

CHAPTER 299

GENERAL ENVIRONMENTAL PROVISIONS

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299.01 Definitions. ~~In this chapter, unless the context requires otherwise:~~

- (3) ~~“Department” means the department of natural resources.~~
- (4) ~~“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.~~
- (5) ~~“Groundwater” means any of the waters of the state occurring in a saturated subsurface geological formation of rock or soil.~~
- (6) ~~“Hazardous substance” means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.~~
- (7) ~~“Industrial wastes” include liquid or other wastes resulting from any process of industry, manufacture, trade or business or the development of any natural resource.~~
- (8) ~~“Municipality” means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.~~
- (9) ~~“Other wastes” include all other substances, except industrial wastes and sewage, 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.~~
- (10) ~~“Person” means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.~~
- (11) ~~“Sewage” means the water-carried wastes created in and to be conducted away from residences, industrial establishments and public buildings, as defined in s. 101.01 (12), with such surface water or groundwater as may be present.~~
- (12) ~~“Sewerage system” means 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.~~

(13) “Wastewater” means all sewage.

History: 1995 a. 227 s. 996.

299.05 Deadlines for action on certain applications.

(1) DEFINITION. ~~In this section, “approval” means a license, registration, or certification specified in sub. (2).~~

(2) DEADLINES. (a) ~~The department shall establish periods within which the department intends to approve or disapprove an application for any of the following:~~

1. ~~A well driller or pump installer registration under s. 280.15 (1).~~
 2. ~~A water system or septage servicing vehicle operator certification under s. 281.17 (3).~~
 3. ~~A license for servicing septic tanks and similar facilities under s. 281.48 (3).~~
 4. ~~A solid waste incinerator operator certification under s. 285.51 (2).~~
 5. ~~A laboratory certification or registration under s. 299.11.~~
- (am) ~~Notwithstanding s. 227.10 (1), the periods established by the department under par. (a) need not be promulgated as rules under ch. 227.~~
- (b) ~~The department shall approve or disapprove an application for any of the following within 30 days from the date on which the department receives the application:~~
1. ~~A solid waste disposal facility operator certification under s. 289.42 (1).~~
 2. ~~A hazardous waste transportation license under s. 291.23.~~
 3. ~~A medical waste transportation license under s. 299.51 (3) (c).~~

(c) ~~The department shall approve or disapprove an application for an oil or gas exploration license under s. 295.33 (1) within 60 days from the date on which the department receives the application.~~

(2m) FAILURE TO MEET DEADLINE. (a) ~~Subject to sub. (4), the department shall refund fees paid by the applicant for an approval if the department fails to provide the applicant with written notice that the department has approved or disapproved the application for the approval, including the specific facts upon which any disapproval is based, before the expiration of the period established under sub. (2) for the approval.~~

(b) ~~Subject to sub. (4), if the department fails to provide the applicant for an approval with written notice that the department has approved or disapproved the application before the expiration of the period established under sub. (2) for the approval, the applicant may choose to proceed under ch. 227 as though the depart-~~

1. Failure to have a required permit or other approval.
2. Failure to have a required plan.
3. Violation of a condition of a permit or other approval.
4. Release of a substance to the environment.
5. Failure to report.

(c) The average time to correct the reported violations and the number of violations not yet corrected, by category under par. (b).

(d) The number of regulated entities requiring longer than 60 days or, if the entity is a small business stationary source, longer than 180 days or longer than 360 days if the correction involves a pollution prevention modification, to take corrective action and a description of the stipulated penalties associated with the compliance schedules for those corrective actions.

(e) Any recommendations for changes in the program based on discussions with interested persons, including legislators and members of the public.

(10) PENALTY. Any person who intentionally makes a false statement under this section shall be fined not less than \$10 nor more than \$10,000 or imprisoned for not more than 6 months or both.

History: 2003 a. 276, 326; 2005 a. 253; 2009 a. 30; 2013 a. 1; 2017 a. 365 s. 111; 2021 a. 78.

299.91 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 the order and all proceedings on the part of the complainants shall be stayed until the 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 the last-known post-office address at least 20 days prior to the time set for the hearing. The hearing shall be held not later than 90 days after the filing of the complaint. The respondent shall file a verified answer to the complaint with the department and serve a copy on the person 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 section the hearing examiner 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 was filed maliciously or in bad faith it shall issue a finding to that effect and the person complained against is entitled to recover the expenses of 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. This section does not apply to any part of the process for approving a feasibility report, plan of operation or license under subch. III of ch. 289 or s. 291.23 or 291.25.

History: 1979 c. 176; 1979 c. 221 s. 633; Stats. 1979 s. 144.975; 1981 c. 374, 403; 1995 a. 227 s. 826; Stats. 1995 s. 299.91.

299.93 Environmental surcharge. (1) If a court imposes a fine or forfeiture for a violation of a provision of this chapter or chs. 280 to 285 or 289 to 295 or a rule or order issued under this chapter or chs. 280 to 285 or 289 to 295, the court shall impose an environmental surcharge under ch. 814 equal to the following:

(a) If the violation was committed before July 1, 2009, 10 percent of the amount of the fine or forfeiture.

(b) If the violation was committed on or after July 1, 2009, 20 percent of the amount of the fine or forfeiture.

(2) If a fine or forfeiture is suspended in whole or in part, the environmental surcharge shall be reduced in proportion to the suspension.

(3) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the environmental surcharge under this section. If the deposit is forfeited, the amount of the environmental surcharge shall be transmitted to the secretary of administration under sub. (4). If the deposit is returned, the environmental surcharge shall also be returned.

(4) The clerk of the court shall collect and transmit to the county treasurer the environmental surcharge and other amounts required under s. 59.40 (2) (m). The county treasurer shall then make payment to the secretary of administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall deposit the amount of the surcharge in the environmental fund.

History: 1991 a. 39; 1993 a. 27, 458; 1995 a. 201; 1995 a. 227 s. 831; Stats. 1995 s. 299.93; 2003 a. 33, 139, 326; 2009 a. 28.

299.95 Enforcement; duty of department of justice; expenses. The attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except ss. 285.57, 285.59, and 299.64, and all rules, special orders, licenses, plan approvals, permits, and water quality certifications of the department, except those promulgated or issued under ss. 285.57, 285.59, and 299.64 and except as provided in ss. 281.36 (14) (f), 285.86 and 299.85 (7) (am). Except as provided in s. 295.79 (1), the circuit court for Dane county or for any other county where a violation occurred in whole or in part has jurisdiction to enforce chs. 281 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan approval, permit, or certification for injunctive and other relief appropriate for enforcement. For purposes of this proceeding where chs. 281 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan approval, permit or certification prohibits in whole or in part any pollution, a violation is considered a public nuisance. The department of natural resources may enter into agreements with the department of justice to assist with the administration of chs. 281 to 285 and 289 to 295 and this chapter. Any funds paid to the department of justice under these agreements shall be credited to the appropriation account under s. 20.455 (1) (k).

History: 1975 c. 39 s. 734; 1979 c. 34 s. 985g; 1979 c. 221; Stats. 1979 s. 144.98; 1981 c. 374; 1989 a. 284; 1993 a. 243; 1995 a. 27; 1995 a. 227 s. 829; Stats. 1995 s. 299.95; 1995 a. 290 s. 12; 1997 a. 35; 1999 a. 9; 2001 a. 6; 2003 a. 276; 2005 a. 347; 2013 a. 1, 69.

Note: 2005 Wis. Act 347, which affected this section, contains extensive explanatory notes.

That the violation of an order prohibiting pollution constitutes a public nuisance does not mean that there is no nuisance until an order is issued. *State v. Dairyland Power Coop.* 52 Wis. 2d 45, 187 N.W.2d 878 (1971).

The state need not show irreparable harm to obtain an injunction under this section. *State v. C. Spielvogel & Sons*, 193 Wis. 2d 464, 535 N.W.2d 28 (Ct. App. 1995).

299.97 Penalties and remedies. (1) Any person who violates this chapter, except s. 299.15 (1), 299.47 (2), 299.50 (2), 299.51 (4) (b), 299.53 (2) (a) or (3), 299.62 (2) or 299.64 (2), or any rule promulgated or any plan approval, license or special order issued under this chapter, except under those sections, shall forfeit not less than \$10 nor more than \$5,000, for each violation. Each day of continued violation is a separate offense. While the order is suspended, stayed or enjoined, this penalty does not accrue.

(2) In addition to the penalties provided under sub. (1), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this subsection. The costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

History: 1979 c. 34 s. 987m; 1979 c. 221; Stats. 1979 s. 144.99; 1989 a. 336; 1991 a. 262, 300, 315; 1995 a. 27; 1995 a. 227 s. 830; Stats. 1995 s. 299.97; 1995 a. 290 s. 14; 1997 a. 35; 1999 a. 9; 2001 a. 109; 2003 a. 309; 2015 a. 43.