

Re-Draft  
to "/P3"  
cont.

1           **SECTION 136.** 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 137.** 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17           **SECTION 138.** 30.206 (3m) of the statutes is repealed.

18           **SECTION 139.** 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 or  
22 be granted a contract if either of the following applies:

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 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: I've added contracts under s. 30.206 (3r) (intro.). OK? MGG

8           **SECTION 140.** 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 141.** 30.206 (5) (title) of the statutes is created to read:

19           30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

20           **SECTION 142.** 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  
23 applicable provisions of this ~~chapter~~ subchapter or ch. 31 in lieu of seeking  
24 authorization under the general permit.

1           **SECTION 143.** 30.206 (7) of the statutes is amended to read:

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

5           **SECTION 144.** 30.207 (1) of the statutes is amended to read:

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

15           **SECTION 145.** 30.207 (3) (d) 2. of the statutes is amended to read:

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

19           **SECTION 146.** 30.207 (4) (b) of the statutes is repealed.

20           **SECTION 147.** 30.207 (5) of the statutes is repealed.

21           **SECTION 148.** 30.208 of the statutes is created to read:

22           **30.208 Applications for individual permits and contracts; department**  
23 **determinations.** (1) APPLICATION REQUIRED. A person who seeks to obtain or modify  
24 an individual permit under this subchapter or to enter into a contract under s. 30.20

1 shall submit an application to the department. The application may contain a  
2 request for a public hearing on the application.

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

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

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

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

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

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

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

10           (b) If a public hearing is held, the period for public comment shall end on the  
11 10th day following the date on which the public hearing is completed.

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

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

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

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

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

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

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

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

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

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

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

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

16           **SECTION 149.** 30.209 of the statutes is created to read:

17           **30.209 Contracts and individual permits; administrative and judicial**  
18 **review.** (1) In this section, "applicant" means any person applying to receive a  
19 permit or contract under this subchapter or any person who has received a permit  
20 or contract under this subchapter.

21           **(1m) REQUEST FOR ADMINISTRATIVE REVIEW.** (a) Any interested person may file  
22 a petition with the department for administrative review within 30 days after any  
23 of the following decisions given by the department:

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

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

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

5           1. A description of the objection that is sufficiently specific to allow the  
6 department to determine which provisions of this subchapter may be violated if the  
7 proposed activity or project under the permit or contract is allowed to proceed.

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

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

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

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

19           (e) The petitioner shall file a copy of the petition with the department. If the  
20 petitioner is not the applicant, the petitioner shall simultaneously provide a copy of  
21 the petition to the applicant. The applicant may file a response to the petition with  
22 the department. If the applicant files a response under this paragraph, it shall be  
23 filed within 15 days after the petition is filed.

24           (f) The department shall grant or deny the petition within 30 days after the  
25 petition is filed. The failure of the department to dispose of the petition within this

1 30-day period is a denial. The department shall deny the petition if any of the  
2 following applies:

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

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

10 (fm) If the department denies the petition, the department shall send the  
11 petitioner the denial in writing, stating the reasons for the denial.

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

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

18 (b) If a stay under sub. (1) (c) is in effect, the hearing examiner shall, within  
19 30 days after receipt of the referral under sub. (1) (g), determine whether  
20 continuation of the stay is necessary to prevent irreversible harm to the environment  
21 pending completion of the hearing. The hearing examiner shall make the  
22 determination based on the request under sub. (1) (c), any response from the  
23 applicant under sub. (1) (e), and any testimony at a public hearing or any public  
24 comments. The determination shall be made without a hearing.



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

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

- 9 1. The applicant.
- 10 2. Each petitioner, if other than the applicant.
- 11 3. Any other persons required to receive notice under the rules promulgated  
12 under s. 30.208 (5).

13 **(3) JUDICIAL REVIEW.** (a) Any person whose substantial interest is affected by  
14 a decision of the department under sub. (1m) (a) 1. or 2. may commence an action in  
15 circuit court to review that decision.

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

18 **SECTION 150.** 30.28 (3) (a) of the statutes is renumbered 30.28 (3).

19 **SECTION 151.** 30.28 (3) (b) of the statutes is repealed.

20 **SECTION 152.** 30.285 of the statutes is created to read:

21 **30.285 Records of exemptions and permitted activities.** (1) On an  
22 annual basis, the department shall keep records of all of the following

23 (a) The number of exempted activities that are conducted under ss. 30.12 (1g),  
24 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department is aware.

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

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

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

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

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

10 (b) The date of the application.

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

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

14 **SECTION 153.** 30.29 (3) (d) of the statutes is amended to read:

15 30.29 (3) (d) *Activities for which a permit is issued.* A person or agent of a person  
16 who is ~~issued a permit by the department while the person or agent is engaged in~~  
17 ~~activities related to the purpose for which the permit is issued~~ as authorized under  
18 a general or individual permit issued under this subchapter or as authorized under  
19 a contract entered into under this subchapter.

20 **SECTION 154.** 30.291 of the statutes is created to read:

21 **30.291 Inspections for certain exemptions and permitted activities.** (1)

22 For purposes of determining whether an exemption is appropriate under s. 30.12  
23 (2m), 30.123 (6m), ~~30.19 (1x)~~ <sup>30.19 (1x) or 30.20 (1m)</sup> or 30.20 (1m) or whether a general permit is  
24 appropriate under s. 30.206 (3r), any employee or other representative of the

1 department, upon presenting his or her credentials, may enter the site and inspect  
2 any property on the site.

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

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

9 (4) If the owner refuses to grant the consent requested under sub. (2), or if the  
10 owner's terms of consent are not acceptable to the department either of the following  
11 apply:

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

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

18 SECTION 155. 30.298 (3) of the statutes is amended to read:

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

23 SECTION 156. 31.39 (2m) (c) of the statutes is amended to read:

↑ \*\*\* NOTE: If s. 30.19 (1r) is put back in the <sup>the draft</sup>  
cross-references in s. 30.298<sup>1</sup> (1) and (4)(a) will  
also need to go back in MBR

1           31.39 (2m) (c) If more than one fee under sub. (2) (a) or s. 30.28 (2) (a) or 281.22  
2 is applicable to a project, the department shall charge only the highest fee of those  
3 that are applicable.

4           **SECTION 157.** 84.18 (6) of the statutes is amended to read:

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

20           **SECTION 158.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

21           236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public  
22 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may  
23 petition the city, village, town or county that owns the public access to construct  
24 shoreline erosion control measures. Subject to par. (e), the city, village, town or  
25 county shall construct the requested shoreline erosion control measures or request

1 the department of natural resources to determine the need for shoreline erosion  
2 control measures. Upon receipt of a request under this paragraph from a city, village,  
3 town or county, the department of natural resources shall follow the notice and  
4 hearing procedures in s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5). Subject to par. (e), the city,  
5 village, town or county shall construct shoreline erosion control measures as  
6 required by the department of natural resources if the department of natural  
7 resources determines all of the following:

8 **SECTION 159.** 281.22 (2) (c) of the statutes is amended to read:

9 281.22 (2) (c) If more than one fee under this section or s. 30.28 (2) ~~(a)~~ or 31.39  
10 (2) (a) is applicable to a project, the department shall charge only the highest fee of  
11 those that are applicable.

12 **SECTION 160.** 299.05 (2) (a) of the statutes is amended to read:

13 299.05 (2) (a) Permits, contracts, and other approvals under ss. 30.10 to 30.205  
14 and 30.21 to 30.27.

15 **SECTION 161. Initial applicability.**

16 (1) CHAPTER 30 PROCEDURES.

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

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

23 (END)

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3881/P3insbk  
MGG:.....

Insert 24-25

(b) "Bank" means either of the following:

\* 1. Land area that is, in size, the greater <sup>of</sup> of the following:

a. The portion of land surface that extends 75 feet landward from the ordinary high-water mark of any navigable waterway.

b. The portion of land surface extending landward from the ordinary high-water mark of any navigable waterway to the point where the slope is less than

\* 12 per cent.

2. A bank as determined by the department by rule under sub. (1d).

(c) "Priority navigable waterway" means any of the following:

1. A navigable waterway that is identified as an outstanding or exceptional resource water under s. 281.15.

2. A navigable waterway identified as a trout stream.

3. A lake that is less than 50 acres in size.

4. Any other navigable waterway, or portion of a navigable waterway, that the department has determined and identified by rule to contain sensitive fish and aquatic habitat.

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

\* 30.19 (1c) DEFINITION; APPLICABILITY The definition of "bank" under sub. (1b) does not apply after the 90th day after the day the rule under sub. (1d) is submitted to legislative council staff under s. 227.15 (1) or the day that the rule promulgated under sub. (1d) goes into effect, whichever is earlier.

\*\*\*\*NOTE: I am not sure at what point in the ch. 227 process the natural resources board "adopts" a rule. Is the cross-reference to s. 227.15 (1) OK? MGG

227.15(1).

Please  
check  
spacing.

<sup>c</sup>  
(A) To the extent practicable, the rule <sup>Δ</sup> under this subsection ~~stating what constitutes a bank~~ shall be consistent with rules promulgated by the department that relate to shorelands, as defined in s. 59.692 (1) (b), wetlands, as defined in s. 23.32 (1), floodplains, and other areas designated for protection by the department.

<sup>d</sup>  
(B) In promulgating the rule under this subsection ~~stating what constitutes a bank~~, the department shall consider that public rights and interests in the furtherance of the public trust in navigable waters.

\*\*\*\*NOTE: The public trust doctrine is constitutionally mandated so <sup>DNR</sup> ~~the department~~ is already required to consider these rights and interests. This provision is redundant and I suggest removing it. MGG

<sup>e</sup>  
(C) The rule promulgated under this subsection ~~stating what constitutes a bank~~ may not require or allow the department to determine whether a specific land area complies with the rule.

**Insert 38-25**

No ff

<sup>g</sup>  
The statewide general permits required under ss. 30.12 (30) (a), 30.123 (7) (a), and 30.20 (1r) (a) shall be promulgated with 540 days after the effective date of this paragraph .... [revisor inserts date]. The department shall submit in proposed form the rule containing the statewide general permit under s. 30.19 (3r) (a) and the rule under s. 30.19 (1d) ~~stating what constitutes a bank~~ to the legislative council staff under section 227.15 (1) no later than the first day of the 2nd month beginning after the effective date of this paragraph ....[revisor inserts date].

\*\*\*\*NOTE: The 540-day deadline in s. 30.206 (1) (a) is OK because that gives the administrative rule-making process approximately 18 months to be completed. However, a 6-month deadline is much more problematical. Because part of the rule making process is outside DNR's control (rules are subject to legislative review), the above language regarding submittal to legislative council staff is the step in the process where a deadline may be imposed on DNR. Note that I have also referred to the rule required under s. 30.19 (1d). MGG

for the permit under s. 30.19(3r)

D-Note

¶ 1. This redraft <sup>reflects</sup> ~~encompasses~~ <sup>reflects</sup> ~~contains~~ <sup>redrafting</sup> the ~~redrafting~~ instructions that we received on Friday, December 19<sup>th</sup> 2013 concerning 5030.190

MBL

¶ 2. Again there are embedded notes for review



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

LRB-3881/P3dn  
MGG:wlj:pg

December 23, 2003

1. This redraft reflects the redrafting instructions that we received on Friday, December 19, concerning s. 30.19.
2. Again, there are embedded notes for review.

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# Fax

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Cathlene Hanaman

To: Steve Miller From: Ellen Nowak

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Fax: 264-6948 Date: 12-30-03

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Phone: Pages: 3

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Re: CC:

- Urgent     For Review     Please Comment     Please Reply     Please Recycle

•Comments:

I will send a marked-up copy  
of the draft.

**Comments on LRB Draft 3881/P3dn****December 30, 2003**

1. p.8, ln 17-24. The DNR considers riprap itself to be the "structure," so there is no other structure to reference. The language is modified to again clarify the difference between repair and replacement.

2. p.9 ln 20 to p. 10 ln 8. This language appears in three places in the draft and addresses the question of notification for exempt activities. Several points need to be clarified. The point of this "recapture" provision is to allow the DNR to object to an activity that would otherwise be exempt. Thus the DNR will not be notifying people unless it believes the activity is not or should not be exempt. The 15 day limit on DNR response is conditioned on an applicant providing access acceptable to the DNR. However, the intent is that the DNR undertake that inspection and notification within the 15 day period. The applicant must allow access within the 15 day period. If the applicant does so and the DNR wants more time that is not grounds to extend the 15 day deadline. Otherwise the Department could always argue that it needs more time and the 15 day deadline would be meaningless. It is anticipated that these reviews will be exercised in only a limited number of cases where there is some unusual circumstance warranting further scrutiny.

3. p.11 ln 13 and p. 12 ln 14. There is a definition of Great Lakes in 30.92(1)(bg) that includes Lakes Michigan and Superior including Green Bay and Chequamegon Bay. This definition should work because the point is not to include all tributaries, but to include any discrete bays. Other bays or harbors should be considered part of the Lakes.

4. p. 19 lns 1-14. Same as Comment #2.

5. p. 24 ln 5. I don't think we need the term "in size," but that is an editorial matter.

6. p. 24 ln 18. The intent is to make sure that other areas are specifically identified by stream or stream segment as they are currently in NR 102 and NR 104, and are not identified by a general description such as "streams of 10 cfs or more."

7. p. 24 ln 24. The intent is to have the default provisions of (1b) in effect for 90 days after the DNR sends the rule to the legislature for review. Since submittal under 227.15 appears to be the first step in the legislative review process, that is the correct reference.

8. p. 25 lns 5-6 and 13-14. There are two provisions which both involve the same key concept. In promulgating the new rules, the department is allowed to define the term bank up to the limits in the statute. But there may be cases where the term bank can be defined within those limits and adequately protect the resource. The intent is to give the department the latitude to set a distance up to the limits, not mandate that the bank must extend to the full limit.

9/p. 26 ln 1-3. currently the department defines the term bank in NR 340.02 (2) to include that area where the "land surface ... slopes or drains without complete interruption into the waterway." It is inartfully drafted but that is what it says. The intent here is to say that where an area does not meet the current definition it should not be included in the new definition. The edits are designed to clarify this intent.

10. p. 26 lns 4-7. The intent here was to have the department look at the setbacks and buffers that exist in existing rules. The shoreland zoning and floodplain references are fine, but the term "protective area" was a defined term in NR 151. The edits now specifically refer to rules under 281.16(2) which are the non-ag non point rules in NR 151.

11. p. 26, lns 11-12. The intent here was to make sure that the rules do not allow the department to determine bank on a site specific basis. The edits are designed to clarify that intent.

12. p. 27 ln 15. Yes, the intent was to delete 30.19(1r) because there are no new exemptions to which (1r) would apply.

13. p. 27 ln 19-22. The intent here was to give the department some limited latitude in issuing general permits for unconnected ponds. The language in the draft uses language when the proposal was to exempt ponds otherwise permitted. The agreement was to have a general permit that was in general accordance with best management practices. The edits attempt to clarify this point.

14. p. 29 ln 11-14. The edits to this section came out of the recodification drafts. This bill has provisions such as the boathouse provision that contemplate some connections for which unlimited public access could be inappropriate. Therefore the existing language in 30.19(5) is re-inserted for public access purposes.

15. p. 33 lns 15-25. Same as Comment #2.

16. p. 38, ln 24. The intent is that the grading general permit be to the legislature in 6 months. The legislature then has 90 days after which the new rule will go into effect. Thus the reference on ln 24 should probably be six months.

17. p. 41 Note at ln 4. This is ok.

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**Wisconsin Legislature  
Speaker John Gard**

# Fax

Cathlene Hanaman  
Mary Gibson-Glass  
 To: Steve Miller From: Ellen Nowak  
 Fax: 264-6948 Date: 12-30-03  
 Phone: Pages: 16  
 Re: CC:

Urgent     For Review     Please Comment     Please Reply     Please Recycle

-Comments:

This follows-up to my previous Fax. I am sending only the pages with changes.

Ellen

1 natural resource interest, does not interfere with the rights of other riparian owners,  
2 and is any of the following:

3 (a) A deposit of sand, gravel, or stone that totals less than 2 cubic yards and that  
4 is associated with any activity or project that is exempt from an individual permit  
5 or a general permit under this subchapter.

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

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

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

17 (i) Riprap in an amount not to exceed 100 linear feet that is placed to replace  
18 ~~or repair existing riprap and to implement structural changes in a structure~~  
19 ~~associated with the riprap and that includes the replacement of filter fabric or base~~  
20 ~~substrate.~~

21 (j) Riprap in an amount not to exceed 300 linear feet that is placed to ~~replace~~  
22 ~~or repair existing riprap, that is placed within the footprint of the structure, with~~  
23 ~~which the riprap is associated, if any, and that consists only of the placement of~~  
24 additional rock or the redistribution of existing rock *x within the existing riprap*

\*\*\*\*NOTE: Changes in language in s. 30.12 (1g), (i) and (j). MGG

*footprint*

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SECTION 21

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

3 (km) An intake or outfall structure that is less than 6 feet from the water side  
4 of the ordinary high-water mark and that is less than 25 percent of the width of the  
5 channel in which it is placed.

6 (L) A pier to replace a pier that has been in existence at least 10 years before  
7 the effective date of this paragraph ... [revisor inserts date], does not exceed 10 feet  
8 in width, and does not exceed 500 square feet in area.

9 SECTION 22. 30.12 (2) of the statutes is repealed.

10 SECTION 23. 30.12 (2m) of the statutes is created to read:

11 30.12 (2m) PERMIT IN LIEU OF EXEMPTION. (a) The department may decide to  
12 require that a person engaged in an activity that is exempt under sub. (1g) apply for  
13 an individual permit or seek authorization under a general permit if the department  
14 has conducted an investigation and visited the site of the activity and has determined  
15 that conditions specific to the site require restrictions on the activity in order to  
16 prevent any of the following:

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

20 (b) If a person submits to the department a written statement containing a  
21 description and the location of a proposed activity that the person believes to be  
22 exempt under sub. (1g), the department <sup>has</sup> shall notify the person within 15 days after  
23 receipt of the statement <sup>to notify the person that the activity is not exempt,</sup> as to whether the activity is exempt if the owner of the site  
24 <sup>provided that if the department requests access to the site, the person</sup> ~~upon which the proposed activity is located~~ gives consent that is acceptable to the  
25 department and that allows the department ~~enough time~~ to make an inspection within

the 15 day  
period.

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SECTION 23

1 ~~under s. 30.291. If not enough time is allowed, the 15-day period under this~~  
2 ~~paragraph does not begin until the day that the owner's consent is granted.~~ If the  
3 department determines the activity not to be exempt, the department shall notify the  
4 person <sup>of</sup> which general permit or individual permit requirements apply to the  
5 activity.

6 (bn) If the department fails to <sup>notify the person</sup> ~~comply~~ <sup>in</sup> with the 15-day period in par. (b), the <sup>that the</sup> ~~department~~ <sup>activity is</sup> may not require that the person proposing to engage in the exempt <sup>not</sup>  
7 department may not require that the person proposing to engage in the exempt  
8 activity apply for an individual permit or seek authorization under a general permit <sup>for that</sup>  
9 (c) Any decision or notification by the department under this subsection shall <sup>activity.</sup>

10 be in writing.  
11 SECTION 24. 30.12 (3) (title) of the statutes is repealed and recreated to read:  
12 30.12 (3) (title) GENERAL PERMITS.

13 SECTION 25. 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to  
14 read:  
15 30.12 (3) (a) (intro.) The department shall issue statewide general permits  
16 under s. 30.206 that authorize riparian owners to do all of the following:

17 SECTION 26. 30.12 (3) (a) 2. of the statutes is renumbered 30.12 (1g) (c) and  
18 amended to read:  
19 30.12 (1g) (c) ~~Place a~~ A fish crib, spawning reef, wing deflector, or similar  
20 device that is placed on the bed of navigable waters for the purpose of improving fish  
21 habitat.

22 SECTION 27. 30.12 (3) (a) 2m. of the statutes is renumbered 30.12 (1g) (d) and  
23 amended to read:



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

4 SECTION 28. 30.12 (3) (a) 3. of the statutes is repealed.

5 SECTION 29. 30.12 (3) (a) 3c. of the statutes is created to read:

6 30.12 (3) (a) 3c. Place riprap in order to replace or repair existing riprap, other  
7 than riprap that is exempt under sub. (1g) (i) or (j).

8 SECTION 30. 30.12 (3) (a) 3g. of the statutes is created to read:

9 30.12 (3) (a) 3g. Place riprap on the bed or bank of a navigable water adjacent  
10 to an owner's property in an amount up to and including 100 continuous feet in an  
11 inland lake of 300 acres or more.

12 SECTION 31. 30.12 (3) (a) 3r. of the statutes is created to read:

13 30.12 (3) (a) 3r. Place riprap on the bed or bank of a navigable water adjacent  
14 to an owner's property <sup>waters</sup> in an amount up to and including 300 continuous feet in ~~Lake~~  
15 ~~Great Lakes~~ ~~Michigan, Lake Superior, Green Bay, Sturgeon Bay, or Sawyer's Harbor.~~  
*under s. 30.92(1)(bg)*

30.92(1)(bg)

\*\*\*\*NOTE: Due to time constraints, I cannot answer your questions regarding Great Lake Harbors. Please make sure I have included the correct harbors. MGG

16 SECTION 32. 30.12 (3) (a) 6. of the statutes is amended to read:

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

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SECTION 33

1 SECTION 33. 30.12 (3) (a) 7. of the statutes is renumbered 30.12 (1g) (g) and  
2 amended to read:

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

6 SECTION 34. 30.12 (3) (a) 8. of the statutes is renumbered 30.12 (1g) (h) and  
7 amended to read:

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

11 SECTION 35. 30.12 (3) (a) 13. of the statutes is created to read:

12 30.12 (3) (a) 13. Place a seawall to replace an existing seawall. The replacement  
13 may not exceed 100 continuous feet in an inland lake of 300 acres and not exceed 300  
14 continuous feet in <sup>Great Lakes waters under s 30.92(1)(b)</sup> ~~Lake Michigan or Lake Superior.~~

15 SECTION 36. 30.12 (3) (b) of the statutes is repealed.

16 SECTION 37. 30.12 (3) (bn) of the statutes is repealed.

17 SECTION 38. 30.12 (3) (br) of the statutes is created to read:

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

21 SECTION 39. 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (intro.)  
22 and amended to read:

23 30.2023 Seawalls; Wolf River and Fox River basins. (intro.) A riparian  
24 owner is exempt from the permit requirements under ~~sub. (2) and this subsection s.~~  
25 30.12 for a structure that is placed on the bed of a navigable water in the Wolf River

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. (6) (d) or (e), the department ~~shall notify the person within 15 days~~ <sup>has</sup>  
 4 after receipt of the statement ~~as to whether the activity is exempt if the owner of the~~ <sup>to notify the person that the activity is not exempt,</sup>  
 5 ~~site upon which the proposed activity is located gives consent that is acceptable to~~ <sup>provided that if the department requests access to the site the person</sup>  
 6 the department and that allows the department ~~enough time~~ <sup>within the 15 day time period.</sup> to make an inspection  
 7 ~~under s. 30.291. If not enough time is allowed, the 15-day period under this~~  
 8 paragraph does not begin until the day that the owner's consent is granted. If the  
 9 department determines the activity not to be exempt, the department shall notify the  
 10 person of which general permit or individual permit requirements apply to the  
 11 activity.

\*\*\*\*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

12 (bn) If the department fails to <sup>notify the person</sup> comply with the 15-day period in par. (b), <sup>that the activity</sup>  
 13 department may not require that the person proposing to engage in the exempt <sup>is</sup>  
 14 activity apply for an individual permit or seek authorization under a general permit <sup>not exempt,</sup>  
 15 (c) Any decision or notification by the department under this subsection shall <sup>for that activity,</sup>  
 16 be in writing.

SECTION 63. 30.123 (7) of the statutes is created to read:

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

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

1 30.19 (1b) DEFINITION. In the section:

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

4 (b) "Bank" means either of the following:

5 1. Land area that is, ~~in size,~~ <sup>g</sup> the greater of the following:

6 a. The portion of land surface that extends 75 feet landward from the ordinary  
7 high-water mark of any navigable waterway.

8 b. The portion of land surface extending landward from the ordinary  
9 high-water mark of any navigable waterway to the point where the slope is less than  
10 12 percent.

11 2. A bank as determined by the department by rule under sub. (1d).

12 (c) "Priority navigable waterway" means any of the following:

13 1. A navigable waterway that is identified as an outstanding or exceptional  
14 resource water under s. 281.15.

15 2. A navigable waterway identified as a trout stream.

16 3. A lake that is less than 50 acres in size.

17 4. Any other navigable waterway, or portion of a navigable waterway, that the  
18 department has determined and <sup>individually</sup> identified by rule to contain sensitive fish and  
19 aquatic habitat.

20 SECTION 86. 30.19 (1c) of the statutes is created to read:

21 30.19 (1c) DEFINITION: APPLICABILITY. The definition of "bank" under sub. (1b)  
22 does not apply after the 90th day after the day the rule under sub. (1d) is submitted  
23 to legislative council staff under s. 227.15 (1) ~~or the day that the rule promulgated~~  
24 ~~under sub. (1d) goes into effect, whichever is earlier.~~

\*\*\*NOTE: I am not sure at what point in the ch. 227 process the natural resources board "adopts" a rule. Is the cross-reference to s. 227.15 (1) OK? MGG

1 SECTION 87. 30.19 (1d) of the statutes is created to read:

2 30.19 (1d) RULES; BANKS OF NAVIGABLE WATERWAYS. (a) The department shall  
3 promulgate a rule to determine what constitutes a bank for purposes of this section  
4 in accordance with all of the following:

*editorial*

5 1. For a ~~navigable waterway that is~~ a priority navigable waterway, the  
6 department shall promulgate a rule <sup>providing the</sup> ~~stating that~~ a bank <sup>may extend up to</sup> ~~is, in size,~~ the greater of the  
7 following as it applies to a particular navigable waterway:

8 a. The portion of land surface that extends 300 feet landward from the ordinary  
9 high-water mark of the navigable waterway.

10 b. The portion of land surface extending landward from the ordinary  
11 high-water mark of the navigable waterway to the point where the slope is less than  
12 10 percent.

13 2. For a navigable waterway that is not a priority navigable waterway, the  
14 department shall promulgate a rule <sup>providing the</sup> ~~stating that~~ a bank <sup>may not extend up to</sup> ~~is, in size,~~ the greater of the  
15 following as it applies to a particular navigable waterway.

16 a. The portion of the land surface that extends 75 feet landward from the  
17 ordinary high-water mark of the navigable waterway.

18 b. The portion of land surface extending landward from the ordinary  
19 high-water mark of the navigable waterway to the point where the slope is less than  
20 12 percent.

\*\*\*NOTE: The drafting instructions for s. 30.19 (1d) (a) could be interpreted in various ways. If, as drafted, these provisions do not comply with your intent, please call me to discuss this. MGG

1 (b) In promulgating the rule under this subsection, the <sup>term</sup> ~~description of land area~~  
2 ~~included in what constitutes~~ a bank may not include any land where the slope or  
3 drainage of the land into the navigable waterway is <sup>completely</sup> interrupted.

\*\*\*\*NOTE: In the drafted language I was provided, there were so many negatives that I could not follow it. Is this is what is intended?

4 <sup>Consistent with the provisions in this section and</sup>  
(c) <sup>To</sup> to the extent practicable, the rule under this subsection shall be consistent  
5 with rules promulgated by the department that relate to shorelands, as defined in  
6 s. 59.692 (1) (b), ~~wetlands, as defined in s. 23.32 (1), floodplains, and other areas~~  
7 ~~rules promulgated by the department that relate to protective areas~~  
8 ~~designated for protection by the department.~~ <sup>for wetlands and waterways under</sup>  
9 <sup>s. 281.16(2)</sup>

10 (d) In promulgating the rule under this subsection, the department shall  
consider <sup>T</sup> that public rights and interests in the furtherance of the public trust in  
navigable waters.

\*\*\*\*NOTE: The public trust doctrine is constitutionally mandated so DNR is already required to consider these rights and interests. This provision is redundant and I suggest removing it. MGG

11 (e) The rule promulgated under this subsection may not require or allow the  
12 department to determine <sup>the term bank on an individual site specific basis.</sup>  
13 ~~whether a specific land area complies with the rule.~~

14 SECTION 88. 30.19 (1m) (intro.) of the statutes is amended to read:

15 30.19 (1m) EXCEPTION EXEMPTIONS. (intro.) ~~Subsection (1) does not apply to A~~  
16 person is exempt from the permit requirements under this section for any of the  
following:

17 SECTION 89. 30.19 (1m) (a) of the statutes is amended to read:

18 30.19 (1m) (a) The construction and or repair of any public highways highway.

19 SECTION 90. 30.19 (1m) (b) of the statutes is amended to read:

20 30.19 (1m) (b) Any agricultural uses use of land.

21 SECTION 91. 30.19 (1m) (c) of the statutes is amended to read:

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

3           SECTION 92. 30.19 (1m) (cm) of the statutes is created to read:

4           30.19 (1m) (cm) Any activity that affects a portion of Lake Michigan or of Lake  
5 Superior that is located within a county having a population of 750,000 or more.

6           SECTION 93. 30.19 (1m) (d) of the statutes is amended to read:

7           30.19 (1m) (d) ~~These portions~~ Any activity that affects a portion of a navigable  
8 streams, Lake Michigan or Lake Superior stream that is located within any a county  
9 having a population of 750,000 or more.

10          SECTION 94. 30.19 (1m) (e) of the statutes is amended to read:

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

14          SECTION 95. 30.19 (2) of the statutes is repealed.

15          SECTION 96. 30.19 (3) of the statutes is repealed.

\*\*\*\*NOTE: Did you intend to delete s. 30.19 (1r)? MGG

*Yes. There are no new exemptions*

16          SECTION 97. 30.19 (3r) of the statutes is created to read:

17          30.19 (3r) GENERAL PERMITS. (a) The department shall issue statewide general  
18 permits under s. 30.206 that authorize persons to do all of the following:

- 19           1. Engage in an activity specified in sub. (1g) (am) ~~if the construction, dredging,~~  
20 ~~or enlargement is authorized~~ *in accordance with the best management practices required for*  
21 ~~department under ch. 283 or a facility plan approved by the department under s.~~  
22 ~~281.41.~~

\*\*\*\*NOTE: If this language regarding storm water needs to be change, please speak with Becky Tradewell. MGG

- 23           2. Engage in an activity specified in sub. (1g) (c).

1 SECTION 101. 30.19 (4) (b) of the statutes is created to read:

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

4 SECTION 102. 30.19 (4) (c) 1. of the statutes is created to read:

5 30.19 (4) (c) 1. The activity will not be detrimental to the public interest.

6 SECTION 103. 30.19 (5) of the statutes is amended to read:

7 30.19 (5) ~~CONDITIONS OF PERMIT REQUIREMENT FOR PUBLIC ACCESS.~~ The A permit  
8 issued under this section to construct an artificial water body and to connect it to a  
9 navigable waterway shall provide that all require that the artificial waterways  
10 constructed under this section which are connected to navigable waterways shall be  
11 water body be a public waterways. The department may impose such further

12 conditions in the permit as it finds reasonably necessary to protect public health,  
13 safety, welfare, rights and interest and to protect private rights and property  
14 waterway.

on public access

15 SECTION 104. 30.195 (1) of the statutes is amended to read:

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

Include  
do not  
delete.

20 SECTION 105. 30.195 (2) of the statutes is repealed and recreated to read:

21 30.195 (2) INDIVIDUAL PERMITS. (a) A riparian owner shall apply to the  
22 department for an individual permit in order to engage in activities for which a  
23 permit is required under sub. (1).

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



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

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

5 SECTION 118. 30.20 (1m) of the statutes is created to read:

6 30.20 (1m) PERMIT OR CONTRACT IN LIEU OF EXEMPTION. (a) The department may  
7 decide to require that a person engaged in an activity that is exempt under sub. (1g)  
8 apply for an individual permit or contract, or seek authorization under a general  
9 permit if the department has conducted an investigation and visited the site of the  
10 activity and has determined that conditions specific to the site require restrictions  
11 on the activity in order to prevent any of the following:

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

15 (b) If a person submits to the department a written statement containing a  
16 description and the location of a proposed activity that the person believes to be  
17 exempt under sub. (1g), the department shall <sup>has</sup> notify the person within 15 days after  
18 receipt of the statement ~~as to whether the activity is exempt if the owner of the site~~  
19 <sup>provided that if the department requests access to the site, the person</sup>  
~~upon which the proposed activity is located~~ gives consent that is acceptable to the  
20 department and that allows the department ~~enough time~~ to make an inspection  
21 <sup>within the 15 day period</sup>  
~~under s. 30.291. If not enough time is allowed, the 15-day period under this~~  
22 ~~paragraph does not begin until the day that the owner's consent is granted.~~ If the  
23 department determines the activity not to be exempt, the department shall notify the  
24 person <sup>of</sup> which contracting, general permit, or individual permit requirements  
25 apply to the activity.

1 (bn) If the department fails to <sup>notify the person in</sup> ~~comply~~ with the 15-day period in par. (b), <sup>that the activity is</sup> ~~the~~ <sup>not</sup> ~~exempt~~  
 2 department may not require that the person proposing to engage in the exempt  
 3 activity apply for an individual permit or contract or seek authorization under a  
 4 general permit <sup>for that activity</sup>

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

7 SECTION 119. 30.20 (1r) of the statutes is created to read:

8 30.20 (1r) GENERAL PERMITS. (a) The department shall issue statewide general  
 9 permits under s. 30.206 that authorize any person to remove material for  
 10 maintenance purposes from an area from which material has been previously  
 11 removed.

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

15 SECTION 120. 30.20 (2) (title) of the statutes is amended to read:

16 30.20 (2) (title) CONTRACTS FOR REMOVAL AND INDIVIDUAL PERMITS.

17 SECTION 121. 30.20 (2) (a) and (b) of the statutes are amended to read:

18 30.20 (2) (a) The department, ~~whenever consistent with public rights,~~ may  
 19 enter into ~~contracts~~ a contract on behalf of the state for the removal and lease or sale  
 20 of any material from the bed of any navigable lake or of any of the outlying waters,  
 21 ~~and for the lease or sale of the material.~~ Every if the contract is consistent with public  
 22 rights. A person seeking to enter into such a contract shall apply to the department.  
 23 Each contract entered into under this paragraph shall contain such any conditions  
 24 as may be that the department determines are necessary for the protection of the  
 25 public interest and the interests of the state and. Each contract entered into under

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1 artificial barrier, is dissatisfied with the manner in which the village of Belleville is  
2 maintaining the barrier, the owner may maintain the barrier in lieu of the village,  
3 upon approval of the department. The village or a landowner who maintains the  
4 barrier shall comply with all state laws that relate to navigable bodies of water,  
5 except s. 30.12 (1) and (2). The department may require the village of Belleville or  
6 the landowner to maintain the barrier in a structurally and functionally adequate  
7 condition.

8 SECTION 130. 30.206 (1) (title) of the statutes is created to read:

9 30.206 (1) (title) PROCEDURE FOR ISSUING GENERAL PERMITS.

10 SECTION 131. 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and  
11 amended to read:

12 30.206 (1) (a) ~~For activities which require a permit or approval under ss. 30.12~~  
13 ~~(3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a~~  
14 ~~class of activities, according to rules promulgated by the department. Before issuing~~  
15 ~~general permits, the department shall determine after an environmental analysis~~  
16 ~~and notice and hearing under ss. 227.17 and 227.18, that. The department shall~~  
17 issue the statewide general permits as rules promulgated under ch. 227 required  
18 under ss. 30.12 (3) (a), 30.123 (7) (a), and 30.20 (1r) (a). The statewide general  
19 permits required under ss. 30.12 (3) (a), 30.123 (7) (a), and 30.20 (1r) (a) shall be  
20 promulgated with 540 days after the effective date of this paragraph .... [revisor  
21 inserts date]. The department shall submit in proposed form the rule containing the  
22 statewide general permit under s. 30.19 (3r) (a) and the rule under s. 30.19 (1d) to  
23 the legislative council staff under section 227.15 (1) no later than the first day of the  
24 6<sup>th</sup> 2nd month beginning after the effective date of this paragraph ..... [revisor inserts  
25 date]. General permits issued under s. 30.206, 2001 stats., shall remain valid until

1 environmental pollution, as defined in s. 299.01 (4), or material injury to the riparian  
2 rights of any riparian owner.

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

\*\*\*\*NOTE: I've added contracts under s. 30.206 (3r) (intro.). OK? MGG *ole*

5 SECTION 139. 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and  
6 amended to read:

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

15 SECTION 140. 30.206 (5) (title) of the statutes is created to read:

16 30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

17 SECTION 141. 30.206 (6) of the statutes is amended to read:

18 30.206 (6) REQUEST FOR INDIVIDUAL PERMIT. A person proposing an activity for  
19 which a general permit has been issued may request an individual permit under the  
20 applicable provisions of this chapter subchapter or ch. 31 in lieu of seeking  
21 authorization under the general permit.

22 SECTION 142. 30.206 (7) of the statutes is amended to read: