



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR STEVE NASS AND REPRESENTATIVE JOAN BALLWEG

Committee Motions for December 18, 2020 Executive Session:

Emergency Rule 2045: Natural Resources – Regulation of Firefighting Foam

Moved, 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.

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.