

1 *~~-3881/P6.138~~* *~~-3599/P3.128~~* SECTION 138. 30.206 (3) (title) of the statutes
2 is created to read:

3 30.206 (3) (title) PROCEDURES FOR CONDUCTING ACTIVITIES UNDER GENERAL
4 PERMITS.

5 *~~-3881/P6.139~~* *~~-3599/P3.129~~* SECTION 139. 30.206 (3) of the statutes is
6 renumbered 30.206 (3) (a) and amended to read:

7 30.206 (3) (a) A person wishing to proceed with an activity that may be
8 authorized by a general permit shall apply to the department, with written
9 notification of the person's wish to proceed, not less than ~~20 business~~ 30 days before
10 commencing the activity authorized by a general permit. ~~The department may~~
11 ~~request additional information from the applicant~~ notification shall provide
12 information describing the activity in order to allow the department to determine
13 ~~whether the activity is within the scope of a~~ authorized by the general permit and
14 ~~shall inform the applicant in writing of its determination within 10 business days~~
15 ~~after receipt of adequate information~~ give the department consent to enter and
16 inspect the site, subject to s. 30.291.

17 *~~-3881/P6.140~~* *~~-3599/P3.130~~* SECTION 140. 30.206 (3) (c) of the statutes is
18 created to read:

19 30.206 (3) (c) Upon completion of an activity that the department has
20 authorized under a general permit, the applicant for the general permit shall provide
21 to the department a statement certifying that the activity is in compliance with all
22 of the conditions of the general permit and a photograph of the activity.

23 *~~-3881/P6.141~~* *~~-3599/P3.131~~* SECTION 141. 30.206 (3m) of the statutes is
24 repealed.

25 *~~-3881/P6.142~~* SECTION 142. 30.206 (3r) of the statutes is created to read:

1 30.206 (3r) INDIVIDUAL PERMIT IN LIEU OF GENERAL PERMIT. (a) The department
2 may decide to require that a person who has applied under sub. (3) for authorization
3 to proceed under a general permit to apply for and be issued an individual permit or
4 be granted a contract if either of the following applies:

5 1. The department determines that the proposed activity is not authorized
6 under the general permit.

7 2. The department has conducted an investigation and visited the site and has
8 determined that conditions specific to the site require restrictions on the activity in
9 order to prevent significant adverse impacts to the public rights and interest,
10 environmental pollution, as defined in s. 299.01 (4), or material injury to the riparian
11 rights of any riparian owner.

12 (b) A decision by the department to require an individual permit under this
13 subsection shall be in writing.

14 *~~3881/P6.143~~* *~~3599/P3.132~~* SECTION 143. 30.206 (4) of the statutes is
15 renumbered 30.206 (3) (b) and amended to read:

16 30.206 (3) (b) ~~Upon receipt of the department's determination that the~~
17 ~~proposed activity is authorized by a general permit, If within 30 days after a~~
18 notification under par. (a) is submitted to the department the department does not
19 require any additional information about the activity that is subject to the
20 notification and does not inform the applicant that an individual permit will be
21 required, the activity will be considered to be authorized by the general permit and
22 the applicant may proceed without further notice, hearing, permit or approval if the
23 activity is carried out in compliance with all of the conditions of the general permit.

24 *~~3881/P6.144~~* *~~3599/P3.133~~* SECTION 144. 30.206 (5) (title) of the statutes
25 is created to read:

1 30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

2 *~~3881/P6.145~~* *~~3599/P3.134~~* SECTION 145. 30.206 (6) of the statutes is
3 amended to read:

4 30.206 (6) REQUEST FOR INDIVIDUAL PERMIT. A person proposing an activity for
5 which a general permit has been issued may request an individual permit under the
6 applicable provisions of this ~~chapter~~ subchapter or ch. 31 in lieu of seeking
7 authorization under the general permit.

8 *~~3881/P6.146~~* *~~3599/P3.135~~* SECTION 146. 30.206 (7) of the statutes is
9 amended to read:

10 30.206 (7) This section does not apply to an application for a general permit for
11 the Wolf River and Fox River basin area or any area designated under s. 30.207 (1m)
12 if the application for the general permit may be submitted under s. 30.207.

13 *~~3881/P6.147~~* *~~3599/P3.136~~* SECTION 147. 30.207 (1) of the statutes is
14 amended to read:

15 30.207 (1) GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12 (3) (bt)~~
16 30.2023, the Wolf River and Fox River basin area consists of all of Winnebago County;
17 the portion and shoreline of Lake Poygan in Waushara County; the area south of
18 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
19 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
20 portion of Outagamie County south and east of USH 41; that portion of Waupaca
21 County that includes the town of Mukwa, city of New London, town of Caledonia,
22 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
23 in the town of Weyauwega.

24 *~~3881/P6.148~~* *~~3599/P3.137~~* SECTION 148. 30.207 (3) (d) 2. of the statutes
25 is amended to read:

1 30.207 (3) (d) 2. Specify the department's plans for proceeding on the
2 application. ~~The plans shall include a timetable for the notice and hearing required~~
3 ~~under sub. (4).~~

4 *~~-3881/P6.149*~~ *~~-3599/P3.138*~~ SECTION 149. 30.207 (4) (b) of the statutes is
5 repealed.

6 *~~-3881/P6.150*~~ *~~-3599/P3.139*~~ SECTION 150. 30.207 (5) of the statutes is
7 repealed.

8 *~~-3881/P6.151*~~ *~~-3599/P3.140*~~ SECTION 151. 30.208 of the statutes is
9 created to read:

10 **30.208 Applications for individual permits and contracts; department**
11 **determinations. (1) APPLICATION REQUIRED.** A person who seeks to obtain or modify
12 an individual permit under this subchapter or to enter into a contract under s. 30.20
13 shall submit an application to the department. The application may contain a
14 request for a public hearing on the application.

15 **(3) NOTICE OF COMPLETE APPLICATION; REQUEST FOR PUBLIC HEARING; DECISION.** (a)
16 Upon determination by the department that an application submitted under sub. (1)
17 is complete, the department shall provide notice of complete application to interested
18 and potentially interested members of the public, as determined by the department.
19 The department shall provide the notice within 15 days after the determination that
20 the application is complete. If the applicant has requested a public hearing as part
21 of the submitted application, a notice of public hearing shall be part of the notice of
22 complete application.

23 (b) If the notice of complete application does not contain a notice of public
24 hearing, any person may request a public hearing in writing or the department may

1 decide to hold a public hearing without a request being submitted if the department
2 determines that there is a significant public interest in holding a hearing.

3 (c) A request for a public hearing under par. (b) must be submitted to the
4 department or the department's decision to hold a public hearing must occur within
5 30 days after the department completes providing the notice of complete application.
6 The department shall provide notice of public hearing within 15 days after the
7 request for public hearing is submitted or the department makes its determination.

8 (d) The department shall hold a public hearing within 30 days after the notice
9 of hearing has been provided under par. (a) or (c).

10 (e) Within 30 days after the public hearing is held or, if no public hearing is held,
11 within 30 days of the 30-day comment period under sub. (4) (a), the department shall
12 render a decision, issuing, denying, or modifying the permit or approving the
13 contract that is the subject of the application submitted under sub. (1).

14 (4) PUBLIC COMMENT. (a) The department shall provide a period for public
15 comment after the department has provided a notice of complete application under
16 sub. (3) (a), during which time any person may submit written comments with
17 respect to the application for the permit or contract. The department shall retain all
18 of the written comments submitted during this period and shall consider all of the
19 comments in the formulation of the final decision on the application. The period for
20 public comment shall end on the 30th day following the date on which the
21 department completes providing the notice of complete application, except as
22 provided in par. (b).

23 (b) If a public hearing is held, the period for public comment shall end on the
24 10th day following the date on which the public hearing is completed.

1 (d) The department shall promulgate rules to establish procedures for the
2 conduct of public hearings held under this subsection. Public hearings held under
3 this subsection are not contested cases under s. 227.01 (3).

4 (5) NOTICE REQUIREMENTS. (a) The department shall, by rule, establish
5 procedures for providing notices of complete applications and notices of public
6 hearings to be provided under sub. (3), and notices of administrative hearings to be
7 provided under s. 30.209 (1m). The procedures shall require all of the following:

- 8 1. That the notice be published as a class 1 notice under ch. 985.
- 9 2. That the notice be mailed to any person or group upon request.

10 (b) The department shall, by rule, prescribe the form and content of notices of
11 complete applications and notices of public hearings to be provided under sub. (3),
12 and notices of administrative hearings to be provided under s. 30.209 (1m). Each
13 notice shall include all of the following information:

- 14 1. The name and address of each applicant or permit holder.
- 15 2. A brief description of each applicant's activity or project that requires the
16 permit.
- 17 3. The name of the waterway in or for which the activity or project is planned.
- 18 4. For a notice of complete application and a notice of public hearing under sub.
19 (3), a statement of the tentative determination to issue, modify, or deny a permit for
20 the activity or project described in the application.
- 21 5. For a notice of complete application and a notice of public hearing under sub.
22 (3), a brief description of the procedures for the formulation of final determinations,
23 including a description of the comment period required under sub. (4).

24 (c) The department may delegate the department's requirement to provide
25 notice under sub. (3) or s. 30.209 (1m) by doing any of the following:

1 1. Requiring that the applicant for the permit or contract provide by
2 publication, mailing, or other distribution or more of the notices.

3 2. That the applicant for the permit or contract pay for the publication, mailing,
4 or any other distribution costs of providing one or more of the notices.

5 *~~3881/P6.152~~* *~~3599/P3.141~~* **SECTION 152.** 30.209 of the statutes is
6 created to read:

7 **30.209 Contracts and individual permits; administrative and judicial**
8 **review.** (1) In this section, “applicant” means any person applying to receive a
9 permit or contract under this subchapter or any person who has received a permit
10 or contract under this subchapter.

11 **(1m) REQUEST FOR ADMINISTRATIVE REVIEW.** (a) Any interested person may file
12 a petition with the department for administrative review within 30 days after any
13 of the following decisions given by the department:

14 1. The issuance, denial, or modification of any individual permit issued under
15 or contract entered into this subchapter.

16 2. The imposition of, or failure to impose, a term or condition on any individual
17 permit issued or contract entered into under this subchapter.

18 (b) If the petitioner is not the applicant, the petition shall describe the
19 petitioner’s objection to the permit or contract and shall contain all of the following:

20 1. A description of the objection that is sufficiently specific to allow the
21 department to determine which provisions of this subchapter may be violated if the
22 proposed activity or project under the permit or contract is allowed to proceed.

23 2. A description of the facts supporting the petition that is sufficiently specific
24 to determine how the petitioner believes the activity or project, as proposed, may
25 result in a violation of the provisions of this subchapter.

1 3. A commitment by the petitioner to appear at the administrative hearing and
2 present information supporting the petitioner's objection.

3 (c) The activity or project shall be stayed pending an administrative hearing
4 under this section, if the petition contains a request for the stay showing that a stay
5 is necessary to prevent irreversible harm to the environment.

6 (d) If a stay is requested under par. (c), the stay shall be in effect until either
7 the department denies the request for an administrative hearing or the hearing
8 examiner determines that the stay is not necessary.

9 (e) The petitioner shall file a copy of the petition with the department. If the
10 petitioner is not the applicant, the petitioner shall simultaneously provide a copy of
11 the petition to the applicant. The applicant may file a response to the petition with
12 the department. If the applicant files a response under this paragraph, it shall be
13 filed within 15 days after the petition is filed.

14 (f) The department shall grant or deny the petition within 30 days after the
15 petition is filed. The failure of the department to dispose of the petition within this
16 30-day period is a denial. The department shall deny the petition if any of the
17 following applies:

18 1. The petitioner is not the applicant and the petition does not comply with the
19 requirements of par. (b).

20 2. The objection contained in the petition is not substantive. The department
21 shall determine that an objection is substantive if the supporting facts contained in
22 the objection appear to be substantially true and raise reasonable grounds to believe
23 that the provisions of this subchapter may be violated if the activity or project is
24 undertaken.

1 (fm) If the department denies the petition, the department shall send the
2 petitioner the denial in writing, stating the reasons for the denial.

3 (g) If the department grants a petition under this subsection, the department
4 shall refer the matter to the division of hearings and appeals in the department of
5 administration within 15 days after granting the petition unless the petitioner and
6 the applicant agree to an extension.

7 (2) ADMINISTRATIVE HEARINGS. (a) An administrative hearing under this
8 subsection shall be treated as a contested case under ch. 227.

9 (b) If a stay under sub. (1) (c) is in effect, the hearing examiner shall, within
10 30 days after receipt of the referral under sub. (1) (g), determine whether
11 continuation of the stay is necessary to prevent irreversible harm to the environment
12 pending completion of the hearing. The hearing examiner shall make the
13 determination based on the request under sub. (1) (c), any response from the
14 applicant under sub. (1) (e), and any testimony at a public hearing or any public
15 comments. The determination shall be made without a hearing.

16 (c) A hearing under this section shall be completed within 90 days after receipt
17 of the referral of the petition under sub. (1) (g), unless all parties agree to an
18 extension of that period. In addition, a hearing examiner may grant a one-time
19 extension for the completion of the hearing of up to 60 days on the motion of any party
20 and a showing of good cause demonstrating extraordinary circumstances justifying
21 an extension.

22 (d) Notwithstanding s. 227.44 (1), the department shall provide a notice of the
23 hearing at least 30 days before the date of the hearing to all of the following:

- 24 1. The applicant.
- 25 2. Each petitioner, if other than the applicant.

1 3. Any other persons required to receive notice under the rules promulgated
2 under s. 30.208 (5).

3 **(3) JUDICIAL REVIEW.** (a) Any person whose substantial interest is affected by
4 a decision of the department under sub. (1m) (a) 1. or 2. may commence an action in
5 circuit court to review that decision.

6 (b) Any party aggrieved by a decision of a hearing examiner under sub. (2) may
7 commence an action in circuit court to review that decision.

8 *~~3881/P6.153~~* **SECTION 153.** 30.28 (3) (a) of the statutes is renumbered 30.28
9 (3).

10 *~~3881/P6.154~~* *~~3599/P3.142~~* **SECTION 154.** 30.28 (3) (b) of the statutes is
11 repealed.

12 *~~3881/P6.155~~* **SECTION 155.** 30.285 of the statutes is created to read:

13 **30.285 Records of exemptions and permitted activities.** (1) On an
14 annual basis, the department shall keep records of all of the following

15 (a) The number of exempted activities that are conducted under ss. 30.12 (1g),
16 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department is aware.

17 (b) The number of exemptions under par. (a) for which the department required
18 applications for individual permits or contracts.

19 (c) The number of exemptions under par. (a) for which the department required
20 applications to seek authorizations to proceed under general permits.

21 (d) The number of activities that are authorized under general permits for
22 which the department requires applications for individual permits or contracts.

23 **(2)** For each record kept under sub. (1) (b) to (d), the department shall include
24 all of the following:

25 (a) The type of permit or contract application required.

1 (b) The date of the application.

2 (c) The date of the department's decision whether to issue the individual
3 permit, grant authorization under the general permit, or to grant the contract.

4 (d) The county in which the activity or project is located.

5 ***-3881/P6.156* *-3599/P3.143* SECTION 156.** 30.29 (3) (d) of the statutes is
6 amended to read:

7 30.29 (3) (d) *Activities for which a permit is issued.* A person or agent of a person
8 who is issued a permit by the department while the person or agent is engaged in
9 activities related to the purpose for which the permit is issued as authorized under
10 a general or individual permit issued under this subchapter or as authorized under
11 a contract entered into under this subchapter.

12 ***-3881/P6.157* SECTION 157.** 30.291 of the statutes is created to read:

13 **30.291 Inspections for certain exemptions and permitted activities. (1)**

14 For purposes of determining whether an exemption is appropriate under s. 30.12
15 (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r) or whether a general permit is
16 appropriate under s. 30.206 (3) or (3r), any employee or other representative of the
17 department, upon presenting his or her credentials, may enter the site and inspect
18 any property on the site.

19 (3) The department shall provide reasonable advance notice, before entering
20 the site and inspecting the property.

21 (4) If the owner of the site refuses to give consent for an entry and inspection
22 to determine whether authorization to proceed under a general permit is appropriate
23 under s. 30.206 (3r), the department may require an individual permit for the
24 activity.

1 ***-3881/P6.158*** ***-3599/P3.144*** **SECTION 158.** 30.298 (3) of the statutes is
2 amended to read:

3 30.298 (3) Any person who violates a general permit under s. 30.206 shall
4 forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not
5 less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or
6 subsequent time.

7 ***-3881/P6.159*** ***-3599/P3.146*** **SECTION 159.** 84.18 (6) of the statutes is
8 amended to read:

9 84.18 (6) **EXECUTION AND CONTROL OF WORK.** Subject to s. ~~30.12(4)~~ 30.2022 and
10 the control exercised by the United States, the construction under this section of any
11 local bridge project shall be wholly under the supervision and control of the
12 department. The secretary shall make and execute all contracts and have complete
13 supervision over all matters pertaining to such construction and shall have the
14 power to suspend or discontinue proceedings or construction relative to any bridge
15 project at any time in the event any county, city, village or town fails to pay the
16 amount required of it for any project eligible for construction under this section, or
17 if the secretary determines that sufficient funds to pay the state's part of the cost of
18 such bridge project are not available. All moneys provided by counties, cities,
19 villages and towns shall be deposited in the state treasury, when required by the
20 secretary, and paid out on order of the secretary. Any of the moneys deposited for a
21 project eligible for construction under this section which remain in the state treasury
22 after the completion of the project shall be repaid to the respective county, city, village
23 or town in proportion to the amount each deposited.

24 ***-3880/P3.1*** **SECTION 160.** 227.135 (1) (f) of the statutes is created to read:

1 227.135 (1) (f) A summary and preliminary comparison of any existing or
2 proposed federal regulation that is intended to address the activities to be regulated
3 by the rule.

4 ***-3880/P3.2*** SECTION 161. 227.137 of the statutes is created to read:

5 **227.137 Economic impact reports of proposed rules.** (1) In this section,
6 “agency” means the departments of agriculture, trade, and consumer protection;
7 commerce; natural resources; transportation; and workforce development.

8 (2) After an agency publishes a statement of the scope of a proposed rule under
9 s. 227.135, and before the agency submits the proposed rule to the legislative council
10 for review under s. 227.15, a municipality, an association that represents a farm,
11 labor, business, or professional group, or 5 or more persons that would be directly and
12 uniquely affected by the proposed rule may submit a petition to the department of
13 administration asking that the secretary of administration direct the agency to
14 prepare an economic impact report for the proposed rule. The agency shall prepare
15 an economic impact report before submitting the proposed rule to the legislative
16 council staff under s. 227.15 if the secretary of administration directs the agency to
17 prepare that report. The secretary of administration may direct the agency to
18 prepare an economic impact report for the proposed rule before submitting the
19 proposed rule to the legislative council staff under s. 227.15. The secretary of
20 administration shall direct the agency to prepare an economic impact report for the
21 proposed rule before submitting the proposed rule to the legislative council staff
22 under s. 227.15 if the secretary determines that all of the following apply:

23 (a) The petition was submitted to the department of administration no later
24 than 90 days after the publication of the statement of the scope of the proposed rule

1 under s. 227.135 (3) or no later than 10 days after publication of the notice for a public
2 hearing under s. 227.17, whichever is earlier.

3 (b) The proposed rule would cost affected persons \$20 million or more during
4 each of the first 5 years after the rule's implementation to comply with the rule, or
5 the rule would adversely affect in a material way the economy, a sector of the
6 economy, productivity, competition, jobs, the environment, public health or safety, or
7 state, local, or tribal governments or communities.

8 (3) An economic impact report shall contain information on the effect of the
9 proposed rule on specific businesses, business sectors, and the state's economy.
10 When preparing the report, the agency shall solicit information and advice from the
11 department of commerce, and from governmental units, associations, businesses,
12 and individuals that may be affected by the proposed rule. The agency may request
13 information that is reasonably necessary for the preparation of an economic impact
14 report from other state agencies, governmental units, associations, businesses, and
15 individuals. The economic impact report shall include all of the following:

16 (a) An analysis and quantification of the problem, including any risks to public
17 health or the environment, that the rule is intending to address.

18 (b) An analysis and quantification of the economic impact of the rule, including
19 costs reasonably expected to be incurred by the state, governmental units,
20 associations, businesses, and affected individuals.

21 (c) An analysis of benefits of the rule, including how the rule reduces the risks
22 and addresses the problems that the rule is intended to address.

23 (4) The agency shall submit the economic impact report to the legislative
24 council staff, to the department of administration, and to the petitioner.

1 (5) This section does not apply to emergency rules promulgated under s.
2 227.24.

3 *~~3880/P3.3~~ SECTION 162. 227.138 of the statutes is created to read:

4 **227.138 Department of administration review of proposed rules. (1)**

5 In this section:

6 (a) “Agency” has the meaning given in s. 227.137 (1).

7 (b) “Department” means the department of administration.

8 (c) “Economic impact report” means a report prepared under s. 227.137.

9 (2) If an economic impact report will be prepared under s. 227.137 (2) regarding
10 a proposed rule, the department shall review the proposed rule and issue a report.
11 The agency shall not submit a proposed rule to the legislative council staff for review
12 under s. 227.15 (1) until the agency receives a copy of the department’s report and
13 the approval of the secretary of administration. The report shall include all of the
14 following findings:

15 (a) That the economic impact report and the analysis required under s. 227.137
16 (3) are supported by related documentation contained in the economic impact report.

17 (b) That the agency has statutory authority to promulgate the proposed rule.

18 (c) That the proposed rule, including any administrative requirements, is
19 consistent with and not duplicative of other state rules or federal regulations.

20 (d) That the agency has adequately documented the data, studies, other
21 sources of information, and analytical methodologies used in developing the
22 proposed rule.

23 (3) Before issuing a report under sub. (2), the department may return a
24 proposed rule to the agency for further consideration and revision with a written
25 explanation of why the proposed rule is returned. If the agency head disagrees with

1 the department's reasons for returning the proposed rule, the agency head shall so
2 notify the department in writing. The secretary of administration shall approve the
3 proposed rule when the agency has adequately addressed the issues raised during
4 the department's review of the rule.

5 ***-3880/P3.4* SECTION 163.** 227.14 (2) (a) of the statutes is amended to read:

6 227.14 (2) (a) An agency shall prepare in plain language an analysis of each
7 proposed rule, which shall be printed with the proposed rule when it is published or
8 distributed. The analysis shall include ~~a~~ all of the following:

9 1. A reference to each statute that the proposed rule interprets, each statute
10 that authorizes its promulgation, each related statute or related rule, and ~~a~~ an
11 explanation of the agency's authority to promulgate the proposed rule under those
12 statutes.

13 2. A brief summary of the proposed rule.

14 ***-3880/P3.5* SECTION 164.** 227.14 (2) (a) 3. of the statutes is created to read:

15 227.14 (2) (a) 3. A summary of and preliminary comparison with any existing
16 or proposed federal regulation that is intended to address the activities to be
17 regulated by the proposed rule.

18 ***-3880/P3.6* SECTION 165.** 227.14 (2) (a) 4. of the statutes is created to read:

19 227.14 (2) (a) 4. A comparison of similar rules in adjacent states.

20 ***-3880/P3.7* SECTION 166.** 227.14 (2) (a) 5. of the statutes is created to read:

21 227.14 (2) (a) 5. A summary of the factual data and analytical methodologies
22 that the agency used in support of the proposed rule and how any related findings
23 support the regulatory approach chosen for the proposed rule.

24 ***-3880/P3.8* SECTION 167.** 227.14 (2) (a) 6. of the statutes is created to read:

1 227.14 (2) (a) 6. Any analysis and supporting documentation that the agency
2 used in support of the agency's determination of the rule's effect on small businesses
3 under s. 227.114 or that was used when the agency prepared an economic impact
4 report under s. 227.137 (3).

5 *~~3880/P3.9~~* SECTION 168. 227.14 (4) (b) 3. of the statutes is created to read:

6 227.14 (4) (b) 3. For rules that the agency determines may have a significant
7 fiscal effect on the private sector, the anticipated costs that will be incurred by the
8 private sector in complying with the rule.

9 *~~3880/P3.10~~* SECTION 169. 227.19 (3) (intro.) of the statutes is amended to
10 read:

11 227.19 (3) FORM OF REPORT. (intro.) The report required under sub. (2) shall be
12 in writing and shall include the proposed rule in the form specified in s. 227.14 (1),
13 the material specified in s. 227.14 (2) to (4), a copy of any economic impact report
14 prepared by the agency under s. 227.137, a copy of ^{any} ~~the~~ report prepared by the
15 department of administration under s. 227.138, a copy of any recommendations of
16 the legislative council staff, and an analysis. The analysis shall include:

17 *~~3880/P3.11~~* SECTION 170. 227.19 (3) (a) of the statutes is amended to read:

18 227.19 (3) (a) A detailed statement explaining the need for ~~for~~ basis and purpose
19 of the proposed rule, including how the proposed rule advances relevant statutory
20 goals or purposes.

21 *~~3880/P3.12~~* SECTION 171. 227.19 (3) (b) of the statutes is amended to read:

22 227.19 (3) (b) ~~An~~ A summary of public comments to the proposed rule and the
23 agency's response to those comments, and an explanation of any modification made
24 in the proposed rule as a result of public comments or testimony received at a public
25 hearing.

1 ***-3880/P3.13*** **SECTION 172.** 227.19 (3) (cm) of the statutes is created to read:
2 227.19 (3) (cm) Any changes to the analysis prepared under s. 227.14 (2) or the
3 fiscal estimate prepared under s. 227.14 (4).

4 ***-3880/P3.14*** **SECTION 173.** 227.43 (1g) of the statutes is created to read:
5 227.43 (1g) The administrator of the division of hearings and appeals shall
6 establish a system for assigning hearing examiners to preside over any hearing
7 under this section. The system shall ensure, to the extent practicable, that hearing
8 examiners are assigned to different subjects on a rotating basis. The system may
9 include the establishment of pools of examiners responsible for certain subjects.

10 ***-3880/P3.15*** **SECTION 174.** 227.44 (2) (d) of the statutes is created to read:
11 227.44 (2) (d) The name and title of the person who will conduct the hearing.

12 ***-3880/P3.16*** **SECTION 175.** 227.46 (1) (intro.) of the statutes is amended to
13 read:

14 227.46 (1) (intro.) Except as provided under s. 227.43 (1), an agency may
15 designate an official of the agency or an employee on its staff or borrowed from
16 another agency under s. 20.901 or 230.047 as a hearing examiner to preside over any
17 contested case. In hearings under s. 19.52, a reserve judge shall be appointed. A
18 hearing examiner does not have authority to address whether a statute or
19 administrative rule is constitutional. Subject to rules of the agency, examiners
20 presiding at hearings may:

21 ***-3880/P3.17*** **SECTION 176.** 227.483 of the statutes is created to read:

22 **227.483 Costs upon frivolous claims.** (1) If a hearing examiner finds, at
23 any time during the proceeding, that an administrative hearing commenced or
24 continued by a petitioner or a claim or defense used by a party is frivolous, the

1 hearing examiner shall award the successful party his or her costs, as determined
2 under s. 814.04, and reasonable attorney fees.

3 (2) If the costs and fees awarded under sub. (1) are awarded against the party
4 other than a public agency, those costs may be assessed fully against either the party
5 or the attorney representing the party or may be assessed so that the party and the
6 attorney each pay a portion of the costs and fees.

7 (3) To find a petition for a hearing or a claim or defense to be frivolous under
8 sub. (1), the hearing examiner must find at least one of the following:

9 (a) That the petition, claim, or defense was commenced, used, or continued in
10 bad faith, solely for purposes of harassing or maliciously injuring another.

11 (b) That the party or the party's attorney knew, or should have known, that the
12 petition, claim, or defense was without any reasonable basis in law or equity and
13 could not be supported by a good faith argument for an extension, modification, or
14 reversal of existing law.

15 ***-3880/P3.18* SECTION 177.** 227.53 (1) (a) 3. of the statutes is amended to read:

16 227.53 (1) (a) 3. If the petitioner is a resident, the proceedings shall be held in
17 the circuit court for the county where the petitioner resides, except that if the
18 petitioner is an agency, the proceedings shall be in the circuit court for the county
19 where the respondent resides and except as provided in ss. 73.0301 (2) (b) 2., 77.59
20 (6) (b), 182.70 (6), and 182.71 (5) (g). ~~The proceedings shall be in the circuit court for~~
21 ~~Dane County if~~ If the petitioner is a nonresident, the proceedings shall be held in the
22 county where the property affected by the decision is located or, if no property is
23 affected, in the county where the dispute arose. If all parties stipulate and the court
24 to which the parties desire to transfer the proceedings agrees, the proceedings may
25 be held in the county designated by the parties. If 2 or more petitions for review of

1 the same decision are filed in different counties, the circuit judge for the county in
2 which a petition for review of the decision was first filed shall determine the venue
3 for judicial review of the decision, and shall order transfer or consolidation where
4 appropriate.

5 ***-3881/P6.160* *-3599/P3.147* SECTION 178.** 236.16 (3) (d) (intro.) of the
6 statutes is amended to read:

7 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public
8 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may
9 petition the city, village, town or county that owns the public access to construct
10 shoreline erosion control measures. Subject to par. (e), the city, village, town or
11 county shall construct the requested shoreline erosion control measures or request
12 the department of natural resources to determine the need for shoreline erosion
13 control measures. Upon receipt of a request under this paragraph from a city, village,
14 town or county, the department of natural resources shall follow the notice and
15 hearing procedures in s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5). Subject to par. (e), the city,
16 village, town or county shall construct shoreline erosion control measures as
17 required by the department of natural resources if the department of natural
18 resources determines all of the following:

19 ***-3879/P4.1* *-3455/P2.4* SECTION 179.** 285.11 (9) of the statutes is amended
20 to read:

21 285.11 (9) Prepare and adopt minimum standards for the emission of mercury
22 compounds or metallic mercury into the air, consistent with s. 285.27 (2) (b).

23 ***-3879/P4.2* *-3455/P2.6* SECTION 180.** 285.14 of the statutes is created to
24 read:

1 **285.14 State implementation plans. (1) CONTENT.** The department may not
2 submit a control measure or strategy to the federal environmental protection agency
3 for inclusion in a state implementation plan under 42 USC 7410 unless the
4 department has promulgated the control measure or strategy as a rule.

5 **(2) REVIEW BY STANDING COMMITTEES.** At least 60 days before the department is
6 required to submit a state implementation plan to the federal environmental
7 protection agency, the department shall prepare, and provide to the standing
8 committees of the legislature with jurisdiction over environmental matters, under
9 s. 13.172 (3) a report that describes the proposed plan and contains all of the
10 supporting documents that the department intends to submit with the plan. The
11 department shall also submit to the revisor of statutes for publication in the
12 administrative register a notice of availability of the report. If, within 30 days after
13 the department provides the report, the chairperson of a standing committee to
14 which the report was provided submits written comments on the report to the
15 department, the secretary shall respond to the chairperson in writing within 15 days
16 of receipt of the comments. This subsection does not apply to a modification to a state
17 implementation plan relating to an individual source.

18 *~~3879/P4.3~~* *~~3455/P2.7~~* **SECTION 181.** 285.17 (2) of the statutes is
19 renumbered 285.17 (2) (a).

20 *~~3879/P4.4~~* **SECTION 182.** 285.17 (2) (b) of the statutes is created to read:

21 285.17 (2) (b) Before issuing an operation permit that contains a monitoring
22 requirement relating to the emissions from an air contaminant source, the
23 department shall notify the applicant of the proposed monitoring requirement and
24 give the applicant the opportunity to demonstrate to the administrator of the
25 division of the department that administers this chapter that the proposed

1 monitoring requirement is unreasonable considering, among other factors,
2 monitoring requirements imposed on similar air contaminant sources by other
3 states. If the administrator determines that the monitoring requirement is
4 unreasonable, the department may not impose the monitoring requirement. If the
5 administrator determines that the monitoring requirement is reasonable, the
6 applicant may obtain a review of that determination by the secretary. The secretary
7 may not delegate this function to another person. If the secretary determines that
8 the monitoring requirement is unreasonable, the department may not impose the
9 monitoring requirement.

10 ***-3879/P4.5* SECTION 183.** 285.21 (1) (b) of the statutes is renumbered 285.21
11 (1) (b) (intro.) and amended to read:

12 285.21 (1) (b) *Standard to protect health or welfare.* (intro.) If an ambient air
13 quality standard for any air contaminant is not promulgated under section 109 of the
14 federal clean air act, the department may promulgate an ambient air quality
15 standard if the department finds that the standard is needed to provide adequate
16 protection for public health or welfare. The department may not make this finding
17 for an air contaminant unless the finding is supported with written documentation
18 that includes all of the following:

19 ***-3879/P4.6* SECTION 184.** 285.21 (1) (b) 1. to 4. of the statutes are created to
20 read:

21 285.21 (1) (b) 1. A public health risk assessment that characterizes the types
22 of stationary sources in this state that are known to emit the air contaminant and
23 the population groups that are potentially at risk from the emissions.

1 2. An analysis showing that members of population groups are subjected to
2 levels of the air contaminant that are above recognized environmental health
3 standards.

4 3. An evaluation of options for managing the risks caused by the air
5 contaminant considering risks, costs, economic impacts, feasibility, energy, safety,
6 and other relevant factors, and a finding that the proposed ambient air quality
7 standard reduces risks in the most cost-effective manner practicable.

8 4. A comparison of regulatory programs reasonably expected to meet the
9 proposed ambient air quality standard with ambient air quality regulatory programs
10 in Illinois, Indiana, Michigan, Minnesota, or Ohio.

11 ***-3879/P4.7*** ***-3455/P2.12*** SECTION 185. 285.21 (4) of the statutes is
12 amended to read:

13 285.21 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the ambient air
14 increment or the ambient air quality standards in effect on April 30, 1980, under the
15 federal clean air act are ~~relaxed~~ modified, the department shall alter the
16 corresponding state standards unless it finds that the ~~relaxed~~ modified standards
17 would not provide adequate protection for public health and welfare. The
18 department may not make this finding for an ambient air quality standard unless
19 the finding is supported with the written documentation required under sub. (1) (b)
20 1. to 4.

21 ***-3879/P4.8*** ***-3455/P2.13*** SECTION 186. 285.23 (1) of the statutes is
22 amended to read:

23 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule
24 procedures and criteria to identify a nonattainment area and to reclassify a
25 nonattainment area as an attainment area. After the effective date of this subsection

1 [revisor inserts date], the department may not identify a county as part of a
2 nonattainment area or recommend that a county be designated as part of a
3 nonattainment area under the federal clean air act if the concentration of an air
4 contaminant in the atmosphere does not exceed an ambient air quality standard,
5 unless under the federal clean air act the county is required to be designated as part
6 of a nonattainment area.

7 ***-3879/P4.9* SECTION 187.** 285.23 (2) of the statutes is amended to read:

8 285.23 (2) DOCUMENTS. The department shall issue documents from time to
9 time which define or list specific nonattainment areas or recommend that areas be
10 designated as nonattainment areas under the federal clean air act based upon the
11 procedures and criteria promulgated under sub. (1). Notwithstanding ss. 227.01 (13)
12 and 227.10 (1), documents issued under this subsection are not rules.

13 ***-3879/P4.10* *-3455/P2.15* SECTION 188.** 285.23 (6) of the statutes is
14 created to read:

15 285.23 (6) REPORT TO STANDING COMMITTEES. Before the department issues
16 documents under sub. (2) and at least 60 days before the governor is required to make
17 a submission on a nonattainment designation under 42 USC 7407 (d) (1) (A), the
18 department shall prepare, and provide to the standing committees of the legislature
19 with jurisdiction over environmental matters under s. 13.172 (3), a report that
20 contains a description of any area proposed to be identified as a nonattainment area
21 and supporting documentation. The department shall also submit to the revisor of
22 statutes for publication in the administrative register a notice of availability of the
23 report. If, within 30 days after the department submits the report, the chairperson
24 of a standing committee to which the report was provided submits written comments

1 on the report to the department, the secretary shall respond to the chairperson in
2 writing within 15 days of receipt of the comments.

3 ***-3879/P4.11* *-3455/P2.16* SECTION 189.** 285.27 (1) (a) of the statutes is
4 amended to read:

5 285.27 (1) (a) *Similar to federal standard.* If a standard of performance for new
6 stationary sources is promulgated under section 111 of the federal clean air act, the
7 department shall promulgate by rule a similar emission standard, including
8 administrative requirements that are consistent with the federal administrative
9 requirements, but this standard may not be more restrictive in terms of emission
10 limitations than the federal standard except as provided under sub. (4).

11 ***-3879/P4.12* *-3455/P2.17* SECTION 190.** 285.27 (2) (a) of the statutes is
12 amended to read:

13 285.27 (2) (a) *Similar to federal standard.* If an emission standard for a
14 hazardous air contaminant is promulgated under section 112 of the federal clean air
15 act, the department shall promulgate by rule a similar standard, including
16 administrative requirements that are consistent with the federal administrative
17 requirements, but this standard may not be more restrictive in terms of emission
18 limitations than the federal standard except as provided under sub. (4).

19 ***-3879/P4.13* *-3455/P2.18* SECTION 191.** 285.27 (2) (b) of the statutes is
20 renumbered 285.27 (2) (b) (intro.) and amended to read:

21 285.27 (2) (b) *Standard to protect public health or welfare.* (intro.) If an
22 emission standard for a hazardous air contaminant is not promulgated under section
23 112 of the federal clean air act, the department may promulgate an emission
24 standard for the hazardous air contaminant if the department finds the standard is
25 needed to provide adequate protection for public health or welfare. The department

1 may not make this finding for a hazardous air contaminant unless the finding is
2 supported with written documentation that includes all of the following:

3 *~~3879/P4.14~~* *~~3455/P2.19~~* SECTION 192. 285.27 (2) (b) 1. to 4. of the
4 statutes are created to read:

5 285.27 (2) (b) 1. A public health risk assessment that characterizes the types
6 of stationary sources in this state that are known to emit the hazardous air
7 contaminant and the population groups that are potentially at risk from the
8 emissions.

9 2. An analysis showing that members of population groups are subjected to
10 levels of the hazardous air contaminant that are above recognized environmental
11 health standards.

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

16 4. A comparison of the requirements related to emission standards for
17 hazardous air contaminants in this state to hazardous air contaminant regulatory
18 programs in Illinois, Indiana, Michigan, Minnesota, and Ohio.

19 *~~3879/P4.15~~* *~~3455/P2.20~~* SECTION 193. 285.27 (2) (d) of the statutes is
20 created to read:

21 285.27 (2) (d) *Emissions regulated under federal law.* Emissions limitations
22 promulgated under par. (b) and related control requirements do not apply to
23 hazardous air contaminants emitted by emissions units, operations, or activities
24 that are regulated by an emission standard promulgated under the federal clean air
25 act, including a hazardous air contaminant that is regulated under the federal clean

1 air act by virtue of regulation of another substance as a surrogate for the hazardous
2 air contaminant or by virtue of regulation of a species or category of hazardous air
3 contaminants that includes the hazardous air contaminant.

4 *~~3879/P4.16~~* *~~3455/P2.21~~* SECTION 194. 285.27 (4) of the statutes is
5 amended to read:

6 285.27 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the standards of
7 performance for new stationary sources or the emission standards for hazardous air
8 contaminants under the federal clean air act are relaxed, the department shall alter
9 the corresponding state standards unless it finds that the relaxed standards would
10 not provide adequate protection for public health and welfare. The department may
11 not make this finding for an emission standard for a hazardous air contaminant
12 unless the finding is supported with the written documentation required under sub.
13 (2) (b) 1. to 4. This subsection applies to state standards of performance for new
14 stationary sources and emission standards for hazardous air contaminants in effect
15 on April 30, 1980, if the relaxation in the corresponding federal standards occurs
16 after April 30, 1980.

17 *~~3879/P4.17~~* *~~3455/P2.22~~* SECTION 195. 285.60 (1) (a) 1. of the statutes is
18 amended to read:

19 285.60 (1) (a) 1. Except as provided in sub. (5m) or (6), no person may commence
20 construction, reconstruction, replacement or modification of a stationary source
21 unless the person has a construction permit from the department.

22 *~~3879/P4.18~~* *~~3455/P2.25~~* SECTION 196. 285.60 (2g) of the statutes is
23 created to read:

24 285.60 (2g) REGISTRATION PERMITS. (a) *Rules*. Subject to sub. (8), the
25 department shall promulgate rules specifying a simplified process under which the

1 department may issue a registration permit authorizing construction or operation
2 or both for a stationary source with low actual emissions if the owner or operator
3 provides to the department, on a form prescribed by the department, sufficient
4 information to show that the source qualifies for a registration permit. In the rules,
5 the department shall include criteria for identifying categories of sources the owners
6 or operators of which may elect to obtain registration permits and general
7 requirements applicable to sources that qualify for registration permits.

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

12 1. Written notice of the department's determination that the source qualifies
13 for a registration permit.

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

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

19 ***-3879/P4.19* *-3455/P2.26* SECTION 197.** 285.60 (2m) of the statutes is
20 repealed.

21 ***-3879/P4.20* *-3455/P2.27* SECTION 198.** 285.60 (3) of the statutes is
22 repealed and recreated to read:

23 285.60 (3) GENERAL PERMITS. (a) *Rules.* The department shall promulgate rules
24 for the issuance of general permits authorizing construction or operation or both for
25 similar stationary sources. In the rules, the department shall specify criteria for

1 identifying categories of sources for which the department may issue general permits
2 and general requirements applicable to sources that qualify for general permits.

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

8 1. Written notice of the department's determination that the source qualifies
9 for coverage under the general permit.

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

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

15 *~~3879/P4.21~~* *~~3455/P2.28~~* SECTION 199. 285.60 (5m) of the statutes is
16 created to read:

17 285.60 (5m) WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS. (a) Subject to sub.
18 (8), the department shall allow a person to commence construction, reconstruction,
19 replacement, or modification of a stationary source prior to the issuance of a
20 construction permit upon a showing that commencing construction, reconstruction,
21 replacement, or modification prior to the issuance of the permit is necessary to avoid
22 undue hardship.

23 (b) Subject to sub. (8), the department may allow a person to commence
24 construction, reconstruction, replacement, or modification of a stationary source

1 prior to the issuance of a construction permit on a case-by-case basis or on bases
2 specified in a rule.

3 (c) The department shall act on a waiver request under this subsection within
4 15 days after it receives the request.

5 ***-3879/P4.22* SECTION 200.** 285.60 (6) of the statutes is renumbered 285.60
6 (6) (a).

7 ***-3879/P4.23* *-3455/P2.29* SECTION 201.** 285.60 (6) (b) of the statutes is
8 created to read:

9 285.60 (6) (b) Subject to sub. (8), the department shall, by rule, exempt minor
10 sources from the requirement to obtain a construction permit and an operation
11 permit if the emissions from the sources do not present a significant hazard to public
12 health, safety or welfare or to the environment.

13 ***-3879/P4.24* *-3455/P2.32* SECTION 202.** 285.60 (8) of the statutes is
14 created to read:

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

18 ***-3879/P4.25* *-3455/P2.33* SECTION 203.** 285.60 (9) of the statutes is
19 created to read:

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

1 criteria for a registration permit, a general permit, or an exemption. If the type of
2 source meets the applicable criteria, the department shall, within 365 days after
3 receiving the petition, issue the registration permit or general permit or, for an
4 exemption, shall submit to the legislative council staff under s. 227.15 (1) in proposed
5 form any necessary rules or take any other action that is necessary provide the
6 exemption.

7 ***-3879/P4.26* *-3455/P2.34* SECTION 204.** 285.60 (10) of the statutes is
8 created to read:

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

18 ***-3879/P4.27* *-3455/P2.36* SECTION 205.** 285.61 (2) of the statutes is
19 renumbered 285.61 (2) (a) and amended to read:

20 285.61 (2) (a) Request for additional information. Within 20 days after receipt
21 of the application the department shall indicate provide written notice to the
22 applicant describing specifically all of the plans, specifications and any other
23 information necessary to determine if the proposed construction, reconstruction,
24 replacement or modification will meet the requirements of this chapter and s. 299.15
25 and rules promulgated under this chapter and s. 299.15. If the department requests

1 additional information under this paragraph, the department shall notify the
2 applicant, within 15 days after receiving additional information from the applicant,
3 whether that additional information satisfies the department's request.

4 ***-3879/P4.28*** ***-3455/P2.37*** **SECTION 206.** 285.61 (2) (b) of the statutes is
5 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 does not provide written notice to an applicant within the time
10 limit in par. (a), 20 days after receipt of the application. This paragraph does not
11 prevent the department from requesting additional information from an applicant
12 after the time limit in par. (a).

13 ***-3879/P4.29*** ***-3455/P2.38*** **SECTION 207.** 285.61 (3) (intro.) of the statutes
14 is amended to read:

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

21 ***-3879/P4.30*** **SECTION 208.** 285.61 (3) (a) of the statutes is amended to read:

22 285.61 (3) (a) *Major source construction permits.* For construction permits for
23 major sources, within ~~120~~ 90 days.

24 ***-3879/P4.31*** ***-3455/P2.43*** **SECTION 209.** 285.61 (7) (a) of the statutes is
25 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 days after the deadline for requesting a hearing if it deems
8 that there is a significant public interest in holding a hearing.

9 ***-3879/P4.32*** ***-3455/P2.47*** SECTION 210. 285.61 (10) of the statutes is
10 created to read:

11 285.61 (10) EXTENSIONS. Upon agreement between the department and an
12 applicant, the department shall extend any time limit applicable to the department
13 under this section. The department may not require an applicant to agree to extend
14 a time period as a condition of approving an application.

15 ***-3879/P4.33*** ***-3455/P2.48*** SECTION 211. 285.61 (11) of the statutes is
16 created to read:

17 285.61 (11) DELAY IN ISSUING PERMITS. (a) Subject to sub. (10), if the department
18 fails to act on an application for a construction permit within the time limit in sub.
19 (8) (b), the department shall include in a report the reasons for the delay in acting
20 on the application, including the names of the department's employees responsible
21 for review of the application, and recommendations for how to avoid similar delays
22 in the future. The department shall make reports under this paragraph available
23 to the public, place a prominent notice of the reports on the department's Internet
24 site, and submit the reports to the joint committee for the review of administrative
25 rules on a quarterly basis.

1 (b) If the department fails to act on an application for a construction permit
2 within the time limit in sub. (8) (b) and the applicant has not agreed to an extension
3 under sub. (10), the department shall refund the fee under s. 285.69 (1) (a) that was
4 paid by the applicant.

5 *~~3879/P4.34~~* *~~3455/P2.49~~* SECTION 212. 285.62 (1) of the statutes is
6 amended to read:

7 285.62 (1) ~~APPLICANT NOTICE~~ APPLICATION REQUIRED. A person who is required
8 to obtain an operation permit for a stationary source shall apply to the department
9 for the permit on or before the operation permit application date specified under sub.
10 (11) (b). The department shall specify by rule the content of applications under this
11 subsection. If required by the federal clean air act, the department shall provide a
12 copy of the complete application to the federal environmental protection agency. ~~The~~
13 ~~department may not accept an application submitted to the department before~~
14 ~~November 15, 1992, as an application under this subsection.~~

15 *~~3879/P4.35~~* *~~3455/P2.50~~* SECTION 213. 285.62 (2) of the statutes is
16 renumbered 285.62 (2) (a) and amended to read:

17 285.62 (2) (a) Request for additional information. Within 20 days after receipt
18 of the application the department shall ~~indicate~~ provide written notice to the
19 applicant describing specifically any additional information required under sub. (1)
20 necessary to determine if the source, upon issuance of the permit, will meet the
21 requirements of this chapter and s. 299.15 and rules promulgated under this chapter
22 and s. 299.15. If the department requests additional information under this
23 subsection, the department shall notify the applicant, within 15 days after receiving
24 additional information from the applicant, whether that additional information
25 satisfies the department's request.

1 ***-3879/P4.36*** **SECTION 214.** 285.62 (2) (b) of the statutes is created to read:

2 285.62 (2) (b) *When application is considered to be complete.* For the purposes
3 of the time limit in sub. (7) (b), an application is considered to be complete when the
4 applicant provides the information specified in the written notice under par. (a), or,
5 if the department does not provide written notice to an applicant within the period
6 specified under par. (a), 20 days after receipt of the application. This paragraph does
7 not prevent the department from requesting additional information from an
8 applicant after the period specified under par. (a).

9 ***-3879/P4.37*** ***-3455/P2.54*** **SECTION 215.** 285.62 (5) (a) of the statutes is
10 amended to read:

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

20 ***-3879/P4.38*** ***-3455/P2.55*** **SECTION 216.** 285.62 (6) (c) 1. of the statutes is
21 amended to read:

22 285.62 (6) (c) 1. If the department receives an objection from the federal
23 environmental protection agency under this subsection, the department may not
24 issue the operation permit unless the department revises the proposed operation
25 permit as necessary to satisfy the objection.

1 *~~3879/P4.39~~* SECTION 217. 285.62 (7) (b) of the statutes is amended to read:

2 285.62 (7) (b) The department shall approve or deny the operation permit
3 application for a new source or modified source. The department shall issue the
4 operation permit for a new source or modified source if the criteria established under
5 ss. 285.63 and 285.64 are met. The department shall issue an operation permit for
6 a new source or modified source or deny the application within 180 days after the
7 application is considered to be complete under sub. (2) (b) or after the permit
8 applicant submits to the department the results of all equipment testing and
9 emission monitoring required under the construction permit, whichever is later.

10 *~~3879/P4.40~~* *~~3455/P2.58~~* SECTION 218. 285.62 (8) of the statutes is
11 renumbered 285.62 (8) (a).

12 *~~3879/P4.41~~* *~~3455/P2.59~~* SECTION 219. 285.62 (8) (b) of the statutes is
13 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 *~~3879/P4.42~~* *~~3455/P2.60~~* SECTION 220. 285.62 (9) (b) of the statutes is
21 repealed and recreated to read:

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

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

6 ***-3879/P4.43* *-3455/P2.61* SECTION 221.** 285.62 (12) of the statutes is
7 created to read:

8 285.62 (12) EXTENSIONS. Upon agreement between the department and an
9 applicant, the department shall extend any time limit applicable to the department
10 under this section. The department may not require an applicant to agree to extend
11 a time period as a condition of approving an application.

12 ***-3879/P4.44* *-3455/P2.62* SECTION 222.** 285.63 (1) (d) of the statutes is
13 amended to read:

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

21 ***-3879/P4.45* *-3455/P2.64* SECTION 223.** 285.66 (2) of the statutes is
22 renumbered 285.66 (2) (a).

23 ***-3879/P4.46* *-3455/P2.65* SECTION 224.** 285.66 (2) (b) of the statutes is
24 created to read:

1 285.66 (2) (b) Notwithstanding par. (a), the department may not specify that
2 coverage under a general permit under s. 285.60 (3) expires except as follows:

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

5 2. The department may specify a term of 5 years or longer for coverage under
6 a general permit if the department finds that expiring coverage would significantly
7 improve the likelihood of continuing compliance with applicable requirements
8 compared to coverage that does not expire.

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

11 *~~-3879/P4.47~~* *~~-3455/P2.66~~* SECTION 225. 285.66 (3) (a) of the statutes is
12 amended to read:

13 285.66 (3) (a) A permittee shall apply for renewal of an operation permit at
14 least ~~12~~ 6 months before the operation permit expires. The permittee shall include
15 any new or revised information needed to process the application for renewal.

16 *~~-3879/P4.48~~* *~~-3455/P2.69~~* SECTION 226. 285.81 (1) (intro.) of the statutes
17 is amended to read:

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

23 *~~-3879/P4.49~~* *~~-3455/P2.70~~* SECTION 227. 285.81 (1m) of the statutes is
24 created to read:

1 285.81 (1m) EFFECT OF A CHALLENGE. If a permit holder or applicant seeks a
2 hearing challenging part of a permit or a condition or requirement in a permit under
3 sub. (1), the remainder of the permit shall become effective and the permit holder or
4 applicant may, at its discretion, begin the activity for which the application was
5 submitted or for which the permit was issued.

6 *~~3881/P6.161~~* *~~3599/P3.149~~* **SECTION 228.** 299.05 (2) (a) of the statutes is
7 amended to read:

8 299.05 (2) (a) Permits, contracts, and other approvals under ss. 30.10 to 30.205
9 and 30.21 to 30.27.

10 *~~3879/P4.50~~* **SECTION 229.** 299.05 (2) (d) of the statutes is repealed.

11 *~~3879/P4.51~~* *~~3380/P5.54~~* **SECTION 230. Nonstatutory provisions.**

12 (1) REPORT ON AIR PERMIT STREAMLINING EFFORTS.

13 (a) The department of natural resources, in consultation with owners and
14 operators of stationary sources of air pollution, shall develop a report that contains
15 all of the following:

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

19 2. Recommendations, and related proposed rule revisions, for expanding
20 exemptions under section 285.60 (6) of the statutes, as affected by this act,
21 establishing registration permits under section 285.60 (2g) of the statutes, as created
22 by this act, expanding the use of general permits under section 285.60 (3) of the
23 statutes, as affected by this act, issuing construction permit waivers under section
24 285.60 (5m) of the statutes, as created by this act, and taking other actions under

1 section 285.60 (10) of the statutes, as created by this act, including consolidating the
2 permits for sources at one facility into one permit.

3 3. A schedule for providing additional reports containing recommendations,
4 and related rule revisions, for expanding exemptions under section 285.60 (6) of the
5 statutes, as affected by this act, expanding the use of registration permits under
6 section 285.60 (2g) of the statutes, as created by this act, expanding the use of general
7 permits under section 285.60 (3) of the statutes, as affected by this act, expanding
8 the issuance of construction permit waivers under section 285.60 (5m) of the
9 statutes, as created by this act, and taking other actions under section 285.60 (10)
10 of the statutes, as created by this act, including consolidating the permits for sources
11 at one facility into one permit.

12 4. A description of requirements in the federal clean air act that limit the
13 department's ability to expand exemptions under section 285.60 (6) of the statutes,
14 as affected by this act, expand the use of registration permits under section 285.60
15 (2g) of the statutes, as created by this act, expand the use of general permits under
16 section 285.60 (3) of the statutes, as affected by this act, expand the issuance of
17 construction permit waivers under section 285.60 (5m) of the statutes, as created by
18 this act, and take other actions under section 285.60 (10) of the statutes, as created
19 by this act, and recommendations on how these limitations might be overcome.

20 (b) The department of natural resources shall submit the report under
21 paragraph (a) to the legislature in the manner provided under s. 13.172 (2) no later
22 than the first day of the 7th month beginning after the effective date of this
23 paragraph.

24 (2) REPORT ON CLEAN AIR ACT STATE IMPLEMENTATION PLANS. No later than the first
25 day of the 13th month beginning after the effective date of this subsection, the

1 department of natural resources shall submit to the standing committees of the
2 legislature with jurisdiction over environmental matters a report that contains all
3 of the following:

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

9 (b) Recommendations for priorities for revisions of state implementation plans
10 to remove rules and other requirements that may not have been necessary to obtain
11 federal environmental protection agency approval.

12 (3) **REPORT ON EMISSION MONITORING PRACTICES.** The department of natural
13 resources, in consultation with representatives of industry and others, shall develop
14 a report that identifies best practices for emissions monitoring required under
15 section 285.17 (2) of the statutes, as affected by this act, and related proposed rule
16 revisions, to reduce overall permitting costs and approval times and to minimize
17 inconsistencies in monitoring requirements within this state and with monitoring
18 requirements imposed by other states and the federal environmental protection
19 agency. The department shall submit the report under this subsection to the
20 standing committees of the legislature with jurisdiction over environmental matters
21 no later than the first day of the 13th month beginning after the effective date of this
22 subsection.

23 (4) **REPORT ON APPLICATION REQUIREMENTS.** The department of natural resources,
24 in consultation with representatives of industry and others, shall develop a report
25 that identifies information that the department will require in applications for air

1 pollution control permits, and related proposed rule revisions, to reduce overall
2 permitting costs and approval times and to minimize inconsistencies in application
3 requirements within this state and with application requirements imposed by other
4 states and the federal environmental protection agency. The department shall
5 submit the report under this subsection to the standing committees of the legislature
6 with jurisdiction over environmental matters no later than the first day of the 13th
7 month beginning after the effective date of this subsection.

8 ***-3879/P4.52* *-3380/P5.55* SECTION 231. Initial applicability.**

9 (1) PROCESSING OF AIR PERMITS. The treatment of sections 285.61 (3) (intro.) and
10 (a), (7) (a), and (11), 285.62 (5) (a), (7) (b), and (9) (b), and 285.66 (3) (a) of the statutes,
11 the renumbering and amendment of sections 285.61 (2) and 285.62 (2) of the statutes,
12 the creation of sections 285.61 (2) (b) and 285.62 (2) (b) of the statutes first apply to
13 applications submitted on the effective date of this subsection.

14 (2) REVIEW OF AIR POLLUTION CONTROL DECISIONS. The treatment of section 285.81
15 (1) (intro.) and (1m) of the statutes first applies to person who file petitions on the
16 effective date of this subsection.

17 ***-3881/P6.162* *-3380/P5.55* SECTION 232. Initial applicability.**

18 **Na 6** (1) ^{3K} CHAPTER 30 PROCEDURES.

19 (a) The treatment of sections 30.208 and 30.209 of the statutes first applies to
20 applications for individual permits that are submitted to the department of natural
21 resources on the effective date of this paragraph.

22 (b) The treatment of section 30.208 of the statutes first applies to applications
23 for contracts under section 30.20 of the statutes that are submitted to the
24 department of natural resources on the effective date of this paragraph.

25 (END)