137.23 Time and place of sending and receipt. (1) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

(a) Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(b) Is in a form capable of being processed by that system; and

(c) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(2) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(a) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(b) It is in a form capable of being processed by that system.

(3) Subsection (2) applies even if the place where the information processing system is located is different from the place where the electronic record is deemed to be received under sub. (4).

(4) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection:

(a) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(b) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(5) An electronic record is received under sub. (2) even if no individual is aware of its receipt.

(6) Receipt of an electronic acknowledgment from an information processing system described in sub. (2) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(7) If a person is aware that an electronic record purportedly sent under sub. (1), or purportedly received under sub. (2), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

137.24 Transferable records. (1) In this section, "transferable record" means an electronic record that would be a note under ch. 403 or a document under ch. 407 if the electronic record were in writing.

(1m) An electronic record qualifies as a transferable record under this section only if the issuer of the electronic record expressly has agreed that the electronic record is a transferable record.

(2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(3) A system satisfies the requirements of sub. (2), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(a) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in pars. (d) to (f), unalterable;

(b) The authoritative copy identifies the person asserting control as the person to which the transferable record was issued or, if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(c) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(4) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in s. 401.201 (20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under chs. 401 to 411, including, if the applicable statutory requirements under s. 403.302 (1), 407.501, or 409.308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable record of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under chs. 401 to 411.

(6) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

SECTION 173. 137.25 (2) of the statutes is created to read:

137.25 **(2)** The department of administration shall promulgate rules concerning the use of electronic records and electronic signatures by governmental units, which shall govern the use of electronic records or signatures by governmental units, unless otherwise provided by law. The rules shall include standards regarding the receipt of electronic records or electronic signatures that promote consistency and interoperability with other standards adopted by other governmental units of this state and other states and the federal government and nongovernmental persons interacting with governmental units of this state. The standards may include alternative provisions if warranted to meet particular applications.

SECTION 174. 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 175. 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 176. 196.03 (7) of the statutes is created to read:

196.03 **(7)** In determining a reasonably adequate public utility gas or electric service or a reasonable and just charge for such service, the commission shall consider costs incurred by the public utility for economic development activities that support and promote customer service load retention and load growth in determining what is reasonable and just, reasonably adequate, convenient and necessary, or in the public interest.

SECTION 177. 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 178. 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 179. 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 180. 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 181. 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.

SECTION 182. 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 183. 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 184. 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 185. 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 186. 196.491 (3) (a) 3. a. of the statutes is amended to read:

196.491 **(3)** (a) 3. a. At least 60 days before a person files an application for a large electric generating facility under subd. 1., the person shall provide the

department with an engineering plan showing the location of the facility, a description of the facility, including the major components of the facility that have a significant air, water or solid waste pollution potential, and a description of the anticipated effects of the facility on air and water quality. Within 30 days after a person provides an engineering plan, the department shall provide the person with a listing of each department permit or approval which, on the basis of the information contained in the engineering plan, appears to be required for the construction or operation of the large electric generating facility.

SECTION 187. 196.491 (3) (e) of the statutes is amended to read:

196.491 **(3)** (e) If the application does not meet the criteria under par. (d), the commission shall reject the application or approve the application with such modifications as are necessary for an affirmative finding under par. (d). The commission may not issue a certificate of public convenience and necessity for a large electric generating facility until the department has issued all permits and approvals identified in the listing specified in par. (a) 3. a. that are required prior to construction.

SECTION 188. 196.491 (3) (g) 1. of the statutes is renumbered 196.491 (3) (g).

SECTION 189. 196.491 (3) (g) 1m. of the statutes is repealed.

SECTION 190. 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 191. 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 192. 224.30 (2) of the statutes is repealed.

SECTION 193. 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 194. 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 195. 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 196. 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 197. 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 198. 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 199. 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 200. 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 201. 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 202. 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 203. 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 204. 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 205. 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 206. 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 207. 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 208. 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 209. 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 210. 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 211. 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 212. 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 213. 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 214. 227.45 (7) (a) to (d) of the statutes are repealed.

SECTION 215. 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 216. 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 217. 227.46 (2) of the statutes is repealed.

SECTION 218. 227.46 (2m) of the statutes is repealed.

SECTION 219. 227.46 (3) of the statutes is repealed.

SECTION 220. 227.46 (4) of the statutes is repealed.

SECTION 221. 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 222. 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 223. 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 224. 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 225. 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 226. 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 227. 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 228. 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 229. 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 230. 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 231. 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 232. 285.11 (6) (a) and (b) of the statutes are repealed.

SECTION 233. 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 234. 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 235. 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 236. 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 237. 285.21 (1) (a) (title) of the statutes is repealed.

SECTION 238. 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 239. 285.21 (1) (b) of the statutes is repealed.

SECTION 240. 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 241. 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 242. 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 243. 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 244. 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 245. 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 246. 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 247. 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 248. 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 249. 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 250. 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 251. 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 252. 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 253. 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 254. 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 255. 285.60 (2m) of the statutes is repealed.

SECTION 256. 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 257. 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 258. 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 259. 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 260. 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 261. 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 262. 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 263. 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 264. 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 265. 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 266. 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 267. 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 268. 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 269. 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 270. 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 271. 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 272. 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 273. 285.61 (8) (a) of the statutes is renumbered 285.61 (8) (a) 1.

SECTION 274. 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 275. 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 276. 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 277. 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 278. 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 279. 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 280. 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 281. 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 282. 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 283. 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 284. 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 285. 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 286. 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 287. 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

SECTION 288. 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 289. 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 290. 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 291. 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 292. 285.63 (2) (d) of the statutes is repealed.

SECTION 293. 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

SECTION 294. 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 295. 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 296. 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 297. 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 298. 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 299. 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 300. 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 301. 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 302. 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 303. 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 304. 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 305. 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 306. 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 307. 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 308. 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 309. 889.29 (1) of the statutes is amended to read:

889.29 **(1)** If any business, institution or member of a profession or calling in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, or to be recorded on an optical disk or in electronic format, the original may be destroyed in the regular course of business, unless its preservation is required by law. Such reproduction or optical disk record, when reduced to comprehensible format and when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction of a record or an enlarged copy of a record generated from an original record stored in optical disk or electronic format is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced

record, enlargement or facsimile, does not preclude admission of the original. This subsection does not apply to records governed by s. 137.20.

SECTION 310. 910.01 (1) of the statutes is amended to read:

910.01 **(1)** WRITINGS AND RECORDINGS. "Writings" and "recordings" consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation or recording.

SECTION 311. 910.02 of the statutes is amended to read:

910.02 Requirement of original. To prove the content of a writing, recording or photograph, the original writing, recording or photograph is required, except as otherwise provided in chs. 901 to 911, in s. 137.21, or by other statute.

SECTION 312. 910.03 of the statutes is amended to read:

910.03 Admissibility of duplicates. A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original. This section does not apply to records of transactions governed by s. 137.21.

SECTION 313. Nonstatutory provisions.

(1) USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES BY GOVERNMENTAL UNITS; EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of administration may promulgate emergency rules under section 137.25 (2) of the statutes, as created by this act, for the period before the effective date of permanent rules initially promulgated under section 137.25 (2) of the statutes, as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of

the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(2) USE OF ELECTRONIC SIGNATURES BY NOTARIES PUBLIC; EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the secretary of state and the department of administration may promulgate emergency rules under section 137.01 (4) (a) of the statutes, as affected by this act, for the period before the effective date of permanent rules initially promulgated under section 137.01 (4) (a) of the statutes, as affected by this act. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the secretary of state and the department are not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and are not required to provide a finding of emergency for a rule promulgated under this subsection.

(3) USE OF ELECTRONIC SIGNATURES BY NOTARIES PUBLIC; PERMANENT RULES. The secretary of state and department of administration shall initially promulgate permanent rules under section 137.01 (4) (a) of the statutes, as affected by this act, to become effective no later than July 1, 2004.

(4) 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.

(5) 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.

(6) 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.

(7) 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 314. 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) ENGINEERING PLANS. The treatment of section 196.491 (3) (a) 3. a. of the statutes first applies to engineering plans provided to the department of natural resources on the effective date of this subsection.

(4) CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY INVOLVING OTHER STATES. The treatment of section 196.491 (3) (g) 1. and 1m. of the statutes first applies to applications filed on the effective date of this subsection.

(5) ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES. The treatment of sections 137.01 (3) (a) and (4) (a) and (b), 137.04, 137.05 (title), 137.06, 137.11 to 137.24, 137.25 (2), 224.30 (2), 889.29 (1), 910.01 (1), 910.02, and 910.03, subchapters I (title) and II (title) of chapter 137, and chapter 137 (title) of the statutes and the renumbering and amendment of section 137.05 of the statutes first apply to electronic records or electronic signatures that are created, generated, sent, communicated, received, or initially stored on the effective date of this subsection.

(6) 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 313 (4) of this act.

(7) 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.

(8) 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.

(9) 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 315. 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.

(2) SALES TAX EXEMPTION FOR TEMPORARY SERVICES. The treatment of section 77.52 (2r) of the statutes takes effect on the first day of the 2nd month beginning after publication.

(END)