

Gibson-Glass, Mary

Paul Kent 246-8500

To: Manley, Scott
 Subject: RE: LRB 3040/P1
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-----Original Message-----

From: Manley, Scott
Sent: Monday, September 15, 2003 9:41 AM
To: Gibson-Glass, Mary
Subject: FW: LRB 3040/P1

Mary,

Thank you so much for the timely work on our Chapter 30 draft. We really appreciated having the preliminary draft by Thursday afternoon last week, and we know you worked very hard to make that happen.

Please see the attached response to the drafter's notes and embedded notes. In some cases we are requesting a slight change to language that wasn't part of note, but was an item identified as needing alteration to reflect our intent.

In some cases, we have provided no comments pertaining to an embedded note, which means that the language you drafted is fine "as is" with respect to that particular issue.

Gibson-Glass drafter's notes

1. No comment needed. Language okay as drafted.
2. Draft covers only those permits that we sought to change. However, the draft does not treat all permits under 30.135, 30.18, and 30.196 the same. See comments in Sections 51 and 52 for specific changes.
3. No changes needed. The limitations referenced exist under current law and it is not our intent to change them.
4. Ss. 30.207 should NOT be repealed. These general permits are operational in several areas of Wisconsin and should not be repealed at this time. This should be dealt with in future legislation. These general permits are not in conflict with the general permits created by this draft.
5. No comment needed. Language okay as drafted.
6. No comment needed. Language okay as drafted.

Tradewell drafter's notes

1. Use language proposed by Tradewell in the last sentence of the first paragraph of this note. See respective sections for additional language changes.
2. Draft needs to refer to *erosion control plan* approved by Commerce. Paul Kent will provide a specific reference.

Section-by-Section comments

Section 2 delete page 3, lines 4-5, and renumber list.

Comment: The intent of this change is to remove a wetland that is located in shorelands from the definition of "Area of special natural resource interest."

Section 4 on page 3, line 22, replace "60" with "30" days.

Comment: Reduces the number of days in which the department must make an initial completeness determination.

09/15/2003

Section 12 on page 6, revise lines 5-6 to read: "(b) A structure placed on a seasonal basis that is less than 200 square feet in size and that is less than 38 inches in height.
Comment: Replaces the draft size limit on a seasonal structure with size limit contained in administrative rule on this topic.

Section 12 on page 6, replace line 16 with "(g) A wharf that extends no more than 30 feet."
Comment: Limits the size of wharf that is exempt.

Sections 16 and 17 need to be moved to Section 12 and treated as exempt.
Comment: These activities are intended to be exempt, not subject to General Permits.

D-Note all already OK exempt

Section 23, page 8, line 9, there should be a period within the number "s. 3012"; it should read "s. 30.12"
Comment: Typo

Section 27, page 9, line 10, add the words "or deposit" between the words "...structure pursuant..." and between the words "...structure will..." on lines 12, 13, 14 and then delete lines 15-23.
Comment: The only difference between subparagraphs (c) and (d) in this subsection are the requirements for deposits contained on lines 17-18 and 22-23. Both of these can be deleted. The two subparagraphs can then be merged.

Section 45, embedded note at the bottom of page 13. Draft accurately reflects our intent; no change is required.
Comment: No additional information is needed.

done
 Section 51, page 14, revise 30.135(2)(a) to reflect that the notice and hearing provisions of 30.208(3) to (6) shall apply to a permit applied for under sub (1)(b).
Comment: These permits should be subject to the same notice and hearing provisions that all other individual permits are subject to. As currently drafted, they are subject to different notice and hearing provisions.

Section 52, page 15. Strike this section.
Comment: See comment for Section 51.

30.20 Section 53, Strike this section.
Comment: This section deletes 30.207 from the law. It is not our intent to delete 30.207.

RCT Section 71, page 19 line 1, replace the words "a stormwater management plan" with "a stormwater discharge permit."
Comment: Per Tradewell drafter's note #1, although administrative rules refer to a stormwater management plan, statutes refer to a stormwater discharge permit.

301.653 cell phone 605-212-1729

RCT Section 71, 19, line 11-12, insert "3. An erosion control discharge permit issued by the Department of Commerce (Kent will provide citation)."
Comment: The department of commerce incorporates stormwater discharge plans into its plan review and permitting process. This needs to be reflected in the draft.

RCT Section 74, page 19, line 19, replace "storm water management plan," with "stormwater discharge permit"
Comment: See Comment for Section 71.

Section 82, page 22, embedded note below line 2. Draft accurately reflects our intent; no change is needed.
Comment: No additional information is needed.

Section 94, page 25, line 3, replace the number "3,000" with "1,000"
Comment: Technical change to more accurately reflect practices.

Section 94, page 25, line 5, replace the number "300" with "100"
Comment: See Section 94 comment.

Section 95, page 25, line 11, insert the words "1,000 but less" between "than 3,000"
Comment: See Section 94 comment.

Section 95, page 25, line 12, replace "300" with "100" Replace "years" with "yards" (typo) and replace "3,000" with "1,000"
Comment: See Section 94 comment

Section 99, page 27, line 9, replace "may" with "shall"
Comment: The language of this section should be consistent with all others. This also addresses the first embedded note at the end of this section.

Section 107, page 29, embedded note at the end of line 8.
Comment: We do not want an issuing deadline for additional general permits that DNR may authorize by rule.

Section 112, page 30, should be revised to read as follows: "Upon completion of an activity that the department has authorized under a general permit, the applicant for the general permit shall provide to the department a certification that the activity complies with the conditions of the general permit and a photograph of the activity."

do they all have words



Comment: This addresses the embedded note referencing this section. We want the applicant to provide the department with certification that the activity is not just complete, but that it complies with the conditions of the general permit. The purpose of self-certification and a photograph is to provide the department with notice that the project is complete, and proof that it was completed properly.

30.207

Section 120, Strike this section.
Comment: It is not our intent to delete ss. 30.207. We do not believe this pilot program should be eliminated at this time. Allowing it to continue will not conflict with the other changes made by this draft.

Section 121, page 33, line 15 replace the word "established" with "establish"
Comment: Typo

Section 121, pages 33 (embedded note) and 34 line 4, strike the words "provided by the department"
Comment: Currently, the applicant is responsible for this notice. This practice should continue.

Section 121, page 34, line 114, strike the first word "Hearing"
Comment: Since a hearing may not be held, this sentence should be headlined "Decision," not "Hearing Decision."

Section 123, page 36
Comment: Why is this section in the draft? It is not our intent to make any change relative to farm drainage ditches.

which to be by applicant }
notice of app by dept.
notice of reg. by dept.
notice of admin reg. by dept.

for all 3 - DNR prepares the actual notice, applicant "provides it" (mail, publication, etc.)

Gibson-Glass, Mary

From: Paul Kent [pkent@andersonkent.com]
Sent: Tuesday, September 16, 2003 2:38
To: mary.glass@legis.state.wi.us
Subject: FW: Boathouse section

Mary,

The first one came back so I am trying a modified email address for you.

Paul

Paul G. Kent
Anderson & Kent, S.C.
1 N. Pinckney Street, Suite 200
Madison, WI 53703
(608) 246-8500 Telephone
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-----Original Message-----

From: Paul Kent
Sent: Tuesday, September 16, 2003 2:37 PM
To: 'm.glass@legis.state.wi.us'
Cc: 'scott.manley@legis.state.wi.us'; 'Jerry Deschane'
Subject: Boathouse section

Mary,

Attached as a word document is a draft adding the boathouse exception. Based on further review, I did add a note on other permits. This is because the other exceptions allow the construction to simply proceed. In this exception we merely wanted to get out from the prohibition so that a permit application could be filed. Please let me know if you have any questions.

Paul

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09/20/2003

(3t) Exception; Commercial boathouses. Notwithstanding subsections (2) and (3) a person may construct, repair or maintain a boathouse beyond the ordinary high watermark if:

(a) The boathouse is used exclusively for commercial purposes and does not contain living quarters.

(b) The boathouse is located on land zoned exclusively for commercial or industrial purposes or qualifies as a brownfield area.

(c) The boathouse is located within a commercial harbor on the Great Lakes or on a river that is a tributary to the Great Lakes.

(d) Any applicable permits under ss. 30.12 or 30.19 are obtained from the department.

9/12/03 Per Paul Kent - reference should be to
facility plan approved under s. 281.41 rather than
"wastewater facilities plan approved or authorized
by the department under ~~ss. 283~~ ch. 283.

PK



State of Wisconsin
2003 - 2004 LEGISLATURE

~~LRB~~
LRB-3040/PA
MGG/RPN/RCT:kmgjf
→ P2

D-Note
~~very soon~~
In 9/28

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Due Fri 10/3

Gen. Cat.

1 AN ACT to repeal 30.02, 30.12 (2), 30.12 (3) (b), 30.12 (3) (bn), 30.12 (3) (d), 30.12
2 (4) (title), 30.12 (4m) (title), 30.12 (5), 30.123 (3), 30.123 (5), 30.13 (1), 30.13 (4)
3 (d), 30.18 (9), 30.19 (1m) (c) and (d), 30.19 (2), 30.19 (3), 30.195 (3) (title), 30.195
4 (4), 30.195 (7), 30.20 (1) (c), 30.206 (2), 30.206 (3m), 30.206 (7), 30.207 (title) and
5 (1) (title), 30.207 (1m) to (10), 30.28 (2) (b), 30.28 (2m) (am) and 30.28 (2m) (b);
6 to renumber 30.12 (3) (bt) 1. to 9., 30.12 (4) (d), 30.20 (1) (d) and 30.28 (2) (a);
7 to renumber and amend 30.015, 30.07, 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12
8 (3) (bt) (intro.), 30.12 (4) (a), 30.12 (4) (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f),
9 30.12 (4m), 30.123 (1), 30.123 (4), 30.19 (1) (intro.), 30.19 (1) (a), 30.19 (1) (b),
10 30.19 (1) (c), 30.19 (4), 30.195 (3), 30.206 (1), 30.206 (3), 30.206 (4) and 30.207
11 (1); to amend 29.601 (5) (a), 30.01 (6b), 30.10 (4) (a), 30.12 (title), 30.12 (1)
12 (intro.), 30.12 (1) (a), 30.12 (1) (b), 30.12 (3) (a) 6., 30.12 (3) (c), 30.123 (2), 30.135
13 (1) (a) (intro.), 30.135 (1) (b), 30.135 (2) (a), 30.135 (4), 30.14 (2), 30.18 (2) (a)
14 (intro.), 30.18 (2) (b), 30.18 (4) (a), 30.18 (6) (b), 30.19 (1m) (intro.), 30.19 (1m)
15 (a), 30.19 (1m) (b), 30.19 (1m) (e), 30.19 (4) (title), 30.19 (5), 30.195 (1), 30.196

1 (intro.), 30.20 (1) (a), 30.20 (1) (b), 30.20 (2) (title), 30.20 (2) (a) and (b), 30.20
 2 (2) (c), 30.2026 (2) (d), 30.2026 (3) (a), 30.206 (6), 30.28 (1), 30.28 (2m) (a), 30.28
 3 (2m) (c), 30.28 (2m) (d), 30.28 (2r) (b), 30.28 (3) (b), 30.29 (3) (d), 30.298 (3), 31.39
 4 (2m) (c), 84.18 (6), 236.16 (3) (d) (intro.) and 281.22 (2) (c); *to repeal and*
 5 *recreate* 30.12 (3) (title), 30.12 (3) (a) (intro.), 30.123 (title), 30.195 (2) and
 6 30.20 (1) (title); and *to create* 30.01 (1am), 30.12 (1g) (intro.), (a), (b) and (e) to
 7 (h), 30.12 (3) (a) 9., 30.12 (3) (br), 30.12 (3m), 30.123 (6), 30.123 (7), 30.123 (8),
 8 30.19 (1b), 30.19 (1m) (f), 30.19 (1m) (g), 30.19 (1m) (h), 30.19 (3r), 30.19 (4) (a),
 9 30.19 (4) (b), 30.19 (4) (c) 1., 30.195 (1m), 30.20 (1g), 30.20 (1r), 30.20 (2) (bn),
 10 30.20 (2) (d), 30.20 (2) (e), 30.2022 (title), 30.2023 (title), 30.206 (1) (title), 30.206
 11 (1) (c) 1. to 3., 30.206 (3) (title), 30.206 (3) (c), 30.206 (5) (title), 30.208, 30.209
 12 and 30.215 of the statutes; **relating to:** structures, deposits, and other
 13 activities in or near navigable waters; ^{and renew} notice and hearing procedures for issuing
 14 ^{related to} permits to place structures and materials and to conduct activities in or near
 15 navigable waters; and granting rule-making authority.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

INS
ANL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

16 **SECTION 1.** 29.601 (5) (a) of the statutes is amended to read:
 17 29.601 (5) (a) This section does not apply to any activities carried out under the
 18 direction and supervision of the department of transportation in connection with the
 19 construction, reconstruction, maintenance and repair of highways and bridges in
 20 accordance with s. ~~30.12 (4)~~ 30.2022.

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

2 30.01 (1am) "Area of special natural resource interest" means any of the
3 following:

4 (a) A wetland, as defined in s. 23.32 (1), that is located in shorelands, as defined
5 in s. 59.692 (1) (b).

6 (a) ~~A~~ A state natural area designated or dedicated under ss. 23.27 to 23.29.

7 (b) ~~A~~ A surface water identified by the department as an outstanding or
8 exceptional resource water under s. 281.15.

9 (c) ~~An~~ An area that possesses significant scientific value, as ^{identified} ~~determined~~ by the
10 department.

***NOTE: I did not include "scientific area" because the term is not used in the statutes. The language above is based on s. 281.37 (1) (a) (intro.).

INSERT
3-10

SECTION 3. 30.01 (6b) ^{repealed.} of the statutes is ~~amended to read~~

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

SECTION 4. 30.015 of the statutes is renumbered 30.208 (2) and amended to
read:

30.208 (2) ~~TIME LIMITS FOR ISSUING PERMIT DETERMINATIONS PROCEDURE FOR~~
~~COMPLETING APPLICATIONS.~~ In issuing individual permits under this chapter
subchapter, the department shall initially determine whether a complete application
for the permit has been submitted and, no later than ³⁰60 days after the application
is submitted, notify the applicant in writing about the initial determination of

fix
comp.
12
35

1 completeness. If the department determines that the application is incomplete, the
2 notice shall state the reason for the determination and the specific items of
3 information necessary to make the application complete. An applicant may
4 supplement and resubmit an application that the department has determined to be
5 incomplete. There is no limit on the number of times that an applicant may resubmit
6 an application that the department has determined to be incomplete under this
7 section. The department may not demand items of information that are not specified
8 in the notice as a condition for determining whether the application is complete
9 unless both the department and the applicant agree or unless the applicant makes
10 material additions or alterations to the activity project for which the application has
11 been submitted. The rules promulgated under s. 299.05 apply only to applications
12 for individual permits under this subchapter that the department has determined
13 to be complete.

****NOTE: I changed "chapter" to "subchapter" in s. 30.015 and used the term
"subchapter" elsewhere in this draft since the only other permits to which these
procedures may apply outside of subch. II would be mooring permits under s. 30.722, and
I did not think it was your intent to have these procedures apply to these mooring permits.
If I am incorrect, this will need redrafting.

****NOTE: The interaction between ss. 30.015 and s. 299.05 (1) seems confusing so
I added the last sentence in s. 30.015.

14 SECTION 5. 30.02 of the statutes is repealed.

15 SECTION 6. 30.07 of the statutes is renumbered 30.2095, and 30.2095 (1) (a),
16 as renumbered, is amended to read:

17 30.2095 (1) (a) Except as provided in par. (b), every permit or contract issued
18 under ss. 30.01 to 30.29 for which a time limit is not provided by s. 30.20 (2) is void
19 unless the activity or project is completed within 3 years after the permit or contract
20 was issued.

21 SECTION 7. 30.10 (4) (a) of the statutes is amended to read:

1 30.10 (4) (a) This section does not impair the powers granted by law under s.
2 ~~30.123~~ 30.1235 or by other law to municipalities to construct highway bridges,
3 arches, or culverts over streams.

INS 5-3

4 SECTION 8. 30.12 (title) of the statutes is amended to read:

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

7 SECTION 9. 30.12 (1) (intro.) of the statutes is amended to read:

8 30.12 (1) ~~GENERAL PROHIBITION PERMITS REQUIRED.~~ (intro.) ~~Except as provided~~
9 ~~under subs. (4) and (4m), unless a~~ Unless an individual or general permit has been
10 ~~granted by the department pursuant to statute or issued under this section or~~
11 ~~authorization has been granted by the legislature has otherwise authorized~~
12 ~~structures or deposits in navigable waters, it is unlawful, no person may do any of~~
13 ~~the following:~~

14 SECTION 10. 30.12 (1) (a) of the statutes is amended to read:

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

17 SECTION 11. 30.12 (1) (b) of the statutes is amended to read:

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

20 SECTION 12. 30.12 (1g) (intro.), (a), (b) and (e) to (h) of the statutes are created
21 to read:

22 30.12 (1g) EXEMPTIONS. (intro.) A riparian owner is exempt from the permit
23 requirements under this section for the placement of a structure or the deposit of
24 material if the structure or material ^{is} ~~will be~~ located in an area other than an area of

* *
24

lights in navigable waters

1 special natural resource interest, ^{does} will not interfere with the rights of other riparian
2 owners or with public navigation, and is any of the following:

3 (a) A deposit of sand, gravel, or stone that totals less than 2 cubic yards in any
4 5-year period.

5 (b) A structure ^{other than a pier or a wharf, that is} placed on a seasonal basis that is less ²⁰⁰ 100 square feet in size and
6 ~~that is within 200 feet of the ordinary high water mark.~~ ^{land} ~~less than~~ 38 inches ^{than} in height

7 (e) A boat shelter, boat hoist, or boat lift that is placed on a seasonal basis
8 adjacent to the riparian owner's pier or wharf or to the shoreline on the riparian
9 owner's property.

10 (f) A pier that is no more than 6 feet wide, that extends no further than to a point
11 where the water is 3 feet at its maximum depth, or to the point where there is
12 adequate depth for mooring a boat or using a boat hoist or boat lift, whichever is
13 closer to the shoreline, and which has no more than 2 boat slips for the first 50 feet
14 of riparian owner's shoreline footage and no more than one additional boat slip for
15 each additional 50 feet of the riparian owner's shoreline.

16 (g) A wharf ^{that extends no more than 30 feet.}

17 (h) An intake or outfall structure that is ^{authorized by} required as part of a storm water
18 ~~management plan~~ ^{discharge permit approved by the department under ch. 283} or a wastewater facilities plan approved or authorized by the
19 department under ~~ch. 283~~ ^{5-281.41} ~~ch. 283~~ ^{facility}

20 SECTION 13. 30.12 (2) of the statutes is repealed.

21 SECTION 14. 30.12 (3) (title) of the statutes is repealed and recreated to read:
22 30.12 (3) (title) GENERAL PERMITS.

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

1 30.12 (3) (a) (intro.) The department shall issue statewide general permits
2 under s. 30.206 that authorize riparian owners to do all of the following:

3 **SECTION 16.** 30.12 (3) (a) 2. of the statutes is renumbered 30.12 (1g) (c) and
4 amended to read:

5 30.12 (1g) (c) ~~Place a~~ A fish crib, spawning reef, wing deflector, or similar
6 device that is placed on the bed of navigable waters for the purpose of improving fish
7 habitat.

8 **SECTION 17.** 30.12 (3) (a) 2m. of the statutes is renumbered 30.12 (1g) (d) and
9 amended to read:

10 30.12 (1g) (d) ~~Place a~~ A bird nesting platform, ~~a~~ wood duck house, or similar
11 structure that is placed on the bed of a navigable water for the purpose of improving
12 wildlife habitat.

13 **SECTION 18.** 30.12 (3) (a) 6. of the statutes is amended to read:

14 30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property
15 for the purpose of storing or protecting watercraft and associated materials, except
16 that no general permit may be ~~granted~~ issued for a permanent boat shelter which is
17 constructed after May 3, 1988, if the property on which the permanent boat shelter
18 is to be located also contains a boathouse within 75 feet of the ordinary high-water
19 mark or if there is a boathouse over navigable waters adjacent to the owner's
20 property.

21 **SECTION 19.** 30.12 (3) (a) 9. of the statutes is created to read:

22 30.12 (3) (a) 9. Place an intake or outfall structure that is less than 6 feet from
23 the water side of the ordinary high-water mark and that is less than 25 percent of
24 the width of the channel in which it is placed.

25 **SECTION 20.** 30.12 (3) (b) of the statutes is repealed.

1 SECTION 21. 30.12 (3) (bn) of the statutes is repealed.

2 SECTION 22. 30.12 (3) (br) of the statutes is created to read:

3 30.12 (3) (br) The department may promulgate rules that identify ^{specify} structures
4 or deposits, in addition to those listed in par. (a), that may be authorized by statewide
5 general permits.

6 SECTION 23. 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (2)(b)
7 (intro.) and amended to read: ^{INS. 8-8 (From p. 28) ←}

8 (B) 30.2023 (2) (intro.) A riparian owner is exempt from the permit requirements
9 under sub. (2) and this subsection s. 30.12 ^{30.12 (already fixed)} for a structure that is placed on the bed of
10 a navigable water in the Wolf River and Fox River basin area ^{PLAIN} ^{PLAIN} ^{plain comma} as described in s.
11 30.207 (1), and that extends beyond the ordinary high-water mark, if the following
12 conditions apply:

13 SECTION 24. 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (2) (1) to (9) ✓
14 (a) to (i) ✓

15 SECTION 25. 30.12 (3) (c) of the statutes is amended to read:

16 30.12 (3) (c) The department may promulgate rules deemed necessary to carry
17 out the purposes of impose conditions on general permits issued under par. (a) 6.,
18 including rules to establish minimum standards to govern the architectural features
19 of boat shelters and the number of boat shelters that may be constructed adjacent
20 to a parcel of land. The rules conditions may not govern the aesthetic features or color
21 of boat shelters. The standards conditions shall be designed to assure ensure the
22 structural soundness and durability of a boat shelter boat shelters. A municipality
23 may enact ordinances not inconsistent that are consistent with this section or with
24 rules promulgated under this section regulating paragraph and with any conditions

1 imposed on general permits issued to regulate the architectural features of boat
2 shelters that are under the jurisdiction of the municipality.

3 SECTION 26. 30.12 (3) (d) of the statutes is repealed.

4 SECTION 27. 30.12 (3m) of the statutes is created to read:

5 30.12 (3m) INDIVIDUAL PERMITS. (a) A riparian owner may apply to the
6 department for an individual permit that is required under sub. (1) in order to place
7 a structure for the owner's use or to deposit any material.

8 (b) The notice and hearing provisions of s. 30.208 (3) to (6) shall apply to ^{an}
9 ~~permit applied for~~ ^{application} under par. (a). ^{or a deposit}

10 (c) The department shall issue an individual permit for a structure pursuant
11 to an application under par. (a) if the department finds that all of the following apply:

- 12 1. The structure ^{or deposit} will not materially obstruct navigation.
- 13 2. The structure ^{or deposit} will not be detrimental to the public interest.
- 14 3. The structure ^{or deposit} will not materially reduce the flood flow capacity of a stream.

15 ~~(d) The department shall issue an individual permit for a deposit pursuant to~~
16 ~~an application under par. (a) if the department finds that all of the following apply:~~

- 17 ~~1. The material will be placed for the purpose of improving habitat or~~
18 ~~maintaining littoral drift.~~
- 19 2. The material will not materially obstruct navigation.
- 20 3. The material will not materially reduce the flood flow capacity of a stream.
- 21 4. The deposit of the material will not be detrimental to the public interest.
- 22 ~~5. The deposit of the material will promote public rights and interests in~~
23 ~~navigable waters.~~

24 SECTION 28. 30.12 (4) (title) of the statutes is repealed.

1 **SECTION 29.** 30.12 (4) (a) of the statutes is renumbered 30.2022 (1) and
2 amended to read:

3 30.2022 (1) Activities affecting waters of the state, as defined in s. 281.01 (18),
4 that are carried out under the direction and supervision of the department of
5 transportation in connection with highway, bridge, or other transportation project
6 design, location, construction, reconstruction, maintenance, and repair are not
7 subject to the prohibitions or permit or approval requirements specified under ~~this~~
8 ~~section or~~ s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692, 61.351, 62.231,
9 or 87.30 or chs. 281 to 285 or 289 to 299, except s. 281.48. However, at the earliest
10 practical time prior to the commencement of these activities, the department of
11 transportation shall notify the department of the location, nature, and extent of the
12 proposed work that may affect the waters of the state.

13 **SECTION 30.** 30.12 (4) (b) of the statutes is renumbered 30.2022 (2) and
14 amended to read:

15 30.2022 (2) The exemption under ~~par. (a)~~ sub. (1) does not apply unless the
16 activity is accomplished in accordance with interdepartmental liaison procedures
17 established by the department and the department of transportation for the purpose
18 of minimizing the adverse environmental impact, if any, of the activity.

19 **SECTION 31.** 30.12 (4) (c) of the statutes is renumbered 30.2022 (3) and
20 amended to read:

21 30.2022 (3) If the department determines that there is reasonable cause to
22 believe that an activity being carried out under ~~this subsection~~ section is not in
23 compliance with the environmental protection requirements developed through
24 interdepartmental liaison procedures, it shall notify the department of
25 transportation. If the secretary and the secretary of transportation are unable to

1 agree upon the methods or time schedules to be used to correct the alleged
2 noncompliance, the secretary, notwithstanding the exemption provided in this
3 subsection section, may proceed with enforcement actions as the secretary deems
4 appropriate.

5 SECTION 32. 30.12 (4) (d) of the statutes is renumbered 30.2022 (4).

6 SECTION 33. 30.12 (4) (e) of the statutes is renumbered 30.2022 (5) and
7 amended to read:

8 30.2022 (5) Except as may be required otherwise under s. 1.11, no public notice
9 or hearing is required in connection with any interdepartmental consultation and
10 cooperation under this subsection section.

11 SECTION 34. 30.12 (4) (f) of the statutes is renumbered 30.2022 (6) and amended
12 to read:

13 30.2022 (6) This subsection section does not apply to activities in the Lower
14 Wisconsin State Riverway, as defined in s. 30.40 (15).

15 SECTION 35. 30.12 (4m) (title) of the statutes is repealed.

16 SECTION 36. 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12
17 (1m) (c) (intro.), as renumbered, is amended to read:

18 30.12 (1m) (c) (intro.) ~~Subsection (1) does not apply to a~~ A structure or deposit
19 that the drainage board for the Duck Creek Drainage District places in a drain that
20 the board operates in the Duck Creek Drainage District is exempt from the permit
21 requirements under this section if either of the following applies:

22 SECTION 37. 30.12 (5) of the statutes is repealed.

23 SECTION 38. 30.123 (title) of the statutes is repealed and recreated to read:

24 30.123 (title) **Bridges and culverts.**

INS 11-22 ✓

1 SECTION 39. 30.123 (1) of the statutes is renumbered 30.1235 and amended to
2 read:

3 **30.1235 Municipal bridge construction.** Municipalities which construct or
4 reconstruct highway bridges shall not be required to obtain permits under this
5 section ~~or s. 30.10 or s. 30.12 or 30.123~~ for such that construction or reconstruction.
6 All municipal highway bridges shall be constructed or reconstructed in accordance
7 with standards developed under s. 84.01 (23).

8 SECTION 40. 30.123 (2) of the statutes is amended to read:

9 **30.123 (2) PERMITS REQUIRED.** ~~Except as provided in sub. (1) and s. 30.12 (4)~~
10 Unless an individual or general permit has been issued under this section or
11 authorization has been granted by the legislature, no person may construct or
12 maintain a bridge or culvert in, on, or over navigable waters unless a permit has been
13 issued by the department under this section. The application for a permit shall
14 contain the applicant's name and address, the proposed location of the bridge, a cross
15 section and plan view of the navigable waters and adjacent uplands, a description
16 of materials to be used in construction of the bridge, plans for the proposed bridge,
17 evidence of permission to construct the bridge from the riparian owners and any
18 other information required by the department.

19 SECTION 41. 30.123 (3) of the statutes is repealed.

20 SECTION 42. 30.123 (4) of the statutes is renumbered 30.123 (8) (c) and
21 amended to read:

22 **30.123 (8) (c)** ~~The department shall review the plans for the proposed bridge~~
23 ~~to determine whether the proposed bridge will be an obstruction to navigation or will~~
24 ~~adversely affect the flood flow capacity of the stream. The department shall grant~~
25 the issue an individual permit if the proposed pursuant to an application under par.

1 (a) if the department finds that the bridge or culvert will not materially obstruct
2 navigation, will not materially reduce the effective flood flow capacity of a stream or
3 be, and will not be detrimental to the public interest.

4 SECTION 43. 30.123 (5) of the statutes is repealed.

(2)

5 SECTION 44. 30.123 (6) of the statutes is created to read:

??

6 30.123 (6) EXEMPTIONS. ~~A riparian owner is exempt from the permit~~
7 ~~requirements under this section for all of the following:~~ *Subsection (1) does not apply to any*

8 (a) The construction and maintenance of highway bridges to which s. 30.1235
9 applies.

10 (b) The construction and maintenance of bridges by the department of
11 transportation in accordance with s. 30.2022.

12 (c) The construction and maintenance of culverts that have an inside diameter
13 that does not exceed 48 inches and that are part of private roads or private driveways.

****NOTE: Note that the restriction under s. 30.123 (2) under current law and in this draft is limited to "construction" and "maintenance". Therefore, for consistency and so that the exemption does not exceed the scope of the restriction, I have included only "construction" and "maintenance" in the list of exemptions under s. 30.123 (6).

14 SECTION 45. 30.123 (7) of the statutes is created to read:

15 30.123 (7) GENERAL PERMITS. (a) The department shall issue statewide general
16 permits under s. 30.206 that authorize riparian owners to do all of the following:

17 1. Construct and maintain a bridge that will cross a navigable water that is less
18 than 35 feet wide.

19 2. Construct and maintain a culvert *that has* with an inside diameter that does not
20 exceed 60 inches.

****NOTE: The draft provided did not finish this sentence. Please advise.

~~SECTION 45. 30.135 (1)(a)~~

1 (b) The department may promulgate rules that ~~identify~~ ^{specify} bridges or culverts, in
2 addition to those listed in par. (a), that may be authorized by statewide general
3 permits.

4 SECTION 46. 30.123 (8) of the statutes is created to read:

5 30.123 (8) INDIVIDUAL PERMITS. (a) ~~A riparian owner~~ ^{Any person} may apply to the
6 department for an individual permit that is required under sub. (1) in order to
7 construct or maintain a bridge or culvert.

8 (b) The notice and hearing provisions of s. 30.208 (3) to (6) shall apply to ~~an~~
9 ~~permit applied for~~ ^(an application) under par. (a).

10 SECTION 47. 30.13 (1) of the statutes is repealed.

11 ~~SECTION 48. 30.13 (2) of the statutes is repealed.~~

12 ~~SECTION 48. 30.13 (4)(d) of the statutes is repealed.~~

13 ~~SEC. #. 30.135 (1) (title) of the statutes is repealed.~~

14 SECTION 49. 30.135 (1) (a) (intro.) of the statutes is amended to read:

15 30.135 (1) ~~(a)~~ ^{owner} (intro.) A riparian proprietor ~~may place~~ ^{placing} a water ski
16 platform or water ski jump in a navigable waterway ~~without obtaining a~~ ^{is exempt}
17 ~~from the permit requirements under this chapter~~ if all of the following requirements
18 are met: ^{renumbered 30.135(2) and}

19 SECTION 50. 30.135 (1) (b) of the statutes is amended to read:

20 30.135 (1) ~~(b)~~ ⁽²⁾ If the department determines that any of the requirements under
21 ~~par. (a)~~ ^{Sub. (1)} are not met, the riparian owner shall submit ~~a permit~~ ^{an application} for an
22 individual permit to the department. ^{The notice and hearing provisions}
23 ^{under s. 30.208 (3) to (6) apply to the application.}

24 ~~SECTION 51. 30.135 (2) of the statutes is amended to read:~~

25 30.135 (2) (a) Upon receipt of a complete permit application for an individual
permit, the department shall either order a hearing or provide notice stating that it
will proceed on the application without a hearing unless a substantive written
objection to issuance of the permit is received within 30 days after publication of the

Fix comp.

PERMIT REQUIRED

INS 14-10B

INS 14-10A

(intro.)

INS 14-16

(2), (3) and

1 notice. The department shall provide a copy of the notice to the applicant for the
 2 permit, the clerk of each municipality in which the water ski platform or water ski
 3 jump is to be located and to any other person required by law to receive notice. The
 4 department may provide notice to other persons as it considers appropriate. The
 5 applicant shall publish the notice as a class 1 notice under ch. 985 in a newspaper
 6 designated by the department that is likely to give notice in the area affected. The
 7 applicant shall file proof of publication with the department.

Six comp.

8 SECTION 52. 30.135 (4) of the statutes ~~is~~ amended to read:

9 30.135 (4) EXEMPTION. Section 30.02 ~~30.208 (3) to (6)~~ ^{is repealed.} does not apply to permit
 10 applications submitted under this section. ^{applies}

11 SECTION 53. 30.14 (2) of the statutes is amended to read:

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

19 SECTION 54. 30.18 (2) (a) (intro.) of the statutes is amended to read:

20 30.18 (2) (a) Streams. (intro.) No person may divert water from a stream in
 21 this state without ~~a~~ an individual permit under this section if the diversion meets
 22 either of the following conditions:

23 SECTION 55. 30.18 (2) (b) of the statutes is amended to read:

24 30.18 (2) (b) Streams or lakes. No person, except a person required to obtain
 25 an approval under s. 281.41, may divert water from any lake or stream in this state

1 without ~~a~~ individual permit under this section if the diversion will result in a water
2 loss averaging 2,000,000 gallons per day in any 30-day period above the person's
3 authorized base level of water loss.

4 SECTION 56. 30.18 (4) (a) of the statutes is amended to read:

5 30.18 (4) (a) Upon receipt of a complete application, the department shall
6 follow the notice and hearing procedures under s. 30.02 (3) and (4) 30.208 (3) to (6).
7 In addition to the notice requirements providing notice as required under s. 30.02 (3)
8 and (4) 30.208 (3) ^{to (6)} and (5), the department shall mail a copy of the notice to every
9 person upon whose land any part of the canal or any other structure will be located,
10 to the clerk of the next town downstream, to the clerk of any village or city in which
11 the lake or stream is located and which is adjacent to any municipality in which the
12 diversion will take place and to each person specified in s. 281.35 (5) (b) or (6) (f), if
13 applicable.

14 SECTION 57. 30.18 (6) (b) of the statutes is amended to read:

15 30.18 (6) (b) *Use of water.* A person issued a permit under this section for the
16 purpose of irrigation or agriculture may use the water on any land contiguous to the
17 permittee's riparian land, but may not withdraw more water than it did before
18 August 1, 1957, without applying to the department for a modification of the permit.

19 SECTION 58. 30.18 (9) of the statutes is repealed.

***NOTE: Since navigable water permits are now subject to the specific procedures
under s. 30.209, s. 30.18 (9) is repealed. See 30.209 (2).

20 SECTION 59. 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)
21 and amended to read:

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

4 SECTION 60. 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and
5 amended to read:

6 30.19 (1g) (a) ~~To construct~~ Construct, dredge, or enlarge any artificial
7 waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the
8 purpose is ~~ultimate connection with an existing navigable stream, lake or other~~
9 navigable waters, or where water body that connects with a navigable waterway.

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

13 SECTION 61. 30.19 (1) (b) of the statutes is renumbered 30.19 (1g) (b) and
14 amended to read:

15 30.19 (1g) (b) ~~To connect any natural or artificially constructed~~ Connect, by a
16 navigable surface channel, any navigable waterway, canal, channel, ditch, lagoon,
17 pond, lake or similar waterway or any artificial water body with an existing body of
18 a navigable water, for navigation or any other purpose waterway.

19 SECTION 62. 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
20 amended to read:

21 30.19 (1g) (c) ~~To grade or otherwise~~ Grade or remove top soil topsoil from the
22 bank of any navigable stream, lake or other body of navigable water waterway where
23 the area exposed by such the grading or removal will exceed 10,000 square feet.

24 SECTION 63. 30.19 (1b) of the statutes is created to read:

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

4 SECTION 64. 30.19 (1m) (intro.) of the statutes is amended to read:

5 30.19 (1m) ~~EXCEPTION~~ EXEMPTIONS. (intro.) ~~Subsection (1) does not apply to A~~
6 person is exempt from the permit requirements under this section for any of the
7 following:

8 SECTION 65. 30.19 (1m) (a) of the statutes is amended to read:

9 30.19 (1m) (a) The construction and or repair of any public highways highway.

10 SECTION 66. 30.19 (1m) (b) of the statutes is amended to read:

11 30.19 (1m) (b) Any agricultural ~~uses~~ use of land.

12 SECTION 67. 30.19 (1m) (c) and (d) of the statutes are repealed.

13 SECTION 68. 30.19 (1m) (e) of the statutes is amended to read:

14 30.19 (1m) (e) Any work required to maintain the original dimensions of an
15 enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a
16 permit or legislative authorization under sub. (1) ~~(a) or (b)~~ (1g) (a) or (am).

17 SECTION 69. 30.19 (1m) (f) of the statutes is created to read:

18 30.19 (1m) (f) Any work required to maintain any water body that serves as
19 a connection under sub. (1g) (b).

20 SECTION 70. 30.19 (1m) (g) of the statutes is created to read:

21 30.19 (1m) (g) The construction, dredging, or enlargement of any artificial
22 water body that is within 500 feet of the ordinary high-water mark of a navigable
23 waterway, if the artificial water body does not have a surface connection to any
24 navigable waterway other than an overflow device and if the construction, dredging,

1 or enlargement is ~~part of a storm water management plan or wastewater facilities~~ ^{authorized by discharge permit approved by the department under ch. 283} (a)

2 plan approved or authorized by the department under ch. 283. ^{S. 281.41 ✓}
3 SECTION 71. 30.19 (1m) (h) of the statutes is created to read: ^{→ a facility}

4 30.19 (1m) (h) Grading or removal of topsoil from the bank of a navigable
5 waterway that is not located in an area of special natural resource interest and where
6 the area exposed by the grading or removal will exceed 10,000 square feet, if any of
7 the following applies:

8 1. The grading or removal is authorized by a storm water discharge permit
9 ^{approved} issued by the department ~~of natural resources~~ ^{under ch. 283}

10 2. The grading or removal is authorized under an ordinance under s. 59.692,
11 61.351, or 62.231.

12 3. The grading or removal is authorized ^{by} an erosion control
SECTION 72. 30.19 (2) of the statutes is repealed. ^{plan pursuant}

13 SECTION 73. 30.19 (3) of the statutes is repealed. ^{to s. 101.653 ✓}

14 SECTION 74. 30.19 (3r) of the statutes is created to read:

15 30.19 (3r) GENERAL PERMITS. (a) The department shall issue statewide general
16 permits under s. 30.206 that authorize persons to do all of the following:

17 1. Engage in an activity specified in sub. (1g) ~~(a)~~ ~~(am)~~ ~~or (b)~~ that is not exempt
18 under sub. (1m) (g) if the construction, dredging, enlargement, or connection is ~~part~~
19 ^{authorized by} of a storm water ~~management plan~~ ^{→ a} or wastewater facility plan approved ~~by~~
20 ^{authorized by the department under ch. 283. S. 281.41}

21 2. Engage in an activity specified in sub. (1g) (a) or (am) if the construction,
22 dredging, or enlargement is designed to enhance wetlands ^{or wetlands,} or wildlife habitat ^{as defined}

***NOTE: I omitted the phrase "waterfowl habitat" because that would be included
in "wildlife habitat". ^{in s. 23.32(1) ✓}
^{discharge permit approved by the department under ch. 283} ^{→ permit}

*that is not exempt
under sub. (1m)(h)* SECTION 74 ✓

1 3. Engage in an activity specified in sub. (1g) (c) if the area exposed by the
2 grading or removal will exceed 10,000 square feet.

3 (b) The department may promulgate rules that ~~identify~~ ^{specify} other types of
4 activities, in addition to those listed in par. (a), that may be authorized by statewide
5 general permits.

6 SECTION 75. 30.19 (4) (title) of the statutes is amended to read:

7 30.19 (4) (title) ~~ISSUANCE OF PERMIT~~ INDIVIDUAL PERMITS.

8 SECTION 76. 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and
9 amended to read:

10 30.19 (4) (c) (intro.) ~~If the~~ The department finds that the project will not injure
11 public rights or interest, including fish and game habitat, that the project shall issue
12 an individual permit pursuant to an application under par. (a) if the department
13 finds that all of the following apply:

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

16 3. 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 4. 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 real property that abuts any water body
22 that is affected by the activity.

23 SECTION 77. 30.19 (4) (a) of the statutes is created to read:

24 30.19 (4) (a) A person may apply to the department for an individual permit
25 to engage in activities for which a permit is required under sub. (1g).

1 SECTION 78. 30.19 (4) (b) of the statutes is created to read:

2 30.19 (4) (b) The notice and hearing provisions of s. 30.208 (3) to (6) apply to
3 ~~a permit applied for~~ ^{an application} under par. (a).

4 SECTION 79. 30.19 (4) (c) 1. of the statutes is created to read:

5 30.19 (4) (c) 1. The activity will not be detrimental to the public interest.

6 SECTION 80. 30.19 (5) of the statutes is amended to read:

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

15 SECTION 81. 30.195 (1) of the statutes is amended to read:

16 30.195 (1) PERMIT REQUIRED. ~~No~~ Unless a permit has been issued under this
17 section or authorization has been granted by the legislature, no person may change
18 the course of or straighten a navigable stream without a permit issued under this
19 section or without otherwise being expressly authorized by statute to do so.

20 SECTION 82. 30.195 (1m) of the statutes is created to read:

21 30.195 (1m) GENERAL PERMITS. (a) The department shall issue statewide
22 general permits under s. 30.206 that authorize riparian owners to change the course
23 of or straighten a navigable stream under the following circumstances:

24 1. The change or straightening involves a relocation of less than a total of 500
25 feet in stream length.

1 2. The change or straightening involves a relocation of a stream with an
2 average flow of less than 2 cubic feet per second.

~~****NOTE: The draft provided did not finish this sentence. Please advise.~~

3 (b) The department may promulgate rules that ~~identify~~^{specify} other circumstances,
4 in addition to those listed in par. (a), that may be authorized by statewide general
5 permits.

6 **SECTION 83.** 30.195 (2) of the statutes is repealed and recreated to read:

7 30.195 (2) INDIVIDUAL PERMITS. (a) A person may apply to the department for
8 an individual permit to engage in activities for which a permit is required under sub.
9 (1).

10 (b) The notice and hearing provisions of s. 30.208 (3) to (6) apply to ~~a permit~~
11 ~~applied for~~^{an application} under par. (a) if the activity subject to the permit involves the relocation
12 of ~~more than~~^{or more} a total of 500 feet in stream length.

13 **SECTION 84.** 30.195 (3) (title) of the statutes is repealed.

14 **SECTION 85.** 30.195 (3) of the statutes is renumbered 30.195 (2) (c) and
15 amended to read:

16 30.195 (2) (c) ~~Upon application therefor, the~~ The department shall grant a
17 issue an individual permit to the applied for under this section if the department
18 determines that all of the following apply:

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

22 2. The proposed change of course or straightening of the navigable stream will
23 improve the economic or aesthetic value of the owner's applicant's land and will.

1 3. The proposed change of course or straightening of the navigable stream will
2 not adversely affect the flood flow capacity of the stream or otherwise be detrimental
3 to ~~public rights or~~ the public interest.

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

11 SECTION 86. 30.195 (4) of the statutes is repealed.

12 SECTION 87. 30.195 (7) of the statutes is repealed.

13 SECTION 88. 30.196 (intro.) of the statutes is amended to read:

14 **30.196 Enclosure of navigable waters; issuance of permits to**
15 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
16 placing or restricting navigable waters into an enclosed drain, conduit, storm sewer
17 or similar structure if the department grants the municipality ~~a~~ an individual
18 permit. The department may grant this permit to a municipality after following the
19 notice and hearing requirements under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (6) if it finds
20 that granting the permit:

21 SECTION 89. 30.20 (1) (title) of the statutes is repealed and recreated to read:

22 30.20 (1) (title) PERMITS ^{OR CONTRACTS} REQUIRED.

23 SECTION 90. 30.20 (1) (a) of the statutes is amended to read:

24 30.20 (1) (a) ~~No~~ Unless a contract has been entered into with the department
25 under sub. (2) (a) or (b) or authorization has been granted by the legislature, no

1 person may remove any material from the bed of any a natural navigable lake or from
2 the bed of any outlying waters of this state without first obtaining a contract as
3 provided in sub. (2).

4 SECTION 91. 30.20 (1) (b) of the statutes is amended to read: *an individual or*
5 30.20 (1) (b) ~~Except as provided under pars. (c) and (d), Unless a permit has~~ *general*
6 ~~been issued by the department under sub. (2)(c) or authorization has been granted~~ *this section*
7 ~~by the legislature, no person may remove any material from the bed of any lake or~~ *a natural*
8 ~~navigable stream not mentioned under par. (a) without first obtaining a permit from~~ *navigable*
9 the department under sub. (2) (e).

10 SECTION 92. ~~30.20 (1) (c) of the statutes is repealed.~~

11 SECTION 93. 30.20 (1) (d) of the statutes is renumbered 30.20 (1g) (c).

INS
24-
11

12 SECTION 94. 30.20 (1g) of the statutes is created to read:
13 30.20 (1g) EXEMPTIONS. ~~(a) The exemption under s. 30.215 does not exempt a~~
14 ~~person from the permit requirement under sub. (1) (b) if the department finds that~~
15 ~~the proposed removal may have a long-term adverse effect on cold-water fishery~~
16 ~~resources or may destroy fish spawning beds or nursery areas. A person who~~
17 ~~proposes such a removal shall notify the department at least 10 days before the~~
18 ~~removal is scheduled to start if the removal may have such a long-term adverse effect~~
19 ~~or may destroy fish spawning beds or nursery areas.~~

INS
24-19

20 (b) A person is exempt from the permit *and* contract requirements *Stat* under subs.
21 *this section* (1) and (2) for removal of material if the material does not contain hazardous
22 substances, the material will be placed in an upland area, the material is not being
23 removed from an area of special natural resource interest, and if any of the following
24 applies:

1 1. The removal will be from an area from which material has been previously
2 removed, the removal is for maintenance purposes, and the material to be removed
3 does not exceed ~~3,000~~^{1,000} cubic yards.

4 2. The removal will be from an area from which no material has been previously
5 removed and the material to be removed does not exceed ~~300~~¹⁰⁰ cubic yards.

6 ~~3. The removal will be from a nonnavigable lake or stream.~~ D-Note

7 **SECTION 95.** 30.20 (1r) of the statutes is created to read:

8 **30.20 (1r) GENERAL PERMITS.** (a) The department shall issue statewide general
9 permits under s. 30.206 that authorize riparian owners to do all of the following:

10 1. Remove material for the purpose of maintaining an area where the amount
11 previously removed exceeds more than ~~3,000~~^{1,000} cubic yards of material.

12 2. Remove from ~~300~~¹⁰⁰ cubic yards to ~~3,000~~^{1,000} cubic yards in an area where no
13 previous removal of material has occurred.

14 (b) The department may promulgate rules that ~~identify~~^{specify} other types of
15 removals, in addition to those listed in par. (a), that may be authorized by statewide
16 general permits.

17 **SECTION 96.** 30.20 (2) (title) of the statutes is amended to read:

18 **30.20 (2) (title) CONTRACTS FOR REMOVAL AND INDIVIDUAL PERMITS.**

19 **SECTION 97.** 30.20 (2) (a) and (b) of the statutes are amended to read:

20 **30.20 (2) (a)** The department, ~~whenever consistent with public rights,~~ may
21 enter into ~~contracts~~ a contract on behalf of the state for the removal and lease or sale
22 of any material from the bed of any navigable lake or of any of the outlying waters,
23 and for the lease or sale of the material. ~~Every~~ if the contract is consistent with public
24 rights. A person seeking to enter into such a contract shall apply to the department.
25 Each contract entered into under this paragraph shall contain such any conditions

1 as may be that the department determines are necessary for the protection of the
2 public interest and the interests of the state and. Each contract entered into under
3 this paragraph shall also fix the amount of compensation to be paid to the state for
4 the material so to be removed, except that no the contract may not require that any
5 compensation may be paid for the material ~~if the contract is with a municipality as~~
6 ~~defined in s. 281.01 (6) and the material is to be used for a municipal purpose and~~
7 ~~not for resale. No if the material will not be resold.~~ Each contract entered into under
8 this paragraph may not run for a longer period more than 5 years.

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

1 begun shall be determined at such future time as royalties for ores so sold are paid
2 or are due and payable.

3 SECTION 98. 30.20 (2) (bn) of the statutes is created to read:

4 30.20 (2) (bn) A person may apply to the department for an individual permit
5 that is required under sub. (1) (b) to remove material from the bed of any lake or
6 stream not described under sub. (1) (a).

7 SECTION 99. 30.20 (2) (c) of the statutes is amended to read:

8 30.20 (2) (c) ~~A permit to remove material from the bed of any lake or stream~~
9 ~~not included in sub. (1) (a) may be issued by the department if it~~ The department may
10 issue an individual permit pursuant to an application under par. (bn) if the
11 department finds that the issuance of such a ~~the~~ permit will be consistent with the
12 public interest in the water involved. A permit or contract issued under this
13 paragraph may be issued for up to 10 years if the applicant notifies the department
14 at least 30 days before removing any material lake or stream.

****NOTE. The issuance of the permit under s. 30.20 (2) (c) is discretionary, all the
other individual permits are mandatory if the department makes the required findings.
OK?

****NOTE: Note that anyone can apply and receive an individual permit or a
contract; however only riparian owners are authorized to act under general permits. OK?

15 SECTION 100. 30.20 (2) (d) of the statutes is created to read:

16 30.20 (2) (d) If an applicant for a permit under par. (bn) submits the application
17 at least 30 days before the proposed date of the removal, the department may issue
18 the permit for a period of up to 10 years.

19 SECTION 101. 30.20 (2) (e) of the statutes is created to read:

20 30.20 (2) (e) The notice and hearing provisions of s. 30.208 (3) to (6) apply to
21 an application for
a permit or contract applied for under this subsection.

22 SECTION 102. 30.2022 (title) of the statutes is created to read:

1 **30.2022 (title) Activities of department of transportation.**

2 ~~SECTION 103. 30.2023 (title) of the statutes is created to read:~~

3 ~~30.2023 (title)~~ **Seawalls; Wolf River and Fox River basins.**

SCORE

INS.
8-8

4 **SECTION 104. 30.2026 (2) (d) of the statutes is amended to read:**

5 **30.2026 (2) (d) The village of Belleville shall create any artificial barrier under**
6 **this section in compliance with all state laws that relate to navigable bodies of water,**
7 **except s. 30.12 (1) and (2).**

8 **SECTION 105. 30.2026 (3) (a) of the statutes is amended to read:**

9 **30.2026 (3) (a) The village of Belleville shall maintain any artificial barrier**
10 **created as authorized under sub. (1). If a landowner of more than 500 feet of Lake**
11 **Belle View shoreline, a portion of which is located within 1,000 feet of any such**
12 **artificial barrier, is dissatisfied with the manner in which the village of Belleville is**
13 **maintaining the barrier, the owner may maintain the barrier in lieu of the village,**
14 **upon approval of the department. The village or a landowner who maintains the**
15 **barrier shall comply with all state laws that relate to navigable bodies of water,**
16 **except s. 30.12 (1) and (2). The department may require the village of Belleville or**
17 **the landowner to maintain the barrier in a structurally and functionally adequate**
18 **condition.**

****NOTE: Please review the cross-reference change in s. 30.2026 (2) (d) and (3) (a) to insure that it complies with your intent. I think current law requires getting s. 30.12 (3)-type permits, if applicable, but exempts the Lake Belle View and Sugar River project from s. 30.12 (2)-type permits.

19 **SECTION 106. 30.206 (1) (title) of the statutes is created to read:**

20 **30.206 (1) (title) PROCEDURE FOR ISSUING GENERAL PERMITS.**

21 **SECTION 107. 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and**
22 **amended to read:**

1 30.206 (1) (a) ~~For activities which require a permit or approval under ss. 30.12~~
2 ~~(3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a~~
3 ~~class of activities, according to rules promulgated by the department. Before The~~
4 ~~department shall issue the statewide general permits required under ss. 30.12 (3)~~
5 ~~(a), 30.123 (7) (a), 30.19 (3r) (a), 30.195 (1m) (a), and 30.20 (1r) (a) within 540 days~~
6 ~~after the effective date of this paragraph ... [revisor inserts date].~~ General permits
7 ~~issued under s. 30.206, 2001 stats., and s. 30.207, 2001 stats., shall remain valid until~~
8 ~~the date upon which the statewide permits are issued under this paragraph.~~

30.20
?
****NOTE: Do you want an issuing deadline for "additional" general permits that
DNR may authorize by rule?

9 (b) Before issuing general permits, the department shall determine provide,
10 after an environmental analysis and, notice and hearing under ss. 227.17 and
11 227.18, that.

12 (c) To ensure that the cumulative adverse environmental impact of the class
13 ~~of activity~~ activities authorized by a general permit is insignificant and that the
14 issuance of the general permit will not injure public rights or ~~interest interests,~~ cause
15 environmental pollution, as defined in s. 299.01 (4), or result in material injury to the
16 rights of any riparian owner, the department may impose any of the following
17 conditions on the permit:

18 SECTION 108. 30.206 (1) (c) 1. to 3. of the statutes are created to read:

19 30.206 (1) (c) 1. Construction and design requirements that are consistent with
20 the purpose of the activity authorized under the permit.

21 2. Location requirements that ensure that the activity will not materially
22 interfere with navigation or have an adverse impact on the riparian property rights
23 of adjacent riparian owners.

1 3. Restrictions to protect areas of special natural resource interest.

2 SECTION 109. 30.206 (2) of the statutes is repealed.

3 SECTION 110. 30.206 (3) (title) of the statutes is created to read:

4 30.206 (3) (title) PROCEDURES FOR CONDUCTING ACTIVITIES UNDER GENERAL
5 PERMITS.

6 SECTION 111. 30.206 (3) of the statutes is renumbered 30.206 (3) (a) and
7 amended to read:

8 30.206 (3) (a) A person wishing to proceed with an activity that may be
9 authorized by a general permit shall apply to the department, with written
10 notification of the person's wish to proceed, not less than 20 business 30 days before
11 commencing the activity authorized by a general permit. The department may
12 request additional information from the applicant notification shall provide
13 information describing the activity in order to allow the department to determine
14 whether the activity is within the scope of a authorized by the general permit and
15 shall inform the applicant in writing of its determination within 10 business days
16 after receipt of adequate information.

17 SECTION 112. 30.206 (3) (c) of the statutes is created to read:

18 30.206 (3) (c) Upon completion of an activity that the department has
19 authorized under a general permit, the applicant for the general permit shall provide
20 to the department a ~~statement that the activity has been completed~~ and a
21 photograph of the activity.

****NOTE: I omitted the concept of the applicant certifying that the activity complies with the general permit since it seems that certification of compliance should be done by DNR or an independent party. Please let me know your intent concerning this.

22 SECTION 113. 30.206 (3m) of the statutes is repealed.

1 SECTION 114. 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and
2 amended to read:

3 30.206 (3) (b) ~~Upon receipt of the department's determination that the~~
4 ~~proposed activity is authorized by a general permit, If within 30 days after ~~the~~ a~~
5 ~~application~~ ^{notification} under par. (a) is submitted to the department the department does not
6 require any additional information about the activity that is subject to the
7 ~~application~~ ^{notification} and does not inform the applicant that an individual permit will be
8 required, the activity will be considered to be authorized by the general permit and
9 the applicant may proceed without further notice, hearing, permit or approval if the
10 activity is carried out in compliance with all of the conditions of the general permit.
11 The department may require an individual permit only if it determines that the
12 proposed activity is not authorized by the general permit.

13 SECTION 115. 30.206 (5) (title) of the statutes is created to read:

14 30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

15 SECTION 116. 30.206 (6) of the statutes is amended to read:

16 30.206 (6) REQUEST FOR INDIVIDUAL PERMIT. A person proposing an activity for
17 which a general permit has been issued may request an individual permit under the
18 applicable provisions of this chapter subchapter or ch. 31 in lieu of seeking
19 authorization under the general permit.

20 ~~SECTION 117. 30.206 (7) of the statutes is repealed.~~ _____ INSERT 31-20

21 ~~SECTION 118. 30.207 (title) and (1) (title) of the statutes are repealed.~~

22 SECTION 119. 30.207 (1) of the statutes is ~~renumbered 30.2023 (1) and~~ amended
23 to read:

24 ~~30.2023 (1)~~ ^{30.207} ^{(45) Geographical area.} ^{plain} ~~and s. 30.12 (3) (b),~~ ^{the} 30.2023 the Wolf River and
25 Fox River basin area consists of all of Winnebago County; the portion and shoreline

Fix comp. (22)

1 of Lake Poygan in Waushara County; the area south of STH 21 and east of STH 49
2 in Waushara County; that portion of Calumet County in the Lake Winnebago
3 watershed; all of Fond du Lac County north of STH 23; that portion of Outagamie
4 County south and east of USH 41; that portion of Waupaca County that includes the
5 town of Mukwa, city of New London, town of Caledonia, town of Fremont; and the
6 portion and shoreline of Partridge Lake and the Wolf River in the town of
7 Weyauwega.

8 SECTION 120. 30.207 (1m) to (10) of the statutes are repealed.

INS 32-8

9 SECTION 121. 30.208 of the statutes is created to read:

10 **30.208 Applications for individual permits and contracts; department**
11 **determinations. (1) APPLICATION REQUIRED.** A person who seeks to obtain or modify
12 an individual permit under this subchapter or to enter into a contract under s. 30.20
13 shall submit an application to the department.

14 (3) NOTICE OF APPLICATION AND COMMENTS. (a) In compliance with all of the
15 applicable rules promulgated under sub. (5), ~~the department shall provide~~ notice of
16 each complete application for an individual permit or contract, to interested and
17 potentially interested members of the public, within 30 days after receipt of the
18 complete application.

shall be provided

as determined by the department,

~~***NOTE: I put in a 30-day deadline in s. 30.208(3)(a).~~

19 (b) The department shall provide a period of not less than 30 days following the
20 date of the notice under par. (a), during which time any person may submit written
21 comments with respect to the application for the permit or contract. A person
22 submitting written comments may also submit a request for a public hearing. All
23 written comments submitted during this period for comment shall be retained by the

1 department and considered in the formulation of the final determination on the
2 permit application.

3 (4) PUBLIC HEARING; NOTICE; REQUEST FOR HEARING. (a) The department shall
4 schedule and hold a public hearing on an application for an individual permit or
5 contract if a request for the hearing is timely submitted as required under sub. (3)
6 (b), if a hearing is requested in writing by the permit applicant, or if the department
7 determines that there is a significant public interest in holding the hearing. ~~The~~
8 department shall provide notice of the public hearing ^{shall be provided} in compliance with all of the
9 applicable rules promulgated under sub. (5).

10 (b) The request for the public hearing must be submitted to the department
11 ^{or the department's determination to schedule a hearing must occur} within 30 days after the notice of the application under sub. (3) has been completed.

12 (c) The department shall promulgate rules to establish procedures for the
13 conduct of public hearings held under this subsection. Public hearings held under
14 this subsection are not contested cases under s. 227.01 (3).

***NOTE: I left in the first sentence under par. (c) above because it seems rules should be promulgated since a different hearing procedure is being created.

15 (5) NOTICE REQUIREMENTS. (a) The department shall, by rule, established
16 procedures for providing notices of applications to be provided under sub. (3), notices
17 of public hearings to be provided under sub. (4), and notices of administrative
18 hearings to be provided under s. 30.209 (1). The procedures shall include the

19 ~~following requirements.~~ ^{require all of the following}

- 20 1. ^{That} The notice shall be published as a class 1 notice under ch. 985.
- 21 2. ^{That} The notice shall be mailed to any person or group upon request.

***NOTE: Section 283.39 upon which this provision is based is unclear who must provide, and pay for this notice. I have drafted this so DNR is responsible. OK?

3. ^{That the applicant for the permit pay for the publication, mailing, and any other distribution costs of providing the notice.}

INS
30-21

1 (b) The department shall, by rule, prescribe the form and content of notices of
2 applications to be provided under sub. (3), notices of public hearings to be provided
3 under sub. (4), and notices of administrative hearings to be provided under s. 30.209
4 (1). Each notice ~~provided by the department~~ shall include all of the following
5 information:

- 6 1. The name and address of each applicant *or permit holder*
- 7 2. A brief description of each applicant's activity or project that requires the
8 permit.
- 9 3. The name of the waterway in or for which the activity or project is planned.
10 4. *For notices under sub. (3) or (4), a* statement of the tentative determination to issue or deny a permit for the
11 activity or project described in the application.
- 12 5. *For a notice under sub. (3), a* brief description of the procedures for the formulation of final
13 determinations, including the 30-day comment period required under sub. (3) (b).
- 14 (6) ~~HEARING~~ ^gDECISION. Within 30 days after a public hearing is scheduled as
15 required under sub. (4) (b) or, if no hearing is scheduled, within 30 days after the last
16 day of the 30-day comment period under sub. (3) (b), the department shall render a
17 decision issuing, denying, or modifying the application submitted under sub. (1).

18 SECTION 122. 30.209 of the statutes is created to read: INS

19 **30.209 Individual permits; administrative and judicial review. (1)**
20 ADMINISTRATIVE REVIEW. (a) An applicant for or holder of an individual permit, or 5
21 or more persons, *may file a* petition for administrative review of any of the following
22 decisions given by the department:

- 23 1. The issuance, denial, or modification of any individual permit issued under
24 this subchapter.