



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 387
[2015 Senate Bill 459]

Navigable Waters and Wetlands

2015 Wisconsin Act 387 makes various changes to laws relating to navigable waters and wetlands.

ASNRI

The Act changes the types of areas designated as areas of special natural resource interest (ASNRI) by removing both of the following:

- Waters or portions of waters that contain endangered or threatened species or aquatic elements as defined and identified in the Wisconsin Natural Heritage Inventory.
- Waters in areas identified in a special area management plan or special inventory study.

The Act also adds to the list of ASNRI waters those bodies of water that contain a “sensitive area,” as defined in the Act, and requires each waterway listed as an ASNRI to be shown on a map published on the Department of Natural Resources (DNR) website.

BOATHOUSES

The Act modifies the legal definition of a “boathouse” to remove the requirement that boathouses may only be continuously used for the storage of watercraft, specifies that foundation repair is included under allowable maintenance and repair of boathouses, and makes other changes related to boathouses.

UTILITY PROJECTS

The Act provides that the special statutory procedures for certain approvals related to large utility projects are the exclusive procedures for those approvals.

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>.

STRUCTURES IN NAVIGABLE WATERS

Generally, the Act specifies that ch. 30, Stats. (navigable waters, harbors, and navigation), only applies to artificial water bodies that are not hydrologically connected to a natural navigable waterway to the extent specifically provided in the chapter. The Act also provides that a challenge to certain types of exemption determinations by the DNR must be brought as a declaratory judgment action, not as a contested case hearing or judicial review of a decision from such a hearing, and requires the DNR to issue a general permit authorizing seawall replacement in certain circumstances in ASNRI's.

WETLANDS

For projects involving less than two acres of wetland on lots created as part of a subdivision, land division, or other development initiated prior to July 1, 2012, the Act generally limits the DNR's review of practicable alternatives for wetlands impacts to those practicable alternatives that are located on the property owned by the applicant if the project involves one of the following:

- The construction or expansion of a single-family home and attendant features.
- The construction or expansion of a barn or farm buildings.
- The expansion of a small business project.

The Act also generally specifies that all practicable alternatives analyses for wetlands must be limited to those alternatives that are consistent with the overall purpose and scope of the project and requires the DNR to impose a level of scrutiny, and require an amount of information, that is commensurate with the severity of the environmental impact, as determined by the DNR. It also creates an exception from wetlands permitting laws for maintenance, operation, or abandonment of stormwater ponds that were not originally constructed in a wetland.

OTHER CHANGES

This legislation also removes specific statutory restrictions and limits DNR restrictions on permanent boat shelters; allows dredging, without a permit, of artificial water bodies that do not connect with an existing navigable waterway; allows construction of a stormwater pond in an artificial water body by a municipality in specified circumstances; and requires certain factors to be taken into account by the DNR when issuing a water level determination for a dam, including property and economic values.

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