

SENATE BILL 313

LRB
03-3881
Drafting
File

1 SECTION ~~135~~ 30.206 (3) (title) of the statutes is created to read:

2 30.206 (3) (title) PROCEDURES FOR CONDUCTING ACTIVITIES UNDER GENERAL
3 PERMITS.

4 SECTION ~~136~~ 30.206 (3) of the statutes is renumbered 30.206 (3) (a) and
5 amended to read:

6 30.206 (3) (a) A person wishing to proceed with an activity that may be
7 authorized by a general permit /shall apply to the department, with written
8 notification of the person's wish to proceed, not less than ~~20 business~~ 30 days before
9 commencing the activity authorized by a general permit. ~~The department may~~
10 ~~request additional information from the applicant~~ notification shall provide
11 information describing the activity in order to allow the department to determine
12 whether the activity is ~~within the scope of a~~ authorized by the general permit and
13 ~~shall inform the applicant in writing of its determination within 10 business days~~
14 ~~after receipt of adequate information.~~

15 SECTION ~~137~~ 30.206 (3) (c) of the statutes is created to read:

16 30.206 (3) (c) Upon completion of an activity that the department has
17 authorized under a general permit, the applicant for the general permit shall provide
18 to the department a statement certifying that the activity is in compliance with all
19 of the conditions of the general permit and a photograph of the activity.

20 SECTION ~~138~~ 30.206 (3m) of the statutes is repealed.

21 SECTION ~~139~~ 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and
22 amended to read:

23 30.206 (3) (b) ~~Upon receipt of the department's determination that the~~
24 ~~proposed activity is authorized by a general permit,~~ If within 30 days after a
25 notification under par. (a) is submitted to the department the department does not

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1 require any additional information about the activity that is subject to the
 2 notification and does not inform the applicant that an individual permit will be
 3 required, the activity will be considered to be authorized by the general permit and
 4 the applicant may proceed without further notice, hearing, permit or approval if the
 5 activity is carried out in compliance with all of the conditions of the general permit.

6 ~~The department may require an individual permit only if it determines that the~~
 7 ~~proposed activity is not authorized by the general permit.~~

8 SECTION ~~140~~ 30.206 (5) (title) of the statutes is created to read:

9 30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

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10 SECTION ~~141~~ 30.206 (6) of the statutes is amended to read:

11 30.206 (6) REQUEST FOR INDIVIDUAL PERMIT. A person proposing an activity for
 12 which a general permit has been issued may request an individual permit under the
 13 applicable provisions of this ~~chapter~~ subchapter or ch. 31 in lieu of seeking
 14 authorization under the general permit.

15 SECTION ~~142~~ 30.206 (7) of the statutes is amended to read:

16 30.206 (7) This section does not apply to an application for a general permit for
 17 the Wolf River and Fox River basin area or any area designated under s. 30.207 (1m)
 18 ~~if the application for the general permit may be submitted under s. 30.207.~~

19 SECTION ~~143~~ 30.207 (1) of the statutes is amended to read:

20 30.207 (1) GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12 (3) (bt)~~
 21 30.2023, the Wolf River and Fox River basin area consists of all of Winnebago County;
 22 the portion and shoreline of Lake Poygan in Waushara County; the area south of
 23 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
 24 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
 25 portion of Outagamie County south and east of USH 41; that portion of Waupaca

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1 County that includes the town of Mukwa, city of New London, town of Caledonia,
2 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
3 in the town of Weyauwega.

4 ~~SECTION 144.~~ 30.207 (3) (d) 2. of the statutes is amended to read:

5 30.207 (3) (d) 2. Specify the department's plans for proceeding on the
6 application. ~~The plans shall include a timetable for the notice and hearing required~~
7 ~~under sub. (4).~~

8 ~~SECTION 145.~~ 30.207 (4) (b) of the statutes is repealed.

9 ~~SECTION 146.~~ 30.207 (5) of the statutes is repealed.

10 ~~SECTION 147.~~ 30.208 of the statutes is created to read:

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

16 (3) NOTICE OF COMPLETE APPLICATION; REQUEST FOR PUBLIC HEARING; DECISION. (a)
17 Upon determination by the department that an application submitted under sub. (1)
18 is complete, the department shall provide notice of complete application to interested
19 and potentially interested members of the public, as determined by the department.
20 The department shall provide the notice within 15 days after the determination that
21 the application is complete. If the applicant has requested a public hearing as part
22 of the submitted application, a notice of public hearing shall be part of the notice of
23 complete application.

24 (b) If the notice of complete application does not contain a notice of public
25 hearing, any person may request a public hearing in writing or the department may

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1 decide to hold a public hearing without a request being submitted if the department
2 determines that there is a significant public interest in holding a hearing.

3 (c) A request for a public hearing under par. (b) must be submitted to the
4 department or the department's decision to hold a public hearing must occur within
5 30 days after the department completes providing the notice of complete application.
6 The department shall provide notice of public hearing within 15 days after the
7 request for public hearing is submitted or the department makes its determination.

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

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

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

23 (b) If a public hearing is held, the period for public comment shall end on the
24 10th day following the date on which the public hearing is completed.

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

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

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

10 (b) The department shall, by rule, prescribe the form and content of notices of
11 complete applications and notices of public hearings to be provided under sub. (3),
12 and notices of administrative hearings to be provided under s. 30.209 ~~MA~~ (1m) ✓. Each notice
13 shall include all of the following information:

- 14 1. The name and address of each applicant or permit holder.
- 15 2. A brief description of each applicant's activity or project that requires the
16 permit.
- 17 3. The name of the waterway in or for which the activity or project is planned.
- 18 4. For a notice of complete application and a notice of public hearing under sub.
19 (3), a statement of the tentative determination to issue, modify, or deny a permit for
20 the activity or project described in the application.
- 21 5. For a notice of complete application and a notice of public hearing under sub.
22 (3), a brief description of the procedures for the formulation of final determinations,
23 including a description of the comment period required under sub. (4).

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

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

SECTION 148. 30.209 of the statutes is created to read:

30.209 ^{Contracts and} Individual permits; administrative and judicial review. ^(1m)

^{Request for} ADMINISTRATIVE REVIEW. (a) ~~An applicant for or holder of an individual permit, or 5 or more persons~~ ^{Any interested person} may file a petition ^{within 30 days after} for administrative review ^{with the department} of any of the following decisions given by the department:

1. The issuance, denial, or modification of any individual permit issued under ^{or contract entered into} this subchapter.

2. The imposition of, or failure to impose, a term or condition on any individual permit issued ^{or contract entered into} under this subchapter.

~~(b) A petition under this subsection shall be filed with the department within 30 days after the date on which the department has given notice of its decision under par. (a) 1. or 2. The petition shall state the interest of each petitioner, the specific issue to be reviewed, and the reasons why an administrative hearing is warranted.~~

^{insert 58-17} (d) ~~Unless the department determines that there are no grounds supporting the position that an administrative hearing is warranted~~ ^{Notwithstanding s. 227.44(1)} the department shall provide a notice of the hearing at least 30 days before the date of the hearing to all of the following:

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

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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 ~~(3)(2)~~ JUDICIAL REVIEW. (a) Any applicant ~~for or holder of an individual permit or~~
6 any other person who satisfies the requirements of s. 227.52 may commence an
7 action in circuit court to review any of the decisions given by the department that are
8 specified in sub. ~~(1)~~ ^(1m) (a) 1. and 2. ~~or the decision of a hearing examiner~~
~~under sub. (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 ~~149~~ [#] 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 ~~150~~ [#] 30.29 (3) (d) of the statutes is amended to read:

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SECTION 150

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 ~~151~~[#] 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 ~~152~~^A 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 153. 66.0628 of the statutes is created to read:

16 **66.0628 Fees imposed by a political subdivision.** (1) In this section,
 17 “political subdivision” means a city, village, town, or county.

18 (2) Any fee that is imposed by a political subdivision shall bear a reasonable
 19 relationship to the service for which the fee is imposed.

20 (3) With regard to a fee that is first imposed, or an existing fee that is increased,
 21 on or after the effective date of this subsection [revisor inserts date], a political
 22 subdivision shall issue written findings that demonstrate that the fee meets the
 23 standard in sub. (2).

24 SECTION 154. 66.1001 (2) (e) of the statutes is amended to read:

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SENATE BILL 313**SECTION 154**

1 66.1001 (2) (e) *Agricultural, natural and cultural resources element.* A
2 compilation of objectives, policies, goals, maps and programs for the conservation,
3 and promotion of the effective management, of natural resources such as
4 groundwater, forests, productive agricultural areas, environmentally sensitive
5 areas, threatened and endangered species, stream corridors, surface water,
6 floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources
7 consistent with zoning limitations under s. 295.20 (2), parks, open spaces, historical
8 and cultural resources, community design, recreational resources and other natural
9 resources.

10 **SECTION 155.** 66.1001 (4) (a) of the statutes is amended to read:

11 66.1001 (4) (a) The governing body of a local governmental unit shall adopt
12 written procedures that are designed to foster public participation, including open
13 discussion, communication programs, information services, and public meetings for
14 which advance notice has been provided, in every stage of the preparation of a
15 comprehensive plan. The written procedures shall provide for wide distribution of
16 proposed, alternative, or amended elements of a comprehensive plan and shall
17 provide an opportunity for written comments on the plan to be submitted by
18 members of the public to the governing body and for the governing body to respond
19 to such written comments. The written procedures shall describe the methods the
20 governing body of a local governmental unit will use to distribute proposed,
21 alternative, or amended elements of a comprehensive plan to owners of property, or
22 to persons who have a leasehold interest in property pursuant to which the persons
23 may extract nonmetallic mineral resources in or on property, in which the allowable
24 use or intensity of use, of the property, is changed by the comprehensive plan.

25 **SECTION 156.** 66.1001 (4) (e) of the statutes is created to read:

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SECTION 156

1 66.1001 (4) (e) At least 30 days before the hearing described in par. (d) is held,
2 a local governmental unit shall provide written notice to all owners of property, and
3 all leaseholders who have an interest in property pursuant to which the persons may
4 extract nonmetallic mineral resources, in which the allowable use or intensity of use,
5 of the property, is changed by the comprehensive plan, including all of the following:

6 1. An operator who has obtained, or made application for, a permit that is
7 described under s. 295.12 (3) (d).

8 2. A person who has registered a marketable nonmetallic mineral deposit
9 under s. 295.20.

10 3. Any other person who the local governmental unit knows has a property
11 interest in nonmetallic mineral resources in the jurisdiction.

12 SECTION ~~157~~ 84.18 (6) of the statutes is amended to read:

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

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1 after the completion of the project shall be repaid to the respective county, city, village
2 or town in proportion to the amount each deposited

3 **SECTION 158.** 106.01 (9) of the statutes is amended to read:

4 106.01 (9) ~~The Subject to s. 106.04, the department may investigate, fix~~
5 ~~reasonable classifications, issue promulgate rules and, issue general or special~~
6 ~~orders, and, hold hearings, make findings, and render orders upon its findings as~~
7 ~~shall be necessary to carry out the intent and purposes of this section. The~~
8 ~~investigations, classifications, hearings, findings, and orders shall be made as~~
9 ~~provided in s. 103.005. Except as provided in sub. (8), the penalties specified in s.~~
10 ~~103.005 (12) apply to violations of this section. Orders issued under this subsection~~
11 ~~are subject to review under ch. 227.~~

12 **SECTION 159.** 106.025 (4) of the statutes is amended to read:

13 106.025 (4) In order that the apprentice may qualify at the end of
14 apprenticeship as a skilled mechanic in the art of installing plumbing work, the
15 department, subject to s. 106.04, may prescribe the level of supervision of an
16 apprentice and the character of plumbing work that the apprentice may do during
17 the 3rd year of the apprenticeship term. An apprentice in the 4th or 5th year of the
18 apprenticeship term may install plumbing under the direction or supervision of a
19 master or journeyman plumber without either the master or journeyman being
20 physically present, provided that the master plumber in charge shall be responsible
21 for the work.

22 **SECTION 160.** 106.04 of the statutes is created to read:

23 **106.04 Apprentice-to-journeyman job-site ratio regulation**
24 **prohibited.** The department may not prescribe, whether by promulgating a rule,

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SECTION 206

1 to which the parties desire to transfer the proceedings agrees, the proceedings may
 2 be held in the county designated by the parties. If 2 or more petitions for review of
 3 the same decision are filed in different counties, the circuit judge for the county in
 4 which a petition for review of the decision was first filed shall determine the venue
 5 for judicial review of the decision, and shall order transfer or consolidation where
 6 appropriate.

7 **SECTION 207.** 227.57 (11) of the statutes is created to read:

8 ~~227.57 (11)~~ If the decision of the hearing examiner is inconsistent with the
 9 position taken at the hearing by the agency, the court shall give no deference to the
 10 examiner's decision when conducting its review.

11 **SECTION 208.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

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

24 **SECTION 209.** 241.02 (3) of the statutes is created to read:

25 ~~241.02 (3) (a)~~ In this subsection:

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SECTION 209

1 1. "Affiliate" of a bank, savings bank, or savings and loan association means
2 a business entity that controls, is controlled by, or is under common control with the
3 bank, savings bank, or savings and loan association.

4 2. "Financial institution" means a bank, savings bank, or savings and loan
5 association organized under the laws of this state, another state, or the United States
6 and any affiliate of such a bank, savings bank, or savings and loan association.

7 (b) Except as provided in par. (d), no action may be commenced against a
8 financial institution on or in connection with any of the following promises or
9 commitments of the financial institution unless the promise or commitment is in
10 writing, sets forth relevant terms and conditions, and is signed by the financial
11 institution:

12 1. A promise or commitment to lend money, grant or extend credit, or make any
13 other financial accommodation.

14 2. A promise or commitment to renew, extend, modify, or permit a delay in
15 repayment or performance of a loan, extension of credit, or other financial
16 accommodation.

17 (c) Except as provided in par. (d), a promise or commitment by a financial
18 institution described in par. (b) may not be enforced under the doctrine of promissory
19 estoppel.

20 (d) Paragraphs (b) and (c) do not apply to credit transactions that are subject
21 to chs. 421 to 427.

22 ~~SECTION 210.~~ 281.22 (2) (c) of the statutes is amended to read:

23 281.22 (2) (c) If more than one fee under this section or s. 30.28 (2) (a) or 31.39
24 (2) (a) is applicable to a project, the department shall charge only the highest fee of
25 those that are applicable.

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1 to provide financial assurance for nonmetallic mining reclamation of the nonmetallic
2 mining site, the county shall credit the value of the financial assurance provided to
3 the city, village, or town against the amount of financial assurance that the operator
4 is required to provide under the county ordinance.

5 ~~SECTION 259.~~ 299.05 (2) (a) of the statutes is amended to read:

6 299.05 (2) (a) Permits, contracts, and other approvals under ss. 30.10 to 30.205
7 and 30.21 to 30.27.

8 **SECTION 284.** 448.02 (3) (b) of the statutes is amended to read:

9 448.02 (3) (b) After an investigation, if the board finds that there is probable
10 cause to believe that the person is guilty of unprofessional conduct or negligence in
11 treatment, the board shall hold a hearing on such conduct. The board may use any
12 information obtained by the board or the department under s. 655.17 (7) (b), as
13 created by 1985 Wisconsin Act 29, in an investigation or a disciplinary proceeding,
14 including a public disciplinary proceeding, conducted under this subsection and the
15 board may require a person holding a license, certificate or limited permit to undergo
16 and may consider the results of one or more physical, mental or professional
17 competency examinations if the board believes that the results of any such
18 examinations may be useful to the board in conducting its hearing. A unanimous
19 finding by a panel established under s. 655.02, 1983 stats., or a finding by a court that
20 a physician has acted negligently in treating a patient is conclusive evidence that the
21 physician is guilty of negligence in treatment. A finding that is not a unanimous
22 finding by a panel established under s. 655.02, 1983 stats., that a physician has acted
23 negligently in treating a patient is presumptive evidence that the physician is guilty
24 of negligence in treatment. A certified copy of the findings of fact, conclusions of law
25 and order of the panel or the order of a court is presumptive evidence that the finding

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1 department of natural resources shall submit to the joint committee for review of
2 administrative rules a report that contains all of the following:

3 (a) A description of all of this state's existing and pending state implementation
4 plans under 42 USC 7410 with an analysis of any rules or requirements included in
5 the plans that may not have been necessary to obtain federal environmental
6 protection agency approval but that are federally enforceable as a result of being
7 included in the plans.

8 (b) Recommendations for revisions of state implementation plans to remove
9 rules and other requirements that may not have been necessary to obtain federal
10 environmental protection agency approval.

SECTION 291. Initial applicability.

12 ~~(1) LAWSUITS CONCERNING CREDIT AGREEMENTS AND RELATED DOCUMENTS. The~~
13 ~~treatment of section 241.02 (3) of the statutes first applies to actions commenced on~~
14 ~~the effective date of this subsection.~~

15 ~~(2) PARTIAL DEREGULATION OF TELECOMMUNICATIONS. The treatment of section~~
16 ~~196.195 (5m) and (10) of the statutes first applies to proceedings initiated by~~
17 ~~petitions filed with the public service commission, or by notices made on the public~~
18 ~~service commission's own motion, on the effective date of this subsection.~~

19 ~~(3) ENERGY CONSERVATION AND EFFICIENCY GRANTS. The treatment of section~~
20 ~~16.957 (2) (b) 1. (intro.) of the statutes first applies to grants that are awarded on the~~
21 ~~effective date of the rules promulgated under SECTION 290 (1) of this act.~~

22 ~~(4) PROCESSING OF AIR PERMITS. The treatment of sections 285.61 (3), (5) (c), (7)~~
23 ~~(a), (8) (b), and (11), 285.62 (3) (a) (intro.) and (c), (5) (a), (7) (b), and (9) (b), and 285.66~~
24 ~~(3) (a) of the statutes, the renumbering and amendment of sections 285.61 (2) and~~

SENATE BILL 313**SECTION 291**

1 285.62 (2) of the statutes, and the creation of sections 285.61 (2) (b) and 285.62 (2)

2 (b) first apply to applications submitted on the effective date of this subsection.

3 (5) ~~REVIEW OF AIR POLLUTION CONTROL DECISIONS.~~ The treatment of section 285.81
4 (1) (intro.) and (1m) of the statutes first applies to person who file petitions on the
5 effective date of this subsection.

6 ~~§~~ CHAPTER 30 PROCEDURES.

7 (a) The treatment of sections 30.208 and 30.209 of the statutes first applies to
8 applications for individual permits that are submitted to the department of natural
9 resources on the effective date of this paragraph.

10 (b) The treatment of section 30.208 of the statutes first applies to applications
11 for contracts under section 30.20 of the statutes that are submitted to the
12 department of natural resources on the effective date of this paragraph.

13 **SECTION 292. Effective dates.** This act takes effect on the day after
14 publication, except as follows:

15 (1) ~~ENERGY CONSERVATION AND EFFICIENCY GRANTS.~~ The treatment of section
16 16.957 (2) (b) 1. (intro.) and (c) 2., (2m), and (3) (b) of the statutes takes effect on July
17 1, 2005.

18 (END)

O-Note

SECTION 16

1 applicant agree or unless the applicant makes material additions or alterations to
2 the activity or project for which the application has been submitted.

3 SECTION ~~17~~ 30.02 of the statutes, as affected by 2003 Wisconsin Act 89, is
4 repealed. 1WS
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5 SECTION ~~18~~ Subchapter II (title) of chapter 30 [precedes 30.025] of the statutes
is repealed. (p.1)
e

SECTION ~~19~~ 30.025 (1b) (b) of the statutes, as created by 2003 Wisconsin Act
89, is amended to read:

30.025 (1b) (b) "Permit" means ~~a~~ an individual permit or a ~~notification~~ general
permit under this subchapter. ~~an approval required under this chapter or ch. 31, a~~
storm water discharge permit required under s. 283.33 (1) (a), or a water quality
certification required under s. 281.36 or under rules promulgated under subch. II of
ch. 281 to implement 33 USC 1341 (a).

SECTION ~~20~~ 30.025 (1e) (a) of the statutes, as created by 2003 Wisconsin Act
89, is amended to read:

30.025 (1e) (a) Except as provided in par. (b), this section applies to a proposal
to construct a utility facility if the utility facility is required to obtain, or give
notification of the wish to proceed under, one or more permits.

SECTION ~~21~~ 30.025 (1m) (a) of the statutes, as created by 2003 Wisconsin Act
89, is amended to read:

30.025 (1m) (a) The permits that the person may be required to obtain and the
permits under which the person must give notification of the wish to proceed.

SECTION ~~22~~ 30.025 (2g) (a) of the statutes, as created by 2003 Wisconsin Act
89, is amended to read:

#. Subchapter II (title) of chapter 30 [precedes 30.025] of the
statutes is created to read:
CHAPTER 30
SUBCHAPTER II
NAVIGABLE WATERS

LPS:
Please
Snt
Via
Snt
routine.
The
Rpt
Subch
(Title)
Will
move.

INS
24-
13
p.2
(end)

1 30.025 (2g) (a) The department shall review every proposed utility facility
2 subject to this section, including each location, site, or route proposed for the utility
3 facility, to assess whether each proposed location, site, or route can meet the criteria
4 for proceeding under the authority of or obtaining the required permits, and shall
5 provide that information to the commission.

6 SECTION ~~23~~ 30.025 (3) (intro.) of the statutes, as affected by 2003 Wisconsin
7 Act 89, is amended to read:

8 30.025 (3) (intro.) The department shall ~~grant issue, or authorize proceeding~~
9 under, the necessary permits if it finds that the applicant has shown that the
10 proposal:

11 SECTION ~~24~~ 30.025 (4) of the statutes, as affected by 2003 Wisconsin Act 89,
12 is amended to read:

13 30.025 (4) PERMIT CONDITIONS. The permit may be issued, or the authority to
14 proceed under a permit may be granted, upon stated conditions deemed necessary
15 to assure compliance with the criteria designated under sub. (3). The department
16 shall grant or deny the application for a permit for the utility facility within 30 days
17 of the date on which the commission issues its decision under s. 196.49 or 196.491
18 (3).

19 SECTION ~~25~~ 30.025 (5) of the statutes is created to read:

20 30.025 (5) EXEMPTION FROM CERTAIN PROCEDURES. Sections ~~30.244, 30.245~~
21 ~~30.244 and 30.249~~ ^{Missouri} do not apply to an application for any permit under this section.

22 SECTION 26. 30.027 of the statutes is amended to read:
23 **30.027 Lower Wisconsin State Riverway.** For activities in the Lower
24 Wisconsin State Riverway, as defined in s. 30.40 (15), ~~no person obtaining a~~ the
25 department shall include a condition in any individual permit issued under subchs.

and 30.209
✓ and ✓
30.208, 30.209

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3881/P1insMG
MGG:.....

Insert 27-4

Handwritten initials (i) Riprap in an amount not to exceed 100 linear feet that is placed to implement structural changes in a structure associated with the riprap and that includes the replacement of filter fabric or base substrate.

Handwritten initials (j) Riprap in an amount not to exceed 300 linear feet that is placed to repair existing riprap, that is placed within the footprint of the structure, with which the riprap is associated, if any, and that consists of only of the placement of additional rock or the redistribution of existing rock. *X*

****NOTE: Riprap not exempt under the s. 30.12 (1g) (i) and (j) will come under a general permit. See s. 30.12 (3)(a) 3., as treated in this draft. OK? MGG

Handwritten initials (k) A biological shore erosion control structure, as defined by rule by the department.

Handwritten "soft" with arrow SECTION ~~11~~ 30.12 (2m) of the statutes is created to read:

30.12 (2m) PERMIT IN LIEU OF EXEMPTION. (a) The department may decide to require that a person engaged in aⁿ activity that is exempt under sub. (1g) apply for an individual permit or seek authorization under a general permit if the department has conducted an investigation and visit to the site of the activity and has determined that conditions specific to the site require restrictions on the activity in order to prevent any of the following: *X*

1. Significant adverse impacts to the public rights and interests.
2. Environmental pollution, as defined in s. 299.01 (4).
3. Material injury to the riparian rights of any riparian owner.

(b) If a person submits to the department a written statement containing a description and the location of a proposed activity that the person believes to be *X*

exempt under sub. (1g), the department shall notify the person within 15 days after receipt of the statement as to whether the activity or project is exempt. If the department determines the activity not to be exempt, the department shall notify the person of which general permit or individual permit requirements apply to the activity.

(c) Any decision or notification by the department under this subsection shall be in writing.

Insert 27-21

SECTION ~~2~~ 30.12 (3) (a) 3. of the statutes is amended to read:

30.12 (3) (a) 3. Place riprap or similar material, other than riprap exempt under sub. (1g) (i) and (j), on the bed and bank of a navigable ~~waters~~ water adjacent to an owner's property for the purpose of protecting the bank and adjacent land from erosion.

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

SECTION ~~3~~ 30.12 (3) (a) 3g. of the statutes is created to read:

30.12 (3) (a) 3g. Place riprap, other than riprap exempt under sub. (1g) (i) and (j), on the bed or bank of a navigable water adjacent to an owner's property in an amount not to exceed 100 continuous feet in an inland lake of 300 acres or more.

SECTION ~~4~~ 30.12 (3) (a) 3r. of the statutes is created to read:

30.12 (3) (a) 3r. Place riprap, other than riprap exempt under sub. (1g) (i) and (j), on the bed or bank of a navigable water adjacent to an owner's property in an amount not to exceed 300 continuous feet in Lake Michigan or Lake Superior.

Insert 28-4

SECTION ~~5~~ 30.12 (3) (a) 7. of the statutes is renumbered 30.12 (1g) (h) and amended to read:

^{g g}
30.12 (1g) (h) ~~Place an~~ An intake structure and pipe that is placed on the bed of a navigable water for the purpose of constructing a dry fire hydrant to supply water for fire protection.

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

~~SECTION 8~~ ^{g h} 30.12 (3) (a) 8. of the statutes is renumbered 30.12 (1g) (i) and amended to read:

^h
30.12 (1g) (i) ~~Drive a piling~~ A piling that is driven into the bed of a navigable water adjacent to the owner's property for the purpose of deflecting ice, protecting an existing or proposed structure, or providing a pivot point for turning watercraft.

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16.

Insert 28-19

~~SECTION 8~~ ^h 30.12 (3) (a) 13. of the statutes is created to read:

³
30.12 (3) (a) 11. Place a seawall to replace an existing seawall. The replacement may not exceed 100 continuous feet in an inland lake of 300 acres and not exceed 300 continuous feet in Lake Michigan or Lake Superior. X

Insert 34-21

^{gd}
(c) The construction or placement and the maintenance of a culvert to replace a culvert that is authorized under ~~under~~ a permit issued under s. 30.12, 2001 stats., or 30.123, 2001 ^e stats, if the construction, placement, and maintained will comply with the same conditions of the permit. X

^{je}
(d) The construction or placement and the maintenance of a culvert to replace a culvert that has an inside diameter that does not exceed 24 inches. X

~~SECTION 8~~ ^{fm} 30.123 (6) of the statutes is created to read: X

^{ok leave}
30.123 (6) ⁿ PERMIT IN LIEU OF EXEMPTION. (a) The department may decide to require that a person engaged in a ⁿ activity that is exempt under sub. (6) apply for an X

individual permit or seek authorization under a general permit if the department has conducted an investigation and visit to the site of the activity and has determined that conditions specific to the site require restrictions on the activity in order to prevent any of the following:

- 1. Significant adverse impacts to the public rights and interests.
- 2. Environmental pollution, as defined in s. 299.01 (4).
- 3. Material injury to the riparian rights of any riparian owner.

(b) If a person submits to the department a written statement containing a description and the location of a proposed activity that the person believes to be exempt under sub. (6), the department shall notify the person within 15 days after receipt of the statement as to whether the activity or project is exempt. If the department determines the activity not to be exempt, the department shall notify the person of which general permit or individual permit requirements apply to the activity.

(c) Any decision or notification by the department under this subsection shall be in writing.

Insert 35-12

****NOTE: I have removed the repeal of s. 30.13 (2) and (4) (d) which deals with the municipal regulation of wharves in piers. However, as instructed, I have left in the repeal of s. 30.13 (1). Due to the changes in this draft from the bill regarding wharves and piers in s. 30.12, I highly recommend that the person giving the drafting instructions "revisit" the repeal of s. 30.13 (1) and make sure that it still works given those changes. MGG

Insert 41-8

SECTION 30.19 (1r) of the statutes is created to read:

30.19 (1r) PERMIT IN LIEU OF EXEMPTION. (a) The department may decide to require that a person engaged in an activity that is exempt under sub. (1g) apply for an individual permit or seek authorization under a general permit if the department

has conducted an investigation and visit to the site of the activity and has determined that conditions specific to the site require restrictions on the activity in order to prevent any of the following:

- 1. Significant adverse impacts to the public rights and interests.
- 2. Environmental pollution, as defined in s. 299.01[✓] (4).
- 3. Material injury to the riparian rights of any riparian owner.

(b) If a person submits to the department a written statement containing a description and the location of a proposed activity[✓] that the person believes to be exempt under sub. (1g)[✓], the department shall notify the person within 15 days after receipt of the statement as to whether the activity or project is exempt. If the department determines the activity not to be exempt, the department shall notify the person of which general permit or individual permit requirements apply to the activity. X

(c) Any decision or notification by the department under this subsection shall be in writing.

Insert 47-16

SECTION 10. 30.20 (1m) of the statutes is created to read:

30.20 (1m) PERMIT OR CONTRACT IN LIEU OF EXEMPTION. (a) The department may decide to require that a person engaged in aⁿ activity that is exempt under sub. (1g) apply for an individual permit or contract, or seek authorization under a general permit if the department has conducted an investigation and visit to the site of the activity and has determined that conditions specific to the site require restrictions on the activity in order to prevent any of the following: X

- 1. Significant adverse impacts to the public rights and interests.
- 2. Environmental pollution, as defined in s. 299.01[✓] (4).

3. Material injury to the riparian rights of any riparian owner.

(b) If a person submits to the department a written statement containing a description and the location of a proposed activity that the person believes to be exempt under sub. (1g), the department shall notify the person within 15 days after receipt of the statement as to whether the activity or project is exempt. If the department determines the activity not to be exempt, the department shall notify the person of which contracting, general permit, or individual permit requirements apply to the activity.

(c) Any decision or notification by the department under this subsection shall be in writing.

Insert 50-6

No ~~§~~ The department may allow one extension of a permit issued under this paragraph, upon application to the department. The extension shall be for the same period of time as the original permit.

****NOTE: These permits may be for less than 10 years. Is the above language OK?

Insert 52-17

****NOTE: There seems to be some ambiguity as to whether the conditions in s. 30.206 (1) (c) 1., 2., and 3. are the only conditions that may be imposed and whether they are sufficient to insure that there will not be only an insignificant cumulative adverse environmental impact and no material injury to riparian rights. (See the language in s. 30.206 (1) (c) (intro.)) Please let me know if you want any changes. MGG

Insert 54-7

~~§~~ SECTION 30.206 (3r) of the statutes is created to read:

30.206 (3r) INDIVIDUAL PERMIT IN LIEU OF GENERAL PERMIT. (a) The department may decide ^{to} require that a person who has applied under sub. (3) for authorization to proceed under a general permit to apply for and be issued an individual permit if either of the following applies:

be
should be (intro.)

X

X

1. The department determines that the proposed activity is not authorized under the general permit.

* 2. The department has conducted an investigation and visit to the site and ^{has} ~~had~~ determined that condition^s specific to the site require restrictions on the activity in order to prevent significant adverse impacts to the public rights and interest, environmental pollution, as defined in s. 299.01 (4), or material injury to the riparian rights of any riparian owner.

(b) A decision by the department to require an individual permit under this subsection shall be in writing.

****NOTE: The 30-day requirement for DNR to notify a person of the necessity to obtain an individual permit is already in the draft. See the treatment of s. 30.206 (4) in this draft.

Insert 59-23

SECTION 12. 30.285 of the statutes is created to read:

30.285 Records of exemptions and permitted activities. (1) On an annual basis, the department shall keep records of all of the following

(a) The number of exempted activities that are conducted under ss. 30.12 (1g), 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department is aware.

(b) The number of exemptions under par. (a) for which the department required applications for individual permits or contracts.

(c) The number of exemptions under par. (a) for which the department required applications to seek authorizations to proceed under general permits.

(d) The number of activities that are authorized under general permits for which the department requires applications for individual permits or contracts.

(2) For each record kept under sub. (1) (b) to (d) the department shall include all of the following:

- (a) The type of permit or contract application } required. X
- (b) The date of the application.
- (c) The date of the department's decision whether to issue the individual permit, grant authorization under the general permit, or to grant the contract. X
- (d) The county in which the activity or project is located.

Insert 60-5

30.206(3r) ✓

SECTION 13. ^{30.291 ✓}~~30.281~~ of the statutes is created to read:

^{30.291}~~30.281~~ **Inspections for certain exemptions and permitted activities. (1)** *exemption is appropriate*

5.30.12 (2m), 30.123(6m), 30.19(1r), or 30.20(1m) For purposes of determining whether an ~~activity is exempt~~ under ~~or whether a general permit is appropriate under s.~~ , any employee or other representative of the department, upon presenting his or her credentials, may enter the site and inspect any property on the site on which the proposed activity is to take place.

(2) Before entering and inspecting the property or site, the department shall make a request orally or in writing for consent from the owner for the entry and inspection.

(3) If the owner grants the consent requested under sub. (2), the department, upon reasonable advance notice, may enter the site and inspect the property in compliance with the terms of the consent granted by the owner.

(4) If the owner refuse^s to grant the consent requested under sub. (2), or if the owner's terms of consent are not acceptable to the department, the department may do either of the following: X

30.19 (1r) (b) or 30.20 (1m) (b)

(a) If the entry and inspection is to determine whether an activity is exempt, the 15-day period under s. 30.12(2m)(b), 30.123(6m)(b), does not begin until the day that the owner's consent is granted.

****NOTE: I assume that if an owner who is going to conduct an possibly exempt activity never notifies DNR, then the owner runs the risk of the activity not being exempt. But if an owner does notify DNR of the proposed exempt activity, but never gives consent, can the owner go ahead with the possibly exempt activity as if he or she never gave notification in the first place? If this is not your intent, additional drafting is needed.

(b) If the entry and inspection is to determine whether authorization to proceed under a general permit is appropriate under s. 30.206 (3r), the department may require an individual permit for the activity.

****NOTE: I did not draft subsection (5) under the drafting instructions for the inspection authority because the language is surplusage, especially since the inspection authority created in s. 30.281 is so narrow in its scope.

Upon application to the department

~~as may be that the department determines are necessary for the protection of the public interest and the interests interest of the state and. Each contract entered into under this paragraph shall fix the compensation to be paid to the state for the material so to be removed, except that no the contract may not require that any compensation may be paid for the material if the contract is with a municipality, as defined in s. 281.01 (6), and if the material is to will be used for a municipal purpose and will not for resale. No be resold. Each contract entered into under this paragraph may not run for a longer period more than 5 years. The department may allow one extension of a contract entered into under this paragraph. The terms and conditions in the extended contract shall be the same as the original contract, and the extension shall be for the same period of time as the original contract.~~

INS
8-20

*** NOTE: These contracts may be for less than 5 years.

~~(b) The department, whenever consistent with public rights, may enter into contracts a contract on behalf of the state for the removal and lease or sale of any mineral, ore and, or other material from beneath the bed of a navigable lakes and waters, where water that the state may own if the contract will be consistent with public rights and if the waters would navigable water will not be disturbed in the removal operation and for the lease and sale of such mineral, material and ore and provide the necessary regulations for all acts incident thereto. Every such. Each contract entered into under this paragraph shall contain such any conditions as may be that the department determines are necessary for the protection of the public interest and the interests interest of the state, and. Each contract entered into under this paragraph shall fix the compensation to be paid to the state for the material, mineral and ore so mineral, ore, or other material to be removed. No Each contract entered into, pursuant to under this paragraph, shall may not run for a longer period more than 75 years. Should any doubt exist as to whether the state, in fact, owns~~

Is the scored material OK? MGB

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3881/P1insrk
RNK:.....

INSERT 58-7

(1) In this section, "applicant" means any person applying to receive a permit or contract under this subchapter or any person who has received a permit or contract under this subchapter.

INSERT 58-17

(b) If the petitioner is not the applicant, the petition shall describe the petitioner's objection to the permit or contract and shall contain all of the following:

1. A description of the objection that is sufficiently ^{specific} ~~specify~~ to allow the department to determine which provisions of this subchapter may be violated by the permit or contract. X

2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the activity or project, as proposed, may result in a violation of the provisions of this subchapter.

3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

(c) The activity or project shall be stayed pending an administrative hearing under this section, if the petition contains a request for the stay showing that a stay is necessary to prevent irreversible harm to the environment.

(d) If a stay is requested under par. (c), the stay shall be in effect until either the department denies the request for an administrative hearing or the hearing examiner determines that the stay is not necessary.

(e) The petitioner shall file a copy of the petition with the department. If the petitioner is not the applicant, the petitioner shall simultaneously provide a copy of the petition to the person applying to receive the permit or contract or the person who

has received the permit or contract. The applicant may file a response to the petition with the department. If the applicant files a response under this paragraph, it shall be filed within 15 days after the petition is filed.

(f) Notwithstanding the time limit under s. 227.42 (2), the department shall grant or deny the petition within 30 days after the petition is filed. Notwithstanding the time limit under s. 227.42 (2), the failure of the department to dispose of the petition within this 30-day period is a denial. The department shall not grant the petition if any of the following applies:

****NOTE: Under ^{s,} ~~ch~~ 227.42 (2), a denial under proposed par. (f) must be in writing and must state the reasons for the denial.

1. The petitioner is not the applicant and the petition does not comply with the requirements of par. (b).

2. The objection contained in the petition is not substantive. The department shall determine that an objection is substantive if the supporting facts contained in the objection appear to be substantially true and raise reasonable grounds to believe that the provisions of this subchapter may be violated if the activity or project is undertaken.

(g) If the department grants a petition under this subsection, the department shall refer the matter to the division of hearings and appeals in the department of administration within 15 days after granting the petition unless the petitioner and the applicant agree to an extension.

(2) ADMINISTRATIVE HEARINGS. (a) An administrative hearing under this subsection shall be treated as a contested case under ch. 227.

(b) If a stay under sub. (1) (c) is in effect, the hearing examiner shall, within 30 days after the referral under sub. (1) (g), determine whether continuation of the

stay is necessary to prevent irreversible harm to the environment pending completion of the hearing. The hearing examiner shall make the determination based on the request under sub. (1) (c), any response from the applicant under sub. (1) (e), and any testimony at a public hearing or any public comments. The determination shall be made without a hearing.

(c) A hearing under this section shall be completed within 90 days after the referral of the petition under sub. (1) (g), unless all parties agree to an extension of that period. In addition, a hearing examiner may grant a one-time extension for the completion of the hearing of up to 60 days on the motion of any party and a showing of good cause demonstrating extraordinary circumstances justifying an extension.

INSERT 58-25

(3) JUDICIAL REVIEW. (a) Any person whose substantial interest is affected by a decision of the department under sub. (1m) (a) may commence an action in circuit court to review that decision.

(b) Any party aggrieved by a decision of a hearing examiner under sub. (2) may commence an action in circuit court to review that decision.

****NOTE: Please look closely at the language in this provision. I have reworded the language for purposes of clarity. Is it consistent with your intent?

MGC: kjf

3881/PI dn

Date

There are numerous embedded 4-star notes
in this draft for your review

MGC

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

LRB-3881/P1dn
MGG:kjf:jf

December 17, 2003

There are numerous embedded 4-star notes in this draft for your review.

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**Wisconsin Legislature
Speaker John Gard**

Fax

To: Mary Gibson-Glass From: Eileen Nowak

Fax: 264-6948 Date: 12-18-03

Phone: _____ Pages: 4

Re: _____ CC: _____

- Urgent For Review Please Comment Please Reply Please Recycle

•Comments:

LRB 3881/pldn

Comments on LRB Draft 3881/P1dn

December 17, 2003

MGG 1. p. 9, Note at ln 2. The intent is that a limited amount of new riprap and riprap beyond that exempt would be allowed as a general permit, but that a significant amount of new riprap would require an individual permit. See also items 2 and 3 below. ✓

MGG 2. p. 11 lns 1-5. Delete Section 30. ✓

MGG 3. p. 11 lns 6-13. The intent of the exemption is to allow limited repair or replacement of existing riprap only. The intent of the general permit is to do three things: ✓

- Allow for up to and including 100 continuous feet of new riprap on lakes of 300 acres or more
- Allow for up to and including 300 continuous feet of new riprap on Great Lakes
- Allow for replacement riprap that is not exempt.

The language of "up to and including" is designed to prevent the department from issuing general permits that only allow for riprap in amounts that are of no practical value. For example, to prevent the department from limiting any new riprap to no more than 10 feet. To accomplish the above three objectives the general permit language in lines 6-13 should be replaced with the following:

Section 31a. 30.12 (3)(a)3c. of the statutes is created to read:

30.12(3)(a)3c. Place riprap to repair or replace existing riprap other than riprap exempt under sub (1g)(i) and (j).

Section 31. 30.12(3)(a)3g of the statutes is created to read:

30.12(3)(a)3g. Place riprap on the bed or bank of a navigable water adjacent to an owner's property in an amount up to and including 100 continuous feet in an inland lake of 300 acres or more.

Section 32. 30.12(3)(a)3r of the statutes is created to read:

30.12(3)(a)3r. Place riprap on the bed or bank of a navigable water adjacent to an owner's property in an amount up to and including 300 continuous feet in a Great Lakes water.

The language in Section 32 is intended to cover Green Bay and other Great Lakes harbor areas. If that is considered part of Lake Michigan then the two Great Lakes can be referenced.

4. p. 18, lns 11-13. This subsection should be deleted to conform to our agreement with the administration to limit replacement culverts as set forth in lns 14-19. ✓

5. p. 18 ln 22. After sub(6) add "(d) and (e)". The intent is that the department's review authority over exemptions only applies to new exemptions and not existing exemptions. Note, this is not an issue for the exemptions under 30.12 or 30.20, because there are no exemptions as such under existing law, so that all of the exemptions are subject to this review. This is an issue for 30.19 as is noted below. ✓

6. p. 20 Note at Section 67. As a practical matter, the items covered by s. 30.13(1) and 30.13(1m) will in most cases be covered by the changes to 30.12. Nevertheless, leaving the general criteria in 30.13 provides for additional flexibility. As a result, we would concur with the note that 30.13(1) should not be repealed. ✓

7. pp. 23-28, Sections 84 to 107. Please note that final agreement on revisions to 30.19 is still in process and that some of these sections will require additional revisions before the bill is final. ✓

8. p. 26 ln 2. Although this may not be necessary depending on the final language, if there are new exemptions for 30.19, only the new exemptions will be subject to department review. This is the same issue as item #5 above. ✓

9. p. 29, Note at ln 4. The term straightening was removed by the drafters of the recodification bill on the theory it was redundant. We concur that leaving this term in provides greater clarity and consistency. ✓

10. p. 33, lns 15-17. These lines should be deleted to conform to our agreement with the administration that new dredging be the subject of an individual permit. ✓

11. p. 34, Note at ln 14. The concept here and at Section 128 on page 36 is that the renewal of a contract be for the same period of time as the original permit. Thus the following language needs to be inserted after the text on ln 14: "The extension shall be for the same period of time as the original permit." ✓

12. p. 36 Note at ln 5. This is the same issue as item #10 above. This section however includes the extension language so no further change is needed. ✓

13. p. 38 Note at ln 11. This language is correct as is. The intent here is that the department can issue general permit conditions to regulate the design, construction and location of the proposed activity, but cannot prohibit the activity that the legislature has determined is appropriate for a general permit. Apart from these conditions, the department also maintains the right to require a full individual permit for any of these activities under the provisions in Section 142. ✓

14. p. 40, Note at ln 7. You are correct. The 30 day requirement does not need to be repeated. ✓

RNKJ
MOG
RPN

15. p. 46, lns 5 to 9 and Note at ln 9. The contested case hearing provisions of Chapter 227 apply, but it was not intended that the provisions of 227.42 govern the request for a hearing. Section 227.42 creates a residual right for a hearing where there is not a right created elsewhere. We are creating a specific contested case hearing right in this section. Therefore, the language in (f) should not reference 227.42 and should note that the reasons for a denial be in writing.

MOG
RNKJ
RPN

16. p. 47 lns 19-23 and Note at ln 23. The intent with the Judicial Review section as amended is to give a person two options:

- A direct right of judicial review of an agency decision on the permit without going through the contested case hearing process, or
- A right of judicial review of the agency decision after the contested case hearing.

The language in (a) at lines 19-20 is not entirely clear. It could be read to grant judicial review only on the decision of whether to grant the contested case hearing, and that is not the intent. Therefore, we suggest that the language in line 20 read, "a decision of the department described in sub (1m)(a) 1. and 2." The language in (b) is good.

MOG
RNKJ

17. p. 49, ln 19 to 21 and Note at ln 21. The intent here is that for an activity that is exempt, the owner has the option to notify the DNR and once he or she does, the DNR has 15 days to object to the activity being exempt. If notification is given and DNR does not object in a timely fashion, DNR cannot come back later and require a permit. If notification is not given, the 15 days does not commence and DNR can come back at any time and require an after the fact permit which could have limits that require alteration or removal of the activity. If notification is given and the owner does not provide access, then the situation is just like the case where no notification is given, i.e. the owner does not have the benefit of the 15 day time limit for objection by the DNR. In either of the latter two cases, if the DNR believes that a person undertook an exempt activity that requires a permit the DNR can obtain an inspection warrant just like it can for any other suspected violation of Chapter 30. This latter situation was the rational for the sub (5) in the original drafting instructions. On that point if you do not believe it is necessary to accomplish this intent it can be omitted.

Gibson-Glass, Mary

From: Patronsky, Mark
Sent: Thursday, December 18, 2003 12:17 PM
To: Gibson-Glass, Mary
Subject: My eyes might be deceiving me, but

I think you have two s. 30.12 (1g) (k)---see 3881/P1 page 9, lines 3 to 8.

No need to respond.

M