



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3879/~~273~~ P3
RCT:cjs:rs
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Tuesday

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Divide
inserts

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

1 (11), 285.62 (2) (b), 285.62 (8) (b), 285.62 (12), 285.66 (2) (b) and 285.81 (1m) of
2 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

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) of the statutes is created to read:

6 285.17 (2) (b) Before issuing an operation permit that contains a monitoring
7 requirement relating to the emissions from an air contaminant source, the
8 department shall notify the applicant of the proposed monitoring requirement and
9 give the applicant the opportunity to demonstrate to the administrator of the
10 division of the department that administers this chapter that the proposed
11 monitoring requirement is unreasonable considering, among other factors,
12 monitoring requirements imposed on similar air contaminant sources by other
13 states. If the administrator determines that the monitoring requirement is
14 unreasonable, the department may not impose the monitoring requirement. If the
15 administrator determines that the monitoring requirement is reasonable, the
16 applicant may obtain a review of that determination by the secretary. The secretary
17 may not delegate this function to another person. If the secretary determines that
18 the monitoring requirement is unreasonable, the department may not impose the
19 monitoring requirement.

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

22 285.21 (1) (b) *Standard to protect health or welfare.* (intro.) If an ambient air
23 quality standard for any air contaminant is not promulgated under section 109 of the
24 federal clean air act, the department may promulgate an ambient air quality
25 standard if the department finds that the standard is needed to provide adequate

1 protection for public health or welfare. The department may not make this finding
 2 for an air contaminant unless the finding is supported with written documentation
 3 that includes all of the following:

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

5 285.21 (1) (b) 1. A public health risk assessment that characterizes the types
 6 of stationary sources in this state that are known to emit the air contaminant and
 7 the population groups that are potentially at risk from the emissions.

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

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

15 4. ^{A comparison of} ~~An estimate of the costs to businesses in this state of complying with~~
 16 regulatory programs reasonably expected to meet the proposed ambient air quality
 17 standard ^{with ambient air quality regulatory programs} ~~and an assessment of whether similar businesses~~ in Illinois, Indiana,
 18 Michigan, Minnesota, or Ohio ~~would incur similar costs.~~

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

20 285.21 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the ambient air
 21 increment or the ambient air quality standards in effect on April 30, 1980, under the
 22 federal clean air act are relaxed modified, the department shall alter the
 23 corresponding state standards unless it finds that the ~~relaxed~~ modified standards
 24 would not provide adequate protection for public health and welfare. The
 25 department may not make this finding for an ambient air quality standard unless

1 the finding is supported with the written documentation required under sub. (1) (b)
2 1. to 4.

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

4 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule
5 procedures and criteria to identify a nonattainment area and to reclassify a
6 nonattainment area as an attainment area. After the effective date of this subsection
7 [revisor inserts date], the department may not identify a county as part of a
8 nonattainment area or recommend that a county be designated as part of a
9 nonattainment area under the federal clean air act if the concentration of an air
10 contaminant in the atmosphere does not exceed an ambient air quality standard,
11 unless under the federal clean air act the county is required to be designated as part
12 of a nonattainment area.

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

14 285.23 (2) DOCUMENTS. The department shall issue documents from time to
15 time which define or list specific nonattainment areas or recommend that areas be
16 designated as nonattainment areas under the federal clean air act based upon the
17 procedures and criteria promulgated under sub. (1). Notwithstanding ss. 227.01 (13)
18 and 227.10 (1), documents issued under this subsection are not rules.

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

20 285.23 (6) REPORT TO STANDING COMMITTEES. Before the department issues
21 documents under sub. (2) and at least 60 days before the governor is required to make
22 a submission on a nonattainment designation under 42 USC 7407 (d) (1) (A), the
23 department shall prepare, and provide to the standing committees of the legislature
24 with jurisdiction over environmental matters under s. 13.172 (3), a report that
25 contains a description of any area proposed to be identified as a nonattainment area

1 and supporting documentation. The department shall also submit to the revisor of
2 statutes for publication in the administrative register a notice of availability of the
3 report. If, within 30 days after the department submits the report, the chairperson
4 of a standing committee to which the report was provided submits written comments
5 on the report to the department, the secretary shall respond to the chairperson in
6 writing within 15 days or receipt of the comments.

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

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

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

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

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

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

1 standard for the hazardous air contaminant if the department finds the standard is
2 needed to provide adequate protection for public health or welfare. The department
3 may not make this finding for a hazardous air contaminant unless the finding is
4 supported with written documentation that includes all of the following:

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

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

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

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

17 4. A comparison of the ~~costs to businesses in this state of complying with~~
18 requirements related to emission standards for hazardous air contaminants ^{in this}
19 ~~including costs associated with the proposed emission standards to the costs of~~ _{the state}
20 ~~complying with requirements related to emission standards for~~
21 ~~contaminants to similar businesses in Illinois, Indiana, Michigan, Minnesota, and~~ ^{regulatory programs}
22 Ohio.

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

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

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

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

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

LPS: it should read like this:
sub. (5m) or (6) no

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

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

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

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

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

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

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

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

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

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

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:

1 285.60 (5m) WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS. (a) Subject to sub.
2 (8), the department shall allow a person to commence construction, reconstruction,
3 replacement, or modification of a stationary source prior to the issuance of a
4 construction permit upon a showing that commencing construction, reconstruction,
5 replacement, or modification prior to the issuance of the permit is necessary to avoid
6 undue hardship.

7 (b) Subject to sub. (8), the department may allow a person to commence
8 construction, reconstruction, replacement, or modification of a stationary source
9 prior to the issuance of a construction permit on a case-by-case basis or on bases
10 specified in a rule.

11 (c) The department shall act on a waiver request under this subsection within
12 15 days after it receives the request.

13 **SECTION 24.** 285.60 (6) of the statutes is renumbered 285.60 (6) (a).

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

15 285.60 (6) (b) Subject to sub. (8), the department shall, by rule, exempt minor
16 sources from the requirement to obtain a construction permit and an operation
17 permit if the emissions from the sources do not present a significant hazard to public
18 health, safety or welfare or to the environment.

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

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

25 **SECTION 27.** 285.60 (6r) of the statutes is created to read:

1 **285.60 (6r) EXEMPTION FROM CONSTRUCTION PERMIT REQUIREMENT.** A person is not
2 required to obtain a construction permit for a source that is a component of a process,
3 of equipment, or of an activity that is otherwise covered by a preexisting operation
4 permit or a source that is a component of a process, of equipment, or of an activity
5 that is included in a completed application for an operation permit, unless a
6 construction permit is required under the federal clean air act.

7 **SECTION 28.** 285.60 (8) of the statutes is created to read:

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

11 **SECTION 29.** 285.60 (9) of the statutes is created to read:

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

24 **SECTION 30.** 285.60 (10) of the statutes is created to read:

1 285.60 (10) PERMIT STREAMLINING. The department shall continually assess
2 permit obligations imposed under this section and ss. 285.61 to 285.65 and
3 implement measures that are consistent with this chapter and the federal clean air
4 act to allow for timely installation and operation of equipment and processes and the
5 pursuit of related economic activity by lessening those obligations, including
6 consolidating the permits for sources at a facility into one permit, expanding
7 exemptions under sub. (6), and expanding the availability of registration permits
8 under sub. (2g), general permits under sub. (3), and construction permit waivers
9 under sub. (5m).

10 **SECTION 31.** 285.61 (2) of the statutes is renumbered 285.61 (2) (a) and
11 amended to read:

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

21 **SECTION 32.** 285.61 (2) (b) of the statutes is created to read:

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

1 limit in par. (a), 20 days after receipt of the application. This paragraph does not
2 prevent the department from requesting additional information from an applicant
3 after the time limit in par. (a).

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

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

11 **SECTION 34.** 285.61 (3) (a) of the statutes is amended to read:

12 285.61 (3) (a) *Major source construction permits.* For construction permits for
13 major sources, within ~~120~~ 90 days.

14 **SECTION 35.** 285.61 (7) (a) of the statutes is amended to read:

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

23 **SECTION 36.** 285.61 (10) of the statutes is created to read:

24 285.61 (10) EXTENSIONS. Upon agreement between the department and an
25 applicant, the department shall extend any time limit applicable to the department

1 under this section. The department may not require an applicant to agree to extend
2 a time period as a condition of approving an application.

3 **SECTION 37.** 285.61 (11) of the statutes is created to read:

4 285.61 (11) DELAY IN ISSUING PERMITS. (a) Subject to sub. (10), if the department
5 fails to act on an application for a construction permit within the time limit in sub.
6 (8) (b), the department shall include in a report the reasons for the delay in acting
7 on the application, including the names of the department's employees responsible
8 for review of the application, and recommendations for how to avoid similar delays
9 in the future. The department shall make reports under this paragraph available
10 to the public, place a prominent notice of the reports on the department's Internet
11 site, and submit the reports to the joint committee for the review of administrative
12 rules on a quarterly basis.

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

17 **SECTION 38.** 285.62 (1) of the statutes is amended to read:

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

1 **SECTION 39.** 285.62 (2) of the statutes is renumbered 285.62 (2) (a) and
2 amended to read:

3 285.62 (2) (a) Request for additional information. Within 20 days after receipt
4 of the application the department shall indicate provide written notice to the
5 applicant describing specifically any additional information required under sub. (1)
6 necessary to determine if the source, upon issuance of the permit, will meet the
7 requirements of this chapter and s. 299.15 and rules promulgated under this chapter
8 and s. 299.15. If the department requests additional information under this
9 subsection, the department shall notify the applicant, within 15 days after receiving
10 additional information from the applicant, whether that additional information
11 satisfies the department's request.

12 **SECTION 40.** 285.62 (2) (b) of the statutes is created to read:

13 285.62 (2) (b) *When application is considered to be complete.* For the purposes
14 of the time limit in sub. (7) (b), an application is considered to be complete when the
15 applicant provides the information specified in the written notice under par. (a), or,
16 if the department does not provide written notice to an applicant within the period
17 specified under par. (a), 20 days after receipt of the application. This paragraph does
18 not prevent the department from requesting additional information from an
19 applicant after the period specified under par. (a).

20 **SECTION 41.** 285.62 (5) (a) of the statutes is amended to read:

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

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

5 **SECTION 42.** 285.62 (6) (c) 1. of the statutes is amended to read:

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

10 **SECTION 43.** 285.62 (7) (b) of the statutes is amended to read:

11 285.62 (7) (b) The department shall approve or deny the operation permit
12 application for a new source or modified source. The department shall issue the
13 operation permit for a new source or modified source if the criteria established under
14 ss. 285.63 and 285.64 are met. The department shall issue an operation permit for
15 a new source or modified source or deny the application within 180 days after the
16 application is considered to be complete under sub. (2) (b) or after the permit
17 applicant submits to the department the results of all equipment testing and
18 emission monitoring required under the construction permit, whichever is later.

19 **SECTION 44.** 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

20 **SECTION 45.** 285.62 (8) (b) of the statutes is created to read:

21 285.62 (8) (b) If a person submits an application for renewal of an operation
22 permit before the date that the operation permit expires, the stationary source may
23 not be required to discontinue operation and the person may not be prosecuted for
24 lack of an operation permit until the department acts under sub. (7), except that this

1 paragraph does not apply in a situation in which its application would contravene
2 the federal clean air act.

3 **SECTION 46.** 285.62 (9) (b) of the statutes is repealed and recreated to read:

4 285.62 (9) (b) Subject to sub. (12), if the department fails to act on an
5 application for an operation permit within the time limit under sub. (7) (b), the
6 department shall include in a report the reasons for the delay in acting on the
7 application, including the names of the department's employees responsible for
8 review of the application, and recommendations for how to avoid delays in the future
9 in similar situations. The department shall make reports under this subsection
10 available to the public, place a prominent notice of the reports on the department's
11 Internet site, and submit the reports to the joint committee for the review of
12 administrative rules on a quarterly basis.

13 **SECTION 47.** 285.62 (12) of the statutes is created to read:

14 285.62 (12) EXTENSIONS. Upon agreement between the department and an
15 applicant, the department shall extend any time limit applicable to the department
16 under this section. The department may not require an applicant to agree to extend
17 a time period as a condition of approving an application.

18 **SECTION 48.** 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 49.** 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

2 **SECTION 50.** 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 51.** 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 52.** 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, condition or requirement in a permit, order, decision or
20 determination by the department under ss. 285.39, 285.60 to 285.69 or 285.75 shall
21 become effective unless the permit holder or applicant or the order recipient seeks
22 a hearing ~~on~~ challenging the action in the following manner:

23 **SECTION 53.** 285.81 (1m) of the statutes is created to read:

24 285.81 (1m) EFFECT OF A CHALLENGE. If a permit holder or applicant seeks a
25 hearing challenging part of a permit or a condition or requirement in a permit under

1 sub. (1), the remainder of the permit shall become effective and the permit holder or
2 applicant may, at its discretion, begin the activity for which the application was
3 submitted or for which the permit was issued.

4 **SECTION 54.** 299.05 (2) (d) of the statutes is repealed.

5 **SECTION 55. Nonstatutory provisions.**

6 (1) REPORT ON AIR PERMIT STREAMLINING EFFORTS.

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

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

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

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

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

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

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

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

22 (a) A description of all of this state's existing and pending state implementation
23 plans under 42 USC 7410 with an analysis of any rules or requirements included in
24 the plans that may not have been necessary to obtain federal environmental

and related proposed rule, revisions, to reduce overall permitting costs and approval times and

1 protection agency approval but that are federally enforceable as a result of being
2 included in the plan.

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

6 (3) REPORT ON EMISSION MONITORING PRACTICES. The department of natural
7 resources, in consultation with representatives of industry and others, shall develop
8 a report that identifies best practices for emissions monitoring required under
9 section 285.17 (2) of the statutes, as affected by this act, to minimize inconsistencies
10 in monitoring requirements within this state and with monitoring requirements
11 imposed by other states and the federal environmental protection agency. The
12 department shall submit the report under this subsection to the standing
13 committees of the legislature with jurisdiction over environmental matters no later
14 than the first day of the 13th month beginning after the effective date of this
15 subsection.

Insert
22-15

SECTION 56. Initial applicability.

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

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

25

(END)

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2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3879/P3ins.
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~~(b)~~ REPORT ON APPLICATION REQUIREMENTS. The department of natural resources, in consultation with representatives of industry and others, shall develop a report that identifies information that the department will require in applications for air pollution control permits, and related proposed rule revisions, to reduce overall permitting costs and approval times and to minimize inconsistencies in application requirements within this state and with application requirements imposed by other states and the federal environmental protection agency. The department shall submit the report under this subsection to the standing committees of the legislature with jurisdiction over environmental matters no later than the first day of the 13th month beginning after the effective date of this subsection.

✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3879/P3dn

RCT.....

gs

Ellen Nowak:

This is the redraft of the changes to ch. 285, based on redraft instructions dated Jan. 5, 2004.

I made minor additions to the proposed language for ss. 285.21 (1) (b) 4. and 285.27 (2) (b) 4. because I thought that it needed to be made more specific. Please let me know if I have not captured the intent of the 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/P3dn
RCT:cjs:pg

January 6, 2004

Ellen Nowak:

This is the redraft of the changes to ch. 285, based on redraft instructions dated Jan. 5, 2004.

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

Tradewell, Becky

From: Bonderud, Kendra
Sent: Tuesday, January 06, 2004 1:36 PM
To: Tradewell, Becky
Cc: Hinz, Daryl
Subject: LRB3879/P3 air

This is a very technical suggestion for a grammar check on page 6, line six. Should it say "within 15 days of receipt of the comments" instead of "within 15 days or receipt of the comments"?

Kendra Bonderud

*Legislative Fiscal Analyst
Wisconsin Legislative Fiscal Bureau
ph. (608) 266-3847
fax (608) 267-6873
Kendra.Bonderud@legis.state.wi.us*



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3879/

RCT:cjs:pg

Now

rmy

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Repeal

See p. 6

Note

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

1 285.61 (10), 285.61 (11), 285.62 (2) (b), 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

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) of the statutes is created to read:

6 285.17 (2) (b) Before issuing an operation permit that contains a monitoring
7 requirement relating to the emissions from an air contaminant source, the
8 department shall notify the applicant of the proposed monitoring requirement and
9 give the applicant the opportunity to demonstrate to the administrator of the
10 division of the department that administers this chapter that the proposed
11 monitoring requirement is unreasonable considering, among other factors,
12 monitoring requirements imposed on similar air contaminant sources by other
13 states. If the administrator determines that the monitoring requirement is
14 unreasonable, the department may not impose the monitoring requirement. If the
15 administrator determines that the monitoring requirement is reasonable, the
16 applicant may obtain a review of that determination by the secretary. The secretary
17 may not delegate this function to another person. If the secretary determines that
18 the monitoring requirement is unreasonable, the department may not impose the
19 monitoring requirement.

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

22 285.21 (1) (b) *Standard to protect health or welfare.* (intro.) If an ambient air
23 quality standard for any air contaminant is not promulgated under section 109 of the
24 federal clean air act, the department may promulgate an ambient air quality
25 standard if the department finds that the standard is needed to provide adequate

1 protection for public health or welfare. The department may not make this finding
2 for an air contaminant unless the finding is supported with written documentation
3 that includes all of the following:

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

5 285.21 (1) (b) 1. A public health risk assessment that characterizes the types
6 of stationary sources in this state that are known to emit the air contaminant and
7 the population groups that are potentially at risk from the emissions.

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

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

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

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

19 285.21 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the ambient air
20 increment or the ambient air quality standards in effect on April 30, 1980, under the
21 federal clean air act are ~~relaxed~~ modified, the department shall alter the
22 corresponding state standards unless it finds that the ~~relaxed~~ modified standards
23 would not provide adequate protection for public health and welfare. The
24 department may not make this finding for an ambient air quality standard unless

1 the finding is supported with the written documentation required under sub. (1) (b)
2 1. to 4.

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

4 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule
5 procedures and criteria to identify a nonattainment area and to reclassify a
6 nonattainment area as an attainment area. After the effective date of this subsection
7 [revisor inserts date], the department may not identify a county as part of a
8 nonattainment area or recommend that a county be designated as part of a
9 nonattainment area under the federal clean air act if the concentration of an air
10 contaminant in the atmosphere does not exceed an ambient air quality standard,
11 unless under the federal clean air act the county is required to be designated as part
12 of a nonattainment area.

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

14 285.23 (2) DOCUMENTS. The department shall issue documents from time to
15 time which define or list specific nonattainment areas or recommend that areas be
16 designated as nonattainment areas under the federal clean air act based upon the
17 procedures and criteria promulgated under sub. (1). Notwithstanding ss. 227.01 (13)
18 and 227.10 (1), documents issued under this subsection are not rules.

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

20 285.23 (6) REPORT TO STANDING COMMITTEES. Before the department issues
21 documents under sub. (2) and at least 60 days before the governor is required to make
22 a submission on a nonattainment designation under 42 USC 7407 (d) (1) (A), the
23 department shall prepare, and provide to the standing committees of the legislature
24 with jurisdiction over environmental matters under s. 13.172 (3), a report that
25 contains a description of any area proposed to be identified as a nonattainment area

1 and supporting documentation. The department shall also submit to the revisor of
2 statutes for publication in the administrative register a notice of availability of the
3 report. If, within 30 days after the department submits the report, the chairperson
4 of a standing committee to which the report was provided submits written comments
5 on the report to the department, the secretary shall respond to the chairperson in
6 writing within 15 days ^{of} ~~by~~ receipt of the comments.

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

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

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

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

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

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

1 standard for the hazardous air contaminant if the department finds the standard is
2 needed to provide adequate protection for public health or welfare. The department
3 may not make this finding for a hazardous air contaminant unless the finding is
4 supported with written documentation that includes all of the following:

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

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

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

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

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

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

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

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

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

5 285.27 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the standards of
6 performance for new stationary sources or the emission standards for hazardous air
7 contaminants under the federal clean air act are relaxed, the department shall alter
8 the corresponding state standards unless it finds that the relaxed standards would
9 not provide adequate protection for public health and welfare. The department may
10 not make this finding for an emission standard for a hazardous air contaminant
11 unless the finding is supported with the written documentation required under sub.
12 (2) (b) 1. to 4. This subsection applies to state standards of performance for new
13 stationary sources and emission standards for hazardous air contaminants in effect
14 on April 30, 1980, if the relaxation in the corresponding federal standards occurs
15 after April 30, 1980.

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

17 285.60 (1) (a) 1. Except as provided in sub. (5m) or (6), no person may commence
18 construction, reconstruction, replacement or modification of a stationary source
19 unless the person has a construction permit from the department.

20 **SECTION 18.** 285.60 (2g) of the statutes is created to read:

21 285.60 (2g) REGISTRATION PERMITS. (a) *Rules.* Subject to sub. (8), the
22 department shall promulgate rules specifying a simplified process under which the
23 department may issue a registration permit authorizing construction or operation
24 or both for a stationary source with low actual emissions if the owner or operator
25 provides to the department, on a form prescribed by the department, sufficient

1 information to show that the source qualifies for a registration permit. In the rules,
2 the department shall include criteria for identifying categories of sources the owners
3 or operators of which may elect to obtain registration permits and general
4 requirements applicable to sources that qualify for registration permits.

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

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

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

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

16 **SECTION 19.** 285.60 (2m) of the statutes is repealed.

17 **SECTION 20.** 285.60 (3) of the statutes is repealed and recreated to read:

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

23 (b) *Procedure.* The procedural requirements of ss. 285.61 (2) to (8) and 285.62
24 (2) to (5) do not apply to the determination of whether a source is covered by a general
25 permit under this subsection. Within 15 days after receipt of an application for

1 coverage under a general permit, the department shall provide one of the following
2 to the applicant:

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

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

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

10 SECTION 21. 285.60 (5m) of the statutes is created to read:

11 285.60 (5m) WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS. (a) Subject to sub.
12 (8), the department shall allow a person to commence construction, reconstruction,
13 replacement, or modification of a stationary source prior to the issuance of a
14 construction permit upon a showing that commencing construction, reconstruction,
15 replacement, or modification prior to the issuance of the permit is necessary to avoid
16 undue hardship.

17 (b) Subject to sub. (8), the department may allow a person to commence
18 construction, reconstruction, replacement, or modification of a stationary source
19 prior to the issuance of a construction permit on a case-by-case basis or on bases
20 specified in a rule.

21 (c) The department shall act on a waiver request under this subsection within
22 15 days after it receives the request.

23 SECTION 22. 285.60 (6) of the statutes is renumbered 285.60 (6) (a).

24 SECTION 23. 285.60 (6) (b) of the statutes is created to read:

1 285.60 (6) (b) Subject to sub. (8), the department shall, by rule, exempt minor
2 sources from the requirement to obtain a construction permit and an operation
3 permit if the emissions from the sources do not present a significant hazard to public
4 health, safety or welfare or to the environment.

5 **SECTION 24.** 285.60 (8) of the statutes is created to read:

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

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

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

22 **SECTION 26.** 285.60 (10) of the statutes is created to read:

23 **285.60 (10) PERMIT STREAMLINING.** The department shall continually assess
24 permit obligations imposed under this section and ss. 285.61 to 285.65 and
25 implement measures that are consistent with this chapter and the federal clean air

1 act to allow for timely installation and operation of equipment and processes and the
2 pursuit of related economic activity by lessening those obligations, including
3 consolidating the permits for sources at a facility into one permit, expanding
4 exemptions under sub. (6), and expanding the availability of registration permits
5 under sub. (2g), general permits under sub. (3), and construction permit waivers
6 under sub. (5m).

7 **SECTION 27.** 285.61 (2) of the statutes is renumbered 285.61 (2) (a) and
8 amended to read:

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

18 **SECTION 28.** 285.61 (2) (b) of the statutes is created to read:

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

1 **SECTION 29.** 285.61 (3) (intro.) of the statutes is amended to read:

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

8 **SECTION 30.** 285.61 (3) (a) of the statutes is amended to read:

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

11 **SECTION 31.** 285.61 (7) (a) of the statutes is amended to read:

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

20 **SECTION 32.** 285.61 (10) of the statutes is created to read:

21 **285.61 (10) EXTENSIONS.** Upon agreement between the department and an
22 applicant, the department shall extend any time limit applicable to the department
23 under this section. The department may not require an applicant to agree to extend
24 a time period as a condition of approving an application.

25 **SECTION 33.** 285.61 (11) of the statutes is created to read:

1 285.61 (11) DELAY IN ISSUING PERMITS. (a) Subject to sub. (10), if the department
2 fails to act on an application for a construction permit within the time limit in sub.
3 (8) (b), the department shall include in a report the reasons for the delay in acting
4 on the application, including the names of the department's employees responsible
5 for review of the application, and recommendations for how to avoid similar delays
6 in the future. The department shall make reports under this paragraph available
7 to the public, place a prominent notice of the reports on the department's Internet
8 site, and submit the reports to the joint committee for the review of administrative
9 rules on a quarterly basis.

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

14 **SECTION 34.** 285.62 (1) of the statutes is amended to read:

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

23 **SECTION 35.** 285.62 (2) of the statutes is renumbered 285.62 (2) (a) and
24 amended to read:

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

10 **SECTION 36.** 285.62 (2) (b) of the statutes is created to read:

11 285.62 (2) (b) *When application is considered to be complete.* For the purposes
12 of the time limit in sub. (7) (b), an application is considered to be complete when the
13 applicant provides the information specified in the written notice under par. (a), or,
14 if the department does not provide written notice to an applicant within the period
15 specified under par. (a), 20 days after receipt of the application. This paragraph does
16 not prevent the department from requesting additional information from an
17 applicant after the period specified under par. (a).

18 **SECTION 37.** 285.62 (5) (a) of the statutes is amended to read:

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

1 deadline for requesting a hearing if it determines that there is a significant public
2 interest in holding the hearing.

3 **SECTION 38.** 285.62 (6) (c) 1. of the statutes is amended to read:

4 285.62 (6) (c) 1. If the department receives an objection from the federal
5 environmental protection agency under this subsection, the department may not
6 issue the operation permit unless the department revises the proposed operation
7 permit as necessary to satisfy the objection.

8 **SECTION 39.** 285.62 (7) (b) of the statutes is amended to read:

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

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

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

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

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

1 285.62 (9) (b) Subject to sub. (12), if the department fails to act on an
2 application for an operation permit within the time limit under sub. (7) (b), the
3 department shall include in a report the reasons for the delay in acting on the
4 application, including the names of the department's employees responsible for
5 review of the application, and recommendations for how to avoid delays in the future
6 in similar situations. The department shall make reports under this subsection
7 available to the public, place a prominent notice of the reports on the department's
8 Internet site, and submit the reports to the joint committee for the review of
9 administrative rules on a quarterly basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 285.81 (1m) EFFECT OF A CHALLENGE. If a permit holder or applicant seeks a
23 hearing challenging part of a permit or a condition or requirement in a permit under
24 sub. (1), the remainder of the permit shall become effective and the permit holder or

1 applicant may, at its discretion, begin the activity for which the application was
2 submitted or for which the permit was issued.

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

4 **SECTION 51. 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 (3) REPORT ON EMISSION MONITORING PRACTICES. The department of natural
5 resources, in consultation with representatives of industry and others, shall develop
6 a report that identifies best practices for emissions monitoring required under
7 section 285.17 (2) of the statutes, as affected by this act, and related proposed rule
8 revisions, to reduce overall permitting costs and approval times and to minimize
9 inconsistencies in monitoring requirements within this state and with monitoring
10 requirements imposed by other states and the federal environmental protection
11 agency. The department shall submit the report under this subsection to the
12 standing committees of the legislature with jurisdiction over environmental matters
13 no later than the first day of the 13th month beginning after the effective date of this
14 subsection.

15 (4) REPORT ON APPLICATION REQUIREMENTS. The department of natural resources,
16 in consultation with representatives of industry and others, shall develop a report
17 that identifies information that the department will require in applications for air
18 pollution control permits, and related proposed rule revisions, to reduce overall
19 permitting costs and approval times and to minimize inconsistencies in application
20 requirements within this state and with application requirements imposed by other
21 states and the federal environmental protection agency. The department shall
22 submit the report under this subsection to the standing committees of the legislature
23 with jurisdiction over environmental matters no later than the first day of the 13th
24 month beginning after the effective date of this subsection.

25 **SECTION 52. Initial applicability.**

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

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

9

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3879/P4dn

RCT/.....

gjs

Ellen Nowak:

This redraft only corrects a minor error in the last sentence in Section 10 of the /P3 that Kendra Bonderud brought to my attention.

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