



1997 ASSEMBLY BILL 447

July 10, 1997 - Introduced by Representatives JOHNSRUD, HANSON, WOOD, M. LEHMAN, TURNER, GRONEMUS, OTT, ROBSON, MEYER, HASENOHRL, KELSO, MUSSER, SERATTI, POWERS, MURAT, WARD and KREIBICH, cosponsored by Senators CLAUSING, WEEDEN, PLACHE, WIRCH and JAUCH, by request of Attorney General James Doyle. Referred to Committee on Environment.

1 **AN ACT to amend** 281.19 (2) (a), 283.89 (1), 283.89 (2) and 293.83 (1) (d) of the
2 statutes; **relating to:** enforcement of certain environmental laws regulating
3 mining and water pollution.

Analysis by the Legislative Reference Bureau

Under current law, the department of justice (DOJ) is required to commence legal action to enforce certain environmental laws regulating mining or water pollution within 30 days after receiving notice of a violation of these laws from the department of natural resources (DNR). This bill eliminates the 30-day time limit for the commencement of these enforcement actions.

Under current law, no person may pollute state waters from a discernable, confined and discrete conveyance (point source) without a permit issued by DNR that regulates the type, volume and condition of pollutants discharged. Instead of issuing a specific permit addressing each unique point source, DNR may issue a general permit that is applicable to a designated geographic area of the state and authorizes discharges from specified categories or classes of point sources. If a person violates a permit, DNR must refer the violation to DOJ for enforcement or, for a violation of a general permit, may withdraw the permit. This bill specifies that DNR's authority to withdraw a general permit does not limit its authority to refer a violation of a general permit to DOJ for enforcement.

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

ASSEMBLY BILL 447**SECTION 1**

1 **SECTION 1.** 281.19 (2) (a) of the statutes is amended to read:

2 281.19 (2) (a) The department may issue special orders directing particular
3 owners to secure such operating results toward the control of pollution of the waters
4 of the state as the department prescribes, within a specified time. Pending efforts
5 to comply with any order, the department may permit continuance of operations on
6 such conditions as it prescribes. If any owner cannot comply with an order within
7 the time specified, the owner may, before the date set in the order, petition the
8 department to modify the order. The department may modify the order, specifying
9 in writing the reasons therefor. If any order is not complied with within the time
10 period specified, the department shall immediately notify the attorney general of
11 this fact. ~~Within 30 days thereafter~~ After receiving notice of the cancellation, the
12 attorney general shall ~~forthwith~~ commence an action under s. 299.95.

13 **SECTION 2.** 283.89 (1) of the statutes is amended to read:

14 283.89 (1) Except as provided in sub. (2m), whenever on the basis of any
15 information available to it the department finds that any person is violating this
16 chapter, any rule adopted thereunder or any term or condition of any permit issued
17 pursuant to this chapter, including general permits issued under s. 283.35, the
18 department shall refer the matter to the department of justice for enforcement under
19 s. 283.91.

20 **SECTION 3.** 283.89 (2) of the statutes is amended to read:

21 283.89 (2) The department of justice shall initiate the legal action requested
22 by the department under sub. (1) ~~within 30 days of receipt of the written request~~. In
23 any action commenced by it under this subsection, the department of justice shall,
24 prior to stipulation, consent order, judgment or other final disposition of the case,
25 consult with the department for the purpose of determining the department's views

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1 on final disposition. The department of justice shall not enter into a final disposition
2 different than that previously discussed without first informing the department.

3 **SECTION 4.** 293.83 (1) (d) of the statutes is amended to read:

4 293.83 (1) (d) *Enforcement of orders.* The department shall cancel the mining
5 permit for a mining site held by an operator who fails to comply with an order issued
6 under par. (a) 1. The department shall inform the department of justice of the
7 cancellation within 14 days. ~~Within 30 days after~~ After receiving notice of the
8 cancellation, the department of justice shall commence an action under s. 293.87.

9 (END)