

# State of Wisconsin



1995 Senate Bill 622

Date of enactment: April 16, 1996  
Date of publication\*: April 30, 1996

## 1995 WISCONSIN ACT 227

AN ACT *to repeal* chapter 144 (title), subchapter I (title) of chapter 144 [precedes 144.01], 144.01, subchapter II (title) of chapter 144 [precedes 144.02], 144.02 (title), 144.025 (title), 144.025 (2) (title), 144.11 (1), 144.14 (title), 144.15 (title), subchapter III (title) of chapter 144 [precedes 144.30], 144.30 (intro.), 144.31 (title), 144.375 (title), 144.375 (6) (b) and (c), 144.385, subchapter IV (title) of chapter 144 [precedes 144.43], 144.43 (4), 144.431 (title), 144.431 (2) (e), 144.435 (5) (a), 144.44 (title), (1) (intro.), (a) and (am), 144.44 (1) (e), 144.44 (2) (title), 144.44 (2) (c), 144.44 (2g) (title), 144.44 (2r) (title), 144.44 (3) (ar), 144.44 (7) (a) (intro.), 144.441 (title) and (1) (intro.), 144.441 (1m) (title), 144.442 (1) (intro.) and (a) to (c), 144.442 (1) (cm), 144.4422 (1) (a), 144.443 (1) (a), 144.45 (title), 144.455 (1) (a), 144.60 (title) and (1), 144.62 (title), 144.64 (title), 144.64 (2) (title), 144.64 (4) (title), 144.76 (1) (intro.), 144.765 (1) (a), subchapter V (title) of chapter 144 [precedes 144.80], 144.80, 144.83 (title), 144.834 (title), 144.84 (title), 144.85 (title), 144.89 (title), 144.9407 (title), subchapter VII (title) of chapter 144 [precedes 144.95], subchapter VIII (title) of chapter 144 [precedes 144.96], 146.20 (2) (a), 146.20 (6), 147.033 (title) and (1) (title) and 287.17; *to renumber* 144.025 (2) (a), 144.025 (2) (c), 144.025 (2) (f), 144.025 (2) (g), 144.025 (2) (h), 144.025 (2) (i), 144.025 (2) (j), 144.025 (2) (k), 144.025 (2) (m), 144.025 (2) (q), 144.025 (2) (t), 144.025 (6), 144.03 (title), 144.06, 144.07, 144.10 (title), 144.11 (title), 144.11 (2), 144.14, 144.15, 144.21, 144.235, 144.251, 144.26, 144.266, 144.30 (1) and (2), 144.30 (3r), (4), (5), (6) and (7), 144.30 (9), 144.30 (10), (11), (12), (13) and (14), 144.30 (15), 144.30 (19e), 144.30 (20e) and (20s), 144.30 (22r) and (22rm), 144.30 (23), (24) and (25), 144.31 (4), 144.371, 144.3716 (title), (1) and (2) (title) and (a), 144.372, 144.373, 144.374, 144.375 (6) (title), 144.38, 144.395, 144.398, 144.399 (title) and (1), 144.399 (2) (b) and (c), 144.401, 144.404, 144.405, 144.42, 144.421, 144.43 (2w), (3) and (3m), 144.43 (4g), 144.43 (4r), (5), (6), (7), (7g), (7r) and (8), 144.431 (2) (c) and (d), 144.436, 144.438, 144.439, 144.44 (1c), 144.44 (1m) (title), 144.44 (7) (title), 144.44 (7) (a) 1., 144.441 (6m), 144.442 (title), 144.442 (1) (e), 144.4422 (title) and (1) (intro.), 144.443 (title) and (1) (intro.), 144.443 (1) (am), 144.443 (1) (c) to (f), 144.449, 144.455 (title), 144.455 (2) to (6), 144.46, 144.463, 144.60 (2), 144.61 (2), (3) and (4), 144.61 (5m) and (6), 144.62 (2) (a), 144.62 (2) (c), 144.62 (3), 144.62 (4), 144.62 (9), 144.62 (17) and (18), 144.64 (1) (b) 1., 2., 3., 4. and 5., 144.69 (title), 144.69, 144.737, 144.75, 144.76 (title), 144.76 (1) (a), (b), (bm), (c) and (d), 144.76 (2), 144.76 (3) to (5), 144.76 (6) and (7), 144.76 (8), 144.765 (title) and (1) (intro.), 144.765 (1) (b), (c), (d) and (e), 144.81 (1m), 144.81 (2), 144.81 (3), 144.81 (4), 144.81 (5), 144.81 (7), 144.81 (8), 144.81 (9), 144.81 (10), 144.81 (13), 144.81 (13n), 144.81 (14), 144.81 (17), 144.81 (17m), 144.81 (18), 144.82, 144.832, 144.836 (title), 144.84 (4), 144.84 (5), 144.85 (1) (c), 144.85 (2) (a), 144.875, 144.925, 144.9407 (6) (title), 144.9407 (6), subchapter VI (title) of chapter 144 [precedes 144.941], 144.942, 144.951, 144.965, 144.968, chapter 147 (title), 147.01, 147.0175, 147.018, 147.023, 147.09, 147.11, 147.15, 147.25, 147.27, subchapter I (title) of chapter 159 [precedes 159.01], 159.03, subchapter II (title) of chapter 159 [precedes 159.07], 159.08, 159.095, 159.18, 159.185, 159.215, 159.22, 159.31, subchapter III (title) of chapter 159 [precedes 159.40], 159.41, 159.46, 159.48, 159.49, subchapter IV (title) of chapter

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

159 [precedes 159.81], subchapter V (title) of chapter 159 [precedes 159.91], 159.93, chapter 162 (title), 162.03, 162.047, 162.05, 162.06 and 162.07; **to renumber and amend** 144.02, 144.025 (1), 144.025 (2) (b), 144.025 (2) (d), 144.025 (2) (e), 144.025 (2) (L), 144.025 (2) (r), 144.025 (2) (s), 144.025 (2) (u), 144.025 (2) (v), 144.025 (2) (w), 144.025 (7), 144.0252, 144.0255, 144.026, 144.027, 144.03 (1), 144.03 (2), 144.04, 144.05, 144.08, 144.09, 144.10 (1), 144.10 (2) to (4), 144.23, 144.24, 144.241, 144.2415, 144.242, 144.25, 144.253, 144.254, 144.265, 144.27, 144.30 (3) and (3m), 144.30 (8), 144.30 (14m), 144.30 (16), 144.30 (20), 144.30 (21), 144.30 (22s), 144.31 (1), 144.31 (2), 144.31 (3), 144.32, 144.33, 144.34, 144.36, 144.3712, 144.3714, 144.3716 (2) (am), (b) and (c), 144.3716 (3), 144.375 (1), (2) and (3), 144.375 (4), (5) and (5m), 144.375 (6) (a), 144.382, 144.386, 144.387, 144.388, 144.389, 144.391 (title), (1), (2), (3m), (4m), (5), (6) and (7), 144.392 (title), (1m), (2), (3), (4), (5), (6), (7), (8) and (9), 144.3925 (title), (1), (2), (3), (4), (5), (5m), (6), (7), (8) and (9), 144.393, 144.3935, 144.394 (intro.), (1), (2), (3), (4), (5), (6), (7), (7m), (8), (9), (10), (11), (12) and (13), 144.396, 144.399 (2) (title) and (a) (intro.), 1., 2., 2g., 2r., 3. and 4., 144.399 (2) (am), 144.399 (3) to (6), 144.399 (7), 144.40, 144.403, 144.407 (title), (1), (1g), (1m), (1r), (1t), (1w) and (2), 144.41, 144.422 (title), (1), (2), (2m), (2r), (3), (3e), (3m) and (4), 144.423, 144.424, 144.426, 144.43 (intro.), 144.43 (1) and (1m), 144.43 (2), (2d), (2h), (2p) and (2t), 144.431 (1), 144.431 (2) (intro.) and (a), 144.431 (2) (b), 144.432, 144.433, 144.434, 144.435 (title), (1) and (2), 144.435 (3), 144.435 (4), 144.435 (5) (b), 144.437, 144.4385, 144.44 (1) (b), (bm), (c) and (d), 144.44 (1m) (a), (b), (bn), (c), (d) and (e), 144.44 (2) (a) and (b), 144.44 (2) (d) and (e), 144.44 (2) (f), (fm) and (g), 144.44 (2) (h), 144.44 (2) (i), (j) and (k), 144.44 (2) (L), 144.44 (2) (m), 144.44 (2) (n), 144.44 (2) (nm), 144.44 (2) (nr), 144.44 (2) (nu), 144.44 (2) (o), 144.44 (2) (om), 144.44 (2) (p) and (q), 144.44 (2g) (a), (b), (c) and (e), 144.44 (2r) (a), (b), (d) and (e), 144.44 (3) (title), (a), (ag) and (am), 144.44 (3) (b), (bh), (c), (cm), (d), (e), (f) and (g), 144.44 (4), 144.44 (4e), 144.44 (4m), 144.44 (4r), 144.44 (6), 144.44 (7) (a) 2., 144.44 (7) (am), (b), (c), (d) and (e), 144.44 (7) (em), 144.44 (7) (f), (g) and (h), 144.44 (8), 144.44 (9), 144.44 (10), 144.441 (1) (a), (b) and (c), 144.441 (1m), 144.441 (2), 144.441 (3) and (4), 144.441 (6), 144.441 (7), 144.441 (7m), 144.4412, 144.4414, 144.442 (1) (d), 144.442 (1m), 144.442 (1s), 144.442 (2), 144.442 (3), 144.442 (4), 144.442 (5), 144.442 (6), 144.442 (6m), (6r) and (7), 144.442 (8), 144.442 (9), 144.442 (9m), 144.442 (10) and (11), 144.4422 (1) (b), (c), (d), (e), (f) and (g), 144.4422 (2), (2g), (2r), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), 144.443 (1) (b), 144.443 (2) and (3), 144.443 (4), 144.443 (5) to (12), 144.444, 144.445, 144.446, 144.447, 144.448, 144.45, 144.453, 144.465, 144.469, 144.47, 144.48, 144.50, 144.52, 144.60 (3), 144.61 (intro.) and (1), 144.61 (5), 144.61 (7), 144.61 (8), (9), (9m), (10), (11), (12) and (13), 144.61 (14), 144.62 (2) (b), 144.62 (5), 144.62 (7), 144.62 (8), 144.62 (8m), 144.62 (10), 144.62 (12), 144.62 (13), 144.62 (14), 144.62 (15), 144.62 (16), 144.63, 144.64 (1) (title), (a) and (b) (intro.), 144.64 (1) (c), 144.64 (2) (a), (am), (b), (c) and (d), 144.64 (2) (e), 144.64 (2) (f) and (g), 144.64 (2m), 144.64 (3), 144.64 (4) (a), 144.64 (4) (b), 144.645, 144.68, 144.70, 144.72, 144.725, 144.73, 144.735, 144.74, 144.76 (9), 144.76 (9m), 144.76 (9s), 144.76 (10), (11) and (12), 144.76 (13), 144.765 (2), (3), (4) and (5), 144.77, 144.788, 144.79, 144.81 (intro.), 144.81 (2m), 144.81 (6), 144.81 (12), 144.81 (13m), 144.81 (15), 144.81 (16), 144.815, 144.83 (1), 144.83 (2), 144.83 (4), 144.83 (5), 144.83 (6), 144.831 (title), 144.831 (1) to (6), 144.831 (7), 144.831 (8), 144.833, 144.834 (1) and (2), 144.836 (intro.), (1), (2), (3) and (4), 144.838 (title) and (1) to (4), 144.838 (5), 144.839, 144.84 (1), 144.84 (2) and (3), 144.85 (1) (a) and (b), 144.85 (2) (b), 144.85 (3) (intro.), (a), (b), (c), (d), (e), (f) and (g), 144.85 (4) (a) and (b), 144.85 (4) (c), 144.85 (5) (a), 144.85 (5) (b), 144.85 (5) (bm), 144.85 (5) (c), 144.85 (5) (d) and (e), 144.852, 144.855, 144.86, 144.87 (title) and (1), 144.87 (2), 144.87 (3), 144.88, 144.89 (1), (1m) and (2), 144.90, 144.91, 144.92, 144.93, 144.935, 144.937, 144.94, 144.9407 (1) (intro.), (a), (b), (c), (d), (e) and (f), 144.9407 (2), 144.9407 (3), 144.9407 (4), 144.9407 (4m), 144.9407 (5), 144.9407 (7), 144.9407 (8), 144.9407 (9), 144.941 (intro.), (1), (1g), (1m), (1s), (2) and (3), 144.943, 144.944, 144.95, 144.955, 144.96, 144.97, 144.975, 144.976, 144.977, 144.98, 144.99, 144.992, 144.995, 146.20 (title) and (2) (intro.), 146.20 (2) (b) to (5s), 147.015, 147.017, 147.02, 147.021, 147.025, 147.03, 147.033 (1), 147.033 (4), 147.035, 147.04, 147.05, 147.055, 147.06, 147.07, 147.08, 147.10, 147.105, 147.12, 147.13, 147.135, 147.14, 147.20, 147.21, 147.23, 147.26, 147.29, 147.30, chapter 159 (title), 159.01, 159.05, 159.07, 159.09, 159.10, 159.11, 159.12, 159.13, 159.15, 159.17, 159.19, 159.21, 159.23, 159.25, 159.40, 159.42, 159.44, 159.81, 159.91, 159.95, 159.97, 162.01, 162.02 and 162.04; **to consolidate, renumber and amend** 144.455 (1) (intro.) and (b); **to amend** 13.101 (11), 13.48 (10) (b) 1., 13.48 (26), 13.625 (8m), 15.107 (5) (a) 5., 15.107 (5) (a) 6., 15.107 (12) (b) 1. c., 15.157 (10) (a), (b), (c), (d) and (e), 15.347 (15) (a) 4., 15.915 (5) (a), 16.15 (1) (ae) and (ah), 16.15 (1) (aj), 16.15 (1) (ar), 16.15 (1) (e), 16.15 (1) (f), 16.15 (3) (a) 3., 16.72 (2) (f), 16.75 (1) (a) 1., 16.855 (21), 16.87 (4), 18.57 (3), 19.59 (1) (f), 20.143 (1) (kc), 20.255 (2) (ra), 20.285 (1) (L), 20.285 (1) (t), 20.320 (1) (q), 20.320 (1) (r), 20.320 (1) (s), 20.320 (1) (u), 20.370 (2) (af), 20.370 (2) (ah), 20.370 (2) (bg), 20.370 (2) (bj), 20.370 (2) (bL), 20.370 (2) (br), 20.370 (2) (cg), 20.370 (2) (ch), 20.370 (2) (ci), 20.370 (2) (cL), 20.370 (2) (cq), 20.370 (2) (dg), 20.370 (2) (dh), 20.370 (2) (di), 20.370 (2) (dj), 20.370 (2) (dL), 20.370 (2) (dq), 20.370 (2) (dt), 20.370 (2) (dv), 20.370 (2) (dy), 20.370 (2) (dz), 20.370 (2) (eg), 20.370 (2) (eh), 20.370 (2) (ei), 20.370 (2) (fj), 20.370 (2) (fr), 20.370 (2) (gh), 20.370 (2) (gi), 20.370 (2) (gr), 20.370 (2) (hq), 20.370 (2) (mq), 20.370 (2) (mr), 20.370 (2) (mt), 20.370 (2) (mx), 20.370 (3) (bi), 20.370 (3) (ma), 20.370 (3) (mq),

20.370 (6) (aa), 20.370 (6) (aq), 20.370 (6) (ar), 20.370 (6) (as), 20.370 (6) (at), 20.370 (6) (ba), 20.370 (6) (bq) (intro.) and 2. to 8., 20.370 (6) (br), 20.370 (6) (bs), 20.370 (6) (cq), 20.370 (6) (cr), 20.370 (6) (da), 20.370 (6) (mq), 20.370 (6) (mr), 20.370 (6) (ms), 20.370 (6) (mu), 20.370 (6) (mx), 20.370 (7) (ba), 20.370 (7) (ca), 20.370 (7) (cb), 20.370 (7) (cc), 20.370 (7) (cd), 20.370 (8) (is), 20.370 (8) (iw), 20.370 (8) (mg), 20.370 (8) (mq), 20.455 (1) (gh), 20.455 (1) (hm), 20.505 (1) (v), 20.505 (1) (x), 20.536 (1) (ka), 20.566 (7) (e), 20.566 (7) (v), 20.865 (2) (em), 20.866 (2) (tb), 20.866 (2) (tc), 20.866 (2) (te), 20.866 (2) (tg), 20.866 (2) (tm), 20.866 (2) (tn), 20.866 (2) (to), 23.094 (2) (c) 5., 23.39 (1) and (2) (a), 23.41 (2), 23.50 (1), 23.51 (3c), 23.53 (1), 23.65 (1), 23.65 (3), 24.60 (2), 24.61 (3) (a) 8., 24.66 (2p), 25.17 (2) (d), 25.43 (1) (e), 25.43 (1) (f), 25.43 (1) (g), 25.43 (1) (h), 25.43 (2) (c), 25.43 (3), 25.45, 25.46 (5e), 25.46 (5m), 25.46 (6), 25.46 (6m), 25.46 (6r), 25.46 (7), 25.46 (8), 25.46 (9), 25.46 (10), 25.46 (10m), 25.46 (11), 25.46 (12), 25.46 (13), 25.46 (13m), 25.46 (15), 25.46 (16), 25.46 (17), 25.46 (17m), 25.46 (18), 25.49 (2), 27.019 (11), 27.065 (10) (a), 29.05 (8) (a), 29.135 (1) (b), 29.29 (3) (b), 30.01 (1b), 30.01 (7m), 30.01 (9), 30.12 (4) (a), 30.124 (1) (intro.), 30.18 (2) (b), 30.18 (3) (b), 30.18 (4) (a), 30.18 (4) (b), 30.18 (5) (b), 30.18 (6) (a), 30.18 (6) (d), 30.18 (6m) (c), 30.19 (3) (b), 30.19 (4), 30.20 (2) (a), 30.202 (3), 30.202 (4), 30.203 (4) (d), 30.204 (5), 30.206 (1), 30.21 (3) (a), 30.28 (2m) (c), 30.40 (16), 30.45 (4m) (a), 30.45 (4p), 31.06 (3), 31.06 (5), 31.39 (2m) (c), 32.02 (12), 33.14 (4) (c), 33.26 (3), 33.457 (4) (intro.), 36.25 (3m) (a), 36.25 (30) (intro.), 36.25 (30g), 42.05 (1) and (2), 46.255 (7), 46.34, 50.05 (15) (d), 59.067 (1) (b), 59.067 (1) (c), 59.067 (2), 59.067 (3), 59.067 (5), 59.07 (133), 59.07 (135) (L), 59.07 (135) (q) (intro.), 59.20 (5) (b), 59.395 (5), 59.51 (17), 59.97 (9) (b), 59.971 (1) (b) (intro.), (1m), (4) (a) and (7) (ag), 59.974 (2) and (8), 60.54 (1), 60.627 (2) (a) and (7), 60.70 (7), 60.70 (8), 60.70 (11), 61.345, 61.351 (3), 61.351 (6), 61.354 (2) and (7), 61.55, 62.15 (1b), 62.225, 62.231 (3) and (6), 62.234 (2) and (7), 66.023 (7), 66.038 (1) (a), 66.038 (3) (e) 4., 66.038 (3) (e) 5., 66.121, 66.122 (1) (b), 66.293 (3) (b), 66.33 (5), 66.33 (6), 66.35 (1) (a), 66.35 (2), 66.365, 66.46 (2) (am), 66.521 (9), 66.606 (1) (a) 1., 66.606 (1) (a) 2., 66.606 (1) (b), 66.888 (1) (c) 3. c., 66.892 (2) (a) and (d), 66.894 (14) (g), 66.902 (1) (a) 4. a., 66.902 (1) (e), 66.902 (2) (c), 66.904 (2) (a), 66.905 (2) (a), 66.905 (2) (b), 66.912 (5), 66.945 (14) (c), 67.04 (5) (b) 2., 67.12 (1) (b), 67.12 (12) (a), 70.01, 70.11 (21) (a), 70.32 (1m), 70.375 (1) (as) and (bm), 70.375 (4) (h), 70.375 (4) (o), 70.38 (2), 70.395 (2) (dc) 1., 70.395 (2) (dc) 4. and (fm), 70.395 (2) (h) 1., 70.395 (2) (hg), (hr) and (hw), 70.395 (2) (j), 70.395 (2) (k), 70.995 (2) (z), 71.05 (11) (b), 71.07 (2de) (a) (intro.), 71.28 (1de) (a) (intro.), 71.47 (1de) (a) (intro.), 76.13 (2), 76.22 (1), 76.39 (5), 77.54 (9a) (d), 84.078 (1) (bc), 84.078 (1) (be), 84.078 (3) (a) (intro.), 84.31 (4) (a) 1., 84.31 (4) (b), 84.31 (9), 85.17 (1) (b), 88.40 (2), 91.75 (9) (a) 1., 92.04 (2) (f), 92.04 (2) (k), 92.04 (2) (L), 92.05 (1), 92.05 (3) (f) and (j), 92.08 (1), 92.14 (1) (a), (b) and (c), 92.14 (4) (c), 92.14 (5) (a), 92.14 (6) (g), 92.14 (6) (h) 2., 92.14 (6) (h) 3., 92.14 (6) (i) 2., 92.14 (8), 92.14 (12), 92.14 (13), 92.14 (14), 92.18 (1) (b), 93.12 (5), 93.12 (8), 93.12 (9), 93.55 (2), 94.64 (1) (pm), 94.645 (1) (g), 94.65 (3) (a) 3., 94.701 (3) (c), 94.73 (1) (a), 94.73 (1) (b), 94.73 (1) (e), 94.73 (2) (a), 94.73 (2) (bg) 2. and 3. and (d), 94.73 (2m) (intro.), 94.73 (2m) (d), 94.73 (3) (d), 94.73 (3) (f), 94.73 (3m) (a), 94.73 (3m) (b), 94.73 (3m) (e), 94.73 (6) (b) 2., 94.73 (6) (c), 94.73 (12), 97.34 (2) (b), 97.34 (2) (c), 97.34 (2) (d), 100.27 (5) (b), 101.09 (1) (d), 101.09 (2) (b), 101.126 (1) (intro.), 101.143 (1) (b), 101.143 (1) (c), 101.143 (2m), 101.143 (3) (a) 5., 101.143 (3) (c) 3., 101.143 (3) (c) 4., 101.143 (3) (d), 101.143 (4) (b) 14., 101.144 (1) (a), 101.144 (1) (am), 101.144 (3) (intro.), 101.144 (3) (d), 101.144 (3) (e), 101.144 (3m) (a) 2., 101.578 (1), 107.001 (3), 107.15 (2) (a), 107.15 (2) (b), 107.15 (2) (d), 107.15 (2) (e), 107.20 (1), 107.25 (1) (c), 107.30 (8), 107.30 (15), 107.30 (16), 109.09 (2), 110.07 (1) (a) 1., 110.07 (1) (a) 3., 110.07 (1) (b), 110.20 (1) (ac), 110.20 (1) (b), 110.20 (3) (a), 110.20 (5) (a), 110.20 (6) (b), 110.20 (13) (c) 2., 145.01 (10) (d), 145.01 (17), 145.06 (4) (b), 145.06 (4) (e), 145.20 (3) (d), 145.245 (1) (a) 2., 145.245 (3), 146.16, 160.01 (4), 160.09 (1) (intro.), 160.19 (8), 160.19 (9) (intro.), 160.19 (12), 160.21 (2) (c) (intro.), 160.21 (2) (c) 1., 160.23 (7), 160.25 (1) (a) (intro.), 160.25 (2), 160.25 (6), 160.27 (5), 160.32 (2), 166.03 (2) (b) 6., 166.15 (1) (e) 5., 166.15 (1) (e) 6., 166.15 (1) (h), 166.15 (1) (j), 166.20 (4) (a), 166.20 (4) (b), 166.20 (5) (a) 2., 166.20 (5) (a) 4. c., 166.21 (2m) (f), 166.22 (1) (a), 166.22 (1) (b), 166.22 (3), 168.04, 168.11 (1) (b) 2., 196.49 (2), 196.491 (3) (d) 3., 196.491 (3) (d) 4., 196.856 (1), 196.98, 214.495 (1), 215.21 (4) (a), 227.01 (13) (ym), 227.01 (13) (z), 227.01 (13) (zc), 227.01 (13) (zi), 227.01 (13) (zp), 227.03 (2), 227.42 (4), 227.42 (5), 227.42 (6), 234.01 (4n) (a) 8., 234.67 (1) (g), 234.69 (1) (c), 234.69 (2) (b) 2. and 3., 234.87 (1) (ae), 234.87 (1) (as), 234.87 (1) (b), 234.87 (1) (c), 234.87 (3) (b) 1., 236.13 (2m), 254.36 (2), 341.10 (8), 345.11 (1u), 345.20 (2) (g), 348.15 (3) (bv), 348.27 (12), 443.14 (10) and (11), 443.14 (12m), 560.03 (9), 560.11 (1) (a), 560.11 (1) (c), 560.11 (2), 560.12 (1) (ae), 560.19 (1) (b), 560.19 (4) (d) 2., 560.65 (1) (a), 560.65 (1) (ag), 560.65 (1) (ar), 560.65 (1) (b), 560.65 (1) (c), 560.65 (1) (d), 560.65 (1) (e), 560.65 (1) (f), 560.65 (1m) (a) 3. b., 560.65 (1m) (a) 3. e., 560.65 (4) (a), 560.797 (1) (a), 560.835 (1) (a), 560.835 (1) (c), 703.16 (6) (e), 706.01 (9), 706.11 (1) (intro.), 707.37 (4) (d), 779.01 (4), 779.35, 779.40 (1), 814.60 (2) (cs), 814.63 (3) (bs), 823.085 (1), 823.085 (2) (intro.), 823.115 (1), 895.46 (6), 895.48 (2) (a) 1., 895.48 (2) (a) 2., 895.48 (2) (c) 2., 895.52 (1) (f), 904.085 (2) (a), 946.13 (2) (g), 946.13 (9) and 973.05 (1); **to repeal and recreate** 20.370 (2) (hq); **to create** chapter 281, chapter 283, chapter 285, chapter 289, chapter 291, chapter 292, chapter 293, chapter 295 and chapter 299 of the statutes; and **to affect** 1995 Wisconsin Act 27, section 9442 (7t); **relating to:** renumbering and reorganizing the environmental statutes.

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

PREFATORY NOTE: This bill was prepared for and contains a recommendation of the joint legislative council's special committee on remediation of environmental contamination. As part of its charge, the special committee was directed by the joint legislative council to "oversee the recodification of ch. 144, stats." Chapter 144 contains statutes related to water and sewage, air pollution, solid and hazardous waste, mining and oil and gas.

Chapter 144 has grown extensively as the legislature focused its attention on environmental regulation. In 30 years, ch. 144 has expanded from 8 pages to almost 120 pages in the printed statutes. As a result of this growth, which has occurred incrementally in each legislative session, some portions of ch. 144 are no longer well-organized.

In discussing and responding to its charge, the special committee determined that ch. 144 is not in need of extensive substantive revision. Although portions of ch. 144 are not well-organized, there is very little in ch. 144 that is not currently viable and that is not written so as to effectively accomplish the legislature's intent. The special committee does not believe that its charge from the joint legislative council is to rewrite substantive environmental policy in this legislation,

<u>Chapter</u>	<u>Title</u>
280	Pure Drinking Water
281	Water and Sewage
283	Pollution Discharge Elimination
285	Air Pollution
287	Solid Waste Reduction, Recovery and Recycling
289	Solid Waste Facilities
291	Hazardous Waste Management
292	Remedial Action
293	Mining
295	Nonmetallic Mining Reclamation; Oil and Gas
299	General Environmental Provisions

The special committee explicitly intends that this bill will make no substantive changes in the environmental regulatory statutes. In a number of instances, the special committee found it necessary to make judgments where an existing cross-reference could not be simply renumbered into the new numbering scheme, either because of the way the bill reorganizes the statutes or because the current cross-reference is imprecise. In each instance where a cross-reference had to be modified rather than simply renumbered, the special committee has taken care to avoid changing the effect of the current statutes and, in many cases, has included a NOTE explaining

but rather to make ch. 144 a more effective tool for accomplishing the environmental regulatory policies currently expressed in that chapter. Therefore, the special committee recommends, in this bill, the reorganization of ch. 144, which the special committee believes will make these statutes significantly more readable.

This bill separates ch. 144 into 8 newly created chapters of the statutes and reorganizes the material incorporated into each of the newly created chapters as necessary. In order to have sufficient consecutive chapter numbers to keep the environmental regulatory statutes together in a group, it is necessary to move the environmental regulatory statutes to a location other than current ch. 144.

The special committee believes that the rationale for the reorganization of ch. 144 applies equally to the other environmental regulatory statutes, which include chs. 147 (pollution discharge elimination), 159 (recycling) and 162 (pure drinking water) and s. 146.20 (sewage disposal). Although not directed to consider these provisions by the joint legislative council, the special committee believes that these statutes should also be reorganized as part of the special committee's recommendation and they are, therefore, included in this bill.

The organization and numbering of the new group of environmental regulatory statutes in this bill is as follows:

its rationale for the modification. If a question arises about the effect of any modification, the special committee intends that the amendments in this bill be construed to have the same effect as the prior statutes.

For the convenience of the reader, a table of contents listing all section numbers of the reorganized chapters is included in this PREFATORY NOTE. Also, a finding aid is included at the end of this bill, which matches the current statute numbers with the new statute numbers assigned by this bill.

The remainder of this PREFATORY NOTE consists of a table of contents for the reorganized chapters:

**CHAPTER 280  
PURE DRINKING WATER**

280.01	Definitions.
280.11	Pure drinking water; powers of department.
280.13	Additional powers of department.
280.15	Well drilling and pump installing; registration; qualifications; fee.
280.17	Exceptions.
280.19	Registration exceptions.
280.21	Local authority.
280.97	Penalties.

**CHAPTER 281  
WATER AND SEWAGE  
SUBCHAPTER I  
DEFINITIONS**

281.01	Definitions.
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**SUBCHAPTER II  
WATER RESOURCES**

- 281.11 Statement of policy and purpose.
  - 281.12 General department powers and duties.
  - 281.13 Surveys and research.
  - 281.15 Water quality standards.
  - 281.17 Water quality and quantity; specific regulations.
  - 281.19 Orders.
  - 281.20 Orders; nonpoint source pollution.
  - 281.22 Fees for water quality determinations for wetlands.
- SUBCHAPTER III  
WATER QUALITY AND QUANTITY; GENERAL REGULATIONS
- 281.31 Navigable waters protection law.
  - 281.33 Construction site erosion control and storm water management.
  - 281.35 Water resources conservation and management.
- SUBCHAPTER IV  
WATER AND SEWAGE FACILITIES; SEPTAGE DISPOSAL
- 281.41 Approval of plans.
  - 281.43 Joint sewerage systems.
  - 281.45 House connections.
  - 281.47 Sewage drains; discharge into certain lakes.
  - 281.48 Servicing septic tanks, soil absorption fields, holding tanks, grease traps and privies.
  - 281.49 Disposal of septage in municipal sewage systems.
- SUBCHAPTER V  
FINANCIAL ASSISTANCE
- 281.51 Financial assistance program; local water quality planning.
  - 281.53 Municipal clean drinking water grants.
  - 281.55 Financial assistance program.
  - 281.56 Financial assistance program; sewerage systems.
  - 281.57 Financial assistance program; point source pollution abatement.
  - 281.58 Clean water fund program; financial assistance.
  - 281.59 Clean water fund program; financial management.
  - 281.63 Financial assistance program; combined sewer overflow abatement.
  - 281.65 Financial assistance; nonpoint source water pollution abatement.
  - 281.67 Watershed projects.
  - 281.68 Lake management planning grants.
  - 281.69 Lake management grants.
- SUBCHAPTER VI  
COMPENSATION
- 281.75 Compensation for well contamination.
  - 281.77 Damage to water supplies
- SUBCHAPTER VII  
GREAT LAKES REMEDIAL ACTION
- 281.81 Definitions.
  - 281.83 Remedial action in the Great Lakes and their tributaries.
  - 281.85 Great Lakes protection fund share.
- SUBCHAPTER VIII  
GENERAL PROVISIONS; ENFORCEMENT
- 281.91 State agency personnel to report water pollution.
  - 281.92 Limitation.
  - 281.94 Investigation of alleged water withdrawal violations.
  - 281.95 Remedies; water withdrawal violations.
  - 281.96 Visitorial powers of department.
  - 281.97 Records; inspection.
  - 281.98 Penalties.
- CHAPTER 283  
POLLUTION DISCHARGE ELIMINATION**
- SUBCHAPTER I  
POLICY AND PURPOSE
- 283.001 Statement of policy and purpose.
- SUBCHAPTER II  
DEFINITIONS
- 283.01 Definitions.

SUBCHAPTER III  
STANDARDS; EFFLUENT LIMITATIONS

- 283.11 State and federal standards.
- 283.13 Effluent limitations.
- 283.15 Variances to water quality standard.
- 283.17 Thermal effluent limitations.
- 283.19 Standards of performance.
- 283.21 Toxic and pretreatment effluent standards.

SUBCHAPTER IV  
PERMITS

- 283.31 Water pollutant discharge elimination system; permits, terms and conditions.
- 283.33 Storm water discharge permits.
- 283.35 General permits.
- 283.37 Applications for permits.
- 283.39 Public notice.
- 283.41 Notice to other government agencies.
- 283.43 Public access to information.
- 283.45 Fact sheets.
- 283.47 Requests for information by permittee.
- 283.49 Public hearing.
- 283.51 Mining hearing.
- 283.53 Permit duration, modification, revocation and reissuance.
- 283.55 Monitoring and reporting; access to premises.
- 283.57 Waste treatment service charges.
- 283.59 Reporting of new discharges.
- 283.61 Exemption for certain alcohol fuel production systems.
- 283.62 Exemption for certain fruit and vegetable working facilities.
- 283.63 Review of permits, decisions, terms and conditions.

SUBCHAPTER V  
GENERAL PROVISIONS; ENFORCEMENT

- 283.81 Waiver.
- 283.83 Continuing planning process.
- 283.85 Design of publicly owned treatment facilities.
- 283.87 Liability for water pollution.
- 283.89 Enforcement.
- 283.91 Civil and criminal remedies.
- 283.93 Environmental pollution.
- 283.95 Savings clause.

**CHAPTER 285**  
**AIR POLLUTION**  
SUBCHAPTER I  
DEFINITIONS

- 285.01 Definitions.

SUBCHAPTER II  
GENERAL POWERS AND DUTIES

- 285.11 Air pollution control; department duties.
- 285.13 Air pollution control; department powers.
- 285.15 Interstate agreement.
- 285.17 Classification, reporting and monitoring.
- 285.19 Inspections.

SUBCHAPTER III  
AIR QUALITY STANDARDS,  
PERFORMANCE STANDARDS;  
EMISSION LIMITS AND NONATTAINMENT AREAS

- 285.21 Ambient air quality standards and increments.
- 285.23 Identification of nonattainment areas.
- 285.25 Air resource allocation.
- 285.27 Performance and emission standards.
- 285.29 Best available retrofit technology.

SUBCHAPTER IV  
VOLATILE ORGANIC COMPOUNDS

AND MOBILE SOURCES;  
EMISSION LIMITS AND STANDARDS

- 285.30 Motor vehicle emissions limitations; inspections.
- 285.31 Gasoline vapor recovery.
- 285.33 Employee trip reduction program.
- 285.35 Clean fuel fleet program.
- 285.37 Reformulated gasoline.
- 285.39 Volatile organic compounds growth accommodation and replenishment.

SUBCHAPTER V  
SULFUR DIOXIDE AND NITROGEN OXIDE  
EMISSION RATES AND GOALS

- 285.41 Sulfur dioxide emission rates after 1992; major utilities.
- 285.43 Sulfur dioxide emission rates; state-owned facilities.
- 285.45 Sulfur dioxide emission goals after 1992; major utilities and other large air contaminant sources.
- 285.47 Nitrogen oxide emission goal; major utilities.

SUBCHAPTER VI  
WASTE INCINERATORS;  
OZONE DEPLETING SUBSTANCES;  
EMISSION LIMITS AND OTHER REQUIREMENTS

- 285.51 Solid waste incinerator operator certification.
- 285.53 Testing emissions from medical waste incinerators.
- 285.55 Medical waste incinerator moratorium.
- 285.57 Emission of ozone-depleting substances.
- 285.59 Recovery of ozone-depleting refrigerants.

SUBCHAPTER VII  
PERMITS AND FEES

- 285.60 Air pollution control permits.
- 285.61 Construction permit application and review.
- 285.62 Operation permit; application, review and effect.
- 285.63 Criteria for permit approval.
- 285.64 Criteria for operation permits for existing sources.
- 285.65 Permit conditions.
- 285.66 Permit duration and renewal.
- 285.67 Permit revision, suspension and revocation.
- 285.68 Failure to adopt rule or issue permit or exemption.
- 285.69 Fees.

SUBCHAPTER VIII  
MISCELLANEOUS

- 285.70 Confidentiality of records.
- 285.71 Federal aid.
- 285.73 Local air pollution control programs.
- 285.75 County program.
- 285.77 Machinery use.
- 285.79 Small business stationary source technical and environmental compliance assistance program.

SUBCHAPTER IX  
ENFORCEMENT; PENALTIES

- 285.81 Hearings on certain air pollution actions.
- 285.83 Violations; enforcement.
- 285.85 Emergency procedure.
- 285.87 Penalties for violations relating to air pollution.

**CHAPTER 287**  
**RECYCLING**  
SUBCHAPTER I  
GENERAL

- 287.01 Definitions.
- 287.03 Departmental duties and powers.
- 287.05 State solid waste reduction, reuse, recycling, composting and resource recovery policy.

SUBCHAPTER II  
SOLID WASTE REDUCTION,  
RECOVERY AND RECYCLING

- 287.07 Prohibitions on land disposal and incineration.
- 287.08 Yard waste bags.
- 287.09 Municipal and county duties and powers.
- 287.095 Responsible unit liability.
- 287.10 Limit on local regulation.
- 287.11 Effective recycling programs.
- 287.12 Out-of-state effective siting programs.
- 287.13 Municipal waste flow control; required use of recycling or resource recovery facility.
- 287.15 Waste oil collection and recycling.
- 287.17 Waste tire removal and recycling.
- 287.18 Lead acid battery collection.
- 287.185 Disposal of mercuric oxide batteries.
- 287.19 Statewide technical assistance.
- 287.21 Statewide education program.
- 287.215 Yard waste publicity.
- 287.22 Council on recycling.
- 287.23 Financial assistance for responsible units.
- 287.25 Waste reduction and recycling demonstration grants.
- 287.31 Newspaper recycling fee.

**SUBCHAPTER III  
RECYCLING MARKET DEVELOPMENT**

- 287.40 Definitions.
- 287.41 Strategic plan.
- 287.42 Duties of the board.
- 287.44 Powers of the board.
- 287.46 Financial assistance.
- 287.48 Executive director for the board.
- 287.49 Study of future of board.

**SUBCHAPTER IV  
LITTERING**

- 287.81 Littering.

**SUBCHAPTER V  
ENFORCEMENT AND PENALTIES**

- 287.91 Enforcement; duty of department of justice; expenses.
- 287.93 Inspections.
- 287.95 Penalties concerning land disposal and incineration; citations.
- 287.97 Penalties.

**CHAPTER 289  
SOLID WASTE FACILITIES**

**SUBCHAPTER I  
DEFINITIONS**

- 289.01 Definitions.

**SUBCHAPTER II  
ADMINISTRATION; SOLID WASTE MANAGEMENT STANDARDS**

- 289.05 Solid waste management standards.
- 289.06 Department duties.
- 289.07 Department powers.
- 289.08 Duties of metallic mining council.
- 289.09 Confidentiality of records.
- 289.10 County solid waste management plans.
- 289.11 Federal aid.
- 289.12 Landfill official liability.

**SUBCHAPTER III  
FACILITIES; SITING**

- 289.21 Initial site report.
- 289.22 Local approval.
- 289.23 Feasibility report required; distribution; public notice.
- 289.24 Feasibility report contents; completeness; distribution.
- 289.25 Environmental review.
- 289.26 Informational hearing.
- 289.27 Contested case hearing.



- 289.28 Determination of need.
- 289.29 Determination of feasibility.
- 289.30 Plan of operation.
- 289.31 Operating license.
- 289.32 Distribution of documents.
- 289.33 Solid and hazardous waste facilities; negotiation and arbitration.
- 289.34 Noncompliance with plans or orders.
- 289.35 Shoreland and floodplain zoning.
- 289.36 Acquisition of property by condemnation.

SUBCHAPTER IV

LONG-TERM CARE; FINANCIAL RESPONSIBILITY;  
OPERATION; WAIVERS; EXEMPTIONS; CLOSURE

- 289.41 Financial responsibility.
- 289.42 Operation of facilities.
- 289.43 Waivers; exemptions.
- 289.44 Exemption for certain alcohol fuel production systems.
- 289.445 Exemption for certain fruit and vegetable washing facilities.
- 289.45 Solid waste storage.
- 289.46 Transference of responsibility.
- 289.47 Closure notice.

SUBCHAPTER V

FACILITIES; REGULATION OF SPECIFIC  
FACILITY OR WASTE TYPES

- 289.51 Solid waste open burning standards.
- 289.53 Commercial PCB storage and treatment facilities.
- 289.55 Tire dumps.
- 289.57 Disposal and treatment records.
- 289.59 Disposal and burning of low-level radioactive waste.

SUBCHAPTER VI

FEES; FUNDS

- 289.61 License and review fees.
- 289.62 Tonnage fees.
- 289.63 Groundwater, solid waste capacity and well compensation fees.
- 289.64 Solid waste facility siting board fee.
- 289.65 Incinerators; solid waste capacity fee.
- 289.66 Solid waste capacity fees; department determinations.
- 289.67 Environmental repair fee and surcharge.
- 289.68 Payments from the waste management fund and related payments.

SUBCHAPTER VII

FINANCIAL ASSISTANCE

- 289.83 Dump closure cost-sharing grants.

SUBCHAPTER VIII

ENFORCEMENT; PENALTIES

- 289.91 Inspections.
- 289.92 Review of alleged violations.
- 289.93 Orders.
- 289.94 Imminent danger.
- 289.95 Enforcement procedures for older facilities.
- 289.96 Penalties.
- 289.97 Violations; enforcement.

CHAPTER 291

HAZARDOUS WASTE MANAGEMENT

SUBCHAPTER I

DECLARATION OF POLICY

- 291.001 Declaration of policy.

SUBCHAPTER II

DEFINITIONS

- 291.01 Definitions.

SUBCHAPTER III

ADMINISTRATION

- 291.05 Required rules.
- 291.07 Authorized rules.

291.09	Department duties.
291.11	Department powers.
291.13	Capacity assurance plan revision and review.
291.15	Confidentiality of records.
	<b>SUBCHAPTER IV</b>
	<b>HAZARDOUS WASTE; GENERAL REGULATION</b>
291.21	Generation.
291.23	Licenses; transportation.
291.25	Licenses; treatment, storage or disposal.
291.27	Environmental impact statement.
291.29	Closure and long-term care plan for unlicensed facilities.
291.31	Variance.
291.33	Fees.
291.35	Rules on metallic mining waste.
291.37	Corrective action.
	<b>SUBCHAPTER V</b>
	<b>ENFORCEMENT; PENALTIES</b>
291.85	Imminent danger.
291.87	License actions; hearing; public comment.
291.89	Review of alleged violations.
291.91	Inspections and right of entry.
291.93	Orders.
291.95	Enforcement.
291.97	Violations and penalties.
	<b>CHAPTER 292</b>
	<b>REMEDIAL ACTION</b>
	<b>SUBCHAPTER I</b>
	<b>DEFINITIONS</b>
292.01	Definitions.
	<b>SUBCHAPTER II</b>
	<b>REMEDIAL ACTION</b>
292.11	Hazardous substance spills.
292.15	Remediated property; purchaser liability.
292.21	Responsibility of lenders and representatives.
292.31	Environmental repair.
292.35	Political subdivision negotiation and cost recovery.
292.37	Confidentiality of records.
292.41	Abandoned containers.
292.51	Cooperative remedial action.
292.61	Grants to political subdivisions for investigations and remedial action.
292.81	Notice; lien.
	<b>SUBCHAPTER III</b>
	<b>ENFORCEMENT; PENALTIES</b>
292.93	Orders.
292.95	Review of alleged violations; environmental repair and cost recovery.
292.98	Violations and enforcement; environmental repair and cost recovery.
292.99	Penalties.
	<b>CHAPTER 293</b>
	<b>METALLIC MINING</b>
	<b>SUBCHAPTER I</b>
	<b>DEFINITIONS</b>
293.01	Definitions.
	<b>SUBCHAPTER II</b>
	<b>ADMINISTRATION</b>
293.11	Mine and effect responsibility.
293.13	Department duties.
293.15	Department powers.
	<b>SUBCHAPTER III</b>
	<b>EXPLORATION</b>
293.21	Exploration.
293.25	Radioactive waste site exploration.

SUBCHAPTER IV  
PROSPECTING; MINING; RECLAMATION

- 293.31 Data collection.
- 293.33 Local impact committee.
- 293.35 Application for prospecting permit.
- 293.37 Application for mining permit.
- 293.39 Environmental impact statement.
- 293.41 Local agreements.
- 293.43 Hearings on permit applications.
- 293.45 Prospecting; department grant or denial of permit.
- 293.47 Prospecting data.
- 293.49 Mining; department grant or denial of permit.
- 293.51 Bonds.
- 293.53 Review of permits; periodic reports.
- 293.55 Modifications.
- 293.57 Successors.
- 293.59 Cessation of mining or reclamation.
- 293.61 Determination of abandonment of mining.
- 293.63 Certificate of completion, partial completion and bond release.
- 293.65 Diversion of surface waters; withdrawal of groundwater; damage claims.

SUBCHAPTER V  
GENERAL PROVISIONS; ENFORCEMENT

- 293.81 Exploring, prospecting and mining without authorization.
- 293.83 Mining and reclamation; orders.
- 293.85 Cancellation of permit.
- 293.86 Visitorial powers of department.
- 293.87 Enforcement; penalties.
- 293.89 Citizen suits.
- 293.91 Nonconforming sites.
- 293.93 Effect of other statutes.
- 293.95 Review.

**CHAPTER 295**  
**NONMETALLIC MINING**  
**RECLAMATION; OIL AND GAS**  
SUBCHAPTER I

NONMETALLIC MINING RECLAMATION

- 295.11 Definitions.
- 295.12 Nonmetallic mining reclamation rules.
- 295.13 Mandatory enactment and administration of ordinance.
- 295.14 Authority to enact and administer ordinance.
- 295.15 Fees.
- 295.16 Applicability of ordinance and standards.
- 295.17 Inspection.
- 295.18 Department review.
- 295.19 Enforcement; remedies; penalties.
- 295.20 Preservation of certain nonmetallic mineral deposits.

SUBCHAPTER II  
OIL AND GAS

- 295.31 Definitions; oil and gas.
- 295.33 Oil and gas exploration and production.
- 295.35 Departmental powers and duties; oil and gas.
- 295.37 Penalties; oil and gas.

**CHAPTER 299**  
**GENERAL ENVIRONMENTAL PROVISIONS**

- 299.01 Definitions.
- 299.11 Laboratory certification program.
- 299.13 Hazardous pollution prevention.
- 299.15 Reports on substances used; wastewater fee.
- 299.21 Gifts and grants.
- 299.23 Financial interest prohibited.
- 299.31 Groundwater protection.
- 299.33 Uniform transboundary pollution reciprocal access act.

- 299.41 Household hazardous waste.
- 299.43 Collection and disposal of products containing 2,4,5-T and silvex.
- 299.45 Manufacture and purchase of polychlorinated biphenyls.
- 299.51 Medical waste management.
- 299.53 Used oil fuel.
- 299.55 Confidentiality of records; used oil collection facilities and used oil fuel facilities.
- 299.91 Hearings; procedure; review.
- 299.93 Environmental assessments.
- 299.95 Enforcement; duty of department of justice; expenses.
- 299.97 Penalties.

**SECTION 1.** 13.101 (11) of the statutes is amended to read:

13.101 (11) The committee may approve a clean water fund interest rate change as specified under s. ~~444.241 281.58~~ (12) (f).

**SECTION 2.** 13.48 (10) (b) 1. of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

13.48 (10) (b) 1. Contracts by the department of natural resources for construction work related to hazardous substance spill response under s. ~~444.76 292.11~~ or environmental repair under s. ~~444.442 292.31~~.

**SECTION 3.** 13.48 (26) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

13.48 (26) CLEAN WATER ANNUAL FINANCE PLAN APPROVAL. The building commission shall review the versions of the biennial finance plan and any amendments to the biennial finance plan submitted to it by the department of natural resources and the department of administration under s. ~~444.2415 281.59~~ (3) (bm) and the recommendations of the joint committee on finance and the standing committees to which the versions of the biennial finance plan and any amendments were submitted under s. ~~444.2415 281.59~~ (3) (bm). The building commission shall consider the extent to which that version of the biennial finance plan that is updated to reflect the adopted biennial budget act will maintain the clean water fund in perpetuity. The building commission shall consider the extent to which the implementation of the clean water fund, as set forth in the biennial finance plan updated to reflect the adopted biennial budget act, implements legislative intent on the clean water fund program. The building commission shall, no later than 60 days after the date of enactment of the biennial budget act, either approve or disapprove the biennial finance plan that is updated to reflect the adopted biennial budget act, except that the building commission may not disapprove those amounts that the legislature approves under s. ~~444.2415 281.59~~ (3) (c). If the building commission disapproves the version of the biennial finance plan that is updated to reflect the adopted biennial budget act, it must notify the department of natural resources and the department of administration of its reasons for disapproving the plan, and those departments must revise that version of the biennial finance plan and submit the revision to the building commission.

**SECTION 4.** 13.625 (8m) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

13.625 (8m) Subsection (3) does not apply to the solicitation of anything of pecuniary value to pay the costs of remedying environmental contamination, as defined in s. ~~444.968 292.51~~ (1), by an agency official of the department of natural resources.

**SECTION 5.** 15.107 (5) (a) 5. of the statutes is amended to read:

15.107 (5) (a) 5. A representative of a major utility, as defined under s. ~~444.386 285.41~~ (1) (f), appointed by the secretary of administration.

**SECTION 6.** 15.107 (5) (a) 6. of the statutes is amended to read:

15.107 (5) (a) 6. A representative of an industry which is a large source, as defined under s. ~~444.388 285.45~~ (1) (a), appointed by the secretary of administration.

**SECTION 7.** 15.107 (12) (b) 1. c. of the statutes is amended to read:

15.107 (12) (b) 1. c. One member to represent industrial laboratories with permits issued under ch. ~~447 283~~.

**SECTION 8.** 15.157 (10) (a), (b), (c), (d) and (e) of the statutes are amended to read:

15.157 (10) (a) Three members to represent the general public who are not owners, or representatives of owners, of small business stationary sources, as defined in s. ~~444.36 285.79~~ (1).

(b) One member who owns a small business stationary source, as defined in s. ~~444.36 285.79~~ (1), or who represents owners of small business stationary sources, appointed by the president of the senate.

(c) One member who owns a small business stationary source, as defined in s. ~~444.36 285.79~~ (1), or who represents owners of small business stationary sources, appointed by the speaker of the assembly.

(d) One member who owns a small business stationary source, as defined in s. ~~444.36 285.79~~ (1), or who represents owners of small business stationary sources, appointed by the minority leader of the senate.

(e) One member who owns a small business stationary source, as defined in s. ~~444.36 285.79~~ (1), or who represents owners of small business stationary sources, appointed by the minority leader of the assembly.

**SECTION 9.** 15.347 (15) (a) 4. of the statutes is amended to read:

15.347 (15) (a) 4. At least one council member shall represent each of the priority watersheds, as identified under s. ~~444.25~~ 281.65 (4) (cm), that are located in the Milwaukee river basin.

**SECTION 10.** 15.915 (5) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

15.915 (5) (a) *Definition.* In this subsection, “responsible unit” has the meaning given in s. ~~459.01~~ 287.01 (9).

**SECTION 11.** 16.15 (1) (ae) and (ah) of the statutes are amended to read:

16.15 (1) (ae) “Cost of disposing of processed material” has the meaning given in s. ~~459.11~~ 287.11 (2m) (a) 1.

(ah) “Cost of selling processed material” has the meaning given in s. ~~459.11~~ 287.11 (2m) (a) 2.

**SECTION 12.** 16.15 (1) (aj) of the statutes is amended to read:

16.15 (1) (aj) “Major appliance” has the meaning given in s. ~~459.01~~ 287.01 (3).

**SECTION 13.** 16.15 (1) (ar) of the statutes is amended to read:

16.15 (1) (ar) “Processed material” has the meaning given in s. ~~459.11~~ 287.11 (2m) (a) 3.

**SECTION 14.** 16.15 (1) (e) of the statutes is amended to read:

16.15 (1) (e) “Recycling” has the meaning under s. ~~444.44~~ (7) 289.43 (1).

**SECTION 15.** 16.15 (1) (f) of the statutes is amended to read:

16.15 (1) (f) “Yard waste” has the meaning given in s. ~~459.01~~ 287.01 (17).

**SECTION 16.** 16.15 (3) (a) 3. of the statutes is amended to read:

16.15 (3) (a) 3. Separate for recycling at least 50% of each of the materials listed in s. ~~459.07~~ 287.07 (3) or (4) that is generated as solid waste by the agency or authority beginning on January 1, 1993, and such greater amount of such materials as the department determines is reasonably feasible beginning on January 1, 1995.

**SECTION 17.** 16.72 (2) (f) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

16.72 (2) (f) In writing specifications under this subsection, the department, any other designated purchasing agent under s. 16.71 (1) and each authority other than the University of Wisconsin Hospitals and Clinics Authority shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state, consistent with the priorities established under s. ~~459.05~~ 287.05 (12). All specifications under this subsection shall discourage the purchase of single-use, disposable products and require, whenever practical, the purchase of multiple-use, durable products.

**SECTION 18.** 16.75 (1) (a) 1. of the statutes, as affected by 1995 Wisconsin Act 27, section 368m, is amended to read:

16.75 (1) (a) 1. All orders awarded or contracts made by the department for all materials, supplies, equipment and contractual services to be provided to any agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t), (6), (7), (8) and (9) and ss. 16.73 (4) (a), 16.754, 50.05 (7) (f), ~~459.15~~ 287.15 (7) and 301.265, shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

**SECTION 19.** 16.855 (21) of the statutes is amended to read:

16.855 (21) This section does not apply to contracts by the department of natural resources for construction work related to hazardous substance spill response under s. ~~444.76~~ 292.11 or environmental repair under s. ~~444.442~~ 292.31.

**SECTION 20.** 16.87 (4) of the statutes is amended to read:

16.87 (4) This section does not apply to contracts by the department of natural resources for environmental consultant services or engineering services for hazardous substance spill response under s. ~~444.76~~ 292.11 or environmental repair under s. ~~444.442~~ 292.31, or for environmental consultant services to assist in the preparation of an environmental impact statement or to provide preapplication services under s. 23.40.

**SECTION 21.** 18.57 (3) of the statutes is amended to read:

18.57 (3) Moneys in such funds may be commingled only for the purpose of investment with other public funds, but they shall be invested only in investment instruments permitted in s. 25.17 (3) (dg) or in clean water fund investment instruments permitted in s. ~~444.2415~~ 281.59 (2m). All such investments shall be the exclusive property of such fund and all earnings on or income from investments shall be credited to such fund and shall become available for any of the purposes under sub. (2) and for the payment of interest on related revenue obligations.

**SECTION 22.** 19.59 (1) (f) of the statutes is amended to read:

19.59 (1) (f) Paragraphs (a) to (c) do not apply to the members of a local committee appointed under s. ~~444.445~~ 289.33 (7) (a) to negotiate with the owner or operator of, or applicant for a license to operate, a solid waste disposal or hazardous waste facility under s. ~~444.445~~ 289.33, with respect to any matter contained or proposed to be contained in a written agreement between a municipality and the owner, operator or applicant or in

an arbitration award or proposed award that is applicable to those parties.

**SECTION 23.** 20.143 (1) (kc) of the statutes is amended to read:

20.143 (1) (kc) *Clean air act compliance assistance.* From moneys transferred from the appropriation account under s. 20.370 (2) (bg), the amounts in the schedule for assisting the department of natural resources in administering the small business stationary source technical and environmental compliance assistance program under s. ~~144.36~~ 285.79 and for expenses related to serving as ombudsman for small business stationary sources as required under s. 560.03 (9).

**SECTION 24.** 20.255 (2) (ra) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.255 (2) (ra) *Environmental education; environmental assessments.* From the environmental fund, as a continuing appropriation, an amount equal to 50% of the environmental assessments under s. ~~144.992~~ 299.93 (1) for environmental education grants under s. 115.375 (2).

**SECTION 25.** 20.285 (1) (L) of the statutes, as affected by 1995 Wisconsin Act 27, section 1080b, is amended to read:

20.285 (1) (L) *Recycling market development; repayments.* All moneys received in repayment of loans made by the recycling market development board under s. ~~159.46~~ 287.46 (1) and received under s. ~~159.46~~ 287.46 (3) in repayment of loans made by recipients of financial assistance from the recycling market development board, to be used to provide financial assistance under s. ~~159.46~~ 287.46 (1).

**SECTION 26.** 20.285 (1) (t) of the statutes, as affected by 1995 Wisconsin Act 27, section 1086b, is amended to read:

20.285 (1) (t) *Recycling market development board; assistance.* Biennially, from the recycling fund, the amounts in the schedule for recycling market development board contracts under s. ~~159.42~~ 287.42 (3) and financial assistance under s. ~~159.46~~ 287.46.

**SECTION 27.** 20.320 (1) (q) of the statutes is amended to read:

20.320 (1) (q) *Clean water fund revenue obligation funding.* As a continuing appropriation, all proceeds from revenue obligations issued under subch. II or IV of ch. 18, as authorized under s. ~~144.2415~~ 281.59 (4) and deposited in the fund in the state treasury created under s. 18.57 (1), providing for reserves and for expenses of issuance and management of the revenue obligations, and the remainder to be transferred to the clean water fund for the purposes specified in s. 25.43 (3). Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.

**SECTION 28.** 20.320 (1) (r) of the statutes is amended to read:

20.320 (1) (r) *Clean water fund repayment of revenue obligations.* From the clean water fund, a sum sufficient

to repay the fund in the state treasury created under s. 18.57 (1) the amount needed to retire revenue obligations issued under subch. II or IV of ch. 18, as authorized under s. ~~144.2415~~ 281.59 (4).

**SECTION 29.** 20.320 (1) (s) of the statutes is amended to read:

20.320 (1) (s) *Clean water fund financial assistance.*

From the clean water fund, a sum sufficient for the purposes of ss. 25.43, ~~144.241~~ 281.58 and ~~144.2415~~ 281.59, other than general program operations specified under s. 20.370 (2) (mt) or (mx) or 20.505 (1) (v) or (x) and other than administration of ss. 25.43, ~~144.241~~ 281.58 and ~~144.2415~~ 281.59.

**SECTION 30.** 20.320 (1) (u) of the statutes is amended to read:

20.320 (1) (u) *Principal repayment and interest — clean water fund revenue obligation repayment.* From the fund in the state treasury created under s. 18.57 (1), all moneys received by the fund and not transferred under s. ~~144.2415~~ 281.59 (4) (c) to the clean water fund, for the purpose of the retirement of revenue obligations, providing for reserves and for operations relating to the management and retirement of revenue obligations issued under subch. II or IV of ch. 18, as authorized under s. ~~144.2415~~ 281.59 (4). All moneys received are irrevocably appropriated in accordance with subch. II of ch. 18 and further established in resolutions authorizing the issuance of the revenue obligations and setting forth the distribution of funds to be received thereafter.

**SECTION 31.** 20.370 (2) (af) of the statutes is amended to read:

20.370 (2) (af) *Water resources — remedial action.*

As a continuing appropriation, the amounts in the schedule for remedial action in the Great Lakes and their tributaries under s. ~~144.10~~ 281.83.

**SECTION 32.** 20.370 (2) (ah) of the statutes is amended to read:

20.370 (2) (ah) *Water resources — Great Lakes protection fund.* All moneys received from the Great Lakes protection fund for Great Lakes protection activities under s. ~~144.11~~ 281.85.

**SECTION 33.** 20.370 (2) (bg) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (2) (bg) *Air management — stationary sources.* The amounts in the schedule for purposes related to stationary sources of air contaminants as specified in s. ~~144.399 (2) (b)~~ 285.69 (2) (c) and to transfer the amounts appropriated under s. 20.143 (1) (kc) to the appropriation account under s. 20.143 (1) (kc). All moneys received from fees imposed under s. ~~144.399~~ 285.69 (2) (a), except moneys appropriated under sub. (8) (mg), and all moneys received from fees imposed under s. ~~144.399~~ 285.69 (7) shall be credited to this appropriation.

**SECTION 34.** 20.370 (2) (bj) of the statutes is amended to read:

20.370 (2) (bj) *Storm water management — fees.* The amounts in the schedule for the administration of the storm water discharge permit program under s. ~~147.021 283.33~~. All moneys received under s. ~~147.033 (4) 283.33 (9)~~ shall be credited to this appropriation account.

**SECTION 35.** 20.370 (2) (bL) of the statutes is amended to read:

20.370 (2) (bL) *Wastewater management — fees.* All moneys received under s. ~~144.025 (2) (L) 281.17 (3)~~ for the certification of operators of waterworks, wastewater treatment plants and septage servicing vehicles and under s. ~~146.20 281.48 (4s) (a) and (b)~~ for wastewater management activities.

**SECTION 36.** 20.370 (2) (br) of the statutes is amended to read:

20.370 (2) (br) *Air management — mobile sources.* From the petroleum inspection fund, the amounts in the schedule for air quality management programs, including the development and implementation of plans under s. ~~144.31 (1) (f) 285.11 (6)~~, related primarily to mobile sources of air contaminants.

**SECTION 37.** 20.370 (2) (cg) of the statutes is amended to read:

20.370 (2) (cg) *Air management — recovery of ozone-depleting refrigerants.* The amounts in the schedule for administration of the recovery of ozone-depleting refrigerants program. All moneys received from fees under s. ~~144.422 (3) 285.59 (5) (a) 2.~~ shall be credited to this appropriation.

**SECTION 38.** 20.370 (2) (ch) of the statutes is amended to read:

20.370 (2) (ch) *Air management — emission analysis.* All moneys received from fees collected under s. ~~144.382 285.53 (1) (c) 3.~~ for the purpose of reviewing and preparing analyses of emissions from certain medical waste incinerators.

**SECTION 39.** 20.370 (2) (ci) of the statutes is amended to read:

20.370 (2) (ci) *Air management — permit review and enforcement.* The amounts in the schedule for any purpose specified under s. ~~144.399 285.69 (1) or (5)~~, except for purposes described in par. (ei), and for other activities to reduce air pollution, as provided in s. ~~144.399 285.69 (6)~~. All moneys received from fees imposed under s. ~~144.399 285.69 (1) and (5)~~, except moneys appropriated under par. (ei), shall be credited to this appropriation.

**SECTION 40.** 20.370 (2) (cL) of the statutes is amended to read:

20.370 (2) (cL) *Air waste management — incinerator operator certification.* All moneys received from fees under s. ~~144.31 (3) 285.51~~ for the purpose of administering s. ~~144.31 (3) 285.51~~.

**SECTION 41.** 20.370 (2) (cq) of the statutes is amended to read:

20.370 (2) (cq) *Air management — motor vehicle emission inspection and maintenance program, state*

*funds.* From the transportation fund, the amounts in the schedule for the administration of the motor vehicle emission inspection and maintenance program under s. ~~144.42 285.30~~.

**SECTION 42.** 20.370 (2) (dg) of the statutes is amended to read:

20.370 (2) (dg) *Solid waste management — solid and hazardous waste disposal administration.* All moneys received from fees under ss. ~~144.44 (7) (f) 5. a. and b. and (10) 289.43 (7) (e) 1. and 2., 289.61, 291.05 (7) and 144.64 (4) 291.33~~ for the purpose of administering ss. ~~144.44 and 144.64 289.43, 289.47, 289.53, 289.95, 291.23, 291.25, 291.29, 291.31 and 291.87~~ and subch. III of ch. 289.

**SECTION 43.** 20.370 (2) (dh) of the statutes is amended to read:

20.370 (2) (dh) *Solid waste management — remediated property.* All moneys received under ss. ~~144.4422 (13) and 144.765 (5) 292.15 (5) and 292.35 (13)~~ for the department's activities related to remedial action cost recovery under s. ~~144.4422 292.35~~ and remediation of property under s. ~~144.765 292.15 (2) and (4)~~.

**SECTION 44.** 20.370 (2) (di) of the statutes is amended to read:

20.370 (2) (di) *Solid waste management — operator certification.* All moneys received from fees under s. ~~144.435 (3) 289.42 (1)~~ for the purpose of administering s. ~~144.435 (3) 289.42 (1)~~.

**SECTION 45.** 20.370 (2) (dj) of the statutes, as affected by 1995 Wisconsin Act 27, section 648z, is amended to read:

20.370 (2) (dj) *Waste tire removal and recovery programs; program activities.* The amounts in the schedule for the waste tire removal and recovery programs under ss. ~~144.449 287.17 and 159.17 289.55~~. All moneys received as fees collected under s. 342.14 (1m) that are not appropriated under par. (dL) shall be credited to this appropriation account.

**SECTION 46.** 20.370 (2) (dL) of the statutes is amended to read:

20.370 (2) (dL) *Waste tire removal and recovery programs; administration.* From the moneys received as fees collected under s. 342.14 (1m), the amounts in the schedule for the administration of the waste tire removal and recovery programs under ss. ~~144.449 287.17 and 159.17 289.55~~. On June 30 of each year the unencumbered balance in this appropriation shall be transferred to the appropriation under par. (dj).

**SECTION 47.** 20.370 (2) (dq) of the statutes is amended to read:

20.370 (2) (dq) *Solid waste management — waste management fund.* From the waste management fund, all moneys received in the waste management fund, except moneys appropriated under pars. (dt), (dy) and (dz), for the purpose of administering a program of corrective action, closure and long-term care of and environmental

repairs to solid and hazardous waste facilities under s. ~~144.441~~ 289.68.

**SECTION 48.** 20.370 (2) (dt) of the statutes is amended to read:

20.370 (2) (dt) *Solid waste management — closure and long-term care.* From the waste management fund, all moneys received under s. ~~144.443~~ 289.41 (11) (a) 1., 3. and 4. for compliance with closure and long-term care requirements under s. ~~144.443~~ 289.41 (11) (b) 1.

**SECTION 49.** 20.370 (2) (dv) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (2) (dv) *Solid waste management — environmental repair; spills; abandoned containers.* As a continuing appropriation, from the environmental fund, the amounts in the schedule for the administration of the environmental repair program under s. ~~144.442~~, but not for payments under s. ~~144.442~~ (9m) 292.31; for the hazardous substance spills program under s. ~~144.76~~ 292.11; for the abandoned container program under s. ~~144.77~~ 292.41; consistent with a court order under s. ~~147.23~~ (3) 283.87, to remove, terminate or remedy the adverse effects of a discharge or deposit of pollutants into the waters of the state, to restore or develop the water environment for public use or to provide grants under s. 66.365; and for the payment of this state's share of environmental repair which is funded under 42 USC 9601, et seq., and any additional costs which this state is required to incur under 42 USC 9601, et seq.

**SECTION 50.** 20.370 (2) (dy) of the statutes is amended to read:

20.370 (2) (dy) *Solid waste management — corrective action; proofs of financial responsibility.* From the waste management fund, all moneys received under s. ~~144.443~~ 289.41 (11) (am) 1. for compliance with corrective action requirements under s. ~~144.443~~ 289.41 (11) (bm) at facilities which forfeit or convert proof of financial responsibility under s. ~~144.443~~ 289.41 (11) (am) 1.

**SECTION 51.** 20.370 (2) (dz) of the statutes is amended to read:

20.370 (2) (dz) *Solid waste management — corrective action; moneys recovered from assessments and legal action.* From the waste management fund, all moneys received under s. ~~144.443~~ 289.41 (11) (am) 3. and 4. for compliance with corrective action requirements under s. ~~144.443~~ 289.41 (11) (bm).

**SECTION 52.** 20.370 (2) (eg) of the statutes is amended to read:

20.370 (2) (eg) *Solid waste facility siting board fee.* All moneys received from the fee under s. ~~144.441~~ (7m) 289.64 to be transferred to the appropriation under s. 20.505 (4) (k).

**SECTION 53.** 20.370 (2) (eh) of the statutes is amended to read:

20.370 (2) (eh) *Solid waste management — source reduction review.* All moneys received from fees collected under s. ~~159.07~~ 287.07 (8) (d) for the purpose of

reviewing medical waste source reduction policies and assessments.

**SECTION 54.** 20.370 (2) (ei) of the statutes is amended to read:

20.370 (2) (ei) *Air management — asbestos management.* All moneys received from fees imposed under s. ~~144.399~~ 285.69 (1) (c) on persons proposing asbestos abatement projects and all moneys received from fees imposed under s. ~~144.399~~ 285.69 (3) for asbestos abatement inspections, for costs related to exempting asbestos abatement projects from air pollution control permits and for inspections of asbestos demolition and renovation projects.

**SECTION 55.** 20.370 (2) (fj) of the statutes is amended to read:

20.370 (2) (fj) *Environmental quality — laboratory certification.* From the general fund, the amounts in the schedule for the purpose of administering and enforcing s. ~~144.95~~ 299.11. All moneys received from fees under s. ~~144.95~~ 299.11 (9) shall be credited to this appropriation. During fiscal year 1984–85, the department may expend and encumber up to the amount specified in the schedule for this appropriation in that fiscal year notwithstanding the actual amount received from fees under s. ~~144.95~~ 299.11 (9). Notwithstanding ss. 16.50 (2), 16.52, 20.002 (11) and 20.903, the department may report a deficit in this appropriation on June 30, 1985, or on June 30, 1986, and this deficit shall be considered an encumbrance on the appropriation under this paragraph for the subsequent fiscal year. The department may not report a deficit in this appropriation at the close of any fiscal year after the 1985–86 fiscal year.

**SECTION 56.** 20.370 (2) (fr) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.370 (2) (fr) *Cooperative remedial action; contributions.* From the environmental fund, all moneys received under s. ~~144.968~~ 292.51 (2) for cooperative remedial action to conduct the cooperative remedial action for which received.

**SECTION 57.** 20.370 (2) (gh) of the statutes is amended to read:

20.370 (2) (gh) *Mining — mining regulation and administration.* The amounts in the schedule for the administration, regulation and enforcement of exploration, prospecting, mining and mine reclamation activities under ss. ~~144.80 to 144.94~~ ch. 293. All moneys received under ss. ~~144.80 to 144.94~~ ch. 293 shall be credited to this appropriation.

**SECTION 58.** 20.370 (2) (gi) of the statutes is amended to read:

20.370 (2) (gi) *Mining — nonmetallic mining regulation and administration.* All moneys received under s. ~~144.9407~~ subch. I of ch. 295 for the department's responsibilities related to nonmetallic mining under s. ~~144.9407~~ subch. I of ch. 295.



**SECTION 59.** 20.370 (2) (gr) of the statutes is amended to read:

20.370 (2) (gr) *Solid waste management — mining programs.* From the investment and local impact fund, all moneys received under s. 70.395 (2) (j) for the purpose of making payments for the long-term care of mining waste sites under s. ~~144.441 (6) 289.68~~ and received under s. 70.395 (2) (k) for the purpose of making payments for environmental repair of mining waste sites under s. ~~144.442 (4), (6) and (8) 292.31 (1), (3) and (7).~~

**SECTION 60.** 20.370 (2) (hq) of the statutes, as affected by 1995 Wisconsin Act 27, section 656, is amended to read:

20.370 (2) (hq) *Recycling; administration.* From the recycling fund, the amounts in the schedule for the administration of subch. II of ch. ~~159 287~~, other than ss. ~~159.17, 159.21, 159.23 and 159.25 287.17, 287.21, 287.23 and 287.25.~~

**SECTION 61.** 20.370 (2) (hq) of the statutes, as affected by 1995 Wisconsin Act 27, section 656b, and 1995 Wisconsin Act ... (this act) is repealed and recreated to read:

20.370 (2) (hq) *Recycling; administration.* From the recycling fund, the amounts in the schedule for the administration of subch. II of ch. ~~287~~, other than ss. ~~287.21, 287.23 and 287.25.~~

**SECTION 62.** 20.370 (2) (mq) of the statutes is amended to read:

20.370 (2) (mq) *General program operations — environmental fund.* From the environmental fund, the amounts in the schedule for administration of environmental activities under chs. ~~144, 147 and 160, 281 to 285 and 289 to 299, except s. 281.48.~~

**SECTION 63.** 20.370 (2) (mr) of the statutes is amended to read:

20.370 (2) (mr) *General program operations — nonpoint source.* From the environmental fund, the amounts in the schedule for performing the duties of the department under s. ~~144.25 281.65.~~

**SECTION 64.** 20.370 (2) (mt) of the statutes is amended to read:

20.370 (2) (mt) *General program operations — clean water fund program; state funds.* From the clean water fund, the amounts in the schedule for general program operations under s. ~~144.241 281.58 or 144.2415 281.59.~~

**SECTION 65.** 20.370 (2) (mx) of the statutes is amended to read:

20.370 (2) (mx) *General program operations — clean water fund program; federal funds.* As a continuing appropriation, from the federal revolving loan fund account in the clean water fund, the amounts in the schedule for general program operations under s. ~~144.241 281.58 or 144.2415 281.59.~~

**SECTION 66.** 20.370 (3) (bi) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.370 (3) (bi) (title) *Water regulation and zoning—fees zoning — fees.* All moneys received under ss. ~~23.32 (3), 30.28, 31.39 and 144.0252 281.22~~ for activities relating to permits and approvals issued under chs. 30 and 31, water quality standards under s. ~~144.025 subch. II of ch. 281~~ and for wetland mapping under s. 23.32.

**SECTION 67.** 20.370 (3) (ma) of the statutes is amended to read:

20.370 (3) (ma) *General program operations — state funds.* From the general fund, the amounts in the schedule for regulatory and enforcement operations under chs. 30, 31, ~~144, 147, 159 and 162 and 280 to 299, except s. 281.48,~~ and ss. ~~44.47, 59.971, 59.974, 61.351, 61.354, 62.231, 62.234 and 87.30,~~ for reimbursement of the conservation fund for expenses incurred for actions taken under s. 166.04; for review of environmental impact requirements under ss. 1.11 and 23.40; and for enforcement of the treaty-based, off-reservation rights to fish, hunt and gather held by members of federally recognized American Indian tribes or bands.

**SECTION 68.** 20.370 (3) (mq) of the statutes is amended to read:

20.370 (3) (mq) *General program operations — environmental fund.* From the environmental fund, the amounts in the schedule for the enforcement of the hazardous substance spills program under s. ~~144.76 292.11~~ and groundwater standards and related activities under ch. 160.

**SECTION 69.** 20.370 (6) (aa) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (aa) *Environmental aids; nonpoint source.* Biennially, the amounts in the schedule for grants and assistance under the nonpoint source water pollution abatement program under s. ~~144.25 281.65~~ and for transfers to the appropriation account under s. 20.115 (7) (km) as provided in s. ~~144.25 281.65~~ (4) (t). The department shall allocate \$300,000 in each fiscal year from this appropriation for grants under s. ~~144.25 281.65~~ (8) (cm).

**SECTION 70.** 20.370 (6) (aq) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (aq) *Environmental aids — nonpoint source program.* Biennially, from the environmental fund, the amounts in the schedule for nonpoint source grants and assistance under s. ~~144.25 281.65~~ and for transfers to the appropriation account under s. 20.115 (7) (km) as provided in s. ~~144.25 281.65~~ (4) (t).

**SECTION 71.** 20.370 (6) (ar) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (ar) *Environmental aids — lake management grants.* From the conservation fund, as a continuing appropriation, the amounts in the schedule for lake management grants under s. ~~144.254 281.69.~~

**SECTION 72.** 20.370 (6) (as) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (as) *Environmental aids — lake management planning grants.* From the conservation fund, as a

continuing appropriation, the amounts in the schedule for lake management planning grants under s. ~~144.253~~ 281.68.

**SECTION 73.** 20.370 (6) (at) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (at) *Environmental aids — nonpoint source contracts.* Biennially, from the environmental fund, the amounts in the schedule for nonpoint source water pollution abatement program contracts under s. ~~144.25~~ 281.65 (4g).

**SECTION 74.** 20.370 (6) (ba) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (ba) *Environmental aids — dump closure cost share.* As a continuing appropriation, the amounts in the schedule for the state contribution to the costs of closing nonapproved solid waste disposal facilities owned by political subdivisions under s. ~~144.455~~ 289.83.

**SECTION 75.** 20.370 (6) (bq) (intro.) and 2. to 8. of the statutes, as affected by 1995 Wisconsin Act 27, are amended to read:

20.370 (6) (bq) *Environmental aids — municipal and county recycling grants.* (intro.) From the recycling fund, a sum sufficient for municipal and county grants under s. ~~159.23~~ 287.23 but not to exceed the following:

2. In fiscal year 1992–93, \$42,300,000 plus the amount of any refunds under s. ~~159.23~~ 287.23 in prior fiscal years, less the amount encumbered under subd. 1.

3. In fiscal year 1993–94, \$72,149,200 plus the amount of any refunds under s. ~~159.23~~ 287.23 in prior fiscal years, less the amount encumbered under subds. 1. and 2.

4. In fiscal year 1994–95, \$101,349,200 plus the amount of any refunds under s. ~~159.23~~ 287.23 in prior fiscal years, less the amount encumbered under subds. 1. to 3.

5. In fiscal year 1995–96, \$130,549,200 plus the amount of any refunds under s. ~~159.23~~ 287.23 in prior fiscal years, less the amount encumbered under subds. 1. to 4.

6. In fiscal year 1996–97, \$159,749,200 plus the amount of any refunds under s. ~~159.23~~ 287.23 in prior fiscal years, less the amount encumbered under subds. 1. to 5.

7. In fiscal year 1997–98, \$183,749,200 plus the amount of any refunds under s. ~~159.23~~ 287.23 in prior fiscal years, less the amount encumbered under subds. 1. to 6.

8. In fiscal year 1998–99, \$200,749,200 plus the amount of any refunds under s. ~~159.23~~ 287.23 in prior fiscal years, less the amount encumbered under subds. 1. to 7.

**SECTION 76.** 20.370 (6) (br) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (br) *Environmental aids — waste reduction and recycling demonstration grants.* From the recycling fund, as a continuing appropriation, the amounts

in the schedule for waste reduction and recycling demonstration grants under s. ~~159.25~~ 287.25.

**SECTION 77.** 20.370 (6) (bs) of the statutes is amended to read:

20.370 (6) (bs) *Environmental aids — household hazardous waste.* From the environmental fund, the amounts in the schedule for grants to municipalities under the household hazardous waste collection and disposal program under s. ~~144.75~~ 299.41.

**SECTION 78.** 20.370 (6) (cq) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (cq) *Environmental aids — vapor recovery grants.* From the petroleum inspection fund, as a continuing appropriation, the amounts in the schedule for grants under s. ~~144.405~~ 285.31 (5).

**SECTION 79.** 20.370 (6) (cr) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (cr) *Environmental aids — compensation for well contamination.* As a continuing appropriation, from the environmental fund, the amounts in the schedule to pay compensation under s. ~~144.027~~ 281.75.

**SECTION 80.** 20.370 (6) (da) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (da) *Environmental planning aids — local water quality planning.* The amounts in the schedule to provide state assistance to designated local agencies and to local governmental units that are not designated local agencies for water quality planning activities under s. ~~144.235~~ 281.51.

**SECTION 81.** 20.370 (6) (mq) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (mq) *Aids administration — nonpoint source program.* From the environmental fund, the amounts in the schedule for the administration of the nonpoint source water pollution abatement program under s. ~~144.25~~ 281.65.

**SECTION 82.** 20.370 (6) (mr) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (mr) *Aids administration — vapor recovery grants.* From the petroleum inspection fund, the amounts in the schedule to administer grants under s. ~~144.405~~ 285.31 (5).

**SECTION 83.** 20.370 (6) (ms) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (ms) *Aids administration — recycling grants.* From the recycling fund, the amounts in the schedule for the administration of municipal and county grants under s. ~~159.23~~ 287.23 and waste reduction and recycling demonstration grants under s. ~~159.25~~ 287.25.

**SECTION 84.** 20.370 (6) (mu) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (mu) *Aids administration — clean water fund program; state funds.* From the clean water fund, the amounts in the schedule for the administration of s. ~~144.241~~ 281.58.

**SECTION 85.** 20.370 (6) (mx) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (6) (mx) *Aids administration — clean water fund program; federal funds.* From the federal revolving loan fund account in the clean water fund, all moneys received from the federal government to administer the clean water fund program, as authorized by the governor under s. 16.54, for the administration of s. ~~144.241 or 144.2415~~ 281.58 or 281.59.

**SECTION 86.** 20.370 (7) (ba) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (7) (ba) *Debt service — remedial action.* A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of principal and interest costs incurred in financing remedial action under ss. ~~144.442 and 144.10~~ 281.83 and 292.31 and for the payment of this state's share of environmental repair that is funded under 42 USC 9601 to 9675.

**SECTION 87.** 20.370 (7) (ca) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (7) (ca) *Principal repayment and interest — nonpoint source grants.* A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of principal and interest costs incurred in providing funds for nonpoint source water pollution abatement projects under s. ~~144.25~~ 281.65.

**SECTION 88.** 20.370 (7) (cb) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (7) (cb) *Principal repayment and interest — pollution abatement bonds.* A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of principal and interest costs incurred in financing the acquisition, construction, development, enlargement or improvement of point source water pollution abatement facilities and sewage collection facilities under ss. ~~144.21, 144.23 and 144.24~~ 281.55, 281.56 and 281.57.

**SECTION 89.** 20.370 (7) (cc) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (7) (cc) *Principal repayment and interest — combined sewer overflow; pollution abatement bonds.* A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of principal and interest costs incurred in financing the construction of combined sewer overflow projects under s. ~~144.242~~ 281.63.

**SECTION 90.** 20.370 (7) (cd) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.370 (7) (cd) *Principal repayment and interest — municipal clean drinking water grants.* A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of principal and interest costs incurred in making municipal clean drinking water grants under s. ~~144.0255~~ 281.53.

**SECTION 91.** 20.370 (8) (is) of the statutes is amended to read:

20.370 (8) (is) *Statewide recycling education.* From the recycling fund, as a continuing appropriation, the amounts in the schedule for the statewide education program under s. ~~159.21~~ 287.21.

**SECTION 92.** 20.370 (8) (iw) of the statutes is amended to read:

20.370 (8) (iw) *Statewide recycling administration.* From the recycling fund, the amounts in the schedule for administration of a statewide recycling program under ch. ~~159~~ 287.

**SECTION 93.** 20.370 (8) (mg) of the statutes is amended to read:

20.370 (8) (mg) *General program operations — stationary sources.* From the moneys received from fees imposed under s. ~~144.399~~ 285.69 (2) (a), the amounts in the schedule for the administration of the operation permit program under ss. ~~144.30 to 144.426~~ ch. 285 and ~~144.96 s. 299.15.~~

**SECTION 94.** 20.370 (8) (mq) of the statutes is amended to read:

20.370 (8) (mq) *General program operations — mobile sources.* From the petroleum inspection fund, the amounts in the schedule for the administration of the mobile source air pollution program under ss. ~~144.30 to 144.426~~ ch. 285.

**SECTION 95.** 20.455 (1) (gh) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.455 (1) (gh) *Investigation and prosecution.* The amounts in the schedule for the expenses of investigation and prosecution of violations, including attorney fees, under ss. 49.49 (6), 100.263, 133.16, ~~144.99 and 147.21~~ (5) 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4), 295.19 (3) (b) and 299.97. Ten percent of all moneys received under ss. 49.49 (6), 100.263, 133.16, ~~144.99 and 147.21~~ (5) 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4), 295.19 (3) (b) and 299.97, for the expenses of investigation and prosecution of violations, including attorney fees, shall be credited to this appropriation account.

**SECTION 96.** 20.455 (1) (hm) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.455 (1) (hm) *Restitution.* All moneys received by the department to provide restitution to victims when ordered by the court as the result of prosecutions under s. 49.49 and chs. 100, 133, ~~144 and 147~~ 281 to 285 and 289 to 299 and under a federal antitrust law for the purpose of providing restitution to victims of the violation when ordered by the court.

**SECTION 97.** 20.505 (1) (v) of the statutes is amended to read:

20.505 (1) (v) *General program operations — clean water fund program; state funds.* From the clean water fund, the amounts in the schedule for general program operations under s. ~~144.241~~ 281.58 or 144.2415 281.59.

**SECTION 98.** 20.505 (1) (x) of the statutes is amended to read:

20.505 (1) (x) *General program operations — clean water fund program; federal funds.* As a continuing appropriation, from the federal revolving loan fund account in the clean water fund, the amounts in the schedule for

general program operations under s. ~~444.241~~ 281.58 or ~~444.2415~~ 281.59.

**SECTION 99.** 20.536 (1) (ka) of the statutes is amended to read:

20.536 (1) (ka) *General program operations; clean water fund.* All moneys received for providing services to the department of administration or the department of natural resources in administering ss. 25.43, ~~444.241~~ 281.58 and ~~444.2415~~ 281.59, for general program operations.

**SECTION 100.** 20.566 (7) (e) of the statutes is amended to read:

20.566 (7) (e) *Investment and local impact fund supplement.* The amounts in the schedule to supplement par. (v) for the purposes of ss. 70.395, ~~444.838~~ 293.33 (4) and ~~444.855~~ 293.65 (5) (a).

**SECTION 101.** 20.566 (7) (v) of the statutes is amended to read:

20.566 (7) (v) *Investment and local impact fund.* From the investment and local impact fund, all moneys received under s. 70.395 (1) (a), (1g) (b) and (2) (dc) and (dg), less the moneys appropriated under s. 20.370 (2) (gr), to be disbursed under ss. 70.395 (2) (d) to (g), ~~444.855 (5) (a) and 444.838 (4)~~ 293.33 (4) and 293.85 (5) (a).

**SECTION 102.** 20.865 (2) (em) of the statutes is amended to read:

20.865 (2) (em) *Groundwater survey and analysis.* The amounts in the schedule for the survey and analysis of groundwater conditions and problems under ss. 16.968, 36.25 (6), ~~144.025 and 162.03~~ and 280.13 and subch. II of ch. 281.

**SECTION 103.** 20.866 (2) (tb) of the statutes is amended to read:

20.866 (2) (tb) *Natural resources; municipal clean drinking water grants.* From the capital improvement fund, a sum sufficient to the department of natural resources to provide funds for municipal clean drinking water grants under s. ~~444.0255~~ 281.53. The state may contract public debt in an amount not to exceed \$9,800,000 for this purpose.

**SECTION 104.** 20.866 (2) (tc) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.866 (2) (tc) *Clean water fund.* From the capital improvement fund, a sum sufficient to be transferred to the clean water fund for the purposes of ss. ~~444.241 and 444.2415~~ 281.58 and 281.59. The state may contract public debt in an amount not to exceed \$549,194,000 for this purpose. Of this amount, the amount needed to meet the requirements for state deposits under 33 USC 1382 is allocated for those deposits. Of this amount, \$8,250,000 is allocated to fund the minority business development and training program under s. 66.905 (2) (b).

**SECTION 105.** 20.866 (2) (te) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.866 (2) (te) *Natural resources; nonpoint source grants.* From the capital improvement fund, a sum sufficient for the department of natural resources to provide funds for nonpoint source water pollution abatement projects under s. ~~444.25~~ 281.65. The state may contract public debt in an amount not to exceed \$20,000,000 for this purpose.

**SECTION 106.** 20.866 (2) (tg) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

20.866 (2) (tg) *Natural resources; environmental repair.* From the capital improvement fund, a sum sufficient for the department of natural resources to fund investigations and remedial action under s. ~~444.442~~ 292.31 and remedial action under s. ~~444.10~~ 281.83 and for payment of this state's share of environmental repair that is funded under 42 USC 9601 to 9675. The state may contract public debt in an amount not to exceed \$31,500,000 for this purpose. Of this amount, \$9,000,000 is allocated for remedial action under s. ~~444.10~~ 281.83.

**SECTION 107.** 20.866 (2) (tm) of the statutes is amended to read:

20.866 (2) (tm) *Natural resources; pollution abatement and sewage collection facilities, ORAP funding.* From the capital improvement fund, a sum sufficient to the department of natural resources to acquire, construct, develop, enlarge or improve point source water pollution abatement facilities and sewage collection facilities under ss. ~~444.21~~ 281.55 and ~~444.23~~ 281.56. The state may contract public debt in an amount not to exceed \$146,850,000 for this purpose. Of this amount, \$5,000,000 is allocated for point source water pollution abatement facilities and sewage collection facilities under s. ~~444.23~~ 281.56.

**SECTION 108.** 20.866 (2) (tn) of the statutes is amended to read:

20.866 (2) (tn) *Natural resources; pollution abatement and sewage collection facilities.* From the capital improvement fund, a sum sufficient to the department of natural resources to acquire, construct, develop, enlarge or improve point source water pollution abatement facilities and sewage collection facilities under s. ~~444.24~~ 281.57 including eligible engineering design costs. Payments may be made from this appropriation for capital improvement expenditures and encumbrances authorized under s. ~~444.24~~ 281.57 before July 1, 1990, except for reimbursements made under s. ~~444.24~~ 281.57 (9m) (a). Payments may also be made from this appropriation for expenditures and encumbrances resulting from disputed costs under s. ~~444.24~~ 281.57 if an appeal of an eligibility determination is filed before July 1, 1990, and the result of the dispute requires additional funds for an eligible project. The state may contract public debt in an amount not to exceed \$902,449,800 for this purpose.

**SECTION 109.** 20.866 (2) (to) of the statutes is amended to read:

20.866 (2) to *Natural resources; pollution abatement and sewage collection facilities; combined sewer overflow*. From the capital improvement fund, a sum sufficient to the department of natural resources to provide funds for the construction of combined sewer overflow projects and for eligible engineering design costs under s. 444.242 281.63. The state may contract public debt in an amount not to exceed \$200,600,000 for this purpose. Of this amount, \$7,360,000 is allocated to fund the minority business demonstration and training program under s. 66.905.

**SECTION 110.** 23.094 (2) (c) 5. of the statutes is amended to read:

23.094 (2) (c) 5. The nonpoint source pollution abatement grant program under s. ~~444.25~~ 281.65.

**SECTION 111.** 23.39 (1) and (2) (a) of the statutes, as affected by 1995 Wisconsin Act 27, are amended to read:

23.39 (1) The secretary shall designate an attorney in the department as public intervenor. Written notices of all administrative proceedings under chs. 30, 31, ~~444 and 447 281 to 285 and 289 to 299, except s. 281.48~~, shall be given to the public intervenor and to the administrators of divisions primarily assigned the departmental functions under chs. ~~29 and 444, 281, 285 and 289 to 299, except s. 281.48~~, by the agency head responsible for such proceedings. A copy of such notice shall also be given to the natural areas preservation council.

(2) (a) With the approval of the public intervenor board the public intervenor shall formally intervene in administrative proceedings when requested to do so by an administrator of a division primarily assigned the departmental functions under ~~chs. 29 or 444, 281, 285 or 289 to 299, except s. 281.48~~. With the approval of the public intervenor board, the public intervenor may, on the public intervenor's own initiative or upon request of any committee of the legislature, formally intervene in all administrative proceedings where such intervention is needed for the protection of "public rights" in water and other natural resources, as provided in chs. 30 and 31 and defined by the supreme court.

**SECTION 112.** 23.41 (2) of the statutes is amended to read:

23.41 (2) The department may contract for construction work related to hazardous substance spill response under s. ~~444.76 292.11~~ or environmental repair under s. ~~444.442 292.31~~ or for engineering services or environmental consultant services in connection with such construction work.

**SECTION 113.** 23.50 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable environmental assessments, applicable wild animal protection assessments, applicable natural resources assessments, applicable fishing shelter

removal assessments, applicable snowmobile registration restitution payments and applicable natural resources restitution payments for violations of ss. 77.09, 134.60, ~~444.421 (2), 444.422 (2), (2m) (c) and (2f), 446.20 (2) to (5), 447.021, 159.07, 159.08, 159.81 167.10 (3) and, 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08 and 287.81~~, subch. VI of ch. 77, this chapter and chs. 26 to 31 and of ch. 350, and any administrative rules promulgated thereunder, violations of rules of the Kickapoo valley governing board under s. 41.41 (7) (k) or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

**SECTION 114.** 23.51 (3c) of the statutes is amended to read:

23.51 (3c) "Environmental assessment" means the assessment imposed under s. ~~444.992 299.93~~.

**SECTION 115.** 23.53 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

23.53 (1) The citation created under this section shall, in all actions to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable environmental assessments, applicable wild animal protection assessments, applicable natural resources assessments, applicable fishing shelter removal assessments, applicable snowmobile registration restitution payments and applicable natural resources restitution payments for violations of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, and any rule of the Kickapoo valley governing 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. ~~159.81 287.81~~. 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.

**SECTION 116.** 23.65 (1) of the statutes is amended to read:

23.65 (1) When it appears to the district attorney that a violation of s. ~~134.60, 444.421 281.48 (2) to (5), 283.33, 285.57 (2), 444.422 (2), (2m) (c) or (2f), 446.20 (2) to (5), 447.021, 159.07, 159.08 285.59 (2), (3) (c) and (4), 287.07, 287.08 or 159.81 287.81~~, this chapter or ch. 26, 27, 28, 29, 30, 31 or 350, or any administrative rule promulgated pursuant thereto, has been committed the district attorney may proceed by complaint and summons.

**SECTION 117.** 23.65 (3) of the statutes is amended to read:

23.65 (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. ~~159.07, 159.08 or 159.81~~ 287.07, 287.08 or 287.81, this chapter or ch. 26, 27, 28, 29, 30, 31 or 350. The district attorney shall be informed of the hearing and may attend.

**SECTION 118.** 24.60 (2) of the statutes is amended to read:

24.60 (2) "Municipality" means a town, village, city, county, public inland lake protection and rehabilitation district, town sanitary district created under s. 60.71, metropolitan sewerage district created under s. 66.22 or 66.882, joint sewerage system created under s. ~~144.07~~ 281.43 (4), school district or technical college district.

**SECTION 119.** 24.61 (3) (a) 8. of the statutes is amended to read:

24.61 (3) (a) 8. A joint sewerage system created under s. ~~144.07~~ 281.43 (4) for the purpose of exercising its powers under s. ~~144.07~~ 281.43 (4).

**SECTION 120.** 24.66 (2p) of the statutes is amended to read:

24.66 (2p) FOR SEWERAGE DISTRICTS. Every application for a loan under this section to a sewerage district created under s. 66.22 shall be approved and authorized by a majority of the commissioners of the district; to a sewerage district created under s. 66.882, as provided under s. 66.886 (2) (a); and to a joint sewerage system created under s. ~~144.07~~ 281.43 (4), as provided under s. ~~144.07~~ 281.43 (4) (d).

**SECTION 121.** 25.17 (2) (d) of the statutes is amended to read:

25.17 (2) (d) Invest the clean water fund, and collect the principal and interest of all moneys loaned or invested from the clean water fund, as directed by the department of administration under s. ~~144.2415~~ 281.59 (2m). In making such investment, the investment board shall accept any reasonable terms and conditions that the department of administration specifies and is relieved of any obligations relevant to prudent investment of the fund, including those set forth under ch. 881.

**SECTION 122.** 25.43 (1) (e) of the statutes is amended to read:

25.43 (1) (e) All repayments of principal and payment of interest on loans made from the clean water fund and on obligations acquired by the department of administration under s. ~~144.2415~~ 281.59 (12).

**SECTION 123.** 25.43 (1) (f) of the statutes is amended to read:

25.43 (1) (f) All moneys received by the clean water fund from the proceeds of the sale of general or revenue obligations under ch. 18 for the purpose of s. 20.866 (2) (tc) or ~~144.2415~~ 281.59 (4).

**SECTION 124.** 25.43 (1) (g) of the statutes is amended to read:

25.43 (1) (g) All moneys received from the sale of loans made under s. ~~144.2415~~ 281.59 (2m) (a) 2.

**SECTION 125.** 25.43 (1) (h) of the statutes is amended to read:

25.43 (1) (h) The fees imposed under s. ~~144.241~~ 281.58 (9) (d).

**SECTION 126.** 25.43 (2) (c) of the statutes is amended to read:

25.43 (2) (c) The department of administration may establish and change accounts in the clean water fund other than those under pars. (a) and (b). The department of administration shall consult the department of natural resources before establishing or changing an account that is needed to administer the program under s. ~~144.241~~ 281.58 or ~~144.2415~~ 281.59.

**SECTION 127.** 25.43 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

25.43 (3) Except for the purpose of investment as provided in s. 25.17 (2) (d), the clean water fund may be used only for the purposes authorized under ss. 20.320 (1) (r), (s) and (t), 20.370 (2) (mt) and (mx), (6) (mu) and (mx) and (8) (mr), 20.505 (1) (v) and (x), ~~144.241 and 144.2415~~ 281.58 and 281.59.

**SECTION 128.** 25.45 of the statutes is amended to read:

**25.45 Waste management fund.** There is established a separate nonlapsible trust fund designated as the waste management fund, to consist of the tonnage fees imposed under s. 144.441 (3), 1989 stats., except for tonnage fees paid by a nonapproved facility, as defined in s. ~~144.441(1)(e)~~ 289.01(24); waste management base fees imposed under s. 144.441 (5), 1989 stats.; and all moneys received or recovered under s. ~~144.443~~ 289.41 (11) (a) 1., 3. or 4. and (am) 1., 3. and 4. Moneys in the waste management fund shall be used for the purposes specified under s. ~~144.441(6)(d) to (h)~~ 289.68(3) to (6).

**SECTION 129.** 25.46 (5e) of the statutes is amended to read:

25.46 (5e) All moneys received under s. ~~144.027~~ 281.75 (16) (d) for environmental repair.

**SECTION 130.** 25.46 (5m) of the statutes is amended to read:

25.46 (5m) The tonnage fees imposed under s. ~~144.441(3)~~ 289.62(1) that are paid by a nonapproved facility, as defined in s. ~~144.441(1)(e)~~ 289.01(24), for environmental repair.

**SECTION 131.** 25.46 (6) of the statutes is amended to read:

25.46 (6) The groundwater fees imposed under s. ~~144.441(7)~~ 289.63 for groundwater management.

**SECTION 132.** 25.46 (6m) of the statutes is amended to read:

25.46 (6m) The well compensation fees imposed under s. ~~144.441(7)~~ 289.63 for environmental repair.

**SECTION 133.** 25.46 (6r) of the statutes is amended to read:

25.46 (6r) The solid waste capacity fees imposed under ss. ~~144.441 (7)~~ 289.63 and ~~144.4412~~ 289.65 for environmental repair.

**SECTION 134.** 25.46 (7) of the statutes is amended to read:

25.46 (7) The fees imposed under s. ~~144.442 (1m)~~ 289.67 (1) for environmental repair.

**SECTION 135.** 25.46 (8) of the statutes is amended to read:

25.46 (8) The fees and surcharges imposed under s. ~~144.442 (2) and (3)~~ 289.67 (3) and (4) for environmental repair.

**SECTION 136.** 25.46 (9) of the statutes is amended to read:

25.46 (9) The moneys received from municipalities under s. ~~144.442 (8)~~ 292.31 (7) (c) for environmental repair.

**SECTION 137.** 25.46 (10) of the statutes is amended to read:

25.46 (10) The amounts required to be paid into the environmental fund under s. ~~144.442 (9)~~ 292.31 (8) (g) for environmental repair.

**SECTION 138.** 25.46 (10m) of the statutes is amended to read:

25.46 (10m) The moneys recovered under s. ~~144.442 (9m) (e)~~ 292.61 (5) for environmental repair.

**SECTION 139.** 25.46 (11) of the statutes is amended to read:

25.46 (11) The moneys received from reimbursements under s. ~~144.76~~ 292.11 (6) (c) 1. for environmental repair.

**SECTION 140.** 25.46 (12) of the statutes is amended to read:

25.46 (12) The moneys received from the federal government as reimbursement under s. ~~144.76~~ 292.11 (6) (c) 2. and for purposes related to the hazardous substances spills program, the abandoned container program and the environmental repair of waste facilities.

**SECTION 141.** 25.46 (13) of the statutes is amended to read:

25.46 (13) The moneys received from reimbursements under s. ~~144.77~~ 292.41 (6) (c) for the abandoned container program.

**SECTION 142.** 25.46 (13m) of the statutes is amended to read:

25.46 (13m) The environmental assessments imposed under s. ~~144.992~~ 299.93 for environmental enforcement, environmental repair and environmental education.

**SECTION 143.** 25.46 (15) of the statutes is amended to read:

25.46 (15) The fees imposed under s. ~~146.20~~ 281.48 (4s) (d) for groundwater management.

**SECTION 144.** 25.46 (16) of the statutes is amended to read:

25.46 (16) The fees imposed under s. ~~147.033 (1)~~ 283.31 (7) for groundwater management.

**SECTION 145.** 25.46 (17) of the statutes is amended to read:

25.46 (17) All moneys received from fees under s. ~~144.442 (1s)~~ 289.67 (2) for environmental repair.

**SECTION 146.** 25.46 (17m) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

25.46 (17m) All moneys received under s. ~~144.968~~ 292.51 (2) for cooperative remedial action.

**SECTION 147.** 25.46 (18) of the statutes is amended to read:

25.46 (18) All moneys received under s. ~~147.23~~ 283.87 or as a settlement to any action initiated or contemplated under s. ~~147.23~~ 283.87 for environmental repair.

**SECTION 148.** 25.49 (2) of the statutes is amended to read:

25.49 (2) The fees imposed under s. ~~159.31~~ 287.31.

**SECTION 149.** 27.019 (11) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

27.019 (11) ENFORCE HIGHWAY LITTERING LAW. Such committee shall work out plans to enforce the provision of s. ~~159.81~~ 287.81 (2) (a) prohibiting the depositing of solid waste on or along highways.

**SECTION 150.** 27.065 (10) (a) of the statutes is amended to read:

27.065 (10) (a) The special improvement bonds herein mentioned shall be equal liens against all lots, parts of lots or parcels of land against which special assessments have been made, without priority one over another, which liens shall take precedence of all other claims or liens thereon, except a lien under s. ~~144.442 (9)~~ 292.31 (8) (i), ~~144.76 (13)~~ ~~or~~ ~~144.77~~ 292.41 (6) (d) ~~or~~ 292.81, and when issued shall transfer to the holders thereof all the right, title and interest of such county in and to the assessment made on account of the improvement mentioned therein and the liens thereby created, with full power to enforce the collection thereof by foreclosure in the manner mortgages on real estate are foreclosed. The time of redemption therefrom shall be fixed by the court, and a copy of the bond foreclosed may be filed as a part of the judgment roll in said action in lieu of the original thereof.

**SECTION 151.** 29.05 (8) (a) of the statutes is amended to read:

29.05 (8) (a) The department and its wardens shall seize and hold subject to the order of the court for the county in which the alleged offense was committed, any apparatus, appliance, equipment, vehicle or device, declared by this chapter to be a public nuisance, which they have probable cause to believe is being used in violation of this chapter, an administrative rule promulgated under this chapter or s. ~~159.81~~, 167.31, 287.81, 940.24, 941.20,

948.60, 948.605 or 948.61 or is being used in the commission of a crime relating to a submerged cultural resource in violation of s. 44.47. If it is proven that within 6 months previous to the seizure the apparatus, appliance, equipment, vehicle or device was used in violation of this chapter or an administrative rule promulgated under this chapter or s. ~~159.81~~, 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61 or was used in the commission of a crime relating to a submerged cultural resource in violation of s. 44.47, it shall be confiscated if the court directs in its order for judgment.

**SECTION 152.** 29.135 (1) (b) of the statutes is amended to read:

29.135 (1) (b) “Fish” means any processed or unprocessed fish of those species which are found in the waters of ~~this~~ the state as defined in s. ~~144.01 (19)~~ 281.01 (18), including parts of fish or fish products. “Fish” does not include minnows produced and sold or purchased as bait.

**SECTION 153.** 29.29 (3) (b) of the statutes is amended to read:

29.29 (3) (b) No person may throw or deposit, or permit to be thrown or deposited, into any waters within the jurisdiction of the state any lime, oil, tar, garbage, refuse, debris, tanbark, ship ballast, stone, sand, except where permitted by s. 30.12 (3) (a) 1., slabs, decayed wood, sawdust, sawmill refuse, planing mill shavings or waste material of any kind, or any acids or chemicals or waste or refuse arising from the manufacture of any article of commerce, or any other substance deleterious to game or fish life other than authorized drainage and sewage from municipalities and industrial or other wastes discharged from mines or commercial or industrial or ore processing plants or operations, through treatment and disposal facilities installed and operated in accordance with plans submitted to and approved by the department of ~~natural resources~~ under ~~ch. 144 chs. 281, 285 or 289 to 299, except s. 281.48~~, or in compliance with orders of ~~that~~ the department. Any such order shall be subject to modification by subsequent orders. Any person violating this paragraph shall forfeit not more than \$200. Each day of a continuing violation is a separate offense.

**SECTION 154.** 30.01 (1b) of the statutes is amended to read:

30.01 (1b) “Authorized base level of water loss” has the meaning given under s. ~~144.026~~ 281.35 (1) (b).

**SECTION 155.** 30.01 (7m) of the statutes is amended to read:

30.01 (7m) “Water loss” has the meaning given under s. ~~144.026~~ 281.35 (1) (L).

**SECTION 156.** 30.01 (9) of the statutes is amended to read:

30.01 (9) “Withdrawal” has the meaning given under s. ~~144.026~~ 281.35 (1) (m).

**SECTION 157.** 30.12 (4) (a) of the statutes is amended to read:

30.12 (4) (a) Activities affecting waters of the state as defined in s. ~~144.01~~ 281.01 (18) that are carried out under the direction and supervision of the department of transportation in connection with highway and bridge design, location, construction, reconstruction, maintenance and repair are not subject to the prohibitions or permit or approval requirements specified under this section or s. 29.29, 30.11, 30.123, 30.195, 30.20, 59.971, 61.351, 62.231, or 87.30 or ch. 144 or 147 chs. 281 to 285 or 289 to 299, except s. 281.48. However, at the earliest practical time prior to the commencement of these activities, the department of transportation shall notify the department of the location, nature and extent of the proposed work that may affect the waters of the state.

**SECTION 158.** 30.124 (1) (intro.) of the statutes is amended to read:

30.124 (1) (intro.) Notwithstanding ss. 30.12, 30.125, 30.20, 30.44 and 30.45 and if the department finds that the activity will not adversely affect public or private rights or interests in fish and wildlife populations, navigation or waterway flood flow capacity and will not result in environmental pollution, as defined in s. ~~144.01~~ ~~(3)~~ 299.01 (4), the department may do all of the following on public lands or waters:

**SECTION 159.** 30.18 (2) (b) of the statutes is amended to read:

30.18 (2) (b) *Streams or lakes.* No person, except a person required to obtain an approval under s. ~~144.04~~ 281.41, may divert water from any lake or stream in this state without a permit under this section if the diversion will result in a water loss averaging 2,000,000 gallons per day in any 30-day period above the person’s authorized base level of water loss.

**SECTION 160.** 30.18 (3) (b) of the statutes is amended to read:

30.18 (3) (b) *Application; streams or lakes.* An application for a permit required under sub. (2) (b) shall be submitted in the form required under s. ~~144.026~~ 281.35 (5) (a). If the diversion also meets either condition specified under sub. (2) (a), the application shall also comply with par. (a).

**SECTION 161.** 30.18 (4) (a) of the statutes is amended to read:

30.18 (4) (a) Upon receipt of a complete application, the department shall follow the notice and hearing procedures under s. 30.02 (3) and (4). In addition to the notice requirements under s. 30.02 (3) and (4), the department shall mail a copy of the notice to every person upon whose land any part of the canal or any other structure will be located, to the clerk of the next town downstream, to the clerk of any village or city in which the lake or stream is located and which is adjacent to any municipality in which the diversion will take place and to each person specified in s. ~~144.026~~ 281.35 (5) (b) or (6) (f), if applicable.



**SECTION 162.** 30.18 (4) (b) of the statutes is amended to read:

30.18 (4) (b) If a hearing on the application for a permit is conducted as a part of a hearing under s. ~~144.836 293.43~~, the notice and hearing provisions in that section supersede the notice and hearing provisions of par. (a).

**SECTION 163.** 30.18 (5) (b) of the statutes is amended to read:

30.18 (5) (b) *Streams or lakes.* The department shall approve an application for a permit required under sub. (2) (b) if the grounds for approval specified under s. ~~144.026 281.35~~ (5) (d) are met and, if the permit is also required under sub. (2) (a), if the department makes the determinations specified under par. (a).

**SECTION 164.** 30.18 (6) (a) of the statutes is amended to read:

30.18 (6) (a) *Contents of permit.* The department shall specify on each permit issued under this section the quantity of water that may be diverted and the times during which water may be diverted. In addition, if the permit is one which is required under sub. (2) (b), the permit shall comply with s. ~~144.026 281.35~~ (6).

**SECTION 165.** 30.18 (6) (d) of the statutes is amended to read:

30.18 (6) (d) *Review of permits.* If the permit is one that is required under sub. (2) (a), but not under sub. (2) (b), and the permit was issued on or after August 1, 1957, the department shall review the permit at least once every 5 years. If the permit is one that is required under sub. (2) (b), the department shall review the permit as required under s. ~~144.026 281.35~~ (6) (b).

**SECTION 166.** 30.18 (6m) (c) of the statutes is amended to read:

30.18 (6m) (c) The department may revoke a permit issued under sub. (5) (b) only as provided under s. ~~144.026 281.35~~ (6).

**SECTION 167.** 30.19 (3) (b) of the statutes is amended to read:

30.19 (3) (b) If a hearing on the application for a permit is conducted as a part of a hearing under s. ~~144.836 293.43~~, the notice, comment and hearing provisions in that section supersede the notice, comment and hearing provisions of par. (a).

**SECTION 168.** 30.19 (4) of the statutes is amended to read:

30.19 (4) **ISSUANCE OF PERMIT.** If the department finds that the project will not injure public rights or interest, including fish and game habitat, that the project will not cause environmental pollution as defined in s. ~~144.01 (3) 299.01 (4)~~, that any enlargement connected to navigable waterways conforms to the requirement of laws for the platting of land and for sanitation and that no material injury to the rights of any riparian owners on any body of water affected will result, the department shall issue a permit authorizing the enlargement of the affected waterways.

**SECTION 169.** 30.20 (2) (a) of the statutes is amended to read:

30.20 (2) (a) The department, whenever consistent with public rights, may enter into contracts on behalf of the state for the removal of any material from the bed of any navigable lake or any of the outlying waters, and for the lease or sale of the material. Every contract shall contain such conditions as may be necessary for the protection of the public interest and the interests of the state and shall fix the compensation to be paid to the state for material so removed, except that no compensation may be paid for the material if the contract is with a municipality as defined in s. ~~144.01 281.01~~ (6) and the material is to be used for a municipal purpose and not for resale. No contract entered into under this paragraph may run for a longer period than 5 years.

**SECTION 170.** 30.202 (3) of the statutes is amended to read:

30.202 (3) **EXEMPTION FROM STATUTES AND RULES.** Dredge spoil disposal activities authorized under sub. (2) are exempt from any prohibition, restriction, requirement, permit, license, approval, authorization, fee, notice, hearing, procedure or penalty specified under ss. 29.29, 30.01 to 30.20, 30.21 to 30.99, 59.971 or 87.30 or ~~ch. 144 or 147 chs. 281 to 285 or 289 to 299, except s. 281.48,~~ or specified in any rule promulgated, order issued or ordinance adopted under those sections or chapters.

**SECTION 171.** 30.202 (4) of the statutes is amended to read:

30.202 (4) **HAZARDOUS WASTE DREDGE SPOIL DISPOSAL.** In consultation with the U.S. corps of engineers, the department shall establish special conditions and standards for the disposal of dredge spoils which are hazardous waste, as defined under s. ~~144.61 (5) 291.01 (7)~~. These special conditions and standards shall be established to ensure that public health and the environment are protected.

**SECTION 172.** 30.203 (4) (d) of the statutes is amended to read:

30.203 (4) (d) It may not cause environmental pollution, as defined in s. ~~144.01 (3) 299.01 (4)~~.

**SECTION 173.** 30.204 (5) of the statutes is amended to read:

30.204 (5) **EXEMPTION FROM CERTAIN STATUTES AND RULES.** Activities of the department in conducting the lake acidification experiment are exempt from any prohibition, restriction, requirement, permit, license, approval, authorization, fee, notice, hearing, procedure or penalty specified under ss. 29.29 (3), 30.01 to 30.03, 30.06 to 30.16, 30.18 to 30.29, 30.50 to 30.99, 59.971, 87.30, ~~144.01 to 144.27, 144.43 to 144.79, 144.96 to 144.99 or 159.81 287.81, 299.15 to 299.23, 299.91, 299.95 or 299.97~~ or ~~ch. 147 chs. 281, 283 or 289 to 292~~ or specified in any rule promulgated, order issued or ordi-

nance adopted under any of those sections or ~~that chapter chapters.~~

**SECTION 174.** 30.206 (1) of the statutes is amended to read:

30.206 (1) For activities which require a permit or approval under ss. 30.12 (3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a class of activities, according to rules promulgated by the department. Before issuing general permits, the department shall determine, after an environmental analysis and notice and hearing under ss. 227.17 and 227.18, that the cumulative adverse environmental impact of the class of activity is insignificant and that issuance of the general permit will not injure public rights or interest, cause environmental pollution, as defined in s. ~~444.01-(3)~~ 299.01 (4), or result in material injury to the rights of any riparian owner.

**SECTION 175.** 30.21 (3) (a) of the statutes is amended to read:

30.21 (3) (a) Each public utility operating under a permit under this section on January 1, 1986, shall comply with s. ~~444.026~~ 281.35 (2), if applicable.

**SECTION 176.** 30.28 (2m) (c) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

30.28 (2m) (c) If more than one fee under sub. (2) (a) or s. 31.39 (2) (a) or ~~444.0252~~ 281.22 is applicable to a project, the department shall charge only the highest fee of those that are applicable.

**SECTION 177.** 30.40 (16) of the statutes is amended to read:

30.40 (16) "Solid waste" has the meaning given in s. ~~444.01-(15)~~ 289.01 (33).

**SECTION 178.** 30.45 (4m) (a) of the statutes is amended to read:

30.45 (4m) (a) Nonhazardous sludges from a treatment work, as defined under s. ~~447.015~~ 283.01 (18), that is spread as a soil conditioner or a nutrient on land that is in agricultural use; or

**SECTION 179.** 30.45 (4p) of the statutes is amended to read:

30.45 (4p) No person may dispose of the debris resulting from the demolition of a building or a building foundation unless the disposal is on the same parcel on which the demolition site is located, the debris is of a type that is not required under s. ~~444.44-(7)-(g) 2. a.~~ 289.43 (8) (b) 1. to be disposed of in a licensed solid waste disposal facility and the debris is buried.

**SECTION 180.** 31.06 (3) of the statutes is amended to read:

31.06 (3) At such hearing or any adjournment thereof the department shall consider the application, and shall take evidence offered by the applicant and other persons in support thereof or in opposition thereto, may require the amendment of the application, and if it appears that the construction, operation or maintenance of the proposed dam is in the public interest, considering ecologi-

cal, aesthetic, economic and recreational values, the department shall so find and grant a permit to the applicant, provided the department also finds that the applicant has complied with s. 31.14 (2) or (3) and, where applicable, with s. 31.05 (3), based on the department's own estimate of the area of the flowage. The enjoyment of natural scenic beauty and environmental quality are declared to be public rights to be considered along with other public rights and the economic need of electric power for the full development of agricultural and industrial activity and other useful purposes in the area to be served. In considering public rights to the recreational use and natural scenic beauty of the river, the department shall investigate the potentialities of the lake and lake shore created by the flowage and shall weigh the recreational use and scenic beauty thereof against the known recreational use and scenic beauty of the river in its natural state, and the department shall further weigh the known recreational use and scenic beauty of the particular section of river involved against the known recreational use and scenic beauty of other sections of the same river and other rivers in the area remaining in their natural state (without regard to plans of other dams subsequently filed or to be filed); if it appears that the river in its natural state offers greater recreational facilities and scenic value for a larger number of people than can be obtained from the use of the lake and lake shore and that the remaining sections of the river and other rivers in the area in their natural state provide an insufficient amount of recreational facilities and scenic beauty, and if it further appears that the economic need of electric power is less than the value of the recreational and scenic beauty advantages of such river in its natural state, the department shall so find and the permit be denied. If the department finds that approval of the permit will cause environmental pollution, as defined in s. ~~444.01-(3)~~ 299.01 (4), the permit shall be denied.

**SECTION 181.** 31.06 (5) of the statutes is amended to read:

31.06 (5) If a hearing on the application for a permit is conducted as a part of a hearing under s. ~~444.836~~ 293.43, the notice and hearing provisions in that section supersede the notice and hearing provisions of this section.

**SECTION 182.** 31.39 (2m) (c) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

31.39 (2m) (c) If more than one fee under sub. (2) (a) or s. 30.28 (2) (a) or ~~444.0252~~ 281.22 is applicable to a project, the department shall charge only the highest fee of those that are applicable.

**SECTION 183.** 32.02 (12) of the statutes is amended to read:

32.02 (12) Any person operating a plant which creates waste material which, if released without treatment would cause stream pollution, for the location of treat-

ment facilities. This subsection does not apply to a person licensed under ss. 144.80 to 144.94 ch. 293.

**SECTION 184.** 33.14 (4) (c) of the statutes is amended to read:

33.14 (4) (c) Whether the implementation of the plan is likely to cause long-range environmental pollution as defined in s. 144.01 (3) 299.01 (4);

**SECTION 185.** 33.26 (3) of the statutes is amended to read:

33.26 (3) The committee shall report to the county board within 3 months after the date of the hearing. Within 6 months after the date of the hearing, the board shall issue its order under this subsection. If the board finds, after consideration of the committee's report and any other evidence submitted to the board, that the petition is signed by the requisite owners as provided in s. 33.25, that the proposed district is necessary, that the public health, comfort, convenience, necessity or public welfare will be promoted by the establishment of the district, that the property to be included in the district will be benefited by the establishment thereof, and that formation of the proposed district will not cause or contribute to long-range environmental pollution as defined in s. 144.01 (3) 299.01 (4), the board, by order, shall declare its findings, shall establish the boundaries and shall declare the district organized and give it a corporate name by which it shall be known. Thereupon the district shall be a body corporate with the powers of a municipal corporation for the purposes of carrying out this chapter. If the board does not so find, the board, by order, shall declare its findings and deny the petition.

**SECTION 186.** 33.457 (4) (intro.) of the statutes is amended to read:

33.457 (4) (intro.) Within 3 months after the implementation plan is developed and submitted under sub. (1), the department and the designated planning agency under s. ~~144.235~~ 281.51 that covers the county shall evaluate the implementation plan to determine whether it is consistent with the criteria for water quality planning under s. ~~144.235~~ 281.51 and whether the plan is adequate to:

**SECTION 187.** 36.25 (3m) (a) of the statutes is amended to read:

36.25 (3m) (a) In this subsection, "solid waste disposal" has the meaning given in s. ~~144.43 (4)~~ 289.01 (34).

**SECTION 188.** 36.25 (30) (intro.) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

36.25 (30) HAZARDOUS POLLUTION PREVENTION PROGRAM. (intro.) The board shall establish in the extension a hazardous pollution prevention program to promote hazardous pollution prevention, as defined in s. ~~144.955~~ 299.13 (1) (c). In cooperation with the department of natural resources, the department of commerce and the hazardous pollution prevention council, the program shall do all of the following:

**SECTION 189.** 36.25 (30g) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

36.25 (30g) RECYCLING MARKET DEVELOPMENT PROGRAM. The board shall establish in the extension, in cooperation with the recycling market development board, a program of education and technical assistance related to recycling market development. The program shall serve waste generators, as defined in s. ~~159.40~~ 287.40 (4); solid waste scrap brokers, dealers and processors; business entities that use or could use recovered materials or that produce or could produce products from recovered materials and persons who provide support services to those business entities; and the general public.

**SECTION 190.** 42.05 (1) and (2) of the statutes are amended to read:

42.05 (1) Except during the annual state fair and at other times between 8 a.m. and 10 p.m., every motor vehicle, as defined in s. ~~159.15~~ 287.15 (1) (e), that is used at state fair park in racing competition or practice shall be equipped with a muffler which, at all times, shall be in good working condition sufficient to prevent excessive or unusual noise.

(2) It is unlawful to operate, or for the state fair park board to permit to be operated, at state fair park in racing competition or practice except during the period specified in sub. (1), any motor vehicle, as defined in s. ~~159.15~~ 287.15 (1) (e), with the muffler or cutout open.

**SECTION 191.** 46.255 (7) of the statutes is amended to read:

46.255 (7) The department may provide a certification under sub. (1) to a state agency or authority under s. 21.49 (2) (e), 36.11 (6) (b), 36.25 (14), 36.34 (1), 39.30 (2) (e), 39.38 (2), 39.435 (6), 39.44 (4), 39.47 (2m), 45.351 (2) (c), 45.356 (6), 45.396 (6), 45.74 (6), ~~144.25 (8) (L)~~, 145.245 (5m) (b), 234.04 (2), 234.49 (1) (c), 234.59 (3) (c), 234.65 (3) (f), 234.90 (3) (d) or (3g) (c), 234.905 (3) (d), 281.65 (8) (L) or 949.08 (2) (g).

**SECTION 192.** 46.34 of the statutes is amended to read:

**46.34 Emission standards for hazardous air contaminants.** The department may assist the department of natural resources in the development of emission standards for hazardous air contaminants under s. ~~144.375 (5)~~ 285.27 (2) (b).

**SECTION 193.** 50.05 (15) (d) of the statutes is amended to read:

50.05 (15) (d) The lien provided by this subsection is prior to any lien or other interest which originates subsequent to the filing of a petition for receivership under this section, except for a construction or mechanic's lien arising out of work performed with the express consent of the receiver or a lien under s. ~~144.442 (9)~~ 292.31 (8) (i), ~~144.76 (13)~~ or ~~144.77~~ 292.41 (6) (d) or 292.81.

**SECTION 194.** 59.067 (1) (b) of the statutes is amended to read:

59.067 (1) (b) “Private well” has the meaning specified by rule by the department under s. ~~462.07 280.21~~ (2).

**SECTION 195.** 59.067 (1) (c) of the statutes is amended to read:

59.067 (1) (c) “Well” has the meaning specified under s. ~~462.02 280.01~~ (6).

**SECTION 196.** 59.067 (2) of the statutes is amended to read:

59.067 (2) PERMITS. If authorized by the department under s. ~~462.07 280.21~~ (1), a county may adopt and enforce a well construction or pump installation ordinance or both. Provisions of the ordinance shall be in strict conformity with ch. ~~462 280~~ and with rules of the department under ch. ~~462 280~~. The ordinance may require that a permit be obtained before construction, installation, reconstruction or rehabilitation of a private well or installation or substantial modification of a pump on a private well, other than replacement of a pump with a substantially similar pump. The county may establish a schedule of fees for issuance of the permits and for related inspections. The department, under s. ~~462.07 280.21~~ (4), may revoke the authority of a county to enforce its ordinance if the department finds that the ordinance or enforcement of the ordinance does not conform to ch. ~~462 280~~ and rules of the department under ch. ~~462 280~~.

**SECTION 197.** 59.067 (3) of the statutes is amended to read:

59.067 (3) EXISTING WELLS. With the approval of the department under s. ~~462.07 280.21~~ (1), a county may adopt and enforce an ordinance in strict conformity with ch. ~~462 280~~ and with department rules under ch. ~~462 280~~, as they relate to existing private wells. The department, under s. ~~462.07 280.21~~ (4), may revoke the authority of a county to enforce its ordinance if the department finds that the ordinance or enforcement of the ordinance does not conform to ch. ~~462 280~~ and rules of the department under ch. ~~462 280~~.

**SECTION 198.** 59.067 (5) of the statutes is amended to read:

59.067 (5) OTHER MUNICIPALITIES. No city, village or town may adopt or enforce an ordinance regulating matters covered by ch. ~~462 280~~ or by department rules under ch. ~~462 280~~.

**SECTION 199.** 59.07 (133) of the statutes is amended to read:

59.07 (133) RECYCLING OR RESOURCE RECOVERY FACILITIES. Establish and require use of facilities for the recycling of solid waste or for the recovery of resources from solid waste as provided under s. ~~459.13 287.13~~.

**SECTION 200.** 59.07 (135) (L) of the statutes is amended to read:

59.07 (135) (L) Appropriate funds and levy taxes to provide funds for acquisition or lease of sites, easements, necessary facilities and equipment and for all other costs required for the solid waste management system except that no town, city or village which operates its own solid

waste management program under s. ~~459.09 287.09~~ (2) (a) or waste collection and disposal facility, or property therein, shall be subject to any tax levied hereunder to cover the capital and operating costs of these functions. Such appropriations may be treated as a revolving capital fund to be reimbursed from proceeds of the system.

**SECTION 201.** 59.07 (135) (q) (intro.) of the statutes is amended to read:

59.07 (135) (q) (intro.) Impose fees, in addition to fees imposed under ch. ~~144 289~~, upon persons who dispose of solid waste at publicly owned solid waste disposal sites in the county for the purpose of cleaning up closed or abandoned solid waste disposal sites within the county, subject to all of the following conditions:

NOTE: The cross-reference to ch. 144 is overly inclusive. Only ss. 144.43 to 144.47 of ch. 144 relate to imposing fees on persons who dispose of solid waste. Therefore, the cross-reference is limited to those provisions of current ch. 144 which are contained in new ch. 289.

**SECTION 202.** 59.20 (5) (b) of the statutes is amended to read:

59.20 (5) (b) For all court imposed fines and forfeitures required by law to be deposited in the state treasury, the amounts required by s. 165.87 for the penalty assessment surcharge, the amounts required by s. 167.31 (5) for the weapons assessment, the amounts required by s. 973.045 for the crime victim and witness assistance surcharge, the amounts required by s. 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by s. 161.41 (5) for the drug abuse program improvement surcharge, the amounts authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 (1) for the domestic abuse assessment, the amounts required by s. 346.655 (2) (a) and (b) for the driver improvement surcharge, the amounts required by s. 102.85 (4) for the uninsured employer assessment, the amounts required by s. ~~444.992 299.93~~ for the environmental assessment, the amounts required by s. 29.9965 for the wild animal protection assessment, the amounts required by s. 29.997 for the natural resources assessment surcharge, the amounts required by s. 29.9967 for the fishing shelter removal assessment, the amounts required by s. 350.115 for the snowmobile registration restitution payment and the amounts required by s. 29.998 for natural resources restitution payments, transmit to the state treasurer a statement of all moneys required by law to be paid on the actions so entered during the preceding month on or before the first day of the next succeeding month, certified by the treasurer’s personal signature affixed or attached thereto, and at the same time pay to the state treasurer the amount thereof.

**SECTION 203.** 59.395 (5) of the statutes is amended to read:

59.395 (5) Pay monthly to the county treasurer for the use of the state the state’s percentage of the fees required to be paid on each civil action, criminal action and special proceeding filed during the preceding month and pay

monthly to the county treasurer for the use of the state the percentage of court imposed fines and forfeitures required by law to be deposited in the state treasury, the amounts required by s. 165.87 (2) (b) for the penalty assessment surcharge, the amounts required by s. 167.31 (5) for the weapons assessment, the amounts required by s. 973.045 for the crime victim and witness assistance surcharge, the amounts required by s. 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by s. 161.41 (5) for the drug abuse program improvement surcharge, the amounts authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 for the domestic abuse assessment surcharge, the amounts required by s. 346.655 for the driver improvement surcharge, the amounts required by s. 102.85 (4) for the uninsured employer assessment, the amounts required by s. 444.992 ~~299.93~~ for the environmental assessment, the amounts required under s. 29.9965 for the wild animal protection assessment, the amounts required under s. 29.997 (1) (d) for the natural resources assessment surcharge, the amounts required by s. 29.9967 for the fishing shelter removal assessment, the amounts required by s. 350.115 for the snowmobile registration restitution payment and the amounts required under s. 29.998 (1) (d) for the natural resources restitution payments. The payments shall be made by the 15th day of the month following receipt thereof.

**SECTION 204.** 59.51 (17) of the statutes is amended to read:

59.51 (17) Record and index writings submitted according to s. 444.44(4)-(b) ~~289.31~~ (3), evidencing that a solid or hazardous waste disposal facility will be established on the particular parcel described in the writings.

**SECTION 205.** 59.97 (9) (b) of the statutes is amended to read:

59.97 (9) (b) This subsection does not apply to land subject to a town zoning ordinance which is purchased by the county for use as a solid or hazardous waste disposal facility or hazardous waste storage or treatment facility, as these terms are defined under s. 444.43 ~~289.01~~.

**SECTION 206.** 59.971 (1) (b) (intro.), (1m), (4) (a) and (7) (ag) of the statutes are amended to read:

59.971 (1) (b) (intro.) “Shorelands” means the area within the following distances from the ordinary high-water mark of navigable waters, as defined under s. 444.26 ~~281.31~~ (2) (d):

(1m) To effect the purposes of s. 444.26 ~~281.31~~ and to promote the public health, safety and general welfare, each county shall zone by ordinance all shorelands in its unincorporated area. This ordinance may be enacted separately from ordinances enacted under s. 59.97.

(4) (a) Section 66.30 applies to this section, except that for the purposes of this section any agreement under s. 66.30 shall be effected by ordinance. If the municipalities as defined in s. 444.26 ~~281.31~~ are served by a regional planning commission under s. 66.945, the commission

may, with its consent, be empowered by the ordinance of agreement to administer each ordinance enacted hereunder throughout its enacting municipality, whether or not the area otherwise served by the commission includes all of that municipality.

(7) (ag) For purposes of pars. (a) 2. and (ad) 2., the types of provisions that may be deleted or modified are those that establish specified land uses or requirements associated with those uses and that are not necessary to effect the purposes of s. 444.26 ~~281.31~~ (1) that relate to the protection of navigable waters.

**SECTION 207.** 59.974 (2) and (8) of the statutes are amended to read:

59.974 (2) **AUTHORITY TO ENACT ORDINANCE.** To effect the purposes of s. 444.266 ~~281.33~~ and to promote the public health, safety and general welfare, a county may enact a zoning ordinance, that is applicable to all of its unincorporated area, except as provided in s. 60.627 (2) (b), for construction site erosion control at sites where the construction activities do not include the construction of a building and for storm water management. This ordinance may be enacted separately from ordinances enacted under s. 59.97.

(8) **APPLICABILITY TO LOCAL GOVERNMENTS AND AGENCIES.** An ordinance enacted under this section is applicable to activities conducted by a unit of local government and an agency of that unit of government. An ordinance enacted under this section is not applicable to activities conducted by an agency, as defined under s. 227.01 (1) but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 444.266 ~~281.33~~ (2).

**SECTION 208.** 60.54 (1) of the statutes is amended to read:

60.54 (1) The town board may designate any town highway which provides reasonable access to a solid waste disposal site or facility licensed under s. 444.44 ~~289.31~~ as appropriate for the transportation of solid waste into, within or through the town for the purpose of disposing of the waste at the site or facility and may prohibit the use of other town highways for that purpose.

**SECTION 209.** 60.627 (2) (a) and (7) of the statutes are amended to read:

60.627 (2) (a) To effect the purposes of s. 444.266 ~~281.33~~ and to promote the public health, safety and general welfare, if a town board may enact zoning ordinances under s. 60.62, the town board may enact a zoning ordinance, that is applicable to all of its area, for construction site erosion control at sites where the construction activities do not include the construction of a building and for storm water management. This ordinance may be enacted separately from ordinances enacted under s. 60.62.

(7) **APPLICABILITY TO LOCAL GOVERNMENTS AND AGENCIES.** An ordinance enacted under this section is applicable to activities conducted by a unit of local govern-

ment and an agency of that unit of government. An ordinance enacted under this section is not applicable to activities conducted by an agency, as defined under s. 227.01 (1) but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. ~~144.266~~ 281.33 (2).

**SECTION 210.** 60.70 (7) of the statutes is amended to read:

60.70 (7) “Solid waste” has the meaning given under s. ~~144.01 (15)~~ 289.01 (33).

**SECTION 211.** 60.70 (8) of the statutes is amended to read:

60.70 (8) “Solid waste disposal” has the meaning given under s. ~~144.43 (4)~~ 289.01 (34).

**SECTION 212.** 60.70 (11) of the statutes is amended to read:

60.70 (11) “Waters of the state” has the meaning given under s. ~~144.01 (19)~~ 281.01 (18).

**SECTION 213.** 61.345 of the statutes is amended to read:

**61.345 Recycling or resource recovery facilities.** A village may establish and require use of facilities for the recycling of solid waste or for the recovery of resources from solid waste as provided under s. ~~159.13~~ 287.13.

**SECTION 214.** 61.351 (3) of the statutes is amended to read:

61.351 (3) **ADOPTION OF ORDINANCE.** To effect the purposes of s. ~~144.26~~ 281.31 and to promote the public health, safety and general welfare, each village shall zone by ordinance all unfilled wetlands of 5 acres or more which are shown on the final wetland inventory maps prepared by the department of natural resources for the village under s. 23.32, which are located in any shorelands and which are within its incorporated area. A village may zone by ordinance any unfilled wetlands which are within its incorporated area at any time.

**SECTION 215.** 61.351 (6) of the statutes is amended to read:

61.351 (6) **FAILURE TO ADOPT ORDINANCE.** If any village does not adopt an ordinance required under sub. (3) within 6 months after receipt of final wetland inventory maps prepared by the department of natural resources for the village under s. 23.32, or if the department of natural resources, after notice and hearing, determines that a village adopted an ordinance which fails to meet reasonable minimum standards in accomplishing the shoreland protection objectives of s. ~~144.26~~ 281.31 (1), the department of natural resources shall adopt an ordinance for the village. As far as applicable, the procedures set forth in s. 87.30 apply to this subsection.

**SECTION 216.** 61.354 (2) and (7) of the statutes are amended to read:

61.354 (2) **AUTHORITY TO ENACT ORDINANCE.** To effect the purposes of s. ~~144.266~~ 281.33 and to promote the

public health, safety and general welfare, a village may enact a zoning ordinance, that is applicable to all of its incorporated area, for construction site erosion control at sites where the construction activities do not include the construction of a building and for storm water management. This ordinance may be enacted separately from ordinances enacted under s. 61.35.

(7) **APPLICABILITY TO LOCAL GOVERNMENTS AND AGENCIES.** An ordinance enacted under this section is applicable to activities conducted by a unit of local government and an agency of that unit of government. An ordinance enacted under this section is not applicable to activities conducted by an agency, as defined under s. 227.01 (1) but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. ~~144.266~~ 281.33 (2).

**SECTION 217.** 61.55 of the statutes is amended to read:

**61.55 Contracts involving over \$10,000; how let; exception.** All contracts for public construction, in any such village, exceeding \$10,000, shall be let by the village board to the lowest responsible bidder in accordance with s. 66.29 insofar as said section may be applicable. If the estimated cost of any public construction exceeds \$5,000, but is not greater than \$10,000, the village board shall give a class 1 notice, under ch. 985, of the proposed construction before the contract for the construction is executed. This provision and s. ~~144.04~~ 281.41 are not mandatory for the repair and reconstruction of public facilities when damage or threatened damage thereto creates an emergency, as determined by resolution of the village board, in which the public health or welfare of the village is endangered. Whenever the village board by majority vote at a regular or special meeting declares that an emergency no longer exists, this exemption no longer applies.

**SECTION 218.** 62.15 (1b) of the statutes is amended to read:

62.15 (1b) **EXCEPTION AS TO PUBLIC EMERGENCY.** The provisions of sub. (1) and s. ~~144.04~~ 281.41 are not mandatory for the repair and reconstruction of public facilities when damage or threatened damage thereto creates an emergency, as determined by resolution of the board of public works or board of public utility commissioners, in which the public health or welfare of the city is endangered. Whenever the city council determines by majority vote at a regular or special meeting that an emergency no longer exists, this subsection no longer applies.

**SECTION 219.** 62.225 of the statutes is amended to read:

**62.225 Recycling or resource recovery facilities.** A city may establish and require use of facilities for the recycling of solid waste or for the recovery of resources from solid waste as provided under s. ~~159.13~~ 287.13.

**SECTION 220.** 62.231 (3) and (6) of the statutes are amended to read:

62.231 (3) **ADOPTION OF ORDINANCE.** To effect the purposes of s. ~~144.26~~ 281.31 and to promote the public health, safety and general welfare, each city shall zone by ordinance all unfilled wetlands of 5 acres or more which are shown on the final wetland inventory maps prepared by the department of natural resources for the city under s. 23.32, which are located in any shorelands and which are within its incorporated area. A city may zone by ordinance any unfilled wetlands which are within its incorporated area at any time.

(6) **FAILURE TO ADOPT ORDINANCE.** If any city does not adopt an ordinance required under sub. (3) within 6 months after receipt of final wetland inventory maps prepared by the department of natural resources for the city under s. 23.32, or if the department of natural resources, after notice and hearing, determines that a city adopted an ordinance which fails to meet reasonable minimum standards in accomplishing the shoreland protection objectives of s. ~~144.26~~ 281.31 (1), the department of natural resources shall adopt an ordinance for the city. As far as applicable, the procedures set forth in s. 87.30 apply to this subsection.

**SECTION 221.** 62.234 (2) and (7) of the statutes are amended to read:

62.234 (2) **AUTHORITY TO ENACT ORDINANCE.** To effect the purposes of s. ~~144.266~~ 281.33 and to promote the public health, safety and general welfare, a city may enact a zoning ordinance, that is applicable to all of its incorporated area, for construction site erosion control at sites where the construction activities do not include the construction of a building and for storm water management. This ordinance may be enacted separately from ordinances enacted under s. 62.23.

(7) **APPLICABILITY TO LOCAL GOVERNMENTS AND AGENCIES.** An ordinance enacted under this section is applicable to activities conducted by a unit of local government and an agency of that unit of government. An ordinance enacted under this section is not applicable to activities conducted by an agency, as defined under s. 227.01 (1) but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. ~~144.266~~ 281.33 (2).

**SECTION 222.** 66.023 (7) of the statutes, as affected by 1995 Wisconsin Act 35, is amended to read:

66.023 (7) **OTHER BOUNDARY PROCEDURES.** (a) *Other procedures after hearing.* After the joint hearing under sub. (4) (b) is held, no other procedure, except the procedure under s. ~~144.07~~ 281.43 (1m), for altering a municipality's boundaries may be used to alter a boundary included in the proposed cooperative plan under sub. (3) (d) 1. until the boundary is no longer included in the proposed cooperative plan, the municipality withdraws from the proposed cooperative plan or the proposed coopera-

tive plan fails to receive approval from the department, whichever occurs first.

(b) *Other boundary procedures during the planning period.* During the planning period specified under sub. (3) (f), no other procedure for altering a municipality's boundaries may be used to alter a boundary that is included in the cooperative plan under sub. (3) (d) 1., except if an annexation is conducted under s. ~~144.07~~ 281.43 (1m), regardless of whether the boundary is proposed to be maintained or changed or is allowed to be changed under the plan. After the planning period has expired, the boundary may be altered.

**SECTION 223.** 66.038 (1) (a) of the statutes is amended to read:

66.038 (1) (a) "Environmental pollution" has the meaning specified under s. ~~144.01~~ (3) 299.01 (4).

**SECTION 224.** 66.038 (3) (e) 4. of the statutes is amended to read:

66.038 (3) (e) 4. Any mining operation, the reclamation of which is required in a permit obtained under ~~ss. 144.80 to 144.94~~ ch. 293.

**SECTION 225.** 66.038 (3) (e) 5. of the statutes is amended to read:

66.038 (3) (e) 5. Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under ~~ss. 144.435 to 144.445~~ subchs. II to IV of ch. 289 or a hazardous waste disposal facility under ~~ss. 144.60 to 144.74~~ ch. 291 but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic mining site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

**SECTION 226.** 66.121 of the statutes is amended to read:

**66.121 Inspection of property.** A county or a city authorized to act under s. 74.87 may enter any real property for which a tax certificate has been issued under s. 74.57, or may authorize another person to enter the real property, to determine the nature and extent of environmental pollution, as defined in s. ~~144.01~~ (3) 299.01 (4).

**SECTION 227.** 66.122 (1) (b) of the statutes is amended to read:

66.122 (1) (b) "Inspection purposes" include, without limitation because of enumeration, such purposes as building, housing, electrical, plumbing, heating, gas, fire, health, safety, environmental pollution, water quality, waterways, use of water, food, zoning, property assessment, meter and obtaining data required to be submitted in an initial site report or feasibility report under ~~s. 144.44 or 144.64~~ subch. III of ch. 289 or s. 291.23, 291.25, 291.29 or 291.31 or an environmental impact statement related to one of those reports.

**SECTION 228.** 66.293 (3) (b) of the statutes is amended to read:

66.293 (3) (b) In this subsection, “municipality” means any city, town, village or county, technical college district, common school district, union high school district, unified school district, county–city hospital established under s. 66.47, sewerage commission organized under s. ~~444.07~~ 281.43 (4), metropolitan sewerage district organized under ss. 66.20 to 66.26, public or quasi–public corporation, or any other unit of government, or any agency or instrumentality of 2 or more units of government in this state.

**SECTION 229.** 66.33 (5) of the statutes is amended to read:

66.33 (5) Any municipality may participate in the state financial assistance program for soil and water resources protection established under s. ~~444.21, 444.24 or 444.25~~ 281.55, 281.57 or 281.65 and may enter into agreements with the department of natural resources for that purpose. Any municipality may participate in the clean water fund program under ss. ~~444.241~~ 281.58 and ~~444.2415~~ 281.59 and may enter into agreements with the department of administration and the department of natural resources for that purpose. Any county may participate in the state financial assistance program for soil and water resources protection established under s. 92.14 and may enter into agreements with the department of agriculture, trade and consumer protection for that purpose.

**SECTION 230.** 66.33 (6) of the statutes is amended to read:

66.33 (6) Any municipality is authorized to enter into contracts with a nonprofit–sharing corporation for the municipality to design and construct the projects it will sublease from the department of natural resources pursuant to s. ~~444.24~~ 281.55 (6) (b).

**SECTION 231.** 66.35 (1) (a) of the statutes is amended to read:

66.35 (1) (a) “Medical waste incinerator” has the meaning given in s. ~~459.07~~ 287.07 (7) (c) 1. cr.

**SECTION 232.** 66.35 (2) of the statutes is amended to read:

66.35 (2) A municipality may, by ordinance, impose a fee, in accordance with rules promulgated under s. ~~459.03~~ 287.03 (1) (am), on the operator of a medical waste incinerator located in the municipality to cover the costs incurred because of the presence of the medical waste incinerator, including costs of monitoring emissions and of providing periodic notification to residents concerning the medical waste incinerator. The fee imposed under this section may not exceed \$1 per ton of waste that is incinerated at the medical waste incinerator unless the municipality and the operator of the medical waste incinerator agree to a higher fee.

**SECTION 233.** 66.365 of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

**66.365 Aids to municipalities; environmental damage compensation.** The department of natural resources may make grants to any county, city, village or town for the acquisition or development of recreational lands and facilities from moneys appropriated under s. 20.370 (2) (dv). Use and administration of the grant shall be consistent with any court order issued under s. ~~447.23~~ 283.87 (3). A county, city, village or town which receives a grant under this section is not required to share in the cost of a project under this section.

**SECTION 234.** 66.46 (2) (am) of the statutes is amended to read:

66.46 (2) (am) “Environmental pollution” has the meaning given in s. ~~444.01(3)~~ 299.01 (4).

**SECTION 235.** 66.521 (9) of the statutes is amended to read:

66.521 (9) PAYMENT OF TAXES. When any industrial project acquired by a municipality under this section is used by a private person as a lessee, sublessee or in any capacity other than owner, that person shall be subject to taxation in the same amount and to the same extent as though that person were the owner of the property. Taxes shall be assessed to such private person using the real property and collected in the same manner as taxes assessed to owners of real property. When due, the taxes shall constitute a debt due from such private person to the taxing unit and shall be recoverable as provided by law, and such unpaid taxes shall become a lien against the property with respect to which they were assessed, superior to all other liens, except a lien under s. ~~444.442(9)~~ 292.31 (8) (i), ~~444.76(13)~~ or ~~444.77~~ 292.41 (6) (d) or 292.81, and shall be placed on their tax roll when there has been a conveyance of the property in the same manner as are other taxes assessed against real property.

**SECTION 236.** 66.606 (1) (a) 1. of the statutes is amended to read:

66.606 (1) (a) 1. Any special assessment or special charge levied under any authority by a responsible unit for the purpose of complying with s. ~~459.09~~ 287.09 (2).

**SECTION 237.** 66.606 (1) (a) 2. of the statutes is amended to read:

66.606 (1) (a) 2. Any charge made under any authority by any person acting under a contract with a responsible unit to provide a service required under s. ~~459.09~~ 287.09 (2).

**SECTION 238.** 66.606 (1) (b) of the statutes is amended to read:

66.606 (1) (b) “Responsible unit” has the meaning given in s. ~~459.04~~ 287.01 (9).

**SECTION 239.** 66.888 (1) (c) 3. c. of the statutes is amended to read:

66.888 (1) (c) 3. c. The need to maintain the consistency of any redefined boundary of the district with a regional water quality management plan established or approved under ss. ~~444.025~~ 281.12 (1) and ~~447.25~~ 283.83



or any facilities plan established and approved under s. ~~144.04 281.41~~.

NOTE: The cross-reference to s. 144.025 is qualified with the phrase "regional water quality management plan established or approved under" that statute. The portion of s. 144.025 related to the prevention and abatement of water pollution is in s. 144.025 (2) (a). Accordingly, the new cross-reference used in this bill [s. 281.12 (1)] is only to former s. 144.025 (2) (a), rather than to all provisions of former s. 144.025.

**SECTION 240.** 66.892 (2) (a) and (d) of the statutes are amended to read:

66.892 (2) (a) Except as provided in pars. (b) to (d) and subject to s. ~~144.04 281.41~~, no commission may separate combined storm and sanitary sewers.

(d) Any person aggrieved by the decision of the commission to separate a combined storm and sanitary sewer may file a petition for judicial review in the circuit court for the county in which the district is located. Nothing in this paragraph affects any review under s. ~~144.04 281.41~~.

**SECTION 241.** 66.894 (14) (g) of the statutes is amended to read:

66.894 (14) (g) Paragraphs (d) to (f) do not apply to any project which includes a solid waste disposal facility which requires an operating license under s. ~~144.44 (4) 289.31~~.

**SECTION 242.** 66.902 (1) (a) 4. a. of the statutes is amended to read:

66.902 (1) (a) 4. a. Interfere with the district's ability to meet its obligations under a pollution discharge elimination permit or general permit issued under s. ~~147.02 283.31~~ or ~~147.023 283.35~~, or under an air pollution control permit issued under ~~subch. III~~ of ch. ~~144 285~~.

**SECTION 243.** 66.902 (1) (e) of the statutes is amended to read:

66.902 (1) (e) If any person fails to comply with a rule of the district, the district may obtain an injunction under s. 823.02 or the district may initiate an action for the civil remedies under s. ~~147.21 283.91~~ (2) or (5). If the district acts under s. ~~147.21 283.91~~ (2) or (5), the district may recover the forfeiture in a civil action brought by the commission in the name of the district. Collected forfeitures shall be paid into the district's general fund. The forfeiture is in addition to and does not substitute for any damages recoverable by the commission.

**SECTION 244.** 66.902 (2) (c) of the statutes is amended to read:

66.902 (2) (c) If the commission does not stay compliance and a person fails to comply with a special order of the district within the time specified, or if a person fails to begin in good faith to obey, the person is creating a public nuisance enjoined under s. 823.02. The district may also initiate an action for the civil remedies under s. ~~147.21 283.91~~ (2) or (5). If the district acts under s. ~~147.21 283.91~~ (2) or (5), the forfeiture may be recovered by the district in a civil action brought by the commission in the name of the district. Collected forfeitures shall be

paid into the district's general fund. The forfeiture is in addition to and does not substitute for any damages recoverable by the commission.

**SECTION 245.** 66.904 (2) (a) of the statutes is amended to read:

66.904 (2) (a) Except as provided in par. (b), all work done and all purchases of supplies and materials by the commission shall be by contract awarded to the lowest responsible bidder complying with the invitation to bid, if the work or purchase involves an expenditure of \$7,500 or more. If the commission decides to proceed with construction of any sewer after plans and specifications for the sewer are completed and approved by the commission and by the department of natural resources under ch. ~~144 281~~, the commission shall advertise by a class 2 notice under ch. 985 for construction bids. All contracts and the awarding of contracts are subject to s. 66.29.

NOTE: The cross-reference to ch. 144 is overly inclusive. Only current subch. II of ch. 144 relates to department of natural resources (DNR) approval of sewer plans. Therefore, the cross-reference is limited to those provisions of current ch. 144 which are contained in new ch. 281.

**SECTION 246.** 66.905 (2) (a) of the statutes is amended to read:

66.905 (2) (a) From the amounts allocated for purposes of this section under s. 20.866 (2) (to), the district shall fund a development and training program for the purpose of developing the capability of minority businesses to participate in construction and construction-related projects funded under the combined sewer overflow abatement program under s. ~~144.242 281.63~~.

**SECTION 247.** 66.905 (2) (b) of the statutes is amended to read:

66.905 (2) (b) From the amounts allocated for purposes of this section under s. 20.866 (2) (tc), the district shall fund a development and training program for the purpose of developing the capability of minority businesses to participate in construction and construction-related projects funded under the clean water fund program under ss. ~~144.241 281.58~~ and ~~144.2415 281.59~~.

**SECTION 248.** 66.912 (5) of the statutes is amended to read:

66.912 (5) REVIEW BY PUBLIC SERVICE COMMISSION. Except as provided under s. 66.899 (2), upon complaint to the public service commission by any user that charges, rules and practices under this section are unreasonable or unjustly discriminatory, according to the standards and criteria which the commission is required to follow under state or federal law, including, without limitation because of enumeration, this section, 33 USC 1251 et. seq. and ch. ~~147 283~~, or upon complaint of a holder of a revenue bond or other evidence of debt, secured by a mortgage on the sewerage system or any part thereof or pledge of the income of sewerage service charges, that charges are inadequate, the public service commission shall investigate the complaint. If sufficient

cause therefor appears, the public service commission shall set the matter for a public hearing upon 10 days' notice to the complainant and the commission. After the hearing, if the public service commission determines that the charges, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable charges, rules and practices and shall make such other order respecting such complaint as may be just and reasonable. The proceedings under this subsection shall be governed, as far as applicable, by ss. 196.26 to 196.40. The commission may submit the factual data, reports and analyses considered by it in establishing the charges, rules or practices subject to a complaint under this subsection. The public service commission shall give due weight to such data, reports and analyses. Judicial review of the determination of the public service commission may be had by any person aggrieved in the manner prescribed under ch. 227. If any user pays a charge and the public service commission or court, on appeal from the public service commission, finds such charge, after reviewing a complaint filed under this subsection, to be excessive, the district shall refund to the user the excess plus the interest thereon computed at the rate then paid by the district for borrowing funds for a term of one year or less.

**SECTION 249.** 66.945 (14) (c) of the statutes is amended to read:

66.945 (14) (c) Where less than one-half of the land within a county is within a region, the chairperson of the regional planning commission shall before August 1 of each year certify to the clerk of the local governmental unit involved a statement of the proportionate charges assessed to that local governmental unit. Such clerk shall extend the amount shown in such statement as a charge on the tax roll under s. 444.07 281.43 (2).

**SECTION 250.** 67.04 (5) (b) 2. of the statutes is amended to read:

67.04 (5) (b) 2. To fund a capital cost loan under s. ~~444.241~~ 281.58 or ~~444.2415~~ 281.59.

**SECTION 251.** 67.12 (1) (b) of the statutes is amended to read:

67.12 (1) (b) Any municipality may issue municipal obligations in anticipation of receiving proceeds from clean water fund loans or grants for which the municipality has received a notice of financial assistance commitment under s. ~~444.241~~ 281.58 (15), from bonds or notes the municipality has authorized or has covenanted to issue under this chapter or from grants that are committed to the municipality. Any municipal obligation issued under this paragraph may be refunded one or more times. Such obligation and any refundings thereof shall be repaid within 5 years after the original date of the original obligation.

**SECTION 252.** 67.12 (12) (a) of the statutes is amended to read:

67.12 (12) (a) Any municipality may issue promissory notes as evidence of indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not limited to paying any general and current municipal expense, and refunding any municipal obligations, including interest on them. Each note, plus interest if any, shall be repaid within 10 years after the original date of the note, except that notes issued under this section for purposes of ss. ~~444.241~~ 281.58 and ~~444.2415~~ 281.59, or to raise funds to pay a portion of the capital costs of a metropolitan sewerage district, shall be repaid within 20 years after the original date of the note.

**SECTION 253.** 70.01 of the statutes is amended to read:

**70.01 General property taxes; upon whom levied.**

Taxes shall be levied, under this chapter, upon all general property in this state except property that is exempt from taxation. Real estate taxes and personal property taxes are deemed to be levied when the tax roll in which they are included has been delivered to the local treasurer under s. 74.03. When so levied such taxes are a lien upon the property against which they are charged. That lien is superior to all other liens, except a lien under s. ~~444.442~~ ~~(9)~~ 292.31 (8) (i), ~~444.76~~ ~~(13)~~ or ~~444.77~~ 292.41 (6) (d) or 292.81, and is effective as of January 1 in the year when the taxes are levied. Liens of special assessments of benefits for local improvements shall be in force as provided by the charter or general laws applicable to the cities that make the special assessments. In this chapter, unless the context requires otherwise, references to "this chapter" do not include ss. 70.37 to 70.395.

**SECTION 254.** 70.11 (21) (a) of the statutes is amended to read:

70.11 (21) (a) All property purchased or constructed as a waste treatment facility used for the treatment of industrial wastes as defined in s. ~~444.01~~ 281.01 (5) or air contaminants as defined in s. ~~444.30~~ 285.01 (1) but not for other wastes as defined in s. ~~444.01~~ ~~(8)~~ 281.01 (7) and approved by the department of revenue for the purpose of abating or eliminating pollution of surface waters, the air or waters of the state if that property is not used to grow agricultural products for sale. For the purposes of this subsection "industrial waste" also includes wood chips, sawdust and other wood residue from the paper and wood products manufacturing process that can be used as fuel and would otherwise be considered superfluous, discarded or fugitive material. The department of natural resources and department of health and family services shall make recommendations upon request to the department of revenue regarding such property. All property purchased or upon which construction began prior to July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats.

**SECTION 255.** 70.32 (1m) of the statutes is amended to read:

70.32 (1m) In addition to the factors set out in sub. (1), the assessor shall consider the impairment of the value of the property because of the presence of a solid or hazardous waste disposal facility or because of environmental pollution, as defined in s. 144.01(3) 299.01 (4).

**SECTION 256.** 70.375 (1) (as) and (bm) of the statutes are amended to read:

70.375 (1) (as) "Mine" means an excavation in or at the earth's surface made to extract metalliferous minerals for which a permit has been issued under s. 144.85 293.49.

(bm) "Mining-related purposes" means activities which are directly in response to the application for a mining permit under s. 144.85 293.37; directly in response to construction, operation, curtailment of operation or cessation of operation of a metalliferous mine site; or directly in response to conditions at a metalliferous mine site which is not in operation. "Mining-related purposes" also includes activities which anticipate the economic and social consequences of the cessation of mining. "Mining-related purposes" also includes the purposes under s. 70.395 (2) (g).

**SECTION 257.** 70.375 (4) (h) of the statutes is amended to read:

70.375 (4) (h) The cost of premiums for bonds required under s. 144.86 293.51.

**SECTION 258.** 70.375 (4) (o) of the statutes is amended to read:

70.375 (4) (o) Actual and necessary reclamation and restoration costs associated with a mine in this state, including payments for future reclamation and postmining costs which are required by law or by department of natural resources order and fees and charges under ~~eh. 144 chs. 281, 285 or 289 to 299, except s. 281.48~~, not otherwise deductible under this section. Any refunds of es-crowed or reserve fund payments allowed as a deduction under this paragraph shall be taxed as net proceeds at the average effective tax rate for the years the deduction was taken.

**SECTION 259.** 70.38 (2) of the statutes is amended to read:

70.38 (2) COMBINED REPORTING. If the same person extracts metalliferous minerals from different sites in this state, the net proceeds for each site for which a permit has been issued under s. 144.85 293.49 shall be reported separately for the purposes of computing the amount of the tax under s. 70.375 (5).

**SECTION 260.** 70.395 (2) (dc) 1. of the statutes is amended to read:

70.395 (2) (dc) 1. Each person intending to submit an application for a mining permit shall pay \$50,000 to the department of revenue for deposit in the investment and local impact fund at the time that the person notifies the department of natural resources under s. 144.831 293.31 (1) of that intent.

**SECTION 261.** 70.395 (2) (dc) 4. and (fm) of the statutes are amended to read:

70.395 (2) (dc) 4. Six months after the signing of a local agreement under s. 144.839 293.41 for the proposed mine for which the payment is made, the board shall refund any funds paid under this paragraph but not distributed under par. (fm) from the investment and local impact fund to the person making the payment under this paragraph.

(fm) The board may distribute a payment received under par. (dc) to a county, town, village, city, tribal government or local impact committee authorized under s. 144.839 293.41 (3) only for legal counsel, qualified technical experts in the areas of transportation, utilities, economic and social impacts, environmental impacts and municipal services and other reasonable and necessary expenses incurred by the recipient that directly relate to the good faith negotiation of a local agreement under s. 144.839 293.41 for the proposed mine for which the payment is made.

**SECTION 262.** 70.395 (2) (h) 1. of the statutes is amended to read:

70.395 (2) (h) 1. Distribution shall first be made to those municipalities in which metalliferous minerals are extracted or were extracted within 3 years previous to December 31 of the current year, or in which a permit has been issued under s. 144.85 293.49 to commence mining;

**SECTION 263.** 70.395 (2) (hg), (hr) and (hw) of the statutes are amended to read:

70.395 (2) (hg) The board shall, by rule, establish fiscal guidelines and accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub. (3) and s. 144.855 293.65 (5).

(hr) The board shall, by rule, establish procedures to recoup payments made, and to withhold payments to be made, under pars. (d), (f), (fm) and (g), sub. (3) and s. 144.855 293.65 (5) for noncompliance with this section or rules adopted under this section.

(hw) A recipient of a discretionary payment under par. (f) or (g), sub. (3) or s. 144.855 293.65 (5) or any payment under par. (d) that is restricted to mining-related purposes who uses the payment for attorney fees may do so only for the purposes under par. (g) 6. and for processing mining-related permits or other approvals required by the municipality. The board shall recoup or withhold payments that are used or proposed to be used by the recipient for attorney fees except as authorized under this paragraph. The board may not limit the hourly rate of attorney fees for which the recipient uses the payment to a level below the hourly rate that is commonly charged for similar services.

**SECTION 264.** 70.395 (2) (j) of the statutes is amended to read:

70.395 (2) (j) Prior to the beginning of a fiscal year, the board shall certify to the department of administration

for payment from the investment and local impact fund any sum necessary for the department of natural resources to make payments under s. 144.441–(6)–(d) 289.68 (3) for the long-term care of mining waste sites, if moneys in the waste management fund are insufficient to make complete payments during that fiscal year, but this sum may not exceed the balance in the waste management fund at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

**SECTION 265.** 70.395 (2) (k) of the statutes is amended to read:

70.395 (2) (k) Prior to the beginning of each fiscal year, the board shall certify to the department of administration for payment from the investment and local impact fund any sum necessary for the department of natural resources to make payments under s. 144.442 292.31 for the environmental repair of mining waste sites, if moneys in the environmental fund that are available for environmental repair are insufficient to make complete payments during that fiscal year. This sum may not exceed the balance in the environmental fund at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

**SECTION 266.** 70.995 (2) (z) of the statutes is amended to read:

70.995 (2) (z) Hazardous waste treatment facility, as defined in s. 144.61–(14) 291.01 (22), unless exempt under s. 70.11 (21).

**SECTION 267.** 71.05 (11) (b) of the statutes is amended to read:

71.05 (11) (b) The cost of the following described property, less any federal depreciation or amortization taken, may be deducted as a subtraction modification or as subtraction modifications in the year or years in which paid or accrued, dependent on the method of accounting employed: All property purchased or constructed as a waste treatment facility utilized for the treatment of industrial wastes as defined in s. 144.01 281.01 (5), or air contaminants as defined in s. 144.30 285.01 (1) but not for other wastes as defined in s. 144.01–(8) 281.01 (7) and approved by the department of revenue under s. 70.11 (21) (a) for the purpose of abating or eliminating pollution of surface waters, the air or waters of the state. In case of such election, appropriate add modifications shall be made in subsequent years to reverse federal depreciation or amortization or to correct gain or loss on disposition. This paragraph is intended to apply only to depreciable property except that where wastes are disposed of through a lagoon process, lagooning costs and the cost of land containing such lagoons may be treated as depreciable property for purposes of this paragraph. In no event may any amount in excess of cost be deducted. Paragraph (a) applies to all property purchased prior to

July 31, 1975, or purchased and constructed in fulfillment of a written construction contract or formal written bid, which contract was entered into or which bid was made prior to July 31, 1975.

**SECTION 268.** 71.07 (2de) (a) (intro.) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

71.07 (2de) (a) (intro.) Except as provided in s. 73.03 (35), for any taxable year for which a person is certified under s. 560.765 (3) and begins business operations in a zone under s. 560.71 after July 29, 1995, or certified under s. 560.797 (4) (a), for each zone for which the person is certified or entitled the person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 7.5% of the amount that the person expends to remove or contain environmental pollution, as defined in s. 144.01–(3) 299.01 (4), in the zone or to restore soil or groundwater that is affected by environmental pollution, as defined in s. 144.01–(3) 299.01 (4), in the zone if the person fulfills all of the following requirements:

**SECTION 269.** 71.28 (1de) (a) (intro.) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

71.28 (1de) (a) (intro.) Except as provided in s. 73.03 (35), for any taxable year for which a person is certified under s. 560.765 (3) and begins business operations in a zone under s. 560.71 after July 29, 1995, entitled under s. 560.795 (3) (a) and begins business operations in a zone under s. 560.795 after July 29, 1995, or certified under s. 560.797 (4) (a), for each zone for which the person is certified or entitled the person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 7.5% of the amount that the person expends to remove or contain environmental pollution, as defined in s. 144.01–(3) 299.01 (4), in the zone or to restore soil or groundwater that is affected by environmental pollution, as defined in s. 144.01–(3) 299.01 (4), in the zone if the person fulfills all of the following requirements:

**SECTION 270.** 71.47 (1de) (a) (intro.) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

71.47 (1de) (a) (intro.) Except as provided in s. 73.03 (35), for any taxable year for which a person is certified under s. 560.765 (3) and begins business operations in a zone under s. 560.71 after July 29, 1995, or certified under s. 560.797 (4) (a), for each zone for which the person is certified or entitled the person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 7.5% of the amount that the person expends to remove or contain environmental pollution, as defined in s. 144.01–(3) 299.01 (4), in the zone or to restore soil or groundwater that is affected by environmental pollution, as defined in s. 144.01–(3) 299.01 (4), in the zone if the person fulfills all of the following requirements:

**SECTION 271.** 76.13 (2) of the statutes is amended to read:

76.13 (2) Every tax roll upon completion shall be delivered to the state treasurer and a copy of the tax roll filed with the secretary of administration. The department shall notify, by certified mail, all companies listed on the tax roll of the amount of tax due, which shall be paid to the department. The payment dates provided for in sub. (2a) shall apply. The payment of one-fourth of the tax of any company may, if the company has brought an action in the Dane county circuit court under s. 76.08, be made without delinquent interest as provided in s. 76.14 any time prior to the date upon which the appeal becomes final, but any part of the tax ultimately required to be paid shall bear interest from the original due date to the date the appeal became final at the rate of 12% per year and at 1.5% per month thereafter until paid. The taxes extended against any company after the same become due, with interest, shall be a lien upon all the property of the company prior to all other liens, claims and demands whatsoever, except as provided in ss. ~~144.442 (9) 292.31 (8) (i), 144.76 (13) and 144.77 292.41 (6) (d) and 292.81,~~ which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of the company within the state as an entirety.

**SECTION 272.** 76.22 (1) of the statutes is amended to read:

76.22 (1) The taxes levied upon and extended against the property of any company defined in s. 76.02, after the same become due, with interest thereon, shall become a lien upon the property of such company within the state prior to all other liens, debts, claims or demands whatsoever, except as provided in ss. ~~144.442 (9) 292.31 (8) (i), 144.76 (13) and 144.77 292.41 (6) (d) and 292.81,~~ which lien may be enforced in an action in the name of the state in any state court of competent jurisdiction against such company and against the property of such company within the state. The place of the trial shall not be changed from the county in which any such action is commenced, except upon consent of parties.

**SECTION 273.** 76.39 (5) of the statutes is amended to read:

76.39 (5) Delinquent taxes, penalties, interest and late filing fees shall be a lien upon the property of any railroad company or car line company prior to all other liens, claims and demands, except as provided in ss. ~~144.442 (9) 292.31 (8) (i), 144.76 (13) and 144.77 292.41 (6) (d) and 292.81,~~ which lien may be enforced in any action in the name of the state in any court of competent jurisdiction. All provisions of law for enforcing payment of delinquent income or franchise taxes under ch. 71 or enforcing payment of delinquent taxes based on the value of property under this chapter shall be available to collection of taxes on gross receipts in this state levied under this section.

**SECTION 274.** 77.54 (9a) (d) of the statutes is amended to read:

77.54 (9a) (d) A sewerage commission organized under s. ~~144.07 281.43~~ (4) or a metropolitan sewerage district organized under ss. 66.20 to 66.26 or 66.88 to 66.918.

**SECTION 275.** 84.078 (1) (bc) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

84.078 (1) (bc) "Operator" has the meaning given in s. ~~144.442 (9) 292.31 (8) (a) 1.~~

**SECTION 276.** 84.078 (1) (be) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

84.078 (1) (be) "Owner" has the meaning given in s. ~~144.442 (9) 292.31 (8) (a) 2.~~

**SECTION 277.** 84.078 (3) (a) (intro.) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

84.078 (3) (a) (intro.) Notwithstanding chs. ~~144, 147 and 160, 281 to 285 and 289 to 299,~~ no person is required to take or pay for any remedial or corrective action as a result of environmental pollution resulting from the use of high-volume industrial waste in a highway improvement project if all of the following apply:

**SECTION 278.** 84.31 (4) (a) 1. of the statutes is amended to read:

84.31 (4) (a) 1. Was lawfully established and maintained prior to June 11, 1976 but which does not comply with this section or rules adopted under this section. A junkyard shall be considered nonconforming under this section even if it was maintained in violation of rules related to screening adopted under s. ~~144.435 289.05 (1).~~

**SECTION 279.** 84.31 (4) (b) of the statutes is amended to read:

84.31 (4) (b) A junkyard has a nonconforming status only to the extent that it is not in compliance with this section or rules adopted under this section or rules related to screening adopted under s. ~~144.435 289.05 (1)~~ at the time this section or rules adopted under it or under s. ~~144.435 289.05 (1)~~ become applicable to the junkyard. A junkyard retains its nonconforming status as long as it is not abandoned, destroyed or discontinued, or extended, enlarged or substantially changed, or otherwise altered so as to be in violation of any state statute or rule or local ordinance. A junkyard is presumed to be abandoned if inactive for more than one year.

**SECTION 280.** 84.31 (9) of the statutes is amended to read:

84.31 (9) OTHER LAWS. Nothing in this section shall be construed to abrogate or affect any law or ordinance which is more restrictive than this section. The provisions of this section are in addition to and do not supersede the requirements under ss. 59.07 (38), ~~144.435 to 144.44, 175.25 and, 218.205 to 218.23 and 289.05 to 289.32,~~ or rules or ordinances adopted thereunder which apply to junkyards. Provisions of this section apply to any junkyard licensed or permitted by a local unit of government or another state agency.

**SECTION 281.** 85.17 (1) (b) of the statutes is amended to read:

85.17 (1) (b) “Waters of the state” has the meaning specified under s. ~~144.01 (19)~~ 281.01 (18).

**SECTION 282.** 88.40 (2) of the statutes is amended to read:

88.40 (2) From the time of recordation of the order confirming such assessments for costs until they are paid, such assessments and the interest thereon are a first lien upon the lands assessed and take priority over all other liens or mortgages except liens for general taxes and liens under ss. ~~144.442 (9)~~ 292.31 (8) (i), ~~144.76 (13)~~ and ~~144.77 292.41 (6) (d)~~ and 292.81, regardless of the priority in time of such other liens or mortgages.

**SECTION 283.** 91.75 (9) (a) 1. of the statutes is amended to read:

91.75 (9) (a) 1. A reclamation plan, submitted as required by a nonmetallic mining reclamation ordinance adopted under s. ~~66.038 or 144.9407 (3)~~ 295.13, that fulfills reclamation standards established by the ordinance.

**SECTION 284.** 92.04 (2) (f) of the statutes is amended to read:

92.04 (2) (f) *Review annual reports.* The board shall review the annual reports under ss. 92.14 (12) and ~~144.25 281.65 (4) (o)~~.

**SECTION 285.** 92.04 (2) (k) of the statutes is amended to read:

92.04 (2) (k) *Review of pollution abatement determinations.* The board shall review and affirm or reverse decisions of county land conservation committees under s. ~~144.025 (2) (v) 1m.~~ 281.20 (3) (b) when review is requested under s. ~~144.025 (2) (w)~~ 281.20 (5). The board may conduct an informal hearing that is not a contested case under ch. 227.

**SECTION 286.** 92.04 (2) (L) of the statutes is amended to read:

92.04 (2) (L) *Review of critical site determinations.* The board shall review and affirm or reverse decisions of county land conservation committees under s. ~~144.25 281.65 (7) (a) 2.~~ when review is requested under s. ~~144.25 281.65 (7) (b)~~. The board may conduct an informal hearing which is not a contested case under ch. 227.

**SECTION 287.** 92.05 (1) of the statutes is amended to read:

92.05 (1) **CENTRAL AGENCY.** The department is the central agency of this state responsible for setting and implementing statewide soil and water conservation policies and administering the state’s soil and water conservation programs. The department shall coordinate its soil and water conservation program with the nonpoint source water pollution abatement program established under s. ~~144.25 281.65~~, the inland lake protection and rehabilitation program established under ch. 33 and other programs with objectives related to soil and water conservation administered by the department of natural resources or by other state or federal agencies.

**SECTION 288.** 92.05 (3) (f) and (j) of the statutes are amended to read:

92.05 (3) (f) *Nonpoint source water pollution abatement.* The department shall perform the duties specified for the department in the nonpoint source water pollution abatement program under s. ~~144.25 281.65 (5)~~.

(j) *Milkhouse wastewater.* The department, in consultation with appropriate state and federal agencies, shall promulgate guidelines for determining eligibility for financial assistance under ss. 92.14 and ~~144.25 281.65~~ for milkhouse wastewater.

**SECTION 289.** 92.08 (1) of the statutes is amended to read:

92.08 (1) Every land conservation committee shall prepare annually for its county a plan which describes the soil and water resource activities to be undertaken by that county and the dollar amounts required for personnel to administer and implement activities in that county related to soil conservation activities required under ss. 92.104 and 92.105 to claim a farmland preservation credit under s. 71.09 (11), activities required under s. 92.17 related to shoreland management or activities required under s. ~~144.25 281.65 (8m)~~ related to the development or implementation of animal waste ordinances. The land conservation committee shall submit that plan to the county board of that county and to the department.

**SECTION 290.** 92.14 (1) (a), (b) and (c) of the statutes are amended to read:

92.14 (1) (a) “Best management practices” has the meaning given under s. ~~144.25 281.65 (2) (a)~~.

(b) “Nonpoint source” has the meaning given under s. ~~144.25 281.65 (2) (b)~~.

(c) “Priority watershed” has the meaning given under s. ~~144.25 281.65 (2) (c)~~.

**SECTION 291.** 92.14 (4) (c) of the statutes is amended to read:

92.14 (4) (c) Construction of a facility or system related to animal waste management by a farmer who has received a notice of discharge under ch. ~~147 283~~ or management practices required under a notice to a farmer under s. ~~144.025 (2) (v) 281.20 (3)~~. In awarding grants under this paragraph, the department shall give preference to farmers who have received a notice of discharge under s. ~~144.025 (2) 281.20 (3)~~ or ch. ~~147 283~~. The amount of a grant for management practices required under a notice to a farmer under s. ~~144.025 (2) (v) 281.20 (3)~~ shall be based on the cost of the method of controlling nonpoint source pollution which the department determines to be the most cost-effective and may not exceed 70% of the total cost of that method. The department may issue grants directly to farmers under this paragraph.

NOTE: The reference to a “notice of discharge under s. 144.025 (2)” is overly broad. Section 144.025 (2) contains a variety of water quality-related provisions and only s. 144.025 (2) (v) provides for a notice of discharge. Therefore, the amended cross-reference is restricted to new s. 281.20 (3), which corresponds with current s. 144.025 (2) (v).

**SECTION 292.** 92.14 (5) (a) of the statutes is amended to read:

92.14 (5) (a) From the appropriation under s. 20.115 (7) (km), the department may make a grant for the purpose specified in sub. (4) (c) if the facility or system will be located in a priority watershed, as defined in s. ~~444.25~~ 281.65 (2) (c), or a priority lake area, as defined in s. ~~444.25~~ 281.65 (2) (bs), and the conditions specified in sub. (4) (c) are satisfied.

**SECTION 293.** 92.14 (6) (g) of the statutes is amended to read:

92.14 (6) (g) Every project awarded a grant under this section shall be consistent with the plans under s. 92.15, 1985 stats., and under this section and ss. 92.08, 92.10 and ~~444.25~~ 281.65.

**SECTION 294.** 92.14 (6) (h) 2. of the statutes is amended to read:

92.14 (6) (h) 2. The department may make payments under this section for the construction of a facility or system related to animal waste management directly to farmers who receive a notice of discharge related to animal waste under ch. ~~447~~ 283.

**SECTION 295.** 92.14 (6) (h) 3. of the statutes is amended to read:

92.14 (6) (h) 3. Nothing in this paragraph affects the authority of the department of natural resources to act under ch. ~~447~~ 283.

**SECTION 296.** 92.14 (6) (i) 2. of the statutes is amended to read:

92.14 (6) (i) 2. Conduct all land management and pollutant management activities in substantial accordance with plans approved under s. 92.15, 1985 stats., and under ss. 92.08, 92.10, 92.14 and ~~444.25~~ 281.65, or to repay the cost-sharing funds to the grant recipient.

**SECTION 297.** 92.14 (8) of the statutes is amended to read:

92.14 (8) **RULES.** In consultation with the department of natural resources, the department shall promulgate rules to administer this section and the department's duties under s. ~~444.25~~ 281.65.

**SECTION 298.** 92.14 (12) of the statutes is amended to read:

92.14 (12) **ANNUAL REPORT.** Annually, the department, in cooperation with the department of natural resources, shall submit a report on the progress of the program under this section and s. ~~444.25~~ 281.65 to the board.

**SECTION 299.** 92.14 (13) of the statutes is amended to read:

92.14 (13) **EVALUATION PLAN.** The department, jointly with the department of natural resources, shall prepare a plan, which includes water quality monitoring and analysis, for evaluating the program administered under this section and s. ~~444.25~~ 281.65 and submit the plan to the board. The board shall make recommendations to the department and the department of natural resources on the plan. The department shall review and approve or disap-

prove the plan and shall notify the board of its final action on the plan. The department shall implement any part of the plan for which the plan gives it responsibility.

**SECTION 300.** 92.14 (14) of the statutes is amended to read:

92.14 (14) **APPLICATION, REPORTING AND EVALUATION FORMS.** The department, jointly with the department of natural resources, shall develop a single set of grant application, reporting and evaluation forms for use by counties receiving grants under this section and s. ~~444.25~~ 281.65.

**SECTION 301.** 92.18 (1) (b) of the statutes is amended to read:

92.18 (1) (b) Section ~~444.25~~ 281.65, if those activities relate to agricultural practices.

**SECTION 302.** 93.12 (5) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

93.12 (5) The department shall establish uniform minimum standards to be used in the evaluation and certification of laboratory examinations. The department shall submit any rules proposed under this subsection which affect the laboratory certification program under s. ~~444.95~~ 299.11 to the department of natural resources and to the state laboratory of hygiene for review and comment. These rules may not take effect unless they are approved by the department of natural resources within 6 months after submission.

**SECTION 303.** 93.12 (8) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

93.12 (8) The department shall enter into a memorandum of understanding with the department of natural resources setting forth the responsibilities of each department in administering the laboratory certification programs under sub. (5) and s. ~~444.95~~ 299.11. The memorandum of understanding shall include measures to be taken by each department to avoid duplication of application and compliance procedures for laboratory certification.

**SECTION 304.** 93.12 (9) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

93.12 (9) The department shall recognize the certification or registration of a laboratory by the department of natural resources under s. ~~444.95~~ 299.11 and shall accept the results of any test conducted by a laboratory certified or registered to conduct that category of test under that section.

**SECTION 305.** 93.55 (2) of the statutes is amended to read:

93.55 (2) **COLLECTION GRANTS.** The department may award a grant to a county for a chemical and container collection program. A grant under this subsection shall fund all or a part of the cost of a program. Costs eligible for funding include the cost of establishing a collection site for chemicals and chemical containers, the cost of transporting chemical containers to a dealer or distributor for refill and reuse or to a hazardous waste facility, as

defined in s. ~~144.61 (5m)~~ 291.01 (8), and costs associated with the proper use and handling and disposal or recycling of chemicals and chemical containers. Grants shall be paid from the appropriation under s. 20.115 (7) (v).

**SECTION 306.** 94.64 (1) (pm) of the statutes is amended to read:

94.64 (1) (pm) “Sewage sludge” means the residue material resulting from the treatment of sewage. In this paragraph, “sewage” has the meaning specified in s. ~~144.01~~ 281.01 (13).

**SECTION 307.** 94.645 (1) (g) of the statutes is amended to read:

94.645 (1) (g) “Waters of the state” has the meaning specified under s. ~~144.01 (19)~~ 281.01 (18).

**SECTION 308.** 94.65 (3) (a) 3. of the statutes is amended to read:

94.65 (3) (a) 3. No permit is required for the landspreading of sewage sludge under a pollutant discharge elimination system permit issued by the department of natural resources under s. ~~147.02~~ 283.31 or ~~147.023~~ 283.35.

**SECTION 309.** 94.701 (3) (c) of the statutes is amended to read:

94.701 (3) (c) A political subdivision may enact an ordinance or enter into an agreement under s. ~~144.445~~ 289.33 (9) relating to the storage, treatment or disposal of solid waste containing pesticides, pesticide containers or pesticide residues.

**SECTION 310.** 94.73 (1) (a) of the statutes is amended to read:

94.73 (1) (a) “Agricultural chemical” means a substance that is a fertilizer or a nonhousehold pesticide and that is a hazardous substance, as defined in s. ~~144.01 (4m)~~ 299.01 (6).

**SECTION 311.** 94.73 (1) (b) of the statutes is amended to read:

94.73 (1) (b) “Corrective action” means action that is taken in response to a discharge and that is necessary to restore the environment to the extent practicable and to minimize the harmful effects of the discharge to the air, lands or waters of this state. “Corrective action” includes action taken or ordered by the department of natural resources under s. ~~144.76~~ 292.11 (7) in response to a discharge, but does not include action ordered by the department of natural resources under s. ~~144.73 (1) or 144.735 (2)~~ 291.37 (2) or 291.95. “Corrective action” does not include action taken, or ordered to be completed, before January 1, 1989.

**SECTION 312.** 94.73 (1) (e) of the statutes is amended to read:

94.73 (1) (e) “Discharge” means the discharge, as defined in s. ~~144.76 (1) (a)~~ 292.01 (3), of an agricultural chemical.

**SECTION 313.** 94.73 (2) (a) of the statutes is amended to read:

94.73 (2) (a) The department may issue an order requiring a responsible person to take corrective action. Except as provided in a memorandum of understanding under sub. (12), if a discharge involves a hazardous substance that may also become a hazardous waste, the department and the department of natural resources shall consult to determine whether corrective action should be taken under this section or s. ~~144.442 (6), 144.73 (1) or 144.735 (2)~~ 291.37 (2), 291.95 (1) or 292.31 (3).

**SECTION 314.** 94.73 (2) (bg) 2. and 3. and (d) of the statutes are amended to read:

94.73 (2) (bg) 2. Containment, removal, treatment or monitoring of environmental contamination caused by the discharge if the containment, removal, treatment or monitoring complies with chs. ~~144 and 147~~ 281 to 285 and 289 to 299, except s. 281.48.

3. Transportation, storage, land application or disposal of contaminated materials, in compliance with chs. ~~144 and 147~~ 281 to 285 and 289 to 299, except s. 281.48.

(d) Soil or water removed from a discharge site as part of a corrective action may only be spread on land if that spreading on land is in compliance with chs. ~~144 and 147~~ 281 to 285 and 289 to 299, except s. 281.48, and if the department has given its written authorization.

**SECTION 315.** 94.73 (2m) (intro.) of the statutes is amended to read:

94.73 (2m) CORRECTIVE ACTION ORDERED BY THE DEPARTMENT OF NATURAL RESOURCES. (intro.) The department of natural resources may take action under s. ~~144.76~~ 292.11 (7) (a) or may issue an order under s. ~~144.76~~ 292.11 (7) (c) in response to a discharge only if one or more of the following apply:

**SECTION 316.** 94.73 (2m) (d) of the statutes is amended to read:

94.73 (2m) (d) The department of natural resources takes action under s. ~~144.76~~ 292.11 (7) (a) after the responsible person fails to comply with an order that was issued under s. ~~144.76~~ 292.11 (7) (c) in compliance with this subsection.

**SECTION 317.** 94.73 (3) (d) of the statutes is amended to read:

94.73 (3) (d) The applicant has complied with every corrective action order issued to the applicant by the department under sub. (2) or the department of natural resources under s. ~~144.76~~ 292.11 (7) (c).

**SECTION 318.** 94.73 (3) (f) of the statutes is amended to read:

94.73 (3) (f) The applicant, upon discovery of the discharge, promptly reported the discharge to the department or, if the applicant was required to report the discharge under s. ~~144.76~~ 292.11 (2), to the department of natural resources.

**SECTION 319.** 94.73 (3m) (a) of the statutes is amended to read:



94.73 (3m) (a) Costs for corrective action taken in response to a discharge that is an intentional use of an agricultural chemical for agricultural purposes, unless the corrective action is ordered by the department under sub. (2) or by the department of natural resources under s. ~~144.76~~ 292.11 (7) (c).

**SECTION 320.** 94.73 (3m) (b) of the statutes is amended to read:

94.73 (3m) (b) Costs of reimbursing the department of natural resources for action taken under s. ~~144.442~~ (4), (6) or (8) or ~~144.76~~ 292.11 (7) (a) or 292.31 (1), (3) or (7) because the applicant failed to respond adequately to a discharge.

**SECTION 321.** 94.73 (3m) (e) of the statutes is amended to read:

94.73 (3m) (e) Costs for corrective action taken in response to a discharge from a facility that is required to be licensed under s. ~~144.44~~ (4) 289.31 or that would be required to be licensed except that the department of natural resources has issued a specific exemption under s. ~~144.44~~ (7) 289.43 or rules promulgated under s. ~~144.435~~ 289.05 (1) or (2).

**SECTION 322.** 94.73 (6) (b) 2. of the statutes is amended to read:

94.73 (6) (b) 2. If the corrective action includes groundwater remediation ordered by the department under sub. (2) or by the department of natural resources under s. ~~144.76~~ 292.11 (7) (c), 80% of the corrective action costs that exceed \$100,000 but that do not exceed \$300,000.

**SECTION 323.** 94.73 (6) (c) of the statutes is amended to read:

94.73 (6) (c) Except as provided in par. (e), if the department has previously reimbursed any responsible person for corrective action costs for the discharge site for which reimbursement is sought, the department shall reimburse the responsible person an amount equal to 50% of the corrective action costs that exceed \$15,000 but that do not exceed \$100,000, except that if the corrective action includes groundwater remediation ordered by the department under sub. (2) or by the department of natural resources under s. ~~144.76~~ 292.11 (7) (c) the department shall reimburse the responsible person an amount equal to 50% of the corrective action costs that exceed \$15,000 but that do not exceed \$300,000.

**SECTION 324.** 94.73 (12) of the statutes is amended to read:

94.73 (12) MEMORANDUM OF UNDERSTANDING. The department and the department of natural resources shall enter into a memorandum of understanding establishing their respective functions in the administration of this section. The memorandum of understanding shall establish procedures to ensure that corrective actions taken under this section are consistent with actions taken under s. ~~144.76~~ 292.11 (7). The department and the department of natural resources may request that the secretary of ad-

ministration provide assistance in accomplishing the memorandum of understanding.

**SECTION 325.** 97.34 (2) (b) of the statutes is amended to read:

97.34 (2) (b) No person may manufacture or bottle bottled drinking water for sale or distribution in this state unless the bottled drinking water complies with state drinking water standards adopted by the department of natural resources under s. ~~144.025~~ or ~~162.03~~ 280.11, 281.15 or 281.17 (8) and with health-related enforcement standards adopted by the department of natural resources under ch. 160.

NOTE: The reference to "state drinking water standards adopted...under s. 144.025" is overly inclusive. Section 144.025 contains a variety of water quality-related provisions and only s. 144.025 (2) (b) and (t) relate specifically to setting water quality and drinking water standards. Therefore, the new cross-reference is restricted to new ss. 281.15 and 281.17 (8), which correspond with current s. 144.025 (2) (b) and (t).

The cross-reference to "state drinking water standards adopted...under s. ... 162.03" is incorrect. State drinking water standards are adopted under s. 162.01. None of the powers of the DNR enumerated under s. 162.03 relates to the adoption of drinking water standards. Therefore, the new cross-reference is to s. 280.11, which corresponds with current s. 162.01.

**SECTION 326.** 97.34 (2) (c) of the statutes is amended to read:

97.34 (2) (c) The department may require testing of bottled drinking water for substances subject to any standard under par. (b) and for any other substance if the department determines that the water supply used as the source of the bottled drinking water has a potential of being contaminated, based on contamination of other water supplies or groundwater in the vicinity. The department shall adopt by rule requirements for periodic sampling and analysis for the purposes of this subsection. The department shall require all analyses to be conducted by a laboratory certified under s. ~~144.95~~ 299.11.

**SECTION 327.** 97.34 (2) (d) of the statutes is amended to read:

97.34 (2) (d) No person may manufacture or bottle bottled drinking water for sale or distribution in this state unless the location and construction of the water supply and the pump installation used by the manufacturer or bottler comply with rules promulgated by the department of natural resources under s. ~~162.03~~ 280.13.

**SECTION 328.** 100.27 (5) (b) of the statutes is amended to read:

100.27 (5) (b) Informs each purchaser of one of its mercuric oxide batteries of the collection site identified under par. (a) and of the prohibition in s. ~~159.185~~ 287.185 (2).

**SECTION 329.** 101.09 (1) (d) of the statutes is amended to read:

101.09 (1) (d) "Waters of the state" has the meaning specified under s. ~~144.01~~ (19) 281.01 (18).

**SECTION 330.** 101.09 (2) (b) of the statutes is amended to read:

101.09 (2) (b) This section does not apply to storage tanks which require a hazardous waste license under s. ~~444.64~~ 291.25.

**SECTION 331.** 101.126 (1) (intro.) of the statutes is amended to read:

101.126 (1) (intro.) The department shall establish, by rule, requirements for a person engaging in any of the following to provide adequate space in or adjacent to the building for the separation, temporary storage and collection of the materials listed in s. ~~159.07~~ 287.07 (3) or (4), likely to be generated by the occupants of the building:

**SECTION 332.** 101.143 (1) (b) of the statutes is amended to read:

101.143 (1) (b) "Discharge" has the meaning designated under s. ~~444.76(1)(a)~~ 292.01 (3).

**SECTION 333.** 101.143 (1) (c) of the statutes is amended to read:

101.143 (1) (c) "Groundwater" has the meaning designated under s. ~~444.027~~ 281.75 (1) (c).

**SECTION 334.** 101.143 (2m) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

101.143 (2m) INTERDEPARTMENTAL COORDINATION. Whenever the department of commerce receives a notification under sub. (3) (a) 3. or the department of natural resources receives a notification of a petroleum product discharge under s. ~~444.76~~ 292.11, the department receiving the notification shall contact the other department and shall schedule a meeting of the owner or operator or person owning a home oil tank system and representatives of both departments.

**SECTION 335.** 101.143 (3) (a) 5. of the statutes is amended to read:

101.143 (3) (a) 5. The owner or operator or the person reports the discharge in a timely manner to the division of emergency government in the department of military affairs or to the department of natural resources, according to the requirements under s. ~~444.76~~ 292.11.

**SECTION 336.** 101.143 (3) (c) 3. of the statutes is amended to read:

101.143 (3) (c) 3. Conduct all remedial action activities at the site of the discharge from the petroleum product storage system or home oil tank system necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge as required under s. ~~444.76~~ 292.11.

**SECTION 337.** 101.143 (3) (c) 4. of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

101.143 (3) (c) 4. Receive written approval from the department of natural resources or, if the discharge is covered under s. 101.144 (2) (b), from the department of commerce that the remedial action activities performed under subd. 3. meet the requirements of s. ~~444.76~~ 292.11.

**SECTION 338.** 101.143 (3) (d) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

101.143 (3) (d) *Review of site investigations, remedial action plans and remedial action activities.* The de-

partment of natural resources or, if the discharge is covered under s. 101.144 (2) (b), the department of commerce shall, at the request of the claimant, review the site investigation and the remedial action plan and advise the claimant on the adequacy of proposed remedial action activities in meeting the requirements of s. ~~444.76~~ 292.11. The advice is not an approval of the remedial action activities. The department of natural resources or, if the discharge is covered under s. 101.144 (2) (b), the department of commerce shall complete a final review of the remedial action activities within 60 days after the claimant notifies the appropriate department that the remedial action activities are completed.

**SECTION 339.** 101.143 (4) (b) 14. of the statutes is amended to read:

101.143 (4) (b) 14. Other costs identified by the department as necessary for proper investigation, remedial action planning and remedial action activities to meet the requirements of s. ~~444.76~~ 292.11.

**SECTION 340.** 101.144 (1) (a) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

101.144 (1) (a) "Discharge" has the meaning given in s. ~~444.76(1)(a)~~ 292.01 (3).

**SECTION 341.** 101.144 (1) (am) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

101.144 (1) (am) "Hazardous substance" has the meaning given in s. ~~444.01(4m)~~ 299.01 (6).

**SECTION 342.** 101.144 (3) (intro.) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

101.144 (3) (intro.) The department of natural resources may take action under s. ~~444.76~~ 292.11 (7) (a) or may issue an order under s. ~~444.76~~ 292.11 (7) (c) in response to a discharge that is covered under sub. (2) (b) only if one or more of the following apply:

**SECTION 343.** 101.144 (3) (d) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

101.144 (3) (d) The department of natural resources takes action under s. ~~444.76~~ 292.11 (7) (a) after the responsible person fails to comply with an order that was issued under s. ~~444.76~~ 292.11 (7) (c) in compliance with this subsection.

**SECTION 344.** 101.144 (3) (e) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

101.144 (3) (e) The department of natural resources takes the action under s. ~~444.76~~ 292.11 (7) (a) because the identity of the responsible person is unknown.

**SECTION 345.** 101.144 (3m) (a) 2. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

101.144 (3m) (a) 2. Establishes procedures to ensure that remedial actions taken under this section are consistent with actions taken under s. ~~444.76~~ 292.11 (7).

**SECTION 346.** 101.578 (1) of the statutes is amended to read:

101.578 (1) In this section, "medical waste incinerator" has the meaning given in s. ~~159.07~~ 287.07 (7) (c) 1. cr.

**SECTION 347.** 107.001 (3) of the statutes is amended to read:

107.001 (3) “Mining company” means any person or agent of a person who has a prospecting or mining permit under s. 444.84 ~~293.45~~ or 444.85 ~~293.49~~.

**SECTION 348.** 107.15 (2) (a) of the statutes is amended to read:

107.15 (2) (a) “Exploration” has the meaning designated in s. 444.81 ~~(2)~~ ~~293.01 (5)~~.

**SECTION 349.** 107.15 (2) (b) of the statutes is amended to read:

107.15 (2) (b) “Licensee” means any person licensed to conduct exploration activities by the department of natural resources under s. 444.832 ~~293.21~~. If the person is a corporation or limited liability company, “licensee” includes the parent and any subsidiary or affiliates of the corporation or limited liability company engaged in mining or activities related to mining in this state.

**SECTION 350.** 107.15 (2) (d) of the statutes is amended to read:

107.15 (2) (d) “Mining” or “mining operation” has the meaning designated in s. 444.81 ~~(5)~~ ~~293.01 (9)~~.

**SECTION 351.** 107.15 (2) (e) of the statutes is amended to read:

107.15 (2) (e) “Prospecting” has the meaning designated in s. 444.81 ~~(12)~~ ~~293.01 (18)~~.

**SECTION 352.** 107.20 (1) of the statutes is amended to read:

107.20 (1) Any provision of an exploration mining lease entered into after April 25, 1978, granting an option or right to determine the presence, location, quality or quantity of metalliferous minerals shall be limited to a term not exceeding 10 years from the date on which the exploration mining lease is recorded in the office of the register of deeds of the county where the property is located, except that any provision of an exploration mining lease entered into after April 25, 1978, granting an option or right to determine the quality and quantity of metalliferous minerals under a prospecting permit shall be limited to a term not exceeding 10 years from the date that the lessee applies for a prospecting permit under s. 444.84 ~~293.35~~, if the lessee applies for the prospecting permit within 10 years from the date on which the exploration mining lease is recorded in the office of the register of deeds of the county where the property is located.

**SECTION 353.** 107.25 (1) (c) of the statutes is amended to read:

107.25 (1) (c) The lessor may cancel an exploration mining lease if 10 years have elapsed from the date on which the lease was recorded in the office of the register of deeds of the county where the property is located and the lessee has not formally applied, under s. 293.35 or 293.37, for either a permit to prospect ~~under s. 444.84~~ or a permit to mine ~~under s. 444.85~~. In the event that the lessee formally applies for a prospecting permit under s. 444.84 ~~293.35~~ or a mining permit under s. 444.85 ~~293.37~~

within the 10–year period, but does not receive a mining permit under s. 444.85 ~~293.49~~ within the 10–year period following the date of application for the prospecting permit or mining permit, the lessor’s right to cancel is revived.

**SECTION 354.** 107.30 (8) of the statutes is amended to read:

107.30 (8) “Mining” or “mining operation” has the meaning set forth in s. 444.81 ~~(5)~~ ~~293.01 (9)~~.

**SECTION 355.** 107.30 (15) of the statutes is amended to read:

107.30 (15) “Prospecting” has the meaning set forth in s. 444.81 ~~(12)~~ ~~293.01 (18)~~.

**SECTION 356.** 107.30 (16) of the statutes is amended to read:

107.30 (16) “Prospecting site” has the meaning set forth in s. 444.81 ~~(13n)~~ ~~293.01 (21)~~.

**SECTION 357.** 109.09 (2) of the statutes is amended to read:

109.09 (2) The department, under its authority under sub. (1) to maintain actions for the benefit of employes, or an employe who brings an action under s. 109.03 (5) shall have a lien upon all property of the employer, real or personal, located in this state for the full amount of any wage claim or wage deficiency. A lien under this subsection takes effect when the department or employe files a verified petition claiming the lien with the clerk of the circuit court of the county in which the services or some part of the services were performed pays the fee specified in s. 814.61 (5) to that clerk of circuit court and serves a copy of that petition on the employer by personal service in the same manner as a summons is served under s. 801.11 or by certified mail with a return receipt requested. The department or employe must file the petition within 2 years after the date that the wages were due. The petition shall specify the nature of the claim and the amount claimed, describe the property upon which the claim is made and state that the petitioner claims a lien on that property. The lien shall take precedence over all other debts, judgments, decrees, liens or mortgages against the employer, except a lien under s. 444.442 ~~(9)~~ ~~292.31 (8) (i)~~, 444.76 ~~(13)~~ or 444.77 ~~292.41 (6) (d)~~ or ~~292.81~~, and may be enforced in the manner provided in ss. 779.09 to 779.12, 779.20 and 779.21, insofar as such provisions are applicable. The lien ceases to exist if the department or the employe does not bring an action to enforce the lien within the period prescribed in s. 893.44 for the underlying wage claim.

**SECTION 358.** 110.07 (1) (a) 1. of the statutes is amended to read:

110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and chs. 166, 194, 218, 341 to 349 and 351, and ss. 23.33, 125.07 (4) (b), 125.085 (3) (b), ~~159.81~~ and 167.31 (2) (b) to (d) ~~and 287.81~~ and ch. 350 where applicable to highways, or orders or rules issued pursuant thereto.

**SECTION 359.** 110.07 (1) (a) 3. of the statutes is amended to read:

110.07 (1) (a) 3. Have authority to enter any place where vehicles subject to this chapter, ss. ~~159.81 and 167.31~~ (2) (b) to (d) and 287.81 and chs. 194, 218 and 341 to 350 are stored or parked at any time to examine such vehicles, or to stop such vehicles while en route at any time upon the public highways to examine the same and make arrests for all violations thereof.

**SECTION 360.** 110.07 (1) (b) of the statutes is amended to read:

110.07 (1) (b) All municipal judges, judges, district attorneys and law enforcement officers shall assist in enforcing this chapter, ss. ~~159.81 and 167.31~~ (2) (b) to (d) and 287.81 and chs. 194, 218 and 341 to 351, and orders or rules issued pursuant thereto and shall report to the department the disposition of every uniform traffic citation issued for cases involving those chapters.

**SECTION 361.** 110.20 (1) (ac) of the statutes is amended to read:

110.20 (1) (ac) "Air pollution control equipment" has the meaning given in s. ~~144.42 285.30~~ (6) (a) 1.

**SECTION 362.** 110.20 (1) (b) of the statutes is amended to read:

110.20 (1) (b) "Nonexempt vehicle" means any motor vehicle as defined under s. 340.01 (35) which is owned by the United States or which is required to be registered in this state and to which one or more emission limitations adopted under s. ~~144.42 285.30~~ (2) applies.

**SECTION 363.** 110.20 (3) (a) of the statutes is amended to read:

110.20 (3) (a) The inspection and maintenance program shall be designed to determine compliance with the emission limitations promulgated under s. ~~144.42 285.30~~ (2) and compliance with s. ~~144.42 285.30~~ (6).

**SECTION 364.** 110.20 (5) (a) of the statutes is amended to read:

110.20 (5) (a) Any county identified in a certification under s. ~~144.42 285.30~~ (3). The department shall terminate the program in the county at the end of the contractual period in effect when the county is withdrawn under s. ~~144.42 285.30~~ (4).

**SECTION 365.** 110.20 (6) (b) of the statutes, as affected by 1993 Wisconsin Act 288, is amended to read:

110.20 (6) (b) The program shall require an air pollution control equipment inspection to determine compliance with s. ~~144.42 285.30~~ (6) of any nonexempt vehicle customarily kept in a county identified in sub. (5) whenever a nontransient emissions inspection is performed or at the time of application for a waiver under sub. (13).

**SECTION 366.** 110.20 (13) (c) 2. of the statutes is amended to read:

110.20 (13) (c) 2. Costs necessary to repair or replace any emissions control system or mechanism which has been removed, dismantled or rendered inoperative in vio-

lation of s. ~~144.42 285.30~~ (6) or rules promulgated under that section.

**SECTION 367.** Chapter 144 (title) of the statutes is repealed.

**SECTION 368.** Subchapter I (title) of chapter 144 [precedes 144.01] of the statutes is repealed.

**SECTION 369.** 144.01 of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 370.** Subchapter II (title) of chapter 144 [precedes 144.02] of the statutes is repealed.

**SECTION 371.** 144.02 (title) of the statutes is repealed.

**SECTION 372.** 144.02 of the statutes is renumbered 281.13 (1), and 281.13 (1) (b), as renumbered, is amended to read:

281.13 (1) (b) The department is hereby empowered and instructed to make the necessary rules and regulations, in conjunction with the U.S. geological department, to carry this ~~section~~ subsection into effect.

**SECTION 373.** 144.025 (title) of the statutes is repealed.

**SECTION 374.** 144.025 (1) of the statutes is renumbered 281.11 and amended to read:

**281.11 Statement of policy and purpose.** The department of ~~natural resources~~ shall serve as the central unit of state government to protect, maintain and improve the quality and management of the waters of the state, ground and surface, public and private. Continued pollution of the waters of the state has aroused widespread public concern. It endangers public health and threatens the general welfare. A comprehensive action program directed at all present and potential sources of water pollution whether home, farm, recreational, municipal, industrial or commercial is needed to protect human life and health, fish and aquatic life, scenic and ecological values and domestic, municipal, recreational, industrial, agricultural and other uses of water. The purpose of this ~~section~~ subchapter is to grant necessary powers and to organize a comprehensive program under a single state agency for the enhancement of the quality management and protection of all waters of the state, ground and surface, public and private. To the end that these vital purposes may be accomplished, this ~~section~~ subchapter and all rules and orders promulgated under this ~~section~~ subchapter shall be liberally construed in favor of the policy objectives set forth in this ~~section~~ subchapter. In order to achieve the policy objectives of this ~~section~~ subchapter, it is the express policy of the state to mobilize governmental effort and resources at all levels, state, federal and local, allocating such effort and resources to accomplish the greatest result for the people of the state as a whole. Because of the importance of Lakes Superior and Michigan and Green Bay as vast water resource reservoirs, water quality standards for those rivers emptying into Lakes Superior and Michigan and Green Bay shall be as high as is practicable.

NOTE: In the current statutes, this statement of policy and purpose applies to s. 144.025. Current s. 144.025 contains a variety of water quality-related powers and duties of the DNR. This bill makes s. 144.025 a separate subchapter of the statutes and reorganizes it so that similar powers and duties of the DNR are grouped together.

This bill also includes in the new water quality subchapter several sections of the statutes that are not a part of current s. 144.025. These are s. 144.02, sanitary survey [renumbered s. 281.13 (1)], s. 144.14, nondegradable detergents prohibited [renumbered s. 281.17 (6)] and s. 144.15, mercury discharge [renumbered s. 281.17 (7)]. The special committee recognizes that one effect of including these 3 provisions is to expand the scope of any references to new subch. II of ch. 281. However, these 3 provisions are so similar in subject matter to the provisions in current s. 144.025 that the reorganization will cause no substantive change in the effect of most references to new subch. II of ch. 281.

In one instance [see s. 144.03, as renumbered and amended], the cross-reference establishes duties of industrial establishment owners based on regulation under current s. 144.025 (2). The new cross-reference excludes the provisions related to nondegradable detergents and mercury discharge, because including those facilities would clearly expand the scope of the cross-reference.

**SECTION 375.** 144.025 (2) (title) of the statutes is repealed.

**SECTION 376.** 144.025 (2) (a) of the statutes is renumbered 281.12 (1).

**SECTION 377.** 144.025 (2) (b) of the statutes is renumbered 281.15, and 281.15 (2) (e) and (3) to (5), as renumbered, are amended to read:

281.15 (2) (e) Develop a technical support document which identifies the scientific data utilized, the margin of safety applied and any facts and interpretations of those data applied in deriving the water quality criteria, including the persistence, degradability and nature and effects of each substance on the designated uses, and which provides a summary of the information considered under this paragraph section.

(3) Subdivision 2. Subsection (2) does not apply to rules promulgated under this paragraph section by the department for any substance before November 10, 1987.

(4) By April 1, 1989, the department shall review, in accordance with subd. 2, sub. (2), and as necessary revise all water quality criteria, except those for dissolved oxygen, temperature, pH and ammonia, adopted under this paragraph section before November 10, 1987.

(5) The department shall comply with this paragraph section with respect to all water quality criteria adopted or revised after November 10, 1987.

**SECTION 378.** 144.025 (2) (c) of the statutes is renumbered 281.19 (1).

**SECTION 379.** 144.025 (2) (d) of the statutes is renumbered 281.19 (2) and amended to read:

281.19 (2) (a) The department may issue special orders directing particular owners to secure such operating results toward the control of pollution of the waters of the state as the department prescribes, within a specified time. Pending efforts to comply with any order, the department may permit continuance of operations on such

conditions as it prescribes. If any owner cannot comply with an order within the time specified, the owner may, before the date set in the order, petition the department to modify the order. The department may modify the order, specifying in writing the reasons therefor. If any order is not complied with within the time period specified, the department shall immediately notify the attorney general of this fact. Within 30 days thereafter, the attorney general shall forthwith commence an action under s. 444.98 299.95.

(b) The department may issue temporary emergency orders without prior hearing when the department determines that the protection of the public health necessitates such immediate action. Such emergency orders shall take effect at such time as the department determines. As soon as is practicable, the department shall hold a public hearing after which it may modify or rescind the temporary emergency order or issue a special order under subd. 4 par. (a).

**SECTION 380.** 144.025 (2) (e) of the statutes is renumbered 281.17 (1) and amended to read:

281.17 (1) No wells shall be constructed, installed or operated to withdraw water from underground sources for any purpose where the capacity and rate of withdrawal of all wells on one property is in excess of 100,000 gallons a day without first obtaining the approval of the department. If s. 444.026 281.35 applies to the proposed construction, the application shall comply with s. 444.026 281.35 (5) (a). If the department finds that the proposed withdrawal will adversely affect or reduce the availability of water to any public utility in furnishing water to or for the public or does not meet the grounds for approval specified under s. 444.026 281.35 (5) (d), if applicable, it shall either withhold its approval or grant a limited approval under which it imposes such conditions as to location, depth, pumping capacity, rate of flow and ultimate use so that the water supply of any public utility engaged in furnishing water to or for the public will not be impaired and the withdrawal will conform to the requirements of s. 444.026 281.35, if applicable. The department shall require each person issued an approval under this paragraph subsection to report that person's volume and rate of withdrawal, as defined under s. 444.026 281.35 (1) (m), and that person's volume and rate of water loss, as defined under s. 444.026 281.35 (1) (L), if any, in the form and at the times specified by the department. The department may issue general or special orders it considers necessary to ensure prompt and effective administration of this paragraph subsection.

**SECTION 381.** 144.025 (2) (f) of the statutes is renumbered 281.19 (3).

**SECTION 382.** 144.025 (2) (g) of the statutes is renumbered 281.13 (3).

**SECTION 383.** 144.025 (2) (h) of the statutes is renumbered 281.12 (3).

**SECTION 384.** 144.025 (2) (i) of the statutes is renumbered 281.17 (2).

**SECTION 385.** 144.025 (2) (j) of the statutes is renumbered 281.12 (5).

**SECTION 386.** 144.025 (2) (k) of the statutes is renumbered 281.19 (4).

**SECTION 387.** 144.025 (2) (L) of the statutes is renumbered 281.17 (3) and amended to read:

281.17 (3) The department shall promulgate rules establishing an examining program for the certification of operators of waterworks, wastewater treatment plants and septage servicing vehicles operated under a license issued under s. 146.20 281.48 (3), setting such standards as the department finds necessary to accomplish the purposes of this chapter and chs. 285 and 289 to 299, including requirements for continuing education. The department may charge applicants a fee for certification. All moneys collected under this ~~paragraph subsection~~ for the certification of operators of waterworks, wastewater treatment plants and septage servicing vehicles shall be credited to the appropriation under s. 20.370 (2) (bL). No person may operate a waterworks, wastewater treatment plant or septage servicing vehicle without a valid certificate issued under this ~~paragraph subsection~~. The department may suspend or revoke a certificate issued under this ~~paragraph subsection~~ for a violation of any statute or rule relating to the operation of a waterworks or wastewater treatment plant or to septage servicing, for failure to fulfill the continuing education requirements or as provided under s. 145.245 (3). The owner of any wastewater treatment plant shall be, or shall employ, an operator certified under this ~~paragraph subsection~~ who shall be responsible for plant operations, unless the department by rule provides otherwise. In this ~~paragraph subsection~~, “wastewater treatment plant” means a system or plant used to treat industrial wastewater, domestic wastewater or any combination of industrial wastewater and domestic wastewater.

**SECTION 388.** 144.025 (2) (m) of the statutes is renumbered 281.19 (6).

**SECTION 389.** 144.025 (2) (q) of the statutes is renumbered 281.17 (5).

**SECTION 390.** 144.025 (2) (r) of the statutes is renumbered 281.19 (5) and amended to read:

281.19 (5) If the department finds that a system or plant tends to create a nuisance or menace to health or comfort, it shall order the owner or the person in charge to secure such operating results as the department prescribes, within a specified time. If the order is not complied with, the department may order designated changes in operation, and if necessary, alterations or extension to the system or plant, or a new system or plant. If the department finds that the absence of a municipal system or plant tends to create a nuisance or menace to health or comfort, it may order the city, village, town or town sanitary district embracing the area where such conditions

exist to prepare and file complete plans of a corrective system as provided by s. 144.04 281.41, and to construct such system within a specified time.

**SECTION 391.** 144.025 (2) (s) of the statutes is renumbered 281.19 (7) and amended to read:

281.19 (7) In cases of noncompliance with any order issued under ~~par. (d), (e) sub. (2) or (5) or (u) s. 281.20 (1)~~, the department may take the action directed by the order, and collect the costs thereof from the owner to whom the order was directed. The department shall have all the necessary powers needed to carry out this ~~paragraph subsection~~ including powers granted municipalities under ss. 66.076 and 66.20 to 66.26. It shall also be eligible for financial assistance under ss. 144.21, 144.24, 144.241 281.55, 281.57, 281.58 and 144.2415 281.59.

**SECTION 392.** 144.025 (2) (t) of the statutes is renumbered 281.17 (8).

**SECTION 393.** 144.025 (2) (u) of the statutes is renumbered 281.20 (1) and amended to read:

281.20 (1) Under the procedure specified in ~~par. (v) sub. (3)~~, the department may do any of the following:

(a) Order or cause the abatement of pollution which the department, in consultation with the department of agriculture, trade and consumer protection if the source is agricultural, has determined to be significant and caused by a nonpoint source, as defined in s. 144.25 281.65 (2) (b), including pollution which causes the violation of a water quality standard, pollution which significantly impairs aquatic habitat or organisms, pollution which restricts navigation due to sedimentation, pollution which is deleterious to human health or pollution which otherwise significantly impairs water quality, except that under this ~~subdivision paragraph~~ the department may not order or cause the abatement of any pollution caused primarily by animal waste or of pollution from an agricultural source that is located in a priority watershed or priority lake area unless the source is designated as a critical site in a priority watershed or priority lake plan under s. 144.25 281.65 (5m) or a modification to such a plan under s. 144.25 281.65 (5s).

(b) If it provided notice under s. 144.25 281.65 (5w), order the owner or operator of a source that is designated as a critical site in a priority watershed or priority lake plan under s. 144.25 281.65 (5m) or in a modification to such a plan under s. 144.25 281.65 (5s) to implement best management practices, but not with respect to any pollution caused primarily by animal waste.

**SECTION 394.** 144.025 (2) (v) of the statutes is renumbered 281.20 (3), and 281.20 (3) (a) to (c) and (d) (intro.) and 4., as renumbered, are amended to read:

281.20 (3) (a) 1. If the department determines that it is authorized to issue an order under ~~par. (u) 1. sub. (1) (a)~~ to abate pollution caused by a nonpoint source, the department shall send a written notice of intent to issue the order to abate the pollution to the person whom the

department determines to be responsible for the nonpoint source.

2. If the department determines under ~~par. (u) 2.~~ sub. (1) (b) that an owner or operator is required to implement best management practices in a priority watershed or priority lake area, the department shall send a written notice of intent to issue an order to implement the designated best management practices to the owner or operator.

3. The notice of intent to issue an order shall describe the department's findings and intent, and shall include a date by which that person is required to abate the pollution or implement the best management practices. That date shall be at least one year after the date of the notice unless the department determines that the pollution is causing or will cause severe water quality degradation that could be mitigated or prevented by abatement action taken in less than one year. In its determination under this ~~paragraph~~ subsection, the department shall consider the nature of the actual or potential damage caused by the pollution and the feasibility of measures to abate that pollution.

(b) If the nonpoint source that is the subject of a notice under ~~subd. 1. par. (a)~~ is agricultural, the department shall send the notice to the land conservation committee created under s. 92.06 of any county in which the source is located. If the notice is issued under ~~subd. 1. b. par. (a) 2.~~, the land conservation committee may disapprove issuance of an order within 60 days after the department issues the notice of intent to issue the order.

(c) If the nonpoint source which is the subject of a notice under ~~subd. 1. par. (a)~~ is agricultural, the department shall send the notice to the department of agriculture, trade and consumer protection. The department of agriculture, trade and consumer protection shall do all of the following:

1. Upon receipt of the notice and in cooperation with the land conservation committee, provide to the person whom the department has determined to be responsible for the nonpoint source under ~~par. (u) 1.~~ sub. (1) (a) a listing of management practices which, if followed, would reduce pollution to an amount determined to be acceptable by the department, in consultation with either the department of agriculture, trade and consumer protection or the land conservation committee. The list shall, with reasonable limits, set forth all of the options which are available to the person to reduce pollution to that amount of pollution. The department of agriculture, trade and consumer protection shall provide to each person receiving a notice an explanation of financial aids and technical assistance which may be available to the person for the abatement of pollution or the implementation of best management practices from the department of agriculture, trade and consumer protection under s. 92.14 and from other sources.

2. Issue a report to the department within one year after the date of the notice describing the actions taken by

the person receiving the notice and a recommendation as to whether the department should issue an order to abate the pollution or implement the best management practices. Notwithstanding ~~subd. 1. par. (a)~~, the department may not issue an order until the department receives that report unless the department determines that the pollution is causing or will cause severe water quality degradation which could be mitigated or prevented by abatement action taken in less than one year and unless the department of agriculture, trade and consumer protection files a concurring determination in writing with the department within 30 days after receiving notice of the department's determination.

(d) (intro.) The department may issue a temporary emergency order prior to issuing a notice under ~~subd. 1. par. (a)~~ if all of the following apply:

4. As soon as practicable after issuing the temporary emergency order, the department issues a written notice of intent to issue an order under ~~subds. 1. and 2. pars. (a) and (b)~~ or rescinds the temporary emergency order.

**SECTION 395.** 144.025 (2) (w) of the statutes is renumbered 281.20 (5) and amended to read:

281.20 (5) (a) Except as provided in ~~subd. 3. par. (c)~~, if the department issues a notice under ~~par. (v) 1. b. sub. (3) (a) 2.~~, the source is agricultural and no land conservation committee disapproves the proposed order under ~~par. (v) 1m. sub. (3) (b)~~, the owner or operator of the critical site may obtain a review of the proposed order by filing a written request with the land and water conservation board within 60 days after the expiration of the time limit under ~~par. (v) 1m. sub. (3) (b)~~. If the land conservation committee of any county in which a source is located disapproves of a proposed order under ~~par. (v) 1m. sub. (3) (b)~~, the department may obtain a review of that disapproval by filing a written request with the land and water conservation board within 60 days after receiving the decision of the land conservation committee.

(b) The owner or operator of a critical site may request a contested case hearing under ch. 227 to review the decision of the land and water conservation board under ~~subd. 1. par. (a)~~ by filing a written request with the department within 60 days after receiving an adverse decision of the land and water conservation board.

(c) The owner or operator of a critical site who obtains review of the critical site determination under any or all of the review procedures in s. ~~144.25~~ 281.65 (7) may not obtain review of a proposed order under this ~~paragraph~~ subsection.

**SECTION 396.** 144.025 (6) of the statutes is renumbered 281.91.

**SECTION 397.** 144.025 (7) of the statutes is renumbered 281.19 (8), and 281.19 (8) (intro.), as renumbered, is amended to read:

281.19 (8) (intro.) Any owner or other person in interest may secure a review of the necessity for and rea-

sonableness of any order of the department under this section or s. 281.20 in the following manner:

**SECTION 398.** 144.0252 of the statutes, as created by 1995 Wisconsin Act 27, is renumbered 281.22, and 281.22 (1), as renumbered, is amended to read:

281.22 (1) AMOUNT OF FEES. The department shall charge a fee for determining whether a project complies with the standards of water quality promulgated by rule under s. ~~144.025 (2) (b)~~ 281.15 that are applicable to wetlands. The fee for each project shall be \$100.

**SECTION 399.** 144.0255 of the statutes is renumbered 281.53, and 281.53 (1), as renumbered, is amended to read:

281.53 (1) The department may award a municipal clean drinking water grant, from the appropriation under s. 20.866 (2) (b), to a municipality for capital costs to achieve compliance with standards for contaminants established by the department by rule under the safe drinking water program under s. ~~144.025 (2) (t)~~ 281.17 (8), if the municipality is not in compliance with those standards on or after April 1, 1990, if the municipality incurs the capital costs after January 1, 1989, and if the violation of the standards for contaminants occurs in a public water supply owned by the municipality.

**SECTION 400.** 144.026 of the statutes is renumbered 281.35, and 281.35 (1) (a), (b) 2. and (i), (3) (b) 3., (4) (a) 2. and 3. and (b) (intro.) and (5) (a) 13. and (d) 2., as renumbered, are amended to read:

281.35 (1) (a) “Approval” means a permit issued under s. 30.18 or an approval under s. ~~144.025 (2) (e)~~ 281.17 (1) or 144.04 281.41.

(b) 2. If subd. 1. does not apply, the highest average daily water loss over any 30-day period that is reported to the department or the public service commission under sub. (3) (c) or s. 30.18 (6) (c), ~~144.025 (2) (e)~~, ~~144.04 or 196.98~~, 281.17 (1) or 281.41.

(i) “Person” has the meaning given in s. ~~144.01 (9m)~~ 281.01 (9) and also includes special purpose districts established under s. 66.072, other states and provinces and political subdivisions of other states and provinces.

(3) (b) 3. A person holding a permit under s. ~~147.02 283.31~~ or the federal water pollution control act, as amended, 33 USC 1251 to 1376, for whom the department has established a water loss coefficient, based on flow diagrams and other water use information provided by the permittee, that the department uses to calculate the permittee’s water loss.

(4) (a) 2. A person who is operating a well under an approval issued under s. ~~144.025 (2) (e)~~ 281.17 (1) or who is required to obtain an approval under that paragraph before constructing or installing a well.

3. An owner who is operating a system or plant under plans approved under s. ~~144.04 281.41~~ or who is required to submit plans and obtain an approval under that section before construction or extension of a proposed system or plant.

(b) (intro.) Before any person specified in par. (a) may begin a new withdrawal or increase the amount of an existing withdrawal, the person shall apply to the department under s. 30.18, ~~144.025 (2) (e)~~ 281.17 (1) or ~~144.04 281.41~~ for a new approval or a modification of its existing approval if either of the following conditions applies:

(5) (a) 13. A statement as to whether the proposed withdrawal complies with all applicable plans for the use, management and protection of the waters of the state and related land resources, including plans developed under ss. ~~144.025 (2) (a)~~ 281.12 (1) and ~~147.25 283.83~~ and the requirements specified in any water quantity resources plan under sub. (8).

(d) 2. That the proposed withdrawal does not conflict with any applicable plan for future uses of the waters of the state, including plans developed under ss. ~~144.025 (2) (a)~~ 281.12 (1) and ~~147.25 283.83~~ and any water quantity resources plan prepared under sub. (8).

**SECTION 401.** 144.027 of the statutes, as affected by 1993 Wisconsin Act 413 and 1995 Wisconsin Act 27, is renumbered 281.75, and 281.75 (6) (a), (12) (b), (17) (b) and (18), as renumbered, are amended to read:

281.75 (6) (a) Contamination of a private water supply, as defined under sub. (1) (b) 1. or 2., is required to be established by analysis of at least 2 samples of water, taken at least 2 weeks apart, in a manner which assures the validity of the test results. The samples shall be tested by a laboratory certified under s. ~~144.95 299.11~~.

(12) (b) If the well is a drilled well, it is constructed by a well driller licensed under ch. ~~462 280~~ or, if the well is a sandpoint well, it is constructed by a well driller or pump installer licensed under ch. ~~462 280~~.

(17) (b) This section does not apply to contamination which is compensable under subch. II of ch. 107 or s. ~~144.855 293.65~~ (4).

(18) SUSPENSION OR REVOCATION OF LICENSES. The department may suspend or revoke a license issued under ch. ~~462 280~~ if the department finds that the licensee falsified information submitted under this section. The department of commerce may suspend or revoke the license of a plumber licensed under ch. 145 if the department of commerce finds that the plumber falsified information submitted under this section.

**SECTION 402.** 144.03 (title) of the statutes is renumbered 281.96 (title).

**SECTION 403.** 144.03 (1) of the statutes is renumbered 281.96 and amended to read:

**281.96** Every owner of an industrial establishment shall furnish to the department all information required by it in the discharge of its duties under s. ~~144.025 (2) subch. II~~, except s. 281.17 (6) and (7). Any member of the natural resources board or any employe of the department may enter any industrial establishment for the purpose of collecting such information, and no owner of an industrial establishment shall refuse to admit such member or employe. The department shall make such inspec-



tions at frequent intervals. The secretary and all members of the board shall have power for all purposes falling within the department's jurisdiction to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of necessary or essential data.

**SECTION 404.** 144.03 (2) of the statutes is renumbered 293.86 and amended to read:

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

NOTE: This provision is duplicated for purposes of non-metallic mining in s. 295.17 (2).

**SECTION 405.** 144.04 of the statutes is renumbered 281.41, and 281.41 (1), as renumbered, is amended to read:

281.41 (1) Except as provided under sub. (2), every owner within the time prescribed by the department, shall file with the department a certified copy of complete plans of a proposed system or plant or extension thereof, in scope and detail satisfactory to the department, and, if required, of existing systems or plants, and such other information concerning maintenance, operation and other details as the department requires, including the information specified under s. ~~144.026~~ 281.35 (5) (a), if applicable. Material changes with a statement of the reasons shall be likewise submitted. Before plans are drawn a statement concerning the improvement may be made to the department and the department may, if requested, outline generally what it will require. Upon receipt of such plans for approval, the department or its duly authorized representative shall notify the owner of the date of receipt. Within 90 days from the time of receipt of complete plans or within the time specified in s. ~~144.026~~ 281.35 (5) (c), if applicable, the department or its authorized representative shall examine and take action to approve, approve conditionally or reject the plans and shall state in writing any conditions of approval or reasons for rejection. Approval or disapproval of such plans and specifications shall not be contingent upon eligibility of such project for federal aid. The time period for review

may be extended by agreement with the owner if the plans and specifications cannot be reviewed within the specified time limitation due to circumstances beyond the control of the department or in the case of extensive installation involving expenditures of \$350,000 or more. The extension shall not exceed 6 months. Failure of the department or its authorized representative to act before the expiration of the time period allowed for review shall constitute an approval of the plans, and upon demand a written certificate of approval shall be issued. Approval may be subject to modification by the department upon due notice. Construction or material change shall be according to approved plans only. The department may disapprove plans which are not in conformance with any existing approved areawide waste treatment management plan prepared pursuant to the federal water pollution control act, P.L. 92-500, as amended, and shall disapprove plans that do not meet the grounds for approval specified under s. ~~144.026~~ 281.35 (5) (d), if applicable. The department shall require each person whose plans are approved under this section to report that person's volume and rate of water withdrawal, as defined under s. ~~144.026~~ 281.35 (1) (m), and that person's volume and rate of water loss, as defined under s. ~~144.026~~ 281.35 (1) (L), if any, in the form and at the times specified by the department.

**SECTION 406.** 144.05 of the statutes is renumbered 281.47, and 281.47 (1) (a) and (d), as renumbered, are amended to read:

281.47 (1) (a) When any city, village, town or owner has constructed or constructs a sewage system complying with s. ~~144.04~~ 281.41, the outflow or effluent from such system may be discharged into any stream or drain constructed pursuant to law, but no such outflow of untreated sewage or effluent from a primary or secondary treatment plant from a city, village, town, town sanitary district or metropolitan sewage district in a county having a population of 240,000 or more, according to the latest U.S. bureau of census figures available including any special census of municipalities within the county, any part of which is located within a drainage basin which drains into a lake of more than 2 square miles and less than 16 square miles in area, shall be discharged directly into, or through any stream, or through any drain, into such a lake located within 18 miles of the system or plant of such city, village, town, town sanitary district or metropolitan sewage district. All necessary construction of plant, system or drains for full compliance with this subsection in the discharge of untreated sewage or sewage effluent from all existing primary or secondary plants shall be completed by September 1, 1970, and the plans for any new system or plant shall include provisions for compliance with this subsection. The department may at any time order and require any owner of an existing plant to prepare and file with it, within a prescribed time, prelimi-

nary or final plans or both, for proposed construction to comply with this subsection.

(d) Any person violating this subsection or any order issued in furtherance of compliance therewith shall forfeit to the state not less than \$100 nor more than \$500 for each violation, failure or refusal. Each day of continued violation is deemed a separate offense. No such penalty shall be invoked during the time that any petition for review of an order is pending under s. 144.025 (7) 281.19 (8) until final disposition thereof by the courts, if judicial review is sought under ch. 227.

**SECTION 407.** 144.06 of the statutes is renumbered 281.45.

**SECTION 408.** 144.07 of the statutes is renumbered 281.43.

**SECTION 409.** 144.08 of the statutes is renumbered 281.49, and 281.49 (1) (b) and (9), as renumbered, are amended to read:

281.49 (1) (b) “Licensed disposer” means a person engaged in servicing, as defined in s. 146.20 281.48 (2) (f), under a license issued under s. 146.20 281.48 (3) (a).

(9) LAND DISPOSAL NOT PROHIBITED. This section shall not be construed as a prohibition of the land disposal of septage. The land disposal of septage is governed by s. 146.20 281.48.

**SECTION 410.** 144.09 of the statutes is renumbered 281.97 and amended to read:

**281.97 (title) Enforcement Records; inspection.** Records required by the department shall be kept by the owners and the department supplied with certified copies and such other information as it may require. Agents of the department may enter buildings, structures and premises of owners supplying the public or industrial plants with water, ice, sewerage systems, sewage or refuse disposal service and private properties to collect samples, records and information, and to ascertain if the rules and orders of the department are complied with. ~~The department of justice shall assist in the enforcement of this chapter.~~

NOTE: Department of justice enforcement authority is established in new s. 299.95 [current s. 144.98].

**SECTION 411.** 144.10 (title) of the statutes is renumbered 281.83 (title).

**SECTION 412.** 144.10 (1) of the statutes is renumbered 281.81, and 281.81 (intro.) and (1), as renumbered, are amended to read:

**281.81 (title) Definitions.** (intro.) In this section subchapter:

(1) “International joint commission” has the meaning given in s. 144.026 281.35 (1) (h).

**SECTION 413.** 144.10 (2) to (4) of the statutes are renumbered 281.83 (1) to (3), and 281.83 (2), as renumbered, is amended to read:

281.83 (2) In selecting projects to perform under this section, the department shall consider the amount of state funds available, the availability of matching funds from

federal, private or other sources, the willingness and ability of a responsible person to fund a project, the willingness and ability of a local governmental unit, as defined in s. 144.235 281.51 (1) (c), to undertake or assist in a project, the severity of the environmental contamination that a project will address and the size of the population affected by the contamination.

**SECTION 414.** 144.11 (title) of the statutes is renumbered 281.85 (title).

**SECTION 415.** 144.11 (1) of the statutes is repealed.

**SECTION 416.** 144.11 (2) of the statutes is renumbered 281.85.

**SECTION 417.** 144.14 (title) of the statutes is repealed.

**SECTION 418.** 144.14 of the statutes is renumbered 281.17 (6).

**SECTION 419.** 144.15 (title) of the statutes is repealed.

**SECTION 420.** 144.15 of the statutes is renumbered 281.17 (7).

**SECTION 421.** 144.21 of the statutes is renumbered 281.55.

**SECTION 422.** 144.23 of the statutes is renumbered 281.56, and 281.56 (1), as renumbered, is amended to read:

281.56 (1) The financial assistance program established under this section is to be used only if the applicant is unable to receive assistance in a timely manner from the federal government and supplementary funding program established under s. 144.21 281.55. Receipt of aid under this section makes the applicant ineligible for aid under s. 144.21 281.55.

**SECTION 423.** 144.235 of the statutes is renumbered 281.51.

**SECTION 424.** 144.24 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 281.57, and 281.57 (4) (b) 1. b. and (9m) (a), as renumbered, are amended to read:

281.57 (4) (b) 1. b. A collection system which the department orders under s. 144.07 281.43 (1) notwithstanding the outcome of the annexation referendum under s. 144.07 281.43 (1m). Notwithstanding sub. (7) (a) and any rules promulgated under this section, the department shall award funding under this subd. 1. b. in an amount that totals 60% of all costs of the project, rather than of eligible costs of the project.

(9m) (a) For fiscal year 1989–90, the advance commitment shall include a provision making the reimbursement of engineering design costs conditional on the award or making of a construction grant under this section or a loan under ss. 144.241 281.58 and 144.2415 281.59. If the financial assistance that the municipality receives for construction of a treatment work is a loan, the engineering design cost reimbursement shall be a loan. After June 30, 1990, and before September 1, 1990, the

department may enter into an agreement with a municipality to provide engineering design costs under this subsection if the department makes an advance commitment for the reimbursement of those costs before July 1, 1990, and the municipality receives financial assistance under this section and s. ~~144.2415~~ 281.59 for construction.

**SECTION 425.** 144.241 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 281.58, and 281.58 (1) (am), (b) 1. to 4., (c) 3. and (cg) to (e), (2m) (a) and (e), (3m) (a), (6) (a) (intro.) and (b) (intro.), 6. and 8., (7) (a) and (b) (intro.), 1., 2. and 6., (8) (a) (intro.), 4. and 5., (d), (g) to (i) and (L) (intro.), (8m) (a) and (b), (9) (a) to (e), (9m) (a) 2., (c), (e), (f) (intro.) and (g), (12) (a) (intro.) and (c) 1., (13) (b), (13m), (14) (b) (intro.), 1. and 4. and (15) (a) 2., as renumbered, are amended to read:

281.58 (1) (am) "Effluent limitation" has the meaning designated in s. ~~147.015~~ 283.01 (6).

(b) 1. Those conditions or limitations of a permit under ch. ~~147~~ 283 which, if violated, could result in the initiation of a civil or criminal action under s. ~~147.29~~ 283.89.

2. Those provisions of s. ~~144.025 (2) (r)~~ 281.19 (5) which, if violated could result in a departmental order under s. ~~144.025 (2) (s)~~ 281.19 (7).

3. If a permit under ch. ~~147~~ 283 has not been issued, those conditions or limitations which, in the department's judgment, would be included in the permit when issued.

4. If no permit under ch. ~~147~~ 283 applies, any requirement which the department determines is necessary for the best practicable waste treatment technology to meet applicable criteria.

(c) 3. All commercial users of an individual system constructed with grant assistance under s. ~~144.24~~ 281.57.

(cg) "Market interest rate" means the interest at the effective rate of a revenue obligation issued by the state to fund a project loan or a portion of a project loan under this section and s. ~~144.2415~~ 281.59.

(d) "Treatment work" has the meaning designated in s. ~~147.015~~ 283.01 (18).

(e) "Violator of an effluent limitation" means a person or municipality that after May 17, 1988, is not in substantial compliance with the enforceable requirements of its permit issued under ch. ~~147~~ 283 for a reason that the department determines is or has been within the control of the person or municipality.

(2m) (a) Administer its responsibilities under this section and s. ~~144.2415~~ 281.59.

(e) Inspect periodically clean water fund project construction to determine project compliance with construction plans and specifications approved by the department and the requirements of this section and s. ~~144.2415~~ 281.59 and, if applicable, of 33 USC 1251 to 1376 and 33 USC 1381 to 1387 and the regulations promulgated thereunder.

(3m) (a) A list of wastewater treatment projects that the department estimates will apply for financial assis-

tance under this section and s. ~~144.2415~~ 281.59 during the next biennium.

(6) (a) (intro.) The department may determine whether a municipality is eligible for financial assistance under this section and s. ~~144.2415~~ 281.59 for any of the following:

(b) (intro.) The following methods of providing financial assistance may be used under this section and s. ~~144.2415~~ 281.59:

6. Making loans under s. ~~144.2415~~ 281.59 (13) for the purposes of that subsection.

8. Providing payments to the board of commissioners of public lands to reduce principal or interest payments, or both, on loans made to municipalities under subch. II of ch. 24 by the board of commissioners of public lands for projects that are eligible for financial assistance under this section and s. ~~144.2415~~ 281.59.

(7) (a) The department shall, by rule, establish criteria for determining which applicants and which projects are eligible to receive financial assistance under this section and s. ~~144.2415~~ 281.59. The primary criteria for eligibility shall be water quality and public health. The rules for projects funded from the account under s. 25.43 (2) (a) shall be consistent with 33 USC 1251 to 1376 and 33 USC 1381 to 1387 and the regulations promulgated thereunder. The rules for projects funded from the account under s. 25.43 (2) (b) may be consistent with 33 USC 1251 to 1376 and 33 USC 1381 to 1387 and the regulations promulgated thereunder.

(b) (intro.) The department may determine whether a municipality is eligible for financial assistance under this section and s. ~~144.2415~~ 281.59 for any of the following types of projects:

1. Projects that the department determines are necessary to prevent a municipality from significantly exceeding an effluent limitation contained in a permit issued under ch. ~~147~~ 283.

2. Projects needed to provide treatment to achieve compliance with an enforceable requirement changed or established after May 17, 1988, if the project is for a municipality that is in substantial compliance with its permit, issued under ch. ~~147~~ 283, in regard to the changed or established enforceable requirements.

6. Projects for the planning, design, construction or replacement of treatment works that violate effluent limitations contained in a permit issued under ch. ~~147~~ 283.

(8) (a) (intro.) The following are not eligible for financial assistance from the clean water fund under this section and s. ~~144.2415~~ 281.59:

4. A planning, design or construction project which received financial assistance under 33 USC 1251 to 1376 or s. ~~144.24~~ 281.57, except for any of the following:

a. The nonlocal share of a project which receives funding under s. ~~144.2415~~ 281.59 (13).

b. The portion of a project funded under s. ~~444.2415 281.59~~ (13) relating to a collection system, even if the costs relating to the collection system were not eligible under s. ~~444.24 281.57~~.

5. During fiscal years 1989–90 to 1994–95, a person or municipality in violation of an effluent limitation contained in a permit issued under ch. ~~447 283~~, unless that person or municipality is eligible under s. ~~444.2415 281.59~~ (13).

(d) An unsewered municipality that is not constructing a treatment work and will be disposing of wastewater in the treatment work of another municipality is not eligible for financial assistance under this section and s. ~~444.2415 281.59~~ until it executes an agreement under s. 66.30 with another municipality to receive, treat and dispose of the wastewater of the unsewered municipality.

(g) The sum of all of the financial assistance to a municipality approved under this section and s. ~~444.2415 281.59~~ for a project may not result in the municipality paying less than 30% of the cost of the project.

(h) Except as provided in par. (k), a municipality that is a violator of an effluent limitation at the time that the application for a treatment work project is approved under sub. (9m) may not receive financial assistance of a method specified under sub. (6) (b) 1., 2., 3., 4. or 5. for that part of the treatment work project that is needed to correct the violation. This paragraph does not apply to a municipality that after May 17, 1988, is in compliance with a court or department order to correct a violation of the enforceable requirements of its ch. ~~447 283~~ permit, and that is applying for financial assistance under s. ~~444.2415 281.59~~ (13) to correct that violation.

(i) After June 30, 1991, no municipality may receive for projects an amount that exceeds 35.2% of the amount approved by the legislature under s. ~~444.2415 281.59~~ (3) (d) for that biennium.

(L) (intro.) The total amount of capital cost loans made under this section and s. ~~444.2415 281.59~~ may not exceed \$120,000,000, and no capital cost loan funds may be released under this section and s. ~~444.2415 281.59~~ until the secretary of administration has found in writing that all of the following facts have occurred:

**(8m)** (a) A municipality shall submit notice to the department of its intent to apply for financial assistance under this section and s. ~~444.2415 281.59~~ in a year no later than December 31 of the preceding year. The notice shall be in a form prescribed by the department and the department of administration.

(b) If a municipality does not apply for financial assistance under this section and s. ~~444.2415 281.59~~ by December 31 of the 2nd year following the year in which it submitted notice under par. (a), the municipality shall submit a new notice under par. (a).

**(9)** (a) After the department approves a municipality's facility plan submitted under sub. (8s), the municipality shall submit an application for participation to the

department. The application shall be in such form and include such information as the department and the department of administration prescribe and shall include design plans and specifications that are approvable by the department under this chapter. The department shall review applications for participation in the program under this section and s. ~~444.2415 281.59~~. The department shall determine which applications meet the eligibility requirements and criteria under subs. (6), (7), (8), (8m) and (13).

(b) A municipality seeking financial assistance, except for a municipality seeking a capital cost loan, for a project under this section and s. ~~444.2415 281.59~~ shall complete an environmental analysis sequence as required by the department by rule.

(c) If a municipality is serviced by more than one sewerage district for wastewater pollution abatement, each service area of the municipality shall be considered a separate municipality for purposes of obtaining financial assistance under this section and s. ~~444.2415 281.59~~.

(d) The department of administration and the department jointly may charge and collect service fees, established by rule, which shall cover the estimated costs of reviewing and acting upon the application and servicing the financial assistance agreement. No service fee established by rule under this paragraph may be charged to or collected from an applicant for financial assistance under s. ~~444.2415 281.59~~ (13).

(e) If the governor's recommendation, as set forth in the executive budget bill, for the amount under s. ~~444.2415 281.59~~ (3) (d), the amount available under s. 20.866 (2) (tc) or the amount available under s. ~~444.2415 281.59~~ (4) (f) for a biennium is 85% or less of the amount of present value subsidy, general obligation bonding authority or revenue bonding authority, respectively, requested for that biennium in the biennial finance plan submitted under s. ~~444.2415 281.59~~ (3) (bm) 1., the department shall inform municipalities that, if the governor's recommendations are approved, clean water fund assistance during a fiscal year of that biennium will only be available to municipalities that submit financial assistance applications by the June 30 preceding that fiscal year.

**(9m)** (a) 2. The department of administration initially determines that the municipality will meet the requirements of s. ~~444.2415 281.59~~ (9) (b).

(c) The department may approve an application under par. (a) in a year only after the amount under s. ~~444.2415 281.59~~ (3) (d) for the biennium in which that year falls has been approved by the legislature under s. ~~444.2415 281.59~~ (3) (d).

(e) 1. Except as provided under par. (f) and sub. (13), if a sufficient amount of subsidy is available under s. ~~444.2415 281.59~~ (3) (d) for the municipality's project, based on the calculation under s. ~~444.2415 281.59~~ (3) (i), when the department approves the application under par.

(a), the department of administration shall allocate that amount to the project.

2. If a sufficient amount of subsidy is not available under s. ~~144.2415~~ 281.59 (3) (d) for the municipality's project when the department approves the application under subd. 1., the department shall place the project on a list for allocation when additional subsidy becomes available.

(f) (intro.) If the amount approved under s. ~~144.2415~~ 281.59 (3) (d), the amount available under s. 20.866 (2) (tc) or the amount available under s. ~~144.2415~~ 281.59 (4) (f) for a biennium is 85% or less of the amount of present value subsidy, general obligation bonding authority or revenue bonding authority, respectively, requested for that biennium in the biennial finance plan submitted under s. ~~144.2415~~ 281.59 (3) (bm) 1., all of the following apply:

(g) In allocating subsidy under this subsection, the department of administration shall adhere to the amount approved by the legislature for each biennium under s. ~~144.2415~~ 281.59 (3) (d).

(12) (a) (intro.) The types of projects for which municipalities may receive loans under this section and s. ~~144.2415~~ 281.59 shall be classified as follows for the purpose of setting the percentage of market interest rates on loans funding such projects:

(c) 1. The percentage of market interest rates established shall, to the extent possible, fully allocate the amount of public debt authorized under s. 20.866 (2) (tc), the amount authorized under s. ~~144.2415~~ 281.59 (3) (d) and the amount of revenue obligations authorized under s. ~~144.2415~~ 281.59 (4) (f).

(13) (b) A municipality with an application that is approved under sub. (9m) is eligible for financial hardship assistance for the project costs that are eligible under this section and s. ~~144.2415~~ 281.59, except for costs to which sub. (8) (b), (c), (f) or (h) applies, if the municipality meets all of the following criteria:

(13m) MINORITY BUSINESS DEVELOPMENT AND TRAINING PROGRAM. (a) The department shall make grants to projects that are eligible for financial assistance under this section and s. ~~144.2415~~ 281.59 and that are identified as being part of the minority business development and training program under s. 66.905 (2) (b).

(b) Grants provided under this subsection are not included for the purposes of determining under sub. (8) (i) the amount that a municipality may receive for projects under this section and s. ~~144.2415~~ 281.59. Grants awarded under this subsection are not considered for the purposes of sub. (9m) (e) or s. ~~144.2415~~ 281.59 (3) (d).

(14) (b) (intro.) As a condition of receiving financial assistance under this section and s. ~~144.2415~~ 281.59, a municipality shall do all of the following:

1. Establish a dedicated source of revenue, that is acceptable to the department of administration under s.

~~144.2415~~ 281.59 (9) (am) and (b), for the repayment of any financial assistance.

4. Comply with those provisions of 33 USC 1381 to 1387, this chapter and ~~ch. 147~~ chs. 283, 285 and 289 to 299 and the regulations and rules promulgated thereunder that the department specifies.

(15) (a) 2. The department approves plans and specifications under s. ~~144.04~~ 281.41.

SECTION 426. 144.2415 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 281.59, and 281.59 (1) (a), (b), (d) (intro.), (e) and (f), (2) (a), (3) (a) 5., 5m. and 6., (c) 2., (dm), (e), (f) and (j), (9) (a), (am) and (b) (intro.) and 1., (11) (a), (b) and (c), (12), (13) (a) and (b) 1. (intro.), a., b. and d., 1m. (intro.) and a., 2. and 3., (13m), (13s) and (14), as renumbered, are amended to read:

281.59 (1) (a) "Effluent limitation" has the meaning given in s. ~~147.015~~ 283.01 (6).

(b) "Market interest rate" means the interest at the effective rate of a revenue obligation issued by the state to fund a project loan or a portion of a project loan under this section and s. ~~144.241~~ 281.58.

(d) (intro.) "Subsidy" means the amounts provided by the clean water fund to projects receiving financial assistance under this section and s. ~~144.241~~ 281.58 for the following purposes:

(e) "Treatment work" has the meaning given in s. ~~147.015~~ 283.01 (18).

(f) "Violator of an effluent limitation" means a person or municipality that after May 17, 1988, is not in substantial compliance with the enforceable requirements of its permit issued under ch. 147 283 for a reason that the department determines is or has been within the control of the person or municipality.

(2) (a) Administer its responsibilities under this section and s. ~~144.241~~ 281.58.

(3) (a) 5. Audited financial statements of the past operations and activities of the program under this section and s. ~~144.241~~ 281.58, the estimated fund capital available in each of the next 4 fiscal years, and the projected clean water fund balance for each of the next 20 years given existing obligations and financial conditions.

5m. The estimated spending level and percentage of market interest rate for the types of projects specified under s. ~~144.241~~ 281.58 (7) (b) 1. to 3.

6. An amount equal to the estimated present value of subsidies for all clean water fund loans and grants expected to be made for the wastewater treatment projects listed in the biennial needs list under s. ~~144.241~~ 281.58 (3m), discounted at a rate of 7% per year to the first day of the biennium for which the biennial finance plan is prepared.

(c) 2. The amount of public debt, authorized under s. 20.866 (2) (tc), that the state may contract for the purposes of s. ~~144.241~~ 281.58 and this section.

(dm) The department of administration may allocate amounts approved under par. (d) as the present value of subsidies for financial assistance under this section and s. ~~144.241~~ 281.58, including financial hardship assistance and assistance for the additional costs of approved projects. The department of administration may allocate amounts from the amount approved under par. (d) for a biennium until December 30 of the fiscal year immediately following the biennium for projects for which complete applications under s. ~~144.241~~ 281.58 (9) (a) are submitted before the end of the biennium.

(e) The department may expend, for financial assistance in a biennium other than financial hardship assistance under s. ~~144.241~~ 281.58 (13) (e), an amount up to 85% of the amount approved by the legislature under par. (d). The department may expend such amount only from the percentage of the amount approved under par. (d) that is not available under par. (f) for financial hardship assistance.

(f) The department may expend, for financial hardship assistance in a biennium under s. ~~144.241~~ 281.58 (13) (e), an amount up to 15% of the amount approved by the legislature under par. (d) for that biennium. The department may expend such amount only from the percentage of the amount approved by the legislature under par. (d) that is not available under par. (e) for financial assistance.

(j) No later than November 1 of each odd-numbered year, the department of administration and the department jointly shall submit a report, to the building commission and committees as required under par. (bm), on the implementation of the amount established under par. (d) as required under s. ~~144.241~~ 281.58 (9m) (e), and on the operations and activities of the clean water fund program for the previous biennium.

(9) (a) A loan approved under this section and s. ~~144.241~~ 281.58 shall be for no longer than 20 years, as determined by the department of administration, be fully amortized not later than 20 years after the original date of the note, and require the repayment of principal and interest, if any, to begin not later than 12 months after the expected date of completion of the project that it funds, as determined by the department of administration.

(am) The department of administration, in consultation with the department, may establish those terms and conditions of a financial assistance agreement that relate to its financial management, including what type of municipal obligation, as set forth under s. 66.36, is required for the repayment of the financial assistance. Any terms and conditions established under this paragraph by the department of administration shall comply with the requirements of this section and s. ~~144.241~~ 281.58. In setting such terms and conditions, the department of administration may consider factors that the department of administration finds are relevant, including the type of municipal obligation evidencing the loan, the pledge of

security for the municipal obligation and the municipality's creditworthiness.

(b) (intro.) As a condition of receiving financial assistance under this section and s. ~~144.241~~ 281.58, a municipality shall do all of the following:

1. Pledge the security, if any, required by the rules promulgated by the department of administration under this section and s. ~~144.241~~ 281.58.

(11) (a) The department of natural resources and the department of administration may enter into a financial assistance agreement with a municipality for which the department of administration has allocated subsidy under s. ~~144.241~~ 281.58 (9m) if the municipality meets the conditions under sub. (9) and s. ~~144.241~~ 281.58 (14) and the other requirements under this section and s. ~~144.241~~ 281.58.

(b) If a municipality fails to make a principal repayment or interest payment after its due date, the department of administration shall place on file a certified statement of all amounts due under this section and s. ~~144.241~~ 281.58. After consulting the department, the department of administration may collect all amounts due by deducting those amounts from any state payments due the municipality or may add a special charge to the amount of taxes apportioned to and levied upon the county under s. 70.60. If the department of administration collects amounts due, it shall remit those amounts to the fund to which they are due and notify the department of that action.

(c) The department of administration may retain the last payment under a financial assistance agreement until the department of natural resources and the department of administration determine that the project is completed and meets the applicable requirements of this section and s. ~~144.241~~ 281.58 and that the conditions of the financial assistance agreement are met.

(12) MUNICIPAL OBLIGATIONS. The department of administration may purchase or refinance obligations specified in s. ~~144.241~~ 281.58 (6) (b) 1. or 2. and guarantee or purchase insurance for municipal obligations specified in s. ~~144.241~~ 281.58 (6) (b) 3. if the department of administration and the department of natural resources approve the financial assistance under this section and s. ~~144.241~~ 281.58.

(13) (a) 1. Notwithstanding any other provision of this section and s. ~~144.241~~ 281.58, a municipality that submits to the department by January 2, 1989, a facility plan meeting the requirements of s. ~~144.24~~ 281.57 which is approvable under this chapter and that does not receive a grant award before July 1, 1990, only because the municipality is following a schedule contained in the facility plan and approved by the department and the municipality is in compliance with all applicable schedules contained in a permit issued under ch. 447 283 or because there are insufficient grant funds under s. ~~144.24~~ 281.57, is eligible to receive financial assistance under this para-

graph. The form of the financial assistance is a loan with an interest rate of 2.5% per year except that s. 444.241 281.58 (8) (b), (f) and (k) applies to projects receiving financial assistance under this paragraph.

2. Notwithstanding any other provision of this section or s. 444.241 281.58, the department shall make all loans under subd. 1. to municipalities ready to construct treatment works before the department provides or approves any other financial assistance under this section except for loans under par. (b).

(b) 1. (intro.) Notwithstanding any other provision of this section or s. 444.241 281.58, an unsewered municipality is eligible to receive financial assistance under this paragraph, in the form of a loan with an interest rate of 2.5% per year, which may be for original financing or re-financing for a collection system that is ineligible for financial assistance under s. 444.24 281.57 because of s. 444.24 281.57 (4) (b) 1. and that is being connected to an existing wastewater treatment plant if all of the following apply:

a. The municipality applies to the department for financial assistance under s. 444.24 281.57 (5) for a construction project during 1988.

b. Before January 1, 1989, the department issues a notice under s. 444.24 281.57 (6) that the department is ready to allocate funds to the municipality for the project.

d. The municipality receives a grant under s. 444.24 281.57 for the construction of the project from the list developed by the department under s. 444.24 281.57 (6) (a) for applications received in 1988.

1m. (intro.) Notwithstanding any other provision of this section or s. 444.241 281.58, a town sanitary district is eligible to receive financial assistance under this paragraph, in the form of a loan with an interest rate of 2.5% per year, for the extension of a collection system into an unsewered area that is added to the sanitary district if all of the following apply:

a. The department has awarded a grant to the town sanitary district under s. 444.24 281.57 (4) (b) 1. c. for a collection system.

2. Section 444.241 281.58 (8) (b), (f) and (k) applies to projects receiving financial assistance under this paragraph.

3. Notwithstanding any provision of this section or s. 444.241 281.58, the department shall annually allocate funds for loans under subsd. 1. and 1m before the department provides or approves any other financial assistance under this section or s. 444.241 281.58.

(13m) LEGISLATIVE MORAL OBLIGATION. The building commission may, at the time the loan is made, by resolution designate a loan made under this section and s. 444.241 281.58 as one to which this subsection applies. If at any time the payments received or expected to be received from a municipality on any loan so designated are pledged to secure revenue obligations of the state issued pursuant to subch. II of ch. 18 and are insufficient to pay

when due principal of and interest on such loan, the department of administration shall certify the amount of such insufficiency to the secretary of administration, the governor and the joint committee on finance. If the certification is received by the secretary of administration in an even-numbered year before the completion of the budget under s. 16.43, the secretary of administration shall include the certified amount in the budget compilation. In any event, the joint committee on finance shall introduce in either house, in bill form, an appropriation of the amount so requested for the purpose of payment of the revenue obligation secured thereby. Recognizing its moral obligation to do so, the legislature hereby expresses its expectation and aspiration that, if ever called upon to do so, it shall make the appropriation.

(13s) POWERS. The department of administration may audit, or contract for audits of, projects receiving financial assistance under this section and s. 444.241 281.58.

(14) RULES. The department of administration shall promulgate rules that are necessary for the proper execution of this section and of its responsibilities under s. 444.241 281.58.

SECTION 427. 144.242 of the statutes is renumbered 281.63, and 281.63 (4) (a) and (6), as renumbered, are amended to read:

281.63 (4) (a) *Eligible municipalities*. Only a municipality with a sewerage system which is violating ch. 447 283 or title III of the federal act because of combined sewer overflow is eligible to receive financial assistance under the combined sewer overflow abatement financial assistance program.

(6) PRIORITY. Each municipality shall notify the department of its intent to apply for financial assistance under the combined sewer overflow abatement financial assistance program. For those municipalities that notify the department of their intention to apply for financial assistance under this program by December 31, the department shall establish annually a priority list which ranks these projects in the same order as they appear on the list prepared under s. 444.24 281.57 (6) (a).

SECTION 428. 144.25 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 281.65, and 281.65 (2) (a) and (b), (4) (c), (cd) and (e), (5w) and (8d), as renumbered, are amended to read:

281.65 (2) (a) “Best management practices” means practices, techniques or measures, except for dredgings, identified in areawide water quality management plans, which are determined to be the most effective means of preventing or reducing pollutants generated from non-point sources, or from the sediments of inland lakes polluted by nonpoint sources, to a level compatible with water quality objectives established under this section and which do not have an adverse impact on fish and wildlife habitat. The practices, techniques or measures include land acquisition, storm sewer rerouting and the removal

of structures necessary to install structural urban best management practices, facilities for the handling and treatment of milkhouse wastewater, repair of fences built using grants under this section and measures to prevent or reduce pollutants generated from mine tailings disposal sites for which the department has not approved a plan of operation under s. 144.44 (3) ~~289.30~~.

(b) “Nonpoint source” means a land management activity which contributes to runoff, seepage or percolation which adversely affects or threatens the quality of waters of this state and which is not a point source as defined under s. ~~147.015~~ 283.01 (12).

(4) (c) Through the continuing planning process under s. ~~147.25~~ 283.83, identify those watersheds where the need for nonpoint source water pollution abatement is most critical and, before July 1 of each even-numbered year, submit its recommendations for designating additional watersheds under sub. (3) (am) to the land and water conservation board.

(cd) Identify, through the continuing planning process under s. ~~147.25~~ 283.83, the lakes where the need for nonpoint source water pollution abatement is most critical and, before July 1 of each even-numbered year, submit its recommendations for designating additional lakes under sub. (3) (am) to the land and water conservation board.

(e) Promulgate rules, in consultation with the department of agriculture, trade and consumer protection, as are necessary for the proper execution and administration of the program under this section. Before promulgating rules under this paragraph, the department shall submit the rules to the land and water conservation board for review under sub. (3) (at). The rules shall include standards and specifications concerning best management practices which are required for eligibility for cost-sharing grants under this section. The department may waive the standards and specifications in exceptional cases. Only persons involved in the administration of the program under this section, persons who are grant recipients or applicants and persons who receive notices of intent to issue orders under s. ~~144.025 (2) (u) 2~~, 281.20 (1) (b) are subject to the rules promulgated under this paragraph. Any rule promulgated under this paragraph which relates or pertains to agricultural practices relating to animal waste handling and treatment is subject to s. 13.565.

(5w) After the land and water conservation board approves a priority watershed or priority lake plan or a modification to such a plan that designates a site to be a critical site, the department shall notify the owner or operator of that site of the designation and of the provisions in sub. (7) and either s. ~~144.025 (2) (u) 2~~, (v) and (w) 281.20 or, if the pollution is caused primarily by animal waste, ss. NR 243.21 to 243.26, Wis. adm. code.

(8d) The department may distribute a grant to the board of regents of the University of Wisconsin System for practices, techniques or measures to control storm

water discharges on a University of Wisconsin System campus that is located in a municipality that is required to obtain a permit under s. ~~147.024~~ 283.33 and that is located in a priority watershed area, a priority lake area or an area that is identified as an area of concern by the International Joint Commission, as defined in s. ~~144.10 (1) (a)~~ 281.35 (1) (h), under the Great Lakes Water Quality Agreement.

**SECTION 429.** 144.251 of the statutes is renumbered 281.67.

**SECTION 430.** 144.253 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 281.68, and 281.68 (4), as renumbered, is amended to read:

281.68 (4) At the completion of a lake management planning project, upon request of the recipient of a grant under this section, the department may approve recommendations made as a result of the project as eligible activities for a lake management grant under s. ~~144.254~~ 281.69.

**SECTION 431.** 144.254 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 281.69, and 281.69 (3) (a), as renumbered, is amended to read:

281.69 (3) (a) A designation of eligible recipients, which shall include nonprofit conservation organizations, as defined in s. 23.0955 (1), counties, cities, towns, villages, qualified lake associations, as defined in s. ~~144.253~~ 281.68 (1), town sanitary districts, public inland lake protection and rehabilitation districts and other local governmental units, as defined in s. 66.299 (1) (a), that are established for the purpose of lake management.

**SECTION 432.** 144.26 of the statutes is renumbered 281.31.

**SECTION 433.** 144.265 of the statutes is renumbered 281.77, and 281.77 (1) (a) and (b), (2) (b) and (3), as renumbered, are amended to read:

281.77 (1) (a) “Private water supply” ~~has the meaning specified under s. 144.442 (1) (cm), except this term excludes a well which is not a source of water for humans unless the well is constructed by drilling~~ means a well that is used as a water supply for humans or a well that is constructed by drilling and is used as a water supply for livestock, as defined in s. 95.80 (1) (b), or poultry.

(b) “Regulated activity” means an activity for which the department may issue an order under ~~chs. 285 or 289 to 299~~ or this chapter, ~~except s. 281.48~~, if the activity is conducted in violation of ~~chs. 285 or 289 to 299~~ or this chapter, ~~except s. 281.48~~, or in violation of licenses, permits or special orders issued or rules promulgated under ~~chs. 285 or 289 to 299~~ or this chapter, ~~except s. 281.48~~.

(2) (b) If the department finds that a regulated activity caused a private water supply to become contaminated, polluted or unfit for consumption by humans, livestock or poultry, and if the regulated activity is an approved facility, as defined in s. ~~144.442 (1) (a)~~ 289.01 (3), the department may conduct a hearing under s. ~~144.442 (6) 292.31 (3) (f)~~. If the damage to the private water supply



is caused by an occurrence not anticipated in the plan of operation which poses a substantial hazard to public health or welfare, the department may expend moneys in the environmental fund that are available for environmental repair to treat the water to render it drinkable, or to repair or replace the private water supply, and to reimburse the town, village or city for the cost of providing water under sub. (4). If the damage to the private water supply is not caused by an occurrence not anticipated in the plan of operation, if the damage does not pose a substantial hazard to public health or welfare, or if moneys in the environmental fund that may be used for environmental repair are insufficient, the department may order the owner or operator of the regulated activity to treat the water to render it fit for consumption by humans, livestock and poultry, or to repair or replace the private water supply, and to reimburse the town, village or city for the cost of providing water under sub. (4).

(3) In any action brought by the department of justice under s. 144.98 ~~299.95~~, if the court finds that a regulated activity owned or operated by the defendant has caused a private water supply to become contaminated, polluted or unfit for consumption by humans, livestock or poultry, the court may order the defendant to treat the water to render it fit for consumption by humans, livestock and poultry, repair the private water supply or replace the private water supply and to reimburse the town, village or city for the cost of providing water under sub. (4).

**SECTION 434.** 144.266 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 281.33.

**SECTION 435.** 144.27 of the statutes is renumbered 281.92 and amended to read:

**281.92 Limitation.** Nothing in this ~~subchapter~~ chapter affects ss. 196.01 to 196.79 or ch. 31.

**SECTION 436.** Subchapter III (title) of chapter 144 [precedes 144.30] of the statutes is repealed.

**SECTION 437.** 144.30 (intro.) of the statutes is repealed.

**SECTION 438.** 144.30 (1) and (2) of the statutes are renumbered 285.01 (1) and (2).

**SECTION 439.** 144.30 (3) and (3m) of the statutes are renumbered 285.01 (4) and (5), and 285.01 (4) and (5) (a), as renumbered, are amended to read:

285.01 (4) "Air pollution control permit" means any permit required or allowed under s. ~~144.391~~ 285.60.

(5) (a) The apportionment among air contaminant sources of the difference between an ambient air quality standard and the concentration in the atmosphere of the corresponding air contaminant in existence at the time the rule promulgated under s. ~~144.373~~ 285.25 becomes effective; or

**SECTION 440.** 144.30 (3r), (4), (5), (6) and (7) of the statutes are renumbered 285.01 (6), (7), (8), (9) and (10).

**SECTION 441.** 144.30 (8) of the statutes is renumbered 285.01 (11) and amended to read:

285.01 (11) "Base line concentration" means concentration in the atmosphere of an air contaminant which exists in an area at the time of the first application to the U.S. environmental protection agency for a prevention of significant deterioration permit under 42 USC 7475 or the first application for an air pollution control permit under s. ~~144.391~~ 285.60 for a major source located in an attainment area, whichever occurs first, less any contribution from stationary sources identified in 42 USC 7479 (4).

**SECTION 442.** 144.30 (9) of the statutes is renumbered 285.01 (12).

**SECTION 443.** 144.30 (10), (11), (12), (13) and (14) of the statutes are renumbered 285.01 (15), (16), (17), (18) and (19).

**SECTION 444.** 144.30 (14m) of the statutes is renumbered 285.01 (20) and amended to read:

285.01 (20) "Growth accommodation" means the amount of volatile organic compounds specified in s. ~~144.40~~ 285.39 (1) (a).

**SECTION 445.** 144.30 (15) of the statutes is renumbered 285.01 (23).

**SECTION 446.** 144.30 (16) of the statutes is renumbered 285.01 (24) and amended to read:

285.01 (24) "Major source" means a stationary source that is capable of emitting an air contaminant in an amount in excess of an amount specified by the department by rule under s. ~~144.31 (1) (r)~~ 285.11 (16).

**SECTION 447.** 144.30 (19e) of the statutes is renumbered 285.01 (25).

**SECTION 448.** 144.30 (20) of the statutes is renumbered 285.01 (26) and amended to read:

285.01 (26) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of emissions of an air contaminant or that results in the emission of an air contaminant not previously emitted, subject to rules promulgated under s. ~~144.31 (1) (s)~~ 285.11 (17).

**SECTION 449.** 144.30 (20e) and (20s) of the statutes are renumbered 285.01 (27) and (29).

**SECTION 450.** 144.30 (21) of the statutes is renumbered 285.01 (30) and amended to read:

285.01 (30) "Nonattainment area" means an area identified by the department in a document prepared under s. ~~144.371~~ 285.23 (2) where the concentration in the atmosphere of an air contaminant exceeds an ambient air quality standard.

**SECTION 451.** 144.30 (22r) and (22rm) of the statutes are renumbered 285.01 (34) and (36).

**SECTION 452.** 144.30 (22s) of the statutes is renumbered 285.01 (37) and amended to read:

285.01 (37) "Replenishment implementation period" means the period between August 1, 1987, and December 31 of the year by which the department requires full

compliance with rules required to be promulgated under s. 144.40 285.39 (3).

**SECTION 453.** 144.30 (23), (24) and (25) of the statutes are renumbered 285.01 (41), (42) and (43).

**SECTION 454.** 144.31 (title) of the statutes is repealed.

**SECTION 455.** 144.31 (1) of the statutes is renumbered 285.11, and 285.11 (1), (2), (4), (6) (a), (8) and (11), as renumbered, are amended to read:

285.11 (1) Promulgate rules implementing and consistent with ss. ~~144.30 to 144.426 and 144.96~~ this chapter and s. 299.15.

(2) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15.

(4) Collect and disseminate information and conduct educational and training programs relating to the purposes of ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15.

(6) (a) The measures are part of an interstate ozone control strategy implementation agreement under ~~sub. (4) s. 285.15~~ signed by the governor of this state and of the state of Illinois.

(8) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source, device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problem which may be related to the source, device or system. Nothing in any such consultation shall relieve any person from compliance with ~~ss. 144.30 to 144.426~~ this chapter or rules pursuant thereto, or any other provision of law.

(11) Coordinate the reporting requirements under ss. ~~144.394 and 144.96~~ 285.65 and 299.15 in order to minimize duplicative reporting requirements.

**SECTION 456.** 144.31 (2) of the statutes is renumbered 285.13, and 285.13 (1), (2) and (7), as renumbered, are amended to read:

285.13 (1) Hold hearings relating to any aspect of the administration of ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 and, in connection therewith, compel the attendance of witnesses and the production of evidence.

(2) Issue orders to effectuate the purposes of ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 and enforce the same by all appropriate administrative and judicial proceedings.

(7) Establish by rule, consistent with the federal clean air act, the amount of offsetting emissions reductions required under s. ~~144.393~~ 285.63 (2) (a).

**SECTION 457.** 144.31 (3) of the statutes is renumbered 285.51, and 285.51 (1), (3) (intro.), (a) and (c), (4), (5) and (6), as renumbered, are amended to read:

285.51 (1) In this ~~subsection~~ section, “solid waste treatment” has the meaning given in s. ~~144.43 (7)~~ 289.01 (39).

(3) (intro.) The program under ~~par. (b)~~ sub. (2) does not apply with respect to any of the following:

(a) A facility described in s. ~~159.07~~ 287.07 (7) (bg).

(c) A solid waste treatment facility for high-volume industrial waste as defined in s. ~~144.44 (7)~~ 289.01 (17).

(4) The training required under ~~par. (b) 2,~~ sub. (2) (b) may be conducted by the department or by another person with the approval of the department.

(5) The department may suspend or revoke a solid waste treatment facility’s operating license if persons at the facility fail to obtain certification required under ~~par. (b) 1,~~ sub. (2) (a) or for failure to have a certified operator on the site as required under ~~par. (b) 5,~~ sub. (2) (e).

(6) The department may suspend or revoke an operator’s certification for failure to comply with ~~ss. 144.30 to 144.426~~ this chapter, rules promulgated under ~~those sections~~ this chapter or conditions of operation made applicable to a solid waste treatment facility by the department.

**SECTION 458.** 144.31 (4) of the statutes is renumbered 285.15.

**SECTION 459.** 144.32 of the statutes is renumbered 285.71 and amended to read:

**285.71 Federal aid.** Subdivisions of this state and interlocal agencies may make application for, receive, administer and expend any federal aid for the control of air pollution or the development and administration of programs related to air pollution control if first submitted to and approved by the department. The department shall approve any such application if it is consistent with the purposes of ~~ss. 144.30 to 144.426~~ this chapter and any other applicable requirements of law.

**SECTION 460.** 144.33 of the statutes is renumbered 285.70 and amended to read:

**285.70 Confidentiality of records.** (1) Except as provided in sub. (2), the department shall make any record, report or other information obtained in the administration of ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 available to the public.

(2) The department shall keep confidential any part of a record, report or other information obtained in the administration of ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15, other than emission data or an air pollution control permit, upon a showing satisfactory to the department by any person that the part of a record, report or other information would, if made public, divulge a method or process that is entitled to protection as a trade secret, as defined in s. 134.90 (1) (c), of that person.

(3) Subsection (2) does not prevent the disclosure of any information to a representative of the department for the purpose of administering ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 or to an officer, employe or authorized representative of the federal government for the purpose of administering the federal clean air act. When the department provides information that is confidential under sub. (2) to the federal government, the

department shall also provide a copy of the application for confidential status.

**SECTION 461.** 144.34 of the statutes is renumbered 285.19 and amended to read:

**285.19 Inspections.** Any duly authorized officer, employe or representative of the department may enter and inspect any property, premises or place on or at which an air contaminant source is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state of compliance with ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 and rules promulgated or permits issued under ~~those sections~~ this chapter or s. 299.15. No person may refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with any such inspection. The department, if requested, shall furnish to the owner or operator of the premises a report setting forth all facts found which relate to compliance status.

**SECTION 462.** 144.36 of the statutes is renumbered 285.79, and 285.79 (3) (c) and (f) and (4), as renumbered, are amended to read:

285.79 (3) (c) A compliance assistance program that assists small business stationary sources in determining applicable requirements under ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 and in receiving air pollution control permits in a timely and efficient manner.

(f) Procedures for consideration of a request from a small business stationary source for alteration of any required work practice or technological method of compliance with ~~ss. 144.30 to 144.426~~ this chapter or of the schedule of measures that must be taken to implement a required work practice or method of compliance before an applicable compliance date, based on the technological and financial capability of the small business stationary source.

(4) **GRANTING ALTERATIONS.** The department may not grant an alteration under sub. (3) (f) unless the alteration complies with the requirements of the federal clean air act and any applicable plan under s. 144.31 (1) (f) 285.11 (6). If those applicable requirements are set forth in federal regulations, the department may only grant alterations authorized in those regulations.

**SECTION 463.** 144.371 of the statutes is renumbered 285.23.

**SECTION 464.** 144.3712 of the statutes, as affected by 1995 Wisconsin Act 52, is renumbered 285.33, and 285.33 (1) (b) and (4) (a) 3., as renumbered, are amended to read:

285.33 (1) (b) The department may, by rule, determine areas of the state, other than areas described under par. (a), in which the department will require employe trip reduction programs. The department may not require an employe trip reduction program in an area unless that

requirement is authorized under s. 144.31 (1) (f) 285.11 (6).

(4) (a) 3. A reduction of emissions of volatile organic compounds, achieved after August 31, 1995, in the areas described under sub. (1) (a) or (b) that is equal to or greater than the reduction of the emissions of volatile organic compounds that would be achieved under a compliance plan under sub. (3) (a), if the emissions reduction is included in an operation permit under s. 144.391 285.60 or another document that is enforceable by the federal government.

**SECTION 465.** 144.3714 of the statutes is renumbered 285.35, and 285.35 (2) (b), as renumbered, is amended to read:

285.35 (2) (b) The department may, by rule, determine areas of the state, other than areas described under par. (a), in which the department will require clean-fuel vehicle programs. The department may not require a clean-fuel vehicle program in an area unless that requirement is authorized under s. 144.31 (1) (f) 285.11 (6).

**SECTION 466.** 144.3716 (title), (1) and (2) (title) and (a) of the statutes are renumbered 285.37 (title), (1) and (2) (title) and (a).

**SECTION 467.** 144.3716 (2) (am), (b) and (c) of the statutes are renumbered 285.37 (2) (b), (c) and (d) and amended to read:

285.37 (2) (b) The department shall issue documents that describe areas of the state, other than areas described under par. (a) or ~~(b)~~ (c), in which the use of reformulated gasoline is required, if the governor designates the areas in an application under 42 USC 7545 (k) (6) that is approved by the administrator of the federal environmental protection agency.

(c) The department may, by rule, determine areas of the state, other than areas described under par. (a) or ~~(am)~~ (b), in which the department will require the use of reformulated gasoline. The department may not require the use of reformulated gasoline in an area unless that requirement is authorized under s. 144.31 (1) (f) 285.11 (6).

(d) Notwithstanding ss. 227.01 (13) and 227.10 (1), a document issued under par. (a) or ~~(am)~~ (b) is not a rule. A document issued under par. (a) may be reviewed under ss. 227.42 and 227.52.

**SECTION 468.** 144.3716 (3) of the statutes is renumbered 285.37 (3), and 285.37 (3) (a), as renumbered, is amended to read:

285.37 (3) (a) Except as provided in par. (b), beginning on January 1, 1995, no person may sell gasoline in an area described under sub. (2) (a), ~~(am)~~ or (b) or (c) unless the gasoline satisfies the minimum specifications for reformulated gasoline under s. 168.04.

**SECTION 469.** 144.372 of the statutes is renumbered 285.29.

**SECTION 470.** 144.373 of the statutes is renumbered 285.25.

**SECTION 471.** 144.374 of the statutes is renumbered 285.62 (11).

**SECTION 472.** 144.375 (title) of the statutes is repealed.

**SECTION 473.** 144.375 (1), (2) and (3) of the statutes are renumbered 285.21 (1), (2) and (3), and 285.21 (1) (a) and (2), as renumbered, are amended to read:

285.21 (1) (a) *Similar to federal standard.* If an ambient air quality standard is promulgated under section 109 of the federal clean air act, the department shall promulgate by rule a similar standard but this standard may not be more restrictive than the federal standard except as provided under sub. ~~(6)~~ (4).

(2) AMBIENT AIR INCREMENT. The department shall promulgate by rule ambient air increments for various air contaminants in attainment areas. The ambient air increments shall be consistent with and not more restrictive, either in terms of the concentration or the contaminants to which they apply, than ambient air increments under the federal clean air act except as provided under sub. ~~(6)~~ (4).

**SECTION 474.** 144.375 (4), (5) and (5m) of the statutes are renumbered 285.27 (1), (2) and (3), and 285.27 (1) (a) and (c) and (2) (a) and (c), as renumbered, are amended to read:

285.27 (1) (a) *Similar to federal standard.* If a standard of performance for new stationary sources is promulgated under section 111 of the federal clean air act, the department shall promulgate by rule a similar emission standard but this standard may not be more restrictive in terms of emission limitations than the federal standard except as provided under sub. ~~(6)~~ (4).

(c) *Restrictive standard.* The department may impose a more restrictive emission standard of performance for a new stationary source than the standard promulgated under par. (a) or (b) on a case-by-case basis if a more restrictive emission standard is needed to meet the applicable lowest achievable emission rate under s. ~~144.393~~ 285.63 (2) (b) or to install the best available control technology under s. ~~144.393~~ 285.63 (3) (a).

(2) (a) *Similar to federal standard.* If an emission standard for a hazardous air contaminant is promulgated under section 112 of the federal clean air act, the department shall promulgate by rule a similar standard but this standard may not be more restrictive in terms of emission limitations than the federal standard except as provided under sub. ~~(6)~~ (4).

(c) *Restrictive standard.* The department may impose a more restrictive emission standard for a hazardous air contaminant than the standard promulgated under par. (a) or (b) on a case-by-case basis if a more restrictive standard is needed to meet the applicable lowest achievable emission rate under s. ~~144.393~~ 285.63 (2) (b) or to install the best available control technology under s. ~~144.393~~ 285.63 (3) (a).

**SECTION 475.** 144.375 (6) (title) of the statutes is renumbered 285.21 (4) (title).

**SECTION 476.** 144.375 (6) (a) of the statutes is renumbered 285.21 (4) and amended to read:

285.21 (4) If the ambient air increment, or the ambient air quality standard, the standards of performance for new stationary sources or the emission standards for hazardous air contaminants standards in effect on April 30, 1980, under the federal clean air act are relaxed, the department shall alter the corresponding state standards unless it finds that the relaxed standards would not provide adequate protection for public health and welfare.

**SECTION 477.** 144.375 (6) (b) and (c) of the statutes are repealed.

**SECTION 478.** 144.38 of the statutes is renumbered 285.17.

**SECTION 479.** 144.382 of the statutes is renumbered 285.53, and 285.53 (1) (a) and (2), as renumbered, are amended to read:

285.53 (1) (a) *Applicability.* This subsection applies to a medical waste incinerator, as defined in s. ~~159.07~~ 287.07 (7) (c) 1. cr., that has a capacity of 5 tons or more per day.

(2) CONTINUOUS MONITORING. A person operating or responsible for the operation of a medical waste incinerator, as defined in s. ~~159.07~~ 287.07 (7) (c) 1. cr., shall continuously monitor emissions from the medical waste incinerator.

**SECTION 480.** 144.385 of the statutes is repealed.

NOTE: This statutory section established sulfur dioxide emission limits for major utilities prior to January 1, 1993, and, according to sub. (9) of s. 144.385, does not apply after December 31, 1992.

**SECTION 481.** 144.386 of the statutes is renumbered 285.41, and 285.41 (4) (a) (intro.), (5) and (7), as renumbered, are amended to read:

285.41 (4) (a) *Request; variance conditions.* (intro.) A major utility may request a variance from the emission rate under sub. (2) (a) by submitting the request to the commission and the department. No request for a variance may be submitted if the department has served the major utility with written notice under s. ~~144.423~~ 285.83 that the major utility has violated sub. (2) (a). Upon receipt of a request, the commission shall, within 45 days, determine if any of the following variance conditions exists and shall report its determination to the department:

(5) NO IMPACT ON OTHER PROVISIONS. Nothing in this section exempts a major utility from any provision of ss. ~~144.30 to 144.38 or 144.391 to 144.426~~ ss. 285.01 to 285.39 or 285.51 to 285.87. Compliance with this section is not a defense to a violation of any of those provisions.

(7) PENALTY. Notwithstanding s. ~~144.426~~ 285.87, any major utility that exceeds the annual emission rate

under sub. (2) (a) in violation of this section shall forfeit not less than \$100,000 nor more than \$500,000 for each year of violation.

**SECTION 482.** 144.387 of the statutes is renumbered 285.43, and 285.43 (1), as renumbered, is amended to read:

285.43 (1) **LIMIT.** After June 30, 1988, the average number of pounds of sulfur dioxide emissions per million British thermal units of heat input during any year from any large source, as defined under s. 144.388 285.45 (1) (a), that is owned by this state may not exceed 1.50.

**SECTION 483.** 144.388 of the statutes is renumbered 285.45, and 285.45 (1) (a) and (b) and (3) (a) and (b) 1., as renumbered, are amended to read:

285.45 (1) (a) "Large source" means a stationary source in this state, other than a fossil fuel-fired boiler under the ownership or control of a major utility, that had sulfur dioxide emissions averaging at least 1,000 tons annually in the most recent 5-year period, that became operational before May 2, 1986, and that is not a boiler subject to the standard of performance for new stationary sources for sulfur dioxide emissions established under s. 144.375 (4) 285.27 (1).

(b) "Major utility" has the meaning given under s. 144.386 285.41 (1) (f).

(3) (a) If the department determines, based on its annual report under s. 144.31 (1) (n) 285.11 (12), that the total annual sulfur dioxide emissions from all major utilities and large sources exceeded 325,000 tons in the previous year, or if the department projects, based on the amounts anticipated by the major utilities under s. 144.386 285.41 (3) (a) 8. and the department's estimates of emissions from large sources, that the total sulfur dioxide emissions in this state will exceed 325,000 tons in any of the 3 succeeding years, the department shall determine if the actual or projected excess emissions are or will be attributable to the major utilities, the large sources or both.

(b) 1. If the department determines that the excess emissions are or will be attributable to the major utilities, the department shall, after consulting with the commission, prepare a report containing a recommendation as to whether the goal specified under sub. (2) (b) should be replaced with an enforceable limit. If so, the report shall include the department's recommendation for a cost-effective mechanism for ensuring compliance with the limit, including any necessary changes in s. 144.386 285.41. The department shall hold a public hearing on the report.

**SECTION 484.** 144.389 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 285.47, and 285.47 (1), as renumbered, is amended to read:

285.47 (1) **DEFINITION.** In this section, "major utility" has the meaning given in s. 144.386 285.41 (1) (f).

**SECTION 485.** 144.391 (title), (1), (2), (3m), (4m), (5), (6) and (7) of the statutes, as affected by 1995 Wisconsin Act 27, are renumbered 285.60 (title), (1), (2), (3),

(4), (5), (6) and (7), and 285.60 (1) (b), (2) (a) and (3), as renumbered, are amended to read:

285.60 (1) (b) *Operation permit.* 1. Except as provided in subd. 2., par. (a) 2., sub. (6) or s. 144.3925 (7) 285.62 (8), no person may operate a new source or a modified source unless the person has an operation permit under s. 144.3925 285.62 from the department.

2. A person may continue to operate a new source or a modified source for which the department issued a permit under s. 144.392, 1989 stats., on or before November 15, 1992, but on which construction, reconstruction, replacement or modification began after November 15, 1992, but the person shall apply for an operation permit under s. 144.3925 285.62 no later than March 1, 1996.

(2) (a) *Operation permit requirement.* Except as provided in sub. (6) or s. 144.3925 (7) 285.62 (8), no person may operate an existing source after the operation permit requirement date specified under s. 144.374 (1) 285.62 (11) (a) unless the person has an operation permit from the department.

(3) **GENERAL OPERATION PERMITS.** The department may, by rule, specify types of stationary sources that may obtain general operation permits. A general operation permit may cover numerous similar stationary sources. A general operation permit shall require any stationary source that is covered by the general operation permit to comply with ss. 144.392 to 144.399 285.61 to 285.69. The department shall issue a general operation permit using the procedures and criteria in ss. 144.3925 to 144.399 285.62 to 285.69.

**SECTION 486.** 144.392 (title), (1m), (2), (3), (4), (5), (6), (7), (8) and (9) of the statutes are renumbered 285.61 (title), (1), (2), (3), (4), (5), (6), (7), (8) and (9), and 285.61 (2), (8) (a) and (9), as renumbered, are amended to read:

285.61 (2) **PLANS, SPECIFICATIONS AND OTHER INFORMATION.** Within 20 days after receipt of the application the department shall indicate the plans, specifications and any other information necessary to determine if the proposed construction, reconstruction, replacement or modification will meet the requirements of ss. 144.30 to 144.426 and 144.96 this chapter and s. 299.15 and rules promulgated under these sections this chapter and s. 299.15.

(8) (a) *Criteria; considerations.* The department may approve the construction permit application and issue a construction permit according to the criteria established under s. 144.393 285.63 after consideration of the comments received under subs. (6) and (7) and after consideration of the environmental impact as required under s. 1.11.

(9) **MINING HEARING.** If a hearing on the construction permit is conducted as a part of a hearing under s. 144.836 293.43, the notice, comment and hearing provisions in that section supersede the provisions of subs. (4) to (8).

**SECTION 487.** 144.3925 (title), (1), (2), (3), (4), (5), (5m), (6), (7), (8) and (9) of the statutes, as affected by 1995 Wisconsin Act 27, are renumbered 285.62 (title), (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10), and 285.62 (1), (2), (3) (b) 2., (6) (a) and (b), (7) (a) and (b), (8), (9) (a) and (10), as renumbered, are amended to read:

**285.62 (1) APPLICANT NOTICE REQUIRED.** A person who is required to obtain an operation permit for a stationary source shall apply to the department for the permit on or before the operation permit application date specified under ~~s. 144.374 (2) sub. (1) (b)~~. The department shall specify by rule the content of applications under this subsection. If required by the federal clean air act, the department shall provide a copy of the complete application to the federal environmental protection agency. The department may not accept an application submitted to the department before November 15, 1992, as an application under this subsection.

**(2) PLANS, SPECIFICATIONS AND OTHER INFORMATION.** Within 20 days after receipt of the application the department shall indicate any additional information required under sub. (1) necessary to determine if the source, upon issuance of the permit, will meet the requirements of ~~ss. 144.30 to 144.426 and 144.96 this chapter and s. 299.15~~ and rules promulgated under ~~those sections this chapter and s. 299.15~~.

**(3) (b) 2.** Any local air pollution control agency that has a program under ~~s. 144.41 285.73~~ that is approved by the department and that has jurisdiction over the area in which the stationary source is located.

**(6) (a)** After considering any public comments concerning an application, the department may prepare a proposed operation permit or deny the application for an operation permit. If the criteria in ~~ss. 144.393 and 144.3935 285.63 and 285.64~~ are met, the department shall prepare a proposed operation permit. If required by the federal clean air act, the department shall provide a copy of a proposed operation permit to the federal environmental protection agency. If a state has submitted recommendations in response to the notice under sub. (3) (b) 7. and the department has not accepted those recommendations, the department shall notify that state and the federal environmental protection agency in writing of its decision not to accept the recommendations and the reasons for that decision.

**(b)** The federal environmental protection agency may object in writing to the issuance of an operation permit that it determines is not in compliance with the federal clean air act or an implementation plan prepared under ~~s. 144.31 (1) (f) 285.11 (6)~~. The department shall respond in writing to the objection if the federal environmental protection agency provides the reasons for the objection and submits the objection to the department and the applicant within 45 days after receiving either a copy of the proposed operation permit under par. (a) or notice under

par. (a) of the department's decision not to accept the recommendations of another state.

**(7) (a)** The department shall approve or deny the operation permit application for an existing source. The department shall issue the operation permit for an existing source if the criteria established under ~~ss. 144.393 and 144.3935 285.63 and 285.64~~ are met. The department shall issue an operation permit for an existing source or deny the application within 18 months after receiving a complete application, except that the department may, by rule, extend the 18-month period for specified existing sources by establishing a phased schedule for acting on applications received within one year after the effective date of the rule promulgated under sub. (1) that specifies the content of applications for operation permits. The phased schedule may not extend the 18-month period for more than 3 years.

**(b)** The department shall approve or deny the operation permit application for a new source or modified source. The department shall issue the operation permit for a new source or modified source if the criteria established under ~~ss. 144.393 and 144.3935 285.63 and 285.64~~ are met. The department shall issue an operation permit for a new source or modified source or deny the application within 180 days after the permit applicant submits to the department the results of all equipment testing and emission monitoring required under the construction permit.

**(8) OPERATION CONTINUED DURING APPLICATION.** If a person timely submits a complete application for an existing source under sub. (1) and submits any additional information requested by the department within the time set by the department, the existing source may not be required to discontinue operation and the person may not be prosecuted for lack of an operation permit until the department acts under sub. ~~(6) (7)~~.

**(9) (a)** If the department fails to issue an operation permit or to deny the application within the period specified in sub. ~~(6) (7)~~ or in a rule promulgated under sub. ~~(6) (7)~~, that failure is considered a final decision on the application solely for the purpose of obtaining judicial review under ~~ss. 227.52 and 227.53~~ to require the department to act on the application without additional delay.

**(10) EFFECT OF PERMIT.** (a) Except as provided in par. (b), the issuance of an operation permit, including an operation permit that contains a compliance schedule, does not preclude enforcement actions based on violations of ~~ss. 144.30 to 144.426 this chapter~~ that occur before, on or after the date that the operation permit is issued. The inclusion of a compliance schedule in an operation permit does not preclude enforcement actions based on violations of ~~ss. 144.30 to 144.426 this chapter~~ to which the compliance schedule relates, whether or not the source is violating the compliance schedule.

(b) Unless precluded by the administrator of the federal environmental protection agency under 42 USC 7661c (f), compliance with all emission limitations included in an operation permit is considered to be compliance with all emission limitations established under ~~ss. 144.30 to 144.426~~ this chapter and emission limitations under the federal clean air act that are applicable to the stationary source as of the date of issuance of the operation permit if the permit includes the applicable emission limitations or the department, in acting on the application for the operation permit, determines in writing that the emission limitations do not apply to the stationary source and the operation permit includes that determination.

**SECTION 488.** 144.393 of the statutes is renumbered 285.63, and 285.63 (1) (intro.), (a), (b) and (d), (2) (c), (7) (b) 2., 3., 4., 5. and 8. and (10) (a), (b) and (c) 4., as renumbered, are amended to read:

285.63 (1) **REQUIREMENTS FOR ALL SOURCES.** (intro.) The department may approve the application for a permit required or allowed under s. ~~144.394~~ 285.60 if it finds:

(a) *Source will meet requirements.* The stationary source will meet all applicable emission limitations and other requirements promulgated under ~~ss. 144.30 to 144.426~~ this chapter, standards of performance for new stationary sources under s. ~~144.375 (4)~~ 285.27 (1) and emission standards for hazardous air contaminants under s. ~~144.375 (5)~~ 285.27 (2);

(b) *Source will not violate or exacerbate violation of air quality standard or ambient air increment.* The source will not cause or exacerbate a violation of any ambient air quality standard or ambient air increment under s. ~~144.375~~ 285.21 (1) or (2);

(d) *Source will not preclude construction or operation of other source.* The stationary source will not degrade the air quality in an area sufficiently to prevent the construction, reconstruction, replacement, modification or operation of another stationary source if the department received plans, specifications and other information under s. ~~144.392~~ 285.61 (2) for the other stationary source prior to commencing its analysis under s. ~~144.392~~ 285.61 (3) for the former stationary source. This paragraph does not apply to an existing source required to have an operation permit.

(2) (c) *Applicant's other major sources meet or on schedule to meet requirements.* All other major sources that are located in this state and that are owned or operated by the permit applicant or by any entity controlling, controlled by or under common control with the permit applicant, as determined under s. 180.1140 (6), meet or are on schedule to meet the requirements of ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 and rules promulgated under ~~those sections~~ this chapter and s. 299.15 and are in compliance with or are on schedule to come into compliance with all applicable emission limitations and emission standards under the federal clean air act.

(7) (b) 2. Except as provided in s. ~~144.399~~ 285.69 (5) (d), the applicant is in compliance or is complying with an approved schedule to be in compliance with ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 with respect to all stationary sources that it owns or operates and has paid the fees required under s. ~~144.399~~ 285.69 (5).

3. Except as provided in subd. 8., the growth accommodation reported for the current year under s. ~~144.40~~ 285.39 (2) (b) 1., after reduction by the amount of the proposed growth accommodation credit and any growth accommodation credits issued since the date of the report, is greater than 2,500 tons.

4. If the growth accommodation reported for the current year under s. ~~144.40~~ 285.39 (2) (b) 1., less a reduction by the amount of any growth accommodation credits issued since the date of the report under s. ~~144.40~~ 285.39 (2) (b) 1., is greater than 3,000 tons, the department may certify to the applicant no more than the amount of the growth accommodation reported for the current year under s. ~~144.40~~ 285.39 (2) (b) 1., less the sum of 2,750 tons and any growth accommodation credits issued since the date of the report under s. ~~144.40~~ 285.39 (2) (b).

5. If the growth accommodation reported for the current year under s. ~~144.40~~ 285.39 (2) (b) 1., after reduction by the amount of any growth accommodation credits issued since the date of the report under s. ~~144.40~~ 285.39 (2) (b) 1., is greater than 2,500 tons but less than or equal to 3,000 tons, the department may certify no more than 250 tons to the applicant in that year.

8. If the growth accommodation reported for the current year under s. ~~144.40~~ 285.39 (2) (b) 1., after reduction by the amount of the proposed growth accommodation credit and any growth accommodation credits issued since the date of the report, would be 2,500 tons or less, the department may certify to the applicant a growth accommodation credit in the amount determined under this section if, because of facility shutdowns or replenishment activities under s. ~~144.40~~ 285.39 that have occurred, the growth accommodation for the next succeeding year after reduction by the amount of the growth accommodation credit will be greater than 2,500 tons.

(10) (a) In this subsection, "medical waste incinerator" has the meaning given in s. ~~159.07~~ 287.07 (7) (c) 1. cr.

(b) In addition to the requirements under subs. (1) to (3), the department may approve an application submitted after May 14, 1992, for a permit required or allowed under s. ~~144.394~~ 285.60 for the construction of a medical waste incinerator or for the modification of a medical waste incinerator that expands the capacity of the medical waste incinerator only if it finds that the new or modified medical waste incinerator will be needed and that the site of the medical waste incinerator is appropriate.

(c) 4. The quantity of waste having the potential to be burned in the medical waste incinerator that may be man-

aged in an effective recycling program created under s. ~~159.14~~ 287.11.

**SECTION 489.** 144.3935 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 285.64, and 285.64 (1) (a) (intro.) and (b) and (2), as renumbered, are amended to read:

285.64 (1) (a) (intro.) Notwithstanding s. ~~144.393~~ 285.63, the department may issue an operation permit for a stationary source that does not comply with the requirements in the operation permit, in the federal clean air act, in an implementation plan under s. ~~144.31(1)(f)~~ 285.11(6) or in s. ~~144.393~~ 285.63 when the operation permit is issued if the operation permit includes all of the following:

(b) Notwithstanding par. (a) and s. ~~144.393~~ 285.63, the department may not issue an operation permit to a stationary source if the federal environmental protection agency objects to the issuance of the operation permit as provided in s. ~~144.3925(5m)~~ 285.62(6) unless the department revises the operation permit to meet the objection.

(2) ONE-YEAR MORATORIUM ON REVOCATION. (a) The department may not revoke an operation permit for an existing source for one year after the issuance of that permit based upon failure of the existing source at the time of permit issuance to comply with ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 and rules promulgated under ~~these sections~~ this chapter and s. 299.15.

(b) Notwithstanding par. (a), the department may take any other action necessary to enforce an operation permit and ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 and rules promulgated under ~~these sections~~ this chapter and s. 299.15 which apply to the existing source after issuance of an operation permit under this section.

**SECTION 490.** 144.394 (intro.), (1), (2), (3), (4), (5), (6), (7), (7m), (8), (9), (10), (11), (12) and (13) of the statutes are renumbered 285.65 (intro.), (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14), and 285.65 (intro.), (3), (8) and (9), as renumbered, are amended to read:

**285.65 Permit conditions.** (intro.) The department may prescribe conditions for an air pollution control permit to ensure compliance with ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 and rules promulgated under ~~these sections~~ this chapter and s. 299.15 and to ensure compliance with the federal clean air act if each condition is one of the following and if each condition is applicable to the source:

(3) Requirements necessary to assure compliance with s. ~~144.393~~ 285.63.

(8) The terms for use of growth accommodation credits under s. ~~144.393~~ 285.63 (7) or (8), including the dates that the source expects to use the credits.

(9) Requirements concerning entry and inspection as provided in s. ~~144.34~~ 285.19.

**SECTION 491.** 144.395 of the statutes is renumbered 285.67.

**SECTION 492.** 144.396 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 285.66, and 285.66 (2) and (3) (b) and (c), as renumbered, are amended to read:

285.66 (2) OPERATION. The department shall specify the term of an operation permit in the operation permit. The term of an operation permit issued under s. ~~144.3925~~ 285.62 or renewed under sub. (3) may not exceed 5 years from the date of issuance or renewal.

(3) (b) The department shall follow the procedures in s. ~~144.3925~~ 285.62 in renewing an operation permit for a new source, a modified source or an existing source.

(c) The department may renew an operation permit if the criteria in ~~ss. 144.393 and 144.3935~~ 285.63 and 285.64 are met. Notwithstanding s. ~~144.3935~~ 285.64 (1) (a), the department may deny an application for renewal of an operation permit for a stationary source if the stationary source is in violation of its current operation permit.

**SECTION 493.** 144.398 of the statutes is renumbered 285.68.

**SECTION 494.** 144.399 (title) and (1) of the statutes are renumbered 285.69 (title) and (1).

**SECTION 495.** 144.399 (2) (title) and (a) (intro.), 1., 2., 2g., 2r., 3. and 4. of the statutes, as affected by 1995 Wisconsin Act 27, are renumbered 285.69 (2) (title) and (a) (intro.), 1., 2., 3., 4., 5. and 6., and 285.69 (2) (a) 2., 3. and 5., as renumbered, are amended to read:

285.69 (2) (a) 2. Except as provided under par. ~~(e)~~ (d), that the fees collected in 1993 are \$18 per ton of each regulated pollutant.

3. Except as provided under par. ~~(e)~~ (d), that the fees collected in 1994 are \$25 per ton increased by the percentage by which the consumer price index, as defined in 42 USC 7661a (b) (3) (B) (v), for 1993 exceeds the consumer price index for 1989.

5. That fees are not based on emissions by an air contaminant source in excess of 4,000 tons per year of each regulated pollutant, except that, subject to par. ~~(am)~~ (b), this limitation does not apply to a major utility, as defined in s. ~~144.385(2)(b)~~ 285.41(1)(f), that owns or operates a phase I affected unit as listed in Table A of 42 USC 7651c.

**SECTION 496.** 144.399 (2) (am) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 285.69 (2) (b) and amended to read:

285.69 (2) (b) The department may not charge a major utility fees on emissions in excess of 4,000 tons per year of each regulated pollutant beyond the amount necessary to recover the fees that would have been charged for any phase I affected unit under 42 USC 7651c owned by that major utility if the prohibition in par. (a) 4. 6 did not exist.



**SECTION 497.** 144.399 (2) (b) and (c) of the statutes are renumbered 285.69 (2) (c) and (d).

**SECTION 498.** 144.399 (3) to (6) of the statutes are renumbered 285.69 (3) to (6), and 285.69 (5) (a) and (d), as renumbered, are amended to read:

285.69 (5) (a) A one-time growth accommodation use fee shall be imposed at the time of application upon any person who obtains a certified growth accommodation credit under s. ~~144.393~~ 285.63 (7). If the amount of credit per calendar year varies between calendar years, the amount of the fee shall be based upon the largest annual credit for any calendar year. If the person submits more than one application in any calendar year, the fee for the application shall be based upon the largest cumulative credit obtained for any calendar year. A fee is nonrefundable, except that in determining a fee for an application in any calendar year, the department shall credit once to the person an amount equal to any fee previously paid in the same calendar year. All fees collected under this subsection shall be deposited in the general fund.

(d) A stationary source which is operating without an air pollution control permit required under s. ~~144.391~~ 285.60 but which can demonstrate to the satisfaction of the department the ability to comply with ~~ss. 144.30 to 144.426 and 144.96~~ this chapter and s. 299.15 after obtaining a growth accommodation credit under s. ~~144.393~~ 285.63 (7) shall be required to pay an amount from \$200 to \$1,000 times the amount of the growth accommodation credit certified to the person, expressed in tons per year.

**SECTION 499.** 144.399 (7) of the statutes, as created by 1995 Wisconsin Act 27, is renumbered 285.69 (7) and amended to read:

285.69 (7) EMISSION REDUCTION CREDIT FEES. The department may promulgate rules for the payment of fees by persons who hold emission reduction credits that may be used to satisfy the offset requirements in s. ~~144.393~~ 285.63 (2) (a) and that have been certified by the department. The rules may waive the payment of fees under this subsection for categories of emission reduction credits. The fees collected under this subsection shall be credited to the appropriation under s. 20.370 (2) (bg).

**SECTION 500.** 144.40 of the statutes is renumbered 285.39, and 285.39 (1) (d), (3) (a) and (5), as renumbered, are amended to read:

285.39 (1) (d) Net certified accommodation credits are the sum of all volatile organic compound growth accommodation credits certified to date under s. ~~144.393~~ 285.63 (7) or (8) minus the sum of the actual annual emissions of volatile organic compounds for the year 2 years before the specified year attributable to the sources receiving volatile organic compound growth accommodation credits certified to date under s. ~~144.393~~ 285.63 (7) or (8).

(3) (a) Promulgate rules under s. ~~144.42~~ 285.30 (6) (e), relating to the inspection of vehicles for tampering with air pollution control equipment.

(5) CONTINGENT RESTRICTIONS ON EXISTING SOURCES. If at any time the department finds that the growth accommodation is less than 2,500 tons and determines that it is unlikely that the growth accommodation will exceed 2,500 tons in the report under sub. (2) (b) 1. for the following year because of the inadequacy of replenishment activities at the time or because of facility shutdowns, the department shall implement the rules that specify emission limitations for emissions of volatile organic compounds from stationary sources located in the volatile organic compound accommodation area that were required to report their emissions under s. ~~144.96~~ 299.15 during calendar year 1987. The emission limitations shall be designed to ensure that the growth accommodation in the subsequent year is not less than 2,500 tons. The emission limitations may not be more restrictive than the lowest achievable emission rate. The department shall implement the emission limitations by source category. For the purpose of this section, the department shall determine a source category according to the type and level of emissions. The department may also use other characteristics which relate to air pollution to determine source categories. The department shall implement the emission limitations based upon ease of implementation, cost-effectiveness and the relative equity of imposing a limitation upon a source category, given any prior limitations of emissions imposed upon that source category. To the extent feasible, the emission limitations shall provide affected sources the opportunity to choose to be subject to either an annual emission limitation or a more restrictive applicable reasonably available control technology rule than was in effect in 1987.

**SECTION 501.** 144.401 of the statutes is renumbered 285.75.

**SECTION 502.** 144.403 of the statutes is renumbered 285.81, and 285.81 (1) (intro.), (2), (3) and (4), as renumbered, are amended to read:

285.81 (1) PERMIT HOLDER; PERMIT APPLICANT; ORDER RECIPIENT. (intro.) Any permit, part of a permit, order, decision or determination by the department under ss. ~~144.391 to 144.401~~ 285.39, 285.60 to 285.69 or 285.75 shall become effective unless the permit holder or applicant or the order recipient seeks a hearing on the action in the following manner:

(2) OTHER PERSONS. Any person who is not entitled to seek a hearing under sub. (1) (intro.) and who meets the requirements of s. 227.42 (1) or who submitted comments in the public comment process under s. ~~144.3925~~ 285.62 (4) or (5) may seek review under sub. (1) of any permit, part of a permit, order, decision or determination

by the department under ss. ~~144.391 to 144.401~~ 285.39, 285.60 to 285.69 or 285.75.

(3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing on the matter is conducted as a part of a hearing under s. ~~144.836~~ 293.43.

(4) REVIEW OF DEPARTMENT DETERMINATIONS. An air pollution control permit, part of an air pollution control permit or determination by the department under ss. ~~144.391 to 144.401~~ 285.39, 285.60 to 285.69 or 285.75 is not subject to review in any civil or criminal enforcement action for a violation of ss. ~~144.30 to 144.426~~ this chapter. This subsection does not restrict the ability of a person to challenge an administrative rule as provided in s. 227.40 (2).

**SECTION 503.** 144.404 of the statutes is renumbered 285.77.

**SECTION 504.** 144.405 of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (Senate Bill 345), is renumbered 285.31.

**SECTION 505.** 144.407 (title), (1), (1g), (1m), (1r), (1t), (1w) and (2) of the statutes are renumbered 285.55 (title), (1), (2), (3), (4), (5), (6) and (7), and 285.55 (1), (2), (3), (4) (intro.) and (a), (5) (intro.) and (6), as renumbered, are amended to read:

285.55 (1) In this section, “medical waste incinerator” means a facility for solid waste treatment, as defined in s. ~~144.43 (7r)~~ 289.01 (39), that burns medical waste, as defined in s. ~~159.07 287.07 (7) (c) 1. cg.~~

(2) Except as provided in sub. ~~(1m), (1r), (1t) or (1w)~~ (3), (4), (5) or (6), the department may not issue an air pollution control permit for the construction or modification of a medical waste incinerator or an initial license under s. ~~144.44 (4)~~ 289.31 for a medical waste incinerator.

(3) Subsection ~~(1g) (2)~~ does not apply to the issuance of a license under s. ~~144.44 (4)~~ 289.31 for ash management for a medical waste incinerator that is operating on May 14, 1992, or has an air pollution control permit on May 14, 1992.

(4) (intro.) Subsection ~~(1g) (2)~~ does not apply to the issuance of an air pollution control permit or a license under s. ~~144.44 (4)~~ 289.31 for the construction or modification of a medical waste incinerator by one or more hospitals, as defined in s. 50.33 (2), clinics, as defined in s. ~~159.07 287.07 (7) (c) 1. a.,~~ or nursing homes, as defined in s. 50.01 (3), if all of the following apply:

(a) The construction or modification is designed to treat medical waste generated by one or more hospitals, clinics or nursing homes that are identified in the application for the air pollution control permit or the license under s. ~~144.44 (4)~~ 289.31 and that are located in the county in which the medical waste incinerator is located or in an adjacent county in this state.

(5) (intro.) Subsection ~~(1g) (2)~~ does not apply to the issuance of an air pollution control permit or a license under s. ~~144.44 (4)~~ 289.31 for the construction of a medical

waste incinerator in a 4th class city if all of the following apply:

(6) Subsection ~~(1g) (2)~~ does not apply to the issuance of an air pollution control permit or a license under s. ~~144.44 (4)~~ 289.31 for the modification of a medical waste incinerator in operation on May 14, 1992, if the modification is designed to allow the medical waste incinerator to achieve compliance with the federal clean air act or the department’s rules concerning the emission of hazardous air contaminants and does not expand the medical waste incinerator’s capacity.

**SECTION 506.** 144.41 of the statutes is renumbered 285.73, and 285.73 (1) (a) and (e), (4) and (6), as renumbered, are amended to read:

285.73 (1) (a) Provides by ordinance for requirements compatible with, or stricter or more extensive than those imposed by ss. ~~144.30 to 144.426~~ this chapter and rules issued thereunder. Such ordinances shall supersede any existing local ordinances;

(e) Is approved by the department as adequate to meet the requirements of ss. ~~144.30 to 144.426~~ this chapter and any applicable rules pursuant thereto.

(4) (a) If the department has reason to believe that a program in force pursuant to this section is inadequate to prevent and control air pollution in the jurisdiction to which such program relates, or that such program is being administered in a manner inconsistent with the requirements of ss. ~~144.30 to 144.426~~ this chapter, the department shall, on due notice, conduct a hearing on the matter.

(b) If, after such hearing, the department determines that a program is inadequate to prevent and control air pollution in the county to which such program relates, or that such program is not accomplishing the purposes of ss. ~~144.30 to 144.426~~ this chapter, it shall require that necessary corrective measures be taken within a reasonable period of time, not to exceed 60 days.

(c) If the county fails to take such necessary corrective action within the time required, the department shall administer within such county all of the regulatory provisions of ss. ~~144.30 to 144.426~~ this chapter. Such air pollution control program shall supersede all county air pollution regulations, ordinances and requirements in the affected jurisdiction.

(6) Nothing in ss. ~~144.30 to 144.426~~ this chapter supersedes the jurisdiction of any county air pollution control program in operation on July 26, 1967, but any such program shall meet all requirements of ss. ~~144.30 to 144.426~~ this chapter for a county air pollution control program. Any approval required from the department shall be deemed granted unless the department takes specific action to the contrary.

**SECTION 507.** 144.42 of the statutes, as affected by 1993 Wisconsin Act 288 and 1995 Wisconsin Act 137, is renumbered 285.30.

**SECTION 508.** 144.421 of the statutes is renumbered 285.57.

**SECTION 509.** 144.422 (title), (1), (2), (2m), (2r), (3), (3e), (3m) and (4) of the statutes are renumbered 285.59 (title), (1), (2), (3), (4), (5), (6), (7) and (8), and 285.59 (2) (intro.) and (b), (5) (a) 2., (6), (7) and (8) (b) and (c), as renumbered, are amended to read:

285.59 (2) SALVAGING REFRIGERATION EQUIPMENT. (intro.) After June 30, 1992, except as provided in sub. (2m) (3), no person, including a state agency, as defined in s. 234.75 (10), may perform salvaging or dismantling of mechanical vapor compression refrigeration equipment in the course of which ozone-depleting refrigerant is or may be released or removed unless the person certifies all of the following to the department:

(b) That the individuals who use the equipment under par. (a) have, or are under the supervision of individuals who have, the qualifications established under sub. (3) (5) (a) 1.

(5) (a) 2. Fees to cover the cost of administering subs. (2), (2m) (3) and (2r) (4) (b).

(6) DEPARTMENT POWERS. The department may promulgate rules providing that any portion of sub. (2), (2m) (3) or (2r) (4) applies with respect to a substance used as a substitute for an ozone-depleting substance.

(7) CITATIONS. The department may follow the procedures for the issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture for a violation of sub. (2), (2m) (3) (c) or (2r) (4).

(8) (b) Any person who violates sub. (2m) (3) (c) shall be required to forfeit not less than \$100 nor more than \$1,000. Each sale, giving or transporting in violation of sub. (2m) (3) (c) constitutes a violation.

(c) Any person who violates sub. (2r) (4) shall be required to forfeit not less than \$100 nor more than \$1,000. Each release in violation of sub. (2r) (4) constitutes a violation.

**SECTION 510.** 144.423 of the statutes is renumbered 285.83, and 285.83 (1) (a) (intro.) and 2. and (2), as renumbered, are amended to read:

285.83 (1) (a) (intro.) If the department has reason to believe that a violation of ss. 144.30 to 144.426 or 144.96 this chapter or s. 299.15 or any rule promulgated or special order, plan approval or permit issued under ~~those sections~~ this chapter or s. 299.15 has occurred, it may:

2. Initiate action under s. 144.422 (4) or 144.426 285.59 (8) or 285.87.

(2) The notice under sub. (1) (a) 1. for an alleged violation of rules promulgated under s. 144.405 285.31 (3) may include a tag or other notice placed on the dispensing equipment that is alleged to be in violation of rules promulgated under s. 144.405 285.31 (3).

**SECTION 511.** 144.424 of the statutes is renumbered 285.85, and 285.85 (2), as renumbered, is amended to read:

285.85 (2) In the absence of a generalized condition of air pollution of the type referred to in sub. (1), if the secretary finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he or she may order the persons responsible for the operations in question to reduce or discontinue emissions immediately, without regard to s. 144.423 285.83. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in sub. (1) shall apply.

**SECTION 512.** 144.426 of the statutes is renumbered 285.87, and 285.87 (1) and (2) (a), as renumbered, are amended to read:

285.87 (1) Except as provided in s. 144.421 (5) or 144.422 (4) 285.57 (5) or 285.59 (8), any person who violates ss. 144.30 to 144.426 this chapter or any rule promulgated, any permit issued or any special order issued under ~~those sections~~ this chapter shall forfeit not less than \$10 or more than \$25,000 for each violation. Each day of continued violation is a separate offense.

(2) (a) Except as provided in par. (b), any person who intentionally commits an act that violates, or fails to perform an act required by, ss. 144.30 to 144.426, except s. 144.422 this chapter, except s. 285.59, or any rule promulgated, any permit issued or any special order issued under ~~those sections~~ this chapter, except s. 144.422 285.59, shall be fined not more than \$25,000 per day of violation or imprisoned for not more than 6 months or both.

**SECTION 513.** Subchapter IV (title) of chapter 144 [precedes 144.43] of the statutes is repealed.

**SECTION 514.** 144.43 (intro.) of the statutes is renumbered 289.01 (intro.) and amended to read:

**289.01 (title) Solid waste; definitions Definitions.** (intro.) As used in ss. 144.43 to 144.47 In this chapter, unless the context requires otherwise:

**SECTION 515.** 144.43 (1) and (1m) of the statutes are renumbered 289.01 (1) and (5), and 289.01 (1) (b), as renumbered, is amended to read:

289.01 (1) (b) A town, city, village or county whose boundary is within 1,200 feet of that portion of the facility designated by the applicant for the disposal of solid waste or the treatment, storage or disposal of hazardous waste in the feasibility report under s. 144.44 (2) 289.23, excluding buffers and similar areas.

**SECTION 516.** 144.43 (2), (2d), (2h), (2p) and (2t) of the statutes are renumbered 289.01 (12), (13), (14), (15) and (16) and amended to read:

289.01 (12) "Hazardous waste" means any solid waste identified by the department as hazardous under s. 144.62 (2) (b) 291.05 (2).

(13) "Hazardous waste disposal" has the meaning specified for disposal under s. 144.61 291.01 (3).

(14) "Hazardous waste facility" has the meaning specified under s. 144.61 (5m) 291.01 (8).

(15) “Hazardous waste storage” has the meaning specified for storage under s. 144.61 ~~(10)~~ 291.01 (18).

(16) “Hazardous waste treatment” has the meaning specified for treatment under s. 144.61 ~~(13)~~ 291.01 (21).

**SECTION 517.** 144.43 (2w), (3) and (3m) of the statutes are renumbered 289.01 (20), (21) and (22).

**SECTION 518.** 144.43 (4) of the statutes is repealed.

**SECTION 519.** 144.43 (4g) of the statutes is renumbered 289.01 (30).

**SECTION 520.** 144.43 (4r), (5), (6), (7), (7g), (7r) and (8) of the statutes are renumbered 289.01 (34), (35), (36), (37), (38), (39) and (40).

**SECTION 521.** 144.431 (title) of the statutes is repealed.

**SECTION 522.** 144.431 (1) of the statutes is renumbered 289.06, and 289.06 (1), (2), (4) and (6), as renumbered, are amended to read:

289.06 (1) Promulgate rules implementing and consistent with ss. 144.43 to 144.47 this chapter and ss. 292.31 and 292.35.

(2) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of ss. 144.43 to 144.47 this chapter and ss. 292.31 and 292.35.

(4) Collect and disseminate information and conduct educational and training programs relating to the purposes of ss. 144.43 to 144.47 this chapter and ss. 292.31 and 292.35.

(6) Provide technical assistance for the closure of a solid waste disposal facility that is a nonapproved facility, as defined in s. 144.441 (1)(e).

**SECTION 523.** 144.431 (2) (intro.) and (a) of the statutes are renumbered 289.07 (intro.) and (1), and 289.07 (1), as renumbered, is amended to read:

289.07 (1) Hold hearings relating to any aspect of the administration of ss. 144.43 to 144.47 this chapter and ss. 292.31 and 292.35 and, in connection therewith, compel the attendance of witnesses and the production of evidence.

**SECTION 524.** 144.431 (2) (b) of the statutes is renumbered 289.93 and amended to read:

**289.93** (title) Orders. Issue The department may issue orders to effectuate the purposes of ss. 144.43 to 144.47 this chapter and enforce the same by all appropriate administrative and judicial proceedings.

**SECTION 525.** 144.431 (2) (c) and (d) of the statutes are renumbered 289.07 (2) and (3).

**SECTION 526.** 144.431 (2) (e) of the statutes is repealed.

**SECTION 527.** 144.432 of the statutes is renumbered 289.11 and amended to read:

**289.11 Federal aid.** Subdivisions of this state and interlocal agencies may make application for, receive, administer and expend any federal aid for the development and administration of programs related to solid waste facilities if first submitted to and approved by the department. The department shall approve any such applica-

tion if it is consistent with the purposes of ss. 144.43 to 144.47 this chapter and any other applicable requirements of law.

**SECTION 528.** 144.433 of the statutes is renumbered 289.09, and 289.09 (1) and (2) (a) 1. and 2. and (d), as renumbered, are amended to read:

289.09 (1) RECORDS. Except as provided under sub. (2), any records or other information furnished to or obtained by the department in the administration of ss. 144.43 to 144.47 and 144.96 this chapter and s. 299.15 are public records subject to s. 19.21.

(2) (a) 1. An owner or operator of a solid waste facility may seek confidential treatment of any records or other information furnished to or obtained by the department in the administration of ss. 144.43 to 144.47 and 144.96 this chapter and s. 299.15.

2. A licensed hauler who transports solid waste to a facility listed in s. 144.453 289.57 (1) may seek confidential treatment of information submitted under s. 144.453 289.57 (1) (d).

(d) *Use of confidential records.* Except as provided under par. (c) and this paragraph, the department or the department of justice may use records and other information granted confidential status under this subsection only in the administration and enforcement of ss. 144.43 to 144.47 and 144.96 this chapter and s. 299.15. The department or the department of justice may release for general distribution records and other information granted confidential status under this subsection if the owner or operator expressly agrees to the release. The department or the department of justice may release on a limited basis records and other information granted confidential status under this subsection if the department or the department of justice is directed to take this action by a judge or hearing examiner under an order which protects the confidentiality of the records or other information. The department or the department of justice may release to the U.S. environmental protection agency, or its authorized representative, records and other information granted confidential status under this subsection if the department or the department of justice includes in each release of records or other information a request to the U.S. environmental protection agency, or its authorized representative, to protect the confidentiality of the records or other information.

NOTE: The provision on confidentiality of records is duplicated in s. 292.37 for records under current ss. 144.442 and 144.4422.

**SECTION 529.** 144.434 of the statutes is renumbered 289.91 and amended to read:

**289.91 Inspections.** Any officer, employe or authorized representative of the department may enter and inspect any property, premises or place on or at which a solid waste facility is located or is being constructed or installed, or inspect any record relating to solid waste management of any person who generates, transports,

treats, stores or disposes of solid waste, at any reasonable time for the purpose of ascertaining the state of compliance with ~~ss. 144.43 to 144.47~~ this chapter and rules promulgated ~~or licenses issued under those sections~~ this chapter. No person may refuse entry or access to any officer, employe or authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with any such inspection. The department, if requested, shall furnish to the owner or operator of the premises a report setting forth all facts found which relate to compliance status.

NOTE: Current s. 144.431 (2) (e) authorizes inspections to determine compliance with solid waste facility licenses. This bill repeals s. 144.431 (2) (e) and adds license compliance as a basis for conducting inspections to s. 144.434, renumbered s. 289.91.

**SECTION 530.** 144.435 (title), (1) and (2) of the statutes are renumbered 289.05 (title), (1) and (2), and 289.05 (1) and (2), as renumbered, are amended to read:

289.05 (1) The department shall promulgate rules establishing minimum standards for the location, design, construction, sanitation, operation, monitoring and maintenance of solid waste facilities. Following a public hearing, the department shall promulgate rules relating to the operation and maintenance of solid waste facilities as it deems necessary to ensure compliance and consistency with the purposes of and standards established under the resource conservation and recovery act, except that the rules relating to open burning shall be consistent with s. ~~144.436~~ 289.51. The rules promulgated under this subsection shall conform to the rules promulgated under sub. (2).

(2) With the advice and comment of the metallic mining council, the department shall promulgate rules for the identification and regulation of metallic mining wastes. The rules promulgated to identify metallic mining wastes and to regulate the location, design, construction, operation and maintenance of facilities for the disposal of metallic mining wastes shall be in accordance with any or all of the provisions under this chapter and chs. 30 and 147 283. The rules shall take into consideration the special requirements of metallic mining operations in the location, design, construction, operation and maintenance of facilities for the disposal of metallic mining wastes as well as any special environmental concerns that will arise as a result of the disposal of metallic mining wastes. In promulgating the rules, the department shall give consideration to research, studies, data and recommendations of the U.S. environmental protection agency on the subject of metallic mining wastes arising from the agency's efforts to implement the resource conservation and recovery act.

**SECTION 531.** 144.435 (3) of the statutes is renumbered 289.42 (1), and 289.42 (1) (a) 5., (b) and (e), as renumbered, are amended to read:

289.42 (1) (a) 5. Require that there be one or more certified operators on the site of a solid waste disposal facility, except for a facility designed for the disposal of high-volume industrial waste, as defined in s. 144.44 (7) ~~(a) 1.~~, at all times during the facility's hours of operation.

(b) The department may not apply the requirements established under par. (a) to a nonapproved facility, ~~as defined in s. 144.441 (1) (e)~~, until January 1, 1992.

(e) The department may suspend or revoke an operator's certification for failure to comply with ~~ss. 144.43 to 144.47~~ this chapter, rules promulgated under ~~those sections~~ this chapter or conditions of operation made applicable to a solid waste disposal facility by the department.

**SECTION 532.** 144.435 (4) of the statutes is renumbered 289.42 (2), and 289.42 (2) (a), as renumbered, is amended to read:

289.42 (2) (a) No person engaged in the construction, operation or maintenance of a solid waste disposal facility or hazardous waste disposal facility may dismiss, discipline, demote, transfer, reprimand, harass, reduce the pay of, discriminate against or otherwise retaliate against any employe, or threaten to take any of those actions, because the employe reported to any supervisor, appointing authority, law enforcement official, member of the governing body of the local governmental unit in which the solid waste disposal facility or hazardous waste disposal facility is located or the department any information gained by the employe which the employe reasonably believes demonstrates a violation of ~~ss. 144.43 to 144.47~~ this chapter or rules promulgated under ~~those sections~~ this chapter.

**SECTION 533.** 144.435 (5) (a) of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

**SECTION 534.** 144.435 (5) (b) of the statutes, as created by 1995 Wisconsin Act 27, is renumbered 289.05 (4) and amended to read:

289.05 (4) The department shall promulgate, by rule, standards for the reuse of foundry sand and other high-volume industrial waste, including high-volume industrial waste that qualifies for an exemption from regulation under s. ~~144.44 (7) (g)~~ 289.43 (8). The department shall design the rules under this ~~paragraph~~ subsection to allow and encourage, to the maximum extent possible consistent with the protection of public health and the environment, the beneficial reuse of high-volume industrial waste, in order to preserve resources, conserve energy and reduce or eliminate the need to dispose of high-volume industrial waste in landfills. In developing rules under this ~~paragraph~~ subsection, the department shall review methods of reusing high-volume industrial waste that are approved by other states and incorporate those methods to the extent that the department determines is advisable. In developing rules under this ~~paragraph~~ subsection, the department shall also consider the analysis and methodology used under 40 CFR 503.13 in

determining the impacts on groundwater from various methods of reusing high-volume industrial wastes.

**SECTION 535.** 144.436 of the statutes is renumbered 289.51.

**SECTION 536.** 144.437 of the statutes is renumbered 289.10, and 289.10 (title), as renumbered, is amended to read:

**289.10** (title) **Solid County solid waste management plans.**

**SECTION 537.** 144.438 of the statutes is renumbered 289.44.

**SECTION 538.** 144.4385 of the statutes, as created by 1995 Wisconsin Act 99, is renumbered 289.445, and 289.445 (1) (b) to (d), as renumbered, are amended to read.

289.445 (1) (b) "Washing station" has the meaning given in s. 147.0175 283.62 (1) (b).

(c) "Wash water" has the meaning given in s. 147.0175 283.62 (1) (c).

(d) "Wash water storage facility" has the meaning given in s. 147.0175 283.62 (1) (d).

**SECTION 539.** 144.439 of the statutes is renumbered 289.45.

**SECTION 540.** 144.44 (title), (1) (intro.), (a) and (am) of the statutes are repealed.

NOTE: "Class 1 proceeding", as defined in s. 144.44 (1) (am), is not used in s. 144.44.

**SECTION 541.** 144.44 (1) (b), (bm), (c) and (d) of the statutes are renumbered 289.01 (6), (10), (18) and (29), and 289.01 (10) and (29), as renumbered, are amended to read:

289.01 (10) "Hazardous constituent" means any constituent designated by the department under s. 144.62 (2) (e) 291.05 (4).

(29) "Release" has the meaning given under s. 144.735 291.37 (1) (b).

**SECTION 542.** 144.44 (1) (e) of the statutes is repealed.

NOTE: The term "surface impoundment" is used only in s. 144.44 (2) (fm) and a definition is placed in that paragraph, as renumbered to s. 289.24 (2).

**SECTION 543.** 144.44 (1c) of the statutes is renumbered 289.21.

**SECTION 544.** 144.44 (1m) (title) of the statutes is renumbered 289.22 (title).

**SECTION 545.** 144.44 (1m) (a), (b), (bn), (c), (d) and (e) of the statutes are renumbered 289.22 (1), (1m), (2), (3), (4) and (5), and 289.22 (1) and (2) to (5), as renumbered, are amended to read:

289.22 (1) DEFINITION. ~~As used in In~~ In this subsection section, "local approval" has the meaning specified under s. 144.445 289.33 (3) (d).

(2) STANDARD NOTICE. The waste facility siting board shall develop and print a standard notice designed to inform an affected municipality of the time limits and requirements for participation in the negotiation and arbitration process under s. 144.445 289.33. An applicant

shall submit a copy of this standard notice, if it has been printed, with any written request submitted under ~~par. (b)~~ sub. (1m).

(3) ATTEMPTS TO OBTAIN LOCAL APPROVALS REQUIRED. Following applications for local approvals under ~~par. (b)~~ sub. (1m) and prior to submitting a feasibility report, any applicant subject to s. 144.445 289.33 shall undertake all reasonable procedural steps necessary to obtain each local approval required to construct the waste handling portion of the facility except that the applicant is not required to seek judicial review of decisions of the local unit of government.

(4) WAIVER OF LOCAL APPROVALS. If a local approval precludes or inhibits the ability of the applicant to obtain data required to be submitted under ~~sub. (1e) (a)~~ 289.21 (1) or in a feasibility report or environmental impact report, the applicant may petition the department to waive the applicability of the local approval to the applicant. If a petition is received, the department shall promptly schedule a hearing on the matter and notify the local government of the hearing. If the department determines at the hearing that the local approval is unreasonable, the department shall waive the applicability of the local approval to the applicant.

(5) COMPLIANCE REQUIRED. Except as provided under ~~par. (d)~~ sub. (4), no person may construct a solid waste disposal facility or a hazardous waste facility unless the person complies with the requirements of ~~pars. (b) and (c)~~ subs. (1m) and (3).

**SECTION 546.** 144.44 (2) (title) of the statutes is repealed.

**SECTION 547.** 144.44 (2) (a) and (b) of the statutes are renumbered 289.23 (1) and (2), and 289.23 (2) (intro.), (a) and (c), as renumbered, are amended to read:

289.23 (2) LOCAL APPROVAL APPLICATION PREREQUISITE. (intro.) ~~Except as provided under par. (e), no~~ No person subject to s. 144.445 289.33 may submit a feasibility report until the latest of the following periods:

(a) At least 120 days after the person submits applications for all applicable local approvals specified as required by the municipality under ~~sub. (1m) (b)~~ s. 289.22 (1m).

(c) At least 120 days after the deadline for the municipal response under ~~sub. (1m) (b)~~ s. 289.22 (1m) if the municipality does not respond within that time limit.

**SECTION 548.** 144.44 (2) (c) of the statutes is repealed.

NOTE: Section 144.44 (2) (c) currently reads as follows: "144.44 (2) (c) *No prerequisite for certain mining facilities.* An operator engaged in mining, as defined under s. 144.81 (5), on May 21, 1978, may, but is not required to, submit a feasibility report for any solid waste disposal facility for waste resulting from those mining operations."

At the time this statute was enacted, there were existing mining facilities that had been in operation prior to May 21, 1978. All of these mines have now been closed, so this provision is no longer necessary.

**SECTION 549.** 144.44 (2) (d) and (e) of the statutes are renumbered 289.23 (3) and (5) and amended to read:

289.23 (3) COMPLIANCE REQUIRED. No person may construct a solid waste disposal facility or a hazardous waste facility unless the person complies with the requirements of this subsection ~~ss. 289.23 to 289.29.~~

(5) NOTIFICATION OF PROPOSED FACILITY. Immediately upon receipt of a feasibility report the department shall send a notice to the persons specified under ~~sub. (4m) s. 289.32~~ containing a brief description of the proposed facility and a statement that the applicant is required to send a copy of the feasibility report after it is determined to be complete by the department.

**SECTION 550.** 144.44 (2) (f), (fm) and (g) of the statutes are renumbered 289.24 (1), (2) and (3), and 289.24 (1) (intro.), (c) and (f) and (2) (intro.), as renumbered, are amended to read:

289.24 (1) CONTENTS OF FEASIBILITY REPORTS; PREPARATION. (intro.) The department shall specify by rule the minimum contents of a feasibility report and no report is complete unless the specified information is provided by the applicant. In addition to the requirements specified under ~~par. (fm) sub. (2),~~ the rules may specify special requirements for a feasibility report relating to any hazardous waste facility. The department may require a feasibility report to be prepared by a registered professional engineer. A feasibility report shall include:

(c) A description of how the proposed facility relates to any applicable county solid waste management plan approved under s. 144.437 289.10.

(f) Sufficient information to make the determination of need for the facility under ~~this subsection s. 289.28~~ unless the facility is exempt under ~~par. (nr) s. 289.28 (2).~~

(2) CERTAIN HAZARDOUS WASTE FACILITIES; ADDITIONAL REQUIREMENTS. (intro.) A feasibility report for a hazardous waste disposal facility or surface impoundment, as defined in s. 291.37 (1) (d), shall include a list of all persons living within 0.5 mile of the facility and information reasonably ascertainable by the applicant on the potential for public exposure to hazardous waste or hazardous constituents through releases from the facility including, but not limited to, the following:

**SECTION 551.** 144.44 (2) (h) of the statutes is renumbered 289.23 (4) and amended to read:

289.23 (4) DISTRIBUTION OF FEASIBILITY REPORT. At the same time an applicant submits a feasibility report to the department, the applicant shall submit a copy of that feasibility report to each participating municipality under s. 144.445 289.33 (6) (b). ~~Immediately after the applicant receives notification of the department's determination that the feasibility report is complete, the applicant shall distribute copies of the feasibility report to the persons specified under sub. (4m).~~

NOTE: The remainder of current s. 144.44 (2) (h) is located in new s. 289.24 (4).

**SECTION 552.** 144.44 (2) (i), (j) and (k) of the statutes are renumbered 289.25 (1), (2) and (3), and 289.25 (2) and (3), as renumbered, are amended to read:

289.25 (2) ENVIRONMENTAL IMPACT STATEMENT PROCESS. If an environmental impact statement is required, the department shall conduct the hearing required under s. 1.11 (2) (d) in an appropriate place it designates in a county, city, village or town which would be substantially affected by the operation of the proposed facility. The hearing on the environmental impact statement is not a contested case. The department shall issue its determination of the adequacy of the environmental impact statement within 30 days after the close of the hearing. Except as provided under s. 144.836 293.43, the department shall complete any environmental impact statement process required under s. 1.11 before proceeding with the feasibility report review process under ~~par. (k) sub. (3) and subs. (2g) and (2r) ss. 289.26 and 289.27.~~

(3) NOTIFICATION ON FEASIBILITY REPORT AND PRELIMINARY ENVIRONMENTAL IMPACT STATEMENT DECISIONS. Immediately after the department issues a preliminary determination that an environmental impact statement is not required or, if it is required, immediately after the department issues the environmental impact statement, the department shall publish a class 1 notice under ch. 985 in the official newspaper designated under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give notice in the area of the proposed facility. The notice shall include a statement that the feasibility report and the environmental impact statement process are complete. The notice shall invite the submission of written comments by any person within 30 days after the notice for a solid waste disposal facility or within 45 days after the notice for a hazardous waste facility is published. The notice shall describe the methods by which a hearing may be requested under ~~pars. (L) and (m) ss. 289.26 (1) and 289.27 (1).~~ The department shall distribute copies of the notice to the persons specified under ~~sub. (4m) s. 289.32.~~

**SECTION 553.** 144.44 (2) (L) of the statutes is renumbered 289.26 (1) and amended to read:

289.26 (1) REQUEST FOR AN INFORMATIONAL HEARING. Within 30 days after the notice under ~~par. (k) s. 289.25 (3)~~ is published for a solid waste disposal facility, or within 45 days after the notice under ~~par. (k) s. 289.25 (3)~~ is published for a hazardous waste facility, any county, city, village or town, the applicant or any 6 or more persons may file a written request for an informational hearing on the matter with the department. The request shall indicate the interests of the municipality or persons who file the request and state the reasons why the hearing is requested.

**SECTION 554.** 144.44 (2) (m) of the statutes is renumbered 289.27 (1), and 289.27 (1) (intro.), as renumbered, is amended to read:

289.27 (1) REQUEST FOR TREATMENT AS A CONTESTED CASE. (intro.) Within 30 days after the notice under ~~par. (k) s. 289.25 (3)~~ is published for a solid waste disposal facility, or within 45 days after the notice under ~~par. (k) s. 289.25 (3)~~ is published for a hazardous waste facility, any county, city, village or town, the applicant or any 6 or more persons may file a written request that the hearing under ~~par. (L) s. 289.26 (1)~~ be treated as a contested case, as provided under s. 227.42. A county, city, village or town, the applicant or any 6 or more persons have a right to have the hearing treated as a contested case only if:

**SECTION 555.** 144.44 (2) (n) of the statutes is renumbered 289.29 (1), and 289.29 (1) (a) and (c), as renumbered, are amended to read:

289.29 (1) (a) A determination of feasibility shall be based only on ~~ss. 144.43 to 144.47 this chapter and 144.60 to 144.74 ch. 291~~ and rules promulgated under those ~~sections chapters~~. A determination of feasibility for a facility for the disposal of metallic mining waste shall be based only on ~~ss. 144.43 to 144.47 this chapter and 144.60 to 144.74 ch. 291~~ and rules promulgated under those ~~sections chapters~~ with special consideration given to s. ~~144.435 289.05~~ (2) and rules promulgated under that section.

(c) The department may receive into evidence at a hearing conducted under ~~sub. (2g) or (2r) s. 289.26 or 289.27~~ any environmental impact assessment or environmental impact statement for the facility prepared under s. 1.11 and any environmental impact report prepared under s. 23.11 (5). The adequacy of the environmental impact assessment, environmental impact statement or environmental impact report is not subject to challenge at that hearing.

**SECTION 556.** 144.44 (2) (nm) of the statutes is renumbered 289.28 (1), and 289.28 (1) (intro.), (c) 1. and 2. and (d), as renumbered, are amended to read:

289.28 (1) DETERMINATION OF NEED; ISSUES CONSIDERED. (intro.) A feasibility report shall contain an evaluation to justify the need for the proposed facility unless the facility is exempt under ~~par. (nr) sub. (2)~~. The department shall consider the following issues in evaluating the need for the proposed facility:

(c) 1. Approved facilities, ~~as defined under s. 144.441 (1) (a)~~, including the potential for expansion of those facilities on contiguous property already owned or controlled by the applicant.

2. Nonapproved facilities, ~~as defined under s. 144.442 (1) (e)~~, which are environmentally sound. It is presumed that a nonapproved facility is not environmentally sound unless evidence to the contrary is produced.

(d) If the need for a proposed municipal facility cannot be established under ~~subs. 1. to 3. pars. (a) to (c)~~, the extent to which the proposed facility is needed to replace other facilities of that municipality at the time those facilities are projected to be closed in the plans of operation.

**SECTION 557.** 144.44 (2) (nr) of the statutes is renumbered 289.28 (2), and 289.28 (2) (intro.) and (a), as renumbered, are amended to read:

289.28 (2) DETERMINATION OF NEED; EXEMPT FACILITIES. (intro.) ~~Paragraphs (f) 6., (n) 4., (nm) and (om) Subsections (1) and (3) and ss. 289.24 (1) (f) and 289.29 (1) (d)~~ do not apply to:

(a) Any facility which is part of a prospecting or mining operation with a permit under s. ~~144.84 293.45~~ or ~~144.85 293.49~~.

**SECTION 558.** 144.44 (2) (nu) of the statutes is renumbered 289.29 (2) and amended to read:

289.29 (2) MAXIMUM NUMBER OF FACILITIES. (a) Except as provided in ~~subd. 2. par. (b)~~, the department may not issue a favorable determination of feasibility for a solid waste disposal facility in a 3rd class city if 2 or more approved facilities that are solid waste disposal facilities are in operation within the city in which the solid waste disposal facility is proposed to be located.

(b) The prohibition in ~~subd. 1. par. (a)~~ does not apply to an expansion of or addition to an existing approved facility that is a solid waste disposal facility by the owner or operator of the existing approved facility on property that is contiguous to the property on which the existing approved facility is located and that is owned or under option to lease or purchase by the owner or operator of the existing approved facility.

**SECTION 559.** 144.44 (2) (o) of the statutes is renumbered 289.29 (3) and amended to read:

289.29 (3) CONTENTS OF FINAL DETERMINATION OF FEASIBILITY. The department shall issue a final determination of feasibility which shall state the findings of fact and conclusions of law upon which it is based. The department may condition the issuance of the final determination of feasibility upon special design, operational or other requirements to be submitted with the plan of operation under ~~sub. (3) s. 289.30~~. The final determination of feasibility shall specify the design capacity of the proposed facility. The issuance of a favorable final determination of feasibility constitutes approval of the facility for the purpose stated in the application but does not guarantee plan approval under ~~sub. (3) s. 289.30~~ or licensure under ~~sub. (4) s. 289.31~~.

**SECTION 560.** 144.44 (2) (om) of the statutes is renumbered 289.28 (3) and amended to read:

289.28 (3) ISSUANCE OF DETERMINATION OF NEED. Except for a facility which is exempt under ~~par. (nr) sub. (2)~~, the department shall issue a determination of need for the proposed facility at the same time the final determination of feasibility is issued. If the department determines that there is insufficient need for the facility, the applicant may not construct or operate the facility.

**SECTION 561.** 144.44 (2) (p) and (q) of the statutes are renumbered 289.29 (4) and (5) and amended to read:



289.29 (4) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY. Except as provided under ~~par. (q) sub. (5)~~, if no hearing is conducted under ~~sub. (2g) or (2r) s. 289.26 or 289.27~~, the department shall issue the final determination of feasibility within 60 days after the 30-day or 45-day period under ~~par. (m) s. 289.27 (1)~~ has expired.

(5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY IN CERTAIN SITUATIONS INVOLVING UTILITIES AND MINING. If a determination of feasibility is required under s. 196.491 (2m), the issuance of a final determination of feasibility is subject to the time limits under s. 196.491 (3) (f) and (ff). If a determination of feasibility is required under s. 444.836 293.43, the issuance of a final determination of feasibility is subject to the time limits under s. 444.84 (3) 293.45 (2) or 444.85 (5) 293.49, whichever is applicable.

**SECTION 562.** 144.44 (2g) (title) of the statutes is repealed.

**SECTION 563.** 144.44 (2g) (a), (b), (c) and (e) of the statutes are renumbered 289.26 (2), (3), (4) and (5) and amended to read:

289.26 (2) APPLICABILITY. This ~~subsection~~ section applies if no request for the treatment of the hearing as a contested case is granted and if:

(a) An informational hearing is requested under sub. ~~(2)-(L) (1)~~ within the 30-day or 45-day period; or

(b) No hearing is requested under sub. ~~(2)-(L) (1)~~ within the 30-day or 45-day period but the department determines that there is substantial public interest in holding a hearing.

(3) NONAPPLICABILITY; HEARING CONDUCTED AS A PART OF CERTAIN MINING HEARINGS. Notwithstanding ~~par. (a) sub. (2)~~ this ~~subsection~~ section does not apply if a hearing on the feasibility report is conducted as a part of a hearing under s. 444.836 293.43 and the time limits, notice and hearing provisions in that section supersede the time limits, notice and hearing provisions under ~~sub. (2) (j) to (m) s. 289.25 (2) and (3)~~ and this ~~subsection~~ section.

(4) INFORMATIONAL HEARING. The department shall conduct the informational hearing within 60 days after the expiration of the 30-day or 45-day period under sub. ~~(2)-(L) (1)~~. The department shall conduct the informational hearing in an appropriate place designated by the department in a county, city, village or town which would be substantially affected by the operation of the proposed facility.

(5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY. Except as provided under ~~sub. (2) (q) s. 289.29 (5)~~, the department shall issue a final determination of feasibility within 60 days after the informational hearing under this ~~subsection~~ section is adjourned.

**SECTION 564.** 144.44 (2r) (title) of the statutes is repealed.

**SECTION 565.** 144.44 (2r) (a), (b), (d) and (e) of the statutes are renumbered 289.27 (2), (3), (4) and (5), and

289.27 (2), (3), (4) (intro.) and (a) and (5), as renumbered, are amended to read:

289.27 (2) APPLICABILITY. This ~~subsection~~ section applies only if a person requests the treatment of the hearing as a contested case under sub. ~~(2)-(m) (1)~~ within the 30-day or 45-day period and has a right to a hearing under that subsection. Any denial of a request for the treatment of the hearing as a contested case received within the 30-day or 45-day period under sub. ~~(2)-(m) (1)~~ shall be in writing, shall state the reasons for denial and is an order reviewable under ch. 227. If the department does not enter an order granting or denying the request for the treatment of the hearing as a contested case within 20 days after the written request is filed, the request is deemed denied.

(3) NONAPPLICABILITY. Notwithstanding ~~par. (a) sub. (2)~~, this section does not apply if a hearing on the feasibility report is conducted as a part of a hearing under s. 444.836 293.43 and the time limits, notice and hearing provisions under that section supersede the time limits, notice and hearing provisions under ~~sub. (2) (j) to (m) s. 289.25 (2) and (3)~~ and this ~~subsection~~ section.

(4) TIME LIMITS. (intro.) Except as provided under ~~sub. (2) (q) s. 289.29 (5)~~:

(a) The division of hearings and appeals in the department of administration shall schedule the hearing to be held within 120 days after the expiration of the 30-day or 45-day period under sub. ~~(2)-(m) (1)~~.

(5) DETERMINATION OF NEED; DECISION BY HEARING EXAMINER. If a contested case hearing is conducted under this ~~subsection~~ section, the secretary shall issue any decision concerning determination of need, notwithstanding s. 227.46 (2) to (4). The secretary shall direct the hearing examiner to certify the record of the contested case hearing to him or her without an intervening proposed decision. The secretary may assign responsibility for reviewing this record and making recommendations concerning the decision to any employe of the department.

**SECTION 566.** 144.44 (3) (title), (a), (ag) and (am) of the statutes are renumbered 289.30 (title), (1), (2) and (3), and 289.30 (2) and (3), as renumbered, are amended to read:

289.30 (2) FEASIBILITY REPORT PREREQUISITE. ~~Except as provided under par. (ar), no~~ No person may submit a plan of operation for a facility prior to the time the person submits a feasibility report for that facility. A person may submit a plan of operation with the feasibility report or at any time after the feasibility report is submitted. If a person submits the plan of operation prior to the final determination of feasibility, the plan of operation is not subject to review at any hearing conducted under ~~sub. (2), (2g) or (2r) s. 289.26 or 289.27~~ and is not subject to judicial review under ss. 227.52 to 227.58 in the review of any decision under ~~sub. (2), (2g) or (2r) s. 289.26 or 289.27~~.

(3) FEASIBILITY REPORT; CERTAIN FACILITIES. The department may require the applicant for a hazardous waste treatment or storage facility to submit the feasibility report and the plan of operation at the same time and, notwithstanding ~~pars. (ag), (f) and (g) subs. (2), (10) and (11)~~, both the feasibility report and the plan of operation shall be considered at a public hearing conducted under ~~subs. (2), (2g) and (2r) ss. 289.26 and 289.27~~, and both are subject to judicial review in a single proceeding.

**SECTION 567.** 144.44 (3) (ar) of the statutes is repealed.

NOTE: Section 144.44 (3) (ar) currently reads as follows: "144.44 (3) (ar) *Feasibility report prerequisite; exception.* The owner or operator of a licensed solid waste disposal facility in existence on May 21, 1978, may, but is not required to, submit a plan of operation for that facility and seek approval under this subsection. An operator engaged in mining, as defined under s. 144.81 (5), on May 21, 1978, may, but is not required to, submit a plan of operation for any solid waste disposal facility for waste resulting from those mining operations and seek approval for that plan of operation under this subsection."

At the time this statute was enacted, there were existing mining facilities that had been in operation prior to May 21, 1978. All of these mines have now been closed, so this provision is no longer necessary.

**SECTION 568.** 144.44 (3) (b), (bh), (c), (cm), (d), (e), (f) and (g) of the statutes are renumbered 289.30 (4), (5), (6), (7), (8), (9), (10) and (11), and 289.30 (4), (5) (intro.), (6), (7), (8) (a) (intro.) and 3. and (b), (9) and (11), as renumbered, are amended to read:

289.30 (4) PREPARATION; CONTENTS. The proposed plan of operation shall be prepared by a registered professional engineer and shall include at a minimum a description of the manner of solid waste disposal or hazardous waste treatment, storage or disposal and a statement setting forth the proposed development, daily operation, closing and long-term care of the facility. The proposed plan of operation shall specify the method by which the owner or operator will maintain proof of financial responsibility under s. 144.443 ~~289.41~~. The department shall specify by rule the minimum contents of a plan of operation submitted for approval under this ~~subsection~~ section and no plan is complete unless the information is supplied. The rules may specify special standards for plans of operation relating to hazardous waste facilities. Within 30 days after a plan of operation is submitted or, if the plan of operation is submitted with the feasibility report under ~~par. (ag) sub. (2)~~, within 30 days after the department issues notice that the feasibility report is complete, the department shall notify the applicant in writing if the plan is not complete, specifying the information which is required to be submitted before the report is complete. If no notice is given, the report is deemed complete on the date of its submission.

(5) DAILY COVER. (intro.) The department shall include in an approved plan of operation for a municipal waste landfill a requirement that the operator use foundry sand or shredder fluff for daily cover at part or all of the

municipal waste landfill for the period specified in a request from a person operating a foundry or a scrap dealer in this state if the department receives the request prior to approving the plan of operation under ~~par. (e) sub. (6)~~ and if all of the following conditions are met:

(6) APPROVAL; DISAPPROVAL. The department may not approve or disapprove a plan of operation until a favorable determination of feasibility has been issued for the facility. Upon the submission of a complete plan of operation, the department shall either approve or disapprove the plan in writing within 90 days or within 60 days after a favorable determination of feasibility is issued for the facility, whichever is later. The determination of the department shall be based upon compliance with ~~par. (bh) sub. (5)~~ and the standards established under s. ~~144.435 289.05 (1) and (2)~~ or, in the case of hazardous waste facilities, with the rules and standards established under s. ~~144.62 ss. 291.05 (1) to (4) and (6) and 291.07 to 291.11~~. An approval may be conditioned upon any requirements necessary to comply with the standards. Any approval may be modified by the department upon application of the licensee if newly discovered information indicates that the modification would not inhibit compliance with the standards adopted under s. ~~144.435 289.05 (1) and (2)~~ or, if applicable, s. ~~144.62 ss. 291.05 (1) to (4) and (6) and 291.07 to 291.11~~. No plan of operation for a solid or hazardous waste facility may be approved unless the applicant submits technical and financial information required under ~~ss. 144.441 289.05 (3) and 144.443 289.41~~.

(7) NO ENVIRONMENTAL IMPACT STATEMENT REQUIRED. A determination under this ~~subsection~~ section does not constitute a major state action under s. 1.11 (2).

(8) (a) (intro.) Approval under ~~par. (e) sub. (6)~~ entitles the applicant to construct the facility in accordance with the approved plan for not less than the design capacity specified in the determination of feasibility, unless the department establishes by a clear preponderance of the credible evidence that:

3. In-field conditions, not disclosed in the feasibility report or plan of operation, necessitate modifications of the plan to comply with standards in effect at the time of plan approval under s. ~~144.435 289.05 (1) and (2)~~ or, if applicable, s. ~~144.62 ss. 291.05 (1) to (4) and (6) and 291.07 to 291.11~~.

(b) ~~Subdivision 1. Paragraph (a)~~ does not limit the department's authority to modify a plan of operation to ensure compliance with a federal statute or regulation applicable to the solid waste disposal facility or hazardous waste facility.

(9) FAILURE TO COMPLY WITH PLAN OF OPERATION. Failure to operate in accordance with the approved plan subjects the operator to enforcement under s. ~~144.47 289.97~~ or ~~144.73 291.95~~. If the department establishes that any failure to operate in accordance with the approved plan for a solid waste disposal facility is grievous

and continuous, the operator is subject to suspension, revocation or denial of the operating license under ~~sub. (4) s. 289.31~~. If the operator fails to operate a hazardous waste facility in accordance with the approved plan, the department may suspend, revoke or deny the operating license under ~~sub. (4) s. 289.31~~.

(11) NO RIGHT TO HEARING. There is no statutory right to a hearing before the department concerning the plan of operation but the department may grant a hearing on the plan of operation under s. 144.431(2)(a) 289.07 (1).

**SECTION 569.** 144.44 (4) of the statutes is renumbered 289.31, and 289.31 (1) to (3) and (6) to (8), as renumbered, are amended to read:

289.31 (1) LICENSE REQUIREMENT. No person may operate a solid waste facility or hazardous waste facility unless the person obtains an operating license from the department. The department shall issue an operating license with a duration of one year or more except that the department may issue an initial license with a duration of less than one year. The department may deny, suspend or revoke the operating license of a solid waste disposal facility for failure to pay fees required under ~~ss. 144.43 to 144.47 this chapter~~ or for grievous and continuous failure to comply with the approved plan of operation under ~~sub. (3) s. 289.30~~ or, if no plan of operation exists with regard to the facility, for grievous and continuous failure to comply with the standards adopted under s. 144.435 289.05 (1) and (2). The department may deny, suspend or revoke the operating license of a hazardous waste facility for any reason specified under s. 144.64(2)(e). ~~If the license application is for a solid waste disposal facility for solid waste resulting from mining operations in existence on May 21, 1978, the department shall make any determination with respect to whether disposal is being undertaken in an environmentally sound manner and shall administer compliance with the licensing requirement of this subsection in a manner which, with respect to nonhazardous solid waste, does not require substantial structural modification of the existing facility, expenditure which is not appropriate for the nonhazardous nature of the waste or interruption of the mining operation 291.87 (1m).~~

NOTE: At the time this statute was enacted, there were existing mining facilities that had been in operation prior to May 21, 1978. All of these mines have now been closed, so the last sentence of s. 144.44 (4) (a) is no longer necessary.

(2) ENVIRONMENTAL IMPACT STATEMENT NOT REQUIRED. A determination under this ~~subsection~~ section does not constitute a major state action under s. 1.11 (2).

(3) ISSUANCE OF INITIAL LICENSE. The initial operating license for a solid waste disposal facility or a hazardous waste facility shall not be issued unless the facility has been constructed in substantial compliance with the operating plan approved under ~~sub. (3) s. 289.30~~. The department may require that compliance be certified in writing by a registered professional engineer. The department may by rule require, as a condition precedent to

the issuance of the operating license for a solid waste disposal facility, that the applicant submit evidence that a notation of the existence of the facility has been recorded in the office of the register of deeds in each county in which a portion of the facility is located.

(6) NO RIGHT TO HEARING. There is no statutory right to a hearing before the department concerning the license but the department may grant a hearing on the license under s. 144.431(2)(a) 289.07 (1).

(7) MONITORING REQUIREMENTS. (a) In this ~~paragraph~~ subsection, "monitoring" means activities necessary to determine whether contaminants are present in groundwater, surface water, soil or air in concentrations that require investigation or remedial action. "Monitoring" does not include investigations to determine the extent of contamination, to collect information necessary to select or design remedial action, or to monitor the performance of remedial action.

(b) Upon the renewal of an operating license for a nonapproved facility, ~~as defined under s. 144.441 (1) (e)~~, the department may require monitoring at the facility as a condition of the license.

(c) The owner or operator of a nonapproved facility, ~~as defined under s. 144.441 (1) (e)~~, is responsible for conducting any monitoring required under ~~subd. 1m. par. (b)~~.

(d) The department may require by special order the monitoring of a closed solid or hazardous waste disposal site or facility which was either a nonapproved facility, ~~as defined under s. 144.441 (1) (e)~~, or a waste site, as defined under s. 144.442(1)(e) 292.01 (21), when it was in operation.

(e) If the owner or operator of a site or facility subject to an order under ~~subd. 3. par. (d)~~ is not a municipality, the owner or operator is responsible for the cost of conducting any monitoring ordered under ~~subd. 3. par. (d)~~.

(f) If the owner or operator of a site or facility subject to an order under ~~subd. 3. par. (d)~~ is a municipality, the municipality is responsible for conducting any monitoring ordered under ~~subd. 3. par. (d)~~. The department shall, from the environmental fund appropriation under s. 20.370 (2) (dv), reimburse the municipality for the costs of monitoring that exceed an amount equal to \$3 per person residing in the municipality for each site or facility subject to an order under ~~subd. 3. par. (d)~~, except that the maximum reimbursement is \$100,000 for each site or facility. The department shall exclude any monitoring costs paid under the municipality's liability insurance coverage in calculating the municipal cost of monitoring a site or facility.

(g) The department shall promulgate rules for determining costs eligible for reimbursement under ~~subd. 5. par. (f)~~.

(8) CLOSURE AGREEMENT. Any person operating a solid or hazardous waste facility which is a nonapproved facility ~~as defined under s. 144.441 (1) (e)~~ may enter into

a written closure agreement at any time with the department to close the facility on or before July 1, 1999. The department shall incorporate any closure agreement into the operating license. The operating license shall terminate and is not renewable if the operator fails to comply with the closure agreement. Upon termination of an operating license under this ~~paragraph~~ subsection as the result of failure to comply with the closure agreement, the department shall collect additional surcharges and base fees as provided under s. 144.442 ~~(2) and (3)~~ 289.67 (3) and (4) and enforce the closure under ss. 144.98 299.95 and ~~144.99~~ 299.97.

**SECTION 570.** 144.44 (4e) of the statutes is renumbered 289.31 (9) and amended to read:

289.31 (9) **DAILY COVER.** Within 12 months after receiving a request from a person operating a foundry or a scrap dealer in this state, the department shall modify the operating license issued under sub. (4)(a) (1) to a person operating a municipal waste landfill to require the operator to use foundry sand from the foundry or shredder fluff from the scrap dealer's operation as daily cover at part or all of the municipal waste landfill for a period specified in the request, if all of the conditions in ~~sub. (3)(b)~~ s. 289.30 (5) are met.

**SECTION 571.** 144.44 (4m) of the statutes is renumbered 289.32, and 289.32 (intro.), as renumbered, is amended to read:

**289.32 (title) Distribution of documents.** (intro.) One copy of the notice or documents required to be distributed under ~~this section ss. 289.21 to 289.31~~ shall be mailed to:

**SECTION 572.** 144.44 (4r) of the statutes is renumbered 289.34, and 289.34 (1) and (3), as renumbered, are amended to read:

289.34 (1) In this ~~subsection~~ section, "applicant" means any natural person, partnership, association or body politic or corporate that seeks to construct a solid waste disposal facility or hazardous waste facility under ~~this section ss. 289.21 to 289.32~~.

(3) ~~Paragraph (b)~~ Subsection (2) does not apply if the person named in and subject to the plan or order provides the department with proof of financial responsibility ensuring the availability of funds to comply with the plan or order using a method under s. 144.443 289.41.

**SECTION 573.** 144.44 (6) of the statutes is renumbered 289.47, and 289.47 (title), as renumbered, is amended to read:

**289.47 (title) Closure notice.**

**SECTION 574.** 144.44 (7) (title) of the statutes is renumbered 289.43 (title).

**SECTION 575.** 144.44 (7) (a) (intro.) of the statutes is repealed.

**SECTION 576.** 144.44 (7) (a) 1. of the statutes is renumbered 289.01 (17).

**SECTION 577.** 144.44 (7) (a) 2. of the statutes is renumbered 289.43 (1) and amended to read:

289.43 (1) (title) DEFINITION. "Recycling" In this section, "recycling" means the process by which solid waste is returned to productive use as material or energy, but does not include the collection of solid waste.

**SECTION 578.** 144.44 (7) (am), (b), (c), (d) and (e) of the statutes are renumbered 289.43 (2), (3), (4), (5) and (6), and 289.43 (2), (3) (intro.), (b) and (e) and (4) to (6), as renumbered, are amended to read:

289.43 (2) WAIVER; EMERGENCY CONDITION. The department may waive compliance with any requirement of ~~this section ss. 289.21 to 289.32, 289.47, 289.53 or 289.95~~ or shorten the time periods under ~~this section ss. 289.21 to 289.32, 289.47, 289.53 or 289.95~~ provided to the extent necessary to prevent an emergency condition threatening public health, safety or welfare.

(3) WAIVER; RESEARCH PROJECTS. (intro.) The intent of this ~~paragraph~~ subsection is to encourage research projects designed to demonstrate the feasibility of recycling certain solid wastes while providing adequate and reasonable safeguards for the environment. The department may waive compliance with the requirements of ss. 144.43 to 144.47 this chapter for a project developed for research purposes to evaluate the potential for the recycling of high-volume industrial waste if the following conditions are met:

(b) The department determines that the project is unlikely to violate any law relating to surface water or groundwater quality including this chapter or ch. 147 ~~or 160 or 283~~.

(e) The owner or operator of the project agrees to take necessary action to maintain compliance with surface water and groundwater laws, including this chapter and chs. 147 ~~and 160~~ and 283 and to take necessary action to regain compliance with these laws if a violation occurs because of the functioning or malfunctioning of the project.

(4) EXEMPTION FROM LICENSING OR REGULATION; DEVELOPMENT OF IMPROVED METHODS. For the purpose of encouraging the development of improved methods of solid waste disposal, the department may specify by rule types of solid waste facilities that are not required to be licensed under ~~this section ss. 289.21 to 289.32~~ or types of solid waste that need not be disposed of at a licensed solid waste disposal facility.

(5) EXEMPTION FROM REGULATION; SINGLE-FAMILY WASTE DISPOSAL. The department may not regulate under ~~this chapter chs. 281, 285 or 289 to 299~~ any solid waste from a single family or household disposed of on the property where it is generated.

(6) EXEMPTION FROM LICENSING; AGRICULTURAL LANDSPREADING OF SLUDGE. The department may not require a license under ~~this section ss. 289.21 to 289.32~~ for agricultural land on which nonhazardous sludges from a treatment work, as defined under s. 147.015 283.01 (18), are land spread for purpose of a soil conditioner or nutrient.

**SECTION 579.** 144.44 (7) (em) of the statutes, as created by 1995 Wisconsin Act 27, is renumbered 289.43 (6m) and amended to read:

289.43 (6m) EXEMPTION FROM LICENSING, AGRICULTURAL USE OF WOOD ASH. No license is required under this section ~~ss. 289.21 to 289.32~~ for the agricultural use of wood ash.

**SECTION 580.** 144.44 (7) (f), (g) and (h) of the statutes are renumbered 289.43 (7), (8) and (9), and 289.43 (7) (a) to (d) and (e) 1. and 3., (8) (b) (intro.) and 2. and (c) and (9), as renumbered, are amended to read:

289.43 (7) (a) Any person who generates, treats, stores or disposes of high-volume industrial waste may request the department to exempt an individual solid waste facility or specified types of solid waste facilities from ~~ss. 144.43 to 144.47 this chapter~~ for the purpose of allowing the recycling of any high-volume industrial waste.

(b) A person who requests an exemption under ~~subd. 1, par. (a)~~ shall provide any information requested by the department relating to the characteristics of the high-volume industrial waste, the characteristics of the site of the recycling and the proposed methods of recycling.

(c) The department shall approve the requester's exemption proposal if the department finds that the proposal, as approved, will comply with this chapter and chs. 30, 31, ~~147, 160 and 162~~ 280 to 299 and ss. 1.11, 23.40, 59.971, 59.974, 60.627, 61.351, 61.354, 62.231, 62.234 and 87.30. If the proposal does not comply with one or more of the requirements specified in this ~~subdivision paragraph~~, the department shall provide a written statement describing how the proposal fails to comply with those requirements. The department shall respond to an application for an exemption under this ~~paragraph subsection~~ within 90 days.

(d) The department may require periodic testing and may impose other conditions on any exemption granted under this ~~paragraph subsection~~. The department may require a person granted an exemption under this ~~paragraph subsection~~ to identify the location of any site where high-volume industrial waste is recycled.

(e) 1. Each applicant for an exemption under this ~~paragraph subsection~~ shall submit a nonrefundable fee of \$500 with the application to cover the department's cost for the initial screening of the application. The department may waive this fee if the cost of the initial screening to the department will be minimal.

3. All fees collected under this ~~subdivision paragraph~~ shall be credited to the appropriation under s. 20.370 (2) (dg).

(8) (b) (intro.) If the department, after a review under ~~subd. 1, par. (a)~~, finds that regulation under ~~ss. 144.43 to 144.47 this chapter~~ is not warranted in light of the potential hazard to public health or the environment, the department shall either:

2. On a case-by-case basis, exempt from regulation under ~~ss. 144.43 to 144.47 this chapter~~ specified types of solid waste facilities.

(c) The department may require periodic testing of solid wastes and impose other conditions on exemptions granted under ~~subd. 2, par. (b)~~.

(9) EXEMPTION FROM REGULATION; ANIMAL CARCASSES. The department may not regulate under ~~this chapter chs. 281, 285 or 289 to 299~~ any animal carcass buried or disposed of, in accordance with ss. 95.35 and 95.50, on the property owned or operated by the owner of the carcass, if the owner is a farmer, as defined under s. 102.04 (3).

**SECTION 581.** 144.44 (8) of the statutes is renumbered 289.95 and amended to read:

**289.95 Enforcement procedures for older facilities.** (1) Notwithstanding s. ~~144.47 289.97~~, for solid waste facilities licensed on or before January 1, 1977, that the department believes do not meet minimum standards promulgated under s. ~~144.435 289.05 (1) and (2)~~, the department may do any of the following:

(a) Initiate action under s. ~~144.72 289.94~~.

(b) Refer the matter to the department of justice for enforcement under s. ~~144.98 299.95~~.

(c) Issue an order relating to the solid waste facility or refuse to relicense the solid waste facility using the procedure under ~~par. (b) sub. (2)~~.

(2) (a) Before issuing an order relating to a solid waste facility or a decision refusing to relicense a solid waste facility under ~~par. (a) 3, sub. (1) (c)~~, the department shall notify the licensee of its intended action. The licensee, within 30 days after receipt of the notice, may request a hearing under ~~subd. 2 par. (b)~~. If the licensee requests a hearing under ~~subd. 2, par. (b)~~, it may not withdraw that request and proceed under ~~subd. 3, par. (c)~~.

(b) If the licensee requests a hearing, the department may not issue the order or decision until a hearing, conducted as a class 2 proceeding under ch. 227, is held unless the licensee has withdrawn the hearing request. The hearing shall be held in the county where the facility is located. At the hearing the department must establish by a preponderance of all the available evidence that the facility does not adhere to the minimum standards promulgated under s. ~~144.435 289.05 (1) and (2)~~. If the hearing examiner's decision is in favor of the department, or if the licensee has withdrawn the hearing request, the department may issue the order or decision. The order or decision is subject to judicial review under ch. 227.

(c) If the licensee does not request a hearing under ~~subd. 2, par. (b)~~, the department shall issue the order or decision. The licensee may challenge the order or decision by commencing an action in circuit court for the county in which the solid waste facility is located within 15 days after the issuance of the order or decision. The complaint shall allege that the facility adheres to the min-

imum standards promulgated under s. ~~444.435~~ 289.05 (1) and (2). The licensee shall receive a new trial on all issues relating to the facility and relicensing of the facility. The trial shall be conducted by the court without a jury.

**SECTION 582.** 144.44 (9) of the statutes is renumbered 289.53, and 289.53 (1) (intro.), (b) and (c) and (2) to (7), as renumbered, are amended to read:

289.53 (1) DEFINITIONS. (intro.) ~~As used in~~ In this subsection ~~section~~:

(b) "PCBs" has the meaning specified under s. ~~444.79~~ 299.45 (1).

(c) "PCB waste" means any product containing PCBs, as defined under s. ~~444.79~~ 299.45 (1) (c), which is subject to regulation under s. ~~444.79~~ 299.45 after the product becomes a solid waste. This term also means any material which is contaminated by the discharge, as defined under s. ~~444.76 (1) (a)~~ 292.01 (3), of a substance containing PCBs subject to regulation under s. ~~444.76~~ 292.11.

(2) FEASIBILITY REPORT AND RELATED PROVISIONS. Except as provided under ~~par. (f) sub. (6)~~, no person may establish or construct a commercial PCB waste storage or treatment facility unless the person complies with the requirement under ~~subs. (2) to (2f) ss. 289.23 to 289.29~~ in the same manner as if the facility were a solid waste disposal facility including each of the following:

(a) Submitting a feasibility report under ~~sub. (2) (a) s. 289.23 (1)~~ to determine whether the site has potential for use in establishing a PCB waste storage or treatment facility.

(b) Complying with requirements for the preparation and contents of a feasibility report under ~~sub. (2) (f) s. 289.24 (1)~~ including any special requirements for PCB waste storage or treatment facilities.

(c) Following the notice, hearing, procedure and other requirements under ~~subs. (2) to (2f) ss. 289.23 to 289.29~~ including any environmental impact requirements.

(3) PLAN OF OPERATION AND RELATED PROVISIONS. Except as provided under ~~par. (f) sub. (6)~~, no person may establish, construct or operate a commercial PCB waste storage or treatment facility unless the person complies with the requirements under ~~sub. (3) s. 289.30~~ as if the facility were a solid waste disposal facility including all of the following:

(a) Submitting a plan of operation which complies with requirements for preparation and contents specified under ~~sub. (3) (b) s. 289.30 (4)~~ including any special requirements for PCB waste storage or treatment facilities except the department may waive any requirement for proof of financial responsibility for long-term care.

(b) Constructing the facility in accordance with an approved plan of operation as required under ~~sub. (3) (d) s. 289.30 (8)~~.

(c) Operating the facility in accordance with the approved plan of operation subject to the sanctions under ~~sub. (3) (e) s. 289.30 (9)~~.

(4) FINANCIAL RESPONSIBILITY REQUIREMENTS. Except as provided under ~~par. (f) sub. (6)~~, no person may establish or construct a commercial PCB waste storage or treatment facility unless the person complies with s. ~~444.443~~ 289.41.

(5) LICENSE REQUIREMENT. Except as provided under ~~par. (f) sub. (6)~~, no person may operate a commercial PCB waste storage or treatment facility unless the person obtains an operating license under ~~sub. (4) s. 289.31~~.

(6) EXCEPTIONS. The department may exempt a person establishing, constructing or operating certain categories of facilities which store or treat PCB waste or which store or treat certain types, amounts or concentrations of PCB waste from the provisions of this subsection ~~section~~.

(7) APPLICABILITY. ~~The subsection~~ This section applies to any facility which is not otherwise subject to ~~this section ss. 289.21 to 289.32~~.

**SECTION 583.** 144.44 (10) of the statutes is renumbered 289.61, and 289.61 (title) and (2), as renumbered, are amended to read:

**289.61** (title) ~~Licenses~~ License and review fees.

(2) Solid waste license and review activities consist of reviewing feasibility reports, plans of operation, closure plans and license applications, issuing determinations of feasibility, plan of operation approvals and operating licenses, inspecting construction projects and taking other actions in administering ~~this section ss. 289.21 to 289.32, 289.43, 289.47, 289.53 and 289.95~~.

**SECTION 584.** 144.441 (title) and (1) (intro.) of the statutes are repealed.

**SECTION 585.** 144.441 (1) (a), (b) and (c) of the statutes are renumbered 289.01 (3), (4) and (24), and 289.01 (3) and (4), as renumbered, are amended to read:

289.01 (3) "Approved facility" means a solid or hazardous waste disposal facility with an approved plan of operation under s. ~~444.44 (3) 289.30~~ or a solid waste disposal facility initially licensed within 3 years prior to May 21, 1978, whose owner successfully applies, within 2 years after May 21, 1978, for a determination by the department that the facility's design and plan of operation comply substantially with the requirements necessary for plan approval under s. ~~444.44 (3) 289.30~~.

(4) "Approved mining facility" means an approved facility which is part of a mining site, as defined under s. ~~444.81 (8) 293.01 (12)~~, used for the disposal of waste resulting from mining, as defined under s. ~~444.81 (5) 293.01 (9)~~, or prospecting, as defined under s. ~~444.81 (12) 293.01 (18)~~.

**SECTION 586.** 144.441 (1m) (title) of the statutes is repealed.

**SECTION 587.** 144.441 (1m) of the statutes is renumbered 289.05 (3) and amended to read:

289.05 (3) The department shall prescribe by rule minimum standards for closing, long-term care and termination of solid waste disposal facilities or hazardous waste facilities. The standards and any additional facility-specific requirements designated by the department shall be incorporated into the plan of operation prepared under s. 144.44 (3) ~~289.30~~. The long-term care provisions in an approved plan of operation may be modified under s. 144.44 (3) (d) 1. ~~c. or 2.~~ ~~289.30 (8) (a) 3. or (b).~~

**SECTION 588.** 144.441 (2) of the statutes is renumbered 289.41 (1m), and 289.41 (1m) (b) 1. to 3. and (c), as renumbered, are amended to read:

289.41 (1m) (b) 1. Except as provided in subd. 2., the owner of an approved facility shall maintain proof of financial responsibility as provided in s. ~~144.443~~ this section during the operation of the approved facility and for 40 years after the closing of the approved facility unless the obligation is extended under par. (f).

2. The owner of an approved facility which ceased to accept solid waste and permanently terminated disposal operations before August 15, 1991, shall maintain proof of financial responsibility as provided in s. ~~144.443~~ this section for the period specified in the approved plan of operation.

3. Except as provided in subd. 4., the owner of a non-approved facility that receives or has received household waste shall maintain proof of financial responsibility as provided in s. ~~144.443~~ this section during the operation of the nonapproved facility and for 40 years after the closing of the nonapproved facility unless the obligation is extended under par. (f).

(c) *Long-term care responsibility for approved facilities.* Notwithstanding s. 144.441 (2) (c) 1., 1989 stats., the owner's responsibility for the long-term care of an approved facility does not terminate, except that if another person acquires the rights of ownership and is issued under s. 144.444 ~~289.46~~ (1) a new operating license for the approved facility, the owner's responsibility is transferred to that other person upon the issuance of the new operating license.

**SECTION 589.** 144.441 (3) and (4) of the statutes are renumbered 289.62 (1) and (2), and 289.62 (1) (f), as renumbered, is amended to read:

289.62 (1) (f) *Reduction of or exemption from tonnage fees.* The total annual tonnage fees for all solid waste received by a nonapproved facility shall be reduced by the amount of the base fee under s. 144.442 (2) ~~289.67 (3)~~ for that facility. If the base fee for a nonapproved facility under s. 144.442 (2) ~~289.67 (3)~~ is greater than the annual tonnage fee imposed under par. (a) for that facility, the solid or hazardous waste received by the facility is exempt from the tonnage fee for that year. The department shall establish methods by rule for estimating the total annual tonnages for all solid and hazardous

wastes received by a nonapproved facility. If an estimate reveals that total annual tonnage fees for a nonapproved facility for a certain year are unlikely to exceed the base fee under s. 144.442 (2) ~~289.67 (3)~~ for that year, the department shall grant an exemption under this paragraph without requiring the calculation of the actual total tonnage fees.

**SECTION 590.** 144.441 (6) of the statutes is renumbered 289.68 and amended to read:

**289.68 Payments from the waste management fund and related payments.** (1) PAYMENTS FROM THE WASTE MANAGEMENT FUND. The department may expend moneys in the waste management fund only for the purposes specified under ~~pars. (d) to (h)~~ ~~subs. (3) to (6)~~ and 1991 Wisconsin Act 39, section 9142 (2w). The department may expend moneys appropriated under s. 20.370 (2) (dq) for the purposes specified under ~~pars. (d) and (e)~~ ~~subs. (3) and (5)~~ and 1991 Wisconsin Act 39, section 9142 (2w). The department may expend moneys appropriated under s. 20.370 (2) (dt) for the purposes specified under ~~par. (f)~~ ~~sub. (4)~~. The department may expend moneys appropriated under s. 20.370 (2) (dy) and (dz) for the purposes specified under ~~par. (h)~~ ~~sub. (6)~~.

(2) PAYMENTS FROM THE INVESTMENT AND LOCAL IMPACT FUND. The department may expend moneys received from the investment and local impact fund only for the purposes specified under ~~par. (d)~~ ~~sub. (3)~~, only for approved mining facilities and only if moneys in the waste management fund are insufficient to make complete payments. The amount expended by the department under this ~~paragraph subsection~~ may not exceed the balance in the waste management fund at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

(3) PAYMENTS FOR LONG-TERM CARE AFTER TERMINATION OF PROOF OF FINANCIAL RESPONSIBILITY. The department may spend moneys appropriated under s. 20.370 (2) (dq) for the costs of long-term care of an approved facility for which the plan of operation was approved under s. 144.44 (3) (e) ~~289.30 (6)~~ before August 9, 1989, that accrue after the requirement to provide proof of financial responsibility expires under ~~sub. (2)~~ ~~s. 289.41 (1m)~~ (b) or (f) as authorized under s. ~~144.443~~ ~~289.41~~ (11) (b) 2.

(4) PAYMENT OF CLOSURE AND LONG-TERM CARE COSTS; FORFEITED BONDS AND SIMILAR MONEYS. The department may utilize moneys appropriated under s. 20.370 (2) (dt) for the payment of costs associated with compliance with closure and long-term care requirements under s. ~~144.443~~ ~~289.41~~ (11) (b) 1.

(5) PREVENTION OF IMMINENT HAZARD. The department may utilize moneys appropriated under s. 20.370 (2) (dq) for the payment of costs associated with imminent hazards as authorized under s. ~~144.443~~ ~~289.41~~ (11) (c) and (cm).

(6) PAYMENT OF CORRECTIVE ACTION, FORFEITED BONDS AND RECOVERED MONEYS. The department may utilize moneys appropriated under s. 20.370 (2) (dy) and (dz) for the payment of costs of corrective action under s. 144.443 289.41 (11) (bm).

**SECTION 591.** 144.441 (6m) of the statutes is renumbered 289.68 (7).

**SECTION 592.** 144.441 (7) of the statutes is renumbered 289.63, and 289.63 (1), (3) (intro.), (a), (b), (c) (intro.) and (d) and (4) to (9), as renumbered, are amended to read:

289.63 (1) IMPOSITION OF GROUNDWATER, SOLID WASTE CAPACITY AND WELL COMPENSATION FEES ON GENERATORS. Except as provided under ~~par. (f)~~ sub. (6), a generator of solid or hazardous waste shall pay separate groundwater, solid waste capacity and well compensation fees for each ton or equivalent volume of solid or hazardous waste which is disposed of at a licensed solid or hazardous waste disposal facility. If a person arranges for collection or disposal services on behalf of one or more generators, that person shall pay the groundwater, solid waste capacity and well compensation fees to the licensed solid or hazardous waste disposal facility or to any intermediate hauler used to transfer wastes from collection points to a licensed facility. An intermediate hauler who receives groundwater, solid waste capacity and well compensation fees under this ~~paragraph~~ subsection shall pay the fees to the licensed solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be calculated in the same manner as the calculation made for tonnage fees under ~~sub. (3) s. 289.62~~ (1).

(3) AMOUNT OF GROUNDWATER, SOLID WASTE CAPACITY AND WELL COMPENSATION FEES. (intro.) The fees imposed under this ~~subsection~~ section are as follows:

(a) Except as provided in ~~par. (d)~~ sub. (4), the groundwater fee imposed under ~~par. (a) sub. (1)~~ is 10 cents per ton for solid waste or hazardous waste.

(b) The well compensation fee imposed under ~~par. (a) sub. (1)~~ for solid waste or hazardous waste, excluding prospecting or mining waste, is one cent per ton.

(c) (intro.) In this ~~subdivision~~ paragraph, "solid waste disposal and incineration capacity" means the sum of the total capacity remaining at the beginning of a calendar year in all existing municipal waste landfills and the total solid waste incineration capacity of all existing incinerators during the expected life of the incinerators. The solid waste capacity fee imposed under ~~par. (a) sub. (1)~~ for solid waste disposed of after January 1, 1995, excluding hazardous waste and excluding solid waste generated in this state, shall be determined by the department at the beginning of each calendar year based on a comparison of the solid waste disposal and incineration capacity in this state and in the state in which the solid waste is generated. Except as provided in ~~subd. 4. par. (d)~~, the solid waste capacity fee is as follows:

(d) If the solid waste capacity fee for solid waste generated in any state remains at the same level or increases in 2 consecutive calendar years, the fee under ~~subd. 3. par. (c)~~ is doubled. The fee shall remain doubled until solid waste generated in that state qualifies for a lower fee under ~~subd. 3. par. (c)~~.

(4) AMOUNT OF GROUNDWATER FEE; PROSPECTING OR MINING WASTE. The groundwater fee imposed under ~~par. (a) sub. (1)~~ is one cent per ton for prospecting or mining waste, including tailing solids, sludge or waste rock.

(5) IN ADDITION TO OTHER FEES. The groundwater, solid waste capacity and well compensation fees collected and paid under ~~par. (b) sub. (2)~~ are in addition to the tonnage fee imposed under ~~sub. (3) s. 289.62~~ (1), the environmental repair base fee imposed under s. 144.442 (2) 289.67 (3) and the environmental repair surcharge imposed under s. 144.442 (3) 289.67 (4).

(6) EXEMPTION FROM GROUNDWATER, SOLID WASTE CAPACITY AND WELL COMPENSATION FEES; CERTAIN MATERIALS USED IN OPERATION OF THE FACILITY. Solid waste materials approved by the department for lining, daily cover or capping or for constructing berms, dikes or roads within a solid waste disposal facility are not subject to the groundwater, solid waste capacity and well compensation fees imposed under ~~par. (a) sub. (1)~~, except that foundry sands or shredder fluff approved for use under s. 144.44 (3) (~~bh~~ or (4e) 289.30 (5) or 289.31 (9)) are subject to groundwater and well compensation fees.

(7) REPORTING PERIOD. The reporting period under this ~~subsection~~ section is the same as the reporting period under ~~sub. (3) s. 289.62~~ (1). The owner or operator of any licensed solid or hazardous waste disposal facility shall pay groundwater, solid waste capacity and well compensation fees required to be collected under ~~par. (b) sub. (2)~~ at the same time as any tonnage fees under ~~sub. (3) s. 289.62~~ (1) are paid.

(8) USE OF GROUNDWATER, SOLID WASTE CAPACITY AND WELL COMPENSATION FEES. The groundwater fees collected under ~~par. (b) sub. (2)~~ shall be credited to the environmental fund for groundwater management. The well compensation and solid waste capacity fees collected under ~~par. (b) sub. (2)~~ shall be credited to the environmental fund for environmental repair.

(9) FAILURE TO PAY GROUNDWATER, SOLID WASTE CAPACITY AND WELL COMPENSATION FEES. (a) If a person required under ~~par. (a) sub. (1)~~ to pay groundwater, solid waste capacity and well compensation fees to a licensed solid or hazardous waste disposal facility fails to pay the fees, the owner or operator of the licensed solid or hazardous waste disposal facility shall submit to the department with the payment required under ~~par. (b) sub. (2)~~ an affidavit stating facts sufficient to show the person's failure to comply with ~~par. (a) sub. (1)~~.

(b) If the person named in the affidavit under ~~subd. 1. par. (a)~~ is a generator or a person who arranges for col-



lection or disposal services on behalf of one or more generators and the person holds a license for the collection and transportation of solid or hazardous waste, the department shall immediately notify the person that the license will be suspended 30 days after the date the notice is mailed unless the person submits to the department an affidavit stating facts sufficient to show that it has paid the fees as required under ~~par. (a)~~ sub. (1).

(c) If the person named in the affidavit under ~~subd. 1, par. (a)~~ is an intermediate hauler that holds a license for the collection and transportation of solid or hazardous waste, the department shall immediately notify the person that the license will be suspended 30 days after the date the notice is mailed unless the person submits to the department an affidavit stating facts sufficient to show that either of the following has occurred:

1. The person named in the affidavit under ~~subd. 1, par. (a)~~ received the required fees from a generator, from a person who arranges for collection or disposal services on behalf of one or more generators or from an earlier intermediate hauler, and paid the fees to the licensed solid or hazardous waste disposal facility or to a subsequent intermediate hauler.

2. A generator, a person who arranges for collection or disposal services on behalf of one or more generators or an earlier intermediate hauler failed to pay the required fees to the person named in the affidavit under ~~subd. 1, par. (a)~~.

(d) If the department does not receive an affidavit under ~~subd. 2, or 3, par. (b) or (c)~~ within 30 days after the date the notice is mailed, the department shall suspend the license issued to the person for the collection and transportation of solid or hazardous waste. Notwithstanding s. 227.42, the department is not required to provide the licensee with a hearing before the suspension.

(e) When a person whose license is suspended under ~~subd. 4, par. (d)~~ provides the department with proof that the person has paid the owner or operator of the licensed solid or hazardous waste facility the amount of the unpaid fees, the department shall immediately reinstate the suspended license.

**SECTION 593.** 144.441 (7m) of the statutes is renumbered 289.64, and 289.64 (1) and (3) to (7), as renumbered, are amended to read:

**289.64 (1)** IMPOSITION OF SOLID WASTE FACILITY SITING BOARD FEE ON GENERATORS. Except as provided under ~~par. (d)~~ sub. (4), a generator of solid waste or hazardous waste shall pay a solid waste facility siting board fee for each ton or equivalent volume of solid waste or hazardous waste that is disposed of at a licensed solid waste or hazardous waste disposal facility. If a person arranges for collection or disposal services on behalf of one or more generators, that person shall pay the solid waste facility siting board fee to the licensed solid waste or hazardous waste disposal facility or to any intermediate hauler used to transfer wastes from collection points to a licensed fa-

cility. An intermediate hauler who receives the solid waste facility siting board fee under this ~~paragraph~~ subsection shall pay the fee to the licensed solid waste or hazardous waste disposal facility. Tonnage or equivalent volume shall be calculated in the same manner as the calculation made for tonnage fees under ~~sub. (3)~~ s. 289.62 (1).

**(3)** AMOUNT OF SOLID WASTE FACILITY SITING BOARD FEE. The fee imposed under this ~~subsection~~ section is 1.7 cents per ton for solid waste or hazardous waste.

**(4)** EXEMPTION FROM SOLID WASTE FACILITY SITING BOARD FEE; CERTAIN MATERIALS USED IN OPERATION OF THE FACILITY. Solid waste materials approved by the department for lining, daily cover or capping or for constructing berms, dikes or roads within a solid waste disposal facility are not subject to the solid waste facility siting board fee imposed under ~~par. (a)~~ sub. (1), except that materials approved for use under s. 144.44 (3) ~~(b)~~ or ~~(4)~~ 289.30 (5) or 289.31 (9) are subject to the fee.

**(5)** REPORTING PERIOD. The reporting period under this ~~subsection~~ section is the same as the reporting period under ~~sub. (3)~~ s. 289.62 (1). The owner or operator of any licensed solid waste or hazardous waste disposal facility shall pay the solid waste facility siting board fee required to be collected under ~~par. (b)~~ sub. (2) at the same time as any tonnage fees under ~~sub. (3)~~ s. 289.62 (1) are paid.

**(6)** USE OF SOLID WASTE FACILITY SITING BOARD FEES. The fees collected under ~~par. (b)~~ sub. (2) shall be credited to the appropriation under s. 20.370 (2) (eg) for transfer to the appropriation under s. 20.505 (4) (k).

**(7)** FAILURE TO PAY SOLID WASTE FACILITY SITING BOARD FEE. (a) If a person required under ~~par. (a)~~ sub. (1) to pay the solid waste facility siting board fee to a licensed solid waste or hazardous waste disposal facility fails to pay the fee, the owner or operator of the licensed solid waste or hazardous waste disposal facility shall submit to the department with the payment required under ~~par. (b)~~ sub. (2) an affidavit stating facts sufficient to show the person's failure to comply with ~~par. (a)~~ sub. (1).

(b) If the person named in the affidavit under ~~subd. 1, par. (a)~~ is a generator or a person who arranges for collection or disposal services on behalf of one or more generators and the person holds a license for the collection and transportation of solid waste or hazardous waste, the department shall immediately notify the person that the license will be suspended 30 days after the date the notice is mailed unless the person submits to the department an affidavit stating facts sufficient to show that it has paid the fee as required under ~~par. (a)~~ sub. (1).

(c) If the person named in the affidavit under ~~subd. 1, par. (a)~~ is an intermediate hauler that holds a license for the collection and transportation of solid waste or hazardous waste, the department shall immediately notify the person that the license will be suspended 30 days after the date the notice is mailed unless the person submits to the

department an affidavit stating facts sufficient to show that either of the following has occurred:

1. The person named in the affidavit under ~~subd. 1, par. (a)~~ received the required fee from a generator, from a person who arranges for collection or disposal services on behalf of one or more generators or from an earlier intermediate hauler, and paid the fee to the licensed solid waste or hazardous waste disposal facility or to a subsequent intermediate hauler.

2. A generator, a person who arranges for collection or disposal services on behalf of one or more generators or an earlier intermediate hauler failed to pay the required fee to the person named in the affidavit under ~~subd. 1, par. (a)~~.

(d) If the department does not receive an affidavit under ~~subd. 2, or 3, par. (b) or (c)~~ within 30 days after the date the notice is mailed, the department shall suspend the license issued to the person for the collection and transportation of solid waste or hazardous waste. Notwithstanding s. 227.42, the department is not required to provide the licensee with a hearing before the suspension.

(e) When a person whose license is suspended under ~~subd. 4, par. (d)~~ provides the department with proof that the person has paid the owner or operator of the licensed solid waste or hazardous waste facility the amount of the unpaid fee, the department shall immediately reinstate the suspended license.

**SECTION 594.** 144.4412 of the statutes is renumbered 289.65, and 289.65 (2) and (5) (c), as renumbered, are amended to read:

289.65 (2) **COLLECTION.** The owner or operator of an incinerator with an operating permit or license that is approved under s. 144.394 285.60 or 144.44 (4) 289.31 shall pay to the department the amount of the solid waste capacity fee required to be collected according to the amount of solid waste burned during the previous calendar year.

(5) (c) Solid waste generated in another state if the solid waste is converted into fuel or burned at a municipal solid waste treatment facility with an operating permit or license that is approved under s. 144.394 285.60 or 144.44 (4) 289.31 prior to May 11, 1990, and the solid waste is delivered to the municipal solid waste treatment facility pursuant to a contract in effect 2 years after May 11, 1990.

**SECTION 595.** 144.4414 of the statutes is renumbered 289.66 and amended to read:

**289.66 Solid waste capacity fees; department determinations.** Beginning on January 1, 1991, and annually thereafter, the department shall determine the solid waste disposal and incineration capacity, as defined in s. 144.4412 289.65 (1) (b), of this state and each adjacent state. The department shall inform the owner or operator of each solid waste disposal facility and each incinerator in this state of the amount of the solid waste capacity fee under ss. 144.441 (7) 289.63 and 144.4412 289.65 for

solid waste generated in each adjacent state, commencing on January 1, 1995, based on that solid waste disposal and incineration capacity determination.

**SECTION 596.** 144.442 (title) of the statutes is renumbered 292.31 (title).

**SECTION 597.** 144.442 (1) (intro.) and (a) to (c) of the statutes are repealed.

**SECTION 598.** 144.442 (1) (cm) of the statutes is repealed.

**SECTION 599.** 144.442 (1) (d) of the statutes is renumbered 292.01 (18) and amended to read:

292.01 (18) “Site or facility” means, except in ~~sub. (9m) ss. 292.35 and 292.61~~, an approved facility, an approved mining facility, a nonapproved facility or a waste site.

**SECTION 600.** 144.442 (1) (e) of the statutes is renumbered 292.01 (21).

**SECTION 601.** 144.442 (1m) of the statutes is renumbered 289.67 (1), and 289.67 (1) (a), (cp), (e), (f) and (g), as renumbered, are amended to read:

289.67 (1) (a) *Imposition of fee.* Except as provided under par. (f), a generator of solid or hazardous waste shall pay an environmental repair fee for each ton or equivalent volume of solid or hazardous waste which is disposed of at a licensed solid or hazardous waste disposal facility. If a person arranges for collection or disposal services on behalf of one or more generators, that person shall pay the environmental repair fee to the licensed solid or hazardous waste disposal facility or to any intermediate hauler used to transfer wastes from collection points to a licensed facility. An intermediate hauler who receives environmental repair fees under this paragraph shall pay the fees to the licensed solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be calculated in the same manner as the calculation made for tonnage fees under s. 144.441 (3) 289.62 (1).

(cp) *Amount of environmental repair fee.* Notwithstanding par. (cm) and except as provided under par. (d), the environmental repair fee imposed under par. (a) is 30 cents per ton for solid or hazardous waste, other than high-volume industrial waste, as defined in s. 144.44 (7) (a) 1., disposed of on or after January 1, 1988, but before July 1, 1989, and 50 cents per ton disposed of on or after July 1, 1989.

(e) *In addition to other fees.* The environmental repair fee collected and paid under par. (b) is in addition to the base fee imposed under sub. (2), the surcharge imposed under sub. (3), the tonnage fee imposed under s. 144.441 (3) 289.62 (1) and the groundwater, solid waste capacity and well compensation fees imposed under s. 144.441 (7) 289.63.

(f) *Exemption from environmental repair fee; certain materials used in operation of the facility.* Solid waste materials approved by the department for lining, daily cover or capping or for constructing berms, dikes or roads within a solid waste disposal facility are not subject to the

environmental repair fee imposed under par. (a), except that foundry sands or shredder fluff approved for use under s. 144.44 (3) ~~(bh)~~ or ~~(4e)~~ 289.30 (5) or 289.31 (9) are subject to the environmental repair fee.

(g) *Reporting period.* The reporting period under this subsection is the same as the reporting period under s. 144.441 ~~(3)~~ 289.62 (1). The owner or operator of any licensed solid or hazardous waste disposal facility shall pay environmental repair fees required to be collected under par. (b) at the same time as any tonnage fees under s. 144.441 ~~(3)~~ 289.62 (1).

**SECTION 602.** 144.442 (1s) of the statutes is renumbered 289.67 (2), and 289.67 (2) (a), (c) 3. and (d), as renumbered, are amended to read:

289.67 (2) (a) A generator of hazardous waste who is required to report annually on hazardous waste activities according to rules promulgated under s. 144.62 ~~(8)~~ 291.05 (6) (b) shall pay an annual environmental repair fee.

(c) 3. Hazardous wastes which are removed from a site or facility to repair environmental pollution. In this subdivision, "site or facility" has the meaning given in s. 292.01 (18).

(d) The department shall assess fees under par. (a) on the basis of the generator's report that is submitted according to the rules promulgated under s. 144.62 ~~(8)~~ 291.05 (6) (b).

**SECTION 603.** 144.442 (2) of the statutes is renumbered 289.67 (3), and 289.67 (3) (d), as renumbered, is amended to read:

289.67 (3) (d) *Reduction of base fee; monitoring.* This paragraph applies to a nonapproved facility which is subject to the \$1,000 base fee under par. (b) 2. and which is required by the department to conduct monitoring under s. 144.44 ~~(4)(f)~~ 289.31 (7). The base fee under par. (b) 2. shall be reduced by the cost of monitoring for the calendar year to which the base fee applies, or \$900, whichever is less.

**SECTION 604.** 144.442 (3) of the statutes is renumbered 289.67 (4), and 289.67 (4) (a) and (b), as renumbered, are amended to read:

289.67 (4) (a) *Imposition of environmental repair surcharge.* If the owner or operator of a nonapproved facility is required to pay a tonnage fee under s. 144.441 ~~(3)~~ 289.62 (1), the owner or operator shall pay to the department an environmental repair surcharge for each calendar year.

(b) *Amount of environmental repair surcharge.* 1. With respect to solid or hazardous waste disposed of at a nonapproved facility for which the owner or operator enters into an agreement with the department to close the facility on or before July 1, 1999, the owner or operator shall pay to the department an environmental repair surcharge equal to 25% of the tonnage fees imposed under s. 144.441 ~~(3)~~ 289.62 (1). The 25% surcharge first applies for the calendar year in which the owner or operator

enters into a closure agreement. If the owner or operator fails to comply with the closure agreement, the department shall collect the additional tonnage fees which would have been paid by the owner or operator under subd. 2. in the absence of the closure agreement.

2. With respect to solid or hazardous waste disposed of at a nonapproved facility for which the owner or operator has not entered into an agreement with the department to close the facility on or before July 1, 1999, the owner or operator shall pay to the department an environmental repair surcharge equal to 50% of the tonnage fees imposed under s. 144.441 ~~(3)~~ 289.62 (1).

**SECTION 605.** 144.442 (4) of the statutes is renumbered 292.31 (1), and 292.31 (1) (d) 3., as renumbered, is amended to read:

292.31 (1) (d) 3. The identity of subsidiary or parent corporations, as defined in ~~sub. (9)~~ 292.31 (8) (a) 3., of persons who generated, transported, treated or stored waste which was disposed of at the site or facility.

**SECTION 606.** 144.442 (5) of the statutes is renumbered 292.31 (2), and 292.31 (2) (a) to (c) and (f), as renumbered, are amended to read:

292.31 (2) (a) Methods for preparing the inventory and conducting the analysis under sub. ~~(4)~~ (1).

(b) Methods for remedial action under sub. ~~(6)~~ (3).

(c) Methods and criteria for determining the appropriate extent of remedial action under sub. ~~(6)~~ (3).

(f) Means of making the most effective use of the grant program under ~~sub. (9m)~~ s. 292.61 so as to encourage the greatest number of political subdivisions to undertake remedial action on property that they own.

**SECTION 607.** 144.442 (6) of the statutes is renumbered 292.31 (3), and 292.31 (3) (b) 7., (d) and (f), as renumbered, are amended to read:

292.31 (3) (b) 7. The department may provide temporary or permanent replacements for private water supplies damaged by a site or facility. In this subdivision, "private water supply" means a well which is used as a source of water for humans, livestock, as defined in s. 95.80 (1) (b), or poultry.

(d) *Emergency responses.* Notwithstanding rules promulgated under this section, the hazard ranking list, the considerations for taking action under par. (c) or the remedial action schedule under par. (cm), the department may take emergency action under this subsection and subs. ~~(4)~~ (1) and ~~(8)~~ (7) at a site or facility if delay will result in imminent risk to public health or safety or the environment. The department is not required to hold a hearing under par. (f) if emergency action is taken under this paragraph. The decision of the department to take emergency action is a final decision of the agency subject to judicial review under ch. 227.

(f) *Notice; hearing.* The department shall publish a class 1 notice, under ch. 985, prior to taking remedial action under this subsection and subs. ~~(4)~~ (1) and ~~(8)~~ (7), which describes the proposed remedial action and the

amount and purpose of any proposed expenditure. Except as provided under par. (d), the department shall provide a hearing to any person who demands a hearing within 30 days after the notice is published for the purpose of determining whether the proposed remedial action and any expenditure is within the scope of this section and is reasonable in relation to the cost of obtaining similar materials and services. The department is not required to conduct more than one hearing for the remedial action proposed at a single site or facility. Notwithstanding s. 227.42, the hearing shall not be conducted as a contested case. The decision of the department to take remedial action under this section is a final decision of the agency subject to judicial review under ch. 227.

**SECTION 608.** 144.442 (6m), (6r) and (7) of the statutes are renumbered 292.31 (4), (5) and (6) and amended to read:

292.31 (4) **MONITORING COSTS AT NONAPPROVED FACILITIES OWNED OR OPERATED BY MUNICIPALITIES.** Notwithstanding the inventory, analysis and hazard ranking under sub. (4) (1), the environmental response plan prepared under sub. (5) (2) or the environmental repair authority, remedial action sequence and emergency response requirements under sub. (6) (3), the department shall pay that portion of the cost of any monitoring requirement which is to be paid under s. 144.44 (4) (f) 5. ~~289.31 (7) (f)~~ from the appropriation under s. 20.370 (2) (dv) prior to making other payments from that appropriation.

(5) **MUNICIPAL INCINERATOR ASH TESTING.** Notwithstanding the inventory, analysis and hazard ranking under sub. (4) (1), the environmental response plan prepared under sub. (5) (2), the environmental repair authority, remedial action sequence and emergency response requirements under sub. (6) (3), or the monitoring costs under sub. (6m) (4), the department shall pay the cost incurred by a municipality after June 30, 1986, and before January 30, 1988, for testing required to determine whether the ash from a municipally owned incinerator is hazardous. The department shall make payments under this subsection from the appropriation under s. 20.370 (2) (dv) prior to making other payments from that appropriation.

(6) **PAYMENTS FROM THE INVESTMENT AND LOCAL IMPACT FUND.** The department may expend moneys received from the investment and local impact fund for the purposes specified under sub. (6) (3) only for approved mining facilities and only if moneys in the environmental fund that are available for environmental repair are insufficient to make complete payments. The amount expended by the department under this subsection may not exceed the balance in the environmental fund that is available for environmental repair at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

**SECTION 609.** 144.442 (8) of the statutes is renumbered 292.31 (7), and 292.31 (7) (a), as renumbered, is amended to read:

292.31 (7) (a) The department may advise, consult, assist and contract with other interested persons to take action to implement the federal comprehensive environmental response, compensation and liability act of 1980, 42 USC 9601, et seq., in cooperation with the federal environmental protection agency. These actions include all of the actions under subs. (4) (1) to (6) (3). The department may enter into agreements with the federal environmental protection agency.

**SECTION 610.** 144.442 (9) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 292.31 (8), and 292.31 (8) (b) 1., (d), (h) and (i), as renumbered, are amended to read:

292.31 (8) (b) 1. This subsection does not apply to the release or discharge of a substance which is in compliance with a permit, license, approval, special order, waiver or variance issued under this chapter or ch. 30, 31 or 147 ~~283~~, or under corresponding federal statutes or regulations.

(d) *Right of action.* A right of action shall accrue to the state against any person responsible under par. (c) if an expenditure is made for environmental repair at the site or facility or if an expenditure is made under sub. (8) (7).

(h) *Cleanup agreements; waiver of cost recovery.* The department and any person who is responsible under par. (c) may enter into an agreement regarding actions which the department is authorized to take under sub. (6) (3). In the agreement, the department may specify those actions under sub. (6) (3) which the responsible person may take. As part of the agreement, the department may agree to reduce the amount which the state is entitled to recover under this subsection or to waive part or all of the liability which the responsible person may have under this subsection.

(i) *Lien.* Any expenditures made by the department under sub. (4), (6) (1), (3) or (8) (7) shall constitute a lien upon the property for which the expenses are incurred, as provided in s. ~~144.76 (13)~~ 292.81.

**SECTION 611.** 144.442 (9m) of the statutes is renumbered 292.61, and 292.61 (1) (intro.), (3) (b) 4. and (5), as renumbered, are amended to read:

292.61 (1) **DEFINITIONS.** (intro.) In this subsection section:

(3) (b) 4. A statement of whether the political subdivision intends to use the cost recovery procedure in s. ~~144.4422~~ 292.35. If the political subdivision indicates in its application that it intends to use the cost recovery procedure in s. ~~144.4422~~ 292.35, the department may not approve the application for a remedial action grant until the political subdivision completes the procedures under s. ~~144.4422~~ 292.35 (2g) and (2r).

(5) SUBROGATION. The state is subrogated to the rights of a political subdivision that obtains an award under this section in an amount equal to the award. All moneys recovered under this ~~paragraph~~ subsection shall be credited to the environmental fund for environmental repair.

**SECTION 612.** 144.442 (10) and (11) of the statutes are renumbered 292.31 (9) and (10), and 292.31 (10) (b), as renumbered, is amended to read:

292.31 (10) (b) If a person takes any remedial action at a site or facility, whether or not an agreement is entered into with the department under sub. ~~(9)~~ (8) (h), any agreement and the action taken are not evidence of liability or an admission of liability for any potential or actual environmental pollution.

NOTE: Section 144.442 (10) and (11) both contain references to "this section". Current s. 144.442 contains provisions related to environmental repair fees and remedial action. It is apparent that s. 144.442 (10) and (11) refer only to the remedial action provisions of the statute. Therefore, s. 144.442 (10) and (11) are renumbered to ch. 292, and are not duplicated in s. 289.67, which establishes the environmental repair fees.

**SECTION 613.** 144.4422 (title) and (1) (intro.) of the statutes are renumbered 292.35 (title) and (1) (intro.).

**SECTION 614.** 144.4422 (1) (a) of the statutes is repealed.

**SECTION 615.** 144.4422 (1) (b), (c), (d), (e), (f) and (g) of the statutes are renumbered 292.35 (1) (b), (c), (d), (e), (f) and (g), and 292.35 (1) (f), as renumbered, is amended to read:

292.35 (1) (f) "Site or facility" has the meaning given in s. ~~144.442 (9m) (a) 2.~~ 292.61 (1) (b).

**SECTION 616.** 144.4422 (2), (2g), (2r), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13) of the statutes are renumbered 292.35 (2), (2g), (2r), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), and 292.35 (2g) (b) 3., (7) and (9) (b) and (bm), as renumbered, are amended to read:

292.35 (2g) (b) 3. The identity of subsidiary or parent corporations, as defined in s. ~~144.442 (9) 292.31 (8) (a) 3.~~, of any person who may be a responsible party.

(7) RESPONSIBLE PARTIES SUBJECT TO AN AGREEMENT OR RECOMMENDATION. A responsible party that enters into an agreement under sub. (5) with a political subdivision or that accepts the umpire's recommendation under sub. (6), if the political subdivision does not reject the recommendation, is required to comply with the agreement or recommendation. When the responsible party has complied with the agreement or recommendation, the responsible party is not liable to the state, including under s. ~~144.442 (9) or 144.76 292.11 (7) (b) or 292.31 (8)~~, or to the political subdivision for any additional costs of the investigation or remedial action; the responsible party is not liable to any other responsible party for contribution to costs incurred by any other responsible party for the investigation or remedial action; and the responsible party is not subject to an order under s. ~~144.76 292.11 (7) (c)~~

for the discharge that is the subject of the agreement or recommendation.

(9) (b) 1. Except as provided in pars. (bm), (br) and (e), sub. (7) and s. ~~144.76 (9m) and (9s) 292.21~~, a responsible party is liable for a portion of the costs, as determined under pars. (c) to (e), incurred by a political subdivision for remedial action in an agreement under sub. (5) or a recommendation under sub. (6) and for any related investigation. A right of action shall accrue to a political subdivision against the responsible party for costs listed in this subdivision.

2. Except as provided in pars. (bm), (br) and (e), sub. (7) and s. ~~144.76 (9m) and (9s) 292.21~~, a responsible party is liable for a portion of any unreimbursed costs, as determined under pars. (c) to (e), incurred by this state in approving and supervising a remedial action funded under s. ~~144.442 (9m) (e) 292.61 (3)~~ and for the costs of a grant under s. ~~144.442 (9m) (e) 292.61 (3)~~. A right of action shall accrue to this state against the responsible party for costs listed in this subdivision.

(bm) Paragraph (b) does not apply with respect to a discharge if the discharge was in compliance with a permit license, approval, special order, waiver or variance issued under ~~ss. 144.30 to 144.426 or ch. 147 283 or 285~~ or under corresponding federal statutes or regulations.

**SECTION 617.** 144.443 (title) and (1) (intro.) of the statutes are renumbered 289.41 (title) and (1) (intro.).

**SECTION 618.** 144.443 (1) (a) of the statutes is repealed.

**SECTION 619.** 144.443 (1) (am) of the statutes is renumbered 289.41 (1) (am).

**SECTION 620.** 144.443 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 63, is renumbered 289.41 (1) (b), and 289.41 (1) (b) 1. and 2., as renumbered, are amended to read:

289.41 (1) (b) 1. Any business operated for profit and any public utility which is applying for or holds a license for the operation of a solid or hazardous waste disposal facility under s. ~~144.44 (4) 289.31 or 144.64 (2) 291.25~~ directly or through a subsidiary, affiliate, contractor or other entity if the business or public utility guarantees compliance with any closure and long-term care responsibilities of the subsidiary, affiliate, contractor or other entity.

2. Any business operated for profit and any public utility that is required to perform corrective action under s. ~~144.735 291.37~~.

**SECTION 621.** 144.443 (1) (c) to (f) of the statutes are renumbered 289.41 (1) (c) to (f).

**SECTION 622.** 144.443 (2) and (3) of the statutes are renumbered 289.41 (2) and (3), and 289.41 (2) (a), (c) and (d) and (3) (a) 5. and 6., as renumbered, are amended to read:

289.41 (2) (a) *Disposal facilities.* The owner or operator of a solid or hazardous waste disposal facility shall

maintain proof of financial responsibility ensuring the availability of funds for compliance with the closure and long-term care requirements specified in any rule, order, plan of operation or other plan approval during the period specified in s. 144.441 (2) sub. (1m) (b) or under s. 144.441 (2) sub. (1m) (f).

(c) *Hazardous waste disposal, storage and treatment facilities.* If corrective action is required under s. 144.735 291.37, the owner or operator of the hazardous waste facility to which the requirement applies shall maintain proof of financial responsibility ensuring the availability of funds for compliance with the corrective action requirement.

(d) *Unlicensed hazardous waste facilities.* The owner or operator of an unlicensed hazardous waste facility subject to s. 144.64 (2m) 291.29 shall maintain proof of financial responsibility ensuring the availability of funds for compliance with the approved closure plan and, if applicable, the long-term care plan.

(3) (a) 5. A financial commitment satisfactory to the department to ensure that the owner or operator will comply with the closure and any long-term care requirements specified in the plan of operation or the approved plan under s. 144.64 (2m) 291.29. The department shall consider the request of any owner or operator to establish proof of financial responsibility under this subdivision.

6. If corrective action is required under s. 144.735 291.37, a financial commitment satisfactory to the department to ensure that the owner or operator will comply with the requirement. The department shall consider the request of any owner or operator to establish proof of financial responsibility under this subdivision.

**SECTION 623.** 144.443 (4) of the statutes, as affected by 1995 Wisconsin Act 63, is renumbered 289.41 (4), and 289.41 (4) (b), as renumbered, is amended to read:

289.41 (4) (b) *Application.* A company which seeks to establish proof of financial responsibility utilizing the net worth method shall submit an application to the department as a part of the initial license application, written submissions required under s. 144.735 291.37 or annual review procedure which includes a copy of the most recent annual audited financial statements which were distributed to owners, stockholders or other persons with a financial interest in the company and the opinion of an independent certified public accountant.

**SECTION 624.** 144.443 (5) to (12) of the statutes are renumbered 289.41 (5) to (12), and 289.41 (6) (b), (9) (b) and (11) (a) (intro.) and 4., (am) (intro.) and 4. and (b) to (cm), as renumbered, are amended to read:

289.41 (6) (b) *Net worth to closure, long-term care and corrective action cost ratio.* The net worth of the company at the end of its most recently completed fiscal year equals or exceeds 6 times the estimated total cost of compliance with the closure and any long-term care requirements specified in the plan of operation or the ap-

proved plan under s. 144.64 (2m) 291.29 plus the costs of any corrective action required under s. 144.735 291.37.

(9) (b) *Inability to meet closure and long-term care or corrective action costs.* If a public utility which utilizes the risk pool arrangement does not comply with the closure and long-term care requirements specified in any plan of operation or approved plan under s. 144.64 (2m) 291.29 or with any corrective action required under s. 144.735 291.37 and if the department or the department of justice is unable to obtain compliance with these requirements after appropriate legal action because of bankruptcy, insolvency or the financial inability of the utility to comply with these requirements, then the department is authorized to enter an assessment order.

(11) (a) *Failure to comply with closure and long-term care requirements.* (intro.) If the owner or operator of the facility fails to comply with the closure and any long-term care requirements in any plan of operation or approved plan under s. 144.64 (2m) 291.29:

4. The department may request the department of justice to initiate court action against the owner or operator to recover moneys sufficient to pay the cost of complying with the closure and long-term care requirements of the plan of operation or approved plan under s. 144.64 (2m) 291.29. Any moneys recovered in this type of action or as a settlement in anticipation of this type of action shall be credited to the waste management fund.

(am) *Failure to comply with corrective action requirements.* (intro.) If the owner or operator of the facility fails to comply with any corrective action requirements under s. 144.735 291.37:

4. The department may request the department of justice to initiate court action against the owner or operator to recover moneys sufficient to pay the cost of complying with a corrective action required under s. 144.735 291.37. Any moneys recovered in this type of action or as a settlement in anticipation of this type of action shall be credited to the waste management fund.

(b) *Compliance with closure and long-term care requirements.* 1. If the owner or operator of a waste facility fails to comply with the closure and any long-term care requirements in any plan of operation or approved plan under s. 144.64 (2m) 291.29, the department may take action or contract with a person to take action to comply with these requirements from moneys obtained for that purpose under par. (a).

2. If the owner or operator of an approved facility for which the plan of operation was approved under s. 144.44 (3)-(e) 289.30 (6) before August 9, 1989, fails to comply with long-term care requirements in the plan of operation after the requirement to provide proof of financial responsibility expires under s. 144.441 (2) sub. (1m) (b) or (f) and if the department takes reasonable administrative and legal action to require compliance or to obtain moneys under par. (a) 4., then the department may take

action or contract with a person to take action to comply with the requirements even though no moneys have been obtained under par. (a).

(bm) *Compliance with corrective action requirements.* If the owner or operator of a waste facility fails to comply with any corrective action required under s. ~~144.735 291.37~~, the department may take action or contract with a person to take action to comply with a corrective action required under s. ~~144.735 291.37~~ from moneys obtained for that purpose under par. (am).

(c) *Prevention of imminent hazard; closure and long-term care.* If the owner or operator of an approved facility for which the plan of operation was approved under s. ~~144.44 (3)-(e) 289.30 (6)~~ before August 9, 1989, fails to comply with the closure and any long-term care requirements in any plan of operation during the period for which the owner or operator is required to provide proof of financial responsibility, if the department determines that the failure to comply with these requirements presents an imminent or substantial danger to the health or environment and if the department takes reasonable administrative and legal action to require compliance or to obtain moneys under par. (a), then the department may take action or contract with a person to take action to comply with these requirements even though no moneys have been obtained under par. (a).

(cm) *Prevention of imminent hazard; corrective action.* If the owner or operator of an approved facility for which the plan of operation was approved under s. ~~144.44 (3)-(e) 289.30 (6)~~ before August 9, 1989, fails to comply with any corrective action required under s. ~~144.735 291.37~~, if the department determines that the failure to comply with a corrective action requirement presents an imminent or substantial danger to the health or environment and if the department takes reasonable administrative and legal action to require compliance or to obtain moneys under par. (am), then the department may take action or contract with a person to take action to comply with a corrective action required under s. ~~144.735 291.37~~ even though no moneys have been obtained under par. (am).

**SECTION 625.** 144.444 of the statutes is renumbered 289.46, and 289.46 (1), as renumbered, is amended to read:

289.46 (1) Any person acquiring rights of ownership, possession or operation in a licensed solid or hazardous waste facility at any time after the facility begins to accept waste is subject to all requirements of the license approved for the facility including any requirements relating to long-term care of the facility and is subject to any negotiated agreement or arbitration award related to the facility under s. ~~144.445 289.33~~. Upon acquisition of the rights, the department shall issue a new operating license if the previous licensee is no longer connected with the operation of the facility, if the new licensee meets all requirements specified in the previous license, the ap-

proved plan of operation, if any, and the rules promulgated under s. ~~144.62 291.05 or 291.07~~, if applicable.

**SECTION 626.** 144.445 of the statutes is renumbered 289.33, and 289.33 (3) (d) and (fm), (6) (a) to (c), (7n) (a) and (12) (a) 2., (b) 2., (c) 1. c. and (d), as renumbered, are amended to read:

289.33 (3) (d) “Local approval” includes any requirement for a permit, license, authorization, approval, variance or exception or any restriction, condition of approval or other restriction, regulation, requirement or prohibition imposed by a charter ordinance, general ordinance, zoning ordinance, resolution or regulation by a town, city, village, county or special purpose district, including without limitation because of enumeration any ordinance, resolution or regulation adopted under s. 59.065, 59.07, 59.083, 59.97, 59.971, 59.974, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354, 62.11, 62.23, 62.231, 62.234, 66.01, 66.052, 66.24 (8), 87.30, 91.73, ~~144.07~~, 196.58, 236.45, ~~281.43~~ or 349.16 or subch. VIII of ch. 60.

(fm) “Preexisting local approval” means a local approval in effect at least 15 months prior to the submission to the department of either a feasibility report under s. ~~144.44 (2) 289.23~~ or an initial site report, whichever occurs first.

(6) (a) *Municipal participation.* An affected municipality may participate in the negotiation and arbitration process under this section if the governing body adopts a siting resolution and appoints members to the local committee within 60 days after the municipality receives the written request from the applicant under s. ~~144.44 (1m)(b) 289.22 (1m)~~ and if the municipality sends a copy of that resolution and the names of those members to the board within 7 days after the municipality adopts the siting resolution and appoints members to the local committee. The siting resolution shall state the affected municipality’s intent to negotiate and, if necessary, arbitrate with the applicant concerning the proposed facility. An affected municipality which does not adopt a siting resolution within 60 days after receipt of notice from the applicant may not appoint members to the local committee.

(b) *Notification of participation.* Within 5 days after the board receives copies of resolutions and names of members appointed to the local committee from all affected municipalities or within 72 days after all affected municipalities receive the written request under s. ~~144.44 (1m)(b) 289.22 (1m)~~, the board shall submit a notification of participation by certified mail to the applicant and each participating municipality identifying the participating municipalities and the members appointed to the local committee and informing the applicant and participating municipalities that negotiations may commence or, if no affected municipality takes the actions required to participate in the negotiation and arbitration process under par. (a), the board shall notify the applicant of this fact by certified mail within that 72-day period.

(c) *Revised notification of participation.* If the board issues a notice under par. (b) and subsequently it is necessary for the applicant to submit a written request under s. 144.44 (1m) (b) 289.22 (1m) to an additional affected municipality because of an error or changes in plans, the board may issue an order delaying negotiations until that affected municipality has an opportunity to participate in the negotiation and arbitration process by taking action under par. (a). Within 5 days after the board receives a copy of the resolution and the names of members appointed to the local committee by that affected municipality or within 72 days after that affected municipality receives the written request from the applicant under s. 144.44 (1m) (b) 289.22 (1m), the board shall submit a revised notification of participation by certified mail to the applicant and each participating municipality stating the participating municipalities and members appointed to the local committee and informing the applicant and participating municipalities that negotiations may recommence or if the additional affected municipality does not take the actions required to participate in the negotiation and arbitration process under par. (a), the board shall notify the applicant and other participating municipalities of this fact by certified mail and informing them that negotiations may recommence.

(7n) (a) *Agreement to add.* Upon the written agreement of all parties to a negotiation and arbitration proceeding commenced under this section, a municipality which does not qualify as an affected municipality under s. 144.43 (1) may be added as a party to the proceeding.

(12) (a) 2. This section does not apply to modifications to a solid waste disposal facility which do not constitute an expansion of the facility or to a solid waste disposal facility which is exempt from the requirement of a feasibility report under ss. 144.43 to 144.47 this chapter or by rule promulgated by the department.

(b) 2. Except as provided under subd. 1. and par. (c), only subs. (3) and (5) (a) and (b) apply to a hazardous waste facility which is in existence on May 7, 1982, which has a license, an interim license or a variance under s. 144.64 291.25 or 291.31 or the resource conservation and recovery act and which complies with all local approvals applicable to the facility on May 7, 1982.

(c) 1. c. At any time after the date specified in the feasibility report, if such a date has been specified under s. 144.44 (2) (f) 289.24 (1), as the proposed date of closure of a solid or hazardous waste disposal facility and if the facility is not closed on or before that date.

(d) *Nonapplicability to mining waste facilities.* This section does not apply to any waste facility which is part of a prospecting or mining operation with a permit under s. 144.84 293.45 or 144.85 293.49.

**SECTION 627.** 144.446 of the statutes is renumbered 289.12, and 289.12 (2), as renumbered, is amended to read:

289.12 (2) **EXEMPTION FROM LIABILITY.** A landfill official is immune from civil prosecution for good faith actions taken within the scope of his or her official duties under this subchapter chapter or ch. 291 or 292.

**SECTION 628.** 144.447 of the statutes is renumbered 289.36, and 289.36 (2) (b) and (c) 1. and 2., as renumbered, are amended to read:

289.36 (2) (b) The property is determined to be feasible for use as a solid or hazardous waste facility by the department if that determination is required under s. 144.44 (2) 289.29.

(c) 1. Five years prior to the determination of feasibility if a determination of feasibility is required for the facility under s. 144.44 (2) 289.29.

2. Five years prior to the service of a jurisdictional offer under s. 32.06 (3) if a determination of feasibility is not required for the facility under s. 144.44 (2) 289.29.

**SECTION 629.** 144.448 of the statutes is renumbered 289.08, and 289.08 (1), as renumbered, is amended to read:

289.08 (1) The metallic mining council shall advise the department on the implementation of ss. 144.435, 144.44, 144.441, 144.442, 144.444, 144.445, 144.60 to 144.74 and 144.80 to 144.94 289.05, 289.21 to 289.32, 289.34, 289.42, 289.43, 289.46, 289.47, 289.62 to 289.64, 289.67, 289.68 and 292.31 and chs. 291 and 293 as those sections and chapters relate to metallic mining in this state.

**SECTION 630.** 144.449 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 289.55.

**SECTION 631.** 144.45 (title) of the statutes is repealed.

**SECTION 632.** 144.45 of the statutes is renumbered 289.07 (4) and amended to read:

289.07 (4) ~~The department may conduct~~ Conduct or direct scientific experiments, investigations, demonstration grants and research on any matter relating to solid waste disposal, including, but not limited to, land fill, disposal and utilization of junked vehicles, and production of compost.

**SECTION 633.** 144.453 of the statutes is renumbered 289.57, and 289.57 (2), as renumbered, is amended to read:

289.57 (2) **MAINTENANCE OF RECORDS.** Except as provided in s. 144.433 289.09 (2) (a) 2., the department shall separately maintain as a public record, for each solid waste facility, the reports required by sub. (1).

**SECTION 634.** 144.455 (title) of the statutes is renumbered 289.83 (title).

**SECTION 635.** 144.455 (1) (intro.) and (b) of the statutes are consolidated, renumbered 289.83 (1) and amended to read:

289.83 (1) (title) **DEFINITIONS** DEFINITION. In this section: (b) ~~“Political,~~ “political subdivision” means a city, village, town, county or town sanitary district.



**SECTION 636.** 144.455 (1) (a) of the statutes is repealed.

**SECTION 637.** 144.455 (2) to (6) of the statutes are renumbered 289.83 (2) to (6).

**SECTION 638.** 144.46 of the statutes is renumbered 289.35.

**SECTION 639.** 144.463 of the statutes, as affected by 1995 Wisconsin Act 115, is renumbered 289.59.

**SECTION 640.** 144.465 of the statutes is renumbered 289.92, and 289.92 (intro.) and (2) (b), as renumbered, are amended to read:

**289.92 Review of alleged violations.** (intro.) Any 6 or more citizens or any municipality may petition for a review of an alleged violation of ~~ss. 144.43 to 144.47~~ this chapter or any rule promulgated or special order, plan approval, license or any term or condition of a license issued under ~~those sections~~ this chapter in the following manner:

(2) (b) Initiate action under s. ~~144.47~~ 289.97.

**SECTION 641.** 144.469 of the statutes is renumbered 289.96, and 289.96 (1), as renumbered, is amended to read:

289.96 (1) (a) No person may treat, store or dispose of high-volume industrial waste, ~~as defined under s. 144.44 (7) (a) 1.,~~ in violation of a testing requirement or condition of an exemption under s. ~~144.44 (7) (f) 4~~ 289.43 (7) (d).

(b) No person may violate a testing requirement or condition of an exemption from regulation under s. ~~144.44 (7) (g) 3~~ 289.43 (8) (c).

**SECTION 642.** 144.47 of the statutes is renumbered 289.97, and 289.97 (1) (a), as renumbered, is amended to read:

289.97 (1) (a) If the department has reason to believe that a violation of ~~ss. 144.43 to 144.47~~ this chapter or any rule promulgated or special order, plan approval, or any term or condition of a license issued under ~~those sections~~ this chapter occurred, it may:

1. Cause written notice to be served upon the alleged violator. The notice shall specify the law or rule alleged to be violated, and contain the findings of fact on which the charge of violation is based, and, except as provided in s. ~~144.44 (8)~~ 289.95, may include an order that necessary corrective action be taken within a reasonable time. This order shall become effective unless, no later than 30 days after the date the notice and order are served, the person named in the notice and order requests in writing a hearing before the department. Upon such request, the department shall after due notice hold a hearing. Instead of an order, and except as provided in s. ~~144.44 (8)~~ 289.95, the department may require that the alleged violator appear before the department for a hearing at a time and place specified in the notice and answer the charges complained of; or

2. Initiate action under s. ~~144.98~~ 299.95.

**SECTION 643.** 144.48 of the statutes is renumbered 299.51, and 299.51 (1) (a), (b) and (c) to (e), as renumbered, are amended to read:

299.51 (1) (a) “Clinic” has the meaning given in s. ~~159.07 287.07~~ (7) (c) 1. a.

(b) “Medical waste” means infectious waste, as defined in s. ~~159.07 287.07~~ (7) (c) 1. c., and other waste that contains or may be mixed with infectious waste.

(c) “Solid waste disposal” has the meaning given in s. ~~144.43 (4)~~ 289.01 (34).

(d) “Solid waste facility” has the meaning given in s. ~~144.43 (5)~~ 289.01 (35).

(e) “Solid waste treatment” has the meaning given in s. ~~144.43 (7)~~ 289.01 (39).

**SECTION 644.** 144.50 of the statutes is renumbered 299.53, and 299.53 (4) (a) 3., as renumbered, is amended to read:

299.53 (4) (a) 3. Refer the matter to the department of justice for enforcement under s. ~~144.98~~ 299.95.

**SECTION 645.** 144.52 of the statutes is renumbered 299.55, and 299.55 (1) and (2) (a) and (d), as renumbered, are amended to read:

299.55 (1) RECORDS. Except as provided under sub. (2), records and other information furnished to or obtained by the department in the administration of ss. ~~144.50 and 159.15 287.15 and 299.53~~ are public records subject to s. 19.21.

(2) (a) *Application.* Any person subject to s. ~~144.50 or 159.15 287.15 or 299.53~~ may seek confidential treatment of any records or other information furnished to or obtained by the department in the administration of s. ~~144.50 or 159.15 287.15 or 299.53~~.

(d) *Use of confidential records.* Except as provided under par. (c) and this paragraph, the department or the department of justice may use records and other information granted confidential status under this subsection only in the administration and enforcement of s. ~~144.50 or 159.15 287.15 or 299.53~~. The department or the department of justice may release for general distribution records and other information granted confidential status under this subsection if the applicant expressly agrees to the release. The department or the department of justice may release on a limited basis records and other information granted confidential status under this subsection if the department or the department of justice is directed to take this action by a judge or hearing examiner under an order which protects the confidentiality of the records or other information. The department or the department of justice may release to the U.S. environmental protection agency or its authorized representative records and other information granted confidential status under this subsection if the department or the department of justice includes in each release of records or other information a request to the U.S. environmental protection agency or its

authorized representative to protect the confidentiality of the records or other information.

**SECTION 646.** 144.60 (title) and (1) of the statutes are repealed.

NOTE: This section repeals the “short title” of the hazardous waste management statutes. The repealed provision is as follows:

“144.60 (1) TITLE. Sections 144.60 to 144.74 shall be known and may be cited as the “Hazardous Waste Management Act”.”

The use of short titles is an obsolete drafting style. A short title is entirely nonsubstantive and, therefore, adds nothing to the management statutes. Users of these statutes may continue to refer to them as the “hazardous waste management act” or by any other name that seems appropriate.

**SECTION 647.** 144.60 (2) of the statutes is renumbered 291.001.

**SECTION 648.** 144.60 (3) of the statutes is renumbered 291.35 and amended to read:

**291.35 Rules on metallic mining wastes.** The requirements of ~~ss. 144.60 to 144.74~~ this chapter shall be subject to s. ~~144.435~~ 289.05 (2).

**SECTION 649.** 144.61 (intro.) and (1) of the statutes are renumbered 291.01 (intro.) and (1) and amended to read:

**291.01 Definitions.** (intro.) In ~~ss. 144.60 to 144.74~~ this chapter:

(1) “Closing” has the meaning designated under s. ~~144.43 (1m)~~ 289.01 (5).

**SECTION 650.** 144.61 (2), (3) and (4) of the statutes are renumbered 291.01 (2), (3) and (5).

**SECTION 651.** 144.61 (5) of the statutes is renumbered 291.01 (7) and amended to read:

291.01 (7) “Hazardous waste” or “waste” means any solid waste identified by the department as hazardous under s. ~~144.62 (2)~~ 291.05 (1), (2) or (4).

**SECTION 652.** 144.61 (5m) and (6) of the statutes are renumbered 291.01 (8) and (9).

**SECTION 653.** 144.61 (7) of the statutes is renumbered 291.01 (10) and amended to read:

291.01 (10) “Long-term care” has the meaning designated under s. ~~144.43 (3)~~ 289.01 (21).

**SECTION 654.** 144.61 (8), (9), (9m), (10), (11), (12) and (13) of the statutes are renumbered 291.01 (11), (14), (17), (18), (19), (20) and (21), and 291.01 (19), as renumbered, is amended to read:

291.01 (19) “Termination” has the meaning designated under s. ~~144.43 (8)~~ 289.01 (40).

**SECTION 655.** 144.61 (14) of the statutes is renumbered 291.01 (22) and amended to read:

291.01 (22) “Treatment facility” means a facility at which hazardous waste is subjected to treatment and may include a facility where hazardous waste is generated. This term does not include a waste water treatment facility whose discharges are regulated under ch. ~~147~~ 283 unless the facility is required to be permitted as a hazardous waste treatment facility under the resource conservation and recovery act.

**SECTION 656.** 144.62 (title) of the statutes is repealed.

**SECTION 657.** 144.62 (2) (a) of the statutes is renumbered 291.05 (1).

**SECTION 658.** 144.62 (2) (b) of the statutes is renumbered 291.05 (2), and 291.05 (2) (b) and (c), as renumbered, are amended to read:

291.05 (2) (b) Except as provided under ~~subd. 3, par. (c)~~, the list of hazardous wastes shall be identical to the list promulgated by the U.S. environmental protection agency under s. 6921 (b) of the resource conservation and recovery act.

(c) The department may include or retain on the list of hazardous wastes any additional solid waste not included on the list promulgated by the U.S. environmental protection agency if the department determines that the additional solid waste has characteristics which identify it as a hazardous waste based on the criteria promulgated under ~~par. (a) sub. (1)~~ and if the department determines that the inclusion or retention is necessary to protect public health, safety or welfare. The department shall issue specific findings and conclusions on which its determinations are based and shall include or retain the additional solid waste on the list of hazardous wastes by rule.

**SECTION 659.** 144.62 (2) (c) of the statutes is renumbered 291.05 (4).

**SECTION 660.** 144.62 (3) of the statutes is renumbered 291.07 (1).

**SECTION 661.** 144.62 (4) of the statutes is renumbered 291.11 (5).

**SECTION 662.** 144.62 (5) of the statutes is renumbered 291.07 (2) and amended to read:

291.07 (2) The department may exempt by rule any person who generates, transports, treats, stores or disposes of hazardous wastes from any provision under ~~ss. 144.60 to 144.74~~ this chapter or from any rule promulgated under ~~those sections~~ this chapter if the generation, transportation, treatment, storage or disposal does not present a significant hazard to public health and safety or the environment.

**SECTION 663.** 144.62 (7) of the statutes is renumbered 291.05 (5) (b) and amended to read:

291.05 (5) (b) In developing requirements for licenses to transport hazardous waste under s. ~~144.64 (1) par. (a)~~, the department shall maintain consistency with rules promulgated by the department of transportation.

**SECTION 664.** 144.62 (8) of the statutes is renumbered 291.05 (6), and 291.05 (6) (f), as renumbered, is amended to read:

291.05 (6) (f) Corrective action under s. ~~144.735~~ 291.37.

**SECTION 665.** 144.62 (8m) of the statutes is renumbered 291.07 (3) and amended to read:

291.07 (3) The department may promulgate rules which specify the duration of licenses issued under s. 144.64 (2) 291.25.

**SECTION 666.** 144.62 (9) of the statutes is renumbered 291.09 (1).

**SECTION 667.** 144.62 (10) of the statutes is renumbered 291.05 (3), and 291.05 (3) (a), as renumbered, is amended to read:

291.05 (3) (a) The department shall promulgate rules under ~~sub. (2) (a) and (b) subs. (1) and (2)~~ which establish not less than 2 nor more than 4 classes of hazardous waste and shall assign wastes to a particular class. The classes shall be based upon the relative degrees of hazard posed by the waste. Standards established under ~~ss. 144.60 to 144.74~~ this chapter for hazardous waste facilities or for equipment which transports hazardous waste shall recognize and differentiate between the classes of waste which the facility or equipment is intended to transport, treat, store or dispose.

**SECTION 668.** 144.62 (12) of the statutes is renumbered 291.09 (2) and amended to read:

291.09 (2) If facilities or equipment subject to ~~ss. 144.60 to 144.74~~ this chapter are also subject to regulation by the department under other statutes or rules, the department shall integrate its regulatory processes to avoid duplicative or contradictory actions or requirements.

**SECTION 669.** 144.62 (13) of the statutes is renumbered 291.11 (2) and amended to read:

291.11 (2) The department may waive compliance with any requirement under ~~ss. 144.60 to 144.74~~ this chapter or shorten the time periods under ~~ss. 144.60 to 144.74~~ this chapter to the extent necessary to prevent an emergency condition threatening public health, safety or welfare or the environment.

**SECTION 670.** 144.62 (14) of the statutes is renumbered 291.91 (1) and amended to read:

291.91 (1) The department may inspect hazardous waste facility construction projects to determine compliance with ~~ss. 144.60 to 144.74~~ this chapter and rules promulgated and licenses issued under ~~those sections~~ this chapter.

**SECTION 671.** 144.62 (15) of the statutes is renumbered 291.11 (1) and amended to read:

291.11 (1) The department may hold hearings relating to any aspect of the administration of ~~ss. 144.60 to 144.74~~ this chapter and, in connection with those hearings, compel the attendance of witnesses and the production of evidence.

**SECTION 672.** 144.62 (16) of the statutes is renumbered 291.93 and amended to read:

**291.93** (title) Orders. The department may issue orders to effectuate the purposes of ~~ss. 144.60 to 144.74~~ this chapter and enforce those orders by all appropriate administrative and judicial proceedings.

**SECTION 673.** 144.62 (17) and (18) of the statutes are renumbered 291.11 (3) and (4).

**SECTION 674.** 144.63 of the statutes is renumbered 291.21, and 291.21 (1) and (7) to (9), as renumbered, are amended to read:

291.21 (1) Be responsible for testing programs needed to determine whether any material generated by them is a hazardous waste for purposes of ~~ss. 144.60 to 144.74~~ this chapter.

(7) Submit all reports required under ~~ss. 144.60 to 144.74~~ this chapter and rules promulgated under ~~those sections~~ this chapter.

(8) Comply with rules relating to notification under s. ~~144.62~~ 291.05 (1), (2) and (4).

(9) Arrange that all wastes generated by them are transported, treated, stored or disposed of at facilities holding a license issued under ~~ss. 144.60 to 144.74~~ this chapter or issued under the resource conservation and recovery act.

**SECTION 675.** 144.64 (title) of the statutes is repealed.

**SECTION 676.** 144.64 (1) (title), (a) and (b) (intro.) of the statutes are renumbered 291.23 (title), (1) and (2) and amended to read:

**291.23** (title) Transportation Licenses; transportation. (1) No person may transport hazardous waste without a license issued under this ~~subsection~~ section.

(2) Licenses issued under this ~~subsection~~ section shall require compliance with rules of the department. ~~The rules shall establish standards for the following: promulgated under s. 291.05 (5) (a).~~

**SECTION 677.** 144.64 (1) (b) 1., 2., 3., 4. and 5. of the statutes are renumbered 291.05 (5) (a) 1. to 5.

**SECTION 678.** 144.64 (1) (c) of the statutes is renumbered 291.23 (3) and amended to read:

291.23 (3) Licenses issued under this ~~subsection~~ section may be denied, suspended or revoked for grievous and continuous failure to comply with the rules adopted under ~~par. (b) s. 291.05 (5) (a)~~.

**SECTION 679.** 144.64 (2) (title) of the statutes is repealed.

**SECTION 680.** 144.64 (2) (a), (am), (b), (c) and (d) of the statutes are renumbered 291.25 (1), (2), (3), (4) and (5), and 291.25 (1), (2) (a) and (b) and (3) to (5), as renumbered, are amended to read:

291.25 (1) The storage of hazardous waste at the generation site by the generator of that waste for a period of less than 90 days is not subject to this ~~subsection~~ section. The storage of hazardous waste for a period of less than 10 days is exempt from this ~~subsection~~ section if the storage is in connection with the transporting or movement of the hazardous waste. Notwithstanding the exemptions granted under this ~~paragraph~~ subsection, no person may store or cause the storage of hazardous waste in a manner which causes environmental pollution.

(2) (a) Construct a hazardous waste facility unless the person complies with ~~s. 144.44 (2) to (3)~~ ss. 289.23 to 289.30.

(b) Operate a hazardous waste facility without an interim or operating license issued under this ~~subsection~~ section.

(3) Licenses issued under this ~~subsection~~ section shall require compliance with ~~s. 144.44 (4)~~ 289.31 and rules promulgated under ~~ss. 144.60 to 144.74~~ this chapter.

(4) The department may issue an interim license to a person who operates a hazardous waste facility if the person applies for a license under this ~~subsection~~ section and complies with conditions and restrictions prescribed by rule or special order by the department pending the decision on the issuance of an operating license under this ~~subsection~~ section. This ~~paragraph~~ subsection applies only if the facility was in existence on November 19, 1980, or on a subsequent date which is the effective date of the statute or rule requiring the facility to obtain an operating license under this ~~subsection~~ section. An interim license issued under this ~~paragraph~~ subsection constitutes an operating license under this ~~subsection~~ section.

(5) An existing hazardous waste facility which was never licensed under this ~~subsection~~ section, whether or not it was previously authorized to receive hazardous waste under ~~s. 144.44 (4)~~ 289.31, shall be treated as an unlicensed proposed facility which has not been constructed for the purpose of complying with ~~par. (am) 1, sub. (2) (a)~~, for the purpose of obtaining an operating license under this ~~subsection~~ section and for the purpose of administrative procedure and review under ch. 227.

**SECTION 681.** 144.64 (2) (e) of the statutes is renumbered 291.87 (1m), and 291.87 (1m) (intro.) and (a) to (c), as renumbered, are amended to read:

291.87 (1m) (intro.) A license issued under this ~~subsection~~ s. 291.25 may be denied, suspended or revoked if the applicant or licensee does any of the following:

(a) Fails to pay any fee required under ~~sub. (4) ss. 291.05 (7) and 291.33~~.

(b) Fails to comply with ~~ss. 144.60 to 144.74~~ this chapter or any rule promulgated under ~~those sections~~ this chapter.

(c) Fails to comply with the approved plan of operation under ~~s. 144.44 (3)~~ 289.30.

**SECTION 682.** 144.64 (2) (f) and (g) of the statutes are renumbered 291.25 (6) and (7) and amended to read:

291.25 (6) A treatment facility which is required to be permitted as a hazardous waste treatment facility under the resource conservation and recovery act and the discharges of which are regulated under ch. 147 ~~283~~ shall comply with construction and operating standards promulgated by rule by the department. The department shall promulgate rules under this ~~paragraph~~ subsection

which are substantially equivalent to and not more stringent than the standards promulgated under the resource conservation and recovery act.

(7) Notwithstanding ~~pars. (am) 1., (b) and (d) subs. (2) (a), (3) and (5)~~, the owner or operator of a hazardous waste facility who holds a permit for the treatment, storage or disposal of hazardous waste issued before January 31, 1986, by the U.S. environmental protection agency under 42 USC 6925 (c) and who is in compliance with the permit may obtain an operating license under ~~par. (am) 2, sub. (2) (b)~~ for the federally permitted activities by doing all of the following:

(a) Submitting to the department, on a form provided by the department, an application showing that the facility meets the standards established under ~~ss. 144.44 289.21 to 289.31 and 144.60 to 144.74~~ this chapter and rules promulgated under those sections and this chapter.

(b) Complying with any condition that the department prescribes as necessary to meet any standard or requirement established under ~~ss. 144.44 289.21 to 289.31 and 144.60 to 144.74~~ this chapter.

(c) Paying any fee required under ~~sub. (4) ss. 291.05 (7) and 291.33~~.

**SECTION 683.** 144.64 (2m) of the statutes is renumbered 291.29 and amended to read:

**291.29 Closure and long-term care plan for unlicensed facilities.** Any person required to be licensed or eligible to obtain a license under ~~sub. (2) (e) s. 291.25~~ who does not obtain a license under that ~~subsection~~ section shall submit to the department a closure plan and, if the facility is a disposal facility, a long-term care plan for the facility which complies with the requirements promulgated by the department by rule under ~~s. 144.62 (8) 291.05 (6) (e)~~ and shall comply with the plan as approved by the department. There is no statutory right to a hearing before the department concerning a plan submitted under this ~~subsection~~ section but the department may grant a hearing on a plan.

NOTE: The cross-reference to sub. (2) (c) is ambiguous. It is not clear whether the cross-reference applies only to a person "eligible to obtain" a license or whether it also applies to a person who has a license. The use of "subsection" in that sentence suggests that the reference to sub. (2) (c) is incorrectly narrow and that the proper reference is to sub. (2). The cross-reference has been modified accordingly.

**SECTION 684.** 144.64 (3) of the statutes is renumbered 291.31 and amended to read:

**291.31 Variance.** If the department determines that the application for or compliance with any license required under ~~sub. (1) or (2) s. 291.23 or 291.25~~ would cause undue or unreasonable hardship to any person, the department may issue a variance from the requirements of ~~this section s. 291.23, 291.25, 291.29 or 291.87~~ but the variance may not result in undue harm to public health or the environment and the duration of the variance may not

exceed 5 years. The department may renew or extend a variance only after opportunity for a public hearing.

**SECTION 685.** 144.64 (4) (title) of the statutes is repealed.

**SECTION 686.** 144.64 (4) (a) of the statutes is renumbered 291.05 (7), and 291.05 (7) (a) and (b), as renumbered, are amended to read:

291.05 (7) (a) The department shall promulgate by rule a graduated schedule of reasonable license, plan approval and review fees to be charged for hazardous waste activities under ~~this section ss. 291.23, 291.25, 291.29, 291.31 and 291.87.~~

(b) Hazardous waste activities under ~~this section ss. 291.23, 291.25, 291.29, 291.31 and 291.87~~ consist of reviewing feasibility reports, plans of operation, closure plans and license applications, issuing determinations of feasibility, plan of operation approvals, operating licenses, interim licenses and variances, inspecting construction projects, approving closure plans and taking other actions in administering ~~this section ss. 291.23, 291.25, 291.29, 291.31 and 291.87.~~

**SECTION 687.** 144.64 (4) (b) of the statutes is renumbered 291.33 and amended to read:

**291.33** (title) **Tonnage fees.** A person who operates a licensed hazardous waste disposal facility shall pay the fees imposed and specified under s. 144.441 (3) and (4) ~~289.62.~~

**SECTION 688.** 144.645 of the statutes is renumbered 291.87 and 291.87, (1) to (3), as renumbered, are amended to read:

291.87 (1) If the department proposes to deny, suspend or revoke a license for the reasons stated under s. 144.64 (2)-(e) ~~2. to 6. sub. (1m) (b) to (f)~~, the department shall comply with the procedures specified under this section.

(2) If the department determines that a person licensed under s. 144.64 (2) ~~291.25~~ failed to comply with the rules promulgated under ~~ss. 144.60 to 144.74 this chapter~~ or failed to comply with the approved plan of operation under s. 144.44 (3) ~~289.30~~, the department shall give written notice to the person. The notice shall state that the department proposes to deny, suspend or revoke the license and shall inform the person that a hearing may be requested within 45 days after the notice is issued.

(3) If the licensee requests a hearing within 45 days after receiving the notice under sub. (2), the department shall schedule a hearing and give notice of the hearing by publishing a class 1 notice, under ch. 985, at least 45 days prior to the date scheduled for the hearing. If the licensee requests a contested case hearing and if the conditions specified under s. 227.42 (1) (a) to (d) are satisfied, the department shall conduct the hearing as a contested case; otherwise, the department shall conduct the hearing as an informational hearing. There is no statutory right to any hearing concerning the denial, suspension or revocation of a license for the reasons stated under s. 144.64 (2)-(e)

~~2. to 6. sub. (1m) (b) to (f)~~ except as provided under this subsection.

**SECTION 689.** 144.68 of the statutes is renumbered 291.27, and 291.27 (2), as renumbered, is amended to read:

291.27 (2) This section does not apply to hazardous waste disposal facilities granted an interim license under s. 144.64 (2)-(e) ~~291.25 (4)~~ or a variance under s. 144.64 (3) ~~291.31~~ or a facility subject to s. 144.64 (2m) ~~291.29.~~

**SECTION 690.** 144.69 (title) of the statutes is renumbered 291.91 (title).

**SECTION 691.** 144.69 of the statutes is renumbered 291.91 (2).

**SECTION 692.** 144.70 of the statutes is renumbered 291.15, and 291.15 (1) and (2) (a) and (d), as renumbered, are amended to read:

291.15 (1) RECORDS. Except as provided under sub. (2), any records or other information furnished to or obtained by the department in the administration of ~~ss. 144.60 to 144.74 this chapter~~ are public records subject to s. 19.21.

(2) (a) *Application.* An owner or operator of a hazardous waste facility may seek confidential treatment of any records or other information furnished to or obtained by the department in the administration of ~~ss. 144.60 to 144.74 this chapter.~~

(d) *Use of confidential records.* Except as provided under par. (c) and this paragraph the department or the department of justice may use records and other information granted confidential status under this subsection only in the administration and enforcement of ~~ss. 144.60 to 144.74 this chapter.~~ The department or the department of justice may release for general distribution records and other information granted confidential status under this subsection if the owner or operator expressly agrees to the release. The department or the department of justice may release on a limited basis records and other information granted confidential status under this subsection if the department or the department of justice is directed to take this action by a judge or hearing examiner under an order which protects the confidentiality of the records or other information. The department or the department of justice may release to the U.S. environmental protection agency or its authorized representative records and other information granted confidential status under this subsection if the department or the department of justice includes in each release of records or other information a request to the U.S. environmental protection agency or its authorized representative to protect the confidentiality of the records or other information.

**SECTION 693.** 144.72 of the statutes is renumbered 291.85, and 291.85 (1) (intro.), as renumbered, is amended to read:

291.85 (1) NOTICE REQUIRED. (intro.) If the department receives evidence that the past or present handling, storage, treatment, transportation or disposal of any solid

or hazardous waste may present an imminent and substantial danger to health or the environment, the department shall do all of the following:

NOTE: This provision is duplicated for solid waste in new s. 289.94.

**SECTION 694.** 144.725 of the statutes is renumbered 291.89, and 291.89 (intro.) and (2) (b), as renumbered, are amended to read:

**291.89 Review of alleged violations.** (intro.) Any 6 or more citizens or any municipality may petition for review of an alleged violation of ~~ss. 144.60 to 144.74~~ this chapter or any rule promulgated or special order, plan approval, license or any term or condition of a license issued under ~~those sections~~ this chapter in the following manner:

(2) (b) Initiate action under s. ~~144.73~~ 291.95.

**SECTION 695.** 144.73 of the statutes is renumbered 291.95, and 291.95 (1) (intro.) and (c) and (3), as renumbered, are amended to read:

**291.95 (1) DEPARTMENT ACTION.** (intro.) If the department determines that any person is in violation of any requirement of ~~ss. 144.60 to 144.74~~ this chapter or any rule promulgated or special order, plan approval or term or condition of a license or variance issued under ~~those sections~~ this chapter, the department may do one or more of the following:

(c) Refer the matter to the department of justice for enforcement under s. ~~144.98~~ 299.95.

(3) ASSISTANCE OF DISTRICT ATTORNEY. In any criminal action commenced under s. ~~144.74~~ 291.97, the department of justice may request the assistance of the district attorney of any county in which the violation occurred, and the district attorney shall provide the requested assistance.

**SECTION 696.** 144.735 of the statutes is renumbered 291.37, and 291.37 (1) (c) and (2) (a), as renumbered, are amended to read:

**291.37 (1) (c)** “Solid waste management unit” means any unit designed or used for the storage, treatment or disposal of solid waste or hazardous waste or both, which is located in a hazardous waste facility required to have a license under s. ~~144.64 (2)~~ 291.25 or a permit under 42 USC 6925 or required to comply with s. ~~144.64 (2m)~~ 291.29. “Solid waste management unit” includes but is not limited to a container, tank, surface impoundment, disposal facility, incinerator, wastepile, landfill, underground injection well, land treatment unit or wastewater treatment facility.

(2) (a) If the department determines that a release from a solid waste management unit has occurred the department may, except as provided under par. (b), require the owner or operator of the facility containing the solid waste management unit to take corrective action, including corrective action beyond the facility, if necessary. The department may require an owner or operator to take corrective action regardless of when the hazardous waste

or hazardous constituent released was placed in the solid waste management unit. The department may require corrective action by means of a special order under this paragraph or as a condition of licensing or plan approval under s. ~~144.64~~ 291.25 or 291.29. An order or condition under this paragraph shall state, with reasonable specificity, the nature of the corrective action required, shall include a description of the property on which the corrective action is to be taken and shall specify a period for achieving compliance and a period for the owner or operator to establish proof of financial responsibility for the cost of corrective action.

**SECTION 697.** 144.737 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 291.13.

**SECTION 698.** 144.74 of the statutes is renumbered 291.97, and 291.97 (1) and (2) (a) 1. and 2. and (b) 1. and 2., as renumbered, are amended to read:

**291.97 (1) CIVIL PENALTIES.** Any person who violates any provision of ~~ss. 144.60 to 144.735~~ this chapter or any rule promulgated or special order, plan approval or term or condition of a license or variance issued under ~~those sections~~ this chapter shall forfeit not less than \$100 nor more than \$25,000 for each violation. Each day of a continuing violation is a separate offense.

(2) (a) 1. In connection with an application, label, manifest, record, report, license or other document relating to ~~ss. 144.60 to 144.735~~ this chapter, makes an untrue statement of a material fact or fails to state a material fact with the result that the statements made in the document are misleading.

2. Destroys, alters, conceals or fails to submit a record required to be maintained or submitted under ~~ss. 144.60 to 144.735~~ this chapter or a rule promulgated or special order, plan approval or term or condition of a license or variance issued under ~~any of those sections~~ this chapter.

(b) 1. Transports any hazardous waste to a facility or site that does not have a license as required under s. ~~144.64~~ 291.25.

2. Stores, treats, transports or disposes of any hazardous waste without a license required under s. ~~144.64~~ 291.23 or 291.25 or in violation of a rule promulgated or special order, plan approval or term or condition of a license or variance issued under ~~that section~~ s. 291.23, 291.25, 291.29, 291.31 or 291.87.

**SECTION 699.** 144.75 of the statutes is renumbered 299.41.

**SECTION 700.** 144.76 (title) of the statutes is renumbered 292.11 (title).

**SECTION 701.** 144.76 (1) (intro.) of the statutes is repealed.

**SECTION 702.** 144.76 (1) (a), (b), (bm), (c) and (d) of the statutes are renumbered 292.01 (3), (8), (9), (15) and (16).

**SECTION 703.** 144.76 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 292.11 (2).

**SECTION 704.** 144.76 (3) to (5) of the statutes are renumbered 292.11 (3) to (5).

**SECTION 705.** 144.76 (6) and (7) of the statutes, as affected by 1995 Wisconsin Act 27, are renumbered 292.11 (6) and (7).

**SECTION 706.** 144.76 (8) of the statutes is renumbered 292.11 (8).

**SECTION 707.** 144.76 (9) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 292.11 (9), and 292.11 (9) (a) and (c), as renumbered, are amended to read:

292.11 (9) (a) Any person holding a valid permit under ch. 447 ~~283~~ is exempted from the reporting and penalty requirements of this section with respect to substances discharged within the limits authorized by the permit.

(c) Any person discharging in conformity with a permit or program approved under ~~this chapter~~ chs. 281, 285 or 289 to 299 is exempted from the reporting and penalty requirements of this section.

**SECTION 708.** 144.76 (9m) of the statutes is renumbered 292.21 (1), and 292.21 (1) (a) 3., (b) 2., (c) 1. (intro.) and c., 2. g. and 3. and (d) (intro.), as renumbered, are amended to read:

292.21 (1) (a) 3. The department may, by rule, designate as lending activities other activities, in addition to those listed in ~~sub. (1) (b) s. 292.01 (9)~~, that are related to undertaking appropriate actions to preserve and protect property or are related to the advancing of funds or credit or the collecting of funds.

(b) 2. The lender notifies the department, in accordance with ~~sub. s. 292.11 (2)~~, of any discharge of a hazardous substance identified as the result of activities described in this paragraph.

(c) 1. (intro.) A lender that acquires title to, or possession or control of, real property through enforcement of a security interest is not subject to ~~subs. s. 292.11 (3), (4) and (7) (b) and (c)~~ and is not liable under this chapter or chs. 281, 285, 289, 291 or 293 to 299 for a discharge of a hazardous substance on that real property if all of the following conditions are satisfied:

c. The lender notifies the department, in accordance with ~~sub. s. 292.11 (2)~~, of any known discharge of a hazardous substance.

2. g. A review to determine if the real property is listed in any of the written compilations of sites or facilities considered to pose a threat to human health or the environment, including the national priorities list under 42 USC 9605 (a) (8) (B); the federal environmental protection agency's information system for the comprehensive environmental response, compensation and liability act, 42 USC 9601 to 9675, (CERCLIS); the department's most recent Wisconsin remedial response site evaluation report, including the inventory of sites or facilities which may cause or threaten to cause environmental pollution

required by s. 144.442 (4) ~~292.31 (1)~~ (a); and the department's registry of abandoned landfills.

3. An environmental assessment filed under subd. 1. d. does not constitute notice required under ~~sub. s. 292.11 (2)~~.

(d) *Personal property and fixtures.* (intro.) A lender that enforces a security interest in personal property or fixtures at a particular location, filed under ch. 409, and that does not acquire title to, or possession or control of, the real property at that location, except for purposes of protecting and removing personal property or fixtures, is not subject to ~~subs. s. 292.11 (3), (4) and (7) (b) and (c)~~ and is not liable under this chapter for a discharge of a hazardous substance on that real property if all of the following conditions are satisfied:

**SECTION 709.** 144.76 (9s) of the statutes is renumbered 292.21 (2), and 292.21 (2) (a) 5., (b) 2. and (c), as renumbered, are amended to read:

292.21 (2) (a) 5. The representative does not knowingly, wilfully or recklessly fail to notify the department in accordance with ~~sub. s. 292.11 (2)~~ of the discharge of a hazardous substance.

(b) 2. A representative that fails to act in good faith to cause the trust, estate or similar entity for which the representative is acting as a representative to take the actions described in ~~sub. s. 292.11 (3)~~ or to reimburse the department under ~~sub. s. 292.11 (7) (b)~~. It is not a lack of good faith for a representative to resign as representative, to seek a court order directing the representative to act or refrain from acting or to challenge the department by any legal means.

(c) This subsection does not limit the responsibility of any trust, estate or similar entity to take the actions required under ~~sub. s. 292.11 (2), (3), (4) or (7) (c)~~ or any other provision of this chapter or to reimburse the department under ~~sub. s. 292.11 (7) (b)~~.

NOTE: Current s. 144.76 (9m) and (9s) contains references to "this chapter". This cross-reference is unnecessarily broad. It is apparent from the contexts that the references are to the statutes concerning hazardous substance spills. Therefore, the references have not been changed.

**SECTION 710.** 144.76 (10), (11) and (12) of the statutes are renumbered 292.11 (10), (11) and (12), and 292.11 (11) and (12) (a), as renumbered, are amended to read:

292.11 (11) ENFORCEMENT EXCLUSIONS. (a) Any person proceeded against for a violation of this section shall not be subject to penalties under s. 144.74 ~~291.97~~ for the same act or omission.

(b) Any person who discharges a hazardous substance, where the responsibilities for such a discharge are prescribed by statute other than ~~ss. 144.60 to 144.74 ch. 291~~, shall be subject to the penalty under either this section or the other section but not both.

(12) (a) Action by the department under this section is not subject to s. 144.442 (4) ~~to (9)~~ 292.31.

**SECTION 711.** 144.76 (13) of the statutes is renumbered 292.81, and 292.81 (1), (2) (a) (intro.), 1. and 2., (b), (c) and (d), (3) and (4) (a), (b) (intro.) and (c) to (e), as renumbered, are amended to read:

292.81 (1) In this ~~subsection~~ section, “valid prior lien” means a purchase money real estate mortgage that is recorded before the lien is filed under this ~~paragraph~~ section, including any extension or refinancing of that purchase money mortgage, or an equivalent security interest, or a 2nd or subsequent mortgage for home improvement or repair that is recorded before the lien is filed under this ~~paragraph~~ section, including any extension or refinancing of that 2nd or subsequent mortgage.

(2) (a) (intro.) Before incurring expenses under this ~~section~~ or s. 144.442 (4), (6) or (8) s. 292.11, 292.31 (1), (3) or (7) or 144.77 292.41 (4) with respect to a property, the department shall provide to the current owner of the property and to any mortgagees of record a notice containing all of the following:

1. A brief description of the property for which the department expects to incur expenses under this ~~section~~ or s. 144.442 (4), (6) or (8) s. 292.11, 292.31 (1), (3) or (7) or 144.77 292.41 (4).

2. A brief description of the types of activities that the department expects may be conducted at the property under this ~~section~~ or s. 144.442 (4), (6) or (8) s. 292.11, 292.31 (1), (3) or (7) or 144.77 292.41 (4).

(b) The department shall provide notice under ~~subd. 1, par. (a)~~ by certified mail, return receipt requested, to the property owner and to each mortgagee of record at the addresses listed on the recorded documents. If the property owner is unknown or if a mailed notice is returned undelivered, the department shall provide the notice by publication thereof as a class 3 notice under ch. 985.

(c) The failure to provide the notice or include information required under this ~~paragraph~~ subsection does not impair the department’s ability to file a lien or to seek to establish the property owner’s liability for the expenses incurred by the department.

(d) No notice under this ~~paragraph~~ subsection is necessary in circumstances in which entry onto the property without prior notice is authorized under ~~sub. s. 292.11~~ (8) or under s. 144.77 292.41 (5).

(3) Any expenditures made by the department under this ~~section~~, under s. 144.442 (4), (6) or (8) s. 292.11 or 292.31 (1), (3) or (7) or, subject to s. 144.77 292.41 (6) (d), under s. 144.77 292.41 (4) shall constitute a lien upon the property for which expenses are incurred if the department files the lien with the register of deeds in the county in which the property is located. A lien under this ~~subsection~~ section shall be superior to all other liens that are or have been filed against the property, except that if the property is residential property, as defined in s. 895.52 (1) (i), the lien may not affect any valid prior lien on that residential property.

(4) (a) Before filing a lien under ~~par. (e) sub. (3)~~, the department shall give the owner of the property for which the expenses are incurred a notice of its intent to file the lien, as provided in this ~~paragraph~~ subsection.

(b) (intro.) The notice required under ~~subd. 1, par. (a)~~ shall provide all of the following:

(c) The department shall serve the notice required in ~~subd. 1, par. (a)~~ on the property owner at least 60 days before filing the lien. The notice shall be provided by certified mail, return receipt requested, to the property owner and to each mortgagee of record at the addresses listed on the recorded documents. If the property owner is unknown or if a mailed notice is returned undelivered, the department shall provide the notice by publication thereof as a class 3 notice under ch. 985.

(d) In the foreclosure of any lien filed under this ~~paragraph~~ subsection, ch. 846 shall control as far as applicable unless otherwise provided in this ~~paragraph~~ subsection. All persons who may be liable for the expenses incurred by the department may be joined as defendants. The judgment shall adjudge the amount due the department, and shall direct that the property, or so much of the property as is necessary, be sold to satisfy the judgment, and that the proceeds be brought into court with the report of sale to abide the order of the court. If the sum realized at the sale is insufficient after paying the costs of the action and the costs of making the sale, the court shall determine the liability of the defendants for the remaining unreimbursed expenses and costs.

(e) This ~~paragraph~~ subsection does not apply if the lien is filed after the department obtains a judgment against the property owner and the lien is for the amount of the judgment.

**SECTION 712.** 144.765 (title) and (1) (intro.) of the statutes are renumbered 292.15 (title) and (1) (intro.).

**SECTION 713.** 144.765 (1) (a) of the statutes is repealed.

**SECTION 714.** 144.765 (1) (b), (c), (d) and (e) of the statutes are renumbered 292.15 (1) (b), (c), (d) and (e).

**SECTION 715.** 144.765 (2), (3), (4) and (5) of the statutes are renumbered 292.15 (2), (3), (4) and (5), and 292.15 (2) (a) (intro.) and (4) (intro.), as renumbered, are amended to read:

292.15 (2) (a) (intro.) A purchaser is exempt from the provisions of s. 144.76 292.11 (3), (4) and (7) (b) and (c) with respect to the existence of a hazardous substance on the property the release of which occurred prior to the date of acquisition of the property, if all of the following occur at any time before or after the date of acquisition:

(4) LIMITED RESPONSIBILITY. (intro.) The responsibility of a purchaser under sub. (2) (a) 2 may be monetarily limited by agreement between the purchaser and the department if the purchaser purchased the property from a municipality that acquired the property in a way



described in s. 144.76 ~~292.11~~ (9) (e) ~~4.~~ 1m. a. or b. The agreement shall stipulate all of the following:

**SECTION 716.** 144.77 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 292.41, and 292.41 (2) and (6) (d), as renumbered, are amended to read:

292.41 (2) APPLICABILITY. (a) This section does not apply to abandoned containers which are located in an approved facility or a nonapproved facility, ~~as defined under s. 144.442 (1).~~

(b) Action by the department under this section is not subject to s. 144.442 (4) ~~to (9)~~ 292.31.

(6) (d) Any expenditures made by the department under sub. (4) shall constitute a lien upon the property for which the expenses are incurred, as provided in s. 144.76 ~~(13)~~ 292.81, if the department is entitled to recover the expenditures from the property owner under par. (c).

**SECTION 717.** 144.788 of the statutes is renumbered 299.43, and 299.43 (2) (c), as renumbered, is amended to read:

299.43 (2) (c) No person who is licensed under s. 144.44 (4) ~~289.31, 291.23~~ or 144.64 291.25 may use the facility.

**SECTION 718.** 144.79 of the statutes is renumbered 299.45, and 299.45 (7) and (9), as renumbered, are amended to read:

299.45 (7) The department shall adopt rules prescribing the methods and providing or designating sites and facilities for the disposal of PCBs and products containing PCBs. Such rules may require reporting by persons disposing of PCBs and products containing PCBs. Persons disposing of PCBs or products containing PCBs shall comply with such rules unless such products are exempted under sub. (3) (b) or (c). In this section, disposal does not include the disposal of PCBs in sludge produced by wastewater treatment systems under s. ~~144.435~~ 289.05 (1) and chs. NR 500 to 520, Wis. adm. code, the discharge of effluents containing PCBs or the manufacture or sale of recycled paper products to which PCBs have not been intentionally added during or after manufacture for any of the uses set forth in sub. (1) (c). Nothing in this section shall exempt any person from applicable disposal or discharge limitations required or authorized under other statutes.

(9) The department shall enforce this section as provided in ss. ~~147.21 and 147.29~~ 283.89 and 283.91.

**SECTION 719.** Subchapter V (title) of chapter 144 [precedes 144.80] of the statutes is repealed.

**SECTION 720.** 144.80 of the statutes is repealed.

NOTE: This section repeals the "short title" of the metallic mining statutes. The repealed provision is as follows:

"144.80 Metallic mining reclamation act. (1) Sections 144.80 to 144.94 shall be known and may be cited as the "Metallic Mining Reclamation Act".

The use of short titles is an obsolete drafting style. A short title is entirely nonsubstantive and, therefore, adds nothing to the metallic mining statutes. Users of these statutes may

continue to refer to them as the "metallic mining reclamation act" or by any other name that seems appropriate.

**SECTION 721.** 144.81 (intro.) of the statutes is renumbered 293.01 (intro.) and amended to read:

**293.01 Definitions.** (intro.) In ss. ~~144.80 to 144.94~~ this chapter, unless the context requires otherwise:

**SECTION 722.** 144.81 (1m) of the statutes is renumbered 293.01 (2).

**SECTION 723.** 144.81 (2) of the statutes is renumbered 293.01 (5).

**SECTION 724.** 144.81 (2m) of the statutes is renumbered 293.01 (6) and amended to read:

293.01 (6) "Exploration license" means the license required under s. ~~144.832~~ 293.21 (2) as a condition of engaging in exploration.

**SECTION 725.** 144.81 (3) of the statutes is renumbered 293.01 (7).

**SECTION 726.** 144.81 (4) of the statutes is renumbered 293.01 (8).

**SECTION 727.** 144.81 (5) of the statutes is renumbered 293.01 (9).

**SECTION 728.** 144.81 (6) of the statutes is renumbered 293.01 (10) and amended to read:

293.01 (10) "Mining plan" means the proposal for the mining of the mining site ~~which shall be approved by the department under s. 144.85~~ prior to the issuance of the mining permit.

NOTE: The requirement for the DNR to approve the mining plan before issuing the mining permit is moved to the requirements for approval of the mining permit in s. 144.85 (5) (a) 1. a., renumbered as s. 293.49 (1) (a) 1.

**SECTION 729.** 144.81 (7) of the statutes is renumbered 293.01 (11).

**SECTION 730.** 144.81 (8) of the statutes is renumbered 293.01 (12).

**SECTION 731.** 144.81 (9) of the statutes is renumbered 293.01 (13).

**SECTION 732.** 144.81 (10) of the statutes is renumbered 293.01 (17).

**SECTION 733.** 144.81 (12) of the statutes is renumbered 293.01 (18) and amended to read:

293.01 (18) "Prospecting" means engaging in the examination of an area for the purpose of determining the quality and quantity of minerals, other than for exploration but including the obtaining of an ore sample, by such physical means as excavating, trenching, construction of shafts, ramps and tunnels and other means, other than for exploration, which the department, by rule, identifies, and the production of prospecting refuse and other associated activities. "Prospecting" shall not include such activities when the activities are, by themselves, intended for and capable of commercial exploitation of the underlying ore body. However, the fact that prospecting activities and construction may have use ultimately in mining, if approved, shall not mean that prospecting activities and construction constitute mining within the meaning of

sub. (5) (9), provided such activities and construction are reasonably related to prospecting requirements.

**SECTION 734.** 144.81 (13) of the statutes is renumbered 293.01 (19).

**SECTION 735.** 144.81 (13m) of the statutes is renumbered 293.01 (20) and amended to read:

293.01 (20) “Prospecting plan” means the proposal for prospecting of the prospecting site, ~~which shall be approved by the department under s. 144.84 prior to the issuance of the prospecting permit.~~

NOTE: The requirement for the DNR to approve the prospecting plan before issuing the prospecting permit is moved to the requirements for issuance of the prospecting permit in s. 144.84 (2), renumbered as s. 293.45 (1).

**SECTION 736.** 144.81 (13n) of the statutes is renumbered 293.01 (21).

**SECTION 737.** 144.81 (14) of the statutes is renumbered 293.01 (22).

**SECTION 738.** 144.81 (15) of the statutes is renumbered 293.01 (23) and amended to read:

293.01 (23) “Reclamation” means the process by which an area physically or environmentally affected by prospecting or mining is rehabilitated to either its original state or, if this is shown to be physically or economically impracticable or environmentally or socially undesirable, to a state that provides long-term environmental stability. Reclamation shall provide the greatest feasible protection to the environment and shall include, but is not limited to, the criteria for reclamation set forth in s. ~~144.83~~ 293.13 (2) (c).

**SECTION 739.** 144.81 (16) of the statutes is renumbered 293.01 (24) and amended to read:

293.01 (24) “Reclamation plan” means the proposal for the reclamation of the prospecting or mining site which must be approved by the department under s. ~~144.84~~ 293.45 or ~~144.85~~ 293.49 prior to the issuance of the prospecting or mining permit.

**SECTION 740.** 144.81 (17) of the statutes is renumbered 293.01 (25).

**SECTION 741.** 144.81 (17m) of the statutes is renumbered 293.01 (26).

**SECTION 742.** 144.81 (18) of the statutes is renumbered 293.01 (28).

**SECTION 743.** 144.815 of the statutes is renumbered 293.61, and 293.61 (2) (b), as renumbered, is amended to read:

293.61 (2) (b) If the cessation of mining does not continue beyond the time period specified by the department. The time limit specified by the department may not exceed 5 years for a mining operation for which a permit is issued under s. ~~144.85~~ 293.49 on or after May 19, 1984. The time limit specified by the department may not exceed 10 years for a mining operation for which a permit is issued under s. ~~144.85~~ 293.49 before May 19, 1984;

**SECTION 744.** 144.82 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 293.11.

**SECTION 745.** 144.83 (title) of the statutes is repealed.

**SECTION 746.** 144.83 (1) of the statutes is renumbered 293.13 (1), and 293.13 (1) (a) and (b), as renumbered, are amended to read:

293.13 (1) (a) Adopt rules, including rules for prehearing discovery, implementing and consistent with ss. ~~144.80 to 144.94~~ this chapter.

(b) Establish by rule after consulting with the metallic mining council minimum qualifications for applicants for prospecting and mining permits. Such minimum qualifications shall ensure that each operator in the state is competent to conduct mining and reclamation and each prospector in the state is competent to conduct prospecting in a fashion consistent with the purposes of ~~ss. 144.80 to 144.94~~ this chapter. The department shall also consider such other relevant factors bearing upon minimum qualifications, including but not limited to, any past forfeitures of bonds posted pursuant to mining activities in any state.

**SECTION 747.** 144.83 (2) of the statutes is renumbered 293.13 (2), and 293.13 (2) (a), (b) 11. and 12., (c) (intro.) and 1. and (d) 3. (intro.) and 4., as renumbered, are amended to read:

293.13 (2) (a) The department by rule after consulting with the metallic mining council shall adopt minimum standards for exploration, prospecting, mining and reclamation to ensure that such activities in this state will be conducted in a manner consistent with the purposes and intent of ~~ss. 144.80 to 144.94~~ this chapter. The minimum standards may classify exploration, prospecting and mining activities according to type of minerals involved and stage of progression in the operation.

(b) 11. Identification and prevention of pollution as defined in s. ~~144.01 (10)~~ 281.01 (10) resulting from leaching of waste materials.

12. Identification and prevention of significant environmental pollution as defined in s. ~~144.01 (3)~~.

(c) (intro.) Minimum standards for reclamation of exploration sites, where appropriate, and for prospecting and mining sites shall conform to s. ~~144.81 (15)~~ 293.01 (23) and include provision for the following:

1. Disposal of all toxic and hazardous wastes, refuse, tailings and other solid waste in solid or hazardous waste disposal facilities licensed under ~~this chapter ch. 289 or 291~~ or otherwise in an environmentally sound manner.

(d) 3. (intro.) Hazards resulting in irreparable damage to any of the following, which cannot be prevented under the requirements of ~~ss. 144.80 to 144.94~~ this chapter, avoided to the extent applicable by removal from the area of hazard or mitigated by purchase or by obtaining the consent of the owner:

4. Irreparable environmental damage to lake or stream bodies despite adherence to the requirements of ~~ss. 144.80 to 144.94~~ this chapter. This subdivision does

not apply to an activity which the department has authorized pursuant to statute, except that the destruction or filling in of a lake bed shall not be authorized notwithstanding any other provision of law.

**SECTION 748.** 144.83 (4) of the statutes is renumbered 293.15, and 293.15 (1), (3), (4), (8), (9) and (11), as renumbered, are amended to read:

293.15 (1) Hold hearings relating to any aspect of the administration of ~~ss. 144.80 to 144.94~~ this chapter and, in connection therewith, compel the attendance of witnesses and production of evidence.

(3) Issue orders directing particular prospectors or operators to comply with the provisions and purposes of ~~ss. 144.80 to 144.94~~ this chapter.

(4) Supervise and provide for such educational programs as appear necessary to carry out the purposes of ~~ss. 144.80 to 144.94~~ this chapter.

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

(9) Promulgate rules by which the department may grant an exemption, modification or variance, either making a requirement more or less restrictive, from any rule promulgated under ~~subch. IV chs. 289 to 292~~ and this ~~subchapter~~ chapter, if the exemption, modification or variance does not result in the violation of any federal or state environmental law or endanger public health, safety or welfare or the environment.

(11) Notwithstanding ~~ss. 144.43 to 144.47 and 144.60 to 144.74~~ chs. 289 and 291, promulgate rules establishing groundwater quality standards or groundwater quantity standards, or both, for any prospecting or mining activity, including standards for any mining waste site.

NOTE: Some portions of new ch. 292, remedial action, are taken from current ss. 144.43 to 144.47 and 144.60 to 144.74. However, ch. 292 is not included in the cross-reference in new s. 293.15 (11) because the remedial action statutes are not the source of statutory authority for groundwater quality and quantity standards, and because new ch. 292 includes additional material that is not taken from current ss. 144.43 to 144.47 and 144.60 to 144.74.

**SECTION 749.** 144.83 (5) of the statutes is renumbered 293.15 (12) and amended to read:

293.15 (12) ~~The department may require~~ Require all persons under its jurisdiction to submit such informational reports as the department deems necessary for performing its duties under ~~ss. 144.80 to 144.94~~ this chapter.

**SECTION 750.** 144.83 (6) of the statutes is renumbered 293.85, and 293.85 (1) and (2), as renumbered, are amended to read:

293.85 (1) The prospecting permit for a prospecting site that is the site of a violation of ~~ss. 144.80 to 144.94~~ this chapter.

(2) The mining permit for a mining site that is the site of a violation of ~~ss. 144.80 to 144.94~~ this chapter.

**SECTION 751.** 144.831 (title) of the statutes is renumbered 293.31 (title) and amended to read:

**293.31** (title) **Data collection; monitoring.**

**SECTION 752.** 144.831 (1) to (6) of the statutes are renumbered 293.31 (1) to (6), and 293.31 (2), as renumbered, is amended to read:

293.31 (2) Upon receipt of notification under sub. (1), the department shall give public notice of the notification in the same manner as provided under s. ~~144.836~~ 293.43 (3) (b).

**SECTION 753.** 144.831 (7) of the statutes is renumbered 293.45 (3) and amended to read:

293.45 (3) The department, in granting a permit under ~~s. 144.84 or 144.85~~ this section, shall require the permit holder to perform adequate monitoring of environmental changes during the course of the permitted activity and for such additional period of time as is necessary to satisfactorily complete reclamation and completely release the permit holder from any bonds required.

NOTE: Current s. 144.831 (7), which applies to both prospecting and mining permits, is renumbered and amended to apply only to prospecting permits. An identical provision is created in s. 293.49 (7) for mining permits.

**SECTION 754.** 144.831 (8) of the statutes is renumbered 293.15 (13) and amended to read:

293.15 (13) ~~The department may monitor~~ Monitor environmental changes concurrently with the permit holder under ~~sub. (7) s. 293.45 (3) or 293.49 (7)~~, and for such additional period of time after the full bond is released under s. ~~144.90~~ 293.63 (3) as is necessary for the site to return to a state of environmental stability. The department may conduct independent studies to monitor environmental changes.

**SECTION 755.** 144.832 of the statutes is renumbered 293.21.

**SECTION 756.** 144.833 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 293.25, and 293.25 (1) (intro.), (2) (a) and (b), (3), (4) and (5), as renumbered, are amended to read:

293.25 (1) DEFINITIONS. (intro.) ~~As used in~~ In this section and for the purposes of determining the applicability of ~~ss. 144.83, 144.832, 144.88 and 144.93 to 144.94~~ 293.13, 293.15 (1) to (12), 293.21, 293.81, 293.87, 293.89, 293.93 and 293.95:

(2) (a) *Applicability.* Except as provided under par. (b), ~~ss. 144.832~~ 293.21 and ~~144.88~~ 293.81 and rules pro-

mulgated under those sections apply to radioactive waste site exploration, to activities related to radioactive waste site exploration and to persons engaging in or intending to engage in radioactive waste site exploration or related activities in the same manner as those sections and rules are applicable to mineral exploration, to activities related to mineral exploration and to persons engaging in or intending to engage in mineral exploration or related activities.

(b) *Exception.* Notwithstanding par. (a) and s. ~~144.832~~ 293.21 (3), the department may waive the bond requirement for a person who is authorized to engage in radioactive waste site exploration by a federal agency if the federal agency provides sufficient guarantees that the person or the federal agency will comply with the requirements of the department relating to termination. Notwithstanding par. (a) and s. ~~144.832~~ 293.21 (3), the department may require a bond in an amount in excess of the amount specified under s. ~~144.832~~ 293.21 (3) (a) to ensure that sufficient funds are available to comply with termination requirements or to abate or remedy any environmental pollution or danger to public health, safety or welfare resulting from radioactive waste site exploration.

(3) APPROVAL REQUIRED PRIOR TO DRILLING. No person may engage in radioactive waste site exploration by drilling on a parcel unless notice is provided as required under sub. (2) and s. ~~144.832~~ 293.21 (4) (a) and unless the department issues a written approval authorizing drilling on that parcel. If the person seeking this approval is the federal department of energy or an agent or employe of the federal department of energy, the department may not issue the approval unless the public service commission certifies that the federal department of energy and its agents or employes have complied with any requirement imposed by the public service commission under s. 196.497 or any agreement entered into under that section.

(4) REGULATION OF EXPLORATION AND RELATED PROVISIONS. Sections ~~144.83, 144.93 and 144.935~~ 293.13, 293.15 (1) to (12), 293.85, 293.87 and 293.89 and rules promulgated under those sections apply to radioactive waste site exploration, to activities related to radioactive waste site exploration and to persons engaging in or intending to engage in radioactive waste site exploration or related activities in the same manner as those sections and rules are applicable to mineral exploration, to activities related to mineral exploration and to persons engaging in or intending to engage in mineral exploration or related activities.

(5) GROUNDWATER REGULATIONS. A person engaging in radioactive waste site exploration shall comply with any restrictions or prohibitions concerning the pollution or contamination of groundwater under ~~ss. 144.025 or 144.80 to 144.94~~ this chapter, subch. II of ch. 281 or ch. ~~147~~ 283 or any rule or order promulgated under those sections ~~chapters~~ or that ~~chapter~~ subchapter.

**SECTION 757.** 144.834 (title) of the statutes is repealed.

**SECTION 758.** 144.834 (1) and (2) of the statutes are renumbered 293.35 (2) and (3) and amended to read:

293.35 (2) A reclamation plan shall accompany all applications for prospecting ~~or mining~~ permits. If it is physically or economically impracticable or environmentally or socially undesirable for the reclamation process to return the affected area to its original state, the plan shall set forth the reasons therefor and shall discuss alternative conditions and uses to which the affected area can be put.

(3) The reclamation plan shall specify how the applicant intends to accomplish, to the fullest extent possible, compliance with the minimum standards under s. ~~144.83~~ 293.13 (2) (c).

NOTE: Current s. 144.834 (1) and (2), which apply to both prospecting and mining permits, are renumbered and amended to apply only to prospecting permits. An identical provision is created in s. 293.37 (3) for mining permits.

**SECTION 759.** 144.836 (title) of the statutes is renumbered 293.43 (title).

**SECTION 760.** 144.836 (intro.), (1), (2), (3) and (4) of the statutes are renumbered 293.43 (1), (1m), (2), (3) and (5), and 293.43 (1m) (b), (3) (a) and (b) (intro.) and 3. and (5) (e), as renumbered, are amended to read:

293.43 (1m) (b) Except as provided in this paragraph, for all department issued approvals, licenses and permits relating to prospecting or mining including solid waste feasibility report approvals and permits related to air and water, to be issued after April 30, 1980, the notice, hearing and comment provisions, if any, and the time for issuance of decisions, shall be controlled by this section and ~~ss. 144.84~~ 293.45 and ~~144.85~~ 293.49. If an applicant fails to make application for an approval, license or permit for an activity incidental to prospecting or mining in time for notice under this section to be provided, the notice and comment requirements, if any, shall be controlled by the specific statutory provisions with respect to that application. If notice under those specific statutory notice requirements can be given for consideration of the approval, license or permit at the hearing under this section, the application shall be considered at that hearing; otherwise, the specific statutory hearing provisions, if any, with respect to that application shall control. The substantive requirements for the issuance of any approval, permit or license incidental to prospecting or mining are not affected by the fact that a hearing on the approval, permit or license is conducted as part of a hearing under this section.

(3) (a) If it is determined that a statement under s. 1.11 is not required, the hearing shall be scheduled for a date not less than 60 days nor more than 90 days after the announcement of that determination, and the scheduling and providing of notice shall be completed not later than

10 days following the announcement. Notice of the hearing shall be given by mailing a copy of the notice to any known state agency required to issue a permit for the proposed operation, to the regional planning commission for the affected area, to the county, city, village and town within which any part of the affected area lies, to all persons who have requested this notification and, if applicable, to all persons specified under par. (b) 3. and s. 444.026 ~~281.35~~ (5) (b) and (6) (f). Written comments may be submitted to the department within 30 days of the date of notice.

(b) (intro.) If it is determined that a statement under s. 1.11 is required, or if an environmental impact statement is required under s. 444.852 ~~293.39~~, the department shall hold at least one informational meeting regarding the preliminary environmental report within 60 days of its issuance. The meeting shall be held not sooner than 30 days nor later than 60 days after the issuance of the report. The scheduling and providing of notice of the meeting shall be completed not later than 10 days following the issuance of the preliminary environmental report. A hearing referred to under sub. (4) ~~(1m)~~ shall be scheduled for a date not less than 120 days nor more than 180 days after the issuance of the environmental impact statement. The scheduling and providing of notice of the hearing shall be completed within 30 days from the date of issuance of the environmental impact statement. The providing of notice shall be accomplished by:

3. Mailing a copy of the notice to the U.S. environmental protection agency, U.S. army corps of engineers and other states potentially affected by the proposed discharge if a water discharge permit under ch. 447 ~~283~~ is to be considered at the hearing under this section and to the U.S. environmental protection agency and appropriate agencies in other states which may be affected if an air pollution control permit under ss. 444.30 to 444.426 ~~ch. 285~~ is to be considered at the hearing under this section.

(5) (e) If evidence of conformance with applicable zoning ordinances as required by s. 444.85 (5) (a) 1. f. ~~293.49 (1) (a) 6.~~ is not presented by the time testimony is completed, the department shall close the record and continue the hearing. The duration of the continuance of the hearing shall be specified by the department at the time the continuance begins, after first requesting the applicant to state the anticipated time at which the evidence will be provided. The continuance may be extended by the department prior to its expiration upon notice to all parties if good cause is shown.

**SECTION 761.** 144.838 (title) and (1) to (4) of the statutes are renumbered 293.33 (title) and (1) to (4), and 293.33 (1) (g) and (3), as renumbered, are amended to read:

293.33 (1) (g) Negotiating a local agreement under s. 444.839 ~~293.41~~ (3).

(3) Persons giving notice under s. 444.831 ~~293.31~~ (1) shall thereafter appoint a liaison person to any committee

established under sub. (1) or (2), and shall provide such reasonable information as is requested by the committee. Operators and persons giving notice under s. 444.831 ~~293.31~~ shall thereafter make reasonable efforts to design and operate mining operations in harmony with community development objectives.

**SECTION 762.** 144.838 (5) of the statutes is renumbered 293.43 (4) and amended to read:

293.43 (4) (title) PARTICIPATION BY LOCAL GOVERNMENTS. Any county, town, village or city receiving notice of the filing of an application in the manner provided under s. 444.836 ~~sub.~~ (3) (a) or (b) shall refer the application and reclamation plan to a committee established under ~~sub. s. 293.33~~ (1) or (2), if any, for review and comment. Such counties, towns, villages or cities may participate as a party in the hearing on the application and may make recommendations on the reclamation plan and future use of the project site.

**SECTION 763.** 144.839 of the statutes is renumbered 293.41, and 293.41 (3), as renumbered, is amended to read:

293.41 (3) A county, town, village, city or tribal government may authorize the local impact committee appointed under s. 444.838 ~~293.33~~ to negotiate an agreement under this section, but the agreement may not take effect until approved by the county, town, village, city or tribal government in accordance with sub. (4).

**SECTION 764.** 144.84 (title) of the statutes is repealed.

**SECTION 765.** 144.84 (1) of the statutes is renumbered 293.35 (1) and amended to read:

293.35 (1) No person may engage in prospecting without securing a prospecting permit issued under ~~this section s. 293.45~~. Application for prospecting permits shall be made in writing to the department upon forms prepared and furnished by the department. An application must be made, and a prospecting permit obtained for each separate prospecting site. Applications shall be submitted in reproducible form in such multiples as required by rules of the department. As a part of each application for a prospecting permit, the applicant shall furnish a description of the proposed prospecting site, the number of acres in the proposed prospecting site, a prospecting plan, a reclamation plan meeting the requirements of s. 444.834 ~~subs. (2) and (3)~~ and a timetable for reclamation, information relating to whether the area may be unsuitable for prospecting or surface mining, unless the applicant conclusively certifies that he or she will not subsequently make application for a permit to conduct surface mining at the site and such other relevant information as the department may require, including information as to whether the applicant, its parent corporation, any of its principal shareholders or members, or any of the applicant's subsidiaries or affiliates in which the applicant owns more than a 40% interest, has forfeited any mining

bonds in other states within the last 20 years, and the dates and locations, if any.

(4) An application shall be accompanied by such fee as is required by the department by rule which shall cover the estimated cost of evaluating the prospecting permit application. After completing its evaluation, the department shall revise the fee to reflect the actual cost of evaluation. The fee may be revised for persons to reflect the payment of fees for the same services to meet other requirements.

**SECTION 766.** 144.84 (2) and (3) of the statutes are renumbered 293.45 (1) and (2) and amended to read:

293.45 (1) The department shall issue a prospecting permit under this section to an applicant within 60 days following the date of the completion of the hearing record if, on the basis of the application, the department's investigation and hearing and any written comments, it finds that the site is not unsuitable for prospecting or, absent a certification under sub. (1), surface mining, the department has approved the prospecting plan and the reclamation plan complies with ss. ~~144.83~~ 293.13 (2) and ~~144.834~~ 293.35 (2) and (3) and rules promulgated under ss. ~~144.83~~ 293.13 (2) and ~~144.834~~ 293.35 (2) and (3). The department may modify any part of the application or reclamation plan and approve it as modified. Except as otherwise provided in ss. ~~144.80 to 144.94~~ this chapter, prospecting permits shall be valid for the life of the project, unless canceled under s. ~~144.83 (6) or 144.91~~ 293.83 (1) or (3) or 293.85 or revoked under s. ~~144.93~~ 293.87 (2) or (3).

NOTE: The requirement for the DNR to approve the prospecting plan before issuing the prospecting permit is moved here from its current location in the definition of "prospecting plan". See s. 144.81 (13m), renumbered as s. 293.01 (20).

(2) The department shall deny a prospecting permit within 60 days following the date of the completion of the hearing record if it finds that the site is unsuitable for prospecting or, absent certification under ~~sub. s. 293.35~~ (1), surface mining, or the reclamation plan, including the bond, does not comply with ss. ~~144.83~~ 293.13 (2) and ~~144.834~~ 293.35 (2) and (3) and rules promulgated under ss. ~~144.83~~ 293.13 (2) and ~~144.834~~ 293.35 (2) and (3) or that the applicant is in violation of ss. ~~144.80 to 144.94~~ this chapter or any rules adopted under ss. ~~144.80 to 144.94~~ this chapter. If the applicant has previously failed and continues to fail to comply with ss. ~~144.80 to 144.94~~ this chapter, or if the applicant has within the previous 20 years forfeited any bond posted in accordance with prospecting or mining activities in this state, unless by mutual agreement with the state, the department may not issue a prospecting permit. The department may not issue a prospecting permit if it finds that any officer, director or manager of the applicant has, while employed by the applicant, the applicant's parent corporation, any of the applicant's principal shareholders or members, or any of the applicant's subsidiaries or affiliates, in which the appli-

cant owns more than a 40% interest, within the previous 20 years forfeited any bond posted in accordance with prospecting or mining activities in this state unless by mutual agreement with the state. In this ~~paragraph~~ subsection, "forfeited any bond" means the forfeiture of any performance security occasioned by noncompliance with any prospecting or mining laws or implementing rules. If an application for a prospecting permit is denied, the department, within 30 days from the date of application denial, shall furnish to the applicant in writing the reasons for the denial.

**SECTION 767.** 144.84 (4) of the statutes is renumbered 293.53 (1).

**SECTION 768.** 144.84 (5) of the statutes is renumbered 293.35 (5).

**SECTION 769.** 144.85 (title) of the statutes is repealed.

**SECTION 770.** 144.85 (1) (a) and (b) of the statutes are renumbered 293.37 (1) (a) and (b), and 293.37 (1) (a), as renumbered, is amended to read:

293.37 (1) (a) No operator may engage in mining or reclamation at any mining site that is not covered by a mining permit and by written authorization to mine under s. ~~144.86~~ 293.51 (3). Applications for mining permits shall be made in writing and in reproducible form to the department upon forms prepared and furnished by it and in such multiples as required by rule of the department. An application shall be made, and a mining permit obtained for each separate mining site. No application for surface mining at a site may be entertained by the department if within the previous 5 years the applicant, or a different person who had received a prospecting permit for the site had certified under s. ~~144.84~~ 293.35 (1) that he or she would not subsequently make application for a permit to conduct surface mining at the site.

**SECTION 771.** 144.85 (1) (c) of the statutes is renumbered 293.49 (8).

**SECTION 772.** 144.85 (2) (a) of the statutes is renumbered 293.37 (5).

**SECTION 773.** 144.85 (2) (b) of the statutes is renumbered 293.49 (6) and amended to read:

293.49 (6) Except as otherwise provided in ss. ~~144.87 to 144.91~~ 293.53 (2), 293.55 to 293.59, 293.63, 293.81 and 293.83, mining permits shall be valid for the life of the project unless canceled under s. ~~144.83 (6) or 144.91~~ 293.83 (1) or (3) or 293.85 or revoked under s. ~~144.93~~ 293.87 (2) or (3).

**SECTION 774.** 144.85 (3) (intro.), (a), (b), (c), (d), (e), (f) and (g) of the statutes are renumbered 293.37 (2) (intro.), (a), (b), (c), (d), (e), (f) and (h), and 293.37 (2) (b), (d) and (f), as renumbered, are amended to read:

293.37 (2) (b) In addition to the information and maps otherwise required by this subsection, a detailed reclamation plan showing the manner, location and time for reclamation, including ongoing reclamation during

mining, of the proposed mining site. The reclamation plan shall be accompanied by a map subject to the requirements in par. (a) which shall show the specific reclamation proposal for each area of the site. The reclamation plan shall conform to any applicable comprehensive plan created under sub. (4) (b), and to any applicable minimum standard created under ss. 144.83 293.13 (2) and 144.834 293.35 (2) and (3).

(d) Evidence satisfactory to the department that the applicant has applied for necessary approvals and permits under all applicable zoning ordinances and that the operator has applied for the necessary approval, licenses or permits required by the department including, but not limited to, those under chs. 30, 31, 107, 147 280 to 285, 289 to 292, 295 and 162 299 and this chapter.

(f) Information relating to whether unsuitability may exist for surface mining to the extent not fully considered under s. 144.84 293.45.

**SECTION 775.** 144.85 (4) (a) and (b) of the statutes are renumbered 293.37 (4) (a) and (b), and 293.37 (4) (b), as renumbered, is amended to read:

293.37 (4) (b) If the department finds that the anticipated life and total area of a mineral deposit are of sufficient magnitude that reclamation of the mining site consistent with ss. 144.80 to 144.94 this chapter requires a comprehensive plan for the entire affected area, it shall require an operator to submit with the application for a mining permit, amended mining site or change in mining or reclamation plan, a comprehensive long-term plan showing, in detail satisfactory to the department, the manner, location and time for reclamation of the entire area of contiguous land which will be affected by mining and which is owned, leased or under option for purchase or lease by the operator at the time of application. Where a mineral deposit lies on or under the lands of more than one operator, the department shall require the operators to submit mutually consistent comprehensive plans.

**SECTION 776.** 144.85 (4) (c) of the statutes is renumbered 293.37 (2) (g) and amended to read:

293.37 (2) (g) ~~The department shall require an applicant to describe~~ A description of any land contiguous to the proposed mining site which he or she owns, leases or has an option to purchase or lease.

**SECTION 777.** 144.85 (5) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 293.49 (1), and 293.49 (1) (a) 1. and 3. and (b), as renumbered, are amended to read:

293.49 (1) (a) 1. The mining plan and reclamation plan are reasonably certain to result in reclamation of the mining site consistent with ss. 144.80 to 144.94 this chapter and any rules adopted under ss. 144.80 to 144.94 this chapter and the department has approved the mining plan.

NOTE: The requirement for the DNR to approve the mining plan before issuing the mining permit is moved here from

its current location in the definition of “mining plan”. See s. 144.81 (6), renumbered as s. 293.01 (10).

3. In the case of a surface mine, the site is not unsuitable for mining. The preliminary determination that a site was not unsuitable for mining under s. 144.84 293.45 may not be conclusive in the determination of the site’s suitability for mining under this section. However, at the hearing held under this section and s. 144.836 293.43, testimony and evidence submitted at the prospecting permit proceeding relevant to the issue of suitability of the proposed mining site for surface mining may be adopted, subject to the opportunity for cross-examination and rebuttal, if not unduly repetitious.

(b) Each approval or denial shall be made in findings of fact, conclusions of law and an order setting forth reasons with clarity and in detail. The department may modify the operator’s proposed mining or reclamation plans in order to meet the requirements of ss. 144.80 to 144.94 this chapter, and, as modified, grant its approval.

**SECTION 778.** 144.85 (5) (b) of the statutes is renumbered 293.49 (2), and 293.49 (2) (b) and (d) 3., as renumbered, are amended to read:

293.49 (2) (b) That the applicant has violated and continues to fail to comply with ss. 144.80 to 144.94 this chapter or any rule adopted under ~~those sections~~ this chapter.

(d) 3. The applicant included in its permit application under ~~sub. s. 293.37~~ (1) a plan to prevent the occurrence in this state of events similar to the events that directly resulted in the convictions.

**SECTION 779.** 144.85 (5) (bm) of the statutes is renumbered 293.49 (3) and amended to read:

293.49 (3) The department may not deny a mining permit under ~~par. (b) 3. to 6. sub. (2) (c) to (f)~~ if the person subject to the convictions, forfeiture, permanent revocation, bankruptcy or dissolution is a related person but the applicant shows that the person was not the parent corporation of the applicant, a person that holds more than a 30% ownership in the applicant, or a subsidiary or affiliate of the applicant in which the applicant holds more than a 30% interest at the time of the convictions, forfeiture, permanent revocation, bankruptcy or dissolution.

**SECTION 780.** 144.85 (5) (c) of the statutes is renumbered 293.39 (3) and amended to read:

293.39 (3) To the extent that an environmental impact statement on a prospecting permit application under s. 144.84 293.35, if prepared, fully considered unsuitability of the prospecting site for surface mining by virtue of unique features of the land as enumerated in s. 144.81 (18) 293.01 (28), that portion of the previous impact statement may be adopted in the impact statement on the mining permit application.

**SECTION 781.** 144.85 (5) (d) and (e) of the statutes are renumbered 293.49 (4) and (5) and amended to read:

293.49 (4) The prior issuance of a prospecting permit under s. 144.84 293.45 for all or part of a site shall, in and of itself, be given no weight in the decision to grant or deny a mining permit under this section, and the department must find, in any order granting, or granting with conditions, a mining permit that no weight was given in the decision to the prior issuance of a prospecting permit. However, to the extent that testimony and evidence submitted at the prospecting permit proceedings is relevant to the issue of whether to grant or deny a mining permit, the testimony and evidence may be adopted in the mining permit proceedings, subject to the opportunity for cross-examination and rebuttal to the extent that the testimony and evidence are not unduly repetitious.

(5) The department shall send its statement, together with a copy of its rules and finding as to whether the applicant has otherwise satisfied the requirements of ss. 144.80 to 144.94 this chapter, to the applicant and to the other parties.

**SECTION 782.** 144.852 of the statutes is renumbered 293.39, and 293.39 (1), as renumbered, is amended to read:

293.39 (1) The department shall prepare an environmental impact statement for every mining permit under s. 144.85 293.49. In preparing the environmental impact statement, the department shall comply with sub. (2) and s. 1.11 (2).

**SECTION 783.** 144.855 of the statutes is renumbered 293.65, and 293.65 (1), (2) (h) and (i) and (3), as renumbered, are amended to read:

293.65 (1) SCOPE. This section governs the withdrawal or diversion of groundwaters or surface waters by persons engaged in prospecting or mining. Discharges of waters are subject to ch. 447 283, construction of necessary dams or other structures is subject to chs. 30 and 31 and construction of wells is subject to ch. 462 280, to the extent applicable.

(2) (h) Hearings on applications for diversion permits under this subsection shall be preceded by mailed notice to all parties or affected persons and by publication in the affected area of a class 2 notice, under ch. 985. Hearings may be conducted as part of a hearing on an application for a mining permit under s. 144.85 293.37.

(i) If a hearing on the application for a permit is conducted as a part of a hearing under s. 144.836 293.43, the notice and hearing provisions in that section supersede the notice and hearing provisions of this subsection.

(3) WITHDRAWAL OF GROUNDWATER; DEWATERING; PERMIT REQUIREMENTS. (a) An approval under s. 144.025 (2)-(e) 281.17 (1) is required to withdraw groundwater or to dewater mines if the capacity and rate of withdrawal of all wells involved in the withdrawal of groundwater or the dewatering of mines exceeds 100,000 gallons each day. A permit under s. 147.02 283.31 is required to discharge pollutants resulting from the dewatering of mines.

(b) The department may not issue an approval under s. 144.025 (2)-(e) 281.17 (1) if the withdrawal of groundwater for prospecting or mining purposes or the dewatering of mines will result in the unreasonable detriment of public or private water supplies or the unreasonable detriment of public rights in the waters of the state. No withdrawal of groundwater or dewatering of mines may be made to the unreasonable detriment of public or private water supplies or the unreasonable detriment of public rights in the waters of the state.

**SECTION 784.** 144.86 of the statutes is renumbered 293.51, and 293.51 (1), as renumbered, is amended to read:

293.51 (1) Upon notification that an application for a prospecting or mining permit has been approved by the department but prior to commencing prospecting or mining, the operator shall file with the department a bond conditioned on faithful performance of all of the requirements of ss. 144.80 to 144.94 this chapter and all rules adopted by the department under ss. 144.80 to 144.94 this chapter. The bond shall be furnished by a surety company licensed to do business in this state. In lieu of a bond, the operator may deposit cash, certificates of deposit or government securities with the department. Interest received on certificates of deposit and government securities shall be paid to the operator. The amount of the bond or other security required shall be equal to the estimated cost to the state of fulfilling the reclamation plan, in relation to that portion of the site that will be disturbed by the end of the following year. The estimated cost of reclamation of each prospecting or mining site shall be determined by the department on the basis of relevant factors including, but not limited to, expected changes in the price index, topography of the site, methods being employed, depth and composition of overburden and depth of mineral deposit being mined.

**SECTION 785.** 144.87 (title) and (1) of the statutes are renumbered 293.55 (title) and (1), and 293.55 (1) (c) and (d), as renumbered, are amended to read:

293.55 (1) (c) *Substantial changes.* The department shall determine if any change in the mining or reclamation plans is substantial and provide notice of its determination in the same manner as specified under s. 144.836 293.43 (3) (b) 1. to 3.

(d) *Notice.* The department shall provide notice of any modification which involves an increase or decrease in the area of a mining site or a substantial change in the mining or reclamation plan in the same manner as an original application for a mining permit under s. 144.836 293.43 (3). If 5 or more interested persons do not request a hearing in writing within 30 days of notice, no hearing is required on the modification. The notice shall include a statement to this effect.

**SECTION 786.** 144.87 (2) of the statutes is renumbered 293.57 and amended to read:



**293.57** (title) **Successors.** When one operator succeeds to the interest of another in an uncompleted mining operation by sale, assignment, lease or otherwise, the department shall release the first operator from the duties imposed upon the first operator by ~~ss. 144.80 to 144.94~~ this chapter as to such operation if:

(1) Both operators have complied with the requirements of ~~ss. 144.80 to 144.94~~ this chapter; and

(2) The successor operator discloses whether it has forfeited any performance security because of noncompliance with any prospecting or mining laws within the previous 20 years, posts any bond required under s. ~~144.86~~ 293.51 and assumes all responsibilities of all applicable permits, licenses and approvals granted to the predecessor operator.

**SECTION 787.** 144.87 (3) of the statutes is renumbered 293.55 (2) and amended to read:

293.55 (2) If the department finds that because of changing conditions, including but not limited to changes in reclamation costs, reclamation technology, minimum standards under ~~s. 144.83~~ ss. 293.13 and 293.15 (1) to (12) or governmental land use plans, the reclamation plan for a mining site is no longer sufficient to reasonably provide for reclamation of the project site consistent with ~~ss. 144.80 to 144.94~~ this chapter and any rules adopted under ~~ss. 144.80 to 144.94~~ this chapter, it shall require the applicant to submit amended mining and reclamation plans which shall be processed in the same manner as an application for an original mining permit. The applicant shall be deemed to hold a temporary mining permit which shall be effective until the amended mining permit is issued or denied. The department shall review the mining and reclamation plans annually after the date of the mining permit issuance or previous review under this section.

**SECTION 788.** 144.875 of the statutes is renumbered 293.59.

**SECTION 789.** 144.88 of the statutes is renumbered 293.81 and amended to read:

**293.81 Exploring, prospecting and mining without authorization.** Any person who engages in exploration without a license shall forfeit not less than \$100 nor more than \$1,000 for each parcel as defined under s. ~~144.832 (1) (e)~~ 293.21 (1) (b) on which unlicensed exploration took place. Any person who authorizes or engages in prospecting without a prospecting permit or any operator who authorizes or engages in mining without a mining permit and written authorization to mine under s. ~~144.86~~ 293.51 (3) shall forfeit all profits obtained from such illegal activities and not more than \$10,000 for each day during which the mine was in operation. The operator shall be liable to the department for the full cost of reclaiming the affected area of land and any damages caused by the mining operation. Each day's violation of this section shall be deemed a separate offense. If the violator is a corporation, limited liability company, partnership or association, any officer, director, member, manager or partner

who knowingly authorizes, supervises or contracts for exploration, prospecting or mining shall also be subject to the penalties of this section.

**SECTION 790.** 144.89 (title) of the statutes is repealed.

**SECTION 791.** 144.89 (1), (1m) and (2) of the statutes are renumbered 293.53 (2) (a), (b) and (c), and 293.53 (2) (b) and (c), as renumbered, are amended to read:

293.53 (2) (b) Annually, the department shall review the mining and reclamation plans and bonds, using the procedure specified under ~~s. 144.84 (4)~~ sub. (1).

(c) The department shall cancel the mining permit held by any operator who fails and refuses to submit reports required under this ~~section~~ subsection.

**SECTION 792.** 144.90 of the statutes is renumbered 293.63, and 293.63 (1), as renumbered, is amended to read:

293.63 (1) Upon the petition of the operator, but not less than 4 years after notification to the department by the operator of the completion of the reclamation plan, if the department finds after conducting a hearing that the operator has completed reclamation for any portion of the mining site in accordance with the reclamation plan and ~~ss. 144.80 to 144.94~~ this chapter, the department shall issue a certificate of completion setting forth a description of the area reclaimed and a statement that the operator has fulfilled its duties under the reclamation plan as to that area.

**SECTION 793.** 144.91 of the statutes is renumbered 293.83, and 293.83 (1) (a) 3. and (d) and (2), as renumbered, are amended to read:

293.83 (1) (a) 3. The department shall request the department of justice to initiate action under s. ~~144.93~~ 293.87.

(d) *Enforcement of orders.* The department shall cancel the mining permit for a mining site held by an operator who fails to comply with an order issued under par. (a) 1. The department shall inform the department of justice of the cancellation within 14 days. Within 30 days after the department of justice is informed, it shall commence an action under s. ~~144.93~~ 293.87.

(2) If reclamation of a mining site is not proceeding in accordance with the reclamation plan and the operator has not commenced to rectify deficiencies within the time specified in the order, or if the reclamation is not properly completed in conformance with the reclamation plan within one year after completion or abandonment of mining on any segment of the mining site, or if the exploration license or prospecting or mining permit is revoked under s. ~~144.93~~ 293.87 (2) and (3), excepting acts of God, such as adverse weather affecting grading, planting and growing conditions, the department, with the staff, equipment and material under its control, or by contract with others, shall take such actions as are necessary for the reclamation of mined areas. The operator shall be liable for the cost to the state of reclamation conducted

under this section. Any operator who is exempted from filing a bond or depositing cash, certificates of deposits or government securities by s. 444.86 293.51 (6) shall not be liable for an amount greater than an amount specified by the department. The specified amount shall be equal to and determined in the same manner as the amount of the bond or other security otherwise required under s. 444.86 293.51 (1), assuming the operator had not been exempt from such filing or depositing.

**SECTION 794.** 144.92 of the statutes is renumbered 293.91 and amended to read:

**293.91 Nonconforming sites.** (1) All prospectors and operators conducting mining operations in this state on July 3, 1974 shall submit to the department, within 90 days after that date, applications for prospecting permits or mining permits as provided in ss. 444.84 293.35 and 444.85 293.37. Sections 444.83 293.13 (1) (b) and 444.85 (5) (b) 293.49 (2) shall not apply to such operators.

(2) Modification of existing prospecting and mining sites and of operating procedures to conform with ss. 144.80 to 144.94 this chapter and rules adopted under ss. 144.80 to 144.94 this chapter shall be accomplished as promptly as possible, but the department shall give special consideration to a site where it finds that the degree of necessary improvement is of such extent and expense that compliance cannot be accomplished.

**SECTION 795.** 144.925 of the statutes is renumbered 293.47.

**SECTION 796.** 144.93 of the statutes is renumbered 293.87 and amended to read:

**293.87 (title) Enforcement; penalties.** (1) All orders issued, fines incurred, bond liabilities incurred or other violations committed under ss. 144.80 to 144.94 this chapter shall be enforced by the department of justice. The circuit court of Dane county or any other county where the violation occurred shall have jurisdiction to enforce ss. 144.80 to 144.93 this chapter or any orders issued or rules adopted thereunder, by injunctive or other appropriate relief.

(2) Any person who makes or causes to be made in an application or report required by ss. 144.80 to 144.94 this chapter a statement known to the person to be false or misleading in any material respect or who refuses to file an annual report under s. 444.89 (1) 293.53 (2) (a) or who refuses to submit information required by the prospecting or mining permit may be fined not less than \$1,000 nor more than \$5,000. If the false or misleading statement is material to the issuance of the permit, the permit may be revoked. If any violation under this subsection is repeated the permit may be revoked.

(3) Any person holding a prospecting or mining permit who violates ss. 144.80 to 144.93 this chapter or any order issued or rule adopted under ss. 144.80 to 144.93 this chapter shall forfeit not less than \$10 nor more than \$10,000 for each violation. Each day of violation is a sep-

arate offense. If the violations continue after an order to cease has been issued, the permit shall be revoked.

**SECTION 797.** 144.935 of the statutes is renumbered 293.89, and 293.89 (1) (a) and (b) and (3), as renumbered, are amended to read:

293.89 (1) (a) Against any person who is alleged to be in violation of ss. 144.80 to 144.94 this chapter.

(b) Against the department where there is alleged to be a failure of the department to perform any act or duty under ss. 144.80 to 144.94 this chapter which is not discretionary with the department.

(3) The court, in issuing any final order in any action brought under this section, shall award costs of litigation including reasonable attorney and expert witness fees to the plaintiff if he or she prevails, and the court may do so if it determines that the outcome of the controversy is consistent with the relief sought by the plaintiff irrespective of the formal disposition of the civil action. In addition, the court shall award treble damages to any plaintiff proving damages caused by a person mining without a permit or wilfully violating ss. 144.80 to 144.94 this chapter or any permits or orders issued under ss. 144.80 to 144.94 this chapter.

**SECTION 798.** 144.937 of the statutes is renumbered 293.93 and amended to read:

**293.93 Effect of other statutes.** If there is a standard under other state or federal statutes or rules which specifically regulates in whole an activity also regulated under ss. 144.80 to 144.94 this chapter the other state or federal statutes or rules shall be the controlling standard. If the other state or federal statute or rule only specifically regulates the activity in part, it shall only be controlling as to that part.

**SECTION 799.** 144.94 of the statutes is renumbered 293.95 and amended to read:

**293.95 Review.** Any person aggrieved by any decision of the department under ss. 144.80 to 144.937 this chapter may obtain its review under ch. 227.

**SECTION 800.** 144.9407 (title) of the statutes is repealed.

**SECTION 801.** 144.9407 (1) (intro.), (a), (b), (c), (d), (e) and (f) of the statutes are renumbered 295.11 (intro.), (3), (4), (5), (6), (7) and (9), and 295.11 (intro.), as renumbered, is amended to read:

**295.11 Definitions.** (intro.) In this section subchapter:

**SECTION 802.** 144.9407 (2) of the statutes is renumbered 295.12, and 295.12 (1) (b) and (d), (2) (a) and (e) and (3) (intro.), (a), (b), (e) (intro.), (f) and (k), as renumbered, are amended to read:

295.12 (1) (b) Provisions for the administration of this section subchapter by the department.

(d) The text of a nonmetallic mining reclamation ordinance that conforms with this section subchapter.

(2) (a) The department shall establish nonmetallic mining reclamation standards under ~~par. (a) 1.~~ sub. (1) (a)

that are applicable both during nonmetallic mining and after the termination of nonmetallic mining.

(e) Standards for those portions of a nonmetallic site that are mined before the effective date of the ordinance shall only include those minimal requirements necessary for the stabilization of soil conditions, establishment of vegetative cover and the prevention of environmental pollution. If additional nonmetallic mining takes place on a portion of a site that was mined before the effective date of the ordinance, that portion of the site shall be subject to the standards under ~~subd. 3, par. (d)~~ and the remainder of the site shall be subject to this ~~subdivision paragraph~~.

(3) TEXT OF ORDINANCE. (intro.) The text of the nonmetallic mining reclamation ordinance under ~~par. (a) 3, sub. (1) (d)~~ shall include all of the following:

(a) Nonmetallic mining reclamation standards that are identical to the standards established under ~~par. (a) 4, sub. (1) (a)~~.

(b) A requirement for the operator to submit a nonmetallic mining operation plan including maps, information about the nonmetallic mining site, a description of the proposed nonmetallic mining including methods and procedures to be used and a proposed timetable for completion of various stages of the nonmetallic mining. The operation plan shall be designed to assure successful nonmetallic mining reclamation consistent with the standards in ~~par. (am) 3, and 4, sub. (2) (d) and (e)~~, to minimize the costs of nonmetallic mining reclamation and, to the extent practicable, to minimize the area disturbed by the nonmetallic mining at any time and to provide for continuous nonmetallic mining reclamation. For those portions of a nonmetallic site mined on or after the effective date of the ordinance, the operation plan shall provide for buffer areas on the nonmetallic mining site to assure appropriate final slopes after nonmetallic mining reclamation.

(e) (intro.) A provision imposing annual fees as determined by the department for the administration of ~~sub. (7) s. 295.18~~ and imposing annual fees as determined by the county, city, village or town that shall, as closely as possible, equal the cost of all of the following:

(f) A requirement for an expedited review process if the applicant pays an additional fee as determined by the county, city, village or town under ~~subd. 5, par. (e)~~ or if the applicant requires a permit under this ~~section subchapter~~ to perform services under contract with a city, village, town, county or other governmental unit.

(k) A provision for penalties consistent with ~~sub. (8) (e) s. 295.19 (3)~~.

**SECTION 803.** 144.9407 (3) of the statutes is renumbered 295.13 and amended to read:

**295.13 Mandatory enactment and administration of ordinance.** (1) REQUIREMENT TO ENACT AND ADMINISTER ORDINANCE. Within 6 months after the effective date of the rules under ~~sub. (2) (a) s. 295.12 (1)~~, each county

shall enact a nonmetallic mining reclamation ordinance, the text of which is in strict conformity with the text of the ordinance established under ~~sub. (2) (a) 3, s. 295.12 (1) (d)~~, except as provided in ~~par. (b) sub. (2)~~. This ordinance may be enacted separately from an ordinance enacted under s. 59.97.

(2) PREEXISTING COUNTY ORDINANCES. Any county with a nonmetallic mining reclamation ordinance in effect on the June 1, 1993, may maintain and administer that ordinance if the department reviews the existing ordinance and determines that it is at least as restrictive as the ordinance established under ~~sub. (2) (a) 3, s. 295.12 (1) (d)~~. If the department determines that any part of the existing ordinance is not as restrictive as the ordinance established under ~~sub. (2) (a) 3, s. 295.12 (1) (d)~~, the county may amend the ordinance and submit the amended ordinance to the department for approval. After obtaining the approval of the department under this ~~paragraph subsection~~, the county may not amend the ordinance to make it more restrictive. After obtaining the approval of the department under this ~~paragraph subsection~~, the county may not amend the ordinance to make it less restrictive than the ordinance established under ~~sub. (2) (a) 3, s. 295.12 (1) (d)~~.

(3) APPLICABILITY OF COUNTY ORDINANCE. The ordinance under ~~par. (a) or (b) sub. (1) or (2)~~ applies to the entire area of the county, except for cities, villages and towns that enact and administer a nonmetallic mining reclamation ordinance under ~~sub. (4) s. 295.14~~.

**SECTION 804.** 144.9407 (4) of the statutes is renumbered 295.14 and amended to read:

**295.14 Authority to enact and administer ordinance.** (1) AUTHORITY TO ENACT AND ADMINISTER ORDINANCE. A city, village or town may enact and administer a nonmetallic mining reclamation ordinance, the text of which is in strict conformity with the text of the ordinance under ~~sub. (2) (a) 3, s. 295.12 (1) (d)~~. Except as provided in ~~par. (b) sub. (2)~~, a city, village or town may not administer a nonmetallic mining reclamation ordinance, the text of which is not in strict conformity with the text of the ordinance under ~~sub. (2) (a) 3, s. 295.12 (1) (d)~~.

(2) PREEXISTING MUNICIPAL ORDINANCES. A city, village or town with a nonmetallic mining reclamation ordinance in effect on June 1, 1993, may maintain and administer that ordinance if the department reviews the existing ordinance and determines that it is at least as restrictive as the ordinance established under ~~sub. (2) (a) 3, s. 295.12 (1) (d)~~. If the department determines that any part of the existing ordinance is not as restrictive as the ordinance established under ~~sub. (2) (a) 3, s. 295.12 (1) (d)~~, the city, village or town may amend the ordinance and submit the amended ordinance to the department for approval. After obtaining the approval of the department under this ~~paragraph subsection~~, the city, village or town may not amend the ordinance to make it more restrictive. After obtaining the approval of the department under this

paragraph subsection, the city, village or town may not amend the ordinance to make it less restrictive than the ordinance established under ~~sub. (2) (a) 3.~~ s. 295.12 (1) (d).

**SECTION 805.** 144.9407 (4m) of the statutes is renumbered 295.15 and amended to read:

**295.15 Fees.** A county or a city, village or town with a nonmetallic mining reclamation ordinance shall collect the fee established under ~~sub. (2) (b) 5.~~ s. 295.12 (3) (e) and shall forward the state's portion of the fee to the department within 90 days after collecting the fee. A county or a city, village or town with a nonmetallic mining reclamation ordinance shall use the revenues from its portion of the fees only for the administration of the nonmetallic mining reclamation ordinance.

**SECTION 806.** 144.9407 (5) of the statutes is renumbered 295.16, and 295.16 (1), (2), (3) (a) and (4) (intro.), (f) and (g), as renumbered, are amended to read:

**295.16 (1) EXISTING NONMETALLIC MINING.** A nonmetallic mining reclamation ordinance and the standards established under ~~sub. (2) (a) 1.~~ s. 295.12 (1) (a) apply to all portions of a nonmetallic mining site, including unreclaimed portions of a nonmetallic mining site that relate to nonmetallic mining that occurred before the effective date of the ordinance.

**(2) NONMETALLIC MINING IN OR NEAR NAVIGABLE WATERWAYS.** A nonmetallic mining reclamation ordinance and the standards established under ~~sub. (2) (a) 1.~~ s. 295.12 (1) (a) do not apply to any nonmetallic mining site or portion of a nonmetallic mining site that is subject to permit and reclamation requirements of the department under ss. 30.19, 30.195, 30.20, 30.30 and 30.31.

**(3) (a)** The standards established under ~~sub. (2) (a) 1.~~ s. 295.12 (1) (a) and, except as provided in ~~subd. 2.~~ par. (b), a nonmetallic mining reclamation ordinance apply to nonmetallic mining conducted by or on behalf of the state or a municipality. Notwithstanding s. 13.48 (13), nonmetallic mining operated for the benefit or use of the state or any state agency, board, commission or department shall comply with the permit requirements and nonmetallic mining reclamation standards of any applicable nonmetallic mining reclamation ordinance.

**(4) EXEMPT ACTIVITIES.** (intro.) A nonmetallic mining reclamation ordinance and the standards established under ~~sub. (2) (a) 1.~~ s. 295.12 (1) (a) do not apply to the following activities:

(f) Any mining operation, the reclamation of which is required in a permit obtained under ss. 144.80 to 144.94 ch. 293.

(g) Any activities conducted at a solid waste or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under ss. 144.435 to 144.445 subchs. II to IV of ch. 289 or a hazardous waste disposal facility under ss. 144.60 to 144.74 ch. 291, but a nonmetallic mining reclamation ordinance and the standards established under ~~sub. (2) (a) 1.~~ s. 295.12 (1)

(a) apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not part of the solid waste or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

**SECTION 807.** 144.9407 (6) (title) of the statutes is renumbered 295.17 (title).

**SECTION 808.** 144.9407 (6) of the statutes is renumbered 295.17 (1).

**SECTION 809.** 144.9407 (7) of the statutes is renumbered 295.18, and 295.18 (1) (intro.), (b) and (c) and (2) to (4), as renumbered, are amended to read:

**295.18 (1) REVIEW.** (intro.) The department shall review the nonmetallic mining reclamation program under this ~~section~~ subchapter of each county and each city, village or town that exercises jurisdiction under this ~~section~~ subchapter to ascertain compliance with this ~~section~~ subchapter and the rules promulgated under this ~~section~~ subchapter. This review shall include all of the following:

(b) Verification, by on-site inspections, of county, city, village or town compliance with this ~~section~~ subchapter and rules promulgated under this ~~section~~ subchapter.

(c) A written determination by the department, issued every 3 years, of whether or not the county, city, village or town is in compliance with this ~~section~~ subchapter and rules promulgated under this ~~section~~ subchapter.

**(2) NONCOMPLIANCE; HEARING.** If the department determines under ~~par. (a)~~ sub. (1) that a county, city, village or town is not in compliance with this ~~section~~ subchapter and rules promulgated under this ~~section~~ subchapter, the department shall conduct a hearing, after 30 days' notice, in the county, city, village or town. As soon as practicable after the hearing, the department shall issue a written decision regarding compliance with this ~~section~~ subchapter and rules promulgated under this ~~section~~ subchapter.

**(3) MUNICIPAL NONCOMPLIANCE; CONSEQUENCES.** If the department determines under ~~par. (b)~~ sub. (2) that a city, village or town is not in compliance with this ~~section~~ subchapter and rules promulgated under this ~~section~~ subchapter, the city, village or town may not administer the nonmetallic mining reclamation program. The county nonmetallic mining reclamation ordinance applies to that city, village or town and the county shall administer the nonmetallic mining reclamation program in that city, village or town. The city, village or town may apply to the department to resume its authority to administer the nonmetallic mining reclamation program, but not sooner than 3 years after the department issues a decision under ~~par. (b)~~ sub. (2). The department, after a hearing, may approve the city, village or town request to administer the nonmetallic mining reclamation program if the city, village or town demonstrates the capacity to comply with this ~~section~~ subchapter and rules promulgated under this ~~section~~ subchapter.

(4) COUNTY NONCOMPLIANCE; CONSEQUENCES. If the department determines under ~~par. (b) sub. (2)~~ that a county is not in compliance with this ~~section subchapter~~ and rules promulgated under this ~~section subchapter~~, the department shall administer the nonmetallic mining reclamation program in that county, including the collection of fees, review and approval of plans, inspection of nonmetallic mining sites and enforcement. The county may apply to the department at any time to resume administration of the nonmetallic mining reclamation program. The department, after a hearing, may approve the county request to administer the nonmetallic mining reclamation program if the county demonstrates the capacity to comply with this ~~section subchapter~~ and rules promulgated under this ~~section subchapter~~. No city, village or town may enact an ordinance under ~~sub. (4) s. 295.14~~ during the time that the department administers the nonmetallic mining reclamation program in the county in which the city, village or town is located.

**SECTION 810.** 144.9407 (8) of the statutes is renumbered 295.19, and 295.19 (1) (c), (2) and (3), as renumbered, are amended to read:

295.19 (1) (c) Issue a special order directing the immediate cessation of an activity regulated under this ~~section subchapter~~ until the necessary plan approval is obtained or until the nonmetallic mining site complies with the nonmetallic mining reclamation ordinance.

(2) DEPARTMENT ORDERS. The department may issue a special order directing the immediate cessation of an activity regulated under this ~~section subchapter~~ until the nonmetallic mining site complies with the nonmetallic mining reclamation standards established under ~~sub. (2) (a) s. 295.12 (1) (a)~~.

(3) PENALTIES. (a) Any person who violates the rules promulgated under ~~sub. (2) (a) s. 295.12 (1) (a)~~ or an order issued under ~~par. (b) sub. (2)~~ may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under this ~~section subchapter~~ is suspended, stayed or enjoined, this penalty does not accrue.

**SECTION 811.** 144.9407 (9) of the statutes is renumbered 295.20, and 295.20 (1) and (3) (intro.) and (a), as renumbered, are amended to read:

295.20 (1) REGISTRATION. Beginning on June 1, 1994, a landowner may register land owned by that person with each county in which the land is located if the land has an economically viable nonmetallic mineral deposit. The registration shall delineate the nonmetallic mineral deposit and the necessary buffer areas under the nonmetallic mining reclamation ordinance. The landowner, as a condition of registration, shall submit evidence that a notation of the registration has been recorded in the office of the register of deeds in each county in which the nonmetallic mineral deposit or buffer area is located. A registration under this ~~paragraph subsection~~

may not be rescinded by the county or the landowner or his or her successors or assigns.

(3) EXCEPTIONS. (intro.) Nothing in this ~~subsection section~~ shall be construed to prohibit the following:

(a) A use of land permissible under a zoning ordinance on the day before a mineral deposit or buffer area is registered under ~~par. (a) sub. (1)~~.

**SECTION 812.** Subchapter VI (title) of chapter 144 [precedes 144.941] of the statutes is renumbered subchapter II (title) of chapter 295 [precedes 295.31].

**SECTION 813.** 144.941 (intro.), (1), (1g), (1m), (1s), (2) and (3) of the statutes are renumbered 295.31 (intro.), (2), (3), (4), (6), (7) and (8m), and 295.31 (intro.), as renumbered, is amended to read:

**295.31 Definitions; oil and gas.** (intro.) In ss. 144.941 to 144.944 ~~this subchapter~~:

**SECTION 814.** 144.942 of the statutes is renumbered 295.33.

**SECTION 815.** 144.943 of the statutes is renumbered 295.35, and 295.35 (1) (b) and (d) and (5) (a), as renumbered, are amended to read:

295.35 (1) (b) Submit any information necessary for the department to determine whether the proposed exploration, production and site reclamation will comply with ~~ss. 144.941 to 144.944 this subchapter~~ and rules promulgated under ~~those sections this subchapter~~.

(d) File with the department a bond conditioned on the faithful performance of all of the requirements of ~~ss. 144.941 to 144.944 this subchapter~~ and rules promulgated under ~~those sections this subchapter~~.

(5) (a) That the applicant has violated and continues to fail to comply with ~~ss. 144.941 to 144.944 this subchapter~~ or any rule promulgated under ~~those sections this subchapter~~.

**SECTION 816.** 144.944 of the statutes is renumbered 295.37 and amended to read:

**295.37 Penalties; oil and gas. (1)** Any person who makes or causes to be made in an application or report required under ~~ss. 144.941 to 144.944 this subchapter~~ a statement known to the person to be false or misleading in any material respect or who refuses to submit information required by the department under ~~ss. 144.941 to 144.944 this subchapter~~ may be fined not less than \$1,000 nor more than \$5,000.

(2) Any person who violates ~~ss. 144.941 to 144.944 this subchapter~~ or any order issued or rule promulgated under ~~ss. 144.941 to 144.944 this subchapter~~ may be required to forfeit not less than \$1,000 nor more than \$10,000 for each violation. Each day of violation is a separate offense.

(3) (a) If a person makes or causes to be made in an application or report required under ~~ss. 144.941 to 144.944 this subchapter~~ a statement known to the person to be false or misleading and that statement is material to the issuance of an exploration or production license, the department may revoke the license. If a person holding

an exploration or production license repeatedly makes or causes to be made in an application or report required under ss. 144.941 to 144.944 this subchapter a statement known to the person to be false or misleading in any material respect or refuses to submit information required by the department under ss. 144.941 to 144.944 this subchapter, the department may revoke the license.

(b) If a person holding an exploration or production license continues to violate ss. 144.941 to 144.944 this subchapter after the department has issued an order to cease those violations, the department shall revoke the license.

(4) Any oil or gas produced in violation of ss. 144.941 to 144.944 this subchapter or any order issued or rule promulgated under ss. 144.941 to 144.944 this subchapter, or any product manufactured from that oil or gas, is subject to confiscation. The department may seize that oil, gas or products and request the department of justice to commence an action to confiscate the oil, gas or products.

**SECTION 817.** Subchapter VII (title) of chapter 144 [precedes 144.95] of the statutes is repealed.

**SECTION 818.** 144.95 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 299.11, and 299.11 (1) (d) 1. to 4., 6. and 8. and (7) (b) 1., as renumbered, are amended to read:

299.11 (1) (d) 1. A feasibility report, plan of operation or the condition of any license issued for a solid waste facility under s. 144.44 (2), (3) and (4) subch. III of ch. 289, or hazardous waste facility under s. 144.64 (2) (am) and (b) 291.25 (2) and (3).

2. An application for a mining permit under s. 144.85 (3) 293.37 (2).

3. Monitoring required by terms and conditions of a permit issued under ch. 147 283.

4. The replacement of a well or provision of alternative water supplies under s. 144.027 281.75 or 144.265 281.77.

6. The management or enforcement of the safe drinking water program under s. 144.025 (2) (t) or 162.03 280.13 (1) (b) and (d) or 281.17 (8).

8. An investigation of a discharge of a hazardous substance under s. 144.76 292.11.

(7) (b) 1. 'Accepted methodology.' The department shall prescribe by rule the accepted methodology to be followed in conducting tests in each test category. The department may prescribe by rule accepted sampling protocols and documentation procedures for a specified test category to be followed by the person collecting the samples. The department may prescribe this methodology by reference to standards established by technical societies and organizations as authorized under s. 227.21 (2). The department shall attempt to prescribe this methodology so that it is consistent with any methodology requirements under the resource conservation and recovery act, as defined under s. 144.43 (4g) 289.01 (30), the fed-

eral water pollution control act, as amended, 33 USC 1251 to 1376, the safe drinking water act, 42 USC 300f to 300j-10, or the toxic substance control act, 15 USC 2601 to 2629.

**SECTION 819.** 144.951 of the statutes is renumbered 299.31.

**SECTION 820.** 144.955 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 299.13, and 299.13 (1) (d) and (g), as renumbered, are amended to read:

299.13 (1) (d) "Hazardous waste" has the meaning given in s. 144.43 (2) 289.01 (12).

(g) "Toxic pollutants" has the meaning given in s. 147.015 283.01 (17).

**SECTION 821.** Subchapter VIII (title) of chapter 144 [precedes 144.96] of the statutes is repealed.

**SECTION 822.** 144.96 of the statutes is renumbered 299.15, and 299.15 (3) (am) 3., as renumbered, is amended to read:

299.15 (3) (am) 3. After June 30, 1992, the fee under this paragraph shall be paid by each person required to obtain a permit under s. 147.02 283.31. After June 30, 1992, the fee to be paid by a person under this paragraph shall be an amount determined under a rule promulgated by the department and shall be based on those pollutants included in the permit under s. 147.02 283.31 that are specified by the department by rule, the environmental harm caused by the pollutants discharged, the quantity of the pollutants discharged and the quality of the water receiving the discharge.

**SECTION 823.** 144.965 of the statutes is renumbered 299.21.

**SECTION 824.** 144.968 of the statutes, as created by 1995 Wisconsin Act 27, is renumbered 292.51.

**SECTION 825.** 144.97 of the statutes is renumbered 299.23 and amended to read:

**299.23 Financial interest prohibited.** The secretary of natural resources and any other person in a position of administrative responsibility in the department may not have a financial interest in any enterprise which might profit by weak or preferential administration or enforcement of the powers and duties of the department.

**SECTION 826.** 144.975 of the statutes is renumbered 299.91 and amended to read:

**299.91 Hearings; procedure; review.** The department shall hold a public hearing relating to alleged or potential environmental pollution upon the verified complaint of 6 or more citizens filed with the department. The complaint shall state the name and address of a person within the state authorized to receive service of answer and other papers in behalf of complainants. The department may order the complainants to file security for costs in a sum deemed to be adequate but not to exceed \$100 within 20 days after the service upon them of a copy of the order and all proceedings on the part of the complainants shall be stayed until the security is filed. The depart-

ment shall serve a copy of the complaint and notice of the hearing upon the alleged or potential polluter either personally or by registered mail directed to the last-known post-office address at least 20 days prior to the time set for the hearing. The hearing shall be held not later than 90 days after the filing of the complaint. The respondent shall file a verified answer to the complaint with the department and serve a copy on the person designated by the complainants not later than 5 days prior to the date set for the hearing, unless the time for answering is extended by the department for cause shown. For purposes of any hearing under this section the hearing examiner may issue subpoenas and administer oaths. Within 90 days after the closing of the hearing, the department shall make and file its findings of fact, conclusions of law and order, which shall be subject to review under ch. 227. If the department determines that any complaint was filed maliciously or in bad faith it shall issue a finding to that effect and the person complained against is entitled to recover the expenses of the hearing in a civil action. Any situation, project or activity which upon continuance or implementation would cause, beyond reasonable doubt, a degree of pollution that normally would require clean-up action if it already existed, shall be considered potential environmental pollution. This section does not apply to any part of the process for approving a feasibility report, plan of operation or license under ~~s. 144.44 subch. III of ch. 289~~ or ~~144.64 s. 291.23 or 291.25~~.

**SECTION 827.** 144.976 of the statutes is renumbered 281.94, and 281.94 (1), as renumbered, is amended to read:

281.94 (1) Any 6 or more residents of this state may petition for an investigation of a withdrawal, as defined under ~~s. 144.026 281.35~~ (1) (m), alleged to be in violation of ~~s. 144.026 281.35~~ (3) (a), in violation of a condition, limitation or restriction of a permit or approval issued in conformance with ~~s. 144.026 281.35~~ (6) (a) or in violation of any rule promulgated under ~~s. 144.026 281.35~~ (3) (a) or (4) to (6) by submitting to the department a petition identifying the alleged violator and setting forth in detail the reasons for believing a violation occurred. The petition shall state the name and address of a person in this state authorized to receive service of answer and other papers on behalf of the petitioners and the name and address of a person authorized to appear at a hearing on behalf of the petitioners.

**SECTION 828.** 144.977 of the statutes is renumbered 281.95 and amended to read:

**281.95 Remedies; water withdrawal violations.** Any person who makes a withdrawal, as defined under ~~s. 144.026 281.35~~ (1) (m), in violation of ~~s. 144.026 281.35~~ (3) (a), in violation of a condition, limitation or restriction of a permit or approval issued in conformance with ~~s. 144.026 281.35~~ (6) (a) or in violation of any rule promulgated under ~~s. 144.026 281.35~~ (3) (a) or (4) to (6) is liable to any person who is adversely affected by the withdraw-

al for damages or other appropriate relief. Any person who is or may be adversely affected by an existing or proposed withdrawal, as defined under ~~s. 144.026 281.35~~ (1) (m), which is in violation of a condition, limitation or restriction of a permit or approval issued in conformance with ~~s. 144.026 281.35~~ (6) (a) or in violation of any rule promulgated under ~~s. 144.026 281.35~~ (4) to (6) may bring an action in the circuit court to restrain or enjoin the withdrawal.

**SECTION 829.** 144.98 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 299.95 and amended to read:

**299.95 Enforcement; duty of department of justice; expenses.** The attorney general shall enforce ~~chs. 281 to 285 and 289 to 295 and~~ this chapter, except ~~ss. 144.421 and 144.422 281.48, 285.57 and 285.59~~, and all rules, special orders, licenses, plan approvals and permits of the department, except those promulgated or issued under ~~ss. 144.421 and 144.422 281.48, 285.57 and 285.59~~. The circuit court for Dane county or for any other county where a violation occurred in whole or in part has jurisdiction to enforce ~~chs. 281 to 285 and 289 to 295 or~~ this chapter or the rule, special order, license, plan approval or permit by injunctive and other relief appropriate for enforcement. For purposes of this proceeding where ~~chs. 281 to 285 and 289 to 295 or~~ this chapter or the rule, special order, license, plan approval or permit prohibits in whole or in part any pollution, a violation is deemed a public nuisance. The department of natural resources may enter into agreements with the department of justice to assist with the administration of this chapter. Any funds paid to the department of justice under these agreements shall be credited to the appropriation account under s. 20.455 (1) (k).

**SECTION 830.** 144.99 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 299.97, and 299.97 (1), as renumbered, is amended to read:

299.97 (1) Any person who violates this chapter, except ~~ss. 144.30 to 144.426, 144.48 (4) (b), 144.941 to 144.944 and 144.96 s. 299.15 (1), 299.51 (4) (b) or 299.53 (2) (a) or (3)~~, or any rule promulgated or any plan approval, license or special order issued under this chapter, except under those sections, shall forfeit not less than \$10 nor more than \$5,000, for each violation. Each day of continued violation is a separate offense. While the order is suspended, stayed or enjoined, this penalty does not accrue.

**SECTION 831.** 144.992 of the statutes is renumbered 299.93, and 299.93 (1), as renumbered, is amended to read:

299.93 (1) If a court imposes a fine or forfeiture for a violation of a provision of this chapter, ~~ch. 147 or 162 or s. 146.20 or chs. 280 to 285 or 289 to 295~~ or a rule or order issued under this chapter, ~~ch. 147 or 162 or s. 146.20 or chs. 280 to 285 or 289 to 295~~, the court shall

impose an environmental assessment equal to 10% of the amount of the fine or forfeiture.

**SECTION 832.** 144.995 of the statutes is renumbered 299.33, and 299.33 (8), as renumbered, is amended to read:

299.33 (8) **EXCLUSION.** This section does not apply to any action or other proceeding for injury or threatened injury to property or person caused by a publicly owned treatment work operated under a permit for the discharge of pollutants issued by the department under s. 147.02 ~~283.31~~.

**SECTION 833.** 145.01 (10) (d) of the statutes is amended to read:

145.01 (10) (d) The water pressure system other than municipal systems as provided in ch. 144 ~~281~~.

NOTE: The cross-reference to ch. 144 is overly inclusive. Only current subch. II of ch. 144 relates to DNR regulation of municipal water systems. Therefore, the cross-reference is limited to those provisions of current ch. 144 which are contained in new ch. 281.

**SECTION 834.** 145.01 (17) of the statutes is amended to read:

145.01 (17) **WATERS OF THE STATE.** "Waters of the state" has the meaning specified under s. 144.01 ~~(19)~~ 281.01 (18).

**SECTION 835.** 145.06 (4) (b) of the statutes is amended to read:

145.06 (4) (b) Plumbing from the private water supply pump to and including the initial pressure tank and connection to an existing water distribution system, when installed by persons licensed under ch. 146 ~~280~~.

**SECTION 836.** 145.06 (4) (e) of the statutes is amended to read:

145.06 (4) (e) Installation of sewer and water mains, as defined in ch. 144, when installed by sewer and water utility contractors and their employees.

NOTE: The term "sewer and water mains" is not defined in ch. 144. Because these are not technical terms, no definition appears to be necessary. If any further elaboration of the regulatory scope of this provision is necessary, it can be done by the department of commerce, by rule.

**SECTION 837.** 145.20 (3) (d) of the statutes is amended to read:

145.20 (3) (d) The department shall conduct training and informational programs for officials of the governmental unit responsible for the regulation of private sewage systems and employes and persons licensed under this chapter and s. 146.20 ~~281.48~~ and certified as operators of septage servicing vehicles under s. 144.025 ~~(2) (L)~~ 281.17 (3) to improve the delivery of service under the private sewage system program. The department shall obtain the assistance of the Wisconsin counties association in planning and conducting the training and informational programs.

**SECTION 838.** 145.245 (1) (a) 2. of the statutes is amended to read:

145.245 (1) (a) 2. A written enforcement order issued under s. 144.025 ~~(2) (d)~~, 145.02 (3) (f) ~~or~~, 145.20 (2) (f) or 281.19 (2).

**SECTION 839.** 145.245 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

145.245 (3) **MAINTENANCE.** The department shall establish a maintenance program to be administered by governmental units. The maintenance program is applicable to all new or replacement private sewage systems constructed in a governmental unit after the date on which the governmental unit adopts this program. The maintenance program shall include a requirement of inspection or pumping of the private sewage system at least once every 3 years. Inspections may be conducted by a master plumber, journeyman plumber or restricted plumber licensed under this chapter, a person licensed under s. 146.20 ~~281.48~~ or by an employe of the state or governmental unit designated by the department. The department of natural resources may suspend or revoke a license issued under s. 146.20 ~~281.48~~ or a certificate issued under s. 144.025 ~~(2) (L)~~ 281.17 (3) to the operator of a septage servicing vehicle if the department of natural resources finds that the licensee or operator falsified information on inspection forms. The department of commerce may suspend or revoke the license of a plumber licensed under this chapter if the department finds that the plumber falsified information on inspection forms.

**SECTION 840.** 146.16 of the statutes is amended to read:

**146.16 Expenses.** Expenses incurred under ~~chs. 144 to 146~~ this chapter, not made otherwise chargeable, shall be paid by the town, city or village.

**SECTION 841.** 146.20 (title) and (2) (intro.) of the statutes are renumbered 281.48 (title) and (2) (intro.), and 281.48 (2) (intro.), as renumbered, is amended to read:

281.48 (2) **DEFINITIONS.** (intro.) ~~For the purpose of~~ In this section:

**SECTION 842.** 146.20 (2) (a) of the statutes is repealed.

**SECTION 843.** 146.20 (2) (b) to (5s) of the statutes, as affected by 1995 Wisconsin Act 27, are renumbered 281.48 (2) (b) to (5s), and 281.48 (3) (e) and (5m) (c), as renumbered, are amended to read:

281.48 (3) (e) *Operator certification.* No person, except for a farmer exempted from licensing under par. (d), may service a septage system or operate a septage servicing vehicle unless the person is certified as an operator of a septage servicing vehicle under s. 144.025 ~~(2) (L)~~ 281.17 (3).

(5m) (c) The site criteria and disposal procedures in a county ordinance shall be identical to the corresponding portions of rules promulgated by the department under this section. The county shall require the person engaged in septage disposal to submit the results of a soil test con-



ducted by a soil tester certified under s. 145.045 and to obtain an annual license for each location where the person disposes of septage on land, except that the county may not require a license for septage disposal in a licensed solid waste disposal facility. The county shall maintain records of soil tests, site licenses, county inspections and enforcement actions under this subsection. A county may not require licensing or registration for any person or vehicle engaged in septage disposal. The county may establish a schedule of fees for site licenses under this paragraph. The county may require a bond or other method of demonstrating the financial ability to comply with the septage disposal ordinance. The county shall provide for the enforcement of the septage disposal ordinance by penalties identical to those in ~~sub. (6) s. 281.98.~~

**SECTION 844.** 146.20 (6) of the statutes is repealed.

NOTE: The penalty in current s. 146.20 (6) duplicates the penalty in new s. 281.98.

**SECTION 845.** Chapter 147 (title) of the statutes is renumbered chapter 283 (title).

**SECTION 846.** 147.01 of the statutes is renumbered 283.001.

**SECTION 847.** 147.015 of the statutes is renumbered 283.01, and 283.01 (12) (b), as renumbered, is amended to read:

283.01 (12) (b) A discernible, confined and discrete conveyance of storm water for which a permit is required under s. ~~147.021~~ 283.33 (1).

**SECTION 848.** 147.017 of the statutes is renumbered 283.61, and 283.61 (1) (a), (b) and (c), as renumbered, are amended to read:

283.61 (1) (a) “Distillate waste product” has the meaning designated under s. ~~144.438~~ 289.44 (1) (a).

(b) “Environmentally sound storage facility” has the meaning designated under s. ~~144.438~~ 289.44 (1) (b).

(c) “Private alcohol fuel production system” has the meaning designated under s. ~~144.438~~ 289.44 (1) (c).

**SECTION 849.** 147.0175 of the statutes, as created by 1995 Wisconsin Act 99, is renumbered 283.62.

**SECTION 850.** 147.018 of the statutes is renumbered 283.81.

**SECTION 851.** 147.02 of the statutes is renumbered 283.31, and 283.31 (1), (2) (c), (3) (d) 3. and (4) (b), (c), (e) and (f) 1. and 2., as renumbered, are amended to read:

283.31 (1) The discharge of any pollutant into any waters of the state or the disposal of sludge from a treatment work by any person is unlawful unless such discharge or disposal is done under a permit issued by the department under this section or s. ~~147.021~~ 283.33. The department may by rule exempt certain classes or categories of vessels from this section. Except as provided in s. ~~147.021~~ 283.33, the department may require only one permit for a publicly owned treatment or collection facil-

ity or system, regardless of the number of point sources from such facility or system.

(2) (c) Any discharge to which the U.S. environmental protection agency has objected to in writing pursuant to s. ~~147.14~~ 283.41.

(3) (d) 3. Necessary to avoid exceeding total maximum daily loads established pursuant to a continuing planning process developed under s. ~~147.25~~ 283.83.

(4) (b) That facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants at frequencies or levels in excess of the maximum discharges described in the permit shall be reported to the department under s. ~~147.14~~ 283.59 (1);

(c) That the permittee shall permit authorized representatives of the department upon the presentation of their credentials to enter upon any premises in which an effluent source is located or in which any records are required to be kept for the purpose of administering s. ~~147.08~~ 283.55;

(e) That if a toxic effluent standard or prohibition, including any schedule of compliance specified in such effluent standard or prohibition, is established under s. ~~147.07~~ 283.21 (1) for a toxic pollutant present in the permittee’s discharge and, if such standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the department shall revise or modify the permit in accordance with the toxic effluent standard or prohibition;

(f) 1. Inform the department of any new introduction of pollutants into the treatment works under s. ~~147.14~~ 283.59 (2);

2. Require that any industrial user of such treatment work comply with the requirements of ss. ~~147.07~~ 283.21 (2), ~~147.08~~ 283.55 and ~~147.15~~ 283.57.

**SECTION 852.** 147.021 of the statutes is renumbered 283.33, and 283.33 (5) and (6), as renumbered, are amended to read:

283.33 (5) OTHER DISCHARGERS. A person who is required to obtain a permit under sub. (1) (a) or (d) may apply for an individual permit or request coverage under a general permit issued by the department under s. ~~147.023~~ 283.35.

(6) OTHER COVERAGE. (a) A municipal separate storm sewer system that is combined with a sanitary sewer system is not required to be covered by a permit under this section but is required to be covered by a permit under s. ~~147.02~~ 283.31.

(b) The department may include coverage of a storm water discharge in a permit issued under s. ~~147.02~~ 283.31. For the purposes of this chapter, the portion of a permit issued under s. ~~147.02~~ 283.31 that covers a storm

water discharge is considered a permit issued under this section.

**SECTION 853.** 147.023 of the statutes is renumbered 283.35.

**SECTION 854.** 147.025 of the statutes is renumbered 283.37, and 283.37 (1), (2), (4) and (6), as renumbered, are amended to read:

283.37 (1) The department shall promulgate rules relating to applications for permits under this chapter which shall require at a minimum that every owner or operator of a point source discharging pollutants into the waters of the state shall have on file either a completed permit application on forms provided by the department or a completed permit application under section 13 of the rivers and harbors act of 1899, 33 USC 407 or under the federal water pollution control act, as amended, 33 USC 1251 to 1376. The rules may specify different requirements for permits issued under s. ~~147.02~~ 283.31 and for permits issued under s. ~~147.021~~ 283.33.

(2) Any owner or operator of a point source for which a permit is required by s. ~~147.02~~ 283.31 (1) wishing to commence discharging pollutants into state waters from a new source, the construction of which commenced after July 22, 1973, shall submit a completed application not later than 180 days prior to the date on which it is desired to commence discharges.

(4) Prior to the submittal of a permit application for a publicly owned treatment works, each person discharging into such works who is subject to s. ~~144.96~~ 299.15 and rules promulgated thereunder shall submit a discharge report to the owner or operator of such works upon request. The report shall state the person's current discharges, and maximum discharges based on reasonably foreseeable projections of production increases, process modification or facility expansions during the next 5 years. The owner or operator of such publicly owned treatment works shall submit the discharge reports to the department as part of the permit application. The form of the discharge report shall be prescribed by department rule.

(6) Subsections (1) to (5) do not apply to an owner or operator of a point source eligible for coverage under a general permit under s. ~~147.023~~ 283.35 and rules promulgated by the department under that section. The department may require the owner or operator to submit information regarding any discharge.

**SECTION 855.** 147.03 of the statutes is renumbered 283.53, and 283.53 (1), (2) (a) (intro.) and (c), (2d) (intro.), (2h) and (3) (d), (e) and (f), as renumbered, are amended to read:

283.53 (1) No permit issued by the department under s. ~~147.02~~ 283.31 or ~~147.021~~ 283.33 shall have a term for more than 5 years.

(2) (a) (intro.) Any permit issued by the department under s. ~~147.02~~ 283.31 or ~~147.021~~ 283.33 may, after an opportunity for hearing, be modified, suspended or re-

voked, in whole or in part, for cause, including but not limited to:

(c) The department shall also notify the U.S. environmental protection agency, the U.S. army corps of engineers, any affected state, any interested agency of this state, and any interested members of the public of its intention to modify, suspend or revoke a permit. Such notice shall incorporate the terms of the notice sent to the permittee and shall be circulated to members of the public in accordance with s. ~~147.09~~ 283.39 (1).

(2d) (intro.) The department may, with the consent of the permittee, modify a permit issued under s. ~~147.02~~ 283.31 or ~~147.021~~ 283.33 without following the procedures in sub. (2) (b) to (f) in order to do any of the following:

(2h) The department may, with the consent of the permittee, revoke a permit issued under s. ~~147.02~~ 283.31 or ~~147.021~~ 283.33 without following the procedures in sub. (2) (b) to (f).

(3) (d) The department shall adhere to the notice and public participation procedures specified in ss. ~~147.09~~ 283.39 to ~~147.13~~ 283.49 in connection with each request for reissuance of a permit.

(e) Notwithstanding any other provisions of this section, any new source the construction of which is commenced after October 18, 1972, and which is so constructed to meet all standards of performance adopted under s. ~~147.06~~ 283.19 shall not be subject to any more stringent standard of performance during either the 10-year period beginning on the date of completion of such construction or the period of depreciation or amortization of such facility for the purposes of section 167 or 169 of the internal revenue code, whichever period ends first.

(f) For the purposes of s. ~~147.20~~ 283.63, denial of any application for the reissuance of a permit shall be treated as a denial of an application for a permit.

**SECTION 856.** 147.033 (title) and (1) (title) of the statutes are repealed.

**SECTION 857.** 147.033 (1) of the statutes is renumbered 283.31 (7) and amended to read:

283.31 (7) The holder of a permit under s. ~~147.02~~ this section shall pay \$100 to the department as a groundwater fee on January 1 if the permittee discharges effluent on land or if the permittee produces sludge from a treatment work which is disposed of on land. If the permittee discharges effluent on land and disposes of sludge from a treatment work on land, the permittee shall pay \$200 to the department as a groundwater fee on January 1. The moneys collected under this subsection shall be credited to the environmental fund for groundwater management.

**SECTION 858.** 147.033 (4) of the statutes is renumbered 283.33 (9), and 283.33 (9) (a) 1. and 2., as renumbered, are amended to read:

283.33 (9) (a) 1. A storm water construction permit fee to be paid by any person who applies for a permit under ~~s. 147.021~~ this section for the discharge of storm water from a construction site.

2. A storm water permit annual fee that is to be paid upon issuance of the permit and annually thereafter by a person who holds a permit under ~~s. 147.021~~ this section for the discharge of storm water, other than for the discharge of storm water from a construction site.

**SECTION 859.** 147.035 of the statutes is renumbered 283.11, and 283.11 (2) (a), (4) (a) (intro.), (b) 1. and 3., (c) and (e) 2. and (5), as renumbered, are amended to read:

283.11 (2) (a) Except for rules concerning storm water discharges for which permits are issued under s. ~~147.021~~ 283.33, all rules promulgated by the department under this chapter as they relate to point source discharges, effluent limitations, municipal monitoring requirements, standards of performance for new sources, toxic effluent standards or prohibitions and pretreatment standards shall comply with and not exceed the requirements of the federal water pollution control act, 33 USC 1251 to 1387, and regulations adopted under that act.

(4) (a) *Authorization.* (intro.) Notwithstanding sub. (1) or (2), the department may promulgate by rule, under s. ~~147.07~~ 283.21, a toxic effluent standard or prohibition applicable to a category or class of point sources for the discharge of an identified toxic pollutant, if the U.S. environmental protection agency has not done either of the following for that identified toxic pollutant:

(b) 1. Any toxic pollutant or combination of pollutants on the list prepared under s. ~~147.07~~ 283.21 (1) (a).

3. Any other substance which the department has proposed to be added to the list of toxic pollutants under s. ~~147.07~~ 283.21 (1) (a).

(c) *Concurrent rule making.* A toxic effluent standard or a prohibition for a substance identified under par. (b) 3. may not be promulgated before the list of toxic pollutants has been revised under s. ~~147.07~~ 283.21 (1) (a) to include that substance. The revision under s. ~~147.07~~ 283.21 (1) (a) and the toxic effluent standard or prohibition under s. ~~147.07~~ 283.21 (1) (b) may be promulgated concurrently.

(e) 2. If the U.S. environmental protection agency, under 33 USC 1311 (b) (2), promulgates an effluent limitation applicable to the discharge of a toxic pollutant from a point source after the department promulgates a toxic effluent standard or prohibition, the department may modify its standard or prohibition to conform to the federal toxic effluent limitation. A permittee to which the standard or prohibition promulgated by the department applies under the terms of a permit may request that the department modify the permit to conform to the federal effluent limitation. The department shall use the procedures specified under s. ~~147.03~~ 283.53 (2) (b) to (f) to determine whether to grant the request. The department

shall grant the request unless it finds that the resulting limitation, as applied to the permittee and to any other permittees subject to the department's standard or prohibition which discharge into the receiving water, would be inadequate to protect the public health, safety or welfare or the environment in the receiving water or any other waters directly affected by the discharge. A decision by the department not to grant the request is reviewable under s. ~~147.20~~ 283.63.

(5) *NONAPPLICABILITY.* This section does not apply to any water quality based effluent limitation established under s. ~~147.04~~ 283.13 (5).

**SECTION 860.** 147.04 of the statutes is renumbered 283.13, and 283.13 (2) (intro.), (b) 2. and (d), (3) (a), (b) 1. (intro.) and (d) and (4) (intro.), as renumbered, are amended to read:

283.13 (2) *SOURCES OTHER THAN PUBLIC TREATMENT WORKS.* (intro.) The discharge from any point source, other than a publicly owned treatment works or a source of storm water permitted under s. ~~147.021~~ 283.33, shall comply with the following requirements:

(b) 2. The application of any applicable pretreatment requirements or any other requirements under s. ~~147.07~~ 283.21 to any point source discharging pollutants into a publicly owned treatment works.

(d) *Other toxic pollutants; compliance within 3 years after limitations are established.* Compliance with effluent limitations under par. (b) with respect to all toxic pollutants included on the list promulgated under s. ~~147.07~~ 283.21 (1) (a) but which are not included in the table referred to under par. (c) not later than 3 years after the date the effluent limitations are established.

(3) (a) *Maximum use of technology and reasonable progress.* The department may modify the requirements of sub. (2) (f) in accordance with s. ~~147.20~~ 283.63 for any point source for which a permit application is filed after July 1, 1977 if the owner or operator of the point source satisfactorily demonstrates to the department that the modified requirements will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the national goal of elimination of the discharge of pollutants as stated in the federal water pollution control act, as amended, 33 USC 1251 to 1376.

(b) 1. (intro.) The department with the concurrence of the U.S. environmental protection agency shall modify the requirements of sub. (2) (f) with respect to the discharge of any pollutant other than heat from any point source upon a showing by the owner or operator of the point source satisfactory to the department in a proceeding under s. ~~147.20~~ 283.63 that:

(d) *No modification for toxic pollutants.* Notwithstanding pars. (a) and (b), the department may not modify any requirement of this subsection or sub. (2) applicable to any toxic pollutant which is on the list promulgated under s. ~~147.07~~ 283.21 (1).

(4) EFFLUENT LIMITATIONS FOR PUBLIC TREATMENT WORKS. (intro.) Discharges from publicly owned treatment works, except storm water discharges for which a permit is issued under s. ~~147.021~~ 283.33, shall comply with the following requirements:

**SECTION 861.** 147.05 of the statutes is renumbered 283.15, and 283.15 (1), (2) (a) and (e), (3), (4) (c), (5) (a), (b) and (c) 1. and 2. (intro.), (9) and (10), as renumbered, are amended to read:

283.15 (1) DEFINITION. In this section, “variance” means a variance to a water quality standard adopted under s. ~~144.025 (2) (b)~~ 281.15.

(2) (a) 1. When the department issues, reissues or modifies a permit to include a water quality based effluent limitation under s. ~~147.04~~ 283.13 (5), the permittee may apply to the department for a variance from the water quality standard used to derive the limitation.

2. After an application for a variance is submitted to the department, and until the last day for seeking review of the secretary’s final decision on the application or a later date fixed by order of the reviewing court, the water quality based effluent limitation under s. ~~147.04~~ 283.13 (5) and the corresponding compliance schedule are not effective. All other provisions of the permit continue in effect except those for which a petition for review has been submitted under s. ~~147.20~~ 283.63. For those provisions for which an application for variance has been submitted under this section, the corresponding or similar provisions of the prior permit continue in effect until the last day for seeking review of the department’s final decision or a later date fixed by order of the reviewing court.

(e) Within 30 days after the department receives a complete application for a variance, the department shall circulate to the parties in s. ~~147.03~~ 283.53 (2) (c) a public notice of receipt of the application for a variance and of any deadlines for submission of written arguments on facts and law by interested parties. In the public notice, the department shall establish a deadline for submitting written comments on the application.

(3) TENTATIVE DECISION. The secretary shall issue a tentative decision on the variance within 120 days after receipt of a completed application. The department shall circulate the tentative decision to the parties in s. ~~147.03~~ 283.53 (2) (c). If the tentative decision is to grant a variance based upon one or more of the conditions specified in sub. (4) (a) 1. a. to e., the department shall include in the notice under this subsection a statement on the effect of the variance, if granted, on the designated use of the water body during the term of the underlying permit. The department shall provide a 30-day period for written comments on the tentative decision.

(4) (c) Within 30 days after the date of the decision under par. (a) 1., the department shall issue the notice required under s. ~~147.03~~ 283.53 (2) (b) and (c) of its intent to modify the permit to incorporate the decision to approve all or part of a variance or to modify and approve

the variance. Section ~~147.03~~ 283.53 (2) (d) does not apply to the proposed permit modification.

(5) (a) A variance applies only to the permittee requesting the variance and to the pollutant specified in the variance. A variance does not affect or require the department to modify the corresponding water quality standard adopted under s. ~~144.025 (2) (b)~~ 281.15.

(b) A variance applies for the term established by the secretary, but not to exceed 3 years. The term of the initial variance and any renewals thereof may not exceed the time that the secretary determines is necessary to achieve the water quality based effluent limitation. Initial and interim effluent limitations established under par. (c) 1. apply, as appropriate, for the term of the underlying permit as issued, reissued or modified to implement the decision under sub. (4) (b) or as extended by operation of s. 227.51 (2). Notwithstanding sub. (4) (d), s. 227.51 (2) shall apply for the purposes of continuing the provisions of a permit pending the issuance or reissuance of a permit. Upon the issuance or reissuance of the new permit, sub. (2) (a) 2. and s. ~~147.20~~ 283.63 (1) (am) apply.

(c) 1. Compliance with an initial effluent limitation which at the time the variance is approved represents the level currently achievable by the permittee. At the time a variance is approved a compliance schedule and an interim effluent limitation that is achievable by the permittee during the term of the variance may be specified. The initial and the interim effluent limitations may not be less stringent than a categorical effluent limitation that applies to the permittee under s. ~~147.04~~ 283.13 (2) or (4) or ~~147.06~~ 283.19 or a toxic effluent standard that applies to the permittee under s. ~~147.07~~ 283.21.

2. (intro.) Investigation of treatment technologies, process changes, wastewater reuse or other techniques that may result in compliance by the permittee with the water quality standard adopted under s. ~~144.025 (2) (b)~~ 281.15, and submission of reports on the investigations at such times as required by the department. The secretary shall modify or waive the requirements specified in this subdivision if the secretary determines, based upon comments received on the tentative decision under sub. (3), that the requirements of this subdivision are:

(9) RELATION TO PERMIT REVIEW. If the secretary approves part or all of a variance or modifies and approves the variance under this section and the department issues a modified water quality based effluent limitation under s. ~~147.20~~ 283.63 for the same substance, the permittee shall comply with the least stringent of the 2 effluent limitations.

(10) APPLICABILITY. (a) Subsections (2) to (5) do not apply if the water quality based effluent limitation results from the decision of the department under s. ~~147.20~~ 283.63 to make the water quality based effluent limitation less stringent than the effluent limitation in the permit as issued, reissued or modified.

(b) Subsections (2) to (5) apply if the water quality based effluent limitation results from the decision of the department under s. 147.20 283.63 to make the water quality based effluent limitation more stringent than the effluent limitation in the permit as issued, reissued or modified.

(c) This section does not apply to the issuance, reissuance or modification of a permit to incorporate a toxic effluent standard or prohibition promulgated by rule under s. 147.035 283.11 (4) or 147.07 283.21.

**SECTION 862.** 147.055 of the statutes is renumbered 283.17 and amended to read:

**283.17 Thermal effluent limitations.** (1) Any thermal effluent limitation proposed by the department may be modified by it in accordance with s. 147.20 283.63, if the owner or operator of the point source which is the subject of the proposed limitation demonstrates to the satisfaction of the department that the proposed limitation is more stringent than necessary to assure the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on the body of water into which the discharge is made.

(2) Any point source of a discharge having a thermal component, the modification of which is commenced after October 18, 1972, and which, as modified, meets the most stringent effluent limitation established under s. 147.04 283.13 or sub. (1) and this subsection, where the limitation assures protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on the water into which the discharge is made, shall not be subject to any more stringent effluent limitation with respect to the thermal component during either the 10-year period beginning on the date of completion of the modification or the period of depreciation or amortization of the facility for the purpose of section 167 or 169 of the internal revenue code, whichever ends first.

**SECTION 863.** 147.06 of the statutes is renumbered 283.19, and 283.19 (1), as renumbered, is amended to read:

283.19 (1) The department shall, by rule, promulgate standards of performance, for each class or category of sources referred to under s. 147.04 283.13 (1) that is required to be covered by permits issued under s. 147.02 283.31, which shall reflect the greatest degree of effluent reduction achievable through the application of the best available demonstrated control technology, processes, operating methods, or other alternatives. Where practicable, a standard of performance permitting no discharge of pollutants shall be adopted.

**SECTION 864.** 147.07 of the statutes is renumbered 283.21, and 283.21 (1) (b) and (g), as renumbered, are amended to read:

283.21 (1) (b) *Effluent standards.* The department may promulgate by rule an effluent standard, which may include a prohibition, establishing requirements for a toxic pollutant which, if an effluent limitation is applica-

ble to a class or category of point sources, is applicable to that category or class of point sources only if this effluent standard imposes more stringent requirements than are imposed under s. 147.04 283.13 (2) (b). An effluent standard promulgated under this section shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of affected organisms in any waters, the importance of affected organisms, the nature and extent of the effect of the toxic pollutant on these organisms and the extent to which effective control is being or may be achieved under other regulatory authority.

(g) *Procedure for promulgation in absence of federal standards.* In promulgating rules establishing a toxic effluent standard or prohibition for which the U.S. environmental protection agency has not promulgated a toxic effluent limitation, standard or prohibition, the department shall follow the additional procedures specified in s. 147.035 283.11 (4) (d).

**SECTION 865.** 147.08 of the statutes is renumbered 283.55, and 283.55 (title), (1) (intro.), (2) (a) and (3), as renumbered, are amended to read:

**283.55 (title) Monitoring and reporting; access to premises.** (1) MONITORING AND REPORTING REQUIREMENTS. (intro.) Every owner or operator of a point source who is required to obtain a permit issued under s. 147.02 283.31 shall:

(2) (a) Any duly authorized officer, employe or representative of the department shall have right to enter upon or through any premises in which an effluent source that is required to be covered by a permit issued under s. 147.02 283.31 is located or in which any records required to be maintained by this section are located, and may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required by this section, and sample any effluents which the owner and operator of such source is required to sample under this section.

(3) CONSTRUCTION OF LAW. Subsection (1) shall be construed so as not to require actions unnecessarily redundant with s. 144.96 299.15. When a publicly owned treatment facility is required under state or federal law to monitor discharges into its system, records of such monitoring provided to the department, if substantially in compliance with the requirements of this section, shall serve in the place of the monitoring which would ordinarily be required of a person discharging into such system. Nothing in this section shall be construed to affect the validity of s. 144.96 299.15, nor shall that section be construed to limit the application of this section.

**SECTION 866.** 147.09 of the statutes is renumbered 283.39.

**SECTION 867.** 147.10 of the statutes is renumbered 283.45, and 283.45 (1), as renumbered, is amended to read:

283.45 (1) For every discharge which has a total volume of more than 500,000 gallons on any day of the year, except a storm water discharge for which a permit is issued under s. ~~147.024~~ 283.33, the department shall, following public notice, prepare and send to any person who so requests, a fact sheet concerning the application described in the public notice.

**SECTION 868.** 147.105 of the statutes is renumbered 283.47 and amended to read:

**283.47 Requests for information by permittee.** When a permit for which a fact sheet is required to be prepared under s. ~~147.10~~ 283.45 is issued, reissued or modified, if the permittee submits, during the public comment period afforded under s. ~~147.09~~ 283.39, to the department a written request for information on the background levels in the receiving water of substances for which a water quality based effluent limitation under s. ~~147.04~~ 283.13 (5) is included in the proposed permit, the department shall, to the extent the information is available, provide to the permittee no later than the time that the permit is issued, reissued or modified such information or list of documents which present such information. Nothing in this section limits rights under ss. 19.31 to 19.37.

**SECTION 869.** 147.11 of the statutes is renumbered 283.41.

**SECTION 870.** 147.12 of the statutes is renumbered 283.43, and 283.43 (2), as renumbered, is amended to read:

283.43 (2) The department shall protect as confidential any information, other than effluent data, contained in permit application forms, or in other records, reports or plans, that is found to be confidential under s. ~~147.08~~ 283.55 (2) (c).

**SECTION 871.** 147.13 of the statutes is renumbered 283.49, and 283.49 (2) (a), as renumbered, is amended to read:

283.49 (2) (a) Public notice of any hearing held under this section shall be circulated in accordance with the requirements of s. ~~147.09~~ 283.39 (1).

**SECTION 872.** 147.135 of the statutes is renumbered 283.51 and amended to read:

**283.51 Mining hearing.** If a hearing on the permit application is conducted as a part of a hearing under s. ~~144.836~~ 293.43, the notice, comment and hearing provisions in that section supersede the notice, comment and hearing provisions of ss. ~~147.09, 147.14~~ 283.39, 283.41 and ~~147.13~~ 283.49.

**SECTION 873.** 147.14 of the statutes is renumbered 283.59, and 283.59 (2) (intro.) and (b) and (4), as renumbered, are amended to read:

283.59 (2) (intro.) Any person discharging, or intending to begin discharging, into a publicly owned treatment works who is or will become subject to the discharge reporting requirements of s. ~~147.025~~ 283.37 (4), shall give notice to the department and the owner or operator of such works the following:

(b) Any types or volumes of pollutants being introduced into such treatment works which were not described in the report submitted under s. ~~147.025~~ 283.37 (4).

(4) Notice of a new or increased discharge submitted to the department under this section shall be given at least 180 days prior to the date such new or increased discharge shall commence. The department, through the department of justice as provided under s. ~~147.29~~ 283.89, may enforce violations of this section directly against persons subject to s. ~~147.025~~ 283.37 (4).

**SECTION 874.** 147.15 of the statutes is renumbered 283.57.

**SECTION 875.** 147.20 of the statutes is renumbered 283.63, and 283.63 (1) (intro.), (a) and (am), (3), (4) and (5), as renumbered, are amended to read:

283.63 (1) (intro.) Any permit applicant, permittee, affected state or 5 or more persons may secure a review by the department of any permit denial, modification, suspension or revocation, the reasonableness of or necessity for any term or condition of any issued, reissued or modified permit, any proposed thermal effluent limitation established under s. ~~147.055~~ 283.17 or any water quality based effluent limitation established under s. ~~147.04~~ 283.13 (5). Such review shall be accomplished in the following manner:

(a) A verified petition shall be filed with the secretary setting forth specifically the issue sought to be reviewed by the department. Such petition must be filed within 60 days after notice of any action which is reviewable under this section is issued by the department. The petition shall indicate the interest of the petitioners and the reasons why a hearing is warranted. Upon receipt of such petitions, the department shall circulate a notice of public hearing in accordance with the requirements of s. ~~147.09~~ 283.39 (1) at least 10 days prior to holding a public hearing thereon.

(am) After a verified petition for review is filed and until the last day for seeking review of the department's decision or a later date fixed by order of the reviewing court, any term or condition, thermal effluent limitation or water quality based effluent limitation which is the subject of the petition is not effective. All other provisions of the permit continue in effect except those for which an application for a variance has been submitted under s. ~~147.05~~ 283.15. For those provisions for which a petition for review has been submitted under this section, the corresponding or similar provisions of the prior permit continue in effect until the last day for seeking review of the department's final decision or a later date fixed by order of the reviewing court.

(3) Subsections (1) and (2) do not apply if a hearing on the permit application is conducted as a part of a hearing under s. ~~144.836~~ 293.43.

(4) Subsections (1) and (2) do not apply to the modification of a permit which implements a decision under s.

~~147.05 283.15~~ or the denial of a request for a variance under s. ~~147.05 283.15~~. A proceeding under subs. (1) and (2) shall not be delayed pending completion of the review of a variance request under s. ~~147.05 283.15~~.

(5) Rules promulgated under s. ~~144.025 (2) (b) 281.15~~ may not be reviewed under this section. The application of rules promulgated under s. ~~144.025 (2) (b) 281.15~~ may be reviewed under this section.

**SECTION 876.** 147.21 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 283.91, and 283.91 (1) and (6), as renumbered, are amended to read:

283.91 (1) The department of justice, upon a referral pursuant to s. ~~147.29 283.89~~, may initiate a civil action for a temporary or permanent injunction for any violation of this chapter or any rule promulgated thereunder or of a term or condition of any permit issued under this chapter.

(6) For the purposes of subs. (3) and (4), the term “person” means in addition to the definition under s. ~~147.015 283.01~~ (11), any responsible corporate officer.

**SECTION 877.** 147.23 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 283.87, and 283.87 (1) and (2), as renumbered, are amended to read:

283.87 (1) DEPARTMENT MAY RECOVER COSTS. In an action against any person who violates this chapter or any provision of s. 29.29 or ~~ch. chs. 30, 31 or 144. 281, 285 or 289 to 299, except s. 281.48~~, relating to water quality the department may recover the cost of removing, terminating or remedying the adverse effects upon the water environment resulting from the unlawful discharge or deposit of pollutants into the waters of the state, including the cost of replacing fish or other wildlife destroyed by the discharge or deposit. All moneys recovered under this section shall be deposited into the environmental fund.

(2) ADVERSE EFFECTS. The department may introduce evidence of the environmental pollution, ~~as defined under s. 144.01 (3)~~, that resulted from the unlawful discharge or deposit and evidence of the potential of the water environment for public use if the unlawful discharge or deposit had not occurred in order to assist the court in determining the adverse effects upon the water environment resulting from the unlawful discharge or deposit and in determining the amount of liability under sub. (1).

**SECTION 878.** 147.25 of the statutes is renumbered 283.83.

**SECTION 879.** 147.26 of the statutes is renumbered 283.85 and 283.85 (2) (intro.), as renumbered, is amended to read:

283.85 (2) (intro.) All plans submitted under s. ~~144.04 281.41~~ after July 22, 1973, for new treatment works, or modifications of treatment works, which will be eligible for construction grants or loans under s. ~~144.21 281.55 or 144.24 281.57~~ or under ss. ~~144.241 281.58 and 144.2415 281.59~~, shall contain:

**SECTION 880.** 147.27 of the statutes is renumbered 283.95.

**SECTION 881.** 147.29 of the statutes is renumbered 283.89, and 283.89 (1), (2m) and (3), as renumbered, are amended to read:

283.89 (1) Except as provided in sub. (2m), whenever on the basis of any information available to it the department finds that any person is violating this chapter, any rule adopted thereunder or any term or condition of any permit issued pursuant to this chapter, the department shall refer the matter to the department of justice for enforcement under s. ~~147.21 283.91~~.

(2m) If the department finds a violation of s. ~~147.021 283.33 (1) to (8)~~ for which a person is subject to a forfeiture under s. ~~147.21 283.91~~ (2), the department shall issue a citation and the procedures in ss. 23.50 to 23.99 apply.

(3) In any criminal action commenced under s. ~~147.21 283.91~~, the department of justice may request the assistance of the district attorney of any county in which the violation occurred, and the district attorney shall provide the requested assistance.

**SECTION 882.** 147.30 of the statutes is renumbered 283.93, and 283.93 (2), as renumbered, is amended to read:

283.93 (2) Financial assistance under s. ~~144.21 281.55 or 144.24 281.57~~ or under ss. ~~144.241 281.58 and 144.2415 281.59~~; and

**SECTION 883.** Chapter 159 (title) of the statutes is renumbered chapter 287 (title) and amended to read:

**CHAPTER 287**  
**SOLID WASTE REDUCTION,**  
**RECOVERY AND RECYCLING**

**SECTION 884.** Subchapter I (title) of chapter 159 [precedes 159.01] of the statutes is renumbered subchapter I (title) of chapter 287 [precedes 287.01].

**SECTION 885.** 159.01 of the statutes is renumbered 287.01, and 287.01 (7), (9), (10), (11), (12), (15) and (16), as renumbered, are amended to read:

287.01 (7) “Postconsumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. ~~144.61 (5) 291.01 (7)~~, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. ~~144.44 (7) (a) 1 289.01 (17)~~.

(9) “Responsible unit” means a municipality, county, another unit of government, including a federally recognized Indian tribe or band in this state, or solid waste management system under s. 59.07 (135), that is designated under s. ~~159.09 287.09~~ (1).

(10) “Solid waste” has the meaning given in s. ~~144.01 (15) 289.01 (33)~~.

(11) “Solid waste disposal” has the meaning given in s. ~~144.43 (4r) 289.01 (34)~~.

(12) “Solid waste facility” has the meaning given in s. ~~144.43 (5)~~ 289.01 (35).

(15) “Solid waste storage” has the meaning given in s. ~~144.43 (7g)~~ 289.01 (38).

(16) “Solid waste treatment” has the meaning given in s. ~~144.43 (7f)~~ 289.01 (39).

**SECTION 886.** 159.03 of the statutes, as affected by 1993 Wisconsin Act 75 and 1995 Wisconsin Act 27, is renumbered 287.03.

**SECTION 887.** 159.05 of the statutes is renumbered 287.05, and 287.05 (8) and (9), as renumbered, are amended to read:

287.05 (8) That the powers enumerated under s. ~~159.13~~ 287.13 constitute proper powers consistent with uniform state policies concerning solid waste reduction, reuse, recycling, composting and resource recovery from solid waste; these powers are necessary for the safe, beneficial, economical and lawful management of solid waste; and these powers are necessary to accomplish or facilitate these uniform state policies by encouraging the financing, acquisition, construction, improvement, operation, maintenance and ownership of recycling and resource recovery facilities. The powers enumerated under s. ~~159.13~~ 287.13 constitute proper powers consistent with essential and legitimate governmental functions; and these powers are to be utilized in providing for the health, safety and welfare of and providing services and benefits for inhabitants of municipalities, counties and this state.

(9) That the state policies declared under this section and the standards, criteria, requirements and procedures established under s. ~~159.13~~ 287.13 ensure that a municipality or county exercising powers under s. ~~159.13~~ 287.13 acts in a manner consistent with uniform state policies and acts as an arm of the state for the public good.

**SECTION 888.** Subchapter II (title) of chapter 159 [precedes 159.07] of the statutes is renumbered subchapter II (title) of chapter 287 [precedes 287.07].

**SECTION 889.** 159.07 of the statutes, as affected by 1995 Wisconsin Acts 27 and 142, is renumbered 287.07, and 287.07 (1m) (a), (2), (3) (j) and (7) (a), (b) 1. b., (c) 2. b. and 3., (e), (f), (g) 1. b. and (h) 1. b., as renumbered, are amended to read:

287.07 (1m) (a) Dispose of a lead acid battery or a major appliance in a solid waste disposal facility in this state, except that a person may dispose of a microwave oven in a solid waste disposal facility in this state if the capacitor has been removed and disposed of in accordance with s. ~~144.79~~ 299.45 (7), if applicable.

(2) **YARD WASTE.** Beginning on January 3, 1993, no person may dispose of yard waste in a solid waste disposal facility, except in a land spreading facility approved in accordance with ~~ss. 144.43 to 144.47 ch. 289~~, or burn yard waste without energy recovery in a solid waste facility in this state.

(3) (j) A waste tire, as defined in s. ~~144.449~~ 289.55 (1) (c).

(7) (a) The prohibitions in subs. (3) and (4) do not apply with respect to solid waste, except medical waste, as defined in par. (c) 1. cg., that is generated in a region that has an effective recycling program, as determined under s. ~~159.11~~ 287.11, and, if the region is not in this state, the region is located in a state that has an effective siting program, as determined under s. ~~159.12~~ 287.12. This paragraph does not apply to solid waste that is separated for recycling as part of an effective recycling program under s. ~~159.11~~ 287.11.

(b) 1. b. “Operating solid waste treatment facility” means a solid waste treatment facility that has an operating permit or license issued under s. ~~144.391~~ 285.60 or ~~144.44 (4)~~ 289.31 prior to May 11, 1990, except for a medical waste incinerator, as defined in par. (c) 1. cr.

(c) 2. b. The disposal of, in a solid waste disposal facility, a container, package or material identified under sub. (3) or (4) that contained infectious waste or that is from a treatment area and is mixed with infectious waste generated in the treatment area, if the container, package or material has been treated, pursuant to standards established under ~~ss. 144.43 to 144.47 ch. 289~~, to render the infectious waste noninfectious.

3. A person may not burn medical waste at a medical waste incinerator unless the person complies with s. ~~144.382~~ 285.53 (1), if applicable, and obtains from each generator of the medical waste a copy of the policies under sub. (8) (a) and the annual assessment under sub. (8) (b).

(e) The department may grant a waiver to the prohibition in sub. (2) to allow the burning of brush or other clean woody vegetative material that is no greater than 6 inches in diameter at wood burning facilities that are licensed or permitted under ~~ch. 144 chs. 281, 285 and 289 to 299~~ under conditions established by the department relating to the feasibility of complying with the prohibition in sub. (2).

(f) The prohibitions in subs. (2) and (3) do not apply to the beneficial reuse of a material within a solid waste disposal facility if the beneficial reuse of the material is approved in the solid waste disposal facility’s plan of operation under s. ~~144.44 (3)~~ 289.30.

(g) 1. b. The department determines that granting the waiver or conditional waiver will not impede progress toward meeting the goals of the state solid waste policy under s. ~~159.05~~ 287.05.

(h) 1. b. Granting the waiver or conditional waiver will not impede progress toward meeting the goals of the state solid waste policy under s. ~~159.05~~ 287.05.

**SECTION 890.** 159.08 of the statutes is renumbered 287.08.



**SECTION 891.** 159.09 of the statutes is renumbered 287.09, and 287.09 (2) (a) and (b) (intro.) and 2m. and (3) (b), as renumbered, are amended to read:

287.09 (2) (a) Develop and implement a recycling or other program to manage the solid waste generated within its region in compliance with s. ~~159.07~~ 287.07 (1m) to (4) and the priorities under s. ~~159.05~~ 287.05 (12).

(b) (intro.) Submit to the department by January 1, 1993, a report setting forth how the responsible unit intends to implement its program under par. (a), as it relates to the requirements of s. ~~159.07~~ 287.07 (3) and (4). The report shall specify all of the following:

2m. The procedures or processes that the responsible unit intends to use to manage solid waste that is not separated for recovery or recycling, consistent with the priorities under s. ~~159.05~~ 287.05 (12).

(3) (b) Adopt an ordinance to enforce the program established under sub. (2) (a). The ordinance may include a schedule of forfeitures to be imposed for violations of that ordinance. The ordinance may authorize the responsible unit or person designated under par. (a) to refuse to accept solid waste at the recycling facility or site if the solid waste is a container for a nonhousehold pesticide, as defined in s. 94.68 (3) (a) 2., is contaminated or is otherwise in a condition that makes recycling infeasible. The ordinance may require a person to use a facility for the recycling of solid waste or for the recovery of resources from solid waste, as defined in s. ~~159.13~~ 287.13 (1) (d), only as provided under s. ~~159.13~~ 287.13.

**SECTION 892.** 159.095 of the statutes is renumbered 287.095.

**SECTION 893.** 159.10 of the statutes is renumbered 287.10 and amended to read:

**287.10 Limit on local regulation.** No responsible unit that accepts funds under s. ~~159.23~~ 287.23 or county or municipality located within such a responsible unit may impose a restriction, except one that is consistent with this chapter or ch. 100, or a tax or fee on the sale or distribution of packaging for a purpose relating to the disposal of the packaging.

**SECTION 894.** 159.11 of the statutes, as affected by 1995 Wisconsin Act 142 is renumbered 287.11, and 287.11 (1), (2) (a), (b), (c) (intro.), (d) (intro.), (dm), (er), (ew) and (i) and (2m) (a) 2., (b) and (c) and (2p), as renumbered, are amended to read:

287.11 (1) DEPARTMENT REVIEW. Upon request of a responsible unit or an out-of-state unit, the department shall review documentation of the responsible unit's solid waste management program created under s. ~~159.09~~ 287.09 (2) (a) or the out-of-state unit's solid waste management program and determine whether the program is an effective recycling program. The department shall complete its review and make a determination within 90 days after receiving the documentation. The department shall promulgate, by rule, its determination that an out-

of-state unit's solid waste management program is an effective recycling program.

(2) (a) A public education component to inform residents of the region of the reasons to recycle, local opportunities to recycle and the prohibitions in s. ~~159.07~~ 287.07 (3) and (4).

(b) A requirement that the occupants of single-family residences, buildings containing 2 or more dwelling units and commercial, retail, industrial and governmental facilities in the region either separate the materials identified in s. ~~159.07~~ 287.07 (3) and (4) from postconsumer waste generated in the region or treat that postconsumer waste at a facility that will recover those materials from solid waste in as pure a form as is technically feasible.

(c) (intro.) A requirement that owners of buildings containing 5 or more dwelling units in the region do all of the following if postconsumer waste generated in those buildings is not treated at a facility that will separate the materials identified in s. ~~159.07~~ 287.07 (3) and (4) from that postconsumer waste:

(d) (intro.) A requirement that owners of commercial, retail, industrial and governmental facilities in the region do all of the following if postconsumer waste generated in those buildings is not treated at a facility that will separate the materials identified in s. ~~159.07~~ 287.07 (3) and (4) from that postconsumer waste:

(dm) Beginning in 1997, a system of volume-based solid waste fees to generate revenue equal to the responsible unit's costs for solid waste management other than those reimbursed by the state. This criterion does not apply to any responsible unit that separates for recycling at least 25% by volume or by weight of the solid waste collected within the region by the responsible unit or by any person under contract with the responsible unit. This criterion does not apply to a responsible unit that provides solid waste to an operating solid waste treatment facility, as defined in s. ~~159.07~~ 287.07 (7) (b) 1. b., under a contract that was in effect on January 1, 1993.

(er) A prohibition on disposing of in a solid waste disposal facility or burning in a solid waste treatment facility any material identified under s. ~~159.07~~ 287.07 (3) and (4) that is separated for recycling as part of the program.

(ew) Provisions for the management of postconsumer waste that is not separated for recycling or recovery under par. (b) consistent with the highest feasible priority under s. ~~159.05~~ 287.05 (12).

(i) A reasonable effort, through the implementation of pars. (a) to (h), to reduce to the maximum extent feasible the amount, by weight, of each material specified in s. ~~159.07~~ 287.07 (3) and (4) that is generated as solid waste within the region and disposed of in a solid waste disposal facility or converted into fuel or burned without energy recovery in a solid waste treatment facility.

(2m) (a) 2. "Cost of selling processed material" means the net cost, including any storage costs, of selling

processed material to a broker, dealer or manufacturing facility, plus any cost of transporting the processed material from the waste processing facility to the destination specified by the broker, dealer or manufacturing facility, less the portion of any state financial assistance received under s. ~~159.23~~ 287.23 or ~~159.25~~ 287.25 attributable to the processed material.

(b) The department shall, at the request of a responsible unit that has been determined to have an effective recycling program under this section, grant a variance to the requirements in sub. (2) (b) and (er) for up to one year for a material identified in s. ~~159.07~~ 287.07 (3) or (4) that is generated in the responsible unit's region if the department determines that the cost of selling processed material exceeds any of the following:

(c) The department may on its own initiative grant, to one or more responsible units that have been determined to have effective recycling programs under this section, a variance to the requirements in sub. (2) (b) and (er) for up to one year for a material identified in s. ~~159.07~~ 287.07 (3) or (4) that is generated in the responsible units' regions if the department determines that the cost of selling processed material exceeds the amount under par. (b) 1. or 2.

**(2p) MATERIALS EXCEPTED FROM PROHIBITIONS ON LAND DISPOSAL AND INCINERATION.** (a) The requirements of sub. (2) (b) and (er) do not apply to a material that is subject to an exception under s. ~~159.07~~ 287.07 (7) (b), (bg) or (c) or a waiver or conditional waiver under s. ~~159.07~~ 287.07 (7) (h).

(b) The requirements of sub. (2) (er) do not apply to a material that is subject to an exception under s. ~~159.07~~ 287.07 (7) (f) or a waiver or conditional waiver under s. ~~159.07~~ 287.07 (7) (g).

(c) The department may grant a responsible unit an exception to a requirement in sub. (2) (b) or (er) for up to one year for a material that is subject to an exception under s. ~~159.07~~ 287.07 (7) (d).

(d) A responsible unit may not prohibit the beneficial reuse of a material within a solid waste disposal facility if the beneficial reuse of the material is approved in the solid waste disposal facility's plan of operation under s. ~~144.44~~ (3) 289.30.

(e) A responsible unit may not prohibit the disposal in a solid waste disposal facility or the burning in a solid waste treatment facility of any material for which the department has granted a waiver or conditional waiver under s. ~~159.07~~ 287.07 (7) (g).

**SECTION 895.** 159.12 of the statutes is renumbered 287.12, and 287.12 (3), as renumbered, is amended to read:

287.12 (3) **EFFECTIVE SITING PROGRAM.** The state in which an out-of-state unit is located has an effective program for siting municipal solid waste treatment facilities and municipal waste landfills if the combined capacity added within the previous 4 years by the construction of

new or the expansion of existing municipal solid waste treatment facilities and municipal waste landfills in that state exceeded the amount of solid waste generated in the state during those years, excluding high-volume industrial waste, as defined in s. ~~144.44~~ (7) (a) I. 289.01 (17), prospecting or mining waste and demolition waste.

**SECTION 896.** 159.13 of the statutes is renumbered 287.13, and 287.13 (2) (d), (3) (d), (5) (e), (8) (j), (10) (intro.), (16) and (17) (bg), as renumbered, are amended to read:

287.13 (2) (d) The facility is constructed, operated, maintained, expanded, modified and closed in compliance with this chapter and ~~eh. 144 chs. 281, 285 and 289 to 299~~ and all necessary permits, licenses and approvals required by the department are obtained.

(3) (d) The facility is constructed, operated, maintained, expanded, modified and closed in compliance with this chapter and ~~eh. 144 chs. 281, 285 and 289 to 299~~ and all necessary permits, licenses and approvals required by the department are obtained.

(5) (e) Solid waste produced by a commercial business or industry which is disposed of or held for disposal in an approved facility, as defined under s. ~~144.441~~ (1) (a) 289.01 (3), owned by the generator and designed and constructed for the purpose of accepting that type of solid waste.

(8) (j) Construction, operation, maintenance, expansion, modification and closure of the facility will comply with ~~eh. 144 chs. 281, 285 and 289 to 299~~ and all permits, licenses and approvals required by the department will be obtained.

**(10) MUNICIPAL WASTE FLOW CONTROL ORDINANCE.** (intro.) Except as provided under sub. (4), a municipality may adopt a municipal waste flow control ordinance if the municipality adopted an appropriate initial intent resolution under sub. (6), if the municipality or, if the municipality enters into an agreement under sub. (3), the responsible municipality submitted the necessary comprehensive facility project description report required under sub. (7), if the municipality issued a determination of best public interest utilizing criteria under sub. (8) after conducting the hearing required under sub. (9) and if the facility complies with this chapter and ~~eh. 144 chs. 281, 285 and 289 to 299~~ and all permits, licenses and approvals required by the department are obtained. The municipal waste flow control ordinance shall include:

**(16) PERMITS, LICENSE AND APPROVALS; REPORT REVIEW AND FEES; PROOF OF FINANCIAL RESPONSIBILITY.** (a) A municipality may not construct, operate, maintain, expand, modify or close any facility for the recycling of solid waste or for the recovery of resources from solid waste in violation of ~~eh. 144 chs. 281, 285 and 289 to 299~~ or without any license, permit or approval required by the department.

(17) (bg) Solid waste of each type to be incinerated, as determined in the air permit under s. ~~144.394~~ 285.60, shall be recycled by means other than incineration to the extent of economic feasibility.

**SECTION 897.** 159.15 of the statutes is renumbered 287.15, and 287.15 (2) (c) and (d), (3) (b) and (c), (4) and (5), as renumbered, are amended to read:

287.15 (2) (c) *Exemption.* An engine waste oil collection facility maintained by a retail sales establishment which is of a type approved by the department is exempt from the rules promulgated under s. ~~144.435~~ 289.05 (1) and need not be licensed as a solid waste disposal facility under s. ~~144.44~~ subch. III of ch. 289.

(d) *Compliance with solid and hazardous waste regulations.* Except as provided under par. (c), no person may maintain or operate an engine waste oil collection facility unless the person complies with the requirements of ss. ~~144.43 to 144.47 and 144.60 to 144.74~~ chs. 289 and 291 and rules promulgated under those ~~sections~~ chapters with respect to that facility.

(3) (b) *Exemption.* If a municipality submits and obtains approval from the department for an informal plan of operation for an engine waste oil storage facility and constructs, maintains or provides for an engine waste oil storage facility of a type approved by the department, that facility is exempt from the rules promulgated under s. ~~144.435~~ 289.05 (1) and need not be licensed as a solid waste disposal facility under s. ~~144.44~~ subch. III of ch. 289. The informal plan of operation shall contain the information and be in a form approved by the department but is not required to be prepared by a registered professional engineer.

(c) *Compliance with solid and hazardous waste regulations.* Except as provided under par. (b), no person may maintain or operate a facility for the storage of engine waste oil unless the person obtains a license and complies with the requirements of ss. ~~144.43 to 144.47 and 144.60 to 144.74~~ chs. 289 and 291 and rules promulgated under those ~~sections~~ chapters with respect to that facility.

(4) WASTE OIL TRANSPORTATION. (a) *Exemptions.* 1. The department shall exempt a consumer from the licensing and other requirements of s. ~~144.64~~ 291.23 and rules promulgated under ~~that section~~ s. 291.05 (5) for the transportation of engine waste oil.

2. The department may exempt a retail sales establishment or a service establishment from the licensing and other requirements of s. ~~144.64~~ 291.23 and rules promulgated under ~~that section~~ s. 291.05 (5) for the transportation of engine waste oil.

(b) *Compliance with solid and hazardous waste regulations.* Except as provided under par. (a), no person may transport engine waste oil unless the person obtains a license and complies with the requirements of ss. ~~144.43 to 144.47 and 144.60 to 144.74~~ chs. 289 and 291 and rules promulgated under those ~~sections~~ chapters with respect to the transportation of the engine waste oil.

(c) *Collection and transportation service.* A person who collects and transports waste oil for sale or transfer to waste oil recyclers or for other approved methods of disposal shall obtain a license and comply with the requirements of ss. ~~144.43 to 144.47 and 144.60 to 144.74~~ chs. 289 and 291 and rules promulgated under these ~~sections~~ chapters. When issuing the license under s. ~~144.64~~ 291.23, the department shall require any person who collects and transports waste oil to provide services to any collection or storage facility within his or her geographic area which has accumulated 200 gallons or more of engine waste oil. The department may revoke a license issued under s. ~~144.64~~ 291.23 if a person who collects and transports waste oil fails to provide services to collection or storage facilities within his or her geographic area which have accumulated 200 gallons or more of engine waste oil.

(5) WASTE OIL RECYCLING. No person may maintain or operate a facility for the recycling of engine waste oil unless the person obtains a license and complies with the requirements of ss. ~~144.43 to 144.47 and 144.60 to 144.74~~ chs. 289 and 291 and rules promulgated under those ~~sections~~ chapters with respect to that facility.

NOTE: Several provisions in this section relate to the transportation of waste oil and the requirement for a permit for that activity, but the cross-reference is to s. 144.64, which includes licensing requirements for other types of hazardous waste management activities and facilities. Accordingly, the cross-reference is narrowed to current s. 144.64 (1), renumbered as s. 291.23, which relates to the license for hazardous waste transportation.

**SECTION 898.** 159.17 of the statutes, as affected by 1995 Wisconsin Act 27, section 4415d, is renumbered 287.17, and 287.17 (1) (b), (c) and (d) and (5), as renumbered, are amended to read:

287.17 (1) (b) "Solid waste facility" has the meaning given under s. ~~144.43 (5)~~ 289.01 (35).

(c) "Tire dump" has the meaning given under s. ~~144.449~~ 289.55 (1) (b).

(d) "Waste tire" has the meaning given under s. ~~144.449~~ 289.55 (1) (c).

(5) OTHER RECOVERY ACTIVITIES BY DEPARTMENT. The department may conduct a recovery activity designed to reduce the volume of waste tires in a tire dump that does not receive at least 95% of its tires from Wisconsin retailers and residents if the department, after due diligence, is unable to recover nuisance abatement expenses under s. ~~144.449~~ 289.55 (5) from a person responsible for a nuisance at a tire dump after the department has initiated abatement activities.

**SECTION 899.** 159.18 of the statutes is renumbered 287.18.

**SECTION 900.** 159.185 of the statutes is renumbered 287.185.

**SECTION 901.** 159.19 of the statutes, as affected by 1993 Wisconsin Act 75, is renumbered 287.19, and

287.19 (1) (intro.), (a) 2. and 3. and (b) (intro.) and (2), as renumbered, are amended to read:

287.19(1) DUTIES. (intro.) The department shall provide assistance to individuals, groups, businesses, state agencies, counties and municipalities in all aspects of recycling consistent with this subchapter, and whenever practical shall be provided with an emphasis on documents and material easy to read and understand by the general public. This assistance may be provided through programs established under s. ~~159.21~~ 287.21 and shall include all of the following:

(a) 2. Maintaining current estimates of the amount of components of solid waste specified in s. ~~159.07~~ 287.07 generated by categories of businesses, industries, municipalities and other governmental entities.

3. Providing solid waste generators with information on how to manage solid waste consistent with s. ~~159.05~~ 287.05 (12).

(b) *Recycling programs.* (intro.) With respect to programs created under s. ~~159.09~~ 287.09 (2) (a):

(2) POWERS. In providing assistance under sub. (1), the department may provide assistance relating to the marketing of materials recovered from solid waste, if the provision of that assistance is a responsibility assigned to the department in a memorandum of understanding ~~under s. 159.03 (3) (b), contract or other agreement with the recycling market development board.~~

**SECTION 902.** 159.21 of the statutes is renumbered 287.21, and 287.21 (intro.), as renumbered, is amended to read:

**287.21 Statewide education program.** (intro.) The department shall collect, prepare and disseminate information and conduct educational and training programs designed to assist in the implementation of solid waste management programs under ss. ~~159.01~~ 287.01 to ~~159.31~~ 287.31, enhance municipal and county solid waste management programs under s. ~~159.09~~ 287.09 (2) (a) and inform the public of the relationship among an individual's consumption of goods and services, the generation of different types and quantities of solid waste and the implementation of the solid waste management priorities in s. ~~159.05~~ 287.05 (12). The department shall prepare the information and programs on a statewide basis for the following groups:

**SECTION 903.** 159.215 of the statutes is renumbered 287.215.

**SECTION 904.** 159.22 of the statutes, as affected by 1993 Wisconsin Act 75, is renumbered 287.22.

**SECTION 905.** 159.23 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 287.23, and 287.23 (1) (ar), (3) (a) 2., (am) 1. and (b), (4) (a) and (b) 1. and 2. and (5) (c) 3. and 4., as renumbered, are amended to read:

287.23 (1) (ar) "Avoided disposal cost" means the amount of the cost of disposing of solid waste that a responsible unit avoids as a result of operating a solid waste

management program with one or more of the components specified in s. ~~159.11~~ 287.11 (2) (a) to (h) during the year for which an application is submitted under sub. (4).

(3) (a) 2. For assistance in 1995 to 1999, a responsible unit that has been determined under s. ~~159.11~~ 287.11 to have an effective recycling program.

(am) 1. That the responsible unit has not maintained an effective recycling program following approval of the recycling program under s. ~~159.11~~ 287.11.

(b) Only expenses, including capital expenses, anticipated to be incurred for planning, constructing or operating a recycling program with one or more of the components specified in s. ~~159.11~~ 287.11 (2) (a) to (h) and for complying with the prohibition under s. ~~159.07~~ 287.07 (2) during the year for which an application is submitted under sub. (4) are eligible for assistance under the program.

(4) (a) The information specified in s. ~~159.09~~ 287.09 (2) (b).

(b) 1. Making continued progress in creating an effective recycling program under s. ~~159.11~~ 287.11 by January 1, 1995.

2. Maintaining an effective recycling program following approval of the recycling program under s. ~~159.11~~ 287.11.

(5) (c) 3. Except as provided in subd. 5. or sub. (5e), for all other responsible units, the amount of the grant for 1998 equals either 50% of the eligible expenses of complying with the prohibition under s. ~~159.07~~ 287.07 (2) and of the eligible capital costs of the recycling program plus 66% of the other eligible expenses of planning and operating the recycling program less avoided disposal costs or \$8 times the population of the responsible unit, whichever is less.

4. Except as provided in subd. 5. or sub. (5e), for all other responsible units, the amount of the grant for 1999 equals either 25% of the eligible expenses of complying with the prohibition under s. ~~159.07~~ 287.07 (2) and of the eligible capital costs of the recycling program plus 50% of the other eligible expenses of planning and operating the recycling program less avoided disposal costs or \$8 times the population of the responsible unit, whichever is less.

**SECTION 906.** 159.25 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 287.25, and 287.25 (3) (cm), as renumbered, is amended to read:

287.25 (3) (cm) Beginning on January 1, 1993, no responsible unit may apply for a demonstration grant unless it has complied with s. ~~159.09~~ 287.09 (2) (b).

**SECTION 907.** 159.31 of the statutes is renumbered 287.31.

**SECTION 908.** Subchapter III (title) of chapter 159 [precedes 159.40] of the statutes is renumbered subchapter III (title) of chapter 287 [precedes 287.40].

**SECTION 909.** 159.40 of the statutes, as affected by 1995 Wisconsin Acts 15 and 27, is renumbered 287.40,

and 287.40 (3) and (4), as renumbered, are amended to read:

287.40 (3) “Recovered material” means a material specified by the board under s. ~~159.42~~ 287.42 (5) that is recovered from solid waste for recycling.

(4) “Waste generator” means a person who generates solid waste that contains a material specified by the board under s. ~~159.42~~ 287.42 (5) or a responsible unit.

**SECTION 910.** 159.41 of the statutes, as created by 1995 Wisconsin Act 27, is renumbered 287.41.

**SECTION 911.** 159.42 of the statutes, as affected by 1995 Wisconsin Acts 15 and 27, is renumbered 287.42, and 287.42 (1) (b) and (c) and (5), as renumbered, are amended to read:

287.42 (1) (b) Minimize the number of variances granted under s. ~~159.11~~ 287.11 (2m) (b) and (c).

(c) In furtherance of the efforts of responsible units under s. ~~159.11~~ 287.11 (2) (i), minimize the amounts of these recovered materials disposed of in landfills or burned without energy recovery in incinerators.

(5) In consultation with the council on recycling, annually establish a list of materials recovered from solid waste for which financial assistance may be provided under this subchapter, which shall include the materials specified in s. ~~159.07~~ 287.07 (3), based on the board’s analysis of current and future markets for materials recovered from solid waste.

**SECTION 912.** 159.44 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 287.44, and 287.44 (1), as renumbered, is amended to read:

287.44 (1) Provide financial assistance under s. ~~159.46~~ 287.46.

**SECTION 913.** 159.46 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 287.46.

**SECTION 914.** 159.48 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 287.48.

**SECTION 915.** 159.49 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 287.49.

**SECTION 916.** Subchapter IV (title) of chapter 159 [precedes 159.81] of the statutes is renumbered subchapter IV (title) of chapter 287 [precedes 287.81].

**SECTION 917.** 159.81 of the statutes is renumbered 287.81, and 287.81 (1) (c) and (3) (b), as renumbered, are amended to read:

287.81 (1) (c) “Waters of the state” has the meaning given in s. ~~144.01(19)~~ 281.01 (18).

(3) (b) Subsection (2) does not apply to a person who deposits or discharges solid waste in conformance with ~~ch. chs.~~ 30, 31, ~~144 or 147~~ 281 to 285 or 289 to 299 or a permit, license or other approval issued by the department under those chapters.

**SECTION 918.** Subchapter V (title) of chapter 159 [precedes 159.91] of the statutes is renumbered subchapter V (title) of chapter 287 [precedes 287.91].

**SECTION 919.** 159.91 of the statutes is renumbered 287.91, and 287.91 (1) and (2), as renumbered, are amended to read:

287.91 (1) The attorney general shall enforce this chapter except for ss. ~~159.07, 159.08~~ 287.07, 287.08 and ~~159.81~~ 287.81 and all rules promulgated under this chapter except under those sections.

(2) Notwithstanding sub. (1) and s. ~~159.95~~ 287.95 (3) (a), the attorney general may enforce s. ~~159.07~~ 287.07 (3) and (4) by seeking injunctive relief against any person violating those provisions.

**SECTION 920.** 159.93 of the statutes is renumbered 287.93.

**SECTION 921.** 159.95 of the statutes is renumbered 287.95, and 287.95 (1), (2) and (3), as renumbered, are amended to read:

287.95 (1) Any person who violates s. ~~159.07~~ 287.07 (1m) may be required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent violation.

(2) (a) Any person who violates s. ~~159.07~~ 287.07 (2) or ~~159.08~~ 287.08 before January 1, 1995, is not subject to a penalty.

(b) After December 31, 1994, any person who violates s. ~~159.07~~ 287.07 (2) or ~~159.08~~ 287.08 may be required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent violation.

(3) (a) Any person who violates s. ~~159.07~~ 287.07 (3) and (4) before January 1, 1997, is not subject to a penalty.

(b) After December 31, 1996, any person who violates s. ~~159.07~~ 287.07 (3) and (4) may be required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent violation.

**SECTION 922.** 159.97 of the statutes is renumbered 287.97 and is amended to read:

**287.97 Penalties.** Any person who violates this chapter, except s. ~~159.07, 159.08~~ 287.07, 287.08 or ~~159.81~~ 287.81, or any rule promulgated under this chapter, except under s. ~~159.07, 159.08~~ 287.07, 287.08 or ~~159.81~~ 287.81, may be required to forfeit not less than \$10 nor more than \$1,000 for each violation.

**SECTION 923.** 160.01 (4) of the statutes is amended to read:

160.01 (4) “Groundwater” means any of the waters of the state, as defined in s. ~~144.01(19)~~ 281.01 (18), occurring in a saturated subsurface geological formation of rock or soil.

**SECTION 924.** 160.09 (1) (intro.) of the statutes is amended to read:

160.09 (1) (intro.) Notwithstanding the authority of the department under ~~chs. 144 and 162 ss. 280.11, 281.15 and 281.17 (8)~~ to establish standards for pure drinking water, the department shall establish enforcement standards for substances of public welfare concern as follows:

NOTE: The reference to establishing standards for pure drinking water under chs. 144 and 162 is overly inclusive. Only ss. 144.025 (2) (b) and (t) and 162.01 of those chapters relate specifically to establishing water quality and drinking water standards. Therefore, the new cross-reference is restricted to new ss. 280.11, 281.15 and 281.17 (8), which correspond with current ss. 144.025 (2) (b) and (t) and 162.01.

**SECTION 925.** 160.19 (8) of the statutes is amended to read:

160.19 (8) Notwithstanding subs. (2) to (4), the department may allow a facility which is regulated under ~~subch. IV of ch. 144 or ch. 147 chs. 283 or 289 to 292~~ to be constructed, after May 11, 1984, in an area where the background concentration of nitrate or a substance of public welfare concern attains or exceeds the preventive action limit or the enforcement standard if the facility is designed to achieve the lowest possible concentration for that substance which is technically and economically feasible and the anticipated increase in the concentration of the substance does not present a threat to public health or welfare.

**SECTION 926.** 160.19 (9) (intro.) of the statutes is amended to read:

160.19 (9) (intro.) Notwithstanding subs. (2) to (4), the department may allow a facility which is regulated under ~~subch. IV of ch. 144 or ch. 147 chs. 283 or 289 to 292~~ to be constructed, after May 11, 1984, in an area where the background concentration of a substance of public health concern, other than nitrate, attains or exceeds a preventive action limit for that substance:

**SECTION 927.** 160.19 (12) of the statutes is amended to read:

160.19 (12) The requirements in this section shall not apply to rules governing an activity regulated under ~~ss. 144.80 to 144.94 ch. 293~~, or to a solid waste facility regulated under ~~s. 144.44 subch. III of ch. 289~~ which is part of an activity regulated under ~~ss. 144.80 to 144.94 ch. 293~~, except that the department may promulgate new rules or amend rules governing this type of activity, practice or facility if the department determines that the amendment or promulgation of rules is necessary to protect public health, safety or welfare.

**SECTION 928.** 160.21 (2) (c) (intro.) of the statutes is amended to read:

160.21 (2) (c) (intro.) If facilities are subject to regulation under ~~subch. IV of ch. 144 or ch. 147 chs. 283 or 289 to 292~~, the department shall develop by rule and utilize points of standards application for purposes of facility design, the review of facility performance and enforcement as follows:

**SECTION 929.** 160.21 (2) (c) 1. of the statutes is amended to read:

160.21 (2) (c) 1. Rules promulgated by the department under ~~s. 144.435 289.05~~ (1) relating to facility design shall establish design criteria which ensure compliance with s. 160.19 (2) at any point of present groundwater use, at property boundaries and at any point beyond a 3-dimensional design management zone within property boundaries established under general criteria specified by rule and applied to individual facilities.

**SECTION 930.** 160.23 (7) of the statutes is amended to read:

160.23 (7) If the concentration of a substance in groundwater attains or exceeds a preventive action limit at a point of standards application and if a waste facility subject to the waste management fund incurs costs for repairing environmental damage which arises from these occurrences which are not anticipated in the plan of operation and which poses a substantial hazard to public health or welfare, those costs may be paid as provided under ~~s. 144.441(6) 289.68~~.

**SECTION 931.** 160.25 (1) (a) (intro.) of the statutes is amended to read:

160.25 (1) (a) (intro.) If an activity or practice is not subject to regulation under ~~subch. IV of ch. 144 or ch. 147 chs. 283 or 289 to 292~~ and if the concentration of a substance in groundwater attains or exceeds an enforcement standard at a point of standards application, the regulatory agency shall take the following responses unless it can be shown to the regulatory agency that, to a reasonable certainty, by the greater weight of the credible evidence, an alternative response will achieve compliance with the enforcement standard at the point of standards application:

**SECTION 932.** 160.25 (2) of the statutes is amended to read:

160.25 (2) If a facility is subject to regulation under ~~subch. IV of ch. 144 or ch. 147 chs. 283 or 289 to 292~~ and if the concentration of a substance in groundwater attains or exceeds an enforcement standard at a point of standards application, the department shall require remedial actions for a specific site in accordance with rules promulgated under s. 160.21 as are necessary to achieve compliance with the enforcement standard at the point of standards application.

**SECTION 933.** 160.25 (6) of the statutes is amended to read:

160.25 (6) If the concentration of a substance in groundwater attains or exceeds an enforcement standard at a point of standards application and if a waste facility subject to the waste management fund incurs costs for repairing environmental damage which arises from those occurrences which are not anticipated in the plan of operation and which poses a substantial hazard to public

health or welfare, those costs may be paid as provided under s. 144.441(6) 289.68.

**SECTION 934.** 160.27 (5) of the statutes is amended to read:

160.27 (5) Notwithstanding subs. (1) to (3), a regulatory agency may develop and operate a system for monitoring and sampling groundwater to determine compliance with this chapter. This section does not affect the authority of the department to require groundwater monitoring by owners or operators of solid or hazardous waste facilities or water supply or wastewater systems under ~~chs. 144, 147 or 162~~ chs. 280 to 285 or 289 to 299, except s. 281.48.

**SECTION 935.** 160.32 (2) of the statutes is amended to read:

160.32 (2) NO ADMISSION OF LIABILITY. A response at a specific site taken by any person under s. 160.23 or 160.25 is not evidence of liability or an admission of liability for any potential or actual environmental pollution, as defined under s. ~~144.01(3)~~ 299.01 (4).

**SECTION 936.** Chapter 162 (title) of the statutes is renumbered chapter 280 (title).

**SECTION 937.** 162.01 of the statutes is renumbered 280.11, and 280.11 (title) and (1), as renumbered, are amended to read:

**280.11 (title) Pure drinking water; powers of department of natural resources.** (1) The department of ~~natural resources~~ shall, after a public hearing, prescribe, publish and enforce minimum reasonable standards and rules and regulations for methods to be pursued in the obtaining of pure drinking water for human consumption and the establishing of all safeguards deemed necessary in protecting the public health against the hazards of polluted sources of impure water supplies intended or used for human consumption, including minimum reasonable standards for the construction of well pits. It shall have general supervision and control of all methods of obtaining groundwater for human consumption including sanitary conditions surrounding the same, the construction or reconstruction of wells and generally to prescribe, amend, modify or repeal any rule or regulation theretofore prescribed and shall do and perform any act deemed necessary for the safeguarding of public health.

**SECTION 938.** 162.02 of the statutes is renumbered 280.01 and amended to read:

**280.01 Definitions.** For the purposes of In this chapter, the following definitions are hereby established:

(1) "Department" shall mean means the department of natural resources.

(2) "Groundwater" is defined to mean means subsurface water supplied for human consumption.

(3) "Permit" is means the registration certificate issued by the department of ~~natural resources~~ to each person, firm or corporation duly registering and paying the annual permit fee to do well drilling or pump installing, or both, as herein provided for.

(4) "Pump installer" is means any person, firm or corporation who has duly registered as such with the department of ~~natural resources~~ and shall have paid the annual registration fee and obtained a permit to engage in pump installing as herein provided.

(5) "Pump installing" is means the industry and procedure employed in the placement and preparation for operation of equipment and materials utilized in withdrawing or obtaining water from a well for consumption or use, including all construction involved in making entrance to the well and establishing such seals and safeguards as are necessary to protect such water from contamination.

(6) "Well" is ~~defined to mean~~ means an excavation or opening into the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater for human consumption.

(7) "Well driller" is ~~defined to be~~ means any person, firm or corporation who has duly registered as such with the department of ~~natural resources~~ and shall have paid the annual registration fee and obtained a permit to construct wells as herein provided.

(8) "Well drilling" is ~~defined as~~ means the industry and procedure employed in obtaining groundwater from a well by digging, boring, drilling, driving or other methods but not including the driving of points for the purpose of obtaining ground water. It shall also include all construction work and installation of well casings in said well involved therein for the protection of such well water against pollution.

**SECTION 939.** 162.03 of the statutes is renumbered 280.13.

**SECTION 940.** 162.04 of the statutes is renumbered 280.15, and 280.15 (1) (a), as renumbered, is amended to read:

280.15 (1) (a) *Registration requirement.* Except as provided under ss. ~~162.047 280.17~~ and ~~162.05 280.19~~, no person may engage in the business of well drilling or pump installing in this state unless the person registers each place of business or retail outlet he or she operates as a well driller or pump installer and pays the required permit fee.

**SECTION 941.** 162.047 of the statutes is renumbered 280.17.

**SECTION 942.** 162.05 of the statutes is renumbered 280.19.

**SECTION 943.** 162.06 of the statutes is renumbered 280.97.

**SECTION 944.** 162.07 of the statutes is renumbered 280.21.

**SECTION 945.** 166.03 (2) (b) 6. of the statutes is amended to read:

166.03 (2) (b) 6. Request the department of health and family services to inspect or provide for the inspection of shipments of radioactive waste, obtain and analyze data concerning the radiation level of shipments of

radioactive waste and issue reports concerning these shipments and radiation levels. The adjutant general may assess and collect and receive contributions for any costs incurred under this subdivision from any person who produced the radioactive waste which is the subject of the activity for which the costs are incurred. In this subdivision, “radioactive waste” has the meaning given in s. ~~144.833~~ 293.25 (1) (b).

**SECTION 946.** 166.15 (1) (e) 5. of the statutes is amended to read:

166.15 (1) (e) 5. Environmental pollution, as defined in s. ~~144.01(3)~~ 299.01 (4).

**SECTION 947.** 166.15 (1) (e) 6. of the statutes is amended to read:

166.15 (1) (e) 6. Expenses incurred by an emergency provider in preparing for and responding to a nuclear incident which are not reimbursed under s. ~~144.76(7)~~ or 166.03 (1) (b) 2. or 3. or (2) (b) 7. or 292.11 (7).

**SECTION 948.** 166.15 (1) (h) of the statutes is amended to read:

166.15 (1) (h) “Radioactive waste” means radioactive waste, as defined in s. ~~144.833~~ 293.25 (1) (b), and radioactive defense waste.

**SECTION 949.** 166.15 (1) (j) of the statutes is amended to read:

166.15 (1) (j) “Routine operations” means the operation of transportation equipment in a manner that is not subject to the requirements for immediate notice of incidents under 49 USC 1801 to 1811 or notice of discharge under s. ~~144.76~~ 292.11 (2).

**SECTION 950.** 166.20 (4) (a) of the statutes is amended to read:

166.20 (4) (a) Upon receipt of a notification under sub. (5) (a) 2. or s. ~~144.76~~ 292.11 (2) of the release of a hazardous substance, provide all information contained in the notification to the board.

**SECTION 951.** 166.20 (4) (b) of the statutes is amended to read:

166.20 (4) (b) Have the same powers and duties at the time of a release of a hazardous substance as are given to it under s. ~~144.76~~ 292.11, including the investigation of releases of hazardous substances, the repair of any environmental damage which results from the release and the recovery of costs from responsible parties. The department of natural resources may also, at the time of a release of a hazardous substance, identify and recommend to the board and the committee measures to lessen or mitigate anticipated environmental damage resulting from the release.

**SECTION 952.** 166.20 (5) (a) 2. of the statutes is amended to read:

166.20 (5) (a) 2. All facilities in this state covered under 42 USC 11004 shall comply with the notification requirements of 42 USC 11004. Notification of the department of natural resources of the discharge of a hazardous substance under s. ~~144.76~~ 292.11 (2) shall constitute the

notification of the board required under 42 USC 11004 if the notification contains the information specified in 42 USC 11004 (b) (2) or (c).

**SECTION 953.** 166.20 (5) (a) 4. c. of the statutes is amended to read:

166.20 (5) (a) 4. c. All facilities with 10 or more employees in major group classifications 10 to 13 in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget, at which a toxic chemical is used at or above an applicable threshold quantity, except that compliance with the toxic chemical release form requirements under this subd. 4. c. is not required for the placement of a toxic chemical in a storage or disposal site or facility that is located at a facility with a permit under ~~ss. 144.80 to 144.94~~ ch. 293 if the toxic chemical consists of or is contained in merchantable by-products as defined in s. ~~144.81(3)~~ 293.01 (7), minerals as defined in s. ~~144.81(4)~~ 293.01 (8) or refuse as defined in s. ~~144.81(17)~~ 293.01 (25).

**SECTION 954.** 166.21 (2m) (f) of the statutes is amended to read:

166.21 (2m) (f) Procedures for county emergency response team actions that are consistent with local emergency response plans developed under s. 166.20 (3) and the state contingency plan established under s. ~~144.76~~ 292.11 (5).

**SECTION 955.** 166.22 (1) (a) of the statutes is amended to read:

166.22 (1) (a) “Discharge” has the meaning given in s. ~~144.76(1)(a)~~ 292.01 (3).

**SECTION 956.** 166.22 (1) (b) of the statutes is amended to read:

166.22 (1) (b) “Hazardous substance” has the meaning given in s. ~~144.01(4m)~~ 299.01 (6).

**SECTION 957.** 166.22 (3) of the statutes is amended to read:

166.22 (3) If action required under sub. (2) is not being adequately taken or the identity of the person responsible for a discharge of a hazardous substance is unknown and the discharge threatens public health or safety or damage to property, a local agency may take any emergency action that is consistent with the contingency plan for the undertaking of emergency actions in response to the discharge of hazardous substances established by the department of natural resources under s. ~~144.76~~ 292.11 (5) and that it considers appropriate under the circumstances.

**SECTION 958.** 168.04 of the statutes is amended to read:

**168.04 Standards.** The department by rule shall prescribe minimum product grade specifications for gasoline, reformulated gasoline, as defined in s. ~~144.3716~~ 285.37 (1), and kerosene and may prescribe product grade specifications for automotive gasoline, gasoline-alcohol fuel blends, aviation gasoline, fuel oils and diesel fuels. Automotive gasoline specifications shall include



lead content. The rules shall, to the extent feasible, be in conformity with nationally recognized standards, specifications and classifications, such as those published by the American society for testing and materials, the society of automotive engineers and the U.S. environmental protection agency. The department may not promulgate or enforce a rule prohibiting additional information from placement on the dispensing device.

**SECTION 959.** 168.11 (1) (b) 2. of the statutes, as created by 1995 Wisconsin Act 51, is amended to read:

168.11 (1) (b) 2. A device that dispenses, for sale at retail, a reformulated gasoline, as defined in s. ~~444.3716~~ 285.37 (1), that contains an oxygenate other than ethanol shall be marked or labeled with the identity of the oxygenate at all times when the product is offered for sale. The label shall identify the oxygenate as “methyl tertiary butyl ether (MTBE)” or “ethyl tertiary butyl ether (ETBE)” or, if the reformulated gasoline contains another oxygenate or a combination of oxygenates, the label shall identify the oxygenate or oxygenates in the manner specified by the department by rule.

**SECTION 960.** 196.49 (2) of the statutes is amended to read:

196.49 (2) No public utility may begin the construction, installation or operation of any new plant, equipment, property or facility, nor the construction or installation of any extension, improvement or addition to its existing plant, equipment, property, apparatus or facilities unless the public utility has complied with any applicable rule or order of the commission and with s. ~~444.026~~ 281.35, if applicable. If a cooperative association has been incorporated under ch. 185 for the production, transmission, delivery or furnishing of light or power and has filed with the commission a map of the territory to be served by the association and a statement showing that a majority of the prospective consumers in the area are included in the project, no public utility may begin any such construction, installation or operation within the territory until after the expiration of 6 months from the date of filing the map and notice. If the cooperative association has entered into a loan agreement with any federal agency for the financing of its proposed system and has given written notice of the agreement to the commission, no public utility may begin any construction, installation or operation within the territory until 12 months after the date of the loan agreement.

**SECTION 961.** 196.491 (3) (d) 3. of the statutes is amended to read:

196.491 (3) (d) 3. The design and location or route is in the public interest considering alternative sources of supply, alternative locations or routes, individual hardships, engineering, economic, safety, reliability and environmental factors. In its consideration of environmental factors, the commission may not determine that the design and location or route is not in the public interest because of the impact of air pollution if the proposed facility

will meet the requirements of ~~ss. 144.30 to 144.426~~ ch. 285.

**SECTION 962.** 196.491 (3) (d) 4. of the statutes is amended to read:

196.491 (3) (d) 4. The proposed facility will not have undue adverse impact on other environmental values such as, but not limited to, ecological balance, public health and welfare, historic sites, geological formations, the aesthetics of land and water and recreational use. In its consideration of the impact on other environmental values, the commission may not determine that the proposed facility will have an undue adverse impact on these values because of the impact of air pollution if the proposed facility will meet the requirements of ~~ss. 144.30 to 144.426~~ ch. 285.

**SECTION 963.** 196.856 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

196.856 (1) The commission shall annually assess against the major utilities, as defined under s. ~~444.386~~ 285.41 (1) (f), the total, not to exceed \$400,000, of the amount appropriated under s. 20.370 (2) (c) for acid deposition studies and evaluation and monitoring activities conducted by the department of natural resources.

**SECTION 964.** 196.98 of the statutes is amended to read:

**196.98 Water reporting required.** The commission shall ensure that each public utility to which s. ~~444.026~~ 281.35 applies shall comply with the requirements of that section and shall report its volume and rate of withdrawal, as defined under s. ~~444.026~~ 281.35 (1) (m), and its volume and rate of water loss, as defined under s. ~~444.026~~ 281.35 (1) (L), if any, to the commission in the form and at the times specified by the department of natural resources. The commission shall provide the information reported under this section to the department of natural resources.

**SECTION 965.** 214.495 (1) of the statutes is amended to read:

214.495 (1) A mortgage taken and recorded by a savings bank shall have priority over all liens, except tax and special assessment liens and liens under ~~ss. 444.442 (9) 292.31 (8) (i), 444.76 (13) and 444.77 292.41 (6) (d) and 292.81~~, upon the mortgaged premises and the buildings and improvements thereon, that are filed after the recording of the mortgage.

**SECTION 966.** 215.21 (4) (a) of the statutes is amended to read:

215.21 (4) (a) All mortgages described in this section shall have priority over all liens, except tax and special assessment liens and liens under ~~ss. 444.442 (9) 292.31 (8) (i), 444.76 (13) and 444.77 292.41 (6) (d) and 292.81~~, upon the mortgaged premises and the buildings and improvements thereon, which shall be filed subsequent to the recording of such mortgage.

**SECTION 967.** 227.01 (13) (ym) of the statutes is amended to read:

227.01 (13) (ym) Establishes conditions for a waiver to allow the burning of brush or other woody material under s. ~~159.07~~ 287.07 (7) (e).

**SECTION 968.** 227.01 (13) (z) of the statutes is amended to read:

227.01 (13) (z) Defines or lists nonattainment areas under s. ~~144.371~~ 285.23.

**SECTION 969.** 227.01 (13) (zc) of the statutes is amended to read:

227.01 (13) (zc) Establishes an inventory or a hazard ranking under s. ~~144.442~~ 292.31.

**SECTION 970.** 227.01 (13) (zi) of the statutes is amended to read:

227.01 (13) (zi) Lists responsible units, as defined in s. ~~159.01~~ 287.01 (9), and out-of-state units, as defined in s. ~~159.01~~ 287.01 (5), with an effective recycling program under s. ~~159.11~~ 287.11 (3).

**SECTION 971.** 227.01 (13) (zp) of the statutes is amended to read:

227.01 (13) (zp) Establishes water quality objectives for priority watersheds or priority lakes under s. ~~144.25~~ 281.65 (4) (dm).

**SECTION 972.** 227.03 (2) of the statutes is amended to read:

227.03 (2) Except as provided in s. 108.105, only the provisions of this chapter relating to rules are applicable to matters arising out of s. 66.191, 1981 stats., s. 40.65 (2), ~~144.445~~ 289.33, 303.07 (7) or 303.21 or subch. II of ch. 107 or ch. 102, 108 or 949.

**SECTION 973.** 227.42 (4) of the statutes is amended to read:

227.42 (4) This section does not apply if a hearing on the matter was conducted as a part of a hearing under s. ~~144.836~~ 293.43.

**SECTION 974.** 227.42 (5) of the statutes is amended to read:

227.42 (5) Except as provided under s. ~~144.44~~ (2) (m) 289.27 (1), this section does not apply to any part of the process for approving a feasibility report, plan of operation or license under s. ~~144.44~~ or ~~144.64~~ subch. III of ch. 289 or s. ~~291.23~~, ~~291.25~~, ~~291.29~~ or ~~291.31~~, any decision by the department of natural resources relating to the environmental impact of a proposed action under ss. ~~144.43~~ to ~~144.47~~ or ~~144.60~~ to ~~144.74~~ ch. 289 or 291 or ss. ~~292.31~~ and ~~292.35~~, or any part of the process of negotiation and arbitration under s. ~~144.445~~ 289.33.

**SECTION 975.** 227.42 (6) of the statutes is amended to read:

227.42 (6) This section does not apply to a decision issued or a hearing conducted under s. ~~144.645~~ 291.87.

**SECTION 976.** 234.01 (4n) (a) 8. of the statutes is amended to read:

234.01 (4n) (a) 8. Facilities for recycling as defined in s. ~~159.13~~ 287.13 (1) (h).

**SECTION 977.** 234.67 (1) (g) of the statutes is amended to read:

234.67 (1) (g) “Postconsumer waste” has the meaning given in s. ~~159.01~~ 287.01 (7).

**SECTION 978.** 234.69 (1) (c) of the statutes is amended to read:

234.69 (1) (c) “Nonattainment area” has the meaning given in s. ~~144.30~~ (21) 285.01 (30).

**SECTION 979.** 234.69 (2) (b) 2. and 3. of the statutes are amended to read:

234.69 (2) (b) 2. ~~Sections 144.30 to 144.403 Chapter 285, except ss. 285.30, 285.31, 285.55, 285.57, 285.59, 285.73, 285.77, 285.83, 285.85 and 285.87.~~

3. A local air pollution control program established under s. ~~144.41~~ 285.73.

**SECTION 980.** 234.87 (1) (ae) of the statutes is amended to read:

234.87 (1) (ae) “Best management practices” has the meaning given in s. ~~144.25~~ 281.65 (2) (a).

**SECTION 981.** 234.87 (1) (as) of the statutes is amended to read:

234.87 (1) (as) “Discharge” has the meaning given in s. ~~144.76~~ (1) (a) 292.01 (3).

**SECTION 982.** 234.87 (1) (b) of the statutes is amended to read:

234.87 (1) (b) “Priority lake area” has the meaning given in s. ~~144.25~~ 281.65 (2) (bs).

**SECTION 983.** 234.87 (1) (c) of the statutes is amended to read:

234.87 (1) (c) “Priority watershed” has the meaning given in s. ~~144.25~~ 281.65 (2) (c).

**SECTION 984.** 234.87 (3) (b) 1. of the statutes is amended to read:

234.87 (3) (b) 1. A priority watershed or priority lake area in which the program under s. ~~144.25~~ 281.65 is implemented after May 16, 1992.

**SECTION 985.** 236.13 (2m) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

236.13 (2m) As a further condition of approval when lands included in the plat lie within 500 feet of the ordinary high-water mark of any navigable stream, lake or other body of navigable water or if land in the proposed plat involves lake or stream shorelands referred to in s. 236.16, the department of natural resources, to prevent pollution of navigable waters, or the department of commerce, to protect the public health and safety, may require assurance of adequate drainage areas for private sewage disposal systems and building setback restrictions, or provisions by the owner for public sewage disposal facilities for waters of the state, as defined in s. 281.01 (18), industrial wastes, as defined in s. 281.01 (5), and other wastes, as defined in s. ~~144.01~~ 281.01 (7). The public sewage disposal facilities may consist of one or more systems as the department of natural resources or the department of commerce determines on the basis of need for prevention of pollution of the waters of the state or protection of public health and safety.

**SECTION 986.** 254.36 (2) of the statutes is amended to read:

254.36 (2) The department, on the recommendation of the council, shall promulgate a radiation protection code. Other departments and agencies of state government and local governmental units may adopt the identical code, but no other rule, code or ordinance relating to this subject may be promulgated or enacted except as provided under ss. 144.83 (4) (i), 144.833 and 166.03 (2) (b) 6., 293.15 (8) and 293.25.

**SECTION 987.** Chapter 281 of the statutes is created to read:

**CHAPTER 281  
WATER AND SEWAGE  
SUBCHAPTER I  
DEFINITIONS  
(precedes 281.01)**

**281.01 Definitions.** In this chapter, unless the context requires otherwise:

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

(4) “Garbage” means discarded materials resulting from the handling, processing, storage and consumption of food.

(5) “Industrial wastes” includes liquid or other wastes resulting from any process of industry, manufacture, trade or business or the development of any natural resource.

(6) “Municipality” means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(7) “Other wastes” includes all other substances, except industrial wastes and sewage, which pollute any of the surface waters of the state. The term also includes unnecessary siltation resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion.

(8) “Owner” means the state, county, town, town sanitary district, city, village, metropolitan sewerage district, corporation, firm, company, institution or individual owning or operating any water supply, sewerage or water system or sewage and refuse disposal plant.

(9) “Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(10) “Pollution” includes contaminating or rendering unclean or impure the waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(11) “Refuse” means all matters produced from industrial or community life, subject to decomposition, not defined as sewage.

(12) “Secretary” means the secretary of natural resources.

(13) “Sewage” means the water-carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in s. 101.01 (12), with such surface water or groundwater as may be present.

(14) “Sewerage system” means all structures, conduits and pipe lines by which sewage is collected and disposed of, except plumbing inside and in connection with buildings served, and service pipes from building to street main.

(15) “Solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31 (3).

(16) “System or plant” includes water and sewerage systems and sewage and refuse disposal plants.

(17) “Wastewater” means all sewage.

(18) “Waters of the state” includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

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

(20) “Waterworks” or “water system” means all structures, conduits and appurtenances by means of which water is delivered to consumers except piping and fixtures inside buildings served, and service pipes from building to street main.

**SUBCHAPTER II  
WATER RESOURCES  
(precedes 281.11)**

**281.12 General department powers and duties.**

**281.13 Surveys and research.**

**281.15 Water quality standards.**

**281.17 Water quality and quantity; specific regulations.**

**281.19 Orders.**

**281.20 Orders; nonpoint source pollution.**

- SUBCHAPTER III
- WATER QUALITY AND QUANTITY;
- GENERAL REGULATIONS
- (precedes 281.31)
- SUBCHAPTER IV
- WATER AND SEWAGE FACILITIES;
- SEPTAGE DISPOSAL
- (precedes 281.41)
- SUBCHAPTER V
- FINANCIAL ASSISTANCE
- (precedes 281.51)
- SUBCHAPTER VI
- COMPENSATION
- (precedes 281.75)
- SUBCHAPTER VII
- GREAT LAKES REMEDIAL ACTION
- (precedes 281.81)
- SUBCHAPTER VIII
- GENERAL PROVISIONS; ENFORCEMENT
- (precedes 281.91)

**281.91 State agency personnel to report water pollution.**

**281.98 Penalties.** (1) Except as provided in ss. 281.47 (1) (d) and 281.75 (19), any person who violates this chapter or any rule promulgated or any plan approval, license or special order issued under this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order is suspended, stayed or enjoined, this penalty does not accrue.

(2) In addition to the penalties provided under sub. (1), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, 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 or the state under this subsection. Ten percent of the money deposited in the general fund that was awarded under this subsection for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

**SECTION 988.** Chapter 283 of the statutes is created to read:

- SUBCHAPTER I
- POLICY AND PURPOSE
- (precedes 283.001)
- SUBCHAPTER II
- DEFINITIONS
- (precedes 283.01)

283.01 (6m) "Environmental pollution" means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

- SUBCHAPTER III
- STANDARDS; EFFLUENT LIMITATIONS
- (precedes 283.11)
- SUBCHAPTER IV
- PERMITS
- (precedes 283.31)
- SUBCHAPTER V
- GENERAL PROVISIONS; ENFORCEMENT
- (precedes 283.81)

**SECTION 989.** Chapter 285 of the statutes is created to read:

- CHAPTER 285**
- AIR POLLUTION**
- SUBCHAPTER I
- DEFINITIONS
- (precedes 285.01)

**285.01 Definitions.** In this chapter, unless the context requires otherwise:

(3) "Air pollution" means the presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

(13) "Department" means the department of natural resources.

(21) "Hazardous substance" means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.

(28) "Municipality" means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(33) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(35) "Refuse" means all matters produced from industrial or community life, subject to decomposition, not defined as sewage.

(38) "Secretary" means the secretary of natural resources.

(39) "Sewage" means the water-carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in s. 101.01 (12), with such surface water or groundwater as may be present.

(40) “Solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31 (3).

SUBCHAPTER II  
GENERAL POWERS AND DUTIES  
(precedes 285.11)

- 285.11 Air pollution control; department duties.
- 285.13 Air pollution control; department powers.
- 285.15 Interstate agreement.

SUBCHAPTER III  
AIR QUALITY STANDARDS, PERFORMANCE  
STANDARDS; EMISSION LIMITS AND  
NONATTAINMENT AREAS  
(precedes 285.21)

- 285.21 Ambient air quality standards and increments.
- 285.27 Performance and emission standards.

(4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the standards of performance for new stationary sources or the emission standards for hazardous air contaminants under the federal clean air act are relaxed, the department shall alter the corresponding state standards unless it finds that the relaxed standards would not provide adequate protection for public health and welfare. This subsection applies to state standards of performance for new stationary sources and emission standards for hazardous air contaminants in effect on April 30, 1980, if the relaxation in the corresponding federal standards occurs after April 30, 1980.

SUBCHAPTER IV  
VOLATILE ORGANIC COMPOUNDS  
AND MOBILE SOURCES; EMISSION  
LIMITS AND STANDARDS  
(precedes 285.30)

SUBCHAPTER V  
SULFUR DIOXIDE AND NITROGEN  
OXIDE EMISSION RATES AND GOALS  
(precedes 285.41)

SUBCHAPTER VI  
WASTE INCINERATORS; OZONE  
DEPLETING SUBSTANCES; EMISSION  
LIMITS AND OTHER REQUIREMENTS  
(precedes 285.51)

- 285.51 Solid waste incinerator operator certification.

SUBCHAPTER VII

PERMITS AND FEES  
(precedes 285.60)  
SUBCHAPTER VIII  
MISCELLANEOUS  
(precedes 285.70)  
SUBCHAPTER IX  
ENFORCEMENT; PENALTIES  
(precedes 285.81)

SECTION 990. 287.17 of the statutes, as affected by 1995 Wisconsin Act ... (this act), is repealed.

SECTION 991. Chapter 289 of the statutes is created to read:

CHAPTER 289  
SOLID WASTE FACILITIES  
SUBCHAPTER I  
DEFINITIONS  
(precedes 289.01)

289.01 (2) “Air pollution” means the presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

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

(8) “Environmental pollution” means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(9) “Garbage” means discarded materials resulting from the handling, processing, storage and consumption of food.

(11) “Hazardous substance” means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.

(23) “Municipality” means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(27) “Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(28) “Refuse” means all matters produced from industrial or community life, subject to decomposition, not defined as sewage.

(31) “Secretary” means the secretary of natural resources.

(31m) “Sewage” means the water-carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in s. 101.01 (12), with such surface water or groundwater as may be present.

(33) “Solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31 (3).

(41) “Waste site” means any site, other than an approved facility, an approved mining facility or a nonapproved facility, where waste is disposed of regardless of when disposal occurred or where a hazardous substance is discharged before May 21, 1978.

(42) “Wastewater” means all sewage.

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

SUBCHAPTER II  
ADMINISTRATION; SOLID WASTE  
MANAGEMENT STANDARDS  
(precedes 289.05)

**289.06 Department duties.**

**289.07 Department powers.**

SUBCHAPTER III  
FACILITIES; SITING  
(precedes 289.21)

**289.23 Feasibility report required; distribution; public notice.**

**289.24 Feasibility report contents; completeness; distribution.**

(4) Immediately after the applicant receives notification of the department’s determination that the feasibility report is complete, the applicant shall distribute copies of the feasibility report to the persons specified under s. 289.32.

**289.25 Environmental review.**

**289.26 Informational hearing.**

**289.27 Contested case hearing.**

**289.28 Determination of need.**

**289.29 Determination of feasibility.**

SUBCHAPTER IV  
LONG-TERM CARE; FINANCIAL  
RESPONSIBILITY; OPERATION; WAIVERS;  
EXEMPTIONS; CLOSURE

(precedes 289.41)

**289.42 Operation of facilities.**

SUBCHAPTER V  
FACILITIES; REGULATION OF SPECIFIC  
FACILITY OR WASTE TYPES

(precedes 289.51)

SUBCHAPTER VI

FEES; FUNDS

(precedes 289.61)

**289.62 Tonnage fees.**

**289.67 Environmental repair fee and surcharge.**

SUBCHAPTER VII  
FINANCIAL ASSISTANCE

(precedes 289.83)

SUBCHAPTER VIII

ENFORCEMENT; PENALTIES

(precedes 289.91)

**289.94 Imminent danger.** (1) NOTICE REQUIRED. If the department receives evidence that the past or present handling, storage, treatment, transportation or disposal of any solid waste may present an imminent and substantial danger to health or the environment, the department shall do all of the following:

(a) Provide immediate notice of the danger to each affected municipality.

(b) Promptly post notice of the danger at the site at which the danger exists, or order a person responsible for the danger to post such notice.

(2) OTHER ACTIONS. In addition to the actions under sub. (1), the department may do one or more of the following:

(a) Issue any special order necessary to protect public health or the environment.

(b) Take any other action necessary to protect public health or the environment.

(c) Request the department of justice to commence legal proceedings to restrain or enjoin any person from handling, storage, treatment, transportation or disposal which presents or may present an imminent and substantial danger to health or the environment or take any other action as may be necessary to protect public health and the environment.

NOTE: This provision is currently numbered s. 144.72 and relates to both solid and hazardous waste. Section 144.72 is renumbered s. 291.85 and made applicable to hazardous waste. The identical language is duplicated here for solid waste.

**289.96 (3)** (a) Except for the violations enumerated in sub. (1), any person who violates this chapter or any rule promulgated or any plan approval, license or special order issued under this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order is suspended, stayed or enjoined, the penalty does not accrue.

(b) In addition to the penalties provided under par. (a), the court may award the department of justice the rea-

sonable and necessary expenses of the investigation and prosecution of the violation, 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 or the state under this paragraph. Ten percent of the money deposited in the general fund that was awarded under this paragraph for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

**SECTION 992.** Chapter 291 of the statutes is created to read:

**CHAPTER 291**  
**HAZARDOUS WASTE MANAGEMENT**  
SUBCHAPTER I  
DECLARATION OF POLICY  
(precedes 291.001)  
SUBCHAPTER II  
DEFINITIONS  
(precedes 291.01)

291.01 (4) “Environmental pollution” means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(12) “Municipality” means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(16) “Solid waste” has the meaning given under s. 289.01 (33).

(23) “Wastewater” means all sewage.

SUBCHAPTER III  
ADMINISTRATION  
(precedes 291.05)

**291.05 Required rules.**

(5) (a) The department shall promulgate rules regarding hazardous waste transportation that establish standards for the following:

**291.07 Authorized rules.**

**291.09 Department duties.**

**291.11 Department powers.**

SUBCHAPTER IV  
HAZARDOUS WASTE;  
GENERAL REGULATION  
(precedes 291.21)

**291.25 Licenses; treatment, storage or disposal.**

SUBCHAPTER V  
ENFORCEMENT; PENALTIES  
(precedes 291.85)

**SECTION 993.** Chapter 292 of the statutes is created to read:

**CHAPTER 292**  
**REMEDIAL ACTION**  
SUBCHAPTER I  
DEFINITIONS

(precedes 292.01)

**292.01 Definitions.** In this chapter:

(1) “Approved facility” has the meaning given in s. 289.01 (3).

(1m) “Approved mining facility” has the meaning given in s. 289.01 (4).

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

(4) “Environmental pollution” means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(5) “Hazardous substance” means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.

(6) “Hazardous waste” means any solid waste identified by the department as hazardous under s. 291.05.

(7) “Landfill” means a solid waste facility for solid waste disposal.

(10) “Long-term care” means the routine care, maintenance and monitoring of a solid or hazardous waste facility following closing of the facility.

(11) “Municipality” means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(12) “Nonapproved facility” has the meaning given in s. 289.01 (24).

(13) “Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(17) “Secretary” means the secretary of natural resources.

(19) “Solid waste” has the meaning given under s. 289.01 (33).

SUBCHAPTER II  
REMEDIAL ACTION  
(precedes 292.11)

292.11 (13) LIEN. Any expenditures made by the department under sub. (4), (6) or (8) shall constitute a lien upon the property for which the expenses are incurred, as provided in s. 292.81.

**292.21 Responsibility of lenders and representatives.**

**292.37 Confidentiality of records. (1) RECORDS.** Except as provided under sub. (2), any records or other information furnished to or obtained by the department in the administration of ss. 292.31 and 292.35 are public records subject to s. 19.21.

(2) CONFIDENTIAL RECORDS. (a) *Application.* An owner or operator of a solid waste facility may seek confidential treatment of any records or other information furnished to or obtained by the department in the administration of ss. 292.31 and 292.35.

(b) *Standards for granting confidential status.* Except as provided under par. (c), the department shall grant confidential status for any records or information received by the department and certified by the owner or operator of the solid waste facility as relating to production or sales figures or to processes or production unique to the owner or operator of the solid waste facility or which would tend to adversely affect the competitive position of the owner or operator if made public.

(c) *Emission data; analyses and summaries.* The department may not grant confidential status for emission data. Nothing in this subsection prevents the department from using records and other information in compiling or publishing analyses or summaries relating to the general condition of the environment if the analyses or summaries do not identify a specific owner or operator or the analyses or summaries do not reveal records or other information granted confidential status.

(d) *Use of confidential records.* Except as provided under par. (c) and this paragraph, the department or the department of justice may use records and other information granted confidential status under this subsection only in the administration and enforcement of ss. 292.31 and 292.35. The department or the department of justice may release for general distribution records and other information granted confidential status under this subsection if the owner or operator expressly agrees to the release. The department or the department of justice may release on a limited basis records and other information granted confidential status under this subsection if the department or the department of justice is directed to take this action by a judge or hearing examiner under an order which protects the confidentiality of the records or other information. The department or the department of justice may release to the U.S. environmental protection agency, or its authorized representative, records and other information granted confidential status under this subsection if the department or the department of justice includes in each release of records or other information a request to the U.S. environmental protection agency, or its authorized representative, to protect the confidentiality of the records or other information.

SUBCHAPTER III  
ENFORCEMENT; PENALTIES  
(precedes 292.93)

NOTE: The enforcement and penalty provisions in ss. 292.93 to 292.98 duplicate the enforcement and penalty provisions in ss. 144.431 (2) (b), 144.465 and 144.47. This duplication is necessary to preserve the enforcement and penalty provisions applicable to ss. 144.442 (4) to (9), (10) and (11) and 144.4422 which are renumbered to this chapter.

**292.93 Orders.** The department may issue orders to effectuate the purposes of ss. 292.31 and 292.35 and enforce the same by all appropriate administrative and judicial proceedings.

**292.95 Review of alleged violations; environmental repair and cost recovery.** Any 6 or more citizens or any municipality may petition for a review of an alleged violation of s. 292.31 or 292.35 or any rule promulgated or special order, plan approval, license or any term or condition of a license issued under those sections in the following manner:

(1) They shall submit to the department a petition identifying the alleged violator and setting forth in detail the reasons for believing a violation occurred. The petition shall state the name and address of a person within the state authorized to receive service of answer and other papers in behalf of the petitioners and the name and address of a person authorized to appear at a hearing in behalf of the petitioners.

(2) Upon receipt of a petition under this section, the department may:

(a) Conduct a hearing in the matter within 60 days of receipt of the petition. A hearing under this paragraph shall be a contested case under ch. 227. Within 60 days after the close of the hearing, the department shall either:

1. Serve written notice specifying the law or rule alleged to be violated, containing findings of fact, conclusions of law and an order, which shall be subject to review under ch. 227; or

2. Dismiss the petition.

(b) Initiate action under s. 292.98.

(3) If the department determines that a petition was filed maliciously or in bad faith, it shall issue a finding to that effect, and the person complained against is entitled to recover expenses on the hearing in a civil action.

**292.98 Violations and enforcement; environmental repair and cost recovery. (1) (a)** If the department has reason to believe that a violation of s. 292.31 or 292.35 or any rule promulgated or special order, plan approval, or any term or condition of a license issued under those sections occurred, it may:

1. Cause written notice to be served upon the alleged violator. The notice shall specify the law or rule alleged to be violated, and contain the findings of fact on which the charge of violation is based, and may include an order that necessary corrective action be taken within a reasonable time. This order shall become effective unless, no later than 30 days after the date the notice and order are served, the person named in the notice and order requests in writing a hearing before the department. Upon such



request, the department shall after due notice hold a hearing. Instead of an order, the department may require that the alleged violator appear before the department for a hearing at a time and place specified in the notice and answer the charges complained of; or

2. Initiate action under s. 299.95.

(b) If after such hearing the department finds that a violation has occurred, it shall affirm or modify its order previously issued, or issue an appropriate order for the prevention, abatement or control of the problems involved or for the taking of other corrective action as may be appropriate. If the department finds that no violation has occurred, it shall rescind its order. Any order issued as part of a notice or after hearing may prescribe one or more dates by which necessary action shall be taken in preventing, abating or controlling the violation.

**292.99 Penalties.** (1) Any person who violates this chapter or any rule promulgated or any plan approval, license or special order issued under this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order is suspended, stayed or enjoined, this penalty does not accrue.

(2) In addition to the penalties provided under sub. (1), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, 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 or the state under this subsection. Ten percent of the money deposited in the general fund that was awarded under this subsection for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

**SECTION 994.** Chapter 293 of the statutes is created to read:

**CHAPTER 293**  
**METALLIC MINING**  
SUBCHAPTER I  
DEFINITIONS  
(precedes 293.01)

293.01 (1m) “Air pollution” means the presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

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

(4) “Environmental pollution” means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(16) “Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(27) “Solid waste” has the meaning given under s. 281.01 (15).

(29) “Waters of the state” includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

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

SUBCHAPTER II  
ADMINISTRATION  
(precedes 293.11)

**293.13 Department duties.**

**293.15 Department powers.**

SUBCHAPTER III  
EXPLORATION  
(precedes 293.21)

SUBCHAPTER IV  
PROSPECTING; MINING; RECLAMATION  
(precedes 293.31)

**293.35 Application for prospecting permit.**

**293.37 Application for mining permit.**

(3) (a) A reclamation plan shall accompany all applications for mining permits. If it is physically or economically impracticable or environmentally or socially undesirable for the reclamation process to return the affected area to its original state, the plan shall set forth the reasons therefor and shall discuss alternative conditions and uses to which the affected area can be put.

(b) The reclamation plan shall specify how the applicant intends to accomplish, to the fullest extent possible, compliance with the minimum standards under s. 293.13 (2) (c).

293.43 (1) APPLICABILITY.

**293.45 Prospecting; department grant or denial of permit.**

**293.49 Mining; department grant or denial of permit.**

(7) The department, in granting a permit under this section, shall require the permit holder to perform adequate monitoring of environmental changes during the course of the permitted activity and for such additional period of time as is necessary to satisfactorily complete reclamation and completely release the permit holder from any bonds required.

**293.53 Review of permits; periodic reports.**

SUBCHAPTER V  
GENERAL PROVISIONS; ENFORCEMENT  
(precedes 293.81)

**293.85 Cancellation of permit.**

293.87 (4) (a) Except for the violations enumerated in subs. (2) and (3), any person who violates this chapter or any rule promulgated or any plan approval, license or special order issued under this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order is suspended, stayed or enjoined, this penalty does not accrue.

(b) In addition to the penalties provided under par. (a), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, 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 or the state under this paragraph. Ten percent of the money deposited in the general fund that was awarded under this paragraph for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

**SECTION 995.** Chapter 295 of the statutes is created to read:

**CHAPTER 295  
NONMETALLIC MINING  
RECLAMATION; OIL AND GAS  
SUBCHAPTER I**

**NONMETALLIC MINING RECLAMATION**  
(precedes 295.11)

295.11 (1) “Department” means the department of natural resources.

(2) “Environmental pollution” means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(8) “Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(10) “Solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, or source material, as defined in s. 254.31 (10), special nuclear material, as defined in s. 254.31 (11), or by-product material, as defined in s. 254.31 (3).

295.17 (2) Any duly authorized officer, employee or representative of the department may enter and inspect any property, premises or place on or at which any non-metallic mining operation is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and chs. 281, 285, 289 to 293 and 299 and rules adopted pursuant thereto. No person may refuse entry or access to any such authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such inspection. The department shall furnish to the nonmetallic mining site operator a written report setting forth all observations, relevant information and data which relate to compliance status.

295.19 (3) (b) 1. Except for the violations enumerated in par. (a), any person who violates this subchapter or any rule promulgated or any plan approval, license or special order issued under this subchapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While the order is suspended, stayed or enjoined, this penalty does not accrue.

2. In addition to the penalties provided under subd. 1., the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, 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 or the state under this subdivision. Ten percent of the money deposited in the general fund that was awarded under this subdivision for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

295.31 (1) “Department” means the department of natural resources.

(7m) “Other waste” includes all other substances, except industrial wastes, as defined in s. 281.01 (5), and sewage, as defined in s. 281.01 (13), which pollute any of the surface waters of the state. The term also includes unnecessary siltation resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion.

(8) “Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(9) “Waters of the state” includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water-

courses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

**SECTION 996.** Chapter 299 of the statutes is created to read:

**CHAPTER 299**

**GENERAL ENVIRONMENTAL PROVISIONS**

**299.01 Definitions.** In this chapter, unless the context requires otherwise:

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

(4) “Environmental pollution” means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

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

(6) “Hazardous substance” means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.

(7) “Industrial wastes” include liquid or other wastes resulting from any process of industry, manufacture, trade or business or the development of any natural resource.

(8) “Municipality” means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

(9) “Other wastes” include all other substances, except industrial wastes and sewage, which pollute any of the surface waters of the state. The term also includes unnecessary siltation resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion.

(10) “Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(11) “Sewage” means the water-carried wastes created in and to be conducted away from residences, industrial establishments and public buildings, as defined

in s. 101.01 (12), with such surface water or groundwater as may be present.

(12) “Sewerage system” means all structures, conduits and pipe lines by which sewage is collected and disposed of, except plumbing inside and in connection with buildings served, and service pipes from building to street main.

(13) “Wastewater” means all sewage.

**SECTION 997.** 341.10 (8) of the statutes is amended to read:

341.10 (8) The vehicle is not eligible for registration under s. ~~444.42~~ 285.30 (6).

**SECTION 998.** 345.11 (1u) of the statutes is amended to read:

345.11 (1u) The uniform traffic citation may be used by an officer of a law enforcement agency of a municipality or county or a traffic officer employed under s. 110.07 for a violation of s. ~~459.84~~ 287.81.

**SECTION 999.** 345.20 (2) (g) of the statutes is amended to read:

345.20 (2) (g) Sections 23.50 to 23.85 apply to actions in circuit court to recover forfeitures for violations of s. ~~459.84~~ 287.81. No points may be assessed against the driving record of a person convicted of a violation of s. ~~459.84~~ 287.81. The report of conviction and abstract of court record copy of the citation form shall be forwarded to the department.

**SECTION 1000.** 348.15 (3) (bv) of the statutes, as affected by 1995 Wisconsin Act 113, is amended to read:

348.15 (3) (bv) In the case of a vehicle or combination of vehicles used primarily for the transportation of septage, as defined in s. ~~444.08~~ 281.49 (1) (a), the gross weight imposed on the highway by the wheels of any one axle may not exceed 21,500 pounds or, for 2 axles 8 or less feet apart, 37,000 pounds or, for groups of 3 or more consecutive axles more than 9 feet apart, a weight of 4,000 pounds more than is shown in par. (c) or, for groups of 4 or more consecutive axles more than 10 feet apart, a weight of 6,000 pounds more than is shown in par. (c) or, for groups of 5 or more consecutive axles more than 14 feet apart, a weight of 7,000 pounds more than is shown in par. (c), but not to exceed 80,000 pounds. This paragraph does not apply to the national system of interstate and defense highways, except for that portion of USH 51 between Wausau and STH 78 and that portion of STH 78 between USH 51 and the I 90/94 interchange near Portage upon their federal designation as I 39.

**SECTION 1001.** 348.27 (12) of the statutes is amended to read:

348.27 (12) TRANSPORTATION OF GARBAGE OR REFUSE. The department may issue an annual or consecutive month permit for the transportation of garbage, as defined in s. ~~444.01 (4)~~ 289.01 (9), or refuse, ~~as defined in s. 444.43 (4)~~, in a self-compactor equipped vehicle which exceeds statutory weight and length limitations

and for the return of the vehicle when empty. A permit under this subsection may be issued for use on any highway within this state. In this subsection, “refuse” means combustible and noncombustible rubbish, including paper, wood, metal, glass, cloth and products thereof, litter and street rubbish, ashes, and lumber, concrete and other debris resulting from the construction or demolition of structures.

**SECTION 1002.** 443.14 (10) and (11) of the statutes are amended to read:

443.14 (10) Any person employed by a county or this state who is engaged in the planning, design, installation or regulation of soil and water conservation activities under ch. 92 or s. ~~444.25~~ 281.65 and who is certified under s. 92.18.

(11) Any land surveyor registered under s. 443.06 who is engaged in the planning, design, installation or regulation of soil and water conservation activities under ch. 92 or s. ~~444.25~~ 281.65.

**SECTION 1003.** 443.14 (12m) of the statutes is amended to read:

443.14 (12m) A well driller, as defined in s. ~~162.02~~ 280.01 (7), who is engaged in well drilling, as defined in s. ~~162.02~~ 280.01 (8).

**SECTION 1004.** 560.03 (9) of the statutes is amended to read:

560.03 (9) Establish and operate a small business ombudsman clearinghouse for business and industry to facilitate the flow of information from other state and federal agencies, to assist state agencies in establishing methods to encourage the participation of small businesses in rule making under s. 227.114 (4) and to serve as ombudsman for small business stationary sources, as defined in s. ~~444.36~~ 285.79 (1), in connection with the implementation of the federal clean air act, 42 USC 7401 to 7671q.

**SECTION 1005.** 560.11 (1) (a) of the statutes is amended to read:

560.11 (1) (a) Advise the department of natural resources concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program under s. ~~444.36~~ 285.79, difficulties encountered by small business stationary sources, as defined in s. ~~444.36~~ 285.79 (1), in complying with ~~ss. 144.30 to 144.426 and 144.96~~ s. 299.15 and ch. 285 and the degree and severity of enforcement of ~~ss. 144.30 to 144.426 and 144.96~~ s. 299.15 and ch. 285 against small business stationary sources.

**SECTION 1006.** 560.11 (1) (c) of the statutes is amended to read:

560.11 (1) (c) Review information to be provided to small business stationary sources in connection with ~~ss. 144.30 to 144.426 and 144.96~~ s. 299.15 and ch. 285 to ensure that the information can be understood by persons without technical training.

**SECTION 1007.** 560.11 (2) of the statutes is amended to read:

560.11 (2) The employes of the department of commerce who staff the small business ombudsman clearinghouse under s. 560.03 (9) and the employes of the department of natural resources who staff the small business stationary source technical and environmental compliance assistance program under s. ~~444.36~~ 285.79 shall provide the small business environmental council with the assistance necessary to comply with sub. (1).

**SECTION 1008.** 560.12 (1) (ae) of the statutes is amended to read:

560.12 (1) (ae) “Recyclable material” means a material identified in s. ~~459.07~~ 287.07 (3) or (4) that is recovered from solid waste.

**SECTION 1009.** 560.19 (1) (b) of the statutes is amended to read:

560.19 (1) (b) “Hazardous pollution prevention” has the meaning given in s. ~~444.955~~ 299.13 (1) (c).

**SECTION 1010.** 560.19 (4) (d) 2. of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

560.19 (4) (d) 2. The program under s. ~~444.955~~ 299.13.

**SECTION 1011.** 560.65 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

560.65 (1) (a) “Air pollution” has the meaning given in s. ~~444.01 (4)~~ 285.01 (3).

**SECTION 1012.** 560.65 (1) (ag) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.65 (1) (ag) “Industrial waste” has the meaning given in s. ~~444.01~~ 281.01 (5).

**SECTION 1013.** 560.65 (1) (ar) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.65 (1) (ar) “Nonattainment area” has the meaning given in s. ~~444.30 (21)~~ 285.01 (30).

**SECTION 1014.** 560.65 (1) (b) of the statutes is amended to read:

560.65 (1) (b) “Postconsumer waste” has the meaning given in s. ~~459.01~~ 287.01 (7).

**SECTION 1015.** 560.65 (1) (c) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.65 (1) (c) “Stationary source” has the meaning given in s. ~~444.30 (23)~~ 285.01 (41).

**SECTION 1016.** 560.65 (1) (d) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.65 (1) (d) “Volatile organic compound” has the meaning given in s. ~~444.30 (24)~~ 285.01 (42).

**SECTION 1017.** 560.65 (1) (e) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.65 (1) (e) “Volatile organic compound accommodation area” has the meaning given in s. ~~444.30 (25)~~ 285.01 (43).

**SECTION 1018.** 560.65 (1) (f) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.65 (1) (f) “Waters of the state” has the meaning given in s. 444.01-~~(19)~~ 281.01 (18).

**SECTION 1019.** 560.65 (1m) (a) 3. b. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.65 (1m) (a) 3. b. To control or treat industrial wastes or air pollution but not other wastes, as defined in s. 444.01-~~(8)~~ 281.01 (7).

**SECTION 1020.** 560.65 (1m) (a) 3. e. of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.65 (1m) (a) 3. e. To comply with the air pollution control requirements of ss. ~~444.30 to 444.403~~ 285.01 to 285.29, 285.33 to 285.53, 285.60 to 285.71, 285.75, 285.79 and 285.81, of a local air pollution control program under s. ~~444.41~~ 285.73 or of the federal clean air act, 42 USC 7401 to 7671q.

**SECTION 1021.** 560.65 (4) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

560.65 (4) (a) If the project is for the production of a product made from one or more materials recovered from postconsumer waste, whether the production is consistent with the priorities established under s. ~~459.42~~ 287.42 (5) for the development of markets for materials recovered from solid waste that are in effect on January 1 of the year in which the applicant submits a complete application for a grant or loan under this section to the department.

**SECTION 1022.** 560.797 (1) (a) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

560.797 (1) (a) “Environmental pollution” has the meaning given in s. ~~444.01-~~(3)~~~~ 299.01 (4).

**SECTION 1023.** 560.835 (1) (a) of the statutes is amended to read:

560.835 (1) (a) The production of a product made from one or more materials recovered from postconsumer waste, as defined in s. ~~459.01~~ 287.01 (7).

**SECTION 1024.** 560.835 (1) (c) of the statutes is amended to read:

560.835 (1) (c) The development and operation of a facility to process materials recovered from a solid waste management program that complies with s. ~~459.07~~ 287.07 (1m), (3) or (4) or the development and operation of a solid waste collection business if the solid waste collected is used in the production of a product.

**SECTION 1025.** 703.16 (6) (e) of the statutes is amended to read:

703.16 (6) (e) A lien under s. ~~444.442-~~(9)~~~~ 292.31 (8) (i), ~~444.76-~~(13)~~~~ or ~~444.77~~ 292.41 (6) (d) or 292.81.

**SECTION 1026.** 706.01 (9) of the statutes is amended to read:

706.01 (9) “Mining company” means any person or agent of a person who has a prospecting or mining permit under s. ~~444.84~~ 293.45 or ~~444.85~~ 293.49.

**SECTION 1027.** 706.11 (1) (intro.) of the statutes is amended to read:

706.11 (1) (intro.) Except as provided in sub. (4), when any of the following mortgages has been duly re-

corded, it shall have priority over all liens upon the mortgaged premises and the buildings and improvements thereon, except tax and special assessment liens filed after the recording of such mortgage and except liens under s. ~~444.442-~~(9)~~~~ ss. 292.31 (8) (i), ~~444.76-~~(13)~~~~ and ~~444.77~~ 292.41 (6) (d) and 292.81:

**SECTION 1028.** 707.37 (4) (d) of the statutes is amended to read:

707.37 (4) (d) A lien under s. ~~444.442-~~(9)~~~~ 292.31 (8) (i), ~~444.76-~~(13)~~~~ or ~~444.47~~ 292.41 (6) (d) or 292.81.

**SECTION 1029.** 779.01 (4) of the statutes is amended to read:

779.01 (4) **PRIORITY OF CONSTRUCTION LIEN.** The lien provided in sub. (3) shall be prior to any lien which originates subsequent to the visible commencement in place of the work of improvement, except as otherwise provided by ss. ~~444.442-~~(9)~~~~ (i), ~~444.76-~~(13)~~~~, ~~444.76-~~(6)~~~~ (d), ~~215.21~~ (4) (a), 292.31 (8) (i), 292.41 (6) (d), 292.81 and 706.11 (1). When new construction is the principal improvement involved, commencement is deemed to occur no earlier than the beginning of substantial excavation for the foundations, footings or base of the new construction, except where the new construction is to be added to a substantial existing structure, in which case the commencement is the time of the beginning of substantial excavation or the time of the beginning of substantial preparation of the existing structure to receive the added new construction, whichever is earlier. The lien also shall be prior to any unrecorded mortgage given prior to the commencement of the work of improvement, if the lien claimant has no actual notice of the mortgage before the commencement. Lien claimants who perform work or procure its performance or furnish any labor or materials or plans or specifications for an improvement prior to the visible commencement of the work of improvement shall have lien rights, but shall have only the priority accorded to other lien claimants.

**SECTION 1030.** 779.35 of the statutes is amended to read:

**779.35 Mining liens.** Any person who shall perform any labor or services for any person or corporation engaged in or organized for the purpose of mining, smelting or manufacturing iron, copper, silver or other ores or minerals, and any bona fide holder of any draft, time check or order for the payment of money due for any such labor, issued or drawn by any such person or corporation, shall have a lien for the wages due for the amount due on such draft, check or order upon all the personal property connected with such mining, smelting or manufacturing industry belonging to such person or corporation, including the ores or products of such mine or manufactory, together with the machinery and other personal property used in the operation of such mine or manufactory and all the interest of such person or corporation in any real estate belonging thereto and connected with such business, which said lien shall take precedence of all other debts,

judgments, decrees, liens or mortgages against such person or corporation, except liens accruing for taxes, fines or penalties and liens under ss. ~~144.442 (9) 292.31 (8) (i), 144.76 (13) and 144.77 292.41 (6) (d) and 292.81~~, subject to the exceptions and limitations hereinafter set forth.

**SECTION 1031.** 779.40 (1) of the statutes is amended to read:

779.40 (1) Any person who shall perform any labor for an employer not the owner of the real estate, engaged in quarrying, crushing, cutting or otherwise preparing stone for use or for manufacturing lime and any bona fide holder of any draft, time check or order for the payment of money due for any such labor issued by such employer, shall have a lien for wages owed and for the amount due on such draft, check or order upon the personal property connected with such industry owned by such employer, including interest in the product of such quarry or factory and machinery and other personal property used in the operation of such quarry or factory, and all interest in any lease of the real estate connected with such business, which lien shall take precedence of all other debts, judgments, decrees, liens or mortgages against such employer, except taxes, fines or penalties and mortgages or judgments recorded or entered before such labor is performed and except liens under ss. ~~144.442 (9) 292.31 (8) (i), 144.76 (13) and 144.76 292.41 (6) (d) and 292.81~~.

**SECTION 1032.** 814.60 (2) (cs) of the statutes is amended to read:

814.60 (2) (cs) Environmental assessment imposed by s. ~~144.992 299.93~~.

**SECTION 1033.** 814.63 (3) (bs) of the statutes is amended to read:

814.63 (3) (bs) Environmental assessment imposed by s. ~~144.992 299.93~~.

**SECTION 1034.** 823.085 (1) of the statutes is amended to read:

823.085 (1) In this section, “solid waste facility” has the meaning given in s. ~~144.43 (5) 289.01 (35)~~.

**SECTION 1035.** 823.085 (2) (intro.) of the statutes is amended to read:

823.085 (2) (intro.) In any action finding a solid waste facility or the operation of a solid waste facility to be a public or private nuisance, if the solid waste facility was licensed under s. ~~144.44 (4) (a) 289.31 (1)~~ and was operated in substantial compliance with the license, the plan of operation for the solid waste facility approved by the department of natural resources and the rules promulgated under s. ~~144.435 289.05 (1)~~ that apply to the facility, then all of the following apply:

**SECTION 1036.** 823.115 (1) of the statutes is amended to read:

823.115 (1) If personal and real property are ordered sold under s. 823.114, and the real property is not released to the owner under s. 823.15, the plaintiff in the action under s. 823.113 shall sell the property at the highest available price. The city, town or village may sell the property

at either a public or private sale. The proceeds of the sale shall be applied to the payment of the costs of the action and abatement and any liens on the property, and the balance, if any, paid as provided in sub. (2). The plaintiff may file a notice of the pendency of the action as in actions affecting the title to real estate and if the owner of the building or structure, or the owner of the land upon which the building or structure is located, is found guilty of the nuisance, the judgment for costs of the action not paid out of the proceeds of the sale of the property shall constitute a lien on the real estate prior to any other lien created after the filing of the lis pendens, except a lien under s. ~~144.442 (9) 292.31 (8) (i), 144.76 (13) or 144.77 292.41 (6) (d) or 292.81~~.

**SECTION 1037.** 895.46 (6) of the statutes is amended to read:

895.46 (6) The protection afforded by this section applies to any criminal action under s. 144.74 (2) or 144.93 (2) or under 7 USC 136L (b), 15 USC 2616 (b), 33 USC 1319 (c), 42 USC 2284, 6928 (d) and (e), 6973 (b), 6992 (b) and (c), 7413 (c), 9603 (b), 9606 (b) and 11045 (b) or 49 USC appendix 1809 (b) that is commenced against a state officer or state employe who is proceeded against in his or her official capacity or as an individual because of acts committed in the storage, transportation, treatment or disposal of hazardous substances, as defined in s. ~~144.01 (4m) 289.01 (11)~~, if that officer or employe is found to be acting within the scope of his or her employment and if the attorney general determines that the state officer or state employe acted in good faith. Regardless of the determination made by the attorney general, the protection afforded by this section applies if the state officer or agent is not found guilty of the criminal action commenced under this subsection. This protection includes the payment of reasonable attorney fees in defending the action and costs or fines arising out of the action.

**SECTION 1038.** 895.48 (2) (a) 1. of the statutes is amended to read:

895.48 (2) (a) 1. “Discharge” has the meaning given under s. ~~144.76 (1) (a) 292.01 (3)~~.

**SECTION 1039.** 895.48 (2) (a) 2. of the statutes is amended to read:

895.48 (2) (a) 2. “Hazardous substance” has the meaning given under s. ~~144.01 (4m) 299.01 (6)~~.

**SECTION 1040.** 895.48 (2) (c) 2. of the statutes is amended to read:

895.48 (2) (c) 2. Who would be liable for the discharge under ~~eh. 144 or 147 chs. 281 to 285 or 289 to 299, except s. 281.48~~, or any rule promulgated or permit or order issued under ~~eh. 144 or 147 chs. 281 to 285 or 289 to 299, except s. 281.48~~;

**SECTION 1041.** 895.52 (1) (f) of the statutes is amended to read:

895.52 (1) (f) “Property” means real property and buildings, structures and improvements thereon, and the

waters of the state, as defined under s. ~~144.01 (19)~~ 281.01 (18).

**SECTION 1042.** 904.085 (2) (a) of the statutes is amended to read:

904.085 (2) (a) "Mediation" means mediation under s. 93.50 (3), conciliation under s. 111.54, mediation under s. 111.11, 111.70 (4) (cm) 3. or 111.87, negotiation under s. ~~144.445 289.33~~ (9), mediation under ch. 655 or s. 767.11, or any similar statutory, contractual or court-referred process facilitating the voluntary resolution of disputes. "Mediation" does not include binding arbitration or appraisal.

**SECTION 1043.** 946.13 (2) (g) of the statutes is amended to read:

946.13 (2) (g) Contracts with, or tax credits or payments received by, public officers or employees for wildlife damage claims or abatement under s. 29.598, for farmland preservation under ss. 71.09 (11) and 91.13, soil and water resource management under s. 92.14, soil erosion control under s. 92.10, 1985 stats., animal waste management under s. 92.15, 1985 stats., and nonpoint source water pollution abatement under s. ~~144.25 281.65~~.

**SECTION 1044.** 946.13 (9) of the statutes is amended to read:

946.13 (9) Subsection (1) does not apply to the member of a local committee appointed under s. ~~144.445 289.33~~ (7) (a) acting as a member of that committee in negotiation, arbitration or ratification of agreements under s. ~~144.445 289.33~~.

**SECTION 1045.** 973.05 (1) of the statutes is amended to read:

973.05 (1) When a defendant is sentenced to pay a fine, the court may grant permission for the payment of the fine, of the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 302.46 (1), the crime victim and witness assistance surcharge under s. 973.045, any applicable deoxyribonucleic acid analysis surcharge under s. 973.046, any applicable drug abuse program improvement surcharge imposed by s. 161.41 (5), any appli-

cable domestic abuse assessment imposed by s. 971.37 (1m) (c) 1. or 973.055, any applicable driver improvement surcharge imposed by s. 346.655, any applicable weapons assessment imposed by s. 167.31, any applicable uninsured employer assessment imposed by s. 102.85 (4), any applicable environmental assessment imposed by s. ~~144.992 299.93~~, any applicable wild animal protection assessment imposed by s. 29.9965, any applicable natural resources assessment imposed by s. 29.997 and any applicable natural resources restitution payment imposed by s. 29.998 to be made within a period not to exceed 60 days. If no such permission is embodied in the sentence, the fine, the penalty assessment, the jail assessment, the crime victim and witness assistance surcharge, any applicable deoxyribonucleic acid analysis surcharge, any applicable drug abuse program improvement surcharge, any applicable domestic abuse assessment, any applicable driver improvement surcharge, any applicable weapons assessment, any applicable uninsured employer assessment, any applicable environmental assessment, any applicable wild animal protection assessment, any applicable natural resources assessment and any applicable natural resources restitution payment shall be payable immediately.

**SECTION 1046.** 1995 Wisconsin Act 27, section 9442 (7t) is amended to read:

[1995 Wisconsin Act 27] Section 9442 (7t) WASTE TIRE PROGRAM. The treatment of sections 20.370 (2) (dj) (by SECTION 649), (dL) and (hq) (by SECTION 656b), 25.40 (1) (a) 5., ~~144.449 (1) (am) and (3) (f)~~, 159.17 and 342.14 (1m) of the statutes takes effect on June 30, 1997.

**SECTION 1047. Effective dates.** This act takes effect on January 1, 1997, except as follows:

(1) The repeal of section 287.17 of the statutes and the repeal and recreation of section 20.370 (2) (hq) of the statutes take effect on June 30, 1997.

NOTE: The following list shows the location of those statutes renumbered and reorganized in this bill. The left-hand column ("Old Statute Number") lists those provisions of the statutes affected by this bill, while the right-hand column ("New Statute Number") shows the new statutory number of each provision.

Old Statute Number	New Statute Number
144.01	Repealed
144.02	281.13 (1)
144.025 (1)	281.11
144.025 (2) (a)	281.12 (1)
144.025 (2) (b)	281.15
144.025 (2) (c) and (d)	281.19 (1) and (2)
144.025 (2) (e)	281.17 (1)
144.025 (2) (f)	281.19 (3)
144.025 (2) (g)	281.13 (3)
144.025 (2) (h)	281.12 (3)
144.025 (2) (i)	281.17 (2)
144.025 (2) (j)	281.12 (5)
144.025 (2) (k)	281.19 (4)

144.025 (2) (L)	281.17 (3)
144.025 (2) (m)	281.19 (6)
144.025 (2) (q)	281.17 (5)
144.025 (2) (r)	281.19 (5)
144.025 (2) (s)	281.19 (7)
144.025 (2) (t)	281.17 (8)
144.025 (2) (u)	281.20 (1)
144.025 (2) (v)	281.20 (3)
144.025 (2) (w)	281.20 (5)
144.025 (6)	281.91
144.025 (7)	281.19 (8)
144.0252	281.22
144.0255	281.53
144.026	281.35
144.027	281.75
144.03 (1)	281.96
144.03 (2)	293.86
144.04	281.41
144.05	281.47
144.06	281.45
144.07	281.43
144.08	281.49
144.09	281.97
144.10 (1)	281.81
144.10 (2) to (4)	281.83
144.11	281.85
144.14	281.17 (6)
144.15	281.17 (7)
144.21	281.55
144.23	281.56
144.235	281.51
144.24	281.57
144.241	281.58
144.2415	281.59
144.242	281.63
144.25	281.65
144.251	281.67
144.253	281.68
144.254	281.69
144.26	281.31
144.265	281.77
144.266	281.33
144.27	281.92
144.30	285.01
144.31 (1)	285.11
144.31 (2)	285.13
144.31 (3)	285.51
144.31 (4)	285.15
144.32	285.71
144.33	285.70
144.34	285.19



144.36	285.79
144.371	285.23
144.3712	285.33
144.3714	285.35
144.3716	285.37
144.372	285.29
144.373	285.25
144.374	285.62 (11)
144.375 (1) to (3) and (6)	285.21
144.375 (4), (5) and (5m)	285.27
144.38	285.17
144.382	285.53
144.385	Repealed
144.386	285.41
144.387	285.43
144.388	285.45
144.389	285.47
144.391	285.60
144.392	285.61
144.3925	285.62
144.393	285.63
144.3935	285.64
144.394	285.65
144.395	285.67
144.396	285.66
144.398	285.68
144.399	285.69
144.40	285.39
144.401	285.75
144.403	285.81
144.404	285.77
144.405	285.31
144.407	285.55
144.41	285.73
144.42	285.30
144.421	285.57
144.422	285.59
144.423	285.83
144.424	285.85
144.426	285.87
144.43	289.01
144.431 (1)	289.06
144.431 (2) (intro.) and (a)	289.07 (intro.) and (1)
144.431 (2) (b)	289.93
144.431 (2) (c) and (d)	289.07 (2) and (3)
144.431 (2) (e)	Repealed
144.432	289.11
144.433	289.09
144.434	289.91
144.435 (1) and (2)	289.05 (1) and (2)
144.435 (3) and (4)	289.42 (1) and (2)

144.435 (5) (a)	Repealed
144.435 (5) (b)	289.05 (4)
144.436	289.51
144.437	289.10
144.438	289.44
144.4389	289.445
144.439	289.45
144.44 (1) (a) and (am)	Repealed
144.44 (1) (b), (bm), (c) and (d)	289.01 (6), (10), (18) and (29)
144.44 (1) (e)	Repealed
144.44 (1c)	289.21
144.44 (1m)	289.22
144.44 (2) (a) and (b)	289.23 (1) and (2)
144.44 (2) (c)	Repealed
144.44 (2) (d) and (e)	289.23 (3) and (5)
144.44 (2) (f), (fm) and (g)	289.24 (1), (2) and (3)
144.44 (2) (h)	289.23 (4) and 289.24 (4)
144.44 (2) (i) to (k)	289.25
144.44 (2) (L)	289.26 (1)
144.44 (2) (m)	289.27 (1)
144.44 (2) (n)	289.29 (1)
144.44 (2) (nm) and (nr)	289.28 (1) and (2)
144.44 (2) (nu)	289.29 (2)
144.44 (2) (o)	289.29 (3)
144.44 (2) (om)	289.28 (3)
144.44 (2) (p) and (q)	289.29 (4) and (5)
144.44 (2g)	289.26 (2) to (5)
144.44 (2r)	289.27 (2) to (5)
144.44 (3) (a) to (am)	289.30 (1) to (3)
144.44 (3) (ar)	Repealed
144.44 (3) (b) to (g)	289.30 (4) to (11)
144.44 (4)	289.31 (1) to (8)
144.44 (4e)	289.31 (9)
144.44 (4m)	289.32
144.44 (4r)	289.34
144.44 (6)	289.47
144.44 (7) (a) (intro.)	Repealed
144.44 (7) (a) 1.	289.01 (17)
144.44 (7) (a) 2.	289.43 (1)
144.44 (7) (am) to (h)	289.43 (2) to (9)
144.44 (8)	289.95
144.44 (9)	289.53
144.44 (10)	289.61
144.441 (intro.)	Repealed
144.441 (1) (a), (b) and (c)	289.01 (3), (4) and (24)
144.44 (1m)	289.05 (3)
144.441 (2)	289.41 (1m)
144.441 (3) and (4)	289.62
144.441 (6)	289.68 (1) to (6)
144.441 (6m)	289.68 (7)
144.441 (7)	289.63

144.441 (7m)	289.64
144.4412	289.65
144.4414	289.66
144.442 (1) (a) to (cm)	Repealed
144.442 (1) (d) and (e)	292.01 (18) and (21)
144.442 (1m) to (3)	289.67
144.442 (4) to (9)	292.31 (1) to (8)
144.442 (9m)	292.61
144.442 (10) and (11)	293.31 (9) and (10)
144.4422	292.35
144.443	289.41
144.444	289.46
144.445	289.33
144.446	289.12
144.447	289.36
144.448	289.08
144.449	289.55
144.45	289.07 (4)
144.453	289.57
144.455	289.83
144.46	289.35
144.463	289.59
144.465	289.92
144.469	289.96
144.47	289.97
144.48	299.51
144.50	299.53
144.52	299.55
144.60 (1)	Repealed
144.60 (2)	291.001
144.60 (3)	291.35
144.61	291.01
144.62 (2) (a) and (b)	291.05 (1) and (2)
144.62 (2) (c)	291.05 (4)
144.62 (3)	291.07 (1)
144.62 (4)	291.11 (5)
144.62 (5)	291.07 (2)
144.62 (7)	291.05 (5) (b)
144.62 (8)	291.05 (6)
144.62 (8m)	291.07 (3)
144.62 (9)	291.09 (1)
144.62 (10)	291.05 (3)
144.62 (12)	291.09 (2)
144.62 (13)	291.11 (2)
144.62 (14)	291.91 (1)
144.62 (15)	291.11 (1)
144.62 (16)	291.93
144.62 (17) and (18)	291.11 (3) and (4)
144.63	291.21
144.64 (1) (a) and (b) (intro.)	291.23 (1) and (2)
144.64 (1) (b) 1. to 5.	291.05 (5) (a) 1. to 5.

144.64 (1) (c)	291.23 (3)
144.64 (2) (a) to (d)	291.25 (1) to (5)
144.64 (2) (e)	291.87 (1m)
144.64 (2) (f) and (g)	291.25 (6) and (7)
144.64 (2m)	291.29
144.64 (3)	291.31
144.64 (4) (a)	291.05 (7)
144.64 (4) (b)	291.33
144.645	291.87
144.68	291.27
144.69	291.91 (2)
144.70	291.15
144.72	291.85
144.725	291.89
144.73	291.95
144.735	291.37
144.737	291.13
144.74	291.97
144.75	299.41
144.76 (1) (intro.)	Repealed
144.76 (1) (a), (b), (bm), (c) and (d)	292.01 (3), (8), (9), (15) and (16)
144.76 (2) to (9)	292.11 (2) to (9)
144.76 (9m) and (9s)	292.21
144.76 (10) to (12)	292.11 (10) to (12)
144.76 (13)	292.81
144.765	292.15
144.77	292.41
144.788	299.43
144.79	299.45
144.80	Repealed
144.81	293.01
144.815	293.61
144.82	293.11
144.83 (1) and (2)	293.13
144.83 (4)	293.15 (1) to (11)
144.83 (5)	293.15 (12)
144.83 (6)	293.85
144.831 (1) to (6)	293.31
144.831 (7)	293.45 (3)
144.831 (8)	293.15 (13)
144.832	293.21
144.833	293.25
144.834 (1) and (2)	293.35 (2) and (3)
144.836 (intro.), (1), (2), (3) and (4)	293.43 (1), (1m), (2), (3) and (5)
144.838 (1) to (4)	293.33
144.838 (5)	293.43 (4)
144.839	293.41
144.84 (1)	293.35 (1)
144.84 (2) and (3)	293.45 (1) and (2)
144.84 (4)	293.53 (1)
144.84 (5)	293.35 (5)

144.85 (1) (a) and (b)	293.37 (1)
144.85 (1) (c)	293.49 (8)
144.85 (2) (a)	293.37 (5)
144.85 (2) (b)	293.49 (6)
144.85 (3)	293.37 (2)
144.85 (4) (a) and (b)	293.37 (4)
144.85 (4) (c)	293.37 (2) (g)
144.85 (5) (a), (b) and (bm)	293.49 (1), (2) and (3)
144.85 (5) (c)	293.39 (3)
144.85 (5) (d) and (e)	293.49 (4) and (5)
144.852	293.39
144.855	293.65
144.86	293.51
144.87 (1)	293.55 (1)
144.87 (2)	293.57
144.87 (3)	293.55 (2)
144.875	293.59
144.88	293.81
144.89	293.53 (2)
144.90	293.63
144.91	293.83
144.92	293.91
144.925	293.47
144.93	293.87
144.935	293.89
144.937	293.93
144.94	293.95
144.9407 (1)	295.11
144.9407 (2)	295.12
144.9407 (3)	295.13
144.9407 (4)	295.14
144.9407 (4m)	295.15
144.9407 (5)	295.16
144.9407 (6)	295.17 (1)
144.9407 (7)	295.18
144.9407 (8)	295.19
144.9407 (9)	295.20
144.941	295.31
144.942	295.33
144.943	295.35
144.944	295.37
144.95	299.11
144.951	299.31
144.955	299.13
144.96	299.15
144.965	299.21
144.968	292.51
144.97	299.23
144.975	299.91
144.976	281.94
144.977	281.95

144.98	299.95
144.99	299.97
144.992	299.93
144.995	299.33
146.20	281.48
147.01	283.001
147.015	283.01
147.017	283.61
147.0175	283.62
147.018	283.81
147.02	283.31
147.021	283.33
147.023	283.35
147.025	283.37
147.03	283.53
147.033 (1)	283.31 (7)
147.033 (4)	283.33 (9)
147.035	283.11
147.04	283.13
147.05	283.15
147.055	283.17
147.06	283.19
147.07	283.21
147.08	283.55
147.09	283.39
147.10	283.45
147.105	283.47
147.11	283.41
147.12	283.43
147.13	283.49
147.135	283.51
147.14	283.59
147.15	283.57
147.20	283.63
147.21	283.91
147.23	283.87
147.25	283.83
147.26	283.85
147.27	283.95
147.29	283.89
147.30	283.93
159.01	287.01
159.03	287.03
159.05	287.05
159.07	287.07
159.08	287.08
159.09	287.09
159.095	287.095
159.10	287.10
159.11	287.11
159.12	287.12

159.13	287.13
159.15	287.15
159.17	287.17
159.18	287.18
159.185	287.185
159.19	287.19
159.21	287.21
159.215	287.215
159.22	287.22
159.23	287.23
159.25	287.25
159.31	287.31
159.40	287.40
159.41	287.41
159.42	287.42
159.44	287.44
159.46	287.46
159.48	287.48
159.49	287.49
159.81	287.81
159.91	287.91
159.93	287.93
159.95	287.95
159.97	287.97
162.01	280.11
162.02	280.01
162.03	280.13
162.04	280.15
162.047	280.17
162.05	280.19
162.06	280.97
162.07	280.21

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