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 Details: Miscellaneous correspondence

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2003-04

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

May 2, 2003

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 April 30, 2003 and adopted the following motions:

Moved that, pursuant to s. 227.19(4)(d)1-3, Stats., the Joint Committee for Review of Administrative Rules suspends HFS 101 to 107 in its entirety.

Motion Carried 6 Ayes, 4 Noes

Moved that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of NR 20.20(49)(d) and (60)(c) by 60 days, at the request of the Department of Natural Resources.

Motion Carried 10 Ayes, 0 Noes.

1. The Joint Committee for Review of Administrative Rules (JCRAR) requests that the Department of Natural Resources (DNR):
 - a. Amend ch. NR 116 to provide that a deck may be added to a nonconforming building or a building with a nonconforming use.
 - b. Define, in the amendment to ch. NR 116, the term "deck."
 - c. Submit the amendment to ch. NR 116 to the Legislative Council Staff, under s. 227.15, Stats., no later than July 1, 2003.
2. If DNR does not indicate in writing, by 5:00 p.m. on May 30, 2003, that it will comply with the request made in item 1., above, then JCRAR, pursuant to s. 227.26(2)(b), Stats.:
 - a. Determines that DNR's current policy regarding the addition of a deck to a nonconforming building or a building with a nonconforming use meets the definition of a rule; and
 - b. Directs DNR, as of May 30, 2003, to promulgate the policy relating to the installation of a deck as an emergency rule under s. 227.24(1)(a), Stats., within 30 days.

Motion Carried 10 Ayes, 0 Noes

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:mjd



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

May 2, 2003

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

Dear Secretary Hassett:

The Joint Committee for the Review of Administrative Rules met in Executive Session on April 30, 2003 and adopted the following motions:

Pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of NR 20.20(49)(d) and (60)(c) by 60 days, at the request of the Department of Natural Resources.

Motion Carried 10 Ayes, 0 Noes.

1. The Joint Committee for Review of Administrative Rules (JCRAR) requests that the Department of Natural Resources (DNR):
 - a. Amend ch. NR 116 to provide that a deck may be added to a nonconforming building or a building with a nonconforming use.
 - b. Define, in the amendment to ch. NR 116, the term "deck."
 - c. Submit the amendment to ch. NR 116 to the Legislative Council Staff, under s. 227.15, Stats., no later than July 1, 2003.
2. If DNR does not indicate in writing, by 5:00 p.m. on May 30, 2003, that it will comply with the request made in item 1., above, then JCRAR, pursuant to s. 227.26(2)(b), Stats.,:
 - a. Determines that DNR's current policy regarding the addition of a deck to a nonconforming building or a building with a nonconforming use meets the definition of a rule; and
 - b. Directs DNR, as of May 30, 2003, to promulgate the policy relating to the installation of a deck as an emergency rule under s. 227.24(1)(a), Stats., within 30 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:mjd

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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May 2, 2003

Helene Nelson, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Nelson:

The Joint Committee for the Review of Administrative Rules met in Executive Session on April 30, 2003 and adopted the following motion:

Emergency Rule HFS 101 to 107 Relating to the Family Planning Demonstration Project.

Moved that, pursuant to s. 227.19(4)(d)1-3, Stats., the Joint Committee for Review of Administrative Rules suspends HFS 101 to 107 in its entirety.

Motion Carried 6 Ayes, 4 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

May 28, 2003

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


Dear Secretary Hassett:


As you may know, JCRAR met in executive session yesterday and extended the captive wildlife emergency rule by an additional 60 days. At the hearing, the Department testified that the ten-foot fencing requirement may be changed in the permanent rule. Several members of the committee requested that a letter be sent to the Department of Natural Resources emphasizing that JCRAR's extension of the emergency rule did not necessarily mean approval of the ten-foot fencing requirement.

If you have any questions or would like to discuss this issue further, please do not hesitate to contact either of our offices.

Thanks for your attention to this matter.

Sincerely,


Senator Joseph Leibham
Senate Co-Chair


Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

May 30, 2003

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 May 27, 2003 and adopted the following motions:

Emergency Rule - HFS 110 to 113 Relating to licensing of EMT's and certification of first responders, incorporating responding to certain acts of terrorism as a training component. Moved by Representative Grothman, seconded by Senator Welch that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 110 to 113 at the request of the Department of Health and Family Services by 60 days.

Motion Carried 10 Ayes, 0 Noes.

Emergency Rule - HFS 163 Relating to the abatement of lead-contaminated soil and the standards defining lead-based paint hazards. Moved by Representative Grothman, seconded by Representative Hebl that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 163 at the request of the Department of Health and Family Services by 60 days.

Motion Carried 10 Ayes, 0 Noes.

Emergency Rule - NR 16 and 19 Relating to Captive Wildlife. Moved by Representative Grothman, seconded by Senator Leibham that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends NR 16 and 19 at the request of the Department of Natural Resources by 60 days.

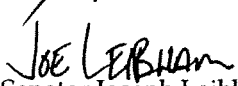
Motion Carried 10 Ayes, 0 Noes.


LRB 2653 and 2654 Relating to a Medical Assistance Family Planning Demonstration project minimum age eligibility limitation change. Motion by Senator Leibham, seconded by Senator Grothman, that pursuant to s. 227.19(5)(e), stats., The Joint Committee for Review of Administrative Rules recommends introduction of LRB 2653 and LRB 2654.

Motion Carries 6 Ayes, 4 Noes.

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:pvs

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



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

May 30, 2003

Helene Nelson, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Nelson:

The Joint Committee for the Review of Administrative Rules met in Executive Session on May 27, 2003 and adopted the following motion:

Emergency Rule – HFS 163 Relating to the abatement of lead-contaminated soil and the standards defining lead-based paint hazards. Moved by Representative Grothman, seconded by Representative Hebl that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 163 at the request of the Department of Health and Family Services by 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:pvs

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

July 30, 2003

Helene Nelson, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Nelson:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 29, 2003 and adopted the following motion:

Emergency Rule – HFS 110 to 113 Relating to licensing of EMT's and certification of first responders, incorporating responding to certain acts of terrorism as a training component. Moved by Senator Leibham, seconded by Senator Lazich that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 110 to 113 at the request of the Department of Health and Family Services by 60 days.

Motion Carried 9 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

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

August 14, 2003

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 August 12, 2003 and adopted the following motions:

Emergency Rule HFS 124 **Relating to critical access hospitals.** Moved by Representative Grothman, seconded by Senator Welch that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 124 at the request of the Department of Health and Family Services by 44 days.

Motion Carried 10 Ayes, 0 Noes.

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:pvs

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

August 14, 2003

Helene Nelson, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Nelson:

The Joint Committee for the Review of Administrative Rules met in Executive Session on August 12, 2003 and adopted the following motion:

Emergency Rule HFS 124 **Relating to critical access hospitals.** Moved by Representative Grothman, seconded by Senator Welch that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 124 at the request of the Department of Health and Family Services by 44 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:pvs

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



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

August 20, 2003

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 August 19, 2003 and adopted the following motions:

NR 302 Relating to the Management of Wisconsin's Wild Rivers.

Pursuant to s. 227.24(2)(d) and 227.19(4)(d)(5&6), stats. the Joint Committee for Review of Administrative Rules suspends NR 302.04(5)(a)(b).

Clearinghouse Rule 03-017 Relating to the regulation of baiting and feeding to control and manage chronic wasting disease. The Joint Committee for Review of Administrative Rules moved:

1. Pursuant to s. 227.19 (5) (b) 2., Stats., the Joint Committee for Review of Administrative Rules recommends that the Department of Natural Resources (DNR) modify Clearinghouse Rule 03-017 by providing that the rule will not apply after June 30, 2004.
2. Pursuant to s. 227.19 (5) (b) 2., Stats., the Joint Committee for Review of Administrative Rules recommends that DNR modify Clearinghouse Rule 03-017 by providing that:
 - a. Baiting for the purpose of hunting deer be allowed only when all of the following conditions have been met:
 - (1) Baiting occurs during an open season for hunting deer.
 - (2) Baiting occurs outside of a chronic wasting disease eradication zone, a chronic wasting disease management zone, or an intensive harvest zone.
 - (3) No more than two gallons of bait are spread daily by a scattering method or a broadcast method at no more than two sites in a 40 acre parcel. The two gallon limit is a daily limit at both sites so that no more than four gallons may be spread in a 40 acre parcel.

b. Feeding for the purpose of viewing deer be allowed only when all of the following conditions have been met:

- (1) Feeding occurs north of state highway 54.
- (2) Feeding occurs outside of a chronic wasting disease eradication zone, a chronic wasting disease management zone, or an intensive harvest zone.
- (3) No more than two gallons of feed are spread daily by a scattering method or a broadcast method within 50 yards of an owner occupied residence.

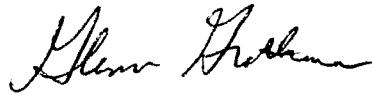
3. If DNR fails to indicate in writing, by 5:00 on Friday, August 29, 2003, that the it will make the recommended modifications described in Motions 1 and 2, then, pursuant to s. 227.19 (4) (d) 5. and 6. and (5), Stats., the Joint Committee for Review of Administrative Rules objects to Clearinghouse Rule 03-017.

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

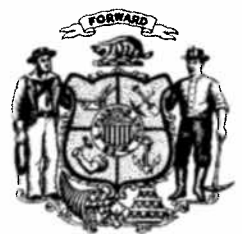


Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pvs



WISCONSIN STATE LEGISLATURE





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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 21, 2003

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 November 19, 2003 and adopted the following motion:

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends Chir 2 at the request of Department of Regulation and Licensing and on behalf of the Chiropractic Examining Board by 60 days.

Motion Carried

10 Ayes, 0 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:mjd



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 21, 2003

Department of Regulation and Licensing
Attn: William Dusso
1400 East Washington Avenue
Madison, WI 53708-8935

Dear Mr. Dusso:

The Joint Committee for the Review of Administrative Rules met in Executive Session on November 19, 2003 and adopted the following motion:

Moved by JCRAR, that pursuant to §227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Emergency Rule Chir 2 for 60 days at the request of the Chiropractic Examining Board.

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

December 16, 2003

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 December 16, 2003 and adopted the following motions:

Emergency Rule HFS 15 Relating to assessments on occupied, licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICF-MR). Moved by Representative Grothman, seconded by Representative Seratti that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 15 at the request of the Department of Health and Family Services by 60 days. Motion Carried 10 Ayes, 0 Noes.

Emergency Rule PC 1, 2, 4, 5, and 7; DWD 218, 224, and 225 Relating to the transfer of personnel commission responsibilities to the equal rights division. Moved by Representative Grothman, seconded by Representative Seratti that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends PC 1,2,4,5, and 7; DWD 218,224 and 225 at the request of the Department of Workforce Development by 60 days. Motion Carried 10 Ayes, 0 Noes.

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:pvs

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

December 16, 2003

Helene Nelson, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Nelson:


The Joint Committee for the Review of Administrative Rules met in Executive Session on December 16, 2003 and adopted the following motion:

Emergency Rule HFS 15 Relating to assessments on occupied, licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICF-MR). Moved by Representative Grothman, seconded by Representative Seratti that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 15 at the request of the Department of Health and Family Services by 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:pvs

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

December 16, 2003

Roberta Gassman, Secretary
Department of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946

Dear Secretary Gassman:

The Joint Committee for the Review of Administrative Rules met in Executive Session on December 16, 2003 and adopted the following motion:

Emergency Rule PC 1, 2, 4, 5, and 7; DWD 218, 224, and 225, Relating to the transfer of personnel commission responsibilities to the equal rights division. Moved by Representative Grothman, seconded by Representative Seratti that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends PC 1,2,4,5, and 7; DWD 218,224 and 225 at the request of the Department of Workforce Development by 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:pvs

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



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

January 21, 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 January 21, 2004 and adopted the following motions:

Emergency Rule HFS 15 Relating to assessments on occupied, licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICF-MR).

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 15 at the request of the Department of Health and Family Services by 8 days.

Motion Carried 10 Ayes, 0 Noes.

Chiro 2 Relating to passing and retaking the practical examination.

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends Chir 2 at the request of Department of Regulation and Licensing and on behalf of the Chiropractic Examining Board by 60 days.

Motion Carried 10 Ayes, 0 Noes.

DWD 272 and 274 Relating to overtime pay for employees of companies who provide nonmedical home care.

That, pursuant to s. 227.26(2)(b), Stats., the Joint Committee for Review of Administrative Rules directs the Department of Workforce Development to promulgate an emergency rule regarding their overtime policy for non medical home care companion employees of an agency as part of DWD 274 within 30 days.

Motion Carried 6 Ayes, 4 Noes

TRANS 233 Relating to the Division of Land Abutting a State Trunk Highway or Connecting Highway.

That, the Joint Committee for Review of Administrative Rules directs Legislative Council to prepare a motion suspending portions of Trans 233 so that the rule reverts to its pre-1998 status and that provisions regarding setbacks be suspended other than that for building.

Motion Carried 9 Ayes, 1 Noes

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:mjd



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

P.O. Box 8952
MADISON, WI 53708-8952
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

January 21, 2004

Roberta Gassman, Secretary
Department of Workforce Development
201 East Washington Avenue
Madison, WI 53707-7946

Dear Secretary Gassman:

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

Moved, pursuant to s. 227.26(2)(b), Stats., the Joint Committee for Review of Administrative Rules directs the Department of Workforce Development to promulgate an emergency rule regarding their overtime policy for non medical home care companion employees of an agency as part of DWD 274 within 30 days.

Motion Carried.

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,

Joseph Leibham
Senate Co-Chair

Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd

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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MADISON, WI 53708-8952
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January 21, 2004

Helene Nelson, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Nelson:

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

Moved by Representative Grothman, seconded by Senator Leibham that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 15 at the request of the Department of Health and Family Services by 8 days.

Motion Carried 10 Ayes, 0 Noes. *voted by polling

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

January 21, 2004

Department of Regulation and Licensing
Secretary Strong-Hill
1400 East Washington Avenue
Madison, WI 53708-8935

Dear Secretary Strong-Hill:

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

Moved by JCRAR, that pursuant to §227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Emergency Rule Chir 2 for 60 days at the request of the Chiropractic Examining Board.

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

January 21, 2004

Frank Busalacchi, Secretary
Department of Transportation
4802 Sheboygan Avenue
Madison, WI 53705

Dear Secretary Busalacchi:

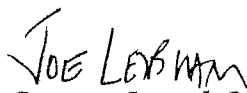
The Joint Committee for the Review of Administrative Rules met in Executive Session on January 21, 2004 and adopted the following motion:

That, the Joint Committee for Review of Administrative Rules directs Legislative Council to prepare a motion suspending portions of Trans 233 so that the rule reverts to its pre-1998 status and that provisions regarding setbacks be suspended other than that for building.

Motion Carried

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

January 29, 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 January 28, 2004 and adopted the following motions:

NR 27.03(3)(c)3 Relating to Endangered and Threatened Species. Butler's Garter Snake

Moved by Representative Grothman and seconded by Senator Robson, that, the Joint Committee for Review of Administrative Rules requests the Department of Natural Resources to present to the committee by April 15, 2004 a sufficient Butler's Garter Snake site management plan.

Motion Carried 10 Ayes, 0 Noes

Emergency Rule NR 10 Relating to baiting and feeding

Moved by Representative Grothman and seconded by Representative Gunderson, that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends NR 10 at the request of Department of Natural Resources by 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,

Handwritten signature of Senator Joseph Leibham.

Senator Joseph Leibham
Senate Co-Chair

Handwritten signature of Representative Glenn Grothman.

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

January 29, 2004

Frank Busalacchi, Secretary
Department of Transportation
4802 Sheboygan Avenue
Madison, WI 53705

Dear Secretary Busalacchi:

The Joint Committee for the Review of Administrative Rules met in Executive Session on January 28, 2004 and adopted the following motion:

Moved by Senator Leibham and seconded by Representative Grothman that, pursuant to Wis. Stat. §§ 227.19 (4) (d) 1,3, 6 and 227.26 (2) (d), the Joint Committee for Review of Administrative Rules suspends portions of Trans 233 so that only the attached remains.

Motion Carried 7 Ayes, 3 Noes

As a result of this action, JCRAR takes no position as to the legality or constitutionality of the remaining language contained in Trans 233.

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

January 29, 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 January 28, 2004 and adopted the following motions:

**Emergency Rule ERC 1.06(1)(2) Relating to increased filing fees.
(3), 10.21 (1)(2)(3)(4) and (5)
and 20.21 (1)(2)(3) and (4)**

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends ERC 1.06 at the request of Employment Relation Commission by 60 days.

Motion Carried 10 Ayes, 0 Noes, 1 Absent.

NR 10 Relating to baiting and feeding.

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends NR 10 at the request of Department of Natural Resources by 60 days.

Motion Carried 10 Ayes, 0 Noes, 1 Absent.

*voted by polling

NR 27.03(3)(c) 3 Relating to Endangered and Threatened Species Butler's garter snake.

That, the Joint Committee for Review of Administrative Rules requests the Department of Natural Resources to present to the committee by April 15, 2004 a sufficient Butler's Garter Snake site management plan.

Motion Carried 10 Ayes, 0 Noes, 1 Absent.

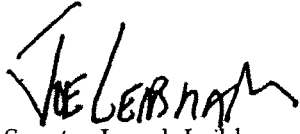
TRANS 233 Relating to the Division of Land Abutting a State Trunk Highway or Connecting Highway.

That, pursuant to Wis. Stat. §§ 227.19 (4) (d) 1,3, 6 and 227.26 (2) (d), the Joint Committee for Review of Administrative Rules suspends portions of Trans 233 so that only the attached remains.

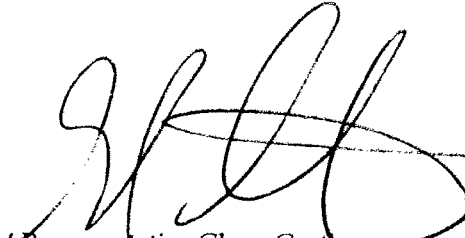
Motion Carried 7 Ayes, 3 Noes, 1 Absent.

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

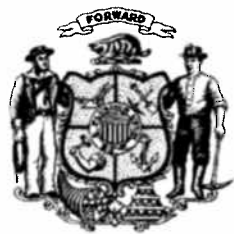


Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd



WISCONSIN STATE LEGISLATURE





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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

February 20, 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 February 19, 2004 and adopted the following motions:

Emergency Rule PC 1, 2, 4, 5, and 7; DWD 218, 224, and 225 Relating to the transfer of personnel commission responsibilities to the equal rights division. Moved by Representative Grothman, seconded by Representative Seratti that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends PC 1,2,4,5, and 7; DWD 218,224 and 225 at the request of the Department of Workforce Development by 60 days.
Motion Carried 10 Ayes, 0 Noes.


Emergency Rule DWD 59 Relating to a childcare local pass-through program. Moved by Representative Grothman, seconded by Senator Welch that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends DWD 59 at the request of the Department of Workforce Development by 27 days.
Motion Carried 10 Ayes, 0 Noes.

Relating to the Division of Land Abutting a State Trunk Highway or Connecting Highway. Moved by Senator Welch, seconded by Representative Gunderson that, pursuant to s. 227.19(5)(e) Stats., the Joint Committee for Review of Administrative Rules introduces LRB 4246/2 & LRB 4282/1.
Motion Carried 7 Ayes, 3 Noes.

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:pvs

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



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

February 23, 2004

Ron Laessig, Director
Wisconsin State Laboratory of Hygiene
465 Henry Mall
Madison, WI 53706

Dear Dr. Laessig:

Thank you for testifying before the Joint Committee for Review of Administrative Rules on February 19th regarding the charging of municipalities for fluoride testing.

We would like to ask two things. First of all, you said that you felt you had legal authority to charge a fee without a specific statutory cite – Could you give us a legal opinion to that effect either by your legal counsel or by another agency? You have also stated that it is important that the lab be certified by CDC - Could you let us know why or if this is required?

Thank you for your attention to this request. If you would like to discuss this further, please don't hesitate to contact either of our offices.

Sincerely,

Glenn Grothman
JCRAR Co-Chair

Joe Leibham
JCRAR Co-Chair

GG/JL:mjd



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APR 02 2004

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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

March 31, 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 March 31, 2004 and adopted the following motion:

Emergency Rule NR 10 **Relating to baiting and feeding**
That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends NR 10 at the request of Department of Natural Resources by 60 days.

Motion Carried

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

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

May 27, 2004

JUN 01 2004

Roberta Gassman, Secretary
Department of Workforce Development
201 East Washington Avenue
Madison, WI 53707-7946

Dear Secretary Gassman:

The Joint Committee for the Review of Administrative Rules met in Executive Session on May 27, 2004 and adopted the following motion:

LRB 4533 and LRB 4534 **Relating to an overtime exemption for
companionship services.**

That, pursuant to s. 227.19(5)(e), Stats., the Joint Committee for Review of Administrative Rules introduces LRB 4533 and 4534.

Motion Carried

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,


Joseph Leibham
Senate Co-Chair


Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjg

cc:Secretary of State Doug LaFollette, Revisor of Statutes Gary Poulson



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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

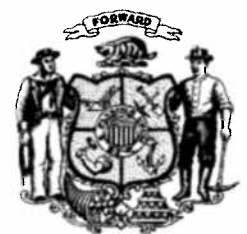


Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pv



WISCONSIN STATE LEGISLATURE





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection

Rod Nilsestuen, Secretary

July 19, 2004

The Honorable Joseph Leibham, Co-Chair
Joint Committee for the
Review of Administrative Rules
409 South State Capitol
Madison, WI 53702

The Honorable Glenn Grothman, Co-Chair
Joint Committee for the
Review of Administrative Rules
15 North State Capitol
Madison, WI 53702

Dear Senator Leibham and Representative Grothman:

Re: **Emergency Rule Extension – Agricultural Producer Security – Assessment Credits**

The Department of Agriculture, Trade and Consumer Protection asks the Joint Committee for the Review of Administrative Rules (JCRAR) to extend the above emergency rule. The rule was originally scheduled to expire on June 27, 2004. At the department's request, JCRAR has already extended the rule for 60 days, to August 26, 2004. The department now asks JCRAR to extend the emergency rule for a second ³⁶~~60~~ days, until October ¹~~25~~, 2004.

This emergency rule modifies the producer security fund assessments required under ch. 126, stats., for certain grain dealers, grain warehouse keepers, milk contractors and vegetable contractors.

We are enclosing copies of the emergency rule, fiscal estimate and hearing notice. The emergency rule includes a *Finding of Emergency* that explains the need for this rule. The department has started "permanent" rulemaking proceedings, but will not be able to complete those proceedings before the emergency rule expires. The department is therefore asking JCRAR to extend the emergency rule.

The department held public hearings on the emergency rule and nearly identical permanent rule on April 26 and 27, 2004. The DATCP Board has approved the final draft of the permanent rule and the rule has been submitted to the Legislature for review. We expect that the permanent rule will go into effect on either September 1 or October 1.

The department will have staff available to answer questions at the JCRAR meeting on this matter.

Sincerely,

Rodney J. Nilsestuen,
Secretary

Enclosures

Wisconsin Food and Agricultural Products - \$40 Billion for Wisconsin's Economy

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • Wisconsin.gov



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MADISON, WI 53707-7882
(608) 266-2056

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

August 20, 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 August 18, 2004 and adopted the following motions:

Emergency Rule NR 1.016, Relating to Natural Resources Board policies on protection and 1.05, 1.06, and 1.07 management of public waters.

That, pursuant to s. 227 Stats., the Joint Committee for Review of Administrative Rules rescinds its motion of July 21, 2004.

Motion Carried 10 Ayes, 0 Noes

LRB 4639/2 & 4684/2 Relating to the protection and management of the public waters of Wisconsin.

That, pursuant to s. 227.19(5)(e), Stats., the Joint Committee for Review of Administrative Rules introduces LRB 4639/2 and 4684/2.

Motion Carried 6 Ayes, 4 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



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

August 20, 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 August 18, 2004 and adopted the following motions:

Emergency Rule NR 1.016, 1.05, 1.06, and 1.07 **Relating to Natural Resources Board policies on protection and management of public waters.**

That, pursuant to s. 227 Stats., the Joint Committee for Review of Administrative Rules rescinds its motion of July 21, 2004.

Motion Carried 10 Ayes, 0 Noes

LRB 4639/2 & 4684/2 Relating to the protection and management of the public waters of Wisconsin.

That, pursuant to s. 227.19(5)(e), Stats., the Joint Committee for Review of Administrative Rules introduces LRB 4639/2 and 4684/2. Motion Carried 6 Ayes, 4 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 this emergency rule.

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 24, 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 23, 2004 and adopted the following motion:

The Joint Committee for Review of Administrative Rules, pursuant to s. 227.19 (4) (d) 6. and (5) (d), Stats., objects to Clearinghouse Rule 04-036.

Motion Carried 6 Ayes, 4 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



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

September 24, 2004

Roberta Gassman, Secretary
Department of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946

Dear Secretary Gassman:

The Joint Committee for the Review of Administrative Rules met in Executive Session on September 23, 2004 and adopted the following motion:

The Joint Committee for Review of Administrative Rules, pursuant to s. 227.19 (4) (d) 6. and (5) (d), Stats., objects to Clearinghouse Rule 04-036.

Motion Carried 6 Ayes, 4 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




WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR JOSEPH LEIBHAM

NOV 19 2004

FROM: Ronald Sklansky, Senior Staff Attorney 

RE: Emergency Rule Suspension

DATE: November 18, 2004

This memorandum, prepared at your request, responds to a question you have raised regarding the effect of an emergency rule suspension by the Joint Committee for Review of Administrative Rules (JCRAR). Specifically, you have asked whether, following such a suspension, the affected agency may promulgate a permanent rule having the same subject matter as the suspended emergency rule.

The answer to your question is that the agency may not promulgate the substance of the suspended emergency rule as a permanent rule while the suspension remains in effect.

Section 227.26 (2) (d), Stats., provides that JCRAR may suspend a rule. A rule is defined in part to mean an agency policy having the effect of law. Since an emergency rule "takes effect upon publication in the official state newspaper or on any later date specified in the rule," an emergency rule has the effect of law and may be suspended by JCRAR. [See ss. 227.01 (13) (intro.) and 227.24 (1) (c), Stats.]

Following a rule suspension, JCRAR is required to introduce legislation in each house of the Legislature that will, in essence, sustain the committee's action. If the bills fail to be enacted, the rule remains in effect and may not be suspended again. If either bill becomes law, the rule is repealed and the agency may not promulgate the rule again without specific statutory authority to do so. The rule remains in a suspended state until the legislative process has concluded. [See s. 227.26 (2) (f), (i), and (j), Stats.]

An interpretation of the statutes that allows an agency to promulgate a permanent rule, or even promulgate a new emergency rule, having the same substance as a previously suspended emergency rule would make JCRAR's suspension power meaningless. Typical maxims of statutory construction would not support such an absurd result. Consequently, the only reasonable reading of s. 227.26, Stats., is that an agency may not promulgate the substance of a suspended emergency rule as a permanent rule while the suspension remains in effect.

If I can be of any further assistance in this matter, please feel free to contact me.

RS:tlu




DEC 03 2004

WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR JOSEPH LEIBHAM

FROM: Ronald Sklansky, Senior Staff Attorney 

RE: Emergency Rule Suspension

DATE: December 3, 2004

This memorandum, prepared at your request, responds to a question you have raised regarding the effect of an emergency rule suspension by the Joint Committee for Review of Administrative Rules (JCRAR). Specifically, you have asked whether the suspension is lifted on the date when the emergency rule was originally set to expire.

The answer to your question is that the suspension remains in effect until the legislative process following a rule suspension has concluded.

Section 227.24 (1), Stats., provides, in part, that an agency may promulgate a rule as an emergency rule without complying with various notice, hearing, and publication requirements if preservation of the public peace, health, safety, or welfare necessitates putting the rule into effect in a brief period of time. An emergency rule generally takes effect upon publication in the official state newspaper and remains in effect for 150 days, unless extended by JCRAR for an additional period of no more than 120 days. [See also s. 227.24 (2), Stats.]

Section 227.26 (2) (d), Stats., provides that JCRAR may suspend a rule. A rule is defined, in part, to mean an agency policy having the effect of law. Since an emergency rule "takes effect upon publication in the official state newspaper or on any later date specified in the rule," an emergency rule has the effect of law and may be suspended by JCRAR. [See ss. 227.01 (13) (intro.) and 227.24 (1) (c), Stats.]

Following a rule suspension, JCRAR is required to introduce legislation in each house of the Legislature that will, in essence, sustain the committee's action. If the bills fail to be enacted, the rule remains in effect and may not be suspended again. If either bill becomes law, the rule is repealed and the agency may not promulgate the rule again without specific statutory authority to do so. The rule remains in a suspended state until the legislative process has concluded. [See s. 227.26 (2) (f), (i) and (j), Stats.]

While the statutes do not expressly answer the question you have raised, the most reasonable interpretation of the statutes, when read as a whole, is that, following a suspension of an emergency rule, the remaining period of effectiveness of the emergency rule is delayed until the legislative process following the suspension has ended. The statutorily prescribed method for the Legislature's consideration of an issue following a JCRAR rule suspension may, in some cases, extend for a period of approximately two years. To conclude that this carefully constructed review process, that was enacted to satisfy constitutional concerns regarding the separation of powers between the executive and legislative branches, could be avoided by the simple expedient of an emergency rule expiration date is not the most reasonable interpretation of the statutory construct. Instead, it is more reasonable to conclude that an emergency rule's period of effectiveness is temporarily held in abeyance while the suspension process plays itself out. Consequently, as an example, suppose that an emergency rule has been in effect for 30 days when JCRAR suspends it. If, one year later, the bills introduced to sustain the suspension fail to be enacted, the emergency rule's effectiveness will resume and continue for an additional 120 days. If the agency determines that the emergency no longer exists, it may repeal the emergency rule at that time.

If I can be of any further assistance in this matter, please feel free to contact me.

RS:jal;ksm