

1 **SECTION 141.** 30.206 (3m) of the statutes is repealed.

2 **SECTION 142.** 30.206 (3r) of the statutes is created to read:

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

7 1. The department determines that the proposed activity is not authorized
8 under the general permit.

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

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

16 **SECTION 143.** 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and
17 amended to read:

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

1 **SECTION 144.** 30.206 (5) (title) of the statutes is created to read:

2 30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

3 **SECTION 145.** 30.206 (6) of the statutes is amended to read:

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

8 **SECTION 146.** 30.206 (7) of the statutes is amended to read:

9 30.206 (7) This section does not apply to an application for a general permit for
10 the Wolf River and Fox River basin area or any area designated under s. 30.207 (1m)
11 ~~if the application for the general permit may be submitted under s. 30.207.~~

12 **SECTION 147.** 30.207 (1) of the statutes is amended to read:

13 30.207 (1) GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12 (3) (bt)~~
14 30.2023, the Wolf River and Fox River basin area consists of all of Winnebago County;
15 the portion and shoreline of Lake Poygan in Waushara County; the area south of
16 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
17 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
18 portion of Outagamie County south and east of USH 41; that portion of Waupaca
19 County that includes the town of Mukwa, city of New London, town of Caledonia,
20 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
21 in the town of Weyauwega.

22 **SECTION 148.** 30.207 (3) (d) 2. of the statutes is amended to read:

23 30.207 (3) (d) 2. Specify the department's plans for proceeding on the
24 application. ~~The plans shall include a timetable for the notice and hearing required~~
25 ~~under sub. (4).~~

1 **SECTION 149.** 30.207 (4) (b) of the statutes is repealed.

2 **SECTION 150.** 30.207 (5) of the statutes is repealed.

3 **SECTION 151.** 30.208 of the statutes is created to read:

4 **30.208 Applications for individual permits and contracts; department**
5 **determinations. (1) APPLICATION REQUIRED.** A person who seeks to obtain or modify
6 an individual permit under this subchapter or to enter into a contract under s. 30.20
7 shall submit an application to the department. The application may contain a
8 request for a public hearing on the application.

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

17 (b) If the notice of complete application does not contain a notice of public
18 hearing, any person may request a public hearing in writing or the department may
19 decide to hold a public hearing without a request being submitted if the department
20 determines that there is a significant public interest in holding a hearing.

21 (c) A request for a public hearing under par. (b) must be submitted to the
22 department or the department's decision to hold a public hearing must occur within
23 30 days after the department completes providing the notice of complete application.
24 The department shall provide notice of public hearing within 15 days after the
25 request for public hearing is submitted or the department makes its determination.

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

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

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

16 (b) If a public hearing is held, the period for public comment shall end on the
17 10th day following the date on which the public hearing is completed.

18 (d) The department shall promulgate rules to establish procedures for the
19 conduct of public hearings held under this subsection. Public hearings held under
20 this subsection *shall be an informational hearing and may* ~~are~~ not contested cases under s. 227.01 (3).
be treated as, nor converted to, a

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

- 25 1. That the notice be published as a class 1 notice under ch. 985.

Notwithstanding s. 227.42, a

1 2. That the notice be mailed to any person or group upon request.

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

6 1. The name and address of each applicant or permit holder.

7 2. A brief description of each applicant's activity or project that requires the
8 permit.

9 3. The name of the waterway in or for which the activity or project is planned.

10 4. For a notice of complete application and a notice of public hearing under sub.
11 (3), a statement of the tentative determination to issue, modify, or deny a permit for
12 the activity or project described in the application.

13 5. For a notice of complete application and a notice of public hearing under sub.
14 (3), a brief description of the procedures for the formulation of final determinations,
15 including a description of the comment period required under sub. (4).

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

18 1. Requiring that the applicant for the permit or contract provide by
19 publication, mailing, or other distribution ^{one} or more of the notices.

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

22 **SECTION 152.** 30.209 of the statutes is created to read:

23 **30.209 Contracts and individual permits; administrative and judicial**
24 **review.** (1) In this section, "applicant" means any person applying to receive a

1 permit or contract under this subchapter or any person who has received a permit
2 or contract under this subchapter.

3 **(1m)** REQUEST FOR ADMINISTRATIVE REVIEW. (a) Any interested person may file
4 a petition with the department for administrative review within 30 days after any
5 of the following decisions given by the department:

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

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

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

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

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

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

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

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

1 (e) The petitioner shall file a copy of the petition with the department. If the
2 petitioner is not the applicant, the petitioner shall simultaneously provide a copy of
3 the petition to the applicant. The applicant may file a response to the petition with
4 the department. If the applicant files a response under this paragraph, it shall be
5 filed within 15 days after the petition is filed.

6 (f) The department shall grant or deny the petition within 30 days after the
7 petition is filed. The failure of the department to dispose of the petition within this
8 30-day period is a denial. The department shall deny the petition if any of the
9 following applies:

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

12 2. The objection contained in the petition is not substantive. The department
13 shall determine that an objection is substantive if the supporting facts contained in
14 the objection appear to be substantially true and raise reasonable grounds to believe
15 that the provisions of this subchapter may be violated if the activity or project is
16 undertaken.

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

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

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

1 (b) If a stay under sub. (1) (c) is in effect, the hearing examiner shall, within
2 30 days after receipt of the referral under sub. (1) (g), determine whether
3 continuation of the stay is necessary to prevent irreversible harm to the environment
4 pending completion of the hearing. The hearing examiner shall make the
5 determination based on the request under sub. (1) (c), any response from the
6 applicant under sub. (1) (e), and any testimony at a public hearing or any public
7 comments. The determination shall be made without a hearing.

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

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

- 16 1. The applicant.
- 17 2. Each petitioner, if other than the applicant.
- 18 3. Any other persons required to receive notice under the rules promulgated
19 under s. 30.208 (5).

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

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

25 **SECTION 153.** 30.28 (3) (a) of the statutes is renumbered 30.28 (3).

significant adverse impacts or

1 **SECTION 154.** 30.28 (3) (b) of the statutes is repealed.

2 **SECTION 155.** 30.285 of the statutes is created to read:

3 **30.285 Records of exemptions and permitted activities.** (1) On an
4 annual basis, the department shall keep records of all of the following

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

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

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

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

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

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

16 (b) The date of the application.

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

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

20 **SECTION 156.** 30.29 (3) (d) of the statutes is amended to read:

21 30.29 (3) (d) *Activities for which a permit is issued.* A person or agent of a person
22 who is ~~issued a permit by the department while the person or agent is~~ engaged in
23 activities ~~related to the purpose for which the permit is issued~~ as authorized under
24 a general or individual permit issued under this subchapter or as authorized under
25 a contract entered into under this subchapter.

whether authorization to proceed under a general permit is appropriate under s. 30.206

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SECTION 157. 30.291 of the statutes is created to read:

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

For purposes of determining whether an exemption is appropriate under s. 30.12 (2m) or (2r), 30.123 (6m) or (6r), ~~or~~ ^{STET: leave as typed} 30.20 (1m) or (1r) ~~or~~ whether a general permit is appropriate under s. 30.206 (3) ~~or~~ (3r), any employee or other representative of the department, upon presenting his or her credentials, may enter the site and inspect any property on the site.

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

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

and if the person giving notification of the wish to proceed has not been previously authorized to a proceed under the general permit

SECTION 158. 30.298 (3) of the statutes is amended to read:

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

SECTION 159. 84.18 (6) of the statutes is amended to read:

84.18 (6) EXECUTION AND CONTROL OF WORK. Subject to s. 30.12(4) 30.2022 and the control exercised by the United States, the construction under this section of any local bridge project shall be wholly under the supervision and control of the department. The secretary shall make and execute all contracts and have complete supervision over all matters pertaining to such construction and shall have the power to suspend or discontinue proceedings or construction relative to any bridge

1 project at any time in the event any county, city, village or town fails to pay the
2 amount required of it for any project eligible for construction under this section, or
3 if the secretary determines that sufficient funds to pay the state's part of the cost of
4 such bridge project are not available. All moneys provided by counties, cities,
5 villages and towns shall be deposited in the state treasury, when required by the
6 secretary, and paid out on order of the secretary. Any of the moneys deposited for a
7 project eligible for construction under this section which remain in the state treasury
8 after the completion of the project shall be repaid to the respective county, city, village
9 or town in proportion to the amount each deposited.

10 **SECTION 160.** 227.135 (1) (f) of the statutes is created to read:

11 227.135 (1) (f) A summary and preliminary comparison of any existing or
12 proposed federal regulation that is intended to address the activities to be regulated
13 by the rule.

14 **SECTION 161.** 227.137 of the statutes is created to read:

15 **227.137 Economic impact reports of proposed rules.** (1) In this section,
16 "agency" means the departments of agriculture, trade, and consumer protection;
17 commerce; natural resources; transportation; and workforce development.

18 (2) After an agency publishes a statement of the scope of a proposed rule under
19 s. 227.135, and before the agency submits the proposed rule to the legislative council
20 for review under s. 227.15, a municipality, an association that represents a farm,
21 labor, business, or professional group, or 5 or more persons that would be directly and
22 uniquely affected by the proposed rule may submit a petition to the department of
23 administration asking that the secretary of administration direct the agency to
24 prepare an economic impact report for the proposed rule. The agency shall prepare
25 an economic impact report before submitting the proposed rule to the legislative

1 council staff under s. 227.15 if the secretary of administration directs the agency to
2 prepare that report. The secretary of administration may direct the agency to
3 prepare an economic impact report for the proposed rule before submitting the
4 proposed rule to the legislative council staff under s. 227.15. The secretary of
5 administration shall direct the agency to prepare an economic impact report for the
6 proposed rule before submitting the proposed rule to the legislative council staff
7 under s. 227.15 if the secretary determines that all of the following apply:

8 (a) The petition was submitted to the department of administration no later
9 than 90 days after the publication of the statement of the scope of the proposed rule
10 under s. 227.135 (3) or no later than 10 days after publication of the notice for a public
11 hearing under s. 227.17, whichever is earlier.

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

17 (3) An economic impact report shall contain information on the effect of the
18 proposed rule on specific businesses, business sectors, and the state's economy.
19 When preparing the report, the agency shall solicit information and advice from the
20 department of commerce, and from governmental units, associations, businesses,
21 and individuals that may be affected by the proposed rule. The agency may request
22 information that is reasonably necessary for the preparation of an economic impact
23 report from other state agencies, governmental units, associations, businesses, and
24 individuals. The economic impact report shall include all of the following:

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

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

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

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

10 (5) This section does not apply to emergency rules promulgated under s.
11 227.24.

12 **SECTION 162.** 227.138 of the statutes is created to read:

13 **227.138 Department of administration review of proposed rules. (1)**

14 In this section:

15 (a) "Agency" has the meaning given in s. 227.137 (1).

16 (b) "Department" means the department of administration.

17 (c) "Economic impact report" means a report prepared under s. 227.137.

18 (2) If an economic impact report will be prepared under s. 227.137 (2) regarding
19 a proposed rule, the department shall review the proposed rule and issue a report.
20 The agency shall not submit a proposed rule to the legislative council staff for review
21 under s. 227.15 (1) until the agency receives a copy of the department's report and
22 the approval of the secretary of administration. The report shall include all of the
23 following findings:

24 (a) That the economic impact report and the analysis required under s. 227.137

25 (3) are supported by related documentation contained in the economic impact report.

X

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

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

4 (d) That the agency has adequately documented the ^{factual} data ~~and other~~
5 ~~sources of information~~ ^{that the agency} and analytical methodologies used in ^{support of} developing the
6 proposed rule ^{and the related findings that support the} ~~of~~ ^{regulatory approach that the agency chose for the proposed} rule

7 (3) Before issuing a report under sub. (2), the department may return a
8 proposed rule to the agency for further consideration and revision with a written
9 explanation of why the proposed rule is returned. If the agency head disagrees with
10 the department's reasons for returning the proposed rule, the agency head shall so
11 notify the department in writing. The secretary of administration shall approve the
12 proposed rule when the agency has adequately addressed the issues raised during
13 the department's review of the rule.

14 SECTION 163. 227.14 (2) (a) of the statutes is amended to read:

15 227.14 (2) (a) An agency shall prepare in plain language an analysis of each
16 proposed rule, which shall be printed with the proposed rule when it is published or
17 distributed. The analysis shall include -a- all of the following:

18 1. A reference to each statute that the proposed rule interprets, each statute
19 that authorizes its promulgation, each related statute or related rule, and -a- an
20 explanation of the agency's authority to promulgate the proposed rule under those
21 statutes.

22 2. A brief summary of the proposed rule.

23 SECTION 164. 227.14 (2) (a) 3. of the statutes is created to read:

(B)
(4) No person is entitled to judicial review of any action taken by the department under this section.

1 227.14 (2) (a) 3. A summary of and preliminary comparison with any existing
2 or proposed federal regulation that is intended to address the activities to be
3 regulated by the proposed rule.

4 **SECTION 165.** 227.14 (2) (a) 4. of the statutes is created to read:

5 227.14 (2) (a) 4. A comparison of similar rules in adjacent states.

6 **SECTION 166.** 227.14 (2) (a) 5. of the statutes is created to read:

7 227.14 (2) (a) 5. A summary of the factual data and analytical methodologies
8 that the agency used in support of the proposed rule and how any related findings
9 support the regulatory approach chosen for the proposed rule.

10 **SECTION 167.** 227.14 (2) (a) 6. of the statutes is created to read:

11 227.14 (2) (a) 6. Any analysis and supporting documentation that the agency
12 used in support of the agency's determination of the rule's effect on small businesses
13 under s. 227.114 or that was used when the agency prepared an economic impact
14 report under s. 227.137 (3).

15 **SECTION 168.** 227.14 (4) (b) 3. of the statutes is created to read:

16 227.14 (4) (b) 3. For rules that the agency determines may have a significant
17 fiscal effect on the private sector, the anticipated costs that will be incurred by the
18 private sector in complying with the rule.

19 **SECTION 169.** 227.19 (3) (intro.) of the statutes is amended to read:

20 227.19 (3) FORM OF REPORT. (intro.) The report required under sub. (2) shall be
21 in writing and shall include the proposed rule in the form specified in s. 227.14 (1),
22 the material specified in s. 227.14 (2) to (4), a copy of any economic impact report
23 prepared by the agency under s. 227.137, a copy of any report prepared by the
24 department of administration under s. 227.138, a copy of any recommendations of
25 the legislative council staff, and an analysis. The analysis shall include:

X

1 SECTION 170. 227.19 (3) (a) of the statutes is amended to read:

2 227.19 (3) (a) A detailed statement explaining the need for basis and purpose
3 of the proposed rule, including how the proposed rule advances relevant statutory
4 goals or purposes.

5 SECTION 171. 227.19 (3) (b) of the statutes is amended to read:

6 227.19 (3) (b) An A summary of public comments to the proposed rule and the
7 agency's response to those comments, and an explanation of any modification made
8 in the proposed rule as a result of public comments or testimony received at a public
9 hearing.

10 SECTION 172. 227.19 (3) (cm) of the statutes is created to read:

11 227.19 (3) (cm) Any changes to the analysis prepared under s. 227.14 (2) or the
12 fiscal estimate prepared under s. 227.14 (4).

13 SECTION 173. 227.43 (1g) of the statutes is created to read:

14 227.43 (1g) The administrator of the division of hearings and appeals shall
15 establish a system for assigning hearing examiners to preside over any hearing
16 under this section. The system shall ensure, to the extent practicable, that hearing
17 examiners are assigned to different subjects on a rotating basis. The system may
18 include the establishment of pools of examiners responsible for certain subjects.

19 SECTION 174. 227.44 (2) (d) of the statutes is created to read:

20 227.44 (2) (d) *If the subject of the hearing is a decision*
The name and title of the person who will conduct the hearing.

21 SECTION 175. 227.46 (1) (intro.) of the statutes is amended to read:

22 227.46 (1) (intro.) Except as provided under s. 227.43 (1), an agency may
23 designate an official of the agency or an employee on its staff or borrowed from
24 another agency under s. 20.901 or 230.047 as a hearing examiner to preside over any
25 contested case. In hearings under s. 19.52, a reserve judge shall be appointed. A

*of the department of natural resources
or the department of transportation*

1 ~~hearing examiner does not have authority to address whether a statute or~~
2 ~~administrative rule is constitutional. Subject to rules of the agency, examiners~~
3 ~~presiding at hearings may:~~

4 SECTION 176. 227.483 of the statutes is created to read:

5 227.483 Costs upon frivolous claims. (1) If a hearing examiner finds, at
6 any time during the proceeding, that an administrative hearing commenced or
7 continued by a petitioner or a claim or defense used by a party is frivolous, the
8 hearing examiner shall award the successful party ~~the~~ ^{the} costs ~~to be determined~~
9 ~~that are directly attributable to responding to the frivolous~~ ^{petition, claim, or defense}
~~under s. 8344A~~ and reasonable attorney fees.

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

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

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

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

22 SECTION 177. 227.53 (1) (a) 3. of the statutes is amended to read:

23 227.53 (1) (a) 3. If the petitioner is a resident, the proceedings shall be held in
24 the circuit court for the county where the petitioner resides, except that if the
25 petitioner is an agency, the proceedings shall be in the circuit court for the county

1 where the respondent resides and except as provided in ss. 73.0301 (2) (b) 2., 77.59
2 (6) (b), 182.70 (6), and 182.71 (5) (g). ~~The proceedings shall be in the circuit court for~~
3 ~~Dane County if~~ If the petitioner is a nonresident, the proceedings shall be held in the
4 county where the property affected by the decision is located or, if no property is
5 affected, in the county where the dispute arose. If all parties stipulate and the court
6 to which the parties desire to transfer the proceedings agrees, the proceedings may
7 be held in the county designated by the parties. If 2 or more petitions for review of
8 the same decision are filed in different counties, the circuit judge for the county in
9 which a petition for review of the decision was first filed shall determine the venue
10 for judicial review of the decision, and shall order transfer or consolidation where
11 appropriate.

12 **SECTION 178.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

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

25 **SECTION 179.** 285.11 (9) of the statutes is amended to read:

1 285.11 (9) Prepare and adopt minimum standards for the emission of mercury
2 compounds or metallic mercury into the air, consistent with s. 285.27 (2) (b).

3 **SECTION 180.** 285.14 of the statutes is created to read:

4 **285.14 State implementation plans. (1) CONTENT.** The department may not
5 submit a control measure or strategy ^{IN S 59-5 RCT} to the federal environmental protection agency ✓
6 for inclusion in a state implementation plan under 42 USC 7410 unless the
7 department has promulgated the control measure or strategy as a rule.

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

21 **SECTION 181.** 285.17 (2) of the statutes is renumbered 285.17 (2) (a).

22 **SECTION 182.** 285.17 (2) (b) of the statutes is created to read:

23 285.17 (2) (b) Before issuing an operation permit that contains a monitoring
24 requirement relating to the emissions from an air contaminant source, the
25 department shall notify the applicant of the proposed monitoring requirement and

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

12 **SECTION 183.** 285.21 (1) (b) of the statutes is renumbered 285.21 (1) (b) (intro.)
13 and amended to read:

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

21 **SECTION 184.** 285.21 (1) (b) 1. to 4. of the statutes are created to read:

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

1 2. An analysis showing that members of population groups are subjected to
2 levels of the air contaminant that are above recognized environmental health
3 standards. IN 6 61-3 RCT ✓

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

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

11 **SECTION 185.** 285.21 (4) of the statutes is amended to read:

12 285.21 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the ambient air
13 increment or the ambient air quality standards in effect on April 30, 1980, under the
14 federal clean air act are ~~relaxed~~ modified, the department shall alter the
15 corresponding state standards unless it finds that the ~~relaxed~~ modified standards
16 would not provide adequate protection for public health and welfare. The
17 department may not make this finding for an ambient air quality standard unless
18 the finding is supported with the written documentation required under sub. (1) (b)
19 1. to 4.

20 **SECTION 186.** 285.23 (1) of the statutes is amended to read:

21 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule
22 procedures and criteria to identify a nonattainment area and to reclassify a
23 nonattainment area as an attainment area. After the effective date of this subsection
24 [revisor inserts date], the department may not identify a county as part of a
25 nonattainment area ~~or recommend that a county be designated as part of a~~ ✓

*county
in that county*

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nonattainment area under the federal clean air act if the concentration of an air
contaminant in the atmosphere does not exceed an ambient air quality standard,
unless under the federal clean air act the county is required to be designated as part
of a nonattainment area.

SECTION 187. 285.23 (2) of the statutes is amended to read:

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

SECTION 188. 285.23 (6) of the statutes is created to read:

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

SECTION 189. 285.27 (1) (a) of the statutes is amended to read:

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

7 **SECTION 190.** 285.27 (2) (a) of the statutes is amended to read:

8 285.27 (2) (a) *Similar to federal standard.* If an emission standard for a
9 hazardous air contaminant is promulgated under section 112 of the federal clean air
10 act, the department shall promulgate by rule a similar 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 191.** 285.27 (2) (b) of the statutes is renumbered 285.27 (2) (b) (intro.)
15 and amended to read:

16 285.27 (2) (b) *Standard to protect public health or welfare.* (intro.) If an
17 emission standard for a hazardous air contaminant is not promulgated under section
18 112 of the federal clean air act, the department may promulgate an emission
19 standard for the hazardous air contaminant if the department finds the standard is
20 needed to provide adequate protection for public health or welfare. The department
21 may not make this finding for a hazardous air contaminant unless the finding is
22 supported with written documentation that includes all of the following:

23 **SECTION 192.** 285.27 (2) (b) 1. to 4. of the statutes are created to read:

24 285.27 (2) (b) 1. A public health risk assessment that characterizes the types
25 of stationary sources in this state that are known to emit the hazardous air

1 contaminant and the population groups that are potentially at risk from the
2 emissions.

3 2. An analysis showing that members of population groups are subjected to
4 levels of the hazardous air contaminant that are above recognized environmental
5 health standards. *INS 64-5 RCT* ✓

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

10 4. A comparison of the requirements related to emission standards for
11 hazardous air contaminants in this state to hazardous air contaminant regulatory
12 programs ^{standards} in Illinois, Indiana, Michigan, Minnesota, and Ohio.

13 SECTION 193. 285.27 (2) (d) of the statutes is created to read:

14 285.27 (2) (d) *Emissions regulated under federal law.* Emissions limitations
15 promulgated under par. (b) and related control requirements do not apply to
16 hazardous air contaminants emitted by emissions units, operations, or activities
17 that are regulated by an emission standard promulgated under section 112 of
18 act, including a hazardous air contaminant that is regulated under the federal clean
19 air act by virtue of regulation of another substance as a surrogate for the hazardous
20 air contaminant or by virtue of regulation of a species or category of hazardous air
21 contaminants that includes the hazardous air contaminant. *use twice*

22 SECTION 194. 285.27 (4) of the statutes is amended to read:

23 285.27 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the standards of
24 performance for new stationary sources or the emission standards for hazardous air
25 contaminants under the federal clean air act are relaxed, the department shall alter

1 the corresponding state standards unless it finds that the relaxed standards would
 2 not provide adequate protection for public health and welfare. The department may
 3 not make this finding for an emission standard for a hazardous air contaminant
 4 unless the finding is supported with the written documentation required under sub.
 5 (2) (b) 1. to 4. This subsection applies to state standards of performance for new
 6 stationary sources and emission standards for hazardous air contaminants in effect
 7 on April 30, 1980, if the relaxation in the corresponding federal standards occurs
 8 after April 30, 1980.

9 **SECTION 195.** 285.60 (1) (a) 1. of the statutes is amended to read:

10 285.60 (1) (a) 1. Except as provided in sub. (5m) or (6), no person may commence
 11 construction, reconstruction, replacement or modification of a stationary source
 12 unless the person has a construction permit from the department.

13 **SECTION 196.** 285.60 (2g) of the statutes is created to read:

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

23 (b) *Procedure.* The procedural requirements of ss. 285.61 (2) to (8) and 285.62
 24 (2) to (7) do not apply to a registration permit under this subsection. Within 15 days

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1 after receipt of the form prescribed by the department, the department shall provide
2 one of the following to an applicant for a registration permit:

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

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

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

10 **SECTION 197.** 285.60 (2m) of the statutes is repealed.

11 **SECTION 198.** 285.60 (3) of the statutes is repealed and recreated to read:

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

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

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

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

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

4 **SECTION 199.** 285.60 (5m) of the statutes is created to read:

5 285.60 **(5m)** WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS. (a) Subject to sub.
6 (8), the department shall ~~allow a person~~ ^{promulgate rules under which a person is allowed} to commence construction, reconstruction,
7 replacement, or modification of a stationary source prior to the issuance of a
8 construction permit upon a showing that commencing construction, reconstruction,
9 replacement, or modification prior to the issuance of the permit is necessary to avoid
10 undue hardship.

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

15 (c) The department shall act on a waiver request under this subsection within
16 15 days after it receives the request.

17 **SECTION 200.** 285.60 (6) of the statutes is renumbered 285.60 (6) (a).

18 **SECTION 201.** 285.60 (6) (b) of the statutes is created to read:

19 285.60 **(6)** (b) Subject to sub. (8), the department shall, by rule, exempt minor
20 sources from the requirement to obtain a construction permit and an operation
21 permit if the emissions from the sources do not present a significant hazard to public
22 health, safety or welfare or to the environment.

23 **SECTION 202.** 285.60 (8) of the statutes is created to read:

1 **285.60 (8) COMPLIANCE WITH FEDERAL LAW.** The department may not promulgate
2 a rule or take any other action under this section that conflicts with the federal clean
3 air act.

4 **SECTION 203.** 285.60 (9) of the statutes is created to read:

5 **285.60 (9) PETITIONS FOR REGISTRATION PERMITS, GENERAL PERMITS, AND**
6 **EXEMPTIONS.** A person may petition the department to make a determination that a
7 type of stationary source meets the criteria for a registration permit under sub. (2g),
8 a general permit under sub. (3), or an exemption under sub. (6). The department
9 shall provide a written response to a petition within 30 days after receiving the
10 petition indicating whether the type of stationary source meets the applicable
11 criteria for a registration permit, a general permit, or an exemption. If the type of
12 source meets the applicable criteria, the department shall, within 365 days after
13 receiving the petition, issue the registration permit or general permit or, for an
14 exemption, shall submit to the legislative council staff under s. 227.15 (1) in proposed
15 form any necessary rules or take any other action that is necessary provide the
16 exemption.

17 **SECTION 204.** 285.60 (10) of the statutes is created to read:

18 **285.60 (10) PERMIT STREAMLINING.** The department shall continually assess
19 permit obligations imposed under this section and ss. 285.61 to 285.65 and
20 implement measures that are consistent with this chapter and the federal clean air
21 act to allow for timely installation and operation of equipment and processes and the
22 pursuit of related economic activity by lessening those obligations, including
23 consolidating the permits for sources at a facility into one permit, expanding
24 exemptions under sub. (6), and expanding the availability of registration permits

1 under sub. (2g), general permits under sub. (3), and construction permit waivers
2 under sub. (5m).

3 **SECTION 205.** 285.61 (2) of the statutes is renumbered 285.61 (2) (a) and
4 amended to read:

5 285.61 (2) (a) ~~Request for additional information~~ Within 20 days after receipt
6 of the application the department shall ~~indicate~~ provide written notice to the
7 applicant describing specifically all of the plans, specifications and any other
8 information necessary to determine if the proposed construction, reconstruction,
9 replacement or modification will meet the requirements of this chapter and s. 299.15
10 and rules promulgated under this chapter and s. 299.15. If the department requests
11 additional information under this paragraph, the department shall notify the
12 applicant, within 15 days after receiving additional information from the applicant,
13 whether that additional information satisfies the department's request.

14 **SECTION 206.** 285.61 (2) (b) of the statutes is created to read:
15 285.61 (2) (b) *When application is considered to be complete.* For the purposes
16 of the time limits in sub. (3), an application is considered to be complete when the
17 applicant provides the information specified in the written notice under par. (a), or,
18 if the department does not provide written notice to an applicant within the time
19 limit in par. (a), 20 days after receipt of the application. This paragraph does not
20 prevent the department from requesting additional information from an applicant
21 after the time limit in par. (a).

22 **SECTION 207.** 285.61 (3) (intro.) of the statutes is amended to read:
23 285.61 (3) ANALYSIS. (intro.) The department shall prepare an analysis
24 regarding the effect of the proposed construction, reconstruction, replacement or
25 modification on ambient air quality and a preliminary determination on the

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1 approvability of the construction permit application, within the following time
2 periods after the receipt of the plans, specifications and other information
3 application is considered to be complete under sub. (2) (b):

4 **SECTION 208.** 285.61 (3) (a) of the statutes is amended to read:

5 285.61 (3) (a) *Major source construction permits.* For construction permits for
6 major sources, within ~~120~~ 90 days.

7 **SECTION 209.** 285.61 (7) (a) of the statutes is amended to read:

8 285.61 (7) (a) *Hearing permitted.* The department may hold a public hearing
9 on the construction permit application if requested by a person who may be ~~directly~~
10 aggrieved ^{affected} by the issuance of the permit, any affected state or the U.S. environmental
11 protection agency within 30 days after the department gives notice under sub. (5) (c).

12 A request for a public hearing shall indicate the interest of the party filing the
13 request and the reasons why a hearing is warranted. The department shall hold the
14 public hearing within 60 days after the deadline for requesting a hearing if it deems
15 that there is a significant public interest in holding a hearing.

16 **SECTION 210.** 285.61 (10) of the statutes is created to read:

17 285.61 (10) EXTENSIONS. Upon agreement between the department and an
18 applicant, the department shall extend any time limit applicable to the department
19 under this section. The department may not require an applicant to agree to extend
20 a time period as a condition of approving an application.

21 **SECTION 211.** 285.61 (11) of the statutes is created to read:

22 285.61 (11) DELAY IN ISSUING PERMITS. (a) Subject to sub. (10), if the department
23 fails to act on an application for a construction permit within the time limit in sub.
24 (8) (b), the department shall include in a report the reasons for the delay in acting
25 on the application, ~~including the names of the department's employees responsible~~

1 ~~for review of the application~~ and recommendations for how to avoid similar delays
 2 in the future. The department shall make reports under this paragraph available
 3 to the public, place a prominent notice of the reports on the department's Internet
 4 site, and submit the reports to the ~~joint committee for the review of administrative~~
 5 ~~rules on a quarterly basis~~ INS 71-5 RCT ✓

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

10 SECTION 212. 285.62 (1) of the statutes is amended to read:

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

19 SECTION 213. 285.62 (2) of the statutes is renumbered 285.62 (2) (a) and
 20 amended to read:

21 285.62 (2) (a) ~~Request for additional information~~ 1. Within 20 days 1. INS 71-21 RCT ✓
 22 of the application the department shall ~~indicate~~ provide written notice to the
 23 applicant describing specifically any additional information required under sub. (1)
 24 necessary to determine if the source, upon issuance of the permit, will meet the
 25 requirements of this chapter and s. 299.15 and rules promulgated under this chapter

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

5 SECTION 214. 285.62 (2) (b) of the statutes is created to read:
6 285.62 (2) (b) *When application is considered to be complete.* For the purposes
7 of the time limit in sub. (7) (b), an application is considered to be complete when the
8 applicant provides the information specified in the written notice under par. (a), or,
9 if the department does not provide written notice to an applicant within the period
10 specified under par. (a), 20 days after receipt of the application. This paragraph does
11 not prevent the department from requesting additional information from an
12 applicant after the period specified under par. (a).

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13 SECTION 215. 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~~ ^{affected} 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 216. 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

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

3 **SECTION 217.** 285.62 (7) (b) of the statutes is amended to read:

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

12 **SECTION 218.** 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

13 **SECTION 219.** 285.62 (8) (b) of the statutes is created to read:

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

20 **SECTION 220.** 285.62 (9) (b) of the statutes is repealed and recreated to read:

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

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

5 **SECTION 221.** 285.62 (12) of the statutes is created to read:

6 285.62 (12) EXTENSIONS. Upon agreement between the department and an
7 applicant, the department shall extend any time limit applicable to the department
8 under this section. The department may not require an applicant to agree to extend
9 a time period as a condition of approving an application.

10 **SECTION 222.** 285.63 (1) (d) of the statutes is amended to read:

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

18 **SECTION 223.** 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

19 **SECTION 224.** 285.66 (2) (b) of the statutes is created to read:

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

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

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

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

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

5 SECTION 225. 285.66 (3) (a) of the statutes is amended to read:

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

9 SECTION 226. 285.81 (1) (intro.) of the statutes is amended to read:

10 285.81 (1) PERMIT HOLDER; PERMIT APPLICANT; ORDER RECIPIENT. (intro.) Any
11 permit, part of a permit, condition or requirement in a permit, order, decision or
12 determination by the department under ss. 285.39, 285.60 to 285.69 or 285.75 shall
13 become effective unless the permit holder or applicant or the order recipient seeks
14 a hearing ~~on~~ challenging the action in the following manner:

no 97
(a) Subject to par. (b), if

15 SECTION 227. 285.81 (1m) of the statutes is created to read:

16 285.81 (1m) EFFECT OF A CHALLENGE. ~~When~~ a permit holder or applicant seeks a
17 hearing challenging part of a permit or a condition or requirement in a permit under
18 sub. (1), the remainder of the permit shall become effective and the permit holder or
19 applicant may, at its discretion, begin the activity for which the application was
20 submitted or for which the permit was issued.

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21 SECTION 228. 299.05 (2) (a) of the statutes is amended to read:

22 299.05 (2) (a) Permits, contracts, and other approvals under ss. 30.10 to 30.205
23 and 30.21 to 30.27.

24 SECTION 229. 299.05 (2) (d) of the statutes is repealed.

25 SECTION 230. Nonstatutory provisions.

1 (1) REPORT ON AIR PERMIT STREAMLINING EFFORTS.

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

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

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

16 3. A schedule for providing additional reports containing recommendations,
17 and related rule revisions, for expanding exemptions under section 285.60 (6) of the
18 statutes, as affected by this act, expanding the use of registration permits under
19 section 285.60 (2g) of the statutes, as created by this act, expanding the use of general
20 permits under section 285.60 (3) of the statutes, as affected by this act, expanding
21 the issuance of construction permit waivers under section 285.60 (5m) of the
22 statutes, as created by this act, and taking other actions under section 285.60 (10)
23 of the statutes, as created by this act, including consolidating the permits for sources
24 at one facility into one permit.

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

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

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

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

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

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

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

22 **SECTION 231. Initial applicability.**

23 (1) PROCESSING OF AIR PERMITS. The treatment of sections 285.61 (3) (intro.) and
24 (a), (7) (a), and (11), 285.62 (5) (a), (7) (b), and (9) (b), and 285.66 (3) (a) of the statutes,
25 the renumbering and amendment of sections 285.61 (2) and 285.62 (2) of the statutes,

(a) 2. and

(a) 2. and

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1 the creation of sections 285.61 (2)(b) and 285.62 (2)(b) of the statutes first apply to
2 applications submitted on the effective date of this subsection.

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

6 (3k) CHAPTER 30 PROCEDURES.

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

10 (b) The treatment of section ^{and 30.209} 30.208 of the statutes first applies to applications
11 for contracts under section 30.20 of the statutes that are submitted to the
12 department of natural resources on the effective date of this paragraph.

13 (END)

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