

The bill prohibits DNR from designating an area as a nonattainment area based on the concentration of particulate matter in the atmosphere measured as total suspended particulates and requires DNR to end the designation of an area as a nonattainment area if the designation was based on the concentration of particulate matter in the atmosphere measured as total suspended particulates.

New source review

CAA

* Under the CAA, a person must obtain a construction permit before beginning the construction of a stationary source of air pollution that meets certain criteria. These sources are generally called major sources. The CAA also requires a person to obtain a construction permit before making changes to a major source if the changes amount to what the act calls "modifications." If a source is required to obtain a construction permit, the CAA imposes air pollution control requirements that are more stringent than those imposed on sources that are not required to obtain a construction permit, including those to which changes are made that do not amount to modifications. The part of the CAA that contains these provisions is often referred to as new source review.

Recently, the EPA has promulgated regulations that revise the way in which it is determined under federal law whether changes to a major source are considered to be modifications, thus revising the situations in which major sources must obtain construction permits and implement more stringent pollution controls. States are not required to use the federal approach to determining whether changes are considered to be modifications, as long as their new source review provisions are at least as stringent as the federal new source review provisions.

* This bill requires DNR to promulgate rules incorporating the recent revisions that EPA made in its regulations for determining whether changes to a major source amount to modifications and any future revisions. The bill requires DNR to make similar revisions to its rules for sources that are not covered by the CAA (minor sources) if the revisions reduce administrative requirements.

that EPA makes

Permit requirements

The CAA requires states to require operation permits for major sources of air pollution and construction permits for the construction or modification of major sources of air pollution. Current state law generally requires operation permits for all stationary sources of air pollution and construction permits for the construction or modification of all stationary sources of air pollution.

Current state law authorizes DNR to promulgate rules exempting types of sources from the requirements to obtain permits if the potential emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment. This bill requires DNR to promulgate rules exempting minor sources from the requirement to obtain a construction permit and an operation permit if emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment.

This bill specifically exempts (exempts) an agricultural source from the requirement to obtain a construction permit and an operation permit, unless the CAA requires permits for the source. The bill exempts from the construction permit

requirement a source that is a component of a process, of equipment, or of an activity that is otherwise covered by a preexisting operation permit. ✓

Current state law authorizes DNR to promulgate rules specifying types of sources that may obtain general construction permits and general operation permits, which may cover numerous similar sources. This bill requires DNR to promulgate rules for the issuance of general permits for similar stationary sources. The bill requires that within 15 days of receiving an application for coverage under a general permit DNR either notify the applicant whether the source qualifies for coverage or tell the applicant what additional information DNR needs to determine whether the source qualifies for coverage. The bill specifies that a person is not required to obtain a construction permit or to apply for coverage under a general permit before beginning to construct or modify a source that qualifies for a general permit, unless the CAA requires a construction permit for the source. The bill limits DNR's ability to specify expiration dates for coverage under general permits. The bill also ~~repeals~~ DNR's authority to promulgate rules providing for general construction permits. ✓

*
eliminates

The bill requires DNR to promulgate rules, which must be consistent with the CAA, providing a simplified process under which DNR issues a registration permit for a stationary source with low actual emissions. The bill requires that within 15 days of receiving an application for a registration permit DNR either grant or deny the registration permit or tell the applicant what additional information DNR needs to determine whether the source qualifies for a registration permit. ✓

The bill requires DNR to grant a waiver from the requirement to obtain a construction permit for the construction or modification of a stationary source upon a showing by the owner or operator of the source that obtaining the permit would cause undue hardship, unless the CAA requires the owner or operator to obtain a construction permit. DNR must act on a waiver request within 15 days of its receipt. ✓

The bill requires DNR to continually assess air pollution permit obligations and implement measures, consistent with the CAA, to lessen those obligations, including consolidating permits for sources at a facility into one permit, expanding permit exemptions, and expanding the availability of registration permits, general permits, and construction permit waivers. The bill also requires DNR to take those measures in response to petitions. ✓

Permitting process

Current state law specifies a process for DNR review of applications for construction permits for stationary sources of air pollution. Under this process, within 20 days after receiving an application for a construction permit, DNR must notify the applicant of any additional information needed to process the application. Once the additional information is received, DNR must complete an analysis of the effect of the proposed new source (or modification to an existing source) on air quality and a preliminary determination on the approvability of the application. DNR must make this determination within 120 days of receiving the additional information that it requested for a major source and within 30 days for a minor source.

This bill reduces those periods to 60 days for a major source and 15 days for a minor source. The bill also provides that if the additional information is not

requested (by DNR or by a private contractor, as described below) within 20 days after the application is received, additional information may be requested but the 60 and 15 day periods begin to run after the 20 days are up.

The bill provides that an application for an air pollution construction permit may be made to a private contractor certified by the Department of Administration (DOA). The certified contractor performs the determination of whether additional information is needed to process the application, the analysis of the effect of the proposed new source (or modification to an existing source) on air quality, and the preliminary determination on the approvability of the application. The bill requires DOA, in consultation with DNR, to specify minimum standards relating to staffing and professional expertise and other conditions applicable to certified contractors.

Current law requires DNR to distribute the analysis and preliminary determination for a construction permit application and to publish a newspaper notice announcing the opportunity for public comment and a public hearing on an application for a construction permit. The bill requires DNR to publish the newspaper notice within 10 days after DNR prepares them or, if a certified contractor prepares them, within 10 days after DNR receives them from the certified contractor.

permit
ten
ten

Current law requires DNR to receive public comments on a construction permit application for 30 days after publishing the newspaper notice. DNR is authorized to hold a public hearing if requested by a person, an affected state, or ~~the~~ EPA within 30 days after publishing the newspaper notice and is required to hold a public hearing if there is significant public interest in holding a hearing. The department must hold the hearing within 60 days after the end of the public comment hearing.

the analysis and preliminary determination for a construction permit application

The bill specifies that DNR may hold a hearing if requested by a person who may be directly aggrieved by the issuance of the permit or by an affected state or ~~the~~ EPA. It also requires that the hearing be held within 30, rather than 60, days after the end of the public comment period.

Current law requires DNR to act on a construction permit application within 60 days after the close of the public comment period or the public hearing, whichever is later, unless compliance with environmental impact statement requirements requires a longer time. This bill requires DNR to act within 60 days after it publishes the newspaper notice (30 days after the close of the public comment period), unless compliance with environmental impact statement requirements requires a longer time. The bill authorizes DNR to extend any time limit applicable to it or a certified contractor under this process at the request of an applicant for a permit.

period

Under the bill, if DNR does not act on an application within the required time limit, it must include in a report the reasons for the delay in acting on the application, including the names of the department's employees responsible for review of the application, and recommendations for how to avoid similar delays in the future. DNR must make these reports available to the public, and submit the reports to the JCRAR on a quarterly basis.

The bill makes similar changes to the processing of applications for operation permits as to the processing of construction permits, including providing for the use of certified contractors. Under current law, DNR must act on an application for an operation permit within 180 days after the applicant submits to DNR the results of

that are similar

the changes it makes to the

equipment testing and emission monitoring required by the construction permit. This bill reduces that deadline to 30 days.

Under current law, a permittee must apply for the renewal of an operation permit at least 12 months before the permit expires. This bill reduces that requirement to 6 months. SIX

Criteria for approval of permits

Under current state law, DNR may approve an application for a construction permit or an operation permit if it finds that criteria specified in the law for the stationary source are met. This bill provides that DNR may not modify a preliminary determination of approvability made by a private contractor unless modification is necessary to comply with ~~current law~~ or unless information received from the public, an affected state, or EPA or an environmental impact statement provide clear and convincing evidence that issuance of the permit would cause material harm to public health, safety, or welfare.

the
CAA

Under current law, one of the criteria for approving a permit for the construction or modification of a major source in a nonattainment area is that DNR finds, based on an analysis of alternatives, that the benefits of the construction or modification significantly outweigh the environmental and social costs imposed as a result of the construction or modification. This bill eliminates that criterion.

a finding
by

Continuation of operation

Under current law, if a person timely submits a complete application for an operation permit and submits any additional information within the time set by DNR, the source may continue to operate even if DNR has not yet issued the permit. Under this bill, if a person submits an application for renewal of an operation permit before the date that the operation permit expires, the stationary source may continue to operate, unless the CAA would prohibit continued operation.

stationary

Other provisions related to air quality management

Current law authorizes DNR to require owners and operators of sources of air pollution to monitor emissions from those sources or to monitor air quality in the areas of those sources. This bill prohibits DNR from including a monitoring requirement in an operation permit if the applicant demonstrates that the cost of compliance with the requirement would exceed the cost of compliance with monitoring requirements imposed on similar sources by an adjacent state or if the monitoring is not needed to provide assurance of compliance with requirements that apply to the air contaminant source, unless the CAA requires the monitoring.

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*

Current law specifies that an air pollution permit or part of a permit issued by DNR becomes effective unless the permit holder seeks a hearing challenging the permit or part of a permit. The bill specifies that if a permit holder or applicant challenges part of a permit, the remainder of the permit becomes effective and the permit holder or applicant may begin the activity for which the permit was issued.

✓

on

This bill requires DNR to report to the legislature proposals for lessening air pollution permit obligations, including consolidating permits for sources at a facility into one permit, expanding permit exemptions, and expanding the availability of registration permits, general permits, and construction permit waivers and a description of requirements in the CAA that limit DNR's ability to take those actions.

✓

The bill also requires DNR to provide to JCRAR a description of provisions in this state's CAA implementation plans that may not have been necessary to obtain EPA approval and recommendations for removing those provisions from the state implementation plans.

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

Insert 3-7

SECTION 1. 285.11 (9) of the statutes is amended to read:

285.11 (9) Prepare and adopt minimum standards for the emission of mercury compounds or metallic mercury into the air, consistent with s. 287.27 (2) (b). ✓

History: 1995 a. 227 ss. 455, 989; 1999 a. 9.

Insert 3-10

no 9 governing review of modifications of major sources under 42 USC 7470 to 7515, including changes regulations

Insert 3-14

no 9 To the extent possible, the department shall incorporate similar changes for minor sources if the changes reduce administrative requirements for minor sources. The department shall submit in proposed form rules required under this subsection to the legislative council staff under s. 227.15 (1) no later than the first day of the 7th month after the regulations making the changes on which the rules are based take effect. ✓

Insert 12-23

(c) Exemption from construction permit requirements. prior to construction. A person is not required to obtain a permit prior to construction, reconstruction, replacement, or modification of a stationary source that qualifies for a registration permit under par. (a) unless a construction permit is required under the federal clean air act. ✓ ←

Insert 14-18

SECTION 2. 285.60 (6r) of the statutes is created to read:

285.60 (6r) EXEMPTION FROM CONSTRUCTION PERMIT REQUIREMENT. A person is not required to obtain a construction permit for

Insert 17-2

no 9

If a person applies to a certified contractor under this subsection, the person shall provide notice of that application to the department as prescribed by the department.

Insert 20-15

no 9

include in a report the reasons for the delay in acting on the application, including the names of the department's employees responsible for review of the application, and recommendations for how to avoid similar delays in the future. The department shall make reports under this subsection available to the public, place a prominent notice of the reports on the department's Internet site, and submit the report^s to the joint committee for the review of administrative rules on a quarterly basis.

Insert 24-11

SECTION 3. 285.62 (8) of the statutes is renumbered 285.62 (8) (a) amended to

read:

285.62 (8) (a) If Except as provided in par. (b), if a person timely submits a complete application for a stationary source under sub. (1) and submits any additional information requested by the department within the time set by the department, the stationary source may not be required to discontinue operation and the person may not be prosecuted for lack of an operation permit until the department acts under sub. (7).

History: 1979 c. 221; 1985 a 182 s. 57; 1991 a. 302; 1995 a. 27; 1995 a. 227 ss. 471, 487; Stats. 1995 s. 285.62; 1997 a. 35.

SECTION 4. 285.62 (8) (b) of the statutes is created to read:

WSS-
change
component
to RA

285.62 (8) (b) If a person submits an application for renewal of an operation permit before the date that the operation permit expires, the stationary source may not be required to discontinue operation and the person may not be prosecuted for lack of an operation permit until the department acts under sub. (7), except that this paragraph does not apply in a situation in which its application would contravene the federal clean air act.

Insert 24-15

no 9 include in a report the reasons for the delay in acting on the application, including the names of the department's employees responsible for review of the application, and recommendations for how to avoid delays in the future in similar situations. The department shall make reports under this subsection available to the public, place a prominent notice of the reports on the department's Internet site, and submit the report^s to the joint committee for the review of administrative rules on a quarterly basis.

Insert 26-1

SECTION 5. 285.69 (1) (a) of the statutes is amended to read:

285.69 (1) (a) *Application for permit.* Reviewing and acting upon any application for a construction permit. The department shall specify lower fees for persons who submit applications to private^{certified} contractors under s. 285.61(1) than for those who submit applications to the department.

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.

Insert 27-16

no 9 Notwithstanding the time limit in section 285.11 (17) of the statutes, as affected by this act,

Insert 29-17

SECTION 6. Initial applicability.

(1) The treatment of sections 285.61 ~~(2)~~^e (3), (5) (c), (7) (a), (8) (b), and (11), 285.62 ~~(2)~~^e (3) (a) (intro.) and (c), (5) (a), (7) (b), and (9) (b), and 285.66 (3) (a) of the statutes and the creation of sections 285.61 (2) (b) and 285.62 (2) (b) ^{of the statutes} first apply to applications submitted on the effective date of this subsection.

(2) The treatment of section 285.81 (1) (intro.) and (1m) of the statutes first applies to person who file petitions on the effective date of this subsection.

↑ the renumbering and amendment of sections 285.61 (2) and 285.62 (2) of the statutes ↑



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3455/P2

RCT:cjs:ch

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 285.11 (6) (a) and (b), 285.21 (1) (a) (title), 285.21 (1) (b), 285.60
2 (2m) and 285.63 (2) (d); **to renumber** 285.61 (8) (a), 285.62 (8) and 285.66 (2);
3 **to renumber and amend** 285.11 (6) (intro.), 285.21 (1) (a), 285.27 (2) (b),
4 285.61 (2) and 285.62 (2); **to amend** 285.11 (9), 285.17 (2), 285.21 (2), 285.21
5 (4), 285.23 (1), 285.27 (1) (a), 285.27 (2) (a), 285.27 (4), 285.60 (1) (a) 1., 285.60
6 (1) (b) 1., 285.60 (2) (a), 285.60 (6), 285.61 (1), 285.61 (3), 285.61 (4) (a), 285.61
7 (4) (b) 2. and 3., 285.61 (5) (a) (intro.), 285.61 (5) (c), 285.61 (7) (a), 285.61 (8) (b),
8 285.62 (1), 285.62 (3) (a) (intro.), 285.62 (3) (c), 285.62 (5) (a), 285.62 (6) (c) 1.,
9 285.62 (7) (b), 285.63 (1) (d), 285.66 (3) (a), 285.69 (1) (a) and 285.81 (1) (intro.);
10 **to repeal and recreate** 285.11 (17), 285.60 (3) and 285.62 (9) (b); and **to create**
11 285.01 (12m), 285.14, 285.23 (5), 285.23 (6), 285.27 (2) (b) 1. to 3., 285.27 (2) (d),
12 285.60 (2g), 285.60 (5m), 285.60 (6m), 285.60 (6r), 285.60 (8), 285.60 (9), 285.60
13 (10), 285.61 (2) (b), 285.61 (8) (a) 2., 285.61 (10), 285.61 (11), 285.62 (2) (b),
14 285.62 (7) (bm), 285.62 (8) (b), 285.62 (12), 285.66 (2) (b), 285.755 and 285.81

1 (1m) of the statutes; **relating to:** air pollution control, and granting
2 rule-making authority.

Analysis by the Legislative Reference Bureau

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

AIR QUALITY MANAGEMENT

Air quality standards and emission standards for hazardous pollutants

Under the federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) has established a national ambient air quality standard (NAAQS) for each of six air pollutants, including ozone. Under current state law, if EPA establishes an NAAQS for a substance, DNR must promulgate by rule a similar ambient air quality standard, which may not be more restrictive than the federal standard. If EPA relaxes an NAAQS, DNR must alter the corresponding state standard unless it finds that the relaxed standard would not provide adequate protection for public health and welfare. Current law also authorizes DNR to promulgate an ambient air quality standard for a substance for which EPA has not promulgated an NAAQS if DNR finds that the standard is needed to provide adequate protection for public health or welfare.

This bill eliminates DNR's authority to promulgate an ambient air quality standard for a substance for which EPA has not established an NAAQS. The bill also provides that if EPA modifies an NAAQS, DNR must alter the corresponding state standard accordingly.

The CAA requires EPA to establish national emission standards for hazardous air pollutants (NESHAPs). Under current state law, if EPA establishes an NESHAP for a substance, DNR must promulgate by rule a similar standard, which may not be more restrictive than the federal standard in terms of emission limitations. If EPA relaxes an NESHAP, DNR must alter the corresponding state standard unless it finds that the relaxed standard would not provide adequate protection for public health and welfare. Current law also authorizes DNR to promulgate an emission standard for a hazardous air contaminant for which EPA has not promulgated an NESHAP if DNR finds that the standard is needed to provide adequate protection for public health or welfare.

This bill provides that if EPA establishes an NESHAP for a substance, DNR must promulgate a rule that incorporates the NESHAP and related administrative requirements. The bill prohibits DNR from promulgating a rule that is more restrictive in terms of emission limitations or otherwise more burdensome to operators of sources affected by the rule than the NESHAP and related administrative requirements.

The bill prohibits DNR from promulgating an emission standard for a hazardous air contaminant for which EPA has not promulgated an NESHAP unless DNR conducts a public health risk assessment that identifies the sources in this state that emit the contaminant, shows that identified individuals are subjected to levels of the hazardous air contaminant that are above recognized environmental

health standards, evaluates options for managing the risks caused by the contaminant, considering costs and other relevant factors, and finds that the compliance alternative chosen by DNR for the contaminant reduces risks in the most cost-effective manner practicable.

State implementation plans and nonattainment areas

Under the CAA, an area with levels of a pollutant above an NAAQS must be designated as a nonattainment area. Nonattainment areas are subject to more stringent requirements under the CAA than other areas.

The CAA requires each state to submit implementation plans to show how the state will ensure that air quality in the state complies with each NAAQS, including showing how the state will reduce the level of pollutants in its nonattainment areas. Current state law requires DNR to prepare plans for the prevention, abatement, and control of air pollution in this state. The law requires that the plans submitted to EPA for the control of ozone conform with the CAA, except that measures beyond those required by the CAA may be included if they are necessary to comply with requirements to show that the state will make reductions in the levels of ozone in ozone nonattainment areas.

This bill specifies that when DNR prepares a state implementation plan for a pollutant for which EPA has established an NAAQS, DNR may only include provisions that are necessary to obtain EPA approval of the plan, including provisions that are necessary to comply with requirements to show that the state will make reductions in the levels of that pollutant in the state's nonattainment areas. The bill requires that, at least 90 days before DNR is required to submit a state implementation plan to EPA, DNR submit a report to the Joint Committee for Review of Administrative Rules (JCRAR) that describes the proposed plan and contains supporting documents for the plan. The bill gives JCRAR 30 days to review the report. If, within that time, JCRAR returns the report to DNR with a written explanation of why the committee is returning the report, DNR may not submit the state implementation plan to EPA until JCRAR agrees that DNR has adequately addressed the issues raised by JCRAR.

Current law authorizes DNR to identify nonattainment areas based on procedures and criteria that it establishes.

This bill prohibits DNR from identifying a county as part of a nonattainment area if the level of an air pollutant in the county does not exceed an ambient air quality standard, unless the CAA requires the county to be so designated. The bill requires that, at least 90 days before this state is required to provide a submission to EPA identifying an area as a nonattainment area, DNR submit a report to JCRAR that describes the area and contains supporting documents. The bill gives JCRAR 30 days to review the report. If, within that time, JCRAR returns the report to DNR with a written explanation of why the committee is returning the report, DNR may not provide the submission to EPA until JCRAR agrees that DNR has adequately addressed the issues JCRAR has raised.

When EPA replaced an NAAQS based on the concentration of particulate matter in the atmosphere measured as total suspended particulates with standards based on the size of particulate matter, DNR retained the state emission standard

based on total suspended particulates and also adopted the federal standards based on the size of the particulate matter.

The bill prohibits DNR from designating an area as a nonattainment area based on the concentration of particulate matter in the atmosphere measured as total suspended particulates and requires DNR to end the designation of an area as a nonattainment area if the designation was based on the concentration of particulate matter in the atmosphere measured as total suspended particulates.

New source review

Under the CAA, a person must obtain a construction permit before beginning the construction of a stationary source of air pollution that meets certain criteria. These sources are generally called major sources. The CAA also requires a person to obtain a construction permit before making changes to a major source if the changes amount to what the CAA calls “modifications.” If a source is required to obtain a construction permit, the CAA imposes air pollution control requirements that are more stringent than those imposed on sources that are not required to obtain a construction permit, including those to which changes are made that do not amount to modifications. The part of the CAA that contains these provisions is often referred to as new source review.

Recently, EPA has promulgated regulations that revise the way in which it is determined under federal law whether changes to a major source are considered to be modifications, thus revising the situations in which major sources must obtain construction permits and implement more stringent pollution controls. States are not required to use the federal approach to determining whether changes are considered to be modifications, as long as their new source review provisions are at least as stringent as the federal new source review provisions.

This bill requires DNR to promulgate rules incorporating the recent revisions that EPA made in its regulations for determining whether changes to a major source amount to modifications and any future revisions that EPA makes. The bill requires DNR to make similar revisions to its rules for sources that are not covered by the CAA (minor sources) if the revisions reduce administrative requirements.

Permit requirements

The CAA requires states to require operation permits for major sources of air pollution and construction permits for the construction or modification of major sources of air pollution. Current state law generally requires operation permits for all stationary sources of air pollution and construction permits for the construction or modification of all stationary sources of air pollution.

Current state law authorizes DNR to promulgate rules exempting types of sources from the requirements to obtain permits if the potential emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment. This bill requires DNR to promulgate rules exempting minor sources from the requirement to obtain a construction permit and an operation permit if emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment.

This bill specifically exempts an agricultural source from the requirement to obtain a construction permit and an operation permit, unless the CAA requires

permits for the source. The bill exempts from the construction permit requirement a source that is a component of a process, of equipment, or of an activity that is otherwise covered by a preexisting operation permit.

Current state law authorizes DNR to promulgate rules specifying types of sources that may obtain general construction permits and general operation permits, which may cover numerous similar sources. This bill requires DNR to promulgate rules for the issuance of general permits for similar stationary sources. The bill requires that within 15 days of receiving an application for coverage under a general permit DNR either notify the applicant whether the source qualifies for coverage or tell the applicant what additional information DNR needs to determine whether the source qualifies for coverage. The bill specifies that a person is not required to obtain a construction permit or to apply for coverage under a general permit before beginning to construct or modify a source that qualifies for a general permit, unless the CAA requires a construction permit for the source. The bill limits DNR's ability to specify expiration dates for coverage under general permits. The bill also eliminates DNR's authority to promulgate rules providing for general construction permits.

The bill requires DNR to promulgate rules, which must be consistent with the CAA, providing a simplified process under which DNR issues a registration permit for a stationary source with low actual emissions. The bill requires that within 15 days of receiving an application for a registration permit DNR either grant or deny the registration permit or tell the applicant what additional information DNR needs to determine whether the source qualifies for a registration permit.

The bill requires DNR to grant a waiver from the requirement to obtain a construction permit for the construction or modification of a stationary source upon a showing by the owner or operator of the source that obtaining the permit would cause undue hardship, unless the CAA requires the owner or operator to obtain a construction permit. DNR must act on a waiver request within 15 days of its receipt.

The bill requires DNR to continually assess air pollution permit obligations and implement measures, consistent with the CAA, to lessen those obligations, including consolidating permits for sources at a facility into one permit, expanding permit exemptions, and expanding the availability of registration permits, general permits, and construction permit waivers. The bill also requires DNR to take those measures in response to petitions.

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This bill reduces those periods to 60 days for a major source and 15 days for a minor source. The bill also provides that if the additional information is not requested (by DNR or by a certified contractor, as described below) within 20 days after the application is received, additional information may be requested but the 60 and 15 day periods begin to run after the 20 days are up.

The bill provides that an application for an air pollution construction permit may be made to a private contractor certified by the Department of Administration (DOA). The certified contractor performs the determination of whether additional information is needed to process the application, the analysis of the effect of the proposed new source (or modification to an existing source) on air quality, and the preliminary determination on the approvability of the application. The bill requires DOA, in consultation with DNR, to specify minimum standards relating to staffing and professional expertise and other conditions applicable to certified contractors.

Current law requires DNR to distribute the analysis and preliminary determination for a construction permit application and to publish a newspaper notice announcing the opportunity for public comment and a public hearing on an application for a construction permit. The bill requires DNR to publish the newspaper notice within ten days after DNR prepares the analysis and preliminary determination for a construction permit application or, if a certified contractor prepares them, within ten days after DNR receives them from the certified contractor.

Current law requires DNR to receive public comments on a construction permit application for 30 days after publishing the newspaper notice. DNR is authorized to hold a public hearing if requested by a person, an affected state, or EPA within 30 days after publishing the newspaper notice and is required to hold a public hearing if there is significant public interest in holding a hearing. The department must hold the hearing within 60 days after the end of the public comment period.

The bill specifies that DNR may hold a hearing if requested by a person who may be directly aggrieved by the issuance of the permit or by an affected state or EPA. It also requires that the hearing be held within 30, rather than 60, days after the end of the public comment period.

Current law requires DNR to act on a construction permit application within 60 days after the close of the public comment period or the public hearing, whichever is later, unless compliance with environmental impact statement requirements requires a longer time. This bill requires DNR to act within 60 days after it publishes the newspaper notice (30 days after the close of the public comment period), unless compliance with environmental impact statement requirements requires a longer time. The bill authorizes DNR to extend any time limit applicable to it or a certified contractor under this process at the request of an applicant for a permit.

Under the bill, if DNR does not act on an application within the required time limit, it must include in a report the reasons for the delay in acting on the application, including the names of the department's employees responsible for review of the application, and recommendations for how to avoid similar delays in the future. DNR must make these reports available to the public, and submit the reports to JCRAR on a quarterly basis.

The bill makes changes to the processing of applications for operation permits that are similar to the changes it makes to the processing of construction permits, including providing for the use of certified contractors. Under current law, DNR must act on an application for an operation permit within 180 days after the applicant submits to DNR the results of equipment testing and emission monitoring required by the construction permit. This bill reduces that deadline to 30 days.

Under current law, a permittee must apply for the renewal of an operation permit at least 12 months before the permit expires. This bill reduces that requirement to six months.

Criteria for approval of permits

Under current state law, DNR may approve an application for a construction permit or an operation permit if it finds that criteria specified in the law for the stationary source are met. This bill provides that DNR may not modify a preliminary determination of approvability made by a private contractor unless modification is necessary to comply with the CAA or unless information received from the public, an affected state, or EPA or an environmental impact statement provide clear and convincing evidence that issuance of the permit would cause material harm to public health, safety, or welfare.

Under current law, one of the criteria for approving a permit for the construction or modification of a major source in a nonattainment area is a finding by DNR, based on an analysis of alternatives, that the benefits of the construction or modification significantly outweigh the environmental and social costs imposed as a result of the construction or modification. This bill eliminates that criterion.

Continuation of operation

Under current law, if a person timely submits a complete application for an operation permit and submits any additional information within the time set by DNR, the stationary source may continue to operate even if DNR has not yet issued the permit. Under this bill, if a person submits an application for renewal of an operation permit before the date that the operation permit expires, the stationary source may continue to operate, unless the CAA would prohibit continued operation.

Other provisions related to air quality management

Current law authorizes DNR to require owners and operators of sources of air pollution to monitor emissions from those sources or to monitor air quality in the areas of those sources. This bill prohibits DNR from including a monitoring requirement in an operation permit if the applicant demonstrates that the cost of compliance with the requirement would exceed the cost of compliance with monitoring requirements imposed on similar sources by an adjacent state or if the monitoring is not needed to provide assurance of compliance with requirements that apply to the source, unless the CAA requires the monitoring.

Current law specifies that an air pollution permit or part of a permit issued by DNR becomes effective unless the permit holder seeks a hearing on the permit or part of a permit. The bill specifies that if a permit holder or applicant challenges part of a permit, the remainder of the permit becomes effective and the permit holder or applicant may begin the activity for which the permit was issued.

This bill requires DNR to report to the legislature proposals for lessening air pollution permit obligations, including consolidating permits for sources at a facility into one permit, expanding permit exemptions, and expanding the availability of registration permits, general permits, and construction permit waivers and a description of requirements in the CAA that limit DNR's ability to take those actions. The bill also requires DNR to provide to JCRAR a description of provisions in this state's CAA implementation plans that may not have been necessary to obtain EPA approval and recommendations for removing those provisions from the state implementation plans.

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:

1 **SECTION 1.** 285.01 (12m) of the statutes is created to read:

2 285.01 (12m) "Certified contractor" means a contractor that is certified under
3 s. 285.755.

4 **SECTION 2.** 285.11 (6) (intro.) of the statutes is renumbered 285.11 (6) and
5 amended to read:

6 285.11 (6) Prepare and develop one or more comprehensive plans for the
7 prevention, abatement and control of air pollution in this state. The department
8 thereafter shall be responsible for the revision and implementation of the plans. ~~The~~
9 ~~rules or control strategies submitted to the federal environmental protection agency~~
10 ~~under the federal clean air act for control of atmospheric ozone shall conform with~~
11 ~~the federal clean air act unless, based on the recommendation of the natural~~
12 ~~resources board or the head of the department, as defined in s. 15.01 (8), of any other~~
13 ~~department, as defined in s. 15.01 (5), that promulgates a rule or establishes a control~~
14 ~~strategy, the governor determines that measures beyond those required by the~~
15 ~~federal clean air act meet any of the following criteria:~~

16 **SECTION 3.** 285.11 (6) (a) and (b) of the statutes are repealed.

1 **SECTION 4.** 285.11 (9) of the statutes is amended to read:

2 285.11 (9) Prepare and adopt minimum standards for the emission of mercury
3 compounds or metallic mercury into the air, consistent with s. 285.27 (2) (b).

4 **SECTION 5.** 285.11 (17) of the statutes is repealed and recreated to read:

5 285.11 (17) Promulgate rules that incorporate changes made by regulations of
6 the federal environmental protection agency governing review of modifications of
7 major sources under 42 USC 7470 to 7515, including regulations that were published
8 in the Federal Register on December 31, 2002, and October 27, 2003. The
9 department may not include in the rules any requirements that are inconsistent with
10 or more stringent than the federal regulations. To the extent possible, the
11 department shall incorporate similar changes for minor sources if the changes
12 reduce administrative requirements for minor sources. The department shall
13 submit in proposed form rules required under this subsection to the legislative
14 council staff under s. 227.15 (1) no later than the first day of the 7th month after the
15 regulations making the changes on which the rules are based take effect.

16 **SECTION 6.** 285.14 of the statutes is created to read:

17 **285.14 State implementation plans. (1) CONTENT.** The department may
18 only include in a state implementation plan under 42 USC 7410 rules or
19 requirements that are necessary to obtain approval of the plan by the federal
20 environmental protection agency, including requirements that are necessary in
21 order to comply with the percentage reductions specified in 42 USC 7511a (b) (1) (A)
22 or (c) (2) (B).

23 **(2) REVIEW BY COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES.** At least 90 days
24 before the department is required to submit a state implementation plan to the
25 federal environmental protection agency, the department shall prepare and submit

1 a report to the joint committee for review of administrative rules that describes the
2 proposed plan and contains all of the supporting documents that the department
3 intends to submit with the plan. If, within 30 days after the department submits the
4 report, the cochairpersons of the joint committee for review of administrative rules
5 do not return the report to the department with a written explanation of why the
6 committee is returning the report, the department may submit the plan. If, within
7 30 days after the department submits the report, the cochairpersons of the joint
8 committee for review of administrative rules return the report to the department
9 with a written explanation of why the committee is returning the report, the
10 department may not submit the plan until the committee agrees that the department
11 has adequately addressed the issues raised by the committee. If the secretary
12 disagrees with the committee's reasons for returning the report, the secretary shall
13 so notify the committee in writing. This subsection does not apply to a modification
14 to a state implementation plan relating to an individual source.

15 **SECTION 7.** 285.17 (2) of the statutes is amended to read:

16 285.17 (2) The department may, by rule or in an operation permit, require the
17 owner or operator of an air contaminant source to monitor the emissions of the air
18 contaminant source or to monitor the ambient air in the vicinity of the air
19 contaminant source and to report the results of the monitoring to the department.
20 The department may specify methods for conducting the monitoring and for
21 analyzing the results of the monitoring. The department shall require the owner or
22 operator of a major source to report the results of any required monitoring of
23 emissions from the major source to the department no less often than every 6 months.
24 The department may not include a monitoring requirement in an operation permit
25 if the applicant demonstrates that the cost of compliance with the requirement would

1 exceed the cost of compliance with monitoring requirements imposed on similar air
2 contaminant sources by a state adjacent to this state or if the monitoring is not
3 needed to provide assurance of compliance with requirements that apply to the air
4 contaminant source, unless the monitoring is required under the federal clean air
5 act.

6 **SECTION 8.** 285.21 (1) (a) (title) of the statutes is repealed.

7 **SECTION 9.** 285.21 (1) (a) of the statutes is renumbered 285.21 (1) and amended
8 to read:

9 285.21 (1) AMBIENT AIR QUALITY STANDARDS. If an ambient air quality standard
10 is promulgated under section 109 of the federal clean air act, the department shall
11 promulgate by rule a similar standard but this standard may not be more restrictive
12 than the federal standard ~~except as provided under sub. (4).~~

13 **SECTION 10.** 285.21 (1) (b) of the statutes is repealed.

14 **SECTION 11.** 285.21 (2) of the statutes is amended to read:

15 285.21 (2) AMBIENT AIR INCREMENT. The department shall promulgate by rule
16 ambient air increments for various air contaminants in attainment areas. The
17 ambient air increments shall be consistent with and not more restrictive, either in
18 terms of the concentration or the contaminants to which they apply, than ambient
19 air increments under the federal clean air act ~~except as provided under sub. (4).~~

20 **SECTION 12.** 285.21 (4) of the statutes is amended to read:

21 285.21 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the ambient air
22 increment or the ambient air quality standards in effect on April 30, 1980, under the
23 federal clean air act are ~~relaxed~~ modified, the department shall alter the
24 corresponding state standards ~~unless it finds that the relaxed standards would not~~
25 ~~provide adequate protection for public health and welfare~~ accordingly.

1 **SECTION 13.** 285.23 (1) of the statutes is amended to read:

2 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule
3 procedures and criteria to identify a nonattainment area and to reclassify a
4 nonattainment area as an attainment area. The department may not identify a
5 county as part of a nonattainment area if the the concentration of an air contaminant
6 in the atmosphere does not exceed an ambient air quality standard, unless the
7 department is required under the federal clean air act to identify the county as part
8 of a nonattainment area.

9 **SECTION 14.** 285.23 (5) of the statutes is created to read:

10 285.23 (5) PARTICULATE STANDARDS. The department may not identify an area
11 as a nonattainment area based on the concentration in the atmosphere of particulate
12 matter measured as total suspended particulates and shall redesignate as an
13 attainment area any area identified as a nonattainment area if the only basis on
14 which the area could be identified as a nonattainment area is the concentration in
15 the atmosphere of particulate matter measured as total suspended particulates.

16 **SECTION 15.** 285.23 (6) of the statutes is created to read:

17 285.23 (6) REPORT TO THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES.
18 Before the department issues documents under sub. (2) and at least 90 days before
19 the governor is required to make a submission on a nonattainment designation
20 under 42 USC 7407 (d) (1) (A), the department shall prepare and submit a report to
21 the joint committee for review of administrative rules that contains a description of
22 any area proposed to be identified as a nonattainment area and supporting
23 documentation. If the department has complied with sub. (4) and if, within 30 days
24 after the department submits the report, the cochairpersons of the joint committee
25 for review of administrative rules do not return the report to the department with

1 a written explanation of why the committee is returning the report, the department
2 may issue the documents under sub. (2) and the governor may make the submission.
3 If, within 30 days after the department submits the report, the cochairpersons of the
4 joint committee for review of administrative rules return the report to the
5 department with a written explanation of why the committee is returning the report,
6 the department may not issue the documents under sub. (2) and the governor may
7 not make the submission until the committee agrees that the department has
8 adequately addressed the issues raised by the committee.

9 SECTION 16. 285.27 (1) (a) of the statutes is amended to read:

10 285.27 (1) (a) ~~Similar to federal~~ Federal standard. If a standard of performance
11 for new stationary sources is promulgated under ~~section 111~~ of the federal clean air
12 act, the department shall promulgate ~~by a rule a similar~~ that incorporates that
13 emission standard but this standard and related administrative requirements. The
14 department may not be promulgate a rule under this paragraph that is more
15 restrictive in terms of emission limitations or otherwise more burdensome to persons
16 operating sources affected by the emission standard than the federal standard and
17 related requirements except as provided under sub. (4).

18 SECTION 17. 285.27 (2) (a) of the statutes is amended to read:

19 285.27 (2) (a) ~~Similar to federal~~ Federal standard. If an emission standard for
20 a hazardous air contaminant is promulgated under ~~section 112~~ of the federal clean
21 air act, the department shall promulgate ~~by a rule a similar~~ that incorporates that
22 emission standard but this standard and related administrative requirements. The
23 department may not be promulgate a rule under this paragraph that is more
24 restrictive in terms of emission limitations or otherwise more burdensome to persons

1 operating sources affected by the emission standard than the federal standard and
2 related requirements except as provided under sub. (4).

3 **SECTION 18.** 285.27 (2) (b) of the statutes is renumbered 285.27 (2) (b) (intro.)
4 and amended to read:

5 285.27 (2) (b) *Standard to protect public health or welfare.* (intro.) If an
6 emission standard for a hazardous air contaminant is not promulgated under section
7 ~~112~~ of the federal clean air act, the department may promulgate an emission
8 standard for the hazardous air contaminant if the department finds the standard is
9 needed to provide adequate protection for public health or welfare. The department
10 may not make a finding for a hazardous air contaminant unless the finding is
11 supported with written documentation that includes all of the following:

12 **SECTION 19.** 285.27 (2) (b) 1. to 3. of the statutes are created to read:

13 285.27 (2) (b) 1. A public health risk assessment that characterizes the
14 stationary sources in this state that are known to emit the hazardous air
15 contaminant and the individuals who are potentially at risk from the emissions.

16 2. An analysis showing that identified individuals are subjected to inhalation
17 levels of the hazardous air contaminant that are above recognized environmental
18 health standards.

19 3. An evaluation of options for managing the risks caused by the hazardous air
20 contaminant considering risks, costs, economic impacts, feasibility, energy, safety,
21 and other relevant factors, and a finding that the chosen compliance alternative
22 reduces risks in the most cost-effective manner practicable.

23 **SECTION 20.** 285.27 (2) (d) of the statutes is created to read:

24 285.27 (2) (d) *Emissions regulated under federal law.* Emissions limitations
25 promulgated under par. (b) and related control requirements do not apply to

1 hazardous air contaminants emitted by emissions units, operations, or activities
2 that are regulated by an emission standard promulgated under the federal clean air
3 act, including a hazardous air contaminant that is regulated under the federal clean
4 air act by virtue of regulation of another substance as a surrogate for the hazardous
5 air contaminant or by virtue of regulation of a species or category of hazardous air
6 contaminants that includes the hazardous air contaminant.

7 **SECTION 21.** 285.27 (4) of the statutes is amended to read:

8 285.27 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the standards of
9 performance for new stationary sources or the emission standards for hazardous air
10 contaminants under the federal clean air act are relaxed, the department shall alter
11 the corresponding state standards unless it finds that the relaxed standards would
12 not provide adequate protection for public health and welfare. The department may
13 not make this finding for an emission standard for a hazardous air contaminant
14 unless the finding is supported with the written documentation required under sub.
15 (2) (b) 1. to 3. This subsection applies to state standards of performance for new
16 stationary sources and emission standards for hazardous air contaminants in effect
17 on April 30, 1980, if the relaxation in the corresponding federal standards occurs
18 after April 30, 1980.

19 **SECTION 22.** 285.60 (1) (a) 1. of the statutes is amended to read:

20 285.60 (1) (a) 1. Except as provided in sub. (2g), (3) (c), (5m), (6), (6m), or (6r),
21 no person may commence construction, reconstruction, replacement or modification
22 of a stationary source unless the person has a construction permit from the
23 department.

24 **SECTION 23.** 285.60 (1) (b) 1. of the statutes is amended to read:

1 285.60 (1) (b) 1. Except as provided in subd. 2., par. (a) 2., sub. (2g), (6), or (6m),
2 or s. 285.62 (8), no person may operate a new source or a modified source unless the
3 person has an operation permit under s. 285.62 from the department.

4 **SECTION 24.** 285.60 (2) (a) of the statutes is amended to read:

5 285.60 (2) (a) *Operation permit requirement.* Except as provided in sub. (6) or
6 (6m) or s. 285.62 (8), no person may operate an existing source after the operation
7 permit requirement date specified under s. 285.62 (11) (a) unless the person has an
8 operation permit under s. 285.62 from the department.

9 **SECTION 25.** 285.60 (2g) of the statutes is created to read:

10 285.60 (2g) REGISTRATION PERMITS. (a) *Rules.* Subject to sub. (8), the
11 department shall promulgate rules specifying a simplified process under which the
12 department issues a registration permit for a stationary source with low actual
13 emissions if the owner or operator provides to the department, on a form prescribed
14 by the department, sufficient information to show that the source qualifies for a
15 registration permit. In the rules, the department shall include criteria for
16 identifying categories of sources the owners or operators of which may elect to obtain
17 registration permits and general requirements applicable to sources that qualify for
18 registration permits.

19 (b) *Procedure.* The procedural requirements of ss. 285.61 (2) to (8) and 285.62
20 (2) to (7) do not apply to a registration permit under this subsection. Within 15 days
21 after receipt of the form prescribed by the department, the department shall provide
22 one of the following to an applicant for a registration permit:

23 1. Written notice of the department's determination that the source qualifies
24 for a registration permit and that the applicant may operate the source consistent
25 with the terms and conditions of the registration permit.

1 2. A written description of any information that is missing from the application
2 for a registration permit.

3 3. Written notice of the department's determination that the source does not
4 qualify for a registration permit, specifically describing the reasons for that
5 determination.

6 (c) *Exemption from requirement prior to construction.* A person is not required
7 to obtain a permit prior to construction, reconstruction, replacement, or modification
8 of a stationary source that qualifies for a registration permit under par. (a) unless
9 a construction permit is required under the federal clean air act.

10 **SECTION 26.** 285.60 (2m) of the statutes is repealed.

11 **SECTION 27.** 285.60 (3) of the statutes is repealed and recreated to read:

12 285.60 (3) GENERAL PERMITS. (a) *Rules.* The department shall promulgate rules
13 for the issuance of general permits for similar stationary sources. In the rules, the
14 department shall specify criteria for identifying categories of sources for which the
15 department may issue general permits and general requirements applicable to
16 sources that qualify for general permits.

17 (b) *Procedure.* The procedural requirements of ss. 285.61 (2) to (8) and 285.62
18 (2) to (5) do not apply to the determination of whether a source is covered by a general
19 permit under this subsection. Within 15 days after receipt of an application for
20 coverage under a general permit, the department shall provide one of the following
21 to the applicant:

22 1. Written notice of the department's determination that the source qualifies
23 for coverage under the general permit and that the applicant may operate the source
24 consistent with the terms and conditions of the general permit.

1 2. A written description of any information that is missing from the application
2 for coverage under the general permit.

3 3. Written notice of the department's determination that the source does not
4 qualify for coverage under the general permit, specifically describing the reasons for
5 that determination.

6 (c) *Exemption from requirement for permit prior to construction.* A person is
7 not required to obtain a permit prior to construction, reconstruction, replacement or
8 modification of a stationary source that qualifies for coverage under a general permit
9 under par. (a) unless a construction permit is required under the federal clean air act.

10 **SECTION 28.** 285.60 (5m) of the statutes is created to read:

11 285.60 (5m) WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS. Subject to sub. (8),
12 the department shall grant a waiver from the requirement to obtain a construction
13 permit prior to construction, reconstruction, replacement, or modification of a
14 stationary source upon a showing by the owner or operator of the stationary source
15 that obtaining the permit would cause undue hardship. The department shall act
16 on a waiver request within 15 days after it receives the request.

17 **SECTION 29.** 285.60 (6) of the statutes is amended to read:

18 285.60 (6) EXEMPTION BY RULE. ~~Notwithstanding the other provisions of this~~
19 ~~section~~ Subject to sub. (8), the department may shall, by rule, exempt types of
20 stationary minor sources from any the requirement of this section to obtain a
21 construction permit and an operation permit if the potential emissions from the
22 sources do not present a significant hazard to public health, safety or welfare or to
23 the environment.

24 **SECTION 30.** 285.60 (6m) of the statutes is created to read:

1 **285.60 (6m) SPECIFIC EXEMPTION.** A person is not required to obtain a
2 construction permit or an operation permit for a source that is an agricultural
3 facility, as defined in s. 281.16 (1) (a), a livestock operation, as defined in s. 281.16
4 (1) (c), or an agricultural practice, as defined in s. 281.16 (1) (b), unless a permit is
5 required by the federal clean air act.

6 **SECTION 31.** 285.60 (6r) of the statutes is created to read:

7 **285.60 (6r) EXEMPTION FROM CONSTRUCTION PERMIT REQUIREMENT.** A person is not
8 required to obtain a construction permit for a source that is a component of a process,
9 of equipment, or of an activity that is otherwise covered by a preexisting operation
10 permit or a source that is a component of a process, of equipment, or of an activity
11 that is included in a completed application for an operation permit, unless a
12 construction permit is required under the federal clean air act.

13 **SECTION 32.** 285.60 (8) of the statutes is created to read:

14 **285.60 (8) COMPLIANCE WITH FEDERAL LAW.** The department may not promulgate
15 a rule or take any other action under this section that conflicts with the federal clean
16 air act.

17 **SECTION 33.** 285.60 (9) of the statutes is created to read:

18 **285.60 (9) PETITIONS FOR REGISTRATION PERMITS, GENERAL PERMITS, AND**
19 **EXEMPTIONS.** A person may petition the department to make a determination that a
20 type of stationary source meets the criteria for a registration permit under sub. (2g),
21 a general permit under sub. (3), or an exemption under sub. (6). The department
22 shall provide a written response to a petition within 30 days after receiving the
23 petition indicating whether the type of stationary source meets the applicable
24 criteria for a registration permit, a general permit, or an exemption. If the type of
25 source meets the applicable criteria, the department shall, within 365 days after

1 receiving the petition, issue the registration permit or general permit or, for an
2 exemption, shall submit to the legislative council staff under s. 227.15 (1) in proposed
3 form any necessary rules or take any other action that is necessary provide the
4 exemption.

5 **SECTION 34.** 285.60 (10) of the statutes is created to read:

6 **285.60 (10) PERMIT STREAMLINING.** The department shall continually assess
7 permit obligations imposed under this section and ss. 285.61 to 285.65 and
8 implement measures that are consistent with this chapter and the federal clean air
9 act to allow for timely installation and operation of equipment and processes and the
10 pursuit of related economic activity by lessening those obligations, including
11 consolidating the permits for sources at a facility into one permit, expanding
12 exemptions under sub. (6), and expanding the availability of registration permits
13 under sub. (2g), general permits under sub. (3), and construction permit waivers
14 under sub. (5m).

15 **SECTION 35.** 285.61 (1) of the statutes is amended to read:

16 **285.61 (1) ~~APPLICANT NOTICE~~ APPLICATION REQUIRED.** A person who is required
17 to obtain or who seeks a construction permit shall apply to the department or a
18 certified contractor for a permit to construct, reconstruct, replace or modify the
19 stationary source. If a person applies to a certified contractor under this subsection,
20 the person shall provide notice of that application to the department as prescribed
21 by the department.

22 **SECTION 36.** 285.61 (2) of the statutes is renumbered 285.61 (2) (a) and
23 amended to read:

24 **285.61 (2) (a) Request for additional information.** Within 20 days after receipt
25 of the application the department or the certified contractor shall indicate provide

1 written notice to the applicant describing specifically all of the plans, specifications
2 and any other information necessary to determine if the proposed construction,
3 reconstruction, replacement or modification will meet the requirements of this
4 chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15.

5 **SECTION 37.** 285.61 (2) (b) of the statutes is created to read:

6 285.61 (2) (b) *When application is considered to be complete.* For the purposes
7 of the time limits in sub. (3), an application is considered to be complete when the
8 applicant provides the information specified in the written notice under par. (a), or
9 if the department or the certified contractor does not provide written notice to an
10 applicant within the time limit in par. (a), 20 days after receipt of the application.
11 This paragraph does not prevent the department or a certified contractor from
12 requesting additional information from an applicant after the time limit in par. (a).

13 **SECTION 38.** 285.61 (3) of the statutes is amended to read:

14 285.61 (3) ANALYSIS. The department or certified contractor shall prepare an
15 analysis regarding the effect of the proposed construction, reconstruction,
16 replacement or modification on ambient air quality and a preliminary determination
17 on the approvability of the construction permit application, within the following time
18 periods after the ~~receipt of the plans, specifications and other information~~
19 application is considered to be complete under sub. (2) (b):

20 (a) *Major source construction permits.* For construction permits for major
21 sources, within ~~120~~ 60 days.

22 (b) *Minor source construction permits.* For construction permits for minor
23 sources, within ~~30~~ 15 days.

24 **SECTION 39.** 285.61 (4) (a) of the statutes is amended to read:

1 285.61 (4) (a) *Distribution and publicity.* The department shall distribute and
2 publicize the analysis and preliminary determination as soon as they are prepared
3 or, if the analysis and preliminary determination are prepared by a certified
4 contractor, as soon as the department receives them from the certified contractor.

5 **SECTION 40.** 285.61 (4) (b) 2. and 3. of the statutes are amended to read:

6 285.61 (4) (b) 2. A copy of the department's or certified contractor's analysis and
7 preliminary determination; and

8 3. A copy or summary of other materials, if any, considered by the department
9 or the certified contractor in making its preliminary determination.

10 **SECTION 41.** 285.61 (5) (a) (intro.) of the statutes is amended to read:

11 285.61 (5) (a) *Distribution of notice required.* (intro.) The department shall
12 distribute a notice of the proposed construction, reconstruction, replacement or
13 modification, a notice of the department's or certified contractor's analysis and
14 preliminary determination, a notice of the opportunity for public comment and a
15 notice of the opportunity to request a public hearing to all of the following:

16 **SECTION 42.** 285.61 (5) (c) of the statutes is amended to read:

17 285.61 (5) (c) *Newspaper notice.* The department shall publish a class 1 notice
18 under ch. 985 announcing the opportunity for written public comment and the
19 opportunity to request a public hearing on the analysis and preliminary
20 determination within 10 days after the analysis and preliminary determination are
21 prepared or, if the analysis and preliminary determination are prepared by a
22 certified contractor, within 10 days after the department receives them from the
23 certified contractor.

24 **SECTION 43.** 285.61 (7) (a) of the statutes is amended to read:

1 285.61 (7) (a) *Hearing permitted.* The department may hold a public hearing
2 on the construction permit application if requested by a person who may be directly
3 aggrieved by the issuance of the permit, any affected state or the U.S. environmental
4 protection agency within 30 days after the department gives notice under sub. (5) (c).
5 A request for a public hearing shall indicate the interest of the party filing the
6 request and the reasons why a hearing is warranted. The department shall hold the
7 public hearing within ~~60~~ 30 days after the deadline for requesting a hearing if it
8 deems that there is a significant public interest in holding a hearing.

9 **SECTION 44.** 285.61 (8) (a) of the statutes is renumbered 285.61 (8) (a) 1.

10 **SECTION 45.** 285.61 (8) (a) 2. of the statutes is created to read:

11 285.61 (8) (a) 2. Notwithstanding subd. 1. and s. 285.63, the department may
12 not modify a preliminary determination made by a certified contractor under sub. (3)
13 unless modification is necessary to comply with the federal clean air act or unless the
14 comments received under subs. (6) and (7) or consideration of the environmental
15 impact as required under s. 1.11 provide clear and convincing evidence that issuance
16 of the permit would cause material harm to public health, safety, or welfare.

17 **SECTION 46.** 285.61 (8) (b) of the statutes is amended to read:

18 285.61 (8) (b) *Time limits.* The department shall act on a construction permit
19 application within 60 days after the ~~close of the public comment period or the public~~
20 ~~hearing, whichever is later~~ department gives notice under sub. (5) (c), unless
21 compliance with s. 1.11 requires a longer time. For a major source that is located in
22 an attainment area, the department shall complete its responsibilities under s. 1.11
23 within one year.

24 **SECTION 47.** 285.61 (10) of the statutes is created to read:

1 285.61 (10) EXTENSIONS. The department may extend any time limit applicable
2 to the department or a certified contractor under this section at the request of an
3 applicant.

4 **SECTION 48.** 285.61 (11) of the statutes is created to read:

5 285.61 (11) DELAY IN ISSUING PERMITS. Subject to sub. (10), if the department
6 fails to act on an application for a construction permit within the time limit in sub.
7 (8) (b), the department shall include in a report the reasons for the delay in acting
8 on the application, including the names of the department's employees responsible
9 for review of the application, and recommendations for how to avoid similar delays
10 in the future. The department shall make reports under this subsection available
11 to the public, place a prominent notice of the reports on the department's Internet
12 site, and submit the reports to the joint committee for the review of administrative
13 rules on a quarterly basis.

14 **SECTION 49.** 285.62 (1) of the statutes is amended to read:

15 285.62 (1) ~~APPLICANT NOTICE~~ APPLICATION REQUIRED. A person who is required
16 to obtain an operation permit for a stationary source shall apply to the department
17 or to a certified contractor for the permit on or before the operation permit
18 application date specified under sub. (11) (b). The department shall specify by rule
19 the content of applications under this subsection. If required by the federal clean air
20 act, the department or the certified contractor shall provide a copy of the complete
21 application to the federal environmental protection agency. ~~The department may not~~
22 ~~accept an application submitted to the department before November 15, 1992, as an~~
23 ~~application under this subsection.~~

24 **SECTION 50.** 285.62 (2) of the statutes is renumbered 285.62 (2) (a) and
25 amended to read:

1 285.62 (2) (a) Request for additional information. Within 20 days after receipt
2 of the application the department or the certified contractor shall ~~indicate~~ provide
3 written notice to the applicant describing specifically any additional information
4 required under sub. (1) necessary to determine if the source, upon issuance of the
5 permit, will meet the requirements of this chapter and s. 299.15 and rules
6 promulgated under this chapter and s. 299.15.

7 **SECTION 51.** 285.62 (2) (b) of the statutes is created to read:

8 285.62 (2) (b) When application is considered to be complete. For the purposes
9 of the time limits in sub. (3), an application is considered to be complete when the
10 applicant provides the information specified in the written notice under par. (a), or,
11 if the department or the certified contractor does not provide written notice to an
12 applicant within the period under par. (a), 20 days after receipt of the application.
13 This paragraph does not prevent the department or a certified contractor from
14 requesting additional information from an applicant after the period under par. (a).

15 **SECTION 52.** 285.62 (3) (a) (intro.) of the statutes is amended to read:

16 285.62 (3) (a) (intro.) The department or certified contractor shall review an
17 application for an operation permit. Upon completion of that review, the department
18 or certified contractor shall prepare a preliminary determination of whether ~~it the~~
19 application may ~~approve the application~~ be approved and a public notice. The
20 department or certified contractor shall complete the preliminary determination and
21 the public notice within 60 days after an application for an operation permit for a
22 major source is considered to be complete under sub. (2) (b) and within 15 days after
23 an application for an operation permit for a minor source is considered to be complete
24 under sub. (2) (b). The public notice shall include all of the following:

25 **SECTION 53.** 285.62 (3) (c) of the statutes is amended to read:

1 285.62 (3) (c) The department shall publish the notice prepared under par. (a)
2 as a class 1 notice under ch. 985 in a newspaper published in the area that may be
3 affected by emissions from the stationary source within 10 days after the notice is
4 complete or, if the notice is prepared by a certified contractor, within 10 days after
5 the department receives it from the certified contractor.

6 **SECTION 54.** 285.62 (5) (a) of the statutes is amended to read:

7 285.62 (5) (a) *Hearing permitted.* The department may hold a public hearing
8 on an application for an operation permit for a stationary source if requested by any
9 state that received notice under sub. (3) (b) or any other person, if the person may
10 be directly aggrieved by the issuance of the permit, within 30 days after the
11 department gives notice under sub. (3) (c). A request for a public hearing shall
12 indicate the interest of the party filing the request and the reasons why a hearing
13 is warranted. The department shall hold the public hearing within 60 days after the
14 deadline for requesting a hearing if it determines that there is a significant public
15 interest in holding the hearing.

16 **SECTION 55.** 285.62 (6) (c) 1. of the statutes is amended to read:

17 285.62 (6) (c) 1. If the department receives an objection from the federal
18 environmental protection agency under this subsection, the department may not
19 issue the operation permit unless the department revises the proposed operation
20 permit as necessary to satisfy the objection.

21 **SECTION 56.** 285.62 (7) (b) of the statutes is amended to read:

22 285.62 (7) (b) The department shall approve or deny the operation permit
23 application for a new source or modified source. The department shall issue the
24 operation permit for a new source or modified source if the criteria established under
25 ss. 285.63 and 285.64 are met. The department shall issue an operation permit for

1 a new source or modified source or deny the application within ~~180~~ 30 days after the
2 permit applicant submits to the department the results of all equipment testing and
3 emission monitoring required under the construction permit.

4 **SECTION 57.** 285.62 (7) (bm) of the statutes is created to read:

5 285.62 (7) (bm) Notwithstanding pars. (a) and (b) and s. 285.63, but subject to
6 sub. (6) (c) 1., the department may not modify a preliminary determination made by
7 a certified contractor under sub. (3) (a) unless modification is necessary to comply
8 with the federal clean air act or unless the comments received under subs. (4) to (6)
9 or consideration of the environmental impact as required under s. 1.11 provide clear
10 and convincing evidence that issuance of the permit would cause material harm to
11 public health, safety, or welfare.

12 **SECTION 58.** 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

13 **SECTION 59.** 285.62 (8) (b) of the statutes is created to read:

14 285.62 (8) (b) If a person submits an application for renewal of an operation
15 permit before the date that the operation permit expires, the stationary source may
16 not be required to discontinue operation and the person may not be prosecuted for
17 lack of an operation permit until the department acts under sub. (7), except that this
18 paragraph does not apply in a situation in which its application would contravene
19 the federal clean air act.

20 **SECTION 60.** 285.62 (9) (b) of the statutes is repealed and recreated to read:

21 285.62 (9) (b) Subject to sub. (12), if the department fails to act on an
22 application for an operation permit within the time limit under sub. (7) (b), the
23 department shall, include in a report the reasons for the delay in acting on the
24 application, including the names of the department's employees responsible for
25 review of the application, and recommendations for how to avoid delays in the future

1 in similar situations. The department shall make reports under this subsection
2 available to the public, place a prominent notice of the reports on the department's
3 Internet site, and submit the reports to the joint committee for the review of
4 administrative rules on a quarterly basis.

5 **SECTION 61.** 285.62 (12) of the statutes is created to read:

6 285.62 (12) EXTENSIONS. The department may extend any time limit applicable
7 to the department or a certified contractor under this section at the request of an
8 applicant.

9 **SECTION 62.** 285.63 (1) (d) of the statutes is amended to read:

10 285.63 (1) (d) *Source will not preclude construction or operation of other source.*
11 The stationary source will not degrade the air quality in an area sufficiently to
12 prevent the construction, reconstruction, replacement, modification or operation of
13 another stationary source if the department received plans, specifications and other
14 information under s. 285.61 (2) (a) for the other stationary source prior to
15 commencing its analysis under s. 285.61 (3) for the former stationary source. This
16 paragraph does not apply to an existing source required to have an operation permit.

17 **SECTION 63.** 285.63 (2) (d) of the statutes is repealed.

18 **SECTION 64.** 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

19 **SECTION 65.** 285.66 (2) (b) of the statutes is created to read:

20 285.66 (2) (b) Notwithstanding par. (a), the department may not specify that
21 coverage under a general permit under s. 285.60 (3) expires except as follows:

22 1. The department may specify an expiration date for coverage under a general
23 permit at the request of an owner or operator.

24 2. The department may specify a term of 5 years or longer for coverage under
25 a general permit if the department finds that expiring coverage would significantly

1 improve the likelihood of continuing compliance with applicable requirements
2 compared to coverage that does not expire.

3 3. The department may specify a term of 5 years or less for coverage under a
4 general permit if required by the federal clean air act.

5 **SECTION 66.** 285.66 (3) (a) of the statutes is amended to read:

6 285.66 (3) (a) A permittee shall apply for renewal of an operation permit at
7 least ~~12~~ 6 months before the operation permit expires. The permittee shall include
8 any new or revised information needed to process the application for renewal.

9 **SECTION 67.** 285.69 (1) (a) of the statutes is amended to read:

10 285.69 (1) (a) *Application for permit.* Reviewing and acting upon any
11 application for a construction permit. The department shall specify lower fees for
12 persons who submit applications to certified contractors under s. 285.61(1) than for
13 those who submit applications to the department.

14 **SECTION 68.** 285.755 of the statutes is created to read:

15 **285.755 Certified contractors.** (1) RESPONSIBILITIES OF THE DEPARTMENT OF
16 ADMINISTRATION. (a) The department of administration shall certify private
17 contractors to review applications for air pollution control permits for the purposes
18 of determining under ss. 285.61 (2) and 285.62 (2) whether additional information
19 is needed from applicants and of making preliminary determinations under ss.
20 285.61 (3) and 285.62 (3).

21 (b) No later than the first day of the 7th month beginning after the effective date
22 of this paragraph [revisor inserts date], the department of administration, in
23 consultation with the department of natural resources, shall specify minimum
24 standards relating to staffing and professional expertise and other conditions
25 applicable to private contractors certified under this section.

1 (c) The department of administration shall maintain a directory containing the
2 name, address, and contact person for each certified contractor. The department of
3 administration shall update the directory every 3 months and shall provide the
4 directory to the department of natural resources and make it available to the public.

5 (2) **REQUIREMENTS.** The department of administration may not certify a
6 contractor under this section unless the contractor does all of the following:

7 (a) Submits an application on a form prescribed by the department of
8 administration in consultation with the department of natural resources.

9 (b) Meets the minimum standards relating to staffing and professional
10 expertise and other conditions that are specified under sub. (1) (b).

11 (c) Submits a signed statement agreeing to conduct the activities described in
12 sub. (1) (a) in accordance with applicable state and federal law.

13 **SECTION 69.** 285.81 (1) (intro.) of the statutes is amended to read:

14 285.81 (1) **PERMIT HOLDER; PERMIT APPLICANT; ORDER RECIPIENT.** (intro.) Any
15 permit, part of a permit, order, decision or determination by the department under
16 ss. 285.39, 285.60 to 285.69 or 285.75 shall become effective unless the permit holder
17 or applicant or the order recipient seeks a hearing ~~on~~ challenging the action in the
18 following manner:

19 **SECTION 70.** 285.81 (1m) of the statutes is created to read:

20 285.81 (1m) **EFFECT OF A CHALLENGE.** If a permit holder or applicant seeks a
21 hearing challenging part of a permit under sub. (1), the remainder of the permit shall
22 become effective and the permit holder or applicant may begin the activity for which
23 the permit was issued.

24 **SECTION 71. Nonstatutory provisions.**

1 (1) SUBMISSION OF PROPOSED RULES. Notwithstanding the time limit in section
2 285.11 (17) of the statutes, as affected by this act, the department shall submit in
3 proposed form the rules required under section 285.11 (17) of the statutes, as affected
4 by this act, relating to regulations that are published before the effective date of this
5 subsection to the legislative council staff under section 227.15 (1) of the statutes no
6 later than August 31, 2004.

7 (2) REPORT ON STREAMLINING EFFORTS.

8 (a) The department, in consultation with owners and operators of stationary
9 sources of air pollution, shall develop a report that contains all of the following:

10 1. A list of all existing exemptions under section 285.60 (6) of the statutes, as
11 affected by this act, and all general permits under section 285.60 (3) of the statutes,
12 as affected by this act.

13 2. Recommendations, and related proposed rule revisions, for expanding
14 exemptions under section 285.60 (6) of the statutes, as affected by this act,
15 establishing registration permits under section 285.60 (2g) of the statutes, as created
16 by this act, expanding the use of general permits under section 285.60 (3) of the
17 statutes, as affected by this act, issuing construction permit waivers under section
18 285.60 (5m) of the statutes, as created by this act, and taking other actions under
19 section 285.60 (10) of the statutes, as created by this act, including consolidating the
20 permits for sources at one facility into one permit.

21 3. A schedule for providing additional reports containing recommendations,
22 and related rule revisions, for expanding exemptions under section 285.60 (6) of the
23 statutes, as affected by this act, expanding the use of registration permits under
24 section 285.60 (2g) of the statutes, as created by this act, expanding the use of general
25 permits under section 285.60 (3) of the statutes, as affected by this act, expanding

1 the issuance of construction permit waivers under section 285.60 (5m) of the
2 statutes, as created by this act, and taking other actions under section 285.60 (10)
3 of the statutes, as created by this act, including consolidating the permits for sources
4 at one facility into one permit.

5 4. A description of requirements in the federal clean air act that limit the
6 department's ability to expand exemptions under section 285.60 (6) of the statutes,
7 as affected by this act, expand the use of registration permits under section 285.60
8 (2g) of the statutes, as created by this act, expand the use of general permits under
9 section 285.60 (3) of the statutes, as affected by this act, expand the issuance of
10 construction permit waivers under section 285.60 (5m) of the statutes, as created by
11 this act, and take other actions under section 285.60 (10) of the statutes, as created
12 by this act, and recommendations on how these limitations might be overcome.

13 (b) The department shall submit the report under paragraph (a) to the
14 legislature in the manner provided under s. 13.172 (2) no later than the first day of
15 the 7th month beginning after the effective date of this paragraph.

16 (3) REPORT ON STATE IMPLEMENTATION PLANS. No later than the first day of the
17 7th month beginning after the effective date of this subsection, the department of
18 natural resources shall submit to the joint committee for review of administrative
19 rules a report that contains all of the following:

20 (a) A description of all of this state's existing and pending state implementation
21 plans under 42 USC 7410 with an analysis of any rules or requirements included in
22 the plans that may not have been necessary to obtain federal environmental
23 protection agency approval but that are federally enforceable as a result of being
24 included in the plans.

