

## 2011 DRAFTING REQUEST

### Bill

Received: **04/06/2011**

Received By: **rkite**

Wanted: **As time permits**

Companion to LRB:

For: **Leah Vukmir (608) 266-2512**

By/Representing: **Jason**

May Contact:

Drafter: **rkite**

Subject: **Environment - air quality**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Vukmir@legis.wisconsin.gov**

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Repeal administrative rule regarding secondary air quality standards

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### Instructions:

Draft bill in support of suspension of NR 404.04 (3)

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### 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>
/?	rkite 04/06/2011	nmatzke 04/06/2011		_____			
/P1			mduchek 04/06/2011	_____	ggodwin 04/06/2011		
/P2	rkite 04/20/2011	kfollett 04/20/2011	mduchek 04/20/2011	_____	lparisi 04/20/2011		
/P3	rkite 04/26/2011	nmatzke 04/26/2011	rschluet 04/26/2011	_____	ggodwin 04/26/2011		State

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/1	rkite 05/18/2011	nmatzke 05/18/2011	jfrantze 05/19/2011	_____	ggodwin 05/19/2011	ggodwin 05/19/2011	

FE Sent For:

*atkins*  
5/26

<END>

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/P3	rkite 04/26/2011	nmatzke 04/26/2011	rschluet 04/26/2011	ggodwin 04/26/2011

*Please  
jacket  
—  
RNK*

*/1 nwn  
5/18*

*6/5/19*

*pm  
5/19*

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

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FE Sent For:

1/P3 nwn  
4/26

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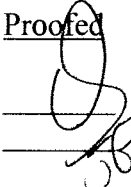
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/?	rkite	/PI hws 5/1/6	M 4/6				

FE Sent For:

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LRB-1831/1858  
RNK:.....  
nmw

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

↑  
stet

D-N

SA ✓  
x-rtf ✓

1 AN ACT ...; relating to: rules promulgated by the department that establish  
2 ambient air quality standards. established by the Department of Natural Resources

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending section NR 404.04 (3), Wis. Adm. Code, a rule of the Department of Natural Resources on [date of suspension].

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

3 SECTION 1. 285.21 (4) of the statutes is amended to read:  
4 285.21 (4) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the ambient air  
5 increment or the ambient air quality standards in effect on April 30, 1980, under the  
6 federal clean air act are modified, the department shall alter the corresponding state  
7 standards unless it finds that the modified standards would not provide adequate



1 protection for public health and welfare. The department may not make this finding  
 2 for an ambient air quality standard unless the finding is supported with the written  
 3 documentation required under sub. (1) (b) 1. to 4. ✓

History: 1995 a. 227 ss. 473, 475, 476, 989; 1997 a. 35; 2003 a. 118.

4 SECTION 2. 285.21 (4) of the statutes is renumbered 285.41<sup>21</sup>(4) (b) and amended

5 to read:

6 285.41<sup>21</sup> (4) (b) IMPACT OF CHANGE IN FEDERAL STANDARDS. If the ambient air  
 7 increment or the ambient air quality standards in effect on April 30, 1980, under the  
 8 federal clean air act are modified, the department shall alter the corresponding state  
 9 standards unless it finds that the modified standards would not provide adequate  
 10 protection for public health and welfare. The department may not make this finding  
 11 for an ambient air quality standard unless the finding is supported with the written  
 12 documentation required under sub. (1) (b) 1. to 4. ✓

History: 1995 a. 227 ss. 473, 475, 476, 989; 1997 a. 35; 2003 a. 118.

13 SECTION 3. 285.21 (4) (a) of the statutes is created to read:

14 285.21 (4) (a) In this subsection, "secondary air quality standard" means the  
 15 level of air quality that may be necessary to protect public welfare from unknown or  
 16 anticipated adverse effects. ✓

17 SECTION 4. 285.21<sup>^</sup> (4) (c) of the statutes is created to read:

18 285.21 (4) (c) Paragraph (b) ✓ does not authorize the department to modify a  
 19 state secondary air quality standard so that it is more restrictive than the  
 20 corresponding federal standard or to enforce a state secondary air quality standard  
 21 that is more restrictive than the corresponding federal standard. ✓

22 (END)

D-note

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

LRB-1831<sup>e</sup>dn<sup>P1</sup>  
RNK:f:...  
nwn

Date

This draft is in preliminary form. I have drafted this proposal in a manner that prohibits the Department of Natural Resources from establishing or enforcing a secondary air quality standard that is more restrictive than the corresponding federal standard. If the Joint Committee for Review of Administrative Rules proceeds to suspend NR 404.04 (3), I will redraft this draft to insert the date of the suspension and will also include an analysis in the draft. Please let me know if you have any questions about this draft.

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

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

LRB-1858/P1dn  
RNK:nwn:md

April 6, 2011

This draft is in preliminary form. I have drafted this proposal in a manner that prohibits the Department of Natural Resources from establishing or enforcing a secondary air quality standard that is more restrictive than the corresponding federal standard. If the Joint Committee for Review of Administrative Rules proceeds to suspend NR 404.04 (3), I will redraft this draft to insert the date of the suspension and will also include an analysis in the draft. Please let me know if you have any questions about this draft.

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: [robin.kite@legis.wisconsin.gov](mailto:robin.kite@legis.wisconsin.gov)

Per Scott Grossy @ leg council -  
take out SECTION 1 -



LRB-1858/PJ  
RNK:nwn:md  
Stays

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

In  
4/20

Regen

1 **AN ACT to renumber and amend** 285.21 (4); and **to create** 285.21 (4) (a) and  
2 285.21 (4) (c) of the statutes; **relating to:** ambient air quality standards  
3 established by the Department of Natural Resources.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending section NR 404.04 (3), Wis. Adm. Code, a rule of the Department of Natural Resources on [date of suspension].

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

change component

SECTION 1. 285.21 (4) of the statutes is renumbered 285.21 (4) (b) and amended

to read:

285.21 (4) (b) If the ambient air increment or the ambient air quality standards in effect on April 30, 1980, under the federal clean air act are modified, the

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

6 **SECTION 2.** 285.21 (4) (a) of the statutes is created to read:

7 285.21 (4) (a) In this subsection, "secondary air quality standard" means the  
8 level of air quality that may be necessary to protect public welfare from unknown or  
9 anticipated adverse effects.

10 **SECTION 3.** 285.21 (4) (c) of the statutes is created to read:

11 285.21 (4) (c) Paragraph (b) does not authorize the department to modify a  
12 state secondary air quality standard so that it is more restrictive than the  
13 corresponding federal standard or to enforce a state secondary air quality standard  
14 that is more restrictive than the corresponding federal standard.

15 (END)



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SAV

and the suspension of a rule promulgated  
by the Department of Natural Resources

Regen.

1 AN ACT **to renumber** 285.21 (4); and **to create** 285.21 (4) (a) and 285.21 (4) (c)  
2 of the statutes; **relating to:** ambient air quality standards established by the  
3 Department of Natural Resources.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending section NR 404.04 (3), Wis. Adm. Code, a rule of the Department of Natural Resources on [date of suspension].

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

4 SECTION 1. 285.21 (4) of the statutes is renumbered 285.21 (4) (b).  
5 SECTION 2. 285.21 (4) (a) of the statutes is created to read:  
6 285.21 (4) (a) In this subsection, "secondary air quality standard" means the  
7 level of air quality that may be necessary to protect public welfare from unknown or  
8 anticipated adverse effects.

1           **SECTION 3.** 285.21 (4) (c) of the statutes is created to read:

2           285.21 (4) (c) Paragraph (b) does not authorize the department to modify a  
3           state secondary air quality standard so that it is more restrictive than the  
4           corresponding federal standard or to enforce a state secondary air quality standard  
            that is more restrictive than the corresponding federal standard.

INSERT  
2-5  
6 →

(END)



2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1858/P3ins.  
RNK:.....

INSERT 2-5

1           **SECTION 1. Nonstatutory provisions.**

2           (1) The legislative reference bureau shall publish a notice in the Wisconsin  
3           administrative register stating that NR 404.04 (3), Wis. Adm. Code is repealed by  
4           this act as provided under § 227.26 (2) (i) of the statutes.

section  
section  
Wisconsin Administrative



En. 5/20  
State of Wisconsin  
2011 - 2012 LEGISLATURE



Rm  
nwn

LRB-1858/P8  
RNK:nwn:rs

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

2011 BILL

In  
5/18  
SAV

Regen.

1 AN ACT *to renumber* 285.21 (4); and *to create* 285.21 (4) (a) and 285.21 (4) (c)  
2 of the statutes; **relating to:** ambient air quality standards established by the  
3 Department of Natural Resources and the suspension of a rule promulgated by  
4 the Department of Natural Resources.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

INSERT ANALYSIS

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending section NR 404.04 (3), Wis. Adm. Code, a rule of the Department of Natural Resources on (date of suspension) April 27, 2011 ✓

FE/S

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

5 SECTION 1. 285.21 (4) of the statutes is renumbered 285.21 (4) (b).

6 SECTION 2. 285.21 (4) (a) of the statutes is created to read:



2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1858/lins.  
RNK:.....

INSERT ANALYSIS

Under the federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) has established national ambient air quality standards (NAAQS) for each of six air pollutants. Under current state law, when EPA establishes an NAAQS for a pollutant, the Department of Natural Resources (DNR) must promulgate by rule a similar standard that may not be more restrictive than the federal standard. Generally, the EPA establishes two types of standards. Standards that are established to protect public health are primary standards and standards that are established to protect public welfare are secondary standards.

Current law provides that if EPA modifies an NAAQS that was in effect on April 30, 1980, DNR must alter the corresponding state standard unless it finds that the modified standard would not provide adequate protection for public health and welfare. This bill provides that the requirement that DNR alter a corresponding state standard does not authorize DNR to alter any state secondary standard so that it is more restrictive than the corresponding federal standard.