

**COMPARISON OF CURRENT LAW, SENATE BILL 313/ASSEMBLY BILL 655 PROVISIONS
AND PROPOSED SENATE/ASSEMBLY SUBSTITUTE AMENDMENT LRBS0295/2**

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
ADMINISTRATIVE LAW			
Rule Promulgation	<p>Promulgation of administrative rules generally is accomplished according to the following steps:</p> <ol style="list-style-type: none"> 1. Agency prepares statement of scope for proposed rule. 2. Agency prepares draft of rule and submits draft to Legislative Council Rules Clearinghouse. 3. Clearinghouse creates rule jackets, reviews rule for statutory authority and format and editorial concerns, and returns rule report and jackets to agency. 4. Agency holds public hearing. 5. Agency prepares report for Legislature containing the rule, Clearinghouse report, and discussion of how agency responded to comments about the rule. 6. Legislative review. 7. Agency submits rule to Revisor of Statutes and Secretary of State for publication and codification. 	<p>The bills make the following additions to the rule-making process:</p> <ol style="list-style-type: none"> 1. Include in the scope statement an analysis of need for rule if federal program exists and assess how rule compares with federal regulations or anticipated federal program. 2. Interested party may ask for economic impact report regarding proposed rule or existing or proposed guideline or policy. Interested party includes municipality, association, or five or more persons having an interest in rule. 	<p>The substitute amendment makes the following additions to the rule-making process:</p> <ol style="list-style-type: none"> 1. Include in the scope statement summary and preliminary comparison of existing or proposed federal regulation intended to address same subject as rule. 2. Interested party may petition secretary of DOA to direct agency to prepare economic impact report on proposed rule. Petition only applies to rule promulgated by DATCP; DOC; DNR; DOT; or DWD. (Petition does not apply to guidelines or policies.) Interested party includes municipality, association, or five or more persons that would be directly and uniquely affected by rule.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
		<p>3. If, after interested party request, agency finds possible economic effect, agency must prepare economic impact report that generally provides cost-benefit analysis, comparison to federal programs, analysis of regulatory alternatives, comparison to costs borne by businesses in adjacent states and in Indiana and Missouri.</p> <p>4. Economic impact report submitted to DOA, Legislative Council staff, and petitioner.</p>	<p>3. Secretary may direct preparation of report prior to submittal of rule to Legislative Council Rules Clearinghouse and shall so direct preparation if petition is timely submitted and if: (a) rule would cost affected persons at least \$20 million during each of first five years after rule implementation; or (b) rule would adversely affect in material way the economy, sector of economy, productivity, competition, jobs, environment, public health or safety, or state, local, or tribal governments or communities. Economic impact report to include: (a) analysis and quantification of problem addressed by proposed rule; (b) analysis and quantification of economic impact of rule including costs reasonably expected to be incurred by state, governmental units, association, business, and affected individuals; and (c) analysis of benefits of rule. No judicial review of DOA action.</p> <p>4. Same as bills.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
		<p>5. DOA to review rule, or review existing or proposed guideline or policy, if: (a) economic impact report received; or (b) requested to do so by interested party and requester will be economically affected. DOA must prepare own report, including review of any economic impact report for self-contained supporting documentation, statutory authority, comparison of rule to state and federal rules and regulations, consistency with governor's positions and priorities, and use of accepted scientific methodologies underlying rule. Agency may not submit rule to Legislative Rules Clearinghouse until report received by agency.</p> <p>6. If DOA prepares a report on rule and approves rule when no outstanding issues between DOR and promulgating agency, notice of approval is submitted to governor. Before report, DOA may prohibit implementation of proposed guideline or policy.</p> <p>7. Agency rule analysis and fiscal estimate to include legal support, policy considerations, similar federal programs, summary of supporting factual data, studies and other sources, analysis and supporting documentation for determining small business effect or economic impact report, and, if significant effect on private sector, the anticipated costs to private sector.</p>	<p>5. If economic impact report prepared, DOA must review proposed rule and issue report, including review of economic impact report for self-contained supporting documentation, statutory authority, comparison of rule to state and federal rules and regulations, and documentation of data and analytical methodologies used in support of rule and related findings that support regulatory approach. No judicial review of DOA action.</p> <p>6. If DOA prepares report on proposed rule, secretary to approve rule when no outstanding issues remain between DOA and promulgating agency. No judicial review of DOA action.</p> <p>7. Agency rule analysis and fiscal estimate to include explanation of authority to promulgate, summary and preliminary comparison with existing or proposed federal regulation, comparison of similar rules in adjacent states, summary of factual data and analytical methodologies used and how related findings support rule, analysis and supporting documentation for determining small business effect or economic impact report, and, if significant effect on private sector, anticipated costs to private sector.</p>

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		<p>8. After DOA review and approval, rule may not be submitted to Legislature or filed with Revisor of Statutes or Secretary of State until governor has approved in writing.</p> <p>9. Agency report to Legislature to include economic impact report, DOA report, governor approval, statement on how rule advances statutory goals and purposes, analysis of policy alternatives and explanation of rejection of alternatives, summary of public comments and agency responses, and changes to rule analysis or fiscal estimate.</p>	<p>8. Provision of bills deleted.</p> <p>9. Agency report to Legislature to include economic impact report, DOA report, statement on how rule advances statutory goals and purposes, summary of public comments and agency responses, and changes to rule analysis or fiscal estimate.</p>
Judicial Review of Agency Rule-Making	<p>Rule is invalid if unconstitutional, without statutory authority or promulgated without compliance with statutory procedure.</p> <p>Rule meets constitutional due process standards if it reasonably relates to legitimate governmental objective. There must be sufficient facts in agency record to support the reasonable relation; court must search for rational connection between any facts in record and rule. Court will not weigh evidence or judge credibility of witnesses; will not presume facts to support rule; and may accept additional evidence.</p> <p>Agency has statutory authority to promulgate rule if a statute expressly authorizes, or necessarily implies, that authority. Statutes are strictly construed to preclude power not expressly granted. Reasonable doubt as to existence of implied power resolved against authority.</p>	<p>The bills add the following standards to judicial review of rule validity:</p> <ol style="list-style-type: none"> 1. Review confined to substantial inquiry of agency record as supplemented by evidence presented to court. 2. Disputed issues of agency procedure, interpretations of law, and determinations of fact or policy treated separately. 3. Court determines adequacy of factual basis to support rule and reasoning. 4. Court to consider comments on and alternatives to rule offered by interested parties. 5. Rule invalid if arbitrary and capricious or if material error in agency procedure occurred or prescribed procedure not followed. 6. When agency authority to promulgate rule comparable to federal program or standard, court to conduct de novo review to determine whether agency decision 	<p>No change to current law; provisions of bills deleted.</p>

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		supported by substantial evidence. 7. When agency may promulgate rule exceeding federal program or standard based on need, court to determine if agency findings supported by substantial evidence.	
Conduct of Contested Case Proceedings	<p>Class 1 proceedings include rate making, certificate of convenience and necessity, tax assessments, and licensure. Class 2 proceedings determine imposition of sanctions. Class 3 proceedings are all other proceedings. In a Class 1 or 3 proceeding, agency rule may permit receipt of evidence, but in every case receipt of evidence must be permitted with respect to witness who cannot attend for statutory reasons including travel, health, or legislative business.</p> <p>In certain proceedings, hearing examiner may issue proposed decision.</p> <p>If petitioner for judicial review is a nonresident, review to take place in Dane County circuit court.</p>	<p>The bills add the following to current law:</p> <ol style="list-style-type: none"> 1. Hearing examiners must be randomly assigned. 2. Notice of hearing to include name and title of person conducting hearing. 3. Hearing requester may file one written request for substitution of hearing examiner. 4. Evidence from person unable to attend may not be received in Class 1 or 3 proceedings. 5. Hearing examiner may not decide constitutional issues. 6. Hearing examiner may not issue proposed decision. 7. Hearing examiner may find that claim or defense is frivolous and award successful party costs and reasonable attorney fees. 8. If petitioner for judicial review a nonresident, judicial review conducted in county where property affected is located or, if no property affected, in county where dispute arose. 	<p>The substitute amendment adds the following to current law:</p> <ol style="list-style-type: none"> 1. Same as bills. 2. Same as bills, if hearing for DNR or DOT. 3. Provision of bills deleted. 4. Provision of bills deleted. 5. Provision of bills deleted. 6. Provision of bills deleted. 7. Same as bills, but only for costs and fees directly attributable to frivolous activity. 8. Same as bills.

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		9. If decision of hearing examiner inconsistent with agency position, reviewing court to give no deference to examiner's decision.	9. Provision of bills deleted.

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AIR POLLUTION			
Background and Terminology	<p>The federal CAA establishes the framework for Wisconsin's air pollution control program and prescribes minimum requirements for many of the program's elements.</p> <p>The CAA directs the U.S. EPA to establish allowable amounts in the air of significant air pollutants that endanger public health or welfare. These amounts are specified as NAAQS.</p> <p>Once the EPA establishes a NAAQS, it must designate which parts of the country attain the standard, do not attain the standard, or cannot be classified. The CAA includes in the designation process the requirement that each governor submit his or her recommendations on the designations to the EPA. Under the CAA, a "nonattainment area" is an area that does not meet, or that contributes to ambient air quality in a nearby area that does not meet, a NAAQS for a particular pollutant.</p> <p>The CAA directs each state to develop a plan which provides for the implementation, maintenance, and enforcement of each NAAQS. This plan is the SIP.</p> <p>The CAA specifies the required elements in a SIP, including a permit program to construct and operate large stationary sources of air pollutants. A SIP must also contain the allowable increase over a baseline amount in an attainment area, or "increment," of specified pollutants subject to a NAAQS. The CAA also establishes a number of national</p>		

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	regulatory programs, including emission standards for certain hazardous air contaminants and performance standards for designated categories of air pollution sources.		
Air Quality Standards <ul style="list-style-type: none"> • <i>Changes in federal standards</i> 	<p>Directs DNR, if EPA relaxes a federal standard or increment, to alter the corresponding state standard or increment unless DNR finds that the relaxed standard or increment would not provide adequate protection for public health and welfare.</p> <p>No provision.</p>	<p>Directs DNR, if EPA modifies a federal standard or increment, to alter the corresponding state standard or increment accordingly.</p> <p>No provision.</p>	<p>Directs DNR, if EPA modifies a federal standard or increment, to alter the corresponding state standard or increment unless DNR finds that the modified standard or increment would not provide adequate protection for public health and welfare.</p> <p>Establishes that DNR must support the above finding with written documentation that includes all of the following:</p> <ol style="list-style-type: none"> 1. A public health risk assessment that characterizes the types of stationary sources in Wisconsin known to emit the contaminant and the population groups potentially at risk from the emissions. 2. An analysis showing that members of population groups are subjected to levels of the contaminant above recognized environmental health standards or will be subjected to those levels if DNR fails to promulgate the proposed standard. 3. An evaluation of options for managing the risks caused by the contaminant considering risks, costs, economic impacts, feasibility, energy, safety, and other relevant factors, and a finding that the proposed standard reduces risk in the most cost-effective manner practicable.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> <i>No federal standard</i> 	<p>Authorizes DNR, if EPA has not promulgated a NAAQS for an air contaminant, to promulgate a state standard for the air contaminant if DNR finds that the standard is needed to provide adequate protection for public health or welfare. (Currently, DNR has promulgated one such standard for total suspended particulates.)</p>	<p>Repeals this authority.</p>	<p>4. A comparison of regulatory programs reasonably expected to meet the proposed ambient air standard with ambient air quality regulatory programs in IL, IN, MI, MN, and OH.</p> <p>Establishes that DNR must support the finding in current law with the written documentation required by the bill (same documentation as above for not conforming a state standard to a modified federal standard).</p>
<p>Nonattainment Areas</p> <ul style="list-style-type: none"> <i>Designations</i> 	<p>Directs DNR to promulgate by rule procedures and criteria to identify a nonattainment area and to reclassify a nonattainment area as an attainment area. Current law also defines “nonattainment area” to be an area identified by the DNR where the concentration in the atmosphere of an air contaminant exceeds an ambient air quality standard.</p> <p>Directs DNR to issue documents, using designated process, that lists specific nonattainment areas based upon these procedures and criteria. Specifies that these documents are not rules.</p>	<p>Same as current law, plus prohibits DNR from identifying a county as part of a nonattainment area if the concentration of an air contaminant in the atmosphere does not exceed an ambient air quality standard, unless DNR is required under the CAA to identify the county as part of a nonattainment area.</p> <p>No provision.</p>	<p>Same as current law, plus prohibits DNR, after the provision’s effective date, from identifying a county as part of a nonattainment area under the CAA if the concentration of an air contaminant in the atmosphere in that county does not exceed an ambient air quality standard, unless under the CAA the county is required to be designated as part of a nonattainment area.</p> <p>Expands the documents required under current law that list specific nonattainment areas to include areas recommended to be designated nonattainment under the CAA.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> <i>Committee review</i> 	No provision.	Directs DNR, before DNR issues a document listing a nonattainment area under state law and at least 90 days before the governor submits a recommendation on a nonattainment designation to EPA under the CAA, to submit a report to JCRAR that describes the nonattainment area and provides supporting documentation.	Directs DNR, before DNR issues a document listing a nonattainment area under state law and at least 60 days before the governor submits a recommendation on a nonattainment designation to EPA under the CAA, to submit the report to environment committees in the Legislature (not JCRAR). Directs DNR to submit a notice of availability of the report to the Revisor of Statutes for publication in the Administrative Register.
	No provision.	Creates a 30-day passive review procedure of the report by JCRAR. Prohibits DNR from issuing the document or the governor from submitting his or her recommendation until JCRAR agrees that DNR has adequately addressed any issue raised by JCRAR during the review.	Requires the DNR Secretary to respond to comments on the report from the chairperson of a standing committee receiving the report in the specified process.
<ul style="list-style-type: none"> <i>Total suspended particulates</i> 	No provision.	Prohibits DNR from identifying a nonattainment area for particulate matter measured as total suspended particulates.	No provision.
	No provision.	Directs DNR to redesignate as an attainment area any area identified as a nonattainment area based on the concentration of total suspended particulates.	No provision.

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<p>State Implementation Plans</p> <ul style="list-style-type: none"> • <i>Content</i> 	<p>Directs DNR to prepare, develop, revise, and implement one or more comprehensive plans for the prevention, abatement, and control of air pollution in Wisconsin.</p> <p>Establishes that rules or control strategies submitted to EPA under the CAA for control of atmospheric ozone must conform with the CAA, unless the governor determines that measures beyond those required by the CAA meet specified conditions.</p>	<p>Same as current law, plus establishes that DNR may only include in a SIP submitted to EPA rules or requirements that are necessary to obtain approval of the plan by EPA.</p> <p>Repeals the authority for the governor to add measures to a SIP.</p>	<p>Same as current law, plus establishes that DNR may not submit to EPA a control measure or strategy as part of a SIP unless DNR has promulgated the control measure or strategy as a rule.</p> <p>No provision.</p>
<ul style="list-style-type: none"> • <i>Committee review</i> 	<p>No provision.</p> <p>No provision.</p>	<p>Directs DNR, at least 90 days before submitting a SIP to EPA, to submit a report to JCRAR that describes the plan and contains the supporting documentation that DNR intends to submit with the plan.</p> <p>Creates a 30-day passive review procedure of the report by JCRAR. Prohibits DNR from submitting the plan until JCRAR agrees that DNR has adequately addressed any issue raised by JCRAR during the review.</p>	<p>Directs DNR, at least 60 days before submitting a SIP to EPA that does not relate to an individual source, to submit a report to the environment committees in the Legislature that describes the plan and contains the supporting documentation that DNR intends to submit with the plan. Directs DNR to submit a notice of availability of the report to the Revisor of Statutes for publication in the Administrative Register.</p> <p>Requires the DNR Secretary to respond to comments on the report from the chairperson of a standing committee receiving the report in the specified process.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> <i>Report</i> 	No provision.	<p>Directs DNR to submit a report to JCRAR within six months after the bill's effective date that:</p> <ol style="list-style-type: none"> Describes all of Wisconsin's existing and pending SIPs under the CAA, including analysis of any rules or requirements in the plans that may not have been necessary to obtain EPA approval but are federally enforceable as a result of being in the plans. Recommends revisions of the plans to remove rules and other requirements that may not have been necessary to obtain EPA approval. 	Directs DNR to submit this report with the same contents as required under the bills to the environment committees in the Legislature within 12 months after the bill's effective date.
<p>Emission Standards</p> <ul style="list-style-type: none"> <i>Conformance with federal standards</i> <i>Written documentation for regulating hazardous air contaminants</i> 	<p>Directs DNR, when EPA promulgates a new source performance standard or a hazardous air contaminant standard, to promulgate a similar emission standard.</p> <p>Establishes that DNR's standard may not, in general, be more restrictive in terms of emission limitations than the federal standard.</p> <p>Authorizes DNR to adopt a standard for a hazardous air contaminant where the EPA has not adopted a standard, if DNR finds that the standard is needed to provide adequate protection for public health and welfare.</p>	<p>Changes DNR's duty, when EPA adopts one of these standards, to promulgate a rule that incorporates the emission standard and related administrative requirements.</p> <p>Establishes that DNR's standard may not be more restrictive in terms of emission limitations or otherwise more burdensome to persons operating sources affected by the standard.</p> <p>Establishes that DNR must support the finding required in current law with written documentation that includes all of the following:</p>	<p>Directs DNR, in establishing a similar emission standard under current law, to include administrative requirements consistent with federal administrative requirements.</p> <p>No provision.</p> <p>Establishes that in rules submitted to the Legislative Council Rules Clearinghouse after the bill's effective date, DNR must support the finding required in current law with written documentation that includes all of the following:</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> • <i>Relaxed federal hazardous air contaminant standard</i> 	<p>Directs DNR, when EPA relaxes a hazardous air contaminant standard, to alter the corresponding state standard, unless DNR finds the relaxed standard would not adequately protect public health and welfare.</p>	<ol style="list-style-type: none"> 1. A public health risk assessment that identifies known stationary sources of the contaminant in Wisconsin and individuals potentially at risk from the emissions. 2. An analysis showing that identified individuals are subjected to inhalation levels of the contaminant above recognized environmental health standards. 3. An evaluation of options for managing the risk caused by the contaminant considering risk, cost, economic impacts, feasibility, energy, safety, and other relevant factors, and a finding that a chosen compliance alternative reduces risks in the most cost-effective manner practicable. <p>Modifies the finding provision in this duty to require that the finding must be supported with the written documentation on hazardous air contaminants required by the bill (described above).</p>	<ol style="list-style-type: none"> 1. A public health risk assessment that characterizes the types of stationary sources of the contaminant in Wisconsin and population groups potentially at risk from the emissions. 2. An analysis showing that members of population groups are subjected to levels of the contaminant above recognized environmental health standards or will be subjected to those levels if DNR fails to promulgate the proposed standard. 3. Same as bills. 4. A comparison of the requirements related to emission standards for hazardous air contaminants in Wisconsin to hazardous air contaminant regulatory programs in IL, IN, MI, MN, and OH. <p>Same as bills, documentation as modified by the substitute amendment, described above, except applies only to rules submitted to the Legislative Council Rules Clearinghouse after the bill's effective date.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> <i>Exemption from state hazardous air contaminant standards</i> <i>Mercury standards</i> 	<p>No provision.</p> <p>Directs DNR to adopt minimum standards for mercury compound and metallic mercury emissions into the air.</p>	<p>Creates an exemption from a state hazardous air contaminant standard for a contaminant emitted by a unit, operation, or activity that is regulated under an emission standard promulgated under the CAA, including a hazardous air containment regulated under the CAA by virtue of regulation of:</p> <ol style="list-style-type: none"> Another substance as a surrogate for the contaminant. A species or category of hazardous air contaminants that includes the contaminant. <p>Modifies this duty to require these standards to be consistent with the requirements that DNR finds that the hazardous air contaminant standard is needed to provide adequate protection for public health or welfare and that this finding be supported with the written documentation required by the bill (described above).</p>	<p>Same as bills, except that the exemption only applies if the regulation of the unit, operation, or activity is under an emission standard promulgated under s. 112 of the CAA (a national hazardous air pollutant emission standard).</p> <p>Same as bills, except documentation as modified by the substitute amendment, described above, except applies only to rules submitted to the Legislative Council Rules Clearinghouse after the bill's effective date.</p>
<p>Air Permits—General Framework</p> <ul style="list-style-type: none"> <i>Exemptions and Waivers</i> 	<p>Authorizes DNR to exempt, by rule, types of stationary sources from a permit requirement if the potential emissions from the source do not present a significant hazard to public health, safety, or welfare or to the environment.</p>	<p>Changes DNR's authority to a duty to exempt, by rule, minor sources from construction and operation permits if the emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment, unless the exemption conflicts with the CAA.</p>	<p>Maintains DNR's authority to exempt sources in current law and adds provision in the bills on DNR's duty to exempt minor sources.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> • <i>Registration permits</i> 	No provision.	Requires DNR to grant a waiver from obtaining a construction permit prior to construction upon a showing by the owner or operator that obtaining the permit would cause undue hardship, unless the waiver conflicts with the CAA.	Requires DNR to promulgate rules under which a person is allowed to commence construction prior to issuance of a construction permit upon a showing by the person that commencing construction, prior to permit issuance is necessary to avoid undue hardship, unless the waiver conflicts with the CAA. Authorizes DNR to allow construction on a case-by-case basis or on bases specified in a rule.
	No provision.	Exempts from construction and operation permits any source that is an “agricultural facility,” a “livestock operation,” or an “agricultural practice,” unless a permit is required by the CAA.	No provision.
	No provision.	Exempts from construction permits a source that is a component of a process, equipment, or activity that is otherwise covered by a preexisting operation permit or included in a completed application for an operation permit, unless a construction permit is required under the CAA.	No provision.
	No provision.	Directs DNR to establish registration permits for stationary sources with low actual emissions, including a simplified application process, in lieu of current construction and operation permits, unless a construction permit is required under the CAA.	Directs DNR to establish registration permits authorizing construction or operation or both of stationary sources with low actual or potential emissions, including a simplified application process, that do not conflict with the CAA. Authorizes DNR to exempt by rule persons qualifying for a registration permit from a construction permit.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> • <i>General permits</i> 	<p>Authorizes DNR to specify by rule types of stationary sources that may obtain a general construction or operation permit.</p> <p>No provision.</p>	<p>Repeals current law and directs DNR to establish a process for issuing general permits for similar stationary sources, including criteria for identifying categories of sources that may receive these permits and general requirements applicable to these sources.</p> <p>Establishes that a person eligible to receive a general permit is not required to obtain the permit prior to construction, unless a construction permit is required under the CAA.</p>	<p>Similar to bills (substantively, has same effect).</p> <p>No provision.</p>
<ul style="list-style-type: none"> • <i>Modifications and new source review</i> 	<p>Defines “modification” of a stationary source for purposes of air pollution control and directs DNR to modify this definition by rule, consistent with the CAA, based on source categories, air contaminants, and amounts of or changes in emissions. (DNR’s rules establish changes at a source that are not a “modification,” such as certain changes in fuels or raw materials, and thus do not require a permit to institute.)</p>	<p>Repeals DNR’s duty to modify the definition of “modification” and:</p> <ol style="list-style-type: none"> 1. Directs DNR to incorporate EPA’s recent regulations governing review of modifications of major sources (i.e., new source review regulations) into state rules. 2. Prohibits DNR from including in the rules any requirements that are inconsistent with or more stringent than EPA’s regulations. 3. Directs DNR, to the extent possible, to incorporate similar changes for minor sources if the changes reduce administrative requirements for these sources. 	<p>No provision.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> • <i>Permit applicability</i> 	No provision.	Establishes a process for a person to petition DNR to determine that a type of stationary source is eligible for a registration permit, general permit, or exemption and the process for DNR to respond to the petition, including deadlines for acting.	Same as bills.
<ul style="list-style-type: none"> • <i>Conflicts with Clean Air Act</i> 	No provision.	Establish that DNR may not promulgate a rule or take any other action under the air pollution control permit section [s. 285.60] that conflicts with the CAA.	Same as bills.
<p>Construction and Operation Permit Application and Review</p> <ul style="list-style-type: none"> • <i>Review by certified contractors</i> 	No provision.	Authorizes a “certified contractor,” in addition to DNR, to review, determine completeness, and issue a preliminary determination on a construction or operation permit application.	No provision.
	No provision.	Directs DOA to set standards for, and certify, these contractors and provide to DNR and the public a current directory of certified contractors.	No provision.
	No provision.	Limits modifications DNR can make to a contractor’s preliminary permit determination based on specified factors.	No provision.
	No provision.	Directs DNR to specify lower construction permit review fees for persons who submit applications to certified contractors rather than to DNR.	No provision.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> <i>Additional information and application completeness determination</i> 	<p>Authorizes DNR to request information on an application within 20 days after receiving it; does not limit subsequent requests.</p> <p>No provision.</p>	<p>Modifies current law to require DNR or a certified contractor to request the information in a written notice.</p> <p>Establishes, in general, that a permit application is considered complete when the applicant provides the information specified in the written notice from DNR or a certified contractor and that this provision does not prevent DNR from requesting additional information after the time limit in the preceding item.</p>	<p>Authorizes DNR to request in a written notice information on an application within 20 days after receiving it, excluding state legal holidays. If DNR requests information in that period, directs DNR to notify the applicant, within 15 days after receiving the response, within 15 days after receiving the response, whether the response satisfies DNR's request.</p> <p>Establishes that the application is considered complete:</p> <ol style="list-style-type: none"> If DNR does not request information within the 20-day period after receipt of the application, 20 days after receipt of the application. If DNR requests information within the 20-day period and does not indicate within 15 days after receiving this information that it is deficient, 15 days after receipt of the requested information. If DNR requests information during the 20-day period and indicates within 15 days of receiving this information that it is deficient, when DNR notifies the applicant that the additional information provided by the applicant satisfies DNR's request. <p>Specifies that the above items on completeness do not prevent DNR from requesting additional information after the specified time limits.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> • <i>Construction permit review process</i> 	<p>Specifies the process for DNR to act on a complete construction permit application, including:</p> <ol style="list-style-type: none"> 1. Prepare analysis and preliminary determination of approvability within the following periods after completeness: <ol style="list-style-type: none"> a. 120 days--major source. b. 30 days--minor source. 2. Distribute, publicize, and publish newspaper notice of the analysis and preliminary determination and opportunity for public comment and hearing. 3. Receive public comments and requests for a hearing within 30 days after the newspaper notice. 4. Hold a hearing (cannot be a contested case) within 60 days of the hearing request deadline. 5. Act on the application within 60 days after the close of the public comment period or hearing, whichever is later, unless consideration of environmental impacts requires longer (up to one year for a major source in an attainment area). 	<p>Makes the following changes to the current process:</p> <ol style="list-style-type: none"> 1. Modifies periods to: <ol style="list-style-type: none"> a. 60 days--major source. b. 15 days--minor source. 2. Require newspaper notice 10 days after preparing analysis and preliminary determination. 3. Same as current law. 4. Hold the hearing within 30 days after the hearing request deadline. 5. Act on the application within 60 days after the newspaper notice, with exceptions in current law for consideration of environmental impacts. 	<p>Makes the following changes to the current process:</p> <ol style="list-style-type: none"> 1. Modifies periods to: <ol style="list-style-type: none"> a. 90 days--major source. b. 30 days--minor source (no change in current law). 2. Same as current law. 3. Same as current law. 4. Same as current law. 5. Same as current law.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> • <i>Operation permit review process</i> 	<p>Specifies the process for DNR to act on a complete operation permit application, including:</p> <ol style="list-style-type: none"> 1. Prepare analysis and preliminary determination of approvability and notice of these. 2. Distribute, publicize, and publish newspaper notice of the analysis and preliminary determination and opportunity for public comment and hearing. 3. Receive public comments and requests for a hearing within 30 days after the newspaper notice. 4. Hold a hearing (cannot be a contested case) within 60 days of the hearing request deadline. 5. Prepare proposed operation permit or deny permit. 6. If required by CAA, notify EPA. If EPA objects to a proposed permit, DNR may not issue the permit unless DNR revises the permit “to satisfy the objection.” 	<p>Makes the following changes to the current process:</p> <ol style="list-style-type: none"> 1. Prepare analysis and preliminary determination of approvability and public notice within the following periods after completeness: <ol style="list-style-type: none"> a. 60 days--major source. b. 15 days--minor source. 2. Require newspaper notice 10 days after preparing public notice. 3. Same as current law. 4. Same as current law. 5. Same as current law. 6. Change this provision to direct DNR to not issue the permit unless DNR revises the permit “as necessary to satisfy the objection.” 	<p>Makes the following changes to the current process:</p> <ol style="list-style-type: none"> 1. Same as current law. 2. Same as current law. 3. Same as current law. 4. Same as current law. 5. Same as current law. 6. Same as bills.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
	<p>7. Approve or deny operation permit within specified period for an existing source and within 180 days for a new or modified source after the applicant submits equipment test results and emission monitoring required under the construction permit.</p>	<p>7. Change the period for acting on a permit for a new or modified source to be 30 days after the applicant submits required equipment test results and emissions monitoring.</p>	<p>7. Change the period for acting on a permit for a new or modified source to be the later of 180 days after: (a) permit completeness determination; or (b) the applicant submits required equipment test results and emissions monitoring.</p>
<ul style="list-style-type: none"> • <i>Deadline extensions</i> 	<p>No provision.</p>	<p>Authorizes DNR to extend any time limit in the construction or operation permit review process applicable to DNR or a certified contractor at the request of the permit applicant.</p>	<p>Same as bills, without reference to certified contractors; plus prohibits DNR from requiring an applicant to agree to an extension as a condition of approving a permit.</p>
<ul style="list-style-type: none"> • <i>Failure to act on a permit</i> 	<p>Specifies that, if DNR fails to act on a complete operation permit within the specified period, the failure is a final decision subject to judicial review under ch. 227 to require DNR to act without additional delay.</p>	<p>Same as current law, plus directs DNR, if it fails to act on a construction or operation permit application within the specified period, to report quarterly to JCRAR reasons for the delay, including DNR staff reviewing the application, and recommendations for avoiding similar delays, and to post notice of the reports on its Internet site.</p>	<p>Same as current law, plus directs DNR, if it fails to act on a construction or operation permit application within the specified period, to report semiannually to the environment committees in the Legislature reasons for the delay and recommendations for avoiding similar delays and to post notice of the reports on its Internet site.</p>
	<p>Directs DNR in the “permit guarantee program” to specify by rule time limits for acting on specified environmental licenses and approvals, including air permits, and to refund application fees if DNR does not act on a license or approval within the time limit.</p>	<p>No provision.</p>	<p>Removes the reference to air permits in the permit guarantee program and establishes in air pollution law that DNR must refund the fee paid for a construction permit application if DNR fails to act on the application within the time limit specified in current law after the public comment period or public hearing.</p>
<ul style="list-style-type: none"> • <i>Hearing requestor</i> 	<p>Specifies that a person, any affected state, or EPA may request a hearing on a permit application.</p>	<p>Limits the “person” who can request this hearing to “a person who may be directly aggrieved by the issuance of the permit.”</p>	<p>Limits the “person” who can request this hearing to “a person who may be affected by the issuance of the permit.”</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> • <i>Report on application requirements</i> 	No provision.	No provision.	<p>Directs DNR to submit a report to the environment committees in the Legislature within 12 months after the bill's effective date that identifies information that DNR will require in air pollution control permit applications, and related proposed rule revisions, to:</p> <ol style="list-style-type: none"> 1. Reduce overall permitting costs and approval times; and 2. Minimize inconsistencies in application requirements within Wisconsin and those imposed by other states and EPA.
<p>Construction and Operation Permit Approval Criteria— New or Modified Major Source in Federal Nonattainment Area</p>	Specifies four additional conditions for DNR to approve one of these permits that relate to emission offsets, lowest achievable emission rate, compliance by applicant's other major sources, and analysis of alternatives.	Repeals the condition relating to analysis of alternatives.	No provision.
<p>Permit Conditions— Monitoring Requirements</p> <ul style="list-style-type: none"> • <i>Permit requirements</i> 	Authorizes DNR to prescribe emissions or ambient air monitoring requirements by rule or in a permit.	Same as current law, plus prohibits DNR from including a monitoring requirement in an operation permit if the applicant demonstrates that the cost of compliance would exceed the cost of compliance imposed on similar air contaminant sources by an adjacent state or if the monitoring is not needed to provide assurance of compliance, unless the monitoring is required under the CAA	<p>Same as current law, plus:</p> <ol style="list-style-type: none"> 1. Requires DNR to notify an applicant for an operation permit, before issuing the permit with an emissions monitoring requirement, of the proposed requirement and to give the applicant the opportunity to demonstrate to the administrator of DNR's Air and Waste Division that the requirement is unreasonable considering, among other factors, monitoring requirements imposed on similar sources.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none"> • <i>Report</i> 	No provision.	No provision.	<p>2. Establishes that DNR may not impose the monitoring requirement if the administrator, or on review, the DNR Secretary, determines the requirement is unreasonable.</p> <p>Directs DNR to submit a report to the environment committees in the Legislature within 12 months after the bill's effective date that identifies best practices for emissions monitoring to minimize inconsistencies in monitoring requirements within Wisconsin and with those imposed by other states and EPA.</p>
<p>Permit Duration and Renewal</p> <ul style="list-style-type: none"> • <i>General permit terms</i> 	No provision.	<p>Prohibits DNR from specifying an expiration date of a general permit except DNR may specify a term:</p> <ol style="list-style-type: none"> 1. At the request of the owner or operator. 2. Of five years or longer if expiring coverage would significantly improve the likelihood of continuing compliance with applicable requirements compared to coverage that does not expire. 3. Of five years or less if required by the CAA. 	Same as bills.
<ul style="list-style-type: none"> • <i>Operation permit renewal deadline</i> 	Specifies that an operation permit holder must apply for a permit renewal at least 12 months before the permit expires.	Reduces this period to at least six months.	Same as bills.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<ul style="list-style-type: none">• <i>Operation permit holder continued operation</i>	No provision.	Establishes that an operation permit holder, who submits a permit renewal application before the permit expires, may continue to operate the source and may not be prosecuted for lack of an operation permit until the DNR acts on the renewal application (unless contravened by the CAA).	Same as bills.
Hearing on Permit Determination	Specifies that a permit issued by DNR shall become effective unless the permit holder or applicant seeks a hearing on the permit in the prescribed manner and period.	Establishes that, if a permit holder or applicant seeks a hearing challenging part of a permit or a permit condition or requirement, the remainder of the permit shall become effective and the permit holder or applicant may begin the activity for which the permit was issued.	Same as the bills, except that an emission limit in the permit becomes effective despite the challenge, unless the permit holder or applicant challenging the limit obtains a stay of the limit.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
DWD APPRENTICESHIP PROGRAM			
	Authorizes DWD to determine reasonable classifications, promulgate rules, issue special and general orders, conduct hearings, make findings, and issue orders necessary to oversee the state's apprenticeship program.	Prohibits DWD from establishing the ratio of apprentices to journeymen that an employer may have at a job site.	Not included in proposed Substitute Amendment LRBs0288/1.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
FINANCIAL INSTITUTIONS			
	<p>1. Requires approval of the Division of Banking in the Department of Financial Institutions in order for a company to merge or consolidate with an in-state bank holding company.</p> <p>2. Requires that in-state bank or all of the in-state bank subsidiaries of in-state bank holding company have been in existence for five years in order for an out-of-state bank holding company to acquire the in-state bank or in-state bank holding company.</p> <p>3. Allows the enforcement of a contract in the absence of a written document under the doctrine of promissory estoppel, which requires that a) a person make a promise that he or she should reasonably expect to induce action or forbearance on the part of the recipient, b) the recipient of the promise reasonably relies on such promise, and c) that injustice can be avoided only by enforcement of the promise.</p>	<p>1. Requires approval of the Division of Banking in the Department of Financial Institutions in order for a company to merge or consolidate with an in-state bank holding company or an in-state bank.</p> <p>2. Requires that in-state bank or all of the in-state bank subsidiaries of an in-state bank holding company have been in existence for five years in order for an out-of-state bank holding company or an out-of-state bank to acquire the in-state bank or in-state bank holding company.</p> <p>3. Prohibits the use of promissory estoppel to enforce a promise by financial institution to lend money, extend credit, modify a loan, or make other financial accommodation. Prohibits a person from bringing a lawsuit against a financial institution based on a promise to lend money, extend credit, modify a loan, or make other financial accommodation unless the promise is in writing, signed by the financial institution, setting forth the relevant terms and conditions. Both of these prohibitions do not apply to transactions subject to the Wisconsin Consumer Act.</p>	<p>Not included in proposed Substitute Amendment LRBs0288/1.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
MEDICAL EXAMINING BOARD AND PODIATRISTS AFFILIATED CREDENTIALING BOARD			
	Medical Examining Board and Podiatrists Affiliated Credentialing Board must render a decision after hearing on alleged unprofessional conduct or negligence in treatment 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.	Medical Examining Board and Podiatrists Affiliated Credentialing Board must render a decision after hearing on alleged unprofessional conduct or negligence in treatment within 90 days after the date on which the hearing is held. Provision for proceeding under s. 227.46 (2) is deleted, to reflect the repeal of this subsection by the bill.	Not included in proposed Substitute Amendment LRBs0288/1.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
MUNICIPAL AND COUNTY FEES			
	Unless fee amount established by statute, case law requires county and municipal fees bear reasonable relation to costs incurred by county or municipality in exercising governmental function to which fee relates.	<ol style="list-style-type: none">1. Requires, by statute, any fee imposed by county or municipality bear reasonable relationship to service for which fee imposed.2. For new fees and increases in existing fees, requires counties and municipalities to issue written findings demonstrating fee bears reasonable relationship to service for which fee imposed.	Not included in proposed Substitute Amendment LRBs0288/1.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
NAVIGABLE WATERS			
Navigable Waters Regulation Generally	Imposes general and specific regulatory requirements by statute, assigns to DNR the responsibility for administering the regulatory program for navigable waters, authorizes DNR to promulgate administrative rules for interpreting and implementing the statutes, sets forth procedures for administrative review of DNR decisions, and imposes penalties for violation of the regulations.	Modifies the kinds of activities affecting navigable waters that require a permit from DNR, modifies the standards for issuing various permits, and modifies the administrative and judicial review process related to DNR permit decisions.	Same general regulatory approach as bills; differs in details.
Navigable Waters and Navigability	Applies the regulations in ch. 30, Stats., to navigable lakes and streams, and defines “navigable” both by statute and court cases.	Continues the applicability of ch. 30 to navigable waters, and does not change the definition of “navigable.”	Same as bills.
Statutory Division of Activities Subject to Regulation	Groups the activities that may affect navigable waters into a series of individual statutory sections, according to the type of activity (i.e., structures in the water, dredging).	Retains the current statutory section numbers and groups of activities.	Same as bills.
Requirement to Obtain a Permit	<ol style="list-style-type: none"> 1. Provides that all activities that affect navigable waters must have an individual permit, unless the activity is authorized under a general permit or unless there is an exemption from regulation. 2. Applies the current general permit statute to only a few types of activities and makes only a few types of activities exempt from the permit requirement. 	<ol style="list-style-type: none"> 1. Uses the same regulatory approach, requiring an individual permit unless the activity is subject to a general permit or is exempt from the permit requirement. 2. Substantially expands the use of general permits and the number of activities that are exempt from the requirement to have a permit, and shifts some of the activities that currently have a short form permit to the general permit category, and some to the exemption category. 	Same as bills.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
	3. Makes a limited number of activities subject to a “short form” permit which has simpler approval procedures.		
Structures and Deposits in Navigable Waters [s. 30.12, Stats.]	<p>1. Requires an individual permit for each structure or deposit unless a structure or deposit is authorized by a general permit or is exempt from the permit requirement.</p> <p>2. Allows DNR to issue a permit for a structure if the structure does not materially obstruct navigation, materially reduce the flood flow capacity of a stream, and is not detrimental to the public interest.</p> <p>3. Authorizes DNR to issue general permits for a limited number of activities listed in the statute.</p>	<p>1. Continues the use of individual permits, general permits, and exemptions from permits.</p> <p>2. Retains the standards for DNR to issue individual permits but requires DNR to issue a permit if the standards are met; also applies those standards to deposits in navigable waters.</p> <p>3. Creates an expanded list of activities that are subject to a general permit, and requires DNR to issue a statewide general permit for each of those activities.</p>	<p>1. Modifies the lists of activities that are subject to a general permit or exemption by changing the descriptions of some of the activities, adding additional activities, deleting activities, requiring several of the activities to comply with DNR rules and shifting several activities from the general permit to the exemption classification.</p> <p>2. Adds to the definition of “area of special natural resource interest” to include trout streams.</p> <p>3. Authorizes the DNR to require a person who proceeds with an activity under an exemption to apply for an individual permit or proceed under a general permit if the DNR investigates and determines that the exempt activity, at that site, requires restrictions to prevent significant adverse impacts to public rights and interests, environmental pollution, or material injury to riparian rights.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
	4. Exempts a limited number of structures from permit requirements	<p>4. Creates an expanded list of activities that are exempt from the requirement to obtain a permit.</p> <p>5. Applies the exemption from the permit requirement to the listed activities to the extent that those structures or deposits are not located in an area of special natural resource interest (state natural areas, outstanding or exceptional resource waters, or areas that possess significant scientific value, as identified by the DNR) and does not interfere with the rights of other riparian owners.</p>	4. Adds a procedure authorizing, but not requiring, a person to request the DNR to evaluate a proposed exempt activity, sets time limits for the DNR property inspection and decision, and precludes DNR from requiring an individual or general permit if DNR does not meet the time limits, unless required by a hearing examiner or court, and authorizes DNR rules regarding exempt activities, limited to installation practices to minimize environmental impacts, construction and design requirements, and location requirements.
Boathouses [s. 30.121, Stats.]	Prohibits construction or continued maintenance of boathouses beyond the ordinary high-water mark, with several exceptions.	Creates an exception from this prohibition for commercial boathouses, located in a blighted area on Lake Michigan or Superior harbors or tributaries.	Deletes a requirement in the bill that the commercial boathouse may not contain living quarters.
Bridges and Culverts [s. 30.123, Stats.]	1. Requires an individual permit for each bridge or culvert, except for those constructed by a municipality or the DOT.	1. Requires DNR to issue statewide general permits for construction of a bridge over navigable water that is less than 35 feet wide and construction of a culvert that is less than 60 inches inside diameter.	1. Adds exemptions from the permit requirement for certain replacement culverts and deletes one of the exemptions.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
	<p>2. Requires DNR to grant a permit if the bridge or culvert will not materially obstruct navigation, reduce the effective flood flow capacity of a stream, or be detrimental to the public interest.</p>	<p>2. Exempts from the permit requirement the construction of a culvert with an inside diameter of 48 inches or less that is part of a private road or a private driveway.</p> <p>3. Applies the same standards as current law to individual permits.</p>	<p>2. Makes various changes to the requirement for DNR to issue general permits, by adding, deleting, or modifying the requirements.</p> <p>3. Authorizes DNR to require a person who proceeds with an activity under two of the exemptions to apply for an individual permit or proceed under a general permit if the DNR investigates and determines that the exempt activity, at that site, requires restrictions to prevent significant adverse impacts to public rights and interests, environmental pollution, or material injury to riparian rights.</p> <p>4. Adds a procedure authorizing, but not requiring, a person to request the DNR to evaluate a proposed exempt activity, sets time limits for the DNR property inspection and decision, and precludes DNR from requiring an individual or general permit if DNR does not meet the time limits, unless required by a hearing examiner or court, and authorizes DNR rules regarding exempt activities, limited to installation practices to minimize environmental impacts, construction and design requirements, and location requirements.</p>
Diversion of Water From Lakes and Streams [s. 30.18, Stats.]	Requires a permit to divert water from a lake or stream, subject to statutory requirements and application procedures.	Does not make substantive changes to this statute.	Same as bills.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<p>Constructing, Dredging, or Enlarging Artificial Waterways, Connecting Those Waterways to Navigable Waters, and Grading Soil on Lake or Stream Banks [s. 30.19, Stats.]</p>	<p>1. Requires an individual permit for construction, dredging, or enlarging artificial waterways if the purpose is connection with a navigable lake or stream and the artificial waterway is located within 500 feet of the navigable lake or stream.</p> <p>2. Requires an individual permit to connect a natural or artificial water body with an existing navigable water body.</p> <p>3. Requires an individual permit to grade or remove soil on the bank of a navigable lake or stream if the affected shore area exceeds 10,000 square feet.</p> <p>4. Exempts from the permit requirement construction of public highways, agricultural uses of land, and maintenance of permitted artificial waterways.</p>	<p>1. Applies the same standards as current law to individual permits.</p> <p>2. Modifies the requirement of an individual permit to delete the requirement that the purpose must be for connection to navigable waterways, thus making the permit requirement applicable only where the artificial waterway is actually connected to navigable waters.</p> <p>3. Deletes the requirement of an individual permit to connect a natural water body with a navigable water body.</p> <p>4. Authorizes general permits for activities that would otherwise require an individual permit if those activities meet specific conditions, such as having a stormwater discharge permit or other similar permit from the DNR, undertaking such activity for enhancement of wildlife habitat or wetlands, affecting a body of water that is less than one acre in area or grading that exceeds 10,000 square feet and is not subject to the exemption.</p>	<p>1. Deletes the general permit for wildlife habitat or wetlands, and provides that all grading or topsoil removal greater than 10,000 square feet is subject to a general permit.</p> <p>2. Creates a definition of “bank” that applies to the requirement of a permit for grading or removing topsoil on the bank of a navigable lake or stream, commencing with a statutory definition, which will later be replaced by a rule definition promulgated by DNR based on detailed statutory directives.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
	<p>5. Requires DNR to issue a permit if the project will not injure public or riparian rights or cause environmental pollution.</p> <p>6. Authorizes DNR to issue a general permit for the construction, dredging, or enlargement of artificial waterways.</p> <p>7. Imposes permit conditions so that the artificial waterways are public waterways and authorizes any other conditions imposed by DNR to protect public and private rights.</p>	<p>5. Creates additional exemptions from the requirement to obtain a permit for the construction, dredging, or enlargement of artificial water bodies that meet specific conditions and grading or removing of top soil that exceeds 10,000 square feet if the grading is subject to other specified statutory requirements.</p>	
Changing Stream Courses [s. 30.195, Stats.]	<p>1. Requires an individual permit to change the course of or straighten a navigable stream.</p> <p>2. Requires DNR to issue a permit if the project meets statutory standards, including improvement of the economic or aesthetic value of the owner's land, no adverse effect on flood flow capacity of a stream, and no detriment to public rights or the rights of riparians.</p>	<p>1. Retains the current standards for issuance of an individual permit.</p> <p>2. Directs the DNR to issue a general permit for a change in the course of or straightening of a stream that involves less than 500 feet of stream length or that involves a stream with an average flow of less than two cubic feet per second.</p>	Deletes the directive to DNR to issue the two types of general permits.
Dredging [s. 30.20, Stats.]	<p>1. Requires a permit (for streams) or a contract (for lakes) to remove material from the bed of a lake or stream.</p>	<p>1. Changes the approval standard to require DNR to issue a permit if the permit is consistent with the public interest.</p>	<p>1. Limits the required general permit to maintenance of areas previously dredged.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
	<p>2. Authorizes issuance of a permit or contract if the DNR finds that the permit is consistent with the public interest in the affected water.</p> <p>3. Exempts from the permit requirement dredging of a farm drainage ditch that has no prior stream history, except that DNR may require a permit if the proposed removal may have a long-term adverse affect on cold water fishery resources or destroy fish spawning beds or nursery areas.</p>	<p>2. In addition to individual permits, directs DNR to issue statewide general permits for dredging to restore areas that were previously dredged, if the material to be removed is less than specified quantities.</p> <p>3. Adds to the current exemption from the permit requirement any maintenance dredging or dredging in an area not previously dredged that is less than specified quantities, if the removal of materials meets specific standards.</p>	<p>2. Modifies the descriptions of the activities that are eligible for an exemption from the permit requirement.</p> <p>3. Authorizes the DNR to require a person who proceeds with an activity under an exemption to apply for an individual permit or contract or proceed under a general permit if the DNR investigates and determines that the exempt activity, at that site, requires restrictions to prevent significant adverse impacts to public rights and interests, environmental pollution, or material injury to riparian rights.</p> <p>4. Adds a procedure authorizing, but not requiring, a person to request the DNR to evaluate a proposed exempt activity, sets time limits for the DNR property inspection and decision, and precludes DNR from requiring an individual or general permit if DNR does not meet the time limits, unless required by a hearing examiner or court, and authorizes DNR rules regarding exempt activities, limited to installation practices to minimize environmental impacts, construction and design requirements, and location requirements.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<p>General Permits [s. 30.206, Stats.]</p>	<ol style="list-style-type: none"> 1. Authorizes, but does not require, DNR to issue general permits by rule for a limited number of activities that affect navigable waters. 2. Requires DNR, before issuing a general permit, to determine that cumulative adverse environmental impacts will be insignificant and issuance of the general permit will not injure public rights or interests, cause environmental pollution, or result in material injury to the rights of any riparian owner. 3. Requires an applicant to notify DNR of the intent to undertake the activity, and requires a DNR determination that the activity is within the scope of the general permit. 	<ol style="list-style-type: none"> 1. Requires DNR to issue general permits, as noted above under the specific permit statutes, and gives DNR 18 months to issue the general permits. 2. Modifies the applicability of the standards, consistent with the change from a permissive to a mandatory general permit. The standards are the goal for DNR to achieve in imposing permit conditions. 3. Authorizes DNR to impose any of three specific permit conditions in a general permit, such as construction and design requirements, location requirements, and protections for areas of special natural resource interest. It is not certain whether the list of specific permit conditions in the bill is exclusive. 4. Substitutes a passive review by the DNR (the applicant may proceed if the DNR does not respond to the applicant's notice) in place of advance approval under current law and requires the applicant to submit to DNR a notice and photo of the completed project. 	<ol style="list-style-type: none"> 1. Provides explicitly that general permits must be issued as administrative rules. 2. Modifies the time limit for DNR to issue general permits for certain dredging and grading so that the rules must be submitted for Clearinghouse review in six months. 3. Same as bills. 4. Creates a process for the DNR to determine that a person who has applied for authorization to proceed under a general permit must apply for an individual permit, based on either a DNR determination that the activity is not authorized under a general permit or that DNR has determined, based on a site visit, that site-specific conditions require an individual permit in order to prevent significant adverse impacts to public rights and interest, environmental pollution, or material injury to riparian rights.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
		5. In each of the statutes requiring DNR to issue a general permit, authorizes DNR to issue a general permit for any other activity in or near navigable waters that is not subject to a mandatory general permit.	5. Same as bills.
Notice, Hearing, and Decision Provisions for Individual Permits	<p>1. Upon receiving a completed permit application, and prior to the DNR decision on whether to issue a permit, requires DNR either to schedule a public hearing or provide public notice that it will proceed to a decision without public hearing if no substantive written objection to issuance of the permit is received.</p> <p>2. Provides that a hearing is a contested case hearing conducted by the Division of Hearings and Appeals.</p> <p>3. Authorizes DNR to use the notice and hearing procedure even though not specifically required by statute if DNR determines that substantial interests of any party may be adversely affected by granting the permit.</p>	<p>1. Replaces all current notice, hearing, and decision provisions with a new procedure that commences with DNR notice to interested members of the public that a complete application for a permit has been received.</p> <p>2. Requires DNR to provide a 30-day period for public comment on the application and to consider all of the comments in making its final decision.</p> <p>3. Changes the type of public hearing from a contested case to a public informational hearing (to be conducted by DNR).</p> <p>4. Specifies in detail notice requirements applicable upon DNR receipt of a complete application, scheduling of public hearings, and administrative review.</p>	Same as bills.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
<p>Administrative Review of DNR Decisions on Individual Permits</p>	<p>Applies the current general statute for review of administrative agency decisions in a contested case hearing, which requires a person who requests administrative review to show that a substantial interest is injured by the DNR action and there is a dispute of material fact.</p>	<ol style="list-style-type: none"> 1. Creates a new administrative review procedure that allows the applicant for or holder of an individual permit, or five or more persons, to ask DNR for an administrative hearing regarding issuance, denial or modification of an individual permit, or terms or conditions of an individual permit. 2. Requires the administrative hearing to be held if the request for a hearing gives reasons why there are grounds for a hearing. 3. Specifies that the hearing is required to be conducted as a contested case by the Division of Hearings and Appeals. 	<ol style="list-style-type: none"> 1. Expands availability of the new administrative review procedure to any interested person. 2. Provides that a petitioner who is not the applicant for or holder of a permit must submit a petition that describes objections that are sufficiently detailed to allow DNR to determine whether proposed activity violates a statute, together with a commitment by the petitioner to appear at the administrative hearing in support of the objection. 3. Adds a provision that requires cessation of the activity or project pending the administrative hearing if the petition requests cessation and if cessation is necessary to prevent irreversible harm to the environment. 4. Requires DNR to deny the request for a hearing if the petitioner is not the applicant and the petition does not contain sufficient evidence to indicate that the statutes may be violated by the activity or project. 5. Adds a procedure for the hearing examiner to determine whether continued cessation of the project is necessary, and sets time limits for completion of the administrative hearing.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
Judicial Review of DNR Decisions on Individual Permits	Applies the current general statute on judicial review of final agency decisions.	<ol style="list-style-type: none"> 1. Authorizes judicial review of the DNR decision on an individual permit, by any person who demonstrates a substantial interest that is adversely affected, in lieu of administrative review as described above. 2. Allows an administrative review to be transferred to circuit court by the applicant, the holder of the permit, or the DNR. 3. Makes the venue where judicial review occurs the circuit court for the county in which the riparian property is located. 4. Specifies that the judicial review is a full review that includes examination of witnesses and taking evidence, rather than a review of the DNR administrative record. 	Deletes all special provisions regarding judicial review and substitutes the standard judicial review, available to any person whose substantial interest is affected by a DNR decision related to permits or conditions on permits, to obtain circuit court review of the decision of a hearing examiner.
Records of Exemptions and Permits	No provision.	No provision.	Requires DNR to keep records of those exempt activities of which the DNR is aware, exempt activities for which DNR requires an application for an individual or general permit, and activities authorized under a general permit for which DNR requires an individual permit, and specifies the detailed contents of the records.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
Inspections of Property	No provision.	No provision.	<ol style="list-style-type: none">1. Authorizes DNR to inspect real property to determine whether an exemption or general permit is appropriate, pursuant to a request by DNR for consent from the owner.2. If the owner refuses to grant consent or places unacceptable restrictions on the consent, places on hold the time limit for DNR to determine whether an activity is exempt until consent is granted.3. Allows DNR to require an individual permit if consent is not granted to inspect an activity under a general permit.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
NONMETALLIC MINING			
Financial Assurance for Reclamation	<p>Counties are required, and cities, villages, and towns are authorized to adopt ordinances regarding the reclamation of nonmetallic mines (generally, quarries). The ordinances must be in conformance with DNR rules and must include requirements for operators to provide assurance of financial ability to perform required reclamation.</p> <p>In addition, DNR may require financial assurance of ability to reclaim a nonmetallic mine site in issuing certain permits under ch. 30, Stats.</p>	<ol style="list-style-type: none"> 1. Requires that, in cases where both a county and municipality require financial assurance, the county credit the amount of financial assurance provided to the municipality against the amount that it requires. 2. Provides that, if the DNR requires financial assurance as a condition of certain ch. 30 permits, the financial assurance may be in any of the following forms: <ol style="list-style-type: none"> 1. A bond. 2. Cash. 3. A certificate of deposit. 4. An irrevocable letter of credit. 5. An escrow account. 6. A government security. 7. Any other demonstration of financial responsibility. <p>Requires that any interest earned by a financial assurance required by the DNR be paid to the operator of the project.</p>	<ol style="list-style-type: none"> 1. Not included in proposed Substitute Amendment LRBs0288/1. 2. Same as bills.
Treatment in Comprehensive Plans	<p>Sets standards for the contents of comprehensive plans adopted by local governments, including a plan element that addresses nonmetallic mineral resources. It also sets procedures for the development and adoption of comprehensive plans.</p> <p>Allows the owner of land that has a marketable nonmetallic mineral deposit to register the land with local zoning authorities, having the effect of limiting</p>	<p>Requires that a local government's procedures for the development and adoption of a comprehensive plan include procedures for distribution of information about proposals to change the allowable use or intensity of use of land to land owners and to persons with a leasehold interest allowing the extraction of nonmetallic mineral resources.</p> <p>Requires that the comprehensive plan element relating to nonmetallic mineral</p>	<p>Not included in proposed Substitute Amendment LRBs0288/1.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
	the authorities' ability to change the zoning of the land.	resources be consistent with the zoning limitations that apply to land with registered marketable nonmetallic mineral deposits.	

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
PATIENT HEALTH CARE RECORDS			
	<p>Requires release of patient health care records upon request without the informed consent of the subject of the records under specified exceptions to the general rule of confidentiality.</p>	<p>Allows release of patient health care records without the informed consent of the subject of the records under specified exceptions to the general rule of confidentiality.</p> <p>Creates a new exception that allows release of patient health care records for purposes of “health care operations,” as defined in federal regulations. (The federal definition includes quality improvement activities; provider and health plan review; underwriting; medical review, legal services, and auditing; business planning and development; and business management and general administrative activities.)</p>	<p>Not included in proposed Substitute Amendment LRBs0288/1.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
PUBLIC SERVICE COMMISSION			
Strategic Energy Assessment	Requires PSC to prepare a biennial strategic energy assessment to evaluate the adequacy and reliability of the state's current and future electrical supply. Among other things, the assessment must identify electric generation and transmission facilities that are expected to be built within the next three years.	Requires that the strategic energy assessment identify facilities expected to be built in the next seven years, instead of three years.	Not included in proposed Substitute Amendment LRBs0288/1.
Telecommunication Deregulation Approval Deadline	<ol style="list-style-type: none"> 1. Allows PSC, in response to petition from any interested person or upon own motion, to conduct proceeding to determine whether effective competition exists in a telecommunications service market such that less regulation would serve public interest. 2. Requires PSC, if proceeding results in determination justifying less regulation, to set regulation levels using specified criteria for telecom utilities serving that market. 3. Requires PSC to issue written findings of fact on specified factors considered in determinations relating to items 1. and 2., above, and provisions of law to be suspended. 4. Allows PSC, after proceedings described above, to suspend specified provisions of law and to later revoke such suspensions whenever necessary to protect public interest. 	Sets a deadline requiring PSC to complete proceedings described in items 1., 2., and 3. and, if appropriate, order suspension of specified provisions of law, no later than 120 days after the filing of petition or notice of own motion. If deadline not met, considers suspension of specified provisions of law in petition or motion to be granted without condition by PSC. Removes PSC authority to revoke such suspensions to protect public interest.	Not included in proposed Substitute Amendment LRBs0288/1.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
RECIPROCAL AGREEMENTS FOR REAL ESTATE LICENSES			
	<ol style="list-style-type: none">1. Authorizes the DRL to license persons to practice as real estate brokers or salespersons that meet statutory requirements.2. Contains no specific provision relating to reciprocity for licensees from other states or territories.	Allows DRL, after consulting with the Real Estate Board, to enter into reciprocal agreements with officials of other states or territories of the United States 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.	Not included in proposed Substitute Amendment LRBs0288/1.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
UTILITY PUBLIC BENEFITS			
Standards for Energy Conservation and Efficiency Programs	DOA contracts with nonprofit entities to administer public benefits programs, including energy conservation and efficiency programs. Administrators award grants to third parties to implement elements of these programs.	Directs PSC to promulgate rules for energy conservation and efficiency programs to: 1. Specify annual energy savings targets for program elements. 2. Require recipients of grants to demonstrate that the economic value of the benefits of the program elements equals cost. Authorizes PSC to use emergency rule-making procedures. Changes take effect on July 1, 2005.	Not included in proposed Substitute Amendment LRBs0288/1.
Utility Administration of Nonresidential Energy Conservation Programs	Gas and electric utilities are required to annually contribute revenues to the Utility Public Benefits Fund to partially fund public benefits programs, including energy conservation programs. A specified proportion must be used for R & D related to renewable energy and for environmental research.	Allows a utility to retain a portion of the required contribution to the Utility Public Benefits Fund to use for commercial, industrial, and agricultural energy conservation programs. The utility may not pay for administration, marketing, or service delivery from the amount retained. The utility must transfer to the fund the same specified proportion for renewables R & D and for environmental research. Utility's program must meet annual energy savings targets set by PSC rules. Utility must demonstrate that the economic value of program benefits equals program cost.	Not included in proposed Substitute Amendment LRBs0288/1.

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
FISCAL SUMMARY			
		<p>The bill makes no appropriations. However, provisions of the bill may affect revenues received by, or expenditures of, a number of state agencies.</p> <p>Costs are possible regarding requirements for creating or modifying administrative rules, developing economic impact analyses for certain rule proposals, and reviewing proposed rules or other administrative actions (by DOA, the governor, or legislative committees). Potential time delays or increased costs are also possible, at least in the short-term, relating to assignment or substitution of hearing examiners (if examiners with less experience in a subject area are assigned to hearings).</p> <p>DNR revenues and associated workload may be affected to the extent that current individual air construction and waterway permits would be replaced with exemptions or waivers, or by general or registration permits under the bill.</p> <p>Proponents of the bill argue that regulatory streamlining and reducing permit issuance times would make Wisconsin more competitive with other states and thereby increase the likelihood that businesses will locate or expand in Wisconsin. This may be particularly true of the types of construction or manufacturing processes most likely to be subject to the waterway and air emissions provisions addressed in the bill. They argue that slow or burdensome permit</p>	<p>The substitute amendment makes no appropriations. Similar to the bill, provisions of the substitute amendment may affect revenues received by, or expenditures of, a number of state agencies. Potential costs under the substitute amendment should be reduced from those under the original bill in the following areas: (a) economic impact analyses would generally be limited to administrative rules promulgated by five state agencies (DATCP, DOC, DNR, DOT, and DWD) and only for rules that would cost affected persons \$20 million or more during each of the first five years following the rule's implementation; and (b) gubernatorial review of certain rules would no longer be included. In addition, the number of DNR permits that would likely be subject to exemption or general permits would be more limited, moderating the potential revenue (and associated workload) impact on the agency.</p> <p>In addition, some legal concerns may be alleviated by limiting the types of air emission and waterway projects eligible for exemptions or general permits, adding specific public rights criteria to certain waterway permits and revising certain notice, hearing, and review requirements.</p>

	<i>Current Law</i>	<i>Senate Bill 313/Assembly Bill 655</i>	<i>Substitute Amendment</i>
		<p>procedures may be discouraging job growth in the state. Others argue that the bill could reduce environmental protections and thereby increase public health costs and harm the state's tourism industry. Opponents of the bill also argue that factors other than permit procedures affect business location and expansion decisions and that states with strong environmental policies also tend to perform well in economic measures. In addition, legal concerns have been raised by some relating to constitutional requirements under the state's public trust doctrine, concerns related to adequate notice, hearing and review requirements and, in certain circumstances, possible conflicts with federal law.</p>	