2003 SENATE BILL 313

November 11, 2003 – Introduced by Senators PANZER, STEPP, KANAVAS, KEDZIE, LEIBHAM, ZIEN, DARLING, ROESSLER and WELCH, cosponsored by Representatives GARD, KAUFERT, JOHNSRUD, GROTHMAN, MONTGOMERY, SUDER, KESTELL, NASS, J. FITZGERALD, TOWNS, FREESE, NISCHKE, HONADEL, MCCORMICK, D. MEYER, KRAWCZYK, KREIBICH, OWENS, J. WOOD, OTT, TOWNSEND, HUEBSCH, GIELOW, JESKEWITZ and GUNDERSON. Referred to Joint Committee on Finance.

AN ACT ***to repeal*** 19.52 (4), 30.01 (6b), 30.02, 30.12 (2), 30.12 (3) (b), 30.12 (3) (bn), 30.12 (3) (d), 30.12 (4) (title), 30.12 (4m) (title), 30.12 (5), 30.123 (3), 30.123 (5), 30.13 (1), 30.13 (2), 30.13 (4) (d), 30.135 (1) (title), 30.135 (2), (3) and (4), 30.18 (9), 30.19 (1) (b), 30.19 (2), 30.19 (3), 30.195 (3) (title), 30.195 (4), 30.195 (7), 30.206 (2), 30.206 (3m), 30.207 (4) (b), 30.207 (5), 227.45 (7) (a) to (d), 227.46 (2), 227.46 (2m), 227.46 (3), 227.46 (4), 285.11 (6) (a) and (b), 285.21 (1) (a) (title), 285.21 (1) (b), 285.60 (2m) and 285.63 (2) (d); ***to renumber*** 30.12 (3) (bt) 1. to 9., 30.12 (4) (d), 30.135 (1) (a) 1., 30.135 (1) (a) 3., 30.20 (1) (c) 3., 285.61 (8) (a), 285.62 (8) and 285.66 (2); ***to renumber and amend*** 30.015, 30.07, 30.12 (1) (intro.), 30.12 (1) (a), 30.12 (1) (b), 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12 (3) (bt) (intro.), 30.12 (4) (a), 30.12 (4) (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f), 30.12 (4m), 30.123 (1), 30.123 (4), 30.135 (1) (a) (intro.), 30.135 (1) (a) 2., 30.135 (1) (b), 30.19 (1) (intro.), 30.19 (1) (a), 30.19 (1) (c), 30.19 (4), 30.195 (3), 30.20 (1) (d), 30.206 (1), 30.206 (3), 30.206 (4), 227.45 (7) (intro.), 285.11 (6) (intro.), 285.21

(1) (a), 285.27 (2) (b), 285.61 (2) and 285.62 (2); ***to consolidate, renumber and amend*** 30.20 (1) (c) 1. and 2.; ***to amend*** 16.957 (2) (b) 1. (intro.), 16.957 (2) (c) 2., 16.957 (3) (b), 19.52 (3), 25.96, 29.601 (5) (a), 30.01 (1p), 30.10 (4) (a), 30.11 (4), 30.12 (title), 30.12 (3) (a) 6., 30.12 (3) (c), 30.123 (2), 30.13 (1m) (intro.), 30.13 (1m) (b), 30.13 (4) (a), 30.13 (4) (b), 30.131 (1) (intro.), 30.18 (2) (a) (intro.), 30.18 (2) (b), 30.18 (4) (a), 30.18 (6) (b), 30.19 (1m) (intro.), 30.19 (1m) (a), 30.19 (1m) (b), 30.19 (1m) (c), 30.19 (1m) (d), 30.19 (1m) (e), 30.19 (4) (title), 30.19 (5), 30.195 (1), 30.196 (intro.), 30.20 (1) (a), 30.20 (1) (b), 30.20 (2) (title), 30.20 (2) (a) and (b), 30.20 (2) (c), 30.2026 (2) (d), 30.2026 (3) (a), 30.206 (6), 30.206 (7), 30.207 (1), 30.207 (3) (d) 2., 30.28 (3) (b), 30.29 (3) (d), 30.298 (3), 31.39 (2m) (c), 66.1001 (2) (e), 66.1001 (4) (a), 84.18 (6), 106.01 (9), 106.025 (4), 146.82 (2) (a) (intro.), 196.195 (10), 196.24 (3), 196.374 (3), 196.491 (1) (d), 196.491 (2) (a) 3., 196.491 (2) (a) 3m., 196.491 (2) (g), 221.0901 (3) (a) 1., 221.0901 (8) (a) and (b), 227.14 (2) (a), 227.19 (2), 227.19 (3) (intro.), 227.19 (3) (a), 227.19 (3) (b), 227.46 (1) (intro.), 227.46 (1) (h), 227.46 (6), 227.47 (1), 227.485 (5), 227.53 (1) (a) 3., 236.16 (3) (d) (intro.), 281.22 (2) (c), 285.11 (9), 285.17 (2), 285.21 (2), 285.21 (4), 285.23 (1), 285.27 (1) (a), 285.27 (2) (a), 285.27 (4), 285.60 (1) (a) 1., 285.60 (1) (b) 1., 285.60 (2) (a), 285.60 (6), 285.61 (1), 285.61 (3), 285.61 (4) (a), 285.61 (4) (b) 2. and 3., 285.61 (5) (a) (intro.), 285.61 (5) (c), 285.61 (7) (a), 285.61 (8) (b), 285.62 (1), 285.62 (3) (a) (intro.), 285.62 (3) (c), 285.62 (5) (a), 285.62 (6) (c) 1., 285.62 (7) (b), 285.63 (1) (d), 285.66 (3) (a), 285.69 (1) (a), 285.81 (1) (intro.), 289.27 (5), 299.05 (2) (a), 448.02 (3) (b), 448.675 (1) (b), 452.09 (2) (a), 452.09 (2) (c) (intro.) and 452.09 (3) (d); ***to repeal and recreate*** 30.12 (3) (title), 30.12 (3) (a) (intro.), 30.123 (title), 30.195 (2), 30.20 (1) (title), 285.11 (17), 285.60 (3) and 285.62 (9) (b); and ***to create*** 16.957 (2m), 30.01 (1am), 30.12 (1b), 30.12 (1g)

(intro.), (a), (b) and (e) to (j), 30.12 (3) (a) 9., 30.12 (3) (a) 10., 30.12 (3) (a) 11., 30.12 (3) (a) 12., 30.12 (3) (br), 30.12 (3) (bv), 30.12 (3m), 30.121 (3w), 30.123 (6), 30.123 (7), 30.123 (8), 30.19 (1b), 30.19 (1m) (cm), 30.19 (1m) (g), 30.19 (1m) (h), 30.19 (3r), 30.19 (4) (a), 30.19 (4) (b), 30.19 (4) (c) 1., 30.195 (1m), 30.20 (1g) (title) and (b), 30.20 (1r), 30.20 (2) (bn), 30.20 (2) (d), 30.20 (2) (e), 30.201, 30.2022 (title), 30.206 (1) (title), 30.206 (1) (c) 1. to 3., 30.206 (3) (title), 30.206 (3) (c), 30.206 (5) (title), 30.208, 30.209, 66.0628, 66.1001 (4) (e), 106.04, 146.82 (2) (a) 22., 196.195 (5m), 196.374 (3m), 227.135 (1) (e) and (f), 227.137, 227.138, 227.14 (2) (a) 3., 227.14 (2) (a) 4., 227.14 (2) (a) 5., 227.14 (2) (a) 6., 227.14 (4) (b) 3., 227.185, 227.19 (3) (am), 227.19 (3) (cm), 227.40 (4m), 227.43 (1g), 227.44 (2) (d), 227.445, 227.483, 227.57 (11), 241.02 (3), 285.01 (12m), 285.14, 285.23 (5), 285.23 (6), 285.27 (2) (b) 1. to 3., 285.27 (2) (d), 285.60 (2g), 285.60 (5m), 285.60 (6m), 285.60 (6r), 285.60 (8), 285.60 (9), 285.60 (10), 285.61 (2) (b), 285.61 (8) (a) 2., 285.61 (10), 285.61 (11), 285.62 (2) (b), 285.62 (7) (bm), 285.62 (8) (b), 285.62 (12), 285.66 (2) (b), 285.755, 285.81 (1m), 295.13 (4) and 452.05 (3) of the statutes; **relating to:** administrative rules, guidelines, policies, and hearings; air pollution control; structures, deposits, and other activities in or near navigable waters; notice, hearing, and review procedures related to permits to place structures and materials and to conduct activities in or near navigable waters; nonmetallic mining reclamation financial assurances; strategic energy assessments; partial deregulation of telecommunications services; contributions by electric and gas utilities to the utility public benefits fund; grants for energy conservation and other programs; reciprocal agreements for real estate licenses; comprehensive planning by local governmental units; fees imposed by political subdivisions; the confidentiality of patient health care

records; apprentice–to–journeyman job–site ratios; the acquisition of in–state banks and in–state bank holding companies; credit agreements; extending the time limit for emergency rule procedures; and granting rule–making authority.

Analysis by the Legislative Reference Bureau

INTRODUCTION

This bill makes various changes relating to administrative rule–making and procedures, the control of air pollution, the protection of navigable waters, nonmetallic mining reclamation financial assurances, strategic energy assessments, the partial deregulation of telecommunications services, contributions to and grants from the utility public benefits fund, reciprocal agreements for real estate licenses, comprehensive planning by local governmental units, fees imposed by political subdivisions, the confidentiality of patient health care records, apprentice–to–journeyman job–site ratios, the acquisition of in–state banks and in–state bank holding companies, and credit agreements and related documents.

ADMINISTRATIVE RULE MAKING AND PROCEDURES

This bill makes numerous changes relating to administrative rule making and procedures. The bill:

1. Expands the judicial review of the agency rule–making process as follows:

a. Requires a court, when determining if a promulgated rule is valid, to confine its review to the agency record unless it is necessary to supplement that record with additional evidence.

b. Expands the agency record subject to review to include any economic impact report and related analysis that the agency prepares in response to a petition from a group economically affected by the rule, the plain–language analysis of the rule printed at the time the rule is published, and the report submitted to the legislature when the proposed rule is in final draft form.

c. Allows a court to find a rule invalid if the agency's decision–making process related to the adequacy of the factual basis to support the rule was arbitrary and capricious, if the agency's required analysis and determinations were arbitrary and capricious, or if the rule–making process was impaired by a material error in the agency's procedure when promulgating the rule.

d. Requires that if the agency's authority to promulgate a rule requires the rule to be comparable with federal programs or requirements or to exceed federal programs or requirements based on need, the court shall conduct a review of the agency record to determine if the agency determination was supported by substantial evidence.

2. Requires an agency to prepare an economic impact report for a proposed rule if a municipality, an association that represents a farm, labor, business, or professional group, or five or more persons, who may be economically affected by a proposed rule asks the agency to prepare that report.

3. Requires the Department of Administration (DOA) to review a proposed rule if petitioned by affected persons or if an economic impact report is prepared and to determine if the agency has statutory authority to promulgate the proposed rule, if the rule is consistent with and not duplicative of other rules or federal regulations, that the proposed rule is consistent with the governor's positions, and that the agency used complete and accurate data when developing the rule. Under the bill, DOA may return the proposed rule to the agency for rewriting.

4. Requires an agency, when preparing the analysis of a proposed rule as required under current law, to include all of the following in that analysis, in addition to the currently required summary of the rule and references to the statutes that authorize the rule and that the rule interprets:

a. A summary of the legal interpretations and policy considerations underlying the rule.

b. A summary of existing federal regulatory programs that address similar matters.

c. A summary of the data, studies, and other sources of information on which the proposed rule is based.

d. A summary of the methodology used to obtain and analyze the data and how the data supports the regulatory approach and the agency's findings.

5. Requires the agency to submit a proposed rule in final form to the governor for review, modification, or rejection.

6. Requires the administrator of the division of hearings and appeals to randomly assign hearing examiners to preside over administrative hearings.

7. Allows a person to request the substitution of an administrative hearing examiner and provides a procedure for that substitution.

8. Prohibits a hearing examiner from making any decision regarding constitutional issues.

9. Removes the provision that allowed certain agencies to have the hearing examiner make a proposed decision and have designated officials of the agency review that proposed decision and issue a final decision. Instead, the hearing examiner's decision is final.

10. Allows a hearing examiner to award the successful party his or her costs, including attorney fees, if the hearing examiner finds that the other party's claim or defense is frivolous.

11. Allows the venue of judicial review of a contested case where the petitioner is a nonresident to be in the county where the property involved is located or if no property involved, in the county where the dispute arose, instead of in Dane County as is current law.

AIR QUALITY MANAGEMENT

Air quality standards and emission standards for hazardous pollutants

Under the federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) has established a national ambient air quality standard (NAAQS) for each of six air pollutants, including ozone. Under current state law, if EPA establishes an NAAQS for a substance, the Department of Natural Resources (DNR) must promulgate by rule a similar ambient air quality standard, which may not be more

restrictive that the federal standard. If EPA relaxes an NAAQS, DNR must alter the corresponding state standard unless it finds that the relaxed standard would not provide adequate protection for public health and welfare. Current law also authorizes DNR to promulgate an ambient air quality standard for a substance for which EPA has not promulgated an NAAQS if DNR finds that the standard is needed to provide adequate protection for public health or welfare.

This bill eliminates DNR's authority to promulgate an ambient air quality standard for a substance for which EPA has not established an NAAQS. The bill also provides that if EPA modifies an NAAQS, DNR must alter the corresponding state standard accordingly.

The CAA requires EPA to establish national emission standards for hazardous air pollutants (NESHAPs). Under current state law, if EPA establishes an NESHAP for a substance, DNR must promulgate by rule a similar standard, which may not be more restrictive than the federal standard in terms of emission limitations. If EPA relaxes an NESHAP, DNR must alter the corresponding state standard unless it finds that the relaxed standard would not provide adequate protection for public health and welfare. Current law also authorizes DNR to promulgate an emission standard for a hazardous air contaminant for which EPA has not promulgated an NESHAP if DNR finds that the standard is needed to provide adequate protection for public health or welfare.

This bill provides that if EPA establishes an NESHAP for a substance, DNR must promulgate a rule that incorporates the NESHAP and related administrative requirements. The bill prohibits DNR from promulgating a rule that is more restrictive in terms of emission limitations or otherwise more burdensome to operators of sources affected by the rule than the NESHAP and related administrative requirements.

The bill prohibits DNR from promulgating an emission standard for a hazardous air contaminant for which EPA has not promulgated an NESHAP unless DNR conducts a public health risk assessment that identifies the sources in this state that emit the contaminant, shows that identified individuals are subjected to levels of the hazardous air contaminant that are above recognized environmental health standards, evaluates options for managing the risks caused by the contaminant, considering costs and other relevant factors, and finds that the compliance alternative chosen by DNR for the contaminant reduces risks in the most cost–effective manner practicable.

State implementation plans and nonattainment areas

Under the CAA, an area with levels of a pollutant above an NAAQS must be designated as a nonattainment area. Nonattainment areas are subject to more stringent requirements under the CAA than other areas.

The CAA requires each state to submit implementation plans to show how the state will ensure that air quality in the state complies with each NAAQS, including showing how the state will reduce the level of pollutants in its nonattainment areas. Current state law requires DNR to prepare plans for the prevention, abatement, and control of air pollution in this state. The law requires that the plans submitted to EPA for the control of ozone conform with the CAA, except that measures beyond

those required by the CAA may be included if they are necessary to comply with requirements to show that the state will make reductions in the levels of ozone in ozone nonattainment areas.

This bill specifies that when DNR prepares a state implementation plan for a pollutant for which EPA has established an NAAQS, DNR may only include provisions that are necessary to obtain EPA approval of the plan, including provisions that are necessary to comply with requirements to show that the state will make reductions in the levels of that pollutant in the state's nonattainment areas. The bill requires that, at least 90 days before DNR is required to submit a state implementation plan to EPA, DNR submit a report to the Joint Committee for Review of Administrative Rules (JCRAR) that describes the proposed plan and contains supporting documents for the plan. The bill gives JCRAR 30 days to review the report. If, within that time, JCRAR returns the report to DNR with a written explanation of why the committee is returning the report, DNR may not submit the state implementation plan to EPA until JCRAR agrees that DNR has adequately addressed the issues raised by JCRAR.

Current law authorizes DNR to identify nonattainment areas based on procedures and criteria that it establishes.

This bill prohibits DNR from identifying a county as part of a nonattainment area if the level of an air pollutant in the county does not exceed an ambient air quality standard, unless the CAA requires the county to be so designated. The bill requires that, at least 90 days before this state is required to provide a submission to EPA identifying an area as a nonattainment area, DNR submit a report to JCRAR that describes the area and contains supporting documents. The bill gives JCRAR 30 days to review the report. If, within that time, JCRAR returns the report to DNR with a written explanation of why the committee is returning the report, DNR may not provide the submission to EPA until JCRAR agrees that DNR has adequately addressed the issues JCRAR has raised.

When EPA replaced an NAAQS based on the concentration of particulate matter in the atmosphere measured as total suspended particulates with standards based on the size of particulate matter, DNR retained the state emission standard based on total suspended particulates and also adopted the federal standards based on the size of the particulate matter.

The bill prohibits DNR from designating an area as a nonattainment area based on the concentration of particulate matter in the atmosphere measured as total suspended particulates and requires DNR to end the designation of an area as a nonattainment area if the designation was based on the concentration of particulate matter in the atmosphere measured as total suspended particulates.

New source review

Under the CAA, a person must obtain a construction permit before beginning the construction of a stationary source of air pollution that meets certain criteria. These sources are generally called major sources. The CAA also requires a person to obtain a construction permit before making changes to a major source if the changes amount to what the CAA calls "modifications." If a source is required to obtain a construction permit, the CAA imposes air pollution control requirements

that are more stringent than those imposed on sources that are not required to obtain a construction permit, including those to which changes are made that do not amount to modifications. The part of the CAA that contains these provisions is often referred to as new source review.

Recently, EPA has promulgated regulations that revise the way in which it is determined under federal law whether changes to a major source are considered to be modifications, thus revising the situations in which major sources must obtain construction permits and implement more stringent pollution controls. States are not required to use the federal approach to determining whether changes are considered to be modifications, as long as their new source review provisions are at least as stringent as the federal new source review provisions.

This bill requires DNR to promulgate rules incorporating the recent revisions that EPA made in its regulations for determining whether changes to a major source amount to modifications and any future revisions that EPA makes. The bill requires DNR to make similar revisions to its rules for sources that are not covered by the CAA (minor sources) if the revisions reduce administrative requirements.

Permit requirements

The CAA requires states to require operation permits for major sources of air pollution and construction permits for the construction or modification of major sources of air pollution. Current state law generally requires operation permits for all stationary sources of air pollution and construction permits for the construction or modification of all stationary sources of air pollution.

Current state law authorizes DNR to promulgate rules exempting types of sources from the requirements to obtain permits if the potential emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment. This bill requires DNR to promulgate rules exempting minor sources from the requirement to obtain a construction permit and an operation permit if emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment.

This bill specifically exempts an agricultural source from the requirement to obtain a construction permit and an operation permit, unless the CAA requires permits for the source. The bill exempts from the construction permit requirement a source that is a component of a process, of equipment, or of an activity that is otherwise covered by a preexisting operation permit.

Current state law authorizes DNR to promulgate rules specifying types of sources that may obtain general construction permits and general operation permits, which may cover numerous similar sources. This bill requires DNR to promulgate rules for the issuance of general permits for similar stationary sources. The bill requires that within 15 days of receiving an application for coverage under a general permit DNR either notify the applicant whether the source qualifies for coverage or tell the applicant what additional information DNR needs to determine whether the source qualifies for coverage. The bill specifies that a person is not required to obtain a construction permit or to apply for coverage under a general permit before beginning to construct or modify a source that qualifies for a general permit, unless the CAA requires a construction permit for the source. The bill limits

DNR's ability to specify expiration dates for coverage under general permits. The bill also eliminates DNR's authority to promulgate rules providing for general construction permits.

The bill requires DNR to promulgate rules, which must be consistent with the CAA, providing a simplified process under which DNR issues a registration permit for a stationary source with low actual emissions. The bill requires that within 15 days of receiving an application for a registration permit DNR either grant or deny the registration permit or tell the applicant what additional information DNR needs to determine whether the source qualifies for a registration permit.

The bill requires DNR to grant a waiver from the requirement to obtain a construction permit for the construction or modification of a stationary source upon a showing by the owner or operator of the source that obtaining the permit would cause undue hardship, unless the CAA requires the owner or operator to obtain a construction permit. DNR must act on a waiver request within 15 days of its receipt.

The bill requires DNR to continually assess air pollution permit obligations and implement measures, consistent with the CAA, to lessen those obligations, including consolidating permits for sources at a facility into one permit, expanding permit exemptions, and expanding the availability of registration permits, general permits, and construction permit waivers. The bill also requires DNR to take those measures in response to petitions.

Permitting process

Current state law specifies a process for DNR review of applications for construction permits for stationary sources of air pollution. Under this process, within 20 days after receiving an application for a construction permit, DNR must notify the applicant of any additional information needed to process the application. Once the additional information is received, DNR must complete an analysis of the effect of the proposed new source (or modification to an existing source) on air quality and a preliminary determination on the approvability of the application. DNR must make this determination within 120 days of receiving the additional information that it requested for a major source and within 30 days for a minor source.

This bill reduces those periods to 60 days for a major source and 15 days for a minor source. The bill also provides that if the additional information is not requested (by DNR or by a certified contractor, as described below) within 20 days after the application is received, additional information may be requested but the 60 and 15 day periods begin to run after the 20 days are up.

The bill provides that an application for an air pollution construction permit may be made to a private contractor certified by DOA. The certified contractor performs the determination of whether additional information is needed to process the application, the analysis of the effect of the proposed new source (or modification to an existing source) on air quality, and the preliminary determination on the approvability of the application. The bill requires DOA, in consultation with DNR, to specify minimum standards relating to staffing and professional expertise and other conditions applicable to certified contractors.

Current law requires DNR to distribute the analysis and preliminary determination for a construction permit application and to publish a newspaper

notice announcing the opportunity for public comment and a public hearing on an application for a construction permit. The bill requires DNR to publish the newspaper notice within ten days after DNR prepares the analysis and preliminary determination for a construction permit application or, if a certified contractor prepares them, within ten days after DNR receives them from the certified contractor.

Current law requires DNR to receive public comments on a construction permit application for 30 days after publishing the newspaper notice. DNR is authorized to hold a public hearing if requested by a person, an affected state, or EPA within 30 days after publishing the newspaper notice and is required to hold a public hearing if there is significant public interest in holding a hearing. The department must hold the hearing within 60 days after the end of the public comment period.

The bill specifies that DNR may hold a hearing if requested by a person who may be directly aggrieved by the issuance of the permit or by an affected state or EPA. It also requires that the hearing be held within 30, rather than 60, days after the end of the public comment period.

Current law requires DNR to act on a construction permit application within 60 days after the close of the public comment period or the public hearing, whichever is later, unless compliance with environmental impact statement requirements requires a longer time. This bill requires DNR to act within 60 days after it publishes the newspaper notice (30 days after the close of the public comment period), unless compliance with environmental impact statement requirements requires a longer time. The bill authorizes DNR to extend any time limit applicable to it or a certified contractor under this process at the request of an applicant for a permit.

Under the bill, if DNR does not act on an application within the required time limit, it must include in a report the reasons for the delay in acting on the application, including the names of the department's employees responsible for review of the application, and recommendations for how to avoid similar delays in the future. DNR must make these reports available to the public, and submit the reports to JCRAR on a quarterly basis.

The bill makes changes to the processing of applications for operation permits that are similar to the changes it makes to the processing of construction permits, including providing for the use of certified contractors. Under current law, DNR must act on an application for an operation permit within 180 days after the applicant submits to DNR the results of equipment testing and emission monitoring required by the construction permit. This bill reduces that deadline to 30 days.

Under current law, a permittee must apply for the renewal of an operation permit at least 12 months before the permit expires. This bill reduces that requirement to six months.

Criteria for approval of permits

Under current state law, DNR may approve an application for a construction permit or an operation permit if it finds that criteria specified in the law for the stationary source are met. This bill provides that DNR may not modify a preliminary determination of approvability made by a private contractor unless modification is necessary to comply with the CAA or unless information received from the public, an

affected state, or EPA or an environmental impact statement provide clear and convincing evidence that issuance of the permit would cause material harm to public health, safety, or welfare.

Under current law, one of the criteria for approving a permit for the construction or modification of a major source in a nonattainment area is a finding by DNR, based on an analysis of alternatives, that the benefits of the construction or modification significantly outweigh the environmental and social costs imposed as a result of the construction or modification. This bill eliminates that criterion.

Continuation of operation

Under current law, if a person timely submits a complete application for an operation permit and submits any additional information within the time set by DNR, the stationary source may continue to operate even if DNR has not yet issued the permit. Under this bill, if a person submits an application for renewal of an operation permit before the date that the operation permit expires, the stationary source may continue to operate, unless the CAA would prohibit continued operation.

Other provisions related to air quality management

Current law authorizes DNR to require owners and operators of sources of air pollution to monitor emissions from those sources or to monitor air quality in the areas of those sources. This bill prohibits DNR from including a monitoring requirement in an operation permit if the applicant demonstrates that the cost of compliance with the requirement would exceed the cost of compliance with monitoring requirements imposed on similar sources by an adjacent state or if the monitoring is not needed to provide assurance of compliance with requirements that apply to the source, unless the CAA requires the monitoring.

Current law specifies that an air pollution permit or part of a permit issued by DNR becomes effective unless the permit holder seeks a hearing on the permit or part of a permit. The bill specifies that if a permit holder or applicant challenges part of a permit, the remainder of the permit becomes effective and the permit holder or applicant may begin the activity for which the permit was issued.

This bill requires DNR to report to the legislature proposals for lessening air pollution permit obligations, including consolidating permits for sources at a facility into one permit, expanding permit exemptions, and expanding the availability of registration permits, general permits, and construction permit waivers and a description of requirements in the CAA that limit DNR's ability to take those actions. The bill also requires DNR to provide to JCRAR a description of provisions in this state's CAA implementation plans that may not have been necessary to obtain EPA approval and recommendations for removing those provisions from the state implementation plans.

NAVIGABLE WATERS

This bill makes changes in the permitting, decision, notice, hearing, and court procedures that apply to permits and contracts given by DNR in regulating structures, deposits, and other activities that occur in or near navigable waterways (waterway activities).

Permitting changes in general

With limited exemptions, under current law, an owner of waterfront property (riparian owner) may not engage in a waterway activity unless the riparian owner has first obtained a permit or contract from DNR that is specific to the waterway activity (an individual approval) or unless the waterway activity is authorized under a general permit issued by DNR.

This bill restructures the substantive requirements for individual permits, general permits, and contracts for removing material from navigable waterways. It also creates exemptions from both of these types of permits and from these contracts for certain waterway activities. The types of permits that are affected by these new general and individual permitting, contracting, and exemption provisions are permits to place structures or deposit material (placement permits), permits to construct or maintain bridges (bridge permits), permits to enlarge or connect waterways or to grade or remove top soil from banks along navigable rivers and streams (enlargement permits), permits to change the courses of streams and rivers (stream course permits), and permits and contracts to remove material from beds of navigable waterways (removal approvals).

General permits

Under current law, DNR may, but is not required to, issue general permits for waterway activities that are covered by the abbreviated procedure described above and for certain activities that require an enlargement permit. Under current law, general permits may be issued in certain designated areas of the state for any waterway activity that requires a general permit. The bill expands the use of general permits by requiring DNR to issue statewide general permits for certain waterway activities and to allow DNR to promulgate rules to specify additional waterway activities that may be authorized under a general permit. The bill allows DNR to impose certain construction and design requirements, location requirements, and environmental restrictions on the general permits. Under current law, a person seeking to conduct a waterway activity under a general permit must notify DNR not less than 20 days before starting the activity. The bill requires this notification to be in writing and and increases the 20 days to 30 days. If DNR does not act within 30 days of the notification, the waterway activity is considered to be authorized.

Placement permits

For placement permits, current law provides an abbreviated procedure for reviewing applications. Under the procedure, DNR may approve or disapprove the permit application without giving notice or conducing a hearing. Types of permit applications to which this abbreviated procedure applies include applications to place sand to improve recreational use and applications to place devices to improve fish habitat.

This bill repeals this abbreviated review procedure. Instead, under the bill the general permitting process applies to most of the waterway activities that are subject to the abbreviated procedure.

The bill also exempts certain waterway activities from both general and individual placement permits if they do not interfere with the rights of other riparian owners and if they are located outside an area of special natural resource interest

(exempt waterway activities). Under current law, some of these activities are subject to the abbreviated procedure and some must meet notice and hearing requirements before being issued. The bill defines an area of "special natural resource interest" to be a state natural area or an area identified by DNR as possessing scientific value or as being an outstanding or exceptional resource water. Examples of such waters include wild and scenic rivers and certain trout streams. If a waterway activity is not an exempt waterway activity, the individual permitting process applies unless the waterway activity is covered by a general permit.

Whether a waterway activity is subject to the individual placement permit process or the general placement permit process or is totally exempt from any type of placement permit depends on the placement or deposit meeting certain size and other criteria. Structures and deposits that are subject to these placement permit provisions include deposits of sand, crushed rock, gravel, or riprap; boat shelters and hoists; intake and outlet structures; piers; and wharves. Under current law, a riparian owner may construct a pier or wharf beyond the ordinary high–water mark or an established bulkhead line without a placement permit if the wharf or pier meets certain criteria. This bill eliminates this exemption.

Under current law, DNR may, but is not required to, issue placement permits for waterway activities that meet the requirements for the permit. Under the bill, DNR must issue placement permits for activities that meet these requirements.

Enlargement permits

Under current law, a person must be issued an enlargement permit to do any of the following:

1. Construct, dredge, or enlarge any artificial waterway in order to connect it with an existing navigable waterway (connection permit requirement). The bill limits this permit requirement to those artificial waterways that are already connected to the navigable waterway or that will connect with the navigable waterway upon completion of the construction.

2. Connect an artificial or natural waterway, whether or not navigable, with an existing navigable waterway. The bill repeals this provision.

3. Construct, dredge, or enlarge any part of an artificial waterway that is located within 500 feet of an existing navigable stream (500–foot permit requirement).

4. Grade or remove top soil from the bank of a navigable waterway if the exposed area will exceed 10,000 square feet (grading permit requirement).

The bill creates an exemption from the 500–foot permit requirement, if the artificial waterway's only surface connection to a navigable waterway is an overflow device and the construction, dredging, or enlargement is authorized by a storm water discharge permit or a water sewerage and facility plan authorized by DNR (storm water–sewerage projects).

The bill creates an exemption from the grading permit requirement if the grading or removal of top soil is not located in an area of special natural resource interest and is authorized by a storm water discharge permit, by a shoreland or wetland zoning ordinance, or by a construction site erosion control plan.

The bill requires DNR to issue a general permit to meet the connection permit requirement and the 500–foot permit requirement for construction, dredging, and enlargements that are part of an approved storm water–sewerage project, but that are not covered by the exemption described above. The bill requires DNR to issue a general permit to meet the connection permit requirement and the 500–foot requirement for construction, dredging, and enlargements that are designed to enhance wildlife habitat or wetlands or that affect a body of water less than one acre in size. The bill requires DNR to issue a general permit to meet the grading permit requirement for any grading or removing of top soil that is not covered by the exemption described above.

As to individual enlargement permits, the bill imposes the additional requirement that the activity not be detrimental to the public interest.

Bridge permits

The bill makes the following changes to current permitting procedures for the construction and maintenance of bridges:

1. Allows bridge construction and maintenance to be authorized by the legislature.

2. Subjects bridges that cross navigable streams that are less than 35 feet wide to the general permitting provisions. Under current law, such bridges are exempt from the bridge permitting requirements.

3. Changes the permitting provisions to specifically cover the placement of culverts.

4. Subjects culverts that have diameters of less than 60 inches to the general permitting provisions.

5. Exempts culverts that have a diameter of less than 48 inches and that are part of private roads or driveways from all of the bridge permitting requirements.

6. Repeals the requirement that the holder of a bridge permit construct and maintain a bridge that is used by the public to be in a safe condition.

Stream course permits

Under current law, a person must be issued a stream course permit to change or straighten the course of a stream or river. The bill requires DNR to issue a general permit under which riparian owners may change or straighten the course of streams or rivers if the change or straightening involves a relocation of less than a total of 500 feet or a relocation of a stream with an average flow of less than 2 cubic feet per second. The bill also repeals an exemption for municipal or county lands in Milwaukee County and a provision that states that compliance with a stream course permit is a presumption of the exercise of due care. The bill also allows the legislature to authorize the changing or straightening of stream or river courses.

Removal approvals

The bill makes the following changes to current provisions regarding removal approvals:

1. Allows the removal of materials to be authorized by the legislature.

2. Limits the scope of the general requirement for a removal contract to natural navigable lakes. Under current law, both natural and artificial lakes are subject to this requirement.

3. Limits the scope of the general requirement for a removal permit to navigable streams. Under current law, both navigable and nonnavigable streams are subject to this requirement.

4. Exempts removals for certain specified amounts if the removals are not from an area of natural resource interest, do not contain hazardous substances, and will be placed in an upland area.

5. Requires DNR to issue general permits for other removals that are within specified amounts.

Boathouses

Current law, with some exceptions, imposes a prohibition on placing a boathouse beyond the ordinary high–water mark of a navigable waterway. This bill creates an exemption for the construction, repair, or maintenance of a boathouse that is in compliance with all individual or general permitting requirements, that is used exclusively for commercial purposes, that is on land zoned exclusively for commercial or industrial purposes or is in a brownfield or blighted area, and that is located in a commercial harbor or on a tributary of Lake Michigan or Lake Superior. Current law defines a "brownfield" to be an industrial or commercial facility, the expansion or redevelopment of which is complicated by environmental contamination.

Notice, hearing, and decision provisions for individual permits

Under current law, for individual placement permits, bridge permits, removal permits, stream course permits, and enlargement permits, DNR must order a public hearing to be held within 60 days after receiving a complete application for the permit or provide notice (notice of application) that DNR will proceed on the application without a public hearing unless a substantive written objection is received within 30 days after the notice is published. DNR must provide the notice of application to various parties and to the applicant, who in turn must publish notice. Current law defines a "substantive written objection" to be one that gives the reasons why the issuance of the proposed permit will violate state law and that states that the person objecting will appear at the public hearing to present information supporting the objection. The applicant must publish the notice in a newspaper that is likely to give notice in the area where the waterway activity will be located (area newspaper).

If DNR does not receive a substantive written objection within the 30–day period, DNR proceeds on the permit application. If DNR receives such an objection, the public hearing must be held within 60 days after being ordered. At least 10 days before the hearing, the Division of Hearings and Appeals in the Department of Administration must mail a notice of the public hearing to the applicant, all of the parties who received the notice of application, and anyone who submitted a substantive written objection. The applicant again must publish the notice in an area newspaper.

Under current law, DNR may also use this notice and hearing procedure when it is not specifically required if DNR determines that substantial interests of any party may be adversely affected by the granting of the permit.

Under the bill, DNR must provide notice of a complete application to interested members of the public within 15 days after DNR determines that the application is

complete. DNR must provide a period for public comment after providing notice that the application is complete. If no hearing is requested, the public comment period ends in 30 days.

If a public hearing is requested, the comment period ends 10 days after the conclusion of the hearing. The permit application may contain a request for a public hearing or any other person may request a hearing. DNR may also decide on its own to hold a hearing if it determines that there is a significant public interest in the permit. A hearing request must be submitted to DNR within 30 days of the notice that the application is complete. DNR must then provide notice within 15 days, and the hearing must be held within 30 days of the notice being complete. DNR must issue its decision within 30 days after the hearing.

If no hearing is to be held, then DNR must issue its decision within 30 days after the close of the comment period.

The changes to the applicability of the hearing and notice procedures for individual permits under the bill include the following:

1. The procedure applies to removal approvals and stream course permits, as well as the permits covered under current law.

2. The procedure applies to permits to place water ski jumps, replacing the procedures that apply to these permits under current law.

3. The bill repeals the authority that allowed DNR to use these notice and hearing procedures when they were not required to do so in making determinations that affected navigable waters and navigation.

4. The procedures specifically apply to applications for modifications of individual permits.

Administrative and court review of DNR decisions on individual permits

Under current law, if a substantial interest of a person is injured by an agency action and there is a dispute of material fact, that person has the right to an administrative hearing before an impartial hearing officer. The notice requirements, procedures, rules of evidence, records, and right to judicial review are specified in detail under current law.

Under this bill, an applicant for or holder of an individual permit, or five or more persons, may ask DNR for an administrative hearing regarding the issuance, denial, or modification of an individual permit, or regarding a term or condition of an individual permit. If DNR determines that the request for a hearing gives specific reasons why the department's decision violates state law, DNR is required to hold an administrative hearing. The bill requires that the hearing be conducted as a contested case hearing and be subject to current law's administrative hearing requirements regarding contested case hearings, including the procedures, rules of evidence, records, and right to judicial review.

Instead of requesting an administrative hearing to review the DNR decision, any person who has the right to request such a hearing may bring a court action to review DNR's decision. The bill requires the court to review the evidence and examine witnesses, rather than review the record of DNR's action. In addition, the bill allows a party to the administrative hearing to stop an administrative hearing and have the court take jurisdiction over the issues raised in the hearing. If an

administrative hearing is removed to a court, that court is required by the bill to review the evidence and examine witnesses, independent of DNR's evidence review and witness examination.

STRATEGIC ENERGY ASSESSMENTS

Current law requires the Public Service Commission (PSC) to prepare a strategic energy assessment every two years that evaluates the adequacy and reliability of the state's electricity supplies. An assessment must describe, among other things, large electric generating facilities and high–voltage transmission lines on which utilities plan to begin construction within three years. The bill requires an assessment to describe large electric generating facilities and high–voltage transmission lines on which utilities plan to begin construction within seven years, rather than three years.

PARTIAL DEREGULATION OF TELECOMMUNICATIONS SERVICES

Under current law, a person may petition the PSC to begin proceedings for determining whether to partially deregulate certain telecommunications services. The PSC may also begin such proceedings on its own motion. If the PSC makes certain findings regarding competition for such telecommunications services, the PSC may issue an order suspending specified provisions of law. Current law does not impose any deadlines on such proceedings.

The bill requires the PSC to complete the proceedings no later than 120 days after a person files a petition. In addition, if the PSC begins proceedings based on its own motion, the proceedings must be completed no later than 120 days after the PSC provides notice of its motion. If the PSC fails to complete the proceedings and, if appropriate, issue an order within the deadline, the bill provides for the suspension of any provisions of law that are specified in the petition or in the PSC's motion.

UTILITY PUBLIC BENEFITS FUND

Under current law, certain electric and gas utilities are required to make contributions to the PSC in each fiscal year. The PSC deposits the contributions in the utility public benefits fund (fund), which also consists of monthly fees paid by utility customers. The fund is used by DOA to make grants for low–income assistance, energy conservation and efficiency, environmental research and development, and renewable resource programs. The amount that each utility must contribute to the PSC is the amount that the PSC determines that the utility spent in 1998 on its own programs that are similar to the programs awarded grants by DOA.

Under this bill, the PSC may allow a utility to retain a portion of the amount that it is required to contribute in each fiscal year under current law. However, the PSC may allow a utility to do so only if the PSC determines that the portion is used by the utility for energy conservation programs for industrial, commercial, and agricultural customers in the utility's service area. Also, the programs must comply with rules promulgated by the PSC. The rules must specify annual energy savings targets that the programs must be designed to achieve. The rules must also require a utility to demonstrate that, within a reasonable period of time determined by the PSC, the economic benefits of such a program will be equal to the portion of the contribution that the PSC allows the utility to retain. If the PSC allows a utility to

retain such a portion, the utility must contribute 1.75 percent of the portion to the PSC, which the PSC must deposit in the fund for DOA to use for programs for research and development for energy conservation and efficiency. In addition, the utility must contribute 4.5 percent of the portion to the PSC for deposit in the fund for DOA to use for renewable resource programs. The bill also prohibits a utility from paying for expenses related to administration, marketing, or delivery of services for the utility's energy conservation programs from the portion of a contribution the utility is allowed to retain.

The bill also requires the PSC to promulgate rules for the grants made by DOA from the fund for energy conservation and other programs. Under the bill, an applicant is not eligible for such a grant unless the applicant's proposal for the grant complies with rules promulgated by the PSC. The rules must require an applicant to demonstrate that, within a reasonable period of time determined by the PSC, the economic benefits resulting from the proposal will be equal to the amount of the grant. The rules must also specify annual energy savings targets that a such proposal must be designed to achieve.

RECIPROCAL AGREEMENTS FOR REAL ESTATE LICENSES

Under current law, the Department of Regulation and Licensing (DRL) grants licenses that allow persons to practice as real estate brokers or salespersons. Current law specifies the requirements a person must satisfy to obtain such a license. The Real Estate Board (board) advises DRL on rules regarding licensing and other matters.

This bill allows DRL to grant licenses to persons licensed as real estate brokers or salespersons in other states and territories, in addition to persons who satisfy the requirements specified under current law. Under the bill, DRL may, after consulting with the board, enter into reciprocal agreements with officials of other states or territories for granting licenses to persons licensed in those states or territories.

COMPREHENSIVE PLANNING BY LOCAL GOVERNMENTAL UNITS

Under the current law popularly known as the "Smart Growth" statute, if a local governmental unit (city, village, town, county, or regional planning commission) creates a comprehensive plan (a zoning development plan or a zoning master plan) or amends an existing comprehensive plan, the plan must contain certain planning elements. The required planning elements include the following: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and land use.

Beginning on January 1, 2010, under Smart Growth, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies include zoning ordinances, municipal incorporation procedures, annexation procedures, agricultural preservation plans, and impact fee ordinances. Also beginning on January 1, 2010, under Smart Growth, if a local governmental unit engages in any program or action that affects land use, the comprehensive plan must contain at least all of the required planning elements.

Before the plan may take effect, however, a local governmental unit must comply with a number of requirements, such as adopting written procedures that are designed to foster public participation in the preparation of the plan.

Under this bill, before the plan may take effect, a local governmental unit must provide written notice to all owners of property, and leaseholders who have an interest in property pursuant to which the persons may extract nonmetallic mineral resources, in which the allowable use or intensity of use, of the property, is changed by the comprehensive plan, and must create written procedures that describe the methods the local governmental unit will use to distribute elements of a comprehensive plan to owners of, and other persons who have such interests in, such property.

FEES IMPOSED BY POLITICAL SUBDIVISIONS

Under current law, cities, villages, towns, and counties (political subdivisions) provide various services for which those political subdivisions may impose a fee. This bill requires that any fee imposed by a political subdivision bear a reasonable relationship to the service for which the fee is imposed and that, when a political subdivision first imposes or raises a fee, the political subdivision issue written findings that demonstrate that the fee bears a reasonable relationship to the service for which the fee is imposed.

PATIENT HEALTH CARE RECORDS

Under current state law, patient health care records must remain confidential and may be released by a health care provider only with the informed consent of the patient or of a person authorized by the patient. However, patient health care records are required to be released without informed consent by the health care provider in specified circumstances, including for patient treatment, health care provider payment and medical records management, and certain audits, program monitoring, accreditation, and health care services review activities by health care facility staff committees or accreditation or review organizations.

Under current federal law, patient health care information may be released without patient authorization by health care providers for, among other purposes, treatment, payment, and health care operations. "Health care operations" is defined in federal law to include quality assessment and improvement activities; credentialing or evaluating of health care practitioners and training; underwriting; medical review, legal services, and auditing; business planning and development; and business management and general administrative activities.

This bill modifies the requirement for release of patient health care records without patient consent to authorize, rather than require, release under specified circumstances, and to eliminate the requirement that a request for the records be received before release. The bill also increases the circumstances under which patient health care records are authorized to be released without patient informed consent, to include purposes of health care operations, as defined and authorized in federal law.

APPRENTICESHIP–TO–JOURNEYMAN JOB–SITE RATIOS

Under current law, the Department of Workforce Development (DWD) may determine reasonable classifications, promulgate rules, issue general or special

orders, hold hearing, make findings, and render orders as necessary to oversee the apprenticeship programs provided in this state.

This bill prohibits DWD from prescribing, whether by promulgating a rule, issuing a general or special order, or otherwise, the ratio of apprentices to journeymen that an employer may have at a job site.

ACQUISITIONS OF IN–STATE BANKS AND BANK HOLDING COMPANIES

Current law specifies certain requirements applicable to the acquisition of an in–state bank or in–state bank holding company by an out–of–state bank holding company. This bill applies those requirements to similar acquisitions by out–of–state banks.

LAWSUITS CONCERNING FINANCIAL INSTITUTIONS

With certain exceptions, this bill prohibits any person from bringing a lawsuit against a bank, savings bank, savings and loan association, or any affiliate of such an institution (financial institution) based upon any of the following promises or commitments of the financial institution, unless the promise or commitment is in writing, sets forth relevant terms and conditions, and is signed by the financial institution: 1) a promise or commitment to lend money, grant or extend credit, or make any other financial accommodation; or 2) a promise or commitment to renew, extend, modify, or permit a delay in repayment or performance of a loan, extension of credit, or other financial accommodation. This prohibition does not apply to transactions that are subject to the Wisconsin Consumer Act (which generally regulates credit transactions of $25,000 or less that are entered into for personal, family, or household purposes).

Currently, under the doctrine of promissory estoppel, the existence of an enforceable contract may be implied if a person makes a promise, the promise is one which the person should reasonably expect to induce action or forbearance of a definite and substantial character, the promise induces such action or forbearance, and injustice can be avoided only by enforcement of the promise. This bill provides that any promise or commitment described above may not be enforced under the doctrine of promissory estoppel. This prohibition does not apply to transactions that are subject to the Wisconsin Consumer Act.

FINANCIAL ASSURANCE FOR NONMETALLIC MINING RECLAMATION

Current law requires counties to administer ordinances to ensure that nonmetallic mining sites are reclaimed. "Nonmetallic" mining means extracting substances like gravel and stone. Among other things, nonmetallic mining reclamation ordinances must require operators to provide financial assurance to ensure that the nonmetallic mine will be reclaimed. This bill provides that, if a city, village, or town requires an operator to provide financial assurance for nonmetallic mining reclamation, the county must credit the value of that financial assurance toward the amount that the operator is required to provide under the county ordinance.

For further information see the ***state and local*** 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:

SECTION 1. 16.957 (2) (b) 1. (intro.) of the statutes is amended to read:

16.957 **(2)** (b) 1. (intro.) Subject to subd. 2. and the rules promulgated under sub. (2m), after holding a hearing, establish programs for awarding grants from the appropriation under s. 20.505 (3) (s) for each of the following:

SECTION 2. 16.957 (2) (c) 2. of the statutes is amended to read:

16.957 **(2)** (c) 2. Requirements and procedures for applications for grants awarded under programs established under par. (a) or (b) 1. The rules for grants awarded under programs established under par. (b) 1. may not be inconsistent with the rules promulgated by the commission under sub. (2m).

SECTION 3. 16.957 (2m) of the statutes is created to read:

16.957 **(2m)** ENERGY CONSERVATION AND EFFICIENCY GRANTS. The commission shall promulgate rules that provide that a proposal for providing energy conservation or efficiency services is not eligible for a grant under sub. (2) (b) unless the applicant demonstrates that, no later than a reasonable period of time, as determined by the commission, after the applicant begins to implement the proposal, the economic value of the benefits resulting from the proposal will be equal to the amount of the grant. The rules shall also specify annual energy savings targets that a such proposal must be designed to achieve in order for the proposal to be eligible for a grant under sub. (2) (b).

SECTION 4. 16.957 (3) (b) of the statutes is amended to read:

16.957 **(3)** (b) The department shall, on the basis of competitive bids, contract with one or more nonstock, nonprofit corporations organized under ch. 181 to administer the programs established under sub. (2) (b) 1., including soliciting proposals, processing grant applications, selecting, based on criteria specified in rules promulgated under sub. (2) (c) 2m. and the standards established in the rules promulgated under sub. (2m), proposals for the department to make awards and distributing grants to recipients.

SECTION 5. 19.52 (3) of the statutes is amended to read:

19.52 **(3)** Chapters 901 to 911 apply to the admission of evidence at the hearing. The ~~board~~ hearing examiner shall not find a violation of this subchapter or subch. III of ch. 13 except upon clear and convincing evidence admitted at the hearing.

SECTION 6. 19.52 (4) of the statutes is repealed.

SECTION 7. 25.96 of the statutes is amended to read:

25.96 Utility public benefits fund. There is established a separate nonlapsible trust fund designated as the utility public benefits fund, consisting of deposits by the public service commission under s. 196.374 (3) and (3m), public benefits fees received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under s. 16.957 (2) (c) 4. and (d) 2.

SECTION 8. 29.601 (5) (a) of the statutes is amended to read:

29.601 **(5)** (a) This section does not apply to any activities carried out under the direction and supervision of the department of transportation in connection with the construction, reconstruction, maintenance and repair of highways and bridges in accordance with s. ~~30.12 (4)~~ 30.2022.

SECTION 9. 30.01 (1am) of the statutes is created to read:

30.01 **(1am)** "Area of special natural resource interest" means any of the following:

(a) A state natural area designated or dedicated under ss. 23.27 to 23.29.

(b) A surface water identified by the department as an outstanding or exceptional resource water under s. 281.15.

(c) An area that possesses significant scientific value, as identified by the department.

SECTION 10. 30.01 (1p) of the statutes is amended to read:

30.01 **(1p)** "Fishing raft" means any raft, float or structure, including a raft or float with a superstructure and including a structure located or extending below or beyond the ordinary high–water mark of a water, which is designed to be used or is normally used for fishing, which is not normally used as a means of transportation on water and which is normally retained in place by means of a permanent or semipermanent attachment to the shore or to the bed of the waterway. "Fishing raft" does not include a boathouse or fixed houseboat regulated under s. 30.121 nor a wharf or pier regulated under ~~s.~~ ss. 30.12 and 30.13.

SECTION 11. 30.01 (6b) of the statutes is repealed.

SECTION 12. 30.015 of the statutes is renumbered 30.208 (2) and amended to read:

30.208 **(2)** ~~TIME LIMITS FOR ISSUING PERMIT DETERMINATIONS~~ PROCEDURE FOR COMPLETING APPLICATIONS. In issuing individual permits or entering contracts under this ~~chapter~~ subchapter, the department shall initially determine whether a complete application for the permit or contract has been submitted and, no later than ~~60~~ 30 days after the application is submitted, notify the applicant in writing about the initial determination of completeness. If the department determines that the

application is incomplete, the notice shall state the reason for the determination and the specific items of information necessary to make the application complete. An applicant may supplement and resubmit an application that the department has determined to be incomplete. There is no limit on the number of times that an applicant may resubmit an application that the department has determined to be incomplete under this section. The department may not demand items of information that are not specified in the notice as a condition for determining whether the application is complete unless both the department and the applicant agree or unless the applicant makes material additions or alterations to the activity or project for which the application has been submitted. The rules promulgated under s. 299.05 apply only to applications for individual permits or contracts under this subchapter that the department has determined to be complete.

SECTION 13. 30.02 of the statutes is repealed.

SECTION 14. 30.07 of the statutes is renumbered 30.2095, and 30.2095 (1) (a), as renumbered, is amended to read:

30.2095 **(1)** (a) Except as provided in par. (b), every permit or contract issued under ss. 30.01 to 30.29 for which a time limit is not provided by s. 30.20 (2) is void unless the activity or project is completed within 3 years after the permit or contract was issued.

SECTION 15. 30.10 (4) (a) of the statutes is amended to read:

30.10 **(4)** (a) This section does not impair the powers granted by law under s. ~~30.123~~ 30.1235 or by other law to municipalities to construct highway bridges, arches, or culverts over streams.

SECTION 16. 30.11 (4) of the statutes is amended to read:

30.11 **(4)** RIPARIAN RIGHTS PRESERVED. Establishment of a bulkhead line shall not abridge the riparian rights of riparian ~~proprietors~~ owners. Riparian ~~proprietors~~ owners may place solid structures or fill up to such line.

SECTION 17. 30.12 (title) of the statutes is amended to read:

30.12 (title) **Structures and deposits in navigable waters ~~prohibited; exceptions; penalty.~~**

SECTION 18. 30.12 (1) (intro.) of the statutes is renumbered 30.12 (1d) and amended to read:

30.12 **(1d)** ~~GENERAL PROHIBITION~~ PERMITS REQUIRED. (intro.) ~~Except as provided under subs. (4) and (4m), unless a~~ Unless an individual or general permit has been ~~granted by the department pursuant to statute or~~ issued under this section or authorization has been granted by the legislature ~~has otherwise authorized structures or deposits in navigable waters, it is unlawful~~, no person may do any of the following:

SECTION 19. 30.12 (1) (a) of the statutes is renumbered 30.12 (1d) (a) and amended to read:

30.12 **(1d)** (a) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon the bed of any navigable water where no bulkhead line has been established~~; or.~~

SECTION 20. 30.12 (1) (b) of the statutes is renumbered 30.12 (1d) (b) and amended to read:

30.12 **(1d)** (b) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon the bed of any navigable water beyond a lawfully established bulkhead line.

SECTION 21. 30.12 (1b) of the statutes is created to read:

30.12 **(1b)** DEFINITION. In this section, "structure" includes a vessel for commercial storage and its anchoring device.

SECTION 22. 30.12 (1g) (intro.), (a), (b) and (e) to (j) of the statutes are created to read:

30.12 **(1g)** EXEMPTIONS. (intro.) A riparian owner is exempt from the permit requirements under this section for the placement of a structure or the deposit of material if the structure or material is located in an area other than an area of special natural resource interest, does not interfere with the rights of other riparian owners, and is any of the following:

(a) A deposit of sand, gravel, or stone that totals less than 2 cubic yards in any 5–year period.

(b) A structure, other than a pier or a wharf, that is placed on a seasonal basis and that is less than 200 square feet in size and less than 38 inches in height.

(e) A boat shelter, boat hoist, or boat lift that is placed on a seasonal basis adjacent to the riparian owner's pier or wharf or to the shoreline on the riparian owner's property.

(f) A pier that is no more than 6 feet wide, that extends no further than to a point where the water is 3 feet at its maximum depth, or to the point where there is adequate depth for mooring a boat or using a boat hoist or boat lift, whichever is closer to the shoreline, and which has no more that 2 boat slips for the first 50 feet of riparian owner's shoreline footage and no more than one additional boat slip for each additional 50 feet of the riparian owner's shoreline.

(g) A wharf that extends no more than 30 feet.

(h) An intake or outfall structure that is authorized by a storm water discharge permit approved by the department under ch. 283 or a facility plan approved by the department under s. 281.41.

(i) Riprap in an amount not to exceed 75 linear feet and if the riprap is located outside an area where riprap has been previously placed.

(j) Riprap in an amount not to exceed 300 linear feet and if the riprap is located within an area where riprap has been previously placed.

SECTION 23. 30.12 (2) of the statutes is repealed.

SECTION 24. 30.12 (3) (title) of the statutes is repealed and recreated to read:

30.12 **(3)** (title) GENERAL PERMITS.

SECTION 25. 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to read:

30.12 **(3)** (a) (intro.) The department shall issue statewide general permits under s. 30.206 that authorize riparian owners to do all of the following:

SECTION 26. 30.12 (3) (a) 2. of the statutes is renumbered 30.12 (1g) (c) and amended to read:

30.12 **(1g)** (c) ~~Place a~~ A fish crib, spawning reef, wing deflector, or similar device that is placed on the bed of navigable waters for the purpose of improving fish habitat.

SECTION 27. 30.12 (3) (a) 2m. of the statutes is renumbered 30.12 (1g) (d) and amended to read:

30.12 **(1g)** (d) ~~Place a~~ A bird nesting platform, ~~a~~ wood duck house, or similar structure that is placed on the bed of a navigable water for the purpose of improving wildlife habitat.

SECTION 28. 30.12 (3) (a) 6. of the statutes is amended to read:

30.12 **(3)** (a) 6. Place a permanent boat shelter adjacent to the owner's property for the purpose of storing or protecting watercraft and associated materials, except that no general permit may be ~~granted~~ issued for a permanent boat shelter which is

constructed after May 3, 1988, if the property on which the permanent boat shelter is to be located also contains a boathouse within 75 feet of the ordinary high–water mark or if there is a boathouse over navigable waters adjacent to the owner's property.

SECTION 29. 30.12 (3) (a) 9. of the statutes is created to read:

30.12 **(3)** (a) 9. Place an intake or outfall structure that is less than 6 feet from the water side of the ordinary high–water mark and that is less than 25 percent of the width of the channel in which it is placed.

SECTION 30. 30.12 (3) (a) 10. of the statutes is created to read:

30.12 **(3)** (a) 10. Place a pier to replace a pier that has been in existence at least 10 years before the effective date of this subdivision .... [revisor inserts date], does not exceed 10 feet in width, and does not exceed 500 square feet in area.

SECTION 31. 30.12 (3) (a) 11. of the statutes is created to read:

30.12 **(3)** (a) 11. Place a pier that does not exceed 500 square feet in area in a lake that is 500 acres or more in area.

SECTION 32. 30.12 (3) (a) 12. of the statutes is created to read:

30.12 **(3)** (a) 12. Place a vessel for commercial storage on Lake Michigan or Lake Superior or in any tributary of Lake Michigan or Lake Superior that is determined to be navigable by the federal government.

SECTION 33. 30.12 (3) (b) of the statutes is repealed.

SECTION 34. 30.12 (3) (bn) of the statutes is repealed.

SECTION 35. 30.12 (3) (br) of the statutes is created to read:

30.12 **(3)** (br) The department may promulgate rules that specify structures or deposits, in addition to those listed in par. (a), that may be authorized by statewide general permits.

SECTION 36. 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (intro.) and amended to read:

30.2023 Seawalls; Wolf River and Fox River basins. (intro.) A riparian owner is exempt from the permit requirements under ~~sub. (2) and this subsection~~ s. 30.12 for a structure that is placed on the bed of a navigable water in the Wolf River and Fox River basin area, as described in s. 30.207 (1), and that extends beyond the ordinary high–water mark, if the following conditions apply:

SECTION 37. 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (1) to (9).

SECTION 38. 30.12 (3) (bv) of the statutes is created to read:

30.12 **(3)** (bv) Notwithstanding s. 30.07 (1), the department shall issue the first statewide general permit issued under par. (a) 12. for an initial term of not less than 5 years and nor more than 10 years and shall renew the permit for terms of not less than 5 years nor more than 10 years.

SECTION 39. 30.12 (3) (c) of the statutes is amended to read:

30.12 **(3)** (c) The department may ~~promulgate rules deemed necessary to carry out the purposes of~~ impose conditions on general permits issued under par. (a) 6.~~,~~ ~~including rules to establish minimum standards~~ to govern the architectural features of boat shelters and the number of boat shelters that may be constructed adjacent to a parcel of land. The ~~rules~~ conditions may not govern the aesthetic features or color of boat shelters. The ~~standards~~ conditions shall be designed to ~~assure~~ ensure the structural soundness and durability of ~~a boat shelter~~ boat shelters. A municipality may enact ordinances ~~not inconsistent~~ that are consistent with this ~~section or with rules promulgated under this section regulating~~ paragraph and with any conditions

imposed on general permits issued to regulate the architectural features of boat shelters that are under the jurisdiction of the municipality.

SECTION 40. 30.12 (3) (d) of the statutes is repealed.

SECTION 41. 30.12 (3m) of the statutes is created to read:

30.12 **(3m)** INDIVIDUAL PERMITS. (a) For a structure or deposit that is not exempt under sub. (1g) and that is not subject to a general permit under sub. (3), a riparian owner may apply to the department for the individual permit that is required under sub. (1d) in order to place the structure for the owner's use or to deposit the material.

(b) The notice and hearing provisions of s. 30.208 (3) to (5) shall apply to an application under par. (a).

(c) The department shall issue an individual permit to a riparian owner for a structure or a deposit pursuant to an application under par. (a) if the department finds that all of the following apply:

1. The structure or deposit will not materially obstruct navigation.

2. The structure or deposit will not be detrimental to the public interest.

3. The structure or deposit will not materially reduce the flood flow capacity of a stream.

SECTION 42. 30.12 (4) (title) of the statutes is repealed.

SECTION 43. 30.12 (4) (a) of the statutes is renumbered 30.2022 (1) and amended to read:

30.2022 **(1)** Activities affecting waters of the state, as defined in s. 281.01 (18), that are carried out under the direction and supervision of the department of transportation in connection with highway, bridge, or other transportation project design, location, construction, reconstruction, maintenance, and repair are not subject to the prohibitions or permit or approval requirements specified under ~~this~~

~~section or~~ s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692, 61.351, 62.231, or 87.30 or chs. 281 to 285 or 289 to 299, except s. 281.48. However, at the earliest practical time prior to the commencement of these activities, the department of transportation shall notify the department of the location, nature, and extent of the proposed work that may affect the waters of the state.

SECTION 44. 30.12 (4) (b) of the statutes is renumbered 30.2022 (2) and amended to read:

30.2022 **(2)** The exemption under ~~par. (a)~~ sub. (1) does not apply unless the activity is accomplished in accordance with interdepartmental liaison procedures established by the department and the department of transportation for the purpose of minimizing the adverse environmental impact, if any, of the activity.

SECTION 45. 30.12 (4) (c) of the statutes is renumbered 30.2022 (3) and amended to read:

30.2022 **(3)** If the department determines that there is reasonable cause to believe that an activity being carried out under this ~~subsection~~ section is not in compliance with the environmental protection requirements developed through interdepartmental liaison procedures, it shall notify the department of transportation. If the secretary and the secretary of transportation are unable to agree upon the methods or time schedules to be used to correct the alleged noncompliance, the secretary, notwithstanding the exemption provided in this ~~subsection~~ section, may proceed with enforcement actions as the secretary deems appropriate.

SECTION 46. 30.12 (4) (d) of the statutes is renumbered 30.2022 (4).

SECTION 47. 30.12 (4) (e) of the statutes is renumbered 30.2022 (5) and amended to read:

30.2022 **(5)** Except as may be required otherwise under s. 1.11, no public notice or hearing is required in connection with any interdepartmental consultation and cooperation under this ~~subsection~~ section.

SECTION 48. 30.12 (4) (f) of the statutes is renumbered 30.2022 (6) and amended to read:

30.2022 **(6)** This ~~subsection~~ section does not apply to activities in the Lower Wisconsin State Riverway, as defined in s. 30.40 (15).

SECTION 49. 30.12 (4m) (title) of the statutes is repealed.

SECTION 50. 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12 (1m) (c) (intro.), as renumbered, is amended to read:

30.12 **(1m)** (c) (intro.) ~~Subsection (1) does not apply to a~~ A structure or deposit that the drainage board for the Duck Creek Drainage District places in a drain that the board operates in the Duck Creek Drainage District is exempt from the permit requirements under this section if either of the following applies:

SECTION 51. 30.12 (5) of the statutes is repealed.

SECTION 52. 30.121 (3w) of the statutes is created to read:

30.121 **(3w)** EXCEPTION; COMMERCIAL BOATHOUSES. Notwithstanding subs. (2) and (3), a person may construct, repair, or maintain a boathouse if all of the following apply:

(a) The boathouse is used exclusively for commercial purposes and does not contain any living quarters.

(b) The boathouse is located on land zoned exclusively for commercial or industrial purposes or the boathouse is located on a brownfield, as defined in s. 560.13 (1) (a), or in a blighted area, as defined in s. 66.1331 (3) (a).

(c) The boathouse is located within a harbor that is being operated as a commercial enterprise or is located on a river that is a tributary of Lake Michigan or Lake Superior.

(d) The person has been issued any applicable individual permits under this subchapter and is in compliance with any applicable general permitting requirements under this subchapter.

SECTION 53. 30.123 (title) of the statutes is repealed and recreated to read:

30.123 (title) **Bridges and culverts.**

SECTION 54. 30.123 (1) of the statutes is renumbered 30.1235 and amended to read:

30.1235 Municipal bridge construction. Municipalities which construct or reconstruct highway bridges shall not be required to obtain permits under ~~this section or s. 30.10 or~~ s. 30.12 or 30.123 for ~~such~~ that construction or reconstruction. All municipal highway bridges shall be constructed or reconstructed in accordance with standards developed under s. 84.01 (23).

SECTION 55. 30.123 (2) of the statutes is amended to read:

30.123 **(2)** PERMITS REQUIRED. ~~Except as provided in sub. (1) and s. 30.12 (4)~~ Unless an individual or general permit has been issued under this section or authorization has been granted by the legislature, no person may construct or maintain a bridge or culvert in, on, or over navigable waters ~~unless a permit has been issued by the department under this section. The application for a permit shall contain the applicant's name and address, the proposed location of the bridge, a cross section and plan view of the navigable waters and adjacent uplands, a description of materials to be used in construction of the bridge, plans for the proposed bridge,~~

~~evidence of permission to construct the bridge from the riparian owners and any other information required by the department~~.

SECTION 56. 30.123 (3) of the statutes is repealed.

SECTION 57. 30.123 (4) of the statutes is renumbered 30.123 (8) (c) and amended to read:

30.123 **(8)** (c) ~~The department shall review the plans for the proposed bridge to determine whether the proposed bridge will be an obstruction to navigation or will adversely affect the flood flow capacity of the stream.~~ The department shall ~~grant the~~ issue an individual permit ~~if the proposed~~ pursuant to an application under par. (a) if the department finds that the bridge or culvert will not materially obstruct navigation, will not materially reduce the effective flood flow capacity of a stream ~~or be~~, and will not be detrimental to the public interest.

SECTION 58. 30.123 (5) of the statutes is repealed.

SECTION 59. 30.123 (6) of the statutes is created to read:

30.123 **(6)** EXEMPTIONS. Subsection (2) does not apply to any of the following:

(a) The construction and maintenance of highway bridges to which s. 30.1235 applies.

(b) The construction and maintenance of bridges by the department of transportation in accordance with s. 30.2022.

(c) The construction and maintenance of culverts that have an inside diameter that does not exceed 48 inches and that are part of private roads or private driveways.

SECTION 60. 30.123 (7) of the statutes is created to read:

30.123 **(7)** GENERAL PERMITS. (a) The department shall issue statewide general permits under s. 30.206 that authorize any person to do all of the following:

1. Construct and maintain a bridge that will cross a navigable water that is less than 35 feet wide.

2. Construct and maintain a culvert that has an inside diameter that does not exceed 60 inches.

(b) The department may promulgate rules that specify bridges or culverts, in addition to those listed in par. (a), that may be authorized by statewide general permits.

SECTION 61. 30.123 (8) of the statutes is created to read:

30.123 **(8)** INDIVIDUAL PERMITS. (a) For the construction and maintenance of a bridge or culvert that is not exempt under sub. (6) and that is not subject to a general permit under sub. (7), a person may apply to the department for the individual permit that is required under sub. (2) in order to construct or maintain a bridge or culvert.

(b) The notice and hearing provisions of s. 30.208 (3) to (5) shall apply to an application under par. (a).

SECTION 62. 30.13 (1) of the statutes is repealed.

SECTION 63. 30.13 (1m) (intro.) of the statutes is amended to read:

30.13 **(1m)** SWIMMING RAFTS ALLOWED WITHOUT PERMIT UNDER CERTAIN CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may place a swimming raft in a navigable waterway for swimming and diving purposes without obtaining a permit under s. 30.12 if all of the following conditions are met:

SECTION 64. 30.13 (1m) (b) of the statutes is amended to read:

30.13 **(1m)** (b) The swimming raft does not interfere with rights of other riparian ~~proprietors~~ owners.

SECTION 65. 30.13 (2) of the statutes is repealed.

SECTION 66. 30.13 (4) (a) of the statutes is amended to read:

30.13 **(4)** (a) *Interferes with public rights.* A wharf or pier which interferes with public rights in navigable waters constitutes an unlawful obstruction of navigable waters unless ~~a permit is issued for~~ the wharf or pier is authorized under a permit issued under s. 30.12 or unless other authorization for the wharf or pier is expressly provided.

SECTION 67. 30.13 (4) (b) of the statutes is amended to read:

30.13 **(4)** (b) *Interferes with riparian rights.* A wharf or pier which interferes with rights of other riparian ~~proprietors~~ owners constitutes an unlawful obstruction of navigable waters unless ~~a permit is issued for~~ the wharf or pier is authorized under a permit issued under s. 30.12 or unless other authorization for the wharf or pier is expressly provided.

SECTION 68. 30.13 (4) (d) of the statutes is repealed.

SECTION 69. 30.131 (1) (intro.) of the statutes is amended to read:

30.131 **(1)** (intro.) Notwithstanding s. 30.133, a wharf or pier of the type which does not require a permit under ss. 30.12 ~~(1)~~ (1d) and 30.13 that abuts riparian land and that is placed in a navigable water by a person other than the owner of the riparian land may not be considered to be an unlawful structure on the grounds that it is not placed and maintained by the owner if all of the following requirements are met:

SECTION 70. 30.135 (1) (title) of the statutes is repealed.

SECTION 71. 30.135 (1) (a) (intro.) of the statutes is renumbered 30.135 (1) (intro.) and amended to read:

30.135 **(1)** (intro.) A riparian ~~proprietor may place~~ owner placing a water ski platform or water ski jump in a navigable waterway ~~without obtaining a~~ is exempt

from the permit requirements under this chapter if all of the following requirements are met:

SECTION 72. 30.135 (1) (a) 1. of the statutes is renumbered 30.135 (1) (a).

SECTION 73. 30.135 (1) (a) 2. of the statutes is renumbered 30.135 (1) (b) and amended to read:

30.135 **(1)** (b) The platform or jump does not interfere with rights of other riparian ~~proprietors~~ owners.

SECTION 74. 30.135 (1) (a) 3. of the statutes is renumbered 30.135 (1) (c).

SECTION 75. 30.135 (1) (b) of the statutes is renumbered 30.135 (2) and amended to read:

30.135 **(2)** If the department determines that any of the requirements under ~~par. (a)~~ sub. (1) are not met, the riparian owner shall submit ~~a permit~~ an application for an individual permit to the department. The notice and hearing provisions under s. 30.208 (3) to (5) apply to the application.

SECTION 76. 30.135 (2), (3) and (4) of the statutes are repealed.

SECTION 77. 30.18 (2) (a) (intro.) of the statutes is amended to read:

30.18 **(2)** (a) *Streams.* (intro.) No person may divert water from a stream in this state without ~~a~~ an individual permit under this section if the diversion meets either of the following conditions:

SECTION 78. 30.18 (2) (b) of the statutes is amended to read:

30.18 **(2)** (b) *Streams or lakes.* No person, except a person required to obtain an approval under s. 281.41, may divert water from any lake or stream in this state without ~~a~~ individual permit under this section if the diversion will result in a water loss averaging 2,000,000 gallons per day in any 30–day period above the person's authorized base level of water loss.

SECTION 79. 30.18 (4) (a) of the statutes is amended to read:

30.18 **(4)** (a) Upon receipt of a complete application, the department shall follow the notice and hearing procedures under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5). In addition to ~~the notice requirements~~ providing notice as required under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5), the department shall mail a copy of the notice to every person upon whose land any part of the canal or any other structure will be located, to the clerk of the next town downstream, to the clerk of any village or city in which the lake or stream is located and which is adjacent to any municipality in which the diversion will take place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

SECTION 80. 30.18 (6) (b) of the statutes is amended to read:

30.18 **(6)** (b) *Use of water.* A person issued a permit under this section for the purpose of irrigation or agriculture may use the water on any land contiguous to the permittee's riparian land, but may not withdraw more water than it did before August 1, 1957, without applying to the department for a modification of the permit.

SECTION 81. 30.18 (9) of the statutes is repealed.

SECTION 82. 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.) and amended to read:

30.19 **(1g)** PERMITS REQUIRED. (intro.) Unless ~~a~~ an individual or general permit has been ~~granted by the department~~ issued under this section or authorization has been granted by the legislature, ~~it is unlawful~~ no person may do any of the following:

SECTION 83. 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and amended to read:

30.19 **(1g)** (a) ~~To construct~~ Construct, dredge, or enlarge any artificial ~~waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the~~

~~purpose is ultimate connection with an existing navigable stream, lake or other navigable waters, or where~~ water body that connects with a navigable waterway.

(am) Construct, dredge, or enlarge any part of ~~the~~ an artificial ~~waterway~~ water body that is located within 500 feet of the ordinary high–water mark of an existing navigable ~~stream, lake or other navigable waters~~ waterway.

SECTION 84. 30.19 (1) (b) of the statutes is repealed.

SECTION 85. 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and amended to read:

30.19 **(1g)** (c) ~~To grade or otherwise~~ Grade or remove ~~top soil~~ topsoil from the bank of any navigable ~~stream, lake or other body of navigable water~~ waterway where the area exposed by ~~such~~ the grading or removal will exceed 10,000 square feet.

SECTION 86. 30.19 (1b) of the statutes is created to read:

30.19 **(1b)** DEFINITION. In the section, "artificial water body" means a proposed or existing body of water that does not have a history of being a lake or stream or of being part of a lake or stream.

SECTION 87. 30.19 (1m) (intro.) of the statutes is amended to read:

30.19 **(1m)** ~~EXCEPTION~~ EXEMPTIONS. (intro.) ~~Subsection (1) does not apply to~~ A person is exempt from the permit requirements under this section for any of the following:

SECTION 88. 30.19 (1m) (a) of the statutes is amended to read:

30.19 **(1m)** (a) The construction ~~and~~ or repair of any public ~~highways~~ highway.

SECTION 89. 30.19 (1m) (b) of the statutes is amended to read:

30.19 **(1m)** (b) Any agricultural ~~uses~~ use of land.

SECTION 90. 30.19 (1m) (c) of the statutes is amended to read:

30.19 **(1m)** (c) ~~Any~~ An activity that affects a navigable inland lake that is located wholly or partly in any county having a population of 750,000 or more.

SECTION 91. 30.19 (1m) (cm) of the statutes is created to read:

30.19 **(1m)** (cm) Any activity that affects a portion of Lake Michigan or of Lake Superior that is located within a county having a population of 750,000 or more.

SECTION 92. 30.19 (1m) (d) of the statutes is amended to read:

30.19 **(1m)** (d) ~~Those portions~~ Any activity that affects a portion of a navigable ~~streams, Lake Michigan or Lake Superior~~ stream that is located within ~~any~~ a county having a population of 750,000 or more.

SECTION 93. 30.19 (1m) (e) of the statutes is amended to read:

30.19 **(1m)** (e) Any work required to maintain the original dimensions of an enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a permit or legislative authorization under sub. ~~(1) (a) or (b)~~ (1g) (a) or (am).

SECTION 94. 30.19 (1m) (g) of the statutes is created to read:

30.19 **(1m)** (g) The construction, dredging, or enlargement of any artificial water body that is within 500 feet of the ordinary high–water mark of a navigable waterway, if the artificial water body does not have a surface connection to any navigable waterway other than an overflow device and if the construction, dredging, or enlargement is authorized by a storm water discharge permit approved by the department under ch. 283 or a facility plan approved or authorized by the department under s. 281.41.

SECTION 95. 30.19 (1m) (h) of the statutes is created to read:

30.19 **(1m)** (h) Grading or removal of topsoil from the bank of a navigable waterway that is not located in an area of special natural resource interest and where

the area exposed by the grading or removal will exceed 10,000 square feet, if any of the following applies:

1. The grading or removal is authorized by a storm water discharge permit approved by the department under ch. 283.

2. The grading or removal is authorized under an ordinance under s. 59.692, 61.351, or 62.231.

3. The grading or removal is authorized by an erosion control plan pursuant to s. 101.653.

SECTION 96. 30.19 (2) of the statutes is repealed.

SECTION 97. 30.19 (3) of the statutes is repealed.

SECTION 98. 30.19 (3r) of the statutes is created to read:

30.19 **(3r)** GENERAL PERMITS. (a) The department shall issue statewide general permits under s. 30.206 that authorize persons to do all of the following:

1. Engage in an activity specified in sub. (1g) (a) or (am) that is not exempt under sub. (1m) if the construction, dredging, or enlargement is authorized by a storm water discharge permit approved by the department under ch. 283 or a facility plan approved by the department under s. 281.41.

2. Engage in an activity specified in sub. (1g) (a) or (am) if the construction, dredging, or enlargement is designed to enhance wildlife habitat or wetlands, as defined in s. 23.32 (1), or if the construction, dredging, or enlargement affects a body of water that is less than one acre in area.

3. Engage in an activity specified in sub. (1g) (c) that is not exempt under sub. (1m) (h) if the area exposed by the grading or removal will exceed 10,000 square feet.

(b) The department may promulgate rules that specify other types of activities, in addition to those listed in par. (a), that may be authorized by statewide general permits.

SECTION 99. 30.19 (4) (title) of the statutes is amended to read:

30.19 **(4)** (title) ~~ISSUANCE OF PERMIT~~ INDIVIDUAL PERMITS.

SECTION 100. 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and amended to read:

30.19 **(4)** (c) (intro.) ~~If the~~ The department ~~finds that the project will not injure public rights or interest, including fish and game habitat, that the project~~ shall issue an individual permit pursuant to an application under par. (a) if the department finds that all of the following apply:

2. The activity will not cause environmental pollution, as defined in s. 299.01 (4)~~, that any~~.

3. Any enlargement connected to a navigable ~~waterways conforms to the requirement of~~ waterway complies with all of the laws ~~for the~~ relating to platting of land and ~~for~~ sanitation ~~and that no~~.

4. No material injury will result to the rights of any riparian owners ~~on any body of water affected will result, the department shall issue a permit authorizing the enlargement of the affected waterways~~ of real property that abuts any water body that is affected by the activity.

SECTION 101. 30.19 (4) (a) of the statutes is created to read:

30.19 **(4)** (a) For activities that are not exempt under sub. (1m) and that are not subject to a general permit under sub. (3r), a person may apply to the department for an individual permit in order to engage in an activity for which a permit is required under sub. (1g).

SECTION 102. 30.19 (4) (b) of the statutes is created to read:

30.19 **(4)** (b) The notice and hearing provisions of s. 30.208 (3) to (5) apply to an application under par. (a).

SECTION 103. 30.19 (4) (c) 1. of the statutes is created to read:

30.19 **(4)** (c) 1. The activity will not be detrimental to the public interest.

SECTION 104. 30.19 (5) of the statutes is amended to read:

30.19 **(5)** ~~CONDITIONS OF PERMIT~~ REQUIREMENT FOR PUBLIC ACCESS. ~~The~~ A permit issued under this section to construct an artificial water body and to connect it to a navigable waterway shall ~~provide that all~~ require that the artificial ~~waterways constructed under this section which are connected to navigable waterways shall be~~ water body be a public ~~waterways. The department may impose such further conditions in the permit as it finds reasonably necessary to protect public health, safety, welfare, rights and interest and to protect private rights and property~~ waterway.

SECTION 105. 30.195 (1) of the statutes is amended to read:

30.195 **(1)** PERMIT REQUIRED. ~~No~~ Unless a permit has been issued under this section or authorization has been granted by the legislature, no person may change the course of ~~or straighten~~ a navigable stream ~~without a permit issued under this section or without otherwise being expressly authorized by statute to do so~~.

SECTION 106. 30.195 (1m) of the statutes is created to read:

30.195 **(1m)** GENERAL PERMITS. (a) The department shall issue statewide general permits under s. 30.206 that authorize riparian owners to change the course of or straighten a navigable stream under the following circumstances:

1. The change or straightening involves a relocation of less than a total of 500 feet in stream length.

2. The change or straightening involves a relocation of a stream with an average flow of less than 2 cubic feet per second.

(b) The department may promulgate rules that specify other circumstances, in addition to those listed in par. (a), that may be authorized by statewide general permits.

SECTION 107. 30.195 (2) of the statutes is repealed and recreated to read:

30.195 **(2)** INDIVIDUAL PERMITS. (a) For activities that are not subject to a general permit under sub. (1m), a riparian owner may apply to the department for an individual permit in order to engage in activities for which a permit is required under sub. (1).

(b) The notice and hearing provisions of s. 30.208 (3) to (5) apply to an application under par. (a).

SECTION 108. 30.195 (3) (title) of the statutes is repealed.

SECTION 109. 30.195 (3) of the statutes is renumbered 30.195 (2) (c) and amended to read:

30.195 **(2)** (c) ~~Upon application therefor, the~~ The department shall ~~grant a~~ issue an individual permit ~~to the~~ applied for under this section to a riparian owner if the department determines that all of the following apply:

1. The applicant is the owner of any land ~~to change the course of or straighten a~~ upon which the change in course or straightening of the navigable stream ~~on such land, if such~~ will occur.

2. The proposed change of course or straightening of the navigable stream will improve the economic or aesthetic value of the ~~owner's~~ applicant's land ~~and will.~~

3. The proposed change of course or straightening of the navigable stream will not adversely affect the flood flow capacity of the stream or otherwise be detrimental to ~~public rights or~~ the public interest.

4. The proposed change of course or straightening of the navigable stream will not be detrimental to the rights of other ~~riparians~~ riparian owners located on the stream~~. If the department finds that the rights of such riparians will be adversely affected, it may grant the permit only with their consent. Such permit may be granted on the department's own motion after its own investigation or after public hearing and after giving prior notice of such investigation or hearing~~ or all of these riparian owners have consented to the issuance of the permit.

SECTION 110. 30.195 (4) of the statutes is repealed.

SECTION 111. 30.195 (7) of the statutes is repealed.

SECTION 112. 30.196 (intro.) of the statutes is amended to read:

30.196 Enclosure of navigable waters; issuance of permits to municipalities. (intro.) A municipality may enclose navigable waters by directing, placing or restricting navigable waters into an enclosed drain, conduit, storm sewer or similar structure if the department grants the municipality ~~a~~ an individual permit. The department may grant this permit to a municipality after following the notice and hearing requirements under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5) if it finds that granting the permit:

SECTION 113. 30.20 (1) (title) of the statutes is repealed and recreated to read:

30.20 **(1)** (title) PERMITS OR CONTRACTS REQUIRED.

SECTION 114. 30.20 (1) (a) of the statutes is amended to read:

30.20 **(1)** (a) ~~No~~ Unless a contract has been entered into with the department under sub. (2) (a) or (b) or authorization has been granted by the legislature, no

person may remove any material from the bed of ~~any~~ a natural navigable lake or from the bed of any outlying waters ~~of this state without first obtaining a contract as provided in sub. (2)~~.

SECTION 115. 30.20 (1) (b) of the statutes is amended to read:

30.20 **(1)** (b) ~~Except as provided under pars. (c) and (d),~~ Unless an individual or general permit has been issued by the department under this section or authorization has been granted by the legislature, no person may remove any material from the bed of any lake or navigable stream that is not ~~mentioned~~ described under par. (a) ~~without first obtaining a permit from the department under sub. (2) (c)~~.

SECTION 116. 30.20 (1) (c) 1. and 2. of the statutes are consolidated, renumbered 30.20 (1g) (a) 1. and amended to read:

30.20 **(1g)** (a) 1. ~~Except as provided under subd. 2., a person may remove~~ A removal of material from the bed of a farm drainage ditch which was not a navigable stream before ditching~~. 2. The department may require a permit under sub. (2) (c) for a removal under subd. 1. only if it~~ is exempt from the individual and general permit requirements under this section unless the department finds that the proposed removal may have a long–term adverse effect on cold–water fishery resources or may destroy fish spawning beds or nursery areas.

SECTION 117. 30.20 (1) (c) 3. of the statutes is renumbered 30.20 (1g) (a) 2.

SECTION 118. 30.20 (1) (d) of the statutes is renumbered 30.20 (1g) (c) and amended to read:

30.20 **(1g)** (c) ~~The~~ A removal of material by the drainage board for the Duck Creek Drainage District ~~may, without a permit under sub. (2) (c), remove material~~ from a drain that the board operates in the Duck Creek Drainage District is exempt

from the individual and general permit requirements under this section if the removal is required, under rules promulgated by the department of agriculture, trade and consumer protection, in order to conform the drain to specifications imposed by the department of agriculture, trade and consumer protection after consulting with the department of natural resources.

SECTION 119. 30.20 (1g) (title) and (b) of the statutes are created to read:

30.20 **(1g)** (title) EXEMPTIONS.

(b) A removal of material is exempt from the permit and contract requirements under this section if the material does not contain hazardous substances, the material will be placed in an upland area, the material is not being removed from an area of special natural resource interest, and if any of the following applies:

1. The removal will be from an area from which material has been previously removed, the removal is for maintenance purposes, and the material to be removed does not exceed 1,000 cubic yards.

2. The removal will be from an area from which no material has been previously removed and the material to be removed does not exceed 100 cubic yards.

SECTION 120. 30.20 (1r) of the statutes is created to read:

30.20 **(1r)** GENERAL PERMITS. (a) The department shall issue statewide general permits under s. 30.206 that authorize any person to do all of the following:

1. Remove material from an area from which material has been previously removed, the removal is for maintenance purposes, and the material to be removed is 1,000 or more cubic yards.

2. Remove material from an area from which no material has been previously removed and the material to be removed is 100 or more cubic yards but less than 1,000 cubic yards.

(b) The department may promulgate rules that specify other types of removals, in addition to those listed in par. (a), that may be authorized by statewide general permits.

SECTION 121. 30.20 (2) (title) of the statutes is amended to read:

30.20 **(2)** (title) CONTRACTS ~~FOR REMOVAL~~ AND INDIVIDUAL PERMITS.

SECTION 122. 30.20 (2) (a) and (b) of the statutes are amended to read:

30.20 **(2)** (a) The department~~, whenever consistent with public rights,~~ may enter into ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any material from the bed of any navigable lake or of any ~~of the~~ outlying waters~~, and for the lease or sale of the material. Every~~ if the contract is consistent with public rights. A person seeking to enter into such a contract shall apply to the department. Each contract entered into under this paragraph shall contain ~~such~~ any conditions ~~as may be~~ that the department determines are necessary for the protection of the public interest and the interests of the state ~~and~~. Each contract entered into under this paragraph shall also fix the amount of compensation to be paid to the state for the material ~~so~~ to be removed, except that ~~no~~ the contract may not require that any compensation ~~may~~ be paid for ~~the~~ material ~~if the contract is with a municipality as defined in s. 281.01 (6) and the material is to be used for a municipal purpose and not for resale. No~~ if the material will not be resold. Each contract entered into under this paragraph may not run for ~~a longer period~~ more than 5 years.

(b) The department~~, whenever consistent with public rights,~~ may enter into ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any mineral, ore ~~and~~, or other material from beneath the bed of a navigable ~~lakes and waters, where the waters would~~ water that the state may own if the contract will be consistent with public rights and if the navigable water will not be disturbed in the

removal operation ~~and for the lease and sale of such mineral, material and ore and provide the necessary regulations for all acts incident thereto. Every such~~. A person seeking to enter into such a contract shall apply to the department. Each contract entered into under this paragraph shall contain ~~such~~ any conditions ~~as may be~~ that the department determines are necessary for the protection of the public interest and the ~~interests~~ interest of the state~~, and~~. Each contract entered into under this paragraph shall also fix the compensation to be paid to the state for the ~~material, mineral and ore so~~ mineral, ore, or other material to be removed. ~~No~~ Each contract entered into~~, pursuant to~~ under this paragraph~~, shall~~ may not run for ~~a longer period~~ more than 75 years. Should any doubt exist as to whether the state, in fact, owns such lake bed or stream bed such contract or lease shall be for such interests, if any, as the state may own. Title to the royalties to be paid when mining operations are begun shall be determined at such future time as royalties for ores so sold are paid or are due and payable.

SECTION 123. 30.20 (2) (bn) of the statutes is created to read:

30.20 **(2)** (bn) For a removal that is not exempt under sub. (1g) and that is not subject to a general permit under sub. (1r), a person may apply to the department for an individual permit that is required under sub. (1) (b) in order to remove material from the bed of any lake or stream not described under sub. (1) (a).

SECTION 124. 30.20 (2) (c) of the statutes is amended to read:

30.20 **(2)** (c) ~~A permit to remove material from the bed of any lake or stream not included in sub. (1) (a) may be issued by the department if it~~ The department shall issue an individual permit pursuant to an application under par. (bn) if the department finds that the issuance of ~~such a~~ the permit will be consistent with the public interest in the ~~water involved. A permit or contract issued under this~~

~~paragraph may be issued for up to 10 years if the applicant notifies the department at least 30 days before removing any material~~ lake or stream.

SECTION 125. 30.20 (2) (d) of the statutes is created to read:

30.20 **(2)** (d) If an applicant for a permit under par. (bn) submits the application at least 30 days before the proposed date of the removal, the department may issue the permit for a period of up to 10 years.

SECTION 126. 30.20 (2) (e) of the statutes is created to read:

30.20 **(2)** (e) The notice and hearing provisions of s. 30.208 (3) to (5) apply to an application for a permit or contract under this subsection.

SECTION 127. 30.201 of the statutes is created to read:

30.201 Financial assurance for nonmetallic mining. (1) If the department requires that financial assurance be provided as a condition for a permit under s. 30.19, 30.195, or 30.20 or for a contract under s. 30.20 for nonmetallic mining and reclamation, the financial assurance may be a bond or alternative financial assurance. An alternative financial assurance may include cash or any of the following:

(a) A certificate of deposit.

(b) An irrevocable letter of credit.

(c) An irrevocable trust.

(d) An escrow account.

(e) A government security.

(f) Any other demonstration of financial responsibility.

(2) Any interest earned by the financial assurance shall be paid to the person operating the nonmetallic mining or reclamation project.

SECTION 128. 30.2022 (title) of the statutes is created to read:

30.2022 (title) **Activities of department of transportation.**

SECTION 129. 30.2026 (2) (d) of the statutes is amended to read:

30.2026 **(2)** (d) The village of Belleville shall create any artificial barrier under this section in compliance with all state laws that relate to navigable bodies of water, except s. 30.12 ~~(1) and (2)~~.

SECTION 130. 30.2026 (3) (a) of the statutes is amended to read:

30.2026 **(3)** (a) The village of Belleville shall maintain any artificial barrier created as authorized under sub. (1). If a landowner of more than 500 feet of Lake Belle View shoreline, a portion of which is located within 1,000 feet of any such artificial barrier, is dissatisfied with the manner in which the village of Belleville is maintaining the barrier, the owner may maintain the barrier in lieu of the village, upon approval of the department. The village or a landowner who maintains the barrier shall comply with all state laws that relate to navigable bodies of water, except s. 30.12 ~~(1) and (2)~~. The department may require the village of Belleville or the landowner to maintain the barrier in a structurally and functionally adequate condition.

SECTION 131. 30.206 (1) (title) of the statutes is created to read:

30.206 **(1)** (title) PROCEDURE FOR ISSUING GENERAL PERMITS.

SECTION 132. 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and amended to read:

30.206 **(1)** (a) ~~For activities which require a permit or approval under ss. 30.12 (3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a class of activities, according to rules promulgated by the department. Before~~ The department shall issue the statewide general permits required under ss. 30.12 (3) (a), 30.123 (7) (a), 30.19 (3r) (a), 30.195 (1m) (a), and 30.20 (1r) (a) within 540 days

after the effective date of this paragraph .... [revisor inserts date]. General permits issued under s. 30.206, 2001 stats., shall remain valid until the date upon which the statewide general permits are issued under this paragraph. Vessels for commercial storage that, on the effective date of this paragraph .... [revisor inserts date], are in place on Lake Michigan or Lake Superior or on any tributary of Lake Michigan or Lake Superior determined to be navigable by the federal government shall be considered to be placed in compliance with s. 30.12 until the date upon which the statewide general permit is issued under s. 30.12 (3) (a) 12.

(b) Before issuing general permits, the department shall ~~determine~~ provide, after an environmental analysis ~~and~~, notice and hearing under ss. 227.17 and 227.18~~, that~~.

(c) To ensure that the cumulative adverse environmental impact of the ~~class of activity~~ activities authorized by a general permit is insignificant and that the issuance of the general permit will not injure public rights or ~~interest~~ interests, cause environmental pollution, as defined in s. 299.01 (4), or result in material injury to the rights of any riparian owner, the department may impose any of the following conditions on the permit:

SECTION 133. 30.206 (1) (c) 1. to 3. of the statutes are created to read:

30.206 **(1)** (c) 1. Construction and design requirements that are consistent with the purpose of the activity authorized under the permit.

2. Location requirements that ensure that the activity will not materially interfere with navigation or have an adverse impact on the riparian property rights of adjacent riparian owners.

3. Restrictions to protect areas of special natural resource interest.

SECTION 134. 30.206 (2) of the statutes is repealed.

SECTION 135. 30.206 (3) (title) of the statutes is created to read:

30.206 **(3)** (title) PROCEDURES FOR CONDUCTING ACTIVITIES UNDER GENERAL PERMITS.

SECTION 136. 30.206 (3) of the statutes is renumbered 30.206 (3) (a) and amended to read:

30.206 **(3)** (a) A person wishing to proceed with an activity that may be authorized by a general permit shall apply to the department, with written notification of the person's wish to proceed, not less than ~~20 business~~ 30 days before commencing the activity authorized by a general permit. The ~~department may request additional information from the applicant~~ notification shall provide information describing the activity in order to allow the department to determine whether the activity is ~~within the scope of a~~ authorized by the general permit ~~and shall inform the applicant in writing of its determination within 10 business days after receipt of adequate information~~.

SECTION 137. 30.206 (3) (c) of the statutes is created to read:

30.206 **(3)** (c) Upon completion of an activity that the department has authorized under a general permit, the applicant for the general permit shall provide to the department a statement certifying that the activity is in compliance with all of the conditions of the general permit and a photograph of the activity.

SECTION 138. 30.206 (3m) of the statutes is repealed.

SECTION 139. 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and amended to read:

30.206 **(3)** (b) ~~Upon receipt of the department's determination that the proposed activity is authorized by a general permit,~~ If within 30 days after a notification under par. (a) is submitted to the department the department does not

require any additional information about the activity that is subject to the notification and does not inform the applicant that an individual permit will be required, the activity will be considered to be authorized by the general permit and the applicant may proceed without further notice, hearing, permit or approval if the activity is carried out in compliance with all of the conditions of the general permit. The department may require an individual permit only if it determines that the proposed activity is not authorized by the general permit.

SECTION 140. 30.206 (5) (title) of the statutes is created to read:

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

SECTION 141. 30.206 (6) of the statutes is amended to read:

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

SECTION 142. 30.206 (7) of the statutes is amended to read:

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

SECTION 143. 30.207 (1) of the statutes is amended to read:

30.207 **(1)** GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12 (3) (bt)~~ 30.2023, the Wolf River and Fox River basin area consists of all of Winnebago County; the portion and shoreline of Lake Poygan in Waushara County; the area south of STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that portion of Outagamie County south and east of USH 41; that portion of Waupaca

County that includes the town of Mukwa, city of New London, town of Caledonia, town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River in the town of Weyauwega.

SECTION 144. 30.207 (3) (d) 2. of the statutes is amended to read:

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

SECTION 145. 30.207 (4) (b) of the statutes is repealed.

SECTION 146. 30.207 (5) of the statutes is repealed.

SECTION 147. 30.208 of the statutes is created to read:

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

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

(b) If the notice of complete application does not contain a notice of public hearing, any person may request a public hearing in writing or the department may

decide to hold a public hearing without a request being submitted if the department determines that there is a significant public interest in holding a hearing.

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

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

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

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

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

(d) The department shall promulgate rules to establish procedures for the conduct of public hearings held under this subsection. Public hearings held under this subsection are not contested cases under s. 227.01 (3).

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

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

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

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

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

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

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

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

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

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

1. Requiring that the applicant for the permit or contract provide by publication, mailing, or other distribution or more of the notices.

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

SECTION 148. 30.209 of the statutes is created to read:

30.209 Individual permits; administrative and judicial review. (1) ADMINISTRATIVE REVIEW. (a) An applicant for or holder of an individual permit, or 5 or more persons, may file a petition for administrative review of any of the following decisions given by the department:

1. The issuance, denial, or modification of any individual permit issued under this subchapter.

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

(b) A petition under this subsection shall be filed with the department within 30 days after the date on which the department has given notice of its decision under par. (a) 1. or 2. The petition shall state the interest of each petitioner, the specific issue to be reviewed, and the reasons why an administrative hearing is warranted.

(c) Unless the department determines that there are no grounds supporting the position that an administrative hearing is warranted, the department shall provide a notice of the hearing at least 30 days before the date of the hearing to all of the following:

1. The applicant for or the holder of the permit.

2. Each petitioner, if other than the applicant or holder.

3. Any other persons required to receive notice under the rules promulgated under s. 30.208 (5).

(d) The notice under par. (c) shall be in compliance with all of the other applicable rules promulgated under s. 30.208 (5).

(e) The administrative hearing shall be conducted as a contested case hearing in accordance with the procedures under ch. 227.

(2) JUDICIAL REVIEW. (a) Any applicant for or holder of an individual permit or any other person who satisfies the requirements of s. 227.52 may commence an action in circuit court to review any of the decisions given by the department that are specified in sub. (1) (a) 1. and 2.

(b) An action filed under par. (a) by an applicant for or holder of an individual permit shall be in lieu of the applicant or holder seeking review under sub. (1).

(c) Any administrative review petitioned for under sub. (1) may be removed to the circuit court by the applicant for the permit, the holder of the permit, or the department. The review shall be commenced by filing a motion for removal together with a copy of the petition filed under sub. (1). The motion must be filed within 30 days after notice is provided under sub. (1) (c).

(d) An action or review commenced under this subsection shall be filed in the circuit court for the county in which the riparian property that is subject to a decision by the department, as specified in sub. (1) (a) 1. and 2., is located.

(e) A review under par. (c) or (d) shall include the examination of witnesses and the taking of evidence before the court.

SECTION 149. 30.28 (3) (b) of the statutes is amended to read:

30.28 **(3)** (b) This section does not apply to a permit issued under s. 30.12 (3) (a) ~~2., 2m. or~~ 3. or (4) (c) or (d).

SECTION 150. 30.29 (3) (d) of the statutes is amended to read:

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

SECTION 151. 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 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 152. 31.39 (2m) (c) of the statutes is amended to read:

31.39 **(2m)** (c) If more than one fee under sub. (2) (a) or s. 30.28 (2) ~~(a)~~ or 281.22 is applicable to a project, the department shall charge only the highest fee of those that are applicable.

SECTION 153. 66.0628 of the statutes is created to read:

66.0628 Fees imposed by a political subdivision. (1) In this section, "political subdivision" means a city, village, town, or county.

(2) Any fee that is imposed by a political subdivision shall bear a reasonable relationship to the service for which the fee is imposed.

(3) With regard to a fee that is first imposed, or an existing fee that is increased, on or after the effective date of this subsection .... [revisor inserts date], a political subdivision shall issue written findings that demonstrate that the fee meets the standard in sub. (2).

SECTION 154. 66.1001 (2) (e) of the statutes is amended to read:

66.1001 **(2)** (e) *Agricultural, natural and cultural resources element.* A compilation of objectives, policies, goals, maps and programs for the conservation, and promotion of the effective management, of natural resources such as groundwater, forests, productive agricultural areas, environmentally sensitive areas, threatened and endangered species, stream corridors, surface water, floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources consistent with zoning limitations under s. 295.20 (2), parks, open spaces, historical and cultural resources, community design, recreational resources and other natural resources.

SECTION 155. 66.1001 (4) (a) of the statutes is amended to read:

66.1001 **(4)** (a) The governing body of a local governmental unit shall adopt written procedures that are designed to foster public participation, including open discussion, communication programs, information services, and public meetings for which advance notice has been provided, in every stage of the preparation of a comprehensive plan. The written procedures shall provide for wide distribution of proposed, alternative, or amended elements of a comprehensive plan and shall provide an opportunity for written comments on the plan to be submitted by members of the public to the governing body and for the governing body to respond to such written comments. The written procedures shall describe the methods the governing body of a local governmental unit will use to distribute proposed, alternative, or amended elements of a comprehensive plan to owners of property, or to persons who have a leasehold interest in property pursuant to which the persons may extract nonmetallic mineral resources in or on property, in which the allowable use or intensity of use, of the property, is changed by the comprehensive plan.

SECTION 156. 66.1001 (4) (e) of the statutes is created to read:

66.1001 **(4)** (e) At least 30 days before the hearing described in par. (d) is held, a local governmental unit shall provide written notice to all owners of property, and all leaseholders who have an interest in property pursuant to which the persons may extract nonmetallic mineral resources, in which the allowable use or intensity of use, of the property, is changed by the comprehensive plan, including all of the following:

1. An operator who has obtained, or made application for, a permit that is described under s. 295.12 (3) (d).

2. A person who has registered a marketable nonmetallic mineral deposit under s. 295.20.

3. Any other person who the local governmental unit knows has a property interest in nonmetallic mineral resources in the jurisdiction.

SECTION 157. 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 project at any time in the event any county, city, village or town fails to pay the amount required of it for any project eligible for construction under this section, or if the secretary determines that sufficient funds to pay the state's part of the cost of such bridge project are not available. All moneys provided by counties, cities, villages and towns shall be deposited in the state treasury, when required by the secretary, and paid out on order of the secretary. Any of the moneys deposited for a project eligible for construction under this section which remain in the state treasury

after the completion of the project shall be repaid to the respective county, city, village or town in proportion to the amount each deposited.

SECTION 158. 106.01 (9) of the statutes is amended to read:

106.01 **(9)** ~~The~~ Subject to s. 106.04, the department may investigate, fix reasonable classifications, ~~issue~~ promulgate rules ~~and~~, issue general or special orders, and~~,~~ hold hearings, make findings, and render orders upon its findings as ~~shall be~~ necessary to carry out the intent and purposes of this section. The investigations, classifications, hearings, findings, and orders shall be made as provided in s. 103.005. Except as provided in sub. (8), the penalties specified in s. 103.005 (12) apply to violations of this section. Orders issued under this subsection are subject to review under ch. 227.

SECTION 159. 106.025 (4) of the statutes is amended to read:

106.025 **(4)** In order that the apprentice may qualify at the end of apprenticeship as a skilled mechanic in the art of installing plumbing work, the department, subject to s. 106.04, may prescribe the level of supervision of an apprentice and the character of plumbing work that the apprentice may do during the 3rd year of the apprenticeship term. An apprentice in the 4th or 5th year of the apprenticeship term may install plumbing under the direction or supervision of a master or journeyman plumber without either the master or journeyman being physically present, provided that the master plumber in charge shall be responsible for the work.

SECTION 160. 106.04 of the statutes is created to read:

106.04 Apprentice–to–journeyman job–site ratio regulation prohibited. The department may not prescribe, whether by promulgating a rule,

issuing a general or special order, or otherwise, the ratio of apprentices to journeymen that an employer may have at a job site.

SECTION 161. 146.82 (2) (a) (intro.) of the statutes is amended to read:

146.82 **(2)** (a) (intro.) ~~Notwithstanding~~ It is not a violation of sub. (1)~~,~~ to release patient health care records ~~shall be released upon request~~ without informed consent in the following circumstances:

SECTION 162. 146.82 (2) (a) 22. of the statutes is created to read:

146.82 **(2)** (a) 22. For purposes of health care operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

SECTION 163. 196.195 (5m) of the statutes is created to read:

196.195 **(5m)** TIME LIMITATION ON COMMISSION ACTION. (a) No later than 120 days after the filing of a petition under sub. (2) (a), the commission shall complete the proceedings under subs. (2), (3), and (4), and, if appropriate, enter an order under sub. (5). If the commission fails to complete the proceedings and, if appropriate, enter an order before that deadline, the petition is considered to be granted without condition by the commission and any provisions of law under sub. (5) that are specified in the petition are considered to be suspended by the commission.

(b) No later than 120 days after the commission provides notice of its own motion under sub. (2) (a), the commission shall complete the proceedings under subs. (2), (3), and (4), and, if appropriate, enter an order under sub. (5). If the commission fails to complete the proceedings and, if appropriate, enter an order before that deadline, the motion is considered to be granted without condition by the commission and any provisions of law under sub. (5) that are specified in the motion are considered to be suspended by the commission.

SECTION 164. 196.195 (10) of the statutes is amended to read:

196.195 **(10)** REVOCATION OF DEREGULATION. If necessary to protect the public interest, the commission, at any time by order, may revoke its order to suspend the applicability of any provision of law suspended under sub. (5). This subsection does not apply to any provision of law that is considered to be suspended under sub. (5m).

SECTION 165. 196.24 (3) of the statutes is amended to read:

196.24 **(3)** The commission may conduct any number of investigations contemporaneously through different agents, and may delegate to any agent the authority to take testimony bearing upon any investigation or at any hearing. The decision of the commission shall comply with s. 227.46 and shall be based upon its records and upon the evidence before it, except that~~, notwithstanding s. 227.46 (4),~~ a decision maker may hear a case or read or review the record of a case if the record includes a synopsis or summary of the testimony and other evidence presented at the hearing that is prepared by the commission staff. Parties shall have an opportunity to demonstrate to a decision maker that a synopsis or summary prepared under this subsection is not sufficiently complete or accurate to fairly reflect the relevant and material testimony or other evidence presented at a hearing.

SECTION 166. 196.374 (3) of the statutes is amended to read:

196.374 **(3)** In 2000, 2001 and 2002, the commission shall require each utility to spend a decreasing portion of the amount determined under sub. (2) on programs specified in sub. (2) and contribute the remaining portion of the amount to the commission for deposit in the fund. ~~In~~ Except as provided in sub. (3m), in each year after 2002, each utility shall contribute the entire amount determined under sub. (2) to the commission for deposit in the fund. The commission shall ensure in rate–making orders that a utility recovers from its ratepayers the amounts spent on programs or contributed to the fund under this subsection or retained under sub.

(3m). The commission shall allow each utility the option of continuing to use, until January 1, 2002, the moneys that it has recovered under s. 196.374 (3), 1997 stats., to administer the programs that it has funded under s. 196.374 (1), 1997 stats. The commission may allow each utility to spend additional moneys on the programs specified in sub. (2) if the utility otherwise complies with the requirements of this section and s. 16.957 (4).

SECTION 167. 196.374 (3m) of the statutes is created to read:

196.374 **(3m)** (a) In each fiscal year, the commission may allow a utility to retain a portion of the amount determined under sub. (2) instead of contributing the entire amount to the commission, if the commission determines that the portion is used by the utility for energy conservation programs for industrial, commercial, and agricultural customers in the utility's service area and that the programs comply with rules promulgated by the commission. The rules shall specify annual energy savings targets that the programs must be designed to achieve. The rules shall also require a utility to demonstrate that, no later than a reasonable period of time, as determined by the commission, after the utility implements a program, the economic value of the benefits resulting from the program will be equal to the portion that the utility is allowed to retain under this paragraph.

(b) If the commission allows a utility to retain a portion under par. (a), the utility must contribute 1.75% of the portion to the commission for deposit in the fund for programs for research and development for energy conservation and efficiency and must contribute 4.5% of the portion to the commission for deposit in the fund for renewable resource programs.

(c) A utility may not pay for any expenses related to administration, marketing, or delivery of services for programs specified in par. (a) from any portion of a contribution the utility is allowed to retain under par. (a).

SECTION 168. 196.491 (1) (d) of the statutes is amended to read:

196.491 **(1)** (d) "Electric utility" means any public utility, as defined in s. 196.01, which is involved in the generation, distribution and sale of electric energy, and any corporation, company, individual or association, and any cooperative association, which owns or operates, or plans within the next ~~3~~ 7 years to construct, own or operate, facilities in the state.

SECTION 169. 196.491 (2) (a) 3. of the statutes is amended to read:

196.491 **(2)** (a) 3. Identify and describe large electric generating facilities on which an electric utility plans to commence construction within ~~3~~ 7 years.

SECTION 170. 196.491 (2) (a) 3m. of the statutes is amended to read:

196.491 **(2)** (a) 3m. Identify and describe high–voltage transmission lines on which an electric utility plans to commence construction within ~~3~~ 7 years.

SECTION 171. 196.491 (2) (g) of the statutes is amended to read:

196.491 **(2)** (g) No sooner than 30 and no later than 90 days after copies of the draft are issued under par. (b), the commission shall hold a hearing on the draft which may not be a hearing under s. 227.42 or 227.44. The hearing shall be held in an administrative district, established by executive order 22, issued August 24, 1970, which the commission determines will be significantly affected by facilities on which an electric utility plans to commence construction within ~~3~~ 7 years. The commission may thereafter adjourn the hearing to other locations or may conduct the hearing by interactive video conference or other electronic method. Notice of such hearing shall be given by class 1 notice, under ch. 985, published in

the official state newspaper and such other regional papers of general circulation as may be designated by the commission. At such hearing the commission shall briefly describe the strategic energy assessment and give all interested persons an opportunity, subject to reasonable limitations on the presentation of repetitious material, to express their views on any aspect of the strategic energy assessment. A record of the hearing shall be made and considered by the commission as comments on the strategic energy assessment under par. (e).

SECTION 172. 221.0901 (3) (a) 1. of the statutes is amended to read:

221.0901 **(3)** (a) 1. Merge or consolidate with an in–state bank holding company or in–state bank.

SECTION 173. 221.0901 (8) (a) and (b) of the statutes are amended to read:

221.0901 **(8)** (a) Except as provided in pars. (b) and (c), the division may not approve an application ~~by an out–of–state bank holding company~~ under sub. (3) (a), other than an application by an in–state bank holding company or in–state bank, unless the in–state bank to be acquired, or all in–state bank subsidiaries of the in–state bank holding company to be acquired, have as of the proposed date of acquisition been in existence and in continuous operation for at least 5 years.

(b) ~~The~~ Except as otherwise provided in this paragraph, the division may approve an application under sub. (3) (a) for an acquisition of an in–state bank holding company that owns one or more in–state banks that have been in existence for less than 5 years, if the ~~out–of–state bank holding company~~ applicant divests itself of those in–state banks within 2 years after the date of acquisition of the in–state bank holding company by the ~~out–of–state bank holding company~~ applicant. This paragraph does not apply if the applicant is an in–state bank holding company or in–state bank.

SECTION 174. 227.135 (1) (e) and (f) of the statutes are created to read:

227.135 **(1)** (e) A summary of any existing or anticipated federal program that is intended to address the activities to be regulated by the rule and an analysis of the need for the rule if a federal program exists.

(f) An assessment of whether the rule is inconsistent, duplicative, or more stringent than the regulations under any federal program summarized in par. (e).

SECTION 175. 227.137 of the statutes is created to read:

227.137 Economic impact reports of guidelines, policies, and rules. (1) After an agency publishes a statement of the scope of a proposed rule under s. 227.135, and before the agency submits the proposed rule to the legislative council for review under s. 227.15, a municipality, an association that represents a farm, labor, business, or professional group, or 5 or more persons having an interest in the proposed rule may petition the agency to prepare an economic impact report of the proposed rule. If the agency determines that the petitioner may be economically affected by the proposed rule, the agency shall prepare an economic impact report before submitting the proposed rule to the legislative council under s. 227.15.

(2) A municipality, an association that represents a farm, labor, business, or professional group, or 5 or more persons affected by an existing or proposed agency guideline or policy, including agency comments and policies in response to federal regulations, may petition the agency to prepare an economic impact report for that existing or proposed agency guideline or policy. If the agency determines that the petitioner may be economically affected by the proposed or existing guideline or policy, the agency shall prepare an economic impact report.

(3) An economic impact report shall contain information on the effect of the proposed rule or existing or proposed guideline or policy on specific businesses,

business sectors, and the state's economy. When preparing the report, the agency shall solicit information and advice from the department of commerce and governmental units, associations, businesses, and individuals that may be affected by the proposed rule or existing or proposed guideline or policy. The agency may request information that is reasonably necessary for the preparation of an economic impact report from other state agencies, governmental units, associations, businesses, and individuals, but no one is required to respond to that request. The economic impact report shall include all of the following:

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

(b) An analysis and quantification of the economic impact of the guideline, policy, or rule, including direct, indirect, and consequential costs reasonably expected to be incurred by the state, governmental units, associations, businesses, and affected individuals.

(c) An analysis of the guideline's, policy's, or rule's impact on the state's economy, including how the guideline, policy, or rule affects the state's economic development policies.

(d) An analysis of benefits of the guideline, policy, or rule, including how the guideline, policy, or rule reduces the risks and addresses the problems that the guideline, policy, or rule is intended to address.

(e) An analysis that compares the benefits to the costs of the guideline, policy, or rule.

(f) An analysis of existing or anticipated federal programs that are intended to address the risks and problems the agency is intending to address with the guideline, policy, or rule, including a determination of whether the guideline, policy, or rule and

related administrative requirements are consistent with and not duplicative of those existing or anticipated federal programs.

(g) An analysis of regulatory alternatives to the guideline, policy, or rule, including the alternative of no regulation, and a determination of whether the guideline, policy, or rule addresses the identified risks and problems the agency is intending to address in the most cost–efficient manner.

(h) A comparison of the costs of the guideline, policy, or rule borne by Wisconsin businesses to costs borne by similar businesses located in Indiana, Missouri, and adjacent states.

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

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

SECTION 176. 227.138 of the statutes is created to read:

227.138 Department of administration review of proposed rules. (1) In this section:

(a) "Department" means the department of administration.

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

(c) "Guideline or policy" includes any agency comments or policies in response to federal regulations.

(2) If the department receives an economic impact report under s. 227.137 (4) regarding a proposed rule, the department shall review the proposed rule and issue a report. A municipality, an association that represents a farm, labor, business, or professional group, or 5 or more persons having an interest in a proposed rule may petition the department to review the proposed rule. If the department determines

that the petitioner may be economically affected by the proposed rule, the department shall review the proposed rule and issue a report. The department shall notify the agency that a report will be prepared and that the agency shall not submit a proposed rule to the legislative council for review under s. 227.15 (1) until the agency receives a copy of the department's report. The report shall include all of the following findings:

(a) If an economic impact report was prepared as required under s. 227.137 (1), that the report and the analysis required under s. 227.137 (3) are supported by related documentation contained in the economic impact report.

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

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

(d) That the proposed rule is consistent with the governor's positions and priorities, including those related to economic development.

(e) That the agency used data, studies, and other sources of information in developing the proposed rule that is complete, accurate, and derived from accepted scientific methodologies.

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

governor indicating the department's approval of the proposed rule, the correspondence between the agency and the department related to the proposed rule, and a copy of its report regarding the proposed rule.

(4) If the department receives an economic impact report under s. 227.137 (4) regarding a proposed or existing guideline or policy, the department shall review the guideline or policy and issue a report. A municipality, an association that represents a farm, labor, business, or professional group, or 5 or more persons having an interest in a proposed or existing guideline or policy may petition the department to review the guideline or policy. If the department determines that the petitioner may be economically affected by the guideline or policy, the department shall review the guideline or policy and issue a report. The department shall notify the agency that a report will be prepared. The report shall include findings consistent with those under sub. (2) and include the following findings:

(a) If an economic impact report was prepared as required under s. 227.137 (4), that the report and the analysis required under s. 227.137 (3) are supported by related documentation contained in the economic impact report.

(b) That the guideline or policy is consistent with and does not exceed the agency's statutory authority.

(c) That the guideline or policy is consistent with the governor's positions and priorities, including those related to economic development.

(d) That the guideline or policy is of the type that is not required to be promulgated as a rule.

(5) Before issuing a report under sub. (4), the department may prohibit an agency from implementing a proposed guideline or policy until the department

secretary determines that the proposed guideline or policy meets the criteria under sub. (4) (a) to (d).

SECTION 177. 227.14 (2) (a) of the statutes is amended to read:

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

1. A reference to each statute that the proposed rule interprets, each statute that authorizes its promulgation, each related statute or related rule ~~and a.~~

2. A brief summary of the proposed rule.

SECTION 178. 227.14 (2) (a) 3. of the statutes is created to read:

227.14 **(2)** (a) 3. A summary of the relevant legal interpretations and policy considerations underlying the proposed rule.

SECTION 179. 227.14 (2) (a) 4. of the statutes is created to read:

227.14 **(2)** (a) 4. A summary of existing and anticipated federal regulatory programs intended to address similar matters.

SECTION 180. 227.14 (2) (a) 5. of the statutes is created to read:

227.14 **(2)** (a) 5. A summary of the factual data, studies, and other sources of information on which the proposed rule is based, the methodology used to obtain and analyze the data, studies, and other sources of information, how the data, studies, and other sources of information support the regulatory approach chosen for the rule, and how the data, studies, and other sources of information support any required agency's findings.

SECTION 181. 227.14 (2) (a) 6. of the statutes is created to read:

227.14 **(2)** (a) 6. Any analysis and supporting documentation used when the agency considered the rule's effect on small businesses under s. 227.114 or used when preparing an economic impact report under s. 227.137 (3).

SECTION 182. 227.14 (4) (b) 3. of the statutes is created to read:

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

SECTION 183. 227.185 of the statutes is created to read:

227.185 Approval by governor. After a proposed rule is in final draft form and approved by the department of administration under s. 227.138 (3), the agency shall submit the rule to the governor. The governor may approve, modify, or reject the proposed rule. If the governor approves a proposed rule, the governor shall provide the agency with a written notice of that approval. No proposed rule may be submitted to the legislature for review under s. 227.19 (2) or filed with the office of secretary of state or revisor unless the governor has approved the proposed rule in writing. This section does not apply to emergency rules promulgated under s. 227.24.

SECTION 184. 227.19 (2) of the statutes is amended to read:

227.19 **(2)** NOTIFICATION OF LEGISLATURE. An agency shall submit a notice to the presiding officer of each house of the legislature when a proposed rule is in final draft form and approved by the governor. The notice shall be submitted in triplicate and shall be accompanied by a report in the form specified under sub. (3). A notice received under this subsection on or after September 1 of an even–numbered year shall be considered received on the first day of the next regular session of the legislature. Each presiding officer shall, within 7 working days following the day on which the notice and report are received, refer them to one committee, which may

be either a standing committee or a joint legislative committee created by law, except the joint committee for review of administrative rules. The agency shall submit to the revisor for publication in the register a statement that a proposed rule has been submitted to the presiding officer of each house of the legislature. Each presiding officer shall enter a similar statement in the journal of his or her house.

SECTION 185. 227.19 (3) (intro.) of the statutes is amended to read:

227.19 **(3)** FORM OF REPORT. (intro.) The report required under sub. (2) shall be in writing and shall include the proposed rule in the form specified in s. 227.14 (1), the material specified in s. 227.14 (2) to (4), a copy of any economic impact report prepared by the agency under s. 227.137, a copy of the report prepared by the department of administration under s. 227.138, a copy of the written approval of the governor under s. 227.185, a copy of any recommendations of the legislative council staff, and an analysis. The analysis shall include:

SECTION 186. 227.19 (3) (a) of the statutes is amended to read:

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

SECTION 187. 227.19 (3) (am) of the statutes is created to read:

227.19 **(3)** (am) An analysis of policy alternatives to the proposed rule, including reliance on federal regulatory programs, and an explanation for the rejection of those alternatives.

SECTION 188. 227.19 (3) (b) of the statutes is amended to read:

227.19 **(3)** (b) ~~An~~ A summary of public comments to the proposed rule and the agency's response to those comments, and an explanation of any modification made

in the proposed rule as a result of public comments or testimony received at a public hearing.

SECTION 189. 227.19 (3) (cm) of the statutes is created to read:

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

SECTION 190. 227.40 (4m) of the statutes is created to read:

227.40 **(4m)** (a) In any proceeding under this section for judicial review of a rule, the court shall conduct the review without a jury. The review shall be confined to a substantial inquiry of the agency record, as necessarily and appropriately supplemented by evidence presented to the court. The agency record includes the economic impact report and documentation required under s. 227.137 (3), the analysis and documentation required under ss. 227.14 (2) and 227.19 (3), and public comments on the rule.

(b) The court shall treat separately disputed issues of agency procedure, interpretations of law, and determinations of fact or policy within the agency's exercise of delegated discretion.

(c) When reviewing whether a rule is invalid as promulgated for failure to comply with statutory rule–making procedures under this chapter, the court shall determine the adequacy of the factual basis to support the rule and the related reasoning employed by the agency to reach its conclusions. When determining the adequacy of the factual basis to support the rule, the court shall consider relevant comments on and alternatives to the rule's approach offered by affected parties during the rule–making process. Based on this review, the court shall find the rule invalid if the agency's decision–making process was arbitrary and capricious.

(d) The court shall find a rule invalid if it determines that the adequacy of the rule–making process or that the validity of the regulatory approach was impaired by a material error in agency procedure or a failure of the agency to follow prescribed procedure.

(e) When an agency's statutory authority to promulgate a rule is predicated on the rule being comparable to relevant federal programs or standards, including requirements that the rule be similar to, consistent with, or no more restrictive than federal programs or standards, the court shall conduct a de novo review of the agency record to determine if the agency determination that the rule was comparable to the federal program or standards was supported by substantial evidence.

(f) When an agency's statutory authority to promulgate a rule exceeding relevant federal programs or standards is predicated on the agency making a finding of need, including a need to protect human health or the environment, the court shall review the agency's record to determine if the agency's findings were supported by substantial evidence.

(g) If a court finds that the agency's analysis and determinations under s. 227.137 (3) are arbitrary and capricious, the court shall find the rule invalid as without compliance with statutory rule–making procedures set forth in this chapter.

SECTION 191. 227.43 (1g) of the statutes is created to read:

227.43 **(1g)** The administrator of the division of hearings and appeals shall randomly assign hearing examiners to preside over any hearing under this section.

SECTION 192. 227.44 (2) (d) of the statutes is created to read:

227.44 **(2)** (d) The name and title of the person who will conduct the hearing.

SECTION 193. 227.445 of the statutes is created to read:

227.445 Substitution of hearing examiner. (1) A person requesting a hearing before a hearing examiner may file a written request for a substitution of a new hearing examiner for the hearing examiner assigned to the matter. The written request shall be filed not later than 10 days after receipt of the notice under s. 227.44.

(2) No person may file more than one such written request in any one hearing.

(3) Upon receipt of the written request, the original hearing examiner shall have no further jurisdiction in the matter except to determine if the request was made timely and in proper form. If the hearing examiner fails to make a determination as to allowing the substitution within 7 days, the hearing examiner shall refer the matter to the administrator of the division of hearings and appeals for the determination and reassignment of the hearing as necessary. If the written request is determined to be proper, the matter shall be transferred to another hearing examiner. Upon transfer, the hearing examiner shall transmit to the new hearing examiner all the papers in the matter.

SECTION 194. 227.45 (7) (intro.) of the statutes is renumbered 227.45 (7) and amended to read:

227.45 **(7)** In any class 2 proceeding, each party shall have the right, prior to the date set for hearing, to take and preserve evidence as provided in ch. 804. Upon motion by a party or by the person from whom discovery is sought in any class 2 proceeding, and for good cause shown, the hearing examiner may make any order in accordance with s. 804.01 which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. ~~In any class 1 or class 3 proceeding, an agency may by rule permit the taking and preservation of evidence, but in every such proceeding the taking and preservation of evidence shall be permitted with respect to a witness:~~

SECTION 195. 227.45 (7) (a) to (d) of the statutes are repealed.

SECTION 196. 227.46 (1) (intro.) of the statutes is amended to read:

227.46 **(1)** (intro.) Except as provided under s. 227.43 (1), an agency may designate an official of the agency or an employee on its staff or borrowed from another agency under s. 20.901 or 230.047 as a hearing examiner to preside over any contested case. In hearings under s. 19.52, a reserve judge shall be appointed. A hearing examiner does not have authority to address or make decisions regarding possible constitutional issues. Subject to rules of the agency, examiners presiding at hearings may:

SECTION 197. 227.46 (1) (h) of the statutes is amended to read:

227.46 **(1)** (h) Make ~~or recommend~~ findings of fact, conclusions of law, and decisions to the extent permitted by law.

SECTION 198. 227.46 (2) of the statutes is repealed.

SECTION 199. 227.46 (2m) of the statutes is repealed.

SECTION 200. 227.46 (3) of the statutes is repealed.

SECTION 201. 227.46 (4) of the statutes is repealed.

SECTION 202. 227.46 (6) of the statutes is amended to read:

227.46 **(6)** The functions of persons presiding at a hearing or participating in ~~proposed or~~ final decisions shall be performed in an impartial manner. A hearing examiner or agency official may at any time disqualify himself or herself. In class 2 and 3 proceedings, on the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a hearing examiner or official, the agency or hearing examiner shall determine the matter as part of the record and decision in the case.

SECTION 203. 227.47 (1) of the statutes is amended to read:

227.47 **(1)** Except as provided in sub. (2), every ~~proposed or~~ final decision of an agency or hearing examiner following a hearing and every final decision of an agency shall be in writing accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise and separate statement of the ultimate conclusions upon each material issue of fact without recital of evidence. Every ~~proposed or~~ final decision shall include a list of the names and addresses of all persons who appeared before the agency in the proceeding who are considered parties for purposes of review under s. 227.53. The agency shall by rule establish a procedure for determination of parties.

SECTION 204. 227.483 of the statutes is created to read:

227.483 Costs upon frivolous claims. (1) If a hearing examiner finds, at any time during the proceeding, that an administrative hearing commenced or continued by a petitioner or a claim or defense used by a party is frivolous, the hearing examiner shall award the successful party his or her costs, as determined under s. 814.04, and reasonable attorney fees.

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

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

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

(b) That the party or the party's attorney knew, or should have known, that the petition, claim, or defense was without any reasonable basis in law or equity and

could not be supported by a good faith argument for an extension, modification, or reversal of existing law.

SECTION 205. 227.485 (5) of the statutes is amended to read:

227.485 **(5)** If the hearing examiner awards costs under sub. (3), he or she shall determine the costs under this subsection, except as modified under sub. (4). The decision on the merits of the case shall be placed in a ~~proposed~~ decision and submitted under ss. 227.47 and 227.48. The prevailing party shall submit, within 30 days after service of the ~~proposed~~ decision, to the hearing examiner and to the state agency which is the losing party an itemized application for fees and other expenses, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The state agency which is the losing party has 15 working days from the date of receipt of the application to respond in writing to the hearing examiner. The hearing examiner shall determine the amount of costs using the criteria specified in s. 814.245 (5) and include an order for payment of costs in the final decision.

SECTION 206. 227.53 (1) (a) 3. of the statutes is amended to read:

227.53 **(1)** (a) 3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 73.0301 (2) (b) 2., 77.59 (6) (b), 182.70 (6), and 182.71 (5) (g). ~~The proceedings shall be in the circuit court for Dane County if~~ If the petitioner is a nonresident, the proceedings shall be held in the county where the property affected by the decision is located or, if no property is affected, in the county where the dispute arose. If all parties stipulate and the court

to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

SECTION 207. 227.57 (11) of the statutes is created to read:

227.57 **(11)** If the decision of the hearing examiner is inconsistent with the position taken at the hearing by the agency, the court shall give no deference to the examiner's decision when conducting its review.

SECTION 208. 236.16 (3) (d) (intro.) of the statutes is amended to read:

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

SECTION 209. 241.02 (3) of the statutes is created to read:

241.02 **(3)** (a) In this subsection:

1. "Affiliate" of a bank, savings bank, or savings and loan association means a business entity that controls, is controlled by, or is under common control with the bank, savings bank, or savings and loan association.

2. "Financial institution" means a bank, savings bank, or savings and loan association organized under the laws of this state, another state, or the United States and any affiliate of such a bank, savings bank, or savings and loan association.

(b) Except as provided in par. (d), no action may be commenced against a financial institution on or in connection with any of the following promises or commitments of the financial institution unless the promise or commitment is in writing, sets forth relevant terms and conditions, and is signed by the financial institution:

1. A promise or commitment to lend money, grant or extend credit, or make any other financial accommodation.

2. A promise or commitment to renew, extend, modify, or permit a delay in repayment or performance of a loan, extension of credit, or other financial accommodation.

(c) Except as provided in par. (d), a promise or commitment by a financial institution described in par. (b) may not be enforced under the doctrine of promissory estoppel.

(d) Paragraphs (b) and (c) do not apply to credit transactions that are subject to chs. 421 to 427.

SECTION 210. 281.22 (2) (c) of the statutes is amended to read:

281.22 **(2)** (c) If more than one fee under this section or s. 30.28 (2) ~~(a)~~ or 31.39 (2) (a) is applicable to a project, the department shall charge only the highest fee of those that are applicable.

SECTION 211. 285.01 (12m) of the statutes is created to read:

285.01 **(12m)** "Certified contractor" means a contractor that is certified under s. 285.755.

SECTION 212. 285.11 (6) (intro.) of the statutes is renumbered 285.11 (6) and amended to read:

285.11 **(6)** Prepare and develop one or more comprehensive plans for the prevention, abatement and control of air pollution in this state. The department thereafter shall be responsible for the revision and implementation of the plans. ~~The rules or control strategies submitted to the federal environmental protection agency under the federal clean air act for control of atmospheric ozone shall conform with the federal clean air act unless, based on the recommendation of the natural resources board or the head of the department, as defined in s. 15.01 (8), of any other department, as defined in s. 15.01 (5), that promulgates a rule or establishes a control strategy, the governor determines that measures beyond those required by the federal clean air act meet any of the following criteria:~~

SECTION 213. 285.11 (6) (a) and (b) of the statutes are repealed.

SECTION 214. 285.11 (9) of the statutes is amended to read:

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

SECTION 215. 285.11 (17) of the statutes is repealed and recreated to read:

285.11 **(17)** Promulgate rules that incorporate changes made by regulations of the federal environmental protection agency governing review of modifications of major sources under 42 USC 7470 to 7515, including regulations that were published in the Federal Register on December 31, 2002, and October 27, 2003. The department may not include in the rules any requirements that are inconsistent with

or more stringent than the federal regulations. To the extent possible, the department shall incorporate similar changes for minor sources if the changes reduce administrative requirements for minor sources. The department shall submit in proposed form rules required under this subsection to the legislative council staff under s. 227.15 (1) no later than the first day of the 7th month after the regulations making the changes on which the rules are based take effect.

SECTION 216. 285.14 of the statutes is created to read:

285.14 State implementation plans. (1) CONTENT. The department may only include in a state implementation plan under 42 USC 7410 rules or requirements that are necessary to obtain approval of the plan by the federal environmental protection agency, including requirements that are necessary in order to comply with the percentage reductions specified in 42 USC 7511a (b) (1) (A) or (c) (2) (B).

(2) REVIEW BY COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. At least 90 days before the department is required to submit a state implementation plan to the federal environmental protection agency, the department shall prepare and submit a report to the joint committee for review of administrative rules that describes the proposed plan and contains all of the supporting documents that the department intends to submit with the plan. If, within 30 days after the department submits the report, the cochairpersons of the joint committee for review of administrative rules do not return the report to the department with a written explanation of why the committee is returning the report, the department may submit the plan. If, within 30 days after the department submits the report, the cochairpersons of the joint committee for review of administrative rules return the report to the department with a written explanation of why the committee is returning the report, the

department may not submit the plan until the committee agrees that the department has adequately addressed the issues raised by the committee. If the secretary disagrees with the committee's reasons for returning the report, the secretary shall so notify the committee in writing. This subsection does not apply to a modification to a state implementation plan relating to an individual source.

SECTION 217. 285.17 (2) of the statutes is amended to read:

285.17 **(2)** The department may, by rule or in an operation permit, require the owner or operator of an air contaminant source to monitor the emissions of the air contaminant source or to monitor the ambient air in the vicinity of the air contaminant source and to report the results of the monitoring to the department. The department may specify methods for conducting the monitoring and for analyzing the results of the monitoring. The department shall require the owner or operator of a major source to report the results of any required monitoring of emissions from the major source to the department no less often than every 6 months. The department may not include a monitoring requirement in an operation permit if the applicant demonstrates that the cost of compliance with the requirement would exceed the cost of compliance with monitoring requirements imposed on similar air contaminant sources by a state adjacent to this state or if the monitoring is not needed to provide assurance of compliance with requirements that apply to the air contaminant source, unless the monitoring is required under the federal clean air act.

SECTION 218. 285.21 (1) (a) (title) of the statutes is repealed.

SECTION 219. 285.21 (1) (a) of the statutes is renumbered 285.21 (1) and amended to read:

285.21 **(1)** AMBIENT AIR QUALITY STANDARDS. If an ambient air quality standard is promulgated under section 109 of the federal clean air act, the department shall promulgate by rule a similar standard but this standard may not be more restrictive than the federal standard ~~except as provided under sub. (4)~~.

SECTION 220. 285.21 (1) (b) of the statutes is repealed.

SECTION 221. 285.21 (2) of the statutes is amended to read:

285.21 **(2)** AMBIENT AIR INCREMENT. The department shall promulgate by rule ambient air increments for various air contaminants in attainment areas. The ambient air increments shall be consistent with and not more restrictive, either in terms of the concentration or the contaminants to which they apply, than ambient air increments under the federal clean air act ~~except as provided under sub. (4)~~.

SECTION 222. 285.21 (4) of the statutes is amended to read:

285.21 **(4)** IMPACT OF CHANGE IN FEDERAL STANDARDS. If the ambient air increment or the ambient air quality standards in effect on April 30, 1980, under the federal clean air act are ~~relaxed~~ modified, the department shall alter the corresponding state standards ~~unless it finds that the relaxed standards would not provide adequate protection for public health and welfare~~ accordingly.

SECTION 223. 285.23 (1) of the statutes is amended to read:

285.23 **(1)** PROCEDURES AND CRITERIA. The department shall promulgate by rule procedures and criteria to identify a nonattainment area and to reclassify a nonattainment area as an attainment area. The department may not identify a county as part of a nonattainment area if the the concentration of an air contaminant in the atmosphere does not exceed an ambient air quality standard, unless the department is required under the federal clean air act to identify the county as part of a nonattainment area.

SECTION 224. 285.23 (5) of the statutes is created to read:

285.23 **(5)** PARTICULATE STANDARDS. The department may not identify an area as a nonattainment area based on the concentration in the atmosphere of particulate matter measured as total suspended particulates and shall redesignate as an attainment area any area identified as a nonattainment area if the only basis on which the area could be identified as a nonattainment area is the concentration in the atmosphere of particulate matter measured as total suspended particulates.

SECTION 225. 285.23 (6) of the statutes is created to read:

285.23 **(6)** REPORT TO THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. Before the department issues documents under sub. (2) and at least 90 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 submit a report to the joint committee for review of administrative rules that contains a description of any area proposed to be identified as a nonattainment area and supporting documentation. If the department has complied with sub. (4) and if, within 30 days after the department submits the report, the cochairpersons of the joint committee for review of administrative rules do not return the report to the department with a written explanation of why the committee is returning the report, the department may issue the documents under sub. (2) and the governor may make the submission. If, within 30 days after the department submits the report, the cochairpersons of the joint committee for review of administrative rules return the report to the department with a written explanation of why the committee is returning the report, the department may not issue the documents under sub. (2) and the governor may not make the submission until the committee agrees that the department has adequately addressed the issues raised by the committee.

SECTION 226. 285.27 (1) (a) of the statutes is amended to read:

285.27 **(1)** (a) ~~*Similar to federal*~~ *Federal standard.* If a standard of performance for new stationary sources is promulgated under ~~section 111 of~~ the federal clean air act, the department shall promulgate ~~by~~ a rule ~~a similar~~ that incorporates that emission standard ~~but this standard~~ and related administrative requirements. The department may not ~~be~~ promulgate a rule under this paragraph that is more restrictive in terms of emission limitations or otherwise more burdensome to persons operating sources affected by the emission standard than the federal standard and related requirements except as provided under sub. (4).

SECTION 227. 285.27 (2) (a) of the statutes is amended to read:

285.27 **(2)** (a) ~~*Similar to federal*~~ *Federal standard.* If an emission standard for a hazardous air contaminant is promulgated under ~~section 112 of~~ the federal clean air act, the department shall promulgate ~~by~~ a rule ~~a similar~~ that incorporates that emission standard ~~but this standard~~ and related administrative requirements. The department may not ~~be~~ promulgate a rule under this paragraph that is more restrictive in terms of emission limitations or otherwise more burdensome to persons operating sources affected by the emission standard than the federal standard and related requirements except as provided under sub. (4).

SECTION 228. 285.27 (2) (b) of the statutes is renumbered 285.27 (2) (b) (intro.) and amended to read:

285.27 **(2)** (b) *Standard to protect public health or welfare.* (intro.) If an emission standard for a hazardous air contaminant is not promulgated under ~~section 112 of~~ the federal clean air act, the department may promulgate an emission standard for the hazardous air contaminant if the department finds the standard is needed to provide adequate protection for public health or welfare. The department

may not make a finding for a hazardous air contaminant unless the finding is supported with written documentation that includes all of the following:

SECTION 229. 285.27 (2) (b) 1. to 3. of the statutes are created to read:

285.27 **(2)** (b) 1. A public health risk assessment that characterizes the stationary sources in this state that are known to emit the hazardous air contaminant and the individuals who are potentially at risk from the emissions.

2. An analysis showing that identified individuals are subjected to inhalation levels of the hazardous air contaminant that are above recognized environmental health standards.

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

SECTION 230. 285.27 (2) (d) of the statutes is created to read:

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

SECTION 231. 285.27 (4) of the statutes is amended to read:

285.27 **(4)** IMPACT OF CHANGE IN FEDERAL STANDARDS. If the standards of performance for new stationary sources or the emission standards for hazardous air

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

SECTION 232. 285.60 (1) (a) 1. of the statutes is amended to read:

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

SECTION 233. 285.60 (1) (b) 1. of the statutes is amended to read:

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

SECTION 234. 285.60 (2) (a) of the statutes is amended to read:

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

SECTION 235. 285.60 (2g) of the statutes is created to read:

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

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

1. Written notice of the department's determination that the source qualifies for a registration permit and that the applicant may operate the source consistent with the terms and conditions of the registration permit.

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

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

(c) *Exemption from requirement for permit prior to construction.* A person is not required to obtain a permit prior to construction, reconstruction, replacement, or modification of a stationary source that qualifies for a registration permit under par. (a) unless a construction permit is required under the federal clean air act.

SECTION 236. 285.60 (2m) of the statutes is repealed.

SECTION 237. 285.60 (3) of the statutes is repealed and recreated to read:

285.60 **(3)** GENERAL PERMITS. (a) *Rules.* The department shall promulgate rules for the issuance of general permits 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.

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

1. Written notice of the department's determination that the source qualifies for coverage under the general permit and that the applicant may operate the source consistent with the terms and conditions of the general permit.

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

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

(c) *Exemption from requirement for permit prior to construction.* A person is not required to obtain a permit prior to construction, reconstruction, replacement or modification of a stationary source that qualifies for coverage under a general permit under par. (a) unless a construction permit is required under the federal clean air act.

SECTION 238. 285.60 (5m) of the statutes is created to read:

285.60 **(5m)** WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS. Subject to sub. (8), the department shall grant a waiver from the requirement to obtain a construction permit prior to construction, reconstruction, replacement, or modification of a stationary source upon a showing by the owner or operator of the stationary source that obtaining the permit would cause undue hardship. The department shall act on a waiver request within 15 days after it receives the request.

SECTION 239. 285.60 (6) of the statutes is amended to read:

285.60 **(6)** EXEMPTION BY RULE. ~~Notwithstanding the other provisions of this section~~ Subject to sub. (8), the department ~~may~~ shall, by rule, exempt ~~types of stationary~~ minor sources from ~~any~~ the requirement ~~of this section~~ to obtain a construction permit and an operation permit if the ~~potential~~ emissions from the sources do not present a significant hazard to public health, safety or welfare or to the environment.

SECTION 240. 285.60 (6m) of the statutes is created to read:

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

SECTION 241. 285.60 (6r) of the statutes is created to read:

285.60 **(6r)** EXEMPTION FROM CONSTRUCTION PERMIT REQUIREMENT. A person is not required to obtain a construction permit for a source that is a component of a process, of equipment, or of an activity that is otherwise covered by a preexisting operation permit or a source that is a component of a process, of equipment, or of an activity

that is included in a completed application for an operation permit, unless a construction permit is required under the federal clean air act.

SECTION 242. 285.60 (8) of the statutes is created to read:

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

SECTION 243. 285.60 (9) of the statutes is created to read:

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

SECTION 244. 285.60 (10) of the statutes is created to read:

285.60 **(10)** PERMIT STREAMLINING. The department shall continually assess permit obligations imposed under this section and ss. 285.61 to 285.65 and implement measures that are consistent with this chapter and the federal clean air act to allow for timely installation and operation of equipment and processes and the pursuit of related economic activity by lessening those obligations, including

consolidating the permits for sources at a facility into one permit, expanding exemptions under sub. (6), and expanding the availability of registration permits under sub. (2g), general permits under sub. (3), and construction permit waivers under sub. (5m).

SECTION 245. 285.61 (1) of the statutes is amended to read:

285.61 **(1)** ~~APPLICANT NOTICE~~ APPLICATION REQUIRED. A person who is required to obtain or who seeks a construction permit shall apply to the department or a certified contractor for a permit to construct, reconstruct, replace or modify the stationary source. If a person applies to a certified contractor under this subsection, the person shall provide notice of that application to the department as prescribed by the department.

SECTION 246. 285.61 (2) of the statutes is renumbered 285.61 (2) (a) and amended to read:

285.61 **(2)** (a) *Request for additional information.* Within 20 days after receipt of the application the department or the certified contractor shall ~~indicate~~ provide written notice to the applicant describing specifically all of the plans, specifications and any other information necessary to determine if the proposed construction, reconstruction, replacement or modification will meet the requirements of this chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15.

SECTION 247. 285.61 (2) (b) of the statutes is created to read:

285.61 **(2)** (b) *When application is considered to be complete.* For the purposes of the time limits in sub. (3), an application is considered to be complete when the applicant provides the information specified in the written notice under par. (a), or, if the department or the certified contractor does not provide written notice to an applicant within the time limit in par. (a), 20 days after receipt of the application.

This paragraph does not prevent the department or a certified contractor from requesting additional information from an applicant after the time limit in par. (a).

SECTION 248. 285.61 (3) of the statutes is amended to read:

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

(a) *Major source construction permits.* For construction permits for major sources, within ~~120~~ 60 days.

(b) *Minor source construction permits.* For construction permits for minor sources, within ~~30~~ 15 days.

SECTION 249. 285.61 (4) (a) of the statutes is amended to read:

285.61 **(4)** (a) *Distribution and publicity.* The department shall distribute and publicize the analysis and preliminary determination as soon as they are prepared or, if the analysis and preliminary determination are prepared by a certified contractor, as soon as the department receives them from the certified contractor.

SECTION 250. 285.61 (4) (b) 2. and 3. of the statutes are amended to read:

285.61 **(4)** (b) 2. A copy of the department's or certified contractor's analysis and preliminary determination; and

3. A copy or summary of other materials, if any, considered by the department or the certified contractor in making its preliminary determination.

SECTION 251. 285.61 (5) (a) (intro.) of the statutes is amended to read:

285.61 **(5)** (a) *Distribution of notice required.* (intro.) The department shall distribute a notice of the proposed construction, reconstruction, replacement or modification, a notice of the department's or certified contractor's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing to all of the following:

SECTION 252. 285.61 (5) (c) of the statutes is amended to read:

285.61 **(5)** (c) *Newspaper notice.* The department shall publish a class 1 notice under ch. 985 announcing the opportunity for written public comment and the opportunity to request a public hearing on the analysis and preliminary determination within 10 days after the analysis and preliminary determination are prepared or, if the analysis and preliminary determination are prepared by a certified contractor, within 10 days after the department receives them from the certified contractor.

SECTION 253. 285.61 (7) (a) of the statutes is amended to read:

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

SECTION 254. 285.61 (8) (a) of the statutes is renumbered 285.61 (8) (a) 1.

SECTION 255. 285.61 (8) (a) 2. of the statutes is created to read:

285.61 **(8)** (a) 2. Notwithstanding subd. 1. and s. 285.63, the department may not modify a preliminary determination made by a certified contractor under sub. (3) unless modification is necessary to comply with the federal clean air act or unless the comments received under subs. (6) and (7) or consideration of the environmental impact as required under s. 1.11 provide clear and convincing evidence that issuance of the permit would cause material harm to public health, safety, or welfare.

SECTION 256. 285.61 (8) (b) of the statutes is amended to read:

285.61 **(8)** (b) *Time limits.* The department shall act on a construction permit application within 60 days after the ~~close of the public comment period or the public hearing, whichever is later~~ department gives notice under sub. (5) (c), unless compliance with s. 1.11 requires a longer time. For a major source that is located in an attainment area, the department shall complete its responsibilities under s. 1.11 within one year.

SECTION 257. 285.61 (10) of the statutes is created to read:

285.61 **(10)** EXTENSIONS. The department may extend any time limit applicable to the department or a certified contractor under this section at the request of an applicant.

SECTION 258. 285.61 (11) of the statutes is created to read:

285.61 **(11)** DELAY IN ISSUING PERMITS. Subject to sub. (10), if the department fails to act on an application for a construction permit within the time limit in sub. (8) (b), the department shall include in a report the reasons for the delay in acting on the application, including the names of the department's employees responsible for review of the application, and recommendations for how to avoid similar delays in the future. The department shall make reports under this subsection available to the public, place a prominent notice of the reports on the department's Internet

site, and submit the reports to the joint committee for the review of administrative rules on a quarterly basis.

SECTION 259. 285.62 (1) of the statutes is amended to read:

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

SECTION 260. 285.62 (2) of the statutes is renumbered 285.62 (2) (a) and amended to read:

285.62 **(2)** (a) *Request for additional information.* Within 20 days after receipt of the application the department or the certified contractor shall ~~indicate~~ provide written notice to the applicant describing specifically any additional information required under sub. (1) necessary to determine if the source, upon issuance of the permit, will meet the requirements of this chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15.

SECTION 261. 285.62 (2) (b) of the statutes is created to read:

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

applicant within the period under par. (a), 20 days after receipt of the application. This paragraph does not prevent the department or a certified contractor from requesting additional information from an applicant after the period under par. (a).

SECTION 262. 285.62 (3) (a) (intro.) of the statutes is amended to read:

285.62 **(3)** (a) (intro.) The department or certified contractor shall review an application for an operation permit. Upon completion of that review, the department or certified contractor shall prepare a preliminary determination of whether ~~it~~ the application may ~~approve the application~~ be approved and a public notice. The department or certified contractor shall complete the preliminary determination and the public notice within 60 days after an application for an operation permit for a major source is considered to be complete under sub. (2) (b) and within 15 days after an application for an operation permit for a minor source is considered to be complete under sub. (2) (b). The public notice shall include all of the following:

SECTION 263. 285.62 (3) (c) of the statutes is amended to read:

285.62 **(3)** (c) The department shall publish the notice prepared under par. (a) as a class 1 notice under ch. 985 in a newspaper published in the area that may be affected by emissions from the stationary source within 10 days after the notice is complete or, if the notice is prepared by a certified contractor, within 10 days after the department receives it from the certified contractor.

SECTION 264. 285.62 (5) (a) of the statutes is amended to read:

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

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

SECTION 265. 285.62 (6) (c) 1. of the statutes is amended to read:

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

SECTION 266. 285.62 (7) (b) of the statutes is amended to read:

285.62 **(7)** (b) The department shall approve or deny the operation permit application for a new source or modified source. The department shall issue the operation permit for a new source or modified source if the criteria established under ss. 285.63 and 285.64 are met. The department shall issue an operation permit for a new source or modified source or deny the application within ~~180~~ 30 days after the permit applicant submits to the department the results of all equipment testing and emission monitoring required under the construction permit.

SECTION 267. 285.62 (7) (bm) of the statutes is created to read:

285.62 **(7)** (bm) Notwithstanding pars. (a) and (b) and s. 285.63, but subject to sub. (6) (c) 1., the department may not modify a preliminary determination made by a certified contractor under sub. (3) (a) unless modification is necessary to comply with the federal clean air act or unless the comments received under subs. (4) to (6) or consideration of the environmental impact as required under s. 1.11 provide clear and convincing evidence that issuance of the permit would cause material harm to public health, safety, or welfare.

SECTION 268. 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

SECTION 269. 285.62 (8) (b) of the statutes is created to read:

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

SECTION 270. 285.62 (9) (b) of the statutes is repealed and recreated to read:

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

SECTION 271. 285.62 (12) of the statutes is created to read:

285.62 **(12)** EXTENSIONS. The department may extend any time limit applicable to the department or a certified contractor under this section at the request of an applicant.

SECTION 272. 285.63 (1) (d) of the statutes is amended to read:

285.63 **(1)** (d) *Source will not preclude construction or operation of other source.* The stationary source will not degrade the air quality in an area sufficiently to

prevent the construction, reconstruction, replacement, modification or operation of another stationary source if the department received plans, specifications and other information under s. 285.61 (2) (a) for the other stationary source prior to commencing its analysis under s. 285.61 (3) for the former stationary source. This paragraph does not apply to an existing source required to have an operation permit.

SECTION 273. 285.63 (2) (d) of the statutes is repealed.

SECTION 274. 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

SECTION 275. 285.66 (2) (b) of the statutes is created to read:

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

1. The department may specify an expiration date for coverage under a general 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 permit if required by the federal clean air act.

SECTION 276. 285.66 (3) (a) of the statutes is amended to read:

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

SECTION 277. 285.69 (1) (a) of the statutes is amended to read:

285.69 **(1)** (a) *Application for permit.* Reviewing and acting upon any application for a construction permit. The department shall specify lower fees for

persons who submit applications to certified contractors under s. 285.61(1) than for those who submit applications to the department.

SECTION 278. 285.755 of the statutes is created to read:

285.755 Certified contractors. (1) RESPONSIBILITIES OF THE DEPARTMENT OF ADMINISTRATION. (a) The department of administration shall certify private contractors to review applications for air pollution control permits for the purposes of determining under ss. 285.61 (2) and 285.62 (2) whether additional information is needed from applicants and of making preliminary determinations under ss. 285.61 (3) and 285.62 (3).

(b) No later than the first day of the 7th month beginning after the effective date of this paragraph .... [revisor inserts date], the department of administration, in consultation with the department of natural resources, shall specify minimum standards relating to staffing and professional expertise and other conditions applicable to private contractors certified under this section.

(c) The department of administration shall maintain a directory containing the name, address, and contact person for each certified contractor. The department of administration shall update the directory every 3 months and shall provide the directory to the department of natural resources and make it available to the public.

(2) REQUIREMENTS. The department of administration may not certify a contractor under this section unless the contractor does all of the following:

(a) Submits an application on a form prescribed by the department of administration in consultation with the department of natural resources.

(b) Meets the minimum standards relating to staffing and professional expertise and other conditions that are specified under sub. (1) (b).

(c) Submits a signed statement agreeing to conduct the activities described in sub. (1) (a) in accordance with applicable state and federal law.

SECTION 279. 285.81 (1) (intro.) of the statutes is amended to read:

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

SECTION 280. 285.81 (1m) of the statutes is created to read:

285.81 **(1m)** EFFECT OF A CHALLENGE. If a permit holder or applicant seeks a hearing challenging part of a permit under sub. (1), the remainder of the permit shall become effective and the permit holder or applicant may begin the activity for which the permit was issued.

SECTION 281. 289.27 (5) of the statutes is amended to read:

289.27 **(5)** DETERMINATION OF NEED; DECISION BY HEARING EXAMINER. If a contested case hearing is conducted under this section, the secretary shall issue any decision concerning determination of need~~, notwithstanding s. 227.46 (2) to (4)~~. The secretary shall direct the hearing examiner to certify the record of the contested case hearing to him or her without an intervening proposed decision. The secretary may assign responsibility for reviewing this record and making recommendations concerning the decision to any employee of the department.

SECTION 282. 295.13 (4) of the statutes is created to read:

295.13 **(4)** CREDITING OF FINANCIAL ASSURANCE. If a nonmetallic mining site is subject to a county ordinance under sub. (1) or (2) and the city, village, or town in which a nonmetallic mining site is located required the operator of the mining site

to provide financial assurance for nonmetallic mining reclamation of the nonmetallic mining site, the county shall credit the value of the financial assurance provided to the city, village, or town against the amount of financial assurance that the operator is required to provide under the county ordinance.

SECTION 283. 299.05 (2) (a) of the statutes is amended to read:

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

SECTION 284. 448.02 (3) (b) of the statutes is amended to read:

448.02 **(3)** (b) After an investigation, if the board finds that there is probable cause to believe that the person is guilty of unprofessional conduct or negligence in treatment, the board shall hold a hearing on such conduct. The board may use any information obtained by the board or the department under s. 655.17 (7) (b), as created by 1985 Wisconsin Act 29, in an investigation or a disciplinary proceeding, including a public disciplinary proceeding, conducted under this subsection and the board may require a person holding a license, certificate or limited permit to undergo and may consider the results of one or more physical, mental or professional competency examinations if the board believes that the results of any such examinations may be useful to the board in conducting its hearing. A unanimous finding by a panel established under s. 655.02, 1983 stats., or a finding by a court that a physician has acted negligently in treating a patient is conclusive evidence that the physician is guilty of negligence in treatment. A finding that is not a unanimous finding by a panel established under s. 655.02, 1983 stats., that a physician has acted negligently in treating a patient is presumptive evidence that the physician is guilty of negligence in treatment. A certified copy of the findings of fact, conclusions of law and order of the panel or the order of a court is presumptive evidence that the finding

of negligence in treatment was made. The board shall render a decision within 90 days after the date on which the hearing is held ~~or, if subsequent proceedings are conducted under s. 227.46 (2), within 90 days after the date on which those proceedings are completed~~.

SECTION 285. 448.675 (1) (b) of the statutes is amended to read:

448.675 **(1)** (b) After an investigation, if the affiliated credentialing board finds that there is probable cause to believe that the person is guilty of unprofessional conduct or negligence in treatment, the affiliated credentialing board shall hold a hearing on such conduct. The affiliated credentialing board may require a licensee to undergo and may consider the results of a physical, mental or professional competency examination if the affiliated credentialing board believes that the results of the examination may be useful to the affiliated credentialing board in conducting its hearing. A finding by a court that a podiatrist has acted negligently in treating a patient is conclusive evidence that the podiatrist is guilty of negligence in treatment. A certified copy of the order of a court is presumptive evidence that the finding of negligence in treatment was made. The affiliated credentialing board shall render a decision within 90 days after the date on which the hearing is held ~~or, if subsequent proceedings are conducted under s. 227.46 (2), within 90 days after the date on which those proceedings are completed~~.

SECTION 286. 452.05 (3) of the statutes is created to read:

452.05 **(3)** The department may, after consultation with the board, enter into reciprocal agreements with officials of other states or territories of the United States for licensing brokers and salespersons and grant licenses to applicants who are licensed as brokers or salespersons in those states or territories according to the terms of the reciprocal agreements.

SECTION 287. 452.09 (2) (a) of the statutes is amended to read:

452.09 **(2)** (a) ~~Each~~ Except as provided in a reciprocal agreement under s. 452.05 (3), each applicant for a salesperson's license shall submit to the department evidence satisfactory to the department of successful completion of educational programs approved for this purpose under s. 452.05 (1) (c). The department may waive the requirement under this paragraph upon proof that the applicant has received 10 academic credits in real estate or real estate related law courses from an accredited institution of higher education.

SECTION 288. 452.09 (2) (c) (intro.) of the statutes is amended to read:

452.09 **(2)** (c) (intro.) Except as provided in par. (d) or a reciprocal agreement under s. 452.05 (3), each applicant for a broker's license shall do all of the following:

SECTION 289. 452.09 (3) (d) of the statutes is amended to read:

452.09 **(3)** (d) ~~The~~ Except as provided in a reciprocal agreement under s. 452.05 (3), the department may not grant a broker's license to an applicant who does not hold a salesperson's license unless the applicant passes the salesperson's examination and the broker's examination.

SECTION 290. Nonstatutory provisions.

(1) ENERGY CONSERVATION AND EFFICIENCY GRANTS; EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the public service commission shall promulgate as emergency rules the rules required under section 16.957 (2m) of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency rules promulgated under this subsection may remain in effect until the date on which the permanent rules required under section 16.957 (2m) of the statutes, as created by this act, take effect. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the public service commission is not

required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection.

(2) SUBMISSION OF PROPOSED RULES CONCERNING AIR PERMITS FOR MODIFIED SOURCES. Notwithstanding the time limit in section 285.11 (17) of the statutes, as affected by this act, the department of natural resources shall submit in proposed form the rules required under section 285.11 (17) of the statutes, as affected by this act, relating to regulations that are published before the effective date of this subsection to the legislative council staff under section 227.15 (1) of the statutes no later than August 31, 2004.

(3) REPORT ON AIR PERMIT STREAMLINING EFFORTS.

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

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

2. Recommendations, and related proposed rule revisions, for expanding exemptions under section 285.60 (6) of the statutes, as affected by this act, establishing registration permits under section 285.60 (2g) of the statutes, as created by this act, expanding the use of general permits under section 285.60 (3) of the statutes, as affected by this act, issuing construction permit waivers under section 285.60 (5m) of the statutes, as created by this act, and taking other actions under

section 285.60 (10) of the statutes, as created by this act, including consolidating the permits for sources at one facility into one permit.

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

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

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

(4) REPORT ON CLEAN AIR ACT STATE IMPLEMENTATION PLANS. No later than the first day of the 7th month beginning after the effective date of this subsection, the

department of natural resources shall submit to the joint committee for review of administrative rules a report that contains all of the following:

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

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

SECTION 291. Initial applicability.

(1) LAWSUITS CONCERNING CREDIT AGREEMENTS AND RELATED DOCUMENTS. The treatment of section 241.02 (3) of the statutes first applies to actions commenced on the effective date of this subsection.

(2) PARTIAL DEREGULATION OF TELECOMMUNICATIONS. The treatment of section 196.195 (5m) and (10) of the statutes first applies to proceedings initiated by petitions filed with the public service commission, or by notices made on the public service commission's own motion, on the effective date of this subsection.

(3) ENERGY CONSERVATION AND EFFICIENCY GRANTS. The treatment of section 16.957 (2) (b) 1. (intro.) of the statutes first applies to grants that are awarded on the effective date of the rules promulgated under SECTION 290 (1) of this act.

(4) PROCESSING OF AIR PERMITS. The treatment of sections 285.61 (3), (5) (c), (7) (a), (8) (b), and (11), 285.62 (3) (a) (intro.) and (c), (5) (a), (7) (b), and (9) (b), and 285.66 (3) (a) of the statutes, the renumbering and amendment of sections 285.61 (2) and

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

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

(6) CHAPTER 30 PROCEDURES.

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

(b) The treatment of section 30.208 of the statutes first applies to applications for contracts under section 30.20 of the statutes that are submitted to the department of natural resources on the effective date of this paragraph.

SECTION 292. Effective dates. This act takes effect on the day after publication, except as follows:

(1) ENERGY CONSERVATION AND EFFICIENCY GRANTS. The treatment of section 16.957 (2) (b) 1. (intro.) and (c) 2., (2m), and (3) (b) of the statutes takes effect on July 1, 2005.

(END)