



State of Wisconsin
2003 - 2004 LEGISLATURE

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LRB-3858/1
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1 AN ACT *to repeal* 285.60 (2m) and 299.05 (2) (d); *to renumber* 285.17 (2), 285.62
2 (8) and 285.66 (2); *to renumber and amend* 285.21 (1) (b), 285.27 (2) (b) and
3 285.61 (2); *to amend* 285.11 (9), 285.21 (4), 285.23 (1), 285.23 (2), 285.27 (1) (a),
4 285.27 (2) (a), 285.27 (4), 285.60 (1) (a) 1., 285.60 (1) (b) 1., 285.60 (2) (a), 285.60
5 (6), 285.61 (3) (intro.), 285.61 (7) (a), 285.62 (1), 285.62 (2), 285.62 (5) (a), 285.62
6 (6) (c) 1., 285.63 (1) (d), 285.66 (3) (a) and 285.81 (1) (intro.); *to repeal and*
7 *recreate* 285.60 (3) and 285.62 (9) (b); and *to create* 285.14, 285.17 (2) (b) and
8 (c), 285.21 (1) (b) 1. to 4., 285.23 (6), 285.27 (2) (b) 1. to 4., 285.27 (2) (d), 285.60
9 (2g), 285.60 (5m), 285.60 (6m), 285.60 (6r), 285.60 (8), 285.60 (9), 285.60 (10),

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1 285.61 (2) (b), 285.61 (10), 285.61 (11), 285.62 (8) (b), 285.62 (12), 285.66 (2) (b)
2 and 285.81 (1m) of the statutes; **relating to:** air pollution control.

Analysis by the Legislative Reference Bureau

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:

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

4 285.11 (9) Prepare and adopt minimum standards for the emission of mercury
5 compounds or metallic mercury into the air, consistent with s. 285.27 (2) (b).

6 **SECTION 2.** 285.14 of the statutes is created to read:

7 **285.14 State implementation plans. (1) CONTENT.** The department may not
8 submit a control measure or strategy to the federal environmental protection agency
9 for inclusion in a state implementation plan under 42 USC 7410 unless the
10 department has promulgated the control measure or strategy as a rule.

11 **(2) REVIEW BY STANDING COMMITTEES.** At least 60 days before the department is
12 required to submit a state implementation plan to the federal environmental
13 protection agency, the department shall prepare, and provide to the standing
14 committees of the legislature with jurisdiction over environmental matters, under
15 s. 13.172 (3) a report that describes the proposed plan and contains all of the
16 supporting documents that the department intends to submit with the plan. The
17 department shall also submit to the revisor of statutes for publication in the
18 administrative register a notice of availability of the report. If, within 30 days after
19 the department provides the report, the chairperson of a standing committee to
20 which the report was provided submits written comments on the report to the

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1 department, the secretary shall respond to the chairperson in writing within 15 days
2 of receipt of the comments. This subsection does not apply to a modification to a state
3 implementation plan relating to an individual source.

4 **SECTION 3.** 285.17 (2) of the statutes is renumbered 285.17 (2) (a).

5 **SECTION 4.** 285.17 (2) (b) and (c) of the statutes are created to read:

6 285.17 (2) (b) 1. The department may not include a monitoring requirement
7 relating to the emissions from an air contaminant source in an operation permit for
8 the source if the applicant demonstrates that the cost of compliance with the
9 monitoring requirement would exceed the cost of compliance with monitoring
10 requirements imposed on similar air contaminant sources by a state adjacent to this
11 state, unless the monitoring is required under the federal clean air act.

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

21 (c) The department, in consultation with representatives of industry and
22 others, shall identify best practices for emissions monitoring required under this
23 subsection to minimize inconsistencies in monitoring requirements within this state
24 and with monitoring requirements imposed by other states and the federal
25 environmental protection agency.

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1 **SECTION 5.** 285.21 (1) (b) of the statutes is renumbered 285.21 (1) (b) (intro.)
2 and amended to read:

3 285.21 (1) (b) *Standard to protect health or welfare.* (intro.) If an ambient air
4 quality standard for any air contaminant is not promulgated under section 109 of the
5 federal clean air act, the department may promulgate an ambient air quality
6 standard if the department finds that the standard is needed to provide adequate
7 protection for public health or welfare. The department may not make this finding
8 for an air contaminant unless the finding is supported with written documentation
9 that includes all of the following:

10 **SECTION 6.** 285.21 (1) (b) 1. to 4. of the statutes are created to read:

11 285.21 (1) (b) 1. A public health risk assessment that characterizes the types
12 of stationary sources in this state that are known to emit the air contaminant and
13 the population groups that are potentially at risk from the emissions.

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

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

21 4. A comparison of the costs to businesses in this state of complying with the
22 proposed ambient air quality standard to the costs of complying with ambient air
23 quality standards to similar businesses in Illinois, Indiana, Michigan, Minnesota,
24 and Ohio.

25 **SECTION 7.** 285.21 (4) of the statutes is amended to read:

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

8 **SECTION 8.** 285.23 (1) of the statutes is amended to read:

9 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule
10 procedures and criteria to identify a nonattainment area and to reclassify a
11 nonattainment area as an attainment area. After the effective date of this subsection
12 [revisor inserts date], the department may not identify a county as part of a
13 nonattainment area or recommend that a county be designated as part of a
14 nonattainment area under the federal clean air act if the concentration of an air
15 contaminant in the atmosphere does not exceed an ambient air quality standard,
16 unless under the federal clean air act the county is required to be designated as part
17 of a nonattainment area.

18 **SECTION 9.** 285.23 (2) of the statutes is amended to read:

19 285.23 (2) DOCUMENTS. The department shall issue documents from time to
20 time which define or list specific nonattainment areas or recommend that areas be
21 designated as nonattainment areas under the federal clean air act based upon the
22 procedures and criteria promulgated under sub. (1). Notwithstanding ss. 227.01 (13)
23 and 227.10 (1), documents issued under this subsection are not rules.

24 **SECTION 10.** 285.23 (6) of the statutes is created to read:

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

13 **SECTION 11.** 285.27 (1) (a) of the statutes is amended to read:

14 285.27 (1) (a) *Similar to federal standard.* If a standard of performance for new
15 stationary sources is promulgated under section 111 of the federal clean air act, the
16 department shall promulgate by rule a similar emission standard, including
17 administrative requirements that are consistent with the federal administrative
18 requirements, but this standard may not be more restrictive in terms of emission
19 limitations than the federal standard except as provided under sub. (4).

20 **SECTION 12.** 285.27 (2) (a) of the statutes is amended to read:

21 285.27 (2) (a) *Similar to federal standard.* If an emission standard for a
22 hazardous air contaminant is promulgated under section 112 of the federal clean air
23 act, the department shall promulgate by rule a similar standard, including
24 administrative requirements that are consistent with the federal administrative

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1 requirements, but this standard may not be more restrictive in terms of emission
2 limitations than the federal standard except as provided under sub. (4).

3 **SECTION 13.** 285.27 (2) (b) of the statutes is renumbered 285.27 (2) (b) (intro.)
4 and amended to read:

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

12 **SECTION 14.** 285.27 (2) (b) 1. to 4. of the statutes are created to read:

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

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

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

24 4. A comparison of the costs to businesses in this state of complying with
25 requirements related to emission standards for hazardous air contaminants,

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

5 **SECTION 15.** 285.27 (2) (d) of the statutes is created to read:

6 285.27 (2) (d) *Emissions regulated under federal law.* Emissions limitations
7 promulgated under par. (b) and related control requirements do not apply to
8 hazardous air contaminants emitted by emissions units, operations, or activities
9 that are regulated by an emission standard promulgated under the federal clean air
10 act, including a hazardous air contaminant that is regulated under the federal clean
11 air act by virtue of regulation of another substance as a surrogate for the hazardous
12 air contaminant or by virtue of regulation of a species or category of hazardous air
13 contaminants that includes the hazardous air contaminant.

14 **SECTION 16.** 285.27 (4) of the statutes is amended to read:

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

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1 **SECTION 17.** 285.60 (1) (a) 1. of the statutes is amended to read:

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

6 **SECTION 18.** 285.60 (1) (b) 1. of the statutes is amended to read:

7 285.60 (1) (b) 1. Except as provided in subd. 2., par. (a) 2., sub. ~~(2g), (3), (6)~~ or
8 (6m), or s. 285.62 (8), no person may operate a new source or a modified source unless
9 the person has an operation permit under s. 285.62 from the department.

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

11 285.60 (2) (a) *Operation permit requirement.* Except as provided in sub. (6) or
12 (6m) or s. 285.62 (8), no person may operate an existing source after the operation
13 permit requirement date specified under s. 285.62 (11) (a) unless the person has an
14 operation permit under s. 285.62 from the department.

15 **SECTION 20.** 285.60 (2g) of the statutes is created to read:

16 285.60 (2g) **REGISTRATION PERMITS.** (a) *Rules.* Subject to sub. (8), the
17 department shall promulgate rules specifying a simplified process under which the
18 department ~~issues~~ ^{may issue} a registration permit authorizing construction ~~and~~ ^{or} operation ~~for~~ ^{or both}
19 a stationary source with low actual emissions if the owner or operator provides to the
20 department, on a form prescribed by the department, sufficient information to show
21 that the source qualifies for a registration permit. In the rules, the department shall
22 include criteria for identifying categories of sources the owners or operators of which
23 may elect to obtain registration permits and general requirements applicable to
24 sources that qualify for registration permits.

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

5 1. Written notice of the department's determination that the source qualifies
6 for a registration permit ~~and that the applicant may operate the source consistent~~
7 ~~with the terms and conditions of the registration permit.~~

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

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

13 **SECTION 21.** 285.60 (2m) of the statutes is repealed.

14 **SECTION 22.** 285.60 (3) of the statutes is repealed and recreated to read:

15 285.60 (3) GENERAL PERMITS. (a) *Rules.* The department shall promulgate rules
16 for the issuance of general permits authorizing construction ~~and~~^{or} operation^{or both} for
17 similar stationary sources. In the rules, the department shall specify criteria for
18 identifying categories of sources for which the department may issue general permits
19 and general requirements applicable to sources that qualify for general permits.

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

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

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

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

9 **SECTION 23.** 285.60 (5m) of the statutes is created to read:

10 285.60 (5m) WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS. Subject to sub. (8),
11 the department shall promulgate rules under which it may grant a waiver from the
12 requirement to obtain a construction permit prior to construction, reconstruction,
13 replacement, or modification of a stationary source on a case-by-case basis or on
14 bases specified in the rule such as situations in which obtaining the permit would
15 cause undue hardship. The department shall act on a waiver request within 15 days
16 after it receives the request.

17 **SECTION 24.** 285.60 (6) of the statutes is amended to read:

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

24 **SECTION 25.** 285.60 (6m) of the statutes is created to read:

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

6 **SECTION 26.** 285.60 (6r) of the statutes is created to read:

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

13 **SECTION 27.** 285.60 (8) of the statutes is created to read:

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

17 **SECTION 28.** 285.60 (9) of the statutes is created to read:

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

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

5 **SECTION 29.** 285.60 (10) of the statutes is created to read:

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

15 **SECTION 30.** 285.61 (2) of the statutes is renumbered 285.61 (2) (a) and
16 amended to read:

17 285.61 (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 all of the plans, specifications and any other
20 information necessary to determine if the proposed construction, reconstruction,
21 replacement or modification will meet the requirements of this chapter and s. 299.15
22 and rules promulgated under this chapter and s. 299.15. If the department requests
23 additional information under this paragraph, the department shall notify the
24 applicant, within 15 days after receiving additional information from the applicant,
25 whether that additional information satisfies the department's request.

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1 **SECTION 31.** 285.61 (2) (b) of the statutes is created to read:

2 285.61 (2) (b) *When application is considered to be complete.* For the purposes
3 of the time limits in sub. (3), 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 time
6 limit in par. (a), 20 days after receipt of the application. This paragraph does not
7 prevent the department from requesting additional information from an applicant
8 after the time limit in par. (a).

9 **SECTION 32.** 285.61 (3) (intro.) ^{and put} of the statutes ^{STET: leave as typed} is amended to read:

10 285.61 (3) ANALYSIS. (intro.) The department shall prepare an analysis
11 regarding the effect of the proposed construction, reconstruction, replacement or
12 modification on ambient air quality and a preliminary determination on the
13 approvability of the construction permit application, within the following time
14 periods after the receipt of the plans, specifications and other information
15 application is considered to be complete under sub. (2) (b):

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16 **SECTION 33.** 285.61 (7) (a) of the statutes is amended to read:

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

25 **SECTION 34.** 285.61 (10) of the statutes is created to read:

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1 285.61 (10) EXTENSIONS. Upon agreement between the department and an
2 applicant, the department shall extend any time limit applicable to the department
3 under this section.

4 **SECTION 35.** 285.61 (11) of the statutes is created to read:

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

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

18 **SECTION 36.** 285.62 (1) of the statutes is amended to read:

19 285.62 (1) ~~APPLICANT NOTICE~~ APPLICATION REQUIRED. A person who is required
20 to obtain an operation permit for a stationary source shall apply to the department
21 for the permit on or before the operation permit application date specified under sub.
22 (11) (b). The department shall specify by rule the content of applications under this
23 subsection. If required by the federal clean air act, the department shall provide a
24 copy of the complete application to the federal environmental protection agency. The

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1 ~~department may not accept an application submitted to the department before~~
2 ~~November 15, 1992, as an application under this subsection.~~

3 **SECTION 37.** 285.62 (2) of the statutes is amended to read:

4 285.62 (2) (a) PLANS, SPECIFICATIONS AND OTHER INFORMATION. Within 20 days
5 after receipt of the application the department shall ~~indicate~~ provide written notice
6 to the applicant describing specifically any additional information required under
7 sub. (1) necessary to determine if the source, upon issuance of the permit, will meet
8 the requirements of this chapter and s. 299.15 and rules promulgated under this
9 chapter and s. 299.15. If the department requests additional information under this
10 subsection, the department shall notify the applicant, within 15 days after receiving
11 additional information from the applicant, whether that additional information
12 satisfies the department's request.

13 **SECTION 38.** 285.62 (5) (a) of the statutes is amended to read:

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

23 **SECTION 39.** 285.62 (6) (c) 1. of the statutes is amended to read:

24 285.62 (6) (c) 1. If the department receives an objection from the federal
25 environmental protection agency under this subsection, the department may not

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1 issue the operation permit unless the department revises the proposed operation
2 permit as necessary to satisfy the objection.

3 **SECTION 40.** 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

4 **SECTION 41.** 285.62 (8) (b) of the statutes is created to read:

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

11 **SECTION 42.** 285.62 (9) (b) of the statutes is repealed and recreated to read:

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

21 **SECTION 43.** 285.62 (12) of the statutes is created to read:

22 285.62 (12) **EXTENSIONS.** Upon agreement between the department and an
23 applicant, the department shall extend any time limit applicable to the department
24 under this section.

25 **SECTION 44.** 285.63 (1) (d) of the statutes is amended to read:

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1 285.63 (1) (d) *Source will not preclude construction or operation of other source.*

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

8 **SECTION 45.** 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

9 **SECTION 46.** 285.66 (2) (b) of the statutes is created to read:

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

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

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

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

20 **SECTION 47.** 285.66 (3) (a) of the statutes is amended to read:

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

24 **SECTION 48.** 285.81 (1) (intro.) of the statutes is amended to read:

BILL

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

6 **SECTION 49.** 285.81 (1m) of the statutes is created to read:

7 285.81 (1m) EFFECT OF A CHALLENGE. If a permit holder or applicant seeks a
8 hearing challenging part of a permit under sub. (1), the remainder of the permit shall
9 become effective and the permit holder or applicant may begin the activity for which
10 the permit was issued.

11 **SECTION 50.** 299.05 (2) (d) of the statutes is repealed.

12 **SECTION 51. Nonstatutory provisions.**

13 (1) REPORT ON AIR PERMIT STREAMLINING EFFORTS.

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

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

20 2. Recommendations, and related proposed rule revisions, for expanding
21 exemptions under section 285.60 (6) of the statutes, as affected by this act,
22 establishing registration permits under section 285.60 (2g) of the statutes, as created
23 by this act, expanding the use of general permits under section 285.60 (3) of the
24 statutes, as affected by this act, issuing construction permit waivers under section
25 285.60 (5m) of the statutes, as created by this act, and taking other actions under

BILL

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

BILL

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.

SECTION 52. Initial applicability.

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

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

21 (END)

Note

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3879/P1ins
RCT.....

Insert 14-15

SECTION 1. 285.61 (3) (a) of the statutes is amended to read:

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

History: 1979 c. 34, 221; 1985 a. 182 s. 57; 1991 a. 302.; 1995 a. 227 s. 486; Stats. 1995 s. 285.61.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3879/P1dn

RCT:.....

95

This is a second version of the air pollution control proposal for the substitute amendment to AB 655. Because of an error on my part, it was necessary to use a new LRB number for this version. The original LRB number of this proposal was LRB-3858. I am sorry for any confusion that this might cause.

The differences between LRB-3858 and this draft are as follows:

→ 1. Changes in the provisions relating to registration permits and general permits so that those permits could authorize construction or operation or both. Please let me know if that is not consistent with your intent. ✓

→ 2. The amendment of s. 285.61 (3) (a) ✓

The rest of this note repeats items from the drafter's note to LRB-3858, to which I have not had a response:

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. ✓

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) 4. and let me know if changes are needed to accomplish the intent behind this proposal. ✓

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. ✓

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3879/P1dn
RCT:cjs:pg

December 17, 2003

This is a second version of the air pollution control proposal for the substitute amendment to AB 655. Because of an error on my part, it was necessary to use a new LRB number for this version. The original LRB number of this proposal was LRB-3858. I am sorry for any confusion that this might cause.

The differences between LRB-3858 and this draft are as follows:

1. Changes in the provisions relating to registration permits and general permits so that those permits could authorize construction or operation or both. Please let me know if that is not consistent with your intent.
2. The amendment of s. 285.61 (3) (a).

The rest of this note repeats items from the drafter's note to LRB-3858, to which I have not had a response:

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.

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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) 4. and let me know if changes are needed to accomplish the intent behind this proposal.

The instruction for changes to s. 285.21 (4) indicated that the four documentation requirements for ambient air quality standards should apply 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.

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
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**Wisconsin Legislature
Speaker John Gard**

Fax

To: Rebecca Tradewell From: Ellen Nowak

Fax: 264-6948 Date: 12-18-03

Phone: - Pages: 3

Re: _____ CC: _____

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- Please Comment
- Please Reply
- Please Recycle

•Comments:

Chapter 285 Drafting Instructions

(Reference to sections in LRB-3879/P1dn)

Dec. 18, 2003

General Comments. Unless noted below, drafters treatment of issues note in prefatory note correctly addressed the issues.

✓ **SECTION 4 (Monitoring Requirements).** Delete 285.17 (b) 1. and modify 2. to read:

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 the proposed monitoring requirement is unreasonable considering among other factors monitoring requirements imposed on similar air contaminant sources by other states. If the administrator determines that the monitoring requirement is reasonable, the applicant may obtain a review of that determination by the secretary. The secretary may not delegate this function to another person.

✓ Change (2) to non-statutory provision that includes report to legislature within one year.

✓ **SECTION 6 (Ambient Air Stds).** Modify 285.21 (1) (b) 4. to read:

An estimate of costs to businesses in this state of complying with regulatory programs reasonably expected to meet the proposed ambient air standard and assessment whether businesses in Illinois, Indiana, Michigan, Minnesota or Ohio would incur similar costs.

✓ **SECTION 7 ("Relaxed" Fed Stds).** Modify 285.21 (4) to read:

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

✓ **SECTION 23 (Construction Permit Waivers).** Modify 285.60 (5m) to read:

285.60 (5m) **WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS.**

Notwithstanding sub. (1) and subject to sub. (8), the department shall allow a stationary source to commence construction, reconstruction, replacement, or modification prior to issuance of a construction permit upon a showing by the owner or operator of the stationary source that commencing construction, reconstruction, replacement, or modification prior to permit issuance is necessary to avoid undue hardship.

Notwithstanding sub. (1) and subject to sub. (8), the department may allow a stationary source to commence construction, reconstruction, replacement, or modification prior to issuance of a construction permit of a stationary source on a case-by-case basis or on bases specified rules.

The department shall act on a waiver request within 15 days after it receives the request.

Write
re: notwithstanding

[**Note:** The first paragraph requires the waiver if hardship, and reflect the hardship is linked to delaying construction and not the obtaining of a permit, which ultimately may be required (i.e., it could be a temporary waiver of the permit). The second paragraph is intended to provide DNR with broad authority to grant a waiver at its discretion so long as allowed by the CAA.]

✓ **SECTION 24 (Exemptions by Rule).** Modify to reflect the existing provision allowing for permissive exemptions for major sources is still allowed, but keep mandatory exemptions for minor sources.

✓ **SECTION 35 & 44(Extension of Deadlines).** Add: "The department may not require an applicant to agree to a different period as a condition of approving an application."

✓ **NEW SECTIONS.** Add back Section 261 of bill to trigger the deadline in a revised s. 285.62(7)(b) to reflect an overall 180-day deadline from the time of a complete application. Amend s. 285.62(7)(b) to read:

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

✓ **Section 49 (Permit Challenge).** Amend s.285.81 (1) to read:

(1) Permit holder; permit applicant, order recipient. Any permit, part of a permit, condition or specific requirement in a permit, order, decision or determination by the department under ss.285.39, 285.60 to 285.69 or 285.75 shall become effective unless the permit holder or applicant or the order recipient seeks a hearing ~~on~~ challenging the action in the following manner:

✓ **Section 50 (Permit Challenge).** Create s.285.81 (1m) to read:

(1m) Effect of a challenge. If a permit holder or applicant seeks a hearing challenging part of a permit or a condition or specific requirement in a permit under sub. (1), the remainder of the permit shall become effective and the permit holder or applicant may, at its sole discretion, commence construction and operation of the activity for which the application was submitted or for which the permit was issued.



State of Wisconsin
2003 - 2004 LEGISLATURE

Today, if possible

LRB-3879/102

RCT:cjs:pg

P2
YMY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regenerate
↓

1 AN ACT *to repeal* 285.60 (2m) and 299.05 (2) (d); *to renumber* 285.17 (2), 285.62
2 (8) and 285.66 (2); *to renumber and amend* 285.21 (1) (b), 285.27 (2) (b) and
3 285.61 (2); *to amend* 285.11 (9), 285.21 (4), 285.23 (1), 285.23 (2), 285.27 (1) (a),
4 285.27 (2) (a), 285.27 (4), 285.60 (1) (a) 1., 285.60 (1) (b) 1., 285.60 (2) (a), 285.60
5 (6), 285.61 (3) (intro.), 285.61 (3) (a), 285.61 (7) (a), 285.62 (1), 285.62 (2), 285.62
6 (5) (a), 285.62 (6) (c) 1., 285.63 (1) (d), 285.66 (3) (a) and 285.81 (1) (intro.); *to*
7 *repeal and recreate* 285.60 (3) and 285.62 (9) (b); and *to create* 285.14,
8 285.17 (2) (b) and (c), 285.21 (1) (b) 1. to 4., 285.23 (6), 285.27 (2) (b) 1. to 4.,
9 285.27 (2) (d), 285.60 (2g), 285.60 (5m), 285.60 (6m), 285.60 (6r), 285.60 (8),
10 285.60 (9), 285.60 (10), 285.61 (2) (b), 285.61 (10), 285.61 (11), 285.62 (8) (b),
11 285.62 (12), 285.66 (2) (b) and 285.81 (1m) of the statutes; **relating to:** air
12 pollution control.

Analysis by the Legislative Reference Bureau

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

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:

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

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

4 **SECTION 2.** 285.14 of the statutes is created to read:

5 **285.14 State implementation plans. (1) CONTENT.** The department may not
6 submit a control measure or strategy to the federal environmental protection agency
7 for inclusion in a state implementation plan under 42 USC 7410 unless the
8 department has promulgated the control measure or strategy as a rule.

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

*beginning after
the effective date of
this subsection.*

1 SECTION 3. 285.17 (2) of the statutes is renumbered 285.17 (2) (a).

2 SECTION 4. 285.17 (2) (b) and (c) of the statutes are created to read:

3 285.17 (2) (b) ~~W~~ The department may not include a monitoring requirement
4 relating to the emissions from an air contaminant source in an operation permit for
5 the source if the applicant demonstrates that the cost of compliance with the
6 monitoring requirement would exceed the cost of compliance with monitoring
7 requirements imposed on similar air contaminant sources by a state adjacent to this
8 state, unless the monitoring is required under the federal clean air act.

9 *no 8* ~~Before~~ Before issuing an operation permit that contains a monitoring requirement
10 relating to the emissions from an air contaminant source, the department shall
11 notify the applicant of the proposed monitoring requirement and give the applicant
12 the opportunity to demonstrate to the administrator of the division of the
13 department that administers this chapter that ~~subd. 4 prohibits the department~~
14 ~~from imposing~~ *proposed* the monitoring requirement. *Insert 3-14* If the administrator determines that
15 ~~subd. 4 does not prohibit the department from imposing~~ the monitoring
16 requirement, *is reasonable* the applicant may obtain a review of that determination by the
17 secretary. *Insert 3-17* The secretary may not delegate this function to another person.

18 *(#) (c) Report on emission monitoring practices.*
19 ~~The~~ The department, in consultation with representatives of industry and
20 others, shall identify *(2) of natural resources* best practices for emissions monitoring required under ~~the~~
21 ~~section~~ *285.17 (2) of the statute, as affected by this act,* to minimize inconsistencies in monitoring requirements within this state
22 and with monitoring requirements imposed by other states and the federal
23 environmental protection agency. *The department shall submit the report under
this subsection to the standing committees of the*

24 SECTION 5. 285.21 (1) (b) of the statutes is renumbered 285.21 (1) (b) (intro.)
and amended to read:

*move to
p. 21
convert
to
NONSTAT
Subsection
component*

develop a report that

*Legislature with jurisdiction
over environmental matters
no later than the first day of the 13th month*

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

8 **SECTION 6.** 285.21 (1) (b) 1. to 4. of the statutes are created to read:

9 285.21 (1) (b) 1. A public health risk assessment that characterizes the types
 10 of stationary sources in this state that are known to emit the air contaminant and
 11 the population groups that are potentially at risk from the emissions.

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

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

19 4. ^{An estimate} ~~comparison~~ of the costs to businesses in this state of complying with the
 20 proposed ambient air quality standard ^{regulatory programs} ~~to the costs of complying with ambient air~~
 21 ^{and an assessment of whether} ~~quality standards of~~ similar businesses in Illinois, Indiana, Michigan, Minnesota,
 22 ^{or} ~~and~~ Ohio. ^{to meet} ~~would incur similar costs~~

23 **SECTION 7.** 285.21 (4) of the statutes is amended to read:

24 285.21 (4) **IMPACT OF CHANGE IN FEDERAL STANDARDS.** If the ambient air
 25 increment or the ambient air quality standards in effect on April 30, 1980, under the

1 federal clean air act are ~~relaxed~~^{↓ modified}, the department shall alter the corresponding state
2 standards unless it finds that the ~~relaxed~~^{↓ modified} standards would not provide adequate
3 protection for public health and welfare. The department may not make this finding
4 for an ambient air quality standard unless the finding is supported with the written
5 documentation required under sub. (1) (b) 1. to 4.

6 SECTION 8. 285.23 (1) of the statutes is amended to read:

7 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule
8 procedures and criteria to identify a nonattainment area and to reclassify a
9 nonattainment area as an attainment area. After the effective date of this subsection
10 ... [revisor inserts date], the department may not identify a county as part of a
11 nonattainment area or recommend that a county be designated as part of a
12 nonattainment area under the federal clean air act if the concentration of an air
13 contaminant in the atmosphere does not exceed an ambient air quality standard,
14 unless under the federal clean air act the county is required to be designated as part
15 of a nonattainment area.

16 SECTION 9. 285.23 (2) of the statutes is amended to read:

17 285.23 (2) DOCUMENTS. The department shall issue documents from time to
18 time which define or list specific nonattainment areas or recommend that areas be
19 designated as nonattainment areas under the federal clean air act based upon the
20 procedures and criteria promulgated under sub. (1). Notwithstanding ss. 227.01 (13)
21 and 227.10 (1), documents issued under this subsection are not rules.

22 SECTION 10. 285.23 (6) of the statutes is created to read:

23 285.23 (6) REPORT TO STANDING COMMITTEES. Before the department issues
24 documents under sub. (2) and at least 60 days before the governor is required to make
25 a submission on a nonattainment designation under 42 USC 7407 (d) (1) (A), the

1 department shall prepare, and provide to the standing committees of the legislature
2 with jurisdiction over environmental matters under s. 13.172 (3), a report that
3 contains a description of any area proposed to be identified as a nonattainment area
4 and supporting documentation. The department shall also submit to the revisor of
5 statutes for publication in the administrative register a notice of availability of the
6 report. If, within 30 days after the department submits the report, the chairperson
7 of a standing committee to which the report was provided submits written comments
8 on the report to the department, the secretary shall respond to the chairperson in
9 writing within 15 days or receipt of the comments.

10 **SECTION 11.** 285.27 (1) (a) of the statutes is amended to read:

11 285.27 (1) (a) *Similar to federal standard.* If a standard of performance for new
12 stationary sources is promulgated under section 111 of the federal clean air act, the
13 department shall promulgate by rule a similar emission standard, including
14 administrative requirements that are consistent with the federal administrative
15 requirements, but this standard may not be more restrictive in terms of emission
16 limitations than the federal standard except as provided under sub. (4).

17 **SECTION 12.** 285.27 (2) (a) of the statutes is amended to read:

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

24 **SECTION 13.** 285.27 (2) (b) of the statutes is renumbered 285.27 (2) (b) (intro.)
25 and amended to read:

1 285.27 (2) (b) *Standard to protect public health or welfare.* (intro.) If an
2 emission standard for a hazardous air contaminant is not promulgated under section
3 112 of the federal clean air act, the department may promulgate an emission
4 standard for the hazardous air contaminant if the department finds the standard is
5 needed to provide adequate protection for public health or welfare. The department
6 may not make this finding for a hazardous air contaminant unless the finding is
7 supported with written documentation that includes all of the following:

8 **SECTION 14.** 285.27 (2) (b) 1. to 4. of the statutes are created to read:

9 285.27 (2) (b) 1. A public health risk assessment that characterizes the types
10 of stationary sources in this state that are known to emit the hazardous air
11 contaminant and the population groups that are potentially at risk from the
12 emissions.

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

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

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

1 **SECTION 15.** 285.27 (2) (d) of the statutes is created to read:

2 285.27 (2) (d) *Emissions regulated under federal law.* Emissions limitations
3 promulgated under par. (b) and related control requirements do not apply to
4 hazardous air contaminants emitted by emissions units, operations, or activities
5 that are regulated by an emission standard promulgated under the federal clean air
6 act, including a hazardous air contaminant that is regulated under the federal clean
7 air act by virtue of regulation of another substance as a surrogate for the hazardous
8 air contaminant or by virtue of regulation of a species or category of hazardous air
9 contaminants that includes the hazardous air contaminant.

10 **SECTION 16.** 285.27 (4) of the statutes is amended to read:

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

22 **SECTION 17.** 285.60 (1) (a) 1. of the statutes is amended to read:

23 285.60 (1) (a) 1. Except as provided in sub. (5m), (6), (6m), or (6r), no person may
24 commence construction, reconstruction, replacement or modification of a stationary
25 source unless the person has a construction permit from the department.

1 **SECTION 18.** 285.60 (1) (b) 1. of the statutes is amended to read:

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

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

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

10 **SECTION 20.** 285.60 (2g) of the statutes is created to read:

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

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

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

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

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

6 **SECTION 21.** 285.60 (2m) of the statutes is repealed.

7 **SECTION 22.** 285.60 (3) of the statutes is repealed and recreated to read:

8 **285.60 (3) GENERAL PERMITS.** (a) *Rules.* The department shall promulgate rules
9 for the issuance of general permits authorizing construction or operation or both for
10 similar stationary sources. In the rules, the department shall specify criteria for
11 identifying categories of sources for which the department may issue general permits
12 and general requirements applicable to sources that qualify for general permits.

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

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

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

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

25 **SECTION 23.** 285.60 (5m) of the statutes is created to read:

Inset
11-1 # (b)

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

8 ^(b) Section #. RN; 285.60 (6); 285.60 (6) (a) *Created*
 SECTION 24. 285.60 (6) of the statutes is amended to read:

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

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PLAIN

15 SECTION 25. 285.60 (6m) of the statutes is created to read:

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

21 SECTION 26. 285.60 (6r) of the statutes is created to read:

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

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 27.** 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 28.** 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 29.** 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

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 30.** 285.61 (2) of the statutes is renumbered 285.61 (2) (a) and
6 amended to read:

7 285.61 (2) (a) *Request for additional information.* Within 20 days after receipt
8 of the application the department shall ~~indicate~~ provide written notice to the
9 applicant describing specifically all of the plans, specifications and any other
10 information necessary to determine if the proposed construction, reconstruction,
11 replacement or modification will meet the requirements of this chapter and s. 299.15
12 and rules promulgated under this chapter and s. 299.15. If the department requests
13 additional information under this paragraph, the department shall notify the
14 applicant, within 15 days after receiving additional information from the applicant,
15 whether that additional information satisfies the department's request.

16 **SECTION 31.** 285.61 (2) (b) of the statutes is created to read:

17 285.61 (2) (b) *When application is considered to be complete.* For the purposes
18 of the time limits in sub. (3), an application is considered to be complete when the
19 applicant provides the information specified in the written notice under par. (a), or,
20 if the department does not provide written notice to an applicant within the time
21 limit in par. (a), 20 days after receipt of the application. This paragraph does not
22 prevent the department from requesting additional information from an applicant
23 after the time limit in par. (a).

24 **SECTION 32.** 285.61 (3) (intro.) of the statutes is amended to read:

1 285.61 (3) ANALYSIS. (intro.) The department shall prepare an analysis
2 regarding the effect of the proposed construction, reconstruction, replacement or
3 modification on ambient air quality and a preliminary determination on the
4 approvability of the construction permit application, within the following time
5 periods after the receipt of the plans, specifications and other information
6 application is considered to be complete under sub. (2) (b):

7 **SECTION 33.** 285.61 (3) (a) of the statutes is amended to read:

8 285.61 (3) (a) *Major source construction permits.* For construction permits for
9 major sources, within ~~120~~ 90 days.

10 **SECTION 34.** 285.61 (7) (a) of the statutes is amended to read:

11 285.61 (7) (a) *Hearing permitted.* The department may hold a public hearing
12 on the construction permit application if requested by a person who may be directly
13 aggrieved by the issuance of the permit, any affected state or the U.S. environmental
14 protection agency within 30 days after the department gives notice under sub. (5) (c).
15 A request for a public hearing shall indicate the interest of the party filing the
16 request and the reasons why a hearing is warranted. The department shall hold the
17 public hearing within 60 days after the deadline for requesting a hearing if it deems
18 that there is a significant public interest in holding a hearing.

19 **SECTION 35.** 285.61 (10) of the statutes is created to read:

20 285.61 (10) **EXTENSIONS.** Upon agreement between the department and an
21 applicant, the department shall extend any time limit applicable to the department
22 under this section. ^{Insect 14-22}

23 **SECTION 36.** 285.61 (11) of the statutes is created to read:

24 285.61 (11) **DELAY IN ISSUING PERMITS.** (a) Subject to sub. (10), if the department
25 fails to act on an application for a construction permit within the time limit in sub.

1 (8) (b), the department shall include in a report the reasons for the delay in acting
2 on the application, including the names of the department's employees responsible
3 for review of the application, and recommendations for how to avoid similar delays
4 in the future. The department shall make reports under this paragraph available
5 to the public, place a prominent notice of the reports on the department's Internet
6 site, and submit the reports to the joint committee for the review of administrative
7 rules on a quarterly basis.

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

12 **SECTION 37.** 285.62 (1) of the statutes is amended to read:

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

21 **SECTION 38.** 285.62 (2) of the statutes is ^{renumbered 285.62 (2) (a) and} amended to read:
22 ^{Ⓢ Request for additional information.}
23 285.62 (2) (a) ~~PLANS, SPECIFICATIONS AND OTHER INFORMATION.~~ Within 20 days
24 after receipt of the application the department shall ~~indicate~~ provide written notice
25 to the applicant describing specifically any additional information required under
sub. (1) necessary to determine if the source, upon issuance of the permit, will meet

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1 the requirements of this chapter and s. 299.15 and rules promulgated under this
 2 chapter and s. 299.15. If the department requests additional information under this
 3 subsection, the department shall notify the applicant, within 15 days after receiving
 4 additional information from the applicant, whether that additional information
 5 satisfies the department's request.

Insert 16-5 → SECTION 39. 285.62 (5) (a) of the statutes is amended to read:

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

16 SECTION 40. 285.62 (6) (c) 1. of the statutes is amended to read:

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

Insert 16-20 → SECTION 41. 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

SECTION 42. 285.62 (8) (b) of the statutes is created to read:

23 285.62 (8) (b) If a person submits an application for renewal of an operation
 24 permit before the date that the operation permit expires, the stationary source may
 25 not be required to discontinue operation and the person may not be prosecuted for

1 lack of an operation permit until the department acts under sub. (7), except that this
2 paragraph does not apply in a situation in which its application would contravene
3 the federal clean air act.

4 **SECTION 43.** 285.62 (9) (b) of the statutes is repealed and recreated to read:

5 285.62 (9) (b) Subject to sub. (12), if the department fails to act on an
6 application for an operation permit within the time limit under sub. (7) (b), the
7 department shall include in a report the reasons for the delay in acting on the
8 application, including the names of the department's employees responsible for
9 review of the application, and recommendations for how to avoid delays in the future
10 in similar situations. The department shall make reports under this subsection
11 available to the public, place a prominent notice of the reports on the department's
12 Internet site, and submit the reports to the joint committee for the review of
13 administrative rules on a quarterly basis.

14 **SECTION 44.** 285.62 (12) of the statutes is created to read:

15 285.62 (12) EXTENSIONS. Upon agreement between the department and an
16 applicant, the department shall extend any time limit applicable to the department
17 under this section. *Inset 17-17*

18 **SECTION 45.** 285.63 (1) (d) of the statutes is amended to read:

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

1 **SECTION 46.** 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

2 **SECTION 47.** 285.66 (2) (b) of the statutes is created to read:

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

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

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

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

13 **SECTION 48.** 285.66 (3) (a) of the statutes is amended to read:

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

17 **SECTION 49.** 285.81 (1) (intro.) of the statutes is amended to read:

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

24 **SECTION 50.** 285.81 (1m) of the statutes is created to read:

25 285.81 (1m) **EFFECT OF A CHALLENGE.** If a permit holder or applicant seeks a
hearing challenging part of a permit or a condition or requirement in a permit
under sub. (1), the remainder of the permit shall

, at its discretion,

① become effective and the permit holder or applicant may begin the activity for which
② the application was submitted or for which the permit was issued.

3 SECTION 51. 299.05 (2) (d) of the statutes is repealed.

4 SECTION 52. Nonstatutory provisions.

5 (1) REPORT ON AIR PERMIT STREAMLINING EFFORTS.

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

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

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

20 3. A schedule for providing additional reports containing recommendations,
21 and related rule revisions, for expanding exemptions under section 285.60 (6) of the
22 statutes, as affected by this act, expanding the use of registration permits under
23 section 285.60 (2g) of the statutes, as created by this act, expanding the use of general
24 permits under section 285.60 (3) of the statutes, as affected by this act, expanding
25 the issuance of construction permit waivers under section 285.60 (5m) of the

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

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

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

16 (2) REPORT ON CLEAN AIR ACT STATE IMPLEMENTATION PLANS. No later than the first
17 day of the 13th month beginning after the effective date of this subsection, the
18 department of natural resources shall submit to the standing committees of the
19 legislature with jurisdiction over environmental matters a report that contains all
20 of the following:

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

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

4 **SECTION 53. Initial applicability.**

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

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

13 (END)

Insert
from
p. 3

(7)(b) ↗

2

§

and 285.62(2)

and 285.62(2)(b)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3879/P2dn

RCT/.....

gjs

* In addition to the requested changes to s. 285.17⁽²⁾(b), in order to accomplish what I think is intended, it seemed necessary to explicitly state the effect of a determination that a proposed monitoring requirement is unreasonable. Is there a need to be concerned that as modified this provision could prevent DNR from imposing a monitoring requirement required under the Clean Air Act?

It is not necessary to "notwithstand" s. 285.60 (1) in proposed s. 285.60 (5m) because in the draft s. 285.60 (1)^{(a)1.} already says "[e]xcept as provided in sub. (5m)."

I modified the treatment of s. 285.81 (1). However, because a condition or requirement in a permit would seem to be part of a permit and because s. 285.81 (1) currently refers to part of a permit, it appears to be unnecessary to add language about a condition or requirement.

I did not add "construction and operation" in proposed s. 285.81 (1m) because the permit might not authorize construction **and** operation.

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Managing Attorney
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Insert 3-14

no fl is unreasonable considering, among other factors, monitoring requirements imposed on similar air contaminant sources by other states. If the administrator determines that the monitoring requirement is unreasonable, the department may not impose the monitoring requirement ✓

Insert 3-17

no fl If the secretary determines that the monitoring requirement is unreasonable, the department may not impose the monitoring requirement. ✓

Insert 11-1

no fl (a) Subject to sub. (8), ✓ the department shall allow a person to commence construction, reconstruction, replacement, or modification of a stationary source prior to the issuance of a construction permit upon a showing that commencing construction, reconstruction, replacement, or modification prior to the issuance of the permit is necessary to avoid undue hardship.

Inserts 14-22 and 17-17

no fl The department may not require an applicant to agree to extend a time period as a condition of approving an application.

Insert 16-5

SECTION 1. 285.62 (2) (b) of the statutes is created to read:

285.62 (2) (b) *When application is considered to be complete.* For the purposes of the time limit in sub. (7) (b), ✓ an application is considered to be complete when the applicant provides the information specified in the written notice under par. (a), or, if the department does not provide written notice to an applicant within the period

^{Specified}
 under par. (a), 20 days after receipt of the application. This paragraph does not
 prevent the department from requesting additional information from an applicant
 after the period ^{specified} under par. (a).

Insert 16-20

SECTION 2. 285.62 (7) (b) of the statutes is amended to read:

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

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3879/P2dn
RCT:cjs:rs

December 19, 2003

In addition to the requested changes to s. 285.17 (2) (b), in order to accomplish what I think is intended, it seemed necessary to explicitly state the effect of a determination that a proposed monitoring requirement is unreasonable. Is there a need to be concerned that as modified this provision could prevent DNR from imposing a monitoring requirement required under the Clean Air Act?

It is not necessary to "notwithstanding" s. 285.60 (1) in proposed s. 285.60 (5m) because in the draft s. 285.60 (1) (a) 1. already says "[e]xcept as provided in sub. (5m)."

I modified the treatment of s. 285.81 (1). However, because a condition or requirement in a permit would seem to be part of a permit and because s. 285.81 (1) currently refers to part of a permit, it appears to be unnecessary to add language about a condition or requirement.

I did not add "construction and operation" in proposed s. 285.81 (1m) because the permit might not authorize construction **and** operation.

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Tradewell, Becky

From: Nowak, Ellen
Sent: Monday, January 05, 2004 3:25 PM
To: Tradewell, Becky
Subject: a few changes to LRB 3879

Importance: High

Becky:
Please see attached.



Chapter 285
Drafting (LRB 3879...

Chapter 285 Drafting Instructions

(Reference to sections in LRB-3879/P2)

Jan. 5, 2004

✓ **General Comments.** Unless noted below, the drafter's treatment of issues noted in prefatory note was okay.

✓ **Section 4. (Monitoring).** [Note: Drafter asked a question relating to monitoring required by CAA. If the proposed monitoring requirement is required by the CAA, the Division Administrator could (and surely would) find that such requirement is reasonable (the provision provides sufficient discretion on that determination), so there is no need for clarification on that point. That is, the provision is fine as drafted.]

✓ **Section 6 (Ambient Air Stds).** Modify proposed 285.21 (1) (b) 4. to read:

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

✓ **Section 14 (HAPs Documentation).** Modify proposed 285.27 (2) (b) 4. to read:

A comparison of the requirements related to emission standards for hazardous air contaminants to hazardous air contaminant regulatory programs in Illinois, Indiana, Michigan, Minnesota or Ohio.

✓ **Section 26 (Ag Exemption).** Delete (and delete reference to that provision in §§17, 18 and 19).

✓ **Section 27 (Exemption for Components).** Delete (and delete reference to that provision in §17).

Section 55 (Nonstatutory provision relating to DNR Reports). Modify sub. (3) or add a parallel provision relating to establishment of policies on that information the department will required in permit applications that also focuses on consistency within the state and other states. Add the additional objectives of these assessments is to reduce overall permitting costs and approval times. Also, modify this (these) provision to include as part of the report proposed rules required to effectuate the objectives of these provisions.

*Per Ellen do not require
rule-making*