



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2017 Wisconsin Act 164**  
[2017 Assembly Bill 599]

**Determinations of Stream  
Navigability**

In limited circumstances, 2017 Wisconsin Act 164 prohibits the Department of Natural Resources (DNR) from changing its determination regarding the navigability of a stream (or portion of a stream). Specifically, unless all structures in a stream and all changes to adjacent land that affect (or, with respect to adjacent land, could possibly affect) a stream's natural flow are removed from a stream, the DNR may not modify its navigability determination, if all of the following criteria are satisfied:

- The DNR makes a determination that a stream (or portion of a stream) is not navigable.
- A dam is constructed on that stream that modifies the natural flow of the stream (or portion of the stream).
- An artificial impoundment created by the dam is or has been subject to an agreement through the U.S. Fish and Wildlife Service's Partners for Fish and Wildlife Habitat Development program, or a similar, publically administered environmental restoration project, as determined by the DNR.

The Act also generally exempts streams (or portions of streams) that satisfy the above criteria from permitting requirements under ch. 30, Stats., for activities in navigable waters. However, that general exemption does not apply to an impoundment that is hydrologically connected to a Class I, II, or III trout stream or that discharges directly into a natural navigable waterway.

*Effective date:* March 30, 2018

*Prepared by:* Anna Henning, Senior Staff Attorney

April 12, 2018

AH:mcm;ty

---

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.wisconsin.gov>.