

2005 DRAFTING REQUEST

Bill

Received: 03/28/2005

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason Rostan**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - air quality
State Govt - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hundertmark@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Air permit changes and regulatory reform report

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	btradewe 03/28/2005	wjackson 03/28/2005	jfrantze 03/28/2005	_____	lnorthro 03/28/2005	mbarman 03/28/2005	State
/2	btradewe 03/29/2005	wjackson 03/29/2005	pgreensl 03/29/2005	_____	mbarman 03/29/2005	mbarman 03/29/2005	

FE Sent For: 03/28/2005.

Handwritten notes: ("1") → old version → ("2") → At Intro.

2005 DRAFTING REQUEST

Bill

Received: 03/28/2005

Received By: btradewe

Wanted: Soon

Identical to LRB:

For: Jean Hundertmark (608) 266-3794

By/Representing: Jason Rostan

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Environment - air quality
State Govt - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hundertmark@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Air permit changes and regulatory reform report

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	btradewe 03/28/2005	wjackson 03/28/2005	jfrantze 03/28/2005	3/28 sub	lnorthro 03/28/2005	mbarman 03/28/2005	

FE Sent For: 03/28/2005.
/

3/28
PF
<END>

2005 DRAFTING REQUEST

Bill

Received: 03/28/2005

Received By: btradewe

Wanted: Soon

Identical to LRB:

For: Jean Hundertmark (608) 266-3794

By/Representing: Jason Rostan

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Environment - air quality
State Govt - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hundertmark@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Air permit changes and regulatory reform report

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	btradewe 03/28/2005	wjackson 03/28/2005	jfrantze 03/28/2005	_____	lnorthro 03/28/2005		

FE Sent For:

<END>

1/1
3/28/05
Jason

2005 DRAFTING REQUEST

Bill

Received: **03/28/2005**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason Rostan**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - air quality
State Govt - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hundertmark@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Air permit changes and regulatory reform report

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe	1 WLj 3/28	J 3/28	H/ck 3/28			

FE Sent For:

<END>

Miller, Steve

From: Rostan, Jason
Sent: Monday, March 21, 2005 11:31 AM
To: Miller, Steve

Steve,

The sooner we can get this done the better. We will get you the language for the three provisions that I have marked. Let me know if you have any questions. Thank you.

Jason Rostan
Research Assistant
Rep. Jean Hundertmark
40th Assembly District



Job Creation Part II
Breakdown...

Job Creation Part II

- BT 1. Air Permit Challenge – LRB 2055/2 (Rebecca Tradewell)
- BT 2. Registration Permits - awaiting language
- BT 3. Permitting Priorities – awaiting language
- BT 4. Regulatory Reform Report – awaiting language
- AN 5. Junk Science Reform – LRB 1571/2 (Bob Nelson)
- RN 6. Nuisance & Related Frivolous Lawsuits – Zien is Senate author, don't have LRB #
- MF 7. Tool & Die Reforms – LRB 0927/1
- CS 8. Shareholder Liability – 2001 SB 119 (LRB 2136/1) (Richard Champagne)

Miller, Steve

From: Rostan, Jason
Sent: Monday, March 21, 2005 1:18 PM
To: Miller, Steve

Steve,

Here is the language for points 2 thru 4 on that first document I sent you. I've also included the language on the Nuisance and Frivolous Lawsuit provision. It was number 6 on that sheet. Let me know if you have any questions. Thanks

Jason Rostan
Research Assistant
Rep. Jean Hundertmark
40th Assembly District



JCA II.doc

Registration and Permits (Point 2 & 3)

285.60 (3) GENERAL PERMITS. (a) *Rules.* The department shall promulgate rules for the issuance of general permits authorizing construction or operation or both for similar stationary sources. In the rules, the department shall specify criteria for identifying categories of sources for which the department may issue general permits and general requirements applicable to sources that qualify for general permits. In the rules, the department may exempt persons who qualify for general permits from the requirement to obtain a construction permit.

285.66 Permit duration and renewal. (1) CONSTRUCTION. Unless otherwise specified in the permit, a construction permit is valid for 18 months from the date of issuance of the permit unless the permit is revoked or suspended. The department may extend the term of the construction permit for the purposes of commencing or completing construction, reconstruction, replacement or modification. Unless otherwise specified in a construction permit, the department may only extend the term of the permit for up to 18 additional months beyond the original 18-month period. If construction, reconstruction, replacement or modification is not completed within the term specified in the permit or any extension granted by the department, the applicant shall apply for a new construction permit.

(2) OPERATION. (a) The department shall specify the term of an operation permit in the operation permit. The term of an operation permit issued under s. 285.62 or renewed under sub. (3) may not exceed 5 years from the date of issuance or renewal.

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

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

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

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

Regulatory Report (Point 4)

REPORT ON REGULATORY BARRIERS. The department of administration, in consultation with representatives of industry and others, shall develop a report that identifies major regulatory barriers to the growth of Wisconsin's manufacturing sector. The department shall report on state rules in areas including, but not limited to, employment, the environment, financial services, utilities and transportation for unnecessary barriers to growth and consistency with federal rules and surrounding states. The department shall submit the report under this subsection to the joint committee for

review of administrative rules no later than the first day of the 13th month beginning after the effective date of this subsection.

RPW ↓

Frivolous Lawsuits (Point 6)

823.02 Injunction against public nuisance, time extension. (1) An action to enjoin a public nuisance may be commenced and prosecuted in the name of the state, either by the attorney general on information obtained by the department of justice, or upon the relation of a private individual, sewerage commission created under ss. 200.01 to 200.15 or a county, having first obtained leave therefor from the court. An action to enjoin a public nuisance may be commenced and prosecuted by a city, village, town or a metropolitan sewerage district created under ss. 200.21 to 200.65 in the name of the municipality or metropolitan sewerage district, and it is not necessary to obtain leave from the court to commence or prosecute the action. ~~The same rule as to liability for costs shall govern as in other actions brought by the state.~~ No stay of any order or judgment enjoining or abating, in any action under this section, may be had unless the appeal is taken within 5 days after notice of entry of the judgment or order or service of the injunction. Upon appeal and stay, the return to the court of appeals or supreme court shall be made immediately.

(2) LIMITATIONS. No action to abate or enjoin a public nuisance may be commenced and prosecuted under sub. (1) or under s. 823.01 if the activity, use or practice alleged to be a nuisance is not in violation of any statute, regulation, local ordinance, permit or approval governing the activity, use or practice.

(3) COSTS. (a) In this subsection, "litigation expenses" means the sum of the costs, disbursements and expenses, including reasonable attorney, expert witness and engineering fees necessary to prepare for or participate in an action in which a current or past activity, use or practice is alleged to be a public nuisance.

(b) Notwithstanding s. 814.04(1) and (2), the court shall award litigation expenses to the defendant in any action in which a current or past activity, use or practice is alleged to be a public nuisance if the current or past activity, use or practice is not found to be a public nuisance.

Nelson, Robert P.

From: Miller, Steve
Sent: Tuesday, March 22, 2005 4:48 PM
To: Nelson, Robert P.
Subject: jobs bill

*Becky - it appears
that your "part" of
LRB-2525 is now a
separate bill.
I did not
enter the
request.
Bib N*

Bob,

I hope that previous e-mail was clear. After Jason sent it, he left me voice mail to the effect that:

Requests 1-4 would go in one bill. #4 should provide that expenses for the report to come from existing revenues at the Dept.

Requests 5-8 would go in a second bill. This reverses his previous directive to delete requests #5 and #6.

Nelson, Robert P.

From: Miller, Steve
Sent: Tuesday, March 22, 2005 4:35 PM
To: Nelson, Robert P.
Subject: FW: Job Creation Act II

-----Original Message-----

From: Rostan, Jason
Sent: Tuesday, March 22, 2005 4:29 PM
To: Miller, Steve
Cc: Nowak, Ellen
Subject: Job Creation Act II

Hello Steve,

I apologize, but there is a slight change in plans in the drafting of Job Creation Act II. Hopefully, in the end, it makes things a little easier.

We would like two separate bills.

Bill 1: Provisions 1-4

- We were wondering on Provision 4 (regulatory report) if there was a way to state the department would have to take any costs associated with creating this report out of their existing budget. If we can have it drafted that way, we would like it included in this bill. If not, please draft it as a separate bill.

Bill 2: Provisions 5-8

I've attached the sheet I emailed you yesterday listing each provision. Please let me know if you have any questions.

Jason Rostan
Research Assistant
Rep. Jean Hundertmark
40th Assembly District



Job Creation Part II
Breakdown...



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2567/1

RCT:./:....

Wlj

Today

2005 BILL

Model

Gen

relating clause insert ✓

1 AN ACT ...; **relating to:** general air pollution control permits, the term of
2 registration air pollution control permits, , and a report on regulatory barriers
3 affecting manufacturing.

Analysis insert 2 ✓

Analysis by the Legislative Reference Bureau

Current law requires DNR to promulgate rules for general air pollution control permits that authorize the construction or operation or both for similar stationary sources of air pollution. This bill authorizes DNR, in its rules, to exempt a person who qualifies for a general permit from the requirement to obtain a construction permit.

Current law generally provides that the term of an air pollution operation permit may not exceed five years. Under current law, however, coverage under a general permit generally does not expire. Current law requires DNR to promulgate rules providing a simplified process under which the department issues a permit, called a registration permit, for a stationary source of air pollution with low actual or potential emissions. This bill provides that a registration permit generally does not expire.

analysis insert 2 ✓

Under current law, ✓

This bill also requires the Department of Administration to prepare a report that identifies regulatory barriers to the growth of this state's manufacturing sector.

BILL

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

6 **History:** 1979 c. 34, 221; 1991 a. 302; 1995 a. 27; 1995 a. 227 s. 485; Stats. 1995 s. 285.60; 1997 a. 35; 2001 a. 16; 2003 a. 118, 326.

6 **SECTION 2.** 285.60 (3) (a) of the statutes is amended to read:

7 285.60 (3) (a) *Rules.* The department shall promulgate rules for the issuance
 8 of general permits authorizing construction or operation or both for similar
 9 stationary sources. In the rules, the department shall specify criteria for identifying
 10 categories of sources for which the department may issue general permits and
 11 general requirements applicable to sources that qualify for general permits. In the
 12 rules, the department may exempt persons who qualify for a general permit from the
 13 requirement to obtain a construction permit.

14 **History:** 1979 c. 34, 221; 1991 a. 302; 1995 a. 27; 1995 a. 227 s. 485; Stats. 1995 s. 285.60; 1997 a. 35; 2001 a. 16; 2003 a. 118, 326.

14 **SECTION 3.** 285.66 (2) (b) (intro.) of the statutes is amended to read:

15 285.66 (2) (b) (intro.) Notwithstanding par. (a), the department may not specify
 16 that a registration permit under s. 285.60 (2g) or coverage under a general permit
 17 under s. 285.60 (3) expires except as follows:

18 **History:** 1979 c. 34, 221; 1991 a. 302; 1995 a. 27; 1995 a. 227 s. 492; Stats. 1995 s. 285.66; 2003 a. 118.

18 **SECTION 4.** 285.66 (2) (b) 1. of the statutes is amended to read:

BILL

1 285.66 (2) (b) 1. The department may specify an expiration date for a
2 registration permit or for coverage under a general permit at the request of an owner
3 or operator.

4 History: 1979 c. 34, 221; 1991 a. 302; 1995 a. 27; 1995 a. 227 s. 492; Stats. 1995 s. 285.66; 2003 a. 118.

SECTION 5. 285.66 (2) (b) 3. of the statutes is amended to read:

plain stat.

5 285.66 (2) (b) 3. The department may specify a term of 5 years or less for a
6 registration permit or for coverage under a general permit if required by the federal
7 clean air act.

8 History: 1979 c. 34, 221; 1991 a. 302; 1995 a. 27; 1995 a. 227 s. 492; Stats. 1995 s. 285.66; 2003 a. 118.

SECTION 6. Nonstatutory provisions.

in consultation with representative of industry and others

9 (1) REPORT ON REGULATORY BARRIERS. The department of administration shall
10 prepare a report that identifies major regulatory barriers to the growth of this state's
11 manufacturing sector. The department shall examine state rules in areas that
12 include employment, the environment, financial services, utilities, and
13 transportation and shall report on unnecessary barriers to growth and on
14 consistency with the requirements of federal law and the laws of surrounding states.
15 The department shall submit the report under this subsection to the joint committee
16 for review of administrative rules no later the first day of the 13th month beginning
17 after the effective date of this subsection.

(END)

Insert

3-7

Insert
3-17

ONote

2005 BILL

relating clause inserted

1 **AN ACT to amend 285.81 (1m) (b) of the statutes; relating to:** the effect of a
 2 challenge to an emission limitation in an air pollution operation permit.

Analysis by the Legislative Reference Bureau

*Analysis
insert
1*

Under current law, a person must generally obtain an air pollution construction permit from the Department of Natural Resources (DNR) before constructing or modifying a stationary source of air pollution. A person must also generally obtain an air pollution operation permit from DNR before operating a stationary source of air pollution, except that a stationary source that was constructed before the operation permit requirement became law is allowed to continue to operate pending DNR's issuance of an operation permit if a complete application was submitted to DNR. ~~If a person who is issued either kind of air pollution control permit files a timely challenge to part of the permit, the remainder of the permit takes effect and the person may begin the activity for which the permit was issued, except that if the person challenges an emission limitation, the emission limitation applies pending resolution of the challenge unless the administrative hearing examiner or court considering the challenge stays the emission limitation.~~

*Analysis
insert
2*

Under this bill, if a permit holder challenges an emission limitation in an air pollution operation permit, the emission limitation does not apply pending resolution of the challenge. The bill takes effect retroactively to February 6, 2004, so that if a timely challenge was filed to an emission limitation in an operation permit that was issued on that date or later, the emission limit does not apply pending

↓

construction permit or an operation

BILL

resolution of the challenge. The bill does not change current law with respect to a challenge to an emission limitation in an air pollution construction permit.

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

1
2
3
4
5
6
7
8
9
10
11

SECTION 1. 285.81 (1m) (b) of the statutes is amended to read:

285.81 (1m) (b) An emission limitation contained in a construction permit becomes effective despite a challenge under par. (a), unless the permit holder or applicant challenging the emission limitation obtains a stay of the emission limitation from the hearing examiner or court considering the challenge.

SECTION 2. Initial applicability.

(1) This act first applies to challenges to operation permits that were issued on the effective date of this subsection.

SECTION 3. Effective date.

(1) This act takes effect retroactively to February 6, 2004.

(END)

Insert
3-7

Insert
3-17

*House
Fix
Comp.*

The treatment of section 285.81 (1m) (b) of the statutes
This act takes effect on the day after publication, except as follows:
The treatment of section 285.81 (1m) (b) of the statutes and SECTION 1
of this act

(antiref the initial app)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2567/1dn

RCT...|...
Wlj

Jason Rostan:

You asked whether this draft could state that DOA must pay for the cost of preparing the report out of its existing budget. If the bill does not provide any money for the report, DOA will have to fund it from existing appropriations. It might be possible for DOA to ask the Joint Committee on Finance to provide supplemental funding, but the committee can refuse. There is no need for language concerning funding.

The proposed language about the term of air pollution registration permits did not add registration permits to current s. 285.66 (2) (b) 2. If the intent is to treat registration permits exactly like general permits, please let me know and I will add an amendment to the provision.

Please contact me with any questions or redraft instructions.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2567/1dn
RCT:wlj:jf

March 28, 2005

Jason Rostan:

You asked whether this draft could state that DOA must pay for the cost of preparing the report out of its existing budget. If the bill does not provide any money for the report, DOA will have to fund it from existing appropriations. It might be possible for DOA to ask the Joint Committee on Finance to provide supplemental funding, but the committee can refuse. There is no need for language concerning funding.

The proposed language about the term of air pollution registration permits did not add registration permits to current s. 285.66 (2) (b) 2. If the intent is to treat registration permits exactly like general permits, please let me know and I will add an amendment to the provision.

Please contact me with any questions or redraft instructions.

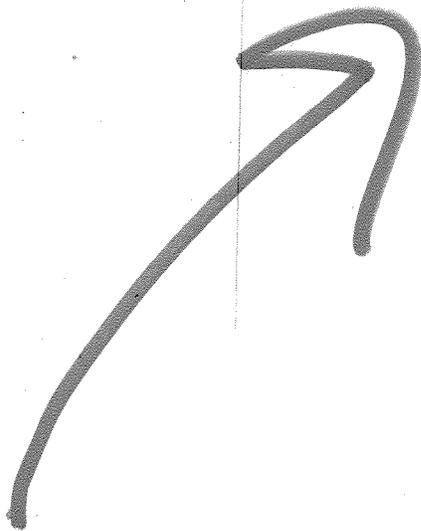
Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Per Jason Roster -

Please jacket 05-2567/1

for assembly.

RET



Fiscal Estimate - 2005 Session

Original Updated Corrected Supplemental

LRB Number 05-2567/1	Introduction Number
Subject Air permit changes and regulatory reform report	
Fiscal Effect	
State:	
<input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs	
Local:	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
Affected Ch. 20 Appropriations	
Agency/Prepared By DNR/ Joe Polasek (608) 266-2794	Authorized Signature Joe Polasek (608) 266-2794
Date 3/29/2005	

copy sent to Rep. Hundertmark 03-29-2005
 → FE is for old "1" version
 → draft is now a "2"

Fiscal Estimate Narratives

DNR 3/29/2005

LRB Number 05-2567/1	Introduction Number	Estimate Type Original
Subject Air permit changes and regulatory reform report		

Assumptions Used in Arriving at Fiscal Estimate

The proposed legislative changes add clarity to existing statutes that will assist in the implementation of general and registration air permit programs. The proposal also clarifies the effect on an air pollution control construction permit in the event of an appeal. These changes are clarifications and have no fiscal impact on the air permit program.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2005 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 05-2567/1		Introduction Number	
Subject			
Air permit changes and regulatory reform report			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$	\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues		\$	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$	\$
NET CHANGE IN REVENUE		\$	\$
Agency/Prepared By		Authorized Signature	Date
DNR/ Joe Polasek (608) 266-2794		Joe Polasek (608) 266-2794	3/29/2005



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-25674 2

RCT:wljje

VMV

Wanted 2 p.m.

2005 BILL

see p 4

Regen

1 **AN ACT** ~~to amend~~ 285.60 (1) (a) 1., 285.60 (3) (a), 285.66 (2) (b) (intro.), 285.66
2 (2) (b) 1., 285.66 (2) (b) 3. and 285.81 (1m) (b) of the statutes; **relating to:**
3 general air pollution control permits, the term of registration air pollution
4 control permits, the effect of a challenge to an emission limitation in an air
5 pollution operation permit, and a report on regulatory barriers affecting
6 manufacturing.

Analysis by the Legislative Reference Bureau

Under current law, a person must generally obtain an air pollution construction permit from the Department of Natural Resources (DNR) before constructing or modifying a stationary source of air pollution. A person must also generally obtain an air pollution operation permit from DNR before operating a stationary source of air pollution, except that a stationary source that was constructed before the operation permit requirement became law is allowed to continue to operate pending DNR's issuance of an operation permit if a complete application was submitted to DNR.

Current law requires DNR to promulgate rules for general air pollution control permits that authorize the construction or operation or both for similar stationary sources of air pollution. This bill authorizes DNR, in its rules, to exempt a person who qualifies for a general permit from the requirement to obtain a construction permit.

BILL

Current law generally provides that the term of an air pollution operation permit may not exceed five years. Under current law, however, coverage under a general permit generally does not expire. Current law requires DNR to promulgate rules providing a simplified process under which the department issues a permit, called a registration permit, for a stationary source of air pollution with low actual or potential emissions. This bill provides that a registration permit generally does not expire.

Under current law, if a person who is issued either a construction permit or an operation permit files a timely challenge to part of the permit, the remainder of the permit takes effect and the person may begin the activity for which the permit was issued, except that if the person challenges an emission limitation, the emission limitation applies pending resolution of the challenge unless the administrative hearing examiner or court considering the challenge stays the emission limitation.

Under this bill, if a permit holder challenges an emission limitation in an air pollution operation permit, the emission limitation does not apply pending resolution of the challenge. The bill takes effect retroactively to February 6, 2004, so that if a timely challenge was filed to an emission limitation in an operation permit that was issued on that date or later, the emission limit does not apply pending resolution of the challenge. The bill does not change current law with respect to a challenge to an emission limitation in an air pollution construction permit.

This bill also requires the Department of Administration to prepare a report that identifies regulatory barriers to the growth of this state's manufacturing sector.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

6 **SECTION 2.** 285.60 (3) (a) of the statutes is amended to read:

7 285.60 (3) (a) *Rules.* The department shall promulgate rules for the issuance
8 of general permits authorizing construction or operation or both for similar
9 stationary sources. In the rules, the department shall specify criteria for identifying

BILL

1 categories of sources for which the department may issue general permits and
2 general requirements applicable to sources that qualify for general permits. In the
3 rules, the department may exempt persons who qualify for a general permit from the
4 requirement to obtain a construction permit.

5 **SECTION 3.** 285.66 (2) (b) (intro.) of the statutes is amended to read:

6 285.66 (2) (b) (intro.) Notwithstanding par. (a), the department may not specify
7 that a registration permit under s. 285.60 (2g) or coverage under a general permit
8 under s. 285.60 (3) expires except as follows:

9 **SECTION 4.** 285.66 (2) (b) 1. of the statutes is amended to read:

10 285.66 (2) (b) 1. The department may specify an expiration date for a
11 registration permit or for coverage under a general permit at the request of an owner
12 or operator.

13 **SECTION 5.** 285.66 (2) (b) 3. of the statutes is amended to read:

14 285.66 (2) (b) 3. The department may specify a term of 5 years or less for a
15 registration permit or for coverage under a general permit if required by the federal
16 clean air act.

17 **SECTION 6.** 285.81 (1m) (b) of the statutes is amended to read:

18 285.81 (1m) (b) An emission limitation contained in a construction permit
19 becomes effective despite a challenge under par. (a), unless the permit holder or
20 applicant challenging the emission limitation obtains a stay of the emission
21 limitation from the hearing examiner or court considering the challenge.

22 **SECTION 7. Nonstatutory provisions.**

23 (1) REPORT ON REGULATORY BARRIERS. The department of administration, in
24 consultation with representatives of industry and others, shall prepare a report that
25 identifies major regulatory barriers to the growth of this state's manufacturing

BILL

1 sector. The department shall examine state rules in areas that include employment,
2 the environment, financial services, utilities, and transportation and shall report on
3 unnecessary barriers to growth and on consistency with the requirements of federal
4 law and the laws of surrounding states. The department shall submit the report
5 under this subsection to the joint committee for review of administrative rules no
6 later the first day of the 13th month beginning after the effective date of this
7 subsection.

SECTION 8. Initial applicability.

8
9 (1) The treatment of section 285.81 (1m) (b) of the statutes first applies to
10 challenges to operation permits that were issued on the effective date of this
11 subsection.

12 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
13 except as follows:

14 (1) The treatment of section ⁵~~288~~81 (1m) (b) of the statutes and SECTION 8 take
15 effect retroactively to February 6, 2004.

16 (END)