

## 2009 DRAFTING REQUEST

### Bill

Received: **01/02/2009**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - air quality**

Extra Copies:

Submit via email: **NO**

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### Pre Topic:

DOA:.....Miner, BB0321 -

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### Topic:

Change certain air permit fees

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 01/05/2009	jdyer 01/06/2009	mduchek 01/06/2009	_____	sbasford 01/06/2009		State
/1	btradewe 01/21/2009	jdyer 01/22/2009	mduchek 01/22/2009	_____	cduerst 01/22/2009		State
/2	btradewe 01/23/2009	jdyer 01/23/2009	rschluet 01/23/2009	_____	sbasford 01/23/2009		State
/3	btradewe 01/28/2009	jdyer 01/28/2009	phenry 01/28/2009	_____	lparisi 01/28/2009		

FE Sent For:

**<END>**

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/1	btradewe 01/21/2009	jdyer 01/22/2009	mduchek 01/22/2009	_____	cduerst 01/22/2009		State
/2	btradewe 01/23/2009	jdyer 01/23/2009	rschlue 01/23/2009	_____	sbasford 01/23/2009		

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/1	btradewe 01/21/2009	jdyer 01/22/2009	mduchek 01/22/2009	_____	cduerst 01/22/2009		

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*[Handwritten signatures and initials]*  
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Add. Drafters:

Subject: Environment - air quality

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/P1	btradewe 01/05/2009	jdye 01/06/2009	mduchek 01/06/2009	1/22	sbasford 01/06/2009		

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<END>

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/?	btradewe	PI 1/6 JLD	M	M			
			1/6				

FE Sent For:

<END>

## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Non-Title V Air Permit Fee Changes
- Tracking Code: BB0321
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner AM
  - Phone: 266-1103
  - Email: andrew.miner@wisconsin.gov
- Agency acronym: DNR
- Agency number: 370
- Priority (Low, Medium, High): High

Intent: Revise the fee schedule for Non-Title V air permits according to "Option 2" as outlined on the attached sheets. The one-time fee and annual per-ton emission fee would be eliminated and replaced with an annual fee with the amount based on the category of permit. All changes would be effective January 1, 2010. See attached issue paper for background information.

Type of Permit	Fee Option 1		Fee Option 2	
	Current One-Time Fee*	Proposed Annual Fee Revenue (FY11)	Proposed Annual Fee Revenue (FY11)	Proposed Annual Fee Revenue (FY11)
SM80	7,500	2,240,000	3,475	2,224,000
Traditional	7,500	108,000	775	55,800
General Operation Permits	2,300	196,300	775	234,050
Registration Operation Permits	1,100	248,950	775	296,825
Exempt	300**	0	0	0
<b>Total</b>		<b>\$2,793,250</b>		<b>\$2,810,675</b>

\*Permittees currently pay the one-time fee in their first year of operation and thereafter pay the \$35.71/ton emission fee.

\*\*Those exempt from obtaining an operating permit pay a \$300/year fee if the source had emissions of a regulated pollutant of more than 3 tons in the previous year. This fee would be eliminated under the proposal.

## Plan B – Fee Option 2

Cost Projection at Current Revenue Levels to Move 12 FTE to Non Title V in FY10 & FY11;  
AM FTE Net Loss = 8.5

	Title V	Non Title V
<b>FY09</b>		
FTE	77.50	10.00
Cost	\$ 9,681,400	\$ 931,949
Revenue	\$ 7,758,940	\$ 700,000
Balance	\$ 1,131,210	\$ 595,367

	Title V	Non Title V
<b>FY10</b>		
FTE	57.00	22.00
Cost	\$ 7,981,213	\$ 2,642,418
Revenue	\$ 7,621,398	\$ 700,000
Balance	\$ 771,395	\$ (1,347,051)

	Title V	Non Title V
<b>FY11</b>		
FTE	57.00	22.00
Cost	\$ 8,305,582	\$ 2,817,797
Revenue	\$ 7,483,856	\$ 700,000
Balance	\$ (50,331)	\$ (3,464,848)

	Number Of	Annual Fee	Revenue	FY08 Average Bill
<b>Revenue Projection for Annual Facility Fee (instead of emission fee)</b>				
<b>FY10</b>	640	\$3,475	\$2,224,000	\$890.91
SM80*	122	\$775	\$94,550	\$579.91
Traditional	302	\$775	\$234,050	\$1,011.05
GOP	333	\$775	\$258,075	\$300.07
ROP	92	\$0	\$0	
Exempt**				
Total:			\$2,810,675	
<b>FY11</b>	640	\$3,475	\$2,224,000	\$890.91
SM80*	72	\$775	\$55,800	\$579.91
Traditional	302	\$775	\$234,050	\$1,011.05
GOP	383	\$775	\$296,825	\$300.07
ROP	98	\$0	\$0	
Exempt**				
Total:			\$2,810,675	

\* SM80's cover 80% of the program cost to reflect EPA required workload. The equivalent share of cost is \$2,254,238  
 \*\* Exempt facilities do not pay annual fee; only NSR exempt determination.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Allows the Air Program to provide technical and compliance assistance to smaller sources. We often receive inquiries from such sources and are unable to respond due to inadequate staffing. By working with these facilities, we can better educate them on the regulations and thereby enhance compliance and reduce complaints.</li> <li>Allows the Air Program to respond to complaints from the public. Currently we cannot respond to such complaints due to inadequate staffing.</li> <li>The annual fee for SM80s is proportionate to the level of work required by EPA on these sources. Other sources in the Non-Title V account do not have the same workload requirements. Therefore the sources with the greatest workload pay higher fees.</li> <li>By having the annual fee the same for Traditional, ROP and GOP permit holders, the funding is stable if sources change permit types within these groups.</li> <li>Exempt sources do not pay annual fee. They would only pay exemption designation fee in the new source review process. Current practice is unfair to those who come forward to get exempt status.</li> </ul>	<ul style="list-style-type: none"> <li>To maximize our ability to work with Non-Title V sources, this plan includes the continuation of cost-sharing compliance work at SM80 sources with the Title V account. While EPA is aware of this practice and not raised objections, it is not a "pure" interpretation of the use of Title V funds as dictated by the 2003 Notice of Deficiency.</li> <li>Sources requiring less work effort from the DNR (e.g., ROPs and GOPs) would supplement the effort at sources requiring more work</li> </ul>

*Note: The workload analysis on which these budget fee alternatives are based assumes that any Non-Title V permit is non-expiring, including traditional permits for all Non-Title V sources. This will require statutory (and perhaps) administrative rule changes for all fee alternatives.*

PROGRAM: AIR & WASTE PROGRAM

SUBPROGRAM: AIR MANAGEMENT

DECISION ITEM 5220: AIR EMISSION FEES

	<u>2009-10</u>	<u>FTE</u>	<u>2010-11</u>	<u>FTE</u>
PR(235)	\$1,254,600	10 FTE	\$1,413,000	10 FTE
PR (236)	-\$1,254,600	-10 FTE	-\$1,413,000	-10 FTE

#### Request

The Department requests the transfer of \$1,254,600 in FY10 and \$1,413,000 in FY11 and 10 FTE from Air Management's Title V appropriation 20.370 2(bg), federal sources air operation permits, to appropriation 2(bh), state sources air operation permits. Current fees to 2(bh) generate approximately \$700,000 annually; the program assumes this will likely be closer to \$500,000 in FY10 and FY11 since most Non-Title V source have paid the one-time fee associated with their corresponding permit type. The Department is also requesting a transfer of PIF SEG of \$1.4 million in FY10 and \$2.1 million in FY11 to 2(bh), to fully-fund the existing expenditure authority and to fund the transferred 10 FTE.

Workload analysis related to alignment of Title V and Non-Title V Sources:

	2009 Authorized Staffing (FTE)	2009 Funded FTE	2010 Workload Required Staffing (FTE)	2011 Workload Required Staffing (FTE)
Title V (236)	77.5	72.5	57	57
Non-Title V (235)	10	4	20	20

#### Background

The federal Clean Air Act requires that states fund the Title V portion of their stationary source programs with emission fees – fees charged to affected sources based on the amount of pollutants emitted by those sources on an annual basis. “Title V” refers to a portion of the Clean Air Act that contains permitting and compliance regulations for large industrial sources of air emissions. Non-portable industrial sources (regardless of size) are often referred to as “stationary sources”.

Air Program emission fees are established by s. 285.69(2), Stats., and s. NR 410.04, Wis. Admin. Code. These fee regulations have been modified over time to react to changing program costs and other factors. The most recent change, 1999 Wisconsin Act 9, increased the emission cap (the maximum amount of emissions for which fees can be charged) from 4,000 to 5,000 tons. However, it also eliminated provision that adjusted emission fees based on changes in the consumer price index, and froze the per ton emission fee at \$35.71/ton. In part, this led to the most significant recent event affecting Air Program funding: USEPA's issuance of the 2004 Notice of Deficiency (NOD) to the Air Program. Two key issues raised in the NOD were the failure to demonstrate that Wisconsin's emission fees were generating sufficient revenue to cover

the costs of the State's Title V program, and that Wisconsin was not adequately demonstrating that Title V fees were being used solely for its Title V program costs and not for Non-Title V (smaller) source activities.

To address these NOD issues, the Air Program conducted a workload analysis to establish the level of resources that were required to operate Wisconsin's Title V program. Statutory changes were made to establish separate emission fee accounts for Title V (appropriation 20.370 2(bg)) and Non-Title V (appropriation 2(bh)) sources to assure that Title V fees were only used for Title V program related activities. An Air Program permit streamlining initiative was also underway at the time of the NOD. That effort identified a number of ways to reduce program workload, including:

- Increased numbers of low emitting sources being exempted from permitting requirements.
- Establishment of registration permits (i.e., shorter, more simple standardized permits that can be issued in 15 days for smaller sources).
- Expanded use of general permits (i.e., standardized permit that is much more detailed than a registration permit, but applicable to multiple sources, and able to be issued in 15 days)
- Development of an integrated information technology (IT) system to streamline issuance of air permits and other program activities. The efficiencies projected from these streamlining efforts were incorporated into the workload analysis.

Unfortunately, the appropriation 2(bh) fee structure enacted in the FY 05-07 biennial budget (or 2005 Wisconsin Act 25) as part of the NOD response has not generated sufficient revenue to support the number of staff needed for the Non-Title V portion of the program.

## Issues

If nothing occurs in this budget cycle related to the air permits program, Air Management sees potential issues in three main categories: the NOD, impacts to Non-Title V activities, and staff reductions. As part of the NOD resolution, EPA will periodically revisit the funding adequacy for meeting federal mandates. If there are issues, EPA could revisit the NOD and begin the process again. The potential ramifications from the NOD were significant and included additional offsets (emission reductions) for stationary sources wishing to expand operations in non-attainment areas, removal of state delegation (which would involve EPA in dealing directly with Wisconsin's facilities on permitting and compliance, and the imposition of sanctions involving federal highway transportation funds. Noted in the table above, there is currently enough revenue in the Non-Title V appropriation to fund 4.0 FTE. It assumed that the limited Non-Title V staff resources remaining would only work on permits and compliance efforts related to synthetic minor sources (SM80) with the emission threshold of 80,000 to 100,000 annual air emission tons. Any work on all other Non-Title V activities (e.g., registration, general, and exempt permits development, issuance, follow-up) would be discontinued. The EPA required SM80 workload equates to about 16.0 FTE. Even with eliminating all other work at Non-Title V sources and continuing supplementing compliance work at SM80 sources with the Title V account, the compliance inspection frequency would be once every 17 years instead of the required once every 5 years. Staff reductions could be as high as 26.5 FTE in the Air permit program: 20.5 FTE in the Title V appropriation and 6 FTE in the Non-Title V appropriation.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1296/P1

RCT: A...

Wanted 1/8

(in 1/5)

JLD

Wde

DOA:.....Miner, BB0321 - Change certain air permit fees ✓

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

X

do not gen

1

AN ACT ...; relating to: the budget. ✓

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version. ✓

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

2

SECTION 1. 20.370 (2) (bg) ✓ of the statutes is amended to read:

3

20.370 (2) (bg) *Air management — stationary sources.* The amounts in the

4

schedule for purposes related to stationary sources of air contaminants as specified

5

in s. 285.69 (2) (c) and to transfer the amounts appropriated under s. 20.143 (1) (kc)

6

to the appropriation account under s. 20.143 (1) (kc). All moneys received from fees

7

imposed on owners and operators of stationary sources for which operation permits

8

are required under the federal clean air act ✓ under s. 285.69 (2) (a) and (e), except

1 moneys appropriated under subs. (3) (bg), (8) (mg) and (9) (mh), and all moneys  
 2 received from fees imposed under s. 285.69 (7) shall be credited to this appropriation.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97.

3 **SECTION 2.** 20.370 (2) (bh) of the statutes is amended to read:

4 20.370 (2) (bh) *Air management — state permit sources.* The amounts in the  
 5 schedule for purposes related to stationary sources of air contaminants for which an  
 6 operation permit is required under s. 285.60 but not under the federal clean air act  
 7 as specified in s. 285.69 (2) (i) (2m) (b). All moneys received from fees imposed under  
 8 s. 285.69 (1g) and imposed under s. 285.69 (2) on owners and operators of stationary  
 9 sources for which operation permits are required under s. 285.60 but not under the  
 10 federal clean air act (2m) shall be credited to this appropriation account.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97.

11 **SECTION 3.** 20.370 (3) (bg) of the statutes is amended to read:

12 20.370 (3) (bg) *Enforcement — stationary sources.* From the general fund, from  
 13 the moneys received from fees imposed on owners and operators of stationary sources  
 14 for which operation permits are required under the federal clean air act under s.  
 15 285.69 (2) (a) and (e), the amounts in the schedule for enforcement operations related  
 16 to stationary sources of air contaminants.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97.

17 **SECTION 4.** 20.370 (8) (mg) of the statutes is amended to read:

1           20.370 (8) (mg) *General program operations — stationary sources.* From the  
2           general fund, from the moneys received from fees imposed on owners and operators  
3           of stationary sources for which operation permits are required under the federal  
4           clean air act under s. 285.69 (2) (a) and (e), the amounts in the schedule for the  
5           administration of the operation permit program under ch. 285 and s. 299.15.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97.

6           **SECTION 5.** 20.370 (9) (mh) of the statutes is amended to read:

7           20.370 (9) (mh) *General program operations — stationary sources.* From the  
8           general fund, from the moneys received from fees imposed on owners and operators  
9           of stationary sources for which operation permits are required under the federal  
10          clean air act under s. 285.69 (2) (a) and (e), the amounts in the schedule for customer  
11          service, communications and aids administration for the operation permit program  
12          under ch. 285 and s. 299.15.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97.

13          **SECTION 6.** 285.69 (1) (a) (intro.) of the statutes is renumbered 285.69 (1) (a)

14          and amended to read:

15          285.69 (1) (a) *Application for permit.* Reviewing and acting upon any  
16          application for a construction permit, ~~except that the department may not impose a~~  
17          ~~fee on any of the following persons who apply for a construction permit:~~ for a  
18          stationary source for which an operation permit is required under the federal clean  
19          air act.

**History:** 1979 c. 34, 221; 1987 a. 27; 1989 a. 56; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1995 a. 227 ss. 495 to 499; Stats. 1995 s. 285.69; 1997 a. 27, 35; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25.

1 SECTION 7. 285.69 (1) (a) 1. to 3. of the statutes are repealed.

2 SECTION 8. 285.69 (1g) of the statutes is repealed.

3 SECTION 9. 285.69 (2) (title) of the statutes is amended to read:

4 285.69 (2) (title) FEES FOR PERSONS REQUIRED TO HAVE FEDERAL OPERATION  
5 PERMITS.

History: 1979 c. 34, 221; 1987 a. 27; 1989 a. 56; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1995 a. 227 ss. 495 to 499; Stats. 1995 s. 285.69; 1997 a. 27, 35; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25.

6 SECTION 10. 285.69 (2) (a) (intro.) of the statutes is amended to read:

7 285.69 (2) (a) (intro.) The department shall promulgate rules for the payment  
8 and collection of fees by the owner or operator of a stationary source for which an  
9 operation permit is required under the federal clean air act. The rules shall provide  
10 all of the following:

History: 1979 c. 34, 221; 1987 a. 27; 1989 a. 56; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1995 a. 227 ss. 495 to 499; Stats. 1995 s. 285.69; 1997 a. 27, 35; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25.

11 SECTION 11. 285.69 (2) (c) (intro.) of the statutes is amended to read:

12 285.69 (2) (c) (intro.) The fees collected under pars. (a) and (e) ~~from the owner~~  
13 ~~or operator of a stationary source for which an operation permit is required under~~  
14 ~~the federal clean air act~~ shall be credited to the appropriations under s. 20.370 (2)  
15 (bg), (3) (bg), (8) (mg) and (9) (mh) for the following:

History: 1979 c. 34, 221; 1987 a. 27; 1989 a. 56; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1995 a. 227 ss. 495 to 499; Stats. 1995 s. 285.69; 1997 a. 27, 35; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25.

16 SECTION 12. 285.69 (2) (f) of the statutes is repealed.

17 SECTION 13. 285.69 (2) (g) of the statutes is repealed.

18 SECTION 14. 285.69 (2) (h) of the statutes is repealed.

19 SECTION 15. 285.69 (2) (i) of the statutes is renumbered 285.69 (2m) (b), and  
20 285.69 (2m) (b) (intro.), as renumbered, is amended to read:

21 285.69 (2m) (b) (intro.) The fees collected under this subsection ~~from the owner~~  
22 ~~or operator of a stationary source for which an operation permit is required under~~  
23 ~~s. 285.60 but not under the federal clean air act and under sub. (1g)~~ shall be credited

1 to the appropriation account under s. 20.370 (2) (bh) for the following purposes as  
2 they relate to stationary sources for which an operation permit is required under s.  
3 285.60 but not under the federal clean air act:

History: 1979 c. 34, 221; 1987 a. 27; 1989 a. 56; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1995 a. 227 ss. 495 to 499; Stats. 1995 s. 285.69; 1997 a. 27, 35; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25.

4 **SECTION 16.** 285.69 (2m) of the statutes is created to read:

5 **285.69 (2m)** FEES FOR PERSONS REQUIRED TO HAVE STATE OPERATION PERMITS. (a)

6 The owner or operator of a stationary source for which an operation permit is  
7 required under s. 285.60 but not under the federal clean air act shall pay to the  
8 department a fee of \$775 per year, except that, if the stationary source has its  
9 potential to emit limited by a federally enforceable permit condition so that it is not  
10 a major source, the owner or operator shall pay to the department a fee of \$3,475 per  
11 year.

12 **SECTION 9437. Effective dates; Natural Resources.**

13 (1) AIR EMISSION PERMIT FEES. The treatment of sections 20.370 (2) (bg) and (bh),  
14 (3) (bg), (8) (mg), and (9) (mh) and 285.69 (1) (a) (intro.) and 1. to 3., (1g), (2) (title),  
15 (a) (intro.), (c) (intro.), (f), (g), (h), and (i), and (2m) of the statutes takes effect on  
16 January 1, 2010.

17 (END)

*DN Note*

STAT

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1296/P1dn

RCT: ^:....

date

JLD

Andrew Miner:

This is a preliminary version of the draft changing the air permit fees. ✓ The draft should be reviewed carefully to ensure that it has the intended effects. I would recommend that the draft be reviewed by ✓ DNR's experts, including their legal counsel.

Please contact me with any questions or redraft instructions. If the substance of the draft is OK as is, please let me know that. I need to write an analysis before the draft can be included in the budget. ✓

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1296/P1dn  
RCT:jld:md

January 6, 2009

Andrew Miner:

This is a preliminary version of the draft changing the air permit fees. The draft should be reviewed carefully to ensure that it has the intended effects. I would recommend that the draft be reviewed by DNR's experts, including their legal counsel.

Please contact me with any questions or redraft instructions. If the substance of the draft is OK as is, please let me know that. I need to write an analysis before the draft can be included in the budget.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

**Tradewell, Becky**

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**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Monday, January 19, 2009 4:56 PM  
**To:** Tradewell, Becky  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees  
**Attachments:** 09-1296P1.pdf; 09-1296P1dn.pdf

Becky,

Please see DNR's notes below about changes to draft 1296. Please incorporate them as possible, and feel free to work directly with DNR as needed. Let me know if you have any questions or concerns. Thanks,  
Andrew

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**From:** Potter, Lance - DNR  
**Sent:** Thursday, January 15, 2009 4:20 PM  
**To:** Miner, Andrew - DOA  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Andrew -

The Air folks and I have met, and discussed the needed changes to the LRB Air Fees draft language. Everyone, including Mike Scott in Legal Services, agrees with the language below. The bulk of the conversations have occurred around how to explain exactly what are the SM80s - those who will pay the \$3,475 fee.

Let me know if you want to discuss.

Lance

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**From:** Stach, Sheralynn S - DNR  
**Sent:** Thursday, January 15, 2009 4:08 PM  
**To:** Potter, Lance - DNR  
**Cc:** Shea, Allen K - DNR; Bangert, Suzanne A - DNR; Melby Jr, John H - DNR; Baumann, William B - DNR; Stewart, Andrew M - DNR; Scott, Michael D - DNR; Derr, Daniel J - DNR; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hi Lance,

We have reviewed the draft language for 09-1296/P1 from LRB and have a few edits and additions we believe should be made. The results of our review includes the following:

Page 1, Lines 1 - 10: no change needed

Page 2, Lines 1 - 25: no change needed

Page 3, Lines 1 - 4: no change needed

Page 3, Lines 5 - 9: deletion of "for a stationary source for which an operation permit is required under the federal clean air act" which was added in this version is needed for two primary reasons. 285.69 (1)(a) relates to the ability to assess fees for construction permits. Not all construction permits relate to "stationary sources" and not all construction permits are required under the federal clean air act. We suggest using the following language for Section 6 as it relates to 285.69 (1)(a) or lines 5 - 9:

285.69 (1)(a) *Application for permit.* Reviewing and acting upon any application for a

construction permit. (end)

Page 3, Lines 10 - 12: no change needed

Page 3, Line 13: no change needed **as long as new language for 2m is enacted**. If not, the addition of the word "federal" will have dire consequences.

Page 3, Line 14 - 17: no change needed

Page 3, Line 18: no change needed **as long as new language for 2m is enacted**. If not, the addition of the words "under the federal clean air act" will have dire consequences.

Page 3, Lines 19 - 25: no change needed

Page 4, Lines 1 - 10: no change needed

Page 4, Lines 11 - 18: modification needed for two primary reasons. First, language as listed on line 12 that lists "state operation permits" refers to only one type of permit for "state permit sources." Secondly, the fee language as list on lines 15 - 17 has negative ramifications as stated and would be problematic to implement. We suggest using the following language for Section 16 for 285.69 (2m):

***[Section 16 (replace lines 11-18 on page 4 of the LRB draft with the following)]***

285.69(2m) of the statutes is created to read:

285.69(2m) FEES FOR STATE PERMIT SOURCES. (a) The owner or operator of a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act shall pay to the department an annual fee.

1. \$775 for a stationary source that has an operation permit under s. 285.60(2)(a), (2g) or (3).
2. \$3,475 for a stationary source that has an operation permit under s. 285.60(2)(c)

Page 4, Lines 19 - 24: no change needed

In addition to the above statutory changes, the Air Program requests an additional change be made to add 285.60 (2) by added a third bullet (c). This "definition" will be needed for the newly created (as edited by DNR) language for 285.69 (2m). New language to include is:

285.60(2)(c) of the statutes is created to read:

*(c) Operation permits to limit federal applicability.* A person may apply for an operation permit for one or more points of emission from an existing source in order to limit the source's potential to emit so that it is not a major source. Federally enforceable permit conditions under this paragraph shall allow emissions to be at least 80% of federal major source threshold levels.

Finally, we have language we would like to add that would allow for non-expiring permits for Non-Title V sources. In order to maximize resources and minimize expenses, the Air Program used the concept of non-expiring permits for Non-Title V sources when developing the workload analysis. This analysis was the basis for the level of staffing needed in the program. The language we suggest for this is:

Create s. 285.66(2)(c):

(c) Notwithstanding par. (a), the term of an operation permit may exceed 5 years from the date of issuance or renewal, and the Department may specify that coverage under

the permit does not expire, if:

1. The permit is issued under s. 285.62 for a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act; and
2. It is not a registration permit or a general permit.

Please let me know if you, DOA or LRB have any questions on the edits.

Thank you,  
Sheri

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**From:** Potter, Lance - DNR  
**Sent:** Wednesday, January 07, 2009 9:43 AM  
**To:** Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

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**From:** Miner, Andrew - DOA  
**Sent:** Tuesday, January 06, 2009 3:16 PM  
**To:** Potter, Lance - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Lance,

Here is a preliminary draft and note for the Non-Title V fees. Please review and offer any comments. Thanks - Andrew

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**From:** Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]  
**Sent:** Tuesday, January 06, 2009 11:09 AM  
**To:** Miner, Andrew - DOA  
**Cc:** Steinmetz, Jana D - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1296/P1 Change certain air permit fees

Following is the PDF version of draft 09-1296/P1.

**Tradewell, Becky**

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**From:** Potter, Lance - DNR [Lance.Potter@Wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 9:13 AM  
**To:** Tradewell, Becky  
**Cc:** Miner, Andrew - DOA; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees  
**Attachments:** 09-1296P1.pdf

Hello Becky -

Air folks and I discussed your questions. The responses are below. They are more than happy to get together with you to discuss. Given your time frame, they are willing to come to you or to conference call. The preference is up to you.

Lance

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**From:** Stach, Sheralynn S - DNR  
**Sent:** Wednesday, January 21, 2009 9:08 AM  
**To:** Potter, Lance - DNR  
**Cc:** Melby Jr, John H - DNR; Shea, Allen K - DNR; Bangert, Suzanne A - DNR; Baumann, William B - DNR; Stewart, Andrew M - DNR; Scott, Michael D - DNR; Derr, Daniel J - DNR; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hi Lance,

We have discussed the questions and comments from Becky Tradewell. Our responses are provided in her email (red, bold font). This is complex and slight changes can have significant ramifications. Therefore, we would like to offer to meet with Becky to go over our comments, concerns and answer any questions she may have. This is a priority for all of us and we will make ourselves available to her schedule.

Thank you,  
Sheri

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**From:** Potter, Lance - DNR  
**Sent:** Tuesday, January 20, 2009 12:47 PM  
**To:** Stach, Sheralynn S - DNR; Stewart, Andrew M - DNR; Baumann, William B - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hello All -

I just got this note from Becky Tradewell at LRB. Please note she is stressing that they have very little time to finalize the language. I have enclosed the original draft language again for your reference. Please let me know answers to her questions or how you would like to proceed.

Thanks,

Lance

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**From:** Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]

01/21/2009

**Sent:** Tuesday, January 20, 2009 12:01 PM  
**To:** Potter, Lance - DNR  
**Cc:** Miner, Andrew - DOA  
**Subject:** RE: LRB Draft: 09-1296/P1 Change certain air permit fees

Lance,

Concerning the redraft instructions for LRB-01296/P1:

Is it DNR's intent not to make any changes in current law related to construction permit fees? If the answer is "yes," all of the material from page 3, line 3 to line 10 should be deleted. If the answer is "no," I need to know what the intent is. As I interpret it, the proposed language below would allow DNR to collect construction permit application fees from persons from whom it is not now allowed to collect construction permit fees.

**DNR Response:** The construction permit fees are set by rule and will be modified in the near future. We believe our original edits are still applicable and they do not change current intent or collection of construction permit fees. 285.69 (1) authorizes promulgating rules for fees. 285.69 (1) (a) authorizes fees for construction permits. Our suggested edits do not broaden that authority but keep it at its existing authority. The additional language "for a stationary source for which an operation permit is required under the federal clean air act." actually reduces our construction permit fee collection authorization for two reasons. First, not all construction permits relate to "stationary sources." We receive construction permits for new source or "greenfield sources." These are new plants that will be built if permitted and do not add to an existing permit (or stationary source operation permit). Secondly, not all construction permits are required under the federal clean air act. We still believe the additional language inserted should be removed.

I can change the title on page 4, line 12, but reviewers should realize that titles do not have any legal effect.

**DNR Response:** Yes, we understand titles do not have any legal effect. They do help clarify matters for people though and therefore our suggested change.

I assume that the proposed reference to s. 285.60 (2) (a) is meant to refer to "traditional" permits. The problem is that that provision is the all-inclusive permit requirement. All mandatory permits are covered by that provision. Is there a reason that the language on page 4, lines 13 to 18 would be a problem if the "except" clause were modified to read "except that the fee under s. 285.60 (2) (c) is \$3,475 per year"?

**DNR Response:** Please disregard our original edits to page 4 lines 13 - 18. Your recent modification would work with the creation of 285.60 (2) (c). The newly modified language to page 4 lines 12 - 18 should read:

285.69(2m) FEES FOR STATE PERMIT SOURCES. (a) The owner or operator of a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act shall pay to the department a fee of \$775 per year, except that the fee for a stationary source that has an operation permit under s. 285.60 (2) (c) is \$3,475 per year.

I may have more questions, but wanted to get this to you as soon as possible because we have **very little** time to finalize budget language.

Becky Tradewell  
6-7290

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**From:** Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]  
**Sent:** Monday, January 19, 2009 4:56 PM  
**To:** Tradewell, Becky

01/21/2009

**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Becky,

Please see DNR's notes below about changes to draft 1296. Please incorporate them as possible, and feel free to work directly with DNR as needed. Let me know if you have any questions or concerns. Thanks,  
Andrew

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**From:** Potter, Lance - DNR

**Sent:** Thursday, January 15, 2009 4:20 PM

**To:** Miner, Andrew - DOA

**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Andrew -

The Air folks and I have met, and discussed the needed changes to the LRB Air Fees draft language. Everyone, including Mike Scott in Legal Services, agrees with the language below. The bulk of the conversations have occurred around how to explain exactly what are the SM80s - those who will pay the \$3,475 fee.

Let me know if you want to discuss.

Lance

---

**From:** Stach, Sheralynn S - DNR

**Sent:** Thursday, January 15, 2009 4:08 PM

**To:** Potter, Lance - DNR

**Cc:** Shea, Allen K - DNR; Bangert, Suzanne A - DNR; Melby Jr, John H - DNR; Baumann, William B - DNR; Stewart, Andrew M - DNR; Scott, Michael D - DNR; Derr, Daniel J - DNR; Stach, Sheralynn S - DNR

**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hi Lance,

We have reviewed the draft language for 09-1296/P1 from LRB and have a few edits and additions we believe should be made. The results of our review includes the following:

Page 1, Lines 1 - 10: no change needed

Page 2, Lines 1 - 25: no change needed

Page 3, Lines 1 - 4: no change needed

Page 3, Lines 5 - 9: deletion of "for a stationary source for which an operation permit is required under the federal clean air act" which was added in this version is needed for two primary reasons. 285.69 (1)(a) relates to the ability to assess fees for construction permits. Not all construction permits relate to "stationary sources" and not all construction permits are required under the federal clean air act. We suggest using the following language for Section 6 as it relates to 285.69 (1)(a) or lines 5 - 9:

285.69 (1)(a) *Application for permit.* Reviewing and acting upon any application for a construction permit. (end)

Page 3, Lines 10 - 12: no change needed

Page 3, Line 13: no change needed **as long as new language for 2m is enacted.** If not, the addition of the word "federal" will have dire consequences.

Page 3, Line 14 - 17: no change needed

Page 3, Line 18: no change needed **as long as new language for 2m is enacted.** If not, the addition of the words "under the federal clean air act" will have dire consequences.

Page 3, Lines 19 - 25: no change needed

Page 4, Lines 1 - 10: no change needed

Page 4, Lines 11 - 18: modification needed for two primary reasons. First, language as listed on line 12 that lists "state operation permits" refers to only one type of permit for "state permit sources." Secondly, the fee language as list on lines 15 - 17 has negative ramifications as stated and would be problematic to implement. We suggest using the following language for Section 16 for 285.69 (2m):

***[Section 16 (replace lines 11-18 on page 4 of the LRB draft with the following)]***  
285.69(2m) of the statutes is created to read:

285.69(2m) FEES FOR STATE PERMIT SOURCES. (a) The owner or operator of a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act shall pay to the department an annual fee.

1. \$775 for a stationary source that has an operation permit under s. 285.60(2)(a), (2g) or (3).

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Page 4, Lines 19 - 24: no change needed

In addition to the above statutory changes, the Air Program requests an additional change be made to add 285.60 (2) by added a third bullet (c). This "definition" will be needed for the newly created (as edited by DNR) language for 285.69 (2m). New language to include is:

285.60(2)(c) of the statutes is created to read:

*(c) Operation permits to limit federal applicability.* A person may apply for an operation permit for one or more points of emission from an existing source in order to limit the source's potential to emit so that it is not a major source. Federally enforceable permit conditions under this paragraph shall allow emissions to be at least 80% of federal major source threshold levels.

Finally, we have language we would like to add that would allow for non-expiring permits for Non-Title V sources. In order to maximize resources and minimize expenses, the Air Program used the concept of non-expiring permits for Non-Title V sources when developing the workload analysis. This analysis was the basis for the level of staffing needed in the program. The language we suggest for this is:

Create s. 285.66(2)(c):

(c) Notwithstanding par. (a), the term of an operation permit may exceed 5 years from the date of issuance or renewal, and the Department may specify that coverage under the permit does not expire, if:

1. The permit is issued under s. 285.62 for a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act; and

2. It is not a registration permit or a general permit.

Please let me know if you, DOA or LRB have any questions on the edits.

Thank you,  
Sheri

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**From:** Potter, Lance - DNR  
**Sent:** Wednesday, January 07, 2009 9:43 AM  
**To:** Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

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**From:** Miner, Andrew - DOA  
**Sent:** Tuesday, January 06, 2009 3:16 PM  
**To:** Potter, Lance - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Lance,

Here is a preliminary draft and note for the Non-Title V fees. Please review and offer any comments. Thanks - Andrew

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**From:** Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]  
**Sent:** Tuesday, January 06, 2009 11:09 AM  
**To:** Miner, Andrew - DOA  
**Cc:** Steinmetz, Jana D - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1296/P1 Change certain air permit fees

Following is the PDF version of draft 09-1296/P1.

**Tradewell, Becky**

---

**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 11:29 AM  
**To:** Tradewell, Becky  
**Cc:** Potter, Lance - DNR; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Becky,

Please see the email from Sheri below that addresses your most recent question. If this makes sense to you, you can go ahead and make the change. Please let me know if you have any other questions or concerns.

Thanks,  
Andrew

---

**From:** Potter, Lance - DNR  
**Sent:** Wednesday, January 21, 2009 11:22 AM  
**To:** Miner, Andrew - DOA  
**Cc:** Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hello Andrew -

See comments below from Sheri, based on the discussion we just had with you.

Thanks,

Lance

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**From:** Stach, Sheralynn S - DNR  
**Sent:** Wednesday, January 21, 2009 11:16 AM  
**To:** Potter, Lance - DNR  
**Cc:** Melby Jr, John H - DNR; Baumann, William B - DNR; Stewart, Andrew M - DNR; Stach, Sheralynn S - DNR; Derr, Daniel J - DNR; Scott, Michael D - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hi Lance,

Originally we were commenting on the LRB draft and it's impacts to the Air Program. Based on Becky's latest response and our recent discussion with Andrew, we have a clearer understanding of the question.

We agree the changes to 285.69 (1) (a) and 285.69 (1) (a) 1 to 2 do change the ability to charge construction permit fees. Therefore, we agree they should not make the changes (edits, additions, or deletions) on page 3 lines 5 through 9. The repeal of 285.69 (1) (a) 3 should still take place since this relates to the one-time \$7,500 fee option under 285.69 (2) (h) that is being repealed and consistent with the original intent for Non-Title V biennial budget issue paper. Therefore, on page 3 line 10 should be modified to read:

Section 7. 285.69 (1) (a) 3 of the statues is repealed.

Hopefully this clarifies the matter for everyone.

Thank you,  
Sheri

01/21/2009

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**From:** Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 10:00 AM  
**To:** Miner, Andrew - DOA  
**Cc:** Stach, Sheralynn S - DNR; Potter, Lance - DNR  
**Subject:** RE: LRB Draft: 09-1296/P1 Change certain air permit fees

Andrew,

There was no question about whether to repeal s. 285.69 (1g). My question was essentially whether to repeal s. 285.69 1. and 2. This does expand DNR's ability to charge fees for construction permits. I did not think that was part of the original request. Should I include that?

Becky?

---

**From:** Stach, Sheralynn S - DNR [mailto:Sheralynn.Stach@Wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 9:52 AM  
**To:** Potter, Lance - DNR; Tradewell, Becky  
**Cc:** Miner, Andrew - DOA  
**Subject:** RE: LRB Draft: 09-1296/P1 Change certain air permit fees  
**Importance:** High

Greetings,

Lance's response is not quite accurate.

In the original language to 09-1296/P1, it was noted on page 3 lines 10 and 11 that 285.69 (1)(a) 1. to 3. and 285.69 (1g) are to be repealed. The DNR agrees with these repeals. Therefore, we need to keep Becky's deletion on page 3 line 6 - 7 to eliminate "except that the department may not impose a fee on any of the following persons who apply for a construction permit." The DNR agreed to that deletion in our original comments. Our objection was the insertion of the language that followed on lines 7 through 9.

Please let me know if you need further details or explanation.

Thank you,  
Sheri

phone: 608-264-6292  
fax: 608-267-0560  
email: Sheralynn.Stach@wisconsin.gov

---

**From:** Potter, Lance - DNR  
**Sent:** Wednesday, January 21, 2009 9:32 AM  
**To:** Tradewell, Becky - LEGIS  
**Cc:** Stach, Sheralynn S - DNR; Miner, Andrew - DOA  
**Subject:** RE: LRB Draft: 09-1296/P1 Change certain air permit fees

Yes. That is correct. Thanks, Lance

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**From:** Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 9:30 AM  
**To:** Potter, Lance - DNR  
**Cc:** Miner, Andrew - DOA; Stach, Sheralynn S - DNR

01/21/2009

**Subject:** RE: LRB Draft: 09-1296/P1 Change certain air permit fees

Lance,

It sounds to me as though DNR does not want current s. 285.69 (1) (a) to be changed at all. If that is correct, it should not appear at all in this draft. Is that right?

Becky

---

**From:** Potter, Lance - DNR [mailto:Lance.Potter@Wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 9:13 AM  
**To:** Tradewell, Becky  
**Cc:** Miner, Andrew - DOA; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hello Becky -

Air folks and I discussed your questions. The responses are below. They are more than happy to get together with you to discuss. Given your time frame, they are willing to come to you or to conference call. The preference is up to you.

Lance

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**From:** Stach, Sheralynn S - DNR  
**Sent:** Wednesday, January 21, 2009 9:08 AM  
**To:** Potter, Lance - DNR  
**Cc:** Melby Jr, John H - DNR; Shea, Allen K - DNR; Bangert, Suzanne A - DNR; Baumann, William B - DNR; Stewart, Andrew M - DNR; Scott, Michael D - DNR; Derr, Daniel J - DNR; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hi Lance,

We have discussed the questions and comments from Becky Tradewell. Our responses are provided in her email (red, bold font). This is complex and slight changes can have significant ramifications. Therefore, we would like to offer to meet with Becky to go over our comments, concerns and answer any questions she may have. This is a priority for all of us and we will make ourselves available to her schedule.

Thank you,  
Sheri

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**From:** Potter, Lance - DNR  
**Sent:** Tuesday, January 20, 2009 12:47 PM  
**To:** Stach, Sheralynn S - DNR; Stewart, Andrew M - DNR; Baumann, William B - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hello All -

I just got this note from Becky Tradewell at LRB. Please note she is stressing that they have very little time to finalize the language. I have enclosed the original draft language again for your reference. Please let me know answers to her questions or how you would like to proceed.

Thanks,

Lance

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**From:** Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]  
**Sent:** Tuesday, January 20, 2009 12:01 PM  
**To:** Potter, Lance - DNR  
**Cc:** Miner, Andrew - DOA  
**Subject:** RE: LRB Draft: 09-1296/P1 Change certain air permit fees

Lance,

Concerning the redraft instructions for LRB-01296/P1:

Is it DNR's intent not to make any changes in current law related to construction permit fees? If the answer is "yes," all of the material from page 3, line 3 to line 10 should be deleted. If the answer is "no," I need to know what the intent is. As I interpret it, the proposed language below would allow DNR to collect construction permit application fees from persons from whom it is not now allowed to collect construction permit fees.

**DNR Response: The construction permit fees are set by rule and will be modified in the near future. We believe our original edits are still applicable and they do not change current intent or collection of construction permit fees. 285.69 (1) authorizes promulgating rules for fees. 285.69 (1)(a) authorizes fees for construction permits. Our suggested edits do not broaden that authority but keep it at its existing authority. The additional language "for a stationary source for which an operation permit is required under the federal clean air act." actually reduces our construction permit fee collection authorization for two reasons. First, not all construction permits relate to "stationary sources." We receive construction permits for new source or "greenfield sources." These are new plants that will be built if permitted and do not add to an existing permit (or stationary source operation permit). Secondly, not all construction permits are required under the federal clean air act. We still believe the additional language inserted should be removed.**

I can change the title on page 4, line 12, but reviewers should realize that titles do not have any legal effect.

**DNR Response: Yes, we understand titles do not have any legal effect. They do help clarify matters for people though and therefore our suggested change.**

I assume that the proposed reference to s. 285.60 (2) (a) is meant to refer to "traditional" permits. The problem is that that provision is the all-inclusive permit requirement. All mandatory permits are covered by that provision. Is there a reason that the language on page 4, lines 13 to 18 would be a problem if the "except" clause were modified to read "except that the fee under s. 285.60 (2) (c) is \$3,475 per year"?

**DNR Response: Please disregard our original edits to page 4 lines 13 - 18. Your recent modification would work with the creation of 285.60 (2) (c). The newly modified language to page 4 lines 12 - 18 should read:**

**285.69(2m) FEES FOR STATE PERMIT SOURCES. (a) The owner or operator of a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act shall pay to the department a fee of \$775 per year, except that the fee for a stationary source that has an operation permit under s. 285.60 (2) (c) is \$3,475 per year.**

I may have more questions, but wanted to get this to you as soon as possible because we have **very little** time to finalize budget language.

Becky Tradewell  
6-7290

---

**From:** Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]  
**Sent:** Monday, January 19, 2009 4:56 PM  
**To:** Tradewell, Becky  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Becky,

Please see DNR's notes below about changes to draft 1296. Please incorporate them as possible, and feel free to work directly with DNR as needed. Let me know if you have any questions or concerns. Thanks,

Andrew

---

**From:** Potter, Lance - DNR  
**Sent:** Thursday, January 15, 2009 4:20 PM  
**To:** Miner, Andrew - DOA  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Andrew -

The Air folks and I have met, and discussed the needed changes to the LRB Air Fees draft language. Everyone, including Mike Scott in Legal Services, agrees with the language below. The bulk of the conversations have occurred around how to explain exactly what are the SM80s - those who will pay the \$3,475 fee.

Let me know if you want to discuss.

Lance

---

**From:** Stach, Sheralynn S - DNR  
**Sent:** Thursday, January 15, 2009 4:08 PM  
**To:** Potter, Lance - DNR  
**Cc:** Shea, Allen K - DNR; Bangert, Suzanne A - DNR; Melby Jr, John H - DNR; Baumann, William B - DNR; Stewart, Andrew M - DNR; Scott, Michael D - DNR; Derr, Daniel J - DNR; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hi Lance,

We have reviewed the draft language for 09-1296/P1 from LRB and have a few edits and additions we believe should be made. The results of our review includes the following:

Page 1, Lines 1 - 10: no change needed

Page 2, Lines 1 - 25: no change needed

Page 3, Lines 1 - 4: no change needed

Page 3, Lines 5 - 9: deletion of "for a stationary source for which an operation permit is required under the federal clean air act" which was added in this version is needed for two primary reasons. 285.69 (1)(a) relates to the ability to assess fees for construction permits. Not all construction permits relate to "stationary sources" and not all construction permits are required under the federal clean air act. We suggest using the following language for Section 6 as it relates to 285.69 (1)(a) or lines 5 - 9:

285.69 (1)(a) *Application for permit.* Reviewing and acting upon any application for a construction permit. (end)

Page 3, Lines 10 - 12: no change needed

Page 3, Line 13: no change needed **as long as new language for 2m is enacted**. If not, the addition of the word "federal" will have dire consequences.

Page 3, Line 14 - 17: no change needed

Page 3, Line 18: no change needed **as long as new language for 2m is enacted**. If not, the addition of the words "under the federal clean air act" will have dire consequences.

Page 3, Lines 19 - 25: no change needed

Page 4, Lines 1 - 10: no change needed

Page 4, Lines 11 - 18: modification needed for two primary reasons. First, language as listed on line 12 that lists "state operation permits" refers to only one type of permit for "state permit sources." Secondly, the fee language as list on lines 15 - 17 has negative ramifications as stated and would be problematic to implement. We suggest using the following language for Section 16 for 285.69 (2m):

***[Section 16 (replace lines 11-18 on page 4 of the LRB draft with the following)]***

285.69(2m) of the statutes is created to read:

285.69(2m) FEES FOR STATE PERMIT SOURCES. (a) The owner or operator of a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act shall pay to the department an annual fee.

1. \$775 for a stationary source that has an operation permit under s. 285.60(2)(a), (2g) or (3).

2. \$3,475 for a stationary source that has an operation permit under s. 285.60(2)(c)

Page 4, Lines 19 - 24: no change needed

In addition to the above statutory changes, the Air Program requests an additional change be made to add 285.60 (2) by added a third bullet (c). This "definition" will be needed for the newly created (as edited by DNR) language for 285.69 (2m). New language to include is:

285.60(2)(c) of the statutes is created to read:

*(c) Operation permits to limit federal applicability.* A person may apply for an operation permit for one or more points of emission from an existing source in order to limit the source's potential to emit so that it is not a major source. Federally enforceable permit conditions under this paragraph shall allow emissions to be at least 80% of federal major source threshold levels.

Finally, we have language we would like to add that would allow for non-expiring permits for Non-Title V sources. In order to maximize resources and minimize expenses, the Air Program used the concept of non-expiring permits for Non-Title V sources when developing the workload analysis. This analysis was the basis for the level of staffing needed in the program. The language we suggest for this is:

Create s. 285.66(2)(c):

(c) Notwithstanding par. (a), the term of an operation permit may exceed 5 years from the date of issuance or renewal, and the Department may specify that coverage under the permit does not expire, if:

1. The permit is issued under s. 285.62 for a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act; and
2. It is not a registration permit or a general permit.

Please let me know if you, DOA or LRB have any questions on the edits.

Thank you,  
Sheri

---

**From:** Potter, Lance - DNR  
**Sent:** Wednesday, January 07, 2009 9:43 AM  
**To:** Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

---

**From:** Miner, Andrew - DOA  
**Sent:** Tuesday, January 06, 2009 3:16 PM  
**To:** Potter, Lance - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Lance,  
Here is a preliminary draft and note for the Non-Title V fees. Please review and offer any comments. Thanks - Andrew

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**Sent:** Tuesday, January 06, 2009 11:09 AM  
**To:** Miner, Andrew - DOA  
**Cc:** Steinmetz, Jana D - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1296/P1 Change certain air permit fees

Following is the PDF version of draft 09-1296/P1.

**Tradewell, Becky**

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**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 11:29 AM  
**To:** Tradewell, Becky  
**Cc:** Potter, Lance - DNR; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Becky,

Please see the email from Sheri below that addresses your most recent question. If this makes sense to you, you can go ahead and make the change. Please let me know if you have any other questions or concerns.

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Hi Lance,

Originally we were commenting on the LRB draft and its impacts to the Air Program. Based on Becky's latest response and our recent discussion with Andrew, we have a clearer understanding of the question.

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Section 7. 285.69 (1) (a) 3 of the statues is repealed.

Hopefully this clarifies the matter for everyone.

Thank you,  
Sheri

01/21/2009

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**Sent:** Wednesday, January 21, 2009 10:00 AM  
**To:** Miner, Andrew - DOA  
**Cc:** Stach, Sheralynn S - DNR; Potter, Lance - DNR  
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Andrew,

There was no question about whether to repeal s. 285.69 (1g). My question was essentially whether to repeal s. 285.69 1. and 2. This does expand DNR's ability to charge fees for construction permits. I did not think that was part of the original request. Should I include that?

Becky?

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**Sent:** Wednesday, January 21, 2009 9:52 AM  
**To:** Potter, Lance - DNR; Tradewell, Becky  
**Cc:** Miner, Andrew - DOA  
**Subject:** RE: LRB Draft: 09-1296/P1 Change certain air permit fees  
**Importance:** High

Greetings,

Lance's response is not quite accurate.

In the original language to 09-1296/P1, it was noted on page 3 lines 10 and 11 that 285.69 (1)(a) 1. to 3. and 285.69 (1g) are to be repealed. The DNR agrees with these repeals. Therefore, we need to keep Becky's deletion on page 3 line 6 - 7 to eliminate "except that the department may not impose a fee on any of the following persons who apply for a construction permit." The DNR agreed to that deletion in our original comments. Our objection was the insertion of the language that followed on lines 7 through 9.

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fax: 608-267-0560  
email: Sheralynn.Stach@wisconsin.gov

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Page 2, Lines 1 - 25: no change needed

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Page 3, Lines 5 - 9: deletion of "for a stationary source for which an operation permit is required under the federal clean air act" which was added in this version is needed for two primary reasons. 285.69 (1)(a) relates to the ability to assess fees for construction permits. Not all construction permits relate to "stationary sources" and not all construction permits are required under the federal clean air act. We suggest using the following language for Section 6 as it relates to 285.69 (1)(a) or lines 5 - 9:

285.69 (1)(a) *Application for permit.* Reviewing and acting upon any application for a construction permit. (end)

Page 3, Lines 10 - 12: no change needed

Page 3, Line 13: no change needed **as long as new language for 2m is enacted.** If not, the addition of the word "federal" will have dire consequences.

Page 3, Line 14 - 17: no change needed

Page 3, Line 18: no change needed **as long as new language for 2m is enacted.** If not, the addition of the words "under the federal clean air act" will have dire consequences.

Page 3, Lines 19 - 25: no change needed

Page 4, Lines 1 - 10: no change needed

Page 4, Lines 11 - 18: modification needed for two primary reasons. First, language as listed on line 12 that lists "state operation permits" refers to only one type of permit for "state permit sources." Secondly, the fee language as list on lines 15 - 17 has negative ramifications as stated and would be problematic to implement. We suggest using the following language for Section 16 for 285.69 (2m):

***[Section 16 (replace lines 11-18 on page 4 of the LRB draft with the following)]***

285.69(2m) of the statutes is created to read:

285.69(2m) FEES FOR STATE PERMIT SOURCES. (a) The owner or operator of a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act shall pay to the department an annual fee.

1. \$775 for a stationary source that has an operation permit under s. 285.60(2)(a), (2g) or (3).

2. \$3,475 for a stationary source that has an operation permit under s. 285.60(2)(c)

Page 4, Lines 19 - 24: no change needed

In addition to the above statutory changes, the Air Program requests an additional change be made to add 285.60 (2) by added a third bullet (c). This "definition" will be needed for the newly created (as edited by DNR) language for 285.69 (2m). New language to include is:

285.60(2)(c) of the statutes is created to read:

***(c) Operation permits to limit federal applicability.*** A person may apply for an operation permit for one or more points of emission from an existing source in order to limit the source's potential to emit so that it is not a major source. Federally enforceable permit conditions under this paragraph shall allow emissions to be at least 80% of federal major source threshold levels.

Finally, we have language we would like to add that would allow for non-expiring permits for Non-Title V sources. In order to maximize resources and minimize expenses, the Air Program used the concept of non-expiring permits for Non-Title V sources when developing the workload analysis. This analysis was the basis for the level of staffing needed in the program. The language we suggest for this is:

**Create s. 285.66(2)(c):**

(c) Notwithstanding par. (a), the term of an operation permit may exceed 5 years from the date of issuance or renewal, and the Department may specify that coverage under the permit does not expire, if:

1. The permit is issued under s. 285.62 for a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act; and
2. It is not a registration permit or a general permit.

Please let me know if you, DOA or LRB have any questions on the edits.

Thank you,  
Sheri

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**From:** Potter, Lance - DNR  
**Sent:** Wednesday, January 07, 2009 9:43 AM  
**To:** Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

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**From:** Miner, Andrew - DOA  
**Sent:** Tuesday, January 06, 2009 3:16 PM  
**To:** Potter, Lance - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Lance,

Here is a preliminary draft and note for the Non-Title V fees. Please review and offer any comments. Thanks - Andrew

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**From:** Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]  
**Sent:** Tuesday, January 06, 2009 11:09 AM  
**To:** Miner, Andrew - DOA  
**Cc:** Steinmetz, Jana D - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1296/P1 Change certain air permit fees

Following is the PDF version of draft 09-1296/P1.

**Tradewell, Becky**

*Per call from Bill Bauman, my proposed language is OK.*

**From:** Potter, Lance - DNR [Lance.Potter@Wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 2:12 PM  
**To:** Tradewell, Becky  
**Cc:** Miner, Andrew - DOA  
**Subject:** RE: LRB Draft: 09-1296/P1 Change certain air permit fees

Hi Becky -

I just tried calling you to explain. Feel free to call me if you want to talk.

This is what I understand. With this budget item, Air is trying to create a new pricing system where the sources under their state operations permits program are better aligned with the perceived workload. Of the work needed, more than 3/4 of the staff are to work on permits related to what Air is defining as SM80s - synthetic minors that are keeping their emission thresholds between 80 and 100 tons (with 100 tons being the level where sources would fall into Federal Operation Permits - FOPS, Title V). The fees they have suggested are stacked at \$775 for all other permits (ROPS, GOPs, traditional) and \$3,475 for SM80s. The main problem being that SM80 is not defined anywhere else - in statutes or in rules, so we are attempting to define it in the second sentence in s.285.60 (2) (c).

*(c) Operation permits to limit federal applicability. A person may apply for an operation permit for one or more points of emission from an existing source in order to limit the source's potential to emit so that it is not a major source. Federally enforceable permit conditions under this paragraph shall allow emissions to be at least 80% of federal major source threshold levels.*

We realized from your first draft that the definition, in order to explain who was paying the \$3,475 fee, had to be included.

Thanks,

Lance  
7-7418

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**From:** Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 1:04 PM  
**To:** Potter, Lance - DNR  
**Cc:** Miner, Andrew - DOA  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Lance,

As I work on the redraft of the air permit fees draft, I find that I am unsure of what is intended by the second proposed sentence for s. 285.60 (2) (c). The sentence needs to be written so that it describes the actor to whom the limitation applies (I think it is meant to be the department). The sentence seems to mean something like:

In a permit under this paragraph, the department shall include federally enforceable conditions that allow the amount of emissions to be at least 80 percent of the amount that results in a stationary source being classified as a major source. (See ss. 285.01 (24) and 285.11 (16))

This would seem to mean that DNR could set the permit conditions at 99 percent of the major source level, but not at 79 percent. Is that correct?

01/21/2009

I also wonder whether this sentence is necessary. Is there something in DNR's rules that corresponds to this sentence?

Becky Tradewell  
6-7290

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**From:** Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]  
**Sent:** Monday, January 19, 2009 4:56 PM  
**To:** Tradewell, Becky  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Becky,

Please see DNR's notes below about changes to draft 1296. Please incorporate them as possible, and feel free to work directly with DNR as needed. Let me know if you have any questions or concerns.

Thanks,  
Andrew

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**From:** Potter, Lance - DNR  
**Sent:** Thursday, January 15, 2009 4:20 PM  
**To:** Miner, Andrew - DOA  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Andrew -

The Air folks and I have met, and discussed the needed changes to the LRB Air Fees draft language. Everyone, including Mike Scott in Legal Services, agrees with the language below. The bulk of the conversations have occurred around how to explain exactly what are the SM80s - those who will pay the \$3,475 fee.

Let me know if you want to discuss.

Lance

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**From:** Stach, Sheralynn S - DNR  
**Sent:** Thursday, January 15, 2009 4:08 PM  
**To:** Potter, Lance - DNR  
**Cc:** Shea, Allen K - DNR; Bangert, Suzanne A - DNR; Melby Jr, John H - DNR; Baumann, William B - DNR; Stewart, Andrew M - DNR; Scott, Michael D - DNR; Derr, Daniel J - DNR; Stach, Sheralynn S - DNR  
**Subject:** FW: LRB Draft: 09-1296/P1 Change certain air permit fees

Hi Lance,

We have reviewed the draft language for 09-1296/P1 from LRB and have a few edits and additions we believe should be made. The results of our review includes the following:

Page 1, Lines 1 - 10: no change needed

Page 2, Lines 1 - 25: no change needed

Page 3, Lines 1 - 4: no change needed

Page 3, Lines 5 - 9: deletion of "for a stationary source for which an operation permit is required under the federal clean air act" which was added in this version is needed for two primary reasons. 285.69 (1)(a) relates to the ability to assess fees for construction permits. Not all construction permits relate to "stationary sources" and not all construction permits are required under the federal clean air act. We suggest using the following language for Section 6 as it relates to 285.69 (1)(a) or lines 5 - 9:

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**Cc:** Steinmetz, Jana D - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
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