

2003

Date (time) needed

Today

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BILL

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Use the appropriate components and routines developed for bills.

AN ACT ... [generate catalog] *to repeal* ... ; *to renumber* ... ; *to consolidate and renumber* ... ; *to renumber and amend* ... ; *to consolidate, renumber and amend* ... ; *to amend* ... ; *to repeal and recreate* ... ; and *to create* ... of the statutes; relating to: air pollution control.

Note

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

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

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

SECTION #.

1

ASSEMBLY BILL 655

SECTION 211

1 **SECTION 211.** 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 212.** 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16 **SECTION 213.** 285.11 (6) (a) and (b) of the statutes are repealed.

17 **SECTION 214.** 285.11 (9) of the statutes is amended to read:

18 285.11 (9) Prepare and adopt minimum standards for the emission of mercury
19 compounds or metallic mercury into the air, consistent with s. 285.27 (2) (b). ✓

20 **SECTION 215.** 285.11 (17) of the statutes is repealed and recreated to read:

21 285.11 (17) Promulgate rules that incorporate changes made by regulations of
22 the federal environmental protection agency governing review of modifications of
23 major sources under 42 USC 7470 to 7515, including regulations that were published
24 in the Federal Register on December 31, 2002, and October 27, 2003. The
25 department may not include in the rules any requirements that are inconsistent with

ASSEMBLY BILL 655

SECTION 215

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

SECTION 216. 285.14 of the statutes is created to read:

285.14 State implementation plans. (1) CONTENT. The department may

7 ~~not submit a control measure or strategy to the federal environmental protection agency~~
 8 ~~and include~~ in a state implementation plan under 42 USC 7410 ~~rules or~~
 9 ~~requirements that are necessary to obtain approval of the plan by the federal~~
 10 ~~environmental protection agency, including requirements that are necessary in~~
 11 ~~order to comply with the percentage reductions specified in 42 USC 7511a (b) (1) (A)~~

agency for inclusion

12 ~~unless the department has promulgated the control measure or~~
 13 ~~strategy as a rule~~

CS standing

(2) REVIEW BY COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. At least ⁶⁰ ~~30~~ days

14 before the department is required to submit a state implementation plan to the
 15 federal environmental protection agency, the department shall prepare and ~~submit~~
 16 ~~provide~~ the standing committees of the legislature with jurisdiction over environmental
 17 ~~a report to the joint committee for review of administrative rules~~ that describes the

matter

Insert 86-19

18 proposed plan and contains all of the supporting documents that the department
 19 intends to submit with the plan. If, within 30 days after the department ^{provides} ~~submits~~ the

under 5.13.172 (3)

20 report, the ~~chairperson~~ ^{a standing} of the ~~joint~~ committee ~~for review of administrative rules~~

21 ~~do not return~~ the report to the department with a written explanation of why the
 22 ~~committee is returning the report, the department may submit the plan. If, within~~
 23 ~~30 days after the department submits the report, the cochairpersons of the joint~~
 24 ~~committee for review of administrative rules return the report to the department,~~
 25 ~~with a written explanation of why the committee is returning the report, the~~

to which the report was provided submit written comments on

ASSEMBLY BILL 655

SECTION 216

1 ~~Department may not submit the plan until the committee agrees that the department~~
 2 ~~has adequately addressed the issues raised by the committee. If the secretary~~
 3 ~~disagrees with the committee's reasons for returning the report, the secretary shall~~ *Keep comma*
 4 ~~notify the committee in writing.~~ *respond to chairperson within 15 days of receipt of the comments* This subsection does not apply to a modification
 5 to a state implementation plan relating to an individual source.

6
 Inset
 87-6

SECTION 217. 285.17 (2) of the statutes is ~~amended to read~~ *renumbered 285.17(2)(a) ^*

285.17 (2) The department may, by rule or in an operation permit, require the
 8 owner or operator of an air contaminant source to monitor the emissions of the air
 9 contaminant source or to monitor the ambient air in the vicinity of the air
 10 contaminant source and to report the results of the monitoring to the department.
 11 The department may specify methods for conducting the monitoring and for
 12 analyzing the results of the monitoring. The department shall require the owner or
 13 operator of a major source to report the results of any required monitoring of
 14 emissions from the major source to the department no less often than every 6 months.
 15 The department may not include a monitoring requirement in an operation permit
 16 if the applicant demonstrates that the cost of compliance with the requirement would
 17 exceed the cost of compliance with monitoring requirements imposed on similar air
 18 contaminant sources by a state adjacent to this state or if the monitoring is not
 19 needed to provide assurance of compliance with requirements that apply to the air
 20 contaminant source, unless the monitoring is required under the federal clean air
 21 act.

22 **SECTION 218.** 285.21 (1) (a) (title) of the statutes is repealed.
 23 **SECTION 219.** 285.21 (1) (a) of the statutes is renumbered 285.21 (1) and
 24 amended to read:

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SECTION 219

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

5 **SECTION 220.** 285.21 (1) (b) of the statutes is repealed.

6 **SECTION 221.** 285.21 (2) of the statutes is amended to read:

7 285.21 (2) AMBIENT AIR INCREMENT. The department shall promulgate by rule
 8 ambient air increments for various air contaminants in attainment areas. The
 9 ambient air increments shall be consistent with and not more restrictive, either in
 10 terms of the concentration or the contaminants to which they apply, than ambient
 11 air increments under the federal clean air act ~~except as provided under sub. (4).~~

12 **SECTION 222.** 285.21 (4) of the statutes is 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 ^{PLAIN} relaxed ~~modified~~, the department shall alter the
 16 corresponding state standards ^{PLAIN} unless it finds that the relaxed standards would not
 17 provide adequate protection for public health and welfare ~~modified~~ ^{PLAIN}

18 **SECTION 223.** 285.23 (1) of the statutes is amended to read:

19 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule
 20 procedures and criteria to identify a nonattainment area and to reclassify a
 21 nonattainment area as an attainment area. ^{After the effective date of this subsection... (reviser}
 22 county as part of a nonattainment area if the concentration of an air contaminant ^{inserts}
 23 in the atmosphere does not exceed an ambient air quality standard, unless ^{date)}
 24 department is required under the federal clean air act to designate the county as part
 25 of a nonattainment area.

Inset
88-5

explain
Insert 88-17

or recommend that a county be designated as part of a nonattainment area under the federal clean air act

is required to be designated

ASSEMBLY BILL 655

SECTION 224

Under 5.13.172 (3)

Insert 89-1

1 SECTION 224. 285.23 (5) of the statutes is created to read:
 2 285.23 (5) PARTICULATE STANDARDS. The department may not identify an area
 3 as a nonattainment area based on the concentration in the atmosphere of particulate
 4 matter measured as total suspended particulates and shall redesignate as an
 5 attainment area any area identified as a nonattainment area if the only basis on
 6 which the area could be identified as a nonattainment area is the concentration in
 7 the atmosphere of particulate matter measured as total suspended particulates.

CS standing

SECTION 225. 285.23 (6) of the statutes is created to read:

9 285.23 (6) REPORT TO ~~THE~~ COMMITTEE ~~FOR REVIEW OF ADMINISTRATIVE RULES.~~

10 Before the department issues documents under sub. (2) and at least ~~90~~ 60 days before
 11 the governor is required to make a submission on a nonattainment designation
 12 ~~under 42 USC 7407 (d) (1) (A), the department shall prepare and submit a report~~ *provide to the standing committees of the legislature with jurisdiction over environmental matters*
 13 ~~the joint committee for review of administrative rules~~ that contains a description of

Insert 89-14

14 any area proposed to be identified as a nonattainment area and supporting
 15 documentation. ~~If the department has complied with sub. (4) and if, within 30 days~~
 16 ~~after the department submits the report, the cochairpersons of the joint committee~~
 17 ~~for review of administrative rules do not return the report to the department with~~
 18 ~~a written explanation of why the committee is returning the report, the department~~
 19 ~~may issue the documents under sub. (2) and the governor may make the submission.~~

20 If, within 30 days after the department submits the report, the ~~cochairpersons~~ chairperson of the
 21 ~~joint committee for review of administrative rules~~ return the report to the
 22 department, ~~with a written explanation of why the committee is returning the report,~~
 23 ~~the department may not issue the documents under sub. (2) and the governor may~~
 24 ~~not make the submission until the committee agrees that the department has~~
 25 ~~adequately addressed the issues raised by the committee~~ *the secretary shall respond to the chairperson in writing within 15 days of receipt of the comments*

a standing committee to which the report was provided submits written comments on

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SECTION 226

use twice

<use 2x>

including administrative requirements that are consistent with the federal administrative requirements

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SECTION 226. 285.27 (1) (a) of the statutes is amended to read:

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

SECTION 227. 285.27 (2) (a) of the statutes is amended to read:

285.27 (2) (a) *Similar to federal* ~~standard~~ *standard*. If an emission standard for a hazardous air contaminant is promulgated under ~~section 112~~ *section 112* of the federal clean air act, the department shall promulgate by ~~a~~ *plan* rule a similar ~~that incorporates that~~ *that incorporates that* emission standard ~~but this standard incorporates administrative requirements~~ *but this standard* ~~the department~~ *may not be* ~~promulgate a rule under this paragraph that is~~ *promulgate a rule under this paragraph that is* more restrictive in terms of emission limitations ~~or otherwise more burdensome to persons operating sources affected by the emission standard~~ *or otherwise more burdensome to persons operating sources affected by the emission standard* than the federal standard ~~and related requirements~~ *and related requirements* except as provided under sub. (4).

SECTION 228. 285.27 (2) (b) of the statutes is renumbered 285.27 (2) (b) (intro.) and amended to read:

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

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this

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

3 SECTION 229. 285.27 (2) (b) 1. ^{4,} ~~top~~ of the statutes are created to read: *types of*

4 285.27 (2) (b) 1. A public health risk assessment that characterizes the *types of*
5 stationary sources in this state that are known to emit the hazardous air
6 contaminant and the ~~individuals~~ *population groups that* are potentially at risk from the emissions.

7 2. An analysis showing that ~~identified individuals~~ *members of population groups*
8 levels of the hazardous air contaminant that are above recognized environmental
9 health standards.

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

✓
Insert
91-13 →

14 SECTION 230. 285.27 (2) (d) of the statutes is created to read:
15 285.27 (2) (d) *Emissions regulated under federal law.* Emissions limitations
16 promulgated under par. (b) and related control requirements do not apply to
17 hazardous air contaminants emitted by emissions units, operations, or activities
18 that are regulated by an emission standard promulgated under the federal clean air
19 act, including a hazardous air contaminant that is regulated under the federal clean
20 air act by virtue of regulation of another substance as a surrogate for the hazardous
21 air contaminant or by virtue of regulation of a species or category of hazardous air
22 contaminants that includes the hazardous air contaminant.

23 SECTION 231. 285.27 (4) of the statutes is amended to read:
24 285.27 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the standards of
25 performance for new stationary sources or the emission standards for hazardous air

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SECTION 231

1 contaminants under the federal clean air act are relaxed, the department shall alter
 2 the corresponding state standards unless it finds that the relaxed standards would
 3 not provide adequate protection for public health and welfare. The department may
 4 not make this finding for an emission standard for a hazardous air contaminant
 5 unless the finding is supported with the written documentation required under sub.

6 (2) (b) 1. to ~~3~~⁴. This subsection applies to state standards of performance for new
 7 stationary sources and emission standards for hazardous air contaminants in effect
 8 on April 30, 1980, if the relaxation in the corresponding federal standards occurs
 9 after April 30, 1980.

10 SECTION 232. 285.60 (1) (a) 1. of the statutes is amended to read:

11 285.60 (1) (a) 1. Except as provided in sub. ~~(2g), (3), (5m), (6), (6m), or (6r),~~^{(2g), (3), (5m), (6), (6m), or (6r),}
 12 no person may commence construction, reconstruction, replacement or modification
 13 of a stationary source unless the person has a construction permit from the
 14 department. ✓

15 SECTION 233. 285.60 (1) (b) 1. of the statutes is amended to read:

16 285.60 (1) (b) 1. Except as provided in subd. 2., par. (a) 2., sub. ~~(2g), (6), or (6m),~~^{(3), (6), or (6m),}
 17 or s. 285.62 (8), no person may operate a new source or a modified source unless the
 18 person has an operation permit under s. 285.62 from the department.

19 SECTION 234. 285.60 (2) (a) of the statutes is amended to read:

20 285.60 (2) (a) *Operation permit requirement.* Except as provided in sub. (6) or
 21 (6m) or s. 285.62 (8), no person may operate an existing source after the operation
 22 permit requirement date specified under s. 285.62 (11) (a) unless the person has an
 23 operation permit under s. 285.62 from the department.

24 SECTION 235. 285.60 (2g) of the statutes is created to read:

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SECTION 235

1 285.60 (2g) REGISTRATION PERMITS. (a) *Rules.* Subject to sub. (8), the
2 department shall promulgate rules specifying a simplified process under which the
3 department issues a registration permit ^{authorizing construction and operation} for a stationary source with low actual
4 emissions if the owner or operator provides to the department, on a form prescribed
5 by the department, sufficient information to show that the source qualifies for a
6 registration permit. In the rules, the department shall include criteria for
7 identifying categories of sources the owners or operators of which may elect to obtain
8 registration permits and general requirements applicable to sources that qualify for
9 registration permits.

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

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

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

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

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

ASSEMBLY BILL 655

SECTION 236

1 **SECTION 236.** 285.60 (2m) of the statutes is repealed.

2 **SECTION 237.** 285.60 (3) of the statutes is repealed and recreated to read:

3 285.60 (3) GENERAL PERMITS. (a) *Rules.* The department shall promulgate rules
4 for the issuance of general permits ^{authorizing construction and operation} for similar stationary sources. In the rules, the
5 department shall specify criteria for identifying categories of sources for which the
6 department may issue general permits and general requirements applicable to
7 sources that qualify for general permits.

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

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

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

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

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

25 **SECTION 238.** 285.60 (5m) of the statutes is created to read:

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SECTION 238

1 285.60 (5m) WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS. Subject to sub. (8),
2 *promulgate rules under which it may*
3 the department shall grant a waiver from the requirement to obtain a construction
4 permit prior to construction, reconstruction, replacement, or modification of a
5 stationary source *on a case-by-case basis or on bases specified in the rule*
6 ~~upon a showing by the owner or operator of the stationary source~~ *such*
7 ~~obtaining the permit would cause undue hardship.~~ *situations in which* The department shall act
8 on a waiver request within 15 days after it receives the request.

7 **SECTION 239.** 285.60 (6) of the statutes is amended to read:

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

14 **SECTION 240.** 285.60 (6m) of the statutes is created to read:

15 285.60 (6m) SPECIFIC EXEMPTION. A person is not required to obtain a
16 construction permit or an operation permit for a source that is an agricultural
17 facility, as defined in s. 281.16 (1) (a), a livestock operation, as defined in s. 281.16
18 (1) (c), or an agricultural practice, as defined in s. 281.16 (1) (b), unless a permit is
19 required by the federal clean air act.

20 **SECTION 241.** 285.60 (6r) of the statutes is created to read:

21 285.60 (6r) EXEMPTION FROM CONSTRUCTION PERMIT REQUIREMENT. A person is not
22 required to obtain a construction permit for a source that is a component of a process,
23 of equipment, or of an activity that is otherwise covered by a preexisting operation
24 permit or a source that is a component of a process, of equipment, or of an activity

ASSEMBLY BILL 655**SECTION 241**

1 that is included in a completed application for an operation permit, unless a
2 construction permit is required under the federal clean air act.

3 **SECTION 242.** 285.60 (8) of the statutes is created to read:

4 **285.60 (8) COMPLIANCE WITH FEDERAL LAW.** The department may not promulgate
5 a rule or take any other action under this section that conflicts with the federal clean
6 air act.

7 **SECTION 243.** 285.60 (9) of the statutes is created to read:

8 **285.60 (9) PETITIONS FOR REGISTRATION PERMITS, GENERAL PERMITS, AND**
9 **EXEMPTIONS.** A person may petition the department to make a determination that a
10 type of stationary source meets the criteria for a registration permit under sub. (2g),
11 a general permit under sub. (3), or an exemption under sub. (6). The department
12 shall provide a written response to a petition within 30 days after receiving the
13 petition indicating whether the type of stationary source meets the applicable
14 criteria for a registration permit, a general permit, or an exemption. If the type of
15 source meets the applicable criteria, the department shall, within 365 days after
16 receiving the petition, issue the registration permit or general permit or, for an
17 exemption, shall submit to the legislative council staff under s. 227.15 (1) in proposed
18 form any necessary rules or take any other action that is necessary provide the
19 exemption.

20 **SECTION 244.** 285.60 (10) of the statutes is created to read:

21 **285.60 (10) PERMIT STREAMLINING.** The department shall continually assess
22 permit obligations imposed under this section and ss. 285.61 to 285.65 and
23 implement measures that are consistent with this chapter and the federal clean air
24 act to allow for timely installation and operation of equipment and processes and the
25 pursuit of related economic activity by lessening those obligations, including

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SECTION 244

1 consolidating the permits for sources at a facility into one permit, expanding
 2 exemptions under sub. (6), and expanding the availability of registration permits
 3 under sub. (2g), general permits under sub. (3), and construction permit waivers
 4 under sub. (5m).

5 **SECTION 245.** 285.61 (1) of the statutes is amended to read:

6 285.61 (1) ~~APPLICANT NOTICE~~ APPLICATION REQUIRED. A person who is required
 7 to obtain or who seeks a construction permit shall apply to the department or a
 8 certified contractor for a permit to construct, reconstruct, replace or modify the
 9 stationary source. If a person applies to a certified contractor under this subsection,
 10 the person shall provide notice of that application to the department as prescribed
 11 by the department.

12 **SECTION 246.** 285.61 (2) of the statutes is renumbered 285.61 (2) (a) and
 13 amended to read:

14 285.61 (2) (a) Request for additional information. Within 20 days after receipt
 15 of the application the department ~~of the certified contractor~~ shall indicate provide
 16 written notice to the applicant describing specifically all of the plans, specifications
 17 and any other information necessary to determine if the proposed construction,
 18 reconstruction, replacement or modification will meet the requirements of this
 19 chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15. *Insert 97-19*

20 **SECTION 247.** 285.61 (2) (b) of the statutes is created to read:

21 285.61 (2) (b) When application is considered to be complete. For the purposes
 22 of the time limits in sub. (3), an application is considered to be complete when the
 23 applicant provides the information specified in the written notice under par. (a), or
 24 if the department ~~of the certified contractor~~ does not provide written notice to an
 25 applicant within the time limit in par. (a), 20 days after receipt of the application.

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SECTION 247

1 This paragraph does not prevent the department ~~or a certified contractor~~ from
2 requesting additional information from an applicant after the time limit in par. (a).

3 **SECTION 248.** 285.61 (3) ^(intro.) of the statutes is amended to read:

4 285.61 (3) ANALYSIS. ^(intro.) The department ~~or certified contractor~~ shall prepare an
5 analysis regarding the effect of the proposed construction, reconstruction,
6 replacement or modification on ambient air quality and a preliminary determination
7 on the approvability of the construction permit application, within the following time
8 periods after the receipt of the plans, specifications and other information
9 application is considered to be complete under sub. (2) (b):

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

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

14 **SECTION 249.** 285.61 (4) (a) of the statutes is amended to read:

15 285.61 (4) (a) *Distribution and publicity.* The department shall distribute and
16 publicize the analysis and preliminary determination as soon as they are prepared
17 or, if the analysis and preliminary determination are prepared by a certified
18 contractor, as soon as the department receives them from the certified contractor.

19 **SECTION 250.** 285.61 (4) (b) 2. and 3. of the statutes are amended to read:

20 285.61 (4) (b) 2. A copy of the department's or certified contractor's analysis and
21 preliminary determination; and

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

24 **SECTION 251.** 285.61 (5) (a) (intro.) of the statutes is amended to read:

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SECTION 251

1 285.61 (5) (a) *Distribution of notice required.* (intro.) The department shall
2 distribute a notice of the proposed construction, reconstruction, replacement or
3 modification, a notice of the department's or certified contractor's analysis and
4 preliminary determination, a notice of the opportunity for public comment and a
5 notice of the opportunity to request a public hearing to all of the following:

6 **SECTION 252.** 285.61 (5) (c) of the statutes is amended to read:

7 285.61 (5) (c) *Newspaper notice.* The department shall publish a class 1 notice
8 under ch. 985 announcing the opportunity for written public comment and the
9 opportunity to request a public hearing on the analysis and preliminary
10 determination within 10 days after the analysis and preliminary determination are
11 prepared or if the analysis and preliminary determination are prepared by a
12 certified contractor, within 10 days after the department receives them from the
13 certified contractor.

14 **SECTION 253.** 285.61 (7) (a) of the statutes is amended to read:

15 285.61 (7) (a) *Hearing permitted.* The department may hold a public hearing
16 on the construction permit application if requested by a person who may be directly
17 aggrieved by the issuance of the permit, any affected state or the U.S. environmental
18 protection agency within 30 days after the department gives notice under sub. (5) (c).
19 A request for a public hearing shall indicate the interest of the party filing the
20 request and the reasons why a hearing is warranted. The department shall hold the
21 public hearing within ^{PLAIN} ~~60~~ ^{PLAIN} days after the deadline for requesting a hearing if it
22 deems that there is a significant public interest in holding a hearing.

23 **SECTION 254.** 285.61 (8) (a) of the statutes is renumbered 285.61 (8) (a) 1.

24 **SECTION 255.** 285.61 (8) (a) 2. of the statutes is created to read:

ASSEMBLY BILL 655

SECTION 255

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

7 **SECTION 256.** 285.61 (8) (b) of the statutes is amended to read:

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

14 **SECTION 257.** 285.61 (10) of the statutes is created to read:

15 285.61 (10) EXTENSIONS. ^{upon agreement between the department and an applicant,} The department ~~may~~ ^{shall} extend any time limit applicable
 16 to the department ~~for a certified contractor~~ under this section at the request of an
 17 applicant.

18 **SECTION 258.** 285.61 (11) of the statutes is created to read:

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

ASSEMBLY BILL 655

SECTION 258

1 site, and submit the reports to the joint committee for the review of administrative
2 rules on a quarterly basis.

Insert
101-2 →

3 SECTION 259. 285.62 (1) of the statutes is amended to read:

4 285.62 (1) ~~APPLICANT NOTICE~~ APPLICATION REQUIRED. A person who is required
5 to obtain an operation permit for a stationary source shall apply to the department
6 ~~or to a certified contractor~~ for the permit on or before the operation permit
7 application date specified under sub. (11) (b). The department shall specify by rule
8 the content of applications under this subsection. If required by the federal clean air
9 act, the department ~~or the certified contractor~~ shall provide a copy of the complete
10 application to the federal environmental protection agency. ~~The department may not~~
11 ~~accept an application submitted to the department before November 15, 1992, as an~~
12 ~~application under this subsection.~~

13 SECTION 260. 285.62 (2) of the statutes ~~is renumbered 285.62 (2) (a) and~~
14 amended to read:

15 285.62 (2) ~~(A)~~ Request for additional information. Within 20 days after receipt
16 of the application the department ~~or the certified contractor~~ shall indicate provide
17 written notice to the applicant describing specifically any additional information
18 required under sub. (1) necessary to determine if the source, upon issuance of the
19 permit, will meet the requirements of this chapter and s. 299.15 and rules
20 promulgated under this chapter and s. 299.15. *Insert 101-20*

21 SECTION 261. 285.62 (2) (b) of the statutes is created to read:
22 285.62 (2) (b) *When application is considered to be complete.* For the purposes
23 of the time limits in sub. (3), an application is considered to be complete when the
24 applicant provides the information specified in the written notice under par. (a), or,
25 if the department ~~or the certified contractor~~ does not provide written notice to an

Fix
Com-
ponent

Plans,
specifications
and other information. (CS)

ASSEMBLY BILL 655

SECTION 261

1 applicant within the period under par. (a), 20 days after receipt of the application.

2 This paragraph does not prevent the department ~~or a certified contractor~~ from
3 requesting additional information from an applicant after the period under par. (a).

4 **SECTION 262.** 285.62 (3) (a) (intro.) of the statutes is amended to read:

5 285.62 (3) (a) (intro.) The department or certified contractor shall review an
6 application for an operation permit. Upon completion of that review, the department
7 or certified contractor shall prepare a preliminary determination of whether ~~it~~ the
8 application may ~~approve the application~~ be approved and a public notice. The
9 department or certified contractor shall complete the preliminary determination and
10 the public notice within 60 days after an application for an operation permit for a
11 major source is considered to be complete under sub. (2) (b) and within 15 days after
12 an application for an operation permit for a minor source is considered to be complete
13 under sub. (2) (b). The public notice shall include all of the following:

14 **SECTION 263.** 285.62 (3) (c) of the statutes is amended to read:

15 285.62 (3) (c) The department shall publish the notice prepared under par. (a)
16 as a class 1 notice under ch. 985 in a newspaper published in the area that may be
17 affected by emissions from the stationary source within 10 days after the notice is
18 complete or, if the notice is prepared by a certified contractor, within 10 days after
19 the department receives it from the certified contractor.

20 **SECTION 264.** 285.62 (5) (a) of the statutes is amended to read:

21 285.62 (5) (a) *Hearing permitted.* The department may hold a public hearing
22 on an application for an operation permit for a stationary source if requested by any
23 state that received notice under sub. (3) (b) or any other person, if the person may
24 be directly aggrieved by the issuance of the permit, within 30 days after the
25 department gives notice under sub. (3) (c). A request for a public hearing shall

ASSEMBLY BILL 655**SECTION 264**

1 indicate the interest of the party filing the request and the reasons why a hearing
2 is warranted. The department shall hold the public hearing within 60 days after the
3 deadline for requesting a hearing if it determines that there is a significant public
4 interest in holding the hearing.

5 **SECTION 265.** 285.62 (6) (c) 1. of the statutes is amended to read:

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

10 **SECTION 266.** 285.62 (7) (b) of the statutes is amended to read:

11 285.62 (7) (b) The department shall approve or deny the operation permit
12 application for a new source or modified source. The department shall issue the
13 operation permit for a new source or modified source if the criteria established under
14 ss. 285.63 and 285.64 are met. The department shall issue an operation permit for
15 a new source or modified source or deny the application within ~~180~~ 30 days after the
16 permit applicant submits to the department the results of all equipment testing and
17 emission monitoring required under the construction permit.

18 **SECTION 267.** 285.62 (7) (bm) of the statutes is created to read:

19 285.62 (7) (bm) Notwithstanding pars. (a) and (b) and s. 285.63, but subject to
20 sub. (6) (c) 1., the department may not modify a preliminary determination made by
21 a certified contractor under sub. (3) (a) unless modification is necessary to comply
22 with the federal clean air act or unless the comments received under subs. (4) to (6)
23 or consideration of the environmental impact as required under s. 1.11 provide clear
24 and convincing evidence that issuance of the permit would cause material harm to
25 public health, safety, or welfare.

ASSEMBLY BILL 655

SECTION 268

1 **SECTION 268.** 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

2 **SECTION 269.** 285.62 (8) (b) of the statutes is created to read:

3 285.62 (8) (b) If a person submits an application for renewal of an operation
4 permit before the date that the operation permit expires, the stationary source may
5 not be required to discontinue operation and the person may not be prosecuted for
6 lack of an operation permit until the department acts under sub. (7), except that this
7 paragraph does not apply in a situation in which its application would contravene
8 the federal clean air act.

9 **SECTION 270.** 285.62 (9) (b) of the statutes is repealed and recreated to read:

10 285.62 (9) (b) Subject to sub. (12), if the department fails to act on an
11 application for an operation permit within the time limit under sub. (7) (b), the
12 department shall include in a report the reasons for the delay in acting on the
13 application, including the names of the department's employees responsible for
14 review of the application, and recommendations for how to avoid delays in the future
15 in similar situations. The department shall make reports under this subsection
16 available to the public, place a prominent notice of the reports on the department's
17 Internet site, and submit the reports to the joint committee for the review of
18 administrative rules on a quarterly basis.

19 **SECTION 271.** 285.62 (12) of the statutes is created to read:

20 285.62 (12) EXTENSIONS. *upon agreement between the department and an applicant,*
21 to the department ~~of a certified contract~~ *shall* under this section ~~at the request of an~~
22 ~~applicant~~

23 **SECTION 272.** 285.63 (1) (d) of the statutes is amended to read:

24 285.63 (1) (d) *Source will not preclude construction or operation of other source.*
25 The stationary source will not degrade the air quality in an area sufficiently to

ASSEMBLY BILL 655

SECTION 272

1 prevent the construction, reconstruction, replacement, modification or operation of
2 another stationary source if the department received plans, specifications and other
3 information under s. 285.61 (2) (a) for the other stationary source prior to
4 commencing its analysis under s. 285.61 (3) for the former stationary source. This
5 paragraph does not apply to an existing source required to have an operation permit.

6 ~~SECTION 273. 285.63 (2) (d) of the statutes is repealed.~~

7 SECTION 274. 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

8 SECTION 275. 285.66 (2) (b) of the statutes is created to read:

9 285.66 (2) (b) Notwithstanding par. (a), the department may not specify that
10 coverage under a general permit under s. 285.60 (3) expires except as follows:

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

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

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

19 SECTION 276. 285.66 (3) (a) of the statutes is amended to read:

20 285.66 (3) (a) A permittee shall apply for renewal of an operation permit at
21 least 12 6 months before the operation permit expires. The permittee shall include
22 any new or revised information needed to process the application for renewal.

23 SECTION 277. 285.69 (1) (a) of the statutes is amended to read:

24 285.69 (1) (a) *Application for permit.* Reviewing and acting upon any
25 application for a construction permit. The department shall specify lower fees for

ASSEMBLY BILL 655

SECTION 277

1 persons who submit applications to certified contractors under s. 285.61(1) than for
2 those who submit applications to the department.

3 **SECTION 278.** 285.755 of the statutes is created to read:

4 **285.755 Certified contractors. (1) RESPONSIBILITIES OF THE DEPARTMENT OF**
5 **ADMINISTRATION.** (a) The department of administration shall certify private
6 contractors to review applications for air pollution control permits for the purposes
7 of determining under ss. 285.61 (2) and 285.62 (2) whether additional information
8 is needed from applicants and of making preliminary determinations under ss.
9 285.61 (3) and 285.62 (3).

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

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

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

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

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

ASSEMBLY BILL 655

SECTION 278

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

3 **SECTION 279.** 285.81 (1) (intro.) of the statutes is amended to read:

4 285.81 (1) PERMIT HOLDER; PERMIT APPLICANT; ORDER RECIPIENT. (intro.) Any
5 permit, part of a permit, order, decision or determination by the department under
6 ss. 285.39, 285.60 to 285.69 or 285.75 shall become effective unless the permit holder
7 or applicant or the order recipient seeks a hearing ~~on~~ challenging the action in the
8 following manner:

9 **SECTION 280.** 285.81 (1m) of the statutes is created to read:

10 285.81 (1m) EFFECT OF A CHALLENGE. If a permit holder or applicant seeks a
11 hearing challenging part of a permit under sub. (1), the remainder of the permit shall
12 become effective and the permit holder or applicant may begin the activity for which
13 the permit was issued.

→ #. RP; 299.05(2)(d)

14 **SECTION 281.** 289.27 (5) of the statutes is amended to read:

15 289.27 (5) DETERMINATION OF NEED; DECISION BY HEARING EXAMINER. If a
16 contested case hearing is conducted under this section, the secretary shall issue any
17 decision concerning determination of need, ~~notwithstanding s. 227.46 (2) to (4).~~ The
18 secretary shall direct the hearing examiner to certify the record of the contested case
19 hearing to him or her without an intervening proposed decision. The secretary may
20 assign responsibility for reviewing this record and making recommendations
21 concerning the decision to any employee of the department.

22 **SECTION 282.** 295.13 (4) of the statutes is created to read:

23 295.13 (4) CREDITING OF FINANCIAL ASSURANCE. If a nonmetallic mining site is
24 subject to a county ordinance under sub. (1) or (2) and the city, village, or town in
25 which a nonmetallic mining site is located required the operator of the mining site

ASSEMBLY BILL 655

SECTION 287

1 **SECTION 287.** 452.09 (2) (a) of the statutes is amended to read:

2 452.09 (2) (a) ~~Each~~ Except as provided in a reciprocal agreement under s.
3 452.05 (3), each applicant for a salesperson's license shall submit to the department
4 evidence satisfactory to the department of successful completion of educational
5 programs approved for this purpose under s. 452.05 (1) (c). The department may
6 waive the requirement under this paragraph upon proof that the applicant has
7 received 10 academic credits in real estate or real estate related law courses from an
8 accredited institution of higher education.

9 **SECTION 288.** 452.09 (2) (c) (intro.) of the statutes is amended to read:

10 452.09 (2) (c) (intro.) Except as provided in par. (d) or a reciprocal agreement
11 under s. 452.05 (3), each applicant for a broker's license shall do all of the following:

12 **SECTION 289.** 452.09 (3) (d) of the statutes is amended to read:

13 452.09 (3) (d) ~~The~~ Except as provided in a reciprocal agreement under s. 452.05
14 (3), the department may not grant a broker's license to an applicant who does not
15 hold a salesperson's license unless the applicant passes the salesperson's
16 examination ~~and the broker's examination.~~

17 **SECTION 290. Nonstatutory provisions.**

18 (1) **ENERGY CONSERVATION AND EFFICIENCY GRANTS; EMERGENCY RULES.** Using the
19 procedure under section 227.24 of the statutes, the public service commission shall
20 promulgate as emergency rules the rules required under section 16.957 (2m) of the
21 statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the
22 statutes, the emergency rules promulgated under this subsection may remain in
23 effect until the date on which the permanent rules required under section 16.957
24 (2m) of the statutes, as created by this act, take effect. Notwithstanding section
25 227.24 (1) (a), (2) (b), and (3) of the statutes, the public service commission is not

ASSEMBLY BILL 655**SECTION 290**

1 required to provide evidence that promulgating rules under this subsection as
2 emergency rules is necessary for the preservation of the public peace, health, safety,
3 or welfare and is not required to provide a finding of emergency for the rules
4 promulgated under this subsection.

5 (2) SUBMISSION OF PROPOSED RULES CONCERNING AIR PERMITS FOR MODIFIED
6 SOURCES. Notwithstanding the time limit in section 285.11 (17) of the statutes, as
7 affected by this act, the department of natural resources shall submit in proposed
8 form the rules required under section 285.11 (17) of the statutes, as affected by this
9 act, relating to regulations that are published before the effective date of this
10 subsection to the legislative council staff under section 227.15 (1) of the statutes no
11 later than August 31, 2004.

12 (3) 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

ASSEMBLY BILL 655**SECTION 290**

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 (4) REPORT ON CLEAN AIR ACT STATE IMPLEMENTATION PLANS. No later than the first
25 day of the ³th month beginning after the effective date of this subsection, the

ASSEMBLY BILL 655

SECTION 290

standing committees of the legislature with jurisdiction over environmental matters

1 department of natural resources shall submit to the joint committee for review of

2 ~~administrative rules~~ a report that contains all of the following:

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

for priorities

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

SECTION 291. Initial applicability.

12 (1) LAWSUITS CONCERNING CREDIT AGREEMENTS AND RELATED DOCUMENTS. The
13 treatment of section 241.02 (3) of the statutes first applies to actions commenced on
14 the effective date of this subsection.
15 (2) PARTIAL DEREGULATION OF TELECOMMUNICATIONS. The treatment of section
16 196.195 (5m) and (10) of the statutes first applies to proceedings initiated by
17 petitions filed with the public service commission, or by notices made on the public
18 service commission's own motion, on the effective date of this subsection.
19 (3) ENERGY CONSERVATION AND EFFICIENCY GRANTS. The treatment of section
20 16.957 (2) (b) 1. (intro.) of the statutes first applies to grants that are awarded on the
21 effective date of the rules promulgated under SECTION 290 (1) of this act.

22 (4) PROCESSING OF AIR PERMITS. The treatment of sections 285.61 (3), ~~(7)~~

23 (a), ~~(8)~~ and (11), 285.62 ~~(3)~~ (5) (a), ~~(7)~~ and (9) (b), and 285.66

24 (3) (a) of the statutes, the renumbering and amendment of section 285.61 (2) ~~(3)~~

(intro)

ASSEMBLY BILL 655

SECTION 291

STET: leave as typed

1 ~~285.61 (2) (b)~~ of the statutes, and the creation of section 285.61 (2) (b) ~~add 285.62 (2)~~

2 ~~of the statutes~~ first apply to applications submitted on the effective date of this subsection.

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

6 (6) CHAPTER 30 PROCEDURES.

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

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

13 **SECTION 292. Effective dates.** This act takes effect on the day after
14 publication, except as follows:

15 (1) ENERGY CONSERVATION AND EFFICIENCY GRANTS. The treatment of section
16 16.957 (2) (b) 1. (intro.) and (c) 2., (2m), and (3) (b) of the statutes takes effect on July
17 1, 2005.

18 (END)

DNofe

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3858/P1ins
RCT:.....

Insert 86-19

no ff

The department shall also submit to the revisor of statutes for publication in the administrative register a notice of availability of the report.

Insert 87-6

SECTION 1. 285.17 (2) (b) and (c) of the statutes are created to read:

285.17 (2) (b) 1. The department may not include a monitoring requirement relating to the emissions from an air contaminant source in an operation permit for the source if the applicant demonstrates that the cost of compliance with the monitoring requirement would exceed the cost of compliance with monitoring requirements imposed on similar air contaminant sources by a state adjacent to this state, unless the monitoring is required under the federal clean air act.

2. Before issuing an operation permit that contains a monitoring requirement relating to the emissions from an air contaminant source, the department shall notify the applicant of the proposed monitoring requirement and give the applicant the opportunity to demonstrate to the administrator of the division of the department that administers this chapter that subd. 1. prohibits the department from imposing the monitoring requirement. If the administrator determines that subd. 1. does not prohibit the department from imposing the monitoring requirement, the applicant may obtain a review of that determination by the secretary. The secretary may not delegate this function to another person. ✓

(c) The department, in consultation with representatives of industry and others, shall identify best practices for emissions monitoring required under this subsection to minimize inconsistencies in monitoring requirements within this state ✓

and with monitoring requirements imposed by other states and the federal environmental protection agency.

Insert 88-5

SECTION 2. 285.21 (1) (b) of the statutes is renumbered 285.21 (1) (b) (intro.) and amended to read:

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

SECTION 3. 285.21 (1) (b) 1. to 4. of the statutes are created to read:

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

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

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

4. A comparison of the costs to businesses in this state of complying with the proposed ambient air quality standard to the costs of complying with ambient air

quality standards to similar businesses in Illinois, Indiana, Michigan, Minnesota, and Ohio.

Insert 88-17

← Score

NO FF

The department may not make this finding for an ambient air quality standard unless the finding is supported with the written documentation required under sub.

(1) (b) 1. to 4. ✓

Insert 89-1

SECTION 4. 285.23 (2) of the statutes is amended to read:

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

History: 1979 c. 221; 1981 c. 314 s. 146; 1985 a. 182 s. 57; 1989 a. 56; 1995 a. 227 s. 463; Stats. 1995 s. 285.23.

Insert 89-14

NO FF

The department shall also submit to the revisor of statutes for publication in the administrative register a notice of availability of the report.

Insert 91-13

4. A comparison of the costs to businesses in this state of complying with requirements related to emission standards for hazardous air contaminants, including costs associated with the proposed emission standard, to the costs of complying with requirements related to emission standards for hazardous air contaminants to similar businesses in Illinois, Indiana, Michigan, Minnesota, and Ohio.

Insert 97-19

STET:
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as
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~~subsection~~

no ff

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

Insert 101-2

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

Insert 101-20

✓
subsection

no ff

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

✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3858-01dn

RCTY.....

ej3

This is a first draft of the air pollution control provisions for the substitute amendment to AB 655. Please review the whole draft very carefully to ensure that it is consistent with your intent.

I have included the language proposed to be added to s. 285.11 (6) (intro.) in s. 285.14 (1) because it seemed to me to fit there better.

DNR Regarding the proposed changes to s. 285.17 (2), if the intent is to allow an applicant to obtain internal review of proposed monitoring requirements on bases other than the cost of compliance, the draft will need to specify what those bases are.

The instructions impose the same documentation requirements for DNR to promulgate an ambient air quality standard for an air contaminant for which EPA has not established an ambient air quality standard as are specified for emission standards for hazardous air contaminants. The third requirement includes "a finding that the chosen compliance alternative reduces risks in the most cost-effective manner practicable." Unlike emission standards for hazardous substances, ambient air quality standards are expressed as safe levels of substances in the air and it seems to me that the reference to "compliance alternative" may not fit properly for ambient air quality standards. In this draft, I have modified the language for the third requirement a little, see proposed s. 285.21 (1) (b) 3.

The fourth documentation requirement for DNR to promulgate an ambient air quality standard included in the instructions is a comparison of costs imposed on Wisconsin businesses to costs imposed on businesses in certain other states, but it was not clear to me which costs imposed on businesses in other states were supposed to be looked at. Please review proposed s. 285.21 (1) (b) 3 and let me know if changes are needed to accomplish the intent behind this proposal. 4.

The instruction for changes to s. 285.21 (4) indicated that the four documentation requirements for ambient air quality standards apply should when DNR proposes to find that an EPA change in an ambient air increment would not provide adequate protection for public health and safety. Because, as I understand it, ambient air increments are only applicable in attainment areas, I do not see how those documentation requirements would work in relation to an ambient air increment.

Therefore, the added requirement for documentation in s. 285.21 (4) in this draft only applies to ambient air quality standards.

In order to accomplish what I think was intended by the instructions relating to s. 285.23 (1) and (2), I used rather different language than was in the instructions. Please let me know what was intended if I missed the mark.

I wonder whether the treatment of s. 285.27 (1) (a) and (2) (a) would be more clear if "in terms of emission limitations" were stricken from those provisions.

I have attempted to reconcile the changes to proposed s. 285.60 (5m) that were indicated in the instructions. Please what was intended if this attempt was not successful. *let me know*

I have added language requiring the refund of application fees if DNR misses the deadline for acting on a construction permit, see proposed s. 285.61 (11) (b). I also repealed s. 299.05 (2) (d), which would be redundant because of the new refund provision. I did not add a fee refund for operation permits because, as far as I can tell, there is no application fee for an operation permit. *second close quote*

I included the report on air permit streamlining efforts in the draft without any changes from AB 655 (it was Section 290 (3)). Is that what was intended? *CS*

Please contact me with any questions or redraft instructions.

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

LPS:
this is
new
material
added
after
I gave
you
the
xerox

It appears that the Clean Air Act requires s. 285.63(2)(d), so I deleted its repeal. See 42 USC 7503 (d) (5).

In order to get a first draft out as quickly as possible, I have completed this without waiting for additional information or for a response to the questions that I sent out yesterday. To do this I made changes to ss. 285.60 (2g)(a), 285.60 (3)(a), and 285.61(7)(a) (eliminating the change from 60 to 30 days) and eliminated s. 285.62 (2)(b) from the draft.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3858/1dn
RCT:cjs:ch

December 12, 2003

This is a first draft of the air pollution control provisions for the substitute amendment to AB 655. Please review the whole draft very carefully to ensure that it is consistent with your intent.

I have included the language proposed to be added to s. 285.11 (6) (intro.) in s. 285.14 (1) because it seemed to me to fit there better.

Regarding the proposed changes to s. 285.17 (2), if the intent is to allow an applicant to obtain internal DNR review of proposed monitoring requirements on bases other than the cost of compliance, the draft will need to specify what those bases are.

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Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
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Tradewell, Becky

To: Nowak, Ellen
Cc: Manley, Scott
Subject: Ch. 285 drafting instructions

Ellen,

I have some questions about the drafting instructions for ch. 285.

Concerning the change to Section 235: If proposed s. 285.60 (2g) (c) is eliminated, the applicant would have to get a permit before construction. Is the intent that the applicant would have to get the registration permit before construction? The alternative would seem to be that the applicant would have to get a regular construction permit before construction unless the construction permit requirement is waived under Section 238.

Similarly, if proposed s. 285.60 (3) (c) is eliminated (from section 237) is the intent that a general permit authorize both construction and operation and that an applicant must get a determination that the source is covered by the general permit before construction begins? Or is it intended that an applicant be required to get a regular construction permit unless that requirement is waived under Section 238? Should the draft restore (and possibly modify) the provision for general construction permits (s. 285.60 (2m)), which is repealed by Section 236?

I have been told that proposed s. 285.60 (5m), Section 238, is ambiguous because it could be interpreted to completely eliminate the construction permit requirement or to simply allow construction to begin without the permit but require the applicant to get a construction permit eventually. If you think that this is a problem, please let me know what is intended and I will attempt to clarify this provision.

The instructions indicate that Section 273 should be deleted if s. 285.63 (2) (d) is required by EPA. Do you want me to try to determine whether it is required by EPA or is someone else checking?

The instructions indicate that you will be providing me with further instructions about deadline provisions. In considering those further instructions, please note that Section 248 provides that the time limits for a construction permit run from when the application is considered to be complete under Section 247. If Section 248 were completely eliminated from the draft, s. 285.61 (3) would not refer to when applications are considered to be complete and Section 247 would no longer make sense, thus Section 247 would also have to be eliminated. With regard to operation permits, s. 285.62 (3) currently has no time limits. If Sections 262 and 263 were eliminated from the draft, Section 261 would also have to be eliminated because there would be no time limits for it to refer to.

Please let me know if you need clarification of any part of this message.

Becky Tradewell
266-7290

State Capitol, Room 211W
P.O. Box 8953
Madison, WI 53708
Phone: 608-266-3387
Fax: 608-266-5123

**Wisconsin Legislature
Speaker John Gard**

Fax

To: Rebecca Tradewell From: Eileen Nowak
Fax: 264-6948 Date: 12-15-03
Phone: _____ Pages: 2
Re: _____ CC: _____

Urgent For Review Please Comment Please Reply Please Recycle

•Comments:

Notes on Chap. 285 Drafting (Dec. 15, 2003)

Response to LRB Questions (12/11/03)

Section 235 & 237 (Deletion of Exemption from Construction Permit). Yes and No. The intent to be silent on the requirement for construction permits under both programs. Under the revisions, the applicant would be required to get a construction permit unless the requirement is waived under new s. 285.60 (5m) [Section 238]. It is envisioned that DNR would develop registration and general permits that may serve as construction permits (or serve as both a construction and operation permit) if required (e.g., required by CAA), and if not necessary, they could waive the requirement through guidance relating to specific registration/general permit activity (case by case under s. 285.60 (5m)) or by rule and allow the applicant to proceed with construction prior to issuance of the permit.

✓ **Section 238 (Waiver of Construction Permits).** This provision should not be ambiguous as it does *not* require waiver of the permit in its entirety. That is, it says that DNR could waive the requirement to have the permit "prior to construction," but DNR could still require a "post-construction" construction permit, as MI apparently does, if required under the CAA. As required by the section, DNR would assure the waiver is consistent with the CAA.

✓ **Section 273 (Deletion of Permit Condition).** We did the research and the existing provision is the same as set forth by the CAA. So, delete Section 273.

✓ **Permit Deadlines.** The bill should reflect an overall deadline for construction permits of 90 days from date of complete application, and for operation permits, 180 days from date of complete application. It would appear that the s. 285.61 (3)(a) deadline of 120 days would be changed to 90 days, and that existing s. 285.62. (7)(b) sets forth a 180 day deadline, so that provision would not be changed. All other modifications setting forth changed deadlines would be deleted from the bill.

The LRB note on Section 248 is correct; that is, the entire change should not be deleted, merely the reference to certified contractors. That is, the linkage to sub. (2)(b) completeness would remain.

Tradewell, Becky

To: Nowak, Ellen
Subject: Notes on ch. 285 drafting

Ellen,

Thank you for sending the response to my questions about the ch. 285 drafting.

I remain uncertain about how to carry out the intent behind the proposal with respect to general permits and registration permits. Under current law, a general construction permit is a construction permit and a general operation permit is an operation permit, so there really is not any question about what either kind of permit authorizes. If the draft does not specify that a general permit or a registration permit is (or takes the place of) an operation permit or a construction permit, or both, the effect of either kind of permit is not automatically clear and I am uncertain about how s. 285.60 (1) (a) 1. and (b) 1. should be amended.

I think that it is correct to say that if the draft is silent on the issue of whether a person who qualifies for a general permit or a registration permit must also get a construction permit, the person must get a construction permit before starting construction unless the construction permit requirement is waived under s. 285.50 (5m). However, I do not see what authority there would be, if the draft is silent on the issue of whether a person who qualifies for a general permit or a registration permit must also get a construction permit, for DNR to develop general permits or registration permits that serve as both construction permits and operation permits for sources for which DNR has not waived the construction permit requirement.

I had assumed that the intent was that a registration permit or general permit would always authorize operation. Is that incorrect? If that is correct, is the intent that in some, but not all, cases a registration permit or general permit could also authorize construction? Is it the intent that a person may not start construction or modification unless one of the following applies:

1. the person has a construction permit;
2. DNR has waived the construction permit requirement for the source;
3. the person has the kind of registration permit that serves as both a construction permit and operation permit; or
4. the person has gotten DNR's acknowledgement that the source is covered by the kind of general permit that serves as both a construction permit and an operation permit?

As I look at AB 655, I think that it probably was not as clear on these matters as it should have been, but eliminating proposed s. 285.60 (2g) (c) and (3) (c) from the bill without making any other changes seems to me to make it less likely that the provisions would operate as they are intended to operate.

I am also unsure about whether I should wait for a response to my drafter's note (which was with the draft that went out on Friday) before redrafting the proposal. It seems likely that some other changes will be wanted to the draft besides those that must be made as a result of the response that you sent me today to my questions from last week.

Please let me know if you have any questions about this message.

Becky Tradewell
266-7290