



CR 82-193

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

STATE OF WISCONSIN )  
DEPARTMENT OF NATURAL RESOURCES ) SS

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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. L-42-82 was duly approved and adopted by this Department on February 23, 1983. 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 15<sup>th</sup> day of April, 1983.

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

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6-1-83.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
AMENDING RULES

.....  
IN THE MATTER of amending s. NR 2.155(2)(a).  
of the Wisconsin Administrative Code .  
pertaining to delegation of contested case . L-42-82  
decision-making by the Secretary. .  
.....

Analysis Prepared by Department of Natural Resources

Section 227.09, Stats., provides that a Department Secretary may delegate the authority to render a decision in a contested case to a member of his staff. However, on September 3, 1982, the Circuit Court of Manitowoc County ruled that even though the statutes so provide, the Department of Natural Resources had taken that authority away from the Secretary by the way it had drafted s. NR 2.155(2)(a), Wis. Adm. Code, the rule that was intended to implement the statutory authority.

The Department believes that the Secretary should retain the ability to designate other Department employees as contested case decision-makers to make use of their expertise and to facilitate timely decision-making. The Department proposes to amend s. NR 2.155(2)(a), Wis. Adm. Code, to specify that the Secretary may appoint a designee to act in these matters.

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Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 15.02(4), 227.011, 227.014 and 227.09, Stats., the State of Wisconsin Natural Resources Board hereby amends rules interpreting ss. 15.02(4), 227.011 and 227.09, Stats., as follows:

SECTION 1. NR 2.155(2)(a) is amended to read:

(2) DEPARTMENT DECISION. (a) Notwithstanding sub. (1), the secretary, prior to hearing, may direct that the record be certified to the secretary or the secretary's designee for decision in accordance with the provisions of s. 227.09(3)(b), Stats., without an intervening decision by the hearing examiner.

The foregoing rules were approved and adopted by the State of Wisconsin  
Natural Resources Board on

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

Dated at Madison, Wisconsin April 15, 1983

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)

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