

# State of Wisconsin



2015 Assembly Bill 755

Date of enactment: **March 30, 2016**

Date of publication\*: **March 31, 2016**

## 2015 WISCONSIN ACT 307

AN ACT *to repeal* 283.19 (2) (b); *to renumber* 283.19 (2) (a); *to renumber and amend* 30.2022 (1), 283.01 (8) and 283.17 (2); *to amend* 30.2022 (2), 30.2022 (3), 30.2022 (4), 30.2022 (6), 283.19 (5) and 283.53 (2h); and *to create* 30.2022 (1g), 30.2022 (1p), 283.01 (8) (b), 283.17 (2) (a), 283.17 (2) (b), 283.17 (2) (c) and 283.33 (4m) of the statutes; **relating to:** activities affecting waters of this state carried out under the direction of the Department of Transportation, performance standards and effluent limitations for new and modified point sources of pollution, and termination of certain permits authorizing discharges into waters of this state.

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

**SECTION 1.** 30.2022 (1) of the statutes is renumbered 30.2022 (1m) and amended to read:

30.2022 (1m) Activities Transportation activities affecting waters of the state, as defined in s. 281.01 (18), ~~that are carried out under the direction and supervision of the department of transportation in connection with highway, bridge, or other transportation project design, location, construction, reconstruction, maintenance, and repair~~ are not subject to the prohibitions or permit or approval requirements specified under s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692, 61.351, 61.353, 62.231, 62.233, or 87.30 or chs. 281 to 285 or 289 to 299. However, at the earliest practical time prior to the commencement of these transportation activities, the department of transportation shall notify the department of the location, nature, and extent of the proposed work that may affect the waters of the state. This subsection does not apply beginning on the date on which the department of natural resources issues a general permit under s. 283.33 (4m) (b) 1.

**SECTION 2.** 30.2022 (1g) of the statutes is created to read:

30.2022 (1g) In this section, “transportation activity” means an activity carried out under the direction and supervision of the department of transportation in connection with highway, bridge, or other transportation project design, location, construction, reconstruction, maintenance, or repair.

**SECTION 3.** 30.2022 (1p) of the statutes is created to read:

30.2022 (1p) Transportation activities affecting waters of the state, as defined in s. 281.01 (18), are not subject to the prohibitions or permit or approval requirements specified under s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692, 61.351, 61.353, 62.231, 62.233, or 87.30; or under chs. 281 and 283, except s. 283.33; or under chs. 285 or 289 to 299. At the earliest practical time prior to the commencement of these transportation activities, the department of transportation shall notify the department of the location, nature, and extent of the proposed work that may affect the waters of the state. This subsection applies beginning on the date

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

on which the department of natural resources issues a general permit under s. 283.33 (4m) (b) 1.

**SECTION 4.** 30.2022 (2) of the statutes is amended to read:

30.2022 (2) The ~~exemption~~ exemptions under sub. (1) ~~does (1m) or (1p) do~~ not apply unless the transportation activity is accomplished in accordance with interdepartmental liaison procedures established by the department and the department of transportation for the purpose of minimizing the adverse environmental impact, if any, of the transportation activity. If the transportation activity affects a wetland, as defined in s. 23.32 (1), the department of transportation shall conduct any required mitigation either by complying with the interdepartmental liaison procedures and any applicable interagency agreement on mitigation banks that is approved by the department of natural resources or by using any of the methods specified in s. 281.36 (3r) (a) 1. to 3.

**SECTION 5.** 30.2022 (3) of the statutes is amended to read:

30.2022 (3) If the department determines that there is reasonable cause to believe that ~~an~~ a transportation activity being carried out under this section is not in compliance with the environmental protection requirements developed through interdepartmental liaison procedures, it shall notify the department of transportation. If the secretary and the secretary of transportation are unable to agree upon the methods or time schedules to be used to correct the alleged noncompliance, the secretary, notwithstanding the exemption provided in this section, may proceed with enforcement actions as the secretary deems appropriate.

**SECTION 6.** 30.2022 (4) of the statutes is amended to read:

30.2022 (4) The department of transportation and the department shall exchange information and cooperate in the planning and carrying out of ~~such~~ transportation activities in order to alleviate, to the extent practical under the circumstances, any potential detrimental encroachment on the waters of the state.

**SECTION 7.** 30.2022 (6) of the statutes is amended to read:

30.2022 (6) This section does not apply to transportation activities in the Lower Wisconsin State Riverway, as defined in s. 30.40 (15).

**SECTION 8.** 283.01 (8) of the statutes is renumbered 283.01 (8) (a) and amended to read:

283.01 (8) (a) “New source” means, except as provided in par. (b), any point source the construction of which commenced after the effective date of applicable effluent limitations or standards a standard of performance under 33 USC 1316 that is applicable to the point source.

**SECTION 9.** 283.01 (8) (b) of the statutes is created to read:

283.01 (8) (b) If the federal environmental protection agency proposes a standard of performance under 33 USC 1316 that is applicable to a point source and if the standard of performance takes effect within 120 days of the publication of that proposed standard of performance, “new source” means a point source the construction of which commenced after the date of publication of that proposed standard of performance.

**SECTION 10.** 283.17 (2) of the statutes is renumbered 283.17 (2) (intro.) and amended to read:

283.17 (2) (intro.) ~~Any~~ If a point source ~~of~~ with a discharge having a thermal component, ~~the modification of which is commenced after October 18, 1972, and which, as modified, meets the most stringent effluent limitation established under s. 283.13 or sub. (1) and this subsection, where the limitation assures protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on the water into which the discharge is made,~~ modified, the point source shall not be subject to any more stringent effluent limitation with respect to the thermal component of its discharge during either the 10-year period beginning on the date of completion of the modification or the period of depreciation or amortization of the facility for the purpose of section 167 or 169 of the internal revenue code, whichever ends first, if all of the following apply:

**SECTION 11.** 283.17 (2) (a) of the statutes is created to read:

283.17 (2) (a) The modification of the point source commenced after October 18, 1972.

**SECTION 12.** 283.17 (2) (b) of the statutes is created to read:

283.17 (2) (b) The point source, as modified, meets the most stringent effluent limitation established under s. 283.13.

**SECTION 13.** 283.17 (2) (c) of the statutes is created to read:

283.17 (2) (c) The limitation under par. (b) assures protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife in and on the water into which the discharge is made.

**SECTION 14.** 283.19 (2) (a) of the statutes is renumbered 283.19 (2).

**SECTION 15.** 283.19 (2) (b) of the statutes is repealed.

**SECTION 16.** 283.19 (5) of the statutes is amended to read:

283.19 (5) ~~After the effective date of any standard of performance promulgated by the department under this section, no~~ No owner or operator of any new source may operate such source in violation of any standard of performance applicable to such a source.

**SECTION 17.** 283.33 (4m) of the statutes is created to read:

283.33 (4m) TRANSPORTATION ACTIVITIES. (a) In this subsection, "transportation activity" has the meaning given in s. 30.2022 (1g).

(b) 1. The department of natural resources shall issue a general permit under this section on or before June 30, 2018, that authorizes the department of transportation to discharge storm water from the site of a transportation activity. A general permit issued under this paragraph is subject to the requirements for general permits issued under s. 283.35.

2. The department of natural resources shall notify the legislative reference bureau when it issues a general permit under subd. 1. The legislative reference bureau shall publish the notice in the Wisconsin Administrative Register.

(c) Beginning on the date on which the department

of natural resources issues a general permit under par. (b) 1., the department of transportation may not discharge storm water from the site of a transportation activity unless it obtains an individual permit under sub. (1) or it is covered by a general permit issued under par. (b) 1.

(d) A general permit issued under this section shall incorporate the interdepartmental liaison procedures established under s. 30.2022 (2) and the requirements specified in rules promulgated under ss. 30.2022, 283.33, and 283.35.

**SECTION 18.** 283.53 (2h) of the statutes is amended to read:

283.53 (2h) The department may, with the consent of the permittee, ~~revoke~~ terminate a permit issued under s. 283.31 or 283.33 without following the procedures in sub. (2) (b) to (f).