

Chapter NR 345

REMOVAL OF MATERIAL FROM THE BEDS OF WATERWAYS

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NR 345.01 Purpose. This chapter establishes procedures to implement permitting procedures for the removal of material from the beds of waterways pursuant to s. 30.20, Stats. In addition, this chapter codifies the decision rendered in the matter of *State of Wisconsin v. Francis Dwyer*, 91 Wis. 2d (Ct. App.) 440 (1979).

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80.

NR 345.02 Applicability. The provisions of this chapter are applicable to the removal of materials from the bed of any lake or stream except those waterways set forth in s. 30.20 (1) (a), Stats., for which contracts are necessary for removal of material from the bed.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80.

NR 345.03 Definitions. (a) "Department" means the state of Wisconsin department of natural resources.

(2) "Person" includes all individuals, partnerships, associations and bodies politic and corporate.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80.

NR 345.04 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, July, 1980, No. 295, eff. 8-1-80.

NR 345.05 Procedure. (1) Any person desiring a permit pursuant to s. 30.20, Stats., shall submit an application upon forms developed by the department. No application will be processed unless it is fully completed.

(2) Upon receipt of a complete application, the department shall conduct a site investigation of the proposal within 30 days. Weather conditions which prevent a comprehensive evaluation of the project shall be considered an extenuating circumstance extending the 30-day time limitation. The department shall inspect the site as soon as practicable after the cessation of the weather conditions which prevented the initial site inspection.

(3) If the department concludes that the proposed project will not have adverse environmental effects and will be consistent with the public interest in the water involved, a permit may be issued immediately.

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(4) If the department concludes that the proposed project will have adverse environmental effects or will not be consistent with the public interest in the water involved, a permit may be denied immediately.

(5) If the department is uncertain from the initial site inspection as to whether the proposed project has adverse environmental effects or is not consistent with the public interest in the water involved, additional information may be requested of the permit applicant or further investigation may be conducted prior to rendering a decision. A decision granting or denying the permit shall be rendered immediately upon completion of department evaluation.

(6) A hearing may be requested pursuant to s. 227.064, Stats., relative to the department's granting or denial of any permit pursuant to s. 30.20, Stats.

(7) No permit issued by the department for the removal of material from the bed of a waterway may be exercised unless all necessary permits or approvals have been issued by local, state or federal government agencies having jurisdiction over the proposed project.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80.

NR 345.06 Emergency procedure. (1) Notwithstanding section NR 345.05, emergency removal of bed material required by sudden natural closures of drainage ditches draining agricultural lands currently used for crop production may be done according to plans preapproved by the department. Such plans shall include a plan view of the agricultural lands showing the location of drainage ditches, ditch bottom profiles and cross-sections, the location of disposal sites for removed bed material and devices to prevent downstream sedimentation and turbidity. The department shall be notified of the closure as soon as is practicable, but in any event prior to completion of the removal.

(2) Emergency removal of bed material in ditches draining agricultural lands currently used for crop production and for which plans have not been preapproved by the department may be done according to the following procedure. The department shall be called prior to commencement of the removal and notified of the location of the proposed removal, the nature of the sudden closure, the location of disposal sites for removed bed material and devices that will be used to prevent downstream sedimentation and turbidity. Within 30 days of the commencement of such emergency removal, an application shall be filed for a permit for such removal pursuant to s. 30.20, Stats.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80.

NR 345.07 Nonnavigable waterways. Pursuant to the ruling set forth in *State of Wisconsin v. Francis Dwyer*, 91 Wis. 2d (Ct. App.) 440 (1979), a permit is necessary to remove material from the bed of any nonnavigable lake or stream.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80.