

Report to  
Legislative Council Rules Clearinghouse  
NR 335 & NR 336, Wis. Adm. Code  
Natural Resources Board Order No. WT-21-09

Wisconsin Statutory Authority

**Statutes interpreted:** s. 31.385, Stats.

**Statutory authority:** ss. 31.385 (1m), 31.384(4)(b), 227.11(2)(a)

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

This order implements s. 31.385(1m), Stats., which directs the department to promulgate rules to administer a financial assistance program for dam safety projects and s. 31.385(4), Stats., which directs the department to promulgate rules to establish a dam grant inventory and notice and hearing procedure to place dams on the inventory. The rules must provide grants to municipalities and Lake Districts for maintenance, repair, reconstruction, and removal of dams, to private dam owners for the removal of their dams and any person for the removal of abandoned dams. The 2009-11 Biennial Budget (2009 Wisconsin Act 28) included \$4.0 million in new bonding authority for the Dam Safety Grants.

These proposed changes will provide for an improved process whereby Wisconsin dam owners can address dam safety deficiencies at municipally owned dams and allow the owner of any dam to obtain funding to remove the dam as a means to mitigate safety deficiencies.

***The following language (highlighted) put in here for a “cut & paste” effort***  
**The changes can be divided into two broad categories:**

1.) Incorporate statutory changes into the existing grant codes: increases the maximum level of state contribution allowed under the grant programs from \$200,000 to \$400,000; varies the state contribution percentage for dam repair and reconstruction projects, depending on the size of the projects; increases the percentage of state contribution to 100% up to the maximum grant award for dam removal projects; eliminates statutory definition of “small dam” for dam removal

grants; provides for an inventory of dam safety projects with a notification for dam owners; changes the definition of large dam to match change in s. 31.19, Stats.; and allows for cost effective, non-construction activities that increase the safety of a dam.

2.) Facilitate distributing the \$4 million allocation of bonding for the program; grants greater flexibility for implementation of a grant application cycle for the fall of 2009; adjusts other code timelines and application requirements to address past implementation difficulties and assure more applications can be deemed complete; allows for the addition of a variance clause which would facilitate the implementation and administration of NR 335; makes it easier for applicants to NR 335 to pair the grant with other, outside funding sources; corrects incorrect definitions and statute citations; clarifies that state agencies may use the grants to remove abandoned dams; and clarifies that an owner can only submit one application at a time per dam for funding under NR 335 and cannot get a grant for the same dam under NR 335 and NR 336 in the same year.

**Plain language analysis:** The objectives of the order for ch. NR 335 and ch. NR 336 are to implement changes to enabling legislation. The changes can be divided into two broad categories:

- *Incorporate statutory changes into the existing grant codes:*
  - *increases the maximum level of state contribution allowed under the grant programs from \$200,000 to \$400,000*
  - *varies the state contribution percentage for dam repair and reconstruction projects, depending on the size of the projects*
  - *increases the percentage of state contribution to 100% up to the maximum grant award for dam removal projects*
  - *eliminates statutory definition of "small dam" for dam removal grants*
  - *provides for an inventory of dam safety projects with a notification for dam owners*
  - *changes the definition of large dam to match change in s. 31.19, Stats.*
  - *allows for cost effective, non construction activities that increase the safety of a dam*
- *Facilitate investing the \$4 million allocation of bonding for the program*
  - *grants greater flexibility for implementation of a grant application cycle*
  - *adjusts code timelines and better defines application requirements to address past implementation difficulties and assure more applications can be deemed complete*
  - *Sets additional criteria for ranking applications and allows for adjustment to the ranking procedures outside of Administrative Code process.*
  - *allows for the addition of a variance clause which would facilitate the implementation and administration of NR 335*
  - *makes it easier applicants to the Municipal Dam Grant program to pair the grant with other, outside funding sources.*
  - *corrects incorrect definitions and statute citations*
  - *clarifies that state agencies may use the grants to remove abandoned dams*

- *clarifies that an owner can only submit one application at a time per dam for funding under NR 335 and cannot get a grant for the same dam under NR 335 and NR 336 in the same year.*

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms

None

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