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1 **SECTION 706.** 254.02 (3) (a) of the statutes is amended to read:

2 254.02 (3) (a) The department of agriculture, trade and consumer protection,
3 the department of corrections, the department of commerce, and the department of
4 ~~natural resources~~ environmental quality shall enter into memoranda of
5 understanding with the department to establish protocols for the department to
6 review proposed rules of those state agencies relating to air and water quality,
7 occupational health and safety, institutional sanitation, toxic substances, indoor air
8 quality, food protection or waste handling and disposal.

9 **SECTION 707.** 254.51 (2) of the statutes is amended to read:

10 254.51 (2) The department shall enter into memoranda of understanding with
11 the department of agriculture, trade and consumer protection, the department of
12 commerce, the department of environmental quality, and the department of natural
13 resources regarding the investigation and control of animal-borne and vector-borne
14 disease.

15 **SECTION 708.** Chapter 278 of the statutes is created to read:

16 **CHAPTER 278**

17 **DEPARTMENT OF**

18 **ENVIRONMENTAL QUALITY**

19 **SUBCHAPTER I**

20 **GENERAL**

21 **278.01 Definitions. (1)** In this chapter:

- 22 (a) “Department” means the department of environmental quality.
23 (b) “Secretary” means the secretary of environmental quality.

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1 margin of the folder shall be an impression of the seal of the department. The
2 appointee shall also affix the appointee's signature below the photograph on such
3 folder. On the other inner side of the folder shall be securely fastened a miniature
4 true copy of the commission issued to the appointee, which shall be signed by the
5 secretary. The appointee shall carry the identification folder on his or her person at
6 all times that the appointee is on official duty, and the appointee shall on demand
7 exhibit the folder to any person to whom the appointee may represent himself or
8 herself as an environmental warden. The cost of the identification folder shall be
9 charged to the department.

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

18 **278.11 Warrants, arrests, and police powers. (1) GENERALLY.** The
19 department and its wardens may execute and serve warrants and processes issued
20 under any law enumerated in s. 278.51 (1) in the same manner as any constable may
21 serve and execute the process; and may arrest, with or without a warrant, any person
22 detected in the actual violation, or whom the officer has probable cause to believe is
23 guilty of a violation of any of those laws whether the violation is punishable by
24 criminal penalties or by forfeiture, and may take the person before any court in the
25 county where the offense was committed and make a proper complaint. For the

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1 purpose of enforcing the laws enumerated in s. 278.51 (1), any officer may stop and
2 board any boat and stop any vehicle, if the officer reasonably suspects there is a
3 violation of those laws.

4 **(2) ADDITIONAL ARREST POWERS.** In addition to the arrest powers under sub. (1),
5 an environmental warden who has completed a program of law enforcement training
6 approved by the law enforcement standards board, has been certified as qualified to
7 be a law enforcement officer under s. 165.85 (4) (b) 1., and has complied with any
8 applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in uniform or
9 on duty and upon display of proper credentials may assist another law enforcement
10 agency, as defined in s. 165.83 (1) (b), including making an arrest at the request of
11 the agency, may arrest a person pursuant to an arrest warrant concerning the
12 commission of a felony, or may arrest a person who has committed a crime in the
13 presence of the environmental warden. If the environmental warden makes an
14 arrest without the presence of another law enforcement agency, the environmental
15 warden shall cause the person arrested to be delivered to the chief of police or sheriff
16 in the jurisdiction where the arrest is made, along with the documents and reports
17 pertaining to the arrest. The environmental warden shall be available as a witness
18 for the state. An environmental warden may not conduct investigations for
19 violations of state law except as authorized in sub. (3). An environmental warden
20 acting under the authority of this subsection is considered an employee of the
21 department and is subject to its direction, benefits, and legal protection. The
22 authority granted in this subsection does not apply to special environmental
23 wardens.

24 **(3) INVESTIGATIONS.** The department and its environmental wardens shall,
25 upon receiving notice or information of the violation of the laws enumerated in s.

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1 278.51 (1), as soon as possible make a thorough investigation and cause proceedings
2 to be instituted if the evidence warrants it.

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

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

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

21 (c) 1. In the case of the sale of a confiscated motor vehicle, the department shall
22 make a reasonable effort, within 10 days after seizure, to ascertain if a security
23 interest in the seized motor vehicle exists. The department shall, within 10 days
24 after obtaining actual or constructive notice of any security interest in the seized
25 motor vehicle, give the secured party notice of the time and place of any proceeding

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1 before a court pertaining to the confiscation of the motor vehicle. Constructive notice
2 shall be limited to security interests perfected by filing.

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

7 3. If the holder of a security interest in the confiscated motor vehicle, perfected
8 by filing, proves to the court, or after judgment of confiscation, to the department,
9 that the violation that led to the confiscation was not with the knowledge, consent,
10 or connivance of the holder of the security interest or with that of some person
11 employed or trusted by the holder of the security interest, the amount due under the
12 security agreement, together with any other deductions authorized under par. (a),
13 shall be deducted from the proceeds of the sale of the confiscated motor vehicle and
14 the amount due shall be paid to the one entitled. If a sufficient amount does not
15 remain for the full payment of the amount due under the security agreement after
16 making the other deductions authorized under par. (a), the amount remaining shall
17 be paid to the one entitled.

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

20 **278.12 Exemption from liability.** Each environmental warden, in the
21 performance of official duties, is exempt from liability to any person for acts done or
22 permitted or property destroyed by authority of law. No taxable costs or attorney fees
23 shall be allowed to either party in an action against an environmental warden.

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1 **278.13 Resisting an environmental warden.** Any person who assaults or
2 otherwise resists or obstructs any environmental warden in the performance of duty
3 is subject to the penalty specified in s. 939.51 (3) (a).

4 **278.14 False impersonation of environmental warden.** Any person who
5 falsely represents himself or herself to be an environmental warden or who assumes
6 to act as an environmental warden without having been first duly appointed is
7 subject to the penalty specified in s. 939.51 (3) (a).

8 **278.16 Periodicals. (1) PUBLICATION.** The department may produce, issue,
9 or reprint magazines or other periodicals, on a periodic basis as it determines,
10 pertaining to environmental quality and other similar subjects of general
11 information. The department may distribute its magazines and periodicals by
12 subscription. The department shall charge a fee for any of its magazines or
13 periodicals.

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

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

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

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

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

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

14 **278.165 Promotional activities; other publications. (1) PUBLICATIONS.**
15 The department may produce, issue, reprint, and sell publications not published on
16 a periodic basis that pertain to environmental quality and other similar subjects of
17 general information.

18 (1m) PHOTOGRAPHS, SLIDES, VIDEOTAPES, ARTWORK. The department may
19 produce, issue, reprint, and sell photographs, slides, videotapes, and artwork if they
20 pertain to environmental quality and other similar subjects of general information.

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

24 (3) PROMOTIONAL ACTIVITIES. The department may promote, through the sale
25 of merchandise or otherwise, advertise or otherwise publicize department programs

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1 and department publications. The promotion, advertising, and publicizing shall be
2 consistent with the goals, purposes, and functions of the department.

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

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

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

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

19 **(5m) USE OF MONEYS.** The department shall use the moneys collected under this
20 section for the costs specified in sub. (5). If the moneys collected under this section
21 exceed the amount necessary for the costs specified in sub. (5), the department shall
22 use the excess for educational and informational activities concerning the
23 environment.

24 **(6) REPORT TO LEGISLATURE.** The department shall annually submit a report
25 concerning the activities, receipts, and disbursements under this section for the

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1 preceding fiscal year to the chief clerk of each house of the legislature for distribution
2 to the appropriate standing committees under s. 13.172 (3).

3 **278.322 Fees for computer accessible water resource management**
4 **information.** The department may charge a fee for providing any information that
5 it maintains in a format that may be accessed by computer concerning the waters of
6 this state, including maps and other water resource management information.

7 **278.40 Environmental impact report and statement. (1) DETERMINATION**
8 **IF ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED.** Any person who files an application
9 for a permit, license, or approval granted or issued by the department, shall submit
10 with the application a statement of the estimated cost of the project or proposed
11 action for which the person seeks a permit, license, or approval. The department may
12 seek such further information as it considers necessary to determine whether it must
13 prepare an environmental impact statement under s. 1.11.

14 **(1m) ENVIRONMENTAL IMPACT REPORT.** The department may require an applicant
15 for a permit, license, or approval, to submit an environmental impact report if the
16 area affected exceeds 40 acres, the estimated cost of the project exceeds \$25,000, or
17 the applicant is requesting approval for a high capacity well described in s. 281.34
18 (4) (a) 1. to 3.

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

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

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

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

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

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

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

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

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1 studies and investigations, laboratory studies and investigations, and advisory
2 services.

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

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

9 **278.41 Construction and service contracts. (1)** In this section:

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

14 (b) "Environmental consultant services" includes services provided by
15 environmental scientists, engineers, and other experts.

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

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

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

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1 **(5)** Each contract for construction work entered into by the department under
2 this section shall be awarded on the basis of bids or competitive sealed proposals in
3 accordance with procedures established by the department. Each contract for
4 construction work shall be awarded to the lowest responsible bidder or the person
5 submitting the most advantageous competitive sealed proposal as determined by the
6 department. If the bid of the lowest responsible bidder or the proposal of the person
7 submitting the most advantageous competitive sealed proposal is determined by the
8 department to be in excess of the estimated reasonable value of the work or not in
9 the public interest, the department may reject all bids or competitive sealed
10 proposals. Every such contract is exempted from ss. 16.70 to 16.75, 16.755, 16.76,
11 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss. 16.528, 16.753
12 16.754, and 16.765 apply to the contract. Every such contract involving an
13 expenditure of more than \$60,000 is not valid until the contract is approved by the
14 governor.

15 **(5m)** If the governor or the governor's designee determines that it is in the best
16 interest of this state, he or she may waive the requirement under sub. (5) for bids or
17 competitive sealed proposals under any of the following circumstances:

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

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

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

4 **278.49 Credit card use charges.** The department shall certify to the
5 secretary of administration the amount of charges associated with the use of credit
6 cards that is assessed to the department on deposits accepted under s. 278.66 (1m)
7 by environmental wardens, and the secretary of administration shall pay the
8 charges from moneys received under s. 59.25 (3) (j) and (k) that are reserved for
9 payment of the charges under s. 20.907 (5) (e) 12e.

SUBCHAPTER II

ENFORCEMENT OF CERTAIN

ENVIRONMENTAL LAWS

13 **278.50 Words and phrases defined.** In ss. 278.50 to 278.90 the following
14 words and phrases have the designated meanings unless the context clearly
15 indicates a different meaning:

16 **(1m)** “Citation” means a pleading of essential facts and applicable law coupled
17 with a demand for judgment, that notifies the person cited of a violation specified in
18 s. 278.51 (1) and requests the person to appear in court.

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

21 **(2L)** “Corporation” includes a limited liability company.

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

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

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1 **278.51 Procedure in forfeiture actions.** (1) The procedure in this
2 subchapter applies to all actions in circuit court to recover forfeitures, plus costs,
3 fees, and surcharges imposed under ch. 814, for violations of ss. 281.48 (2) to (5),
4 283.33, 285.57 (2), 285.59 (2), (3) (c), and (4), 287.07, 287.08, 287.81, and 299.64 (2),
5 subchs. I to III of ch. 30, and ch. 31, and any administrative rules promulgated
6 thereunder, violations to which s. 299.85 (7) (a) 2. or 4. applies, and violations
7 specified under s. 280.98 (2) or 285.86.

8 (2) All actions to recover these forfeitures and costs, fees, and surcharges
9 imposed under ch. 814 are civil actions in the name of the state of Wisconsin.

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

12 **278.52 Two forms of action.** Actions under this subchapter may be
13 commenced by a citation, or by a complaint and summons.

14 **278.53 Use of citation.** (1) If an action under this subchapter is commenced
15 by a citation, the citation form under s. 278.54 shall be used, except that the uniform
16 traffic citation created under s. 345.11 may be used by an officer of a law enforcement
17 agency of a municipality or county or a traffic officer employed under s. 110.07 in
18 enforcing s. 287.81.

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

22 **278.54 Citation form.** (1) The citation form for actions under this subchapter
23 shall contain a complaint, a case history, and a report of court action on the case.

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

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

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

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

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

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

13 (e) The maximum forfeiture, plus costs, fees, and surcharges imposed under ch.
14 814, for which the defendant might be found liable.

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

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

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

19 (i) Notice that, if the defendant makes a deposit and fails to appear in court at
20 the time fixed in the citation, the defendant will be considered to have tendered a plea
21 of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed
22 ch. 814, not to exceed the amount of the deposit. The notice shall also state that the
23 court may decide to summon the defendant rather than accept the deposit and plea.

24 (j) Notice that, if the defendant makes a deposit and signs the stipulation, the
25 defendant will be considered to have tendered a plea of no contest and submitted to

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1. a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the
2 amount of the deposit. The notice shall also state that the court may decide to
3 summon the defendant rather than accept the deposit and stipulation, and that the
4 defendant may, at any time prior to or at the time of the court appearance date, move
5 the court for relief from the effects of the stipulation.

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

9 (L) Any other pertinent information.

10 **278.55 Complaint and summons forms. (1) COMPLAINT.** If an action under
11 this subchapter is commenced by a complaint and summons, it must appear on the
12 face of the complaint that there is probable cause to believe that a violation has been
13 committed and that the defendant has committed it. The complaint shall accompany
14 the summons and shall contain the information set forth in s. 278.54 (3) (a) to (d) and
15 all of the following:

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

18 (b) A plain and concise statement of the violation identifying the event or
19 occurrence from which the violation arose and showing that the plaintiff is entitled
20 to relief, the statute upon which the cause of action is based and a demand for a
21 forfeiture, the amount of which may not exceed the maximum set by the statute
22 involved, plus costs, fees, and surcharges imposed under ch. 814, and any other relief
23 that is sought by the plaintiff.

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

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

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

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

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

11 **278.56 Arrest with a warrant. (1)** A person may be arrested for a violation
12 specified in s. 278.51 (1) after a warrant that substantially complies with s. 968.04
13 has been issued. Except as provided in sub. (2), the person arrested shall be brought
14 without unreasonable delay before a court having jurisdiction to try the action.

15 **(2)** In actions to collect forfeitures, plus costs, fees, and surcharges imposed
16 under ch. 814, the judge who issues a warrant under sub. (1) may endorse upon the
17 warrant the amount of the deposit. If no endorsement is made, the deposit schedule
18 under s. 278.66 (4) shall apply, unless the court directs that the person be brought
19 before the court.

20 **278.57 Arrest without a warrant. (1)** A person may be arrested without a
21 warrant when the arresting officer has probable cause to believe that the person is
22 committing or has committed a violation specified in s. 278.51 (1) and any of the
23 following applies:

24 (a) The person refuses to accept a citation or to make a deposit under s. 278.66.

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1 (b) The person refuses to identify himself or herself satisfactorily or the officer
2 has reasonable grounds to believe that the person is supplying false identification.

3 (c) Arrest is necessary to prevent imminent bodily harm to the enforcing officer
4 or to another.

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

7 **278.58 Temporary questioning without arrest.** After having identified
8 himself or herself as an enforcing officer, an enforcing officer may stop a person in
9 a public place for a reasonable period of time when the enforcing officer reasonably
10 suspects that the person is committing, is about to commit, or has committed a
11 violation specified in s. 278.51 (1). Such a stop may be made only where the enforcing
12 officer has proper authority to make an arrest for the violation. The enforcing officer
13 may demand the name and address of the person and an explanation of the person's
14 conduct. The detention and temporary questioning shall be conducted in the vicinity
15 where the person was stopped.

16 **278.59 Search during temporary questioning.** When an enforcing officer
17 has stopped a person for temporary questioning under s. 278.58 and reasonably
18 suspects that the enforcing officer or another is in danger of physical injury, the
19 enforcing officer may search the person for weapons or any instrument, article, or
20 substance readily capable of causing physical injury and of a sort not ordinarily
21 carried in public places by law abiding persons. If the enforcing officer finds such a
22 weapon or instrument, or any other property possession of which he or she
23 reasonably believes may constitute the commission of a violation specified in s.
24 278.51 (1) or that may constitute a threat to his or her safety, the enforcing officer
25 may take it and keep it until the completion of the questioning, at which time he or

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1 she shall return it, if lawfully possessed, arrest the person so questioned for
2 possession of the weapon, instrument, article, or substance, if he or she has the
3 authority to do so, or detain the person until a proper arrest can be made by
4 appropriate authorities. Searches during temporary questioning as provided under
5 this section may be conducted only by those enforcing officers who have the authority
6 to make arrests for crimes.

7 **278.60 Search incident to the issuance of a lawfully issued citation.** If
8 the enforcing officer has stopped a person to issue a citation under s. 278.62 and
9 reasonably suspects that the enforcing officer or another is in danger of physical
10 injury, the officer may search the person for weapons or any instrument, article, or
11 substance readily capable of causing physical injury and of a sort not ordinarily
12 carried in public places by law abiding persons. If the officer finds such a weapon or
13 instrument, or any other property possession of which he or she reasonably believes
14 may constitute the commission of a violation specified in s. 278.51 (1), or that may
15 constitute a threat to his or her safety, the officer may take it and keep it until he or
16 she has completed issuing the citation, at which time the officer shall return it, if
17 lawfully possessed, arrest the person for possession of the weapon, instrument,
18 article, or substance, if he or she has the authority to do so, or detain the person until
19 a proper arrest can be made by appropriate authorities.

20 **278.61 Search and seizure; when authorized.** Under this subchapter, a
21 search of a person, object, or place may be made and things may be seized when the
22 search is made as follows:

- 23 (1) Incident to a lawful arrest.
- 24 (2) With consent.
- 25 (3) Pursuant to a valid search warrant.

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1 **(4)** With the authority and within the scope of a right of lawful inspection.

2 **(5)** Incident to the issuance of a lawfully issued citation in accordance with s.
3 278.60.

4 **(6)** During an authorized temporary questioning under s. 278.59.

5 **(7)** As otherwise authorized by law.

6 **278.62 Issuance of a citation. (1)** Whenever an enforcing officer has
7 probable cause to believe that a person subject to his or her authority is committing
8 or has committed a violation of those statutes specified in s. 278.51 (1), the officer
9 may proceed in the following manner:

10 (a) Issue a citation to the defendant in the form specified in s. 278.54, a copy
11 of which shall be filed with the clerk of courts in the county where the violation was
12 committed.

13 (b) Proceed, in proper cases, under s. 278.56 or 278.57.

14 (c) Bring the information to the district attorney so that he or she may proceed
15 under s. 278.65.

16 **(2)** (a) If the defendant is a resident of this state, a law enforcement officer may
17 serve a citation anywhere in the state by following the procedures used for the service
18 of a summons under s. 801.11 (1) (a) or (b) 1. or 1m. or (2) or by mailing a copy to the
19 defendant's last-known address.

20 (b) If the defendant is not a resident of the state, a law enforcement officer may
21 serve a citation by delivering a copy to the defendant personally or by mailing a copy
22 to the defendant's last-known address.

23 **278.63 Officer's action after issuance of citation. (1)** After an enforcing
24 officer has issued a citation under this subchapter, the officer shall release the

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1 defendant if he or she makes a deposit under s. 278.66 or a deposit and stipulation
2 of no contest under s. 278.67.

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

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

7 **278.64 Deposit after release.** A person who is released under s. 278.63 (2)
8 may make a deposit any time prior to the court appearance date. The person shall
9 make the deposit with the clerk of the circuit court of the county in which the
10 violation occurred.

11 **278.65 Issuance of complaint and summons.** (1) When it appears to the
12 district attorney that a violation specified in s. 278.51 (1) has been committed the
13 district attorney may proceed by complaint and summons.

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

18 (3) If a district attorney refuses or is unavailable to issue a complaint, a circuit
19 judge, after conducting a hearing, may permit the filing of a complaint if he or she
20 finds there is probable cause to believe that the person charged has committed a
21 violation specified in s. 278.51 (1) or a rule promulgated thereunder. The district
22 attorney shall be informed of the hearing and may attend.

23 **278.66 Deposit.** (1) If under the procedure in s. 278.62 a person is cited or
24 arrested, the person may make a deposit as follows:

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

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

14 **(1m)** The enforcing officer or the person receiving the deposit may allow the
15 alleged violator to submit a check, share draft, or other draft for the amount of the
16 deposit or make the deposit by use of a credit card.

17 **(2)** The person receiving the deposit shall prepare a receipt in triplicate
18 showing the purpose for which the deposit is made, stating that the defendant may
19 inquire at the office of the clerk of circuit court regarding the disposition of the
20 deposit, and notifying the defendant that if he or she fails to appear in court at the
21 time fixed in the citation he or she will be considered to have tendered a plea of no
22 contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under
23 ch. 814, not to exceed the amount of the deposit that the court may accept. The
24 original of the receipt shall be delivered to the defendant in person or by mail. If the
25 defendant pays by check, share draft, or other draft, the check, share draft, or other

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1 draft or a microfilm copy of the check, share draft, or other draft shall be considered
2 a receipt. If the defendant makes the deposit by use of a credit card, the credit charge
3 receipt shall be considered a receipt.

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

7 (4) The basic amount of the deposit shall be determined in accordance with a
8 deposit schedule that the judicial conference shall establish. Annually, the judicial
9 conference shall review and may revise the schedule. In addition to the basic amount
10 determined according to the schedule, the deposit shall include costs, fees, and
11 surcharges imposed under ch. 814.

12 **278.67 Deposit and stipulation of no contest.** (1) If under s. 278.62 a
13 person is cited or arrested, the person may make a deposit and stipulation of no
14 contest, and submit them in the same manner as the deposit in s. 278.66.

15 (2) The deposit and stipulation of no contest may be made at any time prior to
16 the court appearance date. By signing the stipulation, the defendant is considered
17 to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees,
18 and surcharges imposed under ch. 814, not to exceed the amount of the deposit.

19 (3) The person receiving the deposit and stipulation of no contest shall prepare
20 a receipt in triplicate showing the purpose for which the deposit is made, stating that
21 the defendant may inquire at the office of the clerk of circuit court regarding the
22 disposition of the deposit, and notifying the defendant that, if the stipulation of no
23 contest is accepted by the court, the defendant will be considered to have submitted
24 to a forfeiture, plus costs, fees and surcharges imposed under ch. 814, not to exceed

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1 the amount of the deposit. Delivery of the receipt shall be made in the same manner
2 as in s. 278.66.

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

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

9 **278.68 Pleading.** The citation or complaint issued under s. 278.62 or 278.65
10 may serve as the initial pleading and is adequate process to give the appropriate
11 court jurisdiction over the person upon the filing of the citation or complaint with the
12 court.

13 **278.69 Motions.** In a case under this subchapter, any motion that is capable
14 of determination without the trial of the general issue shall be made before trial.

15 **278.70 Arraignment; plea. (1)** Under this subchapter, if a defendant
16 appears in response to a citation or a summons, or is arrested and brought before a
17 court with jurisdiction to try the case, the defendant shall be informed that he or she
18 is entitled to a jury trial and then asked whether he or she wishes to plead. If the
19 defendant wishes to plead, he or she may plead guilty, not guilty, or no contest.

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

22 **278.71 Not guilty plea; immediate trial.** Under this subchapter, if a
23 defendant pleads not guilty, states that he or she waives the right to jury trial, and
24 wishes an immediate trial and, if the state consents, the case may be tried
25 immediately.

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1 **278.72 Not guilty plea.** Under this subchapter, if a defendant pleads not
2 guilty and the trial is not held under s. 278.71, the court shall set a date for trial or
3 advise the defendant that he or she will be notified of the date set for trial. The
4 defendant shall be released upon payment of a deposit as set forth in s. 278.66, or the
5 court may release the defendant on his or her own recognizance. If a defendant fails
6 to appear at the date set under this section, the court may issue a warrant under ch.
7 968 and, if the defendant has posted a deposit for appearance at that date, the court
8 may order the deposit forfeited.

9 **278.73 Discovery.** In a case under this subchapter, neither party is entitled
10 to pretrial discovery except that, if the defendant moves within 10 days after the
11 alleged violation and shows cause therefor, the court may order that the defendant
12 be allowed to inspect and test, under any conditions that the court prescribes, any
13 devices used by the plaintiff to determine whether a violation has been committed
14 and may inspect the reports of experts relating to those devices.

15 **278.74 Mode of trial.** In a case under this subchapter, all of the following
16 apply:

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

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

21 **278.75 Proceedings in court.** In a case under this subchapter, all of the
22 following apply:

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

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

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

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

9 2. If the court considers the nonappearance to be a plea of no contest and enters
10 judgment accordingly, the court shall promptly mail a copy or notice of the judgment
11 to the defendant. The judgment shall allow the defendant not less than 20 working
12 days from the date on which the judgment copy or notice is mailed to pay the
13 forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

14 (b) If the defendant has made a deposit, the citation may serve as the initial
15 pleading and the defendant shall be considered to have tendered a plea of no contest
16 and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814,
17 not exceeding the amount of the deposit. The court may either accept the plea of no
18 contest and enter judgment accordingly, or reject the plea and issue a summons. If
19 the defendant fails to appear in response to the summons, the court shall issue an
20 arrest warrant. If the court accepts the plea of no contest, the defendant may move
21 within 90 days after the date set for appearance to withdraw the plea of no contest,
22 open the judgment, and enter a plea of not guilty if the defendant shows to the
23 satisfaction of the court that failure to appear was due to mistake, inadvertence,
24 surprise, or excusable neglect. If a party is relieved from the plea of no contest, the
25 court or judge may order a written complaint to be filed and set the matter for trial.

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1 After trial the costs, fees, and surcharges imposed under ch. 814 shall be taxed as
2 provided by law. If on reopening the defendant is found not guilty, the court shall
3 delete the record of conviction and shall order the defendant's deposit returned.

4 (c) If the defendant has made a deposit and stipulation of no contest, the
5 citation may serve as the initial pleading and the defendant shall be considered to
6 have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees and
7 surcharges imposed under ch. 814, not exceeding the amount of the deposit. The
8 court may either accept the plea of no contest and enter judgment accordingly, or
9 reject the plea and issue a summons. If the defendant fails to appear in response to
10 the summons, the court shall issue an arrest warrant. After signing a stipulation of
11 no contest, the defendant may, at any time prior to or at the time of the court
12 appearance date, move the court for relief from the effect of the stipulation. The court
13 may act on the motion, with or without notice, for cause shown by affidavit and upon
14 just terms, and relieve the defendant from the stipulation and the effects of the
15 stipulation. If the defendant is relieved from the stipulation of no contest, the court
16 may order a citation or complaint to be filed and set the matter for trial. After trial
17 the costs, fees, and surcharges imposed under ch. 814 shall be taxed as provided by
18 law.

19 (4) If a citation or summons is issued to a defendant and he or she is unable
20 to appear in court on the day specified, the defendant may enter a plea of not guilty
21 by mailing to the judge at the address indicated on the citation or summons a letter
22 stating that plea. The letter must show the defendant's return address. The letter
23 may include a request for trial during normal daytime business hours. Upon receipt
24 of the letter, the judge shall reply by letter to the defendant's address setting forth
25 a time and place for trial, the time to be during normal business hours if so requested.

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1 The date of the trial shall be at least 10 days after the mailing by the judge. Nothing
2 in this subsection forbids the setting of the trial at any time convenient to all parties
3 concerned.

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

5 **278.76 Burden of proof.** In all actions under this subchapter, the state must
6 convince the trier of fact to a reasonable certainty of every element of the offense by
7 evidence that is clear, satisfactory, and convincing.

8 **278.77 Jury trial. (1)** If in an action under this subchapter either party files
9 a written demand for a jury trial within 20 days after the court appearance date and
10 immediately pays the fee prescribed in s. 814.61 (4), the court shall place the case on
11 the jury calendar. The number of jurors shall be determined under s. 756.06 (2) (b).
12 If no party demands a trial by jury, the right to trial by jury is permanently waived.

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

15 **278.78 Verdict.** A verdict in an action under this subchapter is valid if agreed
16 to by five-sixths of the jury. If a verdict relates to more than one count, it shall be
17 valid as to any count if any five-sixths of the jury agree on that count. The form of
18 the verdict shall be guilty or not guilty. The court shall state the amount of the
19 forfeiture after a finding of guilty.

20 **278.79 Judgment.** In an action under this subchapter, all of the following
21 apply:

22 (1) If the defendant is found guilty, the court may enter judgment against the
23 defendant for a monetary amount not to exceed the maximum forfeiture provided by
24 the statute for the violation, plus costs, fees, and surcharges imposed under ch. 814.

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1 (2) The payment of any judgment may be suspended or deferred for not more
2 than 90 days in the discretion of the court. In cases in which a deposit has been made,
3 any forfeitures, costs, and surcharges imposed under ch. 814 shall be taken out of the
4 deposit and the balance, if any, returned to the defendant.

5 (3) In addition to any monetary penalties, the court may order the defendant
6 to perform or refrain from performing any acts that may be necessary to fully protect
7 and effectuate the public interest. The court may order abatement of a nuisance,
8 restoration of a natural resource, or other appropriate action designed to eliminate
9 or minimize any environmental damage caused by the defendant.

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

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

14 **278.795 Nonpayment of judgments.** If a defendant fails to timely pay a
15 judgment entered under s. 278.75 (3) (a) 2. or 278.79, the court may issue an arrest
16 warrant or a summons ordering the defendant to appear in court or both. If the
17 defendant appears before the court pursuant to a warrant or summons or the
18 defendant otherwise notifies the court that he or she is unable to pay the judgment,
19 the court shall conduct a hearing. If the defendant failed to pay the forfeiture, the
20 court shall determine if the defendant is unable to pay the amount specified in the
21 judgment for good cause or because of the defendant's indigence. If the court
22 determines that the failure of the defendant to comply with the judgment is for good
23 cause or because of the defendant's indigence, the court may order that the amount
24 of the judgment be modified, suspended, or permanently stayed. If the defendant
25 fails to appear before the court for a hearing under this section or if the court

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1 determines at the hearing that the failure of a defendant to pay the judgment is not
2 for good cause or not because of the defendant's indigence, the court shall order one
3 of the following:

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

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

8 **278.80 Judgment against a corporation or municipality.** In a case under
9 this subchapter, all of the following apply:

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

14 (2) Upon default of a defendant corporation or municipality, or upon conviction,
15 judgment for the amount of the forfeiture, plus costs, fees, and surcharges imposed
16 under ch. 814, shall be entered.

17 **278.81 Effect of plea of no contest.** Forfeiture of deposit under s. 278.75 (3)
18 (b), an accepted plea of no contest under s. 278.70, or a stipulation of no contest under
19 s. 278.75 (3) (c) to a charge of violation is not admissible in evidence as an admission
20 against interest in any action or proceeding arising out of the same occurrence.

21 **278.82 Fees.** Fees in forfeiture actions under this subchapter are prescribed
22 in s. 814.63.

23 **278.83 Appeal.** In a case under this subchapter, all of the following apply:

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

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1 **(2) STAY OF EXECUTION.** The amount of undertaking required to stay execution
2 on appeal may not exceed the amount of the maximum forfeiture, plus costs, fees, and
3 surcharges imposed under ch. 814.

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

6 **278.84 Forfeitures, costs, fees, and surcharges collected; to whom paid.**

7 All moneys collected in favor of the state under this subchapter for forfeiture, plus
8 costs, fees, and surcharges imposed under ch. 814, shall be paid by the officer who
9 collects the moneys to the appropriate county treasurer within 20 days after their
10 receipt by the officer, except that all jail surcharges imposed under ch. 814 shall be
11 paid to the county treasurer. In case of any failure in the payment, the county
12 treasurer may collect the payment from the officer by an action in the treasurer's
13 name of office and upon the official bond of the officer, with interest at the rate of 12
14 percent per year from the time when it should have been paid.

15 **278.85 Statement to county board; payment to state.** Every county
16 treasurer shall, on the first day of the annual meeting of the county board of
17 supervisors, submit to it a verified statement of all forfeitures, costs, fees, and
18 surcharges imposed under ch. 814 and received under this subchapter during the
19 previous year. The county clerk shall deduct all expenses incurred by the county in
20 recovering those forfeitures, costs, fees, and surcharges from the aggregate amount
21 so received, and shall immediately certify the amount of clear proceeds of those
22 forfeitures, costs, fees, and surcharges to the county treasurer, who shall pay the
23 proceeds to the state as provided in s. 59.25 (3). Jail surcharges imposed under ch.
24 814 shall be treated separately as provided in s. 302.46.

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1 **278.90 Place of trial.** In cases under this subchapter, all of the following
2 apply:

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

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

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

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

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

17 **SECTION 709.** 279.06 (2) of the statutes is amended to read:

18 279.06 **(2)** The authority shall notify the department of ~~natural resources~~
19 environmental quality of its action on an application under s. 279.05 (1) at the same
20 time that it notifies the applicant or applicants.

21 **SECTION 710.** 280.01 (1) of the statutes is amended to read:

22 280.01 **(1)** “Department” means the department of ~~natural resources~~
23 environmental quality.

24 **SECTION 711.** 280.98 (1) of the statutes is amended to read:

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1 280.98 (1) Except as provided in sub. (5), the department may follow the
2 procedures for the issuance of a citation under ss. ~~23.50 to 23.99~~ 278.50 to 278.90 to
3 collect a forfeiture as specified in sub. (3) from a person who commits a violation
4 specified under sub. (2).

5 **SECTION 712.** 281.01 (3) of the statutes is amended to read:

6 281.01 (3) “Department” means the department of ~~natural resources~~
7 environmental quality.

8 **SECTION 713.** 281.01 (12) of the statutes is amended to read:

9 281.01 (12) “Secretary” means the secretary of ~~natural resources~~
10 environmental quality.

11 **SECTION 714.** 281.01 (21) of the statutes is amended to read:

12 281.01 (21) “Wetland” has the meaning given in s. ~~23.32~~ 278.32 (1).

13 **SECTION 715.** 281.15 (1) of the statutes is amended to read:

14 281.15 (1) The department, in consultation with the department of natural
15 resources, shall promulgate rules setting standards of water quality to be applicable
16 to the waters of the state, recognizing that different standards may be required for
17 different waters or portions thereof. Water quality standards shall consist of the
18 designated uses of the waters or portions thereof and the water quality criteria for
19 those waters based upon the designated use. Water quality standards shall protect
20 the public interest, which include the protection of the public health and welfare and
21 the present and prospective future use of such waters for public and private water
22 systems, propagation of fish and aquatic life and wildlife, domestic and recreational
23 purposes and agricultural, commercial, industrial and other legitimate uses. In all
24 cases where the potential uses of water are in conflict, water quality standards shall
25 be interpreted to protect the general public interest.

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1 **SECTION 716.** 281.16 (3) (a) (intro.) of the statutes is amended to read:

2 281.16 (3) (a) (intro.) The department of ~~natural resources~~ environmental
3 quality, in consultation with the department of agriculture, trade and consumer
4 protection, shall promulgate rules prescribing performance standards and
5 prohibitions for agricultural facilities and agricultural practices that are nonpoint
6 sources. The performance standards and prohibitions shall be designed to achieve
7 water quality standards by limiting nonpoint source water pollution. At a minimum,
8 the prohibitions shall include all of the following:

9 **SECTION 717.** 281.16 (3) (b) of the statutes is amended to read:

10 281.16 (3) (b) The department of agriculture, trade and consumer protection,
11 in consultation with the department of ~~natural resources~~ environmental quality,
12 shall promulgate rules prescribing conservation practices to implement the
13 performance standards and prohibitions under par. (a) and specifying a process for
14 the development and dissemination of technical standards to implement the
15 performance standards and prohibitions under par. (a).

16 **SECTION 718.** 281.16 (3) (e) of the statutes[✓], as affected by 2009 Wisconsin Act
17 28, is amended to read:

18 281.16 (3) (e) An owner or operator of an agricultural facility or practice that
19 is in existence before October 14, 1997, may not be required by this state or a
20 municipality to comply with the performance standards, prohibitions, conservation
21 practices or technical standards under this subsection unless cost-sharing is
22 available, under s. 92.14 or 281.65 or from any other source, to the owner or operator.
23 For the purposes of this paragraph, sub. (4) and ss. 92.07 (2), 92.15 (4), and 823.08
24 (3) (c) 2., the department of ~~natural resources~~ environmental quality shall
25 promulgate rules that specify criteria for determining whether cost-sharing is

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1 available under s. 281.65 and the department of agriculture, trade and consumer
2 protection shall promulgate rules that specify criteria for determining whether
3 cost-sharing is available under s. 92.14 or from any other source. The rules may not
4 allow a determination that cost-sharing is available to meet local regulations under
5 s. 92.07 (2) or 92.15 that are consistent with or that exceed the performance
6 standards, prohibitions, conservation practices or technical standards under this
7 subsection unless the cost-sharing is at least 70% of the cost of compliance or is from
8 70% to 90% of the cost of compliance in cases of economic hardship, as defined in the
9 rules.

10 **SECTION 719.** 281.17 (3) of the statutes is amended to read:

11 281.17 (3) The department shall promulgate rules establishing an examining
12 program for the certification of operators of water systems, wastewater treatment
13 plants and septage servicing vehicles operated under a license issued under s. 281.48
14 (3), setting such standards as the department finds necessary to accomplish the
15 purposes of this chapter and chs. 285 and 289 to 299, including requirements for
16 continuing education. The department may charge applicants a fee for certification.
17 All moneys collected under this subsection for the certification of operators of water
18 systems, wastewater treatment plants and septage servicing vehicles shall be
19 credited to the appropriation under s. ~~20.370~~ 20.375 (4) (bL). No person may operate
20 a water systems system, wastewater treatment plant or septage servicing vehicle
21 without a valid certificate issued under this subsection. The department may
22 suspend or revoke a certificate issued under this subsection for a violation of any
23 statute or rule relating to the operation of a water system or wastewater treatment
24 plant or to septage servicing, for failure to fulfill the continuing education
25 requirements or as provided under s. 145.20 (5). The owner of any wastewater

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1 treatment plant shall be, or shall employ, an operator certified under this subsection
2 who shall be responsible for plant operations, unless the department by rule provides
3 otherwise. In this subsection, “wastewater treatment plant” means a system or plant
4 used to treat industrial wastewater, domestic wastewater or any combination of
5 industrial wastewater and domestic wastewater.

6 **SECTION 720.** 281.19 (6) of the statutes is amended to read:

7 281.19 (6) Orders issued by the department shall be signed by the person
8 designated by the ~~board~~ secretary.

9 **SECTION 721.** 281.33 (2) of the statutes is amended to read:

10 281.33 (2) STATE STORM WATER MANAGEMENT PLAN. The department, in
11 consultation with the department of commerce, shall promulgate by rule a state
12 storm water management plan. This state plan is applicable to activities contracted
13 for or conducted by any agency, as defined under s. 227.01 (1), but also including the
14 office of district attorney, unless that agency enters into a memorandum of
15 understanding with the department of ~~natural resources~~ in which that agency
16 agrees to regulate activities related to storm water management. The department
17 shall coordinate the activities of agencies, as defined under s. 227.01 (1), in storm
18 water management and make recommendations to these agencies concerning
19 activities related to storm water management.

20 **SECTION 722.** 281.34 (4) (b) of the statutes is amended to read:

21 281.34 (4) (b) If, under sub. (5) (b), (c), or (d), the department requests an
22 environmental impact report under s. ~~23.11 (5)~~ 278.40 (1m) for a proposed high
23 capacity well, the department may ~~only~~ request information in that report that
24 relates only to the decisions that the department makes under this section related
25 to the proposed high capacity well.