

(c) An order issued pursuant to s. 30.03, Stats.; or

(d) By the department, after conferring with the operator, when there is an imminent hazard to the public interest, or to public health, safety or welfare.

(9) Barges may not be moored to trees or other natural features of an area except with the approval of the riparian property owner or during an emergency except that such mooring may be prohibited by the department as a permit condition or by order to prevent unsafe conditions or bank erosion.

(10) Fleeting activities may not have a material adverse effect on threatened or endangered species, their habitat, or other fish and wildlife habitat.

(11) Barge fleeting activities may not have a material adverse effect on commercial clamming or fishing areas.

(12) Operators may not fleet more than the maximum number of barges approved in the permit.

(13) Fleeting areas shall be established and operated in a manner consistent with applicable local zoning ordinances.

(14) A barge fleeting permit issued hereunder may not be exercised until all other necessary permits or approvals have been issued by local, state or federal agencies having jurisdiction over the proposed project.

(15) Operators shall notify the department of plans to discontinue use of the fleeting area for any period in excess of one navigation season.

(16) Upon the expiration of a barge fleeting permit all structures and devices shall be removed by the operator unless the department determines some structures and devices must remain in place to correct existing problems or to prevent future problems that could cause environmental damage.

(17) Operators shall respond to spills of hazardous substances as required by ch. NR 158.

(18) Washing or cleaning of barges which results in a discharge to a waterway may not occur in fleeting areas unless authorized by and conducted in conformance with ch. 147, Stats., where applicable.

(19) Barge fleeting permits may not be transferred without written notice to the department.

(20) Operators shall at all times operate the fleeting area in a safe manner.

(21) Operators shall notify the department of the name, current address, and day and night telephone numbers of the person directly responsible for supervising the fleeting area who is to be notified in case of emergency.

(22) Barge fleeting shall be conducted in a manner which minimizes bank erosion attributable to the fleeting operation.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82.

Register, January, 1983, No. 325  
Environmental Protection

**NR 327.07 Barge fleeting permits.** (1) A barge fleeting permit shall be required to authorize barge fleeting activities under and consistent with ss. 30.10, 30.12, 30.15, 30.19, 30.20, 30.61 (5), 30.68 (8), 30.74 (2) and 144.26, Stats.

(2) Facilities in existence on December 1, 1982 shall be permitted if they substantially comply with the provisions of s. NR 327.06. If the department refuses to permit such a facility, it shall notify the operator of such refusal and the reasons thereof. The department shall hold a hearing if the operator requests a hearing within 30 days of such refusal. If a request for hearing is made, the department must establish that the site or facility does not substantially comply with the provisions of s. NR 327.06.

(3) The issuance or renewal of a barge fleeting permit shall be conditioned on the operation of the fleeting area in compliance with statutory standards and this chapter.

(4) The initial barge fleeting permit issued to an operator shall be valid for a period not less than 5 years nor greater than 10 years. If no proceeding for revocation or violation of the permit has been initiated during the term of the permit and there are no other changed or previously unknown circumstances, including environmental considerations, the permit shall, after notice and opportunity for hearing, be renewed for succeeding periods of up to 10 years.

(5) Failure by an operator to substantially exercise the rights granted in a permit issued under this chapter within a period of 2 years from the issuance of the permit shall render the permit null and void unless extended by the department. Failure by an operator to substantially exercise the rights granted in a permit issued under this chapter for any period of 2 consecutive years shall create a rebuttable presumption that the operator intends to abandon and forfeit the permit and shall be cause for a review of the barge fleeting permit by the department.

(6) A permit shall remain in force during the processing of an application for renewal, including any appeals process, provided that the application for renewal was made prior to the expiration of the permit (s. 227.14, Stats.).

(7) The department retains jurisdiction to modify a permit as appropriate to protect public rights and interest in navigable waters after notice and opportunity for hearing.

*History:* Cr. Register, November, 1982, No. 323, eff. 12-1-82; renum. (5) and (6) to be (6) and (7), cr. (5), Register, January, 1983, No. 325, eff. 2-1-83.

**NR 327.08 Enforcement.** (1) Operators shall notify the department within 5 days after the arrival of the first barge into the fleeting area and within 5 days after the departure of the last barge from the fleeting area each year so that the department may inspect the fleeting area for conformance with permit conditions.

(2) Any agent or employe of the department shall at all times be given reasonable access to any and all parts of any fleeting area. Every reasonable effort shall be made to notify the operator or operator's agent in advance.

(3) Violations of this chapter may be prosecuted by the department under ss. 23.50, 23.79, 30.03, and 30.68 (2) and (7), Stats.

(4) The department, after investigation and notice under s. 30.03, Stats., may revoke a barge fleeting permit for failure to comply with permit conditions.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.

**NR 327.09 Severability.** Should any section, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.