



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1997 ASSEMBLY BILL 636**

February 3, 1998 - Offered by COMMITTEE ON ENVIRONMENT.

1     **AN ACT to create** 299.05 (3) and 299.052 of the statutes; **relating to:** establishing  
2             a time period for review by the department of natural resources of applications  
3             for certain permits, licenses, approvals and determinations and requiring the  
4             exercise of rule-making authority.

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

5             **SECTION 1.** 299.05 (3) of the statutes is created to read:

6             299.05 (3) An applicant entitled to a refund of fees under this section may  
7             refuse to accept the refund and proceed as provided in s. 299.052.

8             **SECTION 2.** 299.052 of the statutes is created to read:

9             **299.052 Deadlines for reviewing certain applications.** (1) (a) The  
10            department by rule shall establish time periods within which the department  
11            intends to approve or disapprove an application for any of the following licenses,  
12            permits, approvals or determinations:

1           1. Permits, approvals and determinations under ss. 30.10, 30.12, 30.123, 30.18,  
2           30.19 and 30.20, and ch. NR 110, Wis. Adm. Code.

3           2. Permits issued under ch. NR 103, Wis. Adm. Code, pursuant to 33 CFR 330.6.

4           3. Approvals under s. 281.17 (1).

5           4. Permits under s. 283.33.

6           (b) The rules required under par. (a) may establish any of the following:

7           1. Methods for determining the commencement of the time period established  
8           under par. (a) and for determining when the application for a license, permit,  
9           approval or determination is complete.

10          2. Extensions of the time period established under par. (a) if the applicant  
11          makes a material modification to the application that affects the public interest in  
12          waters.

13          3. Contingencies if information needed by the department to complete its  
14          review of an application for a license, permit, approval or determination is unknown  
15          or cannot be determined with certainty when the department receives the  
16          application.

17          4. Deadlines for the department to complete intermediate steps in the process  
18          of completing its review of an application.

19          **(2)** Upon receiving an application for a license, permit, approval or  
20          determination specified in sub. (1) (a), the department shall inform the applicant of  
21          the time period established under sub. (1) (a) for the license, permit or approval.

22          **(3)** (a) Notwithstanding s. 30.02 (3), upon receipt of a complete application for  
23          a permit, license, approval or determination specified in sub. (1) (a), the department  
24          shall either schedule a hearing as required by law or provide notice stating that it  
25          will proceed on the application without a hearing if no substantive written objection

1 to issuance of the permit, license, approval or determination is received within 30  
2 days after publication of the notice. The notice shall be provided to the clerk of each  
3 municipality in which the project is located and to any other person required by law  
4 to receive notice. The department may provide notice to other persons as it deems  
5 appropriate. The department shall provide a copy of the notice to the applicant, who  
6 shall publish it as a class 1 notice under ch. 985 in a newspaper designated by the  
7 department that is likely to give notice in the area affected. The applicant shall file  
8 proof of publication with the department.

9 (b) 1. If a public hearing is ordered by the department, the department shall  
10 within 10 days after the time the requirement for a hearing becomes known, schedule  
11 a hearing date at the soonest time available on the docket of division of hearings and  
12 appeals. The division of hearings and appeals shall mail a written notice at least 10  
13 days before the hearing to each person given notice under par. (a) and to any person  
14 who submitted a substantive written objection to issuance of the permit.

15 2. The applicant shall publish a class 1 notice under ch. 985 of the hearing in  
16 a newspaper designated by the department that is likely to give notice in the area  
17 affected. The applicant shall file proof of publication under this subdivision with the  
18 hearing examiner at or prior to the hearing.

19 (4) (a) During the time period established under sub. (1) (a), the department  
20 and the applicant may jointly agree to a different time period for acting on an  
21 application for a license, permit, approval or determination than that specified under  
22 sub. (1) (a).

23 (b) The department may unilaterally extend the time period established under  
24 sub. (1) (a) only if, within the time period established under sub. (1) (a), the  
25 department finds that an extension of the time period is necessary to prevent

1 substantial harm to public health or the environment and provides written notice to  
2 the applicant that states with particularity the facts on which that finding is based.

3 (5) (a) Subject to subs. (1) (b) 2., (3) and (4), if the department does not provide  
4 the applicant written notice that the department has disapproved the application for  
5 a license, permit, approval or determination, including the specific facts upon which  
6 the disapproval is based, before the expiration of the time period established under  
7 sub. (1) (a) for the license, permit, approval or determination, the application is  
8 considered approved. A license, permit, approval or determination considered  
9 approved under this paragraph is subject to any terms or conditions specified by  
10 statute or rule for the license, permit, approval or determination and the department  
11 may suspend, limit, revoke or withdraw the license, permit, approval or  
12 determination for substantial failure to comply with those terms or conditions.  
13 Within 30 days after a license, permit, approval or determination is considered  
14 approved under this paragraph, the department shall provide the applicant with a  
15 statement of any terms and conditions that customarily apply to that license, permit,  
16 approval or determination. This paragraph does not apply if the applicant accepts  
17 a refund of fees under s. 299.05.

18 (b) The department may not disapprove an application for a license, permit,  
19 approval or determination solely because the department is unable to complete its  
20 review of the application within the time period established under sub. (1).

21 (6) This section does not apply to any application for a permit, license, approval  
22 or determination that requires the preparation of an environmental impact  
23 statement under s. 1.11.

24 **SECTION 3. Nonstatutory provisions.**

