

CR 84-216

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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MAY 28 1985  
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Revisor of Statutes  
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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy 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-25-84 was duly approved and adopted by this Department on March 27, 1985. 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 22<sup>nd</sup> day of May, 1985.

*Bruce B. Braun*  
Bruce B. Braun, Deputy Secretary

(SEAL)

4254I

8-185

ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD CREATING RULES

IN THE MATTER of creating ch. NR 305 of  
the Wisconsin Administrative Code  
pertaining to response times for issuance  
of water regulation permits or approvals  
affecting businesses

WR-25-84

Analysis Prepared by Department of Natural Resources

The Department is required by 1983 Wisconsin Act 91 to include in new rules or revisions of existing rules a specification of the number of business days within which it will make a decision on an application for a permit or approval which is required as a condition of operating a business in this state.

Proposed Chapter NR 305, Wisconsin Administrative Code, specifies time limits for these decisions in the Water Regulation and Zoning program. The rule states that the report required by Section 227.0105(4), Stats., will be filed with the Department of Development whenever a decision involving a Class 1 legal notice is not issued within 130 business days after receipt of an application. For decisions not involving a public notice, the time limit is 65 business days.

The time limit may be adjusted where an applicant is responsible for providing necessary additional information or proof of publication of a required notice; where an environmental assessment or environmental impact statement is required for compliance with Section 1.11, Stats.; where an application is received too late in the calendar year to give reasonable time for the Department to complete a required field investigation during suitable weather; or where the Department is delayed in or prevented from acting on an application by legal action or by the action, or failure to act, of an outside agency or person. Where a contested case public hearing is necessary, the Department's decision is to be made within 45 business days after the hearing is completed. Also, where a proposal involves multiple permits or approvals, the longest specified time limit would apply.

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Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by s. 227.014(2)(a) and (b) and 227.0105(1) and (2), Stats., the State of Wisconsin Natural Resources Board hereby creates rules interpreting s. 227.0105, Stats., as follows:

SECTION 1. Chapter NR 305 is created to read:

Chapter NR 305  
TIME LIMITS FOR WATER REGULATION DECISIONS

NR 305.01 Purpose  
NR 305.01 Applicability  
NR 305.03 Definitions

NR 305.05 Time Limits  
NR 305.06 Exceptions to time limits

NR 305.01 PURPOSE. These rules are developed pursuant to ss. 227.014(2)(a) and (b) and 227.0105(1) and (2), Stats., to establish time limits for water regulation permits or approvals required as a condition of operating a business in this state.

NR 305.02 APPLICABILITY. This chapter shall apply to permits under ss. 30.10, 30.12, 30.15(2), 30.18, 30.19, 30.195, 30.20, 31.06, 31.08, 31.13, 31.18(3), 31.185, 31.21 and 31.23, Stats., where an application is filed with the department on or after [the effective date of this chapter].

NR 305.03 DEFINITIONS. (1) "Application" means a form prescribed by the department to be filled out by a business or authorized agent of a business to undertake a specified activity, necessary for operating the business, which requires a permit enumerated in s. NR 305.02 from the department, along with any other information which can reasonably be required from an applicant and which is needed for the department to make a decision under applicable provisions of law, such as plans, property deeds, technical analyses or, where required pursuant to s. 23.11(5), Stats., an adequate EIR.

(2) "Business day" means each day except Saturday, Sunday, January 1, after 12 noon on Good Friday, the last Monday in May, July 4, the first Monday in September, the 4th Thursday in November, December 24, December 25, and December 31. If January 1, July 4, December 24, December 25, or December 31 fall on either a Saturday or a Sunday, the day designated as a paid holiday in lieu of the specific date is not a business day.

(3) "Decision" means written permission, denial of permission, or dismissal of an application in accordance with procedural and substantive requirements of law.

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

(5) "EA" means an environmental assessment as defined in s. NR 150.02(11).

(6) "EIR" means environmental impact report as defined in s. NR 150.02(9).

(7) "EIS" means environmental impact statement as defined in s. NR 150.02(10).

(8) "Field investigation" means a physical inspection of the location of a proposed action requiring a permit or approval under chs. 30 and 31, Stats., and surrounding areas that may be directly or indirectly affected by the proposed action, carried out by an employe or agent of the department for the purpose of determining whether the proposed action meets applicable requirements of law.

(9) "Permit" is defined in s. 560.41(a), Stats.

(10) "Permit information center" means the unit established in the department of development by s. 560.03, Stats.

NR 305.05 TIME LIMITS. (1) Except as provided in s. NR 305.06, the time limits specified in sub. (2) shall be applied to decisions on applications for the water regulatory permits or approvals enumerated in s. NR 305.02.

(2) For any permit enumerated in s. NR 305.02, a decision shall be mailed to the applicant within the time limits set forth in pars. (a) and (b) or the report required by s. 227.0105(4), Stats., shall be mailed to the permit information center within 5 business days after the applicable time limit has expired.

(a) Permits where a class I legal notice under ch. 985, Stats., is required by law or deemed appropriate by the department: 130 business days.

(b) Other permits: 65 business days.

NR 305.06 EXCEPTIONS TO TIME LIMITS. (1) Where a contested case hearing is required because of objections to the granting of a permit or approval by the department, or where such a hearing is scheduled on the department's own motion, the department's decision shall be mailed to the applicant within 45 business days after completion of the hearing or the report required by s. 227.0105(4), Stats., shall be mailed to the permit information center within 5 business days after the last day of the time period.

(2) When an applicant's proposed project requires more than one department approval for which a time limit has been established pursuant to s. 227.0105(1), Stats., decisions to which this chapter applies shall be made by the last day of the longest applicable time limit or the report required by s. 227.0105(4), Stats., shall be mailed to the permit information center within 5 business days after the last day of the time period.

(3) The time limits specified in s. NR 305.05 do not include the number of business days between:

(a) The date a decision is made by the department to prepare an EIS and the date a final determination is made that the department has complied with s. 1.11, Stats.;

(b) The date a request is made to an applicant for additional information necessary for the department to issue a decision under the applicable statute and the date that information is received by the department;

(c) The day a class I legal notice is mailed by the department and the date the department receives satisfactory proof of publication of that notice from the applicant; or

(d) November 1 of any calendar year and April 1 of the succeeding calendar year for applications received after October 1 where a field investigation is required before the department has adequate information to grant or deny the requested permit or approval.

(3) When the department determines pursuant to ch. NR 150 that an EA is required for compliance with s. 1.11, Stats., the time limits specified in s. NR 305.05 shall be increased by 30 business days.

(4) If the department's action on a requested permit or approval is delayed or prevented by an order or decision of a court of law, the time limit specified in s. NR 305.05 shall be adjusted to conform to the court's decision or order.

(5) If the department's action on a requested permit or approval is delayed or prevented by the action or failure to act of an agency or private party other than the department or the applicant, the time limit specified in s. NR 305.05 shall be adjusted accordingly.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 27, 1985.

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

Dated at Madison, Wisconsin

May 21, 1985

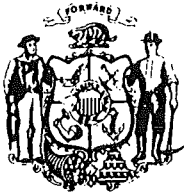
STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By

Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)

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State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

*Carroll D. Besadny*  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

May 21, 1985

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-25-84. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Energy and Environmental Resources pursuant to s. 227.018, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

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

Sincerely,

  
C. D. Besadny  
Secretary

Enc.  
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