

BILL

③ 3035f

SECTION ~~861~~. 227.43 (2) (a) of the statutes is amended to read:

227.43 (2) (a) The department of ~~natural resources~~ fish, wildlife, parks, and forestry shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (b) after the department of ~~natural resources~~ fish, wildlife, parks, and forestry is notified that a hearing on the matter is required.

③ 3035g

SECTION ~~862~~. 227.43 (2) (am) of the statutes is created to read:

227.43 (2) (am) The department of environmental management shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (bd) after the department of environmental management is notified that a hearing on the matter is required.

③ 3035h

SECTION ~~863~~. 227.43 (3) (a) of the statutes is amended to read:

227.43 (3) (a) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of ~~natural resources~~ fish, wildlife, parks, and forestry by a hearing examiner under this section. The fee shall cover the total cost of the services less any costs covered by the appropriation under s. 20.505 (4) (f).

③ 3035i

SECTION ~~864~~. 227.43 (3) (am) of the statutes is created to read:

227.43 (3) (am) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of environmental management by a hearing examiner under this section. The fees shall cover the total cost of the services less any costs covered by the appropriation under s. 20.505 (4) (f).

③ 3035j

SECTION ~~865~~. 227.43 (4) (a) of the statutes is amended to read:

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SECTION 865

227.43 (4) (a) The department of ~~natural resources~~ fish, wildlife, parks, and forestry shall pay all costs of the services of a hearing examiner assigned to the department under sub. (1) (b), according to the fees set under sub. (3) (a).

^{3035k}
SECTION ~~866~~. 227.43 (4) (am) of the statutes is created to read:

227.43 (4) (am) The department of environmental management shall pay all costs of the services of a hearing examiner assigned to the department under sub. (1) (bd), according to the fees set under sub. (3) (am).

^{3035L}
SECTION ~~867~~. 227.46 (8) of the statutes is amended to read:

227.46 (8) If the hearing examiner assigned under s. 227.43 (1) (b) renders the final decision in a contested case, and the decision is subject to judicial review under s. 227.52, the department of ~~natural resources~~ fish, wildlife, parks, and forestry may petition for judicial review. If the hearing examiner assigned under s. 227.43 (1) (bd) renders the final decision in a contested case and the decision is subject to judicial review under s. 227.52, the department of environmental management may petition for judicial review. If the hearing examiner assigned under s. 227.43 (1) (br) renders the final decision in a contested case, and the decision is subject to judicial review under s. 227.52, the department of transportation may petition for judicial review. ✓

Page 1004, line 20: after that line insert!

SECTION ~~868~~ ^{3050c}. 230.08 (2) (e) 4c. of the statutes is created to read:

230.08 (2) (e) 4c. Environmental management — 2.

^{3050d}
SECTION ~~869~~. 230.08 (2) (e) 4m. of the statutes is created to read:

230.08 (2) (e) 4m. Fish, wildlife, parks, and forestry — 3.

^{3050g}
SECTION ~~870~~. 230.08 (2) (e) 8. of the statutes is repealed. ✓

Page 1008, line 16: after that line insert!

SECTION ~~871~~ ^{3080t}. 230.36 (1m) (b) 1. (intro.) of the statutes is amended to read:

230.36 (1m) (b) 1. (intro.) A forest ranger or field employee of the department of ~~natural resources~~ fish, wildlife, parks, and forestry who is subject to call for forest

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fire control duty or fire watcher employed at the Wisconsin Veterans Home at King
or at the facilities operated by the department of veterans affairs under s. 45.385, and
lifeguard, at all times while: [✓]

#. Page 1008, line 23: after that line insert: [✓]

as affected by 2001 Wisconsin Act ... (the act)

Please fix comp.

SECTION 872. 230.36 (1m) (b) 2. (intro.) of the statutes is amended to read:

230.36 (1m) (b) 2. (intro.) A conservation warden, conservation patrol boat captain, conservation patrol boat engineer, environmental warden, member of the state patrol, state motor vehicle inspector, University of Wisconsin System police officer, security officer, or security person, ~~state fair park~~ ^{other state facilities} police officer, special tax agent, excise tax investigator employed by the department of revenue and special criminal investigation agent employed by the department of justice at all times while:

*

SECTION 873. 230.36 (2m) (a) 5. of the statutes is amended to read:

230.36 (2m) (a) 5. A conservation field employee of the department of ~~natural resources~~ fish, wildlife, parks, and forestry who is subject to call for fire control duty.

SECTION 874. 230.36 (2m) (a) 5m. of the statutes is created to read:

230.36 (2m) (a) 5m. An environmental warden. [✓]

#. Page 1014, line 2: after that line insert: [✓]

SECTION 875. 234.86 (1) (b) of the statutes is amended to read:

234.86 (1) (b) "Department" means the department of ~~natural resources~~ environmental management. [✓]

#. Page 1015, line 8: after that line insert: [✓]

SECTION 876. 234.907 (2) (h) of the statutes is amended to read:

234.907 (2) (h) The loan results in new or more viable methods for the processing or marketing of a product from a raw agricultural commodity or enables the borrower to comply with the rules promulgated by the department of ~~natural resources~~ fish, wildlife, parks, and forestry for the commercial fishing of whitefish in Lake Superior. [✓]

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#. Page 1018, line 11: after that line insert:

SECTION ~~877~~^{3127g}. 236.13 (2m) of the statutes is amended to read:

236.13 (2m) ^{3127g} 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~~ environmental management, 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. 281.01 (7). The public sewage disposal facilities may consist of one or more systems as the department of ~~natural resources~~ environmental management 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 ~~878~~^{3127j}. 236.16 (3) (a) of the statutes is amended to read:

236.16 (3) (a) All subdivisions abutting on a navigable lake or stream shall provide public access at least 60 feet wide providing access to the low watermark so that there will be public access, which is connected to existing public roads, at not more than one-half mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the department of ~~natural resources~~ fish, wildlife, parks, and forestry, the department of environmental management, and the department, and excluding shore areas where public parks or open-space streets or roads on either side of a stream are provided.

SECTION ~~879~~^{3127L}. 236.16 (3) (d) (intro.) of the statutes is amended to read:

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236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may petition the city, village, town or county that owns the public access to construct shoreline erosion control measures. Subject to par. (e), the city, village, town or county shall construct the requested shoreline erosion control measures or request the department of ~~natural resources~~ environmental management to determine the need for shoreline erosion control measures. Upon receipt of a request under this paragraph from a city, village, town or county, the department of ~~natural resources~~ environmental management shall follow the procedures in s. 30.02 (3) and (4). Subject to par. (e), the city, village, town or county shall construct shoreline erosion control measures as required by the department of ~~natural resources~~ environmental management if the department of ~~natural resources~~ environmental management

*Insert
233-A*

↓
✓
#. Page 1035, line 24: after that line insert:
SECTION 880. 254.02 (3) (a) of the statutes is amended to read:

31439
254.02 (3) (a) The department of agriculture, trade and consumer protection, the department of corrections, the department of commerce, and the department of ~~natural resources~~ environmental management shall enter into memoranda of understanding with the department to establish protocols for the department to review proposed rules of those state agencies relating to air and water quality, occupational health and safety, institutional sanitation, toxic substances, indoor air quality, food protection or waste handling and disposal.

✓
#. Page 1038, line 9: after that line insert:
SECTION 881. 254.51 (2) of the statutes is amended to read:

3150e
254.51 (2) The department shall enter into memoranda of understanding with the department of agriculture, trade and consumer protection, the department of commerce, the department of environmental management, and the department of

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SECTION 881

~~natural resources fish, wildlife, parks, and forestry~~ regarding the investigation and control of animal-borne and vector-borne disease.

^{3150h}
~~SECTION 882.~~ 254.52 (2) (intro.) of the statutes is amended to read:

254.52 (2) (intro.) The department, in consultation with the department of public instruction, the department of ~~natural resources fish, wildlife, parks, and forestry~~ and the department of agriculture, trade and consumer protection, shall do all of the following:

^{3160k}
Page 1043, line 12: after that line insert:
~~SECTION 883.~~ Chapter 278 of the statutes is created to read:

CHAPTER 278

DEPARTMENT OF

ENVIRONMENTAL MANAGEMENT

SUBCHAPTER I

GENERAL

278.01 Definitions. (1) In this chapter:

- (a) "Department" means the department of environmental management.
- (b) "Secretary" means the secretary of environmental management.

278.10 Environmental wardens. (1) The department shall secure the enforcement of all laws that it is required to administer. The persons appointed by the department to enforce those laws shall be known as environmental wardens.

(3) An environmental warden shall, before exercising any powers of an environmental warden, be provided with a commission issued by the department under its seal, substantially as follows:

STATE OF WISCONSIN

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

To all to whom these presents shall come, greeting:

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

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

(Seal)

STATE OF WISCONSIN

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By

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

BILL**SECTION 883**

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

278.11 Warrants, arrests, and police powers. (1) **GENERALLY.** The department and its wardens may execute and serve warrants and processes issued under any law enumerated in s. 278.51 (1) in the same manner as any constable may serve and execute the process; and may arrest, with or without a warrant, any person detected in the actual violation, or whom the officer has probable cause to believe is guilty of a violation of any of those laws whether the violation is punishable by criminal penalties or by forfeiture, and may take the person before any court in the county where the offense was committed and make a proper complaint. For the purpose of enforcing the laws enumerated in s. 278.51 (1), any officer may stop and board any boat and stop any vehicle, if the officer reasonably suspects there is a violation of those laws.

(2) **ADDITIONAL ARREST POWERS.** In addition to the arrest powers under sub. (1), an environmental warden who has completed a program of law enforcement training approved by the law enforcement standards board, has been certified as qualified to be a law enforcement officer under s. 165.85 (4) (b) 1., and has complied with any applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in uniform or on duty and upon display of proper credentials may assist another law enforcement

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agency, as defined in s. 165.83 (1) (b), including making an arrest at the request of the agency, may arrest a person pursuant to an arrest warrant concerning the commission of a felony, or may arrest a person who has committed a crime in the presence of the environmental warden. If the environmental warden makes an arrest without the presence of another law enforcement agency, the environmental warden shall cause the person arrested to be delivered to the chief of police or sheriff in the jurisdiction where the arrest is made, along with the documents and reports pertaining to the arrest. The environmental warden shall be available as a witness for the state. An environmental warden may not conduct investigations for violations of state law except as authorized in sub. (3). An environmental warden acting under the authority of this subsection is considered an employee of the department and is subject to its direction, benefits and legal protection. The authority granted in this subsection does not apply to special environmental wardens.

(3) INVESTIGATIONS. The department and its environmental wardens shall, upon receiving notice or information of the violation of the laws enumerated in s. 278.51 (1), as soon as possible make a thorough investigation and cause proceedings to be instituted if the evidence warrants it.

(4) SEIZURE. The department and its environmental wardens shall seize and hold, subject to the order of the court for the county in which the alleged offense was committed, any vehicle, boat, or object that they have probable cause to believe is being used in violation of s. 287.81. If it is proven that within 6 months previous to the seizure the vehicle, boat, or object was used in violation of s. 287.81, it shall be confiscated if the court directs in its order for judgment.

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(5) SALE OF CONFISCATED PROPERTY. (a) All confiscated vehicles, boats, or objects shall, if not destroyed as authorized by law, be sold at the highest price obtainable, by the department, or by an agent on commission under supervision of the department. The net proceeds of sales under this subsection, after deducting the expense of seizure and sale, any commissions, and any amounts owing to holders of security interests under par. (c) or (d), shall be remitted to the department. The remittance shall be accompanied by a report of the sales, supported by vouchers for expenses and commissions, and shall be filed with the department.

(b) Of the remittance from the sales of confiscated vehicles, boats, or objects, 18% shall be paid into the general fund to reimburse it for expenses incurred in seizure and sale, and the remaining 82% shall be paid into the common school fund.

(c) 1. In the case of the sale of a confiscated motor vehicle, the department shall make a reasonable effort, within 10 days after seizure, to ascertain if a security interest in the seized motor vehicle exists. The department shall, within 10 days after obtaining actual or constructive notice of any security interest in the seized motor vehicle, give the secured party notice of the time and place of any proceeding before a court pertaining to the confiscation of the motor vehicle. Constructive notice shall be limited to security interests perfected by filing.

2. The time of sale of the confiscated motor vehicle shall be within 20 days after judgment of confiscation as provided in sub. (4). The department shall give each secured party discovered in accordance with subd. 1. at least 10 days' notice of the time and place of sale of the motor vehicle.

3. If the holder of a security interest in the confiscated motor vehicle, perfected by filing, proves to the court, or after judgment of confiscation, to the department, that the violation that led to the confiscation was not with the knowledge, consent,

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or connivance of the holder of the security interest or with that of some person employed or trusted by the holder of the security interest, the amount due under the security agreement, together with any other deductions authorized under par. (a), shall be deducted from the proceeds of the sale of the confiscated motor vehicle and the amount due shall be paid to the one entitled. If a sufficient amount does not remain for the full payment of the amount due under the security agreement after making the other deductions authorized under par. (a), the amount remaining shall be paid to the one entitled.

(d) The provisions of s. 973.075 (1) (b) 2m. and (5) apply to boats and vehicles, other than motor vehicles, under this subsection.

278.12 Exemption from liability. Members of the environmental management board, and each environmental warden, in the performance of official duties, are exempt from liability to any person for acts done or permitted or property destroyed by authority of law. No taxable costs or attorney fees shall be allowed to either party in an action against a member of the environmental management board or an environmental warden.

278.13 Resisting an environmental warden. Any person who assaults or otherwise resists or obstructs any environmental warden in the performance of duty is subject to the penalty specified in s. 939.51 (3) (a).

278.14 False impersonation of environmental warden. Any person who falsely represents himself or herself to be an environmental warden or who assumes to act as an environmental warden without having been first duly appointed is subject to the penalty specified in s. 939.51 (3) (a).

278.16 Periodicals. (1) PUBLICATION. The department may produce, issue, or reprint magazines or other periodicals, on a periodic basis as it determines,

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pertaining to environmental quality and other similar subjects of general information. The department may distribute its magazines and periodicals by subscription. The department shall charge a fee for any of its magazines or periodicals.

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

(3) **SUBSCRIBER LISTS.** The department may refuse to reveal names and addresses of persons on any magazine or periodical subscriber list. The department may charge a fee to recover the actual costs for providing or for the use of any magazine or periodical subscriber list. The department may not reveal names and addresses of persons as prohibited under s. 278.45 (4). No person who obtains or uses any magazine or periodical subscriber list from the department may refer to the department, the magazine, or the periodical as the source of names or addresses unless the person clearly states that the provision of, or permission to use, the subscriber list in no way indicates any of the following:

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

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

(4) **COSTS.** Notwithstanding ss. 20.908 and 35.78 (2) the fee charged by the department in selling each of its magazines and periodicals shall be at least equal to the amount necessary to cover the production, storage, handling, and distribution costs of each magazine and periodical.

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

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

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

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

(3) PROMOTIONAL ACTIVITIES. The department may promote, through the sale of merchandise or otherwise, advertise or otherwise publicize department programs and department publications. The promotion, advertising, and publicizing shall be consistent with the goals, purposes, and functions of the department.

(4) SUBSCRIBER LISTS. The department may refuse to reveal names and addresses of persons on any publication subscriber list. The department may not reveal names and addresses as prohibited under s. 278.45 (5). The department may charge a fee to recover the actual costs for providing or for the use of a publication subscriber list. No person who obtains or uses a publication subscriber list from the department may refer to the department or the publication as the source of names

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or addresses unless the person clearly states that the provision of, or permission to use, the subscriber list in no way indicates any of the following:

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

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

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

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

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

278.322 Fees for computer accessible water resource management information. The department may charge a fee for providing any information that it maintains in a format that may be accessed by computer concerning the waters of this state, including maps and other water resource management information.

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278.40 Environmental impact report and statement. (1) DETERMINATION IF ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED. Any person who files an application for a permit, license, or approval granted or issued by the department, shall submit with the application a statement of the estimated cost of the project or proposed action for which the person seeks a permit, license, or approval. The department may seek such further information as it considers necessary to determine whether it must prepare an environmental impact statement under s. 1.11.

(1m) ENVIRONMENTAL IMPACT REPORT. The department may require an applicant for a permit, license, or approval, to submit an environmental impact report if the area affected exceeds 40 acres or the estimated cost of the project exceeds \$25,000.

(2) NOTIFICATION; ESTIMATE OF FEE. (a) If the department is required to prepare an environmental impact statement, it shall notify the person by certified mail.

(b) The department shall indicate the estimated environmental impact statement fee.

(3) ENVIRONMENTAL IMPACT STATEMENT FEE. (a) The department shall charge an environmental impact statement fee if it is required to prepare an environmental impact statement or if it enters into a preapplication service agreement.

(b) The amount of the environmental impact statement fee shall equal the full cost of the preparation of the environmental impact statement and the full cost of any preapplication services if the department enters into a preapplication service agreement. These costs shall include the cost of authorized consultant services and the costs of printing and postage.

(c) The department shall determine the manner in which the environmental impact statement fee is to be paid. The department may require periodic payments if preapplication services are provided.

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(d) Except as provided in par. (e), the department shall deposit any environmental impact statement fee in the general fund and shall designate clearly the amount of the fee related to the cost of authorized environmental consultant services and the amount of the fee related to the cost of printing and postage.

(e) The department shall credit any environmental impact statement fee for a project involving the generation of electricity to the appropriation under s. 20.375 (2) (ah).

(4) **PREAPPLICATION SERVICE AGREEMENT.** The department may enter into an agreement to provide preapplication services necessary to evaluate the environmental impact of a project or proposed activity, monitor major developments, and expedite the anticipated preparation of an environmental impact statement if the project or proposed activity is large, complex, or environmentally sensitive and if the person planning the project or proposed activity agrees in writing even though that person has not filed an application for any permit, license, or approval granted or issued by the department, and no environmental impact statement has been prepared. Preapplication services include preliminary environmental reviews, field studies and investigations, laboratory studies and investigations, and advisory services.

(5) **AUTHORIZED ENVIRONMENTAL CONSULTANT SERVICES.** The department may enter into contracts for environmental consultant services under s. 278.41 to assist in the preparation of an environmental impact statement or to provide preapplication services.

(6) **EXEMPTION FROM FEE FOR MUNICIPALITIES.** Subsections (2) (b) and (3) do not apply with respect to municipalities, as defined in s. 345.05 (1) (c).

278.41 Construction and service contracts. (1) In this section:

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(a) “Construction work” includes all labor and materials used in the erection, installation, alteration, repair, moving, conversion, demolition, or removal of any building, structure, or facility, or any equipment attached to a building, structure, or facility.

(b) “Environmental consultant services” includes services provided by environmental scientists, engineers, and other experts.

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

(3) The department may contract for environmental consultant services to assist in the preparation of an environmental impact statement or to provide preapplication services under s. 278.40.

(4) Each contract entered into under this section shall be signed by the secretary or the secretary’s designee on behalf of the state.

(5) Each contract for construction work entered into by the department under this section shall be awarded on the basis of bids or competitive sealed proposals in accordance with procedures established by the department. Each contract for construction work shall be awarded to the lowest responsible bidder or the person submitting the most advantageous competitive sealed proposal as determined by the department. If the bid of the lowest responsible bidder or the proposal of the person submitting the most advantageous competitive sealed proposal is determined by the department to be in excess of the estimated reasonable value of the work or not in the public interest, the department may reject all bids or competitive sealed proposals. Every such contract is exempted from ss. 16.70 to 16.75, 16.755, 16.76,

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16.767 to 16.82, 16.855, 16.87, and 16.89, but ss. 16.528, 16.754, and 16.765 apply to the contract. Every such contract involving an expenditure of ~~\$20,000~~^{\$60,000} or more is not valid until the contract is approved by the governor.

(5m) If the governor or the governor's designee determines that it is in the best interest of this state, he or she may waive the requirement under sub. (5) for bids or competitive sealed proposals under any of the following circumstances:

(a) In an emergency involving the public health, welfare, or safety or the environment.

(b) The department desires to use innovative or patented technology that is available from only one source and that in the judgment of the department would provide the best practicable hazardous substance spill response under s. 292.11 or environmental repair under s. 292.31.

(6) The department shall attempt to ensure that at least 5% of the total amount expended under this section in each fiscal year is paid to minority businesses, as defined in s. 16.75 (3m) (a).

278.45 Nondisclosure of certain personal information. (1) In this section:

(a) "Approval" means any type of approval or authorization issued by the department including a license, permit, or certificate.

(b) "List" means information compiled or maintained by the department that contains the personal identifiers of 10 or more individuals.

(c) "Personal identifier" means a name, social security number, telephone number, street address, post-office box number, or 9-digit extended zip code.

(2) If a form that the department requires an individual to complete to obtain an approval or other privilege from the department or to obtain a product or service

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from the department requires the individual to provide any of the individual's personal identifiers, the form shall include a place for the individual to declare that the individual's personal identifiers obtained by the department from the information on the form may not be disclosed on any list that the department furnishes to another person.

(3) If the department requires an individual to provide, by telephone or other electronic means, any of the individual's personal identifiers to obtain an approval or other privilege from the department or to obtain a product or service from the department, the department shall ask the individual at the time that the individual provides the information if the individual wants to declare that the individual's personal identifiers obtained by telephone or other electronic means may not be disclosed on any list that the department furnishes to another person.

(4) The department shall provide to an individual upon request a form that includes a place for the individual to declare that the individual's personal identifiers obtained by the department may not be disclosed on any list that the department furnishes to another person.

(5) (a) The department may not disclose on any list that it furnishes to another person a personal identifier of any individual who has made a declaration under sub. (2), (3), or (4).

(b) Paragraph (a) does not apply to a list that the department furnishes to another state agency, a law enforcement agency, or a federal governmental agency. A state agency that receives a list from the department containing a personal identifier of any individual who has made a declaration under sub. (2), (3), or (4) may not disclose the personal identifier to any person other than a state agency, a law enforcement agency, or a federal governmental agency.

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278.49 Credit card use charges. The department shall certify to the state treasurer the amount of charges associated with the use of credit cards that is assessed to the department on deposits accepted under s. 278.66 (1m) by environmental wardens, and the state treasurer shall pay the charges from moneys received under s. 59.25 (3) (j) and (k) that are reserved for payment of the charges under s. 14.58 (21).

SUBCHAPTER II

ENFORCEMENT OF CERTAIN

ENVIRONMENTAL LAWS

278.50 Words and phrases defined. In ss. 278.50 to 278.90 the following words and phrases have the designated meanings unless the context clearly indicates a different meaning:

(1) “Citation” means a pleading of essential facts and applicable law coupled with a demand for judgment, that notifies the person cited of a violation specified in s. 278.51 (1) and requests the person to appear in court.

(2) “Complaint” means the pleading of essential facts and applicable law coupled with a demand for judgment.

(2L) “Corporation” includes a limited liability company.

(2p) “Crime laboratories and drug law enforcement assessment” means the assessment imposed under s. 165.755.

(3) “Enforcing officer” means peace officer as defined by s. 939.22 (22), or a person who has authority to act pursuant to a specific statute.

(3c) “Environmental assessment” means the assessment imposed under s. 299.93.

(3m) “Jail assessment” means the assessment imposed by s. 302.46 (1).

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(6) “Penalty assessment” means the penalty assessment imposed by s. 757.05.

(7) “Summons” means an order to appear in court at a particular time and place.

278.51 Procedure in forfeiture actions. (1) The procedure in this subchapter applies to all actions in circuit court to recover forfeitures, penalty assessments, jail assessments, crime laboratories and drug law enforcement assessments, and applicable environmental assessments for violations of ss. 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c), and (4), 287.07, 287.08, 287.81, and 299.64 (2), subchs. I to III of ch. 30, and ch. 31, and any administrative rules promulgated thereunder, and for violations specified under s. 285.86.

(2) All actions to recover the forfeitures and assessments specified in sub. (1) are civil actions in the name of the state of Wisconsin.

(3) If a fine or imprisonment, or both, is imposed for a violation specified in sub. (1), the procedure in ch. 968 shall apply.

278.52 Two forms of action. Actions under this subchapter may be commenced by a citation, or by a complaint and summons.

278.53 Use of citation. (1) If an action under this subchapter is commenced by a citation, the citation form under s. 278.54 shall be used, except that the uniform traffic citation created under s. 345.11 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 in enforcing s. 287.81.

(2) The use of the citation form under s. 278.54 by any enforcing officer in connection with a violation is adequate process to give the appropriate court jurisdiction over the person upon the filing of the citation with the court.

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278.54 Citation form. (1) The citation form for actions under this subchapter shall contain a complaint, a case history, and a report of court action on the case.

(2) It must appear on the face of the citation that there is probable cause to believe that a violation has been committed and that the defendant has committed that violation.

(3) The citation form shall provide spaces for all of the following:

(a) The name, address, social security number, and date of birth of the defendant.

(b) The department permit or license number of the defendant, if applicable.

(c) The name and department of the issuing officer.

(d) The violation alleged; the time and place of occurrence; a statement that the defendant committed the violation; the statute, administrative rule, or ordinance violated; and a designation of the violation in language that can be readily understood by a person making a reasonable effort to do so.

(e) The maximum forfeiture, penalty assessment, jail assessment, crime laboratories and drug law enforcement assessment, and applicable environmental assessment for which the defendant might be found liable.

(f) A date, time, and place for the court appearance, and a notice to appear.

(g) Provisions for deposit and stipulation in lieu of a court appearance.

(h) Notice that the defendant may make a deposit and by doing so obtain release if an arrest has been made.

(i) Notice that if the defendant makes a deposit and fails to appear in court at the time fixed in the citation, the defendant will be considered to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, a crime laboratories and drug law enforcement assessment, and any applicable

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environmental assessment, plus costs, including any applicable fees prescribed in ch. 814, not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and plea.

(j) Notice that if the defendant makes a deposit and signs the stipulation, the defendant will be considered to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, a crime laboratories and drug law enforcement assessment, any applicable environmental assessment, plus costs, including any applicable fees prescribed in ch. 814, not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and stipulation, and that the defendant may, at any time prior to or at the time of the court appearance date, move the court for relief from the effects of the stipulation.

(k) Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or an arrest warrant.

(L) Any other pertinent information.

278.55 Complaint and summons forms. (1) COMPLAINT. If an action under this subchapter is commenced by a complaint and summons, it must appear on the face of the complaint that there is probable cause to believe that a violation has been committed and that the defendant has committed it. The complaint shall accompany the summons and shall contain the information set forth in s. 278.54 (3) (a) to (d) and all of the following:

(a) The title of the cause, specifying the name of the court and the county in which the action is brought and the names and addresses of the parties to the action.

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(b) A plain and concise statement of the violation identifying the event or occurrence from which the violation arose and showing that the plaintiff is entitled to relief, the statute upon which the cause of action is based and a demand for a forfeiture, the amount of which may not exceed the maximum set by the statute involved, a penalty assessment, a jail assessment, a crime laboratories and drug law enforcement assessment, any applicable environmental assessment, and any other relief that is sought by the plaintiff.

(c) If the action is against a corporation, a statement of its corporate existence and whether it is a domestic or foreign corporation.

(2) **SUMMONS.** If an action under this subchapter is commenced by a complaint and summons, the summons shall contain all of the following:

(a) The title of the cause, specifying the name of the court and the county in which the action is brought and the names of all parties to the action.

(b) A direction summoning and requiring the defendant to appear in a specified court on a particular date not less than 10 days following service of the summons to answer the accompanying complaint.

(c) A notice that in case of failure to appear, judgment may be rendered against the defendant according to the demand of the complaint, or the court may issue a warrant for the defendant's arrest.

278.56 Arrest with a warrant. (1) A person may be arrested for a violation specified in s. 278.51 (1) after a warrant that substantially complies with s. 968.04 has been issued. Except as provided in sub. (2), the person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action.

(2) In actions under this subchapter, the judge who issues a warrant under sub. (1) may endorse upon the warrant the amount of the deposit. If no endorsement is

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made, the deposit schedule under s. 278.66 (4) shall apply, unless the court directs that the person be brought before the court.

278.57 Arrest without a warrant. (1) A person may be arrested without a warrant when the arresting officer has probable cause to believe that the person is committing or has committed a violation specified in s. 278.51 (1) and any of the following applies:

- (a) The person refuses to accept a citation or to make a deposit under s. 278.66.
- (b) The person refuses to identify himself or herself satisfactorily or the officer has reasonable grounds to believe that the person is supplying false identification.
- (c) Arrest is necessary to prevent imminent bodily harm to the enforcing officer or to another.

(2) In all cases in which a person is arrested under sub. (1) the officer shall bring the person arrested before a judge without unnecessary delay.

278.58 Temporary questioning without arrest. After having identified himself or herself as an enforcing officer, an enforcing officer may stop a person in a public place for a reasonable period of time when the enforcing officer reasonably suspects that the person is committing, is about to commit, or has committed a violation specified in s. 278.51 (1). Such a stop may be made only where the enforcing officer has proper authority to make an arrest for the violation. The enforcing officer may demand the name and address of the person and an explanation of the person's conduct. The detention and temporary questioning shall be conducted in the vicinity where the person was stopped.

278.59 Search during temporary questioning. When an enforcing officer has stopped a person for temporary questioning under s. 278.58 and reasonably suspects that the enforcing officer or another is in danger of physical injury, the

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enforcing officer may search the person for weapons or any instrument, article, or substance readily capable of causing physical injury and of a sort not ordinarily carried in public places by law abiding persons. If the enforcing officer finds such a weapon or instrument, or any other property possession of which he or she reasonably believes may constitute the commission of a violation specified in s. 278.51 (1) or that may constitute a threat to his or her safety, the enforcing officer may take it and keep it until the completion of the questioning, at which time he or she shall return it, if lawfully possessed, arrest the person so questioned for possession of the weapon, instrument, article, or substance, if he or she has the authority to do so, or detain the person until a proper arrest can be made by appropriate authorities. Searches during temporary questioning as provided under this section may only be conducted by those enforcing officers who have the authority to make arrests for crimes.

278.60 Search incident to the issuance of a lawfully issued citation. If the enforcing officer has stopped a person to issue a citation under s. 278.62 and reasonably suspects that the enforcing officer or another is in danger of physical injury, the officer may search the person for weapons or any instrument, article, or substance readily capable of causing physical injury and of a sort not ordinarily carried in public places by law abiding persons. If the officer finds such a weapon or instrument, or any other property possession of which he or she reasonably believes may constitute the commission of a violation specified in s. 278.51 (1), or that may constitute a threat to his or her safety, the officer may take it and keep it until he or she has completed issuing the citation, at which time the officer shall return it, if lawfully possessed, arrest the person for possession of the weapon, instrument,

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article, or substance, if he or she has the authority to do so, or detain the person until a proper arrest can be made by appropriate authorities.

278.61 Search and seizure; when authorized. Under this subchapter, a search of a person, object, or place may be made and things may be seized when the search is made as follows:

- (1) Incident to a lawful arrest.
- (2) With consent.
- (3) Pursuant to a valid search warrant.
- (4) With the authority and within the scope of a right of lawful inspection.
- (5) Incident to the issuance of a lawfully issued citation in accordance with s. 278.60.
- (6) During an authorized temporary questioning under s. 278.59.
- (7) As otherwise authorized by law.

278.62 Issuance of a citation. (1) Whenever an enforcing officer has probable cause to believe that a person subject to his or her authority is committing or has committed a violation of those statutes specified in s. 278.51 (1), the officer may proceed in the following manner:

- (a) Issue a citation to the defendant in the form specified in s. 278.54, a copy of which shall be filed with the clerk of courts in the county where the violation was committed.
- (b) Proceed, in proper cases, under s. 278.56 or 278.57.
- (c) Bring the information to the district attorney so that he or she may proceed under s. 278.65.

(2) A citation under this subchapter may be issued or served anywhere in the state by delivering a copy to the defendant personally, by leaving a copy at the

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defendant's usual place of abode with a person of discretion residing therein, or by mailing a copy to the defendant's last-known address. The citation shall be issued or served by a law enforcement officer.

278.63 Officer's action after issuance of citation. (1) After an enforcing officer has issued a citation under this subchapter, the officer shall release the defendant if he or she makes a deposit under s. 278.66 or a deposit and stipulation of no contest under s. 278.67.

(2) If sub. (1) does not apply, an enforcing officer who issues a citation under this subchapter may release the defendant.

(3) An enforcing officer who issues a citation under this subchapter shall proceed under s. 278.57, if the defendant is not released.

278.64 Deposit after release. A person who is released under s. 278.63 (2) may make a deposit any time prior to the court appearance date. The person shall make the deposit with the clerk of the circuit court of the county in which the violation occurred.

278.65 Issuance of complaint and summons. (1) When it appears to the district attorney that a violation specified in s. 278.51 (1) has been committed the district attorney may proceed by complaint and summons.

(2) The complaint shall be prepared in the form specified in s. 278.55. After a complaint is prepared, it shall be filed with the judge and a summons shall be issued or the complaint shall be dismissed pursuant to s. 968.03. The filing commences the action.

(3) If a district attorney refuses or is unavailable to issue a complaint, a circuit judge, after conducting a hearing, may permit the filing of a complaint if he or she finds there is probable cause to believe that the person charged has committed a

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violation specified in s. 278.51 (1) or a rule promulgated thereunder. The district attorney shall be informed of the hearing and may attend.

278.66 Deposit. (1) If under the procedure in s. 278.62 a person is cited or arrested, the person may make a deposit as follows:

(a) By mailing the amount of money the enforcing officer directs and a copy of the citation to the office of the clerk of circuit courts in the county where the offense allegedly occurred or by going to the office of the clerk of circuit courts, the office of the sheriff, or any city, village, or town police headquarters.

(b) If the enforcing officer permits, by placing the amount of money the enforcing officer directs in a serially numbered envelope addressed to the clerk of circuit court in the county where the offense allegedly occurred, sealing the envelope, signing a statement on the back of the envelope stating the amount of money enclosed, and returning the envelope to the enforcing officer. The enforcing officer shall deliver the envelope and a copy of the citation to the office of the clerk of circuit court in the county where the offense allegedly occurred. The enforcing officer shall note on the face of the citation the serial number of the envelope used in making a deposit under this paragraph.

(1m) The enforcing officer or the person receiving the deposit may allow the alleged violator to submit a check, share draft, or other draft for the amount of the deposit or make the deposit by use of a credit card.

(2) The person receiving the deposit shall prepare a receipt in triplicate showing the purpose for which the deposit is made, stating that the defendant may inquire at the office of the clerk of circuit court regarding the disposition of the deposit, and notifying the defendant that if he or she fails to appear in court at the time fixed in the citation he or she will be considered to have tendered a plea of no

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contest and submitted to a forfeiture, a penalty assessment, a jail assessment, a crime laboratories and drug law enforcement assessment, and any applicable environmental assessment, plus costs, including any applicable fees prescribed in ch. 814, not to exceed the amount of the deposit that the court may accept. The original of the receipt shall be delivered to the defendant in person or by mail. If the defendant pays by check, share draft, or other draft, the check, share draft, or other draft or a microfilm copy of the check, share draft, or other draft shall be considered a receipt. If the defendant makes the deposit by use of a credit card, the credit charge receipt shall be considered a receipt.

(3) If the court does not accept the deposit as a forfeiture for the offense, a summons shall be issued. If the defendant fails to respond to the summons, an arrest warrant shall be issued.

(4) The basic amount of the deposit shall be determined in accordance with a deposit schedule that the judicial conference shall establish. Annually, the judicial conference shall review and may revise the schedule. In addition to the basic amount determined according to the schedule, the deposit shall include court costs, including any applicable fees prescribed in ch. 814, any applicable penalty assessment, any applicable jail assessment, any applicable crime laboratories and drug law enforcement assessment, and any applicable environmental assessment.

278.67 Deposit and stipulation of no contest. (1) If under s. 278.62 a person is cited or arrested, the person may make a deposit and stipulation of no contest, and submit them in the same manner as the deposit in s. 278.66.

(2) The deposit and stipulation of no contest may be made at any time prior to the court appearance date. By signing the stipulation, the defendant is considered to have tendered a plea of no contest and submitted to a forfeiture, a penalty

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assessment, a jail assessment, a crime laboratories and drug law enforcement assessment, and any applicable environmental assessment, plus costs, including any applicable fees prescribed in ch. 814, not to exceed the amount of the deposit.

(3) The person receiving the deposit and stipulation of no contest shall prepare a receipt in triplicate showing the purpose for which the deposit is made, stating that the defendant may inquire at the office of the clerk of circuit court regarding the disposition of the deposit, and notifying the defendant that if the stipulation of no contest is accepted by the court the defendant will be considered to have submitted to a forfeiture, a penalty assessment, a jail assessment, a crime laboratories and drug law enforcement assessment, and any applicable environmental assessment, plus costs, including any applicable fees prescribed in ch. 814, not to exceed the amount of the deposit. Delivery of the receipt shall be made in the same manner as in s. 278.66.

(4) If the court does not accept the deposit and stipulation of no contest, a summons shall be issued. If the defendant fails to respond to the summons, an arrest warrant shall be issued.

(5) The defendant may, within 10 days after signing the stipulation or at the time of the court appearance date, move the court for relief from the effects of the stipulation, under s. 278.75 (3) (c).

278.68 Pleading. The citation or complaint issued under s. 278.62 or 278.65 may serve as the initial pleading and is adequate process to give the appropriate court jurisdiction over the person upon the filing of the citation or complaint with the court.

278.69 Motions. In a case under this subchapter, any motion that is capable of determination without the trial of the general issue shall be made before trial.

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278.70 Arraignment; plea. (1) Under this subchapter, if a defendant appears in response to a citation or a summons, or is arrested and brought before a court with jurisdiction to try the case, the defendant shall be informed that he or she is entitled to a jury trial and then asked whether he or she wishes to plead. If the defendant wishes to plead, he or she may plead guilty, not guilty, or no contest.

(2) If the defendant pleads guilty or no contest under sub. (1), the court may accept the plea, find the defendant guilty, and proceed under s. 278.78.

278.71 Not guilty plea; immediate trial. Under this subchapter, if a defendant pleads not guilty, states that he or she waives the right to jury trial, and wishes an immediate trial and, if the state consents, the case may be tried immediately.

278.72 Not guilty plea. Under this subchapter, if a defendant pleads not guilty and the trial is not held under s. 278.71, the court shall set a date for trial or advise the defendant that he or she will be notified of the date set for trial. The defendant shall be released upon payment of a deposit as set forth in s. 278.66, or the court may release the defendant on his or her own recognizance. If a defendant fails to appear at the date set under this section, the court may issue a warrant under ch. 968 and, if the defendant has posted a deposit for appearance at that date, the court may order the deposit forfeited.

278.73 Discovery. In a case under this subchapter, neither party is entitled to pretrial discovery except that if the defendant moves within 10 days after the alleged violation and shows cause therefor, the court may order that the defendant be allowed to inspect and test, under any conditions that the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed and may inspect the reports of experts relating to those devices.

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278.74 Mode of trial. In a case under this subchapter, all of the following apply:

(1) The defendant shall be informed of the right to a jury trial in circuit court on payment of fees required by s. 278.77 (1).

(2) If both parties request a trial by the court or if neither demands a trial by jury, the right to a trial by jury is waived.

278.75 Proceedings in court. In a case under this subchapter, all of the following apply:

(1) If the defendant appears in court at the time directed in the citation or summons, the case shall be tried as provided by law.

(2) If the defendant fails to appear in court at the time fixed in the complaint and summons, judgment may be rendered against the defendant according to the demand of the complaint, or the court may issue a warrant for the defendant's arrest.

(3) If the defendant fails to appear in court at the time fixed in the citation or by subsequent postponement, the following procedure shall apply:

(a) 1. If the defendant has not made a deposit, the court may consider the nonappearance to be a plea of no contest and enter judgment accordingly or the court may issue a summons or an arrest warrant.

2. If the court considers the nonappearance to be a plea of no contest and enters judgment accordingly, the court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow the defendant not less than 20 working days from the date the judgment copy or notice is mailed to pay the forfeiture, penalty assessment, jail assessment, crime laboratories and drug law enforcement assessment, and any applicable environmental assessment, plus costs, including any applicable fees prescribed in ch. 814.

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(b) If the defendant has made a deposit, the citation may serve as the initial pleading and the defendant shall be considered to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, a crime laboratories and drug law enforcement assessment, any applicable environmental assessment, plus any applicable fees prescribed in ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the defendant fails to appear in response to the summons, the court shall issue an arrest warrant. If the court accepts the plea of no contest, the defendant may move within 90 days after the date set for appearance to withdraw the plea of no contest, open the judgment, and enter a plea of not guilty if the defendant shows to the satisfaction of the court that failure to appear was due to mistake, inadvertence, surprise, or excusable neglect. If a party is relieved from the plea of no contest, the court or judge may order a written complaint to be filed and set the matter for trial. After trial the costs and fees shall be taxed as provided by law. If on reopening the defendant is found not guilty, the court shall delete the record of conviction and shall order the defendant's deposit returned.

(c) If the defendant has made a deposit and stipulation of no contest, the citation may serve as the initial pleading and the defendant shall be considered to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, a crime laboratories and drug law enforcement assessment, any applicable environmental assessment, plus any applicable fees prescribed in ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the defendant fails to appear in response to the summons, the

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court shall issue an arrest warrant. After signing a stipulation of no contest, the defendant may, at any time prior to or at the time of the court appearance date, move the court for relief from the effect of the stipulation. The court may act on the motion, with or without notice, for cause shown by affidavit and upon just terms, and relieve the defendant from the stipulation and the effects of the stipulation. If the defendant is relieved from the stipulation of no contest, the court may order a citation or complaint to be filed and set the matter for trial. After trial the costs and fees shall be taxed as provided by law.

(4) If a citation or summons is issued to a defendant and he or she is unable to appear in court on the day specified, the defendant may enter a plea of not guilty by mailing to the judge at the address indicated on the citation or summons a letter stating that plea. The letter must show the defendant's return address. The letter may include a request for trial during normal daytime business hours. Upon receipt of the letter, the judge shall reply by letter to the defendant's address setting forth a time and place for trial, the time to be during normal business hours if so requested. The date of the trial shall be at least 10 days after the mailing by the judge. Nothing in this subsection forbids the setting of the trial at any time convenient to all parties concerned.

(5) Costs may not be taxed against the plaintiff.

278.76 Burden of proof. In all actions under this subchapter, the state must convince the trier of fact to a reasonable certainty of every element of the offense by evidence that is clear, satisfactory, and convincing.

278.77 Jury trial. (1) If in an action under this subchapter either party files a written demand for a jury trial within 20 days after the court appearance date and immediately pays the fee prescribed in s. 814.61 (4), the court shall place the case on

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the jury calendar. The number of jurors shall be determined under s. 756.06 (2) (b). If no party demands a trial by jury, the right to trial by jury is permanently waived.

(3) If there is a demand for a trial by jury, the provisions of s. 345.43 (3) (a) and (b) are applicable.

278.78 Verdict. A verdict is an action under this subchapter is valid if agreed to by five-sixths of the jury. If a verdict relates to more than one count, it shall be valid as to any count if any five-sixths of the jury agree on that count. The form of the verdict shall be guilty or not guilty. The court shall state the amount of the forfeiture after a finding of guilty.

278.79 Judgment. In an action under this subchapter, all of the following apply:

(1) If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture provided by the statute for the violation, the penalty assessment, the jail assessment, the crime laboratories and drug law enforcement assessment, any applicable environmental assessment, and costs.

(2) The payment of any judgment may be suspended or deferred for not more than 90 days in the discretion of the court. In cases in which a deposit has been made, any forfeitures, penalty assessments, jail assessments, environmental assessments, or costs shall be taken out of the deposit and the balance, if any, returned to the defendant.

(3) In addition to any monetary penalties, the court may order the defendant to perform or refrain from performing any acts that may be necessary to fully protect and effectuate the public interest. The court may order abatement of a nuisance,

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restoration of a natural resource, or other appropriate action designed to eliminate or minimize any environmental damage caused by the defendant.

(4) The court may, where provided by law, revoke or suspend any or all privileges and licenses.

(5) All civil remedies are available in order to enforce the judgment of the court, including the power of contempt under ch. 785.

278.795 Nonpayment of judgments. If a defendant fails to timely pay a judgment entered under s. 278.75 (3) (a) 2. or 278.79, the court may issue an arrest warrant or a summons ordering the defendant to appear in court or both. If the defendant appears before the court pursuant to a warrant or summons or the defendant otherwise notifies the court that he or she is unable to pay the judgment, the court shall conduct a hearing. If the defendant failed to pay the forfeiture, the court shall determine if the defendant is unable to pay the amount specified in the judgment for good cause or because of the defendant's indigence. If the court determines that the failure of the defendant to comply with the judgment is for good cause or because of the defendant's indigence, the court may order that the amount of the judgment be modified, suspended, or permanently stayed. If the defendant fails to appear before the court for a hearing under this subsection or if the court determines at the hearing that the failure of a defendant to pay the judgment is not for good cause or not because of the defendant's indigence, the court shall order one of the following:

(1) That the defendant be imprisoned for a time not to exceed 5 days or until the amount is paid, whichever is less.

(2) That the amount of the judgment be modified, suspended, or permanently stayed.

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278.80 Judgment against a corporation or municipality. In a case under this subchapter, all of the following apply:

(1) If a representative of a corporation or municipality fails to appear within the time required by the citation or summons, the default of the corporation or municipality may be recorded and the charge against it taken as true and judgment shall be rendered accordingly.

(2) Upon default of a defendant corporation or municipality, or upon conviction, judgment for the amount of the forfeiture, the penalty assessment, the jail assessment, the crime laboratories and drug law enforcement assessment, and any applicable environmental assessment shall be entered.

278.81 Effect of plea of no contest. Forfeiture of deposit under s. 278.75 (3) (b), an accepted plea of no contest under s. 278.70, or a stipulation of no contest under s. 278.75 (3) (c) to a charge of violation is not admissible in evidence as an admission against interest in any action or proceeding arising out of the same occurrence.

278.82 Fees. Fees in forfeiture actions under this subchapter are prescribed in s. 814.63.

278.83 Appeal. In a case under this subchapter, all of the following apply:

(1) **JURISDICTION ON APPEAL.** Appeal may be taken by either party.

(2) **STAY OF EXECUTION.** The amount of undertaking required to stay execution on appeal may not exceed the amount of the maximum forfeiture, applicable crime laboratories and drug law enforcement assessment, and applicable environmental assessment, plus court costs.

(3) **PROCEDURE ON APPEAL.** An appeal to the court of appeals shall be in accordance with chs. 808 and 809.

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278.84 Forfeitures and assessments collected; to whom paid. All moneys collected in favor of the state under this subchapter for forfeiture, penalty assessment, jail assessment, crime laboratories and drug law enforcement assessment, and applicable environmental assessment shall be paid by the officer who collects the moneys to the appropriate county treasurer within 20 days after its receipt by the officer. In case of any failure in the payment, the county treasurer may collect the payment from the officer by an action in the treasurer's name of office and upon the official bond of the officer, with interest at the rate of 12% per year from the time when it should have been paid.

278.85 Statement to county board; payment to state. Every county treasurer shall, on the first day of the annual meeting of the county board of supervisors, submit to it a verified statement of all forfeitures, penalty assessments, jail assessments, crime laboratories and drug law enforcement assessments, and environmental assessments received under this subchapter during the previous year. The county clerk shall deduct all expenses incurred by the county in recovering those forfeitures, penalty assessments, crime laboratories and drug law enforcement assessments, and environmental assessments from the aggregate amount so received, and shall immediately certify the amount of clear proceeds of those forfeitures, penalty assessments, crime laboratories and drug law enforcement assessments, and environmental assessments to the county treasurer, who shall pay the proceeds to the state treasurer as provided in s. 59.25 (3). Jail assessments shall be treated separately as provided in s. 302.46.

278.90 Place of trial. In cases under this subchapter, all of the following apply:

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(1) Civil actions shall be tried in the county where the offense was committed, except as otherwise provided in this section.

(2) If 2 or more acts are requisite to the commission of any offense, the trial may be in any county in which any of the acts occurred.

(3) Where an offense is committed on or within one-fourth of a mile of the boundary of 2 or more counties, the defendant may be tried in any of those counties.

(4) If an offense is commenced outside the state and is consummated within the state, the defendant may be tried in the county where the offense was consummated.

(5) If an offense is committed on boundary waters at a place where 2 or more counties have common jurisdiction under s. 2.03 or 2.04 or under any other law, the prosecution may be in either county. The county whose process against the offender is first served shall be conclusively presumed to be the county in which the offense was committed.

SECTION ^{3160L}~~884~~. 280.01 (1) of the statutes is amended to read:

280.01 (1) "Department" means the department of ~~natural resources~~ environmental management.

SECTION ³¹⁶⁰ⁿ~~885~~. 281.01 (3) of the statutes is amended to read:

281.01 (3) "Department" means the department of ~~natural resources~~ environmental management.

SECTION ^{3160p}~~886~~. 281.01 (12) of the statutes is amended to read:

281.01 (12) "Secretary" means the secretary of ~~natural resources~~ environmental management.

SECTION ^{3160q}~~887~~. 281.15 (1) of the statutes is amended to read:

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281.15 (1) The department, in consultation with the department of fish, wildlife, parks, and forestry, shall promulgate rules setting standards of water quality to be applicable to the waters of the state, recognizing that different standards may be required for different waters or portions thereof. Water quality standards shall consist of the designated uses of the waters or portions thereof and the water quality criteria for those waters based upon the designated use. Water quality standards shall protect the public interest, which include the protection of the public health and welfare and the present and prospective future use of such waters for public and private water systems, propagation of fish and aquatic life and wildlife, domestic and recreational purposes and agricultural, commercial, industrial and other legitimate uses. In all cases where the potential uses of water are in conflict, water quality standards shall be interpreted to protect the general public interest.

^{3160 f}
SECTION ~~888~~. 281.16 (3) (a) (intro.) of the statutes is amended to read:

281.16 (3) (a) (intro.) The department of ~~natural resources~~ environmental management in consultation with the department of agriculture, trade and consumer protection, shall promulgate rules prescribing performance standards and prohibitions for agricultural facilities and agricultural practices that are nonpoint sources. The performance standards and prohibitions shall be designed to achieve water quality standards by limiting nonpoint source water pollution. At a minimum, the prohibitions shall include all of the following:

^{3160 s}
SECTION ~~889~~. 281.16 (3) (b) of the statutes is amended to read:

281.16 (3) (b) The department of agriculture, trade and consumer protection, in consultation with the department of ~~natural resources~~ environmental management, shall promulgate rules prescribing conservation practices to

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implement the performance standards and prohibitions under par. (a) and specifying a process for the development and dissemination of technical standards to implement the performance standards and prohibitions under par. (a).

³¹⁶⁰⁺
SECTION 890. 281.16 (3) (e) of the statutes is amended to read:

281.16 (3) (e) An owner or operator of an agricultural facility or practice that is in existence before October 14, 1997, may not be required by this state or a municipality to comply with the performance standards, prohibitions, conservation practices, or technical standards under this subsection unless cost-sharing is available, under s. 92.14 or 281.65 or from any other source, to the owner or operator. For the purposes of this paragraph, sub. (4) and ss. 92.07 (2), 92.105 (1), 92.15 (4), and 823.08 (3) (c) 2., the department of ~~natural resources~~ environmental management shall promulgate rules that specify criteria for determining whether cost-sharing is available under s. 281.65 and the department of agriculture, trade and consumer protection shall promulgate rules that specify criteria for determining whether cost-sharing is available under s. 92.14 or from any other source. The rules may not allow a determination that cost-sharing is available to meet local regulations under s. 92.07 (2), 92.105 (1), or 92.15 that are consistent with or that exceed the performance standards, prohibitions, conservation practices, or technical standards under this subsection unless the cost-sharing is at least 70% of the cost of compliance or is from 70% to 90% of the cost of compliance in cases of economic hardship, as defined in the rules. ✓

Section #. Page 1045, line 11: after that line insert:

✓ **SECTION 891.** 281.17 (3) of the statutes is amended to read:

^{3161c}
281.17 (3) The department shall promulgate rules establishing an examining program for the certification of operators of water systems, wastewater treatment plants, and septage servicing vehicles operated under a license issued under s.

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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 subsection for the certification of operators of water systems, wastewater treatment plants, and septage servicing vehicles shall be credited to the appropriation under s. ~~20.370~~ 20.375 (4) (bL). No person may operate a water ~~systems~~ system, wastewater treatment plant, or septage servicing vehicle without a valid certificate issued under this subsection. The department may suspend or revoke a certificate issued under this subsection for a violation of any statute or rule relating to the operation of a water system 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 subsection who shall be responsible for plant operations, unless the department by rule provides otherwise. In this 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.

^{20316 LF}
SECTION ~~892~~. 281.33 (2) of the statutes is amended to read:

281.33 (2) STATE STORM WATER MANAGEMENT PLAN. The department, in consultation with the department of commerce, shall promulgate by rule a state storm water management plan. This state plan is applicable to activities contracted for or conducted by any agency, as defined under s. 227.01 (1), but also including the office of district attorney, unless that agency enters into a memorandum of understanding with the department of ~~natural resources~~ in which that agency agrees to regulate activities related to storm water management. The department

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shall coordinate the activities of agencies, as defined under s. 227.01 (1), in storm water management and make recommendations to these agencies concerning activities related to storm water management.

^{3/6/k}
SECTION ~~893~~. 281.35 (8) (intro.) of the statutes is amended to read:

281.35 (8) PREPARATION OF WATER QUANTITY RESOURCES PLAN. (intro.) The ~~natural resources board department~~ shall, ~~before August 1, 1988~~ in consultation with the department of fish, wildlife, parks, and forestry, adopt and submit to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a long-term state water quantity resources plan for the protection, conservation, and management of the waters of the state. The plan shall include, but need not be limited to, the following:

^{3/6/p}
SECTION ~~894~~. 281.43 (1) of the statutes is amended to read:

281.43 (1) The department ~~of natural resources~~ may require the sewerage system, or sewage or refuse disposal plant of any governmental unit including any town, village, or city, to be so planned and constructed that it may be connected with that of any other town, village, or city, and may, after hearing, upon due notice to the governmental units order the proper connections to be made or a group of governmental units including cities, villages, town sanitary districts, or town utility districts may construct and operate a joint sewerage system under this statute without being so required by order of the department ~~of natural resources~~ but following hearing and approval of the department.

^{3/6/s}
SECTION ~~895~~. 281.48 (5s) of the statutes is amended to read:

281.48 (5s) (a) The department may follow the procedures for the issuance of a citation under ss. ~~23.50 to 23.99~~ 278.50 to 278.90 to collect a forfeiture for a violation of subs. (2) to (5).

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(b) Notwithstanding s. ~~23.66~~ 278.66 (4), the department shall promulgate rules establishing the basic amount of the deposit that may be made under s. ~~23.66~~ 278.66 (1) by a person to whom a citation is issued under par. (a). The rules shall specify a different amount for each offense under subs. (2) to (5).

^{(b) 3161 w}
SECTION ~~896~~. 281.55 (2) of the statutes is amended to read:

281.55 (2) In order that the construction of pollution prevention and abatement facilities necessary to the protection of state waters be encouraged, a state program of assistance to municipalities and school districts for the financing of such facilities is established and a program of state advances in anticipation of federal aid reimbursement is established to meet the state's water quality standards. These state programs shall be administered by the department of natural resources and the department shall make such rules as are necessary for the proper execution of the state program.

^{(b) 3161 y}
SECTION ~~897~~. 281.55 (6) (b) 1. of the statutes is amended to read:

281.55 (6) (b) 1. These payments shall not exceed 50% of the approved project in conjunction with the state program of advancement in anticipation of federal reimbursement under sub. (2). To provide for the financing of pollution prevention and abatement facilities, the ~~natural resources board~~ department, with the approval of the governor, subject to the limits of s. 20.866 (2) (tm) may direct that state debt be contracted as set forth in subd. 2. and subject to the limits set therein. Said debts shall be contracted for in the manner and form as the legislature hereafter prescribes.

^{(b) 3162 v}
SECTION ~~898~~. 281.58 (9) (ae) of the statutes is amended to read:

281.58 (9) (ae) A municipality that submits an application under par. (a) without design plans and specifications may obtain an initial determination of

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financial eligibility from the department of administration. The department of natural resources environmental management may not approve a municipality's application until the municipality submits approvable design plans and specifications. ^{Vo (b)}

Insert ↓
274-A →

^{3164g} SECTION ~~899~~. 281.58 (11) (b) of the statutes is amended to read:

281.58 (11) (b) For municipalities meeting the financial hardship assistance requirements under sub. (13), the department of natural resources environmental management may approve financial hardship assistance. ^{Vo}

#. Page 1047, line 11: after that line insert:

^{3168g} SECTION ~~899~~. 281.59 (11) (a) of the statutes is amended to read:

281.59 (11) (a) The department of natural resources environmental management and the department of administration may enter into a financial assistance agreement with an applicant for which the department of administration has allocated subsidy under s. 281.58 (9m), 281.60 (8), or 281.61 (8) if the applicant meets the conditions under sub. (9) and the other requirements under this section and s. 281.58, 281.60, or 281.61.

^{3168h} SECTION ~~899~~. 281.59 (11) (c) of the statutes is amended to read:

281.59 (11) (c) The department of administration may retain the last payment under a financial assistance agreement until the department of natural resources environmental management and the department of administration determine that the project is completed and meets the applicable requirements of this section and s. 281.58, 281.60, or 281.61 and that the conditions of the financial assistance agreement are met.

^{3168j} SECTION ~~899~~. 281.59 (12) of the statutes is amended to read:

281.59 (12) MUNICIPAL OBLIGATIONS. The department of administration may purchase or refinance obligations specified in s. 281.58 (6) (b) 1. and guarantee or

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purchase insurance for municipal obligations specified in s. 281.58 (6) (b) 3. if the department of administration and the department of ~~natural resources environmental management~~ approve the financial assistance under this section and s. 281.58. ^{V6}

#. Page 1049, line 2: after that line insert:

SECTION ~~903~~ ^{3170g} 281.625 (4) of the statutes is amended to read:

281.625 (4) With the approval of the department of administration, the department of ~~natural resources~~ environmental management may transfer funds from the appropriation accounts under s. 20.320 (2) (s) and (x) to the Wisconsin drinking water reserve fund under s. 234.933 to guarantee loans under s. 234.86.

SECTION ~~904~~ ^{3170t} 281.65 (3) (at) of the statutes is amended to read:

281.65 (3) (at) Review rules drafted under this section and make recommendations regarding the rules before final approval of the rules by the ~~natural resources environmental management board~~. ^{V6}

#. Page 1050, line 3: after that line insert: ^{as affected by 2001 Wisconsin Act ... (this act),}

SECTION ~~905~~ ^{3174b} 281.65 (4g) of the statutes is amended to read:

* 281.65 (4g) The department may contract with any person from the appropriation account under s. ~~20.370~~ ^(ac) 20.375 (4) ~~(at)~~ for services to administer or implement this section, including information and education and training services. The department shall allocate \$500,000 in each fiscal year from the appropriation account under s. ~~20.370~~ ^(ac) 20.375 (4) ~~(at)~~ for contracts for educational and technical assistance related to the program under this section provided by the University of Wisconsin-Extension.

SECTION ~~906~~ ³¹⁷⁴ⁿ 281.65 (4m) (c) of the statutes is amended to read:

* 281.65 (4m) (c) The department shall submit a copy of any plan it completes under this subsection to any county located in or containing any watershed ~~which~~ that is a subject of the plan and to the department of agriculture, trade and consumer

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protection. The department of agriculture, trade and consumer protection shall review the plan and notify the department of ~~natural resources~~ environmental management of its comments on the plan. A county receiving a plan under this subsection shall review the plan, approve or disapprove the plan, and notify the department of ~~natural resources~~ environmental management of its action on the plan.

✓
Page 1050, line 14: after that line insert!

SECTION ~~907~~ 281.65 (7) (b) of the statutes is amended to read:
31769

281.65 (7) (b) The owner or operator of a site designated as a critical site in a priority watershed or priority lake plan under sub. (5m) or in a modification to such a plan under sub. (5s) or the department of ~~natural resources~~ may obtain a review of the decision of a county land conservation committee under par. (a) 2. by filing a written request with the land and water conservation board within 60 days after receiving the decision of the county land conservation committee. ✓

Insert ↓
276-A →

SECTION 908. 281.69 (3) (b) 2. of the statutes is amended to read:

281.69 (3) (b) 2. The restoration of a wetland, as defined in s. ~~23.32~~ 278.32 (1), if the restoration will protect or improve a lake's water quality or its natural ecosystem.

Page 1055, line 6: after that line insert!

SECTION ~~909~~ 281.695 (5) of the statutes is amended to read:
32079

281.695 (5) Any municipality may participate in the state financial assistance program for soil and water resources protection established under s. 281.55, 281.57, or 281.65 and may enter into agreements with the department of ~~natural resources~~ environmental management for that purpose. Any municipality may participate in the clean water fund program under ss. 281.58 and 281.59 and may enter into agreements with the department of administration and the department of ~~natural resources~~ environmental management for that purpose. Any county may participate

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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.

^{3207h}
SECTION ~~910~~. 281.695 (6) of the statutes is amended to read:

281.695 (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~~ environmental management pursuant to s. 281.55 (6) (b). ✓

#. Page 1055, line 8: after that line insert:

^{3208d}
SECTION ~~921~~. 281.75 (5) (f) of the statutes is amended to read:

281.75 (5) (f) The department shall allocate money for the payment of claims according to the order in which completed claims are received. The department may conditionally approve a completed claim even if the appropriation under s. ~~20.370~~ 20.375 (6) (cr) is insufficient to pay the claim. The department shall allocate money for the payment of a claim which is conditionally approved as soon as funds become available.

^{3208g}
SECTION ~~917~~. 281.85 (intro.) of the statutes is amended to read:

281.85 Great Lakes protection fund share. (intro.) The department may use moneys from the appropriation under s. ~~20.370~~ 20.375 (4) (ah) for any of the following purposes:

^{3208k}
SECTION ~~919~~. 281.96 of the statutes is amended to read:

281.96 Visitorial powers of department. Every owner of an industrial establishment shall furnish to the department all information required by it in the discharge of its duties under subch. II, except s. 281.17 (6) and (7). Any member of the ~~natural resources~~ environmental management board or any employee of the department may enter any industrial establishment for the purpose of collecting

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such information, and no owner of an industrial establishment shall refuse to admit such member or employee. The department shall make such inspections 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.

^{3208r}
SECTION ~~914~~ 283.001 (2) of the statutes is amended to read:

283.001 (2) The purpose of this chapter is to grant to the department of ~~natural resources~~ all authority necessary to establish, administer, and maintain a state pollutant discharge elimination system to effectuate the policy set forth under sub. (1) and consistent with all the requirements of the federal water pollution control act amendments of 1972, P.L. 92-500; 86 Stat. 816.

^{3208t}
SECTION ~~915~~ 283.01 (3) of the statutes is amended to read:

283.01 (3) "Department" means the department of ~~natural resources~~ environmental management.

^{3208v}
SECTION ~~916~~ 283.01 (16) of the statutes is amended to read:

283.01 (16) "Secretary" means the secretary of ~~natural resources~~ environmental management or his or her designee. ✓

#. Page 1056, line 22; after that line insert:
SECTION ~~917~~ 283.33 (9) (c) of the statutes is amended to read:

^{3217d}
283.33 (9) (c) All moneys collected under par. (a) shall be credited to the appropriation under s. ~~20.370~~ 20.375 (4) (bj). ✓

#. Page 1057, line 2; after that line insert:
SECTION ~~918~~ 283.87 (1) of the statutes is amended to read:

³²¹⁸ⁿ
283.87 (1) DEPARTMENT MAY RECOVER COSTS. In an action against any person who violates this chapter or any provision of s. ~~29.601~~ or ~~chs. 30~~, subchs. I to III of ch. 30 or chs. 31, 281, 285 or 289 to 299, except s. 281.48, relating to water quality the

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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.

#. Page 1057, line 2: after that line insert: 1 as affected by 2001 Wisconsin Act ... (this act),
please fix comp ->
SECTION 919 283.89 (2m) of the statutes is amended to read:
3219b

283.89 (2m) If the department finds a violation of s. 283.33 (1) to (8) for which a person is subject to a forfeiture under s. 283.91 (2), the department ^{may} shall issue a citation ^{if the department does issue a citation} and the procedures in ss. ~~23.50 to 23.99~~ 278.50 to 278.90 apply.

3219c
SECTION ~~920~~ 285.01 (13) of the statutes is amended to read:

285.01 (13) "Department" means the department of ~~natural resources~~ environmental management.

3219g
SECTION ~~921~~ 285.01 (38) of the statutes is amended to read:

285.01 (38) "Secretary" means the secretary of ~~natural resources~~ environmental management.

3219k
SECTION ~~922~~ 285.11 (6) (intro.) of the statutes is amended to read:

285.11 (6) (intro.) Prepare and develop one or more comprehensive plans for the prevention, abatement, and control of air pollution in this state. The department thereafter shall be responsible for the revision and implementation of the plans. The rules or control strategies submitted to the federal environmental protection agency under the federal ~~clean air act~~ Clean Air Act for control of atmospheric ozone shall conform with the federal ~~clean air act~~ Clean Air Act unless, based on the recommendation of the ~~natural resources~~ environmental management board or the head of the department, as defined in s. 15.01 (8), of any other department, as defined in s. 15.01 (5), that promulgates a rule or establishes a control strategy, the governor

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determines that measures beyond those required by the federal clean air act Clean Air Act meet any of the following criteria:

SECTION ^{3219p}~~923~~ 285.48 (2) of the statutes is amended to read:

285.48 (2) APPLICABILITY. This section applies if the department of ~~natural resources~~ environmental management, pursuant to a call, issues a state implementation plan that requires electric generating facilities in the midcontinent area of this state to comply with nitrogen oxide emission reduction requirements. If the department of ~~natural resources~~ environmental management issues such a plan, the department of ~~natural resources~~ environmental management shall notify the department of administration and the public service commission. The notice shall specify the date on which electric generating facilities in the midcontinent area of this state are required to comply with the initial nitrogen oxide emission reduction requirements.

SECTION ^{3219q}~~924~~ 285.48 (3) (d) (intro.) of the statutes is amended to read:

285.48 (3) (d) (intro.) If the department of ~~natural resources~~ environmental management implements a state implementation plan specified in sub. (2) in a manner that requires reductions in nitrogen oxide emissions that are lower than the reductions set forth in the call published on October 27, 1998, the department of ~~natural resources~~ environmental management shall do each of the following:

SECTION ^{3219r}~~925~~ 285.57 (4) of the statutes is amended to read:

285.57 (4) CITATIONS. The department may follow the procedures for the issuance of a citation under ss. ~~23.50 to 23.99~~ 278.50 to 278.90 to collect a forfeiture for a violation of sub. (2). ^V

#. Page 1057, line 16: after that line insert:
(SECTION ~~926~~ 285.59 (7) of the statutes is amended to read:

^{3220g}

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285.59 (7) CITATIONS. The department may follow the procedures for the issuance of a citation under ss. ~~23.50 to 23.99~~ 278.50 to 278.90 to collect a forfeiture

for a violation of sub. (2), (3) (c) or (4). *VO*

#. Page 1057, line 21: after that line insert:

3222c
SECTION ~~927~~ 285.69 (2) (c) (intro.) of the statutes is amended to read:

285.69 (2) (c) (intro.) The fees collected under pars. (a) and (e) shall be credited to the appropriations under s. ~~20.370~~ 20.375 (2) (bg), (3) (bg), (8) (mg) and (9) (mh) (bh), (sg), and (th) for the following:

3222c
SECTION ~~928~~ 285.69 (3) of the statutes is amended to read:

285.69 (3) ASBESTOS INSPECTION FEES. The department may promulgate rules for the payment and collection of fees for inspecting nonresidential asbestos demolition and renovation projects regulated by the department. The fees under this subsection may not exceed \$210 per project. The fees collected under this subsection shall be credited to the appropriation under s. ~~20.370~~ 20.375 (2) (bi) for the direct and indirect costs of conducting inspections of nonresidential asbestos demolition and inspection projects regulated by the department.

3222g
SECTION ~~929~~ 285.69 (7) of the statutes is 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. 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~~ 20.375 (2) (bg).

3222k
SECTION ~~930~~ 285.85 (1) of the statutes is amended to read:

285.85 (1) If the secretary finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human

BILL

health or safety, he or she shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants, and such order shall fix a place and time, not later than 24 hours thereafter, for a hearing to be held before the department. Not more than 24 hours after the commencement of such hearing, and without adjournment thereof, the ~~natural resources environmental management~~ board shall affirm, modify or set aside the order of the secretary.

Ⓟ 3222n

SECTION 931. 285.86 (1) of the statutes is amended to read:

285.86 (1) The department may follow the procedures for the issuance of a citation under ss. ~~23.50 to 23.99~~ 278.50 to 278.90 to collect a forfeiture from a person who commits a violation specified under sub. (2).

Ⓟ 3222f

SECTION 932. 287.01 (1) of the statutes is amended to read:

287.01 (1) "Department" means the department of ~~natural resources environmental management~~.

✓ 1/10

~~SECTION 933. 287.23 (5m) of the statutes is amended to read:~~

~~287.23 (5m) ALTERNATE PROCESS. The department shall establish, by rule, a process for distributing grants if the amount that would be awarded under sub. (5) or (5e) exceeds the amount of funds available under s. 20.370 (6) (bq).~~

Page 1058, line 6: after that line insert:

↓

SECTION 934. 287.25 (5) (a) of the statutes is amended to read:

Ⓟ 3222c

287.25 (5) (a) The department may enter into agreements with eligible applicants to make demonstration grants from the appropriation under s. ~~20.370~~ 20.375 (6) (br).

Ⓟ 3222e

SECTION 935. 287.91 (4) of the statutes is amended to read:

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287.91 (4) The department of ~~natural resources~~ environmental management shall reimburse the department of justice for the expenses incurred in enforcing this chapter from the appropriation under s. ~~20.370~~ 20.375 (2) (ma).

^{Ⓟ3227f}
SECTION ~~936~~. 287.95 (4) of the statutes is amended to read:

287.95 (4) The department may follow the procedures for the issuance of a citation under ss. ~~23.50 to 23.99~~ 278.50 to 278.90 to collect a forfeiture for the violations under subs. (1), (2) (b) and (3) (b).

^{Ⓟ3227g}
SECTION ~~937~~. 289.01 (7) of the statutes is amended to read:

289.01 (7) "Department" means the department of ~~natural resources~~ environmental management.

^{Ⓟ3227h}
SECTION ~~938~~. 289.01 (31) of the statutes is amended to read:

289.01 (31) "Secretary" means the secretary of ~~natural resources~~ environmental management.

^{Ⓟ3227i}
SECTION ~~939~~. 289.09 (2) (d) of the statutes is amended to read:

289.09 (2) (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 this chapter, ch. 287 or 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 of ~~natural resources~~ environmental management or the department of justice may release on a limited basis records and other information granted confidential status under this subsection if the department of ~~natural resources~~ environmental management or the department of justice is directed to take this action by a judge or hearing examiner

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under an order ~~which~~ that protects the confidentiality of the records or other information. The department of ~~natural resources~~ environmental management 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 of ~~natural resources~~ environmental management 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.

^{63227j}
SECTION ~~940~~. 289.25 (1) of the statutes is amended to read:

289.25 (1) PRELIMINARY DETERMINATION IF ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED. Immediately after the department determines that the feasibility report is complete, the department shall issue a preliminary determination on whether an environmental impact statement is required under s. 1.11 prior to the determination of feasibility. If the department determines after review of the feasibility report that a determination of feasibility cannot be made without an environmental impact statement or if the department intends to require an environmental impact report under s. ~~23.11 (5)~~ 278.40 (1m), the department shall notify the applicant in writing within the 60-day period of these decisions and shall commence the process required under s. 1.11 or ~~23.11 (5)~~ 278.40 (1m).

^{63227k}
SECTION ~~941~~. 289.29 (1) (c) of the statutes is amended to read:

289.29 (1) (c) The department may receive into evidence at a hearing conducted under 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)~~ 278.40 (1m). The adequacy of the

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environmental impact assessment, environmental impact statement or environmental impact report is not subject to challenge at that hearing.

^{Ⓟ 3227L}
SECTION ~~949~~. 289.31 (7) (f) of the statutes is amended to read:

289.31 (7) (f) If the owner or operator of a site or facility subject to an order under par. (d) is a municipality, the municipality is responsible for conducting any monitoring ordered under par. (d). The department shall, from the environmental fund appropriation under s. ~~20.370~~ 20.375 (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 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. ✓

#. Page 1059, line (b) after that line insert:
SECTION ~~949~~. 289.43 (7) (c) of the statutes is amended to read:

^{Ⓟ 322750}
289.43 (7) (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, 160 and 280 to 299 and ss. 1.11, ~~23.40~~, 59.692, 59.693, 60.627, 61.351, 61.354, 62.231, 62.234 and, 87.30, and 278.40. If the proposal does not comply with one or more of the requirements specified in this 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 subsection within 90 days.

^{Ⓟ 32279}
SECTION ~~944~~. 289.43 (7) (e) 3. of the statutes is amended to read:

289.43 (7) (e) 3. All fees collected under this paragraph shall be credited to the appropriations under s. ~~20.370~~ 20.375 (2) (dg) and (9) ~~(mj)~~ (tj).

^{Ⓟ 3228C}
SECTION ~~945~~. 289.64 (6) of the statutes is amended to read: