CHAPTER 144.

WATER, ICE, SEWAGE AND REFUSE.

144.01 Definitions. The following terms as used in this chapter mean:

(1) "Waters of the state" includes those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface or ground water, natural or artificial, public or private, within the state or its jurisdiction.

(2) "Sewage," the water carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in s. 101.01 of the statutes, with such surface or ground water as may be present.

(3) "Waterworks," or "water system," all structures, conduits and appurtenances by means of which water is delivered to consumers except piping and fixtures inside buildings served, and service pipes from building to street main.

(4) "Water supply," the sources and their surroundings from which water is supplied for drinking or domestic purposes.

(5) "Sewerage system," all structures, conduits and pipe lines by which sewage is collected and disposed of, except plumbing inside and in connection with buildings served, and service pipes from building to street main.

(6) "System or plant" includes water and sewerage systems and sewage and refuse disposal plants.

(7) "Refuse," all matters produced from industrial or community life, subject to decomposition, not defined as sewage.

(8) "Owner," the state, county, town, town sanitary district, city, village, metropolitan sewerage district, corporation, firm, company, institution or individual owning or operating any water supply, sewerage or water system or sewage and refuse disposal plant.

(9) "Industrial wastes" include liquid or other wastes resulting from any process of industry, manufacture, trade or business or the development of any natural resource.

(10) "Other wastes" include all other substances, except industrial wastes and sewage, as the latter term is defined in s. 144.01, which pollute any of the surface waters of the state. The term also includes "unnecessary siltation" resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion.

(11) "Pollution" includes contaminating or rendering unclean or impure the waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(12) "Municipality", any city, town, village, county, county utility district, town sanitary district or metropolitan sewage district.

(13) "Nonprofit-sharing corporation", a nonstock corporation organized under ch. 181 or corresponding prior general corporation laws.

History: 1963 c. 306; 1965 c. 614.

144.02 Sanitary survey. (1) The department of resource development is authorized to act with the U. S. geological survey in determining the sanitary and other conditions and nature of the natural water supplies of the state of Wisconsin, such water survey to have for its objects:

(a) To determine the nature and condition of the unpolluted natural water supplies of the state.

(b) To determine to what extent the natural waters are being contaminated by sewage from cities.

(c) To determine to what extent the natural waters are being polluted by industrial wastes, and in what way these wastes might be utilized for beneficial purposes.

(e) To assist in determining the best source of water supplies.

(2) The department of resource development is hereby empowered and instructed to make the necessary rules and regulations, in conjunction with the U. S. geological department, to carry this section into effect.

History: 1965 c. 614.

144.023 Department of resource development. (1) (a) There is created a department of resource development. The administrative head of the department shall be a director outside the classified service appointed by and serving at the pleasure of the resource development board. The director shall appoint a deputy director outside the classified service to serve at the pleasure of the director and such other personnel under the classified service as are needed to carry out the duties of the department.

(b) The resource development board shall provide policy direction for the department. The board shall be composed of 7 members appointed by the governor, with the advice and consent of the senate, for terms of 3 years. Of the persons first appointed to the board, one each shall be appointed for terms of 1, 2 and 3 years, and 4 shall be appointed for terms ending January 15, 1967. Two successors to the persons appointed for terms ending January 15, 1967, shall be appointed for 3-year terms and one each for 2-year and 1-year terms. Board members shall receive no salary, but shall be reimbursed for their actual and necessary expenses.

(4) There is created a water resources division in the department of resource development. The division head shall be under the classified service.

(5) The director and deputy director of the department of resource development, the head of the water resources division, any regional director of such division and any other person in a position of administrative responsibility in the department may not have a financial interest in any enterprise which might profit by weak or preferential administration or enforcement of the powers and duties of such division.

History: 1965 c. 614; 1967 c. 211 s. 18.

144.025 Department of resource development—water resources. (1) STATEMENT OF POLICY AND PURPOSE. The department of resource development shall serve as the central unit of state government to protect, maintain and improve the quality and management of the waters of the state, ground and surface, public and private. Continued pollution of the waters of the state has aroused widespread public concern. It endangers public health and threatens the general welfare. A comprehensive action program directed at all present and potential sources of water pollution whether home, farm, recreational, municipal, industrial or commercial is needed to protect human life and health, fish and aquatic life, scenic and ecological values and domestic, municipal, recreational, industrial, agricultural and other uses of water. The purpose of this act is to grant necessary powers and to organize a comprehensive program under a single state agency for the enhancement of the quality management and protection of all waters of the state, ground and surface, public and private. To the end that these vital purposes may be accomplished, this act and all rules and orders promulgated pursuant thereto shall be liberally construed in favor of the policy objectives set forth in this act. In order to achieve the policy objectives of this act, it is the express policy of the state to mobilize governmental effort and resources at all levels, state, federal and local, allocating such effort and resources to accomplish the greatest result for the people of the state as a whole. Because of the importance of Lakes Superior and Michigan and Green Bay as vast water resource reservoirs, water quality standards for those rivers emptying into Lakes Superior and Michigan and Green Bay shall be as high as is practicable.

(2) POWERS AND DUTIES. (a) The department shall have general supervision and control over the waters of the state. It shall formulate no later than July 1, 1968, a long-range, comprehensive state water resources plan for each region, as fixed by the department under sub. (4), to guide the development, management and protection of water resources. Such plan shall thereafter be carried out by the department. Such plan shall be reviewed and projected by the department every 2 years and a report thereon submitted to the governor by September 1 of each odd-numbered year. The department also shall formulate plans and programs for the prevention and abatement of water pollution and for the maintenance and improvement of water quality.

(b) The department shall adopt 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. Such standards of quality shall be such as to 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 supplies, 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.

(c) The department may issue general orders, and adopt rules applicable throughout the state for the construction, installation, use and operation of practicable and available systems, methods and means for preventing and abating pollution of the waters of the state. Such general orders and rules shall be issued only after an opportunity to be heard thereon has been afforded to interested parties.

(d) 1. The department may issue special orders directing particular owners to secure such operating results toward the control of pollution of the waters of the state as the department prescribes, within a specified time. Pending efforts to comply with any order, the department may permit continuance of operations on such conditions as it prescribes. If any owner cannot comply with an order within the time specified, he may, before the date set in the order, petition the department to modify the order. The department may modify the order, specifying in writing the reasons therefor. If any order is not complied with within the time period specified, the department shall immediately notify the attorney general of this fact. Within 30 days thereafter, the attorney general shall forthwith commence an action under s. 144.536.

2. The department may issue temporary emergency orders without prior hearing when the department determines that the protection of the public health necessitates such immediate action. Such emergency orders shall take effect at such time as the department determines. As soon as is practicable, the department shall hold a public hearing after which it may modify or rescind the temporary emergency order or issue a special order under subd. 1.

(e) No wells shall be constructed, installed or operated to withdraw water from underground sources for any purpose where the capacity and rate of withdrawal of all wells on one property is in excess of 100,000 gallons a day without first obtaining the approval of the department. If the department finds that the proposed withdrawal will adversely affect or reduce the availability of water to any public utility in furnishing water to or for the public it shall either withhold its approval or grant a limited approval under which it imposes such conditions as to location, depth, pumping capacity, rate of flow and ultimate use so that the water supply of any public utility engaged in furnishing water to or for the public will not be impaired. The department may issue such general or special orders as it deems necessary to insure prompt and effective administration of this paragraph.

(f) The department shall make investigations and inspections to insure compliance with any general or special order or rule which it issues. In the exercise of this power the department may require the submission and approval of plans for the installation of systems and devices for handling, treating or disposing of any wastes.

(g) The department may conduct scientific experiments, investigations, waste treatment demonstrations and research on any matter under its jurisdiction. It may establish pilot plants, prototypes and facilities in connection therewith and lease or purchase land or equipment.

(h) The department, upon request, and without charge for service or expense, shall consult with and advise owners having installed or about to install systems or plants, as to the most appropriate water supply and the best method of providing for its purity, or as to the best method of disposing of sewage or refuse, with reference to the existing and future needs of all communities or persons which may be affected thereby. The department shall not be required to prepare plans.

(i) The department shall supervise chemical treatment of waters for the suppression of algae, aquatic weeds, swimmers' itch and other nuisance-producing plants and organisms. It may purchase equipment and may make a charge for the use of the same and for materials furnished, together with a per diem charge for any services performed in such work. The charge shall be sufficient to reimburse the department for the use of the equipment, the actual cost of materials furnished, and the actual cost of the services rendered plus 10% for overhead and development work.

(j) The department may enter into agreements with the responsible authorities of other states, subject to approval by the governor, relative to methods, means and measures to be employed to control pollution of any interstate streams and other waters and to carry out such agreement by appropriate general and special orders. This power shall not be deemed to extend to the modification of any agreement with any other state concluded by direct legislative act, but, unless otherwise expressly provided, the department shall be the agency for the enforcement of any such legislative agreement.

(k) The department may order or cause the abatement of any nuisance affecting the waters of the state under ss. 146.13 and 146.14.

(l) The department shall by rule establish an examining program for the certification of waterworks and sewage treatment plant operators, setting such standards as the department finds necessary to accomplish the purposes of this chapter, and may charge applicants for such certificates for the cost of examination. After January 1, 1969, no person shall operate a waterworks or sewage treatment plant unless he holds a valid certificate issued under this paragraph.

(m) Orders issued by the department shall be signed by the person designated by the board.

(n) The department may accept gifts and grants from any private or public source for any purpose under its jurisdiction and may expend or use such gifts and grants for the purposes for which received.

(p) Beginning January 1, 1967, any provision of the state plumbing code which sets specifications for septic tanks and their installation shall be void unless it has been approved by the department.

(q) The department may prohibit the installation or use of septic tanks in any area of the state where the department finds that the use of septic tanks would impair water quality. The department shall prescribe alternate methods for waste treatment and disposal in such prohibited areas.

(r) If the department finds that a system or plant tends to create a nuisance or menace to health or comfort, it shall order the owner or the person in charge to secure such operating results as the department prescribes, within a specified time. If the order is not complied with, the department may order designated changes in operation, and if necessary, alterations or extension to the system or plant, or a new system or plant. If the department finds that the absence of a municipal system or plant tends to create a nuisance or menace to health or comfort, it may order the city, village, town or town sanitary district embracing the area where such conditions exist to prepare and file complete plans of a corrective system as provided by s. 144.04, and to construct such system within a specified time.

(s) In cases of noncompliance with any order issued under par. (d) or (r), 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 66.201 to 66.209. It shall also be eligible for financial assistance under s. 144.21.

(3) STATE ADVISORY BOARD. (a) There is created a state water resources advisory board to consist of one representative selected annually by each regional advisory board under sub. (5) from its citizen members. First selections shall be made no later than April 1, 1967.

(b) A representative of the state board of health, conservation department, soil and water conservation committee and geological and natural history survey, each appointed by his agency head, shall comprise a technical advisory committee and shall attend each meeting of the state advisory board.

(c) The state advisory board shall advise the department on the setting of water quality standards and other state water problems.

(d) The state advisory board shall meet at least semiannually and at the call of the department or a majority of its members. It shall annually elect a chairman.

(e) State advisory board members shall be reimbursed for their actual and necessary expenses.

(4) REGIONS. By January 1, 1967, the department shall divide the state into not more than 12 regions on the basis of criteria established by the department, taking into consideration such factors as river basins, watersheds, population density, economic factors, regional planning commissions and geographic, geologic and topographic features, and designate for each region a departmental employe as the regional director to administer the local work of the department in that region.

(5) REGIONAL ADVISORY BOARDS. (a) There shall be a regional water resources advisory board for each region composed of the regional director, who shall serve as executive secretary; an employe of the state board of health serving in the region, appointed by and serving at the pleasure of the state health officer; an employe of the conservation department serving in the region, appointed by and serving at the pleasure of the conservation director; and 5 citizen members appointed by and serving at the pleasure of the governor. The executive director of the Minnesota-Wisconsin boundary area commission shall serve as a member for regions contiguous to the Minnesota boundary. The officers of the regional boards shall be selected from the citizen members.

(b) Each regional advisory board shall advise the department on regional water quality standards and other water problems of the region, act as liaison to the public, foster educational programs and aid in fostering the development of sanitary districts.

(c) Each regional advisory board shall meet at least semiannually and at the call of the chairman or a majority of its members.

(d) Regional advisory board members shall be reimbursed for their actual and necessary expenses by the department, but such reimbursement in the case of members who are not citizen members shall be by the employing agency.

(6) Personnel of all state agencies shall report any evidence of water pollution found by them to the department.

(7) The department shall study the feasibility of a system of effluent charges for the control of water pollution in this state and shall report thereon to the 1969 legislature at its convening.

History: 1965 c. 614; 1967 c. 226, 260.

144.03 Septic tank permits. (1) Before any septic tank may be purchased or installed, the owner of the property on which the septic tank is to be installed shall obtain a permit for such installation from the county clerk or other persons designated by the state board of health. The permit application shall state the owner's name and address, the location of the property on which the septic tank is to be installed, the name of the installer and any state license held by him, the specifications of the septic tank and any other information required by the state board of health. Upon receipt of an application together with a fee of $1, the county clerk or such other person shall issue a permit and shall forward the application and fee to the state board of health. If the state board of health receives the application within 10 days after the application is filed, it shall reimburse the county clerk or such other person 50 cents for issuing the permit. The state board of health shall prescribe and furnish application and permit forms, and may designate any person to issue permits, including sellers of septic tanks.

(2) No retailer may sell a septic tank for installation in this state unless the purchaser first displays a permit obtained under this section for that installation.

History: 1965 c. 614.

144.04 Approval of plans. Every owner within the time prescribed by the department, shall file with the department a certified copy of complete plans of a proposed system or plant or extension thereof, in scope and detail satisfactory to the department, and, if required, of existing systems or plants, and such other information concerning maintenance, operation and other details as the department requires. Material changes with a statement of the reasons shall be likewise submitted. Before plans are drawn a statement concerning the improvement may be made to the department and the department shall, if requested, outline generally what it will require. The department shall examine plans and conditions without delay, and, as soon as possible approve or disapprove or state what it will require. Approval may be subject to modification by the department upon due notice. Construction or material change shall be according to approved plans only.

History: 1965 c. 614.

A finding that the proposed facility is structurally sound so as to accomplish its purpose is necessary for valid approval where such soundness is challenged by an opposing party. The approval of the plans is subject to judicial review under 227.15 and 227.16. Norway v. State Board of Health, 32 W (2d) 362, 145 NW (2d) 790.

144.045 Garbage and refuse disposal. No person shall dispose of garbage or refuse in any area that is subject to inundation by periodic flooding and from which such garbage or refuse is likely to be washed by flood waters into any surface waters of the state. The department shall order immediate discontinuance of disposal of refuse in a manner or at a site not in compliance with this section.

History: 1965 c. 195, 614.

144.05 Sewage drains; sewage discharge into certain lakes. (1) When any city or village or owner has constructed or constructs a sewage system complying with s. 144.04, the outflow or effluent from such system may be discharged into any stream or drain constructed pursuant to law, but no such outflow of untreated sewage or effluent from a primary or secondary treatment plant from a city, village, town, town sanitary district or metropolitan sewage district in a county having a population of 240,000 or more, according to the latest U.S. bureau of census figures available including any special census of municipalities within the county, any part of which is located within a drainage basin which drains into a lake of more than 2 square miles and less than 16 square miles in area, shall be discharged directly into, or through any stream, or through any drain, into such a lake located within 18 miles of the system or plant of such city, village, town, town sanitary district or metropolitan sewage district. Any municipality in such a county, any part of which is located within such a drainage basin and which is located within 10 miles of a metropolitan sewerage district on September 1, 1967, shall be added to such metropolitan sewerage district upon application of the governing body of such municipality as provided in s. 66.205 (1), provided that such petitioning municipality pays its fair share of the cost of attachment as determined by mutual agreement or a court of competent jurisdiction. All necessary construction of plant, system or drains for full compliance with this subsection in the discharge of untreated sewage or sewage effluent from all existing primary or secondary plants shall be completed by September 1, 1970, and the plans for any new system or plant shall include provisions for compliance with this subsection. The state committee on water pollution may at any time order and require any owner of an existing plant to prepare and file with it, within a prescribed time, preliminary or final plans or both, for proposed construction to comply with this subsection. In lieu of the construction in compliance with the foregoing provision for diversion from such lakes, any owner of an existing plant, on or before September 1, 1967, or any owner of a new system or plant prior to construction of such new system or plant, may file with the committee on water pollution such plans for advanced treatment of effluent from primary or secondary treatment as in the judgment of the committee will accomplish substantially the same results in eliminating nuisance conditions on such lake as would be accomplished by diversion of secondary sewage effluent from said lake (without at the same time creating other objectionable or damaging results), and such owner shall be exempt from the foregoing provisions of this subsection for diversion from such lakes upon approval of such plans and installation of advanced treatment facilities and procedures in compliance therewith, but nothing shall impair the authority of the committee to require at any time preliminary or final plans, or both, for diversion construction. Any person violating this subsection or any order issued in furtherance of compliance therewith shall forfeit to the state not less than $100 nor more than $500 for each violation, failure or refusal. Each day of continued violation shall be deemed a separate offense. No such penalty shall be invoked during the time that any petition for review of an order is pending under s. 144.56 until final disposition thereof by the courts, if judicial review is sought under ch. 227.

(2) The city or village or the owner of land through which the drain is constructed may apply to the circuit court of the county in which the land is located to determine the damages, if any. No injunction against the use shall be granted until the damages are finally determined and payment refused. Unless within six months after the system is completed the owner of the land shall institute such proceedings he shall be barred. The proceedings shall be according to chapter 32 of the statutes, so far as applicable.

History: 1965 c. 532.

The fact that the original use of a drain across plaintiff's land was permissive does not prevent the application of the limitation of action under (2), nor does it matter who constructed the drain. Chrislaw v. Clinton, 23 W (2d) 206, 127 NW (2d) 221.

(2) applies not only where waste is discharged into preexisting drains or ditches or into drains or ditches prepared to receive it, but also to situations where waste is allowed to flow over the surface where it makes its own channel. Chrislaw v. Clinton, 29 W (2d) 549, 139 NW (2d) 568.

144.06 House connections. To assure preservation of public health, comfort and safety, any city or village or any town having a population of more than 7,500 having a system of waterworks or sewerage, or both, may by ordinance require buildings used

for human habitation and located adjacent to a sewer or water main, or in a block through which one or both of such systems extend, to be connected with either or both in the manner prescribed. If any person fails to comply for more than 10 days after notice in writing the municipality may impose a penalty or may cause connection to be made, and the expense thereof shall be assessed as a special tax against the property. Except in cities of the 1st class, the owner may, within 30 days after the completion of the work, file a written option with the city or village clerk stating that he cannot pay such amount in one sum and asking that it be levied in not to exceed 5 equal annual instalments, and the amount shall be so collected with interest at the rate of 6% per annum from the completion of the work, the unpaid balance to be a special tax lien.

History: 1965 c. 58.

144.07 Joint sewerage systems. (1) The department of resource development may require the sewerage system, or sewage or refuse disposal plant of 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 municipalities order the proper connections to be made.

(2) When one municipality renders service to another under this section, reasonable compensation shall be paid. The officials in charge of the system, of the municipality furnishing the service shall determine the reasonable compensation and report to its clerk who shall, on or before August 1 of each year, certify a statement thereof to the clerk of the municipality receiving the service. This clerk shall extend the amount shown in such statement as a charge on the tax roll, in the manner following: (a) where the service rendered is available to substantially all improved real estate in the city, town or village receiving the same, the charges shall be placed upon the tax roll of such city, town or village as a general tax; (b) where the service rendered is for the benefit of public highways in, or real estate owned or operated by, the city, town or village receiving the same, the charges therefor shall be placed upon the tax roll of such city, town or village as a general tax; (c) where the service rendered does not come under the provisions of (a) or (b) above, the charges therefor shall be placed upon the tax roll of such city, town or village as a special tax upon each parcel of real estate benefited; and when collected it shall be paid to the treasurer of the city, town or village rendering the service. Where the charges are to be extended on such tax roll under the provisions of (c) above, the clerk of the city, town or village furnishing such service shall itemize his statement showing separately the amount charged to each parcel of real estate benefited; if, due to delay in determination, such charge cannot be extended on the tax roll of any particular year, it shall be extended as soon as possible.

(3) If the governing body of any municipality deem the charge unreasonable, it may by resolution within 20 days after the filing of the report with its clerk,

(a) Submit to arbitration by 3 reputable and experienced engineers, one chosen by each municipality, and the 3rd by the other 2. If the engineers are unable to agree, the vote of 2 shall be the decision. They may affirm or modify the report, and shall submit their decision in writing to each municipality within 30 days of their appointment unless the time be extended by agreement of the municipalities. The decision shall be binding. Election to so arbitrate shall be a waiver of right to proceed by action. Two-thirds of the expense of arbitration shall be paid by the municipality requesting it, and the balance by the other.

(b) Institute a proceeding for judicial review in the manner provided in ch. 227, except that the place of appeal shall be the circuit court of the county of the municipality furnishing the service.

(4) (a) Any 2 adjoining municipalities not wishing to proceed under sub. (2) may jointly construct, operate and maintain a joint sewerage system, inclusive of the necessary intercepting sewers and sewerage treatment works. Such joint action shall be carried out by a sewerage commission consisting of one member appointed by each of the governing bodies of such municipalities and a 3rd member to be selected by the 2 members so appointed, or in lieu thereof said sewerage commission may consist of 2 members appointed by the governing body of each municipality and a 5th member to be selected by the 4 members so appointed.

(b) 1. Where such sewerage commission shall consist of 3 members, the members chosen by the 2 members first appointed shall serve for 2 years, while the members appointed by the governing bodies of the 2 municipalities shall serve for terms of 4 and 6 years, respectively, the length of term of each to be determined by lot. All subsequent appointments, except for unexpired terms, shall be for 6 years. All such members shall serve until their successors shall have been appointed and shall have qualified.

2. Where such sewerage commission shall consist of 5 members, the member chosen by the 4 members first appointed shall serve for one year, while the members appointed by the governing bodies of the 2 municipalities shall serve for terms of 2, 3, 4 and 5 years respectively, the length of terms of each to be determined by lot. All subsequent appointments, except for unexpired terms, shall be for 6 years. All such members shall serve until their successors shall have been appointed and shall have qualified.

(c) The sewerage commissioners shall project, plan, construct and maintain in the district comprising the 2 municipalities intercepting and other main sewers for the collection and transmission of house, industrial and other sewage to a site or sites for disposal selected by them, such sewers to be sufficient, in the judgment of the sewerage commissioners, to care for such sewage of the territory included in such district. The sewerage commissioners shall project, plan, construct and operate sewage disposal works at a site or sites selected by them which may be located within or outside of the territory included in the district. The sewerage commissioners may also project, plan, construct and maintain intercepting and other main sewers for the collection and disposal of storm water which shall be separate from the sanitary sewerage system. The sewerage commissioners may employ and fix compensation for engineers, assistants, clerks, employes and laborers, or do such other things as may be necessary for the due and proper execution of their duties. Such sewage disposal works may be used by the sewerage commissioners and by such municipalities for the disposal of garbage, refuse and rubbish.

(d) Such sewerage commission shall constitute a body corporate by the name of "(Insert name of municipalities) Sewerage Commission," by which in all proceedings it shall thereafter be known. It may purchase, take and hold real and personal property for its use and convey and dispose of the same. This grant of power shall be retroactive to September 13, 1935. Except as provided in this subsection the sewerage commissioners shall have the power and proceed as a common council and board of public works in cities in carrying out the provisions of par. (c). All bond issues and appropriations made by said sewerage commission shall be subject to the approval of the governing bodies of the respective municipalities.

(e) Each such municipality shall pay for its proportionate share of such sewerage system, including additions thereto, and also its proportionate share of all operation and maintenance costs as may be determined by the sewerage commission. Each municipality may borrow money and issue municipal obligations therefor, for the construction, erection, enlargement and extension of a joint sewage disposal plant or refuse or rubbish disposal plant or system or any combination of plants provided under this section, and to purchase a site or sites for the same. Each municipality may, if it so desires, proceed under s. 66.076 in financing its portion of the cost of the construction, operation and maintenance of the joint sewage disposal plant or plants provided for in this section, or system.

(f) Either of such municipalities being aggrieved by the determination of the sewerage commission on matters within its jurisdiction may appeal to the circuit court of the county in which such aggrieved municipality is located as provided in sub. (3) (b).

(g) This subsection does not preclude more than 2 municipalities from jointly acting under this subsection. In such cases, the sewerage commission shall be composed of one member appointed by the governing body of each municipality, except that if an even number of municipalities are jointly acting, one additional sewerage commissioner shall be selected by the members representing municipalities.

History: 1963 c. 290; 1965 c. 614.

144.09 Enforcement. Records required by the department shall be kept by the owners and the department supplied with certified copies and such other information as it may require. Agents of the department may enter buildings, structures and premises of owners supplying the public or industrial plants with water, ice, sewerage systems, sewage or refuse disposal service and private properties to collect samples, records and information, and to ascertain if the rules and regulations and orders of the department are complied with. The attorney general shall assist in the enforcement of this chapter.

History: 1965 c. 614.

144.10 Review of orders. Any owner or other person in interest may secure a review by the department of resource development of the necessity for and reasonableness of any order of the department in the manner provided by s. 144.56 and the determination of the department shall be subject to judicial review as provided by ch. 227.

History: 1965 c. 614.

144.12 Limitation. Nothing in this chapter shall be construed to affect the provisions of sections 196.01 to 196.79 or of chapter 31 of the statutes.

144.14 Degradable detergents. (1) INVESTIGATION AND STANDARDS. The department of resource development shall investigate and review industry progress in developing degradable detergents, and request that various raw material manufacturers make status reports to the department of resource development every 4 months commencing December 15, 1963, until such time as the department feels such reports are no longer needed; review and investigate the disposition of synthetic detergents and other persistent chemical pollutants, as wastes, into sewage treatment facilities, rivers, ground and surface water supplies; determine what problems are thereby created; establish a standard and a method for determining synthetic detergent degradability in waste treatment systems, as a suggested guide to detergent manufacturers, such standard to be in keeping with the current level of scientific knowledge and technology; hold public hearings concerning the establishment of such standard, if any; and report its findings and recommendations to the 1965 legislature when it convenes.

(2) SUPPLIERS TO REPORT TO DEPARTMENT. All suppliers of raw materials for the present surface active agent contained in detergents of the generally nondegrading type, whose materials either directly or indirectly are sold in this state, shall report to the department of resource development every 4 months, commencing December 15, 1963, for such time the department deems necessary, the suppliers current progress towards the complete conversion of its facilities to the manufacture of degradable detergents for domestic sale and consumption.

(3) SALE PROHIBITED. On and after December 31, 1965, the sale and use of nondegradable detergents containing alkyl benzene sulfonate is prohibited in this state.

History: 1963 c. 434; 1965 c. 614.

144.21 Financial assistance program. (1) The legislature finds that state financial assistance for the construction and financing of pollution prevention and abatement facilities is a public purpose and a proper state government function in that the state is trustee of the waters of the state and that such financial assistance is necessary to protect the purity of state waters.

(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 for the financing of such facilities is established. The state program shall be administered by the department of resource development and the department shall make such rules as are necessary for the proper execution of the state program.

(2m) In this section "estimated reasonable costs" include the costs of preliminary planning to determine the economic and engineering feasibility of pollution prevention and abatement facilities, the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other action necessary to the construction of pollution prevention and abatement facilities and the erection, building, acquisition, alteration, remodeling, improvement or extension of pollution prevention and abatement facilities and the inspection and supervision of the construction of pollution prevention and abatement facilities.

(3) (a) The department shall establish criteria to determine those municipalities and projects which are eligible for the state program and to determine appropriate priorities among the projects.

(b) Until May 1, 1967, the criteria in par. (c) shall apply only to agreements under sub. (6) (a) and the only municipalities eligible for agreements under sub. (6) (b) are those which have reached the limit of their bonding authority or those which, in the opinion of the department would face extreme financial hardship because of equalized valuation, governmental structure, size, population or such other factors as the department finds relevant were they to bond for such projects.

(c) After May 1, 1967, all municipalities are eligible for agreements under sub. (6) (a) and (b) based on the criteria in this paragraph. The criteria shall consider the health hazards of existing conditions, the extent and nature of pollution, per capita costs of the project, property valuation of the municipalities as equalized by the state, income of the residents in the municipalities, the availability of federal funds for the project, soil conditions, the feasibility and practicality of the project, the borrowing capacity of the municipality and any other factors which the department considers important.

(d) After May 1, 1967, the program under sub. (6) (b) shall be conducted through the issuance of state bonds, if then constitutionally allowed, or, if the issuance of such bonds is not allowed, through the lease and sublease agreements with nonprofit corporations set forth in this section.

(4) Municipalities which desire to participate in the state program shall submit application for participation to the department. The application shall be in such form and include such information as the department prescribes.

(5) The department shall review applications for participation in the state program. It shall determine those applications which meet the criteria it established under sub. (3), and shall arrange the applications in appropriate priority order.

(6) The department may enter into agreement with municipalities to provide state assistance for the financing of those pollution prevention and abatement facilities projects it approves under sub. (5). The department may enter into one of 2 alternative agreements with municipalities:

(a) The department may enter into agreement with municipalities to make payments to municipalities from the appropriation made by s. 20.706 (1) (c) [20.370 (5) (c)] to pay not less than 25% and not more than 30% of the estimated reasonable costs of the approved project. These payments shall be in even annual amounts and shall extend for a period of not less than 5 years and not more than 30 years.

(b) The department may enter into agreements with municipalities for the municipalities to sublease and eventually acquire from the department the approved project for which the department has entered into lease and sublease agreements with nonprofit corporations pursuant to sub. (7). Such agreement shall provide that municipalities shall make even annual rental payments to the state which shall not be more than 75% of the estimated reasonable costs of the approved project divided by the number of years such lease rental payments are made by the department for that project. Municipal rental payments shall be deposited in general fund general purpose revenues pursuant to s. 20.906. It is the intent of this alternative that the state may assist municipalities to acquire approved projects when it is impractical for the municipalities to finance such approved project through their municipal borrowing authority.

(c) The department shall determine which of the 2 agreements authorized under par. (a) and (b) it will enter into with a municipality applying for participation in the state program of financial assistance.

(d) The net state payments for agreements entered into pursuant to pars. (a) and (b) and sub. (7) and for which appropriation is made by s. 20.370 (5) (c) and (d) shall not exceed $6 million annually. "Net state payments" means the combined total of the payments for which appropriation is made by s. 20.370 (5) (c) and (d), less the municipal rental payments received under agreements entered into pursuant to par. (b).

(e) The department shall review and approve the plans and specifications of all facilities designed and constructed by agreement under this section.

(7) In order to assist municipalities to acquire pollution prevention and abatement facilities it deems necessary to the protection of state waters, for those projects it has entered into agreements pursuant to sub. (6) (b) the department:

(a) May lease from municipalities any land and any existing improvements thereon owned by the municipality for such consideration and upon such terms as the department deems in the public interest.

(b) May lease or sublease to a nonprofit-sharing corporation, for terms not exceeding 50 years each, any land and any existing improvements thereon leased from municipalities pursuant to par. (a) upon such terms as the department deems in the public interest.

(c) May lease or sublease from such nonprofit-sharing corporation and then lease or sublease to municipalities, any such lands and existing improvements leased to such corporation under par. (b), and any new pollution prevention and abatement facilities constructed upon such land or any other land owned by the corporation, upon such terms, conditions and rentals, subject to available appropriations, as the department deems in the public interest.

(d) Shall submit all conveyances, leases and subleases made under this subsection to the governor and the department of administration, for written approval before they are finally adopted, executed and delivered.

(e) May pledge and assign, subject to available appropriations, all moneys provided by law for the purpose of the payment of rentals pursuant to leases and subleases made under par. (c) as security for the payment of rentals due under any lease or sublease of such pollution prevention and abatement facilities made under par. (c).

(f) Shall, upon receipt of notice of any assignment by any such corporation of any lease or sublease made under par. (c), or of any of its rights under any such lease or sublease, recognize and give effect to such assignments, and pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by such corporation.

(8) (a) The state shall be liable for accrued rentals and for any other default under any lease or sublease executed under sub. (7) and may be sued therefor on contract as in other contract actions pursuant to ch. 285, but it shall not be necessary for the lessor or any person or other legal entity on behalf of such lessor to file any claim with the legislature prior to the commencement of any such action.

(b) If a municipality with which the department has entered into an agreement pursuant to sub. (6) (b) is delinquent in making rental payments to the state under such agreement, the department shall notify the department of administration of such delinquency as it stands on October 1 each year. On or before the 3rd Monday of October in each year, the department of administration shall notify the secretary of state of the rental delinquency of each municipality. On or before the 4th Monday [of October] in each year, the secretary of state shall certify to the county clerk the delinquency as it exists in said county. The county clerk shall charge such delinquency to the proper municipality as follows:

1. If the delinquent municipality is a town, village or city, such town, village or city shall be charged for its liability.

2. If the delinquent municipality is a county or a county utility district, such delinquency shall become a part of the county's next calendar year budget and shall be apportioned to the towns, villages and cities in accordance with s. 70.63.

3. If the delinquent municipality is a town sanitary district, such town shall be charged for the liability.

4. If the delinquent municipality is a metropolitan sewage district, such charge shall be apportioned to the towns, villages and cities or the parts of such municipalities in the metropolitan sewage district on the basis of the preceding May 1 equalized value of taxable general property of such municipality or portion thereof in the metropolitan sewage district as determined by the department of taxation. If the metropolitan sewage district lies in more than one county, the delinquency shall be allocated on the basis of the equalized value of each county in the district as determined by the department of taxation as of the preceding May 1.

(c) Delinquent rental payments shall bear interest at the rate of 5% from the due date of the payment until paid by the municipality or if certified as delinquent by the secretary of state from the due date of the payment to the next February 1.

(d) Delinquent rental payments shall be paid into the state treasury by the county treasurer on or before February 1 of the year following the delinquency certification by the secretary of state. Such payments shall be deposited in general fund general purpose revenues pursuant to s. 20.906.

(9) Nothing contained in this section shall create a debt of the state.

(10) All powers and duties conferred upon the department pursuant to subs. (6) (b) and (7) shall be exercised and performed by resolution of the resource development board. All conveyances, leases and subleases made pursuant to subs. (6) (b) and (7), when authorized pursuant to resolution of the board, shall be made, executed and delivered in the name of the department and shall be signed by a person designated by the board.

(11) This section shall be construed liberally in aid of the purposes declared in sub. (1).

History: 1965 c. 614; 1967 c. 96, 291 s. 14.

This section is constitutional. State ex rel. La Follette v. Reuter, 33 W (2d) 384, 147 NW (2d) 304.

144.26 Navigable waters protection law. (1) To aid in the fulfillment of the state's role as trustee of its navigable waters and to promote public health, safety, convenience and general welfare, it is declared to be in the public interest to make studies, establish policies, make plans and authorize municipal shoreland zoning regulations for the efficient use, conservation, development and protection of this state's water resources. The regulations shall relate to lands under, abutting or lying close to navigable waters. The purposes of the regulations shall be to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty.

(2) In this section, unless the context clearly requires otherwise:

(a) "Subcommittee" means the water subcommittee of the natural resources committee of state agencies.

(b) "Department" means the department of resource development.

(c) "Municipality" or "municipal" means a county, village or city.

(d) "Navigable water" or "navigable waters" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and

other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.

(e) "Regulation" refers to ordinances enacted under ss. 59.971 and 62.23 (7) and means shoreland subdivision and zoning regulations which include control of uses of lands under, abutting or lying close to navigable waters for the purposes specified in sub. (1), pursuant to any of the zoning and subdivision control powers delegated by law to cities, villages and counties.

(f) "Water resources," where the term is used in reference to studies, plans, collection of publications on water and inquiries about water, means all water whether in the air, on the earth's surface or under the earth's surface. "Water resources" as used in connection with the regulatory functions under this section means navigable waters.

(g) "Shorelands" means the lands specified under par. (e) and s. 59.971 (1).

(3) (a) The subcommittee shall serve in an ex officio advisory capacity to the department and provide a liaison function whereby the several state agencies may better co-ordinate their activities in managing and regulating water resources.

(b) The department shall make studies, establish policies and make plans for the efficient use, conservation, development and protection of the state's water resources and:

1. On the basis of these studies and plans make recommendations, through the subcommittee, to existing state agencies relative to their water resource activities.

2. Locate and maintain information relating to the state's water resources. The department shall collect pertinent data available from state, regional and federal agencies, the university of Wisconsin, local units of government and other sources.

3. Serve as a clearinghouse for information relating to water resources including referring citizens and local units of government to the appropriate sources for advice and assistance in connection with particular water use problems.

4. Allocate not to exceed $40,000 annually for the purposes specified by sub. (4) from the appropriation made by s. 20.370 (5) (a).

(4) Annual grants-in-aid for the administration and enforcement of county regulations shall be made by the department to any county or group of counties upon its finding that there is in force a set of regulations, properly administered and enforced, that meet the standards and criteria prepared under sub. (6). The amount of the grant shall be determined by the department applying a formula developed by it, taking into account miles of shoreline, acres of shorelands protected, the number of permit applications processed in a previous period, and number of counties participating jointly under s. 59.971 (4) (a). The annual grant-in-aid shall not exceed $1,000 per year for each county in which suitable regulations are being properly administered and enforced.

(5) (a) The department shall prepare a comprehensive plan as a guide for the application of municipal ordinances regulating navigable waters and their shorelands as defined in this section for the preventive control of pollution. The plan shall be based on a use classification of navigable waters and their shorelands throughout the state or within counties and shall be governed by the following general standards:

1. Domestic uses shall be generally preferred.

2. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source.

3. Areas in which the existing or potential economic value of public, recreational or similar uses exceeds the existing or potential economic value of any other use shall be classified primarily on the basis of the higher economic use value.

4. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

5. Use dispersions within an area shall be preferred over concentrations of uses or their undue proximity to each other.

(b) The department shall apply to the plan the standards and criteria set forth in sub. (6).

(6) Within the purposes of sub. (1) the department shall prepare and provide to municipalities general recommended standards and criteria for navigable water protection studies and planning and for navigable water protection regulations and their administration. Such standards and criteria shall give particular attention to safe and healthful conditions for the enjoyment of aquatic recreation; the demands of water traffic, boating and water sports; the capability of the water resource; requirements necessary to assure proper operation of septic tank disposal fields near navigable waters; building setbacks from the water; preservation of shore growth and cover; conservancy uses for low lying lands; shoreland layout for residential and commercial

development; suggested regulations and suggestions for the effective administration and enforcement of such regulations.

(7) The department, the municipalities and all state agencies shall mutually cooperate to accomplish the objective of this section. To that end, the department shall consult with the governing bodies of municipalities to secure voluntary uniformity of regulations, so far as practicable, and shall extend all possible assistance therefor.

(8) This section and s. 59.971 shall be construed together to accomplish the purposes and objective of this section.

(9) Sections 30.50 to 30.80 are not affected or superseded by this section.

(10) A person aggrieved by an order or decision of the department under this section may cause its review under ch. 227.

History: 1965 c. 614; 1967 c. 291 s. 14.

144.30 Definitions. As used in this chapter:

(1) "Air contaminant" means dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas, odorous substances or any combination thereof but shall not include uncombined water vapor.

(2) "Air pollution" means the presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

(3) "Emission" means a release of air contaminants into the atmosphere.

(4) "Solid waste" means garbage, refuse and other discarded or salvageable solid materials, including solid-waste materials resulting from industrial, commercial and agricultural operations, and from domestic use and public service activities, but does not include solids or dissolved material in waste water effluents or other common water pollutants.

(5) "Garbage" means discarded materials resulting from the handling, processing, storage and consumption of food.

(6) "Refuse" means combustible and noncombustible rubbish, including, but not limited to, paper, wood, metal, glass, cloth and products thereof; litter and street rubbish, ashes; and lumber, concrete and other debris resulting from the construction or demolition of structures.

(7) "Solid waste disposal" means the collection, storage treatment, utilization, processing or final disposal of solid waste.

(8) "Solid waste disposal sites and facilities" include commercial and municipal establishments such as, without limitation because of enumeration, dumps, incinerator sites, auto junkyards and scrap metal salvage yards.

(9) "Environmental pollution" means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

History: 1967 c. 83.

144.31 General powers and duties. (1) The department shall:

(a) Promulgate rules implementing and consistent with ss. 144.30 to 144.46.

(b) Encourage voluntary co-operation by persons and affected groups to achieve the purposes of ss. 144.30 to 144.46.

(c) Encourage local units of government to handle air pollution and solid waste disposal problems within their respective jurisdictions and on a regional basis, and provide technical and consultative assistance therefor.

(d) Collect and disseminate information and conduct educational and training programs relating to the purposes of ss. 144.30 to 144.46.

(e) Organize a comprehensive and integrated program to enhance the quality, management and protection of the state's air, land and water resources.

(2) The department may:

(a) Hold hearings relating to any aspect of the administration of ss. 144.30 to 144.46 and, in connection therewith, compel the attendance of witnesses and the production of evidence.

(b) Issue orders to effectuate the purposes of ss. 144.30 to 144.46 and enforce the same by all appropriate administrative and judicial proceedings.

(c) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

(d) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere and make recommendations to appropriate public and private bodies with respect thereto.

(e) Advise, consult, contract and co-operate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

History: 1967 c. 83.

144.32 Federal aid. Subdivisions of this state and interlocal agencies may make application for, receive, administer and expend any federal aid for the control of air pollution or the development and administration of programs related to air pollution control and solid waste disposal sites and facilities if first submitted to and approved by the department. The department shall approve any such application if it is consistent with the purposes of ss. 144.30 to 144.46 and any other applicable requirements of law.

History: 1967 c. 83.

144.33 Confidentiality of records. Any records or other information furnished to or obtained by the department in the administration of ss. 144.30 to 144.46, which records or information, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which would tend to affect adversely the competitive position of such owner or operator, shall be only for the confidential use of the department in the administration of ss. 144.30 to 144.46, unless such owner or operator expressly agrees to their publication or availability to the general public. Nothing herein shall prevent the use of such records or information by the department in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere, if such analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this section.

History: 1967 c. 83.

144.34 Inspections. Any duly authorized officer, employe or representative of the department may enter and inspect any property, premise or place on or at which an air contaminant source or solid waste disposal site or facility is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state of compliance with ss. 144.30 to 144.46 and rules in force pursuant thereto. No person shall refuse entry or access to any such authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection. The department, if requested, shall furnish to the owner or operator of the premises a report setting forth all facts found which relate to compliance status.

History: 1967 c. 83.

144.35 Violations: enforcement. (1) (a) Whenever the department has reason to believe that a violation of ss. 144.30 to 144.46 or any rule pursuant thereto has occurred, it may cause written notice to be served upon the alleged violator. The notice shall specify the law or rule alleged to be violated, and contain the findings of fact on which the charge of violation is based, and may include an order that necessary corrective action be taken within a reasonable time. Any such order shall become effective unless, no later than 10 days after the date the notice and order are served, the person named therein requests in writing a hearing before the department. Upon such request, the department shall after due notice hold a hearing. In lieu of an order, the department may require that the alleged violator appear before the department for a hearing at a time and place specified in the notice and answer the charges complained of, or the department may initiate action under s. 144.57.

(b) If after such hearing the department finds that a violation has occurred, it shall affirm or modify its order previously issued, or issue an appropriate order for the prevention, abatement or control of the problems involved or for the taking of such other corrective action as may be appropriate. If the department finds that no violation has occurred, it shall rescind its order. Any order issued as part of a notice or after hearing may prescribe one or more dates by which necessary action shall be taken in preventing, abating or controlling the violation.

History: 1967 c. 83.

144.36 Air pollution control powers and duties. (1) The department shall:

(a) 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 such plans.

(b) Conduct or direct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control and, by means of field studies and sampling, determine the degree of air contamination and air pollution throughout the state.

(c) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source, device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problem which may be related to the source, device or system. Nothing in any such consultation shall relieve any person from compliance with ss. 144.30 to 144.46 or rules pursuant thereto, or any other provision of law.

(2) The department may examine any records relating to emissions which cause or contribute to air contamination.

History: 1967 c. 83.

144.37 Air pollution control advisory council. (1) (a) There is created an air pollution control advisory council appointed by the governor composed of 7 members each of whom shall be familiar with air pollution problems and control.

(b) Of the persons first appointed to the council, 2 each shall be appointed for terms of 2 and 3 years, and 3 shall be appointed for 1-year terms. Successive appointees shall serve for a term of 3 years, except that vacancies shall be filled for the unexpired term.

(c) Members shall receive no compensation for their services, but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

(d) The members of the council shall elect a chairman at the first meeting of the council, and thereafter annually and may elect such other officers as they deem appropriate.

(e) The council shall meet at least semiannually or at the call of the director or of the chairman or a majority of the council.

(2) The council shall advise the resource development board on proposed and existing rules and any matters pertaining to air pollution.

History: 1967 c. 83.

144.38 Classification and reporting. (1) (a) The department, by rule, shall classify air contaminant sources which may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which relate to air pollution, and may require reporting for any such class. Classifications made pursuant to this section may be for application to the state as a whole or to any designated area of the state, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(b) Any person operating or responsible for the operation of air contaminant sources of any class for which the rules of the department require reporting shall make reports containing such information as the department requires concerning location, size and heights of contaminant outlets, processes employed, fuels used and the nature and time periods of duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

History: 1967 c. 83.

144.39 Notice required for construction. (1) The department shall require that notice be given to it prior to the construction, installation or establishment of particular types or classes of air contaminant sources specified in its rules. Within 15 days after receipt of such notice, the department shall require, as a condition precedent to the construction, installation or establishment of the air contaminant source covered thereby, the submission of plans, specifications and such other information as it deems necessary in order to determine whether the proposed construction, installation or establishment will be in accordance with applicable rules in force pursuant to ss. 144.30 to 144.46. If within 30 days after the receipt of such plans, specifications or other information the department determines that the proposed construction, installation or establishment will not be in accordance with the requirements of ss. 144.30 to 144.46 or applicable rules, it shall issue an order prohibiting the construction, installation or establishment of the air contaminant source. If the department does not issue such order within such 30-day period the construction, installation or establishment may proceed in accordance with the plans, specifications or other information, if any, required to be submitted.

(2) In lieu of state view of plans and specifications, the department may authorize counties which are administering approved air pollution control programs to review

and approve plans and specifications of air contaminant sources being constructed within the jurisdiction of said counties.

(3) In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation or establishment of such source, and prior to invoking any such remedies, any person aggrieved thereby shall, upon request in accordance with rules of the department, be entitled to a hearing on the order. Following such hearing, the order may be affirmed, modified or withdrawn.

(4) Any addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction, installation or establishment of a new air contaminant source.

(5) Any features, machines and devices constituting parts of or called for by plans, specifications or other information submitted pursuant to sub. (1) shall be maintained in good working order.

(6) Nothing in this section authorizes the department to require the use of machinery, devices or equipment from a particular supplier or produced by a particular manufacturer, if the required performance standards may be met by machinery, devices or equipment otherwise available.

(7) The absence of or failure to issue a rule, or order pursuant to this section does not relieve any person from compliance with any emission control requirements or with any other provision of law.

(8) The department may by rule prescribe and provide for the payment and collection of reasonable fees for the review of plans and specifications required to be submitted pursuant to this section.

History: 1967 c. 83.

144.40 Emergency procedure. (1) If the director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the director 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 resource development board shall affirm, modify or set aside the order of the director.

(2) In the absence of a generalized condition of air pollution of the type referred to in sub. (1), if the director finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the persons responsible for the operations in question to reduce or discontinue emissions immediately, without regard to s. 144.35. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in sub. (1) shall apply.

History: 1967 c. 83.

144.41 Local air pollution control programs. (1) After consultation with incorporated units of local government, any county may establish and thereafter administer within its jurisdiction, including incorporated areas, an air pollution control program which:

(a) Provides by ordinance for requirements compatible with, or stricter or more extensive than those imposed by ss. 144.30 to 144.46 and rules issued thereunder. Such ordinances shall supersede any existing local ordinances;

(b) Provides for the county-wide enforcement of such requirements by appropriate administrative and judicial process;

(c) Provides for administrative organization, staff and financial and other resources necessary to effectively and efficiently carry out its program;

(d) May authorize municipalities to participate in the administration and enforcement of air pollution programs; and

(e) Is approved by the department as adequate to meet the requirements of ss. 144.30 to 144.46 and any applicable rules pursuant thereto.

(2) Any county may consult with regional planning commissions and may administer all or part of its air pollution control program in co-operation with one or more other counties or municipalities. Performance by or on behalf of a county pursuant to such co-operative undertaking shall be considered to be performance by the county for purposes of this section.

(3) If the department finds that the location, character or extent of particular concentrations of population, air contaminant sources, the geographic, topographic or

meteorological considerations, or any combinations thereof, are such as to make impracticable the maintenance of appropriate levels of air quality without an area-wide air pollution control program, the resource development board may determine the boundaries within which such program is necessary and require it.

(4) (a) If the department has reason to believe that the absence of an air pollution control program or a program in force pursuant to this section is inadequate to prevent and control air pollution in the jurisdiction to which such program relates, or that such program is being administered in a manner inconsistent with the requirements of ss. 144.30 to 144.46, the department shall, on due notice, conduct a hearing on the matter.

(b) If, after such hearing, the department determines that a program is required or is inadequate to prevent and control air pollution in the county to which such program relates, or that such program is not accomplishing the purposes of ss. 144.30 to 144.46, it shall require that necessary corrective measures be taken within a reasonable period of time, not to exceed 60 days.

(c) If the county fails to take such necessary corrective action within the time required, the department shall administer within such county all of the regulatory provisions of ss. 144.30 to 144.46. Such air pollution control program shall supersede all county air pollution regulations, ordinances and requirements in the affected jurisdiction. The cost of such administration shall be a charge on the county.

(5) Any county in which the department administers its air pollution control program under sub. (4) may, with the approval of the department, establish or resume a county air pollution control program which meets the requirements of sub. (1).

(6) Nothing in ss. 144.30 to 144.46 supersedes the jurisdiction of any county air pollution control program in operation on July 26, 1967, but any such program shall meet all requirements of ss. 144.30 to 144.46 for a county air pollution control program. Any approval required from the department shall be deemed granted unless the department takes specific action to the contrary.

History: 1967 c. 83.

144.415 State aid. (1) The department may develop a program for the training of technical personnel to facilitate the administration of county air pollution control programs. Annual grants-in-aid may be made by the department to any county or group of counties for the training of employes or potential employes in air pollution detection and control. The qualifications and criteria for participation in this program shall be established by the department.

(2) The department may enter into agreements with any county to provide in-service training programs and facilities for the purpose described in sub. (1). In accordance with criteria established by the department, annual grants-in-aid may be made by the department to any county establishing an approved in-service training program for the costs of developing and maintaining such program.

History: 1967 c. 83.

144.42 Motor vehicle pollution. (1) As the state of knowledge and technology relating to the control of emissions from motor vehicles may permit or make appropriate, and in furtherance of the purposes of ss. 144.30 to 144.46, the department may provide by rule for the control of emissions from motor vehicles. Such rules may prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of such equipment and vehicles. Any rules pursuant to this section shall be consistent with provisions of federal law, if any, relating to control of emissions from the vehicles concerned. The department shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification or other approval of any feature or equipment designed for the control of emissions from motor vehicles, if such feature or equipment has been certified, approved or otherwise authorized pursuant to federal law.

(2) Except as permitted or authorized by law, no person shall fail to maintain in good working order or remove, dismantle or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle and required by rules of the department to be maintained in or on the vehicle. Any such failure to maintain in good working order or removal, dismantling or causing of inoperability shall subject the owner or operator to suspension or cancellation of the registration for the vehicle. The vehicle shall not thereafter be eligible for registration until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced or repaired and are in good working order.

(3) The department shall consult with the motor vehicle department and furnish it with technical information, including testing techniques, standards and instructions for emission control features and equipment.

(4) In this section "motor vehicle" has the meaning designated in s. 340.01 (35).

History: 1967 c. 83.

144.43 Solid waste disposal standards. The department shall, no later than January 1, 1969, prepare and adopt minimum standards for the location, design, construction, sanitation, operation and maintenance of solid waste disposal sites and facilities and shall, following a public hearing, adopt such rules relating to the operation and maintenance of solid waste disposal sites and facilities as it deems necessary.

History: 1967 c. 83.

144.44 License. (1) After the department has promulgated minimum standards for the location, design, construction, operation and maintenance of solid waste disposal sites and facilities, no person shall establish, maintain, conduct or operate a solid waste disposal site or facility which does not adhere to such minimum standards. Such sites or facilities shall be licensed annually by the department providing they comply with said standards. The department may charge a reasonable fee for the costs of administering this section.

(2) Nothing in ss. 144.30 to 144.46 shall limit the authority of any local governing body to issue licenses and permits for any state-licensed sites or facilities or to adopt, subject to department approval, standards for the location, design, construction, operation and maintenance of solid waste disposal sites and facilities more restrictive than those adopted by the state under this section.

History: 1967 c. 83.

144.45 Research. The department may conduct or direct scientific experiments, investigations, demonstration grants and research on any matter relating to solid waste disposal, including, but not limited to, land fill, disposal and utilization of junked vehicles, and production of compost.

History: 1967 c. 83.

144.46 Shoreland and flood plain zoning. Solid waste disposal sites and facilities are prohibited within areas under the jurisdiction of shoreland and flood plain zoning regulations adopted pursuant to ss. 59.971 and 87.30, except that the department may issue permits authorizing sites and facilities in such areas.

History: 1967 c. 83.

144.536 Enforcement of orders; duty of attorney general; expenses. All orders of the department shall be enforced by the attorney general. The circuit court of Dane county or any other county where violation of such an order has occurred in whole or in part shall have jurisdiction to enforce the order by injunctional and other relief appropriate to the enforcement of the order. For purposes of such proceeding where the order prohibits in whole or in part any pollution, a violation thereof shall be deemed a public nuisance. The expenses incurred by the attorney general and his staff in assisting with the administration of ch. 144 shall be charged to the appropriation made by s. 20.370 (5).

History: 1965 c. 614; 1967 c. 291 s. 14.

144.537 Hearings; procedure, review. The department shall hold a public hearing relating to alleged or potential environmental pollution upon the verified complaint of 6 or more citizens filed with the department. The complaint shall state the name and address of a person within the state authorized to receive service of answer and other papers in behalf of complainants. The department may order the complainants to file security for costs in a sum deemed to be adequate but not to exceed $100 within 20 days after the service upon them of a copy of such order and all proceedings on the part of such complainants shall be stayed until security is filed. The department shall serve a copy of the complaint and notice of the hearing upon the alleged or potential polluter either personally or by registered mail directed to his last known post-office address at least 20 days prior to the time set for the hearing which shall be held not later than 90 days from the filing of the complaint. The respondent shall file his verified answer to the complaint with the department and serve a copy on the person so designated by the complainants not later than 5 days prior to the date set for the hearing, unless the time for answering is extended by the department for cause shown. For purposes of any hearing under this chapter, the director may issue subpoenas and administer oaths. Within 90 days after the closing of the hearing, the department shall

make and file its findings of fact, conclusions of law and order, which shall be subject to review under ch. 227. If the department determines that any complaint has been filed maliciously or in bad faith it shall so find, and the person complained against shall be entitled to recover his expenses on the hearing in a civil action. Any situation, project or activity which upon continuance or implementation would cause, beyond reasonable doubt, a degree of pollution that normally would require clean-up action if it already existed, shall be considered potential environmental pollution.

History: 1965 c. 614; 1967 c. 83.

144.55 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 s. 144.025 (2). Any member of the resource development board or any employe of the department may enter any industrial establishment for the purpose of collecting such information, and no owner of an industrial establishment shall refuse to admit such member or employe. The department shall make such inspections at frequent intervals. The director 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.

History: 1965 c. 614.

144.555 Report of intended new waste. Any industry which intends to increase the quantity of industrial wastes discharging to the surface waters of the state or to discharge a new waste to said waters or which intends to alter an existing outlet or build a new outlet for industrial wastes shall, before starting such work, advise the department of resource development in writing concerning its intentions and supply the department with a general report describing steps which shall be taken to protect the surface waters of the state against new pollution or an increase in existing pollution. The report shall be submitted not less than 30 days before approval is desired, and no construction work shall be started until the report has been approved. Variation in or resumption of operation of existing facilities shall not be construed as creating new pollution nor an increase of existing pollution within the meaning of this section.

History: 1965 c. 447, 614.

144.56 Review of orders. Any owner or other person in interest may secure a review of the necessity for and reasonableness of any order of the department of resource development in the following manner:

(1) They shall first file with the department a verified petition setting forth specifically the modification or change desired in such order. Such petition must be filed within 60 days of the issuance of the orders sought to be reviewed. Upon receipt of such a petition the department shall order a public hearing thereon and make such further investigations as it shall deem advisable. Pending such review and hearing, the department may suspend such orders under terms and conditions to be fixed by the department on application of any such petitioner. The department shall affirm, repeal or change the order in question within 60 days after the close of the hearing on the petition.

(2) The determination of the department shall be subject to review as provided in ch. 227.

History: 1965 c. 614; 1967 c. 226.

144.57 Penalties. Any person who violates this chapter, or who fails, neglects or refuses to obey any general or special order of the department, shall forfeit not less than $10 nor more than $5,000, for each violation, failure or refusal. Each day of continued violation is a separate offense. While the order is suspended, stayed or enjoined, such penalty shall not accrue.

History: 1965 c. 614.

144.76 Wisconsin council on natural beauty. (1) There is created a Wisconsin council on natural beauty to be attached to the department of resource development for administrative purposes only, and to be responsible directly to the governor. The council shall be composed of 3 legislators, 4 members representing state agencies and 6 citizen members, all appointed by the governor to serve at his pleasure. From the citizen members, the governor shall appoint a chairman to serve at his pleasure, and from the council members shall appoint a vice chairman to serve at his pleasure. The citizen members shall be reimbursed for their actual and necessary expenses.

(2) The council shall employ, under the classified service, a director and such staff as is necessary to perform its duties.

(3) The overall objectives of the council shall be to plan, co-ordinate, educate and motivate both public and private agencies and persons to preserve and enhance Wiscon-

sin's natural beauty. To this end the council shall:

(a) Serve as a general information center and catalytic agent on all matters affecting the natural beauty of Wisconsin.

(b) Advise the governor, legislature and state departments on such matters.

(c) Submit a report of its activities and recommendations to the governor and legislature in December of each even-numbered year.

(d) Co-ordinate and stimulate the natural beauty activities of county councils and other public and private organizations, and such activities of the federal government as apply to this state.

(e) Hold state and regional conferences.

(4) The council may accept gifts and grants for the execution of its functions.

History: 1965 c. 575; 1967 c. 211 s. 17.