

## Chapter NR 325

## MAINTENANCE, REPAIR AND REMOVAL PROCEDURES FOR BOATHOUSES AND FIXED HOUSEBOATS ON NAVIGABLE WATERWAYS

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**NR 325.01 Purpose.** These rules are promulgated pursuant to ss. 30.121 and 227.11 (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.

**History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80; correction made under s. 13.93 (2m) (b) 7, Stats., Register, October, 1995, No. 478.

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

**History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**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 at-

tached 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.

**History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**NR 325.04 Severability.** **History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80; r. under s. 13.93 (2m) (b) 16, Stats., Register, October, 1995, No. 478.

**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.

**History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**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 of 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.

**History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**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.

**History:** Cr. Register, August, 1989, No. 296, eff. 9-1-80.

**NR 325.07 Certification procedure. (1)** Except as provided for in s. 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 ss. NR 325.05 and 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. 227.42, Stats.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; correction in (5) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1995, No. 478.

**NR 325.08 Maintenance and repair cost certification information.** (1) REQUIRED INFORMATION. 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. Floatation 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.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**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.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**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.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**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.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**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.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

**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.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.