



State of Wisconsin
1999 - 2000 LEGISLATURE

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LRB-0677/A 5
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DOA:.....Grinde - Chapter 30 permitting, notices and hearings

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

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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

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 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.

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 assessment 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 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, 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 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.

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 if 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 basically the same as those under current law.

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

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.

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:

1 **SECTION 1.** 30.01 (6b) of the statutes is amended to read:

2 **30.01 (6b)** "Substantive written objection" means a written statement giving
3 specific reasons why a proposed project under ss. 30.02 to 30.38 may violate the
4 statutory provisions applicable to the project and specifying that the person making
5 the objection will appear and present information supporting the objection ~~in a~~
6 ~~contested case hearing.~~

7 **SECTION 2.** 30.02 of the statutes is repealed and recreated to read:

8 **30.02 General provisions for notices, hearings and decisions.** (1)

9 **APPLICABILITY.** The department shall follow the procedures in subs. (2) to (10) in
10 determining whether to issue a permit or to enter a contract under this chapter if any
11 of the following apply:

12 (a) A preliminary decision is specifically required under this chapter.

13 (b) The department determines that a substantial public right or public
14 interest in navigable waters may be adversely affected by the department's decision.

1 (c) The department determines that a riparian right of a person other than the
2 applicant for the permit or contract may be adversely affected by the department's
3 decision.

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

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

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

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

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

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

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

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

23 (f) Any town sanitary district or other special purpose district that has been
24 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 this state hold treaty-based, off-reservation rights to fish.

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

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

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

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

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

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

23 (b) If the department determines under par. (a) that there is more than one
24 substantive written objection to a preliminary decision, the department shall use the
25 method under par. (a) 2. to resolve the dispute unless all of the persons making the

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

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

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

- 18 1. An informal hearing before staff from the department.
- 19 2. A dispute resolution proceeding, if agreeable to the applicant for the permit
20 or contract and the person making a substantive written objection.

21 (e) If the department determines under par. (d) that there is more than one
22 substantive written objection to a preliminary decision, the department shall use the
23 method under par. (a) 1. to resolve the dispute unless all of the persons making the
24 substantive written objections and the applicant for the permit or contract agree to
25 the method under par. (a) 3.

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

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

12 (h) If the final decision under par. (g) is to issue the permit or enter the contract,
13 the stay under sub. (5) (a) is automatically extended for 10 days after the decision
14 becomes final.

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

20 (8) PUBLIC HEARING AND NOTICE. If a public hearing is to be conducted under this
21 section, the department shall order a public hearing and the division of hearings and
22 appeals shall transmit copies of the written notice of hearing to each person who
23 received a notice of the preliminary decision under sub. (3) and to each person who
24 submitted a substantive written objection to the preliminary decision. The division
25 of hearings and appeals shall transmit these copies at least 20 days before the

1 hearing. The applicant shall then publish the notice as a class 1 notice under ch. 985
2 in a newspaper designated by the department that is likely to give notice in the area
3 affected. The applicant shall file proof of publication under this subsection with the
4 hearing examiner at or prior to the hearing.

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

9 (10) AMENDED DECISIONS. The department shall amend or reverse a preliminary
10 decision instead of entering it as the final decision under sub. (5) (b) or (7) if, after
11 issuing its preliminary decision, the department receives information concerning the
12 permit or contract and if based on that information the department determines it is
13 necessary to amend or reverse its decision. If the department amends or reverses the
14 preliminary decision, the procedures in subs. (2) to (9) apply to this amended or
15 reversed preliminary decision.

16 SECTION 3. 30.12 (2) of the statutes is amended to read:

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

1 **SECTION 4.** 30.123 (3) of the statutes is amended to read:

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

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

9 **SECTION 5.** 30.135 (2) (a) of the statutes is renumbered 30.135 (2) and amended
10 to read:

11 30.135 (2) ~~NOTICE AND HEARING DECISIONS AND PROCEDURE.~~ Upon receipt of a
12 complete permit application, the department shall ~~either order a hearing or provide~~
13 ~~notice stating that it will proceed on the application without a hearing unless a~~
14 ~~substantive written objection to issuance of the permit is received within 30 days~~
15 ~~after publication of the notice. The department shall provide a copy of the notice to~~
16 ~~the applicant for the permit, the clerk of each municipality in which the water ski~~
17 ~~platform or water ski jump is to be located and to any other person required by law~~
18 ~~to receive notice. The department may provide notice to other persons as it considers~~
19 ~~appropriate. The applicant shall publish the notice as a class 1 notice under ch. 985~~
20 ~~in a newspaper designated by the department that is likely to give notice in the area~~
21 ~~affected. The applicant shall file proof of publication with the department issue a~~
22 preliminary decision and follow the other applicable procedures under s. 30.02 and
23 the rules promulgated under sub. (3).

24 **SECTION 6.** 30.135 (2) (b) of the statutes is repealed.

25 **SECTION 7.** 30.135 (2) (c) of the statutes is repealed.

1 **SECTION 8.** 30.135 (3) (a) of the statutes is renumbered 30.135 (3) and amended
2 to read:

3 **30.135 (3) RULES.** The department shall promulgate a rule listing specific
4 reasons that will support a substantive written objection to the placement of a water
5 ski platform or water ski jump. A notice of preliminary decision issued for the
6 placement of a water ski platform or water ski jump under s. 30.02 shall contain a
7 statement explaining what constitutes a substantive written objection and the list
8 of these specific reasons.

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

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

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

12 **30.14 (2) HEARINGS BY DEPARTMENT.** Upon complaint by any person to the
13 department that any wharf, pier or other structure exists in navigable water in
14 violation of s. 30.12 ~~or~~, 30.13 or ~~30.207~~ 30.206 or that any wharf, pier or other
15 structure proposed to be built in navigable water will violate s. 30.12 ~~or~~, 30.13 or
16 ~~30.207~~ 30.206, the department shall investigate and may hold a hearing to
17 determine whether the wharf, pier, or other structure is or would be in violation of
18 those sections. If no hearing is held, the complainant shall be informed of the results
19 of the investigation.

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

21 **30.18 (4) (a)** Upon receipt of a complete application, the department shall issue
22 a preliminary decision and follow the notice and hearing other applicable procedures
23 under s. 30.02 (3) and (4). In addition to the notice requirements under s. 30.02 (3)
24 and (4), the department shall mail a copy of the notice to every person upon whose
25 land any part of the canal or any other structure will be located, to the clerk of the

1 next town downstream, to the clerk of any village or city in which the lake or stream
2 is located and which is adjacent to any municipality in which the diversion will take
3 place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

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

5 30.19 (3) (a) ~~Section 30.02 (3) and (4) applies to~~ For permit applications under
6 sub. (1) (b) and (c). ~~Notice shall be provided to the clerks of the county and~~
7 ~~municipality in which the project or affected body of water is located and, the~~
8 department shall issue a preliminary decision and follow the other applicable
9 procedures under s. 30.02. Permit applications under sub. (1) (a) are exempt from
10 the procedures under s. 30.02. In addition to notice required under s. 30.02 (3), the
11 department shall transmit a copy of the notice of its preliminary decision to the
12 persons under sub. (2) (e) who are not required to receive notice under s. 30.02 (3).
13 For any permit application which affects the Milwaukee River, the Menominee River,
14 the Kinnickinnic River, the Root River or any tributary of those rivers, ~~special notice~~
15 shall be given the department shall transmit a copy of the notice of of its preliminary
16 decision to the Milwaukee metropolitan sewerage district. ~~The metropolitan~~
17 ~~sewerage district shall have 30 days to respond to the special notice.~~

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

19 30.195 (3) GRANTING OF PERMIT. Upon application therefor and subject to sub.
20 (3m), the department shall grant a permit to the owner of any land to change the
21 course of or straighten a navigable stream on such land, if such change or
22 straightening will improve the economic or aesthetic value of the owner's land and
23 will not adversely affect the flood flow capacity of the stream or otherwise be
24 detrimental to public rights or to the rights of other riparians located on the stream.
25 If the department finds that the rights of such riparians will be adversely affected,

1 it may grant the permit only with their consent. ~~Such permit may be granted on the~~
2 ~~department's own motion after its own investigation or after public hearing and after~~
3 ~~giving prior notice of such investigation or hearing.~~

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

5 **30.195 (3m) NOTICE AND HEARING PROCEDURES.** In determining whether to issue
6 a permit or to enter a contract under this section, the department shall follow the
7 applicable procedures under s. 30.02 and shall do one of the following:

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

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

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

14 **30.196 Enclosure of navigable waters; issuance of permits to**
15 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
16 placing or restricting navigable waters into an enclosed drain, conduit, storm sewer
17 or similar structure if the department grants the municipality a permit. The
18 department may grant this permit to a municipality after following the ~~notice and~~
19 ~~hearing requirements~~ applicable procedures under s. 30.02 (3) ~~and (4)~~ if it finds that
20 granting the permit:

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

22 **30.20 (3) NOTICE AND HEARING PROCEDURES.** In determining whether to issue a
23 permit or to enter a contract under this section, the department shall follow the
24 applicable procedures under s. 30.02 and shall do one of the following:

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

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

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

6 30.206 (1) STANDARDS FOR ISSUING PERMITS. For activities which require a
7 permit, contract or other approval under ~~ss. 30.12 (3) (a) and 30.19 (1) (a)~~ this
8 chapter, the department may issue a general permit authorizing a class of activities,
9 ~~according to rules promulgated by the department~~ statewide or in a region of the
10 state. Before issuing general permits, the department shall determine, after an
11 environmental analysis and notice and hearing under ss. 227.17 and 227.18, that the
12 cumulative adverse environmental impact of the class of activity is insignificant and
13 that issuance of the general permit will not injure public rights or interest public
14 interests in navigable waters, cause environmental pollution, as defined in s. 299.01
15 (4), or result in material injury to the rights of any riparian owner.

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

17 30.206 (1r) (title) HEARINGS.

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

19 30.206 (1r) (b) Upon receipt of an application for a general permit, the
20 department shall either order a public hearing or provide notice stating that it will
21 proceed on the application without a hearing if, within 30 days after the publication
22 of the notice, no request for a hearing concerning the application is received. The
23 department shall provide a copy of the notice to the applicant for the permit, to the
24 clerk of each municipality in which the general permit will apply and to any other
25 person required by law to receive notice. The department may provide notice to other

1 persons as it considers appropriate. The applicant shall publish the notice as a class
2 1 notice under ch. 985 in any newspaper designated by the department that is likely
3 to give notice in any area to be affected. The applicants shall file proof of publication
4 with the department.

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

6 30.206 (1r) (c) If the department orders a public hearing, the division of
7 hearings and appeals shall mail a written notice at least 10 days before the hearing
8 to each person given a copy of the notice under par. (b) and to each person requesting
9 the hearing.

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

11 30.206 (1r) (d) The applicant for the permit shall publish a class 1 notice under
12 ch. 985 of the public hearing in any newspaper designated by the department that
13 is likely to give notice in any area to be affected. The applicant shall file proof of
14 publication under this paragraph with the hearing examiner at or prior to the
15 hearing.

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

17 30.206 (2) (title) CONDITIONS ON PERMITS.

7/18
amended

18 SECTION 24. 30.206 (2) of the statutes is renumbered 30.206 (2) (a) and
19 amended to read:

20 30.206 (2) (a) A general permit issued under this section may include any
21 conditions determined by the department to be reasonably necessary to prevent
22 environmental pollution, as defined in s. 299.01 (4), and to protect the public interest
23 interests and public rights in navigable waters and the rights of other riparian
24 owners.

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

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

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

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

4 30.206 (5) (title) PERIOD OF VALIDITY; REVOCATIONS; TERMINATION OF STRUCTURES
5 OR ACTIVITIES.

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

8 30.206 (5) (c) Failure of an applicant for a general permit under this section to
9 follow the procedural requirements of under this section may result in forfeiture ~~but~~
10 ~~may not, by itself, result in~~ and the department may seek abatement of the activity
11 if the department determines that the activity injures the public rights or public
12 interests in navigable waters.

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

14 30.206 (5) (a) A general permit shall be valid for the period of time specified
15 by the department on the permit but may not be valid for longer than 5 years from
16 the date of issuance.

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

18 30.206 (5) (b) The department may revoke a general permit if it determines
19 that any of the activities authorized under the general permit injures the public
20 rights or public interests in the navigable waters.

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

22 30.206 (5) (d) A person may maintain structure or deposit that was placed in
23 a body of water or otherwise continue an activity under the authority of a general
24 permit issued under this section after a general permit expires or is revoked unless

1 the department determines that the structure, deposit or activity injures the public
2 rights or public interests in navigable waters and orders it removed or terminated.

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

4 30.206 (6) ~~OPTION TO REQUEST INDIVIDUAL PERMIT~~. A person proposing an activity
5 for which a general permit has been issued may request an individual permit under
6 the applicable provisions of this chapter ~~or ch. 31~~ in lieu of seeking authorization
7 under the general permit.

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

9 SECTION 35. 30.206 (8m) of the statutes is created to read:

10 30.206 (8m) GENERAL PERMITS UNDER PILOT PROGRAM. Any permit issued under
11 s. 30.207, 1997 stats., and in effect on the effective date of this subsection [revisor
12 inserts date], shall remain in effect. Subsections (3b), (5) and (6) apply to such a
13 permit.

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

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

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

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

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

20 30.206 (1g) (title) ~~APPLICATION FOR GENERAL PERMIT PERMITS~~.

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

23 30.206 (1g) (a) ~~Any local entity, as defined in s. 30.77 (3) (dm), or any group of~~
24 ~~10 riparian owners who will be affected by the issuance of a general permit, or any~~
25 ~~contractor who is or has been involved in the construction of structures or along~~

1 ~~navigable waters may apply for a municipality, public inland lake protection and~~
2 ~~rehabilitation district or any town sanitary district may submit an application to the~~
3 ~~department for general permit under this section authorizing one or more activities~~
4 ~~statewide or in a region in which the municipality or district is located. Any group~~
5 ~~of at least 10 riparian owners may submit an application for a general permit under~~
6 ~~this section authorizing one or more activities statewide or in a region where the~~
7 ~~riparian owners will be affected. The fee specified in s. 30.28 (2) (b) 1. shall~~
8 ~~accompany the application.~~

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

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

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

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

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

16 30.206 (1g) (b) 2. Specify the department's plans for proceeding on the
17 application. ~~The plans shall include a timetable for the notice and hearing required~~
18 ~~under sub. (4).~~

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

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

22 30.206 (1r) (a) ~~If an activity for which an application for which a general permit~~
23 ~~has been submitted would be subject to the hearing and notice provisions under s.~~
24 ~~30.02 (3) and (4) for the issuance of an individual permit, the department shall~~
25 ~~comply with those provisions. Notice~~ The department shall follow the notice and

1 hearing shall be required on procedures under pars. (b) to (d) for an application for
2 a general permit under this section ~~only if a notice and hearing are required under~~
3 ~~s. 30.02 (3) and (4) for the activity as part of an application for an individual permit~~
4 ~~under this chapter.~~

5 SECTION 49. 30.207 (6) of the statutes is repealed.

6 SECTION 50. 30.207 (7) (title) of the statutes is renumbered 30.206 (3b) (title)
7 and amended to read:

8 30.206 (3b) (title) ACTIVITIES UNDER ~~GENERAL~~ PERMITS.

9 SECTION 51. 30.207 (7) (a) of the statutes is renumbered 30.206 (3b) (a) and
10 amended to read:

11 30.206 (3b) (a) At least 15 days before beginning the activity that is authorized
12 by a general permit under this section, the person who wishes to conduct ~~the activity~~
13 an activity for which the department has issued a general permit shall submit a
14 notice to the department and shall pay the fee specified in s. 30.28 (2) (b) 2. The notice
15 shall describe the activity, state the name of the person that will be conducting the
16 activity and ~~state the site~~ shall specify the location where the activity will be
17 conducted. The notice shall also contain a statement signed by the person conducting
18 the activity that the person will act in conformance with the standards contained in
19 the general permit.

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

22 30.206 (3b) (b) Upon receipt of a notice that complies with par. (a), the
23 department may inform the person that the activity may not be conducted under the
24 general permit if ~~conditions at the site where the activity would be conducted would~~
25 ~~cause adverse environmental impact, injure public rights and public interests or~~

1 ~~cause environmental pollution, as defined in s. 299.01 (4). The department shall~~
2 ~~respond to the person within 15 days after receiving the notice. Failure of the~~
3 ~~department to respond within 15 days shall constitute the department's approval of~~
4 ~~the activity under the general permit in navigable waters.~~

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

7 **30.206 (3b) (c)** A person conducting an activity that is authorized by a general
8 permit under this section shall comply with any standard contained in an applicable
9 local ordinances ordinance that is at least as restrictive as the standards contained
10 in the general permit.

11 **SECTION 54.** 30.207 (8) of the statutes is repealed.

12 **SECTION 55.** 30.207 (9) (intro.) of the statutes is renumbered 30.279 and
13 amended to read:

14 **30.279 Access Departmental access to property.** For ~~inspection~~ the
15 purposes of administering and enforcing this chapter and the rules promulgated
16 under this chapter, an employe or agent of the department shall have free access
17 during reasonable hours to inspect any site where ~~an project or~~ activity is proposed
18 to be, is or has been authorized under a general undertaken pursuant to a permit
19 issued under this section if the employe or agent shows to any person who is present
20 at the site and who owns the site or is otherwise in control of the site either of the
21 following: or other approval or a contract under this chapter.

22 **SECTION 56.** 30.207 (9) (a) of the statutes is repealed.

23 **SECTION 57.** 30.207 (9) (b) of the statutes is repealed.

24 **SECTION 58.** 30.207 (10) of the statutes is repealed.

25 **SECTION 59.** 30.28 (1) of the statutes is amended to read:

1 30.28 (1) FEES REQUIRED. The department shall charge a permit or approval fee
2 for carrying out its duties and responsibilities under ss. 30.10 to ~~30.205, 30.207~~
3 30.206 and 30.21 to 30.27. The permit or approval fee shall accompany the permit
4 application, notice or request for approval.

5 **SECTION 60.** 30.28 (2) (b) 1. of the statutes is amended to read:

6 30.28 (2) (b) 1. For an application for a general permit submitted under s.
7 ~~30.207 (3)~~ 30.206 (1g), the fee shall be \$2,000.

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

9 30.28 (2) (b) 2. For a notice submitted under s. ~~30.207 (7)~~ 30.206 (3b), the fee
10 shall be \$100.

11 **SECTION 62.** 30.28 (2m) (am) of the statutes is amended to read:

12 30.28 (2m) (am) The department shall refund 50% of the fee specified in sub.
13 (2) (b) 1. if the department denies an application for a general permit under s. ~~30.207~~
14 ~~(3) (d) 1. or does not issue a general permit under s. 30.207 (6)~~ 30.206 (1g).

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

16 30.28 (2m) (b) If the applicant applies for a permit, requests an approval, or
17 submits a notice under s. ~~30.207 (7)~~ 30.206 (3b) after the project is begun or after it
18 is completed, the department shall charge an amount equal to twice the amount of
19 the fee that it would have charged under this section.

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

21 30.28 (2m) (d) The department, by rule, may increase any fee specified in sub.
22 (2) (a). The department, by rule, may increase a fee specified in sub. (2) (b) only if
23 the increase is necessary to meet the costs incurred by the department in acting on
24 general permits or on notices submitted under s. ~~30.207~~ 30.206.

25 **SECTION 65.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

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

13 **SECTION 66.** 236.16 (3m) of the statutes is created to read:

14 **236.16 (3m) NOTICE AND HEARING REQUIREMENTS.** (a) Upon receipt of a request
15 for a determination under sub. (3) (d), the department of natural resources shall
16 either order a public hearing or provide notice stating that it will proceed on the
17 request without a hearing if, within 30 days after the publication of the notice, no
18 request for a hearing concerning the determination under sub. (3) (d) is received. The
19 department of natural resources shall provide the notice to the clerk of each
20 municipality in which the proposed shoreline erosion control measures are located
21 and to any other person required by law to receive notice. The department of natural
22 resources may provide notice to other persons as it considers appropriate. The
23 department of natural resources shall provide a copy of the notice to the city, village,
24 town or county that requested the determination. The city, village, town or county
25 shall publish it as a class 1 notice under ch. 985 in a newspaper designated by the

1 department that is likely to give notice in the area affected. The city, village, town
2 or county shall file proof of publication with the department of natural resources.

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

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

12 **SECTION 9436. Effective dates; natural resources.**

13 (1) PERMITS FOR NAVIGABLE WATERS; HEARING AND NOTICE REQUIREMENTS. The
14 treatment of sections 30.01 (6b), 30.02, 30.12 (2), 30.123 (3), 30.135 (2) (a), (b) and
15 (c), (3) (a) and (b) (intro.), 1., 2. and 3., and (4), 30.14 (2), 30.18 (4) (a), 30.19 (3) (a),
16 30.195 (3) and (3m), 30.196 (intro.), 30.20 (3) and 236.16 (3) (d) (intro.) and (3m) of
17 the statutes takes effect on September 1, 2001.

18 (2) GENERAL PERMITS FOR NAVIGABLE WATERS. The treatment of sections 30.206
19 (1), (1r) (title), (b), (c) and (d), ^{(2), ✓} (3), (3m), (4), (6), (7) and (8m), 30.207 (title), (1), (1m),
20 (2), (3) (title), (a) (b), (c) and (d) (intro.), 1. and 2., (4), (5), (6), (7) (title), (a), (b) and
21 (c), (8), (9) (intro.), (a) and (b) and (10) and 30.28 (1), (2) (b) 1. and 2. and (2m) (am),
22 (b) and (d) of the statutes, the renumbering and amendment of section 30.206 ~~(2) and~~
23 (5) of the statutes and the creation of section 30.206 ~~(2) (title) and~~ (5) (title), (a), (b)
24 and (d) of the statutes take effect on September 1, 2001.

25

(END)

D-Note

In LRB-0677/4, s. 30.206 (2) is renumbered ^{s.} 30.206
and amended
(2) ~~(1)~~, but no other paragraph is created. Therefore,

s. in this draft s. 30.206 (2) is simply amended.

MUR

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

LRB-0677/5dn
MGG;jlg:ijs

February 8, 1999

In LRB-0677/4, s. 30.206 (2) is renumbered s. 30.206 (2) (a) and amended, but no other paragraph is created. Therefore, in this draft s. 30.206 (2) is simply amended.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0677/5
MGG;jlg:ijs

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

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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

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 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.

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 assessment 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 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 navigable 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, 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 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.

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 if 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 basically the same as those under current law.

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

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.

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:

1 **SECTION 1.** 30.01 (6b) of the statutes is amended to read:

2 30.01 **(6b)** “Substantive written objection” means a written statement giving
3 specific reasons why a proposed project under ss. 30.02 to 30.38 may violate the
4 statutory provisions applicable to the project and specifying that the person making
5 the objection will appear and present information supporting the objection ~~in a~~
6 ~~contested case hearing.~~

7 **SECTION 2.** 30.02 of the statutes is repealed and recreated to read:

8 **30.02 General provisions for notices, hearings and decisions. (1)**

9 **APPLICABILITY.** The department shall follow the procedures in subs. (2) to (10) in
10 determining whether to issue a permit or to enter a contract under this chapter if any
11 of the following apply:

12 (a) A preliminary decision is specifically required under this chapter.

13 (b) The department determines that a substantial public right or public
14 interest in navigable waters may be adversely affected by the department’s decision.

1 (c) The department determines that a riparian right of a person other than the
2 applicant for the permit or contract may be adversely affected by the department's
3 decision.

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

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

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

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

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

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

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

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

23 (f) Any town sanitary district or other special purpose district that has been
24 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 this state hold treaty-based, off-reservation rights to fish.

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

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

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

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

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

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

23 (b) If the department determines under par. (a) that there is more than one
24 substantive written objection to a preliminary decision, the department shall use the
25 method under par. (a) 2. to resolve the dispute unless all of the persons making the

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

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

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

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

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

21 (e) If the department determines under par. (d) that there is more than one
22 substantive written objection to a preliminary decision, the department shall use the
23 method under par. (a) 1. to resolve the dispute unless all of the persons making the
24 substantive written objections and the applicant for the permit or contract agree to
25 the method under par. (a) 3.

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

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

12 (h) If the final decision under par. (g) is to issue the permit or enter the contract,
13 the stay under sub. (5) (a) is automatically extended for 10 days after the decision
14 becomes final.

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

20 (8) PUBLIC HEARING AND NOTICE. If a public hearing is to be conducted under this
21 section, the department shall order a public hearing and the division of hearings and
22 appeals shall transmit copies of the written notice of hearing to each person who
23 received a notice of the preliminary decision under sub. (3) and to each person who
24 submitted a substantive written objection to the preliminary decision. The division
25 of hearings and appeals shall transmit these copies at least 20 days before the

1 hearing. The applicant shall then publish the notice as a class 1 notice under ch. 985
2 in a newspaper designated by the department that is likely to give notice in the area
3 affected. The applicant shall file proof of publication under this subsection with the
4 hearing examiner at or prior to the hearing.

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

9 (10) AMENDED DECISIONS. The department shall amend or reverse a preliminary
10 decision instead of entering it as the final decision under sub. (5) (b) or (7) if, after
11 issuing its preliminary decision, the department receives information concerning the
12 permit or contract and if based on that information the department determines it is
13 necessary to amend or reverse its decision. If the department amends or reverses the
14 preliminary decision, the procedures in subs. (2) to (9) apply to this amended or
15 reversed preliminary decision.

16 SECTION 3. 30.12 (2) of the statutes is amended to read:

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

1 **SECTION 4.** 30.123 (3) of the statutes is amended to read:

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

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

9 **SECTION 5.** 30.135 (2) (a) of the statutes is renumbered 30.135 (2) and amended
10 to read:

11 30.135 (2) ~~NOTICE AND HEARING DECISIONS AND PROCEDURE.~~ Upon receipt of a
12 complete permit application, the department shall ~~either order a hearing or provide~~
13 ~~notice stating that it will proceed on the application without a hearing unless a~~
14 ~~substantive written objection to issuance of the permit is received within 30 days~~
15 ~~after publication of the notice. The department shall provide a copy of the notice to~~
16 ~~the applicant for the permit, the clerk of each municipality in which the water ski~~
17 ~~platform or water ski jump is to be located and to any other person required by law~~
18 ~~to receive notice. The department may provide notice to other persons as it considers~~
19 ~~appropriate. The applicant shall publish the notice as a class 1 notice under ch. 985~~
20 ~~in a newspaper designated by the department that is likely to give notice in the area~~
21 ~~affected. The applicant shall file proof of publication with the department~~ issue a
22 preliminary decision and follow the other applicable procedures under s. 30.02 and
23 the rules promulgated under sub. (3).

24 **SECTION 6.** 30.135 (2) (b) of the statutes is repealed.

25 **SECTION 7.** 30.135 (2) (c) of the statutes is repealed.

1 **SECTION 8.** 30.135 (3) (a) of the statutes is renumbered 30.135 (3) and amended
2 to read:

3 30.135 (3) RULES. The department shall promulgate a rule listing specific
4 reasons that will support a substantive written objection to the placement of a water
5 ski platform or water ski jump. A notice of preliminary decision issued for the
6 placement of a water ski platform or water ski jump under s. 30.02 shall contain a
7 statement explaining what constitutes a substantive written objection and the list
8 of these specific reasons.

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

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

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

12 30.14 (2) HEARINGS BY DEPARTMENT. Upon complaint by any person to the
13 department that any wharf, pier or other structure exists in navigable water in
14 violation of s. 30.12 ~~or~~, 30.13 or ~~30.207~~ 30.206 or that any wharf, pier or other
15 structure proposed to be built in navigable water will violate s. 30.12 ~~or~~, 30.13 or
16 ~~30.207~~ 30.206, the department shall investigate and may hold a hearing to
17 determine whether the wharf, pier, or other structure is or would be in violation of
18 those sections. If no hearing is held, the complainant shall be informed of the results
19 of the investigation.

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

21 30.18 (4) (a) Upon receipt of a complete application, the department shall issue
22 a preliminary decision and follow the notice and hearing other applicable procedures
23 under s. 30.02 (3) and (4). In addition to the notice requirements under s. 30.02 (3)
24 and (4), the department shall mail a copy of the notice to every person upon whose
25 land any part of the canal or any other structure will be located, to the clerk of the

1 next town downstream, to the clerk of any village or city in which the lake or stream
2 is located and which is adjacent to any municipality in which the diversion will take
3 place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

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

5 30.19 (3) (a) ~~Section 30.02 (3) and (4) applies to~~ For permit applications under
6 sub. (1) (b) and (c). ~~Notice shall be provided to the clerks of the county and~~
7 ~~municipality in which the project or affected body of water is located and, the~~
8 department shall issue a preliminary decision and follow the other applicable
9 procedures under s. 30.02. Permit applications under sub. (1) (a) are exempt from
10 the procedures under s. 30.02. In addition to notice required under s. 30.02 (3), the
11 department shall transmit a copy of the notice of its preliminary decision to the
12 persons under sub. (2) (e) who are not required to receive notice under s. 30.02 (3).
13 For any permit application which affects the Milwaukee River, the Menominee River,
14 the Kinnickinnic River, the Root River or any tributary of those rivers, special notice
15 ~~shall be given~~ the department shall transmit a copy of the notice of of its preliminary
16 decision to the Milwaukee metropolitan sewerage district. ~~The metropolitan~~
17 ~~sewerage district shall have 30 days to respond to the special notice.~~

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

19 30.195 (3) GRANTING OF PERMIT. Upon application therefor and subject to sub.
20 (3m), the department shall grant a permit to the owner of any land to change the
21 course of or straighten a navigable stream on such land, if such change or
22 straightening will improve the economic or aesthetic value of the owner's land and
23 will not adversely affect the flood flow capacity of the stream or otherwise be
24 detrimental to public rights or to the rights of other riparians located on the stream.
25 If the department finds that the rights of such riparians will be adversely affected,

1 it may grant the permit only with their consent. ~~Such permit may be granted on the~~
2 ~~department's own motion after its own investigation or after public hearing and after~~
3 ~~giving prior notice of such investigation or hearing.~~

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

5 30.195 (3m) NOTICE AND HEARING PROCEDURES. In determining whether to issue
6 a permit or to enter a contract under this section, the department shall follow the
7 applicable procedures under s. 30.02 and shall do one of the following:

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

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

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

14 **30.196 Enclosure of navigable waters; issuance of permits to**
15 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
16 placing or restricting navigable waters into an enclosed drain, conduit, storm sewer
17 or similar structure if the department grants the municipality a permit. The
18 department may grant this permit to a municipality after following the ~~notice and~~
19 ~~hearing requirements~~ applicable procedures under s. 30.02 (3) ~~and (4)~~ if it finds that
20 granting the permit:

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

22 30.20 (3) NOTICE AND HEARING PROCEDURES. In determining whether to issue a
23 permit or to enter a contract under this section, the department shall follow the
24 applicable procedures under s. 30.02 and shall do one of the following:

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

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

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

6 30.206 (1) STANDARDS FOR ISSUING PERMITS. For activities which require a
7 permit, contract or other approval under ~~ss. 30.12 (3) (a) and 30.19 (1) (a)~~ this
8 chapter, the department may issue a general permit authorizing a class of activities,
9 ~~according to rules promulgated by the department statewide or in a region of the~~
10 state. Before issuing general permits, the department shall determine, after an
11 environmental analysis and notice and hearing under ss. 227.17 and 227.18, that the
12 cumulative adverse environmental impact of the class of activity is insignificant and
13 that issuance of the general permit will not injure public rights or ~~interest~~ public
14 interests in navigable waters, cause environmental pollution, as defined in s. 299.01
15 (4), or result in material injury to the rights of any riparian owner.

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

17 30.206 (1r) (title) HEARINGS.

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

19 30.206 (1r) (b) Upon receipt of an application for a general permit, the
20 department shall either order a public hearing or provide notice stating that it will
21 proceed on the application without a hearing if, within 30 days after the publication
22 of the notice, no request for a hearing concerning the application is received. The
23 department shall provide a copy of the notice to the applicant for the permit, to the
24 clerk of each municipality in which the general permit will apply and to any other
25 person required by law to receive notice. The department may provide notice to other

1 persons as it considers appropriate. The applicant shall publish the notice as a class
2 1 notice under ch. 985 in any newspaper designated by the department that is likely
3 to give notice in any area to be affected. The applicants shall file proof of publication
4 with the department.

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

6 30.206 (1r) (c) If the department orders a public hearing, the division of
7 hearings and appeals shall mail a written notice at least 10 days before the hearing
8 to each person given a copy of the notice under par. (b) and to each person requesting
9 the hearing.

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

11 30.206 (1r) (d) The applicant for the permit shall publish a class 1 notice under
12 ch. 985 of the public hearing in any newspaper designated by the department that
13 is likely to give notice in any area to be affected. The applicant shall file proof of
14 publication under this paragraph with the hearing examiner at or prior to the
15 hearing.

16 **SECTION 23.** 30.206 (2) of the statutes is amended to read:

17 30.206 (2) CONDITIONS ON PERMITS. A general permit issued under this section
18 may include any conditions determined by the department to be reasonably
19 necessary to prevent environmental pollution, as defined in s. 299.01 (4), and to
20 protect the public ~~interest-interests~~ and public rights in navigable waters and the
21 rights of other riparian owners.

22 **SECTION 24.** 30.206 (3) of the statutes is repealed.

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

24 **SECTION 26.** 30.206 (4) of the statutes is repealed.

25 **SECTION 27.** 30.206 (5) (title) of the statutes is created to read:

1 30.206 (5) (title) PERIOD OF VALIDITY; REVOCATIONS; TERMINATION OF STRUCTURES
2 OR ACTIVITIES.

3 **SECTION 28.** 30.206 (5) of the statutes is renumbered 30.206 (5) (c) and
4 amended to read:

5 30.206 (5) (c) Failure of an applicant for a general permit under this section to
6 follow the procedural requirements of under this section may result in forfeiture ~~but~~
7 ~~may not, by itself, result in~~ and the department may seek abatement of the activity
8 if the department determines that the activity injures the public rights or public
9 interests in navigable waters.

10 **SECTION 29.** 30.206 (5) (a) of the statutes is created to read:

11 30.206 (5) (a) A general permit shall be valid for the period of time specified
12 by the department on the permit but may not be valid for longer than 5 years from
13 the date of issuance.

14 **SECTION 30.** 30.206 (5) (b) of the statutes is created to read:

15 30.206 (5) (b) The department may revoke a general permit if it determines
16 that any of the activities authorized under the general permit injures the public
17 rights or public interests in the navigable waters.

18 **SECTION 31.** 30.206 (5) (d) of the statutes is created to read:

19 30.206 (5) (d) A person may maintain structure or deposit that was placed in
20 a body of water or otherwise continue an activity under the authority of a general
21 permit issued under this section after a general permit expires or is revoked unless
22 the department determines that the structure, deposit or activity injures the public
23 rights or public interests in navigable waters and orders it removed or terminated.

24 **SECTION 32.** 30.206 (6) of the statutes is amended to read:

1 30.206 (6) OPTION TO REQUEST INDIVIDUAL PERMIT. A person proposing an activity
2 for which a general permit has been issued may request an individual permit under
3 the applicable provisions of this chapter ~~or ch. 31~~ in lieu of seeking authorization
4 under the general permit.

5 **SECTION 33.** 30.206 (7) of the statutes is repealed.

6 **SECTION 34.** 30.206 (8m) of the statutes is created to read:

7 30.206 (8m) **GENERAL PERMITS UNDER PILOT PROGRAM.** Any permit issued under
8 s. 30.207, 1997 stats., and in effect on the effective date of this subsection [revisor
9 inserts date], shall remain in effect. Subsections (3b), (5) and (6) apply to such a
10 permit.

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

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

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

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

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

17 30.206 (1g) (title) **APPLICATION FOR GENERAL PERMIT PERMITS.**

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

20 30.206 (1g) (a) Any ~~local entity, as defined in s. 30.77 (3) (dm), or any group of~~
21 ~~10 riparian owners who will be affected by the issuance of a general permit, or any~~
22 ~~contractor who is or has been involved in the construction of structures or along~~
23 ~~navigable waters may apply for a~~ municipality, public inland lake protection and
24 rehabilitation district or any town sanitary district may submit an application to the
25 department for general permit under this section authorizing one or more activities

1 statewide or in a region in which the municipality or district is located. Any group
2 of at least 10 riparian owners may submit an application for a general permit under
3 this section authorizing one or more activities statewide or in a region where the
4 riparian owners will be affected. The fee specified in s. 30.28 (2) (b) 1. shall
5 accompany the application.

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

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

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

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

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

13 30.206 (1g) (b) 2. Specify the department's plans for proceeding on the
14 application. ~~The plans shall include a timetable for the notice and hearing required~~
15 ~~under sub. (4).~~

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

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

19 30.206 (1r) (a) ~~If an activity for which an application for which a general permit~~
20 ~~has been submitted would be subject to the hearing and notice provisions under s.~~
21 ~~30.02 (3) and (4) for the issuance of an individual permit, the department shall~~
22 ~~comply with those provisions. Notice~~ The department shall follow the notice and
23 hearing shall be required on procedures under pars. (b) to (d) for an application for
24 a general permit under this section only if a notice and hearing are required under

1 ~~s. 30.02 (3) and (4) for the activity as part of an application for an individual permit~~
2 ~~under this chapter.~~

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

4 **SECTION 49.** 30.207 (7) (title) of the statutes is renumbered 30.206 (3b) (title)
5 and amended to read:

6 30.206 (3b) (title) ACTIVITIES UNDER GENERAL PERMITS.

7 **SECTION 50.** 30.207 (7) (a) of the statutes is renumbered 30.206 (3b) (a) and
8 amended to read:

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

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

20 30.206 (3b) (b) Upon receipt of a notice that complies with par. (a), the
21 department may inform the person that the activity may not be conducted under the
22 general permit if ~~conditions at the site where the activity would be conducted would~~
23 ~~cause adverse environmental impact~~, injure public rights and public interests or
24 ~~cause environmental pollution, as defined in s. 299.01 (4).~~ The department shall
25 ~~respond to the person within 15 days after receiving the notice.~~ Failure of the

1 ~~department to respond within 15 days shall constitute the department's approval of~~
2 ~~the activity under the general permit in navigable waters.~~

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

5 30.206 (3b) (c) A person conducting an activity that is authorized by a general
6 permit under this section shall comply with any standard contained in an applicable
7 local ordinances ordinance that is at least as restrictive as the standards contained
8 in the general permit.

9 **SECTION 53.** 30.207 (8) of the statutes is repealed.

10 **SECTION 54.** 30.207 (9) (intro.) of the statutes is renumbered 30.279 and
11 amended to read:

12 **30.279 Access Departmental access to property.** For inspection ~~the~~
13 ~~purposes of administering and enforcing this chapter and the rules promulgated~~
14 ~~under this chapter,~~ an employe or agent of the department shall have free access
15 during reasonable hours to inspect any site where ~~an project or~~ activity is proposed
16 to be, is or has been ~~authorized under a general undertaken pursuant to a permit~~
17 ~~issued under this section if the employe or agent shows to any person who is present~~
18 ~~at the site and who owns the site or is otherwise in control of the site either of the~~
19 ~~following: or other approval or a contract under this chapter.~~

20 **SECTION 55.** 30.207 (9) (a) of the statutes is repealed.

21 **SECTION 56.** 30.207 (9) (b) of the statutes is repealed.

22 **SECTION 57.** 30.207 (10) of the statutes is repealed.

23 **SECTION 58.** 30.28 (1) of the statutes is amended to read:

24 30.28 (1) FEES REQUIRED. The department shall charge a permit or approval fee
25 for carrying out its duties and responsibilities under ss. 30.10 to 30.205, ~~30.207~~

1 30.206 and 30.21 to 30.27. The permit or approval fee shall accompany the permit
2 application, notice or request for approval.

3 **SECTION 59.** 30.28 (2) (b) 1. of the statutes is amended to read:

4 30.28 (2) (b) 1. For an application for a general permit submitted under s.
5 ~~30.207 (3)~~ 30.206 (1g), the fee shall be \$2,000.

6 **SECTION 60.** 30.28 (2) (b) 2. of the statutes is amended to read:

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

9 **SECTION 61.** 30.28 (2m) (am) of the statutes is amended to read:

10 30.28 (2m) (am) The department shall refund 50% of the fee specified in sub.
11 (2) (b) 1. if the department denies an application for a general permit under s. ~~30.207~~
12 ~~(3) (d) 1. or does not issue a general permit under s. 30.207 (6)~~ 30.206 (1g).

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

14 30.28 (2m) (b) If the applicant applies for a permit, requests an approval, or
15 submits a notice under s. ~~30.207 (7)~~ 30.206 (3b) after the project is begun or after it
16 is completed, the department shall charge an amount equal to twice the amount of
17 the fee that it would have charged under this section.

18 **SECTION 63.** 30.28 (2m) (d) of the statutes is amended to read:

19 30.28 (2m) (d) The department, by rule, may increase any fee specified in sub.
20 (2) (a). The department, by rule, may increase a fee specified in sub. (2) (b) only if
21 the increase is necessary to meet the costs incurred by the department in acting on
22 general permits or on notices submitted under s. ~~30.207~~ 30.206.

23 **SECTION 64.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

24 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public
25 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may

1 petition the city, village, town or county that owns the public access to construct
2 shoreline erosion control measures. Subject to par. (e), the city, village, town or
3 county shall construct the requested shoreline erosion control measures or request
4 the department of natural resources to determine the need for shoreline erosion
5 control measures. Upon receipt of a request under this paragraph from a city, village,
6 town or county, the department of natural resources shall follow the procedures in
7 ~~s. 30.02 (3) and (4) sub. (3m)~~. Subject to par. (e), the city, village, town or county shall
8 construct shoreline erosion control measures as required by the department of
9 natural resources if the department of natural resources determines all of the
10 following:

11 **SECTION 65.** 236.16 (3m) of the statutes is created to read:

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

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

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

10 **SECTION 9436. Effective dates; natural resources.**

11 (1) PERMITS FOR NAVIGABLE WATERS; HEARING AND NOTICE REQUIREMENTS. The
12 treatment of sections 30.01 (6b), 30.02, 30.12 (2), 30.123 (3), 30.135 (2) (a), (b) and
13 (c), (3) (a) and (b) (intro.), 1., 2. and 3., and (4), 30.14 (2), 30.18 (4) (a), 30.19 (3) (a),
14 30.195 (3) and (3m), 30.196 (intro.), 30.20 (3) and 236.16 (3) (d) (intro.) and (3m) of
15 the statutes takes effect on September 1, 2001.

16 (2) GENERAL PERMITS FOR NAVIGABLE WATERS. The treatment of sections 30.206
17 (1), (1r) (title), (b), (c) and (d), (2), (3), (3m), (4), (6), (7) and (8m), 30.207 (title), (1),
18 (1m), (2), (3) (title), (a) (b), (c) and (d) (intro.), 1. and 2., (4), (5), (6), (7) (title), (a), (b)
19 and (c), (8), (9) (intro.), (a) and (b) and (10) and 30.28 (1), (2) (b) 1. and 2. and (2m)
20 (am), (b) and (d) of the statutes, the renumbering and amendment of section 30.206
21 (5) of the statutes and the creation of section 30.206 (5) (title), (a), (b) and (d) of the
22 statutes take effect on September 1, 2001.

23 (END)