

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0131/PI/ins
MGG:.....

1 **Insert 5-6**

2 SECTION 1. 28.11 (12) of the statutes is amended to read:

3 28.11 (12) ENFORCEMENT. If at any time it appears to the department that the
4 lands are not being managed in accordance with violation of this section it, the
5 department shall so advise the county forestry committee and the county clerk. If
6 the condition persists, the department may proceed against the persons responsible
7 for such noncompliance under s. 30.03 (4) the possible violation by ordering a hearing
8 under ch. 227. The department may request that the hearing examiner issue an
9 order directing the responsible persons to perform or refrain from acts in order to
10 fully protect the county forest lands. If any person fails or neglects to obey an order,
11 the department may request the attorney general to institute proceedings for the
12 enforcement of the order in the name of the state. The proceeding shall be brought
13 in the manner and with the effect of proceedings under s. 111.07 (7). No penalty may
14 be imposed for violation of a hearing examiner's order under this subsection, but
15 the violation of a judgment enforcing the order may be punished in civil contempt
16 proceedings. *plain*

[precedes 30.01]

History: 1971 c. 215; 1975 c. 39 s. 734; 1975 c. 342; 1977 c. 29; 1979 c. 34 ss. 723 to 725, 2102 (39) (a); 1983 a. 27; 1983 a. 192 s. 304; 1983 a. 424 ss. 2 to 5; 1985 a. 29 ss. 655ce to 655cg, 3202 (39); 1985 a. 182 s. 57; 1987 a. 27; 1989 a. 31, 79; 1993 a. 16, 184, 301; 1995 a. 27, 201; 1997 a. 237, 248; 1999 a. 9; 2001 a. 16.

17 SECTION 2. Subchapter I (title) of chapter 30 of the statutes is repealed and
18 recreated to read:

CHAPTER 30
SUBCHAPTER I
DEFINITIONS

19 **Insert 5-13**

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

21 30.01 (1) "Contested case hearing" means a hearing of a contested case. *hm*

22 **Insert 8-11**

1 **SECTION 4.** 30.03 (4) (a) of the statutes is renumbered 30.96 (1) and amended
2 to read:

3 30.96 (1) If the department learns of a possible violation of the statutes relating
4 to navigable waters or a possible infringement of the public rights relating to
5 navigable waters, and the department determines that the public interest may not
6 be adequately served by imposition of a penalty or forfeiture, the department may
7 proceed as provided in this ~~paragraph~~ subsection, either in lieu of or in addition to
8 any other relief provided by law. The department may order a hearing under ch. 227
9 concerning the possible violation or infringement, and may request the hearing
10 examiner to issue an order directing the responsible parties to perform or refrain
11 from performing acts in order to fully protect the interests of the public in the
12 navigable waters. If any person fails or neglects to obey an order, the department
13 may request the attorney general to institute proceedings for the enforcement of the
14 department's order in the name of the state. The proceedings shall be brought in the
15 manner and with the effect of proceedings under s. 111.07 (7).

History: 1979 c. 32 s. 92 (8); 1979 c. 257; 1981 c. 390; 1983 a. 524; 1987 a. 374.

16 **SECTION 5.** 30.03 (4) (b) of the statutes is renumbered 30.96 (2) and amended
17 to read:

18 30.96 (2) No penalty may be imposed for ~~violation of~~ ^{violating} a hearing examiner's order
19 under this ~~subsection~~ section, but ^{the} violation of a judgment enforcing the order may
20 be punished in civil contempt proceedings.

History: 1979 c. 32 s. 92 (8); 1979 c. 257; 1981 c. 390; 1983 a. 524; 1987 a. 374.
*** NOTE: In later draft, check how procedures in s. 30.03 (4) (a) and (b), as well as s. 28.11 (12), mesh with other procedural changes in draft.

Insert 9-8

****NOTE: I took out the phrase "within the constraints of available staff and funds" given the use of the phrase "To the extent practicable".

Insert 13-21

22 **SECTION 6.** 30.08 of the statutes is created to read:
23

1 **30.08 Navigability.** (1) DETERMINATION OF NAVIGABILITY. (a) The department
2 may determine that a natural body of water is navigable only by actual navigation
3 as provided in par. (b), by using measurements or calculations as provided in par.
4 (c), or by basing the determination on reliable records that show a history of actual
5 navigation.

the body of water

6 (b) The department shall determine that a body of water is navigable if the
7 department finds that it is capable of floating any boat, skiff, or canoe that is of the
8 shallowest draft and that is used for recreational purposes. The department may
9 determine the body of water to be navigable even though any of the following apply:

Insert 14-14

applies

~~SECTION 7. 30.08 (2) of the statutes is created to read:~~

12 ~~30.08~~ (2) SCOPE. A determination by the department that a natural body of
13 water is navigable under this section applies to any enlargement or improvement to
14 that body of water.

?

****NOTE: Mark - I deleted the statement regarding determinations of navigability
in sub. (1) since it was in the passive voice. Who can determine a body of water to be
navigable besides DNR, The legislature? The courts? Also, in reviewing this rewrite of
s. 30.08, we need to keep in mind "natural" vs. "artificial", "body of water" vs. "lake" vs.
"stream", and "navigable" vs. "navigable in fact".

****NOTE: Also, I deleted s. 30.08 (4) because I did not understand it. Does this
mean private entities can determine navigability and then act on the presumption that
the water is indeed navigable? Lets talk.

Insert 17-9

renumbered

15

Fix comp.

SECTION 8. 30.10 (4) (d) of the statutes is 30.263 (1) and amended to read:

~~30.263 (1) DECLARATION OF NAVIGABILITY. A drainage district drain located in the
Duck Creek Drainage District and operated by the board for that district is not
navigable unless it is shown, by means of a U.S. geological survey map or other~~

1 similarly reliable scientific evidence, that the drain was a navigable stream before
2 it became a drainage district drain.

3 History: 1977 c. 190, 272, 418; 1981 c. 339; 1991 a. 316; 1999 a. 9.

3 **Insert 23-18**

4 **SECTION 9.** 30.12 (title) of the statutes is amended to read:

5 **30.12 (title) Structures and deposits in navigable waters prohibited;**
6 **exceptions; penalty penalties.**

7 History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

7 **SECTION 10.** 30.12 (1) (intro.) of the statutes is amended to read:

8 **30.12 (1) GENERAL PROHIBITION. PERMIT REQUIRED (intro.)** Except as provided
9 ~~under subs. (4) and (4m), unless~~ Unless a permit has been granted by the department
10 ~~pursuant to statute under this section~~ or the legislature has otherwise authorized
11 ~~structures or deposits in navigable waters~~ the deposit or structure, it is unlawful ~~to~~
12 ~~do either~~ ^{any} of the following:

13 History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

13 **SECTION 11.** 30.12 (1) (a) of the statutes is amended to read:

14 **30.12 (1) (a) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon the**
15 **bed of any navigable water where no bulkhead line has been established; or**

16 History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

16 **SECTION 12.** 30.12 (1) (b) of the statutes is amended to read:

17 **30.12 (1) (b) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon the**
18 **bed of any navigable water beyond a lawfully established bulkhead line.**

19 History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

19 **SECTION 13.** 30.12 (1m) of the statutes is created to read:

20 **30.12 (1m) EXCEPTIONS.** Subsection (1) does not apply to ^{any of} the following:

21 (a) Activities of the department of transportation carried out in accordance
22 with s. 30.341.

1 (b) Highway bridges constructed or reconstructed by municipalities under s.
2 30.213 (1). ✓

3 (c) Wharves, piers, and swimming rafts authorized to be constructed and placed
4 without a permit under s. 30.13. ✓

5 (d) Water ski platforms and jumps authorized to be placed without a permit
6 under s. 30.135. ✓

7 (e) Structures or deposits placed by the Duck Creek Drainage District under
8 s. 30.263. ✓

9 (f) Structures in the Wolf and Fox River basins under s. 30.276. ✓
*** NOTE: Do we need to add the ~~Belle View~~ Lake Belle View project to the list
of these exemptions?
SECTION 14. 30.12 (2) of the statutes is repealed and recreated to read:

11 30.12 (2) PERMITS TO PLACE STRUCTURES OR DEPOSITS IN NAVIGABLE WATERS;
12 GENERALLY. (a) A riparian owner may apply to the department for a permit that is
13 required under sub. (1) in order to place a structure for the owner's use or to deposit
14 any material.

15 (b) Except for permits for the structures or deposits specified in sub. (3), the
16 notice and hearing provisions of s. 30.245 apply to permit applications that are
17 submitted under this section.

18 (c) For structures other than those specified in sub. (3), the department shall
19 grant a permit if the department finds that all of the following apply:

- 20 1. The structure will not materially obstruct navigation.
- 21 2. The structure will not be detrimental to the public interest.
- 22 3. The structure will not materially reduce the flood flow capacity of a stream.

23 (d) For deposits of materials other than the deposits specified in sub. (3), the
24 department shall grant a permit if the department finds that all of the following
25 apply:

1

1. The material will be placed^d for the purpose of improving habitat or maintaining littoral drift.

2

2. The material will not materially obstruct navigation.

3

3. The material will not materially reduce the flood flow capacity of a stream.

4

4. The deposit of the material will not be detrimental to the public interest.

5

5. The deposit of the material will promote public rights and interests in

6

navigable waters.

7

(e) The department may promulgate rules that identify structures or materials, in addition to those identified in subs. (2) and (3) (bn), to which the permitting requirements under this subsection do not apply. If the department promulgates such rules, the rules shall include standards governing the placement of the structures and the depositing of the materials.

8

SECTION 15. 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to read:

9

30.12 (3) (a) (intro.) Unless the department decides to deny a permit as provided in par. (b), the department shall grant a permit to a riparian owner to do any of the following:

10

SECTION 16. 30.12 (3) (a) 9. of the statutes is created to read:

11

30.12 (3) (a) 9. Place an intake or outfall structure that is less than 6 feet from the water side of the ordinary high-water mark and that is less than 25% of the width of the channel in which it is placed.

12

****NOTE: Mark: I am having trouble envisioning this. Let's talk

13

SECTION 17. 30.12 (3) (b) of the statutes is repealed and recreated to read:

14

30.12 (3) (b) The department may deny a permit applied for for a structure or deposit specified in par. (a) if the department finds that any of the following applies:

15

1. The structure or deposit will materially obstruct navigation.

16

1 2. The structure or deposit will be detrimental to the public interest.

 ****NOTE: I used "obstruct" instead of "impair" since "obstruct" is always used elsewhere in the statutes when conveying this concept.

 ****NOTE: MGG - Review the use of "may" and "shall" in s. 30.12 (2) (c) (intro.) and (d) (intro.) (3) (a) and (3) (b) (intro.).

2 **SECTION 18.** 30.12 (3) (bn) of the statutes is amended to read:

3 30.12 (3) (bn) A riparian owner is exempt from the permit requirements under
4 sub. (2) (1) and this subsection for a structure specified under par. (a) 2m. if the
5 riparian owner places the structure in conformance with the standards established
6 under par. (d) and if the riparian owner notifies the department in writing of the
7 location of the structure at least 10 working days before it is placed and places the
8 structure in conformity with standards established by the department. The
9 department shall promulgate rules to establish these standards. plain

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

10 **SECTION 19.** 30.12 (3) (br) of the statutes is created to read:

11 30.12 (3) (br) The department may promulgate rules that identify structures
12 or deposits, in addition to those specified in sub. (2) and par. (bn), ^{and sub. (2)} to which the
13 permitting requirements under this subsection do not apply. If the department
14 promulgates such rules, the rules shall include standards and procedures governing
15 the placement of the structures and the depositing of the materials.

16 **SECTION 20.** 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.276 (intro.)
17 and amended to read: (B) Seawalls; Wolf River and Fox River basins.

18 **30.276** (intro.) A riparian owner is exempt from the permit requirements under
19 sub. (2) and this subsection s. 30.12 for a structure that is placed on the bed of a
20 navigable water in the Wolf River and Fox River basin area, as described in s. 30.207

1 30.223 (1), and that extends beyond the ordinary high-water mark, if the following
2 conditions apply:

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

3 **SECTION 21.** 30.12 (3) (bt) 1. to 8. of the statutes are renumbered 30.276 (1) to
4 (8).

5 **SECTION 22.** 30.12 (3) (bt) 9. ~~and~~ ^{is} of the statutes ~~are~~ renumbered 30.276

6 (9) ~~and~~ ^{is} → INSERT 8-6

7 **SECTION 23.** 30.12 (3) (d) of the statutes is repealed.

8 **Insert 24-20**

9 **SECTION 24.** 30.12 (4m) of the statutes is renumbered 30.263 (2) ^v and 30.263 (2)
10 (intro.), as renumbered, ^{is} amended to read:

11 30.263 (2) ~~DUCK CREEK DRAINAGE DISTRICT STRUCTURES STRUCTURES AND~~
12 ~~DEPOSITS.~~ ^(intro.) ~~Subsection~~ ^{plain} ~~Section 30.12 (1)~~ does not apply to a structure or deposit that
13 the drainage board for the Duck Creek Drainage District places in a drain that the
14 board operates in the Duck Creek Drainage District if either of the following applies:

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

15 **Insert 25-22**

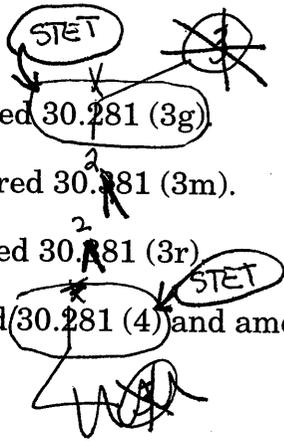
16 **SECTION 25.** 30.121 (title), (2) and (3) of the statutes are renumbered ~~30.281~~ ^{30.281}
17 (title), (2) and (3).

18 **SECTION 26.** 30.121 (3g) of the statutes is renumbered ~~30.281~~ ^{30.281} (3g).

19 **SECTION 27.** 30.121 (3m) of the statutes is renumbered ~~30.281~~ ² 30.281 (3m).

20 **SECTION 28.** 30.121 (3r) of the statutes is renumbered ~~30.281~~ ² 30.281 (3r).

21 **SECTION 29.** 30.121 (4) of the statutes is renumbered ~~30.281~~ ^X 30.281 (4) and amended
22 to read:



2
~~3~~

1 30.181 (4) MAJOR REPAIR, ABANDONED STRUCTURES AND OBSTRUCTIONS TO
2 NAVIGATION. The owner of a boathouse or a fixed houseboat which extends beyond the
3 ordinary high-water mark of any navigable waterway and which is in a major state
4 of disrepair or is a material obstruction to navigation may be ordered by the
5 department to remove the structure from the waterway. The department shall follow
6 the procedures set forth in s. 30.03 ~~30.181(4)(a)~~ ^{30.96(1)} for ordering removal of a structure.
7 If such a structure is abandoned and the department, after due diligence, cannot
8 locate the owner, the department shall utilize the procedures set forth in s. 31.187
9 (1) for removing the abandoned structure.

History: 1979 c. 101; 1981 c. 117; 1983 a. 27 s. 2202 (38); 1987 a. 374, 395; 1995 a. 27; 2001 a. 16.

10 SECTION 30. 30.121 (5) and (6) of the statutes are renumbered 30.181 (5) and
11 (6).

Insert 27-13

12 SECTION 31. 30.123 (title) of the statutes is amended to read:
13 **30.123 (title) Bridge construction and maintenance; permit.**

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

****NOTE: MGG Check all titles for permitting sections for consistency.

15 SECTION 32. 30.123 (1) of the statutes is renumbered 30.213 (1) and amended
16 to read:

17 30.213 (1) Municipalities which construct or reconstruct highway bridges shall
18 not be required to obtain permits under this section or s. ~~30.10~~ or 30.12 or 30.123 for
19 such the construction or reconstruction. All municipal highway bridges shall be
20 constructed or reconstructed in accordance with standards developed under s. 84.01
21 (23).

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

22 SECTION 33. 30.123 (2) of the statutes is amended to read:

single underscore, not double.

(4) ✓
e

1 30.123 (2) ~~Except as provided in sub. (1) and s. 30.12 (4) PERMIT REQUIRED.~~

2 Unless a permit has been granted by the department under sub. (3m), plain no person may

3 construct or maintain a bridge in, on, or over navigable waters unless a permit has

4 been issued by the department under this section. The application for a permit shall

5 contain the applicant's name and address, the proposed location of the bridge, a cross

6 section and plan view of the navigable waters and adjacent uplands, a description

7 of materials to be used in construction of the bridge, plans for the proposed bridge,

8 evidence of permission to construct the bridge from the riparian owners and any

9 other information required by the department. plain

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

10 SECTION 34. 30.123 (3) of the statutes is amended to read:

11 30.123 (3) ~~Upon receipt of a complete application, the department shall follow~~

12 ~~the notice and hearing provisions of s. 30.02 (3) and (4).~~ ✓ ✓ The notice and hearing

13 provisions of s. 30.245 apply to a permit applied for under this section plain except that no

14 notice or hearing is required for proposed bridges which would cross a bridge crossing

15 a navigable waters water that is less than 35 feet wide.

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

****NOTE: Regarding s. 30.123 (3): Current law is ambiguous. Is it a navigable water than is never wider than 35 feet or is it a navigable water that is less than 35 feet wide at the point where the bridge crosses. Do you want to correct?

16 SECTION 35. 30.123 (4) of the statutes is amended to read:

17 30.123 (4) ~~The department shall review the plans for the proposed bridge to~~

18 ~~determine whether the proposed bridge will be an obstruction to navigation or will~~

19 ~~adversely affect the flood flow capacity of the stream. The department shall grant~~

20 the a permit applied for under this section if the department finds that the proposed the

21 bridge will or does not materially obstruct navigation, will or does not materially

~~15~~

not be

1 reduce the effective flood flow capacity of a stream or, and will ~~not be~~ ~~not be~~
2 detrimental to the public interest.

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

***NOTE: Re: 30.123 (4): The 3 criteria in ^{s. 30.123(4)} this draft are not cumulative, ^{in the} ~~in the~~ ~~draft~~ ~~are~~ ~~not~~ ~~cumulative~~, ~~is~~ ~~the~~ ~~same~~ ~~as~~ ~~the~~ ~~criteria~~ ~~in~~ ~~the~~ ~~current~~ ~~law~~.
has been changed to "and". The "or" has been changed to "and" in current law.

3 **Insert 27-14**

4 SECTION 36. 30.123 (6) of the statutes is created to read:

5 30.123 (6) ~~EXCEPTIONS~~ Subsections (2) to (4) ^{do} not apply to the following:

6 (a) Highway bridges constructed or reconstructed under s. 30.213 by
7 municipalities.

8 (b) Bridges constructed and maintained by the department of transportation
9 under s. ~~30.123(4)~~ ^{30.341}.

30.341

10 **Insert 29-6**

11 SECTION 37. 30.13 (title) and (1) (intro.), (b) and (c) of the statutes are amended
12 to read:

13 **30.13 (title) Regulation of wharves, piers, and swimming rafts;**
14 **establishment of pierhead lines.** (1) CONSTRUCTION ALLOWED WITHOUT PERMIT
15 UNDER CERTAIN CIRCUMSTANCES. ^{plain} ~~A riparian proprietor~~ ^(intro.) owner may construct a wharf
16 or pier in a navigable waterway extending beyond the ordinary high-water mark or
17 an established bulkhead line in aid of navigation without obtaining a permit under
18 s. 30.12 if all of the following conditions are met:

19 (b) The wharf or pier does not interfere with rights of other riparian ^g proprietors
20 owners.

21 (c) The wharf or pier does not extend beyond any pierhead line which is
22 established under sub. (3) s. 30.323.

History: 1981 c. 252; 1987 a. 374; 1999 a. 150 ss. 3, 120, 123, 125, 127, 129, 131, 133.

23 SECTION 38. 30.13 (1m) (intro.) and (b) of the statutes are amended to read:

1 **30.13 (1m)** SWIMMING RAFTS ALLOWED WITHOUT PERMIT UNDER CERTAIN
2 CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may place a swimming raft in
3 a navigable waterway for swimming and diving purposes without obtaining a permit
4 under s. 30.12 if all of the following conditions are met:

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

7 **Insert 29-17**

8 **SECTION 39.** 30.13 (4) (b) of the statutes is amended to read:

9 30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which interferes
10 with rights of other riparian ~~proprietors~~ owners constitutes an unlawful obstruction
11 of navigable waters unless a permit is issued for the wharf or pier under s. 30.12 or
12 unless authorization for the wharf or pier is expressly provided.

13 History: 1981 c. 252; 1987 a. 374; 1999 a. 150 ss. 3, 120, 123, 125, 127, 129, 131, 133.

13 **Insert 31-1**

14 **SECTION 40.** 30.135 (1) (a) (intro.) and 2. of the statutes are amended to read:

15 30.135 (1) (a) A riparian ~~proprietor~~ owner may place a water ski platform or
16 water ski jump in a navigable waterway without obtaining a permit if all of the
17 following requirements are met:

18 ~~1. The platform or jump does not interfere with public rights in navigable
19 waters.~~

20 2. The platform or jump does not interfere with rights of other riparian
21 ~~proprietors~~ owners.

22 History: 1997 a. 27.

22 **Insert 36-4A**

23 **SECTION 41.** 30.18 (1) (intro.) of the statutes is created to read:

24 **30.18 (1) DEFINITIONS.** In this section:

(Intro.)

1
2

SECTION 42. 30.18 (1) (a) 3. of the statutes is created to read:

30.18 (1) (a) 3. The diversion is a large diversion.

} sort;
out-of-
order

3

SECTION 43. 30.18 (1) (b) of the statutes is created to read:

4

30.18 (1) (b) "Large diversion" means a diversion that will result in a water loss averaging, in any 30-day period, at least 2,000,000 gallons per day above a permittee's base level of water loss.

7

SECTION 44. 30.18 (2) (a) (intro.) of the statutes is amended to read:

8

30.18 (2) (a) ~~Stream~~ Diversions from streams. (intro.) ~~No~~ Unless a permit has been granted by the department under this section, no person may divert water from a stream in this state without a permit under this section if the diversion meets either of the following conditions ^{if} any of the following ~~apply~~ applies

10

11

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

12

SECTION 45. 30.18 (2) (b) of the statutes is amended to read:

13

30.18 (2) (b) Diversions from Streams or lakes ~~Streams or lakes~~ ^{PLAIN} ~~No~~ Unless a permit has been granted by the department under this section, no person, except a person required to obtain an approval under s. 281.41, may divert water from any lake or stream in this state without a permit under this section if the diversion will result in a water loss averaging 2,000,000 gallons per day in any 30-day period above the person's authorized base level of water loss is a large diversion.

14

15

16

17

18

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

19

SECTION 46. 30.18 (2) (c) of the statutes is created to read:

20

30.18 (2) (c) *Exception.* A person who is required to obtain an approval under s. 281.41 to divert water is exempt from the permitting procedures in this section.

21

22

SECTION 47. 30.18 (3) (title) of the statutes is repealed.

23

SECTION 48. 30.18 (3) (a) (title), 1. and 2. of the statutes are repealed.

(title) and

1 SECTION 49. 30.18 (3) (a) 3. of the statutes is renumbered 30.18 (3m) (a) and
2 amended to read:

3 30.18 (3m) (a) 1. ~~For a diversion under sub. (2) (a) 2., the application shall~~
4 ~~include written~~ Written statements of consent to the diversion from all riparian
5 owners who are making beneficial use of the water proposed to be diverted.

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

6 SECTION 50. 30.18 (3) (a) 4. of the statutes is repealed.

7 SECTION 51. 30.18 (3) (b) of the statutes is repealed.

8 SECTION 52. 30.18 (3m) ~~(title and~~ (intro.) of the statutes is created to read:

9 30.18 (3m) APPLICATIONS FOR PERMITS; SPECIFIC REQUIREMENTS (An application for
10 a permit under this section to divert water from a stream for the purpose of
11 agriculture or irrigation shall include all of the following:

12 SECTION 53. 30.18 (3m) (b) of the statutes is created to read:

13 30.18 (3m) (b) Evidence of permission or authority to enter any land through
14 which it is proposed to divert the water for the purpose of obtaining information
15 required for drafting the plans for the project.

16 SECTION 54. 30.18 (4) (title) of the statutes is amended to read:

17 30.18 (4) (title) NOTICE OF AND HEARING ON APPLICATION.

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

18 SECTION 55. 30.18 (4) (a) of the statutes is amended to read:

19 30.18 (4) (a) Upon receipt of a complete application for a permit under this
20 section, the department shall follow the notice and hearing procedures under s. 30.02
21 (3) and (4) 30.245.

22 (am) In addition to the notice requirements under s. 30.02 (3) and (4) 30.245,
23 the department shall mail a copy of the notice to every person upon whose land any
24 part of the canal or any other structure will be located, to the all of the following:

1 3. The clerk of the next town municipality that is the next municipality
2 downstream, to the,

3 4. The clerk of any village or city each municipality in which the lake or stream
4 from which water is proposed to be diverted is located and which is adjacent to any
5 municipality in which the diversion will take place and to each.

6 5. Each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

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

8 SECTION 56. 30.18 (4) (am) 1. ^{and 2. are} of the statutes ^{is} created to read:

9 30.18 (4) (am) 1. Each owner of land over which water is proposed to be
10 diverted.

11 ~~SECTION 57. 30.18 (4) (am) 2. of the statutes is created to read:~~

12 ~~30.18 (4) (am) 2. Each local governmental unit under s. 30.04 (4).~~ (2)

13 SECTION 58. 30.18 (4) (b) of the statutes is amended to read:

14 30.18 (4) (b) If a hearing on the application for a permit under this section is
15 conducted as a part of a hearing under s. 293.43, the notice and hearing provisions
16 in that section supersede the notice and hearing provisions of ^{explain} ~~par. (a)~~ s. 30.245.

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

18 SECTION 59. 30.18 (5) (title) of the statutes is repealed and recreated to read:

19 30.18 (5) (title) GRANTING OF PERMITS.

20 SECTION 60. 30.18 (5) (a) (intro.) of the statutes is amended to read:

21 30.18 (5) (a) *Streams.* (intro.) The department shall approve an application
22 for a permit required under sub. (2) (a) to divert water from streams a stream if the
department determines both that all of the following apply:

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

SECTION 61. 30.18 (5) (a) 1. of the statutes is amended to read:

The plain

1 30.18 (5) (a) 1. ~~That the~~ proposed diversion ~~will not injure any public rights in~~
2 ~~navigable waters~~ ~~will not~~ be detrimental to the public interest.

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

****NOTE: Isn't this a substantive change? Doesn't this mean any public interest, not just the public's interest in navigable waters?

3 SECTION 62. 30.18 (5) (a) 1m. of the statutes is created to read:

4 30.18 (5) (a) 1m. That the proposed diversion is for use on riparian land.

****NOTE: Again, isn't this a substantive change?

5 SECTION 63. 30.18 (5) (a) 2. of the statutes is amended to read:

6 30.18 (5) (a) 2. ~~That the~~ water to be diverted is ~~surplus water~~, or if it is not
7 surplus water, that ~~it may~~ not being beneficially used or ~~all riparians~~ all riparian owners
8 who may be adversely affected by the diversion have consented to the proposed
9 diversion.

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

10 SECTION 64. 30.18 (5) (a) 3. of the statutes is created to read:

11 30.18 (5) (a) 3. The grounds for granting a permit under s. 281.35 (5) (d) are met
12 if the diversion is a large diversion.

13 SECTION 65. 30.18 (5) (b) of the statutes is amended to read:

14 30.18 (5) (b) ~~Streams or lakes~~ Lakes. The department shall approve an
15 application for a permit required under sub. (2) (b) to divert water from a lake if the
16 grounds for approval specified under s. 281.35 (5) (d) are met ~~and, if the permit is also~~
17 ~~required under sub. (2) (a), if the department makes the determinations specified~~
18 ~~under par. (a).~~

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

19 SECTION 66. 30.18 (6) (title) of the statutes is amended to read:

20 30.18 (6) (title) ~~PERMITS; USE OF WATER; PERMIT CONDITIONS; REPORTING; REVIEW.~~

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

21 SECTION 67. 30.18 (6) (a) of the statutes is amended to read:

1 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
2 issued granted under this section the quantity of water that may be diverted and the
3 times during which water may be diverted. In addition, if the permit is one which
4 is required under sub. (2) (b) for a large diversion, the permit shall comply with s.
5 281.35 (6).

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

6 SECTION 68. 30.18 (6) (b) of the statutes is renumbered 30.18 (6) (A) and
7 amended to read: dm

8 30.18 (6) (A) *Use of water.* A person ~~issued~~ ^{who is} granted a permit for the purpose of
9 irrigation or agriculture may use the water on any land contiguous to the permittee's
10 riparian land, but may not withdraw more water than ~~it did~~ the permittee withdrew
11 before August 1, 1957, ~~without applying to the department for a modification of the~~
12 permit unless the department approves the additional amount to be withdrawn by
13 modifying the permittee's permit.

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

14 SECTION 69. 30.18 (6) (c) of the statutes is renumbered 30.18 (6) (B) and
15 amended to read: bm

16 30.18 (6) (B) *Reporting required.* ~~The department shall require each permittee~~
17 A person granted a permit under this section to report its ~~shall report to the~~
18 department the volume and rate of withdrawal and its volume and rate of water loss,

19 ~~if any,~~ The report shall be in the form and at the times specified by the department.

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

20 SECTION 70. 30.18 (6) (d) of the statutes is renumbered 30.18 (6) (C) and
21 amended to read: CM

22 30.18 (6) (C) *Review of permits.* ^{1.} If the permit is one that is required under sub.
23 (2) (a), but not under sub. (2) (b), and the permit was issued on or after August 1, 1957,

1 1. Except as provided in subs. 2. and 3. the department shall review the permit at
2 least once every 5 years.

3 2. If the permit is one that is required for a large diversion, the department
4 shall review the permit as required under s. 281.35 (6) (b).

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

5 **SECTION 71.** 30.18 (6) (d) 3. of the statutes is created to read:

6 30.18 (6) (d) 3. A permit granted under this section before August 1, 1957, is
7 exempt from the review requirements under subs. 1. and 2.

8 ~~SECTION 72. 30.18 (6m) (a) (title) of the statutes is created to read:~~

9 ~~30.18 (6m) (a)~~ Streams; mandatory revocation.

10 **SECTION 73.** 30.18 (6m) (a) (intro.) of the statutes is amended to read:

11 30.18 (6m) (a) (intro.) The department shall revoke a permit issued granted
12 under sub. (5) (a), which is not subject to sub. (2) (b) ~~a permit for a large diversion,~~ ^{if it} ~~if~~ ^{strike}
13 if the department finds that any of the following apply: ^{ies}

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

14 **SECTION 74.** 30.18 (6m) (a) 1. of the statutes ^{and 2.} amended to read:

15 30.18 (6m) (a) 1. ~~That the~~ ^{The} water being diverted is no longer surplus water,
16 except that the department may allow the diversion to continue ^{are} if ~~it~~ ^{has} become water
17 that is being beneficially used, unless ~~all riparians~~ ^{all} riparian owners adversely
18 affected by the diversion continue to consent to it.

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

19 **SECTION 75.** 30.18 (6m) (b) of the statutes is amended to read:

20 30.18 (6m) (b) Streams; discretionary revocation ^I The department may revoke
21 any permit issued granted under sub. (5) (a), which is not subject to sub. (2) (b) ^{if} a
22 permit for a large diversion, ~~if it~~ ^{if} the department finds that the diversion is
23 detrimental to the stream from which the water is diverted.

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

30.18 (6m) (a) 2. If the diversion is from a stream designated by the department
as a trout stream, ~~that~~ the revocation is desirable for conservation purposes.

1 SECTION 76. 30.18 (6m) (c) of the statutes is amended to read:

2 30.18 (6m) (c) Large diversion. The department may revoke a permit issued
3 granted under sub. (5) (b) this section for a large diversion only as provided under
4 s. 281.35 (6).

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

5 SECTION 77. 30.18 (7) of the statutes is amended to read:

6 30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION. ~~After an application under~~
7 ~~this section has been filed with the department, the applicant may enter any land~~
8 ~~through which it is proposed to divert the water for the purposes of making any~~
9 ~~surveys required for drafting the plans for the project, but no work shall~~ work may ~~not~~
10 be commenced on the canal, headworks, or other structures necessary for the project
11 for which a permit has been granted under this section until the plans for the same
12 canal, headworks, or other structures have been approved by the department. Any
13 person ~~having received~~ who has been granted a permit required under sub. (2) (a) (5) (a) for
14 a diversion that is not a large diversion may construct upon the land of another the
15 canal, headworks, and other works structures authorized by the permit after the
16 ~~damage which will be sustained by the owner or owners of such land has been~~
17 ~~satisfied, or has been determined as provided for in ch. 32, and after the final sum~~
18 ~~so determined and all costs have been paid to the persons entitled thereto or to the~~
19 ~~clerk of the circuit court on their account.~~

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

****NOTE: Bob Nelson is looking at the stricken phrases at the end of s. 30.18 (7).

Those phrases will need redrafting.

Insert 36-4B

ing

20

21

SECTION 78. 30.18 (8) of the statutes is renumbered 30.353 and amended to

22

read:

1 **30.353 Department may raise water elevations** If after examination and
 2 investigation the department determines that it is necessary to raise water
 3 elevations in any navigable stream or lake for conservation purposes, the
 4 department may, if funds are available from any source other than license fees,
 5 determine and establish the elevations to which the water may be raised or
 6 maintained, but the water elevation may not be established below the normal
 7 elevation. If any lands are damaged by raising the water levels above normal and
 8 the department cannot acquire the right to flow the lands by agreement with the
 9 owner, the department may acquire the lands or the right to flow the lands by
 10 condemnation under ch. 32.

h.p.s. no striking at this time

******NOTE:** *If this stat. is not amended, remove the text from the bill.*

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

******NOTE:** Bob Nelson is looking at s. 30.18 (8) concerning the condemnation language.

11 **SECTION 79.** 30.18 (9) of the statutes is repealed.

12 **Insert 38-8** ✓

13 **SECTION 80.** 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)
 14 and amended to read:

15 **30.19 (1g) PERMITS REQUIRED.** (intro.) Unless a permit has been granted by the
 16 department or authorization has been granted by the legislature, it is unlawful to do
 17 any of the following:

18 History: 1971 c. 273; 1979 c. 34 s. 2102 (30) (g); 1979 c. 221; 1983 a. 36; 1987 a. 374; 1995 a. 227.

18 **Insert 38-8** ✓

19 **SECTION 81.** 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and
 20 amended to read:

21 **30.19 (1g) (a)** ~~To construct~~ ^{*Construct*}, dredge, or enlarge any artificial waterway, canal,
 22 channel, ditch, lagoon, pond, lake or similar waterway where the purpose is ultimate

1 connection with an existing navigable stream, lake or other navigable waters, or
2 where water body that connects with a navigable waterway.

3 (am) ~~construct, dredge, or enlarge~~ any part of the an artificial waterway that
4 is located within 500 feet of the ordinary high-water mark of an existing navigable
5 ~~stream, lake or other navigable waters~~ waterway.

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

6 SECTION 82. 30.19 (1) (b) of the statutes is renumbered 30.19 (1g) (b) and
7 amended to read:

8 30.19 (1g) (b) ~~To connect~~ by a navigable surface channel ^{any} ~~any~~ natural or
9 artificially constructed navigable waterway, canal, channel, ditch, lagoon, pond, lake
10 or similar waterway or any artificial water body with an existing body of ^a navigable
11 water, for navigation or any other purpose waterway.

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

12 SECTION 83. 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
13 amended to read:

14 30.19 (1g) (c) ~~To grade or otherwise~~ ^{Grade or} remove ~~top soil~~ ^{topsoil} from the bank of any
15 navigable stream, lake or other body of navigable water waterway where the area
16 exposed by such the grading or removal will exceed 10,000 square feet.

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

17 SECTION 84. 30.19 (1b) of the statutes is created to read:

18 30.19 (1b) DEFINITION. In the section, "artificial water body" means a proposed
19 or existing body of water that does not have a history of being a natural body of water
20 or part of a natural body of water (lake or stream see MP's draft).

*** NOTE: ~~Remove~~

21 SECTION 85. 30.19 (1m) (intro.) of the statutes is amended to read:

22 30.19 (1m) ~~EXCEPTION.~~ EXCEPTIONS. (intro.) Subsection ~~(1)~~ ^{✓✓} (1g) does not apply
23 to any of the following:

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

AA MGG: Review in light of use of "lake or stream" in original draft.

1 SECTION 86. 30.19 (1m) (a) of the statutes is amended to read:

2 30.19 (1m) (a) The construction ~~and~~ or repair of any public highways highway.

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

3 SECTION 87. 30.19 (1m) (b) of the statutes is amended to read:

4 30.19 (1m) (b) Any agricultural ~~uses~~ use of land.

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

5 SECTION 88. 30.19 (1m) (c) and (d) of the statutes are repealed.

6 SECTION 89. 30.19 (1m) (e) of the statutes is amended to read:

7 30.19 (1m) (e) Any work required to maintain the original dimensions of an
8 enlargement of ~~a waterway~~ authorized ^{an} artificial water body done pursuant to a
9 permit or legislative authorization under sub. (1) (a) [✓] or (b) ^x (1g) (a) [✓].

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

****NOTE: Under s. 30.19 (1m) (e) enlargements are authorized only under s. 30.19

(1) (a), stats. Is the above what is intended?

10

SECTION 90. 30.19 (2) (intro.) ^{and} (a) ~~and~~ ^{to} (d) of the statutes are repealed.

11

SECTION 91. 30.19 (2) (e) of the statutes is renumbered 30.19 ~~(4)~~ (b) 3. and

12

amended to read: 5+3+1 ~~(4)~~ (3b) ✓

13

30.19 ~~(3b)~~ (b) 3. The ~~name and address~~ of the secretary of any property owners'

14

association ~~pertaining~~ formed with respect to the bodies of water natural water

15

bodies and artificial water bodies affected by the project or if there is no such

16

association, ~~the names and addresses of~~ ^{if} no property owner's association exists, the

17

department shall provide notice to at least 5 persons who own real property located

18

adjacent to the ~~bodies of water~~ natural water bodies and artificial water bodies. If

19

fewer than 5 persons own real property located adjacent to the ~~bodies of water~~

20

natural water bodies and artificial water bodies, ~~the names and addresses of such~~

21

the department shall provide notice to these 5 persons that own real estate so located

22

shall be given.

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

****NOTE: Check terminology s. 30.19 (2) (e): shouldn't this be limited to navigable waters, whether or not they are artificial?

SECTION 92. 30.19 (2) (f) of the statutes is repealed.

SECTION 93. 30.19 (3b) ~~(title and (a))~~ of the statutes ~~are~~ created to read:

30.19 (3b) NOTICE AND HEARING UPON APPLICATION. (a) Upon receipt of a complete application for a permit under this section, the department shall follow the notice and hearing procedures under s. 30.245.

SECTION 94. 30.19 (3b) (b) (intro.), 1. and 2. of the statutes ~~are~~ created to read:

30.19 (3b) (b) In addition to the notice requirements under s. 30.245, the department shall provide notice to all of the following:

1. Each local governmental unit under s. 30.04 (1).
2. The clerk of each municipality in which the project or affected artificial water body or navigable waterway is located.

****NOTE: Regarding the phrase "provide notice" here and elsewhere in the draft?

Written? E-mail? Internet posting?
SEC. #. 30.19 (3) (title) of the statutes is repealed.

SECTION 95. 30.19 (3) of the statutes is renumbered 30.19 (3b) (b) 4. and amended to read:

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

Sort. out of order

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1 SECTION 96. 30.19 (3) (b) of the statutes is repealed.

2 SECTION 97. 30.19 (4) of the statutes is amended to read:

renumbered 30.19 (4) (intro.) and

3 30.19 (4) ISSUANCE OF PERMIT. *(intro.)* ~~If the department finds that the project will not~~
4 ~~injure public rights or interest, including fish and game habitat, that the~~ The
5 department shall grant a permit applied for under this section if the department
6 determines that all of the following apply:

7 (b) The project will not cause environmental pollution as defined in s. 299.01
8 (4), that any .

9 (c) Any enlargement connected to a navigable waterways waterway conforms
10 to the requirement of complies with all of laws for relating to the plating of land and
11 for sanitation and that no . the

12 (d) No material injury will result to the rights of any riparian owners ~~on any~~
13 ~~body of water affected will result, the department shall issue a permit authorizing~~
14 ~~the enlargement of the affected waterways of land that abuts a natural water body~~
15 or artificial water body that is affected by the project.

16 SECTION 98. 30.19 (4) (a) of the statutes is created to read:

17 30.19 (4) (a) The project will not be detrimental to the public interest.

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

18 SECTION 99. 30.19 (5) of the statutes is amended to read:

19 30.19 (5) ~~CONDITIONS OF PERMIT~~ PERMIT CONDITIONS. The A permit issued under
20 this section to construct an artificial water body and to connect it to a navigable
21 waterways shall provide that all require that the artificial waterways constructed
22 under this section which are connected to navigable waterways shall be a public
23 waterways waterway. The department may impose such further conditions in the

water body be
waterways
be

waterway

to plain

1 permit as it finds ~~reasonably necessary to protect public health, safety, welfare,~~
2 ~~rights and interest and to protect private rights and property~~

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

****NOTE: Section 30.19 needs to be checked regarding the following terminology:
"navigable waterway/ water body/ body of water" #

3 **Insert 39-6**

4 SECTION 100. 30.195 (1) of the statutes is amended to read:

5 30.195 (1) PERMIT REQUIRED. ~~No~~ Unless a permit has been granted by the
6 department under this section or unless a statute expressly authorizes the activity,
7 no person may change the course of or straighten a navigable stream without a
8 permit issued under this section or without otherwise being expressly authorized by
9 statute to do so.

History: 1987 a. 374.

****NOTE: I don't like this language: "issued by DNR under section" DNR is
redundant. Plus what about the legislature? ;

10 SECTION 101. 30.195 (2) of the statutes is repealed and recreated to read:

11 30.195 (2) PERMIT APPLICATION. Upon receipt of a complete application for a
12 permit under this section, the department shall follow the notice and hearing
13 procedures under s. 30.245 if the activity involves the relocation of more than a total
14 of 500 feet in stream length.

****NOTE: And what if it is less than 500 feet in length?

*renumbered
30.195(3)
(intro.)
and*

15 SECTION 102. 30.195 (3) of the statutes is amended to read:

16 30.195 (3) GRANTING OF PERMIT. *(intro.)* ~~Upon application therefor, the~~ The department
17 shall grant a permit ~~to the~~ applied for under this section if the department
18 determines that all of the following apply:

19 (a) The applicant is the owner of any the land to change the course of or
20 straighten a *?* upon which the change in course or straightening of the navigable
21 stream on such land, if such will occur.

*** NOTE: *or* "This is the only place in this subchapter *where*" public
wa "waterway" will be used. *change* Should this term be changed?

1 **(b) The proposed change of course or straightening of the navigable stream** will
2 improve the economic or aesthetic value of the owner's applicant's land and will ✓

3 **(c) The proposed change of course or straightening of the navigable stream** will
4 not adversely affect the flood flow capacity of the stream or otherwise be detrimental
5 to ~~public rights or~~ the public interest.

6 **(d) The proposed change of course or straightening of the navigable stream** will
7 not be detrimental to the rights of other riparians riparian owners located on the
8 stream. If the department finds that the rights of ~~such riparians~~ these riparian
9 owners will be adversely affected, it may grant the permit only with ~~their~~ the consent
10 of all ^{of} ~~these~~ riparian owners. Such permit may be granted on the department's own
11 motion ~~after its own investigation or after public hearing and after giving prior notice~~
12 of such ~~investigation or hearing~~ claim

History: 1987 a. 374.

13 **SECTION 103.** 30.195 (4) and (7) of the statutes are repealed.

14 **Insert 41-21**

15 **SECTION 104.** 30.20 (1) (title) of the statutes is repealed and recreated to read:
16 30.20 (1) (title) CONTRACT OR PERMIT REQUIRED.

17 **SECTION 105.** 30.20 (1) (a) of the statutes is amended to read:

18 30.20 (1) (a) ~~No~~ Unless a contract has been entered into with the department
19 under sub. (2), no person may remove any material from the bed of any navigable lake
20 or from the bed of any outlying waters of ~~this state without first obtaining a contract~~
21 ~~as provided in sub. (2)~~.

History: 1977 c. 391; 1979 c. 34 s. 2102 (39) (g); 1981 c. 330; 1983 a. 27 s. 2202 (38); 1985 a. 332 s. 251 (1); 1987 a. 374; 1999 a. 9, 185.

22 **SECTION 106.** 30.20 (1) (b) of the statutes is amended to read:

23 30.20 (1) (b) ~~Except as provided under pars. (c) and (d), no~~ Unless a permit has
24 been issued by the department under sub. (3), no person may remove any material

1 from the bed of any lake or stream not ~~mentioned under~~ described in par. (a) without
2 ~~first obtaining a permit from the department under sub. (2) (e).~~ ✓

History: 1977 c. 391; 1979 c. 34 s. 2102 (39) (g); 1981 c. 330; 1983 a. 27 s. 2202 (38); 1985 a. 332 s. 251 (1); 1987 a. 374; 1999 a. 9, 185.

****NOTE: I added "under sub. (3)" OK? Or is the intent to refer to other permits issued by DNR?

3

SECTION 107. 30.20 (c) ⁽¹⁾ 1. of the statutes is repealed.

4

SECTION 108. 30.20 (1) (c) 2. of the statutes is renumbered 30.215 (2) (a) 2. and

5

amended to read:

6

30.215 (2) (a) 2. The proposed project involves the proposed removal of material

7

from the farm drainage ditch and the department may require a permit under sub.

8

(2) (e) for a removal under subd. 1. only if it finds that the proposed removal may have

9

a long-term adverse effect on cold-water fishery resources or may destroy fish

10

spawning beds or nursery areas.

11

SECTION 109. 30.20 (1) (c) 3. of the statutes is renumbered 30.215 (2) (b) and

12

amended to read:

13

30.215 (2) (b) A person who proposes a removal of material from a farm

14

drainage ditch under the exemption under this subsection under subd. 1. which that

15

may have an effect on cold-water fishery resources or may affect fish spawning beds

16

or nursery areas shall notify the department at least 10 days prior to the proposed

17

removal. The department shall determine whether a permit is necessary under s.

18

30.20 (1) (b) within the 10-day period.

History: 1977 c. 391; 1979 c. 34 s. 2102 (39) (g); 1981 c. 330; 1983 a. 27 s. 2202 (38); 1985 a. 332 s. 251 (1); 1987 a. 374; 1999 a. 9, 185.

****NOTE: Cannot proceed without a permit? Something is missing here.

19

SECTION 110. 30.20 (1) (d) of the statutes is renumbered 30.263 (3) and

20

amended to read:

21

30.263 (4) The drainage board for the Duck Creek Drainage District may,

22

without a permit under sub. (2) (e) s. 30.20 (3), remove material from a drain that the

board operates in the Duck Creek Drainage District if the removal is required, under rules promulgated by the department of agriculture, trade and consumer protection, in order to conform the drain to specifications imposed by the department of agriculture, trade and consumer protection after consulting with the department of natural resources.

History: 1977 c. 391; 1979 c. 34 s. 2102 (39) (g); 1981 c. 330; 1983 a. 27 s. 2202 (38); 1985 a. 332 s. 251 (1); 1987 a. 374; 1999 a. 9, 185.

SECTION 111. 30.20 (2) (title), (a) and (b) of the statutes ~~is~~ amended to read:

30.20 (2) ^(title) CONTRACTS FOR REMOVAL FROM NAVIGABLE LAKES AND OUTLYING WATERS.

(a) The department, ~~whenever consistent with public rights,~~ may enter into ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any material from the bed of any navigable lake ~~or of any of the outlying waters, and for the lease or sale of the material.~~ ~~Every~~ ^{Each} contract entered into under this paragraph shall contain such any conditions as may ^{be} that the department determines ^{to be} necessary for the protection of the public interest and the ~~interests~~ interest of the state ^{are} and. Each contract entered into under this paragraph shall fix the compensation to be paid to the state for the material ~~so to be~~ removed, except that ~~no the contract may not require that any~~ compensation may be paid for the material if the contract is with a municipality, as defined in s. 281.01 (6), and ~~if~~ will the material is ~~to~~ will be used for a municipal purpose and ~~will not for resale be resold.~~ ~~No~~ Each contract entered into under this paragraph may not run for ~~a longer period~~ more than 5 years. be resold. ←

(b) The department, ~~whenever consistent with public rights,~~ may enter into ~~contracts~~ a contract on behalf of the state for the removal of any mineral, ore and ~~or other material from beneath the bed of a navigable lakes and waters, where water that the state may own if the contract will be consistent with public rights and if the~~

1 waters would ^g navigable water will not be disturbed in the removal operation and for
 2 ~~the lease and sale of such mineral, material and ore and provide the necessary~~
 3 ~~regulations for all acts incident thereto. Every such~~ [↙] Each contract [↖] entered into under
 4 ~~the~~ ^{this} paragraph shall contain such any conditions as may ^{be} that the department
 5 determines ~~is~~ ^{are} necessary for the protection of the public interest and the interests
 6 interest of the state, ^{are} and. Each contract entered into under this paragraph shall fix
 7 the compensation to be paid to the state for the ~~material, mineral and ore so~~ mineral,
 8 ore, or other material to be removed. No Each contract entered into, pursuant to
 9 under this paragraph, [↙] shall may not run for a longer period more than 75 years.
 10 Should any doubt exist as to whether the state, in fact, owns such lake bed or stream
 11 bed ~~such contract or lease shall be for such interests, if any, as the state may own.~~
 12 ~~Title to the royalties to be paid when~~ After mining operations are have begun ³ the
 13 department shall be ~~determined at such future time as~~ determine the date before
 14 which the royalties for ~~ores so sold are paid or~~ any mineral, ore, or other material that
 15 is removed and sold ^g are due and payable.

History: 1977 c. 391; 1979 c. 34 s. 2102 (39) (g); 1981 c. 330; 1983 a. 27 s. 2202 (38); 1985 a. 332 s. 251 (1); 1987 a. 274; 1999 a. 9, 185.

16 **SECTION 112.** 30.20 (2) (c) of the statutes is renumbered 30.20 (3) and amended
 17 to read:

18 30.20 (3) PERMITS FOR REMOVAL FROM OTHER WATERS. ^{↙ strike space} A permit The department
 19 may issue a permit to remove material from the bed of any lake or stream not
 20 included described in sub. (1) (a) may be issued by if the department if it finds that
 21 the issuance of ^e ~~such a~~ the permit will be consistent with the public interest in the
 22 water involved ~~the~~ ^g lake or stream. A permit ~~or contract~~ issued under this ^g paragraph

1 subsection may be issued for up to 10 years if the applicant notifies the department
2 at least 30 days before removing any material.

History: 1977 c. 391; 1979 c. 34 s. 2102 (39) (g); 1981 c. 330; 1983 a. 27 s. 2202 (38); 1985 a. 332 s. 251 (1); 1987 a. 374; 1999 a. 9, 185.
****NOTE: Regarding 30.20 (2) (c): What if less than 30 days notice is given.

3 **Insert 42-10**

4 30.278 (5) (d) It may not cause environmental pollution, ~~as defined in s. 299.01~~
5 (4).

History: 2001 a. 16.

6 **Insert 43-1**

7 30.355 (4) (d) It may not cause environmental pollution, ~~as defined in s. 299.01~~
8 (4).

9 **Insert 44-22**

10 (c) 6. The names and addresses of at least 5 persons who own ~~real~~ property
11 located adjacent to the navigable waters located in the proposed permit area. If fewer
12 than 5 persons own ~~real~~ property adjacent to such these waters, the application shall
13 include the names and addresses of all of these persons.

History: 1997 a. 174; 2001 a. 16, 103.

14 **Insert 45-7**

plain

15 (6) (a) The department shall issue a general permit under this section if the
16 department determines that the cumulative adverse environmental impact of the
17 activity in the proposed permit area is insignificant and that the issuance of the
18 general permit will not injure public rights or interest, cause environmental
19 pollution, ~~as defined in s. 299.01 (4)~~, or result in material injury to the rights of any
20 riparian owners.

History: 1997 a. 174; 2001 a. 16, 103.

21 ~~SECTION 113. 30.207 (6) (b) of the statutes is renumbered 30.223 (6) (b).~~
22 ~~SECTION 114. 30.207 (7) of the statutes is renumbered 30.223 (7) and amended~~
23 ~~to read:.~~

Insert 45-16

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

History: 1997 a. 174; 2001 a. 16, 103.

SECTION 115. 30.21 (title), (1), (2) and (3) (title) of the statutes are renumbered 30.293 (title), (1), (2) and (3) (title).

****NOTE: Should the reference in s. 30.21 (2) (b) be to "subchapter" instead of to "chapter"?

SECTION 116. 30.21 (3) (a) of the statutes is renumbered 30.293 (3).

SECTION 117. 30.21 (3) (b) of the statutes is repealed.

Insert 59-4

SECTION 118. 30.327 (title) of the statutes is created to read:

30.327(title) **Municipal duty to report violations.**

SECTION 119. 30.341 (1) of the statutes is created to read:

30.341 (1) In this section, "waters of the state" has the meaning given in s. 281.01 (18).

Insert 62-7 B

SECTION 120. 281.35 (1) (b) 2. of the statutes is amended to read:

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sort;
out-of-order

✓
bm

1 281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss
2 over any 30-day period that is reported to the department or the public service
3 commission under sub. (3) (c) or s. 30.18 (6) ~~(e)~~ (d), 196.98, 281.17 (1) or 281.41.

4 History: 1985 a. 60; 1987 a. 27, 186; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 32; 1991 a. 39; 1995 a. 227 s. 400; Stats., 1995 s. 281.35; 1999 a. 150 s. 672.
5 **SECTION 121.** 281.35 (4) (a) 1. of the statutes is amended to read:

6 281.35 (4) (a) 1. A person to whom a permit has been issued granted under s.
7 30.18 or who is required to obtain a permit under that section before beginning or
8 increasing a withdrawal.

9 History: 1985 a. 60; 1987 a. 27, 186; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 32; 1991 a. 39; 1995 a. 227 s. 400; Stats., 1995 s. 281.35; 1999 a. 150 s. 672.
10 **SECTION 122.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

11 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
12 withdrawal or increase the amount of an existing withdrawal, the person shall apply
13 to the department under s. 30.18, 281.17 (1) or 281.41 for a new permit or approval
14 or a modification of its existing permit or approval if either of the following conditions
15 applies:

16 History: 1985 a. 60; 1987 a. 27, 186; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 32; 1991 a. 39; 1995 a. 227 s. 400; Stats., 1995 s. 281.35; 1999 a. 150 s. 672.
17 **SECTION 123.** 293.65 (2) (a) of the statutes is amended to read:

18 293.65 (2) (a) Any person intending to divert surface waters for prospecting or
19 mining shall apply to the department for a permit. The forms and procedures used
20 under s. 30.18 apply to the extent practicable.

21 History: 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65.
22 *****NOTE:** Should the last sentence in s. 293.65 (2) (a) be amended or deleted?

23 **SECTION 124.** 293.65 (2) (b) of the statutes is amended to read:

24 293.65 (2) (b) The department, upon receipt of an application for a permit, shall
25 determine the minimum stream flow or lake level necessary to protect public rights,
26 the minimum flow or level necessary to protect the rights of affected riparians
27 riparian owners, the point downstream beyond which riparian rights are not likely

plain

1 to be injured by the proposed diversion^f and the amount of surplus water² as defined

2 ~~in s. 30.01 (6d)~~, if any, at the point of the proposed diversion. *in RNK's portion of the draft*

History: 1977 c. 420; 1979 c. 221; 1981 c. 86 ss. 38 to 54, 64; Stats. 1981 s. 144.855; 1985 a. 60 s. 24; 1987 a. 374; 1993 a. 16; 1995 a. 227 s. 783; Stats. 1995 s. 293.65.

**** NOTE: In the nonstatutory provision regarding an advisory committee for rules on navigability, the reference to s. 30.04 (3) must be changed to s. 30.04 (1).*