

# State of Wisconsin



2003 Assembly Bill 655

Date of enactment: **January 22, 2004**

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## 2003 WISCONSIN ACT 118

AN ACT *to repeal* 30.01 (6b), 30.02, 30.12 (2), 30.12 (3) (a) 3., 30.12 (3) (b), 30.12 (3) (bn), 30.12 (3) (d), 30.12 (4) (title), 30.12 (4m) (title), 30.123 (3), 30.135 (1) (title), 30.135 (2), (3) and (4), 30.19 (1) (b), 30.19 (2), 30.19 (3), 30.195 (3) (title), 30.206 (2), 30.206 (3m), 30.207 (4) (b), 30.207 (5), 30.28 (3) (b), 285.60 (2m) and 299.05 (2) (d); *to renumber* 30.12 (3) (bt) 1. to 9., 30.12 (4) (d), 30.135 (1) (a) 1., 30.135 (1) (a) 3., 30.20 (1) (c) 3., 30.28 (3) (a), 285.17 (2), 285.60 (6), 285.62 (8) and 285.66 (2); *to renumber and amend* 30.015, 30.07, 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12 (3) (a) 7., 30.12 (3) (a) 8., 30.12 (3) (bt) (intro.), 30.12 (4) (a), 30.12 (4) (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f), 30.12 (4m), 30.123 (1), 30.123 (4), 30.135 (1) (a) (intro.), 30.135 (1) (a) 2., 30.135 (1) (b), 30.19 (1) (intro.), 30.19 (1) (a), 30.19 (1) (c), 30.19 (4), 30.195 (3), 30.20 (1) (d), 30.206 (1), 30.206 (3), 30.206 (4), 285.21 (1) (b), 285.27 (2) (b), 285.61 (2) and 285.62 (2); *to consolidate, renumber and amend* 30.20 (1) (c) 1. and 2.; *to amend* 29.601 (5) (a), 30.01 (1p), 30.025 (1b) (b), 30.025 (1e) (a), 30.025 (1m) (a), 30.025 (2g) (a), 30.025 (3) (intro.), 30.025 (4), 30.10 (4) (a), 30.11 (4), 30.12 (title), 30.12 (1) (intro.), 30.12 (1) (a), 30.12 (1) (b), 30.12 (3) (a) 6., 30.12 (3) (c), 30.123 (2), 30.13 (1m) (intro.), 30.13 (1m) (b), 30.13 (4) (a), 30.13 (4) (b), 30.18 (2) (a) (intro.), 30.18 (2) (b), 30.18 (4) (a), 30.18 (6) (b), 30.19 (1m) (intro.), 30.19 (1m) (a), 30.19 (1m) (b), 30.19 (1m) (c), 30.19 (1m) (d), 30.19 (1m) (e), 30.19 (4) (title), 30.19 (5), 30.195 (1), 30.196 (intro.), 30.20 (1) (a), 30.20 (1) (b), 30.20 (2) (title), 30.20 (2) (a) and (b), 30.20 (2) (c), 30.2026 (2) (d), 30.2026 (3) (a), 30.206 (6), 30.206 (7), 30.207 (1), 30.207 (3) (d) 2., 30.29 (3) (d), 30.298 (3), 84.18 (6), 227.14 (2) (a), 227.19 (3) (intro.), 227.19 (3) (a), 227.19 (3) (b), 227.53 (1) (a) 3., 236.16 (3) (d) (intro.), 285.11 (9), 285.21 (4), 285.23 (1), 285.23 (2), 285.27 (1) (a), 285.27 (2) (a), 285.27 (4), 285.60 (1) (a) 1., 285.61 (3) (intro.), 285.61 (3) (a), 285.61 (7) (a), 285.62 (1), 285.62 (5) (a), 285.62 (6) (c) 1., 285.62 (7) (b), 285.63 (1) (d), 285.66 (3) (a), 285.81 (1) (intro.) and 299.05 (2) (a); *to repeal and recreate* 30.12 (3) (title), 30.12 (3) (a) (intro.), 30.123 (title), 30.195 (2), 30.20 (1) (title), 285.60 (3) and 285.62 (9) (b); and *to create* 30.01 (1am), 30.01 (2m), 30.025 (5), 30.12 (1g) (intro.), (a), (b), (e), (f), (i), (j), (k) and (km), 30.12 (1p), 30.12 (2m), 30.12 (2r), 30.12 (3) (a) 3c., 30.12 (3) (a) 3g., 30.12 (3) (a) 3r., 30.12 (3) (a) 13., 30.12 (3) (br), 30.12 (3m), 30.121 (3w), 30.123 (6), 30.123 (6m), 30.123 (6r), 30.123 (6s), 30.123 (7), 30.123 (8), 30.19 (1b), 30.19 (1c), 30.19 (1d), 30.19 (1m) (cm), 30.19 (3r), 30.19 (4) (a), 30.19 (4) (b), 30.19 (4) (c) 1., 30.20 (1g) (title) and (b), 30.20 (1k), 30.20 (1m), 30.20 (1r), 30.20 (1t), 30.20 (2) (bn), 30.20 (2) (d), 30.20 (2) (e), 30.201, 30.2022 (title), 30.206 (1) (title), 30.206 (1) (c) 1. to 3., 30.206 (3) (title), 30.206 (3) (c), 30.206 (3r), 30.206 (5) (title), 30.208, 30.209, 30.285, 30.291, 227.135 (1) (f), 227.137, 227.138, 227.14 (2) (a) 3., 227.14 (2) (a) 4., 227.14 (2) (a) 5., 227.14 (2) (a) 6., 227.14 (4) (b) 3., 227.19 (3) (cm), 227.43 (1g), 227.44 (2) (d), 227.483, 285.14, 285.17 (2) (b), 285.21 (1) (b) 1. to 4., 285.23 (6), 285.27 (2) (b) 1. to 4., 285.27 (2) (d), 285.60 (2g), 285.60 (5m), 285.60 (6) (b), 285.60 (8), 285.60 (9), 285.60 (10), 285.61 (2) (a) (title), 285.61 (2) (a) 2., 285.61 (2) (b), 285.61 (10), 285.61 (11), 285.62 (2) (a) (title), 285.62 (2) (a) 2., 285.62 (2) (b), 285.62 (8) (b), 285.62 (12), 285.66 (2) (b) and 285.81 (1m) of the statutes; **relating to:** air pollution control; administrative rules and hearings; structures, deposits, and other activities in or near navigable

\* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

waters; notice, hearing, and review procedures related to permits to place structures and materials and to conduct activities in or near navigable waters; and granting rule-making authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30.208 (2) ~~TIME LIMITS FOR ISSUING PERMIT DETERMINATIONS PROCEDURE FOR COMPLETING APPLICATIONS.~~ In issuing individual permits or entering contracts under this ~~chapter~~ subchapter, the department shall initially determine whether a complete application for the permit or contract has been submitted and, no later than ~~60~~ 30 days after the application is submitted, notify the appli-

cant in writing about the initial determination of completeness. If the department determines that the application is incomplete, the notice shall state the reason for the determination and the specific items of information necessary to make the application complete. An applicant may supplement and resubmit an application that the department has determined to be incomplete. There is no limit on the number of times that an applicant may resubmit an application that the department has determined to be incomplete under this section. The department may not demand items of information that are not specified in the notice as a condition for determining whether the application is complete unless both the department and the applicant agree or unless the applicant makes material additions or alterations to the activity or project for which the application has been submitted. The rules promulgated under s. 299.05 apply only to applications for individual permits or contracts under this subchapter that the department has determined to be complete.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Riprap in an amount not to exceed 100 linear feet that is placed to replace existing riprap located in an inland lake or Great Lakes water body and that includes the replacement of filter fabric or base substrate.

(j) Riprap in an amount not to exceed 300 linear feet that is placed to repair existing riprap located in an inland lake or Great Lakes water body, and that consists only of the placement of additional rock or the redistribution of existing rock within the footprint of the existing riprap.

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

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

**SECTION 23.** 30.12 (1p) of the statutes is created to read:

30.12 (1p) RULES. (a) The department may promulgate rules concerning the exempt activities under sub. (1g) that only do any of the following:

1. Establish reasonable installation practices for the placement of structures or the deposit of material to minimize environmental impacts.

2. Establish reasonable construction and design requirements for the placement of structures under sub. (1g) (c), (d), (f), (g), (h), and (km) that are consistent with the purpose of the activity.

3. Establish reasonable limitations on the location of the placement of structures or the deposit of material at the site affected by the activity.

(b) Notwithstanding par. (a), the rules under par. (a) 1. and 2. may not establish practices or requirements that prohibit the placement of structures or the deposit of material or that render the placement of structures or the deposit of material economically cost-prohibitive.

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

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

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

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

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

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

**SECTION 26.** 30.12 (2r) of the statutes is created to read:

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 of the proposed activity and site and shall give the department consent 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 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 unless required to do so by a court or hearing examiner.

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

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

30.12 (3) (title) GENERAL PERMITS.

**SECTION 28.** 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to read:

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

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

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

**SECTION 30.** 30.12 (3) (a) 2m. of the statutes is renumbered 30.12 (1g) (d) and amended to read:

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

**SECTION 31.** 30.12 (3) (a) 3. of the statutes is repealed.

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

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

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

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

**SECTION 34.** 30.12 (3) (a) 3r. of the statutes is created to read:

30.12 (3) (a) 3r. Place riprap on the bed or bank of a navigable water adjacent to an owner's property in an amount up to and including 300 continuous feet in a Great Lakes water body.

**SECTION 35.** 30.12 (3) (a) 6. of the statutes is amended to read:

30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property for the purpose of storing or protecting watercraft and associated materials, except that no general or individual permit may be granted issued for a permanent boat shelter which is constructed

after May 3, 1988, if the property on which the permanent boat shelter is to be located also contains a boathouse within 75 feet of the ordinary high-water mark or if there is a boathouse over navigable waters adjacent to the owner's property.

**SECTION 36.** 30.12 (3) (a) 7. of the statutes is renumbered 30.12 (1g) (g) and amended to read:

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

**SECTION 37.** 30.12 (3) (a) 8. of the statutes is renumbered 30.12 (1g) (h) and amended to read:

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

**SECTION 38.** 30.12 (3) (a) 13. of the statutes is created to read:

30.12 (3) (a) 13. Place a seawall to replace an existing seawall for which a permit has been issued under this chapter. The replacement may not exceed 100 continuous feet in an inland lake of 300 or more acres and may not exceed 300 continuous feet in a Great Lakes water body.

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

**SECTION 40.** 30.12 (3) (bn) of the statutes is repealed.

**SECTION 41.** 30.12 (3) (br) of the statutes is created to read:

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

**SECTION 42.** 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (intro.) and amended to read:

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

**SECTION 43.** 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (1) to (9).

**SECTION 44.** 30.12 (3) (c) of the statutes is amended to read:

30.12 (3) (c) The department may ~~promulgate rules deemed necessary to carry out the purposes of impose~~ conditions on general permits issued under par. (a) 6., including rules to establish minimum standards to govern the architectural features of boat shelters and the number of boat shelters that may be constructed adjacent to a parcel of land. ~~The rules~~ conditions may not govern the aesthetic features or color of boat shelters. ~~The standards~~

conditions shall be designed to assure ~~ensure~~ the structural soundness and durability of ~~a boat shelter~~ boat shelters. A municipality may enact ordinances ~~not inconsistent that are consistent~~ with this section ~~or with rules promulgated under this section regulating paragraph and with any conditions imposed on general permits issued to regulate~~ the architectural features of boat shelters that are under the jurisdiction of the municipality.

**SECTION 45.** 30.12 (3) (d) of the statutes is repealed.

**SECTION 46.** 30.12 (3m) of the statutes is created to read:

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

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

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

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

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

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

**SECTION 47.** 30.12 (4) (title) of the statutes is repealed.

**SECTION 48.** 30.12 (4) (a) of the statutes is renumbered 30.2022 (1) and amended to read:

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

**SECTION 49.** 30.12 (4) (b) of the statutes is renumbered 30.2022 (2) and amended to read:

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

**SECTION 50.** 30.12 (4) (c) of the statutes is renumbered 30.2022 (3) and amended to read:

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

**SECTION 51.** 30.12 (4) (d) of the statutes is renumbered 30.2022 (4).

**SECTION 52.** 30.12 (4) (e) of the statutes is renumbered 30.2022 (5) and amended to read:

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

**SECTION 53.** 30.12 (4) (f) of the statutes is renumbered 30.2022 (6) and amended to read:

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

**SECTION 54.** 30.12 (4m) (title) of the statutes is repealed.

**SECTION 55.** 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12 (1m) (c) (intro.), as renumbered, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30.123 (6r) 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. (6) (d) or (e). The statement shall contain a description of the proposed activity and site and shall give the department consent 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 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 unless required to do so by a court or hearing examiner.

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

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

30.123 (6s) RULES. (a) The department may promulgate rules concerning the exempt activities under sub. (6) that only do any of the following:

1. Establish reasonable installation practices for culverts to minimize environmental impacts.

2. Establish reasonable construction and design requirements for culverts that are consistent with the purpose of the activity.

3. Establish reasonable limitations on the location of culverts at the site affected by the activity.

(b) Notwithstanding par. (a), the rules under par. (a) 1. and 2. may not establish practices or requirements that prohibit the construction of culverts or that render the placement of culverts economically cost-prohibitive.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30.18 (2) (b) *Streams or lakes.* No person, except a person required to obtain an approval under s. 281.41, may divert water from any lake or stream in this state without ~~a~~ an individual permit under this section if the diversion will result in a water loss averaging 2,000,000

gallons per day in any 30-day period above the person's authorized base level of water loss.

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

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

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

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

**SECTION 83.** 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.) and amended to read:

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

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

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

(am) Construct, dredge, or enlarge any part of the an artificial waterway water body that is located within 500 feet of the ordinary high-water mark of an existing navigable stream, lake or other navigable waters waterway, including a stormwater management pond that does not discharge into a navigable waterway except as a result of storm events.

**SECTION 85.** 30.19 (1) (b) of the statutes is repealed.

**SECTION 86.** 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and amended to read:

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



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

30.19 (1b) DEFINITION. In this section:

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

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

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

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

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

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

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

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

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

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

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

**SECTION 88.** 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 89.** 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 is, in size, the greater of the following:

a. The portion of land surface that extends a certain distance 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 that extends landward from the ordinary high-water mark of the navigable waterway to the point where the slope is measured to be a certain percentage, but the percentage under the rule may not be less than 10 percent.

1m. The rule promulgated under subd. 1. may apply to specific priority navigable waterways or to classes of priority navigable waterways.

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

a. The portion of the land surface that extends a certain distance landward from the ordinary high-water mark of the navigable waterway, but the distance under the rule may not exceed 75 feet.

b. The portion of land surface that extends landward from the ordinary high-water mark of the navigable waterway to the point where the slope is measured to be a certain percentage, but the percentage under the rule may not be less than 12 percent.

2m. The rule promulgated under subd. 2. may apply to specific navigable waterways or to classes of navigable waterways.

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

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

(c) To the extent practicable, the rule under this subsection shall be consistent with rules promulgated by the department that relate to shorelands, as defined in s. 59.692 (1) (b), and floodplains, and rules promulgated under s. 281.16 (2) that relate to protective areas for wetlands and waterways.

(d) In promulgating the rule under this subsection, the department shall consider public rights and interests for the purpose of furthering the public trust in navigable waters.

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

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

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

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

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

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

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

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

**SECTION 94.** 30.19 (1m) (cm) of the statutes is created to read:

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

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

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

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

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

**SECTION 97.** 30.19 (2) of the statutes is repealed.

**SECTION 98.** 30.19 (3) of the statutes is repealed.

**SECTION 99.** 30.19 (3r) of the statutes is created to read:

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

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

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

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

**SECTION 100.** 30.19 (4) (title) of the statutes is amended to read:

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

**SECTION 101.** 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and amended to read:

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

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

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

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

**SECTION 102.** 30.19 (4) (a) of the statutes is created to read:

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

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

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

**SECTION 104.** 30.19 (4) (c) 1. of the statutes is created to read:

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

**SECTION 105.** 30.19 (5) of the statutes is amended to read:

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

**SECTION 106.** 30.195 (1) of the statutes is amended to read:

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

**SECTION 107.** 30.195 (2) of the statutes is repealed and recreated to read:

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

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

**SECTION 108.** 30.195 (3) (title) of the statutes is repealed.

**SECTION 109.** 30.195 (3) of the statutes is renumbered 30.195 (2) (c) and amended to read:

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

1. The applicant is the owner of any land to change the course of or straighten a upon which the change in

course or straightening of the navigable stream on such land, if such will occur.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30.20 (1g) (title) EXEMPTIONS.

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

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

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

**SECTION 118.** 30.20 (1k) of the statutes is created to read:

30.20 (1k) RULES. (a) The department may promulgate rules concerning the exempt activities under sub. (1g) that only do any of the following:

1. Establish reasonable procedures for undertaking the removal of material to minimize environmental impacts.

2. Establish reasonable limitations on the location of the removal of material at the site affected by the activity.

(b) Notwithstanding par. (a), the rules under par. (a) 1. may not establish procedures that prohibit undertaking the removal of material or that render the undertaking of the removal of material economically cost-prohibitive.

**SECTION 119.** 30.20 (1m) of the statutes is created to read:

30.20 (1m) PERMITS OR CONTRACTS IN LIEU OF EXEMPTIONS. The department may decide to require that a per-

son engaged in an activity that is exempt under sub. (1g) apply for an individual permit or contract, or seek authorization under a general permit if the department has conducted an investigation and visited the site of the activity and has determined that conditions specific to the site require restrictions on the activity in order to prevent any of the following:

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

**SECTION 120.** 30.20 (1r) of the statutes is created to read:

30.20 (1r) 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 of the proposed activity and site and shall give the department consent 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 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 does not take action under par. (b), the department may not require at any time that the person proposing to engage in the activity apply for an individual permit, seek authorization under a general permit, or apply to enter a contract unless required to do so by a court or hearing examiner.

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

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

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

(a) No person may be authorized to proceed under a general permit issued under par. (a) unless the person has demonstrated to the department that material has been previously removed from the area for which the person has requested authorization to proceed.

(b) The department may promulgate rules that specify other types of removals, in addition to the one listed

in par. (a), that may be authorized by statewide general permits.

**SECTION 122.** 30.20 (2) (title) of the statutes is amended to read:

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

**SECTION 123.** 30.20 (2) (a) and (b) of the statutes are amended to read:

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

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

ties to be paid when mining operations are begun shall be determined at such future time as royalties for ores so sold are paid or are due and payable.

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

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

**SECTION 125.** 30.20 (2) (c) of the statutes is amended to read:

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

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

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

**SECTION 127.** 30.20 (2) (e) of the statutes is created to read:

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

**SECTION 128.** 30.201 of the statutes is created to read:

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

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

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

**SECTION 129.** 30.2022 (title) of the statutes is created to read:

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

**SECTION 130.** 30.2026 (2) (d) of the statutes is amended to read:

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

**SECTION 131.** 30.2026 (3) (a) of the statutes is amended to read:

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

**SECTION 132.** 30.206 (1) (title) of the statutes is created to read:

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

**SECTION 133.** 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and amended to read:

30.206 (1) (a) ~~For activities which require a permit or approval under ss. 30.12 (3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a class of activities, according to rules promulgated by the department. Before issuing general permits, the department shall determine after an environmental analysis and notice and hearing under ss. 227.17 and 227.18, that~~ The department shall issue the statewide general permits as rules promulgated under ch. 227 required under ss. 30.12 (3) (a), 30.123 (7) (a), and 30.20 (1t) (a). The statewide general permits required under ss. 30.12 (3) (a), 30.123 (7) (a), and 30.20 (1t) (a) shall be promulgated within 540 days after the effective date of this paragraph .... [revisor inserts date]. The department shall submit in proposed form the rule containing the statewide general permit under s. 30.19 (3r) (a) and the rule under s. 30.19 (1d) to the legislative council staff under section 227.15 (1) no later than the first day of the 6th month beginning after the effective date of this paragraph ....[revisor inserts

date]. General permits issued under s. 30.206, 2001 stats., shall remain valid until the date upon which the rules issuing these statewide general permits are promulgated under this paragraph.

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

**SECTION 134.** 30.206 (1) (c) 1. to 3. of the statutes are created to read:

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

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

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

**SECTION 135.** 30.206 (2) of the statutes is repealed.

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

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

**SECTION 137.** 30.206 (3) of the statutes is renumbered 30.206 (3) (a) and amended to read:

30.206 (3) (a) A person wishing to proceed with an activity that may be authorized by a general permit shall apply to the department, with written notification of the person's wish to proceed, not less than 20-business 30 days before commencing the activity authorized by a general permit. The department may request additional information from the applicant notification shall provide information describing the activity in order to allow the department to determine whether the activity is within the scope of a authorized by the general permit and shall inform the applicant in writing of its determination within 10 business days after receipt of adequate information give the department consent to enter and inspect the site, subject to s. 30.291. The department may make a request for additional information one time during the 30-day period. If the department makes a request for additional information, the 30-day period is tolled from the date the person applying for authorization to proceed receives the request until the date on which the department receives the information.

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

30.206 (3) (c) Upon completion of an activity that the department has authorized under a general permit, the applicant for the general permit shall provide to the department a statement certifying that the activity is in

compliance with all of the conditions of the general permit and a photograph of the activity.

**SECTION 139.** 30.206 (3m) of the statutes is repealed.

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

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

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

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

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

**SECTION 141.** 30.206 (4) of the statutes is renumbered 30.206 (3) (b) and amended to read:

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

**SECTION 142.** 30.206 (5) (title) of the statutes is created to read:

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

**SECTION 143.** 30.206 (6) of the statutes is amended to read:

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

**SECTION 144.** 30.206 (7) of the statutes is amended to read:

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

**SECTION 145.** 30.207 (1) of the statutes is amended to read:

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

**SECTION 146.** 30.207 (3) (d) 2. of the statutes is amended to read:

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

**SECTION 147.** 30.207 (4) (b) of the statutes is repealed.

**SECTION 148.** 30.207 (5) of the statutes is repealed.

**SECTION 149.** 30.208 of the statutes is created to read:

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

(3) NOTICE OF COMPLETE APPLICATION; REQUEST FOR PUBLIC HEARING; DECISION. (a) Upon determination by the department that an application submitted under sub. (1) is complete, the department shall provide notice of complete application to interested and potentially interested members of the public, as determined by the department. The department shall provide the notice within 15 days after the determination that the application is complete. If the applicant has requested a public hearing as part of the submitted application, a notice of public hearing shall be part of the notice of complete application.

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

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

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

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

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

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

(d) The department shall promulgate rules to establish procedures for the conduct of public hearings held under this subsection. Notwithstanding s. 227.42, a public hearing held under this subsection shall be an informational hearing and may not be treated as, nor converted to, a contested case under s. 227.01 (3).

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

1. That the notice be published as a class 1 notice under ch. 985.

2. That the notice be mailed to any person or group upon request.

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

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

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

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

4. For a notice of complete application and a notice of public hearing under sub. (3), a statement of the tenta-

tive determination to issue, modify, or deny a permit for the activity or project described in the application.

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

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

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

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

**SECTION 150.** 30.209 of the statutes is created to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The applicant.
2. Each petitioner, if other than the applicant.



3. Any other persons required to receive notice under the rules promulgated under s. 30.208 (5).

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

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

**SECTION 151.** 30.28 (3) (a) of the statutes is renumbered 30.28 (3).

**SECTION 152.** 30.28 (3) (b) of the statutes is repealed.

**SECTION 153.** 30.285 of the statutes is created to read:

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

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

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

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

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

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

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

(b) The date of the application.

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

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

**SECTION 154.** 30.29 (3) (d) of the statutes is amended to read:

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

**SECTION 155.** 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), whether a general permit is appropriate under s. 30.206 (3), or whether authorization to proceed under a general permit is appropriate under s. 30.206 (3r), any employee or other representative of the department, upon present-

ing his or her credentials, may enter the site and inspect any property on the site.

(3) The department shall provide reasonable advance notice, before entering the site and inspecting the property.

(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 shall deny authorization to proceed under the general permit and shall allow an application to be submitted for an individual permit for the activity.

**SECTION 156.** 30.298 (3) of the statutes is amended to read:

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

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

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

**SECTION 158.** 227.135 (1) (f) of the statutes is created to read:

227.135 (1) (f) A summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**SECTION 159.** 227.137 of the statutes is created to read:

**227.137 Economic impact reports of proposed rules.** (1) In this section, "agency" means the departments of agriculture, trade, and consumer protection; commerce; natural resources; transportation; and workforce development.

(2) After an agency publishes a statement of the scope of a proposed rule under s. 227.135, and before the agency submits the proposed rule to the legislative council for review under s. 227.15, a municipality, an association that represents a farm, labor, business, or professional group, or 5 or more persons that would be directly and uniquely affected by the proposed rule may submit a petition to the department of administration asking that the secretary of administration direct the agency to prepare an economic impact report for the proposed rule. The agency shall prepare an economic impact report before submitting the proposed rule to the legislative council staff under s. 227.15 if the secretary of administration directs the agency to prepare that report. The secretary of administration may direct the agency to prepare an economic impact report for the proposed rule before submitting the proposed rule to the legislative council staff under s. 227.15. The secretary of administration shall direct the agency to prepare an economic impact report for the proposed rule before submitting the proposed rule to the legislative council staff under s. 227.15 if the secretary determines that all of the following apply:

(a) The petition was submitted to the department of administration no later than 90 days after the publication of the statement of the scope of the proposed rule under s. 227.135 (3) or no later than 10 days after publication of the notice for a public hearing under s. 227.17, whichever is earlier.

(b) The proposed rule would cost affected persons \$20 million or more during each of the first 5 years after the rule's implementation to comply with the rule, or the rule would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

(3) An economic impact report shall contain information on the effect of the proposed rule on specific businesses, business sectors, and the state's economy. When preparing the report, the agency shall solicit information and advice from the department of commerce, and from governmental units, associations, businesses, and individuals that may be affected by the proposed rule. The agency may request information that is reasonably necessary for the preparation of an economic impact report from other state agencies, governmental units, associations, businesses, and individuals. The economic impact report shall include all of the following:

(a) An analysis and quantification of the problem, including any risks to public health or the environment, that the rule is intending to address.

(b) An analysis and quantification of the economic impact of the rule, including costs reasonably expected to be incurred by the state, governmental units, associations, businesses, and affected individuals.

(c) An analysis of benefits of the rule, including how the rule reduces the risks and addresses the problems that the rule is intended to address.

(4) The agency shall submit the economic impact report to the legislative council staff, to the department of administration, and to the petitioner.

(5) This section does not apply to emergency rules promulgated under s. 227.24.

**SECTION 160.** 227.138 of the statutes is created to read:

**227.138 Department of administration review of proposed rules.** (1) In this section:

(a) "Agency" has the meaning given in s. 227.137 (1).

(b) "Department" means the department of administration.

(c) "Economic impact report" means a report prepared under s. 227.137.

(2) If an economic impact report will be prepared under s. 227.137 (2) regarding a proposed rule, the department shall review the proposed rule and issue a report. The agency shall not submit a proposed rule to the legislative council staff for review under s. 227.15 (1) until the agency receives a copy of the department's report and the approval of the secretary of administration. The report shall include all of the following findings:

(a) That the economic impact report and the analysis required under s. 227.137 (3) are supported by related documentation contained in the economic impact report.

(b) That the agency has statutory authority to promulgate the proposed rule.

(c) That the proposed rule, including any administrative requirements, is consistent with and not duplicative of other state rules or federal regulations.

(d) That the agency has adequately documented the factual data and analytical methodologies that the agency used in support of the proposed rule and the related findings that support the regulatory approach that the agency chose for the proposed rule.

(3) Before issuing a report under sub. (2), the department may return a proposed rule to the agency for further consideration and revision with a written explanation of why the proposed rule is returned. If the agency head disagrees with the department's reasons for returning the proposed rule, the agency head shall so notify the department in writing. The secretary of administration shall approve the proposed rule when the agency has adequately addressed the issues raised during the department's review of the rule.

(4) No person is entitled to judicial review of any action taken by the department under this section.

**SECTION 161.** 227.14 (2) (a) of the statutes is amended to read:

227.14 (2) (a) An agency shall prepare in plain language an analysis of each proposed rule, which shall be printed with the proposed rule when it is published or distributed. The analysis shall include ~~a~~ all of the following:

1. A reference to each statute that the proposed rule interprets, each statute that authorizes its promulgation, each related statute or related rule, and an explanation of the agency's authority to promulgate the proposed rule under those statutes.

2. A brief summary of the proposed rule.

**SECTION 162.** 227.14 (2) (a) 3. of the statutes is created to read:

227.14 (2) (a) 3. A summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

**SECTION 163.** 227.14 (2) (a) 4. of the statutes is created to read:

227.14 (2) (a) 4. A comparison of similar rules in adjacent states.

**SECTION 164.** 227.14 (2) (a) 5. of the statutes is created to read:

227.14 (2) (a) 5. A summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule.

**SECTION 165.** 227.14 (2) (a) 6. of the statutes is created to read:

227.14 (2) (a) 6. Any analysis and supporting documentation that the agency used in support of the agency's determination of the rule's effect on small businesses under s. 227.114 or that was used when the agency prepared an economic impact report under s. 227.137 (3).

**SECTION 166.** 227.14 (4) (b) 3. of the statutes is created to read:

227.14 (4) (b) 3. For rules that the agency determines may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by the private sector in complying with the rule.

**SECTION 167.** 227.19 (3) (intro.) of the statutes is amended to read:

227.19 (3) FORM OF REPORT. (intro.) The report required under sub. (2) shall be in writing and shall include the proposed rule in the form specified in s. 227.14 (1), the material specified in s. 227.14 (2) to (4), a copy of any economic impact report prepared by the agency under s. 227.137, a copy of any report prepared by the department of administration under s. 227.138, a copy of any recommendations of the legislative council staff, and an analysis. The analysis shall include:

**SECTION 168.** 227.19 (3) (a) of the statutes is amended to read:

227.19 (3) (a) A detailed statement explaining the ~~need for basis and purpose of~~ the proposed rule, including

how the proposed rule advances relevant statutory goals or purposes.

**SECTION 169.** 227.19 (3) (b) of the statutes is amended to read:

227.19 (3) (b) An A summary of public comments to the proposed rule and the agency's response to those comments, and an explanation of any modification made in the proposed rule as a result of public comments or testimony received at a public hearing.

**SECTION 170.** 227.19 (3) (cm) of the statutes is created to read:

227.19 (3) (cm) Any changes to the analysis prepared under s. 227.14 (2) or the fiscal estimate prepared under s. 227.14 (4).

**SECTION 171.** 227.43 (1g) of the statutes is created to read:

227.43 (1g) The administrator of the division of hearings and appeals shall establish a system for assigning hearing examiners to preside over any hearing under this section. The system shall ensure, to the extent practicable, that hearing examiners are assigned to different subjects on a rotating basis. The system may include the establishment of pools of examiners responsible for certain subjects.

**SECTION 172.** 227.44 (2) (d) of the statutes is created to read:

227.44 (2) (d) If the subject of the hearing is a decision of the department of natural resources or the department of transportation, the name and title of the person who will conduct the hearing.

**SECTION 173.** 227.483 of the statutes is created to read:

**227.483 Costs upon frivolous claims. (1)** If a hearing examiner finds, at any time during the proceeding, that an administrative hearing commenced or continued by a petitioner or a claim or defense used by a party is frivolous, the hearing examiner shall award the successful party the costs and reasonable attorney fees that are directly attributable to responding to the frivolous petition, claim, or defense.

(2) If the costs and fees awarded under sub. (1) are awarded against the party other than a public agency, those costs may be assessed fully against either the party or the attorney representing the party or may be assessed so that the party and the attorney each pay a portion of the costs and fees.

(3) To find a petition for a hearing or a claim or defense to be frivolous under sub. (1), the hearing examiner must find at least one of the following:

(a) That the petition, claim, or defense was commenced, used, or continued in bad faith, solely for purposes of harassing or maliciously injuring another.

(b) That the party or the party's attorney knew, or should have known, that the petition, claim, or defense was without any reasonable basis in law or equity and

could not be supported by a good faith argument for an extension, modification, or reversal of existing law.

**SECTION 174.** 227.53 (1) (a) 3. of the statutes is amended to read:

227.53 (1) (a) 3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 73.0301 (2) (b) 2., 77.59 (6) (b), 182.70 (6), and 182.71 (5) (g). ~~The proceedings shall be in the circuit court for Dane County if~~ If the petitioner is a non-resident, the proceedings shall be held in the county where the property affected by the decision is located or, if no property is affected, in the county where the dispute arose. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

**SECTION 175.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

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

**SECTION 176.** 285.11 (9) of the statutes is amended to read:

285.11 (9) Prepare and adopt minimum standards for the emission of mercury compounds or metallic mercury into the air, consistent with s. 285.27 (2) (b).

**SECTION 177.** 285.14 of the statutes is created to read:

**285.14 State implementation plans. (1) CONTENT.** The department may not submit a control measure or strategy that imposes or may result in regulatory requirements to the federal environmental protection agency for inclusion in a state implementation plan under 42 USC 7410 unless the department has promulgated the control measure or strategy as a rule.

**(2) REVIEW BY STANDING COMMITTEES.** At least 60 days before the department is required to submit a state implementation plan to the federal environmental protection agency, the department shall prepare, and provide to the standing committees of the legislature with jurisdiction over environmental matters, under s. 13.172 (3) a report that describes the proposed plan and contains all of the supporting documents that the department intends to submit with the plan. The department shall also submit to the revisor of statutes for publication in the administrative register a notice of availability of the report. If, within 30 days after the department provides the report, the chairperson of a standing committee to which the report was provided submits written comments on the report to the department, the secretary shall respond to the chairperson in writing within 15 days of receipt of the comments. This subsection does not apply to a modification to a state implementation plan relating to an individual source.

**SECTION 178.** 285.17 (2) of the statutes is renumbered 285.17 (2) (a).

**SECTION 179.** 285.17 (2) (b) of the statutes is created to read:

285.17 (2) (b) Before issuing an operation permit that contains a monitoring requirement relating to the emissions from an air contaminant source, the department shall notify the applicant of the proposed monitoring requirement and give the applicant the opportunity to demonstrate to the administrator of the division of the department that administers this chapter that the proposed monitoring requirement is unreasonable considering, among other factors, monitoring requirements imposed on similar air contaminant sources. If the administrator determines that the monitoring requirement is unreasonable, the department may not impose the monitoring requirement. If the administrator determines that the monitoring requirement is reasonable, the applicant may obtain a review of that determination by the secretary. The secretary may not delegate this function to another person. If the secretary determines that the monitoring requirement is unreasonable, the department may not impose the monitoring requirement.

**SECTION 180.** 285.21 (1) (b) of the statutes is renumbered 285.21 (1) (b) (intro.) and amended to read:

285.21 (1) (b) *Standard to protect health or welfare.* (intro.) If an ambient air quality standard for any air contaminant is not promulgated under section 109 of the federal clean air act, the department may promulgate an ambient air quality standard if the department finds that the standard is needed to provide adequate protection for public health or welfare. The department may not make this finding for an air contaminant unless the finding is supported with written documentation that includes all of the following:

**SECTION 181.** 285.21 (1) (b) 1. to 4. of the statutes are created to read:

285.21 (1) (b) 1. A public health risk assessment that characterizes the types of stationary sources in this state that are known to emit the air contaminant and the population groups that are potentially at risk from the emissions.

2. An analysis showing that members of population groups are subjected to levels of the air contaminant that are above recognized environmental health standards or will be subjected to those levels if the department fails to promulgate the proposed ambient air quality standard.

3. An evaluation of options for managing the risks caused by the air contaminant considering risks, costs, economic impacts, feasibility, energy, safety, and other relevant factors, and a finding that the proposed ambient air quality standard reduces risks in the most cost-effective manner practicable.

4. A comparison of the proposed ambient air quality standard with ambient air quality standards in Illinois, Indiana, Michigan, Minnesota, and Ohio.

**SECTION 182.** 285.21 (4) of the statutes is amended to read:

285.21 (4) **IMPACT OF CHANGE IN FEDERAL STANDARDS.** If the ambient air increment or the ambient air quality standards in effect on April 30, 1980, under the federal clean air act are ~~relaxed~~ modified, the department shall alter the corresponding state standards unless it finds that the ~~relaxed~~ modified standards would not provide adequate protection for public health and welfare. The department may not make this finding for an ambient air quality standard unless the finding is supported with the written documentation required under sub. (1) (b) 1. to 4.

**SECTION 183.** 285.23 (1) of the statutes is amended to read:

285.23 (1) **PROCEDURES AND CRITERIA.** The department shall promulgate by rule procedures and criteria to identify a nonattainment area and to reclassify a nonattainment area as an attainment area. After the effective date of this subsection ... [revisor inserts date], the department may not identify a county as part of a nonattainment area under the federal clean air act if the concentration of an air contaminant in the atmosphere in that county does not exceed an ambient air quality standard, unless under the federal clean air act the county is required to be designated as part of a nonattainment area.

**SECTION 184.** 285.23 (2) of the statutes is amended to read:

285.23 (2) **DOCUMENTS.** The department shall issue documents from time to time which define or list specific nonattainment areas or recommend that areas be designated as nonattainment areas under the federal clean air act based upon the procedures and criteria promulgated under sub. (1). Notwithstanding ss. 227.01 (13) and 227.10 (1), documents issued under this subsection are not rules.

**SECTION 185.** 285.23 (6) of the statutes is created to read:

285.23 (6) **REPORT TO STANDING COMMITTEES.** Before the department issues documents under sub. (2) and at least 60 days before the governor is required to make a submission on a nonattainment designation under [42 USC 7407](#) (d) (1) (A), the department shall prepare, and provide to the standing committees of the legislature with jurisdiction over environmental matters under s. 13.172 (3), a report that contains a description of any area proposed to be identified as a nonattainment area and supporting documentation. The department shall also submit to the revisor of statutes for publication in the administrative register a notice of availability of the report. If, within 30 days after the department submits the report, the chairperson of a standing committee to which the report was provided submits written comments on the report to the department, the secretary shall respond to the chairperson in writing within 15 days of receipt of the comments.

**SECTION 186.** 285.27 (1) (a) of the statutes is amended to read:

285.27 (1) (a) *Similar to federal standard.* If a standard of performance for new stationary sources is promulgated under section 111 of the federal clean air act, the department shall promulgate by rule a similar emission standard, including administrative requirements that are consistent with the federal administrative requirements, but this standard may not be more restrictive in terms of emission limitations than the federal standard except as provided under sub. (4).

**SECTION 187.** 285.27 (2) (a) of the statutes is amended to read:

285.27 (2) (a) *Similar to federal standard.* If an emission standard for a hazardous air contaminant is promulgated under section 112 of the federal clean air act, the department shall promulgate by rule a similar standard, including administrative requirements that are consistent with the federal administrative requirements, but this standard may not be more restrictive in terms of emission limitations than the federal standard except as provided under sub. (4).

**SECTION 188.** 285.27 (2) (b) of the statutes is renumbered 285.27 (2) (b) (intro.) and amended to read:

285.27 (2) (b) *Standard to protect public health or welfare.* (intro.) If an emission standard for a hazardous air contaminant is not promulgated under section 112 of the federal clean air act, the department may promulgate an emission standard for the hazardous air contaminant if the department finds the standard is needed to provide adequate protection for public health or welfare. The department may not make this finding for a hazardous air contaminant unless the finding is supported with written documentation that includes all of the following:

**SECTION 189.** 285.27 (2) (b) 1. to 4. of the statutes are created to read:

285.27 (2) (b) 1. A public health risk assessment that characterizes the types of stationary sources in this state

that are known to emit the hazardous air contaminant and the population groups that are potentially at risk from the emissions.

2. An analysis showing that members of population groups are subjected to levels of the hazardous air contaminant that are above recognized environmental health standards or will be subjected to those levels if the department fails to promulgate the proposed emission standard for the hazardous air contaminant.

3. An evaluation of options for managing the risks caused by the hazardous air contaminant considering risks, costs, economic impacts, feasibility, energy, safety, and other relevant factors, and a finding that the chosen compliance alternative reduces risks in the most cost-effective manner practicable.

4. A comparison of the emission standards for hazardous air contaminants in this state to hazardous air contaminant standards in Illinois, Indiana, Michigan, Minnesota, and Ohio.

**SECTION 190.** 285.27 (2) (d) of the statutes is created to read:

285.27 (2) (d) *Emissions regulated under federal law.* Emissions limitations promulgated under par. (b) and related control requirements do not apply to hazardous air contaminants emitted by emissions units, operations, or activities that are regulated by an emission standard promulgated under section 112 of the federal clean air act, including a hazardous air contaminant that is regulated under section 112 of the federal clean air act by virtue of regulation of another substance as a surrogate for the hazardous air contaminant or by virtue of regulation of a species or category of hazardous air contaminants that includes the hazardous air contaminant.

**SECTION 191.** 285.27 (4) of the statutes is amended to read:

285.27 (4) **IMPACT OF CHANGE IN FEDERAL STANDARDS.** If the standards of performance for new stationary sources or the emission standards for hazardous air contaminants under the federal clean air act are relaxed, the department shall alter the corresponding state standards unless it finds that the relaxed standards would not provide adequate protection for public health and welfare. The department may not make this finding for an emission standard for a hazardous air contaminant unless the finding is supported with the written documentation required under sub. (2) (b) 1. to 4. This subsection applies to state standards of performance for new stationary sources and emission standards for hazardous air contaminants in effect on April 30, 1980, if the relaxation in the corresponding federal standards occurs after April 30, 1980.

**SECTION 192.** 285.60 (1) (a) 1. of the statutes is amended to read:

285.60 (1) (a) 1. Except as provided in sub. (2g), (5m), or (6), no person may commence construction, reconstruction, replacement or modification of a station-

ary source unless the person has a construction permit from the department.

**SECTION 193.** 285.60 (2g) of the statutes is created to read:

285.60 (2g) **REGISTRATION PERMITS.** (a) *Rules.* Subject to sub. (8), the department shall promulgate rules specifying a simplified process under which the department may issue a registration permit authorizing construction or operation or both for a stationary source with low actual or potential emissions if the owner or operator provides to the department, on a form prescribed by the department, sufficient information to show that the source qualifies for a registration permit. In the rules, the department shall include criteria for identifying categories of sources the owners or operators of which may elect to obtain registration permits and general requirements applicable to sources that qualify for registration permits. In the rules, the department may exempt persons who qualify for registration permits from the requirement to obtain a construction permit.

(b) *Procedure.* The procedural requirements of ss. 285.61 (2) to (8) and 285.62 (2) to (7) do not apply to a registration permit under this subsection. Within 15 days after receipt of the form prescribed by the department, the department shall provide one of the following to an applicant for a registration permit:

1. Written notice of the department's determination that the source qualifies for a registration permit.
2. A written description of any information that is missing from the application for a registration permit.
3. Written notice of the department's determination that the source does not qualify for a registration permit, specifically describing the reasons for that determination.

**SECTION 194.** 285.60 (2m) of the statutes is repealed.

**SECTION 195.** 285.60 (3) of the statutes is repealed and recreated to read:

285.60 (3) **GENERAL PERMITS.** (a) *Rules.* The department shall promulgate rules for the issuance of general permits authorizing construction or operation or both for similar stationary sources. In the rules, the department shall specify criteria for identifying categories of sources for which the department may issue general permits and general requirements applicable to sources that qualify for general permits.

(b) *Procedure.* The procedural requirements of ss. 285.61 (2) to (8) and 285.62 (2) to (5) do not apply to the determination of whether a source is covered by a general permit under this subsection. Within 15 days after receipt of an application for coverage under a general permit, the department shall provide one of the following to the applicant:

1. Written notice of the department's determination that the source qualifies for coverage under the general permit.

2. A written description of any information that is missing from the application for coverage under the general permit.

3. Written notice of the department's determination that the source does not qualify for coverage under the general permit, specifically describing the reasons for that determination.

**SECTION 196.** 285.60 (5m) of the statutes is created to read:

**285.60 (5m) WAIVER OF CONSTRUCTION PERMIT REQUIREMENTS.** (a) Subject to sub. (8), the department shall promulgate rules under which a person is allowed to commence construction, reconstruction, replacement, or modification of a stationary source prior to the issuance of a construction permit upon a showing that commencing construction, reconstruction, replacement, or modification prior to the issuance of the permit is necessary to avoid undue hardship.

(b) Subject to sub. (8), the department may allow a person to commence construction, reconstruction, replacement, or modification of a stationary source prior to the issuance of a construction permit on a case-by-case basis or on bases specified in a rule.

(c) The department shall act on a waiver request under this subsection within 15 days after it receives the request.

**SECTION 197.** 285.60 (6) of the statutes is renumbered 285.60 (6) (a).

**SECTION 198.** 285.60 (6) (b) of the statutes is created to read:

**285.60 (6) (b)** Subject to sub. (8), the department shall, by rule, exempt minor sources from the requirement to obtain a construction permit and an operation permit if the emissions from the sources do not present a significant hazard to public health, safety or welfare or to the environment.

**SECTION 199.** 285.60 (8) of the statutes is created to read:

**285.60 (8) COMPLIANCE WITH FEDERAL LAW.** The department may not promulgate a rule or take any other action under this section that conflicts with the federal clean air act.

**SECTION 200.** 285.60 (9) of the statutes is created to read:

**285.60 (9) PETITIONS FOR REGISTRATION PERMITS, GENERAL PERMITS, AND EXEMPTIONS.** A person may petition the department to make a determination that a type of stationary source meets the criteria for a registration permit under sub. (2g), a general permit under sub. (3), or an exemption under sub. (6). The department shall provide a written response to a petition within 30 days after receiving the petition indicating whether the type of stationary source meets the applicable criteria for a registration permit, a general permit, or an exemption. If the type of source meets the applicable criteria, the department shall, within 365 days after receiving the petition,

issue the registration permit or general permit or, for an exemption, shall submit to the legislative council staff under s. 227.15 (1) in proposed form any necessary rules or take any other action that is necessary provide the exemption.

**SECTION 201.** 285.60 (10) of the statutes is created to read:

**285.60 (10) PERMIT STREAMLINING.** The department shall continually assess permit obligations imposed under this section and ss. 285.61 to 285.65 and implement measures that are consistent with this chapter and the federal clean air act to allow for timely installation and operation of equipment and processes and the pursuit of related economic activity by lessening those obligations, including consolidating the permits for sources at a facility into one permit, expanding exemptions under sub. (6), and expanding the availability of registration permits under sub. (2g), general permits under sub. (3), and construction permit waivers under sub. (5m).

**SECTION 202.** 285.61 (2) of the statutes is renumbered 285.61 (2) (a) 1. and amended to read:

**285.61 (2) (a) 1.** Within 20 days, excluding statewide legal holidays specified in s. 895.20, after receipt of the application the department shall indicate provide written notice to the applicant describing specifically all of the plans, specifications and any other information necessary to determine if the proposed construction, reconstruction, replacement or modification will meet the requirements of this chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15.

**SECTION 203.** 285.61 (2) (a) (title) of the statutes is created to read:

**285.61 (2) (a) (title)** *Request for additional information.*

**SECTION 204.** 285.61 (2) (a) 2. of the statutes is created to read:

**285.61 (2) (a) 2.** If the department requests additional information under subd. 1., the department shall notify the applicant, within 15 days after receiving additional information from the applicant, whether that additional information satisfies the department's request.

**SECTION 205.** 285.61 (2) (b) of the statutes is created to read:

**285.61 (2) (b) *When application is considered to be complete.*** 1. If the department does not indicate to an applicant within the time provided in par. (a) 1. that additional information is needed, the application is considered to be complete for the purposes of the time limits in sub. (3) 20 days after receipt of the application.

2. If the department indicates to an applicant within the time provided in par. (a) 1. that additional information is needed but the department does not indicate to the applicant within the time provided in par. (a) 2. that additional information provided is deficient, the application is considered to be complete for the purposes of the time

limits in sub. (3) 15 days after receipt of the additional information.

3. If neither subd. 1. nor subd. 2. applies, an application is considered to be complete for the purposes of the time limits in sub. (3) when the department notifies the applicant under par. (a) 2. that the additional information provided by the applicant satisfies the department's request.

4. This paragraph does not prevent the department from requesting additional information from an applicant after the time limit in par. (a) 1. or 2.

**SECTION 206.** 285.61 (3) (intro.) of the statutes is amended to read:

285.61 (3) ANALYSIS. (intro.) The department shall prepare an analysis regarding the effect of the proposed construction, reconstruction, replacement or modification on ambient air quality and a preliminary determination on the approvability of the construction permit application, within the following time periods after the receipt of the plans, specifications and other information application is considered to be complete under sub. (2) (b):

**SECTION 207.** 285.61 (3) (a) of the statutes is amended to read:

285.61 (3) (a) *Major source construction permits.* For construction permits for major sources, within ~~120~~ 90 days.

**SECTION 208.** 285.61 (7) (a) of the statutes is amended to read:

285.61 (7) (a) *Hearing permitted.* The department may hold a public hearing on the construction permit application if requested by a person who may be affected by the issuance of the permit, any affected state or the U.S. environmental protection agency within 30 days after the department gives notice under sub. (5) (c). A request for a public hearing shall indicate the interest of the party filing the request and the reasons why a hearing is warranted. The department shall hold the public hearing within 60 days after the deadline for requesting a hearing if it deems that there is a significant public interest in holding a hearing.

**SECTION 209.** 285.61 (10) of the statutes is created to read:

285.61 (10) EXTENSIONS. Upon agreement between the department and an applicant, the department shall extend any time limit applicable to the department under this section. The department may not require an applicant to agree to extend a time period as a condition of approving an application.

**SECTION 210.** 285.61 (11) of the statutes is created to read:

285.61 (11) DELAY IN ISSUING PERMITS. (a) Subject to sub. (10), if the department fails to act on an application for a construction permit within the time limit in sub. (8) (b), the department shall include in a report the reasons for the delay in acting on the application and recom-

mendations for how to avoid similar delays in the future. The department shall make reports under this paragraph available to the public, place a prominent notice of the reports on the department's Internet site, and submit the reports to the standing committees of the legislature with jurisdiction over environmental matters semiannually.

(b) If the department fails to act on an application for a construction permit within the time limit in sub. (8) (b) and the applicant has not agreed to an extension under sub. (10), the department shall refund the fee under s. 285.69 (1) (a) that was paid by the applicant.

**SECTION 211.** 285.62 (1) of the statutes is amended to read:

285.62 (1) ~~APPLICANT NOTICE~~ APPLICATION REQUIRED. A person who is required to obtain an operation permit for a stationary source shall apply to the department for the permit on or before the operation permit application date specified under sub. (11) (b). The department shall specify by rule the content of applications under this subsection. If required by the federal clean air act, the department shall provide a copy of the complete application to the federal environmental protection agency. ~~The department may not accept an application submitted to the department before November 15, 1992, as an application under this subsection.~~

**SECTION 212.** 285.62 (2) of the statutes is renumbered 285.62 (2) (a) 1. and amended to read:

285.62 (2) (a) 1. Within 20 days, excluding statewide legal holidays specified in s. 895.20, after receipt of the application the department shall ~~indicate~~ provide written notice to the applicant describing specifically any additional information required under sub. (1) necessary to determine if the source, upon issuance of the permit, will meet the requirements of this chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15.

**SECTION 213.** 285.62 (2) (a) (title) of the statutes is created to read:

285.62 (2) (a) (title) *Request for additional information.*

**SECTION 214.** 285.62 (2) (a) 2. of the statutes is created to read:

285.62 (2) (a) 2. If the department requests additional information under subd. 1., the department shall notify the applicant, within 15 days after receiving additional information from the applicant, whether that additional information satisfies the department's request.

**SECTION 215.** 285.62 (2) (b) of the statutes is created to read:

285.62 (2) (b) *When application is considered to be complete.* 1. If the department does not indicate to an applicant within the time provided in par. (a) 1. that additional information is needed, the application is considered to be complete for the purposes of the time limit in sub. (7) (b) 20 days after receipt of the application.

2. If the department indicates to an applicant within the time provided in par. (a) 1. that additional information



is needed but the department does not indicate to the applicant within the time provided in par. (a) 2. that additional information provided is deficient, the application is considered to be complete for the purposes of the time limit in sub. (7) (b) 15 days after receipt of the additional information.

3. If neither subd. 1. nor subd. 2. applies, an application is considered to be complete for the purposes of the time limit in sub. (7) (b) when the department notifies the applicant under par. (a) 2. that the additional information provided by the applicant satisfies the department's request.

4. This paragraph does not prevent the department from requesting additional information from an applicant after the time limit in par. (a) 1. or 2.

**SECTION 216.** 285.62 (5) (a) of the statutes is amended to read:

285.62 (5) (a) *Hearing permitted.* The department may hold a public hearing on an application for an operation permit for a stationary source if requested by any state that received notice under sub. (3) (b) or any other person, if the person may be affected by the issuance of the permit, within 30 days after the department gives notice under sub. (3) (c). A request for a public hearing shall indicate the interest of the party filing the request and the reasons why a hearing is warranted. The department shall hold the public hearing within 60 days after the deadline for requesting a hearing if it determines that there is a significant public interest in holding the hearing.

**SECTION 217.** 285.62 (6) (c) 1. of the statutes is amended to read:

285.62 (6) (c) 1. If the department receives an objection from the federal environmental protection agency under this subsection, the department may not issue the operation permit unless the department revises the proposed operation permit as necessary to satisfy the objection.

**SECTION 218.** 285.62 (7) (b) of the statutes is amended to read:

285.62 (7) (b) The department shall approve or deny the operation permit application for a new source or modified source. The department shall issue the operation permit for a new source or modified source if the criteria established under ss. 285.63 and 285.64 are met. The department shall issue an operation permit for a new source or modified source or deny the application within 180 days after the application is considered to be complete under sub. (2) (b) or after the permit applicant submits to the department the results of all equipment testing and emission monitoring required under the construction permit, whichever is later.

**SECTION 219.** 285.62 (8) of the statutes is renumbered 285.62 (8) (a).

**SECTION 220.** 285.62 (8) (b) of the statutes is created to read:

285.62 (8) (b) If a person submits an application for renewal of an operation permit before the date specified in s. 285.66 (3) (a), the stationary source may not be required to discontinue operation and the person may not be prosecuted for lack of an operation permit until the department acts under sub. (7), except that this paragraph does not apply in a situation in which its application would contravene the federal clean air act.

**SECTION 221.** 285.62 (9) (b) of the statutes is repealed and recreated to read:

285.62 (9) (b) Subject to sub. (12), if the department fails to act on an application for an operation permit within the time limit under sub. (7) (b), the department shall include in a report the reasons for the delay in acting on the application and recommendations for how to avoid delays in the future in similar situations. The department shall make reports under this subsection available to the public, place a prominent notice of the reports on the department's Internet site, and submit the reports to the standing committees of the legislature with jurisdiction over environmental matters semiannually.

**SECTION 222.** 285.62 (12) of the statutes is created to read:

285.62 (12) **EXTENSIONS.** Upon agreement between the department and an applicant, the department shall extend any time limit applicable to the department under this section. The department may not require an applicant to agree to extend a time period as a condition of approving an application.

**SECTION 223.** 285.63 (1) (d) of the statutes is amended to read:

285.63 (1) (d) *Source will not preclude construction or operation of other source.* The stationary source will not degrade the air quality in an area sufficiently to prevent the construction, reconstruction, replacement, modification or operation of another stationary source if the department received plans, specifications and other information under s. 285.61 (2) (a) for the other stationary source prior to commencing its analysis under s. 285.61 (3) for the former stationary source. This paragraph does not apply to an existing source required to have an operation permit.

**SECTION 224.** 285.66 (2) of the statutes is renumbered 285.66 (2) (a).

**SECTION 225.** 285.66 (2) (b) of the statutes is created to read:

285.66 (2) (b) Notwithstanding par. (a), the department may not specify that coverage under a general permit under s. 285.60 (3) expires except as follows:

1. The department may specify an expiration date for coverage under a general permit at the request of an owner or operator.

2. The department may specify a term of 5 years or longer for coverage under a general permit if the department finds that expiring coverage would significantly improve the likelihood of continuing compliance with

applicable requirements compared to coverage that does not expire.

3. The department may specify a term of 5 years or less for coverage under a general permit if required by the federal clean air act.

**SECTION 226.** 285.66 (3) (a) of the statutes is amended to read:

285.66 (3) (a) A permittee shall apply for renewal of an operation permit at least ~~42~~ 6 months before the operation permit expires. The permittee shall include any new or revised information needed to process the application for renewal.

**SECTION 227.** 285.81 (1) (intro.) of the statutes is amended to read:

285.81 (1) PERMIT HOLDER; PERMIT APPLICANT; ORDER RECIPIENT. (intro.) Any permit, part of a permit, condition or requirement in a permit, order, decision or determination by the department under ss. 285.39, 285.60 to 285.69 or 285.75 shall become effective unless the permit holder or applicant or the order recipient seeks a hearing ~~on~~ challenging the action in the following manner:

**SECTION 228.** 285.81 (1m) of the statutes is created to read:

285.81 (1m) EFFECT OF A CHALLENGE. (a) Subject to par. (b), if a permit holder or applicant seeks a hearing challenging part of a permit or a condition or requirement in a permit under sub. (1), the remainder of the permit shall become effective and the permit holder or applicant may, at its discretion, begin the activity for which the application was submitted or for which the permit was issued.

(b) An emission limitation contained in a permit becomes effective despite a challenge under par. (a), unless the permit holder or applicant challenging the emission limitation obtains a stay of the emission limitation from the hearing examiner or court considering the challenge.

**SECTION 229.** 299.05 (2) (a) of the statutes is amended to read:

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

**SECTION 230.** 299.05 (2) (d) of the statutes is repealed.

**SECTION 231. Nonstatutory provisions.**

(1) REPORT ON AIR PERMIT STREAMLINING EFFORTS.

(a) The department of natural resources, in consultation with owners and operators of stationary sources of air pollution, shall develop a report that contains all of the following:

1. A list of all existing exemptions under section 285.60 (6) of the statutes, as affected by this act, and all general permits under section 285.60 (3) of the statutes, as affected by this act.

2. Recommendations, and related proposed rule revisions, for expanding exemptions under section 285.60 (6) of the statutes, as affected by this act, establishing reg-

istration permits under section 285.60 (2g) of the statutes, as created by this act, expanding the use of general permits under section 285.60 (3) of the statutes, as affected by this act, issuing construction permit waivers under section 285.60 (5m) of the statutes, as created by this act, and taking other actions under section 285.60 (10) of the statutes, as created by this act, including consolidating the permits for sources at one facility into one permit.

3. A schedule for providing additional reports containing recommendations, and related rule revisions, for expanding exemptions under section 285.60 (6) of the statutes, as affected by this act, expanding the use of registration permits under section 285.60 (2g) of the statutes, as created by this act, expanding the use of general permits under section 285.60 (3) of the statutes, as affected by this act, expanding the issuance of construction permit waivers under section 285.60 (5m) of the statutes, as created by this act, and taking other actions under section 285.60 (10) of the statutes, as created by this act, including consolidating the permits for sources at one facility into one permit.

4. A description of requirements in the federal clean air act that limit the department's ability to expand exemptions under section 285.60 (6) of the statutes, as affected by this act, expand the use of registration permits under section 285.60 (2g) of the statutes, as created by this act, expand the use of general permits under section 285.60 (3) of the statutes, as affected by this act, expand the issuance of construction permit waivers under section 285.60 (5m) of the statutes, as created by this act, and take other actions under section 285.60 (10) of the statutes, as created by this act, and recommendations on how these limitations might be overcome.

(b) The department of natural resources shall submit the report under paragraph (a) to the legislature in the manner provided under s. 13.172 (2) no later than the first day of the 7th month beginning after the effective date of this paragraph.

(2) REPORT ON CLEAN AIR ACT STATE IMPLEMENTATION PLANS. No later than the first day of the 13th month beginning after the effective date of this subsection, the department of natural resources shall submit to the standing committees of the legislature with jurisdiction over environmental matters a report that contains all of the following:

(a) A description of all of this state's existing and pending state implementation plans under 42 USC 7410 with an analysis of any rules or requirements included in the plans that may not have been necessary to obtain federal environmental protection agency approval but that are federally enforceable as a result of being included in the plan.

(b) Recommendations for priorities for revisions of state implementation plans to remove rules and other requirements that may not have been necessary to obtain federal environmental protection agency approval.

(3) **REPORT ON EMISSION MONITORING PRACTICES.** The department of natural resources, in consultation with representatives of industry and others, shall develop a report that identifies best practices for emissions monitoring required under section 285.17 (2) of the statutes, as affected by this act, and related proposed rule revisions, to reduce overall permitting costs and approval times and to minimize inconsistencies in monitoring requirements within this state and with monitoring requirements imposed by other states and the federal environmental protection agency. The department shall submit the report under this subsection to the standing committees of the legislature with jurisdiction over environmental matters no later than the first day of the 13th month beginning after the effective date of this subsection.

(4) **REPORT ON APPLICATION REQUIREMENTS.** The department of natural resources, in consultation with representatives of industry and others, shall develop a report that identifies information that the department will require in applications for air pollution control permits, and related proposed rule revisions, to reduce overall permitting costs and approval times and to minimize inconsistencies in application requirements within this state and with application requirements imposed by other states and the federal environmental protection agency. The department shall submit the report under this subsection to the standing committees of the legislature with jurisdiction over environmental matters no later than the first day of the 13th month beginning after the effective date of this subsection.

**SECTION 232. Initial applicability.**

(1) **PROCESSING OF AIR PERMITS.** The treatment of sections 285.61 (3) (intro.) and (a), (7) (a), and (11), 285.62 (5) (a), (7) (b), and (9) (b), and 285.66 (3) (a) of the statutes, the renumbering and amendment of sections 285.61 (2) and 285.62 (2) of the statutes, the creation of sections 285.61 (2) (a) 2. and (b) and 285.62 (2) (a) 2. and (b) of the statutes first apply to applications submitted on the effective date of this subsection.

(2) **REVIEW OF AIR POLLUTION CONTROL DECISIONS.** The treatment of section 285.81 (1) (intro.) and (1m) of the statutes first applies to person who file petitions on the effective date of this subsection.

(2m) **PROMULGATION OF EMISSION STANDARDS FOR HAZARDOUS AIR CONTAMINANTS.** The renumbering and amendment of section 285.27 (2) (b) of the statutes and the creation of section 285.27 (2) (b) 1. to 4. of the statutes first apply to rules submitted to the legislative council staff under section 227.15 (1) of the statutes on the effective date of this subsection.

(3k) **CHAPTER 30 PROCEDURES.**

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

(b) The treatment of sections 30.208 and 30.209 of the statutes first applies to applications for contracts under section 30.20 of the statutes that are submitted to the department of natural resources on the effective date of this paragraph.