



NR 299

State of Wisconsin

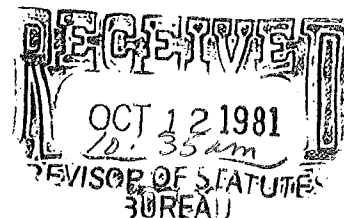
DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
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, Carroll D. Besadny, 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. WQ-33-81 was duly approved and adopted by this Department on June 25, 1981. 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 General Executive Facility #2 in the City of Madison, this 9th day of October, 1981.

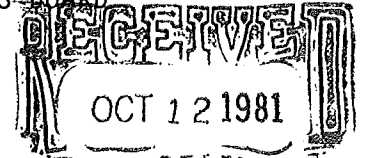
*Carroll D. Besadny*  
Carroll D. Besadny, Secretary

(SEAL)

12-1-81

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

AMENDING RULES



REVISOR OF STATUTES BUREAU WQ-33-81

.....
IN THE MATTER of amending s. NR 299.06(1), .
(2), (3)(f), (4), (5), (6) and (7)(a) of .
the Wisconsin Administrative Code .
pertaining to water quality certification .
.....

Analysis Prepared by Department of Natural Resources

Ch. NR 299, Water Quality Certification, became effective June 1, 1981. It outlines procedures and criteria to be used in the review of requests for water quality certification under Section 401a of the Clean Water Act.

Recent discussions with the Corps of Engineers have revealed that the Corps is under a Congressional mandate to complete action on its permits within 90 days. Since these permits require state water quality certification, the separate public notice requirement would preclude the Corps from taking action on many permits within the 90-day period. It is proposed to amend s. NR 299.06 to streamline the public notice procedure where the action also requires water regulatory permits under chs. 30 and 31, Stats. Public notice of water quality certification decisions would be handled through the ch. 30-31 notification or in the Corps' notice. This would save time and avoid duplication of effort.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 144.025, 147.01, 227.014 and 227.02(1)(e), Stats., the State of Wisconsin Natural Resources Board hereby amends rules interpreting ss. 144.025 and 147.01, Stats., as follows:

SECTION 1 - Section NR 299.06(1) is amended to read:

NR 299.06 DEPARTMENT ACTION. (1) The department shall notify the applicant, the federal permitting or licensing agency, and the regional administrator within 120 days of receipt of the complete application of its preliminary determination to deny the certification, grant or conditionally grant the certification, or waive certification.

SECTION 2 - Section NR 299.06(2) is amended to read:

(2) The department's ~~preliminary~~ determination shall be in writing and shall explain the reasons for granting, granting conditionally, denying or waiving certification.

SECTION 3 - Section NR 299.06(3)(f) is amended to read:

(f) A Where a public notice is issued under sub. (4) or (5), a statement that unless a written request for a hearing is filed with the department within 30 days after mailing of the notice ~~pursuant to the provisions of sub. (5)~~, the department's ~~preliminary~~ decision will become final without public hearing.

SECTION 4 - Section NR 299.06(4) is amended to read:

(4) Except for applications under chs. 30 and 31, Stats., or as provided in sub. (5), the department shall, at the same time it notifies the applicant, notify known interested persons and shall cause to be published by the applicant a class 1 notice under ch. 985, Stats. Notice under this subsection shall contain the information required under sub. (3).

SECTION 5 - Section NR 299.06(5) is amended to read:

(5) Any person whose substantial interests may be affected by the department's determination may, within 30 days after publication of the notice, request in writing a hearing on the matter under s. 227.064, Stats. In any case where a class 1 notice on the application is otherwise required by law or where a contested case hearing on an application for water quality certification will be held under some other specific provision of law, the notice and hearings shall be combined.

SECTION 6 - Section NR 299.06(6) is amended to read:

(6) Hearings requested under this section shall be contested case hearings and shall be in accordance with the procedures outlined in ch. 227, Stats. The hearing shall be a de novo hearing on the issue of whether the department should grant, grant with conditions, deny or waive water quality certification. ~~The hearing shall not be held for the purpose of review of the department's preliminary determination.~~

SECTION 7 - Section NR 299.06(7)(a) is amended to read:

(a) The department's preliminary determination shall become final:

1. Upon issuance of the department's decision where no public notice is required, or

~~1.~~ 2. Upon the expiration of the 30-day period provided under sub. (5) if no person has requested a hearing under that section, or

~~2.~~ 3. Upon the issuance of the department's decision denying the request for hearing under that section, or

~~3.~~ 4. Upon issuance of the department's decision after hearing.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on June 25, 1981.

The rules contained herein shall take effect as provided in  
s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin October 9, 1981

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

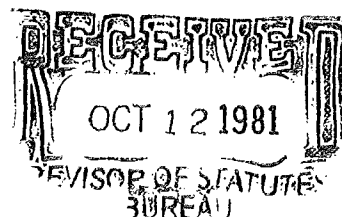
Carroll D. Besadny  
Secretary

October 12, 1981

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. WQ-33-81. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Agriculture and Natural Resources pursuant to s. 227.018, Stats. There were no comments.

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

Sincerely,

  
C. D. Besadny  
Secretary

Enc.