

1 (6) DECISION. Within 30 days after a public hearing is scheduled as required  
 2 under sub. (4) (b) or, if no hearing is scheduled, within 30 days after the last day of  
 3 the 30-day comment period under sub. (3) (b), the department shall render a decision  
 4 issuing, denying, or modifying the application submitted under sub. (1).

5 SECTION 131. 30.209 of the statutes is created to read:

6 30.209 Individual permits; administrative and judicial review. (1)

7 ADMINISTRATIVE REVIEW. (a) An applicant for or holder of an individual permit, or 5 41-4  
 8 or more persons, may file a petition for administrative review of any of the following  
 9 decisions given by the department:

- 10 1. The issuance, denial, or modification of any individual permit issued under
- 11 this subchapter.
- 12 2. The imposition of, or failure to impose, a term or condition on any individual
- 13 permit issued under this subchapter.

14 (b) A petition under this subsection shall be filed with the department within  
 15 30 days after the date on which the department has given notice of its decision under

16 par. (a) 1. ~~and 2.~~ <sup>OP</sup> The department shall grant an administrative hearing if the  
 17 department finds that the petition includes a statement that gives specific reasons  
 18 why the department's decision may violate state law.

19 (c) ~~If~~ the department grants an administrative hearing under par. (b), a notice  
 20 of the hearing shall be provided at least 30 days before the date of the hearing to all  
 21 of the following:

- 22 1. The applicant for or the holder of the permit.
- 23 2. Each petitioner, if other than the applicant or holder.
- 24 3. Any other persons required to receive notice under the rules promulgated
- 25 under s. 30.208 (5) ~~(a)~~.

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satisfies requirements  
of s. 227.52

1 (d) The notice under par. (c) shall be in compliance with all of the other  
2 applicable rules promulgated under s. 30.208 (5).

3 (e) The administrative hearing shall be conducted as a contested case hearing  
4 in accordance with the procedures under ch. 227.

5 (2) JUDICIAL REVIEW. (a) Any applicant for or holder of an individual permit or  
6 any other person with standing may commence an action in circuit court to review  
7 any of the decisions given by the department that are specified in sub. (1) (a) 1. and  
8 2.

9 (b) An action filed under par. (a) by an applicant for or holder of an individual  
10 permit shall be in lieu of the applicant or holder seeking review under sub. (1).

11 (c) Any administrative review petitioned for under sub. (1) may be removed to  
12 the circuit court by the applicant for the permit, the holder of the permit, or the  
13 department. The review shall be commenced by filing a motion for removal together  
14 with a copy of the petition filed under sub. (1). The motion must be filed within 30  
15 days after notice is provided under sub. (1) (c).

16 (d) An action or review commenced under this subsection shall be filed in the  
17 circuit court for the county in which the riparian property that is subject to a decision  
18 by the department, as specified in sub. (1) (a) 1. and 2., is located.

19 (e) A review under par. (c) or (d) shall include the examination of witnesses and  
20 the taking of evidence before the court.

21 SECTION 132. 30.28 (3) (b) of the statutes is amended to read:

22 30.28 (3) (b) This section does not apply to a permit issued under s. 30.12 (3)

23 (a) ~~2, 2m. or 3.~~ or (4) (c) or (d).

24 SECTION 133. 30.29 (3) (d) of the statutes is amended to read:

1           30.29 (3) (d) *Activities for which a permit is issued.* A person or agent of a person  
2 who is issued a permit by the department while the person or agent is engaged in  
3 activities related to the purpose for which the permit is issued as authorized under  
4 a general or individual permit issued under this subchapter or as authorized under  
5 a contract entered into under this subchapter.

6           **SECTION 134.** 30.298 (3) of the statutes is amended to read:

7           30.298 (3) Any person who violates a general permit under s. 30.206 shall  
8 forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not  
9 less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or  
10 subsequent time.

11          **SECTION 135.** 31.39 (2m) (c) of the statutes is amended to read:

12          31.39 (2m) (c) If more than one fee under sub. (2) (a) or s. 30.28 (2) ~~(a)~~ or 281.22  
13 is applicable to a project, the department shall charge only the highest fee of those  
14 that are applicable.

15          **SECTION 136.** 84.18 (6) of the statutes is amended to read:

16          84.18 (6) EXECUTION AND CONTROL OF WORK. Subject to s. ~~30.12 (4)~~ 30.2022 and  
17 the control exercised by the United States, the construction under this section of any  
18 local bridge project shall be wholly under the supervision and control of the  
19 department. The secretary shall make and execute all contracts and have complete  
20 supervision over all matters pertaining to such construction and shall have the  
21 power to suspend or discontinue proceedings or construction relative to any bridge  
22 project at any time in the event any county, city, village or town fails to pay the  
23 amount required of it for any project eligible for construction under this section, or  
24 if the secretary determines that sufficient funds to pay the state's part of the cost of  
25 such bridge project are not available. All moneys provided by counties, cities,

1 villages and towns shall be deposited in the state treasury, when required by the  
2 secretary, and paid out on order of the secretary. Any of the moneys deposited for a  
3 project eligible for construction under this section which remain in the state treasury  
4 after the completion of the project shall be repaid to the respective county, city, village  
5 or town in proportion to the amount each deposited.

6 **SECTION 137.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

7 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public  
8 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may  
9 petition the city, village, town or county that owns the public access to construct  
10 shoreline erosion control measures. Subject to par. (e), the city, village, town or  
11 county shall construct the requested shoreline erosion control measures or request  
12 the department of natural resources to determine the need for shoreline erosion  
13 control measures. Upon receipt of a request under this paragraph from a city, village,  
14 town or county, the department of natural resources shall follow the notice and  
15 hearing procedures in s. 30.02 (3) and (4) 30.208 (3) to (5). Subject to par. (e), the city,  
16 village, town or county shall construct shoreline erosion control measures as  
17 required by the department of natural resources if the department of natural  
18 resources determines all of the following:

19 **SECTION 138.** 281.22 (2) (c) of the statutes is amended to read:

20 281.22 (2) (c) If more than one fee under this section or s. 30.28 (2) (a) or 31.39  
21 (2) (a) is applicable to a project, the department shall charge only the highest fee of  
22 those that are applicable.

23 **SECTION 139. Initial applicability.**

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1 (1) The treatment of sections 30.208 and 30.209 of the statutes first applies to  
2 applications for individual permits that are submitted to the department of natural  
3 resources on the effective date of this subsection.

4 (2) The treatment of section 30.208 of the statutes first applies to applications  
5 for contracts under section 30.20 of the statutes that are submitted to the  
6 department of natural resources on the effective date of this subsection.

7

(END)

**Insert ANL 4** ✓

For placement permits, current law provides an abbreviated procedure for reviewing applications. Under the procedure, DNR may approve or disapprove the permit application without giving notice or conducting a hearing. Types of permit applications to which this abbreviated procedure applies include applications to place sand to improve recreational use and applications to place devices to improve fish habitat.

This bill repeals this abbreviated review procedure. Instead, under the bill the general permitting process applies to most of the waterway activities that are subject to the abbreviated procedure.

The bill also exempts certain waterway activities from both general and individual placement permits if they do not interfere with the rights of other riparian owners and if they are located outside an area of special natural resource interest (exempt waterway activities). Under current law, some of these activities are subject to the abbreviated procedure and some must meet notice and hearing requirements before being issued. 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 a waterway activity is not an exempt waterway activity, the individual permitting process applies unless the waterway activity is covered by a general permit.

Whether a waterway activity is subject to the individual placement permit process, the general placement permit process, or is totally exempt from any type of placement permit depends on the placement or deposit meeting certain size and other criteria. Structures and deposits that are subject to these placement permit provisions include deposits of sand, crushed rock or gravel, riprap, boat shelters and hoists, intake and outlet structures, ~~and~~ piers and wharves. Under current law, a riparian owner may construct a pier or wharf beyond the ordinary high-water mark or an established bulkhead line without a placement permit if the wharf or pier meets certain criteria. This bill eliminates this exemption.

Under current law, DNR may, but is not required to, issue placement permits for waterway activities that meet the requirements for the permit. Under the bill, DNR must issue placement permits for activities that meet these requirements.

**Insert ANL 6** ✓

2. Limits the scope of the general requirement for a removal contract to natural navigable lakes. Under current law, both natural and artificial lakes are subject to this requirement.

3. Limits the scope of the general requirement for a removal permit to navigable streams. Under current law, both navigable and nonnavigable streams are subject to this requirement.

**Insert ANL 7** ✓

Under the bill, DNR must provide notice of a complete <sup>(permit/contract?)</sup> application ~~is complete~~ to interested members of the public within 15 days after DNR determines that the application is complete. DNR must provide a period for public comment after <sup>v</sup> providing notice that the application is complete. If no hearing is requested <sup>o</sup> the public comment period ends in 30 days.

If a public hearing is requested, the comment period ends 10 days after the conclusion of the hearing <sup>g.b.</sup> The permit application may contain a request for a public hearing or any other person may request a hearing. DNR <sup>R</sup> may also decide on its own to hold a hearing if it determines that there is a significant public interest in the permit. A hearing request must be submitted to DNR within 30 days of the notice that the application is complete. DNR must then provide notice within 15 days, and the hearing must be held within 30 days of the notice <sup>✓</sup> being <sup>✓</sup> complete. DNR must issue its decision within 30 days after <sup>the</sup> hearing.

If no hearing is <sup>✓✓</sup> to be held, then DNR must issue its decision within 30 days after the close of the comment period.

**Insert 13-11** ✓

**SECTION 1.** 30.12 (3) (a) 10. of the statutes is created to read:

30.12 (3) (a) 10. Place a pier to replace a pier that has been in existence at least 10 years before the effective date of this subdivision <sup>g.b.</sup> [revisor inserts date], does not exceed 10 feet in width <sup>o</sup> and does not exceed 500 square feet in area.

**SECTION 2.** 30.12 (3) (a) 11. of the statutes is created to read:

30.12 (3) (a) 11. Place a pier that does not exceed 400 square feet in area in a lake that <sup>g</sup> is 500 acres or more in area.

**Insert 24-8** ✓

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

*anal. text components*

30.19 (1m) (c) ~~Any~~ <sup>✓</sup> An activity that affects a navigable inland lake that is  
located wholly or partly in any county having a population of 750,000 or more.

History: 1971 c. 273; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221; 1983 a. 36; 1987 a. 374; 1995 a. 227.

SECTION 4. 30.19 (1m) (cm) of the statutes is created to read:

30.19 (1m) (cm) <sup>✓</sup> Any activity that affects a portion of Lake Michigan or of Lake  
Superior that is located within a county having a population of 750,000 or more.

SECTION 5. 30.19 (1m) (d) <sup>✓</sup> of the statutes is amended to read:

30.19 (1m) (d) ~~Those portions~~ <sup>✓</sup> Any activity that affects a portion of a navigable  
~~streams, Lake Michigan or Lake Superior stream that is located within any a county~~  
having a population of 750,000 or more.

History: 1971 c. 273; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221; 1983 a. 36; 1987 a. 374; 1995 a. 227.

**Insert 40-1** <sup>✓</sup>

(3) <sup>✓</sup> NOTICE OF COMPLETE APPLICATION; REQUEST FOR PUBLIC HEARING; DECISION. <sup>A</sup>(a)

Upon determination by the department that an application submitted under sub. (1)  
is complete, the department shall provide notice ~~of~~ <sup>✓</sup> complete application to interested  
and potentially interested members of the public, as determined by the department. <sup>o</sup>  
The department shall provide the notice within 15 days after the determination that  
the application is complete. If the applicant has requested a public hearing as part  
of the submitted application, a notice of public hearing shall be part of the notice of  
<sup>✓</sup> complete application.

(b) If the notice of <sup>✓</sup> complete application does not contain a notice of public  
hearing, any person may request a public hearing in writing or the department may  
decide to hold a public hearing without a request being submitted if the department  
determines that there is a significant public interest in <sup>o</sup> holding a hearing.

(c) A request for a public hearing under par. (b) must be submitted to the  
department or the department's decision to hold a public hearing must occur within



30 days after the department completes providing the notice of complete application. The department shall provide notice of public hearing within 15 days after the request for public hearing is submitted or the department makes its determination.

(d) The department shall hold a public hearing within 30 days after the notice of hearing has been provided under par. (a) or (c).

(d) Within 30 days after the public hearing is held or, if no public hearing is held, within 30 days of the 30-day comment period under sub. (4) (a) the department shall render a decision, issuing, denying or modifying the permit or approving the contract that is the subject of the application submitted under sub. (1).

(4) PUBLIC COMMENT. (a) The department shall provide a period for public comment after the department has provided a notice of complete application under sub. (3) (a) during which time any person may submit written comments with respect to the application for the permit or contract. The department shall retain all of the written comments submitted during this period and shall consider all of the comments in the formulation of the final decision on the application. The period for public comment shall end on the 30th day following the date the department completes providing the notice of complete application has been completed except as provided in par. (b).

(b) If a public hearing is held, the period for public comment shall end on the 10th day following the date the public hearing is completed.

Insert 41-4

(c) The department may delegate the department's requirement to provide notice under sub. (3) or s. 30.209 (1) by doing any of the following:

1. Requiring that the applicant for the permit or contract provide by publication, mailing, or other distribution one or more of the notices.

2. That the applicant for the permit or contract pay for the publication, mailing, or any other distribution costs of providing one or more of the notices.

Insert 41-20 ✓

~~NOT~~ The petition shall state the interest of each petitioner, the specific issue to be reviewed, and the reasons why an administrative hearing is warranted.

(c) Unless the department determines that there are no grounds supporting the position that an administrative hearing is warranted, the department shall provide a notice of the hearing

Insert 44-22 ✓

SECTION 6. 299.05 (2) (a) of the statutes is amended to read:

299.05 (2) (a) Permits, contracts, and other approvals under ss. 30.10 to 30.205 and 30.21 to 30.27.

History: 1997 a. 27, 301.

~~Current law 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 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. Under the bill, all of the placement permits (the permits that are subject to the abbreviated procedure become subject to the general permitting procedure, except for the placement of fish cribs, bird nesting platforms and similar devices that are placed for the purpose of improving fish and wildlife habitat. These structures are exempt from all permitting requirements under the bill if they are exempt minor activities.~~

Section #. 30.207 (3) (d) 2. of the statutes is amended to read:

30.207 (3) (d) 2. Specify the department's plans for proceeding on the application. ~~The plans shall include a timetable for the notice and hearing required under sub. (4).~~

**History:** 1997 a. 174; 2001 a. 16, 103.

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

LRB-3040/P3dn

MGG: *King*

Please review this draft carefully to ensure that it is consistent with your intent.

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

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3040/P3insA  
MGG/RPN/RCT:kmg:ch

Ins. 31-24

1. Remove material from an area from which material has been previously removed, the removal is for maintenance purposes, and the material to be removed is 1,000 or more cubic yards.

2. Remove material from an area from which no material has been previously removed and the material to be removed is 100 or more cubic yards but less than 1,000 cubic yards.

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

LRB-3040/P3dn  
MGG:kmg:pg

October 15, 2003

**Please review this draft carefully to ensure that it is consistent with your intent.**

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

**Gibson-Glass, Mary**

**From:** Paul Kent [pkent@andersonkent.com]  
**Sent:** Thursday, October 16, 2003 10:43  
**To:** scott.manley@legis.state.wi.us  
**Cc:** mary.glass@legis.state.wi.us  
**Subject:** LRB-3040/P3  
**Importance:** High  
Scott,

I had a chance to review the above draft last night. Mary has done an excellent job of addressing the issues that have arisen, particularly in clarifying the hearing procedure for public hearings. There are a few minor areas of correction that I can summarize below. I am taking the liberty of copying Mary on them so she has the as well.

- PK 1. p.12 ln 1 For clarity and consistency we should probably modify (1g)(g) to read "... extends no more that linear feet along the shore." *not necessary, concept included in chapter wide definition of wharf*
- 2. p. 12 ln 5 An item was missed here. The (1g)(i) should read, "Riprap in an amount not to exceed 75 linear feet where no riprap has been previously placed, and in an amount not to exceed 300 linear feet where riprap has been previously placed." *done*
- 3. p.13 ln 15. The pier area should be 500 square feet instead of 400 square feet. *done*
- 4. p. 14 ln 22. This is a question for Mary. To make it clear that the individual permits apply where there is no general permit or exemption, would it make sense to add an introductory clause to 30.12(3m) (a) that reads, "For activities not exempt under sub (1g) or not subject to a general permit under sub (3),..." I am not sure this is necessary, but I want to make sure the intent is clear that individual permits cannot be required where a general permit or exemption is available. If this change makes sense, then a parallel clause should be added to the other permit sections at the following places: p.20 ln 1; p. 27 ln 4; p.28 ln 12; and p. 33 ln 19. *do not repeal § 30.206(6)*

Please contact me if you have any questions or comments.

Paul G. Kent  
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10/19/2003



State of Wisconsin  
2003 - 2004 LEGISLATURE

RMR  
LRB-3040/28 1  
MGG/RPN/RCT:kmg:pg

D-Note

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Tues, 10/21, if possible

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 (2), 30.19 (3), 30.195 (3) (title), 30.195 (4), 30.195 (7), 30.206 (2), 30.206  
5 (3m), 30.207 (4) (b) and 30.207 (5); to renumber 30.12 (3) (bt) 1. to 9., 30.12 (4)  
6 (d), 30.135 (1) (a) 1., 30.135 (1) (a) 3. and 30.20 (1) (c) 3.; to renumber and  
7 amend 30.015, 30.07, 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12 (3) (bt) (intro.),  
8 30.12 (4) (a), 30.12 (4) (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f), 30.12 (4m),  
9 30.123 (1), 30.123 (4), 30.135 (1) (a) (intro.), 30.135 (1) (a) 2., 30.135 (1) (b), 30.19  
10 (1) (intro.), 30.19 (1) (a), 30.19 (1) (b), 30.19 (1) (c), 30.19 (4), 30.195 (3), 30.20  
11 (1) (d), 30.206 (1), 30.206 (3) and 30.206 (4); to consolidate, renumber and  
12 amend 30.20 (1) (c) 1. and 2.; to amend 29.601 (5) (a), 30.01 (1p), 30.10 (4) (a),  
13 30.11 (4), 30.12 (title), 30.12 (1) (intro.), 30.12 (1) (a), 30.12 (1) (b), 30.12 (3) (a)  
14 6., 30.12 (3) (c), 30.123 (2), 30.13 (1m) (intro.), 30.13 (1m) (b), 30.13 (4) (a), 30.13  
15 (4) (b), 30.18 (2) (a) (intro.), 30.18 (2) (b), 30.18 (4) (a), 30.18 (6) (b), 30.19 (1m)



1 (intro.), 30.19 (1m) (a), 30.19 (1m) (b), 30.19 (1m) (c), 30.19 (1m) (d), 30.19 (1m)  
2 (e), 30.19 (4) (title), 30.19 (5), 30.195 (1), 30.196 (intro.), 30.20 (1) (a), 30.20 (1)  
3 (b), 30.20 (2) (title), 30.20 (2) (a) and (b), 30.20 (2) (c), 30.2026 (2) (d), 30.2026  
4 (3) (a), 30.206 (6), 30.206 (7), 30.207 (1), 30.207 (3) (d) 2., 30.28 (3) (b), 30.29 (3)  
5 (d), 30.298 (3), 31.39 (2m) (c), 84.18 (6), 236.16 (3) (d) (intro.), 281.22 (2) (c) and  
6 299.05 (2) (a); *to repeal and recreate* 30.12 (3) (title), 30.12 (3) (a) (intro.),  
7 30.123 (title), 30.195 (2) and 30.20 (1) (title); and *to create* 30.01 (1am), 30.12  
8 (1g) (intro.), (a), (b) and (e) to (i), 30.12 (3) (a) 9., 30.12 (3) (a) 10., 30.12 (3) (a)  
9 11., 30.12 (3) (br), 30.12 (3m), 30.121 (3w), 30.123 (6), 30.123 (7), 30.123 (8),  
10 30.19 (1b), 30.19 (1m) (cm), 30.19 (1m) (g), 30.19 (1m) (h), 30.19 (3r), 30.19 (4)  
11 (a), 30.19 (4) (b), 30.19 (4) (c) 1., 30.195 (1m), 30.20 (1g) (title) and (b), 30.20 (1r),  
12 30.20 (2) (bn), 30.20 (2) (d), 30.20 (2) (e), 30.2022 (title), 30.206 (1) (title), 30.206  
13 (1) (c) 1. to 3., 30.206 (3) (title), 30.206 (3) (c), 30.206 (5) (title), 30.208 and 30.209  
14 of the statutes; **relating to:** structures, deposits, and other activities in or near  
15 navigable waters; notice, hearing, and review procedures related to permits to  
16 place structures and materials and to conduct activities in or near navigable  
17 waters; and granting rule-making authority.

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***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 (waterway activities).

***Permitting changes in general***

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

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 waterway 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***

Under current law, DNR may, but is not required to, issue general permits for waterway 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 waterway activity that requires a general permit. The bill expands the use of general permits by requiring DNR to issue statewide general permits for certain waterway activities and to allow DNR to promulgate rules to specify additional waterway 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 waterway 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 waterway activity is considered to be authorized.

#### ***Placement permits***

For placement permits, current law provides an abbreviated procedure for reviewing applications. Under the procedure, DNR may approve or disapprove the permit application without giving notice or conducting a hearing. Types of permit applications to which this abbreviated procedure applies include applications to place sand to improve recreational use and applications to place devices to improve fish habitat.

This bill repeals this abbreviated review procedure. Instead, under the bill the general permitting process applies to most of the waterway activities that are subject to the abbreviated procedure.

The bill also exempts certain waterway activities from both general and individual placement permits if they do not interfere with the rights of other riparian owners and if they are located outside an area of special natural resource interest (exempt waterway activities). Under current law, some of these activities are subject to the abbreviated procedure and some must meet notice and hearing requirements before being issued. 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 a waterway activity is

not an exempt waterway activity, the individual permitting process applies unless the waterway activity is covered by a general permit.

Whether a waterway activity is subject to the individual placement permit process or the general placement permit process or is totally exempt from any type of placement permit depends on the placement or deposit meeting certain size and other criteria. Structures and deposits that are subject to these placement permit provisions include deposits of sand, crushed rock, gravel, or riprap; boat shelters and hoists; intake and outlet structures; piers; and wharves. Under current law, a riparian owner may construct a pier or wharf beyond the ordinary high-water mark or an established bulkhead line without a placement permit if the wharf or pier meets certain criteria. This bill eliminates this exemption.

Under current law, DNR may, but is not required to, issue placement permits for waterway activities that meet the requirements for the permit. Under the bill, DNR must issue placement permits for activities that meet these requirements.

### ***Enlargement permits***

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. The bill repeals 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).

4. Grade or remove top soil from the bank of a navigable waterway if the exposed area will exceed 10,000 square feet (grading 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 grading 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 connection permit requirement and 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 and the 500-foot requirement for construction, dredging, and enlargements that are designed to enhance wildlife habitat or wetlands or that affect a body of water less than one acre

in size. The bill requires DNR to issue a general permit to meet the grading permit requirement for any grading or removing of top soil that is not covered by the exemption described above.

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. 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. Changes the permitting provisions to specifically cover the placement of culverts.
4. Subjects culverts that have diameters of less than 60 inches to the general permitting provisions.
5. 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. 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 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.
2. Limits the scope of the general requirement for a removal contract to natural navigable lakes. Under current law, both natural and artificial lakes are subject to this requirement.
3. Limits the scope of the general requirement for a removal permit to navigable streams. Under current law, both navigable and nonnavigable streams are subject to this requirement.
4. 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.

5. Requires DNR to issue general permits 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 or blighted 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.

**Notice, hearing, and decision provisions for individual permits**

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) 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 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 waterway activity will be located (area newspaper).

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, DNR must provide notice of a complete application to interested members of the public within 15 days after DNR determines that the application is complete. DNR must provide a period for public comment after providing notice that the application is complete. If no hearing is requested, the public comment period ends in 30 days.

If a public hearing is requested, the comment period ends 10 days after the conclusion of the hearing. The permit application may contain a request for a public hearing or any other person may request a hearing. DNR may also decide on its own

that  
that  
is in compliance with all individual or general permitting requirements, that

to hold a hearing if it determines that there is a significant public interest in the permit. A hearing request must be submitted to DNR within 30 days of the notice that the application is complete. DNR must then provide notice within 15 days, and the hearing must be held within 30 days of the notice being complete. DNR must issue its decision within 30 days after the hearing.

If no hearing is to be held, then DNR must issue its decision within 30 days after the close of the comment period.

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 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. 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.

Instead of requesting an administrative hearing to review the DNR decision, any person who has the right to request such a hearing may 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.

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*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  
17 beyond the ordinary high-water mark of a water, which is designed to be used or is  
18 normally used for fishing, which is not normally used as a means of transportation  
19 on water and which is normally retained in place by means of a permanent or  
20 semipermanent attachment to the shore or to the bed of the waterway. “Fishing raft”

1 does not include a boathouse or fixed houseboat regulated under s. 30.121 nor a  
2 wharf or pier regulated under ~~s.~~ ss. 30.12 and 30.13.

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

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

6 30.208 (2) ~~TIME LIMITS FOR ISSUING PERMIT DETERMINATIONS~~ PROCEDURE FOR  
7 COMPLETING APPLICATIONS. In issuing individual permits or entering contracts under  
8 ~~this chapter subchapter,~~ the department shall initially determine whether a  
9 complete application for the permit or contract has been submitted and, no later than  
10 ~~60~~ 30 days after the application is submitted, notify the applicant in writing about  
11 the initial determination of completeness. If the department determines that the  
12 application is incomplete, the notice shall state the reason for the determination and  
13 the specific items of information necessary to make the application complete. An  
14 applicant may supplement and resubmit an application that the department has  
15 determined to be incomplete. There is no limit on the number of times that an  
16 applicant may resubmit an application that the department has determined to be  
17 incomplete under this section. The department may not demand items of  
18 information that are not specified in the notice as a condition for determining  
19 whether the application is complete unless both the department and the applicant  
20 agree or unless the applicant makes material additions or alterations to the activity  
21 or project for which the application has been submitted. The rules promulgated  
22 under s. 299.05 apply only to applications for individual permits or contracts under  
23 this subchapter that the department has determined to be complete.

24 SECTION 6. 30.02 of the statutes is repealed.



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

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

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

8           30.10 (4) (a) This section does not impair the powers granted by law under s.  
9 30.123 ~~30.1235~~ or by other law to municipalities to construct highway bridges,  
10 arches, or culverts over streams.

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

12           30.11 (4) **RIPARIAN RIGHTS PRESERVED.** Establishment of a bulkhead line shall  
13 not abridge the riparian rights of riparian ~~proprietors~~ owners. Riparian ~~proprietors~~  
14 owners may place solid structures or fill up to such line.

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

16           **30.12 (title) Structures and deposits in navigable waters prohibited;**  
17 **~~exceptions; penalty.~~**

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

19           30.12 (1) ~~GENERAL PROHIBITION PERMITS REQUIRED.~~ (intro.) ~~Except as provided~~  
20 ~~under subs. (4) and (4m), unless a~~ Unless an individual or general permit has been  
21 granted by the department pursuant to statute or issued under this section or  
22 authorization has been granted by the legislature has otherwise authorized  
23 structures or deposits in navigable waters, it is unlawful, no person may do any of  
24 the following:

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

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

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

4           30.12 (1) (b) ~~To deposit~~ Deposit any material or ~~to place~~ any structure upon the  
5 bed of any navigable water beyond a lawfully established bulkhead line.

6           **SECTION 14.** 30.12 (1g) (intro.), (a), (b) and (e) to (j) of the statutes are created  
7 to read:

8           **30.12 (1g) EXEMPTIONS.** (intro.) A riparian owner is exempt from the permit  
9 requirements under this section for the placement of a structure or the deposit of  
10 material if the structure or material is located in an area other than an area of special  
11 natural resource interest, does not interfere with the rights of other riparian owners,  
12 and is any of the following:

13           (a) A deposit of sand, gravel, or stone that totals less than 2 cubic yards in any  
14 5-year period.

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

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

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

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

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

5 (j) ~~6~~ Riprap in an amount not to exceed 300 linear feet

*if the riprap is located within an area where riprap has been previously placed*

6 SECTION 15. 30.12 (2) of the statutes is repealed.

7 SECTION 16. 30.12 (3) (title) of the statutes is repealed and recreated to read:

8 30.12 (3) (title) GENERAL PERMITS.

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

11 30.12 (3) (a) (intro.) The department shall issue statewide general permits  
12 under s. 30.206 that authorize riparian owners to do all of the following:

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

15 30.12 (1g) (c) ~~Place a~~ A fish crib, spawning reef, wing deflector, or similar  
16 device that is placed on the bed of navigable waters for the purpose of improving fish  
17 habitat.

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

20 30.12 (1g) (d) ~~Place a~~ A bird nesting platform, ~~a~~ wood duck house, or similar  
21 structure that is placed on the bed of a navigable water for the purpose of improving  
22 wildlife habitat.

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

24 30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property  
25 for the purpose of storing or protecting watercraft and associated materials, except

*(j) Riprap in an amount not to exceed 75 linear feet and if the riprap is located outside an area where riprap has been previously placed.*

1 that no general permit may be granted issued for a permanent boat shelter which is  
2 constructed after May 3, 1988, if the property on which the permanent boat shelter  
3 is to be located also contains a boathouse within 75 feet of the ordinary high-water  
4 mark or if there is a boathouse over navigable waters adjacent to the owner's  
5 property.

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

7 30.12 (3) (a) 9. Place an intake or outfall structure that is less than 6 feet from  
8 the water side of the ordinary high-water mark and that is less than 25 percent of  
9 the width of the channel in which it is placed.

10 SECTION 22. 30.12 (3) (a) 10. of the statutes is created to read:

11 30.12 (3) (a) 10. Place a pier to replace a pier that has been in existence at least  
12 10 years before the effective date of this subdivision .... [revisor inserts date], does  
13 not exceed 10 feet in width, and does not exceed 500 square feet in area.

14 SECTION 23. 30.12 (3) (a) 11. of the statutes is created to read:

15 30.12 (3) (a) 11. Place a pier that does not exceed <sup>500</sup>~~200~~ square feet in area in a  
16 lake that is 500 acres or more in area.

17 SECTION 24. 30.12 (3) (b) of the statutes is repealed.

18 SECTION 25. 30.12 (3) (bn) of the statutes is repealed.

19 SECTION 26. 30.12 (3) (br) of the statutes is created to read:

20 30.12 (3) (br) The department may promulgate rules that specify structures or  
21 deposits, in addition to those listed in par. (a), that may be authorized by statewide  
22 general permits.

23 SECTION 27. 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (intro.)  
24 and amended to read:

1           **30.2023 Seawalls; Wolf River and Fox River basins.** (intro.) A riparian  
2 owner is exempt from the permit requirements under ~~sub. (2) and this subsection s.~~  
3 30.12 for a structure that is placed on the bed of a navigable water in the Wolf River  
4 and Fox River basin area, as described in s. 30.207 (1), and that extends beyond the  
5 ordinary high-water mark, if the following conditions apply:

6           **SECTION 28.** 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (1)  
7 to (9).

8           **SECTION 29.** 30.12 (3) (c) of the statutes is amended to read:

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

20           **SECTION 30.** 30.12 (3) (d) of the statutes is repealed.

21           **SECTION 31.** 30.12 (3m) of the statutes is created to read:

22           30.12 (3m) **INDIVIDUAL PERMITS.** (a) ~~A~~ <sup>a</sup> riparian owner may apply to the  
23 department for an <sup>the</sup> individual permit that is required under sub. (1) in order to place

24 ~~A~~ <sup>the</sup> structure for the owner's use or to deposit ~~any~~ <sup>the</sup> material ~~that is not exempt~~  
~~under sub. (1g) or that is not subject to a general permit~~  
~~under sub. (1) of this section or shelter~~

*For a structure or deposit that is not exempt under sub. (1g) and that is not subject to a general permit under sub. (3),*

1 (b) The notice and hearing provisions of s. 30.208 (3) to (5) shall apply to an  
2 application under par. (a). *to a riparian owner*

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

- 6 1. The structure or deposit will not materially obstruct navigation.
- 7 2. The structure or deposit will not be detrimental to the public interest.
- 8 3. The structure or deposit will not materially reduce the flood flow capacity  
9 of a stream.

10 SECTION 32. 30.12 (4) (title) of the statutes is repealed.

11 SECTION 33. 30.12 (4) (a) of the statutes is renumbered 30.2022 (1) and  
12 amended to read:

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

23 SECTION 34. 30.12 (4) (b) of the statutes is renumbered 30.2022 (2) and  
24 amended to read:

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

5           **SECTION 35.** 30.12 (4) (c) of the statutes is renumbered 30.2022 (3) and  
6 amended to read:

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

16           **SECTION 36.** 30.12 (4) (d) of the statutes is renumbered 30.2022 (4).

17           **SECTION 37.** 30.12 (4) (e) of the statutes is renumbered 30.2022 (5) and  
18 amended to read:

19           30.2022 (5) Except as may be required otherwise under s. 1.11, no public notice  
20 or hearing is required in connection with any interdepartmental consultation and  
21 cooperation under this ~~subsection~~ section.

22           **SECTION 38.** 30.12 (4) (f) of the statutes is renumbered 30.2022 (6) and amended  
23 to read:

24           30.2022 (6) This ~~subsection~~ section does not apply to activities in the Lower  
25 Wisconsin State Riverway, as defined in s. 30.40 (15).

1           **SECTION 39.** 30.12 (4m) (title) of the statutes is repealed.

2           **SECTION 40.** 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12  
3 (1m) (c) (intro.), as renumbered, is amended to read:

4           30.12 (1m) (c) (intro.) ~~Subsection (1) does not apply to a~~ A structure or deposit  
5 that the drainage board for the Duck Creek Drainage District places in a drain that  
6 the board operates in the Duck Creek Drainage District is exempt from the permit  
7 requirements under this section if either of the following applies:

8           **SECTION 41.** 30.12 (5) of the statutes is repealed.

9           **SECTION 42.** 30.121 (3w) of the statutes is created to read:

10          30.121 (3w) **EXCEPTION; COMMERCIAL BOATHOUSES.** Notwithstanding subs. (2)  
11 and (3), a person may construct, repair, or maintain a boathouse if all of the following  
12 apply:

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

15          (b) The boathouse is located on land zoned exclusively for commercial or  
16 industrial purposes or the boathouse is located on a brownfield, as defined in s.  
17 560.13 (1) (a), or in a blighted area, as defined in s. 66.1331 (3) (a).

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

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

24          **SECTION 43.** 30.123 (title) of the statutes is repealed and recreated to read:

25          **30.123 (title) Bridges and culverts.**



1 SECTION 44. 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 45. 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 46. 30.123 (3) of the statutes is repealed.

20 SECTION 47. 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 48. 30.123 (5) of the statutes is repealed.

5 SECTION 49. 30.123 (6) of the statutes is created to read:

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

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

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

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

13 SECTION 50. 30.123 (7) of the statutes is created to read:

14 30.123 (7) GENERAL PERMITS. (a) The department shall issue statewide general  
15 permits under s. 30.206 that authorize any person to do all of the following:

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

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

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

23 SECTION 51. 30.123 (8) of the statutes is created to read:

For the construction and maintenance of bridges or culverts that is not exempt under sub. (6) and that is not subject to a general permit under sub. (7),

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

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

6 SECTION 52. 30.13 (1) of the statutes is repealed.

7 SECTION 53. 30.13 (1m) (intro.) of the statutes is amended to read:

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

12 SECTION 54. 30.13 (1m) (b) of the statutes is amended to read:

13 30.13 (1m) (b) The swimming raft does not interfere with rights of other  
14 riparian proprietors owners.

15 SECTION 55. 30.13 (2) of the statutes is repealed.

16 SECTION 56. 30.13 (4) (a) of the statutes is amended to read:

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

22 SECTION 57. 30.13 (4) (b) of the statutes is amended to read:

23 30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which interferes  
24 with rights of other riparian proprietors owners constitutes an unlawful obstruction  
25 of navigable waters unless ~~a permit is issued for~~ the wharf or pier is authorized

1 under a permit issued under s. 30.12 or unless other authorization for the wharf or  
2 pier is expressly provided.

3 SECTION 58. 30.13 (4) (d) of the statutes is repealed.

4 SECTION 59. 30.135 (1) (title) of the statutes is repealed.

5 SECTION 60. 30.135 (1) (a) (intro.) of the statutes is renumbered 30.135 (1)  
6 (intro.) and amended to read:

7 30.135 (1) (intro.) A riparian ~~proprietor may place~~ owner placing a water ski  
8 platform or water ski jump in a navigable waterway ~~without obtaining a~~ is exempt  
9 from the permit requirements under this chapter if all of the following requirements  
10 are met:

11 SECTION 61. 30.135 (1) (a) 1. of the statutes is renumbered 30.135 (1) (a).

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

14 30.135 (1) (b) The platform or jump does not interfere with rights of other  
15 riparian ~~proprietors~~ owners.

16 SECTION 63. 30.135 (1) (a) 3. of the statutes is renumbered 30.135 (1) (c).

17 SECTION 64. 30.135 (1) (b) of the statutes is renumbered 30.135 (2) and  
18 amended to read:

19 30.135 (2) If the department determines that any of the requirements under  
20 ~~par. (a) sub. (1)~~ are not met, the riparian owner shall submit ~~a permit~~ an application  
21 for an individual permit to the department. The notice and hearing provisions under  
22 s. 30.208 (3) to (5) apply to the application.

23 SECTION 65. 30.135 (2), (3) and (4) of the statutes are repealed.

24 SECTION 66. 30.18 (2) (a) (intro.) of the statutes is amended to read:

1           30.18 (2) (a) *Streams*. (intro.) No person may divert water from a stream in  
2 this state without ~~a~~ an individual permit under this section if the diversion meets  
3 either of the following conditions:

4           **SECTION 67.** 30.18 (2) (b) of the statutes is amended to read:

5           30.18 (2) (b) *Streams or lakes*. No person, except a person required to obtain  
6 an approval under s. 281.41, may divert water from any lake or stream in this state  
7 without ~~a~~ an individual permit under this section if the diversion will result in a water  
8 loss averaging 2,000,000 gallons per day in any 30-day period above the person's  
9 authorized base level of water loss.

10          **SECTION 68.** 30.18 (4) (a) of the statutes is amended to read:

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

19          **SECTION 69.** 30.18 (6) (b) of the statutes is amended to read:

20          30.18 (6) (b) *Use of water*. A person issued a permit under this section for the  
21 purpose of irrigation or agriculture may use the water on any land contiguous to the  
22 permittee's riparian land, but may not withdraw more water than it did before  
23 August 1, 1957, without applying to the department for a modification of the permit.

24          **SECTION 70.** 30.18 (9) of the statutes is repealed.

1           **SECTION 71.** 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)  
2 and amended to read:

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

6           **SECTION 72.** 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and  
7 amended to read:

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

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

15           **SECTION 73.** 30.19 (1) (b) of the statutes is repealed.

16           **SECTION 74.** 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and  
17 amended to read:

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

21           **SECTION 75.** 30.19 (1b) of the statutes is created to read:

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

25           **SECTION 76.** 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 77.** 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 78.** 30.19 (1m) (b) of the statutes is amended to read:

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

8           **SECTION 79.** 30.19 (1m) (c) of the statutes is amended to read:

9           **30.19 (1m) (c)** ~~Any~~ An activity that affects a navigable inland lake that is  
10 located wholly or partly in any county having a population of 750,000 or more.

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

12           **30.19 (1m) (cm)** Any activity that affects a portion of Lake Michigan or of Lake  
13 Superior that is located within a county having a population of 750,000 or more.

14           **SECTION 81.** 30.19 (1m) (d) of the statutes is amended to read:

15           **30.19 (1m) (d)** ~~These portions~~ Any activity that affects a portion of a navigable  
16 streams, Lake Michigan or Lake Superior stream that is located within any a county  
17 having a population of 750,000 or more.

18           **SECTION 82.** 30.19 (1m) (e) of the statutes is amended to read:

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

22           **SECTION 83.** 30.19 (1m) (g) of the statutes is created to read:

23           **30.19 (1m) (g)** The construction, dredging, or enlargement of any artificial  
24 water body that is within 500 feet of the ordinary high-water mark of a navigable  
25 waterway, if the artificial water body does not have a surface connection to any

1 navigable waterway other than an overflow device and if the construction, dredging,  
2 or enlargement is authorized by a storm water discharge permit approved by the  
3 department under ch. 283 or a facility plan approved or authorized by the  
4 department under s. 281.41.

5 **SECTION 84.** 30.19 (1m) (h) of the statutes is created to read:

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

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

12 2. The grading or removal is authorized under an ordinance under s. 59.692,  
13 61.351, or 62.231.

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

16 **SECTION 85.** 30.19 (2) of the statutes is repealed.

17 **SECTION 86.** 30.19 (3) of the statutes is repealed.

18 **SECTION 87.** 30.19 (3r) of the statutes is created to read:

19 30.19 (3r) GENERAL PERMITS. (a) The department shall issue statewide general  
20 permits under s. 30.206 that authorize persons to do all of the following:

21 1. Engage in an activity specified in sub. (1g) (a) or (am) that is not exempt  
22 under sub. (1m) if the construction, dredging, or enlargement is authorized by a  
23 storm water discharge permit approved by the department under ch. 283 or a facility  
24 plan approved by the department under s. 281.41.