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Joint Committee for Review of Administrative Rules

Report to the Legislature NR 328 The Joint Committee for Review of Administrative Rules

Produced pursuant to s. 227.26(2)(g)

Emergency Rule NR 328, established by the Department of Natural Resources, implements the requirements of s. 30.135, Stats., relating to water ski platform and jump permitting which were contained in 1997 AB 100 (Act 27).

Description of the Problem

The original intent of s. 30.135, Stats., and chapter NR 328 was to create a presumption that the placement of a water ski platform or water ski jump in a navigable waterway could be achieved without obtaining a permit from the Department of Natural Resources (DNR). Since the enactment of the statute, the water ski show not-for-profit and for-profit industry has struggled to comply with this new legislation. Many teams have been subjected to prolonged agency procedures and have complained about the inconsistent application of the statute. As a result of these problems, a number of water ski teams were not allowed to place water ski platforms or water ski jumps in navigable waterways without permits and subsequently did not receive water ski permits under the new statute. The Department of Natural Resources shares the opinion that the new statute and the related rule have made it more difficult for water ski teams to receive a permits than under the system that existed prior to the enactment of s. 30.135, Stats. State Representatives Lorraine Seratti and James Kreuser brought this issue to the attention of the Joint Committee for Review of Administrative Rules.

Arguments in Favor of Suspension

- *NR 328 and the related statutory language have made it more difficult for a water skier or water ski team to receive a permit for a water ski platform or jump.*
- *The water ski teams and water skiers are in favor of suspension of the rule and repeal of the statute.*
- *The application of the statute and the rule are not consistent with the legislature's original intent when it enacted s. 30.135, Stats.*
- *The Department of Natural Resources is in favor of repeal of the statute and suspension of the related rule.*

Arguments Against Suspension

- *None known.*

Joint Committee for Review of Administrative Rules Action

On April 27, 1999 the Joint Committee for Review of Administrative Rules held a public hearing and executive session on proposed chapter NR 328. The committee unanimously passed a motion requiring that DNR use the emergency rule-making process in s. 227.24, Stats., to promulgate as an administrative rule proposed chapter NR 328 and any related internal guidance or policy currently used by the department. On May 27th, the committee voted unanimously, pursuant to s. 227.26(2)(d), stats., and for the reasons set forth in s. 227.19(4)(d) 6, stats., to suspend ch. NR 328 upon its publication date, July 9, 1999.