

1987 Assembly Bill 788

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1987 Wisconsin Act 374

AN ACT to repeal 30.04, 30.121 (1) (intro.), 30.125 (3), 30.126 (1) (intro.), 30.15 (2) and (4), 30.17, 30.18 (1) (intro.), 30.18 (10), 30.19 (6), 30.195 (5) and (6), 30.20 (3) (title), 30.20 (4), 30.24, 30.29 (1) (title) and 30.775; to renumber 30.01 (1), 30.126 (1) (a) and (b), 30.126 (1) (c), 30.18 (1) (a), 30.18 (1) (b), 30.18 (1) (c) and 30.18 (1) (d); to renumber and amend 30.121 (1) (a) and (b), 30.123, 30.125 (2), 30.13 (3), 30.19 (1) (d), 30.20 (3), 30.25 and 30.29 (1); to amend 30.01 (2), 30.01 (5), 30.01 (7), 30.01 (8), 30.03 (4), 30.11 (3), 30.11 (5) (a), 30.12 (2) and (3) (a) (intro.) and 2, 30.12 (3) (b), 30.12 (4) (a), 30.121 (3) and (3m) (intro.) and (c), 30.123 (title), 30.13 (title) and (1) (intro.) and (d), 30.13 (2), 30.14 (2), 30.15 (1) (intro.) and (3), 30.18 (3) (a) 1, 30.18 (3) (a) 2, 30.18 (4) (a), 30.18 (6) (d), 30.19 (1) (a), 30.19 (4) and (5), 30.195 (1), 30.195 (7), 30.196 (intro.), 30.20 (1) (a), 30.20 (2) (c), 30.28 (2) and (3), 30.50 (2), 30.772 (3) (e) and 144.855 (2) (b); to repeal and recreate 30.02, 30.03 (2), 30.18 (3) (a) 3, 30.18 (8) and 30.19 (3) (a); and to create 30.01 (1b), 30.01 (1g), 30.01 (4m), 30.01 (6b) and (6e), 30.07, 30.11 (6), 30.12 (3) (a) 5, 30.12 (3) (a) 6, 30.12 (3) (c), 30.123 (2) to (5), 30.125 (2) (b), 30.13 (1) (e) and (1m), 30.13 (6), 30.19 (1m) (d) and (e), 30.206, 30.25 (2), 30.292, 30.294 and 30.298 of the statutes, relating to regulation of navigable waters by the department of natural resources, granting rule-making authority and revising penalties.

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

SECTION 1. 30.01 (1) of the statutes is renumbered 30.01 (1j).

SECTION 2. 30.01 (1b) of the statutes is created to read:

30.01 (1b) "Boat shelter" means a structure in navigable waters designed and constructed for the purpose of providing cover for a berth place for watercraft, which may have a roof but may not have walls or sides. Such a structure may include a boat hoist.

SECTION 3. 30.01 (1g) of the statutes is created to read:

30.01 (1g) "Bridge" means a structure used to convey people, animals and vehicles over navigable waters and includes pipe arches and culverts.

SECTION 4. 30.01 (2) of the statutes is amended to read:

30.01 (2) "Governing body" means, ~~with reference to a town, the a town board, with reference to a village, the a village board of trustees, with reference to a city, the a city council, and with reference to a county, the or a county board.~~

SECTION 5. 30.01 (4m) of the statutes is created to read:

30.01 (4m) "Navigable waters" or "navigable waterway" means any body of water which is navigable under the laws of this state.

SECTION 6. 30.01 (5) of the statutes is amended to read:

30.01 (5) "Pier" means any structure extending ~~channelward~~ into navigable waters from the shore with water on both sides, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or

from watercraft. Such a structure may include a boat shelter which is removed seasonally.

SECTION 7. 30.01 (6b) and (6e) of the statutes are created to read:

30.01 (6b) "Substantive written objection" means a written statement giving specific reasons why a proposed project under ss. 30.02 to 30.38 may violate the statutory provisions applicable to the project and specifying that the person making the objection will appear and present information supporting the objection in a contested case hearing.

(6e) "Swimming raft" means a floating platform without railings, roof or walls that is adequately anchored to the bed of navigable waters and is designed for swimming, diving and related activities.

SECTION 8. 30.01 (7) of the statutes is amended to read:

30.01 (7) "Watercraft" means any ~~contrivance~~ device used or and designed for navigation on water.

SECTION 9. 30.01 (8) of the statutes is amended to read:

30.01 (8) "Wharf" means any structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft.

SECTION 10. 30.02 of the statutes is repealed and recreated to read:

30.02 General provision for notice and hearing. (1) In any proceeding under this chapter where public notice is required, the department shall follow the procedures in subs. (3) and (4).

(2) In any proceeding under this chapter where public notice is not required, the department shall fol-

low the procedures in subs. (3) and (4) if it determines that substantial interests of any party may be adversely affected by the proceeding.

(3) Upon receipt of a complete permit application, the department shall either schedule a hearing or provide notice stating that it will proceed on the application without a hearing if no substantive written objection to issuance of the permit is received within 30 days after publication of the notice. The notice shall be provided to the clerk of each municipality in which the project is located and to any other person required by law to receive notice. The department may provide notice to other persons as it deems appropriate. The department shall provide a copy of the notice to the applicant, who shall publish it as a class 1 notice under ch. 985 in a newspaper designated by the department that is likely to give notice in the area affected. The applicant shall file proof of publication with the department.

(4) (a) If a public hearing is ordered, the division of hearings and appeals shall mail a written notice at least 10 days before the hearing to each person given notice under sub. (3) and to any person who submitted a substantive written objection to issuance of the permit.

(b) The applicant shall publish a class 1 notice under ch. 985 of the hearing in a newspaper designated by the department that is likely to give notice in the area affected. The applicant shall file proof of publication under this paragraph with the hearing examiner at or prior to the hearing.

SECTION 11. 30.03 (2) of the statutes is repealed and recreated to read:

30.03 (2) The district attorney of the appropriate county or, at the request of the department, the attorney general shall institute proceedings to recover any forfeiture imposed or to abate any nuisance committed under this chapter or ch. 31.

SECTION 12. 30.03 (4) of the statutes is amended to read:

30.03 (4) (a) ~~Whenever there comes to the attention of~~ If the department learns of a possible violation of the statutes relating to navigable waters, or a possible infringement of the public rights ~~therein relating to navigable waters, and it appears to the department determines~~ that the public interest may not be adequately served by imposition of a penalty or forfeiture, the department may proceed as follows provided in this paragraph, either in lieu of or in addition to ~~such any other relief as may be provided by law. The department may, upon at least 10 days' notice, conduct order a hearing respecting such under ch. 227 concerning the possible violation or infringement, pursuant to ch. 227 and may request the hearing examiner to issue an order directing the responsible parties responsible therefor to perform or refrain from performing such acts as may be necessary in order to fully protect and effectuate the interests of the public in the navigable waters. If any person fails or neglects~~

to obey ~~such an order while the same is in effect~~, the department may request the attorney general to institute proceedings for the enforcement of the department's order ~~and it is the duty of the attorney general to conduct such proceedings~~ in the name of the state. ~~Such~~ The proceedings shall be brought in the manner and with the effect of proceedings under s. 111.07 (7).

(b) No penalty may be imposed for violation of ~~an a hearing examiner's order of the department~~ under this subsection, but violation of a judgment enforcing the order may be punished as in civil contempt of court proceedings.

SECTION 13. 30.04 of the statutes is repealed.

SECTION 14. 30.07 of the statutes is created to read:

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

(b) The department may specify a time limit of less than 3 years for a permit or contract issued under ss. 30.01 to 30.29. For good cause, the department may extend the time limit for a permit or contract issued under ss. 30.01 to 30.29 for no longer than 2 years if the grantee requests an extension prior to expiration of the initial time limit.

(2) For good cause, the department may modify or rescind any permit or contract issued under ss. 30.01 to 30.29 before its expiration.

SECTION 15. 30.11 (3) of the statutes is amended to read:

30.11 (3) **HOW ESTABLISHED.** Whenever any municipality proposes to establish a bulkhead line or to reestablish ~~such a an existing bulkhead line already in existence~~, the municipality shall indicate both the existing shore and ~~such the~~ proposed bulkhead line upon a map and shall file with the department for its approval ~~3 6 copies thereof together with 3 of the map and 6 copies of the ordinance establishing the bulkhead line. Such The map shall use a scale of not less than 100 feet to an inch or such any other scale as may be required by the department. The map and a metes and bounds description of the bulkhead line shall be prepared by a land surveyor registered in this state. The department may require the installation of permanent reference markers to the bulkhead line. Upon approval by the department, the municipality shall file the copies of deliver the map, description and ordinance as follows: one in the office of the department, one in the office of the clerk of the municipality, and one in to the office of the register of deeds of the county in which the waters lie. No such lines are legally established until such copies of the map and ordinance have been so approved and filed bulkhead line lies, to be recorded by the register of deeds.~~

SECTION 16. 30.11 (5) (a) of the statutes is amended to read:

30.11 (5) (a) Prior to the execution of any lease by the board of commissioners of public lands of ~~concerning~~ rights to submerged lands or rights to fill in submerged lands held in trust for the public under s. 24.39, the department of ~~natural resources~~ shall determine ~~either with or without a public hearing~~ whether ~~or not~~ the proposed physical changes in the area ~~contemplated~~ as a result of the execution of ~~such~~ the lease are consistent with the public interest. Thirty days before ~~determining whether such finding should or should not be made~~ making its determination, the department of ~~natural resources~~ shall notify, in writing, the clerk of the county and clerk of the city, village or town in which ~~such~~ the changes are ~~contemplated~~, ~~the department of health and social services~~, proposed and the U.S. Army Corps of Engineers, of the application for the lease. In making its finding the department of ~~natural resources~~ shall give consideration to all reports submitted to it. ~~For leases applied for under s. 24.39 (4) (a) 2, the~~ The department shall not approve ~~the~~ a lease applied for under s. 24.39 (4) (a) 2 if ~~it appears to the department determines that the lease may~~ threaten excessive destruction of wildlife habitat.

SECTION 17. 30.11 (6) of the statutes is created to read:

30.11 (6) SHORELINE NOT INVALIDATED. A shoreline lawfully established before January 1, 1960, is a lawfully established bulkhead line.

SECTION 18. 30.12 (2) and (3) (a) (intro.) and 2 of the statutes are amended to read:

30.12 (2) PERMITS TO PLACE STRUCTURES OR DEPOSITS IN NAVIGABLE WATERS; GENERALLY. The department, upon application and after ~~notice as provided under s. 31.06 and hearing proceeding~~ in accordance with s. 30.02 (3) and (4) may grant to any riparian owner a permit to build or maintain for the owner's use a structure otherwise prohibited ~~by statute under sub. (1)~~, if the structure does not materially obstruct navigation or reduce the effective flood flow capacity of a stream and is not detrimental to the public interest. The procedures in this subsection do not apply to permits issued under sub. (3).

(3) (a) (intro.) The department, upon application ~~and investigation~~, may grant to a riparian owner a permit to:

2. Place a fish crib, spawning reef, wing deflector or similar device on the bed of ~~a lake~~ navigable waters for the purpose of improving fish habitat.

SECTION 19. 30.12 (3) (a) 5 of the statutes is created to read:

30.12 (3) (a) 5. Place crushed rock or gravel, reinforced concrete planks, cast in place concrete or similar material on the bed of navigable waters adjacent to the owner's property for the purpose of building a boat landing.

SECTION 20. 30.12 (3) (a) 6 of the statutes is created to read:

30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property for the purpose of storing or protecting watercraft and associated materials, except that no permit may be granted for a permanent boat shelter which is constructed after the effective date of this subdivision [revisor inserts date], if the property on which the permanent boat shelter is to be located also contains a boathouse within 75 feet of the ordinary high-water mark or if there is a boathouse over navigable waters adjacent to the owner's property.

SECTION 21. 30.12 (3) (b) of the statutes is amended to read:

30.12 (3) (b) A person who seeks to place structures or deposits under par. (a) shall apply to the department for a permit. ~~The department shall review the application and inspect the location involved.~~ The department may disapprove the application if it finds that the proposed structure or deposit will materially impair navigation or be detrimental to the public interest. The department shall issue the permit or notify the applicant in writing of the disposition of the application.

SECTION 22. 30.12 (3) (c) of the statutes is created to read:

30.12 (3) (c) The department may promulgate rules deemed necessary to carry out the purposes of par. (a) 6, including rules to establish minimum standards to govern the architectural and aesthetic features of boat shelters and the number of boat shelters that may be constructed adjacent to a parcel of land. The standards shall be designed to assure the structural soundness and durability of a boat shelter and to minimize the visual intrusiveness of a boat shelter with respect to the surrounding body of water and shoreline. A municipality may enact ordinances not inconsistent with this section or with rules promulgated under this section regulating the architectural and aesthetic features of boat shelters.

SECTION 23. 30.12 (4) (a) of the statutes is amended to read:

30.12 (4) (a) Activities affecting waters of the state as defined in s. 144.01 that are carried out under the direction and supervision of the department of transportation in connection with highway and bridge design, location, construction, reconstruction, maintenance and repair are not subject to the prohibitions or permit or approval requirements specified under this section or s. 29.29, 30.11, 30.123, 30.195, 30.20, 59.971, 61.351, 62.231, 87.30 or ch. 144 or 147. However, at the earliest practical time prior to the commencement of these activities, the department of transportation shall notify the department of the location, nature and extent of the proposed work that may affect the waters of the state.

SECTION 24. 30.121 (1) (intro.) of the statutes is repealed.

SECTION 25. 30.121 (1) (a) and (b) of the statutes are renumbered 30.01 (1d) and (1r), and 30.01 (1d), as renumbered, is amended to read:

30.01 (1d) "Boathouse" means a ~~permanent~~ structure used for the storage of watercraft and associated materials ~~and includes all structures which are totally enclosed, have roofs or has one or more walls or any combination of structural parts~~ sides.

SECTION 26. 30.121 (3) and (3m) (intro.) and (c) of the statutes are amended to read:

30.121 (3) MAINTENANCE. ~~After December 16, 1979, the owners~~ The riparian owner of any boathouse or fixed houseboat extending beyond the ordinary high-water mark of any navigable waterway may repair and maintain the boathouse or fixed houseboat if the cost of the repair or maintenance does not exceed 50% of the equalized assessed value of the boathouse or fixed houseboat ~~or, if,~~ If the boathouse or fixed houseboat is not subject to assessment, the owner may make repairs if the cost of the repair or maintenance does not exceed 50% of the current fair market value of the boathouse or fixed houseboat.

(3m) EXCEPTION. (intro.) Notwithstanding subs. (2) and (3), a person may construct, repair or maintain a single-story boathouse over ~~a water~~ an authorized waterway enlargement for a boatslip permitted under s. 30.19 if:

(c) ~~No living~~ Living quarters or plumbing fixtures are not constructed in the boathouse.

SECTION 27. 30.123 (title) of the statutes is amended to read:

30.123 (title) Bridge construction and maintenance; permit.

SECTION 28. 30.123 of the statutes is renumbered 30.123 (1) and amended to read:

30.123 (1) Municipalities which construct or reconstruct highway bridges, ~~arches or culverts~~ shall not be required to obtain permits under this section or s. 30.10; ~~or 30.12 or 31.23~~ for such construction or reconstruction. All municipal highway bridges, ~~arches or culverts~~ shall be constructed or reconstructed in accordance with standards developed under s. 84.01 (23).

SECTION 29. 30.123 (2) to (5) of the statutes are created to read:

30.123 (2) Except as provided in sub. (1) and 30.12 (4), no person may construct or maintain a bridge in, on or over navigable waters unless a permit has been issued by the department under this section. The application for a permit shall contain the applicant's name and address, the proposed location of the bridge, a cross section and plan view of the navigable waters and adjacent uplands, a description of materials to be used in construction of the bridge, plans for the proposed bridge, evidence of permission to construct the bridge from the riparian owners and any other information required by the department.

(3) Upon receipt of a complete application, the department shall follow the notice and hearing provisions of s. 30.02 (3) and (4), except that no notice or hearing is required for proposed bridges which would cross navigable waters less than 35 feet wide.

(4) The department shall review the plans for the proposed bridge to determine whether the proposed bridge will be an obstruction to navigation or will adversely affect the flood flow capacity of the stream. The department shall grant the permit if the proposed bridge will not materially obstruct navigation, reduce the effective flood flow capacity of a stream or be detrimental to the public interest.

(5) Any person who is issued a permit under this section respecting a bridge that may be used by the public shall construct and maintain the bridge in a safe condition at all times.

SECTION 30. 30.125 (2) of the statutes is renumbered 30.125 (2) (intro.) and amended to read:

30.125 (2) (title) EXCEPTIONS. (intro.) This section ~~shall does~~ not apply to ~~lakes~~:

(a) Lakes where the lake property owners have incorporated under ch. ~~480~~ 181 and operate under s. 779.70 when a majority of the members decide at the annual meeting that every lake property owner shall remove the weeds floating to ~~his~~ the owner's shore.

SECTION 31. 30.125 (2) (b) of the statutes is created to read:

30.125 (2) (b) Navigable waters where the shoreline is under one ownership or navigable waters where all affected property owners agree to remove the weeds floating to their shore or agree to allow the cut weeds to remain in the water, if such weeds are not detrimental to public rights or to the rights of other riparian owners located on any waterway.

SECTION 32. 30.125 (3) of the statutes is repealed.

SECTION 33. 30.126 (1) (intro.) of the statutes is repealed.

SECTION 34. 30.126 (1) (a) and (b) of the statutes are renumbered 30.01 (1p) and (1t).

SECTION 35. 30.126 (1) (c) of the statutes is renumbered 30.01 (10).

SECTION 36. 30.13 (title) and (1) (intro.) and (d) of the statutes are amended to read:

30.13 (title) Regulation of wharves, piers and swimming rafts; establishment of pierhead lines. (1) CONSTRUCTION ALLOWED WITHOUT PERMIT UNDER CERTAIN CIRCUMSTANCES. (intro.) A riparian proprietor may construct a wharf or pier in a navigable ~~water~~ waterway extending beyond the ordinary high-water mark or an established bulkhead line in aid of navigation without obtaining a permit under s. 30.12 if all of the following conditions are met:

(d) The wharf or pier does not violate ~~the regulations contained in sub. (2) or in any ordinances~~ enacted under sub. (2).

SECTION 37. 30.13 (1) (e) and (1m) of the statutes are created to read:

30.13 (1) (e) The wharf or pier is constructed to allow the free movement of water underneath and in a manner which will not cause the formation of land upon the bed of the waterway.

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

(a) The swimming raft does not interfere with public rights in navigable waters.

(b) The swimming raft does not interfere with rights of other riparian proprietors.

(c) The swimming raft is placed within 200 feet of shore.

SECTION 38. 30.13 (2) of the statutes is amended to read:

30.13 (2) (title) WHARVES, PIERS AND SWIMMING RAFTS REGULATED. ~~Any wharf or pier extending beyond the natural shore or an established bulkhead line shall be constructed to allow the free movement of water underneath and in a manner which will not cause the formation of land upon the bed of the water.~~ A municipality may enact ordinances not inconsistent with this section regulating the construction and location of wharves and piers and swimming rafts located within or attached to land within that municipality.

SECTION 39. 30.13 (3) of the statutes is renumbered 30.13 (3) (a) and amended to read:

30.13 (3) (a) Any municipality authorized by s. 30.11 to establish a bulkhead line may also establish a pierhead line in the same manner as it is authorized to establish a bulkhead line, except that a metes and bounds legal description is not required nor is the map required to be prepared by a registered land surveyor and except that if such the municipality has created a board of harbor commissioners, the municipality must obtain the approval of such the board to concerning the establishment of the pierhead line in addition to obtaining the approval of the department.

(b) Any pierhead line established by a municipality shall be established in the interest of the preservation and protection of its harbor or of public rights in navigable waters.

SECTION 40. 30.13 (6) of the statutes is created to read:

30.13 (6) DOCK LINE NOT INVALIDATED. A dock line lawfully established before January 1, 1960, is a lawfully established pierhead line.

SECTION 41. 30.14 (2) of the statutes is amended to read:

30.14 (2) HEARINGS BY DEPARTMENT. Upon complaint by any person to the department that any wharf, pier or other structure exists in navigable water in violation of s. 30.12 or s. 30.13 or that any wharf, pier or other structure proposed to be built in navigable water will violate s. 30.12 or 30.13, the department

shall investigate and may hold a hearing thereon to determine whether ~~such~~ the wharf, pier, or other structure is or ~~will~~ would be in violation of those sections. If no hearing is held, the complainant shall be informed of the results of the investigation.

SECTION 42. 30.15 (1) (intro.) and (3) of the statutes are amended to read:

30.15 (1) OBSTRUCTIONS PENALIZED. (intro.) Any person who does any of the following shall forfeit ~~not more less than \$50 \$10~~ not more than \$500 for each offense:

(3) EACH DAY A SEPARATE VIOLATION. Each day during which an obstruction, deposit or structure exists in violation of sub. (1) is a separate offense.

SECTION 43. 30.15 (2) and (4) of the statutes are repealed.

SECTION 44. 30.17 of the statutes is repealed.

SECTION 45. 30.18 (1) (intro.) of the statutes is repealed.

SECTION 46. 30.18 (1) (a) of the statutes is renumbered 30.01 (1b).

SECTION 47. 30.18 (1) (b) of the statutes is renumbered 30.01 (6d).

SECTION 48. 30.18 (1) (c) of the statutes is renumbered 30.01 (7m).

SECTION 49. 30.18 (1) (d) of the statutes is renumbered 30.01 (9).

SECTION 50. 30.18 (3) (a) 1 of the statutes is amended to read:

30.18 (3) (a) 1. Except as provided in par. (b), an applicant for a permit required under sub. (2) (a) shall file the application with the department setting forth the name and post-office address of the applicant, the name of the stream from which the water will be diverted, the point in the stream from which it is proposed to divert the water, the name of the lake or stream or the location and riparian status of the land to which the water is to be diverted, the location and description of the canal, tunnel or pipes and other works through which the water is to be diverted, the amount of water to be diverted, the periods of time when it is proposed to divert such water, ~~and~~ the time required for the completion of the canal and other structures necessary for the completed project, ~~which shall not be greater than 2 years from the filing of the application and, if required by the department, 4 copies of plans showing cross sections and profiles for any canal, tunnel, pipes or other diversion works and any dam and control works at the point of diversion and at the point of discharge.~~

SECTION 51. 30.18 (3) (a) 2 of the statutes is amended to read:

30.18 (3) (a) 2. ~~A~~ For a diversion under sub. (2) (a) 1, a map or maps shall accompany the application ~~on~~ with a scale of not less than 4 inches to the mile one inch per 2,000 feet, showing the land topography and the probable course of the proposed diversion canal and other works, and the ownership of all lands upon

which will be located the canal, tunnel, pipes and all other works for the completed project.

SECTION 52. 30.18 (3) (a) 3 of the statutes is repealed and recreated to read:

30.18 (3) (a) 3. For a diversion under sub. (2) (a) 2, the application shall include written statements of consent to the diversion from all riparian owners who are making beneficial use of the water proposed to be diverted.

SECTION 53. 30.18 (4) (a) of the statutes is amended to read:

30.18 (4) (a) Upon receipt of a complete application, the department shall follow the notice and hearing procedures under s. ~~34.06~~ 30.02 (3) and (4). In addition to the notice requirements under ~~that section s. 30.02 (3) and (4)~~, the department shall mail a copy of the notice ~~to the applicant~~, to every person upon whose land any part of the canal or any other structure will be located, ~~to the clerk of the town, village or city and county in which the diversion will take place~~, to the clerk of the next town downstream, to the clerk of any village or city in which the lake or stream is located and which is adjacent to any municipality in which the diversion will take place and to each person specified in s. 144.026 (5) (b) or (6) (f), if applicable.

SECTION 54. 30.18 (6) (d) of the statutes is amended to read:

30.18 (6) (d) *Review of permits.* If the permit is one that is required under sub. (2) (a), but not under sub. (2) (b), and the permit was issued on or after August 1, 1957, the department shall review the permit ~~each year~~ at least once every 5 years. If the permit is one that is required under sub. (2) (b), the department shall review the permit as required under s. 144.026 (6) (b).

SECTION 55. 30.18 (8) of the statutes is repealed and recreated to read:

30.18 (8) DEPARTMENT MAY RAISE WATER ELEVATIONS. If after examination and investigation the department determines that it is necessary to raise water elevations in any navigable stream or lake for conservation purposes, the department may, if funds are available from any source other than license fees, determine and establish the elevations to which the water may be raised or maintained, but the water elevation may not be established below the normal elevation. If any lands are damaged by raising the water levels above normal and the department cannot acquire the right to flow the lands by agreement with the owner, the department may acquire the lands or the right to flow the lands by condemnation under ch. 32.

SECTION 56. 30.18 (10) of the statutes is repealed.

SECTION 57. 30.19 (1) (a) of the statutes is amended to read:

30.19 (1) (a) To construct, dredge, ~~commence or do any work with respect to~~ or enlarge any artificial waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the purpose is ultimate connection with an existing navigable stream, lake or

other ~~body of navigable water~~ waters, or where any part of ~~such~~ the artificial waterway is located within 500 feet of the ordinary high-water mark of an existing navigable stream, lake or other ~~body of navigable water~~ waters.

SECTION 58. 30.19 (1) (d) of the statutes is renumbered 30.19 (1m) and amended to read:

30.19 (1m) (title) EXCEPTION. ~~This section shall Subsection (1) does~~ not apply to ~~the~~ any of the following:

(a) ~~The~~ construction and repair of public highways ~~or to any~~.

(b) Any agricultural uses of land, ~~nor to any~~.

(c) Any navigable ~~body of water~~ inland lake located wholly or partly in any county having a population of ~~500,000~~ 750,000 or more.

SECTION 59. 30.19 (1m) (d) and (e) of the statutes are created to read:

30.19 (1m) (d) Those portions of navigable streams, Lake Michigan or Lake Superior within any county having a population of 750,000 or more.

(e) Any work required to maintain the original dimensions of an enlargement of a waterway authorized under sub. (1) (a) or (b).

SECTION 60. 30.19 (3) (a) of the statutes is repealed and recreated to read:

30.19 (3) (a) Section 30.02 (3) and (4) applies to permit applications under sub. (1) (b) and (c). Notice shall be provided to the clerks of the county and municipality in which the project or affected body of water is located and to the persons under sub. (2) (e). For any permit application which affects the Milwaukee river, the Menomonee river, the Kinnickinnic river, the Root river or any tributary of those rivers, special notice shall be given to the Milwaukee metropolitan sewerage district. The metropolitan sewerage district shall have 30 days to respond to the special notice.

SECTION 61. 30.19 (4) and (5) of the statutes are amended to read:

30.19 (4) ISSUANCE OF PERMIT. If the department finds that the project will not injure public rights or interest, including fish and game habitat, that the project will not cause environmental pollution as defined in s. 144.01 (3), that ~~the project~~ any enlargement connected to navigable waterways conforms to the requirement of laws for the platting of land and for sanitation and that no material injury to the rights of any riparian owners on any body of water affected will result, the department shall issue a permit authorizing the enlargement of the affected waterways ~~affected~~.

(5) CONDITIONS OF PERMIT. The permit shall provide that all artificial waterways constructed under this section which are connected to navigable waterways shall be public waterways. The department may impose such further conditions in the permit ~~that~~ as it finds reasonably necessary to protect public health,

safety, welfare, rights and interest and to protect private rights and property.

SECTION 62. 30.19 (6) of the statutes is repealed.

SECTION 63. 30.195 (1) of the statutes is amended to read:

30.195 (1) PERMIT REQUIRED. No person ~~shall~~ may change the course of or straighten a navigable stream without a permit ~~therefor having been granted pursuant to~~ issued under this section or without otherwise being expressly authorized by statute to do so. ~~Any person violating this section shall be fined not more than \$1,000 or imprisoned not more than 6 months, or both.~~

SECTION 64. 30.195 (5) and (6) of the statutes are repealed.

SECTION 65. 30.195 (7) of the statutes is amended to read:

30.195 (7) APPLICATION OF SECTION. This section ~~shall~~ does not apply to municipal or county-owned lands in counties having a population of ~~500,000~~ 750,000 or more.

SECTION 66. 30.196 (intro.) of the statutes is amended to read:

30.196 Enclosure of navigable waters; issuance of permits to municipalities. (intro.) A municipality may enclose navigable waters ~~or direct, place or restrict by directing, placing or restricting~~ navigable waters into an enclosed drain, conduit, storm sewer or similar structure if the department grants the municipality a permit. The department may grant this permit to a municipality after following the notice and hearing requirements under s. ~~31.06~~ 30.02 (3) and (4) if it finds that granting the permit:

SECTION 67. 30.20 (1) (a) of the statutes is amended to read:

30.20 (1) (a) No person ~~shall~~ may remove any material from the bed of any navigable lake or from the bed of any outlying waters of this state without first obtaining a contract ~~therefor~~ as provided in sub. (2).

SECTION 68. 30.20 (2) (c) of the statutes is amended to read:

30.20 (2) (c) A permit to remove material from the bed of any lake or stream not included in sub. (1) (a) may be issued by the department if it finds that the issuance of such a permit will be consistent with the public interest in the water involved. ~~The department may promulgate rules to enable it to administer this section~~ A permit or contract issued under this paragraph may be issued for up to 10 years if the applicant notifies the department at least 30 days before removing any material.

SECTION 69. 30.20 (3) (title) of the statutes is repealed.

SECTION 70. 30.20 (3) of the statutes is renumbered 30.01 (4r) and amended to read:

30.01 (4r) ~~In this section, “outlying~~ “Outlying waters” has the meaning designated in s. 29.01 ~~(9) and (11).~~

SECTION 71. 30.20 (4) of the statutes is repealed.

SECTION 72. 30.206 of the statutes is created to read:

30.206 General permits. (1) For activities which require a permit or approval under ss. 30.12 (3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a class of activities, according to rules promulgated by the department. Before issuing general permits, the department shall determine, after an environmental analysis and notice and hearing under ss. 227.17 and 227.18, that the cumulative adverse environmental impact of the class of activity is insignificant and that issuance of the general permit will not injure public rights or interest, cause environmental pollution, as defined in s. 144.01 (3), or result in material injury to the rights of any riparian owner.

(2) A general permit may include any conditions determined by the department to be reasonably necessary to prevent environmental pollution and to protect the public interest and public rights in navigable waters and the rights of other riparian owners.

(3) A person wishing to proceed with an activity authorized by a general permit shall apply to the department not less than 20 business days before commencing the activity authorized by a general permit. The department may request additional information from the applicant to determine whether the activity is within the scope of a general permit and shall inform the applicant in writing of its determination within 10 business days after receipt of adequate information.

(3m) The department may not authorize a person to proceed under a general permit if it determines under sub. (3) that the proposed activity may not comply with the criteria specified for general permits in sub. (1). Upon such a determination, the applicant may request an individual permit under the applicable provisions of this chapter or ch. 31.

(4) Upon receipt of the department’s determination that the proposed activity is authorized by a general permit, the applicant may proceed without further notice, hearing, permit or approval if the activity is carried out in compliance with all conditions of the general permit.

(5) Failure of an applicant to follow the procedural requirements of this section may result in forfeiture but may not, by itself, result in abatement of the activity.

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

SECTION 73. 30.24 of the statutes is repealed.

SECTION 73d. 30.25 of the statutes is renumbered 30.25 (1) and amended to read:

30.25 (1) ~~No~~ Except as provided under sub. (2), no person may make any effort to improve the navigation on the Wolf river north of the southern boundary of Shawano county ~~shall be made nor shall any dam be~~

authorized for construction in that portion of the Wolf river. Any permit issued or in effect by virtue of or under authority of any order or law authorizing the construction of any dam in the Wolf river in Langlade county is ~~hereby set aside and declared void~~. This declaration ~~shall~~ does not affect ~~permits for or~~ the operation or maintenance of any ~~existing dam in existence on August 24, 1963~~.

SECTION 73m. 30.25 (2) of the statutes is created to read:

30.25 (2) A person may engage in a minor dredging project to improve access to or to improve the aesthetics of the Wolf river in Shawano county if a permit issued by the department under s. 30.20 authorizes the project.

SECTION 74. 30.28 (2) and (3) of the statutes are amended to read:

30.28 (2) The ~~basic~~ fee charged for permits and approvals shall be ~~\$10 plus a supplemental fee based upon~~ on the estimated project cost as follows:

(a) ~~Five Fifteen~~ dollars for projects ~~from \$1 to costing not more than~~ \$500 in value.

(b) ~~Ten Twenty~~ dollars for projects costing from ~~\$501~~ \$500.01 to \$2,000 in value.

(c) ~~Twenty Thirty~~ dollars for projects costing from ~~\$2,001~~ \$2,000.01 to \$5,000 in value.

(d) ~~Fifty Sixty~~ dollars for projects costing from ~~\$5,001~~ \$5,000.01 to \$10,000 in value.

(e) ~~Sixty five Seventy-Five~~ dollars for projects ~~in excess of costing more than~~ \$10,000 in value.

(3) This section does not apply to projects funded in whole or in part by any federal agency, state agency, county, city, village, town, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewerage district or federally recognized Native American tribal governing body.

SECTION 75. 30.29 (1) (title) of the statutes is repealed.

SECTION 76. 30.29 (1) of the statutes is renumbered 30.01 (3w) and amended to read:

30.01 (3w) ~~As used in this section, "motor~~ Motor vehicle" has the meaning designated under s. 340.01 (35) except that this term does not include snowmobiles.

SECTION 77. 30.292 of the statutes is created to read:

30.292 Parties to a violation. (1) Whoever is concerned in the commission of a violation of this chapter for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person does any of the following:

(a) Directly commits the violation.

(b) Aids and abets the commission of the violation.

(c) Is a party to a conspiracy with another to commit the violation or advises, hires, counsels or otherwise procures any person to commit it.

SECTION 78. 30.294 of the statutes is created to read:

30.294 Nuisances, abatement. Every violation of this chapter is declared to be a public nuisance and may be prohibited by injunction and may be abated by legal action brought by any person.

SECTION 79. 30.298 of the statutes is created to read:

30.298 Penalties. (1) Any person who violates any provision of ss. 30.12 to 30.21 for which a penalty is not provided under the applicable section or by sub. (2) or (3) shall forfeit not less than \$100 nor more than \$10,000 for the first offense and shall forfeit not less than \$500 nor more than \$10,000 upon conviction of the same offense a 2nd or subsequent time.

(2) Any person who violates s. 30.18 (2) (a) 1 or 30.195 (1) shall forfeit not less than \$500 nor more than \$10,000 for the first offense and shall forfeit not less than \$1,000 nor more than \$10,000 upon conviction of the same offense a 2nd or subsequent time.

(3) Any person who violates s. 30.206 shall forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or subsequent time.

(4) A violation of a permit, contract or order issued under this chapter is a violation of the statute under which the permit, contract or order was issued.

(5) In addition to the forfeitures specified under subs. (1) to (3), the court may order the defendant to perform or refrain from performing such acts as may be necessary to fully protect and effectuate the public interest in navigable waters. The court may order abatement of a nuisance, restoration of a natural resource or other appropriate action designed to eliminate or minimize any environmental damage caused by the defendant.

SECTION 80. 30.50 (2) of the statutes is amended to read:

30.50 (2) "Boat" or "vessel" means every description of watercraft, ~~other than a seaplane on the water,~~ used or capable of being used as a means of transportation on water. ~~This term does not include, except a seaplane on the water and~~ a fishing raft, ~~as defined under s. 30.126 (1) (a).~~

SECTION 81. 30.772 (3) (e) of the statutes is amended to read:

30.772 (3) (e) Any mooring, mooring anchor or mooring buoy which is placed or used in any navigable water in violation of this section or any local regulation adopted by a municipality under this subsection constitutes a public nuisance subject to s. ~~30.15 (4)~~ 30.294. A municipality may, by ordinance, provide that any person who violates any local regulation

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adopted under this subsection is subject to a forfeiture not to exceed \$50 for each such violation. The ordinance may also provide that each day during which the violation exists is a separate offense.

SECTION 82. 30.775 of the statutes is repealed.

SECTION 83. 144.855 (2) (b) of the statutes is amended to read:

144.855 (2) (b) The department, upon receipt of an application for a permit, shall determine the minimum

stream flow or lake level necessary to protect public rights, the minimum flow or level necessary to protect the rights of affected riparians, the point downstream beyond which riparian rights are not likely to be injured by the proposed diversion and the amount of surplus water, as defined in s. ~~30.18 (1) (b)~~ 30.01 (6d), if any, at the point of the proposed diversion.
