

SENATOR JUDITH B. ROBSON  
CO-CHAIR  
P.O. BOX 7882  
MADISON, WI 53707-7882  
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR  
P.O. BOX 8952  
MADISON, WI 53708-8952  
(608) 264-6486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

February 21, 2001

BY INTER-D

Ave Bie  
Chair, Public Service Commission  
610 North Whitney Way  
Madison, WI

Re: Emergency Rule PSC 2.06

Dear Ms. Bie:

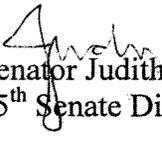
We are writing to inform you that the Joint Committee for Review of Administrative Rules (JCRAR) held a public hearing and executive session on February 20, 2001.

At that meeting, the JCRAR received public testimony regarding Emergency Rule PSC 2.06, relating to procedures for the confidential treatment of documents.

Based on that testimony, the committee adopted a motion extending the effective period of Emergency Rule PSC 2.06 for 60 days. The committee approved the motion on a 10 to 0 vote.

Pursuant to § 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 Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

February 21, 2001

Senator Fred Risser  
Senate President  
Room 220 South

Representative Scott Jensen  
Speaker of the Assembly  
Room 211 West

Re: Emergency Rule ATCP 16  
Emergency Rule PSC 2.06

Dear Senator Risser and Representative Jensen:

We are writing pursuant to § 227.24(2)(c), *Stats.*, to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on February 20, 2001. At that meeting, the JCRAR received public testimony regarding the following emergency rules:

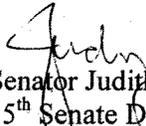
- Emergency Rule ATCP, relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis "non-modified accredited" state; and
- Emergency Rule PSC 2.06, relating to procedures for the confidential treatment of documents.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule ATCP for 60 days. The committee approved the motion on a 10 to 0 vote.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule PSC 2.06 for 60 days. The committee approved the motion on a 10 to 0 vote.

We are giving you this notice of the committee's action pursuant to § 227.24(2)(c), *Stats.*, and we ask that you notify the appropriate standing committees of each house of the legislature of the JCRAR's actions.

Sincerely,

  
Senator Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

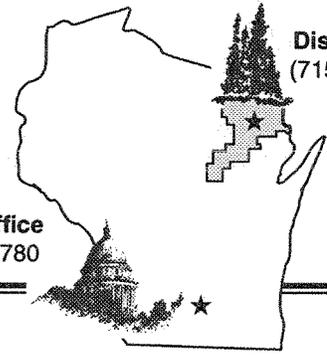
LORRAINE M.  
**SERATTI**

STATE REPRESENTATIVE  
36TH ASSEMBLY DISTRICT

P.O. Box 8953, State Capitol • Madison, Wisconsin 53708-8953  
Toll-Free: (888) 534-0036 • Fax: (608) 282-3636 • Rep.Seratti@legis.state.wi.us

**Madison Office**  
(608) 266-3780

**District Office**  
(715) 696-3513



February 19, 2001

Representative Glen Grothman and Senator Judy Robson, Co-Chairs  
Joint Committee for Review of Administrative Rules

Dear Representative Grothman and Senator Robson,

Please excuse my absence from the February 20<sup>th</sup> JCRAR hearing. This past Friday I became a grandmother for the first time. I will be flying out to be with my daughter and new grandson, Michael Julian Tate, in Philadelphia for most of the week.

I appreciate your understanding in this matter.

Thank you

A handwritten signature in cursive that reads "Lorraine M. Seratti".

Lorraine M. Seratti  
State Representative  
36<sup>th</sup> Assembly District

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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Attendance Form***

*Last Modified: January 2001*

Date: 2/20/01    Accounting for:     Public Hearing     Executive Session

Location: 300 SE

COMMITTEE MEMBER	PRESENT	ABSENT	EXCUSED
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI			✓
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER	✓		
Totals	9	0	1

David A. Austin  
Committee Clerk

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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Attendance Form***

*Last Modified: January 2001*

Date: 2/20/01    Accounting for:     Public Hearing     Executive Session  
Location: 300 SE

COMMITTEE MEMBER	PRESENT	ABSENT	EXCUSED
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI			✓
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER	✓		
Totals	9	0	1

David A. Austin  
Committee Clerk

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**JOINT COMMITTEE FOR  
 REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified January 2001*

Date 2/20/01 Location 300 SE  
 Moved by Gunderson, Seconded by Schultz

**THAT**, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule ATCP 16 by 60 days, at the request of the Department of Agriculture, Trade and Consumer Protection.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		✓
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER	✓		
Totals			

Motion Carried

Motion Failed

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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified January 2001*

Date 2/20/01 Location 300 SE  
Moved by Gunderson, Seconded by Schultz

**THAT**, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule PSC 2.06 by 60 days, at the request of the Public Service Commission.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		✓
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER	✓		
Totals			

Motion Carried

Motion Failed

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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified January 2001*

Date 2/20/01 Location 300 SE  
Moved by Grothman, Seconded by Kreuser

THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules

ER HFS 79 - 60 day extension

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON		✓	
2. Senator GROBSCHMIDT		✓	
3. Senator HANSEN		✓	
4. Senator SCHULTZ		✓	
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI		✓	✓
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER		✓	
Totals	4	6	

Motion Carried  Motion Failed

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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified January 2001*

Date 2/20/01 Location 330 SE

Moved by \_\_\_\_\_, Seconded by \_\_\_\_\_

THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules

request dept to include in permanent  
rule criterion for recoupment - unanimous

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON			
2. Senator GROBSCHMIDT			
3. Senator HANSEN			
4. Senator SCHULTZ			
5. Senator COWLES			
6. Representative GROTHMAN			
7. Representative SERATTI			
8. Representative GUNDERSON			
9. Representative KREUSER			
10. Representative TURNER			
Totals			

Motion Carried  Motion Failed

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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified January 2001*

Date 2/20/01 Location 330 SE

Moved by Grobschmidt, Seconded by \_\_\_\_\_

THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules

Hr to Comm re side by side  
comparison of NFPA & ICC fire codes  
- UNANIMOUS

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON			
2. Senator GROBSCHMIDT			
3. Senator HANSEN			
4. Senator SCHULTZ			
5. Senator COWLES			
6. Representative GROTHMAN			
7. Representative SERATTI			
8. Representative GUNDERSON			
9. Representative KREUSER			
10. Representative TURNER			
Totals			

Motion Carried  Motion Failed

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

April 26, 2001

Senator Fred Risser  
Senate President  
Room 220 South

Representative Scott Jensen  
Speaker of the Assembly  
Room 211 West

Re: Emergency Rule PSC 2.06  
Emergency Rule PSC 116.06  
Emergency Rule HFS 163

Dear Senator Risser and Representative Jensen:

We are writing pursuant to § 227.24(2)(c), *Stats.*, to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on April 24, 2001. At that meeting, the JCRAR received public testimony regarding the following emergency rules:

- Emergency Rule PSC 2.06, relating to procedures for the confidential treatment of documents;
- Emergency Rule PSC 116.06, relating to the triggering mechanism and the period of time in which fuel costs are estimated for purposes of seeking an emergency or extraordinary rate increase under s. PSC 116.06; and
- Emergency Rule HFS 163, relating to certification for the identification, removal and reduction of lead-based paint hazards.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule PSC 2.06 for 60 days. The committee approved the motion on a 10 to 0 vote.

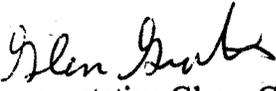
Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule HFS 163 for 60 days. The committee approved the motion on a 9 to 1 vote.

The committee did not extend the effective period of emergency rule PSC 116.06.

We are giving you this notice of the committee's action pursuant to § 227.24(2)(c), *Stats.*, and we ask that you notify the appropriate standing committees of each house of the legislature of the JCRAR's actions.

Sincerely,

  
Senator Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District

JBR:GG:da

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### *Attendance Form*

*Last Modified: January 2001*

Date: 4/24/01      Accounting for:       Public Hearing       Executive Session  
Location: 300 Southwest

COMMITTEE MEMBER	PRESENT	ABSENT	EXCUSED
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER	✓		
Totals	10		

David A. Austin  
Committee Clerk

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### *Attendance Form*

*Last Modified: January 2001*

Date: 4/24/01      Accounting for:       Public Hearing       Executive Session  
Location: 300 Southwest

COMMITTEE MEMBER	PRESENT	ABSENT	EXCUSED
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER	✓		
Totals			

David A. Austin  
Committee Clerk

# Vote Record

## Senate - Joint committee for review of Administrative Rules

Date: 4/24/01

Bill Number: SB 116

Moved by: Grobschmidt

Seconded by: Schultz

Motion: \_\_\_\_\_

recommend adoption

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Sen. Judith Robson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Richard Grobschmidt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Dale Schultz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Cowles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Glenn Grothman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Lorraine Seratti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Gunderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. James Kreuser	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Robert Turner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>10</u>	_____	_____	_____

Motion Carried

Motion Failed

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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified January 2001*

Date 4/24/01 Location 300 Southwest  
Moved by Grothman, Seconded by Robson

**THAT**, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule PSC 2.06 by 60 days, at the request of the Public Service Commission.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER	✓		
Totals	10		

Motion Carried

Motion Failed

SENATOR JUDITH B. ROBSON  
Co-CHAIR  
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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified January 2001*

Date 4/24/01 Location 300 Southwest  
Moved by Grothman, Seconded by \_\_\_\_\_

*NO  
SECOND*

THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule PSC 116.06 by ~~60~~ days, at the request of the Public Service Commission. *30*

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON			
2. Senator GROBSCHMIDT			
3. Senator HANSEN			
4. Senator SCHULTZ			
5. Senator COWLES			
6. Representative GROTHMAN			
7. Representative SERATTI			
8. Representative GUNDERSON			
9. Representative KREUSER			
10. Representative TURNER			
Totals			

Motion Carried

Motion Failed

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**JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified January 2001*

Date 4/24/01 Location 300 Southwest  
Moved by Robson, Seconded by Cowles

**THAT**, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule HFS 163 by 60 days, at the request of the Department of Health and Family Services.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN		✓	
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative KREUSER	✓		
10. Representative TURNER	✓		
Totals	9	1	

Motion Carried

Motion Failed

SENATOR JUDITH B. ROBSON  
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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

April 26, 2001

BY INTER-D

Ave Bie  
Chair, Public Service Commission  
610 North Whitney Way  
Madison, WI

Re: Emergency Rule PSC 2.06 and Emergency Rule PSC 116

Dear Chairperson Bie:

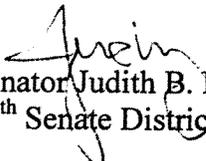
We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on April 24, 2001. At that meeting, the JCRAR received public testimony regarding two emergency rules promulgated by the Public Service Commission. Those rules were Emergency Rule PSC 2.06, relating to procedures for the confidential treatment of documents, and Emergency Rule PSC 116, relating to the triggering mechanism and the period of time in which fuel costs are estimated for purposes of seeking an emergency or extraordinary rate increase under s. PSC 116.06.

Based on the testimony given to the committee, JCRAR adopted a motion extending the effective period of Emergency Rule PSC 2.06 for 60 days. The committee approved the motion on a 10 to 0 vote.

A motion to extend the effective period of Emergency Rule PSC 116.06 was made. However, this motion was not brought to a vote because no member of the committee would second the motion. Therefore, the effective period of Emergency Rule PSC 116.06 was not extended.

Pursuant to § 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 Judith B. Robson  
15<sup>th</sup> Senate District

  
Representative Glenn Grothman  
59<sup>th</sup> Assembly District



# Public Service Commission of Wisconsin

Ave M. Bie, Chairperson  
Joseph P. Mettner, Commissioner  
John H. Farrow, Commissioner

610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

April 20, 2001

The Honorable Judy Robson  
Joint Committee for Review of  
Administrative Rules  
The State Senate  
State Capitol, Room 15 South  
Madison, WI 53702

The Honorable Glenn Grothman  
Joint Committee for Review of  
Administrative Rules  
The State Assembly  
State Capitol, Room 15 North  
Madison, WI 53702

Re: Emergency Rule ch. PSC 2

Dear Senator Robson and Representative Grothman:

Pursuant to Wis. Stat. § 227.24(2), the Commission requests a second 60-day extension of our rules regarding confidential filing procedures. These rules were promulgated as emergency rules at the request of the Joint Committee for Review of Administrative Rules. The rules took effect on October 23, 2000. One previous extension of these rules was granted by the Joint Committee on February 20th, and will expire on May 20th if a second extension is not granted.

The Commission is promulgating these rules as permanent rules in conjunction with our general revision of Wis. Admin. Code ch. PSC 2. The Commission has solicited and received written comments on these rules and has held a hearing. The rules have also received the Clearinghouse Report as Clearinghouse Rule 00-180. A revised draft has been proposed and the Commission anticipates considering adoption of a final draft rule at its meeting of May 10th. At that time the rules will be forwarded to the legislature for standing committee review. Consequently, the permanent rule cannot be in effect before the date the emergency rules expire.

If you have any questions regarding this request, please contact Attorney John Lorence at (608) 266-8128, or by e-mail at [lorenj@psc.state.wi.us](mailto:lorenj@psc.state.wi.us).

Thank you for consideration of this request.

Sincerely,

Ave M. Bie  
Chairperson

AMB:pmn:sp:K:\amb\letters\2001\JCRAR 2-17-01

Enclosures

cc: The Honorable Fred Risser  
The Honorable Scott Jensen  
Ron Sklansky

Date Mailed  
October 23, 2000

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of Proposed Rules Covering and Procedures for  
Confidential Treatment of Records

1-AC-201

**ORDER ADOPTING RULES AT THE DIRECTION OF THE JOINT COMMITTEE  
FOR REVIEW OF ADMINISTRATIVE RULES**

At the direction of the Joint Committee for Review of Administrative Rules under s. 227.26(2)(b), Stats., the Commission adopts a rule to create s. PSC 2.06, Wis. Adm. Code, relating to procedures for the confidential treatment of records.

**Analysis by the Public Service Commission of Wisconsin**

Statutory authority: ss. 196.02(1) and (3), 227.11, 227.24 and 227.26, Stats.

Statutes interpreted: ss. 196.14, 196.72 and 196.795(9), Stats.

On August 15, 2000, the Commission voted to promulgate administrative rules on requests for confidential handling of documents filed with the Commission. On September 20, 2000, the Joint Committee for Review of Administrative Rules directed the Commission to adopt a rule on the subject under s. 227.26(2)(b), Stats. This rule creates a process for obtaining a designation of confidential status. Under the rule, a determination on whether information shall be treated confidentially shall be made at the time the information is given to the Commission. Under previous Commission procedures, if a person filing a document sought confidential treatment of information in the document, the filer could do so by identifying the grounds under which confidentiality could be granted. The Commission would accept the filing, but the

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acceptance did not constitute a determination that public access to the information would not be permitted. The Commission would determine if confidential status should be granted when a request for that information was made by another person.

Under this rule, a person who wishes the Commission to keep confidential information in the possession of the Commission, or requested by the Commission, must make an application for confidential status. The application must identify the information for which confidential treatment is sought and identify the authority under which confidential status should be granted. Within 21 days after receiving an application, the Commission may seek additional information from the applicant, if needed, to make a confidentiality determination. The applicant must respond within 30 days to the information request.

The Commission will make a determination on a confidentiality request within 30 days of receiving the additional information or within 30 days of the filing of the application if no additional information is needed. The determination will specify what, if any, information is given confidential treatment and the basis for that determination.

The Commission will give the applicant written notice of its determination. The Commission shall post all determinations regarding confidentiality on its website and may give other appropriate notice. If an applicant is authorized to file information confidentially in the context of a Commission proceeding, the applicant shall serve a copy of the determination on all persons listed on the service list for that proceeding.

#### **Fiscal Estimate**

A fiscal estimate is attached to this order.

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**Order Adopting Rules**

Pursuant to ss. 196.02(1) and (3), 227.11, 227.24 and 227.26, Stats., the Commission creates s. PSC 2.06, Wis. Adm. Code, as shown in Attachment 1. The attached rule takes effect upon publication.

Dated at Madison, Wisconsin, \_\_\_\_\_

By the Commission:

\_\_\_\_\_  
Lynda L. Dorr  
Secretary to the Commission

LLD:JL:mem:G:Order Pending\1-AC-201 JCRAR-Ordered Rules

1 SECTION 1. PSC 2.06 is created to read:

2

3 **PSC 2.06 Confidential status.**

4

5 (1) APPLICABILITY. This section applies to requests made to the commission to treat as  
6 confidential information in possession of the commission or being requested by the commission.

7

8 (2) RESPONSIBILITY FOR ESTABLISHING CONFIDENTIALITY. The burden of establishing the need  
9 for confidential treatment of any information shall be on the person requesting confidential  
10 treatment of the information.

11

12 (3) APPLICATION FOR CONFIDENTIAL STATUS. Any person seeking confidential treatment of  
13 information shall file with the commission a written application for confidential status containing  
14 in affidavit form all of the following:

15

16 (a) The name and address of the applicant.

17

18 (b) The name and position of the individual filing the application.

19

20 (c) The specific type of information for which confidential status is sought.

21

22 (d) The facts and supporting legal authority believed to constitute a basis for obtaining  
23 confidential treatment of the information.

1 (4) ADDITIONAL INFORMATION. (a) Within 21 days after receiving a complete application, the  
2 commission shall mail to the applicant a list of written interrogatories the answers to which are  
3 necessary for a determination under this section. If a confidentiality determination can be made  
4 solely on the basis of information appearing in the application, the commission may waive  
5 written interrogatories.

6

7 (b) If an extension has not been granted and if the applicant fails to answer all the interrogatories  
8 within 30 days after the date the commission mails the interrogatories, the commission shall  
9 deny the application. The commission may also deny the application if the applicant fails to  
10 provide the information requested in the interrogatories.

11

12 (c) The responses to the interrogatories shall be treated as confidential if the applicant submits a  
13 request for confidential treatment of the responses.

14

15 (5) DETERMINATION. (a) Within 30 days after receiving a complete application if interrogatories  
16 are waived, or within 30 days after receiving the information requested in the interrogatories, the  
17 commission shall issue a written determination on the request for confidentiality. The  
18 determination shall include all of the following:

19

20 1. A finding which identifies the type of information sought to be assigned confidential status.

21

22 2. A determination of whether the commission has the authority to compel submittal of the  
23 information if the commission requested the information.

1 3. If the authority exists, a determination of whether the commission is authorized by law to  
2 assign confidential status to the type of information at issue.

3  
4 4. The decision to deny or to grant the request in whole or in part.

5  
6 (b) A determination to assign confidential status shall be made pursuant to one or more of the  
7 following:

8  
9 1. Section 196.14, Stats.

10  
11 2. Section 196.72, Stats.

12  
13 3. Section 196.795(9), Stats.

14  
15 4. Upon a finding consistent with the ruling in *State ex rel. Youmans v. Owens*, 28 Wis.2d 672,  
16 (1965) that confidential treatment of the information is in the public interest.

17  
18 5. Other specific statutory or common law right to confidential treatment of information.

19  
20 (c) A determination made pursuant to par. (b)4. shall also include answers to all of the following  
21 questions:

22

1 1. How many people have knowledge of the supposedly "secret" information? Will disclosure  
2 increase that number to a significant degree?

3

4 2. Does the contested information have any value to the possessor? To a competitor? Is that  
5 value substantial?

6

7 3. What damage, if any, would the possessor of the secret suffer from its disclosure? What  
8 advantages would its competitors reap from disclosure?

9

10 4. What benefits are likely to flow from disclosure? To whom? Are they significant? In this  
11 connection, what is the public "need" for disclosure? Can it be satisfied in any other way?

12

13 (d) 1. The commission shall notify the applicant in writing of the determination. The  
14 commission post on its internet website a list of all determinations made under this section and  
15 may provide any other notice it considers to be appropriate.

16

17 2. If information that is granted confidential status is filed in conjunction with a commission  
18 proceeding, the applicant shall serve a copy of the determination on all persons listed on the  
19 service list for the proceeding, and shall file proof of service with the commission.

20

21 (6) INTERIM CONFIDENTIAL STATUS. Information for which confidential status is requested shall  
22 not be open to public scrutiny until 40 days after issuance of the determination.

23

1 (7) CONTESTED CASES. In any contested case hearing before the commission, the administrative  
2 law judge, in determining the merits of a request for confidential treatment of information which  
3 arises during the course of the hearing, may render a ruling on the request only after receiving  
4 answers to the questions appearing in sub. (5) (c) 1. to 4.

5

6 SECTION 2. INITIAL APPLICABILITY.

7 The treatment of section PSC 2.06 the Wisconsin Administrative Code first applies to a request  
8 for confidential treatment made to the commission on the effective date of this rule.

9

10 SECTION 3. EFFECTIVE DATE.

11 As provided in s. 227.24(1)(c), Stats., the treatment of section PSC 2.06 of the Wisconsin  
12 Administrative Code takes effect upon publication in the official state newspaper.

13

14

(end)

SENATOR JUDITH B. ROBSON  
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

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## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### *Attendance Form*

March 29, 2001

Room 328 Northwest, State Capitol Building

Accounting for:  Public Hearing  Executive Session

COMMITTEE MEMBER	PRESENT	ABSENT	EXCUSED
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator SCHULTZ	✓		
5. Senator COWLES	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative KREUSER			✓
10. Representative TURNER	✓		
Totals	9		1

  
Maggie Grimm, Committee Clerk