



State of Wisconsin
2003 - 2004 LEGISLATURE

194 RHN

LRB-3881/RR

MGG/RNK/RPN:all:pg

O-Note

ASAP on Fri
1/2/04

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Sen. Cat.

1 AN ACT *to repeal* 30.01 (6b), 30.02, 30.12 (2), 30.12 (3) (a) 3., 30.12 (3) (b), 30.12
2 (3) (bn), 30.12 (3) (d), 30.12 (4) (title), 30.12 (4m) (title), 30.12 (5), 30.123 (3),
3 30.123 (5), 30.135 (1) (title), 30.135 (2), (3) and (4), 30.18 (9), 30.19 (1) (b), 30.19
4 (2), 30.19 (3), 30.195 (3) (title), 30.195 (4), 30.195 (7), 30.206 (2), 30.206 (3m),
5 30.207 (4) (b), 30.207 (5) and 30.28 (3) (b); *to renumber* 30.12 (3) (bt) 1. to 9.,
6 30.12 (4) (d), 30.135 (1) (a) 1., 30.135 (1) (a) 3., 30.20 (1) (c) 3. and 30.28 (3) (a);
7 *to renumber and amend* 30.015, 30.07, 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12
8 (3) (a) 7., 30.12 (3) (a) 8., 30.12 (3) (bt) (intro.), 30.12 (4) (a), 30.12 (4) (b), 30.12
9 (4) (c), 30.12 (4) (e), 30.12 (4) (f), 30.12 (4m), 30.123 (1), 30.123 (4), 30.135 (1) (a)
10 (intro.), 30.135 (1) (a) 2., 30.135 (1) (b), 30.19 (1) (intro.), 30.19 (1) (a), 30.19 (1)
11 (c), 30.19 (4), 30.195 (3), 30.20 (1) (d), 30.206 (1), 30.206 (3) and 30.206 (4); *to*
12 *consolidate, renumber and amend* 30.20 (1) (c) 1. and 2.; *to amend* 29.601
13 (5) (a), 30.01 (1p), 30.025 (1b) (b), 30.025 (1e) (a), 30.025 (1m) (a), 30.025 (2g) (a),
14 30.025 (3) (intro.), 30.025 (4), 30.10 (4) (a), 30.11 (4), 30.12 (title), 30.12 (1)
15 (intro.), 30.12 (1) (a), 30.12 (1) (b), 30.12 (3) (a) 6., 30.12 (3) (c), 30.123 (2), 30.13

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

→ anal: title: by LRB ←

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:

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

2 29.601 (5) (a) This section does not apply to any activities carried out under the
3 direction and supervision of the department of transportation in connection with the
4 construction, reconstruction, maintenance and repair of highways and bridges in
5 accordance with s. ~~30.12 (4)~~ [✓] 30.2022.

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

7 30.01 (1am) "Area of special natural resource interest" means any of the
8 following:

9 (a) A state natural area designated or dedicated under ss. 23.27 to 23.29.

10 (b) A surface water identified as a trout stream by the department.

11 (bm) A surface water identified as an outstanding or exceptional resource
12 water under s. 281.15.

13 (c) An area that possesses significant scientific value, as identified by the
14 department. *that is part of Lake Superior or Lake Michigan.*

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

16 30.01 (1p) "Fishing raft" means any raft, float or structure, including a raft or
17 float with a superstructure and including a structure located or extending below or
18 beyond the ordinary high-water mark of a water, which is designed to be used or is
19 normally used for fishing, which is not normally used as a means of transportation
20 on water and which is normally retained in place by means of a permanent or
21 semipermanent attachment to the shore or to the bed of the waterway. "Fishing raft"
22 does not include a boathouse or fixed houseboat regulated under s. 30.121 nor a
23 wharf or pier regulated under s. ss. 30.12 and 30.13.

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

*SECTION #. CR; 30.01 (2m) Δ
30.01 (2m) "Great Lakes water body" means Lake Superior
or Lake Michigan and includes any bay or harbor A*

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

3 **30.208 (2)** ~~TIME LIMITS FOR ISSUING PERMIT DETERMINATIONS~~ PROCEDURE FOR
4 COMPLETING APPLICATIONS. In issuing individual permits or entering contracts under
5 this ~~chapter~~ subchapter, the department shall initially determine whether a
6 complete application for the permit or contract has been submitted and, no later than
7 ~~60~~ 30 days after the application is submitted, notify the applicant in writing about
8 the initial determination of completeness. If the department determines that the
9 application is incomplete, the notice shall state the reason for the determination and
10 the specific items of information necessary to make the application complete. An
11 applicant may supplement and resubmit an application that the department has
12 determined to be incomplete. There is no limit on the number of times that an
13 applicant may resubmit an application that the department has determined to be
14 incomplete under this section. The department may not demand items of
15 information that are not specified in the notice as a condition for determining
16 whether the application is complete unless both the department and the applicant
17 agree or unless the applicant makes material additions or alterations to the activity
18 or project for which the application has been submitted. The rules promulgated
19 under s. 299.05 apply only to applications for individual permits or contracts under
20 this subchapter that the department has determined to be complete.

21 **SECTION 6.** 30.02 of the statutes, as affected by 2003 Wisconsin Act 89, is
22 repealed.

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

1 30.025 (1b) (b) “Permit” means ~~a~~ an individual permit or a general permit,
2 an approval required under ~~this chapter or ch. 31~~, a storm water discharge permit
3 required under s. 283.33 (1) (a), or a water quality certification required under s.
4 281.36 or under rules promulgated under subch. II of ch. 281 to implement 33 USC
5 1341 (a).

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

8 30.025 (1e) (a) Except as provided in par. (b), this section applies to a proposal
9 to construct a utility facility if the utility facility is required to obtain, or give
10 notification of the wish to proceed under, one or more permits.

11 **SECTION 9.** 30.025 (1m) (a) of the statutes, as created by 2003 Wisconsin Act
12 89, is amended to read:

13 30.025 (1m) (a) The permits that the person may be required to obtain and the
14 permits under which the person must give notification of the wish to proceed.

15 **SECTION 10.** 30.025 (2g) (a) of the statutes, as created by 2003 Wisconsin Act
16 89, is amended to read:

17 30.025 (2g) (a) The department shall review every proposed utility facility
18 subject to this section, including each location, site, or route proposed for the utility
19 facility, to assess whether each proposed location, site, or route can meet the criteria
20 for proceeding under the authority of or obtaining the required permits, and shall
21 provide that information to the commission.

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

1 30.025 (3) (intro.) The department shall ~~grant~~ issue, or authorize proceeding
2 under, the necessary permits if it finds that the applicant has shown that the
3 proposal:

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

6 30.025 (4) PERMIT CONDITIONS. The permit may be issued, or the authority to
7 proceed under a permit may be granted, upon stated conditions deemed necessary
8 to assure compliance with the criteria designated under sub. (3). The department
9 shall grant or deny the application for a permit for the utility facility within 30 days
10 of the date on which the commission issues its decision under s. 196.49 or 196.491
11 (3).

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

13 30.025 (5) EXEMPTION FROM CERTAIN PROCEDURES. Sections 30.208 and 30.209
14 do not apply to an application for any permit under this section.

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

17 30.2095 (1) (a) Except as provided in par. (b), every permit or contract issued
18 under ss. 30.01 to 30.29 for which a time limit is not provided by s. 30.20 (2) is void
19 unless the activity or project is completed within 3 years after the permit or contract
20 was issued.

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

22 30.10 (4) (a) This section does not impair the powers granted by law under s.
23 ~~30.123~~ 30.1235 or by other law to municipalities to construct highway bridges,
24 arches, or culverts over streams.

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

1 30.11 (4) RIPARIAN RIGHTS PRESERVED. Establishment of a bulkhead line shall
2 not abridge the riparian rights of riparian ~~proprietors~~ owners. Riparian ~~proprietors~~
3 owners may place solid structures or fill up to such line.

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

5 **30.12 (title) Structures and deposits in navigable waters prohibited;**
6 **exceptions; penalty.**

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

8 30.12 (1) ~~GENERAL PROHIBITION~~ PERMITS REQUIRED. (intro.) ~~Except as provided~~
9 ~~under subs. (4) and (4m), unless a~~ Unless an individual or a general permit has been
10 ~~granted by the department pursuant to statute or~~ issued under this section or
11 authorization has been granted by the legislature ~~has otherwise authorized~~
12 ~~structures or deposits in navigable waters, it is unlawful, no person may do any of~~
13 the following:

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

15 30.12 (1) (a) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon the
16 bed of any navigable water where no bulkhead line has been established; ~~or.~~

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

18 30.12 (1) (b) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon the
19 bed of any navigable water beyond a lawfully established bulkhead line.

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

22 30.12 (1g) EXEMPTIONS. (intro.) A riparian owner is exempt from the permit
23 requirements under this section for the placement of a structure or the deposit of
24 material if the structure or material is located in an area other than an area of special

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 (e) 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.

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

***NOTE: This language deviates a bit from the redraft by leaving in an "and". OK? MGG

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. EXEMPTION DETERMINATIONS

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: *and that the*

- 17 (a) Significant adverse impacts to the public rights and interests.
18 (b) Environmental pollution, as defined in s. 299.01 (4).
19 (c) 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 shall notify the person within 15 days after
23 receipt of the statement as to whether the activity is exempt if the owner of the site
24 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

all of the following apply:

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 of which general permit or individual permit requirements apply to the
5 activity.

6 (bn) If the department fails to comply with the 15-day period in par. (b), the
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.

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

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10-10

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:

general permit under par. (c).
(b) 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.

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 in an amount up to and including 300 continuous feet in ^{a Great} ~~Lakes~~
15 water body. Michigan, ~~Lake Superior, Green Bay, Sturgeon Bay, or Sawyer's Harbor.~~

****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.

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. ^{ADD} 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 ^{or more} not exceed 300
14 continuous feet in ^{a Great} Lake Michigan or Lake Superior. ^{water body}

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 and Fox River basin area, as described in s. 30.207 (1), and that extends beyond the
2 ordinary high-water mark, if the following conditions apply:

3 **SECTION 40.** 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (1)
4 to (9).

5 **SECTION 41.** 30.12 (3) (c) of the statutes is amended to read:

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

17 **SECTION 42.** 30.12 (3) (d) of the statutes is repealed.

18 **SECTION 43.** 30.12 (3m) of the statutes is created to read:

19 30.12 (3m) INDIVIDUAL PERMITS. (a) For a structure or deposit that is not exempt
20 under sub. (1g) and that is not subject to a general permit under sub. (3), a riparian
21 owner may apply to the department for the individual permit that is required under
22 sub. (1) in order to place the structure for the owner's use or to deposit the material.

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

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

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

8 **SECTION 44.** 30.12 (4) (title) of the statutes is repealed.

9 **SECTION 45.** 30.12 (4) (a) of the statutes is renumbered 30.2022 (1) and
10 amended to read:

11 30.2022 (1) Activities affecting waters of the state, as defined in s. 281.01 (18),
12 that are carried out under the direction and supervision of the department of
13 transportation in connection with highway, bridge, or other transportation project
14 design, location, construction, reconstruction, maintenance, and repair are not
15 subject to the prohibitions or permit or approval requirements specified under ~~this~~
16 ~~section~~ or s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692, 61.351, 62.231,
17 or 87.30 or chs. 281 to 285 or 289 to 299, except s. 281.48. However, at the earliest
18 practical time prior to the commencement of these activities, the department of
19 transportation shall notify the department of the location, nature, and extent of the
20 proposed work that may affect the waters of the state.

21 **SECTION 46.** 30.12 (4) (b) of the statutes is renumbered 30.2022 (2) and
22 amended to read:

23 30.2022 (2) The exemption under par. ~~(a)~~ sub. (1) does not apply unless the
24 activity is accomplished in accordance with interdepartmental liaison procedures

1 established by the department and the department of transportation for the purpose
2 of minimizing the adverse environmental impact, if any, of the activity.

3 **SECTION 47.** 30.12 (4) (c) of the statutes is renumbered 30.2022 (3) and
4 amended to read:

5 30.2022 (3) If the department determines that there is reasonable cause to
6 believe that an activity being carried out under this ~~subsection~~ section is not in
7 compliance with the environmental protection requirements developed through
8 interdepartmental liaison procedures, it shall notify the department of
9 transportation. If the secretary and the secretary of transportation are unable to
10 agree upon the methods or time schedules to be used to correct the alleged
11 noncompliance, the secretary, notwithstanding the exemption provided in this
12 ~~subsection~~ section, may proceed with enforcement actions as the secretary deems
13 appropriate.

14 **SECTION 48.** 30.12 (4) (d) of the statutes is renumbered 30.2022 (4).

15 **SECTION 49.** 30.12 (4) (e) of the statutes is renumbered 30.2022 (5) and
16 amended to read:

17 30.2022 (5) Except as may be required otherwise under s. 1.11, no public notice
18 or hearing is required in connection with any interdepartmental consultation and
19 cooperation under this ~~subsection~~ section.

20 **SECTION 50.** 30.12 (4) (f) of the statutes is renumbered 30.2022 (6) and amended
21 to read:

22 30.2022 (6) This ~~subsection~~ section does not apply to activities in the Lower
23 Wisconsin State Riverway, as defined in s. 30.40 (15).

24 **SECTION 51.** 30.12 (4m) (title) of the statutes is repealed.

1 **SECTION 52.** 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12
2 (1m) (c) (intro.), as renumbered, is amended to read:

3 30.12 (1m) (c) (intro.) ~~Subsection (1) does not apply to a~~ A structure or deposit
4 that the drainage board for the Duck Creek Drainage District places in a drain that
5 the board operates in the Duck Creek Drainage District is exempt from the permit
6 requirements under this section if either of the following applies:

7 **SECTION 53.** 30.12 (5) of the statutes is repealed.

8 **SECTION 54.** 30.121 (3w) of the statutes is created to read:

9 30.121 (3w) EXCEPTION; COMMERCIAL BOATHOUSES. Notwithstanding subs. (2)
10 and (3), a person may construct, repair, or maintain a boathouse if all of the following
11 apply:

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

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

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

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

22 **SECTION 55.** 30.123 (title) of the statutes is repealed and recreated to read:

23 **30.123 (title) Bridges and culverts.**

24 **SECTION 56.** 30.123 (1) of the statutes is renumbered 30.1235 and amended to
25 read:

1 **30.1235 Municipal bridge construction.** Municipalities which construct or
2 reconstruct highway bridges shall not be required to obtain permits under this
3 section or s. 30.10 or s. 30.12 or 30.123 for such that construction or reconstruction.
4 All municipal highway bridges shall be constructed or reconstructed in accordance
5 with standards developed under s. 84.01 (23).

6 **SECTION 57.** 30.123 (2) of the statutes is amended to read:

7 **30.123 (2) PERMITS REQUIRED.** ~~Except as provided in sub. (1) and s. 30.12 (4)~~ ✓
8 Unless an individual or a general permit has been issued under this section or
9 authorization has been granted by the legislature, no person may construct or
10 maintain a bridge or construct, place, or maintain a culvert in, on, or over navigable
11 waters unless a permit has been issued by the department under this section. The
12 application for a permit shall contain the applicant's name and address, the proposed
13 location of the bridge, a cross section and plan view of the navigable waters and
14 adjacent uplands, a description of materials to be used in construction of the bridge,
15 plans for the proposed bridge, evidence of permission to construct the bridge from the
16 riparian owners and any other information required by the department.

17 **SECTION 58.** 30.123 (3) of the statutes is repealed.

18 **SECTION 59.** 30.123 (4) of the statutes is renumbered 30.123 (8) (c) and
19 amended to read:

20 **30.123 (8) (c)** ~~The department shall review the plans for the proposed bridge~~
21 ~~to determine whether the proposed bridge will be an obstruction to navigation or will~~
22 ~~adversely affect the flood flow capacity of the stream.~~ The department shall grant
23 the issue an individual permit if the proposed pursuant to an application under par.
24 (a) if the department finds that the bridge or culvert will not materially obstruct

1 navigation, will not materially reduce the effective flood flow capacity of a stream or
2 be, and will not be detrimental to the public interest.

3 SECTION 60. 30.123 (5) of the statutes is repealed.

4 SECTION 61. 30.123 (6) of the statutes is created to read:

5 30.123 (6) EXEMPTIONS. Subsection (2) does not apply to any of the following:

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

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

10 (d) The construction or placement and the maintenance of a culvert to replace
11 a culvert that is authorized under a permit issued under s. 30.12, 2001 stats., or
12 30.123, 2001 stats, if the construction, placement, and maintained will comply with
13 the same conditions of the permit.

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

16 SECTION 62. 30.123 (6m) of the statutes is created to read:

17 30.123 (6m) ⁵ PERMIT IN LIEU OF EXEMPTION (a) ^{EXEMPTIONS} The department may decide to
18 require that a person engaged in an activity that is exempt under sub. (6) (d) or (e)
19 apply for an individual permit or seek authorization under a general permit if the
20 department has conducted an investigation and visited the site of the activity and
21 has determined that conditions specific to the site require restrictions on the activity
22 in order to prevent any of the following:

23 (a) Significant adverse impacts to the public rights and interests.

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

25 (c) 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. (6) (d) or (e), the department shall notify the person within 15 days
4 after receipt of the statement as to whether the activity is exempt if the owner of the
5 site upon which the proposed activity is located gives consent that is acceptable to
6 the department and that allows the department enough time 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 comply with the 15-day period in par. (b), the
13 department may not require that the person proposing to engage in the exempt
14 activity apply for an individual permit or seek authorization under a general permit.

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

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

18 **30.123 (7) GENERAL PERMITS.** (a) The department shall issue statewide general
19 permits under s. 30.206 that authorize any person to do all of the following:

20 1. Construct and maintain a clear-span bridge over a navigable water that
21 provides access to a principal structure, as defined by rule by the department.

22 2. Construct and maintain a culvert that replaces a culvert that is not exempt
23 under sub. (6) (c) and that is in a navigable water that is less than 35 feet wide.

INS
19-16

1 3. Construct and maintain a bridge that is supported only by culverts in a
2 navigable water that is less than 35 feet wide.

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

6 **SECTION 64.** 30.123 (8) of the statutes is created to read:

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

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

14 **SECTION 65.** 30.13 (1m) (intro.) of the statutes is amended to read:

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

19 **SECTION 66.** 30.13 (1m) (b) of the statutes is amended to read:

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

22 **SECTION 67.** 30.13 (4) (a) of the statutes is amended to read:

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

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

3 **SECTION 68.** 30.13 (4) (b) of the statutes is amended to read:

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

9 **SECTION 69.** 30.135 (1) (title) of the statutes is repealed.

10 **SECTION 70.** 30.135 (1) (a) (intro.) of the statutes is renumbered 30.135 (1)
11 (intro.) and amended to read:

12 30.135 (1) (intro.) A riparian ~~proprietor may place~~ owner placing a water ski
13 platform or water ski jump in a navigable waterway ~~without obtaining a~~ is exempt
14 from the permit requirements under this chapter if all of the following requirements
15 are met:

16 **SECTION 71.** 30.135 (1) (a) 1. of the statutes is renumbered 30.135 (1) (a).

17 **SECTION 72.** 30.135 (1) (a) 2. of the statutes is renumbered 30.135 (1) (b) and
18 amended to read:

19 30.135 (1) (b) The platform or jump does not interfere with rights of other
20 riparian ~~proprietors~~ owners.

21 **SECTION 73.** 30.135 (1) (a) 3. of the statutes is renumbered 30.135 (1) (c).

22 **SECTION 74.** 30.135 (1) (b) of the statutes is renumbered 30.135 (2) and
23 amended to read:

24 30.135 (2) If the department determines that any of the requirements under
25 ~~par. (a) sub. (1)~~ are not met, the riparian owner shall submit ~~a permit~~ an application

1 for an individual permit to the department. The notice and hearing provisions under
2 s. 30.208 (3) to (5) apply to the application.

3 **SECTION 75.** 30.135 (2), (3) and (4) of the statutes are repealed.

4 **SECTION 76.** 30.18 (2) (a) (intro.) of the statutes is amended to read:

5 30.18 (2) (a) *Streams.* (intro.) No person may divert water from a stream in
6 this state without ~~a~~ an individual permit under this section if the diversion meets
7 either of the following conditions:

8 **SECTION 77.** 30.18 (2) (b) of the statutes is amended to read:

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

14 **SECTION 78.** 30.18 (4) (a) of the statutes is amended to read:

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

23 **SECTION 79.** 30.18 (6) (b) of the statutes is amended to read:

24 30.18 (6) (b) *Use of water.* A person issued a permit under this section for the
25 purpose of irrigation or agriculture may use the water on any land contiguous to the

1 permittee's riparian land, but may not withdraw more water than it did before
2 August 1, 1957, without applying to the department for a modification of the permit.

3 **SECTION 80.** 30.18 (9) of the statutes is repealed.

4 **SECTION 81.** 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)
5 and amended to read:

6 30.19 (1g) PERMITS REQUIRED. (intro.) Unless ~~a~~ an individual or a general
7 permit has been ~~granted by the department~~ issued under this section or
8 authorization has been granted by the legislature, ~~it is unlawful~~ no person may do
9 any of the following:

10 **SECTION 82.** 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and
11 amended to read:

12 30.19 (1g) (a) ~~To construct~~ Construct, dredge, or enlarge any artificial
13 ~~waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the~~
14 ~~purpose is ultimate connection with an existing navigable stream, lake or other~~
15 ~~navigable waters, or where~~ water body that connects with a navigable waterway.

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

19 **SECTION 83.** 30.19 (1) (b) of the statutes is repealed.

20 **SECTION 84.** 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
21 amended to read:

22 30.19 (1g) (c) ~~To grade or otherwise~~ Grade or remove top soil topsoil from the
23 bank of any navigable ~~stream, lake or other body of navigable water~~ waterway where
24 the area exposed by ~~such~~ the grading or removal will exceed 10,000 square feet.

25 **SECTION 85.** 30.19 (1b) of the statutes is created to read:

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30.19 (1b) DEFINITION. In ~~the~~ 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" means either of the following:

1. Land area that is, in size, the greater 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 percent.

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 or a portion of 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, or by rule, contains sensitive fish and aquatic habitat.

SECTION 86. 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: In redrafting s. 30.19 (1b) I made changes in the definition of "priority navigable waterway". Please review. 4/6/5

navigable waterway or a portion of a navigable waterway

STET

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STET

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(S)

(1b), (c)

***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

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

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

1. For a navigable waterway that is a (priority navigable waterway, the department shall promulgate a rule stating that a bank is, in size, the greater of the following as it applies to a particular navigable waterway:

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

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

2. For a navigable waterway that is not a priority navigable waterway, the department shall promulgate a rule stating that a bank is, in size, the greater of the following as it applies to a particular navigable waterway.

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

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

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1 (b) In promulgating the rule under this subsection, the ^{determination} ~~description of land area~~
 2 ~~included in~~ ^{under this subsection of} what constitutes a bank may not include any land where the slope or
 3 drainage of the land into the navigable waterway is ^{completely} ~~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 (c) 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~~, ^{and} as defined in s. 23.32 (1) ~~and~~ floodplains, and other areas.
 * 7 ~~designated for protection by the department.~~ ^{to rules promulgated under s. 28.16(2) that}
^{relate to protective areas}
^{For wetlands and waterways}

8 (d) In promulgating the rule under this subsection, the department shall
 9 consider that public rights and interests in the furtherance of the public trust in
 10 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 whether a specific land area complies with the rule~~
^{what constitutes a bank at an individual}
^{specific site.}

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

14 30.19 (1m) ~~EXCEPTION EXEMPTIONS.~~ (intro.) ~~Subsection (1) does not apply to A~~
 15 person is exempt from the permit requirements under this section for any of the
 16 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) ~~Those 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 (1n)? MGG~~

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 by a storm water discharge permit approved by the~~
21 ~~department under ch. 283 or a facility plan approved by the department under s.~~

22 ~~28141.~~

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

4 SECTION 98. 30.19 (4) (title) of the statutes is amended to read:

5 30.19 (4) (title) ~~ISSUANCE OF PERMIT~~ INDIVIDUAL PERMITS.

6 SECTION 99. 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and
7 amended to read:

8 30.19 (4) (c) (intro.) ~~If the~~ The department finds that the project will not injure
9 public rights or interest, including fish and game habitat, that the project shall issue
10 an individual permit pursuant to an application under par. (a) if the department
11 finds that all of the following apply:

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

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

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

21 SECTION 100. 30.19 (4) (a) of the statutes is created to read:

22 30.19 (4) (a) For activities that are not exempt under sub. (1m) and that are
23 not subject to a general permit under sub. (3r), a person may apply to the department
24 for an individual permit in order to engage in an activity for which a permit is
25 required under sub. (1g).

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

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

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

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

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

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

water body be a public waterways ^{WATERWAY} ~~The department may impose such further conditions in the permit as it finds reasonably necessary to protect public health, safety, welfare, rights and interest and to protect private rights and property~~ ^{PLAIN}

[Handwritten annotations: A large circle surrounds the text from line 11 to 14. The word "WATERWAY" is written above "water body". The words "plain period" are written below "The department".]

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

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

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

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

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

1 **SECTION 106.** 30.195 (3) (title) of the statutes is repealed.

2 **SECTION 107.** 30.195 (3) of the statutes is renumbered 30.195 (2) (c) and
3 amended to read:

4 30.195 (2) (c) ~~Upon application therefor, the~~ The department shall ~~grant a~~
5 issue an individual permit to the applied for under this section to a riparian owner
6 if the department determines that all of the following apply:

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

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

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

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

22 **SECTION 108.** 30.195 (4) of the statutes is repealed.

23 **SECTION 109.** 30.195 (7) of the statutes is repealed.

24 **SECTION 110.** 30.196 (intro.) of the statutes is amended to read:

1 **30.196 Enclosure of navigable waters; issuance of permits to**
2 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
3 placing or restricting navigable waters into an enclosed drain, conduit, storm sewer
4 or similar structure if the department grants the municipality ~~a~~ an individual
5 permit. The department may grant this permit to a municipality after following the
6 notice and hearing requirements under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5) if it finds
7 that granting the permit:

8 **SECTION 111.** 30.20 (1) (title) of the statutes is repealed and recreated to read:

9 30.20 (1) (title) PERMITS OR CONTRACTS REQUIRED.

10 **SECTION 112.** 30.20 (1) (a) of the statutes is amended to read:

11 30.20 (1) (a) ~~No~~ Unless a contract has been entered into with the department
12 under sub. (2) (a) or (b) or authorization has been granted by the legislature, no
13 person may remove any material from the bed of any a natural navigable lake or from
14 the bed of any outlying waters of this state ~~without first obtaining a contract as~~
15 ~~provided in sub. (2).~~

16 **SECTION 113.** 30.20 (1) (b) of the statutes is amended to read:

17 30.20 (1) (b) ~~Except as provided under pars. (c) and (d),~~ Unless an individual
18 or a general permit has been issued by the department under this section or
19 authorization has been granted by the legislature, no person may remove any
20 material from the bed of any lake or navigable stream that is not mentioned
21 described under par. (a) ~~without first obtaining a permit from the department under~~
22 ~~sub. (2) (e).~~

23 **SECTION 114.** 30.20 (1) (c) 1. and 2. of the statutes are consolidated, renumbered
24 30.20 (1g) (a) 1. and amended to read:

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

8 **SECTION 115.** 30.20 (1) (c) 3. of the statutes is renumbered 30.20 (1g) (a) 2.

9 **SECTION 116.** 30.20 (1) (d) of the statutes is renumbered 30.20 (1g) (c) and
10 amended to read:

11 30.20 (1g) (c) ~~The A removal of material by the~~ drainage board for the Duck
12 Creek Drainage District ~~may, without a permit under sub. (2) (e), remove material~~
13 from a drain that the board operates in the Duck Creek Drainage District is exempt
14 from the individual and general permit requirements under this section if the
15 removal is required, under rules promulgated by the department of agriculture,
16 trade and consumer protection, in order to conform the drain to specifications
17 imposed by the department of agriculture, trade and consumer protection after
18 consulting with the department of natural resources.

19 **SECTION 117.** 30.20 (1g) (title) and (b) of the statutes are created to read:

20 30.20 (1g) (title) EXEMPTIONS.

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

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) ^S PERMIT ^S OR CONTRACT IN LIEU OF EXEMPTION ~~(g)~~ 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 (a) ~~1~~ Significant adverse impacts to the public rights and interests.

13 (b) ~~2~~ Environmental pollution, as defined in s. 299.01 (4).

14 (c) ~~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 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 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 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 of which contracting, general permit, or individual permit requirements
25 apply to the activity.

1 (bn) If the department fails to comply with the 15-day period in par. (b), the
 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.

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

✓
 INSERT
 34-36

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

8 30.20 (1f) 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

1 this paragraph shall also fix the amount of compensation to be paid to the state for
2 the material so to be removed, except that no the contract may not require that any
3 compensation may be paid for the material if the contract is with a municipality as
4 defined in s. 281.01 (6) and the material is to be used for a municipal purpose and
5 not for resale. No if the material will not be resold. Each contract entered into under
6 this paragraph may not run for ~~a longer period~~ more than 5 years. The department
7 may allow one extension of a contract entered into under this paragraph, upon
8 application to the department. The extension shall be for the same period as the
9 original contract.

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

1 as the state may own. Title to the royalties to be paid when mining operations are
2 begun shall be determined at such future time as royalties for ores so sold are paid
3 or are due and payable.

4 **SECTION 122.** 30.20 (2) (bn) of the statutes is created to read:

5 30.20 (2) (bn) For a removal that is not exempt under sub. (1g) and that is not
6 subject to a general permit under sub. (1)^{ft}, a person may apply to the department
7 for an individual permit that is required under sub. (1) (b) in order to remove material
8 from the bed of any lake or stream not described under sub. (1) (a).

9 **SECTION 123.** 30.20 (2) (c) of the statutes is amended to read:

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

17 **SECTION 124.** 30.20 (2) (d) of the statutes is created to read:

18 30.20 (2) (d) If an applicant for a permit under par. (bn) submits the application
19 at least 30 days before the proposed date of the removal, the department may issue
20 the permit for a period of up to 10 years. The department may allow one extension
21 of a permit issued under this paragraph, upon application to the department. The
22 extension shall be for the same period of time as the original permit.

23 **SECTION 125.** 30.20 (2) (e) of the statutes is created to read:

24 30.20 (2) (e) The notice and hearing provisions of s. 30.208 (3) to (5) apply to
25 an application for a permit or contract under this subsection.

1 **SECTION 126.** 30.201 of the statutes is created to read:

2 **30.201 Financial assurance for nonmetallic mining.** (1) If the
3 department requires that financial assurance be provided as a condition for a permit
4 under s. 30.19, 30.195, or 30.20 or for a contract under s. 30.20 for nonmetallic mining
5 and reclamation, the financial assurance may be a bond or alternative financial
6 assurance. An alternative financial assurance may include cash or any of the
7 following:

8 (a) A certificate of deposit.

9 (b) An irrevocable letter of credit.

10 (c) An irrevocable trust.

11 (d) An escrow account.

12 (e) A government security.

13 (f) Any other demonstration of financial responsibility.

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

16 **SECTION 127.** 30.2022 (title) of the statutes is created to read:

17 **30.2022 (title) Activities of department of transportation.**

18 **SECTION 128.** 30.2026 (2) (d) of the statutes is amended to read:

19 30.2026 (2) (d) The village of Belleville shall create any artificial barrier under
20 this section in compliance with all state laws that relate to navigable bodies of water,
21 except s. 30.12 (1) and (2).

22 **SECTION 129.** 30.2026 (3) (a) of the statutes is amended to read:

23 30.2026 (3) (a) The village of Belleville shall maintain any artificial barrier
24 created as authorized under sub. (1). If a landowner of more than 500 feet of Lake
25 Belle View shoreline, a portion of which is located within 1,000 feet of any such

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 (1) (a). The statewide general~~
19 ~~permits required under ss. 30.12 (3) (a), 30.123 (7) (a), and 30.20 (1) (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 ~~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~~

promulgated

1 the date upon which the rules issuing these statewide general permits are issued
2 under this paragraph.

****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 for the permit under s. 30.19 (3r) 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

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

9 **SECTION 132.** 30.206 (1) (c) 1. to 3. of the statutes are created to read:

10 30.206 (1) (c) 1. Construction and design requirements that are consistent with
11 the purpose of the activity authorized under the permit.

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

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

16 **SECTION 133.** 30.206 (2) of the statutes is repealed.

17 **SECTION 134.** 30.206 (3) (title) of the statutes is created to read:

18 30.206 (3) (title) PROCEDURES FOR CONDUCTING ACTIVITIES UNDER GENERAL
19 PERMITS.

20 **SECTION 135.** 30.206 (3) of the statutes is renumbered 30.206 (3) (a) and
21 amended to read:

1 30.206 (3) (a) A person wishing to proceed with an activity that may be
2 authorized by a general permit shall apply to the department, with written
3 notification of the person's wish to proceed, not less than ~~20 business~~ 30 days before
4 commencing the activity authorized by a general permit. ~~The department may~~
5 ~~request additional information from the applicant~~ notification shall provide
6 information describing the activity in order to allow the department to determine
7 whether the activity is ~~within the scope of a~~ authorized by the general permit and
8 ~~shall inform the applicant in writing of its determination within 10 business days~~
9 ~~after receipt of adequate information.~~

10 **SECTION 136.** 30.206 (3) (c) of the statutes is created to read:

11 30.206 (3) (c) Upon completion of an activity that the department has
12 authorized under a general permit, the applicant for the general permit shall provide
13 to the department a statement certifying that the activity is in compliance with all
14 of the conditions of the general permit and a photograph of the activity.

15 **SECTION 137.** 30.206 (3m) of the statutes is repealed.

16 **SECTION 138.** 30.206 (3r) of the statutes is created to read:

17 30.206 (3r) INDIVIDUAL PERMIT IN LIEU OF GENERAL PERMIT. (a) The department
18 may decide to require that a person who has applied under sub. (3) for authorization
19 to proceed under a general permit to apply for and be issued an individual permit or
20 be granted a contract if either of the following applies:

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

23 2. The department has conducted an investigation and visited the site and has
24 determined that conditions specific to the site require restrictions on the activity in
25 order to prevent significant adverse impacts to the public rights and interest,

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~~

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:

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

4 **SECTION 143.** 30.207 (1) of the statutes is amended to read:

5 30.207 (1) GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12 (3) (bt)~~ ✓
6 30.2023, the Wolf River and Fox River basin area consists of all of Winnebago County;
7 the portion and shoreline of Lake Poygan in Waushara County; the area south of
8 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
9 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
10 portion of Outagamie County south and east of USH 41; that portion of Waupaca
11 County that includes the town of Mukwa, city of New London, town of Caledonia,
12 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
13 in the town of Weyauwega.

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

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

18 **SECTION 145.** 30.207 (4) (b) of the statutes is repealed.

19 **SECTION 146.** 30.207 (5) of the statutes is repealed.

20 **SECTION 147.** 30.208 of the statutes is created to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **30.209 Contracts and individual permits; administrative and judicial**
16 **review.** (1) In this section, "applicant" means any person applying to receive a
17 permit or contract under this subchapter or any person who has received a permit
18 or contract under this subchapter.

19 **(1m) REQUEST FOR ADMINISTRATIVE REVIEW.** (a) Any interested person may file
20 a petition with the department for administrative review within 30 days after any
21 of the following decisions given by the department:

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

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

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

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

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

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

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

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

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

22 (f) The department shall grant or deny the petition within 30 days after the
23 petition is filed. The failure of the department to dispose of the petition within this
24 30-day period is a denial. The department shall deny the petition if any of the
25 following applies:

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

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

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

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

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

16 (b) If a stay under sub. (1) (c) is in effect, the hearing examiner shall, within
17 30 days after receipt of the referral under sub. (1) (g), determine whether
18 continuation of the stay is necessary to prevent irreversible harm to the environment
19 pending completion of the hearing. The hearing examiner shall make the
20 determination based on the request under sub. (1) (c), any response from the
21 applicant under sub. (1) (e), and any testimony at a public hearing or any public
22 comments. The determination shall be made without a hearing.

23 (c) A hearing under this section shall be completed within 90 days after receipt
24 of the referral of the petition under sub. (1) (g), unless all parties agree to an
25 extension of that period. In addition, a hearing examiner may grant a one-time

1 extension for the completion of the hearing of up to 60 days on the motion of any party
2 and a showing of good cause demonstrating extraordinary circumstances justifying
3 an extension.

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

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

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

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

15 **SECTION 149.** 30.28 (3) (a) of the statutes is renumbered 30.28 (3).

16 **SECTION 150.** 30.28 (3) (b) of the statutes is repealed.

17 **SECTION 151.** 30.285 of the statutes is created to read:

18 **30.285 Records of exemptions and permitted activities.** (1) On an
19 annual basis, the department shall keep records of all of the following

20 (a) The number of exempted activities that are conducted under ss. 30.12 (1g),
21 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department is aware.

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

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

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

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

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

6 (b) The date of the application.

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

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

10 SECTION 152. 30.29 (3) (d) of the statutes is amended to read:

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

16 SECTION 153. 30.291 of the statutes is created to read:

17 30.291 Inspections for certain exemptions and permitted activities. (1)

18 For purposes of determining whether an exemption is appropriate under s. 30.12
19 (2m) ^{or (2r)✓} 30.123 (6m) ^{or (6r)✓}, or 30.20 (1m) ^{or (1r)✓} or whether a general permit is appropriate under
20 s. 30.206 (3r), any employee or other representative of the department, upon
21 presenting his or her credentials, may enter the site and inspect any property on the
22 site.

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

determination from ONR as to whether a proposed activity is exempt. OK? MGG

**** NOTE: These inspection procedures apply to both situations where ONR wants to impose a permit on ongoing exempt activities and where a person seeks an*

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

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

7 (a) If an entry and inspection is to determine whether an activity is exempt, the
8 department may proceed as if no written statement was provided under s. 30.12 ~~(2m)~~
9 ~~(1)~~, 30.123 ~~(6m)~~ ^(or) ~~(1)~~, or 30.20 ~~(1m)~~ ^(1r) ~~(1)~~.

***NOTE: If s. 30.19 (1r) is put back in the draft, the cross-references in s. 30.291
(1) and (4) (a) will also need to go back in. MGG

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

13 SECTION 154. 30.298 (3) of the statutes is amended to read:

14 30.298 (3) Any person who violates a general permit under s. 30.206 shall
15 forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not
16 less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or
17 subsequent time.

18 SECTION 155. 31.39 (2m) (c) of the statutes is amended to read: X

19 31.39 (2m) (c) If more than one fee under sub. (2) (a) or s. 30.28 (2) (a) or 281.22
20 is applicable to a project, the department shall charge only the highest fee of those
21 that are applicable.

22 SECTION 156. 84.18 (6) of the statutes is amended to read:

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

16 **SECTION 157.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

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

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

4 **SECTION 158.** 281.22 (2) (c) of the statutes is amended to read: X

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

8 **SECTION 159.** 299.05 (2) (a) of the statutes is amended to read:

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

11 **SECTION 160. Initial applicability.**

12 (1) CHAPTER 30 PROCEDURES.

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

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

19 (END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3881/P4ins
MGG:.....

Insert 10-10

SECTION 1. 30.12 (2r) of the statutes is created to read:

30.12 (2r) ~~DETERMINATION OF~~ EXEMPTION. (a) A person may submit to the department a written statement requesting that the department determine whether a proposed activity is exempt under sub. (1g). The statement shall contain a description and location of the proposed activity.

(b) The department shall make a determination as to whether the activity is exempt within 15 days after the receipt of the statement if all of the following occur in such a manner that it is possible for the department to complete an inspection, make the determination, and give notice under par. (b) 3. within the 15-day period:

1. The department requests an inspection as soon as practicable in compliance with s. 30.291.
2. The department receives consent for the inspection that is acceptable to the department.

****NOTE: Section 30.12 (2r) (b) is very problematical since the timing can be controlled by DNR, the person seeking the exemption determination, or the owner of the site, or all three. I have tried to improve it by adding a possibility standard and a "as soon as practicable" requirement for DNR. Of course, the question remains who decides what is "possible" and what is "as soon as practicable". MGG

(c) 1. Any notification or determination by the department under this subsection shall be in writing except as provided in subd. 2.

2. For a proposed activity that is determined to be exempt and for which the department makes the determination within the 15-day period under par. (b), the department need not provide the person with any notification.

3. For a proposed activity determined to not be exempt and for which the department makes the determination within the 15-day period under par. (b), the

person shall receive notification from the department in writing within the 15-day period.

(d) If the department determines that the proposed activity is not exempt, the department shall include a statement as to which general permit or individual permit requirements apply to the activity.

(e) If the department determines that the proposed activity is not exempt, the department may not require the ~~the~~ person proposing to engage in the ~~activity~~ ^{to} apply for an individual permit or seek authorization under a general permit for that activity if it was possible for the department to act within the 15-day period under par. (b) and the department failed to do so.

Insert 19-16 ✓

DETERMINATIONS

SECTION 2. 30.123 (6r) of the statutes is created to read:

30.123 (6r) ~~DETERMINATION OF EXEMPTION~~. (a) A person may submit to the department a written statement requesting that the department determine whether a proposed activity is exempt under sub. (6) (d) or (e). The statement shall contain a description and location of the ~~the~~ proposed activity.

(b) The department shall make a determination as to whether the activity is exempt within 15 days after ~~the~~ receipt of the statement if all of the following occur in such a manner that it is possible for the department to ~~to~~ complete an inspection, make the ~~the~~ determination, ~~and~~ give notice under par. (b) 3. ~~within~~ ^{to} within the 15-day period:

1. The ~~department~~ ^{department} requests an inspection as soon as practicable ~~in~~ ^{to} in compliance with s. 30.291.

2. The department receives consent for the inspection that is acceptable to the department.

***NOTE: See ^{the} note after s. 30.12 (2r) (b).

(c) 1. Any notification or determination by the department under this subsection shall be in writing except as provided in subd. 2.

2. For a proposed activity that is determined to be exempt and for which the department makes the determination within the 15-day period under par. (b), the department need not provide the person with any notification.

3. For a proposed activity determined to not be exempt and for which the department makes the determination within the 15-day period under par. (b), the person shall receive notification from the department in writing within the 15-day period.

(d) If the department determines that the proposed activity is not exempt, the department shall include a statement as to which general permit or individual permit requirements apply to the activity.

(e) If the department determines that the proposed activity is not exempt, the department may not require the person proposing to engage in the activity to apply for an individual permit or seek authorization under a general permit for that activity if it was possible for the department to act within the 15-day period under par. (b) and the department failed to do so.

Insert 25-20

SECTION 3. 30.19 (1d) of the statutes is created to read:

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

1. For priority navigable waterways, the department shall promulgate a rule stating that a bank on a priority navigable waterway is, in size, the greater of the following, subject to subd. 1m:

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

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

1m. The department, for any specific priority navigable waterway or any class of priority navigable waterways, may do any of the following in promulgating the rule under this subsection:

a. Substitute a lesser distance for the 300-foot distance specified in subd. 1. a.

b. Substitute a lesser percentage slope for the 10-percent slope specified in subd. 1. b.

****NOTE: I am unsure whether "lesser percentage slope" is correct, that is the slope can be 10% or less. If it is not correct, or if you do not want DNR to have discretion in setting the slope this will need redrafting.

2. For navigable waterways that are not priority navigable waterways, the department shall promulgate a rule stating that a bank is, in size, the greater of the following, subject to subd. 2m:

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

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

2m. The department, for any specific navigable waterway or any class of navigable waterways that are subject to subd. 2., may do any of the following in promulgating the rule under this subsection:

a. Substitute a lesser distance for the 75-foot distance specified subd. 2. a.

b. Substitute a lesser percentage slope for the 12-percent slope specified in subd. 2. b.

****NOTE: Again, I am unsure whether "lesser percentage slope" is correct that is the slope can be 12% or less. If it is not correct, or if you do not want DNR to have discretion in setting the slope, this will need redrafting.

(am) The rule under this subsection may not require or allow the department to deviate from, or create an exemption from, the requirements of the rules promulgated under this section in determining what constitutes a bank at an individual, specific site.

****NOTE: I moved par. (e) under s. 30.19 (1d) to follow par. (a) under that subsection for clarity purposes. Please carefully review s. 30.19 (1d) (a) and (am) to make certain they achieve your intent. This is very complicated drafting. If this does not achieve your intent, please call me to discuss further redraft instructions. MGG

Insert 26-7

****NOTE: The suggested redraft language needs to be reviewed by Becky Tradewell. She will be back in the office on January 5 and will review it then.

Insert 27-22

****NOTE: The suggested redraft language needs to be reviewed by Becky Tradewell. She will be back in the office on January 5 and will review it then.

Insert 34-6

DETERMINATIONS

SECTION 4. 30.20 (1r) of the statutes is created to read:

30.20 (1r) DETERMINATION OF EXEMPTION. (a) A person may submit to the department a written statement requesting that the department determine whether a proposed activity is exempt under sub. (1g). The statement shall contain a description and location of the proposed activity.

(b) The department shall make a determination as to whether the activity is exempt within 15 days after the receipt of the statement if all of the following occur in such a manner that it is possible for the department to complete an inspection, make the determination, and give notice under par. (b) 3. within the 15-day period:

1. The department requests an inspection as soon as practicable in compliance with s. 30.291.

2. The department receives consent for the inspection that is acceptable to the department.

****NOTE: See ^{the} note after s. 30.12 (2r) (b).

(c) ^g 1. Any notification or determination by the department under this subsection shall be in writing except as provided in subd. 2.

2. For a proposed activity that is determined to be exempt and for which the department makes the determination within the ^g15-day period under par. (b), the department need not provide the person with any notification.

3. For a proposed activity determined ^g to [✓] not be exempt and for which the department makes the determination within the 15-day period under par. (b), the person shall receive notification from the department in writing within the 15-day period.

(d) If the department determines that the proposed activity is not exempt, the department shall include a statement as to which contracting, [✓] general permit, or individual permit requirements apply to the activity.

(e) If the department determines that the proposed activity is not exempt, the department may not require the ^g the person proposing to engage in the ^g activity ^{to} apply for an individual permit or seek authorization under a general permit for that activity if it was possible for the department to act within the 15-day period under par. (b) and the department failed to do so.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

4
LRB-3881/P~~3~~dn
MGG: ~~WJ~~:pg

December 23, 2003

KMG

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.

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

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

LRB-3881/P4dn
MGG:kmg:pg

January 2, 2004

Again, there are embedded notes for review.

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

Drafting Notes for LRB 3881/P4
01/05/04

1. Exemption notice and access language. Simplify the language by requiring that access be granted with the notice. The following language can be utilized for this purpose.

“30.12(2r) Exemption determinations. (a) A person may submit to the department a written statement advising the department describing the proposed activity and its location and providing the department with access subject to section 30.291.

(b) The department has 15 days to schedule an inspection and notify the applicant in writing that an individual or general permit will be required for the activity. If notification is given, the department shall specify which permit will be required. If the department does not notify the applicant within the 15-day period, it may not later require an individual or general permit for the activity that is the subject of the notification.”

Similar changes are needed for the other exemption language. Parallel modifications are also needed for the inspection language in the general permit section and the access provision of 30.291.

2. 30.19 Public Access Condition

Under current law, when you have a connection to navigable water, 30.19(5) requires that the connection becomes public water. Current law does not apply to “ultimate” connections, which are those that occur above the ordinary high watermark. Since we are eliminating this distinction we need to be careful not to have all unconnected ponds being declared public waters. Therefore, there is a change needed in the current draft so that only connections that are navigable become public waters.

3. Grading Language. This needs to be simplified to clarify the intent. The intent is that the distances in the statute are the maximum potential. The department is encouraged to set distances up to that point based on resource needs which could in many cases be less than the maximum potential.

30.19(1d) Rules; Banks of Navigable Waterways. (a) The department shall promulgate a rule to determine what constitutes a bank for purposes of this section in accordance with all of the following:

1. For priority navigable waterways the department shall promulgate a rule in accordance with the provisions of this section that allows the bank to extend up to

the greater of a maximum distance of 300 feet landward of the ordinary high-water mark from the navigable waterway or that point where the land surface extending landward from the ordinary high-water mark of the navigable waterway has a slope of 10% or more. *slope cannot be less than 10%*

2. For all other navigable waterways, the department shall promulgate a rule in accordance with the provisions of this section that allows the bank to extend up to the greater of a maximum of 75 feet landward of the ordinary high-water mark from the navigable waterway or that point where the land surface extending landward from the ordinary high-water mark of the navigable waterway has a slope of 12% or more.

1 30.206 (3) (title) PROCEDURES FOR CONDUCTING ACTIVITIES UNDER GENERAL
2 PERMITS.

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

5 30.206 (3) (a) A person wishing to proceed with an activity that may be
6 authorized by a general permit shall apply to the department, with written
7 notification of the person's wish to proceed, not less than ~~20 business~~ 30 days before
8 commencing the activity authorized by a general permit. ~~The department may~~
9 ~~request additional information from the applicant~~ notification shall provide
10 information describing the activity in order to allow the department to determine
11 whether the activity is ~~within the scope of a~~ authorized by the general permit and
12 ~~shall inform the applicant in writing of its determination within 10 business days~~
13 ~~after receipt of adequate information,~~ *and shall provide the department all information by*
to the candidate in § 30.291

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

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

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

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

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

1 30.19 (5) ~~CONDITIONS OF PERMIT REQUIREMENT FOR PUBLIC ACCESS.~~ The A permit
2 issued under this section to construct an artificial water body and to connect it to a
3 navigable waterway shall provide that all require that the ^{navigable portion of the} artificial waterways
4 ~~constructed under this section which are connected to navigable waterways shall be~~
5 ~~water body~~ ^{from the navigable water} be a public waterways ^{on public access} waterway. The department may impose such
6 further conditions in the permit ^{as} it finds reasonably necessary to protect public
7 health, safety, welfare, rights and interest and to protect private rights and property.

8 **SECTION 107.** 30.195 (1) of the statutes is amended to read:

9 30.195 (1) PERMIT REQUIRED. ~~No~~ Unless a permit has been issued under this
10 section or authorization has been granted by the legislature, no person may change
11 the course of or straighten a navigable stream ~~without a permit issued under this~~
12 ~~section or without otherwise being expressly authorized by statute to do so.~~

13 **SECTION 108.** 30.195 (2) of the statutes is repealed and recreated to read:

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

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

19 **SECTION 109.** 30.195 (3) (title) of the statutes is repealed.

20 **SECTION 110.** 30.195 (3) of the statutes is renumbered 30.195 (2) (c) and
21 amended to read:

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

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

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

****NOTE: These inspection procedures apply to situations where DNR seeks to impose a permit on ongoing exempt activities and where a person seeks a determination from DNR as to whether a proposed activity is exempt. OK? MGG

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

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

shall provide to the owner prior to entering ?

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

fails to provide access

~~(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 (2r), 30.123 (6r), or 30.20 (1r).~~

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

SECTION 158. 30.298 (3) of the statutes is amended to read: