 mining shall prepare and submit to the department a revised environmental impact  
2 report for the ferrous mining project.

3 (d) No more than 30 days after providing notification under par. (b) that an  
4 environmental impact report is complete, the department shall prepare a draft  
5 scoping statement consisting of at least the following: a description of known  
6 governmental approvals or reviews required for the ferrous mining project; a  
7 description of the issues to be covered in the environmental impact statement;  
8 alternatives that will be addressed in the environmental impact statement;  
9 identification of areas potentially affected by the project and by related actions; and  
10 identification of necessary studies requiring compilation of existing information or  
11 the development of new data that can be generated within a reasonable amount of  
12 time and at a reasonable cost.

13 (e) No more than 10 days after completing its responsibilities under par. (d),  
14 the department shall publish a class 1 notice, under ch. 985, in a newspaper with  
15 general circulation in the area in which the proposed site is located and in the official  
16 state newspaper, that includes all of the following:

- 17 1. The name and location of the proposed ferrous mining project.
- 18 2. A brief description of the proposed project.
- 19 3. The location at which copies of the environmental impact report and draft  
20 scoping statement are available for review.
- 21 4. The description of the opportunity to comment on the appropriate scope of  
22 the environmental impact statement for the project.
- 23 5. A statement that the period for written comment expires 30 days after the  
24 date of publication of the notice.
- 25 6. The procedures for commenting.

1           7. The date, time, and place of the public informational meeting under par. (g).

2           (f) The department shall also provide the notice under par. (e) to the person who  
3 submitted the environmental impact report, the U.S. army corps of engineers, the  
4 federal environmental protection agency; the U.S. fish and wildlife service, the state  
5 historical society, any federally recognized American Indian tribe or band that may  
6 be affected by the proposed project, and any local governmental unit in which the  
7 project will take place.

8           (g) At least 10 days, but not more than 20 days after publication of the notice  
9 under par. (e), the department shall hold at least one public informational meeting  
10 to discuss the scope of the environmental impact statement.

11           (h) The department shall issue its final decision on the scope of the  
12 environmental impact statement no later than 15 days after the the end of the public  
13 comment period. The department shall include at least all of the following in the  
14 scoping decision: a description of known governmental approvals or reviews  
15 required for the ferrous mining project; a description of the issues to be covered in  
16 the environmental impact statement; alternatives that will be addressed in the  
17 environmental impact statement; identification of areas potentially affected by the  
18 project and by related actions; and identification of necessary studies requiring  
19 compilation of existing information or the development of new data that can be  
20 generated within a reasonable amount of time and at a reasonable cost.

21           (i) No later than 30 days after it issues the scoping decision, the department  
22 shall submit to the person who submitted the environmental impact report a draft  
23 cost agreement. The agreement shall include the estimated cost of preparing the  
24 environmental impact statement and a brief description of the tasks and the cost of  
25 each task to be performed by each party in preparing and distributing the

1 environmental impact statement. The person may request changes in the cost  
2 agreement. If, within 30 days after the person receives the draft cost agreement, the  
3 department and the person have not signed a cost agreement, either party may refer  
4 the matter to the secretary of administration for resolution.

5 (im) No later than 10 days after finalizing the cost agreement under par. (i), the  
6 person entering into the cost agreement with the department shall pay to the  
7 department 50 percent of the estimated costs under the cost agreement.

8 (j) No later than 45 days after receiving the payment under par. (im), the  
9 department shall publish a class 1 notice, under ch. 985, in at least one newspaper  
10 of general circulation in each county where the project will occur and in the official  
11 state newspaper, containing a summary of the scoping decision.

12 (k) After the department publishes the notice under par. (j), the department  
13 shall prepare a preliminary environmental impact statement for the proposed  
14 ferrous mining project in accordance with the scoping decision. When the  
15 preliminary environmental impact statement is complete, the department shall  
16 make it available for public review and comment and shall publish a class 1 notice,  
17 under ch. 985, of completion of the preliminary environmental impact statement, of  
18 the ability to comment on the preliminary environmental impact statement, and of  
19 the date, time, and place of the public meeting under par. (L) in at least one  
20 newspaper of general circulation in each county where the project will occur and in  
21 the official state newspaper. The department shall also distribute a summary of the  
22 preliminary environmental impact statement and notice of the date, time, and place  
23 of the meeting under par. (L) to the person who submitted the environmental impact  
24 report, the U.S. army corps of engineers, the federal environmental protection  
25 agency, the U.S. fish and wildlife service, the state historical society, any federally

1 recognized American Indian tribe or band that may be affected by the proposed  
2 project, any local governmental unit in which the project will take place, any person  
3 that submitted substantive comments within the comment period on the  
4 environmental impact report and the draft scoping statement, and any person  
5 requesting the summary.

6 (L) Not less than 15 days after publication of the notice under par. (k), the  
7 department shall conduct a public informational meeting on the adequacy of the  
8 preliminary environmental impact statement in a county in which at least part of the  
9 proposed mining site is located. The department shall receive public comments on  
10 the adequacy of the preliminary environmental impact statement for at least 10 days  
11 after the day on which it conducts the public informational meeting.

12 (m) The department shall prepare a final environmental impact statement,  
13 taking into consideration the comments received under par. (L). When the final  
14 environmental impact statement is complete, the department shall make it available  
15 for public review and comment and shall publish a class 1 notice, under ch. 985, of  
16 completion of the final environmental impact statement, of the ability to submit  
17 written comments on the final environmental impact statement, and of the date by  
18 which comments must be submitted, in at least one newspaper of general circulation  
19 in each county where the project will occur and in the official state newspaper. The  
20 department shall also distribute a summary of the final environmental impact  
21 statement to the person who submitted the environmental impact report, the U.S.  
22 army corps of engineers, the federal environmental protection agency, the U.S. fish  
23 and wildlife service, the state historical society, any federally recognized American  
24 Indian tribe or band that may be affected by the proposed project, any local  
25 governmental unit in which the project will take place, any person that submitted

1 substantive comments within the comment period on the preliminary environmental  
2 impact statement, and any person requesting the summary.

3 (n) The department shall accept written comments on the adequacy of the final  
4 environmental impact statement for at least 10 days after the day on which the notice  
5 under par. (m) is published. The department shall make the determination of  
6 adequacy of the final environmental impact statement at least 10 days after  
7 publication of the notice of availability of the final environmental impact statement.  
8 The department shall make the determination of adequacy of the final  
9 environmental impact statement within 280 days after publication of the notice  
10 under par. (j) unless the time is extended by consent of the person submitting the  
11 environmental impact report or by the governor for good cause.

12 (o) If the department determines that the environmental impact statement is  
13 inadequate, the department shall prepare an adequate environmental impact  
14 statement within 60 days of that determination. When the adequate environmental  
15 impact statement is complete, the department shall publish a class 1 notice, under  
16 ch. 985, of completion of the environmental impact statement in at least one  
17 newspaper of general circulation in each county where the project will occur and in  
18 the official state newspaper. The department shall also distribute a summary of the  
19 adequate environmental impact statement to the person who submitted the  
20 environmental impact report, the U.S. army corps of engineers, the federal  
21 environmental protection agency, the U.S. fish and wildlife service, the state  
22 historical society, any federally recognized American Indian tribe or band that may  
23 be affected by the proposed project, any local governmental unit in which the project  
24 will take place, any person that submitted substantive comments within the

1 comment period on the previous version of the environmental impact statement, and  
2 any person requesting the summary.

3 (5) (a) The department may not issue a mining permit or any other approval  
4 required in connection with a ferrous mining project before it determines that the  
5 environmental impact statement for the project is adequate.

6 (b) Within 90 days after the determination of adequacy of a final environmental  
7 impact statement, the department shall make final decisions on those approvals that  
8 were identified as required in the scoping process and for which information was  
9 developed concurrently with the preparation of the environmental impact  
10 statement, except as follows:

11 1. The department may extend the 90–day period with the consent of the  
12 applicant.

13 2. The 90–day period does not apply if a longer period is required for an  
14 approval by federal law or state statute.

15 **SECTION 13.** 293.49 (1) (a) 3. of the statutes is amended to read:

16 293.49 (1) (a) 3. In the case of a surface mine, the site is not unsuitable for  
17 mining. The preliminary determination that a site was not unsuitable for mining  
18 under s. 293.45 may not be conclusive in the determination of the site’s suitability  
19 for mining under this section. However, for mining other than ferrous mining, at the  
20 hearing held under this section and s. 293.43, testimony and evidence submitted at  
21 the prospecting permit proceeding relevant to the issue of suitability of the proposed  
22 mining site for surface mining may be adopted, subject to the opportunity for  
23 cross–examination and rebuttal, if not unduly repetitious.

24 **SECTION 14.** 293.495 of the statutes is created to read:

1           **293.495 Process for ferrous mining. (1) APPLICABILITY OF OTHER PROVISIONS.**

2           The following provisions do not apply to proposed ferrous mining projects:

3           (a) Section 293.31.

4           (b) Section 293.37 (2) (d).

5           (c) Section 293.43.

6           (d) The time limit in s. 293.49 (1) (a) (intro.) and (2) (intro.).

7           (e) Section 293.49 (1) (a) 2.

8           (f) Section 293.55 (1) (c) to (e).

9           (g) The authority in s. 293.65 (2) (h) to conduct a hearing on a permit under s.  
10           293.65 as part of the hearing on the application for a mining permit.

11           (h) Section 293.65 (2) (i).

12           **(2) NOTICE OF INTENT.** At least 12 months before submitting an application for  
13           a mining permit under s. 293.37 or an environmental impact report under s. 293.39  
14           (4) (a), whichever is earlier, a person proposing to engage in ferrous mining shall  
15           notify the department in writing of the intent to submit an application for a mining  
16           permit.

17           **(3) DETERMINATION OF COMPLETENESS.** After the department receives an  
18           application for a mining permit under s. 293.37 for ferrous mining, the department  
19           shall determine whether the application is complete. The department shall make the  
20           determination within 30 days after receiving the application, except that the  
21           department may extend the 30–day period with the consent of the applicant. If the  
22           department determines that the application is not complete, the department shall  
23           inform the applicant of the additional information that must be provided to complete  
24           the application. When the department determines that the application is complete,  
25           it shall notify the applicant.

1           **(4) NOTICE OF APPLICATION.** After receiving notice under sub. (3) that the  
2 application for a mining permit is complete, an applicant proposing to engage in  
3 ferrous mining shall publish a legal notice, under ch. 985, of the ownership, location,  
4 and boundaries of the proposed mining area and reclamation and restoration  
5 operations, at least once a week for 4 successive weeks. Within 7 days of publication  
6 of the last date of publication, the person shall submit a copy of the notice to the  
7 department.

8           **(5) HEARING.** (a) No later than 30 days after the day of publication of the last  
9 notice required under sub. (4), any of the following may file written objections to an  
10 application for a permit under s. 293.37 for a ferrous mining project:

11           1. A person owning property that will be affected by the proposed ferrous  
12 mining operation.

13           2. Any federal, state, or local governmental agency with responsibilities  
14 affected by the proposed ferrous mining operation.

15           (b) If the department receives written objections under par. (a), the department  
16 shall hold a public hearing on the mining permit application in the county in which  
17 the majority of the mining site is located no more than 30 days after receiving the  
18 objections, after providing appropriate notice of the date, time, and place of the  
19 hearing.

20           (c) The department may hold a hearing on an application for a mining permit  
21 under s. 293.37 for ferrous mining without receipt of objections no later than 30 days  
22 after the day of publication of the last notice required under sub. (4) if the department  
23 determines that a hearing is necessary to protect public health, safety, and welfare.

24           **(6) ACTION ON APPLICATION.** If s. 293.39 (5) (a) does not apply, no later than 120  
25 days after receiving the notice of publication under sub. (4) or, if the department

1 holds a hearing under sub. (5), after holding the hearing, the department shall issue  
2 or deny the mining permit.

3 **SECTION 15.** 293.51 (3) of the statutes is amended to read:

4 293.51 **(3)** Upon approval of the operator's bond, mining application, other  
5 departmental approvals that are required in connection with the mining project, and  
6 certificate of insurance, the department shall issue written authorization to  
7 commence mining at the permitted mining site in accordance with the approved  
8 mining and reclamation plans.

9 (END)