

## Record of Committee Proceedings

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

#### **EmR 2045**

Relating to: regulating firefighting foam that contains certain contaminants (DNR).

December 18, 2020 **Public Hearing Held**

Present: (10) Senator Nass; Representative Ballweg;  
Senators Stroebel, Feyen, Larson and Wirch;  
Representatives Neylon, Quinn, Hebl and  
Subeck.

Absent: (0) None.

Excused: (0) None.

#### Appearances For

- Darsi Foss - DNR, Division of Environmental Management

#### Appearances Against

- Scott Manley - Wisconsin Manufacturers & Commerce
- Shawn Swearingen - American Chemistry Council
- Jason Culotta - Midwest Food Products Association

#### Appearances for Information Only

- None.

#### Registrations For

- None.

#### Registrations Against

- None.

#### Registrations for Information Only

- None.

December 18, 2020 **Executive Session Held**

Present: (10) Senator Nass; Representative Ballweg;  
Senators Stroebel, Feyen, Larson and Wirch;

Representatives Neylon, Quinn, Hebl and  
Subeck.

Absent: (0) None.

Excused: (0) None.

Moved by Senator Nass, seconded by Senator Feyen that the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (d), Stats., partially suspend Emergency Rule 2045, relating to regulating firefighting foam that contains certain contaminants (DNR), as indicated in items A. to N., below, on the grounds that the emergency rule fails to comply with legislative intent and an absence of statutory authority:

- A. The phrase “or foam contaminated materials” in s. NR 159.02 (3), as created in SECTION 1 of Emergency Rule 2045.
- B. Section NR 159.03 (15), as created in SECTION 1 of Emergency Rule 2045.
- C. Section NR 159.03 (20). As created in SECTION 1 of Emergency Rule 2045.
- D. The phrase “so as to immobilize, remove, or destroy the contaminant” in s. NR 159.03 (25), as created in SECTION 1 of Emergency Rule 2045.
- E. The phrase “, according to ch. NR 706,” in s. NR 159.05 (1) (a) and (b), as created in SECTION 1 of Emergency Rule 2045.
- F. The Note in Section NR 159.05(1) as created in SECTION 1 of Emergency Rule 2045.
- G. The phrase “and any foam contaminated materials” in s. NR 159.08 (intro.), as created in SECTION 1 of Emergency Rule 2045.
- H. The phrase “or foam contaminated materials” in s. NR 159.08 (1) (a), as created in SECTION 1 of Emergency Rule 2045.
- I. Section NR 159.08 (1) (b) 4., Table 1, and Note, as created in SECTION 1 of Emergency Rule 2045.
- J. The phrase “indicator parameter responses” in s. NR 159.08 (1) (b) 5. (title), as created in SECTION 1 of Emergency Rule 2045.
- K. The phrase “If the concentration of PFAS in a wastewater sample exceeds a treatment indicator parameter action level listed in Table 1 or treatment indicator parameter level in a modified list approved under subd. 6, the person responsible for the treatment of foam shall take one or more of the following actions until the indicator parameter action level is achieved again:” in s. NR 159.08 (1) (b) 5. (intro.), as created in SECTION 1 of Emergency Rule 2045.
- L. Section NR 159.08 (1) (b) 5. a. to c., as created in SECTION 1 of Emergency Rule 2045.

M. Section NR 159.08 (1) (b) 6., as created in SECTION 1 of Emergency Rule 2045.

N. The phrase “and foam contaminated materials” in s. NR 159.08 (2) (intro.), (a), and (b), as created in SECTION 1 of Emergency Rule 2045.

And further moved, that the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (f), Stats., introduce LRB-0824 (2021-22) and LRB-0889 (2021-22) in the Senate and Assembly, relating to firefighting foam containing PFAS and the partial suspension of a rule of the Department of Natural Resources, in support of the committee’s December 18, 2020, partial suspension of Emergency Rule 2045, relating to regulating firefighting foam that contains certain contaminants (Department of Natural Resources), and issue its report on the suspension.

Ayes: (6) Senator Nass; Representative Ballweg;  
Senators Stroebel and Feyen;  
Representatives Neylon and Quinn.

Noes: (4) Senators Larson and Wirch; Representatives  
Hebl and Subeck.

MOTION TO SUSPEND EMR 2045 IN PART AND  
INTRODUCE LRB DRAFTS TO SUPPORT THE  
COMMITTEE’S PARTIAL SUSPENSION PASSED, Ayes 6,  
Noes 4

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Adam Field  
Committee Clerk