

1 2. Engage in an activity specified in sub. (1g) (a) or (am) if the construction,
2 dredging, or enlargement is designed to enhance wildlife habitat or wetlands, as
3 defined in s. 23.32 (1), or if the construction, dredging, or enlargement affects a body
4 of water that is less than one acre in area.

5 3. Engage in an activity specified in sub. (1g) (c) that is not exempt under sub.
6 (1m) (h) if the area exposed by the grading or removal will exceed 10,000 square feet.

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

10 SECTION 88. 30.19 (4) (title) of the statutes is amended to read:

11 30.19 (4) (title) ~~ISSUANCE OF PERMIT~~ INDIVIDUAL PERMITS.

12 SECTION 89. 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and
13 amended to read:

14 30.19 (4) (c) (intro.) ~~If the~~ The department finds that the project will not injure
15 public rights or interest, including fish and game habitat, that the project shall issue
16 an individual permit pursuant to an application under par. (a) if the department
17 finds that all of the following apply:

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

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

23 4. No material injury will result to the rights of any riparian owners on any
24 body of water affected will result, the department shall issue a permit authorizing

For activities that are not exempt under sub. (1m) and that are not subject to a general permit under sub. (3r), a

1 the enlargement of the affected waterways of real property that abuts any water body
2 that is affected by the activity.

3 SECTION 90. 30.19 (4) (a) of the statutes is created to read:

4 30.19 (4) (a) *In order to* ~~A~~ *An activity* person may apply to the department for an individual permit
5 *to* engage in ~~activities~~ *for* which a permit is required under sub. (1g).

6 SECTION 91. 30.19 (4) (b) of the statutes is created to read:

7 30.19 (4) (b) The notice and hearing provisions of s. 30.208 (3) to (5) apply to
8 an application under par. (a).

9 SECTION 92. 30.19 (4) (c) 1. of the statutes is created to read:

10 30.19 (4) (c) 1. The activity will not be detrimental to the public interest.

11 SECTION 93. 30.19 (5) of the statutes is amended to read:

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

20 SECTION 94. 30.195 (1) of the statutes is amended to read:

21 30.195 (1) PERMIT REQUIRED. ~~No~~ Unless a permit has been issued under this
22 section or authorization has been granted by the legislature, no person may change
23 the course of or straighten a navigable stream without a permit issued under this
24 section or without otherwise being expressly authorized by statute to do so.

25 SECTION 95. 30.195 (1m) of the statutes is created to read:

For activities that are not subject under to a general permit under sub.(1m), a

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

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

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

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

11 SECTION 96. 30.195 (2) of the statutes is repealed and recreated to read:

12 30.195 (2) INDIVIDUAL PERMITS. (a) *shall* riparian owner may apply to the
13 department for an individual permit *in order* to engage in activities for which a permit is
14 required under sub. (1).

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

17 SECTION 97. 30.195 (3) (title) of the statutes is repealed.

18 SECTION 98. 30.195 (3) of the statutes is renumbered 30.195 (2) (c) and
19 amended to read:

20 30.195 (2) (c) ~~Upon application therefor, the~~ *to a riparian owner* The department shall grant a
21 issue an individual permit to the applied for under this section if the department
22 determines that all of the following apply:

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

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

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

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

13 SECTION 99. 30.195 (4) of the statutes is repealed.

14 SECTION 100. 30.195 (7) of the statutes is repealed.

15 SECTION 101. 30.196 (intro.) of the statutes is amended to read:

16 **30.196 Enclosure of navigable waters; issuance of permits to**
17 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
18 placing or restricting navigable waters into an enclosed drain, conduit, storm sewer
19 or similar structure if the department grants the municipality ~~a~~ an individual
20 permit. The department may grant this permit to a municipality after following the
21 notice and hearing requirements under s. ~~30.02 (3) and (4) 30.208 (3) to (5)~~ if it finds
22 that granting the permit:

23 SECTION 102. 30.20 (1) (title) of the statutes is repealed and recreated to read:

24 30.20 (1) (title) PERMITS OR CONTRACTS REQUIRED.

25 SECTION 103. 30.20 (1) (a) of the statutes is amended to read:

is exempt from the permit and contract requirements under this section

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

6 SECTION 104. 30.20 (1) (b) of the statutes is amended to read:

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

12 SECTION 105. 30.20 (1) (c) 1. and 2. of the statutes are consolidated, renumbered
13 30.20 (1g) (a) 1. and amended to read: A removal of mat

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

21 SECTION 106. 30.20 (1) (c) 3. of the statutes is renumbered 30.20 (1g) (a) 2.

22 SECTION 107. 30.20 (1) (d) of the statutes is renumbered 30.20 (1g) (c) and
23 amended to read: A removal of material by the

24 30.20 (1g) (c) ~~The drainage board for the Duck Creek Drainage District may,~~
25 without a permit under sub. (2) (e), remove is exempt from the permit and contract

by the drainage board for

is exempt from the individual and general permit requirements under this section

1 ~~requirements under subs. (1r) and (2) for removal of material~~ from a drain that the
 2 board operates in the Duck Creek Drainage District if the removal is required, under
 3 rules promulgated by the department of agriculture, trade and consumer protection,
 4 in order to conform the drain to specifications imposed by the department of
 5 agriculture, trade and consumer protection after consulting with the department of
 6 natural resources.

7 SECTION 108. 30.20 (1g) (title) and (b) of the statutes are created to read:

8 30.20 (1g) (title) EXEMPTIONS.

9 (b) ~~A person is exempt from the permit and contract requirements under this~~ ^{removal of material is}

10 ~~section for removal of material~~ ^{plain-stet} if the material does not contain hazardous
 11 substances, the material will be placed in an upland area, the material is not being
 12 removed from an area of special natural resource interest, and if any of the following
 13 applies:

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

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

19 SECTION 109. 30.20 (1r) of the statutes is created to read:

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

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

1 2. Remove material from an area from which no material has been previously
2 removed and the material to be removed is 100 or more cubic yards but less than
3 1,000 cubic yards.

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

7 SECTION 110. 30.20 (2) (title) of the statutes is amended to read:

8 30.20 (2) (title) ~~CONTRACTS FOR REMOVAL AND INDIVIDUAL PERMITS.~~

9 SECTION 111. 30.20 (2) (a) and (b) of the statutes are amended to read:

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

24 (b) ~~The department, whenever consistent with public rights, may enter into~~
25 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any

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

*For a removal that is not exempt under
 Sub. (1g) and that is not subject to a general
 permit under
 sub. (1n),*

18 SECTION 112. 30.20 (2) (bn) of the statutes is created to read:

19 30.20 (2) (bn) ^{for a} ~~if~~ person may apply to the department for an individual permit
 20 that is required under sub. (1) (b) ^{in order} to remove material from the bed of any lake or
 21 stream not described under sub. (1) (a).

22 SECTION 113. 30.20 (2) (c) of the statutes is amended to read:

23 30.20 (2) (c) ~~A permit to remove material from the bed of any lake or stream~~
 24 ~~not included in sub. (1) (a) may be issued by the department if it~~ The department
 25 shall issue an individual permit pursuant to an application under par. (bn) if the

1 ~~department finds that the issuance of such a~~ the permit will be consistent with the
2 ~~public interest in the water involved. A permit or contract issued under this~~
3 ~~paragraph may be issued for up to 10 years if the applicant notifies the department~~
4 ~~at least 30 days before removing any material~~ lake or stream.

5 **SECTION 114.** 30.20 (2) (d) of the statutes is created to read:

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

9 **SECTION 115.** 30.20 (2) (e) of the statutes is created to read:

10 30.20 (2) (e) The notice and hearing provisions of s. 30.208 (3) to (5) apply to
11 an application for a permit or contract under this subsection.

12 **SECTION 116.** 30.2022 (title) of the statutes is created to read:

13 **30.2022 (title) Activities of department of transportation.**

14 **SECTION 117.** 30.2026 (2) (d) of the statutes is amended to read:

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

18 **SECTION 118.** 30.2026 (3) (a) of the statutes is amended to read:

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

1 except s. 30.12 (1) and (2). The department may require the village of Belleville or
2 the landowner to maintain the barrier in a structurally and functionally adequate
3 condition.

4 SECTION 119. 30.206 (1) (title) of the statutes is created to read:

5 30.206 (1) (title) PROCEDURE FOR ISSUING GENERAL PERMITS.

6 SECTION 120. 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and
7 amended to read:

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

16 (b) Before issuing general permits, the department shall determine provide,
17 after an environmental analysis and, notice and hearing under ss. 227.17 and
18 227.18, that,

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

25 SECTION 121. 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 122. 30.206 (2) of the statutes is repealed.

8 SECTION 123. 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 124. 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 125. 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 126.** 30.206 (3m) of the statutes is repealed.

4 **SECTION 127.** 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 128.** 30.206 (5) (title) of the statutes is created to read:

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

18 **SECTION 129.** 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 130.** 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 131.** 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.

14 **SECTION 132.** 30.207 (3) (d) 2. of the statutes is amended to read:

15 30.207 (3) (d) 2. Specify the department's plans for proceeding on the
16 application. ~~The plans shall include a timetable for the notice and hearing required~~
17 ~~under sub. (4).~~

18 **SECTION 133.** 30.207 (4) (b) of the statutes is repealed.

19 **SECTION 134.** 30.207 (5) of the statutes is repealed.

20 **SECTION 135.** 30.208 of the statutes is created to read:

21 **30.208 Applications for individual permits and contracts; department**
22 **determinations. (1) APPLICATION REQUIRED.** A person who seeks to obtain or modify
23 an individual permit under this subchapter or to enter into a contract under s. 30.20
24 shall submit an application to the department. The application may contain a
25 request for a public hearing on the application.

1 **(3) NOTICE OF COMPLETE APPLICATION; REQUEST FOR PUBLIC HEARING; DECISION. (a)**
2 Upon determination by the department that an application submitted under sub. (1)
3 is complete, the department shall provide notice of complete application to interested
4 and potentially interested members of the public, as determined by the department.
5 The department shall provide the notice within 15 days after the determination that
6 the application is complete. If the applicant has requested a public hearing as part
7 of the submitted application, a notice of public hearing shall be part of the notice of
8 complete application.

9 **(b)** If the notice of complete application does not contain a notice of public
10 hearing, any person may request a public hearing in writing or the department may
11 decide to hold a public hearing without a request being submitted if the department
12 determines that there is a significant public interest in holding a hearing.

13 **(c)** A request for a public hearing under par. (b) must be submitted to the
14 department or the department's decision to hold a public hearing must occur within
15 30 days after the department completes providing the notice of complete application.
16 The department shall provide notice of public hearing within 15 days after the
17 request for public hearing is submitted or the department makes its determination.

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

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

24 **(4) PUBLIC COMMENT. (a)** The department shall provide a period for public
25 comment after the department has provided a notice of complete application under

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

8 (b) If a public hearing is held, the period for public comment shall end on the
9 10th day following the date on which the public hearing is completed.

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

13 (5) NOTICE REQUIREMENTS. (a) The department shall, by rule, establish
14 procedures for providing notices of complete applications and notices of public
15 hearings to be provided under sub. (3), and notices of administrative hearings to be
16 provided under s. 30.209 (1). The procedures shall require all of the following:

- 17 1. That the notice be published as a class 1 notice under ch. 985.
- 18 2. That the notice be mailed to any person or group upon request.

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

- 23 1. The name and address of each applicant or permit holder.
- 24 2. A brief description of each applicant's activity or project that requires the
25 permit.

1 3. The name of the waterway in or for which the activity or project is planned.

2 4. For a notice of complete application and a notice of public hearing under sub.

3 (3), a statement of the tentative determination to issue, modify, or deny a permit for
4 the activity or project described in the application.

5 5. For a notice of complete application and a notice of public hearing under sub.

6 (3), a brief description of the procedures for the formulation of final determinations,
7 including a description of the comment period required under sub. (4).

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

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

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

14 **SECTION 136.** 30.209 of the statutes is created to read:

15 **30.209 Individual permits; administrative and judicial review. (1)**

16 **ADMINISTRATIVE REVIEW.** (a) An applicant for or holder of an individual permit, or 5
17 or more persons, may file a petition for administrative review of any of the following
18 decisions given by the department:

19 1. The issuance, denial, or modification of any individual permit issued under
20 this subchapter.

21 2. The imposition of, or failure to impose, a term or condition on any individual
22 permit issued under this subchapter.

23 (b) A petition under this subsection shall be filed with the department within
24 30 days after the date on which the department has given notice of its decision under

1 par. (a) 1. or 2. The petition shall state the interest of each petitioner, the specific
2 issue to be reviewed, and the reasons why an administrative hearing is warranted.

3 (c) Unless the department determines that there are no grounds supporting the
4 position that an administrative hearing is warranted, the department shall provide
5 a notice of the hearing at least 30 days before the date of the hearing to all of the
6 following:

- 7 1. The applicant for or the holder of the permit.
- 8 2. Each petitioner, if other than the applicant or holder.
- 9 3. Any other persons required to receive notice under the rules promulgated
10 under s. 30.208 (5).

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

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

15 (2) JUDICIAL REVIEW. (a) Any applicant for or holder of an individual permit or
16 any other person who satisfies the requirements of s. 227.52 may commence an
17 action in circuit court to review any of the decisions given by the department that are
18 specified in sub. (1) (a) 1. and 2.

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

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

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

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

6 SECTION 137. 30.28 (3) (b) of the statutes is amended to read:

7 30.28 (3) (b) This section does not apply to a permit issued under s. 30.12 (3)
8 (a) ~~2, 2m. or 3, or (4) (c) or (d).~~

9 SECTION 138. 30.29 (3) (d) of the statutes is amended to read:

10 30.29 (3) (d) *Activities for which a permit is issued.* A person or agent of a person
11 who is issued a permit by the department while the person or agent is engaged in
12 activities related to the purpose for which the permit is issued as authorized under
13 a general or individual permit issued under this subchapter or as authorized under
14 a contract entered into under this subchapter.

15 SECTION 139. 30.298 (3) of the statutes is amended to read:

16 30.298 (3) Any person who violates a general permit under s. 30.206 shall
17 forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not
18 less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or
19 subsequent time.

20 SECTION 140. 31.39 (2m) (c) of the statutes is amended to read:

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

24 SECTION 141. 84.18 (6) of the statutes is amended to read:

1 84.18 (6) EXECUTION AND CONTROL OF WORK. Subject to s. ~~30.12(4)~~ 30.2022 and
2 the control exercised by the United States, the construction under this section of any
3 local bridge project shall be wholly under the supervision and control of the
4 department. The secretary shall make and execute all contracts and have complete
5 supervision over all matters pertaining to such construction and shall have the
6 power to suspend or discontinue proceedings or construction relative to any bridge
7 project at any time in the event any county, city, village or town fails to pay the
8 amount required of it for any project eligible for construction under this section, or
9 if the secretary determines that sufficient funds to pay the state's part of the cost of
10 such bridge project are not available. All moneys provided by counties, cities,
11 villages and towns shall be deposited in the state treasury, when required by the
12 secretary, and paid out on order of the secretary. Any of the moneys deposited for a
13 project eligible for construction under this section which remain in the state treasury
14 after the completion of the project shall be repaid to the respective county, city, village
15 or town in proportion to the amount each deposited.

16 SECTION 142. 236.16 (3) (d) (intro.) of the statutes is amended to read:

17 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public
18 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may
19 petition the city, village, town or county that owns the public access to construct
20 shoreline erosion control measures. Subject to par. (e), the city, village, town or
21 county shall construct the requested shoreline erosion control measures or request
22 the department of natural resources to determine the need for shoreline erosion
23 control measures. Upon receipt of a request under this paragraph from a city, village,
24 town or county, the department of natural resources shall follow the notice and
25 hearing procedures in s. ~~30.02(3) and (4)~~ 30.208 (3) to (5). Subject to par. (e), the city,

1 village, town or county shall construct shoreline erosion control measures as
2 required by the department of natural resources if the department of natural
3 resources determines all of the following:

4 **SECTION 143.** 281.22 (2) (c) of the statutes is amended to read:

5 281.22 (2) (c) If more than one fee under this section or s. 30.28 (2) (a) or 31.39
6 (2) (a) is applicable to a project, the department shall charge only the highest fee of
7 those that are applicable.

8 **SECTION 144.** 299.05 (2) (a) of the statutes is amended to read:

9 299.05 (2) (a) Permits, contracts, and other approvals under ss. 30.10 to 30.205
10 and 30.21 to 30.27.

11 **SECTION 145. Initial applicability.**

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

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

18 (END)

309011

:RMg:

D-N

Prior to introduction, I suggest ^{that} you have Paul
Kerst review the draft ~~base~~ new language in
this draft based on the changes ^{that} he requested.

MBB

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

LRB-3040/1dn
MGG:kmg:pg

October 21, 2003

Prior to introduction, I suggest that you have Paul Kent review the new language in this draft based on the changes that he requested.

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



State of Wisconsin
2003 - 2004 LEGISLATURE

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

2003 BILL

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 (1) (b), 30.19 (2), 30.19 (3), 30.195 (3) (title), 30.195 (4), 30.195 (7), 30.206
5 (2), 30.206 (3m), 30.207 (4) (b) and 30.207 (5); *to renumber* 30.12 (3) (bt) 1. to
6 9., 30.12 (4) (d), 30.135 (1) (a) 1., 30.135 (1) (a) 3. and 30.20 (1) (c) 3.; *to*
7 *renumber and amend* 30.015, 30.07, 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12
8 (3) (bt) (intro.), 30.12 (4) (a), 30.12 (4) (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f),
9 30.12 (4m), 30.123 (1), 30.123 (4), 30.135 (1) (a) (intro.), 30.135 (1) (a) 2., 30.135
10 (1) (b), 30.19 (1) (intro.), 30.19 (1) (a), 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

BILL

1 (4) (b), 30.18 (2) (a) (intro.), 30.18 (2) (b), 30.18 (4) (a), 30.18 (6) (b), 30.19 (1m)
2 (intro.), 30.19 (1m) (a), 30.19 (1m) (b), 30.19 (1m) (c), 30.19 (1m) (d), 30.19 (1m)
3 (e), 30.19 (4) (title), 30.19 (5), 30.195 (1), 30.196 (intro.), 30.20 (1) (a), 30.20 (1)
4 (b), 30.20 (2) (title), 30.20 (2) (a) and (b), 30.20 (2) (c), 30.2026 (2) (d), 30.2026
5 (3) (a), 30.206 (6), 30.206 (7), 30.207 (1), 30.207 (3) (d) 2., 30.28 (3) (b), 30.29 (3)
6 (d), 30.298 (3), 31.39 (2m) (c), 84.18 (6), 236.16 (3) (d) (intro.), 281.22 (2) (c) and
7 299.05 (2) (a); *to repeal and recreate* 30.12 (3) (title), 30.12 (3) (a) (intro.),
8 30.123 (title), 30.195 (2) and 30.20 (1) (title); and *to create* 30.01 (1am), 30.12
9 (1g) (intro.), (a), (b) and (e) to (j), 30.12 (3) (a) 9., 30.12 (3) (a) 10., 30.12 (3) (a)
10 11., 30.12 (3) (br), 30.12 (3m), 30.121 (3w), 30.123 (6), 30.123 (7), 30.123 (8),
11 30.19 (1b), 30.19 (1m) (cm), 30.19 (1m) (g), 30.19 (1m) (h), 30.19 (3r), 30.19 (4)
12 (a), 30.19 (4) (b), 30.19 (4) (c) 1., 30.195 (1m), 30.20 (1g) (title) and (b), 30.20 (1r),
13 30.20 (2) (bn), 30.20 (2) (d), 30.20 (2) (e), 30.2022 (title), 30.206 (1) (title), 30.206
14 (1) (c) 1. to 3., 30.206 (3) (title), 30.206 (3) (c), 30.206 (5) (title), 30.208 and 30.209
15 of the statutes; **relating to:** structures, deposits, and other activities in or near
16 navigable waters; notice, hearing, and review procedures related to permits to
17 place structures and materials and to conduct activities in or near navigable
18 waters; and granting rule-making authority.

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

BILL

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

BILL

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

BILL

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.

BILL

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 in compliance with all individual or general permitting requirements, that is used exclusively for commercial purposes, that is on land zoned exclusively for commercial or industrial purposes or is in a brownfield or blighted area, and that 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.

BILL

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 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.

BILL

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
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”

BILL

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.

BILL

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:

BILL

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.

BILL

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

7 (j) Riprap in an amount not to exceed 300 linear feet and if the riprap is located
8 within an area where riprap has been previously placed.

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

10 **SECTION 16.** 30.12 (3) (title) of the statutes is repealed and recreated to read:
11 30.12 (3) (title) **GENERAL PERMITS.**

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

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

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

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

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

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

BILL

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

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

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

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

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

14 30.12 (3) (a) 10. Place a pier to replace a pier that has been in existence at least
15 10 years before the effective date of this subdivision [revisor inserts date], does
16 not exceed 10 feet in width, and does not exceed 500 square feet in area.

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

18 30.12 (3) (a) 11. Place a pier that does not exceed 500 square feet in area in a
19 lake that is 500 acres or more in area.

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

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

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

23 30.12 (3) (br) The department may promulgate rules that specify structures or
24 deposits, in addition to those listed in par. (a), that may be authorized by statewide
25 general permits.

BILL

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

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

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

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

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

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

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

24 **30.12 (3m) INDIVIDUAL PERMITS.** (a) For a structure or deposit that is not exempt
25 under sub. (1g) and that is not subject to a general permit under sub. (3), a riparian

BILL

1 owner may apply to the department for the individual permit that is required under
2 sub. (1) in order to place the structure for the owner's use or to deposit the material.

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

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

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

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

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

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

BILL

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

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

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

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

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

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

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

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

BILL

1 30.2022 (6) This subsection ~~section~~ section does not apply to activities in the Lower
2 Wisconsin State Riverway, as defined in s. 30.40 (15).

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

4 **SECTION 40.** 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12
5 (1m) (c) (intro.), as renumbered, is amended to read:

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

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

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

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

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

17 (b) The boathouse is located on land zoned exclusively for commercial or
18 industrial purposes or the boathouse is located on a brownfield, as defined in s.
19 560.13 (1) (a), or in a blighted area, as defined in s. 66.1331 (3) (a).

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

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

BILL

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

2 **30.123 (title) Bridges and culverts.**

3 **SECTION 44.** 30.123 (1) of the statutes is renumbered 30.1235 and amended to
4 read:

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

10 **SECTION 45.** 30.123 (2) of the statutes is amended to read:

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

21 **SECTION 46.** 30.123 (3) of the statutes is repealed.

22 **SECTION 47.** 30.123 (4) of the statutes is renumbered 30.123 (8) (c) and
23 amended to read:

24 **30.123 (8) (c)** ~~The department shall review the plans for the proposed bridge~~
25 ~~to determine whether the proposed bridge will be an obstruction to navigation or will~~