

JUN 22 2004

The Honorable James Doyle  
Governor of Wisconsin

Dear Governor Doyle:

When the Department of Natural Resources first issued its draft emergency rules designed to implement the Chapter 30 provisions of Act 118, we expressed concern that a number of the rules were not consistent with the legislative language or intent of Act 118. We appreciated your efforts in working with the Natural Resources Board to delay the final adoption of those rules so that some of those concerns could be addressed. In some cases, language was changed; in other cases, we were able to temporarily work around some of the more problematic language, and in still other cases, we agreed to revisit these issues once permanent rules were proposed.

Since permanent rules have now been proposed for each of the 12 chapters of emergency rules, we are writing at this time to reiterate our concerns that several of these rules do not comport with the legislative language or intent. We hope to enlist the support of your office in assuring that the final version of those rules will be modified to reflect both the spirit and the letter of our agreement. As written, the emergency rules, especially NR 1, NR 326, and NR 328, do not reflect the legislation.

The purpose of Act 118 was to streamline the most complex and time-consuming regulatory processes in state government. The bill that we agreed to established three tiers of Chapter 30 permits, including exemptions for activities that had little or no environmental impact, general permits for routine activities, and individual permits for complex or environmentally sensitive projects. The rules promulgated by the Department have all but eliminated exemptions, placed unnecessary restrictions on general permits, and have forced more activities into individual permits than had been anticipated.

#### NR 1 -- Waterways of Interest

This rule chapter identifies certain areas where exemptions from permitting requirements are prohibited -- Areas of Special Natural Resource Interest in NR 1.05 and Public Rights Features in NR 1.06. The listing of waters in NR 1.05 does not comport with legislative intent in section 30.01(1am) for the areas in which exemptions would be prohibited. The Act contemplated that four discrete and ascertainable lists of waters should be ineligible for exemptions due to unique natural resource attributes. We had expected that these four lists encompassed about 7% of the waters of the state. For the other 93% of the waters, our intent was that the use of exemptions would be controlled by limiting the scope of eligible activities, by allowing DNR to require general or individual permits on a site-specific case-by-case basis, and finally, by rules. Instead, the Department has, by rule, added nine entirely new categories of waters such as "sturgeon waters." The result is that NR 1.05 now identifies at least 50%, more likely 75% or more, of the waters of Wisconsin as ineligible for any of the Act 118 exemptions.

Similar issues exist with the listing of "public rights features" in NR 1.06 which could expand the NR 1.05 list even further. These public features should not function as a prohibition on exemptions. We hope you will agree that it was not the intent of your negotiators or ours to pass regulatory reform and then restrict its applicability to a handful of Wisconsin landowners.

In addition to its rather breathtaking scope, the rule suffers from another problem. It is inscrutable. A list of these waters is not available. We have asked for the list from the Department and have been provided with pieces, but never the whole. Again, if the intent of the bill was regulatory reform, it does not make sense to deprive the public of the information needed to comply with the regulation.

#### NR 326 -- Piers and Seasonal Structures

Act 118 made two simple changes to the law regarding piers and seasonal structures. It codified Department policy with regard to exempting new piers that meet the Department's placement and dimensional restrictions. It also specifically exempted certain seasonal structures that departmental policy has exempted from permitting.

The rule is a stark contrast from the law in both form and substance. Ironically, it ADDS regulations, rather than reforms them. First, it is very complex and difficult to understand, which defeats the purpose of regulatory reform. To qualify for an exemption, a property owner must comply with 20 different conditions. Second, it actually limits the scope of existing statutory exemptions and now requires permits for thousands of piers that had not previously required permits. Finally, it limits or eliminates the rights of property owners to keep, maintain, or transfer ownership in piers. None of these changes were contemplated by Act 118.

#### NR 328 -- Shoreline protection structures

The Administration and Legislators spent many hours working through the details of shoreline protection. We benefited from negotiations that had been underway with the Department on an administrative rule that had been too controversial for the Department to introduce. Among other things, the rule prohibits riprap on lakes of less than 300 acres by adopting a controversial formula for measuring erosion potential. At the end of the day, Wisconsin Act 118 narrowly but clearly exempted certain maintenance activities and provided general permits for others. NR 328 ignores those exemptions and general permits. It implements, by emergency rule, provisions that the DNR had been unwilling to promulgate in the recent past because it suspected the Natural Resources Board and the Legislature would object to those provisions.

In conclusion, Wisconsin Act 118 struck a balance between the need to protect Wisconsin's natural resources while accomplishing significant regulatory reform. From the broadest philosophy to the finest detail, the agreement was carefully crafted. As we review the administrative rules promulgated by the Department, we see many instances where that agreement has been ignored, trumped, or eliminated. While we grant the

agency the benefit of the doubt, that it had a significant amount of work to do in promulgating 12 new rule chapters, we cannot accept this as a final product. We hope that you and Secretary Hassett will agree, and that the necessary changes will be made, before permanent rules are promulgated to ensure that the rules conform with the legislative language and intent.

Sincerely,

Senator Mary Panzer

Speaker John Gard

Senator Neil Kedzie

Representative DuWayne Johnsrud

Senator Joe Leibham

Representative Glenn Grothman

Senator Cathy Stepp

Representative Jean Hundertmark

Representative Scott Gunderson

**MEMORANDUM**

TO: Honorable Members of the Joint Committee for Review of Administrative Rules

FROM: Matthew Stohr, Legislative Associate *MS*

DATE: June 24, 2004

SUBJECT: Emergency Rule NR 1, Emergency Rule NR 300, Emergency Rule NR 310, Emergency Rule NR 325, Emergency Rule NR 326 and Emergency Rule NR 328

Good afternoon Co-Chairman Leibham, Co-Chairman Grothman, and members of the Joint Committee for Review of Administrative Rules. My name is Matthew Stohr and I am a Legislative Associate with the Wisconsin Counties Association (WCA).

WCA was supportive of Assembly Bill 655 (AB 655), which eventually became Wisconsin Act 118. WCA supported AB 655 because our membership went on record at the 2003 WCA Annual Convention to support changes to the regulatory policies in Wisconsin which have unduly hindered economic development and the business retention and attraction efforts of local units of government, as long as the changes did not have a significant negative affect on Wisconsin's environment. AB 655 included several provisions which worked to accomplish this goal.

As with any bill that affects county government, WCA worked with the Legislature to recommend changes to the bill that addressed the concerns of counties. But in many cases, it is the administrative rules that have been the source of tremendous consternation for counties over the years. Many unfunded mandates which are placed on county government are found not in the law, but rather in the implementation of administrative rules.

WCA is concerned that a few of the emergency administrative rules associated with Wisconsin Act 118, such as NR 326 and NR 328 are not necessarily unfunded mandates, but are emergency rules that need significant fine tuning to prevent consternation and cost to property owners and counties. On the other hand, WCA feels that a few of the emergency rules in front of you today, such as NR 300 and NR 310, provide the Wisconsin Department of Natural Resources (Department) with a framework which should serve as a constructive basis for the permanent rule process.

In regard to NR 326, WCA feels that the provisions go above and beyond the legislative intent of Act 118 by altering the pier permit requirements set forth by the statutory authorization of State Statute 30.13. If there are alterations to the requirements, there could be a great deal of confusion amongst property owners unless the Department works aggressively to educate property owners. Without an aggressive statewide education effort, county zoning administrators and zoning departments will be left with the difficult task of explaining the requirement alterations to the citizens applying for a permit for a pier, a boat shelter, etc.

Furthermore, after reviewing NR 326.08(1)(c) it appears that this language creates numerous separate conditions for pier planner exemptions. Several other requirements are far more restrictive than those set forth in the pier planner guide book, which to my knowledge, is the guide book that the Department has previously used as a basis for determining which piers were exempt.

In regard to NR 328, WCA feels that the Department has gone above and beyond the legislative intent of Wisconsin Act 118. For example, WCA feels that the language of NR 328 regarding the determination of erosion is well beyond what is required for the purposes of implementing the provisions of Act 118. Another example is the riprap prohibition for low energy sites.

Currently, many counties have ordinances in place relating to shore erosion, piers and grading (which isn't a topic of discussion today). WCA feels strongly that the provisions set forth in NR 326 and NR 328 may either conflict with many existing county ordinances or even duplicate many existing county ordinances. Either way, the implementation of NR 326 and NR 328, whether it is an emergency rule or a permanent rule, will require counties to change current operations and regulations. These changes, coupled with the fact that the DNR is working to revise NR 115 which relates to shore land zoning, will create a workload for county zoning departments that is unreasonable and ultimately costly.

As all levels of government in Wisconsin, counties are experiencing difficult financial times. Therefore, it is incumbent upon us at all levels of government to find efficiencies and seek administrative initiatives that reduce the likelihood of duplication. If the Legislature continues to work to resolve the property tax problem in Wisconsin, I suggest that we begin by looking at administrative rules such as the ones in front of us today.

In conclusion, WCA respectfully requests that the emergency and permanent rules for NR 326 and NR 328 not exceed the legislative intent of Wisconsin Act 118, because counties and county property taxpayers cannot afford it.

Thank you for your time.

JUN 29 2004

22 EAST MIFFLIN STREET, SUITE 900  
MADISON, WI 53703  
TOLL FREE: 1.866.404.2700  
PHONE: 608.663.7188  
FAX: 608.663.7189

MEMORANDUM

TO: Honorable Members of the Joint Committee for Review of  
Administrative Rules

FROM: Matthew Stohr, Legislative Associate *MS*

DATE: June 25, 2004

SUBJECT: Emergency Rule NR 1, Emergency Rule NR 300, Emergency Rule  
NR 310, Emergency Rule NR 325, Emergency Rule NR 326 and  
Emergency Rule NR 328

On behalf of county government, the Wisconsin Counties Association (WCA) would like to thank you for holding a public hearing in Minocqua on the Emergency Rules for NR 1, NR 300, NR 310, NR 325, NR 326 and NR 328. The hearing gave the Committee an opportunity to hear from property owners and county supervisors from northern Wisconsin that will be directly affected by the aforementioned emergency rules.

Furthermore, WCA would like to thank you for suspending Emergency Rule 326 and portions of Emergency Rule 328. As you may be aware, WCA supported the Jobs Creation Act. WCA feels strongly that there are numerous provisions in the emergency administrative rules that go above and beyond the legislative intentions of the Jobs Creation Act.

Please find enclosed the comments that I shared with the Committee at yesterday's hearing. The comments clarify WCA's position on the emergency rules.

Once again, thank you for considering the concerns of Wisconsin counties on these emergency rules.

Please feel free to contact me at 608.663.7188 if you have any questions.



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June 25, 2004

John Gard  
Speaker of the Wisconsin State Assembly  
PO Box 8952  
Madison, WI, 53708

Dear Speaker Gard:

On behalf of all counties in this state, thank you for your position, and more importantly your eloquent comments, on the DNR's Act 118 Emergency Rules Package. Your personal intervention clearly had a positive impact for counties (JCRAR voted unanimously to suspend emergency rule NR 326 and portions of NR 328 which are of great concern to counties).

As you know, WCA was one of the first groups to speak out in support of the Jobs Creation Act. We did so with the belief that it would increase efficiency for our highway departments and help spur economic growth. Nowhere in this legislation did we see an opportunity for Administrative Rules that would usurp local control and as you so aptly stated: turn county zoning administrators and county boards into "the enemy of the people."

There are plenty of thorny issues and hurdles for the state and counties to jointly overcome without placing unnecessary new burdens on counties and private landowners. As the rules process moves forward on this issue please continue to keep the interests of counties at the forefront.

Thank you once again for your efforts on behalf of counties.

Sincerely,

Craig Thompson  
Legislative Director

July 14, 2004  
Senator Joseph Leibham  
Senate Co-Chair  
Room 409 South, State Capitol  
PO Box 7882  
Madison, WI 53707-7882

JUL 19 2004

Dear Senator Leibham:

Thank you for responding to my email of June 23, 2004

We have witnessed changes in the last 40 years resulting from human activity on the lake: the disappearance of lily pads, frogs, and snakes; shoreland erosion, and sacrificed water clarity. These changes we could expect in a millennium, not in decades. And the waters of Wisconsin define our state.

Therefore, we support strict shoreland regulation, and we recognize and appreciate the WDNR's expertise and talent as trustee of Wisconsin waters. Outdated county shoreland zoning is not adequate.

As you listen to the "property rights" advocates, please consider the following property rights:

It is our property right to enjoy natural scenic beauty—boathouse, pier, and raft limitations.

It is our property right to enjoy frogs and snakes—rock riprap limitations.

It is our property right to enjoy water clarity—excavation and grading limitations.

It is the public's right to enjoy the waters of Wisconsin—the shoreland with natural scenic beauty, wildlife habitat, and water quality.

As Aldo Leopold wrote in 1948, "A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise."

As you continue to consider permanent rules pertaining to Act 118, please think about these observations and ideas. Thank you for your interest.

Sincerely,

*Patricia J. Andress - WAA Board*

Ray and Pat Andress

787 Terrill St.

Chippewa Falls, WI 54729

715 723 9157



## Sensitive Areas

Designation of sensitive areas within lakes provide a holistic approach to the protection of those sites that are most important for preserving the very character and qualities of the lake that initially attracted developments on the lake. These fragile areas support wildlife and fish habitat, provide mechanisms that protect water quality, harbor quality plant communities, and preserve places of serenity and beauty for the enjoyment of all.

Filling out at 1052 acres, and reaching a depth of 101 feet, Lower Long Lake is home to several species of fish, amphibian, reptile, mammal, and bird.

Each sensitive area was designated for the high quality aquatic and terrestrial plant life it supports, its value to fish and wildlife habitat, its importance for maintaining water quality, and its natural scenic beauty. As you explore each area, note how each contributes to improve water quality:

- 1) submerged and floating-leaf vegetation tie up nutrients in their tissues that would otherwise contribute to algae growth,
- 2) wetlands filter water entering the lake, preventing shoreline erosion,
- 3) submerged vegetation protects the lake bottom from resuspension of sediments by wind action and boat traffic, and
- 4) shoreline vegetation traps soil that would otherwise be washed into the lake.

Also, look carefully for some of the following species:

**Shoreline** - marsh fern, sensitive fern, beggar-ticks, meadowsweet, orchids, Canada bluejoint grass, sedges, marsh milkweed, swamp loosestrife, tag alder, dogwood, spike rush, pines, tamarack, blueberries, cranberries, pitcher plants, leatherleaf and manna grass.

**Shallow water** - bulrush, pickerelweed, sedges, swamp loosestrife, cattails, bur-reed, arrowhead, water horsetail, spike rush, and manna grass.

**At the water's surface** - yellow pond lily, white water lily, greater duckweed, floating-leaf and bur-reed.

**Underwater** - coontail, common waterweed, arrowhead rosettes, wild celery and all sorts of pondweed: leafy, large-leaf, variable-leaf, ribbon-leaf, bushy, small, flat-stem, and Vasey's pondweed.

**Fish habitat** - Fallen trees and the variety of vegetation provide a diversity of habitat and feeding areas for fish. These areas provide spawning and feeding sites for northern pike, musky and perch, cover for walleye and large-mouth bass, and nursery sites for panfish.

**Wildlife habitat** - Emergent and floating vegetation, along with shrubs and snag trees provide feeding sites and cover for beaver, loons, ducks, geese, songbirds, amphibians, turtles, snakes, eagles, osprey, otter, mink, and raccoon.

Each area is labeled on the map, and the corresponding narrative explains its importance to the lake community. Enjoy your water tour of Lower Long Lake!

For a complete report visit the DNR website:

[www.dnr.wi.gov](http://www.dnr.wi.gov)

## A Brief History of Long Lake

Lower Long Lake owes its existence and character to the last glacier to come down out of the north, over 10,000 years ago. Since that time, humans and wildlife have shared this piece of land. Today, you can still catch a glimpse of swimming otter, muskrat or beaver, deer drinking in the shallows, or the rare but exhilarating black bear sighting. The calls of the sandhill crane and the common loon echo from shore to shore as they have for thousands of years. The first inhabitants were most likely Lakota, subsequently pushed westward by the Chippewa, from which our county takes its name. Indeed, stories abound of a battle that took place on these shores many, many years ago.

With the arrival of European traders, then pioneers, then homesteaders, the land and the lake changed dramatically. Long Lake was logged off with the rest of the northern states, but its scenic beauty attracted many in search of leisure and adventure. One of the earliest establishments on the lake was Campbell's Resort, located just west of the Morris-Erickson county campground. An early visitor notes, "...we traveled through the same unbroken forest until we reached Campbell's at Long Lake. It was about sunset and the glory of that western sky lighting up the calm, clear lake upon whose banks towered the stately pines was a picture never surpassed by anything we have seen in the years since passed. There on the bank we pitched our tents and for seven long days and seven nights we revelled in the peaceful calm of that Northern country. There have been many changes since that time, but those who go there today, although civilization and forest fires have robbed it of many charms, still believe it to be the ideal lake of Northern Wisconsin."

Many famous personalities are tied to Long Lake, including General Sherman, rumored to have stayed at Campbell's Resort, as well as Al Capone, working the illicit whisky trade between Canada and Chicago. Many early resorts served clientele primarily from the Chicago area. Today, folks from all over come to relax and reconnect with the peace and beauty that is Long Lake. Summer cabins proliferated in the mid 1950s, and several camps used these shores to introduce countless city kids to the marvels of the outdoors. In 1923, the Eau Claire YMCA's Camp Manitowish began operating, followed by scout camp Norwesco in the early 1950s, Camp Chippewa Bay in 1957, and Camp Pokonokah in 1958. Of the four, Camp Pokonokah and Camp Manitowish continue to add energy and laughter to the lakes environment.

In the last half century, the lake has seen a marked rise in shoreline development as people continue to migrate to places of intense beauty. As with all relatively sudden population movements, local wildlife and the ecosystems they depend on are affected. To this point, Lower Long Lake remains a place where loons and great blue heron successfully co-exist with humans, and their myriad dwellings and recreations. Undoubtedly, the balance between human impact and wildlife will be an issue affecting this lake well into the future.

*Information and quotes gathered from Chippewa County Historical Society.*

## Lower Long Lake Chippewa County, New Auburn, WI WATER TRAIL

*"There have been many changes since that time, but those who go there today, although civilization has robbed it of many charms, still believe it to be the ideal lake of Northwestern Wisconsin."*

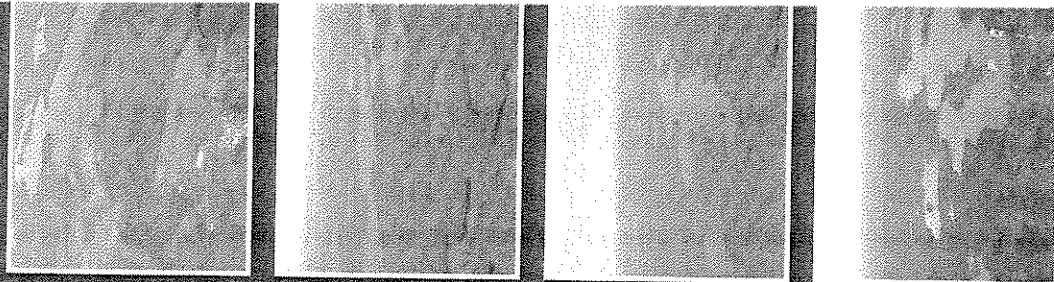
— 1903 Visitor

*"It still is."*

— 2003 Visitor

## What is the Long Lake Water Trail?

Just as Wisconsin's Ice Age Trail aims to showcase the geologic marvels wrought by the glaciers on the landscape, the Long Lake Water Trail has been designated to deepen our awareness of this lake's importance as a recreational, historical and ecological wonder. The map shows many "sensitive areas" as designated by the Department of Natural Resources. The quality of the lake, measured both aesthetically and in ecological integrity, cannot be taken for granted. Lakes can be damaged from misuse or overuse, sometimes irreversibly. Each of us tinkers with the lake every time we use it. This brochure, and the Long Lake Water Trail, are an attempt to point out the mechanics of a healthy lake, to help us use the lake with confidence, that our tinkering here will guarantee the quality of this lake for the next seven generations.

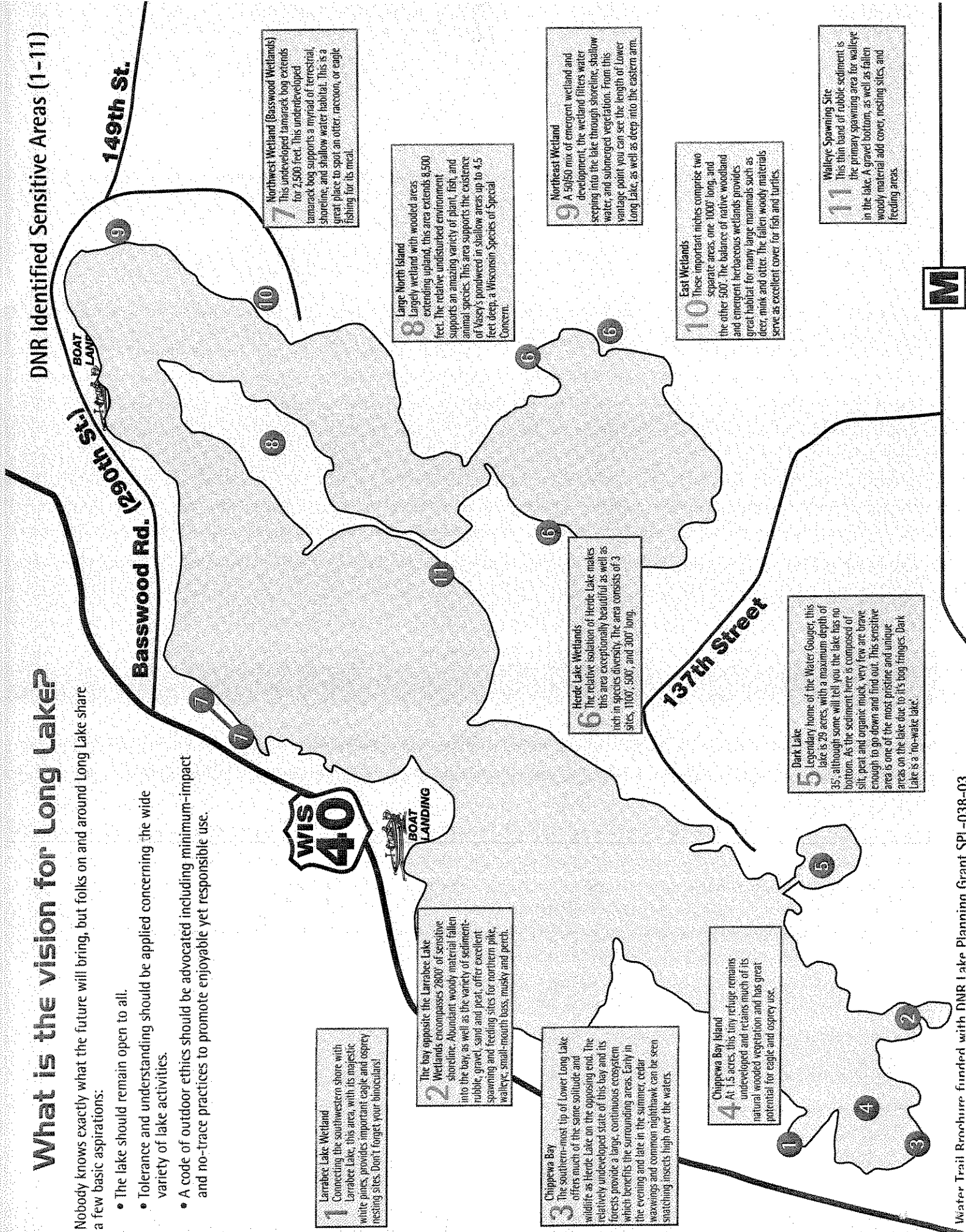


# What is the vision for Long Lake?

Nobody knows exactly what the future will bring, but folks on and around Long Lake share a few basic aspirations:

- The lake should remain open to all.
- Tolerance and understanding should be applied concerning the wide variety of lake activities.
- A code of outdoor ethics should be advocated including minimum-impact and no-trace practices to promote enjoyable yet responsible use.

## DNR Identified Sensitive Areas (1-11)



**1** Larrabee Lake Wetland  
Connecting the southwestern shore with Larrabee Lake, this area, with its majestic white pines, provides important eagle and osprey nesting sites. Don't forget your binoculars!

**2** The bay opposite the Larrabee Lake Wetland encompasses 2800' of sensitive shoreline. Abundant woody material fallen into the bay, as well as the variety of sediment—rubble, gravel, sand and peat, offer excellent spawning and feeding sites for northern pike, walleye, small-mouth bass, musky and perch.

**3** Chippewa Bay  
The southern-most tip of Lower Long Lake offers much of the same solitude and wildlife as Herd Lake on the opposing end. The relatively undeveloped state of this bay and its forests provide a large, continuous ecosystem which benefits the surrounding areas. Early in the evening and late in the summer, cedar waxwings and common nighthawk can be seen snatching insects high over the waters.

**4** Chippewa Bay Island  
At 1.5 acres, this tiny refuge remains undeveloped and retains much of its natural wooded vegetation and has great potential for eagle and osprey use.

**5** Dark Lake  
Legendary home of the Water Gouger, this lake is 29 acres, with a maximum depth of 35', although some will tell you the lake has no bottom. As the sediment here is composed of silt, peat and organic muck, very few are brave enough to go down and find out. This sensitive area is one of the most pristine and unique areas on the lake due to its bog fringes. Dark Lake is a no-wake lake.

**6** Herd Lake Wetlands  
The relative isolation of Herd Lake makes this area exceptionally beautiful as well as rich in species diversity. The area consists of 3 sites, 1100', 500', and 300' long.

**8** Large North Island  
Largely wetland with wooded areas extending inland, this area extends 8,500 feet. The relative undisturbed environment supports an amazing variety of plant, fish, and animal species. This area supports the existence of Vasey's pondweed in shallow areas up to 4.5 feet deep, a Wisconsin Species of Special Concern.

**9** Northeast Wetland  
A 50/50 mix of emergent wetland and development, the wetland filters water seeping into the lake through shoreline, shallow water, and submerged vegetation. From this vantage point you can see the length of Lower Long Lake, as well as deep into the eastern arm.

**10** East Wetlands  
These important niches comprise two separate areas, one 1080' long, and the other 500'. The balance of native woodland and emergent herbaceous wetlands provides great habitat for many large mammals such as deer, mink and otter. The fallen woody materials serve as excellent cover for fish and turtles.

**7** Northwest Wetland (Basswood Wetlands)  
This undeveloped tamarack bog extends for 2,500 feet. This undeveloped tamarack bog supports a myriad of terrestrial, shoreline, and shallow water habitat. This is a great place to spot an otter, raccoon, or eagle fishing for its meal.

**11** Walleye Spawning Site  
This thin band of rubble sediment is the primary spawning area for walleye in the lake. A gravel bottom, as well as fallen woody material add cover, nesting sites, and feeding areas.



# WISCONSIN ASSOCIATION OF LAKES

ONE POINT PLACE • SUITE 101 • MADISON, WI 53719-2809 • 800/542-5253(WI) • 608/662-0923 • FAX 608/833-7179

September 14, 2004

Honorable Members, Joint Committee for Review of Administrative Rules

Dear Co-Chairs Leibham and Grothman, and all members of the Joint Committee for Review of Administrative Rules;

Please accept these comments on behalf of the nonprofit, nonpartisan Wisconsin Association of Lakes regarding the Department of Natural Resources' request to extend by 60 days the effective periods of their emergency rules NR 300; 310; 322; 323; 325; 340.02 (2), (8), and (19); and 341.

Approximately 100,000 lakefront property owners throughout the state are members in one of the 350 organizations that hold a membership with the Wisconsin Association of Lakes. It is in the interest of lakefront property owners that strong rules are in place to protect water quality, recreation, property values, fish and wildlife habitat and the natural scenic beauty of our lakes as regulated construction activities take place in and along the state's navigable waters.

These emergency rules have met that need for the past several months and **the extension of the rules is essential to continue those protections for an additional 60 days** as this construction season winds down and the Department finalizes permanent rules to address the concerns outlined above.

Thank you for your consideration of these comments.

Sincerely,

Peter Murray, Executive Director

**Vander Sanden, Patrick**

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**From:** Wisconsin Association of Lakes [wislakes@chorus.net]  
**Sent:** Tuesday, September 14, 2004 1:58 PM  
**To:** Sen.Leibham  
**Subject:** FW: Comments re: September 15, 2004 JCRAR public hearing on extension of DNR emergency rules

**From:** Wisconsin Association of Lakes [mailto:wislakes@chorus.net]  
**Sent:** Tuesday, September 14, 2004 1:30 PM  
**To:** sen.liebham@legis.state.wi.us; rep.grothman@legis.state.wi.us  
**Cc:** Sen.Welch@legis.state.wi.us; sen.lazich@legis.state.wi.us; Sen.Robson@legis.state.wi.us; sen.coggs@legis.state.wi.us; Rep.Gunderson@legis.state.wi.us; Rep.Seratti@legis.state.wi.us; Rep.Hebl@legis.state.wi.us; Rep.Black@legis.state.wi.us  
**Subject:** Comments re: September 15, 2004 JCRAR public hearing on extension of DNR emergency rules

Dear Co-Chairs Leibham and Grothman, and all members of the Joint Committee for Review of Administrative Rules (JCRAR);

Please accept these comments on behalf of the nonprofit, nonpartisan Wisconsin Association of Lakes regarding the Department of Natural Resources' request to extend by 60 days the effective periods of their emergency rules NR 300; 310; 322; 323; 325; 340.02 (2), (8), and (19); and 341.

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Thank you for your consideration of these comments.

Sincerely,

Peter Murray, Executive Director

## Vander Sanden, Patrick

**From:** Henderson, Patrick - Office of Governor Jim Doyle  
**Sent:** Tuesday, July 20, 2004 5:33 PM  
**To:** Ambs, Todd L; Nowak, Ellen; Loomans, Scott; Vander Sanden, Patrick; Johnson, Dan (Legislature); Staggs, Michael D.; Vollbrecht, Mary Ellen; 'jdeschane@wisbuild.org'; 'pkent@andersonkent.com'; 'tlarson@wra.org'; 'georgemeyer@tds.net'; 'hiniker@1kfriends.org'; Ottman, Tad; 'woconnor@wheelerlaw.com'  
**Subject:** Notes from July 20th Chapter 30 Discussion

Here is what I took off the flip chart from today's discussions...

### The department will redraft the following according to our agreements:

1. NR 1, based on the chart that was provided at Monday's meeting - *Delete definition of ASNR waters.*
2. Culvert Replacement General Permit
  - Add perennial tributaries to trout streams
  - Include the consultation process similar to what is in the grading permit
3. Dredging General Permit
  - Add perennial tributaries to trout streams to the winter prohibition on the exemption for manual dredging
  - Include the consultation process similar to what is in the grading permit
4. Clear Span Bridges General Permit
  - Add perennial tributaries to trout streams
  - Include the consultation process similar to what is in the grading permit
5. Utility Crossing General Permits
  - Based on the G.P. standards presented to the group
6. NR 1.07, Priority Navigable Waterways
  - Agree to leave NR 1.07 as is for the emergency rules
  - Agree that we will continue to discuss a single permit for grading
  - Secretary Hassett will send a letter to JCRAR and the Legislative Standing Committees regarding his intent to put together one permit for grading.
7. NR 1.06 General Permit Flexibility
  - Agree to add language with the following intent: For Storm water Ponds the applicant must demonstrate that the proposed project will not have an adverse impact on the public rights features identified in NR 1.06.
  - There was language suggested by Paul Kent that is being reviewed - along with DNR suggested language
8. Species of Special Concern (still open) *list updated once per year - report to be sent*
  - We will continue to work on a reporting requirement by DNR to JCRAR and the Legislative Standing Committees
  - We will attempt to have this resolved before the JCRAR hearing at 11:00am on July 21st.
9. RipRap (still open) *- expected list change per yr = 1-3%*
  - Will continue to work out details between both of the Paul proposals for low energy sites *- PK agrees w/ 2 caveats to be discussed w/ M.E.V.*
10. Land Legacy Report
  - No change needed for the emergency rule package - it was clarified that land legacy waters are simply a red flag that Public Rights Features likely are present and not that the waters on the land legacy report are deemed to be a public right feature
11. Preamble
  - Agree that the preamble will be suspended and it will not be included in the next emergency rule package but some version of the preamble will be part of the permanent rule.
  - NOTE: George, Bill and Steve - please talk to me regarding this issue - I will be in touch ASAP.
12. NR 310 Procedures for General Permits and Exemptions (still open)

NR 310.11(8) - agree to add clarifying language that only those public rights specifically required as part of a General Permit (I think this is what was we talked about today but if I have misstated it I apologize).

- Include language that mirrors NR 1.06(3) in NR 310.04(2) and provide a note that encourages people to seek the exemption determination

GP

I think this is everything that we talked about today but if there is anything that I have missed, shouldn't have included or mischaracterized please let me know as it was not done purposely. If I missed anyone on this email list, please forward this to them. Thanks.

Clearly, quite a bit of progress was made today and I look forward to working with everyone to get these agreements implemented as quickly as possible. We are working to find out how quickly the DNR Board can meet again after the August 11th hearing. The plan we are working on is to have the DNR staff make a presentation on our agreements to the Board on August 11th and then have the Board reconvene a week or two later to approve the new emergency rule packages.

Patrick Henderson  
Office of Governor Jim Doyle  
Deputy Legislative Director  
(608) 266-1338



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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

June 28, 2004

The Honorable Alan Lasee  
Senate President  
State Capitol Building, Room 220 South  
Madison, WI 53702

The Honorable John Gard  
Assembly Speaker  
State Capitol Building, Room 211 West  
Madison, WI 53702

Dear President Lasee and Speaker Gard:

The Joint Committee for the Review of Administrative Rules met in Executive Session on June 24, 2004 and adopted the following motions:

**Emergency Rule NR 1.1016,  
1.05, 1.06, and 1.07**

**Relating to Natural Resources Board policies on  
protection and management of public waters.**

Moved by Welch, second by Grothman, that, the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 1., 3., and 6. and 227.26 (2) (d), Stats., suspends emergency rule ch. NR 1 with the suspension to take effect on July 24, 2004.

Motion Carried 6 Ayes, 3 Noes, 1 Absent

**Emergency Rule NR 326**

**Relating to regulation of piers, wharfs, boat shelters, boat hoists, boatlifts,  
and swim rafts in navigable waterways.**

Moved by Welch, second by Grothman, that, the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 3. and 6. and 227.26 (2) (d), Stats., suspends emergency rule ch. NR 326.

Motion Carried 6 Ayes, 3 Noes, 1 Absent

**Emergency Rules NR 310 & NR 328**

**Relating to timelines and procedures for exemptions, general permits, and  
individual permits for activities in navigable waterways; Relating to shore  
erosion control of inland lakes and impoundments.**

Moved by Welch, second by Grothman, that, the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 3. and 6. and 227.26 (2) (d), Stats., suspends the following emergency rule provisions:

- a. Section NR 310.17 (4) (a).
- b. Section NR 328.04 (3) (c), (4) (e), (5) (c), and (6) (b).
- c. Section NR 328.05 (4) (f) and (j) and (5) (f).
- d. In s. NR 328.06 (4) (intro.), the phrase "or moderate."
- e. Section NR 328.07 (3).

Motion Carried 6 Ayes, 3 Noes, 1 Absent

Pursuant to s. 227.24(2)(c), stats., as treated by 1997 Wisconsin Act 185, please forward a copy of this notice to the chairperson of the standing committee in your respective house most likely to have jurisdiction over the Clearinghouse Rule corresponding to this emergency rule.

Sincerely,



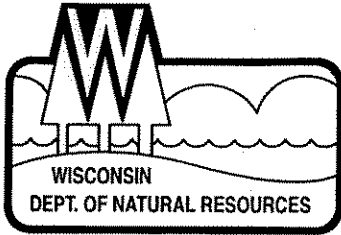
Senator Joseph Leibham  
Senate Co-Chair



Representative Glenn Grothman  
Assembly Co-Chair

JKL:GSG:pv





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
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August 12, 2004

Honorable Joseph Leibham, Chair  
Joint Committee for Review of Administrative Rules  
Room 409 South  
State Capitol

Honorable Glenn Grothman, Chair  
Joint Committee for Review of Administrative Rules  
Room 15 North  
State Capitol

Re: Extension of Emergency Orders No. FH-14-04(E), FH-16-04(E), FH-17-04(E)  
and FH-21-04(E)

Gentlemen:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Orders No. FH-14-04(E), FH-16-04(E), FH-17-04(E) and FH-21-04(E) for 60 days. These emergency orders pertain to:

FH-14-04(E) repealing ch. NR 322, revising ch. NR 300 and creating ch. NR 310 relating to timelines and procedures for exemptions, general permits and individual permits for activities in navigable waterway. The Department is seeking extension of only the portions relating to chs. NR 300 and 322. This order expires on September 16, 2004.

FH-16-04(E) repealing and creating ch. NR 323 relating to fish and wildlife habitat structures in navigable waterways. This order expires on September 16, 2004.

FH-17-04(E) revising ch. NR 325 relating to boathouses and fixed houseboats in navigable waterways. This order expires on September 16, 2004.

FH-21-04(E) repealing NR 340.02(2), (8) and (19) and creating NR 341 relating to regulation of grading on the bank of a navigable waterway. This order expires on October 16, 2004.

The extension of these emergency rules is needed so that the Department can continue to enforce these regulations in a uniform manner while the permanent rules are being promulgated.

A copy of the emergency rules are attached. If you have any questions, please contact Ms. Mary Ellen Vollbrecht of the Bureau of Fisheries Management and Habitat Protection at 264-8554 or Michael Cain of the Bureau of Legal Services at 266-2177.

Sincerely,

Scott Hassett  
Secretary

SENATOR JOSEPH LEIBHAM  
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

September 16, 2004

The Honorable Alan Lasee  
Senate President  
State Capitol Building, Room 220 South  
Madison, WI 53702

The Honorable John Gard  
Assembly Speaker  
State Capitol Building, Room 211 West  
Madison, WI 53702

Dear President Lasee and Speaker Gard:

The Joint Committee for the Review of Administrative Rules met in Executive Session on September 15, 2004 and adopted the following motion, encompassing the below emergency rules:

**NR 300, 310, 322 Relating to timelines and procedures for exemptions, general permits, and individual permits for activities in navigable waterways.**

**NR 323 Relating to fish and wildlife habitat structures in navigable waterways.**

**NR 325 Relating to boathouses and fixed boathouses in navigable waterways.**

**NR 340.02(2)(8)(19), 341 Relating to regulation of grading on the bank of a navigable waterway.**

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules recommends the extension of the above emergency rule for a period of 60 days.

Motion Carried 10 Ayes, 0 Noes

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Pursuant to s. 227.24(2)(c), stats., as treated by 1997 Wisconsin Act 185, please forward a copy of this notice to the chairperson of the standing committee in your respective house most likely to have jurisdiction over the Clearinghouse Rule corresponding to these emergency rules.

Sincerely,

Senator Joseph Leibham  
Senate Co-Chair

Representative Glenn Grothman  
Assembly Co-Chair

JKL:GSG:pv

SENATOR JOSEPH LEIBHAM  
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

September 16, 2004

Scott Hassett, Secretary  
Department of Natural Resources  
101 South Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921

Dear Secretary Hassett:

The Joint Committee for the Review of Administrative Rules met in Executive Session on September 16, 2004 and adopted the following motion concerning the below emergency rules:

**NR 300, 310, 322 Relating to timelines and procedures for exemptions, general permits, and individual permits for activities in navigable waterways.**

**NR 323 Relating to fish and wildlife habitat structures in navigable waterways.**

**NR 325 Relating to boathouses and fixed boathouses in navigable waterways.**

**NR 340.02(2)(8)(19), 341 Relating to regulation of grading on the bank of a navigable waterway.**

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules recommends the extension of the above emergency rule for a period of 60 days.

Motion Carried 10 Ayes, 0 Noes

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

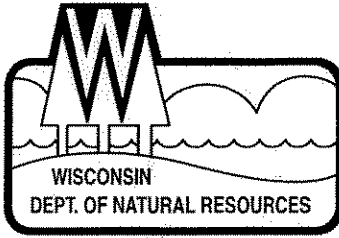
Sincerely,

Senator Joseph Leibham  
Senate Co-Chair

Representative Glenn Grothman  
Assembly Co-Chair

JKL:GSG:pv

Cc: Secretary of State Doug LaFollette  
Revisor of Statutes Gary Poulson



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

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October 8, 2004

Honorable Joseph Leibham, Chair  
Joint Committee for Review of Administrative Rules  
Room 409 South  
State Capitol

Honorable Glenn Grothman, Chair  
Joint Committee for Review of Administrative Rules  
Room 15 North  
State Capitol

Re: Extension of Emergency Orders No. FH-14-04(E), FH-16-04(E), FH-17-04(E)  
And FH-21-04(E)

Gentlemen:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Orders No. FH-14-04(E), FH-16-04(E), FH-17-04(E) and FH-21-04(E) for an additional 60 days. These emergency orders pertain to:

FH-14-04(E) repealing ch. NR 322, revising ch. NR 300 and creating ch. NR 310 relating to timelines and procedures for exemptions, general permits and individual permits for activities in navigable waterways. The Department is seeking extension of only the portions relating to chs. NR 300 and 322. This order expires on November 14, 2004.

FH-16-04(E) repealing and recreating ch. NR 323 relating to fish and wildlife habitat structures in navigable waterways. This order expires on November 14, 2004.

FH-17-04(E) revising ch. NR 325 relating to boathouses and fixed houseboats in navigable waterways. This order expires on November 14, 2004.

FH-21-04(E) repealing NR 340.02(2), (8) and (19) and creating NR 341 relating to regulation of grading on the bank of a navigable waterways. This order expires on December 14, 2004.

The extension of these emergency rules is needed so that the Department can continue to enforce these regulations in a uniform manner while the permanent rules are being promulgated.

A copy of the emergency rules is attached. If you have any questions, please contact Ms. Mary Ellen Vollbrecht of the Bureau of Fisheries Management and Habitat Protection at 264-8554 or Michael Cain of the Bureau of Legal Services at 266-2177.

Sincerely,

Scott Hassett  
Secretary

SENATOR JOSEPH LEIBHAM  
Co-CHAIR



REPRESENTATIVE GLENN GROTHMAN  
Co-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

October 22, 2004

Scott Hassett, Secretary  
Department of Natural Resources  
101 South Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921

Dear Secretary Hassett:

The Joint Committee for the Review of Administrative Rules met in Executive Session on October 21, 2004 and adopted the following motion:

The Joint Committee for Review of Administrative Rules, pursuant to s. 227.24(2)(a), Stats., recommends the extension of the following emergency rules for a period of 60 days:

- |                          |   |
|--------------------------|---|
| NR 10 and 19             | Relating the regulation of baiting and feeding to control and manage chronic wasting disease and bovine tuberculosis.               |
| NR 300, and 322          | Relating to timelines and procedures for exemptions, general permits, and individual permits for activities in navigable waterways. |
| NR 323                   | Relating to fish and wildlife habitat structures in navigable waterways.  |
| NR 325                   | Relating to boathouses and fixed boathouses in navigable waterways.   |
| NR 340.02(2)(8)(19), 341 | Relating to regulation of grading on the bank of a navigable waterway.  |

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Senator Joseph Leibham  
Senate Co-Chair

Representative Glenn Grothman  
Assembly Co-Chair

JKL:GSG:pv

Cc: Secretary of State Doug LaFollette  
Revisor of Statutes Gary Poulson

SENATOR JOSEPH LEIBHAM  
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

October 22, 2004

The Honorable Alan Lasee  
Senate President  
State Capitol Building, Room 220 South  
Madison, WI 53702

The Honorable John Gard  
Assembly Speaker  
State Capitol Building, Room 211 West  
Madison, WI 53702

Dear President Lasee and Speaker Gard:

The Joint Committee for the Review of Administrative Rules met in Executive Session on October 21, 2004 and adopted the following motion:

The Joint Committee for Review of Administrative Rules, pursuant to s. 227.24(2)(a), Stats., recommends the extension of the following emergency rules for a period of 60 days:

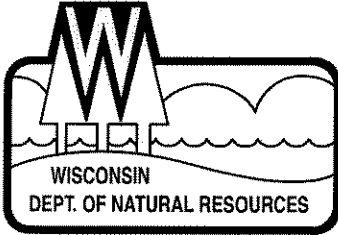
NR 10 and 19	Relating the regulation of baiting and feeding to control and manage chronic wasting disease and bovine tuberculosis.
NR 300, and 322	Relating to timelines and procedures for exemptions, general permits, and individual permits for activities in navigable waterways.
NR 323	Relating to fish and wildlife habitat structures in navigable waterways.
NR 325	Relating to boathouses and fixed boathouses in navigable waterways.
NR 340.02(2)(8)(19), 341	Relating to regulation of grading on the bank of a navigable waterway.

Sincerely,

Senator Joseph Leibham  
Senate Co-Chair

Representative Glenn Grothman  
Assembly Co-Chair

JKL:GSG:pv



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
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December 6, 2004

Honorable Joseph Leibham, Chair  
Joint Committee for Review of Administrative Rules  
Room 409 South  
State Capitol

Honorable Glenn Grothman, Chair  
Joint Committee for Review of Administrative Rules  
Room 15 North  
State Capitol

Re: Extension of Emergency Orders No. FH-59-04(E), FH-60-04(E), FH-61-04(E),  
FH-62-04(E), FH-63-04(E), FH-64-04(E) and FH-65-04(E)

Gentlemen:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Orders No. FH-59-04(E), FH-60-04(E), FH-61-04(E), FH-62-04(E), FH-63-04(E), FH-64-04(E) and FH-65-04(E) for an additional 60 days. These emergency orders pertain to:

FH-59-04(E) creating ss. NR 1.05, 1.06 and 1.07 relating to Natural Resources Board policies on protection and management of public waters. *Aug. 24*

FH-60-04(E) creating ch. NR 310 relating to timelines and procedures for exemptions, general permits and individual permits for activities in navigable waterways. *Aug. 27*

FH-61-04(E) revising ch. NR 320 relating to the regulation of bridges and culverts in or over navigable waterways. *Aug. 24*

FH-62-04(E) creating ch. NR 329 relating to miscellaneous structures in navigable waterways. *Aug. 24*

FH-63-04(E) creating ch. NR 343 relating to regulation of construction dredging and enlargement of an artificial water body. *Aug. 24*

FH-64-04(E) creating ch. NR 345 relating to dredging in navigable waterways. *Aug. 24*

FH-65-04(E) creating subch. I of ch. NR 328 relating to shore erosion control of inland lakes and impoundments. *Aug. 24*

The extension of these emergency rules is needed so that the Department can continue to enforce these regulations in a uniform manner while the permanent rules are being promulgated. The permanent rules will be referred to the presiding officers in January, 2005.

A copy of the emergency rules is attached. If you have any questions, please contact Ms. Mary Ellen Vollbrecht of the Bureau of Fisheries Management and Habitat Protection at 264-8554 or Michael Cain of the Bureau of Legal Services at 266-2177.

Sincerely,

Scott Hassett  
Secretary

*Expire*

*Jan. 21, 2005*

*JKL - OK*

SENATOR JOSEPH LEIBHAM  
Co-CHAIR



REPRESENTATIVE GLENN GROTHMAN  
Co-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

December 17, 2004

Scott Hassett, Secretary  
Department of Natural Resources  
101 South Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921

Dear Secretary Hassett:

The Joint Committee for the Review of Administrative Rules met in Executive Session on December 16, 2004 and adopted the following motion:

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules extends the effective period of emergency rules NR 10 and 19, NR 1.05, 1.06 and 1.07, NR 310, NR 320, NR 329, NR 343, NR 345 and NR 328 for 60 days at the request of the Department of Natural Resources.

Motion Carried      10 Ayes, 0 Noes

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Senator Joseph Leibham  
Senate Co-Chair

Representative Glenn Grothman  
Assembly Co-Chair

JKL:GSG:mjd

Cc: Secretary of State Doug LaFollette  
Revisor of Statutes Gary Poulson





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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### Motion Form

Moved by leibham, Seconded by Lazich

2/10 + 19

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules recommends the extension of NR 300 & 322, NR 323, NR 325, and NR 340,02(2)(8)(19), 341 emergency rules for a period of 60 days.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM	✓		
2. Senator LAZICH	✓		
3. Senator REYNOLDS	✓		
4. Senator ROBSON	✓		
5. Senator COGGS	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative BLACK	✓		
10. Representative HEBL	✓		
Totals			

Motion Carried

Motion Failed

SENATOR JOSEPH LEIBHAM  
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### Motion Form

Moved by LEIBHAM, Seconded by Bundors

THAT, Incorporation of all E.R.'s

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM	✓		
2. Senator WELCH			
3. Senator LAZICH	✓		
4. Senator ROBSON	✓		
5. Senator COGGS	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative BLACK	✓		
10. Representative HEBL	✓		
Totals			

Motion Carried

Motion Failed



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### JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### Motion Form

Moved by Welch, Seconded by Grothman

THAT,  
The Joint Committee for Review of Administrative Rules, pursuant to  
ss. 227.19 (4)(d) 3. and 6. and 227.26 (2)(d), Stats., suspends the  
following emergency rule provisions: a/sec. NR 310.17(4)(a).  
b/sec. NR 328.04 (3)(c), (4)(e), (5)(c), and (6)(b). c/sec NR 328.05  
(4)(f) and (j) and (5)(f). d/ Ins. NR 328.06(4)(intro.), the  
phrase "or moderate." e/sec. NR 328.07(3)

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM	✓		
2. Senator WELCH	✓		
3. Senator LAZICH	✓		
4. Senator ROBSON		✓	
5. Senator COGGS		✓	
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative MOLEPSKE		✓	
10. Representative HEBL		✓	
Totals	6	4	

Motion Carried

Motion Failed



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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### *Emergency Rule Extension Motion Form*

December 16, 2004  
State Capitol

Moved by LEIBHAM, Seconded by GROTHMAN

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules extends the effective period of emergency rules NR 10, NR 1.05, 1.06 and 1.07, NR 310, NR 320, NR 329, NR 343, NR 345, NR 328, Tax 2.99, Tax 3.04, PI 35, RL 31.035 (1m) et al for 60 days at the request of the Departments of Natural Resources, Revenue, Regulation and Licensing, and Public Instruction.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM	✓		
2. Senator LAZICH	✓		
3. Senator REYNOLDS	✓		
4. Senator ROBSON	✓		
5. Senator COGGS			
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative BLACK	✓		
10. Representative HEBL	✓		
Totals			

Motion Carried

Motion Failed

JUN 22 2004

# The Lakeland Times

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## NEWS STORIES

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### Critics say DNR rules outlaw thousands of existing piers

By: [Richard Moore](#)

As a legislative hearing on recently enacted DNR emergency rules related to waterway permitting approaches, an attorney representing two major interest groups says the new rules effectively make thousands of existing piers illegal in Wisconsin.

Paul G. Kent, an attorney representing the Wisconsin Builders Association and the Riparian Owners and Marine Contractors Association, outlined his concerns in a May 21 letter to the DNR's Liesa Nesia. The rules are designed to implement Act 118, which, among other things, is intended to expedite waterway permitting processes.

This week, in calling for property owners to attend a hearing on the rules next week in Minocqua, both the Wisconsin Realtors Association and the Northwoods Association of Realtors reiterated Kent's arguments about their potential impact.

With those and other criticisms of the rules package growing, the Legislature's Joint Committee for Review of Administrative Rules scheduled the hearing for 11 a.m., Thursday, June 24, at the Minocqua Center.

In his letter, Kent said some of the rules reflected the DNR's attempt to replace legislative action with its own interpretation of the Public Trust Doctrine. According to Kent, many of the rules either conflict with or go beyond the intention of the Job Creation Act.

"One group characterized DNR's rules as 'restoring many of the protective standards that were deleted from the statutes in Act 118,'" Kent wrote. "This suggests that the DNR can substitute its judgment for that of the Legislature when it believes the Legislature has acted outside of the public trust. That is not the law."

Jun 21

Poll: If the presidential election was held today, for whom would you vote?  
Vote

With respect to piers, Kent said the intent of the law was simple: to exempt from the permitting process those piers meeting dimensions already authorized in an internal agency guidance document known as the "pier planner." In other words, he wrote, lawmakers wanted to codify existing agency practice.

Instead, he stated, the agency has transformed the pier planner into a formal rule with tightened requirements, in the process giving the agency a new enforcement mechanism and imposing a code that "fundamentally alters basic rights of property owners."

"Notwithstanding the fact that piers meeting pier planner guidance were routinely authorized by the Department prior to the enactment of Act 118, (the rules) now establish 20 separate conditions to be entitled to the pier planner exemption," Kent wrote. "Some of those requirements can be found in the original pier planner, many others cannot."

Among the most significant restrictions, Kent states, is that piers may not be located in waters the department has designated as "public rights feature waters" or in areas of "special natural resource designation." The former category, he wrote, could be anywhere.

"It is an exceptionally broad list that could be used to identify virtually any water in the state," Kent wrote. "For example, public rights features include 'fish and wildlife habitat, including but not limited to spawning, nursery and feeding areas.'"

And the designation threatens not just those piers near spawning or fish feeding areas, he wrote.

"For example, a breeding area for crayfish or even an invasive species could be determined to be fish and wildlife habitat," Kent continued. "Similarly, another feature is 'reaches of bank, shore or bed that are predominantly natural in appearance.'"

Again, he underscored, that could encompass virtually any water in the state: "There is nothing in this rule that created any limits on what the Department could designate as a public rights feature water."

What's more, he continued, other requirements are far more stringent and specific than what is contained in the DNR's current pier planner.

"In addition, (the rule) sets forth a new requirement that the pier 'be exclusively for the private use of the riparian and their guests only, and is not associated with any commercial activity, commercial marina or municipal marina,'" Kent wrote. "That is a substantial restriction of the existing statutory language.... The net effect of these restrictions is that the statutory exemption for pier planner piers has been eviscerated."

Of even greater concern, Kent wrote, is that the DNR has taken a guidance document that established reasonable uses of piers in the permitting context and given it the force of law. The biggest consequence, he writes, is that piers will not be able to be placed unless they comply with all the requirements of the new rule.

"The effect of this change is to move from unenforceable guidance documents to enforceable rules," he wrote. "A pier that does not meet the 20 conditions in (the rule) is now no longer eligible for an exemption under (the statute)."

And what does that mean in practical terms?

"For example, a pier that is wider than 6 feet, a pier that is longer than the 3-foot depth level, a pier that has more than one additional boat slip for its amount of frontage, and piers that may be in areas with public rights features are no longer eligible for a (statutory) exemption," Kent wrote. "The result is that there are thousands of piers that had been allowed under the statutes, but are now subject to enforcement by the Department as noncompliant piers."

Adding to Kent's arguments, the Wisconsin Realtors Association pointed out that piers with a permanent bench or flagpole or deck at the end could also be deemed illegal by the department.

The new rule does provide some limited exceptions under which private piers existing on Aug. 1, 2003 could qualify for a general permit and be placed in public rights feature waters. However, even those piers would have to be brought into compliance when the property was sold.

In addition to piers, Kent raised what he cited as other troublesome issues, including the department's use of "areas of special natural resource interest" to remove waters from Act 118 jurisdiction.

"The Department's definition of areas of special natural resource interest is inconsistent with the legislative language, inconsistent with legislative intent and removes the effective use of the statutory exemptions," he wrote.

Of particular concern, Kent wrote, was legislative language removing Act 118 exemptions for areas possessing significant scientific value, as defined by the DNR.

"The Department has taken this last category and expanded it to include another nine categories of waters," he wrote. "This is not what the Legislature intended. Special Natural Resource Areas were designed to be limited and defined areas. The statutory areas can be readily ascertained. Everyone recognized the limited scope of these waters of the state."

It was not an open-ended list, he concluded, but, as currently proposed, the list includes half to three-quarters of the waters in the state.

Finally, Kent argued, the department has unlawfully restricted the scope of the riprap repair and replacement exemption, assuming that riprap is detrimental to shorelines when in fact he says the DNR's own studies show otherwise.

Posted: June 18, 2004

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DNR's pier rules get some officials all churned up

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Posted: July 10, 2004



Amy Rinard
E-MAIL | ARCHIVE

Just as the summer boating and swimming season gets fully under way, state government has found a way to make owning a pier controversial.

Emergency rules promulgated by the Department of Natural Resources as part of the Jobs Creation Act approved earlier this year caused many waterfront property owners to cry foul and state legislators to accuse the DNR of overstepping its authority.

The Wisconsin Realtors Association predicted some existing piers would be declared illegal by the DNR and property owners would be required to remove them.

Opponents of the emergency rules said the Jobs Creation Act was being used by the DNR as an excuse for expanding its authority beyond what the Legislature intended.

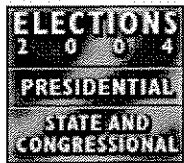
On the other side of the debate, some environmental groups, including Nature Conservancy and the Clean Water Action Council, endorsed the emergency rules, arguing they would continue to protect Wisconsin's public waterways.

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Supporters of the rules argued that the Jobs Creation Act, intended to streamline the environmental regulatory process for businesses, should not be used to diminish any existing state protections of environmental standards.

That was the promise of Gov. Jim Doyle, who backed the bill, and legislative supporters at the time the bill was enacted.

In the end, but only after a lively six-hour public hearing in Minocqua two weeks ago, the Legislature's Joint Committee for the Review of Administrative Rules, co-chaired by Rep. Glenn Grothman (R-West



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Bend), voted unanimously to suspend the emergency rule on piers.

Now the DNR will start the normal rule-making process to advance regulations dealing with placement of piers and docks.

Mary Ellen Vollbrecht, a section chief in the DNR's Bureau of Fisheries Management and Habitat Protection, said public hearings will be held around the state in late August to get public input on the proposed rule.

The rule will go before the Natural Resources Board for action and then to the Legislature for approval.

In the meantime, Vollbrecht said, not much will be different because the emergency rules that became so controversial are pretty much the way things are done now by the DNR.

"The emergency rules were created to provide some clarity and more precision and avoid confusion over what we do now," she said.

"The standards back in place now are not as clear as the emergency rule was, but they are practically what we had before."

Vollbrecht said she believes there was a lot of misinformation about the emergency rule that got some people riled up needlessly.

For example, some opponents of the rule said it would have banned people from having flag poles, benches or flower pots on their piers.

Vollbrecht said the emergency rules were written to clarify that flag poles, benches and flower pots would be allowed on the kind of seasonal piers that are by far most common in Wisconsin - the kind that get taken out of the water for winter.

Also contrary to some information put out by opponents of the rule, permits would not have been required for single-family private piers and such permits are not required now, Vollbrecht said.

"We believe this is a reasonable set of rules," she said.

But, some legislators remain unconvinced.

Racine County's Rep. Bonnie Ladwig (R-Mount Pleasant), who said she is a waterfront landowner and has a pier herself, called the DNR promulgation of the emergency rules an "abuse of power" that infuriated her.

"When you look at all the lakes we have in Wisconsin, and there are piers people have had for years, and they're going to declare them illegal if they have a bench on them? There is no way the Legislature will agree to that," Ladwig said.

Wind Lake and Eagle Lake are in Ladwig's Assembly district and Brown's Lake is nearby. She












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said she has heard from a number of area residents concerned about the impact of the DNR emergency rules on their waterfront properties.


The Legislature and the DNR will try to resolve the rules issue when legislators reconvene next year. This time there will be ample opportunity for public input.

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## **JCRAR SUSPENDS DNR'S ACT 118 EMERGENCY RULES PACKAGE**

**By Dick Wheeler**

MINOCQUA -- The Legislature's Joint Administrative Rules Committee suspended all or part of three of five emergency rules proposed by the DNR to implement provisions of Act 118, the jobs creation program enacted earlier this year. The committee suspended all of the pier regulation rule, a provision on timeliness and procedures for exemptions, general permits and individual permits for activities in navigable waterways, and several parts of the rule on shore erosion control on inland lakes and impoundments.

The suspensions came after a day-long hearing on the rules package. The rules were suspended by the six Republican members of the ten-member committee. None of the Democrats on the panel attended the hearing.

The committee also voted to suspend in 30 days, unless the committee withdraws the suspension, the rule on the DNR Board policies on protection and management of public waters (NR 1). If compromises can be worked out in the 30 days, the rule as amended will be allowed to proceed. If not, it is suspended.

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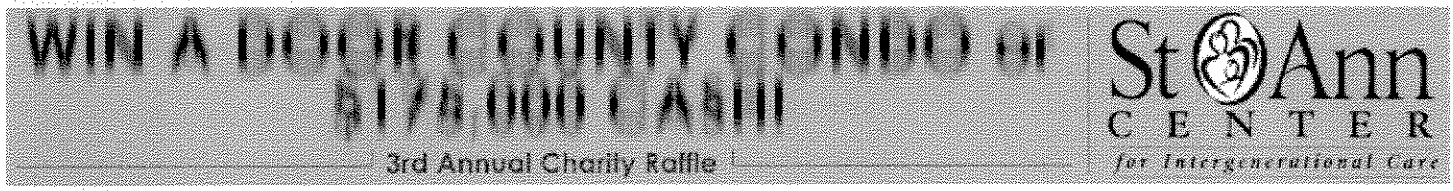
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From the Journal Sentinel

Posted: June 23, 2004

We don't envy state Rep. Glenn Grothman (R-West Bend) and other members of the Legislature's Joint Committee for the Review of Administrative Rules, which is meeting today in Minocqua. Their purpose is to hold a public hearing on certain rules imposed by the state Department of Natural Resources in an effort to enforce the Jobs Creation Act, a regulatory reform measure the Legislature approved in January.

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As committee chairman, Grothman understands that it will be tricky to find the right balance between adequately protecting the state's waters while remaining faithful to the intentions of the Jobs Creation Act, which was aimed at reforming a regulatory process that's too bureaucratic.

Assembly Speaker John Gard (R-Peshtigo) is among those who argues that the DNR's emergency rules - which would be in place until permanent rules are worked out - go far beyond what was intended by the Legislature and Gov. Jim Doyle when they negotiated the act last winter.

The speaker makes a good case. It appears that the emergency rules could, for example, outlaw piers that have been in place for some time but that the DNR would like to see removed or changed. There may be a case for such oversight, but any change should be the result of the legislative process, not a bureaucrat's decision.

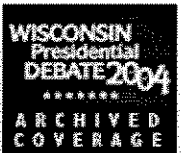
Gard and others are also asking good questions about the DNR's expansion of the number of waterways that should get special protection - that is, beyond the normal protection every waterway gets - from the roughly 7% agreed to by legislators to the roughly 75% listed in the emergency rules.

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Two environmental groups, on the other hand, argue that suspending any of the rules - which is the committee's only power - would put waterways at risk from developers and property owners. The Wisconsin Wildlife Federation and 1000 Friends of Wisconsin helped create some of the emergency rules in negotiations with the DNR and the Wisconsin Builders Association. The groups argue that suspending the rules would be tantamount to back-stabbing by the Legislature.

Fair point, although a legislator's first responsibility is to the people of Wisconsin, not to lobbyists, no matter how pure their motives. But the environmentalists' basic point remains: The Jobs Creation Act should not be an excuse for providing less environmental protection or for lowering environmental quality standards. At the same time, the act should not provide an excuse to expand the DNR's authority beyond that intended by the Legislature.

Grothman's committee must guard against both possibilities by suspending suspect rules and making sure that the emergency rules fulfill the act's original intention: providing true regulatory reform that doesn't sacrifice the environment.

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## Realtors and Legislators Manipulate Shoreline Rules Hearings

**Green Bay, WI** --- "Yesterday's circus in Minocqua was a manipulated spectacle by the Wisconsin Realtors' Association and their paid legislators. Many Wisconsin residents attended the so-called "public hearing" on the DNR's emergency shoreline rules, only to witness a series of tricks to justify legislative votes obviously decided before the hearing," stated Rebecca Katers, Executive Director of the Clean Water Action Council, a citizen group based in Northeast Wisconsin. The Joint Committee for the Review of Administrative Rules (JCRAR) is dominated by a Republican majority.

"I traveled seven hours to attend this hearing, only to watch legislators vote on the issue and leave before I had a chance to testify. This was not a good day for democracy," added William Iwen, President of the Tri-Lakes Association. Iwen represented several dozen families and shoreline owners in Kewaunee County who supported the emergency rules, but he was forced to wait 5 hours to testify. "We believe it's important to have strong rules to prevent problems, because we're finding it's much more difficult and expensive to clean up water quality and shoreline problems after the damage is done. Unfortunately, it's clear these legislators weren't listening." The hearing was flawed in many respects:

1. **Hearing in a remote location** --- Minocqua is many hours away from all the population centers of Wisconsin, making attendance for most Wisconsin residents impossible. Several hearings should have been held in multiple cities, to reach a true cross-section of the population.
2. **Hearing during work hours** --- A weekday hearing is impossible for ordinary working people to attend. This favored all the realtors, builders, developers, lawyers and politicians who came as part of their paid jobs.
3. **Short, inadequate notice by the legislature** --- Only one week's notice was given, and most people in southern Wisconsin found out only by word of mouth. This was an outrageous slight-of-hand by the JCRAR. Most hearing attendees had not had time to read an impartial analysis of what the rules actually required, they were forced to rely on partisan interpretations which were often inaccurate.
4. **No written comment period before vote** --- The vote was immediate, before most Wisconsin residents were even aware of the issues. No time was granted for a written comment period before the JCRAR voted.
5. **Hearing located in anti-planning, anti-DNR area of state** --- The JCRAR selected the audience they wanted to hear, in the most rabidly anti-zoning, anti-planning area of Wisconsin, which is not representative of the true feelings of most Wisconsin residents.
6. **Hundreds of people turned away** --- The JCRAR chose a meeting room with a maximum capacity of 75-100 people. When more than 400 people tried to attend, the local government officials were forced to turn hundreds of people away, due to the safety hazard. The 100 who stayed tended to be local residents who got there 45 minutes early and packed the room. People who had traveled hours from other parts of the state were turned away.
7. **Aggressive advertising by the realtors** --- The Wisconsin Realtors Association placed dozens of prominent ads in newspapers all across northern Wisconsin, whipping up hysteria about the pier issues, including inaccurate claims. (If these issues were so vital, why didn't the Realtors Association and their lawyer Paul Kent raise these concerns in the months of negotiations leading up to the emergency rules? They've proven they can't be trusted as negotiators. They are without honor. The same is true of the Wisconsin Builders Association.)
8. **Complicit news media** --- The Lakeland Times printed editorials and articles featuring inflammatory, one-sided and inaccurate propaganda from the Wisconsin Realtors Association and anti-DNR property rights extremists. There was no attempt at balance. The media deliberately manipulated and frightened local shoreline property owners with non-issues, and used them to promote other actions that many reasonable shoreline property owners wouldn't support if they had accurate information and a chance for full and open debate. The Wisconsin Lake Association, whose members include more than 100,000 shoreline property owners were ignored.
9. **Hysteria generated on a minor issue** --- The simple-minded focus on the pier issue (NR326) was used as a smokescreen, or red herring, to deflect attention from the more serious and far-reaching debate concerning the other rules upholding the Wisconsin Public Trust Doctrine. The first four hours of the hearing were completely dominated by pier discussion and debate, frequently based on misinformation and inaccurate rumors. For example, many local shoreline residents attended and were upset because they mistakenly thought the rules prohibited benches, flags or ladders on their docks. This misconception was corrected only after three hours of hearing.
10. **Inaccurate claims by realtors and legislators** --- The hearing was conducted by obviously partisan legislators, and dominated by lobbyists from the Realtors and other development interests, perpetuating inaccurate interpretations of the emergency rules even after DNR staff clearly responded to their concerns and corrected the inaccuracies. The legislators weren't listening to DNR's reasonable explanations.

11. **Major issue delayed and sidelined** --- The most essential rule in the package, NR 1, wasn't opened for comment until four hours after the hearing started, after most news media representatives and public attendees had gone.
12. **Legislators voting and leaving before testimony ended** --- The public hearing was fraudulent. Legislators had obviously made up their minds before the hearing started. Citizen comments were irrelevant. Republican Senators Robert Welch and Mary Lazich requested and received a suspension of the rules allowing them to cast their votes and leave long before the end of the hearing, and before comments had started on NR 1. They both voted against NR 1 without bothering to hear citizen concerns. It was extremely rude and should not have been allowed.
13. **Grandstanding by politicians** --- Representative John Gard was also rude, as he breezed into the hearing in the middle of the day, jumped to the head of the line of speakers, gave an extreme "property-rights-above-all" speech, then breezed out again. He didn't have the decency or courtesy to attend the entire hearing and listen to serious citizen concerns. His long and inaccurate speech was out of order, exceeded the time limits, and took the place of citizens who had waited hours to testify. The arrogance was astonishing.
14. **Property rights issue misused, Constitution violated** --- Much of the frenzy created by the Realtors was based on the phony claim that "private" property rights were at risk. This is not accurate. Under Wisconsin's Constitution, all lakes and streams are PUBLIC property and belong to all the people. This means the majority of TRUE property owners live in the population centers of Wisconsin, not in Minoqua or the northwoods. Shoreline owners have had the privilege of extending their docks, rafts, boat hoists, riprap, and other private structures into our public waters, but there must be strict limits on this activity or the rest of us will lose the values we hold most dear on our waterways: scenic beauty, clean water, tranquility, healthy wildlife, and abundant fish. Wall-to-wall development will ruin these values. If shoreline developers want to amend the Wisconsin Constitution and privatize Wisconsin's lakes and streams, they should be forced to proceed openly in this direction rather than using back-door manipulation and Legislative sleight-of-hand to grab public property under the guise of "private" property rights.
15. **Promises broken and bad-faith negotiations** --- When the Legislature rushed the "Job Creation Act" to passage in January, the Act had been through numerous closed-door, last-minute negotiations with the realtors, builders and other special interests. The process was chaotic, corrupt and undemocratic. Many of us struggled to keep up with the changes and many still weren't sure what had happened even after the Act passed. Even so, it was clear that the Act would weaken at least 23 separate environmental standards for shorelines, and several air pollution regulations as well. Legislators flatly denied any weakening and insisted that the DNR would be instructed to write rules to clarify their intent. They promised that the resulting rules would not weaken Wisconsin standards. Now that the JCRAR has voted to suspend several key aspects of the emergency rules, we know these legislators cannot be trusted. Their promises mean nothing, and were used as false defense for the Job Creation Act.
16. **Inaccurate reporting of votes in support of rules** --- Some news media claim that only 14 people registered in favor of the rules, while 400 registered against. In fact, 45 people registered in support of the rules, and at least half of these supporters represented thousands of members across the state. For example, Wisconsin Lakes Association supported the emergency rules and they represent more than 100,000 shoreline property owners in Wisconsin. In addition, Wisconsin Wildlife Federation represents at least tens of thousands of hunters and anglers who support the emergency rules. In contrast, the vast majority of the 400 who registered in opposition to the rules were local individual shoreline property owners who represented no one else, and they came to the hearing primarily because of false hype over the pier rule. Many specifically registered opposition to the pier rule only. Most knew little about the rest of the rules, especially NR 1. The rest of the opposition came primarily from the realtors, developers, contractors and others who would benefit from privatizing our lakes and streams.
17. **Abuse of DNR** --- The ultimate hypocrisy came from the legislators who took cheap shots at the DNR, claiming that the agency was making a power grab and creating "thousands of new jobs of DNR bureaucrats." These legislators know full well that they've slashed the DNR budget and staff several times in recent years, crippling many of the agency's functions. At the same time, they've tied up key DNR staff in months of difficult negotiations, in a huge rush to beat this year's construction season. These legislators and their developer friends in the had many opportunities for input and clarification during the negotiations. Everyone knew there would be glitches to work out, but afterall these were only temporary, stop-gap rules with less than 100 days to go before they expire. The final rules will undergo a more deliberate and careful process with full public hearings. It's an outrage that these dishonest legislators abuse the DNR when the true power grab is by the legislators themselves. The legislators promote distrust of an agency THEY control, when the legislators are the ones unworthy of trust.
18. **"Job Creation Act" title is a lie** --- This entire legislative push has been built on a lie. Any reasonable person can see that these shoreline rules have absolutely nothing to do with job creation or job retention. The rules don't stop development; they simply direct the development to occur in the least destructive and least obtrusive manner. Few, if any, jobs are affected.

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**WisPolitics: Northern Officials Oppose Proposed Shorelands Changes**

6/7/2004

By Gary Fisher

Property owners and municipal officials from northern Wisconsin are angry with state officials over a proposed update to the statewide minimum standards for protecting shoreland habitat governing lot sizes, how far homes must be set back from the water's edge and limits to removal of native plants and trees.

The Department of Natural Resource is revising NR 115 shoreland protection standards in response to development along lakes and rivers, growing scientific knowledge about they damage to water quality, fish and wildlife habitat and natural scenic beauty from over-development.

Rep. Dan Meyer, R-Rhineland, said that under the DNR proposal "a piece of land once considered wetland could all of a sudden be reclassified lakebed."

Likewise, an Oneida County resident said the new definitions result in more land being claimed as lakebed, therefore it is a "takings" by the DNR.

DNR attorney Michael Cain said there is no substantial difference in the definitions, only clarifications. "No significant amount of land would change hands because of the clarifications," he said.

State Justice Department attorney and former public intervenor Tom Dawson said the ordinary high water mark rules haven't changed.

"The real change is that more people are moving up north and buying marginal land," he said. It is harder to determine an ordinary high water mark on a lot of this marginal land, thus leading to mistakes, he added.

Dawson suggested the DNR and counties make "ordinary high water mark" (OHWM) determinations jointly and create a process to resolve differences between the two.

State Department of Revenue spokesman Greg Landretti expressed concerns about tax inequities. "We need a standard that is fair and consistent both for the taxpayers and for the assessors," he said. "Changes in the OHWM create land titles that no longer accurately represent the parcel of land they were created for."

Don Gauger of Minocqua concurred that the OHWM changes result in smaller parcels of land. "Smaller parcels mean less property tax revenue for local government," he said. "In some cases over half the land on a 40-acre parcel has been lost to an OHWM change."

Officials from Oneida and Vilas counties were asked to present their alternative to the DNR plan within 30 to 60 days. Another meeting will be scheduled after that.

The advisory committee meeting was chaired by state Sen. Roger Breske, D-Eland. Mary Ellen Vollbrecht of DNR, JoAnne Kloppenburg of state Department of Justice and other state officials.



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### **LAUTENSCHLAGER WARNS AGAINST WATERING DOWN EMERGENCY ENVIRONMENTAL PROTECTION RULES**

#### **Attorney General Says Lowering Water Protection Standards May Violate Constitutional "Public Trust" Doctrine**

MADISON – Less than a day after legislative Republicans voted to suspend most of the Department of Natural Resources' (DNR) emergency water protection rules, Attorney General Peg Lautenschlager warned that, if successful, their efforts could be deemed as unconstitutional. The emergency rules rejected yesterday by the Joint Committee for Review of Administrative Rules (JCRAR) were implemented following the passage of the so-called "Jobs Creation Act," and were designed to balance a perceived need to streamline regulation while protecting state waterways. Panel members rejected the emergency rules given a misperception that the rules were too strong.

"During consideration of this legislation, I strongly cautioned state officials that any such action would raise serious legal questions about the state's constitutional 'Public Trust Doctrine' to protect its waterways," said Lautenschlager. During debate of the legislation, Lautenschlager publicly opposed its passage given her concerns about efforts to undermine state water protection standards for the personal gain of a few. "Legislators who are determined to undermine the state's water quality and protection of our lakes and rivers are taking both a serious legal and environmental risk," warned Lautenschlager.

"The Legislature and Governor contemplated that these rules would shield the Act from constitutional attack by preserving water protection standards. Blocking implementation of the rules now will necessarily call the constitutionality of the Act into even more question," the Attorney General said.

Yesterday in Minocqua, Republican members of the JCRAR voted to suspend all or parts of three of the five emergency rules implemented by the DNR subsequent to the passage of the Act. The rules affected by the action regulate the dredging and placement of structures and fill in Wisconsin waterways, the timeliness of permits and exceptions in navigable waters, as well as shoreland erosion protections and inland lake impoundments. Additionally, the committee voted to suspend the DNR's rules related to management of public waters in 30 days, unless the committee removes its objections.

"Now that the DNR has proposed rules that attempt to strike a balance between regulatory streamlining and protecting public rights in our waterways, the Legislature should live up to its promise not to weaken environmental standards," urged Lautenschlager.

###