

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
RENUMBERING AND AMENDING, REPEALING AND RECREATING, AND CREATING RULES

The State of Wisconsin Natural Resources Board adopts an order to renumber and amend NR 324.05; to repeal and recreate NR 324.03; and to create NR 324.10(3) and (4) and 324.13 relating to the regulation of fishing rafts on the Wolf river and its tributaries.

FH-17-02

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 30.10(2), 30.126(5)(j) and (6)(a) and 227.11(2)(a), Stats.

Statutes interpreted: s. 30.126(5) and (6), Stats.

This rule change is designed to deal with attempts by some individuals on the Wolf river to avoid floodplain/shoreland zoning restrictions by registering what for all practical purposes is a temporary residence as a fishing raft. Others have tried to avoid the fishing raft restrictions by registering their structure as a boat. This rule will recognize that registering a structure as a boat does not relieve the owner from also registering the structure as a fishing raft if it meets the definition of s. 30.01(1p). The rule also provides a clearer definition for a fishing raft to assure that structures more appropriately considered residences or storage sheds do not fall within the definition of a fishing raft. The rule also modifies the requirements for proving riparian status due to court decisions which hold that easements and leases do not establish riparian owner status, and clarifies the requirements for seasonal removal.

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SECTION 1. NR 324.03 is repealed and recreated to read:

**NR 324.03 Definitions. (1)** "Fishing raft" has the meaning given in s. 30.01(1p), Stats., and may include a boat when it is not normally used as a means of transportation on water and when it is normally retained in place by means of a permanent or semi-permanent attachment to the shore or to the bed of a waterway.

**(2)** "Flotation device" has the meaning given in s. 30.01(1t), Stats.

**(3)** "From the waterway" for the purposes of s. 30.126(5)(f), Stats., and this chapter, means above and landward of the ordinary high water mark.

**(4)** "Normally retained in place by means of a permanent or semi-permanent attachment to the shore or the bed of the waterway", for purposes of s. 30.01(1p), Stats., and this chapter, means a placement waterward of the ordinary high water mark and on the water for a minimum of 14 consecutive days in each year.

**(5)** "Ordinary high water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark either by erosion, destruction of terrestrial vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is impossible or difficult to ascertain where the point of ordinary high water mark is, recourse may be had to other places on the bank or shore of the same stream or lake to determine whether a given stage of water is above or below the ordinary high water mark.

**(6)** "Wolf river municipality" has the meaning given in s. 30.01(10), Stats.

SECTION 2. NR 324.05 is renumbered NR 324.05(intro.) and (1) to (6) and sub. (6), as renumbered, is amended to read:

NR 324.05(6) Written permission from the riparian owner of the site at which the ~~rafts~~ raft is to be located ~~to anchor or moor a fishing raft~~ or proof of riparian ownership such as a copy of a deed, ~~lease, easement~~ or tax ~~receipt~~ statement.

SECTION 3. NR 324.10(3) and (4) are created to read:

**NR 324.10(3)** No owner may maintain a fishing raft which exceeds 512 square feet, has any length or width greater than 32 feet or has a maximum height from the deck to the uppermost roof line greater than 11 feet. An owner may maintain but not expand any fishing raft in violation of this paragraph if the fishing raft was registered prior to January 1, 2001.

**(4)** Registering a fishing raft as a boat does not exempt it from any state or local fishing raft regulations or applicable zoning regulations.

SECTION 4. NR 324.13 is created to read:

**NR 324.13 Non-compliance.** Any structure placed or maintained below or beyond the ordinary high water mark on the Wolf river and its tributaries from the Shawano dam downstream to Lake Poygan which does not meet the definition of a fishing raft requires authorization under ch. 30, Stats., and is subject to all applicable zoning regulations. Structures not meeting the definition of a fishing raft due solely to not being placed for at least 14 consecutive days in any given year may still be registered as a fishing raft provided the inability is due to extenuating circumstances such as low water and the owner receives a variance from the appropriate Wolf river municipality.

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on August 14, 2002.

The rules contained herein shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s.227.22(2)(intro), Stats.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Darrell Bazzell, Secretary

(SEAL)