

Chapter RB 2

LOWER WISCONSIN STATE RIVERWAY PERMIT EXCLUSIONS, EXEMPTIONS AND PROCEDURES

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Note: Chapter RB 2 was created as an emergency rule effective January 24, 1992.

RB 2.01 Purpose. The purpose of this chapter is to establish exclusions for structures identified in this chapter from the permit requirements of s. 30.44 (1) (a), Stats., as well as exclusions from the timber and woody vegetation provisions of subch. IV of ch. 30, Stats., as authorized by s. 30.43 (3), Stats.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

RB 2.02 Applicability. This chapter is applicable to any person constructing, modifying, repairing or placing a structure in the riverway or cutting or harvesting timber or woody vegetation to restore or maintain prairies in other native plant communities, enhance wildlife habitat or maintain confirmed archeological sites.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

RB 2.03 Structure permit exclusions. In addition to statutory exemptions and exclusions from the permit requirement of subch. IV of ch. 30, Stats., a person may construct, modify, repair or place the following structures in the riverway without the necessity for a permit from the board under s. 30.44 (1), Stats., or a county permit when the area is subject to shoreland zoning, under s. 30.44 (9), Stats., if the structure meets the following standards:

Note: 1995 Wis. Act 211 repealed s. 30.44 (9), Stats.

(1) PORTABLE CAMPING STRUCTURES DESIGNED AND USED FOR RECREATIONAL CAMPING. (a) *Structure visible from the river.* 1. The portable camping structure is designed and used for recreational camping and is visible from the river; and

2. The portable camping structure does not exceed 1600 cubic feet in size; and

3. The portable camping structure remains on the parcel of contiguous land for a period of use not to exceed 30 consecutive days unless it has been removed for a period of not less than 30 consecutive days prior to returning to that parcel of land for another period of use not to exceed 30 consecutive days.

(b) *Structure not visible from the river.* 1. The portable camping is designed and used for recreational camping and is not visible from the river; and

2. The portable camping structure remains on the parcel of contiguous land for a period not to exceed 180 days in a calendar year; and

3. The portable camping structure complies with the height requirement of s. 30.44 (1) (e), Stats.

(2) STORAGE OF PORTABLE CAMPING STRUCTURES. Portable camping structures of a landowner in the riverway may be stored on the landowner's land if:

(a) *Visibility.* The structure is not visible from the river;

(b) *Height.* The height requirements of s. 30.44 (1) (e), Stats., are complied with; and

(c) *Use.* The structure is not used for recreational camping or human habitation.

(3) WATERFOWL BLINDS, WILDLIFE OBSERVATION BLINDS, TREE STANDS AND TREE HOUSES. Waterfowl blinds, wildlife observation blinds, tree stands for hunting and tree houses if the structure:

(a) *Size.* Does not exceed 288 cubic feet in size; and

(b) *Visibility; color.* Either of the following applies:

1. Is visually inconspicuous; or

2. Has exterior colors which harmonize with the natural surroundings during leaf-on conditions.

Note: Waterfowl blinds and tree stands on state lands are further regulated by s. 29.327, Stats., and s. NR 45.09.

(4) STRUCTURES OF MINIMAL SIZE. Structures no larger than 64 cubic feet in size if the structures and any reasonable and necessary support structures:

(a) *Visibility.* Are visually inconspicuous; or

(b) *Color.* Have exterior colors which harmonize with the natural surroundings during leaf-on conditions.

(5) OTHER STRUCTURES. (a) Other structures which are described in a permit application and which are judged to be of minimal size or not visible from the river by a 2/3 majority vote of the board's full membership.

(b) Nonagricultural wire fences.

Note: Fences erected for agricultural use are exempted under s. 30.46, Stats.

Note: The exclusion granted under this section pertains solely to structure permits under subch. IV, ch. 30, Stats., and does not relieve a person from compliance with other laws such as shoreland zoning restrictions.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

RB 2.04 Mobile homes. Mobile homes used only for recreational purposes in the riverway are not subject to permit requirement of s. 30.44 (1) (b), Stats., and may not be considered a placement or replacement of a mobile home if:

(1) MOBILE HOME VISIBLE FROM THE RIVER. (a) The mobile home used for recreation is visible from the river;

(b) The mobile home does not exceed 1600 cubic feet in size; and

(c) The mobile home remains on the contiguous parcel of land for a period of use not to exceed 30 consecutive days unless it has been removed from the parcel for a period of not less than 30 consecutive days prior to returning to the parcel of land for another period of use which may not exceed 30 consecutive days.

(2) MOBILE HOME NOT VISIBLE FROM THE RIVER. (a) The mobile home used for recreation is not visible from the river;

(b) The mobile home remains on the parcel of contiguous land for a period not to exceed 180 days in a calendar year; and

(c) The mobile home complies with the height requirement of s. 30.44 (1) (e), Stats.

(3) STORAGE. The mobile home is stored on land owned by the owner of the mobile home if:

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- (a) It is not visible from the river;
- (b) The height requirements of s. 30.44 (1) (e), Stats., are complied with; and
- (c) The mobile home is not occupied or used for recreation or human habitation.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

RB 2.05 Routine maintenance. Routine maintenance activities that do not constitute repair of a damaged structure for the purpose of obtaining a permit under s. 30.44 (1) (b) 4., Stats., include:

- (1) Replacement of roofing shingles or reroofing projects which do not result in the structure being larger in size or more visible from the river during leaf-on conditions;
- (2) Replacement of roofing shingles or reroofing projects if the exterior color or roofing material will harmonize with the surroundings during leaf-on conditions;
- (3) Painting of exterior of structure or mobile home or replacement of or adding siding if:
 - (a) The activity does not result in the structure being larger in size; or
 - (b) More visible from the river during leaf-on conditions; or
 - (c) If the exterior colors will harmonize with the surroundings during leaf-on conditions;
- (4) Replacement of windows or doors if:
 - (a) The activity will not result in the structure being more visible from the river during leaf-on conditions;
 - (b) The exterior color harmonizes with the surroundings during leaf-on conditions; and
 - (c) There is no significant increase in the amount of glass or other reflective material; and
- (5) Other maintenance activities as described in a permit application and which are deemed as routine by a 2/3 majority vote by the board's full membership.

Note: The exclusion granted under this section pertains solely to structure permits under subch. IV, ch. 30, Stats., and does not relieve a person from compliance with other laws such as shoreland zoning restrictions.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

RB 2.06 Prairies and native plant communities; wildlife habitat; archeological sites. In addition to timber and woody vegetation exemptions or exclusions provided in subch. IV of ch. 30, Stats., a person may cut or harvest timber or woody vegetation in the riverway if the cutting or harvesting is for the purpose of restoring or maintaining a prairie or other native plant community, enhancing wildlife habitat or to maintain confirmed archeological sites upon approval of a management plan by the department and issuance of a permit by the board under the following procedures:

- (1) APPLICATIONS. Applications for management plans shall be made on forms prepared and provided by the department and shall include:
 - (a) *Name and address.* The applicant's name and address;
 - (b) *Management objectives.* Clearly stated management objectives of the application;
 - (c) *Schedule.* An implementation schedule;
 - (d) *Erosion control measures.* Applicable erosion control measures for the project;
 - (e) *Endangered or threatened species.* Impacts on known populations of endangered or threatened species;
 - (f) *Wildlife.* Impacts on wildlife other than endangered or threatened species;

- (g) *Aesthetics.* Impacts on natural aesthetics;
- (h) *Additional information.* Such additional information as may be requested by the department or board.

Note: Applications may be obtained from the Department of Natural Resources' offices at Rt. 1, Box 10, Dodgeville, 53533; 5350 Hwy. 133E, Boscobel, 53805; Hwy. C, Spring Green, 53588; and, the Muscoda board office at 202 N. Wisconsin Avenue, Muscoda, 53573.

(2) DEPARTMENT APPROVAL. The department shall review and approve the management plan within 30 days of receipt provided:

- (a) *Management objectives.* It is reasonable to believe the management objectives can be successfully accomplished on the land;
- (b) *Erosion control safeguards.* Erosion control safeguards deemed necessary are incorporated;
- (c) *Endangered and threatened species.* Endangered or threatened species will not be adversely affected;
- (d) *Wildlife.* Negative impacts on wildlife are minimal or are balanced by benefits to other plant or animal species;
- (e) *Area involved.* The area of the project is reasonable and appropriate;
- (f) *Schedule.* Implementation schedules for the project are realistic and reasonable.

(3) DEPARTMENT DENIAL. If the department denies a management plan or application, the basis for denial shall be in writing and provided to the applicant and the board.

(4) BOARD APPROVALS. The board shall act on department approved management plans within 30 days of receipt. The board shall approve plans provided:

- (a) *Scenic beauty; natural values.* The plan is consistent with scenic beauty and natural values of the riverway; and
- (b) *Visual intrusion.* The project will not cause an existing structure, public access site, utility facility, walkway, stairway or bridge to become visually conspicuous from the river during leaf-on conditions.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93; correction in (intro.) made under s. 13.92 (4) (b) 6., Stats., Register March 2013 No. 687.

RB 2.07 Mining and quarrying. (1) PROHIBITION. No person other than those engaged in mining or quarrying in the riverway on or prior to October 31, 1989, may engage in that activity in the riverway.

(2) ACTIVE OPERATIONS. (a) *Authorized operations.* Persons engaged in mining or quarrying in the riverway on or prior to October 31, 1989, may continue the activity on the parcel of land upon which the activity is located if the activity is visually inconspicuous and if an affidavit on a form supplied by the board is filed with the board before January 1, 1994. The affidavit shall state the operation was active on October 31, 1989, and shall inform the person filing the affidavit the penalty for false swearing under s. 946.32, Stats.

(b) *Area of authorization.* The boundaries of the parcel of land mining and quarrying may be conducted on shall be those established in the description of the land in the lease, easement, deed or land contract executed prior to October 31, 1989 which establishes in the person engaged in the activity the interest in or authority to use the parcel. If the instrument described more than one parcel of land, the boundaries and authorized parcel shall be limited to land contiguous to the mining or quarrying activity. A copy of the lease, easement, deed or land contract executed prior to October 31, 1989, shall be filed with the board together with the affidavit required under par. (a).

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.