

1 **SECTION 221.** 30.28 of the statutes is renumbered 30.243, and 30.243 (1), (2)
2 (a) (intro.) and (b), (2m) (am), (b) and (d) and (2r) (b), as renumbered, are amended
3 to read:

4 **30.243 (1) FEES REQUIRED.** The department shall charge a permit or approval
5 fee for carrying out its duties and responsibilities under ~~ss. 30.10 to 30.205, 30.207~~
6 ~~and 30.21 to 30.27~~ this subchapter. The permit or approval fee shall accompany the
7 permit application, notice, or request for approval.

8 **(2) (a) (intro.)** For fees charged for permits and approvals under ~~ss. 30.10 to~~
9 ~~30.205 and 30.21 to 30.27~~ this subchapter, except s. 30.223, the department shall
10 classify the types of permits and approvals based on the estimated time spent by the
11 department in reviewing, investigating, and making determinations whether to
12 ~~grant~~ issue the permits or approvals. The department shall then set the fees as
13 follows:

14 (b) 1. For an application for a general permit submitted under s. ~~30.207~~ 30.223
15 (3), the fee shall be \$2,000.

16 2. For a notice submitted under s. ~~30.207~~ 30.223 (7), the fee shall be \$100.

17 **(2m) (am)** The department shall refund 50% of the fee specified in sub. (2) (b)
18 1. if the department denies an application for a general permit under s. ~~30.207~~ 30.223
19 (3) (d) 1. or does not issue a general permit under s. ~~30.207~~ 30.223 (6).

20 (b) If the applicant applies for a permit, requests an approval, or submits a
21 notice under s. ~~30.207~~ 30.223 (7) after the project is begun or after it is completed,
22 the department shall charge an amount equal to twice the amount of the fee that it
23 would have charged under this section.

24 (d) The department, by rule, may increase any fee specified in sub. (2) (a). The
25 department, by rule, may increase a fee specified in sub. (2) (b) only if the increase

1 is necessary to meet the costs incurred by the department in acting on general
2 permits or on notices submitted under s. ~~30.207~~ 30.223.

3 (2r) (b) If the department promulgates a rule under par. (a), the rule shall
4 contain a time limit for each type of permit or approval classified under sub. (2) (a)
5 for determining whether the department will grant issue the permit or approval.

6 SECTION 222. 30.29 of the statutes is renumbered 30.237.

7 SECTION 223. 30.292 of the statutes is repealed.

NOTE: The repealed provision relates to parties to a violation. An identical
provision that applies to ch. 30 in its entirety already exists in s. 30.99.

8 SECTION 224. 30.294 of the statutes is renumbered 30.975.

~~***NOTE: In a later version, change the cross-reference in s. 30.772 (8) (e).~~

9 SECTION 225. 30.298 (title) of the statutes is renumbered 30.381 (title).

***NOTE: Take out the creation of s. 30.381 (title), which is in the 2nd half of the
draft.

10 SECTION 226. 30.298 (1) of the statutes is renumbered 30.381 (1) and amended
11 to read:

12 30.381 (1) GENERAL PENALTY. Any person who violates any provision of ss. ~~30.12~~
13 ~~to 30.21~~ 30.095, 30.123, 30.135 to 30.20, 30.217, 30.223, 30.266, 30.276 to 30.293,
14 30.313, or 30.85 for which a penalty is not provided under ~~the applicable section or~~
15 ~~by sub. (2) or (3)~~ subs. (2) to (7) shall forfeit not less than \$100 nor more than \$10,000
16 for the first offense and shall forfeit not less than \$500 nor more than \$10,000 upon
17 conviction of the same offense a 2nd or subsequent time.

18 SECTION 227. 30.298 (2) of the statutes is renumbered 30.381 (6).

19 SECTION 228. 30.298 (3) of the statutes is renumbered 30.381 (7).

20 SECTION 229. 30.298 (4) of the statutes is renumbered 30.381 ⁽⁹⁾ ~~(10)~~ ✓

(10)

1 SECTION 230. 30.298 (5) of the statutes is renumbered 30.381 (9) and amended

2 to read: (10) (B)

3 30.381 (9) ADDITIONAL ORDERS. In addition to ~~the~~ ^{any} forfeitures ^{or fines} specified under

4 subs. (1) to (3) ~~(3)~~ ⁽⁸⁾, the court may order the defendant to perform or refrain from

5 performing such acts as may be necessary to fully protect and effectuate the public

6 interest in navigable waters. The court may order abatement of a nuisance,

7 restoration of a natural resource, or other appropriate action designed to eliminate

8 or minimize any environmental damage caused by the defendant.

9 SECTION 231. Subchapter III (title) of chapter 30 [precedes 30.30] of the

10 statutes is renumbered subchapter IV (title) of chapter 30 [precedes 30.491].

11 SECTION 232. 30.30 of the statutes is renumbered 30.491, and 30.491 (5) and

12 (7), as renumbered, are amended to read:

13 30.491 (5) ACQUISITION OF LAND. Acquire such lands or interests therein as it

14 deems necessary for properly carrying out its powers under this ~~chapter~~ subchapter,

15 including such lands outside the municipal limits as are necessary to protect its

16 property or to carry out its powers under sub. (3). Such acquisition may be by

17 condemnation proceedings.

18 (7) DOING OF WORK. Contract for the doing of the work authorized by this section

19 or purchase the necessary equipment for the doing of the work itself, but if the

20 municipality has established a board of harbor commissioners such board shall have

21 charge of the letting of contracts and shall supervise the doing of the work, except

22 as provided in ss. ~~30.31~~ 30.492 (1) and ~~30.32~~ 30.493 (2).

23 SECTION 233. 30.31 of the statutes is renumbered 30.492, and 30.492 (1), (4)

24 and (6), as renumbered, are amended to read:

*** NOTE: Mark - Please check the internal cross-reference in S. 30.381(10) to make sure it complies with your intent. It results in a substantive change from current law and your draft.

1 30.492 (1) SUPERVISION OF WORK. In exercising the powers granted by s. 30.30
2 30.491 (1) to (3), a municipality shall be governed by the law governing the laying out,
3 improvement, and repair of streets and bridges in such municipality, so far as
4 applicable, except that no petition of property owners for doing any such work is
5 necessary. If the municipality has established a board of harbor commissioners, such
6 board shall be in charge of the work unless the board determines that it is not
7 equipped to supervise the work and by resolution delegates such function to the
8 agency which ordinarily performs such function for the municipality. If the
9 municipality does not have a board of harbor commissioners, the municipality's
10 board of public works or, in the event there is no such board, the municipality's
11 governing body shall be in charge of the work.

12 (4) ACQUISITION OF LAND. In acquiring land by condemnation for any of the
13 purposes specified in this ~~chapter~~ subchapter, a municipality shall be governed by
14 the law relating to condemnation of land for public grounds or street purposes.
15 Whenever land is acquired through a land contract arrangement, such contract may
16 create a lien on such lands for the purchase price and interest thereon but shall not
17 create any liability therefor on the part of the municipality.

18 (6) SPECIAL ASSESSMENTS. Special assessments for benefits to lands, when
19 authorized by s. 30.30 30.491 (4), shall be made and enforced as provided by s.
20 66.0703, except that at any time within the 90-day period immediately following the
21 publication of the final resolution as required by s. 66.0703 (8) (d), the owner of any
22 property along which such improvement is to be made may elect to make the
23 improvement along the owner's property at the owner's expense in accordance with
24 the approved plans and specifications or in a manner which conforms to good
25 engineering practice and which provides for materials and designs which, with

1 respect to strength and permanence, are at least equal to the requirements of the
2 approved plans and specifications. If the owner makes the improvement at the
3 owner's expense, no assessment of benefits shall be made therefor. If such owner
4 fails to commence the work within the 90-day period specified herein or fails to carry
5 on and complete the work with due diligence, the work may be done or completed by
6 the municipality and assessment of benefits made therefor.

7 **SECTION 234.** 30.32 of the statutes is renumbered 30.493.

8 **SECTION 235.** 30.323 (title) of the statutes is created to read:

9 **30.323 (title) Pierhead Lines.**

10 **SECTION 236.** 30.327 (title) of the statutes is created to read:

11 **30.327 (title) Municipal duty to report violations.**

12 **SECTION 237.** 30.33 of the statutes is renumbered 30.494.

13 **SECTION 238.** 30.34 of the statutes is renumbered 30.495, and 30.495 (1), (2),
14 (3) (a) and (4), as renumbered, are amended to read:

15 **30.495 (1) HARBOR FUND TO BE CREATED.** All municipalities operating a public
16 harbor through a board of harbor commissioners shall establish in the municipal
17 treasury a revolving fund to be known as the "harbor fund". Moneys for such fund
18 may be raised by appropriation from the general fund or by taxation or loan as other
19 moneys in the general fund are raised. Moneys in such fund may be expended only
20 as provided in s. ~~30.38~~ 30.498 (13).

21 **(2) FINANCING DOCK WALLS AND SHORE PROTECTION WALLS.** A municipality may
22 pay either or both the assessable and nonaccessible parts of the cost of the
23 construction, maintenance, or repair of any dock wall or shore protection wall,
24 authorized by s. ~~30.30~~ 30.491 (3), out of its general fund or other available funds, or
25 it may finance such work through the issuance of its negotiable bonds as provided

1 in ch. 67, except that it is not necessary to include such bonds in the municipal budget
2 or to submit the question of their issuance to a referendum vote of the electors. The
3 bonds shall be serial bonds, shall be payable at any time within 10 years, and shall
4 bear interest payable either annually or semiannually as the governing body
5 determines. The bonds shall be a direct obligation of the municipality and the full
6 faith and credit of the municipality shall be pledged for their payment. No such
7 bonds shall be issued unless at or before the time of their issuance the governing body
8 levies a direct annual tax sufficient to pay the principal and interest thereon as they
9 fall due.

10 (3) (a) Any municipality may, with the consent of its board of harbor
11 commissioners, finance the cost of acquisition, construction, alteration, or repair of
12 any harbor facility by issuing evidences of indebtedness payable only out of the
13 revenue obtained from the public harbor facilities. Such evidences of indebtedness
14 may be revenue bonds, refunding bonds, or bond anticipation notes issued under s.
15 ~~30.35~~ 30.496 or 66.1103 or may be pledges or assignments of net profits, issued
16 pursuant to s. 66.0621 (5) as if the harbor facility were a public utility.

17 (4) **EMERGENCY REPAIR FUND.** Any municipality having established a board of
18 harbor commissioners to operate its harbor facilities may create a contingent fund
19 for the purpose of permitting the secretary of the board to pay for repairs to harbor
20 facilities which constitute emergency repairs within the meaning of s. ~~30.32~~ 30.493
21 (4). The secretary may pay for such repairs out of such fund on the secretary's
22 signature alone.

23 **SECTION 239.** 30.341 (title) of the statutes is created to read:

24 **30.341 (title) Activities of department of transportation.**

25 **SECTION 240.** 30.341 (1) of the statutes is created to read:

1 30.341 (1) In this section, "waters of the state" has the meaning given in s.
2 281.01 (18).

3 **SECTION 241.** 30.343 (title) of the statutes is created to read:

4 **30.343 (title) Activities of board of commissioners of public lands.**

5 **SECTION 242.** 30.35 of the statutes is renumbered 30.496, and 30.496 (6), as
6 renumbered, is amended to read:

7 **30.496 (6) BONDHOLDERS AND NOTEHOLDERS HAVE LIEN.** Title to all of the harbor
8 facilities for which revenue bonds, refunding bonds, or bond anticipation notes are
9 issued remains in the municipality, but a statutory lien exists in favor of the
10 bondholders and noteholders against the facilities which have been acquired,
11 constructed, altered, or remodeled and the cost of which has been financed with
12 funds obtained through the issuance of such bonds and notes. To provide further
13 security for the bondholders and noteholders, the ordinance or resolution
14 authorizing the issuance of revenue bonds, refunding bonds, or bond anticipation
15 notes may provide for a pledge of the revenues of the facilities, including, if the
16 facilities are leased under ~~sub. (6)~~ this subsection, an assignment of all or part of the
17 municipality's rights as lessor.

18 **SECTION 243.** 30.37 of the statutes is renumbered 30.497, and 30.497 (6) and
19 (7), as renumbered, are amended to read:

20 **30.497 (6) EFFECT OF REVISION ON EXISTING HARBOR BOARDS.** Boards of harbor
21 commissioners, harbor commissions, or dock and harbor boards in existence on
22 January 1, 1960, are deemed to be valid boards of harbor commissioners as if created
23 pursuant to this section and are vested with all of the powers and duties conferred
24 upon boards of harbor commissioners by this ~~chapter~~ subchapter. The members of
25 such boards may continue to hold office until their terms expire, notwithstanding

1 any provision of this section which would otherwise disqualify them, but
2 appointments made after January 1, 1960, shall be made only in accordance with
3 this section. Nothing in this subsection is intended to prevent a municipality by
4 resolution from abolishing its board of harbor commissioners, harbor commission, or
5 dock and harbor board.

6 (7) MILWAUKEE COUNTY. Milwaukee County, with respect to the land ceded or
7 granted to Milwaukee County as described in 1997 Wisconsin Act 70, section 3, may
8 directly exercise all of the powers and perform all of the duties conferred on a board
9 of harbor commissioners under ss. ~~30.34, 30.35 and 30.38~~ 30.495, 30.496, and 30.498,
10 but Milwaukee County may not create a board of harbor commissioners if sub. (1) (b)
11 applies. Milwaukee County shall have exclusive jurisdiction over the operation,
12 administration, maintenance, improvement, alteration, and repair of any marina
13 facility or marina related anchorage located on this land.

14 **SECTION 244.** 30.38 of the statutes is renumbered 30.498, and 30.498 (3) and
15 (13) (a) and (b), as renumbered, are amended to read:

16 30.498 (3) CONTRACT PROCEDURES. In the letting of work relative to the
17 construction, repair, or maintenance of a harbor or harbor facility or in the purchase
18 of equipment, supplies, or materials relative to carrying out its powers and duties,
19 a board of harbor commissioners shall be governed by the procedures and
20 requirements set forth in s. ~~30.32~~ 30.493.

21 (13) (a) All moneys appropriated to a board of harbor commissioners, all
22 revenues derived from the operation of the public harbor except in the case of a joint
23 harbor revenue from joint improvements before division thereof, and all other
24 revenues of the board shall be paid into the municipal treasury and credited to the
25 harbor fund, except that revenues assigned or pledged under s. ~~30.35~~ 30.496 (6) or

1 66.1103 shall be paid into the fund or funds provided for in the ordinance or
2 resolution authorizing the issuance of the bonds and shall be applied in accordance
3 with that ordinance or resolution.

4 (b) Subject to the limitations and conditions otherwise expressed in this section
5 and to a budget approved by the municipal governing body, moneys in the harbor
6 fund may be used for the acquisition, construction, improvement, repair,
7 maintenance, operation, and administration of the public harbor and harbor
8 facilities and for the acquisition, chartering, and operation of vessels under sub. (8)

9 (b) 3. Except as provided in s. ~~30.34~~ 30.495 (4), such moneys shall be paid out of the
10 harbor fund only on orders signed by the president and secretary of the board, or
11 some other official authorized by the board, after the allowance of claims by the board
12 or on orders entered in the minutes of the board. Disbursements from the harbor
13 fund shall be audited as other municipal disbursements are audited; however, the
14 board may determine on some other procedure it deems appropriate for the
15 consideration of claims and the reporting thereof notwithstanding the provisions of
16 this paragraph. If a procedure other than that set forth in this paragraph is
17 prescribed by the board, the approval of the chief auditing officer shall be obtained.

18 **SECTION 245.** 30.381 (2) (title) of the statutes is created to read:

19 30.381 (2) (title) STRUCTURES AND DEPOSITS.

20 **SECTION 246.** 30.381 (2) (b) of the statutes is created to read:

21 30.381 (2) (b) Any person who violates s. 30.12 shall be fined not more than
22 \$1,000 or imprisoned for not more than 6 months or both, upon conviction of the same
23 offense a 2nd or subsequent time within 5 years.

NOTE: The criminal penalty in current law for violating s. 30.12 permit requirements is the only criminal penalty in subch. II. This provision keeps the criminal

penalty for repeat violators and adds a forfeiture (civil penalty) as the basic penalty under s. 30.381 (2) (a), renumbered from s. 30.15 (1) (d).

1 **SECTION 247.** 30.381 (3) (title) of the statutes is created to read:

2 30.381 (3) (title) FISHING RAFTS.

3 **SECTION 248.** 30.381 (3) (title) of the statutes is created to read:

4 30.381 (3) WHARVES, PIERS, AND SWIMMING RAFTS. Any person who constructs
5 or places a wharf, pier, or swimming raft in navigable waters in violation of s. 30.13
6 shall forfeit not less than \$100 nor more than \$500 for each offense. Each day during
7 which a wharf, pier, or swimming rafts exists in violation of s. 30.13 is a separate
8 offense.

***NOTE. In next version, redo numbering in s. 30.381 and check internal and external cross-references regarding s. 30.381.

9 **SECTION 249.** 30.381 (6) (title) of the statutes is created to read:

10 30.381 (6) (title) DIVERSIONS OF WATER; CHANGING OF STREAM COURSES.

11 **SECTION 250.** 30.381 (7) (title) of the statutes is created to read:

12 30.381 (7) (title) GENERAL PERMITS.

13 **SECTION 251.** 30.381 (9) (title) of the statutes is created to read: ✓

14 30.381 (9) (title) VIOLATIONS OF PERMITS, CONTRACTS, AND ORDERS. ✓

15 **SECTION 252.** Subchapter IV (title) of chapter 30 [precedes 30.40] of the
16 statutes is renumbered subchapter III (title) of chapter 30 [precedes 30.40].

17 **SECTION 253.** 30.772 (3) (d) 4. of the statutes is amended to read:

18 30.772 (3) (d) 4. The provisions and procedures of ch. 68 shall apply to the grant
19 issuance, denial, or revocation of a mooring permit by a municipality. — INSERT ✓

20 **SECTION 254.** 60.782 (2) (d) of the statutes is amended to read: 76-19

21 60.782 (2) (d) Lease or acquire, including by condemnation, any real property
22 situated in this state that may be needed for the purposes of s. 23.09 (19), 23.094 (3g)
23 or ~~30.275~~ 30.359 (4).

1 **SECTION 255.** 66.0133 (3) of the statutes is amended to read:

2 66.0133 (3) NOTICE. Notwithstanding ss. 27.065 (5) (a), ~~30.32~~ 30.493, 38.18,
3 43.17 (9) (a), 59.52 (29) (a), 59.70 (11), 60.47 (2) to (4), 60.77 (6) (a), 61.55, 61.56, 61.57,
4 62.15 (1), 62.155, 66.0131 (2), 66.0923 (10), 66.0925 (10), 66.0927 (11), 66.1333 (5) (a)
5 2., 200.11 (5) (d), and 200.47 (2), before entering into a performance contract under
6 this section, a local governmental unit shall solicit bids or competitive sealed
7 proposals from qualified providers. A local governmental unit may only enter into
8 a performance contract if the contract is awarded by the governing body of the local
9 governmental unit. The governing body shall give at least 10 days' notice of the
10 meeting at which the body intends to award a performance contract. The notice shall
11 include a statement of the intent of the governing body to award the performance
12 contract, the names of all potential parties to the proposed performance contract, and
13 a description of the energy conservation and facility improvement measures
14 included in the performance contract. At the meeting, the governing body shall
15 review and evaluate the bids or proposals submitted by all qualified providers and
16 may award the performance contract to the qualified provider that best meets the
17 needs of the local governmental unit, which need not be the lowest cost provider.

18 **SECTION 256.** 281.35 (1) (b) 2. of the statutes is amended to read: _____

19 281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss
20 over any 30-day period that is reported to the department or the public service
21 commission under sub. (3) (c) or s. 30.18 (6) (~~e~~) (bm), 196.98, 281.17 (1), or 281.41.

22 **SECTION 257.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

23 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
24 withdrawal or increase the amount of an existing withdrawal, the person shall apply
25 to the department under s. 30.18, 281.17 (1), or 281.41 for a new permit or approval

INSERT
77-17

1 or a modification of its existing permit or approval if either of the following conditions
2 applies:

3 **SECTION 258.** 293.65 (2) (a) of the statutes is amended to read:

4 293.65 (2) (a) Any person intending to divert surface waters for prospecting or
5 mining shall apply to the department for a permit. The forms and procedures used
6 under s. 30.18 apply to the extent practicable.

****NOTE: Mark — Should the last sentence in s. 293.65 (2) (a) be amended or
deleted?

7 **SECTION 259.** 293.65 (2) (b) of the statutes is amended to read:

8 293.65 (2) (b) The department, upon receipt of an application for a permit, shall
9 determine the minimum stream flow or lake level necessary to protect public rights,
10 the minimum flow or level necessary to protect the rights of affected ~~riparians~~
11 riparian owners, the point downstream beyond which riparian rights are not likely
12 to be injured by the proposed diversion, and the amount of surplus water, as defined
13 ~~in s. 30.01 (6d)~~, if any, at the point of the proposed diversion.

INSERT
78-13

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

14 **SECTION 260.** 943.13 (4m) (c) of the statutes is amended to read:

15 943.13 (4m) (c) A person entering or remaining on any exposed shore area of
16 a stream as authorized under s. ~~30.134~~ 30.235.

****NOTE: This statute must be deleted; and the cross-reference table must be
corrected to show "30.235". [See RNK's draft LRB-0139/P2.]

17 (END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0131/P4ins
MGG:kmg:pg

1 **Insert 6-22** ✓

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

3 30.01 (1nw) "Farm drainage ditch" means any artificial channel that drains
4 water from lands that are used for agricultural purposes.

5 **Insert 18-2** ✓

6 **30.249** Modification or rescission of a permit or contract For good cause,
7 the department may issue an order to modify or rescind any permit or contract issued
8 under ss. 30.01 to 30.29 this subchapter before its expiration. The department shall
9 ^{give} provide notice in writing of the order to the holder of the permit or contract and may
10 ^{give} provide notice to any other person that the department determines is appropriate.

11 The department shall notify the division of hearings and appeals under s. 227.43 (2)
12 (a) if the holder of the permit or contract objects in writing to the order and the
13 department receives the objection ^{within} 30 days after ^{giving} providing notice of the order to
14 the holder of the permit or contract. Upon receiving notification from the department
15 under s. 227.43 (2) (a), the division of hearings and appeals shall mail a written notice
16 of the hearing at least 10 days before the hearing to the holder of the permit or
17 contract and to each person who received notice of the order. The department shall
18 ^{give} provide written notice of the hearing to each representative of a local governmental
19 unit that is required to receive notice under ⁽²⁾ (2). S. 30.04

****NOTE: Mark ^{in dash} I substantially rewrote the treatment of s. 30.07 (2) to make it
more consistent with the other notice and hearing provisions. Please review.

****NOTE: What is the standard for rescission or revocation, or modification, absent
specific language elsewhere? Do you want general language like that found in newly
created s. 30.253? The only permit or contract that has a specific standard for revocation
is a permit/diversions of lakes and streams. See s. 30.18 (6m). I have changed the term
"revoke" to "rescind" in s. 30.18 (6m) for consistency.

20 **Insert 22-17** ✓

for



1 (b) Except for a permit for a structure or deposit specified in sub. (3), upon
 2 receipt of a complete application, the department shall either deny the application
 3 for the permit as provided in s. 30.246 (1) or shall ^{give} provide notice of ~~the~~ receipt of
 4 ^{the} application for the permit as provided ~~under~~ ⁱⁿ s. 30.244.

5 **Insert 24-12** ✓

6 **SECTION 2.** 30.12 (3) (bg) of the statutes is created to read:

7 30.12 (3) (bg) If the department denies a permit under par. (b), the department
 8 shall notify the applicant by mail. The applicant may request a contested case
 9 hearing within 30 days after receiving the notice of denial.

10 **Insert 30-12** ✓

11 **SECTION 3.** 30.123 (3) of the statutes is repealed and recreated to read:

12 30.123 (3) For a permit for a bridge crossing a navigable water that is ^{at least} less than
 13 35 feet ~~or more~~ wide, upon receipt of a complete application, the department shall
 14 either deny the application for the permit as provided in s. 30.246 (1) or shall ^{give} provide
 15 notice of ~~the~~ receipt of ^{the} application for the permit as provided ~~under~~ ⁱⁿ s. 30.244. For
 16 a permit for a bridge crossing a navigable water that is less than 35 feet wide, the
 17 department shall either deny the application as provided in s. 30.246 (1) or shall
 18 follow the procedure allowing the department to ^{give} provide notice under s. 30.245.

19 **Insert 40-3** ✓ *renumbered 30.18 (4)(a) (intro.) and*

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

21 30.18 (4) (a) ^(intro.) Upon receipt of a complete application for a permit under this
 22 section, the department ^{plain} shall follow the notice and hearing procedures under s. 30.02
 23 (3) and (4) ^{plain} either deny the application as provided in s. 30.246 (1) or shall ^{give} provide
 24 notice of ~~the~~ receipt of ^{the} application for the permit as provided ~~under~~ ⁱⁿ s. 30.244. In
 25 addition to the notice requirements under s. 30.02 (3) and (4) 30.246 (2), the

fix component

PLAIN

1 department shall mail a copy of ~~provide~~ the notice to every person upon whose land
2 any part of the canal or any other structure will be located, to the all of the following:

3 **Insert 48-11**

4 ~~either deny the application as provided in s. 30.246 (1) or shall give notice of~~
5 receipt of the application as provided ~~under~~ ⁱⁿ s. 30.244. give
notice
STET

6 **Insert 48-16**

7 ~~(b)~~ Upon receipt of a complete application for a permit under sub. (1g) (a) or
8 (am), the department shall either deny the application as provided in s. 30.246 (1)
9 or shall follow the procedure allowing the department to give notice under s. 30.245.

10 **Insert 50-10**

11 **SECTION 5.** 30.195 (2) of the statutes is repealed and recreated to read:

12 **30.195 (2) PERMIT APPLICATION.** Upon receipt of a complete application for a
13 permit under this section for an activity that involves the relocation of more than a
14 total of 500 feet in stream length, the department shall either deny the application
15 as provided in s. 30.246 (1) or shall give notice of receipt of the application as provided
16 in s. 30.244. For a permit for an activity that involves the relocation of a total of 500 or less
17 feet ~~or less~~ in stream length, the department shall either deny the application as
18 provided in s. 30.246 (1) or shall follow the procedure allowing the department to give
19 notice under s. 30.245.

20 **Insert 52-7**

21 ~~**SECTION 6.** 30.196 (intro.) of the statutes is amended to read:~~

22 **30.313 Enclosure of navigable waters; issuance of permits to**
23 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
24 placing, or restricting navigable waters into an enclosed drain, conduit, storm sewer,
25 or similar structure if the department grants the municipality a permit. The

1 department may grant this permit to a municipality after following the notice and
2 hearing requirements under s. 30.02 (3) and (4) ~~and~~ procedures under ~~s.~~ 30.244 and
3 30.246 have been followed ~~(if it)~~ finds that granting the permit: if the department ^{keep} ss.

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

****NOTE: Included in this cross-reference is the requirements for mediation and ch. 227 hearings. Does this comply with your intent? Also, does this procedure fit with these types of permits since municipalities apply for the permits?

4 **Insert 52-19** ✓

5 **SECTION 7.** 30.20 (1) (b) of the statutes is renumbered 30.20 (1) (b) (intro.) and
6 amended to read:

7 30.20 (1) (b) (intro.) ~~Except as provided under pars. (c) and (d), no~~ No person
8 may remove any material from the bed of any lake or stream not mentioned under
9 par. (a) ~~without first obtaining a permit from the department under sub. (2) (c).~~
10 unless one of the following applies: *and 2. are*

11 **SECTION 8.** 30.20 (1) (b) 1. *of the statutes* ~~is~~ *are* created to read:

12 30.20 (1) (b) 1. The department has issued the person a permit under sub. (3).

13 ~~SECTION 9. 30.20 (1) (b) 2. of the statutes is created to read:~~

14 ~~30.20 (1) (b) 2.~~ 2. The department has determined under par. (c) that the removal
15 is exempt from a permit under sub. (3).

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.

16 **Insert 53-13**

17 **SECTION 10.** 30.20 (1) (c) of the statutes is repealed and recreated to read:

18 30.20 (1) (c) The exemption under s. 30.215 does not exempt a person from the
19 permitting requirement under par. (b) if the proposed removal for an agricultural
20 purpose is from a farm drainage ditch and the proposed removal may have a
21 long-term adverse effect on cold-water fishery resources or may destroy fish
22 spawning beds or nursery areas. A person who proposes such a removal shall notify

1 the department at least 10 days before the removal is scheduled to start if the
2 removal may have ~~such~~ such a long-term adverse effect or may destroy fish
3 spawning beds or nursery areas. The department shall determine within the 10-day
4 period ^{whether the} person ~~is~~ is exempt from having a permit under sub. (3).

****NOTE: Section 30.20 (1) (c), both under current law and in this draft, seems problematic. How does the person proposing the removal know that it "may" affect fishery resources?

5 **Insert 55-21** ✓

6 **SECTION 11.** 30.20 (4) of the statutes is created to read:

7 30.20 (4) NOTICE AND HEARING. (a) Upon receipt of a complete application for
8 a permit or contract under this section for an activity that involves the removal of
9 3,000 cubic yards or more of material, the department shall either deny the
10 application as provided in s. 30.246 (1) or shall give notice of receipt of the application
11 as provided in s. 30.244, except as provided in par. (b).

12 (b) The department shall either deny the application as provided in s. 30.246
13 (1) or shall follow the procedure allowing the department to give notice under s.
14 30.245 ^{if any of the following apply:} ^{applies}

- 15 1. The activity involves ~~of~~ the removal of less than 3,000 cubic yards of material.
- 16 2. The activity involves the restoration of the original dimensions of an area
17 legally dredged during the 10 years before the date of application for the permit or
18 contract.

19 **Insert 65-12** ✓

20 **SECTION 12.** 30.244 of the statutes ^{to 30.246} created to read: ^{are}

21 **30.244 Permit procedures; mandatory notice of** ^{receipt of} application. For the

22 ^{issuance} of permits ^{or} the entering into of contracts which require notice of receipt of

23 ^{the} application by the department, the department shall give notice of ~~the~~ receipt of the

1 application as provided in s. 30.246 (2) unless the department denies the application
2 ~~under~~ ⁱⁿ s. 30.246 (1). bold

3 **30.245 Permit procedures; optional notice of application** (1) For the
4 ^{issuance} ~~issuing~~ of permits or the entering into of contracts which do not require notice of
5 receipt of ^{the} application by the department, the department shall either deny the
6 application as provided ~~under~~ ⁱⁿ s. 30.246 (1) or shall approve the application ~~without~~
7 without notice or hearing unless the department decides to act under sub. (2).

8 (2) The department may give notice of ~~the~~ receipt of the application as provided
9 ~~under~~ ⁱⁿ s. 30.246 (2) if the department determines that a substantial interest of any
10 person may be adversely affected by issuing the permit or entering ^{into} the contract.

****NOTE: I changed the phrase "substantial interest of any party" to "substantial interest of any person". OK?

11 **30.246 Permit procedures; denial; ^{notice}; mediation; hearing.** (1)

12 DENIALS. The department may deny an application for a permit or contract ~~of~~
13 ^{under this} subchapter after receipt of a complete permit or contract application. If the
14 department denies an application, the department shall notify the applicant by mail.
15 The applicant may request a contested case hearing within 30 days after receiving
16 the notice of denial.

17 (2) NOTICE REQUIREMENTS. (a) If the department gives notice of ~~the~~ receipt of
18 an application under s. 30.244 or 30.245 (2), the notice shall describe the project and
19 the applicable notice, mediation, and hearing procedures under this section. The
20 department shall ^{give} ~~provide~~ notice to all of the following:

- 21 1. The applicant.
- 22 2. Each representative of a local governmental unit required to receive notice
23 under s. (2). 30.04

1 3. Any person who is required to receive notice under s. 30.18 (4) (a) or 30.19
2 (3b).

3 4. Any other person who is required to receive notice, as determined by the
4 department.

5 (b) The department shall post the notice on the Internet at a site determined
6 by the department.

7 (c) After notice has been ^{given} provided as required under pars. (a) and (b), the
8 applicant, or any other person authorized by the department, shall publish the notice
9 of receipt of the application as a class 1 notice, under ch. 985, in a newspaper
10 designated by the department as being likely to give notice in the area to be affected
11 by the permit or contract. The applicant shall file proof of publication under this
12 paragraph with the department.

✓
****NOTE: Do you want a deadline for publishing the first notice under s. 30.246 (2)

(c)?

13 (3) REQUEST FOR HEARING. (a) After notice has been given as provided under
14 sub. (2),^y any person may request in writing a contested case hearing on an application
15 for a permit or contract within 30 days after the notice is published under sub. (2)

16 (c).

17 (b) If the person requesting the contested case hearing is not the applicant for
18 the permit or contract, the request shall describe the requester's objection to the
19 permit or contract. The objection shall contain all of the following:

20 1. A description of the legal issues involved that is sufficiently specific to allow
21 the department to determine which provisions of this subchapter may be violated if
22 the permit is issued or the contract is entered into.

1 2. A description of the facts supporting the objection that is sufficiently specific
2 to allow the department to determine how the permit or contract will result in a
3 violation of the provision of this subchapter as described in subd. 1. ✓

4 3. A commitment by the person requesting the contested case hearing under
5 this paragraph to appear at the contested case hearing and present information
6 supporting the requestor's objection.

****NOTE: Why would an applicant ~~be~~ request such a hearing? Would he or she ~~not~~ request a hearing only if the application ~~was~~ being denied? See below.

7 (c) If the request for a ~~contested~~ ^{contested} case hearing does not comply with any of the
8 requirements under ~~par~~ (a) and (b) or if the objection contained in the request is not
9 a substantive objection, the department shall do one of the following:

- 10 1. Approve the application without a hearing.
- 11 2. Deny the application.

12 (d) If the department denies an application under par. (c) 2., the procedures
13 under sub. (1) apply. ✓

14 (e) 1. The department shall determine that an objection is substantive if the
15 department determines that the supporting facts contained in the objection under
16 par. (b) 2. appear to be substantially true and raise reasonable doubts as to whether
17 provisions of this subchapter may be violated if the permit is issued or the contract
18 is entered into.

19 (f) In making the determination under ~~subd. (a)~~ ^{par. (e)}, the department may request
20 additional information from the person requesting a contested case hearing, and the
21 person shall submit ~~to~~ the requested information within 14 days after receiving the
22 request. If the person fails to submit the requested information within 14 days,

1 the department shall make a determination that the objection is not a substantive
2 objection.

***NOTE: Does the last sentence in s. 30.246 (3) (e) comply with your intent?

3 (4) REFERRAL FOR HEARING. Except as provided in sub. (5), if the request for a
4 contested case hearing complies with sub. (3) (a) and (b) and the objection contained
5 in the request is a substantive objection, the department shall authorize the
6 contested case hearing and notify the division of hearings and appeals under s.
7 227.43 (2) (a).

8 (5) MEDIATION. (a) Before notifying the division of hearings and appeals under
9 sub. (4), the department shall allow for mediation if all of the following apply:

10 1. The applicant for the permit or contract and each person who has requested
11 a contested hearing agree to be participants in the mediation.

***NOTE: I deleted "any person with a substantial interest in the permit or contract" because this could be many persons, and who determines who these people are?

12 2. The participants have agreed on a method for selecting and compensating
13 the mediator.

***NOTE: Who chooses the mediator?

14 (b) If the mediator or all of the participants determine that they cannot reach
15 an agreement by mediation, the mediator shall certify the mediation as having
16 ended. Within 30 days after the date ~~that~~ on which the mediation is certified as having ended,
17 any participant may request in writing to the department that the department
18 authorize the contested case hearing. Upon receipt of the request, the department
19 shall notify the division of hearings and appeals under s. 227.43 (2) (a).

20 (c) If none of the participants requests a contested case hearing within the
21 30-day period specified in par. (b), the department shall either approve the

1 application without a hearing or deny the application. If the department denies the
2 application, the procedures under sub. (1) apply,

3 (6) HEARING. (a) Upon receiving notification from the department under sub.
4 (4) or (5) (b), the division of hearings and appeals shall assign a hearing examiner
5 and shall ensure that the hearing is conducted within 60 days after the notification
6 is received.

7 (b) The division of hearings and appeals shall ^{to give} provide notice of the hearing at
8 least 10 days before the hearing to the applicant, each person who was given notice
9 under sub. (2) (a), and to each person who requested a contested case hearing.

10 (c) The applicant shall publish a class 1 notice, under ch. 985, of the contested
11 case hearing in a newspaper designated by the department as being likely to give
12 notice in the area to be affected by the permit or ~~the~~ contract. The notice shall be
13 published at least 10 days before the hearing. The applicant shall file proof of
14 publication under this paragraph with the hearing examiner at or before the
15 hearing.

16 **Insert 66-6** ✓

****NOTE: Concerning conditions on permits and contracts. Note that the last
sentence in s. 30.19 (5) giving a general standard for conditions on a permit is being
stricken but similar language in s. 30.20 (2) (a) and (b) is being retained. Does this comply
with your intent?

****NOTE: Do you want to broaden the language in s. 30.253 to include compliance
with the public trust doctrine?

17 **Insert 76-19** ✓

18 **SECTION 13.** 30.772 (3) (e) of the statutes is amended to read:

19 30.772 (3) (e) Any mooring, mooring anchor, or mooring buoy which is placed
20 or used in any navigable water in violation of this section or any local regulation
21 adopted by a municipality under this subsection constitutes a public nuisance

1 subject to s. ~~30.294~~ 30.975. A municipality may, by ordinance, provide that any
2 person who violates any local regulation adopted under this subsection is subject to
3 a forfeiture not to exceed \$50 for each such violation. The ordinance may also provide
4 that each day during which the violation exists is a separate offense.

History: 1985 a. 243; 1987 a. 374; 1987 a. 399; 1999 a. 150 ss. 5, 672; 2001 a. 30 s. 97.

5 **SECTION 14.** 31.03 of the statutes is amended to read:

6 **31.03 Permits for the Lower Wisconsin State Riverway.** For activities in
7 the Lower Wisconsin State Riverway, as defined in s. 30.40 (15), ~~no person obtaining~~
8 the department shall include a condition in a permit issued under this chapter that
9 the person obtaining the permit may not start or engage in the activity for which the
10 permit was issued unless the person obtains any permit that is required for the
11 activity under s. 30.44 or 30.445.

History: 1989 a. 31, 359.

12 **Insert 77-17** ✓

STET. plain
department of natural resources
of

13 **SECTION 15.** 200.35 (4) of the statutes is amended to read:

14 **200.35 (4) DELIVERY OF NEEDS; ~~DNR~~ PERMITS.** Upon application of the
15 commission the proper officers of this state shall execute, acknowledge, and deliver
16 to the proper officers of the district ~~any deed~~ *such* or other instrument ~~as~~ *that* may be proper
17 for the purpose of fully confirming the grants under subs. (2) and (3).
18 Notwithstanding s. ~~30.05~~ 30.233, the district may not commence an action under
19 sub. (2) or (3) without obtaining all of the necessary permits from the department of
20 natural resources under ch. 30.

History: 1981 c. 282, 391; 1983 a. 27 s. 2202 (38); 1985 a. 187; 1987 a. 130; 1989 a. 366; 1995 a. 227; 1997 a. 248; 1999 a. 150 s. 583; Stats. 1999 s. 200.35.

21 **Insert 78-13**

22 **SECTION 16.** 295.16 (2) of the statutes is amended to read:

23 **295.16 (2) NONMETALLIC MINING IN OR NEAR NAVIGABLE WATERWAYS.** A nonmetallic
24 mining reclamation ordinance, and requirements of this subchapter other than the

1 standards established under s. 295.12 (1) (a), do not apply to any nonmetallic mining
 2 site or portion of a nonmetallic mining site that is subject to permit and reclamation
 3 requirements of the department under ss. 30.19, 30.195, 30.20, ~~30.30~~ 30.491, and
 4 ~~30.31~~ 30.492. The nonmetallic mining standards established under s. 295.12 (1) (a)
 5 do apply to a nonmetallic mining site that is subject to permit and reclamation
 6 requirements of the department under ss. 30.19, 30.195, 30.20, ~~30.30~~ 30.491, and
 7 ~~30.31~~ 30.492.

History: 1995 a. 227 s. 806; 1997 a. 27; 1999 a. 9.

8 **SECTION 17.** 295.16 (4) (j) of the statutes is amended to read:

9 295.16 (4) (j) Removal of material from the bed of Lake Michigan or Lake
 10 Superior by a public utility pursuant to a permit under s. ~~30.21~~ 30.293.

History: 1995 a. 227 s. 806; 1997 a. 27; 1999 a. 9.

11 **SECTION 18.** 299.05 (1) of the statutes is amended to read:

12 299.05 (1) The department shall promulgate rules under which the
 13 department refunds fees paid by an applicant for a permit, license, or approval that
 14 is issued under ss. ~~30.10 to 30.205 or 30.21 to 30.27~~ subch. II of ch. 30, chs. 280 to 292,
 15 or subch. II of ch. 295 and that is of a type specified in the rule if the department fails
 16 to make a determination on the application within the time limit specified in the rule
 17 for that type of permit, license, or approval. The rules under this subsection do not
 18 apply to an applicant for a license or other approval related to mining, as defined in
 19 s. 293.01 (9), prospecting, as defined in s. 293.01 (18), or nonmetallic mining, as
 20 defined in s. 295.11 (3).

History: 1997 a. 27, 301.

21 **SECTION 19.** 299.05 (2) (a) of the statutes is amended to read:

22 299.05 (2) (a) Permits and other approvals under ss. ~~30.10 to 30.205 and 30.21~~
 23 ~~to 30.27~~ subch. II of ch. 30.

History: 1997 a. 27, 301.

****NOTE: Mark- Do you agree with the changes in s. 299.095?

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0131/P3dn P4dn

MGG: [initials] pg

Keep

November 15, 2002

1. I took out the language in ss. 30.123, 30.18, 30.19, and 30.195 stating that a person may apply for a permit because I thought it was unnecessary. However, if this language was included to address a certain issue, please let me know.

2. I conformed the language in ss. 30.12 (1) (intro.), 30.19 (1) (intro.), and 30.195 (1), as numbered under current law. Please note that the use of the phrase "authorized by the legislature" could include nonstatutory provisions, lake bed grants, and joint resolutions, as well as other statutes. Let me know if you want any changes.

3. Regarding s. 30.19: A lot of different terminology is used in this section, both in the current statutes and in this draft. An "artificial water body" could be navigable or nonnavigable. Note that for purposes of this section "navigable waterway" is defined in s. 30.01 (4m). A "navigable waterway" could be artificial or natural. I have substituted "navigable waterway" for references under s. 30.19, under current law to streams, lakes, bodies of navigable waters, etc. Note that s. 30.19 (2) (e), renumbered to s. 30.19 (3b) (b) 3. in this draft, uses the term "bodies of water" which would include any body of water, whether it is artificial or natural, or navigable or nonnavigable. Please call me to discuss any changes or questions.

4. The draft originally renumbered s. 30.134 to be s. 30.85 and s. 30.29 to be s. 30.86. I have changed the renumbering to "30.235" and "30.237", respectively since ss. 30.85 and 30.86 would not have been in any subchapter.

5. It appears that over the years not a lot of thought has gone into the cross-reference strings that are found under current law in ss. 30.12 (4) (a), 30.202 (3), and 30.204 (5). In ss. 30.202 (3) and 30.204 (5), I did add cross-references to ss. 61.351 and 62.231. If you want to make further changes or want to make these cross-references more consistent, please call me to discuss this.

Also note that there are substantive changes in the cross-reference string in s. 30.204 (5). Sections 30.05 and 30.056 under current law are not included in these cross-references but are included in this draft by changing the cross-reference to subch. II.

6. Regarding the references to "chapter" in the general permitting provisions, ss. 30.206 and 30.207: Do you want to make those provisions more precise?

7. Regarding the cross-reference list in s. 30.298 (1) (renumbered s. 30.381 in this draft), I have made the following changes:

5/14/13

a. I took out the reference to s. 30.231 because there is no s. 30.231.

b. I took out the cross-references to ss. 30.12 and 30.13 even though there is a specific penalty for them in s. 30.381 (2) and (3), as renumbered, since this penalty will apply to any violation of s. 30.12 or 30.13.

c. I left in the cross-reference to s. 30.266 (renumbered from s. 30.126) even though there are specific penalties for violations of this section in s. 30.381 (3), as renumbered. However, if the penalty will apply to any violation of s. 30.266, this cross-reference should be eliminated.

d. I left in the cross-reference to s 30.18. Even though there are specific penalties for violations of s. 30.18 (1) (a) 1. in s. 30.381 (4), as renumbered, other parts of s. 30.18 could be violated and those violations should be subject to the default penalty in s. 30.298 (1), renumbered s. 30.381 (1).

e. I left in the cross-reference to s. 30.19. Even though there are specific penalties for violations of s. 30.195 in s. 30.381 (4), as renumbered, arguably other parts of s. 30.195 could be violated and those violations should be subject to the default penalty in s. 30.298 (1), renumbered s. 30.381 (1).

f. Consistent with your draft, I did not include a cross-reference to s. 30.206 (renumbered to be s. 30.221 in this draft) because the penalty specified in s. 30.381 (5), as renumbered, applies to any violation of s. 30.206.

g. I left in the cross-reference to s. 30.196 (renumbered s. 30.313 in this draft), but I think we may want to delete this cross-reference since the section only applies to municipalities.

h. I also left in the cross-reference to s. 30.21 (renumbered s. 30.293 in this draft), but I think we may want to delete this cross-reference since the section only applies to public utilities.

i. Sections 30.2025 (renumbered s. 30.278 in this draft), 30.2026 (renumbered s. 30.279 in this draft), and 30.203 (renumbered s. 30.355 in this draft) have similar provisions. The first two are included, but the last one is excluded. Please review and let me know if you want any changes.

8. I merged all of the "penalty" provisions in s. 30.98 into s. 30.381 since they all have to do with navigable waters, and it was confusing, at least to me, having those 2 penalty sections.

10. Finally, there are embedded **** NOTES in the draft which will need a response.

✓
INSERT
DN

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

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

LRB-0131/P4dnins
MGG: [redacted]:pg

INSERT DN

9. Regarding the notice provisions throughout subch. I, and perhaps throughout the rest of the chapter, there is inconsistency in the language being used as to how notice will be given. Some provisions require written notice or notice by mail; other provisions only require that notice be "provided". If we use the term "provide notice" throughout, we need to add specific language for DNR to promulgate rules or otherwise determine what "provide notice" means. If we use more specific terms, their use needs to be consistent. If we use the concepts of mailed notice or written notice, do you want to specifically include e-mail? Please advise.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0131/P4dn
MGG:kmg:rs

December 16, 2002

1. I took out the language in ss. 30.123, 30.18, 30.19, and 30.195 stating that a person may apply for a permit because I thought it was unnecessary. However, if this language was included to address a certain issue, please let me know.

2. I conformed the language in ss. 30.12 (1) (intro.), 30.19 (1) (intro.), and 30.195 (1), as numbered under current law. Please note that the use of the phrase "authorized by the legislature" could include nonstatutory provisions, lake bed grants, and joint resolutions, as well as other statutes. Let me know if you want any changes.

3. Regarding s. 30.19: A lot of different terminology is used in this section, both in the current statutes and in this draft. An "artificial water body" could be navigable or nonnavigable. Note that for purposes of this section "navigable waterway" is defined in s. 30.01 (4m). A "navigable waterway" could be artificial or natural. I have substituted "navigable waterway" for references under s. 30.19, under current law to streams, lakes, bodies of navigable waters, etc. Note that s. 30.19 (2) (e), renumbered to s. 30.19 (3b) (b) 3. in this draft, uses the term "bodies of water" which would include any body of water, whether it is artificial or natural, or navigable or nonnavigable. Please call me to discuss any changes or questions.

4. The draft originally renumbered s. 30.134 to be s. 30.85 and s. 30.29 to be s. 30.86. I have changed the renumbering to "30.235" and "30.237", respectively since ss. 30.85 and 30.86 would not have been in any subchapter.

5. It appears that over the years not a lot of thought has gone into the cross-reference strings that are found under current law in ss. 30.12 (4) (a), 30.202 (3), and 30.204 (5). In ss. 30.202 (3) and 30.204 (5), I did add cross-references to ss. 61.351 and 62.231. If you want to make further changes or want to make these cross-references more consistent, please call me to discuss this.

Also note that there are substantive changes in the cross-reference string in s. 30.204 (5). Sections 30.05 and 30.056 under current law are not included in these cross-references but are included in this draft by changing the cross-reference to subch. II.

6. Regarding the references to "chapter" in the general permitting provisions, ss. 30.206 and 30.207: Do you want to make those provisions more precise?

7. Regarding the cross-reference list in s. 30.298 (1) (renumbered s. 30.381 in this draft), I have made the following changes:

- a. I took out the reference to s. 30.231 because there is no s. 30.231.
 - b. I took out the cross-references to ss. 30.12 and 30.13 even though there is a specific penalty for them in s. 30.381 (2) and (3), as renumbered, since this penalty will apply to any violation of s. 30.12 or 30.13.
 - c. I left in the cross-reference to s. 30.266 (renumbered from s. 30.126) even though there are specific penalties for violations of this section in s. 30.381 (3), as renumbered. However, if the penalty will apply to any violation of s. 30.266, this cross-reference should be eliminated.
 - d. I left in the cross-reference to s. 30.18. Even though there are specific penalties for violations of s. 30.18 (1) (a) 1. in s. 30.381 (4), as renumbered, other parts of s. 30.18 could be violated and those violations should be subject to the default penalty in s. 30.298 (1), renumbered s. 30.381 (1).
 - e. I left in the cross-reference to s. 30.19. Even though there are specific penalties for violations of s. 30.195 in s. 30.381 (4), as renumbered, arguably other parts of s. 30.195 could be violated and those violations should be subject to the default penalty in s. 30.298 (1), renumbered s. 30.381 (1).
 - f. Consistent with your draft, I did not include a cross-reference to s. 30.206 (renumbered to be s. 30.221 in this draft) because the penalty specified in s. 30.381 (5), as renumbered, applies to any violation of s. 30.206.
 - g. I left in the cross-reference to s. 30.196 (renumbered s. 30.313 in this draft), but I think we may want to delete this cross-reference since the section only applies to municipalities.
 - h. I also left in the cross-reference to s. 30.21 (renumbered s. 30.293 in this draft), but I think we may want to delete this cross-reference since the section only applies to public utilities.
 - i. Sections 30.2025 (renumbered s. 30.278 in this draft), 30.2026 (renumbered s. 30.279 in this draft), and 30.203 (renumbered s. 30.355 in this draft) have similar provisions. The first two are included, but the last one is excluded. Please review and let me know if you want any changes.
8. I merged all of the "penalty" provisions in s. 30.98 into s. 30.381 since they all have to do with navigable waters, and it was confusing, at least to me, having those 2 penalty sections.
9. Regarding the notice provisions throughout subch. I, and perhaps throughout the rest of the chapter, there is inconsistency in the language being used as to how notice will be given. Some provisions require written notice or notice by mail; other provisions only require that notice be "provided." If we use the term "provide notice" throughout, we need to add specific language for DNR to promulgate rules or otherwise determine what "provide notice" means. If we use more specific terms, their use needs to be consistent. If we use the concepts of mailed notice or written notice, do you want to specifically include e-mail? Please advise.

10. Finally, there are embedded **** NOTES in the draft which will need a response.

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