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CHAPTER 23

CONSERVATION

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Cross−reference: See definitions in s. 24.01.

23.09 Conservation. (1) PURPOSES. The purpose of this section is to provide an adequate and flexible system for the protection, development and use of forests, fish and game, lakes, streams, plant life, flowers and other outdoor resources in this state.

(2) DEPARTMENTAL RULES; STUDIES; SURVEYS; SERVICES; POWERS; LONG−RANGE PLANNING. The department may promulgate such rules, inaugurate such studies, investigations and surveys, and establish such services as it deems necessary to carry out the provisions and purposes of this section. The department shall establish long−range plans, projects and priorities for conservation. The department may:

(b) *Game refuges.* Designate such localities as it shall find to be reasonably necessary to secure perpetuation of any species of game or bird, and the maintenance of an adequate supply thereof, as game or bird refuges for the purpose of providing safe retreats in which game or birds may rest and replenish adjacent hunting grounds.

(c) *Fish refuges.* Designate such localities as it shall find to be reasonably necessary to secure the perpetuation of any species of fish and the maintenance of an adequate supply thereof, as fish ref-

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uges, for the purpose of providing safe retreats in which fish may breed and replenish adjacent fishing waters.

Cross−reference: See also ch. NR 26, Wis. adm. code.

(d) *Lands, acquisition.* Acquire by purchase, lease or agreement, and receive by gifts or devise, lands or waters suitable for the purposes enumerated in this paragraph, and maintain such lands and waters for such purposes; and may condemn lands or waters suitable for such purposes after obtaining approval of the appropriate standing committees of each house of the legislature as determined by the presiding officer thereof:

1. For state forests.

2. For state parks for the purpose of preserving scenic or historical values or natural wonders.

3. For public shooting, trapping or fishing grounds or waters for the purpose of providing areas in which any citizen may hunt, trap or fish.

4. For fish hatcheries and game farms.

5. For forest nurseries and experimental stations.

6. For preservation of any endangered species or threatened species under s. 29.604.

7. For state recreation areas designated under s. 23.091.

8. For state natural areas as authorized under s. 23.27 (4) and for state natural areas as authorized under s. 23.27 (5) except that land may not be acquired through condemnation under the authority of s. 23.27 (5).

9. For any other purpose for which gift lands are suitable, as determined by the department.

10. For the ice age trail as designated under s. 23.17 (2).

11. For the purposes provided in ss. 30.40 to 30.49 in the lower Wisconsin state riverway as defined in s. 30.40 (15).

12. For state trails.

13. For the stream bank protection program.

14. For habitat areas and fisheries.

15. State wildlife areas.

16. For bluff protection under s. 30.24.

(e) *Lands, blocking.* Extend and consolidate lands or waters suitable for the above purposes by exchange of other lands or waters under its supervision.

(f) *Propagation of fish.* Subject to s. 95.60, capture, propagate, transport, sell or exchange any species of fish needed for stocking or restocking any waters of the state.

(g) *Forest protection.* Establish and maintain an efficient fire fighting system for the protection of forests.

(h) *Cooperation.* Enter into cooperative agreements with persons or governmental agencies for purposes consistent with the purposes and provisions of this section, including agreements with the highway authorities with regard to planting trees or other vegetation in or along highways, or furnishing stock for such planting.

(i) *Camp fires.* Regulate camp fires and smoking in the woods at such times and in such designated localities, as it may find reasonably necessary to reduce the danger of destructive forest fires.

(j) *Burnings.* Regulate the burning of rubbish, slashings and marshes or other areas as it may find reasonably necessary to reduce the danger of destructive fires.

(k) *Research.* Conduct research to improve management of natural resources, disseminate information to the residents of Wisconsin on natural resources matters and receive funds from any public or private source for research projects.

(km) *Resources inventory.* Develop an information system to acquire, integrate and disseminate information concerning inventories and data on aquatic and terrestrial natural resources.

(m) *Stream classification.* Develop a program for classifying streams by use and to make recommendations to municipalities and other state agencies for protection and development of recreational waters.

(n) *Donation of facilities, accept.* Accept donations of buildings, facilities and structures constructed upon lands owned by this state and under the jurisdiction of the department. The donor of such buildings, facilities and structures may contract for this construction according to plans and specifications provided by the department or may enter into a contract for professional architectural and engineering services to develop plans and specifications of such buildings, facilities and structures and contract for the construction of same. Upon the completion of construction satisfactory to the department, title of such buildings, facilities and structures shall vest in the state of Wisconsin. No person shall construct any building, facility or structure under this paragraph without the prior approval of the department regarding plans and specifications, materials, suitability, design, capacity or location. The plans and specifications for any building, structure or facility donated under this paragraph shall also be subject to the approval of the building commission.

(o) *Gifts and grants.* Accept and administer any gifts, grants, bequests and devises, including funds made available to the department by the federal government under any act of congress relating to any of the functions of the department. All funds included in such gifts, grants, bequests and devises received or expected to be received by the department in a biennium shall be included in the statement of its actual and estimated receipts and disbursements for such biennium required to be contained in the biennial state budget report under s. 16.46, and shall be deemed to be and treated the same as other actual and estimated receipts and disbursements of the department. The department may acknowledge the receipt of any funding from a particular person or group in any department pamphlet, bulletin or other publication.

Cross−reference: See also ch. NR 15 and s. NR 1.98, Wis. adm. code.

(p) *Disease control.* Require any person to provide the department with disease sample tissue or disease sample data derived from a wild animal, as defined in s. 29.001 (90), if the department decides that the tissue or data is needed to determine the existence or extent of a disease in wild animals in this state.

(2dm) LAND ACQUISITION; PRIORITIES. In expending moneys from the appropriation under s. 20.866 (2) (tz) to acquire lands under sub. (2) (d), the department shall establish a higher priority for the acquisition of lands within the boundaries of projects established on or before January 1, 1988.

(2m) FOREST LAND PLANS AND MANAGEMENT. (a) If the department develops, reviews, or implements a master plan or a management plan for any forest land under the jurisdiction of the department, the department shall consult with the chief state forester.

(b) The department shall manage forest land under its jurisdiction in a manner that is consistent with, and that furthers the purpose of, the designation of that forest land as a state forest, southern state forest, state park, state trail, state natural area, state recreation area, or similar designation.

(2p) DONATIONS OF LAND. (a) The department shall determine the value of land donated to the department that is within the project boundaries of a state park, a state forest or a state recreation area. If the donation involves the transfer of the title in fee simple absolute or other arrangement for the transfer of all interest in the land to the state, the valuation shall be based on the fair market value of the land before the transfer. If the donation is a dedication transferring a partial interest in land to the state, the valuation shall be based on the extent to which the fair market value of the land is diminished by that transfer and the associated articles of dedication. If the donation involves a sale of land to the department at less than the fair market value, the valuation of the donation shall be based on the difference between the purchase price and the fair market value.

(b) Except as provided in par. (c), an amount of money equal to the value of the donation under par. (a) shall be released from the appropriation under s. 20.866 (2) (ta) or (tz) or both to be used for land acquisition activities for the same project for which any donation was made on or after August 9, 1989. The department

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shall determine how the moneys being released are to be allocated from these appropriations. This paragraph does not apply to transfers of land from agencies other than the department.

(c) If the moneys allocated under par. (b) for release from the appropriation under s. 20.866 (2) (ta) to match a donation under par. (b) will exceed the annual bonding authority for the subprogram under s. 23.0917 (3) for a given fiscal year, as adjusted under s. 23.0917 (5), the department shall release from the moneys appropriated under s. 20.866 (2) (ta) the remaining amount available under that annual bonding authority, as adjusted under s. 23.0917 (5), for the given fiscal year and shall release in each following fiscal year from the moneys appropriated under s. 20.866 (2) (ta) an amount equal to that annual bonding authority, as adjusted under s. 23.0917 (5), or equal to the amount still needed to match the donation, whichever is less, until the entire amount necessary to match the donation is released.

(d) This subsection does not apply to an easement or land donated to the department under s. 23.092 or 23.094.

(2q) WARREN KNOWLES–GAYLORD NELSON STEWARDSHIP PROGRAM; LOWER WISCONSIN STATE RIVERWAY; ICE AGE TRAIL. Except as provided in s. 23.0915 (2), the department in each fiscal year may not expend from the appropriation under s. 20.866 (2) (tz):

(b) More than $2,000,000 under sub. (2) (d) 11.

(c) More than $500,000 for the ice age trail under ss. 23.17 and 23.293 and for grants for the ice age trail under s. 23.096.

(2r) WARREN KNOWLES–GAYLORD NELSON STEWARDSHIP PROGRAM; LAND ACQUISITION. Except as provided in s. 23.0915 (2), the department in each fiscal year may not expend from the appropriation under s. 20.866 (2) (tz) more than a total of $8,600,000 under this subsection. The purposes for which these moneys may be expended are the following:

(a) Land acquisition under subs. (2dm) and (2p).

(b) Land acquisition for urban river grants under s. 30.277.

(c) The Frank Lloyd Wright Monona terrace project as provided in s. 23.195.

(3) INTERDEPARTMENTAL COOPERATION. (a) The department shall cooperate with the several state departments and officials in the conduct of matters in which the interests of the respective departments or officials overlap. The cooperating agencies may provide by agreement for the manner of sharing expenses and responsibilities under this paragraph.

(b) If the department and the board of regents of the University of Wisconsin System enter into an agreement to create a faculty position at the University of Wisconsin−Madison for a forest landscape ecologist, the department and the University of Wisconsin−Madison shall develop an annual work plan for the ecologist. In developing the annual work plan, the department shall consult with the council on forestry.

(4) RESCUES, EMERGENCIES AND DISASTERS. The department may on its own motion and shall, when so directed by the governor, assist other state, county, and local governmental agencies or do all things reasonably necessary in the rescue of persons lost in the forests of the state, or who may be otherwise in danger of loss of life, in the recovery of the bodies of drowned persons, and in cases of emergency or disaster, by assigning equipment and employees of the department to such rescue, recovery, emergency, and disaster relief missions.

(6) INTERPRETATION, LIMITATIONS. This section shall not be construed as authorizing the department to change any penalty for violating any game law or regulation, or change the amount of any license established by the legislature, or to extend any open season or bag limit on migratory birds prescribed by federal law or regulations, or to contract any indebtedness or obligation beyond the appropriations made by the legislature.

(7) PENALTIES. Any person violating any rule of the department under this chapter shall forfeit not more than $100.

(8) WAYS TO WATERS. The county board of any county may condemn a right−of−way for any public highway to any navigable stream, lake or other navigable waters. Such right−of−way shall be not less than 60 feet in width, and may be condemned in the manner provided by ch. 32; but the legality or constitutionality of this provision shall in nowise affect the legality or constitutionality of the rest of this section.

(10) CONSERVATION EASEMENTS AND RIGHTS IN PROPERTY. Confirming all the powers hereinabove granted to the department and in furtherance thereof, the department may acquire any and all easements in the furtherance of public rights, including the right of access and use of lands and waters for hunting and fishing and the enjoyment of scenic beauty, together with the right to acquire all negative easements, restrictive covenants, covenants running with the land, and all rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public. The department also may grant leases and easements to properties and other lands under its management and control under such covenants as will preserve and protect such properties and lands for the purposes for which they were acquired.

(11) AIDS TO COUNTIES FOR THE DEVELOPMENT OF RECREATION FACILITIES. (a) The county board of any county which, by resolution, indicates its desire to develop outdoor recreation facilities on county lands entered under s. 28.11 may make application to the department for the apportionment of funds for state aids to counties for such purposes.

(b) In this subsection, "outdoor recreational facilities" includes picnic and camping grounds, hiking trails, trail−side campsites and shelters, cross−country ski trails, bridle trails, nature trails, snowmobile trails and areas, beaches and bath houses, toilets, shelters, wells and pumps, and fireplaces. Costs associated with the operation and maintenance of recreational facilities are not eligible for aids under this section. Costs associated with the development of facilities for spectator sports are not eligible for aids under this section.

(c) The state aids granted under this section shall be no greater than but may be less than one−half the cost of such project as determined by the department.

(d) Applications shall be made in the manner and on forms prescribed by the department. The department shall thereupon make such investigations as it deems necessary to satisfy itself that the project will best serve the public interest and need. Upon approval of the project the department shall encumber a sum not more than one−half of the cost estimate of such project. When the project is completed, the department shall pay to the county not more than one−half the actual cost of such project. The department may inform itself and require any necessary evidence from the county to substantiate the cost before payment is made.

(e) The department in making its deliberations shall give careful consideration to whether or not the proposal is an integral part of an official comprehensive land and water use plan for the area as well as the relationship of the project to similar projects on other public lands. If requests for state aids exceed the funds allotted to the department for this program, those requests which form an integral part of a comprehensive plan shall be given first priority.

(f) Recreation facilities developed under the assistance of this section shall not be converted to uses which are inconsistent with the purposes of this section without the approval of the department. The department shall not issue such approval unless there is evidence that such other uses are essential to and in accordance with an official comprehensive plan for the area. The department shall require that the proceeds from the disposal of facilities developed under this section shall be used to further the objectives of this section.

Cross−reference: See also ch. NR 50, Wis. adm. code.

(12) COUNTY FISH AND GAME PROJECTS. (a) The county board of any county which, by resolution, indicates its desire to plan and carry out a program of coordinated fish management projects or game management projects may make application to the depart-

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ment for the allocation and apportionment of funds for state aids appropriated for such purposes by s. 20.370 (5) (ar).

(b) Fish management projects and game management projects include but are not limited because of enumeration to: game food seeding; browse improvement cutting; prescribed burning for game habitat improvement; creating game cover brush piles; creation of impoundments, construction, nature trails; game and fish habitat creation or improvement; lake, stream and spring pond rehabilitation and improvement; construction of fish shelters; stream side fencing; rough fish control; and other approved fish and game management projects.

(c) State aid under this subsection to any county shall be distributed by the department according to the procedures adopted by the natural resources board. State aid granted to any county under this subsection shall be matched by the county and the state's share may not exceed one−half of the actual cost of the project. Personnel, equipment and materials furnished by the county may be included in computing the county share contribution.

(d) Application shall be made in the manner and on forms prescribed by the department. The department shall make such investigations as it deems necessary to satisfy itself that the project will best serve the public interest and need and shall also consider the relationship of the project to similar projects on other public lands. Upon approval of the project the department shall encumber a sum not more than one−half of the cost estimate of such project. The department may inform itself and require any necessary evidence from the county to substantiate the cost before payment is made.

(e) Recreation facilities developed under the assistance of this subsection shall not be converted to uses which are inconsistent with the purposes of this subsection without the approval of the department. The department shall require that the proceeds from the disposal of facilities developed under this subsection shall be used to further the objectives of this subsection.

(f) Any county may cooperate with and participate in approved projects in any other county under this subsection.

Cross−reference: See also ch. NR 50, Wis. adm. code.

(13) BONG AIR BASE. The department may acquire by gift, purchase or otherwise the federally−owned lands, improvements and appurtenances thereto within the Bong Air Base in Kenosha County which may be disposed of by the federal government to be used by the department for any of the purposes in sub. (2) (d). The department may establish zones within the boundaries of the Bong air base which offer a wide range of variable opportunities for active outdoor recreation consistent with sub. (2) (d) and may promulgate rules to control the activities within the zones.

(17m) GRANTS TO COUNTIES FOR THE DEVELOPMENT OF WILDLIFE HABITAT ON COUNTY FORESTS. (a) The county board of any county, which by resolution indicates its desire to improve the natural environment for wildlife on county lands entered under s. 28.11, may make application to the department for the allocation of funds appropriated for such purposes by s. 20.370 (5) (as).

(b) The annual allocation for each county shall not exceed 10 cents for each acre entered under s. 28.11, but any funds remaining from the appropriation made by s. 20.370 (5) (as) and unallocated to the counties on March 31 of each year may be allotted to any county in an amount not to exceed an additional 10 cents per acre under the procedure established in this subsection. These aids shall be used to undertake wildlife management activities provided in the comprehensive county forest land use plan and included in the annual work plan and budget.

(c) Wildlife management operations shall be limited to approved projects designed to benefit wildlife and the natural environment.

(d) Application shall be made as part of the comprehensive county forest land use plan prepared under s. 28.11. Before approving the plan, the department shall investigate all project proposals to make certain that the project is feasible, desirable and consistent with the plan. If the department approves the plan, the department shall pay the aids to the wildlife management fund account of the county. The county's wildlife management fund shall be a nonlapsing account except as provided in pars. (h) and (hg).

(f) Completion of such projects authorized by the department shall be certified by a representative of the department. All records of receipts and expenditures from the county wildlife management fund account shall be available to the department for inspection and audit at any time.

(g) Any unauthorized expenditures from the county wildlife management fund account shall be restored to such fund upon demand by the department and if not restored shall become a charge against the county and the secretary of state shall include such unpaid sums in the state tax levy of the respective counties in subsequent years.

(h) If the amount of the unencumbered balance in a county's wildlife management fund account exceeds either of the following, the department may demand that the county repay the excess amount to the department:

1. The amount that is equal to the sum of the allocations received by the county for the 3 previous years.

2. The amount, as determined by the department, that is required for the purposes of this subsection.

(hg) If the unencumbered balance in a county's wildlife management fund exceeds both of the amounts specified in par. (h) 1. and 2., the department may demand that the county repay either excess amount.

(hr) If the county fails to comply with the department's demand under par. (h) or (hg), the applicable excess amount shall become a charge against the county, and the secretary of state shall include the amount in the state tax levy of the county in subsequent years.

(i) Expenditures under this subsection on any land withdrawn from s. 28.11 and the title to which is transferred by the county to other than a public agency shall be reimbursed to the department in an amount not to exceed the prorated value of the remaining useful lifetime of the wildlife habitat development.

(18) FOREST CROPLANDS AND MANAGED FOREST LANDS AIDS. (a) In each fiscal year, the department shall make payments to each county that has more than 40,000 acres within its boundaries that are entered on the tax roll under s. 77.04 (1) or 77.84 (1) on July 1 of that fiscal year.

(b) The amount of the payment made in a fiscal year to an eligible county shall equal the county's proportionate share of the moneys appropriated under s. 20.370 (5) (br) for the fiscal year. An eligible county's proportionate share shall equal the number of acres within its boundaries that are entered on the tax roll under s. 77.04 (1) or 77.84 (1) on July 1 of the fiscal year divided by the total number of acres that are entered on the tax roll under s. 77.04 (1) or 77.84 (1) on that same date and that are within the boundaries of counties that are eligible for payments under this section, multiplied by the amount appropriated under s. 20.370 (5) (br) for the fiscal year.

(c) The department shall calculate and issue the payment for each eligible county by October 1 following each fiscal year.

(19) AIDS FOR THE ACQUISITION OF URBAN GREEN SPACE. (a) In this subsection:

1. "Brownfields redevelopment" means an abandoned, idle or underused industrial or commercial facility or site, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

2. "Governmental unit" means a city, village, town, county, lake sanitary district, as defined in s. 30.50 (4q), public inland lake protection and rehabilitation district or the Kickapoo reserve management board.

3. "Nature−based outdoor recreation" has the meaning given by the department by rule under s. 23.0917 (4) (f).

(b) Any governmental unit may apply for state aid for the acquisition of lands and rights in lands for urban green space.

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Each application shall include a comprehensive description of the proposal for urban green space acquisition, plans for development and management of the land and any other information required by the department.

(c) The department may award grants from the appropriation under s. 20.866 (2) (tz) for the acquisition of land or rights in land for urban green space under this subsection for the following purposes:

1. To provide an open natural space within or in proximity to urban development.

2. To protect from urban development an area or naturally formed feature that is within or in proximity to an urban area and that has scenic, ecological or other natural value.

5. To provide land for noncommercial gardening to be used by inhabitants of an urbanized area.

(cg) The department may award grants from the appropriation under s. 20.866 (2) (ta) for the acquisition of land or rights in land for urban green space under this subsection only for the purposes of nature−based outdoor recreation.

(cm) In approving grants under this subsection and under s. 23.096 for urban green space, the department shall give higher priority for projects related to brownfields redevelopment.

(d) Except as provided in s. 23.096 (2m), grants under this subsection shall be for up to 50% of the acquisition costs of the land or the rights in land for the urban green space. The governmental unit is responsible for the remainder of the acquisition costs.

(e) As part of its approval of a grant, the department shall specify for which of the purposes listed in par. (c) the governmental unit may use the land or the rights in the land acquired with the grant. The governmental unit may not convert the land or the rights in the land acquired under this subsection to a use that is inconsistent with the uses as approved by the department.

(f) 1. Except as provided in subd. 2., title to land or to rights in land acquired under this subsection shall vest in the governmental unit.

2. Land or rights in land acquired under this subsection by the Kickapoo reserve management board shall vest in the state.

(g) The department may not approve a grant for costs associated with development, operation and maintenance of urban green space acquired under this subsection or for administrative costs of acquiring lands or rights in lands.

(h) The department may not approve a grant under this subsection unless the urban green space is identified in any master plan that the governmental unit may have.

(j) Any governmental unit that acquires an area for gardening with a grant under this subsection may charge fees for use of the garden that are sufficient to recover the costs of maintaining the area. The governmental unit may reduce or waive any fee charged based on the user's inability to pay.

(k) Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than $750,000 in each fiscal year for urban green space under this subsection and for grants for urban green space under s. 23.096.

(L) The department may not award a grant from the appropriation under s. 20.866 (2) (tz) to the Kickapoo reserve management board.

Cross−reference: See also ch. NR 50, Wis. adm. code.

(20) AIDS FOR THE ACQUISITION AND DEVELOPMENT OF LOCAL PARKS. (ab) In this subsection:

1. "Governmental unit" means a municipality or the Kickapoo reserve management board.

2. "Municipality" means a city, village, town or county.

3. "Nature−based outdoor recreation" has the meaning given by the department by rule under s. 23.0917 (4) (f).

(am) Any governmental unit may apply for state aids for the acquisition and development of recreational lands and rights in lands. State aids under this subsection that are expended from the appropriation under s. 20.866 (2) (ta) may only be used for nature−based outdoor recreation. State aids received by a municipality shall be used for the development of its park system in accordance with priorities based on comprehensive plans submitted with the application and consistent with the outdoor recreation program under s. 23.30. An application under this subsection shall be made in the manner the department prescribes.

(b) Except as provided in s. 23.096 (2m), state aid under this subsection is limited to no more than 50% of the acquisition costs and the development costs of recreation lands and other outdoor recreation facilities. Costs associated with operation and maintenance of parks and other outdoor recreational facilities established under this subsection are not eligible for state aid. Administrative costs of acquiring lands or land rights are not included in the acquisition costs eligible for state aid under this subsection. Title to lands or rights in lands acquired by a municipality under this subsection shall vest in the municipality, but such land shall not be converted to uses inconsistent with this subsection without prior approval of the state and proceeds from the sale or other disposal of such lands shall be used to promote the objectives of this subsection.

(d) Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than $2,250,000 each fiscal year for local park aids under this subsection and for grants for this purpose under s. 23.096.

(e) The department may not award state aid under this subsection from the appropriation under s. 20.866 (2) (tz) to the Kickapoo reserve management board.

Cross−reference: See also ch. NR 50, Wis. adm. code.

(20m) GRANTS FOR ACQUISITION OF DEVELOPMENT RIGHTS. (a) In this subsection:

1. "Governmental unit" means a city, village, town, county or the Kickapoo reserve management board.

2. "Nature−based outdoor recreation" has the meaning given by the department by rule under s. 23.0917 (4) (f).

3. "Nonprofit conservation organization" has the meaning given in s. 23.0955 (1).

(b) The department shall establish a program to award grants from the appropriation under s. 20.866 (2) (ta) to governmental units and nonprofit conservation organizations to acquire development rights in land for nature−based outdoor recreation. Except as provided in s. 23.096 (2m), the grants shall be limited to no more than 50% of the acquisition costs of the development rights.

(21) CREATION OF NEW LAKES. The department may create new lakes on lands under its supervision and control.

(21m) ENVIRONMENTAL CLEANUP. The department may engage in environmental clean−up activities on the lands under its ownership, management, supervision or control.

(22) INFORMATION TO BE INCLUDED IN GEOGRAPHIC INFORMATION SYSTEMS. The department shall include physical and chemical information about groundwater and soil in its geographic information systems.

(22m) SITING OF ELECTRIC TRANSMISSION FACILITIES. The department shall implement the policy specified in s. 1.12 (6) in making all decisions, orders, and rules affecting the siting of new electric transmission facilities.

(23) VOLUNTARY CONTRIBUTIONS; NATURAL RESOURCES FOUNDATION OF WISCONSIN. (a) In this subsection, "approval" means any type of approval or authorization issued by the department under ch. 29, subch. V. of ch. 30, or s. 23.33 (2), 27.01, or 350.12, including a license, permit, certificate, stamp, tag, registration, or vehicle admission receipt.

(b) Any applicant for an approval may, in addition to paying any fee charged for the approval, elect to make a voluntary contribution of at least $2 to the Natural Resources Foundation of Wisconsin to be used by the Natural Resources Foundation of Wisconsin to establish an endowment program to support habitat management activities on land owned or managed by this state.

(c) All moneys collected under par. (b) shall be credited to the appropriation account under s. 20.370 (5) (fw).

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NOTE: The cross−reference to s. 20.370 (5) (fw) was changed from s. 20.370 (5) (fv) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering under s. 13.92 (1) (bm) 2. of s. 20.370 (5) (fv), as created by 2011 Wis. Act 148.

(d) The department shall enter into an agreement with the Natural Resources Foundation of Wisconsin to make payments, at least annually, from the appropriation under s. 20.370 (5) (fw) to the Natural Resources Foundation of Wisconsin to be used by the Natural Resources Foundation of Wisconsin to establish an endowment program to support habitat management activities on land owned or managed by this state. The memorandum of agreement shall include a description of the types of activities that the Natural Resources Foundation of Wisconsin will support under the endowment program, the manner in which the endowment program funds will be managed, and, if the Natural Resources Foundation of Wisconsin will make grants under the endowment program, the methods that will be used to award the grants.

NOTE: The cross−reference to s. 20.370 (5) (fw) was changed from s. 20.370 (5) (fv) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering under s. 13.92 (1) (bm) 2. of s. 20.370 (5) (fv), as created by 2011 Wis. Act 148.

(26) AIDS TO COUNTIES FOR SNOWMOBILE PURPOSES. (a) The procedures in sub. (11) (a), (d), (e) and (f) shall apply to this subsection except that the department shall consult with the snowmobile recreational council before adopting snowmobile trail construction standards, the restriction in sub. (11) (a) as to county lands is not applicable, the restriction in sub. (11) (d) as to encumbrance of funds is not applicable and the restriction in sub. (11) (e) as to requests for state aids exceeding available funds is not applicable.

(am) Counties may receive aids under this subsection distributed in accordance with s. 350.12 (4) to:

1. Purchase lands or secure easements, leases, permits or other appropriate agreements, written or oral, permitting use of private property for snowmobile trails, facilities and areas, if such easements, leases, permits or other agreements provide public access to the trail, facility or area. No lands purchased or leases, easements, permits or agreements secured under authority of this section may be acquired by the county through condemnation. Counties shall certify to the department that such lands, easements, leases, permits or other appropriate agreements have been secured. However, when bridges, culverts, toilet facilities, parking lots or shelters are to be constructed under this section and the improvements are estimated to cost in excess of $3,000, the land underlying such improvements must be purchased by the county or secured by the county by written easements or leases having a term of not less than 3 years.

2. Enter into agreements with the department to use for snowmobile trails, facilities or areas lands owned or leased by the department. No lands of the department to be used for snowmobiling purposes within the meaning of this subsection may be obtained through condemnation.

3. Develop and maintain snowmobile trails, facilities and areas on public lands designated by the county board or trails or areas under subd. 1. or 2.

4. Enforce laws in or on snowmobile trails, facilities or areas. As used in this subdivision, "facility" means a parking area, shelter or toilet.

5. Undertake major reconstruction or rehabilitation projects to improve bridges on existing approved trails.

(b) The county board of any county, which, by resolution, indicates its desire to receive aids under this subsection shall apply to the department on forms prescribed by the department and submit required documentation as set forth by rule on or before April 15, beginning in 1978. A decision on an aid application shall be made by the department on or before July 1, beginning in 1978.

(c) Distribution of snowmobile trail funds shall be made on the basis of a priority system according to the following priority−ranked purposes:

1. Maintenance of existing approved trails.

2. Club signing program.

3. Major bridge reconstruction or rehabilitation.

4. Route signing program.

5. Trail rehabilitation.

6. Development of new trails.

(cg) For the purposes of pars. (am) 3. and (c) 1., maintenance includes the following:

1. The purchase of liability insurance.

2. The acquisition of interests in land, by lease, easement, permit or other agreement if the term of the acquisition is for a period of less than 3 years.

(cr) For the purposes of pars. (am) 3., (c) 6., (d), (e) and (f), development includes the following:

1. The purchase of land in fee simple.

2. The acquisition of interests in land by lease, easement, permit, or other agreement if the term of the acquisition is for a period of 3 years or longer.

(d) Distribution of snowmobile trail development funds shall be limited to trails which provide a primary access route through one county and connect with another county's trails, provide access from population centers to main access trails or support a high volume of use. Counties applying for aid for snowmobile trail development shall identify the type of trail for which aid is being sought on the forms under par. (b).

(e) Distribution of snowmobile trail development funds shall be made on the basis of a priority system according to the following priority−ranked criteria:

1. Trails in counties where there are no funded trails or trails are in short supply in comparison to demand.

2. Trails to be developed on public−owned or long−term easement land.

3. Trails which can be developed to provide more trail miles for less cost.

(f) 1. Except as provided under subd. 2., the maximum amount allowed for general trail development including bridge construction is $500 per mile.

2. The maximum amount allowed for general trail development including bridge construction may exceed $500 per mile if the amount is recommended by the snowmobile recreation council and approved by the department.

Cross−reference: See also ch. NR 50, Wis. adm. code.

History: 1971 c. 40 s. 93; 1971 c. 125 s. 522 (1); 1971 c. 215, 277, 326; 1973 c. 251, 298, 333; 1975 c. 39 ss. 249, 249a, 250m, 734; 1975 c. 91, 200, 224, 365; 1977 c. 29, 402, 406; 1979 c. 34 ss. 699m to 701g, 2102 (39) (a); 1979 c. 89; 1981 c. 20 ss. 598 to 599s, 2202 (38) (c); 1981 c. 295; 1981 c. 390 s. 252; 1983 a. 27, 243; 1985 a. 29, 65, 322; 1985 a. 332 ss. 34, 251 (1); 1987 a. 27, 98, 295, 403; 1989 a. 31, 336, 359; 1991 a. 39, 269, 309; 1993 a. 16, 343, 436, 490; 1995 a. 27, 218, 257, 349, 417; 1997 a. 27, 35, 248, 313; 1999 a. 9, 32, 83; 2001 a. 38, 56, 104, 109; 2003 a. 33, 89; 2005 a. 25, 166, 286; 2007 a. 20; 2009 a. 276; 2011 a. 148; s. 13.92 (1) (bm) 2.; s. 35.17 correction in (23) (c).

Cross−reference: See also ch. NR 1, Wis. adm. code.

A determination of necessity for condemning lands for conservation purposes is not invalidated by a showing that the board considered the question of whether the legislature might later decide to use the land for other purposes. Herro v. Natural Resources Board, 53 Wis. 2d 157, 192 N.W.2d 104 (1971).

Property acquisition by the department when there is a bona fide intent not to condemn is discussed. 68 Atty. Gen. 3.

23.091 Recreation areas. (1) DESIGNATION. The department may acquire, develop, operate and maintain state recreation areas. State lands and waters may be designated as state recreation areas that are environmentally adaptable to multiple recreational uses, or are so located to provide regional or urban recreational opportunities or for preservation.

(2) MASTER PLAN. The department may designate a recreational area only after a master plan for use and management of the area is prepared, public hearings on the plan are held in the county where the largest portion of land in the project is located, the procedures prescribed in s. 1.11 are complied with, and the plan is approved by the natural resources board.

(3) USE ZONES. The department may establish use zones within state recreation areas providing for the full range of recre-

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ational uses, including hunting and fishing. It may promulgate rules to control uses within zones and may limit the number of persons using any zone. Such use zones shall be consistent with the activities identified in the master plan formulated under sub. (2).

History: 1977 c. 29; 1985 a. 332 s. 251 (1); 1987 a. 298.

Cross−reference: See also ch. NR 44, Wis. adm. code.

23.0912 Land management, maintenance, and improvement activities. (1b) In this section:

(a) "Department land" has the meaning given in s. 23.0917 (1) (c).

(b) "Nonprofit conservation organization" has the meaning given in s. 23.0955 (1).

(1g) The department may contract with nonprofit conservation organizations and other 3rd parties to perform land management, maintenance, and improvement activities on department land.

(1m) The department may receive gifts, grants, and bequests of money, materials, or services from nonprofit conservation organizations and other donors for the performance of land management, maintenance, and improvement activities on department land.

(1r) The department may acknowledge the performance of activities pursuant to contracts under sub. (1g) and the receipt of moneys, materials, and services under sub. (1m) by the use of signs or by bulletins, pamphlets, or other communications that are published or electronically transmitted by the department.

(2) The department shall prepare, for the joint committee on finance, an annual report concerning any contracts into which the department enters under sub. (1g) during each fiscal year. For each contract entered, the report shall include information concerning the cost of the contract, the activities performed under the contract, and an assessment of the cost−effectiveness of the contract. The department shall submit the report to the committee no later than November 15 for the preceding fiscal year, and shall submit the first report no later than November 15, 2008.

History: 2007 a. 20; 2011 a. 32.

23.0913 Report on land acquisitions. (1) In this section, "land" has the meaning given in s. 23.0917 (1) (d).

(2) On or before November 15 of each odd−numbered year, the department of natural resources shall submit to the joint committee on finance and to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3) a report regarding the total number of acres of land that the department plans to acquire for any of the purposes specified in s. 23.09 (2) (d).

History: 2011 a. 32.

23.0915 Warren Knowles−Gaylord Nelson stewardship program. (1) DESIGNATED AMOUNTS. The legislature intends that the department will expend the following designated amounts under the Warren Knowles−Gaylord Nelson stewardship program from the appropriation under s. 20.866 (2) (tz) for the following purposes in each fiscal year, the expenditures beginning with fiscal year 1990−91 and ending in fiscal year 1999−2000, except as provided in sub. (2c):

(a) General land acquisition, urban river grants and the Frank Lloyd Wright Monona terrace project, $8,600,000.

(b) General property development, $3,500,000.

(c) Local park aids, $2,250,000.

(d) Lower Wisconsin state riverway acquisition, $2,000,000.

(e) Habitat areas and fisheries, $1,500,000.

(f) Stream bank protection, $1,000,000.

(g) Trails, $1,000,000.

(h) Natural areas acquisition, $1,500,000.

(i) Urban green spaces, $750,000.

(j) Natural areas heritage program, $500,000.

(k) Ice age trail, $500,000.

(Lg) Hank Aaron State Trail, a total of $1,360,000.

(Lr) Flambeau Mine Trail, a total of $100,000, to be expended beginning in fiscal year 1997−98.

(m) Horicon Marsh interpretative center, a total of $250,000, to be expended beginning in fiscal year 1991−92.

(n) Crex Meadows Wildlife Area education center, a total of $250,000, to be expended beginning in fiscal year 1997−98.

(1g) LAND ACQUISITION; URBAN RIVER GRANTS. Beginning in fiscal year 1992−93 and ending in fiscal year 1999−2000, the department for each fiscal year shall designate for expenditure $1,900,000 of the moneys appropriated under s. 20.866 (2) (tz) for land acquisition for urban river grants under s. 30.277.

(1m) PROHIBITIONS ON EXPENDITURES. (a) 1. The department may not expend moneys from the appropriation under s. 20.866 (2) (tz) for the acquisition of land for golf courses or for the development of golf courses.

2. Subdivision 1. does not apply to the expenditure of moneys approved under an application that was made before April 1, 1995, and that was approved by the department before April 10, 1995.

(b) The department may not expend moneys from the appropriation under s. 20.866 (2) (tz) for the acquisition or development of land by a county or other local governmental unit or political subdivision if the county, local governmental unit or political subdivision acquires the land involved by condemnation.

(c) The department may not expend moneys from the appropriation under s. 20.866 (2) (tz) for the acquisition by a city, village or town of land that is outside the boundaries of the city, village or town unless the city, village or town acquiring the land and the city, village or town in which the land is located approve the acquisition.

(1r) AMOUNTS FOR CERTAIN FISCAL YEARS; LAND ACQUISITION; URBAN RIVER GRANTS. Notwithstanding sub. (1g), for fiscal years 1993−94, 1994−95 and 1995−96, the department shall designate for expenditure for each fiscal year $1,900,000 of the moneys appropriated under s. 20.866 (2) (tz) by making the following calculations:

(a) The department shall set aside $1,000,000 in each fiscal year to be used only for the Frank Lloyd Wright Monona terrace project as provided in s. 23.195.

(c) For land acquisition, the department shall designate for expenditure $900,000 for urban river grants under s. 30.277 and for grants under s. 23.096 for the purposes under s. 30.277 (2) (a).

(2) ADJUSTED EXPENDITURE LIMITS. (a) Beginning with fiscal year 1990−91, if the department expends in a given fiscal year an amount from the moneys appropriated under s. 20.866 (2) (tz) for a purpose under sub. (1) (a) or (c) to (k) that is less than the amount designated for that purpose for that given fiscal year under sub. (1) (a) or (c) to (k), the department may adjust the expenditure limit under the Warren Knowles−Gaylord Nelson stewardship program for that purpose by raising the expenditure limit, as it may have been previously adjusted under this paragraph and par. (b), for the next fiscal year by the amount that equals the difference between the amount designated for that purpose and the amount expended for that purpose in that given fiscal year.

(b) Beginning with fiscal year 1990−91, if the department expends in a given fiscal year an amount from the moneys appropriated under s. 20.866 (2) (tz) for a purpose under sub. (1) (a) or (c) to (k) that is more than the amount designated for that purpose for that given fiscal year under sub. (1) (a) or (c) to (k), the department shall adjust the expenditure limit under the Warren Knowles−Gaylord Nelson stewardship program for that purpose by lowering the expenditure limit, as it may have been previously adjusted under this paragraph and par. (a), for the next fiscal year by an amount equal to the remainder calculated by subtracting the amount designated for that purpose from the amount expended, as

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it may be affected under par. (c) or (d), for that purpose in that given fiscal year.

(c) The department may not expend in a fiscal year an amount from the moneys appropriated under s. 20.866 (2) (tz) for a purpose under sub. (1) (a) or (c) to (k) that exceeds the amount equal to the expenditure limit for that purpose as it may have been previously adjusted under pars. (a) and (b), except as provided in par. (d).

(d) In a given fiscal year, in addition to expending the amount designated for a purpose under sub. (1) (a) or (c) to (k), or the amount equal to the expenditure limit for that purpose, as adjusted under pars. (a) and (b), whichever amount is applicable, the department may also expend for that purpose up to 50% of the designated amount for that purpose for the given fiscal year for a project or activity if the natural resources board determines all of the following:

1. That moneys appropriated for that purpose to the department under s. 20.370 and the moneys appropriated under s. 20.866 (2) (tp) to (tw), (ty) and (tz) do not provide sufficient funding for the project or activity.

2. That the property involved in the project or activity covers a large area or the property is uniquely valuable in conserving the natural resources of the state.

3. That delaying or deferring all or part of the cost to a subsequent fiscal year is not reasonably possible.

(e) Paragraphs (a) to (d) do not apply after June 30, 2000.

(2c) EXPENDITURES AFTER JULY 1, 1999. (a) In this subsection:

1. "Commit for expenditure" means to encumber, set aside or otherwise commit or to expend without having previously encumbered or otherwise committed.

2. "Moneys available for expenditure" means moneys that have not been committed for expenditure.

(b) If the amount of moneys available for expenditure for a purpose under sub. (1) (a) to (n) on July 1, 2000, is greater than zero, the department may expend for that purpose any portion of or all of the moneys available for expenditure in one or more subsequent fiscal years, subject to par. (d).

(c) If the amount of moneys available for expenditure for a purpose under sub. (1) (a) to (k) is not sufficient for a given project or activity and if the project or activity is uniquely valuable in conserving the natural resources of the state, the department may expend for that project or activity moneys that are designated for any of the purposes under sub. (1) (a) to (k) in one or more subsequent years, subject to par. (d).

(d) No moneys may be committed for expenditure from the appropriation under s. 20.866 (2) (tz) after June 30, 2020.

(2g) FUNDS FOR MONONA TERRACE PROJECT. If all of the money set aside under s. 23.195 for the Frank Lloyd Wright Monona terrace project is not expended before July 1, 1998, the department shall make the unexpended moneys available for expenditure for land acquisition and for urban river grants under s. 30.277. The moneys expended for the Frank Lloyd Wright Monona terrace project are expended as an amount for land acquisition.

(2j) FLAMBEAU MINE TRAIL. (a) From the moneys appropriated under s. 20.866 (2) (tz), the department shall expend $100,000 for the Flambeau Mine Trail and Rusk County visitor center.

(b) For purposes of sub. (1) and s. 23.17, moneys expended under this subsection shall be treated as moneys expended for trails.

(2m) MONEYS FOR HANK AARON STATE TRAIL. (a) From the moneys appropriated under s. 20.866 (2) (tz), the department shall set aside $400,000 to be used only for the development of the Hank Aaron State Trail.

(d) For purposes of adjusting expenditure limits under sub. (2) (a) to (c), the amount set aside under par. (a) shall be treated as moneys that were expended in fiscal year 1990−91 for wildlife habitat restoration under s. 23.092.

(e) From the moneys appropriated under s. 20.866 (2) (tz), the department shall set aside $290,000 for the Hank Aaron State Trail.

(em) For purposes of sub. (1), moneys expended under par. (e) shall be treated as moneys expended for wildlife habitat restoration under s. 23.092.

(f) From the moneys appropriated under s. 20.866 (2) (tz), the department shall set aside $670,000 for the Hank Aaron State Trail. For purposes of sub. (1) moneys expended under this paragraph shall be treated as follows:

1. As moneys expended for urban rivers, $400,000.

2. As moneys expended for stream bank protection, $200,000.

3. As moneys expended for urban green space, $70,000.

(g) None of the moneys set aside under this subsection may be expended for stadium parking or for any other purpose not directly related to the development of the Hank Aaron State Trail.

(2p) UPPER WHITING PARK. From the appropriation under s. 20.866 (2) (tz), the department shall provide to the village of Whiting $38,000 in fiscal year 1999−2000 for the development of Upper Whiting Park. Notwithstanding s. 23.09 (20) (b), the 50% matching requirement under s. 23.09 (20) (b) does not apply to the state aid provided under this subsection. For purposes of sub. (1), moneys provided under this subsection shall be treated as moneys for local park aids.

(2r) ACQUISITION OF GRANDFATHER FALLS RECREATION AREA. (a) Subject to par. (b), from the appropriation under s. 20.866 (2) (tz), the department shall expend the moneys necessary to purchase approximately 1,485 acres of land in Lincoln County that is commonly known as the Grandfather Falls Recreation Area.

(b) The department may not expend more than $2,138,000 for the land specified under par. (a).

(c) For purposes of sub. (1), moneys expended under par. (a) may be treated as moneys expended for any of the purposes specified under sub. (1) (a) to (k) or any combination of those purposes.

(3) HORICON MARSH INTERPRETATIVE CENTER. (a) From the moneys appropriated under s. 20.866 (2) (tz), the department shall set aside during fiscal year 1991−92 $250,000 for a project to develop a vacant building to be used as an interpretative and administrative center for the Horicon Marsh area. Expenditures under this paragraph shall be made in a manner that, for every $3 received by the department from private grants, gifts or bequests for the project, $1 will be expended from the moneys under this paragraph.

(b) The department shall expedite the planning, design and development of the interpretative and administrative center.

(3m) CREX MEADOWS WILDLIFE AREA EDUCATION CENTER. (a) From the moneys appropriated under s. 20.866 (2) (tz), the department shall set aside during fiscal year 1997−98 $250,000 for a project to construct and equip a wildlife education center for Crex Meadows Wildlife Area. Expenditures under this paragraph shall be made in a manner that, for every $3 received by the department from private grants, gifts or bequests for the project, $1 will be expended from the moneys under this paragraph.

(b) The department shall expedite the planning, design and development of the education center.

(c) For purposes of sub. (1), moneys set aside by the department under this subsection shall be treated as moneys for general property development.

(4) REVIEW BY JOINT COMMITTEE ON FINANCE. Beginning on December 31, 1995, the department may not encumber or expend from the appropriation under s. 20.866 (2) (tz) for a given project or activity more than $250,000 unless the department first notifies the joint committee on finance in writing of the proposed encumbrance or expenditure. If the cochairpersons of the committee do

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not notify the department within 14 working days after the date of the department's notification that the committee has scheduled a meeting to review the proposed encumbrance or expenditure, the department may make the proposed encumbrance or expenditure. If, within 14 working days after the date of the department's notification, the cochairpersons of the committee notify the department that the committee has scheduled a meeting to review the proposed encumbrance or expenditure, the department may make the proposed encumbrance or expenditure only upon approval of the committee.

History: 1989 a. 31; 1991 a. 39, 269, 309; 1993 a. 16, 213, 343; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2011 a. 32.

23.0916 Stewardship land access. (1) DEFINITIONS. In this section:

(a) "Former managed forest land" means land that was withdrawn from the managed forest land program under subch. VI of ch. 77 on or after October 27, 2007.

(b) "Nature−based outdoor activity" means hunting, fishing, trapping, hiking, cross−country skiing, and any other nature−based outdoor activity designated by rule by the department for purposes of this section.

(c) "Stewardship grant" means a grant that consists in whole or in part of funding from the stewardship program under s. 23.0917.

(2) REQUIREMENT OF ACCESS; NONDEPARTMENT LAND. (a) *Earlier acquisitions.* Except as provided in par. (b) and sub. (4), any person receiving a stewardship grant on or after October 27, 2007, and before July 1, 2011, that will be used to acquire land in fee simple or to acquire an easement on former managed forest land shall permit public access to the land for nature−based outdoor activities.

(am) *Later acquisitions.* Except as provided in par. (b) or (c) and sub. (4), any person receiving a stewardship grant on or after July 1, 2011, that will be used to acquire land in fee simple or to acquire an easement on former managed forest land shall permit public access to the land for nature−based outdoor activities.

(b) *Authority to prohibit access; earlier acquisitions; trails.* Except as provided in par. (c), the person receiving a stewardship grant subject to par. (a) or (am) may prohibit public access for one or more nature−based outdoor activities only if the natural resources board determines that it is necessary to do so in order to do any of the following:

1. Protect public safety.

2. Protect a unique animal or plant community.

3. Accommodate usership patterns, as defined by rule by the department.

(c) *Authority to prohibit access; later acquisitions.* For acquisitions of land or easements that are not for state trails or the ice age trail the person receiving a stewardship grant subject to par. (am) may prohibit public access for one or more nature−based outdoor activities only if the natural resources board determines that it is necessary to do so in order to do any of the following:

1. Protect public safety.

2. Protect a unique animal or plant community.

(3) REQUIREMENT OF ACCESS; DEPARTMENT LAND. (a) *All acquisitions.* Except as provided in par. (b) and sub. (4) and ss. 29.089, 29.091, 29.301 (1) (b), and 29.621 (4), the department shall permit public access for nature−based outdoor activities by others on land that is acquired by the department in fee simple or is an easement acquired by the department on former managed forest land.

(b) *Authority to prohibit access; earlier acquisitions; trails.* The department may prohibit public access on land or an easement subject to par. (a) for one or more nature−based outdoor activities if the natural resources board determines that it is necessary to do so to protect public safety, protect a unique animal or plant community, or accommodate usership patterns, as defined by rule by the department. This paragraph applies to all acquisitions of land in fee simple and easements on former managed forest land that occur on former managed forest land before July 1, 2011, and to the acquisition of easements on former managed forest land for state trails and the ice age trail that occur on or after July 1, 2011.

(c) *Authority to prohibit access; later acquisitions.* The department may prohibit public access on land or an easement subject to par. (a) for one or more nature−based outdoor activities only if the natural resources board determines that it is necessary to do so to protect public safety or to protect a unique animal or plant community. This paragraph applies to acquisitions of land in fee simple and easements on former managed forest land for purposes other than for state trails and the ice age trail that occur on or after July 1, 2011.

(3m) BOARD DETERMINATIONS. (a) Except as provided in par. (b), a determination by the natural resources board under sub. (2) (b) or (c) or (3) (b) or (c) with regard to public access on land or an easement requires 4 or more members of the natural resources board to concur in that determination if the land or easement was acquired on or after April 17, 2012.

(b) Paragraph (a) does not apply to a determination by the natural resources board with regard to public access on an easement, if the primary purpose of the easement is to provide public access to a navigable water on which public fishing is allowed.

(4) FISH AND GAME REFUGES. The department or an owner of land that is in a fish or game refuge and that is subject to sub. (2) (a) or (am) or (3) (a) may prohibit hunting, fishing, or trapping, or any combination thereof.

(5) RULES. The natural resources board, by rule, shall develop all of the following:

(a) Provisions relating to public access for nature−based outdoor activities for all lands other than those subject to sub. (2) (a) or (am) or (3) (a) that are acquired in whole or in part with funding from the stewardship programs under ss. 23.0915 and 23.0917.

(b) A process for the review of determinations made under subs. (2) (b) or (c) and (3) (b) or (c).

(6) REPORTING REQUIREMENT. The department shall prepare a biennial report that identifies all land subject to this section that has been acquired during the preceding fiscal biennium and upon which public access for any nature−based outdoor activity is prohibited. For each acquisition, the report shall specify for which of these nature−based outdoor activities public access is prohibited and shall include the reason for the prohibition. The department shall submit the report to the joint committee on finance and to the appropriate standing committees of the legislature in the manner provided under s. 13.172 (3). The department shall submit the report no later than November 15 for the preceding fiscal biennium and shall submit the first biennial report no later than November 15, 2009.

History: 2007 a. 20; 2009 a. 28; 2011 a. 32, 168.

23.09165 Stewardship programs information and public access notice. (1) DEFINITIONS. In this section:

(a) "Department land" has the meaning given in s. 23.0917 (1) (c).

(b) "Land" has the meaning given in s. 23.0917 (1) (d).

(c) "Nonprofit conservation organization" has the meaning given in s. 23.0955 (1).

(d) "Stewardship land" means land that is acquired in whole or in part with funding from one or both stewardship programs.

(e) "Stewardship program" means the stewardship program under s. 23.0915 or 23.0917.

(2) LAND MAPPING AND DIRECTORY. (ac) Within 48 months after October 27, 2007, the department shall establish and maintain an interactive mapping tool at the department's Web site that identifies all stewardship land that is open for public access. Public access to the mapping tool at the Web site shall be available without charge.

(bc) Within 24 months after December 21, 2011, the department shall make available to the public a written directory of all

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stewardship land that is open for public access. The directory shall be organized by county and town and shall clearly show the location of the stewardship land and named or numbered roads. The directory shall be updated at least every 2 years. In lieu of the department itself making available the written directory, the department may make available a written directory that is published by a private entity and that meets the requirements of this paragraph. The department may charge a fee for either directory, but the fee may not exceed the cost of preparing and publishing the directory.

(3) NOTICE OF ACCESS TO STEWARDSHIP LAND. (a) An owner of stewardship land acquired on or after October 27, 2007, shall, within 6 months after the disbursement of the stewardship program funds, provide notice of public access to the stewardship land by the placement of signs adequate to give notice. The owner of stewardship land acquired before October 27, 2007, shall provide notice of public access to the stewardship land by the placement of signs adequate to give notice within 48 months after October 27, 2007. The area of each sign shall be at least 108 square inches, and each sign shall be made of a durable substance. The signs shall be placed at major access points to the stewardship land.

(b) If the stewardship land that is acquired on or after October 27, 2007, is surrounded by department land, the department shall, within 6 months after the disbursement of stewardship program funds, provide notice of public access to the stewardship land by the placement of signs adequate to give notice at the major access points to the department land. If the stewardship land that is acquired before October 27, 2007, is surrounded by department land, the department shall provide notice of public access to the stewardship land by the placement of signs adequate to give notice at the major access points to the department land within 48 months after October 27, 2007. The area of each sign shall be at least 108 square inches, and each sign shall be made of a durable substance.

(c) The signs required under pars. (a) and (b) shall list either the primary activities that are restricted or prohibited on the stewardship land or the primary activities that are permitted on the stewardship land. The signs shall include either the name of the owner of the stewardship land or a person to contact regarding the stewardship land. Signs shall also be placed at the specified major access points that give notice that the stewardship land was acquired in whole or in part using stewardship program funds. The department may specify the amount of detail that is required on the signs to assure that the signs provide sufficient and useful information.

(d) If the stewardship land described under par. (a) or (b) has a cumulative acreage of 10 acres or more, the signs under par. (a) or (b) shall also include one of the following:

1. The postal address or telephone number of the owner of the stewardship land.

2. The postal address or telephone number of a person to contact regarding the stewardship land.

3. An Internet Web site address where a person can locate the information listed in subd. 1. or 2.

(ec) Within 24 months after December 21, 2011, the department shall make available to the public a written list of all stewardship land that was acquired before October 27, 2007, and for which public access has been restricted or prohibited and the reasons for that action.

(f) If an owner of any stewardship land fails to comply with the requirements of par. (a), that person is not eligible for any subprogram or grant or other state aid under the stewardship programs until the department determines that the person is in compliance with par. (a).

(g) If the department is notified that a sign required under par. (a) or (b) needs replacing, within 28 days after receiving that notification the department shall determine if the sign needs to be replaced. The department shall replace any sign required under par. (b) within 28 days after determining that the sign needs to be replaced. Within 7 days after determining that a sign required under par. (a) needs to be replaced, the department shall notify the owner of that determination. The owner of stewardship land that placed signs as required under par. (a) shall be ineligible for any subprogram or grant or other state aid under the stewardship programs if the sign is not replaced within 3 months after receiving the notice.

(h) If the department authorizes a nonprofit conservation organization to charge a fee for hunting on stewardship land, the fee for the hunting season may not exceed the sum of the fee for a daily resident vehicle admission receipt under s. 27.01 (7) (f) 2. and the issuing fee for a daily vehicle admission receipt under s. 27.01 (7) (gr).

(4) CONTACT INFORMATION. An owner of stewardship land shall provide information requested by the department that will enable the department to contact that owner.

(5) APPLICABILITY. This section does not apply to the following stewardship land:

(a) Easements used for trails.

(b) Easements for which the primary purpose of the easement is not public access.

(c) Land acquired or managed under s. 23.17.

History: 2007 a. 20; 2009 a. 28; 2011 a. 95.

23.0917 Warren Knowles−Gaylord Nelson stewardship 2000 program. (1) DEFINITIONS. In this section:

(a) "Annual bonding authority" means the amount that may be obligated under a subprogram for a fiscal year.

(am) "Available bonding authority" means the annual bonding authority as it may be adjusted under sub. (4g) (b), (4m) (k), (5) or (5m).

(b) "Baraboo Hills" means the area that is within the boundaries of the Baraboo Range National Natural Landmark.

(c) "Department land" means an area of land that is owned by the state, that is under the jurisdiction of the department and that is used for one of the purposes specified in s. 23.09 (2) (d).

(d) "Land" means land in fee simple, conservation easements, other easements in land and development rights in land.

(dm) "Nonprofit conservation organization" has the meaning given in s. 23.0955 (1).

(e) "Obligate" means to encumber or otherwise commit or to expend without having previously encumbered or otherwise committed.

(f) "Owner's acquisition price" means the amount equal to the price the owner paid for the land or if the owner acquired the land as a gift or devise, the amount equal to the appraised value of the land at the time it was transferred to the owner.

(g) "Remaining bonding authority" means the amount of moneys that has not been obligated.

(i) "Total bonding authority" means the total amount that may be obligated under a subprogram under the Warren Knowles−Gaylord Nelson stewardship 2000 program over the entire duration of the program.

(2) ESTABLISHMENT. (a) The department shall establish the following subprograms under the Warren Knowles−Gaylord Nelson stewardship 2000 program:

1. A subprogram for land acquisition for conservation and recreational purposes.

2. A subprogram for property development and local assistance.

3. A subprogram for bluff protection.

3m. A subprogram for recreational boating aids.

4. A subprogram for land acquisition in the Baraboo Hills for conservation purposes.

(b) Except as provided in sub. (5m), no moneys may be obligated from the appropriation under s. 20.866 (2) (ta) before July 1, 2000.

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(3) LAND ACQUISITION SUBPROGRAM. (a) Beginning with fiscal year 2000−01 and ending with fiscal year 2019−20, the department may obligate moneys under the subprogram for land acquisition to acquire land for the purposes specified in s. 23.09 (2) (d) and grants for these purposes under s. 23.096, except as provided under ss. 23.197 (2m), (3m) (b), (7m), and (8) and 23.198 (1) (a).

(b) In obligating moneys under the subprogram for land acquisition, the department shall set aside in each fiscal year $3,000,000 that may be obligated only for state trails and the ice age trail and for grants for the state trails and the ice age trails under s. 23.096. The period of time during which the moneys shall be set aside in each fiscal year shall begin on the July 1 of the fiscal year and end on the June 30 of the same fiscal year.

(bm) During the period beginning with fiscal year 2001−02 and ending with fiscal year 2019−20, in obligating money under the subprogram for land acquisition, the department shall set aside not less than a total of $ 2,000,000 that may be obligated only to provide matching funds for grants awarded to the department for the purchase of land or easements under 16 USC 2103c.

(br) Beginning with fiscal year 2010−11 and ending with fiscal year 2019−20, in obligating moneys under the subprogram for land acquisition, the department shall set aside in each fiscal year not less than $12,000,000 that may be obligated only to provide for grants awarded to nonprofit conservation organizations under s. 23.096.

(c) In obligating moneys under the subprogram for land acquisition, the department shall give priority to all of the following purposes and to awarding grants under s. 23.096 for all the following purposes:

1. Acquisition of land that preserves or enhances the state's water resources, including land in and for the Lower Wisconsin State Riverway; land abutting wild rivers designated under s. 30.26, wild lakes and land along the shores of the Great Lakes.

2. Acquisition of land for the stream bank protection program under s. 23.094.

3. Acquisition of land for habitat areas and fisheries under s. 23.092.

4. Acquisition of land for natural areas under ss. 23.27 and 23.29.

6. Acquisition of land in the middle Kettle Moraine.

7. Acquisition of land in the Niagara Escarpment corridor.

(dm) Except as provided in subs. (4g) (b), (4m) (k), (5) and (5m), the department may not obligate under the subprogram for land acquisition more than the following amounts:

1. For fiscal year 2000−01, $28,500,000.

1m. For fiscal year 2001−02, $34,500,000.

2. For each fiscal year beginning with fiscal year 2002−03 and ending with fiscal year 2006−07, $45,000,000.

3. For fiscal year 2007−08, $43,500,000.

3m. For fiscal years 2008−09 and 2009−10, $42,500,000 for each fiscal year.

4. For fiscal year 2010−11, $62,000,000.

5. For fiscal year 2011−12, $37,500,000.

6. For fiscal year 2012−13, $36,500,000.

7. For each fiscal year beginning with 2013−14 and ending with fiscal year 2019−20, $42,500,000.

(e) For purposes of this subsection, the department by rule shall define "wild lake".

(4) PROPERTY DEVELOPMENT AND LOCAL ASSISTANCE SUBPROGRAM. (a) Beginning with fiscal year 2000−01 and ending with fiscal year 2019−20, the department may obligate moneys under the subprogram for property development and local assistance. Moneys obligated under this subprogram may be only used for nature−based outdoor recreation, except as provided under par. (cm).

(b) The purposes for which moneys may be obligated for local assistance under the subprogram for property development and local assistance are the following:

1. Grants for urban green space under ss. 23.09 (19) and 23.096.

2. Grants for local parks under ss. 23.09 (20) and 23.096.

3. Grants for acquisition of property development rights under ss. 23.09 (20m) and 23.096.

4. Grants for urban rivers under ss. 23.096 and 30.277.

(c) The purposes for which moneys may be obligated for property development under the subprogram for property development and local assistance are the following:

1. Property development of department lands.

2. Property development on conservation easements adjacent to department lands.

3. Grants under s. 23.098.

(cm) Notwithstanding the purposes for which the department is authorized to obligate moneys under pars. (a), (b), and (c), the department may obligate moneys under the subprogram for property development and local assistance for any of the following purposes:

1. Construction of the Wisconsin agricultural stewardship initiative facility under s. 23.197 (7m).

1m. Construction of a visitor center and administration building at the Kickapoo valley reserve under s. 23.197 (2m).

2. Projects approved by the state fair park board under s. 23.197 (8).

3. Reconstruction of the chalet at Rib Mountain State Park under s. 23.197 (3m) (b).

6. Restoration of an area on the exposed bed of the former flowage on the Prairie River.

(d) In obligating moneys under the subprogram for property development and local assistance, all of the following shall apply:

1. The department may obligate not more than $11,500,000 in fiscal year 2000−01 and not more than $11,500,000 in fiscal year 2001−02 under the subprogram except as provided in sub. (5). For each fiscal year beginning with 2002−03 and ending with fiscal year 2009−10, the department may obligate not more than $15,000,000 under the subprogram except as provided in sub. (5). For fiscal year 2010−11 the department may obligate not more than $21,500,000 under the subprogram except as provided in sub. (5).

1m. Except as provided in sub. (5), the department may not obligate under the subprogram more than the following amounts:

a. For fiscal year, 2011−12, $20,000,000.

b. For fiscal year 2012−13, $21,000,000.

c. For each fiscal year beginning with 2013−14 and ending with fiscal year 2019−20, $15,000,000.

2. Beginning with fiscal year 2000−01 and ending with fiscal year 2009−10, the department may obligate not more than $8,000,000 in each fiscal year for local assistance.

2n. For fiscal year 2010−11, the department may obligate not more than $11,500,000 for local assistance.

2p. Beginning with fiscal year 2011−2012 and ending with fiscal year 2019−20, the department may obligate not more than $8,000,000 in each fiscal year for local assistance.

3. The department shall obligate at least $3,500,000 in each fiscal year for property development.

(f) For purposes of this subsection, the department by rule shall define "nature−based outdoor recreation".

(4g) BLUFF PROTECTION. (a) The department may not obligate more than $1,000,000 under the subprogram for bluff protection.

(b) If the total amount obligated for the subprogram for bluff protection on June 30, 2004, is less than $1,000,000, the department shall calculate the unobligated amount by subtracting the

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total obligated amount from $1,000,000. The department shall then adjust the available bonding authority for the subprogram for land acquisition by increasing the available bonding authority in an amount equal to the unobligated amount.

(c) The department may not obligate moneys for the subprogram for bluff protection after June 30, 2004.

(4j) RECREATIONAL BOATING AIDS. (a) In this subsection "local governmental unit" means a city, village, town, or county, a lake sanitary district, as defined in s. 30.50 (4q), a public inland lake protection and rehabilitation district organized under ch. 33, or any other local governmental unit, as defined in s. 66.0131 (1) (a), that is established for the purpose of lake management.

(b) For fiscal year 2007−08, the department may not obligate more than $1,500,000 for cost−sharing with local governmental units for recreational boating projects under s. 30.92. For each fiscal year beginning with fiscal year 2008−09 and ending with fiscal year 2019−20, the department may not obligate more than $2,500,000 for cost−sharing with local governmental units for recreational boating projects under s. 30.92.

(4m) BARABOO HILLS. (a) *Definitions.* In this subsection:

1. "Assigned amount" means the sum of the amounts made available for expenditure under par. (g) and the amounts set aside by the department under par. (h) 1.

2. "Federal nontransportation moneys" means moneys received from the federal government that are not deposited in the transportation fund and that are not credited to the appropriation under s. 20.115 (2) (m).

3. "Local governmental unit" means a city, village, town, county, lake sanitary district, as defined in s. 30.50 (4q), or a public inland lake protection and rehabilitation district.

(b) *Matching funding.* The department shall provide funding under the subprogram for the Baraboo Hills to match the value of land acquisitions that are certified as qualifying matching land acquisitions under par. (e).

(c) *Overall requirements.* 1. The department may obligate not more than $5,000,000 under the subprogram for the Baraboo Hills.

2. The amount of moneys, other than federal moneys, that may be used by local governmental units or nonprofit conservation organizations to make land acquisitions that are certified as qualifying matching land acquisitions under par. (e) may not exceed $2,500,000.

3. Land that is either certified as a qualifying matching land acquisition under par. (e) or (h) 2. or acquired with moneys made available for expenditure under par. (g) or (h) 2. may not be department land or land that is otherwise owned or under the jurisdiction of the state on October 29, 1999.

(d) *Matching land acquisitions; requirements.* The department may only certify as a qualifying matching land acquisition in the Baraboo Hills an acquisition to which all of the following apply:

1. The land is being acquired for conservation purposes.

2. The land is being acquired by the federal government, by a local governmental unit or by a nonprofit conservation organization.

3. Any federal moneys being used for the acquisition are federal nontransportation moneys.

(e) *Matching land acquisitions; certification.* The department shall certify which land acquisitions qualify as matching land acquisitions for the subprogram for the Baraboo Hills and shall determine the values of these matching land acquisitions as provided in par. (f).

(f) *Matching land acquisitions; valuation.* The value of a land acquisition that is certified as a qualifying matching land acquisition under par. (e), shall be calculated as follows:

1. For land that is acquired by purchase at fair market value, the value shall equal the sum of the purchase price and the costs incurred by the federal government, local governmental unit or nonprofit conservation organization in acquiring the land.

2. For land that is acquired by gift or bequest or by purchase at less than fair market value, the value shall equal the sum of the appraised fair market value of the land at the time of the acquisition and the costs incurred by the acquiring entity in acquiring the land. The acquiring entity shall supply the appraisal upon which the appraised fair market value is based.

(g) *Matching land acquisitions; available moneys.* For each land acquisition that is certified as a qualifying matching land acquisition under par. (e), the department shall make available for expenditure moneys in an amount that equals the value of the land acquisition, as calculated under par. (f). This paragraph does not apply to a land acquisition that is acquired with moneys committed by the federal government, local governmental unit or nonprofit conservation organization under par. (h).

(h) *Matching land acquisitions; future commitments.* 1. In addition to the moneys made available for expenditure under par. (g), the department shall set aside moneys in amounts that equal amounts that the federal government, local governmental units or nonprofit conservation organizations commit for the acquisition of land in the Baraboo Hills for conservation purposes. Federal moneys that are committed under this paragraph shall be federal nontransportation moneys. The department may set aside moneys under this paragraph only for commitments that are made before January 1, 2006.

2. For each land acquisition that is made by using moneys that are committed by the federal government, a local governmental unit or a nonprofit conservation organization under this paragraph and that is certified as a qualifying matching land acquisition under par. (e), the department shall make available for expenditure moneys in an amount that equals the value of the land acquisition, as calculated under par. (f), after the acquisition is certified.

(i) *Available moneys; uses.* The moneys made available for expenditure under par. (g) or (h) 2. may be used by the department to acquire land in the Baraboo Hills for conservation purposes and to award grants to local governmental units and nonprofit conservation organizations.

(j) *Available moneys; grant requirements.* A local governmental unit or nonprofit conservation organization that receives a grant under par. (i) does not need to provide any matching funding. Land acquired with moneys from a grant awarded under par. (i) may not be certified by the department as a qualifying matching land acquisition under par. (e). Grants awarded under par. (i) shall be used to acquire land for conservation purposes in the Baraboo Hills.

(k) *Unassigned amount.* If the assigned amount for the subprogram for the Baraboo Hills on January 1, 2006, is less than the available bonding authority, the department shall calculate the unassigned amount by subtracting the assigned amount from the available bonding authority. The department shall then adjust the annual bonding authority for the subprogram for land acquisition by increasing its annual bonding authority by an amount equal to this unassigned amount. The department shall expend any assigned amount that has not been expended before January 1, 2006, for acquisitions, by the department, of land for conservation purposes and for grants that meet the requirements under par. (j).

(L) *Highway construction required.* No moneys may be obligated for the subprogram for the Baraboo Hills before the department of transportation certifies to the department of natural resources that highway construction that will result in at least 4 traffic lanes has begun on the portion of USH 12 between the city of Middleton and the village of Sauk City.

(5) ADJUSTMENTS FOR SUBSEQUENT FISCAL YEARS. (a) If for a given fiscal year the department obligates an amount from the moneys appropriated under s. 20.866 (2) (ta) for a subprogram under sub. (3) or (4) that is less than the annual bonding authority for that subprogram for that given fiscal year, the department shall

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adjust the annual bonding authority for that subprogram by raising the annual bonding authority, as it may have been previously adjusted under this paragraph and par. (b), for the next fiscal year by the amount that equals the difference between the amount authorized for that subprogram and the obligated amount for that subprogram in that given fiscal year. This paragraph does not apply after fiscal year 2010−11.

(b) If for a given fiscal year the department obligates an amount from the moneys appropriated under s. 20.866 (2) (ta) for a subprogram under sub. (3) or (4) that is more than the annual bonding authority for that subprogram for that given fiscal year, the department shall adjust the annual bonding authority for that subprogram by lowering the annual bonding authority, as it may have been previously adjusted under this paragraph and par. (a), for the next fiscal year by an amount equal to the remainder calculated by subtracting the amount authorized for that subprogram from the obligated amount, as it may be affected under par. (c) or (d), for that subprogram in that given fiscal year.

(c) The department may not obligate for a fiscal year an amount from the moneys appropriated under s. 20.866 (2) (ta) for a subprogram under sub. (3) or (4) that exceeds the amount equal to the annual bonding authority for that subprogram as it may have been previously adjusted under pars. (a) and (b), except as provided in par. (d).

(d) For a given fiscal year, in addition to obligating the amount of the annual bonding authority for a subprogram under sub. (3) or (4), or the amount equal to the annual bonding authority for that subprogram, as adjusted under pars. (a) and (b), whichever amount is applicable, the department may also obligate for that subprogram up to 100% of the annual bonding authority for that subprogram for that given fiscal year for a project or activity if the natural resources board determines that all of the following conditions apply:

1. That moneys appropriated for that subprogram to the department under s. 20.370 and the moneys appropriated for that subprogram under s. 20.866 (2) (ta), (tp) to (tw), (ty) and (tz) do not provide sufficient funding for the project or activity.

2. That any land involved in the project or activity covers a large area or the land is uniquely valuable in conserving the natural resources of the state.

3. That delaying or deferring all or part of the cost to a subsequent fiscal year is not reasonably possible.

(5g) UNUSED BONDING AUTHORITY. If for a given fiscal year, the department obligates an amount from the moneys appropriated under s. 20.866 (2) (ta) for a subprogram under sub. (3) or (4) that is less than the annual bonding authority under that subprogram for that given fiscal year, the department may not obligate the unobligated amount in subsequent fiscal years. This subsection applies beginning with fiscal year 2011−12 and ending with fiscal year 2019−20.

(5m) ADJUSTMENTS FOR LAND ACQUISITIONS. (a) Beginning in fiscal year 1999−2000, the department, subject to the approval of the governor and the joint committee on finance under sub. (6m), may obligate under the subprogram for land acquisition any amount not in excess of the total bonding authority for that subprogram for the acquisition of land.

(b) For each land acquisition transaction under this subsection, all of the following apply:

1. The department shall sell a portion of the acquired land.

2. All proceeds from the sale of the land, up to the amount obligated under par. (a) as determined by the secretary of administration, shall be deposited in the general fund and credited to the appropriation account under s. 20.370 (7) (ag). Notwithstanding s. 25.29 (1) (a), the proceeds in excess of the amount obligated under par. (a) shall be deposited in the general fund.

3. For bonds that are retired from the proceeds of the sale of the acquired land within 3 years after the date on which the land was acquired by the department, the department shall adjust the available bonding authority for the subprogram for land acquisition by increasing the available bonding authority for the fiscal year in which the bonds are retired by an amount equal to the total amount of the bonds issued for the sale that have been retired in that fiscal year.

4. For bonds that are not retired from the proceeds of the sale of the acquired land within 3 years after the date on which the land was acquired by the department, the department shall adjust the available bonding authority for the subprogram for land acquisition by decreasing the available bonding authority for the next fiscal year beginning after the end of that 3−year period by an amount equal to the total amount of the bonds that have not been retired from such proceeds in that fiscal year and, if necessary, shall decrease for each subsequent fiscal year the available bonding authority in an amount equal to that available bonding authority or equal to the amount still needed to equal the total amount of the bonds that have not been retired from such proceeds, whichever is less, until the available bonding authority has been decreased by an amount equal to the total of the bonds that have not been retired.

(c) Notwithstanding sub. (2) (a) 1., land acquired under this subsection need not be for conservation or recreational purposes.

(d) The department of administration shall monitor all transactions under this subsection to ensure compliance with federal law and to ensure that interest on the bonds is tax−exempt for the holders of the bonds.

(5t) LOCAL GOVERNMENTAL RESOLUTIONS. Each city, village, town, or county may adopt a nonbinding resolution that supports or opposes the proposed acquisition of land to be funded by moneys obligated from the appropriation under s. 20.866 (2) (ta) if all or a portion of the land is located in the city, village, town, or county. The department shall provide written notification of the proposed acquisition to each city, village, town, or county in which the land is located. A city, village, town, or county that adopts a resolution shall provide the department with a copy of the resolution. If the department receives the copy within 30 days after the date that the city, village, town, or county received the notification of the proposed acquisition, the department shall take the resolution into consideration before approving or denying the obligation of moneys for the acquisition from the appropriation under s. 20.866 (2) (ta).

(6m) REVIEW BY JOINT COMMITTEE ON FINANCE. (a) The department may not obligate from the appropriation under s. 20.866 (2) (ta) for a given project or activity any moneys unless it first notifies the joint committee on finance in writing of the proposal. If the cochairpersons of the committee do not notify the department within 14 working days after the date of the department's notification that the committee has scheduled a meeting to review the proposal, the department may obligate the moneys. If, within 14 working days after the date of the notification by the department, the cochairpersons of the committee notify the department that the committee has scheduled a meeting to review the proposal, the department may obligate the moneys only upon approval of the committee.

(c) The procedures under par. (a) apply only to an amount for a project or activity that exceeds $250,000, except as provided in pars. (d) and (dm).

(d) The procedures under pars. (a) and (b) [par. (a)] apply to any land acquisition under sub. (5m).

NOTE: The correct cross−reference is shown in brackets. Corrective legislation is pending.

(dm) The procedures under par. (a) apply to an amount for a project or activity that is less than or equal to $250,000 if all of the following apply:

1. The project or activity is so closely related to one or more other department projects or activities for which the department has proposed to obligate or has obligated moneys under s. 20.866 (2) (ta) that the projects or activities, if combined, would constitute a larger project or activity that exceeds $250,000.

2. The project or activity was separated from a larger project or activity by the department primarily to avoid the procedures under par. (a).

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(e) This subsection does not apply to moneys obligated for the purpose of property development as described under sub. (4) or to moneys obligated for land acquired by the department under s. 24.59 (1).

(7) CALCULATION OF GRANT AMOUNTS; APPRAISALS. (a) Except as provided in pars. (b) and (c), for purposes of calculating the acquisition costs for acquisition of land under ss. 23.09 (19), (20) and (20m), 23.092 (4), 23.094 (3g), 23.0953, 23.096, 30.24 (4) and 30.277 from the appropriation under s. 20.866 (2) (ta), the buyer's acquisition price shall equal the sum of the land's current fair market value and other acquisition costs of the buyer, as determined by rule by the department.

(b) For land that has been owned by the current owner for less than one year, the buyer's acquisition price of the land shall equal the sum of the land's current fair market value and other acquisition costs of the buyer, as determined by rule by the department, or the current owner's acquisition price, whichever is lower.

(c) For land that has been owned by the current owner for one year or more but for less than 3 years, the buyer's acquisition price shall equal the lower of the following:

1. The land's current fair market value and other acquisition costs of the buyer as determined by rule by the department.

2. The sum of the current owner's acquisition price and the annual adjustment increase.

(d) For purposes of par. (c) 2., the annual adjustment increase shall be calculated by multiplying the current owner's acquisition price by 5% and by then multiplying that product by one of the following numbers:

1. By one if the land has been owned by the current owner for one year or more but for less than 2 years.

2. By 2 if the land has been owned by the current owner for 2 years or more but for less than 3 years.

(e) 1. For any land for which moneys are proposed to be obligated from the appropriation under s. 20.866 (2) (ta) in order to provide a grant, state aid, or other funding to a governmental unit or nonprofit conservation organization under s. 23.09 (19), (20), or (20m), 23.092 (4), 23.094 (3g), 23.0953, 23.096, 30.24 (2), or 30.277, the department shall use at least 2 appraisals to determine the current fair market value of the land. The governmental unit or nonprofit conservation organization shall submit to the department one appraisal that is paid for by the governmental unit or nonprofit conservation organization. The department shall obtain its own independent appraisal. The department may also require that the governmental unit or nonprofit conservation organization submit a 3rd independent appraisal. The department shall reimburse the governmental unit or nonprofit conservation organization up to 50% of the costs of the 3rd appraisal as part of the acquisition costs of the land if the land is acquired by the governmental unit or nonprofit conservation organization with moneys obligated from the appropriation under s. 20.866 (2) (ta).

2. Subdivision 1. does not apply if the current fair market value of the land is estimated by the department to be $350,000 or less.

(f) 1. In this paragraph, "taxation district" has the meaning given in s. 70.114 (1) (e).

2. For any acquisition of any land that is funded with moneys obligated from the appropriation under s. 20.866 (2) (ta), the department, within 30 days after the moneys are obligated, shall submit to the clerk and the assessor of each taxation district in which the land is located a copy of every appraisal in the department's possession that was prepared in order to determine the current fair market value of the land involved. An assessor who receives a copy of an appraisal under this subdivision shall consider the appraisal in valuing the land as provided under s. 70.32 (1).

(8) PROHIBITIONS AND LIMITATIONS. (a) The department may not obligate moneys from the appropriation under s. 20.866 (2) (ta) for the acquisition of land for golf courses or for the development of golf courses.

(b) The department may not obligate moneys from the appropriation under s. 20.866 (2) (ta) for the acquisition or development of land by a county or other local governmental unit or political subdivision if the county, local governmental unit, or political subdivision acquires the land involved by condemnation.

(c) The department may not obligate moneys from the appropriation under s. 20.866 (2) (ta) for the acquisition by a city, village or town of land that is outside the boundaries of the city, village or town unless the city, village or town acquiring the land and the city, village or town in which the land is located approve the acquisition.

(d) The department may not acquire land using moneys from the appropriation under s. 20.866 (2) (ta) without the prior approval of a majority of the members−elect, as defined in s. 59.001 (2m), of the county board of supervisors of the county in which the land is located if at least 66% of the land in the county is owned or under the jurisdiction of the state, the federal government, or a local governmental unit, as defined in s. 66.0131 (1) (a). Before determining whether to approve the acquisition, the county in which the land is located shall post notices that inform the residents of the community surrounding the land of the possible acquisitions.

(e) Beginning with fiscal year 2007−08, the department may not obligate from the appropriation under s. 20.866 (2) (ta) more than 20 percent of the available bonding authority in a fiscal year for the acquisition of parcels of lands that are less than 10 acres in size.

(12) EXPENDITURES AFTER 2020. No moneys may be obligated from the appropriation under s. 20.866 (2) (ta) after June 30, 2020.

History: 1999 a. 9, 185; 2001 a. 16, 30, 109; 2003 a. 33; 2007 a. 20; 2009 a. 28; 2011 a. 32, 250.

23.0918 Natural resources land endowment fund. (1) In this section, "land" includes any buildings, facilities or other structures located on the land.

(2) Unless the natural resources board determines otherwise in a specific case, only the income from the gifts, grants, or bequests in the fund is available for expenditure. The natural resources board may authorize expenditures only for preserving, developing, managing, or maintaining land under the jurisdiction of the department that is used for any of the purposes specified in s. 23.09 (2) (d). In this subsection, unless otherwise provided in a gift, grant, or bequest, principal and income are determined as provided under s. 701.20.

History: 1999 a. 9; 2005 a. 10.

23.0919 Wisconsin outdoor wildlife heritage trust fund. Expenditures from the Wisconsin outdoor wildlife heritage trust fund may be used only for the improvement and maintenance of fish and wildlife habitat. For purposes of this section, improvement and maintenance of fish and wildlife habitat does not include the acquisition of land for such habitat.

History: 2001 a. 92.

23.092 Habitat areas. (1b) In this section, "nonprofit conservation organization" has the meaning given in s. 23.0955 (1).

(1m) The department shall designate habitat areas in order to enhance wildlife−based recreation in this state, including hunting, fishing, nature appreciation and the viewing of game and nongame species. The department may not designate an area as a habitat area under this subsection if the area is located within the boundaries of a project established by the department before August 9, 1989.

(2) For each area designated under sub. (1m), the department shall prepare a plan, based upon the specific qualities of the area designated, that is designed to protect, enhance or restore the habitat in the designated area. After preparation of a plan for a designated area, the department shall encourage landowners to use specific management practices that are designed to implement the plan.

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(3) The department may acquire easements for habitat areas by gift or devise or beginning on July 1, 1990, by purchase. The department may acquire land for habitat areas by gift, devise or purchase.

(4) The department may share the costs of implementing land management practices with landowners, or with nonprofit conservation organizations that are qualified to enhance wildlife−based recreation if these organizations have the landowner's permission to implement the practices. The department may share the costs of acquiring easements for habitat areas with landowners or with these nonprofit conservation organizations. If the funding for cost−sharing under this subsection will be expended from the appropriation under s. 20.866 (2) (ta), the amount expended for the cost−sharing may not exceed 50% of the cost of the management practices or of the acquisition costs for the easement except as provided in s. 23.096 (2m).

(5) (a) The department shall determine the value of land or an easement donated to the department that is within a habitat area and is dedicated for purposes of habitat protection, enhancement or restoration. For an easement, the valuation shall be based on the extent to which the fair market value of the land is diminished by the transfer. Except as provided in par. (b), an amount of money equal to the value of the donation shall be released from the appropriation under s. 20.866 (2) (ta) or (tz) or both to be used for habitat protection, enhancement or restoration activities for the same habitat area in which any donation was made on or after August 9, 1989. The department shall determine how the moneys being released are to be allocated from these appropriations.

(b) If the moneys allocated under par. (a) for release from the appropriation under s. 20.866 (2) (ta) to match a donation under par. (a) will exceed the annual bonding authority for the subprogram under s. 23.0917 (3) for a given fiscal year, as adjusted under s. 23.0917 (5), the department shall release from the moneys appropriated under s. 20.866 (2) (ta) the remaining amount available under that annual bonding authority, as adjusted under s. 23.0917 (5), for the given fiscal year and shall release in each following fiscal year from the moneys appropriated under s. 20.866 (2) (ta) an amount equal to that annual bonding authority, as adjusted under s. 23.0917 (5), or equal to the amount still needed to match the donation, whichever is less, until the entire amount necessary to match the donation is released.

(6) Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than $1,500,000 under this section for fisheries, for habitat areas and for grants for this purpose under s. 23.096 in each fiscal year.

History: 1989 a. 31; 1991 a. 39; 1993 a. 16, 343; 1995 a. 27; 1999 a. 9; 2001 a. 38, 104; 2003 a. 33; 2007 a. 20.

23.093 Carp control research. The department of natural resources may enter into contracts with public or private agencies for the accelerated research and development of a specific toxic material for the control and eradication of carp in the waters of the state.

23.094 Stream bank protection program. (1) DEFINITION. In this section, "political subdivision" means city, village, town, county, lake sanitary district, as defined in s. 30.50 (4q), or public inland lake protection and rehabilitation district.

(1m) CREATION. In order to protect the water quality and the fish habitat of the streams in this state, there is created a stream bank protection program to be administered by the department.

(2) IDENTIFICATION OF PRIORITY STREAMS. (a) The department shall identify as priority streams those streams in this state that are in most need of protection from degradation of water quality caused by agricultural or urban runoff.

(b) In identifying priority streams under par. (a), the department shall give higher priority to those streams that are affected by a federal or state program or plan that protects water quality or fish habitat.

(c) The federal or state programs or plans under par. (b) include:

1. The conservation reserve program under 16 USC 3831 to 3836.

2. The land and resource management planning program under s. 92.10.

4. The soil and water resource management program under s. 92.14.

5. The nonpoint source pollution abatement grant program under s. 281.65.

(2m) ACQUISITION OF LAND. For a stream identified as a priority stream under sub. (2), the department may acquire land adjacent to the stream by gift or devise or by purchase. Whenever possible, the land acquired shall include the area within at least 66 feet from either side of the stream.

(3) STATE EASEMENTS. For a stream identified as a priority stream under sub. (2), the department may acquire a permanent stream bank easement from the owner of land adjacent to the priority stream by gift or devise or beginning July 1, 1990, by purchase. Whenever possible, the easement shall include the land within at least 66 feet from either side of the stream.

(3g) ACQUISITION BY POLITICAL SUBDIVISION. A political subdivision may acquire by gift, devise or purchase land adjacent to a stream identified as a priority stream under sub. (2) or acquire by gift, devise or purchase a permanent stream bank easement from the owner of the land. The department may make grants from the appropriation under s. 20.866 (2) (tz) to political subdivisions to purchase these lands and easements. The department may make grants under s. 23.096 from the appropriation under s. 20.866 (2) (ta) or (tz) or both. Whenever possible, the land or easement shall include the land within at least 66 feet from either side of the stream.

(3m) LIMITS. Except as provided in s. 23.096 (2m), a grant under sub. (3g) may not exceed 50% of the acquisition costs for the land or the easement.

(3r) RESTRICTION ON LAND AND EASEMENTS. A stream bank easement acquired under this section or under s. 23.096 shall prohibit all of the following and all of the following are prohibited on land acquired under this section or under s. 23.096:

(a) Alteration of vegetative cover or other natural features unless the department specifically approves the alteration.

(b) Planting or production of agricultural crops unless the department specifically approves the planting or production for wildlife management purposes.

(c) Mowing, grazing or spraying the land with chemicals, except as necessary to comply with noxious weed control laws or to control pests on an emergency basis when such control is necessary to protect public health or unless the department specifically approves the mowing, grazing or spraying.

(4) DONATIONS. (a) The department shall determine the value of land or an easement donated to the department for purposes of this section and for stream bank protection under s. 23.096. For an easement, the valuation shall be based on the extent to which the fair market value of the land is diminished by the transfer. Except as provided in par. (b), an amount of money equal to the value of the donation shall be released from the appropriation under s. 20.866 (2) (ta) or (tz) or both to be used to acquire easements and land under this section and s. 23.096 for the same stream for which any donation was made on or after August 9, 1989. The department shall determine how the moneys being released are to be allocated from these appropriations.

(b) If the moneys allocated under par. (a) for release from the appropriation under s. 20.866 (2) (ta) to match a donation under par. (a) will exceed the annual bonding authority for the subprogram under s. 23.0917 (3) for a given fiscal year, as adjusted under s. 23.0917 (5), the department shall release from the moneys appropriated under s. 20.866 (2) (ta) the remaining amount available under that annual bonding authority, as adjusted under s.

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23.0917 (5), for the given fiscal year and shall release in each following fiscal year from the moneys appropriated under s. 20.866 (2) (ta) an amount equal to that annual bonding authority, as adjusted under s. 23.0917 (5), or equal to the amount still needed to match the donation, whichever is less, until the entire amount necessary to match the donation is released.

(5) OTHER REQUIREMENTS. A stream bank easement acquired under this section or s. 23.096 may require the landowner to seed the land subject to the easement at seeding rates determined by the department in order to establish and maintain perennial cover of either a grass−legume mixture or native grass for the term of the easement, or to plant trees on the land subject to the easement.

(6) FENCING. Beginning July 1, 1990, the department shall pay the cost of purchasing and installing any fencing the department determines to be necessary to protect a priority stream identified under this section for which land or an easement has been acquired on or after August 9, 1989, under this section or s. 23.096.

(7) STREAM WATCH PROGRAM. The department shall establish a stream watch program to encourage the volunteer activities of community and youth organizations to monitor and improve stream quality and to remove debris, including dead fish, from land adjacent to streams and other bodies of water.

(8) APPROPRIATION. Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than $1,000,000 for fisheries, for the acquisition of land and easements by the department under this section, for grants under sub. (3g) and for grants for this purpose under s. 23.096 in each fiscal year.

History: 1989 a. 31; 1991 a. 39, 309; 1993 a. 16; 1995 a. 227, 349; 1997 a. 27; 1999 a. 9; 2001 a. 38, 104; 2007 a. 20; 2009 a. 28.

Cross−reference: See also ch. NR 50, Wis. adm. code.

23.095 Protection of natural resources. (1) DEFINITIONS. In this section:

(a) "Damage" means to commit a physical act that unreasonably destroys, molests, defaces, removes or wastes.

(b) "Discharge" has the meaning given in s. 292.01 (3).

(c) "Hazardous substance" has the meaning given in s. 285.01 (21).

(1g) GENERAL PROHIBITION. No person may damage or attempt to damage any natural resource within the state.

(1m) PROHIBITION ON DEPARTMENT LAND. (a) No person may damage or attempt to damage any natural resource or any archaeological feature located on state−owned lands that are under the supervision, management and control of the department except as authorized by the department.

(b) Paragraph (a) does not apply to state−owned lands that are beds of navigable waters.

(2m) PROHIBITION ON LAND IN KICKAPOO VALLEY RESERVE. No person may damage or attempt to damage any natural resource or archaeological feature located in the Kickapoo valley reserve under s. 41.41 (2).

(3) PENALTIES. (a) Any person who violates sub. (1g) shall forfeit not more than $100.

(b) Except as provided in pars. (c) and (d), any person who violates sub. (1m) or (2m) shall forfeit not more than $200.

(c) If a person violates sub. (1m) or (2m) and the violation involves damaging or attempting to damage a natural resource and the violation occurs on land in a state natural area, as defined in s. 23.27 (1) (h), the person shall forfeit not more than $2,000.

(d) 1. Except as provided in subds. 2. and 3., if a person violates sub. (1m) or (2m) and the violation involves damaging or attempting to damage an archaeological feature, the person shall forfeit not less than $100 nor more than $10,000.

2. Except as provided in subd. 3., if a person violates sub. (1m) or (2m) and the violation involves intentionally damaging or intentionally attempting to damage an archaeological feature, the person shall be fined not more than $10,000 or imprisoned for not more than 9 months or both.

3. If a person violates sub. (2m) and the violation involves intentionally damaging or attempting to damage an archaeological feature in the pursuit of commercial gain, the person shall, in addition to the penalty imposed under subd. 2., be fined an amount 2 times the gross value gained or the gross loss caused by the violation, whichever is the greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(4) EXCEPTIONS. (a) This section does not apply to any person upon whom liability is imposed under 42 USC 9607 (a) for injury to, destruction of or loss of natural resources within the state.

(b) If a natural resource or archaeological feature is damaged by the discharge of a hazardous substance, this section does not apply to the person who caused the discharge unless the person who caused the discharge did so with the intent to damage the natural resource or archaeological feature or to any other person who possesses or controls the hazardous substance subsequent to the discharge.

History: 1975 c. 365; 1995 a. 391; 1997 a. 35, 194.

Cross−reference: See also s. NR 19.001, Wis. adm. code.

23.0953 Grants to counties for land acquisition. (1) In this section, "nature−based outdoor recreation" has the meaning given by the department by rule under s. 23.0917 (4) (f).

(2) (a) Beginning with fiscal year 2010−11 and ending with fiscal year 2019−20, the department shall establish a grant program under which the department may award a grant to a county for any of the following:

1. Acquisition of land for a county forest under s. 28.11.

2. Acquisition of land for a project that promotes nature−based outdoor recreation or conservation and for which the department is requesting the county's assistance.

(b) Grants under this section shall be awarded from the appropriation under s. 20.866 (2) (ta), and, for purposes of s. 23.0917, shall be treated as moneys obligated from the subprogram under s. 23.0917 (3).

(3) Each county receiving a grant under this section shall provide matching funds that equal at least 50 percent of the acquisition costs.

(4) A county may not convert the land, or any rights in the land, acquired with grant moneys awarded under sub. (2) (a) 2. to a use that is inconsistent with the type of nature−based outdoor recreation or conservation activity for which the grant was awarded unless the natural resources board approves the conversion.

History: 2007 a. 20.

23.0955 Assistance to nonprofit conservation organizations. (1) In this section, "nonprofit conservation organization" means a nonprofit corporation, a charitable trust or other nonprofit association whose purposes include the acquisition of property for conservation purposes and that is described in section 501 (c) (3) of the internal revenue code and is exempt from federal income tax under section 501 (a) of the internal revenue code.

(2) (a) The department shall provide one grant of $75,000 in fiscal year 1996−97 to a nonstock, nonprofit corporation that is described under section 501 (c) (3) or (4) of the internal revenue code and organized in this state if the corporation meets all of the following requirements:

1. The corporation is exempt from taxation under section 501 (a) of the internal revenue code.

2. The corporation provides support to nonprofit conservation organizations.

3. The corporation has a board of directors whose members represent, to the greatest extent practicable, all geographic areas of the state and that has a majority of members who are representatives of nonprofit conservation organizations.

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4. The corporation contributes $25,000 in funds to be used with the grant under this subsection.

(am) Beginning in fiscal year 1997−98, the department may provide an annual grant to a nonstock, nonprofit corporation that meets all of the qualifications under par. (a).

(b) A corporation receiving a grant under this subsection shall do all of the following, but shall emphasize the activities described in subds. 1. and 2.:

1. Assist in the establishment of nonprofit conservation organizations.

2. Provide technical assistance to nonprofit conservation organizations, especially in the areas of management, receiving federal tax exemptions, conservation easements and real estate transactions.

2m. Assist nonprofit conservation organizations in acquiring property for conservation purposes and in managing property acquired for conservation purposes.

3. Conduct conferences on the topics specified in subd. 2.

4. Acquire a property for conservation purposes where no other nonprofit conservation organization exists that is willing to assist or capable of effectively assisting in the transfer of the property or that can adequately manage the property after it is acquired.

5. For each fiscal year, prepare a report detailing the activities for which a grant under this section was expended, describing any property acquired by the corporation and explaining how the acquisition of that property furthers the goal of conservation in the state. Copies of the report shall be submitted to the department and to the legislature under s. 13.172 (2).

(3) (a) During the period beginning on January 1, 2004, and ending on July 1, 2004, the department shall submit a comprehensive report describing the cost of, and accomplishments achieved by, activities funded with grants under this section, commencing with the grants provided in the 1999−2000 fiscal year. The report shall evaluate all of the following:

1. How grants under this section have furthered the goal of encouraging private resource conservation.

2. The extent to which grants under this section complement the resource conservation goals of the department.

(b) The report shall contain a recommendation to the legislature on whether the grant program under this section should be continued, eliminated or revised.

(c) The report shall be distributed to the speaker of the assembly and the president of the senate under s. 13.172 (3).

History: 1993 a. 343 ss. 17, 19; 1995 a. 459; 1999 a. 9.

23.0956 Assistance for private conservation activities. (1) From the appropriation under s. 20.370 (5) (aw), the department shall provide one grant of $85,000 in each fiscal year, beginning with fiscal year 2000−01, to a nonstock, nonprofit corporation that is described under section 501 (c) (3) or (4) of the Internal Revenue Code and organized in this state if the corporation meets all of the following requirements:

(a) The corporation is exempt from taxation under section 501 (a) of the Internal Revenue Code.

(b) The corporation was created to accept and to utilize private contributions made to protect and enhance the state's natural resources.

(2) A corporation receiving a grant under sub. (1) shall use the grant to do all of the following:

(a) Encourage private corporations and other private entities to undertake activities, including the contribution of money, that encourage management and restoration of the state's endangered wild animals, wild plants and natural communities.

(b) Encourage private corporations and other private entities to engage in land management practices that protect and preserve natural resources.

(c) Provide grants to nonprofit and other groups to encourage education, restoration and management activities to enhance the state's natural resources.

History: 1999 a. 9.

23.0957 Annual grants to a nonstock, nonprofit corporation; urban land conservation. (1) In this section:

(a) "Local governmental unit" has the meaning given in s. 23.09 (19) (a) 2.

(b) "Interested group" means a community group, nonprofit organization or local governmental unit that is interested in acquiring urban land for urban forestry protection, water resource management, conservation, recreation or other urban open space purposes.

(2) RECIPIENT REQUIREMENTS. The department shall provide one grant of $75,000 in each fiscal year, to a nonstock, nonprofit corporation that meets all of the following requirements:

(a) The corporation is organized in this state.

(b) The corporation is described under section 501 (c) (3) or (4) of the Internal Revenue Code and exempt from taxation under section 501 (a) of the Internal Revenue Code.

(c) The corporation has a board of directors or an advisory council or both with members who represent one or more urban or urbanizing areas and who collectively have an interest or expertise in all of the following:

1. Nonprofit organizations.
2. Business.
3. Social services.
4. Land development.
5. Architecture.
6. Landscape architecture.
7. Conservation.

(d) The corporation contributes $25,000 in funds annually to be used with the grant under this subsection.

(3) A corporation receiving a grant under sub. (2) may use the grant for urban forest protection, water resource enhancement or other urban open space objectives and shall do all of the following with the grant:

(a) Provide to interested groups technical assistance, especially in the areas of urban open space real estate transactions, reclaiming and restoring the natural values of urban parks, urban forests and open space areas, designing and constructing amenities in open space areas, cultivating citizen participation in acquiring, developing and maintaining open space areas and securing public financing for open space areas.

(b) Conduct conferences on the topics listed in par. (a).

(c) Assist community groups, nonprofit organizations and local governmental units in acquiring urban property for open space purposes and in restoring urban property acquired for conservation, recreation and other open space purposes.

(d) For each fiscal year, prepare a report detailing the activities for which a grant under sub. (2) is expended. Copies of the report shall be submitted to the department and to the appropriate standing committees of the legislature, as determined by the speaker of the assembly and the president of the senate.

(4) A corporation receiving a grant under sub. (2) may acquire urban property for conservation, recreation and other open space purposes.

History: 1999 a. 9; 2001 a. 16.

23.096 Grants to nonprofit conservation organizations. (1) In this section:

(ag) "Nonprofit conservation organization" has the meaning given in s. 23.0955 (1).

(b) "Property" means land or an interest in land.

(2) (a) The department may award grants from the appropriation under s. 20.866 (2) (ta) or (tz) to nonprofit conservation orga-

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nizations to acquire property for all of the purposes described in ss. 23.09 (2) (d) 1. to 7., 9., 11., 12. and 15., (19), (20) and (20m), 23.092, 23.094, 23.17, 23.175, 23.27, 23.29, 23.293, 30.24 and 30.277.

(b) Except as provided in sub. (2m), a grant awarded under this section may not exceed 50% of the acquisition costs of the property.

(2m) Notwithstanding sub. (2) (b), in each fiscal year beginning with fiscal year 2010−11 and ending with fiscal year 2019−20, the department may award grants under this section that equal up to 75 percent of the acquisition costs of the property if the natural resources board determines that all of the following apply:

(a) That the property is uniquely valuable in conserving the natural resources of the state.

(b) That delaying or deferring the acquisition until 50 percent of the acquisition costs are procured by the nonprofit conservation organization is not reasonably possible.

(c) That sufficient bonding authority remains in the amount set aside under s. 23.0917 (3) (br) for that fiscal year after awarding grants to nonprofit conservation organizations that meet the matching requirement under sub. (2) (b).

(3) In order to receive a grant under this section, the nonprofit conservation organization shall enter into a contract with the department that contains all of the following provisions:

(a) Standards for the management of the property to be acquired.

(b) A prohibition against using the property to be acquired as security for any debt unless the department approves the incurring of the debt.

(bn) A prohibition against property acquired in fee simple being closed to the public unless the department determines it is necessary to protect wild animals, plants or other natural features.

(c) A clause that any subsequent sale or transfer of the property to be acquired is subject to subs. (4) and (5).

(4) (a) The nonprofit conservation organization may subsequently sell or transfer the acquired property to a 3rd party other than a creditor of the organization if all of the following apply:

1. The department approves the subsequent sale or transfer.

2. The party to whom the property is sold or transferred enters into a new contract with the department that contains the provisions under sub. (3).

(b) The nonprofit conservation organization may subsequently sell or transfer the acquired property to satisfy a debt or other obligation if the department approves the sale or transfer.

(5) If the nonprofit conservation organization violates any essential provision of the contract, title to the acquired property shall vest in the state.

(6) The instrument conveying the property to the nonprofit conservation organization shall state the interest of the state under sub. (5). The contract entered into under sub. (3) and the instrument of conveyance shall be recorded in the office of the register of deeds of each county in which the property is located.

History: 1989 a. 31; 1991 a. 309; 1993 a. 343; 1997 a. 27; 1999 a. 9; 2007 a. 20.

23.0962 Grant to a nonprofit conservation organization for Black Point Estate. (1) If the department of administration acquires as a gift the property, known as Black Point Estate, that is located on Lake Geneva in the county of Walworth, town of Linn, in fractional Sec. 8, T. 1 N., R. 17 E., and if the joint committee on finance approves the gift under s. 20.907 (1), the department of natural resources shall make a grant of $1,800,000, from the appropriation under s. 20.370 (5) (cq), to a nonprofit conservation organization that meets all of the following requirements:

(a) The nonprofit conservation organization is a nonprofit corporation, a charitable trust or other nonprofit association that is described in section 501 (c) (3) of the Internal Revenue Code and is exempt from federal tax under section 501 (a) of the Internal Revenue Code.

(b) The nonprofit conservation organization has, as its primary purpose, the preservation of the property known as Black Point Estate.

(c) The nonprofit conservation organization has a board of directors that consists of representatives of the state, of the family who donated Black Point Estate to the state, of local units of government that have an interest in Black Point Estate and of civic organizations that have an interest in Black Point Estate.

(d) The nonprofit conservation organization acquires a conservation easement in the property, the terms of which are subject to approval of the department of natural resources, to be held by the organization for the purpose of preserving Black Point Estate.

(e) The nonprofit conservation organization makes a commitment, with guarantees determined to be adequate by the department of natural resources, to use the grant under this section and any additional funds donated to the organization to fund an endowment for the operation and maintenance of Black Point Estate.

(2) If the nonprofit conservation organization does not use the grant under this section in the manner required under sub. (1) (e), the nonprofit conservation organization shall reimburse the department in an amount equal to the grant.

(3) (a) In this subsection:

1. "Local governmental unit" means county or town.

2. "Special zoning permission" has the meaning given in s. 59.69 (15) (g).

(b) Notwithstanding s. 18.04 (1) and (2), the building commission may authorize public debt to be contracted, and the department may make a grant from the appropriation under s. 20.370 (5) (cq), for the property known as Black Point Estate only if all of the following apply:

1. A substantially completed application for any necessary special zoning permission for the property has been submitted before December 1, 1999, to the applicable local governmental unit.

2. The necessary special zoning permission, based on the application submitted before December 1, 1999, is granted.

History: 1997 a. 27; 1999 a. 9.

23.0965 Payments to Ducks Unlimited, Inc. (1) The department of natural resources shall enter into an agreement with Ducks Unlimited, Inc., to make payments from the appropriation under s. 20.370 (5) (au) to Ducks Unlimited, Inc., to fund its conservation efforts in the United States, Canada and Mexico.

(2) The agreement under sub. (1) shall require that Ducks Unlimited, Inc., annually submit to the attorney general and the presiding officer of each house of the legislature an audited financial statement of its use of the payments under sub. (1), prepared in accordance with generally accepted accounting principles.

(3) Payments to Ducks Unlimited, Inc., under sub. (1) shall be discontinued by the department if Ducks Unlimited, Inc., dissolves or is no longer exempt from taxation under section 501 (c) of the Internal Revenue Code.

History: 1999 a. 92.

23.097 Urban forestry grants. (1) In this subsection, a "nonprofit organization" means an organization that is described in section 501 (c) (3) of the Internal Revenue Code and that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

(1g) The department shall award grants to counties, cities, villages, towns, and nonprofit organizations for up to 50% of the cost of tree management plans, tree inventories, brush residue projects, the development of tree management ordinances, tree disease evaluations, public education concerning trees in urban areas and other tree projects.

(1r) In addition to the grants awarded under sub. (1g), the department may award grants to counties, cities, village, towns, nonprofit organizations, and federally recognized Indian tribes or

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bands that apply for the grants for the costs of removing, saving, and replacing trees that have been damaged by catastrophic storm events in urban areas. To be eligible for a grant under this subsection, the damage must have occurred in an area for which the governor has designated a state of emergency due to a catastrophic storm event. The department shall notify each applicant for a grant under this subsection as to whether the application for the grant will be approved or denied within 60 days after the date the application is submitted to the department. A recipient of a grant awarded under this subsection is exempt from having to pay any percentage of the costs in order to receive the grant.

Cross−reference: See also s. NR 47.950, Wis. adm. code.

(2) The department shall promulgate rules establishing criteria for awarding grants under this section.

History: 1991 a. 39, 269; 1993 a. 213; 2001 a. 16; 2007 a. 13.

Cross−reference: See also s. NR 47.50, Wis. adm. code.

23.098 Grants for property development on properties owned by the department. (1) In this section:

(ag) "Department property" means an area of real property that is owned by the state, that is under the jurisdiction of the department and that is used for one of the purposes specified in s. 23.09 (2) (d).

(b) "Friends group" means a nonstock, nonprofit corporation described under section 501 (c) (3) or (4) of the Internal Revenue Code and exempt from taxation under section 501 (a) of the Internal Revenue Code that is organized to raise funds for a department property.

(c) "Nonprofit conservation organization" has the meaning given in s. 23.0955 (1).

(2) The department shall establish a program to make grants from the appropriations under s. 20.866 (2) (ta) and (tz) to friends groups and nonprofit conservation organizations for projects for property development activities on department properties. The department may not encumber more than $250,000 in each fiscal year for these grants.

(3) The department shall promulgate rules to establish criteria to be used in determining which property development activities are eligible for these grants.

(4) (a) The department shall periodically prepare a list of projects on department properties that are eligible for grants under this section and shall include in the list the estimated cost of each project.

(am) In awarding grants under this section for eligible projects, the department shall establish a system under which the grants are offered to eligible friends groups before being offered to eligible nonprofit conservation organizations.

(b) The department may not encumber more than $20,000 for grants under this section for a department property in each fiscal year.

(5) Each friends group and nonprofit conservation organization receiving a grant under this section shall provide matching funds that are equal to at least 50% of the cost of the project for which a grant is being provided.

(6) For purposes of s. 23.0915 (1), moneys encumbered or expended for grants under this section shall be treated as moneys encumbered or expended for general property development.

History: 1991 a. 39; 1993 a. 461; 1997 a. 313; 1999 a. 9.

23.10 Conservation wardens. (1) The department of natural resources shall secure the enforcement of all laws which it is required to administer and bring, or cause to be brought, actions and proceedings in the name of the state for that purpose. The persons appointed by said department to exercise and perform the powers and duties heretofore conferred and imposed upon deputy fish and game wardens, shall be known as conservation wardens and shall be subject to ch. 230.

(2) Whenever the county board of any county by resolution authorizes the appointment of county conservation wardens, and fixes the number of the same, the chairperson of the county board, district attorney and county clerk, acting as a board of appointment, shall select the persons for such positions and certify their names to the department of natural resources which shall, if in its judgment such persons are competent and efficient, issue to them commissions as county conservation wardens. Such wardens have, within their county, all the powers and duties of conservation wardens. Their compensation shall be fixed by the county board in the resolution authorizing their appointment and be paid out of the county treasury.

(4) All conservation wardens shall, before exercising any of their powers, be provided with a commission issued by the department of natural resources under its seal, substantially as follows:

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES.

To all to whom these presents shall come, greeting:

Know ye, that reposing special trust and confidence in the integrity and ability of ...., of the county of ...., we do hereby appoint and constitute .... a conservation warden (or county, or special conservation warden) for the (county of ....), state of Wisconsin, and do authorize and empower .... to execute and fulfill the duties of that office according to law, during good behavior and the faithful performance of the duties of that office.

In testimony whereof, the secretary has hereunto affixed the secretary's signature and the official seal of the department, at its office in the city of Madison, Wisconsin, this .... day of ...., ... (year)

(Seal) STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES.
By ....

(5) The department of natural resources shall furnish to each conservation warden at the time of the warden's appointment, a pocket identification folder in form and substance as follows: A leather−covered folder, size when folded, 3 by 4 inches; on one of the inner sides thereof shall be securely fastened a photograph of such appointee to be furnished by the appointee, and partly on the photograph and partly on the margin of such folder shall be an impression of the seal of the department of natural resources; such appointee shall also affix the appointee's signature below the photograph on such folder; on the other inner side of such folder shall be securely fastened a miniature true copy of the commission issued to such appointee, which shall be signed by the secretary. The appointee shall carry the identification folder on his or her person at all times that the appointee is on official duty, and the appointee shall on demand exhibit the same to any person to whom the appointee may represent himself or herself as a conservation warden. The cost of such identification folder shall be charged to the appropriation for the department.

(6) All conservation wardens shall make full and complete reports of their transactions as such, according to the demand of the department and shall at all times be subject to its direction and control in the performance of their duties. They shall also gather and transmit all statistical information relative to such matters within their charge as the department directs. In its report under s. 15.04 (1) (d) the department shall include information covering all its work and such other information as is valuable to the state in relation thereto and an itemized statement of receipts and disbursements.

History: 1971 c. 164; 1977 c. 196 s. 131; 1983 a. 192 s. 303 (2); 1991 a. 316; 1997 a. 250.

23.11 General powers. (1) In addition to the powers and duties heretofore conferred and imposed upon said department by this chapter it shall have and take the general care, protection and supervision of all state parks, of all state fish hatcheries and lands used therewith, of all state forests, and of all lands owned by the state or in which it has any interests, except lands the care and supervision of which are vested in some other officer, body or board; and said department is granted such further powers as may be necessary or convenient to enable it to exercise the functions and perform the duties required of it by this chapter and by other

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provisions of law. But it may not perform any act upon state lands held for sale that will diminish their salable value.

(2) Whenever any lands placed by law under the care and supervision of the department are inaccessible because surrounded by lands belonging to individuals or corporations, and whenever in the opinion of the department the usefulness or value of such lands, whether so surrounded or not, will be increased by access thereto over lands not belonging to the state, the department may acquire such lands as may be necessary to construct highways that will furnish the needed access.

(4) The department shall have police supervision over all state−owned lands and property under its supervision, management and control, and its duly appointed agents or representatives may arrest, with or without warrant, any person within such area, committing an offense against the laws of this state or in violation of any rule of the department in force in such area, and deliver such person to the proper court of the county wherein such offense has been committed and make and execute a complaint charging such person with the offense committed. The district attorney of the county wherein such offense has been committed shall appear and prosecute all actions arising under this subsection.

(5) The department may require an applicant for a permit or statutory approval which the department, by order, may grant, to submit an environmental impact report if the area affected exceeds 40 acres, the estimated cost of the project exceeds $25,000, or the applicant is requesting approval for a high capacity well described in s. 281.34 (4) (a) 1. to 3.

History: 1971 c. 273; 1983 a. 524; 2003 a. 310.

Cross−reference: See also chs. NR 1, 45, and 150, Wis. adm. code.

Under sub. (4), DNR wardens have general law enforcement authority on state−owned lands and property under the DNR's supervision, management and control. 68 Atty. Gen. 326.

23.113 Designation of chief state forester. The secretary shall designate the administrator of the division of forestry in the department as the chief state forester. The chief state forester shall be a professional forester as recognized by the Society of American Foresters.

History: 2001 a. 16, 104.

23.114 Duties of the chief state forester. (1) (a) In this section, "state forest land" means all forested lands owned by this state and under the jurisdiction of the department.

(b) Except as provided in par. (c), the chief state forester may declare, and shall manage, emergencies that threaten state forest lands. The department shall promulgate rules specifying those emergencies over which the chief state forester shall have management responsibility. The emergencies specified in the rules shall include invasive species or pest infestation, disease, and damage to timber from fire, snow, hail, ice, or wind.

(c) Paragraph (b) does not apply to a state of emergency declared by the governor under s. 323.10 and does not supersede the authority of the department of agriculture, trade and consumer protection under ch. 94.

(2) The chief state forester shall report directly to the secretary of the department.

History: 2005 a. 166; 2009 a. 42.

Cross−reference: See also s. NR 45.075, Wis. adm. code.

23.115 Designation of trails, etc. (1) The department shall designate trails, campgrounds, picnic areas and other special use areas for property under its control. These trails, campgrounds, picnic areas and other special use areas shall be designated on maps available at the department's district office, on a sign outside the office on the property or on signs placed by the trails, campgrounds, picnic areas or other use areas at the option of the department.

(2) The department shall inspect trail signs and designated features twice a year, once before July 1 and once after July 1.

(3) Subsection (2) does not apply to snowmobile trails on land under the control of the department that are maintained by snowmobile clubs or other nonprofit organizations.

History: 1977 c. 418; 1983 a. 418 s. 3; Stats. 1983 s. 23.115; 1995 a. 294.

23.117 Use of trails by bicycles and electric personal assistive mobility devices. (1) No person may operate a bicycle or electric personal assistive mobility device on a trail in a state park or in the Kettle Moraine state forest unless the department has determined that the trail will be opened for use by bicycles or electric personal assistive mobility devices and has posted the trail open for such use.

(3) The department shall patrol on a regular basis the trails in state parks and in the Kettle Moraine state forest that are open to use by bicycles or electric personal assistive mobility devices.

(4) Any council that is created by the natural resources board under s. 15.04 (1) (c) to advise the department on the opening of trails in state parks and in the Kettle Moraine state forest for use by bicycles or electric personal assistive mobility devices shall have its recommendations regarding such use reviewed and approved by the natural resources board before they are implemented.

History: 1991 a. 269; 2001 a. 90.

23.119 Consent to use certain off−highway vehicles. (1) In this section:

(a) "All−terrain vehicle" has the meaning given in s. 340.01 (2g).

(b) "Off−highway vehicle" means a motor−driven craft or vehicle principally manufactured for off−highway use but does not include a snowmobile, all−terrain vehicle, or utility terrain vehicle.

(c) "Snowmobile" has the meaning given in s. 340.01 (58a).

(2) No person may operate an off−highway vehicle on private property without the consent of the owner of the property.

(3) No person may operate an off−highway vehicle on public property that is posted as closed to the operation of off−highway vehicles or on which the operation of an off−highway vehicle is prohibited by law.

History: 2009 a. 252; 2011 a. 208; s. 35.17 correction in (1) (b).

23.12 Bylaws. Said natural resources board may make and establish such rules and bylaws, not inconsistent with law, as it deems useful to itself and its subordinates in the conduct of the business entrusted to it.

23.125 Natural resources board member conflicts of interest. (1) If a member of the natural resources board is the holder of a permit or license issued by the department under chs. 280 to 299, that member may not engage in a discussion at a board meeting or participate in a board decision on any matter that substantially relates to the permit or license.

(2) If a member of the natural resources board receives, or has during the previous 2 years received, a significant portion of his or her income directly or indirectly from a holder of or applicant for a permit or license issued by the department under chs. 280 to 299, that member may not engage in a discussion at a board meeting or participate in a board decision on any matter that substantially relates to the permit or license, except that this restriction does not apply with respect to a permit or license held or applied for by an agency, department, or subdivision of this state.

History: 2001 a. 16.

23.13 Governor to be informed. The board of commissioners of public lands and the department of natural resources shall furnish to the governor upon the governor's request a copy of any paper, document or record in their respective offices and give the governor orally such information as the governor may call for.

History: 1971 c. 164; 1991 a. 316.

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23.135 Forest land inventory and report. (1) In this section, "state forest land" means any parcel of 10 or more contiguous acres of forested land owned by this state and under the jurisdiction of the department.

(2) The department shall undertake and maintain a current inventory of state forest lands. The inventory shall specify the condition of the forest resources in state forest lands.

(3) If the department prohibits the use of timber harvesting on any state forest land, the department shall prepare a report that contains a projection of the long−term forest health effects, a projection of the economic effects, and a projection of the public benefits that result from that prohibition.

(4) (a) Except as provided in par. (b), if the department is required to prepare a report under sub. (3) for any state forest land, the department shall prepare that report by January 1, 2010, and every 15 years thereafter.

(b) If the department is required to prepare a report under sub. (3) for any state forest land for which a master plan has not been approved, the department shall prepare that report upon approval of the master plan and every 15 years thereafter.

(5) The department shall submit the report required under sub. (3) to the council on forestry and to the appropriate standing committee in each house of the legislature under s. 13.172 (3).

History: 2005 a. 166.

23.14 Approval required before new lands acquired. Prior to the initial acquisition of any lands by the department after July 1, 1977, for any new facility or project, the proposed initial acquisition shall be submitted to the governor for his or her approval. New facilities or projects include, without limitation because of enumeration, state parks, state forests, recreation areas, public shooting, trapping or fishing grounds or waters, fish hatcheries, game farms, forest nurseries, experimental stations, endangered species preservation areas, picnic and camping grounds, hiking trails, cross−country ski trails, bridle trails, nature trails, bicycle trails, snowmobile trails, youth camps, land in the lower Wisconsin state riverway as defined in s. 30.40 (15), natural areas and wild rivers.

History: 1977 c. 29; 1985 a. 29; 1987 a. 98; 1989 a. 31; 2001 a. 16, 106.

23.15 Sale of state−owned lands under the jurisdiction of the department of natural resources. (1) The natural resources board may sell, at public or private sale, lands and structures owned by the state under the jurisdiction of the department of natural resources, except central or district office facilities, when the natural resources board determines that the lands are no longer necessary for the state's use for conservation purposes and, if real property, the real property is not the subject of a petition under s. 16.310 (2).

(2) Said natural resources board shall present to the governor a full and complete report of the lands to be sold, the reason for the sale, the price for which said lands should be sold together with an application for the sale of the same. The governor shall thereupon make such investigation as the governor deems necessary respecting said lands to be sold and approve or disapprove such application. If the governor shall approve the same, a permit shall be issued by the governor for such sale on the terms set forth in the application.

(2m) (a) Notwithstanding sub. (1), the natural resources board shall sell, at fair market value, land in the lower Wisconsin state riverway, as defined in s. 30.40 (15), that is not exempt under s. 30.48 (2) and that is acquired by the department after August 9, 1989, if all of the following conditions are met:

1. The land was acquired for its scenic value to the lower Wisconsin state riverway and not for any other purpose.

2. The land was not donated to the state.

3. The sale of the land does not impair the scenic value of the lower Wisconsin state riverway.

4. The department retains an easement and all other rights that are necessary to preserve the scenic value of the lower Wisconsin state riverway.

(b) Notwithstanding sub. (1), the natural resources board is not required to make a finding that land to be sold under par. (a) is no longer necessary for the state's use for conservation purposes.

(c) The procedure in sub. (2) does not apply to sales of land under this subsection.

(3) Upon completion of such sale, the chairperson and secretary of the natural resources board, or the secretary of natural resources, if the secretary is duly authorized by the natural resources board, shall execute such instruments as are necessary to transfer title and the natural resources board or its duly authorized agents shall deliver the same to the purchaser upon payment of the amount set forth in the application.

(4) Said natural resources board effecting the sale of any such lands and structures shall, upon receiving payment therefor, deposit the funds in the conservation fund to be used exclusively for the purpose of purchasing other areas of land for the creating and establishing of public hunting and fishing grounds, wildlife and fish refuges and state parks and for land in the lower Wisconsin state riverway as defined in s. 30.40 (15).

(5) (a) In this subsection, "surplus land" means land under the jurisdiction of the department which is unused and not needed for department operations or included in the department's plan for construction or development.

(b) Biennially, beginning on January 1, 1984, the department shall submit to the state building commission and the joint committee on finance an inventory of surplus land containing the description, location and fair market value of each parcel.

(6) This section does not apply to property that is authorized to be sold under s. 16.848.

History: 1983 a. 27; 1983 a. 423 s. 3; Stats. 1983 s. 23.15; 1989 a. 31; 1991 a. 39, 316; 1993 a. 184; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2011 a. 32.

23.16 Periodicals. (1) PUBLICATION. The department may produce, issue or reprint magazines or other periodicals on a periodic basis as it determines, pertaining to fish and game, forests, parks, environmental quality and other similar subjects of general information. The department may distribute its magazines and periodicals by subscription. The department shall charge a fee for any of its magazines or periodicals, except that no fee may be charged to a person who is provided a subscription to the Wisconsin Natural Resources Magazine under s. 29.235.

(2) ADVERTISING. The department may advertise and sell advertising space in its magazines and other periodicals. The department may advertise or otherwise publicize its magazines and other periodicals. The advertising and publicizing shall be consistent with the goals, purposes and functions of the department.

(3) SUBSCRIBER LISTS. The department may refuse to reveal names, addresses, and electronic mail addresses of persons on any magazine or periodical subscriber list. The department may charge a fee to recover the actual costs for providing or for the use of any magazine or periodical subscriber list. No person who obtains or uses any magazine or periodical subscriber list from the department may refer to the department, the magazine, or the periodical as the source of names, addresses, or electronic mail addresses unless the person clearly states that the provision of, or permission to use, the subscriber list in no way indicates any of the following:

(a) The department's involvement or connection with the person or the person's activities.

(b) The department's knowledge, approval or authorization of the person's activities.

(4) COSTS. Notwithstanding ss. 20.908 and 35.78 (2) the fee charged by the department in selling each of its magazines and periodicals shall be at least equal to the amount necessary to cover

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the production, storage, handling and distribution costs of each magazine and periodical.

(5) USE OF MONEYS. The department shall use the moneys collected under this section for the costs specified in sub. (4). If the moneys collected under this section exceed the amount necessary for the costs specified in sub. (4), the department shall use the excess for educational and informational activities concerning conservation and the environment.

History: 1975 c. 224; 1977 c. 418; 1979 c. 221; 1981 c. 335 s. 26; 1983 a. 27; 1989 a. 31 ss. 650km, 650L, 684c, 684e, 684i; Stats. 1989 s. 23.16; 1991 a. 39; 1997 a. 248; 1999 a. 88; 2007 a. 12.

23.165 Promotional activities; other publications. (1) PUBLICATIONS. The department may produce, issue, reprint and sell publications not published on a periodic basis that pertain to fish and game, forests, parks, environmental quality and other similar subjects of general information.

(1m) PHOTOGRAPHS, SLIDES, VIDEOTAPES, ARTWORK. The department may produce, issue, reprint and sell photographs, slides, videotapes and artwork if they pertain to fish and game, forests, parks, environmental quality and other similar subjects of general information.

(2) ADVERTISING SPACE. The department may advertise and sell advertising space in its publications. Any advertising shall be consistent with the goals, purposes and functions of the department.

(3) PROMOTIONAL ACTIVITIES. The department may promote, through the sale of merchandise or otherwise, advertise or otherwise publicize department programs, department publications, and all properties, lands, facilities, waterways, projects and other areas subject to the jurisdiction or control of the department. The promotion, advertising and publicizing shall be consistent with the goals, purposes and functions of the department.

(4) SUBSCRIBER LISTS. The department may refuse to reveal names, addresses, and electronic mail addresses of persons on any publication subscriber list. The department may charge a fee to recover the actual costs for providing or for the use of a publication subscriber list. No person who obtains or uses a publication subscriber list from the department may refer to the department or the publication as the source of names, addresses, or electronic mail addresses unless the person clearly states that the provision of, or permission to use, the subscriber list in no way indicates any of the following:

(a) The department's involvement or connection with the person or the person's activities.

(b) The department's knowledge, approval or authorization of the person's activities.

(5) COSTS. Notwithstanding ss. 20.908 and 35.78 (2), any price set or fee charged by the department in selling a publication, photograph, slide, videotape, artwork or promotional merchandise shall be at least equal to the amount necessary to cover the production, promotional, storage, handling and distribution costs of the publication, photograph, slide, videotape, artwork or promotional merchandise.

(5m) USE OF MONEYS. The department shall use the moneys collected under this section for the costs specified in sub. (5). If the moneys collected under this section exceed the amount necessary for the costs specified in sub. (5), the department shall use the excess for educational and informational activities concerning conservation and the environment.

(6) REPORT TO LEGISLATURE. The department shall annually submit a report concerning the activities, receipts and disbursements under this section for the preceding fiscal year to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3).

History: 1989 a. 31; 1991 a. 39; 1999 a. 88; 2007 a. 12.

23.167 Goals and accountability measures for economic development programs. (1) In this section, "economic development program" means a program or activity having the primary purpose of encouraging the establishment and growth of business in this state, including the creation and retention of jobs, and that satisfies all of the following:

(a) The program receives funding from the state or federal government that is allocated through an appropriation under ch. 20.

(b) The program provides financial assistance, tax benefits, or direct services to specific industries, businesses, local governments, or organizations.

(2) The department, in consultation with the Wisconsin Economic Development Corporation, shall do all of the following for each economic development program administered by the department:

(a) Establish clear and measurable goals for the program that are tied to statutory policy objectives.

(b) Establish at least one quantifiable benchmark for each program goal described in par. (a).

(c) Require that each recipient of a grant or loan under the program submit a report to the department. Each contract with a recipient of a grant or loan under the program shall specify the frequency and format of the report to be submitted to the department and the performance measures to be included in the report.

(d) Establish a method for evaluating the projected results of the program with actual outcomes as determined by evaluating the information described in pars. (a) and (b).

(e) Annually and independently verify, from a sample of grants and loans, the accuracy of the information required to be reported under par. (c).

(f) Establish by rule a requirement that the recipient of a grant or loan under the program of at least $100,000 submit to the department a verified statement signed by both an independent certified public accountant licensed or certified under ch. 442 and the director or principal officer of the recipient to attest to the accuracy of the verified statement, and make available for inspection the documents supporting the verified statement. The department shall include the requirement established by rule under this paragraph in the contract entered into by a grant or loan recipient.

(g) Establish by rule policies and procedures permitting the department to do all of the following if a recipient of a grant or loan or tax benefits under the program submits false or misleading information to the department or fails to comply with the terms of a contract entered into with the department under the program and fails to provide to the satisfaction of the department an explanation for the noncompliance:

1. Recoup payments made to the recipient.
2. Withhold payments to be made to the recipient.
3. Impose a forfeiture on the recipient.

History: 2007 a. 125; 2011 a. 32.

23.169 Economic development assistance coordination and reporting. (1) The department shall coordinate any economic development assistance with the Wisconsin Economic Development Corporation.

(2) Annually, no later than October 1, the department shall submit to the joint legislative audit committee and to the appropriate standing committees of the legislature under s. 13.172 (3) a comprehensive report assessing economic development programs, as defined in s. 23.167 (1), administered by the department. The report shall include all of the information required under s. 238.07 (2). The department shall collaborate with the Wisconsin Economic Development Corporation to make readily accessible to the public on an Internet−based system the information required under this section.

History: 2007 a. 125; 2011 a. 32.

23.17 Ice age trail. (1) DEFINITION. In this section:

(a) "Municipality" means a city, village, town, county or special purpose district.

(b) "State agency" has the meaning designated under s. 16.01 (1).

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(2) DESIGNATION. The ice age national scenic trail, as provided for in 16 USC 1244 (a) (10), plus the lands adjacent to each side of that trail designated by the department, is designated a state scenic trail, to be known as the "Ice Age Trail".

(3) DUTIES OF THE DEPARTMENT. The department shall:

(a) Encourage other state agencies, municipalities, organizations and individuals to participate in planning, establishing, developing and maintaining the ice age trail.

(b) Provide information to any person involved in planning, establishing, developing or maintaining the ice age trail regarding trail design, signs, interpretive markers and any other aspects of the ice age trail in which uniformity is desirable.

(c) Encourage municipalities to develop land use plans which preserve rights−of−way for future establishment of the ice age trail.

(d) Prepare a trail management plan and plan for interpretive markers for the ice age trail, in cooperation with the national park service, federal department of the interior.

(e) Coordinate the activities of all state agencies which own property that includes any existing or planned portion of the ice age trail and maintain regular contact with such agencies.

(f) Identify portions of the ice age trail which are proposed to be located on state−owned property, especially highway rights−of−way, and contact state agencies which own such property as soon as possible so that adequate plans for the location of the trail on state property may be developed and the trail location may be altered if the use of state property proves to be impossible.

(g) Coordinate its planning efforts relating to the location, development and maintenance of the ice age trail with the efforts of the national park service, federal department of the interior and any statewide nonprofit organization established for the purpose of planning, developing and maintaining the ice age trail.

(4) POWERS OF THE DEPARTMENT. The department may acquire land for the ice age trail under s. 23.09 (2) (d) 10., and may develop the ice age trail on lands under its ownership along the trail route.

(4m) CHIPPEWA COUNTY INTERPRETIVE CENTER DESIGNATION. The interpretive center in the Chippewa Moraine State Recreation Area in Chippewa County is designated the David R. Obey Ice Age Trail Interpretive Center.

(5) STATE LAND. (a) A state agency may not refuse to permit construction of a portion of the ice age trail on property owned by the state agency if the state agency determines that the trail does not conflict with other existing or proposed uses of the property.

(b) Each state agency shall consider the ice age trail in the long−range plans for property owned by the state agency.

(5g) PERMITTED USES. The construction on or use of land designated by the department as part of the ice age trail under this section and s. 23.293 is a permitted use under any zoning ordinance enacted by a municipality.

(5r) MUNICIPAL LAND. A municipality may not refuse to permit construction of a portion of the ice age trail on property owned by the municipality if the municipality determines that the trail does not conflict with other existing or proposed uses of the property.

(6) OTHER TRAILS. (a) This section does not limit the authority of the department to designate other trails under s. 23.115.

(b) This section does not preclude any portion of the ice age trail from being designated as a part of the national trails system.

History: 1987 a. 98, 399; 1991 a. 39; 2011 a. 32.

23.175 State trails. (1) DEFINITIONS. In this section:

(a) "Political subdivision" means a city, village, town or county.

(b) "State agency" means any office, department, agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law which is entitled to expend moneys appropriated by law, including any authority created under subch. II of ch. 114 or ch. 231, 233, 234, or 237 but not including the legislature or the courts.

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

(a) Designate a system of state trails as part of the state park system for use by equestrians, bicyclists, riders of electric personal assistive mobility devices, cross−country skiers or hikers. The state trail system shall be named the "Aldo Leopold Legacy Trail System."

(b) Encourage other state agencies, political subdivisions, organizations and individuals to participate in planning, establishing, developing and maintaining state trails.

(c) Seek the advice of and consult with the state trails council regarding the planning, acquisition, development and management of state trails.

(d) Provide information to any person involved in planning, establishing, developing or maintaining state trails regarding trail design, signs and any other aspects of the trails in which uniformity is desirable.

(e) Encourage political subdivisions to develop land use plans that preserve rights−of−way for the future establishment of trails.

(f) Prepare a trail management plan.

(g) Coordinate the activities of all state agencies that own property that includes any existing or planned portion of a state trail and maintain regular contact with those state agencies.

(h) Identify portions of state trails that are proposed to be located on property owned by state agencies.

(i) Coordinate its planning efforts relating to the location, establishment, development and maintenance of state trails with the efforts of statewide, nonprofit organizations established for the purpose of planning, establishing, developing and maintaining trails.

(j) Establish priorities for trail acquisition and development with a higher priority for trails that establish connections between existing trails.

(k) Establish the state trail cleanup program under sub. (5m).

(3) POWERS OF THE DEPARTMENT. The department may:

(a) Develop and construct state trails on lands under its ownership.

(b) Expend an amount from the appropriation under s. 20.866 (2) (ta) or (tz) or both that equals any of the following:

1. The amount of a gift, grant or bequest received for a state trail under this section.

2. The fair market value of land donated for a state trail under this section.

(3m) ALLOCATION BETWEEN APPROPRIATIONS. For purposes of sub. (3) (b), the department shall determine how the moneys being expended are to be allocated from the appropriations under s. 20.866 (2) (ta) and (tz). The department may not allocate or expend any moneys from the appropriation under s. 20.866 (2) (ta) before July 1, 2000.

(4) LIMIT ON SPENDING. Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than $1,000,000 under this section for trails and for grants for this purpose under s. 23.096 in each fiscal year.

(4m) PRIORITY FOR BROWNFIELDS. In awarding grants for trails under s. 23.096, the department shall give higher priority for projects related to brownfields redevelopment, as defined in s. 23.09 (19) (a) 1.

(5) STATE LAND. (a) A state agency may not refuse to permit the department to construct a portion of a state trail designated under sub. (2) on property owned by the state agency if the state agency determines that the trail does not conflict with other existing or planned uses of the property.

(b) Each state agency shall consider state trails in the long−range plans for property owned by the state agency.

(5m) STATE TRAIL CLEANUP PROGRAM. (a) The department shall establish a state trail cleanup program to encourage commu-

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nity and youth organizations and other persons to volunteer for projects to remove debris and litter along designated portions of state trails.

(b) The department shall request that the organization or other person volunteering for a project under this program conduct the project for 2 years and remove debris and litter at least once a year during the 2−year period.

(c) The department shall place one sign along each designated portion of a state trail for which an organization or other person has volunteered. The sign shall state the fact that that portion of the trail is under the state trail cleanup program and the name of the organization or other person volunteering for that portion. The organization or other person volunteering for a designated portion of a state trail shall reimburse the department for the cost of the sign and its placement along that portion.

(6) OTHER TRAILS. This section does not limit the authority of the department to designate other trails under s. 23.115.

History: 1989 a. 31; 1991 a. 39; 1993 a. 72; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16, 90; 2005 a. 335; 2007 a. 35.

23.177 Nonmotorized recreation and transportation trails council. (1) DUTIES OF COUNCIL. The nonmotorized recreation and transportation trails council shall carry out studies and make recommendations to the legislature, governor, department of natural resources, and department of transportation on all matters related to nonmotorized recreation and transportation trails, including matters relating to nonmotorized trail activities or interests specified in s. 15.347 (20) (b) 1. to 11.

(2) DUTIES OF DEPARTMENTS OF NATURAL RESOURCES AND TRANSPORTATION. (a) The department of natural resources and department of transportation shall seek the advice of, and consult with, the council regarding the planning, acquisition, development, maintenance, and management of nonmotorized recreation and transportation trails.

(b) The department shall establish and maintain a Web site where a person may locate information about the council, including all meeting notices and agendas.

(c) The department shall prepare written minutes of each meeting of the council and shall make them available on the Web site established under par. (b).

History: 2009 a. 394.

23.18 Milwaukee River revitalization council. (1) DUTIES. The Milwaukee River revitalization council shall do all of the following:

(a) Advise the department, the governor and the legislature on matters relating to the environmental, recreational and economic revitalization of the Milwaukee River basin.

(b) Assist the department to:

1. Develop, provide and disseminate information on the environmental, recreational, economic and developmental interests of the Milwaukee River basin.

2. Assist local governmental agencies during the planning and implementation of specific programs and activities.

3. Develop proposals to maximize the use of available local, state, federal and private resources to further the revitalization of the Milwaukee River basin.

4. Develop a Milwaukee River riverway plan that allows and encourages multiple recreational entrepreneurial and cultural activities to take place near the Milwaukee River.

5. Establish a mechanism that allows the plan under subd. 4. to be implemented in an aggressive and deliberate fashion.

(2) POWERS. In addition to its duties under sub. (1), the Milwaukee River revitalization council may:

(a) Coordinate the planning and implementation of local recreational or environmental projects in the Milwaukee River basin to encourage consistency with other local projects or activities of the department or other state agencies in the Milwaukee River basin.

(b) Work directly with municipalities located in the Milwaukee River basin to develop a single comprehensive land use plan for the Milwaukee River basin.

(e) Directly advise and make recommendations to municipalities that have jurisdiction over land in the Milwaukee River basin to adopt ordinances or regulations to preserve the environmental, recreational and scenic values of the Milwaukee River basin.

(g) Directly develop, provide and disseminate information to the public to increase local awareness of recreational and environmental issues affecting the Milwaukee River basin.

(j) Directly inform or advise municipalities that have jurisdiction over land located outside the Milwaukee River basin as to the impact the development of the land may have on the Milwaukee River basin.

(k) Submit a report on activities affecting land and water use in the Milwaukee River basin to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3).

History: 1987 a. 399; 1989 a. 31.

23.19 Menomonee River conservation project. (1) The department shall provide in state aid to the city of Milwaukee up to $500,000 for a conservation project for the Menomonee River if the city appropriates funds by June 30, 1991. Both the funds appropriated by the city and the state aid provided by the department shall be for any of the following stages of the project that may be undertaken by the city:

(a) A feasibility study on the acquisition or development, or both, of land adjacent to the Menomonee River for the uses specified in sub. (2).

(b) The acquisition of land adjacent to the Menomonee River for the uses specified in sub. (2).

(c) The development of land adjacent to the Menomonee River for the uses specified in sub. (2).

(2) The uses of the land acquired or developed with the state aid provided under sub. (1) shall be for any of the following:

(a) Recreational and community facilities.

(b) Improved river access.

(c) Nonpoint source pollution abatement.

(d) Restoration of wetland.

(3) (a) The amount of state aid provided under sub. (1) shall equal the actual amount, up to $500,000, that is expended by the city of Milwaukee for the stages of the project specified in sub. (1) (a) to (c).

(b) The department may not provide state aid under sub. (1) for the performance of a feasibility study unless the department has granted prior approval for its performance.

(c) Each time the city of Milwaukee completes a stage of the project as specified under sub. (1) (a) to (c) and has expended the total amount of its contribution for that stage, the city is entitled to receive the amount of state aid under par. (a) that equals the total amount of the contribution.

History: 1989 a. 350; 1995 a. 27.

23.195 Monona terrace project in Madison. (1) Beginning in fiscal year 1993−94 and ending in fiscal year 1995−96, from the appropriation under s. 20.866 (2) (tz), the department shall set aside $1,000,000 in each fiscal year to be expended for the Frank Lloyd Wright Monona terrace project in the city of Madison to be expended as follows:

(a) The amount of $370,000 for a bicycle path that is part of the project.

(b) The amount of $2,630,000 for the following purposes:

1. Construction of a pedestrian bridge improving access to Lake Monona from the downtown area of the city.

2. Construction and development of a terrace and park in conjunction with the parking facility at the state office building

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located at 1 West Wilson Street authorized under 1991 Wisconsin Act 269, section 9108 (1) (a).

3. Other park or recreational construction and development associated with the project.

(2) The moneys expended from the appropriation under s. 20.866 (2) (tz) for the purposes specified in sub. (1) (b) 1. to 3. shall be limited to no more than 50% of the cost of the project that is for these purposes.

(4) If all of the money set aside under this section is not expended before July 1, 1998, the moneys set aside but not expended shall be treated by the department in the manner provided in s. 23.0915 (2g).

History: 1991 a. 269; 1995 a. 27.

23.196 Willow flowage project. (1) In this section:

(a) "Total amount available" means the expenditure limit for the purpose of acquiring land under s. 23.09 (2) (d) 11., as adjusted under s. 23.0915 (2), less the total amount the department has expended, encumbered or otherwise committed for that purpose from the appropriation under s. 20.866 (2) (tz) before July 1, 1996.

(b) "Willow flowage project" means the lands in the Willow flowage and surrounding lands in Oneida County that the department determines are necessary for the project.

(2) (a) The department may acquire and exchange lands for the establishment of the Willow flowage project. The priority and allocation requirements under s. 23.09 (2dm) do not apply to any acquisition of land under this paragraph for which moneys appropriated under s. 20.866 (2) (tz) are expended.

(b) For the purpose of establishing the Willow flowage project, the department may expend up to an amount equal to the total amount available for the purchase of land. For purposes of ss. 23.09 (2q) and 23.0915 (1), moneys expended under this paragraph shall be treated as moneys expended for the lower Wisconsin state riverway acquisition.

(c) Section 23.15 does not apply to the exchange or other transfer of land by the department for the purpose of establishing the Willow flowage project.

History: 1995 a. 27, 417; 1997 a. 27; 1999 a. 186.

23.197 Warren Knowles−Gaylord Nelson stewardship programs; specific projects or activities. (1) ROOT RIVER; MULTIPURPOSE PATHWAY. (a) From the appropriation under s. 20.866 (2) (ta) or (tz) or both, the department shall provide funding to the city of Racine for a multipurpose pathway along the Root River. The amount provided by the department may not exceed the amount that equals the matching contribution for the pathway made by the city of Racine or $1,125,000, whichever is less.

(b) The department shall determine how the moneys being provided under par. (a) will be allocated between the appropriations under s. 20.866 (2) (ta) and (tz). For purposes of s. 23.0915 (1), moneys provided from the appropriation under s. 20.866 (2) (tz) shall be treated as moneys expended for any of the purposes specified under s. 23.0915 (1) (a) to (k) or any combination of those purposes. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated from either or both of the subprograms under s. 23.0917 (3) and (4).

(2) ROCK RIVER; RIVER WALL. (a) From the appropriation under s. 20.866 (2) (ta) or (tz) or both, the department shall provide funding to the city of Fort Atkinson for the restoration of a river wall along the Rock River. The amount provided by the department may not exceed the amount that equals the matching contribution made for the river wall by the city of Fort Atkinson or $96,500, whichever is less. The requirements for matching contributions under s. 30.277 (5) shall apply.

(b) The department shall determine how the moneys being provided under par. (a) will be allocated between the appropriations under s. 20.866 (2) (ta) and (tz). For purposes of s. 23.0915 (1), moneys provided from the appropriation under s. 20.866 (2) (tz) shall be treated as moneys expended for urban river grants. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated under the subprogram for property development and local assistance.

(2m) KICKAPOO VALLEY RESERVE; VISITOR CENTER. From the appropriation under s. 20.866 (2) (ta), the department shall provide $2,370,000 to the Kickapoo reserve management board for construction of a visitor center and administration building at the Kickapoo valley reserve. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated from either or both of the subprograms under s. 23.0917 (3) and (4).

(3) KEYES LAKE; RECREATIONAL AREA. (a) From the appropriation under s. 20.866 (2) (ta) or (tz) or both, the department shall provide the amount necessary for the development of a recreational area on Keyes Lake in Florence County, but the amount may not exceed $125,000.

(b) The department shall determine how the moneys being provided under par. (a) will be allocated between the appropriations under s. 20.866 (2) (ta) and (tz). For purposes of s. 23.0915 (1), moneys provided from the appropriation under s. 20.866 (2) (tz) shall be treated as moneys expended for any of the purposes specified under s. 23.0915 (1) (a) to (k) or any combination of those purposes. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated from either or both of the subprograms under s. 23.0917 (3) and (4).

(3m) RIB MOUNTAIN STATE PARK. (a) From the appropriation under s. 20.866 (2) (ta) or (tz) or both, the department shall provide funding in the amount of $50,000 to rebuild the chalet at Rib Mountain State Park. The department shall determine how the moneys being provided under this paragraph will be allocated between the appropriations under s. 20.866 (2) (ta) and (tz). For purposes of s. 23.0915 (1), moneys provided from the appropriation under s. 20.866 (2) (tz) shall be treated as moneys expended for general property development. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated under the subprogram for property development and local assistance.

(b) In addition to the amounts provided under par. (a), the department shall provide, from the appropriation under s. 20.866 (2) (ta), funding in the amount of $1,000,000 to reconstruct the chalet at Rib Mountain State Park for which funding is provided under par. (a). For purposes of s. 23.0917, moneys provided under this paragraph shall be treated as moneys obligated under either or both of the subprograms under s. 23.0917 (3) and (4).

(4) GRANT FOR LAND ACQUISITION AND HABITAT RESTORATION. (a) In this subsection:

1. "Nonprofit organization" means a nonprofit corporation, a charitable trust or other nonprofit association that is described in section 501 (c) (3) of the Internal Revenue Code and is exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

2. "Land" has the meaning given in s. 23.0917 (1) (d).

(b) From the appropriation under s. 20.866 (2) (ta), the department may award a single grant of $20,000 to an organization that is not a nonprofit organization but that has entered into an agreement with a nonprofit organization in order to apply for the grant. The grant may be used for land acquisition for conservation or recreation purposes or for habitat restoration or both. For purposes of s. 23.0917, moneys obligated for this grant shall be treated as moneys obligated under the subprogram for land acquisition.

(c) In order to receive the grant under this section, the nonprofit organization and the other organization who are parties to the agreement specified under par. (b) shall enter into a contract with the department that contains conditions imposed by the department on the use of the grant, on any land acquired with moneys from the grant and on any transfer to a 3rd party of any such acquired land.

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(d) Title to the land acquired with moneys from the grant under this section shall vest in the nonprofit organization. If the nonprofit organization or the other organization violates any essential provision of the contract entered into under par. (c), title to the land shall vest in the state.

(6) SHEBOYGAN; RIVERFRONT PARK. From the appropriation under s. 20.866 (2) (tz), the department shall provide $173,763 for the development and expansion of Workers Water Street Riverfront Park in the city of Sheboygan. For purposes of s. 23.0915 (1), moneys provided from the appropriation under s. 20.866 (2) (tz) shall be treated as moneys expended for any of the purposes specified under s. 23.0915 (1) (a) to (k) or any combination of those purposes.

(7m) WISCONSIN AGRICULTURAL STEWARDSHIP INITIATIVE FACILITY. From the appropriation under s. 20.866 (2) (ta), the department shall provide funding in the amount of $1,000,000 for the Wisconsin agricultural stewardship initiative at the University of Wisconsin−Platteville and the University of Wisconsin−Madison, to construct a facility to be used for conducting research and for training farmers concerning the development of sound environmental farming practices. For purposes of s. 23.0917, moneys provided under this subsection shall be treated as moneys obligated under either or both of the subprograms under s. 23.0917 (3) and (4).

(8) STATE FAIR PARK CONSTRUCTION. From the appropriation under s. 20.866 (2) (ta), the department shall provide $2,000,000 for projects that are approved by the state fair park board. For purposes of s. 23.0917, moneys provided under this subsection shall be treated as moneys obligated under either or both of the subprograms under s. 23.0917 (3) and (4).

(9) PRAIRIE RIVER RESTORATION. From the appropriation under s. 20.866 (2) (ta), the department shall provide funding to the city of Merrill in the amount of $450,000 for a project to restore an area on the exposed bed of the former flowage on the Prairie River. For the purposes of s. 23.0917, moneys provided under this subsection from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated under the subprogram for property development and local assistance.

(10) MIRROR LAKE; BOATING ACCESS. From the appropriation under s. 20.866 (2) (ta), the department shall provide funding in an amount not to exceed $1,000,000 to improve navigability for recreational boating in Mirror Lake in Sauk County and in the streams flowing into the lake. For the purposes of s. 23.0917, moneys provided under this subsection from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated under either or both of the subprograms under s. 23.0917 (3) and (4).

(11) JERSEY VALLEY LAKE. From the appropriation under s. 20.866 (2) (ta), the department shall provide funding in an amount not to exceed $500,000 to Vernon County to restore Jersey Valley Lake. The funding authorized under this subsection shall be in a manner that, for every $1 expended by Vernon County for the repairs and installation, the department shall provide $3. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated from either or both of the subprograms under s. 23.0917 (3) and (4).

(12) MILWAUKEE METROPOLITAN SEWERAGE DISTRICT; FLOOD MANAGEMENT. From the appropriation under s. 20.866 (2) (ta), the department shall provide funding in an amount not to exceed $1,000,000 to a nationwide nonprofit conservation organization dedicated to land and water resource preservation to acquire land for a flood management program conducted by the Milwaukee Metropolitan Sewerage District and for habitat restoration on the acquired land. The funding authorized under this subsection shall be in a manner that, for every $1 expended by the nationwide nonprofit conservation organization for the land acquisition, the department shall provide $3. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated from either or both of the subprograms under s. 23.0917 (3) and (4).

(13) GREEN BAY; RECREATIONAL TRAIL. From the appropriation under s. 20.866 (2) (ta), the department shall provide funding in an amount not to exceed $875,800 to the city of Green Bay to acquire land for a bicycle and pedestrian trail. The funding authorized under this subsection shall be in a manner that, for every $1 expended by the city of Green Bay for the land acquisition, the department shall provide $3. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated from either or both of the subprograms under s. 23.0917 (3) and (4).

(14) ANTIGO; TRAIL DEVELOPMENT. From the appropriation under s. 20.866 (2) (ta), the department shall provide funding in an amount not to exceed $600,000 to the city of Antigo for property development related to the ice age trail and the Springbrook trail located within the city. The funding authorized under this subsection shall be in a manner that, for every $1 expended by the city of Antigo for the property development, the department shall provide $1. For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated from either or both of the subprograms under s. 23.0917 (3) and (4).

(15) AGRICULTURAL EASEMENTS. From the appropriation under s. 20.866 (2) (ta), the department of natural resources shall provide to the department of agriculture, trade and consumer protection the amount necessary for the department of agriculture, trade and consumer protection to purchase agricultural conservation easements under s. 93.73 (7) that were preliminarily approved under s. 93.73 (5) during 2010, but the amount may not exceed $5,200,000. For the purposes of s. 23.0917, moneys provided under this subsection from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated under the subprogram under s. 23.0917 (3), but the easements acquired with these moneys shall otherwise not be treated as easements that are acquired under the stewardship program under s. 23.0917.

History: 1999 a. 9, 84; 2001 a. 16; 2007 a. 20; 2011 a. 32.

23.198 Milwaukee Lakeshore State Park. (1) STEWARDSHIP FUNDING. (a) From the appropriation under s. 20.866 (2) (ta), the department shall provide up to $4,500,000 for the development of Milwaukee Lakeshore State Park. For purposes of s. 23.0917, moneys provided under this paragraph shall be treated as moneys obligated under either or both of the subprograms under s. 23.0917 (3) and (4).

(b) From the appropriation under s. 20.866 (2) (tz), the department shall provide up to $500,000 for development of a state park as described in par. (a). For purposes of s. 23.0915 (1), moneys provided under this paragraph shall be treated as moneys expended for general property development.

(2) OTHER FUNDING. (a) The department shall expend the following amounts from the appropriation under s. 20.370 (5) (cq) for the development of a state park as described in sub. (1):

1. Up to $2,400,000 of the moneys appropriated from that appropriation for fiscal year 1999−2000.

2. Up to $2,000,000 of the moneys appropriated from that appropriation for fiscal year 2000−01.

(b) Of the amounts authorized for expenditure under par. (a) 1., the department shall provide up to $400,000 to the Milwaukee Art Museum for the construction of a breakwater.

(c) Beginning on July 1, 2000, the department shall expend from the appropriation under s. 20.370 (7) (fs) $1,000,000 for a state park as described in sub. (1).

History: 1999 a. 9, 185; 2001 a. 16.

23.1985 Acquisition of certain public lands. Beginning in fiscal year 2006−07 and ending in fiscal year 2019−20, from the appropriation under s. 20.866 (2) (ta), the department shall set

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aside $2,000,000 in each fiscal year that may be obligated only to acquire land from the board of commissioners of public lands under s. 24.59 (1). For purposes of s. 23.0917, moneys provided from the appropriation under s. 20.866 (2) (ta) shall be treated as moneys obligated under the subprogram under s. 23.0917 (3).

History: 2005 a. 352; 2007 a. 20; 2011 a. 32.

23.20 Use of department gravel pits. The department may permit any town, county or state agency to obtain gravel, sand, fill dirt or other fill material needed for road purposes from any department−owned gravel pit or similar facility if this material is unavailable from private vendors within a reasonable distance of the worksite. The department may require environmental safeguards before permitting a town, county or state agency to obtain this material. The department shall charge a fee for this material commensurate with the fee charged by private vendors.

History: 1981 c. 131; 1985 a. 202.

23.22 Invasive species. (1) DEFINITIONS. In this section:

(a) "Control" means to cut, remove, destroy, suppress, or prevent the introduction or spread of.

(b) "Council" means the invasive species council.

(c) "Invasive species" means nonindigenous species whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

(d) "State agency" means a board, commission, committee, department, or office in the state government.

(2) DEPARTMENT RESPONSIBILITIES. (a) The department shall establish a statewide program to control invasive species in this state.

(b) As part of the program established under par. (a), the department shall do all of the following:

1. Create and implement a statewide management plan to control invasive species in this state, which shall include inspections as specified under sub. (5).

2. Administer the program established under s. 23.24 as it relates to invasive aquatic plants.

3. Encourage cooperation among state agencies and other entities to control invasive species in this state.

4. Seek public and private funding for the program.

5. Provide education and encourage and conduct research concerning invasive species.

6. Promulgate rules to identify, classify, and control invasive species for purposes of the program. In promulgating these rules, the department shall consider the recommendations of the council under sub. (3) (a). As part of these rules, the department may establish procedures and requirements for issuing permits to control invasive species.

(c) Under the program established under par. (a), the department shall promulgate rules to establish a procedure to award cost−sharing grants to public and private entities for up to 75 percent of the costs of projects to control invasive species. The rules promulgated under this paragraph shall establish criteria for determining eligible projects and eligible grant recipients. Eligible projects shall include education and inspection activities at boat landings. The rules shall allow cost−share contributions to be in the form of money or in−kind goods or services or any combination thereof. In promulgating these rules, the department shall consider the recommendations of the council under sub. (3) (c).

Cross−reference: See also ch. NR 198, Wis. adm. code.

(2t) DEPARTMENT POWERS AND COOPERATION. (a) Using the procedure under s. 227.24, the department may promulgate an emergency rule to identify, classify, or control an invasive species under sub. (2) (b) 6. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph. Notwithstanding s. 227.24 (1) (c) and (2), an emergency rule promulgated under this paragraph remains in effect until whichever of the following occurs first:

1. The first day of the 25th month beginning after the effective date of the emergency rule.

2. The effective date of the repeal of the emergency rule.

3. The date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under sub. (2) (b) 6., takes effect.

(b) The department may hold hearings relating to any aspect of the administration of this section and, in connection with those hearings, compel the attendance of witnesses and the production of evidence.

(c) The department may waive compliance with any requirement under this section or shorten the time periods under this section to the extent necessary to prevent an emergency condition threatening public health, safety, or welfare or the environment.

(d) The department may secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise for purposes of this section.

(e) The department may advise and may consult, contract, and cooperate with, other state agencies, local governments, industries, other states, interstate or interlocal agencies, the federal government, and other interested persons or groups for purposes of this section.

(f) Every state agency shall cooperate with the department in the administration of this section where the interests of the department and the respective state agency overlap. The cooperating state agencies may provide by agreement for the manner of sharing expenses and responsibilities under this section.

(3) COUNCIL DUTIES. (a) The council shall make recommendations to the department for a system for classifying invasive species under the program established under sub. (2). The recommendations shall contain criteria for each classification to be used, the allowed activities associated with each classification, criteria for determining state priorities for controlling invasive species under each classification, and criteria for determining the types of actions to be taken in response to the introduction or spread of an invasive species under each classification.

(b) Under the program established under sub. (2), the council shall conduct studies of issues related to controlling invasive species. The studies shall address all of the following:

1. The effect of the state's bait industry on the introduction and spread of invasive species.

2. The effect of the state's pet industry on the introduction and spread of invasive species.

3. The acquisition of invasive species through mail order and Internet sales.

4. Any other issue as determined by the council.

(c) The council shall make recommendations to the department on the establishment of a procedure for awarding cost−sharing grants under sub. (2) (c) to public and private entities for up to 75 percent of the costs of eligible projects to control invasive species. The recommendations shall contain criteria for determining eligibility for these grants and for determining which applicants should be awarded the grants.

(d) To assist the council in its work, the council shall create 4 subcommittees on the subjects of education, research, regulation, and interagency coordination. The council may create additional subcommittees on other subjects.

(5) INSPECTIONS. As part of the statewide management plan, the department shall create a watercraft inspection program under which the department shall conduct periodic inspections of boats, boating equipment, and boat trailers entering and leaving navigable waters and shall educate boaters about the threat of invasive species that are aquatic species. The department shall encourage the use of volunteers or may use department employees for these inspections.

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(5m) RULES FOR COMPLIANCE. In addition to the rules promulgated under sub. (2) (b) 6., the department may promulgate rules establishing procedures for conducting investigations and inspections necessary to obtain compliance with this section.

(6) REPORTS. (a) The department shall submit to the legislature under s. 13.172 (2), and to the governor and the council, a biennial report that includes all of the following:

1. Details on the administration of the program established under sub. (2), including an assessment as to the progress that is being made in controlling invasive species in this state.

2. A description of state funding that has been expended under the program.

3. A description of funding from other sources that has been expended to control invasive species in this state.

4. An assessment of the future needs of the program.

(b) The department shall submit the biennial report under par. (a) before October 1 of each even−numbered year. Each report shall cover the 24−month period ending on the June 30 that immediately precedes the date of the report.

(c) In addition to the report required under par. (a), the department shall submit an interim performance report to the legislature under s. 13.172 (2), and to the governor and the council, on the progress that has been made on the control of invasive species. The department shall submit this interim performance report before October 1 of each odd−numbered year. Each interim performance report shall cover the 12−month period ending on the June 30 that immediately precedes the date of the interim performance report.

(7) APPEARANCE BEFORE LEGISLATURE. Upon request of a standing committee of the legislature with jurisdiction over matters related to the environment, natural resources, or agriculture, the director of the program shall appear to testify.

(8) PENALTIES. (a) Except as provided in pars. (b) and (c), any person who violates a rule promulgated under sub. (2) (b) 6., or any permit issued under those rules, shall forfeit not more than $200.

(b) Any person who intentionally violates any rule promulgated under sub. (2) (b) 6. or any permit issued under those rules shall be fined not less than $1,000 nor more than $5,000, or shall be imprisoned for not less than 6 months nor more than 9 months or both.

(c) A person who violates a rule promulgated under sub. (2) (b) 6. or any permit issued under those rules and who, within 5 years before the arrest of the current conviction, was previously convicted of a violation of a rule promulgated under sub. (2) (b) 6. or any permit issued under those rules shall be fined not less than $700 nor more than $2,000 or shall be imprisoned for not less than 6 months nor more than 9 months or both.

(d) The court may order a person who is convicted under par. (a), (b), or (c) to abate any nuisance caused by the violation, restore any natural resource damaged by the violation, or take other appropriate action to eliminate or minimize any environmental damage caused by the violation.

(9) ENFORCEMENT. (a) If the department of natural resources finds that any person is violating a rule promulgated under sub. (2) (b) 6. or a permit issued under those rules for which the person is subject to a forfeiture under sub. (8) (a), the department of natural resources may do one or more of the following:

1. Issue a citation pursuant to s. 23.50 to 23.99.

2. Refer the matter to the department of justice for enforcement under par. (b).

3. Revoke a permit issued under the rules promulgated under sub. (2) (b) 6., after notice and opportunity for hearing.

(b) The department of justice shall initiate an enforcement action requested by the department under par. (a) 2. The enforcement action may include a request for injunctive relief. In any action initiated by it under this paragraph, the department of justice shall, prior to stipulation, consent order, judgment, or other final disposition of the case, consult with the department of natural resources for the purpose of determining the department's views on final disposition. The department of justice shall not enter into a final disposition different than that previously discussed without first informing the department of natural resources.

(c) In an action initiated pursuant to a citation or initiated under par. (b), the court may award, as an additional penalty, an amount equal to all or a portion of the costs of investigation, including any monitoring, incurred by the department of natural resources or the department of justice, which led to the establishment of the violation. The court may also award the department of justice the reasonable and necessary expenses of the prosecution, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department of justice under this paragraph. These moneys shall be credited to the appropriation account under s. 20.455 (1) (gh).

History: 2001 a. 109 ss. 72t, 72xd; 2003 a. 33; 2005 a. 25, 160; 2007 a. 20; 2009 a. 55.

Cross−reference: See also ch. NR 40, Wis. adm. code.

23.235 Nuisance weeds. (1) DEFINITIONS. In this section:

(a) "Nuisance weeds" means purple loosestrife or hybrids thereof and multiflora rose.

(b) "Purple loosestrife" means any nonnative member of the genus Lythrum.

(2) PROHIBITION. Except as provided in sub. (3m), no person may sell, offer for sale, distribute, plant, or cultivate any multiflora rose or seeds thereof.

(2m) CONTROL EFFORTS. (a) Under the program established under s. 23.22, the department shall make a reasonable effort to develop a statewide plan to control purple loosestrife on both public and private lands, as provided in this subsection.

(b) The department shall make a reasonable effort to implement control and quarantine methods on public lands as soon as practicable. The department shall make a reasonable effort to employ the least environmentally harmful methods available that are effective, based on research conducted under sub. (3m).

(c) The department may conduct a pilot project using employees or other persons to engage in labor intensive efforts to control purple loosestrife on all public lands.

(d) The department shall request permission from private landowners to enter onto the land to control stands of purple loosestrife which significantly threaten environmental resources or which threaten to invade a nearby watershed or subwatershed. If the landowner denies the department permission to enter onto the land, the department may not enter the land but shall inform the landowner of the seminars available under sub. (4) (c).

(e) The department may provide grants to other public agencies to allow the public agencies to control purple loosestrife on lands under their control.

(3m) RESEARCH. Under the program established under s. 23.22, the department shall make a reasonable effort to conduct research to determine alternative methods to contain and control purple loosestrife in the most environmentally sound manner and may conduct other research on the control of nuisance weeds. The secretaries of natural resources and of agriculture, trade and consumer protection may authorize any person to plant or cultivate nuisance weeds for the purpose of controlled experimentation.

(4) EDUCATION. (a) Under the program established under s. 23.22, the department shall make a reasonable effort to develop a statewide education effort on the effects of nuisance weeds, as provided in this subsection.

(b) The department shall make a reasonable effort to educate the authorities in charge of the maintenance of all federal, state and county trunk highways and all forest and park land in this state on methods to identify and control nuisance weeds. The department of transportation and all other authorities in charge of the maintenance of highways, forests and parks may cooperate with the department in efforts under this paragraph.

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(c) The department shall make a reasonable effort to educate private landowners on methods to identify and control purple loosestrife. The department shall make a reasonable effort to conduct seminars periodically, at times determined by the department, to train private landowners in environmentally sound methods to identify and control purple loosestrife.

(5) PENALTY. Any person who knowingly violates sub. (2) shall forfeit not more than $100. Each violation of this section is a separate offense.

History: 1987 a. 41; 1999 a. 150 s. 616; Stats. 1999 s. 23.235; 2001 a. 16; 2001 a. 109 ss. 72td to 72wj.

23.2355 Weed management grants. The department, in consultation with the department of agriculture, trade and consumer protection, shall promulgate rules that authorize the department, in consultation with the department of agriculture, trade and consumer protection, to provide funds received from the federal government under 7 USC 7782 to eligible recipients for the control or eradication of noxious weeds. The rules shall authorize the department and the department of agriculture, trade and consumer protection to use the funds received from the federal government to provide technical assistance and to make grants to eligible recipients to control or eradicate noxious weeds.

History: 2009 a. 55.

23.24 Aquatic plants. (1) DEFINITIONS. In this section:

(a) "Aquaculture" has the meaning given in s. 93.01 (1d).

(b) "Aquatic plant" means a planktonic, submergent, emergent, or floating−leaf plant or any part thereof.

(c) "Control" means to cut, remove, destroy, or suppress.

(d) "Cultivate" means to intentionally maintain the growth or existence of.

(e) "Distribute" means to sell, offer to sell, distribute for no consideration, or offer to distribute for no consideration.

(f) "Introduce" means to plant, cultivate, stock, or release.

(g) "Invasive aquatic plant" means an aquatic plant that is designated under sub. (2) (b).

(h) "Manage" means to introduce or control.

(i) "Native" means indigenous to the waters of this state.

(j) "Nonnative" means not indigenous to the waters of this state.

(k) "Waters of this state" means any surface waters within the territorial limits of this state.

(2) DEPARTMENT DUTIES. (a) The department shall establish a program for the waters of this state to do all of the following:

1. Implement efforts to protect and develop diverse and stable communities of native aquatic plants.

2. Regulate how aquatic plants are managed.

4. Administer and establish by rule procedures and requirements for the issuing of aquatic plant management permits required under sub. (3).

(b) Under the program implemented under par. (a), the department shall designate by rule which aquatic plants are invasive aquatic plants for purposes of this section. The department shall designate Eurasian water milfoil, curly leaf pondweed, and purple loosestrife as invasive aquatic plants and may designate any other aquatic plant as an invasive aquatic plant if it has the ability to cause significant adverse change to desirable aquatic habitat, to significantly displace desirable aquatic vegetation, or to reduce the yield of products produced by aquaculture.

(c) The requirements promulgated under par. (a) 4. may specify any of the following:

1. The quantity of aquatic plants that may be managed under an aquatic plant management permit.

2. The species of aquatic plants that may be managed under an aquatic plant management permit.

3. The areas in which aquatic plants may be managed under an aquatic plant management permit.

4. The methods that may be used to manage aquatic plants under an aquatic plant management permit.

5. The times during which aquatic plants may be managed under an aquatic plant management permit.

6. The allowable methods for disposing or using aquatic plants that are removed or controlled under an aquatic plant management permit.

7. The requirements for plans that the department may require under sub. (3) (b).

(3) PERMITS. (a) Unless a person has a valid aquatic plant management permit issued by the department, no person may do any of the following:

1. Introduce nonnative aquatic plants into waters of this state.

2. Manually remove aquatic plants from navigable waters.

3. Control aquatic plants in waters of this state by the use of chemicals.

4. Control aquatic plants in navigable waters by introducing biological agents, by using a process that involves dewatering, desiccation, burning, or freezing, or by using mechanical means.

(b) The department may require that an application for an aquatic plant management permit contain a plan for the department's approval as to how the aquatic plants will be introduced, removed, or controlled.

(c) The department may promulgate a rule to establish fees for aquatic plant management permits. Under the rule, the department may establish a different fee for an aquatic plant management permit to manage aquatic plants that are located in a body of water that is entirely confined on the property of one property owner.

(4) EXEMPTIONS FROM PERMITS. (a) In this subsection:

1. "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of the political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

2. "State agency" means any office, department, independent agency, or attached board or commission within the executive branch of state government, or any special purpose authority created by statute.

(b) The permit requirement under sub. (3) does not apply to any of the following:

1. A person who manually removes aquatic plants from privately owned stream beds with the permission of the landowner.

2. A person who engages in an activity listed under sub. (3) (a) in the course of harvesting wild rice as authorized under s. 29.607.

3. A person who engages in an activity listed under sub. (3) (a) in the course of operating a fish farm as authorized under s. 95.60.

(c) The department may promulgate a rule to waive the permit requirement under sub. (3) (a) 2. for any of the following:

1. A person who owns property on which there is a body of water that is entirely confined on the property of that person.

2. A riparian owner who manually removes aquatic plants from a body of water that abuts the owner's property provided that the removal does not interfere with the rights of other riparian owners.

3. A person who is controlling purple loosestrife.

4. A person who uses chemicals in a body of water for the purpose of controlling bacteria on bathing beaches.

5. A person who uses chemicals on plants to prevent the plants from interfering with the use of water for drinking purposes.

6. A state agency or a local governmental unit that uses a chemical treatment in a body of water for the purpose of protecting the public health.

(5) DISTRIBUTION PROHIBITED. No person may distribute an invasive aquatic plant.

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(6) PENALTIES. (a) Except as provided in par. (b), any person who violates sub. (3) shall forfeit not more than $200.

(b) A person who violates sub. (3) and who, within 5 years before the arrest of the current conviction, was previously convicted of a violation of sub. (3) shall be fined not less than $700 nor more than $2,000 or shall be imprisoned for not less than 6 months nor more than 9 months or both.

(c) The court may order a person who is convicted under par. (b) to abate any nuisance caused by the violation, restore any natural resource damaged by the violation, or take other appropriate action to eliminate or minimize any environmental damage caused by the violation.

(d) A person who violates sub. (5) shall forfeit not more than $100.

History: 2001 a. 16, 109; 2007 a. 20; 2011 a. 258.

Cross−reference: See also ch. NR 109, Wis. adm. code.

23.25 Geographic powers and duties. (1) The department shall do all of the following:

(a) Determine the correct and most appropriate names of the lakes, streams, places, and other geographic features in the state, and the spelling of those names.

(b) Pass upon and give names to lakes, streams, places, and other geographic features in the state for which no single generally accepted name has been in use.

(c) In cooperation with county boards and with their approval, change the names of lakes, streams, places, and other geographic features in order to eliminate, as far as possible, duplication of names within the state.

(d) Prepare and publish an official state dictionary of geographic names and publish the dictionary, either as a completed whole, or in parts, when ready.

(e) Serve as the state representative of the U.S. geographic board and cooperate with the U.S. geographic board so that there shall be no conflict between the state and federal designations of geographic features in the state.

(2) Except as provided under sub. (2m), whenever the department has given a name to any lake, stream, place or other geographic feature within the state, or determined the correct spelling of any such name, it shall be used on all maps and in all reports and other publications thereafter issued by the state or any of its political subdivisions, and it shall be the official name of the geographic feature.

(2m) Notwithstanding subs. (1) and (2), the portion of the Galena River located within the state is renamed the Fever River. That name shall be used on all maps and in all reports and other publications issued by the state or any of its political subdivisions on and after May 14, 1992, and it shall be the official name of this river.

(3) No person shall in any advertisement or publication attempt to modify local usage or name unnamed geographic features without first obtaining the approval of the department. In case of a violation of this subsection, the department may announce its disapproval and thereafter adopt an official name for such feature.

History: 1991 a. 284; 2005 a. 149.

23.26 Natural areas preservation council. The natural areas preservation council shall:

(1) Make recommendations to the department concerning the suitability of natural areas offered as donations by individuals or organizations for inclusion in the state natural areas system, make recommendations to the department concerning the purchase of natural areas to be included in the state natural areas system and make recommendations concerning the suitability of natural areas offered as dedications by individuals or organizations for inclusion in the state natural areas system.

(2) Make recommendations to appropriate federal agencies or national scientific organizations of natural areas in the state that are considered worthy to be listed as natural areas or scientific areas of national importance.

(3) Advise the department and other agencies on matters pertaining to the acquisition, development, utilization, maintenance and withdrawal of state natural areas, including determinations as to the extent of multiple use that may be allowed on state natural areas that are a part of a state park, state forest, public hunting ground or similar areas under state ownership or control.

(4) Prepare and publish an official list of research natural and other natural areas in the state natural area system available for research and the teaching of conservation and natural history, and recommend publication of studies made in connection with these areas.

(5) Cooperate with federal agencies, other states, counties or organizations concerned with preservation of natural areas.

(6) Take such other action as is deemed advisable to facilitate the administration, development, maintenance or protection of natural areas and the state natural areas system.

History: 1985 a. 29; Stats. 1985 s. 23.26.

23.27 Natural areas; definitions; importance; inventory; acquisition; sales. (1) DEFINITIONS. As used in this section and ss. 23.28 and 23.29:

(a) "Council" means the natural areas preservation council.

(b) "Dedicated state natural areas" means land accepted and recorded for dedication under the Wisconsin natural areas heritage program as provided under s. 23.29 (16).

(c) "Dedication" means the transfer of land or a permanent interest in land to the state of Wisconsin to be held in trust for the people of Wisconsin by the department in a manner which ensures the protection and stewardship of the area and natural values associated with the area. "Dedication" also means the binding unilateral declaration by the state that land under the ownership of the state is to be held in trust for the people of Wisconsin by the department in a manner which ensures the protection and stewardship of the area and natural values associated with the area.

(d) "Designated state natural area" means a natural area designated as a state natural area under s. 23.28 (1).

(e) "Natural area" means an area of land or water which has educational or scientific value or is important as a reservoir of the state's genetic or biologic diversity and includes any buffer area necessary to protect the area's natural values. Frequently, "natural areas" are important as a reserve for native biotic communities. Frequently, "natural areas" provide habitat for endangered, threatened or critical species or for species of special concern to scientists. In some cases, "natural areas" include areas with highly significant geological or archaeological features. Generally, "natural areas" are areas which largely escaped unnatural environmental disturbance or which exhibit little evidence of recent environmental disturbance so that recovery of natural conditions has occurred.

(f) "Natural values" includes any important values and characteristics listed under sub. (2) (a) to (i) which enable an area to be considered a natural area.

(g) "Research natural area" means all or part of a state natural area identified by the department, with the advice of the council, as a natural area especially suitable or important for scientific research.

(h) "State natural area", unless otherwise limited, means any designated state natural area or dedicated state natural area.

(i) "Stewardship" means the continuing obligation to provide the necessary maintenance, management, protection, husbandry and support for a natural area and natural values associated with that area.

(2) IMPORTANCE. The department, with the advice of the council, shall maintain a system to evaluate the importance of natural areas. The system shall include standards for determining low, high and critical levels of importance for natural areas. This system shall consider the following natural values:

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(a) The value of the area as a preserve or reservoir which exhibits an outstanding or high quality example of a native plant or animal community.

(b) The value of the area as a preserve or reservoir for any endangered, threatened or critical species or for a species of special concern to scientists.

(c) The value of the area as a preserve or reservoir of genetic or biological diversity.

(d) The degree to which the area was subject to unnatural environmental disturbance and the degree of recovery.

(e) The value of the area for educational or scientific research purposes and as a reference site for comparison with areas subjected to environmental disturbance.

(f) The value of the area for educational or scientific research purposes because of important or unusual characteristics.

(g) The significance or uniqueness of the area in the locality, region and state.

(h) The existence of highly significant geological or archaeological features.

(i) The value of the area for public educational purposes, including the value of the area in promoting public awareness, appreciation, understanding and respect for the state's natural heritage.

(3) NATURAL HERITAGE INVENTORY PROGRAM. (a) *Duties.* The department shall conduct a natural heritage inventory program. The department shall cooperate with the department of administration under s. 16.967 in conducting this program. This program shall establish a system for determining the existence and location of natural areas, the degree of endangerment of natural areas, an evaluation of the importance of natural areas, information related to the associated natural values of natural areas, and other information and data related to natural areas. This program shall establish a system for determining the existence and location of native plant and animal communities and endangered, threatened, and critical species, the degree of endangerment of these communities and species, the existence and location of habitat areas associated with these communities and species, and other information and data related to these communities and species. This program shall establish and coordinate standards for the collection, storage, and management of information and data related to the natural heritage inventory.

(b) *Access to information; fees.* The department shall make information and data from the natural heritage inventory program available to any individual or public or private agency for research, educational, environmental, land management or similar authorized purposes. The department may establish a fee to be collected to recover the actual cost of collecting, storing, managing, compiling and providing this information and data. The department may reduce or waive the fee established under this paragraph if the department determines that a waiver or reduction of the fee is in the public interest. The natural heritage inventory and related information and data are not subject to s. 19.35 and the department may refuse to release information or data for any purpose which is not authorized.

(4) NATURAL AREAS LAND ACQUISITION; CONTINUING COMMITMENT. It is the intent of the legislature to continue natural areas land acquisition activities from moneys available from the appropriations under ss. 20.370 (7) (fa) and 20.866 (2) (ta), (ts) and (tz). This commitment is separate from and in addition to the commitment to acquire natural areas under the Wisconsin natural areas heritage program. Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than $1,500,000 in each fiscal year for natural areas land acquisition activities under this subsection and for grants for this purpose under s. 23.096.

(5) NATURAL AREAS LAND ACQUISITION; COMMITMENT UNDER THE WISCONSIN NATURAL AREAS HERITAGE PROGRAM. It is the intent of the legislature to initiate additional natural areas land acquisition activities with moneys available from the appropriations under ss. 20.370 (1) (gr) and 20.866 (2) (ta), (tt) and (tz) under the Wisconsin natural areas heritage program. This commitment is separate from and in addition to the continuing commitment under sub. (4). Moneys available from the appropriations under ss. 20.370 (1) (gr) and 20.866 (2) (ta), (tt) and (tz) under the Wisconsin natural areas heritage program may not be used to acquire land through condemnation. The department may not acquire land under this subsection unless the land is suitable for dedication under the Wisconsin natural areas heritage program and upon purchase or as soon after purchase as practicable the department shall take all necessary action to dedicate the land under the Wisconsin natural areas heritage program. Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than $500,000 in each fiscal year for natural areas land acquisition activities under this subsection and for grants for this purpose under s. 23.096.

(6) SALE; CREDIT. Moneys received by the state from the sale of any area on state−owned land under the department's management or control which is withdrawn from the state natural areas system shall be credited to the appropriation under s. 20.370 (1) (gr). An amount equal to the value of any area on state−owned land under the department's management or control which is withdrawn from the state natural areas system but remains in state ownership shall be credited to the appropriation under s. 20.370 (1) (gr).

(7) SALE OF RESOURCES. Moneys received from the sale or lease of resources derived from the land in the state natural areas system shall be credited to the appropriation under s. 20.370 (1) (fs).

History: 1985 a. 29; 1987 a. 27; 1989 a. 31; 1991 a. 39, 269; 1997 a. 27 ss. 769 to 772, 9456 (3m); 1999 a. 9; 2003 a. 33 s. 2811; 2003 a. 48 ss. 10, 11; 2003 a. 206 s. 23; 2005 a. 25 ss. 496, 2493; 2011 a. 32.

Cross−reference: See also s. NR 103.04, Wis. adm. code.

23.28 State natural areas; designated state natural areas. (1) DESIGNATION. The department, with the advice of the council, may designate any natural area with a high or critical level of importance on state−owned land under the department's management or control as a state natural area. The department, with the advice of the council, may designate any natural area with a high or critical level of importance on land other than state−owned land but under the department's management or control as a state natural area. The department, with the advice of the council, may designate a natural area with a high or critical level of importance on land under the management or control of another state agency, a federal, county, city, village, town or other public agency or a nonprofit organization as a state natural area if that area is protected by a voluntary, written stewardship agreement between the owner or manager and the department.

(2) STEWARDSHIP. The department is responsible for the stewardship of designated state natural areas unless a written stewardship agreement specifies otherwise.

(3) PROTECTION OF NATURAL VALUES; RESEARCH NATURAL AREAS. The department shall not permit any use of a designated state natural area which is inconsistent with or injurious to its natural values. The department may establish use zones, may control uses within a zone and may limit the number of persons using a zone in a designated state natural area. The department, with the advice of the council, may classify certain designated state natural areas as research natural areas and may establish special use regulations for these areas.

History: 1985 a. 29; 1987 a. 399.

Cross−reference: See also ch. NR 29 and ss. NR 1.60, 1.61, and 103.04, Wis. adm. code.

23.29 Wisconsin natural areas heritage program. (1) INTENT. It is the intent of the legislature to encourage private contributions and land dedications under the Wisconsin natural areas heritage program. It is the intent of the legislature to match private contributions and the value of land dedications with state

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funds in addition to funds normally appropriated for natural areas land acquisition activities.

(2) CONTRIBUTIONS; STATE MATCH. The department may accept contributions and gifts for the Wisconsin natural areas heritage program. The department shall convert donations of land which it determines, with the advice of the council, are not appropriate for the Wisconsin natural areas heritage program into cash. The department shall convert other noncash contributions into cash. These moneys shall be deposited in the conservation fund and credited to the appropriation under s. 20.370 (1) (gr). These moneys shall be matched by an equal amount released from the appropriation under s. 20.866 (2) (ta), (tt) or (tz) or from any combination of these appropriations to be used for natural areas land acquisition activities under s. 23.27 (5). The department shall determine how the moneys being released are to be allocated from these appropriations.

(3) LAND DEDICATIONS; VALUATION; STATE MATCH. The department shall determine the value of land accepted for dedication under the Wisconsin natural areas heritage program. If the land dedication involves the transfer of the title in fee simple absolute or other arrangement for the transfer of all interest in the land to the state, the valuation shall be based on the fair market value of the land prior to the transfer. If the land dedication involves the transfer of a partial interest in land to the state, the valuation shall be based on the extent to which the fair market value of the land is diminished by that transfer and the associated articles of dedication. If the land dedication involves a sale of land to the department at less than the fair market value, the valuation of the dedication shall be based on the difference between the purchase price and the fair market value. An amount equal to the value of land accepted for dedication under the Wisconsin natural areas heritage program shall be released from the appropriation under s. 20.866 (2) (ta), (tt) or (tz) or from any combination of these appropriations to be used for natural areas land acquisition activities under s. 23.27 (5). This subsection does not apply to dedications of land under the ownership of the state. The department shall determine how the moneys being released are to be allocated from these appropriations.

(4) LAND DEDICATIONS; ELIGIBLE LAND. The department may not accept land for dedication under the Wisconsin natural areas heritage program unless the land is a natural area with a high or critical level of importance as determined by the department with the advice of the council.

(5) LAND DEDICATIONS; TRANSFER OF INTEREST. The department may not accept land for dedication under the Wisconsin natural areas heritage program unless all interest in the land or a partial interest in the land is transferred to the state to be held in trust for the people by the department. This subsection does not apply to land under the ownership of the state.

(6) LAND DEDICATIONS; STATE LAND. Land under the ownership of the state and under the control or management of the department may be accepted for dedication under the Wisconsin natural areas heritage program. Land under the ownership of the state but under the management or control of another agency may be accepted for dedication under the Wisconsin natural areas heritage program if the appropriate agency transfers sufficient permanent and irrevocable authority over the management and control of that land to the department.

(7) LAND DEDICATIONS; PERMANENT AND IRREVOCABLE. Except as permitted under this subsection, the department may not accept land for dedication under the Wisconsin natural areas heritage program unless the land dedication is permanent and irrevocable. The department may not accept land for dedication under the Wisconsin natural areas heritage program if the dedication or any provision in the articles of dedication include any reversionary right or any provision which extinguishes the dedication at a certain time or upon the development of certain conditions, except that the department may authorize a revision or extinction if the land is withdrawn from the Wisconsin natural areas heritage program as provided under subs. (19) and (20). The department may not accept land for dedication under the Wisconsin natural areas heritage program if the articles of dedication allow for amendment or revision except as provided under subs. (17) and (18).

(8) LAND DEDICATIONS; PUBLIC TRUST. The department may not accept land for dedication under the Wisconsin natural areas heritage program unless the land dedication provides that the interest in land which is transferred to or held by the state is to be held in trust for the people by the department.

(9) LAND DEDICATIONS; STEWARDSHIP. The department may not accept land for dedication under the Wisconsin natural areas heritage program unless adequate provisions for the stewardship are provided. If the land dedication involves the transfer of title in fee simple absolute or other arrangement for the transfer of all interest in the land to the state, the department has stewardship responsibility. If the land dedication involves the transfer of a partial interest in the land to the state, stewardship responsibility shall be assigned to the person retaining an interest in the land and his or her successors or to the department. Even if stewardship responsibility is assigned to a person retaining an interest in the land and his or her successors, the department has ultimate responsibility to ensure that stewardship is provided and, if it is not, the department shall assume stewardship responsibility and shall recover the costs involved from the party originally responsible. If the land dedication involves state−owned land under the management or control of the department, the department has stewardship responsibility. The department may enter into contracts or agreements with other agencies or persons to act as its agent and to ensure that stewardship is provided for a dedicated state natural area or to assume stewardship responsibility for a dedicated state natural area. In no case may the department abrogate its ultimate stewardship responsibility or its obligation as a trustee of the land.

(10) PROTECTION OF NATURAL VALUES; RESEARCH NATURAL AREAS. The department may not accept land for dedication under the Wisconsin natural areas heritage program unless adequate authorization is given to the department to protect natural values and to restrict any use of the natural area which is inconsistent with or injurious to its natural values. If authorized by the articles of dedication, the department may establish use zones, may control uses within a zone and may limit the number of persons using a zone in a dedicated state natural area. If authorized in the articles of dedication, the department, with the advice of the council, may classify certain dedicated state natural areas as research natural areas and may establish special use regulations for these areas.

(11) LAND DEDICATIONS; PARTIAL INTEREST; LAND OF OTHER STATE AGENCIES; ACCESS. The department may not accept land for dedication under the Wisconsin natural areas heritage program if the land dedication involves the transfer of a partial interest in the land to the state unless adequate provisions for access are provided. Land under the ownership of the state but under the management and control of another state agency may not be accepted for dedication under the Wisconsin natural areas heritage program unless adequate provisions for access are provided. Adequate provisions for access are required to include provisions which guarantee access to the land by the department and its agents at reasonable times to inspect the land and to determine if the articles of dedication are being violated. Adequate provisions for access are required to include provisions which guarantee to the department and its agents access and rights to the land necessary to exercise stewardship responsibilities. Adequate provisions for access may not be required to include any provision permitting public access to the land although the department shall encourage public access provisions wherever possible and consistent with preservation of natural values associated with the land. If public access is permitted, the department shall consider this as a factor when making its valuation under sub. (3). Even if public access is permitted, the department may limit access at its discretion to protect natural values associated with the land or to facilitate stewardship or administration.

(12) LAND DEDICATION; PARTIAL INTEREST; LAND OF OTHER STATE AGENCIES; NOTICE PRIOR TO SALE OR TRANSFER. The depart-

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ment may not accept land for dedication under the Wisconsin natural areas heritage program if the land dedication involves the transfer of a partial interest in the land to the state unless adequate provisions for notice are provided. Land under the ownership of the state but under the management and control of another state agency may not be accepted for dedication under the Wisconsin natural areas heritage program unless adequate provisions for notice are provided. At a minimum, adequate provisions for notice shall require 30 days' notice to the department before any sale, transfer or conveyance of the land or an interest in the land. The department may not regulate or prohibit the sale, transfer or conveyance of a dedicated state natural area or an interest in a dedicated state natural area but the department may ensure that the grantee, lessee or other party is informed of the dedication and understands that restrictions, conditions, obligations, covenants and other provisions in the dedication and articles of dedication run with the land and are binding on subsequent grantees, lessees and similar parties. No sale, transfer or conveyance of a dedicated state natural area may violate the dedication or the articles of dedication. The register of deeds shall notify the department if a dedicated state natural area is transferred by will or as part of an estate.

(13) ARTICLES OF DEDICATION; REQUIREMENT; APPROVAL. The department may not accept land for dedication under the Wisconsin natural areas heritage program unless articles of dedication in the proper form and with the required contents are prepared and approved. The department and the person making the land dedication are required to approve articles of dedication if the land dedication involves the transfer of all or a partial interest in the land. The department and the appropriate state agency are required to approve articles of dedication if the land dedication involves land under the ownership of the state but under the control or management of a state agency other than the department. The department is required to approve articles of dedication if the land dedication involves only land under the ownership and control of the state and under the management or control of the department. The department shall seek the advice of the council in making approvals under this subsection.

(14) ARTICLES OF DEDICATION; FORM. Articles of dedication are not in proper form unless they are prepared as a conservation easement under s. 700.40 or in another form acceptable to the department. Articles of dedication are not in proper form unless they run with the land and are binding on all subsequent purchasers or any other successor to an interest in the land. Articles of dedication are not in proper form unless the articles qualify as an instrument which is valid and meets the requirements for recording under s. 706.04.

(15) ARTICLES OF DEDICATION; CONTENTS. The department may not approve articles of dedication unless they contain:

(a) *Public purpose.* A statement of public purposes served by the dedication.

(b) *Identification of natural values.* An identification of natural values associated with the land.

(c) *Conveyance.* A conveyance or other instrument if necessary to transfer interest in the land as required under sub. (5).

(d) *Permanent protection.* Restrictions, conditions, covenants and other provisions governing the use of the land so that natural values associated with the land are ensured of permanent protection.

(e) *Stewardship.* Restrictions, conditions, obligations, covenants or other provisions governing the obligation to provide stewardship as required under sub. (9).

(f) *Authorization.* Authorization to the department to ensure protection of natural values as required under sub. (10).

(g) *Access.* Adequate provisions for access if required under sub. (11).

(h) *Notification of sales and transfers.* Adequate provisions for notice if required under sub. (12).

(i) *Amendment.* A provision specifying that no amendment or revision to the articles of dedication may occur except as provided under subs. (17) and (18).

(j) *Withdrawal.* A provision specifying that no withdrawal of the land from the dedicated state natural areas system may occur except as provided under subs. (19) and (20).

(16) ACCEPTANCE; RECORDING. The department may not accept land for dedication under the Wisconsin natural areas heritage program unless the governor approves the dedication in writing. If the department and the governor approve, a land dedication under the Wisconsin natural areas heritage program is final with the recording of the dedication and articles of dedication in the office of the register of deeds. At the time of recording, the land is a dedicated state natural area and shall remain so unless withdrawn under subs. (19) and (20).

(17) ARTICLES OF DEDICATION; AMENDMENT; JUSTIFICATION. The articles of dedication may not be amended or revised unless the amendment or revision serves a valid public purpose, no prudent alternative exists and the amendment or revision would not significantly injure or damage the natural values which enabled the area to be considered a state natural area.

(18) ARTICLES OF DEDICATION; AMENDMENT; PROCEDURE. The articles of dedication may not be amended or revised until and unless:

(a) *Agreement.* The department and any other party with a property interest in the dedicated state natural area agree to the proposed amendment or revision.

(b) *Findings.* The department issues written findings justifying the proposed amendment or revision under sub. (17).

(c) *Notice and hearing.* A public hearing is conducted in the county where the dedicated state natural area is located following publication of a class 1 notice, under ch. 985, which announces the hearing and summarizes the department's findings.

(d) *Standing committee approval.* The appropriate standing committee in each house of the legislature, as determined by each presiding officer, approves the proposed amendment or revision.

(e) *Approval by governor.* The governor approves the proposed amendment or revision.

(f) *Recording.* The amendment or revision is recorded in the office of the register of deeds.

(19) WITHDRAWAL; JUSTIFICATION. The department may not withdraw a dedicated state natural area from the dedicated state natural areas system unless:

(a) *Extinction of natural values.* The natural values which enabled the area to be considered a dedicated state natural area no longer exist or were destroyed or damaged to such an extent that the area has no importance or has a low level of importance as determined by the department with the advice of the council.

(b) *Superseding public purpose.* The withdrawal serves a superseding and imperative public purpose and no prudent alternative exists.

(20) WITHDRAWAL; PROCEDURE. The department may not withdraw a dedicated state natural area from the state natural areas system until and unless:

(a) *Findings.* The department issues written findings justifying the proposed withdrawal under sub. (19) (a) or (b).

(b) *Notice and hearing.* A public hearing is conducted in the county where the dedicated state natural area is located following publication of a class 1 notice, under ch. 985, which announces the hearing and summarizes the department's findings.

(c) *Standing committee approval.* The appropriate standing committee in each house of the legislature, as determined by each presiding officer, approves the proposed withdrawal.

(d) *Approval by governor.* The governor approves the proposed withdrawal.

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(e) *Recording.* The withdrawal is recorded with the register of deeds.

(21) RESTRICTIONS. A dedicated state natural area is not subject to condemnation for use for any purpose unless the area is withdrawn from the state natural areas system under subs. (19) and (20). The department may not impose restrictions on a person who retains a property interest in a dedicated state natural area unless the department has authority under the dedication or articles of dedication or unless the person who retains the property interest agrees.

(22) DEPARTMENT AUTHORITY. The department shall administer this section and shall encourage and facilitate the voluntary dedication of lands under the Wisconsin natural areas heritage program. The department may promulgate rules and establish procedures to aid in the administration and enforcement of this section. The department may provide legal advice and may prepare model articles of dedication to facilitate the dedication of lands under the Wisconsin natural areas heritage program.

(23) ENFORCEMENT. The department and its agents, the department of justice, and peace officers, as defined under s. 939.22 (22), but not including commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated state natural areas in the geographic jurisdiction to enforce articles of dedication and restrictions authorized under sub. (21).

(24) INJUNCTIVE RELIEF; RECOVERY OF COSTS; PUNITIVE DAMAGES. The department, or the department of justice on its own initiative or at the request of the department, may initiate an action seeking injunctive relief against any person violating the articles of dedication of a dedicated state natural area or restrictions authorized under sub. (21). Any citizen may initiate an action seeking injunctive relief against any person violating the articles of dedication of a dedicated state natural area as a beneficiary of the interest in that land held in the public trust. The department, or the department of justice at the department's request, may initiate an action to recover costs for stewardship expenses from the party originally responsible under sub. (9). The department, or the department of justice at the department's request, may initiate an action for punitive damages against any person violating the articles of dedication of a dedicated state natural area. Punitive damages are in addition to any penalty imposed under sub. (25).

(25) PENALTY. Any person who violates this section, a rule promulgated under this section, the articles of dedication of a dedicated state natural area or any restrictions authorized under sub. (21) shall forfeit not more than $10,000. Each violation and each day of violation constitutes a separate offense.

History: 1985 a. 29; 1987 a. 403; 1989 a. 31; 1999 a. 9; 2007 a. 27; 2011 a. 32.
Cross−reference: See also s. NR 103.04, Wis. adm. code.

23.293 State ice age trail area dedication. (1) DEFINITIONS. In this section:

(a) "Dedicated ice age trail area" means land accepted and recorded for dedication under the ice age trail program under this section.

(b) "Dedication" means all of the following:

1. The transfer of land or a permanent interest in land to this state to be held in trust for the people of this state by the department in a manner which ensures the stewardship of the area.

2. The binding unilateral declaration by the state that land under the ownership of the state is to be held in trust for the people of this state by the department in a manner which ensures the stewardship of the area.

(c) "State ice age trail area" means the trail designated under s. 23.17 (2).

(d) "Stewardship" means the continuing obligation to provide the necessary maintenance, management, protection, husbandry and support.

(2) MAP. The department shall develop a map which designates the state ice age trail areas.

(3) STEWARDSHIP. The department is responsible for the stewardship of state ice age trail area lands.

(4) CONTRIBUTIONS AND GIFTS; STATE MATCH. The department may accept contributions and gifts for the ice age trail program. The department may convert gifts of land which it determines are not appropriate for the ice age trail program into cash. The department may convert other noncash contributions and gifts into cash. These moneys shall be deposited in the general fund and credited to the appropriation under s. 20.370 (7) (gg). An amount equal to the value of all contributions and gifts shall be released from the appropriation under s. 20.866 (2) (ta), (tw) or (tz) or from any combination of these appropriations to be used for land acquisition and development activities under s. 23.17. The department shall determine how the moneys being released are to be allocated from these appropriations.

(5) LAND DEDICATIONS; VALUATION; STATE MATCH. The department shall determine the value of land accepted for dedication under the ice age trail program. If the land dedication involves the transfer of the title in fee simple absolute or other arrangement for the transfer of all interest in the land to the state, the valuation of the land shall be based on the fair market value of the land before the transfer. If the land dedication involves the transfer of a partial interest in land to the state, the valuation of the land shall be based on the extent to which the fair market value of the land is diminished by that transfer and the associated articles of dedication. If the land dedication involves a sale of land to the department at less than the fair market value, the valuation of the land shall be based on the difference between the purchase price and the fair market value. An amount equal to the valuation of the land accepted for dedication under the ice age trail program shall be released from the appropriation under s. 20.866 (2) (ta), (tw) or (tz) or from any combination of these appropriations to be used for ice age trail acquisition activities under s. 23.17. The department shall determine how the moneys being released are to be allocated from these appropriations. This subsection does not apply to dedications of land under the ownership of the state.

(6) LAND DEDICATIONS; ELIGIBILITY AND ACCEPTANCE. The department shall accept land except as provided by sub. (7), (8), (9), (10) or (12), within the state ice age trail area for dedication unless the long−term stewardship of the dedicated land cannot reasonably be assured.

(7) LAND DEDICATIONS; TRANSFER OF INTEREST. The department may not accept land for dedication under the ice age trail program unless all interest in the land or a partial interest in the land is transferred to the state to be held in trust for the people of this state by the department. This subsection does not apply to land under the ownership of the state.

(8) LAND DEDICATIONS; STATE LAND. Land under the ownership of the state and under the control or management of the department may be accepted for dedication under the ice age trail program. Land under the ownership of the state but under the management or control of another agency may be accepted for dedication under the ice age trail program if the appropriate agency transfers sufficient permanent and irrevocable authority over the management and control of that land to the department.

(9) LAND DEDICATIONS; PERMANENT AND IRREVOCABLE. Except as permitted under this subsection, the department may not accept land for dedication under the ice age trail program unless the land dedication is permanent and irrevocable. The department may not accept land for dedication under the ice age trail program if the dedication or any provision in the articles of dedication include any reversionary right or any provision which extinguishes the dedication at a certain time or upon the development of certain conditions, except that the department may authorize a reversion or extinction if the land is withdrawn from the ice age trail program as provided under subs. (16) and (17). The department may not accept land for dedication under the ice age trail program if the articles of dedication allow for amendment or revision except as provided under subs. (14) and (15).

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(10) LAND DEDICATIONS; PUBLIC TRUST. The department may not accept land for dedication under the ice age trail program unless the land dedication provides that the interest in land which is transferred to or held by the state is to be held in trust for the people of this state by the department.

(11) LAND DEDICATIONS; STEWARDSHIP. The department may enter into contracts or agreements with other agencies or persons to act as its agent and to ensure that stewardship is provided for a dedicated ice age trail area or to assume stewardship responsibility for a dedicated ice age trail area. In no case may the department abrogate its ultimate stewardship responsibility or its obligation as a trustee of the land.

(12) LAND DEDICATION; PARTIAL INTEREST; LAND OF OTHER STATE AGENCIES; NOTICE PRIOR TO SALE OR TRANSFER. The department may not accept land for dedication under the ice age trail program if the land dedication involves the transfer of a partial interest in the land to the state unless adequate provisions for notice are provided. Land under the ownership of the state but under the management and control of another state agency may not be accepted for dedication under the ice age trail program unless adequate provisions for notice are provided. At a minimum, adequate provisions for notice shall require 30 days' notice to the department before any sale, transfer or conveyance of the land or an interest in the land. The department may not regulate or prohibit the sale, transfer or conveyance of a dedicated ice age trail area or an interest in a dedicated ice age trail area but the department may ensure that the grantee, lessee or other party is informed of the dedication and understands that restrictions, conditions, obligations, covenants and other provisions in the dedication and articles of dedication run with the land and are binding on subsequent grantees, lessees and similar parties. No sale, transfer or conveyance of a dedicated ice age trail area may violate the dedication or the articles of dedication. The register of deeds shall notify the department if a dedicated ice age trail area is transferred by will or as part of an estate.

(13) ARTICLES OF DEDICATION; FORM. Articles of dedication are not in proper form unless they are prepared as a conservation easement under s. 700.40 or in another form acceptable to the department. Articles of dedication are not in proper form unless they run with the land and are binding on all subsequent purchasers or any other successor to an interest in the land. Articles of dedication are not in proper form unless the articles qualify as an instrument which is valid and meets the requirements for recording under s. 706.04.

(14) ARTICLES OF DEDICATION; AMENDMENT; JUSTIFICATION. The articles of dedication may not be amended or revised unless the amendment or revision serves a valid public purpose, no prudent alternative exists and the amendment or revision would not significantly injure or damage the ice age trail.

(15) ARTICLES OF DEDICATION; AMENDMENT; PROCEDURE. The articles of dedication may not be amended or revised until and unless:

(a) *Agreement.* The department and any other party with a property interest in the dedicated ice age trail area agree to the proposed amendment or revision.

(b) *Findings.* The department issues written findings justifying the proposed amendment or revision under sub. (14).

(c) *Notice and hearing.* A public hearing is conducted in the county where the dedicated ice age trail area is located following publication of a class 1 notice, under ch. 985, which announces the hearing and summarizes the department's findings.

(d) *Standing committee approval.* The appropriate standing committee in each house of the legislature, as determined by each presiding officer, approves the proposed amendment or revision.

(e) *Approval by governor.* The governor approves the proposed amendment or revision.

(f) *Recording.* The amendment or revision is recorded in the office of the register of deeds.

(16) WITHDRAWAL; JUSTIFICATION. The department may not withdraw a state ice age trail area from the state ice age trail areas system unless:

(a) *Extinction of value.* The value which enabled the area to be considered a dedicated ice age trail area no longer exists or was destroyed or damaged to such an extent that the area has no importance or has a low level of importance as determined by the department.

(b) *Superseding public purpose.* The withdrawal serves a superseding and imperative public purpose and no prudent alternative exists.

(17) WITHDRAWAL; PROCEDURE. The department may not withdraw a dedicated ice age trail area from the state ice age trail areas system until and unless:

(a) *Findings.* The department issues written findings justifying the proposed withdrawal under sub. (16) (a) or (b).

(b) *Notice and hearing.* A public hearing is conducted in the county where the dedicated ice age trail area is located following publication of a class 1 notice, under ch. 985, which announces the hearing and summarizes the department's findings.

(c) *Standing committee approval.* The appropriate standing committee in each house of the legislature, as determined by each presiding officer, approves the proposed withdrawal.

(d) *Approval by governor.* The governor approves the proposed withdrawal.

(e) *Recording.* The withdrawal is recorded with the register of deeds.

(18) DEPARTMENT AUTHORITY. The department shall administer this section and shall encourage and facilitate the voluntary dedication of lands under the ice age trail program. The department may promulgate rules and establish procedures to aid in the administration and enforcement of this section. The department may provide legal advice and may prepare model articles of dedication to facilitate the dedication of lands under the ice age trail program.

(19) ENFORCEMENT. The department and its agents, the department of justice, and peace officers, as defined under s. 939.22 (22), but not including commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated ice age trail areas.

(20) INJUNCTIVE RELIEF; RECOVERY OF COSTS. The department, or the department of justice on its own initiative or at the request of the department, may initiate an action seeking injunctive relief against any person violating the articles of dedication of a dedicated ice age trail area.

History: 1987 a. 399; 1989 a. 31; 1991 a. 39; 1997 a. 27; 1999 a. 9; 2007 a. 27.

23.295 Ice age trail area grants. (1) In this section:

(a) "Ice age trail area" means the trail designated under s. 23.17 (2).

(b) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of the political subdivision or special purpose district or a combination or subunit of any of the foregoing.

(2) The department shall provide one grant of $75,000 in each fiscal year, beginning with fiscal year 1999−2000, to a nonstock, nonprofit corporation that meets all of the following requirements:

(a) The corporation is organized in this state.

(b) The corporation is described under section 501 (c) (3) or (4) of the Internal Revenue Code and exempt from taxation under section 501 (a) of the Internal Revenue Code.

(c) The corporation has a board of directors or an advisory council or both whose members represent different geographic areas of the ice age trail area, and at least one−third of whom are current or former ice age trail volunteers.

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(d) The board of directors or an advisory council of the corporation or both collectively have an interest or expertise in all of the following:

1. Recruiting and training volunteers.
2. Land conservation.
3. Trails and outdoor recreation.
4. Tourism.
5. This state's glacial geology.
6. This state's cultural history.

(e) The corporation contributes $25,000 in funds annually to be used with the grant under this section.

(3) A corporation receiving a grant under sub. (2) may use the grant for activities related to the development, maintenance, protection and promotion of the ice age trail area and shall do all of the following with the grant:

(a) Support the work of volunteers who develop, maintain and promote the ice age trail area.

(b) Build partnerships for the ice age trail area with local governmental units and nonprofit organizations.

(c) Promote the protection of a corridor for the ice age trail area by providing information about acquiring land, or an interest in land, in that corridor.

(d) Strengthen community support for the ice age trail area by recruiting and training volunteers and by coordinating the activities of interest groups.

(e) Promote tourism in the ice age trail area.

(f) For each fiscal year, prepare a report detailing the activities for which a grant under sub. (2) is expended. Copies of the report shall be submitted to the department and to the appropriate standing committees of the legislature, as determined by the speaker of the assembly or the president of the senate.

History: 1999 a. 9.

23.30 Outdoor recreation program. (1) PURPOSE. The purpose of this section is to promote, encourage, coordinate and implement a comprehensive long−range plan to acquire, maintain and develop for public use those areas of the state best adapted to the development of a comprehensive system of state and local outdoor recreation facilities and services in all fields, including, without limitation because of enumeration, parks, forests, camping grounds, fishing and hunting grounds, trails, trail−side campsites and shelters, cross−country ski trails, bridle trails, related historical sites, highway scenic easements, the lower Wisconsin state riverway as defined in s. 30.40 (15), natural areas and local recreation programs, except spectator sports, and to facilitate and encourage the fullest beneficial public use of these areas.

(2) ESTABLISHED. The outdoor recreation program is established as a continuing program to financially assist the state and local agency outdoor recreation program, including, without limitation because of enumeration, lake rehabilitation, coho salmon production, wildlife management on county forests, public access, state park and forest recreation areas, fish and game habitat areas, youth conservation camps, creation of new lakes, lake and stream classification, the lower Wisconsin state riverway as defined in s. 30.40 (15), highway scenic easements, natural areas, state aids for local governmental parks and other outdoor recreational facilities, acquisition and development, state aids for county forest recreation areas development, related historic sites, tourist information sites; recreational planning; scenic or wild river preservation and use; and conservation work program.

(3) NATURAL RESOURCES BOARD. The natural resources board is the body through which all governmental agencies and nongovernmental agencies may coordinate their policies, plans and activities with regard to Wisconsin outdoor recreation resources. To this end it shall:

(a) Consider and recommend to the governor and legislature broad policies and standards to guide the comprehensive development of all outdoor recreation resources in Wisconsin, including, without limitation because of enumeration, outdoor recreation development in relation to state population patterns, low−cost sewage system studies, the several outdoor recreation activities, outdoor recreation development to aid the state recreation industry, and policies and standards to coordinate the respective outdoor recreation development programs of federal, state and local governmental agencies and the recreation programs operated by private enterprise.

(b) Coordinate the development of a comprehensive long−range plan for the acquisition and development of areas necessary for a statewide system of recreational facilities. The comprehensive plan shall be based upon the outdoor recreation plans of the several state agencies and local governmental agencies, and shall be coordinated and modified as the board deems necessary to comply with its policies and standards.

(c) Recommend to the legislature outdoor recreation program appropriations and allocations which, in conjunction with other financial sources supporting outdoor recreation resources, are necessary to carry out plans coordinated by the board.

(d) Consider progress reports from state agencies to determine that all state appropriations for outdoor recreation are being so expended that the policies and plans formulated by the board will be accomplished.

(f) Advise federal agencies concerned of the pattern in which all federal outdoor recreation resources financial assistance and loan programs to state and local governmental agencies and to nongovernmental associations and private individuals will most completely implement the policies and plans of the board.

(g) Negotiate agreements between agencies concerned when in the board's judgment there is an overlap of authority or responsibilities in the completion of a project.

(h) Accept on behalf of the state and allocate to the appropriate state agency any gifts and grants of money, property or services made for the purposes of outdoor recreation in Wisconsin. The proceeds of such gifts and grants may be expended for the purpose of the gift or grant.

History: 1971 c. 125; 1985 a. 29; 1987 a. 98; 1989 a. 31; 1993 a. 213.

Cross−reference: See also ch. NR 50 and s. NR 1.51, Wis. adm. code.

ORAP funds may be used for the planting of trees and shrubs along state highways and to mark scenic easements as part of the state's beautification and outdoor recreation programs. 62 Atty. Gen. 135.

ORAP funds may be used to restore deteriorated milldams provided a public use is evident. 63 Atty. Gen. 245.

The department has no authority to construct spectator sport facilities in state forests, nor has it authority to lease state forest lands for such purpose. 63 Atty. Gen. 519.

23.305 Leasing of department land for recreational purposes. (1) In this section, "spectator sports" means events or contests in which the general public spectates but does not participate, including without limitation because of enumeration:

(a) Water ski shows.
(b) Baseball games.
(c) Volleyball games.
(d) Snowmobile derbies.
(e) Motorboat races.
(f) Snowshoe races.
(g) Cross−country ski races.
(h) Dogsled races.
(i) Canoe or kayak races.

(2) Notwithstanding ss. 23.30 and 28.04, the department may lease state park land or state forest land to towns, villages or counties for outdoor recreational purposes associated with spectator sports.

(3) The lease shall be for a term not to exceed 15 years. The lease shall contain covenants to protect the department from all liability and costs associated with use of the land and to guard

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against trespass and waste. The rents arising from the lease shall be paid into the state treasury and credited to the proper fund.

History: 1985 a. 29.

23.31 Recreation resources facilities. (1) (a) To provide and develop recreation resources facilities within this state, the natural resources board, subject to the limits provided in s. 20.866 (2) (tp), (ts) and (tt), may direct that state debt be contracted for providing recreation resources facilities or making additions to existing recreation resources facilities.

(b) With their biennial budget request to the department of administration, the natural resources board shall include its request and plan for recreational acquisition and development funding under s. 23.30. This plan shall be approved by the governor and shall contain the policies regarding the priority types of land to be acquired and the nature and categories of the developments to be undertaken. Changes in priority types of land to be acquired and in categories of developments may not be made without approval of the governor. Any deviation which the governor approves shall be reviewed by the joint committee on finance.

(2) (a) The debt shall be contracted for in the manner and form the legislature prescribes.

(b) It is the intent of the legislature that state debt not to exceed $56,055,000 in the 12−year period from 1969 to 1981 may be incurred for the comprehensive provision of outdoor recreation facilities as provided under s. 23.30 but any unappropriated or uncommitted portion of this debt shall be continued beyond 1981.

(c) It is the intent of the legislature that state debt not to exceed $60,000,000 in the 10−year period from July 1, 1981 to July 1, 1991, may be incurred to support outdoor recreation land acquisition activities.

History: 1971 c. 125; 1971 c. 211 s. 126; 1973 c. 90; 1977 c. 418; 1979 c. 34, 221; 1981 c. 20; 1985 a. 29.

23.32 Wetlands mapping. (1) In this section "wetland" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

(2) (a) For the purpose of advancing the conservation of wetland resources the department shall prepare or cause to be prepared maps that, at a minimum, identify as accurately as is practicable the individual wetlands in the state which have an area of 5 acres or more.

(b) Mapping priorities, technical methods and standards to be used in delineating wetlands and a long−term schedule which will result in completion of the mapping effort at the earliest possible date shall be developed by the department in cooperation with those other state agencies having mapping, aerial photography and comprehensive planning responsibilities.

(c) Wetland maps shall be prepared utilizing the best methods practicable with the funds available for that purpose and shall be based upon data such as soil surveys, aerial photographs and existing wetland surveys and may be supplemented by on−site surveys and other studies.

(d) The department shall cooperate with the department of administration under s. 16.967 in conducting wetland mapping activities or any related land information collection activities.

(3) (a) The department may sell, and may enter into contracts to sell, wetland maps. The fees for the maps shall be as follows:

1. For each paper map, $5.

2. For each aerial photograph, $10.

3. For each copy of a digital wetland database covering one township, $15.

(b) The department, by rule, may increase any fee specified in par. (a). Any increased fee must at least equal the amount necessary to cover the costs of preparing, producing and selling the wetland maps.

History: 1977 c. 374; 1979 c. 221; 1983 a. 27; 1985 a. 29; 1989 a. 31; 1995 a. 27; 1997 a. 27 ss. 774am, 775am, 9456 (3m); 1999 a. 147, 185; 2003 a. 33 s. 2811; 2003 a. 48 ss. 10, 11; 2003 a. 206 s. 23; 2005 a. 25 ss. 497, 2493.

Cross−reference: See also s. NR 1.95, Wis. adm. code.

23.321 Wetland identification and confirmation. (1) DEFINITION. In this section, "wetland" has the meaning given in s. 23.32 (1).

(2) TYPES OF SERVICES. Any person who owns or leases land may request that the department provide any of the following services for the fee specified in sub. (3):

(b) A wetland identification that consists of a written evaluation, based upon an on−site inspection of the land by the department, of whether a parcel of land contains a wetland. The department shall provide a wetland identification only for a parcel of land, or a part of a parcel of land, that does not exceed 5 acres.

(c) A wetland confirmation that consists of a written statement, based upon an on−site inspection of the land by the department, of whether the department concurs with the boundaries of a wetland as delineated by a 3rd person. The delineation prepared by the 3rd person shall include the exact location and boundaries of the wetland. If the department concurs with the boundaries of a wetland delineated by a 3rd person, the department's statement under this paragraph shall also include the exact location and boundaries of the wetland. The department may not provide a wetland confirmation under this paragraph before the earlier of the following:

1. The date on which the department enters into a memorandum of agreement with the U.S. Army Corps of Engineers as specified in sub. (2m).

2. February 1, 2012.

(2m) MEMORANDUM OF AGREEMENT. The department shall negotiate with the U.S. Army Corps of Engineers to enter into a memorandum of agreement that provides that the U.S. Army Corps of Engineers will concur with any wetland confirmation provided by the department under sub. (2) (c).

(3) FEES; GENERALLY. The department shall charge the following fee for services provided under sub. (2):

(b) For a wetland identification under sub. (2) (b), $300 for each acre inspected by the department.

(c) For a wetland confirmation under sub. (2) (c), $300 for each 20 acres inspected by the department.

(3m) FEES; EXPEDITED SERVICE. The department may charge a supplemental fee for a type of service under sub. (2) that is in addition to the fee charged under sub. (3) if all of the following apply:

(a) The applicant requests in writing that the service be provided within a time period that is shorter than the time limit specified under sub. (4) for that type of service.

(b) The department verifies that it will be able to comply with the request.

(4) TIME LIMITS. (a) Except as provided under par. (b), the department shall do all of the following:

2. Provide a wetland identification not later than 60 days after a person files a request, in the manner and form required by the department, for a wetland identification.

3. Provide a wetland confirmation not later than 60 days after a person files a request, in the manner and form required by the department, for a wetland confirmation.

(b) If adverse weather conditions, or other conditions at the site, prevent the department from conducting an accurate on−site inspection under sub. (2) (b) or (c) in sufficient time to comply with the deadline under par. (a), the department shall provide a wetland identification under sub. (2) (b) or a wetland confirmation

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under sub. (2) (c) as soon as possible after weather conditions, or other conditions at the site, allow the department to conduct an accurate on−site inspection. Within 30 days after determining that adverse weather conditions, or other conditions at the site, will prevent the department from complying with the deadline under par. (a), the department shall give notice to the person requesting the wetland identification or wetland confirmation that adverse weather conditions, or other conditions at the site, will prevent the department from complying with the deadline and giving notice to the person that the department will provide the wetland identification or wetland confirmation as soon as possible after weather conditions, or other conditions at the site, allow the department to conduct an accurate on−site inspection.

(5) LENGTH OF VALIDITY. A wetland identification provided by the department under sub. (2) (b) and a wetland confirmation provided by the department under sub. (2) (c) remain effective for 5 years from the date provided by the department.

(6) INCLUDED ON MAPS. If the department determines under this section that a parcel of land is likely to or does contain a wetland, or that it concurs with the boundaries of a wetland as delineated by a 3rd person, the department shall include this information on wetland maps prepared under s. 23.32.

History: 2009 a. 373; 2011 a. 118.

23.322 Fees for computer accessible water resource management information. The department may charge a fee for providing any information that it maintains in a format that may be accessed by computer concerning the waters of this state, including maps and other water resource management information.

History: 1999 a. 9; 2001 a. 104.

23.323 Wetlands informational brochure. The department shall furnish an informational brochure to cities, villages, towns, and counties for distribution to the public that describes the laws that apply to wetlands.

History: 2009 a. 373.

23.325 Aerial photographic survey. (1) The department shall make, on a periodic basis, an aerial photographic survey of the state to provide the basis for state planning and resource and forestry management. In performing this duty, the department:

(a) Shall consult with the department of administration, the department of transportation, and the state cartographer, and may consult with other potential users of the photographic products resulting from the survey, to determine the scope and character of the survey.

(b) May contract with other state agencies or nongovernmental entities to carry out the photographic imagery acquisition phases of the survey and to prepare specific photographic products for use by federal, state and local agencies and the general public.

(2) (a) After consultation with the department of transportation and the state cartographer, the department of natural resources shall select the photographic products to be sold.

(b) The department of administration shall establish sale prices for the photographic products. The department of administration shall establish sale prices annually at a level that at least equals the amount necessary to cover the costs of photographic imagery acquisition and the production of photographic products and the costs of selling and reproducing the productions.

(3) The department of natural resources may sell and may enter into contracts to sell the photographic products.

(4) All income received by the department of natural resources and the department of transportation from the sale of the photographic products, less the amount retained by the department of transportation under s. 85.10, shall be deposited in the conservation fund.

History: 1991 a. 39; 1997 a. 27 ss. 775am, 9456 (3m); 2003 a. 33 s. 2811; 2003 a. 48 ss. 10, 11; 2003 a. 206 s. 23; 2005 a. 25 ss. 498, 2493.

23.33 All−terrain vehicles and utility terrain vehicles. (1) DEFINITIONS. As used in this section:

(a) "Accompanied" means being subject to continuous verbal direction or control.

(ag) "Agricultural purpose" includes a purpose related to the transportation of farm implements, equipment, supplies, or products on a farm or between farms.

(am) "Alcohol beverages" has the meaning specified under s. 125.02 (1).

(ar) "Alcohol concentration" has the meaning given in s. 340.01 (1v).

(b) "All−terrain vehicle" has the meaning specified under s. 340.01 (2g).

(bc) "All−terrain vehicle club" means a club consisting of individuals that promotes the recreational use of all−terrain vehicles.

(bd) "All−terrain vehicle dealer" means a person engaged in the sale of all−terrain vehicles for a profit at wholesale or retail.

(bh) "All−terrain vehicle distributor" means a person who sells or distributes all−terrain vehicles to all−terrain vehicle dealers or who maintains distributor representatives.

(bp) "All−terrain vehicle manufacturer" means a person engaged in the manufacture of all−terrain vehicles for sale to the public.

(bt) "All−terrain vehicle renter" means a person engaged in the rental or leasing of all−terrain vehicles to the public.

(c) "All−terrain vehicle route" means a highway or sidewalk designated for use by all−terrain vehicle operators by the governmental agency having jurisdiction as authorized under this section.

(d) "All−terrain vehicle trail" means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by all−terrain vehicle operators by the governmental agency having jurisdiction, but excluding roadways of highways except those roadways that are seasonally not maintained for motor vehicle traffic.

(dm) "Approved public treatment facility" has the meaning specified under s. 51.45 (2) (c).

(e) "Controlled substance" has the meaning specified under s. 961.01 (4).

(f) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(fm) "Golf cart" means a vehicle whose speed attainable in one mile does not exceed 20 miles per hour on a paved, level surface, and that is designed and intended to convey one or more persons and equipment to play the game of golf in an area designated as a golf course.

(h) "Immediate family" means persons who are related as spouses, as siblings or as parent and child.

(i) "Intoxicant" means any alcohol beverage, controlled substance, controlled substance analog or other drug or any combination thereof.

(ic) "Intoxicated operation of an all−terrain or utility terrain vehicle law" means sub. (4c) or a local ordinance in conformity therewith or, if the operation of an all−terrain or utility terrain vehicle is involved, s. 940.09 or 940.25.

(id) "Lac du Flambeau band" means the Lac du Flambeau band of Lake Superior Chippewa.

(ie) "Lac du Flambeau reservation" means the territory within the boundaries of the Lac du Flambeau reservation that were in existence on April 10, 1996.

(if) "Land under the management and control of the person's immediate family" means land owned or leased by the person or a member of the person's immediate family over which the owner or lessee has management and control. This term excludes land owned or leased by an organization of which the person or a member of the person's immediate family is a member.

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(ig) "Law enforcement officer" has the meaning specified under s. 165.85 (2) (c) and includes a person appointed as a conservation warden by the department under s. 23.10 (1).

(ik) "Low pressure tire" has the meaning given in s. 340.01 (27g).

(im) "Low−speed vehicle" has the meaning given in s. 340.01 (27h).

(ip) "Mini−truck" means a motor truck, as defined in s. 340.01 (34), having a top speed of not more than 60 miles per hour, and that is all of the following:

1. Powered by an internal combustion engine with a piston or rotor displacement of not less than 660 cubic centimeters.

2. Not more than 60 inches wide.

3. Not more than 1,600 pounds in dry, unloaded weight.

4. Manufactured with a locking enclosed cab and a heated interior.

(ir) "Operate" means to exercise physical control over the speed or direction of an all−terrain vehicle or utility terrain vehicle or to physically manipulate or activate any of the controls of the vehicle necessary to put it in motion.

(it) "Operation" means the exercise of physical control over the speed or direction of an all−terrain vehicle or utility terrain vehicle or the physical manipulation or activation of any of the controls of the vehicle necessary to put it in motion.

(iw) "Operator" means a person who operates an all−terrain vehicle or utility terrain vehicle, who is responsible for the operation of an all−terrain vehicle or utility terrain vehicle or who is supervising the operation of an all−terrain vehicle or utility terrain vehicle.

(j) "Owner" means a person who has lawful possession of an all−terrain vehicle or utility terrain vehicle by virtue of legal title or equitable interest in the vehicle which entitles the person to possession of the vehicle.

(je) "Purpose of authorized analysis" means for the purpose of determining or obtaining evidence of the presence, quantity or concentration of any intoxicant in a person's blood, breath or urine.

(jm) "Refusal law" means sub. (4p) (e) or a local ordinance in conformity therewith.

(jn) "Registration documentation" means an all−terrain vehicle or utility terrain vehicle registration certificate, a validated registration receipt, or a registration decal.

(jo) "Restricted controlled substance" means any of the following:

1. A controlled substance included in schedule I under ch. 961 other than a tetrahydrocannabinol.

2. A controlled substance analog, as defined in s. 961.01 (4m), of a controlled substance described in subd. 1.

3. Cocaine or any of its metabolites.

4. Methamphetamine.

5. Delta−9−tetrahydrocannabinol.

(jp) "Small all−terrain vehicle" means an all−terrain vehicle that has 4 wheels and that has either an engine certified by the manufacturer at not more than 90 cubic centimeters or an equivalent power unit.

(jq) "Snow removal device" means an attachment designed and installed for the purpose of removing snow. An attachment under this paragraph may be a plow blade, blower, bucket, or brush.

(js) "Test facility" means a test facility or agency prepared to administer tests under s. 343.305 (2).

(n) "Used exclusively on private property" means use of an all−terrain vehicle or utility terrain vehicle by the owner of the vehicle or a member of his or her immediate family only on land owned or leased by the vehicle owner or a member of his or her immediate family.

(ng) "Utility terrain vehicle" means any of the following:

1. A motor driven device that does not meet federal motor vehicle safety standards in effect on July 1, 2012, that is not a golf cart, low−speed vehicle, dune buggy, mini−truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was originally manufactured with, all of the following:

a. A net weight of less than 2,000 pounds.

b. Four or more low−pressure tires.

c. A cargo box installed by the manufacturer.

d. A steering wheel.

e. A tail light.

f. A brake light.

g. Two headlights.

h. A width of not more than 65 inches.

i. Seats for at least 2 occupants, all of which seating is designed not to be straddled.

j. A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.

k. A system of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a rollover of the device.

2. A motor driven device that has a net weight of more than 900 pounds, that is originally manufactured with a width of 50 inches or less, that is equipped with a seat designed to be straddled by the operator, and that is designed by the manufacturer to travel on 3 or more low−pressure tires.

(ni) "Utility terrain vehicle dealer" means a person engaged in the sale of utility terrain vehicles for a profit at wholesale or retail.

NOTE: Par. (ni) was created as par. (nc) by 2011 Wis. Act 208 and renumbered to par. (ni) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(nk) "Utility terrain vehicle distributor" means a person who sells or distributes utility terrain vehicles to utility terrain vehicle dealers or who maintains distributor representatives.

NOTE: Par. (nk) was created as par. (nd) by 2011 Wis. Act 208 and renumbered to par. (nk) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(nm) "Utility terrain vehicle manufacturer" means a person engaged in the manufacture of utility terrain vehicles for sale to the public.

NOTE: Par. (nm) was created as par. (nh) by 2011 Wis. Act 208 and renumbered to par. (nm) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(np) "Utility terrain vehicle renter" means a person engaged in the rental or leasing of utility terrain vehicles to the public.

(o) "Validated registration receipt" means a receipt issued by the department or an agent under sub. (2) (ig) 1. a. that shows that an application and the required fees for a registration certificate have been submitted to the department or an agent appointed under sub. (2) (i) 3.

Cross−reference: See also definitions in s. 340.01.

(1m) UTILITY TERRAIN VEHICLE PROGRAM. (a) In this subsection:

1. "Municipality" means a city, village, or town.

2. "Public all−terrain vehicle corridor" has the meaning given in sub. (2j) (a).

(b) The department or a federal agency, county, or municipality may designate any of the following located within their respective jurisdictions:

1. All−terrain vehicle routes, all−terrain vehicle trails, and public all−terrain vehicle corridors that may be used by operators of utility terrain vehicles.

2. All−terrain vehicle routes, all−terrain vehicle trails, and public all−terrain vehicle corridors upon which utility terrain vehicle use is prohibited.

(c) No person may operate a utility terrain vehicle on an all−terrain vehicle route, all−terrain vehicle trail, or public all−terrain vehicle corridor unless it is designated as an all−terrain vehicle route, all−terrain vehicle trail, or public all−terrain vehicle corridor that may be used by operators of utility terrain vehicles as provided under this subsection.

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(2) REGISTRATION. (a) *Requirement.* Except as provided in sub. (2k), no person may operate and no owner may give permission for the operation of an all−terrain vehicle or utility terrain vehicle within this state unless the all−terrain vehicle or utility terrain vehicle is registered for public use or for private use under this subsection or sub. (2g), is exempt from registration, or is operated with a reflectorized plate or a sign attached in the manner and containing registration decals specified under par. (dm) 3. Except as provided in sub. (2k), no person may operate and no owner may give permission for the operation of an all−terrain vehicle or utility terrain vehicle on an all−terrain vehicle route or an all−terrain vehicle trail unless the all−terrain vehicle or utility terrain vehicle is registered for public use under this subsection or sub. (2g).

(b) *Exemptions.* An all−terrain vehicle or utility terrain vehicle is exempt from registration if it is:

1. Owned by the United States, another state or a political subdivision thereof, but the exterior of the all−terrain vehicle or utility terrain vehicle shall display in a visible manner the name of the owner.

2m. Covered by a valid registration of a federally recognized American Indian tribe or band, if all of the following apply:

a. The registration program of the tribe or band is covered by an agreement under s. 23.35.

b. The all−terrain vehicle or utility terrain vehicle displays the registration decal required by the tribe or band.

3. Used exclusively for racing on a raceway facility.

3m. Present in this state, for a period not to exceed 15 days, and if it is used exclusively as part of an advertisement being made for the manufacturer of the all−terrain vehicle or utility terrain vehicle.

4. Owned by a political subdivision of the state and used for enforcement or emergency purposes.

5. Specified as exempt from registration by department rule.

(c) *Registration; public use; fee.* 1. Any all−terrain vehicle or utility terrain vehicle may be registered for public use. The fee for the issuance or renewal of a registration certificate for public use for an all−terrain vehicle or utility terrain vehicle is $30. The department shall impose an additional late fee of $5 for the renewal of a registration certificate under this subdivision that is filed after the expiration date of the registration certificate unless the renewal is included with an application to transfer the registration certificate.

2. A person who is required to register an all−terrain vehicle or utility terrain vehicle for public use shall attach his or her own plate to the rear of the vehicle and shall affix a registration decal, furnished by the department, to each side of the vehicle in a place that is forward of the operator of the vehicle and that is in a place that is clearly visible. The plate shall be a minimum of 4 inches in height and a minimum of 7 1/2 inches in width. The plate shall be white and shall display, in black lettering, the registration number for the all−terrain vehicle or utility terrain vehicle issued by the department. The registration number shall be displayed so that it is a minimum of 1 1/2 inches in height, with a minimum of a 3/16 inch stroke. The person required to register the all−terrain vehicle or utility terrain vehicle shall maintain the plate so that it is in legible condition.

(d) *Registration; private use; fee.* An all−terrain vehicle or utility terrain vehicle used exclusively for agricultural purposes or used exclusively on private property may be registered for private use. The fee for the issuance of a registration certificate for private use is $15. A person who registers an all−terrain vehicle or utility terrain vehicle for private use shall affix a registration decal, furnished by the department, to each side of the vehicle in a place that is forward of the operator of the vehicle and that is in a place that is clearly visible.

(dm) *Registration; commercial owner; fee.* 1. Every person who is an all−terrain vehicle or utility terrain vehicle manufacturer, all−terrain vehicle or utility terrain vehicle dealer, all−terrain vehicle or utility terrain vehicle distributor, or all−terrain vehicle or utility terrain vehicle renter or any combination thereof engaged in business in this state shall register with the department and obtain from the department a commercial all−terrain vehicle and utility terrain vehicle certificate.

2. The fee for the issuance or renewal of a commercial all−terrain vehicle and utility terrain vehicle certificate is $90. Upon receipt of the application form required by the department and the fee required under this subdivision, the department shall issue to the applicant a commercial all−terrain vehicle and utility terrain vehicle certificate and 3 registration decals. The fee for additional registration decals is $30 per decal.

3. A person who is required to obtain a commercial all−terrain vehicle and utility terrain vehicle certificate under subd. 1. shall attach in a clearly visible place a reflectorized plate issued by the department under s. 23.33 (2) (dm) 2., 2009 stats., or a similar plate or sign that is removable and temporarily but firmly mounted to any all−terrain vehicle or utility terrain vehicle that the person leases, rents, offers for sale or otherwise allows to be used whenever the all−terrain vehicle or utility terrain vehicle is being operated. A registration decal issued by the department shall be affixed to the plate or sign specified under this subdivision.

4. Paragraphs (i), (ig), and (ir) do not apply to commercial all−terrain vehicle and utility terrain vehicle certificates or registration decals.

(e) *Other fees.* The fee for the transfer of an all−terrain vehicle and utility terrain vehicle registration certificate is $5. The fee for the issuance of a duplicate all−terrain vehicle or utility terrain vehicle registration certificate, duplicate commercial all−terrain vehicle and utility terrain vehicle certificate or duplicate registration decals is $5. The fee for the issuance of registration decals to a county or municipality is $5. There is no fee for the issuance of registration decals to the state.

(f) *Effective periods; public use.* A public−use registration certificate for an all−terrain vehicle or utility terrain vehicle is valid beginning on April 1 or the date of issuance or renewal and ending March 31 of the 2nd year following the date of issuance or renewal.

(g) *Effective period; private use.* An all−terrain vehicle or utility terrain vehicle private−use registration certificate is valid from the date of issuance until ownership of the all−terrain vehicle or utility terrain vehicle is transferred.

(gm) *Effective period; commercial owners.* A commercial all−terrain vehicle and utility terrain vehicle certificate is valid beginning on April 1 or the date of issuance or renewal and ending March 31 of the 2nd year following the date of issuance or renewal.

(i) *Registration; issuers.* For the issuance of original or duplicate registration documentation and for the transfer or renewal of registration documentation, the department may do any of the following:

1. Directly issue, transfer, or renew the registration documentation with or without using the service specified in par. (ig) 1.

3. Appoint persons who are not employees of the department as agents of the department to issue, transfer, or renew the registration documentation using either or both of the services specified in par. (ig) 1.

(ig) *Registration; methods of issuance.* 1. For the issuance of original or duplicate registration documentation and for the transfer or renewal of registration documentation, the department may implement either or both of the following procedures to be provided by the department and any agents appointed under par. (i) 3.:

a. A procedure under which the department or an agent appointed under par. (i) 3. accepts applications for registration documentation and issue a validated registration receipt at the time the applicant submits the application accompanied by the required fees.

b. A procedure under which the department or agent may accept applications for registration documentation and issue to

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each applicant all or some of the items of the registration documentation at the time the applicant submits the application accompanied by the required fees.

2. Under either procedure under subd. 1., the applicant shall receive any remaining items of registration documentation directly from the department at a later date. The items of registration documentation issued at the time of the submittal of the application under either procedure shall be sufficient to allow the vehicle for which the application is submitted to be operated in compliance with the registration requirements under this subsection. The items of registration documentation issued under subd. 1. b. shall include at least one registration decal.

(ir) *Registration; supplemental fees.* 1. In addition to the applicable fee under par. (c), (d), or (e), each agent appointed under par. (i) 3. shall collect a service fee of $3 each time the agent issues a validated registration receipt under par. (ig) 1. a. The agent shall retain the entire amount of each service fee the agent collects.

NOTE: Subd. 1. is amended eff. 3−1−15 by 2011 Wis. Act 208 to read:

1. In addition to the applicable fee under par. (c), (d), or (e), each agent appointed under par. (i) 3. who accepts an application to issue, renew, or transfer registration documentation in person and issues a validated registration receipt under par. (ig) 1. a. shall collect a service fee of $3 each time the agent issues the receipt. The agent shall retain the entire amount of each service fee the agent collects.

2. In addition to the applicable fee under par. (c), (d), or (e), the department or the agent appointed under par. (i) 3. shall collect a service fee of $5 each time the service under par. (ig) 1. b. is provided. The agent shall remit to the department $1 of each service fee the agent collects.

(o) *Receipt of all−terrain vehicle fees.* All fees remitted to or collected by the department under par. (ir) for services provided regarding all−terrain vehicles shall be credited to the appropriation account under s. 20.370 (9) (hu).

(om) *Receipt of utility terrain vehicle fees.* All fees remitted to or collected by the department under par. (ir) for services provided regarding utility terrain vehicles shall be credited to the appropriation account under s. 20.370 (9) (hw).

(p) *Rules.* 1. The department may promulgate rules to establish eligibility and other criteria for the appointment of agents under par. (i) 3. and to regulate the activities of these agents.

2. The department may establish by rule additional procedures and requirements for all−terrain vehicle or utility terrain vehicle registration.

(2g) LAC DU FLAMBEAU BAND REGISTRATION PROGRAM. (a) *Authorization for issuance.* The Lac du Flambeau band may issue registration certificates for public use or private use for all−terrain vehicles or utility terrain vehicles that are equivalent to the registration certificates for public use or private use that are issued by the department. The Lac du Flambeau band may renew and transfer a registration certificate that it or the department has issued. The Lac du Flambeau band may issue duplicates of only those registration certificates that it issues under this subsection.

(b) *Requirements for issuance; fees; effective periods.* 1. For issuing or renewing a registration certificate under this subsection, the Lac du Flambeau band shall collect the same fee that would be collected for the equivalent registration certificate under sub. (2) (c) and (d). For transferring a registration certificate or issuing a duplicate registration certificate under this subsection, the Lac du Flambeau band shall collect the same fee that would be collected for the equivalent service under sub. (2) (e).

2. The Lac du Flambeau band may not issue, renew or otherwise process registration certificates under this subsection in conjunction with discount coupons or as part of a promotion or other merchandising offer.

3. For a registration certificate issued, transferred or renewed under this subsection, the effective period shall be the same as it would be for the equivalent registration certificate under sub. (2) (f) or (g).

4. The Lac du Flambeau band may issue, renew or otherwise process registration certificates under this subsection only to applicants who appear in person on the Lac du Flambeau reservation.

(c) *Requirements for registration applications and decals.* 1. The Lac du Flambeau band shall use registration applications and registration certificates that are substantially similar to those under sub. (2) with regard to length, legibility and information content.

2. The Lac du Flambeau band shall use registration decals that are substantially similar to those under sub. (2) with regard to color, size, legibility, information content and placement on the all−terrain vehicle or utility terrain vehicle.

3. The Lac du Flambeau band shall use a sequential numbering system that includes a series of letters or initials that identify the Lac du Flambeau band as the issuing authority.

(d) *Registration information.* The Lac du Flambeau band shall provide registration information to the state in one of the following ways:

1. By transmitting all additions, changes or deletions of registration information to persons identified in the agreement described in par. (f), for incorporation into the registration records of this state, within one working day after the addition, change or deletion.

2. By establishing a 24−hour per day data retrieval system, consisting of either a law enforcement agency with 24−hour per day staffing or a computerized data retrieval system to which law enforcement officials of this state have access at all times.

(e) *Reports; records; tax collection.* 1. Before June 1 annually, the Lac du Flambeau band shall submit a report to the department notifying it of the number of each type of registration certificate that the Lac du Flambeau band issued, transferred or renewed for the period beginning on April 1 of the previous year and ending on March 31 of the year in which the report is submitted.

2. For law enforcement purposes, the Lac du Flambeau band shall make available for inspection by the department during normal business hours the Lac du Flambeau band's records of all registration certificates issued, renewed or otherwise processed under this subsection, including copies of all applications made for certificates.

3. The Lac du Flambeau band shall ensure that the record of each registration certificate issued, renewed or otherwise processed under this subsection, including a copy of each application made, is retained for at least 2 years after the date of expiration of the certificate.

4. The Lac du Flambeau band shall collect the sales and use taxes due under s. 77.61 (1) on any all−terrain vehicle or utility terrain vehicle registered under this subsection and make the report in respect to those taxes. On or before the 15th day of each month, the Lac du Flambeau band shall pay to the department of revenue all taxes that the Lac du Flambeau band collected in the previous month.

(f) *Applicability.* This subsection does not apply unless the department and the Lac du Flambeau band have in effect a written agreement under which the Lac du Flambeau band agrees to comply with pars. (a) to (e) and that contains all of the following terms:

1. The manner in which the Lac du Flambeau band will limit its treaty−based right to fish outside the Lac du Flambeau reservation.

2. A requirement that the fees collected by the Lac du Flambeau band under par. (b) be used only for a program for registering all−terrain vehicles or utility terrain vehicles, for regulating all−terrain vehicles or utility terrain vehicles and their operation and for providing all−terrain vehicle trails and all−terrain vehicle and utility terrain vehicle facilities.

(2j) NONRESIDENT TRAIL PASSES. (a) In this subsection, "public all−terrain vehicle corridor" means an all−terrain vehicle trail

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or other established all−terrain vehicle corridor that is open to the public but does not include an all−terrain vehicle route.

(b) Except as provided in par. (e) and sub. (2k), no person may operate an all−terrain vehicle or a utility terrain vehicle on a public all−terrain vehicle corridor in this state unless a nonresident trail pass issued under this subsection is permanently affixed in a highly visible location on the forward half of the vehicle.

(c) 1. The fee for an annual nonresident trail pass issued under this section is $34.25. An annual nonresident trail pass maybe issued only by the department and persons appointed by the department and expires on March 31 of each year.

2. The fee for a 5−day nonresident trail pass issued under this section is $19.25. A 5−day nonresident trail pass may be issued only by the department and persons appointed by the department.

(d) There is no fee for a nonresident trail pass issued for an all−terrain vehicle or utility terrain vehicle that is registered under sub. (2g) or s. 23.35. The department or Indian tribe or band shall issue a nonresident trail pass for such an all−terrain vehicle or utility terrain vehicle when it issues the registration certificate for the vehicle. The department shall provide Indian tribes or bands that register all−terrain vehicles or utility terrain vehicles under sub. (2g) or s. 23.35 with a supply of trail passes.

(e) An all−terrain vehicle or a utility terrain vehicle that is registered under sub. (2) (a) or an all−terrain vehicle or utility terrain vehicle that is exempt from registration under sub. (2) (b) 1., 3., 3m., or 4. is exempt from having a nonresident trail pass displayed as required under par. (b). The department may promulgate a rule to exempt all−terrain vehicles and utility terrain vehicles that are exempt from registration under sub. (2) (b) 5. from having nonresident trail passes displayed as required under par. (b) or may promulgate a rule to exempt owners of such vehicles from having to pay any applicable nonresident trail pass fee.

(f) 1. The department may appoint any person who is not an employee of the department as the department's agent to issue nonresident trail passes and collect the fees for these passes.

2. Any person, including the department, who issues a nonresident trail pass shall collect in addition to the fee under par. (c) an issuing fee of 75 cents. An agent appointed under subd. 1. may retain 50 cents of the issuing fee to compensate the agent for the agent's services in issuing the pass.

3. The department shall establish, by rule, procedures for issuing nonresident trail passes, and the department may promulgate rules regulating the activities of persons who are appointed to be agents under this paragraph.

(2k) WEEKEND EXEMPTION. A person may operate an all−terrain vehicle or utility terrain vehicle in this state during the first full weekend in June of each year without registering the all−terrain vehicle or utility terrain vehicle under sub. (2) and without having been issued or displaying a nonresident trail pass under sub. (2j).

(2m) RENTAL OF ALL−TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES. (a) No person who is engaged in the rental or leasing of all−terrain vehicles or utility terrain vehicles to the public may do any of the following:

1. Rent or lease an all−terrain vehicle or utility terrain vehicle for operation by a person who will be operating the vehicle for the first time unless the person engaged in the rental or leasing gives the person instruction on how to operate the vehicle.

2. Rent or lease an all−terrain vehicle or utility terrain vehicle to a person under 16 years of age.

3. Rent or lease an all−terrain vehicle or utility terrain vehicle without first ascertaining that any person under the age of 18 who will be on the vehicle has protective headgear of the type required under s. 347.485 (1) (a).

(b) A person who is engaged in the rental or leasing of all−terrain vehicles or utility terrain vehicles to the public shall have clean, usable protective headgear available for rent in sufficient quantity to provide headgear to all persons under the age of 18 who will be on all−terrain vehicles or utility terrain vehicles that the person rents or leases.

(c) The department may promulgate rules to establish minimum standards for the instruction given under par. (a) 1.

(3) RULES OF OPERATION. No person may operate an all−terrain vehicle or utility terrain vehicle:

(a) In any careless way so as to endanger the person or property of another.

(c) On the private property of another without the consent of the owner or lessee. Failure to post private property does not imply consent for all−terrain vehicle or utility terrain vehicle use.

(cm) On public property that is posted as closed to all−terrain vehicle or utility terrain vehicle operation or on which the operation of an all−terrain vehicle or utility terrain vehicle is prohibited by law.

(d) On Indian lands without the consent of the tribal governing body or Indian owner. Failure to post Indian lands does not imply consent for all−terrain vehicle or utility terrain vehicle use.

(eg) With any crossbow in his or her possession unless the crossbow is not cocked or is unloaded and enclosed in a carrying case.

(em) With a passenger riding in or on any part of a utility terrain vehicle that is not designed or intended to be used by passengers.

(er) With any bow in his or her possession unless the bow does not have an arrow nocked.

(f) To drive or pursue any animal except as a part of normal farming operations involving the driving of livestock.

(g) When within 150 feet of a dwelling at a speed exceeding 10 miles per hour.

(h) On the frozen surface of public waters within 100 feet of a person not in or on an all−terrain vehicle, utility terrain vehicle, or motor vehicle or within 100 feet of a fishing shanty at a speed exceeding 10 miles per hour.

(hg) At a speed exceeding 15 miles per hour when it is being operated on a roadway or adjacent to a roadway with a snow removal device attached, if it is more than 150 feet from a dwelling.

(hr) At a speed exceeding 5 miles per hour when it is being operated on a sidewalk or driveway with a snow removal device attached, regardless of its proximity to a dwelling.

(i) In a manner which violates rules promulgated by the department.

(3c) OPERATION WITH FIREARMS. (a) No person may operate an all−terrain vehicle or utility terrain vehicle with any firearm in his or her possession unless the firearm is unloaded or is a handgun, as defined in s. 175.60 (1) (bm).

(b) Paragraph (a) does not apply to a firearm that is placed or possessed on an all−terrain vehicle or utility terrain vehicle that is stationary, as defined in s. 167.31 (1) (fg).

(3g) USE OF HEADGEAR. No person may operate or be a passenger on an all−terrain vehicle or utility terrain vehicle without wearing protective headgear of the type required under s. 347.485 (1) (a) and with the chin strap properly fastened, unless one of the following applies:

(a) The person is at least 18 years of age.

(b) The person is traveling for the purposes of hunting or fishing and is at least 12 years of age.

(c) The all−terrain vehicle or utility terrain vehicle is being operated for an agricultural purpose.

(d) The all−terrain vehicle or utility terrain vehicle is being operated by a person on land under the management and control of the person's immediate family.

(4) OPERATION ON OR NEAR HIGHWAYS. (a) *Freeways.* No person may operate an all−terrain vehicle or utility terrain vehicle upon any part of any freeway which is a part of the federal system of interstate and defense highways. No person may operate an all−terrain vehicle or utility terrain vehicle upon any part of any other

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freeway unless the department of transportation authorizes the use of that vehicle on that freeway. No person may operate an all−terrain vehicle or utility terrain vehicle with a snow removal device attached upon any part of any freeway under any circumstances.

(b) *Other highways; operation restricted.* No person may operate an all−terrain vehicle or utility terrain vehicle on a highway except as authorized under pars. (d), (e), and (f) and sub. (11) (am) 2. or as authorized by rules promulgated by the department and approved by the department of transportation.

(c) *Exceptions; municipal, state and utility operations; races and derbies; land surveying operations.* 1. Paragraphs (a) and (b) do not apply to the operator of an all−terrain vehicle or utility terrain vehicle owned by a municipality, state agency, or public utility, or by the Great Lakes Indian Fish and Wildlife Commission, while the operator is engaged in an emergency or in the operation of an all−terrain vehicle or utility terrain vehicle directly related to the functions of the municipality, state agency, or public utility, or of the Great Lakes Indian Fish and Wildlife Commission, if safety does not require strict adherence to these restrictions.

1m. Paragraphs (a) and (b) do not apply to the operator of an all−terrain vehicle or utility terrain vehicle who is engaged in land surveying operations, if safety does not require strict adherence to the restrictions under pars. (a) and (b).

2. Paragraph (b) does not apply to a highway blocked off for special all−terrain vehicle or utility terrain vehicle events. A county, town, city or village may block off highways under its jurisdiction for the purpose of allowing special all−terrain vehicle or utility terrain vehicle events. No state trunk highway or connecting highway, or part thereof, may be blocked off by any county, town, city or village for any all−terrain vehicle or utility terrain vehicle race or derby. A county, town, city or village shall notify the local police department and the county sheriff's office at least one week in advance of the time and place of any all−terrain vehicle or utility terrain vehicle race or derby which may result in any street, or part thereof, of the county, town, city or village being blocked off.

(d) *Operation on roadway.* A person may operate an all−terrain vehicle or utility terrain vehicle on the roadway portion of any highway only in the following situations:

1. To cross a roadway. The crossing of a roadway is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the all−terrain vehicle or utility terrain vehicle prior to the crossing and yields the right−of−way to other vehicles, pedestrians, and electric personal assistive mobility devices using the roadway.

2. On any roadway which is seasonally not maintained for motor vehicle traffic. Operation of an all−terrain vehicle or utility terrain vehicle on this type of roadway is authorized only during the seasons when no maintenance occurs and only if the roadway is not officially closed to all−terrain vehicle or utility terrain vehicle traffic.

3. To cross a bridge, culvert, or railroad right−of−way. The crossing of a bridge, culvert, or railroad right−of−way is not authorized if the roadway is officially closed to all−terrain vehicle or utility terrain vehicle traffic. The crossing is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the vehicle prior to the crossing, pedestrians, and electric personal assistive mobility devices using the roadway.

4. On roadways which are designated as all−terrain vehicle routes. Operation of all−terrain vehicles and utility terrain vehicles on a roadway which is an all−terrain vehicle route is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway which is safe given prevailing conditions.

5. On roadways if the all−terrain vehicle or utility terrain vehicle is an implement of husbandry, if the all−terrain vehicle or utility terrain vehicle is used exclusively for agricultural purposes and if the all−terrain vehicle or utility terrain vehicle is registered for private use under sub. (2) (d) or (2g). Operation of an all−terrain vehicle or utility terrain vehicle which is an implement of husbandry on a roadway is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway which is safe given prevailing conditions.

6. On roadways if the operator of the all−terrain vehicle or utility terrain vehicle is a person who holds a Class A permit or a Class B permit under s. 29.193 (2) and who is traveling for the purposes of hunting or is otherwise engaging in an activity authorized by the permit.

7. On roadways of highways that are all−terrain vehicle trails.

(e) *Operation adjacent to roadway.* A person may operate an all−terrain vehicle or utility terrain vehicle adjacent to a roadway on an all−terrain vehicle route or trail if the person operates the all−terrain vehicle or utility terrain vehicle in the following manner:

1. At a distance of 10 or more feet from the roadway along U.S. numbered highways and state and county highways. Travel on the median of a divided highway is prohibited except to cross.

2. Outside of the roadway along town highways.

3. During hours of darkness in the same direction as motor vehicle traffic in the nearest lane unless all of the following apply:

a. The all−terrain vehicle route or trail is located at least 40 feet from the roadway or is separated from the roadway by a head lamp barrier.

b. The use of the all−terrain vehicle route or trail is approved by the department of transportation with respect to all−terrain vehicle routes or trails located near or crossing state trunk highways or by the officer in charge of maintenance with respect to all−terrain vehicle routes or trails located near or crossing other highways.

3m. During daylight hours, travel may be in either direction regardless of the flow of motor vehicle traffic.

4. Not in excess of the speed limits of the adjacent roadway.

5. With due regard to safety and in compliance with rules promulgated by the department and approved by the department of transportation.

(f) *Operation with snow removal device attached.* Except as prohibited under par. (a), and subject to ordinances enacted under sub. (11) (am) 2., a person may operate an all−terrain vehicle or utility terrain vehicle with a snow removal device attached on a roadway or adjacent to a roadway or on a public sidewalk during the period beginning on October 1 and ending on April 30 of each year for the purpose of removing snow if such operation is necessary to travel to or from a site where the snow removal device will be used. The travel necessary to or from the site may not exceed 2 miles. Operation of such an all−terrain vehicle or utility terrain vehicle on a roadway or adjacent to a roadway is authorized only if the applicable roadway speed limit is 45 miles per hour or less. Operation on a roadway of such an all−terrain vehicle or utility terrain vehicle is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway where it is safe to do so given prevailing conditions. Operation adjacent to a roadway of such an all−terrain vehicle or utility terrain vehicle shall comply with the applicable speed limit and with par. (e) 1., 2., 3., 3m., and 5.

(4c) INTOXICATED OPERATION OF AN ALL−TERRAIN VEHICLE OR UTILITY TERRAIN VEHICLE. (a) *Operation.* 1. 'Operating while under the influence of an intoxicant.' No person may operate an all−terrain vehicle or utility terrain vehicle while under the influence of an intoxicant to a degree which renders him or her incapable of safe operation of an all−terrain vehicle or utility terrain vehicle.

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2. 'Operating with alcohol concentrations at or above specified levels.' No person may engage in the operation of an all−terrain vehicle or utility terrain vehicle while the person has an alcohol concentration of 0.08 or more.

2m. 'Operating with a restricted controlled substance.' No person may engage in the operation of an all−terrain vehicle or utility terrain vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

3. 'Operating with alcohol concentrations at specified levels; below age 21.' If a person has not attained the age of 21, the person may not engage in the operation of an all−terrain vehicle or utility terrain vehicle while he or she has an alcohol concentration of more than 0.0 but not more than 0.08.

4. 'Related charges.' A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of subd. 1., 2., or 2m., the offenses shall be joined. If the person is found guilty of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., and 2m. each require proof of a fact for conviction which the others do not require.

5. 'Defenses.' In an action under subd. 2m. that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma−hydroxybutyric acid, or delta−9−tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma−hydroxybutyric acid, or delta−9−tetrahydrocannabinol.

(b) *Causing injury.* 1. ' Causing injury while under the influence of an intoxicant.' No person while under the influence of an intoxicant to a degree which renders him or her incapable of safe operation of an all−terrain vehicle or utility terrain vehicle may cause injury to another person by the operation of an all−terrain vehicle or utility terrain vehicle.

2. 'Causing injury with alcohol concentrations at or above specified levels.' No person who has an alcohol concentration of 0.08 or more may cause injury to another person by the operation of an all−terrain vehicle or utility terrain vehicle.

2m. 'Causing injury while operating with a restricted controlled substance.' No person who has a detectable amount of a restricted controlled substance in his or her blood may cause injury to another person by the operation of an all−terrain vehicle or utility terrain vehicle.

3. 'Related charges.' A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of subd. 1., 2., or 2m. in the complaint, the crimes shall be joined under s. 971.12. If the person is found guilty of any combination of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., and 2m. each require proof of a fact for conviction which the others do not require.

4. 'Defenses.' a. In an action under this paragraph, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, did not have an alcohol concentration of 0.08 or more, or did not have a detectable amount of a restricted controlled substance in his or her blood.

b. In an action under subd. 2m. that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma−hydroxybutyric acid, or delta−9−tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma−hydroxybutyric acid, or delta−9−tetrahydrocannabinol.

(4g) PRELIMINARY BREATH SCREENING TEST. (a) *Requirement.* A person shall provide a sample of his or her breath for a preliminary breath screening test if a law enforcement officer has probable cause to believe that the person is violating or has violated the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law and if, prior to an arrest, the law enforcement officer requested the person to provide this sample.

(b) *Use of test results.* A law enforcement officer may use the results of a preliminary breath screening test for the purpose of deciding whether or not to arrest a person for a violation of the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law or for the purpose of deciding whether or not to request a chemical test under sub. (4p). Following the preliminary breath screening test, chemical tests may be required of the person under sub. (4p).

(c) *Admissibility.* The result of a preliminary breath screening test is not admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to show that a chemical test was properly required of a person under sub. (4p).

(d) *Refusal.* There is no penalty for a violation of par. (a). Subsection (13) (a) and the general penalty provision under s. 939.61 do not apply to that violation.

(4j) APPLICABILITY OF THE INTOXICATED OPERATION OF AN ALL−TERRAIN VEHICLE OR UTILITY TERRAIN VEHICLE LAW. In addition to being applicable upon highways, the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law is applicable upon all premises held out to the public for use of their all−terrain vehicles or utility terrain vehicles, whether such premises are publicly or privately owned and whether or not a fee is charged for the use thereof.

(4L) IMPLIED CONSENT. Any person who engages in the operation of an all−terrain vehicle or utility terrain vehicle upon the public highways of this state, or in those areas enumerated in sub. (4j), is deemed to have given consent to provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis as required under sub. (4p). Any person who engages in the operation of an all−terrain vehicle or utility terrain vehicle within this state is deemed to have given consent to submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis as required under sub. (4p).

(4p) CHEMICAL TESTS. (a) *Requirement.* 1. 'Samples; submission to tests.' A person shall provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law and if he or she is requested to provide the sample by a law enforcement officer. A person shall submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law and if he or she is requested to submit to the test by a law enforcement officer.

2. 'Information.' A law enforcement officer requesting a person to provide a sample or to submit to a chemical test under subd. 1. shall inform the person of all of the following at the time of the request and prior to obtaining the sample or administering the test:

a. That he or she is deemed to have consented to tests under sub. (4L).

b. That a refusal to provide a sample or to submit to a chemical test constitutes a violation under par. (e) and is subject to the same penalties and procedures as a violation of sub. (4c) (a) 1.

c. That in addition to the designated chemical test under par. (b) 2., he or she may have an additional chemical test under par. (c) 1.

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3. 'Unconscious person.' A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this paragraph, and if a law enforcement officer has probable cause to believe that the person violated the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law, one or more chemical tests may be administered to the person without a request under subd. 1. and without providing information under subd. 2.

(b) *Chemical tests.* 1. 'Test facility.' Upon the request of a law enforcement officer, a test facility shall administer a chemical test of breath, blood or urine for the purpose of authorized analysis. A test facility shall be prepared to administer 2 of the 3 chemical tests of breath, blood or urine for the purpose of authorized analysis. The department may enter into agreements for the cooperative use of test facilities.

2. 'Designated chemical test.' A test facility shall designate one chemical test of breath, blood or urine which it is prepared to administer first for the purpose of authorized analysis.

3. 'Additional chemical test.' A test facility shall specify one chemical test of breath, blood or urine, other than the test designated under subd. 2., which it is prepared to administer for the purpose of authorized analysis as an additional chemical test.

4. 'Validity; procedure.' A chemical test of blood or urine conducted for the purpose of authorized analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of the laboratory of hygiene, department of health services and department of transportation under s. 343.305 (6) apply to a chemical test of blood or urine conducted for the purpose of authorized analysis under this subsection. Blood may be withdrawn from a person arrested for a violation of the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law only by a physician, registered nurse, medical technologist, physician assistant or person acting under the direction of a physician and the person who withdraws the blood, the employer of that person and any hospital where blood is withdrawn have immunity from civil or criminal liability as provided under s. 895.53

5. 'Report.' A test facility which administers a chemical test of breath, blood or urine for the purpose of authorized analysis under this subsection shall prepare a written report which shall include the findings of the chemical test, the identification of the law enforcement officer or the person who requested a chemical test and the identification of the person who provided the sample or submitted to the chemical test. The test facility shall transmit a copy of the report to the law enforcement officer and the person who provided the sample or submitted to the chemical test.

(c) *Additional and optional chemical tests.* 1. 'Additional chemical test.' If a person is arrested for a violation of the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law or is the operator of an all−terrain vehicle or utility terrain vehicle involved in an accident resulting in great bodily harm to or the death of someone and if the person is requested to provide a sample or to submit to a test under par. (a) 1., the person may request the test facility to administer the additional chemical test specified under par. (b) 3. or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood or urine for the purpose of authorized analysis.

2. 'Optional test.' If a person is arrested for a violation of the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law and if the person is not requested to provide a sample or to submit to a test under par. (a) 1., the person may request the test facility to administer a chemical test of his or her breath or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood or urine for the purpose of authorized analysis. If a test facility is unable to perform a chemical test of breath, the person may request the test facility to administer the designated chemical test under par. (b) 2. or the additional chemical test under par. (b) 3.

3. 'Compliance with request.' A test facility shall comply with a request under this paragraph to administer any chemical test it is able to perform.

4. 'Inability to obtain chemical test.' The failure or inability of a person to obtain a chemical test at his or her own expense does not preclude the admission of evidence of the results of a chemical test required and administered under pars. (a) and (b).

(d) *Admissibility; effect of test results; other evidence.* The results of a chemical test required or administered under par. (a), (b) or (c) are admissible in any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have violated the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law on the issue of whether the person was under the influence of an intoxicant or the issue of whether the person had alcohol concentrations at or above specified levels or a detectable amount of a restricted controlled substance in his or her blood. Results of these chemical tests shall be given the effect required under s. 885.235. This subsection does not limit the right of a law enforcement officer to obtain evidence by any other lawful means.

(e) *Refusal.* No person may refuse a lawful request to provide one or more samples of his or her breath, blood or urine or to submit to one or more chemical tests under par. (a). A person shall not be deemed to refuse to provide a sample or to submit to a chemical test if it is shown by a preponderance of the evidence that the refusal was due to a physical inability to provide the sample or to submit to the test due to a physical disability or disease unrelated to the use of an intoxicant. Issues in any action concerning violation of par. (a) or this paragraph are limited to:

1. Whether the law enforcement officer had probable cause to believe the person was violating or had violated the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law.

2. Whether the person was lawfully placed under arrest for violating the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law.

3. Whether the law enforcement officer requested the person to provide a sample or to submit to a chemical test and provided the information required under par. (a) 2. or whether the request and information was unnecessary under par. (a) 3.

4. Whether the person refused to provide a sample or to submit to a chemical test.

(4t) REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests a person for a violation of the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law or the refusal law, the law enforcement officer shall notify the department of the arrest as soon as practicable.

(4x) OFFICER'S ACTION AFTER ARREST FOR OPERATING AN ALL−TERRAIN VEHICLE OR UTILITY TERRAIN VEHICLE WHILE UNDER INFLUENCE OF INTOXICANT. A person arrested for a violation of sub. (4c) (a) 1. or 2. or a local ordinance in conformity therewith or sub. (4c) (b) 1. or 2. may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under sub. (4p) (a) 1. shows that the person has an alcohol concentration of 0.05 or less, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

(4z) PUBLIC EDUCATION PROGRAM. (a) The department shall promulgate rules to provide for a public education program to:

1. Inform all−terrain vehicle and utility terrain vehicle operators of the prohibitions and penalties included in the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law.

2. Provide for the development of signs briefly explaining the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law.

(b) The department shall develop and issue an educational pamphlet on the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law to be distributed, beginning in 1989, to

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persons issued all−terrain vehicle or utility terrain vehicle registration certificates under subs. (2) and (2g).

(5) AGE RESTRICTIONS; SAFETY CERTIFICATION PROGRAM. (a) *All−terrain vehicles; age restriction.* No person under 12 years of age may operate an all−terrain vehicle unless he or she is operating the all−terrain vehicle for an agricultural purpose and he or she is under the supervision of a person over 18 years of age or unless he or she is operating a small all−terrain vehicle on an all−terrain vehicle trail designated by the department and he or she is accompanied by his or her parent. No person who is under 12 years of age may operate an all−terrain vehicle which is an implement of husbandry on a roadway under any circumstances. No person who is under 12 years of age may operate an all−terrain vehicle on a roadway under the authorization provided under sub. (4) (d) 6. under any circumstances. No person who is under 16 years of age may operate an all−terrain vehicle under the authorization provided under sub. (4) (f) under any circumstances. No person who is under 12 years of age may rent or lease an all−terrain vehicle. For purposes of this paragraph, supervision does not require that the person under 12 years of age be subject to continuous direction or control by the person over 18 years of age.

(am) *Utility terrain vehicles; age restriction.* 1. Except as provided in subd. 2., no person may operate, rent, or lease a utility terrain vehicle unless he or she is at least 16 years of age.

2. A person who is under 16 years of age may operate a utility terrain vehicle if the person operates the utility terrain vehicle for an agricultural purpose and he or she is under the supervision of a person over 18 years of age. For purposes of this subdivision, supervision does not require that the person under 16 years of age be subject to continuous direction or [control] by the person over 18 years of age.

NOTE: A missing word is shown in brackets. Corrective legislation is pending.

(b) *Safety certificate.* 1. No person who is at least 12 years of age and who is born on or after January 1, 1988, may operate an all−terrain vehicle unless he or she holds a valid safety certificate issued by the department, another state, or a province of Canada.

1m. No person who is at least 16 years of age and who is born on or after January 1, 1988, may operate a utility terrain vehicle unless he or she holds a valid safety certificate issued by the department, another state, or a province of Canada.

2. Any person who is required to hold an all−terrain vehicle or utility terrain vehicle safety certificate while operating an all−terrain vehicle or utility terrain vehicle shall carry the certificate on the all−terrain vehicle or utility terrain vehicle and shall display the certificate to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the department may operate an all−terrain vehicle or utility terrain vehicle in an area designated by the instructor.

(c) *Exceptions.* Paragraphs (a) and (b) do not apply to a person who operates an all−terrain vehicle or utility terrain vehicle exclusively on land under the management and control of the person's immediate family.

(d) *Safety certification program established.* The department shall establish or supervise the establishment of a program of instruction on all−terrain vehicle and utility terrain vehicle laws, including the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law, regulations, safety and related subjects. The department shall establish by rule an instruction fee for this program. The department shall issue certificates to persons successfully completing the program. An instructor conducting the program of instruction under this paragraph shall collect the fee from each person who receives instruction. The department may determine the portion of this fee, which may not exceed 50%, that the instructor may retain to defray expenses incurred by the instructor in conducting the program. The instructor shall remit the remainder of the fee or, if nothing is retained, the entire fee to the department. The department shall issue a duplicate certificate of accomplishment to a person who is entitled to a duplicate certificate of accomplishment and who pays a fee of $2.75.

(5m) SAFETY PROGRAM. (a) The department shall establish a program to award grants to organizations that meet the eligibility requirements under par. (b).

(b) To be eligible for a grant under this subsection, an organization shall meet all of the following requirements:

1. The organization is a nonstock corporation organized in this state.

2. The organization promotes the operation of all−terrain vehicles in a manner that is safe and responsible and that does not harm the environment.

3. The organization promotes the operation of all−terrain vehicles in a manner that does not conflict with the laws, rules, and departmental policies that relate to the operation of all−terrain vehicles.

4. The interest of the organization is limited to the recreational operation of all−terrain vehicles on all−terrain vehicle trails and other areas that are off the highways.

5. The organization has a board of directors that has a majority of members who are representatives of all−terrain vehicle clubs.

6. The organization provides support to all−terrain vehicle clubs.

(c) An organization receiving a grant under this subsection shall use the grant moneys to promote and provide support to the program established under sub. (5) by conducting activities that include all of the following:

1. Collecting data on the recreational operation of all−terrain vehicles off the highways.

2. Providing assistance to the department in locating, recruiting, and training instructors for the program established under sub. (5) (d).

3. Attempting to increase participation by current and future all−terrain vehicle operators and owners in the program established under sub. (5) (d).

4. Assisting the department of natural resources and the department of tourism in creating an outreach program to inform local communities of appropriate all−terrain vehicle use in their communities and of the economic benefits that may be gained from promoting tourism to attract all−terrain vehicle operators.

5. Attempting to improve and maintain its relationship with the department of natural resources, the department of tourism, all−terrain vehicle dealers, all−terrain vehicle manufacturers, snowmobile clubs, as defined in s. 350.138 (1) (e), snowmobile alliances, as defined in s. 350.138 (1) (d), and other organizations that promote the recreational operation of snowmobiles.

6. Recruiting, assisting in the training of, and providing support to a corps of volunteers that will assist in providing instruction on the safe and responsible operation of all−terrain vehicles that is given in the field to all−terrain vehicle operators.

7. Publishing a manual in cooperation with the department that shall be used to train volunteers in monitoring the recreational operation of all−terrain vehicles for safety issues and other issues that relate to the responsible operation of all−terrain vehicles.

(d) The department shall pay the grants from the appropriation under s. 20.370 (5) (cx).

(5r) LANDOWNER INCENTIVE PROGRAM. (a) In this subsection "public all−terrain vehicle corridor" has the meaning given in s. 23.33 (2j) (a).

(b) The department shall establish a program to make incentive payments to private landowners who permit public all−terrain vehicle corridors on their lands and who apply for the payments.

(c) An application is not considered complete until the forester or another employee of each county in which the public all−terrain vehicle corridor is located measures the length of the corridor in that county for the purpose of calculating the payment.

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(d) Incentive payments under the program shall be calculated as follows:

1. For a public all−terrain vehicle corridor that was open to the public for 60 days or more but for less than 180 days in the previous fiscal year, the incentive payment shall be $25 per mile.

2. For a public all−terrain vehicle corridor that was open to the public for 180 days or more but for less than 270 days in the previous fiscal year, the incentive payment shall be $75 per mile.

3. For a public all−terrain vehicle corridor that was open to the public for 270 days or more in the previous fiscal year, the incentive payment shall be $100 per mile.

(e) If a private landowner enters into an agreement with a county to allow a public all−terrain vehicle corridor on the landowner's land for a period of at least 5 years, the landowner shall receive a supplemental payment, in addition to the payment as calculated under par. (d), that equals 10 percent of the payment calculated under par. (d) for each full or partial fiscal year that is included in the 5−year period.

(f) If the total amount of incentive payments made in a given fiscal year would exceed the amount available for the payments, the department shall establish a system to prorate the payments.

(g) During fiscal year 2007−08, the department may expend up to $100,000 from the appropriation under s. 20.370 (5) (cv) for incentive payments under this program.

(6) EQUIPMENT REQUIREMENTS. (a) A person who operates an all−terrain vehicle or utility terrain vehicle during hours of darkness or during daylight hours on any highway right−of−way is required to display a lighted headlamp and tail lamp on the all−terrain vehicle or utility terrain vehicle.

(b) The headlamp on an all−terrain vehicle or utility terrain vehicle is required to display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of at least 200 feet ahead of the all−terrain vehicle or utility terrain vehicle.

(c) The tail lamp on an all−terrain vehicle or utility terrain vehicle is required to display a red light plainly visible during hours of darkness from a distance of 500 feet to the rear.

(d) Every all−terrain vehicle and utility terrain vehicle is required to be equipped with at least one brake operated either by hand or by foot.

(e) Every all−terrain vehicle and utility terrain vehicle is required to be equipped with a functioning muffler to prevent excessive or unusual noise and with a functioning spark arrester of a type approved by the U.S. forest service. This paragraph does not apply to an all−terrain vehicle or utility terrain vehicle that is operated exclusively by means of an electric motor.

(f) An all−terrain vehicle may not be modified so that its maximum width exceeds 50 inches.

(g) An all−terrain vehicle may not be operated with tires other than low−pressure tires.

(h) A person who operates an all−terrain vehicle or utility terrain vehicle with a snow removal device attached as authorized under s. 23.33 (4) (f) is required to display at least one or more flashing or rotating amber or yellow lights, and at least one of these lights shall be visible from every direction.

(i) No person may operate a utility terrain vehicle unless each passenger is wearing a safety belt installed by the manufacturer and fastened in a manner prescribed by the manufacturer of the safety belt which permits the safety belt to act as a body restraint.

(6m) NOISE LIMITS. No person may manufacture, sell, rent or operate an all−terrain vehicle or utility terrain vehicle that is constructed in such a manner that noise emitted from the vehicle exceeds 96 decibels on the A scale as measured in the manner prescribed under rules promulgated by the department.

(6r) PASSENGER RESTRICTIONS. No person may ride in or on any part of a utility terrain vehicle that is not designed or intended to be used by passengers.

(7) ACCIDENTS. (a) If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all−terrain vehicle and utility terrain vehicle involved in the accident shall give notice of the accident to a conservation warden or local law enforcement officer as soon as possible and shall file a written report of the accident with the department on the form provided by it within 10 days after the accident.

(b) If the operator of an all−terrain vehicle or utility terrain vehicle is physically incapable of making the report required by this subsection and there was another witness to the accident capable of making the report, the witness may make the report.

(8) ROUTES AND TRAILS. (a) *Department authority.* The department shall encourage and supervise a system of all−terrain vehicle routes and trails. The department may establish standards and procedures for certifying the designation of all−terrain vehicle routes and trails.

(b) *Routes.* A town, village, city or county may designate highways as all−terrain vehicle routes. No state trunk highway or connecting highway may be designated as an all−terrain vehicle route unless the department of transportation approves the designation.

(c) *Trails.* A town, village, city, county or the department may designate corridors through land which it owns or controls, or for which it obtains leases, easements or permission, for use as all−terrain vehicle trails.

(d) *Restrictions.* The designating authority may specify effective periods for the use of all−terrain vehicle routes and trails and may restrict or prohibit the operation of an all−terrain vehicle or utility terrain vehicle during certain periods of the year.

(e) *Signs.* The department, in cooperation with the department of transportation, shall establish uniform all−terrain vehicle route and trail signs and standards and uniform signs and standards for the operation of utility terrain vehicles on all−terrain vehicle routes and trails. The standards may not require that any additional signs be placed on all−terrain vehicle routes concerning the operation of all−terrain vehicles or utility terrain vehicles with snow removal devices attached.

(f) *Interference with signs and standards prohibited.* 1. No person may intentionally remove, damage, deface, move, obstruct, or interfere with the effective operation of any uniform all−terrain vehicle route or trail sign or standard or any uniform sign or standard for the operation of a utility terrain vehicle on an all−terrain vehicle route or trail if the sign or standard is legally placed by the state, any municipality or any authorized individual.

2. No person may possess any uniform all−terrain vehicle route or trail sign or standard, or any uniform sign or standard for the operation of a utility terrain vehicle on an all−terrain vehicle route or trail, of the type established by the department for the warning, instruction or information of the public, unless he or she obtained the uniform sign or standard in a lawful manner. Possession of a uniform all−terrain vehicle route or trail sign or standard or uniform sign or standard for the operation of a utility terrain vehicle on an all−terrain vehicle route or trail creates a rebuttable presumption of illegal possession.

(9) ADMINISTRATION; ENFORCEMENT; AIDS. (a) *Enforcement.* The department may utilize moneys received under sub. (2) for all−terrain vehicle and utility terrain vehicle registration aids administration and for the purposes specified under s. 20.370 (3) (as) and (5) (er) including costs associated with enforcement, safety education, accident reports and analysis, law enforcement aids to counties, and other similar costs in administering and enforcing this section.

(b) *All−terrain vehicle projects.* Any of the following all−terrain vehicle projects are eligible for funding as a state all−terrain vehicle project from the appropriation account under s. 20.370 (1) (ms) or for aid as a nonstate all−terrain vehicle project from the appropriation accounts under s. 20.370 (5) (ct) and (cu):

1. Acquisition of an easement or land in fee simple.

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2. An all−terrain vehicle facility such as a parking area, riding area, shelter, toilets or other improvement.

3. Development of all−terrain vehicle routes or all−terrain vehicle trails.

4. Development or maintenance of a snowmobile route or trail or an off−the−road motorcycle trail or facility if the route, trail or facility is open for use by all−terrain vehicles.

5. Maintenance of all−terrain vehicle routes or all−terrain vehicle trails.

6. Purchase of liability insurance.

(bg) *Projects for utility terrain vehicles.* A project to improve or maintain all−terrain vehicle trails for use by utility terrain vehicles is eligible for funding as a state utility terrain vehicle project from the appropriation account under s. 20.370 (1) (mr) or for aid as a nonstate utility vehicle project from the appropriation accounts under s. 20.370 (5) (eu) and (gr). The maximum amount allowed for aid under this paragraph is $100 per mile for all−terrain vehicle trails that are maintained not less than 3 months per year including the months of June, July, and August. If the requests for aid for projects under this paragraph exceed the funds available, the department shall distribute available funds to qualified applicants on a proportional basis.

NOTE: Par. (bg) is created eff. 7−1−13 by 2011 Wis. Act 208.

(c) *Signs.* In addition to the projects listed in par. (b), the department may provide aid under this subsection to a town, village, city or county for up to 100% of the cost of placing signs developed under sub. (4z) (a) 2.

(10) LIABILITY OF LANDOWNERS. Section 895.52 applies to this section.

(11) LOCAL ORDINANCES. (a) Counties, towns, cities and villages may enact ordinances regulating all−terrain vehicles and utility terrain vehicles on all−terrain vehicle trails maintained by or on all−terrain vehicle routes designated by the county, city, town or village.

(am) 1. Any county, town, city or village may enact an ordinance which is in strict conformity with this section and rules promulgated by the department under this section, if the ordinance encompasses all aspects encompassed by this section, except as provided in subd. 2.

2. For a roadway, or for a portion of a roadway, that is located within the territorial boundaries of a city, village, or town, the city, village, or town may enact an ordinance to authorize the operation of all−terrain vehicles and utility terrain vehicles with snow removal devices attached on the roadway, or adjacent to the roadway, if the applicable roadway speed limit is greater than 45 miles per hour, and regardless of whether the city, village, or town has jurisdiction over the roadway.

(b) If a county, town, city, or village adopts an ordinance regulating all−terrain vehicles, utility terrain vehicles, or both, its clerk shall immediately send a copy of the ordinance to the department and to the office of any law enforcement agency of the municipality or county having jurisdiction over any highway designated as an all−terrain vehicle route.

(12) ENFORCEMENT. (a) An officer of the state traffic patrol under s. 110.07 (1), inspector under s. 110.07 (3), conservation warden appointed by the department under s. 23.10, county sheriff or municipal peace officer has authority and jurisdiction to enforce this section and ordinances enacted in accordance with this section.

(b) No operator of an all−terrain vehicle or utility terrain vehicle may refuse to stop after being requested or signaled to do so by a law enforcement officer or a commission warden, as defined in s. 939.22 (5).

(13) PENALTIES. (a) *Generally.* Except as provided in pars. (am) to (e), any person who violates this section shall forfeit not more than $250.

(am) *Penalty related to interference with signs and standards.* Except as provided in par. (cg), a person who violates sub. (8) (f) and who, within the last 2 years prior to the arrest for the current violation, was 2 or more times previously convicted for violating a provision of this chapter shall forfeit not more than $500.

(ar) *Penalty related to nonresident trail passes.* Any person who violates sub. (2j) shall forfeit not more than $1,000.

(b) *Penalties related to intoxicated operation of an all−terrain vehicle or utility terrain vehicle.* 1. Except as provided under subds. 2. and 3., a person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) shall forfeit not less than $150 nor more than $300.

2. Except as provided under subd. 3., a person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the current violation, was convicted previously under the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law or the refusal law shall be fined not less than $300 nor more than $1,100 and shall be imprisoned not less than 5 days nor more than 6 months.

3. A person who violates sub. (4c) (a) 1., 2., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the current violation, was convicted 2 or more times previously under the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law or refusal law shall be fined not less than $600 nor more than $2,000 and shall be imprisoned not less than 30 days nor more than one year in the county jail.

4. A person who violates sub. (4c) (a) 3. or (4p) (e) and who has not attained the age of 21 shall forfeit not more than $50.

(bg) *Penalties related to intoxicated operation of an all−terrain vehicle or utility terrain vehicle; underage passengers.* If there is a passenger under 16 years of age on the all−terrain vehicle or utility terrain vehicle at the time of a violation that gives rise to a conviction under sub. (4c) (a) 1. or 2. or (4p) (e), the applicable minimum and maximum forfeitures, fines, and terms of imprisonment under pars. (b) 1., 2., and 3. for the conviction are doubled.

(br) *Penalties related to intoxicated operation of an all−terrain vehicle or utility terrain vehicle; enhancers.* 1. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.17 to 0.199 at the time of the offense, the minimum and maximum fines specified under par. (b) 3. for the conviction are doubled.

2. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.20 to 0.249 at the time of the offense, the minimum and maximum fines specified under par. (b) 3. for the conviction are tripled.

3. If a person convicted under sub. (4c) (a) 1. or 2. had an alcohol concentration of 0.25 or above at the time of the offense, the minimum and maximum fines under par. (b) 3. for the conviction are quadrupled.

4. The increased fines in this paragraph do not apply if the person convicted under sub. (4c) (a) 1. or 2. is subject to par. (bg).

(c) *Penalties related to causing injury; intoxicants.* A person who violates sub. (4c) (b) shall be fined not less than $300 nor more than $2,000 and may be imprisoned not less than 30 days nor more than one year in the county jail.

(cg) *Penalties related to causing death or injury; interference with signs and standards.* A person who violates sub. (8) (f) 1. is guilty of a Class H felony if the violation causes the death or injury, as defined in s. 30.67 (3) (b), of another person.

(cm) *Sentence of detention.* The legislature intends that courts use the sentencing option under s. 973.03 (4) whenever appropriate for persons subject to par. (b) 2. or 3. or (c). The use of this option can result in significant cost savings for the state and local governments.

(d) *Calculation of previous convictions.* In determining the number of previous convictions under par. (b) 2. and 3., convictions arising out of the same incident or occurrence shall be counted as one previous conviction.

(dm) *Reporting convictions to the department.* Whenever a person is convicted of a violation of the intoxicated operation of an all−terrain vehicle or utility terrain vehicle law, the clerk of the

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court in which the conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall forward to the department the record of such conviction. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense.

(e) *Alcohol, controlled substances or controlled substance analogs; assessment.* In addition to any other penalty or order, a person who violates sub. (4c) (a) or (b) or (4p) (e) or who violates s. 940.09 or 940.25 if the violation involves the operation of an all−terrain vehicle or utility terrain vehicle, shall be ordered by the court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol, controlled substances or controlled substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

(f) *Restoration or replacement of signs and standards.* In addition to any other penalty, the court may order the defendant to restore or replace any uniform all−terrain vehicle route or trail sign or standard, or any uniform sign or standard for the operation of a utility terrain vehicle on an all−terrain vehicle route or trail, that the defendant removed, damaged, defaced, moved or obstructed.

History: 1985 a. 29; 1987 a. 200, 353, 399, 403; 1989 a. 31, 275, 359; 1991 a. 39, 303, 315; 1993 a. 16, 105, 119, 405; 1995 a. 27 ss. 1350 to 1351, 9126 (19); 1995 a. 436, 448; 1997 a. 27, 248, 283; 1999 a. 9; 2001 a. 16, 90, 106, 109; 2003 a. 30, 97, 251, 326; 2005 a. 25, 253, 481; 2007 a. 20 ss. 664m to 666m, 9121 (6) (a); 2007 a. 27, 209; 2009 a. 85, 175, 252, 367; 2011 a. 35, 51, 208, 258.

Cross−reference: See also ch. NR 64, Wis. adm. code.

The safety certificate requirement under sub. (5) is a creation of the legislature, and the legislature has specified who is required to comply with the requirement. When a person is not required to obtain a safety certificate, that person cannot be negligent for failing to do so. Hardy v. Hoefferle, 2007 WI App 264, 306 Wis. 2d 513, 743 N.W.2d 843, 06−2861.

County forest roads open to vehicular traffic are highways that can be designated as routes under sub. (8) (b). 77 Atty. Gen. 52.

Even if the primary purpose of designating short county highway segments as ATV routes is to allow a private organization to enhance its system of trails that benefit club members and their invitees, such designations will not violate the public purpose doctrine if no county resources are expended and no county expenditures occur as a result of those designations. OAG 3−11.

23.35 Reciprocal registration exemption agreements for federally recognized American Indian tribes and bands. (1) The secretary shall enter into a reciprocal agreement with a federally recognized American Indian tribe or band in this state to exempt, from the registration and certification requirements of this state, boats, snowmobiles, all−terrain vehicles, and utility terrain vehicles that are owned by tribal or band members and registered under a registration program established by the tribe or band if the tribe or band requests the agreement and if the registration program does all of the following:

(a) Requires that boats, snowmobiles, all−terrain vehicles, and utility terrain vehicles display decals or identification numbers showing valid registration by the tribe or band.

(b) Employs registration decals and certificates of number that are substantially similar to those employed by the registration or certification programs of this state with regard to size, legibility, information content and placement on the boat, snowmobile, all−terrain vehicle, or utility terrain vehicle.

(c) Employs a sequential numbering system that includes a series of letters or initials that identify the tribe or band issuing the registration.

(d) Provides all registration information to this state in one of the following ways:

1. By transmitting all additions, changes or deletions of registration information to persons identified in the agreement, for incorporation into the registration records of this state, within one working day of the addition, change or deletion.

2. By establishing a 24−hour per day data retrieval system, consisting of either a law enforcement agency with 24−hour per day staffing or a computerized data retrieval system to which law enforcement officials of this state have access at all times.

(e) Provides reciprocal exemptions, from the tribe's or band's registration requirements, for boats, snowmobiles, all−terrain vehicles, and utility terrain vehicles registered or certified by this state that are substantially as favorable as the exemptions enjoyed by the tribe or the band under the agreement. In this paragraph, "reciprocal exemption" means an exemption under the agreement that exempts from a tribe's or band's registration requirements, for operation within the boundaries of the tribe's or band's reservation, a boat, snowmobile, all−terrain vehicle, or utility terrain vehicle that is owned by a person who is not a member of the tribe or band and that is registered or certified by this state to the same extent that the agreement exempts from state registration and certification requirements, for the operation outside the boundaries of the tribe's or band's reservation, a boat, snowmobile, all−terrain vehicle, or utility terrain vehicle that is registered by the tribe or band.

(2) An agreement entered into under sub. (1) may cover a registration program for boats, snowmobiles, all−terrain vehicles, or utility terrain vehicles or any combination thereof.

History: 1993 a. 405; 2011 a. 208.

23.38 Natural resources law violation hotline. (1) The department shall maintain a toll−free telephone number at department headquarters to receive reports of violations of any statute or administrative rule that the department enforces or administers. The department shall relay these reports to the appropriate warden or officer for investigation and enforcement action. The department shall publicize the toll−free telephone number as widely as possible in the state.

(2) The department shall maintain records which permit the release of information provided by informants while protecting the identity of the informant. Any records maintained by the department which relate to the identity of informants shall be only for the confidential use of the department in the administration of this section, unless the informant expressly agrees to release the records. Appearance in court as a witness shall not be considered consent by an informant to release confidential records maintained by the department.

History: 1979 c. 34; 1993 a. 16 s. 676; Stats. 1993 s. 23.38.

23.39 Placement of wind turbines. The department shall identify areas in this state where wind turbines, if placed in those areas, may have a significant adverse effect on bat and migratory bird populations. The department shall maintain an Internet Web site that provides this information to the public and that includes a map of the identified areas.

History: 2009 a. 40.

23.40 Environmental impact statement. (1) DETERMINATION IF ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED. Any person who files an application for a permit, license or approval granted or issued by the department, shall submit with the application a statement of the estimated cost of the project or proposed action for which the person seeks a permit, license or approval. The department may seek such further information as it deems necessary to determine whether it must prepare an environmental impact statement under s. 1.11.

(2) NOTIFICATION; ESTIMATE OF FEE. (a) If the department is required to prepare an environmental impact statement, it shall notify the person by certified mail.

(b) The department shall indicate the estimated environmental impact statement fee.

(3) ENVIRONMENTAL IMPACT STATEMENT FEE. (a) The department shall charge an environmental impact statement fee if it is required to prepare an environmental impact statement or if it enters into a preapplication service agreement.

(b) The amount of the environmental impact statement fee shall equal the full cost of the preparation of the environmental impact statement and the full cost of any preapplication services if the department enters into a preapplication service agreement.

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These costs shall include the cost of authorized consultant services and the costs of printing and postage.

(c) The department shall determine the manner in which the environmental impact statement fee is to be paid. The department may require periodic payments if preapplication services are provided.

(d) Except as provided in par. (e), the department shall deposit any environmental impact statement fee in the general fund and shall designate clearly the amount of the fee related to the cost of authorized environmental consultant services and the amount of the fee related to the cost of printing and postage.

(e) The department shall credit any environmental impact statement fee for a project involving the generation of electricity to the appropriation under s. 20.370 (3) (dh).

(4) PREAPPLICATION SERVICE AGREEMENT. The department may enter into an agreement to provide preapplication services necessary to evaluate the environmental impact of a project or proposed activity, monitor major developments and expedite the anticipated preparation of an environmental impact statement if the project or proposed activity is large, complex or environmentally sensitive and if the person planning the project or proposed activity agrees in writing even though that person has not filed an application for any permit, license or approval granted or issued by the department and no environmental impact statement has been prepared. Preapplication services include preliminary environmental reviews, field studies and investigations, laboratory studies and investigations and advisory services.

(5) AUTHORIZED ENVIRONMENTAL CONSULTANT SERVICES. The department may enter into contracts for environmental consultant services under s. 23.41 to assist in the preparation of an environmental impact statement or to provide preapplication services.

(6) EXEMPTION FROM FEE FOR MUNICIPALITIES. Subsections (2) (b) and (3) do not apply with respect to municipalities, as defined under s. 345.05 (1) (c).

History: 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 221; 1983 a. 189 s. 329 (31); 1987 a. 27; 1989 a. 31; 1993 a. 16.

Cross−reference: See also ch. NR 150, Wis. adm. code.

23.41 Construction and service contracts. (1) In this section:

(a) "Construction work" includes all labor and materials used in the erection, installation, alteration, repair, moving, conversion, demolition or removal of any building, structure or facility, or any equipment attached to a building, structure or facility.

(b) "Environmental consultant services" includes services provided by environmental scientists, engineers and other experts.

(2) The department may contract for construction work related to hazardous substance spill response under s. 292.11 or environmental repair under s. 292.31 or for engineering services or environmental consultant services in connection with such construction work.

(3) The department may contract for environmental consultant services to assist in the preparation of an environmental impact statement or to provide preapplication services under s. 23.40.

(4) Each contract entered into under this section shall be signed by the secretary or the secretary's designee on behalf of the state.

(5) Each contract for construction work entered into by the department under this section shall be awarded on the basis of bids or competitive sealed proposals in accordance with procedures established by the department. Each contract for construction work shall be awarded to the lowest responsible bidder or the person submitting the most advantageous competitive sealed proposal as determined by the department. If the bid of the lowest responsible bidder or the proposal of the person submitting the most advantageous competitive sealed proposal is determined by the department to be in excess of the estimated reasonable value of the work or not in the public interest, the department may reject all bids or competitive sealed proposals. Every such contract is exempted from ss. 16.70 to 16.75, 16.755, 16.76, 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss. 16.528, 16.753, 16.754, and 16.765 apply to the contract. Every such contract involving an expenditure of more than $60,000 is not valid until the contract is approved by the governor.

(5m) If the governor or the governor's designee determines that it is in the best interest of this state, he or she may waive the requirement under sub. (5) for bids or competitive sealed proposals under any of the following circumstances:

(a) In an emergency involving the public health, welfare or safety or the environment.

(b) The department desires to use innovative or patented technology that is available from only one source and that in the judgment of the department would provide the best practicable hazardous substance spill response under s. 292.11 or environmental repair under s. 292.31.

(6) The department shall attempt to ensure that at least 5% of the total amount expended under this section in each fiscal year is paid to minority businesses, as defined in s. 16.75 (3m) (a) 4.

History: 1989 a. 31, 359; 1991 a. 39; 1995 a. 227; 1997 a. 27; 2001 a. 16; 2005 a. 410; 2009 a. 299.

23.42 Environmental consulting costs for federal licensing of power projects. (1) DEFINITIONS. In this section:

(a) "Applicant" means any person who files an application or submits a notification of intent under 16 USC 808 (b) with the commission.

(b) "Application" means a request for a license under the procedures in 16 USC 800, 802, 803 or 808 or a request for an exemption under 16 USC 823a or 824a−3.

(c) "Commission" means the federal energy regulatory commission.

(d) "Date of filing" means the date an applicant submits a notification of intent or the date an applicant files an application, whichever is earlier.

(2) AUTHORITY. In order to carry out its consulting role to the commission under 16 USC 800, 802, 803, 808, 823a and 824a−3 and the federal regulations promulgated under those sections, the department may charge fees to applicants for reviewing and evaluating applications and notifications of intent under 16 USC 808 (b).

(3) FEES. If the department charges fees under this section:

(a) The department shall charge fees only for the time it expends reviewing and evaluating an application or a notification of intent from the date of filing until the commission makes a determination whether or not to issue the license.

(b) The department shall determine the fee for each applicant by calculating the applicant's proportionate share of the costs incurred by the state in a fiscal year in reviewing or evaluating applications or notifications of intent under this section. The department shall calculate the proportionate share for an applicant by dividing the amount of horsepower, as authorized by the commission, of the applicant's power project by the total amount of horsepower, as authorized by the commission, of all power projects being reviewed or evaluated under this section during the fiscal year.

(c) The department may collect fees on a quarterly basis.

(d) The department shall deduct any amount it receives as reimbursement under 16 USC 823a for reviewing and evaluating an application or notification of intent from the fee it charges an applicant for reviewing that application or notification of intent.

(4) LIMITATION ON CHARGING OF FEES. Notwithstanding subs. (2) and (3) (a), the department may not charge any fees under this section after October 1, 1995, for reviewing and evaluating applications or notifications of intent.

(5) USE OF FEES. The department may not expend the fees it collects under this section except for the costs that are consistent

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with and that are necessary for reviewing and evaluating applications and notifications of intent under 16 USC 800, 802, 803, 808, 823a and 824a−3.

History: 1989 a. 31, 359; 1991 a. 39; 1993 a. 16, 437.

This section is unconstitutional. Federal law preempts its application. Wisconsin Valley Improvement Co. v. Meyer, 910 F. Supp. 1375 (1995).

23.425 Environmental education. (1) The department shall seek the advice of the environmental education board on the development of environmental education programs.

(2) (a) The department may charge the participants in a departmental environmental education program fees to cover the costs of the program. The amount charged may not exceed the costs of conducting the program.

(b) The fees collected by the department under par. (a) for the use of the MacKenzie environmental center shall be deposited in the general fund and credited to the appropriation under s. 20.370 (9) (gb).

History: 1989 a. 299; 1995 a. 27; 1997 a. 27 ss. 785 to 788; Stats. 1997 s. 23.425.

Cross−reference: See also s. NR 1.70, Wis. adm. code.

23.45 Nondisclosure of certain personal information. (1) In this section:

(a) "Approval" means any approval issued by the department or its agents through an automated system established by the department for the issuance of approvals under s. 29.024 or the issuance of vehicle admission receipts under s. 27.01 (7m) (d).

(b) "List" means a computer generated list compiled or maintained by the department from information provided to the department by individuals who have applied for an approval or for registration and that contains the personal identifiers of 10 or more of those individuals.

(c) "Personal identifier" means a name, social security number, telephone number, street address, post−office box number or 9−digit extended zip code.

(d) "Registration" means any registration documentation, as defined in s. 23.33 (1) (jn) or s. 350.01 (10t), or certification or registration documentation, as defined in s. 30.50 (3b), issued by the department or its agents.

(2) If a form that the department or its agents require an individual to complete in order to obtain an approval or a registration requires the individual to provide any of the individual's personal identifiers, the form shall include a place for the individual to declare that the individual's personal identifiers obtained by the department or its agents from the information on the form may not be disclosed on a list that the department furnishes to another person.

(3) If the department or its agents require an individual to provide, by telephone or other electronic means, any of the individual's personal identifiers in order to obtain an approval or a registration from the department, the department or its agents shall ask the individual at the time that the individual provides the information if the individual wants to declare that the individual's personal identifiers obtained by telephone or other electronic means may not be disclosed on a list that the department furnishes to another person.

(4) The department shall provide to an individual upon request a form that includes a place for the individual to declare that the individual's personal identifiers obtained by the department or its agents may not be disclosed on a list that the department furnishes to another person.

(5) (a) The department may not disclose on any list that it furnishes to another person a personal identifier of any individual who has made a declaration under sub. (2), (3) or (4).

(b) Paragraph (a) does not apply to a list that the department furnishes to another state agency, a law enforcement agency or a federal governmental agency. A state agency that receives a list from the department containing a personal identifier of any individual who has made a declaration under sub. (2), (3) or (4) may not disclose the personal identifier to any person other than a state agency, a law enforcement agency or a federal governmental agency.

History: 1999 a. 88, 186; 2001 a. 16.

23.49 Credit card use charges. The department shall certify to the secretary of administration the amount of charges associated with the use of credit cards that is assessed to the department on deposits accepted under s. 23.66 (1m) by conservation wardens, and the secretary of administration shall pay the charges from moneys received under s. 59.25 (3) (j) and (k) that are reserved for payment of the charges under s. 20.907 (5) (e) 12e.

History: 1985 a. 29; 1989 a. 31; 1995 a. 201; 2003 a. 33.

23.50 Procedure in forfeiture actions. (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2), subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any administrative rules promulgated thereunder, violations specified under s. 280.98 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal, violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

(2) All actions to recover these forfeitures and costs, fees, and surcharges imposed under ch. 814 are civil actions in the name of the state of Wisconsin, shall be heard in the circuit court for the county where the offense occurred, and shall be recovered under the procedure set forth in ss. 23.50 to 23.85.

(3) All actions in municipal court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77 shall utilize the procedure in ch. 800. The actions shall be brought before the municipal court having jurisdiction. Provisions relating to citations, arrests, questioning, releases, searches, deposits, and stipulations of no contest in ss. 23.51 (1m), (3), and (8), 23.53, 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to violations of such ordinances.

(4) Where a fine or imprisonment, or both, is imposed by a statute enumerated in sub. (1), the procedure in ch. 968 shall apply.

History: 1975 c. 365; 1977 c. 29, 305; 1977 c. 449 ss. 44, 497; 1979 c. 32 s. 92 (17); 1979 c. 34 ss. 703b, 2102 (39) (f); 1981 c. 390; 1985 a 36; 1987 a. 27; 1987 a. 200 s. 4; 1989 a. 79, 284, 335, 359; 1991 a. 39, 97; 1993 a. 16, 243, 344, 349, 491; 1995 a. 27, 216, 227, 290; 1997 a. 35; 1999 a. 9; 2001 a. 56; 2003 a. 139, 276; 2005 a. 360.

23.51 Words and phrases defined. In ss. 23.50 to 23.85 the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(1d) "Captive" has the meaning given in s. 169.01 (2).

(1m) "Citation" means a pleading of essential facts and applicable law coupled with a demand for judgment, which notifies the person cited of a violation of a statute or rule enumerated in s. 23.50 (1) or of a violation of a local ordinance, and requests the person to appear in court. Part of the citation is a complaint.

(2) "Complaint" means the pleading of essential facts and applicable law coupled with a demand for judgment.

(2L) "Corporation" includes a limited liability company.

(3) "Enforcing officer" means a peace officer as defined in s. 939.22 (22), but not including a commission warden, as defined in s. 939.22 (5), or means a person who has authority to act pursuant to a specific statute.

(7) "Summons" means an order to appear in court at a particular time and place. It accompanies the delivery of a complaint but not a citation.

(8) "Violation" means conduct which is prohibited by state law or municipal ordinance and punishable by a forfeiture.

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(9m) "Wild animal" has the meaning given in s. 169.01 (37).

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1985 a. 332 s. 251 (7); 1987 a. 27; 1989 a. 107; 1991 a. 39; 1993 a. 112; 1995 a. 227; 1997 a. 27, 248; 1999 a. 9; 2001 a. 56; 2003 a. 139; 2005 a. 253; 2007 a. 27.

23.52 Two forms of action. Actions under this chapter may be commenced by a citation, or by a complaint and summons.

History: 1975 c. 365.

23.53 Use of citation. (1) The citation created under this section shall, in all actions to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, and any rule of the Kickapoo reserve management board under s. 41.41 (7) (k) be used by any law enforcement officer with authority to enforce those laws, except that the uniform traffic citation created under s. 345.11 may be used by a traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law enforcement agency of a municipality or county or a traffic officer employed under s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall not be used for violations of ch. 350 relating to highway use. The citation may be used for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

(2) Notwithstanding any other provision of the statutes, the use of the citation by any enforcing officer in connection with a violation is adequate process to give the appropriate court jurisdiction over the person upon the filing with such court of the citation.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1987 a. 27; 1987 a. 200 s. 4; 1989 a. 335; 1991 a. 39; 1993 a. 349; 1995 a. 27, 216, 227; 1997 a. 35; 2003 a. 139.

After issuing a citation to an Indian fisherman, the state must prove at the pre−trial hearing that enforcement against the Indian fishermen is reasonable and necessary. State v. Peterson, 98 Wis. 2d 487, 297 N.W.2d 52 (Ct. App. 1980).

23.54 Citation form. (1) The citation shall contain a complaint, a case history and a report of court action on the case.

(2) It must appear on the face of the citation that there is probable cause to believe that a violation has been committed and that the defendant has committed that violation.

(3) The citation form shall provide for the following:

(a) The name, address, social security number and date of birth of the defendant.

(b) The department permit or license number of the defendant, if applicable.

(c) The name and department of the issuing officer.

(d) The violation alleged, the time and place of occurrence, a statement that the defendant committed the violation, the statute, administrative rule or ordinance violated and a designation of the violation in language which can be readily understood by a person making a reasonable effort to do so.

(e) The maximum forfeiture, plus costs, fees, and surcharges imposed under ch. 814, for which the defendant might be found liable.

(f) A date, time and place for the court appearance, and a notice to appear.

(g) Provisions for deposit and stipulation in lieu of a court appearance.

(h) Notice that the defendant may make a deposit and thereby obtain release if an arrest has been made.

(i) Notice that if the defendant makes a deposit and fails to appear in court at the time fixed in the citation the defendant will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and plea.

(j) Notice that if the defendant makes a deposit and signs the stipulation the defendant will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and stipulation, and that the defendant may, at any time prior to or at the time of the court appearance date, move the court for relief from the effects of the stipulation.

(k) Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or an arrest warrant and, if the violation is of ch. 29, the person may be subject to suspension of all hunting, fishing, and trapping approvals under s. 29.972.

(L) Any other pertinent information.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1991 a. 39; 1997 a. 27; 2003 a. 139; 2005 a. 282.

23.55 Complaint and summons forms. (1) COMPLAINT. It must appear on the face of the complaint that there is probable cause to believe that a violation has been committed and that the defendant has committed it. The complaint shall accompany the summons and shall contain the information set forth in s. 23.54 (3) (a) to (d) and:

(a) The title of the cause, specifying the name of the court and county in which the action is brought and the names and addresses of the parties to the action.

(b) A plain and concise statement of the violation identifying the event or occurrence from which the violation arose and showing that the plaintiff is entitled to relief, the statute upon which the cause of action is based and a demand for a forfeiture, the amount of which shall not exceed the maximum set by the statute involved, plus costs, fees, and surcharges imposed under ch. 814, and any other relief that is sought by the plaintiff.

(c) In an action by or against a corporation the complaint must aver its corporate existence and whether it is a domestic or foreign corporation.

(2) SUMMONS. The summons shall contain:

(a) The title of the cause, specifying the name of the court and county in which the action is brought and the names of all parties to the action.

(b) A direction summoning and requiring the defendant to appear in a specified court on a particular date not less than 10 days following service of the summons to answer the accompanying complaint.

(c) A notice that in case of failure to appear, judgment may be rendered against the defendant according to the demand of the complaint, or the court may issue a warrant for the defendant's arrest and, if the violation is of ch. 29, the person may be subject to suspension of all hunting, fishing, and trapping approvals under s. 29.972.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1987 a. 27; 1991 a. 39; 1997 a. 27; 2003 a. 139; 2005 a. 282.

23.56 Arrest with a warrant. (1) A person may be arrested for a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77, after a warrant that substantially complies with s. 968.04 has been issued. Except as provided in sub. (2), the person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action.

(2) In actions to collect forfeitures, plus costs, fees, and surcharges imposed under ch. 814, the judge who issues a warrant under sub. (1) may endorse upon the warrant the amount of the deposit. If no endorsement is made, the deposit schedule under s. 23.66 shall apply, unless the court directs that the person be brought before the court.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1987 a. 27; 1987 a. 200 s. 4; 1991 a. 39; 1993 a. 349; 1995 a. 27, 216; 2003 a. 139.

23.57 Arrest without a warrant. (1) A person may be arrested without a warrant when the arresting officer has probable

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cause to believe that the person is committing or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77; and:

(a) The person refuses to accept a citation or to make a deposit under s. 23.66; or

(b) The person refuses to identify himself or herself satisfactorily or the officer has reasonable grounds to believe that the person is supplying false identification; or

(c) Arrest is necessary to prevent imminent bodily harm to the enforcing officer or to another.

(2) In all cases the officer shall bring the person arrested before a judge without unnecessary delay.

History: 1975 c. 365; 1987 a. 200 s. 4; 1993 a. 349; 1995 a. 27, 216.

23.58 Temporary questioning without arrest. After having identified himself or herself as an enforcing officer, an enforcing officer may stop a person in a public place for a reasonable period of time when the officer reasonably suspects that such person is committing, is about to commit or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77. Such a stop may be made only where the enforcing officer has proper authority to make an arrest for such a violation. The officer may demand the name and address of the person and an explanation of the person's conduct. Such detention and temporary questioning shall be conducted in the vicinity where the person was stopped.

History: 1975 c. 365; 1987 a. 200 s. 4; 1993 a. 349; 1995 a. 27, 216.

23.59 Search during temporary questioning. When an enforcing officer has stopped a person for temporary questioning pursuant to s. 23.58 and reasonably suspects that he or she or another is in danger of physical injury, the officer may search such person for weapons or any instrument or article or substance readily capable of causing physical injury and of a sort not ordinarily carried in public places by law abiding persons. If the officer finds such a weapon or instrument, or any other property possession of which he or she reasonably believes may constitute the commission of a violation of those statutes enumerated in s. 23.50 (1) or which may constitute a threat to his or her safety, the officer may take it and keep it until the completion of the questioning, at which time he or she shall either return it, if lawfully possessed, or arrest the person so questioned for possession of the weapon, instrument, article or substance, if he or she has the authority to do so, or detain the person until a proper arrest can be made by appropriate authorities. Searches during temporary questioning as provided under this section shall only be conducted by those enforcing officers who have the authority to make arrests for crimes.

History: 1975 c. 365.

23.60 Search incident to the issuance of a lawfully issued citation. If the enforcing officer has stopped a person to issue a citation pursuant to s. 23.62 and reasonably suspects that he or she or another is in danger of physical injury, the officer may search such person for weapons or any instrument or article or substance readily capable of causing physical injury and of a sort not ordinarily carried in public places by law abiding persons. If the officer finds such a weapon or instrument, or any other property possession of which he or she reasonably believes may constitute the commission of a violation of those statutes enumerated in s. 23.50 (1), or which may constitute a threat to his or her safety, the officer may take it and keep it until he or she has completed issuing the citation, at which time the officer shall either return it, if lawfully possessed, or arrest the person for possession of the weapon, instrument, article or substance, if he or she has the authority to do so, or detain the person until a proper arrest can be made by appropriate authorities.

History: 1975 c. 365.

23.61 Search and seizure; when authorized. A search of a person, object or place may be made and things may be seized when the search is made:

(1) Incident to a lawful arrest;

(2) With consent;

(3) Pursuant to a valid search warrant;

(4) With the authority and within the scope of a right of lawful inspection;

(5) Incident to the issuance of a lawfully issued citation under s. 23.60;

(6) During an authorized temporary questioning under s. 23.59; or

(7) As otherwise authorized by law.

History: 1975 c. 365.

The warrantless search of a fisherman's truck by state conservation wardens under s. 29.33 (6) [now s. 29.519 (6)] was presumptively reasonable. State v. Erickson, 101 Wis. 2d 224, 303 N.W.2d 850 (Ct. App. 1981).

23.62 Issuance of a citation. (1) Whenever an enforcing officer has probable cause to believe that a person subject to his or her authority is committing or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77, the officer may proceed in the following manner:

(a) Issue a citation to the defendant in the form specified in s. 23.54, a copy of which shall be filed with the clerk of courts in the county where the violation was committed or with the office of the municipal judge in the case of an ordinance violation;

(b) Proceed, in proper cases, under s. 23.56 or 23.57; or

(c) Bring the information to the district attorney so that he or she may proceed pursuant to s. 23.65.

(2) (a) If the defendant is a resident of this state, a law enforcement officer may serve a citation anywhere in the state by following the procedures used for the service of a summons under s. 801.11 (1) (a) or (b) 1. or 1m. or (2) or by mailing a copy to the defendant's last−known address.

(b) If the defendant is not a resident of the state, a law enforcement officer may serve a citation by delivering a copy to the defendant personally or by mailing a copy to the defendant's last−known address.

History: 1975 c. 365; 1979 c. 175; 1987 a. 200 s. 4; 1993 a. 156, 349; 1995 a. 27, 216; 2005 a. 282.

23.63 Officer's action after issuance of citation. After the enforcing officer has issued a citation, the officer:

(1) May release the defendant;

(2) Shall release the defendant when he or she:

(a) Makes a deposit under s. 23.66; or

(b) Makes a deposit and stipulation of no contest under s. 23.67.

(3) Shall proceed under s. 23.57, if the defendant is not released.

History: 1975 c. 365.

23.64 Deposit after release. A person who is released under s. 23.63 shall be permitted to make a deposit any time prior to the court appearance date. The deposit shall be made with the clerk of the court of the county in which the violation occurred or the office of the municipal court having jurisdiction.

History: 1975 c. 365.

23.65 Issuance of complaint and summons. (1) When it appears to the district attorney that a violation of s. 90.21, 134.60, 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 or 299.64 (2), this chapter or ch.

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26, 27, 28, 29, 30, 31, 169, or 350, or any administrative rule promulgated pursuant thereto, a violation specified under s. 285.86, or a violation of ch. 951, if the animal involved is a captive wild animal, has been committed the district attorney may proceed by complaint and summons.

(2) The complaint shall be prepared in the form specified in s. 23.55. After a complaint is prepared, it shall be filed with the judge and a summons shall be issued or the complaint shall be dismissed pursuant to s. 968.03. Such filing commences the action.

(3) If a district attorney refuses or is unavailable to issue a complaint, a circuit judge, after conducting a hearing, may permit the filing of a complaint if he or she finds there is probable cause to believe that the person charged has committed a violation of s. 287.07, 287.08 or 287.81, this chapter or ch. 26, 27, 28, 29, 30, 31 or 350 or a violation specified under s. 285.86. The district attorney shall be informed of the hearing and may attend.

History: 1975 c. 365; 1979 c. 175; 1981 c. 390; 1989 a. 284, 335, 359; 1991 a. 97; 1993 a. 16, 243, 344, 491; 1995 a. 227, 290; 1997 a. 35; 1999 a. 9; 2001 a. 56.

23.66 Deposit. (1) If under the procedure of s. 23.62 a person is cited or arrested, the person may make a deposit as follows:

(a) By mailing the amount of money the enforcing officer directs and a copy of the citation to the office of the clerk of courts in the county where the offense allegedly occurred or to the office of the municipal court having jurisdiction, or by going to the office of the clerk of courts or municipal court, the office of the sheriff, or any city, village or town police headquarters; or

(b) If the enforcing officer permits, by placing the amount of money the enforcing officer directs in a serially numbered envelope addressed to the clerk of courts in the county where the offense allegedly occurred or to the office of the municipal court having jurisdiction, sealing the envelope, signing a statement on the back of the envelope stating the amount of money enclosed and returning the envelope to the enforcing officer. The officer shall deliver the envelope and a copy of the citation to the office of the clerk of courts in the county where the offense allegedly occurred or to the office of the municipal court having jurisdiction. The officer shall note on the face of the citation the serial number of the envelope used in making a deposit under this paragraph.

(1m) The enforcing officer or the person receiving the deposit may allow the alleged violator to submit a check, share draft or other draft for the amount of the deposit or make the deposit by use of a credit card.

(2) The person receiving the deposit shall prepare a receipt in triplicate showing the purpose for which the deposit is made, stating that the defendant may inquire at the office of the clerk of court or municipal court regarding the disposition of the deposit, and notifying the defendant that if he or she fails to appear in court at the time fixed in the citation he or she will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit which the court may accept. The original of the receipt shall be delivered to the defendant in person or by mail. If the defendant pays by check, share draft, or other draft, the check, share draft, or other draft or a microfilm copy of the check, share draft, or other draft shall be considered a receipt. If the defendant makes the deposit by use of a credit card, the credit charge receipt shall be considered a receipt.

(3) If the court does not accept the deposit as a forfeiture for the offense, a summons shall be issued. If the defendant fails to respond to the summons, an arrest warrant shall be issued.

(4) The basic amount of the deposit shall be determined in accordance with a deposit schedule that the judicial conference shall establish. Annually, the judicial conference shall review and may revise the schedule. In addition to the basic amount determined according to the schedule, the deposit shall include costs, fees, and surcharges imposed under ch. 814.

History: 1975 c. 365; 1977 c. 29, 449; 1979 c. 34; 1981 c. 317, 391; 1983 a. 368, 456; 1985 a. 29, 36, 332; 1987 a. 27, 399; 1991 a. 39; 1997 a. 27; 2003 a. 139.

23.67 Deposit and stipulation of no contest. (1) If pursuant to the procedure of s. 23.62 a person is cited or arrested, such person may make a deposit and stipulation of no contest, and submit them in the same manner as the deposit in s. 23.66.

(2) The deposit and stipulation of no contest may be made at any time prior to the court appearance date. By signing the stipulation, the defendant is deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit.

(3) The person receiving the deposit and stipulation of no contest shall prepare a receipt in triplicate showing the purpose for which the deposit is made, stating that the defendant may inquire at the office of the clerk of court or municipal court regarding the disposition of the deposit, and notifying the defendant that if the stipulation of no contest is accepted by the court the defendant will be deemed to have submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit. Delivery of the receipt shall be made in the same manner as in s. 23.66.

(4) If the court does not accept the deposit and stipulation of no contest, a summons shall be issued. If the defendant fails to respond to the summons, an arrest warrant shall be issued.

(5) The defendant may, within 10 days after signing the stipulation or at the time of the court appearance date, move the court for relief from the effects of the stipulation, pursuant to s. 23.75 (3) (c).

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1991 a. 39; 1997 a. 27; 2003 a. 139.

23.68 Pleading. The citation or complaint issued pursuant to s. 23.62 or 23.65 may serve as the initial pleading and, notwithstanding any other provisions of the statutes, shall be deemed adequate process to give the appropriate court jurisdiction over the person upon the filing of the citation or complaint with such court.

History: 1975 c. 365.

23.69 Motions. Any motion which is capable of determination without the trial of the general issue shall be made before trial.

History: 1975 c. 365.

Summary judgment is not permitted in forfeiture actions for violations of ch. 30. The relevant procedural statutes cannot be reconciled with the summary judgment procedure. Although the parties agreed to the filing of a written answer in lieu of an appearance, such an agreement cannot provide the basis to impose upon the statutory scheme a summary judgment procedure that does not otherwise exist. State v. Ryan, 2012 WI 16, 338 Wis. 2d 695, 809 N.W.2d 37, 09−3075.

23.70 Arraignment; plea. (1) If the defendant appears in response to a citation or a summons, or is arrested and brought before a court with jurisdiction to try the case, the defendant shall be informed that he or she is entitled to a jury trial and then asked whether he or she wishes to plead. If the defendant wishes to plead, he or she may plead guilty, not guilty or no contest.

(2) If the defendant pleads guilty or no contest, the court may accept the plea, find the defendant guilty and proceed under s. 23.78.

History: 1975 c. 365.

23.71 Not guilty plea; immediate trial. If the defendant pleads not guilty and states that he or she waives the right to jury trial and wishes an immediate trial, the case may be tried forthwith if the state consents.

History: 1975 c. 365.

23.72 Not guilty plea. If the defendant pleads not guilty the court shall set a date for trial or advise the defendant that he or she will be notified of the date set for trial. The defendant shall be released upon payment of a deposit as set forth in s. 23.66, or the court may release the defendant on his or her own recognizance. If a defendant fails to appear at the date set under this section, the court may issue a warrant under ch. 968 and, if the defendant has posted a deposit for appearance at that date, the court may order the deposit forfeited.

History: 1975 c. 365.

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23.73 Discovery. Neither party is entitled to pretrial discovery except that if the defendant moves within 10 days after the alleged violation and shows cause therefor, the court may order that the defendant be allowed to inspect and test under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed and may inspect the reports of experts relating to those devices.

History: 1975 c. 365.

23.74 Mode of trial. (1) The defendant shall be informed of the right to a jury trial in circuit court on payment of fees required by s. 23.77 (1).

(2) If both parties, in a court of record, request a trial by the court or if neither demands a trial by jury, the right to a trial by jury is waived.

History: 1975 c. 365; 1977 c. 305; 1977 c. 449 s. 497.

23.75 Proceedings in court. (1) If the defendant appears in court at the time directed in the citation or summons, the case shall be tried as provided by law.

(2) If the defendant fails to appear in court at the time fixed in the complaint and summons, judgment may be rendered against the defendant according to the demand of the complaint, or the court may issue a warrant for the defendant's arrest.

(3) If the defendant fails to appear in court at the time fixed in the citation or by subsequent postponement, the following procedure shall apply:

(a) 1. If the defendant has not made a deposit, the court may consider the nonappearance to be a plea of no contest and enter judgment accordingly or the court may issue a summons or an arrest warrant.

2. If the court considers the nonappearance to be a plea of no contest and enters judgment accordingly, the court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow the defendant not less than 20 working days from the date the judgment copy or notice is mailed to pay the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

(b) If the defendant has made a deposit, the citation may serve as the initial pleading and the defendant shall be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the defendant fails to appear in response to the summons, the court shall issue an arrest warrant. If the court accepts the plea of no contest, the defendant may move within 90 days after the date set for appearance to withdraw the plea of no contest, open the judgment, and enter a plea of not guilty if the defendant shows to the satisfaction of the court that failure to appear was due to mistake, inadvertence, surprise, or excusable neglect. If a party is relieved from the plea of no contest, the court or judge may order a written complaint to be filed and set the matter for trial. After trial, the costs, fees, and surcharges imposed under ch. 814 shall be taxed as provided by law. If on reopening the defendant is found not guilty, the court shall delete the record of conviction and shall order the defendant's deposit returned.

(c) If the defendant has made a deposit and stipulation of no contest, the citation may serve as the initial pleading and the defendant shall be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the defendant fails to appear in response to the summons, the court shall issue an arrest warrant. After signing a stipulation of no contest, the defendant may, at any time prior to or at the time of the court appearance date, move the court for relief from the effect of the stipulation. The court may act on the motion, with or without notice, for cause shown by affidavit and upon just terms, and relieve the defendant from the stipulation and the effects thereof. If the defendant is relieved from the stipulation of no contest, the court may order a citation or complaint to be filed and set the matter for trial. After trial, the costs, fees, and surcharges imposed under ch. 814 shall be taxed as provided by law.

(4) If a citation or summons is issued to a defendant and he or she is unable to appear in court on the day specified, the defendant may enter a plea of not guilty by mailing to the judge at the address indicated on the citation or summons a letter stating such plea. The letter must show the defendant's return address. Such letter may include a request for trial during normal daytime business hours. Upon receipt of the letter, the judge shall reply by letter to the defendant's address setting forth a time and place for trial, such time to be during normal business hours if so requested. The date of the trial shall be at least 10 days from the mailing by the judge. Nothing in this subsection forbids the setting of the trial at any time convenient to all parties concerned.

(5) Costs shall not be taxed against the plaintiff.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1981 c. 317; 1985 a. 36; 1987 a. 27, 399; 1991 a. 39; 1993 a. 156; 1997 a. 27; 2003 a. 139.

23.76 Burden of proof. In all actions under this chapter, the state must convince the trier of fact to a reasonable certainty of every element of the offense by evidence that is clear, satisfactory and convincing.

History: 1975 c. 365.

23.77 Jury trial. (1) If in circuit court either party files a written demand for a jury trial within 20 days after the court appearance date and immediately pays the fee prescribed in s. 814.61 (4), the court shall place the case on the jury calendar. The number of jurors shall be determined under s. 756.06 (2) (b). If no party demands a trial by jury, the right to trial by jury is permanently waived.

(3) If there is a demand for a trial by jury, the provisions of s. 345.43 (3) (a) and (b) are applicable.

History: 1975 c. 365; 1977 c. 305, 318, 447; 1977 c. 449 s. 497; 1979 c. 175 s. 53; 1981 c. 317; 1995 a. 427; Sup. Ct. Order No. 96−08, 207 Wis. 2d xv (1997).

23.78 Verdict. A verdict is valid if agreed to by five−sixths of the jury. If a verdict relates to more than one count, it shall be valid as to any count if any five−sixths of the jury agree thereto. The form of the verdict shall be guilty or not guilty. The amount of the forfeiture shall be stated by the court after a finding of guilty.

History: 1975 c. 365.

23.79 Judgment. (1) If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture provided by the statute for the violation, plus costs, fees, and surcharges imposed under ch. 814.

(2) The payment of any judgment may be suspended or deferred for not more than 90 days in the discretion of the court. In cases where a deposit has been made, any forfeitures, costs, fees, and surcharges imposed under ch. 814 shall be taken out of the deposit and the balance, if any, returned to the defendant.

(3) In addition to any monetary penalties, the court may order the defendant to perform or refrain from performing such acts as may be necessary to fully protect and effectuate the public interest. The court may order abatement of a nuisance, restoration of a natural resource, restoration of an archaeological feature subject to the prohibition under s. 23.095 (1m), or other appropriate action designed to eliminate or minimize any environmental damage caused by the defendant.

(4) The court may, where provided by law, revoke or suspend any or all privileges and licenses.

(5) All civil remedies are available in order to enforce the judgment of the court, including the power of contempt under ch. 785.

History: 1975 c. 365; 1977 c. 29; 1979 c. 32 s. 92 (13); 1979 c. 34; 1985 a. 36; 1987 a. 27; 1991 a. 39; 1995 a. 391; 1997 a. 27; 2003 a. 139.

23.795 Nonpayment of judgments. (1) If a defendant fails to timely pay a judgment entered under s. 23.75 (3) (a) 2. or

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23.79, the court may issue an arrest warrant or a summons ordering the defendant to appear in court or both. If the defendant appears before the court pursuant to a warrant or summons or the defendant otherwise notifies the court that he or she is unable to pay the judgment, the court shall conduct a hearing. If the defendant failed to pay the forfeiture, the court shall determine if the defendant is unable to pay the amount specified in the judgment for good cause or because of the defendant's indigence. If the court determines that the failure of the defendant to comply with the judgment is for good cause or because of the defendant's indigence, the court may order that the amount of the judgment be modified, suspended or permanently stayed. If the defendant fails to appear before the court for a hearing under this subsection or if the court determines at the hearing that the failure of a defendant to pay the judgment is not for good cause or not because of the defendant's indigence, the court shall order one of the following:

(a) That the defendant be imprisoned for a time not to exceed 5 days or until the amount is paid, whichever is less.

(b) That the amount of the judgment be modified, suspended or permanently stayed.

(2) In lieu of an order of imprisonment under sub. (1) (a) for a violation of ch. 29, the court may revoke or suspend any privilege or approval granted under ch. 29 as provided in s. 29.971 (12).

(3) In lieu of an order of imprisonment under sub. (1) (a) for a violation of ch. 169, the court may revoke or suspend any privilege or license granted under ch. 169 as provided in s. 169.45 (6).

(4) In lieu of an order of imprisonment under sub. (1) (a) for a violation of s. 90.21, the court may suspend any fence inspection certificate issued under s. 90.21, as provided in s. 90.21 (8) (b).

History: 1993 a. 156; 1997 a. 248; 2001 a. 56.

23.80 Judgment against a corporation or municipality. (1) If a corporation or municipality fails to appear within the time required by the citation or summons, the default of such corporation or municipality may be recorded and the charge against it taken as true and judgment shall be rendered accordingly.

(2) Upon default of the defendant corporation or municipality, or upon conviction, judgment for the amount of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, shall be entered.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1987 a. 27; 1991 a. 39; 1997 a. 27; 2003 a. 139.

23.81 Effect of plea of no contest. Forfeiture of deposit under s. 23.75 (3) (b), an accepted plea of no contest under s. 23.70, or a stipulation of no contest under s. 23.75 (3) (c) to a charge of violation of a natural resources law shall not be admissible in evidence as an admission against interest in any action or proceeding arising out of the same occurrence.

History: 1975 c. 365.

23.82 Fees. Fees in forfeiture actions under this chapter are prescribed in s. 814.63.

History: 1975 c. 365; 1977 c. 305, 318, 449; 1981 c. 317.

23.83 Appeal. (1) JURISDICTION ON APPEAL. Appeal may be taken by either party. On appeal from the circuit court, the appeal is to the court of appeals.

(2) STAY OF EXECUTION. The amount of undertaking required to stay execution on appeal shall not exceed the amount of the maximum forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

(3) PROCEDURE ON APPEAL. An appeal to the court of appeals shall be in accordance with chs. 808 and 809.

History: 1975 c. 365, 421; 1977 c. 187, 305, 449; 1979 c. 34; 1985 a. 36; 1991 a. 39; 2003 a. 139.

23.84 Forfeitures, costs, fees, and surcharges collected; to whom paid. Except for actions in municipal court, all moneys collected in favor of the state or a municipality for a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, shall be paid by the officer who collects the same to the appropriate municipal or county treasurer, within 20 days after their receipt by the officer, except that all jail surcharges imposed under ch. 814 shall be paid to the county treasurer. In case of any failure in the payment, the municipal or county treasurer may collect the payment from the officer by an action in the treasurer's name of office and upon the official bond of the officer, with interest at the rate of 12% per year from the time when it should have been paid.

History: 1975 c. 365; 1977 c. 29, 305; 1979 c. 34; 1979 c. 110 s. 60 (13); 1985 a. 36; 1987 a. 27; 1991 a. 39; 1997 a. 27; 2003 a. 139.

23.85 Statement to county board; payment to state. Every county treasurer shall, on the first day of the annual meeting of the county board of supervisors, submit to it a verified statement of all forfeitures, costs, fees, and surcharges imposed under ch. 814 and received during the previous year. The county clerk shall deduct all expenses incurred by the county in recovering those forfeitures, costs, fees, and surcharges from the aggregate amount so received, and shall immediately certify the amount of clear proceeds of those forfeitures, costs, fees, and surcharges to the county treasurer, who shall pay the proceeds to the state as provided in s. 59.25 (3). Jail surcharges imposed under ch. 814 shall be treated separately as provided in s. 302.46.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1987 a. 27; 1989 a. 107; 1991 a. 39; 1995 a. 201; 2003 a. 33, 139, 326.

23.90 Place of trial. (1) Civil actions shall be tried in the county where the offense was committed, except as otherwise provided.

(2) Where 2 or more acts are requisite to the commission of any offense, the trial may be in any county in which any of such acts occurred.

(3) Where an offense is committed on or within one−fourth of a mile of the boundary of 2 or more counties, the defendant may be tried in any of such counties.

(4) If an offense is commenced outside the state and is consummated within the state, the defendant may be tried in the county where the offense was consummated.

(5) If an offense is committed on boundary waters at a place where 2 or more counties have common jurisdiction under s. 2.03 or 2.04 or under any other law, the prosecution may be in either county. The county whose process against the offender is first served shall be conclusively presumed to be the county in which the offense was committed.

History: 1975 c. 365.

23.99 Parties to a violation. (1) Whoever is concerned in the commission of a violation of this chapter for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

(a) Directly commits the violation;

(b) Aids and abets the commission of it; or

(c) Is a party to a conspiracy with another to commit it or advises, hires or counsels or otherwise procures another to commit it.

History: 1975 c. 365.

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