

1991 Assembly Bill 1055

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1991 WISCONSIN ACT 302

AN ACT *to repeal* 15.347 (6), 144.30 (9m), (9p) and (9r), 144.30 (17m), (18m) and (19), 144.30 (19m), 144.30 (22) and (22m), 144.35, 144.391 (3), 144.391 (4), 144.392 (1), 144.392 (3) (c), 144.392 (8) (b) 2, 144.397 and 144.402; *to renumber* 144.394 (8); *to renumber and amend* 144.31 (1) (f), 144.374 (2), 144.392 (8) (b) 1 and 144.3925 (6); *to amend* 110.20 (13) (a), 144.30 (2), 144.30 (8), 144.30 (14), 144.30 (20), 144.30 (23), 144.34, 144.373 (2), 144.374 (title) and (1), 144.38 (title), 144.391 (5) (a) (intro.), 144.391 (5) (a) 4, 144.391 (5) (a) 5, 144.391 (5) (b), 144.392 (title), 144.392 (1m), 144.392 (2), 144.392 (3) (intro.), (a) and (b), 144.392 (4) (b) (intro.), 144.392 (5) (a) (intro.), 144.392 (5) (b) (intro.), 144.392 (6), 144.392 (7) (a), 144.392 (8) (a), 144.392 (9), 144.3925 (title) and (1), 144.3925 (5) (a), 144.3925 (7), 144.393 (1) (a), 144.393 (1) (d), 144.393 (2), 144.393 (3) (intro.), 144.3935 (title), 144.3935 (2), 144.394 (intro.), 144.396 (title) and (1), 144.40 (4), 144.403 (1) (intro.), 144.403 (2), 168.04, 168.07 (1) and 560.03 (9); *to repeal and recreate* 110.20 (13) (b), 144.33, 144.391 (1) and (2), 144.3925 (3), 144.3935 (1), 144.395 and 144.396 (2); and *to create* 15.157 (10), 144.30 (13), 144.30 (16), 144.30 (19e), 144.30 (20e) and (20s), 144.30 (22rm), 144.31 (1) (f) 1 and 2, 144.31 (1) (r) and (s), 144.31 (2) (g), 144.31 (4), 144.36, 144.3712, 144.3714, 144.3716, 144.374 (2) (b), 144.38 (2), 144.391 (3m), 144.391 (4m), 144.391 (5) (a) 6, 144.391 (7), 144.3925 (5m), 144.3925 (6) (b) and (c), 144.3925 (8) and (9), 144.393 (7) (d), 144.394 (8) to (12), 144.396 (3), 144.403 (4) and 560.11 of the statutes, **relating to:** air pollution from stationary sources, the air pollution control council, creating a small business environmental council, assistance for small businesses that emit air contaminants, air pollution from motor vehicles, employe trip reduction, clean fuels and clean-fuel vehicles, reformulated gasoline, petroleum product specifications, granting rule-making authority, providing an exemption from rule-making procedures and providing an exemption from emergency rule-making procedures.

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

SECTION 1. 15.157 (10) of the statutes is created to read:

15.157 (10) SMALL BUSINESS ENVIRONMENTAL COUNCIL. There is created in the department of development a small business environmental council consisting of the following members appointed for 3-year terms:

(a) Three members to represent the general public who are not owners, or representatives of owners, of small business stationary sources, as defined in s. 144.36 (1).

(b) One member who owns a small business stationary source, as defined in s. 144.36 (1), or who represents

owners of small business stationary sources, appointed by the president of the senate.

(c) One member who owns a small business stationary source, as defined in s. 144.36 (1), or who represents owners of small business stationary sources, appointed by the speaker of the assembly.

(d) One member who owns a small business stationary source, as defined in s. 144.36 (1), or who represents owners of small business stationary sources, appointed by the minority leader of the senate.

(e) One member who owns a small business stationary source, as defined in s. 144.36 (1), or who represents owners of small business stationary sources, appointed by the minority leader of the assembly.

– 2 –

(f) One member appointed by the secretary of natural resources to represent the department of natural resources.

(g) One member appointed by the secretary of development to represent the department of development.

SECTION 2. 15.347 (6) of the statutes is repealed.

SECTION 3. 110.20 (13) (a) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

110.20 (13) (a) The department shall issue a waiver of compliance valid for one year if the owner presents satisfactory evidence to the department that the actual costs of repairs performed on a vehicle in accordance with an inspection report under sub. (11) (b) exceeded the repair cost limit established under par. (b).

SECTION 4. 110.20 (13) (b) of the statutes, as affected by 1991 Wisconsin Act 39, is repealed and recreated to read:

110.20 (13) (b) The department of natural resources shall, by rule, establish the amount of the repair cost limit to equal the amount required under 42 USC 7511a (b) 4. or (c) (3) (C).

SECTION 5. 144.30 (2) of the statutes is amended to read:

144.30 (2) “Air contaminant source”, or “source” if not otherwise modified, means any facility, building, structure, installation, equipment, vehicle or action which that emits or may emit or result in the emission of an air contaminant directly, indirectly or in combination with another facility, building, structure, installation, equipment, vehicle or action.

SECTION 6. 144.30 (8) of the statutes is amended to read:

144.30 (8) “Base line concentration” means concentration in the atmosphere of an air contaminant which exists in an area at the time of the first application to the U.S. environmental protection agency for a prevention of significant deterioration permit under ~~section 165 of the federal clean air act 42 USC 7475~~ or the first application for an attainment area major source air pollution control permit under s. 144.391 (2) for a major source located in an attainment area, whichever occurs first, less any contribution from stationary sources identified in ~~section 169 (4) of the federal clean air act 42 USC 7479 (4).~~

SECTION 7. 144.30 (9m), (9p) and (9r) of the statutes are repealed.

SECTION 8. 144.30 (13) of the statutes is created to read:

144.30 (13) “Existing source” means a stationary source that is not a new source or a modified source.

SECTION 9. 144.30 (14) of the statutes is amended to read:

144.30 (14) “Federal clean air act” means the federal clean air act, ~~as amended, on July 29, 1979 (42 USC 7401 et seq.) to 7671q,~~ and regulations issued by the federal environmental protection agency under that act.

1991 Assembly Bill 1055

SECTION 10. 144.30 (16) of the statutes is created to read:

144.30 (16) “Major source” means a stationary source that is capable of emitting an air contaminant in an amount in excess of an amount specified by the department by rule under s. 144.31 (1) (r).

SECTION 11. 144.30 (17m), (18m) and (19) of the statutes are repealed.

SECTION 12. 144.30 (19e) of the statutes is created to read:

144.30 (19e) “Minor source” means a stationary source that is not a major source.

SECTION 13. 144.30 (19m) of the statutes is repealed.

SECTION 14. 144.30 (20) of the statutes is amended to read:

144.30 (20) “Modification” means ~~any changes in the physical size or physical change in, or change in the method of operation of,~~ a stationary source which that increases the potential amount of emissions of an air contaminant or which that results in the emission of an air contaminant not previously emitted ~~or which results in the violation of an ambient air increment.~~ In determining if a change in the physical size or method of operation of an attainment area major source is a modification, an increase in the potential amount of emissions of an air contaminant occurs only if there is an increase in the net amount of emissions of the air contaminant, subject to rules promulgated under s. 144.31 (1) (s).

SECTION 15. 144.30 (20e) and (20s) of the statutes are created to read:

144.30 (20e) “Modified source” means a stationary source on which modification commences after the effective date of this subsection [revisor inserts date].

(20s) “New source” means a stationary source on which construction, reconstruction or replacement commences after the effective date of this subsection [revisor inserts date].

SECTION 16. 144.30 (22) and (22m) of the statutes are repealed.

SECTION 17. 144.30 (22rm) of the statutes is created to read:

144.30 (22rm) “Regulated pollutant” means any of the following, except for carbon monoxide:

- (a) A volatile organic compound.
- (b) An oxide of nitrogen.
- (c) A pollutant regulated under 42 USC 7411 or 7412.
- (d) A pollutant for which a national primary ambient air quality standard has been promulgated under 42 USC 7409.

SECTION 18. 144.30 (23) of the statutes is amended to read:

144.30 (23) “Stationary source” means ~~an air contaminant source which~~ any facility, building, structure or installation that directly or indirectly is capable of emitting emits or may emit an air contaminant only from a

1991 Assembly Bill 1055

fixed location. A stationary source includes an air contaminant source ~~which~~ that is capable of being transported to a different location. A stationary source may consist of one or more pieces of process equipment, each of which is capable of emitting an air contaminant. A stationary source does not include a motor vehicle or equipment which is capable of emitting an air contaminant while moving.

SECTION 19. 144.31 (1) (f) of the statutes is renumbered 144.31 (1) (f) (intro.) and amended to read:

144.31 (1) (f) (intro.) Prepare and develop one or more comprehensive plans for the prevention, abatement and control of air pollution in this state. The department thereafter shall be responsible for the revision and implementation of ~~such~~ the plans. The rules or control strategies submitted to the federal environmental protection agency under the federal clean air act for control of atmospheric ozone shall conform with the federal clean air act unless, based on the recommendation of the natural resources board or the head of the department, as defined in s. 15.01 (8), of any other department, as defined in s. 15.01 (5), that promulgates a rule or establishes a control strategy, the governor determines that measures beyond those required by the federal clean air act meet any of the following criteria:

SECTION 20. 144.31 (1) (f) 1. and 2. of the statutes are created to read:

144.31 (1) (f) 1. The measures are part of an interstate ozone control strategy implementation agreement under sub. (4) signed by the governor of this state and of the state of Illinois.

2. The measures are necessary in order to comply with the percentage reductions specified in 42 USC 7511a (b) (1) (A) or (c) (2) (B).

SECTION 21. 144.31 (1) (r) and (s) of the statutes are created to read:

144.31 (1) (r) Promulgate rules, consistent with but no more restrictive than the federal clean air act, that specify the amounts of emissions that result in a stationary source being classified as a major source and that may limit the classification of a major source to specified categories of stationary sources and to specific air contaminants.

(s) Promulgate rules, consistent with the federal clean air act, that modify the meaning of the term "modification" as it relates to specified categories of stationary sources, to specific air contaminants and to amounts of emissions or increases in emissions.

SECTION 22. 144.31 (2) (g) of the statutes is created to read:

144.31 (2) (g) Establish by rule, consistent with the federal clean air act, the amount of offsetting emissions reductions required under s. 144.393 (2) (a).

SECTION 23. 144.31 (4) of the statutes is created to read:

144.31 (4) After the effective date of this subsection ... [revisor inserts date], the governor may enter into an agreement with the governor of the state of Illinois, that may also include the governors of the states of Indiana and Michigan, that specifies measures for the control of atmospheric ozone that are necessary in order to implement an interstate ozone control strategy to bring an area designated under 42 USC 7407 (d) as an ozone nonattainment area into attainment with the ambient air quality standard for ozone if the area includes portions of this state and the state of Illinois.

SECTION 24. 144.33 of the statutes is repealed and recreated to read:

144.33 Confidentiality of records. (1) Except as provided in sub. (2), the department shall make any record, report or other information obtained in the administration of ss. 144.30 to 144.426 and 144.96 available to the public.

(2) The department shall keep confidential any part of a record, report or other information obtained in the administration of ss. 144.30 to 144.426 and 144.96, other than emission data or an air pollution control permit, upon a showing satisfactory to the department by any person that the part of a record, report or other information would, if made public, divulge a method or process that is entitled to protection as a trade secret, as defined in s. 134.90 (1) (c), of that person.

(3) Subsection (2) does not prevent the disclosure of any information to a representative of the department for the purpose of administering ss. 144.30 to 144.426 and 144.96 or to an officer, employe or authorized representative of the federal government for the purpose of administering the federal clean air act. When the department provides information that is confidential under sub. (2) to the federal government, the department shall also provide a copy of the application for confidential status.

SECTION 25. 144.34 of the statutes is amended to read:

144.34 Inspections. Any duly authorized officer, employe or representative of the department may enter and inspect any property, premise or place on or at which an air contaminant source is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state of compliance with ss. 144.30 to 144.426 and 144.96 and rules promulgated or permits issued under those sections. No person may refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with any such inspection. The department, if requested, shall furnish to the owner or operator of the premises a report setting forth all facts found which relate to compliance status.

SECTION 26. 144.35 of the statutes is repealed.

SECTION 27. 144.36 of the statutes is created to read:

1991 Assembly Bill 1055**144.36 Small business stationary source technical and environmental compliance assistance program.**

(1) DEFINITION. In this section, “small business stationary source” means a stationary source designated under sub. (2) (a) or, except as provided in sub. (2) (b), a stationary source that satisfies all of the following criteria:

(a) Is owned or operated by a person that employs 100 or fewer individuals.

(b) Is a small business concern, as determined under 15 USC 632 (a).

(c) Is not a major stationary source, as defined in rules promulgated by the department.

(d) Does not emit 50 tons or more per year of any regulated pollutant.

(e) Emits a total of less than 75 tons per year of all regulated pollutants.

(2) DESIGNATIONS AND EXCLUSIONS. (a) In response to a petition by a stationary source, the department may, by rule, designate as a small business stationary source any stationary source that does not meet the criteria of sub. (1) (c), (d) or (e) but that does not emit a total of more than 100 tons per year of all regulated pollutants.

(b) The department may, by rule, after consultation with the administrators of the federal environmental protection agency and the federal small business administration, exclude from the definition of small business stationary source any category or subcategory of stationary source that the department determines to have sufficient technical and financial capabilities to meet the requirements of the federal clean air act without the assistance provided under this section.

(3) ASSISTANCE PROGRAM. The department shall, in cooperation with the small business ombudsman clearinghouse under s. 560.03 (9), develop and administer a small business stationary source technical and environmental compliance assistance program. The program shall include all of the following:

(a) Mechanisms to develop, collect and coordinate information concerning methods and technologies that small business stationary sources can use to comply with the federal clean air act and programs to encourage lawful cooperation among small business stationary sources or other persons to further compliance with the federal clean air act.

(b) Mechanisms for providing small business stationary sources with information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution and with other assistance in pollution prevention and accidental release detection and prevention.

(c) A compliance assistance program that assists small business stationary sources in determining applicable requirements under ss. 144.30 to 144.426 and 144.96 and in receiving air pollution control permits in a timely and efficient manner.

(d) Mechanisms to ensure that small business stationary sources receive notice of their rights under the federal clean air act and state laws implementing the federal clean air act in a manner and form that assures reasonably adequate time for small business stationary sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under the federal clean air act.

(e) Mechanisms for referring small business stationary sources to qualified auditors to determine compliance with the federal clean air act and state laws implementing the federal clean air act and other mechanisms for informing small business stationary sources of their obligations under the federal clean air act and state laws.

(f) Procedures for consideration of a request from a small business stationary source for alteration of any required work practice or technological method of compliance with ss. 144.30 to 144.426 or of the schedule of measures that must be taken to implement a required work practice or method of compliance before an applicable compliance date, based on the technological and financial capability of the small business stationary source.

(4) GRANTING ALTERATIONS. The department may not grant an alteration under sub. (3) (f) unless the alteration complies with the requirements of the federal clean air act and any applicable plan under s. 144.31 (1) (f). If those applicable requirements are set forth in federal regulations, the department may only grant alterations authorized in those regulations.

SECTION 28. 144.3712 of the statutes is created to read:

144.3712 Employee trip reduction program. (1) AREAS. (a) The department shall issue documents that describe the areas of the state in which employee trip reduction programs are required by 42 USC 7511a (d) (1) (B).

(b) The department may, by rule, determine areas of the state, other than areas described under par. (a), in which the department will require employee trip reduction programs. The department may not require an employee trip reduction program in an area unless that requirement is authorized under s. 144.31 (1) (f).

(c) Notwithstanding ss. 227.01 (13) and 227.10 (1), a document issued under par. (a) is not a rule. A document issued under par. (a) may be reviewed under ss. 227.42 and 227.52.

(2) REQUIREMENTS. The department shall promulgate by rule requirements for employers who are located in areas described under sub. (1) (a) or (b) to implement programs to reduce work-related trips and miles traveled by employees. The department shall develop the rules in accordance with the guidance issued by the administrator of the federal environmental protection agency under 42 USC 7408 (f). The rules shall require that each employer

1991 Assembly Bill 1055

who employs 100 or more persons in an area described under sub. (1) (a) or (b) increase average passenger occupancy per vehicle in commuting trips between home and workplace during peak travel periods by not less than 25% above the average passenger occupancy per vehicle for all such trips in the area as of November 15, 1992, or any later date specified by the federal environmental protection agency.

(3) **COMPLIANCE PLANS.** If an employer is located in an area that is described before November 15, 1993, by the department under sub. (1) (a) or (b) and is subject to the rules promulgated under sub. (2), the employer shall submit to the department, no later than November 15, 1994, a plan that demonstrates that the employer will comply with the rules no later than November 15, 1996.

SECTION 29. 144.3714 of the statutes is created to read:

144.3714 Clean fuel fleet program. (1) DEFINITIONS. In this section:

(a) “Clean alternative fuel” has the meaning given in 42 USC 7581 (2).

(b) “Clean-fuel vehicle” has the meaning given in 42 USC 7581 (7).

(c) “Covered fleet” has the meaning given in 42 USC 7581 (5).

(2) **AREAS.** (a) The department shall issue documents that describe the areas of the state in which clean-fuel vehicle programs are required under 42 USC 7511a (c) (4) (A).

(b) The department may, by rule, determine areas of the state, other than areas described under par. (a), in which the department will require clean-fuel vehicle programs. The department may not require a clean-fuel vehicle program in an area unless that requirement is authorized under s. 144.31 (1) (f).

(c) Notwithstanding ss. 227.01 (13) and 227.10 (1) a document issued under par. (a) is not a rule. A document issued under par. (a) may be reviewed under ss. 227.42 and 227.52.

(3) **REQUIREMENTS.** The department shall promulgate by rule requirements for the use of clean-fuel vehicles and clean alternative fuels by operators of covered fleets in areas identified under sub. (2) (a) or (b). The rules shall be in accordance with the requirements applicable to covered fleets under 42 USC 7586 and regulations promulgated under that provision.

SECTION 30. 144.3716 of the statutes is created to read:

144.3716 Reformulated gasoline. (1) DEFINITIONS. In this section, “reformulated gasoline” means gasoline formulated to reduce emissions of volatile organic compounds and toxic air pollutants as provided in 42 USC 7545 (k) (1) to (3).

(2) **AREAS.** (a) The department shall issue documents that describe the areas of the state in which the use of

reformulated gasoline is required under 42 USC 7545 (k) (5).

(am) The department shall issue documents that describe areas of the state, other than areas described under par. (a) or (b), in which the use of reformulated gasoline is required, if the governor designates the areas in an application under 42 USC 7545 (k) (6) that is approved by the administrator of the federal environmental protection agency.

(b) The department may, by rule, determine areas of the state, other than areas described under par. (a) or (am), in which the department will require the use of reformulated gasoline. The department may not require the use of reformulated gasoline in an area unless that requirement is authorized under s. 144.31 (1) (f).

(c) Notwithstanding ss. 227.01 (13) and 227.10 (1), a document issued under par. (a) or (am) is not a rule. A document issued under par. (a) may be reviewed under ss. 227.42 and 227.52.

(3) **PROHIBITIONS.** (a) Except as provided in par. (b), beginning on January 1, 1995, no person may sell gasoline in an area described under sub. (2) (a), (am) or (b) unless the gasoline satisfies the minimum specifications for reformulated gasoline under s. 168.04.

(b) The secretary, with the approval of the administrator of the federal environmental protection agency, may grant temporary waivers from the prohibition under par. (a) if fuel that satisfies the minimum specifications for reformulated gasoline is unavailable.

SECTION 31. 144.373 (2) of the statutes is amended to read:

144.373 (2) **ALLOCATION.** The department, after considering the recommendations submitted under s. 144.355, 1979 stats., shall promulgate by rule air resource allocation standards to allocate the available air resource in attainment areas among sources receiving a construction permit or ~~new~~ operation permit or an elective operation permit for an existing source after the effective date of this rule, other air contaminant sources and possible future air contaminant sources. The air resource allocation standards may allow for emission reduction options. The application of air resource allocation standards may not result in a violation of an ambient air quality standard or an ambient air increment.

SECTION 32. 144.374 (title) and (1) of the statutes are amended to read:

144.374 (title) Operation permit dates. (1) OPERATION PERMIT REQUIREMENT DATE. The department shall promulgate by rule a schedule of the dates when a ~~mandatory~~ an operation permit is required for various categories of ~~existing~~ stationary sources. ~~The department shall require a mandatory operation permit for all existing sources.~~

SECTION 33. 144.374 (2) of the statutes is renumbered 144.374 (2) (a) and amended to read:

1991 Assembly Bill 1055

144.374 (2) (a) The department shall promulgate by rule a schedule of the dates when a ~~mandatory~~ an operation permit application is required to be submitted for various categories of existing sources.

SECTION 34. 144.374 (2) (b) of the statutes is created to read:

144.374 (2) (b) A person who is required to obtain a construction permit shall submit an application for an operation permit with the application for the construction permit.

SECTION 35. 144.38 (title) of the statutes is amended to read:

144.38 (title) Classification, reporting and monitoring.

SECTION 36. 144.38 (2) of the statutes is created to read:

144.38 (2) The department may, by rule or in an operation permit, require the owner or operator of an air contaminant source to monitor the emissions of the air contaminant source or to monitor the ambient air in the vicinity of the air contaminant source and to report the results of the monitoring to the department. The department may specify methods for conducting the monitoring and for analyzing the results of the monitoring. The department shall require the owner or operator of a major source to report the results of any required monitoring of emissions from the major source to the department no less often than every 6 months.

SECTION 37. 144.391 (1) and (2) of the statutes are repealed and recreated to read:

144.391 (1) NEW OR MODIFIED SOURCES. (a) *Construction permit.* 1. Except as provided in sub. (6), no person may commence construction, reconstruction, replacement or modification of a stationary source unless the person has a construction permit from the department.

2. A construction permit may authorize the initial operation of a stationary source for a period specified in the permit to allow testing of the stationary source's equipment and monitoring of the emissions associated with the equipment.

(b) *Operation permit.* Except as provided in par. (a) 2. or sub. (6), no person may operate a new source or a modified source unless the person has an operation permit from the department.

(2) EXISTING SOURCES. (a) *Operation permit requirement.* Except as provided in sub. (6) or s. 144.3925 (7), no person may operate an existing source after the operation permit requirement date specified under s. 144.374 (1) unless the person has an operation permit from the department.

(b) *Elective operation permit.* A person may apply for an operation permit for one or more points of emission from an existing source for which an operation permit is not required. No person may operate a stationary source under an emission reduction option program unless the

person has an operation permit from the department. If a person elects to apply for an operation permit under this paragraph, the election may not be withdrawn and the stationary source may not be operated without the operation permit beginning on the date that the operation permit is first issued.

SECTION 38. 144.391 (3) of the statutes is repealed.

SECTION 39. 144.391 (3m) of the statutes is created to read:

144.391 (3m) GENERAL OPERATION PERMITS. The department may, by rule, specify types of stationary sources that may obtain general operation permits. A general operation permit may cover numerous similar stationary sources. A general operation permit shall require any stationary source that is covered by the general operation permit to comply with ss. 144.392 to 144.399. The department shall issue a general operation permit using the procedures and criteria in ss. 144.3925 to 144.399.

SECTION 40. 144.391 (4) of the statutes is repealed.

SECTION 41. 144.391 (4m) of the statutes is created to read:

144.391 (4m) PERMIT FLEXIBILITY. The department shall allow a person to make a change to an existing source that has an operation permit, or for which the person has submitted a timely and complete application for an operation permit, for which the department would otherwise first require an operation permit revision, without first requiring a revision of the operation permit if the change is not a modification, as defined by the department by rule, and the change will not cause the existing source to exceed the emissions allowable under the operation permit, whether expressed as an emission rate or in terms of total emissions. Except in the case of an emergency, a person shall notify the department and, for permits required under the federal clean air act, the administrator of the federal environmental protection agency in writing at least 21 days before the date on which the person proposes to make a change to an existing source under this subsection. A person may not make a proposed change to an existing source if the department informs the person before the end of that 21-day period that the proposed change is not a change authorized under this subsection. The department shall promulgate rules establishing a shorter time for advance notification of changes under this subsection in case of emergency.

SECTION 42. 144.391 (5) (a) (intro.) of the statutes is amended to read:

144.391 (5) (a) *Approved relocated source.* (intro.) A source is an approved relocated source if all of the following requirements are met:

SECTION 43. 144.391 (5) (a) 4. of the statutes is amended to read:

144.391 (5) (a) 4. The owner or operator of the source provides written notice to ~~and receives approval from~~ the

1991 Assembly Bill 1055

department at least 20 days prior to relocation and the department does not object to the relocation.

SECTION 44. 144.391 (5) (a) 5. of the statutes is amended to read:

144.391 (5) (a) 5. The source in its new location meets all applicable emission limitations and any visibility requirements in the department's rules and does not violate an ambient air increment or ambient air quality standard.

SECTION 45. 144.391 (5) (a) 6. of the statutes is created to read:

144.391 (5) (a) 6. The source is not an affected source as defined in 42 USC 7651a (1).

SECTION 46. 144.391 (5) (b) of the statutes is amended to read:

144.391 (5) (b) *Exempt from additional permits.* Notwithstanding subs. (1) and (2) ~~and (3)~~, no additional permit is required if a source is an approved relocated source.

SECTION 47. 144.391 (7) of the statutes is created to read:

144.391 (7) COMPLIANCE. A person who obtains a permit under this section shall comply with all terms and conditions of the permit.

SECTION 48. 144.392 (title) of the statutes is amended to read:

144.392 (title) Construction permit application and review.

SECTION 49. 144.392 (1) of the statutes is repealed.

SECTION 50. 144.392 (1m) of the statutes is amended to read:

144.392 (1m) APPLICANT NOTICE REQUIRED. A person who is required to obtain or who seeks ~~an air pollution control~~ a construction permit shall apply to the department for a permit to construct, reconstruct, replace, or modify ~~or operate~~ the stationary source.

SECTION 51. 144.392 (2) of the statutes is amended to read:

144.392 (2) PLANS, SPECIFICATIONS AND OTHER INFORMATION. Within 20 days after receipt of the application the department shall indicate the plans, specifications and any other information necessary to determine if the proposed construction, reconstruction, replacement, or modification ~~or operation~~ will meet the requirements of ss. 144.30 to 144.426 and 144.96 and rules promulgated under these sections.

SECTION 52. 144.392 (3) (intro.), (a) and (b) of the statutes are amended to read:

144.392 (3) ANALYSIS. (intro.) The department shall prepare an analysis regarding the effect of the proposed construction, reconstruction, replacement, or modification ~~or operation~~ on ambient air quality and a preliminary determination on the approvability of the construction permit application, within the following time periods after the receipt of the plans, specifications and other information:

(a) (title) *Major source construction permits.* For ~~major source~~ construction ~~or new operation~~ permits for major sources, within 120 days.

(b) (title) *Minor source construction permits.* For ~~minor source~~ construction ~~or new operation~~ permits for minor sources, within 30 days.

SECTION 53. 144.392 (3) (c) of the statutes is repealed.

SECTION 54. 144.392 (4) (b) (intro.) of the statutes is amended to read:

144.392 (4) (b) *Availability.* (intro.) The department shall make available for public inspection in each area where the stationary source would be constructed, reconstructed, replaced, or modified ~~or operated~~ the following:

SECTION 55. 144.392 (5) (a) (intro.) of the statutes is amended to read:

144.392 (5) (a) *Distribution of notice required.* (intro.) The department shall distribute a notice of the proposed construction, reconstruction, replacement, or modification ~~or operation~~, a notice of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing to:

SECTION 56. 144.392 (5) (b) (intro.) of the statutes is amended to read:

144.392 (5) (b) *Announcement required.* (intro.) The department shall circulate an announcement sheet containing a brief description of the proposed construction, reconstruction, replacement, or modification ~~or operation~~, a brief description of the administrative procedures to be followed, the date by which comments are to be submitted to the department and the location where the department's analysis and preliminary determination are available for review to:

SECTION 57. 144.392 (6) of the statutes is amended to read:

144.392 (6) PUBLIC COMMENT. The department shall receive public comments on the proposed construction, reconstruction, replacement, or modification ~~or operation~~ and on the analysis and preliminary determination for a 30-day period beginning when the department gives notice under sub. (5) (c).

SECTION 58. 144.392 (7) (a) of the statutes is amended to read:

144.392 (7) (a) *Hearing permitted.* The department may hold a public hearing on the construction permit application if requested by a person, any affected state or the U.S. environmental protection agency within 30 days after the department gives notice under sub. (5) (c). A request for a public hearing shall indicate the interest of the party filing the request and the reasons why a hearing is warranted. The department shall hold the public hearing within 60 days after the deadline for requesting a hearing if it deems that there is a significant public interest in holding a hearing.

1991 Assembly Bill 1055

SECTION 59. 144.392 (8) (a) of the statutes is amended to read:

144.392 (8) (a) *Criteria; considerations.* The department may approve the construction permit application and issue a construction permit according to the criteria established under s. 144.393 after consideration of the comments received under subs. (6) and (7) and after consideration of the environmental impact as required under s. 1.11.

SECTION 60. 144.392 (8) (b) 1. of the statutes is renumbered 144.392 (8) (b) and amended to read:

144.392 (8) (b) *Time limits.* The department shall act on a construction ~~or new operation~~ permit application within 60 days after the close of the public comment period or the public hearing, whichever is later, unless compliance with s. 1.11 requires a longer time. For an ~~attainment area new a~~ major source that is located in an attainment area, the department shall complete its responsibilities under s. 1.11 within one year.

SECTION 61. 144.392 (8) (b) 2. of the statutes is repealed.

SECTION 62. 144.392 (9) of the statutes is amended to read:

144.392 (9) **MINING HEARING.** If a hearing on the ~~air pollution control~~ construction permit is conducted as a part of a hearing under s. 144.836, the notice, comment and hearing provisions in that section supersede the provisions of subs. (4) to (8).

SECTION 63. 144.3925 (title) and (1) of the statutes are amended to read:

144.3925 (title) Operation permit; application, review and effect. (1) APPLICANT NOTICE REQUIRED. A person who is required to obtain a ~~mandatory~~ an operation permit for an ~~existing a~~ stationary source shall apply to the department for the permit on or before the ~~mandatory~~ operation permit application date specified under s. 144.374 (2). The department shall specify by rule the content of applications under this subsection. ~~The If~~ required by the federal clean air act, the department shall consider the availability of existing information when ~~requesting application information from the sourcee~~ provide a copy of the complete application to the federal environmental protection agency. The department may not accept an application submitted to the department before the effective date of this subsection [revisor inserts date], as an application under this subsection.

SECTION 64. 144.3925 (3) of the statutes is repealed and recreated to read:

144.3925 (3) **REVIEW; NOTICE; PUBLICATION.** (a) The department shall review an application for an operation permit. Upon completion of that review, the department shall prepare a preliminary determination of whether it may approve the application and a public notice. The public notice shall include all of the following:

1. A brief description of the stationary source.

2. The department's preliminary determination of whether it may approve the application.

3. Notice of the opportunity for public comment and the date by which comments must be submitted to the department.

4. Notice of the opportunity to request a public hearing.

5. Any other information that the department determines is necessary to inform the public about the application.

(b) The department shall provide the notice prepared under par. (a) to all of the following:

1. The applicant.

2. Any local air pollution control agency that has a program under s. 144.41 that is approved by the department and that has jurisdiction over the area in which the stationary source is located.

3. Any regional planning agency, any county planning agency and any public library located in the area that may be affected by emissions from the stationary source.

4. Any person or group that requests the notice.

5. Any city, village, town or county that has jurisdiction over the area in which the stationary source is located.

6. If required by the federal clean air act, the federal environmental protection agency.

7. If required by the federal clean air act, any state that is within 50 miles of the stationary source and any state that is contiguous to this state and whose air quality may be affected by emissions from the stationary source.

(c) The department shall publish the notice prepared under par. (a) as a class 1 notice under ch. 985 in a newspaper published in the area that may be affected by emissions from the stationary source.

SECTION 65. 144.3925 (5) (a) of the statutes is amended to read:

144.3925 (5) (a) *Hearing permitted.* The department may hold a public hearing on an application for a ~~mandatory~~ an operation permit for an ~~existing a~~ stationary source if requested by a ~~person, any affected state or the U.S. environmental protection agency~~ that received notice under sub. (3) (b) or any other person within 30 days after the department gives notice under sub. (3) (c). A request for a public hearing shall indicate the interest of the party filing the request and the reasons why a hearing is warranted. The department shall hold the public hearing within 60 days after the deadline for requesting a hearing if it ~~deems~~ determines that there is a significant public interest in holding the hearing.

SECTION 66. 144.3925 (5m) of the statutes is created to read:

144.3925 (5m) **PROPOSED PERMIT; RESPONSE TO COMMENTS; ENVIRONMENTAL PROTECTION AGENCY OBJECTION.** (a) After considering any public comments concerning an application, the department may prepare a proposed

1991 Assembly Bill 1055

- 9 -

operation permit or deny the application for an operation permit. If the criteria in ss. 144.393 and 144.3935 are met, the department shall prepare a proposed operation permit. If required by the federal clean air act, the department shall provide a copy of a proposed operation permit to the federal environmental protection agency. If a state has submitted recommendations in response to the notice under sub. (3) (b) 7. and the department has not accepted those recommendations, the department shall notify that state and the federal environmental protection agency in writing of its decision not to accept the recommendations and the reasons for that decision.

(b) The federal environmental protection agency may object in writing to the issuance of an operation permit that it determines is not in compliance with the federal clean air act or an implementation plan prepared under s. 144.31 (1) (f). The department shall respond in writing to the objection if the federal environmental protection agency provides the reasons for the objection and submits the objection to the department and the applicant within 45 days after receiving either a copy of the proposed operation permit under par. (a) or notice under par. (a) of the department's decision not to accept the recommendations of another state.

(c) 1. If the department receives an objection from the federal environmental protection agency under this subsection, the department may not issue the operation permit unless the department revises the proposed operation permit to satisfy the objection.

2. If the department has issued an operation permit before receiving an objection from the federal environmental protection agency that is based on a petition submitted under 42 USC 7661d (b) 2. and the federal environmental protection agency modifies, terminates or revokes the operation permit, the department shall issue an operation permit that is revised to satisfy the objection.

(d) The requirements under pars. (a) to (c) do not apply with respect to an application for an operation permit for a stationary source that is in a category that the department excludes, by rule, from those requirements because the source is not required to obtain a permit under the federal clean air act or that the federal environmental protection agency excludes from those requirements under 42 USC 7661d (d).

(e) This subsection does not apply before the federal environmental protection agency approves this state's air pollution control permit program under 42 USC 7661a (d) or (g).

SECTION 67. 144.3925 (6) of the statutes is renumbered 144.3925 (6) (a) and amended to read:

144.3925 (6) (a) The department shall approve the ~~mandatory or deny the~~ operation permit application for an existing source ~~and. The department shall~~ issue the ~~operation~~ permit ~~according to~~ for an existing source if the criteria established under ss. 144.393 and 144.3935 are met. The department shall issue an operation permit for

an existing source or deny the application within 18 months after receiving a complete application, except that the department may, by rule, extend the 18-month period for specified existing sources by establishing a phased schedule for acting on applications received within one year after the effective date of the rule promulgated under sub. (1) that specifies the content of applications for operation permits. The phased schedule may not extend the 18-month period for more than 3 years.

SECTION 68. 144.3925 (6) (b) and (c) of the statutes are created to read:

144.3925 (6) (b) The department shall approve or deny the operation permit application for a new source or modified source. The department shall issue the operation permit for a new source or modified source if the criteria established under s. 144.393 are met. The department shall issue an operation permit for a new source or modified source or deny the application within 180 days after the permit applicant submits to the department the results of all equipment testing and emission monitoring required under the construction permit.

(c) If required by the federal clean air act, the department shall provide a copy of an operation permit to the federal environmental protection agency.

SECTION 69. 144.3925 (7) of the statutes is amended to read:

144.3925 (7) OPERATION CONTINUED DURING APPLICATION. If a person ~~applied to the department for a permit for a~~ timely submits a complete application for an existing source under sub. (1) and submits any additional information requested by the department within the time set by the department, the existing source may not be required to discontinue operation and the person may not be prosecuted for lack of a an operation permit until the department acts under sub. (6).

SECTION 70. 144.3925 (8) and (9) of the statutes are created to read:

144.3925 (8) DELAY IN ISSUING PERMITS. (a) If the department fails to issue an operation permit or to deny the application within the period specified in sub. (6) or in a rule promulgated under sub. (6), that failure is considered a final decision on the application solely for the purpose of obtaining judicial review under ss. 227.52 and 227.53 to require the department to act on the application without additional delay.

(b) Paragraph (a) does not apply if the department's failure to act is due to the applicant's failure to submit a complete application and any additional information requested by the department in a timely manner.

(9) EFFECT OF PERMIT. (a) Except as provided in par. (b), the issuance of an operation permit, including an operation permit that contains a compliance schedule, does not preclude enforcement actions based on violations of ss. 144.30 to 144.426 that occur before, on or after the date that the operation permit is issued. The inclusion of a compliance schedule in an operation per-

1991 Assembly Bill 1055

mit does not preclude enforcement actions based on violations of ss. 144.30 to 144.426 to which the compliance schedule relates, whether or not the source is violating the compliance schedule.

(b) Unless precluded by the administrator of the federal environmental protection agency under 42 USC 7661c (f), compliance with all emission limitations included in an operation permit is considered to be compliance with all emission limitations established under ss. 144.30 to 144.426 and emission limitations under the federal clean air act that are applicable to the stationary source as of the date of issuance of the operation permit if the permit includes the applicable emission limitations or the department, in acting on the application for the operation permit, determines in writing that the emission limitations do not apply to the stationary source and the operation permit includes that determination.

SECTION 71. 144.393 (1) (a) of the statutes is amended to read:

144.393 (1) (a) *Source will meet requirements.* The stationary source will meet all applicable emission limitations and other requirements promulgated under ss. 144.30 to 144.426, standards of performance for new stationary sources under s. 144.375 (4) and emission standards for hazardous air contaminants under s. 144.375 (5);

SECTION 72. 144.393 (1) (d) of the statutes is amended to read:

144.393 (1) (d) *Source will not preclude construction or operation of other source.* The stationary source will not degrade the air quality in an area sufficiently to prevent the construction, reconstruction, replacement, modification or operation of another stationary source if the department received plans, specifications and other information under s. 144.392 (2) for the other stationary source prior to commencing its analysis under s. 144.392 (3) for the former stationary source. This paragraph does not apply to an existing source required to have a ~~mandatory~~ an operation permit.

SECTION 73. 144.393 (2) of the statutes is amended to read:

144.393 (2) (title) REQUIREMENTS FOR PERMITS FOR NEW OR MODIFIED MAJOR SOURCES IN NONATTAINMENT AREAS. The department may approve the application for a construction permit or operation permit for a ~~nonattainment area major source construction or new operation permit~~ that is a new source or modified source and is located in a nonattainment area if the department finds that the major source meets the requirements under sub. (1) and it finds that all of the following conditions are met:

(a) (title) *Emission offsets.* By the time the major source is to commence operation, ~~the sufficient offsetting emissions reductions have been obtained so that total allowable~~ emissions from it the major source and from other air contaminant sources in or ~~significantly affecting~~

the air quality in the ~~nonattainment~~ the area designated by the department will be sufficiently less than the total emissions allowed prior to the application for the construction permit or operation permit, so that reasonable further progress toward the attainment and maintenance of any ambient air quality standard will be achieved;

(b) *Lowest achievable emission rate.* The emission from the major source will be at the lowest achievable emission rate; ~~and,~~

(c) *Applicant's other major sources meet or on schedule to meet requirements.* All other ~~nonattainment area major sources and attainment area major sources which~~ that are located in this state and ~~which that~~ that are owned or operated by the permit applicant or by any entity controlling, controlled by or under common control with the permit applicant, as determined under s. 180.1140 (6), meet or are on schedule to meet the requirements of ss. 144.30 to 144.426 and 144.96 and rules promulgated under those sections and are in compliance with or are on schedule to come into compliance with all applicable emission limitations and emission standards under the federal clean air act.

(d) *Analysis of alternatives.* Based on an analysis of alternative sites, sizes, production processes and environmental control techniques for any major source ~~which is a major source based upon its emissions of carbon monoxide or volatile organic compounds and that~~ is located in an area designated under ~~section 172 (a) (2) of the federal clean air act~~ 42 USC 7407 (d), that the benefits of the construction or modification of the major source significantly outweigh the environmental and social costs imposed as a result of the major source's location, construction or modification.

SECTION 74. 144.393 (3) (intro.) of the statutes is amended to read:

144.393 (3) (title) REQUIREMENTS FOR PERMITS FOR NEW OR MODIFIED MAJOR SOURCES IN ATTAINMENT AREAS. (intro.) The department may approve the application for an attainment area a construction permit or operation permit for a major source construction or new operation permit that is a new source or a modified source and is located in an attainment area if the department finds that the major source meets the requirements under sub. (1) and it finds:

SECTION 75. 144.393 (7) (d) of the statutes is created to read:

144.393 (7) (d) Notwithstanding pars. (a) and (b) (intro.), the department may not grant use of the growth accommodation under this subsection for an air pollution control permit application submitted after July 1, 1992, as long as the growth accommodation area is designated under 42 USC 7407 as an ozone nonattainment area.

SECTION 76. 144.3935 (title) of the statutes is amended to read:

1991 Assembly Bill 1055**144.3935 (title) Criteria for operation permits for existing sources.**

SECTION 77. 144.3935 (1) of the statutes is repealed and recreated to read:

144.3935 (1) ISSUANCE TO SOURCES NOT IN COMPLIANCE; FEDERAL OBJECTION. (a) Notwithstanding s. 144.393, the department may issue an operation permit for an existing source that does not comply with the requirements in the operation permit, in the federal clean air act, in an implementation plan under s. 144.31 (1) (f) or in s. 144.393 when the operation permit is issued if the operation permit includes all of the following:

1. A compliance schedule that sets forth a series of remedial measures that the owner or operator of the existing source must take to comply with the requirements with which the existing source is in violation when the operation permit is issued.

2. A requirement that, at least once every 6 months, the owner or operator of the existing source submit reports to the department concerning the progress in meeting the compliance schedule and the requirements with which the existing source is in violation when the operation permit is issued.

(b) Notwithstanding par. (a) and s. 144.393, the department may not issue an operation permit to an existing source if the federal environmental protection agency objects to the issuance of the operation permit as provided in s. 144.3925 (5m) unless the department revises the operation permit to meet the objection.

SECTION 78. 144.3935 (2) of the statutes is amended to read:

144.3935 (2) (title) ONE-YEAR MORATORIUM ON REVOCATION. (a) The department may not suspend or revoke a mandatory an operation permit for an existing source for one year after the issuance of that permit based upon failure of the existing source at the time of permit issuance to comply with ss. 144.30 to 144.426 and 144.96 and rules promulgated under these sections.

(b) Notwithstanding par. (a), the department may take any other action necessary to enforce an operation permit and ss. 144.30 to 144.426 and 144.96 and rules promulgated under these sections which apply to the existing source after issuance of a an operation permit under this section.

SECTION 79. 144.394 (intro.) of the statutes is amended to read:

144.394 Permit conditions. (intro.) The department may prescribe conditions for an air pollution control permit to ensure compliance with ss. 144.30 to 144.426 and 144.96 and rules promulgated under these sections if the and to ensure compliance with the federal clean air act if each condition is one of the following and if the each condition is applicable to the source:

SECTION 80. 144.394 (8) of the statutes is renumbered 144.394 (13).

SECTION 81. 144.394 (8) to (12) of the statutes are created to read:

144.394 (8) Requirements concerning entry and inspection as provided in s. 144.34.

(9) Monitoring, record-keeping, reporting and compliance certification requirements.

(10) Requirements to submit compliance plans and schedules and progress reports.

(11) Conditions necessary to implement 42 USC 7651 to 7651o and regulations under 42 USC 7651 to 7651o concerning acid deposition control.

(12) Other conditions applicable to the source under the federal clean air act.

SECTION 82. 144.395 of the statutes is repealed and recreated to read:

144.395 Permit revision, suspension and revocation. The department shall promulgate rules establishing criteria and procedures for revising, suspending and revoking air pollution control permits.

SECTION 83. 144.396 (title) and (1) of the statutes are amended to read:

144.396 (title) Permit duration and renewal. (1) (title) CONSTRUCTION. A Unless otherwise specified in the permit, a construction or modification permit is valid for 18 months from the date of issuance of the permit unless the permit is revoked or suspended. The department may extend the term of the construction permit for the purposes of commencing or completing construction, reconstruction, replacement or modification. Unless otherwise specified in a construction permit, the department may only extend the term of the permit for up to 18 additional months beyond the original 18-month period. If construction, reconstruction, replacement or modification is not completed within the term specified in the permit or any extension granted by the department, the applicant shall apply for a new construction permit.

SECTION 84. 144.396 (2) of the statutes is repealed and recreated to read:

144.396 (2) OPERATION. The department shall specify the term of an operation permit in the operation permit. The term of an operation permit issued under s. 144.3925 or renewed under sub. (3) may not exceed 5 years from the date of issuance or renewal.

SECTION 85. 144.396 (3) of the statutes is created to read:

144.396 (3) RENEWAL. (a) A permittee shall apply for renewal of an operation permit at least 12 months before the operation permit expires. The permittee shall include any new or revised information needed to process the application for renewal.

(b) The department shall follow the procedures in s. 144.3925 in renewing an operation permit for a new source, a modified source or an existing source.

SECTION 86. 144.397 of the statutes is repealed.

1991 Assembly Bill 1055

SECTION 87. 144.40 (4) of the statutes is amended to read:

144.40 (4) REPORT ON NEW REPLENISHMENT MECHANISMS. After expiration of the replenishment implementation period, if the department reports under sub. (2) (b) 1. or determines at any other time that the growth accommodation is less than 3,500 tons, the department shall, with the advice of ~~the air pollution control council~~ and the department of development, submit a report to the chief clerk of each house of the legislature for distribution to the appropriate standing committees of the legislature under s. 13.172 (3) on how to most effectively and equitably replenish the growth accommodation. The report shall review existing studies and data to evaluate the accuracy of this state's state implementation plan with respect to the effect of emissions from inside and outside the volatile organic compound accommodation area on the ambient air quality within the area.

SECTION 88. 144.402 of the statutes is repealed.

SECTION 89. 144.403 (1) (intro.) of the statutes is amended to read:

144.403 (1) PERMIT HOLDER; PERMIT APPLICANT; ORDER RECIPIENT. (intro.) Any permit, part of a permit, order, decision or determination by the department under ss. 144.391 to 144.402 144.401 shall become effective unless the permit holder or applicant or the order recipient seeks a hearing on the action in the following manner:

SECTION 90. 144.403 (2) of the statutes is amended to read:

144.403 (2) OTHER PERSONS. Any person who is not entitled to seek a hearing under sub. (1) (intro.) and who meets the requirements of s. 227.42 (1) or who submitted comments in the public comment process under s. 144.3925 (4) or (5) may seek review under sub. (1) of any permit, part of a permit, order, decision or determination by the department under ss. 144.391 to 144.402 144.401.

SECTION 91. 144.403 (4) of the statutes is created to read:

144.403 (4) REVIEW OF DEPARTMENT DETERMINATIONS. An air pollution control permit, part of an air pollution control permit or determination by the department under ss. 144.391 to 144.401 is not subject to review in any civil or criminal enforcement action for a violation of ss. 144.30 to 144.426. This subsection does not restrict the ability of a person to challenge an administrative rule as provided in s. 227.40 (2).

SECTION 92. 168.04 of the statutes is amended to read:

168.04 Standards. The department by rule shall prescribe minimum product grade specifications for gasoline, reformulated gasoline, as defined in s. 144.3716 (1), and kerosene and may prescribe product grade specifications for automotive gasoline, gasoline-alcohol fuel blends, aviation gasoline, fuel oils and diesel fuels. Automotive gasoline specifications shall include lead content. The rules shall, to the extent feasible, be in conformity

with nationally recognized standards, specifications and classifications, such as those published by the American society for testing and materials, the society of automotive engineers and the U.S. environmental protection agency. The department may not promulgate or enforce a rule prohibiting additional information from placement on the dispensing device.

SECTION 93. 168.07 (1) of the statutes is amended to read:

168.07 (1) The inspector shall inspect each sample of petroleum product and if the inspector finds that it meets the minimum specifications prescribed by the department, the inspector shall issue an inspection certificate, except that inspections for particular grade specifications shall be at the discretion of the department. If an inspector believes that a product has been misidentified, an inspection shall be performed. If the inspector finds that the petroleum product does not meet the minimum specifications prescribed by the department, the inspector shall notify the person for whom the inspection was made. After such notice, no person may sell or use the product in this state or remove it from storage as long as it fails to meet the minimum specifications prescribed by the department or until satisfactory disposition is approved by the inspector. Any transporter, wholesaler or distributor of petroleum products who delivers or causes to be delivered a petroleum product that fails to meet the minimum specifications prescribed by the department shall, at the direction of the department, remove the petroleum product and dispose of it in a manner approved by the department.

SECTION 94. 560.03 (9) of the statutes is amended to read:

560.03 (9) Establish and operate a small business ombudsman clearinghouse for business and industry to facilitate the flow of information from other state and federal agencies ~~and~~ to assist state agencies in establishing methods to encourage the participation of small businesses in rule making under s. 227.114 (4) and to serve as ombudsman for small business stationary sources, as defined in s. 144.36 (1), in connection with the implementation of the federal clean air act, 42 USC 7401 to 7671q.

SECTION 95. 560.11 of the statutes is created to read:

560.11 Small business environmental council. (1) The small business environmental council shall do all of the following:

(a) Advise the department of natural resources concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program under s. 144.36, difficulties encountered by small business stationary sources, as defined in s. 144.36 (1), in complying with ss. 144.30 to 144.426 and 144.96 and the degree and severity of enforcement of ss. 144.30 to 144.426 and 144.96 against small business stationary sources.

1991 Assembly Bill 1055

(b) Periodically report to the department of natural resources and to the administrator of the federal environmental protection agency concerning the compliance of the state small business stationary source technical and environmental compliance assistance program with the federal paperwork reduction act, 44 USC 3501 to 3520, the federal regulatory flexibility act, 5 USC 601 to 612, and the federal equal access to justice act, 5 USC 504.

(c) Review information to be provided to small business stationary sources in connection with ss. 144.30 to 144.426 and 144.96 to ensure that the information can be understood by persons without technical training.

(d) Provide other advice, as directed by the secretary, related to assisting small businesses in complying with federal and state air pollution laws.

(2) The employees of the department of development who staff the small business ombudsman clearinghouse under s. 560.03 (9) and the employees of the department of natural resources who staff the small business stationary source technical and environmental compliance assistance program under s. 144.36 shall provide the small business environmental council with the assistance necessary to comply with sub. (1).

SECTION 96. Nonstatutory provisions; development. (1) SMALL BUSINESS ENVIRONMENTAL COUNCIL. Notwithstanding the length of terms specified in section 15.157 (10) (intro.) of the statutes, as created by this act, the initial terms of the members of the small business environmental council expire as follows:

(a) The members appointed under section 15.157 (10) (b) and (e) of the statutes, and one of the members appointed under section 15.157 (10) (a) of the statutes, on July 1, 1995.

(b) The members appointed under section 15.157 (10) (c) and (d) of the statutes, and one of the members appointed under section 15.157 (10) (a) of the statutes, on July 1, 1994.

(c) The members appointed under section 15.157 (10) (f) and (g) of the statutes, and one of the members appointed under section 15.157 (10) (a) of the statutes, on July 1, 1993.

SECTION 97. Nonstatutory provisions; natural resources. (1) AIR PERMITS. Any air pollution control permit under section 144.391, 1989 stats., in effect on

November 14, 1992, remains in effect until it is suspended, revoked, revised or modified by the department of natural resources or until the stationary source receives a permit under section 144.391 of the statutes, as affected by this act, whichever is earlier.

(3) EMERGENCY RULE MAKING. Using the procedure under section 227.24 of the statutes, the department of natural resources may, if necessary to meet the requirements of the federal clean air act, promulgate rules under sections 110.20 (13) (b), 144.374 (1) and (2) (a) and 144.3925 (1) and (6) (a) of the statutes, as affected by this act, and sections 144.31 (1) (r) and (s) and (2) (g), 144.3712 (1) (b) and (2) and 144.3925 (5m) (d) of the statutes, as created by this act, for the period prior to the effective date of permanent rules under those sections, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency.

SECTION 98. Initial applicability; confidentiality. The treatment of section 144.33 of the statutes first applies to records, reports and other information submitted on November 15, 1992.

SECTION 99. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 144.30 (9m), (9p), (9r), (13), (16), (17m), (18m), (19), (19e), (19m), (20), (20e), (20s), (22) and (22m), 144.31 (1) (r) and (s) and (2) (g), 144.33, 144.373 (2), 144.374 (title), (1) and (2), 144.391 (1), (2), (3), (3m), (4), (4m), (5) (a) (intro.), 4, 5 and 6 and (b) and (7), 144.392 (title), (1), (1m), (2), (3) (intro.), (a), (b) and (c), (4) (b) (intro.), (5) (a) (intro.) and (b) (intro.), (6), (7) (a), (8) (a) and (b) 1. and 2. and (9), 144.3925 (title), (1), (3), (5) (a), (5m), (6), (7), (8) and (9), 144.393 (2) and (3) (intro.), 144.3935 (title), (1) and (2), 144.396 (title), (1), (2) and (3), 144.397, 144.402 and 144.403 (1) (intro.) and (2) of the statutes and the creation of sections 144.374 (2) (b) and 144.3925 (6) (b) and (c) of the statutes take effect on November 15, 1992.

(2) The treatment of section 110.20 (13) (a) and (b) of the statutes takes effect on November 1, 1992.

(4) The treatment of section 144.395 of the statutes takes effect on July 1, 1993.