



WISCONSIN LEGISLATIVE COUNCIL

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CLEARINGHOUSE RULE 02-045

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

Section 30.01 (1p), Stats., defines the term “fishing raft” in part to mean any raft, float or structure that is designed to be used or is normally used for fishing, that is not normally used as a means of transportation on water and that is normally retained in place by means of a permanent or semi-permanent attachment to the shore or the bed of the waterway. Section NR 324.03 (1) is repealed and recreated to define the term “fishing raft” to include a boat. If the intent of the rule provision is to state that *any* boat will be considered to be a fishing raft, then the department should explain the statutory authority for the provision, in light of the statutory requirement that a fishing raft is something that is not normally used as a means of transportation on water. However, if the intent of the provision is to state that a boat is a fishing raft when it is designed to be used or is normally used for fishing, when it is not normally used as a means of transportation on water and when it is normally retained in place by means of a permanent or semi-permanent attachment to the shore or to the bed of a waterway, then the rule should clearly so state.

2. Form, Style and Placement in Administrative Code

a. In the plain language analysis of the rule, the notation “s. NR 324.03 (1)” should be changed to “s. 30.01 (1p), Stats.,” the statutory cite for the definition of “fishing raft.” Also, in the statement of authorizing statutes, the citation “(6a)” should be replaced by the citation “(6)(a).”

b. In s. NR 324.03 (1), “as used in s. 30.01 (1p), Stats., may include a boat” should be changed to “has the meaning given in s. 30.01 (1p), Stats., and may include a boat.”

c. In s. NR 324.03, the repealed and recreated definitions in subs. (2) and (4) and the newly created sub. (5) cause the definitions section of the rule to be out of alphabetical order, since the definition of “Riparian” in the current rule remains as sub. (3). The definitions in s. NR 324.03 should be renumbered to be in alphabetical order. Also, it is suggested that the definition of “Wolf river municipality” be retained, but amended to read “has the meaning given in s. 30.01 (10), Stats.”