

1 SECTION 115. 30.14 (2) of the statutes is renumbered 30.247 and amended to
2 read:

3 30.247 Hearings by department. Upon complaint by any person to the
4 department that any wharf, pier, or other structure exists in navigable water in
5 violation of s. 30.12 or, 30.13, or 30.207 30.223 or that any wharf, pier, or other
6 structure proposed to be built in navigable water will violate s. 30.12 or, 30.13, or
7 30.207 30.223, the department shall investigate and may hold a hearing to
8 determine whether the wharf, pier, or other structure is or would be in violation of
9 those sections. If no hearing is held, the complainant shall be informed of the results
10 of the investigation.

11 SECTION 116. 30.15 (title) of the statutes is repealed.

12 SECTION 117. 30.15 (1) (title) of the statutes is renumbered 30.381(8) (title) and
13 amended to read:

14 (B) → 30.98 (B) NO CS already ✓
30.381(8) (title) OBSTRUCTIONS PENALIZED.

15 SECTION 118. 30.15 (1) (intro.) of the statutes is renumbered 30.381(8) (a)
16 (intro.).

17 SECTION 119. 30.15 (1) (a), (b) and (c) of the statutes are renumbered 30.381(1) 30.98
18 (a), (b) and (c) and amended to read:

19 30.96(1)(a) 30.381(8)(a) Unlawfully obstructs any navigable waters water and thereby
20 impairs the free navigation thereof of the navigable water.

21 2. Unlawfully places in waters or in any tributary thereof any body of water any
22 substance that may float into and obstruct any such waters or navigable water or
23 that may impede the free navigation of a navigable water.

← INSERT
37-23 ✓

1 (c) ~~Constructs~~ Constructs or maintains in any navigable waters, water any boom not
2 authorized by law or aids in the construction or maintenance ~~therein~~, of any such
3 boom ~~not authorized by law~~.

4 SECTION 120. 30.15 (1) (d) of the statutes is renumbered ^{30.98} ~~30.381 (2)~~ (4) and
5 amended to read:

6 ^{30.98} ~~30.381 (2)~~ (4) (B) (a) Constructs Any person who constructs or places any structure
7 or deposits any material in navigable waters in violation of s. 30.12 ~~or 30.13~~ shall
8 forfeit not less than \$100 nor more than \$500 for each offense. Each day during which
9 a structure or deposit of material exists in violation of s. 30.12 is a separate offense.

10 ~~SECTION 121. 30.15 (3) (title) of the statutes is repealed.~~ (Step)

11 SECTION 122. 30.15 (3) of the statutes is renumbered ^{30.98 (2)} ~~30.381 (8)~~ (b) and

12 amended to read:

13 30.381 (8) (b) Each day during which an obstruction, deposit, or structure
14 exists in violation of sub. (1) par. (a) is a separate offense.

15 SECTION 123. 30.16 of the statutes is renumbered 30.95.

16 SECTION 124. 30.18 (1) (intro.) of the statutes is created to read:

17 30.18 (1) DEFINITIONS. (intro.) (In this section:

18 SECTION 125. 30.18 (1) (b) of the statutes is created to read:

19 30.18 (1) (b) "^{Major} ~~Large~~ diversion" means a diversion that will result in a water loss
20 averaging, in any 30-day period, at least 2,000,000 gallons per day above a
21 ^{authorized} permittee's base level of water loss.

22 SECTION 126. 30.18 (2) (a) (intro.) of the statutes is amended to read:

23 30.18 (2) (a) Streams Diversions from streams. (intro.) No Unless a permit has
24 been issued under this section, no person may divert water from a stream in this

INSERT 38-21

who is
This paragraph does not apply to a person
required to obtain an approval under s. 281.41

plain

1 state without a permit under this section if the diversion meets either of the following
2 conditions if any of the following applies:

3 ~~SECTION 127. 30.18 (2) (a) 3. of the statutes is created to read:~~

4 ~~30.18 (2) (a) 3. The diversion is a large diversion.~~

5 SECTION 128. 30.18 (2) (b) of the statutes is amended to read:

6 30.18 (2) (b) ~~Streams or~~ ^{(I) Major} ~~Divisions from~~ ^{(I) streams of} lakes. No Unless a permit has been

7 issued under this section, no person, except a person required to obtain an approval
8 under s. 281.41, may divert water from any lake or stream in this state without a
9 permit under this section if the diversion will result in a water loss averaging
10 2,000,000 gallons per day in any 30-day period above the person's authorized base
11 level of water loss is a ^{major} large diversion.

12 SECTION 129. 30.18 (2) (c) of the statutes is created to read:

13 30.18 (2) (c) ~~Exception.~~ A person who is required to obtain an approval under
14 s. 281.41 to divert water is exempt from the permitting procedures in this section.

15 SECTION 130. 30.18 (3) (title) and (a) (title), 1. and 2. of the statutes are
16 repealed.

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39-14

17 SECTION 131. 30.18 (3) (a) 3. of the statutes is renumbered 30.18 (3m) (a) and
18 amended to read:

19 30.18 (3m) (a) ~~For a diversion under sub. (2) (a) 2., the application shall include~~
20 written Written statements of consent to the diversion from all riparian owners who
21 are making beneficial use of the water proposed to be diverted.

22 SECTION 132. 30.18 (3) (a) 4. of the statutes is repealed.

23 SECTION 133. 30.18 (3) (b) of the statutes is repealed.

24 SECTION 134. 30.18 (3m) (intro.) of the statutes is created to read:

1 30.18 (3m) APPLICATIONS FOR PERMITS; SPECIFIC REQUIREMENTS. (intro.) An
2 application for a permit under this section to divert water from a stream for the
3 purpose of agriculture or irrigation shall include all of the following:

4 **SECTION 135.** 30.18 (3m) (b) of the statutes is created to read:

5 30.18 (3m) (b) Evidence of permission or authority to enter any land through
6 which it is proposed to divert the water for the purpose of obtaining information
7 required for drafting the plans for the project.

8 **SECTION 136.** 30.18 (4) (title) of the statutes is amended to read:

9 30.18 (4) (title) NOTICE OF AND HEARING ON APPLICATION.

10 **SECTION 137.** 30.18 (4) (a) of the statutes is renumbered 30.18 (4) (a) (intro.)
11 and amended to read:

12 30.18 (4) (a) (intro.) Upon receipt of a complete application for a permit under
13 this section, the department shall ~~follow the notice and hearing procedures under s.~~
14 ~~30.02 (3) and (4) either deny the application as provided in s. 30.246 (1) or shall give~~
15 ~~notice of receipt of the application for the permit as provided in s. 30.244.~~ In addition
16 to the notice requirements under s. ~~30.02 (3) and (4)~~ 30.246 (2), the department shall
17 mail a copy of the notice to every person upon whose land any part of the canal or any
18 other structure will be located, to the all of the following:

19 2. The clerk of the next town municipality that is the next municipality
20 downstream from the point of the proposed diversion
to the

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

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

25 **SECTION 138.** 30.18 (4) (a) 1. of the statutes is created to read:

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

2 SECTION 139. 30.18 (4) (b) of the statutes is amended to read:

3 30.18 (4) (b) If a hearing on the application for a permit under this section is
4 conducted as a part of a hearing under s. 293.43, the notice and hearing provisions
5 in that section supersede the notice ^{mediation} and hearing provisions of par. (a) under ss.
6 30.244 and 30.246.

7 SECTION 140. 30.18 (5) (title) of the statutes is repealed and recreated to read:

8 30.18 (5) (title) ISSUANCE OF PERMITS.

9 SECTION 141. 30.18 (5) (a) (intro.) of the statutes is amended to read:

10 ^{Duration from streams}
11 ^{issue} 30.18 (5) (a) ~~Streams~~ (intro.) The department shall approve an application
12 for a permit required under sub. (2) (a) ^{plain period} ~~to divert water from a stream~~ if the
13 department determines both that all of the following ^{conditions} apply:

13 SECTION 142. 30.18 (5) (a) 1. of the statutes is amended to read:

14 30.18 (5) (a) 1. ~~That the~~ The proposed diversion will not injure any public rights
15 in navigable waters be detrimental to the public interest.

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

16 SECTION 143. 30.18 (5) (a) 1m. of the statutes is created to read:

17 30.18 (5) (a) 1m. The proposed diversion is for use on riparian land.

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

18 SECTION 144. 30.18 (5) (a) 2. of the statutes is amended to read:

19 30.18 (5) (a) 2. ~~That the~~ Either the water to be diverted is surplus water, or if
20 it is not surplus water, that all riparians not being beneficially used ^{or} all riparian
21 owners who may be adversely affected by the diversion have consented to the
22 proposed diversion.

23 SECTION 145. 30.18 (5) (a) 3. of the statutes is created to read:

Major diversion from stream

1 ~~30.18 (5) (a) 3. The grounds for approval specified under s. 281.35 (5) (d) are~~
2 ~~met if the diversion is a large diversion.~~

3 **SECTION 146.** 30.18 (5) (b) of the statutes is amended to read:

4 30.18 (5) (b) ~~Streams or lakes~~ *Dikes*. The department shall ~~approve an~~
5 ~~application for~~ a permit required under sub. (2) (b) ~~to divert water from a lake~~ if the
6 grounds for approval specified under s. 281.35 (5) (d) are met and, if the permit is also
7 required under sub. (2) (a), if the department makes the determinations specified
8 under par. (a).

✓
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42-8

9 **SECTION 147.** 30.18 (6) (title) of the statutes is amended to read:

10 30.18 (6) (title) ~~PERMITS; USE OF WATER; PERMIT CONDITIONS; REPORTING; REVIEW.~~

11 **SECTION 148.** 30.18 (6) (a) of the statutes is amended to read:

12 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
13 issued under this section the quantity of water that may be diverted and the times
14 during which water may be diverted. In addition, if the permit is one which is
15 required under sub. (2) (b) *major* for a ~~large~~ diversion, the permit shall comply with s.
16 281.35 (6).
PLAIN

17 **SECTION 149.** 30.18 (6) (b) of the statutes is renumbered 30.18 (6) (dm) and
18 amended to read:

19 30.18 (6) (dm) *Use of water.* A person who is issued a permit for the purpose
20 of irrigation or agriculture may use the water on any land contiguous to the
21 permittee's riparian land, but may not withdraw more water than ~~it did the~~
22 permittee withdrew before August 1, 1957, without applying to the department for
23 a modification of the permit unless the department approves the additional amount
24 to be withdrawn by modifying the permittee's permit.

1 **SECTION 150.** 30.18 (6) (c) of the statutes is renumbered 30.18 (6) (bm) and
2 amended to read:

3 30.18 (6) (bm) *Reporting required.* ~~The department shall require each~~
4 ~~permittee~~ A person who is issued a permit under this section to report its shall report
5 to the department the volume and rate of withdrawal and its volume and rate of
6 water loss, ~~if any.~~ The report shall be in the form and at the times specified by the
7 department.

8 **SECTION 151.** 30.18 (6) (cm) 3. of the statutes is created to read:

9 30.18 (6) (cm) 3. A permit issued under this section before August 1, 1957, is
10 exempt from the review requirements under subds. 1. and 2.

11 **SECTION 152.** 30.18 (6) (d) (title) of the statutes is renumbered 30.18 (6) (cm)
12 (title).

13 **SECTION 153.** 30.18 (6) (d) of the statutes is renumbered 30.18 (6) (cm) 1. and
14 amended to read:

15 30.18 (6) (cm) 1. ~~If the permit is one that is required under sub. (2) (a), but not~~
16 ~~under sub. (2) (b), and the permit was issued on or after August 1, 1957, Except as~~
17 ~~provided in subds. 2. and 3. the department shall review the permit at least once~~
18 every 5 years.

19 2. If the permit is one that is required ~~under sub. (2) (b)~~ ^{PLAIN} for a ~~large~~ ^{major} diversion,
20 the department shall review the permit as required under s. 281.35 (6) (b).

21 **SECTION 154.** 30.18 (6m) (title) of the statutes is repealed and recreated to read:

22 30.18 (6m) (title) RESCISSION.

23 **SECTION 155.** 30.18 (6m) (a) (intro.) of the statutes is amended to read:

24 30.18 (6m) (a) Streams; mandatory rescission. (intro.) The department shall
25 ~~revoke~~ rescind a permit issued under sub. (5) (a), which is not ~~subject to sub. (2) (b),~~

major

1 if it a permit for a large diversion, if the department finds that any of the following
2 applies:

3 SECTION 156. 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

4 30.18 (6m) (a) 1. ~~That the~~ The water being diverted is no longer surplus water,
5 ~~except that the department may allow the diversion to continue if all riparians has~~
6 become water that is being beneficially used, unless all riparian owners adversely
7 affected by the diversion continue to consent to it.

8 2. If the diversion is from a stream designated by the department as a trout
9 stream, ~~that the revocation~~ the rescission is desirable for conservation purposes.

10 SECTION 157. 30.18 (6m) (b) of the statutes is amended to read:

11 30.18 (6m) (b) Streams; discretionary rescission. The department may ~~revoke~~
12 rescind any permit issued under sub. (5) (a), which is not ~~subject to sub. (2) (b), if it~~
13 a permit for a large diversion, if the department finds that the diversion is
14 detrimental to the stream from which the water is diverted.

15 SECTION 158. 30.18 (6m) (c) of the statutes is amended to read:

16 30.18 (6m) (c) ~~Large diversion.~~ ^{Major} The department may ~~revoke~~ ^{any} ~~rescind~~ ^{re} permit
17 issued under sub. (5) (b) this section for a large diversion only as provided under s.
18 281.35 (6). PLAIN

19 SECTION 159. 30.18 (7) of the statutes is amended to read:

20 30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION WORK. ~~After an application~~
21 ~~under this section has been filed with the department, the applicant may enter any~~
22 ~~land through which it is proposed to divert the water for the purposes of making any~~
23 ~~surveys required for drafting the plans for the project, but no work shall~~ Work may
24 not be commenced on the canal, headworks, or other structures necessary for the
25 project for which a permit has been issued under this section until the plans for the

1 same canal, headworks, or other structures have been approved by the department.
 2 Any person having received who has been issued a permit required under sub. ~~(2) (5)~~ ^{PLAIN}
 3 (a) for a diversion that is not a ^{major} large diversion may ~~construct~~ commence the work
 4 upon the land of another ~~the canal and other works~~ as authorized by the permit only
 5 after the damage which will be sustained by the owner or owners of such of that land
 6 has been satisfied, or has been determined as provided for in ch. 32, and compensated
 7 for any damages that the owner will incur as a result of the work or after the final
 8 sum so for condemnation of the property under ch. 32 has been determined and all
 9 ~~costs have been paid to the persons entitled thereto~~ owner or to the clerk of the circuit
 10 court on ~~their~~ the owner's account.

NOTE: Current s. 30.18 (7) allows the applicant to "enter any land through which it is proposed to divert water", after the permit application is filed, to conduct surveys. This provision is deleted, and replaced by a requirement in new s. 30.18 (3m) (a) for the applicant to obtain permission or authority to enter the land.

11 SECTION 160. 30.18 (8) of the statutes is renumbered 30.353, and amended to
 12 read: ↑

13 **30.353 Department may raise water elevations.** If after examination and
 14 investigation the department determines that it is necessary to raise water
 15 elevations in any navigable stream or lake body of water for conservation purposes,
 16 the department may, if funds are available from any source other than license fees,
 17 determine and establish the elevations to which the water may be raised or
 18 maintained, but the water elevation may not be established below the normal
 19 elevation. If any lands are damaged by raising the water levels above normal and
 20 the department cannot acquire the right to flow the lands by agreement with the
 21 owner, the department may acquire the lands or the right to flow the lands by
 22 condemnation under ch. 32.

23 SECTION 161. 30.18 (9) of the statutes is repealed.

Plain

1 SECTION 162. 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)
2 and amended to read:

3 30.19 (1g) PERMITS REQUIRED. (intro.) Unless a permit has been granted by the
4 department ~~or authorization~~ issued under this section ~~or~~ has been granted by the
5 legislature, it is unlawful no person may do any of the following:

6 SECTION 163. 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and
7 amended to read:

8 30.19 (1g) (a) ~~To construct~~ Construct, dredge, or enlarge any artificial
9 waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the
10 purpose is ~~ultimate connection with an existing navigable stream, lake or other~~
11 ~~navigable waters, or where~~ water body that connects with an ^a ~~existing~~ navigable
12 waterway.

13 (am) Construct, dredge, or enlarge any part of the an artificial waterway water
14 body that is located within 500 feet of the ordinary high-water mark of an existing
15 navigable stream, lake or other navigable waters waterway.

16 SECTION 164. 30.19 (1) (b) of the statutes is renumbered 30.19 (1g) (b) and
17 amended to read:

18 30.19 (1g) (b) ~~To connect any natural or artificially constructed~~ Connect, by a
19 navigable surface channel, any navigable waterway, canal, channel, ditch, lagoon,
20 pond, lake or similar waterway or any artificial water body with an existing body of
21 ^a navigable water, for navigation or any other purpose waterway.

22 SECTION 165. 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
23 amended to read:

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

4 **SECTION 166.** 30.19 (1b) of the statutes is created to read:

57 30.19 (1b) DEFINITION. In the section, "artificial water body" means a proposed
6 or existing body of water that does not have a history of being a ^{lake or stream} natural body of water
7 ^{of being a} or part of a ~~natural body of water.~~ ^{lake or stream}

8 **SECTION 167.** 30.19 (1m) (intro.) of the statutes is amended to read:

9 30.19 (1m) ~~EXCEPTION.~~ EXCEPTIONS. (intro.) Subsection ~~(1)~~ (1g) does not apply
10 to any of the following:

11 **SECTION 168.** 30.19 (1m) (a) of the statutes is amended to read:

12 30.19 (1m) (a) The construction and or repair of any public highways highway.

13 **SECTION 169.** 30.19 (1m) (b) of the statutes is amended to read:

14 30.19 (1m) (b) Any agricultural ~~uses~~ use of land.

15 **SECTION 170.** 30.19 (1m) (c) and (d) of the statutes are repealed.

16 **SECTION 171.** 30.19 (1m) (e) of the statutes is amended to read:

17 30.19 (1m) (e) Any work required to maintain the original dimensions of an
18 enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a
19 permit or legislative authorization under sub. (1) (a) or (b) (1g) (a) ^{or (am)}

material from p. 50 "47K"

***NOTE: Under s. 30.19 (1m) (e) enlargements are authorized only under s. 30.19 (1) (a) and not s. 30.19 (1) (am) or (b). Is the above what is intended?

check

20 **SECTION 172.** 30.19 (2) (intro.) and (a) to (d) of the statutes are repealed.

21 **SECTION 173.** 30.19 (2) (e) of the statutes is renumbered 30.19 (3b) (b) and
22 amended to read:

INSERT 47-19

SECTION 173

all of the following:

1 30.19 (3b) (b) ~~The name and address of the~~ In addition to the notice
 2 requirements under s. 30.246 (2), the department shall give notice to the secretary
 3 of any property owners' association pertaining formed with respect to the bodies of
 4 water affected by the project or if there is no such association, the names and
 5 addresses of. If no property owners' association exists, the department shall give
 6 notice to at least 5 persons who own ^{PLAIN} real property located adjacent to the bodies of
 7 water. If fewer than 5 persons own ^{PLAIN} real property located adjacent to the bodies of
 8 water, the names and addresses of such the department shall give notice to these
 9 persons that own real estate so located shall be given.

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48-9

SECTION 174. 30.19 (2) (f) of the statutes is repealed.

SECTION 175. 30.19 (3) (title) of the statutes is repealed.

SECTION 176. 30.19 (3) (a) of the statutes is renumbered 30.19 (3b) (b) 4. and amended to read:

this needs to be 2

14 30.19 (3b) (b) ~~4~~ ² Section 30.02 (3) and (4) applies to permit applications under
 15 sub. (1) (b) and (c). Notice shall be provided to the clerks of the county and
 16 municipality in which the project or affected body of water is located and to the
 17 persons under sub. (2) (e). For The Milwaukee Metropolitan Sewerage District for
 18 any permit application which affects for a project that would affect the Milwaukee
 19 River, the Menomonee River, the Kinnickinnic River, the Root River, or any tributary
 20 of those rivers, special notice shall be given to the Milwaukee metropolitan sewerage
 21 district. The metropolitan sewerage district shall have 30 days to respond to the
 22 special notice.

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48-22

SECTION 177. 30.19 (3) (b) of the statutes is repealed.

SECTION 178. 30.19 (3b) (title) (a) ~~and (b)~~ of the statutes ^{is} are created to read:

(intro.)

1 30.19 (3b) (title) NOTICE AND HEARING UPON APPLICATION. (a) Upon receipt of a
 2 complete application for a permit under sub. (1g) (b) or (c), the department shall
 3 either deny the application as provided in s. 30.246 (1) or shall give notice of receipt
 4 of the application as provided in s. 30.244.

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

8 SECTION 179. 30.19 (4) of the statutes is renumbered 30.19 (4) (intro.) and
 9 amended to read:

10 30.19 (4) ISSUANCE OF PERMIT. (intro.) ~~If the department finds that the project~~
 11 ~~will not injure public rights or interest, including fish and game habitat, that the~~ The
 12 department shall issue a permit applied for under this section if the department
 13 determines that all of the following apply:

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

16 (c) Any enlargement connected to a navigable waterways conforms to the
 17 requirement of waterway complies with all of the laws for the relating to platting of
 18 land and for sanitation and that no.

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

23 SECTION 180. 30.19 (4) (a) of the statutes is created to read:

24 30.19 (4) (a) The project will not be detrimental to the public interest.

25 SECTION 181. 30.19 (5) of the statutes is amended to read:

INS
49-7
material from
p. 50
"49K"

real property
any
real
INSERT 49-22

1 30.19 (5) CONDITIONS OF PERMIT REQUIREMENT FOR PUBLIC ACCESS. The A permit
 2 issued under this section to construct an artificial water body and to connect it to a
 3 navigable waterway shall provide that all require that the artificial waterways
 4 constructed under this section which are connected to navigable waterways shall be
 5 water body be a public waterways . The department may impose such further
 6 conditions in the permit as it finds reasonably necessary to protect public health,
 7 safety, welfare, rights and interest and to protect private rights and property
 8 waterway.

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

NOTE: This provision continues the applicability of notice and hearing provisions only to permit applications under sub. (2) (b) and (c). Under the current statute, the notice and hearing is not required for dredging artificial water bodies for the purpose of connection to a navigable waterway or where part of the artificial water body is within 500 feet of the ordinary high-water mark of the navigable waterway. In addition, an exemption from the notice and hearing is provided for grading or removing topsoil from the bank of navigable waters where the only effect is on water quality. This exemption allows DNR to develop a "short form" permit for grading or removing topsoil from the bank where advance notice is given to the department and the work conforms to rules of the department that describe methods for such work.

NOTE: Current s. 30.19, which requires a permit for enlargement and protection of waterways, contains an exception for navigable lakes and streams and any portion of Lake Michigan within Milwaukee County. This exception is not included in this bill so that s. 30.19 will apply uniformly to all navigable waters. However, current s. 30.05 (renumbered s. 30.223) continues to apply where lake bed grants have been made.

move to p. 49 after line 15 "47K"

move to p. 47, after line 15 "47K"

9 **SECTION 182.** 30.195 (1) of the statutes is amended to read:

10 30.195 (1) PERMIT REQUIRED. ~~No~~ Unless a permit has been issued under this
 11 section or authorization has been granted by the legislature, no person may change
 12 the course of or straighten a navigable stream without a permit issued under this
 13 section or without otherwise being expressly authorized by statute to do so.

14 **SECTION 183.** 30.195 (2) of the statutes is repealed and recreated to read:

15 30.195 (2) PERMIT APPLICATION. Upon receipt of a complete application for a
 16 permit under this section for an activity that involves the relocation of more than a

1 total of 500 feet in stream length, the department shall either deny the application
2 as provided in s. 30.246 (1) or shall give notice of receipt of the application as provided
3 in s. 30.244. For a permit for an activity that involves the relocation of a total of 500
4 or less feet in stream length, the department shall either deny the application as
5 provided in s. 30.246 (1) or shall follow the procedure allowing the department to give
6 notice under s. 30.245.

7 **SECTION 184.** 30.195 (3) of the statutes is renumbered 30.195 (3) (intro.) and
8 amended to read:

9 30.195 (3) ~~GRANTING~~ ISSUANCE OF PERMIT. (intro.) ~~Upon application therefor,~~
10 ~~the~~ The department shall grant issue a permit to the ~~applicant~~ ^{applied for} under this section
11 if the department determines that all of the following apply:

12 (a) The applicant is the owner of ^{PLAIN} ~~any~~ ~~the~~ land to change the course of or
13 straighten a upon which the change in course or straightening of the navigable
14 stream on such land, if such will occur.

15 (b) The proposed change of course or straightening of the navigable stream will
16 improve the economic or aesthetic value of the owner's applicant's land and will.

17 (c) The proposed change of course or straightening of the navigable stream will
18 not adversely affect the flood flow capacity of the stream or otherwise be detrimental
19 to public rights or the public interest.

20 (d) The proposed change of course or straightening of the navigable stream will
21 not be detrimental to the rights of other riparians riparian owners located on the
22 stream. If the department finds that the rights of such riparians these riparian
23 owners will be adversely affected, it may grant issue the permit only with their the
24 consent. Such permit may be granted on the department's own motion after its own

new mandatory notice requirements under s. 30.244 and the new hearing requirements under s. 30.245

1 ~~investigation or after public hearing and after giving prior notice of such~~
2 ~~investigation or hearing of all of these riparian owners.~~

3 **SECTION 185.** 30.195 (4) and (7) of the statutes are repealed.

NOTE: It is not clear whether current s. 30.195 is subject to the requirement of a notice and hearing. Current s. 30.02 provides that the notice and hearing provisions of that statute apply in any proceeding under ch. 30 where public notice is required. Under s. 30.195 (3), the DNR may issue a permit either on its own motion or after a public hearing. This does not appear to be a clear statement that a public hearing is required, and it is therefore uncertain whether the notice and hearing requirement of current s. 30.02 applies. This bill makes the permit under s. 30.195 subject to the ~~notice and hearing requirements of new s. 30.245~~ for relocation of more than 500 feet of stream length, which corresponds with the division between type II and type III actions regarding stream locations for environmental review under ch. NR 150, Wis. Adm. Code.

This bill eliminates the current provision in s. 30.195 (4) that states that no common law liability and no liability under any other statute for damages resulting from the change in the course of the stream or straightening a stream is affected by s. 30.195. Nothing in current s. 30.195, or s. 30.195 as amended by this bill, suggests that an exemption from liability is created. Compliance with the provisions in a permit under s. 30.195 may have a bearing on the issue of negligence, but current s. 30.195 (4) is unnecessary. Also, the provision in the current statute that creates a presumption of exercising due care in complying with a permit is better addressed by the court as part of a negligence action.

The exception for land owned by Milwaukee County or a city, village or town in Milwaukee County is deleted. This provision was originally created as part of s. 30.195 when it was adopted in 1961, and was added as a floor amendment. This exception is not included in this bill so that s. 30.195 will apply uniformly to all navigable waters.

4 **SECTION 186.** 30.196 of the statutes is renumbered 30.313, and 30.313 (intro.),
5 as renumbered, is amended to read:

6 **30.313 Enclosure of navigable waters; issuance of permits to**
7 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
8 placing, or restricting navigable waters into an enclosed drain, conduit, storm sewer,
9 or similar structure if the department grants the municipality a permit. The
10 department may grant this permit to a municipality after following the notice and
11 hearing requirements under s. 30.02 (3) and (4) if it the procedures under ss. 30.244
12 and 30.246 have been followed if the department finds that granting the permit:

***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?

1 SECTION 187. 30.20 (1) (title) of the statutes is repealed and recreated to read:

2 30.20 (1) (title) CONTRACT OR PERMIT REQUIRED.

3 SECTION 188. 30.20 (1) (a) of the statutes is amended to read:

4 30.20 (1) (a) ~~No~~ Unless a contract has been entered into with the department
5 under sub. (2), no person may remove any material from the bed of any navigable lake
6 or from the bed of any outlying waters of this state without first obtaining a contract
7 as provided in sub. (2).

8 SECTION 189. 30.20 (1) (b) of the statutes is renumbered 30.20 (1) (b) (intro.)
9 and amended to read:

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

14 SECTION 190. 30.20 (1) (b) 1. and 2. of the statutes are created to read:

15 30.20 (1) (b) 1. The department has issued the person a permit under sub. (3).

16 2. The department has determined under par. (c) that the removal is exempt
17 from a permit under sub. (3).

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

18 SECTION 191. 30.20 (1) (c) of the statutes is repealed and recreated to read:

19 30.20 (1) (c) The exemption under s. 30.215 does not exempt a person from the
20 permitting requirement under par. (b) if the proposed removal for an agricultural
21 purpose is from a farm drainage ditch and the proposed removal may have a
22 long-term adverse effect on cold-water fishery resources or may destroy fish
23 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 a long-term adverse effect or may destroy fish spawning
3 beds or nursery areas. ~~The department shall determine within the 10-day period~~
4 ~~whether the person 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 SECTION 192. 30.20 (1) (d) of the statutes is renumbered 30.263 (3) and
6 amended to read:

7 30.263 (3) The drainage board for the Duck Creek Drainage District may,
8 without a permit under sub. (2) (e) s. 30.20 (3), remove material from a drain that the
9 board operates in the Duck Creek Drainage District if the removal is required, under
10 rules promulgated by the department of agriculture, trade and consumer protection,
11 in order to conform the drain to specifications imposed by the department of
12 agriculture, trade and consumer protection after consulting with the department of
13 natural resources. *if the contract is consistent with public rights*

14 SECTION 193. 30.20 (2) (title), (a) and (b) of the statutes are amended to read:

15 30.20 (2) (title) CONTRACTS FOR REMOVAL FROM NAVIGABLE LAKES AND OUTLYING
16 WATERS. (a) The department, ~~whenever consistent with public rights,~~ may enter into
17 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any
18 material from the bed of any navigable lake or of any of the outlying waters, and for
19 ~~the lease or sale of the material.~~ ~~Every~~ Each contract entered into under this
20 paragraph shall contain such any conditions as ~~may be~~ that the department
21 determines are necessary for the protection of the public interest and the ~~interests~~
22 interest of the state and. Each contract entered into under this paragraph shall fix
23 the compensation to be paid to the state for the material so to be removed, except that

1 ~~no~~ the contract may not require that any compensation may be paid for the material
2 if the contract is with a municipality, as defined in s. 281.01 (6), and if the material
3 ~~is to~~ will be used for a municipal purpose and will not for resale. ~~No~~ be resold. Each
4 contract entered into under this paragraph may not run for ~~a longer period~~ more
5 than 5 years.

6 (b) The department, ~~whenever consistent with public rights,~~ may enter into
7 ~~contracts~~ a contract on behalf of the state for the removal of any mineral, ore and,
8 ~~or other material from beneath the bed of a navigable lakes and waters, where water~~
9 ~~that the state may own if the contract will be consistent with public rights and if the~~
10 ~~waters would~~ navigable water will not be disturbed in the removal operation and ~~for~~
11 ~~the lease and sale of such mineral, material and ore and provide the necessary~~
12 ~~regulations for all acts incident thereto. Every such.~~ Each contract entered into
13 under this paragraph shall contain such any conditions as ~~may be~~ that the
14 department determines are necessary for the protection of the public interest and the
15 ~~interests~~ interest of the state, and. Each contract entered into under this paragraph
16 shall fix the compensation to be paid to the state for the ~~material, mineral and ore~~
17 ~~so~~ mineral, ore, or other material to be removed. ~~No~~ Each contract entered into,
18 pursuant to under this paragraph, shall may not run for ~~a longer period~~ more than
19 75 years. ~~Should any doubt exist as to whether the state, in fact, owns such lake bed~~
20 ~~or stream bed such contract or lease shall be for such interests, if any, as the state~~
21 ~~may own. Title to the royalties to be paid when~~ After mining operations are have
22 begun, the department shall be determined at such future time as determine the date
23 before which the royalties for ores so sold are paid or any mineral, ore, or other
24 material that is removed and sold are due and payable.

1 **SECTION 194.** 30.20 (2) (c) of the statutes is renumbered 30.20 (3) (a) and
2 amended to read:

3 30.20 (3) (a) ~~A permit~~ The department may issue a permit to remove material
4 from the bed of any lake or stream ~~not included~~ described in sub. (1) (a) ~~may be issued~~
5 by if the department ~~if it finds that the issuance of such a~~ the permit will be
6 consistent with the public interest in the ~~water involved.~~ ~~A permit or contract issued~~
7 ~~under this paragraph may be issued for up to 10 years if the applicant notifies the~~
8 ~~department at least 30 days before removing any material~~ lake or stream.

9 **SECTION 195.** 30.20 (3) (title) and (b) of the statutes are created to read:

10 30.20 (3) (title) PERMITS FOR REMOVAL FROM OTHER WATERS.

11 (b) If an applicant for a permit ^{under par. (a)} submits the application at least 30 days before
12 the proposed date of the removal, the department may issue the permit for a period
13 of up to 10 years.

****NOTE: Regarding the 30-day time frame in s. 30.20: What if less than 30 days' notice is given? Also, under current law this provision applies to both contracts and permits.

14 **SECTION 196.** 30.20 (4) of the statutes is created to read:

15 30.20 (4) NOTICE AND HEARING. (a) Upon receipt of a complete application for
16 a permit or contract under this section for an activity that involves the removal of
17 3,000 or more cubic yards of material, the department shall either deny the
18 application as provided in s. 30.246 (1) or shall give notice of receipt of the application
19 as provided in s. 30.244, except as provided in par. (b).

20 (b) The department shall either deny the application as provided in s. 30.246
21 (1) or shall follow the procedure allowing the department to give notice under s.
22 30.245 if any of the following applies:

23 1. The activity involves of the removal of less than 3,000 cubic yards of material.

1 2. The activity involves the restoration of the original dimensions of an area
2 legally dredged during the 10 years before the date of application for the permit or
3 contract.

NOTE: Current s. 30.20 does not contain a requirement for public notice or a hearing under s. 30.02. This bill makes a permit or contract under s. 30.20 subject to the notice and hearing requirements of new s. 30.245 for dredging that involves the removal of more than 3,000 cubic yards, which corresponds with the threshold for a type II action for purposes of environmental review under ch. NR 150, Wis. Adm. Code. ✓

4 **SECTION 197.** 30.202 of the statutes is renumbered 30.333, and 30.333 (3), as
5 renumbered, is amended to read:

6 30.333 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
7 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
8 permit, license, approval, authorization, fee, notice, hearing, procedure, or penalty
9 specified under this chapter, s. 29.601, 30.01 to 30.20, 30.21 to 30.99, 59.692, 61.351,
10 62.231, or 87.30, or chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any
11 rule promulgated, order issued, or ordinance adopted under those sections or
12 chapters.

13 **SECTION 198.** 30.2025 of the statutes is renumbered 30.278, and 30.278 (5) (d),
14 as renumbered is amended to read:

15 30.278 (5) (d) It may not cause environmental pollution, as defined in s. 299.01
16 (4).

17 **SECTION 199.** 30.2026 of the statutes is renumbered 30.279, and 30.279 (2) (d)
18 and (3) (a), as renumbered, are amended to read:

19 30.279 (2) (d) The village of Belleville shall create any artificial barrier under
20 this section in compliance with all state laws that relate to navigable bodies of water,
21 except s. 30.12 (1) and (2).

1 **(3) (a)** The village of Belleville shall maintain any artificial barrier created as
2 authorized under sub. (1). If a landowner of more than 500 feet of Lake Belle View
3 shoreline, a portion of which is located within 1,000 feet of any such artificial barrier,
4 is dissatisfied with the manner in which the village of Belleville is maintaining the
5 barrier, the owner may maintain the barrier in lieu of the village, upon approval of
6 the department. The village or a landowner who maintains the barrier shall comply
7 with all state laws that relate to navigable bodies of water, except s. 30.12 (1) and (2).
8 The department may require the village of Belleville or the landowner to maintain
9 the barrier in a structurally and functionally adequate condition.

****NOTE: I removed the cross-references to s. 30.12 (2) in s. 30.279 (2) (d) and (3)
(a), as renumbered, because they seemed redundant and confusing.

10 **SECTION 200.** 30.203 of the statutes is renumbered 30.355, and 30.355 (4) (d),
11 as renumbered, is amended to read:

12 30.355 (4) (d) It may not cause environmental pollution, as defined in s. 299.01
13 (4).

14 **SECTION 201.** 30.2035 of the statutes is repealed.

NOTE: The repealed statute requires the DNR to undertake a shoreline protection
study. This study has been issued and the DNR is in the process of promulgating rules.

15 **SECTION 202.** 30.2037 of the statutes is renumbered 30.267.

16 **SECTION 203.** 30.204 of the statutes is renumbered 30.373, and 30.373 (5), as
17 renumbered, is amended to read:

18 30.373 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the
19 department in conducting the lake acidification experiment are exempt from any
20 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
21 notice, hearing, procedure, or penalty specified under this subchapter and subchs.
22 V and VI and s. 29.601 (3), 30.01 to 30.03, 30.06 to 30.16, 30.18 to 30.29, 30.50 to

1 30.99, 59.692, 61.351, 62.231, 87.30, 287.81, 299.15 to 299.23, 299.91, 299.95, or
2 299.97 or chs. 281, 283 or 289 to 292 or specified in any rule promulgated, order
3 issued, or ordinance adopted under any of those sections or chapters.

4 *Note:*

4 **SECTION 204.** 30.205 of the statutes is renumbered 30.335, and 30.335 (title),
5 as renumbered, is amended to read:

6 **30.335 (title) Water resources development projects; federal**
7 **agreements.**

8 **SECTION 205.** 30.206 of the statutes is renumbered 30.221, and 30.221 (1) and
9 (7), as renumbered, are amended to read:

10 30.221 (1) For activities ^{*or projects*} which require a permit ~~or approval~~ under ss. 30.12 (3)
11 (a) and 30.19 ~~(1)~~ (1g) (a), the department may issue a general permit authorizing a
12 class of activities, according to rules promulgated by the department. Before issuing
13 general permits, the department shall determine, after an environmental analysis
14 and notice and hearing under ss. 227.17 and 227.18, that the cumulative adverse
15 environmental impact of the class of activity is insignificant and that issuance of the
16 general permit will not injure public rights or interest, cause environmental
17 pollution, ~~as defined in s. 299.01 (4)~~, or result in material injury to the rights of any
18 riparian owner.

19 (7) This section does not apply to an application for a general permit for the
20 Wolf River and Fox River basin area or any area designated under s. ~~30.207~~ 30.223
21 (1m) if the application for the general permit may be submitted under s. ~~30.207~~
22 30.223.

23 **SECTION 206.** 30.207 of the statutes is renumbered 30.223, and 30.223 (1), (3)
24 (a) and (c) 6., (4) (c) 1., (5), (6) (a) and (7) (a) and (b), as renumbered, are amended to
25 read:

1 30.223 (1) GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12 (3) (bt)~~
 2 30.276, the Wolf River and Fox River basin area consists of all of Winnebago County;
 3 the portion and shoreline of Lake Poygan in Waushara County; the area south of
 4 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
 5 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
 6 portion of Outagamie County south and east of USH 41; that portion of Waupaca
 7 County that includes the town of Mukwa, city of New London, town of Caledonia,
 8 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
 9 in the town of Weyauwega.

10 (3) (a) Any local entity, ~~as defined listed~~ in s. 30.77 (3) ~~(dm)~~ (11) (a), any group
 11 of 10 riparian owners who will be affected by the issuance of a general permit, or any
 12 contractor who is or has been involved in the construction of structures or along
 13 navigable waters may apply for a general permit under this section.

14 (c) 6. The names and addresses of at least 5 persons who own real property
 15 located adjacent to the navigable waters located in the proposed permit area. If fewer
 16 than 5 persons own real property adjacent to ~~such~~ these waters, the application shall
 17 include the names and addresses of all of these persons. NOTICE AND HEARING

18 (4) (c) 1. Any local entity, ~~as defined~~ in s. 30.77 (3) ~~(dm)~~, (11) (a) that has an
 19 interest in the quality or use of or that has jurisdiction over the navigable waters
 20 located in the proposed permit area. or

21 (5) ~~HEARING REQUIREMENTS~~. If an activity for which an application for which a
 22 general permit has been submitted would be subject to the ~~hearing and notice~~
 23 provisions under plain ~~s. 30.02 (3) and (4) ss. 30.244 and 30.245~~ for the issuance of an
 24 individual permit, the department shall comply with those provisions. Notice and
 25 ~~hearing shall be required on an application for a general permit under this section~~

only required if ... required
to ...

1 ~~only if a notice and hearing are required under s. 30.02 (3) and (4) for the activity as~~
2 ~~part of an application for an individual permit under this chapter.~~

~~****NOTE: Mark - I took out the last sentence of s. 30.207 (5) because I thought it was no longer necessary.~~

✓
INSERT
61-2

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

9 (7) (a) At least 15 days before beginning the activity that is authorized by a
10 general permit under this section, the person who wishes to conduct the activity shall
11 submit a notice to the department and shall pay the fee specified in s. ~~30.28~~ 30.243

12 (2) (b) 2. The notice shall describe the activity, state the name of the person that will
13 be conducting the activity, and state the site where the activity will be conducted.
14 The notice shall also contain a statement signed by the person conducting the
15 activity that the person will act in conformance with the standards contained in the
16 general permit.

****NOTE: Re: s. 30.207 (3) (a) and (4) (c) 1., check RNK's draft to verify that the changes work.

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

It is shown by means of

1 within 15 days shall constitute the department's approval of the activity under the
2 general permit.

3 ~~SECTION 207. 30.21 (title), (1), (2) and (3) (title) of the statutes are renumbered~~
4 ~~30.293 (title), (1), (2) and (3) (title).~~

5 SECTION 208. 30.21 ~~(3)~~ (a) of the statutes is renumbered 30.293 ~~(2)~~.

6 SECTION 209. 30.21 (3) (b) of the statutes is repealed.

7 SECTION 210. 30.213 (title) of the statutes is created to read:

8 **30.213 (title) Municipal bridge construction.**

9 SECTION 211. 30.215 of the statutes is created to read:

10 **30.215 Farm drainage ditches.** Except as provided in s. 30.20 (1) (c), a project
11 that is for an agricultural purpose and is located in or adjacent to a farm drainage
12 ditch is exempt from the requirement for a permit, contract, or approval under this
13 subchapter unless the department determines that a U.S. geological survey map or
14 other reliable scientific evidence ~~shows~~ ^{shows} that the farm drainage ditch was a stream
15 that was a navigable water prior to ditching.

NOTE: The current statute related to farm drainage ditches is as follows:

"30.10 (4) (c) Notwithstanding any other provision of law, farm drainage ditches are not navigable within the meaning of this section unless it is shown that the ditches were navigable streams before ditching. For purposes of this paragraph, "farm drainage ditch" means any artificial channel which drains water from lands which are used for agricultural purposes."

The proposed language in new s. 30.215 differs in 2 key respects from the current statute. The primary difference is that the exemption clearly applies to a project for an agricultural purpose, not to the farm drainage ditch itself. Thus, a project for other than agricultural purposes would require a permit, even though the drainage ditch was originally constructed as and continues to be used as a farm drainage ditch.

The other difference is that the statute specifies the kind of evidence that may be used to show stream history.

16 SECTION 212. 30.24 of the statutes is renumbered 30.357.

17 SECTION 213. 30.243 (3) (c) of the statutes is created to read:

18 30.243 (3) (c) This section does not apply to a permit issued under s. 30.221.

19 SECTION 214. 30.244 to 30.246 of the statutes are created to read: