

1999 DRAFTING REQUEST

Bill

Received: **10/27/98**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 67973**

By/Representing: **Grinde**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - nav. waters**

Extra Copies: **DNR - 1**

Topic:

DOA:.....Grinde - Chapter 30 permitting, notices and hearings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	gibsom 12/12/98	ygeller 12/16/98	hhagen 12/21/98	_____	lrb_docadmin 12/21/98		S&L
/2	gibsom 01/19/99	ygeller 01/20/99	hhagen 01/21/99	_____	lrb_docadmin 01/21/99		S&L
/3	gibsom 01/31/99	ygeller 01/31/99	hhagen 01/31/99	_____	lrb_docadmin 01/31/99		S&L
/4	gibsom 02/1/99		martykr 02/1/99	_____	lrb_docadmin 02/1/99		S&L
/5	gibsom 02/8/99		hhagen 02/8/99	_____	lrb_docadmin 02/8/99		S&L

FE Sent For:

1999 DRAFTING REQUEST

Bill

Received: 10/27/98

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Administration-Budget 67973

By/Representing: Grinde

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies: DNR - 1

Topic:

DOA:.....Grinde - Chapter 30 permitting, notices and hearings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	gibsom 12/12/98	ygeller 12/16/98	hhagen 12/21/98	_____	lrb_docadmin 12/21/98		S&L
/2	gibsom 01/19/99	ygeller 01/20/99	hhagen 01/21/99	_____	lrb_docadmin 01/21/99		S&L
/3	gibsom 01/31/99	ygeller 01/31/99	hhagen 01/31/99	_____	lrb_docadmin 01/31/99		S&L
/4	gibsom 02/1/99	15 2/8 yg ygeller 02/1/99	martykr 02/1/99	_____	lrb_docadmin 02/1/99		S&L

FE Sent For:

IS
2/8/99
IS/HH
2/8/99
<END>

1999 DRAFTING REQUEST

Bill

Received: 10/27/98

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Administration-Budget 67973

By/Representing: Grinde

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies: DNR - 1 JLG

Topic:

DOA:.....Grinde - Chapter 30 permitting, notices and hearings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	gibsom 12/12/98	ygeller 12/16/98	hhagen 12/21/98	_____	lrb_docadmin 12/21/98		S&L
/2	gibsom 01/19/99	ygeller 01/20/99	hhagen 01/21/99	_____	lrb_docadmin 01/21/99		S&L
/3	gibsom 01/31/99	ygeller 01/31/99	hhagen 01/31/99	_____	lrb_docadmin 01/31/99		S&L

FE Sent For:

Handwritten notes: 14 2/1 JLG, Jm 2/1, Jm 2/1

<END>

1999 DRAFTING REQUEST

Bill

Received: **10/27/98**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 67973**

By/Representing: **Grinde**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - nav. waters**

Extra Copies: **DNR - 1, JLG**

Topic:

DOA:.....Grinde - Chapter 30 permitting, notices and hearings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	gibsom 12/12/98	ygeller 12/16/98	hhagen 12/21/98	_____	lrb_docadmin 12/21/98		S&L
/2	gibsom 01/19/99	ygeller 01/20/99	hhagen 01/21/99	_____	lrb_docadmin 01/21/99		S&L

FE Sent For:

13 1/31 JLG *11/31* *11/21/31*

<END>

1999 DRAFTING REQUEST

Bill

Received: **10/27/98**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 67973**

By/Representing: **Grinde**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - nav. waters**

Extra Copies: **DNR - 1**

Topic:

DOA:.....Grinde - Chapter 30 permitting, notices and hearings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	gibsom 12/12/98	jgeller 12/16/98	hhagen 12/21/98	_____	lrh_docadmin 12/21/98		S&L

12/20 jlg *12/21* *12/24*

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: 10/27/98

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Administration-Budget 67973

By/Representing: Grinde

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies: DNR - 1
PTK-1

Topic:

DOA:.....Grinde - Chapter 30 permitting, notices and hearings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	gibsom	1 12/16 jlg	# 12/21	# UF 12/21			

FE Sent For:

<END>

Paid = Notice process under current

COMPARISON OF PUBLIC NOTICE REQUIREMENTS

ACTIVITY	CURRENT NOTICE	PROPOSED NOTICE
✓ Riprap 30.12(3)(a)3.	None	None
Pier, exempt 30.13	None	None
Pier, regulated structure	Paid	Notice of decision
Boathouse repair	None	None
Boat shelter 30.12(3)(a)6.	None	None
30.19(1) Bridge/culvert <35 ft 30.23	None	None
(b) Bridge/culvert >35 ft	Paid	Notice of decision
Connected enlargement 30.19(3)	Paid	Paid
30.19(1) Grading	Paid	Notice of decision
30.19(1)(a) Ultimate connection w' way	None	None
Unconnected w' way	None	None
30.19(1)(b) Enclosure	Paid	Paid
30.20 Dredging <3000 cu yds	None	Notice of decision
Dredging ≥3000 cu yds or more	News release <i>not incl. 30</i>	Paid
281. Wetland fill - grant	Paid	>2 A - paid; <2A notice of dec.
Wetland fill - deny	None	None
30.18 Water diversion		Notice of decision
30.195 Stream relocation 500 or more feet		Paid
less than 500		None Notice of decision

* When electronic posting capability is achieved, all pending applications and final decisions, as well as historic decisions, will be posted.

Notice and of decision

- 30.19(1)(a) "ultimate connection waterway" → no notice required
- (1)(b) connection w/ existing raw water → paid notice
- (1)(c) grading of bank → notice

11/12/98 Mary Ellen Volbrucht

General Permittive

① create an appropriation in each FY \$80,000 GPR for implementing the general permit program King some of the data gathering etc w/ local units of government

② general permits under which OK to engage in activity if complies w/ local ordinance that is equivalent to "at least as restrictive as" the state law and ~~gives~~ 15 days notice before beginning the activity

✓ applies to those where there is no public notice

✓ general ~~notice~~ permits - treat as individual permit for notice, hearing etc. even if dealing w/ an activity that does not require an individual hearing

5 yr. expiration for each general permit

Replaces 30.206 + 30.207

Fees in 30.28 to apply

not entered

Statutory Language Proposals

Division: Water

Subprograms: Fisheries Management and Habitat Protection

Issue/Topic: Lake and River Habitat Protection/Waterway Permitting

Proposed Change: The Department proposes to repeal and recreate Wis. Stat. s 30.206 to enable activity, municipal or geographic general permits through the existing permit process.

Additionally, the Department proposes to amend Wis. Stat. ss. 30.02, 30.12, 30.123, 30.18, 30.19, 30.195, 30.20 to adjust public notice requirements and to provide additional mechanisms to resolve objections.

Further, the Department proposes to amend Wis. Stat. s.30.28 to make the fee system more equitable.

Explanatory Note: Currently, permits are issued largely to individual property owners. The proposed general permit option enables the Department to review and authorize certain activities state or region-wide, for all or portions of a waterway, or for municipalities where local standards and processes are at least equivalent.

Currently, all citizen comment is sought through paid public notice. A few complex activities do not require notice while some activities with minor impacts do. Contested case hearings are the only formal mechanism for conflict resolution. The public notice and hearing proposal adjusts the type of notice to more closely match the impact potential of the proposed waterway alterations or structures. It provides for direct mail notice of many decisions with paid public notices for projects requiring environmental assessment under Wisconsin's Environmental Policy Act. In addition, the proposal provides for an objector or appellant to choose from an informational hearing or mediation, in addition to the existing contested case hearing mechanism.

The proposed changes streamline waterway permit decision making while maintaining effective protection for fisheries and wildlife habitat as well as other public rights in lakes and streams.

The fee amendment authorizes collection of a fee for each review if there are more than two permit reviews related to a single project. Under the current system, the Department charges the single highest fee for all reviews related to one project. The change reflects the fact that there is marginal economy of scale in reviewing multiple activities at a single site. As a result of this change, fees will more closely reflect actual review costs and will be more equitable for applicants.

Desired Effective Date: Upon publication.

Contact Person: Eric Ebersberger, MB/5, 266-0818; Mary Ellen Vollbrecht, FH/6, 264-8554

*Eric Ebersberger
Mary Ellen Vollbrecht*

DRAFTING INSTRUCTIONS - WISCONSIN WATERS INITIATIVE/WATERWAY PERMITTING

General Permits

Objective - enable municipal general permit where local standards and process are equivalent; enable municipalities, groups of riparians, or contractors to apply on behalf of riparians

Specifics

- sunrise with establishment of state-local partnership fund
- use existing permit process to review general permit applications
- require public notice for all *general permits*
- five year expiration for general permits

Public Notice and Hearings

Objective - increase effectiveness of notice; add conflict resolution options; revise notice requirements to match activity impacts

Specifics

- maintain paid public notice for WSPA type III or IV activities
- enable direct mail notice of decision for other activities now requiring paid public notice
- require electronic posting of applications and decisions in five years
- shorten notice period and enable department to request information from objector
- based on objectors information, department makes final decision if it determines that objections are not substantive; final decision may be appealed to circuit court
- where department determines objection is substantive and public rights are affected; enable objector to choose informational hearing, mediation or contested case hearing
- where department determines objection is substantive but public rights are not affected, objector can choose informational hearing or mediation
- department makes final decision following informational hearing or mediation; may be appealed to circuit court

Post-it® Fax Note	7871	Date	10-27	# of pages	9
To	Mary Gibson-Gless	From	Mel Vollbrecht		
Co./Dept.		Co.	DNR		
Phone #		Phone #			
Fax #		Fax #	264-9200		

CHAPTER 30 UPDATE PACKAGE

GENERAL PERMITS

30.206 General permits. (1) For activities which require a permit or approval under this chapter but do not require public notice, the department may issue a general permit authorizing a class of activities statewide or in a region of the state. 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.

30.206(1)

(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. General permits shall be valid for no longer than five years and may be revoked by the department if it finds that the general permit injures the public interest in the surface waters of the state. In all conflicts between specific standards under other sections of this chapter and specific standards in a general permit, the general permit standard shall apply.

30.206(2)
(a)

(3) A person wishing to conduct an activity for which the department has issued a general permit must provide notice to the department specifying who will be conducting the activity, where the activity will be conducted and agreeing to conduct the activity in conformance with the conditions of the general permit.

(4) Structures placed under a valid general permit may be maintained after the general permit expires or is revoked unless the department determines that the structure is detrimental to the public interest and orders it removed.

30.206
(5)(d)

(5) Failure of an applicant to follow the procedural requirements of this section may result in forfeiture and the department may seek abatement of the activity if it determines that the activity is detrimental to the public interest in surface waters of the state.

(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 in lieu of seeking authorization under the general permit.

30.206
(5)(d)

(7) Upon notice under (3) above, the department may inform any applicant that the general permit is not valid because of unique site conditions where the activity would be detrimental to the public interest.

(3b)(b)

OCT.24.1997 4:00PM

WISC DNR SOUTHERN DIST HQTRS

NO.110 P.3/12

(8) Any municipality, inland lake district or sanitary district, or a group of ten riparians may petition the department to issue a general permit authorizing a class of activities statewide or in a region of the state. The department will respond to such petitions in writing within 90 days either dismissing the petition and specifying the reasons the activity or region would not qualify or describing its plans to pursue the general permit.

(9) The department or any member, agent or employee thereof shall be accorded free access during reasonable hours to any property where an activity authorized under this section is proposed to be, is or has been conducted.

(10) The department may promulgate rules to establish procedures for issuing general permits.

LANGUAGE

CHAPTER 30 UPDATE PACKAGE

NOTICES AND HEARINGS

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

(2) In any proceeding under this chapter where ~~public notice of decision~~ is not required, the department shall follow the procedures in subs. (3) and (4) if it determines that substantial interests of any party may be adversely affected by the proceeding.

(3) (a) 1. ~~Upon receipt of a complete permit application, the department shall evaluate the application and 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-issue notice of its decision to grant or deny the permit or require a public notice be issued under (3)(a) 2. The department's decision shall become final 20~~ 30 days after the date of the notice of decision unless the department receives a substantive written objection prior to expiration of the notice. ~~The~~ Notice of the Department's decision shall be provided to the applicant, the adjoining riparian property owners, any known lake district for the waterbody affected, any known property owners association for the waterbody affected, the clerk of each municipality in which the project is located, any newspaper likely to provide notice in the area affected, the Great Lakes Indian Fish and Wildlife Commission if the project is within the territory in Wisconsin ceded by the Chippewa Indians to the United States in the Treaty of 1837, 7 Stat. 536 and in the Treaty of 1842, 7 Stat. 591 and to any other person required by law to receive notice. The department may provide notice to other persons as it deems appropriate.

(3) (a) 2. ~~If it is determined that an environmental analysis or statement is required in accordance with administrative codes promulgated by the department under Wis. Stats. 1.11, a public notice shall be required. If the Department requires a public notice it~~ 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.

(3) (b) ~~Upon receipt of a written objection the department must determine if the objection is a substantive written objection affecting public interest. The department must inform the applicant that it has received an objection and that the~~

1 a final decision of the agency is stayed pending resolution of the objection. The department shall make its evaluation of the objection within 20 days of its receipt or request additional information from the objector to further substantiate the objection. If the Department fails to act within 20 days after receipt of an objection, the objection shall be assumed substantive.

(3) (c) If the department determines that an objection is substantive it must notify the applicant and offer the objector a choice of one of the following opportunities to substantiate the objection:

1. An informational hearing before staff from the department.
2. A public hearing before a division of hearings and appeal administrative law judge following the procedures under s. 30.02 (4).
3. If agreeable to all parties, a dispute resolution process as outlined in s. 802.12 Wis. Stats. Resolutions reached through the dispute resolution process must be provided to the department for final approval. The department may amend the agreement in order to protect public interest in the waterbody involved.

Appeals of decisions issued under this paragraph must be made pursuant to Wis. Stats. 227.52.

(3) (d) If the department determines that an objection is substantive but does not affect public interest in the navigable waterway, the department may suspend the final decision and offer the objector:

1. An informational hearing before staff from the department.
2. If agreeable to all parties, a dispute resolution process as outlined in s. 802.12 Wis. Stats. Resolutions reached through the dispute resolution process must be provided to the department for final approval. The department may amend the agreement in order to protect public interest in the waterbody involved.

Appeals of decisions issued under this paragraph must be made pursuant to Wis. Stats. 227.52.

(3) (e) If the department determines that an objection is not substantive or is not reasonably supported it may dismiss the objection. The department's stayed decision becomes final 10 days after the department's dismissal of an objection. Any objection dismissed by the department may be appealed under the review procedure in s. 227.52 Wis. Stats.

(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.

30.02 (4) (b)

(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 administrative law judge at or prior to the hearing.

30.02 (4) (b) - ANNOT.

History: 1987 a. 374.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0677/A 1 RMR
MGG...:.....
Jlg

~~WAGNER~~
~~WAGNER~~
D-Note
50em
Due
Tues

DOA:.....Grinde - Chapter 30 permitting, notices and hearings

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

1

do not gen
AN ACT ...; relating to: the budget.

that require permits

Analysis by the Legislative Reference Bureau

NATURAL RESOURCES

NAVIGABLE WATERS

Decision, notice and hearing procedures

Under current law, with certain exceptions, a riparian may not place a structure or deposit or conduct certain other activities in a navigable body of water without first obtaining a permit or contract from the department of natural resources (DNR).

Under current law, for most structures, deposits or activities (riparian activities) that require a permit or contract, the procedure for obtaining the permit or contract requires that DNR provide notice to the public in a newspaper that is likely to give notice in the area where the riparian activity will be located (area newspaper) and to the county and city, village or town (municipality) in which the riparian activity will be located. If DNR receives a written objection in response to the notice, it must hold a public hearing on the issue of whether DNR should approve the permit or contract. DNR may also use this notice and hearing procedure when it is not specifically required if DNR determines that substantial interests of any party may be adversely affected by the issuance of the permit or contract.

For other riparian activities, current law does not require this notice and hearing procedure. These riparian activities include the placement of fish cribs, bird

A substantive written objection is one that states the reason the activity will violate the laws governing navigable waters and is submitted by a person who will present information in support of the objection at a hearing or other procedure

nesting, gravel, riprap, bridges less than 35 feet wide and enlarging certain artificial waterways.

This bill changes these public notice and hearing procedure^s. These changes to the public notice and hearing procedure include the following:

1. The first notice issued by DNR contains a preliminary decision of whether to ~~issue~~^{grant} the permit or ~~grant~~ the contract instead of stating that it will proceed to render a decision without a hearing unless a substantive written objection is received within 30 days. Under the bill, the preliminary decision becomes final ~~if~~^{if} no such objection is received within 30 days.

^{parties} 2. Under the bill, DNR distributes the first notice issued to certain interested ~~groups~~^{parties}. The specific ~~groups~~^{parties} required to receive individual notice include any person who owns riparian property adjacent to the property of the applicant, any municipality in which the riparian activity will be located, any property owner's association established for the body of water and any local unit of government, such as an inland lake protection and rehabilitation district or a town sanitary district, that is established for the body of water. Also, for certain types of permits or contracts or wherever DNR determines that an environmental impact statement is required, the applicant for the permit or contract must publish a notice containing the preliminary decision in an area newspaper. The types of permits and ~~that~~^{contracts} require this additional notice are permits to connect a natural or constructed waterway with a navigable water, permits to change 500 feet or more of a streams course, permits requested by municipalities to enclose navigate waters into drains, storm sewers or similar structures and contracts to remove 3,000 cubic feet or more of material from the bed of a navigable waters.

3. Under the bill, if an objection is timely filed, DNR must determine whether it is a substantive written objection and if, so whether the riparian activity affects a public right or interest in navigable waters. The type of hearing or dispute resolution procedure to be held depends on DNR's determination. If DNR determines the objection is substantive and that the riparian activity affects a public right or interest, DNR must offer the person making the objection the choice of a public hearing before an administrative law judge, an informal hearing before DNR staff, or a dispute resolution proceeding. If DNR determines that the objection is substantive but that the riparian activity does not affect a public right or interest, DNR must offer the choice between the informal hearing and the dispute resolution proceeding. Under the bill, DNR must promulgate rules to establish the dispute resolution process which must include binding arbitration and mediation. If a public hearing is required, the notice and procedural requirements for the hearing, with the exception as to the timing of the advance notice to the applicant, are the same as under current law.

The riparian activities that are subject to these notice and hearing requirements under current law continue to be subject to the requirements under the bill. The bill also applies the requirements to the permits and contracts to remove material from beds of navigable waters.

and

General permits

NO P
DNR continues to be able to issue general permits for activities such as the placement of fish culs, bird nesting platforms, gravel riprap and the enlargement of

Under current law, DNR must issue permits authorizing activities in navigable waters such as the placement of structures or deposits. Under current law, for certain types of activities in navigable waters, DNR may issue a general permit that allows anyone to engage in a type of activity as opposed to an individual permit to a specific individual who wants to engage in the activity. Currently there are two programs under which DNR issues general permits. One applies throughout the state (regular program). The other program is a ~~5~~-year project for the Wolf River and Fox River basin area, under which DNR issues general permits for any activity in navigable waters that requires a permit (pilot program). The basin area consists of all of Winnebago County and Fond du Lac County and portions of Waushara County, Calumet County, Waupaca County and Outagamie County. Under both programs, DNR issues a general permit if it determines that the environmental impact of the activity is insignificant and that the issuance of the permit will not cause pollution or injury the rights of the public or riparian property owners.

This bill eliminates pilot program and makes changes in the regular program, including the following:

1. Under the bill, DNR may issue a general permit for any activity that does not require a preliminary decision and notice of decision. Thus, the bill expands the types of permitted activities for which DNR may issue a general permit under the regular program to include the placement of bridges that are less than 35 feet wide and removal of material from nonnavigable lakes and inland streams. Under the current pilot program, DNR may issue a general permit for any activity that requires a specific permit.

2. The bill imposes a time limit of ~~5~~^{five} years on any general permit. There are no time limits under the current two programs.

3. The bill allows a person to maintain a structure or deposit or continue an activity under the authority of a general permit after the general permit is no longer in effect unless DNR determines that the structure, deposit or activity is detrimental to the public rights or ~~public~~ interests in navigable waters.

4. The bill allows only cities, villages, towns, counties, ^{of municipalities,} public inland lake protection and rehabilitation districts, town sanitary districts and groups of ~~10~~^{ten} or more riparian owners that would be affected by the issuance of a general permit to apply. Under the current regular program, anyone can apply. Under the pilot program, these specific persons plus any contractor who has been involved in placing structures along navigable waters and certain local entities such as certain lake associations and nonprofit conservation organizations can apply. ~~Under the regular program anyone can apply.~~

5. The bill requires that public notice be given and in certain cases a public hearing be held before issuing a general permit for any activity. Under the pilot program, notice and hearing are required only they are required before issuing an individual permit for the activity in question. Under the regular program there are no notice or hearing requirements because the types of activities for which general permits are available have no notice and hearing requirements before issuance of the permit.

The notice and hearing requirements for general permits under the bill are the same as those under current law.

to

certain waterways

five

five

ten

(X)

check spacing

basically

6. The bill incorporates the requirement from the pilot program that the standards contained in a general permit supersede the laws governing the placement of structures and deposits and other activities in navigable waters.

7. The bill requires that a person conducting an activity under a general permit comply with any local ordinance that contains standards that are at least as restrictive as those contained in the general permit. The pilot program ~~required~~ compliance with any applicable local ordinances.

8. The bill incorporates from the pilot program into the regular program the fee structure for general permits and for authorization to act under general permits.

9. The bill establishes specific provisions governing inspections under the regular program. The pilot program had similar provisions.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 20.370 (4) ^(ad) ~~(a)~~ of the statutes is created to read:

20.370 (4) ^(ad) ~~(a)~~ *Water resources* — [✓]*general permit program*. From the general fund, the amounts in the schedule for the implementation and administration of the procedures under s. [✓]30.206 for issuing general permits.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 30.01 (6b) of the statutes is amended 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. ^{PLAIN}

History: 1983 a. 189; 1985 a. 243, 332; 1987 a. 374 ss. 1 to 9, 25, 34, 35, 46 to 49, 70, 76; 1987 a. 403; 1989 a. 56; 1993 a. 236; 1995 a. 227; 1997 a. 27, 248.

SECTION 3. 30.02 of the statutes is repealed and recreated to read:

30.02 General provisions for notices, hearings and decisions. (1)

APPLICABILITY. [✓]The department [✓]shall follow the procedures in subs. (2) to (8) [✓]in determining whether to issue a permit or enter a contract under this chapter where

1 a preliminary decision is specifically required under this chapter or where the
2 department determines that a substantial public right or ^{public} interest of the public or of
3 a person other than the applicant for the permit or contract may be adversely affected
4 by the department's decision.

5 (2) PRELIMINARY DECISION REQUIRED. (a) Upon receipt of a complete application
6 for a permit to which sub. (1) applies or before entering a contract to which sub. (1)
7 applies, the department shall evaluate the application or proposed contract and
8 issue a preliminary decision whether to grant the permit or to enter into the contract.

9 (b) A decision under par. (a) shall become final on the 30th day following the
10 date of the transmittal of the preliminary decision under sub. (3) or the date of
11 publication of the notice under sub. (4) unless the department receives a substantive
12 written objection to the preliminary decision before that date.

13 (3) NOTICE OF PRELIMINARY DECISION; SPECIAL NOTICE. The department shall issue
14 a notice of its preliminary decision, which shall contain the preliminary decision and
15 the information specified in sub. (2) (b), and shall transmit a copy of the notice to all
16 of the following within 7 days after its issuance:

17 (a) The applicant for the permit or contract.

18 (b) Any person who owns riparian property adjacent to the property of the
19 applicant.

20 (c) The clerk of each municipality in which the project will be located.

21 (d) If the body of water is a lake, any public inland lake protection and
22 rehabilitation district established for the lake.

23 (e) Any property owner's association that is established for the body of water.

24 (f) Any town sanitary district or other special purpose district that has been
25 established for the management of the body of water.

1 (g) A newspaper designated by the department that is likely to provide notice
2 in the area in which the project is located. The notice shall be published only if so
3 required under sub. (4). ✓

4 (h) The Great Lakes Indian Fish and Wildlife Commission if the body of water
5 is located within an area where federally recognized American Indian tribes or bands
6 domiciled in ^{the state} Wisconsin hold treaty-based, off-reservation rights to fish. ✓

7 (4) NOTICE OF PRELIMINARY DECISION; PUBLIC NOTICE. ✓ If the department
8 determines that s. 1.11 ✓ applies to the project or if a person is applying for a permit
9 or ^{entering} ~~to enter~~ a contract to which ss. 30.19 (1) (b), 30.195 (3m) (b), 30.196 or 30.20 (3) ✓
10 (b) applies, ✓ the department, in addition to transmitting the notice of its preliminary
11 decision as required in sub. (3), shall require public notice of the preliminary
12 decision. The public notice shall contain the preliminary decision whether to grant
13 the permit or the contract and the information specified in sub. (2) (b). The
14 department shall provide a copy of this public notice to the applicant for the permit
15 or contract. The applicant shall publish the notice as a class 1 notice under ch. 985
16 in a newspaper designated by the department that is likely to give notice in the area
17 in which the project is located within 15 days after the receipt of the copy of the notice.
18 The applicant shall provide proof of publication to the department.

19 (5) RESPONSE TO PRELIMINARY DECISION. (a) If the department receives a timely
20 written objection to a preliminary decision issued under sub. (2), the department
21 shall determine whether it is a substantive written objection. The department shall
22 inform the applicant that it has received the objection and the department shall stay
23 the preliminary decision until the procedures in sub. (6) (a), (d) or (g) ✓ have been
24 completed. Within 30 days after the receipt of the objection, the department shall
25 either complete its determination or shall request more information to support the

1 objection from the person making the objection. If the department requests more
2 information, it shall complete its determination within 30 days after the receipt of
3 the additional information. If the department fails to act within the time period
4 required under this[✓] paragraph, the department shall issue a determination that the
5 objection is a substantive written objection.

6 (b) If the department does not receive any timely written objections to a
7 preliminary decision issued under sub. (2),[✓] the department shall enter the
8 preliminary decision as its final decision on issuing the permit or entering the
9 contract.

10 (6) PROCEDURES WHEN OBJECTIONS RECEIVED. (a)[✓] If the department determines
11 under sub. (5)[✓] that an objection is a substantive written objection to a preliminary
12 decision and that the project proposed under the permit or contract affects a public
13 right or public interest in a navigable[✓] waterway, the department shall notify the
14 applicant of its determination and shall allow the person making the substantive
15 written objection to choose any of the following^{methods} as a means to resolve the dispute
16 presented the substantive written objection:

- 17 1. An informal hearing before staff from the department.
- 18 2. A public hearing following the procedures under sub. (8).[✓]
- 19 3. A dispute resolution proceeding, if agreeable to the applicant for the permit
20 or contract and the person making the substantive written objection.

21 (c) ~~(b)~~ If a dispute resolution proceeding is conducted under par.[✓](a) and if an
22 agreement is reached, the parties to the proceeding shall submit the agreement to
23 the department for approval. In approving the decision, the department may amend
24 the agreement in order to protect the public rights or interest^s in the navigable
25 waterway affected by the agreement. If an agreement is not reached or if the^{the}

INS-
7-20

1 department does not approve the agreement, the department shall order a public
2 hearing under sub. (8).

3 (d) ~~(e)~~ If the department determines under sub. (5) [✓] that an objection to a
4 preliminary decision is a substantive written objection but that the project proposed
5 under the permit or contract does not affect a public right or public interest in a
6 navigable waterway, the department shall notify the applicant of its determination
7 and shall allow the person making the substantive written objection to choose any
8 of the following ^{methods} as a means to resolve the dispute presented by substantive written
9 objection:

10 1. An informal hearing before staff from the department.

11 2. A dispute resolution proceeding, if agreeable to the applicant for the permit
12 or contract and the person making a substantive written objection. INSERT 8-12 ✓

13 (f) ~~(e)~~ ^(d) If a dispute resolution proceeding is conducted under [✓] par. ~~(e)~~ ^(d) and if an
14 agreement is reached, the parties to the proceeding shall submit the agreement to
15 the department for approval. In approving the decision, the department may amend
16 the agreement in order to protect the public rights or interests [✓] in the navigable
17 waterway affected by the agreement. If an agreement is not reached or if the
18 department does not approve the agreement, the department shall conduct an
19 informal hearing as provided in par. ^(d) ~~(e)~~ 1. ✓

20 (g) ~~(e)~~ If the department determines under sub. (5) [✓] that an objection to a
21 preliminary decision is not a substantive written objection, the department shall
22 enter the preliminary decision as its final decision on issuing the permit or entering
23 the contract.

1 (h) ~~(g)~~ If the final decision under par. (e) is to issue the permit or enter the contract,
 2 the department shall ~~stay~~ extend the stay under sub. (5) (a) for 10 days after the
 3 decision becomes final.

4 (7) INFORMAL HEARING AND DISPUTE RESOLUTION PROCEEDINGS. The department
 5 shall promulgate rules to establish requirements and procedures for the informal
 6 hearings and the dispute resolution proceedings under sub. (6). The rules for dispute
 7 resolution proceeding shall ^s include mediation and ~~processes for binding arbitration and mediation.~~

8 (8) PUBLIC HEARING AND NOTICE. If a public hearing is to be conducted under this
 9 section, the department shall order a public hearing and the division of hearings and
 10 appeals shall transmit copies of the written notice of hearing to each person who
 11 received a notice of the preliminary decision under sub. (3) (d) and to each person who
 12 submitted a substantive written objection to the preliminary decision. The
 13 division of hearings ^{and appeals} shall transmit the copies at least 10 days before the hearing
 14 except that it shall transmit the copies at least 10 days before the hearing except that
 15 it shall transmit the copy to the applicant for the permit or for the contract at least
 16 20 days before the hearing. The applicant shall then publish the notice as a class 1
 17 notice under ch. 985 in a newspaper designated by the department that is likely to
 18 give notice in the area affected. The applicant shall file proof of publication under
 19 this ^{subsection} ~~paragraph~~ with the hearing examiner at or prior to the hearing.

20 (9) JUDICIAL REVIEW. Any decision issued by department staff under sub. (6),
 21 any agreement approved by the department under sub. (6) or any decision by a
 22 hearing examiner under this section is an administrative decision subject to judicial
 23 review under ^{ss} ~~§~~ 227.52 to 227.58.

24 SECTION 4. 30.12 (2) of the statutes is amended to read:

1 30.12 (2) PERMITS TO PLACE STRUCTURES OR DEPOSITS IN NAVIGABLE WATERS;
2 GENERALLY. The department, upon application and after ~~proceeding in accordance~~
3 with s. 30.02 (3)✓ and (4) issuing a preliminary decision and following the other
4 applicable procedures under s. 30.02✓, may grant to any riparian owner a permit to
5 build or maintain for the owner's use a structure otherwise prohibited under sub. (1),
6 if the structure does not materially obstruct navigation or reduce the effective flood
7 flow capacity of a stream and is not detrimental to the public interest. The
8 ~~procedures in this subsection do not apply to~~✓ Applications for permits issued under
9 sub. (3) are exempt from the procedures under s. 30.02✓.

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248.

10 **SECTION 5.** 30.123 (3)✓ of the statutes is amended to read:

11 30.123 (3) (a) Upon receipt of a complete application, the department shall
12 issue a preliminary decision and follow the notice and hearing provisions of other
13 applicable procedures under s. 30.02✓ (3) and (4), except that no notice or hearing is
14 required for

15 (b) Notwithstanding par. (a)✓ applications for proposed bridges which would
16 cross navigable waters less than 35 feet wide are exempt from the procedures under
17 s. 30.02.

History: 1977 c. 190; Stats. 1977 s. 30.122; 1977 c. 272; Stats. 1977 s. 30.123; 1987 a. 374.

18 ~~**SECTION 6.** 30.135 (2) (title) of the statutes is amended to read:~~

19 ~~30.135 (2) (title) NOTICE AND HEARING DECISIONS AND PROCEDURE~~

History: 1997 a. 27.

20 **SECTION 7.** 30.135 (2) (a) of the statutes is renumbered 30.135 (2) and amended
21 to read:

22 30.135 (2)✓ Upon receipt of a complete permit application, the department shall
23 either order a hearing or provide notice stating that it will proceed on the application

1 ~~without a hearing unless a substantive written objection to issuance of the permit~~
 2 ~~is received within 30 days after publication of the notice. The department shall~~
 3 ~~provide a copy of the notice to the applicant for the permit, the clerk of each~~
 4 ~~municipality in which the water ski platform or water ski jump is to be located and~~
 5 ~~to any other person required by law to receive notice. The department may provide~~
 6 ~~notice to other persons as it considers appropriate. The applicant shall publish the~~
 7 ~~notice as a class 1 notice under ch. 985 in a newspaper designated by the department~~
 8 ~~that is likely to give notice in the area affected. The applicant shall file proof of~~
 9 ~~publication with the department~~ issue a preliminary decision and follow the other
 10 applicable procedures under s. 30.02.

History: 1997 a. 27.

11 **SECTION 8.** 30.135 (2) (b) ~~X~~ of the statutes is repealed.

12 **SECTION 9.** 30.135 (2) (c) ~~X~~ of the statutes is repealed.

13 **SECTION 10.** 30.135 (3) ~~X~~ of the statutes is repealed.

14 **SECTION 11.** 30.135 (4) ~~X~~ of the statutes is repealed.

15 **SECTION 12.** 30.14 (2) of the statutes is amended to read:

16 30.14 (2) HEARINGS BY DEPARTMENT. Upon complaint by any person to the
 17 department that any wharf, pier or other structure exists in navigable water in
 18 violation of s. 30.12 or, 30.13 or ~~30.207~~ 30.206 ~~X~~ or that any wharf, pier or other
 19 structure proposed to be built in navigable water will violate s. 30.12 or, 30.13 or
 20 ~~30.207~~ 30.206 ~~X~~, the department shall investigate and may hold a hearing to
 21 determine whether the wharf, pier, or other structure is or would be in violation of
 22 those sections. If no hearing is held, the complainant shall be informed of the results
 23 of the investigation.

History: 1987 a. 374; 1997 a. 174.

24 **SECTION 13.** 30.18 (4) (a) of the statutes is amended to read:

1 30.18 (4) (a) Upon receipt of a complete application, the department shall issue
 2 a preliminary decision and follow the notice and hearing other applicable procedures
 3 under s. 30.02 (3) and (4). In addition to the notice requirements under s. 30.02 (3) *plain*
 4 and (4) (3) (4), the department shall mail a copy of the notice to every person upon
 5 whose land any part of the canal or any other structure will be located, to the clerk
 6 of the next town downstream, to the clerk of any village or city in which the lake or
 7 stream is located and which is adjacent to any municipality in which the diversion
 8 will take place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 a. 227.

9 **SECTION 14.** 30.19 (3) (a) of the statutes is amended to read:

10 30.19 (3) (a) *plain space* Section 30.02 (3) and (4) applies to For permit applications under
 11 sub. (1) (b) and (c) the department shall issue a preliminary decision and follow the
 12 other applicable procedures under s. 30.02. Notice shall be provided to the clerks of
 13 the county and municipality in which the project or affected body of water is located
 14 and Permit applications under sub. (1) (a) are exempt from the procedures under s.
 15 30.02. In addition to notice required under s. 30.02 (3) (e), the department shall
 16 transmit a copy of the notice of its preliminary decision to the persons under sub. (2)
 17 (e) who are not required to receive notice under s. 30.02 (3) (e). For any permit
 18 application which affects the Milwaukee River, the Menomonee River, the
 19 Kinnickinnic River, the Root River or any tributary of those rivers, special notice
 20 shall be given the department shall transmit a copy of the notice of of its preliminary
 21 decision to the Milwaukee metropolitan sewerage district. The metropolitan
 22 sewerage district shall have 30 days to respond to the special notice.

History: 1971 c. 273; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221; 1983 a. 36; 1987 a. 374; 1995 a. 227.

23 **SECTION 15.** 30.195 (3) of the statutes is amended to read:

1 30.195 (3) GRANTING OF PERMIT. Upon application therefor and subject to sub.
 2 (3m),[✓] the department shall grant a permit to the owner of any land to change the
 3 course of or straighten a navigable stream on such land, if such change or
 4 straightening will improve the economic or aesthetic value of the owner's land and
 5 will not adversely affect the flood flow capacity of the stream or otherwise be
 6 detrimental to public rights or to the rights of other riparians located on the stream.
 7 If the department finds that the rights of such riparians will be adversely affected,
 8 it may grant the permit only with their consent.[✓] ~~Such permit may be granted on the~~
 9 ~~department's own motion after its own investigation or after public hearing and after~~
 10 ~~giving prior notice of such investigation or hearing.~~

11 History: 1987 a. 374.

11 **SECTION 16.** 30.195 (3m)[✓] of the statutes is created to read:

12 30.195 (3m) NOTICE AND HEARING PROCEDURES.[✓] In determining whether to issue
 13 a permit or to enter a contract under this section, the department shall follow the
 14 applicable procedures under s. 30.02[✓] and shall do one of the following:

15 (a) Follow the notice procedures under s. 30.02 (3)[✓] if the course of the stream
 16 to be changed of the part of the stream to be straightened is less than 500 feet in
 17 length.

18 (b) Follow the notice procedures under s. 30.02 (4)[✓] if the course of the stream
 19 to be changed or the part of the stream to be straightened is ~~(less) 500^o or more feet in~~
 20 length.

21 **SECTION 17.** 30.196 (intro.) of the statutes is amended to read:

22 **30.196 Enclosure of navigable waters; issuance of permits to**
 23 **municipalities.** (intro.)[✓] A municipality may enclose navigable waters by directing,
 24 placing or restricting navigable waters into an enclosed drain, conduit, storm sewer

1 or similar structure if the department grants the municipality a permit. The
2 department may grant this permit to a municipality after following the ~~notice and~~
3 ~~hearing requirements~~ other applicable procedures under s. 30.02 (3) and (4) if it finds
4 that granting the permit:

5 History: 1981 c. 19; 1987 a. 374.

5 SECTION 18. 30.20 (3) of the statutes is created to read:

6 30.20 (3) NOTICE AND HEARING PROCEDURES. In determining whether to issue a
7 permit or to enter a contract under this section, the department shall follow the
8 applicable procedures under s. 30.02 and shall do one of the following:

9 (a) Follow the notice procedures under s. 30.02 (3) if the amount of material
10 to be removed is less than 3,000 cubic yards.

11 (b) Follow the notice procedures under s. 30.02 (4) if the amount of material to
12 be removed is 3,000 cubic yards or more.

13 SECTION 19. 30.206 (1) of the statutes is amended to read:

14 30.206 (1) STANDARDS FOR ISSUING PERMITS. For activities which require a permit
15 or approval under ss. 30.12 (3) (a) and 30.19 (1) (a) under this chapter but to which
16 the procedures under s. 30.02 do not apply, the department may issue a general
17 permit authorizing a class of activities, ~~according to rules promulgated by the~~
18 ~~department statewide or in a region of the state~~. Before issuing general permits, the
19 department shall determine, after an environmental analysis and notice and
20 hearing under ss. 227.17 and 227.18, that the cumulative adverse environmental
21 impact of the class of activity is insignificant and that issuance of the general permit
22 will not ~~injure~~ ~~public rights or interest~~ public interests in navigable waters, cause

~~the public rights or interest~~
31ET

1 environmental pollution, as defined in s. 299.01 (4), or result in material injury to the
2 rights of any riparian owner.

History: 1987 a. 374; 1995 a. 227; 1997 a. 174.

3 **SECTION 20.** 30.206 (1r) (title) of the statutes is created to read:

4 30.206 (1r) (title) HEARINGS.

5 **SECTION 21.** 30.206 (1r) (b) of the statutes is created to read:

6 30.206 (1r) (b) Upon receipt of an application for a general permit, the
7 department shall either order a public hearing or provide notice stating that it will
8 proceed on the application without a hearing if, within 30 days after the publication
9 of the notice, no request for a hearing concerning the application is received. The
10 department shall provide a copy of the notice to the applicant for the permit, to the
11 clerk of each municipality in which the general permit will apply and to any other
12 person required by law to receive notice. The department may provide notice to other
13 persons as it considers appropriate. The applicant shall publish the notice as a class
14 1 notice under ch. 985 in any newspaper designated by the department that is likely
15 to give notice in any area to be affected. The applicants shall file proof of publication
16 with the department.

17 **SECTION 22.** 30.206 (1r) (c) of the statutes is created to read:

18 30.206 (1r) (c) If the department orders a public hearing, the division of
19 hearings and appeals shall mail a written notice at least 10 days before the hearing
20 to each person given a copy of the notice under par. (a) and to each person requesting
21 the hearing.

22 **SECTION 23.** 30.206 (1r) (d) of the statutes is created to read:

23 30.206 (1r) (d) The applicant for the permit shall publish a class 1 notice under
24 ch. 985 of the public hearing in any newspaper designated by the department that

1 is likely to give notice in any area to be affected. The applicant shall file proof of
2 publication under this paragraph with the hearing examiner at or prior to the
3 hearing.

4 SECTION 24. 30.206 (2) (title) of the statutes is created to read:

5 30.206 (2) (title) CONDITIONS ON PERMITS.

6 SECTION 25. 30.206 (2) of the statutes is renumbered 30.206 (2) (a) ^{and} amended
7 to read:

8 30.206 (2) (a) A general permit issued under this section may include any
9 conditions determined by the department to be reasonably necessary to prevent
10 environmental pollution, as defined in s. 299.01 (4), and to protect the public interest ^{interests}
11 ~~and public rights~~ ^{PLAIN} ~~rights and interests~~ in navigable waters and the rights of other
12 riparian owners.

History: 1987 a. 374; 1995 a. 227; 1997 a. 174.

13 SECTION 26. 30.206 (3) of the statutes is repealed.

14 SECTION 27. 30.206 (3m) of the statutes is repealed.

15 SECTION 28. 30.206 (4) of the statutes is repealed.

16 SECTION 29. 30.206 (5) (title) of the statutes is created to read:

17 30.206 (5) (title) PERIOD OF VALIDITY; REVOCATIONS; TERMINATION OF STRUCTURES
18 OR ACTIVITIES.

19 SECTION 30. 30.206 (5) of the statutes is renumbered 30.206 (5) ^{(c) and} amended
20 to read:

21 30.206 (5) ^(c) ~~(a)~~ Failure of an applicant ^{general} for a permit under this section
22 this section may result in forfeiture ~~but may not, by itself, result in and the~~

1 department ^{may} ~~seek~~ abatement of the activity if the department determines that the
2 activity ~~is detrimental to~~ ^{injures} the public rights or public interests in navigable waters.

History: 1987 a. 374; 1995 a. 227; 1997 a. 174.

3 SECTION 31. 30.206 (5) (a) of the statutes is created to read:

4 30.206 (5) (a) A general permit shall be valid for the period of time specified
5 by the department on the permit but may not be valid for longer than 5 years from
6 the date of issuance.

7 SECTION 32. 30.206 (5) ^(b) ~~(e)~~ of the statutes is created to read:

8 30.206 (5) ^(b) ~~(e)~~ The department may revoke a general permit if ^{it} determines that
9 ^{of the} any activities authorized under the general permit ^S injure the public rights or public
10 interests in the navigable waters.

11 SECTION 33. 30.206 ^{plain} ~~(c)~~ ^(d) of the statutes is created to read:

12 30.206 (5) ^{plain} ~~(c)~~ ^(d) A person may maintain structure or deposit that was placed in
13 a body of water or otherwise continue an activity under the authority of a general
14 permit issued under this section after a general permit expires or is revoked unless
15 that department determines that the structure, deposit or activity ^{injures} ~~is detrimental to~~
16 the public rights or public interests in navigable waters and orders it removed or
17 terminated.

18 SECTION 34. 30.206 (6) of the statutes is amended to read:

19 30.206 (6) OPTION TO REQUEST INDIVIDUAL PERMIT. A person proposing an activity
20 for which a general permit has been issued may request an individual permit under
21 the applicable provisions of this chapter ^{or ch. 31} in lieu of seeking authorization
22 under the general permit.

History: 1987 a. 374; 1995 a. 227; 1997 a. 174.

23 SECTION 35. 30.206 (7) of the statutes is repealed.

24 SECTION 36. 30.207 (title) of the statutes is repealed.

1 SECTION 37. 30.207 (1) of the statutes is repealed.

2 SECTION 38. 30.207 (1m) of the statutes is repealed.

3 SECTION 39. 30.207 (2) of the statutes is repealed.

4 SECTION 40. 30.207 (3) (title) of the statutes is renumbered 30.206 (1g) (title)
5 and amended to read:

6 30.206 (1g) (title) APPLICATION FOR GENERAL PERMIT PERMITS.

7 SECTION 41. 30.207 (3) (a) of the statutes is renumbered 30.206 (1g) (a) and
8 amended to read:

9 30.206 (1g) (a) Any local entity, as defined in s. 30.77 (3) (dm), or any group of
10 ~~10 riparian owners who will be affected by the issuance of a general permit, or any~~
11 ~~contractor who is or has been involved in the construction of structures or along~~
12 ~~navigable waters may apply for a~~ municipality, public inland lake protection and
13 rehabilitation district or any town sanitary district may submit an application to the
14 department for general permit under this section authorizing one or more activities
15 statewide or in a region in which the municipality or district is located. Any group
16 of ^{at least} 10 riparian owners may submit an application for a general permit under this
17 section authorizing one or more activities statewide or in a region where the riparian
18 owners will be affected. The fee specified in s. 30.28 (2) (b) 1. shall accompany the
19 application. plain

History: 1997 a. 174.

20 SECTION 42. 30.207 (3) (b) of the statutes is repealed.

21 SECTION 43. 30.207 (3) (c) of the statutes is repealed.

22 SECTION 44. 30.207 (3) (d) (intro.) of the statutes is renumbered 30.206 (1g) (b)
23 (intro.).

24 SECTION 45. 30.207 (3) (d) 1. of the statutes is renumbered 30.206 (1g) (b) 1.

1 **SECTION 46.** 30.207 (3) (d) 2. of the statutes is renumbered 30.206 (1g) (b) 2. and
2 amended to read:

3 30.206 (1g) (b) 2. Specify the department's plans for proceeding on the
4 application. The plans shall include a timetable for the notice and hearing required
5 under sub. (4).

6 History: 1997 a. 174.

6 **SECTION 47.** 30.207 (4) of the statutes is repealed.

7 **SECTION 48.** 30.207 (5) of the statutes is renumbered 30.206 (1r) (a) and
8 amended to read:

9 30.206 (1r) (a) If an activity for which an application for which a general permit
10 has been submitted would be subject to the hearing and notice provisions under s.
11 30.02 (3) and (4) for the issuance of an individual permit, the department shall
12 comply with those provisions. Notice The department shall follow the notice and
13 hearing shall be required on procedures under pars. (b) to (d) for an application for
14 a general permit under this section only if a notice and hearing are required under
15 s. 30.02 (3) and (4) for the activity as part of an application for an individual permit
16 under this chapter.

17 **SECTION 49.** 30.207 (6) (title) of the statutes is repealed.

18 **SECTION 50.** 30.207 (6) (intro.) of the statutes is repealed.

19 **SECTION 51.** 30.207 (6) (b) of the statutes is renumbered 30.206 (3b) (c).

20 **SECTION 52.** 30.207 (7) (title) of the statutes is renumbered 30.206 (3b) (title)
21 and amended to read:

22 30.206 (3b) (title) ACTIVITIES UNDER GENERAL PERMITS.

23 History: 1997 a. 174.

23 **SECTION 53.** 30.207 (7) (a) of the statutes is renumbered 30.206 (3b) (a)

24 and amended to read:

1 30.206 (3b) (a) At least 15 days before beginning the activity that is authorized
2 by a general permit under this section, the person who wishes to conduct the activity
3 an activity for which the department has issued a general permit shall submit a
4 notice to the department and shall pay the fee specified in s. 30.28 (2) (b) 2. The notice
5 shall describe the activity, state the name of the person that will be conducting the
6 activity and ~~state the site~~ shall specify the location where the activity will be
7 conducted. The notice shall also contain a statement signed by the person conducting
8 the activity that the person will act in conformance with the standards contained in
9 the general permit.

History: 1997 a. 174.

10 **SECTION 54.** 30.207 (7) (b) of the statutes is renumbered 30.206 (3b) (b) and
11 amended to read:

12 30.206 (3b) (b) Upon receipt of a notice that complies with par. (a), the
13 department may inform the person that the activity may not be conducted under the
14 general permit if ~~conditions at the site where the activity would be conducted would~~
15 ~~cause adverse environmental impact, injure public rights and~~ public interests ~~or~~
16 ~~cause environmental pollution, as defined in s. 299.01 (4).~~ The department shall
17 ~~respond to the person within 15 days after receiving the notice.~~ Failure of the
18 ~~department to respond within 15 days shall constitute the department's approval of~~
19 ~~the activity under the general permit~~ in navigable waters.

History: 1997 a. 174.

20 **SECTION 55.** 30.207 (7) (c) of the statutes is renumbered 30.206 (3b) (d) and
21 amended to read:

22 30.206 (3b) (d) A person conducting an activity that is authorized by a general
23 permit under this section shall comply with any standard contained in an applicable

1 ~~local ordinances~~ ordinance that is at least as restrictive as the standards contained
2 in the general permit. ✓

3 SECTION 56. 30.207 (8) ✓ of the statutes is repealed.

4 SECTION 57. 30.207 (9) (intro.) of the statutes is renumbered 30.206 (8) and
5 amended to read:

6 30.206 (8) ✓ ACCESS TO PROPERTY. For inspection purposes, an employe or agent
7 of the department shall have free access during reasonable hours to any location
8 where an activity is proposed to be, is or has been authorized under a general permit
9 issued ✓ under this section if the employe or agent shows to any person who is present
10 at the site and who owns the site or is otherwise in control of the site either of the
11 following: ✓

12 History: 1997 a. 174.

12 SECTION 58. 30.207 (9) (a) ✓ of the statutes is repealed.

13 SECTION 59. 30.207 (9) (b) ✓ of the statutes is repealed.

14 SECTION 60. 30.207 (10) ✓ of the statutes is repealed.

15 SECTION 61. 30.28 (1) of the statutes is amended to read:

16 30.28 (1) FEES REQUIRED. The department shall charge a permit or approval fee
17 for carrying out its duties and responsibilities under ss. 30.10 to ~~30.205, 30.207~~
18 30.206 and 30.21 to 30.27. The permit or approval fee shall accompany the permit
19 application, notice or request for approval.

20 History: 1977 c. 29; 1979 c. 221; 1981 c. 226, 346; 1987 a. 374; 1995 a. 27, 227; 1997 a. 27, 174.

20 SECTION 62. 30.28 (2) (b) 1. of the statutes is amended to read:

21 30.28 (2) (b) 1. For an application for a general permit submitted under s.
22 ~~30.207 (3)~~ 30.206 (1g) ✓, the fee shall be \$2,000.

23 History: 1977 c. 29; 1979 c. 221; 1981 c. 226, 346; 1987 a. 374; 1995 a. 27, 227; 1997 a. 27, 174.

23 SECTION 63. 30.28 (2) (b) 2. of the statutes is amended to read:

1 30.28 (2) (b) 2. For a notice submitted under s. ~~30.207 (7)~~ 30.206 (3b)[✓], the fee
2 shall be \$100.

3 History: 1977 c. 29; 1979 c. 221; 1981 c. 226, 346; 1987 a. 374; 1995 a. 27, 227; 1997 a. 27, 174.

3 **SECTION 64.** 30.28 (2m) (am) of the statutes is amended to read:

4 30.28 (2m) (am) The department shall refund 50% of the fee specified in sub.
5 (2) (b) 1. if the department denies an application for a general permit under s. ~~30.207~~
6 ~~(3) (d) 1.~~[✓] or does not issue a general permit under s. ~~30.207 (6)~~ 30.206 (1g)[✓].

7 History: 1977 c. 29; 1979 c. 221; 1981 c. 226, 346; 1987 a. 374; 1995 a. 27, 227; 1997 a. 27, 174.

7 **SECTION 65.** 30.28 (2m) (b) of the statutes is amended to read:

8 30.28 (2m) (b) If the applicant applies for a permit, requests an approval, or
9 submits a notice under s. ~~30.207 (7)~~ 30.206 (3b)[✓] after the project is begun or after it
10 is completed, the department shall charge an amount equal to twice the amount of
11 the fee that it would have charged under this section.

12 History: 1977 c. 29; 1979 c. 221; 1981 c. 226, 346; 1987 a. 374; 1995 a. 27, 227; 1997 a. 27, 174.

12 **SECTION 66.** 30.28 (2m) (d) of the statutes is amended to read:

13 30.28 (2m) (d) The department, by rule, may increase any fee specified in sub.
14 (2) (a). The department, by rule, may increase a fee specified in sub. (2) (b) only if
15 the increase is necessary to meet the costs incurred by the department in acting on
16 general permits or on notices submitted under s. ~~30.207~~ 30.206[✓].

17 History: 1977 c. 29; 1979 c. 221; 1981 c. 226, 346; 1987 a. 374; 1995 a. 27, 227; 1997 a. 27, 174.

17 **SECTION 67.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

18 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public
19 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may
20 petition the city, village, town or county that owns the public access to construct
21 shoreline erosion control measures. Subject to par. (e), the city, village, town or
22 county shall construct the requested shoreline erosion control measures or request
23 the department of natural resources to determine the need for shoreline erosion

1 control measures. Upon receipt of a request under this paragraph from a city, village,
2 town or county, the department of natural resources shall follow the procedures in
3 s. 30.02 (3) and (4) [✓]sub. (3m). Subject to par. (e), the city, village, town or county shall
4 construct shoreline erosion control measures as required by the department of
5 natural resources if the department of natural resources determines all of the
6 following:

7 History: 1971 c. 164; 1979 c. 221; 1979 c. 248 ss. 9, 25 (2); 1997 a. 172.

SECTION 68. 236.16 (3m) of the statutes is created to read:

8 236.16 (3m) NOTICE AND HEARING REQUIREMENTS. [✓](a) Upon receipt of a request
9 for a determination under sub. (3) (d), [✓]the department of natural resources shall
10 either order a public hearing or provide notice stating that it will proceed on the
11 request without a hearing if, within 30 days after the publication of the notice, no
12 request for a hearing concerning the determination under sub. (3) (d) is received. ^{check spacing}
13 The department of natural resources shall provide the notice to the clerk of each
14 municipality in which the proposed shoreline erosion control measures are located
15 and to any other person required by law to receive notice. The department of natural
16 resources may provide notice to other persons as it considers appropriate. The
17 department of natural resources shall provide a copy of the notice to the city, village [↓]
18 town or county that requested the determination. The city, village, town or county
19 shall publish it as a [✓]class 1 notice under ch. 985 in a newspaper designated by the
20 department that is likely to give notice in the area affected. The city, village, town
21 or county shall file proof of publication with the department of natural resources.
22 (b) If the department of natural resources orders a public hearing, [✓]the division
23 of hearings and appeals shall mail a written notice at least 10 days before the hearing

1 to each person given a copy of the notice under par. (a)✓ and to each person requesting
2 the hearing.

3 (c) The city, village, town or county requesting the determination shall publish
4 a class 1 notice under ch. 985 of the public hearing in a newspaper designated by the
5 department of natural resources that is likely to give notice in the area affected. The
6 city, village, town or county shall file proof of publication under this paragraph✓ with
7 the hearing examiner at or prior to the hearing.

8 (END)✓

D-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0677/1dn
MGG.....

1
Jlg

This is a complicated draft ~~and~~ so
~~any changes~~ please call me to
discuss any changes instead of
sending me suggested language
changes.

injury to public rights
and interests under

1. The analysis and text of this bill need careful review by DNR to ensure accuracy in the analysis and to ensure that the bill achieves the DNR's intent. ^

3. ~~4.~~ Please review all of the requirements in s. 30.135 (3) that are repealed in this draft to make sure you do not wish to retain any of them.

5. ~~4.~~ The instructions received from DNR state that for s. 30.20 permits that involve 3,000 cubic yards, the notice requirement is a "news release". I do not think there is any statutory language that needs to be amended to make this change (except for the creation of s. 30.20 (3) in this draft). If that is not the case, please let me know.

6. ~~4.~~ Various phrases are used in ss. 30.206 and 30.207 and in the proposed language. I was given to convey the concept of the public trust doctrine and the rights of other riparian owners. I have used the same phrase to convey these concepts throughout this draft. If different phrases are wanted, please call me so that we can discuss this.

for s.
30.206

8. ~~4.~~ I did not think the language authorizing rule-making was necessary in s. 30.206. See 227.11 (2) (b). ^

9. ~~4.~~ I added deposit to s. 30.206 (5) (d). OK?

10. ~~7.~~ Are there any s. 30.207 permits now in existence or will there be before the language in this draft is enacted? If so, we need to "grandfather" them since the language authorizing them is being repealed.

11. Do you want a delayed effective date to allow you time to implement these changes? Along those lines, do you want emergency rule-making authority for the rules under s. 30.02(7)?

Mary Gibson-Glass
Senior Legislative Attorney
267-3215

2. Under the draft, "I made the notice of decision" notification requirements apply to public notices also. OK?

7. I changed the language in s. 30.02(1g)(a) to "at least 10 riparians" since I did not think exactly 10 riparians made sense.

4. A cross-reference to s. 802.12 for arbitration and mediation procedures just does not work. If you do not want the rule-making authority in this draft, we will need to discuss which provisions of s. 802.12 you want incorporated into s. 30.02.

Plain

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0677/lins
MGG.....

Insert 7-20

(b) If the department determines under par. (a) [✓] that there is more than one substantive written objection to a preliminary decision, the department shall use the method under par. (a) 2. to resolve the dispute unless all of the persons ^{plain} making the substantive written objections agree to the method under par. (a) 1. or unless ^{all of the} ~~each~~ ^{the} person ^s making substantive written objections and the applicant for the permit or contract agree to the method under par. (a) 3. [✓]

Insert 8-12

(e) [✓] If the department determines under par. (d) [✓] that there is more than one substantive written objection to a preliminary decision, the department shall use the method under par. (a) 1. [✓] to resolve the dispute unless ^{all of the persons} ~~each person~~ making ^{the} substantive written objections and the applicant for the permit or contract agree to the method under par. (a) 3. [✓]

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0677/1dn
MGG:jlg:hmh

Monday, December 21, 1998

1. The analysis and text of this bill need careful review by DNR to ensure accuracy in the analysis and to ensure that the bill achieves the DNR's intent. This is a complicated draft so please call me to discuss any changes instead of sending me suggested language changes.

2. Under the draft, the "notice of decision" notification requirements apply to public notices also. OK?

3. Please review all of the requirements in s. 30.135 (3) that are repealed in this draft to make sure you do not wish to retain any of them.

4. A cross-reference to s. 802.12 for arbitration and mediation procedures just does not work. If you do not want the rule-making authority in this draft, we will need to discuss which provisions of s. 802.12 you want incorporated into s. 30.02.

5. The instructions received from DNR state that for s. 30.20 permits that involve 3,000 cubic yards, the notice requirement is a "news release". I do not think there is any statutory language that needs to be amended to make this change (except for the creation of s. 30.20 (3) in this draft). If that is not the case, please let me know.

6. Various phrases are used in ss. 30.206 and 30.207 and in the proposed language for s. 30.206 I was given to convey the concept of injury to public rights and interests under the public trust doctrine and to the rights of other riparian owners. I have used the same phrase to convey these concepts throughout this draft. If different phrases are wanted, please call me so that we can discuss this.

7. I changed the language in s. 30.206 (1g) (a) to "at least 10 riparians" since I did not think exactly 10 riparians made sense.

8. I did not think the language authorizing rule making was necessary in s. 30.206. See s. 227.11 (2) (b).

9. I added deposit to s. 30.206 (5) (d). OK?

10. Are there any s. 30.207 permits now in existence or will there be before the language in this draft is enacted? If so, we need to "grandfather" them since the language authorizing them is being repealed.

11. Do you want a delayed effective date to allow you time to implement these changes? Along those lines do you want emergency rule-making authority for the rules under s. 30.02 (7)?

Mary Gibson-Glass
Senior Legislative Attorney
267-3215

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0677/1dn
MGG:jlg:hmh

Monday, December 21, 1998

1. The analysis and text of this bill need careful review by DNR to ensure accuracy in the analysis and to ensure that the bill achieves the DNR's intent. This is a complicated draft so please call me to discuss any changes instead of sending me suggested language changes.

2. Under the draft, the "notice of decision" notification requirements apply to public notices also. OK?

3. Please review all of the requirements in s. 30.135 (3) that are repealed in this draft to make sure you do not wish to retain any of them.

4. A cross-reference to s. 802.12 for arbitration and mediation procedures just does not work. If you do not want the rule-making authority in this draft, we will need to discuss which provisions of s. 802.12 you want incorporated into s. 30.02.

5. The instructions received from DNR state that for s. 30.20 permits that involve 3,000 cubic yards, the notice requirement is a "news release". I do not think there is any statutory language that needs to be amended to make this change (except for the creation of s. 30.20 (3) in this draft). If that is not the case, please let me know.

6. Various phrases are used in ss. 30.206 and 30.207 and in the proposed language for s. 30.206 I was given to convey the concept of injury to public rights and interests under the public trust doctrine and to the rights of other riparian owners. I have used the same phrase to convey these concepts throughout this draft. If different phrases are wanted, please call me so that we can discuss this.

7. I changed the language in s. 30.206 (1g) (a) to "at least 10 riparians" since I did not think exactly 10 riparians made sense.

8. I did not think the language authorizing rule making was necessary in s. 30.206. See s. 227.11 (2) (b).

9. I added deposit to s. 30.206 (5) (d). OK?

10. Are there any s. 30.207 permits now in existence or will there be before the language in this draft is enacted? If so, we need to "grandfather" them since the language authorizing them is being repealed.

11. Do you want a delayed effective date to allow you time to implement these changes? Along those lines do you want emergency rule-making authority for the rules under s. 30.02 (7)?

Mary Gibson-Glass
Senior Legislative Attorney
267-3215

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0677/1dn
MGG;jlg:hmh

Monday, December 21, 1998

1. The analysis and text of this bill need careful review by DNR to ensure accuracy in the analysis and to ensure that the bill achieves the DNR's intent. This is a complicated draft so please call me to discuss any changes instead of sending me suggested language changes.

2. Under the draft, the "notice of decision" notification requirements apply to public notices also. OK?

3. Please review all of the requirements in s. 30.135 (3) that are repealed in this draft to make sure you do not wish to retain any of them.

4. A cross-reference to s. 802.12 for arbitration and mediation procedures just does not work. If you do not want the rule-making authority in this draft, we will need to discuss which provisions of s. 802.12 you want incorporated into s. 30.02.

5. The instructions received from DNR state that for s. 30.20 permits that involve 3,000 cubic yards, the notice requirement is a "news release". I do not think there is any statutory language that needs to be amended to make this change (except for the creation of s. 30.20 (3) in this draft). If that is not the case, please let me know.

6. Various phrases are used in ss. 30.206 and 30.207 and in the proposed language for s. 30.206 I was given to convey the concept of injury to public rights and interests under the public trust doctrine and to the rights of other riparian owners. I have used the same phrase to convey these concepts throughout this draft. If different phrases are wanted, please call me so that we can discuss this.

7. I changed the language in s. 30.206 (1g) (a) to "at least 10 riparians" since I did not think exactly 10 riparians made sense.

8. I did not think the language authorizing rule making was necessary in s. 30.206. See s. 227.11 (2) (b).

9. I added deposit to s. 30.206 (5) (d). OK?

10. Are there any s. 30.207 permits now in existence or will there be before the language in this draft is enacted? If so, we need to "grandfather" them since the language authorizing them is being repealed.

11. Do you want a delayed effective date to allow you time to implement these changes? Along those lines do you want emergency rule-making authority for the rules under s. 30.02 (7)?

Mary Gibson-Glass
Senior Legislative Attorney
267-3215

*Grandfathering
and
extension
period of
validity
(5)(d)
(5)(b)*

1 ~~of the renewal application upon receipt of the registration certificate and decals or~~
2 ~~to an agent appointed under sub. (3h).~~

3 (END)

1 SECTION 1. 23.33 (2) (i) of the statutes is created to read:

2 23.33 (2) (i) ^{App...} ~~Renewals~~. For the ^{issuance or renewal of any} renewal of all-terrain vehicle registration
3 certificates ~~for public use or the renewal of commercial all-terrain vehicle~~
4 ~~registration certificates~~, ^{or duplicates} the department may do any of the following:

5 1. Directly renew the certificates.

6 2. Appoint, as an agent of the department, the clerk of one or more counties to
7 renew the certificates.

8 3. Appoint persons who are not employees of the department to renew the
9 certificates as agents of the department.

10 SECTION 2. 23.33 (2) (im) ^{(2) (i) duplicates} of the statutes is created to read:

11 23.33 (2) (im) ~~Renewals~~ ^{Acceptance of appointments} appointees. 1. The clerk of each county appointed
12 under par. (i) 2. may accept the appointment.

13 2. The department may promulgate rules regulating the activities of persons
14 appointed under par. (i) 2. and 3.

15 SECTION 3. 29.184 (9) (a) of the statutes is amended to read:

16 29.184 (9) (a) The department shall issue a back tag to each person who is
17 issued a Class A bear license, ~~and the department or county clerk shall issue a back~~
18 ~~tag to each person who is issued~~ or a Class B bear license.

19 SECTION 4. 30.52 (1m) of the statutes is created to read:

20 30.52 (1m) RENEWALS. (a) For the renewal of certificates of number or
21 certificates of registration, the department may do any of the following:

22 1. Directly renew the certificates.

23 2. Appoint, as an agent of the department, the clerk of one or more counties to
24 renew the certificates.

FRI A.M.

D-Note

DOA:.....Grinde - Chapter 30 permitting, notices and hearings

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

NATURAL RESOURCES

NAVIGABLE WATERS

Decision, notice and hearing procedures

Under current law, with certain exceptions, a riparian may not place a structure or deposit or conduct certain other activities in a navigable body of water without first obtaining a permit or contract from the department of natural resources (DNR).

Under current law, for most structures, deposits or activities (riparian activities) that require a permit or contract, the procedure for obtaining the permit or contract requires that DNR provide notice to the public in a newspaper that is likely to give notice in the area where the riparian activity will be located (area newspaper) and to the county and city, village or town (municipality) in which the riparian activity will be located. If DNR receives a written objection in response to the notice, it must hold a public hearing on the issue of whether DNR should approve the permit or contract. DNR may also use this notice and hearing procedure when it is not specifically required if DNR determines that substantial interests of any party may be adversely affected by the granting of the permit or contract.

For other riparian activities that require permits, current law does not require this notice and hearing procedure. These riparian activities include the placement

Impact assessment

of fish cribs, bird nesting, gravel, riprap, bridges less than 35 feet wide and enlarging certain artificial waterways.

This bill changes these public notice and hearing procedures. These changes to the public notice and hearing procedure include the following:

1. The first notice issued by DNR contains a preliminary decision of whether to grant the permit or the contract instead of stating that it will proceed to render a decision without a hearing unless a substantive written objection is received within 30 days. A substantive written objection is one that states the reason the ~~activity~~ *activity* will violate the laws governing navigable waters and is submitted by a person who will present information in support of the objection at a hearing or other procedure. Under the bill, the preliminary decision becomes final if no such objection is received within 30 days.

include
2. Under the bill, DNR distributes the first notice issued to certain interested parties. The specific parties required to receive individual notice include any person who owns riparian property adjacent to the property of the applicant, any municipality in which the riparian activity will be located, any property owner's association established for the body of water and any local unit of government, such as an inland lake protection and rehabilitation district or a town sanitary district, that is established for the body of water. Also, for certain types of permits or contracts or wherever DNR determines that an environmental ~~impact statement~~ *include* is required, the applicant for the permit or contract must publish a notice containing the preliminary decision in an area newspaper. The types of permits and contracts that require this additional notice ~~are~~ *include* permits to connect a natural or constructed waterway with a navigable water, permits to change 500 feet or more of a streams course, permits requested by municipalities to enclose navigate waters into drains, storm sewers or similar structures and contracts to remove 3,000 cubic feet or more of material from the bed of a navigable waters.

3. Under the bill, if an objection is timely filed, DNR must determine whether it is a substantive written objection and if, so whether the riparian activity affects a public right or interest in navigable waters. The type of hearing or dispute resolution procedure to be held depends on DNR's determination. If DNR determines the objection is substantive and that the riparian activity affects a public right or interest, DNR must offer the person making the objection the choice of a public hearing before an administrative law judge, an informal hearing before DNR staff, or a dispute resolution proceeding. If DNR determines that the objection is substantive but that the riparian activity does not affect a public right or interest, DNR must offer the choice between the informal hearing and the dispute resolution proceeding. Under the bill, DNR must promulgate rules to establish the dispute resolution process which must include binding arbitration and mediation. If a public hearing is required, the notice and procedural requirements for the hearing, with the exception as to the timing of the advance notice to the applicant, are the same as under current law.

The riparian activities that are subject to these notice and hearing requirements under current law continue to be subject to the requirements under the

bill. The bill also applies the requirements to the permits and contracts to remove material from beds of navigable waters.

General permits

Under current law, ^{the} DNR must issue permits authorizing activities in navigable waters such as the placement of structures or deposits. Under current law, for certain types of activities in navigable waters, DNR may issue a general permit that allows anyone to engage in a type of activity as opposed to an individual permit to a specific individual who wants to engage in the activity. Currently there are two programs under which DNR issues general permits. One applies throughout the state (regular program). The other program is a five-year project for the Wolf River and Fox River basin area, under which DNR issues general permits for any activity in navigable waters that requires a permit (pilot program). The basin area consists of all of Winnebago County and Fond du Lac County and portions of Waushara County, Calumet County, Waupaca County and Outagamie County. Under both programs, DNR issues a general permit if it determines that the environmental impact of the activity is insignificant and that the issuance of the permit will not cause pollution or injury to the rights of the public or riparian property owners.

This bill eliminates ~~the~~ pilot program and makes changes in the regular program, including the following:

1. Under the bill, DNR may issue a general permit for any activity, ~~that does not require a preliminary decision and notice of decision.~~ Thus, DNR continues to be able to issue general permits for activities such as the placement of fish cribs, bird nesting platforms, gravel and riprap and the enlargement of certain waterways. The bill expands the types of permitted activities for which DNR may issue a general permit under the regular program to include the placement of bridges that are less than 35 feet wide and removal of material from nonnavigable lakes and inland streams. Under the current pilot program, DNR may issue a general permit for any activity that requires a specific permit.

Check draft.

INS
ANL-
A

2. The bill imposes a time limit of five years on any general permit. There are no time limits under the current two programs.

3. The bill allows a person to maintain a structure or deposit or continue an activity under the authority of a general permit after the general permit is no longer in effect unless DNR determines that the structure, deposit or activity is detrimental to a public right or interest in navigable waters.

4. The bill allows only municipalities, public inland lake protection and rehabilitation districts, town sanitary districts and groups of ten or more riparian owners that would be affected by the issuance of a general permit to apply. Under the current regular program, anyone can apply. Under the pilot program, these specific persons plus any contractor who has been involved in placing structures along navigable waters and certain local entities such as certain lake associations and nonprofit conservation organizations can apply.

5. The bill requires that public notice be given and in certain cases a public hearing be held before issuing a general permit for any activity. Under the pilot program, notice and hearing are required only ^{when if} they are required before issuing an individual permit for the activity in question. Under the regular program there are

~~public notice~~
~~public notice~~
~~public notice~~

no notice or hearing requirements because the types of activities for which general permits are available have no notice and hearing requirements before issuance of the permit. The notice and hearing requirements for general permits under the bill are basically the same as those under current law.

~~6. The bill incorporates the requirement from the pilot program that the standards contained in a general permit supersede the laws governing the placement of structures and deposits and other activities in navigable waters.~~

AP
(6)
(6)

~~6. The~~ The bill requires that a person conducting an activity under a general permit comply with any local ordinance that contains standards that are at least as restrictive as those contained in the general permit. The pilot program required compliance with any applicable local ordinances.

~~7. The~~ The bill incorporates from the pilot program into the regular program the fee structure for general permits and for authorization to act under general permits.

~~7. The~~ The bill establishes specific provisions governing inspections under the regular program. The pilot program had similar provisions.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

INS
ANL-B ✓

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

1 SECTION 1. 20.370 (4) (ad) of the statutes is created to read:

2 20.370 (4) (ad) *Water resources — general permit program.* From the general
3 fund, the amounts in the schedule for the implementation and administration of the
4 procedures under s. 30.206 for issuing general permits.

~~***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.605, state.~~

INSERT 4-4 ✓

5 SECTION 2. 30.01 (6b) of the statutes is amended to read:

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

11 SECTION 3. 30.02 of the statutes is repealed and recreated to read:

1 **30.02 General provisions for notices, hearings and decisions. (1)**

2 **APPLICABILITY.** The department shall follow the procedures in subs. (2) to (8) in
3 determining whether to issue a permit or enter a contract under this chapter where
4 a preliminary decision is specifically required under this chapter or where the
5 department determines that a substantial public right or public interest ^{in nav. waters} ~~of the public~~
6 ~~or of a person other than the applicant for the permit or contract~~ may be adversely
7 affected by the department's decision.

break
line
2

INS 5-7

8 **(2) PRELIMINARY DECISION REQUIRED.** (a) Upon receipt of a complete application
9 for a permit to which sub. (1) applies or before entering a contract to which sub. (1)
10 applies, the department shall evaluate the application or proposed contract and
11 issue a preliminary decision whether to grant the permit or to enter into the contract.

12 (b) A decision under par. (a) shall become final on the 30th day following the
13 date of the transmittal of the preliminary decision under sub. (3) or the date of
14 publication of the notice under sub. (4) unless the department receives a substantive
15 written objection to the preliminary decision before that date.

16 **(3) NOTICE OF PRELIMINARY DECISION; SPECIAL NOTICE.** The department shall issue
17 a notice of its preliminary decision, which shall contain the preliminary decision and
18 the information specified in sub. (2) (b), and shall transmit a copy of the notice to all
19 of the following within 7 days after its issuance:

20 (a) The applicant for the permit or contract.

21 (b) Any person who owns riparian property adjacent to the property of the
22 applicant.

23 (c) The clerk of each municipality in which the project will be located.

24 (d) If the body of water is a lake, any public inland lake protection and
25 rehabilitation district established for the lake.

1 (e) Any property owner’s association that is established for the body of water.

2 (f) Any town sanitary district or other special purpose district that has been
3 established for the management of the body of water.

4 (g) A newspaper designated by the department that is likely to provide notice
5 in the area in which the project is located. The notice shall be published only if so
6 required under sub. (4).

7 (h) The Great Lakes Indian Fish and Wildlife Commission if the body of water
8 is located within an area where federally recognized American Indian tribes or bands
9 domiciled in this state hold treaty-based, off-reservation rights to fish.

10 (4) NOTICE OF PRELIMINARY DECISION; PUBLIC NOTICE. If the department
11 determines that ^{environmental impact} s. 1.11 ^{(an environmental assessment under} applies to the project or if a person is applying for a permit
12 or to enter a contract to which ss. 30.19 (1) (b), ^{is required for} 30.195 (3m) (b), 30.196 or 30.20 (3)
13 (b) applies, the department, in addition to transmitting the notice of its preliminary
14 decision as required in sub. (3), shall require public notice of the preliminary
15 decision. The public notice shall contain the preliminary decision whether to grant
16 the permit or the contract and the information specified in sub. (2) (b). The
17 department shall provide a copy of this public notice to the applicant for the permit
18 or contract. The applicant shall publish the notice as a class 1 notice under ch. 985
19 in a newspaper designated by the department that is likely to give notice in the area
20 in which the project is located within 15 days after the receipt of the copy of the notice.
21 The applicant shall provide proof of publication to the department.

22 (5) RESPONSE TO PRELIMINARY DECISION. (a) If the department receives a timely
23 written objection to a preliminary decision issued under sub. (2), the department
24 shall determine whether it is a substantive written objection. The department shall
25 inform the applicant that it has received the objection and the department shall stay ^{receipt of the objection} stays
~~stop of objection stop~~

1 the preliminary decision until the procedures in sub. (6) (a), (d) or (g) have been
2 completed. Within 30 days after the receipt of the objection, the department shall
3 either complete its determination or shall request more information to support the
4 objection from the person making the objection. If the department requests more
5 information, it shall complete its determination within 30 days after the receipt of
6 the additional information. If the department fails to act within the time period
7 required under this paragraph, the department shall issue a determination that the
8 objection is a substantive written objection. *(significant adverse impact)*

9 (b) If the department does not receive any timely written objections to a
10 preliminary decision issued under sub. (2), the department shall enter the
11 preliminary decision as its final decision on issuing the permit or entering the
12 contract. *The department may amend different or additional impact on the public interest or interests*

13 (6) PROCEDURES WHEN OBJECTIONS RECEIVED. (a) If the department determines
14 under sub. (5) that an objection is a substantive written objection to a preliminary
15 decision and that the project proposed under the permit or contract affects a public
16 right or public interest in a navigable waterway, the department shall notify the
17 applicant of its determination and shall allow the person making the substantive
18 written objection to choose any of the following methods as a means to resolve the
19 dispute presented ^{to be by} the substantive written objection:

- 20 1. An informal hearing before staff from the department.
- 21 2. A public hearing following the procedures under sub. (8).
- 22 3. A dispute resolution proceeding, if agreeable to the applicant for the permit
23 or contract ^{to the department} and the person making the substantive written objection.

24 (b) If the department determines under par. (a) that there is more than one
25 substantive written objection to a preliminary decision, the department shall use the

1 method under par. (a) 2. to resolve the dispute unless all of the persons making the
2 substantive written objections agree to the method under par. (a) 1. or unless all of
3 the persons making the substantive written objections and the applicant for the
4 permit or contract agree to the method under par. (a) 3.

5 (c) If a dispute resolution proceeding is conducted under par. (a) and if an
6 agreement is reached, the parties to the proceeding shall submit the agreement to
7 the department for approval. In approving the decision, the department may amend
8 the agreement in order to protect the public rights or interests in the navigable
9 waterway affected by the agreement. If an agreement is not reached or if the
10 department does not approve the agreement, the department shall order a public
11 hearing under sub. (8).

12 (d) If the department determines under sub. (5) that an objection to a
13 preliminary decision is a substantive written objection but that the project proposed
14 under the permit or contract does not affect a public right or public interest in a
15 navigable waterway, the department shall notify the applicant of its determination
16 and shall allow the person making the substantive written objection to choose any
17 of the following methods as a means to resolve the dispute presented by substantive
18 written objection:

19 1. An informal hearing before staff from the department.

20 2. A dispute resolution proceeding, if agreeable to the applicant for the permit
21 or contract and the person making a substantive written objection.

22 (e) If the department determines under par. (d) that there is more than one
23 substantive written objection to a preliminary decision, the department shall use the
24 method under par. (a) 1. to resolve the dispute unless all of the persons making the

1 substantive written objections and the applicant for the permit or contract agree to
2 the method under par. (a) 3.

3 (f) If a dispute resolution proceeding is conducted under par. (d) and if an
4 agreement is reached, the parties to the proceeding shall submit the agreement to
5 the department for approval. In approving the decision, the department may amend
6 the agreement in order to protect the public rights or interests in the navigable
7 waterway affected by the agreement. If an agreement is not reached or if the
8 department does not approve the agreement, the department shall conduct an
9 informal hearing as provided in par. (d) 1.

10 (g) If the department determines under sub. (5) that an objection to a
11 preliminary decision is not a substantive written objection, the department shall
12 enter the preliminary decision as its final decision on issuing the permit or entering
13 the contract. ~~The department shall~~

14 (h) If the final decision under par. (g) is to issue the permit or enter the contract,
15 ~~the department shall extend the stay under sub. (5) (a) for 10 days after the decision~~ ^{is automatically extended}
16 becomes final. ~~for 10 days~~

17 (7) INFORMAL HEARING AND DISPUTE RESOLUTION PROCEEDINGS. The department
18 shall promulgate rules to establish requirements and procedures for the informal
19 hearings and the dispute resolution proceedings under sub. (6). The rules for dispute
20 resolution proceedings shall include processes for mediation and binding
21 arbitration.

22 (8) PUBLIC HEARING AND NOTICE. If a public hearing is to be conducted under this
23 section, the department shall order a public hearing and the division of hearings and
24 appeals shall transmit copies of the written notice of hearing to each person who
25 received a notice of the preliminary decision under sub. (3) and to each person who



1 submitted a substantative written objection to the preliminary decision. The
 2 division of hearings and appeals shall transmit ^{these} ~~the~~ ²⁰ copies at least 10 days before the
 3 hearing ~~except that it shall transmit the copies at least 10 days before the hearing~~
 4 ~~except that it shall transmit the copy to the applicant for the permit or for the~~
 5 ~~contract at least 20 days before the hearing.~~ The applicant shall then publish the
 6 notice as a class 1 notice under ch. 985 in a newspaper designated by the department
 7 that is likely to give notice in the area affected. The applicant shall file proof of
 8 publication under this subsection with the hearing examiner at or prior to the
 9 hearing.

10 (9) JUDICIAL REVIEW. Any decision issued by department staff under sub. (6),
 11 any agreement approved by the department under sub. (6) or any decision by a
 12 hearing examiner under this section is an administrative decision subject to judicial
 13 review under ss. 227.52 to 227.58.

Insert 10-13

14 SECTION 4. 30.12 (2) of the statutes is amended to read:

15 30.12 (2) PERMITS TO PLACE STRUCTURES OR DEPOSITS IN NAVIGABLE WATERS:
 16 GENERALLY. The department, upon application and after ~~proceeding in accordance~~
 17 ~~with s. 30.02 (3) and (4) issuing a preliminary decision and following the other~~
 18 applicable procedures under s. 30.02, may grant to any riparian owner a permit to
 19 build or maintain for the owner's use a structure otherwise prohibited under sub. (1),
 20 if the structure does not materially obstruct navigation or reduce the effective flood
 21 flow capacity of a stream and is not detrimental to the public interest. ~~The~~
 22 ~~procedures in this subsection do not apply to~~ Applications for permits issued under
 23 sub. (3) are exempt from the procedures under s. 30.02.

24 SECTION 5. 30.123 (3) of the statutes is amended to read:

1 30.123 (3) (a) Upon receipt of a complete application, the department shall
2 issue a preliminary decision and follow the notice and hearing provisions of other
3 applicable procedures under s. 30.02 (3) and (4), except that no notice or hearing is
4 required for.

5 (b) Notwithstanding par. (a) applications for proposed bridges which would
6 cross navigable waters less than 35 feet wide are exempt from the procedures under
7 s. 30.02.

8 SECTION 6. 30.135 (2) (a) of the statutes is renumbered 30.135 (2) and amended
9 to read:

10 30.135 (2) ~~NOTICE AND HEARING DECISIONS AND PROCEDURE.~~ Upon receipt of a
11 complete permit application, the department shall ~~either order a hearing or provide~~
12 ~~notice stating that it will proceed on the application without a hearing unless a~~
13 ~~substantive written objection to issuance of the permit is received within 30 days~~
14 ~~after publication of the notice. The department shall provide a copy of the notice to~~
15 ~~the applicant for the permit, the clerk of each municipality in which the water ski~~
16 ~~platform or water ski jump is to be located and to any other person required by law~~
17 ~~to receive notice. The department may provide notice to other persons as it considers~~
18 ~~appropriate. The applicant shall publish the notice as a class 1 notice under ch. 985~~
19 ~~in a newspaper designated by the department that is likely to give notice in the area~~
20 ~~affected. The applicant shall file proof of publication with the department issue a~~
21 preliminary decision and follow the other applicable procedures under s. 30.02.

22 SECTION 7. 30.135 (2) (b) of the statutes is repealed.

23 SECTION 8. 30.135 (2) (c) of the statutes is repealed.

24 SECTION 9. 30.135 (3) of the statutes is repealed.

25 SECTION 10. 30.135 (4) of the statutes is repealed.

1 **SECTION 11.** 30.14 (2) of the statutes is amended to read:

2 30.14 (2) **HEARINGS BY DEPARTMENT.** Upon complaint by any person to the
3 department that any wharf, pier or other structure exists in navigable water in
4 violation of s. 30.12 ~~or~~, 30.13 or ~~30.207~~ 30.206 or that any wharf, pier or other
5 structure proposed to be built in navigable water will violate s. 30.12 ~~or~~, 30.13 or
6 ~~30.207~~ 30.206, the department shall investigate and may hold a hearing to
7 determine whether the wharf, pier, or other structure is or would be in violation of
8 those sections. If no hearing is held, the complainant shall be informed of the results
9 of the investigation.

10 **SECTION 12.** 30.18 (4) (a) of the statutes is amended to read:

11 30.18 (4) (a) Upon receipt of a complete application, the department shall issue
12 a preliminary decision and follow the notice and hearing other applicable procedures
13 under s. 30.02 (3) and (4). In addition to the notice requirements under s. 30.02 (3)
14 and (4), the department shall mail a copy of the notice to every person upon whose
15 land any part of the canal or any other structure will be located, to the clerk of the
16 next town downstream, to the clerk of any village or city in which the lake or stream
17 is located and which is adjacent to any municipality in which the diversion will take
18 place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

19 **SECTION 13.** 30.19 (3) (a) of the statutes is amended to read:

20 30.19 (3) (a) ~~Section 30.02 (3) and (4) applies to~~ For permit applications under
21 sub. (1) (b) and (c). ~~Notice shall be provided to the clerks of the county and~~
22 ~~municipality in which the project or affected body of water is located and, the~~
23 department shall issue a preliminary decision and follow the other applicable
24 procedures under s. 30.02. Permit applications under sub. (1) (a) are exempt from
25 the procedures under s. 30.02. In addition to notice required under s. 30.02 (3), the

1 department shall transmit a copy of the notice of its preliminary decision to the
2 persons under sub. (2) (e) who are not required to receive notice under s. 30.02 (3).
3 For any permit application which affects the Milwaukee River, the Menomonee
4 River, the Kinnickinnic River, the Root River or any tributary of those rivers, ~~special~~
5 ~~notice shall be given~~ the department shall transmit a copy of the notice of of its
6 preliminary decision to the Milwaukee metropolitan sewerage district. ~~The~~
7 ~~metropolitan sewerage district shall have 30 days to respond to the special notice.~~

8 **SECTION 14.** 30.195 (3) of the statutes is amended to read:

9 30.195 (3) GRANTING OF PERMIT. Upon application therefor and subject to sub.
10 (3m), the department shall grant a permit to the owner of any land to change the
11 course of or straighten a navigable stream on such land, if such change or
12 straightening will improve the economic or aesthetic value of the owner's land and
13 will not adversely affect the flood flow capacity of the stream or otherwise be
14 detrimental to public rights or to the rights of other riparians located on the stream.
15 If the department finds that the rights of such riparians will be adversely affected,
16 it may grant the permit only with their consent. ~~Such permit may be granted on the~~
17 ~~department's own motion after its own investigation or after public hearing and after~~
18 ~~giving prior notice of such investigation or hearing.~~

19 **SECTION 15.** 30.195 (3m) of the statutes is created to read:

20 30.195 (3m) NOTICE AND HEARING PROCEDURES. In determining whether to issue
21 a permit or to enter a contract under this section, the department shall follow the
22 applicable procedures under s. 30.02 and shall do one of the following:

23 (a) Follow the notice procedures under s. 30.02 (3) if the course of the stream
24 to be changed of the part of the stream to be straightened is less than 500 feet in
25 length.

1 (b) Follow the notice procedures under s. 30.02 (4) if the course of the stream
2 to be changed or the part of the stream to be straightened is 500 feet or more in length.

3 SECTION 16. 30.196 (intro.) of the statutes is amended to read:

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

11 SECTION 17. 30.20 (3) of the statutes is created to read:

12 30.20 (3) NOTICE AND HEARING PROCEDURES. In determining whether to issue a
13 permit or to enter a contract under this section, the department shall follow the
14 applicable procedures under s. 30.02 and shall do one of the following:

15 (a) Follow the notice procedures under s. 30.02 (3) if the amount of material to
16 be removed is less than 3,000 cubic yards.

17 (b) Follow the notice procedures under s. 30.02 (4) if the amount of material to
18 be removed is 3,000 cubic yards or more.

19 SECTION 18. 30.206 (1) of the statutes is amended to read:

20 ~~Include~~ 30.206 (1) STANDARDS FOR ISSUING PERMITS. For activities which require a
21 ~~contract~~ contract ~~approval~~ other permit ~~or approval~~ under ss. 30.12 (3) (a) and 30.19 (1) (a) ~~this chapter but to which~~
22 ~~the procedures under s. 30.02 do not apply~~ this chapter the department may issue a general
23 permit authorizing a class of activities, ~~according to rules promulgated by the~~ keep
24 ~~department statewide or in a region of the state.~~ Before issuing general permits, the
25 department shall determine, after an environmental analysis and notice and

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 hearing under ss. 227.17 and 227.18, that the cumulative adverse environmental
2 impact of the class of activity is insignificant and that issuance of the general permit
3 will not injure public rights or ~~interest~~ public interests in navigable waters, cause
4 environmental pollution, as defined in s. 299.01 (4), or result in material injury to the
5 rights of any riparian owner.

6 **SECTION 19.** 30.206 (1r) (title) of the statutes is created to read:

7 30.206 (1r) (title) HEARINGS.

8 **SECTION 20.** 30.206 (1r) (b) of the statutes is created to read:

9 30.206 (1r) (b) Upon receipt of an application for a general permit, the
10 department shall either order a public hearing or provide notice stating that it will
11 proceed on the application without a hearing if, within 30 days after the publication
12 of the notice, no request for a hearing concerning the application is received. The
13 department shall provide a copy of the notice to the applicant for the permit, to the
14 clerk of each municipality in which the general permit will apply and to any other
15 person required by law to receive notice. The department may provide notice to other
16 persons as it considers appropriate. The applicant shall publish the notice as a class
17 1 notice under ch. 985 in any newspaper designated by the department that is likely
18 to give notice in any area to be affected. The applicants shall file proof of publication
19 with the department.

*Proprietary
Decisions*

20 **SECTION 21.** 30.206 (1r) (c) of the statutes is created to read:

21 30.206 (1r) (c) If the department orders a public hearing, the division of
22 hearings and appeals shall mail a written notice at least 10 days before the hearing
23 to each person given a copy of the notice under par. (b) and to each person requesting
24 the hearing.

25 **SECTION 22.** 30.206 (1r) (d) of the statutes is created to read:

1 30.206 (1r) (d) The applicant for the permit shall publish a class 1 notice under
2 ch. 985 of the public hearing in any newspaper designated by the department that
3 is likely to give notice in any area to be affected. The applicant shall file proof of
4 publication under this paragraph with the hearing examiner at or prior to the
5 hearing.

6 **SECTION 23.** 30.206 (2) (title) of the statutes is created to read:

7 30.206 (2) (title) CONDITIONS ON PERMITS.

8 **SECTION 24.** 30.206 (2) of the statutes is renumbered 30.206 (2) (a) and
9 amended to read:

10 30.206 (2) (a) A general permit issued under this section may include any
11 conditions determined by the department to be reasonably necessary to prevent
12 environmental pollution, as defined in s. 299.01 (4), and to protect the public interest
13 interests and public rights in navigable waters and the rights of other riparian
14 owners.

15 **SECTION 25.** 30.206 (3) of the statutes is repealed.

16 **SECTION 26.** 30.206 (3m) of the statutes is repealed.

17 **SECTION 27.** 30.206 (4) of the statutes is repealed.

18 **SECTION 28.** 30.206 (5) (title) of the statutes is created to read:

19 30.206 (5) (title) PERIOD OF VALIDITY; REVOCATIONS; TERMINATION OF STRUCTURES
20 OR ACTIVITIES.

21 **SECTION 29.** 30.206 (5) of the statutes is renumbered 30.206 (5) (c) and
22 amended to read:

23 30.206 (5) (c) Failure of an applicant for a general permit under this section to
24 follow the procedural requirements ^{under} of this section may result in forfeiture ~~but may~~
25 ~~not, by itself, result in~~ and the department may seek abatement of the activity if the

1 department determines that the activity injures the public rights or public interests
2 in navigable waters.

3 SECTION 30. 30.206 (5) (a) of the statutes is created to read:

4 30.206 (5) (a) A general permit shall be valid for the period of time specified
5 by the department on the permit but may not be valid for longer than 5 years from
6 the date of issuance.

7 SECTION 31. 30.206 (5) (b) of the statutes is created to read:

8 30.206 (5) (b) The department may revoke a general permit if it determines
9 that any of the activities authorized under the general permit injures the public
10 rights or public interests in the navigable waters.

11 SECTION 32. 30.206 (5) (d) of the statutes is created to read:

12 30.206 (5) (d) A person may maintain structure or deposit that was placed in
13 a body of water or otherwise continue an activity under the authority of a general
14 permit issued under this section after a general permit expires or is revoked unless
15 that department determines that the structure, deposit or activity injures the public
16 rights or public interests in navigable waters and orders it removed or terminated.

17 SECTION 33. 30.206 (6) of the statutes is amended to read:

18 30.206 (6) OPTION TO REQUEST INDIVIDUAL PERMIT. A person proposing an activity
19 for which a general permit has been issued may request an individual permit under
20 the applicable provisions of this chapter ~~or ch. 31~~ in lieu of seeking authorization
21 under the general permit.

22 SECTION 34. 30.206 (7) of the statutes is repealed.

23 SECTION 35. 30.207 (title) of the statutes is repealed.

24 SECTION 36. 30.207 (1) of the statutes is repealed.

25 SECTION 37. 30.207 (1m) of the statutes is repealed.

INS 17-22 ?

1 **SECTION 38.** 30.207 (2) of the statutes is repealed.

2 **SECTION 39.** 30.207 (3) (title) of the statutes is renumbered 30.206 (1g) (title)
3 and amended to read:

4 **30.206 (1g)** (title) APPLICATION FOR ~~GENERAL PERMIT PERMITS.~~

5 **SECTION 40.** 30.207 (3) (a) of the statutes is renumbered 30.206 (1g) (a) and
6 amended to read:

7 **30.206 (1g)** (a) Any ~~local entity, as defined in s. 30.77 (3) (dm), or any group of~~
8 ~~10 riparian owners who will be affected by the issuance of a general permit, or any~~
9 ~~contractor who is or has been involved in the construction of structures or along~~
10 ~~navigable waters may apply for a~~ municipality, public inland lake protection and
11 rehabilitation district or any town sanitary district may submit an application to the
12 department for general permit under this section authorizing one or more activities
13 statewide or in a region in which the municipality or district is located. Any group
14 of at least 10 riparian owners may submit an application for a general permit under
15 this section authorizing one or more activities statewide or in a region where the
16 riparian owners will be affected. The fee specified in s. 30.28 (2) (b) 1. shall
17 accompany the application.

18 **SECTION 41.** 30.207 (3) (b) of the statutes is repealed.

19 **SECTION 42.** 30.207 (3) (c) of the statutes is repealed.

20 **SECTION 43.** 30.207 (3) (d) (intro.) of the statutes is renumbered 30.206 (1g) (b)
21 (intro.).

22 **SECTION 44.** 30.207 (3) (d) 1. of the statutes is renumbered 30.206 (1g) (b) 1.

23 **SECTION 45.** 30.207 (3) (d) 2. of the statutes is renumbered 30.206 (1g) (b) 2. and
24 amended to read:

1 30.206 (1g) (b) 2. Specify the department's plans for proceeding on the
2 application. ~~The plans shall include a timetable for the notice and hearing required~~
3 ~~under sub. (4).~~

4 **SECTION 46.** 30.207 (4) of the statutes is repealed.

5 **SECTION 47.** 30.207 (5) of the statutes is renumbered 30.206 (1r) (a) and
6 amended to read:

7 30.206 (1r) (a) ~~If an activity for which an application for which a general permit~~
8 ~~has been submitted would be subject to the hearing and notice provisions under s.~~
9 ~~30.02 (3) and (4) for the issuance of an individual permit, the department shall~~
10 ~~comply with those provisions. Notice~~ The department shall follow the notice and
11 ~~hearing shall be required on procedures under pars. (b) to (d) for an application for~~
12 ~~a general permit under this section only if a notice and hearing are required under~~
13 ~~s. 30.02 (3) and (4) for the activity as part of an application for an individual permit~~
14 ~~under this chapter.~~

15 **SECTION 48.** 30.207 (6) (title) of the statutes is repealed.

16 ~~**SECTION 49.** 30.207 (6) (intro.) of the statutes is repealed.~~

17 ~~**SECTION 50.** 30.207 (6) (b) of the statutes is renumbered 30.206 (3b) (c).~~

18 **SECTION 51.** 30.207 (7) (title) of the statutes is renumbered 30.206 (3b) (title)
19 and amended to read:

20 30.206 (3b) (title) ACTIVITIES UNDER GENERAL PERMITS.

21 **SECTION 52.** 30.207 (7) (a) of the statutes is renumbered 30.206 (3b) (a) and
22 amended to read:

23 30.206 (3b) (a) At least 15 days before beginning the activity that is authorized
24 by a general permit under this section, the person who wishes to conduct the activity
25 an activity for which the department has issued a general permit shall submit a

1 notice to the department and shall pay the fee specified in s. 30.28 (2) (b) 2. The notice
2 shall describe the activity, state the name of the person that will be conducting the
3 activity and ~~state the site~~ shall specify the location where the activity will be
4 conducted. The notice shall also contain a statement signed by the person conducting
5 the activity that the person will act in conformance with the standards contained in
6 the general permit.

7 SECTION 53. 30.207 (7) (b) of the statutes is renumbered 30.206 (3b) (b) and
8 amended to read:

9 30.206 (3b) (b) Upon receipt of a notice that complies with par. (a), the
10 department may inform the person that the activity may not be conducted under the
11 general permit if ~~conditions at the site where the activity would be conducted would~~
12 ~~cause adverse environmental impact, injure public rights and public interests or~~
13 ~~cause environmental pollution, as defined in s. 299.01 (4).~~ The department shall
14 respond to the person within 15 days after receiving the notice. Failure of the
15 department to respond within 15 days shall constitute the department's approval of
16 the activity under the general permit in navigable waters.

17 SECTION 54. 30.207 (7) (c) of the statutes is renumbered 30.206 (3b) ^(c) ~~(d)~~ and
18 amended to read:

19 30.206 (3b) ^(c) ~~(d)~~. A person conducting an activity that is authorized by a general
20 permit under this section shall comply with any standard contained in an applicable
21 local ordinance ordinance that is at least as restrictive as the standards contained
22 in the general permit.

23 SECTION 55. 30.207 (8) of the statutes is repealed.

24 ~~SECTION 56. 30.207 (9) (intro.) of the statutes is renumbered 30.206 (3) and~~
25 ~~amended to read~~

For the purpose of administering and enforcing this chapter

1 ~~30.279 30.206 (3) ACCESS TO PROPERTY. For inspection purposes, an employe or agent~~
2 ~~of the department shall have free access during reasonable hours to any location~~
3 ~~where an activity is proposed to be, is or has been authorized under a general permit~~
4 ~~issued under this section if the employe or agent shows to any person who is present~~
5 ~~at the site and who owns the site or is otherwise in control of the site either of the~~
6 ~~following:~~ *the permit, contract or other approval*

Apply to the Director

← INS 31-7

7 SECTION 57. 30.207 (9) (a) of the statutes is repealed.

8 SECTION 58. 30.207 (9) (b) of the statutes is repealed.

9 SECTION 59. 30.207 (10) of the statutes is repealed.

10 SECTION 60. 30.28 (1) of the statutes is amended to read:

11 30.28 (1) FEES REQUIRED. The department shall charge a permit or approval fee
12 for carrying out its duties and responsibilities under ss. 30.10 to 30.205, 30.207
13 30.206 and 30.21 to 30.27. The permit or approval fee shall accompany the permit
14 application, notice or request for approval.

15 SECTION 61. 30.28 (2) (b) 1. of the statutes is amended to read:

16 30.28 (2) (b) 1. For an application for a general permit submitted under s.
17 ~~30.207 (3)~~ 30.206 (1g), the fee shall be \$2,000.

18 SECTION 62. 30.28 (2) (b) 2. of the statutes is amended to read:

19 30.28 (2) (b) 2. For a notice submitted under s. ~~30.207 (7)~~ 30.206 (3b), the fee
20 shall be \$100.

21 SECTION 63. 30.28 (2m) (am) of the statutes is amended to read:

22 30.28 (2m) (am) The department shall refund 50% of the fee specified in sub.
23 (2) (b) 1. if the department denies an application for a general permit under s. ~~30.207~~
24 (3) (d) 1. or does not issue a general permit under s. ~~30.207 (6)~~ 30.206 (1g).

25 SECTION 64. 30.28 (2m) (b) of the statutes is amended to read:

*SECTION 30.279 (title)
30.279 (title) Departmental access to property.*

1 30.28 (2m) (b) If the applicant applies for a permit, requests an approval, or
2 submits a notice under s. ~~30.207 (7)~~ 30.206 (3b) after the project is begun or after it
3 is completed, the department shall charge an amount equal to twice the amount of
4 the fee that it would have charged under this section.

5 **SECTION 65.** 30.28 (2m) (d) of the statutes is amended to read:

6 30.28 (2m) (d) The department, by rule, may increase any fee specified in sub.
7 (2) (a). The department, by rule, may increase a fee specified in sub. (2) (b) only if
8 the increase is necessary to meet the costs incurred by the department in acting on
9 general permits or on notices submitted under s. ~~30.207~~ 30.206.

10 **SECTION 66.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

11 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public
12 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may
13 petition the city, village, town or county that owns the public access to construct
14 shoreline erosion control measures. Subject to par. (e), the city, village, town or
15 county shall construct the requested shoreline erosion control measures or request
16 the department of natural resources to determine the need for shoreline erosion
17 control measures. Upon receipt of a request under this paragraph from a city, village,
18 town or county, the department of natural resources shall follow the procedures in
19 ~~s. 30.02 (3) and (4)~~ sub. (3m). Subject to par. (e), the city, village, town or county shall
20 construct shoreline erosion control measures as required by the department of
21 natural resources if the department of natural resources determines all of the
22 following:

23 **SECTION 67.** 236.16 (3m) of the statutes is created to read:

24 236.16 (3m) NOTICE AND HEARING REQUIREMENTS. (a) Upon receipt of a request
25 for a determination under sub. (3) (d), the department of natural resources shall

1 either order a public hearing or provide notice stating that it will proceed on the
2 request without a hearing if, within 30 days after the publication of the notice, no
3 request for a hearing concerning the determination under sub. (3)(d) is received. The
4 department of natural resources shall provide the notice to the clerk of each
5 municipality in which the proposed shoreline erosion control measures are located
6 and to any other person required by law to receive notice. The department of natural
7 resources may provide notice to other persons as it considers appropriate. The
8 department of natural resources shall provide a copy of the notice to the city, village,
9 town or county that requested the determination. The city, village, town or county
10 shall publish it as a class 1 notice under ch. 985 in a newspaper designated by the
11 department that is likely to give notice in the area affected. The city, village, town
12 or county shall file proof of publication with the department of natural resources.

13 (b) If the department of natural resources orders a public hearing, the division
14 of hearings and appeals shall mail a written notice at least 10 days before the hearing
15 to each person given a copy of the notice under par. (a) and to each person requesting
16 the hearing.

17 (c) The city, village, town or county requesting the determination shall publish
18 a class 1 notice under ch. 985 of the public hearing in a newspaper designated by the
19 department of natural resources that is likely to give notice in the area affected. The
20 city, village, town or county shall file proof of publication under this paragraph with
21 the hearing examiner at or prior to the hearing.

22

(END)

July 1, 2001
exclude
arbitration

INSERT 23-21 ✓

Insert ANL-A

1. Under the bill, DNR may issue a general permit for any activity that requires a specific permit or a contract. Under current law, DNR may issue general permits for only certain activities that require permits. These activities include the placement of fish cribs, bird nesting platforms, gravel and riprap and the enlargement of certain waterways.

Insert ANL-B

Inspection authority ✓

The bill specifically authorizes DNR to inspect projects or activities in navigable waters that are undertaken pursuant to permits issued or entered into by DNR. The pilot program had similar provisions.

Insert 4-4

****NOTE: This SECTION involves a change in an appropriation, but should not be reflected in the revised schedule in s. 20.005, stats., because of a delayed effective date.

Insert 5-7

^{NO}_{IP} The department shall follow the procedures in subs. (2) to (10) ✓ in determining whether to issue a permit or to enter a contract under this chapter if any of the following apply:

- (a) A preliminary decision is specifically required under this chapter.
- (b) The department determines that a substantial public right or public interest in navigable waters may be adversely affected by the department's decision.
- (c) The department determines that a riparian right of a person other than the applicant for the permit or contract may be adversely affected by the department's decision.

Insert 10-13

(10) ✓ AMENDED DECISIONS. The department shall amend or reverse a preliminary decision instead of entering it as the final decision under sub. ✓ (5) (b) or (7) if, after issuing its preliminary decision, the department receives information concerning the

check spacing

permit or contract and if based on that information the department determines it is necessary to amend or reverse its decision. If the department amends or reverses the preliminary decision, the procedures in sub^s (2) ~~(4)~~ (9) ^{to apply} to this amended or reversed preliminary decision.

Insert 21-7

SECTION 1. 30.207 (9) (intro.) of the statutes is renumbered 30.279[✓] and amended to read: (B) (L.C.) (NO CAPS SMALL) (9) Departmental access

30.279 ACCESS TO PROPERTY For inspection the purposes of administering and enforcing this chapter and the rules promulgated under this chapter, an employe or agent of the department shall have free access during reasonable hours to inspect any site where an project or activity is proposed to be, is or has been authorized under a general undertaken pursuant to a permit issued under this section if the employe or agent shows to any person who is present at the site and who owns the site or is otherwise in control of the site either of the following: or other approval or a contract under this chapter.[✓]

History: 1997 a 174.

Insert 17-22

SECTION # 30.206 (8m) of the statutes is created to read:
30.206 (8m) GENERAL PERMITS UNDER PILOT PROGRAM. Any permit issued under s. 30.207, 1997 stats., and in effect on the effective date of this subsection[✓] [revisor inserts date] ^{(1) ← comma} shall remain in effect. Subsections (3b), (5) and (6) apply to such a permit.

(1), (2), (3), (4), (5), (6), (8), (9) and (10)[✓]

Insert 17-22

INS 23-21

SECTION 9436. Effective dates; natural resources.

(1) PERMITS FOR NAVIGABLE WATERS; HEARING AND NOTICE REQUIREMENTS. The treatment of sections 20.370 (a) (ad)[✓], 30.01 (6b)[✓], 30.02[✓], 30.12 (2)[✓], 30.123 (3)[✓], 30.135



(2) (a), (b) and (c), (3) ^{and} (4), 30.14 (2), 30.18 (4) (a), 30.19 (3) (a), 30.195 (3) and (3m), 30.196 (intro.), 30.20 (3) and 236.16 (3) (d) (intro.) and (3m) of the statutes takes effect on July 1, 2001.

(2) GENERAL PERMITS FOR NAVIGABLE WATERS. The treatment of sections 30.206 (1), (1r) (title), (b), (c) and (d), (2) (title) and (3), (3m), (4), (5) (title), (a), (b) (d), (6), (7) and (8m), 30.207 (title), (1), (1m), (2), (3) (title), (a), (b), (c) and (d) (intro.), 1. and 2., (4), (5), (6), (7) (title), (a), (b) and (c), (8), (9) (intro.), (a) and (b) and (10), 30.279 and 30.28 (1), (2) (b) 1. and 2. and (2m) (am), (b) and (d) of the statutes ^{and} the renumbering of ^{section} 30.206 (5) takes effect on July 1, 2001.

and amendment
 (2) and
 of the statutes and the creation of section
 30.206(2)(title) of the statutes
 and

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0677/2dn
MGG:jlg:hmh

1. Note that in s. 30.02 (1) (c), I used the term "riparian right". Is this too narrow?
2. Please have DNR check the cross-references in s. 30.206 (8m) concerning the grandfathered permits to ensure they comply with their intent.
3. Please have DNR review the scope of the inspection authority. See. s. 30.207 (9) (intro.)
4. Note that the delayed effective date provisions apply both to the hearing and notice provisions and the general permit provisions. OK?

Mary Gibson-Glass
Senior Legislative Attorney
267-3215

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0677/2dn
MGG:jlg:lmh

Thursday, January 21, 1999

1. Note that in s. 30.02 (1) (c), I used the term "riparian right". Is this too narrow?
2. Please have DNR check the cross-references in s. 30.206 (8m) concerning the grandfathered permits to ensure they comply with their intent.
3. Please have DNR review the scope of the inspection authority. See s. 30.207 (9) (intro.)
4. Note that the delayed effective date provisions apply both to the hearing and notice provisions and the general permit provisions. OK?

Mary Gibson-Glass
Senior Legislative Attorney
267-3215