

NR 330



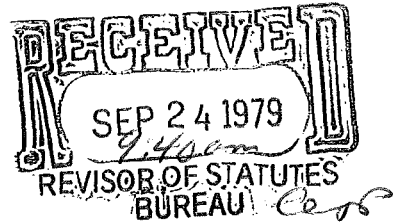
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl
Secretary

BOX 7921
MADISON, WISCONSIN 53707

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-20-79 was duly approved and adopted by this Department on July 26, 1979. 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 the General Executive Facility #2 in the City of Madison, this 19TH day of September, 1979.

Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

.....
 IN THE MATTER of the creation of .
 chapter NR 330 of the Wisconsin .
 Administrative Code pertaining . WR-20-79
 to warning signs and portages .
 for dams .

Analysis Prepared by Department of Natural Resources

Proposed chapter NR 330, Wisconsin Administrative Code, Warning Signs and Portages for Dams, was prepared as a result of a request by the Legislative Joint Committee for Review of Administrative Rules. That request for administrative rules was prompted by several boating accidents and drownings in the vicinity of dams during 1978. These rules were prepared and adopted with the purpose of protecting the unwary boater from the hazards of dams.

Emergency rules were adopted by the Natural Resources Board on March 29, 1979 and took effect on publication on May 15, 1979. Three hearings were then held on these proposed permanent rules on May 14, 15 and 16, 1979 at Eau Claire, Wausau and Madison, respectively.

These rules establish procedures for inspection and evaluation of dams to determine boating use, safety hazards, portaging activity and needs for signs, devices and/or portaging facilities in the vicinity of dams. They also establish minimum standards and specifications for signs and portages.

The Department is to inspect all dams on navigable streams with the owners to determine needs for signs and portages and then issue orders for their installation where required.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 13.56, 31.02, 31.18 and 227.014, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby creates rules as follows:

Chapter NR 330

WARNING SIGNS AND PORTAGES FOR DAMS

NR 330.01 Purpose	NR 330.05 Signs and devices specifications
NR 330.02 Definitions	NR 330.06 Dams not inspected pursuant to NR 330.03(1)
NR 330.03 Procedure for determining those dams requiring warning signs, portages and portage signs	NR 330.07 Scenic and historic dams
NR 330.04 Devices and portage standards	NR 330.08 Severability and construction

NR 330.01 Purpose (1) This chapter establishes procedures and criteria for use in evaluating:

- (a) Boating use in the vicinity of dams;
- (b) Boating safety hazards around dams;
- (c) Boat portaging activity around dams; and
- (d) Signs, devices and/or portage facilities installed or proposed to

be installed by dam owners.

(2) Minimum navigation aids including signs or devices are established.

(3) Minimum standards and specifications are established for:

- (a) Uniform navigation aid symbols;
- (b) Words and symbols used on signs;
- (c) Size of signs and devices, borders and lettering;
- (d) Colors for sign background, borders and lettering; and
- (e) Portages around dams.

NR 330.02 Definitions (1) "Current" means the velocity of flowing water.

(2) "Dam" means any artificial barrier, together with appurtenant works, which does or may impound or divert water.

(3) "Department" means the department of natural resources.

(4) "Gated spillway" means a variably regulated opening in a dam through or over which water is conveyed past the dam.

(5) "Portage" means an overland route for manually carrying boats and supplies around dams.

(6) "Open spillway" means the overflow section of a dam conveying water flow over the dam.

(7) "Uniform aids to navigation" means a system of navigation aids prescribed by the U.S. coast guard and approved by the advisory panel or state officials to the merchant marine council, U.S. coast guard and as contained in section NR 5.09, Wis. Adm. Code.

NR 330.03 Procedure for determining those dams requiring warning signs, portages and portage signs. (1) The department shall conduct an inspection of all dams on navigable streams with the owner of the dam or the owner's agent to determine the following:

- (a) Navigation near the dam or portaging around the dam;
- (b) The nature and extent of navigation hazards that exist at the dam;
- (c) The need for signs and/or devices to provide warnings and information for boaters;
- (d) The need for a portage around the dam for boaters;
- (e) Specification of signs and devices as needed to provide warnings and information for boaters;
- (f) Specification of a portage and directions, as needed for boaters to use in gaining a safe portage around the dam; and
- (g) The period of time during each year during which the signs and devices must be in place.

(2) The federal energy regulatory commission shall be notified of the time and date of the inspection for each of the dams regulated by that agency. Members of the public interested in the signing and portage requirements for specific dams shall be notified of the time and date of the inspection for such dams, if they have filed in writing with the department a request for

such notification and the specific dam or dams in which they are interested.

(3) After the inspections, the department shall issue an order with completion date to the owner of the dam specifying:

- (a) Warning signs and devices required at the dam; and
- (b) Portage requirements and signs at the dam.

(4) As soon as practicable after the completion date set forth in the order, the department shall conduct a follow-up inspection to determine compliance with the order. If the order has been satisfied, the department shall confirm this fact in writing to the owner of the dam. Failure of the dam owner to comply with the order shall be grounds for an appropriated enforcement action.

(5) Decisions made under this section and NR 330.06 may be reviewed pursuant to the provisions of ch. 227, Stats.

NR 330.04 Devices and portage standards. (1) Standards for signs and devices required by these rules shall conform to the waterway marking system set forth in section NR 5.09, Wis. Adm. Code.

(a) Placement. 1. Signs or devices advising boaters of a dam. These signs and devices shall be legible a minimum of 300 feet upstream from the dam.

2. Signs or devices shall be placed downstream of gated spillways and/or powerhouses to advise boaters of potentially dangerous, rapidly changing currents. Placement sites may be on the dam, powerhouse, shore or proximate boat landings. These signs and devices shall be legible a minimum of 300 feet downstream from the dam.

3. The department may order the installation of suitable warning devices to be used at remote operated, gated spillways during the opening and closing of the gates.

4. Portage information signs shall be placed at the portage takeout points and at such intervals as are necessary to provide adequate information to anyone portaging the dam.

(b) Portages. (1) A portage shall be a clear access route around a dam and its appurtenances, on which a boat and supplies can be carried without unreasonable obstruction, danger or idfficulty. Portages shall be of the shortest reasonable distance considering topography, safety, location of buildings and obstructions and protection of dam embankments from erosion.

(2) A single portage around a series of closely spaced dams on a stream may be provided by the dam owner or owners, in lieu of individual portages, by the provisions of a conveyance around the series of dams. Information regarding this conveyance shall be provided at the takeout points at the upstream and downstream dams in the series.

NR 330.05 Signs and devices specifications. (1) Uniform aids to navigation. Signs, markers and devices required under this chapter shall conform with section NR 5.09, Wis. Adm. Code.

(2) Signs and proportions of signs, letters and numerals. (a) Minimum sign size shall be 2 feet by 2 feet, outside dimensions.

(b) Proportions. 1. Border width shall be $1/12 L$; L = Length of sign side.
2. Letter and numerals shall be: $3/10L$; L = Length of sign side.

NR 330.06 Dams not inspected pursuant to NR 330.03(1). Dams not inspected pursuant to NR 330.03(1) may be inspected by the department and ordered to comply with the signing and portage requirements of this chapter upon its own motion, or upon written request of any interested member of the public.

NR 330.07 Scenic and historic dams. The department may issue a variance from the provisions of this chapter for dams on designated wild and scenic waterways and dams that have been designated as historic landmarks by state or federal agencies.

NR 330.08 Severability and construction. Should any section, paragraph, phrase, sentence, clause or word of this chapter be declared invalid or unconstitutional for any reason, the validity of the remainder of the chapter will not be affected thereby. Nothing in this chapter shall be construed as limiting any authority granted by law to the department to regulate dams. The exemption of any dam from the portage requirements of this chapter should not be construed as limiting the rights of the public around any exempted dam.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on July 26, 1979.

The rules contained herein shall take effect upon publication as provided in section 227.026, Stats.

Dated at Madison, Wisconsin 19 September 1979

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

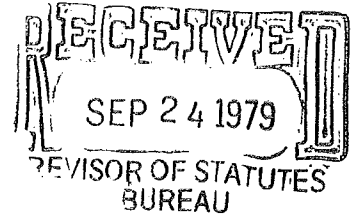
Anthony S. Earl
Secretary

September 20, 1979

BOX 7921
MADISON, WISCONSIN 53707

IN REPLY REFER TO: 1020

Mr. Orlan L. Prestegard
Revisor of Statutes
411 West
C A P I T O L



Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. WR-20-79. These rules were submitted to the Assembly Environmental Resources Committee and the Senate Natural Resources Committee pursuant to sec. 227.018, Stats. There were no objections.

You will note that this order takes effect upon publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

Anthony S. Earl
Secretary

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