



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 167
[2011 Senate Bill 326]

Structures, Deposits, and Other Activities in or Near Navigable Waters

2011 Wisconsin Act 167 (the Act) makes changes to regulation of activities affecting navigable waters and makes other changes related to programs administered by the Department of Natural Resources (DNR). This Memo provides a brief summary of the provisions in the Act. For a more complete analysis of the Act, please see Information Memorandum 2012-06, entitled *2011 Wisconsin Act 167, Relating to the Permitting of Activities in or Near Navigable Waters and Certain Other Activities*.

The Act includes provisions regarding all of the following:

- Allows the DNR to issue general permits without promulgating these permits by rule, and creates procedures for general permit issuance.
- Authorizes the DNR to issue a general permit for any navigable waters activity for which it may issue an individual permit.
- Requires that activities subject to general permits may cause only minimal adverse environmental impacts, may not materially interfere with navigation, and may not have an adverse impact on the riparian property rights of adjacent riparian owners.
- Provides for temporary suspension of general permits by certain legislative committees.
- Requires reporting by the DNR about its activities related to general permits.
- Changes deadlines for DNR review of an application for an individual permit, and limits DNR's ability to deem an application incomplete.
- Includes automatic approval of applications for individual permits if the DNR fails to meet its deadline for taking final action on an application.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

- Specifies that, in any hearing on a DNR action relating to an individual permit under subch. II of ch. 30, Stats., the petitioner proceeds first with the presentation of evidence and has the burden of proof.
- With respect to piers and wharves, modifies current law related to exemptions, enforcement, and general permits.
- Prohibits the DNR from issuing a general permit for a permanent boat shelter that extends beyond the waterward end or side of the owner's pier or wharf.
- Allows repair and maintenance of a boathouse that existed on December 16, 1979, under certain conditions.
- Modifies requirements for municipal work on bridges and culverts.
- Exempts land grading activities authorized under certain other permits from the ch. 30 permitting requirements.
- Requires the DNR to establish expedited procedures for approval of plans for certain low hazard dams and water or sewage systems.
- Requires the DNR to publish on its website its determinations regarding the navigability of waterways and the ordinary high-water mark of navigable waterways, and specifies that such determinations may be relied upon as accurate.
- Authorizes the DNR to charge applicants for various permits under ch. 30, Stats., a supplemental fee to be used by the DNR to maintain a computerized system by which an applicant may determine the status of an application.
- Establishes deadlines for the DNR to take final action on certain applications and directs the DNR to set other deadlines.
- Establishes limitations on DNR denial of certain applications and requires the refund of certain application fees if the DNR fails to approve or deny an application before the applicable deadline.
- Specifies that the DNR is not required to use air dispersion modeling in its review of air pollution control permit applications for a minor source unless certain conditions are met.
- Authorizes the DNR to renew WPDES permits and stormwater management permits under certain conditions.
- Requires the DNR to give notice of certain activities on its website, in addition to the publishing of a Class 1 notice under ch. 985, Stats., and makes other changes related to DNR notices.

Effective date: The majority of Act 167 takes effect on August 1, 2012. Certain provisions of the Act relating to the maintenance of and enforcement actions against piers that were placed on or before February 6, 2004, take effect on April 17, 2012.

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