



D-Note

State of Wisconsin
2003 - 2004 LEGISLATURE

114 X noon
Tues

LRB-3881/P4
MGG/RNK/RPN:all:pg
↑
stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Now

REGEN.

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), 84.18 (6), 236.16 (3) (d)
7 (intro.) and 299.05 (2) (a); **to repeal and recreate** 30.12 (3) (title), 30.12 (3) (a)
8 (intro.), 30.123 (title), 30.195 (2) and 30.20 (1) (title); and **to create** 30.01 (1am),
9 30.01 (2m), 30.025 (5), 30.12 (1g) (intro.), (a), (b), (e), (f), (i), (j), (k), (km) and (L),
10 30.12 (2m), 30.12 (2r), 30.12 (3) (a) 3c., 30.12 (3) (a) 3g., 30.12 (3) (a) 3r., 30.12
11 (3) (a) 13., 30.12 (3) (br), 30.12 (3m), 30.121 (3w), 30.123 (6), 30.123 (6m), 30.123
12 (6r), 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 (1t), 30.20 (2) (bn), 30.20 (2) (d), 30.20 (2) (e),
15 30.201, 30.2022 (title), 30.206 (1) (title), 30.206 (1) (c) 1. to 3., 30.206 (3) (title),
16 30.206 (3) (c), 30.206 (3r), 30.206 (5) (title), 30.208, 30.209, 30.285 and 30.291
17 of the statutes; **relating to:** structures, deposits, and other activities in or near
18 navigable waters; notice, hearing, and review procedures related to permits to

1 place structures and materials and to conduct activities in or near navigable
2 waters; and granting rule-making authority.

Analysis by the Legislative Reference Bureau

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

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

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

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

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

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

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

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

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

15 (c) An area that possesses significant scientific value, as identified by the
16 department.

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

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

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

6 SECTION 4. 30.01 (2m) of the statutes is created to read:

7 30.01 (2m) "Great Lakes water body" means Lake Superior or Lake Michigan
8 and includes any bay or harbor that is part of Lake Superior or Lake Michigan.

9 SECTION 5. 30.01 (6b) of the statutes is repealed.

10 SECTION 6. 30.015 of the statutes is renumbered 30.208 (2) and amended to
11 read:

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

1 agree or unless the applicant makes material additions or alterations to the activity
2 or project for which the application has been submitted. The rules promulgated
3 under s. 299.05 apply only to applications for individual permits or contracts under
4 this subchapter that the department has determined to be complete.

5 **SECTION 7.** 30.02 of the statutes, as affected by 2003 Wisconsin Act 89, is
6 repealed.

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

9 30.025 (1b) (b) “Permit” means ~~a~~ an individual permit or a general permit,
10 an approval required under this chapter or ch. 31, a storm water discharge permit
11 required under s. 283.33 (1) (a), or a water quality certification required under s.
12 281.36 or under rules promulgated under subch. II of ch. 281 to implement 33 USC
13 1341 (a).

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

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

19 **SECTION 10.** 30.025 (1m) (a) of the statutes, as created by 2003 Wisconsin Act
20 89, is amended to read:

21 30.025 (1m) (a) The permits that the person may be required to obtain and the
22 permits under which the person must give notification of the wish to proceed.

23 **SECTION 11.** 30.025 (2g) (a) of the statutes, as created by 2003 Wisconsin Act
24 89, is amended to read:

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

6 **SECTION 12.** 30.025 (3) (intro.) of the statutes, as affected by 2003 Wisconsin
7 Act 89, is amended to read:

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

11 **SECTION 13.** 30.025 (4) of the statutes, as affected by 2003 Wisconsin Act 89,
12 is amended to read:

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

19 **SECTION 14.** 30.025 (5) of the statutes is created to read:

20 30.025 (5) EXEMPTION FROM CERTAIN PROCEDURES. Sections 30.208 and 30.209
21 do not apply to an application for any permit under this section.

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

24 30.2095 (1) (a) Except as provided in par. (b), every permit or contract issued
25 under ss. 30.01 to 30.29 for which a time limit is not provided by s. 30.20 (2) is void

1 unless the activity or project is completed within 3 years after the permit or contract
2 was issued.

3 SECTION 16. 30.10 (4) (a) of the statutes is amended to read:

4 30.10 (4) (a) This section does not impair the powers granted by law under s.
5 ~~30.123~~ 30.1235 or by other law to municipalities to construct highway bridges,
6 arches, or culverts over streams.

7 SECTION 17. 30.11 (4) of the statutes is amended to read:

8 30.11 (4) RIPARIAN RIGHTS PRESERVED. Establishment of a bulkhead line shall
9 not abridge the riparian rights of riparian ~~proprietors~~ owners. Riparian ~~proprietors~~
10 owners may place solid structures or fill up to such line.

11 SECTION 18. 30.12 (title) of the statutes is amended to read:

12 **30.12 (title) Structures and deposits in navigable waters ~~prohibited;~~**
13 **~~exceptions; penalty.~~**

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

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

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

22 30.12 (1) (a) ~~To deposit~~ Deposit any material or ~~to place~~ any structure upon the
23 bed of any navigable water where no bulkhead line has been established; ~~or,~~

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

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

3 **SECTION 22.** 30.12 (1g) (intro.), (a), (b), (e), (f), (i), (j), (k), (km) and (L) of the
4 statutes are created to read:

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

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

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

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

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

24 (i) Riprap in an amount not to exceed 100 linear feet that is placed to replace
25 existing riprap and that includes the replacement of filter fabric or base substrate.

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

1 (j) Riprap in an amount not to exceed 300 linear feet that is placed to repair
2 existing riprap, and that consists only of the placement of additional rock or the
3 redistribution of existing rock within the footprint of the existing riprap.

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

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

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

12 **SECTION 23.** 30.12 (2) of the statutes is repealed.

13 **SECTION 24.** 30.12 (2m) of the statutes is created to read:

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

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

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

22 (c) Material injury to the riparian rights of any riparian owner.

23 **SECTION 25.** 30.12 (2r) of the statutes is created to read:

STET
RN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

30.12 (2r) EXEMPTION DETERMINATIONS. (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~~ ^{site} of the proposed activity and shall ~~state~~ ^{give} the department consent to enter and inspect the site.

(b) The department shall make a determination as to whether the activity is exempt within 15 days after 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. (c) 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 as to 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.

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

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

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

10 30.12 (3) (title) GENERAL PERMITS.

11 **SECTION 27.** 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to
12 read:

13 30.12 (3) (a) (intro.) The department shall issue statewide general permits
14 under s. 30.206 that authorize riparian owners to do all of the following:

15 **SECTION 28.** 30.12 (3) (a) 2. of the statutes is renumbered 30.12 (1g) (c) and
16 amended to read:

17 30.12 (1g) (c) ~~Place a~~ A fish crib, spawning reef, wing deflector, or similar
18 device that is placed on the bed of navigable waters for the purpose of improving fish
19 habitat.

20 **SECTION 29.** 30.12 (3) (a) 2m. of the statutes is renumbered 30.12 (1g) (d) and
21 amended to read:

22 30.12 (1g) (d) ~~Place a~~ A bird nesting platform, ~~a~~ wood duck house, or similar
23 structure that is placed on the bed of a navigable water for the purpose of improving
24 wildlife habitat.

25 **SECTION 30.** 30.12 (3) (a) 3. of the statutes is repealed.

✓
INS
11-8

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

2 30.12 (3) (a) 3c. Place riprap in order to replace or repair existing riprap, other
3 than riprap that is exempt under sub. (1g) (i) or (j).

4 **SECTION 32.** 30.12 (3) (a) 3g. of the statutes is created to read:

5 30.12 (3) (a) 3g. Place riprap on the bed or bank of a navigable water adjacent
6 to an owner's property in an amount up to and including 100 continuous feet in an
7 inland lake of 300 acres or more.

8 **SECTION 33.** 30.12 (3) (a) 3r. of the statutes is created to read:

9 30.12 (3) (a) 3r. 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 300 continuous feet in a
11 Great Lakes water body.

12 **SECTION 34.** 30.12 (3) (a) 6. of the statutes is amended to read:

13 30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property
14 for the purpose of storing or protecting watercraft and associated materials, except
15 that no general permit may be ~~granted~~ issued for a permanent boat shelter which is
16 constructed after May 3, 1988, if the property on which the permanent boat shelter
17 is to be located also contains a boathouse within 75 feet of the ordinary high-water
18 mark or if there is a boathouse over navigable waters adjacent to the owner's
19 property.

20 **SECTION 35.** 30.12 (3) (a) 7. of the statutes is renumbered 30.12 (1g) (g) and
21 amended to read:

22 30.12 (1g) (g) ~~Place an~~ An intake structure and pipe that is placed on the bed
23 of a navigable water for the purpose of constructing a dry fire hydrant to supply water
24 for fire protection.

1 **SECTION 36.** 30.12 (3) (a) 8. of the statutes is renumbered 30.12 (1g) (h) and
2 amended to read:

3 30.12 (1g) (h) ~~Drive a piling~~ A piling that is driven into the bed of a navigable
4 water adjacent to the owner's property for the purpose of deflecting ice, protecting
5 an existing or proposed structure, or providing a pivot point for turning watercraft.

6 **SECTION 37.** 30.12 (3) (a) 13. of the statutes is created to read:

7 30.12 (3) (a) 13. Place a seawall to replace an existing seawall. The
8 replacement may not exceed 100 continuous feet in an inland lake of 300 or more
9 acres and may not exceed 300 continuous feet in a Great Lakes water body.

10 **SECTION 38.** 30.12 (3) (b) of the statutes is repealed.

11 **SECTION 39.** 30.12 (3) (bn) of the statutes is repealed.

12 **SECTION 40.** 30.12 (3) (br) of the statutes is created to read:

13 30.12 (3) (br) The department may promulgate rules that specify structures or
14 deposits, in addition to those listed in par. (a), that may be authorized by statewide
15 general permits.

16 **SECTION 41.** 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (intro.)
17 and amended to read:

18 **30.2023 Seawalls; Wolf River and Fox River basins.** (intro.) A riparian
19 owner is exempt from the permit requirements under ~~sub. (2) and this subsection s.~~
20 30.12 for a structure that is placed on the bed of a navigable water in the Wolf River
21 and Fox River basin area, as described in s. 30.207 (1), and that extends beyond the
22 ordinary high-water mark, if the following conditions apply:

23 **SECTION 42.** 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (1)
24 to (9).

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

1 30.12 (3) (c) The department may ~~promulgate rules deemed necessary to carry~~
2 ~~out the purposes of~~ impose conditions on general permits issued under par. (a) 6.,
3 ~~including rules to establish minimum standards~~ to govern the architectural features
4 of boat shelters and the number of boat shelters that may be constructed adjacent
5 to a parcel of land. The ~~rules~~ conditions may not govern the aesthetic features or color
6 of boat shelters. The ~~standards~~ conditions shall be designed to assure ensure the
7 structural soundness and durability of ~~a boat shelter~~ boat shelters. A municipality
8 may enact ordinances ~~not inconsistent that are consistent~~ with this section ~~or with~~
9 ~~rules promulgated under this section regulating paragraph and with any conditions~~
10 imposed on general permits issued to regulate the architectural features of boat
11 shelters that are under the jurisdiction of the municipality.

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

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

14 30.12 (3m) INDIVIDUAL PERMITS. (a) For a structure or deposit that is not exempt
15 under sub. (1g) and that is not subject to a general permit under sub. (3), a riparian
16 owner may apply to the department for the individual permit that is required under
17 sub. (1) in order to place the structure for the owner's use or to deposit the material.

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

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

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

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

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

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

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

6 30.2022 (1) Activities affecting waters of the state, as defined in s. 281.01 (18),
7 that are carried out under the direction and supervision of the department of
8 transportation in connection with highway, bridge, or other transportation project
9 design, location, construction, reconstruction, maintenance, and repair are not
10 subject to the prohibitions or permit or approval requirements specified under ~~this~~
11 ~~section~~ or s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692, 61.351, 62.231,
12 or 87.30 or chs. 281 to 285 or 289 to 299, except s. 281.48. However, at the earliest
13 practical time prior to the commencement of these activities, the department of
14 transportation shall notify the department of the location, nature, and extent of the
15 proposed work that may affect the waters of the state.

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

18 30.2022 (2) The exemption under ~~par. (a)~~ sub. (1) does not apply unless the
19 activity is accomplished in accordance with interdepartmental liaison procedures
20 established by the department and the department of transportation for the purpose
21 of minimizing the adverse environmental impact, if any, of the activity.

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

24 30.2022 (3) If the department determines that there is reasonable cause to
25 believe that an activity being carried out under this ~~subsection~~ section is not in

1 compliance with the environmental protection requirements developed through
2 interdepartmental liaison procedures, it shall notify the department of
3 transportation. If the secretary and the secretary of transportation are unable to
4 agree upon the methods or time schedules to be used to correct the alleged
5 noncompliance, the secretary, notwithstanding the exemption provided in this
6 ~~subsection~~ section, may proceed with enforcement actions as the secretary deems
7 appropriate.

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

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

11 30.2022 (5) Except as may be required otherwise under s. 1.11, no public notice
12 or hearing is required in connection with any interdepartmental consultation and
13 cooperation under this ~~subsection~~ section.

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

16 30.2022 (6) This ~~subsection~~ section does not apply to activities in the Lower
17 Wisconsin State Riverway, as defined in s. 30.40 (15).

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

19 **SECTION 54.** 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12
20 (1m) (c) (intro.), as renumbered, is amended to read:

21 30.12 (1m) (c) (intro.) ~~Subsection (1) does not apply to a~~ A structure or deposit
22 that the drainage board for the Duck Creek Drainage District places in a drain that
23 the board operates in the Duck Creek Drainage District is exempt from the permit
24 requirements under this section if either of the following applies:

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

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

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

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

6 (b) The boathouse is located on land zoned exclusively for commercial or
7 industrial purposes or the boathouse is located on a brownfield, as defined in s.
8 560.13 (1) (a), or in a blighted area, as defined in s. 66.1331 (3) (a).

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

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

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

16 **30.123 (title) Bridges and culverts.**

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

19 **30.1235 Municipal bridge construction.** Municipalities which construct or
20 reconstruct highway bridges shall not be required to obtain permits under ~~this~~
21 ~~section or s. 30.10 or s. 30.12 or 30.123~~ for ~~such~~ that construction or reconstruction.
22 All municipal highway bridges shall be constructed or reconstructed in accordance
23 with standards developed under s. 84.01 (23).

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

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

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

12 **SECTION 61.** 30.123 (4) of the statutes is renumbered 30.123 (8) (c) and
13 amended to read:

14 30.123 (8) (c) ~~The department shall review the plans for the proposed bridge~~
15 ~~to determine whether the proposed bridge will be an obstruction to navigation or will~~
16 ~~adversely affect the flood flow capacity of the stream. The department shall grant~~
17 ~~the issue an individual permit if the proposed pursuant to an application under par.~~
18 ~~(a) if the department finds that the bridge or culvert will not materially obstruct~~
19 ~~navigation, will not materially reduce the effective flood flow capacity of a stream or~~
20 ~~be, and will not be detrimental to the public interest.~~

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

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

23 30.123 (6) **EXEMPTIONS.** Subsection (2) does not apply to any of the following:

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

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

3 (d) The construction or placement and the maintenance of a culvert to replace
4 a culvert that is authorized under a permit issued under s. 30.12, 2001 stats., or
5 30.123, 2001 stats, if the construction, placement, and maintained will comply with
6 the same conditions of the permit.

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

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

10 30.123 (6m) PERMITS IN LIEU OF EXEMPTIONS. The department may decide to
11 require that a person engaged in an activity that is exempt under sub. (6) (d) or (e)
12 apply for an individual permit or seek authorization under a general permit if the
13 department has conducted an investigation and visited the site of the activity and
14 has determined that conditions specific to the site require restrictions on the activity
15 in order to prevent any of the following:

- 16 (a) Significant adverse impacts to the public rights and interests.
- 17 (b) Environmental pollution, as defined in s. 299.01 (4).
- 18 (c) Material injury to the riparian rights of any riparian owner.

19 **SECTION 65.** 30.123 (6r) of the statutes is created to read:

20 30.123 (6r) EXEMPTION DETERMINATIONS. (a) A person may submit to the
21 department a written statement requesting that the department determine whether
22 a proposed activity is exempt under sub. (6) (d) or (e). The statement shall contain

23 a description and site & location of the proposed activity *and shall give the depart-
ment consent to enter and inspect the site*

24 (b) The department shall make a determination as to whether the activity is
25 exempt within 15 days after receipt of the statement if all of the following occur in

1 such a manner that it is possible for the department to complete an inspection, make
2 the determination, and give notice under par. (c) 3. within the 15-day period:

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

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

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

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

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

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

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

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

24 SECTION 66. 30.123 (7) of the statutes is created to read:

✓
INS
20-23

1 30.123 (7) GENERAL PERMITS. (a) The department shall issue statewide general
2 permits under s. 30.206 that authorize any person to do all of the following:

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

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

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

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

12 **SECTION 67.** 30.123 (8) of the statutes is created to read:

13 30.123 (8) INDIVIDUAL PERMITS. (a) For the construction and maintenance of a
14 bridge or culvert that is not exempt under sub. (6) and that is not subject to a general
15 permit under sub. (7), a person may apply to the department for the individual
16 permit that is required under sub. (2) in order to construct or maintain a bridge or
17 culvert.

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

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

21 30.13 (1m) SWIMMING RAFTS ALLOWED WITHOUT PERMIT UNDER CERTAIN
22 CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may place a swimming raft in
23 a navigable waterway for swimming and diving purposes without obtaining a permit
24 under s. 30.12 if all of the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 30.18 (2) (a) *Streams.* (intro.) No person may divert water from a stream in
13 this state without ~~a~~ an individual permit under this section if the diversion meets
14 either of the following conditions:

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

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

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

22 30.18 (4) (a) Upon receipt of a complete application, the department shall
23 follow the notice and hearing procedures under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5).
24 In addition to ~~the notice requirements~~ providing notice as required under s. ~~30.02 (3)~~
25 and (4) 30.208 (3) to (5), the department shall mail a copy of the notice to every person

1 upon whose land any part of the canal or any other structure will be located, to the
2 clerk of the next town downstream, to the clerk of any village or city in which the lake
3 or stream is located and which is adjacent to any municipality in which the diversion
4 will take place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

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

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

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

11 **SECTION 84.** 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)
12 and amended to read:

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

17 **SECTION 85.** 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and
18 amended to read:

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

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

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

2 **SECTION 87.** 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
3 amended to read:

4 **30.19 (1g) (c)** ~~To grade or otherwise~~ Grade or remove top soil topsoil from the
5 bank of any navigable ~~stream, lake or other body of navigable water~~ waterway where
6 the area exposed by ~~such~~ the grading or removal will exceed 10,000 square feet.

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

8 **30.19 (1b) DEFINITION.** In this section:

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

11 (b) “Bank” means either of the following:

12 1. Land area that is, in size, the greater of the following:

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

15 b. The portion of land surface extending landward from the ordinary
16 high-water mark of any navigable waterway to the point where the slope is less than
17 12 percent.

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

19 (c) “Priority navigable waterway” means any of the following:

20 1. A navigable waterway, or a portion of a navigable waterway, that is identified
21 as an outstanding or exceptional resource water under s. 281.15.

22 2. A navigable waterway, or a portion of a navigable waterway, identified as a
23 trout stream.

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

measured to be a certain percentage, but the percentage under the rule may not be less than 10%

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

****NOTE: In redrafting s. 30.19 (1b) (c), I made changes in the definition of "priority navigable waterway." Please review. MGG

SECTION 89. 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.

SECTION 90. 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 sub. 1m.~~ *that extends a certain distance*

a. The portion of land surface that extends ~~300 feet~~ landward from the ordinary high-water mark of the navigable waterway *but the distance under the rule may not exceed 300 feet*

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~~ *rule promulgated under sub. 10 may apply to*

1m. The ~~department, for any~~ specific priority navigable waterway or ~~any~~ ⁵ ~~classes~~ ^{to} of priority navigable waterways ~~may do any of the following in promulgating the~~ *rule under this subsection*

measured to be a certain percentage, but the percentage under the rule may not be less than 12%.

12% STET
*Per-
cents*

- 1 a. Substitute a lesser distance for the 300-foot distance specified in subd. 1. a.
- 2 b. Substitute a lesser percentage slope for the 10-percent slope specified in
- 3 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.

4 2. For navigable waterways that are not priority navigable waterways, the
5 department shall promulgate a rule stating that a bank is, in size, the greater of the
6 following, ~~subject to subd. 2m.~~ *STET colon*

- 7 a. The portion of the land surface that extends ~~75 feet~~ *a certain distance* landward from the
- 8 ordinary high-water mark of the navigable waterway *but the distance*
- 9 b. The portion of land surface ~~extending~~ *that extends* landward from the ordinary
- 10 high-water mark of the navigable waterway to the point where the slope is ~~less than~~ *may not exceed 75 feet*

The rule promulgated under subd. 1 may apply to 12 percent = to 5 to 25

12 2m. ~~The department for any~~ specific navigable waterway or ~~any~~ class of
13 navigable waterways that is subject to subd. 2., may do any of the following in
14 promulgating the rule under this subsection:

INSERT 27-21

- 15 a. Substitute a lesser distance for the 75-foot distance specified subd. 2. a.
- 16 b. Substitute a lesser percentage slope for the 12-percent slope specified in
- 17 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.

greater than 10% percent

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

*** NOTE: If the suggested redraft language is used, I think it is unclear ~~what the rule~~ that the maximum distance may be ~~more~~ *less* than 300 feet and that the minimum

step may be less than 10% percent

****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 that 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

1 (b) In promulgating the rule under this subsection, the determination under
2 this subsection of what constitutes a bank may not include any land where the slope
3 or drainage of the land into the navigable waterway is completely interrupted.

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), and floodplains, and rules promulgated under s. 281.16 (2) that
7 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 ^{for the purpose of furthering} ~~(in the furtherance of)~~ the public trust in
10 navigable waters.

4 ***** NOTE: I changed the language in para (d) to make it more readable*

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

12 30.19 (1m) ~~EXCEPTION~~ EXEMPTIONS. (intro.) ~~Subsection (1) does not apply to A~~
13 person is exempt from the permit requirements under this section for any of the
14 following:

15 SECTION 92. 30.19 (1m) (a) of the statutes is amended to read:

16 30.19 (1m) (a) The construction ~~and~~ or repair of any public highways highway.

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

18 30.19 (1m) (b) Any agricultural uses use of land.

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

20 30.19 (1m) (c) ~~Any~~ An activity that affects a navigable inland lake that is
21 located wholly or partly in any county having a population of 750,000 or more.

22 SECTION 95. 30.19 (1m) (cm) of the statutes is created to read:

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

3 **SECTION 96.** 30.19 (1m) (d) of the statutes is amended to read:

4 30.19 (1m) (d) ~~Those portions~~ Any activity that affects a portion of a navigable
5 ~~streams, Lake Michigan or Lake Superior~~ stream that is located within ~~any a~~ county
6 having a population of 750,000 or more.

7 **SECTION 97.** 30.19 (1m) (e) of the statutes is amended to read:

8 30.19 (1m) (e) Any work required to maintain the original dimensions of an
9 enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a
10 permit or legislative authorization under sub. ~~(1) (a) or (b)~~ (1g) (a) or (am).

11 **SECTION 98.** 30.19 (2) of the statutes is repealed.

12 **SECTION 99.** 30.19 (3) of the statutes is repealed.

13 **SECTION 100.** 30.19 (3r) of the statutes is created to read:

14 30.19 (3r) GENERAL PERMITS. (a) The department shall issue statewide general
15 permits under s. 30.206 that authorize persons to do all of the following:

16 1. Engage in an activity specified in sub. (1g) (am) in accordance with best
17 management practices required for storm water discharge permits under ch. 283.

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

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

22 **SECTION 101.** 30.19 (4) (title) of the statutes is amended to read:

23 30.19 (4) (title) ~~ISSUANCE OF PERMIT~~ INDIVIDUAL PERMITS.

24 **SECTION 102.** 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and
25 amended to read:

1 30.19 (4) (c) (intro.) ~~If the~~ The department finds that the project will not injure
2 public rights or interest, including fish and game habitat, that the project shall issue
3 an individual permit pursuant to an application under par. (a) if the department
4 finds that all of the following apply:

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

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

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

14 **SECTION 103.** 30.19 (4) (a) of the statutes is created to read:

15 30.19 (4) (a) For activities that are not exempt under sub. (1m) and that are
16 not subject to a general permit under sub. (3r), a person may apply to the department
17 for an individual permit in order to engage in an activity for which a permit is
18 required under sub. (1g).

19 **SECTION 104.** 30.19 (4) (b) of the statutes is created to read:

20 30.19 (4) (b) The notice and hearing provisions of s. 30.208 (3) to (5) apply to
21 an application under par. (a).

22 **SECTION 105.** 30.19 (4) (c) 1. of the statutes is created to read:

23 30.19 (4) (c) 1. The activity will not be detrimental to the public interest.

24 **SECTION 106.** 30.19 (5) of the statutes is amended to read:

navigable portion
of the

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 artificial waterways
4 ~~constructed under this section which are connected to navigable waterways shall be~~
5 water body be a public waterways 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

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:

if the connecting
portion is navigable

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

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

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

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

16 SECTION 111. 30.195 (4) of the statutes is repealed.

17 SECTION 112. 30.195 (7) of the statutes is repealed.

18 SECTION 113. 30.196 (intro.) of the statutes is amended to read:

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

1 **SECTION 114.** 30.20 (1) (title) of the statutes is repealed and recreated to read:
2 30.20 (1) (title) PERMITS OR CONTRACTS REQUIRED.

3 **SECTION 115.** 30.20 (1) (a) of the statutes is amended to read:

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

9 **SECTION 116.** 30.20 (1) (b) of the statutes is amended to read:

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

16 **SECTION 117.** 30.20 (1) (c) 1. and 2. of the statutes are consolidated, renumbered
17 30.20 (1g) (a) 1. and amended to read:

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

25 **SECTION 118.** 30.20 (1) (c) 3. of the statutes is renumbered 30.20 (1g) (a) 2.

1 **SECTION 119.** 30.20 (1) (d) of the statutes is renumbered 30.20 (1g) (c) and
2 amended to read:

3 **30.20 (1g) (c)** The A removal of material by the drainage board for the Duck
4 Creek Drainage District may, without a permit under sub. (2) (e), remove material
5 from a drain that the board operates in the Duck Creek Drainage District is exempt
6 from the individual and general permit requirements under this section if the
7 removal is required, under rules promulgated by the department of agriculture,
8 trade and consumer protection, in order to conform the drain to specifications
9 imposed by the department of agriculture, trade and consumer protection after
10 consulting with the department of natural resources.

11 **SECTION 120.** 30.20 (1g) (title) and (b) of the statutes are created to read:

12 **30.20 (1g) (title)** EXEMPTIONS.

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

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

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

21 **SECTION 121.** 30.20 (1m) of the statutes is created to read:

22 **30.20 (1m)** PERMITS OR CONTRACTS IN LIEU OF EXEMPTIONS. The department may
23 decide to require that a person engaged in an activity that is exempt under sub. (1g)
24 apply for an individual permit or contract, or seek authorization under a general
25 permit if the department has conducted an investigation and visited the site of the

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

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

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

7 **30.20 (1r) EXEMPTION DETERMINATIONS.** (a) A person may submit to the
8 department a written statement requesting that the department determine whether
9 a proposed activity is exempt under sub. (1g). *The statement shall contain a*
10 description and ^{site} ~~location~~ of the proposed activity. *and shall give the department*
consent to enter and
inspect the site.

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

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

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

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

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

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

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

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

13 SECTION 123. 30.20 (1t) of the statutes is created to read:

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

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

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

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

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

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

✓
IWS
36-12

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

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

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

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

11 30.20 (2) (bn) For a removal that is not exempt under sub. (1g) and that is not
12 subject to a general permit under sub. (1t), a person may apply to the department for
13 an individual permit that is required under sub. (1) (b) in order to remove material
14 from the bed of any lake or stream not described under sub. (1) (a).

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

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

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

24 30.20 (2) (d) If an applicant for a permit under par. (bn) submits the application
25 at least 30 days before the proposed date of the removal, the department may issue

1 the permit for a period of up to 10 years. The department may allow one extension
2 of a permit issued under this paragraph, upon application to the department. The
3 extension shall be for the same period of time as the original permit.

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

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

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

8 **30.201 Financial assurance for nonmetallic mining.** (1) If the
9 department requires that financial assurance be provided as a condition for a permit
10 under s. 30.19, 30.195, or 30.20 or for a contract under s. 30.20 for nonmetallic mining
11 and reclamation, the financial assurance may be a bond or alternative financial
12 assurance. An alternative financial assurance may include cash or any of the
13 following:

14 (a) A certificate of deposit.

15 (b) An irrevocable letter of credit.

16 (c) An irrevocable trust.

17 (d) An escrow account.

18 (e) A government security.

19 (f) Any other demonstration of financial responsibility.

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

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

23 **30.2022 (title) Activities of department of transportation.**

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

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

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

5 30.2026 (3) (a) The village of Belleville shall maintain any artificial barrier
6 created as authorized under sub. (1). If a landowner of more than 500 feet of Lake
7 Belle View shoreline, a portion of which is located within 1,000 feet of any such
8 artificial barrier, is dissatisfied with the manner in which the village of Belleville is
9 maintaining the barrier, the owner may maintain the barrier in lieu of the village,
10 upon approval of the department. The village or a landowner who maintains the
11 barrier shall comply with all state laws that relate to navigable bodies of water,
12 except s. 30.12 (1) and (2). The department may require the village of Belleville or
13 the landowner to maintain the barrier in a structurally and functionally adequate
14 condition.

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

16 30.206 (1) (title) PROCEDURE FOR ISSUING GENERAL PERMITS.

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

19 30.206 (1) (a) ~~For activities which require a permit or approval under ss. 30.12~~
20 ~~(3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a~~
21 ~~class of activities, according to rules promulgated by the department. Before issuing~~
22 ~~general permits, the department shall determine after an environmental analysis~~
23 ~~and notice and hearing under ss. 227.17 and 227.18, that. The department shall~~
24 issue the statewide general permits as rules promulgated under ch. 227 required
25 under ss. 30.12 (3) (a), 30.123 (7) (a), and 30.20 (1t) (a). The statewide general

1 permits required under ss. 30.12 (3) (a), 30.123 (7) (a), and 30.20 (1t) (a) shall be
2 promulgated with 540 days after the effective date of this paragraph [revisor
3 inserts date]. The department shall submit in proposed form the rule containing the
4 statewide general permit under s. 30.19 (3r) (a) and the rule under s. 30.19 (1d) to
5 the legislative council staff under section 227.15 (1) no later than the first day of the
6 6th month beginning after the effective date of this paragraph[revisor inserts
7 date]. General permits issued under s. 30.206, 2001 stats., shall remain valid until
8 the date upon which the rules issuing these statewide general permits are
9 promulgated under this paragraph.

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

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

17 30.206 (1) (c) 1. Construction and design requirements that are consistent with
18 the purpose of the activity authorized under the permit.

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

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

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

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

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 ^{plain} ~~inform the applicant in writing of its determination within 10 business days~~
13 ~~after receipt of adequate information~~ ^{plain} ~~of its determination within 10 business days~~
must give the department consent to enter and inspect the site, subject to

14 **SECTION 140.** 30.206 (3) (c) of the statutes is created to read: 5. 30.2910e

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

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

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

10 **SECTION 143.** 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and
11 amended to read:

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

20 **SECTION 144.** 30.206 (5) (title) of the statutes is created to read:

21 30.206 (5) (title) FAILURE TO FOLLOW PROCEDURAL REQUIREMENTS.

22 **SECTION 145.** 30.206 (6) of the statutes is amended to read:

23 30.206 (6) REQUEST FOR INDIVIDUAL PERMIT. A person proposing an activity for
24 which a general permit has been issued may request an individual permit under the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 3 1. The name and address of each applicant or permit holder.
- 4 2. A brief description of each applicant's activity or project that requires the
5 permit.
- 6 3. The name of the waterway in or for which the activity or project is planned.
- 7 4. For a notice of complete application and a notice of public hearing under sub.
8 (3), a statement of the tentative determination to issue, modify, or deny a permit for
9 the activity or project described in the application.
- 10 5. For a notice of complete application and a notice of public hearing under sub.
11 (3), a brief description of the procedures for the formulation of final determinations,
12 including a description of the comment period required under sub. (4).

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

- 15 1. Requiring that the applicant for the permit or contract provide by
16 publication, mailing, or other distribution or more of the notices.
- 17 2. That the applicant for the permit or contract pay for the publication, mailing,
18 or any other distribution costs of providing one or more of the notices.

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

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

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

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

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

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

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

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

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

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

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

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

1 the petition to the applicant. The applicant may file a response to the petition with
2 the department. If the applicant files a response under this paragraph, it shall be
3 filed within 15 days after the petition is filed.

4 (f) The department shall grant or deny the petition within 30 days after the
5 petition is filed. The failure of the department to dispose of the petition within this
6 30-day period is a denial. The department shall deny the petition if any of the
7 following applies:

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

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

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

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

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

23 (b) If a stay under sub. (1) (c) is in effect, the hearing examiner shall, within
24 30 days after receipt of the referral under sub. (1) (g), determine whether
25 continuation of the stay is necessary to prevent irreversible harm to the environment

1 pending completion of the hearing. The hearing examiner shall make the
2 determination based on the request under sub. (1) (c), any response from the
3 applicant under sub. (1) (e), and any testimony at a public hearing or any public
4 comments. The determination shall be made without a hearing.

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

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

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

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

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

22 **SECTION 153.** 30.28 (3) (a) of the statutes is renumbered 30.28 (3).

23 **SECTION 154.** 30.28 (3) (b) of the statutes is repealed.

24 **SECTION 155.** 30.285 of the statutes is created to read:

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

3 (a) The number of exempted activities that are conducted under ss. 30.12 (1g),
4 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department is aware.

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

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

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

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

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

14 (b) The date of the application.

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

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

18 **SECTION 156.** 30.29 (3) (d) of the statutes is amended to read:

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

24 **SECTION 157.** 30.291 of the statutes is created to read:

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^{(3) or ✓}(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.~~

Leave as (3) → (3) ~~If the owner grants the consent requested under sub. (2),~~ the department shall ^{provide} reasonable advance notice, ^{before entering} may enter the site and inspect ^{ing} the property ⁱⁿ compliance with the terms of the consent granted by the owner.

~~(4) If the owner refuses to ^{give} 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:~~

~~(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:

INS ✓
52-21

1 30.298 (3) Any person who violates a general permit under s. 30.206 shall
2 forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not
3 less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or
4 subsequent time.

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

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

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

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

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

9 **SECTION 161.** 299.05 (2) (a) of the statutes is amended to read:

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

12 **SECTION 162. Initial applicability.**

13 (1) CHAPTER 30 PROCEDURES.

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

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

20 (END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3881/P5ins
MGG:.....

LPS:
Please
check
for
extra
spaces.

(b) The department shall do all of the following within 15 days after receipt of a statement under par. (a).[✓]

1. Enter and inspect the site on which the activity is located, subject to s. 30.291,[✓] if the department determines such an inspection is necessary.

2. Make a determination^{as to} whether the activity is exempt^⓪

3. Notify in writing the person submitting the statement which general or individual permit will be required for the activity, if the department determines that the activity is not exempt.

(c) If the department fails to comply with ~~the~~^{the} par. (b),[✓] the department may not require at any time that the person proposing to engage in the activity apply for an individual permit or seek authorization under a general permit^⓪

(d) If the statement does not give consent to inspect, the 15-day time limit under par. (a) does not apply.

Insert 20-23

(b) The department shall do all of the following within 15 days after receipt of a statement under par. (a).[✓]

1. Enter and inspect the site on which the activity is located, subject to s. 30.291, if the department determines such an inspection is necessary.

2. Make a determination^{as to} whether the activity is exempt^⓪

3. Notify in writing the person submitting the statement which general or individual permit will be required for the activity, if the department determines that the activity is not exempt.

(c) If the department fails to comply with ²the par. (b)¹, the department may not require at any time that the person proposing to engage in the activity apply for an individual permit or seek authorization under a general permit.

(d) If the statement does not give consent to inspect, the 15-day time limit under par. (a) does not apply.

Insert 27-21

Notify

I also think it must be made clear that a given rule can apply to a specific priority or nonpriority waterway or classes of such waterways. MGG

Insert 36-12

(b) The department shall do all of the following within 15 days after receipt of a statement under par. (a).

1. Enter and inspect the site on which the activity is located, subject to s. 30.291, if the department determines such an inspection is necessary.

2. Make a determination ^{as to} whether the activity is exempt.

3. Notify in writing the person submitting the statement of which ^{general} permit or individual permit will be required ^{or whether a contract will be required} if the department determines that the activity is not exempt.

(c) If the department fails to comply with ²the par. (b), the department may not require at any time that the person proposing to engage in the activity apply for an individual permit, ^{or} seek authorization under a general permit, or apply to enter a contract.

(d) If the statement does not give consent to inspect, the 15-day time limit under par. (a) does not apply.

Insert 52-21

Lps:
Please
check
for
extra
spaces.

(4) If the owner of the site refuses to give consent for an entry and inspection 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.

D-Note

9# Again, there are embedded notes @
=

~~DATA~~ MBG

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

LRB-3881/P5dn
MGG:wlj:rs

January 6, 2004

Again, there are embedded notes.

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

Instruction for / P 6

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

3 **SECTION 22.** 30.12 (1g) (intro.), (a), (b), (e), (f), (i), (j), (k), (km) and (L) of the
4 statutes are created to read:

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

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

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

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

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

24 (i) Riprap in an amount not to exceed 100 linear feet that is placed to replace
25 existing riprap and that includes the replacement of filter fabric or base substrate.

1
2
3 plus
4
5 other
6 places
7 in
8 draft

1 a proposed activity is exempt under sub. (1g). The statement shall contain a
2 description and ^{and site} site of the proposed activity, and shall give the department consent
3 to enter and inspect the site.

(b) The department shall do all of the following within 15 days after receipt of
a statement under par. (a).

1. Enter and inspect the site on which the activity is located, subject to s. 30.291,
if the department determines such an inspection is necessary.

2. Make a determination as to whether the activity is exempt.

3. Notify in writing the person submitting the statement which general or
individual permit will be required for the activity, if the department determines that
the activity is not exempt.

(c) If the department ^{does not take action under} fails to comply with par. (b), the department may not
require at any time that the person proposing to engage in the activity apply for an
individual permit or seek authorization under a general permit.

(d) If ^a the statement ^{under sub (a) is not given or} does not give consent to inspect, the 15-day time limit
under par. ^(b) (a) does not apply.

If the statement does not give consent to inspect (b) use

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

30.12 (3) (title) GENERAL PERMITS.

SECTION 27. 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to
read:

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

SECTION 28. 30.12 (3) (a) 2. of the statutes is renumbered 30.12 (1g) (c) and
amended to read: