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☛ Details: Miscellaneous

(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)

## **Joint Committee for Review of Administrative Rules**

Office of Sen. Joseph Leibham  
Office of Rep. Glenn Grothman  
Phone 608-266-2056  
Phone 608-264-8486

• **CR 00-154**

### **Report to the Legislature Clearinghouse Rule CR 00-154 The Joint Committee for Review of Administrative Rules**

Produced pursuant to s. 227.19(6), Stats.

Clearinghouse Rule 00-154, submitted by the Department of Natural Resources (DNR), is a proposed rule that relates to deer hunting and the wildlife damage abatement and claims program.

#### **Description of the Problem**

On November 7, 2001 the Assembly Committee on Natural Resources met in executive session and voted 12-0 to object in part to CR 00-154. The Assembly committee objected to a portion of the rule, proposed s. NR 10.01(3) (ez) 1 (a) in SECTION 9 of Clearinghouse Rule 00-154. The objected to portion of the rule set a 4-day bow and gun, antlerless deer hunt, in deer control zones, on the Thursday nearest October 22. This period does not coincide with the teacher convention weekend taking place in most areas of the state during the month of October. As a result of the partial objection, DNR would be allowed to authorize such a hunt any time in October.

Because of the committee's action, JCRAR was required to concur or non-concur in the standing committee's partial objection.

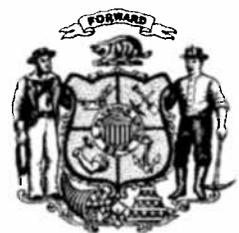
**Action by Joint Committee for Review of Administrative Rules**

The committee held a public hearing and executive session on January 10, 2002 and concurred with the standing committee's objection. The committee's action resulted in the following language remaining in section NR 10.01 (3) (ez) 1 a. of the proposed rule: "A 4-day antlerless only deer season allowing the use of bows and guns in October."

On February 6, 2002 the Joint Committee voted 10-0 to introduce the bill in each of house of the legislature. The bill prohibits DNR from promulgating a rule establishing a four-day deer herd control season in October during which a person is authorized to hunt antlerless deer with a firearm or with a bow and arrow, unless the rule requires that season to begin on the Thursday that immediately precedes the last Friday in October. These dates coincide with the statewide teachers' convention.



# WISCONSIN STATE LEGISLATURE



# **Joint Committee for Review of Administrative Rules**

Office of Sen. Joseph Leibham  
Office of Rep. Glenn Grothman  
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- **NR 47.913(2)(a)**

## **Report to the Legislature**

### **Administrative Rule NR 47.913(2)(a)**

#### **The Joint Committee for Review of Administrative Rules**

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

Section NR 47.913(2)(a), promulgated by the Department of Natural Resources, (DNR), creates eligibility criteria for federal cost sharing in the gypsy moth suppression program.

#### **Description of the Problem**

At the request of Representative Lorraine Seratti, the Joint Committee for Review of Administrative Rules (JCRAR) reviewed the gypsy moth suppression program eligibility criteria created in s. NR 47.913(2)(a). Constituents of Representative Seratti's district have experienced severe defoliation from gypsy moths. Because of this, many landowners would like to participate in the federal cost sharing included in the gypsy moth suppression program. In order to be eligible for this program, the landowners must group together to form 40 contiguous acres that are of a compact and regular size. Unfortunately, in many cases, not all the landowners are willing to participate. If the landowners are unable to form 40 contiguous acres, they are ineligible to participate in the federal cost-sharing program.

#### **Arguments in Favor of Suspension**

- *The gypsy moth suppression program fails if landowners are deemed ineligible to participate. It is extremely difficult to reach the 40-acre minimum because of the large number of small parcels in the infested area.*

- *Landowners' entire parcels are being defoliated and their children are unable to go outside to play. Their quality of life has been greatly affected.*
- *The gypsy moth infestation has crippled the local economy because of its dependence on tourism and forestry.*
- *The number of program participants could increase because there is federal cost-sharing funding available.*

### **Arguments Against Suspension**

- *Because the suppression program includes spraying an application from an airplane, the amount of land mass needs to be of considerable size. It would be very difficult to make the application on a parcel-by-parcel basis.*
- *Small treated areas will be quickly reinfested, thus producing no benefit for the costs of application.*
- *The USDA Forest Service requires the rule to have a provision for objectors, those who choose not to participate in the program. If there would be an objector, the area that could be treated would be decreased making the application more difficult.*
- *Lessening the minimum contiguous acre requirement will result in an increase in participants drawing more money from the program.*

### **Action by Joint Committee for Review of Administrative Rules**

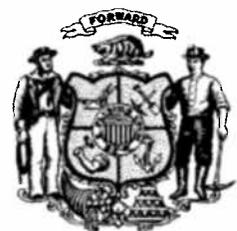
On November 7, 2002 the Joint Committee for Review of Administrative Rules held a public hearing and an executive session on s. NR 47.913(2)(a). The committee

unanimously passed a motion, pursuant to s. 227.26(2)(d), Stats., and for the reasons set forth in s. 227.19(4)(d)6., Stats., to suspend the following two portions of s. NR 47.913 (2)(a): “40 contiguous acres in a compact and regular shape or be of at least” and “of publicly owned land surrounded by ineligible land”. (The action of the joint committee provides that NR 47.913 (2) (a) will read: “Be of at least 20 acres.”) This action suspends the requirement that the land be 40 contiguous acres of compact and regular shape.

On November 7, 2002, JCRAR voted unanimously to introduce LRB 0669/1 and LRB 0670/1, which would specify that an area is not eligible for insecticide treatment unless the area is at least 20 acres in size. The bill also specifies that if the DNR establishes such a gypsy moth suppression program, the current law provisions that apply to the designation of infestation control zones do not apply to that gypsy moth suppression program.



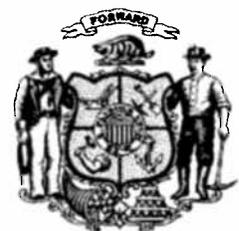
# WISCONSIN STATE LEGISLATURE



Recipient	Read
*Legislative Assembly Democrats	
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*Legislative Senate Republicans	
Sklansky, Ron	Read: 02/28/2003 1:48 PM
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Culotta, Jason	Deleted: 02/28/2003 12:37 PM
Scott, Kathryn	Read: 02/28/2003 12:00 PM
Hundertmark, Jean	Read: 02/28/2003 12:00 PM
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Nowak, Ellen	Read: 02/28/2003 12:01 PM
Grothman, Jeffrey	Deleted: 03/03/2003 10:26 AM
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Fischer, Kevin	Deleted: 02/28/2003 12:02 PM



# WISCONSIN STATE LEGISLATURE



# Review of Administrative Rules in Wisconsin

Agency decision to promulgate rules, including: (1) the preparation and publication of a scope statement that describes the rules' objectives, current and proposed policies, policy alternatives, statutory authority and the resources necessary to develop the rules; and (2) preparation of a draft of the rules that meets format standards suggested by the Legislative Council Staff and the Revisor of Statutes.

Prior to public hearing or legislative review, all proposed rules submitted to Legislative Council Staff for advisory, technical review. Review must take place within 20 working days, unless period extended for additional 20 working days by Director of Legislative Council Staff. Rules returned to agency for processing under ch. 227, Stats.

Agency notifies the public of a public hearing on the proposed rules and conducts a public hearing, unless notice and hearing are not required under the statutes.

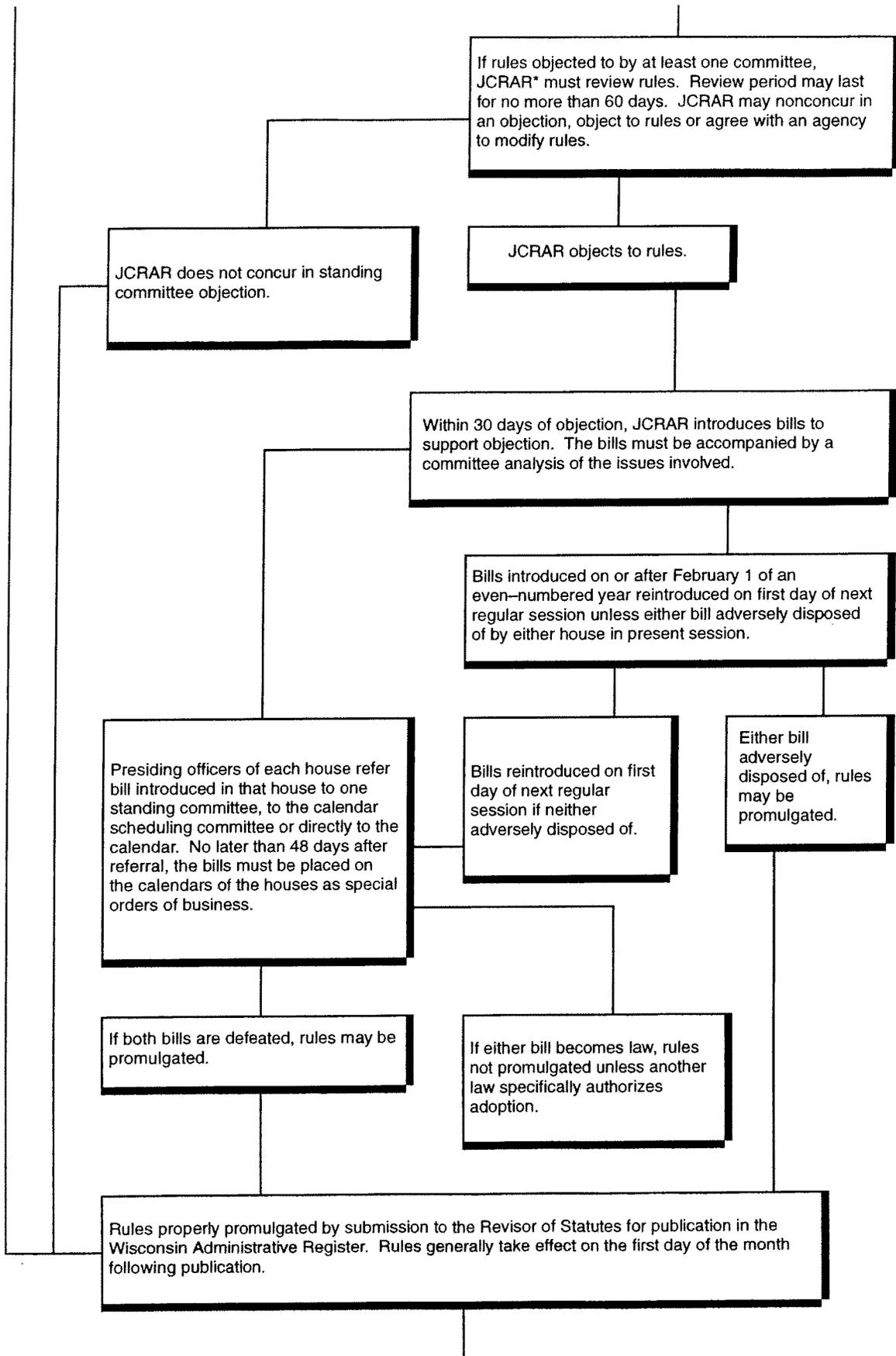
Rules in final draft form submitted to presiding officer in each house of the Legislature along with report containing justification for rules, agency reaction to Legislative Council Staff report, agency reaction to any public testimony and statement of public appearances and registrations for or against the rules at any public hearing. Rules submitted on or after September 1 of an even-numbered year are considered to be received on the first day of the next regular legislative session.

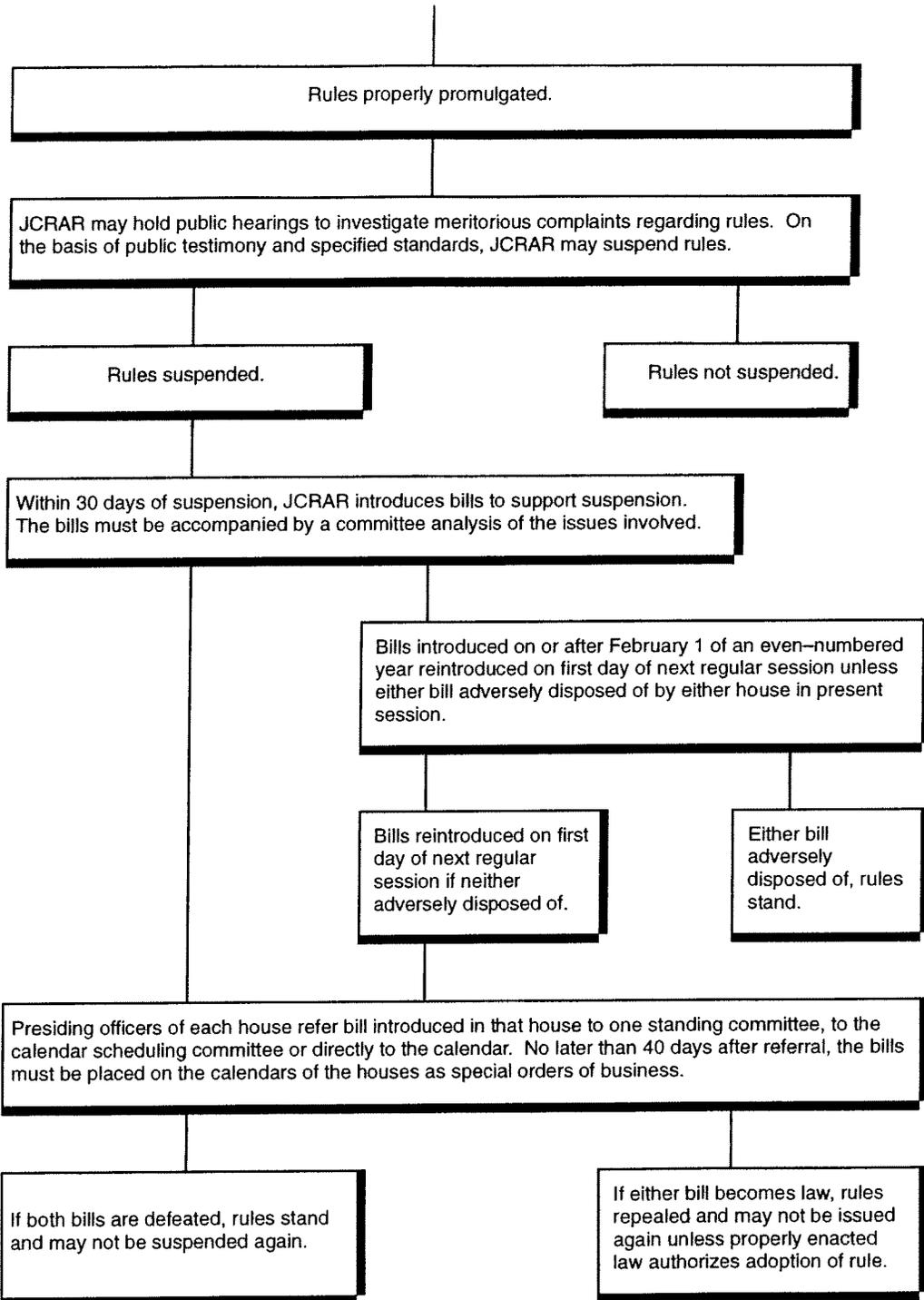
Within seven working days, each presiding officer refers rules and report to one committee. The officers must place notice of rule submission in the journals of each house.

Rules in final draft form submitted to appropriate committee by each presiding officer. Unless objected to by at least one committee, rules normally may be delayed for no more than 60 days. If a committee and agency agree to modifications, then the review period is extended to the 10th working day following committee receipt of modified rules. An agency may submit germane modifications, on its own initiative, during or following a committee review period.

Rules not objected to.

Rules objected to.





\* JCRAR is the Joint Committee for Review of Administrative Rules.

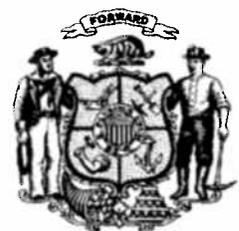
Prepared by:

Wisconsin Legislative Council Staff  
October 2002

RS:kja



# WISCONSIN STATE LEGISLATURE



**2.12 Emergency rules. (1) PURPOSE.** If preservation of the public peace, health, safety or welfare necessitates placing a rule into effect prior to the time it could be effective if the agency were to comply with the notice, hearing, legislative review and publication requirements of the statutes, the agency may adopt that rule as an emergency rule. [See s. 227.24, Stats.]

**(2) PUBLICATION AND FILING.** (a) An emergency rule takes effect upon publication in the official state newspaper or on a later date as is specified in a statement published with the rule. An emergency rule remains in effect only for a period of 150 days unless it is extended under s. 227.24 (2), Stats., or is a rule promulgated under s. 186.012 (4), 215.02 (18) or 220.04 (8), Stats.

**NOTE:** An emergency rule need only be published one time to meet the publication requirement of s. 227.24, Stats. It is the agency's responsibility to contact the official state newspaper for publication of an emergency rule. The *Wisconsin State Journal* is currently the official state newspaper. See the department of administration purchasing bulletin 15-83330-05L. An agency may contact the department of administration, bureau of procurement, for assistance in preparing a purchase order for the publication of an emergency rule. The general telephone for the bureau is (608) 266-2605. The department of administration has prepared a form [DOA 3539] that can be used when sending material for legal notices including emergency rules. Forms can be downloaded from the bureau of procurement's website at [vendornet.state.wi.us/vendornet](http://vendornet.state.wi.us/vendornet). The bureau of procurement suggests that all orders be faxed to the *Wisconsin State Journal* [(608) 252-6333].

(b) In addition to publication, a certified copy of the emergency rule shall be filed with the secretary of state and the revisor of statutes in order to validate the rule. A second uncertified copy of the emergency rule order shall be filed with the revisor. The revisor inserts in the notice section of each issue of the Wisconsin administrative register a brief description of emergency rules currently in effect.

(c) When an emergency rule is adopted, the agency shall mail a copy of the rule, and the statement of emergency finding or a statement that the rule is promulgated at the direction of the joint committee for the review of administrative rules under s. 227.26 (2) (b), Stats., to each member of the legislature and to the chief clerk of each house of the legislature. The required mailing may be undertaken by electronic mail. The agency shall take other steps it considers feasible to make the rule known to persons who will be affected by it.

**(3) EXTENSION OF EMERGENCY RULES.** (a) An agency may petition the joint committee for review of administrative rules for extensions of the effective period of an emergency rule or part of an emergency rule. The committee may extend a rule's effective period for a period specified by the committee, not to exceed 60 days. Any number of extensions may be granted, but the total period for all extensions may not exceed 120 days. In making the request for an extension, the agency shall provide the committee with:

1. Evidence of a threat to the public peace, health, safety or welfare that can be avoided only by extending the emergency rule.

2. Evidence that a permanent rule cannot be in effect on or before the date the emergency rule expires.

**NOTE:** Contact staff of the joint committee for review of administrative rules for deadlines for extension requests.

**NOTE:** The attorney general has stated that an administrative agency cannot perpetuate an emergency rule by refiling the identical rule in accordance with s. 227.24, Stats., before or immediately after the effective period. [See 62 Atty. Gen. 305.]

(b) 1. An agency's request for extension for an emergency rule shall be in writing and include: a copy of the emergency rule and a cover letter with the expiration date and the number of days requested for extension.

2. Under s. 227.24 (2) (am), the extension request shall be made to the joint committee no later than 30 days before the initial expiration date of the emergency rule. At that time, a copy of the request shall also be sent by the agency to the presiding officer of each house of the legislature and to the appropriate committees of each house as determined by the presiding officer. The presiding officer shall enter a statement in the journal of his or her house that the extension request has been made. These requirements do not apply to subsequent extension requests for the same rule.

3. Whenever the joint committee extends all or part of an emergency rule, it shall file a statement of its action with the agency, the presiding officer of each house of the legislature, the appropriate committees of each house as determined by the presiding officer, the secretary of state and the revisor of statutes. The statement shall identify the rule to which it relates. The presiding officer of each house of the legislature shall enter a statement in the journal of his or her house that all or part of the emergency rule has been extended.

(4) PUBLIC HEARING. (a) Except as provided in par. (b), an agency shall hold a public hearing on an emergency rule within 45 days after the adoption of the emergency rule. [See s. 227.24 (4), Stats.]

**NOTE:** A notice of proposed rule-making under s. 227.16 (2) (e), Stats., described in s. 2.05, Manual, does not meet the requirement of a public hearing under s. 227.24 (4), Stats.

(b) If the agency intends to promulgate an emergency rule as a permanent rule and submits the proposed permanent rule to the legislative council clearinghouse within 45 days of the adoption of the emergency rule, the agency must hold the public hearing on the emergency rule and permanent rule within 90 days of the adoption of the emergency rule or within 30 days after receiving the legislative council clearinghouse report on the rule, whichever occurs later.

(c) An agency shall file a notice of hearing on an emergency rule in the manner described in s. 2.04, Manual.

**NOTE:** In order to prevent a gap in coverage of a rule in transition from emergency rule to a permanent rule, it is necessary to commence the procedure for adoption of permanent rules at the same time or before the emergency rules are effective.

(5) FORM. (a) The order adopting emergency rules shall include a paragraph in substantially the following form:

FINDING OF EMERGENCY

The (agency) finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

[Here insert information to justify use of emergency rule procedure.]

OR

EXEMPTION FROM FINDING OF EMERGENCY

The legislature by (statute section), or (SECTION in a Wisconsin Act) provides an exemption from a finding of emergency for the adoption of the rule.

(b) Under s. 227.24 (1) (e), Stats., the plain language analysis shall be printed with the text of the rule when it is published. Also, a fiscal estimate must be prepared, which the agency must mail to each member of the legislature within 10 days after publication.

**2.13 Petition for rules. (1) WHO MAY PETITION.** Under s. 227.12, Stats., a municipality, an association which is representative of a farm, labor, business or professional group or 5 or more persons having an interest in a rule may petition an agency requesting it to promulgate a rule.

(2) FORM OF PETITION. A petition shall state clearly and concisely all of the following:

- (a) The substance or nature of the rule-making requested.
- (b) The reason for the request.
- (c) The petitioner's interest in the requested rule.
- (d) A reference to the agency's statutory authority to promulgate the requested rule.

(3) AGENCY RESPONSE. (a) Within a reasonable period of time after receiving a petition for rules, an agency shall either deny the petition in writing or proceed with the requested rule-making.

(b) If the agency denies the petition, it shall promptly notify the petitioner of the denial, including the reason for the denial.

(c) If the agency proceeds with the requested rule-making, the procedures described in this chapter of the Manual shall be followed.

**2.14 Ordering code reprints.** To order reprints of its rules, an agency shall use the following procedure:

(1) All orders for the reprinting of parts of the administrative code should be submitted directly to Kathie Benson, Document Sales & Distribution, Department of Administration at 202 South Thornton Avenue, Madison, WI 53703 or via interdepartmental mail. Kathie Benson will process your order and ensure timely delivery of your codes (see (3) below). Orders should no longer be routed to the Revisor of Statutes Bureau.

(2) The order should be placed on a Publishing Services Order Form. This form is located at <http://www.degoperations.state.wi.us/static/links/printservicesformsandinfo.htm>. If you have difficulty printing this form in the PDF format, please, call Tony Kannenberg at 608-266-5384 and he will forward a form to you. Complete the basic information on the top portion of the form, including a valid customer use code, contact person, and phone number. Indicate the code name, fill in the finishing information area, how many copies, and a delivery address. Keep a copy for your records and forward one copy to Kathie Benson at the Thornton Avenue address.

**NOTE:** Another approach would be to go to the [Wisconsin.gov](http://Wisconsin.gov) site; search for DEG (Department of Electronic Government) and then to to DEG operations.

(3) The orders you send to Kathie Benson at Document Sales will be processed after the subscription mailing orders have been completed. Send your orders, if possible, by the end of the month in which the changes occur.

**EXAMPLE:** A code will be published in June with a July 1 effective date. The order should be sent to Document Sales by June 30.

**NOTE:** Kathie Benson can be reached at 608-264-9418 or email [kathie.benson@doa.state.wi.us](mailto:kathie.benson@doa.state.wi.us).

**2.15 History notes.** The revisor of statutes prepares a history note for each section in the code, as follows:

(1) DATE AND NUMBER OF PUBLICATION. Each rule, as it was originally filed and printed under ch. 221, laws of 1955, which became part of ch. 227, Stats., was dated "1-2-56." Any rule revised or created subsequent to the original printing date is followed by a history note indicating the date and

number of the Wisconsin administrative register in which it was published and the date on which the amendment or the rule became effective. The absence of a history note at the end of a section means that the rule has remained unchanged since the original printing in 1956. The date line at the bottom of a page indicates the month and register in which the page was released.

(2) **REPEAL AND RECREATION OF A CHAPTER.** In some instances an entire code or chapter has been repealed and recreated subsequent to the original printing date. When this occurs, a history note to this effect is placed at the beginning of a chapter. A separate history note appears after each section indicating the date when the revision became effective.

(3) **ABBREVIATIONS.** The following abbreviations are used in the history notes: "CR" is used for Clearinghouse Rules; "cr." is used for "create"; "am." for "amend"; "recr." for "recreate"; "renum." for "renumber"; "r." for "repeal"; "emerg." for "emergency" and "eff." for "effective."

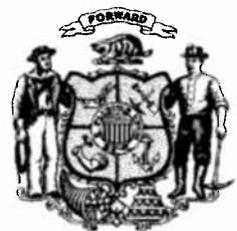
(4) **CLEARINGHOUSE NUMBER.** Starting in 2001, the Clearinghouse Rule number designation has been added to history notes. This number identifies a specific rule order and will facilitate online searches, showing the viewer the rule revision as it appears in rule order format.

**2.16 Indexing agency rules.** The revisor will review agency rules for entries in a general index to the code. Agencies may prepare a separate index that can be printed as part of its published code. Agencies are encouraged to prepare a separate index for rules that are technical in nature or of great length.

**NOTE:** See the index following chs. Comm 20 to 25, prepared by the department of commerce, for an example of a separate index.



# WISCONSIN STATE LEGISLATURE



# JCRAR COMMITTEE MAKE-UP

## Senate

Co-Chairman

Senator Joe Leibham

9<sup>th</sup> District

409 South

266-2056

Senator Bob Welch

14<sup>th</sup> District

10 South

266-0751

Senator Mary Lazich

28<sup>th</sup> District

127 South

266-5400

Senator Judy Robson

15<sup>th</sup> District

5 South

266-2253

Senator Spencer Coggs

6<sup>th</sup> District

22 South

266-3123

Legislative Council

Ron Sklansky

266-1946

## Assembly

Co-Chairman

Representative Glenn Grothman

58<sup>th</sup> District

15 North

264-8486

Representative Lorraine Seratti

36<sup>th</sup> District

18 North

266-3780

Representative Scott Gunderson

83<sup>rd</sup> District

7 West

266-3363

Representative Spencer Black

77<sup>th</sup> District

214 North

266-7521

Representative Tom Hebl

46<sup>th</sup> District

304 West

266-7678

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#### **Senator Robert Welch**

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#### **Senator Mary Lazich**

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#### **Senator Judith Robson**

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#### **Senator Tim Carpenter**

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*This List Last Updated Jan. 22,  
2003*

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#### **Rep. Scott Gunderson**

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#### **Rep. Lorraine Seratti**

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#### **Rep. Tom Hebl**

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Madison, WI 53707-7882

608-266-0751

### Senator Mary Lazich

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608-266-5400

### Senator Judith Robson

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608-266-2253

### Senator <sup>SPENCE COGG</sup> Julie Lassa

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608-266-3123

## Assembly

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### Rep. Scott Gunderson

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Madison, WI 53708-8952

608-266-3363

### Rep. Lorraine Seratti

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P.O. Box 8953

Madison, WI 53708-8953

608-266-3780

### Rep. Tom Hebl

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### Rep. Spencer Black

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*This List Last Updated May 27,  
2003*



# WISCONSIN STATE LEGISLATURE



Original URL: <http://www.jsonline.com/news/wauk/dec03/192763.asp>

## A new turn: Builders hope to wriggle out of protecting snake

By SCOTT WILLIAMS  
[swilliams@journalsentinel.com](mailto:swilliams@journalsentinel.com)

*Last Updated: Dec. 14, 2003*

After disrupting home construction, school expansion and business growth for years, it could be payback time for the Butler garter snake.

An association of building contractors from the Milwaukee area is urging the state to consider removing the rare snake from a list of species that receive special protection in Wisconsin.

Environmental activists argue the move would push the yellow-striped reptile toward extinction for the sake of private business. But the Metropolitan Builders Association of Greater Milwaukee questions whether a species sturdy enough to frustrate developers from South Milwaukee to Port Washington really can be considered endangered.

Some skeptics also wonder if the snake's uniqueness has been exaggerated.

"It really looks like maybe a little bit of a scam," said state Rep. Glenn Grothman (R-West Bend).

Grothman is co-chairman of a legislative committee that will conduct a public hearing on the issue Tuesday, and possibly move to strip the Butler garter snake of its protected status.

Environmentalists contend that the snake is found only in a limited area of the Midwest and Canada, and that the species could be killed off unless its habitats remain protected.

Gary Casper, manager of reptile collections at the Milwaukee Public Museum, said the population in southeastern Wisconsin already has been pushed to the outer fringes of the metropolitan area by land development.

"If that trend isn't halted, it will go extinct," said Casper, who has spent 15 years studying the Butler garter snake and frequently is hired by property owners when they confront the creature.

Known for its colorful stripes, the 1- to 2-foot-long reptile is generally found in marshes, prairies and fields, as well as roadside grassy areas and an occasional vacant lot.

Since 1997, the species has been listed as threatened in Wisconsin, which makes it illegal to disturb a habitat knowingly. The snake joins the timber wolf, trumpeter swan, paddlefish and northern blue butterfly among dozens of animals and plants that are classified as either endangered or threatened in the state.

Builders in several Milwaukee suburbs were frustrated to discover Butler garter snake populations in their path.

### Development affected

"It's an obstacle that has to be overcome," said business owner Steve Ulich, who had to hire a snake expert when his construction of a new flooring store in Greenfield stirred up a nest of Butler garters.

### Hearing

A public hearing on the Butler garter snake is set for 10 a.m. Tuesday at the state Capitol before the Joint Committee for Review of Administrative Rules.

### Information

 **DNR:** Info on Butler garter snake

Other projects in Brookfield, New Berlin, South Milwaukee and Port Washington have been similarly slowed or complicated, as the Department of Natural Resources weighed how each development should accommodate the snakes.

Scott Mathie, director of government affairs for the builders association, said his Waukesha-based group has asked state lawmakers and DNR officials to remove the snake's special status because of concerns that the business of real estate development is being needlessly disrupted.

Mathie said he takes calls weekly, on average, from contractors being forced to justify building where another Butler garter population has been detected.

The snakes are so commonplace that the association questions whether they are truly threatened, Mathie said.

### **Cross-breeding is a concern**

In addition, both proponents and critics of the threatened species status acknowledge that cross-breeding between Butler garters and more common garter snakes has created hybrids deserving no special consideration.

Mathie said he wants the state at least to re-examine whether the Butler garter snake still warrants protection - and if it even still exists as a distinct species.

"It doesn't seem to be solid science," he said. "The research isn't there to defend the snake."

DNR officials have agreed to study the issue but are opposing any change in the snake's status.

Signe Holtz, director of the department's bureau of endangered resources, said it is impossible to know the Butler garter's environmental significance, although she said tampering with the ecology should be prevented.

"Everything is connected," she said.

Grothman said legislators can suspend the rules governing endangered species and pull the Butler garter snake off the list without DNR approval.

### **Hearing set for Tuesday**

The issue will be discussed Tuesday during a public hearing before the Joint Committee for Review of Administrative Rules.

Some environmental activists hope the state does not act rashly and open the door to development that could contribute to the species' demise.

"We don't want to see haphazard sprawl that is going to destroy the quality of life of not only people but also the animals here," said Shawn Graff, executive director of the Ozaukee Washington Land Trust, a private conservation group based in West Bend.

But businesses and government agencies that have been slowed by the Butler garter snake hope it is reclassified as just another reptile.

South Milwaukee school Superintendent David Ewald said a \$40 million-plus expansion of school facilities was delayed and ended up costing more because of the need to protect and preserve a Butler garter habitat.

Ewald questioned the viability of the species after widespread reports of cross-breeding.

"There's very good reason to be questioning the existence of that very unique breed," he said.

In New Berlin, other Butler garter habitats prompted reconfiguration of downtown improvements by the city and later forced developers of a residential site to make accommodations for the snakes.

New Berlin Mayor Ted Wysocki said he values the state's natural resources as much as anyone. But he is convinced that the Butler garter is turning up far too frequently to justify such special treatment.

"They're in my neighbor's yard. They're in my yard," he said. "They're everywhere."

From the Dec. 15, 2003 editions of the Milwaukee Journal Sentinel

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The Community Voice of Milwaukee's Left Bank

Tuesday, December 16, 2003 8:52:05 AM

Vol. 2 No. 12 D

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## Threatened Species: Butler's Garter Snake

**Advertisen**

by Beth Fetterly, Urban Ecology Center



One would not normally think that a threatened species would thrive in the most densely populated area of the state. Surprisingly, the Butler's Garter Snake is found only in Southeastern Wisconsin. Unfortunately its primary natural habitat happens to be in highly-developed Milwaukee County. This snake has a limited range, so it is critical to its survival for us to understand the conditions it needs to survive.

Why is it classified as threatened? One of the most obvious answers is habitat destruction. These snakes prefer wetlands and fields, and these spaces are where significant development occurs. The snakes eat worms, frogs, leeches, and salamanders that are found in natural settings. In addition, small pockets of the population have been isolated from each other due to habitat fragmentation. There are only a few confirmed pockets of Butler's Garter Snakes in the region. This makes it difficult for them to reproduce. To add one more challenge to an already tenuous situation, the Butler's species may be inadvertently sold as the common garter snake in pet stores because it closely resembles other garter snakes.

There are several ways to distinguish between the two species. The Butler's Garter is smaller as an adult and has a relatively narrower head compared to the neck. It also has a yellow lateral stripe located on the third row of scales, counting up from the large ventral, or belly, scales. Butler's Garter Snakes do not bite, nor are they poisonous. If you see one, contact the DNR immediately so that the identification can be confirmed and recorded.

If you are an avid Riverwest Currents reader, you may remember that an Alverno College student wrote an article last summer about a reptile and amphibian survey she was conducting through the Urban Ecology Center. Because of this survey we now know that Butler's Garter Snakes live in the park. One of the highlights of this project was finding a pregnant female. These snakes are ovoviviparous, meaning that they produce eggs with a thin membrane that develop within the female's body. When they hatch, anywhere from four to 17 snakes are born live, and the female is able to reabsorb some of the nutrients from the shells.

If you are interested in learning more about native snakes, you can visit the Urban Ecology Center for animal feeding time on Saturdays at 1 p.m.

For more information, stop by the Urban Ecology Center in Riverside Park on the west side of the 2800 block of N. Oakland Ave, call (414) 964-8505, or visit [www.urbanecologycenter.org](http://www.urbanecologycenter.org).

*Riverwest Currents* - Volume 2 - Issue 7 - July 2003

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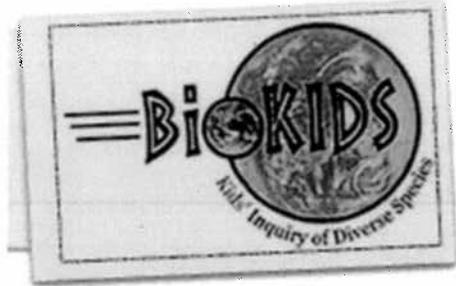
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# Butler's garter snake

*Thamnophis butleri*

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## What do they look like?

Butler's Garter Snakes are small, stout garter snakes with three well-defined yellow or orange stripes that run along the length of their body on a background color of black, brown, or olive. They sometimes have two rows of dark spots running between their central stripe and the two side stripes. Their head is relatively narrow, not much wider than their body, and their scales are keeled (with a ridge along the length of the scale). Their belly color is pale green or yellow with black spots running along the edges. Adults reach a total length of from 38 to 73.7 cm. Males snakes are slightly smaller than females, and have slightly longer tails. Young Butler's Snakes are born at from 12.5 to 18.5 cm. Other garter snakes have somewhat longer and larger heads than do Butler's Garter Snakes.

### Length

14.96 to 29.02 in  
 ( 38 to 73.7 cm )

**Some key physical features:** ectothermic .

**Sexual dimorphism:** female larger; sexes shaped differently.

## Where do they live?

---

Butler's Garter Snakes are found in the southern Great Lakes region and into Indiana and Illinois. There are isolated populations in southern Wisconsin and southern Ontario.

**Biogeographic Regions:** nearctic ☞ (native ☞).

Butler's Garter Snakes prefer wet meadows and prairies. They are often found near marshy ponds and lake borders. These kinds of habitats sometimes occur in suburban and urban areas and relatively large concentrations of Butler's Garter Snakes can be found in those areas.

**These animals are found in the following types of habitat:**  
temperate ☞; terrestrial ☞.

**Wetlands:** marsh ☞; swamp ☞.

## What do they eat?

---

Butler's garter snakes eat mostly earthworms. They will also eat leeches, small frogs, and salamanders.

**Carnivore:** eats non-insect arthropods.

## What eats them and how do they avoid being eaten?

---

Butler's garter snakes are preyed upon by most predators throughout their range, including milk snakes, American crows, hawks, owls, raccoons, skunks, weasels, shrews, foxes, and domestic cats. They escape predation by attempting to escape. If harassed, though, they will exude a foul-smelling substance. If they are suddenly surprised they will thrash their bodies violently from side to side, perhaps to confuse predators and startle them in turn.

### Known predators

- milk snakes
- American crows
- hawks
- owls
- raccoons
- skunks
- weasels
- shrews
- foxes
- domestic cats

## How do they behave?

---

Butler's Garter Snakes are active generally from late March to October or November of each year. They are most often seen in spring and fall and may become nocturnal during the summer months. They retreat to underground hibernation sites during cold weather, often in rodent or crayfish burrows or in natural cavities or under rock piles. These are secretive snakes and they are mainly active underground. Butler's Garter Snakes are mostly solitary, though they congregate at hibernation sites.

**Key behaviors:** diurnal ☑; nocturnal ☑; motile ☑; solitary ☑.

## What roles do they have in the ecosystem?

---

Butler's Garter Snakes help to control populations of earthworms, leeches, and slugs. They also act as important food sources for their predators where they are abundant.

## How do they communicate with each other?

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Butler's Garter Snakes communicate with each other primarily through touch and smell, especially for breeding. Outside of the breeding season they do not interact much with other snakes. They use their forked tongues to collect chemicals from the air and insert these forks into a special organ in the roof of their mouth, which interprets these chemical signals. Snakes are also sensitive to vibrations and have reasonably good vision.

## How do they reproduce?

---

Butler's Garter Snakes mate at their hibernation sites in the spring, before they leave for their

**How often does**

summer feeding areas. Females give birth in mid- to late summer to from 4 to 20 live young. Larger females produce more young per litter. The young snakes grow rapidly and may become mature in their second spring, though they probably continue to grow throughout their lives.

**Key reproductive features:** seasonal breeding ♀; sexual ♀; ovoviviparous ♀.

Female Butler's Garter Snakes nurture their young inside their bodies until they are born. Once the young are born there is no further parental care.

**Parental care:** female parental care ♀.

#### **reproduction occur?**

Butler's Garter Snakes breed once each year.

#### **Breeding season**

Butler's Garter Snakes breed in the spring and have their young in late summer.

#### **Number of offspring**

4 to 20

#### **Age at sexual or reproductive maturity (female)**

On average 2 years

#### **Age at sexual or reproductive maturity (male)**

On average 2 years

## **How long do they live?**

The potential lifespan of Butler's Garter Snakes is unknown. A captive individual lived to be two years old. These snakes almost certainly live longer than that in the wild.

#### **Longest known lifespan in captivity**

2 years (max)

## **How do they interact with us?**

Butler's Garter Snakes help to control garden pests such as slugs.

**Ways that people benefit from these animals:** controls pest population.

## **Are they endangered?**

---

Butler's Garter Snakes are much less common than their larger relatives, Common Garter Snakes. They are easily disturbed by habitat destruction and other human modifications of their habitats. The wet meadow habitats that they prefer have been largely eliminated and are still being developed at a rapid pace. Large colonies may survive in small pockets of habitat, even in abandoned urban lots, but these colonies can be eliminated in one afternoon when the land is bulldozed. They are listed as endangered in Indiana.