

Report From Agency

REPORT TO LEGISLATURE

NR 320, Wis. Adm. Code
Regulation of bridges and culverts in or over navigable waterways

Board Order No. WT-21-06
Clearinghouse Rule No. 06-038

Basis and Purpose of the Proposed Rule

The purpose of the proposed revisions to ch. NR 320 is to create an additional general permit to streamline the permit processes for temporary in-stream crossings. The proposed revisions contain construction, design and location standards for a general permit for temporary in-stream crossings, a technique used by the forest industry during logging projects. Revisions also include some housekeeping changes to consolidate standards that apply to all general permits in the rule, and to repeal unnecessary clearance standards for temporary bridges.

The proposed rule establishes construction, design, placement location standards in ch. NR 320 for projects to be eligible for a new general permit for temporary in-stream crossings. Key standards for a general permit for a temporary in-stream crossing include:

- Crossing for temporary access for forest management activities – maximum 160-day placement
- Stream width is less than 10 feet, ordinary high water mark to ordinary high water mark
- Poles, small logs or pipes used for crossing (parallel to stream flow)
- For trout streams, a culvert shall be incorporated to maintain fish passage

This proposed rule also consolidates standards applicable to all general permits in ch. NR 320 under “General Standards”, and repeals two clearance standards for temporary bridges. These clearance standards are not necessary because ch. NR 320 does not distinguish between temporary and permanent bridges.

Summary of Public Comments

One comment was made concerning the removal of riprap as a topsoil stabilization tool in s. NR 320.06 (2)(c). The Department’s response is that riprap is not appropriate for stabilizing soil exposed as a part of the construction project, or where a temporary stream crossing is removed and restoration of the original stream bank is desired.

The other comments received related to portions of ch. NR 320 that are already in effect and not a part of the proposed rule.

Modifications Made

No modifications were made as a result of public hearing comments.

Appearances at the Public Hearing

May 11, 2006 – Madison

In support – None

In opposition -- None

As interest may appear:

Scott Mueller, USDA – NRCS, 8030 Excelsior Drive, Madison, WI 53717

May 15, 2006 – Wausau

In support – none

In opposition – none

As interest may appear:

Wilbur Petroskey, 431 Abner Street, Rhinelander, WI 54501

Changes to Rule Analysis and Fiscal Estimate

No modifications were required.

Response to Legislative Council Rules Clearinghouse Report

No comments were received on the proposed rule.

Final Regulatory Flexibility Analysis

Any person or small business conducting an activity in navigable waters can qualify for an exemption or apply for a general permit or individual permit. To obtain a permit, small businesses follow the same requirements as other waterfront property owners: complete an application form and submit information to describe their project and demonstrate that it complies with statutory and code requirements to receive a certification. Schedules, application steps and compliance/reporting requirements are very basic for all applicants, and most projects can be planned and conducted by individuals with no specific professional background. The proposed rules will not have a significant economic impact on a substantial number of small businesses, and thus, under s. 227.19(3m), Stats., a final regulatory flexibility analysis is not required.