

## 2011 DRAFTING REQUEST

### Bill

Received: **04/04/2011**

Received By: **rkite**

Wanted: **As time permits**

Companion to LRB:

For: **Leah Vukmir (608) 266-2512**

By/Representing: **Jason**

May Contact:

Drafter: **rkite**

Subject: **Environment - air quality**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Vukmir@legis.wisconsin.gov**

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Repeal administrative rule regarding indirect source air pollution permits

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### Instructions:

Draft rule in support of suspension of NR 411

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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>
/?				_____			S&L
/P1	rkite 04/07/2011	kfollett 04/07/2011	jfrantze 04/07/2011	_____	ggodwin 04/07/2011		S&L
/P2	rkite 04/21/2011	kfollett 04/21/2011	rschluet 04/21/2011	_____	sbasford 04/21/2011		S&L
/P3	rkite 04/26/2011	kfollett 04/26/2011	jfrantze 04/26/2011	_____	lparisi 04/26/2011		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rkite 05/18/2011	kfollett 05/18/2011	jfrantze 05/18/2011	_____	sbasford 05/18/2011	sbasford 05/18/2011	S&L
/2	rkite 05/19/2011	kfollett 05/19/2011	mduchek 05/19/2011	_____	lparisi 05/19/2011	lparisi 05/19/2011	

FE Sent For:

*atintus*  
*5/26*

<END>

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12/5/11  
5/19

Jacket requested - RAK

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*Please  
jacket  
RNK*

*11/5/11  
5/1/11*

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1 P3 kf  
4/26  
Jb 4/26  
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FE Sent For:

Handwritten notes: 1/2 kf, 4/21, SBLL

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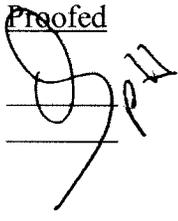
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/?	rkite	1 P/16f 4/17	4/17				

FE Sent For:

<END>



LRB-1830  
RNK. *h.f.*  
↓  
+ RCT

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

*D-Note*

*Gen*

1 AN ACT ...; relating to: the regulation of indirect sources of air pollution.

*Analysis by the Legislative Reference Bureau*

**INSERT ANALYSIS**

*here*

*DNR*

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending section NR 411, Wis. Adm. Code, a rule of the Department of Natural Resources on [date of suspension]. The suspended rule required air pollution control permits for indirect sources.

*ch.*

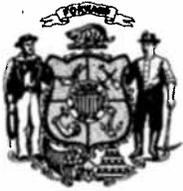
*FE: state & local*

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

**INSERT A**

*here*

*D-Note*



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 ~~AN ACT to amend 285.01 (2) and 285.01 (41); and to create 285.60 (11) of the~~  
2 ~~statutes; relating to: regulation of indirect sources of air pollution.~~

*Analysis by the Legislative Reference Bureau*

Under current law, the Department of Natural Resources (DNR) issues permits for certain stationary sources of air pollution. The current definition of "stationary source" includes facilities that indirectly emit air pollution. DNR has promulgated rules that require permits for certain indirect sources of air pollution, including certain parking lots and highways. Some of the requirements that apply to other stationary sources do not apply to indirect sources.

This bill eliminates facilities that indirectly emit air pollution from the definition of "stationary source" and prohibits DNR from requiring air pollution control permits for indirect sources.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

3 **SECTION 1.** 285.01 (2) of the statutes is amended to read:  
4 285.01 (2) "Air contaminant source", or "source" if not otherwise modified,  
5 means any facility, building, structure, installation, equipment, vehicle or action

INSERT ANALYSIS

INSERT A

INSERT A continued  
↓

1 that emits or may emit an air contaminant directly, ~~indirectly~~ or in combination with  
2 another facility, building, structure, installation, equipment, vehicle or action.

3 **SECTION 2.** 285.01 (41) of the statutes is amended to read:

4 285.01 (41) "Stationary source" means any facility, building, structure or  
5 installation that directly ~~or indirectly~~ emits or may emit an air contaminant only  
6 from a fixed location. A stationary source includes an air contaminant source that  
7 is capable of being transported to a different location. A stationary source may  
8 consist of one or more pieces of process equipment, each of which is capable of  
9 emitting an air contaminant. A stationary source does not include a motor vehicle  
10 or equipment which is capable of emitting an air contaminant while moving.

11 **SECTION 3.** 285.60 (11) of the statutes is created to read:

12 285.60 (11) INDIRECT SOURCES. (a) In this subsection, "indirect source" means  
13 a stationary source that attracts or may attract mobile source activity or on which  
14 mobile source activity is conducted, resulting in the indirect emissions of any air  
15 contaminant at or on the indirect source itself.

16 (b) The department may not require a permit under this subchapter for an  
17 indirect source.

18 (END)

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

PL  
LRB-1830/?dn

RNK.:  
+ RCT

Date

X  
+ This draft is in support of suspension of NR 411, Wisconsin Administrative Code. The draft supports suspension by prohibiting DNR from requiring air pollution control permits for indirect sources.

ch.  
**Insert D-Note**

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

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

move RNK  
sup

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0889/P1.dn  
RCT:kjf:ph

January 10, 2011

INSERT  
D-Note

~~The DNR~~  
The draft changes the definition of "stationary source" so that it does not include facilities that indirectly emit air pollution and prohibits DNR from requiring permits for indirect sources, as it currently does for some sources under ch. NR 411, Wisconsin Administrative Code. The definition of "indirect source" is based on the definition in s. NR 400.02 (85), Wisconsin Administrative Code.

I have not been able to determine that the federal Clean Air Act or EPA's regulations under the act require states to regulate indirect sources. However, I am not certain of that. Also, in some cases the Clean Air Act requires states to satisfy requirements, such as complying with ambient air quality standards, using strategies that the states themselves choose. The act also requires states to have implementation plans that are approved by EPA. I do not know whether the regulation of indirect sources is part of a state implementation plan or otherwise used to comply with federal requirements. It is possible that eliminating the regulation of indirect sources will necessitate the development of a different control strategy or the modification of a state implementation plan.

Please contact me with any questions or redraft instructions.

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

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

LRB-1830/P1dn  
RNK&RCT:kjf:jf

April 7, 2011

This draft is in support of suspension of ch. NR 411, Wisconsin Administrative Code. The draft supports suspension by prohibiting DNR from requiring air pollution control permits for indirect sources.

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

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Please contact me with any questions or redraft instructions.

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Per Scott Gross - Leg. Council -

Do not amend definitions - this  
is too broad



Fri. 4/22



RM run  
P2

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

In  
4/21

suspension  
and the suspension of a rule promulgated by  
the Department of Natural Resources  
Regen

1 AN ACT to amend 285.01 (2) and 285.01 (41); and to create 285.60 (11) of the  
2 statutes; relating to: the regulation of indirect sources of air pollution.

**Analysis by the Legislative Reference Bureau**

Under current law, the Department of Natural Resources (DNR) issues permits for certain stationary sources of air pollution. The current definition of "stationary source" includes facilities that indirectly emit air pollution. DNR has promulgated rules that require permits for certain indirect sources of air pollution, including certain parking lots and highways. Some of the requirements that apply to other stationary sources do not apply to indirect sources.

This bill eliminates facilities that indirectly emit air pollution from the definition of "stationary source" and prohibits DNR from requiring air pollution control permits for indirect sources.

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending ch. NR 411, Wis. Adm. Code, a rule of DNR on [date of suspension]. The suspended rule required air pollution control permits for indirect sources.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Reyer

1 AN ACT to create 285.60 (11) of the statutes; relating to: the regulation of  
2 indirect sources of air pollution and the suspension of a rule promulgated by the  
3 Department of Natural Resources.

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***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Natural Resources (DNR) issues permits for certain stationary sources of air pollution. The current definition of "stationary source" includes facilities that indirectly emit air pollution. DNR has promulgated rules that require permits for certain indirect sources of air pollution, including certain parking lots and highways. Some of the requirements that apply to other stationary sources do not apply to indirect sources.

This bill prohibits DNR from requiring air pollution control permits for indirect sources.

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For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

---

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



2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1830/P3ins.  
RNK:.....

INSERT 2-7

1           **SECTION 1. Nonstatutory provisions.**

2           (1) The legislative reference bureau shall publish a notice in the Wisconsin  
3 administrative register stating that <sup>chapter</sup> NR 411, <sup>Wisconsin</sup> Adm. <sup>Administrative</sup> Code is repealed by this act  
4 as provided under <sup>section</sup> ~~(S)~~ 227.26 (2) (i) of the statutes.



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1830/P3  
RNK&RCT:kjfjf

stays

RM  
run

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

2011 BILL

Regent

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## 2011 BILL

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