

1 **SECTION 95.** 30.123 (5) of the statutes is repealed.

NOTE: This repeals a requirement that bridges constructed over navigable streams be maintained in a safe condition, as determined by the DNR. The DNR does not have the expertise to review bridge safety and maintenance.

2 **SECTION 96.** 30.123 (6) of the statutes is created to read:

3 30.123 (6) Subsections (2) to (4) do not apply to the following:

4 (a) The construction or reconstruction of highway bridges to which s. 30.213
5 applies.

6 (b) The construction, reconstruction, maintenance, or repair of bridges by the
7 department of transportation in accordance with s. 30.341.

8 **SECTION 97.** 30.124 of the statutes is renumbered 30.351, and 30.351 (1)
9 (intro.), as renumbered, is amended to read:

10 30.351 (1) (intro.) Notwithstanding ss. 30.12, 30.20, 30.44, and 30.45, and if the
11 department finds that the activity will not adversely affect the public interest or
12 private rights or interests in fish and wildlife populations, navigation, or waterway
13 flood flow capacity and will not result in environmental pollution, ~~as defined in s.~~
14 ~~299.01 (4)~~, the department may do all of the following on public lands or waters:

15 **SECTION 98.** 30.1255 of the statutes is renumbered 30.352.

16 **SECTION 99.** 30.126 (title) and (2) to (9) of the statutes are renumbered 30.266
17 (title) and (2) to (9), and 30.266 (5) (g), as renumbered, is amended to read:

18 30.266 (5) (g) *May not have improper flotation devices.* No person may
19 construct, place, or maintain a fishing raft on authorized portions of the Wolf River
20 unless each flotation device used on the fishing raft is clean and uncontaminated,
21 properly attached to the fishing raft, and properly maintained in conformity with
22 minimum standards established by the department by rule. The department shall
23 establish minimum standards for the condition, attachment, and maintenance of

1 flotation devices used on fishing rafts. This paragraph applies to any device used to
2 provide flotation for a fishing raft, including each individual barrel or styrofoam
3 coffin.

4 SECTION 100. 30.126 (10) (title) and (a) (title) of the statutes are repealed.

5 SECTION 101. 30.126 (10) (a) of the statutes is renumbered 30.381 (3) (a) and
6 amended to read:

7 30.381 (3) (a) A person who violates ~~this section, any rule promulgated under~~
8 ~~this section s. 30.266~~ or any order issued by the department under ~~this section s.~~
9 30.266 shall forfeit not less than \$10 nor more than \$250 for each offense. Each day
10 of violation constitutes during which a fishing raft exists in violation of s. 30.266 is
11 a separate offense.

12 SECTION 102. 30.126 (10) (b) (title) of the statutes is repealed.

13 SECTION 103. 30.126 (10) (b) of the statutes is renumbered 30.381 (3) (b) and
14 amended to read:

15 30.381 (3) (b) A person who violates any ordinance adopted or order issued by
16 the municipality under ~~this section s. 30.266~~ is subject to the penalty established by
17 ordinance. A Wolf River municipality may not establish this penalty at a level which
18 is less severe than the penalty established under par. (a).

19 SECTION 104. 30.13 (title) and (1) (intro.), (b) and (c) of the statutes are
20 amended to read:

21 **30.13 (title) Regulation of wharves, piers, and swimming rafts;**
22 **~~establishment of pierhead lines.~~** (1) CONSTRUCTION ALLOWED WITHOUT PERMIT
23 UNDER CERTAIN CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may construct
24 a wharf or pier in a navigable waterway extending beyond the ordinary high-water

1 mark or an established bulkhead line in aid of navigation without obtaining a permit
2 under s. 30.12 if all of the following conditions are met:

3 (b) The wharf or pier does not interfere with rights of other riparian ~~proprietors~~
4 owners.

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

7 **SECTION 105.** 30.13 (1m) (intro.) and (b) of the statutes are amended to read:

8 **30.13 (1m)** SWIMMING RAFTS ALLOWED WITHOUT PERMIT UNDER CERTAIN
9 CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may place a swimming raft in
10 a navigable waterway for swimming and diving purposes without obtaining a permit
11 under s. 30.12 if all of the following conditions are met:

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

14 **SECTION 106.** 30.13 (3) (title) of the statutes is repealed.

15 **SECTION 107.** 30.13 (3) of the statutes is renumbered 30.323 (1), and 30.323 (1)
16 (a), as renumbered, is amended to read:

17 **30.323 (1)** (a) Any municipality authorized by s. ~~30.11~~ 30.321 to establish a
18 bulkhead line may also establish a pierhead line in the same manner as it is
19 authorized to establish a bulkhead line, except that a metes and bounds legal
20 description is not required nor is the map required to be prepared by a registered land
21 surveyor and except that if the municipality has created a board of harbor
22 commissioners the municipality must obtain the approval of the board concerning
23 the establishment of the pierhead line in addition to obtaining the approval of the
24 department.

25 **SECTION 108.** 30.13 (4) (b) of the statutes is amended to read:

1 30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which interferes
2 with rights of other riparian ~~proprietors~~ owners constitutes an unlawful obstruction
3 of navigable waters unless a permit is issued for the wharf or pier under s. 30.12 or
4 unless authorization for the wharf or pier is expressly provided.

5 **SECTION 109.** 30.13 (4) (c) of the statutes is amended to read:

6 30.13 (4) (c) *Extends beyond pierhead line; exception.* A wharf or pier which
7 extends into navigable waters beyond any pierhead line established under ~~sub. (3)~~
8 s. 30.323 constitutes an unlawful obstruction of navigable waters unless a valid
9 permit, license, or authorization for the wharf or pier is ~~granted~~ issued or unless it
10 is a permissible preexisting wharf or pier. A wharf or pier is a permissible preexisting
11 wharf or pier if it existed prior to the establishment of the pierhead line, if it is not
12 extended or expanded after that date and if the ownership of the land to which it is
13 attached did not change after that date except that a wharf or pier continues its
14 status as a permissible preexisting wharf or pier for one year after the date the
15 change of ownership is recorded. The seasonal removal of a wharf or pier does not
16 affect its status as a permissible preexisting wharf or pier if it is reestablished in
17 substantially the same form. Status as a permissible preexisting wharf or pier does
18 not imply that authorization for the wharf or pier is provided for the purposes of par.
19 (a) or (b). The owner of a wharf or pier may submit evidence to the municipality that
20 it is a permissible preexisting wharf or pier at any time after the municipality
21 establishes the pierhead line.

22 **SECTION 110.** 30.13 (6) (title) of the statutes is repealed.

23 **SECTION 111.** 30.13 (6) of the statutes is renumbered 30.323 (2).

24 **SECTION 112.** 30.131 of the statutes is renumbered 30.283, and 30.283 (1)
25 (intro.) and (f) and (2), as renumbered, are amended to read:

1 30.283 (1) (intro.) Notwithstanding s. ~~30.133~~ 30.095, a wharf or pier of the type
2 which does not require a permit under ss. 30.12 (1) and 30.13 that abuts riparian land
3 and that is placed in a navigable water by a person other than the owner of the
4 riparian land may not be considered to be an unlawful structure on the grounds that
5 it is not placed and maintained by the owner if all of the following requirements are
6 met:

7 (f) The placement of the wharf or pier complies with the provisions of this
8 ~~chapter, with any rules promulgated under this chapter~~ subchapter and with any
9 applicable municipal regulations or ordinances.

10 (2) Notwithstanding s. ~~30.133~~ 30.095, an easement under sub. (1) may be
11 conveyed if it is conveyed at the same time, and to the same person, that the land to
12 which the easement is appurtenant is conveyed.

13 **SECTION 113.** 30.133 of the statutes is renumbered 30.095.

14 **SECTION 114.** 30.134 of the statutes is renumbered 30.85.

15 **SECTION 115.** 30.135 (1) (title) of the statutes is repealed and recreated to read:

16 30.135 (1) (title) PLACEMENT ALLOWED WITHOUT PERMIT UNDER CERTAIN
17 CIRCUMSTANCES.

18 **SECTION 116.** 30.135 (1) (a) (intro.) and 2. of the statutes are amended to read:

19 30.135 (1) (a) A riparian ~~proprietor~~ owner may place a water ski platform or
20 water ski jump in a navigable waterway without obtaining a permit if all of the
21 following requirements are met:

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

24 **SECTION 117.** 30.135 (2) (a) and (4) of the statutes are amended to read:

1 30.135 (2) (a) Upon receipt of a complete permit application, the department
2 shall either order a hearing or provide notice stating that it will proceed on the
3 application without a hearing unless a substantive written objection to issuance of
4 the permit is received within 30 days after publication of the notice. The department
5 shall provide a copy of the notice to the applicant for the permit, ~~the clerk of each~~
6 ~~municipality in which the water ski platform or water ski jump is to be located to each~~
7 representative of a local governmental unit required to receive notice under s. 30.04
8 (3), and to any other person required by law to receive notice. The department may
9 provide notice to other persons as it considers appropriate. The applicant shall
10 publish the notice as a class 1 notice under ch. 985 in a newspaper designated by the
11 department that is likely to give notice in the area to be affected by the permit. The
12 applicant shall file proof of publication under this paragraph with the department.

13 (4) EXEMPTION. ~~Section 30.02 does~~ The procedures under ss. 30.244, 30.245,
14 and 30.246 do not apply to a permit applications submitted application under this
15 section.

16 SECTION 118. 30.14 (title) of the statutes is repealed.

17 SECTION 119. 30.14 (1) (title) of the statutes is repealed.

18 SECTION 120. 30.14 (1) of the statutes is renumbered 30.327.

19 SECTION 121. 30.14 (2) of the statutes is renumbered 30.247 and amended to
20 read:

21 **30.247 Hearings by department.** Upon complaint by any person to the
22 department that any wharf, pier, or other structure exists in navigable water in
23 violation of s. 30.12 or, 30.13, or ~~30.207~~ 30.223 or that any wharf, pier, or other
24 structure proposed to be built in navigable water will violate s. 30.12 or, 30.13, or
25 ~~30.207~~ 30.223, the department shall investigate and may hold a hearing to

1 determine whether the wharf, pier, or other structure is or would be in violation of
2 those sections. If no hearing is held, the complainant shall be informed of the results
3 of the investigation.

4 SECTION 122. 30.15 (title) of the statutes is repealed.

5 SECTION 123. 30.15 (1) (title) of the statutes is renumbered 30.98 (title) (1) and
6 amended to read:

7 30.98 (1) (title) OBSTRUCTIONS PENALIZED.

8 SECTION 124. 30.15 (1) (intro.) of the statutes is renumbered 30.98 (1) (intro.).

9 SECTION 125. 30.15 (1) (a), (b) and (c) of the statutes are renumbered 30.98 (1)
10 (a), (b) and (c) and amended to read:

11 30.98 (1) (a) Unlawfully obstructs any navigable ~~waters~~ water and thereby
12 impairs the free navigation ~~thereof~~ of the navigable water.

13 (b) Unlawfully places in ~~any navigable waters or in any tributary thereof~~ water
14 any substance that may float into and obstruct any ~~such waters~~ navigable water or
15 ~~that may impede their~~ free navigation of any navigable water.

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

19 SECTION 126. 30.15 (1) (d) of the statutes is renumbered 30.381 (4) (a) and
20 amended to read:

21 30.381 (4) (a) ~~Constructs~~ Except as provided in par. (b), any person who
22 constructs or places any structure or deposits any material in navigable waters in
23 violation of s. 30.12 ~~or 30.13~~ shall forfeit not less than \$100 nor more than \$500 for
24 each offense. Each day during which a structure or deposit of material exists in
25 violation of s. 30.12 is a separate offense under this paragraph.

1 SECTION 127. 30.15 (3) (title) of the statutes is repealed.

2 SECTION 128. 30.15 (3) of the statutes is renumbered 30.98 (2).

3 SECTION 129. 30.16 of the statutes is renumbered 30.95.

4 SECTION 130. 30.18 (1) (intro.) of the statutes is created to read:

5 30.18 (1) DEFINITIONS. (intro.) In this section:

6 SECTION 131. 30.18 (1) (b) of the statutes is created to read:

7 30.18 (1) (b) “Major diversion” means a diversion that will result in a water loss
8 averaging, in any 30-day period, at least 2,000,000 gallons per day above a
9 permittee’s authorized base level of water loss.

10 SECTION 132. 30.18 (2) (a) (intro.) of the statutes is amended to read:

11 30.18 (2) (a) ~~Streams~~ Divisions from streams. (intro.) ~~No Unless a permit has~~
12 been issued under this section, no person may divert water from a stream in this
13 state without a permit under this section if the diversion meets either of the following
14 conditions if any of the following applies:

15 SECTION 133. 30.18 (2) (b) of the statutes is amended to read:

16 30.18 (2) (b) ~~Streams or~~ Major diversions from streams or lakes. ~~No Unless a~~
17 permit has been issued under this section, no person, except a person required to
18 obtain an approval under s. 281.41, may divert water from any lake or stream in this
19 state without a permit under this section if the diversion will result in a water loss
20 averaging 2,000,000 gallons per day in any 30-day period above the person’s
21 authorized base level of water loss is a major diversion. This paragraph does not
22 apply to a person who is required to obtain an approval under s. 281.41.

23 SECTION 134. 30.18 (3) (title) and (a) (title), 1. and 2. of the statutes are
24 repealed.

1 **SECTION 135.** 30.18 (3) (a) 3. of the statutes is renumbered 30.18 (3m) (a) and
2 amended to read:

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

6 **SECTION 136.** 30.18 (3) (a) 4. of the statutes is repealed.

7 **SECTION 137.** 30.18 (3) (b) of the statutes is repealed.

8 **SECTION 138.** 30.18 (3m) (intro.) of the statutes is created to read:

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

12 **SECTION 139.** 30.18 (3m) (b) of the statutes is created to read:

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

16 **SECTION 140.** 30.18 (4) (title) of the statutes is repealed and recreated to read:

17 30.18 (4) (title) ACTION BY DEPARTMENT.

18 **SECTION 141.** 30.18 (4) (a) of the statutes is renumbered 30.18 (4) (a) (intro.)
19 and amended to read:

20 30.18 (4) (a) (intro.) Upon receipt of a complete application for a permit under
21 this section, the department shall ~~follow the notice and hearing procedures under s.~~
22 ~~30.02 (3) and (4)~~ either deny the application as provided in s. 30.246 (1) or shall give
23 notice of receipt of the application for the permit as provided in s. 30.244. In addition
24 to the notice requirements under s. ~~30.02 (3) and (4)~~ 30.246 (2), the department shall

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

3 2. The clerk of the next town municipality that is the next municipality
4 downstream, to the from the point of the proposed diversion.

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

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

9 SECTION 142. 30.18 (4) (a) 1. of the statutes is created to read:

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

11 SECTION 143. 30.18 (4) (b) of the statutes is amended to read:

12 30.18 (4) (b) If a hearing on the application for a permit under this section is
13 conducted as a part of a hearing under s. 293.43, the notice and hearing provisions
14 in that section supersede the notice, mediation, and hearing provisions of par. (a)
15 under ss. 30.244 and 30.246.

16 SECTION 144. 30.18 (5) (title) of the statutes is repealed and recreated to read:

17 30.18 (5) (title) ISSUANCE OF PERMITS.

18 SECTION 145. 30.18 (5) (a) (intro.) of the statutes is amended to read:

19 30.18 (5) (a) ~~Streams~~ Diversions from streams. (intro.) The department shall
20 ~~approve an application for~~ issue a permit required under sub. (2) (a) if the
21 department determines ~~both~~ that all of the following conditions apply:

22 SECTION 146. 30.18 (5) (a) 1. of the statutes is amended to read:

23 30.18 (5) (a) 1. ~~That the~~ The proposed diversion will not ~~injure any public rights~~
24 ~~in navigable waters~~ be detrimental to the public interest.

25 SECTION 147. 30.18 (5) (a) 1m. of the statutes is created to read:

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

2 **SECTION 148.** 30.18 (5) (a) 2. of the statutes is amended to read:

3 30.18 (5) (a) 2. ~~That the~~ Either the water to be diverted is surplus water, or if
4 ~~it is not surplus water, that all riparians not being beneficially used or all riparian~~
5 ~~owners~~ who may be adversely affected by the diversion have consented to the
6 proposed diversion.

7 **SECTION 149.** 30.18 (5) (b) of the statutes is amended to read:

8 30.18 (5) (b) ~~Streams~~ Major diversions from streams or lakes. The department
9 shall ~~approve an application for~~ issue a permit required under sub. (2) (b) for a major
10 diversion if the grounds for approval specified under s. 281.35 (5) (d) are met and, if
11 ~~the.~~ If a permit is also required under sub. (2) (a), if the department makes the
12 ~~determinations specified under par. (a)~~ shall issue a permit under this paragraph
13 only if the conditions for a permit under par. (a) apply to the major diversion.

14 **SECTION 150.** 30.18 (6) (title) of the statutes is amended to read:

15 30.18 (6) (title) ~~PERMITS; USE OF WATER~~ PERMIT CONDITIONS; REPORTING; REVIEW.

16 **SECTION 151.** 30.18 (6) (a) of the statutes is amended to read:

17 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
18 issued under this section the quantity of water that may be diverted and the times
19 during which water may be diverted. In addition, if the permit is one which is
20 required under sub. (2) (b) for a major diversion, the permit shall comply with s.
21 281.35 (6).

22 **SECTION 152.** 30.18 (6) (b) of the statutes is renumbered 30.18 (6) (dm) and
23 amended to read:

24 30.18 (6) (dm) *Use of water.* A person who is issued a permit for the purpose
25 of irrigation or agriculture may use the water on any land contiguous to the

1 permittee's riparian land, but may not withdraw more water than it ~~did~~ the
2 permittee withdrew before August 1, 1957, ~~without applying to the department for~~
3 ~~a modification of the permit~~ unless the department approves the additional amount
4 to be withdrawn by modifying the permittee's permit.

5 SECTION 153. 30.18 (6) (c) of the statutes is renumbered 30.18 (6) (bm) and
6 amended to read:

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

12 SECTION 154. 30.18 (6) (cm) 3. of the statutes is created to read:

13 30.18 (6) (cm) 3. A permit issued under this section before August 1, 1957, is
14 exempt from the review requirements under subs. 1. and 2.

15 SECTION 155. 30.18 (6) (d) (title) of the statutes is renumbered 30.18 (6) (cm)
16 (title).

17 SECTION 156. 30.18 (6) (d) of the statutes is renumbered 30.18 (6) (cm) 1. and
18 amended to read:

19 30.18 (6) (cm) 1. ~~If the permit is one that is required under sub. (2) (a), but not~~
20 ~~under sub. (2) (b), and the permit was issued on or after August 1, 1957, Except as~~
21 provided in subs. 2. and 3. the department shall review the permit at least once
22 every 5 years.

23 2. If the permit is one that is required under sub. (2) (b) for a major diversion,
24 the department shall review the permit as required under s. 281.35 (6) (b).

25 SECTION 157. 30.18 (6m) (title) of the statutes is repealed and recreated to read:

1 30.18 (6m) (title) RESCISSION.

2 **SECTION 158.** 30.18 (6m) (a) (intro.) of the statutes is amended to read:

3 30.18 (6m) (a) Streams; mandatory rescission. (intro.) The department shall
4 ~~revoke~~ rescind a permit issued under sub. (5) (a), which is not subject to sub. (2) (b),
5 if it a permit for a major diversion, if the department finds that any of the following
6 applies:

7 **SECTION 159.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

8 30.18 (6m) (a) 1. ~~That the~~ The water being diverted is no longer surplus water,
9 ~~except that the department may allow the diversion to continue if all riparians has~~
10 become water that is being beneficially used, unless all riparian owners adversely
11 affected by the diversion continue to consent to it.

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

14 **SECTION 160.** 30.18 (6m) (b) of the statutes is amended to read:

15 30.18 (6m) (b) Streams; discretionary rescission. The department may ~~revoke~~
16 rescind any permit issued under sub. (5) (a), which is not subject to sub. (2) (b), if it
17 a permit for a major diversion, if the department finds that the diversion is
18 detrimental to the stream from which the water is diverted.

19 **SECTION 161.** 30.18 (6m) (c) of the statutes is amended to read:

20 30.18 (6m) (c) Major diversion. The department may ~~revoke a~~ rescind any
21 permit issued under sub. (5) (b) for a major diversion only as provided under s. 281.35
22 (6).

23 **SECTION 162.** 30.18 (7) of the statutes is amended to read:

24 30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION WORK. ~~After an application~~
25 under this section has been filed with the department, the applicant may enter any

1 land through which it is proposed to divert the water for the purposes of making any
2 surveys required for drafting the plans for the project, but no work shall Work may
3 not be commenced on the canal, headworks, or other structures necessary for the
4 project for which a permit has been issued under this section until the plans for the
5 same canal, headworks, or other structures have been approved by the department.
6 Any person ~~having received~~ who has been issued a permit required under sub. (2) (a)
7 for a diversion that is not a major diversion may ~~construct~~ commence the work upon
8 the land of another ~~the canal and other works~~ as authorized by the permit only after
9 the ~~damage which will be sustained by the owner or owners of such~~ of that land has
10 been ~~satisfied, or has been determined as provided for in ch. 32, and~~ compensated for
11 any damages that the owner will incur as a result of the work or after the final sum
12 se for condemnation of the property under ch. 32 has been determined and all costs
13 have been paid to the ~~persons entitled thereto~~ owner or to the clerk of the circuit court
14 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.

15 **SECTION 163.** 30.18 (8) of the statutes is renumbered 30.353.

16 **SECTION 164.** 30.18 (9) of the statutes is repealed.

17 **SECTION 165.** 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)

18 and amended to read:

19 30.19 (1g) PERMITS REQUIRED. (intro.) Unless a permit has been granted by the
20 department issued under this section or authorization has been granted by the
21 legislature, it is unlawful no person may do any of the following:

22 **SECTION 166.** 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and
23 amended to read:

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

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

8 **SECTION 167.** 30.19 (1) (b) of the statutes is renumbered 30.19 (1g) (b) and
9 amended to read:

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

14 **SECTION 168.** 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
15 amended to read:

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

19 **SECTION 169.** 30.19 (1b) of the statutes is created to read:

20 30.19 (1b) DEFINITION. In the section, “artificial water body” means a proposed
21 or existing body of water that does not have a history of being a lake or stream or of
22 being part of a lake or stream.

23 **SECTION 170.** 30.19 (1m) (intro.) of the statutes is amended to read:

24 30.19 (1m) ~~EXCEPTION.~~ EXCEPTIONS. (intro.) Subsection (1) (1g) does not apply
25 to any of the following:

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

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

3 **SECTION 172.** 30.19 (1m) (b) of the statutes is amended to read:

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

5 **SECTION 173.** 30.19 (1m) (c) and (d) of the statutes are repealed.

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.

6 **SECTION 174.** 30.19 (1m) (e) of the statutes is amended to read:

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

10 **SECTION 175.** 30.19 (1m) (f) of the statutes is created to read:

11 30.19 (1m) (f) Any work required to maintain any water body that serves as
12 a connection under sub. (1g) (b).

13 **SECTION 176.** 30.19 (2) (intro.) and (a) to (d) of the statutes are repealed.

14 **SECTION 177.** 30.19 (2) (e) of the statutes is renumbered 30.19 (3b) (b) and
15 amended to read:

16 30.19 (3b) (b) ~~The name and address of the secretary of any property owners'~~
17 ~~association pertaining~~ formed with respect to the bodies of water affected by the
18 ~~project or if there is no such association, the names and addresses of.~~ If no property
19 owners' association exists, the department shall give notice to at least 5 persons who
20 own real property located adjacent to the bodies of water. If fewer than 5 persons own
21 real property located adjacent to the bodies of water, the names and addresses of such

1 ~~persons that own real estate so located shall be given~~ department shall give notice
2 to all of these persons.

3 SECTION 178. 30.19 (2) (f) of the statutes is repealed.

4 SECTION 179. 30.19 (3) (title) of the statutes is repealed.

5 SECTION 180. 30.19 (3) (a) of the statutes is renumbered 30.19 (3b) (a) and
6 amended to read:

7 30.19 (3b) (a) ~~Section 30.02 (3) and (4) applies to permit applications under sub.~~
8 ~~(1) (b) and (c). Notice shall be provided to the clerks of the county and~~ The clerk of
9 each municipality in which the project or affected body of water is located and to the
10 persons under sub. (2) (e). For any permit application which affects the.

11 (c) The Milwaukee Metropolitan Sewerage District for a project that would
12 affect the Milwaukee River, the Menomonee River, the Kinnickinnic River, the Root
13 River or any tributary of those rivers, special notice shall be given to the Milwaukee
14 metropolitan sewerage district. The metropolitan sewerage district shall have 30
15 days to respond to the special notice.

16 SECTION 181. 30.19 (3) (b) of the statutes is repealed.

17 SECTION 182. 30.19 (3b) (intro.) of the statutes is created to read:

18 30.19 (3b) ACTION BY DEPARTMENT. (intro.) Upon receipt of a complete
19 application for a permit under sub. (1g), the department shall follow the procedure
20 allowing the department to give notice under s. 30.245 or shall deny the application
21 as provided in s. 30.246 (1). Upon receipt of a complete application for a permit under
22 sub. (1g) (b) or (c) for a project in which there is or will be an effect on navigable waters
23 other than an effect on water quality, the department shall give notice of receipt of
24 the application as provided in s. 30.244 or shall deny the application as provided in

1 s. 30.246 (1). In addition to the notice requirements under s. 30.246 (2), the
2 department shall give notice to all of the following:

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.

3 SECTION 183. 30.19 (4) of the statutes is renumbered 30.19 (4) (intro.) and
4 amended to read:

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

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

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

14 (d) No material injury will result to the rights of any riparian owners ~~on any~~
15 ~~body of water affected will result, the department shall issue a permit authorizing~~
16 ~~the enlargement of the affected waterways of real property that abuts any water body~~
17 that is affected by the project.

18 SECTION 184. 30.19 (4) (a) of the statutes is created to read:

19 30.19 (4) (a) The project will not be detrimental to the public interest.

20 SECTION 185. 30.19 (5) of the statutes is amended to read:

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.~~

9 **SECTION 186.** 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 187.** 30.195 (2) of the statutes is repealed and recreated to read:

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

23 **SECTION 188.** 30.195 (3) of the statutes is renumbered 30.195 (3) (intro.) and
24 amended to read:

1 30.195 (3) ~~GRANTING ISSUANCE~~ OF PERMIT. (intro.) ~~Upon application therefor,~~
2 the ~~The~~ department shall ~~grant~~ issue a permit ~~to the~~ under this section if the
3 department determines that all of the following apply:

4 (a) The applicant is the owner of any land to change the course of or straighten
5 a upon which the change in course or straightening of the navigable stream on such
6 land, if such will occur.

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

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

12 (d) The proposed change of course or straightening of the navigable stream will
13 not be detrimental to the rights of other ~~riparians~~ riparian owners located on the
14 stream. If the department finds that the rights of ~~such riparians~~ these riparian
15 owners will be adversely affected, it may ~~grant~~ issue the permit only with ~~their~~ the
16 consent. ~~Such permit may be granted on the department's own motion after its own~~
17 ~~investigation or after public hearing and after giving prior notice of such~~
18 ~~investigation or hearing~~ of all of these riparian owners.

19 **SECTION 189.** 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 new mandatory notice requirements under s. 30.244 and the new hearing requirements under 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.

1 **SECTION 190.** 30.196 of the statutes is renumbered 30.313, and 30.313 (intro.),
2 as renumbered, is amended to read:

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

10 **SECTION 191.** 30.20 (1) (title) of the statutes is repealed and recreated to read:

11 30.20 (1) (title) CONTRACT OR PERMIT REQUIRED.

12 **SECTION 192.** 30.20 (1) (a) of the statutes is amended to read:

13 30.20 (1) (a) ~~No~~ Unless a contract has been entered into with the department
14 under sub. (2), no person may remove any material from the bed of any navigable lake
15 or from the bed of any outlying waters of this state without first obtaining a contract
16 as provided in sub. (2).

17 **SECTION 193.** 30.20 (1) (b) of the statutes is renumbered 30.20 (1) (b) (intro.)
18 and amended to read:

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

5 **SECTION 194.** 30.20 (1) (b) 1. and 2. of the statutes are created to read:

6 30.20 (1) (b) 1. The department has issued the person a permit under sub. (3).

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

9 **SECTION 195.** 30.20 (1) (c) of the statutes is repealed and recreated to read:

10 30.20 (1) (c) The exemption under s. 30.215 does not exempt a person from the
11 permitting requirement under par. (b) if the proposed removal for an agricultural
12 purpose is from a farm drainage ditch and the proposed removal may have a
13 long-term adverse effect on cold-water fishery resources or may destroy fish
14 spawning beds or nursery areas. A person who proposes such a removal shall notify
15 the department at least 10 days before the removal is scheduled to start if the
16 removal may have such a long-term adverse effect or may destroy fish spawning
17 beds or nursery areas.

18 **SECTION 196.** 30.20 (1) (d) of the statutes is renumbered 30.263 (3) and
19 amended to read:

20 30.263 (3) The drainage board for the Duck Creek Drainage District may,
21 without a permit under ~~sub. (2) (e)~~ s. 30.20 (3), remove material from a drain that the
22 board operates in the Duck Creek Drainage District if the removal is required, under
23 rules promulgated by the department of agriculture, trade and consumer protection,
24 in order to conform the drain to specifications imposed by the department of

1 agriculture, trade and consumer protection after consulting with the department of
2 natural resources.

3 SECTION 197. 30.20 (2) (title), (a) and (b) of the statutes are amended to read:

4 30.20 (2) (title) CONTRACTS FOR REMOVAL FROM NAVIGABLE LAKES AND OUTLYING
5 WATERS. (a) The department, ~~whenever consistent with public rights,~~ may enter into
6 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any
7 material from the bed of any navigable lake or of any of the outlying waters, and for
8 ~~the lease or sale of the material. Every if the contract is consistent with public rights.~~
9 Each contract entered into under this paragraph shall contain ~~such~~ any conditions
10 ~~as may be that the department determines are~~ necessary for the protection of the
11 public interest and the ~~interests~~ interest of the state and. Each contract entered into
12 under this paragraph shall fix the compensation to be paid to the state for the
13 material ~~so to be~~ removed, except that ~~no~~ the contract may not require that any
14 compensation ~~may~~ be paid for the material if the contract is with a municipality, as
15 defined in s. 281.01 (6), and if the material ~~is to~~ will be used for a municipal purpose
16 and will not for resale. ~~No be resold.~~ Each contract entered into under this
17 paragraph may not run for ~~a longer period~~ more than 5 years.

18 (b) The department, ~~whenever consistent with public rights,~~ may enter into
19 ~~contracts~~ a contract on behalf of the state for the removal of any mineral, ore and,
20 or other material from beneath the bed of a navigable lakes and waters, where water
21 that the state may own if the contract will be consistent with public rights and if the
22 ~~waters would~~ navigable water will not be disturbed in the removal operation and for
23 ~~the lease and sale of such mineral, material and ore and provide the necessary~~
24 ~~regulations for all acts incident thereto. Every such.~~ Each contract entered into
25 under this paragraph shall contain ~~such~~ any conditions ~~as may be that the~~

1 department determines are necessary for the protection of the public interest and the
2 interests interest of the state, and. Each contract entered into under this paragraph
3 shall fix the compensation to be paid to the state for the material, mineral and ore
4 so mineral, ore, or other material to be removed. No Each contract entered into,
5 pursuant to under this paragraph, shall may not run for a longer period more than
6 75 years. Should any doubt exist as to whether the state, in fact, owns such lake bed
7 or stream bed such contract or lease shall be for such interests, if any, as the state
8 may own. Title to the royalties to be paid when After mining operations are have
9 begun, the department shall be determined at such future time as determine the date
10 before which the royalties for ores so sold are paid or any mineral, ore, or other
11 material that is removed and sold are due and payable.

12 **SECTION 198.** 30.20 (2) (c) of the statutes is renumbered 30.20 (3) (a) and
13 amended to read:

14 30.20 (3) (a) ~~A permit~~ The department may issue a permit to remove material
15 from the bed of any lake or stream not ~~included~~ described in sub. (1) (a) ~~may be issued~~
16 ~~by~~ if the department ~~if it finds that the issuance of such a~~ the permit will be
17 consistent with the public interest in the ~~water involved.~~ ~~A permit or contract issued~~
18 ~~under this paragraph may be issued for up to 10 years if the applicant notifies the~~
19 ~~department at least 30 days before removing any material~~ lake or stream.

20 **SECTION 199.** 30.20 (3) (title) and (b) of the statutes are created to read:

21 30.20 (3) (title) PERMITS FOR REMOVAL FROM OTHER WATERS.

22 (b) If an applicant for a permit under par. (a) submits the application at least
23 30 days before the proposed date of the removal, the department may issue the
24 permit for a period of up to 10 years.

25 **SECTION 200.** 30.20 (4) of the statutes is created to read:

1 30.20 (4) ACTION BY DEPARTMENT. (a) Upon receipt of a complete application for
2 a permit or contract under this section for an activity that involves the removal of
3 3,000 or more cubic yards of material, the department shall either deny the
4 application as provided in s. 30.246 (1) or shall give notice of receipt of the application
5 as provided in s. 30.244, except as provided in par. (b).

6 (b) The department shall either deny the application as provided in s. 30.246
7 (1) or shall follow the procedure allowing the department to give notice under s.
8 30.245 if any of the following applies:

- 9 1. The activity involves of the removal of less than 3,000 cubic yards of material.
- 10 2. The activity involves the restoration of the original dimensions of an area
11 legally dredged during the 10 years before the date of application for the permit or
12 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 ss. 30.244, 30.245, and 30.246 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.

13 **SECTION 201.** 30.202 of the statutes is renumbered 30.333, and 30.333 (3), as
14 renumbered, is amended to read:

15 30.333 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
16 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
17 permit, license, approval, authorization, fee, notice, hearing, procedure, or penalty
18 specified under this chapter, s. 29.601, ~~30.01 to 30.20, 30.21 to 30.99~~, 59.692, 61.351,
19 62.231, or 87.30, or chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any
20 rule promulgated, order issued, or ordinance adopted under those sections or
21 chapters.