

☞ 09hr_CRule_09-017_AC-NR_pt01



Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Natural Resources (AC-NR)

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: Mike Barman (LRB) (Sept/2010)

Assembly

Record of Committee Proceedings

Committee on Natural Resources

Clearinghouse Rule 09-017

Relating to flammable, combustible, and hazardous liquids, and affecting small businesses.

Submitted by Department of Commerce.

April 30, 2009 Referred to Committee on Natural Resources.

June 4, 2009 No action taken.

John Maycroft
Committee Clerk





FEB 12 2010

WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

February 16, 2009

Representative Spencer Black
210 North, State Capitol
Madison, WI 53708

Dear Representative Black,

As members of the Assembly Natural Resources Committee, we are writing to respectfully request a public hearing on the Stewardship access rule, **Clearinghouse Rule 09-017**.

Legislative review of administrative rules is an imperative check and balance to ensure what one branch of government, the Legislature, intended is what is actually being enacted by another branch of government, the administration. Holding a public hearing on proposed administrative rules allows the Legislature, who wrote the original law, to communicate directly with agency responsible for implementing it.

In the 2007-2009 State Budget, the State Legislature reauthorized the Knowles-Nelson Stewardship Program and increased funding to \$86 million annually beginning in July, 2010. During this reauthorization process, the Legislature directed the promulgation of rules to more explicitly lay out public access requirements. We are concerned that the language written by Natural Resources Board does not reflect the legislative intent of the language contained in s.s.23.0916.

The Statutes 23.0916 (2)(b) and (3)(b) clearly state that prohibitions on any of the nature-based activities can only occur "if the natural resources board determines that it is necessary to do so in order to do any of the following: 1. Protect public safety, 2. Protect a unique animal or plant community, 3. Accomodate usership patterns, as defined by rule by the department."

In reviewing **Clearinghouse Rule 09-017**, it is apparent that the Board has assigned their statutory duty to department staff, which is not allowed under the clear reading of the statutes.

Many of us helped craft the actual language that was included in the State Budget and is now a part of our State Statutes. Representatives of the Doyle administration, including current DNR Deputy Secretary Pat Henderson, were in complete agreement with us as to

the meaning of this language; that if any parcel is being purchased using stewardship money, it must be open to nature-based activities unless the board specifically granted an exemption on that parcel. There was complete agreement as to what this provision meant, and there was not even a point of contention raised.

Also, it has come to our attention that Natural Resources Board is allowing some grant recipients to prohibit many types of hunting, while calling these prohibitions "restrictions". The statute, as it is written, does not recognize the concept of "restrictions." Any prohibition of any of the statutorily allowed nature-based activities, for example spring turkey hunting, does in fact represent a prohibition under the law, and therefore must not be allowed unless the board finds the need to do so under one of the three exemptions.

NR 52 should be amended to require full board approval for any parcel acquisition when exemptions to the nature-based activities requirement are requested. All proposed prohibitions should be covered by this requirement, with no exceptions for so-called "restrictions."

The legislature is responsible for setting policy; the board's role is to adopt rules that reflect this policy. The legislative intent on these two points is quite clear.

Thank you in advance for your consideration of this request.

Sincerely,



Representative Scott Gunderson
83rd Assembly District



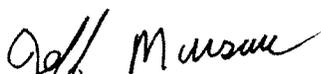
Representative Michael Huebsch
94th Assembly District



Representative Jim Ott
23rd Assembly District



Representative Dan Lemahieu
59th Assembly District



Representative Jeffrey Mursau
36th Assembly District



Representative Lee Nerison
96th Assembly District



Scott Gunderson



STATE REPRESENTATIVE • 83RD DISTRICT

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Rep.Gunderson@
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83rd District:
P.O. Box 7
Waterford, WI
53185

(262) 534-2616

May 7, 2009

MAY 03 2009

Representative Spencer Black
210 North, State Capitol
Madison, WI 53708

Dear Representative Black,

As a member of the Assembly Natural Resources Committee, I respectfully request a public hearing on the following items:

← **Clearinghouse Rule 09-017** relating to flammable, combustible, and hazardous liquids, and affecting small businesses.

← **Clearinghouse Rule 08-103** relating to modification of existing rules for control of nitrogen oxide (NOx) emitted by stationary sources in the ozone nonattainment area in southeastern Wisconsin and to issues for SIP approvability and miscellaneous implementation issues.

Thank you for your consideration of this request. Should you have any questions, please feel free to call me at 266-3363.

Sincerely,

Representative Scott Gunderson
83rd Assembly District
Wisconsin State Assembly



Scott Gunderson



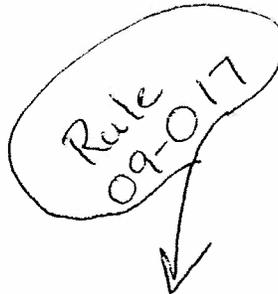
STATE REPRESENTATIVE • 83RD DISTRICT

May 12, 2009

MAY 12 2009

Representative Spencer Black
210 North, State Capitol
Madison, WI 53708

Dear Representative ~~Black~~, SPENCER



Thank you for your reply form letter dated May 8th to my request for a public hearing on Clearinghouse Rule 08-103 and Clearinghouse Rule 09-017. Legislative review of administrative rules is an imperative check and balance to ensure what one branch of government, the Legislature, intended is what is actually being enacted by another branch of government, the administration. Holding a public hearing on proposed administrative rules allows the Legislature, who wrote the original law, to communicate directly with agency responsible for implementing it.

There were numerous issues raised with Clearinghouse Rule 08-103 during the public comment period. As a Legislator from the ozone non-attainment area in southeastern Wisconsin that will be affected by the proposed rule, I believe the Legislature should thoroughly review the proposal to ensure those issues were properly addressed by the Department of Natural Resources.

Again, thank you for your consideration of this request. Should you have any questions, please feel free to call me at 266-3363.

Sincerely,

Representative Scott Gunderson
83rd Assembly District
Wisconsin State Assembly

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P.O. Box 8952
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