

1 144.442 (9) (a) 1. "Hazardous waste" has the meaning given under s.  
2 144.61 (5).

3 2m. "Release" means any spill, leak, pumping, pouring, emission,  
4 emptying, discharge, injection, escape, leaching, dumping or disposal of a  
5 substance which causes or threatens to cause environmental pollution.

6 4. "Transporter" means a person, including a subsidiary or parent cor-  
7 poration of the person, who accepts or accepted any solid or hazardous waste  
8 for transport to a solid or hazardous waste site or facility.

9 5. "Waste producer" means any person, including a subsidiary or parent  
10 corporation of the person, who produced solid or hazardous waste and, by  
11 contract, agreement or otherwise, arranged for the transportation or disposal  
12 of the solid or hazardous waste.

13 ••87b0932/2 •• 87b1226/2••SECTION 1802Ltd. 144.442 (9) (c) of the stat-  
14 utes is repealed and recreated to read:

15 144.442 (9) (c) Persons responsible. A waste producer of solid or  
16 hazardous waste which was disposed of at the site or facility, the owner or  
17 operator of the site or facility, or the transporter of the solid or hazardous  
18 waste is each liable for all of the following:

19 1. All costs incurred by this state under sub. (6) or (8) for the envi-  
20 ronmental repair of a site or facility, and all costs incurred by this state  
21 for investigation of the site or facility under sub. (4) (b).

22 2. All other necessary costs of response to the conditions which present  
23 an imminent risk or substantial danger posed to public health or the environ-  
24 ment incurred by any person, as determined by the department.

25 3. Damages for, injury to, destruction of or loss of natural resources,  
26 including reasonable costs of assessing the injury, destruction or loss  
27 resulting from the environmental pollution caused by the site or facility.

1       ••87b0932/2 •• 87b1226/2••SECTION 1802Lte. 144.442 (9) (cg) of the stat-  
2 utes is created to read:

3       144.442 (9) (cg) Defenses. A person specified under par. (c) (intro.) is  
4 not liable under par. (c) if the person establishes by a preponderance of the  
5 evidence that actual or threatened environmental pollution was caused solely  
6 by any of the following:

7       1. An act of God.

8       2. An act of war.

9       3. An act or omission of a 3rd party, other than an employe or agent of  
10 the person specified under par. (c) (intro.), or other than a person whose act  
11 or omission occurs in connection with a direct or indirect contractual rela-  
12 tionship with the person specified under par. (c) (intro.) if all of the  
13 following apply:

14       a. A person specified under par. (c) (intro.) establishes by a pre-  
15 ponderance of the evidence that the person specified under par. (c) (intro.)  
16 exercised due care with respect to the solid or hazardous waste that caused  
17 injury to, destruction of, or loss of natural resources.

18       b. In exercising due care under subd. 3. a, the person specified under  
19 par. (c) (intro.) took into consideration the characteristics of the solid or  
20 hazardous waste, in light of all relevant facts and circumstances.

21       c. The person specified under par. (c) (intro.) took precautions against  
22 foreseeable acts or omissions of the 3rd party and the consequences that could  
23 foreseeably result from such acts or omissions.

24       ••87b0932/2 •• 87b1226/2••SECTION 1802Ltg. 144.442 (9) (d) of the stat-  
25 utes is amended to read:

26       144.442 (9) (d) Right of action. A right of action shall accrue to the  
27 state against any person ~~responsible~~ specified under par. (c) (intro.) if an

1 expenditure is made for investigation, oversight or environmental repair at  
2 the site or facility or if an expenditure is made under sub. (8).

3 ••87b0932/2 •• 87b1226/2••SECTION 1802Ltj. 144.442 (9) (h) of the stat-  
4 utes is amended to read:

5 144.442 (9) (h) Cleanup agreements; waiver of cost recovery. The  
6 department and any person who is ~~responsible~~ specified under par. (c) (intro.)  
7 may enter into an agreement regarding actions which the department is autho-  
8 rized to take under sub. (6). In the agreement, the department may specify  
9 those actions under sub. (6) which the ~~responsible~~ person specified under par.  
10 (c) (intro.) may take. As part of the agreement, the department may agree to  
11 reduce the amount which the state is entitled to recover under this subsection  
12 or to waive part or all of the liability which the ~~responsible~~ person may have  
13 under this subsection.

14 ••87a1027/3••SECTION 1802Lw. 144.4425 of the statutes is created to read:  
15 144.4425 PETROLEUM STORAGE ENVIRONMENTAL CLEANUP. (1) DEFINITIONS. In  
16 this section:

17 (a) "Abandoned petroleum product storage system" means a petroleum  
18 product storage system for which the owner and operator cannot be determined  
19 or located, or if the owner or operator fails to comply with these require-  
20 ments and if the department or department of justice is unable to obtain  
21 compliance with these requirements after appropriate legal action because of  
22 bankruptcy, insolvency or financial inability of the owner or operator or the  
23 company to comply with these requirements.

24 (b) "Groundwater" has the meaning specified under s. 144.027 (1) (c).

25 (c) "Operator" means any person who operates a petroleum product storage  
26 system, regardless of whether the petroleum product storage system remains in  
27 operation and regardless of whether the person operates or permits the use of

1 the petroleum product storage system at the time any environmental pollution  
2 occurs. This term includes a subsidiary or parent corporation.

3 (d) "Owner" means any person who owns, or has possession or control of, a  
4 petroleum product storage system, or who receives direct or indirect consid-  
5 eration from the operation of a petroleum product storage system regardless of  
6 whether the petroleum product storage system remains in operation and regard-  
7 less of whether the person owns or receives consideration at the time any  
8 environmental pollution occurs. This term includes a subsidiary or parent  
9 corporation.

10 (e) "Petroleum products" includes gasoline, gasoline-alcohol fuel blends,  
11 kerosene, fuel oil, burner oil and diesel fuel oil.

12 (f) "Petroleum product storage system" means a location which contains at  
13 least one stationary tank for holding petroleum products, together with any  
14 on-site integral piping or dispensing system. The term does not include  
15 pipeline facilities, including gathering lines.

16 (g) "Precision testing" means a testing method capable of detecting a  
17 release rate of at least 0.10 gallons per hour from the petroleum product  
18 storage system determined with a probability of detection of 0.99 and a  
19 probability of false alarms of 0.01 and which controls or minimizes through  
20 proper design and test procedures the effects of product temperature changes,  
21 trapped vapor pockets, condensation, evaporation and tank deflection.

22 (h) "Subsidiary or parent corporation" means any business entity,  
23 including a subsidiary, parent corporation or other business arrangement which  
24 has elements of common ownership or control or uses a long-term contractual  
25 arrangement with any person to avoid direct responsibility for conditions at a  
26 site or facility.

27 (2) DUTIES OF THE DEPARTMENT. (a) The department shall:

1       1. Issue reports at least every 6 months on expenditures from the petro-  
2 leum storage environmental cleanup fund.

3       (b) The department may:

4       1. Contract with independent contractors for additional professional,  
5 technical or clerical services to carry out activities under this section.

6       2. Take direct action or contract with independent contractors to take  
7 direct action to conduct investigative, clean-up and restoration activities at  
8 the site of a petroleum product storage system.

9       3. Take any remedial action, as provided under s. 144.76, to provide for  
10 clean-up, investigation and restoration activities at the site of an abandoned  
11 petroleum product storage system and expend funds as provided under s. 20.370  
12 (2) (hq) to cover costs under this subdivision.

13       4. Enter onto any property or premises at reasonable times and upon  
14 notice to the owner or occupant to take action under this subsection; or may  
15 authorize an officer, employe or agent or any person under contract with the  
16 department to do so. Notice to the owner or occupant is not required if the  
17 delay required to provide this notice is likely to result in an imminent risk  
18 to public health or welfare or the environment.

19       (2m) DUTIES OF THE DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS.  
20 The department of industry, labor and human relations shall:

21       (a) Cease collecting the oil inspection fee or reduce the oil inspection  
22 fee under s. 168.12 (1m), when notified by the department of natural resources  
23 that the unencumbered balance of the fund under s. 25.47 exceeds \$5,000,000  
24 for more than 30 consecutive days.

25       (b) Begin collecting the oil inspection fee or increase the oil inspec-  
26 tion fee under s. 168.12 (1m), when notified by the department of natural re-  
27 sources that the projected revenues accruing to the fund under s. 25.47 are  
28 insufficient to fund projected awards under this section for any fiscal year.

1 (c) Enforce sub. (6) (a) as provided under sub. (6) (b).

2 (2n) OIL INSPECTION FEE ADJUSTMENTS. An increase established under sub.  
3 (2m) (b) shall not extend past the end of the fiscal year in which it is  
4 established. The department shall establish the fee under sub. (2m) (b) in an  
5 amount to generate no more than \$5,000,000 in a fiscal year.

6 (2p) EXEMPTION FROM RULE MAKING. Notwithstanding s. 227.01 (13), a  
7 procedure for oil inspection fee collection under this section, or for setting  
8 an oil inspection fee under this section, shall not be made by rule.

9 (3) CLAIMS FOR PETROLEUM PRODUCT INVESTIGATION, CLEAN-UP AND RESTORATION  
10 ACTIVITIES. (a) Who may submit a claim. An owner or operator of a petroleum  
11 product storage system may submit a claim to the department for an award under  
12 sub. (4) to reimburse the owner or operator for eligible costs under sub. (4)  
13 (b) that the owner or operator incurs in a petroleum product storage system  
14 investigation, clean-up and environmental restoration activities if the owner  
15 or operator does all of the following:

16 1. Registers the petroleum product storage system with the department of  
17 industry, labor and human relations.

18 2. Reports the spill or leak in a timely manner to the division of emer-  
19 gency government in department of administration or to the department,  
20 according to the requirements under s. 144.76.

21 3. Investigates the extent of environmental damage at the site of the  
22 petroleum product storage system.

23 4. Recovers any recoverable petroleum products at the site of the petro-  
24 leum product storage system.

25 5. Disposes of any residual solid or hazardous waste in a manner consis-  
26 tent with state, local and federal laws, rules and regulations.

27 6. Follows standards for groundwater restoration in the groundwater  
28 standards in the rules promulgated by the department under ss. 160.07 and

1 160.09 and restores the environment, to the extent practicable, according to  
2 those standards at the site of the petroleum product storage system.

3 (am) Claims submitted by owners or operators who were not owners or  
4 operators when a petroleum products spill or leak occurred. An owner or  
5 operator of a petroleum product storage system who was not the owner or oper-  
6 ator when a petroleum product spill or leak occurred and who meets the  
7 requirements of this section may submit a claim for an award under sub. (4)  
8 (a) unless the owner or operator knew or should have known of the previous  
9 owner's or operator's ineligibility as a result of actions under sub. (4) (g)  
10 4 to 7.

11 (b) Application. A claimant shall submit a claim on a form provided by  
12 the department. The claimant shall verify the claim by affidavit. The claim  
13 shall contain the following documentation of activities and expenditures  
14 associated with the investigation, clean-up and restoration activities at the  
15 site of a petroleum product storage system:

- 16 1. Records of investigation results and data interpretation.
- 17 2. Site restoration plans.
- 18 3. Contracts for investigation, clean-up and restoration activities and  
19 records of the contract negotiations.
- 20 4. Accounts, invoices, sales receipts or other records documenting actual  
21 costs incurred in investigation, clean-up and restoration activities.
- 22 5. A report on the degree of environmental restoration at the site of the  
23 petroleum product leak or spill which includes the following:
  - 24 a. Relevant information from laboratory tests of petroleum products,  
25 surface water and groundwater.
  - 26 b. A comparison of the environmental restoration results at the site with  
27 groundwater standards required under administrative rules promulgated under  
28 ss. 160.07 and 160.09.

1       6. Other records and statements that the department determines to be  
2 necessary to complete the application.

3       (4) AWARDS FOR PETROLEUM PRODUCT INVESTIGATION, CLEAN-UP AND RESTORATION  
4 ACTIVITIES. (a) Awards. If the department finds that the claimant meets all  
5 of the requirements of this section and any rules which may be promulgated  
6 under this section, the department shall issue a petroleum storage environ-  
7 mental clean-up award to reimburse a claimant for eligible costs incurred for  
8 the investigation and clean-up of environmental contamination caused by leak-  
9 ing or spilled petroleum products from petroleum product storage systems and  
10 for environmental restoration activities at the clean-up site.

11       (am) Claims. A claimant may file a claim and receive reimbursement  
12 before completion of all requirements under sub. (3). The department shall  
13 seek to recover costs under sub. (5) if the claimant does not later comply  
14 with all of the requirements under sub. (3).

15       (b) Eligible costs. Eligible costs for an award under par. (a) include  
16 actual costs for the following items only:

- 17       1. Precision testing to determine leaks.
- 18       2. Removal of petroleum products from petroleum product storage systems,  
19 surface waters, groundwater or soil.
- 20       3. Investigation and assessment of contaminated sites.
- 21       4. Removal of contaminated soils.
- 22       5. Soil treatment and disposal.
- 23       6. Environmental monitoring.
- 24       7. Laboratory services.
- 25       8. Maintenance of equipment for petroleum product recovery or environ-  
26 mental restoration.
- 27       9. Restoration or replacement of a potable water supply.
- 28       10. Restoration of environmental quality.

1 11. Contractor costs for response actions.

2 12. Inspection and supervision.

3 (c) Exclusions from eligible costs. Eligible costs for an award under  
4 par. (a) do not include the following:

5 1. Costs incurred before January 1, 1987.

6 2. Costs of retrofitting or replacing petroleum storage systems.

7 3. Other costs that the department determines to be associated with, but  
8 not integral to, site rehabilitation.

9 4. Costs which the department determines to be unreasonable or  
10 unnecessary.

11 (d) Awards during the grace period. During an 18-month grace period  
12 which begins on the first day of the 3rd month after the effective date of  
13 this paragraph .... [revisor inserts date], and ends on the last day of the  
14 20th month after the effective date of this paragraph .... [revisor inserts  
15 date], the department shall issue awards for petroleum product clean-up  
16 activities without regard to fault, except as provided in par. (g) 4 to 7 and  
17 sub. (3) (am).

18 (e) Contributory negligence. Contributory negligence shall not be a bar  
19 to recovery and no award may be diminished as a result of negligence attrib-  
20 utable to the claimant or any person who is entitled to submit a claim.

21 (f) Awards during the post-grace period. The department shall issue  
22 awards for claims for eligible costs, under par. (b), of investigation,  
23 clean-up and restoration activities at the site of a spill or leak from a  
24 petroleum product storage system for contamination reported or discovered on  
25 or after the first day of the 21st month after the effective date of this  
26 paragraph .... [revisor inserts date]. The department shall issue awards  
27 under par. (a) without regard to fault, except as provided in par. (g) 4 to 7

1 and sub. (3) (am) for all eligible costs exceeding \$100,000 for each petroleum  
2 product storage system location.

3 (g) Denial of claims, limits on awards. The department shall deny a  
4 claim under par. (a) if:

5 1. The claim is not within the scope of this section.

6 2. The claimant submits a fraudulent claim.

7 3. The claim is for reimbursement of costs incurred before January 1,  
8 1987.

9 4. The claimant has been grossly negligent in the maintenance of the  
10 petroleum product storage system.

11 5. The claimant intentionally damaged the petroleum product storage  
12 system.

13 6. The claimant falsified storage records.

14 7. The claimant wilfully failed to comply with laws or rules of this  
15 state concerning the storage of petroleum products.

16 (5) RECOVERY OF COSTS. (a) Right of action. A right of action shall  
17 accrue to the state against any person submitting fraudulent claims or not  
18 meeting requirements under this section if an expenditure is made for petro-  
19 leum product investigation, clean-up or environmental restoration activities.

20 (b) Action to recover costs. The attorney general shall take action as  
21 is appropriate to recover expenditures to which the state is entitled.

22 (c) Disposition of funds. When an expenditure is made from the petroleum  
23 storage environmental cleanup fund, the net proceeds of the recovery shall be  
24 paid into the petroleum storage environmental cleanup fund.

25 (6) REQUIREMENT FOR PROOF OF FINANCIAL RESPONSIBILITY. (a) If on or  
26 after the first day of the 21st month after the effective date of this para-  
27 graph .... [revisor inserts date], an owner or operator fails to pay for an  
28 investigation, clean-up or restoration activity for a petroleum product stor-

1 age system that the owner or operator used in a business operation, then the  
2 owner or operator may not continue to conduct business at that business oper-  
3 ation or start a new business that uses a petroleum product storage system  
4 unless the following requirements and conditions are met:

5 1. The owner or operator establishes proof of financial responsibility in  
6 the amount of \$100,000 by one of the standard methods under s. 144.443 (3) (a)  
7 1 to 4, or a financial commitment satisfactory to the department.

8 2. The department approves the owner's or operator's proof of financial  
9 responsibility under subd. 1.

10 3. The owner or operator maintains the proof of financial responsibility  
11 under subd. 1.

12 (b) The department of industry, labor and human relations shall enforce  
13 this subsection through the revocation of any existing petroleum storage tank  
14 use permit issued by the department of industry, labor and human relations, or  
15 by the refusal to issue a new petroleum storage tank use permit.

16 (7) LIABILITY. (a) No common law liability, and no statutory liability  
17 which is provided in other statutes, for damages resulting from a petroleum  
18 product storage system is affected in any manner by this section. The  
19 authority, power and remedies provided in this section are in addition to any  
20 authority, power or remedy provided in any other statutes or provided at  
21 common law.

22 (b) If a person takes a remedial action at a petroleum product storage  
23 system, whether or not an agreement is entered into with the department, any  
24 agreement and action taken are not evidence of liability or an admission of  
25 liability for any potential or actual environmental pollution.

26 (8) PETROLEUM STORAGE ENVIRONMENTAL CLEANUP COUNCIL. (a) The petroleum  
27 storage environmental cleanup council shall advise the secretary on any rules  
28 which may be promulgated under this section and other matters related to the

1 petroleum storage environmental cleanup fund. The council shall also review  
2 reports on the fund prepared every 6 months by the department.

3 (b) In addition to the members appointed by the secretary, the president  
4 of the senate and the speaker of the assembly shall each appoint, in the man-  
5 ner provided for selection of members of standing committees, an observer who  
6 shall attend council meetings, but shall not be a member of the council.

7 ••87b1305/3 •• 87b1780/en••SECTION 1802Lx. 144.445 (8) (b) 1m of the  
8 statutes is amended to read:

9 144.445 (8) (b) 1m. Reimbursement of reasonable costs, but not to exceed  
10 ~~\$2,500~~ \$40,000, incurred by the local committee relating to negotiation,  
11 mediation and arbitration activities under this section.

12 ••87b0371/1••SECTION 1802m. 144.445 (9) (em) of the statutes is created  
13 to read:

14 144.445 (9) (em) Default hearing costs. The board shall submit to the  
15 applicant and local committee a statement of the costs of a hearing held under  
16 par. (e) to determine whether the failure of an applicant or a local committee  
17 to participate in the negotiation sessions under this subsection constitutes  
18 default. Except as otherwise specified in an arbitration award, the costs of  
19 a hearing to determine whether a given situation constitutes default shall be  
20 shared equally between the applicant and the local committee. The local com-  
21 mittee's share of the hearing costs shall be divided among the participating  
22 municipalities in proportion to the number of members appointed to the local  
23 committee by each participating municipality.

24 ••87b1357/1 •• 87b1751/en••SECTION 1802mm. 144.449 of the statutes is  
25 created to read:

26 144.449 TIRE DUMPS. (1) DEFINITIONS. In this section:

27 (a) "Nuisance" means an unreasonable danger to public health, safety or  
28 welfare or the environment.

1 (b) "Tire dump" means any location that is used for storing or disposing  
2 of waste tires.

3 (c) "Waste tire" has the meaning given under s. 84.076 (1).

4 (2) DEPARTMENT AUTHORITY; ABATEMENT. If the department determines that a  
5 tire dump is a nuisance, it shall notify the person responsible for the nui-  
6 sance and request that the tires be processed or removed within a specified  
7 period. If the person fails to take the requested action within the specified  
8 period, the department shall order the person to abate the nuisance within a  
9 specified period. If the person responsible for the nuisance is not the owner  
10 of the property on which the tire dump is located, the department may order  
11 the property owner to permit abatement of the nuisance. If the person  
12 responsible for the nuisance fails to comply with the order, the department  
13 may take any action necessary to abate the nuisance, including entering the  
14 property where the tire dump is located and confiscating the waste tires, or  
15 arranging to have the waste tires processed or removed.

16 (3) APPLICABILITY. This section does not apply to any of the following:

17 (a) A retail business premises where tires are sold if no more than 500  
18 waste tires are kept on the premises at one time.

19 (b) The premises of a tire retreading business if no more than 3,000  
20 waste tires are kept on the premises at one time.

21 (c) A premises where tires are removed from motor vehicles in the ordi-  
22 nary course of business if no more than 500 waste tires are kept on the prem-  
23 ises at one time.

24 (d) A solid waste disposal facility where no more than 60,000 waste tires  
25 are stored above ground at one time if all tires received for storage are  
26 processed, buried or removed from the facility within one year after receipt.

27 (e) A site where no more than 250 waste tires are stored for agricultural  
28 uses.

1 (f) A site where a recovery activity, as defined in s. 144.798 (1) (a),  
2 is carried on if no more than a 6-month inventory of tires is kept on the  
3 site.

4 (g) A site where waste tires are stored for use in constructing artifi-  
5 cial reefs in waters of the state.

6 (h) An artificial reef constructed of waste tires.

7 (i) A construction site where waste tires are stored for use or used in  
8 road surfacing and construction of embankments.

9 (j) A solid waste disposal facility where waste tires are buried in  
10 compliance with rules promulgated by the department.

11 (4) ABATEMENT PRIORITIES. The order of priority for the department's  
12 abatement activities under sub. (2) shall be as follows:

13 (a) Tire dumps determined by the department to contain more than  
14 1,000,000 tires.

15 (b) Tire dumps which constitute a fire hazard or threat to public health.

16 (c) Tire dumps in densely populated areas.

17 (d) All other tire dumps.

18 (5) RECOVERY OF EXPENSES. The department shall initiate a civil action  
19 to recover from the person responsible for the nuisance the reasonable and  
20 necessary costs incurred by the department for its nuisance abatement activi-  
21 ties and its administrative and legal expenses related to the abatement. The  
22 department's certification of expenses shall be prima facie evidence that the  
23 expenses are reasonable and necessary.

24 (6) OTHER ABATEMENT. This section does not change the existing authority  
25 of any person to abate a nuisance. The department may reimburse a person for  
26 the costs of any such abatement.

27 ••87b1302/1 •• 87b1780/en••SECTION 1802n. 144.462 of the statutes is  
28 created to read:

1 144.462 AREAS ADJACENT TO LARGE LAKES IN POPULOUS COUNTIES. (1)

2 DEFINITIONS. In this section:

3 (a) "Large lake" means a lake with an area of 640 acres or more, except  
4 lakes designated as outlying waters under s. 29.01 (11).

5 (b) "Planned well site" means a parcel of land designated by a municipal  
6 governing body on an official plan as reserved for the purpose of supplying  
7 future water needs of the municipal water system.

8 (c) "Populous county" means a county with a population of 315,000 or  
9 more.

10 (2) RESTRICTION. The department may not issue an initial operating  
11 license under s. 144.44 (4) (b) for a solid waste facility any part of which  
12 is to be located in a populous county that does not contain a 1st class city  
13 if either of the following conditions applies:

14 (a) The facility will be located within 2,500 feet of the ordinary high-  
15 water mark of a large lake.

16 (b) The facility will be located within 2,500 feet of either side of the  
17 boundary limits of a 2nd class city and in either of the following locations:

18 1. Within 2,500 feet of a planned municipal well site in an area in which  
19 large distribution water mains have been installed.

20 2. Within 2,500 feet of an area to which a shoreland or floodplain zoning  
21 ordinance applies.

22 ••87-1946/2••SECTION 1802r. 144.62 (14) of the statutes is created to  
23 read:

24 144.62 (14) The department may inspect hazardous waste facility con-  
25 struction projects to determine compliance with ss. 144.60 to 144.74 and rules  
26 promulgated and licenses issued under those sections.

27 ••87-1946/2••SECTION 1802u. 144.64 (4) (a) 2 of the statutes is amended  
28 to read:

1 144.64 (4) (a) 2. Hazardous waste license and review activities consist  
2 of reviewing feasibility reports, plans of operation, closure plans and  
3 license applications, issuing determinations of feasibility, plan of operation  
4 approvals, operating licenses, interim licenses and variances, inspecting  
5 construction projects and taking other actions in administering this section.

6 ••87b1306/3 •• 87b1780/en••SECTION 1802w. 144.69 of the statutes is  
7 amended to read:

8 144.69 INSPECTIONS AND RIGHT OF ENTRY. Upon the request of any officer  
9 ~~or~~ employe or agent of the department and with notice provided no later than  
10 upon the ~~officer or employe's~~ officer's, employe's or agent's arrival, any  
11 person who generates, stores, treats, transports or disposes of hazardous  
12 wastes shall permit the officer ~~or~~ employe or agent access to vehicles,  
13 premises and records relating to hazardous wastes at reasonable times. An  
14 officer ~~or~~ employe or agent of the department may take samples of any  
15 hazardous waste. The officer ~~or~~ employe or agent shall commence and complete  
16 inspections with reasonable promptness. If samples are taken, the officer ~~or~~  
17 employe or agent shall give a receipt for each sample to the person in charge  
18 of the facility and, upon request, half of the sample taken. The department  
19 shall furnish promptly a copy of the results of any analysis of any sample  
20 which is taken and a copy of the inspection report to the person in charge of  
21 the facility.

22 ••87a1027/3••SECTION 1802y. 144.76 (6) (a) of the statutes is amended to  
23 read:

24 144.76 (6) (a) Contingency plan; activities resulting from discharges.  
25 The department may utilize moneys appropriated under s. 20.370 (2) ~~(du)~~ (di),  
26 (dv) and (dx) in implementing and carrying out the contingency plan developed  
27 under sub. (5) and to provide for the procurement, maintenance and storage of  
28 necessary equipment and supplies, personnel training and expenses incurred in

1 identifying, locating, monitoring, containing, removing and disposing of dis-  
2 charged substances. The department shall utilize moneys appropriated under s.  
3 20.370 (2) (hg) for purposes related to abandoned petroleum product storage  
4 systems, as defined under s. 144.4425 (1) (a), in carrying out the activities  
5 under this section.

6 ••87b1306/3 •• 87b1780/en••SECTION 1802yg. 144.76 (6) (b) of the statutes  
7 is amended to read:

8 144.76 (6) (b) Limitation on equipment expenses. No more than 25% of the  
9 moneys available under the appropriation under s. 20.370 (2) ~~(du)~~ (di), (dv)  
10 or (dx) during any fiscal year may be used for the procurement and maintenance  
11 of necessary equipment during that fiscal year.

12 ••87b1306/3 •• 87b1780/en••SECTION 1802z. 144.77 (6) (a) and (b) of the  
13 statutes are amended to read:

14 144.77 (6) (a) The department may utilize moneys appropriated under s.  
15 20.370 (2) ~~(du)~~ (di), (dv) and (dx) in taking action under sub. (3). The  
16 department shall utilize these moneys to provide for the procurement, mainte-  
17 nance and storage of necessary equipment and supplies, personnel training and  
18 expenses incurred in locating, identifying, removing and disposing of aban-  
19 doned containers.

20 (b) No more than 25% of the total of all moneys available under the  
21 appropriation under s. 20.370 (2) ~~(du)~~ (di), (dv) and (dx) may be used annu-  
22 ally for the procurement and maintenance of necessary equipment during that  
23 fiscal year.

24 ••87b0314/5••SECTION 1803e. 144.788 (2) (b) of the statutes is amended to  
25 read:

26 144.788 (2) (b) No person who is a certified commercial applicator under  
27 ~~s. 94.705 (1) (d)~~ or a certified nonresident commercial applicator under s.  
28 94.705 ~~(4) (e)~~ may use the facility.

1       ••87b0930/3 •• 87b1226/2••SECTION 1803fa. 144.794 (10) (g) of the stat-  
2 utes is created to read:

3       144.794 (10) (g) A description of the methods proposed to be used to meet  
4 the recycling requirements of sub. (17).

5       ••87b0930/3 •• 87b1226/2••SECTION 1803fb. 144.794 (12) (a) of the stat-  
6 utes is amended to read:

7       144.794 (12) (a) The municipality shall notify those persons who are  
8 subject to the required use order at least 90 days prior to the effective date  
9 of that order. The municipality shall notify in writing all licensed  
10 collectors operating in the recycling or resource recovery area at least 90  
11 days prior to the effective date of that order. The municipality shall notify  
12 other local units of government in the recycling or resource recovery area by  
13 providing a written notice to the clerk of those units of government. The  
14 municipality shall notify in writing the owner or operator of all solid waste  
15 disposal and treatment facilities located in or serving generators located in  
16 the recycling or resource recovery area at least 90 days prior to the effec-  
17 tive date of that order. In addition, the municipality shall publish a class  
18 3 notice, under ch. 985, in a newspaper having general circulation in the  
19 area. Each notification shall include information specified under sub. (11)  
20 (a) to (e). ~~In addition, each notification shall include a statement that~~  
21 ~~compensation may be available to affected solid waste facilities and services~~  
22 ~~and a summary of the provisions in sub. (14).~~

23       ••87b0930/3 •• 87b1226/2••SECTION 1803fc. 144.794 (12) (c) of the stat-  
24 utes is amended to read:

25       144.794 (12) (c) During the 90-day period following the notification, the  
26 municipality shall negotiate with any or all of the persons subject to or  
27 affected by the required use order and attempt to develop a contractual

1 agreement on the terms of required usage of the facility ~~or to reach an~~  
2 ~~agreement concerning compensation.~~

3 ••87b0930/3 •• 87b1226/2••SECTION 1803fd. 144.794 (14) of the statutes is  
4 repealed.

5 ••87b0930/3 •• 87b1226/2••SECTION 1803fe. 144.794 (17) of the statutes is  
6 created to read:

7 144.794 (17) INCINERATION; RECYCLING REQUIREMENTS. (a) In this  
8 subsection, "incinerator" means a device which maintains a controlled process  
9 by which solid waste is thermally altered into gases and residue containing  
10 little or no combustible material.

11 (b) A municipality which adopts a waste flow control ordinance may not  
12 operate an incinerator as one of the means of recycling solid waste unless the  
13 department certifies that the requirements of pars. (bc) and (bg) are met.

14 (bc) The municipality may choose to satisfy all of the requirements in  
15 either of the following subdivisions:

16 1. At least 20% of the solid waste to be incinerated, as determined in  
17 the air permit under s. 144.391, is recycled by means other than incineration.

18 2. a. All of the waste separation and recycling collection facilities  
19 required under s. 144.794 are in operation. The municipality which promul-  
20 gates a waste flow control ordinance or the owner or operator of the incin-  
21 erator may operate any waste separation and recycling collection facility to  
22 satisfy the requirements of s. 144.794.

23 b. Mandatory source separation applies to at least 4 of the following  
24 solid wastes within the recycling or resource recovery service area:  
25 newspaper, glass, cans, plastic milk bottles, plastic soft drink containers,  
26 other plastics, cardboard, waste oil or batteries.

27 c. Mandatory composting applies to all yard waste, including grass clip-  
28 pings and leaves, within the recycling or resource recovery service areas.

1 d. On a biennial basis, household hazardous waste is collected within the  
2 recycling or resource recovery service area and is properly disposed of, with  
3 emphasis on organic solvents and degreasers, pesticides and products contain-  
4 ing heavy metals.

5 e. A review is undertaken of the feasibility of recycling lead-acid and  
6 mercury batteries.

7 (bg) Solid waste of each type to be incinerated, as determined in the air  
8 permit under s. 144.391, shall be recycled by means other than incineration to  
9 the maximum extent of economic feasibility, as determined by the department.

10 (bm) The department shall establish standards by rule for determining the  
11 extent of economic feasibility for recycling by means other than incineration  
12 under par. (bg).

13 (c) A municipality which promulgates a waste flow control ordinance for  
14 the purpose of operating an incinerator shall provide the department with a  
15 report on the extent of recycling of solid waste generated within the recycl-  
16 ing and resource recovery area to determine compliance with pars. (bc) and  
17 (bg). The municipality shall provide the report before the commencement of  
18 operation of a new incinerator, and biennially while an incinerator is in  
19 operation.

20 (d) The department shall review the recycling of solid waste generated  
21 within the recycling and resource recovery area, using the information in the  
22 reports under par. (c) and any other information available to the department.  
23 If the department determines before the commencement of operation of a new  
24 incinerator that the recycling does not meet the requirements of pars. (bc)  
25 and (bg), the municipality may not commence operation of the incinerator. If  
26 the department determines at any time while an incinerator is in operation  
27 that the recycling does not meet the requirements of pars. (bc) and (bg), the  
28 department shall use the enforcement process under s. 144.47. If, after a

1 hearing, the department finds that the requirements of pars. (bc) and (bg)  
2 have not been met, the department's order under s. 144.47 (1) (b) shall  
3 require the municipality to cease operation of the incinerator until the  
4 department determines that the recycling meets the requirements of pars. (bc)  
5 and (bg). The department shall use the enforcement process under s. 144.47 to  
6 enforce this subsection whether or not the department issues an operating  
7 license for the incinerator under s. 144.44 (4).

8 (e) This subsection applies to incinerators in operation on and after  
9 July 1, 1989.

10 ••87b1357/1 •• 87b1751/en••SECTION 1803fm. 144.798 of the statutes is  
11 created to read:

12 144.798 WASTE TIRE REMOVAL AND RECYCLING. (1) DEFINITIONS. In this  
13 section:

14 (a) "Recovery activity" means a project designed to reduce the number or  
15 volume of waste tires, recycle waste tires or recover energy from waste tires.

16 (b) "Solid waste facility" has the meaning given under s. 144.43 (5).

17 (c) "Tire dump" has the meaning given under s. 144.449 (1) (b).

18 (d) "Waste tire" has the meaning given under s. 84.076 (1).

19 (2) PLAN. The department shall promulgate, by rule, a statewide plan for  
20 the use of moneys appropriated under s. 20.370 (2) (dw) to accomplish all of  
21 the following:

22 (a) The removal of waste tires from solid waste facilities.

23 (b) The recovery of rubber from waste tires for use in highway  
24 improvements, as defined under s. 84.06 (1).

25 (c) The providing of grants under sub. (3) for development costs or  
26 operating costs of innovative recovery activities which are administered by  
27 the department.

28 (d) Any recovery activity conducted by the department under sub. (5).

1 (3) GRANTS; ELIGIBILITY; APPLICATIONS. (a) A municipality, governmental  
2 body, as defined in s. 19.82 (1), private business or nonprofit organization  
3 which meets eligibility requirements established by the department by rule may  
4 apply to the department for a grant for development costs or operating costs  
5 of an innovative recovery activity.

6 (b) A grant application shall comply with the department's requirements  
7 as to contents, form and manner of submission.

8 (c) No grant may be awarded for a recovery activity designed to reduce  
9 the number or volume of waste tires in a tire dump that receives less than 95%  
10 of its tires from Wisconsin retailers or residents.

11 (d) The department shall promulgate rules concerning requirements for the  
12 documentation of the sources from which a tire dump receives tires for the  
13 purpose of establishing eligibility under par (c). The burden of proof shall  
14 be on the applicant to show that the eligibility requirement under par. (c) is  
15 met.

16 (4) GRANT AMOUNTS. In awarding grants, the department shall give a  
17 higher priority to applications for development costs than to applications for  
18 operating costs.

19 (5) OTHER RECOVERY ACTIVITIES BY DEPARTMENT. The department may conduct  
20 a recovery activity designed to reduce the volume of waste tires in a tire  
21 dump that does not receive at least 95% of its tires from Wisconsin retailers  
22 and residents if the department, after due diligence, is unable to recover  
23 nuisance abatement expenses under s. 144.449 (5) from a person responsible for  
24 a nuisance at a tire dump after the department has initiated abatement  
25 activities.

26 ••87a0890/2••SECTION 1803g. 144.799 (4) (f) of the statutes is created to  
27 read:

1 144.799 (4) (f) Consideration of the implementation of innovative  
2 technologies in a waste reduction or recycling activity. No grant moneys may  
3 be awarded for costs of proven technologies, including, but not limited to,  
4 incinerator projects.

5 ••87a0890/2••SECTION 1803h. 144.799 (4) (g) of the statutes is created to  
6 read:

7 144.799 (4) (g) Consideration of the application or implementation of  
8 innovative technologies in a project which employs a proven technology in a  
9 waste reduction or recycling activity. Notwithstanding par. (f), a project  
10 which employs a proven technology may receive grant moneys for that portion of  
11 the project which implements innovative technologies and applications.

12 ••87-1948/3••SECTION 1804m. 144.96 (3) (c) of the statutes is amended to  
13 read:

14 144.96 (3) (c) The annual fee shall be designed to generate revenues  
15 equal to 30% 35% of the state cost of departmental activities for the admin-  
16 istration of air pollution control under this section and ss. 144.30 to 144.42  
17 and water resources under this section and ss. 144.025, 144.03 and 144.04 and  
18 ch. 147, except that the costs of departmental inland lake renewal activities  
19 under ch. 33, water supply activities under ss. 144.025 (2) ~~(h)~~ (L) and  
20 (r) and 144.04, high capacity well activities under s. 144.025 (2) (e) and  
21 solid waste activities under ss. 144.44 and 144.445 shall not be included in  
22 determining such costs.

23 ••87a0886/2••SECTION 1805m. 144.96 (3) (e) of the statutes is amended to  
24 read:

25 144.96 (3) (e) In this subsection, "state cost" means the actual  
26 expenditure under s. 20.370 (2) (ma) and s. 20.370 (2) (mc), 1985 stats., for  
27 the fiscal year immediately preceding the fiscal year of assessment.

28 SECTION 1805nb. 145.19 (2) of the statutes is amended to read:

1 145.19 (2) FEE. No fee for a sanitary permit may be less than ~~\$41~~ \$61, or  
2 the amount determined under department rule ~~adopted after July 2, 1983~~. The  
3 governing body for the governmental unit responsible for the regulation of  
4 private sewage systems may establish a fee for a sanitary permit which is more  
5 than ~~\$41~~ \$61, or the amount determined under department rule ~~adopted after~~  
6 ~~July 2, 1983~~.

7 ••87-2100/4 •• 87b2044/1••SECTION 1805nc. 145.19 (3) of the statutes is  
8 amended to read:

9 145.19 (3) (title) COPY OF PERMIT FORWARDED TO THE DEPARTMENT. The  
10 governmental unit responsible for the regulation of private sewage systems  
11 shall forward a copy of each valid sanitary permit and \$20, or the amount  
12 determined under department rule ~~adopted after July 2, 1983~~, of the fee to the  
13 department within 90 days after the permit is issued.

14 ••87-2100/4 •• 87b2044/1••SECTION 1805nd. 145.20 (3) (c) of the statutes  
15 is amended to read:

16 145.20 (3) (c) If the governing body for a governmental unit responsible  
17 for the regulation of private sewage systems does not adopt a private sewage  
18 system ordinance meeting the requirements of s. 59.065 or if the governmental  
19 unit does not appoint personnel meeting the requirements of sub. (1) or if the  
20 governmental unit does not comply with the requirements of sub. (2) or s.  
21 145.19 (3), the department may conduct hearings in the county seat upon 30  
22 days' notice to the county clerk. As soon as practicable after the public  
23 hearing, the department shall issue a written decision regarding compliance  
24 with s. 59.065 or 145.19 (3) or sub. (1) or (2). If the department determines  
25 that there is a violation of these provisions, the governmental unit may not  
26 issue a sanitary permit for the installation of a private sewage system until  
27 the violation is corrected.

28 ••87-2100/4••SECTION 1830. 145.21 of the statutes is repealed.

1       ••87-1780/2••SECTION 1831. 146.02 (1) of the statutes is amended to read:  
2       146.02 (1) BLOOD TESTS. The attending physician or nurse certified under  
3 s. 441.15 shall cause every infant born in each hospital or maternity home,  
4 prior to its discharge therefrom, to be subjected to blood tests as specified  
5 by the department, including tests for phenylketonuria, galactosemia, maple  
6 syrup urine disease, neonatal hypothyroidism and such, sickle cell anemia or  
7 other causes of congenital disorders as the department directs. If the infant  
8 is born elsewhere than in a hospital or maternity home, the attending  
9 physician, nurse certified under s. 441.15 or birth attendant who attended the  
10 birth shall cause the infant, within one week of birth, to be subjected to  
11 these blood tests.

12       ••87-1780/2••SECTION 1832. 146.02 (2) of the statutes is amended to read:  
13       146.02 (2) (title) TESTS; DIAGNOSTIC, DIETARY AND FOLLOW-UP COUNSELING  
14 PROGRAM; FEES. The department shall contract with the state laboratory of  
15 hygiene to perform the tests ~~required~~ specified under this section and to  
16 furnish materials for use in the tests. The department shall provide the  
17 ~~special diet required upon the recommendation of any physician who diagnoses a~~  
18 ~~patient as having a congenital disorder that requires a special dietary~~  
19 ~~treatment~~ necessary diagnostic services, special dietary treatment as pre-  
20 scribed by a physician for an infant with a congenital disorder as identified  
21 by tests under sub. (1) or (1m) and follow-up counseling for the patient and  
22 his or her family. The state laboratory of hygiene board, on behalf of the  
23 department, shall impose a fee for tests performed under this section suffi-  
24 cient to pay for services provided under the contract and shall include as  
25 part of this fee and pay to the department an amount the department determines  
26 is sufficient to fund the provision of diagnostic and counseling services,  
27 special dietary treatment and periodic evaluation of infant screening programs  
28 under this subsection. ~~From the fees collected under this subsection the~~

1 ~~state laboratory of hygiene board shall pay to the department an amount the~~  
2 ~~department determines is sufficient to cover the cost of the special dietary~~  
3 ~~treatment section.~~

4 ••87-1780/2••SECTION 1833. 146.02 (5) of the statutes is amended to read:

5 146.02 (5) RELATED SERVICES. The department shall disseminate informa-  
6 tion to families whose children suffer from congenital disorders and to women  
7 of child-bearing age with a history of congenital disorders concerning the  
8 need for and availability of follow-up counseling and special dietary treat-  
9 ment and the necessity for testing infants. The department shall also refer  
10 families of children who suffer from congenital disorders to available health  
11 and social services programs and shall coordinate the provision of these  
12 programs. The department shall periodically consult appropriate experts in  
13 reviewing and evaluating the state's infant screening programs.

14 ••87b0452/2••SECTION 1833m. 146.022 of the statutes is created to read:

15 146.022 SERVICES RELATING TO ACQUIRED IMMUNODEFICIENCY SYNDROME. (1)

16 DEFINITIONS. In this section:

17 (a) "HIV" means the human immunodeficiency virus that causes acquired  
18 immunodeficiency syndrome.

19 (b) "HIV infection" means the pathological state produced by a human body  
20 in response to the presence of HIV.

21 (c) "Nonprofit corporation" means a nonstock, nonprofit corporation  
22 organized under ch. 181.

23 (d) "Organization" means a nonprofit corporation or a public agency which  
24 proposes to provide services to individuals with acquired immunodeficiency  
25 syndrome.

26 (e) "Public agency" means a county, city, village, town or school dis-  
27 trict or an agency of this state or of a county, city, village, town or school  
28 district.

1 (2) DISTRIBUTION OF FUNDS. From the appropriations under s. 20.435 (1)  
2 (a) and (am), the department shall allocate a total of \$242,200 in each of  
3 state fiscal years 1987-88 and 1988-89 and from the appropriations under s.  
4 20.435 (1) (mc) and (md) and (4) (m) the department shall allocate a total of  
5 \$318,100 in each of state fiscal years 1987-88 and 1988-89 for the provision  
6 of services to individuals with or at risk of contracting acquired  
7 immunodeficiency syndrome, as follows:

8 (a) Partner referral and notification. The department shall contact an  
9 individual known to have received an HIV infection and encourage him or her to  
10 refer for counseling and HIV testing any person with whom the individual has  
11 had sexual relations or has shared intravenous equipment.

12 (b) Grants to local projects. The department shall make grants to  
13 applying organizations for the provision of acquired immunodeficiency syndrome  
14 prevention information, the establishment of counseling support groups and the  
15 provision of direct care to persons with acquired immunodeficiency syndrome.

16 (c) Prevention training for alcohol and drug abuse workers. The depart-  
17 ment shall provide training for persons providing alcohol and other drug abuse  
18 services and counseling under s. 115.36 (3) or through county departments  
19 under s. 46.21, 46.23, 51.42 or 51.437, in order to enable these persons to  
20 educate individuals who are drug dependent with respect to the use of shared  
21 intravenous equipment and acquired immunodeficiency syndrome and its  
22 prevention.

23 (d) Statewide public education campaign. The department shall promote  
24 public awareness of the risk of contracting acquired immunodeficiency syndrome  
25 and measures for acquired immunodeficiency syndrome protection by development  
26 and distribution of information through family planning clinics, offices of  
27 physicians and clinics for sexually transmitted diseases and by newsletters,  
28 public presentations or other releases of information to newspapers,

1 periodicals, radio and television stations and other public information  
2 resources. The information would be targeted at individuals whose behavior  
3 puts them at risk of contracting acquired immunodeficiency syndrome and would  
4 encompass the following topics:

- 5 1. Acquired immunodeficiency syndrome and HIV infection.
- 6 2. Means of identifying whether or not individuals may be at risk of  
7 contracting acquired immunodeficiency syndrome.
- 8 3. Measures individuals may take to protect themselves from contracting  
9 acquired immunodeficiency syndrome.
- 10 4. Locations for procuring additional information or obtaining testing  
11 services.

12 (e) Information network. The department shall establish a network to  
13 provide information to local public health officers and other public officials  
14 who are responsible for acquired immunodeficiency syndrome prevention and  
15 training.

16 (f) HIV seroprevalence studies. The department shall perform tests for  
17 the presence of an antibody to HIV and conduct behavioral surveys among popu-  
18 lation groups determined by the department to be highly at risk of contracting  
19 acquired immunodeficiency syndrome. Information obtained shall be used to  
20 develop targeted acquired immunodeficiency syndrome prevention efforts for  
21 these groups and to evaluate the state's prevention strategies.

22 (g) Grants for targeted populations and intervention services. The  
23 department shall make grants to those applying organizations determined by the  
24 department to be best able to contact individuals determined to be highly at  
25 risk of contracting acquired immunodeficiency syndrome for the provision of  
26 acquired immunodeficiency syndrome information and intervention services.

27 (h) Grants for follow-up care of persons with acquired immunodeficiency  
28 syndrome. The department shall provide grants to up to 4 health departments

1 that are selected by the department from among areas in this state with the  
2 highest numbers of individuals who have been diagnosed as having acquired  
3 immunodeficiency syndrome. The grants shall provide funding for the provision  
4 of follow-up care that shall include all of the following:

5 1. Community-oriented services for persons with acquired immunodeficiency  
6 syndrome and their families, including the provision of information on  
7 housing, alternatives to hospitalization, coordination of services and case  
8 management.

9 2. Information for education of the public concerning acquired  
10 immunodeficiency syndrome.

11 3. Training for health care providers who may treat individuals who have  
12 received an HIV infection.

13 (3) CONFIDENTIALITY OF INFORMATION. The results of any test performed  
14 under sub. (2) (f) are confidential and may be disclosed only to the indi-  
15 vidual who receives a test or to other persons with the informed consent of  
16 the test subject. Information other than that released to the test subject,  
17 if released under sub. (2) (f), may not identify the test subject.

18 ••87-1788/1••SECTION 1834. 146.185 of the statutes is amended to read:

19 146.185 STATE SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN.

20 From the appropriation under s. 20.435 (1) (em), the department shall ~~in-state~~  
21 ~~fiscal years 1985-86 and 1986-87~~ supplement the provision of supplemental  
22 foods, nutrition education and other services to low-income women, infants and  
23 children who meet the eligibility criteria under the federal special supple-  
24 mental food program for women, infants and children authorized under 42 USC  
25 1786. To the extent that funds are available under this section and to the  
26 extent that funds are available under 42 USC 1786, every county shall provide  
27 the supplemental food, nutrition education and other services authorized under

1 this section and shall establish or designate an agency to administer that  
2 provision.

3 ••87b0453/3••SECTION 1834m. 146.19 of the statutes is created to read:

4 146.19 HEALTH SERVICES FOR ADOLESCENTS. (1) In this section:

5 (a) "Adolescent" means a person who is at least 12 years of age but under  
6 the age of 20.

7 (b) "Nonprofit corporation" means a nonstock, nonprofit corporation  
8 organized under ch. 181.

9 (c) "Organization" means a nonprofit corporation or a public agency which  
10 proposes to provide health services for adolescents.

11 (d) "Public agency" means a county, city, village, town or school dis-  
12 trict or an agency of this state or of a county, city, village, town or school  
13 district.

14 (e) "School-linked health services" means health services that are pro-  
15 vided in a public school, as defined in s. 108.02 (23), or in a location that  
16 is sufficiently near the grounds of a public school to permit ready access by  
17 the pupils of the school.

18 (2) From the appropriation under s. 20.435 (1) (eg), the department shall  
19 allocate \$280,600 in state fiscal year 1987-88 and \$1,018,300 in state fiscal  
20 year 1988-89 to provide grants to applying organizations for the establishment  
21 and maintenance of 5 clinics to provide school-linked health services in 4  
22 urban counties in this state and for the provision of health services for  
23 adolescents in communities in 3 rural counties in this state. Funded orga-  
24 nizations shall provide health services to adolescents which shall address  
25 primary health care needs of adolescents. The organization seeking a grant to  
26 provide these services must develop a proposed service plan that is approved  
27 by the department.

28 ••87-1782/2••SECTION 1835. 146.24 of the statutes is amended to read:

1        146.24 CERTIFICATION OF MILK SHEDS. The department shall conduct sam-  
2 pling surveys of milk sheds in Wisconsin to the extent necessary to certify to  
3 the department of agriculture, trade and consumer protection, the U.S. public  
4 health service, and local health departments, the compliance rating of such  
5 milk sheds based upon the standards for grade A milk and grade A milk products  
6 of the department of agriculture, trade and consumer protection and the  
7 provisions of the recommended milk ordinance and code of the U.S. public  
8 health service. The department may act to monitor milk volume under this  
9 section, including requiring the monthly reporting of volume by individual  
10 dairy plants, and may promulgate rules establishing fees which may be charged  
11 to dairy plants to fund these activities.

12        ••87b1456/1 •• 87b1990/en••SECTION 1836b. 146.37 (1) of the statutes is  
13 amended to read:

14        146.37 (1) No person acting in good faith who participates in the review  
15 or evaluation of the services of health care providers or facilities or the  
16 charges for such services conducted in connection with any program organized  
17 and operated to help improve the quality of health care, to avoid improper  
18 utilization of the services of health care providers or facilities or to  
19 determine the reasonable charges for such services, ~~or who participates in the~~  
20 ~~hospital rate setting activities under ch. 54,~~ is liable for any civil damages  
21 as a result of any act or omission by such person in the course of such review  
22 or evaluation. Acts and omissions to which this subsection applies include,  
23 but are not limited to, acts or omissions by peer review committees or hospi-  
24 tal governing bodies in censuring, reprimanding, limiting or revoking hospital  
25 staff privileges or notifying the medical examining board under s. 50.36 or  
26 taking any other disciplinary action against a health care provider or  
27 facility.

1       ••87b0720/1 •• 87b1226/2••SECTION 1836c. 146.38 (3) (g) of the statutes  
2 is created to read:

3       146.38 (3) (g) To the department, with respect to a hospital, as defined  
4 in s. 50.33 (2), that is owned or operated by the state or by a local unit of  
5 government.

6       ••87b0614/3 •• 87b1226/2••SECTION 1836g. 146.70 (1) (c) of the statutes  
7 is amended to read:

8       146.70 (1) (c) "Basic system" means a telecommunications system which  
9 automatically connects a person dialing the digits "911" to a designated  
10 public safety answering point in a public agency.

11       ••87b0614/3 •• 87b1226/2••SECTION 1836gc. 146.70 (1) (gm) of the statutes  
12 is created to read:

13       146.70 (1) (gm) "Public safety answering point" means a facility to which  
14 a call on a basic or sophisticated system is initially routed for response,  
15 and on which a public agency directly dispatches the appropriate emergency  
16 service provider, relays a message to the appropriate emergency service  
17 provider or transfers the call to the appropriate emergency services provider.

18       ••87b0614/3 •• 87b1226/2••SECTION 1836gm. 146.70 (3) of the statutes is  
19 created to read:

20       146.70 (3) FUNDING FOR COUNTYWIDE SYSTEMS. (a) Definitions. In this  
21 subsection:

22       1. "Commission" means the public service commission.

23       2. "Costs" means the costs incurred by a service supplier after the  
24 effective date of this paragraph .... [revisor inserts date], in installing  
25 and maintaining the trunking and central office equipment used only to operate  
26 a basic or sophisticated system and the data base used only to operate a  
27 sophisticated system.

1       3. "Service supplier" means a telecommunications utility which provides  
2 exchange telephone service within a county.

3       4. "Service user" means any person, except the state, who is provided  
4 telephone service by a service supplier which includes access to a basic or  
5 sophisticated system.

6       (b) Charge authorized. A county by ordinance may levy a charge on all  
7 service users in the county to finance the costs related to the establishment  
8 of a basic or sophisticated system in that county under sub. (2) if:

9       1. The county has adopted by ordinance a plan for that system.

10       2. Every service user in that county has access to a system.

11       3. The county has entered into a contract with each service supplier in  
12 the county for the establishment of that system to the extent that each ser-  
13 vice supplier is capable of providing that system on a reasonable economic  
14 basis on the effective date of the contract and that contract includes all of  
15 the following:

16       a. The amount of nonrecurring charges service users in the county will  
17 pay for all nonrecurring services related to providing the trunking and cen-  
18 tral office equipment used only to operate a basic or sophisticated system  
19 established in that county and the data base used only to operate that  
20 sophisticated system.

21       b. The amount of recurring charges service users in the county will pay  
22 for all recurring services related to the maintenance and operation of a basic  
23 or sophisticated system established in that county.

24       c. Every provision of any applicable schedule which the service supplier  
25 has filed with the commission under s. 196.19 or 196.20, which is in effect on  
26 the date the county signs the contract and which is related to the provision  
27 of service for a basic or sophisticated system.

1       4. The charge is calculated, under a schedule filed under s. 196.19 or  
2 196.20, by dividing the costs related to establishing a basic or sophisticated  
3 system in that county by the total number of exchange access lines, or their  
4 equivalents, which are in the county and which are capable of accessing that  
5 system.

6       5. The charge is billed to service users in the county in a service  
7 supplier's regular billing to those service users.

8       6. Every public safety answering point in the system is in constant  
9 operation.

10       7. Every public safety agency in the county maintains a telephone number  
11 in addition to "911".

12       8. The sum of the charges under subd. 3. a and b does not exceed 25 cents  
13 each month for each exchange access line or its equivalent in the county if  
14 the county has a population of 500,000 or more, and does not exceed 40 cents  
15 each month for each exchange access line or its equivalent in any other county  
16 or combination of counties.

17       (c) If 2 or more counties combine under sub. (2) (b) to establish a basic  
18 or sophisticated system, they may levy a charge under par. (b) if every one of  
19 those counties adopts the same ordinance, as required under par. (b).

20       (d) Charges under par. (b) 3. a may be recovered in rates assessed over a  
21 period not to exceed 36 months.

22       (e) If a county has more than one service supplier, the service suppliers  
23 in that county jointly shall determine the method by which each service sup-  
24 plier will be compensated for its costs in that county.

25       (f) 1. Except as provided under subd. 2, a service supplier which has  
26 signed a contract with a county under par. (b) 3 may apply to the commission  
27 for authority to impose a surcharge on its service users who reside outside of

1 that county and who have access to the basic or sophisticated system estab-  
2 lished by that county.

3 2. A service supplier may not impose a surcharge under subd. 1 on any  
4 service user who resides in any governmental unit which has levied a property  
5 tax or other charge for a basic or sophisticated system, except that if the  
6 service user has access to a basic or sophisticated system provided by the  
7 service supplier, the service supplier may impose a surcharge under subd. 1  
8 for the recurring services related to the maintenance and operation of that  
9 system.

10 3. The surcharge under subd. 1 shall be equal to the charge levied under  
11 par. (b) by that county on service users in that county. A contract under  
12 par. (b) 3 may be conditioned upon the commission's approval of such a  
13 surcharge. The commission's approval under this paragraph may be granted  
14 without a hearing.

15 (g) No service supplier may bill any service user for a charge levied by  
16 a county under par. (b) unless the service supplier is actually participating  
17 in the countywide operation of a basic or sophisticated system in that county.

18 (h) Every service user subject to and billed for a charge under this  
19 subsection is liable for that charge until the service user pays the charge to  
20 the service supplier.

21 (i) Any rate schedule filed under s. 196.19 or 196.20 under which a ser-  
22 vice supplier collects a charge under this subsection shall include the  
23 condition that the contract which established the charge under par. (b) 3 is  
24 compensatory and shall include any other condition and procedure required by  
25 the commission in the public interest. Within 20 days after that contract or  
26 an amendment to that contract has been executed, the service supplier which is  
27 a party to the contract shall submit the contract to the commission. The  
28 commission may disapprove the contract or an amendment to the contract if the

1 commission determines within 60 days after the contract is received that the  
2 contract is not compensatory, is excessive or does not comply with that rate  
3 schedule. The commission shall give notice to any person, upon request, that  
4 such a contract has been received by the commission. The notice shall iden-  
5 tify the service supplier and the county that have entered into the contract.

6 (j) A service supplier providing telephone service in a county, upon  
7 request of that county, shall provide the county information on its capability  
8 and an estimate of its costs to install and maintain trunking and central  
9 office equipment to operate a basic or sophisticated system in that county and  
10 the data base required to operate a sophisticated system.

11 ••87b0614/3 •• 87b1226/2••SECTION 1836gp. 146.70 (10) (title) of the  
12 statutes is amended to read:

13 146.70 (10) (title) PENALTIES.

14 ••87b0614/3 •• 87b1226/2••SECTION 1836gr. 146.70 (10) of the statutes is  
15 renumbered 146.70 (10) (a) and amended to read:

16 146.70 (10) (a) Any person who intentionally dials the telephone number  
17 "911" to report an emergency, knowing that the fact situation which he or she  
18 reports does not exist, shall be fined not less than \$50 nor more than \$200  
19 \$300 or imprisoned not more than 90 days or both for the first offense and  
20 shall be fined not more than \$10,000 or imprisoned not more than 5 years or  
21 both for any other offense committed within 4 years after the first offense.

22 ••87b0614/3 •• 87b1226/2••SECTION 1836gt. 146.70 (10) (b) of the statutes  
23 is created to read:

24 146.70 (10) (b) Any person who disclosed or uses, for any purpose not  
25 related to the operation of a basic or sophisticated system, any information  
26 contained in the data base of that system shall be fined not more than \$10,000  
27 for each occurrence.

1       ••87b0614/3 •• 87b1226/2••SECTION 1836gv. 146.70 (11) of the statutes is  
2 amended to read:

3       146.70 (11) PLANS. Every public agency establishing a basic or sophis-  
4 ticated system under this section shall submit tentative plans for the estab-  
5 lishment of the system as required under this section to ~~the~~ every local  
6 exchange telecommunications utility providing service within the respective  
7 boundaries of such public agency. The public agency shall submit final plans  
8 for the establishment of the system to the telecommunications utility and  
9 shall provide for the implementation of the plans.

10       ••87b1871/1 •• 87b1990/en••SECTION 1836i. 146.81 (4) of the statutes is  
11 amended to read:

12       146.81 (4) "Patient health care records" means all records related to the  
13 health of a patient prepared by or under the supervision of a health care  
14 provider, but not those records subject to s. 51.30, reports collected under  
15 s. 69.186 ~~or~~, records of tests administered under s. 343.305 or fetal monitor  
16 tracings, as defined under s. 146.817 (1).

17       ••87b1871/1 •• 87b1990/en••SECTION 1836k. 146.817 of the statutes is  
18 created to read:

19       146.817 PRESERVATION OF FETAL MONITOR TRACINGS. (1) In this section,  
20 "fetal monitor tracings" means documentation of the heart tones of a fetus  
21 during labor and delivery of the mother of the fetus that are recorded from an  
22 electronic fetal monitor machine.

23       (2) A health care provider may delete or destroy part or all of a  
24 patient's fetal monitor tracing only if 35 days prior to the deletion or  
25 destruction, the health care provider provides written notice to the patient.  
26 The notice shall be sent to the patient's last-known address and shall inform  
27 the patient of the imminent deletion or destruction of the fetal monitor  
28 tracing and of the patient's right, within 30 days after receipt of notice, to

1 obtain the fetal monitor tracing from the health care provider. This notice  
2 requirement does not apply after 5 years after the fetal monitoring tracing  
3 was first made.

4 ••87b1463/2 •• 87b1990/en••SECTION 1836nn. 146.82 (2) (a) 5 of the stat-  
5 utes is amended to read:

6 146.82 (2) (a) 5. In response to a written request by any federal or  
7 state governmental agency to perform a legally authorized function, including  
8 but not limited to management audits, financial audits, program monitoring and  
9 evaluation, facility licensure or certification or individual licensure or  
10 certification. The private pay patient, except if a resident of a nursing  
11 home, may deny access granted under this subdivision by annually submitting to  
12 the a health care provider, other than a nursing home, a signed, written  
13 request on a form provided by the department. The provider, if a hospital or  
14 ~~nursing home~~, shall submit a copy of the signed form to the patient's  
15 physician.

16 ••87b0409/2••SECTION 1840e. 146.90 (4) (intro.), (a) and (b) of the  
17 statutes are amended to read:

18 146.90 (4) (intro.) ~~If so directed by the joint committee on finance, the~~  
19 The department shall, by January 1, ~~1989~~ 1991, do all of the following:

20 (a) Conduct the ~~approved~~ pilot projects specified in sub. (4m) and submit  
21 a detailed evaluation of the pilot projects to the joint committee on finance.

22 (b) Submit to the joint committee a revised plan for a state health  
23 insurance program under sub. (1) (a) that is designed in accordance with sub.  
24 (1) (c) and (d) and a revised plan for an alternative health care coverage  
25 program under sub. (1) (e), each of which incorporates the results of the  
26 evaluation of the pilot projects under par. (a) and includes detailed cost  
27 estimates of implementing the programs on a statewide basis and operating them  
28 for a 10-year period beginning July 1, ~~1989~~ 1991.

1       ••87b0409/2••SECTION 1840m. 146.90 (4m) of the statutes is created to  
2 read:

3       146.90 (4m) (a) The department, with the advice of the council on pilot  
4 projects for the uninsured, shall conduct all of the following pilot projects  
5 as described in the department's plan and recommendations submitted under  
6 subs. (1) and (2) to the joint committee on finance on December 29, 1986,  
7 except as provided in par. (c):

8       1. The individual voucher pilot project which will provide subsidies to  
9 low-income persons for the purpose of purchasing individual health care  
10 coverage.

11       2. The group plan subsidy pilot project which will provide subsidies to  
12 low-income persons for the purpose of purchasing group health insurance  
13 offered by the person's employer.

14       3. The pilot project coordinated with a study funded by the Robert Wood  
15 Johnson Foundation which will provide subsidies to low-income persons employed  
16 by firms not offering group health insurance for the purpose of purchasing  
17 health insurance if the person's employer decides to offer group health  
18 insurance.

19       4. The health insurance loan pilot project under which the state will  
20 guarantee loans made to low-income persons by private financial institutions  
21 for the purpose of purchasing health insurance.

22       5. The alternative health care coverage pilot project which will provide  
23 subsidies to persons for whom coverage under the individual voucher pilot  
24 project is not feasible or appropriate, for the purpose of contributing to the  
25 cost of obtaining health care coverage through the medical assistance program  
26 under ss. 49.45 to 49.47.

27       (am) 1. In addition to the pilot projects described in par. (a) 1 to 5,  
28 the department, with the advice of the council on pilot projects for the

1 uninsured, shall conduct a 6th pilot project which, except as provided in  
2 subds. 2 to 4, is identical to the individual voucher pilot project under par.  
3 (a) 1.

4 2. The department shall select through a competitive bidding process one  
5 or more insurers, which may include organizations that offer health care plans  
6 under ch. 609, to offer to enrollees a health insurance policy which meets the  
7 minimum standards for policies purchased under the individual voucher pilot  
8 project. If no bids are received or if the department determines that the  
9 bids are excessive, the department shall negotiate with bidders or potential  
10 bidders and modify the 6th pilot project if necessary to produce reasonable  
11 bids.

12 3. Enrollees shall pay a program fee for a portion of the premium  
13 directly to the insurer providing health insurance coverage. The department  
14 shall determine the amount of the program fee which an enrollee is required to  
15 pay, according to an income-based progressive scale established under par. (b)

16 2. The department shall subsidize the cost of the insurance coverage by  
17 paying the insurer an amount equal to the difference between the program fee  
18 paid to the insurer and the amount of the premium.

19 4. The department shall implement the 6th pilot project only in areas  
20 where the primary health care program under s. 146.93 is operating.

21 (b) With respect to the pilot projects conducted under pars. (a) and  
22 (am), the department shall establish all of the following:

23 1. Income eligibility criteria that limit eligibility for a subsidy to  
24 persons with a net family income not greater than 175% of the federal poverty  
25 line, as defined under 42 USC 9902 (2).

26 2. A subsidy schedule according to an income-based progressive scale.

27 (c) 1. Notwithstanding sub. (2) (b) 1, when selecting a rural county in  
28 which to conduct the individual voucher pilot project under par. (a) 1 or the

1 6th pilot project under par. (am), the department shall consider only counties  
2 which have a population of less than 120,000 and which do not have a city with  
3 a population of more than 35,000.

4 2. A person enrolled in the individual voucher pilot project conducted in  
5 a rural county may purchase individual or group health care coverage, except a  
6 person may not purchase group health care coverage from his or her employer or  
7 the employer of his or her spouse. Notwithstanding par. (am) 1, this sub-  
8 division does not apply to a person enrolled in the pilot project conducted  
9 under par. (am).

10 3. The department shall, by June 30, 1988, conduct a survey in each area  
11 where a pilot project under par. (a) or (am) will be implemented to determine  
12 the number of persons residing in those areas who have health insurance  
13 coverage and certain social and economic characteristics of the persons  
14 residing in those areas.

15 ••87b0409/2••SECTION 1840s. 146.90 (5) of the statutes is amended to  
16 read:

17 146.90 (5) The joint committee on finance shall decide, during the  
18 deliberations on the ~~1989-91~~ 1991-93 biennial budget, whether and in what  
19 manner the programs should be implemented on a statewide basis.

20 ••87b1448/1 •• 87b1990/en••SECTION 1840t. 146.91 of the statutes is  
21 created to read:

22 146.91 LONG-TERM CARE INSURANCE. (1) In this section, "long-term care  
23 insurance" means insurance that provides coverage both for an extended stay in  
24 a nursing home and home health services for a person with a chronic condition.  
25 The insurance may also provide coverage for other services that assist the  
26 insured person in living outside a nursing home including but not limited to  
27 adult day care and continuing care retirement communities.

1       (2) The department, with the advice of the council on long-term care  
2 insurance, the office of the commissioner of insurance, the board on aging and  
3 long-term care and the department of employe trust funds, shall design a pro-  
4 gram that includes the following:

5       (a) Subsidizing premiums for persons purchasing long-term care insurance,  
6 based on the purchasers' ability to pay.

7       (b) Reinsuring by the state of policies issued in this state by long-term  
8 care insurers.

9       (c) Allowing persons to retain liquid assets in excess of the amounts  
10 specified in s. 49.47 (4) (b) 3g, 3m and 3r, for purposes of medical assis-  
11 tance eligibility, if the persons purchase long-term care insurance.

12       (3) The department shall collect any data on health care costs and util-  
13 ization that the department determines to be necessary to design the program  
14 under sub. (2).

15       (4) The department shall, by September 1, 1988, submit a plan specifying  
16 the details of the program in sub. (2), including proposed legislation to  
17 implement the program, to the joint committee on finance and the standing  
18 committee for health issues in each house of the legislature.

19       (5) In designing the program, the department shall consult with the fed-  
20 eral department of health and human services to determine the feasibility of  
21 procuring a waiver of federal law or regulations that will maximize use of  
22 federal medicaid funding for the program designed under sub. (2).

23       (6) The department, with the advice of the council on long-term care  
24 insurance, may examine use of tax incentives for the sale and purchase of  
25 long-term care insurance.

26       ••87b0403/2••SECTION 1840v. 146.93 (title), (1) (a) and (4) (a) and (b)  
27 of the statutes are amended to read:

1        146.93 (title) PRIMARY HEALTH CARE PROGRAM. (1) (a) The department  
2 shall ~~develop and implement~~ maintain a program for the provision of primary  
3 health care services ~~for the period beginning October 1, 1985, to June 30,~~  
4 1986 based on the primary health care program in existence on June 30, 1987.

5 The department may promulgate rules necessary to implement the program.

6        (4) (a) The individual is ~~either~~ involuntarily unemployed or and is  
7 employed less than 25 hours per week available for work or is employed but  
8 unable to obtain group coverage.

9        (b) The individual's family income is not greater than 150% of the fed-  
10 eral poverty line, as defined under 42 USC 9902 (2).

11        ••87b0403/2••SECTION 1840x. 146.93 (1) (b) of the statutes is repealed.

12        ••87b1422/2 •• 87b1990/en••SECTION 1841m. 146.93 (5) of the statutes is  
13 created to read:

14        146.93 (5) The department may modify the criteria under sub. (4) (a) to  
15 (c) in those counties in which both the program under this section and the  
16 program under s. 146.90 are implemented if the department determines that the  
17 modification is necessary in order to adequately test the implementation of  
18 the program under s. 146.90.

19        ••87-1248/2••SECTION 1842. 146.96 of the statutes is repealed.

20        ••87-1248/2••SECTION 1843. 146.99 of the statutes is amended to read:

21        146.99 ASSESSMENTS. ~~Commencing on July 20, 1985, the department shall,~~  
22 ~~within 90 days after the commencement of each fiscal year, estimate the total~~  
23 ~~amount of expenditures for the department under ss. 146.87 to 146.96 for that~~  
24 ~~fiscal year.~~ The department shall assess the ~~estimated total amount for that~~  
25 ~~fiscal year~~ amounts authorized under s. 20.435 (1) (gp) to hospitals, as  
26 defined in s. 50.33 (2), in proportion to each hospital's respective gross  
27 private-pay patient revenues during the hospital's most recently concluded  
28 entire fiscal year. Each hospital shall pay its assessment on or before

1 December 1 for the fiscal year. All payments of assessments shall be depos-  
2 ited in the appropriation under s. 20.435 (1) (gp).

3 ••87-1948/3••SECTION 1844m. 147.033 (title) of the statutes is amended to  
4 read:

5 147.033 (title) GROUNDWATER FEE; WASTEWATER MANAGEMENT FEE.

6 ••87-1948/3••SECTION 1845m. 147.033 of the statutes is renumbered 147.033  
7 (1) and amended to read:

8 147.033 (1) (title) GROUNDWATER FEE. The holder of a permit under s.  
9 147.02 shall pay \$100 to the department as a groundwater fee on January 1 if  
10 the permittee discharges effluent on land or if the permittee produces sludge  
11 from a treatment work which is disposed of on land. If the permittee dis-  
12 charges effluent on land and disposes of sludge from a treatment work on land,  
13 the permittee shall pay \$200 to the department as a groundwater fee on January  
14 1. The moneys collected under this ~~section~~ subsection shall be credited to  
15 the groundwater fund.

16 ••87a0889/1••SECTION 1846m. 147.033 (2) of the statutes is created to  
17 read:

18 147.033 (2) WASTEWATER MANAGEMENT FEE. (a) Any person holding a permit  
19 under s. 147.02 for a treatment work, except a person subject to s. 144.96  
20 (3), shall pay a fee as follows:

21 1. For a treatment work with a design capacity of less than 0.05 million  
22 gallons per day, \$150 per year.

23 2. For a treatment work with a design capacity of at least 0.05 million  
24 gallons but less than 0.5 million gallons per day, \$400 per year.

25 3. For a treatment work with a design capacity of at least 0.5 million  
26 gallons but less than 5 million gallons per day, \$800 per year.

27 4. For a treatment work with a design capacity of at least 5 million  
28 gallons per day, \$1,800 per year.

1 (b) All moneys collected under par. (a) shall be credited to the appro-  
2 priation under s. 20.370 (2) (bL).

3 ••87b1303/1 •• 87b1780/en••SECTION 1846mb. 147.035 (5) of the statutes is  
4 created to read:

5 147.035 (5) NONAPPLICABILITY. This section does not apply to any water  
6 quality based effluent limitation established under s. 147.04 (5).

7 ••87b1303/1 •• 87b1780/en••SECTION 1846mc. 147.04 (5) of the statutes is  
8 amended to read:

9 147.04 (5) MORE STRINGENT LIMITATIONS. The department shall establish  
10 more stringent effluent limitations than required under subs. (2) and (4) and  
11 shall require compliance with such water quality based effluent limitations in  
12 any permit issued, reissued or modified if these limitations are necessary to  
13 meet applicable water quality standards, treatment standards, schedules of  
14 compliance or any other state or federal law, rule or regulation. The  
15 department shall require compliance with these water quality based effluent  
16 limitations by no later than July 1, 1977, or by a later date as specified in  
17 the water quality standard, treatment standard, schedule of compliance or  
18 other state or federal law, rule or regulation.

19 ••87b1303/1 •• 87b1780/en••SECTION 1846md. 147.05 (title) of the statutes  
20 is amended to read:

21 147.05 (title) VARIANCES TO WATER QUALITY STANDARD.

22 ••87b1303/1 •• 87b1780/en••SECTION 1846me. 147.05 (1) to (3) of the  
23 statutes are repealed and recreated to read:

24 147.05 (1) DEFINITION. In this section, "variance" means a variance to a  
25 water quality standard adopted under s. 144.025 (2) (b).

26 (2) REQUEST FOR VARIANCE. (a) 1. When the department issues, reissues  
27 or modifies a permit to include a water quality based effluent limitation

1 under s. 147.04 (5), the permittee may apply to the department for a variance  
2 from the water quality standard used to derive the limitation.

3 2. After an application for a variance is submitted to the department,  
4 the permittee is not required to comply with the water quality based effluent  
5 limitation under s. 147.04 (5) and the corresponding compliance schedule until  
6 the application is denied under par. (d) or sub. (4) (a) 2, the department  
7 modifies the permit under sub. (4) (d) or the U.S. environmental protection  
8 agency objects in writing to the proposed permit modification. All other  
9 provisions of the permit continue in effect except those for which a petition  
10 for review has been submitted under s. 147.20.

11 (b) 1. The department shall specify by rule the information which the  
12 permittee must include in the application. The permittee shall submit an  
13 application for a variance, including all information required under this  
14 subdivision, within 30 days after the department issues, reissues or modifies  
15 the permit.

16 2. If a permittee applies for a variance before the promulgation of rules  
17 under subd. 1, the permittee shall submit an application for a variance within  
18 30 days after the department issues, reissues or modifies the permit. Within  
19 15 days after receipt of the application, the department shall specify the  
20 information which the permittee must include in the application. The permit-  
21 tee shall provide the information within 30 days after receipt of the depart-  
22 ment's request.

23 3. In addition to the information required under subd. 1 or 2, the per-  
24 mittee may, within the time limits specified in subd. 1 or 2, submit to the  
25 department any other information to support the request for a variance.

26 (c) The department may request additional information from the permittee  
27 within 30 days after receiving either the application under par. (b) 1 or the  
28 information under par. (b) 2. The permittee shall provide the additional

1 information within 30 days after receipt of the department's request. An  
2 application is not complete until the additional information is provided to  
3 the department.

4 (d) If the permittee does not provide information as required under par.  
5 (b) or (c), the department shall deny the application.

6 (e) Within 30 days after the department receives a complete application  
7 for a variance, the department shall circulate to the parties in s. 147.03 (2)  
8 (c) a public notice of receipt of the application for a variance and of any  
9 deadlines for submission of written arguments on facts and law by interested  
10 parties. In the public notice, the department shall establish a deadline for  
11 submitting written comments on the application.

12 (3) TENTATIVE DECISION. The secretary shall issue a tentative decision  
13 on the variance within 120 days after receipt of a completed application. The  
14 department shall circulate the tentative decision to the parties in s. 147.03  
15 (2) (c). The department shall provide a 15-day period for written comments on  
16 the tentative decision.

17 ••87b1303/1 •• 87b1780/en••SECTION 1846mg. 147.05 (4) of the statutes is  
18 renumbered 147.055.

19 ••87b1303/1 •• 87b1780/en••SECTION 1846mh. 147.05 (4) of the statutes is  
20 created to read:

21 147.05 (4) FINAL DECISION ON VARIANCE. (a) 1. Within 90 days after  
22 expiration of the comment period under sub. (3), the secretary may approve all  
23 or part of a requested variance or modify and approve a requested variance if  
24 the permittee demonstrates, to a reasonable certainty, by the greater weight  
25 of the credible evidence, that the proposed water quality based effluent  
26 limitation, as applied to the permittee, will cause substantial and widespread  
27 adverse social and economic impacts in the area where the permittee is  
28 located.

1       2.    Within 90 days after the expiration of the comment period under sub.  
2 (3), the secretary shall deny a requested variance if the permittee fails to  
3 make the demonstration required under subd. 1.

4       (b)   If the secretary issues a decision under par. (a) 1, the secretary  
5 shall, as part of the decision, establish all permit conditions needed to  
6 implement the variance and specify the plan which the permittee must implement  
7 to comply with sub. (5) (c) 2.

8       (c)   Within 30 days after the date of the decision under par. (a) 1, the  
9 department shall issue the notice required under s. 147.03 (2) (b) and (c) of  
10 its intent to modify the permit to incorporate the decision to approve all or  
11 part of a variance or to modify and approve the variance. Section 147.03 (2)

12 (d) does not apply to the proposed permit modification.

13       (d)   If within 90 days after the date of the notice under par. (c), the  
14 U.S. environmental protection agency has not objected in writing to the pro-  
15 posed modification to accomplish a variance or part of a variance under par.  
16 (a) 1, the department shall modify the permit within 100 days after the date  
17 of notice under par. (c) to incorporate the decision under par. (a) 1 and  
18 applicable permit conditions under sub. (5).

19       (e)   The decision under this subsection is reviewable under subch. III of  
20 ch. 227, except that ss. 227.40 to 227.46, 227.485 to 227.51 and 227.60 do not  
21 apply to the decision under this subsection.

22       ••87b1303/1 •• 87b1780/en••SECTION 1846mo. 147.05 (5) of the statutes is  
23 repealed and recreated to read:

24       147.05 (5) CONDITIONS ON VARIANCES. (a) A variance applies only to the  
25 permittee requesting the variance and to the pollutant specified in the  
26 variance. A variance does not affect or require the department to modify the  
27 corresponding water quality standard adopted under s. 144.025 (2) (b).

1 (b) A variance applies for the term established by the secretary, but not  
2 to exceed 3 years. The term of the variance may not exceed the time that the  
3 secretary determines is necessary to achieve the water quality based effluent  
4 limitation.

5 (c) While the variance is in effect, the permittee shall:

6 1. Comply with an interim effluent limitation which is achievable by the  
7 permittee and which will result in reasonable progress toward achieving the  
8 water quality standard adopted under s. 144.025 (2) (b). The interim effluent  
9 limitation may not be less stringent than a categorical effluent limitation  
10 that applies to the permittee under s. 147.04 (2) or (4) or 147.06 or a toxic  
11 effluent standard that applies to the permittee under s. 147.07.

12 2. Investigate treatment technologies, process changes, wastewater reuse  
13 or other techniques that may result in compliance by the permittee with the  
14 water quality standard adopted under s. 144.025 (2) (b), and submit reports on  
15 the investigations at such times as required by the department.

16 (d) The department may impose additional conditions in the permit as  
17 necessary to administer the variance including, but not limited to, additional  
18 monitoring requirements.

19 ••87b1303/1 •• 87b1780/en••SECTION 1846mq. 147.05 (6) to (10) of the  
20 statutes are created to read:

21 147.05 (6) RENEWAL. A variance may be renewed using the procedures in  
22 and subject to subs. (2) to (5). A variance may not be renewed if the per-  
23 mittee did not submit the reports required under sub. (5) (c) 2 or substan-  
24 tially comply with all other conditions of the variance.

25 (7) DELEGATION OF SECRETARY'S AUTHORITY. The secretary may designate an  
26 officer or employe of the department to make any decision that the secretary  
27 is required to make under this section.

1 (8) NO RIGHT TO A HEARING. Notwithstanding s. 227.42, there is no right  
2 to a hearing under this section.

3 (9) RELATION TO PERMIT REVIEW. If the secretary approves part or all of  
4 a variance or modifies and approves the variance under this section and the  
5 department issues a modified water quality based effluent limitation under s.  
6 147.20 for the same substance, the permittee shall comply with the least  
7 stringent of the 2 effluent limitations.

8 (10) APPLICABILITY. (a) Subsections (2) to (5) do not apply if the  
9 water quality based effluent limitation results from the decision of the  
10 department under s. 147.20 to make the water quality based effluent limitation  
11 less stringent than the effluent limitation in the permit as issued, reissued  
12 or modified.

13 (b) Subsections (2) to (5) apply if the water quality based effluent  
14 limitation results from the decision of the department under s. 147.20 to make  
15 the water quality based effluent limitation more stringent than the effluent  
16 limitation in the permit as issued, reissued or modified.

17 (c) This section does not apply to the issuance, reissuance or modifi-  
18 cation of a permit to incorporate a toxic effluent standard or prohibition  
19 promulgated by rule under s. 147.035 (4) or 147.07.

20 ••87b1303/1 •• 87b1780/en••SECTION 1846ms. 147.055 (title) of the stat-  
21 utes is created to read:

22 147.055 (title) THERMAL EFFLUENT LIMITATIONS.

23 ••87b1303/1 •• 87b1780/en••SECTION 1846mt. 147.20 (1) (intro.) of the  
24 statutes is amended to read:

25 147.20 (1) (intro.) Any permit applicant, permittee, affected state or 5  
26 or more persons may secure a review by the department of any permit denial,  
27 modification, suspension or revocation, the reasonableness of or necessity for  
28 any term or condition of any issued, reissued or modified permit, any proposed