



State of Wisconsin  
2001 - 2002 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2001 ASSEMBLY BILL 215**

March 20, 2001 - Offered by Representative MILLER.

1     **AN ACT to amend** 281.98 (1) and 299.95; and **to repeal and recreate** 281.36 (2)  
2             and 281.36 (3) of the statutes; **relating to:** discharges of dredged or fill material  
3             into nonfederal wetlands.

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

4             **SECTION 1.** 281.36 (2) of the statutes, as created by 2001 Wisconsin Act ....  
5             (Senate Bill 54), is repealed and recreated to read:

6             281.36 (2) PROHIBITION. (a) Except as provided in par. (b), no person may  
7             discharge dredged or fill material into a nonfederal wetland.

8             (b) Paragraph (a) does not apply to any person who discharges dredged or fill  
9             material into a nonfederal wetland if any of the following applies:

10            1. The person has received notification from the department that the discharge  
11            is authorized by a permit or other approval under ss. 59.692, 61.351, 62.231, 87.30,

1 281.11 to 281.35, 281.41 to 281.47, or 281.49 to 281.85 or ch. 30, 31, 283, 289, 291,  
2 292, 293, 295, or 299.

3 2. The person has received notification from the department that the discharge  
4 is not subject to a permitting or other approval requirement under ss. 59.692, 61.351,  
5 62.231, 87.30, 281.11 to 281.35, 281.41 to 281.47, or 281.49 to 281.85 or ch. 30, 31,  
6 283, 289, 291, 292, 293, 295, or 299 and if the discharge would have been exempt on  
7 January 8, 2001, from the water quality standards for wetlands that are set under  
8 rules promulgated under s. 281.15 (1).

9 3. The person has received notification from the department that the discharge  
10 is permitted under a permit issued by the U.S. army corps of engineers on or before  
11 January 8, 2001, and a water quality certification required by rules promulgated by  
12 the department to implement 33 USC 1341 (a) has been issued by the department,  
13 on or before January 8, 2001, and the discharge is performed in compliance with that  
14 permit.

15 4. The person has received notification from the department that the discharge  
16 is the result of an activity that would have qualified for an exemption under 33 USC  
17 1344 (f) on January 8, 2001, or under any other regulation, rule, memorandum of  
18 agreement, guidance letter, or other provision established by a federal agency that  
19 was promulgated or adopted pursuant to that subsection or that was used to  
20 implement that subsection and that was in effect on January 8, 2001.

21 **SECTION 2.** 281.36 (3) of the statutes, as created by 2001 Wisconsin Act ....  
22 (Senate Bill 54), is repealed and recreated to read:

23 281.36 (3) This section does not apply on or after December 1, 2001.

24 **SECTION 3.** 281.98 (1) of the statutes is amended to read:

1           281.98 (1) Except as provided in ss. 281.47 (1) (d), 281.75 (19) and 281.99 (2),  
2 any person who violates this chapter or any rule promulgated or any plan approval,  
3 license or special order issued under this chapter or who violates the prohibition  
4 under s. 281.36 shall forfeit not less than \$10 nor more than \$5,000 for each violation.  
5 Each day of continued violation is a separate offense. While an order is suspended,  
6 stayed or enjoined, this penalty does not accrue.

7           **SECTION 4.** 299.95 of the statutes is amended to read:

8           **299.95 Enforcement; duty of department of justice; expenses.** The  
9 attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except  
10 ss. 281.48, 285.57, 285.59 and 299.64, and all rules, special orders, licenses, plan  
11 approvals and permits of the department, except those promulgated or issued under  
12 ss. 281.48, 285.57, 285.59 and 299.64 and except as provided in s. 285.86, and shall  
13 enforce the prohibition under s. 281.36. The circuit court for Dane county or for any  
14 other county where a violation occurred in whole or in part has jurisdiction to enforce  
15 chs. 281 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan  
16 approval or permit by injunctive and other relief appropriate for enforcement. For  
17 purposes of this proceeding where chs. 281 to 285 and 289 to 295 or this chapter or  
18 the rule, special order, license, plan approval or permit prohibits in whole or in part  
19 any pollution, a violation is considered a public nuisance. The department of natural  
20 resources may enter into agreements with the department of justice to assist with  
21 the administration of chs. 281 to 285 and 289 to 295 and this chapter. Any funds paid  
22 to the department of justice under these agreements shall be credited to the  
23 appropriation account under s. 20.455 (1) (k).

24           **SECTION 5. Nonstatutory provisions.**

25           (1) RECONCILIATION PROVISIONS.

