



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3040/02

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Sen. Cat.

1 AN ACT to repeal 30.01 (6b), 30.02, 30.12 (2), 30.12 (3) (b), 30.12 (3) (bn), 30.12
2 (3) (d), 30.12 (4) (title), 30.12 (4m) (title), 30.12 (5), 30.123 (3), 30.123 (5), 30.13
3 (1), 30.13 (2), 30.13 (4) (d), 30.135 (1) (title), 30.135 (2), (3), and (4), 30.18 (9),
4 30.19 (1m) (c) and (d), 30.19 (2), 30.19 (3), 30.195 (3) (title), 30.195 (4), 30.195
5 (7), 30.206 (2) and 30.206 (3m); to renumber 30.12 (3) (bt) 1. to 9., 30.12 (4) (d),
6 30.135 (1) (a) 1., 30.135 (1) (a) 3. and 30.20 (1) (c) 3.; to renumber and amend
7 30.015, 30.07, 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12 (3) (bt) (intro.), 30.12 (4)
8 (a), 30.12 (4) (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f), 30.12 (4m), 30.123 (1),
9 30.123 (4), 30.135 (1) (a) (intro.), 30.135 (1) (a) 2., 30.135 (1) (b), 30.19 (1) (intro.),
10 30.19 (1) (a), 30.19 (1) (b), 30.19 (1) (c), 30.19 (4), 30.195 (3), 30.20 (1) (d), 30.206
11 (1), 30.206 (3) and 30.206 (4); to consolidate, renumber and amend 30.20 (1)
12 (c) 1. and 2.; to amend 29.601 (5) (a), 30.01 (1p), 30.10 (4) (a), 30.11 (4), 30.12
13 (title), 30.12 (1) (intro.), 30.12 (1) (a), 30.12 (1) (b), 30.12 (3) (a) 6., 30.12 (3) (c),
14 30.123 (2), 30.13 (1m) (intro.), 30.13 (1m) (b), 30.13 (4) (a), 30.13 (4) (b), 30.18
15 (2) (a) (intro.), 30.18 (2) (b), 30.18 (4) (a), 30.18 (6) (b), 30.19 (1m) (intro.), 30.19

1 (1m) (a), 30.19 (1m) (b), 30.19 (1m) (e), 30.19 (4) (title), 30.19 (5), 30.195 (1),
 2 30.196 (intro.), 30.20 (1) (a), 30.20 (1) (b), 30.20 (2) (title), 30.20 (2) (a) and (b),
 3 30.20 (2) (c), 30.2026 (2) (d), 30.2026 (3) (a), 30.206 (6), 30.206 (7), 30.207 (1),
 4 30.207 (5), 30.28 (3) (b), 30.29 (3) (d), 30.298 (3), 31.39 (2m) (c), 84.18 (6), 236.16
 5 (3) (d) (intro.) and 281.22 (2) (c); **to repeal and recreate** 30.12 (3) (title), 30.12
 6 (3) (a) (intro.), 30.123 (title), 30.195 (2) and 30.20 (1) (title); and **to create** 30.01
 7 (1am), 30.12 (1g) (intro.), (a), (b) and (e) to (h), 30.12 (3) (a) 9., 30.12 (3) (br),
 8 30.12 (3m), 30.121 (3w), 30.123 (6), 30.123 (7), 30.123 (8), 30.19 (1b), 30.19 (1m)
 9 (f), 30.19 (1m) (g), 30.19 (1m) (h), 30.19 (3r), 30.19 (4) (a), 30.19 (4) (b), 30.19 (4)
 10 (c) 1., 30.195 (1m), 30.20 (1g) (title) and (b), 30.20 (1r), 30.20 (2) (bn), 30.20 (2)
 11 (d), 30.20 (2) (e), 30.2022 (title), 30.206 (1) (title), 30.206 (1) (c) 1. to 3., 30.206
 12 (3) (title), 30.206 (3) (c), 30.206 (5) (title), 30.208 and 30.209 of the statutes;
 13 **relating to:** structures, deposits, and other activities in or near navigable
 14 waters; notice, hearing, and review procedures related to permits to place
 15 structures and materials and to conduct activities in or near navigable waters;
 16 and granting rule-making authority. *waterway*

Analysis by the Legislative Reference Bureau

This bill makes changes in the permitting, decision, notice, hearing, and court procedures that apply to permits and contracts given by the Department of Natural Resources (DNR) in regulating structures, deposits, and other activities that occur in or near navigable waterways (~~riparian~~ activities).

Permitting changes in general

With limited exemptions, under current law, an owner of waterfront property (riparian owner) may not engage in a ~~riparian~~ activity unless the riparian owner has first obtained a permit or contract from DNR that is specific to the ~~riparian~~ activity (an individual approval) or unless the ~~riparian~~ activity is authorized under a general permit issued by DNR. *waterway*

Current law also provides an abbreviated procedure for reviewing certain permit applications for permits to place structures or deposit material in navigable waterways (placement permits). For placement permits, DNR may approve or *waterway*

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~~disapprove the application for a permit without giving notice or conducting the hearing. Types of permit applications to which this abbreviated procedure applies include permit applications to place sand to improve recreational use and permit applications to place devices to improve fish habitat.~~

This bill restructures the substantive requirements for individual permits, general permits, and contracts for removing material from navigable waterways. It also creates exemptions from both of these types of permits and from these contracts for certain riparian activities. The types of permits that are affected by these new general and individual permitting, contracting, and exemption provisions are permits to place structures or deposit material (placement permits), permits to construct or maintain bridges (bridge permits), permits to enlarge or connect waterways or to grade or remove top soil from banks along navigable rivers and streams (enlargement permits), permits to change the courses of streams and rivers (stream course permits), and permits and contracts to remove material from beds of navigable waterways (removal approvals).

General permits

waterway

Under current law, DNR may, but is not required to, issue general permits for riparian activities that are covered by the abbreviated procedure described above and for certain activities that require an enlargement permit. Under current law, general permits may be issued in certain designated areas of the state for any riparian activity that requires a general permit. The bill expands the use of general permits by requiring DNR to issue statewide general permits for certain riparian activities and to allow DNR to promulgate rules to specify additional riparian activities that may be authorized under a general permit. The bill allows DNR to impose certain construction and design requirements, location requirements, and environmental restrictions on the general permits. Under current law, a person seeking to conduct a riparian activity under a general permit must notify DNR not less than 20 days before starting the activity. The bill requires this notification to be in writing and increases the 20 days to 30 days. If DNR does not act within 30 days of the notification, the riparian activity is considered to be authorized.

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Placement permits

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EXEMPT

Under the bill, certain riparian activities are exempt from general and individual placement permits if they do not interfere with the public rights in navigable waterways or with the rights of other riparian owners and if they are located outside an area of special natural resource interest (minor riparian activities). The bill defines an area of "special natural resource interest" to be a state natural area or an area identified by DNR as possessing scientific value or as being an outstanding or exceptional resource water. Examples of such waters include wild and scenic rivers and certain trout streams. If an activity is not a minor riparian activity, the riparian owner must apply for an individual permit unless the riparian activity is covered by a general permit. Activities that are subject to the nonabbreviated permitting requirements under current law and that are considered minor riparian activities under the bill include:

1. A deposit of sand, gravel, or stone that totals less than two cubic yards in a five-year period.

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2. A boat shelter or boat hoist or lift that is placed on a seasonal basis adjacent to the pier or wharf or the shoreline of the riparian owner.

Waterway Riparian activities such as the placement of small structures such as fish cribs and bird nesting platforms are subject to the abbreviated permitting procedure under current law. Under the bill, they are exempt from the placement permits if they are considered minor riparian activities. The bill requires that all of the other riparian activities that are subject to the abbreviated permitting procedure be authorized by general permits regardless of whether they are minor riparian activities. These other riparian activities include certain deposits such as sand, gravel, or riprap and certain structures such as permanent boat shelters and certain pilings.

Under current law, a riparian owner must be issued a permit to place an intake or outlet structure in a navigable waterway. Under the bill, DNR must issue a general permit authorizing intake and outlet structures that meet certain location and size requirements.

Waterway Under current law, a riparian owner may construct a wharf or pier beyond the ordinary high-water mark or an established bulkhead line without a placement permit if the wharf or pier does not interfere with the rights of other riparian owners or with the public interest in navigable waterways, if it allows the free movement of water underneath the structure, and if it meets other requirements. This bill eliminates this exemption. Instead, certain riparian piers and wharves are exempt from general and individual placement permits if the placement of the pier or wharf is a minor riparian activity and meets certain size limitations. For an exempt pier, the bill also imposes a limit on the number of boat slips based on the amount of shoreline owned by the riparian owner.

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The bill also requires DNR to issue individual placement permits if the structure or deposit will not materially obstruct navigation, will not be detrimental to the public interest, and will not materially reduce the flood flow capacity of any stream involved. Under current law, DNR may, but is not required to, issue individual placement permits that meet these requirements.

Enlargement permits

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Under current law, a person must be issued an enlargement permit to do any of the following:

1. Construct, dredge, or enlarge any artificial waterway in order to connect it with an existing navigable waterway (connection permit requirement). The bill limits this permit requirement to those artificial waterways that are already connected to the navigable waterway or that will connect with the navigable waterway upon completion of the construction.

2. Connect an artificial or natural waterway, whether or not navigable, with an existing navigable waterway (channel permit requirement). The bill limits this permitting requirement to connections made by surface channels and imposes a requirement that the artificial or natural waterway be navigable.

The bill replaces this provision

3. Construct, dredge, or enlarge any part of an artificial waterway that is located within 500 feet of an existing navigable stream (500-foot permit requirement).

or that affect a body of water less than one acre in size

4. Grade or remove top soil from the bank of a navigable waterway if the exposed area will exceed 10,000 square feet (~~top soil~~ permit requirement)

The bill creates an exemption from the 500-foot permit requirement, if the artificial waterway's only surface connection to a navigable waterway is an overflow device and the construction, dredging, or enlargement is authorized by a storm water discharge permit or a water sewerage and facility plan authorized by DNR (storm water-sewerage projects).

The bill creates an exemption from the ~~top soil~~ permit requirement if the grading or removal of top soil is not located in an area of special natural resource interest and is authorized by a storm water discharge permit, by a shoreland or wetland zoning ordinance, or by a construction site erosion control plan.

The bill requires DNR to issue a general permit to meet the 500-foot permit requirement for construction, dredging, and enlargements that are part of an approved storm water-sewerage project, but that are not covered by the exemption described above. The bill requires DNR to issue a general permit to meet the connection permit requirement, the 500-foot requirement, and the channel requirement for construction, dredging, and enlargements that are designed to enhance wildlife habitat or wetlands. The bill requires DNR to issue a general permit to meet the ~~top soil~~ permit requirement for any grading or removing of top soil that is not covered by the exemption described above.

Finally, the bill repeals the exemption from this permitting requirement for navigable waterways located in Milwaukee County.

As to individual enlargement permits, the bill imposes the additional requirement that the activity not be detrimental to the public interest.

Bridge permits

The bill makes the following changes to current permitting procedures for the construction and maintenance of bridges:

1. Allows bridge construction and maintenance to be authorized by the legislature.

2. Continues to allow any person to apply for an individual permit, but allows only riparian owners to construct and maintain bridges under general permits.

2. 3. Subjects bridges that cross navigable streams that are less than 35 feet wide to the general permitting provisions. Under current law, such bridges are exempt from the bridge permitting requirements.

3. 4. Changes the permitting provisions to specifically cover the placement of culverts.

4. 5. Subjects culverts that have diameters of less than 60 inches to the general permitting provisions.

5. 6. Exempts culverts that have a diameter of less than 48 inches and that are part of private roads or driveways from all of the bridge permitting requirements.

6. 7. Repeals the requirement that the holder of a bridge permit construct and maintain a bridge that is used by the public to be in a safe condition.

Stream course permits

Under current law, a person must be issued a stream course permit to change or straighten the course of a stream or river. The bill requires DNR to issue a general

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The connection permit requirement and

grading

and

permit under which riparian owners may change or straighten the course of streams or rivers if the change or straightening involves a relocation of less than a total of 500 feet or a relocation of a stream with an average flow of less than 2 cubic feet per second. The bill also repeals an exemption for municipal or county lands in Milwaukee County and a provision that states that compliance with a stream course permit is a presumption of the exercise of due care. The bill also allows the legislature to authorize the changing or straightening of stream or river courses.

Removal approvals

The bill makes the following changes to current provisions regarding removal approvals:

1. Allows the removal of materials to be authorized by the legislature.

4. ~~2.~~ Exempts removals for certain specified amounts if the removals are not from an area of natural resource interest, do not contain hazardous substances, and will be placed in an upland area. *general*

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5. ~~3.~~ Requires DNR to issue ~~permits~~ *general* for other removals that are within specified amounts.

Boathouses

Current law, with some exceptions, imposes a prohibition on placing a boathouse beyond the ordinary high-water mark of a navigable waterway. This bill creates an exemption for the construction, repair, or maintenance of a boathouse that is used exclusively for commercial purposes, is on land zoned exclusively for commercial or industrial purposes or is in a brownfield area, and is located in a commercial harbor or on a tributary of Lake Michigan or Lake Superior. Current law defines a "brownfield" to be an industrial or commercial facility, the expansion or redevelopment of which is complicated by environmental contamination.

or blighted

Notice, hearing, and decision provisions for individual permits

application

Under current law, for individual placement permits, bridge permits, removal permits, stream course permits, and enlargement permits, DNR must order a public hearing to be held within 60 days after receiving a complete application for the permit or provide notice (notice of ~~application~~ *of application*) that DNR will proceed on the application without a public hearing unless a substantive written objection is received within 30 days after the notice is published. DNR must provide the notice of ~~application~~ *of application* to various parties and to the applicant, who in turn must publish notice. Current law defines a "substantive written objection" to be one that gives the reasons why the issuance of the proposed permit will violate state law and that states that the person objecting will appear at the public hearing to present information supporting the objection. The applicant must publish the notice in a newspaper that is likely to give notice in the area where the riparian activity will be located (area newspaper).

of application

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If DNR does not receive a substantive written objection within the 30-day period, DNR proceeds on the permit application. If DNR receives such an objection, the public hearing must be held within 60 days after being ordered. At least 10 days before the hearing, the Division of Hearings and Appeals in the Department of Administration must mail a notice of the public hearing to the applicant, all of the parties who received the notice of application, and anyone who submitted a

substantive written objection. The applicant again must publish the notice in an area newspaper.

Under current law, DNR may also use this notice and hearing procedure when it is not specifically required if DNR determines that substantial interests of any party may be adversely affected by the granting of the permit.

Under the bill, upon receipt of a complete application for an individual permit, DNR must provide notice of the application within 30 days after its receipt. The notice must grant a period of not less than 30 days during which any person may submit written comments and may also request a public hearing. The applicant may also request a hearing, and DNR may, on its own initiative, schedule a hearing within this 30-day comment period. DNR is required to render its decision within 30 days after the hearing or within the 30-day comment period if no hearing is held. The bill requires DNR to establish procedures for providing notices of applications and of hearings. ****** Revisit about who provides/pays for notice after talking to Paul Keny**

The changes to the applicability of the hearing and notice procedures for individual permits under the bill include the following:

1. The procedure applies to removal approvals and stream course permits, as well as the permits covered under current law.
2. The procedure applies to permits to place water ski jumps, replacing the procedures that apply to these permits under current law.
3. ~~The procedure applies to all types of enlargement permits. Under current law, the procedure applies only to enlargement permits issued to meet channel permit requirements and topsoil permit requirements.~~
3. 4. The bill repeals the authority that allowed DNR to use these notice and hearing procedures when they were not required to do so in making determinations that affected navigable waters and navigation.
4. 5. The procedures specifically apply to applications for modifications of individual permits.

Administrative and court review of DNR decisions on individual permits

Under current law, if a substantial interest of a person is injured by an agency action and there is a dispute of material fact, that person has the right to an administrative hearing before an impartial hearing officer. The notice requirements, procedures, rules of evidence, records, and right to judicial review are specified in detail under current law.

Under this bill, an applicant for or holder of an individual permit, or five or more persons, may ask DNR for an administrative hearing regarding the issuance, denial, or modification of an individual permit, or regarding a term or condition of an individual permit. If DNR determines that the request for a hearing gives specific reasons why the department's decision violates state law, DNR is required to hold an administrative hearing. The bill requires that the hearing be conducted as a contested case hearing and be subject to current law's administrative hearing requirements regarding contested case hearings, including the procedures, rules of evidence, records, and right to judicial review.

any person ~~with~~ who has the right to request such a hearing may

Instead of requesting an administrative hearing to review the DNR decision, the bill allows an applicant for or holder of an individual permit or a person with standing to bring a court action to review DNR's decision. The bill requires the court to review the evidence and examine witnesses, rather than review the record of DNR's action. In addition, the bill allows a party to the administrative hearing to stop an administrative hearing and have the court take jurisdiction over the issues raised in the hearing. If an administrative hearing is removed to a court, that court is required by the bill to review the evidence and examine witnesses, independent of DNR's evidence review and witness examination.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 29.601 (5) (a) of the statutes is amended to read:

2 29.601 (5) (a) This section does not apply to any activities carried out under the
3 direction and supervision of the department of transportation in connection with the
4 construction, reconstruction, maintenance and repair of highways and bridges in
5 accordance with s. ~~30.12 (4)~~ 30.2022.

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

7 30.01 (1am) "Area of special natural resource interest" means any of the
8 following:

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

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

12 (c) An area that possesses significant scientific value, as identified by the
13 department.

14 SECTION 3. 30.01 (1p) of the statutes is amended to read:

15 30.01 (1p) "Fishing raft" means any raft, float or structure, including a raft or
16 float with a superstructure and including a structure located or extending below or

1 beyond the ordinary high-water mark of a water, which is designed to be used or is
2 normally used for fishing, which is not normally used as a means of transportation
3 on water and which is normally retained in place by means of a permanent or
4 semipermanent attachment to the shore or to the bed of the waterway. "Fishing raft"
5 does not include a boathouse or fixed houseboat regulated under s. 30.121 nor a
6 wharf or pier regulated under ~~s.~~ ss. 30.12 and 30.13.

7 SECTION 4. 30.01 (6b) of the statutes is repealed.

8 SECTION 5. 30.015 of the statutes is renumbered 30.208 (2) and amended to
9 read:

10 30.208 (2) ~~TIME LIMITS FOR ISSUING PERMIT DETERMINATIONS~~ PROCEDURE FOR
11 COMPLETING APPLICATIONS. In issuing individual permits under this chapter
12 subchapter, the department shall initially determine whether a complete application
13 ~~for the permit~~ ^{or ← contract} has been submitted and, no later than ~~60~~ 30 days after the application
14 is submitted, notify the applicant in writing about the initial determination of
15 completeness. If the department determines that the application is incomplete, the
16 notice shall state the reason for the determination and the specific items of
17 information necessary to make the application complete. An applicant may
18 supplement and resubmit an application that the department has determined to be
19 incomplete. There is no limit on the number of times that an applicant may resubmit
20 an application that the department has determined to be incomplete under this
21 section. The department may not demand items of information that are not specified
22 in the notice as a condition for determining whether the application is complete
23 unless both the department and the applicant agree or unless the applicant makes
24 material additions or alterations to the activity ^{or} project for which the application has
25 been submitted. The rules promulgated under s. 299.05 apply only to applications

1 for individual permits ^{HAPP} or contracts under this subchapter that the department has determined
2 to be complete.

3 SECTION 6. 30.02 of the statutes is repealed.

4 SECTION 7. 30.07 of the statutes is renumbered 30.2095, and 30.2095 (1) (a),
5 as renumbered, is amended to read:

6 30.2095 (1) (a) Except as provided in par. (b), every permit or contract issued
7 under ss. 30.01 to 30.29 for which a time limit is not provided by s. 30.20 (2) is void
8 unless the activity or project is completed within 3 years after the permit or contract
9 was issued.

10 SECTION 8. 30.10 (4) (a) of the statutes is amended to read:

11 30.10 (4) (a) This section does not impair the powers granted by law under s.
12 ~~30.123~~ 30.1235 or by other law to municipalities to construct highway bridges,
13 arches, or culverts over streams.

14 SECTION 9. 30.11 (4) of the statutes is amended to read:

15 30.11 (4) RIPARIAN RIGHTS PRESERVED. Establishment of a bulkhead line shall
16 not abridge the riparian rights of riparian ~~proprietors~~ owners. Riparian ~~proprietors~~
17 owners may place solid structures or fill up to such line.

18 SECTION 10. 30.12 (title) of the statutes is amended to read:

19 ~~30.12 (title) Structures and deposits in navigable waters prohibited;~~
20 ~~exceptions; penalty.~~

21 SECTION 11. 30.12 (1) (intro.) of the statutes is amended to read:

22 30.12 (1) ~~GENERAL PROHIBITION~~ PERMITS REQUIRED. (intro.) ~~Except as provided~~
23 ~~under subs. (4) and (4m), unless a~~ Unless an individual or general permit has been
24 ~~granted by the department pursuant to statute or~~ issued under this section or
25 authorization has been granted by the legislature ~~has otherwise authorized~~

1 ~~structures or deposits in navigable waters, it is unlawful, no person may do any of~~
2 the following:

3 SECTION 12. 30.12 (1) (a) of the statutes is amended to read:

4 30.12 (1) (a) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon the
5 bed of any navigable water where no bulkhead line has been established; ~~or,~~

6 SECTION 13. 30.12 (1) (b) of the statutes is amended to read:

7 30.12 (1) (b) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon the
8 bed of any navigable water beyond a lawfully established bulkhead line.

9 SECTION 14. 30.12 (1g) (intro.), (a), (b) and (e) to ~~(b)~~ ⁽ⁱ⁾ of the statutes are created
10 to read:

11 30.12 (1g) EXEMPTIONS. (intro.) A riparian owner is exempt from the permit
12 requirements under this section for the placement of a structure or the deposit of
13 material if the structure or material is located in an area other than an area of special
14 natural resource interest, does not interfere with the rights of other riparian owners,
15 or with public rights in navigable waters, and is any of the following:

16 (a) A deposit of sand, gravel, or stone that totals less than 2 cubic yards in any
17 5-year period.

18 (b) A structure, other than a pier or a wharf, that is placed on a seasonal basis
19 and that is less than 200 square feet in size and less than 38 inches in height.

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

23 (f) A pier that is no more than 6 feet wide, that extends no further than to a point
24 where the water is 3 feet at its maximum depth, or to the point where there is
25 adequate depth for mooring a boat or using a boat hoist or boat lift, whichever is

1 closer to the shoreline, and which has no more that 2 boat slips for the first 50 feet
2 of riparian owner's shoreline footage and no more than one additional boat slip for
3 each additional 50 feet of the riparian owner's shoreline.

4 (g) A wharf that extends no more than 30 feet.

5 (h) An intake or outfall structure that is authorized by a storm water discharge
6 permit approved by the department under ch. 283 or a facility plan approved by the
7 department under s. 281.41.

8 ~~(i) Riprap~~ in an amount not to exceed 300 ⁽¹⁰⁰⁰⁾ linear feet.
SECTION 15. 30.12 (2) of the statutes is repealed.

Riprap

9 SECTION 16. 30.12 (3) (title) of the statutes is repealed and recreated to read:
10 30.12 (3) (title) GENERAL PERMITS.

11 SECTION 17. 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to
12 read:

13 30.12 (3) (a) (intro.) The department shall issue statewide general permits
14 under s. 30.206 that authorize riparian owners to do all of the following:

15 SECTION 18. 30.12 (3) (a) 2. of the statutes is renumbered 30.12 (1g) (c) and
16 amended to read:

17 30.12 (1g) (c) ~~Place a~~ A fish crib, spawning reef, wing deflector, or similar
18 device that is placed on the bed of navigable waters for the purpose of improving fish
19 habitat.

20 SECTION 19. 30.12 (3) (a) 2m. of the statutes is renumbered 30.12 (1g) (d) and
21 amended to read:

22 30.12 (1g) (d) ~~Place a~~ A bird nesting platform, ~~a~~ wood duck house, or similar
23 structure that is placed on the bed of a navigable water for the purpose of improving
24 wildlife habitat.

25 SECTION 20. 30.12 (3) (a) 6. of the statutes is amended to read:

1 30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property
2 for the purpose of storing or protecting watercraft and associated materials, except
3 that no general permit may be granted issued for a permanent boat shelter which is
4 constructed after May 3, 1988, if the property on which the permanent boat shelter
5 is to be located also contains a boathouse within 75 feet of the ordinary high-water
6 mark or if there is a boathouse over navigable waters adjacent to the owner's
7 property.

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

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

12 **SECTION 22.** 30.12 (3) (b) of the statutes is repealed.

13 **SECTION 23.** 30.12 (3) (bn) of the statutes is repealed.

14 **SECTION 24.** 30.12 (3) (br) of the statutes is created to read:

15 30.12 (3) (br) The department may promulgate rules that specify structures or
16 deposits, in addition to those listed in par. (a), that may be authorized by statewide
17 general permits.

18 **SECTION 25.** 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (intro.)
19 and amended to read:

20 **30.2023 Seawalls; Wolf River and Fox River basins.** (intro.) A riparian
21 owner is exempt from the permit requirements under ~~sub. (2) and this subsection s.~~
22 30.12 for a structure that is placed on the bed of a navigable water in the Wolf River
23 and Fox River basin area, as described in s. 30.207 (1), and that extends beyond the
24 ordinary high-water mark, if the following conditions apply:

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1 SECTION 26. 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (1)
2 to (9).

3 SECTION 27. 30.12 (3) (c) of the statutes is amended to read:

4 30.12 (3) (c) The department may ~~promulgate rules deemed necessary to carry~~
5 ~~out the purposes of~~ impose conditions on general permits issued under par. (a) 6.,
6 ~~including rules to establish minimum standards~~ to govern the architectural features
7 of boat shelters and the number of boat shelters that may be constructed adjacent
8 to a parcel of land. The ~~rules~~ conditions may not govern the aesthetic features or color
9 of boat shelters. The ~~standards~~ conditions shall be designed to assure ensure the
10 structural soundness and durability of ~~a boat shelter~~ boat shelters. A municipality
11 may enact ordinances ~~not inconsistent~~ that are consistent with this section or with
12 ~~rules promulgated under this section regulating paragraph and with any conditions~~
13 imposed on general permits issued to regulate the architectural features of boat
14 shelters that are under the jurisdiction of the municipality.

15 SECTION 28. 30.12 (3) (d) of the statutes is repealed.

16 SECTION 29. 30.12 (3m) of the statutes is created to read:

17 30.12 (3m) INDIVIDUAL PERMITS. (a) A riparian owner may apply to the
18 department for an individual permit that is required under sub. (1) in order to place
19 a structure for the owner's use or to deposit any material.

20 (b) The notice and hearing provisions of s. 30.208 (3) to (5) shall apply to an
21 application under par. (a).

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

25 1. The structure or deposit will not materially obstruct navigation.

1 2. The structure or deposit will not be detrimental to the public interest.

2 3. The structure or deposit will not materially reduce the flood flow capacity
3 of a stream.

4 **SECTION 30.** 30.12 (4) (title) of the statutes is repealed.

5 **SECTION 31.** 30.12 (4) (a) of the statutes is renumbered 30.2022 (1) and
6 amended to read:

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

17 **SECTION 32.** 30.12 (4) (b) of the statutes is renumbered 30.2022 (2) and
18 amended to read:

19 30.2022 (2) The exemption under ~~par. (a)~~ sub. (1) does not apply unless the
20 activity is accomplished in accordance with interdepartmental liaison procedures
21 established by the department and the department of transportation for the purpose
22 of minimizing the adverse environmental impact, if any, of the activity.

23 **SECTION 33.** 30.12 (4) (c) of the statutes is renumbered 30.2022 (3) and
24 amended to read:

1 30.2022 (3) If the department determines that there is reasonable cause to
2 believe that an activity being carried out under this subsection section is not in
3 compliance with the environmental protection requirements developed through
4 interdepartmental liaison procedures, it shall notify the department of
5 transportation. If the secretary and the secretary of transportation are unable to
6 agree upon the methods or time schedules to be used to correct the alleged
7 noncompliance, the secretary, notwithstanding the exemption provided in this
8 subsection section, may proceed with enforcement actions as the secretary deems
9 appropriate.

10 **SECTION 34.** 30.12 (4) (d) of the statutes is renumbered 30.2022 (4).

11 **SECTION 35.** 30.12 (4) (e) of the statutes is renumbered 30.2022 (5) and
12 amended to read:

13 30.2022 (5) Except as may be required otherwise under s. 1.11, no public notice
14 or hearing is required in connection with any interdepartmental consultation and
15 cooperation under this subsection section.

16 **SECTION 36.** 30.12 (4) (f) of the statutes is renumbered 30.2022 (6) and amended
17 to read:

18 30.2022 (6) This subsection section does not apply to activities in the Lower
19 Wisconsin State Riverway, as defined in s. 30.40 (15).

20 **SECTION 37.** 30.12 (4m) (title) of the statutes is repealed.

21 **SECTION 38.** 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12
22 (1m) (c) (intro.), as renumbered, is amended to read:

23 30.12 (1m) (c) (intro.) ~~Subsection (1) does not apply to a~~ A structure or deposit
24 that the drainage board for the Duck Creek Drainage District places in a drain that

1 the board operates in the Duck Creek Drainage District is exempt from the permit
2 requirements under this section if either of the following applies:

3 SECTION 39. 30.12 (5) of the statutes is repealed.

4 SECTION 40. 30.121 (3w) of the statutes is created to read:

5 30.121 (3w) EXCEPTION; COMMERCIAL BOATHOUSES. Notwithstanding subs. (2)
6 and (3), a person may construct, repair, or maintain a boathouse if all of the following
7 apply:

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

10 (b) The boathouse is located on land ^{located on residential} zoned exclusively for commercial or
11 industrial purposes or the boathouse ^{is} ~~qualifies as~~ a brownfield, as defined in s. ~~71.07~~ ^{560.13(1)(a)} ✓
12 ~~(20.07)~~ ^{located in a blighted area, as defined in s. 66.1331(3)(a)}

13 (c) The boathouse is located within a harbor that is being operated as a
14 commercial enterprise or is located on a river that is a tributary of Lake Michigan
15 or Lake Superior.

16 (d) The person has been issued any applicable individual permits under this
17 subchapter and is in compliance with any applicable general permitting
18 requirements under this subchapter.

19 SECTION 41. 30.123 (title) of the statutes is repealed and recreated to read:

20 30.123 (title) **Bridges and culverts.**

21 SECTION 42. 30.123 (1) of the statutes is renumbered 30.1235 and amended to
22 read:

23 30.1235 **Municipal bridge construction.** Municipalities which construct or
24 reconstruct highway bridges shall not be required to obtain permits under this
25 section or s. 30.10 or s. 30.12 or 30.123 for such that construction or reconstruction.

1 All municipal highway bridges shall be constructed or reconstructed in accordance
2 with standards developed under s. 84.01 (23).

3 SECTION 43. 30.123 (2) of the statutes is amended to read:

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

14 SECTION 44. 30.123 (3) of the statutes is repealed.

15 SECTION 45. 30.123 (4) of the statutes is renumbered 30.123 (8) (c) and
16 amended to read:

17 30.123 (8) (c) ~~The department shall review the plans for the proposed bridge~~
18 ~~to determine whether the proposed bridge will be an obstruction to navigation or will~~
19 ~~adversely affect the flood flow capacity of the stream.~~ The department shall grant
20 the issue an individual permit if the proposed pursuant to an application under par.
21 (a) if the department finds that the bridge or culvert will not materially obstruct
22 navigation, will not materially reduce the effective flood flow capacity of a stream or
23 be, and will not be detrimental to the public interest.

24 SECTION 46. 30.123 (5) of the statutes is repealed.

25 SECTION 47. 30.123 (6) of the statutes is created to read:

1 30.123 (6) EXEMPTIONS. Subsection (2) does not apply to any of the following:

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

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

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

8 SECTION 48. 30.123 (7) of the statutes is created to read:

9 30.123 (7) GENERAL PERMITS. (a) The department shall issue statewide general
10 permits under s. 30.206 that authorize ~~riparian owners~~ ^{any person} to do all of the following:

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

13 2. Construct and maintain a culvert that has an inside diameter that does not
14 exceed 60 inches.

15 (b) The department may promulgate rules that specify bridges or culverts, in
16 addition to those listed in par. (a), that may be authorized by statewide general
17 permits.

18 SECTION 49. 30.123 (8) of the statutes is created to read:

19 30.123 (8) INDIVIDUAL PERMITS. (a) Any person may apply to the department
20 for an individual permit that is required under sub. (1) in order to construct or
21 maintain a bridge or culvert.

22 (b) The notice and hearing provisions of s. 30.208 (3) to (5) shall apply to an
23 application under par. (a).

24 SECTION 50. 30.13 (1) of the statutes is repealed.

25 SECTION 51. 30.13 (1m) (intro.) of the statutes is amended to read:

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

5 **SECTION 52. 30.13 (1m) (b) of the statutes is amended to read:**

6 **30.13 (1m) (b) The swimming raft does not interfere with rights of other**
7 **riparian proprietors owners.**

8 **SECTION 53. 30.13 (2) of the statutes is repealed.**

9 **SECTION 54. 30.13 (4) (a) of the statutes is amended to read:**

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

15 **SECTION 55. 30.13 (4) (b) of the statutes is amended to read:**

16 **30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which interferes**
17 **with rights of other riparian proprietors owners constitutes an unlawful obstruction**
18 **of navigable waters unless ~~a permit is issued for the wharf or pier~~ is authorized**
19 **under a permit issued under s. 30.12 or unless other authorization for the wharf or**
20 **pier is expressly provided.**

21 **SECTION 56. 30.13 (4) (d) of the statutes is repealed.**

22 **SECTION 57. 30.135 (1) (title) of the statutes is repealed.**

23 **SECTION 58. 30.135 (1) (a) (intro.) of the statutes is renumbered 30.135 (1)**
24 **(intro.) and amended to read:**

1 30.135 (1) (intro.) A riparian ~~proprietor may place~~ owner placing a water ski
2 platform or water ski jump in a navigable waterway ~~without obtaining a~~ is exempt
3 from the permit requirements under this chapter if all of the following requirements
4 are met:

5 **SECTION 59.** 30.135 (1) (a) 1. of the statutes is renumbered 30.135 (1) (a).

6 **SECTION 60.** 30.135 (1) (a) 2. of the statutes is renumbered 30.135 (1) (b) and
7 amended to read:

8 30.135 (1) (b) The platform or jump does not interfere with rights of other
9 riparian ~~proprietors~~ owners.

10 **SECTION 61.** 30.135 (1) (a) 3. of the statutes is renumbered 30.135 (1) (c).

11 **SECTION 62.** 30.135 (1) (b) of the statutes is renumbered 30.135 (2) and
12 amended to read:

13 30.135 (2) If the department determines that any of the requirements under
14 ~~par. (a) sub. (1)~~ are not met, the riparian owner shall submit ~~a permit~~ an application
15 for an individual permit to the department. ~~The notice and hearing provisions under~~
16 s. 30.208 (3) to (6) apply to the application. 5

17 **SECTION 63.** 30.135 (2), (3) and (4) of the statutes are repealed.

18 **SECTION 64.** 30.18 (2) (a) (intro.) of the statutes is amended to read:

19 30.18 (2) (a) *Streams.* (intro.) No person may divert water from a stream in
20 this state without ~~a~~ an individual permit under this section if the diversion meets
21 either of the following conditions:

22 **SECTION 65.** 30.18 (2) (b) of the statutes is amended to read:

23 30.18 (2) (b) *Streams or lakes.* No person, except a person required to obtain
24 an approval under s. 281.41, may divert water from any lake or stream in this state
25 without ~~a~~ an individual permit under this section if the diversion will result in a water

1 loss averaging 2,000,000 gallons per day in any 30-day period above the person's
2 authorized base level of water loss.

3 SECTION 66. 30.18 (4) (a) of the statutes is amended to read:

4 30.18 (4) (a) Upon receipt of a complete application, the department shall
5 follow the notice and hearing procedures under s. 30.02 (3) and (4) 30.208 (3) to (6). ⁵

6 In addition to the notice requirements providing notice as required under s. 30.02 (3)

7 and (4) 30.208 (3) to (6), the department shall mail a copy of the notice to every person

8 upon whose land any part of the canal or any other structure will be located, to the

9 clerk of the next town downstream, to the clerk of any village or city in which the lake

10 or stream is located and which is adjacent to any municipality in which the diversion

11 will take place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

12 SECTION 67. 30.18 (6) (b) of the statutes is amended to read:

13 30.18 (6) (b) *Use of water.* A person issued a permit under this section for the

14 purpose of irrigation or agriculture may use the water on any land contiguous to the

15 permittee's riparian land, but may not withdraw more water than it did before

16 August 1, 1957, without applying to the department for a modification of the permit.

17 SECTION 68. 30.18 (9) of the statutes is repealed.

18 SECTION 69. 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)

19 and amended to read:

20 30.19 (1g) PERMITS REQUIRED. (intro.) Unless ~~a~~ an individual or general permit

21 has been ~~granted by the department~~ issued under this section or authorization has

22 been granted by the legislature, ~~it is unlawful~~ no person may do any of the following:

23 SECTION 70. 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and

24 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. *is repealed.*

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8 SECTION 71. 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 72. 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 73. 30.19 (1b) of the statutes is created to read:

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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 74. 30.19 (1m) (intro.) of the statutes is amended to read:

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

4 **SECTION 75.** 30.19 (1m) (a) of the statutes is amended to read:

5 30.19 (1m) (a) The construction ~~and or~~ repair of any public highways highway.

6 **SECTION 76.** 30.19 (1m) (b) of the statutes is amended to read:

7 30.19 (1m) (b) Any agricultural ~~uses~~ use of land.

8 ~~SECTION 77. 30.19 (1m) (c) and (d) of the statutes are repealed.~~

9 **SECTION 78.** 30.19 (1m) (e) of the statutes is amended to read:

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24-8

10 30.19 (1m) (e) Any work required to maintain the original dimensions of an
11 enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a
12 permit or legislative authorization under sub. (1) (a) ~~or (b)~~ (1g) (a) or (am).

13 **SECTION 79.** 30.19 (1m) (f) of the statutes is created to read:

14 30.19 (1m) (f) Any work required to maintain any water body that serves as
15 a connection under sub. (1g) (b).

16 **SECTION 80.** 30.19 (1m) (g) of the statutes is created to read:

17 30.19 (1m) (g) The construction, dredging, or enlargement of any artificial
18 water body that is within 500 feet of the ordinary high-water mark of a navigable
19 waterway, if the artificial water body does not have a surface connection to any
20 navigable waterway other than an overflow device and if the construction, dredging,
21 or enlargement is authorized by a storm water discharge permit approved by the
22 department under ch. 283 or a facility plan approved or authorized by the
23 department under s. 281.41.

24 **SECTION 81.** 30.19 (1m) (h) of the statutes is created to read:

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

5 1. The grading or removal is authorized by a storm water discharge permit
6 approved by the department under ch. 283.

7 2. The grading or removal is authorized under an ordinance under s. 59.692,
8 61.351, or 62.231.

9 3. The grading or removal is authorized by an erosion control plan pursuant
10 to s. 101.653.

11 SECTION 82. 30.19 (2) of the statutes is repealed.

12 SECTION 83. 30.19 (3) of the statutes is repealed.

13 SECTION 84. 30.19 (3r) of the statutes is created to read:

14 30.19 (3r) GENERAL PERMITS. (a) The department shall issue statewide general
15 permits under s. 30.206 that authorize persons to do all of the following:

16 1. Engage in an activity specified in sub. (1g) ^{(am) or} that is not exempt under sub.
17 (1m) ~~(g)~~ if the construction, dredging, ^{or} enlargement ~~or connection~~ is authorized by
18 a storm water discharge permit approved by the department under ch. 283 or a
19 facility plan approved by the department under s. 281.41.

20 2. Engage in an activity specified in sub. (1g) (a) or (am) if the construction,
21 dredging, or enlargement is designed to enhance wildlife habitat or wetlands, as
22 defined in s. 23.32 (1) ^{or if the construction, dredging, or enlarge-}
^{ment affects a body of water that}

23 ~~(g)~~ ³ Engage in an activity specified in sub. (1g) (c) that is not exempt under sub.
24 (1m) (h) if the area exposed by the grading or removal will exceed 10,000 square feet.

3. Engage in an activity specified in sub. (1g) (c) that is not exempt under sub. (1m) (h) if the area exposed by the grading or removal will exceed 10,000 square feet. ^{is less than one acre in area.}

(a) or

Now just

3

is less than one acre in area.

1 (b) The department may promulgate rules that specify other types of activities,
2 in addition to those listed in par. (a), that may be authorized by statewide general
3 permits.

4 SECTION 85. 30.19 (4) (title) of the statutes is amended to read:

5 30.19 (4) (title) ~~ISSUANCE OF PERMIT~~ INDIVIDUAL PERMITS.

6 SECTION 86. 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and
7 amended to read:

8 30.19 (4) (c) (intro.) ~~If the~~ The department finds that the project will not injure
9 public rights or interest, including fish and game habitat, that the project shall issue
10 an individual permit pursuant to an application under par. (a) if the department
11 finds that all of the following apply:

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

14 3. Any enlargement connected to a navigable waterways conforms to the
15 requirement of waterway complies with all of the laws for the relating to platting of
16 land and for sanitation and that no.

17 4. No material injury will result to the rights of any riparian owners on any
18 body of water affected will result, the department shall issue a permit authorizing
19 the enlargement of the affected waterways of real property that abuts any water body
20 that is affected by the activity.

21 SECTION 87. 30.19 (4) (a) of the statutes is created to read:

22 30.19 (4) (a) A person may apply to the department for an individual permit
23 to engage in activities for which a permit is required under sub. (1g).

24 SECTION 88. 30.19 (4) (b) of the statutes is created to read:

1 30.19 (4) (b) The notice and hearing provisions of s. 30.208 (3) to (5) apply to
2 an application under par. (a).

3 SECTION 89. 30.19 (4) (c) 1. of the statutes is created to read:

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

5 SECTION 90. 30.19 (5) of the statutes is amended to read:

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

14 SECTION 91. 30.195 (1) of the statutes is amended to read:

15 30.195 (1) PERMIT REQUIRED. No Unless a permit has been issued under this
16 section or authorization has been granted by the legislature, no person may change
17 the course of or straighten a navigable stream without a permit issued under this
18 section or without otherwise being expressly authorized by statute to do so.

19 SECTION 92. 30.195 (1m) of the statutes is created to read:

20 30.195 (1m) GENERAL PERMITS. (a) The department shall issue statewide
21 general permits under s. 30.206 that authorize riparian owners to change the course
22 of or straighten a navigable stream under the following circumstances:

23 1. The change or straightening involves a relocation of less than a total of 500
24 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.

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

6 SECTION 93. 30.195 (2) of the statutes is repealed and recreated to read:

7 30.195 (2) INDIVIDUAL PERMITS. (a) A ~~person~~ ^{riparian owner} 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 ⁽⁵⁾ ~~(4)~~ apply to an
11 application under par. (a) ~~if the activity subject to the permit involves the relocation~~
12 ~~of a total of 500 or more feet in stream length.~~

13 SECTION 94. 30.195 (3) (title) of the statutes is repealed.

14 SECTION 95. 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 96. 30.195 (4) of the statutes is repealed.

12 SECTION 97. 30.195 (7) of the statutes is repealed.

13 SECTION 98. 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 ⁵
20 that granting the permit:

21 SECTION 99. 30.20 (1) (title) of the statutes is repealed and recreated to read:

22 30.20 (1) (title) PERMITS OR CONTRACTS REQUIRED.

23 SECTION 100. 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 101. 30.20 (1) (b) of the statutes is amended to read:

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

11 SECTION 102. 30.20 (1) (c) 1. and 2. of the statutes are consolidated, renumbered
12 30.20 (1g) (a) 1. and amended to read:

13 30.20 (1g) (a) 1. ~~Except as provided under subd. 2., a person may remove~~ A
14 person is exempt from the permit and contract requirements under this section for
15 removal of material from the bed of a farm drainage ditch which was not a navigable
16 stream before ditching. 2. The department may require a permit under sub. (2) (e)
17 for a removal under subd. 1. only if it unless the department finds that the proposed
18 removal may have a long-term adverse effect on cold-water fishery resources or may
19 destroy fish spawning beds or nursery areas.

20 SECTION 103. 30.20 (1) (c) 3. of the statutes is renumbered 30.20 (1g) (a) 2.

21 SECTION 104. 30.20 (1) (d) of the statutes is renumbered 30.20 (1g) (c) and
22 amended to read:

23 30.20 (1g) (c) The drainage board for the Duck Creek Drainage District ~~may,~~
24 without a permit under sub. (2) (e), remove is exempt from the permit and contract
25 requirements under subs. (1r) and (2) for removal of material from a drain that the

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

6 SECTION 105. 30.20 (1g) (title) and (b) of the statutes are created to read:

7 30.20 (1g) (title) EXEMPTIONS.

8 (b) A person is exempt from the permit and contract requirements under this
9 section for removal of material if the material does not contain hazardous
10 substances, the material will be placed in an upland area, the material is not being
11 removed from an area of special natural resource interest, and if any of the following
12 applies:

13 1. The removal will be from an area from which material has been previously
14 removed, the removal is for maintenance purposes, and the material to be removed
15 does not exceed 1,000 cubic yards.

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

18 SECTION 106. 30.20 (1r) ^{equals} of the statutes is created to read:

19 30.20 (1r) GENERAL PERMITS. (a) The department shall issue statewide general
20 permits under s. 30.206 that authorize ^{any person} riparian owners to do all of the following:

- 21 1. Remove material for the purpose of maintaining an area where ^{and} the amount
- 22 ^{has been} previously removed ^{and the material to be removed equals} exceeds more than 1,000 cubic yards of material.
- 23 2. Remove from ^{that exceeds} 100 cubic yards ^{but that is less than} to 1,000 cubic yards in an area where no
- 24 previous removal of material has occurred. ^{or more}

material in an amount

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1 (b) The department may promulgate rules that specify other types of removals,
2 in addition to those listed in par. (a), that may be authorized by statewide general
3 permits.

4 SECTION 107. 30.20 (2) (title) of the statutes is amended to read:

5 30.20 (2) (title) CONTRACTS FOR REMOVAL AND INDIVIDUAL PERMITS.

6 SECTION 108. 30.20 (2) (a) and (b) of the statutes are amended to read:

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

21 (b) The department, ~~whenever consistent with public rights,~~ may enter into
22 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any
23 mineral, ore and, or other material from beneath the bed of a navigable lakes and
24 waters, where the waters would water that the state may own if the contract will be
25 consistent with public rights and if the navigable water will not be disturbed in the

1 removal operation and for the lease and sale of such mineral, material and ore and
2 provide the necessary regulations for all acts incident thereto. ~~Every such.~~ A person
3 seeking to enter into such a contract shall apply to the department. Each contract
4 entered into under this paragraph shall contain such any conditions as may be that
5 the department determines are necessary for the protection of the public interest and
6 the interests interest of the state, and. Each contract entered into under this
7 paragraph shall also fix the compensation to be paid to the state for the material,
8 mineral and ore so mineral, ore, or other material to be removed. No Each contract
9 entered into, pursuant to under this paragraph, shall may not run for a longer period
10 more than 75 years. Should any doubt exist as to whether the state, in fact, owns
11 such lake bed or stream bed such contract or lease shall be for such interests, if any,
12 as the state may own. Title to the royalties to be paid when mining operations are
13 begun shall be determined at such future time as royalties for ores so sold are paid
14 or are due and payable.

15 SECTION 109. 30.20 (2) (bn) of the statutes is created to read:

16 30.20 (2) (bn) A person may apply to the department for an individual permit
17 that is required under sub. (1) (b) to remove material from the bed of any lake or
18 stream not described under sub. (1) (a).

19 SECTION 110. 30.20 (2) (c) of the statutes is amended to read:

20 30.20 (2) (c) ~~A permit to remove material from the bed of any lake or stream~~
21 ~~not included in sub. (1) (a) may be issued by the department if it~~ The department
22 shall issue an individual permit pursuant to an application under par. (bn) if the
23 department finds that the issuance of such a the permit will be consistent with the
24 public interest in the water involved. A permit or contract issued under this

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

3 SECTION 111. 30.20 (2) (d) of the statutes is created to read:

4 30.20 (2) (d) If an applicant for a permit under par. (bn) submits the application
5 at least 30 days before the proposed date of the removal, the department may issue
6 the permit for a period of up to 10 years.

7 SECTION 112. 30.20 (2) (e) of the statutes is created to read:

8 30.20 (2) (e) The notice and hearing provisions of s. 30.208 (3) to ~~(6)~~ ⁵ apply to
9 an application for a permit or contract under this subsection.

10 SECTION 113. 30.2022 (title) of the statutes is created to read:

11 30.2022 (title) **Activities of department of transportation.**

12 SECTION 114. 30.2026 (2) (d) of the statutes is amended to read:

13 30.2026 (2) (d) The village of Belleville shall create any artificial barrier under
14 this section in compliance with all state laws that relate to navigable bodies of water,
15 except s. 30.12 ~~(1) and (2)~~.

16 SECTION 115. 30.2026 (3) (a) of the statutes is amended to read:

17 30.2026 (3) (a) The village of Belleville shall maintain any artificial barrier
18 created as authorized under sub. (1). If a landowner of more than 500 feet of Lake
19 Belle View shoreline, a portion of which is located within 1,000 feet of any such
20 artificial barrier, is dissatisfied with the manner in which the village of Belleville is
21 maintaining the barrier, the owner may maintain the barrier in lieu of the village,
22 upon approval of the department. The village or a landowner who maintains the
23 barrier shall comply with all state laws that relate to navigable bodies of water,
24 except s. 30.12 ~~(1) and (2)~~. The department may require the village of Belleville or

1 the landowner to maintain the barrier in a structurally and functionally adequate
2 condition.

3 SECTION 116. 30.206 (1) (title) of the statutes is created to read:

4 30.206 (1) (title) PROCEDURE FOR ISSUING GENERAL PERMITS.

5 SECTION 117. 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and
6 amended to read:

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

15 (b) Before issuing general permits, the department shall determine provide,
16 after an environmental analysis and, notice and hearing under ss. 227.17 and
17 227.18, that.

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

24 SECTION 118. 30.206 (1) (c) 1. to 3. of the statutes are created to read:

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

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

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

7 **SECTION 119.** 30.206 (2) of the statutes is repealed.

8 **SECTION 120.** 30.206 (3) (title) of the statutes is created to read:

9 30.206 (3) (title) PROCEDURES FOR CONDUCTING ACTIVITIES UNDER GENERAL
10 PERMITS.

11 **SECTION 121.** 30.206 (3) of the statutes is renumbered 30.206 (3) (a) and
12 amended to read:

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

22 **SECTION 122.** 30.206 (3) (c) of the statutes is created to read:

23 30.206 (3) (c) Upon completion of an activity that the department has
24 authorized under a general permit, the applicant for the general permit shall provide

1 to the department a statement certifying that the activity is in compliance with all
2 of the conditions of the general permit and a photograph of the activity.

3 SECTION 123. 30.206 (3m) of the statutes is repealed.

4 SECTION 124. 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and
5 amended to read:

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

16 SECTION 125. 30.206 (5) (title) of the statutes is created to read:

17 30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

18 SECTION 126. 30.206 (6) of the statutes is amended to read:

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

23 SECTION 127. 30.206 (7) of the statutes is amended to read:

1 30.206 (7) This section does not apply to an application for a general permit for
2 the Wolf River and Fox River basin area or any area designated under s. 30.207 (1m)
3 if the application for the general permit may be submitted under s. 30.207.

4 **SECTION 128.** 30.207 (1) of the statutes is amended to read:

5 30.207 (1) GEOGRAPHICAL AREA. For purposes of this section and s. 30.12 (3) (bt)
6 30.2023, the Wolf River and Fox River basin area consists of all of Winnebago County;
7 the portion and shoreline of Lake Poygan in Waushara County; the area south of
8 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
9 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
10 portion of Outagamie County south and east of USH 41; that portion of Waupaca
11 County that includes the town of Mukwa, city of New London, town of Caledonia,
12 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
13 in the town of Weyauwega.

SECTION #: RP; 30.207(4)(b) ✓

repealed.

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SECTION 129. 30.207 (5) of the statutes is amended to read:

15 ~~30.207 (5) HEARING REQUIREMENTS. If an activity for which an application for~~
16 ~~which a general permit has been submitted would be subject to the hearing and~~
17 ~~notice provisions under s. 30.02 (3) and (4) 30.208 (3) to (6) for the issuance of an~~
18 ~~individual permit, the department shall comply with those provisions. Notice and~~
19 ~~hearing shall be required on an application for a general permit under this section~~
20 ~~only if a notice and hearing are required under s. 30.02 (3) and (4) for the activity as~~
21 ~~part of an application for an individual permit under this chapter.~~

22 **SECTION 130.** 30.208 of the statutes is created to read:

23 **30.208 Applications for individual permits and contracts; department**
24 **determinations. (1) APPLICATION REQUIRED.** A person who seeks to obtain or modify

The application may contain a request for a public hearing on the application.

1 an individual permit under this subchapter or to enter into a contract under s. 30.20
2 shall submit an application to the department.

3 ~~(3) NOTICE OF APPLICATION AND COMMENTS. (a) In compliance with all of the
4 applicable rules promulgated under sub. (5), notice of each complete application for
5 an individual permit or contract shall be provided to interested and potentially
6 interested members of the public, as determined by the department, within ¹⁵30 days
7 after receipt of the complete application.~~

*request
for hearing
does not
need
comments.*

8 (b) The department shall provide a period of ~~not less than~~ 30 days following the
9 date of the notice under par. (a), during which time any person may submit written
10 comments with respect to the application for the permit or contract. A person
11 submitting written comments may also submit a request for a public hearing. All
12 written comments submitted during this period for comment shall be retained by the
13 department and considered in the formulation of the final determination on the
14 permit application.

15 (4) PUBLIC HEARING; NOTICE; REQUEST FOR HEARING. (a) The department shall
16 schedule and hold a public hearing on an application for an individual permit or
17 contract if a request for the hearing is timely submitted as required under sub. (3)

18 (b), if a hearing is requested in writing by the permit applicant, or if the department
19 determines that there is a significant public interest in holding the hearing. Notice
20 of the public hearing shall be provided in compliance with all of the applicable rules
21 promulgated under sub. (5).

The hearing within 30 after public notice of the public hearing.

22 ~~(b) The request for the public hearing must be submitted to the department or~~
23 ~~the department's determination to schedule a hearing must occur within 30 days~~
24 ~~after the notice of the application under sub. (3) has been completed.~~

(c)

1 ✓ (d) ~~(a)~~ The department shall promulgate rules to establish procedures for the ^{INS}
2 conduct of public hearings held under this subsection. Public hearings held under ⁴⁰⁻¹
3 this subsection are not contested cases under s. 227.01 (3).

4 (4) (5) NOTICE REQUIREMENTS. (a) The department shall, by rule, establish
5 procedures for providing notices of ^{complete} applications ~~to~~ be provided under sub. (3) ^{and} notices
6 of public hearings to be provided under sub. ⁽³⁾ ~~(4)~~ and notices of administrative
7 hearings to be provided under s. 30.209 (1). The procedures shall require all of the
8 following:

- 9 1. That the notice be published as a class 1 notice under ch. 985.
- 10 2. That the notice be mailed to any person or group upon request.
- 11 3. That the applicant for the permit pay for the publication, mailing, and any
12 other distribution costs of providing the notice.

13 (b) The department shall, by rule, prescribe the form and content of notices of
14 ^{complete} applications ~~to~~ be provided under sub. (3) ^{and} notices of public hearings to be provided
15 under sub. ⁽³⁾ ~~(4)~~ and notices of administrative hearings to be provided under s. 30.209

16 (1). Each notice shall include all of the following information:

- 17 1. The name and address of each applicant or permit holder.
- 18 2. A brief description of each applicant's activity or project that requires the
19 permit. (of complete application and a notice of public hearing)
- 20 3. The name of the waterway in or for which the activity or project is planned.
- 21 4. For a notice under sub. (3) ~~or (4)~~, a statement of the tentative determination
22 to issue or deny a permit for the activity or project described in the application.
- 23 5. For a notice under sub. (3), a brief description of the procedures for the
24 formulation of final determinations, ⁵⁻¹⁵⁻¹¹ including the ~~30-day~~ comment period required
25 under ^{sub. (4)} ~~sub. (3)(b)~~. (no a description of

modify,