



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment IV

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2011 LRB-1446/1 (For: Senator Kedzie)

has been copied/added to the drafting file for

☞ **2011 LRB-3169** (For: Sen. Fitzgerald)

&

2011 LRB-3170 (For: Rep. Fitzgerald) (please refer to the drafting file for LRB-3169)

☞ Are These “Companion Bills” ?? ... Yes



RESEARCH APPENDIX -

PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 10/12/2011 (Per: RNK)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



6/28 (Tues)
State of Wisconsin
2011 - 2012 LEGISLATURE



RMR

LRB-1446/P2/P3

RNK&MGG:cjs:rs

Stamps

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV

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6/21

D-N

Gen Cat

1 **AN ACT to repeal** 30.12 (1k) (b), 30.12 (1k) (c) and 30.12 (1k) (cm) 3.; **to renumber**
2 **and amend** 30.12 (3) (a) 6. and 30.20 (1t) (a); **to amend** 30.01 (1am) (c), 30.12
3 (1g) (f), 30.12 (1k) (cm) 1., 30.12 (1k) (cm) 2., 30.12 (1k) (e) (intro.), 30.12 (1k)
4 (e) 2., 30.2095 (1) (b), 281.344 (9) (b) 1. a., 281.346 (9) (b) 1. a., 283.39 (1) (a),
5 283.53 (1), 285.61 (5) (c), 285.62 (3) (c), 285.76 (2) (a), 289.25 (3), 289.31 (4) (a),
6 289.41 (1m) (g) 1., 291.87 (3), 291.87 (6) (a) and 292.31 (3) (f); **to repeal and**
7 **recreate** 299.05; and **to create** 30.102, 30.106, 30.12 (3) (a) 6. c., 30.12 (3) (a)
8 14., 30.121 (3c), 30.19 (1m) (f), 30.19 (1m) (g), 30.20 (1g) (b) 3., 30.20 (1t) (a) 2.,
9 30.20 (1t) (a) 3., 31.12 (5), 281.41 (5), 285.63 (11) and 299.17 of the statutes;
10 **relating to:** information required to be published on the Department of
11 Natural Resources Internet Web site; identification of areas of significant
12 scientific value for purposes of regulating the placement of deposits and
13 structures on the beds of navigable waters and the removal of materials from
14 the beds of navigable waters; permit exemptions for land grading activities and
15 for persons who place piers and wharves in navigable waters; time limits for

repair and maintenance of boat houses; and
fish house ports

1 certain permits and contracts for navigable waters activities and projects;
 2 expedited procedures for plan approvals for dams and for water and sewerage
 3 systems; water quality certification procedures for certain wetlands; and
 4 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

5 **SECTION 1.** 30.01 (1am) (c) of the statutes is amended to read:

6 30.01 (1am) (c) An area that possesses significant scientific value, as identified
 7 by the department under s. 30.106.

8 **SECTION 2.** 30.102 of the statutes is created to read:

9 **30.102 Navigability determination and ordinary high-water mark**
 10 **identification.** If the department makes a determination that a waterway is
 11 navigable or is not navigable or identifies the ordinary high-water mark of a navigable waterway, the
 12 department shall publish that information on the department's Internet Web site.

13 **SECTION 3.** 30.106 of the statutes is created to read:

14 **30.106 AREAS OF SIGNIFICANT SCIENTIFIC VALUE.** In identifying areas that possess
 15 significant scientific value, the department may include only the following:

- 16 (1) Specific Waters or portions of waters that contain directly endangered or threatened species
 17 or aquatic elements or that affect that habitat critical habitat for

....NOTE: By removing the qualifying phrase relating to the Wisconsin Natural Heritage Inventory, "aquatic element" becomes a very vague term. OK?

Any person may rely on the information posted under this section as accurate.

1 (2) Wild rice waters as identified in a written agreement between the
2 department and the Great Lakes Indian Fish and Wildlife Commission.

3 (3) Waters in areas identified in a special area management plan approved by
4 the U.S. Army Corps of Engineers, or identified in a special wetland inventory study
5 conducted by the department.

6 (4) Waters in ecologically significant coastal wetlands along Lakes Michigan
7 and Superior as identified in the most recent assessment conducted by the
8 department of the coastal wetlands of Lakes Michigan and Superior.

****NOTE: Although a specific document may appear in the rules relating to areas of significant scientific value, putting such language in the statutes is discouraged because it may be unconstitutional as a improper delegation of legislative authority. Also, I think there is a later assessment than the 2000 version. I have drafted this so that the most recent version is the one to be used.

9 (5) Rivers that are included in the national wild and scenic rivers system and
10 rivers that are designated as wild rivers under s. 30.26.

****NOTE: I have omitted a reference to DNR or the DNR board being able to designate additional waters by rule because, as I understand it, the only waters that may be identified as having significant scientific value are the ones listed in this newly created statutory provision.

11 SECTION 4. 30.12 (1g) (f) of the statutes is amended to read:

12 30.12 (1g) (f) A pier or wharf that is no more than 68 feet wide, that extends
13 no further than to a point where the water is 3 feet at its maximum depth, or to the
14 point where there is adequate depth for mooring a boat or using a boat hoist or boat
15 lift, whichever is farther from the shoreline, and that has no more than 2 boat slips
16 for the first 50 feet of riparian owner's shoreline footage and no more than one
17 additional boat slip for each additional 50 feet of the riparian owner's shoreline. The
18 department shall determine adequate depth under this paragraph based upon
19 normal ^{average} summer time low levels on the relevant waterway or upon summer minimum
20 levels that are established by an order issued by the department and taking into

SECTION 4

1 ~~account the wave action on the relevant waterway from wind, currents, wakes, and~~
 2 ~~other typical causes of wave action.~~ Notwithstanding the width limitation in this
 3 paragraph, a pier may have an area as a loading platform that is more than 6 ^{no strike} feet
 4 wide if the platform is not more than 8 feet wide, it extends perpendicular to one or
 5 both sides of the pier, and it is located at the lakeward end of the pier or at the end
 6 of the pier that extends into a stream ~~does not have more than 300 feet in surface~~ ^{200 square}
 7 ~~area.~~

....NOTE: I recognize that the underscored language is based on a provision in DNR rules but I do not think that the language is as clear as it could be. For example, the use of the term "summer" and "summer time" in the same sentence is confusing. Do they mean different things? And are "low levels" different than "minimum levels"? Finally, what kind of "order" does DNR issue with regard to minimum levels?

INSERT
4-7 RNK
4-7 MGG
4-7 RNK 2

9 **SECTION 5.** 30.12 (1k) (b) ^{1.} of the statutes is repealed.

10 **SECTION 6.** 30.12 (1k) (c) of the statutes is repealed.

11 **SECTION 7.** 30.12 (1k) (cm) 1. of the statutes is amended to read:

12 30.12 (1k) (cm) 1. A structure for which the department has issued a permit
 13 under this section on or before February 6, 2004, if the structure is in compliance with
 14 that permit.

15 **SECTION 8.** 30.12 (1k) (cm) 2. of the statutes is amended to read:

16 30.12 (1k) (cm) 2. A structure for which the department has issued a written
 17 authorization on or before February 6, 2004, if the structure is in compliance with
 18 that written authorization.

19 **SECTION 9.** 30.12 (1k) (cm) 3. of the statutes is repealed.

20 **SECTION 10.** 30.12 (1k) (e) (intro.) of the statutes is amended to read:

21 30.12 (1k) (e) (intro.) A riparian owner who is exempt under par. (b) from the
 22 permit requirements under this section or who is exempt under par. (cm) from
 enforcement action under this chapter may do all of the following:

INSERT
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X
X

1 **SECTION 11.** 30.12 (1k) (e) 2. of the statutes is amended to read:

2 30.12 (1k) (e) 2. If the exempt structure is a pier or wharf, relocate or
3 reconfigure the pier or wharf if the riparian owner does not enlarge the pier or wharf,
4 ~~the riparian owner registered the pier or wharf with the department under par. (b)~~
5 ~~3. and, before relocating or reconfiguring the pier or wharf, the riparian owner~~
6 ~~registers the reconfigured or relocated pier or wharf with the department under this~~
7 ~~subdivision.~~

8 **SECTION 12.** 30.12 (3) (a) 6. of the statutes is renumbered 30.12 (3) (a) 6. (intro.)
9 and amended to read:

10 30.12 (3) (a) 6. (intro.) Place a permanent boat shelter adjacent to the owner's
11 property for the purpose of storing or protecting watercraft and associated materials,
12 except that no general or individual permit may be issued for a permanent boat
13 shelter that is constructed after May 3, 1988, if ~~the~~ any of the following apply:

14 a. The property on which the permanent boat shelter is to be located also
15 contains a boathouse within 75 feet of the ordinary high-water mark ~~or if there,~~

16 b. ~~There~~ is a boathouse over navigable waters adjacent to the owner's property.

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

18 30.12 (3) (a) 6. c. The permanent boat shelter extends beyond the length of the
19 pier.

 ****NOTE: Please review this language carefully to ensure that it meets your intent.
 Your proposed language included the phrase "whichever is less" but didn't indicate what
 the other comparative standard should be.

20 **SECTION 14.** 30.12 (3) (a) 14. of the statutes is created to read:

21 30.12 (3) (a) 14. Place a pier ~~or wharf~~ on the bed of a navigable water that is
22 in, or that would ~~immediately~~ ^{directly} affect, an area of special natural resource interest and

1 that is adjacent to the owner's property if the pier or ~~wharf~~ meets the requirements
2 of sub. (1g) (f).

***NOTE: I think that additional language may be needed in this provision. What makes an effect "immediate?" And what kind of effect must there be?

INSERT
6-2

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2-16

3 SECTION 15. 30.121 (3c) of the statutes is created to read:

INS
6-2M

4 30.121 (3c) EXCEPTION; CERTAIN BOATHOUSES. Subsection (3) does not apply to the
5 ~~repair or maintenance of~~ ^{repairing ~~and~~ maintaining} a boathouse if the boathouse was in existence on December
6 16, 1979, and ~~the repair or maintenance does not expand the footprint, height, or~~ ^{the repairing ~~and~~ maintaining}
7 ~~area of the boathouse and the repair and maintenance does not result in the~~ ^{does not affect the size, location, or configuration of}
8 boathouse being converted into living quarters.

***NOTE: The general limitation on the maintenance and repair of boathouses needs to be kept in current law because it interacts with the existing exceptions under s. 30.121 (3g), (3m), (3r), and (3w).

INSERT
6-8

***NOTE: This exception applies only to boathouses and not houseboats. OK?

9 SECTION 16. 30.19 (1m) (f) of the statutes is created to read:

10 30.19 (1m) (f) Any land grading activity authorized under a stormwater
11 discharge permit issued under s. 283.33.

12 SECTION 17. 30.19 (1m) (g) of the statutes is created to read:

13 30.19 (1m) (g) Any land grading activity authorized by a permit issued by a
14 county under a shoreland zoning ordinance enacted under s. 59.692.

15 SECTION 18. 30.20 (1g) (b) 3. of the statutes is created to read:

16 30.20 (1g) (b) 3. The amount of material removed is less than 10 cubic yards
17 ~~and~~ the removal is necessary to allow access to a pier or wharf.

5
and the removal occurs not more than once per year

18 SECTION 19. 30.20 (1t) (a) of the statutes is renumbered 30.20 (1t) (a) (intro.)
19 and amended to read:

20 30.20 (1t) (a) (intro.) The department shall issue statewide general permits
21 under s. 30.206 that authorize any all of the following:

1 1. Any person to remove material for maintenance purposes from an area from
2 which material has been previously removed.

3 SECTION 20. 30.20 (1t) (a) 2. of the statutes is created to read:

4 30.20 (1t) (a) 2. Any riparian owner to remove 50 cubic yards or less of material
5 from a lake or stream adjacent to the riparian owner's property, by means other than
6 blasting, for the purpose of placing a pier or wharf ~~or of providing access to a pier or~~
7 ~~wharf.~~ or maintaining a boat/lift on

8 SECTION 21. 30.20 (1t) (a) 3. of the statutes is created to read:

9 30.20 (1t) (a) 3. Any person to annually remove not more than 3000 cubic yards
10 of plant or animal nuisance deposits ^{as defined by the department by rule} from a stream, inland lake, or outlying waters
11 if the plant or animal nuisance deposits impede navigation.

****NOTE: This language needs clarification. Is it intended to apply only to riparian owners? Does the "annual" requirement mean that the person can conduct removal only once a year or does it mean that removal can occur only once a year on a given waterway? Also, I think the phrase "plant or animal nuisance deposits" needs a definition. I'm not sure what constitutes a "plant or animal nuisance deposit." Finally, should this provision refer simply to a "navigable water" rather than to a "stream, inland lake, or outlying waters"?

12 SECTION 22. 30.2095 (1) (b) of the statutes is amended to read:

13 30.2095 (1) (b) The department may specify a time limit of less than 3 years
14 for a permit or contract issued under ss. 30.01 to 30.29. For good cause, the ~~The~~
15 department ~~may~~ ^{shall} extend the time limit for a permit or contract issued under ss. 30.01
16 to 30.29 for no longer than 2 an additional 5 years if the grantee requests an
17 extension prior to expiration of the initial time limit.

****NOTE: Please let me know if you want to keep the "good cause" requirement in this provision.

18 SECTION 23. 31.12 (5) of the statutes is created to read:

SECTION 23

as defined in s. 31.19(1g)(b)

1 31.12 (5) The department shall promulgate rules that establish an expedited
2 procedure for approval of plans *for low hazard dams* under this section. The expedited procedure shall
3 apply, in lieu of the procedure under this section, if all of the following are satisfied:

4 (a) The plan design is of a common construction and size or is for a minor
5 addition to an existing dam.

6 (b) The plan design is submitted by a registered professional engineer.

7 (c) The plan design is submitted by a person who has designed similar dams
8 and none of those similar dams has caused adverse impacts to the environment.

9 (d) The plan design contains no unusual siting requirements or other unique
10 design features.

*****NOTE: Please see the note after s. 281.41 (5). Also, do you want to limit the expedited procedure to only low hazard dams or dams that are not large dams (see s. 31.19; stats.), as suggested by Russell Rasmussen at DNR?*

11 **SECTION 24.** 281.344 (9) (b) 1. a. of the statutes is amended to read:

12 281.344 (9) (b) 1. a. Publication of the notice as a class 1 notice under ch. 985
13 or as a notice on its Internet Web site.

14 **SECTION 25.** 281.346 (9) (b) 1. a. of the statutes is amended to read:

15 281.346 (9) (b) 1. a. Publication of the notice as a class 1 notice under ch. 985
16 or as a notice on its Internet Web site.

17 **SECTION 26.** 281.41 (5) of the statutes is created to read:

18 281.41 (5) The department shall promulgate rules that establish an expedited
19 procedure for approval of plans under this section. The expedited procedure shall
20 apply, in lieu of the procedure under sub. (1) (b) if all of the following are satisfied:

21 (a) The plan design is of a common construction and size or is for a minor
22 addition to an existing facility.

23 (b) The plan design is submitted by a registered professional engineer.

1 (c) The plan design is submitted by a person who has designed similar facilities
2 and none of those similar facilities has caused adverse impacts to the environment.

3 (d) The plan design contains no unusual siting requirements or other unique
4 design features.

....NOTE: These criteria are very general in nature. You may want to consider making them somewhat more narrow in scope. For example, when is an addition "minor"? Does that refer to the size of the addition, the cost of the addition, the purpose of the addition, or something else entirely?

My notes from the May 3rd meeting indicate that more information will be provided in order to make these criteria more narrow in scope.

5 SECTION 27. 283.39 (1) (a) of the statutes is amended to read:

6 283.39 (1) (a) Publication of the notice as a class 1 notice under ch. 985 or as
7 a notice on its Internet Web site;

8 SECTION 28. 283.53 (1) of the statutes is amended to read:

9 283.53 (1) No permit issued by the department under s. 283.31 or 283.33 shall
10 have a an initial term for more than 5 years. Upon the request of a permit holder,
11 the department may extend the term of the initial permit ^{renew the} by not more than 5

12 additional years. There is no limit on the number of times that a permit may be renewed.

NOTE: You had asked that this draft also authorize DNR to extend "wetlands permits" by an amount up to 5 years. I assume that you are referring to water quality certifications for wetlands that are issued by DNR. I could not find any references in the statutes or administrative code that suggests that water quality certifications are issued for a limited time period. Consequently this draft does not authorize DNR to extend "wetlands permits." Please let me know if you have additional information on this issue. Also, do you want the amended language to allow a permit holder to request more than one extension? The language is not clear on this issue.

13 SECTION 29. 285.61 (5) (c) of the statutes is amended to read:

14 285.61 (5) (c) Newspaper notice. The department shall publish a class 1 notice
15 under ch. 985, or shall publish notice on its Internet Web site, announcing the
16 opportunity for written public comment and the opportunity to request a public
17 hearing on the analysis and preliminary determination.

18 SECTION 30. 285.62 (3) (c) of the statutes is amended to read:

1 285.62 (3) (c) The department shall publish the notice prepared under par. (a)
2 as a class 1 notice under ch. 985 in a newspaper published in the area that may be
3 affected by emissions from the stationary source, or shall publish the notice on its
4 Internet Web site.

5 **SECTION 31.** 285.63 (11) of the statutes is created to read:

6 285.63 (11) MODELING. The department is not required to use air dispersion
7 modeling as a basis for making its findings under subs. (1) to (3).

8 **SECTION 32.** 285.76 (2) (a) of the statutes is amended to read:

9 285.76 (2) (a) Publish a class 1 notice, under ch. 985, of the proposed
10 redesignation and request for consultation with the state in a newspaper of general
11 circulation in the area that would be affected by the redesignation, as determined
12 using standards established by the federal environmental protection agency, or
13 publish a notice on the department's Internet Web site; and publish a class 1 notice,
14 under ch. 985, in the official state newspaper; and provide a written statement
15 concerning the proposed redesignation to ~~those newspapers~~ each newspaper in
16 which it publishes a class 1 notice under this subsection.

17 **SECTION 33.** 289.25 (3) of the statutes is amended to read:

18 289.25 (3) NOTIFICATION ON FEASIBILITY REPORT AND PRELIMINARY ENVIRONMENTAL
19 IMPACT STATEMENT DECISIONS. Immediately after the department issues a preliminary
20 determination that an environmental impact statement is not required or, if it is
21 required, immediately after the department issues the environmental impact
22 statement, the department shall publish a class 1 notice under ch. 985 in the official
23 newspaper designated under s. 985.04 or 985.05 or, if none exists, in a newspaper
24 likely to give notice in the area of the proposed facility, or shall publish a notice on
25 its Internet Web site. The notice shall include a statement that the feasibility report

1 and the environmental impact statement process are complete. The notice shall
2 invite the submission of written comments by any person within 30 days after the
3 notice for a solid waste disposal facility or within 45 days after the notice for a
4 hazardous waste facility is published. The notice shall describe the methods by
5 which a hearing may be requested under ss. 289.26 (1) and 289.27 (1). The
6 department shall distribute copies of the notice to the persons specified under s.
7 289.32.

8 **SECTION 34.** 289.31 (4) (a) of the statutes is amended to read:

9 289.31 (4) (a) Publishing a class 1 notice, under ch. 985, in a newspaper likely
10 to give notice in the area where the facility is located or publishing a notice on its
11 Internet Web site.

12 **SECTION 35.** 289.41 (1m) (g) 1. of the statutes is amended to read:

13 289.41 (1m) (g) 1. The owner of an approved mining facility may apply, at any
14 time at least 40 years after the closing of the facility, to the department for
15 termination of the owner's obligation to maintain proof of financial responsibility for
16 long-term care of the facility. Upon receipt of an application under this subdivision,
17 the department shall publish a class 1 notice under ch. 985 in the official newspaper
18 designated under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give
19 notice in the area of the facility, or shall publish a notice on its Internet Web site. The
20 notice shall include a statement that the owner has applied to terminate the owner's
21 obligation to maintain proof of financial responsibility for the long-term care of the
22 facility. The notice shall invite the submission of written comments by any person
23 within 30 days after the notice is published. The notice shall describe the methods
24 by which a hearing may be requested under subds. 2. and 3. The department shall
25 distribute a copy of the notice to the owner of the facility. In any hearing on the

1 matter, the burden is on the owner to prove by a preponderance of the evidence that
2 continuation of the requirement to provide proof of financial responsibility for
3 long-term care is not necessary for adequate protection of human health or the
4 environment. Within 120 days after the publication of the notice or within 60 days
5 after any hearing is adjourned, whichever is later, the department shall determine
6 whether proof of financial responsibility for long-term care of the facility continues
7 to be required. A determination that proof of financial responsibility for long-term
8 care is no longer required terminates the owner's obligation to maintain proof of
9 financial responsibility for long-term care. The owner may not submit another
10 application under this subdivision until at least 5 years after the previous
11 application has been rejected by the department.

12 **SECTION 36.** 291.87 (3) of the statutes is amended to read:

13 291.87 (3) If the licensee requests a hearing within 45 days after receiving the
14 notice under sub. (2), the department shall schedule a hearing and give notice of the
15 hearing by publishing a class 1 notice, under ch. 985, or by publishing a notice on its
16 Internet Web site, at least 45 days prior to the date scheduled for the hearing. If the
17 licensee requests a contested case hearing and if the conditions specified under s.
18 227.42 (1) (a) to (d) are satisfied, the department shall conduct the hearing as a
19 contested case; otherwise, the department shall conduct the hearing as an
20 informational hearing. There is no statutory right to any hearing concerning the
21 denial, suspension or revocation of a license for the reasons stated under sub. (1m)
22 (b) to (f) except as provided under this subsection.

23 **SECTION 37.** 291.87 (6) (a) of the statutes is amended to read:

1 291.87 (6) (a) Publishing a class 1 notice, under ch. 985, in a newspaper likely
2 to give notice in the area where the facility is located or publishing a notice on its
3 Internet Web site.

4 **SECTION 38.** 292.31 (3) (f) of the statutes is amended to read:

5 292.31 (3) (f) *Notice; hearing.* The department shall publish a class 1 notice,
6 under ch. 985 or shall publish a notice on its Internet Web site, prior to taking
7 remedial action under this subsection and subs. (1) and (7), which describes the
8 proposed remedial action and the amount and purpose of any proposed expenditure.
9 Except as provided under par. (d), the department shall provide a hearing to any
10 person who demands a hearing within 30 days after the notice is published for the
11 purpose of determining whether the proposed remedial action and any expenditure
12 is within the scope of this section and is reasonable in relation to the cost of obtaining
13 similar materials and services. The department is not required to conduct more than
14 one hearing for the remedial action proposed at a single site or facility.
15 Notwithstanding s. 227.42, the hearing shall not be conducted as a contested case.
16 The decision of the department to take remedial action under this section is a final
17 decision of the agency subject to judicial review under ch. 227.

18 ~~**SECTION 39.** 299.05 of the statutes is repealed and recreated to read:~~

19 ~~**299.05 Deadlines for action on certain applications.** (1) DEADLINES. The~~
20 ~~department, by rule, shall establish periods within which the department intends to~~
21 ~~approve or disapprove an application for any of the following:~~

- 22 ~~(a) An approval under s. 30.10, 30.12, 30.123, 30.18, 30.19, or 30.20.~~ ^{30.175}
- 23 ~~(b) A well driller or pump installer registration under s. 280.15.~~
- 24 ~~(c) A water system, wastewater treatment plant, or septage servicing vehicle~~
25 ~~operator certification under s. 281.17 (3).~~

SECTION 39

- 1 (d) A license for servicing septic tanks and similar facilities under s. 281.48 (3).
2 (e) A solid waste incinerator operator certification under s. 285.51 (2).
3 (f) An ozone-depleting refrigerant removal approval under s. 285.59.
4 (g) An air pollution control permit under s. 285.60.
5 (h) A solid waste disposal facility operator certification under s. 289.42 (1).
6 (i) A hazardous waste transportation service license under s. 291.23.
7 (j) A metallic mining exploration license under s. 293.21.
8 (k) An oil or gas exploration license under s. 295.33 (1).
9 (L) A laboratory certification or registration under s. 299.11.
10 (m) A medical waste transportation license under s. 299.51 (3) (c).

11 **(2) FAILURE TO MEET DEADLINE.** (a) Subject to sub. (4), the department shall
12 refund fees paid by the applicant for a license or other approval specified in sub. (1)
13 if the department fails to provide the applicant with written notice that the
14 department has approved or disapproved the application for the license or other
15 approval, including the specific facts upon which any disapproval is based, before the
16 expiration of the period established under sub. (1) for the license or other approval.

17 (b) Subject to sub. (4), if the department fails to provide the applicant for a
18 license or other approval specified in sub. (1) with written notice that the department
19 has approved or disapproved the application before the expiration of the period
20 established under sub. (1) for the license or other approval, the applicant may choose
21 to proceed under ch. 227 as though the department had disapproved the application
22 by providing the department with written notice of that choice no later than 45 days
23 after the expiration of the period established under sub. (1).

*The application
shall be considered
to be approved*

1 (c) The department may not disapprove an application for a license or other
2 approval solely because the department is unable to complete its review of the
3 application within the period established under sub. (1).

4 **(3) NOTICE OF DEADLINE.** Upon receiving an application for a license or other
5 approval specified in sub. (1), the department shall inform the applicant of the period
6 established under sub. (1) for the license or other approval.

7 **(4) PERMITTED EXTENSION OF DEADLINE.** The department may extend the period
8 established under sub. (1) because an application is incomplete if all of the following
9 apply:

10 (a) Within 14 days after receiving the application, the department provides
11 written notice to the applicant describing specifically the information that must be
12 provided to complete the application.

13 (b) The information under par. (a) is directly related to eligibility for the license
14 or other approval or to terms or conditions of the license or other approval.

15 (c) The information under par. (a) is necessary to determine whether to approve
16 the application or is necessary to determine the terms or conditions of the license or
17 other approval.

18 (d) The extension is not longer than the number of days from the day on which
19 the department provides the notice under par. (a) to the day on which the department
20 receives the information.

****NOTE: This provision, which comes from 2003 SB 246, seems to require DNR
to make a decision on an application on the same day that DNR receives the additional
information. Is this consistent with your intent?

21 **SECTION 40.** 299.17 of the statutes is created to read:

22 **299.17 Web site information.** The department shall publish on the
23 department's Internet Web site the current status of any application filed with the

↓
30

1 department for a permit, license, or other approval under chs. 281 to 285, or 289 to
2 299. The information shall include notice of any hearing scheduled by the
3 department with regard to the application.

4 (END)

2011-2012 DRAFTING INSERT
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P3
LRB-1446/ins.
RNK:.....

✓
INSERT 4-7RNK

Δ....Δ [LRB insert
date] Δ

1 SECTION 1. 30.11 (4m) of the statutes is created to read:

2 30.11 (4m) PLACEMENT OF FILL AND STRUCTURES. (a) A riparian owner may place
3 additional fill or a structure on the filled bed of a navigable water landward of an
4 established bulkhead line without obtaining an approval under this chapter if the
5 bed of the navigable water was filled before the effective date of this paragraph and
6 the filled area is not subject to a lease under s. 24.39. ✓

7 (b) If the bed of a navigable water landward of an established bulkhead line was
8 not filled before the effective date of this paragraph, a riparian owner may place fill
9 or a structure on the bed of that navigable water without obtaining an approval
10 under this chapter if the riparian owner places the fill or the structure in ^{an} area that
11 is not subject to a lease under s. 24.39 and places the fill or structure for a public
12 purpose.

***NOTE: The term "public purpose" is not defined. Do you want to include a
definition or otherwise describe this term? ✓

13 SECTION 2. 30.12 (1g) (f) of the statutes is amended to read:

14 30.12 (1g) (f) A pier or wharf that is no more than 6 feet wide, that extends no
15 further than to a point where the water is 3 feet at its maximum depth, or to the point
16 where there is adequate depth for mooring a boat or using a boat hoist or boat lift,
17 whichever is farther from the shoreline, and that has no more than 2 boat slips for
18 the first 50 feet of riparian owner's shoreline footage and no more than one additional
19 boat slip for each additional 50 feet of the riparian owner's shoreline. The
20 department shall determine adequate depth in a manner that allows at least one foot
21 of water clearance under the deepest point of the boat at the pier or wharf or under
22 the deepest point of the boat hoist or boat lift, whichever depth is greater.



1 Notwithstanding the width limitation in this paragraph, a pier may have an area as
 2 a loading platform that is more than 6 feet wide if the platform is not more than 8
 3 feet wide, it extends perpendicular to one or both sides of the pier, and it is located
 4 at the lakeward end of the pier or at the end of the pier that extends into a stream
 5 immediately adjacent to the riparian owner's shoreline and the surface area of the
 6 platform does not exceed 200 square feet. Notwithstanding the allowable number
 7 of boat slips specified under this paragraph, a riparian owner may moor 2 additional
 8 personal watercraft at the pier or wharf.

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16; 2003 a. 118, 321, 326, 327; 2007 a. 204.

a pier or wharf if the placement of the pier or wharf does not interfere with the riparian rights of other riparian owners and the pier or wharf is
 INSERT 4-7 RNK2

9 SECTION 3. 30.12 (1k) (b) (intro.) of the statutes is amended to read:
 10 30.12 (1k) (b) (intro.) In addition to the exemptions under sub. (1g), a riparian
 11 owner of a pier or wharf that was placed on the bed of a navigable water on or before
 12 February 6, 2004, is exempt from the permit requirements under this section if all
 13 for the placement of any of the following apply:

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16; 2003 a. 118, 321, 326, 327; 2007 a. 204.

INSERT 4-8

STET: leave as typed

14 SECTION 4. 30.12 (1k) (b) 1m. of the statutes is created to read:
 15 30.12 (1k) (b) 1m. *the* pier or wharf that is open to the general public or to which
 16 the public may gain admission for a fee, *is* in substantially the same size and
 17 configuration as it was on February 6, 2004, ~~and that does not interfere with the~~
 18 ~~riparian rights of other riparian owners.~~

RPJ
 → (A) SEC. #. (30.12(1k)(b) 2.

1 ⁹ ~~sect.~~ RP; 30.12(1k)(b) 3., as affected by 2011 Wisconsin Act 25
 2 ~~sect.~~ CR; 30.12(1k)(b) 2m.
 2m. A solid pier, as defined in sub. (3m) (d) 1., that was placed on the bed of an
 2 30.12(1k)(b) B outlying water on or before February 6, 2004 and that does not interfere with the
 3 riparian rights of other riparian owners.

INS 6-2

4

SECTION 5. 30.12 (3) (d) of the statutes is created to read:

5

30.12 (3) (d) The department may impose conditions on general permits issued

6

under par. (a) 14. but may not prohibit a riparian owner who meets those conditions

7

from placing a pier as specified under par. (a) 14.

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LRB-1446/P3ins
MGG:.....

1 *✓* **Insert 4-7** *MGG* *whether*
2 **SECTION 1.** 30.12 (1h) of the statutes is created to read:
3 30.12 (1h) EXEMPTION FOR RIPRAP. The exemptions under sub. (1g) (i) and (j)
4 apply regardless of the existing riprap was authorized by permit.

5 **Insert 6-2** *M*
6 **SECTION 2.** 30.121 (1) of the statutes is created to read:
7 30.121 (1) DEFINITION. In this section, the terms “maintiain” and “repair”
8 include^e replacing structural elements, including roofs, doors, walls, windows,
9 beams, porches, and floors.

10 **SECTION 3.** 30.121 (3) of the statutes is amended to read:
11 30.121 (3) MAINTENANCE AND REPAIR. The riparian owner of any boathouse or
12 fixed houseboat extending beyond the ordinary high-water mark of any navigable
13 waterway may repair and or maintain the boathouse or fixed houseboat if the cost
14 of the ~~repair or maintenance~~ to repair or maintain the boathouse or fixed houseboat
15 does not exceed 50% of the equalized assessed value of the boathouse or fixed
16 houseboat. If the boathouse or fixed houseboat is not subject to assessment, the
17 owner may ~~make repairs~~ repair or maintain^{the} ~~boathouse~~^{or the} ~~the~~ fixed houseboat if the cost
18 of the repair or maintenance does not exceed 50% of the current fair market value
19 of the boathouse or fixed houseboat.

INSERT 6-8

20 History: 1979 c. 101; 1981 c. 117; 1983 a. 27 s. 2292 (38); 1987 a. 374, 395; 1995 a. 27; 2001 a. 16; 2003 a. 118.
21 **SECTION 4.** 30.121 (3g) of the statutes is amended to read:
22 30.121 (3g) EXCEPTION; HISTORICAL OR CULTURAL VALUE. Subsection (3) does not
23 apply to the ~~repair or maintenance of~~ repairing or maintaining a boathouse or a fixed
houseboat if the boathouse or fixed houseboat has a historic or cultural value, as

1 determined by the state historical society or a local or county historical society
2 established under s. 44.03.

History: 1979 c. 101; 1981 c. 117; 1983 a. 27 s. 2202 (38); 1987 a. 374, 395; 1995 a. 27; 2001 a. 16; 2003 a. 118.

3 **SECTION 5. 30.121 (3r)** of the statutes is amended to read:

4 **30.121 (3r) EXCEPTION; DAMAGES AFTER JANUARY 1, 1984.** Subsections (2) and
5 (3) do not apply to ~~the repair or reconstruction of repairing and reconstructing~~ a
6 damaged boathouse if the boathouse was damaged by violent wind, vandalism or fire
7 and if the damage occurs after January 1, 1984.

History: 1979 c. 101; 1981 c. 117; 1983 a. 27 s. 2202 (38); 1987 a. 374, 395; 1995 a. 27; 2001 a. 16; 2003 a. 118.

***NOTE: This redraft of s. 30.121 contains the changes discussed at the meeting
on May 2nd.

23rd

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

LRB-1446/P3dn

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gs

Kite

This version of the draft remains in preliminary form and incorporates changes requested at the May 3rd meeting concerning this draft. The draft contains various notes that raise issues and questions that will need to be resolved before the draft is finalized. Please also note that this version of the draft does not include the portion of the draft that relates to deadlines for action on certain applications. I wanted to provide you with as much of the redraft as possible at this time as I continue to work on that portion of the redraft. I will include the portion relating to deadlines in the next version of the draft.

Please feel free to contact me if you have any questions with regard to this draft.

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

LRB-1446/P3dn
RNK:cjs:jf

June 22, 2011

This version of the draft remains in preliminary form and incorporates changes requested at the May 3rd meeting concerning this draft. The draft contains various notes that raise issues and questions that will need to be resolved before the draft is finalized. Please also note that this version of the draft does not include the portion of the draft that relates to deadlines for action on certain applications. I wanted to provide you with as much of the redraft as possible at this time as I continue to work on that portion of the redraft. I will include the portion relating to deadlines in the next version of the draft.

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