



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3881/01

MGG/RNK/RPN

RMR

stays

ADW

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTE

ASAP
No later
than 4
Thurs 3pm

REGEN.

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), 30.135 (1) (title), 30.135 (2), (3) and (4), 30.18 (9), 30.19 (1) (b), 30.19 (2),
4 30.19 (3), 30.195 (3) (title), 30.195 (4), 30.195 (7), 30.206 (2), 30.206 (3m), 30.207
5 (4) (b) and 30.207 (5); *to renumber* 30.12 (3) (bt) 1. to 9., 30.12 (4) (d), 30.135
6 (1) (a) 1., 30.135 (1) (a) 3. and 30.20 (1) (c) 3.; *to renumber and amend* 30.015,
7 30.07, 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12 (3) (a) 7., 30.12 (3) (a) 8., 30.12 (3)
8 (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), 30.025 (1b)
13 (b), 30.025 (1e) (a), 30.025 (1m) (a), 30.025 (2g) (a), 30.025 (3) (intro.), 30.025 (4),
14 30.10 (4) (a), 30.11 (4), 30.12 (title), 30.12 (1) (intro.), 30.12 (1) (a), 30.12 (1) (b),
15 30.12 (3) (a) 3., 30.12 (3) (a) 6., 30.12 (3) (c), 30.123 (2), 30.13 (1m) (intro.), 30.13

1 (1m) (b), 30.13 (4) (a), 30.13 (4) (b), 30.18 (2) (a) (intro.), 30.18 (2) (b), 30.18 (4)
2 (a), 30.18 (6) (b), 30.19 (1m) (intro.), 30.19 (1m) (a), 30.19 (1m) (b), 30.19 (1m)
3 (c), 30.19 (1m) (d), 30.19 (1m) (e), 30.19 (4) (title), 30.19 (5), 30.195 (1), 30.196
4 (intro.), 30.20 (1) (a), 30.20 (1) (b), 30.20 (2) (title), 30.20 (2) (a) and (b), 30.20
5 (2) (c), 30.2026 (2) (d), 30.2026 (3) (a), 30.206 (6), 30.206 (7), 30.207 (1), 30.207
6 (3) (d) 2., 30.28 (3) (b), 30.29 (3) (d), 30.298 (3), 31.39 (2m) (c), 84.18 (6), 236.16
7 (3) (d) (intro.), 281.22 (2) (c) and 299.05 (2) (a); **to repeal and recreate** 30.12
8 (3) (title), 30.12 (3) (a) (intro.), 30.123 (title), 30.195 (2) and 30.20 (1) (title); and
9 **to create** 30.01 (1am), 30.025 (5), 30.12 (1g) (intro.), (a), (b), (e), (f), (i) and (j),
10 30.12 (1g) (k), 30.12 (1g) (L), 30.12 (2m), 30.12 (3) (a) 3g., 30.12 (3) (a) 3r., 30.12
11 (3) (a) 13., 30.12 (3) (br), 30.12 (3) (bv), 30.12 (3m), 30.121 (3w), 30.123 (6),
12 30.123 (6m), 30.123 (7), 30.123 (8), 30.19 (1b), 30.19 (1m) (cm), 30.19 (1m) (g),
13 30.19 (1m) (h), 30.19 (1r), 30.19 (3r), 30.19 (4) (a), 30.19 (4) (b), 30.19 (4) (c) 1.,
14 30.20 (1g) (title) and (b), 30.20 (1m), 30.20 (1r), 30.20 (2) (bn), 30.20 (2) (d), 30.20
15 (2) (e), 30.201, 30.2022 (title), 30.206 (1) (title), 30.206 (1) (c) 1. to 3., 30.206 (3)
16 (title), 30.206 (3) (c), 30.206 (3r), 30.206 (5) (title), 30.208, 30.209, 30.285 and
17 30.291 of the statutes; **relating to:** structures, deposits, and other activities in
18 or near navigable waters; notice, hearing, and review procedures related to
19 permits to place structures and materials and to conduct activities in or near
20 navigable waters; ~~apprentice-to-journeyman job-site ratios; the acquisition of~~

1 ~~in-state banks and in-state bank holding companies, credit agreements,~~ and
 2 ~~granting rule-making authority.~~

This bill is prepared as a base for a substitute amendment. No analysis will be provided.

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

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

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

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

9 30.01 (1am) "Area of special natural resource interest" means any of the
 10 following:

- 11 (a) A state natural area designated or dedicated under ss. 23.27 to 23.29.
- 12 (b) A surface water identified as a trout stream by the department.
- 13 (bm) A surface water identified as an outstanding or exceptional resource
- 14 water under s. 281.15.
- 15 (c) An area that possesses significant scientific value, as identified by the
- 16 department.

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

18 30.01 (1p) "Fishing raft" means any raft, float or structure, including a raft or
 19 float with a superstructure and including a structure located or extending below or
 20 beyond the ordinary high-water mark of a water, which is designed to be used or is

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

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

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

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

1 under s. 299.05 apply only to applications for individual permits or contracts under
2 this subchapter that the department has determined to be complete.

3 SECTION 6. 30.02 of the statutes, as affected by 2003 Wisconsin Act 89, is
4 repealed. ✓

5 SECTION 7. 30.025 (1b) (b) of the statutes, as created by 2003 Wisconsin Act 89,
6 is amended to read: ✓

7 30.025 (1b) (b) "Permit" means ~~a~~ an individual permit or a general permit,
8 an approval required under this chapter or ch. 31, a storm water discharge permit
9 required under s. 283.33 (1) (a), or a water quality certification required under s.
10 281.36 or under rules promulgated under subch. II of ch. 281 to implement 33 USC
11 1341 (a).

12 SECTION 8. 30.025 (1e) (a) of the statutes, as created by 2003 Wisconsin Act 89,
13 is amended to read: ✓

14 30.025 (1e) (a) Except as provided in par. (b), this section applies to a proposal
15 to construct a utility facility if the utility facility is required to obtain, or give
16 notification of the wish to proceed under, one or more permits.

17 SECTION 9. 30.025 (1m) (a) of the statutes, as created by 2003 Wisconsin Act
18 89, is amended to read: ✓

19 30.025 (1m) (a) The permits that the person may be required to obtain and the
20 permits under which the person must give notification of the wish to proceed. ✓

21 SECTION 10. 30.025 (2g) (a) of the statutes, as created by 2003 Wisconsin Act
22 89, is amended to read:

23 30.025 (2g) (a) The department shall review every proposed utility facility
24 subject to this section, including each location, site, or route proposed for the utility
25 facility, to assess whether each proposed location, site, or route can meet the criteria

1 for proceeding under the authority of or obtaining the required permits, and shall
2 provide that information to the commission.

3 SECTION 11. 30.025 (3) (intro.) of the statutes, as affected by 2003 Wisconsin
4 Act 89, is amended to read:

5 30.025 (3) (intro.) The department shall ~~grant issue, or authorize proceeding~~
6 under, the necessary permits if it finds that the applicant has shown that the
7 proposal:

8 SECTION 12. 30.025 (4) of the statutes, as affected by 2003 Wisconsin Act 89,
9 is amended to read:

10 30.025 (4) PERMIT CONDITIONS. The permit may be issued, or the authority to
11 proceed under a permit may be granted, upon stated conditions deemed necessary
12 to assure compliance with the criteria designated under sub. (3). The department
13 shall grant or deny the application for a permit for the utility facility within 30 days
14 of the date on which the commission issues its decision under s. 196.49 or 196.491
15 (3).

16 SECTION 13. 30.025 (5) of the statutes is created to read:

17 30.025 (5) EXEMPTION FROM CERTAIN PROCEDURES. Sections 30.208 and 30.209
18 do not apply to an application for any permit under this section.

19 SECTION 14. 30.07 of the statutes is renumbered 30.2095, and 30.2095 (1) (a),
20 as renumbered, is amended to read:

21 30.2095 (1) (a) Except as provided in par. (b), every permit or contract issued
22 under ss. 30.01 to 30.29 for which a time limit is not provided by s. 30.20 (2) is void
23 unless the activity or project is completed within 3 years after the permit or contract
24 was issued.

25 SECTION 15. 30.10 (4) (a) of the statutes is amended to read:

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

4 **SECTION 16.** 30.11 (4) of the statutes is amended to read:

5 30.11 (4) **RIPARIAN RIGHTS PRESERVED.** Establishment of a bulkhead line shall
6 not abridge the riparian rights of riparian ~~proprietors~~ owners. Riparian ~~proprietors~~
7 owners may place solid structures or fill up to such line.

8 **SECTION 17.** 30.12 (title) of the statutes is amended to read:

9 **30.12 (title) Structures and deposits in navigable waters prohibited;**
10 **exceptions; penalty.**

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

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

18 **SECTION 19.** 30.12 (1) (a) of the statutes is amended to read:

19 30.12 (1) (a) ~~To deposit~~ Deposit any material or ~~to place~~ any structure upon the
20 bed of any navigable water where no bulkhead line has been established; ~~or,~~

21 **SECTION 20.** 30.12 (1) (b) of the statutes is amended to read:

22 30.12 (1) (b) ~~To deposit~~ Deposit any material or ~~to place~~ any structure upon the
23 bed of any navigable water beyond a lawfully established bulkhead line,

24 **SECTION 21.** 30.12 (1g) (intro.), (a), (b), (e), (f), (i) ^(k) and (j) ^(Km) of the statutes are
25 created to read: and (L)

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

6 (a) A deposit of sand, gravel, or stone that totals less than 2 cubic yards and that
7 is associated with any activity or project that is exempt from an individual permit
8 or ^ageneral permit under this subchapter.

9 (b) A structure, other than a pier or a wharf, that is placed on a seasonal basis
10 in accordance with rules promulgated by the department.

11 (e) A boat shelter, boat hoist, or boat lift that is placed on a seasonal basis
12 adjacent to the riparian owner's pier or wharf or to the shoreline on the riparian
13 owner's property, in accordance with rules promulgated by the department.

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

20 (i) Riprap in an amount not to exceed 100 linear feet that is placed ^{to replace or repair} to implement
21 structural changes in a structure associated with the riprap and that includes the
22 replacement of filter fabric or base substrate.

23 (j) Riprap in an amount not to exceed 300 linear feet that is placed ^{replace or} to repair
24 existing riprap, that is placed within the footprint of the structure, with which the

*to replace or repair
existing riprap
and*

replace or

Handwritten notes and scribbles at the bottom of the page, including a large bracket under (j) and some illegible text.

1 riprap is associated, if any, and that consists only of the placement of additional rock
2 or the redistribution of existing rock.

~~***NOTE: Riprap not exempt under 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~~

~~***NOTE: Note changes in language in s. 30.12 (1g)~~

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

5 ~~SECTION 22. 30.12 (1g) (k) of the statutes is created to read:~~

6 ~~30.12 (1g) (k)~~ An intake or outfall structure that is less than 6 feet from the
7 water side of the ordinary high-water mark and that is less than 25 percent of the
8 width of the channel in which it is placed.

9 ~~SECTION 23. 30.12 (1g) (L) of the statutes is created to read:~~

10 ~~30.12 (1g) (L)~~ A pier to replace a pier that has been in existence at least 10 years
11 before the effective date of this ^{paragraph} ~~subdivision~~ [revisor inserts date], does not exceed
12 10 feet in width, and does not exceed 500 square feet in area.

13 SECTION 24. 30.12 (2) of the statutes is repealed.

14 SECTION 25. 30.12 (2m) of the statutes is created to read:

15 30.12 (2m) PERMIT IN LIEU OF EXEMPTION. (a) The department may decide to
16 require that a person engaged in an activity that is exempt under sub. (1g) apply for
17 an individual permit or seek authorization under a general permit if the department
18 has conducted an investigation and ^{visited} ~~visit to~~ the site of the activity and has determined
19 that conditions specific to the site require restrictions on the activity in order to
20 prevent any of the following:

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

(i)
and
(j) ✓
MGG

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

INS[✓]
10-4

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

INS[✓]
10-7

10 **SECTION 26.** 30.12 (3) (title) of the statutes is repealed and recreated to read:

11 30.12 (3) (title) GENERAL PERMITS.

12 **SECTION 27.** 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 28.** 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 29.** 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.

Please
fix
comp. →

repealed

1 SECTION 30. 30.12 (3) (a) 3. of the statutes is amended to read:
 2 30.12 (3) (a) 3. Place riprap or similar material, other than riprap exempt under
 3 sub. (1g) (i) and (j), on the bed and bank of a navigable waters water adjacent to an
 4 owner's property for the purpose of protecting the bank and adjacent land from
 5 erosion.

INS
11-5

6 SECTION 31. 30.12 (3) (a) 3g. of the statutes is created to read:
 7 30.12 (3) (a) 3g. Place riprap, ~~other than riprap exempt under sub. (1g) (i) and~~
 8 ~~(j)~~ on the bed or bank of a navigable water adjacent to an owner's property in an
 9 amount ~~not to exceed~~ ^{up to and including} 100 continuous feet in an inland lake of 300 acres or more.

10 SECTION 32. 30.12 (3) (a) 3r. of the statutes is created to read:
 11 30.12 (3) (a) 3r. Place riprap, ~~other than riprap exempt under sub. (1g) (i) and~~
 12 ~~(j)~~ on the bed or bank of a navigable water adjacent to an owner's property in an
 13 amount ~~not to exceed~~ ^{up to and including} 300 continuous feet in Lake Michigan or Lake Superior.

14 SECTION 33. 30.12 (3) (a) 6. of the statutes is amended to read:
 15 30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property
 16 for the purpose of storing or protecting watercraft and associated materials, except
 17 that no general permit may be granted issued for a permanent boat shelter which is
 18 constructed after May 3, 1988, if the property on which the permanent boat shelter
 19 is to be located also contains a boathouse within 75 feet of the ordinary high-water
 20 mark or if there is a boathouse over navigable waters adjacent to the owner's
 21 property.

22 SECTION 34. 30.12 (3) (a) 7. of the statutes is renumbered 30.12 (1g) (g) and
 23 amended to read:

I have included the correct harbor MGG

⑤
 ***NOTE: Due to time constraints, I cannot answer your question regarding Green Bay, Sturgeon Bay, and Sawyer's Harbor Great Lakes Harbor so please make sure

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

4 **SECTION 35.** 30.12 (3) (a) 8. of the statutes is renumbered 30.12 (1g) (h) and
5 amended to read:

6 30.12 (1g) (h) ~~Drive a piling~~ A piling that is driven into the bed of a navigable
7 water adjacent to the owner's property for the purpose of deflecting ice, protecting
8 an existing or proposed structure, or providing a pivot point for turning watercraft.

9 **SECTION 36.** 30.12 (3) (a) 13. of the statutes is created to read:

10 30.12 (3) (a) 13. Place a seawall to replace an existing seawall. The replacement
11 may not exceed 100 continuous feet in an inland lake of 300 acres and not exceed 300
12 continuous feet in Lake Michigan or Lake Superior.

13 **SECTION 37.** 30.12 (3) (b)¹ of the statutes is repealed.

14 **SECTION 38.** 30.12 (3) (bn) of the statutes is repealed.

15 **SECTION 39.** 30.12 (3) (br) of the statutes is created to read:

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

19 **SECTION 40.** 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (intro.)
20 and amended to read:

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

1 SECTION 41. 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (1)
2 to (9).

3 ~~SECTION 42. 30.12 (3) (bv) of the statutes is created to read:~~

4 30.12 (3) (bv) Notwithstanding s. 30.07 (1), the department shall issue the first
5 statewide general permit issued under par (a) 12, for an initial term of not less than
6 5 years and nor more than 10 years and shall renew the permit for terms of not less
7 than 5 years nor more than 10 years.

8 SECTION 43. 30.12 (3) (c) of the statutes is amended to read:

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

20 SECTION 44. 30.12 (3) (d) of the statutes is repealed.

21 SECTION 45. 30.12 (3m) of the statutes is created to read:

22 30.12 (3m) INDIVIDUAL PERMITS. (a) For a structure or deposit that is not exempt
23 under sub. (1g) and that is not subject to a general permit under sub. (3), a riparian
24 owner may apply to the department for the individual permit that is required under
25 sub. (1) in order to place the structure for the owner's use or to deposit the material.

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

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

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

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

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

10 SECTION 46. 30.12 (4) (title) of the statutes is repealed.

11 SECTION 47. 30.12 (4) (a) of the statutes is renumbered 30.2022 (1) and
12 amended to read:

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

23 SECTION 48. 30.12 (4) (b) of the statutes is renumbered 30.2022 (2) and
24 amended to read:

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

5 **SECTION 49.** 30.12 (4) (c) of the statutes is renumbered 30.2022 (3) and
6 amended to read:

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

16 **SECTION 50.** 30.12 (4) (d) of the statutes is renumbered 30.2022 (4).

17 **SECTION 51.** 30.12 (4) (e) of the statutes is renumbered 30.2022 (5) and
18 amended to read:

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

22 **SECTION 52.** 30.12 (4) (f) of the statutes is renumbered 30.2022 (6) and amended
23 to read:

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

1 **SECTION 53.** 30.12 (4m) (title) of the statutes is repealed.

2 **SECTION 54.** 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12
3 (1m) (c) (intro.), as renumbered, is amended to read:

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

8 **SECTION 55.** 30.12 (5) of the statutes is repealed.

9 **SECTION 56.** 30.121 (3w) of the statutes is created to read:

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

13 (a) The boathouse is used exclusively for commercial purposes.

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

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

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

23 **SECTION 57.** 30.123 (title) of the statutes is repealed and recreated to read:

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

1 SECTION 58. 30.123 (1) of the statutes is renumbered 30.1235 and amended to
2 read:

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

8 SECTION 59. 30.123 (2) of the statutes is amended to read:

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

19 SECTION 60. 30.123 (3) of the statutes is repealed.

20 SECTION 61. 30.123 (4) of the statutes is renumbered 30.123 (8) (c) and
21 amended to read:

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

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

4 SECTION 62. 30.123 (5) of the statutes is repealed.

5 SECTION 63. 30.123 (6) of the statutes is created to read:

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

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

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

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

14 (d) The construction or placement and the maintenance of a culvert to replace
15 a culvert that is authorized under a permit issued under s. 30.12, 2001 stats., or
16 30.123, 2001 stats, if the construction, placement, and maintained will comply with
17 the same conditions of the permit.

18 (e) The construction or placement and the maintenance of a culvert to replace
19 a culvert that has an inside diameter that does not exceed 24 inches.

20 SECTION 64. 30.123 (6m) of the statutes is created to read:

21 30.123 (6m) PERMIT IN LIEU OF EXEMPTION. (a) The department may decide to
22 require that a person engaged in an activity that is exempt under sub. (6) ^{(d) or (d)} apply for
23 an individual permit or seek authorization under a general permit if the department
24 has conducted an investigation and ^{visited} ~~visit to~~ the site of the activity and has determined

1 that conditions specific to the site require restrictions on the activity in order to
2 prevent any of the following:

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

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

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

15 SECTION 65. 30.123 (7) of the statutes is created to read:

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

- 18 1. Construct and maintain a clear-span bridge over a navigable water that
19 provides access to a principal structure, as defined by rule by the department.
- 20 2. Construct and maintain a culvert that replaces a culvert that is not exempt
21 under sub. (6) (c) and that is in a navigable water that is less than 35 feet wide.
- 22 3. Construct and maintain a bridge that is supported only by culverts in a
23 navigable water that is less than 35 feet wide.

^(CS)
* * * NOTE ↑ I changed the cross-reference to s. 30.123 (6)
to s. 30.123 (6) (d) ^{or} (e) to make it the same as
that found in s. 30.123 (6m) (a) OK? MGG

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

4 SECTION 66. 30.123 (8) of the statutes is created to read:

5 30.123 (8) INDIVIDUAL PERMITS. (a) For the construction and maintenance of a
6 bridge or culvert that is not exempt under sub. (6) and that is not subject to a general
7 permit under sub. (7), a person may apply to the department for the individual
8 permit that is required under sub. (2) in order to construct or maintain a bridge or
9 culvert.

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

12 ~~SECTION 67. 30.13 (1) of the statutes is repealed.~~

****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

13 SECTION 68. 30.13 (1m) (intro.) of the statutes is amended to read:

14 30.13 (1m) SWIMMING RAFTS ALLOWED WITHOUT PERMIT UNDER CERTAIN
15 CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may place a swimming raft in
16 a navigable waterway for swimming and diving purposes without obtaining a permit
17 under s. 30.12 if all of the following conditions are met:

18 SECTION 69. 30.13 (1m) (b) of the statutes is amended to read:

19 30.13 (1m) (b) The swimming raft does not interfere with rights of other
20 riparian ~~proprietors~~ owners.

21 SECTION 70. 30.13 (4) (a) of the statutes is amended to read:

1 30.13 (4) (a) *Interferes with public rights.* A wharf or pier which interferes with
2 public rights in navigable waters constitutes an unlawful obstruction of navigable
3 waters unless ~~a permit is issued for the wharf or pier~~ is authorized under a permit
4 issued under s. 30.12 or unless other authorization for the wharf or pier is expressly
5 provided.

6 **SECTION 71.** 30.13 (4) (b) of the statutes is amended to read:

7 30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which interferes
8 with rights of other riparian ~~proprietors~~ owners constitutes an unlawful obstruction
9 of navigable waters unless ~~a permit is issued for the wharf or pier~~ is authorized
10 under a permit issued under s. 30.12 or unless other authorization for the wharf or
11 pier is expressly provided.

12 **SECTION 72.** 30.135 (1) (title) of the statutes is repealed.

13 **SECTION 73.** 30.135 (1) (a) (intro.) of the statutes is renumbered 30.135 (1)
14 (intro.) and amended to read:

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

19 **SECTION 74.** 30.135 (1) (a) 1. of the statutes is renumbered 30.135 (1) (a).

20 **SECTION 75.** 30.135 (1) (a) 2. of the statutes is renumbered 30.135 (1) (b) and
21 amended to read:

22 30.135 (1) (b) The platform or jump does not interfere with rights of other
23 riparian ~~proprietors~~ owners.

24 **SECTION 76.** 30.135 (1) (a) 3. of the statutes is renumbered 30.135 (1) (c).

1 **SECTION 77.** 30.135 (1) (b) of the statutes is renumbered 30.135 (2) and
2 amended to read:

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

7 **SECTION 78.** 30.135 (2), (3) and (4) of the statutes are repealed.

8 **SECTION 79.** 30.18 (2) (a) (intro.) of the statutes is amended to read:

9 30.18 (2) (a) *Streams.* (intro.) No person may divert water from a stream in
10 this state without ~~a~~ an individual permit under this section if the diversion meets
11 either of the following conditions:

12 **SECTION 80.** 30.18 (2) (b) of the statutes is amended to read:

13 30.18 (2) (b) *Streams or lakes.* No person, except a person required to obtain
14 an approval under s. 281.41, may divert water from any lake or stream in this state
15 without ~~a~~ an individual permit under this section if the diversion will result in a
16 water loss averaging 2,000,000 gallons per day in any 30-day period above the
17 person's authorized base level of water loss.

18 **SECTION 81.** 30.18 (4) (a) of the statutes is amended to read:

19 30.18 (4) (a) Upon receipt of a complete application, the department shall
20 follow the notice and hearing procedures under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5).
21 In addition to ~~the notice requirements~~ providing notice as required under s. ~~30.02 (3)~~
22 ~~and (4)~~ 30.208 (3) to (5), the department shall mail a copy of the notice to every person
23 upon whose land any part of the canal or any other structure will be located, to the
24 clerk of the next town downstream, to the clerk of any village or city in which the lake

1 or stream is located and which is adjacent to any municipality in which the diversion
2 will take place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

3 SECTION 82. 30.18 (6) (b) of the statutes is amended to read:

4 30.18 (6) (b) *Use of water.* A person issued a permit under this section for the
5 purpose of irrigation or agriculture may use the water on any land contiguous to the
6 permittee's riparian land, but may not withdraw more water than it did before
7 August 1, 1957, without applying to the department for a modification of the permit.

8 SECTION 83. 30.18 (9) of the statutes is repealed.

9 SECTION 84. 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)
10 and amended to read:

11 30.19 (1g) PERMITS REQUIRED. (intro.) Unless ~~a~~ ^a an individual or general permit
12 has been granted by the department issued under this section or authorization has
13 been granted by the legislature, ~~it is unlawful~~ no person may do any of the following:

14 SECTION 85. 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and
15 amended to read:

16 30.19 (1g) (a) ~~To construct~~ Construct, dredge, or enlarge any artificial
17 ~~waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the~~
18 ~~purpose is ultimate connection with an existing navigable stream, lake or other~~
19 ~~navigable waters, or where~~ water body that connects with a navigable waterway.

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

23 SECTION 86. 30.19 (1) (b) of the statutes is repealed.

24 SECTION 87. 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
25 amended to read:

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

4 **SECTION 88.** 30.19 (1b) of the statutes is created to read:

5 30.19 (1b) DEFINITION. In the section, “artificial water body” means a proposed
6 or existing body of water that does not have a history of being a lake or stream or of
7 being part of a lake or stream.

8 **SECTION 89.** 30.19 (1m) (intro.) of the statutes is amended to read:

9 30.19 (1m) ~~EXCEPTION~~ EXEMPTIONS. (intro.) ~~Subsection (1) does not apply to A~~
10 person is exempt from the permit requirements under this section for any of the
11 following:

12 **SECTION 90.** 30.19 (1m) (a) of the statutes is amended to read:

13 30.19 (1m) (a) The construction ~~and or~~ repair of any public highways highway.

14 **SECTION 91.** 30.19 (1m) (b) of the statutes is amended to read:

15 30.19 (1m) (b) Any agricultural uses use of land.

16 **SECTION 92.** 30.19 (1m) (c) of the statutes is amended to read:

17 30.19 (1m) (c) ~~Any~~ An activity that affects a navigable inland lake that is
18 located wholly or partly in any county having a population of 750,000 or more.

19 **SECTION 93.** 30.19 (1m) (cm) of the statutes is created to read:

20 30.19 (1m) (cm) Any activity that affects a portion of Lake Michigan or of Lake
21 Superior that is located within a county having a population of 750,000 or more.

22 **SECTION 94.** 30.19 (1m) (d) of the statutes is amended to read:

23 30.19 (1m) (d) ~~These portions~~ Any activity that affects a portion of a navigable
24 streams, Lake Michigan or Lake Superior stream that is located within any a county
25 having a population of 750,000 or more.

1 **SECTION 95.** 30.19 (1m) (e) of the statutes is amended to read:

2 30.19 (1m) (e) Any work required to maintain the original dimensions of an
3 enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a
4 permit or legislative authorization under sub. ~~(1)(a) or (b)~~ (1g) (a) or (am).

5 **SECTION 96.** 30.19 (1m) (g) of the statutes is created to read:

6 30.19 (1m) (g) The construction, dredging, or enlargement of any artificial
7 water body that is within 500 feet of the ordinary high-water mark of a navigable
8 waterway, if the artificial water body does not have a surface connection to any
9 navigable waterway other than an overflow device and if the construction, dredging,
10 or enlargement is authorized by a storm water discharge permit approved by the
11 department under ch. 283 or a facility plan approved or authorized by the
12 department under s. 281.41.

13 **SECTION 97.** 30.19 (1m) (h) of the statutes is created to read:

14 30.19 (1m) (h) Grading or removal of topsoil from the bank of a navigable
15 waterway that is not located in an area of special natural resource interest and where
16 the area exposed by the grading or removal will exceed 10,000 square feet, if any of
17 the following applies:

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

20 2. The grading or removal is authorized under an ordinance under s. 59.692,
21 61.351, or 62.231.

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

24 **SECTION 98.** 30.19 (1r) of the statutes is created to read:

1 30.19 (1r) PERMIT IN LIEU OF EXEMPTION. (a) The department may decide to
2 require that a person engaged in an activity that is exempt under sub. (1g) apply for
3 an individual permit or seek authorization under a general permit if the department
4 has conducted an investigation and visit to ^{visited} the site of the activity and has determined
5 that conditions specific to the site require restrictions on the activity in order to
6 prevent any of the following:

7 **** NOTE: The cross-references in s. 30.19(1r) may need to be changed depending on any redraft instructions. Mrs*

- 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.

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

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

17 SECTION 99. 30.19 (2) of the statutes is repealed.

18 SECTION 100. 30.19 (3) of the statutes is repealed.

19 SECTION 101. 30.19 (3r) of the statutes is created to read:

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

- 22 1. Engage in an activity specified in sub. (1g) (a) or (am) that is not exempt
23 under sub. (1m) if the construction, dredging, or enlargement is authorized by a
24
25

(g) added

(a) and (b)

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1 storm water discharge permit approved by the department under ch. 283 or a facility
2 plan approved by the department under s. 281.41.

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

7 3. Engage in an activity specified in sub. (1g) (c) that is not exempt under sub.
8 (1m) (h) if the area exposed by the grading or removal will exceed 10,000 square feet.

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

12 SECTION 102. 30.19 (4) (title) of the statutes is amended to read:

13 30.19 (4) (title) ~~ISSUANCE OF PERMIT~~ INDIVIDUAL PERMITS.

14 SECTION 103. 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and
15 amended to read:

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

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

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

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

5 SECTION 104. 30.19 (4) (a) of the statutes is created to read:

6 30.19 (4) (a) For activities that are not exempt under sub. (1m) and that are
7 not subject to a general permit under sub. (3r), a person may apply to the department
8 for an individual permit in order to engage in an activity for which a permit is
9 required under sub. (1g).

10 SECTION 105. 30.19 (4) (b) of the statutes is created to read:

11 30.19 (4) (b) The notice and hearing provisions of s. 30.208 (3) to (5) apply to
12 an application under par. (a).

13 SECTION 106. 30.19 (4) (c) 1. of the statutes is created to read:

14 30.19 (4) (c) 1. The activity will not be detrimental to the public interest.

15 SECTION 107. 30.19 (5) of the statutes is amended to read:

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

24 SECTION 108. 30.195 (1) of the statutes is amended to read:

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

****NOTE: In the bill the concept of "straightening" was stricken in s. 30.195 (1) but
left in throughout the other provisions of s. 30.19. So I have restored "straightening" in
s. 30.195 (1). OK? MGG

5 **SECTION 109.** 30.195 (2) of the statutes is repealed and recreated to read:

6 30.195 (2) INDIVIDUAL PERMITS. (a) A riparian owner shall apply to the
7 department for an individual permit in order to engage in activities for which a
8 permit is required under sub. (1).

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

11 **SECTION 110.** 30.195 (3) (title) of the statutes is repealed.

12 **SECTION 111.** 30.195 (3) of the statutes is renumbered 30.195 (2) (c) and
13 amended to read:

14 30.195 (2) (c) ~~Upon application therefor, the~~ The department shall ~~grant a~~
15 issue an individual permit to the applicant for under this section to a riparian owner
16 if the department determines that all of the following apply:

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

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

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

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

11 SECTION 112. 30.195 (4) of the statutes is repealed.

12 SECTION 113. 30.195 (7) of the statutes is repealed.

13 SECTION 114. 30.196 (intro.) of the statutes is amended to read:

14 **30.196 Enclosure of navigable waters; issuance of permits to**
15 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
16 placing or restricting navigable waters into an enclosed drain, conduit, storm sewer
17 or similar structure if the department grants the municipality ~~a~~ an individual
18 permit. The department may grant this permit to a municipality after following the
19 notice and hearing requirements under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5) if it finds
20 that granting the permit:

21 SECTION 115. 30.20 (1) (title) of the statutes is repealed and recreated to read:

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

23 SECTION 116. 30.20 (1) (a) of the statutes is amended to read:

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

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

4 SECTION 117. 30.20 (1) (b) of the statutes is amended to read:

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

11 SECTION 118. 30.20 (1) (c) 1. and 2. of the statutes are consolidated, renumbered
12 30.20 (1g) (a) 1. and amended to read:

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

20 SECTION 119. 30.20 (1) (c) 3. of the statutes is renumbered 30.20 (1g) (a) 2.

21 SECTION 120. 30.20 (1) (d) of the statutes is renumbered 30.20 (1g) (c) and
22 amended to read:

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

1 from the individual and general permit requirements under this section if the
2 removal is required, under rules promulgated by the department of agriculture,
3 trade and consumer protection, in order to conform the drain to specifications
4 imposed by the department of agriculture, trade and consumer protection after
5 consulting with the department of natural resources.

6 **SECTION 121.** 30.20 (1g) (title) and (b) of the statutes are created to read:

7 **30.20 (1g) (title) EXEMPTIONS.**

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

12 1. The removal is the amount necessary to place or maintain a structure that
13 is exempt from any permitting requirements in this chapter.

14 2. The removal is by hand or by hand-held devices without the use or aid of
15 external or auxiliary power.

16 **SECTION 122.** 30.20 (1m) of the statutes is created to read:

17 **30.20 (1m) PERMIT OR CONTRACT IN LIEU OF EXEMPTION.** (a) The department may
18 decide to require that a person engaged in an activity that is exempt under sub. (1g)
19 apply for an individual permit or contract, or seek authorization under a general
20 permit if the department has conducted an investigation and ~~visit to~~^{visited} the site of the
21 activity and has determined that conditions specific to the site require restrictions
22 on the activity in order to prevent any of the following:

23 1. Significant adverse impacts to the public rights and interests.

24 2. Environmental pollution, as defined in s. 299.01 (4).

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

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

INS ✓
33-5
INS 33-7 ✓

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

10 **SECTION 123.** 30.20 (1r) of the statutes is created to read:

11 30.20 (1r) GENERAL PERMITS. (a) The department shall issue statewide general
 12 permits under s. 30.206 that authorize any person to remove material for
 13 maintenance purposes from an area from which material has been previously
 14 removed.

15 2. Remove material from an area from which no material has been previously
 16 removed and the material to be removed is 100 or more cubic yards but less than
 17 1,000 cubic yards.

18 (b) The department may promulgate rules that specify other types of removals,
 19 in addition to the one listed in par. (a), that may be authorized by statewide general
 20 permits.

21 **SECTION 124.** 30.20 (2) (title) of the statutes is amended to read:

22 30.20 (2) (title) CONTRACTS FOR REMOVAL AND INDIVIDUAL PERMITS.

23 **SECTION 125.** 30.20 (2) (a) and (b) of the statutes are amended to read:

24 30.20 (2) (a) The department, ~~whenever consistent with public rights,~~ may
 25 enter into ~~contracts~~ a contract on behalf of the state for the removal and lease or sale

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

~~***NOTE: These contracts may be for less than 5 years. Is the scored material OK?***~~
 MGG

15 (b) The department, ~~whenever consistent with public rights,~~ may enter into
 16 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any
 17 mineral, ore ~~and, or other~~ material from beneath the bed of a navigable lakes and
 18 ~~waters, where the waters would~~ water that the state may own if the contract will be
 19 consistent with public rights and if the navigable water will not be disturbed in the
 20 removal operation and for the lease and sale of such mineral, material and ore and
 21 provide the necessary regulations for all acts incident thereto. Every such. A person
 22 seeking to enter into such a contract shall apply to the department. Each contract
 23 entered into under this paragraph shall contain such any conditions as may be that

1 the department determines are necessary for the protection of the public interest and
2 the interests interest of the state, and. Each contract entered into under this
3 paragraph shall also fix the compensation to be paid to the state for the material,
4 mineral and ore so mineral, ore, or other material to be removed. No Each contract
5 entered into, pursuant to under this paragraph, shall may not run for a longer period
6 more than 75 years. Should any doubt exist as to whether the state, in fact, owns
7 such lake bed or stream bed such contract or lease shall be for such interests, if any,
8 as the state may own. Title to the royalties to be paid when mining operations are
9 begun shall be determined at such future time as royalties for ores so sold are paid
10 or are due and payable.

11 SECTION 126. 30.20 (2) (bn) of the statutes is created to read:

12 30.20 (2) (bn) For a removal that is not exempt under sub. (1g) and that is not
13 subject to a general permit under sub. (1r), a person may apply to the department
14 for an individual permit that is required under sub. (1) (b) in order to remove material
15 from the bed of any lake or stream not described under sub. (1) (a).

16 SECTION 127. 30.20 (2) (c) of the statutes is amended to read:

17 30.20 (2) (c) ~~A permit to remove material from the bed of any lake or stream~~
18 ~~not included in sub. (1) (a) may be issued by the department if it~~ The department
19 shall issue an individual permit pursuant to an application under par. (bn) if the
20 department finds that the issuance of such a the permit will be consistent with the
21 public interest in the water involved. A permit or contract issued under this
22 paragraph may be issued for up to 10 years if the applicant notifies the department
23 at least 30 days before removing any material lake or stream.

24 SECTION 128. 30.20 (2) (d) of the statutes is created to read:

1 30.20 (2) (d) If an applicant for a permit under par. (bn) submits the application
 2 at least 30 days before the proposed date of the removal, the department may issue
 3 the permit for a period of up to 10 years. The department may allow one extension
 4 of a permit issued under this paragraph, upon application to the department. The
 5 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?~~

6 **SECTION 129.** 30.20 (2) (e) of the statutes is created to read:

7 30.20 (2) (e) The notice and hearing provisions of s. 30.208 (3) to (5) apply to
 8 an application for a permit or contract under this subsection.

9 **SECTION 130.** 30.201 of the statutes is created to read:

10 **30.201 Financial assurance for nonmetallic mining.** (1) If the
 11 department requires that financial assurance be provided as a condition for a permit
 12 under s. 30.19, 30.195, or 30.20 or for a contract under s. 30.20 for nonmetallic mining
 13 and reclamation, the financial assurance may be a bond or alternative financial
 14 assurance. An alternative financial assurance may include cash or any of the
 15 following:

- 16 (a) A certificate of deposit.
- 17 (b) An irrevocable letter of credit.
- 18 (c) An irrevocable trust.
- 19 (d) An escrow account.
- 20 (e) A government security.
- 21 (f) Any other demonstration of financial responsibility.

22 (2) Any interest earned by the financial assurance shall be paid to the person
 23 operating the nonmetallic mining or reclamation project.

24 **SECTION 131.** 30.2022 (title) of the statutes is created to read:

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

2 **SECTION 132.** 30.2026 (2) (d) of the statutes is amended to read:

3 30.2026 (2) (d) The village of Belleville shall create any artificial barrier under
4 this section in compliance with all state laws that relate to navigable bodies of water,
5 except s. 30.12 (1) and (2).

6 **SECTION 133.** 30.2026 (3) (a) of the statutes is amended to read:

7 30.2026 (3) (a) The village of Belleville shall maintain any artificial barrier
8 created as authorized under sub. (1). If a landowner of more than 500 feet of Lake
9 Belle View shoreline, a portion of which is located within 1,000 feet of any such
10 artificial barrier, is dissatisfied with the manner in which the village of Belleville is
11 maintaining the barrier, the owner may maintain the barrier in lieu of the village,
12 upon approval of the department. The village or a landowner who maintains the
13 barrier shall comply with all state laws that relate to navigable bodies of water,
14 except s. 30.12 (1) and (2). The department may require the village of Belleville or
15 the landowner to maintain the barrier in a structurally and functionally adequate
16 condition.

17 **SECTION 134.** 30.206 (1) (title) of the statutes is created to read:

18 30.206 (1) (title) **PROCEDURE FOR ISSUING GENERAL PERMITS.**

19 **SECTION 135.** 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and
20 amended to read:

21 30.206 (1) (a) ~~For activities which require a permit or approval under ss. 30.12~~
22 ~~(3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a~~
23 ~~class of activities, according to rules promulgated by the department. Before issuing~~
24 ~~general permits, the department shall determine after an environmental analysis~~
25 ~~and notice and hearing under ss. 227.17 and 227.18, that. The department shall~~

1 issue the statewide general permits as rules promulgated under ch. 227 required
2 under ss. 30.12 (3) (a), 30.123 (7) (a), 30.19 (3r) (a), and 30.20 (1r) (a) within 540 days
3 after the effective date of this paragraph [revisor inserts date]. General permits
4 issued under s. 30.206, 2001 stats., shall remain valid until the date upon which the
5 rules issuing these statewide general permits are issued under this paragraph.

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

****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

12 SECTION 136. 30.206 (1) (c) 1. to 3. of the statutes are created to read:

13 30.206 (1) (c) 1. Construction and design requirements that are consistent with
14 the purpose of the activity authorized under the permit.

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

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

19 SECTION 137. 30.206 (2) of the statutes is repealed.

20 SECTION 138. 30.206 (3) (title) of the statutes is created to read:

21 30.206 (3) (title) PROCEDURES FOR CONDUCTING ACTIVITIES UNDER GENERAL
22 PERMITS.

1 **SECTION 139.** 30.206 (3) of the statutes is renumbered 30.206 (3) (a) and
2 amended to read:

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

12 **SECTION 140.** 30.206 (3) (c) of the statutes is created to read:

13 30.206 (3) (c) Upon completion of an activity that the department has
14 authorized under a general permit, the applicant for the general permit shall provide
15 to the department a statement certifying that the activity is in compliance with all
16 of the conditions of the general permit and a photograph of the activity.

17 **SECTION 141.** 30.206 (3m) of the statutes is repealed.

18 **SECTION 142.** 30.206 (3r) of the statutes is created to read:

19 30.206 (3r) **INDIVIDUAL PERMIT IN LIEU OF GENERAL PERMIT.** (a) The department
20 may decide to require that a person who has applied under sub. (3) for authorization
21 to proceed under a general permit to apply for and be issued an individual permit ^{if}
22 either of the following applies: ^{or be granted a contract}

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

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

6 (b) A decision by the department to require an individual permit under this
 7 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. (CS)
 * * * * * NOTE: I've added contacts under s. 30.206 (3r) (intro.)
 OK? MGR

8 SECTION 143. 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and
 9 amended to read:

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

18 SECTION 144. 30.206 (5) (title) of the statutes is created to read:
 19 30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

20 SECTION 145. 30.206 (6) of the statutes is amended to read:
 21 30.206 (6) REQUEST FOR INDIVIDUAL PERMIT. A person proposing an activity for
 22 which a general permit has been issued may request an individual permit under the

1 applicable provisions of this ~~chapter~~ subchapter or ch. 31 in lieu of seeking
2 authorization under the general permit.

3 **SECTION 146.** 30.206 (7) of the statutes is amended to read:

4 30.206 (7) This section does not apply to an application for a general permit for
5 the Wolf River and Fox River basin area or any area designated under s. 30.207 (1m)
6 ~~if the application for the general permit may be submitted under s. 30.207.~~

7 **SECTION 147.** 30.207 (1) of the statutes is amended to read:

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

17 **SECTION 148.** 30.207 (3) (d) 2. of the statutes is amended to read:

18 30.207 (3) (d) 2. Specify the department's plans for proceeding on the
19 application. ~~The plans shall include a timetable for the notice and hearing required~~
20 ~~under sub. (4).~~

21 **SECTION 149.** 30.207 (4) (b) of the statutes is repealed.

22 **SECTION 150.** 30.207 (5) of the statutes is repealed.

23 **SECTION 151.** 30.208 of the statutes is created to read:

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

1 an individual permit under this subchapter or to enter into a contract under s. 30.20
2 shall submit an application to the department. The application may contain a
3 request for a public hearing on the application.

4 (3) NOTICE OF COMPLETE APPLICATION; REQUEST FOR PUBLIC HEARING; DECISION. (a)

5 Upon determination by the department that an application submitted under sub. (1)
6 is complete, the department shall provide notice of complete application to interested
7 and potentially interested members of the public, as determined by the department.
8 The department shall provide the notice within 15 days after the determination that
9 the application is complete. If the applicant has requested a public hearing as part
10 of the submitted application, a notice of public hearing shall be part of the notice of
11 complete application.

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

16 (c) A request for a public hearing under par. (b) must be submitted to the
17 department or the department's decision to hold a public hearing must occur within
18 30 days after the department completes providing the notice of complete application.
19 The department shall provide notice of public hearing within 15 days after the
20 request for public hearing is submitted or the department makes its determination.

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

23 (e) Within 30 days after the public hearing is held or, if no public hearing is held,
24 within 30 days of the 30-day comment period under sub. (4) (a), the department shall

1 render a decision, issuing, denying, or modifying the permit or approving the
2 contract that is the subject of the application submitted under sub. (1).

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

12 (b) If a public hearing is held, the period for public comment shall end on the
13 10th day following the date on which the public hearing is completed.

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

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

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

23 (b) The department shall, by rule, prescribe the form and content of notices of
24 complete applications and notices of public hearings to be provided under sub. (3),

1 and notices of administrative hearings to be provided under s. 30.209 (1m). Each
2 notice shall include all of the following information:

3 1. The name and address of each applicant or permit holder.

4 2. A brief description of each applicant's activity or project that requires the
5 permit.

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

7 4. For a notice of complete application and a notice of public hearing under sub.
8 (3), a statement of the tentative determination to issue, modify, or deny a permit for
9 the activity or project described in the application.

10 5. For a notice of complete application and a notice of public hearing under sub.
11 (3), a brief description of the procedures for the formulation of final determinations,
12 including a description of the comment period required under sub. (4).

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

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

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

19 **SECTION 152.** 30.209 of the statutes is created to read:

20 **30.209 Contracts and individual permits; administrative and judicial**
21 **review. (1)** In this section, "applicant" means any person applying to receive a
22 permit or contract under this subchapter or any person who has received a permit
23 or contract under this subchapter.

1 (1m) REQUEST FOR ADMINISTRATIVE REVIEW. (a) Any interested person may file
2 a petition with the department for administrative review within 30 days after any
3 of the following decisions given by the department:

4 1. The issuance, denial, or modification of any individual permit issued under
5 or contract entered into this subchapter.

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

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

10 1. A description of the objection that is sufficiently specific to allow the
11 department to determine which provisions of this subchapter may be violated ^{if} ~~by~~
proposed activity or project under the ~~the~~ ^{is allowed to proceed}
permit or contract

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

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

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

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

23 (e) The petitioner shall file a copy of the petition with the department. If the
24 petitioner is not the applicant, the petitioner shall simultaneously provide a copy of
25

1 the petition to the ~~person applying to receive the permit or contract or the person who~~
 2 ~~has received the permit or contract~~ ^{applicant} The applicant may file a response to the petition
 3 with the department. If the applicant files a response under this paragraph, it shall
 4 be filed within 15 days after the petition is filed.

5 (f) ~~Notwithstanding the time limit under s. 227.42 (2)~~ the department shall
 6 grant or deny the petition within 30 days after the petition is filed. ~~Notwithstanding~~

7 ~~the time limit under s. 227.42 (2)~~ the failure of the department to dispose of the
 8 petition within this 30-day period is a denial. The department ~~shall not grant~~ ^{shall deny} the
 9 petition if any of the following applies:

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

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

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

the department shall send the petitioner the denial in writing stating the reasons for the denial.
 17 (g) If the department ~~denies~~ ^{denies} the petition, the department

18 shall refer the matter to the division of hearings and appeals in the department of
 19 administration within 15 days after granting the petition unless the petitioner and
 20 the applicant agree to an extension.

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

1 (b) If a stay under sub. (1) (c) is in effect, the hearing examiner shall, within
2 30 days after ^{receipt of} the referral under sub. (1) (g), determine whether continuation of the
3 stay is necessary to prevent irreversible harm to the environment pending
4 completion of the hearing. The hearing examiner shall make the determination
5 based on the request under sub. (1) (c), any response from the applicant under sub.
6 (1) (e), and any testimony at a public hearing or any public comments. The
7 determination shall be made without a hearing.

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

13 (d) Notwithstanding s. 227.44 (1), the department shall provide a notice of the
14 hearing at least 30 days before the date of the hearing to all of the following:

- 15 1. The applicant.
- 16 2. Each petitioner, if other than the applicant.
- 17 3. Any other persons required to receive notice under the rules promulgated
18 under s. 30.208 (5).

19 (3) JUDICIAL REVIEW. (a) Any person whose substantial interest is affected by
20 a decision of the department under sub. (1m) (a) ^{10 or 20} may commence an action in circuit
21 court to review that decision.

22 (b) Any party aggrieved by a decision of a hearing examiner under sub. (2) may
23 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?

SECTION # RN 30.28(3)(a) ; 30.28(3)'

Please
Fix
Comp.

repealed

1 SECTION 153. 30.28 (3) (b) of the statutes is amended to read:

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

4 SECTION 154. 30.285 of the statutes is created to read:

5 30.285 Records of exemptions and permitted activities. (1) On an
6 annual basis, the department shall keep records of all of the following

7 (a) The number of exempted activities that are conducted under ss. 30.12 (1g),
8 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department is aware.

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

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

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

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

17 (a) The type of permit or contract application required.

18 (b) The date of the application.

19 (c) The date of the department's decision whether to issue the individual
20 permit, grant authorization under the general permit, or to grant the contract.

21 (d) The county in which the activity or project is located.

22 SECTION 155. 30.29 (3) (d) of the statutes is amended to read:

23 30.29 (3) (d) *Activities for which a permit is issued.* A person or agent of a person
24 who is issued a permit by the department while the person or agent is engaged in
25 activities related to the purpose for which the permit is issued as authorized under

1 a general or individual permit issued under this subchapter or as authorized under
2 a contract entered into under this subchapter.

3 SECTION 156. 30.291 of the statutes is created to read:

4 **30.291 Inspections for certain exemptions and permitted activities. (1)**

5 For purposes of determining whether an exemption is appropriate under s. 30.12
6 (2m), 30.123 (6m), 30.19 (1r), or 30.20 (1m) or whether a general permit is
7 appropriate under s. 30.206 (3r), any employee or other representative of the
8 department, upon presenting his or her credentials, may enter the site and inspect
9 any property on the site on which the proposed activity is to take place.

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

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

16 (4) If the owner refuses to grant the consent requested under sub. (2), or if the
17 owner's terms of consent are not acceptable to the department, either of the
18 do either of the following apply the department may

- 19 (a) ~~If the entry and inspection is to determine whether an activity is exempt, [^]~~
- 20 ~~the 15-day period under s. 30.12 (2m) (b), 30.123 (6m) (b), 30.19 (1r) (b) or 30.20 (1m)~~
- 21 ~~(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 and 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.

Proceed as if no notification written statement was provided under

1 (b) If the entry and inspection is to determine whether authorization to proceed
2 under a general permit is appropriate under s. 30. 206 (3r), the department may
3 require an individual permit for the activity.

****NOTE: I did not draft sub. (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.

4 SECTION 157. 30.298 (3) of the statutes is amended to read:

5 30.298 (3) Any person who violates a general permit under s. 30.206 shall
6 forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not
7 less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or
8 subsequent time.

9 SECTION 158. 31.39 (2m) (c) of the statutes is amended to read:

10 31.39 (2m) (c) If more than one fee under sub. (2) (a) or s. 30.28 (2) (a) or 281.22
11 is applicable to a project, the department shall charge only the highest fee of those
12 that are applicable.

13 SECTION 159. 84.18 (6) of the statutes is amended to read:

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

INS ✓
50-1

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

6 **SECTION 160.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

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

19 **SECTION 161.** 281.22 (2) (c) of the statutes is amended to read:

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

23 **SECTION 162.** 299.05 (2) (a) of the statutes is amended to read:

24 299.05 (2) (a) Permits, contracts, and other approvals under ss. 30.10 to 30.205
25 and 30.21 to 30.27.

DN

3881/P2

II Again; there are embedded notes for your review

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Insert 10-4

No ff if the owner of ^{the} site upon which the proposed activity is located gives consent that is acceptable to the department and that allows the department enough time to make an inspection under s. 30.291. If not enough time is allowed, the 15-day period under this paragraph does not begin until the day that the owner's consent is granted.

Insert 10-7

(bn) If the department fails to comply with the 15-day period in par. (b), the department may not require that the person proposing to engage in the exempt activity apply for an individual permit or seek authorization under a general permit.

Insert 11-5

SECTION # 30.12 (3) (a) 3c. of the statutes is created to read:

* 30.12 (3) (a) 3c. Place riprap in order to replace or repair existing riprap, other than riprap that is exempt under sub. (1g) (i) or (j).

Insert 19-9

No ff if the owner of ^{the} site upon which the proposed activity is located gives consent that is acceptable to the department and that allows the department enough time to make an inspection under s. 30.291. If not enough time is allowed, the 15-day period under this paragraph does not begin until the day that the owner's consent is granted.

Insert 19-12

(bn) If the department fails to comply with the 15-day period in par. (b), the department may not require that the person proposing to engage in the exempt activity apply for an individual permit or seek authorization under a general permit.

Insert 26-13

No ff

if the owner of ^{the} site upon which the proposed activity is located gives consent that is acceptable to the department and that allows the department enough time to make an inspection under s. 30.291. If not enough time is allowed, the 15-day period under this paragraph does not begin until the day that the owner's consent is granted.

Insert 26-16

(bn) If the department fails to comply with the 15-day period in par. (b), the department may not require that the person proposing to engage in the exempt activity apply for an individual permit or seek authorization under a general permit.

Insert 33-5

No ff

if the owner of ^{the} site upon which the proposed activity is located gives consent that is acceptable to the department and that allows the department enough time to make an inspection under s. 30.291. If not enough time is allowed, the 15-day period under this paragraph does not begin until the day that the owner's consent is granted.

Insert 33-7

(bn) If the department fails to comply with the 15-day period in par. (b), the department may not require that the person proposing to engage in the exempt activity apply for an individual permit or contract or seek authorization under a general permit.

Insert 50-1

(a) If an entry and inspection is to determine whether an activity is exempt, the department may proceed as if no written statement was provided under s. 30.12 (2m) [✓]
* ^b(~~a~~), 30.123 (6m) (~~a~~)^b, 30.19 (1r) (~~a~~)^b, or 30.20 (1m) (~~a~~)^b.

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

LRB-3881/P2dn
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December 18, 2003

Again, there are embedded notes for your review.

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

State Capitol, Room 211W
P.O. Box 8953
Madison, WI 53708
Phone: 608-268-3397
Fax: 608-266-5123

**Wisconsin Legislature
Speaker John Gard**

Fax

To: Mary Gibson-Glass From: Ellen Nowak
 Fax: 264-6948 Date: 12-19-03
 Phone: _____ Pages: 4
 Re: _____ CC: -1 5683

- Urgent For Review Please Comment Please Reply Please Recycle

•Comments: Mary:
Note that these page #¹⁵ correspond
to /PI.
Ellen

Drafting Instructions for Section 30.19
To LRB Draft LRB-3881/P1
12/19/03

1. p. 24 ln 4-7, Section 88. Amend the definition section so that the term artificial water body is one term and bank is another. The section as amended would read as follows:

Section 88. 30.19(1b) of the statutes is created to read:

30.19(1b) DEFINITIONS. In this section:

(a) "Artificial water body" means a proposed or existing body of water that does not have a history of being a lake or stream or of being part of a lake or stream.

(b) "Bank" has the following meaning until 90 days after the department submits a rule to the legislature under ch 227, defining the term bank in accordance with the general permit provisions of sub (3r)(a): the greater of that portion of the land surface extending 75 feet from the edge of the ordinary high water mark of any navigable water or that portion of the land surface extending from the ordinary high water mark of any navigable water to the point where the slope is less than 12 per cent, until 90 days after the Natural Resources Board adopts a rule defining the term bank in accordance with the general permit provisions of sub (3r)(a).

2. p. 25-26, Delete Sections 96, 97, and 98.

3. pp. 26-27, Amend Section 101 to conform to new agreement on grading and ponds. As amended, Section 101 would read as follows:

Section 101. 30.19(3r) of the statutes is created to read:

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

1. Engage in an activity under sub (1g)(c). The rule creating the general permit shall define the term bank for the purposes of implementing the requirements under sub (1g)(c) which shall supercede any existing rule defining the term bank for the purposes of implementing the requirements of sub. (1g)(c) and shall be in accordance with the following factors:

a. For waterways designated by the department as outstanding natural resource waters, exceptional natural resource waters, or trout streams; for lakes less than 50 acres, and for other navigable waters with sensitive fish and aquatic habitat which navigable waterways or waterway segments are specifically identified and designated by rule, the definition of bank can extend up to the greater of that portion of the land surface extending 300 feet from the edge of the ordinary high water mark of such navigable water or that portion of the land surface extending

from the ordinary high water mark of such navigable water to the point where the slope is less than 10 per cent; provided that in no case shall the term "bank" extend beyond that point where the land slopes or drains without complete interruption into the waterway.

b. For other navigable waters the bank can extend to the greater of that portion of the land surface extending 75 feet from the edge of the ordinary high water mark of any navigable water or that portion of the land surface extending from the ordinary high water mark of any navigable water to the point where the slope is less than 12 per cent.

c. To the extent practicable, the definition of the term bank shall take into account and be consistent with the rules of the department relating to shorelands, wetlands, floodplains and designated protective areas.

d. The definition of bank shall not require an individual site specific determination by the department.

e. In defining the term bank, the Department shall take into account public rights and interests to protect public trust resources and the interests of the riparian owners.

2. Engage in an activity under sub (1g)(am), including unconnected ponds that are designed in accordance with standard best management practices required for stormwater management.

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

4. pp. 37-38, Section 135. The timetable for issuing general permits under s. 30.19(3r)(a) shall be 180 days. The timetable for issuing other general permits remains 540 days.

Note: Under current law, DNR jurisdiction over grading activities under 30.19 extends to activities involving land disturbing activities of 10,000 square feet or more on the "bank" of a navigable water. The term bank is not defined by statute, but is broadly defined in NR 340 for non-metallic mining and selected chapter 30 provisions. The intent of this change is to accomplish the following: (1) put into place upon enactment an interim statutory definition of bank based on distance (75') and slope (12%); (2) limit the interim definition so that it would remain in effect for 90 days after adoption of a rule (described below) by the department and submittal to the legislature for review under provisions of ch 227; (3) require the department to promulgate by rule a general permit to cover grading activities subject to 30.19 within 6 months of the effective date of the Act; (4) as part of the general permit rule process the department will define the term bank within the parameters set forth in the statute authorizing general grading permits; and (5) that definition will supercede the existing definition in NR 340 for the purposes of implementing 30.19 grading permits. At the end of this process there will be an area

from the ordinary high water mark to some defined point upland (the bank) for which 30.19 grading permits will be required. A general permit will be available for those activities. Beyond the bank area, as in current law, a 30.19 grading permit will not be required. The effect of this change will also limit the existing overlap between 30.19 and the regulations of land disturbing activities of one acre or more that are regulated under the provisions of NR 216 regardless of where the bank is located.