

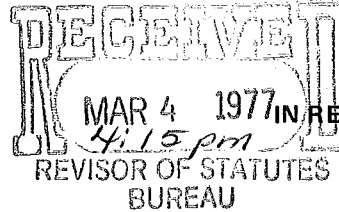


NR 301

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl
Secretary

BOX 450
MADISON, WISCONSIN 53701



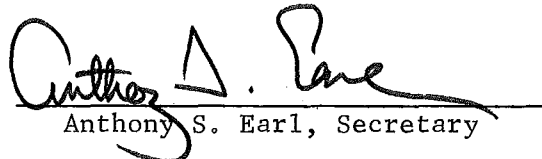
IN REPLY REFER TO: _____

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WR-88-76 was duly approved and adopted by this Department on September 16, 1976. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at Pyare Square Building in the Village of Shorewood Hills, this 2ND day of March, 1977.


Anthony S. Earl, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

.....
IN THE MATTER of creating chapter NR 301
of the Wisconsin Administrative Code
pertaining to the relationship of water
regulation enforcement and permit proceedings
.....

WR-88-76

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 23.50, 30.03, 30.15, 31.23 and 227.014, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby creates rules as follows:

SECTION 1 - Chapter NR 301 is created to read:

Chapter NR 301

RELATIONSHIP OF WATER REGULATION ENFORCEMENT
AND PERMIT PROCEEDINGS

NR 301.01 Purpose
NR 301.02 Applicability
NR 301.03 Definitions

NR 301.04 Relationship of enforcement and
permit proceedings
NR 301.05 Severability

NR 301.01 Purpose. The purpose of this chapter is to provide a uniform statewide procedure for the processing of enforcement actions for violations of chapters 30, 31 and 88, Wis. Stats., when after-the-fact permit applications have been filed by the alleged violator to legalize the activity. It is the natural resources board's policy to encourage timely permit applications so as to permit the department to properly review projects in order to discourage persons from engaging in activities affecting the waters of the state without obtaining prior approval when required by law.

NR 301.02 Applicability. This chapter is applicable to all department enforcement and permit proceedings commenced pursuant to chapters 30, 31 and 88, Wis. Stats.

NR 301.03 Definitions. For the purpose of this chapter, the following terms are defined as follows:

- (1) "Board" means the natural resources board.
- (2) "Department" means the department of natural resources.
- (3) "Environmental damage" means the harming of any wildlife or their habitat including but not limited to fish, bird, animal or plant life, or degradation of the air, land and waters within the state. While the definition of environmental damage is necessarily general, and must be subjectively applied in conformance with applicable statutes.

NR 301.04 Relationship of enforcement and permit proceedings. (1) The department shall not process after-the-fact permit or approval applications prior to completing enforcement actions if:

- (a) The project is causing or is likely to cause environmental damage; or
- (b) Department staff have an objection to the issuance of the permit or approval based on the relevant statutory standards for issuance of the permit or approval; or
- (c) The prosecuting attorney in the enforcement action has not given consent to the processing of the application prior to the completion of the enforcement action.

(2) If an after-the-fact permit is processed prior to the completion of the enforcement action, the department may continue the processing of the enforcement action, regardless of whether the after-the-fact permit is ultimately granted.

(3) This section shall not preclude the department from scheduling a permit application for public hearing on the same day as a section 30.03(4)(a), Wis. Stats., abatement hearing.

NR 301.05 Severability. Should any section, paragraph, phrase, sentence, clause or word of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on September 16, 1976.

The rules contained herein shall take effect upon publication.

Dated at Madison, Wisconsin 2 March 1977

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)