

1987 Senate Bill 434

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1987 Wisconsin Act 297

AN ACT to amend 92.14 (4) (c) and 144.025 (2) (s); and to create 144.025 (2) (u) and 144.025 (2) (v) of the statutes, relating to soil and water resource management grants administered by the department of agriculture, trade and consumer protection and authorizing the department of natural resources to order or cause the abatement of certain nonpoint source water pollution.

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

SECTION 1. 92.14 (4) (c) of the statutes, as affected by 1987 Wisconsin 27, is amended to read:

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

SECTION 2. 144.025 (2) (s) of the statutes is amended to read:

144.025 (2) (s) In cases of noncompliance with any order issued under par. (d) ~~or~~ (r) or (u), the department may take the action directed by the order, and collect the costs thereof from the owner to whom the order was directed. The department shall have all the necessary powers needed to carry out this paragraph including powers granted municipalities under ss. 66.076 and 66.20 to 66.26. It shall also be eligible for financial assistance under ss. 144.21 and 144.24.

SECTION 3. 144.025 (2) (u) of the statutes is created to read:

144.025 (2) (u) Under the procedure specified in par. (v), the department, in consultation with the department of agriculture, trade and consumer protection, may order or cause the abatement of pollution which the department has determined to be significant and caused by a nonpoint source, as defined in s. 144.25 (2) (b), including pollution which causes the violation of a water quality standard, pollution which significantly impairs aquatic habitat or organisms, pollution which restricts navigation due to sedimentation, pollution which is deleterious to human health or pollution which otherwise significantly impairs water

quality, but not including any pollution caused primarily by animal waste.

SECTION 4. 144.025 (2) (v) of the statutes is created to read:

144.025 (2) (v) 1. If the department determines under par. (u) that significant pollution is caused by a nonpoint source, the department shall send a written notice of intent to issue an order to abate the pollution to the person whom the department determines to be responsible for the nonpoint source, to the department of agriculture, trade and consumer protection and to the land conservation committee created under s. 92.06 in every county in which the nonpoint source is located. The notice shall describe the department's findings and intent, and shall include a date by which that person is required to abate the pollution. That date shall be at least one year after the date of the notice unless the department determines that the pollution is causing or will cause severe water quality degradation that could be mitigated or prevented by abatement action taken in less than one year. In its determination under this paragraph, the department shall consider the nature of the actual or potential damage caused by the pollution and the feasibility of measures to abate that pollution.

2. If the nonpoint source which is the subject of a notice under subd. 1 is agricultural, the department of agriculture, trade and consumer protection shall do all of the following:

a. Upon receipt of the notice and in cooperation with the land conservation committee, provide to the person whom the department has determined to be responsible for the nonpoint source a listing of management practices which, if followed, would reduce pollution to an amount which the department of natural resources determines to be acceptable. The list shall, with reasonable limits, set forth all of the options which are available to the person to reduce pollution to that amount of pollution, and shall include an explanation of financial aids and technical assistance which may be available to the person for the abatement of pollution from the department of agriculture, trade and consumer protection under s. 92.14 and from other sources.

b. Issue a report to the department within one year after the date of the notice which describes the actions

taken by the person whom the department has determined to be responsible for the nonpoint source and a recommendation as to whether the department should issue an order to abate the pollution caused by that nonpoint source. Notwithstanding subd. 1, the department may not issue an order to abate that pollution until the department receives that report unless the department determines that the pollution is caus-

ing or will cause severe water quality degradation which could be mitigated or prevented by abatement action taken in less than one year and unless the department of agriculture, trade and consumer protection files a concurring determination in writing with the department within 30 days after receiving notice of the department's determination.
