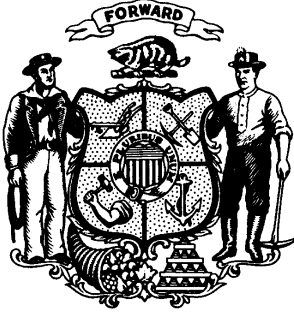


State of Wisconsin



2025 Senate Bill 798

Date of enactment:
Date of publication*:

2025 WISCONSIN ACT

AN ACT *to amend* 15.347 (22) (b) 9., 23.321 (5) (a) and 23.321 (5) (b) 1. (intro.); *to create* 23.321 (2d) of the statutes; **relating to:** a wetland assured delineation program.

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

SECTION 1. 15.347 (22) (b) 9. of the statutes is amended to read:

15.347 (22) (b) 9. ~~The possibility of a professional, whose wetland delineation work is assured under the department of natural resources' wetland delineation professional assurance initiative, performing a wetland delineation confirmation requirements for certification as an assured delineator and other matters related to the wetland assured delineator program under s. 23.321 on behalf of the department (2d).~~

SECTION 2. 23.321 (2d) of the statutes is created to read:

23.321 (2d) WETLAND ASSURED DELINEATION PROGRAM. (a) *Definition.* In this subsection, "assured delineator" means a professional wetland delineator who is certified by the department under par. (c).

(b) *Program.* 1. The department shall establish a wetland assured delineation program under which individuals may apply to the department to be certified as assured delineators. Under the program, the department shall ensure that assured delineators delineate wetlands consistent with the wetlands delineation manual described under s. 281.36 (2m).

2. Under the program, a wetland delineation prepared by an assured delineator has the same effect as a

wetland identification or confirmation prepared by the department under sub. (2) (b) to (d). A wetland delineation performed by an assured delineator is not required to be confirmed by the department under sub. (2) (c) or (d).

3. The department shall require an assured delineator to submit to the department a report of each wetland delineation the assured delineator seeks to have accepted as an assured wetland delineation. The assured delineator shall include in the report all items required in applicable joint guidance from the U.S. army corps of engineers and the department. To be accepted as an assured wetland delineation, the assured delineator shall submit the report under this subdivision no later than March 15, unless an extension is approved by the department. The department shall grant an extension request, except that a report under this subdivision may receive only one extension, which may not extend more than 12 months from the date the extension is granted. Any wetland delineation report or other information related to the wetland delineation that is not submitted to the department may not be considered an assured wetland delineation.

4. Under the program, assured delineators shall conduct assured wetland delineations during the growing season. The growing season shall be determined in accordance with the wetlands delineation manual de-

* 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."

scribed under s. 281.36 (2m) and applicable supplements.

(c) *Application.* 1. A professional wetland delineator seeking to become certified as an assured delineator shall submit a complete application and shall follow the application procedures specified by the department.

2. The department shall, in consultation with the wetland study council, determine what must be submitted by an applicant to constitute a complete application. Once established, the department shall make those requirements available on the department's website. The department may not determine an application to be complete without submission of the application fee under par. (e) 1. a.

3. The department shall establish application and qualification requirements for certification as an assured delineator, including at least all of the following:

a. An associate degree with at least 8 years of full-time professional field experience in wetland delineation.

ag. A bachelor's degree with at least 5 years of full-time professional field experience in wetland delineation.

ar. A master's degree or doctorate degree with at least 3 years of full-time professional field experience in wetland delineation.

b. Completion of minimum educational requirements or requirements for commensurate experience, as determined by the department in consultation with the wetland study council.

c. Completion of a wetland delineation training course based on the wetlands delineation manual described under s. 281.36 (2m) and applicable regional supplements for this state.

d. Submittal of at least 6 representative wetland delineation reports completed within the 2 growing seasons preceding the date on which the application was submitted.

4. Status as an assured delineator is valid unless revoked under par. (d).

5. If the department determines that the applicant does not meet the minimum qualifications to be approved as an assured delineator, the applicant may reapply in a future application process.

6. The department shall accept applications no less than annually and at least during the period beginning September 15 and ending November 30 for applicants who wish to be certified beginning on March 15 of the next calendar year.

7. The department may consider previous conduct and performance in scoring a subsequent application for an applicant whose prior certification under the program was revoked under par. (d). The department may

not approve an application if the applicant's certification was revoked within 3 years of the application date.

(d) *Performance review, auditing, and revocation.*

1. The department shall review the performance of assured delineators on a recurring basis to ensure the program standards and expectations are being met. As part of this review process, the department may perform in-field audits of specific wetland delineations that assured delineators have submitted in the 12 months preceding the beginning of the audit.

2. Upon a complaint submitted by any person to the department that an assured delineator may have failed to accurately identify wetlands on a property for which a report under par. (b) 3. was submitted in the 12 months preceding the date of the complaint, the department may investigate and gather information to determine if the report fails to accurately identify the presence and boundaries of a wetland on the property.

3. a. If data gathered under subd. 1. or 2. show substantial evidence that a wetland delineation was conducted in a manner that is not supported by the wetlands delineation manual described under s. 281.36 (2m) and applicable regional supplements for this state in effect at the time the fieldwork was completed, the department shall so notify the assured delineator and require the assured delineator to correct the report under par. (b) 3. Any deadline for department action with respect to a wetland general or individual permit or exemption under s. 281.36 is tolled on the date of that notification until the assured delineator corrects and resubmits the report under par. (b) 3.

b. The department may not modify a permit or exemption decision under s. 281.36 on the basis of data gathered under subd. 1. or 2.

c. The department may use the data gathered under subd. 1. or 2. to evaluate an assured delineator's compliance with program requirements under this subsection.

4. The department shall give notice to an assured delineator if the department conducts an audit under subd. 1. or an investigation under subd. 2.

5. The department may revoke an individual's certification as an assured delineator by providing to the individual written notice of the revocation and the reason for the revocation if it finds the individual did any of the following, taking into consideration the type and frequency of infractions:

a. Knowingly took part in an activity that results in the violation of state or federal wetland or waterway laws or regulations.

b. Knowingly falsified or misrepresented a wetland boundary.

c. Failed to delineate all wetland resources within a wetland delineation study area.

d. Misrepresented another's work as his or her own.

e. Failed to apply standard wetland delineation protocols in line with the wetlands delineation manual described under s. 281.36 (2m) and applicable regional supplements for this state.

f. Failed to meet continuing education expectations as set by the department.

g. Failed to submit an average of at least 3 delineation reports annually over the prior 3 years, unless an exception is made by the department for extenuating circumstances.

6. Any individual who receives notice under subd. 5. that his or her certification as an assured delineator has been revoked is entitled to a contested case hearing under ch. 227 if the individual requests the hearing within 30 days after receiving the notice.

7. An individual whose certification as an assured delineator is revoked is not precluded from delineating wetlands under sub. (2) (c) or (d).

(e) *Fees.* 1. The department shall charge the following fees:

a. To an applicant under par. (c), an application processing fee of \$500 to be submitted with an application.

b. To an assured delineator, an annual certification fee of \$900.

2. The department may charge an assured delineator a filing fee of \$20 for each report submitted under par. (b) 3.

SECTION 3. 23.321 (5) (a) of the statutes is amended to read:

23.321 (5) (a) Except as provided in par. (b), a wetland identification provided by the department under sub. (2) (b) and a wetland confirmation provided by the department under sub. (2) (c) remain effective for 5 years from the date provided by the department. Except as provided in par. (b), a wetland delineation prepared by an assured delineator under sub. (2d) remains effec-

tive for 5 years from the date upon which the wetland delineation report under sub. (2d) (b) 3. is submitted to the department.

SECTION 4. 23.321 (5) (b) 1. (intro.) of the statutes is amended to read:

23.321 (5) (b) 1. (intro.) A wetland identification provided by the department under sub. (2) (b) ~~and~~, a wetland confirmation provided by the department under sub. (2) (c) or (d), and a wetland delineation prepared by an assured delineator under sub. (2d) remain effective for 15 years from the date ~~provided by the department~~ that the U.S. army corps of engineers makes a determination regarding whether the wetland is subject to federal jurisdiction on the basis of the wetland identification, confirmation, or delineation if all of the following conditions are met:

SECTION 5. Nonstatutory provisions.

(1) The department of natural resources shall consider an individual who is approved or certified as an assured delineator under a pilot program in effect on the effective date of this subsection to be certified as an assured delineator under s. 23.321 (2d).

(2) The department of natural resources shall consult with the wetland study council on the department's progress in implementing this act's requirements and on all matters in this act requiring consultation with the wetland study council no later than the first day of the 7th month beginning after publication.

SECTION 6. Initial applicability.

(1) Except as provided in sub. (2), this act first applies to an individual who submits an application under s. 23.321 (2d) (c) on the effective date of this subsection.

(2) Except for the initial application requirements under s. 23.321 (2d) (c), this act first applies to individuals described under SECTION 5 (1) of this act on the effective date of this subsection.