



NR 325

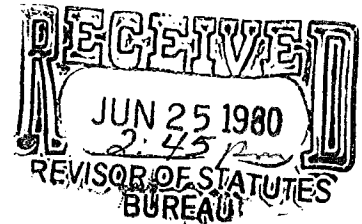
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl
Secretary

BOX 7921
MADISON, WISCONSIN 53707

IN REPLY REFER TO: _____

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS



TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WR-3-80 was duly approved and adopted by this Department on April 23, 1980. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 24th day of June, 1980.

Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

.....
IN THE MATTER of creating chapter NR 325 .
of the Wisconsin Administrative Code .
pertaining to maintenance, repair and . WR-3-80
removal procedures for boathouses and .
fixed houseboats on navigable waterways .
.....

Analysis Prepared by Department of Natural Resources

Chapter 101, Laws of 1979, created sec. 30.121, Stats., providing for the maintenance and repair of existing boathouses or fixed houseboats extending beyond the ordinary highwater mark of navigable waterways. If the cost repair exceeds 50% of the equalized assessed value or current fair market value of the boathouse or fixed houseboat, the structure must be removed from the waterway. The law also provides for abatement of structures which obstruct navigation and removal of abandoned structures.

Chapter NR 325, Wis. Adm. Code, provides additional necessary definitions, provides a procedure to be followed by owners of boathouses or fixed houseboats and the Department to follow in certifying that the repairs will not exceed 50% of the current value of the boathouses or fixed houseboat, and provides procedures for Department use in responding to boathouses and fixed houseboats which either obstruct navigation or have been abandoned.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 30.121 and 227.014(2)(a) and (b), Stats., the State of Wisconsin Natural Resources Board hereby creates rules interpreting section 30.121, Stats., as follows:

CHAPTER NR 325
MAINTENANCE, REPAIR AND REMOVAL
PROCEDURES FOR BOATHOUSES AND FIXED HOUSEBOATS
ON NAVIGABLE WATERWAYS

NR 325.01	Purpose	NR 325.08	Maintenance and repair cost certification information
NR 325.02	Applicability	NR 325.09	Prohibitions
NR 325.03	Definitions	NR 325.10	No permit necessary
NR 325.04	Severability	NR 325.11	Removal procedure for abandoned boathouses or fixed houseboats
NR 325.05	Current value	NR 325.12	Removal procedure for disrepaired or obstructing boathouses or fixed houseboats
NR 325.06	Repair and maintenance cost	NR 325.13	Other enforcement
NR 325.065	Exemption from 50% repair limitations		
NR 325.07	Certification procedure		

NR 325.01 Purpose. These rules are promulgated pursuant to ss. 30.121 and 227.014(2)(a) and (b), Stats., in order to establish a valuation program for boathouses and fixed houseboats, to define terms used in s. 30.121, Stats., and other terms necessary to the administration of s. 30.121, Stats., and these rules, and to establish procedures for certification of maintenance and repair costs, and procedures for the department to use in obtaining removal of abandoned boathouses and fixed houseboats or boathouses which materially obstruct navigation.

NR 325.02 Applicability. These rules apply to boathouses and fixed houseboats that extend beyond the ordinary highwater mark of navigable waterways.

NR 325.03 Definitions. (1) "Abandoned" means the relinquishment of possession of a boathouse or fixed houseboat by the owner with indications of intent to terminate ownership, which may be evidenced by several factors such as the failure to act to maintain or repair boathouses or fixed houseboats that are in a major state of disrepair.

(2) "Boathouse" means a permanent structure used for the storage of watercrafts and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts. For purposes of this chapter, the term boathouse does not include shore stations or boathouses which are removed from a waterway on an annual basis.

(3) "Constructed or placed" means: (a) The original erection of a boathouse or the original placement of a fixed houseboat beyond the ordinary highwater mark of any navigable waterway; or

(b) The building of additions to existing boathouses or existing fixed houseboats; or

(c) The relocation of a boathouse or a fixed houseboat beyond the ordinary highwater mark of any navigable waterway at a location different from its location at the date of this act; or

(d) The conversion of a boathouse or fixed houseboat in a manner to allow permanent or temporary human habitation after December 15, 1979.

(4) "Current value" means the equalized assessed value as determined by s. 70.32, Stats., or, if not assessed, its current fair market value as certified by a competent appraiser using standard real estate appraisal techniques. If assessed, but the assessment for the boathouse or fixed houseboat cannot be separately distinguished from the general property assessment, the current value shall be the current fair market value as set forth above.

(5) "Fixed houseboat" means a structure not actually used for navigation which extends beyond the ordinary highwater mark of a navigable waterway and is retained in place either by cables attached to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(6) "Major state of disrepair" means a state of damage or deterioration, such that the repair or replacement thereof would exceed 50% of its current value.

(7) "National, state or local historical landmark" means a structure listed in or determined eligible for listing in the national registry of historical places or in a local municipal historical preservation ordinance by using procedures prescribed by the Wisconsin state historical society.

(8) "Not actually used for navigation" means that, while possibly floatable and maneuverable, the primary purpose is not navigation.

NR 325.04 Severability. Should any section, paragraph, phrase, sentence, clause or word of this chapter be declared invalid or un-

constitutional for any reason, the validity of the remainder of the chapter shall not be affected thereby.

NR 325.05 Current value. An owner wishing to repair or maintain a boathouse or fixed houseboat shall provide to the department proof of its current value.

NR 325.06 Repair and maintenance cost. (1) Owners of boathouses or fixed houseboats shall obtain a certification from the department that all needed repair and maintenance costs total less than 50% of the current valuation of the structure prior to performance of the maintenance or repairs.

(2) If all needed repair and maintenance costs total less than 10% of the current value, the owner does not need to apply to the department for a certification pursuant to this chapter. However, any such owner shall maintain a record of the current value at the time of repair and the costs of all needed repairs and maintenance and shall submit such records to the department upon request.

NR 325.065 Exemption from 50% repair limitation. The limitation on repairing only 50% of the current value of a boathouse or fixed houseboat shall not be applicable to any such structure damaged by violent wind, vandalism or fire.

NR 325.07 Certification procedure. (1) Except as provided for in section NR 325.06(2), owners of boathouses or fixed houseboats wishing to perform maintenance or repairs shall request certification that all required maintenance and repairs do not exceed 50% of the current value.

The request for certification shall be made to the department district director of the district within which the boathouse or fixed houseboat is located and shall contain the information set forth in sections NR 325.05 and NR 325.08.

(2) The department shall review the information submitted by the applicant for certification and shall inspect the boathouse or fixed houseboat.

(3) The department shall within 60 days issue a certification as requested if the department agrees with the estimates of all needed repair or maintenance costs and finds that all needed maintenance or repairs are less than 50% of the current value.

(4) If the department disagrees with either the cost estimate for all needed maintenance or repairs or the current value, it may obtain independent estimates of such cost or current value. The department shall issue the requested certification if the independent estimates for costs of all needed maintenance or repairs and current value are less than 50% of the current value.

(5) The department shall deny requested certification if either the independent or applicant's estimates of costs for all needed maintenance or repairs exceeds 50% of the current value and shall declare the boathouse or fixed houseboat to be in a major state of disrepair. Any owner denied certification may review the denial pursuant to s. 227.064, Stats.

NR 325.08 Maintenance and repair cost certification information.

(1) Plans or photographs with a locational sketch shall be prepared by the applicant showing the following information for use by the department.

(a) Location. The waterway upon which the boathouse or fixed houseboat is located, the legal description of the adjacent property and directions to the site shall be provided.

(b) Owner or lessee. The owner or lessee's name, address, fire number (if available) and telephone number shall be provided.

(c) Features. Information about the following features and their state of repair shall be provided as a part of the required certification information:

1. Boathouses

a. Foundations

b. Structural framework

c. Siding

d. Roofing

e. Presence and description of living quarters, if any

2. Fixed houseboats

a. Devices used to secure the fixed houseboat to the bank or bed

b. Flotation devices

c. Superstructure framework

d. Siding

e. Roof

f. Presence and description of living quarters, if any

(2) Statement of maintenance or repairs. The applicant shall provide a statement of all needed maintenance or repair items regardless of whether the maintenance or repair will be done within one year of the statement. An estimate of labor and material cost associated with those items shall be submitted. Estimates may be prepared by the applicant or by a contractor or contractors representing the applicant. Volunteer labor shall be valued at the prevailing minimum wage rate.

NR 325.09 Prohibitions. After December 15, 1979 the construction or placement of boathouses or fixed houseboats on the bed of navigable waterways is prohibited.

NR 325.10 No permit necessary. No permit is necessary pursuant to s. 30.12, Stats., for the maintenance and repair of boathouses and fixed houseboats.

NR 325.11 Removal procedure for abandoned boathouses or fixed houseboats. (1) Upon complaint or upon its own motion the department shall initiate the process set forth in s. 29.04, Stats., for the removal of abandoned boathouses or fixed houseboats.

(2) The department prior to removal shall issue a 60 day notice to the owner of the boathouse or fixed houseboat if the owner can be reasonably ascertained.

(3) If the owner cannot be determined, the department shall publish a class 3 notice pursuant to ch. 985, Stats.

(4) After the 60 day period of notification to the owner or one week after the last insertion pursuant to ch. 985, Stats., has passed, the department shall remove abandoned boathouses or fixed houseboats.

NR 325.12. Removal procedure for disrepaired or obstructing boathouses or fixed houseboats. Upon complaint or upon its own motion the department shall order the removal of boathouses or fixed houseboats which materially obstruct navigation or are in a major state of disrepair pursuant to the provisions of s. 30.03(4)(a), Stats.

NR 325.13 Other enforcement. Forfeitures and abatement for violations of s. 30.121, Stats., and this chapter may also be prosecuted by the department pursuant to the provisions of ss. 23.50, 23.79 and 30.03(1) or (2), Stats.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 23, 1980.

The rules contained herein shall take effect upon publication as provided in section 227.026(1) intro., Wisconsin Statutes.

Dated at Madison, Wisconsin 24 June 1980

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

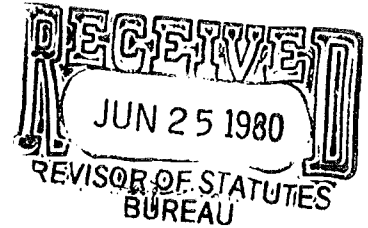
Anthony S. Earl
Secretary

BOX 7921
MADISON, WISCONSIN 53707
1020

June 24, 1980

IN REPLY REFER TO: _____

Mr. Orlan L. Prestegard
Revisor of Statutes
411 West
C A P I T O L



Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. WR-3-80. These rules were reviewed by the Assembly Environmental Resources Committee and the Senate Natural Resources and Tourism Committee pursuant to section 227.018, Wisconsin Statutes. There were no objections.

You will note that this order takes effect upon publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

A handwritten signature in dark ink, appearing to read "Anthony S. Earl".

Anthony S. Earl
Secretary

Enc.